Control of the acquisition and possession of weapons

2006/0031(COD) - 02/03/2006 - Legislative proposal

PURPOSE : to make amendments to Council Directive 91/477/EEC in order to take into account the accession of the EC to the United Nations Protocol on the illicit manufacturing of and trafficking in firearms, their parts components and ammunition (Firearms Protocol).

PROPOSED ACT : Directive of the European Parliament and of the Council.

CONTENT : on behalf of the European Community the Commission signed the Firearms Protocol, annexed to the United Nations Convention against transnational organised crime. The purpose of this Protocol is to promote cooperation among States Parties in order to prevent the illicit manufacturing of and trafficking in firearms. It comprises 21 Articles that aim essentially to prevent the illicit manufacturing of and trafficking in firearms. However, some provisions in the Protocol entail limited technical amendments, specifically to Council Directive 91/477/EEC on control of the acquisition and possession of weapons, even though the aim of the Protocol evidently differs from that of the Directive. The latter is applicable only to the legal trade in certain types of weapons (e.g. excluding military weapons), and solely in the context of the Internal Market.

This proposal does not, therefore, concern the aspects of the Protocol that fall outside the scope of Directive 91/477/EEC, such as the import/export arrangements applied by the Member States at the external borders of the EU.

The proposal deals with a series of technical amendments to define, within the scope of application of the Directive, the notions of illicit manufacturing and trafficking of firearms, to reaffirm the need for marking, to increase the period for keeping registers prescribed by the Directive, to clarify the applicable penalties and to set out the general principles on the deactivation of weapons defined by the United Nations Protocol.

The main amendments are as follows:

- the concepts of illicit manufacturing of and trafficking in firearms, their parts and components and ammunition should be specified in the Directive by using the definitions of these activities contained in the Protocol – Article 3 – in the aim, of course, of achieving legal clarity, certainty and coherence;

- the fight against organised crime also makes the tracing of firearms particularly important. Certain technical amendments aim to facilitate the tracing under Directive 91/477 of the arms referred to. For instance, the principle of marking firearms at the time of manufacture – those which fall within the scope of the Directive of course – appears only indirectly in the second paragraph of Article 4 of Directive 91 /477, in references to identification particulars that must be recorded in the dealers' registers. In contrast, the Protocol clearly establishes a marking obligation ("marking of firearms"). This can be incorporated without modification into the Directive. Article 4 of the Directive should also include the instruction to ensure also that firearms are marked at the time of transfer from government stocks to permanent civilian use;

- Article 4 requires dealers to conserve, for a period of at least five years, a register in which information on all firearms received or disposed of by him is recorded. To strengthen the security aspect of the Directive, the minimum 10-year period specified by the Protocol for keeping the registers should be adopted;

- furthermore, it must be stated that brokering activities, as mentioned in Article 15 of the Protocol, fall within the definition of dealer given by the Directive;

- the Protocol provides that each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences acts committed intentionally, in particular the illicit manufacturing of or trafficking in firearms. The language used in the Directive to describe the applicable penalties must therefore be strengthened, in order to increase their effectiveness;

- furthermore, Annex I to Directive 91/477 states that the objects which correspond to the definition of a firearm but which have been permanently rendered unfit for use by the application of technical procedures will not be considered as weapons that fall within the scope of the Directive. However, Article 9 of the Protocol sets out more extensive general principles for the deactivation of firearms that must be incorporated into the amended Directive.

The proposed amendments do not cover new problems in relation to the general economy of the Directive. They merely adapt the provisions of the Directive to the new legal context brought about by Community accession to the Protocol.