



## **Opinion of the Association of European Manufacturers of Sporting Firearms (ESFAM Aisbl) on the Proposals of the EU Commission to amend Regulation 258/2012 on import, export and transit measures for firearms, their essential components and ammunition**

Please find below the position of ESFAM, the Association of European Firearms manufacturers, on the Proposals of the EU Commission to amend Regulation 258/2012 on import, export and transit measures for firearms, their essential components and ammunition (the “Proposals”).

The DG Migration & Home Affairs has published the Proposals on 27<sup>th</sup> October 2022 (see [Proposal for a Regulation on import, export and transit measures for firearms, their essential components and ammunition, implementing Article 10 of the UN Firearms Protocol \(recast\) – European Sources Online](#))

The existing rules of the European Union (EU) on import, export and transit of firearms are contained in Regulation (EU) No 258/2012, also known as the *Firearms Regulation*.

The strategic objective of the *Firearms Regulation* is to reduce the risk of illicit trafficking in firearms for civilian use by ensuring coherence across Member States in rules on external trade in line with Article 10 of the *UN Firearms Protocol*.

The Proposals made by the EU Commission aim to **increase security** but also to **facilitate the legal trade of firearms by reducing the administrative burden** placed on economic operators and firearms owners.

ESFAM fully supports those objectives.

ESFAM also points out a number of **positive aspects** related to the Proposals such as:

- the alignment of a number of definitions with other EU legislations;
- the prohibition to impose fees for the submission and processing of an export authorization;
- measures in order to achieve a better co-ordination amongst the EU Members States;
- the digitalization of the treatment of import and export authorizations.

However, some of the proposed measures could **weaken the competitive position of European Firearms manufacturers vis-à-vis their non-EU competitors** or even prohibit European manufacturers to export their products in some important non-EU markets. Those proposals must be rejected.

Some other measures are also **unnecessarily increasing the administrative burden of the operators** and should therefore also be rejected or amended.



**ESFAM respectfully recommends to the EU Parliament and to the European Council to reject the following proposed measures:**

### **1<sup>st</sup> Proposal to be rejected: the obligation to obtain an end-user-certificate**

The EU Commission proposes to impose to the exporters the obligation to obtain from non-EU countries importing firearms of categories A and B of Annex I an end-user certificate (in the form provided in Annex IV of the Regulation).

This (new) obligation must be rejected (or at least limited to firearms of categories A of Annex I) for the following reasons:

- end-user certificate which is already required to export military weapons is **not appropriate** for civil firearms since they are imported in order to be placed on the market, and their final recipient is not usually known at the time of issue of the export license; an end-user certificate is therefore **useless** for a civil firearm, which is likely to be repeatedly marketed and even re-exported;
- **some countries may refuse to deliver such certificate** (eg., UK which accepts to deliver a copy of the import licence) which could result in a prohibition to export firearms in those countries;
- **many non-EU countries already issue International Certificate of Importation (CII)** but models are not the same as the end-user certificate imposed under the Proposals which require a commitment from non-EU countries that is not included in the CII (ie., “*the products concerned will not be re-exported without the express agreement of the Member State issuing the export licence, and a commitment that the products will only be used for civilian purposes*”)

At the minimum, before imposing the issuance of an end-user certificate, EU Commission should verify whether most important non-EU countries of exportation of civilian firearms will accept to issue such certificate in the form required under the Proposals.

### **2d Proposal to be rejected: the obligation to mark firearms & essential components pursuant to EU rules when exported out of the EU territory**

The obligation to mark firearms and essential components pursuant to EU marking rules (which are not the same in every Member States due to the lack of harmonized mandatory rules) could raise **serious issues** if marking rules of the third importing non-EU countries are not the same as EU Rules.

It could also put EU industry in **unfavorable competitive position** in non- EU market.

For example, EU rules imposes the obligation to mark the year of manufacture which could be a commercial disadvantage in comparison with non-EU products whose date of manufacture would not be marked.



### **3d proposal to be rejected : the obligation to mark firearms and essential components pursuant to EU rules when imported**

- EU Commission proposes to mark firearms and essential components according to the EU Firearms Directive **before being imported into the EU territory**.
- If a firearm or essential components do not have marking in line with either the EU Firearms Directive or the UN Protocol, it should be seized and destroyed.
- But article 4 of the EU Directive 2021/555 already provides that firearms must be marked "*at the latest before their placement on the market*".

ESFAM considers that this (new) obligation is adding **useless additional administrative constraints** and could raise a number of problems for the following reasons:

- imported firearms often do not have the markings required by the Union law, especially those coming from non-CIP countries such as the USA, and after importation (but before being placed on the market), the marking is completed and regularized by the importer and/or a Proof House;
- according to the Proposals, firearms or essential components imported into the EU should first pass through a non-EU proof house and be marked at the origin according to the Directive in order to be transferred, with obvious damage to the operators in the sector, who would see **the costs rising**;
- firearms or essential components having the manufacturer's trademark and serial number but not the initials of the country of origin would have to be destroyed, even if it were perfectly traceable. This is an **irrational proposal**. A possibility of regularization should exist as it is the case today.

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[www.esfam.eu](http://www.esfam.eu)

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