



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 28 June 2011**

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**"I" ITEM NOTE**

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from : General Secretariat of the Council  
to : Permanent Representatives Committee

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Subject : Proposal for a Regulation (EU) No .../... of the European parliament and of the Council of[...] implementing Article 10 of the United Nations' Firearms Protocol and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition

**(LA + S) (First reading)**

- Approval of the final compromise text

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1. On 25 November 2010, the Commission submitted to the Council and European Parliament a proposal based on the Article 207 of the Treaty on the Functioning of the European Union and aiming at implementing Article 10 of the United Nations' Firearms Protocol and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition.
2. The Working Party on Customs Union examined this proposal during various meetings in 2010 and 2011, the latest one on 21 June 2011.

3. The INTA Committee of the European Parliament adopted at its meeting on 13 April 2011 a report approving the proposal while introducing a number of amendments to it.
4. With a view to concluding an agreement at first reading, the Presidency prepared the text set out in the Annex which reflects the compromise reached with the European Parliament at an informal triologue meeting on 28 June 2011.
5. This compromise text was examined and approved without amendments by the Customs Attachés of the Permanent Representations on 28 June 2011<sup>1</sup>.
6. **Against this background, the Permanent Representatives Committee is invited to:**
  - **approve the compromise text as set out in the Annex to this note, with a view to reaching an agreement at first reading with the European Parliament; and**
  - **give to the Chairman of the Permanent Representatives Committee the mandate to inform the Chair of the European Parliament's INTA Committee that, should the European Parliament adopt the amendments to the Commission proposal in the exact form as set out in the Annex to this note, the Council would adopt the Regulation in the form of the Commission proposal as thus amended by the Parliament, subject to legal-linguistic verification by both Institutions.**

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<sup>1</sup> At this stage, the DK, FI and SE delegations maintain a scrutiny reservation. The UK maintains a Parliamentary scrutiny reservation. It is understood that these reservations will be lifted before the formal adoption of the Regulation by the Council.

DRAFT

**REGULATION (EU) No .../... OF THE EUROPEAN PARLIAMENT  
AND OF THE COUNCIL**

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In accordance with Council Decision 2001/748/EC of 16 October 2001<sup>2</sup> concerning the signing on behalf of the European Community<sup>3</sup> of the United Nations Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against transnational Organised Crime, the Commission signed that Protocol (hereinafter referred to as the 'UN Firearms Protocol' or 'UNFP') on behalf of the Community on 16 January 2002.

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<sup>2</sup> OJ L 280, 24.10.2001, p.5.

<sup>3</sup> The European Union replaced and succeeded the European Community on 1 December 2009, date of entry into force of the Treaty on European Union, pursuant to Article 1, third paragraph thereof (OJ C 115, 9.05.2008, p. 13).

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

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<sup>4</sup> OJ L 281, 23.11.1995, p.31.

<sup>5</sup> OJ L 8, 12.1.2001, p.1.

<sup>6</sup> COM (2005) 329 final. The Communication also announced the technical modification of Directive 91/477 aimed at integrating the appropriate provisions required by the UN Protocol as regards intra-Community transfers of weapons concerned by the Directive, finally amended by Directive 2008/51/EC published on OJ L 179, 8.7.2008, p 5.

- (8) This Regulation should not apply to firearms, their parts and essential components or ammunition that are intended specifically for military purposes. The need to meet the requirements of Article 10 of the UN Firearms Protocol should be adapted to provide for simplified procedures for firearms for civilian use. Consequently, some facilitation with regard to authorisation for multiple shipments, transit measures and temporary exports for lawful purposes should be ensured.
- (9) This Regulation does not affect the application of Article 346 of the Treaty on the Functioning of the European Union, which refers to essential interests of the security of the Member States, and has no impact to Directive 2009/43/EC of the European Parliament and of the Council simplifying terms and conditions of transfers of defence-related products within the Community<sup>7</sup>, and also has no impact to Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons. Moreover, the UN Firearms Protocol and consequently this Regulation do not apply to State-to-State transactions or to State transfers in cases where the application of the Protocol would prejudice the right of a State Party to take action in the interest of national security consistent with the Charter of the United Nations.
- (10) Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons<sup>8</sup> addresses transfers of firearms for civilian use within the territory of the Union while this Regulation focuses on measures in respect of exportation from the customs territory of the European Union to or through third countries.
- (11) Firearms, their parts and essential components and ammunition when imported from third countries are subject to Union legislation and, in particular, to the requirements of Council Directive 91/477/EEC.
- (12) Consistency should be ensured with regard to record-keeping provisions in force under Union legislation.

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<sup>7</sup> OJ L 146, 10.6.2009, p. 1.

<sup>8</sup> OJ L 256, 13.9.1991, p.51

- (13) In order to ensure that this Regulation is properly applied, each Member State should take measures giving the competent authorities appropriate powers.
- (14) In order to maintain the list of firearms, their parts and essential components and ammunition for which an authorisation is required under this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of aligning Annex I to this Regulation to Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff and to Annex I to the Council Directive 91/477/ECC of 18 June 1991 as amended by the Directive 2008/51/EC of 21 May 2008 on control of the acquisition and possession of weapons. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

- (15) The Union has adopted a body of customs rules, contained in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>9</sup> and its implementing provisions as laid down in Commission Regulation (EEC) No 2454/93<sup>10</sup>. Consideration should also be given to Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code)<sup>11</sup> whose provisions are applicable in different phases according to its Article 188. Nothing in this Regulation constrains any powers under and pursuant to the Community Customs Code and its implementing provisions.
- (16) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.

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<sup>9</sup> OJ L 302, 19.10.1992, p. 1.

<sup>10</sup> OJ L 253, 11.10.1993, p. 1.

<sup>11</sup> OJ L 145, 4.06.2008, p. 1.

- (17) This Regulation is without prejudice to the Union regime for the control of exports, transfer, brokering and transit of dual-use items established by Council Regulation (EC) No 428/2009 of 5 May 2009<sup>12</sup>.
- (18) This Regulation is consistent with the relevant considerations expressed on firearms, parts, essential components and ammunition for military use, security strategies, illicit trafficking of small arms and light weapons and exports of military technology, including Council Common Position 2008/944/CFSP.
- (19) The Commission and the Member States should inform each other of the measures taken under this Regulation and other relevant information at their disposal in connection with this Regulation.
- (20) This Regulation does not prevent the Member States from applying their constitutional rules relating to public access to official documents, taking into account Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>13</sup>.

HAVE ADOPTED THIS REGULATION:

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<sup>12</sup> OJ L 134, 29.5.2009, p. 1.

<sup>13</sup> OJ L 145, 31.5.2001, p. 43

**CHAPTER I**  
**SUBJECT, DEFINITIONS AND SCOPE**

*Article 1*

This Regulation lays down rules governing export authorisation, and import and transit measures for firearms, their parts and essential components and ammunition, for the purpose of implementing Article 10 of the United Nations Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (hereinafter referred to as "the UN Firearms Protocol").

*Article 2*

For the purposes of this Regulation:

1. 'firearm' means any portable barrelled weapon that expels, is designed to expel or may be converted to expel a shot, bullet or projectile by the action of a combustible propellant as referred to in Annex I.

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

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

2. 'parts' means any element or replacement element as referred to in Annex I specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm; 'essential components' 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;



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

Where the benefit of a right to dispose of firearms, their parts and essential components or ammunition belongs to a person established outside the Union pursuant to the contract on which the export is based, the exporter shall be considered to be the contracting party established in the Union;

8. 'customs territory of the Union' means the territory within the meaning of Article 3 of Regulation (EEC) No 2913/92;
9. 'export declaration' means the act whereby a person indicates in the prescribed form and manner his intention to place firearms, their parts and essential components, and ammunition under an export procedure;
10. 'temporary export' means the movement of firearms leaving the customs territory of the Union and intended for re-importation within a period not exceeding 24 months.
11. 'transshipment' means transit involving the physical operation of unloading goods from the importing means of transport followed by reloading, for the purpose of re-exportation, generally onto another means of transport;
12. 'transit' means the operation of transport of goods leaving the customs territory of the Union and passing through the territory of one or more third countries with final destination in another third country;
13. 'export authorisation' means:
  - a) a single authorisation or a licence granted to one specific exporter for one shipment of one or more firearms, their parts and essential components and ammunition to one identified final recipient or consignee in a third country and/or;
  - b) a multiple authorisation or a licence granted to one specific exporter for multiple shipments of one or more firearms, their parts and essential components and ammunition to one identified final recipient or consignee in one third country and/or;

- c) a global authorisation or a licence granted to one specific exporter for multiple shipments of one or more firearms, their parts and essential components and ammunition to several identified final recipients or consignees in one or several third countries;
14. 'illicit trafficking' means the import, export, sale, delivery, movement or transfer of firearms, their parts and essential components or ammunition from or across the territory of one Member State to that of a third country, if:
- (i) the Member State concerned does not authorise it in accordance with the terms of this Regulation, or
  - (ii) the firearms are not marked in accordance with Article 4(1) of Directive 91/477/EEC, or
  - (iii) the imported firearms are not marked at the time of importation at least with a simple marking permitting identification of the first country of import within the Union or, where the firearm does not bear such a marking, a unique marking identifying the imported firearms;
15. 'tracing' means the systematic tracking of firearms and, where possible, their parts and essential components and ammunition from manufacturer to purchaser for the purpose of assisting the competent authorities of Member States in detecting, investigating and analysing illicit manufacturing and trafficking.

### *Article 3*

1. This Regulation shall not apply to:
- (a) State to State transactions or State transfers;
  - (b) firearms, their parts and essential components and ammunition if specially designed for military use, and in any case, firearms of the fully automatic firing type;
  - (c) firearms, their parts and essential components and ammunition when destined for armed forces, the police, and the public authorities of the Member States;

- (d) collectors and bodies concerned with cultural and historical aspects of firearms, their parts and essential components and ammunition and recognised as such for the purpose of this Regulation by the Member State in whose territory they are established, provided that tracing measures are ensured;
  - (e) deactivated firearms;
  - (f) antique firearms and their replicas as defined in accordance with national legislation, provided that antique firearms do not include firearms manufactured after 1899.
2. This Regulation is without prejudice to Council Regulation (EEC) No 2913/92 (Community Customs Code), Commission Regulation (EEC) No 2454/93 (implementing provisions of the Community Customs Code), Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the "Modernised Customs Code" and to the regime for the control of exports, transfer, brokering and transit of dual-use items established by Council Regulation (EC) No 428/2009 (Dual Use Regulation).

## **CHAPTER II**

### **EXPORT AUTHORISATION, PROCEDURES AND CONTROLS AND IMPORT AND TRANSIT MEASURES**

#### *Article 4*

An export authorisation established in accordance with the form in Annex II shall be required for the export of firearms, their parts and essential components and ammunition listed in Annex I. Such authorisation shall be granted by the competent authorities of the Member State where the exporter is established and shall be issued in writing or by electronic means.

Where the export of firearms, their parts, essential components and ammunition requires an export authorisation pursuant to this Regulation and it is also subject to export authorisation requirements in accordance with the Common Position 2008/944/CFSP, Member States may use a single procedure to carry out the obligations imposed on them by this Regulation and by that Common Position.

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

#### *Article 4 bis*

The Commission shall be empowered to adopt delegated acts to amend Annex I on the basis of the amendments to Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff and the amendments to Annex I to the Council Directive 91/477/ECC as amended by the Directive 2008/51/EC on control of the acquisition and possession of weapons.

The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

The delegation of powers referred to in this Article is conferred on the Commission for an indeterminate period of time and may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

#### *Article 5*

1. Before issuing an export authorisation for firearms, their parts and essential components and ammunition, the Member State concerned shall verify that:
  - (a) the importing third country has authorised the relevant import and,
  - (b) the third countries of transit, if any, have given notice in writing — and at the latest prior to shipment — that they have no objection to the transit. This provision does not apply:
    - to shipments by sea/air and through ports/airports of third countries provided that that there is no transshipment or change of means of transport;
    - in case of temporary exports for verifiable lawful purposes, which include hunting, sport shooting, evaluation, exhibitions without sale and repair.
2. Member States may decide that, if no objections to the transit are received within twenty working days from the day of the written request for no objection to the transit submitted by the exporter, the consulted third country of transit shall be regarded as having no objection to the transit.
3. The exporter shall supply the competent authority of the Member State responsible for issuing the export authorisation with the necessary documents proving that the importing third country has authorised the import and that the transit third country had no objection to the transit.

4. The Member States shall process requests for export authorisations within a period of time to be determined by national law or practice, which shall not exceed sixty working days, from the date on which all required information has been provided to the competent authorities. Under exceptional circumstances and for duly justified reasons, the period in this paragraph may be extended to ninety working days.
5. The period of validity of an export authorisation shall not exceed the period of validity of the import authorisation. When the import authorisation does not specify a period of validity, except under exceptional circumstances and for duly justified reasons, the period of validity of an export authorisation shall not be less than nine months.
6. Member States may decide to make use of electronic documents for the purpose of processing the requests for authorisation.

#### *Article 6*

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

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

*Article 7*

1. Simplified procedures for the temporary export or the re-export of firearms, their parts, essential components and ammunition shall apply as follows:
  - (a) no export authorisation shall be required for
    - (i) the temporary export by sport shooters or by hunters as part of their accompanied personal effects, during a journey to a third country and provided that they substantiate to the competent authorities the reasons for this journey, in particular through an invitation or other proof of the hunting or target shooting activities in the third country of destination, of:
      - one or more firearms;
      - their essential components, if marked, as well as parts;
      - their related ammunition, limited to a maximum of eight hundred rounds for hunters and a maximum of twelve hundred rounds for sport shooters.
    - (ii) the re-export by sport shooters or by hunters as part of their accompanied personal effects following temporary admission for hunting or sport shooting activities, provided that the firearms remain the property of a person established outside the customs territory of the Union and the firearms are re-exported to the aforementioned person.



- (b) When leaving the customs territory of the Union through another Member State that the Member State of their residence, hunters and sport shooters shall produce to the competent authorities the European firearms pass pursuant to Articles 1 and 12 of Directive 91/477/EEC. In case of air traffic, the European firearms pass shall be produced to the competent authorities where the goods are handed over to the airline for transport out of the customs territory of the Union.

When leaving the customs territory of the Union through the Member State of their residence, hunters and sport shooters may instead of the European firearms pass choose to produce another document considered valid for this purpose by the competent authorities of the said Member State.

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

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

- (a) the re-export of firearms following temporary admission for evaluation or exhibition without sale, or inward processing for repair, provided that the firearms remain the property of a person established outside the customs territory of the Union and the firearms are re-exported to the aforementioned person;
- (b) the re-export of firearms, their parts and essential components and ammunition in case they are in temporary storage from the moment they enter the customs territory of the Union until their exit;

- (c) the temporary export of firearms for the purpose of evaluation and repair and exhibition without sale, provided that the exporter justifies the lawful possession of these firearms and exports them under the outward processing or temporary exportation customs procedures.

#### *Article 8*

1. In deciding whether or not to grant an export authorisation under this Regulation, the Member States shall take into account all relevant considerations including, where appropriate:
  - (a) the obligations and commitments they have each accepted as members of the relevant international export control arrangements, or by ratification of relevant international treaties;
  - (b) considerations of national foreign and security policy, including those covered by Council Common Position 2008/944/CFSP<sup>14</sup>;
  - (c) considerations about intended end use, consignee, identified final recipient and the risk of diversion.
2. In addition to the criteria set out in paragraph 1, when assessing an application for an export authorisation, Member States shall take into consideration the application by the exporter of proportionate and adequate means and procedures to ensure compliance with the provisions and objectives of this Regulation and with the terms and conditions of the authorisation. In deciding whether or not to grant an export authorization under this Regulation, the Member States shall respect their obligations under sanctions imposed by decisions adopted by the Council or by a decision of the Organisation for Security and Cooperation in Europe (OSCE) or by a binding resolution of the Security Council of the United Nations, in particular on arms embargoes.

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<sup>14</sup> OJ L 335, 13.12.2008, p. 99.

## *Article 9*

1. Member States shall:
  - (a) refuse to grant an export authorisation if the person applying for such authorisation has any criminal records concerning a conduct constituting an offence listed in Article 2(2) of Council Framework Decision 2002/584/JHA<sup>15</sup> or any other conduct, providing that these conducts constitute an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;
  - (b) annul, suspend, modify or revoke an export authorisation if the conditions for granting it were not met or are no longer met.

The above provision is without prejudice to stricter rules under national legislation.

2. Where Member States refuse, annul, suspend or revoke an export authorization, they shall notify the competent authorities of the other Member States thereof and share the relevant information with them. In case the competent authorities of a Member State have suspended an export authorization, the final assessment shall be communicated to the Member States at the end of the period of suspension.
3. Before the competent authorities of a Member State, acting under this Regulation, grant an export authorisation they shall take into account all refusals taken under this Regulation they have been notified of to ascertain whether an authorisation has been refused by the competent authorities of another Member State or States for an essentially identical transaction (meaning an item with essentially identical parameters or technical characteristics to the same importer or consignee). They may first consult the competent authorities of the Member State or States which issued such denial(s) as provided for in paragraphs 1 and 2. If following such consultation the competent authorities of the Member State decide to grant an authorisation they shall notify the competent authorities of the other Member States, providing all relevant information to explain the decision.

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<sup>15</sup> Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, OJ L 190 of 18.7.2002

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

*Article 10*

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

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

*Article 11*

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

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

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

### *Article 12*

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

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

### *Article 13*

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

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

### *Article 14*

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented.

The penalties provided for must be effective, proportionate and dissuasive.

**CHAPTER III**  
**CUSTOMS FORMALITIES**

*Article 15*

1. When completing the customs formalities for the export of firearms, their parts and essential components or ammunition at the customs office of export, the exporter shall furnish proof that any necessary export authorisation has been obtained.
2. The exporter may be required to provide a translation of any documents furnished as proof into an official language of the Member State where the export declaration is presented.
3. Without prejudice to any powers conferred on it under, and pursuant to, Regulation (EEC) No 2913/92, a Member State shall for a period not exceeding ten days suspend the process of export from its territory or, if necessary, otherwise prevent firearms, their parts and essential components or ammunition which are covered by a valid export authorisation from leaving the customs territory of the Union through its territory, where it has grounds for suspicion that:
  - (a) relevant information was not taken into account when the authorisation was granted, or
  - (b) circumstances have materially changed since the grant of the authorisation.Under exceptional circumstances and for duly justified reasons, the period in this paragraph may be extended to thirty days.
4. Within the period referred to in paragraph 3, the Member State shall either release the firearms, their parts and essential components or ammunition or take action pursuant to Article 9(1)(b) of this Regulation.

## *Article 16*

1. Member States may provide that customs formalities for the export of firearms, their parts and essential components or ammunition can be completed only at customs offices empowered to that end.
2. Member States availing themselves of the option set out in paragraph 1 shall inform the Commission of the duly empowered customs offices or of subsequent changes. The Commission shall publish and update this information on a yearly basis in the C series of the *Official Journal of the European Union*.

## **CHAPTER IV ADMINISTRATIVE COOPERATION**

## *Article 17*

1. Member States, in cooperation with the Commission and according to Article 19(2), shall take all appropriate measures to establish direct cooperation and exchange of information between competent authorities with a view to enhancing the efficiency of the measures established by this Regulation. Such information may include:
  - (a) details of exporters whose application for an authorization is refused or of exporters who are the subject of decisions taken by Member States pursuant to Article 9;
  - (b) data on consignees or other actors involved in suspicious activities, and, where available, routes taken.
2. Council Regulation (EC) No 515/97 of 13 March 1997<sup>16</sup>, and in particular the provisions in that Regulation on the confidentiality of information, shall apply *mutatis mutandis*, without prejudice to Article 18 of this Regulation.

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<sup>16</sup> OJ L 82, 22.3.1997, p. 1.

**CHAPTER V**  
**GENERAL AND FINAL PROVISIONS**

*Article 18*

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

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

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

*Article 19*

1. Each Member State shall inform the Commission of the laws, regulations and administrative provisions adopted in implementation of this Regulation, including the measures referred to in Article 14.
2. By the date of entry into force of this Regulation, each Member State shall keep the other Member States and the Commission informed of the national authorities competent for implementing Articles 5, 7, 9 and 15. Based on the information supplied by the Member States, the Commission shall publish and update a list of these authorities on a yearly basis in the C series of the *Official Journal of the European Union*.



3. Five years after the entry into force of this Regulation, and following that period, upon request of the Firearms Exports Coordination Group and in any event every ten years the Commission shall review the implementation of this Regulation and present a report to the European Parliament and the Council on its application, which may include proposals for its amendment. Member States shall provide the Commission with all appropriate information for the preparation of the report, including the use of the single procedure as referred to in Article 4(2).

#### *Article 20*

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

Article 11(1) and 11(2) of this Regulation shall be applicable from the thirtieth day from which the UN Firearms Protocol enters into force in the European Union, following its conclusion pursuant to Article 218 of the Treaty. All other provisions shall be applicable eighteen months from the date of publication of this Regulation in the *Official Journal of the European Union*.

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

**List of firearms, their parts and essential components and ammunition as referred to in this Regulation**

	DESCRIPTION	CN CODE <sup>18</sup>
1	Semi-automatic or repeating short firearms	ex 9302 00 00
2	Single-shot short firearms with centre-fire percussion	ex 9302 00 00
3	Single-shot short firearms with rim fire percussion whose overall length is less than 28 cm	ex 9302 00 00
4	Semi-automatic long firearms whose magazine and chamber can together hold more than three rounds	ex 9303 20 10 ex 9303 20 95 ex 9303 30 00 ex 9303 90 00
5	Semi-automatic long firearms whose magazine and chamber cannot together hold more than three rounds, where the loading device is removable or where it is not certain that the weapon cannot be converted, with ordinary tools, into a weapon whose magazine and chamber can together hold more than three rounds.	ex 9303 20 10 ex 9303 20 95 ex 9303 30 00 ex 9303 90 00
6	Repeating and semi-automatic long firearms with smooth-bore barrels not exceeding 60 cm in length	ex 9303 20 10 ex 9303 20 95
7	Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms	ex 9302 00 00 ex 9303 20 10 ex 9303 20 95 ex 9303 30 00 ex 9303 90 00

<sup>17</sup> Based on the Combined Nomenclature of goods as laid down in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.

<sup>18</sup> When an "ex" code is indicated, the scope is to be determined by application of the CN code and corresponding description taken together.

8	Repeating long firearms other than those listed in point 6	ex 9303 20 95 ex 9303 30 00 ex 9303 90 00
9	Long firearms with single-shot rifled barrels	ex 9303 30 00 ex 9303 90 00

10	Semi-automatic long firearms other than those in points 4 to 7	ex 9303 90 00
11	Single-shot short firearms with rim fire percussion whose overall length is not less than 28 cm	ex 9302 00 00
12	Single-shot long firearms with smooth-bore barrels	9303 10 00 ex 9303 20 10 ex 9303 20 95
13	Parts specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm.  Any essential component of such firearms: The 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	ex 9305 10 00 ex 9305 21 00 ex 9305 29 00 ex 9305 99 00
14	Ammunition : the complete round or the components thereof, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm, provided that those components are themselves subject to authorisation in the relevant Member State	ex 3601 00 00 ex 3603 00 90 ex 9306 21 00 ex 9306 29 00 ex 9306 30 10 ex 9306 30 90 ex 9306 90 90
15	Collections and collectors' pieces of historical interest  Antiques of an age exceeding 100 years	ex 9705 00 00 ex 9706 00 00

For the purposes of this Annex:

- (a) 'short firearm' means a firearm with a barrel not exceeding 30 centimeters or whose overall length does not exceed 60 centimeters;
- (b) 'long firearm' means any firearm other than a short firearm;

- (c) 'automatic firearm' means a firearm which reloads automatically each time a round is fired and can fire more than one round with one pull on the trigger;
  - (d) 'semi-automatic firearm' means a firearm which reloads automatically each time a round is fired and can fire only one round with one pull on the trigger;
  - (e) 'repeating firearm' means a firearm which after a round has been fired is designed to be reloaded from a magazine or cylinder by means of a manually-operated action;
  - (f) 'single-shot firearm' means a firearm with no magazine which is loaded before each shot by the manual insertion of a round into the chamber or a loading recess at the breech of the barrel.
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**ANNEX II TO THE ANNEX**

**(model for export authorisation forms)  
(referred to in Article 4 of this Regulation)**

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

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

EUROPEAN UNION

EXPORT OF FIREARMS (Reg. (EC) No ...../20....)

Type of authorisation

Single  Multiple  Global

<b>AUTHORISATION</b>	<b>1</b>	1. Exporter <i>(EORI number if applicable)</i>	No	2. Identification number of the authorisation <sup>19</sup>	3. Expiry date <sup>18</sup>
				4. Contact point details	
		5. Consignee(s) <i>(EORI number if applicable)</i>		6. Issuing authority	
		7. Agent(s)/Representative(s) <i>(if different from exporter) (EORI number if applicable)</i>	No	8. Country(ies) of export	Code <sup>(20)</sup>
				9. Country(ies) of import and number(s) of import authorisation(s)	Code <sup>(19)</sup>
		10. Final recipient(s) <i>(if known at the time of the shipment) (EORI number if applicable)</i>		11. Third countries of transit <i>(if applicable)</i>	Code <sup>(19)</sup>
				12. Member State(s) of intended entry into the customs export procedure	Code <sup>(19)</sup>

<sup>19</sup> For completion by issuing authority

<sup>20</sup> See Regulation (EC) N°1172/95 (OJ L 118,25.5.1995,p10), as subsequently amended

	13. Description of the items ( <sup>20</sup> )	14. Harmonised System or Combined Nomenclature Code ( <i>if applicable with 8 digit</i> )									
	13.a Marking	15. Currency and Value	16. Quantity of the items								
	17. End use ( <i>if applicable</i> )	18. Contract date ( <i>if applicable</i> )	19. Customs export procedure								
20. Additional information required by national legislation ( <i>to be specified on the form</i> )											
Available for pre-printed information At discretion of Member States											
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"></td> <td style="width: 40%; text-align: center;">For completion by issuing authority</td> </tr> <tr> <td></td> <td style="text-align: center;">Signature <span style="float: right;">Stamp</span></td> </tr> <tr> <td></td> <td style="text-align: center;">Issuing Authority</td> </tr> <tr> <td></td> <td style="text-align: center;">Place and date <span style="float: right;"> </span></td> </tr> </table>					For completion by issuing authority		Signature <span style="float: right;">Stamp</span>		Issuing Authority		Place and date <span style="float: right;"> </span>
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	Issuing Authority										
	Place and date <span style="float: right;"> </span>										

EUROPEAN UNION

<b>1 Bis<sup>21</sup></b>	1. Exporter	2. Identification number	9. Country of import and number of import authorisation
		5. Consignee	
AUTHORISATION	13.1. Description of the items	14. Commodity code <i>(if applicable with 8 digit)</i>	
	13.a Marking	15. Currency and Value	16. Quantity of the items
	13.1. Description of the items	14. Commodity code <i>(if applicable with 8 digit)</i>	
	13.a Marking	15. Currency and Value	16. Quantity of the items
	13. 3. Description of the items	14. Commodity code <i>(if applicable with 8 digit)</i>	
	13.a Marking	15. Currency and Value	16. Quantity of the items
	13. 4. Description of the items	14. Commodity code <i>(if applicable with 8 digit)</i>	
	13.a Marking	15. Currency and Value	16. Quantity of the items
	13. 5. Description of the items	14. Commodity code <i>(if applicable with 8 digit)</i>	
	13.a Marking	15. Currency and Value	16. Quantity of the items
	13. 6. Description of the items	14. Commodity code <i>(if applicable with 8 digit)</i>	
	13.a Marking	15. Currency and Value	16. Quantity of the items
	13. 7. Description of the items	14. Commodity code <i>(if applicable with 8 digit)</i>	
	13.a Marking	15. Currency and Value	16. Quantity of the items

<sup>21</sup> A separate template shall be filled in for each consignee



Note: A separate template shall be filled in for each consignee, in line with the 1 Bis template. In part 1 of column 22, indicate the quantity still available and in part 2 of column 22, indicate the quantity deducted at this occasion.

21. Net quantity/value ( <i>Net mass/other unit with indication of unit</i> )		23. In words for quantity/value deducted	24. Customs document ( <i>Type and number</i> ) or extract ( <i>Nr</i> ) and date of deduction	25. Member State, name and signature, stamp of deduction
22. In numbers				
1				
2				
1				
2				
1				
2				
1				
2				
1				
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1				
2				

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