



***Report about the AECAC
activity in 2012***

March 2013





AECAC activities in 2012

1. The last AECAC **GENERAL ASSEMBLY** was held in Nuremberg on the **9th of March 2012**. Attached as **Annex I**, minutes of the last General Assembly.
2. **SPONSORS**. During 2011 and 2012 **GAMO Airguns** sponsored AECAC. 2012 and 2013 will be sponsored by **NATURABUY (www.naturabuy.fr)**. The President has thanked both companies for their support.
3. **FULFILMENT OF TAX OBLIGATIONS** before the Belgian authorities. We should thank the Belgian association which representative, **Mr. Nico Demeyere** (Belgian Lawyer), has prepared and fulfilled all tax declarations before the Belgian authorities without any charge.

It is necessary to remind once again the inputs system: the partners do not pay fees but make **voluntary contributions** depending on the Association's needs. Such payments are not obligatory, nor regular, but agreed yearly.

4. AECAC PROMOTION

Stand at the IWA Fair: Thanks to the support of the German Association VDB our organisation had the opportunity to have a stand in the IWA. We hope this will help AECAC to get more members and sponsors.

Web page: Our web page www.aecac.eu has been a success.

Communications to possible members and sponsors: We have contacted several associations and possible Sponsors.

Enclosed as **Annex II and III** letters that each member can send to possible sponsors or gun traders associations from the rest of Europe.

New members: Thanks to all the communication efforts we have a new member: the « **Association Luxembourgeoise des Armuriers et Négociants d'Armes** ».

We have also contacted a gun retailers association from Poland "**Polskie Stowarzyszenie Rusznikarzy I Dystrybutorów Broni**" whose President is Mr. Jacek SZYMKOWIAK.

Currently AECAC has fifteen members, the members list is attached as **Annex IV**.

5. EUROPEAN FIRE GUNS DIRECTIVE



AECAC is one of the recognised Stakeholders of the European Institutions in all matters concerning the Firearms Directive in this quality we are permanently taking care of any issue or development concerning this norm.

In July 2012 the Commission issued a report to the EU Parliament and the EU Council on the possible advantages and disadvantages of a reduction to two categories of firearms (prohibited or authorised) with a view to the better functioning of the internal market by means of possible simplification of the Directive.

Enclosed as **Annex V** commission's report dated 26/07/2012.

AECAC was very active concerning this issue. We participated in several meetings and issued two memorandums at the end of 2011 (see report AECAC activity 2011) in 2012 we had many communications with the Commission.

We were requested by the Commission to provide some figures concerning gun/shooting retailers and distributors in Europe.

We collected all information from our members and send it to the Commission.

COUNTRY	NUMBER OF COMPANIES	DIRECT EMPLOYEES	NATIONAL TURNOVER
Germany	1.500	35.000	1.000.000.000 €
France	800	4.000	450.000.000 €
Italy	1.200	10.000	250.000.000 €
Spain	700	2.500	250.000.000 €
Austria	455	725	86.000.000 €
Finland	413	1.500	90.000.000 €
Belgium	250	1.500	110.000.000 €
Greece	700	1.400	35.000.000 €

Some of our members did not send the requested information. We would very much appreciate if all the associations could send us the missing information as it is always very important to be able to show the weight of our sector.

We can be very satisfied of the result of the commission's report. It accepts the AECAC position expressed in our several communications and meetings. The Commission is clearly for the maintenance of the current system: **keeping the 4 categories**. More than this the Commissions' states that the gun trading and ownership in Europe does not need more restrictions.

The Commission states for example that "the answer to the question of whether recent years have seen a significant increase in crimes involving hunting or sporting firearms is mostly negative. Most Member States, such as Austria, Hungary, Bulgaria, the United Kingdom, Finland and Spain, consider the trend to be one of stability. Other Member States, like Belgium and Ireland, have even seen a decrease in this type of crime."



The report also states that “the weapons authorised by the Directive present much fewer tracing difficulties, as attested by the answers to the questionnaire, which are mostly reassuring, at least with regard to legal movement within the EU; indeed, most Member States consider that there are relatively few problems, at least at national level, in tracing firearms for civilian use.”

In the consultancy process previous to the report, some member States (Sweden, Italy, Hungary and Belgium) declared “no to see any real benefits in modifying the current classification; they consider that any revision would bring an additional burden and engender unnecessary costs.”

It is very important to point that some member States expressed the concern that a reduced number of categories **could divert legal trade in weapons to illegal channels**. This is one of the AECAC’s traditional arguments against the reduction.

There are still some open issues concerning the Fire Guns Directive:

- **DEACTIVATION:** Annex I part III of the Directive, states for the purposes of deactivation, “all essential parts of the firearm have been rendered permanently inoperable and incapable of removal”. The same Annex provides that the Commission shall issue **common guidelines** on deactivation standards.

AECAC has required the Commission to prepare clear guidelines on deactivation systems, which balances both the efficiency of the deactivation and the value of the guns as ornamental and collection objects. Currently the strict application of the Directive is negatively affecting the market of ornamental firearms.

- **GENERAL SITUATION OF THE APPLICATION:** By **July 2015**, the Commission should issue a report to the EU Parliament on the situation regarding the application of the Directive. This report might cause a further amendment of the Directive, so we should be very attentive on it.

6. EUROPEAN REGULATION OF FIRE GUNS IMPORT AND EXPORT

The Regulation was approved by the EU Parliament on the 13th October 2011.

This is the link to all official EU language versions of the EU of the new Regulation (EU) No 258/2012 of the European Parliament and of the Council implementing Article 10 of the United Nations’ Firearms Protocol:

<http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2012:094:SOM:EN:HTML>

The Regulation shall start to apply from **30 September 2013** (i.e. 18 months after this publication).



7. COMPLAINT AGAINST SWEDEN AND SPAIN FOR FIREARMS MARKING RESTRICTIONS

AECAC in collaboration with our Swedish and Spanish members **Sveriges Vapenhandlareforening** and **ACACE**, and also with the Spanish producers association (**Asociación Armera**) has prepared and presented a formal complaint before the EU Commission against Sweden and Spain due to their gun marking system (Attached as **Annex VI**).

The Swedish government is requiring the international import marking for gun transfers **coming from other EU countries**.

This is due to a wrong application of the UNITED NATIONS FIREARMS PROTOCOL (Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, implementing the United Nations Convention against Transnational Organized Crime).

Article 8 b of the UN Protocol provides that Firearms shall include a mark of the import country:

(b) Require appropriate simple marking on each imported firearm, permitting identification of the country of import and, where possible, the year of import and enabling the competent authorities of that country to trace the firearm, and a unique marking, if the firearm does not bear such a marking.

Anyhow the EU territory shall be considered one only customs territory, even for the purpose of Firearms (see Regulation (EEC) No 2913/92). A transfer of a firearm from an EU country to another EU country shall not be considered an Import, as far as it is a movement within the same customs territory.

For this reason the **EU has signed the UN Firearms Protocol as a signing party**.

The amendment of the EU Firearms Directive (91/477/EEC), took place in 2008. One of the amendments tended to ensure (according to the UN PROTOCOL) that all Fireguns are correctly marked when they are produced in the EU. Article 4 of the Directive provides:

***“For the purpose of identifying and tracing each assembled firearm, Member States shall, at the time of manufacture of each firearm, either:
a) require a unique marking, including the name of the manufacturer, the country or place of manufacture, the serial number and the year of manufacture (if not part of the serial number). This shall be without prejudice to the affixing of the manufacturer’s trademark. For these purposes, the Member States may choose to apply the provisions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms.”***

The EU has just approved the Import-Export Firearms Regulation (see point 5), implementing the UN Firearms Protocol, but from the external market point of view. This new European Regulation requires that any Firearm entering the Customs territory of the European Union, should be marked according to article 4 of the EU Directive, including the Import Country into the EU. This only applies to the **first import into the EU Customs territory**.



Article 2.14.iii) of the Firearms Import-Export Regulation provides clearly that the marking obligation affects only the “**first country of import within the European Union**”.

The requirement of the Swedish authorities of marking all firearms imported from other EU Member States is a clear **breach of the free movement of goods principle**, enshrined in Article 34 of the Treaty on the Functioning of the European Union (TFEU): “**Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States**”. The intended restriction cannot be justified on the basis of the public policy / public security grounds mentioned in Article 36 TFEU since there is already specific harmonisation at EU level, and thus mutual trust between Member States, through Directive 91/477/EEC as amended by Directive 2008/51/EC.

The case of Spain is not as extreme as it only affects antique firearms. The Spanish government is requiring a new marking on most antique firearms which is causing an almost complete extinction of the collecting market for old military weapons. AECAC defends that by applying such restrictions Spain is stating barriers to the common market.

8. LEAD IN SHOTS

The issue of lead in shots is currently and will be the most critique question for our sector both at a European and at international level. There are several forums and situations to be pointed:

- **EFSA scientific opinion.** As explained in our previous report, in **2010** the **EFSA (European Food Safety Authority)** adopted a scientific opinion on lead in food. The report was not specifically about game meat consumption, but it included an assessment of human exposure to lead by consumption of game meat and it reported that consumer groups with higher exposures levels include game meat consumers.

This analysis recognized higher lead levels in **game meat**, and remarked that specific game meat diet may be harmful. On the other side, the report stated that game meat gives a small percentage contribution to lead exposure.

- **EU general position on bird protection.** The EU committed itself to phasing out the use of lead shot in wetlands in a view to protecting birds from poisoning. The European Commission is currently assessing the progresses made in member states, the effectiveness of the measures taken and the possibilities to speed up the process. So far, 14 member states have banned the use of lead shot in a way or another, either everywhere or in wetlands or for wildfowl hunting.
- **AMEC study on total ban of lead.** Following with this line, **in 2012** the EU also engaged a consultancy firm (AMEC) to draft a study evaluating the feasibility of implementing a total ban on lead shots.

This move came about in relation to the incomplete ban on the use of lead shot in wetlands and presumably also due to reports on non-compliance with bans.

AMEC requested AECAC and other European associations to provide specific answers to a questionnaire tending to facilitate the mentioned study. In April 2012 AECAC answered to the questionnaire (Attached as **Annex VII**, AECAC’s answers).



- **Water Framework Directive.** On the 5th of November 2012 the Committee on Environment and Public Health of the European Parliament debated a Commissions proposal to amend the list of hazardous substances in the Water Framework Directive. Some MEP tabled amendments to include lead in the list. Finally such amendments were not approved.

AECAC position concerning lead in shots is the following:

- Lead in shots, except in wetlands, has a **minimal environmental impact.**
- The risk of **game meat consumption** is also minimal. No scientific study has stated that the alimentary risk makes advisable a ban on lead shots.
- **Alternatives to lead.** The cartridge production sector is developing several projects and innovations to find a possible alternative to lead shots. AECAC fully supports all actions in this line. Notwithstanding although some alternatives can be developed in the near future, today it does not exist any safe, economic and efficient alternative to lead which is produced at industrial level.
- **Restrictions on lead.** Our general opinion is that in the current situation any further restriction on lead use is unnecessary and it would affect - once again - negatively the competitiveness of European companies. It shall be stressed that any legislative change should be based on scientific evidences and should take in consideration its social and economic impact.

The minimal benefits of a complete lead ban should be compared to the dramatic economic and social impact that such a measure could cause.

No further restriction should be applied till the innovation processes enable to produce at industrial level a real alternative to lead.

- **Higher impact on Small and Medium Enterprises.** Fact is that most companies which deal with sport and hunting guns and ammunition are Small and Medium Enterprises (SMEs). For these, the implementation of new restrictions would have a negative strong impact on their economies. The burden of administration and regulation is the biggest complaint of SMEs when it comes to hindrances to their business. An increase in the price of ammunition – which would be the immediate effect of further restrictions - will significantly reduce the market, and will certainly cause an important reduction of the SMEs margins. Normally margins always get reduced from the retailer benefit.

9. ESSF (European Sport Shooting Forum)

AECAC participates in the ESSF.

This organisation meet twice this year:

- **Meeting Nuremberg March 2012**
- **Meeting Brussels of November 2012**

The ESSF allows all sectors at European level to coordinate themselves in different issues.



The ESSF has coordinated very efficiently the Common Position of all sectors concerning both the Directive report and the Lead study.

The ESSF is a “think tank” of the hunting and shooting sector. Its approach to all issues is very technical and efficient.

10. WORLD FORUM OF THE FUTURE OF SPORT SHOOTING ACTIVITIES (WFSA)

AECAC is voting member of the WFSA, we take part in some of the WFSA meetings and contributes yearly with **3.600 €**.

The WFSA is a highly efficient organization, recognized by the UN, and its actions are of great importance as many of the issues start globally.

The current issues in which WFSA is involved are the following:

- **Global Arms Trade Treaty**
- **UN Programme of Action (POA) on SALW**
- **International Small Arms Control Standards (ISACS)**
- **Transit Task Force (TTF).**
- **UN Register of Conventional Arms**

For more information on the WFSA actions see www.wfsa.net

11. ACCOUNTS AND BUDGET

Attached as **Annex VIII** accounts for 2012.

The proposed budget for 2013 is the following:

CONTRIBUTIONS

COSTS

Brussels, March 2013



Minutes of the 20th Ordinary General Assembly

At Messezentrum, Nurnberg
Friday, 9th March 2012

Members present:	Mr. Co APPELMAN	The Netherlands
	Mr. Ton DONUK	The Netherlands
	Mr. Yves GOLLETY	France
	Mr. Agustín ALBERDI	Spain
	Mr. Víctor FABREGAT	Spain
	Mr. Jürgen R. TRIEBEL	Germany
	Mr. Antonio BANA	Italy
	Mr. Nico DEMEYERE	Belgium
	Mr. George KIRGIAS	Greece
	Mr. Anders LINDSTRÖM	Sweden
	Dr. Hermann GERIG	Austria (IWÖ)

1. Presidents Welcome

The President Mr. Yves GOLLETY opened the Assembly by welcoming all members present.

A mention was done to thank the Belgium association representative Mr. Demeyere as he has prepared all the tax declarations of the AECAC free of charge.

The President explained that this year has been made a lot of work concerning specially the UN PROTOCOL issue. A very close collaboration was done between the President and the Secretary General.

2. Apologies

The Finish association apologized for not attending the assembly. There were no other apologies for absence.

3. Minutes

The minutes of the 19th Ordinary General Assembly held in Nuremberg on March 2008 were unanimously approved.

4. Review of the year 2011

The Secretary-General Mr. Fabregat distributed a document providing the detail of the AECAC activity during the last year.

It was explained that the main battle this past year has been the recently approved European Regulation on export and import of fire guns. AECAC was very active on this matter and held several meetings and contacts with members of the EU Commission, with EMP Mme. Veronique



Mathieu (Rapporteur of the LIBE Committee), with members of the Council, and even with the European Commissioner Mme. Malstrom.

Other important actions affected the development of the Firearms Directive dossier. For more information see attached document.

5. Accounts

Accounts of the last exercise were distributed to all members and unanimously approved.

6. Budget for next year and fixing of annual quotes.

The budget for 2012 was approved as follows:

COSTS

After a little discussion the contributions for 2012 were offered by the members and unanimously approved:

CONTRIBUTIONS

7. Date and place of next meeting

Next General Assembly will take place on the first Friday of the next Nuremberg IWA Fair.

Nuremberg, March 9th, 2012



Annex II

Reference: Sponsorship

Brussels, January 2013

Dear Sir,

I am writing to you as the President of the ***European Association of the Civil Commerce of Weapons (AECAC)*** and with the belief that our association and your Company could collaborate to build the future of the hunting and civil weapons trading.

Our Association is formed from numerous national associations representing the interests of gun and hunting trading businesses and specialised retailers from all over Europe. Currently the members of our association are the following:

Austria:	Verband Österreicher Büchsenmacher (Bundesinnung der Metalltechniker)
Belgium:	Wapenunie – Union Armes
Cyprus:	Cyprus Gundealers Association
Denmark:	Danske Vabenhandlerere
Finland:	Asekauppiaiden Liitto ry
France:	Chambre Syndicale Nationale des Armuriers
Germany:	VDB - Verband Deutscher Büchsenmacher und Waffenfachhändler
Greece:	Pan-Hellenic Association of Handcraft men & Professionals of Hunting Items
Ireland:	Irish Gun Dealers and Shooters Association
Italy:	ASSOARMIERI - Associazione Commerciali Armi-Munizioni Caccia Pesca Sport
Luxemburg:	Association Luxembourgeoise des Armuriers et Négociants d'Armes
The Netherlands:	Nederlandse Vereniging voor de Wapenhandel
Spain:	ACACE - Asociación de Comerciantes de Armería sus Complementos y Explosivos
Sweden:	Sveriges Vapenhandlareforening

Non-voting members:

IWÖ - Interessengemeinschaft Liberales Waffenrecht in Österreich

It would appear that day by day the international influence affecting our business grows and grows. Many non governmental organisations (NGO) are unfairly attacking our sector and numerous anti-hunting lobbies use the European institutions as their propaganda megaphone against us.



We cannot be complacent about these developments, we have to be proactive. We need to be strong not only within our individual national borders but also internationally.

We need our voice to be listened in Europe. We can only play a role if we are united and well organised.

To achieve our objective of an influential position in Europe we also need to be financially strong.

I am writing to you given this challenge, as we need your company to join our project. We need your strength and support to be stronger in Europe.

We would very much appreciate if you could support our association through a Sponsorship.

I do hope that our Association and our drive and commitment to the protection of our sector will be of interest to you. We will present at the Nuremberg Fair with a stand, so we would very much appreciate if you could visit us then.

With my best wishes.

Yves Gollety
President



Annex III

Brussels, January 2013

Dear Sir,

I am writing to you as the President of the **European Association of the Civil Commerce of Weapons (AECAC)** with the belief that it would be interesting for your Association to join AECAC.

AECAC is a non profit federation, founded in 1992 and formed from numerous national gun trading associations from all over Europe. It was created to ensure the participation of our sector in all the procedures of the European policies in which gun trading is involved.

AECAC is currently the only representative at a European level of the **gun trading retailers**, in this capacity AECAC is being considered as a very reputable **stakeholder before all European Institutions**.

Currently the members of our association are the following:

- | | |
|-------------------------|--|
| Austria: | Verband Österreicher Büchsenmacher (Bundesinnung der Metalltechniker) |
| Belgium: | Wapenunie – Union Armes |
| Cyprus: | Cyprus Gundealers Association |
| Denmark: | Danske Vabenhandlerere |
| Finland: | Asekauppiaiden Liitto ry |
| France: | Chambre Syndicale Nationale des Armuriers |
| Germany: | VDB - Verband Deutscher Büchsenmacher und
Waffenfachhändler |
| Greece: | Pan-Hellenic Association of Handcraft men & Professionals
of Hunting Items |
| Ireland: | Irish Gun Dealers and Shooters Association |
| Italy: | ASSOARMIERI - Associazione Commercianti Armi-
Munizioni Caccia Pesca Sport |
| Luxemburg: | Association Luxembourgeoise des Armuriers et Négociants
d'Armes |
| The Netherlands: | Nederlandse Vereniging voor de Wapenhandel |
| Spain: | ACACE - Asociación de Comerciantes de Armería sus
Complementos y Explosivos |
| Sweden: | Sveriges Vapenhandlareforening |

Non-voting member:

IWÖ - Interessengemeinschaft Liberales Waffenrecht in Österreich



Our main targets are:

- Defend the interests of the gun trading sector at a European Level
- Be the voice of the small and medium-sized enterprises before the European Institutions
- Represent the Gun Trading Retailers in all the international trading and sport organisations
- Lower existing barriers in the civil gun trading sector
- Support the free market; enhance the efficiency and competitiveness of the European companies

We are very proactive before the European institutions. You can see the amount of work that it is done in our web page: [**www.aecac.eu**](http://www.aecac.eu)

To achieve our objectives we need to have a wide representation of the European traders and small and medium business from our sector. It is essential that we have only one powerful voice in Brussels.

I am writing to you given this challenge, as we need your national association to join our project. We need your strength and support to be stronger in Europe.

I do hope that our Association and our drive and commitment to the protection of our sector will be of interest to you. We will present at the Nuremberg Fair with a stand, so we would very much appreciate if you could visit us then.

With my best wishes.

Yves Gollety
President



Annex IV

1. Austria Austrian Gun Makers Association	M. KRUSCHITZ	Kolingasse 17 1090 Wien	Tel. 0043)13177173,	office@martin-kruschitz.at
	Dr. SIEGERT	Münzgrabenstr. 81 A-8010 Graz	Tel. (0043) 316 848 184 Fax (0043) 316 848184-9	
2. Austria 2 (Non voting member) IWÖ - Interessengemeinschaft Liberales Waffenrecht in Österreich	Dr. H. GERIG	Postfach 108 A-1051 Wien		iwoe@iwoe.at www.iwoe.at
3. Belgium <u>Wapenunie – Union armes</u>	<u>Mr. Daniel BEETS</u> President	Oudergemsweg 41 1970 Wezembeek-Oppem		http://www.unionarmes.be/
	<u>Nico DEMEYERE</u> Vice-President	Kesseldallaan 34/402 3010 KESSEL.LO BELGIUM	+32 499 088 373	nico@demeyerenico.be info@wapenunie.be nico.demeyere@imposto.be
4. Cyprus Cyprus Gundealers Association	P. HERACLIDES President	Pindarou Str. 23 1060 Nicosia (Cyprus)	Tel. 00-35722762301 Fax 00-35722762160	
	Aggelos PITSILLIDES Secretary			
5. Denmark Danske Vabenhandlerere	François PARBST Vice-President	41, Borsholmvej 3000 Helsingor	Tel. 0045 49 765400 Fax. 0045 49 765420	michael@parbst.dk
6. Finland Asekauppiaiden Liitto ry	Timo Huikkala President	PO BOX: PL 76 POST: 00101 HELSINKI	Tel. 00 358 407079922 Fax 00 358 406611050	www.asekauppiaat.fi toimisto@asekauppiaat.fi
7. France Chambre Syndicale Nationale des Armuriers	Yves GOLLETTY President	37, Rue Vivienne 75002 Paris	Tel. 0033 1 42367983 Fax 0033 1 42361801	www.syndicat-armuriers.com < chambre.syndicale@armuriers.com > info@armurieriedelabourse.com
8. Germany Verband Deutscher Büchsenmacher und Waffenfachhändler e.V.	Jürgen Triebel President			www.vdb-waffen.de
	Wolfgang FUCHS Geschäftsführer	Schwanallee 48 a 35037 Marburg (Lahn)	Tel. 0049 6421 16 13 53 Fax 0049 642122312	info@vdb-waffen.de



9. Greece Panhellenic Association of Handcraftmen & Professionals of Hunting Items	Kirgias MICHAEL	7 Kratinou Street 105 51 Athens	Tel. 0030 210 322 41 02 Fax 0030 210 3224102	www.peveke.gr info@kirgias.gr thiva@nafpliotisgroup.gr info@kalkantzakos.com mpete@otenet.gr touris@otenet.gr peveke@otenet.gr
10. Ireland Irish Gun Dealers and S Chairmen Association	John BUTLER	Pepperstown, Ardee, Co. Louth	Tel. 00353 872040085	johnbutler@ragriffinhawie.ie
	Tom KIRWAN- Secretary			
	John CARREYAN Chairmen	Kilkenny, 82 HighStr.	Tel. 00353 41 0562157 fax 00353 41 64068	
11. Italy ASSOARMIERI Associazione Commercianti Armi- Munizioni Caccia Pesca Sport	Mr. Antonio BANA President		Tel. 0039 0303463461 Fax. 0039 0303463429	www.assoarmieri.it assoarmieri@assoarmieri.it ab@studiobana.it
	Ermanno Fulvio ADINOLFI Vice- President	Via Brennero, 10 20052 Monza	Tel. 0039 039 2300745 Fax. 0039 39 2300028	adinolfi@adinolfi.com
12. Luxemburg Association Luxembourgeoise des Armuriers et Négociants d'Armes	Paul FRAUENBERG President Frank LENTZ Secretary	2 Circuit de la Foire Internationale L-1347 Luxembourg- Kirchberg BP 1604 L1016 Luxembourg	Tel. 00424511-1 Fax. 00424525	f.lentz@lda.lu
13. The Netherlands Dutch Association of Weapon Dealers	Hans Hoffmann President	Stakenbergweg 60 8075 RA Elspeet	Tel. 0031 548512979 Fax. 0031577492210	www.wapenhandel.info secretariaat@wapenhandel.info
	Evert VAN RHEE Secretary			
14. Spain A.C.A.C.E. Asociación de Armerías ACA E	Agustín Alberdi President			www.acearmerias.com v.fabregat@fabregat-perulles-sales.com armeriaalberdi@terra.com
	Víctor FABREGAT Secretary-General	Plaza Bonanova 4, 1 ^o - 1 ^a E-08022 Barcelona	Tels. 0034 932054231 0034 630929881 Fax 93 418 95 35	v.fabregat@fabregat-perulles-sales.com
15. Sweden Sveriges Vapenhandlareforening	Anders Lindström Country Manager	Sako Sweden P.O. Box 421 59 126 16 Stockholm Sweden	Tel. Dir. +46 (0)8 709 78 81 Mob. +46 (0)76 113 25 13 Fax. +46 (0)8 709 78 89	anders.lindstrom@sako.se



EUROPEAN COMMISSION

Brussels, 26.7.2012
COM(2012) 415 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**Possible advantages and disadvantages of reducing the classification to two categories of
firearms (prohibited or authorised) with a view to improving the functioning of the
internal market for the products in question through simplification.**

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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

Possible advantages and disadvantages of reducing the classification to two categories of firearms (prohibited or authorised) with a view to improving the functioning of the internal market for the products in question through simplification.

This report is drafted to meet one of the requirements of Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons, as amended by Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008.

1. DIRECTIVE 91/477/EEC AND THE MATTER OF THE CLASSIFICATION OF FIREARMS

1.1. Directive 91/477/EEC originally constituted an accompanying measure for the completion of the internal market. In exchange for a certain freedom of movement for firearms from one Member State to another, it integrated into European law specific safety guarantees suited to this type of product.

1.2. The Directive has two annexes, the first of which (Annex I) classifies firearms primarily in terms of their degree of danger. There are therefore four categories (which are still in force): Category A consisting of prohibited firearms – military weapons; Category B including firearms subject to authorisation – used mostly by marksmen and hunters; Category C covering firearms subject to declaration – essentially firearms used by hunters; and finally Category D for other firearms – which mainly applies to one type of firearm¹.

1.3. This classification, like indeed the entire scope of the Directive, sets out the minimum requirements. Under Article 3 of Directive 91/477/EEC², the Member States may draw stricter distinctions by, for example, removing Category C or D, or by placing one or other specific firearm in a higher category for political or safety reasons or in line with their hunting traditions.

1.4. This discretion allowed to the Member States reflects the character of the Directive, which does not attempt full harmonisation, but rather provides a minimum level of safety, without prejudice to the measures that the Member States might undertake to prevent illegal trade in weapons³.

1.5. It should be pointed out that the Directive does not apply to the acquisition or possession of weapons by the armed forces, the police, the public authorities or by collectors and bodies concerned with the cultural and historical aspects of weapons and recognised as such by the Member State in whose territory they are established. This is a fundamental distinction,

¹ Single-shot long firearms with smooth-bore barrels.

² "Member States may adopt in their legislation provisions which are more stringent than those provided for in this Directive, subject to the rights conferred on residents of the Member States by Article 12 (2)".

³ As stated in Recital 8 of Directive 91/477/EEC: "Whereas the Directive does not affect the right of Member States to take measures to prevent illegal trade in weapons".



differentiating between arms for civilian use and other types of equipment used by the armed forces or even sometimes by organised crime.

1.6. The Commission submitted a report on the implementation of the Directive to the European Parliament and the Council on 15 December 2000⁴. Its conclusions, which were generally favourable and did not call into question the categorisation of firearms set out in Annex I, have not been challenged.

2. THE CLASSIFICATION OF FIREARMS IN THE CONTEXT OF THE ADOPTION OF DIRECTIVE 2008/51/EC OF 21 MAY 2008 AMENDING DIRECTIVE 91/477/EEC AND THE METHODOLOGY USED FOR THIS REPORT

2.1. The co-legislator's approach to this matter first centred on two main considerations: reducing the classification of firearms to two categories (prohibited or subject to authorisation) would be both safer for the European citizen and simpler for economic operators.

2.2. However, this view was not shared by those who felt that the Member States should retain a certain degree of discretion in the internal classification of firearms, provided, of course, that the minimum thresholds established by Annex I are respected. Nor did the economic operators, like the ordinary users of civilian firearms, appear any more convinced of the advantages of such a simplification.

2.3. These views were summarised in recital 18 of Directive 2008/51/EC, which stated that *"Several Member States have simplified the way they classify firearms by switching from four categories to [...] two. Member States should fall into line with this simplified classification, although Member States which divide firearms into a further set of categories may, in accordance with the principle of subsidiarity, maintain their existing classification systems."*

2.4. The aim of this report is therefore to re-examine the question of the classification of firearms with explicit reference to the better functioning of the internal market and in advance of the *"report on the situation resulting from the application of this Directive, accompanied, if appropriate, by proposals"* which the Commission must submit to the European Parliament and the Council by 28 July 2015, as set out in the Directive.

2.5. With this in mind, the Commission has adopted an approach that involves the services in the Member States that are competent for firearms (mainly Ministries of the Interior and of Justice, depending on the Member State), to whom a questionnaire was sent in November 2011, and the main groups of users of civilian firearms – in particular manufacturers, retailers, hunters, hobby marksmen and collectors – who have been asked on several occasions for their opinion.

2.6. A broad range of questions was put to the authorities of the Member States, covering the following aspects:

- (1) economic importance of the firearms manufacturing and retail sector
- (2) number of registered hunters and hobby marksmen

⁴ COM(2000) 0837 final.



- (3) number of European firearms pass holders
- (4) information on trends in crimes and offences over recent years
- (5) any problems in the tracing of firearms
- (6) systematic requirement of a licence to purchase a firearm
- (7) validity of a licence for one or more firearms
- (8) implicit authorisation via another authorisation or licence
- (9) possible existence of a simple declaration system
- (10) interest in further mandatory restrictions on the categories in European law
- (11) possible impact of those further restrictions on the economic sectors concerned
- (12) possible improvements to be envisaged

It was also made very clear that the questionnaire referred only to weapons covered by the Directive, i.e. hunting and sporting weapons, and not military weapons.

3. ASSESSMENT OF THE ECONOMIC IMPORTANCE OF THE SECTOR AND THE MAIN USERS OF FIREARMS AS INDICATED BY THE QUESTIONNAIRE; GENERAL INFORMATION

3.1. One group of Member States has no, or almost no, manufacturing industry producing civilian firearms. The importance of this group lies in the fact that it consists of more than a dozen Member States. However, even if it manufactures very little, it does, in part, represent a significant share of the retail market: in Finland, for example, there are no less than 600 dealers involved in retail and repairs, and in Hungary they number around 500.

3.2. Another group of countries has a relatively solid, often traditional, manufacturing industry, although its production levels are not very high. This group includes Slovakia, the Czech Republic, Austria and Poland. These Member States have, however, a fairly significant number of dealers, repairers or retailers; Poland, for example, accounts for around 500 dealers, and Austria 700³.

3.3. The most heavily-populated Member States are the ones with the main production areas, although this is becoming less systematic as the manufacturing industries decline. Although Germany and Italy still retain an important level of manufacturing, often geared towards exports⁴, France, the United Kingdom and, to a lesser extent, Spain have seen a major decline in the manufacture of arms for civilian use. However, some of these countries, such as France⁵, still maintain an important network of dealers.

³ Source for Austria: European Association of the Civil Commerce of Weapons

⁴ 85 to 90% of the German production of firearms for civilian use is exported to third countries or EU Member States (source: Association of European Manufacturers of Sporting Firearms).

⁵ According to figures published by the European Institute for Hunting and Sporting Weapons, arms are the main business of between 800 and 1000 sales outlets in France.



3.4. The largest numbers of hunters and hobby marksmen are found in the most heavily-populated Member States. The figure given for hunters in France is more than 1 400 000, with around 850 000 in Italy and more than 1 500 000 in Spain. The number of hobby marksmen has always been lower than that of hunters, but is still significant: around 300 000 for Italy, 213 000 for France and around 14 600 for Poland.

3.5. It should be pointed out that some Member States with smaller populations (below the EU average) have a high proportion of hunters or hobby marksmen. Sweden, for example, has at least 490 000 hunters and 96 000 hobby marksmen, whilst Finland accounts for more than 300 000 hunters and 35 000 hobby marksmen. Denmark, in turn, has 169 000 hunters and 120 000 hobby marksmen.

3.6. It is also worth mentioning the number of European firearms pass holders⁶, which gives a fair indication (although not the only one) of the mobility of hunters and hobby marksmen within the European Union. Certain Member States, such as Austria, have a relatively high number of passholders (38 000), whereas in others the pass is less widely used (around 20 000 holders in Italy, and 39 378 in France).

4. INFORMATION ON TRENDS IN CRIMES AND OFFENCES LINKED WITH THE USE OF FIREARMS AND TRACEABILITY OF CIVILIAN FIREARMS

4.1. The answer to the question of whether recent years have seen a significant increase in crimes involving hunting or sporting firearms is mostly negative. Some Member States, such as Greece, Poland, Sweden and Portugal, have experienced a slight or insignificant rise.

4.2. Most Member States, such as Austria, Hungary, Bulgaria, the United Kingdom, Finland and Spain, consider the trend to be one of stability. Other Member States, like Belgium and Ireland, have even seen a decrease in this type of crime.

4.3. These aspects can also be seen in the trends for crimes involving firearms that are connected, for example, with the availability of weapons – mainly military weapons – at the conclusion of armed conflict. However, this type of weapon does not fall within the scope of the Directive, which classifies them as prohibited (Category A of Annex I), by contrast with weapons that can be acquired for use in a leisure or sport activity.

4.4. The weapons authorised by the Directive present much fewer tracing difficulties, as attested by the answers to the questionnaire, which are mostly reassuring, at least with regard to legal movement within the EU; indeed, most Member States consider that there are relatively few problems, at least at national level, in tracing firearms for civilian use.

4.5. However, certain difficulties do occur in the collection and processing of information relating to the tracing of a weapon which may have had a whole string of owners. In particular, one essential requirement would appear to be the keeping of good records by the Member States – and by the dealers – and their accessibility to the competent task forces.

⁶ The European firearms pass was established by Directive 91/477/EEC. It is "a document which is issued on request by the authorities of a Member State to a person lawfully entering into possession of and using a firearm" (Article 1(4)). It enables holders to travel with their weapons from one Member State to another under a simplified licence system to take part in an activity – usually hunting or target shooting. It is highly valued by its users and there have been no reports of safety problems linked with its issue or use.



5. THE SYSTEM FOR ACQUIRING AND POSSESSING FIREARMS FOR CIVILIAN USE

5.1. The overall conclusion to be drawn from the answers to the questionnaire is that the acquisition and possession of firearms for civilian use are subject to an authorisation system and, in certain more restricted cases, to a declaration or registration system, the latter case corresponding in practice to indirect authorisation. However, the requirements for certain types of weapon or weapons with certain characteristics, such as historical or deactivated weapons, may in one Member State or another be less stringent.

5.2. The authorisation system does not necessarily mean that a permit must be applied for systematically before the purchase of each weapon. A permit may be issued for the purchase of a specific number of identified weapons with characteristics listed in the permit itself (this is the case in Austria, Poland and Luxembourg).

5.3. The purchase authorisation itself may be an additional authorisation or may be conditional on, for example, the purchaser's activity as a hunter or marksman, or in certain cases on an administrative decision confirming that the purchaser is entitled to acquire a weapon for reasons of self-defence (as is the case, for example, in Finland or Poland).

5.4. The declaration system – Category C in Annex I to Directive 91/477/EEC – is applied to a large number of hunting weapons, principally in France. Under this system, the purchaser must give the dealer a copy of his identity card and of some form of authorisation entitling him to make the purchase (a valid hunter's licence, for example); he then fills out a declaration together with the dealer^{*}, which is registered and sent by the dealer to the competent authorities. If the authorities are opposed to the purchase, they ask the purchaser to return the weapon or force him to do so via the law enforcement authorities.

5.5. In France, a certain number of hunting weapons are grouped together in a new intermediary category between Categories C and D of the Directive: these are single-shot long firearms with smooth-bore barrels, which fall under a registration system that is very close to the declaration system (copy of identity card, copy of hunting/target shooting licence, form to be filled in, checks by the police authorities).

5.6. It does not therefore seem possible from the answers given to the questionnaire for firearms to fall under the least restrictive classification of Category D of the Directive, (in other words that they could be acquired without any particular formalities, as the Directive allows for single-shot long firearms with smooth-bore barrels). The Member States that retained this possibility have all introduced more stringent requirements (as illustrated by the above paragraph).

5.7. It should also be pointed out that the classification applying in a Member State for an imported weapon (prohibition, authorisation, declaration, registration) is binding and takes precedence over the weapon's classification in its country of acquisition. In other words, if, for example, a weapon acquired in a Member State has been purchased under an authorisation system, but its owner (even if he holds a European firearms pass) intends to take it with him to another Member State which applies a prohibition system to that weapon, it will be the prohibition system that takes precedence and the weapon will not be able to leave its country of origin.

* The dealer carries out an initial cross-check against the list of prohibited firearms.



6. THE MEMBER STATES HOLD DIFFERENT VIEWS ON THE APPROPRIATENESS OF REDUCING THE CATEGORIES PERMITTED BY THE DIRECTIVE

6.1. Certain Member States, such as Poland, the United Kingdom, Ireland, Denmark and Latvia, are interested in reducing the classification at European level to two categories, as they feel this would simplify matters.

6.2. Other Member States, on the other hand, think that the discretion allowed by the current classification of the Directive should be retained. For example, Sweden, Italy, Hungary and Belgium do not see any real benefits in modifying the current classification; they consider that any revision would bring an additional burden and engender unnecessary costs.

6.3. Some Member States, such as Slovakia, the Netherlands and Romania, which have introduced national systems based on two or three categories, would also prefer for Member States to be able to apply the categories they consider appropriate within the current classification.

6.4. As to whether such a reduction in categories would have a substantial impact on the economic sectors concerned, most Member States answer either that the impact would be difficult to judge or that there would probably be no impact, since the classification with two categories is already fairly widespread. However, it should be pointed out that it is principally Member States that do not manufacture firearms that think that the economic impact of a reduced number of categories would be of little significance in their country.

6.5. By contrast, certain Member States that do have a firearms manufacturing industry, such as Italy or Belgium, feel that the economic sector would suffer. Other Member States, such as Poland, think that there may be an economic impact, but still see no reason for not reducing the number of categories.

6.6. However, most Member States do not think that reducing the classification of Annex I to the Directive to two categories of firearms would be of clear benefit to the better functioning of the internal market. The concern was even expressed that a reduced number of categories could divert legal trade in weapons to illegal channels.

7. CERTAIN SUGGESTIONS OTHER THAN REDUCING THE NUMBER OF CATEGORIES HAVE BEEN MADE WITH A VIEW TO SIMPLIFYING THE MOVEMENT OF FIREARMS IN GREATER SAFETY

7.1. Certain Member States, such as Germany, Estonia and Poland, see a clear benefit in defining common standards for the deactivation of firearms on the basis of techniques proposed by the ad hoc working parties of the *Commission internationale pour les armes à feu portatives* (CIP¹⁶); this could lead to increased safety and facilitate exchanges at EU level.

¹⁶ The *Commission internationale permanente pour l'appréciation des armes à feu portatives* (CIP, Permanent International Commission for Firearms Testing) is the result of an intergovernmental convention between the main countries for European firearms production (11 European countries plus Chile, Russia and the United Arab Emirates) under which they agree to recognise the tests on firearms and ammunition carried out in "proof houses" prior to their being placed on the market in accordance with technical criteria defined and updated within the CIP. This recognition takes the physical form of a proof mark which is stamped on the firearms and identifies the proof house where it has been tested. In



7.2. Other Member States, such as Sweden, the Netherlands, France, Luxembourg and Portugal, are of the opinion that increased computerisation of the information held by the Member States would help to link the movements of firearms with their owners. They therefore think an effort should be made to make the information held in the registers accessible to all Member States and thus facilitate the exchange of information within the European Union where necessary.

7.3. Some suggestions are more specific, such as the proposal to equip commercial carriers of firearms with GPS devices so that their location can be tracked (Czech Republic) or that of creating a more stringent framework for the activities of private security companies (Bulgaria); others are more ambitious, such as the proposal that firearm definitions be harmonised in order to facilitate a common approach at EU level (the Netherlands).

7.4. Certain Member States see an advantage in creating a standardised transfer form for trade in firearms (Romania). This document would record all the information contained in the authorisation applications or in the reports on commercial transactions from one Member State to another.

7.5. However, a significant number of Member States consider the current situation to be, for the most part, satisfactory and/or do not propose any particular measures. Some, such as Italy, think that any change considered should take into account the principle of proportionality and whether there is a real need for an initiative at EU level.

7.6. Overall, the Member States' comments mainly relate to the issues of the traceability and deactivation of firearms. These are two areas where the Commission plans to intervene, whether by issuing common guidelines on deactivation standards and techniques or by ensuring that Member States fulfil their obligation of keeping a computerised data-filing system¹¹, two tasks that were prescribed in Directive 2008/51/EC itself.

8. THE MAJOR GROUPS OF USERS CONCERNED BY THE DIRECTIVE APPEAR TO BE INTERESTED IN ANY SIMPLIFICATION THAT DOES NOT NECESSARILY INVOLVE A REDUCTION OF CATEGORIES

8.1. Hunters (numbering approximately seven million across the European Union¹²) appear to be satisfied with the current classification, which is based on hunting traditions and the safety concerns of their Member State. They set great store by the recognition and promotion of the European firearms pass, which enables them to move easily from one Member State to another within a very satisfactory security framework.

8.2. Marksmen can also use the European firearms pass to travel to another Member State in order to take part, in most cases, in competitions. Indeed, this travel appears to be well organised, and is subject to a strict authorisation system supervised by local or national

certain proof houses the firearms are also deactivated using techniques and in line with requirements that can vary without necessarily being recognised from one Member State to another.

¹¹ This computerised data-filing system for firearms – linking weapons to their owners – must be established by 31 December 2014 under the terms of Directive 2008/51/EC.

¹² Figures provided by the Federation of Associations for Hunting and Conservation of the EU (FACE), which brings together the national hunting associations of the Member States of the European Union and other countries of the Council of Europe.



shooting federations. Making a reduction in categories mandatory throughout the EU would not appear to create any clear simplification in this area either.

8.3. Although their activities do not fall under the scope of the Directive, collectors of antique and historical firearms or reproductions of historical firearms would welcome the possibility of including their collection items in a European firearms pass, as this would facilitate the movement between the Member States of this type of product. Other measures making it easier for Member States to recognise this type of weapon, during for example their transport from one Member State to another, would be welcomed by a sector including suppliers, cultural establishments, auction houses and authorised experts, etc.

8.4. Manufacturers of civilian firearms would be interested in simplification measures. In this respect, mention should be made of the industry's longstanding desire for comprehensive licences covering all firearms transfers within the EU. Instead of authorisations being issued by the Member States for each individual transfer, a licence would cover a given period and a predefined type of product¹³ and be issued to operators presenting a certain number of approved guarantees.

8.5. Both manufacturers and retailers advocate simplification in the definitions used for the essential parts of firearms. These definitions do not fully coincide from one legislation to another, and greater precision would improve the flow and security of commercial transactions.

8.6. To summarise, the current classification of firearms in EU legislation is not met with specific criticism by the major groups of users concerned by the Directive. However, their wish for certain simplification measures to improve the functioning of the internal market is clearly identifiable.

9. THE ISSUE OF THE CLASSIFICATION AT EU LEVEL OF CIVILIAN FIREARMS COULD, HOWEVER, BE RE-EXAMINED IN THE LIGHT OF THE DEADLINES AND GUIDANCE GIVEN BY THE DIRECTIVE ITSELF

9.1. The requirement for Member States to establish and maintain a computerised data-filing system by 31 December 2014 will certainly satisfy the desire expressed in the answers to the questionnaire for improvements in the accessibility of information. In this context, it will be interesting to look again at the problems of traceability at EU level which may stem from the current classification applied by the Directive.

9.2. Furthermore, the wish, voiced in the Member States' answers, for common methods of deactivating firearms will soon be realised by the Commission, which is in any case required by the Directive to take action in this respect¹⁴. This should result in a greater level of safety for movements of this type of product.

¹³ This possibility is allowed in theory by Directive 91/477/EEC, Article 11 of which provides for dealers to obtain approval in certain cases for transferring firearms to another Member State without prior authorisation. However, it is rarely used in practice, since it requires recognition by both the Member State of origin and the destination Member State within a comparable regulatory framework.

¹⁴ Annex I to the Directive stipulates that "The Commission shall, acting in accordance with the procedure referred to in Article 13a(2) of the Directive, issue common guidelines on deactivation standards and techniques to ensure that deactivated firearms are rendered irreversibly inoperable".



9.3. The Member States' desire for greater traceability could also be addressed by an explicit reference in Directive 2008/51/EC: this is the reference in the seventh Recital to the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms, which *"should, to the greatest extent possible, be used as a reference for the marking system in the Community as a whole"*.

9.4. In this respect, discussions could be held at short notice between the European Union and the *Commission Internationale Permanente pour l'Épreuve des Armes à Feu Portatives* (CIP, Permanent International Commission for Firearms Testing) with the aim of establishing recognised standards for the testing of firearms within the European Union. Indeed, additional – and attested – supervision of the manufacture and movement of firearms within the European Union could have advantages for all aspects of safety.

9.5. It can therefore be concluded that there would be no clear benefit in a compulsory restriction of the classification at EU level to only two firearms categories. In any case, this issue should not be treated in isolation, as there would be a risk that the discussion would focus solely on the question of which type of document would constitute authorisation, and this would probably result in a situation hardly different from the current one of diversity within the EU.

9.6. The analysis of the possible and desirable ways in which Directive 2008/51/EC could be developed should therefore be set primarily against the background of the report on the situation resulting from the application of the Directive to be submitted by the Commission to the European Parliament and the Council by 28 July 2015 – accompanied, if appropriate, by proposals – and should target a form of simplification that takes account of all the specific needs and constraints of this type of product.

9.7. The conclusions of this report will be presented in October 2012 at the meeting of the Contact Group set up pursuant to the Directive. They will probably also be discussed at a conference on illicit trafficking in firearms that the Commission plans to hold at the end of November 2012 with the parties involved in combating this form of crime in order to make an inventory of the needs in this area and formulate a way forward.



Annex VI

By the present document, the **Association Européenne de Commerce d'Armes Civiles (AECAC)**, the Spanish association **Asociación Española de Comerciantes de Armerías sus Complementos y Explosivos (ACACE)**, the Spanish association **Asociación Armera** and the Swedish association **Sveriges Vapenhandlareforening (SVF)**, represented in this act by their respective presidents, **Mr. Yves GOLLETTY**, **Mr. Agustín ALBERDI**, **Mr. Iñaki ORDIOZOLA** and **Mr. Anders LINDSTROM** with address for notification purposes at Plaza Bonanova nº4, 1º-1ª, Barcelona (Spain), Postcode 08022, give notice to the **Directorate General Enterprise and Industry of the European Commission**, of the following

COMPLAINT

for the infringement of the **Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008**, amending the Council Directive 91/477/EEC of 18 June 1991, on control of the acquisition and possession of weapons by

- I. the **Kingdom of Spain**; and
- II. the **Kingdom of Sweden**.

In order to ensure a better understanding of the reasons that support the present report, we hereby proceed to provide the following

PRECEDENTS

First.- On May 31, 2001, the **Protocol against the Illicit Manufacturing and of Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime** (hereinafter, referred to as the "Protocol"), was adopted at the 55th session of the General Assembly of the United Nations, entering in force on July the 3th, 2005.

Second.- On January the 10th, 2002, the Kingdom of Sweden signed the aforementioned Protocol, becoming State Party to it.



Third.- On January the 16th, 2002, the European Union signed the aforementioned Protocol, becoming Party to it.

Fourth.- For the purpose of transposing the Protocol the European Union approved the Directive 2008/51/EC of the European Parliament and of the Council of the 21st of May 2008, on control of the acquisition and possession of weapons.

Fifth.- To transpose the Directive 2008/51/EC the Kingdom of Spain approved the Royal Decree 976/2011, of July the 8th, amending the Weapons Regulation (Royal Decree 137/1993, of January 29).

Sixth.- The Kingdom of Sweden has its own national legislation regarding the subject of the Protocol: *Vapenlag, Svensk författningssamling (SFS) 1996:67, 8/02/1996* and *Vapenförordning, Svensk författningssamling (SFS) 1996:70, 8/02/1996*.

Having briefly explained the precedents, we hereby proceed to explain the following

LEGAL GROUNDS

First.- Concerning the Kingdom of Spain

The Protocol establishes in its Article 8.1 that for the purpose of identifying and tracing each firearm, the States Parties of the Convention shall require unique marking on each firearm produced, **imported or transferred from government stocks to permanent civilian use**. This obligation does not exist, besides in the aforementioned cases, for weapons produced before the Protocol entered into force and that remain in the civil market within the same territory.

Regarding the aforesaid Article, Directive 2008/51/EC sets forth in Article 2.2 that:

“This Directive shall not apply to the acquisition or possession of weapons and ammunition, in accordance with national law, by the armed forces, the police, the public authorities or **by collectors** and bodies concerned with the cultural and historical aspects of weapons and recognized as such by the Member State in whose territory they are established. Nor shall it apply to commercial transfers of weapons and ammunition of war.”

This highlights the fact that special importance is given to historical weapons, in comparison to those that do not have this character, as firstly, they are of no danger for organized crime and secondly, **any new, additional proof-marks may reduce the value of weapons as items of historical value.**



In principle, it is admissible under Article 3 of Directive 2008/51/EC if the Member States approve transposing regulations which are most stringent than the regulation set forth in Directive 2008/51/EC:

“Member States may adopt in their legislation provisions which are more stringent than those provided for in this Directive, subject to the rights conferred on residents of the Member States by Article 12 (2). CHAPTER 2 Harmonization of legislation concerning firearms.”

It is indeed Spain’s case, which by Royal Decree 976/2011, established a more stringent regulation regarding the proof-marks in firearms than the regulation set forth in Directive 2008/51/EC.

Article 28.1 of Royal Decree 976/2011 states:

“All firearms and its fundamental pieces or essential finished components which are commercialized separately, shall have a proof-mark which includes the name and the brand of the producer, the land and the place of production and the production number. [...]”

As an exception to the prior Article, Article 28.10 of Royal Decree 976/2011 disposes:

“Firearms included in categories 6th and 7th, that are not susceptible of being fired and which comply the conditions established in Article 107, are exempt of the proof-mark requirement established in the first paragraph of this article. [...]”

Category 6th is the one of our interest hereof, which includes, amongst others, and according to Article 3 of the Royal Decree 976/2011:

*“The **antique or historical firearms**, their reproductions or equals, which are preserved in museums authorized by the Ministry of Defence if they are dependant on any of the three armies, and the Ministry of Interior in the remaining cases.”*

According to the aforementioned Articles, the antique or historical firearms **not susceptible of being fired** are exempt of the proof-mark requirement and it may seem that the Spanish regulation set forth in Royal Decree 976/2011 is not more stringent than the regulation set forth in Directive 2008/51/EC, as they both establish an exemption for historical firearms.

However, the definition that Royal Decree 976/2011 contains for the term “historical firearms” in its Article 2.14, refers to **those firearms which have relation with a fact or a relevant historical character**, when duly proved.



The definition of “historical firearm” is limited to a very concrete and specific type of firearms: those which have relation with a fact or a historical relevant character. According to this, those firearms used in several historical armed conflicts are not included in the definition.

On the other hand, the definition of “**antique firearm**” contained in Article 2.3 of Royal Decree 976/2011, includes those firearms **produced before January 1, 1890**.

This Article does neither give a satisfactory solution to the problem hereof reported, since it sets forth that firearms produced before January 1, 1890 be considered as antique, excluding them from the scope of the definition those firearms which were used on armed conflicts that took place from this date on.

According to the aforesaid, there is no doubt that the regulation established on Royal Decree 976/2011 is more stringent than the regulation established on Directive 2008/51/EC: those firearms which are not related with a fact or a relevant historical character, as well as those which were not produced before 1890, may not have the consideration of historical, nor of antiques. As a consequence, they shall be marked.

Throughout this regulation, Spain not only ignores completely the historic importance of arms that were used by the common man during periods of great historic significance such as World War One and World War Two, but also ignores those arms that are historic by way of their place within the technological advance in weaponry throughout the ages and those that are illustrative for social, political, artistic and technological developments through the ages and as such are considered part of our national heritage.

Indeed, the intention of the marking requirement in the EU regulation is to ensure the traceability of arms through the correct identification and registration in the EU Member States. This measure is understandable and deserves support as a deterrent to organised crime. However, one must bear in mind that a fundamental element of the EU Directive is that collectors and museums and the arms that they collect are specifically exempt from the provisions of Directive 2008/51/EC. This is because the EU recognises the roll of the collector as a preserver of arms for their historical and technological value.

It is contrary to the intention of Directive 2008/51/EC not only that collectors’ arms have to be marked, but also that this marking has to be applied retroactively and that the obligation is even extended to firearms that are exempt because of being antique. The marking of firearms that are of interest to collectors is extremely damaging to these objects’ historical integrity and value.

However, we shall not forget that throughout this regulation, Spain is not only ignoring the historical value of these firearms, reducing considerably their value; but also that, at the same time, such value reduction represents a decisive barrier to the intra-EU trade of these firearms with historical value.



It is true indeed that Directive 2008/51/EC allows the States to legislate in a more restrictive way than the Directive itself. However, the Spanish regulation to transpose Directive 2008/51/EC is a **handicap for the free movement of goods** (which does not collaborate in promoting the Single Market appropriated for enterprises and consumers and promoted by the EU) and that has actually already caused the disappearance of imports of firearms produced after 1890 coming from other EU countries to Spain.

As an example, Germany introduced a relevant exemption in its national regulation of transposition of Directive 2008/51/EC, regarding the proof-mark requirement for those historical firearms, more specifically, on Section 24, Subsection 1, second sentence of the Law of Firearms (*Waffengesetz*).

The last example is a proof of the fact that the problem here outlined constitutes a problem that is specific to Spanish law: neither the EU laws nor the international laws approved by the Permanent International Commission (C.I.P.) contain any such far-reaching requirements.

Second.- Concerning the Kingdom of Sweden

The Protocol sets forth in [Article 8.1.b\)](#) that the States Parties, for the purpose of identifying and localizing each firearm shall:

“Require appropriate simple marking on each imported firearm, permitting identification of the country of import and, where possible, the year of import and enabling the competent authorities of that country to trace the firearm, and a unique marking, if the firearm does not bear such a marking. The requirements of this subparagraph need not be applied to temporary imports of firearms for verifiable lawful purposes.”

The Kingdom of Sweden, as a State Party of the Protocol has been marking the firearms imported in its territory, but also including those imported from other Member States of the EU.

However, we shall not forget that Sweden is a Member State of the EU as well and that the EU should be treated as a unique territory to the effects of the Protocols’ implementation and for the preservation of the free intra-EU trade and the Single Market: any firearms’ transfer from a Member State to another should not be considered as an importation, since it is only a **movement inside the frontiers of the EU**.

This is the reason why the EU signed the Protocol as a State Party. If the Member States are allowed to approve transposition legislation of the Protocol which do not bear in mind that these States are part of a supranational organization, whose fundamental principles are the promotion of the Single Market and the free movement of individuals, goods and capital, it would not make any sense that the EU signed the Protocol as a Party of it.



The intention of the Swedish authorities to require the marking of all firearms imported from the EU Member States is a clear breach of the free movement of goods principle, enshrined in Article 34 of the Treaty on the Functioning of the European Union (TFEU), and developed in the Directive, when it states that:

“Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States.”

The intended restriction in the Swedish law cannot be justified on the basis of the public security grounds mentioned in Article 36 TFEU (see sentences C-473/98 *Toolex y 5/77 Tedeschi/Denkavit*) since there is already specific harmonization at EU level, Article 34 TFEU, which establishes the free movement of goods. Therefore the compatibility between the Swedish law and the Directive should be analysed.

It is important to emphasize that Article 3 of the Directive doesn't give the Member States a “*carte blanche*” or complete freedom to adopt any national legislation regarding weapons. From a complete reading of the Directive, which definitely shouldn't be understood in isolation but as part of the *acquis communautaire* of the internal market, it can be deduced that Article 3 refers exclusively to minimum conditions that should be respected at internal level of each State (mainly, the conditions to gather and possess weapons and to be arms dealer in the resident State and the marking conditions of the arms that are produced in the own State). This is illustrated by referring to Article 3 in the text of Articles 4 bis and 5. Article 3 avoids a full harmonization of these internal conditions, respecting the different national sensitivities concerning weapons but also allowing at the same time the achievement of mutual trust between Member States by the imposition of minimum standards.

In comparison to this set of dispositions of the Directive that have a fundamentally internal dimension, there is another set of dispositions that have a cross-border dimension and on those Member States aren't entitled to establish stricter rules than the ones foreseen by the Directive. It can be said that the States accept this second set of dispositions because of the mutual trust established by the first. This second set of dispositions refers mainly to the transfer of weapons (Article 11) and to the European firearms pass (article 12). As it has further been indicated, it is for the Member State where the establishment of the marking conditions of the weapons is produced to decide upon imposing stricter rules to the weapon producers of their country than those foreseen by the Directive. Nevertheless, as long as State A respects the marking conditions of the Directive, State B cannot make the transfer of weapons from State A harder by imposing new marking conditions.

Denying the previous reasoning is simply absurd, meaning that the States would have an absolute discretion in order to slow or even deny the free movement of civil weapons, emptying the Directive of its substance. As a matter of fact, if we affirm that Article 3 is to be applied to the whole Directive, every State could call for its invocation and this way avoid the temporal or definitive import of any weapon under any conditions. This approach would be incompatible with the “*raison d'être*” and with the aims of the internal market of the Directive and would



reduce this instrument, in its cross-border dimension, to a nonbinding recommendation for the States.

In conclusion, the Swedish authorities must respect the conditions for weapon transference in-between States foreseen in Article 11, which don't expect additional marking. Furthermore, regardless of the specific disposition that the Swedish authorities call upon to justify the obligation of an additional marking, it would be their burden to prove that this restrictive measure is necessary, appropriate to achieve the sought aim and proportionate.

CONCLUSIONS

The European Commission, as guardian of the Treaties, must ensure that Member States comply with EU legislation.

As Spanish and Swedish authorities insist on applying a legislation that contravenes the common economic interests, we proceed, with the present report, and under Directive 98/34/EC of the European Parliament and of the Council of June 22, 1998, laying down a procedure for the provision of information in the field of technical standards and regulations, to notify the European Commission about the facts here outlined.

In particular, we report hereof the behaviour of:

I. The Kingdom of Spain

As a consequence for the refusal contained in the Spanish regulation of transposition of the Protocol to consider as historical those firearms produced subsequent to January 1, 1890, and not related with any fact or relevant historical character, having to comply with the proof-mark requirement and consequently, reducing considerably their historical value, as well as representing an important breach to the intra-EU trade and the Single Market.

II. The Kingdom of Sweden

As a consequence for the obligation set forth in the Swedish regulation of transposition of the Protocol to mark all those firearms imported into Swedish territory, including those imported from Member States. The mentioned Swedish legislation forgets that Sweden is a member State of a supranational organization such as the EU, and for this reason is obliged to fully respect the common legislation. As well as the Spanish regulation of transposition of the Protocol, the Swedish regulation means a clear breach to the intra-EU trade and the Single Market.



Brussels, 15th of November 2012

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AECAC

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ACACE

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ASOCIACIÓN ARMERA

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SVERIGES VAPENHANDLAREFORENING



AMEC Environment & Infrastructure UK
Mrs. Martine SOBEY
[**martine.sobey@amec.com**](mailto:martine.sobey@amec.com)

With Copy To
ECHA
Mr. Kalle KIVELÄ
[**Kale.kivela@echa.europa.eu**](mailto:Kale.kivela@echa.europa.eu)

Brussels, 26th of March 2012

Subject: Consultation on study on abatement costs of lead in shots

Dear Mrs. Sobey,

Reference is made to the consultation in the frame of the study on abatement costs of lead in shots undertaken by the European Chemicals Agency (Contract ECHA/2011/140).

General comments:

Restrictions on lead.- Our general opinion is that any further restriction on lead use is unnecessary and it would affect - once again - negatively the competitiveness of European companies. Member states already have strict regulations concerning this issue.

Higher impact on Small and Medium Enterprises.- Fact is that most companies which deal with sport and hunting guns and ammunition are Small and Medium Enterprises (SMEs). For these, the implementation of new restrictions would have a negative strong impact on their economies. The burden of administration and regulation is the biggest complaint of SMEs when it comes to hindrances to their business. An increase in the price of ammunition – which would be the immediate effect of further restrictions - will significantly reduce the market, and will certainly cause an important reduction of the SMEs margins. Normally margins always get reduced from the retailer benefit.

SMEs will suffer more heavily the consequences of such an implementation. Big Companies have a stronger position and are able to deal easier with price reductions.

Comments on the Questionnaire.- The so-called “**Small Business Act**” (**SBA**) recognises the central role of SMEs in the EU economy and for the first time puts into place a comprehensive policy framework for the EU and its Member States concerning Small Companies. The SBA aims to promote entrepreneurship, make legislation SME- friendly and help SMEs to grow. **It is evident that the draft of the questionnaire we received completely ignores the impact of the possible restriction on SMEs.** As you know all new legislative and administrative proposals will be subjected to an “**SME test**” in order to assess their impact on SMEs.



Finally, although this questionnaire only concerns the costs of a mandatory shift from lead shot to other materials in the context of hunting, AECAC would like to stress that such a fundamental legislative change should be based on sound scientific evidence. AECAC considers that the questionnaire's introductory statement "The environmental toxicity and the risk related to the use of lead in shots is well documented" should be substantiated with specific reference to the amount of lead shot that would cause environmental problems.

Deadline.- It is necessary to highlight that the deadline to provide answers to the consultation is far too short.

Herein we include our answers and comments to the questionnaire you send us. Such answers have been drafted after consultation with our members.

Answers have been adapted to the profile of our organisation (traders/retailers).

COMMENTS AND ANSWERS TO THE QUESTIONNAIRE

PART 1 – BACKGROUND INFORMATION

1.1. Respondent Background

- Organisation name: **AECAC - European Association of the Civil Commerce of Weapons**
- Telephone number: 0034 932054231
- E-mail address: v.fabregat@fabregat-perulles-sales.com
- Postal address: Rue F. Pelletier 82, B-1030 BRUSSELS
- Name of contact person: Víctor FABREGAT

1.2 Involvement with lead in shots

AECAC is the European gun and ammunition trading and retailing federation. Our organisation is formed by all the national related associations. Currently the members of our federation are the following national trading associations:

1. **Austria:** Verband Österreicher Büchsenmacher (Bundesinnung der Metalltechniker)
2. **Belgium:** Wapenunie – Union Armes
3. **Cyprus:** Cyprus Gundealers Association
4. **Denmark:** Danske Vapenhandlerere
5. **Finland:** Asekauppiaiden Liitto ry
6. **France:** Chambre Syndicale Nationale des Armuriers
7. **Germany:** VDB - Verband Deutscher Büchsenmacher und Waffenfachhändler
8. **Greece:** Pan-Hellenic Association of Handcraft men & Professionals of Hunting Items
9. **Ireland:** Irish Gun Dealers and Shooters Association
10. **Italy:** ASSOARMIERI-Associazione Commercianti Armi-Munizioni Caccia Pesca Sport
11. **The Netherlands:** Nederlandse Vereniging voor de Wapenhandel
12. **Spain:** ACACE - Asociación de Comerciantes de Armería sus Complementos y Explosivos
13. **Sweden:** Sveriges Vapenhandlareforening



PART 2 EUROPEAN TRADERS & RETAILERS

2.2 Comparison of lead-based and alternative shot

The average market price of lead shot cartridges is **0,35 €/unit** without VAT.

Average market (final user) prices of cartridges of alternative materials, VAT excluded are the following:

- **Zinc 1,60 € /unit**
- **Steel - Iron 0,68 € /unit**
- **Tungsten 3,10 €/unit**
- **Bismuth 2,15 €/unit**

Comments:

As we will comment on later, steel or iron shots have technical and even security problems. The rest of the other alternatives are too expensive. The impact on the trading market could not be assumed with prices increasing more than 150 %.

Currently the ammunition trading represents around 25 % of the retailers market in Europe. An increase of the prices would cause an enormous damage to thousands of small and medium enterprises in Europe.

These figures should be connected to the enormous amount of users. Europe has more than 12 million lead shot users. The economic impact of this sort of restriction would be notable and unacceptable in the current times.

2.2.2 Technical advantages or drawbacks for customers using alternative shots compared to using lead-based shots:

Ballistic performance. The ballistic properties of steel and iron shot differ completely from lead shot; steel shot requires some time of acquaintance.

Other alternatives as bismuth, tungsten and tin are available that do not suffer from the technical drawbacks of steel, its ballistic performance is better, but not equal to lead. However, these alternatives are much more expensive than the lead.

Suitability in gun types. Steel and iron shots cannot be used in all gun types. Only modern shotguns can be used with such materials. Restrictions could easily cause accidents in case people keep on using traditional guns.

Hunting or shooting technique. Alternatives are less effective than lead. The ballistic effect on game of all the alternatives is much worst than using lead. Specially iron, steel and zinc which wound more animals.

High security problems. Iron steel and zinc shots should not be used in rocky and similar terrains due to the risk to ricochet.

Impact on forestry economy. Steel and iron shots are often not allowed in forest from which trunks are sold for furniture and veneer making as the industrial cutting tools may be damaged.



Recyclable. Lead is a recyclable material. This is not the case of most of the alternatives.

2.2.3. Major technical problems and how these might be solved.

Major technical problem on all the alternatives is the ballistic performance. None of the existing materials ensure a perfect ballistic performance on game as lead does.

There is not a solution for this for the moment.

2.2.5. Associated cost for customers in case of lead shots restriction.

On average, non-lead shot gun ammunition for hunters cost normally 4 times as much as lead shot ammunition. Considering an average hunter with a cartridge consumption of 200 cartridges a year, its increase of cost would be of around **250 € more per year**.

Gun testing cost, approximately 100 €/ per gun. Considering an average hunter owning 3 shotguns: **300 €**.

Installation of new chokes (approximately 50 € per gun): **150 €**.

Purchasing of new guns (2 new shotguns per hunter): **2.500 €**.

Competitive shooters with very high cartridge consumption may face increased barrel wear due to steel shot forcing frequent replacement of weapons.

It should be noted that the average hunter has a limited budget and usually allocates a certain amount of money to his/her firearms and ammunition. A substantial increase in the prices related to these products will only result in a reduction in the quantities that are acquired and in some cases even the giving up of hunting.

All these numbers should be related to the number of users in Europe: more than **12 million**.

Sincerely yours,

Víctor FABREGAT



Accounting For 2012

2012

Income / Contributions Received

Spain

Germany

Sweden

Italy

The Netherlands

France

Belgium

Greece

Malta

Cyprus

Finland

Austria

Austria IWO

TOTAL

Prior years surplus

Total Income

Contributions made

WFSA 2008

FACE 2008

Costs

Travel

Bank costs

Office and fees

TOTAL

Total costs

Net Income

Balance per Bank Accounts
