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COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT Accompanying the document Proposal for a Directive of the European Parliament and of the Council on import, export and transit measures for firearms, their essential components and ammunition, 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 (UN Firearms Protocol) (recast)

Delegations will find attached document SWD(2022) 299 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT

Accompanying the document

Proposal for a Directive of the European Parliament and of the Council

on import, export and transit measures for firearms, their essential components and ammunition, 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 (UN Firearms Protocol) (recast)

{COM(2022) 480 final} - {SEC(2022) 330 final} - {SWD(2022) 298 final}

Executive Summary Sheet
Impact assessment on the revision of the EU regulation on import, export and transit of civilian firearms
A. Need for action
Why? What is the problem being addressed?
<p>Existing rules on firearms are circumvented, which leads to firearms being smuggled and diverted into the EU. These illicit firearms are a means to conduct criminal offences including terrorism. At export, there is a risk of diversion of firearms, which fuels global illicit firearms trafficking and contributes to instability and organised crime worldwide. Furthermore, the evaluation of the Regulation stressed that the Regulation's added value was limited by the absence of a genuine harmonisation of national rules and processes. Economic operators continue to face an administrative burden in the imports and exports of civilian firearms. The reasons for those problems are:</p> <ul style="list-style-type: none"> • Lack of exchange of information on intelligence, seizures, transit of firearms, refusals to grant export authorisations • Lack of control and risk assessment to discover security problems and trends, and to ascertain the proper end-use of exported firearms • Insufficient cooperation between customs and licensing authorities to check convertible or deactivated weapons, to prevent diversion and check the validity of authorisations and to decrease administrative burden for legitimate producers and traders • Unclear legal framework, which leaves room for divergent national interpretations and rules and consequently creates inconsistencies, differences of interpretation by competent authorities (e.g. overlap with the Council Common Position 2008/944/CFSP on export control of military equipment). • Lack of harmonization between Regulation (EU) No 258/2012 and other EU and national firearms legislation
What is this initiative expected to achieve?
<p>This initiative is expected to harmonise the national rules on import and export authorisations of firearms, their essential components and ammunition in civilian transactions, in order to decrease the administrative burden of economic operators. Furthermore, this initiative is expected to strengthen the competent authorities in the prevention and fight of the smuggling and diversion of firearms. This initiative aims at achieving three specific objectives:</p> <ul style="list-style-type: none"> • Improving the systematic data collection about international movements of firearms, as well as seizure data. • Enabling coordinated controls and risk assessments. This implies first to ensure the traceability of firearms by improving exchange of information and improving the cooperation between customs and licensing authorities • Ensuring a level playing field and reducing the administrative burden placed on economic operators and firearms users by creating unified processes and control mechanisms
What is the value added of action at the EU level?
<p>As an area without internal borders in which goods and persons circulate freely, having common rules on the import and export of firearms, their components and ammunition is of tantamount importance. Addressing the issues mentioned can only be done at EU level, as the diversity of national legislations directly affects the effectiveness and uniform interpretation of internal EU law (the Firearms Directive).</p>

Regulatory divergences can also create legal loopholes which criminals could avail themselves of. The differences in export, import and transit authorisation procedures and controls across Member States are at odds with the very concept of exclusive EU competence in external trade.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

Besides a soft-law approach (option 1) focused on recommendations/guidelines and reminding authorities of the already applicable legislation, 2 further legislative options have been assessed, with option 3 being the preferred option:

- Option 1: soft-law approach

The focus would be on fully implementing the 2018 Recommendation of the Commission on immediate steps to improve security of export, import and transit measures for firearms, their parts and essential components and ammunition.

This option would be complemented by including more specific guidance and recommendations. E.g. listing out the particulars that firearms' licensing authorities should trace and record at import and export, upgrading and improving the Conventional arms export control information system (COARM), reviewing the Common Risk Criteria (CRC) and standards, gathering good practices on the simplified procedures etc.

- Option 2: clarification of the existing legal framework

The clarification would remove ambiguities in the interpretation of the applicable legislation (e.g. type of information to be recorded, classification of certain weapons and components as firearms), an express legal basis to require competent authorities to use existing systems to exchange information, harmonising existing simplified procedures, aligning deadlines, clarifying roles of importers and exporters, and aligning the scope of the Regulation with intra-EU rules (same weapon categories, same economic operators). This option would essentially translate most of the measures mentioned in *option 1* in the text of the Regulation.

- Option 3: new legislative provisions

Option 3 would build on and complement option 2, and add to it new legislative provisions. It would ensure the full traceability of imported and exported firearms, such as compulsory import marking, limiting imports of semi-finished components to dealers, computerised data-filing, end-user certificates for the export of firearms which are prohibited or subject to authorisation (categories A and B), post-shipment checks. It would require national authorities to share statistics and improve exchanges of information between licencing and customs authorities. It would also establish new simplifications (temporary imports, general export authorisation, e-procedures), and remove the scope overlaps with EU rules on exports of military equipment (Common Position 2008/944/CFSP) by applying exclusively to all civilian-to-civilian transactions.

- Option 3bis: new legislative provisions, without change to the interplay with the Common Position

Option 3bis would be substantially similar to option 3, with one exception: instead of following the logic of the Firearms Directive for the distinction between military and civilian transactions, the Regulation would maintain the reference to 'firearms specifically designed for military use'.

Option 3 would have the highest EU added value. The full alignment of the scope with that of the firearms Directive (codified in 2021) would mean that the regulation would govern all civilian transactions of firearms, including civilian trade of automatic firearms, semi-automatic firearms with high-capacity magazines or semi-automatic long firearms with a folding or telescopic stock. As in the firearms directive, transactions between governments, or sales to the military or the armed forces

would remain excluded from the regulation, which means the security and the simplification objectives could only be achieved for civilian firearms. The new simplifications introduced would respond to the requests of stakeholders (arms retailers, manufacturers, hunters and sport shooters) to alleviate their administrative burden and provide a uniform EU approach.

Who supports which option?

During the public consultation, respondents clearly stressed the need for EU action. Almost 70% of respondents (75% of business representatives) considered important or very important to have common EU rules on imports of civilian firearms from outside of the EU and on exports of civilian firearms to non-EU countries. 62% considered that there is a need for EU intervention on current rules on import, export and transit of civilian firearms and 59,5% considered that there is need for new tools to improve current rules on import, export and transit of civilian firearms. National authorities themselves expressed an even higher support. During the confidential consultation of competent and law enforcement authorities, 76,66% of respondents considered it important or very important to have common EU rules on imports of civilian firearms from outside of the EU and 83,3% on exports of civilian firearms to non-EU countries. The analysis of the free text contributions in the public consultation shows an overwhelming request for uniform EU rules rather than an addition of national procedures.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise main ones)?

The preferred option (option 3) is expected to contribute in a significant manner to improve the capacity of Member States to prevent the smuggling and diversion of firearms at import and export. The EU-level mechanism to ensure that a given model of **alarm and signal weapon** is classified under the same position of the customs combined nomenclature throughout the EU would provide additional security safeguards, avoiding that convertible models are nevertheless not declared as firearms in certain Member States. Establishing a **list of non-convertible alarm and signal weapons** in the compliance with implementing directive 2019/69, would ensure that the automatic recognition for such imported weapons throughout the EU. This would increase the security of imports with the guarantee that only weapons on this list are not firearms.

Preventing private individuals from importing semi-finished firearms and essential components would be the most effective course of action to avoid diversion and the illicit manufacture of unmarked firearms. The traceability of firearms (and therefore the security of the trade) would be greatly improved by the **full computerisation of the data-filing systems for authorisations** (and it would account for a yearly benefit of 1,5 MEUR for the arms dealers).

Creating a uniform EU import authorisation, designating authorities to check the compliance and establishing a 60-day deadline to grant import authorisations will also result in a level playing field for all importers. Furthermore, if **implied consent of third countries for the transit of firearms** is always granted after 20 days, this would decrease the costs for firearms dealers yearly with over 56.000 EUR.

What are the costs of the preferred option (if any, otherwise main ones)?

Under the preferred option, there will be additional costs for the public administration, as the proposal will entail extra checks by licensing authorities and customs (see below – section on impact for national budgets). However, the actual impact will be limited as civilian firearms are a negligible part of the overall trade. The interoperability between IT systems will also simplify customs controls.

As exporters will need to provide evidence of final import in the country of destination, this could entail a yearly total costs of around 180.000 EUR for the arms dealers in the EU. Furthermore, requiring an end-user certificated for exported category A and B firearms will entail a yearly total cost of around 720.000 EUR for the arms dealers in the EU (to be shared amongst the estimated 20.000 arms dealers

active in the EU).

How will businesses, SMEs and micro-enterprises be affected?

The various options are particularly relevant for small operators, which constitute 90% of the total number of the economic operators involved. However, 82% of the total manufacturing turnover of firearms is made by large companies (and 80% of all firms are located in only six Member States), so SMEs would only be marginally affected by the measures.

Neither options 1 or 2 have any specific impact on SMEs, since they do not substantially change the current regulatory framework or create new obligations. They are either recommendations or clarifications of the legal framework.

SMEs, like the rest of arms dealers, would only incur (limited) costs under option 3. This concerns notably systematically providing a proof of import in the third country of destination. This would not add a specific burden on exporters, as this is an information that is already at hand, and that they generally already keep in their record in case of future checks.

The perspective to require an end-user certificate for exported category A and B weapons in option 3 was questioned during the public consultation by business representatives, who have, however, proven unable to quantify the impact of such a measure. The main concern lies in the impossibility to determine the actual end-user in the country of destination. This concern is mitigated by the fact that under option 3, the Regulation would provide that only the actual importer of civilian firearms (i.e. the arms dealer) in the third country would be considered as the end-user. The main burden would lie in the need to obtain from the importer an authenticated commitment not to re-export firearms and not to sell it to non-civilian users.

Will there be significant impacts on national budgets and administrations?

The clarification of the legal framework and the provisions clarifying the respective roles of customs and licencing authorities would overall imply a greater involvement of customs to ensure the oversight of firearms shipments. Customs will be called on to enforce sectorial firearms legislation, by ensuring notably that imported alarm and signal weapons are adequately classified and accompanied with the required documentation, or that semi-finished components can only be imported by arms dealers. Considering the small extent of firearms imports and exports (0,027% of all EU imports and 0,069% of all EU exports), and the fact that customs do not carry out systematic controls, but only conduct physical checks based on risk profiles, or only ex-post documentary checks, the impact is deemed to be limited. Similarly, the impact of making a compulsory use of a specific platform to exchange information on refusals to grant authorisations would be limited, in view of the small number of denials issued each year (around 30 refusals per year).

Establishing computerised data-filing systems for imports and export authorisations is likely to require one-off IT investments in most Member States. Although no Member State seemed ready to provide an estimate, Member States consulted in the targeted consultation all considered that this would be a practicable exercise. The cost would be largely offset by the advantage of enabling a direct connection with national data-filing systems of legal owners of firearms and the registers of firearms dealers.

Will there be other significant impacts?

By addressing the threat of firearms trafficking, all envisaged options will have a positive impact on the security of EU citizens.

The envisaged options would fully respect the objectives of article 45 of the Charter with respect to the right of movement of EU citizens, since it would confirm their possibility to temporarily leave the EU (and come back) with their personal firearm, when travelling for sport or hunting purposes. Additional simplifications for collectors or museums should also facilitate their right of movement.

D. Follow up

When will the policy be reviewed?

The evaluation of the impact of the legislative act should be carried out, in principle not earlier than five years after the deadline for implementation of the legislative act to ensure that there is a sufficiently long period to evaluate the effects of the initiative after it has been fully implemented across all Member States. Such an evaluation would be preceded by implementation reports as well as a monitoring programme.