Basic information

2010/0147(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Firearms, their parts and components and ammunition: implementation of Article 10 of the United Nations Firearms Protocol and establishing export authorisation, import and transit measures **Subject** 6.20.02 Export/import control, trade defence, trade barriers 6.20.05 Multilateral and plurilateral economic and trade agreements and relations 7.30.12 Control of personal weapons and ammunitions 7.30.30 Action to combat crime	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
INTA International Trade	IACOLINO Salvatore (PPE)	23/06/2010
	Shadow rapporteur BÜTIKOFER Reinhard (Verts /ALE) STURDY Robert (ECR) SALVINI Matteo (EFD)	

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
LIBE Civil Liberties, Justice and Home Affairs	MATHIEU HOUILLON Véronique (PPE)	02/09/2010

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	3151	2012-03-08

European

Commission DG	Commissioner

Commission	Justice and Consumers	MALMSTRÖM Cecilia

Key events

Date	Event	Reference	Summary
31/05/2010	Legislative proposal published	COM(2010)0273	Summary
15/06/2010	Committee referral announced in Parliament, 1st reading		
13/04/2011	Vote in committee, 1st reading		Summary
04/05/2011	Committee report tabled for plenary, 1st reading	A7-0157/2011	
13/10/2011	Decision by Parliament, 1st reading	T7-0440/2011	Summary
13/10/2011	Results of vote in Parliament		
08/03/2012	Act adopted by Council after Parliament's 1st reading		
14/03/2012	Final act signed		
14/03/2012	End of procedure in Parliament		
30/03/2012	Final act published in Official Journal		

Technical information

Procedure reference	2010/0147(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the European Union TFEU 207
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	INTA/7/03116

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE452.853	16/11/2010	
Amendments tabled in committee		PE454.643	20/12/2010	
Committee opinion	LIBE	PE456.611	01/03/2011	
Committee report tabled for plenary, 1st reading/single reading		A7-0157/2011	04/05/2011	
Amendments tabled in committee		PE469.723	07/09/2011	

Text adopted by Parliament, 1st reading/single reading		T7-0440/2011	13/10/2011	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00041/2011/LEX	14/03/2012	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2010)0273	31/05/2010	Summary
Document attached to the procedure	SEC(2010)0662	31/05/2010	
Document attached to the procedure	SEC(2010)0663	31/05/2010	
Commission response to text adopted in plenary	SP(2011)8697	30/11/2011	
Follow-up document	COM(2017)0737	12/12/2017	Summary
Follow-up document	SWD(2017)0442	12/12/2017	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2010)0273	03/12/2010	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2012/0258
OJ L 094 30.03.2012, p. 0001 Summary

Firearms, their parts and components and ammunition: implementation of Article 10 of the United Nations Firearms Protocol and establishing export authorisation, import and transit measures

2010/0147(COD) - 14/03/2012 - Final act

PURPOSE: to lay down stricter rules to combat and eradicate the illicit trafficking in firearms.

LEGISLATIVE ACT: Regulation (EU) No 258/2012 of the European Parliament and of the Council 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), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition

CONTENT: following an agreement negotiated in first reading, the European Parliament and the Council adopted this Regulation laying down **rules on export authorisation for firearms** for the purpose of implementing article 10 of the United Nations protocol against the illicit manufacturing of and trafficking in firearms, thereby completing the process of transposition into Union legislation of the provisions of the Protocol which was signed on behalf of the Community in 2002.

The purpose of the UN firearms protocol is to promote, facilitate and strengthen cooperation in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in small arms such as handguns and pistols. Its Article 10 requires the implementation or improvement of administrative procedures or systems to exercise effective control over the manufacturing, marking, import and export of firearms.

The regulation focuses on measures in respect of tracing and import and export of firearms for civilian use in respect of export from the customs territory of the Union to or through third countries (firearms destined for military purposes are covered by other rules.)

Principle: the Regulation is based on the principle that firearms and related items should not be transferred between States without the awareness and consent of all States involved. It establishes rules governing export authorisation, and import and transit measures for **firearms, their parts and essential components and ammunition.**

Authorisation: export authorisation must be established **in accordance with the form set out in Annex II,** which contains information on the country of export, the country of import, the final recipient and a descriptions of the items and quantities concerned. Member States shall process applications for export authorisations within a period of time **not exceeding 60 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, that period may be extended to 90 working days.

Third countries and transit: before issuing an export authorisation, the Member State concerned shall verify that the importing third country has authorised the relevant import, and that 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.

Simplified procedures: in order to avoid unnecessary administrative burdens, the Regulation sets out simplified procedures for the temporary export or the re-export of firearms, for verifiable lawful purposes, which include hunting, sport shooting, evaluation, exhibitions without sale, and repair.

"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.

No export authorisation shall be required for the temporary export **by hunters or sport shooters** as part of their accompanied personal effects, during a journey to a third country provided that they substantiate the reasons for the journey, in particular by producing an invitation or other proof of the hunting or sport shooting activities in the third country of destination.

When leaving the customs territory of the Union through Member State other than the Member State of their residence hunters and sport shooters shall produce to the competent authorities a **European Firearms Pass**.

Refusal to grant an authorisation: an export authorisation shall be refused if the person applying for it has a **criminal record concerning conduct constituting an offence** listed in Council Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member State, or concerning any other conduct provided that it constituted an offence punishable by a maximum deprivation of liberty of **at least four years or a more serious penalty.**

Report: by 19 April 2017, and thereafter upon request of the Coordination Group and in any event every 10 years, the Commission shall review the implementation of the Regulation and present a report, which may include proposals for its amendment.

ENTRY INTO FORCE: 19/04/2012.

APPLICATION: from 30/09/2013.

DELEGATED ACTS: the Commission is empowered to adopt delegated acts in order to maintain the list of firearms, their parts and essential components and ammunition for which an authorisation is required. The power to adopt delegated acts is conferred on the Commission for an

indeterminate period of time. A delegated act shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification (which may be extended by two months). If the European Parliament or Council objects, the delegated act shall not enter into force.

Firearms, their parts and components and ammunition: implementation of Article 10 of the United Nations Firearms Protocol and establishing export authorisation, import and transit measures

2010/0147(COD) - 12/12/2017 - Follow-up document

The Commission presented a report on the implementation of Regulation (EU) No 258/2012 defining the rules applicable to firearms export licenses with a view to implementing Article 10 of the United Nations Protocol against the Illicit Manufacturing of and Trafficking in firearms (UN Firearms Protocol).

An externally commissioned evaluation study set out to determine whether the current procedures and arrangements established by the Regulation achieved the expected results and whether the Regulation is still up to date.

The Commission's **findings** on the implementation of Regulation (EU) No 258/2012 are **mixed.** Although it has broadly achieved its assigned goals, the Regulation is nevertheless also the victim of both its **imprecision** and its complex articulations with other EU legal instruments.

Relevance: in the light of the evaluation, the report concludes that **the rationale for EU Regulation 258/2012 remains** and that the objectives and measures provided for in the Regulation are relevant on the whole. Harmonised controls on imports of firearms in the customs territory remain a priority in order to control the conditions for legal trade. The Regulation also remains fully relevant to exports, probably even more so now than at the time of its adoption, given the political instability and armed conflicts in many countries near the European Union.

However, **allowing the competent authorities to choose is a weakness of the Regulation**, whose implementation and interpretation should in principle be uniform.

The Regulation does not establish a harmonised licensing system for imports and therefore has little relevance in this respect.

Added value: whilst the Regulation has enabled the European Union to ratify the United Nations Firearms Protocol, **the regulatory and administrative landscape remains very disparate,** because of the lack of clarity of some provisions; complex articulations with other instruments; the leeway given to the Member States in their administrative procedures; the general nature of the provisions governing information exchanges and administrative cooperation.

Effectiveness: Member States have all made progress in uniformly applying the Protocol. The provisions of the Regulation have been instrumental in terms of monitoring the movements of firearms through the external borders of the EU. However, **harmonisation is still patchy**.

Many of the Member States feel that the single procedure allows them to apply an identical procedure and identical criteria to all exports of weapons, civil and military alike.

The absence of any provisions for export markings in the case of deactivated weapons or alarm weapons, the lack of compliance by nine Member States with the minimum data retention period of 20 years, disparate practices regarding national records, the absence of interconnectivity between intra-EU transfer files and files for export licences make **traceability and the full reconstitution of movements difficult**.

Most exporters feel that the time needed to process applications, while consistent with the Regulation, remains too long.

Efficiency: while the Commission's original proposal set out to address the problems of administrative costs generated by the diversity of national laws and procedures, the evaluation has not demonstrated that the impact of the Regulation has been positive, in particular because harmonisation has been patchy. Confidentiality and the patchy nature of commercial or government data make it difficult to analyse the Regulation's financial impact in detail.

Outlook: the Commission intends to fully assume its responsibilities in order to **assist Member States** and guarantee the Regulation's full implementation, including, where appropriate, through formal exchanges should the evaluation reveal practices that are in breach of the Regulation.

A number of **non-legislative actions** might be taken to improve exchanges of best practices, develop guidelines for the Regulation's implementation and make better use of the Firearms Exports Coordination Group.

More generally, beyond any clarifications that might be made to improve the Regulation's application, a revision could be envisaged following an impact study, based on the following points of discussion.

- certain **definitions** in the Regulation should be made more consistent with other pieces of legislation ('parts' and 'essential components', 'temporary export', 'deactivated firearms', etc.);
- the provisions on **simplified procedures** could be made clearer. Possible options might include encouraging the use of global authorisations or a tie-in with the status of 'authorised economic operator for security and safety';
- the methods used to **process applications for export licences** could be aligned, in particular through the systematic consultation of criminal records in the Member States (and not simply in the country in which the previous application was made);

- a **computerised system** for submitting applications would facilitate information exchanges on refusals, allow interoperability between the various systems, and ensure reliable statistical collection;
- the matter of **generally applying the principle of tacit agreement of third countries of transit** (or some of them) could also be raised insofar as it enabled shorter procedures for exporters;
- lastly, the Regulation's provisions could usefully be clarified so that, in accordance with the Firearms Protocol, weapons imported are systematically **marked along harmonised lines** to enable identification of the first country of import.

Firearms, their parts and components and ammunition: implementation of Article 10 of the United Nations Firearms Protocol and establishing export authorisation, import and transit measures

2010/0147(COD) - 31/05/2010 - Legislative proposal

PURPOSE: 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

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

BACKGROUND: In accordance with Council Decision 2001/748/EC concerning the signing on behalf of the European Community12 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 on behalf of the Community on 16 January 2002. The UN Firearms Protocol - the purpose of which is promote, facilitate and strengthen cooperation among States 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.

This proposal aims to complete the process of transposition into Union legislation of the provisions of the Protocol.

It is also included in the broader framework of the Stockholm Programme for 'an open and secure Europe, serving and protecting citizens' highlights trafficking in arms as one of the illegal activities that continue to challenge the internal security of the EU and reaffirms that the Union should continue to promote ratification of international Conventions (and their Protocols), in particular those developed under the auspices of the United Nations.

IMPACT ASSESSMENT: the Impact Assessment accompanying this proposal developed four policy options:

- **Policy option 1**: refrain from taking EU action. This was identified as a theoretical option due both to the legal international obligation entered into by the Community (now Union) by means of signature of the Protocol and to the lack of uniform principles in a matter falling under the common commercial policy, an exclusive competence of the Union;
- **Policy option 2**: this option aimed at optimal achievement of the objective of contributing to the improvement of security with regard to export, import and transit of firearms for civilian use and prevention of possible diversion from the legal market;
- **Policy option 3**: this option aimed to achieve efficient implementation of Article 10 of the UNFP for private parties;
- **Policy option 4**: this option focused on efficiency for national administrations.

Option 3 was the preferred one and is reflected in this proposal. It fulfils the objectives of implementing Article 10 UNFP in the most comprehensive manner and is the best way forward by combining the 'shall' (i.e. mandatory) provisions — adapted to the type of products (for civilian use) — with the 'may' (i.e. optional) ones, which would match stakeholders' legitimate expectations. It combines different aspects of the various policy options on the basis of the main advantages and disadvantages identified for each one of them, in order to achieve a higher degree of both effectiveness and efficiency. The envisaged simplified procedure for temporary exports for 'verifiable lawful purposes' and in particular the proposed transit measures will reduce the possible administrative burdens for those lawful purposes listed by the UNFP itself.

LEGAL BASIS: Article 207 of the Treaty on the Functioning of the European Union (TFEU) (Common Commercial Policy which is an exclusive competence of the Union according to Article 3 TFEU, within which Article 10 UNFP provisions fall). The proposal applies only to firearms, their parts and essential components and ammunition for civilian use and not to firearms that are intended specifically for military purposes. Pursuant to Article 207 of the Treaty on the Functioning of the European Union, the common commercial policy should be based on uniform principles, inter alia as regards exports.

CONTENT: Article 10 of the UNFP on 'general requirements for export, import and transit licensing or authorisation systems' requires 'each State Party to establish or maintain an effective system of export and import licensing or authorisation, as well as of measures on international transit, for the transfer of firearms, their parts and components and ammunition', thereby improving scrutiny of transfers and allowing better enforcement of laws.

Principles: Article 10 UNFP is based on the principle that **firearms and related items should not be transferred between States without the awareness and consent of all States involved**. Firearms should not be exported to or through countries that have not authorised the transfer. The content of the documents used for legal export and import should be sufficient to ensure tracing. Besides the above-mentioned 'Shall' provisions, Article 10 UNFP also allows the Parties to adopt simplified procedures for temporary export, import and transit of small numbers of firearms for 'verifiable lawful purposes', such as recreational, repair, exhibition. The latter are referred to as 'May' provisions.

In application of Article 10 of the Protocol, the proposal is structured as follows :

Subject, definition and scope: this proposal only addresses **trade in/transfers of firearms to third countries** and consequently does not concern intra-Community transfers of firearms, their parts and essential components and ammunition. Definitions (Article 2) take into account — where appropriate

— the parallel provisions of the UN Firearms Protocol, but are tailored to or directly invoke other existing EU legislation, for the sake of clarity: for example, the definitions of firearms, parts and essential components and ammunition mirror those of Directive 91/477 or direct reference is made to the Community Customs Code. Article 3 lists the specific exceptions to which the Regulation does not apply.

Export authorisation, procedures and controls: the relevant articles transpose the concepts mandatorily established by Article 10 UNFP. Article 4 establishes the **general obligation for requiring export authorisation**, refers to the list of products to which the proposal applies (in Annex to the proposal) and provides for updates. Articles 5 and 6 on the conditions for issuing the export authorisation also include some of the mitigation measures resulting from the advice received from stakeholders during the consultation, for example: **maximum processing period (90 working days)**, possible use of electronic documents and tacit consent for transit. Articles 11 and 12 address respectively the correspondent provisions of Article 10(4) and (5) UNFP on verification of the authorisation procedure.

Simplified procedures: this proposal in particular takes into account the need for simplified measures for temporary exports for verifiable lawful purposes, implementing the nonbinding provision of Article 10(6) UNFP. Simplified procedures should be limited to hunters and sport shooters only (while the UNFP includes consideration also for other activities such as exhibitions or repairs).

Criteria applicable to export authorisation, procedures and controls: this chapter also includes provisions on general criteria to be taken into account by Member States when assessing a request for export authorisation (Articles 8 and 9) and on powers of national competent authorities (Article 13), which are similar to those laid down in other commercial policy legislation, namely the 'Dual Use' Regulation10. Article 10 focuses on the need for record-keeping. Article 14 reproduces a standard formula on penalties.

Customs procedures and administrative cooperation: Chapter III, on 'customs procedures' (Articles 15 and 16), and Chapter IV on 'administrative cooperation' (Article 17), include standard provisions commonly used in a commercial policy instrument.

General and final provisions: besides the establishment of a Coordination Group (Article 18), it includes in particular a **review clause** (Article 19(3)), and provisions on the entry into force of the Regulation (Article 20).

BUDGETARY IMPLICATION: this proposal has no implication for the European Union's budget.

Firearms, their parts and components and ammunition: implementation of Article 10 of the United Nations Firearms Protocol and establishing export authorisation, import and transit measures

2010/0147(COD) - 13/10/2011 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 624 votes to 17 with 2 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council 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.

Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between Parliament and Council. The Commission proposal is amended as follows:

Subject, definitions and scope: the Regulation covers **firearms, their parts and essential components and ammunition**. With regard to deactivated firearms' the texts requires Member States to make arrangements for deactivation measures to be verified by a competent authority. Member States shall, in the context of that 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 that effect on the firearm. The Regulation is consistent with Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment.

Export authorisation: this must be established in accordance with the **form set out in Annex II** and 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, Member States may use a single procedure to carry out the obligations imposed on them by the Regulation and by Common Position 2008/944/PESC.

If the firearms, their parts and essential components are located in one or more Member States other than the one where the application has been made, that fact shall be indicated on the application. In this case:

- 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 10 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.

Transit: Before issuing an export authorisation for firearms, their parts and essential components and ammunition, the Member State concerned shall verify that: This provision does not apply:

to shipments by sea or air and through ports or airports of third countries provided that there is no transhipment or change of means of transport; in the case of temporary exports for verifiable lawful purposes, which include hunting, sport shooting, evaluation, exhibitions without sale and repair.

'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.**

Processing requests: Member States shall process requests for export authorisation within a period of time, to be determined by national law or practice which shall **not exceed 60 working days**, from the date on which all the 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 90 working days.

The period of validity of an export authorisation **shall not exceed the period of validity of the import authorisation**. Where 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 be not less than nine months.

For the purpose of **tracing**, the export authorisation and the import licence or import authorisation issued by the importing third country and accompanying documentation shall together contain certain prescribed information that includes particulars enabling the identification of the firearms, their parts and essential components and ammunition, and the quantity thereof including at the latest prior to the shipment the marking applied to the firearms.

Simplified procedures: such procedures shall apply for the **temporary export or the re-export of firearms**, their parts, essential components and ammunition.

No export authorisation shall be required for :

- the temporary export by **hunters or sport shooters** as part of their accompanied personal effects, during a journey to a third country, provided that they substantiate the reasons for the journey, in particular by producing an invitation or other proof of the hunting or sport shooting activities in the third country of destination;
- the re-export by hunters or sport shooters 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 that person.

When leaving the customs territory of the Union through Member State other than the Member State of their residence hunters and sport shooters shall produce to the competent authorities a **European Firearms Pass**. In the case of travel by air, the European Firearms Pass shall be produced to the competent authorities where the relevant items are handed over to the airline for transport out of the customs territory of the Union.

The competent authorities of a Member State shall for a period not exceeding 10 days, **suspend the process of export** or, if necessary, otherwise prevent firearms, their parts and essential components or ammunition from leaving the customs territory of the Union through that Member State, where they have grounds for suspicion that the reasons adduced by hunters or sport shooters are not in conformity with the relevant considerations and the obligations laid down in the Regulation.

Member States shall in accordance with their national law establish simplified procedures for: i) the re-export of firearms following temporary admission for evaluation or exhibition without sale, or inward processing for repair (under certain conditions); ii) he re-export of firearms in the event that they are held in temporary storage from the moment they enter the customs territory of the Union until their exit and the temporary export of firearms for the purpose of evaluation and repair and exhibition without sale, (under certain conditions).

Refusal to grant an authorisation: an export authorisation shall be refused if the person applying for it has a criminal record concerning conduct constituting an offence listed in Council Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member State, or concerning any other conduct provided that it constituted an offence punishable by a maximum **deprivation of liberty of at least four years or a more serious penalty.**

Report: five years after the entry into force of the Regulation and following that period, upon request of the Firearms Exports Coordination Group and in any event every 10 years the Commission shall review the implementation of the Regulation and present a report to the European Parliament and the Council on its application.

Delegated acts: in order to maintain the list of firearms, their parts and essential components and ammunition for which an authorisation is required, the Commission will have the power to adopt in respect of aligning Annex I to this Regulation to Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff and to Annex I to Directive 91/477/EEC.

The Regulation will be applicable 18 months after its date of publication.