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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

No. Cion doc.: SEC(2022)330 final

Subject: REGULATORY SCRUTINY BOARD OPINION
Proposal for a REGULATION 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 SEC(2022)330 final.

Encl.: SEC(2022)330 final



EUROPEAN COMMISSION

Brussels, 8.4.2018
SEC(2022) 330 final

REGULATORY SCRUTINY BOARD OPINION

Proposal for a

REGULATION 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} - {SWD(2022) 298 final} - {SWD(2022) 299 final}



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB/

Opinion

Title: Impact assessment / Firearms – review of export rules and import & transit measures

Overall opinion: POSITIVE

(A) Policy context

Without appropriate measures, firearms can be diverted from legal markets into organised crime or terrorism. Regulation 258/2012 aims to combat illicit trafficking in civilian firearms and to ensure a uniform implementation of the UN Firearms Protocol in all Member States. It establishes rules for the authorised export, import and transit of non-military firearms, their parts and components and ammunition coming from or directed to third countries. It aims to ensure effective tracing of civilian firearms in international transactions and to improve Member States' collaboration.

A 2017 evaluation report identified loopholes due to a lack of homogeneous implementation across Member States. The Regulation was found ineffective in distinguishing between military and civilian firearms, in ensuring the full traceability of weapons, and in ensuring proper exchanges of information (notably of refusals to grant export authorisations). The Regulation was also ineffective in terms of reduction of administrative costs for companies. Furthermore, the Regulation was considered to lack consistency with other legislation, notably the revised Firearms Directive and the EU Common Position on the export of military technologies. A 2018 Commission Recommendation aimed to address these failings via soft law.

(B) Summary of findings

The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspects:

- (1) The baseline is not sufficiently developed and is not fully coherent between the report's sections.**
- (2) The lack of data is not explicitly recognised as a free-standing problem.**
- (3) The evaluation and monitoring arrangements are not developed.**

This opinion concerns a draft impact assessment which may differ from the final version.

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(C) What to improve

(1) The report should better describe the expected evolution of the problems, i.e. how the described problems (e.g. firearms smuggling) are expected to evolve in the absence of the present initiative. The role of, and articulation with, the EU Common Position on military firearms should be further clarified. The various sections of the report should be coherent regarding the baseline and justify the projections made. The report should explain why there has been so little ownership by Member States of the 2018 Commission Recommendation and why this is unlikely to change.

(2) The report should clarify the value added of the soft-law option (option 1) over the baseline, given that full implementation of existing measures and reminders of the already applicable legislation should form part of the baseline. For the most ambitious legislative option (option 3), the report should be more specific on the measures it included. It should consider whether there are possibly alternative solutions and should analyse these as sub-options if policy choices need to be made.

(3) The report should recognise the lack of reliable data as a fully-fledged problem to be explicitly addressed in the policy options. In the assessment of the latter, the report should then make the link between the data collection and the digitalisation of procedures.

(4) The report should develop the section on future monitoring and evaluation. It should define operational objectives linked to the preferred policy option i.e. measurable criteria that indicate if the initiative was a success or not. These objectives should be translated into indicators that are useful for monitoring and evaluation and into corresponding data to be collected. The report should specify when a first evaluation should be planned, preferably within 5 to 8 years of the entry into force of the revised Regulation.

(5) The report should clarify the estimates of the administrative costs and savings for businesses and citizens in the 'one in, one out' approach. It should explain how the net administrative cost reduction was calculated. It should be clear about the methodology, the underlying assumptions and the data sources. The estimates presented in the main report and in the annexes should be aligned.

(6) The report should compare the options more clearly in terms of effectiveness, efficiency and coherence. It should explain the scoring methodology, how the scores are calculated and how the criteria are defined (e.g. it is neither clear how the necessity and effectiveness criteria differ, nor is the interplay between proportionality and efficiency and between added value and effectiveness clear).

The Board notes the estimated costs and benefits of the preferred option in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must take these recommendations into account before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	Revision of Regulation (EU) No 258/2012 establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition
Reference number	PLAN/2020/8730
Submitted to RSB on	04 March 2022
Date of RSB meeting	06 April 2022

ANNEX – Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board’s recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

I. Overview of Benefits (total for all provisions) – Preferred Option		
<i>Description</i>	<i>Amount</i>	<i>Comments</i>
Direct benefits		
<p>Import: Existing rules on firearms import will be harmonized and strengthened to prevent diversion of firearms at import and to establish a level playing field for all importers.</p>	<p>An EU uniform certificate will be created to check for compliance of alarm and signal weapons with implementing directive 2019/69. The compulsory checks and classification of these alarm and signal weapons will prevent the entry of convertible alarm and signal weapons into the EU, where they can be used in criminal or terrorist offences. Limiting import of semi-finished firearms and essential components to licenced firearms dealers will also prevent illegal manufacturing of firearms which could then be used for criminal or terrorist offences.</p> <p>While the increase in security cannot be quantified, the SOCTA clearly indicates these imports as a threat for the security of EU citizens. The case studies on these imports reinforce this picture. By increasing the import regulations, these threats will decrease.</p> <p>Creating a uniform EU certificate, 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. Due to the lack in data received from the firearms industry, it is not possible to quantify this, however during the consultations the need for harmonisation was the main focus of the stakeholders.</p>	
<p>Export: reinforcing rules on firearms export will decrease the risk of diversion of firearms, which fuel global illicit firearms trafficking and contributes to instability and organised crime worldwide</p>	<p>When exports are followed-up through providing evidence of final import, end-user certificates and conducting post-shipment controls the risks of diversions will decrease. While such an increase cannot be quantified, examples such as those in Mexico (96.948 firearms seized during 2015-2020 with a worth of \$38 million) show the large monetary value of diverted firearms. Furthermore, the cases of circumvention of embargos through Moldova shows the international responsibility of the EU to strengthen export controls.</p>	
<p>Administrative simplification to harmonize the existing EU rules and to facilitate the trade of</p>	<p>During the stakeholder consultation, the need for harmonisation and administrative simplification was the most recurring comment. This simplification will be obtained by creating a full</p>	

firearms.	digitalisation of import and export authorisations. This will lead to a yearly benefit of €1.603.680 for the arms dealers (retailers and manufacturers). Furthermore, the prohibition of fees for the import and export authorisations, as implemented by some Member States, will be a yearly direct saving of €86.175 for the arms dealers. Harmonising and simplifying the temporary exports and imports will save museums, collectors and dealers around €30.840 each year. Furthermore, implementing the implied consent of the non-EU country of transit as the default option saves the arms dealers annually €56.540.	
Indirect benefits		
Cooperation and exchange of information: improving the cooperation between customs and licencing authorities and increasing the exchange of information on firearms authorisations, refusals and trade will allow for better risk assessments.	The clarification of the role and responsibilities of customs and licencing authorities and a legal basis for intelligence sharing will enable both authorities to improve the risk assessments. This will support the prevention of firearms diversion at import and export. Increasing the cooperation and exchange of information might have an indirect effect on exporters, as they would be treated more equally across the EU, compared to the current situation. Due to the lack in data received from the firearms industry, it is not possible to quantify this, however during the consultations the need for harmonisation was the main focus of the stakeholders.	
Administrative cost savings related to the 'one in, one out' approach*		
cost reduction through the use of e-licencing system	€ 1.603.680	When import and export authorisations can be processed through an e-licencing system, this will reduce the amount of time spent on each authorisation, for the firearms dealers and the authorities who need to assess the authorisations.
prohibition of fees for obtaining authorisations	€ 86.175	Currently there are multiple Member States requesting fees for receiving import and export authorisation. If these fees are abolished to get harmonise the procedures, this directly reduces the costs for businesses in these Member States.
Implied consent of third countries for transit	€ 56.540	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.
No prior authorisation for special temporary operations	€ 30.840	If no authorisations for specific operations, such as temporary import and export, would be needed for institutions such as museums, collectors etc. then this would

		decrease the costs for these stakeholders.
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II. Overview of costs – Preferred option							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Creating an EU central database for import and export authorisation	Direct adjustment costs	NA	NA	NA	NA	€ 950.000 (DG TAXUD estimate)	€100.000
	Direct administrative costs	NA	NA	NA	NA	NA	NA
	Direct regulatory fees and charges	NA	NA	NA	NA	NA	NA
	Direct enforcement costs	NA	NA	NA	NA	NA	NA
	Indirect costs	NA	NA	NA	NA	NA	NA
Exporters to provide evidence of final import in the country of destination	Direct adjustment costs	NA	NA	NA	NA	NA	NA
	Direct administrative costs	NA	NA	NA	€179.900	NA	NA
	Direct regulatory fees and charges	NA	NA	NA	NA	NA	NA
	Direct enforcement costs	NA	NA	NA	NA	NA	NA
	Indirect costs	NA	NA	NA	NA	NA	NA
End-user certificate for exported category A and B firearms	Direct adjustment costs	NA	NA	NA	NA	NA	NA
	Direct administrative costs	NA	NA	NA	€719.600	NA	NA
	Direct regulatory fees and charges	NA	NA	NA	NA	NA	NA
	Direct enforcement costs	NA	NA	NA	NA	NA	NA
	Indirect costs	NA	NA	NA	NA	NA	NA
extending current e-licensing system of DG TRADE	Direct adjustment costs	NA	NA	NA	NA	Rough estimate of couple of thousand euro	NA
	Direct administrative costs	NA	NA	NA	NA	NA	NA
	Direct regulatory fees and charges	NA	NA	NA	NA	NA	NA

	Direct enforcement costs	NA	NA	NA	NA	NA	NA
	Indirect costs	NA	NA	NA	NA	NA	NA
Costs related to the 'one in, one out' approach							
Total	Direct adjustment costs	NA	NA	NA	NA		
	Indirect adjustment costs	NA	NA	NA	NA		
	Administrative costs (for offsetting)	NA	NA	NA	€ 899.500		

(1) Estimates (gross values) to be provided with respect to the baseline; (2) costs are provided for each identifiable action/obligation of the preferred option otherwise for all retained options when no preferred option is specified; (3) If relevant and available, please present information on costs according to the standard typology of costs (adjustment costs, administrative costs, regulatory charges, enforcement costs, indirect costs,); (4) Administrative costs for offsetting as explained in Tool #58 and #59 of the 'better regulation' toolbox. The total adjustment costs should equal the sum of the adjustment costs presented in the upper part of the table (whenever they are quantifiable and/or can be monetised). Measures taken with a view to compensate adjustment costs to the greatest extent possible are presented in the section of the impact assessment report presenting the preferred option.