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*****I**

REPORT

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons
(COM(2006)0093 – C6-0081/2006 – 2006/0031(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Gisela Kallenbach

Draftsman (*): Alexander Alvaro, Committee on Civil Liberties, Justice and Home Affairs

(*): Associated committees - Rule 47 of the Rules of Procedure

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

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

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons (COM(2006)0093 – C6-0081/2006 – 2006/0031(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2006)0093)¹,
 - having regard to Article 251(2) and Article 95 (1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0081/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A6-0276/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 RECITAL 3

(3) The accession of the Community to the Protocol ***makes it necessary to amend*** certain provisions of Directive 91/477/EEC. Indeed, it is important to ensure the coherent, effective and rapid application of the international commitments affecting the Directive.

(3) ***The Commission signed the Protocol on behalf of the Community on 16 January 2002.*** The accession of the Community to the Protocol ***requires amendments to*** certain provisions of Directive 91/477/EEC. Indeed, it is important to ensure the coherent, effective and rapid application of the international commitments affecting the Directive. ***Furthermore, it is necessary to seize the***

¹ Not yet published in OJ.

opportunity of this revision in order to bring to the Directive improvements to address certain issues, in particular those that were identified in the report of the Commission to the European Parliament and the Council of 15 December 2000 on the implementation of Directive 91/477/EEC.

Justification

In its report of 15 December 2000 on the implementation of the 91/477/EEC Directive, the European Commission identified a series of problems encountered in the implementation of the Directive, and therefore envisaged a series of improvements. In accordance with the principle of better legislation, the current revision process should be used not only to adapt the Directive to the UN Protocol, but also to bring to the Directive the improvements that are needed.

Amendment 2
RECITAL 3 A (new)

(3a) Given that intelligence evidence shows an increase in the use of converted weapons within the EU, it is essential to ensure that such convertible weapons are brought within the definition of 'firearm' in this Directive.

Amendment 3
RECITAL 4

(4) The notions of illicit manufacturing and trafficking of firearms, their parts, components and ammunition should therefore be defined for the purposes of this Directive.

(4) The notions of illicit manufacturing and trafficking of firearms, their parts and ammunition, **as well as the notion of *tracing***, should therefore be defined for the purposes of this Directive.

Amendment 4
RECITAL 5

(5) Furthermore, the Protocol establishes an obligation to mark weapons at the time of manufacture, and at the time of transfer

(5) Furthermore, the Protocol establishes an obligation to mark weapons at the time of manufacture, and at the time of transfer

from government stocks to permanent civilian use, whereas Directive 91/477 refers only indirectly to the marking obligation.

from government stocks to permanent civilian use, whereas Directive 91/477 refers only indirectly to the marking obligation. ***In order to facilitate the tracing of weapons, it is necessary to use only alphanumeric symbols and to include in the marking the year of manufacture of the weapon (if not part of the serial number). The Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms should be used as a reference for the marking system in the European Union as a whole.***

Amendment 5

RECITAL 6

(6) Moreover, the period during which the registers containing information on the weapons are kept must be increased to at least ten years, ***as specified by the Protocol.***

(6) Moreover, ***while the Protocol provides that*** the period during which the registers containing information on the weapons are kept must be increased to at least ten years, ***it is necessary to prolong this period up to a minimum period of 20 years in order to allow the proper tracing of firearms. It is also necessary that Member States keep a computerised and centralised data filing system in which each firearm is attributed a unique identification number and in which the name and address of every successive owner is mentioned. Access by police and judicial authorities to the information contained in the central register must be subject to compliance with Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.***

Amendment 6

RECITAL 7

(7) It must also be specified that brokering activities, ***as mentioned in Article 15 of the Protocol, fall within the definition of dealer given by the Directive.***

(7) It must also be specified that brokering activities mentioned in Article 15 of the Protocol ***should be defined for the purposes of this Directive.***

Amendment 7
RECITAL 7

(Linguistic amendment not affecting English version. Rule 151 (d))

Amendment 8
RECITAL 9 A (new)

(9a) Due to the special nature of the activity of dealers and brokers, it is necessary that Member States exercise a strict control over this activity, in particular to verify the professional integrity and abilities of those dealers and brokers.

Amendment 9
RECITAL 9 B (new)

(9b) The acquisition of firearms by private individuals through means of distance communications, for example via the internet, should be subject to the rules laid down in this Directive and the acquisition of firearms by persons convicted by a final court judgment of certain serious criminal offences prohibited.

Amendment 10
RECITAL 9 C (new)

(9c) The European Firearms Pass functions in a satisfactory way in the main and should be regarded as the only document needed by hunters and marksmen to transfer a firearm to another Member State.

Amendment 11
RECITAL 9 D (new)

(9d) In order to facilitate the tracing of firearms and to efficiently combat illicit trafficking and manufacturing of

firearms, their parts and ammunition, it is necessary to improve the exchange of information between Member States.

The maintenance and exchange of information is subject to compliance with 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 free movement of such data.

Amendment 12
RECITAL 9 E (new)

(9e) Several Member States have recently simplified the way they classify firearms by switching from four categories to the following two: prohibited firearms and firearms subject to authorisation. Member States should fall into line with this simplified classification, although Member States which currently divide firearms into a further set of categories may, in accordance with the principle of subsidiarity, maintain their existing classification and authorisation systems.

Justification

The Member States' respective special features and traditions must be respected in line with the principle of subsidiarity, which is always upheld in the EU's policies.

Amendment 13
ARTICLE 1, POINT -1 (new)
Article 1, paragraph 1 (Directive 91/477/EEC)

(-1) In Article 1, paragraph 1 shall be replaced by the following:

"1. For the purposes of this Directive, 'firearm' shall mean 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 an explosive, unless it meets the definition but is excluded for one of the reasons

listed in part III of Annex I. Firearms are classified in part II of Annex I."

Amendment 14

ARTICLE 1, POINT -1 A (new)

Article 1, paragraph 1 a (new) (Directive 91/477/EEC)

(-1a) In Article 1, the following paragraph 1a shall be inserted:

"1a. For the purposes of this Directive, 'parts' shall mean 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 lock, and any device designed or adapted to diminish the sound caused by firing a firearm."

Amendment 15

ARTICLE 1, POINT -1 B (new)

Article 1, paragraph 1 b (new) (Directive 91/477/EEC)

(-1b) In Article 1, the following paragraph 1b shall be inserted:

"1b. For the purposes of this Directive, 'ammunition' shall mean the complete round or its components, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm, provided that those components are themselves subject to authorization in the relevant Member State."

Amendment 16

ARTICLE 1, POINT -1 C (new)

Article 1, paragraph 1 c (new) (Directive 91/477/EEC)

(-1c) In Article 1, the following paragraph 1c shall be inserted:

"1c. For the purposes of this Directive, 'tracing' shall mean the systematic tracking of firearms and, where possible, their parts 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 illicit trafficking."

Amendment 17

ARTICLE 1, POINT -1 D (new)

Article 1, paragraph 1 d (new) (Directive 91/477/EEC)

(-1d) In Article 1, the following paragraph 1d shall be inserted:

"1d. For the purposes of this Directive, 'antique weapon' shall mean either any weapon manufactured before 1900, including replicas, or any newer weapon defined as an antique weapon by a Member State according to technical criteria. The relevant technical criteria shall meet at least the standards determined in accordance with Article 13(3a)."

Amendment 18

ARTICLE 1, POINT 1 E (new)

Article 1, paragraph 1 e (new) (Directive 91/477/EEC)

(-1e) In Article 1, the following paragraph 1e shall be inserted:

"1e. For the purposes of this Directive, 'broker' shall mean any natural or legal person who creates, with or without remuneration, the conditions necessary to conclude a contract relating to the manufacture, trade, exchange, hiring out, repair or conversion of firearms, their parts and ammunition. Agents and representatives operating in the name or on behalf of authorized dealers on the basis of standard contracts conferring a

mandate may not be regarded as brokers for the purpose of implementing this Directive."

Amendment 19

ARTICLE 1, POINT -1 F (new)

Article 1, paragraph 2 (Directive 91/477/EEC)

(-1f) In Article 1, paragraph 2 shall be replaced by the following:

"2. For the purposes of this Directive, 'dealer' shall mean any natural or legal person whose trade or business consists wholly or partly in the manufacture, trade, exchange, hiring out, repair or conversion of firearms, their parts and ammunition."

Amendment 20

ARTICLE 1, POINT 1

Article 1, paragraph 3, introductory part (Directive 91/477/EEC)

1) In Article 1, ***after paragraph 2***, the following ***two paragraphs*** shall be ***added***:

"3. For the purposes of this Directive, "illicit manufacturing" shall mean the manufacturing or assembly of firearms, their parts and components or ammunition:"

1) In Article 1, the following ***paragraph 1a*** shall be ***inserted***:

"1a. For the purposes of this Directive, "illicit manufacturing" shall mean the manufacturing or assembly in violation of this Directive of firearms, their parts and ammunition, including by means of parts imported from third countries:"

Amendment 21

ARTICLE 1, POINT 1

Article 1, paragraph 4 (Directive 91/477/EEC)

"4. For the purposes of this Directive, "illicit trafficking" shall mean the acquisition, sale, delivery, movement or transfer of firearms, their parts ***and components*** and ammunition ***from or across*** the territory of ***one*** Member State ***to that of another*** Member State if any one of the Member States concerned does not authorise it in accordance with the terms

"4. For the purposes of this Directive, "illicit trafficking" shall mean the acquisition, sale, delivery, movement, transfer of firearms ***and*** their parts and ammunition ***in violation of this Directive to*** the territory of ***a*** Member State if any one of the Member States concerned does not authorise it in accordance with the terms of this Directive

of this Directive or if the firearms **are** not marked in accordance with Article 4(1)."

or if the firearms **and their parts and ammunition are not registered in accordance with Article 4(3) or not marked in accordance with Article 4(1). The acquisition, sale, delivery, movement or transfer of firearms shall however not be considered illicit trafficking for the sole reason that they are not marked in accordance with Article 4(1) if those firearms were manufactured or transferred from government stocks to permanent civilian use before ...***, provided that the marking meets the relevant requirements applicable before that date."

* Date of transposition of this Directive.

Justification

The absence of registration should be included as a requisite of illicit trafficking. The insertion of the words "in violation of this Directive" will allow legal certainty by defining as an illicit trafficking any trafficking that is not in compliance with all the provisions of the Directive, and ensure that all firearms present on the EU territory are equally treated. However, transactions with firearms meeting current marking standards should not be considered illicit if they concern firearms manufactured or transferred before the date for transposition of this Directive.

Amendment 22

ARTICLE 1, POINT 1 A (new)

Article 1, paragraph 4 (Directive 91/477/EEC)

(1a) In Article 1, paragraph 4 shall be replaced by the following:

"4. The European firearms pass is a document which is issued on request by the authorities of a Member State to a person lawfully entering into possession of and using a firearm. It shall be valid for a maximum period of five years. The period of validity may be extended. It shall contain the information set out in Annex II. The European firearms pass is a non-transferable document, on which shall be entered the firearm or firearms possessed and used by the holder of the pass. The pass must always be in the possession of the person using the firearm. Changes in

the possession or characteristics of the firearms shall be indicated on the pass, as well as the loss or theft of the firearm."

Amendment 23

ARTICLE 1, POINT 1 B (new)

Article 1, paragraph 4 a (new) (Directive 91/477/EEC)

(1b) In Article 1, the following paragraph 4a shall be inserted:

"4a. A natural or legal person who carries out brokering activities involving the transfer of firearms, their parts and ammunition shall be subject to the same system of authorization as dealers."

Amendment 24

ARTICLE 1, POINT 1 C (new)

Article 2, paragraph 2 a (new) (Directive 91/477/EEC)

(1c) In Article 2, the following paragraph shall be added:

2a. This Directive shall also apply to parts and ammunition of firearms, including those imported from third countries.

The rules covering the acquisition and possession of ammunition capable of being used shall be identical to the rules covering the possession of the firearms for which ammunition is intended.

Amendment 25

ARTICLE 1, POINT 2

Article 4, paragraph 1, subparagraph 1 (Directive 91/477/EEC)

1. For the purpose of identifying and tracing each firearm, the Member States, at the time of manufacture of each firearm, either require unique marking **providing** the name of the manufacturer, the country or place of manufacture **and** the serial number, or maintain any alternative unique user-friendly marking with **simple**

1. For the purpose of identifying and tracing each **assembled** firearm, the Member States **shall**, at the time of manufacture of each firearm, either require unique marking **including** the name **or trademark** of the manufacturer, the country or place of manufacture, the serial number **and the year of manufacture (if not part**

geometric symbols in combination with a number or alphanumeric code, permitting ready identification by all States of the country of manufacture.

*of the serial number), as laid down in the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms (CIP), or maintain any alternative unique user-friendly marking with a number or alphanumeric code, permitting ready identification by all States of the country of manufacture. **The marking shall be affixed to an essential or structural part of the firearm, the destruction of which would render the firearm unusable.***

Amendment 26

ARTICLE 1, POINT 2

Article 4, paragraph 1, subparagraph 1 a (new) (Directive 91/477/EEC)

Member States shall require the marking of every single elementary package of complete ammunition, providing the name of the manufacturer, the identification batch (lot) number, the calibre and the type of ammunition, as laid down in the CIP.

Amendment 27

ARTICLE 1, POINT 2

Article 4, paragraph 2 (Directive 91/477/EEC)

*2. At least in respect of categories A and B, each Member State shall make the pursuit of the activity of dealer within its territory conditional upon authorisation on the basis of at least a check on the private and professional integrity of the dealer. In the case of a legal person, the check shall be on the person who directs the undertaking. **In respect of categories C and D, each Member State which does not make the pursuit of the activity of dealer conditional upon authorisation shall make such activity subject to a declaration.***

*2. Each Member State shall make the pursuit of the activity of dealer **and of the activity of broker** within its territory conditional upon authorisation on the basis of at least a check on the private and professional integrity **and abilities** of the dealer **and of the broker**. In the case of a legal person, the check shall be on the person who directs the undertaking.*

Amendment 28
ARTICLE 1, POINT 2
Article 4, paragraph 3 (Directive 91/477/EEC)

3. Dealers shall be required to keep a register in which information concerning all firearms classified in category A, B or C received or disposed of by them shall be recorded, including such particulars as enable the weapon to be identified, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the person acquiring the weapon. The dealer shall conserve the register for a period of five years, even after he has ceased his activity. Each Member State shall ensure the maintenance of this information for not less than ten years."

3. Each Member State shall ensure the maintenance of a computerised and centralised data filing system, in which each firearm subject to this Directive is attributed a unique identification number. This filing system shall record and maintain for not less than 20 years each firearm's type, make, model, calibre, serial number and year of manufacture (if not part of the serial number), the name and address of the manufacturer and former and current owner of the firearm, any trade or transfer, exchange, hiring out, repair or conversion of the firearm, and such other information as is necessary to enable the tracing of the firearm. The filing system shall also contain information enabling the tracing of parts and ammunition.

Dealers and brokers, throughout their period of activity, shall be required to maintain a register in which all firearms subject to this Directive and which are received or disposed of by them shall be recorded, together with such particulars as enable the weapon to be identified and traced, in particular the type, make, model, calibre, serial number and year of manufacture (if not part of the serial number) and the names and addresses of the persons supplying and acquiring the weapon. Upon the cessation of his activities, the dealer or broker shall deliver the register to the national authority responsible for the registration system provided for in subparagraph 1.

Amendment 29
ARTICLE 1, POINT 2
Article 4, paragraph 3, subparagraph 1 b (new) (Directive 91/477/EEC)

Member States shall ensure that any firearm or part found on their territory is

marked and registered in compliance with this Directive, or otherwise deactivated. Any firearms imported from a third country must be marked in compliance with this Directive.

Amendment 30
ARTICLE 1, POINT 2
Article 4, paragraph 3 a (new) (Directive 91/477/EEC)

3a. Member States shall ensure that all firearms classified in categories A, B, C and D may be linked to their current owners.

Amendment 31
ARTICLE 1, POINT 2 A (new)
Article 4 a (new) (Directive 91/477/EEC)

(2a) The following Article 4a shall be inserted:

"Article 4a

Without prejudice to Article 3, Member States shall allow the acquisition and possession of firearms classified in categories A, B, C or D only by persons who were granted a licence or a permit to do so in accordance with national law."

Amendment 32
ARTICLE 1, POINT 2 B (new)
Article 5 (Directive 91/477/EEC)

(2b) Article 5 shall be replaced by the following:

Article 5

Without prejudice to Article 3, Member States shall permit the acquisition and possession of firearms only by persons who

have good cause and who:

(a) are at least 18 years of age, except in relation to the acquisition and possession of firearms for hunting and target shooting, provided that in that case persons less than 18 years of age are under the supervision and guidance of an adult with a valid firearms license or are within a licensed training centre;

(b) have not been convicted of a serious offence such as murder, robbery or arson.

Member States may withdraw the authorisation of possession of the firearm if any of the conditions on the basis of which it was granted are no longer satisfied.

Member States may not prohibit persons resident within their territory from possessing a weapon acquired in another Member State unless they prohibit the acquisition of the same weapon within their own territory.

(Wording similar to the Directive)

Justification

The inserted text is intended to clarify the provision, so as to reflect Article 83(c) of the Schengen Agreement.

Amendment 33

ARTICLE 1, POINT 2 C (new)
Article 6 (Directive 91/477/EEC)

(2c) In Article 6, the following paragraph is added:

"The acquisition of firearms and their parts and of ammunition through means of distance communication, as defined in Article 2 of Directive 97/7/EC, shall be subject to the provisions of this Directive."

Amendment 34

ARTICLE 1, POINT 2 D (new)
Article 6, paragraph 1 a (new) (Directive 91/477/EEC)

2d) In Article 6, the following paragraph 1a shall be added:

"1a. Except with respect to dealers and brokers, Member States shall strictly control the acquisition of firearms and their parts and of ammunition through means of distance communication."

Justification

The acquisition of firearms through distance communication shall be strictly controlled by the Member States.

Amendment 35

ARTICLE 1, POINT 2 E (new)

Article 7, paragraph 3 (Directive 91/477/EEC)

(2e) In Article 7, paragraph 3 shall be replaced by the following:

"3. Authorisations to acquire and possess firearms shall involve a single administrative procedure."

Justification

Merging authorisation procedures for the acquisition and possession of firearms is logical, given that the purpose of acquisition is normally possession.

Amendment 36

ARTICLE 1, POINT 2 F (new)

Article 7, paragraph 3a (new) (Directive 91/477/EEC)

"3a. Member States may grant persons in respect of whom it has been established that they satisfy the conditions for the granting of firearm authorisations a multiannual license for the acquisition and possession of all firearms subject to authorisation, without prejudice to the obligation to notify the competent authorities of transfers, to the periodic verification that they continue to satisfy the conditions and to the maximum limits for possession laid down in national law."

Amendment 37

ARTICLE 1, POINT 2 G (new)
Article 7, paragraph 3 b (new) (Directive 91/477/EEC)

"3b. Member States shall adopt rules to ensure that those recognized under national law as hunters, marksmen or collectors and holding authorizations for weapons in category B under national law at the time of entry into force of this Directive do not need to apply for authorisation for weapons they hold in categories C or D due to the entry into force of this Directive. However, any subsequent transfer of weapons of categories C or D shall be subject to the transferee obtaining or having authorisation for them."

Amendment 38
ARTICLE 1, POINT 2 H (new)
Article 11, paragraph 3, subparagraph 2 (Directive 91/477/EEC)

2h) In Article 11(3), subparagraph 2 shall be replaced by the following:

"At least five working days prior to the date of transfer, the dealer shall communicate to the authorities of the Member State from which the transfer is to be effected all the particulars listed in the first subparagraph of paragraph 2. The public authorities of the Member States concerned shall carry out random on-the-spot inspections to verify the correspondence between the information communicated by the dealer and the actual characteristics of the transfer."

Justification

As mentioned in the Protocol, transfers must undergo physical inspection, at least on a random basis, by the authorities at the time of shipment or upon arrival with the recipient to ensure that the information corresponds to the actual consignment. In order to allow such inspections, authorities should be informed at least 5 working days prior to the transfer.

Amendment 39
ARTICLE 1, POINT 2 I (new)
Article 12, paragraph 2 (Directive 91/477/EEC)

(2i) Article 12, paragraph 2 shall be amended as follows:

(a) the first subparagraph shall be replaced by the following:

"Notwithstanding paragraph 1, hunters and marksmen may without prior authorization be in possession of one or more firearms during a journey through two or more Member States with a view to engaging in their activities, provided that they are in possession of a European firearms pass listing such firearm or firearms. No other document shall be required by Member States to that end.

Member States may not make acceptance of a European firearms pass conditional upon any additional registration requirement or the payment of any fee or charge.";

(b) the second subparagraph shall be replaced by the following:

"However, the derogation referred to in the first subparagraph shall not apply to journeys to a Member State which prohibits the acquisition and possession of the firearm in question; in that case, an express statement to that effect shall be entered on the European firearms pass."

Amendment 40
ARTICLE 1, POINT 2 J (new)
Article 12, paragraph 3, subparagraph 1 a (new) (Directive 91/477/EEC)

(2j) In Article 12(3), the following subparagraph shall be added:

"For the activities of cultural and historical institutions and associations which deal with and use weapons for peaceful purposes, mutual recognition of national documents for the cross-border transfer and use of weapons and

ammunition should be put into practice, as provided for example in the bilateral agreement between Germany and Austria of 28 June 2002¹ ."

¹*Abkommen zwischen der Republik Österreich und der Bundesrepublik Deutschland über die gegenseitige Anerkennung von Dokumenten für die Mitnahme von Schusswaffen und Munition durch Angehörige traditioneller Schützenvereinigungen und Sportschützen, Berlin am 28. Juni 2002 (Bundesgesetzblatt für die Republik Österreich (Teil III) vom 13. Mai 2004.*

Justification

To preserve and maintain cultural diversity and historic tradition in the European Union, cultural and historical institutions and associations should as far as possible be enabled to handle and use traditional weapons for these purposes. This solution has already been successfully put into practice in the above agreement between the Republic of Austria and the Federal Republic of Germany on the mutual recognition of documents for the carrying of firearms and ammunition and, contrary to many fears, has not resulted in the uncontrolled or even dangerous use of weapons.

Amendment 41

ARTICLE 1, POINT 2 K (new)
Article 13 (Directive 91/477/EEC)

(2k) Article 13 shall be amended as follows:

(a) paragraph 2 shall be replaced by the following:

"2. All information that Member States receive by way of the procedures laid down in Article 11 for transfers of firearms and in Article 7(2) for the acquisition and possession of firearms by non-residents shall be communicated, not later than the time of the relevant transfers, to the Member States of destination and, where appropriate, not later than the time of transfer to the Member States of transit.";

(b) paragraph 3 shall be replaced by the following:

"3. Member States shall on a regular basis exchange information relating to marking systems and techniques, the number of authorised dealers and brokers, transfers of firearms and their parts and ammunition, national legislation and practices, existing stocks on their territories, confiscated firearms and deactivation methods and techniques. Member States shall also, in accordance with the European Convention on Mutual Assistance in Criminal Matters of 1959 and any later instrument wholly or partially amending, replacing or supplementing that Convention, exchange information on persons having been found guilty by a final court judgment of a serious criminal offence defined in this Directive. The Commission shall set up, by ...* at the latest, a contact group for the exchange of information for the purposes of applying this Article, and for cooperation regarding the tracing of illicit firearms and their parts and ammunition. Each Member State shall inform the other Member States and the Commission of the national authorities responsible for transmitting and receiving information and for complying with the obligations set out in Article 11(4). The Commission, acting in accordance with paragraph 4, shall take the appropriate measures for the purpose of applying this paragraph.";

(c) the following paragraph is added:

"3a. The Commission, acting in accordance with the regulatory procedure with scrutiny referred to in Article [X], shall take the appropriate measures pursuant to Article 1(1)(d), and Annex I, part III, paragraph 1a.

The Commission, acting in accordance with the procedure referred to in Article [Y], shall take the appropriate measures pursuant to paragraph 3 of this Article."

**** One year after the date of entry into force of this***

Directive."

Amendment 42

ARTICLE 1, POINT 3

Article 16, paragraph 1, subparagraph 3 (Directive 91/477/EEC)

Such attempts, or participation as an accomplice in the latter shall also be considered as criminal offences, when committed intentionally.

Organising, directing, aiding, abetting, facilitating or counselling the commission of an offence defined by this Article shall be considered as a criminal offence, when committed intentionally.

Justification

This wording is taken from the UN Protocol, which forms the basis of the Directive, and is intended to clarify the provision.

Amendment 43

ARTICLE 1, POINT 3

Article 16, paragraph 1, subparagraph 3 a (new) (Directive 91/477/EEC)

The failure to carry a European firearms pass shall not be subject to custodial sentences.

Justification

This addition is to prevent lawful owners of weapons risking prison if they travel to another Member State and are unable to present a European firearms pass but are in possession of all other necessary documents.

Amendment 44

ARTICLE 1, POINT 3 A (new)

Article 17 (Directive 91/477/EEC)

(3a) Article 17 shall be replaced by the following:

"Article 17

Within ... *, and every fifth year thereafter, the Commission shall submit a report to the European Parliament and to the Council on the application of this Directive, accompanied, if appropriate, by proposals.

The Commission shall carry out a study on the marketing of replica weapons

*within the Community and report thereon to the European Parliament and to the Council by ...**.*

The Commission shall also carry out a study on the simplification and better functioning of the internal market in firearms. On the basis of this study, the Commission shall, if appropriate, submit to the European Parliament and to the Council, by ...*, a proposal for the reduction of the classification of firearms into two categories, with possible derogations for hunters and sportsmen.**

** 5 years from the date of transposition of this Directive.*

*** One year from the date of entry into force of this Directive.*

****Three years from the date of entry into force of this Directive."*

Justification

In line with better regulation the requirement for reporting included in Directive 91/477/EEC should be updated and made regular. In addition the Commission should conduct a study on the complex issue of replica weapons and their marketing, including their sale on the internet, within the European Community.

Amendment 45

ARTICLE 1, POINT 4, POINT (-A) (new)
Annex I, part I, indent 1 (Directive 91/477/EEC)

(-a) In part I, the first indent shall be replaced by the following:

"- any firearm as defined in Article 1,"

Amendment 46

ARTICLE 1, POINT 4, POINT (-A A) (new)
Annex I, part II, section A, point 5 (Directive 91/477/EEC)

(-aa) In part II, section A, point 5 is replaced by the following:

"5. Pistol and revolver ammunition with

expanding projectiles and the projectiles for such ammunition, except in the case of weapons for hunting or for recreational shooting, for persons entitled to use them."

(Wording similar to the Directive)

Justification

The expression 'recreational shooting' is more accurate and appropriate than 'target shooting', as it includes all gun sports, including those which do not involve shooting at targets.

Amendment 47

ARTICLE 1, POINT 4, POINT (B)

Annex I, part III, paragraph 1 a (new) (Directive 91/477/EEC)

(b) **The** following paragraph is inserted after the first paragraph:

"The Member States shall make arrangements for the deactivation measures set out under (a) to be verified by a competent authority, to ensure that the modifications made to a firearm render it **permanently** inoperable. The Member States shall provide, in the context of this verification, for the issue of a certificate or record attesting to the deactivation of the firearm or a clearly visible mark to that effect stamped on the firearm."

(b) **In part III, the** following paragraph is inserted after the first paragraph:

"The Member States shall make arrangements for the deactivation measures set out under (a) to be verified by a competent authority, to ensure that the modifications made to a firearm render it **irreversibly** inoperable. The Member States shall provide, in the context of this verification, for the issue of a certificate or record attesting to the deactivation of the firearm or a clearly visible mark to that effect stamped on the firearm. **The Commission shall issue common guidelines, following the procedure set out in Article 13(3a), on deactivation standards and techniques to ensure that deactivated firearms are permanently inoperable.**"

Amendment 48

ARTICLE 1, POINT 4, POINT (B A) (new)

Annex I, part IV, point (b) (Directive 91/477/EEC)

(ba) In point IV, point b) is replaced by the following:

("b) 'long firearm' means a firearm with a barrel exceeding 30 cm, or whose overall

length exceeds 60 cm;"

(Wording similar to the Directive)

Justification

Although the wording of point a) in Annex I point 4 seems fairly clear, nevertheless the failure to specifically define long firearms in point b) has created certain difficulties of interpretation; the misguided practice has arisen of regarding as 'short firearms' firearms whose overall length is less than 60 cm but which have a barrel whose total length exceeds 30 cm. The proposed wording is clearer, therefore, and would avoid conflicting interpretations.

Amendment 49

ARTICLE 1, POINT 4, POINT (B B) (NEW)

Annex II, point (f), paragraph 2 (Directive 91/477/EEC)

(bb) In Annex II, point (f), the second paragraph shall be replaced by the following:

"The prior authorisation referred to above is not necessary in order to travel with a firearm with a view to engaging in hunting or for the purpose of taking part in target shooting, on condition that the traveller is in possession of a European firearm pass."

Amendment 50

ARTICLE 2, PARAGRAPH 1, SUBPARAGRAPH 1

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [...] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [...] at the latest. They shall forthwith communicate to the ***European Parliament and the*** Commission the text of those provisions and a correlation table between those provisions and this Directive.

Justification

In order to be able to monitor the transposition of this Directive together with the other EU Institutions, the Parliament should be given the same information as the Commission of the national transposition measures.

EXPLANATORY STATEMENT

Background information

Necessitated by the elimination of internal borders in the Community on January 1st 1993, the 91/477/EEC directive on control of the acquisition and possession of weapons sets common rules enabling controls to be carried out within Member States on the acquisition and possession of firearms and on their transfer to another Member State. The directive defines four categories of firearms (prohibited, subject to authorisation, subject to declaration, and subject to no authorisation or declaration), requires records of transfers of firearms to be kept for 5 years, creates a European firearms pass for the movement of weapons in the Community and encourages exchange of information between Member States.

In December 2000, the Commission released a report on the implementation of this directive. The report did not conclude that substantial modifications of the 1991 directive were needed, but did identify a number of problems and possible solutions, in particular concerning information exchange between Member States (for instance through the creation of a contact group), the simplification of the categories of weapons, the European firearms pass (simplification of the derogation for hunters, mutual agreements between Member States, harmonised conditions to obtain the pass, rules regarding temporary transfers of weapons), the definition of common technical specifications regarding neutralisation and a common definition of antique weapons.

In December 2001, the European Commission signed, on behalf of the European Community, the UN Protocol against the illicit manufacturing and trafficking of firearms.

In March 2006, the Commission issued a proposal to amend the 1991 directive in order to adapt it to the requirements of the 2001 UN Protocol. The proposal covers 6 aspects: definition of illicit manufacturing and trafficking in line with the UN Protocol; explicit obligation of marking firearms; extension to 10 years of the period in which information on firearms must be kept in registers; brokering activities; obligation to consider illicit manufacturing or trafficking as intentional criminal offences; and measures regarding the deactivation of firearms. The Commission decided to only cover points arising from the UN Protocol. Therefore, a series of points mentioned in the 2000 report as possible improvements of the 1991 directive were not included in the proposal.

On September 13th 2006, the European Economic and Social Committee issued an Opinion on the Commission's proposal in which it is emphasised that transnational crime constitutes one of the most serious threats to the integrity of States. The EESC suggests to adopt harmonised preventive and punitive legislation and integrated common policies and to provide a definition of antique weapons, and recommends that Member States be bound to require weapons owners to declare ownership, hold a permit or comply with another administrative procedures authorising the use and carrying of a weapon.

The Centre for European Policy Studies was asked by the IMCO Committee to draft a briefing note reviewing the state of transposition of the Directive in ten EU Member States. The study shows that in most Member States: dealers must already keep records for ten years or more; there is a uniform marking system; additional requirements concerning the

acquisition of firearms are imposed; holders of a European firearms pass are required to present an invitation when entering the territory of most Member States; brokers are covered by the national firearms legislation; dealers are required to have an authorisation for trade in weapons of all categories; and deactivation of weapons is generally delegated to a Proof House or to certain other bodies. Some Member States do not have categories C and D of firearms.

The IMCO Committee organised a mini-hearing on October 4th 2006 in order to examine on which points the 1991 Directive would need to be modified and to clarify the appropriate level of harmonisation on EU level. The experts invited in the hearing expressed contrasting views concerning the possible content of the revised directive. Some of them emphasised the already existing wide testing measures being part of the manufacturing process and aiming at consumer safety, and the existing control system in force in 11 EU States which are members of the International Permanent Commission (CIP)¹. Others highlighted the threat caused by converted and reactivated firearms, pointed out that these weapons are not covered by the current directive, and therefore called for stricter rules, in particular: an indestructible marking of weapons; a ban on geometric marking; strict requirements for qualifications of dealers; a clear definition of brokers; the keeping of digitised data for an unlimited period; guidelines for deactivation of weapons; the incorporation in the directive of the import of weapons into the EU; the limitation to two categories of firearms (prohibited or subject to authorisation); restrictions on how many firearms a single person is allowed to own; and physical inspections in case of transfer of weapons.

The rapporteur's proposals

It should be noted that 5 years after the UN Protocol was signed, it is high time to incorporate into EU law the provisions of this Protocol. Illicit manufacturing and trafficking of firearms, their parts and components and ammunition have harmful effects on the security of all inhabitants of the EU. Additional measures are needed in order to prevent, combat and eradicate these activities. The issue of illicit possession of firearms cannot be separated from the issue of violent deaths due to small firearms, whether these are illicit or not. Readily available, cheap, portable and easy to use, small arms are tools of violence in society. According to World Health Organisation (WHO) data, interpersonal violence and suicide rank third and fourth among people aged 15–44 years, respectively among the world's leading causes of ill-health and premature mortality, while war-related injuries rank sixth. A large proportion of these occur through the use of firearms. Factors influencing the use of small arms include the availability of these weapons. The easy availability of firearms has been associated with higher firearm mortality rates. Furthermore, 15 years after the adoption of the 1991 directive, and 6 years after the European Commission's report on the implementation of this directive, it would be appropriate to include in the current revision all the relevant elements which could improve the effect of this directive on the safety of persons. In this respect, the current revision process of the 1991 directive should not be limited to the points mentioned in the UN Protocol. It should also examine, amongst other things in light of the

¹ In this respect, it should be noted that a coherent concept for tracing firearms and ammunition does not exist in the EU so far. Therefore, the transfer of CIP regulations into EU legislation would be desirable, with simultaneous consideration of a special inclusion of the non EU Members Russia and Chile. But as this would request a long negotiation process a more efficient solution is needed.

Commission 2000 report and developments in national legislation, whether it would now be useful to make additional modifications to the directive, to reduce the need for additional changes in the near term. Indeed, in view of the EU's efforts on better legislation, it is in the citizens' interest to avoid the need for several successive revisions of a single legislation.

In view of these considerations, the rapporteur puts forward amendment proposals in particular concerning the:

1. scope of the directive (to include not only firearms, but also their parts and ammunition, and to cover collectors and bodies concerned with cultural or historical aspects);
2. marking system (use of alphanumeric symbols, data on the year of fabrication);
3. record keeping (extension of the period, responsibility of public authorities, computerisation, centralised data-keeping system at national level for each firearm with a unique identification number);
4. exchange of information between Member States (data on marking systems and techniques, transfers, existing stocks and confiscated firearms, creation of an official contact group);
5. profession of a dealer (professional abilities);
6. brokering activities (definition);
7. classification of firearms;
8. control (physical inspections in case of intra-community transfers);
9. the European firearms pass (recognition that the Pass is the only appropriate instrument to allow for valid journeys to another Member States, amendment of the derogation for hunters under 18 years regarding acquisition and possession of firearms),
10. deactivation of firearms (EU guidelines containing technical specifications, measures to avoid reactivation);
11. antique weapons (definition); and
12. additional security measures (control of acquisition through distance communication and of acquisition of a firearm by persons convicted of criminal offences).

The rapporteur considers that the issue of sanctions and criminal offences are issues to be addressed by the Parliaments' Committee for Civil Liberties, Justice and Home Affairs and therefore does not make precise suggestions in this regard. The rapporteur would also appreciate suggestions by the LIBE Committee concerning her own proposals as regards the additional security measures mentioned in point 12 above.

12.6.2007

OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on the Internal Market and Consumer Protection

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons (COM(2006)0093 – C6-0081/2006 – 2006/0031(COD))

Draftsman (*): Alexander Alvaro

(*): Associated committees – Rule 47 of the Rules of Procedure

SHORT JUSTIFICATION

Background to the directive

The purpose of the directive amending Directive 91/477/EEC is to transpose at Community level the 'United Nations Protocol on the illicit manufacturing of and trafficking in firearms, their parts, components and ammunition, annexed to the Convention against transnational organised crime', signed by the Commission.

Directive 91/477/EEC aimed to establish minimum standards for the marking of weapons, the storing of records of the manufacture of and trade in weapons (registers), the deactivation of fire arms and the definition and introduction of punishable offences.

The Commission's specific objectives

The proposed directive amends the existing legislation in the following ways:

- Definition, within the scope of application of the Directive, of the notions of 'illicit manufacturing and trafficking of firearms';
- Provisions stipulating the marking of weapons;
- Extension of the period for keeping registers prescribed by Directive 91/477/EEC;
- Clarification of the applicable penalties;
- Inclusion of the general principles on the deactivation of weapons defined by the United Nations Protocol.

Commission report to the European Parliament and the Council (COM(2000)837)

In its report COM(2000)837, the Commission assesses the application of Directive 91/477/EEC, the conclusions on which are essentially positive, although improvements are needed in some areas.

It is agreed that the directive should lay down the following principle:
Travel from one Member States is not permitted if the passenger is in possession of a fire arm. Any deviation from this principle is only possible in compliance with a clearly defined procedure whereby the Member State in question is informed that a fire arm is to be brought onto its sovereign territory.

According to the Commission, there are serious shortcomings with regard to the exchange of information, resulting in a lack of detailed information and inadequate cooperation between Member States. Difficulties have also emerged with the use of the European Firearms Pass, even though, in the Commission's view, it is a suitable means for hunters and marksmen to travel from one Member State to another for the purposes of hunting or target shooting.

With regard to the classification, acquisition and possession of firearms, it has become apparent that the separation of firearms into categories A, B, C and D, defined by the Commission, is unnecessary in the large majority of Member States. In most Member States there a distinction is made only between prohibited firearms and those that are subject to authorisation.

Those affected by the Directive have not signalled any shortcomings or need to amend it and so the view prevails that the Directive has been sensibly transposed and fulfils its objectives.

Draftsman's position

The draftsman shares the basic opinion of those concerned and the Commission and consequently supports the amendment of Directive 91/477/EEC in line with the Commission's wishes. In order to clarify the remaining imperfections, however, the Commission's amendments have been fleshed out with provisions of the Schengen Agreement and the UN Protocol.

The draftsman also supports the inclusion in the scope of the directive of internet trade and the provision of internet platforms for trade in arms. Since the transposition of the Directive in 1993, the Internet has developed considerably and become an electronic market place. The Directive's aim of stopping trade in fire arms can only be achieved, therefore, if all trading opportunities are covered.

The draftsman further specifies that the failure to carry a European Firearms Pass when transporting fire arms from one Member State to another should not be subject to penalties, so as to prevent disproportionate restrictions on the free movement of persons

AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1 RECITAL 3 A (new)

(3a) Given that intelligence evidence shows an increase in the use of converted weapons within the EU, it is essential to ensure that such convertible weapons are brought within the definition of 'firearm' in this Directive.

Amendment 2 RECITAL 5

(5) Furthermore, the Protocol establishes an obligation to mark weapons at the time of manufacture, and at the time of transfer from government stocks to permanent civilian use, whereas Directive 91/477 refers only indirectly to the marking obligation.

(5) Furthermore, the Protocol establishes an obligation to mark weapons at the time of manufacture, and at the time of transfer from government stocks to permanent civilian use, whereas Directive 91/477 refers only indirectly to the marking obligation. ***Given that the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms includes all the requirements of the Protocol, the application of the Convention to the European Union as a whole should be envisaged.***

Justification

The Convention on Reciprocal Recognition of Proofmarks on Small Arms is in force in a large number of EU Member States, thus providing a marking and control system, which includes all the guarantees and requirements set out in the UN Protocol.

¹ Not yet published in OJ.

Amendment 3
RECITAL 6

(6) Moreover, the period during which the registers containing information on the weapons are kept must be increased to at least ten years, *as specified by the Protocol*.

(6) Moreover, *while the Protocol provides that* the period during which the registers containing information on the weapons are kept must be increased to at least ten years, *it is necessary to prolong this period up to at least 20 years in order to allow a proper tracing of firearms. It is also necessary that Member States keep a computerised and centralised data filing system in which each firearm is attributed a unique identification number and in which the name and address of every successive owner is mentioned. Access by police and judicial authorities to the information contained in the central register must be subject to compliance with Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.*

Justification

The Protocol provides for the maintenance of information "for not less than ten years", but a 10-year period is inadequate given the very long lifespan of firearms. Therefore the information should be kept for at least 20 years. Furthermore, the Protocol provides that the maintenance of information is the responsibility of public authorities. Appropriate tracing of firearms requires centralised registration systems monitoring the weapon rather than the person. Automation of registers is imperative in the 21st Century. It is important to ensure that access to the information contained in this central register is subject to rules guaranteeing respect for private and family life.

Amendment 4
RECITAL 6 A (new)

(6a) To facilitate the tracing of firearms and effectively combat the illicit manufacturing and trafficking of firearms, their parts, components and ammunition, steps should also be taken to improve the exchange of information between Member States.

Amendment 5
RECITAL 6 B (new)

(6b) The maintenance and exchange of information are subject to compliance with 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 free movement of such data.

¹ OJ L 281, 23.11.1995, p. 31.

Justification

It is important to emphasise the need to comply with the framework directive on the protection of personal data.

Amendment 6
RECITAL 9 A (new)

(9a) Due to the special nature of the activity of dealers and brokers, a strict control over this activity is necessary, in particular to verify the professional abilities and integrity of the dealers and brokers.

Justification

Until now, pursuit of the activity of dealer has not been properly regulated, unlike many other professions, although it is a very specific activity that requires strict controls. Therefore, it is desirable that dealers and brokers provide evidence of their professional

Amendment 7
RECITAL 9 B (new)

(9b) The European Firearms Pass functions in a satisfactory way in principle and should be regarded as the only document needed by hunters and marksmen to transfer a firearm to another Member State.

Justification

As mentioned in the Commission's 2000 report and in view of a proper functioning of the internal market, Member States should not be allowed to require documents or fees other than the European Firearms Pass regarding the circulation of hunters and marksmen.

Amendment 8 RECITAL 9 C (new)

(9c) The Commission should as soon as possible draw up a cost-benefit study of the impact which a reduction in the number of categories of arms would have on the functioning of the internal market.

Amendment 9 ARTICLE 1, POINT -1 A (new) Article 1, paragraph 1 (Directive 91/477/EEC)

(-1a) Article 1(1) is replaced by the following:

'For the purposes of this Directive, 'firearm' shall mean 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 an explosive, unless it meets the definition but is excluded for one of the reasons listed in section III of Annex I. Firearms are classified in section II of Annex I'.

Justification

The definition of a firearm is consistent with the Protocol. However, the definition should acknowledge the increase in the use of converted weapons in criminal activity across Europe, and the increase in cross-border smuggling of convertible weapons, including since the signing of the Protocol in 2001. The definition of 'readily convertible' used in the Protocol is weak, and risks differing interpretation across Member States, and therefore opens potential loopholes in the control of weapons used in criminal activities for criminal exploitation. Police also cite increasingly advanced techniques used by criminals in order to convert weapons, and therefore weapons may be used for conversion that are not considered 'readily convertible'. Furthermore the definition should be consistent with the exclusion of deactivated

firearms, antique weapons and some other firearms mentioned in Annex 1, section III of the Directive.

Amendment 10
ARTICLE 1 POINT -1 B (new)
Article 1, paragraph 2 (Directive 91/477/EEC)

(-1b) Article 1(2) is replaced by the following:

'2. For the purposes of this Directive 'dealer' shall mean any natural person whose trade or business consists wholly or partly in the manufacture, trade, or providing a platform for that purpose, exchange, hiring out, repair or conversion of firearms.'

Amendment 11
ARTICLE 1, POINT -1 C (new)
Article 1, paragraph 1 a (new) (Directive 91/477/EEC)

(-1c) In Article 1, the following paragraph 1a shall be inserted:

"1a. For the purposes of this Directive, 'antique weapon' shall mean either a weapon manufactured before 1900, or any weapon manufactured after that defined as an antique weapon by a Member State according to technical criteria."

Justification

A definition of "antique weapon" is needed for legal certainty reasons because these weapons are not covered by this Directive. On the other hand, other definitions by Member States should be allowed provided they are based on technical criteria.

Amendment 12
ARTICLE 1, POINT 1
Article 1, paragraph 2b (Directive 91/477/EEC)

4. For the purposes of this Directive, “illicit trafficking” shall mean the acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition ***from or across*** the territory of ***one*** Member State ***to that of another*** Member State if any

2b. For the purposes of this Directive, “illicit trafficking” shall mean the acquisition, sale, delivery, movement, transfer of firearms, their parts and components and ammunition ***in violation of this Directive to*** the territory of ***a*** Member State if any one of the Member

one of the Member States concerned does not authorise it in accordance with the terms of this Directive or if the firearms **are** not marked in accordance with Article 4(1).

States concerned does not authorise it in accordance with the terms of this Directive or if the firearms, **their parts and components and ammunition are not registered in accordance with Article 4(3) or not marked in accordance with Article 4(1). The acquisition, sale, delivery, movement or transfer of firearms shall however not be considered illicit trafficking for the sole reason that they are not marked in accordance with Article 4(1) if they were manufactured or transferred from government stocks to permanent civilian use before ...***, provided that the marking meets the relevant requirements applicable before that date.

* [Date of transposition of this Directive by the Member States]

Justification

The absence of registration should be included as a requisite of illicit trafficking. The insertion of the words "in violation of this Directive" will allow legal certainty by defining as an illicit trafficking any trafficking that is not in compliance with all the provisions of the Directive, and ensure that all firearms present on the EU territory are equally treated. However, transactions with firearms meeting current marking standards should not be considered illicit if they concern firearms manufactured or transferred before the date for transposition of this Directive.

Amendment 13

ARTICLE 1, POINT 1 A (new)

Article 1, paragraph 4 (Directive 91/477/EEC)

(1a) Article 1(4) is replaced by the following:

'4. The 'European firearms pass' is a document which is issued on request by the authorities of a Member State to a person lawfully entering into possession of and using a firearm. It shall be valid for a maximum period of five years. The period of validity may be extended. It shall contain the information set out in Annex II. The 'European firearms pass' is a non-transferable document, on which shall be entered the firearm or firearms possessed

and used by the holder of the pass. The pass must always be in the possession of the person using the firearm. Changes in the possession or characteristics of the firearms shall be indicated on the pass, as well as the loss or theft of the firearm.'

Amendment 14

ARTICLE 1, POINT 2

Article 4, paragraph 1, subparagraph 1 (Directive 91/477/EEC)

1. For the purpose of identifying and tracing each firearm, the Member States, at the time of manufacture of each firearm, either require unique marking **providing** the name of the **manufacturer**, the country or place of manufacture and the serial number, or maintain any alternative unique user-friendly marking with simple geometric symbols in combination with a number or alphanumeric code, permitting ready identification by all States of the country of manufacture.

1. For the purpose of identifying and tracing each firearm, the Member States, at the time of manufacture of each firearm, either require unique marking, **including** the name **or mark** of the **producer**, the country or place of manufacture and the serial number, **for example as laid down in the Convention of 1 July 1969 on Reciprocal Recognition of Proof Marks on Small Arms**, or maintain any alternative unique user-friendly marking with simple geometric symbols in combination with a number or alphanumeric code, permitting ready identification by all States of the country of manufacture.

Amendment 15

ARTICLE 1, POINT 2

Article 4, paragraph 2 (Directive 91/477/EEC)

2. **At least in respect of categories A and B**, each Member State shall make the pursuit of the activity of dealer within its territory conditional upon authorisation on the basis of at least a check on the private and professional integrity of the dealer. In the case of a legal person, the check shall be on the person who directs the undertaking. **In respect of categories C and D, each Member State which does not make the pursuit of the activity of dealer conditional upon authorisation shall make such activity subject to a declaration.**

2. Each Member State shall make the pursuit of the activity of dealer within its territory conditional upon authorisation on the basis of at least a check on the private and professional integrity of the dealer. In the case of a legal person, the check shall be on the person who directs the undertaking.

Amendment 16
ARTICLE 1, POINT 2
Article 4, paragraph 3 (Directive 91/477/CEE)

3. Dealers shall be required to keep a register in which information concerning all firearms ***classified in category A, B or C*** received or disposed of by them shall be recorded, ***including*** such particulars as enable the weapon to be identified, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the person acquiring the weapon. The dealer shall conserve the register for a period of five years, even after he has ceased his activity. Each Member State shall ensure the maintenance of ***this*** information for not less than ***ten*** years.

3. Dealers shall be required to keep a register in which information concerning all firearms received or disposed of by them shall be recorded, ***as well as*** such particulars as enable the weapon to be identified, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the person acquiring the weapon. The dealer shall conserve the register for a period of five years, even after he has ceased his activity. Each Member State shall ensure the maintenance of ***the aforementioned information in a centralised and computerised registration system*** for not less than ***twenty*** years.

Justification

The existence in each Member State of a centralised and computerised registration system would facilitate information tracing and exchanges. Moreover, in view of a firearm's lifetime, the period for maintenance of information, which is ten years in the proposal for a directive, should be extended to twenty years.

Amendment 17
ARTICLE 1, POINT 2 A (new)
Article 4, paragraph 3 a (new) (Directive 91/477/EEC)

(3a) Member States shall ensure that all firearms classified in categories A, B, C and D may be linked to their current owners.

Amendment 18
ARTICLE 1, POINT 2 B (new)
Article 4a (new) (Directive 91/477/EEC)

(2b) The following Article shall be added after Article 4:

"Article 4a

Without prejudice to Article 3, Member States shall allow the acquisition and possession of firearms classified in categories A, B, C or D only by persons who were granted a licence or a permit to do so in accordance with national legislation."

Amendment 19

ARTICLE 1, POINT 2 C (new)

Article 5 (Directive 91/477/EEC)

(2c) Article 5 is replaced by the following:

'Without prejudice to Article 3, Member States shall allow the acquisition and possession of firearms only by persons who have good cause and who:

(a) are 18 years old or more, except for hunting or target shooting;

(b) are not likely to be a danger to themselves, to public order or to public safety.

Without prejudice to Article 3, Member States shall allow the possession of firearms only by persons who have not been convicted of a serious offence (e.g. murder, robbery or arson) or of involvement therein.

Member States may withdraw authorisation for possession of the firearm if any of the conditions in point (b) of the first paragraph is no longer satisfied.

Member States may not prohibit persons resident within their territories from possessing a weapon acquired in another Member State unless they prohibit the acquisition of the same weapon within their own territories.'

Justification

The inserted text is intended to clarify the provision, so as to reflect Article 83(c) of the

Amendment 20
ARTICLE 1, POINT 2 D (new)
Article 6 (Directive 91/477/EEC)

(2d) In Article 6, the following paragraph is added:

"The acquisition of firearms, their parts and components and of ammunition through means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts¹, shall be fully subject to the provisions of this Directive.

¹ OJ L 144, 4.6.1997, p. 19."

Amendment 21
ARTICLE 1, POINT 2 E (new)
Article 12, paragraph 2 (Directive 91/477/EEC)

(2e) Article 12, paragraph 2 is amended as follows:

(a) The first subparagraph is replaced by the following:

"2. Notwithstanding paragraph 1, hunters and marksmen may without prior authorization be in possession of one or more firearms during a journey through two or more Member States with a view to engaging in their activities, provided that they are in possession of a European firearms pass listing such firearm or firearms. No other document than the European firearms pass shall be required by Member States to that end. Member States may not make acceptance of a European firearms pass conditional upon any additional registration requirement or the payment of any fee or charge."

(b) The second subparagraph is replaced by

the following:

"However, this derogation shall not apply to journeys to a Member State which prohibits the acquisition and possession of the firearm in question; in that case, an express statement to that effect shall be entered on the European firearms pass."

Justification

As mentioned in the Commission's 2000 report and in view of a proper functioning of the internal market, Member States should not be allowed to require documents or fees other than the European firearms pass regarding the circulation of hunters and marksmen.

Amendment 22

ARTICLE 1, POINT 2 F (new)

Article 13, paragraph 3 (Directive 91/477/EEC)

(2f) Article 13(3) is replaced by the following:

"3. Member States shall establish networks for the exchange, on a regular basis, of all information at their disposal.

The Commission shall establish, no later than one year after the entry into force of this Directive, a contact group for the exchange of information for the purpose of applying this article.

Each Member State shall inform the other Member States and the Commission of the authorities responsible for forwarding and receiving the information and applying the formality under Article 11(4)."

Amendment 23

ARTICLE 1, POINT 3

Article 16, paragraph 1, subparagraph 3 (Directive 91/477/EEC)

Such attempts, or participation as an accomplice in the latter shall also be considered as criminal offences, when committed intentionally.

Organising, directing, aiding, abetting, facilitating or counselling the commission of an offence defined by this Article shall be considered as a criminal offence, when committed intentionally.

Justification

This wording is taken from the UN Protocol, which forms the basis of the Directive, and is intended to clarify the provision.

Amendment 24

ARTICLE 1, POINT 3

Article 16, paragraph 1, subparagraph 3 a (new) (Directive 91/477/EEC)

The failure to carry a European firearms pass shall not be subject to a custodial sentence.

Justification

This addition is to prevent lawful owners of weapons risking prison if they travel to another Member State and are unable to present a European firearms pass but are in possession of all other necessary documents.

Amendment 25

ARTICLE 1, POINT 4 A (new)

Annex I, point (f) (Directive 91/477/EEC)

***4a) In Annex II, point (f), the second paragraph is amended as follows:
"The prior authorisation referred to above is not in principle necessary in order to travel with a firearm with a view to engaging in hunting or for the purpose of taking part in target shooting, on condition that the traveller is in possession of the European firearm pass".***

Amendment 26

ARTICLE 2, POINT 2 A (new)

(2a) Within five years from the date of transposition of this Directive into national law, and every fifth year thereafter, the Commission shall submit a report to the European Parliament and to the Council on the situation resulting from the application of this Directive, accompanied,

if appropriate, by proposals.

*The Commission shall undertake a study on the marketing of replica weapons within the European Community and report on this to the European Parliament and to the Council by [...]** at the latest.

** One year after the date of entry into force of this Directive.*

Justification

In line with better regulation the requirement for reporting included in Directive 91/477/EEC should be updated and made regular. In addition the Commission should conduct a study on the complex issue of replica weapons and their marketing, including their sale on the internet, within the European Community.

PROCEDURE

Title	Control of the acquisition and possession of weapons			
References	COM(2006)0093 - C6-0081/2006 - 2006/0031(COD)			
Committee responsible	IMCO			
Opinion by Date announced in plenary	LIBE 3.4.2006			
Enhanced cooperation - date announced in plenary	3.4.2006			
Drafts(wo)man Date appointed	Alexander Alvaro 13.9.2006			
Discussed in committee	23.11.2006	25.1.2007	1.2.2007	8.5.2007
	5.6.2007	11.6.2007		
Date adopted	11.6.2007			
Result of final vote	+: -: 0:	26 2 0		
Members present for the final vote	Alexander Alvaro, Philip Bradbourn, Mihael Brejc, Maria Carlshamre, Carlos Coelho, Esther De Lange, Panayiotis Demetriou, Claudio Fava, Kinga Gál, Jeanine Hennis-Plasschaert, Lívia Járóka, Wolfgang Kreissl-Dörfler, Stavros Lambrinidis, Kartika Tamara Liotard, Sarah Ludford, Claude Moraes, Javier Moreno Sánchez, Athanasios Pafilis, Martine Roure, Ioannis Varvitsiotis			
Substitute(s) present for the final vote	Inés Ayala Sender, Gérard Deprez, Ignasi Guardans Cambó, Ona Juknevičienė			
Substitute(s) under Rule 178(2) present for the final vote	Luis de Grandes Pascual, Véronique Mathieu, Arlene McCarthy, Gisela Kallenbach			

PROCEDURE

Title	Control of the acquisition and possession of weapons			
References	COM(2006)0093 - C6-0081/2006 - 2006/0031(COD)			
Date submitted to Parliament	2.3.2006			
Committee responsible Date announced in plenary	IMCO 3.4.2006			
Committee(s) asked for opinion(s) Date announced in plenary	LIBE 3.4.2006			
Enhanced cooperation Date announced in plenary	LIBE 3.4.2006			
Rapporteur(s) Date appointed	Gisela Kallenbach 2.5.2006			
Discussed in committee	29.5.2006	4.10.2006	10.10.2006	28.11.2006
	19.12.2006	24.1.2007	5.6.2007	
Date adopted	27.6.2007			
Result of final vote	+	41		
	-			
	0			
Members present for the final vote	Daniela Buruiană-Aprodu, Charlotte Cederschiöld, Gabriela Crețu, Mia De Vits, Rosa Díez González, Janelly Fourtou, Małgorzata Handzlik, Daniel Hannan, Malcolm Harbour, Anna Hedh, Edit Herczog, Iliana Malinova Iotova, Pierre Jonckheer, Alexander Lambsdorff, Kurt Lechner, Lasse Lehtinen, Toine Manders, Arlene McCarthy, Nickolay Mladenov, Bill Newton Dunn, Béatrice Patrie, Guido Podestà, Karin Riis-Jørgensen, Zuzana Roithová, Luisa Fernanda Rudi Ubeda, Leopold Józef Rutowicz, Christel Schaldemose, Andreas Schwab, Alexander Stubb, Marianne Thyssen, Horia-Victor Toma, Bernadette Vergnaud, Nicola Zingaretti			
Substitute(s) present for the final vote	André Brie, Wolfgang Bulfon, Gisela Kallenbach, Manuel Medina Ortega, Søren Bo Søndergaard, Gary Titley			
Substitute(s) under Rule 178(2) present for the final vote	Luis de Grandes Pascual, Véronique Mathieu, Thomas Wise			