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Delegations will find in annex the comments of Member States on the proposal for amendment of the firearms directive received by 30 March 2016.

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AUSTRIA

Austria (AT) supports the views of the CZ delegation expressed in the meeting of GENVAL on 26 November and submitted in written form.

Moreover, AT would like to add some further comments (these comments are without prejudice to more detailed suggestions for amendments on the proposal itself):

Deactivation:

Weapons that have been deactivated in accordance with the Commission implementing Regulation on the deactivation of firearms can only be re-activated with an enormous effort which would be equivalent to the manufacturing from scratch. There is no reasonable ground to keep these firearms under the scope of directive 91/477/EEC.

Replica firearms:

According to the new Art. 1(1)(1h) replica firearms are “objects that have the physical appearance of a firearm, but are manufactured in such a way that they cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant”. Also toys and softairguns as well as plastic kits of firearms would fall under this definition. Therefore, such items should be excluded from the scope of the directive.

Impact assessment (new Art. 4, paragraph 4, lit. b):

AT understands that due to the urgency of this proposal no impact assessment was submitted. However, having in mind that according to Article 4(4) each Member State shall ensure that the registries of the dealers and brokers established in their territory are connected to the computerized data-filing system of firearms, a relevant financial burden is foreseeable for the Member States. Therefore, AT asks the Commission for an impact assessment.

As an alternative (instead of connecting the registries of the dealers and brokers with the computerized data-filing system of firearms) Member States could ensure that authorities have at any time access to the registries of the dealers and brokers. This would be a less costly and equally efficient solution to reach the same goal of this provision.

Cultural and historical aspects of weapons (new Art. 6):

Article 6 does not foresee any exceptions with regard to cultural and historical weapons. The Member States' authorities could, therefore, no longer grant permissions for historical category A weapons. This also means that weapons of inestimable (historical) value would need to be deactivated or even destroyed. This provision – similar to others in the proposal - manifestly infringes the principle of proportionality, all the more as the Commission did not provide for any proper explanation for the necessity of such a measure. No cases are known to the AT authorities where such weapons have been used for terrorist attacks.

Salute weapons (new Article 10a):

The following paragraph shall be deleted: ~~“The Commission shall adopt technical specifications for alarm and signal weapons as well as for salute and acoustic weapons to ensure they cannot be converted into firearms”.~~

Exchange of information on authorisations (new Art. 13, paragraph 4):

The proposal foresees mandatory information exchange on the authorisations granted for the transfers of firearms to another Member State as well as information with regard to refusals to grant authorisations. These provisions lack proportionality and seem inadequate in particular in cases where there is no indication that the person concerned may try to get an authorisation from another Member State.

Categories (new Annex I part II):

The proposal i.a. aims at preventing unauthorized persons from the possession of automatic firearms. In order to reach this goal, the following provisions need to be taken:

1. All semi-automatic firearms shall be included in category B
2. If relevant parts of such semi-automatic weapons are likely to be used in automatic firearms, these semi-automatic weapons shall fall under category A.

Implementing period (new Annex I, Article 2):

The implementation of the revised directive will require a revision of the Austrian Weapons Act (WaffenG). The proposed 3 months for the implementation is far too short and unusual for EU directives.

Legal basis:

Article 114 of the Treaty on the Functioning of the European Union, chosen by the European Commission as legal basis for the proposal *COM (2015) 750 final*, refers, as an object, to “*the establishment and functioning of the internal market*”. This shall be kept in mind, specifically when provisions such as *medical review* or the *proper storage of firearms in a standardised safe box* are at stake.

In order to ensure a strong response of the European Union legislator to recent terrorist acts and other criminal threats, provisions under this directive must be legally sound. Therefore, Austria asks for legal clarifications provided by the Legal Service of the Council.

Missing transition periods

As a general remark, Austria wishes to state that transition periods under this Directive are missing. The Council should further evaluate introducing such transition periods in order to guarantee that all stakeholders will be able to meet the obligations under this Directive.

Connection centralized data-filing system of firearms with registers of dealers and brokers

In its current form, Article 4 para 4 second subparagraph would oblige each Member State to ensure that the registers of the dealers and brokers are connected to a single centralised computerised data-filing system of firearms. In order to ensure that the technical and practical transposition of this Article is guaranteed, Austria requests a transition period of 12 months for this provision (in addition to the general transposition period of 12 months, as foreseen in Article 2 para 1 of this proposal).

As an alternative to a permanent connection of the registers of the dealers and brokers with the computerised data-filing system of firearms, Member States could ensure that authorities have at any time access to the registers of the dealers and brokers. This would be a less costly and equally efficient solution to reach the objective of this provision.

Medical review

A mandatory medical review, including psychological tests, should be foreseen only before the issuance of an authorisation of the acquisition and possession of firearms. However, such a review should only be mandatory for a renewal of such an authorization if there is an indication of mental or physical illness.

Proper storage of firearms

Austria requests the deletion of the word “standardised” in Article 10aa first subparagraph as well as the subsequent deletion of the second subparagraph of this Article.

Safe storage locations other than boxes should be added, as an alternative, to the text provided that the general requirements and purposes of the first sentence of this Article are met.

Exceptional authorization to use firearms by persons less than 18 years

The words “*and/or historical or cultural occasions*” should be introduced after “*shooting purposes*” in Article 5 para 1 (c).

Information exchange on refusals to grant authorisation

Article 13 para 4 foresees mandatory information exchange on the authorisations granted for the transfers of firearms to another Member State as well as information with regard to refusals to grant authorisations. In order to ensure cross-border cooperation and information exchange, on the one hand, and to avoid unnecessary and disproportional storage of data, on the other hand, such an exchange shall only be foreseen when there is an indication that the person in question moves to another MS or has any other connection to that MS.

However, regarding a general, bulk exchange of personal data to all other MS, Austria expresses strong reservations in light of data protection requirements. There is strong doubt that the requirements of proportionality and necessity would be met by such a provision.

BULGARIA

In principle Bulgaria supports the EC proposal for amendments of the Council Directive 91/477 on control of the acquisition and possession of weapons.

In our national legislation we have introduced criteria stricter than these foreseen in Directive 91/477, namely: Category A — Prohibited firearms, and all other categories are made equal to Category B, i.e. subject to authorisation, including weapons possessed by collectors. According to the national legislation weapons other than firearms are subject of registration.

We support the idea for harmonization of the standards and rules for deactivating of firearms and we think that stress should be put on the irreversibility of the process of deactivation rather than on the following tracing and observation.

We consider that the sale of weapons on the internet should be absolutely prohibited.

We have the following concrete notes regarding the proposed amendments of the directive:

1. We have reservations regarding the recategorization of the semi-automatic firearms. The most of the hunting and short barrel weapons are of this category of firearms and adding the semi-automatic firearms to the Category A — “Prohibited firearms” would have significant economic effect, which of its side would lead to increasing of the illegal weapons. We consider that when an effective control over this type of weapons is exercised by the competent authorities (regarding the weapon itself – marking, as well as regarding the brokers and persons who acquire and possess semi-automatic firearms) its prohibition it’s not necessary.

In Bulgaria there is an electronic register (EAR KOS) established, since 01.11.2013, on the base of the Dutch system VERONA, and the data-base is established on the base of ORACLE. EAR KOS is an web-based application, by using which control is exercised on the production, trade, storage, carrying, use and transportation of weapons, ammunition, explosives and pyrotechnic articles of persons and legal entities.

Through it, in real time, could be done check for the ownership of any weapon, registered in the data-base, as well as to trace the change of its ownership. It is possible to make all kind of checks regarding the activities with weapons, ammunition, explosives and pyrotechnic articles, including the history of the whole life cycle of the particular piece of weapon.

2. We think that the 3-month period for the transposition of the directive could be insufficient because of the internal legal procedures needed for the implementation of the requirements of the directive into the national legislation. We propose to consider the possibility of prolonging the term, for example for 6 months.
3. We agree that the interconnection and the integration of the national systems for exchange of information will lead to better tracing of the firearms but when discussing the idea it should be taken into account that this will lead to significant financial implications.

In conclusion we would like to note that the focus should be on illegal weapons because most crimes are committed with illegal weapons, not with legally owned.

In addition to the written comments sent on 7 December 2015, Bulgaria would like to make the following comments:

- **Article 1**^[1]

We believe that the text should provide clear and consistent definitions, which do not require further interpretation and are compliant with the UN Protocol on Firearms.

A clear distinction should be made between the activities performed by dealers and brokers.

- **1e** - We need a clarification on this text: Does it mean that brokers do not have the right to import firearms and ammunitions? Or is the import simply left out by mistake? If that is the case than the phrase should be added:

"1e. For the purposes of this Directive, "broker" shall mean any natural or legal person, other than a dealer whose trade or business consists wholly or partly in buying, selling or arranging the transfer within a Member State, from one Member State to another Member State or exporting to **and importing from** a third country fully assembled firearms, their parts and ammunition."

- **1h** - The proposed definition of „**replica firearms**“ makes it possible that certain objects – such as toys for kids - are also considered and should be treated as replica firearms. Having in mind that the replica firearms are included in Category C with a registration regime, we believe that a this definition needs a rewording in a way that it is fully clear that **toys are excluded** from the scope of the Directive.

- **Article 2**

Bulgaria supports the including of the collectors and bodies concerned with the cultural and historical aspects firearms in the scope of the directive.

^[1] All references in the comments are from the current text of the Directive 91/477/EEC

- **Article 4**

Although we support the text on marking weapons and their essential components, we believe that the issue of marking historical firearms should be carefully considered, as this procedure will **destroy their historical value**.

Bulgaria supports the proposal for storing the data for firearms, including deactivated firearms, until the destruction of the weapon.

- **Article 4b**

We need a clarification regarding the contradictory with the stricter provision of **art. 4**, which requires **obligatory authorisation** for dealers and brokers. The two provisions must be consistent.

Article 4b

*1. Member States shall establish a system for the regulation of the activities of brokers and dealers. Such a system **may** include one or more of the following measures:*

(a) registration of brokers and dealers operating within their territory;

(b) licensing or authorisation of the activities of brokers and dealers.

Article 4

*3. Member States shall make the pursuit of the activity of dealer or broker within their territory **conditional upon authorisation** on the basis of at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the legal person and on the person who directs the undertaking."*

- **Article 5**

The term „standard medical tests“ needs clarification. It is not clear which tests shall be considered “standard” because this term is not defined at EU level, and Member States could interpret it in a different way. May be it would be better to use the phrase “medical tests according to the national legislation of the Member States”

- **Article 6**

In our view, the text on the deactivation of firearms of Category A, possessed by bodies concerned with the cultural and historical aspects of weapons and recognised as such by the Member State, constitutes an overregulation, as there are no known cases of using museum exhibit to commit crime. The deactivation would lead to a loss of cultural and historical value.

Therefore, **Bulgaria does not support this proposal.**

Bulgaria is in favor of prohibiting the acquisition of firearms and ammunition by natural persons through the means of distance communication. The possibility to order the firearms on-line might be considered though, provided that it is obligatory to receive them at the shop, after having obtained the required authorization.

- **Article 10b**

The text should be examined in view of the adopted *Commission Implementing Regulation (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable*. To our understanding there is a discrepancy between the cumulative requirements for both issuing a certificate and apposition of a mark on the deactivated firearm under the Commission Implementing Regulation and the alternative requirement for one of the two options in the draft Directive.

Article 10b

*Member States shall make arrangements for the deactivation of firearms to be verified by a competent authority in order to ensure that the modifications made to a firearm render it irreversibly inoperable. Member States shall, in the context of this 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.*

- **Annex I, Part II, Point A**

Bulgaria **does not support** the re-categorization of the semi-automatic firearms of **Category B7** into Category A. In Bulgaria the firearms of this category are used mostly for hunting purposes. As a result of the prohibition it could be expected that it would lead to an increase in the illegal weapons.

In addition, we consider the proposed amendment to Category B7 not proportionate. Moreover, every semi-automatic firearm from Category B could be modified to automatic.

We consider that if an effective control over this type of weapons is exercised by the competent authorities (marking, control on brokers, dealers and persons who acquire and possess semi-automatic firearms) its prohibition it's not necessary.

With the aim of introducing stricter control on acquisition and possession of firearms, we would propose another decision for Member States consideration, namely - to put the firearms falling under the present Categories C and D under the regime for Category B.

Transposition

We think that the 3-month period for transposition of the Directive would be insufficient in terms of legal procedures at national level (i.e. for passing a bill through the Parliament), as well as with a view to ensuring the practical implementation of the new provisions of the Directive. We propose to consider the possibility of prolonging the term.

CZECH REPUBLIC

CHAPTER 1

Scope

Article 1

- (1a) *With regard to the amended definition of “essential component”, it is not very clear what components are included under the term “part”. All of the examples given in the definition are further defined as “essential components”. It is questionable to what “any elements” should the Directive apply. Should this term include stocks? Grips? Sights? Mounts? Magazines? Trigger mechanisms? Springs? Screws?*
- (1b): *Further clarification would be helpful in the case of actions of (mostly) long fully- and semi-automatic firearms. Action mechanisms of these weapons typically consist of more parts. It should be made clear which of them (or perhaps only an complete action?) shall be considered essential components.*

Should the term “any device designed or adapted to diminish the sound caused by firing a firearm which, being separate objects” apply also to e. g. “linear compensators” that direct noise forward from the shooter? If yes, there would be not much reason not to include also other muzzle devices (compensators, flash hiders, muzzle brakes) in the scope of the Directive, however, that would be rather excessive.

(1f, 1g) *The terminology on firearms covered in the indents 1f. and 1g. needs some further clarification. According to our information there are some discussions between the Commission and the C.I.P. about the issue. Generally, we do not see the reason for the introduction of a “dual” term “salute and acoustic weapons” – is there any substantive difference between these two types of weapons? More importantly, we do not think, that it is appropriate to fuse the terms “alarm weapon” and “signal weapon” into one definition. In our view, there are substantial differences between these weapons. The most important difference is that the signal weapons are typically constructed to be capable of expelling a projectile (pyrotechnic ammunition). On the other hand, alarm weapons can be typically used for shooting pyrotechnic ammunitions only when they have a gas exit to the front and a muzzle a muzzle adapter is used.*

(1h) *The definition of “replica firearms” is vague. What products should be covered by this term? Air-soft guns? Training dummy firearms? Lighters having the appearance of firearms? Decorative firearms? Toys? It must be highlighted that due to the subsequent obligations of holders of “replicas” any such objects would have to be e. g. marked according to the Directive as amended. There would be also the obligation to declare and register such objects.*

We doubt that there are any real security threats connected with the possession of any of the objects mentioned above that would legitimize the regulation of those within the Directive. It must be noted that the enforcement of such regulation would be enormously burdensome and costly, especially with respect to the “replicas” that are already owned by general public.

(1i) *In our view, the Directive could further clarify the legal status of the formerly deactivated firearms (according to the national laws). We suggest that the definition explicitly mentions that a firearm can be considered deactivated in the sense the term is used in the Directive only if it was deactivated according to the Commission Regulation on deactivation of firearms. Any other deactivated firearms shall be considered firearms of the categories as if they were not deactivated.*

- 1.2 *We suggest that the term “manufacturer” should be introduced in the Directive. There are more instances throughout the Directive when the obligations entrepreneurs ought to be defined in different way in case of dealers (in narrow sense) and manufacturers. For instance in the case of recording of firearms (in the data-filling systems), it should be defined when a product becomes “firearm” in a production process and thus when a manufacturer is obliged to keep record of it.*

With respect to (ii) it should be clarified what enterprises which “manufacture, trade, exchange, hiring out, repair or conversion of parts of firearms” should be considered dealers. We refer here to our comment on the definition of the term “part” (1a). It is not entirely understandable why e.g. a joiner who produce stocks or grips made of wood should be a “dealer” under the Directive (it can be noted that it is not rare that the private holders of firearms make or repair stocks or also other parts of their firearms other than essential components – should they be considered dealers?). An analogous comment apply also to the definition of “broker” above.

Article 2

- 2.2 *The wording “commercial transfers of weapons and ammunition of war” needs to be clarified or defined. Does this apply to the firearms subject to the Common Military List (and thus to the Directive 2009/43/EC)? Are there any other cases when neither of the laws would apply?*

CHAPTER 2

Harmonization of legislation concerning firearms

Article 4

- (4.1) *Should this obligation be applied retrospectively (retroactively) also to all the items that are proposed to be included under the application of the Directive and that are already possessed by persons in the Member states?*
- (4.2) *It is not clear why the receiver should be the only essential component to which the marking should be affixed. There are also interpretation problems. To what part should the marking be affixed for instance in the case of AR-15 based firearms which have the so-called upper- and lower-receiver? This provision also does not seem very practical with respect to most firearms with polymer frames/receivers (erasing or changing any marking in plastic is far simpler than erasing or changing marking stamped in metal). In some cases (e.g. SIG P250), the marking affixed to the receiver would not be even visible from the outside of the complete gun.*

How would this provision apply to existing firearms? If the new marking requirements should be met this would mean that e.g. most of existing semi-automatic pistols would have to be remarked (in case of pistols most of the information is typically marked on slides). However, such course of action does not seem very efficient and rational.

- (4.4) *In the case of the Czech Central Firearms Register the data on any particular firearm are kept for 20 years after the end of the lifecycle of such firearm.*

Article 5

(5.1) *What is the legal meaning of the change of the wording (permit -> authorize)?*

Article 6

1. We cannot agree with ban on category A firearms without any possibility of a member state to grant exceptional authorizations. There are private subjects (primarily businesses) who need to obtain and possess category A firearms. It can be producers of ballistic protection, researchers, producers of military equipment and accessories etc. Neither of these entrepreneurs needs to be dealer or broker according to the Directive. However, the output of these persons is highly valuable for the security policy of state.

2. The text of the revised Directive as proposed is not clear whether these restrictions should apply also to dealers and manufacturers who supply category A firearms for military or security purposes. If these persons could not produce and trade category A firearms it would be absolutely devastating for the internal as well as external security of member states. Even if Article 2 par. 2 applies in some of these cases, it does not provide for many instances when private business (there are probably not many state-owned producers in the EU) should be permitted to deal with category A firearms. In other cases licensed gunsmiths and manufacturers (“dealers”) should be authorized to hold category A firearms also for the purposes of their deactivation, destruction etc. (otherwise, there would be actually no subject capable of performing these operations in the Czech republic).

3. The requirement for deactivation of category A firearms held by private museums and a ban on obtaining any new firearms of that category is hardly acceptable. There are firearms of great historical value which would be lost after deactivation. Moreover, it is questionable whether there are any real security risks connected with these historical artefacts. If it is so, it would be still more appropriate to set stricter rules for securing the firearms in museums. There is also probably much more category A firearms owned by public museums to which the Directive does not apply at all.

We agree that th[e] restriction [The acquisition of firearms and their parts and ammunition concerning categories A, B and C by means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council ⁽¹⁾, shall be authorised only with respect to dealers and brokers and shall be subject to the strict control of the Member States.] should doubtlessly apply to firearms, their essential components and ammunition. In addition, it should also apply to category D firearms as defined by the present version of the Directive (one-shot shotguns). And it also should be clarified to which other parts (other than essential components) the ban on distant purchase should apply. In our view there is little justification for an entire ban in case of many parts such as stocks, grips, sights, springs etc.

Article 10

The rules for acquisition of ammunition are not completely clear. There are many cartridges that are used in firearms of different categories. There are even cartridges that can be used in firearms to which the Directive does not apply (antique weapons) as well as in category A, B or C (or D) firearms.

Article 11

The rules on transfers of firearms are only partially harmonized. The Directive should reflect also other legal norms applicable to transfers of firearms (Directive 2009/43/EC or Regulation 258/2012). There are multiple questions regarding security issues that should be discussed such as:

- at least minimum requirements for security of transferred firearms and ammunition, it can include also e.g. obligatory GPS tracking of larger cargos of firearms and ammunition,*
- standardization of certificates, authorizations and consents issued by member states according Article 11 – this would significantly improve and simplify the checks and controls of transfers of firearms,*
- the Commission could provide an on-line list of national authorities responsible for authorization of transfers of firearms and provide a summary of basic information about particular national rules applicable to the issue.*

⁽¹⁾ Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts (OJ L 144, 4.6.1997, o.19)

ANNEX I (categories A and B)

1. *As we already noted in our non-paper circulated on November 25 there are many doubts that the ban of selected semi-automatic firearms will contribute to security. With respect to the current situation there are serious concerns that the ban will lead to massive outflow of these so-far legally owned weapons to illegal sphere. The concerns have further increased over the last days as the refusal to the eventual expropriation of these firearms has started to shape as a political stance. The firearms policy in the Czech Republic has been stable over the past two decades. The results are very low level of armed crime and circa 20,000 illegal firearms voluntarily given up during the so-called amnesties. The implementation of the proposed restrictions can well obliterate these results as the supply of illegal firearms will be revitalized by tens of thousands of “lost” or “stolen” modern semiautomatic firearms.*
2. *The interpretation of the terms used in the newly proposed indents 6 and 7 will produce a magnitude of problems and ambiguities. Besides the problems with the specification of resemblance of weapons with automatic mechanisms (see the non-paper cited above) it can be mentioned that also a definition of a “converted semi-automatic firearm” might not be clear and thus applicable. Especially large producers of these firearms usually use a mix of parts from used firearms, new spare parts (which were never part of a fully-automatic firearm), semi-finished parts from original military production and newly produced parts manufactured exclusively for the semiautomatic variants of the firearms. To what extent is a firearm “converted” from an originally fully-automatic firearm would be thus very difficult to define.*
3. *It is true that a deactivated firearm can be in some cases reactivated. But the reactivation of firearms deactivated according to strict rules introduced by the Commission Regulation on Deactivation of Firearms would be at least very costly and technically complex. In case of properly deactivated firearms it would be sometimes even more efficient to produce a completely new firearm. However, it will still be much easier to convert an alarm, acoustic or salute firearm (the proposal of the revised Directive does not preclude even these firearms analogous to firearms category A and still classifies them as category C firearms). The ban of the category A firearms after being deactivated will also lead to extensive criminalization of people who currently own these deactivated firearms (category A firearms are the most commonly deactivated firearms due to their attractiveness to collectors and reenactors). Finally, it is unclear why the Commission urgently introduced the common guidelines on deactivation when, at the same time, she adopted a proposal that in fact dissolves any incentive to deactivate category A firearms.*

4. *According to the Evaluation of the Firearms Directive by the Commission issued in December 2014 a in-depth analysis on “the public availability of information on how to convert semi-automatic weapons in automatic weapons” should be conducted. According to the Evaluation this analysis should assess whether “these firearms may be more dangerous than other category B firearms”. It should be clarified whether such analysis was conducted and it should be eventually communicated to the member states. The Evaluation itself only briefly cites some (questionable) examples of possible conversions and finally states that “no specific evidence that converted semi-automatic weapons are used in crimes was collected during this study to further support this concern”.*

5. *With respect to the comments above we request to delete the indents 6, 7 and 8 from the proposal. Subsequently, the indent 7 in category B should not be deleted.*

6. *However, there is doubtlessly space for adoption of common technical guidelines (minimum standards) for conversion of fully-automatic firearms to semi-automatic firearms.*

(categories C and D)

1. *We support the classification of single-shot shotguns in category C. These firearms can use powerful ammunition and their efficacy and readiness (no need for additional technical operations as reactivation or conversion) is incomparable to deactivated firearms or blank-firing weapons.*

2. *On the contrary, the classification of all alarm, signal, salute and acoustic weapons, replicas, and category B and C firearms after being deactivated can be problematic in many respects. It is almost certain, that the most of these objects that are currently held by the public wouldn't be declared to the authorities and will become articles of illicit trafficking. However, we do not deny that these products should be probably made subject to the Directive (except replicas). But more structured approach is needed. It will be proportional and sufficient to classify alarm, signal, salute and acoustic weapons and deactivated firearms as category D if a particular weapon meets the strict technical requirements of common guidelines on deactivation or technical specification according the newly proposed Article 10a. Otherwise these weapons can be classified either as firearms of the original categories (as if they were not deactivated or converted at all) or as category A firearms. However, we strongly oppose the idea of regulating “replicas” within the scope of the Directive, as there is a definite doubt that these objects pose any security risk at all.*

ANNEX II

EUROPEAN FIREARMS PASS

The proposal of the amending directive foresees that a member state shall bring into force the laws, regulations and administrative provisions necessary to comply with it 3 months after publication in the Official Journal. This period is completely unrealistic. The implementation of the revised Directive will require an amendment of the Czech Firearms Act as well as of numerous administrative regulations. The legislative process of adoption of an amendment to an act of the Parliament takes approx. 5-8 months. However, the normative acts affected by the revision of the Directive will be “technical norms” and thus subject to notification according to the Directive 2015/1535. Only the notification period has to last 3 months. Thus, any period for implementation of the amended Directive shorter than 12 months cannot be complied with for purely technical reasons.

In addition to prior comments by the Czech Republic, we propose to solve the problem of semi-automatic firearms which were converted from (fully) automatic firearms in more thorough and technical way. The so-far discussions did not reflect the fact, that there are enormous differences in technical standards for conversion of these firearms and the level in which it ensures that a firearm cannot be reconverted into (fully) automatic firearm. A conversion of any particular make of firearm can be made in several ways. There are considerable differences of construction of different makes of automatic firearms. Some conversions can secure that a firearm cannot be reconverted into (fully) automatic firearm. On the other hand it should be guaranteed that only firearms eligible for conversion are converted (we premise that e. g. conversion of most blowback, open-bolt submachine guns cannot typically ensure the needed high level of certainty that they cannot be reconverted). General conversion standards and techniques should be set at the EU level and a national public authority (e. g. Proof House) should be endowed with a competence to authorize a conversion of a particular make of a firearm. That public authority could authorize a conversion if it complies with the general standards and techniques and if technical specifications submitted by a manufacturer secure that a firearm converted into semi-automatic firearm cannot be reconverted into (fully) automatic firearm. Finally, any particular converted firearm should be subject to verification by a competent public authority.

A more detailed and sensitive approach to this problem is needed. In the Czech Republic, the converted firearms (mostly conversions of the SA VZ. 58 military rifle) are very common. We have to reiterate that no security risks connected with these firearms were recorded over the last two decades. On the other hand, any unfounded overall ban can result in a massive leakage of these firearms into the illegal sphere.

Proposed text:

Article 10c

Member States shall take measures to ensure that semi-automatic firearms which have been converted from originally automatic firearms cannot be reconverted into automatic firearms. A conversion of any particular make of an originally automatic firearm into a semi-automatic firearm is conditional upon a prior authorization of the technical specifications of the conversion by a competent public authority. Member States shall make arrangements for the conversion to be verified by a competent authority in order to ensure that the modifications made to a firearm make a reversion into automatic firearm impossible.

The Commission shall adopt conversion standards and techniques to ensure that semi-automatic firearms which have been converted from originally automatic firearms cannot be reconverted into automatic firearms.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).

Categories of firearms

As a result of the Article 10c proposed above, the ANNEX I should be reworded accordingly. The case of converted firearms which would not comply with the Article 10c need not be explicitly addressed as they simply stay in their original category (typically category A).

In addition to the changes connected with the converted semi-automatic firearms, we propose following changes of the ANNEX I:

- semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms should be included in category B; this problem was discussed extensively in earlier comments by the Czech Republic;

- firearms category A after having been deactivated, alarm and signal weapons and firearms converted into acoustic and salute weapons should be classified as category A firearms only if they were not deactivated, manufactured or converted in compliance with the Firearms Directive after being amended;
- alarm and signal weapons compliant with the standards set according to the proposed Article 10a will pose no real security risk, therefore it will be possible to classify them as category D firearms; we are flexible as to whether classify acoustic and salute weapons converted in compliance with the Firearms Directive after being amended as category C or leave them in their original category; however, the so-called replicas should not be included into the scope of the Firearms Directive, these object are vaguely defined and it so-far it was not convincingly proved that they pose any security risk at all;
- firearms deactivated in accordance with the Implementing Regulation 2015/2403 represent no actual security threat, therefore they should be included in category D, any other solution would produce a disproportionate administrative burden with only a dubious contribution to the fight against illegal firearms;
- single-shot shotguns should be classified as category C firearms; the efficiency of these firearms is comparable to any other break-action shotgun; these firearms can also be easily converted into easily concealable sawn-off shotguns; in any case, these firearms can be incomparably more readily used by common criminals than any properly deactivated or converted firearms.

Proposed changes of the text of the ANNEX I:

~~6. Automatic firearms which have been converted into semi-automatic firearms;~~

~~7. Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms;~~

~~8. 6. Firearms under points 1 to 7 after having being deactivated.~~ **Firearms under points 1 to 5 after having been deactivated, alarm and signal weapons and firearms converted into acoustic and salute weapons if they have not been deactivated, manufactured or converted in compliance with this directive.**

Category C — Firearms subject to declaration

5. ~~Alarm and signal weapons, salute~~ **Salute** ~~and acoustic weapons as well as replicas;~~

6. ~~Firearms under category B and points 1 to 5 of category C, after having been deactivated.~~ **Single-shot long firearms with smooth-bore barrels.**

Category D — Other firearms

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

1. Alarm and signal weapons.

2. Firearms under category A, B and C after having been deactivated.

B. Any essential component of such firearms:

The breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.

Follow-up comments and proposals on the revision of the Firearms Directive by the Czech Republic following the GENVAL meeting on 8 February 2016

12 February 2016

In addition to the earlier comments and proposals by the Czech Republic (especially the proposal mailed on 30 January 2016, enclosed) we make the further comments and proposals concerning the Draft Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons – text revised by the Presidency.

Recitals

We point out that the current recitals do not reflect the shift in the discussion and in some cases they consist of unfounded and misleading statements. The recitals (2), (4), (7) and (12) have already become at least partly irrelevant due to the progress in the discussions. The recital (9) contains claims simplified to the degree that they are confusing and technically incorrect. On the other hand, the recitals should reflect the fact, that certain weapons including automatic and semi-automatic firearms are essential for national defense policy of several member states and that it can also be firearms that are subject to the Firearms Directive (where Art. 2 par. 2 does not apply).

Article 1

- Paragraphs 1a and 1b

After the proposed changes of the provision of the Art. 1 par. 1b the meaning and purpose of the Art. 1 par. 1a² is unclear. **We propose to delete the provision Art. 1 par. 1a.** Consequently, the references to “parts” should be deleted in subsequent provisions (e. g. Art. 1 par. 1d, 1e, 2, Art. 2 par. 2, Art. 6 par. 4).

The Czech Republic reiterates that the definition of essential components has to be clear, definite and conclusive. Thus, it is inappropriate to define essential components barely as examples. Still, we are rather flexible on the question of whether silencers should be covered by the definition. **We propose the further rewording of the par. 1b:**

“For the purposes of this Directive, “essential component” means ~~any~~ a part of a firearm that is essential to its operation ~~such as~~ and that fulfills the function of the barrel, frame, receiver, slide or cylinder, bolt or breach block. “Essential components” ~~which~~, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted. In addition, any device designed or adapted to diminish the sound caused by firing a firearm shall be regarded as an “essential component”.”

² „1a. For the purposes of this Directive, ‘part’ shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm.“

- Paragraphs 1f, 1g, 1h and 1i

The terms “alarm weapons”, “signal weapons”, “acoustic weapons” and “salute weapons” should be separated and properly defined. E. g. in the Czech Republic, signal weapons (other than alarm weapons that use blank cartridges and an adapter) as flare guns with caliber over 16mm are classified as category B firearms, whereas properly constructed alarm weapons are classified as category D. In our view, this approach is proportionate due to the different level security risks connected with these weapons (flare guns need not be converted to cause significant damage). However, the problem of these definitions should be tackled with higher level of technical expertise; we recommend consulting C.I.P. on the subject matter.

The term “replica” is still defined in a completely vague. The objects that could be subsumed under the term “replica” as defined now pose only minimal or no security threat. These objects could be used for intimidation, but toys or pieces of carved wood can be misused in the exactly the same way. The benefits of including “replicas” into the scope of the Firearms Directive would be negligible, whereas the administrative and enforcement costs would be significant. **We propose to delete the provision Art. 1 par. 1h (definition of replicas).** Consequently, references to replicas should be deleted in subsequent provisions (e. g. Art. 10a, Annex I).

On the other hand, we fully support the revised text in par. 1i.

Article 4

- Paragraph 1

Further clarification and specification in the text is needed with respect to marking of firearms “in a durable way”. Does this mean that that only marking with a die or deep engraving should be possible? Will the use of laser engraving be sufficient?

- Paragraph 2

With respect to eventual proposals to obligatorily mark any firearm also with the information about the caliber, we point out that affixing this information to the receiver/frame need not be always rational. The receiver/frame of the most firearms can be typically assembled with barrels and actions in various calibers. In many cases, firearms are supplied as conversion sets with one receiver/frame and several barrels (and eventually also action assemblies). On the other hand, there are also firearms, on which the information about the caliber can be affixed to the receiver/frame (typically, when the barrel cannot be disassembled from the receiver).

Article 5

- Paragraph 1

The possession of firearms (sporting or hunting) by persons of less than 18 years of age is important from the practical point of view. E. g. the students of sports schools or forestry schools and members of registered shooting clubs are allowed to obtain a firearms permit (under the same conditions as adults except for the minimum age) in the Czech Republic. These persons need to keep their firearms especially during transportation to school (additionally, most of forestry schools are boarding schools), place of hunting activities or shooting competition. It is completely unrealistic, that an adult guidance should be provided during the entire time period. **We propose not to change the contemporary conditions on the minimum age and the exemptions currently in force.**

- Paragraph 2

We do not agree with the proposal for the general, across-the-board psychological testing of the applicants for the authorizations. The subject-matter was closely examined in the Czech Republic during the last year. Standard psychological testing does not reduce the incidence of misuse of firearms by mentally disordered individuals. A far more efficient mean to prevent such incidents is to empower a relevant authority to command a person (an applicant for an authorization or a holder of firearms) to undergo thorough psychological/psychiatric examination when there are any signals about possible psychic problems. Thus we propose the following rewording of the par. 2:

*“Member States shall make the issuance or renewal of the authorisations referred to in paragraph 1 subject to a standard system of medical, including psychological **where necessary**, review. Member States shall withdraw the authorisations and refuse their renewal if any of the conditions on the basis of which the authorisation was granted are no longer met.”*

Article 6

- Paragraph 2

We highly appreciate the proposal of the provision of the par. 2. However, **we have to declare that the formulation of this competence of the relevant authorities should not be further limited** (e. g. to only few particular subjects or purposes). In reality, the situations when there is the need to grant a special authorization are extremely heterogeneous. We doubt that a definition of these situations can be exhaustive and limitative at the same time. Thus, the current balance of specificity/generality seems to be adequate and should be maintained.

- Paragraph 3

The purpose of deactivation of category A firearms in collections and museums is unclear. The proposal seems to be completely unfounded in any real data on eventual misuse of such firearms.

We propose to delete the paragraph 3.

Article 7

In our view, the revised text according to which the 5-year time limitation of the validity of authorizations should be applied only to “authorizations for possession” does not deal with the concerned problem adequately. In addition, this change does not mean that it would not affect manufacturers. Manufacturers also possess firearms, typically testing firearms, prototypes, collection or showroom firearms etc. On the other hand, the current technology and database systems enable the checks to be in fact continuous.

As we already presented at the GENVAL meeting, we thus propose to reformulate the provision:

“Member state takes any necessary steps to check whether the person to whom an authorization was issued, complies with the requirements under which the authorization was given, at least every 5 years.”

Article 10a

The term “gas weapon” is unclear. Should it mean an alarm weapon? Or an air gun/rifle? If the latter is true, this provision would be apparently disproportionate. We ask the Presidency to clearly define the term “gas weapon”, however we could not agree with de facto broadening of the scope of the Firearms Directive to air guns/rifles.

Article 10aa

We welcome the proposal of the Swedish delegation. However, it is not clear, what is the exact meaning of the phrase “immediate control”. We also believe that the safety measures should reflect the number of the stored firearms too. On the other hand, we doubt that there is much space to define any common technical rules in the form of an implementing act of the Commission.

We propose the further rewording of the proposed Article 10aa:

“Member States shall establish rules on the proper storage of firearms and ammunition that ensure that they are ~~kept under supervision and~~ stored in a way that there is not risk of being accessed by an unauthorised person. ~~Supervision in this case shall mean that the person possessing the firearm or the ammunition has immediate control over them and~~ The secure storage shall include as a minimum the storage in a standardised safe box when the firearm or ammunition is not in use. The level of scrutiny for the storage arrangements shall correspond to the level of dangerousness of the firearm and the number of the stored firearms.

~~The Commission shall adopt minimum rules and specifications for the storage of firearms and ammunition that ensure that there is no risk that an unauthorized person will get access to the firearm or ammunition. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).”~~

Annex I

We refer to the proposal sent on January 30 2016, in which we proposed to readjust the categories of firearms. The principles of our proposal are:

- Converted semi-automatic firearms (proposed category A6)

Conversions of automatic firearms to semi-automatic firearms should be made subject to the scrutiny by a technical authority (e. g. Proof House). **If the converted semi-automatic firearm meets certain strict technical requirements it should be classified as category B firearm.**

In the Czech Republic, technical specifications of a conversion of a particular model of an automatic firearm by a particular manufacturer must be approved by the Czech Proof House in advance (i.e. before any such firearm is placed on the market). The applicant (manufacturer) must also submit a sample converted firearm of the type. The conversion must be irreversible, that means that the reversion of a converted semi-automatic firearm back to an automatic firearm must be made impossible under any reasonable circumstances. When a particular conversion is approved, there are still several further checks. First, the Proof House tests and checks every individual conversion and in case it meets the requirements (technical specifications of the conversion and pressure test) it is marked in accordance with C.I.P. After acquisition of the converted firearm by any further person, it must be presented and registered with the police. The police check the firearm physically and assesses whether any unlawful modifications of the mechanism of the firearm were attempted. These checks are regularly repeated when a firearms license/permit is renewed (the holder of the firearms license/permit is obliged to present his firearms to the police).

We are convinced that the described system secures high level of security and prevents eventual reconversions of the firearms once converted from automatic to semi-automatic firearms. In fact, it is more difficult and risky to reconvert the firearms converted according to these standards, than to illegally modify most of the semi-automatic firearms to shoot in bursts. **Thus we propose to set analogous rules on the EU level (see the CZ proposal from 30 January.**

In recent years, the only loophole in this system was identified. It is the case of the firearms (sub-machine guns) that fire from open-bolt (i.e. from the rear position of the action). These firearms must be converted in a much more dramatic way that actually means a complete reconstruction of the mechanism (conversion to closed-bolt function). An eventual prohibition of this type of automatic firearms could be rational and acceptable.

On the other hand, unconditional ban on all converted semi-automatic firearms is unacceptable for the Czech Republic. There are approx. 40,000 – 50,000 converted semi-automatic firearms among the holders of the firearms licenses/permits (and the purchases of these firearms by individuals radically plummeted after the publication of the Draft Amending Directive). There is no empirical evidence that these firearms (converted according to the standards described above) pose any security risk. However, we fear that 20% - 50% of these weapons would not be given up in case of a ban and would leak into the illegal sphere.

- Semi-automatic **long firearms that resemble weapons with automatic mechanisms (proposed category A7)**

The Czech Republic repeatedly argued that the definition of “firearms resembling weapons with automatic mechanisms” is vague, incoherent and inherently problematic. The revised text which added the word “long” did not improve the applicability, clarity or practicability of this provision. It even added some further paradoxes. Due to the fact, that “short” and “long” weapons are defined according to the overall dimensions (length up to 60 cm) and length of the barrel (up to 30 cm), this would mean that e. g. a firearms with the appearance of a standard AK-47 would fall under the ban, but firearms “resembling” an AK-74 SU would not.

Still, it was not explained by either the Commission or the Presidency, why the appearance of a firearm results (as in the logic of the proposal apparently should) in a higher level of dangerousness of such a firearm. Otherwise, the proposal seems arbitrary and disproportionate and the proposed category A7 should be deleted from the proposal.

- Alarm and signal weapons, acoustic and salute weapons, replicas and deactivated firearms

Also see above. **In our view, the debate about categorization of these weapons should ensue from the precise and agreed definitions of them.**

In general, we consider the French proposal to classify the acoustic and salute weapons in the same category as the original firearms (i. e. firearms before modification to acoustic or salute weapons) to be a very reasonable minimum standard.

The replicas (as currently defined) are not a security issue and should not be included in the Firearms Directive.

Alarm weapons and deactivated firearms should be classified as category D firearms if properly manufactured (deactivated) according to the common minimum standards set by the Commission in implementing acts.

Questions concerning the Proposal for the Draft Amending Directive

We note that a significant number of questions concerning the current proposal have been addressed to the Commission. However, only a modest amount of answers has been provided so far. Thus, we summarize the most important questions here. We kindly ask the Commission to provide the relevant responses.

- Are there any estimates or assessments of the impacts of the proposal? Namely, what is the number of firearms and weapons that would be affected by the proposed bans and obligation to declare?

- What will be the cost of the proposal in terms of direct costs (buy-out cost of the restricted firearms, enforcement costs) as well as indirect costs (impacts on businesses, employment and administrative burden)? Who will bear the costs?

- Did the Commission assess the security risks resulting from the eventual transition of the newly restricted firearms into the illegal sphere (the estimated rate of non-compliance in case of category A6 and A7 is 20% to 50% for the Czech Republic; that means circa 10,000 to 30,000 firearms that can become illegal)? Do the benefits of the proposal outweigh the significant increase of potential supply of illegal firearms in the EU?

- Is there any statistically significant criminality by the holders of firearms who are under 18 years of age? Is there any empirical evidence on misuse of firearms in collections or museums? How many crimes were committed with category A6 and A7 firearms?

Following the meeting of JHA counsellors earlier today (29 Feb.), the Czech Republic would like to reiterate and suggest the following comments and proposals:

- 1. The Czech delegation supports the proposal by France to add the issue of acoustic and salute weapons to the discussion paper.**
- 2. Medical tests for the authorization to acquire and to possess firearms**

We propose to change the formulation of the question in point 13. b).

Current text:

“b) a requirement of standard medical test for such authorisations”.

Proposed wording:

“b) an obligation of a Member state to set minimum medical requirements for such authorization and take appropriate measures to check that these requirements are fulfilled,”

- 3. Prohibition of semi-automatic firearms for civilian use**

We propose further rewording of the question in point 18. c).

Current text:

“c) their possession for civilian use should continue to be authorised by Member States but under stricter conditions to be defined in the Directive.”

Proposed wording:

“c) their possession for civilian use should continue to be authorised by Member States but appropriate technical and legal measures should be considered to minimize security risks connected with some semi-automatic firearms.”

4. Exceptional possession of prohibited firearms for cultural and historical reasons

The issue of reservists, militia and voluntary military exercises should be clarified directly in the text of the Firearms Directive. The current proposal to amend the Article 2/2 does not provide the interpretation that the Directive does not apply to some of private persons that acquire and possess firearms as long as these are not classified as “armed forces” or “public authorities”. However, the scope of the Firearms Directive and the scope of the exemption in Article 2/2 should be refined and clarified also with respect to e. g. museums established by municipalities, public research institutes (these bodies does not have the status of “public authority” in the Czech Republic), etc.

The application of the article 6 cannot be reduced to museums and collectors. There is a substantial and legitimate need to authorize also other subjects to acquire and possess category A firearms (e. g. in the field of research and development, technical and industrial testing, security of important infrastructure, training, production of firearms, ammunition, ballistic protection to name a few). The range of the purposes for which an exceptional authorisation can be issued should be left upon Member States. However, for example requirements for safe storage (including when installed at exhibitions) can be set.

ESTONIA

General remarks

Estonia welcomes the Commission proposals to strengthen control of firearms and the possibility to send in opinions.

In general we support the objective to ensure that any firearm or part placed on the market has been marked and registered, also the need for better exchange of information between Member States. The exchange of information on stolen and lost firearms must be made more effective. Member States should continue entering data in the SIS II database. The exchange of information through iARMS and SIS II should be automatic.

Though, at the moment Estonia has a general scrutiny reservation on the whole text. As the proposed changes concern wide range of matters and the proposal is submitted without an impact assessment we are currently unable to evaluate all the impacts that may be associated with this proposal.

We support the initiative to combat illegal trade of weapons, which could be the basis for the revision of the existing directive, but new solutions should not be unduly restrictive for the law-abiding firearms owners, such as athletes and hunters. The proposal bans semi-automatic weapons which are included in the current category “B7”. Semi-automatic weapons represent a high share of today's hunting and sport-shooting weapons. This change would have a significant influence on several persons who currently have the right to own that kind of weapons. Before making the decision on banning those weapons we have to analyse this issue thoroughly. At the moment we cannot support the proposal to restrict acquisition and possession of firearms that are possessed and used legally in accord with internal law of EU Member States. Currently we are hesitant whether the proposed changes will actually lead to the results that are expected.

In particular, Estonia stresses

- the difficulty to see today the justification for expanding the area of application,
- the need to assure conformity with the principle of proportionality,
- the need to have sufficient time for implementation.

Comments

Article 1

We agree that the proposal clarifies definitions of brokers and dealers and ensures consistency with the definition of essential components and parts of firearms as defined by UN Firearms Protocol. We have to be sure that all the essential components that have been added to paragraph 1b can be marked.

Definitions in paragraphs 1f–1h are not clear and may lead to different interpretations. It needs therefore to be clarified.

We support the initiative that deactivated firearms should be covered by the directive as regards identification of the owner and registers.

Article 2

The proposal includes collectors within the scope of the directive. We agree that Member States have to have an overview of firearms collectors and that their possibility to acquire firearms is subject to authorisation/declaration. Our legislation already supports that.

Article 4

In general we support the changes made to this article. Adding deactivated firearms within the scope of the directive the administrative burden of the competent authorities will increase. Currently our authorities do not have the obligation to keep a record of deactivated firearms. This amendment would entail the need to make changes the information systems and registries.

It is also stated in article 4 paragraph 4 that each Member State shall ensure that the registries of the dealers and brokers established in their territory are connected to the computerized data-filing system of firearms. With that proposal arises the need to make changes in the information systems and registries. Currently our dealers do not have an obligation to have a computerized registry.

Article 4b

Generally we support the addition.

Article 5

It needs to be clarified what is meant by “standard medical test”. In our legislation every person who applies for acquisition permit or weapons permit has to undergo a medical examination and submit a medical certificate. The obligation to withdraw authorizations, if the conditions on the basis of which it was granted is no longer met, raises the question how police will acquire the information that the person is mentally or physically no longer fit.

Article 6

The proposed changes in article 6 are too restrictive. Firstly, the direct obligation to destroy weapons and ammunition mentioned in that article is too severe. Secondly, in our opinion museums and other authorised bodies are justified to have also in the future category A firearms and ammunition in their collections. Deactivation of those weapons could destroy the cultural value of the objects.

We can support the idea to restrain the acquisition of firearms and their parts and ammunition concerning categories A, B and C by means of distance communication.

Article 7

We can support adding the maximum limit of five years into paragraph 4(c).

Articles 10a and 10b

We can generally support these texts but we are looking forward to the technical specifications for alarm and signal weapons.

Articles 13 and 17

In view of the movement of weapons within the Community we express our concern regarding lack of information exchange. We welcome the idea establishing a system of exchange of information among Member States. In our opinion it is important to have more information for law enforcement authorities related to persons who have been refused to have a weapons license in other Member State. It is also important to have information regarding specific weapon from its manufacturing to destruction.

As mentioned in our previous comments, Estonia supports the overall aim of the Commission's proposal to enhance the control of firearms and to further harmonise firearms legislation in order to increase internal security in the EU. Combating the illegal trade in weapons is an important element in preventing terrorism and organised crime. The Commission's proposal contains several measures that Estonia can support as improvements to the existing regulation – clearer definitions, including definition for brokers, clear marking rules for increased traceability, strengthened regulation for deactivation of firearms, common approach concerning the alarm weapons and other types of blank firing weapons, limiting the acquisition of firearms by means of distant communications. We strongly agree that information exchange and cooperation between EU Member States regarding the refusal of permissions for acquiring firearms and detecting of illicit firearms must become more active and consistent and the interoperability of the relevant information systems must be improved. We hope the group of experts that is going to discuss this issue will come up with effective system for information sharing.

However, there are some elements in the proposal that we consider disproportionate and unduly restrictive for law-abiding firearms owners. In particular we would like to propose the following amendments to the proposal.

Reclassification as category A weapons of automatic firearms that have been converted into semi-automatic firearms and semi-automatic civilian firearms that resemble automatic military weapons

Estonia does not support the proposed reclassification of automatic firearms which have been converted into semi-automatic firearms and semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms into category A. This change would have a significant impact on persons who have legally obtained the right to own that kind of weapons and who have been responsible users, operating in accordance with the existing regulations. Semi-automatic firearms in question represent a high share of today's hunting and sport-shooting weapons in Estonia. The focus of our action should be more on determining who is eligible for acquisition and possession of a firearm rather than banning further categories of firearms for civilian use.

We consider that the emphasis should be put on the control measures to guarantee strict control over firearms acquisition, use and storage. According to our experience there is no evidence that legal firearms pose significant security threat.

As suggested also by other Member States, it is necessary to provide clearer definition for firearms presently included under Category B7 as the “similarity” concept is too vague for conducting proper classification. Unfortunately at the moment we do not have a good proposal for that and we have to discuss it more with our firearms experts.

National defence considerations

Currently the firearms directive allows for the competent authorities of the Member States to grant authorizations for firearms and ammunition in category A, where this is not contrary to public security or public order (Article 6). Estonia considers it necessary to maintain this exception in order to allow for the Estonian Defence League to perform its important role in strengthening national security.

Namely, banning certain semi-automatic weapons could compromise Estonia’s comprehensive approach of national defence. The proposed ban affects a significant amount of semi-automatic weapons, which are used for the activities of the Estonian Defence League. The Estonian Defence League is a voluntary militarily organised national defence organisation operating in the area of government of the Ministry of Defence and as such it is a part of the National Defence Forces. The Estonian Defence League is a legal entity governed by public law. The task of the Estonian Defence League is to enhance, by relying on free will and self-initiative, the nation’s readiness to defend the country. The Estonian Defence League possesses arms, engages in military exercises and fulfils the tasks prescribed by the National Defence League Act. There are 15,500 members in the Estonian Defence League. Members of the Defence League are responsible users of firearms who use for training purposes also the semi-automatic weapons in their civilian use.

Currently firearms directive allows for the competent authorities of the Member States to grant authorizations for firearms and ammunition in category A where this is not contrary to public security or public order (Article 6). Estonia considers it necessary to maintain this exception in order to allow for the Defence League to perform its important role in strengthening national defence and security.

If the current wording in Article 6 second sentence is considered too wide we propose narrowing it.
Proposed reformulation:

"In cases where a Member State considers it necessary and where this is not contrary to public security or public order, the competent authorities may grant authorizations for such firearms and ammunition for the purposes of national defence."

Collecting of category A firearms

Estonia considers it important to maintain the possibility to collect category A firearms without deactivating them in order to ensure their historical and cultural value. The collection of firearms should be subject to strict state control which in our experience has proven to be sufficient measure to ensure that firearms do not reach into the hands of criminals.

In Estonia a collection may be founded and maintained by an at least 18-year-old citizen of Estonia, alien who holds an Estonian residence permit, or a legal person registered in Estonia on the basis of a collection permit for weapons and cartridges issued by the Police and Border Guard Board. All firearms, including weapons classified as military weapons, may be collected, with some specific exceptions concerning the most dangerous weapons and ammunition ^[1].

^[1] Collecting of the following weapons and ammunition is prohibited: 1) brass knuckles, knuckle knives, bayonets, and also other objects specifically intended to cause bodily injuries; 2) weapons the effect of which is based on the use of electric energy, radioactive emissions or biological factors; 3) ammunition with explosive projectiles, ammunition with incendiary projectiles, ammunition for particularly dangerous weapons, and ammunition containing neuroparalytic substances or substances which induce skin damage, general intoxication or choking.

Weapons which are part of a collection are registered in the prefecture of the residence or seat of the collector. Information concerning registered weapons is entered on the collection permit. It is prohibited to carry a category A weapon which is part of a collection. Weapons and cartridges which are part of a collection have to be stored, conveyed, transferred and transported under the conditions and pursuant to the procedure established by Estonian laws. Firearms which are part of a collection have to be stored in weapons storage room under strict conditions. There have not been any major offences committed by collectors or with the weapons which are part of a collection.

As there are different legal bodies as well as private persons acting as collectors we see the need for changing wording “*bodies concerned with the cultural and historical aspects of weapons and recognised as such by the Member State in whose territory they are established*” in the proposed text of Article 6. In our opinion it does not include private persons at the moment.

As a compromise the wording of the proposed second sentence in Article 6 could be changed to include also collectors:

In cases where a Member State considers it necessary and where this is not contrary to public security or public order, the competent authorities may grant authorizations for such firearms and ammunition for:

the purposes of national defence;

natural or legal persons concerned with the cultural and historical aspects of weapons and recognised as collectors by the Member State in whose territory they are acting.

We can also support France, who suggested including experts to the text.

As Sweden has proposed, it would be useful to enact common regulations on the safe storage of weapons and ammunition, for example to prevent weapons from being stolen in burglaries.

Article 1(1b):

We have analysed the new list of essential components more thoroughly and we consider that the inclusion of silencers as essential components is problematic. Given that the same silencer may be mounted on weapons classified in different categories.

In Estonia silencer is not considered as an essential component of a firearm. But the right to acquire a silencer is granted by a weapons permit which includes a sporting firearm. It is permitted to own and possess a silencer for the purposes of using a sporting firearm in a firing range. It is prohibited to use a silencer in anywhere else. In our opinion there is no need to register silencers as weapons and their essential parts.

Article 6

Besides the comments made earlier in this text, we consider it important that Member States take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A, but it is important to allow Member States to decide whether or not category A weapons and ammunition possessed illegally should be destroyed, returned or confiscated.

We support the idea to limit the acquisition of firearms, their parts and ammunition concerning categories A, B and C by means of distance communication as they are more difficult to control than the conventional selling methods, especially as regards the on line verification of the legality of authorisations. We suggest referring to “essential parts” instead of “parts” because parts can be very different and acquiring them often does not need a special permit.

FINLAND

In Finland's view it is important to combat illicit trafficking of firearms and to reduce the threat imposed by illegal firearms and the use of firearms by serious and organized crime and terrorist organizations. It is also important that the Commission Regulation on common standards for the deactivation of firearms is implemented effectively without delay.

Finland appreciates the work done by the Commission in finalising the proposal to amend the Directive on control and of the acquisition and possession of weapons. It is also appreciated that the Presidency took this item on the agenda as soon as it was possible. Finland supports swift negotiations with this important proposal. However, at the moment of writing these written comments, Finland still has a general reservation but is able to submit some preliminary views.

In general, Finland supports many of the proposed amendments. For example, the provisions which aim to improve the traceability of firearms throughout their lifecycle and to improve information exchange between Member States are welcomed. However, there are also some issues in this proposal that have significant effect on Finland and, therefore, Finland is prepared to make some proposals so that the special characteristics we have in Finland could be duly taken into account.

At this point, Finland would like to point out two issues that are of special concern to Finland. In addition, Finland would like to draw your attention to some issues that need further clarification.

A. ISSUES OF SPECIAL CONCERN

1. Transferring semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms from Category B to Category A

This proposed amendment is very restrictive. The main concern for Finland is that this new categorization would have a considerable effect on Finland's national defence. Finnish defence solution is unique compared to most other European countries. It relies heavily on a big reserve which is trained by both the Defence Forces and by National Defence Training Association. The training given is partly voluntary and this voluntary military training is vital in maintaining and developing military skills and capabilities of the reserve. Voluntary military training has a direct impact on Finnish defence capability.

Through voluntary military training roughly 80 000 training days will be provided to about 28 000 reservists during 2015. Of this training, about 1/3 is requested by the Defence Forces and 1/3 is provided by the National Defence Training Association through its own voluntary courses. A central part of these voluntary courses include weapon and live shooting exercises. For this purpose the reservists are allowed to buy, store and exercise with firearms that are similar enough to military weapons and create and sustain the needed shooting skills. Therefore, prohibiting semi-automatic firearms which resemble weapons with automatic mechanisms for civilian use has a significant effect on reservist shooting and military reserve capacity requirements. Voluntary defence training in Finland is oversighted by an advisory council appointed by the Finnish Government and based on national legislation.

In addition, the proposed prohibition of semi-automatic firearms will also have an effect on rifle disciplines in practical shooting and in practice makes this type of shooting sport impossible.

Finland would like to propose that in case the current B7 weapons are moved from Category B to Category A and, hence, become prohibited, some exceptions could be still allowed. As a concrete proposal, Finland would like to suggest the second sentence in the current Article 6 would not be deleted from the text.

Art 6 para 1 (Current Directive)	Commission's proposal for new Article 6 para 1
Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A. In special cases, the competent authorities may grant authorizations for such firearms and ammunition where this is not contrary to public security or public order.	Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A and to destroy those firearms and ammunition held in violation of this provision and seized. In special cases, the competent authorities may grant authorizations for such firearms and ammunition where this is not contrary to public security or public order.

2. Restrictions on online trade

Restricting online trade will make it more difficult for people to acquire firearms, spare parts and ammunition legally. For example, in sparsely populated countries like Finland, the buyer and the seller may be located several hundred kilometers away from each other.

Instead of imposing an outright ban on legal online sale and purchase and other distance selling, these should be regulated in more detail. For example, it could be regulated that the broker or dealer would be allowed to sell or arrange transfer in case the individual concerned could verify his/her identity by electronic means. The proposed improvements to the traceability of firearms and to the record keeping (amendments to Article 4) would also help to increase the reliability of the online trade.

B. SOME ISSUES IN NEED OF FURTHER CLARIFICATION

Definitions (Article 1)

It is good that the definitions are adjusted. However, some of the definitions might need further consideration. For example, the way in which Article 1 paragraph 1h on replica firearms is now written any children's toy weapon would belong to this category. And as the replicas are now inserted to the Annex 1, it might be interpreted that replicas are considered as firearms because Annex I defines that any of the objects which falls into the categories of the Annex I are firearms in the meaning of this Directive. Consequently, it is questioned whether obligations set for the brokers and dealers of firearms would apply to those buying or selling also toy weapons.

Another issue concerning the definitions is that in Article 1 paragraphs 1 a and 1 b seem to be somewhat overlapping. Concerning alarm and signal weapons (1f) and salute and acoustic weapons (1h), these should be so defined that they objects which cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant. It would be also interesting to hear the relationship between the definition of deactivated firearms(1 g) and salute and acoustic weapons (1i).

Marking and registration (Article 4)

The new paragraph 1 Article 4 requires that also parts are marked and registered. (It does not say anything about essential components.) However, for some reasons the other provisions are silent about marking and registering parts. Therefore, the situation is left a bit open.

The proposed new paragraph 2 Article 4 requires that "Member States shall, at the time of manufacture of each firearm or at the time of import to the Union, require a unique marking..."

This amendment has effect on the interpretation of the first paragraph in Article 4 which requires marking when firearm is "placed on the market". There should be a possibility to mark a firearm directly after it is imported to the Union. The wording in paragraph 1 is more suitable as it allows the marking when the firearm is placed on the market.

Administrative burden and financial costs

The proposal did not include impact assessment. However, many of the amendments bring on financial costs to Member States, citizens or businesses. In addition, the amendments cause administrative burden.

The proposed new Article 5 requires standard medical tests for issuing or renewing authorizations for the acquisition and possession of firearms. These medical tests would cause additional costs to the citizens and additional costs and administrative burden to the national health care system.

Finland does not consider standard medical tests as a reliable means of predicting future violent behaviour or acts of terrorism. Our recently amended Firearms act sets out an obligation for physicians to notify the police of a person, who, based on a forensic psychiatric examination or a standardized assessment of dangerousness and risk, has been deemed dangerous to him/herself or to others, or has been committed to involuntary treatment due to attempted suicide and whom the physician has deemed unfit to possess a firearm. The Act further provides for the right of physicians and other health care personnel to notify the police of a person who, based on medical records or an encounter with him/her, is deemed unfit to possess a firearm. Finland considers such a procedure to be the best means of ensuring that a person whom physicians have deemed unfit to possess a firearm is not authorised to acquire or possess one. In addition, setting the maximum limit of a authorization to 5 years in Article 7, will also create administrative burden.

Commission proposes to amend Annex I and move some firearms and ammunition to Category A (Prohibited firearms) and requires Member States to destroy and seize those firearms and ammunition (Article 6). Finland would like to hear how Member States are planning to implement this part of the proposal. Who would bear the costs arising from the seizure and destruction? How does this provision relate to the right to property (Article 17 of the Charter of Fundamental Rights of the European Union)?

Also the time left for implementation of this Directive is too short.

Comments on the proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons

ARTICLE 1: DEFINITIONS

Paragraphs 1a and 1b

It is important to know what the difference between parts and essential components is and does the Directive have some difference in the provisions concerning parts and essential components. Maybe it is not necessary to legislate separately on parts and essential components. The definition of parts is partially overlapping with the definition on essential components.

Paragraph 1 e

The definition of a broker is very important in relation to third countries. The proposed definition does not include import to third countries, only export is included. Import should be added in the definition. In addition, it would be important to include in the definition brokers residing in the EU and who carry out their business or trade between third countries.

Essential components are, according to the Annex 1, weapons if they are essential components to a firearm that is classified in Annex I. In paragraph 1 e, it would be good to mention also essential components. Just to make it clear that the legislation also covers the trade and business on essential components.

Paragraph 1 g

Finland supports the French proposal to add to the definition that these weapons should remain in their original classification. Otherwise we will create a very attractive alternative for deactivation.

"For the purposes of this Directive, "salute and acoustic weapons" shall mean firearms specifically converted for the sole use of firing blanks, for use in theatre performances, photographic sessions, movies and television recordings. These modified weapons remain in their original classification."

Paragraph 1 h

Unfortunately the definition of replicas is too unclear. The current wording would include toys, softball guns and air guns. Therefore, these objects would fall under the scope of this Directive and also the provisions of brokers and dealers would apply to those that do business with these objects.

If the definition of replicas is left in the Directive, it should make a clear difference to the objects mentioned above. When it comes to those replicas that are reproductions (i.e. able to fire a shot or can be converted to do so) these type of replicas should remain in the category of the original firearm.

Paragraph 1 i

In this paragraph Finland would like to refer to the Commission's implementing Regulation on deactivation.

"For the purpose of this Directive, "deactivated firearms" shall mean firearms that have been modified in accordance with the Commission implementing Regulation (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable was published on the Official Journal of the European Union."

Paragraph 2

Essential components are, according to the Annex 1, weapons if they are essential components to a firearm that is classified in Annex I. In paragraph 2, it would be good to mention also essential components. Just to make it clear that the legislation also covers the trade and business of essential components.

ARTICLE 4

Paragraph 2, first section

Commission proposes to add few words (at the time of import to the Union) to this section. This small amendment would, however, lead to a bigger difficulty. The proposed wording would mean that Member States shall at the time of import require a unique marking in the firearm. What would happen to those firearms that do not bear a marking before the import? Would they be allowed to be imported without a marking? It should be allowed to add the marking when the firearm enters a Member State.

Finland proposes to reword this paragraph as follows:

"For the purposes of identifying and tracing each assembled firearm, Member States shall, at the time of manufacture, 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 already part of the serial number. In case a firearm does not bear a marking at the time of import, an appropriate marking shall be affixed. This shall be without prejudice to the affixing of the manufacturer's trademark".

Paragraph 2, fourth section

The Commission proposes to delete the word appropriate in this section ("the ~~appropriate~~ unique marking"). When a firearm is transferred from government stock to permanent civilian use, all the information required for unique marking is not necessarily known. Therefore, it would be better to leave the possibility to have an appropriate unique marking.

Paragraph 4

The Commission proposes that the record of firearms shall be maintained until the destruction of a firearm has been certified. In case a weapon is exported, it might be difficult to get this information. Therefore, Finland proposes that when a firearm is exported, the data would be kept 20 years following the export.

ARTICLE 5

AGE LIMIT

During the negotiations in the GENVAL, some Member States commented on the age limit in Article 5(1). Finland is of the opinion that a person under 18 years of age should continue to have the right to at least possess firearms for hunting and target shooting. Article 5(1) provides strict rules for parental permission or guidance for persons under 18 of age. People who hunt or do sports shooting need to be able to train and participate in these exercises already before they reach the age of 18.

MEDICAL TESTS

In Finland, the firearms legislation is based on evidence-based approach when it comes to the behaviour and medical status of a person who applies for and holds a license for the acquisition and possession of firearms.

Finnish legislation previously required a medical examination as a prerequisite for the acquisition and possession of firearms. However, standard medical tests were not deemed a sufficiently reliable means of predicting future violent behavior or acts of terrorism. National legislation was amended to improve firearms safety and to find the best means to ensure the suitability of persons to acquire or possess firearms.

Forensic psychiatrists specialized in assessing the dangerousness and risk of violent persons were involved in the preparation of the amendment. The aim was to find the best means to ensure that information on persons whose medical state is likely to cause a risk of danger would be available to the police for the purposes of authorization or withdrawal of authorization of firearms permits.

Finnish experts believe that an evidence-based approach, in other words a person's previous violent behavior, is the best means of predicting future violent behavior. In this respect the information available to the police is in a key role in identifying potential dangerous persons. For reference:

Guns, Public Health and Mental Illness: An Evidence-Based Approach for State Policy
(Consortium for Risk-Based Firearm Policy) <http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/publications/GPHMI-State.pdf>

The Finnish system provides several points at which the suitability of a person to acquire or possess firearms is assessed.

First, when issuing a licence for the acquisition and possession of firearms, the police have to assess whether a person is suitable for this purpose. According to the Finnish Firearms Act the suitability is assessed according to the behaviour and health of a person. When assessing behaviour, a person's obedience to the law, ability to control violent behaviour and substance abuse are taken into account. Everyone applying for the license has to pass a computerised test which measures his/her suitability to possess firearms.

All the license holders are checked every day against the police reports. If the name of a person appears in the police reports, it is automatically checked whether this person has licenses, e.g. firearm license, issued by the police. This check is done every morning and it takes into account police reports done during the previous 24 hours.

In addition, the Finnish Firearms Act sets out an obligation for physicians to notify the police of a person, who, based on a forensic psychiatric examination or a standardized assessment of dangerousness and risk, has been deemed dangerous to him/herself or to others, or has been committed to involuntary treatment due to attempted suicide and whom the physician has deemed unfit to possess a firearm. The Act further provides for the right of physicians and other health care personnel to notify the police of a person who, based on medical records or an encounter with him/her, is deemed unfit to possess a firearm. Finland considers such a procedure to be the best means of ensuring that a person whom physicians have deemed unfit to possess a firearm is not authorised to acquire or possess one. The information notified by physicians may only be used in handling permits for firearms and only specifically designated persons who handle firearms permits are allowed to handle that information. The police keep a log of all persons handling that information as a means to control the use of the information.

Therefore, we consider that Finland has provided in national legislation a very strict control on license holders. Finland believes that it should be left to national legislation to regulate how each Member State wishes to ensure that a person is suitable to acquire or possess firearms.

Commission proposal	Proposed rewording	Comments
Article 5		
<p>1. Without prejudice to Article 3, Member States shall permit authorize the acquisition and possession of firearms only by persons who have good cause and who:</p> <p>(a) are at least 18 years of age, except in relation to the acquisition, other than through purchase, and possession of firearms for hunting and target shooting, provided that in that case persons of less than 18 years of age have parental permission, or are under parental guidance or the guidance of an adult with a valid firearms or hunting licence, or are within a licenced or otherwise approved training centre;</p>	<p>1. Without prejudice to Article 3, Member States shall permit authorize the acquisition and possession of firearms only by persons who have good cause and who:</p> <p>(a) are at least 18 years of age, except in relation to the acquisition, other than through purchase, and possession of firearms for hunting and target shooting, provided that in that case persons of less than 18 years of age have parental permission, or are under parental guidance or the guidance of an adult with a valid firearms or hunting licence, or are within a licenced or otherwise approved training centre;</p>	<p><u>Indications of danger</u> Finland would like to add more indications where a person could be considered as danger to themselves or to others, to public order or to public safety. Finland considers it important to include also other indications that convictions on this list. Dangerous behavior may be envisaged already before criminal convictions. The wording gives leeway for Member States to include also other indications.</p>

<p>(b)are not likely to be a danger to themselves, to public order or to public safety. Having been convicted of a violent intentional crime shall be considered as indicative of such danger.</p>	<p>(b)are not likely to be a danger to themselves <u>or to others</u>, to public order or to public safety; <u>the following shall in particular be considered as indicative of such danger:</u></p> <p>(i) Having been convicted of a violent intentional crime shall be considered as indicative of such danger:</p> <p>(ii) <u>having, based on a forensic psychiatric examination, been deemed dangerous to themselves or to others;</u></p> <p>(iii) <u>having been committed to involuntary treatment due to attempted suicide and having been deemed by the physician unfit to possess a firearm</u></p>	
<p>2. Member States shall provide for standard medical tests for issuing or renewing authorization as referred to in paragraph 1 and shall may withdraw authorisations for possession of a firearm if any of the conditions on the basis of which it was granted are no longer satisfied is no longer met.</p> <p>Member States may not prohibit persons resident within their territory from possessing a weapon acquired in another Member State unless they prohibit the acquisition of the same weapon within their own territory.</p>	<p><u>2. Member States shall ensure [in accordance with national law] that information regarding a person who, based on a medical examination, a diagnosed medical condition or the demonstration of violent behavior, has been deemed by health professionals to be a danger to themselves or to others, to public order or to public safety, is relayed/available to the competent authorities for the purposes of issuing or renewing authorisations for the acquisition and possession of firearms.</u></p> <p><u>Member States shall withdraw authorisations if any of the conditions on the basis of which it was granted is no longer met.</u></p> <p>Member States may not prohibit persons resident within their territory from</p>	<p>As explained above, Finland has chosen an evidence-based approach to assess the suitability of a person to acquire or possess firearms. Finland believes that is should be left to Member States to legislate on how they ensure that the licensing authority has the relevant information to decide whether to issue or renew authorizations.</p>

	possessing a weapon acquired in another Member State unless they prohibit the acquisition of the same weapon within their own territory.	
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ARTICLE 6 - Exceptions to prohibited firearms

Paragraph 1

Finland is against adding the current B7 weapons to Category A. However, in case the current B7 weapons become prohibited, some exceptions should be allowed.

As a concrete proposal, Finland would like to suggest that the second sentence in the current Article 6 would not be deleted from the text and competent authorities would still have the possibility to authorize in special cases licenses to weapons in Category A. Many Member States have expressed justified reasons (research, development and testing, experts, collectors etc) to keep this possibility for allowing exceptions in certain cases. The main concern for Finland is that the new categorization of weapons would have a considerable effect on Finland's national defence. The proposed A7 weapons are used in the voluntary military training organized by the National Defence Training Association. This training is vital in maintaining and developing military skills and capabilities of the reserve.

If it is not possible to keep the current wording in Article 6 concerning the authorizations in special cases, Finland would like to propose a wording that allows the competent authorities to authorize the acquisition and possession of category A firearms where a Member State considers it necessary for national security purposes. In a recital it could be further explained that in certain Member States this means voluntary military training which is based on national legislation.

In addition, in the Directive it needs to be clarified how a person who is given this authorization is able to buy Category A weapons. Perhaps Article 2(2) should be clarified in this regard.

Article 6	
Commission proposal	Proposed rewording
Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A and to destroy those firearms and ammunition held in violation of this provision and seized. In special cases, the competent authorities may grant authorizations for such firearms and ammunition where this is not contrary to public security or public order.	Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A and to destroy those firearms and ammunition held in violation of this provision and seized. <u>In cases where a Member State considers it necessary for national security purposes, the competent authorities may grant authorizations for the acquisition and possession of such firearms and ammunition.</u>

ARTICLE 10 aa: Swedish proposal on storage of firearms

Finland supports the idea to include a provision concerning the storage of firearms and ammunition. Finland would like to propose some changes to the Swedish proposal.

Swedish proposal	Proposed rewording	Comments
Article 10aa Member States shall provide for rules on storage of firearms and ammunition that ensure that these are kept under supervision and stored in a way so that there is no risk that an unauthorized person will get access to the firearm or ammunition. Supervision in this case shall mean that the person possessing the firearm or ammunition has immediate control over these and shall include as a minimum storage in a standardized safe box when the firearm or ammunition is not being used. The level of security for the storage arrangements shall correspond to the level of	Article 10aa Member States shall provide for rules on storage of firearms and ammunition that ensure that these are kept under supervision and stored in a way so that there is no risk that an unauthorized person will get access to the firearm or ammunition. Supervision in this case shall mean that the person possessing the firearm or ammunition has immediate control over these. and shall include as a minimum storage in a standardized safe box when the firearm or ammunition is not being used. The level of security for the storage arrangements shall correspond to the level of	Finland would like to delete the word immediate. It would be difficult to have all the time immediate control of weapons for example during holidays. Finland would also like to leave it to Member States to regulate the requirements for safe boxes and other secured places of storage. Therefore, we would like to delete the reference to a standardized safe box and paragraph 2 of this Article. As the Directive will also cover deactivated firearms etc, it

<p>dangerousness a weapon has.</p> <p>The Commission shall adopt minimum rules and specifications for the storage of firearms and ammunition that ensure that there is no risk that an unauthorized person will get access to the firearm or ammunition. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).</p>	<p>dangerousness a weapon has.</p> <p>The Commission shall adopt minimum rules and specifications for the storage of firearms and ammunition that ensure that there is no risk that an unauthorized person will get access to the firearm or ammunition. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2)."</p>	<p>might not always be necessary to require the storage of firearms in a standardized safe box.</p>
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Paragraph 3

Finland considers it important to allow sales on firearms and ammunition also by means of distance communication. This should be possible subject to strict control of the Member States. Therefore, Finland proposes the following wording to paragraph 3:

"The acquisition and sale of firearms and ammunition concerning categories A, B and C by means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council, shall be authorised only subject to the strict control of the Member States including secure verification of the validity of the license for acquisition of firearms and ammunition and the identity of the buyer by electronic means "

ARTICLE 17

Paragraph 1

Finland would prefer to mention in this paragraph that already in the Commission's first report the new technologies such as 3D printing should be addressed.

Paragraph 2

It is important to set up the computerized data-filing system as soon as possible. In addition to this system, it would be important to have a proposal from the Commission concerning the exchange of information referred in Article 13.

ANNEX 1

Category A

The proposal to transfer semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms from Category B to Category A is very restrictive. Furthermore, the word "resemble" leaves the definition of the proposed A7 weapons unclear and open for wide interpretation. Finland would like to keep the current B7 weapons in Category B. The new categorization would have a considerable effect on Finland's national defence.

Category C

Clarification is needed when defining alarm and signal weapons, salute and acoustic weapons and replicas. If these weapons are converted from a functioning firearm into alarm, signal, salute or acoustic weapons, then these weapons should belong to the original classification. Unless a firearm is deactivated, it is still a firearm.

In addition, if a replica is a so called reproduction of a firearm, then these replicas should belong to the original classification.

In general, Finland considers that the scope of this Directive should not cover those objects that look like weapons but cannot be converted to functioning weapons. Although these objects can be used for intimidation purposes, they should not be under the scope of this Directive.

In general, Finland would like to refer to the comments made in the GENVAL meetings as well as to the written contributions sent 7 December 2015 and 26 January 2016.

Article 1

Paragraph 1 b

There still seems to be overlapping between definitions on parts (para 1a) and essential components (para 1 b). Perhaps there is no need to define parts and essential components separately. If they are defined separately, it has to be done in a way that gives clear understanding what the difference between them is. Furthermore, in the Directive references to parts and essential components should be adjusted in accordance with the definitions in para 1 a and 1 b.

In general, when drafting the definitions, it would be useful to utilize the Firearms Glossary made by the European Firearms Experts.

In its written comments (12 February 2016), the Czech Republic proposed to delete paragraph 1 a and instead define essential components only. Finland supports this wording.

COM proposal Art 1 (1b)	Revised text	CZ proposal as supported by Finland
1b. For the purposes of this Directive, "essential component" shall mean the barrel, frame, receiver, slide or cylinder, bolt or breach block and any device designed or adapted to diminish the sound caused by firing a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.	1b. For the purposes of this Directive, "essential component" <u>means any part of a firearm that is essential to its operation such as</u> the barrel, frame, receiver, slide or cylinder, bolt or breach block which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted. <u>In addition, any device designed or adapted to diminish the sound caused by firing a firearm shall be regarded as an "essential component".</u>	1 b. For the purposes of this Directive, "essential component" means any a part of a firearm that is essential to its operation such as and that fulfills the function of the barrel, frame, receiver, slide or cylinder, bolt or breach block. "Essential components" which , being separate objects, are included in the category of the firearms on which they are or are intended to be mounted. In addition, any device designed or adapted to diminish the sound caused by firing a firearm shall be regarded as an "essential component".

Paragraph 1 e

It is good that this paragraph is amended so that it covers a broker's activities also when carried out from a Member State to a third country or from a third country to a Member State. In addition, Finland would like to add to the definition those brokers who are established in EU but carry out their broker activities between third countries. This would be helpful in decreasing the risk of these weapons finding their way into EU area.

COM proposal Art 1 (1e)	Revised text	FI proposal
1e. For the purposes of this Directive, "broker" shall mean any natural or legal person, other than a dealer whose trade or business consists wholly or partly in buying, selling or arranging the transfer within a Member State, from one Member State to another Member State or exporting to a third country fully assembled firearms, their parts and ammunition.	1e. For the purposes of this Directive, "broker" means any natural or legal person, other than a dealer whose trade or business consists wholly or <u>in part of</u> any of the following: buying, selling, or arranging the transfer within a Member State, from one Member State to another Member State, <u>from a Member State</u> to a third country <u>or from a third country to a Member State (...)</u> firearms, their parts and ammunition.	1e. For the purposes of this Directive, "broker" means any natural or legal person other than a dealer whose trade or business consists wholly or <u>in part of</u> any of the following: buying, selling, or arranging the transfer within a Member State, from one Member State to another Member State, <u>from a Member State</u> to a third country <u>or from a third country to a Member State</u> <i>or, when the broker is established in the EU, between third countries (...)</i> firearms, their parts and ammunition.

Paragraph 1 h

The definition on replicas is still too open. The definition refers to the physical appearance of an object. Therefore, also toys that look like firearms would be considered replicas. Finland considers that objects that can be used to intimidate people, such as toys, should not be covered by this Directive. Only those replicas that have both the physical appearance and technical characteristics of a firearm should be considered replicas in this Directive.

COM proposal Art 1 (1h)	Revised text	FI proposal
1h. For the purposes of this Directive, "replica firearms" shall mean objects that have the physical appearance of a firearm, but are manufactured in such a way that they cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant.	1h. For the purposes of this Directive, " <u>replica (...)</u> " <u>means</u> objects that have the physical appearance of a firearm, but are manufactured in such a way that they cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant.	1h. For the purposes of this Directive, " <u>replica (...)</u> " <u>means</u> objects that have the physical appearance <i>and technical characteristics</i> of a firearm, but are manufactured in such a way that they cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant.

Article 2

Finland can agree to the wording in the revised text, provided that in Article 6 there are exceptions for acquiring and possessing category A firearms made possible for 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.

In the context of this Article, Finland raised a question in the GENVAL meeting. According to Article 2(2), the Directive does not apply to the acquisition and possession of firearms and ammunition by the armed forces, the police and the public authorities. Neither does it apply to commercial transfers of weapons and ammunition of war. How about other dealers and brokers or other entrepreneurs (e.g. those who repair weapons, those who need to test with weapons when developing their products, those who transport weapons)? Are they foreseen to need authorization for the acquisition and possession of weapons and ammunition? The Directive is not very clear on this issue. Finland does not seek to keep these actors outside of the scope of this Directive. But it would be useful to understand the way in which these actors are allowed to acquire and possess weapons needed for carrying out their business.

Article 4

Paragraph 1

In the revised text it is proposed that "*... any firearm or essential component thereof placed on the market has been marked...*" Finland proposes that instead it should be ensured that "each assembled firearm placed on the market or individual essential component placed on the market separately" are marked.

The reason for our proposal is that the main principle should be that assembled firearms are marked and that the marking is done to an essential component. There is no need to mark every essential component of an assembled firearm.

The requirement of a marking to be done "in a durable way" is not clear. As proposed by Germany in its written comments (doc 5342/2/16) the marking should be permanently affixed, but different marking methods should be allowed.

COM proposal Art 4 (1)	Revised text	FI proposal
1. Member States shall ensure that any firearm or part placed on the market has been marked and registered in compliance with this Directive.	1. Member States shall ensure that any firearm or <u>essential component thereof</u> placed on the market has been marked <u>in a durable way</u> and registered in compliance with this Directive.	1. Member States shall ensure that <i><u>each assembled firearm placed on the market or individual essential component placed on the market separately</u></i> any firearm or <u>essential component thereof</u> placed on the market has been marked <u>in a durable way</u> and registered in compliance with this Directive.

Paragraph 2

The current wording in the first subparagraph states that "*... Member States shall, at the time of manufacture thereof or at the time of their import to the Union, require a unique marking ...*" This wording seems to require that a firearm may not enter the EU if it is not marked. This might be problematic in case of older firearms for example. In the GENVAL meeting it was suggested by Germany to add that the marking should be done "without delay". This would be a good way forward and allow the marking to be made without delay after the import to the Union.

The second subparagraph is not in line with paragraph 1. Paragraph 1 requires all the essential components to be marked but in this section the marking shall be affixed only to a receiver of a frame. This section also requires "*The serial number shall be affixed...*". Does this mean that the serial number must be the same in all the essential components? What if one essential component of a firearm is replaced with a new component? A clearer wording might be that "*A serial number shall be affixed ...*".

Finland would like to keep the word "appropriate" in the third subparagraph. The word appropriate can be found in the current Directive. The unique marking requires the knowledge of several issues which might not always be known when a firearm is transferred from government stocks.

COM proposal Art 4 (2)	Revised text	FI proposal (also stated in the DE comments)
2. For the purposes of identifying and tracing each assembled firearm, Member States shall, at the time of manufacture of each firearm or at the time of import to the Union, 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 already part of the serial number. This shall be without prejudice to the affixing of the manufacturer's trademark.	2. For the purposes of identifying and tracing each assembled firearm <u>and its essential components</u> , Member States shall, at the time of manufacture <u>thereof</u> or at the time of <u>their</u> import to the Union, 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 already part of the serial number. This shall be without prejudice to the affixing of the manufacturer's trademark.	2. For the purposes of identifying and tracing each assembled firearm <u>and its essential components</u> , Member States shall, <i>without delay after their</i> manufacture or <u>thereof</u> or at the time of <u>their</u> import to the Union, 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 already part of the serial number. This shall be without prejudice to the affixing of the manufacturer's trademark.

<p>The marking shall be affixed to the receiver of the firearm.</p> <p>Member States shall ensure that each elementary package of complete ammunition is marked so as to provide the name of the manufacturer, the identification batch (lot) number, the calibre and the type of ammunition.</p> <p>Furthermore, Member States shall ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the unique marking permitting identification of the transferring government.</p>	<p>The marking shall be affixed to the receiver of the firearm <u>or, for those without a receiver, to the frame. The serial number shall be affixed to all essential components of the firearm.</u></p> <p>Member States shall ensure that each elementary package of complete ammunition is marked so as to provide the name of the manufacturer, the identification batch (lot) number, the calibre and the type of ammunition.</p> <p><u>For those purposes, Member States may have regard to the provisions of the Convention on Reciprocal Recognition of Proofmarks on Small Arms of 1 July 1969.</u></p> <p>Furthermore, Member States shall ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the unique marking permitting identification of the transferring <u>entity.</u></p>	<p>The marking shall be affixed to the receiver of the firearm <u>or, for those without a receiver, to the frame. The serial number shall be affixed to all essential components of the firearm.</u></p> <p>Member States shall ensure that each elementary package of complete ammunition is marked so as to provide the name of the manufacturer, the identification batch (lot) number, the calibre and the type of ammunition.</p> <p><u>For those purposes, Member States may have regard to the provisions of the Convention on Reciprocal Recognition of Proofmarks on Small Arms of 1 July 1969.</u></p> <p>Furthermore, Member States shall ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the <i>appropriate</i> unique marking permitting identification of the transferring <u>entity.</u></p>
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Paragraph 3

In the revised text paragraph 3 is deleted. Finland would like to keep this paragraph in the text as it is much clearer than Article 4 b.

COM proposal Art 4(3)	Revised text	FI proposal (as in the COM proposal)
3. Member States shall make the pursuit of the activity of dealer or broker within their territory conditional upon authorisation on the basis of at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the legal person and on the person who directs the undertaking.	(deleted)	<i><u>3. Member States shall make the pursuit of the activity of dealer or broker within their territory conditional upon authorisation on the basis of at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the legal person and on the person who directs the undertaking.</u></i>

Paragraph 4, second sentence

Finland is against keeping the records of destroyed firearms or those that are exported for an indefinite period as proposed in the revised text. As proposed by the Commission, it is enough to keep the records of destroyed firearms until the destruction has been certified by competent authorities. In case a firearm is exported, it should be kept in the record until there is certified information that it has been destroyed or e.g. 20 years has elapsed from the export.

COM proposal	Revised text	FI proposal
4. (second sentence) This filing system shall record each firearm's type, make, model, calibre and serial number, as well as the names and addresses of the supplier and the person acquiring or possessing the firearm. The record of firearms, including deactivated firearms, shall be maintained until destruction of the firearm has been certified by the competent authorities.	4. (second sentence) This filing system shall record the type, make, model, calibre and serial number of each firearm, as well as the names and addresses of the supplier and of the person acquiring or possessing the firearm. The record of firearms, including deactivated <u>ones</u> , shall be maintained <u>for an indefinite period</u>	This filing system shall record each firearm's type, make, model, calibre and serial number, as well as the names and addresses of the supplier and the person acquiring or possessing the firearm. The record of firearms, including deactivated firearms, shall be maintained until destruction of the firearm has been certified by the competent authorities, <i><u>or in case of an exported firearm, 20 years after the export.</u></i>

Article 4 b

The authorizations given to dealers are currently regulated in Art 4(3). In its proposal the Commission added to Article 4(3) also brokers. According to the revised text paragraph 3 in Article 4 would be deleted. Instead, the legislation concerning brokers and dealers would be found in Art 4 b only.

Article 4 b is not very clear. It would be good to get detailed explanation how this system referred to in Article 4 b would work in practice. Is the intention to change the current practice? Article 4(3) is clearer and Finland would prefer the text in it.

COM proposal Art 4b	Revised text	FI proposal
<p>1. Member States shall establish a system for the regulation of the activities of brokers and dealers. Such a system may include one or more of the following measures:</p> <p>(a) registration of brokers and dealers operating within their territory;</p> <p>(b) licensing or authorisation of the activities of brokers and dealers.</p> <p>2. The system referred to in paragraph 1 shall include at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the legal person and on the person who directs the undertaking.</p>	<p>1. Member States shall establish a system for the regulation of the activities of dealers and brokers. Such a system <u>shall</u> include <u>at least</u> the following measures:</p> <p>(a) registration of dealers and brokers operating within the territory <u>of each Member State</u>; and</p> <p>(b) licensing or authorisation of the activities of dealers and brokers.</p> <p>2. The system referred to in paragraph 1 shall include at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the legal person and on the person who directs the undertaking.</p>	<p>Delete Article 4 b and keep Article 4(3).</p>

Article 5

Paragraph 1(a) and 1(c)

Finland supports the Commission's proposal for paragraph 1a and keeping the age limit for possessing firearms as it is. Finland is against the revised text for paragraphs 1a and 1 c and has a reservation. This proposed text would have significant impact on hunters and biodiversity. Furthermore, this type of provision would be inefficient as it would be very difficult to implement and control. People hunt and practice shooting very often in their own forests or fields in the country side, where distances to the next neighbor can be tens of kilometers.

In Finland, the hunting tradition involves people at young age and they may also start hunting at quite young age. Finnish legislation allows hunting with parallel gun license already from the age of 15 years. Storage and transferring the firearms should be handled by the guardian of the young person, but actual hunting and shooting is allowed independently.

Last year, in Finland, 1885 persons under 18 years of age passed the hunting examination. Also last year 6070 persons under 18 years of age had paid the hunting license. In practice these young people have used firearms and ammunition responsibly and safely.

For a person who has hunting or target shooting as a hobby, a firearm is a personal equipment which has the measurements and other features that meet the personal physical and other requirements.

The independent use of a firearm is important in hunting. The animals notice the movements of hunters very easily and, therefore, hunting solely in the company of another person would not lead to successful hunting opportunities. When hunting, people alternate between walking together close to each other and at times taking separate routes to herd the animals in.

Hunting is one the most important recreational hobby in Finland. There are more than 300 000 hunters, which is 6% of population. Traditional nature conservation includes safeguarding the ecosystem services and the good state of species and habitats. Management of nature and halting the loss of biodiversity is actually carried out mainly by hunters because they have direct connection to land owners. If involvement of young hunters stops because of age the limit of authorizing the possession of firearms, there is no continuity of hunters taking care of habitats and species. Hunting adds the motivation to take care of the biodiversity.

Paragraph 1 b

Finland would like to add that a person should not be given the authorization for acquisition and possession of firearms if they are likely to be a danger to others as well. Now the paragraph refers to persons themselves only.

COM proposal Art 5(1)	Revised text	FI proposal
<p>1. Without prejudice to Article 3, Member States shall authorise the acquisition and possession of firearms only by persons who have good cause and who:</p> <p>(a) are at least 18 years of age, except in relation to the possession of firearms for hunting and target shooting, provided that in that case persons of less than 18 years of age have parental permission, or are under parental guidance or the guidance of an adult with a valid firearms or hunting licence, or are within a licenced or otherwise approved training centre;</p> <p>(b) are not likely to be a danger to themselves, to public order or to public safety; having been convicted of a violent intentional crime shall be considered as indicative of such danger.</p>	<p>1. Without prejudice to Article 3, Member States shall authorise the acquisition and possession of firearms only by persons who have good cause and who:</p> <p>(a) are at least 18 years of age, and (...)</p> <p>(b) are not likely to be a danger to themselves, to public order or to public safety; having been convicted of a violent intentional crime shall be considered as indicative of such danger.</p> <p>(c) <u>By way of exception from point (a), Member States may authorise the use of firearms</u> by persons of less than 18 years of age for hunting and/or target shooting purposes under parental or other adult guidance, where the parent or adult possesses a valid firearms and/or hunting licence, and where the target</p>	<p>1. Without prejudice to Article 3, Member States shall authorise the acquisition and possession of firearms only by persons who have good cause and who:</p> <p><i><u>(a) are at least 18 years of age, except in relation to the possession of firearms for hunting and target shooting, provided that in that case persons of less than 18 years of age have parental permission, or are under parental guidance or the guidance of an adult with a valid firearms or hunting licence, or are within a licenced or otherwise approved training centre;</u></i></p> <p>(b) are not likely to be a danger to themselves <u>or others</u>, to public order or to public safety; having been convicted of a violent intentional crime shall be considered as indicative of such danger.</p> <p>(c) <u>By way of exception from point (a), Member States may authorise the use of firearms</u> by persons of less than 18 years of age for hunting and/or target shooting purposes under parental or other adult guidance, where the parent or adult possesses a valid firearms and/or hunting licence, and where the target shooting is taking place at a</p>

	shooting is taking place at a licenced <u>location, and who comply with point (b).</u>	licenced <u>location, and who comply with point (b).</u>
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Paragraph 2

In Finland, standard medical tests have not been deemed a sufficiently reliable means of predicting future violent behavior or acts of terrorism. Therefore, Finland does not support the requirement for standard medical tests.

However and similarly to what is proposed by Sweden, our current system provides for the possibility for the competent authorities, in cases where they deem it necessary, to request a medical review for the purposes of issuing an authorization.

In our view, such a review should be tailored according to the specific circumstances in each case, rather than provided for in a standardized form.

We therefore support the Swedish proposal if the requirement for standard system is deleted and psychological review is required where necessary.

COM proposal Art 5(2)	Revised text	FI proposal (based on Swedish proposal)
2. Member States shall provide for standard medical tests for issuing or renewing authorisations as referred to in paragraph 1 and shall withdraw authorisations if any of the conditions on the basis of which it was granted is no longer met.	2. Member States <u>shall make the issuance or renewal of the</u> authorisations referred to in paragraph 1 <u>subject to a standard system of medical, including psychological, review. Member States shall withdraw the authorisations and refuse their renewal</u> if any of the conditions on the basis of which the authorisation was granted are no longer met.	<i>2. Member States shall ensure that in cases where the competent authority deems it necessary for the public security or for any other appropriate reason, the issuance of the authorization referred to in paragraph 1 shall be subject to a <u>standard system of medical, including where necessary psychological, review.</u></i>

Article 6

Paragraph 2

In the revised text it is acknowledged that different Member States have different reasons that would justify the authorisations of firearms and ammunition in category A. It is important that in the recitals it is further explained that in some Member States this provision would become applicable in cases of voluntary military training which is based on national legislation. For Finland, this is the main reason for providing exceptions and it is necessary for national security purposes.

The paragraph needs a little adjustment. According to the revised text, it would only be allowed to possess these weapons but the acquisition would not be possible. Therefore, the possibility for acquisition should be added.

COM proposal Art 6 (2)	Revised text	FI proposal
No equivalent in COM proposal	<u>2. In special cases, and without prejudice to paragraph 6.1, the competent authorities may grant authorisations for possession of such firearms and ammunition where this is not contrary to public security or public order.</u>	<u>2. In special cases, and without prejudice to paragraph 6.1, the competent authorities may grant authorisations for</u> <i>acquisition and</i> <u>possession of such firearms and ammunition listed in category A in Annex I,</u> <i>where this is not contrary to public security or public order.</i>

Paragraph 3

This paragraph in the revised text would allow bodies concerned with the cultural and historical aspects of weapons to keep their firearms in certain cases if the firearms are acquired before the entry into force of this Directive. In other words, these bodies would not be allowed to acquire new firearms and continue to keep their collections up to date. These bodies, which might be museums or private foundations for example, should be able to acquire category A firearms also in the future.

Furthermore, also private persons may have very valuable collection of firearms which have historical and cultural value. Therefore, Finland supports the proposal made by Estonia to add that also private persons concerned with the cultural and historical aspects of weapons and recognised as collectors by the Member State in whose territory they are acting. However, the collection of weapons should be done in an organized manner and that should be reflected in this paragraph as well.

COM proposal Art 6(3)	Revised text	FI proposal
<p>Para 2 in COM proposal:</p> <p>Member States may authorise bodies concerned with the cultural and historical aspects of weapons and recognised as such by the Member State in whose territory they are established to keep in their possession firearms classified in category A acquired before [the date of entry into force of this Directive] provided they have been deactivated in accordance with the provisions that implement Article 10(b).</p>	<p><u>3. Without prejudice to paragraph 6.1</u>, Member States may authorise bodies concerned with the cultural and historical aspects of weapons and recognised as such by the Member State in whose territory they are established to keep in their possession firearms classified in category A acquired before*""the date of entry into force of this Directive] provided they have been deactivated in accordance with <u>Commission Implementing Regulation (EU) 2015/2403 or have been exempted from deactivation on grounds of the conservation of cultural and historical heritage and if it can be demonstrated that their storage does not put public safety and security or public order at risk .</u></p>	<p><u>3. Without prejudice to paragraph 6.1</u>, Member States may authorise <i>private collectors or</i> bodies concerned with the cultural and historical aspects of weapons and recognised as such by the Member State in whose territory they are established to keep in their possession <i>and acquire</i> firearms classified in category A acquired <i>before*""the date of entry into force of this Directive]</i> provided they have been deactivated in accordance with <u>Commission Implementing Regulation (EU) 2015/2403 or have been exempted from deactivation on grounds of the organised conservation of cultural and historical heritage and if it can be demonstrated that their storage does not put public safety and security or public order at risk .</u></p>

Paragraph 4

Finland supports this paragraph in the revised text. If there is need to further clarify minimum conditions for the online and other trade by means of distance communication, Finland proposes to amend the text by adding some requirements for the strict control.

COM proposal Art 6 (4)	Revised text	FI proposal
<p>Para 3 in COM proposal:</p> <p>The acquisition of firearms and their parts and ammunition concerning categories A, B and C by means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council(*), shall be authorised only with respect to dealers and brokers and shall be subject to the strict control of the Member States.</p>	<p><u>4. Member States shall authorise the acquisition and selling of firearms and their parts and ammunition covered by categories A, B, C [and D] set out in Annex I</u> by means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council(**), <u>only through authorised dealers and brokers. The Member States shall subject such acquisitions and sales to a strict control.</u></p>	<p><u>4. Member States shall authorise the acquisition and selling of firearms and their parts and ammunition covered by categories A, B, C [and D] set out in Annex I</u> by means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council(**), <u>only through authorised dealers and brokers. The Member States shall subject such acquisitions and sales to a strict control, including secure verification of the validity of the license for acquisition of firearms and ammunition and the identity of the buyer. "</u></p>

Article 7 new subparagraph in para 4, after point c:

As mentioned already in the written comments sent by Finland on 7 December and the oral comments provided in the GENVAL meeting, setting the maximum limit of an authorization to 5 years in Article 7, will create unnecessary administrative burden. In addition, the proposed amendment overlaps with points b and c in the paragraph. Instead of adding this new subparagraph, Finland proposes to amend point b by adding the requirement to carry out the already existing periodic review every five years. The subparagraph proposed by the Commission would be deleted.

COM proposal Art 7(4)	Revised text	FI proposal which amends the current wording of Article 7(4)
<p>7(4) Member States may consider granting persons who satisfy the conditions for the granting of an authorization for a firearm a multi-annual license for the acquisition and possession of all firearms subject to authorization, without prejudice to:</p> <p>a) the obligation to notify the competent authorities of transfers;</p> <p>b) periodic review that those persons continue to satisfy the conditions; and</p> <p>c) the maximum limits for possession laid down in national law.</p> <p>The maximum authorization for possession shall not exceed five years. The authorization may be renewed if the conditions on the basis of which it was granted are still fulfilled."</p>	<p>7(4) Member States may consider granting persons who satisfy the conditions for the granting of an authorization for a firearm a multi-annual license for the acquisition and possession of all firearms subject to authorization, without prejudice to:</p> <p>a) the obligation to notify the competent authorities of transfers;</p> <p>b) periodic review that those persons continue to satisfy the conditions; and</p> <p>c) the maximum limits for possession laid down in national law.</p> <p>The maximum (...) <u>authorisation for possession</u> shall not exceed five years. The authorisation may be renewed if the conditions on the basis of which it was granted are still fulfilled."</p>	<p>7(4) Member States may consider granting persons who satisfy the conditions for the granting of an authorization for a firearm a multi-annual license for the acquisition and possession of all firearms subject to authorization, without prejudice to:</p> <p>a) the obligation to notify the competent authorities of transfers;</p> <p>b) periodic review <u>every five years</u> that those persons continue to satisfy the conditions; and</p> <p>c) the maximum limits for possession laid down in national law.</p> <p>The maximum authorization for possession shall not exceed five years. The authorization may be renewed if the conditions on the basis of which it was granted are still fulfilled."</p>

Article 10 aa

Concerning the proposed Article 10 aa on the conditions for storage of firearms, Finland proposes some changes to the proposed text. Finland would like to delete the word "immediate" in paragraph 1 because it would be difficult to have all the time continuous immediate control of weapons for example during holidays.

Finland would also like to leave it to Member States to regulate the requirements for safe boxes and other secured places of storage. Therefore, we would like to delete the reference to a standardized safe box and paragraph 2 of this Article. As the Directive will also cover deactivated firearms etc, it might not always be necessary to require the storage of firearms in a standardized safe box.

COM proposal Art 10aa	Revised text	FI proposal
No equivalent in the COM proposal.	<p>Article 10aa</p> <p>Member States shall provide for rules on storage of firearms and ammunition that ensure that these are kept under supervision and stored in a way so that there is no risk that an unauthorized person will get access to the firearm or ammunition. Supervision in this case shall mean that the person possessing the firearm or ammunition has immediate control over these. and shall include as a minimum storage in a standardized safe box when the firearm or ammunition is not being used. The level of security for the storage arrangements shall correspond to the level of dangerousness a weapon has.</p> <p>The Commission shall adopt minimum rules and specifications for the storage of firearms and ammunition that ensure that there is no risk that an unauthorized person will get access to the firearm or ammunition. Those</p>	<p>Article 10aa</p> <p>Member States shall provide for rules on storage of firearms and ammunition that ensure that these are kept under supervision and stored in a way so that there is no risk that an unauthorized person will get access to the firearm or ammunition. Supervision in this case shall mean that the person possessing the firearm or ammunition has immediate control over these. and shall include as a minimum storage in a standardized safe box when the firearm or ammunition is not being used. The level of security for the storage arrangements shall correspond to the level of dangerousness of the weapon <u>as in question</u>.</p> <p>The Commission shall adopt minimum rules and specifications for the storage of firearms and ammunition that ensure that there is no risk that an unauthorized person will get access to the firearm or</p>

	implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).	ammunition. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).
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Article 17

First subparagraph

Finland would prefer to mention in this paragraph that already in the Commission's first report the new technologies such as 3D printing should be addressed.

COM proposal Art 17	Revised text	FI proposal
The Commission shall submit every five years a report to the European Parliament and the Council on the application of this Directive, accompanied, if appropriate, by proposals in particular as regards the categories of firearms of Annex I and the issues related to new technologies such as 3D printing. The first report shall be submitted two years after the entry into force of this Directive."	The Commission shall submit every five years a report to the European Parliament and the Council on the application of this Directive, accompanied, if appropriate, by proposals in particular as regards the categories of firearms of Annex I and the issues related to new technologies such as 3D printing. The first report shall be submitted two years after the entry into force of this Directive."	The Commission shall submit every five years a report to the European Parliament and the Council on the application of this Directive, accompanied, if appropriate, by proposals in particular as regards the categories of firearms of Annex I and the issues related to new technologies such as 3D printing. The first report shall be submitted two years after the entry into force of this Directive <u>and include issues related to new technologies."</u>
The Commission shall, by [date], assess the necessary elements of a system for the exchange of information contained in the computerised data-filing systems referred to in Article 4(4) between the Member States. The Commission's assessment shall be accompanied, if appropriate, by a legislative proposal taking into account existing instruments regarding exchange of information.	The Commission shall, by [date], assess the necessary elements of a system for the exchange of information contained in the computerised data-filing systems referred to in Article 4(4) between the Member States. The Commission's assessment shall be accompanied, if appropriate, by a legislative proposal taking into account existing instruments regarding exchange of information.	The Commission shall, by [date], assess the necessary elements of a system for the exchange of information contained in the computerised data-filing systems referred to in Article 4(4) between the Member States. The Commission's assessment shall be accompanied, if appropriate, by a legislative proposal taking into account existing instruments regarding exchange of information.

ANNEX I

Category A

The proposal to transfer semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms from Category B to Category A is very restrictive. In the revised text a word "long" is added to the definition. This is not helpful and the word "resemble" leaves the definition of the proposed A7 weapons still unclear and open for a wide interpretation. Finland would like to keep the current B7 weapons in Category B. The new categorization could have a considerable limiting effect on Finland's national defence.

Category C

The classification is going to the right direction. Alarm and signal weapons should belong to category C. However, in addition to salute and acoustic weapons, replicas should also stay in the category in which they would fall based on their original build. Therefore, Finland would like to delete replicas from C5 and include them in the subparagraph under C5 as follows: **Salute and acoustic weapons as well as replicas stay in the category in which they would fall according to how they were originally built.**

In Finland it is considered that if a replica is a so called reproduction of a firearm, then these replicas should belong to the original classification.

In general, Finland considers that the scope of this Directive should not cover those objects that look like weapons but cannot be converted to functioning weapons. Although these objects can be used for intimidation purposes, they should not be included in the scope of this Directive.

FRANCE

Lors de la réunion du groupe GENVAL du 26 novembre 2015 consacrée à la révision de la directive 91/477, la Présidence a demandé aux Etats membres des commentaires sur les articles 1 et 2 de la proposition de révision de la directive (document 14422/15) examinés en séance.

De manière générale, les autorités françaises sont satisfaites de l'introduction et de l'approfondissement de certaines définitions (composants essentiels, armes neutralisées, armes à blanc, armes d'alarmes et de signalisation, courtier) qui conduisent à un élargissement du champ d'application de la directive.

S'agissant de l'article 1.a :

Les autorités françaises avaient demandé (contribution 10883/15 du 15 juillet 2015) de revenir sur la distinction entre « parts » et « essential components » qui est source d'erreurs et qui rend possible la reconstitution d'une arme par l'achat de parties d'armes dans plusieurs pays européens.

Néanmoins, si la distinction entre « part » et « essential component » est conservée, il est important de les différencier et de donner à chacun un régime juridique différent. Les « parts » ne doivent pouvoir être acquises qu'en raison de la détention de l'arme. Les « essentials components » doivent être classés comme l'arme sur laquelle ils s'adaptent (voir infra 1.b).

S'agissant de l'article 1.b

L'inclusion des silencieux comme élément essentiel est problématique étant donné qu'un même silencieux peut s'adapter sur des armes classées en catégories différentes.

Le plus opportun serait de ne pas classer les silencieux mais de créer une obligation à démontrer un titre de propriété (ou d'interdire).

Proposition de reformulation:

"For the purposes of this Directive, "essential component" shall mean the barrel, frame, receiver, slide or cylinder, bolt or breach block which, being separate objects, are included in the category of the firearms on which they are actually mounted or are intended to be mounted."

S'agissant de l'article 1.e:

La définition proposée de « courtier » ne semble pas appropriée et ne couvre pas la réalité du courtage. Il semblerait judicieux de rajouter le domaine couvert par cette définition du courtage qui doit englober les armes, éléments essentiels d'armes et munitions. En outre, il devra être parfaitement clair que cette définition couvre également le courtage sur internet.

Proposition de reformulation:

"For the purposes of this Directive, " broker " shall mean any natural or legal person, that connects a seller and a buyer of firearms, essential components or ammunitions who wish to contract and is remunerated for that purpose in any mean possible."

S'agissant de l'article 1.f:

La définition proposée ne paraît pas judicieuse et semble trop restrictive.

Proposition de reformulation:

"For the purposes of this Directive, "alarm weapons" shall mean object or device that may or may not have the appearance of a firearm, originally designed and intended to provoke only a sound or flash effect by the percussion of the ammunition and which characteristics exclude the firing or the conversion for the firing of any projectile, excluding all modified real firearms."

S'agissant de l'article 1.g:

Il convient de noter que ce type d'armes a été utilisé lors des attentats de janvier 2015 à Paris. Le mode de fonctionnement (automatique, semi-automatique, répétition manuelle, coup par coup) reste fonctionnel. Seul un empêchement mécanique au passage de la balle est inséré qu'il est très facile de retirer pour un non professionnel, rendant ses caractéristiques initiales de létalité à l'arme.

Proposition de reformulation

“For the purposes of this Directive, "salute and acoustic weapons" shall mean firearms specifically converted for the sole use of firing blanks, for use in theatre performances, photographic sessions, movies and television recordings. These modified weapons remain in their original classification ».

S'agissant de l'article 1.h:

Il paraît nécessaire d'établir la différence entre la réplique d'une arme réelle (copie identique à une arme existante dans son modèle et son mode de fonctionnement), qui utilise des moyens pyrotechniques, et doit être classée comme le modèle original, et la réplique non constitutive d'une arme à feu (ex. jouet, ...) qui ne doit donc pas être incluse dans le champ de la directive.

Il serait par ailleurs opportun de parvenir à un consensus sur la notion de réplique d'armes historiques car ce terme n'est pas interprété uniformément au sein de l'UE.

En lien avec cette proposition, les autorités françaises ont demandé à plusieurs reprises d'inclure une définition des armes historiques et de collection dans la directive. Il conviendrait dès lors de délimiter temporellement la notion d'armes historiques en choisissant entre les dates proposées par la *Convention Schengen* ou par le *protocole des Nations Unies contre la fabrication et le trafic illicites d'armes à feu, de leurs pièces, éléments et munitions* que l'Union Européenne a signé. Pour mémoire :

- L'art 82 de la Convention Schengen dispose : "les armes à feu dont le modèle ou dont l'année de fabrication sont, sauf exception, antérieurs au 1^{er} janvier 1870 sous réserve qu'elles ne puissent tirer des munitions destinées à des armes prohibées ou soumises à autorisation".
- L'art. 3.f) du règlement 258/2012 (protocole art 10) dispose : "... armes à feu anciennes et à leurs répliques telles qu'elles sont définies par la législation nationale, pour autant que les armes à feu anciennes n'incluent pas des armes à feu fabriquées après 1899".

S'agissant de l'article 1.i :

Il est nécessaire que ce paragraphe se réfère au règlement d'exécution sur la neutralisation des armes à feu.

Proposition de reformulation

“ For the purposes of this Directive, "deactivated firearm" shall mean firearm that has been modified according to the process and technics of deactivation adopted by the European Union , in order to be permanently unfit for use, ensuring that all essential parts of the firearm have been rendered permanently inoperable and incapable of removal, replacement or a modification that would permit the firearm to be reactivated in any way."

S'agissant de l'article 1§2 :

Dans cette formulation des activités citées comme constitutives de la profession d'armurier, il manque la location, le leasing voire le prêt.

S'agissant paragraphe 2.(ii), il convient d'intégrer les « essential components » en plus des « parts » .

Proposition de reformulation

“the manufacture, trade, exchange, hiring out, repair or conversion of parts or essential components of firearms”.

S'agissant de l'article 2§1

Le port et le transport d'arme au sein d'un Etat membre doivent être exclus du champ d'application de la directive.

Le terme “*commercial transfers*” peut correspondre à deux cas de figure différents :

- si les transferts commerciaux désignent les transferts intracommunautaires, les autorités françaises estiment que le paragraphe 2§2 devrait se rapporter aux opérations visées par la directive 2009/43/CE simplifiant les conditions des transferts de produits liés à la défense dans l'Union, et ne pas mentionner le matériel (armes et munitions de guerre). A cet égard, la dernière phrase de l'article 2§2 pourrait être reformulée de la manière suivante :

"Nor shall it apply transfers of weapons, accessories, specially designed components and ammunition within the scope of Directive 2009/43 /EC of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community “.

si les transferts commerciaux désignent les cessions commerciales, les autorités françaises considèrent qu'il serait indispensable de travailler à une définition des armes et des munitions de guerre, celles-ci n'étant pas parfaitement définies juridiquement. En l'espèce, il ne peut être fait référence à la Military List 1 pour asseoir la définition.

Contribution received on 9 December 2015.

At the GENVAL meeting on 26 November 2015, which was dedicated to the revision of Directive 91/477/EEC, the Presidency asked the Member States to comment on Articles 1 and 2 of the proposal for the revision of the Directive (14422/15), which were examined during the meeting.

In general, the French authorities are satisfied with the addition and further development of certain definitions (essential components, deactivated weapons, blank weapons, alarm and signal weapons, broker) which extend the scope of the Directive.

Article 1(1a):

We had requested (contribution 10883/15 of 15 July 2015) a review of the distinction between 'parts' and 'essential components', which gives rise to errors and makes it possible to reconstruct a weapon by purchasing parts in several European countries.

However, if the distinction between 'part' and 'essential component' is maintained, it is important to differentiate between them and to give them different legal rules. It must be possible to acquire 'parts' only on the basis of possession of the weapon. 'Essential components' must be classified in the same way as the weapon for which they are intended (see Article 1(1b) below).

Article 1(1b):

The inclusion of silencers as essential components is problematic, given that the same silencer may be mounted on weapons classified in different categories.

It would be best not to classify silencers but rather to create a requirement to show proof of ownership (or to prohibit them).

Proposed rewording:

"For the purposes of this Directive, "essential component" shall mean the barrel, frame, receiver, slide or cylinder, bolt or breech block which, being separate objects, are included in the category of

Article 1(1e):

The proposed definition of 'broker' does not seem appropriate and does not cover the reality of brokering. It would seem advisable to extend the area covered by this definition of brokering, which must include weapons, essential components of weapons and ammunition. Furthermore, it should be made perfectly clear that this definition also covers brokering on the internet.

Proposed rewording:

"For the purposes of this Directive, "broker" shall mean any natural or legal person, that connects a seller and a buyer of firearms, essential components or ammunitions who wish to contract and is remunerated for that purpose in any means possible."

Article 1(1f):

The proposed definition does not seem appropriate and appears to be too restrictive.

Proposed rewording:

"For the purposes of this Directive, "alarm weapons" shall mean an object or device that may or may not have the appearance of a firearm, originally designed and intended to provoke only a sound or flash effect by the percussion of the ammunition and whose characteristics exclude the firing or the conversion for the firing of any projectile, excluding all modified real firearms."

Article 1(1g):

It should be noted that this type of weapon was used during the attacks in Paris in January 2015. The operating system (automatic, semi-automatic, manual-repeating, single shot) remains functional. All that is done is to insert a mechanical obstruction to prevent bullets being fired, and this is very easy for a non-professional to remove, making the weapon lethal again.

Proposed rewording:

"For the purposes of this Directive, "salute and acoustic weapons" shall mean firearms specifically converted for the sole use of firing blanks, for use in theatre performances, photographic sessions, movies and television recordings. These modified weapons remain in their original classification."

Article 1(1h):

It seems necessary to establish the difference between a replica of a real weapon (copy identical to an existing weapon with regard to the model and operating system), which uses pyrotechnic means and must be classified in the same way as the original model, and a replica that does not constitute a firearm (e.g. toy, etc.) and therefore must not be included in the scope of the Directive.

It would also be useful to reach a consensus on the concept of replicas of historical weapons, as this term is not interpreted uniformly in the EU.

In connection with this proposal, we have asked on several occasions for a definition of historical and collectible weapons to be included in the Directive. In this regard, the concept of historical weapons should be delimited in time, choosing between the dates proposed by the Schengen Convention and by the United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, which the European Union has signed. As a reminder:

- Article 82 of the Schengen Convention reads: 'firearms whose model or year of manufacture, save in exceptional cases, predates 1 January 1870, provided that they cannot fire ammunition intended for prohibited arms or arms subject to authorisation';
- point (f) of Article 3(1) of Regulation (EU) No 258/2012 (Article 10 of the Protocol) reads: 'antique firearms and their replicas as defined in accordance with national legislation, provided that antique firearms do not include firearms manufactured after 1899'.

Article 1(1i):

This paragraph should refer to the implementing regulation on the deactivation of firearms.

Proposed rewording:

"For the purposes of this Directive, "deactivated firearm" shall mean a firearm that has been modified according to the process and techniques of deactivation adopted by the European Union, in order to be permanently unfit for use, ensuring that all essential parts of the firearm have been rendered permanently inoperable and incapable of removal, replacement or a modification that would permit the firearm to be reactivated in any way."

Article 1(2):

This wording of the activities cited as constituting the trade or business of a dealer omits hiring out, leasing or even lending.

In point (ii) of paragraph 2, 'essential components' should be included in addition to 'parts'.

Proposed rewording:

"the manufacture, trade, exchange, hiring out, repair or conversion of parts or essential components of firearms".

Article 2(1):

The carrying and transporting of weapons within a Member State must be excluded from the scope of the Directive.

Article 2(2) – last sentence, relating to weapons and ammunition of war

The term 'commercial transfers' may correspond to two different scenarios.

- If the term commercial transfers means intra-Community transfers, we believe that Article 2(2) should refer to the operations covered by Directive 2009/43/EC simplifying terms and conditions of transfers of defence-related products within the Community, and should not mention the equipment (weapons and ammunition of war). In this respect, the last sentence of Article 2(2) could be reworded as follows:

"Nor shall it apply to transfers of weapons, accessories, specially designed components and ammunition within the scope of Directive 2009/43/EC of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community."

- If the term commercial transfers means commercial assignments (*cessions commerciales*), we would consider it essential to work on a definition of weapons and ammunition of war, as these are not perfectly defined from a legal point of view. In this case, there can be no reference to Military List 1 as a basis for the definition.

Contributions received on 18 January 2016.

The French authorities wish to share with the Commission their initial thoughts on the opportunities presented by the proposal for the revision of the Council Directive of 18 June 1991 on control of the acquisition and possession of weapons (91/477/EEC), in terms of the revision of Article 13:

(1) General remarks on implementing an automated electronic system for exchanges on intra-Community transfers of 'civilian' firearms, ammunition and their components

Intra-Community transfers of 'civilian' firearms, ammunition and their components must be authorised in advance:

- the authorities in the Member State of destination grant an applicant (natural or legal person) prior authorisation (PA) to transfer an item, provided that the applicant meets the regulatory requirements;
- based on the previously issued PA, the authorities in the Member State of departure issue a transfer licence (TL).

However, the current system does not allow for end-to-end traceability of weapons flows.

Monitoring of firearms movements between EU Member States is undermined by the fact that prior authorisations are not systematically linked up with transfer licences. This engenders the risk of a proliferation of equipment and misuse of authorisations.

To ensure effective control of the movement of firearms within Europe (Article 11 of the Directive), the principle of information exchange established in Article 13 of Directive 91/477/EEC needs to translate into a mechanism for the systematic and structured exchange of data on prior authorisations and the corresponding transfer licences.

In terms of security, it is essential that the decision of the authorities in the Member State of destination be fully consistent with the decision to authorise the transfer of weapons from another Member State.

The authority in the country of dispatch must therefore be systematically informed, in the most secure way possible, of the country of destination's decision (transfer authorisations granted or refusals to grant authorisations, prohibitions on the acquisition of arms imposed by another national authority, etc.). To ensure the system is secure, the applicant must be excluded from the control chain.

However, at present, applicants are involved in that chain insofar as they themselves submit the prior authorisation on the basis of which the transfer licence is granted.

That carries the risk of the system being misused, including by persons banned from the acquisition or possession of weapons at national level.

Every effort must be made to ensure that implementing the principle of free movement of such items does not make it possible to circumvent national public security measures.

In that respect, only an automated electronic system for information exchange at European level can secure flows and ensure genuine traceability of weapons, ammunition and their components.

Ideally, such a system should take the form of a European platform enabling information exchange among Member States' online services responsible for issuing transfer authorisations.

The exchange of information between online services would make it possible to:

- automatically compare, via the interface, a TL and the PA on the basis of which it was issued;
- inform the authority in the MS of destination when a TL is issued on the basis of a PA granted by it;
- inform other MS of refusals to issue an intra-Community transfer authorisation and of prohibitions on the acquisition of weapons imposed by another national authority.

In particular, using an electronic system would make it possible to: enhance the framework for and monitoring of legal flows of weapons; better distinguish legal flows from illegal activities; avoid the risk of authorisations being misused; avoid the risk of a proliferation/misuse of firearms, ammunition and their components; and organise a comprehensive system for tracing weapons throughout their entire lifecycle on European territory.

Implementing a European data exchange platform requires:

- the amendment of Article 13 of Directive 91/477/EEC. The Article should be reworded to integrate the objective of developing an exchange platform for European online services responsible for issuing authorisations for intra-Community transfers of firearms. In that regard, it would be important to set a deadline by which all MS must comply with the obligation to establish a national online service responsible for issuing transfer authorisations, and a deadline for interconnecting the national systems via the exchange platform;
- the development of a technical system based on the EMCS (Excise Movement and Control System). The European platform for the exchange of data on intra-Community transfers of firearms could transpose the operating principles of the EMCS, the objective of which is to monitor excisable goods moving under the suspension arrangements within the EU under cover of accompanying electronic documents. That system makes use of a mechanism for authorising intra-Community transfers of goods and clearing movements, which allows the country of dispatch to be notified of the arrival of the goods at the intended destination, as well as a system for administrative cooperation between Member States. Such a system would make it possible to track firearms, ammunition and their components from their point of departure to their final destination, thus ensuring full traceability, in particular in cases involving their transit through several countries.

(2) Proposal to reword Article 13 with the addition of paragraphs (4) and (5):

1. Each Member State shall communicate all useful information at its disposal concerning definitive transfers of firearms to the Member State to the territory of which such a transfer has been effected.
2. All information that Member States receive by way of the procedures laid down in Article 11 for transfers of firearms and in Article 7(2) and Article 8(2) for the acquisition and possession of firearms by non-residents shall be communicated, not later than the time of the relevant transfers, to the Member States of destination and, where appropriate, not later than the time of transfer to the Member States of transit.
3. For the purposes of the efficient application of this Directive, Member States shall exchange information on a regular basis. To this end, the Commission shall set up, by 28 July 2009, a contact group for the exchange of information for the purposes of applying this Article. Member States shall inform each other and the Commission of the national authorities responsible for transmitting and receiving information and for complying with the obligations set out in Article 11(4).
4. Member States' competent authorities shall exchange information on the authorisations granted as well as refusals to grant authorisations as set out in paragraphs (1) and (2) above via a European data exchange platform by [date] at the latest.
5. The Commission shall establish, by [date] at the latest, and maintain a European data exchange platform and shall be empowered to adopt delegated acts in accordance with Article 13a concerning the modalities of exchange of information on authorisations granted and on refusals.

At the GENVAL meeting on 18 December 2015, the Council asked Member States to submit written comments on the Articles examined during the meeting (Articles 4(1) to 7(4) of the proposal for the revision of Directive 91/477/EEC).

The French authorities wish to make the following comments on those Articles, and on Articles 2 and 13 (proposed text insertions are underlined):

Article 2

The French authorities consider it necessary to take into account the special case of weapons which constitute 'cultural objects' and are held by cultural and historical bodies concerned with the conservation of arms heritage. This would ensure that the national, technical and scientific heritage to which the objects held by these bodies belong is not penalised.

It must also be specified in the text that the commercial transfers covered by Directive 2009/43/EC are excluded from the scope of Directive 91/477/EEC.

Lastly, we are in favour of deleting the reference to 'weapons and ammunition of war', since this does not correspond to a precise legal concept.

Proposed rewording of Article 2

1. This Directive is without prejudice to the application of national provisions concerning the authorisation to hold a firearm, the carrying of weapons, hunting or target shooting.
2. 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 and bodies concerned with the cultural and historical aspects of firearms which have been assigned a public conservatory mission and are recognised as such by the Member State in whose territory they are established. Nor shall it apply to commercial transfers regulated by Directive 2009/43.

Article 4(1)

We support the proposal put forward by the German authorities to harmonise the technical specifications for marking procedures to prevent them from being altered.

Article 4(2)

1. The unique marking proposed in the revision of the Directive is an essential prerequisite, and should be affixed to the frame. The serial number, on the other hand, should be affixed to all the essential components of the weapon.
2. Although essential, this unique marking alone cannot ensure weapons traceability. **The best way to create the conditions for satisfactory weapons traceability is to begin the process as soon as possible after manufacture, by electronically registering weapons using a single method.** This method must be precisely determined, but there are various options which could be explored:
 - since all weapons are required to undergo testing by an approved body, one option could be for each weapon to be registered by the approved body in the national filing system set out in Article 4(4) immediately after testing;
 - this registration could be carried out following the allocation of a unique electronic identification number, which would not be engraved on the weapon but would be linked to the weapon's serial number. The allocation of a unique identification number - a process known as 'coding' - would make weapons truly traceable throughout their life cycle both within individual Member States (through the national weapons filing systems set out in Article 4(4)) and within the EU following subsequent transfers (via the filing systems for intra-Community transfers provided for in Article 13);
 - it could be proposed that an EU stamp should be affixed to the weapon at the end of the process, following testing and coding. This stamp would guarantee, firstly, that the weapon complies with safety standards for users and, secondly, that it has been registered in the national weapons filing system (Article 4(4)) and the filing system for intra-Community transfers (Article 13).

Proposed rewording of Article 4(2)

2. For the purposes of identifying and tracing each assembled firearm, Member States shall, at the time of manufacture of each firearm or at the time of import to the Union, require a unique marking including the name of the manufacturer, the country or place of manufacture, the brand, the model, the calibre, the serial number and the year of manufacture, if not already part of the serial number. This shall be without prejudice to the affixing of the manufacturer's trademark. For these purposes, Member States shall apply the provisions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms.

The marking shall be affixed to the receiver or the frame of the firearm.

The serial number shall be affixed to all essential components.

Member States shall ensure that each elementary package of complete ammunition is marked so as to provide the name of the manufacturer, the identification batch number, the calibre and the type of ammunition.

Furthermore, Member States shall ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the unique marking permitting identification of the transferring government.

Article 4(3)

It would be useful to draw a distinction between legal and natural persons as regards the check which is required for the granting of an authorisation to engage in the activity of dealer or broker. In the case of legal persons, it is the professional integrity of the managers of the business that should be checked, not their technical abilities. In addition, in the case of brokers, it is more important to monitor their commercial activities than their technical abilities.

Proposed rewording of Article 4(3)

3. Member States shall make the pursuit of the activity of manufacturer, dealer or broker within their territory conditional upon authorisation on the basis of at least a check of the private and professional integrity and of the abilities of the *manufacturer*, dealer or broker.

In the case of a legal person, the check of the private integrity shall be on the legal persons and on the persons who direct the undertaking. They must appoint a technical manager who has the professional abilities.

Article 4(4)

We would stress the importance of holding information on weapons from the time of their manufacture or import until their destruction or export, and on their successive owners.

We consider the traceability of deactivated weapons and of their chain of legal owners to be of secondary importance.

It would however be useful to know which authority carried out the deactivation and for whom it was carried out. The recent adoption of the implementing regulation laying down strict rules for deactivation supports this position.

The main challenge remains the traceability of active weapons. This is a major issue, as demonstrated by the fact that it is virtually impossible to trace the numerous category A military weapons from government stockpiles which have frequently circulated in the margins of past conflicts in Europe.

We consider the Finnish proposal to retain data for twenty years following the export of a weapon to be a useful suggestion.

We also support the proposal to link the registries of dealers and brokers to the computerised data-filing system for firearms. However, the Directive must provide for a reasonable time frame for the implementation of this new obligation, and attention must be paid to the conditions of its application. In this context, we note with interest that Germany is setting up a weapons coding system very similar to that proposed by France, which also includes the allocation of a unique identification number to each weapon in addition to the engraved serial number, given that it is possible for several weapons to bear the same serial number.

Lastly, we would emphasise the importance of having access to an overview of the weapons present throughout each Member State, from manufacture onwards.

Proposed rewording of Article 4(4)

4. Member States shall, by 31 December 2014, ensure the establishment and maintenance of a computerised data-filing system, either a centralised system or a decentralised system which guarantees to authorised authorities access to the data-filing systems in which each firearm subject to this Directive shall be recorded. This filing system shall record each firearm's type, make, model, calibre and serial number, as well as the names and addresses of the supplier and the person acquiring or possessing the firearm.

The record of firearms shall be maintained until destruction of the firearm has been certified by the competent authorities.

Throughout their period of activity, *manufacturers*, dealers and brokers shall be required to maintain a register in which all firearms subject to this Directive and which are received or disposed of by them shall be recorded, together with such particulars as to enable the firearm to be identified and traced, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the persons supplying and acquiring it.

Upon the cessation of their activities, the *manufacturer*, dealer or broker shall deliver the register to the national authority responsible for the filing system provided for in the first subparagraph.

Each Member State shall ensure that the registries of the manufacturers, dealers and brokers established in their territory are connected to the computerised data-filing system of firearms.

A registration of the deactivation of a firearm shall record the date of deactivation, the firearm type, make, model, calibre and serial number, as well as the names and addresses of the person for whom the deactivation occurred.

Article 4b

We welcome the submission of brokers to the same obligations as dealers, in particular because of the impact that this could have on transactions via internet and the responsibility they should assume in that regard.

We question the relationship between Article 4b and Article 4(3) concerning the conditions under which professionals may operate and propose that these two articles be merged or that Article 4b be amended to establish systems of regulations for these activities and the various resulting measures (licence, registration, checking of technical capacity and status as legal person).

Proposed reformulation of and addition to Article 4b:

1. Member States shall establish a system for the regulation of the activities of manufacturers, brokers and dealers. Such a system shall include the following measures:

(a) registration of manufacturers, brokers and dealers operating within their territory;

(b) licensing or authorisation of the activities of manufacturers, brokers and dealers.

2. *The system referred to in paragraph 1* shall include at least a check of the private and professional integrity as described in article 4.3.

3. Manufacturers and dealers must have secure facilities to store the firearms they hold.

Article 5 (concerning certain special conditions on acquisition and possession)

First, we think that the use of the expression 'authorise' instead of 'allow' could have implications for the arrangements for the acquisition of weapons by category.

We have reservations on the provision of Article 5(1)(a) introducing the possibility of a minor possessing a weapon subject to the responsibility of an adult with a valid firearms or hunting licence but not having parental responsibility.

In the French system, a minor can acquire a weapon only when covered by a person with parental responsibility, even in the case of a minor who meets the conditions imposed (licence, duration, medical test, etc.).

We are in favour of introducing compulsory medical tests. In France, the general principle is that anyone applying for the issuance or renewal of a permit to acquire or possess weapons or ammunition in categories A and B or declaring possession of category C weapons has to produce a medical certificate attesting that his or her physical and mental health is not incompatible with the possession of such weapons or ammunition.

We would like in addition for particular attention to be paid to the issue of private stocks of weapons, burglaries of such stocks and the large quantity of weapons in circulation that these generate.

As for the acquisition and possession of weapons, the French authorities consider that persons authorised to acquire and possess weapons, including private individuals, should be bound by precise requirements as to their storage. Requirements on quantities and storage rules should therefore be covered by the Directive.

In this connection, it would also be worthwhile to reflect on the conditions governing acquisition and possession by collectors. A distinction could be made between collection by private individuals and by professionals (museums). We are reviewing this matter thoroughly and will communicate our position to the Presidency as soon as possible.

Proposed rewording of Article 5

1. Without prejudice to Article 3, Member States shall *permit* the acquisition and possession of firearms only by persons who have good cause and who:

(a) are at least 18 years of age, except in relation to the possession of firearms for hunting and target shooting, provided that in this case persons of less than 18 years of age have parental permission.

The practice of the activity shall be engaged under parental guidance or the guidance of an adult with a valid shooting or hunting licence. The practice of shooting must be done in an approved training centre;

(b) are not likely to be a danger to themselves, to public order or to public safety; having been convicted of a violent intentional crime shall be considered as indicative of a such danger.

Article 6 (and Article 10b)

We believe it is for Member States to decide whether or not category A weapons and ammunition possessed illegally should be destroyed, returned or confiscated.

On this subject, the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, supplementing the United Nations Convention against Transnational Organized Crime, authorises the sale of weapons from state stocks on condition that they are specifically marked.

The French authorities also want to maintain an exception conditionally authorising certain actors, such as experts and cultural and historical bodies concerned with the conservation of arms heritage, to possess category A weapons.

In return for this exception and for category A weapons, the experts should be subject to legal arrangements for acquisition and possession comparable to those for dealers and brokers; while the cultural and historical bodies concerned with the conservation of arms heritage should be subject to specific 'safekeeping' requirements for category A weapons.

As for acquisition by private individuals by means of distance communication, we emphasise that internet purchases are a major source for trafficking. That being so it is important to define the notion of 'broker' and make possession of that status a requirement for internet sites that bring buyers and sellers of firearms into contact. It must be the responsibility of the broker to certify that the weapon sold corresponds to the description given and that buyers have the necessary authorisations to acquire it.

We consider it legitimate to extend to manufacturers of weapons and ammunition the possibility of acquiring parts intended for the production of weapons of categories B, C and D by means of distance communication.

Proposed rewording of Article 6

Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A.

In special cases, particularly regarding experts and bodies concerned with the cultural and historical aspects of weapons which have been assigned a public conservatory mission, the competent authorities may grant authorisations for such firearms and ammunition where this is not contrary to public security or public order.

The acquisition and sale of firearms and their parts and ammunition concerning categories B, C and registered firearms of category D by means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council(*), shall be carried out only by authorised manufacturers, dealers and brokers and shall be subject to the strict control of the Member States.

Article 7(2)

We would point out that there is an anomaly in the wording as between paragraphs 1 and 2 of Article 7. We recommend that an authorisation be requested from the State of a resident who possesses a firearm, both in Article 7(1) and in Article 7(2).

Article 7(4)

We are in favour of the five-year time limit for renewal of authorisations, which makes it possible regularly to check the conditions of possession of weapons of this category, as is the case in France.

Article 10b

The current wording of Article 10b does not take into account the specific case of weapons held by museums concerned with the conservation of arms heritage. We would point out that the deactivation of such weapons in line with this Article would mean destroying essential parts, causing a loss to their historical value.

Article 10b should therefore include a provision specifying that Member States may, in certain cases covered in Article 6, authorise the conservation of category A weapons if they are 'kept safely' by removal of a vital part or parts, and in accordance with secure storage rules applicable in the States concerned.

Proposed rewording of Article 10b

Member States shall make arrangements for the deactivation of firearms to be verified by a competent authority in order to ensure that the modifications made to a firearm render it irreversibly inoperable. Member States shall, in the context of this verification, provide for the issuance of a certificate or record attesting to the deactivation of the firearm and the apposition of a clearly visible mark to that effect on each essential component of the deactivated firearm.

The Commission shall adopt deactivation standards and techniques to ensure that deactivated firearms are rendered irreversibly inoperable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).

In special cases, as referred to in Article 6, the competent authorities may grant authorisations for such firearms and ammunition to be rendered temporarily inoperable.

Article 13 :

We would draw attention to the need to link the two traceability systems: filing system for intra-Community transfers and weapons data-filing system. The principle of a unique identification number seems the best means of identifying a weapon in both systems.

We have sent a separate note expanding on our initial thoughts on this point.

1. Capacity to conceal weapons: is it possible to identify weapons within category B that are very easy to conceal and which should be considered for inclusion in category A? Should technical criteria (dimensions of the weapon or barrel) be set to determine weapons that could be particularly dangerous due to the fact that they are easy to conceal?

Short firearms are by definition easier to conceal than long firearms. Acquisition or possession of short firearms is subject to authorisation. The length of short firearms has no effect on how dangerous they are.

Three dimensions feature in the Directive:

- Total length of 28 cm for single-shot short firearms with rimfire percussion (Annex 1 – II – category B);
- 30 cm barrel and maximum total length of 60 cm for short firearms (Annex 1 – IV).

It would seem necessary to standardise the dimensional characteristics.

2. Pump-action rifles: given how dangerous pump-action rifles are, what proposals could be envisaged to improve the situation? Classifying them as category B?

This question is being discussed.

The weapon is intrinsically dangerous because it does not need to be reloaded between shots. An additional factor is that it is widely available in France.

This type of weapon represents a danger comparable to a repeating firearm (for example, a leveraction firearm) of identical calibre.

The French discussions currently under way aim to classify pump-action rifles as smooth-bore hunting firearms if they display the following characteristics:

- capacity of less than three shots
- barrel of more than 60 cm or total length of more than 80 cm
- fixed butt

In that case they must be classified as category C only.

If they display different characteristics, they could be classified as category B.

3. Heightened risk posed by certain ammunition: how to limit the risk posed by certain ammunition? Should certain calibres and ammunition with very high perforation capacity be regulated, particularly to decrease the risk taken by law enforcement officers when intervening? In France, is the risk presented by ammunition of type 12.7/14.5 taken into account?

Ammunition with perforating, explosive or incendiary projectiles is classified as category A. Calibres 12.7 and 14.5 but also 7.62x39 and 5.45x39 (AK) are classified as category B (regardless of the operating system or ammunition capacity of the weapon).

It appears difficult to prohibit calibres with a high perforation capacity and/or high power, as these calibres can be used in big game hunting.

The question which could be asked is whether calibres such as 12.7 or 14.5mm should be authorised for acquisition by individuals. These weapons constitute a niche market in the target shooting sector and are used in sports such as 'Benchrest' and in long distance shooting galleries.

4. Replicas: how should 'replicas' be defined? Could the attached annex serve as the basis for a definition of replicas?

It seems essential to define the term 'replica':

- either as a quasi-weapon or toy from which no legal consequence may arise in relation to classification and traceability (it would simply be a non-classified object),
- or as a reproduction of an actual weapon (faithful copy of an actual weapon with regard to form and operation). In the latter case, the 'replica' must be classified and traced according to the same conditions as the weapon of which it is a copy (no traceability for historical weapons, traceability for classified weapons).

The annex provided by the Commission only covers modern weapons and does not encompass all 'replicas' in the French sense of the word. This provision is aimed solely at prohibiting a type of weapon, if it meets one of the criteria which would define it as a modern replica of a military weapon; its classification would then be upgraded.

However, such classification does not meet the recognised need to define what a replica is for all European countries.

Furthermore, it reintroduces the concept of weapons of war or military weapons, which had been removed from the regulations because it was inappropriate.

Finally, we think it would be useful to discuss the introduction of the criteria relating to the operating system and the age of the weapon being reproduced by the replica. Discussions are currently in progress on the French side with a view to classifying replicas as category D if the following criteria are fulfilled:

- reproduction of a historical weapon (before 1900)
- designed to operate using black powder
- loading by the muzzle

5. Concept of 'high-powered semi-automatic weapons' = the European Council of 18 December underlined the need to combat the spread of 'high-powered' semi-automatic weapons (attachment 1 Part II Point 9). Can they be defined and/or identified?

'High-powered' 12.7x99 and 14.5x114 firearms are classified as category B regardless of how they operate.

What is meant by 'high-powered'? 5.45x39 or 7.62x39 firearms cause serious injuries due to their ballistic behaviour. This ammunition is not particularly 'high-powered' compared with other ammunition used for hunting (for example, 700 Nitro Express) or shooting.

This is yet another concept which is widely peddled in the media and bears no relation to technical standards, in the same way that the concept of 'heavy' arms was mentioned in the Belgian action plan to deal with firearms which technically belong to the family of 'small arms and light weapons'.

A la réunion du groupe GENVAL du 25 janvier 2016, le Conseil a demandé aux Etats membre de lui transmettre des observations écrites sur les articles examinés en séance (articles 10 et suivants) de la proposition de révision de la directive 91/477.

Sur ces articles, les autorités françaises souhaitent formuler les observations suivantes (les propositions de reformulation ajoutées sont soulignées) :

Article 10 :

Bien que cet article ne fasse pas l'objet d'une révision, une amélioration rédactionnelle pourrait être recherchée, les autorités françaises proposent la reformulation suivante :

Proposition de reformulation :

~~The arrangements for The acquisition and possession of ammunition shall be the same as those for the possession of the firearms for which the ammunition is intended.~~ are subject to the presentation of a document, proving the legal possession of the weapon under which they are intended to be used and a valid license granted by the competent authorities.

Article 10a :

Armes d’alarme et de signalisation: les autorités françaises apportent leur soutien à la proposition de la délégation allemande s’agissant de l’élaboration de spécifications techniques par la commission pour les armes d’alarme et de signalisation. Cette harmonisation des critères pourrait améliorer la circulation intracommunautaire des armes d’alarme et de signalisation et contribuer à la clarté du marché pour les industriels.

Armes acoustiques et de salut : le maintien des armes acoustiques et de salut dans leur catégorie d’origine (avant transformation) est nécessaire. Il est rappelé que les modifications opérées sur une arme (fonctionnelle) pour la transformer en arme acoustique et de salut laissent aux éléments leur caractère fonctionnel, y compris le mode de fonctionnement (ex : tir en rafale).

Répliques : la question de la classification des répliques d’armes se pose avec acuité. Ainsi il apparaît essentiel que le terme de « replica » soit défini. La priorité devrait être donnée à la seconde définition :

- si les répliques sont entendues comme des quasi-armes ou des jouets et il ne peut en être tiré aucune conséquence juridique (au plan du classement et de traçabilité (ce ne serait que de simples objets non classés)
- si les répliques sont entendues comme des reproductions d’armes ayant existé (copie fidèle dans sa forme et son fonctionnement d’une arme déjà fabriquée). Dans ce cas, -la « replica » doit être classée et tracée dans les mêmes conditions que l’arme originale dont elle est la copie (pas de traçabilité pour les armes historiques, traçabilité pour les armes classées).

Proposition de reformulation

1. Member States shall take measures to ensure that alarm and signal weapons ~~as well as salute and acoustic weapons~~ cannot be converted into firearms.

The Commission shall adopt technical specifications for alarm and signal weapons ~~as well as for salute and acoustic weapons~~ to ensure they cannot be converted into firearms.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).

2. Salute and acoustic weapons remain in their original classification.

3. Alarm and signal weapons that do not fulfill the above mentioned technical specifications are classified in categories B or C.

4. Replica firearms are classified in the same category as the original model.

5. Neutralized weapons that do not fulfill the above mentioned definition of such firearms are classified as real firearms in their original classification

Article 10aa proposé par la Suède:

Les autorités françaises considèrent avec intérêt la proposition suédoise et notamment le premier paragraphe.

Article 10, b)

La rédaction actuelle de l'article 10, b) ne rend pas compte de la spécificité des armes modernes détenues par les musées remplissant une mission publique conservatoire du patrimoine de l'armement. Les autorités françaises rappellent que la neutralisation de ces armes au sens du règlement UE 2015/2403 aurait pour conséquence de détruire des parties essentielles entraînant une perte de la valeur technique et historique de ces objets.

Ainsi, l'article 10, b) devrait prévoir une disposition précisant que les Etats membres peuvent dans certains cas prévus à l'article 6, autoriser la conservation des armes de catégorie A s'il est procédé à une « conservation en sécurité » par extraction de(s) pièce (s) de sécurité, et selon les mesures de stockage sécurisées en vigueur dans ces Etats.

La mention suivante pourrait être judicieusement ajoutée soit à l'article 6, soit à l'article 10b) :

“In special cases the competent authorities may grant authorizations for such firearms and ammunition to be rendered temporary inoperable.”

Article 11.3

Les autorités françaises sont favorables à la suppression de la référence à la notion « d'armes et de munitions de guerre » qui ne recouvre pas une réalité juridique précise.

Proposition de reformulation :

3. In the case of transfer of the firearms, other than weapons ~~of war~~, that are under the scope of Directive 2009/43, and so excluded from the scope of this Directive pursuant to Article 2 (2), each Member State may grant dealers the right to effect transfers of firearms from its territory to a dealer established in another Member State without the prior authorization referred to in paragraph 2. To that end, it shall issue an authorization valid for no more than three years, which may at any time be suspended or cancelled by reasoned decision. A document referring to that authorization must accompany the firearm until it reaches its destination; it must be produced whenever so required by the authorities of the Member States.

Prior to the date of transfer, the dealer shall communicate to the authorities of the Member State from which the transfer is to be effected all the particulars listed in the first subparagraph of paragraph 2. Those authorities shall carry out inspections, where appropriate on the spot, to verify the correspondence between the information communicated by the dealer and the actual characteristics of the transfer. The information shall be communicated by the dealer within a period allowing sufficient time.

Article 11.4 et 15.4

Le site internet de la Commission pourrait servir à centraliser les informations visées :

- A l'article 11.4 concernant la liste d'armes à feu pour lesquelles l'autorisation de transfert vers le territoire d'un Etat Membre peut être donnée sans accord préalable.
- A l'article 15.4, s'agissant des dispositions des Etats membres, y compris les modifications en matière d'acquisition et de détention d'armes, lorsque la législation nationale est plus stricte que la norme minimale à adopter.

Proposition de reformulation

Article 11.4

Each Member State shall supply the Commission and other Member States with a list of firearms the transfer of which to its territory may be authorized without its prior consent.

Such lists of firearms shall be communicated to dealers who have obtained approval for transferring firearms without prior authorization under the procedure laid down in paragraph 3. The Commission shall maintains on its website the information transmitted by Member States

Article 15.4

Member States shall notify the Commission of their national provisions, including changes relating to the acquisition and possession of weapons, where the national law is more stringent than the minimum standard they are required to adopt. The Commission shall maintain on its website such information transmitted by Member States.

Article 13.4

S'agissant de l'échange d'informations sur les transferts d'armes au sens de l'article 11 de la directive, les autorités françaises soulignent que le fonctionnement du système actuel, sous forme « papier » ne donne pas lieu à un niveau de sécurisation suffisant.

Comme cela a été expliqué dans la note des autorités françaises transmise le 18 janvier, la France soutient la mise en place au niveau européen d'un système dématérialisé et automatisé d'échange d'informations dans le cadre du groupe de travail mis en place par la commission.

Un tel système permettra de sécuriser les flux et d'assurer une traçabilité réelle des armes, munitions et leurs éléments. Il s'agit de créer un fichier interconnecté entre Etats Membres des flux intracommunautaires distinct de celui des fichiers nationaux sur les armes au sens de l'article 4.4.

Enfin, il est rappelé l'intérêt de coupler ces deux systèmes de traçabilité : fichier des flux intracommunautaires et fichier de données sur les armes. Le principe d'un numéro identifiant unique parait le meilleur moyen pour identifier une arme respectivement dans les deux systèmes.

Proposition de reformulation

4. The competent authorities of the Member States shall exchange information on the authorizations granted ~~for the transfers of firearms to another member State as well as information with regard to refusal to grant authorization as defined in Article 7~~ or on refusals as referred to in the above paragraphs 1 and 2 through a European data exchange platform no later than (date)

5. The Commission shall ensure, no later than (date), the establishment and the maintenance of a European data exchange platform and shall be empowered to adopt delegated acts in accordance with Article 13a concerning the modalities of exchange of information on authorizations granted and on refusals.

Article 13.a :

Les autorités françaises n'ont pas d'objections quant au recours par la commission à un acte délégué.

Annexe I partie II :

Les autorités françaises estiment que deux points particuliers de la réglementation européenne mériteraient de faire l'objet d'une évolution :

- l'intérêt de recourir à la distinction armes de poing / armes d'épaule
- l'élaboration au niveau européen d'une définition unique des chargeurs

Catégorie A :

Armes automatiques converties en armes semi-automatiques :

La France juge prioritaire d'interdire les armes automatiques converties en semi-automatiques (catégorie A6), armes dont la réversibilité est aisément opérable. La question fait davantage sens de s'attaquer à ce type d'armes dont les capacités létales sont avérées. En revanche, un travail sur les calibres pourrait déboucher sur des résultats aléatoires et difficilement opératoires.

Si cela s'avérait nécessaire, cet objectif pourrait être atteint en deux étapes.

- 1) classement effectif de ces armes en catégorie A ;
- 2) application progressive de cette interdiction, de manière à ne pas inciter les détenteurs à rester dans l'illégalité :
 - sur demande de dérogation, délivrance d'une autorisation exceptionnelle de détention, personnelle et non cessible ou transmissible ;
 - dès la première cession ou transmission, obligation de neutraliser l'arme ou de procéder à une remise aux services de l'Etat pour destruction.

Armes ayant l'apparence d'une arme automatique : les autorités françaises sont favorables à la réintégration « des armes à feu civiles semi-automatiques qui ont l'apparence d'une arme à feu automatique » en catégorie B7.

Classement des armes neutralisées dans leur catégorie d'origine : Les autorités françaises réaffirment leur opposition s'agissant du nouveau point A relatif à l'interdiction des armes à feu A1 à A7 après leur neutralisation et souhaitent la suppression du point 8. Cet ajout relève en effet de la « surclassification » étant donné qu'une arme neutralisée présente moins de dangers qu'une arme à répétition manuelle. Par ailleurs, cette interdiction ne tient pas compte de l'adoption du règlement sur la neutralisation des armes à feu destiné à rendre les armes neutralisées inopérantes de manière irréversible.

Catégorie C :

Armes d'alarme et de signalisation : les autorités françaises s'opposent au principe d'inclusion en catégorie C.5 des armes d'alarme et de signalisation, des armes de spectacles et des répliques.

Les armes d'alarme et de signalisation pourraient être intégrées en catégorie D lorsqu'elles obéissent aux spécifications techniques définies par l'acte d'exécution de la Commission au sens de l'article 10a. Ces armes pourraient être surclassées en catégories A, B ou C lorsqu'elles ne répondent pas à ces critères.

La catégorie D pourrait être scindée en deux sous catégories D1 pour les armes soumises à enregistrement et D2 pour les armes en vente et détention libre. Cette évolution impliquerait une réécriture de l'article 4.5.

Proposition de reformulation

Category A — Prohibited firearms

1. Explosive military missiles and launchers ;
2. Automatic firearms ;
3. Firearms disguised as other objects ;
4. Ammunition with penetrating, explosive or incendiary projectiles, and the projectiles for such ammunition ;
- ~~5. — Pistol and revolver ammunition with expanding projectiles and the projectiles for such ammunition, except in the case of weapons for hunting or for target shooting, for persons entitled to use them.~~
5. Ammunition over 12,7 mm calibre for rifled barreled firearms ;
6. Automatic firearms which have been converted into semi-automatic firearms;
- ~~7. — Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms;~~
- ~~8. — Firearms under points 1 to 7 after having being deactivated.~~

Category B — Firearms subject to authorization

1. Semi-automatic or repeating short firearms.
2. Single-shot short firearms with centre-fire percussion.
3. Single-shot short firearms with rimfire percussion whose overall length is less than 28 cm.
4. Semi-automatic long firearms whose magazine and chamber can together hold more than three rounds.

5. Semi-automatic long firearms whose magazine and chamber cannot together hold more than three rounds, where the loading device is removable or where it is not certain that the weapon cannot be converted, with ordinary tools, into a weapon whose magazine and chamber can together hold more than three rounds.

6. Repeating and semi-automatic long firearms with smooth-bore barrels not exceeding 60 cm in length.

7. Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms

Category C — Firearms subject to declaration

1. Repeating long firearms other than those listed in category B, point 6.

2. Long firearms with single-shot rifled barrels.

3. Semi-automatic long firearms other than those in category B, points 4 to 7.

4. Single-shot short firearms with rimfire percussion whose overall length is not less than 30 cm.

~~5. Alarm and signal weapons, salute and acoustic weapons as well as replicas;~~

~~6. Firearms under category B and points 1 to 5 of category C, after having been deactivated.~~

Category D— Other firearms

1) Firearms subject to registration :

Single-shot long firearms with smooth-bore barrels.

2) Firearms on free sale and detention are those that :

i) have been rendered permanently unfit for use by deactivation according to the European regulation xxxx/xx ;

ii) were designed for alarm, signalling, life-saving, animal slaughter or harpoon fishing bird scaring or for industrial or technical purposes, provided that they can be used for the stated purpose only;

iii) are regarded as antique weapons according to national laws.

Annexe IV

Il paraît nécessaire d'établir une taille unique pour la définition des armes à feu courtes ainsi que des critères exclusifs pour distinguer les armes longues des armes courtes.

S'agissant du délai pour se mettre en conformité avec la directive

Les autorités françaises soutiennent le principe d'une entrée en vigueur différée de la directive en fonction des dispositions et de leur impact au plan national. Il pourrait être proposé un délai de six mois pour les éléments transposables sans difficultés et un délai plus long pour les dispositions nécessitant l'adoption d'actes législatifs.

Lors de la réunion du groupe Questions générales-Évaluations (GENVAL) du 8 février 2016, la Présidence a demandé aux Etats membres des commentaires écrits sur les articles du texte révisé de la proposition de révision de la directive 91/477. (Doc 5662/15).

Les autorités françaises remercient la Présidence pour cette version révisée de la proposition de révision qui prend en compte plusieurs des préoccupations exprimées par la France. Si des progrès sont toutefois encore possibles pour parvenir à des définitions pertinentes et à un consensus optimal sur la terminologie, elles tiennent à saluer le travail de la Présidence sur les définitions (article 1).

De manière complémentaire, les autorités françaises souhaitent réaffirmer qu'une des priorités essentielles consiste à concrétiser la mise en place d'une plateforme européenne d'échange d'information sur les flux d'armes, dans le cadre du groupe de travail informel de l'article 13. Elles soulignent que ce projet s'inscrit bien dans les priorités de l'Union visant à renforcer l'échange d'information.

Par ailleurs, les autorités françaises précisent que l'exigence d'une classification de la réplique dans la même catégorie de l'arme qu'elle reproduit est également une préoccupation.

Article 1b

L'ajout à cet article d'une mention relative aux modérateurs de son ne paraît pas pertinente car ils ne sont pas essentiels au fonctionnement de l'arme. La solution serait de soumettre leur acquisition et leur détention à la présentation du titre de propriété de l'arme à laquelle ils se rattachent.

Par ailleurs, la nouvelle rédaction impose une suppression parallèle de l'article 1a.

Proposition de reformulation

~~1a. For the purposes of this Directive, 'part' shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm.~~

1b. For the purposes of this Directive, "essential component" shall mean any part of a firearm that is essential to its operation, ~~such as~~ **including** the barrel, frame, receiver, slide or cylinder, bolt, breach block which, being separate objects, are included in the category of the firearms on which they are actually mounted or are intended to be mounted. ~~In addition, any device designed or adapted to diminish the sound caused by firing a firearm shall be regarded as an "essential component".~~

Article 1e

La définition proposée ne rend pas suffisamment compte de la singularité de l'activité des courtiers qui officient normalement comme des intermédiaires entre des vendeurs et des acheteurs d'armes.

Dès lors, les courtiers ne procèdent pas directement à un achat ou à une vente, contrairement à ce qui est indiqué dans la proposition révisée.

Les définitions de courtier contenues dans le règlement CE 428/2009 ainsi que dans l'article 1§2 (k) de la proposition de règlement du Parlement et du Conseil modifiant le règlement (CE) n° 1236/2005 du Conseil concernant le commerce de certains biens susceptibles d'être utilisés en vue d'infliger la peine capitale, la torture ou d'autres peines ou traitements cruels, inhumains ou dégradants en cours de révision pourraient ici servir de référence.

Deux options sont possibles : conserver la formulation du doc 5662/16 en y ajoutant les transferts entre particuliers et les transferts vers les pays tiers ; ou reprendre la proposition de reformulation suivante :

Proposition de reformulation

1e. For the purposes of the Directive, "Broker" means any natural or legal person or partnership resident established in a Member State other than a the dealer or the buyer whose trade or business whose activity, in exchange for a payment or any advantage, of any of the following: buying, selling, or arranging the transfer consists wholly or in part , in facilitating the negotiation or organization of transactions for the purpose of buying, selling or arranging the transfer of firearms, their essential components or ammunition within a Member State, from one Member State to another Member State, from a Member State to a third country or from a third country to a Member State (...) ~~firearms, their parts and ammunition~~".

Article 1f

S'agissant de la définition des armes d'alarme et de signalisation, l'ajout de la mention « *originally designed and constructed for the purpose of provoking a sound effect* » est un point positif pour la compréhension commune. En revanche, la mention des munitions pyrotechniques qui peuvent potentiellement contenir des balles devrait être retirée de la définition.

Proposition de reformulation

1f. For the purposes of this Directive, "alarm and signal weapons means ~~portable~~ devices with a cartridge holder having a gas exit to the front, aside or on the top that are not converted firearms and that are originally designed and constructed for the purpose of provoking a sound or flash effect by the percussion of the ammunition and which characteristics exclude the firing or the conversion for the firing of any projectile, excluding all modified real firearms. , ~~e.g. raising alarm or sending a signal, and which are designed to fire only blanks, irritants, other active substances or pyrotechnic ammunition.~~

The specific calibers for alarm and signal weapons are solely those calibers for which there is in existence a specific weapon designed specially and uniquely for firing blank, gas, and tear gas cartridges with exclusively C.I.P. calibers.

Article 1g

Il apparaît nécessaire de préciser, outre les conditions dans lesquelles ces armes sont utilisées, que les personnes doivent justifier d'un motif légitime pour les acquérir et les détenir.

Proposition de reformulation

1g. For the purposes of this Directive, "salute and acoustic weapons" means firearms specifically converted to the sole use of firing blanks. **These weapons can be acquired and held by persons duly authorized. Their use is dedicated for** ~~for use such as in theatre performances, photographic sessions, film and television recordings, historical reenactments, parades, sporting events and training sessions, movies and television recordings.~~

Article 1h

Les autorités françaises estiment qu'il y existe une confusion entre les deux notions auxquelles peuvent répondre les répliques :

- soit celle d'objets ayant simplement l'apparence d'une arme sans en avoir les caractéristiques, tels des jouets qui restent de simples objets. Ces objets ne correspondant pas à la définition de l'arme à feu ne sont donc pas couverts par la directive.
- soit celle de reproductions d'armes ayant existé (copie fidèle dans sa forme et son fonctionnement d'une arme déjà fabriquée). Dans ce cas, la réplique conserve son caractère fonctionnel contrairement à ce qui est affirmé à l'article 1h. Seules ces dernières sont couvertes par le champ de la directive et devraient être classées dans la même catégorie que l'arme qu'elles reproduisent.

Article 1.2 (ii)

Il conviendrait d'ajouter le chargement des munitions au point 1.2 (ii).

Proposition de reformulation

1.2 For the purposes of this Directive, "dealer" means any natural or legal person whose trade or business consists wholly or in part of any of the following:

(i) the manufacture, trade, exchange, hiring out, repair or conversion of firearms, essential components or parts thereof; or

(ii) the manufacture, trade, exchange, **loading** or conversion of ammunition."

Article 1.2b

Il serait opportun d'intégrer les importations et les exportations à l'article 1.2b.

Proposition de reformulation

1.2b. For the purposes of this Directive, 'illicit trafficking' shall mean the acquisition, sale, delivery, movement, **importation, exportation** or transfer of firearms, their ~~parts~~ **essential components** or ammunition from or across the territory of one Member State to that of another Member State if any one of the Member States concerned does not authorise it in accordance with the terms of this Directive or if the assembled firearms are not marked in accordance with Article 4(1).

Article 2.1

Proposition de reformulation

2.1 This Directive is without prejudice to the application of national provisions concerning the **authorization to hold a firearm**, the carrying of weapons, hunting or target shooting.

Article 2.2

La référence à la directive 2009/43/CE satisfait aux exigences des autorités françaises mais la mention des armes et munitions de guerre qui ne sont pas clairement définies juridiquement devrait être supprimée.

Proposition de reformulation

2.2. 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, or the public authorities. Neither shall it apply to commercial transfers ~~of weapons and ammunition of war~~ as regulated by Directive 2009/43/EC of 6 May 2009 simplifying terms and conditions of transfers of defence related products within the Community.

Article 4.1

Les autorités françaises appuient les propositions des délégations allemandes et espagnoles s'agissant des spécifications pour définir les caractéristiques du marquage. Il conviendrait de prévoir un groupe de travail sur ce sujet essentiel pour garantir la traçabilité et donc, le cas échéant, pour faciliter l'action des services en matière judiciaire.

Proposition de reformulation

4.1. Member States shall ensure that any firearm or essential component thereof placed on the market has been marked in a durable way and registered in compliance with this Directive.

The Commission shall adopt technical specifications for marking. Those implementing acts shall be adopted in accordance with the examination procedure referred to in the article 13b.

Article 4.2

L'identification formelle d'une arme unique nécessite de mentionner la marque, le modèle, le numéro de série ainsi que le calibre de l'arme. Il convient donc que ces éléments soient marqués sur l'arme pour permettre son identification.

Proposition de reformulation

4.2. For the purposes of identifying and tracing each assembled firearm and its essential components, Member States shall, at the time of manufacture thereof or at the time of their import to the Union, require a unique marking including the name of the manufacturer, the country or place of manufacture, **the brand, the model, the caliber**, the serial number and the year of manufacture, if not already part of the serial number.

This shall be without prejudice to the affixing of the manufacturer's trademark.

The marking shall be affixed to the receiver of the firearm or, for those without a receiver, to the frame. The serial number shall be affixed to all essential components of the firearm.

Member States shall ensure that each elementary package of complete ammunition is marked so as to provide the name of the manufacturer, the identification batch (lot) number, the calibre and the type of ammunition.

For those purposes, Member States may have regard to the provisions of the Convention on Reciprocal Recognition of Proofmarks on Small Arms of 1 July 1969.

Furthermore, Member States shall ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the unique marking permitting identification of the transferring entity.

Article 4.4

Il ne paraît pas opportun de conserver les données relatives aux armes détruites. S'agissant des informations sur les armes neutralisées, il faudrait s'en tenir aux obligations du règlement d'exécution EU 2015/2403. (Conserver les informations relatives à l'arme, à la date et à la personne au profit de laquelle a été effectuée la neutralisation).

Proposition de reformulation

4.4. Member States shall, by 31 December 2014, ensure the establishment and maintenance of a computerised data-filing system, either a centralised system or a decentralised system which guarantees to authorised authorities access to the data-filing systems in which each firearm subject to this Directive shall be recorded.

This filing system shall record the type, make, model, calibre and serial number of each firearm, as well as the names and addresses of the supplier and of the person acquiring or possessing the firearm.

The record of firearms, ~~including deactivated and destroyed ones~~, shall be maintained ~~for an indefinite period until destruction of the firearm has been certified by the competent authorities~~.

Throughout their period of activity, dealers and brokers shall be required to maintain a register in which all firearms subject to this Directive and which are received or disposed of by them shall be recorded, together with such particulars as enable the firearm to be identified and traced, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the persons supplying and acquiring it.

Upon the cessation of their activities, dealers and brokers shall deliver that register to the national authority responsible for the filing system provided for in the first subparagraph.

Each Member State shall ensure that the registers of the dealers and brokers established in their territory are connected to a [single] centralised computerised data-filing system of firearms."

A registration of the deactivation of a firearm shall record the date of deactivation, the firearm type, make, model, calibre and serial number, as well as the names and addresses of the person for whom the deactivation occurred.

Article 4.5

Afin d'être cohérent avec la proposition d'introduire une catégorie D 2, il est nécessaire de modifier l'article 4.5.

Proposition de reformulation

4.5. Member States shall ensure that all firearms may be linked to their owner at any moment. However, as regards firearms classified in category D **(except firearms belonging to category D-2)**, Member States shall, as from 28 July 2010, put into place appropriate tracing measures, including, as from 31 December 2014, measures enabling linking at any moment to the owner of firearms placed on the market after 28 July 2010.

Article 4.b

La suppression de l'article 4.3 permet d'éviter les redondances qui existaient avec l'article 4.b.

Proposition de reformulation

4.b.1. Member States shall establish a system for the regulation of the activities of, dealers and brokers. Such a system shall include at least the following measures:

- (a) registration of dealers and brokers operating within the territory of each Member State;
- (b) and licensing or authorisation of the activities of, dealers and brokers.

4.b.2. The system referred to in paragraph 1 shall include at least a check of the private and professional integrity and of the abilities of the, dealer or broker. In the case of a legal person, the check of the private integrity shall be on the legal person and on the person who directs the undertaking. [They must appoint a technical manager who has the professional abilities.]

3. Dealers must have secure facilities to store the firearms they hold.

Article 5

S'agissant des personnes de moins de 18 ans, les autorités françaises soulignent l'importance d'encadrer l'achat et la détention.

Il apparaît également nécessaire de rendre obligatoire l'examen médical et de bien différencier ici l'acquisition et la possession.

Proposition de reformulation

Without prejudice to Article 3, Member States shall authorise the acquisition and possession of firearms only by persons who have good cause and who:

~~are at least 18 years of age, and (...)are not likely to be a danger to themselves, to public order or to public safety; having been convicted of a violent intentional crime shall be considered as indicative of such danger.~~

~~By way of exception from point (a), Member States may authorise the use of firearms by persons of less than 18 years of age for hunting and/or target shooting purposes under parental or other adult guidance, where the parent or adult possesses a valid firearms and/or hunting licence, and where the target shooting is taking place at a licenced location, and who comply with point (b).~~

(a) are at least 18 years of age, except in relation to the possession of firearms for hunting and target shooting, provided that in this case persons of less than 18 years of age have parental permission. The practice of the activity shall be engaged under parental guidance or the guidance of an adult with a valid shooting or hunting licence. The practice of shooting must be done in an approved training centre;

(b) are not likely to be a danger to themselves, to public order or to public safety; having been convicted of a violent intentional crime shall be considered as indicative of a such danger.

5.2. Member States shall make the issuance of the authorisations referred to in paragraph 1 subject to ~~a standard system of medical~~ medical examination attesting that the state of physical and psychological health is not incompatible with the possession of firearms, including psychological review. ~~The renewal of the authorizations regarding firearms belonging to category B is also subject to such medical examination.~~ Member States shall withdraw the authorisations and refuse their renewal if any of the conditions on the basis of which the authorisation was granted is no longer met.

Member States shall not prohibit persons resident within their territory from possessing a firearm acquired in another Member State unless they prohibit the acquisition of the same type of firearm within their own territory.

Article 6

Les autorités françaises sont favorables aux modifications effectuées à l'article 6 qui prends désormais mieux en compte la conservation des armes dans les musées et laisse une plus grande marge de manœuvre aux Etats Membres pour autoriser dans certains cas la possession d'armes de catégorie A. L'acquisition doit être visée en même temps que la possession.

La rédaction de l'alinéa 3 pourrait toutefois gagner en clarté s'agissant de l'exemption de neutralisation pour les armes au regard de l'héritage culturel et historique.

Proposition de reformulation

6.2. In special cases, and without prejudice to paragraph 6.1, the competent authorities may grant authorisations for **acquisition and** possession of such firearms and ammunition where this is not contrary to public security or public order.

6.3. Without prejudice to paragraph 6.1, Member States may authorise bodies concerned with the cultural and historical aspects of weapons **which have been assigned a public conservatory mission** and recognised as such by the Member State in whose territory they are established to keep in their possession firearms ~~classified in category A acquired before* the date of entry into force of this Directive]~~ ~~provided they have been deactivated in accordance with Commission Implementing Regulation (EU) 2015/2403 or have been exempted from deactivation~~ **that have been exempted from deactivation** on grounds of the conservation of cultural and historical heritage and if their storage does not put public safety and security or public order at risk.

Article 7

Au même titre qu'aux paragraphes 1 à 3, il convient de préciser que le paragraphe 4 s'applique uniquement aux armes de la catégorie B.

Proposition de reformulation:

7.4. Member States may consider granting persons who satisfy the conditions for the granting of an authorisation for a firearm **belonging to the category B**, a multiannual licence for the acquisition and possession of all firearms subject

to authorisation, without prejudice to:

- (a) the obligation to notify the competent authorities of transfers;
- (b) the periodic verification that those persons continue to satisfy the conditions; and
- (c) the maximum limits for possession laid down in national law.

(d) The maximum (...) authorisation for possession **of a firearm belonging to the category B** shall not exceed five years. The authorisation may be renewed if the conditions on the basis of which it was granted are still fulfilled."

Article 10 :

Bien que cet article ne fasse pas l'objet de révision, les autorités françaises réaffirment leur position sur l'acquisition des munitions qui devrait être conditionnée à la présentation du titre de propriété de l'arme qu'elles alimentent.

Proposition de reformulation

10.The arrangements for the acquisition and possession of ammunition shall be the same as those for the possession of the firearms for which the ammunition is intended **are subject to the presentation of a document, proving the legal possession of the weapon under which they are intended to be used, and a valid license granted by the competent authorities.**

Article 10a

Les autorités françaises estiment que la classification des armes d'alarmes et de signalisation, acoustiques et de salut, ainsi que les répliques devrait être adaptée à leur dangerosité.

Armes d'alarme et de signalisation: les autorités françaises apportent leur soutien à la proposition de la délégation allemande s'agissant de l'élaboration de spécifications techniques par la commission pour les armes d'alarme et de signalisation. Cette harmonisation des critères pourrait améliorer la circulation intracommunautaire des armes d'alarme et de signalisation et contribuer à la clarté du marché pour les industriels.

Armes acoustiques et de salut : le maintien des armes acoustiques et de salut dans leur catégorie d'origine (avant transformation) est nécessaire. Il est rappelé que les modifications opérées sur une arme (fonctionnelle) pour la transformer en arme acoustique et de salut laissent aux éléments leur caractère fonctionnel, y compris le mode de fonctionnement (ex : tir en rafale).

Répliques : si les répliques sont entendues comme des reproductions d'armes ayant existé (copie fidèle dans sa forme et son fonctionnement d'une arme déjà fabriquée, la « replica » doit être classée et tracée dans les mêmes conditions que l'arme originale dont elle est la copie (pas de traçabilité pour les armes historiques, traçabilité pour les armes classées).

Proposition de reformulation

10.a.1. Member States shall take measures to ensure that alarm and signal weapons ~~as well as salute and acoustic weapons including replica and gas weapons~~ cannot be converted into firearms.

The Commission shall adopt technical specifications for alarm and signal weapons ~~as well as for salute and acoustic weapons~~ to ensure they cannot be converted into firearms.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).

10.a.2. Salute and acoustic weapons remain in their original classification.

10.a.3. Alarm and signal weapons that do not fulfill the above mentioned technical specifications are classified in categories B or C.

10.a.4. Replica firearms are classified in the same category as the original model.

10.a.5. Deactivated weapons that do not fulfill the above mentioned definition of such firearms are classified as real firearms in their original classification

Article 10aa

Les autorités françaises sont favorables au principe visant à établir des règles de conservation. Il serait néanmoins souhaitable qu'il appartienne aux Etats membres de fixer les règles techniques conformément au principe de subsidiarité.

Proposition de reformulation

10.a.a. Member States shall provide for rules on storage of firearms and ammunition that ensure that these are ~~kept under supervision~~ and stored in a way so that there is no risk that an unauthorized person will get access to the firearm or ammunition. ~~Supervision in this case shall mean that the person possessing the firearm or ammunition has immediate control over these and shall include as a minimum storage in a standardized safe box when the firearm or ammunition is not being used.~~ The level of security for the storage arrangements shall correspond to the level of dangerousness a weapon has **and the number of stored weapons.**

~~The Commission shall adopt minimum rules and specifications for the storage of firearms and ammunition that ensure that there is no risk that an unauthorized person will get access to the firearm or ammunition. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).~~

Recital

According to article 10aa, the secured storage of firearms and ammunition should include, where appropriate, the storage in a safe box or separate storage of essential elements of the firearm in order to avoid any immediate use of such firearm.

Article 10b

Le document attestant de la neutralisation de l'arme doit également fournir la preuve de l'apposition d'une marque clairement visible.

Proposition de reformulation

10.b. Member States shall make arrangements for the deactivation of firearms to be verified by a competent authority in order to ensure that the modifications made to a firearm render it irreversibly inoperable. Member States shall, in the context of this verification, provide for the issuance of a certificate ~~and~~ record attesting to the deactivation of the firearm ~~or~~ **and** the apposition of a clearly visible mark to that effect on **on each essential components of the deactivated** firearm.

The Commission shall adopt deactivation standards and techniques to ensure that deactivated firearms are rendered irreversibly inoperable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2)

Article 11.3

Il convient de supprimer au premier paragraphe de l'article 11.3 la référence aux armes de guerre et de mentionner les transferts au sens de la directive 2009/43/CE.

Proposition de reformulation

11.3. In the case of transfer of the firearms, other than weapons ~~of war~~ **that are under the scope of Directive 2009/43, and** so excluded from the scope of this Directive pursuant to Article 2 (2), each Member State may grant dealers the right to effect transfers of firearms from its territory to a dealer established in another Member State without the prior authorization referred to in paragraph 2.

Article 11.4 et 15.4

Les autorités françaises soulignent l'intérêt qu'il y aurait à ce que le site internet de la Commission serve à centraliser les informations visées :

- à l'article 11.4 concernant la liste d'armes à feu pour lesquelles l'autorisation de transfert vers le territoire d'un Etat Membre peut être donnée sans accord préalable.
- A l'article 15.4, s'agissant des dispositions des Etats membres, y compris les modifications en matière d'acquisition et de détention d'armes, lorsque la législation nationale est plus stricte que la norme minimale à adopter.

Proposition de reformulation

Article 11.4

Each Member State shall supply the **Commission and** other Member States with a list of firearms the transfer of which to its territory may be authorized without its prior consent.

Such lists of firearms shall be communicated to dealers who have obtained approval for transferring firearms without prior authorization under the procedure laid down in paragraph

3. **The Commission shall maintains on its website the information transmitted by**

Member States

Article 15.4

Member States shall notify the Commission of their national provisions, including changes relating to the acquisition and possession of weapons, where the national law is more stringent than the minimum standard they are required to adopt. **The Commission shall maintain on its website such information transmitted by Member States.**

Article 13.4 et 13.5

Les autorités françaises rappellent toute l'importance de la mise en œuvre d'une plateforme européenne d'échange de données sur les transferts intra-communautaires d'armes à feu. A ce titre, les articles 13.4 et 13.5 pourraient faire l'objet d'une nouvelle rédaction afin que la directive précise les modalités d'établissement de cette obligation collective.

En outre, le périmètre de l'échange d'information prévu à l'article 13 ne devrait pas se limiter aux autorisations et aux refus au sens de l'article 7, mais concerner tous les articles de la directive prévoyant un échange d'informations (articles 8, 4.4 et 17).

Proposition de reformulation

13.4. The competent authorities of the Member States ~~shall~~ exchange by electronic means information on ~~the authorisation granted for the transfers of firearms to another Member State as well as information with regard to refusal to grant authorisation as defined in Article 7.~~ licenses issued or refused mentioned in paragraphs 1 and 2 above, via a European platform for data exchange before [date].

13.5. The Commission shall provide for the establishment and the maintenance of a European platform for data exchange no later than [date], and is empowered to adopt delegated acts in accordance with Article 13a to define the modalities for exchange of information on the authorizations granted and on refusals

Proposition d'ajout du paragraphe 15.5

Les autorités françaises proposent l'ajout dans la directive de dispositions relatives à la sécurisation du transport et des expéditions d'armes à feu. La sensibilité du commerce d'armes au moment du transport appelle à une vigilance des Etats membres. Le plan d'action de l'UE contre le trafic illicite d'armes et d'explosifs a identifié cet enjeu en particulier s'agissant des colis postaux.

Article 15.5 :

Les entreprises expéditrices d'armes à feu prennent les dispositions nécessaires pour ne s'assurer qu'aucune mention sur l'emballage extérieur ne fait apparaître la nature du contenu quel que soit le mode d'expédition.

L'envoi postal s'effectue à vingt-quatre heures d'intervalle au moins par deux colis séparés, l'un contenant l'arme proprement dite, l'autre une partie essentielle prélevée sur cette arme.

L'expédition par voie postale doit être réalisée par envoi suivi contre signature.

Dans le cadre d'un transport par voie ferrée, aérienne et maritime, les entreprises expéditrices ou destinataires d'armes et de parties essentielles des armes des catégories A, B, C ou D prennent toutes les dispositions utiles pour que le séjour de ces armes ou parties essentielles n'excède pas vingt-quatre heures dans les gares ou aéroports et soixante-douze heures dans les ports.

Ces armes ou parties essentielles doivent être placées dans des cartons ou dans des caisses cerclées ou des conteneurs métalliques cadenassés.

Lors d'un transport par voie routière, les entreprises expéditrices ou destinataires d'armes ou de parties essentielles des catégories A, B, C ou D prennent toutes les dispositions utiles pour garantir la sécurité du transport.

Les armes ou parties essentielles doivent être placées dans des cartons ou dans des caisses cerclées ou des conteneurs métalliques cadenassés et rester sous une surveillance constante tout au long du trajet.

Proposition de refonte de l'article 16

Afin de veiller à ce que les sanctions au non-respect des dispositions de la directive sont effectives, proportionnées et dissuasives, les autorités françaises souhaitent sensibiliser la Présidence et les Etats membres à l'intérêt à renforcer la formulation de l'article 16.

Annexe I, catégorie A

La suppression de l'ancien point A8 permet d'éviter une surclassification des armes neutralisées et prend en compte l'adoption du règlement EU 2015/2403.

S'agissant du point A 5, ce classement semble problématique car rien ne permet de définir ce qu'est une munition pour arme de poing ; et ce qu'est une munition avec des projectiles expansifs.

Armes automatiques converties en armes semi-automatiques :

La France juge prioritaire d'interdire les armes automatiques converties en semi-automatiques (catégorie A6), armes dont la réversibilité est aisément opérable. La question fait davantage sens de s'attaquer à ce type d'armes dont les capacités létales sont avérées. En revanche, un travail sur les calibres pourrait déboucher sur des résultats aléatoires et difficilement opératoires.

Cette interdiction pourrait s'opérer de deux façons.

1. classement effectif de ces armes en catégorie A ;
2. application progressive de cette interdiction, de manière à ne pas inciter les détenteurs à rester dans l'illégalité :
 - sur demande de dérogation, délivrance d'une autorisation exceptionnelle de détention, personnelle et non cessible ou transmissible ;
 - dès la première cession ou transmission, obligation de neutraliser l'arme ou de procéder à une remise aux services de l'Etat pour destruction.

Armes longues ayant l'apparence d'une arme automatique : les autorités françaises sont favorables à la réintégration « des armes à feu civiles semi-automatiques qui ont l'apparence d'une arme à feu automatique » en catégorie B7. Il paraît encore plus difficile de réaliser des contrôles spécifiques aux armes longues semi-automatiques qui ont l'apparence d'une arme à feu automatique. Les armes de cette catégorie B7 se distinguent donc de celles de la catégorie A6 par le fait qu'elles sont conçues dès l'origine pour le tir en semi-automatique.

Annexe I, catégorie C :

Armes d'alarme et de signalisation : Les autorités françaises s'opposent au principe d'inclusion en catégorie C.5 des armes d'alarme et de signalisation conformes aux spécifications techniques et des répliques.

Les armes d'alarme et de signalisation pourraient être intégrées en catégorie D lorsqu'elles obéissent aux spécifications techniques définies par l'acte d'exécution de la Commission au sens de l'article 10a. Ces armes pourraient être surclassées en catégories A, B ou C lorsqu'elles ne répondent pas à ces critères.

La catégorie D pourrait être scindée en deux sous catégories D1 pour les armes soumises à enregistrement et D2 pour les armes en vente et détention libre.

Les armes visées dans la partie III de l'annexe I devraient être intégrées dans la catégorie D.

Proposition de reformulation de la classification

Category A — Prohibited firearms

1. Explosive military missiles and launchers
2. Automatic firearms
3. Firearms disguised as other objects ;
4. Ammunition with penetrating, explosive or incendiary projectiles, and the projectiles for such ammunition
- ~~5. Pistol and revolver ammunition with expanding projectiles and the projectiles for such ammunition, except in the case of weapons for hunting or for target shooting, for persons entitled to use them.~~

5. Ammunition over 12,7 mm calibre for rifled barreled firearms ;

6. Automatic firearms which have been converted into semi-automatic firearms.
- ~~7. Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms;~~

Category B — Firearms subject to authorization

1. Semi-automatic or repeating short firearms.
2. Single-shot short firearms with centre-fire percussion.
3. Single-shot short firearms with rimfire percussion whose overall length is less than 28 cm.
4. Semi-automatic long firearms whose magazine and chamber can together hold more than three rounds.

5. Semi-automatic long firearms whose magazine and chamber cannot together hold more than three rounds, where the loading device is removable or where it is not certain that the weapon cannot be converted, with ordinary tools, into a weapon whose magazine and chamber can together hold more than three rounds.

6. Repeating and semi-automatic long firearms with smooth-bore barrels not exceeding 60 cm in length.

7. Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms

Category C — Firearms subject to declaration

1. Repeating long firearms other than those listed in category B, point 6.

2. Long firearms with single-shot rifled barrels.

3. Semi-automatic long firearms other than those in category B, points 4 to 7.

4. Single-shot short firearms with rimfire percussion whose overall length is not less than 30 cm.

~~5. Alarm and signal weapons, as well as replicas;~~

Salute and acoustic weapons stay in the category in which they would fall according to how they were originally built.

~~6. Firearms from categories A, B-C, [and D] that have been deactivated in accordance with Regulation on deactivation.~~

Category D — Other firearms

1) Firearms subject to registration :

Single-shot long firearms with smooth-bore barrels.

2) Firearms on free sale and detention are those that :

i) have been rendered permanently unfit for use by deactivation according to the European regulation xxxx/xx ;

ii) were designed for alarm, signalling, life-saving, animal slaughter or harpoon fishing bird scaring or for industrial or technical purposes, provided that they can be used for the stated purpose only;

iii) are regarded as antique weapons according to national laws.

Délai de mise en œuvre

Les autorités françaises soulignent l'intérêt de prévoir une entrée en vigueur différée de la directive en fonction des dispositions et de leur impact au plan national. Il pourrait être proposé un délai de six mois pour les éléments transposables sans difficultés et un délai plus long pour les dispositions nécessitant l'adoption d'actes législatifs et d'adaptations techniques des systèmes d'information (5 ans).

Les autorités françaises souhaitent faire part de leurs réflexions sur les possibilités offertes par l'article 13 de la proposition de révision de la directive du Conseil du 18 juin 1991 relative au contrôle de l'acquisition et de la détention d'armes (91/477/CEE) :

1. Observations générales sur la mise en place d'un système dématérialisé et automatisé d'échange sur les transferts intracommunautaires d'armes à feu dites «civiles», munitions et leurs éléments

Les transferts intracommunautaires d'armes à feu dites «civiles», munitions et leurs éléments sont soumis à la délivrance préalable d'autorisations :

- les autorités de l'État membre de destination de la marchandise délivrent à un demandeur (personne morale ou physique), un accord préalable (AP) de transfert, sous réserve que le demandeur satisfasse aux exigences réglementaires ;

- les autorités de l'État membre de départ de la marchandise délivrent, sur la base de l'AP préalablement émis, un permis de transfert (PT).

Or, le dispositif actuel ne permet pas d'assurer la traçabilité des flux d'armes «de bout en bout ».

En effet, l'absence de mise en relation systématique entre l'accord préalable et le permis de transfert fragilise le suivi de la circulation des armes à feu entre les Etats-membres de l'Union. Il en résulte des risques de dissémination de matériels et d'utilisation induue ou détournée des autorisations.

Afin de garantir un encadrement efficace des mouvements intra-européens d'armes à feu (article 11 de la directive), le principe d'échange d'informations prévu à l'article 13 de la directive n° 91/477 doit se traduire par un dispositif d'échange systématique et structuré des données des accords préalables et des permis de transfert correspondants.

La nécessité d'une parfaite cohérence entre la décision des autorités de l'Etat-membre de destination des armes et la décision d'autoriser le transfert des armes d'un autre Etat-membre est primordiale en termes de sécurité.

Il faut donc que l'autorité du pays d'expédition soit systématiquement informée et de la manière la plus sécurisée possible de la décision du pays de destination (autorisations de transferts délivrées ou refusées, interdictions d'acquisition d'armes décidées par une autre autorité nationale...). Pour assurer la sécurité du dispositif, il faut que le demandeur soit exclu de la chaîne du contrôle.

Or, actuellement, le demandeur intervient dans cette chaîne, dans la mesure où il présente lui-même l'accord préalable sur la base duquel le permis de transfert est accordé.

Cette pratique comporte des risques d'exploitation irrégulière du système, y compris par des personnes qui sont interdites d'acquisition ou de détention d'armes dans le cadre national.

Il faut absolument éviter que la mise en œuvre du principe de libre circulation de ce type de marchandises permette de contourner les mesures de sécurité publique nationale.

De ce point de vue, seul un système dématérialisé et automatisé d'échange d'informations au niveau européen permettra de sécuriser les flux et d'assurer une traçabilité réelle des armes, munitions et leurs éléments.

Idéalement, un tel dispositif devrait prendre la forme d'une plate-forme européenne permettant l'échange de données entre télé-services de délivrance des autorisations de flux des États membres.

Les échanges d'informations entre téléservices permettraient :

- d'opérer un rapprochement automatique, via l'interface, entre un PT et l'AP sur la base duquel il a été délivré ;
- de signaler à l'autorité de l'EM de destination la délivrance d'un PT émis sur la base d'un AP délivré par lui ;
- d'informer les autres EM des refus de délivrance d'autorisation de flux intracommunautaires ainsi que des interdictions d'acquisition d'armes décidées par une autre autorité nationale.

La dématérialisation permettrait notamment de mieux encadrer et suivre les flux licites d'armes, de mieux démarquer les flux licites des activités illicites, de prévenir les risques d'utilisation induite d'autorisations, de prévenir les risques de dissémination/d'utilisation induite des armes à feu, munitions et leurs éléments, de structurer un système complet de traçage des armes tout au long de leur cycle de vie sur le territoire européen.

La mise en œuvre d'une plate-forme européenne d'échanges de données nécessite :

- une modification de l'article 13 de la directive 91/477. Il conviendrait d'intégrer, au travers d'une nouvelle rédaction de cet article, l'objectif du développement d'une plate-forme d'échanges entre téléservices européens de délivrance des autorisations de flux intracommunautaires d'armes à feu. Dans ce cadre, il serait important d'inscrire une date limite à laquelle l'ensemble des EM devront satisfaire à l'obligation de mise en place d'un téléservice national de délivrance des autorisations de transferts ainsi qu'une date limite pour l'interconnexion de ces systèmes nationaux via la plate-forme d'échanges ;

- le développement d'un dispositif technique inspiré du système EMCS (« Excise Movement and Control System »). La plate-forme européenne d'échanges de données relatives aux flux intracommunautaires d'armes à feu pourrait transposer les principes de fonctionnement d'EMCS, dont l'objectif est d'assurer le suivi des produits qui circulent en suspension d'accises au sein du territoire de l'Union européenne sous couvert de documents d'accompagnement dématérialisés. Ce système fait fonctionner un mécanisme d'autorisations de flux intracommunautaires de marchandises et d'apurement des mouvements, qui permet de signifier à l'État expéditeur l'arrivée de la marchandise au point de destination prévu, ainsi qu'un dispositif de coopération administrative entre les Etats membres. Un tel système permettrait le suivi des armes à feu, munitions et leurs éléments depuis leur point de départ jusqu'à leur arrivée définitive, assurant ainsi une traçabilité totale, notamment lors d'une circulation à travers plusieurs territoires.

2. Proposition de reformulation de l'article 13, par ajout/ modifications des points 4 et 5 :

[1...]

13. 4. Les autorités compétentes des États membres échangent des informations sur les autorisations délivrées ou refusées reprises aux paragraphes 1 et 2 ci-dessus via une plate-forme européenne d'échanges de données au plus tard le [date].

13.5. La Commission assure, au plus tard le [date], l'établissement et la maintenance d'une plate-forme européenne d'échanges de données et est habilitée à adopter des actes délégués en conformité avec l'article 13 bis en ce qui concerne les modalités d'échanges d'informations sur les autorisations délivrées ou refusées.

Ou encore par rapport au texte de la Commission :

13.4. The competent authorities of the Member States ~~shall~~ exchange by electronic means information on ~~the authorisation granted for the transfers of firearms to another Member State as well as information with regard to refusal to grant authorisation as defined in Article 7.~~ licenses issued or refused mentioned in paragraphs 1 and 2 above, via a European platform for data exchange before [date].

13.5. The Commission shall provide for the establishment and the maintenance of a European platform for data exchange no later than [date], and is empowered to adopt delegated acts in accordance with Article 13a to define the modalities for exchange of information on the authorizations granted and on refusals.

GERMANY

The Federal Republic of Germany is pleased that the EU Commission presented a proposal for a directive amending the firearms directive. This draft can and must now serve as the basis for additional reviews to be conducted, among others, by technical experts from the Member States. Given the short amount of time available to us so far, we have not been able to fully review the proposal. The proposed amendments are comprehensive and must be carefully reviewed to avoid systematic and legal inconsistencies. The responsible German authorities will continuously deal with the draft and support the legislative process in a constructive manner.

As of now, Germany thinks that the following points require in-depth examination and discussion:

1. Deleting the provision on granting exceptional authorizations in the Member States:

Article 6 (1)

The new version of Article 6 (1) leads to the omission of the previous provision according to which the MS authorities may grant, in special cases, authorizations for the acquisition and possession of prohibited firearms and types of ammunition where this is not contrary to public security and order.

The fact that it will no longer be possible to grant exceptional authorizations is not unproblematic in this absoluteness. There can be legitimate interests that require an exceptional authorization.

Examples include the manufacturing of prohibited weapons that are sold to authorities, expert activities, or the transport of prohibited weapons

It should therefore be discussed in which cases exceptional authorizations are necessary.

2. Prohibiting semi-automatic firearms resembling automatic firearms:

Annex I, part II

Annex I is amended insofar as semi-automatic firearms for civilian use resembling automatic firearms now belong to category A and therefore are to be banned.

This provision is not comprehensible in its present shape. It is not based on the fact that, for construction reasons, the weapon is more dangerous. Instead, the provision is purely based on physical appearance and therefore does not lead to greater security. The reasoning of the draft does not clarify why this is the case. Furthermore, this arrangement is too imprecise to be a suitable ground for a ban: When would a semi-automatic firearm sufficiently resemble an automatic firearm? An arrangement that can be implemented in practice is of special significance because the Member States would have to terminate the possession of such weapons since, according to the draft, it is no longer possible to grant exceptional authorizations. Instead of the mere looks of a weapon, technical criteria should be decisive.

Therefore the provision requires further discussion.

3. Implementation deadline of three months following the entry into force of the amending directive: Article 2

According to Article 2 (1) of the amending directive, the Member States are required to bring into force the legal adjustments to their legal requirements, necessary as a result of the amendments, within three months of the publication of the amending directive in the OJ.

This deadline cannot be met in any circumstances. The Directive provides for comprehensive amendments which in turn will have extensive impact on the Member States' weapons legislation. First of all, these amendments must be transposed in the Member States' weapons legislation. This alone cannot be done within less than one year. In addition to comprehensive legal adjustments, the amendments also require the technical expansion of the computerized data-filing systems. From a German point of view, this will take at least two years – depending on the technical requirements.

4. Provisions regarding declaration obligations and inclusion in the data-filing systems:

Article 4 (4)

Overall, it should be specified more clearly what kinds of firearms are to be included in the data-filing systems of the Member States. Pursuant to Article 4 (4) "each firearm" is to be included. The newly added weapon types (alarm and signal weapons, salute and acoustic weapons, replicas and deactivated weapons) are no firearms within the meaning of Article 1 (1). However, the recital no. 8 and the fact that these types of weapons are classified as belonging to categories A and C suggest that these types are also to be included in the data-filing systems of the Member States. This could be clarified in Article 4 (4).

From Germany's perspective, it requires further examination whether or not the planned inclusion of replicas and deactivated weapons will lead to greater security. The deactivation provisions of the implementing regulation of the Commission on the deactivation of firearms are intended to ensure that firearms are permanently rendered irreversibly inoperable. It requires further examination whether or not the investigative leads resulting from registration would justify the effort that would be caused by the registration.

It would not be a technical problem in Germany to also include alarm and signal weapons, salute and acoustic weapons in the national data-filing system. Since there are national plans to strengthen the Firearms Register, Germany is already working on possible technical solutions. If there was no retroactive inclusion and declaration obligations for dealers and manufacturers were adapted accordingly, it would not be too difficult for weapons authorities to manage the burden related to inclusion.

Furthermore, Germany thinks that the following points need to be clarified or adapted:

New Article 1 (1b): definition of essential components

So far, the following components were considered essential in the Directive: breach-closing mechanism, chamber, barrel. In the future, barrel, frame, receiver, slide or cylinder, bolt or breach block and silencer will be considered essential components. These are the components previously listed in Article 1 (1a).

As a consequence, the additional components now defined as being essential would also be subject to authorization, marking and registration obligations. If adequate technical solutions were available and there was no retroactive inclusion, it would not be too difficult for manufacturers and dealers to manage the burden related to inclusion. Against this backdrop, precise instructions for practical implementation are needed as they have not been fully provided yet (What is meant by "receiver"? The upper receiver, the lower receiver or both? What about the "chamber" which used to be considered essential? Was it removed deliberately or has it become part of another essential component?). It should therefore be examined whether it is possible to add a glossary to the Directive.

If paragraph 1b is rephrased, paragraph 1a (definition of parts) might also have to be adjusted.

New Article 1 (1e): definition of broker

The Commission should check whether the term "broker" should also cover persons whose business is to arrange the transfer of firearms, parts and ammunition from third countries to Member States.

The Article should be rephrased as follows:

“1e. For the purposes of this Directive, "broker" shall mean any natural or legal person, other than a dealer whose trade or business consists wholly or partly in buying, selling or arranging the transfer

- within a Member State,
- from a Member State to another Member State,
- from a Member State to a third country or
- **from a third country to a Member State**

fully assembled firearms, their parts and ammunition.”

New Article 1 (1f): definition of alarm and signal weapons

This provision essentially defines alarm and signal weapons as portable devices with a cartridge holder which were designed to fire blanks, irritants or pyrotechnic ammunition (and which never were, unlike salute and acoustic weapons, "real" weapons).

Such weapons should be designed in such a way that they cannot be reactivated with the help of conventional tools. This should be included in the definition. The purpose of this proposal is to make sure that alarm and signal weapons are added to category C (subject to declaration). However, if these weapons can easily be converted into real firearms, they should be treated as "real" firearms and added to category B (subject to authorization). It becomes obvious that this is in line with the purpose of the Directive when taking a look at the definition of firearm in Article 1 (1) which covers, among others, objects that can be converted into a firearm. The wording proposed below provides clarification:

“1f. For the purposes of this Directive, "alarm and signal weapons" shall mean portable devices with a cartridge holder having a gas exit to the front, aside or on the top, which

- are specifically designed and constructed for the purpose of raising alarm or sending a signal,
- are only designed to fire blanks, irritants, other active substances or pyrotechnic ammunition and
- **cannot be converted into a firearm with conventional tools.”**

The term "conventional tools" will be specified at a later point in time.

It should be checked whether it makes sense to introduce a provision stipulating that sizes of ammunition for alarm, signal, salute and acoustic weapons must not be identical to live ammunition sizes. The use of different ammunition sizes makes it more difficult to convert these weapons into "real" firearms because the use of live ammunition requires additional conversion steps.

New Article 1 (1g): definition of salute and acoustic weapons

This provision essentially defines salute and acoustic weapons as converted firearms used in the fields of theatre, photography and film production for the sole purpose of firing blanks.

Since salute weapons used to be "real" weapons, they tend to be easy to reactivate. According to German legislation, it is only permissible to convert long firearms into salute weapons. A corresponding provision should be examined at European level because long firearms tend to be less crime-relevant than short firearms.

The above-mentioned explanations regarding conversion safety and ammunition sizes apply accordingly.

Is the use of salute weapons in the fields of theatre, photography and film production just an example or the sole criterion? How would it be possible to prove the use of the weapon in this context?

New Article 1 (1h): Definition of replicas

The current definition of replicas covers all objects that cannot be converted into a firearm although they look like one. These objects include, among others, toys, air weapons and spring pressure weapons. There are reservations about adding them as replicas to category C.

It must be examined how the definition needs to be adapted. An adequate wording will be proposed at a later point in time.

New Article 1 (1i): definition of deactivated firearms

Reference should be made to the implementing regulation of the Commission on deactivation. In the future, only weapons that have been processed in line with the requirements of the implementing regulation will be considered deactivated.

New article 4 (1): obligation to mark firearms and parts

Any firearm or part placed on the market should be marked and registered in compliance with the Directive.

Depending on the definition provided in Article 1 (1b), it might be advisable to refer to essential components. The new Article 1 (1b) covers all parts of a firearm necessary for its functioning. Should it be necessary to also mark other components of a weapon (individual screws, springs, etc.), this would require more efforts but would not lead to greater security.

The Directive does not contain requirements specifying how to avoid that markings are easily erased, although this is announced in recital no. 10. From a German point of view, it would be sufficient to require the marking to be permanently affixed in a recognized procedure in line with the state of the art. More extensive provisions would likely result in overregulation. Furthermore, it must still be possible to use different marking methods (e.g. stamping, laser engraving) because not all methods work for all components.

New Article 4 (2): marking requirements

The data to be affixed with the marking remain unchanged. All markings must now be affixed to the receiver. Packages of ammunition will be marked as usual. References to the CIP Convention are deleted (for both markings of firearms and markings of ammunition). The provision on transfer of firearms from government stocks to permanent civilian use remains largely unchanged.

Even if the data to be affixed with the marking remain unchanged, we think that the Commission should examine whether the marking particulars used so far permit ready identification and traceability as expected and required by the Directive. Examinations in connection with Germany's Firearms Register showed that this is by no means always the case. Therefore, we plan to assign a unique identification number to each firearm in Germany's Firearms Register in addition to the markings required by the EU and weapons law to ensure that each firearm recorded in the Firearms Register can be clearly identified. The Commission could consider whether a similar unambiguous identification of firearms should be introduced in the EU.

We should further discuss the issue of affixing the marking to the receiver. How do we mark firearms which are designed without a receiver (e.g. revolvers)? In these cases, an alternative should be available.

We need to examine whether information on the calibre should also be included in the marking. The calibre is a piece of information that must be recorded in the data-filing systems in line with no. 4.

It is unclear why the references to the CIP Convention are deleted. Eleven Member States are also CIP members and obliged to comply with the pertinent provisions. Therefore, this option should be maintained.

We would like to ask the Commission to examine whether a ban can be introduced for transfers from government stocks to permanent civilian use, subject to suitable competences. Although the current provision still follows the wording of the UN Firearms Protocol, the dissolution of government stocks should not promote civilian armament.

New Article 4 (4): Member States' data-filing systems

The data to be stored in the filing systems remain unchanged. The retention period is increased from now 20 years to the lifespan of the firearm. The requirement that the registers of dealers and brokers must be connected to filing systems has been added to the current wording.

The provision on retention periods corresponds to the provision in the Act Establishing a National Firearms Register, specifying that firearms must not be removed from the register.

We expressly welcome the provision to connect dealers and brokers to the filing systems. In Germany, we plan to implement a technical solution that requires dealers and manufacturers to report their manufactured and traded firearms via a headend directly to the filing system for IT security reasons (without giving them access to data in the filing system).

New Article 4b: checking dealers and brokers

The obligation of Member States to create a system regulating the activities of brokers is extended to include dealers. The procedure to authorize trading and brokering activities is to include a check of the natural and legal person.

However, in the case of legal persons it is unclear what has to be checked because there are no provisions like those in Article 5 for natural persons.

Paragraph 2 repeats the new Article 4 (3) which, as far as checking legal persons is concerned, refers to the check on the natural person who directs the undertaking.

New Article 5: prerequisites for authorization

Article 5 (1) remains unchanged. The provision on the withdrawal of authorizations has been deleted from paragraph 2. The new paragraph 2 provides for a mandatory medical test before authorizations are issued or renewed.

Why was the previous provision on the withdrawal of authorizations deleted? In Germany's view, stricter national provisions on withdrawal remain possible within the meaning of Article 3.

The type and objective of the medical tests need to be further specified. Does this refer to psychological tests? To what extent should authorities be given access to test results? Mandatory psychological examinations would not be acceptable from our perspective.

New Article 6: ban on category A firearms and acquisition by distance communication

The provision on exceptional authorizations for prohibited firearms has been deleted from Article 6 (1). The new paragraph 2 includes a provision specifying that museums may keep prohibited firearms only if these firearms have been deactivated. Paragraph 3 limits acquisition by distance communication to dealers and brokers.

The provision on the possession of prohibited firearms by museums might be a case of overregulation. Are there reports about firearms which disappeared from museums so that such a provision seems necessary?

We cannot agree to the deletion of the provision on exceptional authorizations (see above).

Online business has proven susceptible to abuse. We therefore support adopting provisions in this area. However, the scope of the proposed ban on acquisition by distance communication is not entirely clear: Should consumers be excluded from online business altogether (only business-to-business trade) or should they be allowed to acquire firearms, but only from dealers? The distinction will also have to depend on whether dealers have better means to check the permission to acquire firearms of potential customers than private parties, for example.

In the course of strategic considerations on expanding the National Firearms Register, the relevant associations explicitly asked us to enable them to check the validity of authorizations of their business partners. Subject to a data protection assessment, this could be technically implemented quite easily during a possible upgrade of the register, for example through a certificate check.

New Article 7 (4): maximum limits for authorizations

The new provision introduces a renewable maximum limit of five years for firearms authorizations.

We agree that an authorization should not apply for an unlimited period without verification of whether the conditions for an authorization continue to be fulfilled. However, it should be discussed whether or not verifying these conditions at certain intervals is sufficient.

New Article 10a: preventing conversion of alarm, signal, salute and acoustic weapons:

The new provision requires Member States to take measures to prevent the aforementioned types of weapons from being converted into firearms. The Commission is given the power to adopt relevant technical specifications in an implementing act.

Germany welcomes European provisions on standards for the aforementioned types of weapons. In this area, harmonizing standards at a high level can achieve greater security, in particular by preventing these types of weapons from being converted into “real” firearms. We have reservations about conferring the power to adopt technical specifications for alarm, signal, salute and acoustic weapons in an implementing act. Specifications that seriously affect the manufacturers of such objects should be made in a conventional legislative process. Moreover, permanent provisions which do not need regular updates should be adopted in this area. These provisions can be included in an annex to the directive.

New Article 10b: deactivating firearms

The provision requires Member States to verify and attest the deactivation of firearms and gives the Commission the power to adopt implementing acts on deactivation.

It should be discussed whether or not the provision governing Member States' obligations should be deleted because it has become obsolete given the recently adopted implementing regulation on deactivation. In addition, the draft currently requires Member States to issue a certificate after verification OR to affix a mark to that effect. However, both actions need to be carried out together. If the provision is maintained, the wording should be as follows:

“[...] provide for the issuance of a certificate or record attesting to the deactivation of the firearm and the apposition of a clearly visible mark to that effect on the firearm.”

New Article 13 (4) and (5): exchanging information on authorizations granted

By adding the new paragraphs 4 and 5, the Commission is empowered to adopt delegated acts to determine the modalities of exchanging information about granted and refused authorizations to transfer, acquire and possess firearms.

In our view, we need to thoroughly examine whether the provision provides any additional benefit. We would like to ask the Commission to express its opinion on the following questions: Should authorizations to transfer firearms as well as authorizations to acquire and possess firearms be recorded? How should the refusal to grant authorization be recorded (in Germany, bans on possessing firearms and the withdrawal of an authorization are recorded in the Firearms Register but not the mere refusal to grant an authorization)? Do you have figures on attempts to acquire firearms in several Member States? What is the merit of knowing that another Member State has refused authorization if the Member State concerned must in each individual case verify itself whether the requirements for authorization are fulfilled? Does the Commission already have ideas how the information exchange could take place?

Since Article 17 includes a “review clause” for the Commission specifying that the necessary elements of a system for the exchange of information contained in the Member States' individual data-filing systems should be assessed, it should also be examined whether a separate “filing system for authorizations” would be necessary when connecting these data-filing systems.

New Article 13a: Commission's power to adopt delegated acts

We have reservations about conferring a general power to adopt delegated acts. It should be specified in which areas the Commission should be allowed to adopt provisions.

New Article 17: Commission's obligation to report and assess

According to this article, the Commission is obliged to report every five years on the application of the directive and assess the exchange of information in the data-filing systems, accompanied, if appropriate, by a legislative proposal.

The reporting obligation is not critical. The assessment of the exchange of information contained in the filing systems depends on the individual case. In Germany's view, uniform (data exchange) standards would have to be established when connecting the filing systems.

New category A: additional prohibited firearms

It is planned to prohibit the following firearms: automatic firearms which have been converted into semi-automatic firearms; semi-automatic firearms which resemble weapons with automatic mechanisms; firearms under category A after having been deactivated.

From a security point of view prohibiting automatic firearms which have been converted into semi-automatic firearms deserves consideration. At least certain automatic firearms converted into semi-automatic firearms are more likely to have their automatic firing capability restored.

Prohibiting semi-automatic firearms which resemble weapons with automatic mechanisms is not reasonable (see above).

Whether or not prohibiting the acquisition and possession of deactivated prohibited firearms has to be mandatory needs to be examined.

New category C: alarm, signal, salute and acoustic firearms, replicas and certain deactivated firearms subject to declaration

The amendment of category C renders alarm, signal, salute and acoustic firearms, replicas and certain deactivated firearms subject to declaration.

The need for deactivated firearms and replicas to be subject to declaration requires further examination. Viewed objectively, both types of firearms are not dangerous(see above).

Annex I part II point B:

The paragraph is deleted because essential parts have been newly defined (new Article 1b). Since its entire wording is deleted, point B can be removed as a whole so that it is no longer necessary to divide Annex I part II into points A and B.

Article 2: entry into force

We cannot agree to the provision on the entry into force (see above).

Article 2 (1), second sentence, and Article 2 (2) include repetitions.

Article 1

Paragraph 1b:

- The proposed amendments to paragraph 1b require consequential modifications of paragraph 1a and possibly to articles using the term “part”. Are there parts which, by definition in article 1a need to be “specifically designed for a firearm and essential to its operation”, that are not essential components in the sense of new paragraph 1b?
- Why was the chamber deleted from the list of essential components?
- The term “receiver” requires clarification with regard to different construction methods. Does it mean the upper or lower receiver of a Colt AR 15? Which part of a repeating long firearm is the receiver? The term “receiver” requires clarification with regard to different construction methods. Does it mean the upper or lower receiver of a Colt AR 15? Which part of a repeating long firearm is the receiver?

Paragraph 1e:

- In order to ensure a consistent terminology in arms-related legal acts a harmonisation of the definition of brokers and rules regarding this profession with Article 2 of COUNCIL COMMON POSITION 2003/468/CFSP of 23 June 2003 on the control of arms brokering should be considered.
- Importing and exporting should be covered alike.

Paragraph 1f:

- It should be clarified in technical specifications that the calibre of blanks must not be identical with calibres of live ammunition. Such a criterion makes conversion of alarm and signal weapons into firearms more difficult.

- Paragraph 1a already stipulates that objects that can be converted to a firearm are to be treated as a firearm. The proposed clarification underlines this requirement and offers a benchmark for the necessary level of capability of resistance against conversion (conventional tools). Further specification of this term can be included in Annex I Section IV.

Paragraph 1g:

- As salute weapons (as former firearms) offer a higher potential of conversion it should be considered whether only long firearms (less likely to be used in crimes) should fall under this category of weapon.
- See also comment on paragraph 1f.

Paragraph 1h:

- Further clarification needed.

Paragraph 1i:

- Reference to the Commission Implementing Regulation ensures that only weapons deactivated in accordance with said Regulation are considered as deactivated in the sense of the Directive.

In Article 4:

Paragraph 1:

- The term „firearm“ comprises only firearms in the sense of Art. 1 para. 1, not objects defined in Art. 1 para. 1f to 1i. It should be clearly stated which objects fall under the requirement of marking and registration.

- The Directive does not contain requirements specifying how to avoid that markings are easily erased, although this is announced in recital no. 10. From a German point of view, it would be sufficient to require the marking to be permanently affixed in a recognized procedure in line with the state of the art. More extensive provisions would likely result in overregulation. Furthermore, it must still be possible to use different marking methods (e.g. stamping, laser engraving) because not all methods work for all components.
- This ensures that every firearm is marked and registered in a timely manner more precisely than the term “placed on the market”.

Paragraph 2:

- Should this mean, that the marking has to be present when the firearms enters EU territory, it would be necessary to apply the marking to the firearm already before the firearm enters the EU. The time for marking should be the same as in para. 1 (without delay after manufacture od import).
- The calibre is a date that has to be recorded in the data-filing systems. It should also be part of the marking requirements.
- A receiver is not used in all types of firearms (e.g. revolvers). Therefore, an alternative should be to mark the frame. The term “receiver” requires further clarification as this term could designate different components (upper or lower receiver).

Paragraph 3:

Checks on the legal person will usually be performed by checking the person who directs the undertaking. There is no need to provide for checks of the legal person herself, especially as the criteria mentioned before (integrity, abilities) are hardly applicable to a legal person.

Comments regarding the Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons

Revised text (2 February 2016, Doc. 5662/16)

As has been stated in earlier comments, Germany welcomes the Commission's proposal as a basis for discussion on how the European framework for firearms legislation can be rendered more effective. Given the progress made in the GENVAL deliberations so far and taking into account the political guidance given by the JHA Council of March 10/11, Germany wishes to raise the following questions and propose the following amendments based on the revised text presented by the Presidency on 2 February 2016.

I. Article 1 of the Proposal - Amendments to the Firearms Directive

1. Art. 1 (1a) - Parts

Given the amendments to para. 1b (introducing an extended notion of essential components) it should be examined whether or not there is still need for a definition of firearm parts in para. 1a. This would only be the case if such parts would still have to fall within the scope of the Directive. Should this not be the case, para. 1a might be deleted.

2. Art. 1 (1b) - Essential components

The insertion of the words „any part of a firearm that is essential to its operation such as“ in para 1b should be retracted. Due to the legal consequences of the classification of a part as an essential component (requirement of authorisation, marking, registration), these must be clearly defined. This is not the case with a non-exhaustive list of examples which the current wording suggests.

The deletion of the chamber from the list of essential components requires explanation. If there was no specific reason for the deletion, the chamber should be reintroduced to the list of essential components.

The term “receiver” requires clarification with regard to different construction methods. Does it mean the upper or lower receiver of a Colt AR 15? Which part of a repeating long firearm is the receiver?

Germany proposes the following amendments:

- 1b. For the purposes of this Directive, "essential component" **means** the barrel, chamber, frame, receiver, slide or cylinder, bolt or breech block which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted. **In addition, any device designed or adapted to diminish the sound caused by firing a firearm shall be regarded as an "essential component."**

3. Art. 1 (1e) - Broker

In order to ensure a consistent terminology in arms-related legal acts a harmonisation of the definition of brokers with Art. 2 of Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering should be considered. However, for the purposes of the Directive, we understand the term "broker" to mean any person who arranges or otherwise supports the selling and purchasing of firearms without being in permanent possession of brokered firearms him- or herself (see comments on Art. 4 para. 4).

Furthermore, it should be examined whether activities regarding transactions between third countries involving a broker from the EU should fall within the scope of the Directive.

The term „parts“ should be replaced by „essential components“ in order to provide for a consistent terminology (see comment on Art. 1 para. 1a). In order to express more clearly that the trade objects listed in para. 1e need not be traded cumulatively for the definition to apply, the last „and“ should be replaced by the word “or”.

Germany proposes the following changes:

- 1e. For the purposes of this Directive, "broker" **means** any natural or legal person, other than a dealer whose trade or business consists wholly or in part of any of the following: buying, selling, or arranging the transfer within a Member State, from one Member State to another Member State, **from a Member State** to a third country **or from a third country to a Member State (...)** firearms, their essential components or ammunition"

4. Art. 1 (1f, 1g) - Alarm and signal weapons, salute and acoustic weapons

Para. 1f should be amended as proposed below. For the purpose of defining such weapons, it is irrelevant, where the gas exit is located (front, side or top) or for which purpose (i.e. for which intended use) the weapon was designed and constructed. The wording „devices with a cartridge holder designed to fire only blanks...“ clearly stipulates that alarm and signal weapons cannot be modified firearms and that they must not be equipped with a cartridge holder that can be loaded with live ammunition. It should, however, be clarified in technical specifications that the calibre of blanks must not be identical with the calibres of live ammunition. Such a criterion makes conversion of alarm and signal weapons into firearms more difficult.

Art. 1 para. 1 already stipulates that objects that can be converted to a firearm are to be treated as a firearm. The proposed clarification in paras. 1f and 1g (“that cannot be converted into a firearm with conventional tools”) underlines this requirement and offers a benchmark for the necessary level resistance against conversion (which must not be possible with conventional tools). Further specification of the term “conventional tools” can be provided by including a list of such tools in Annex I Section IV.

As salute weapons (as formerly fully functional firearms) offer a higher potential of conversion than alarm weapons, it should be considered whether only long firearms (which are less likely to be used in crimes) should be allowed to be converted to this category of weapon. If, however, salute weapons will remain in their category of origin, such restrictions would not need to apply.

Germany proposes the following changes:

- 1f. For the purposes of this Directive, "alarm and signal weapons" **means** portable devices with a cartridge holder designed to fire only blanks, irritants, other active substances or pyrotechnic ammunition that cannot be converted into a firearm with conventional tools.
- 1g. For the purposes of this Directive, "salute and acoustic weapons" **means** long firearms specifically converted to the sole use of firing blanks, for use **such as** in theatre performances, photographic sessions, film and television recordings, historical reenactments, parades, sporting events and training that cannot be reconverted into a firearm with conventional tools.

5. Art. 1 (1h) - Replica

Para. 1h (replica) tries to define objects - including toys - that are objectively not dangerous but could merely be used for threatening. Such objects should not fall under the scope of the Directive as the administrative burden for marking and registration, for example, would be out of proportion to the anticipated benefits. Para. 1h should therefore be deleted.

6. Art. 1 (1i) - Deactivated firearms

A simple reference to the Commission Implementing Regulation already ensures that only weapons deactivated in accordance with said Regulation are considered as deactivated in the sense of the Directive. The standards do not require repetition.

Germany proposes the following changes:

- 1i. For the purposes of this Directive, "deactivated firearms" **means** firearms that have been modified **in accordance with Commission Implementing Regulation (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques**

7. Art. 1 (2) - Dealer

Should the definition of parts in para. 1a (see comment there) be deleted, the reference to parts should be removed here as well.

Germany proposes the following changes:

2. For the purposes of this Directive, "dealer" means any natural or legal person whose trade or business consists wholly or in part of any of the following:
 - (i) the manufacture, trade, exchange, hiring out, repair or conversion of firearms, **essential components thereof**; or
 - (ii) the manufacture, trade, exchange or conversion of ammunition."

8. Art. 4 (1, 2) - Marking

The term „firearm“ comprises only firearms in the sense of Art. 1 para. 1, not objects defined in Art. 1 para. 1f to 1i that will in the future fall within the scope of the Directive. It should be clearly stated which objects (in addition to firearms and their essential components) fall under the requirement of marking, registration and possibly authorisation. This must be handled consistently throughout the whole Directive.

a) para. 1

The Directive does not contain requirements specifying how to avoid that markings are easily erased, although this is announced in recital no. 10. From the German point of view, it would be sufficient to require the marking to be permanently affixed in a recognized procedure in line with the state of the art. More extensive provisions would likely result in overregulation. Furthermore, it must still be possible to use different marking methods (e.g. stamping, laser engraving) because not all methods work for all components due to the use of different materials.

The wording “without delay after manufacture or import to the Union” ensures that every firearm is marked and registered in a timely manner more precisely than the term “placed on the market”.

Germany proposes the following changes:

1. Member States shall ensure that any firearm or **essential component thereof** has been clearly and permanently marked according to the state of the art and registered in compliance with this Directive without delay after manufacture or import into the Union.

b) para. 2

The word „assembled“ might be removed as it has no obvious function. Para. 2 should be rephrased to express more clearly that each essential component should be marked (not only each essential component of an assembled firearm, as the current wording suggests).

The wording “at the time of their import” might be (mis)understood as meaning that the marking already has to be affixed before the firearm enters EU territory - which would be hard to implement. The time for marking should be described the same way as in para. 1 (“without delay after manufacture or import”).

Para. 2 subparas. 1 and 2 require clarification regarding the marking of essential components: are these supposed to carry a full marking as subpara. 1 suggests or is a marking with the serial number sufficient as subpara. 2 suggests? Most likely, a distinction between essential components built into a firearm and essential components traded individually will be necessary. Furthermore, it must be discussed which marking requirements apply when essential components are exchanged.

A ban of transfers from government stocks to permanent civilian use should be considered. Although the current provision still follows the wording of the UN Firearms Protocol, the dissolution of government stocks should not promote civilian armament.

Germany proposes the following changes:

2. For the purposes of identifying and tracing each firearm **and essential component**, Member States shall, without delay after manufacture or import into the Union, 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 already part of the serial number. This shall be without prejudice to the affixing of the manufacturer's trademark.

The marking shall be affixed to the receiver of the firearm **or, for those without a receiver, to the frame. The serial number shall be affixed to all essential components of the firearm.**

Member States shall ensure that each elementary package of complete ammunition is marked so as to provide the name of the manufacturer, the identification batch (lot) number, the calibre and the type of ammunition.

For those purposes, Member States may have regard to the provisions of the Convention on Reciprocal Recognition of Proofmarks on Small Arms of 1 July 1969.

Furthermore, Member States shall ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the unique marking permitting identification of the transferring **entity**.

9. Art. 4 (4) - Data-filing systems, registration, brokering

a. subpara.1

The text proposed by the Commission leaves open the question of when the firearms should be registered. This needs to be clarified. To ensure full traceability, firearms as defined in the Directive should be registered at the time of their manufacture in a Member State or at the time of import into a Member State. *This should not apply to firearms carried by travellers during short term travels (e.g. hunting trips).*

For full traceability of firearms it would also be useful to register not only the name and addresses of the supplier and the buyer of a firearm, but to ensure that the firearm can be linked to its owner at all times. Moreover, this would be in line with Art. 4 (5) of the Directive currently in force, pursuant to which "Member States shall ensure that all firearms may be linked to their owner at any moment".

Germany proposes the following changes:

(a) in the first subparagraph, the second sentence is replaced by the following:

"This filing system shall without delay after manufacture or import into the Union record the type, make, model, calibre and serial number of each firearm, as well as the names and addresses of the supplier and of the person acquiring or possessing the firearm. *This does not apply to firearms which are for a short term taken over the border into, through or out of the area of a Member State on a trip without relinquishing possession of the same.* Member States shall ensure that a connection between each firearm and the natural or legal person currently possessing the firearm can be established at any time. The record of firearms, including deactivated **and destroyed ones**, shall be maintained **for an indefinite period.**"

b) subpara. 2

The definition of the term "broker" in Art. 1 of the Directive is still unclear. There are two definitions for the term "broker", one in Art. 1 (1) (e) and another one in Art. 1 (2).

We understand the term "broker" to mean any person who arranges or otherwise supports the selling and purchasing of firearms without being in permanent possession of brokered firearms him- or herself. Based on this interpretation of the term, brokers would not have to keep a register because they possess brokered firearms only temporarily, if at all.

In contrast, manufacturers and dealers of weapons must keep a register. Any firearm documented in such a register should also be entered in the relevant national weapons register (computerised data-filing system) as soon as possible to ensure full traceability of the firearm. In addition, this would be a useful and logical complement to the requirements in Art. 4 (4), subpara. 1, stipulating that the names and addresses of the supplier and the person acquiring or possessing the firearm must be registered.

If the relevant firearms data of all weapons manufacturers and dealers are recorded in the relevant national weapons registers, it is no longer necessary to deliver these firearms registers to the relevant national authorities responsible for the computerised data-filing system.

Germany proposes the following changes:

(b) the second subparagraph is replaced by the following:

"Throughout their period of activity, each dealer shall be required to maintain a register in which all firearms subject to this Directive and which are received or disposed of by them shall be recorded, together with such particulars as enable the firearm to be identified and traced, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the persons supplying and acquiring it.

Each Member State shall ensure that all data of the dealers' registries established in their territory are recorded in the computerised data-filing system of firearms."

10. Art. 4b - Brokering

The revised text for Art. 4 (b) as proposed by the Commission is still unclear; in particular, the question of how it relates to Art. 4 (3) remains unclear.

If the sole intention is to stipulate that all member states should allow activities of weapons brokers or dealers only if the latter have an authorisation, the existing provision in Art. 4 (3) of the Directive is sufficient.

If, however, the intention is to register these authorisations or to record them in the national weapons register, the provision should be clarified.

Germany proposes the following changes:

(a) (b)

Alternatively (to a deletion of Art. 4b) replacement of the current wording by:

Member States shall ensure that each authorisation as defined in Article 4 (3) is recorded in the computerised data-filing system.

11. Art. 5 - Prerequisites for issuing of licenses

Standard (i.e. groundless) medical and psychological checks as a requirement for issuing a firearms license would offer limited gain in knowledge. It is deemed unlikely that such checks will serve the purpose to identify individuals that should not be granted access to firearms - except for obvious cases which can already now be identified by the authorities. Germany however supports the obligation to carry out examinations in cases where evidence suggests that somebody does not have, or no longer has, the personal aptitude to possess a weapon.

As has been pointed out by a majority of Member States at the latest JHA Council, the rules of the current Directive regarding the minimum age should be maintained.

Germany proposes the following changes:

1. Without prejudice to Article 3, Member States shall authorise the acquisition and possession of firearms only by persons who have good cause and who:

(a) are at least 18 years of age, except in relation to the acquisition, other than through purchase, and possession of firearms for hunting and target shooting, provided that in that case persons of less than 18 years of age have parental permission, or are under parental guidance or the guidance of an adult with a valid firearms or hunting licence, or are within a licenced or otherwise approved training centre;

(b) are not likely to be a danger to themselves, to public order or to public safety; having been convicted of a violent intentional crime shall be considered as indicative of such danger. Where there are factual indications that a person is not or no longer fit to possess firearms, Member States shall require the person in question to obtain a certificate of physical or mental aptitude from a public health officer, specialist or psychologist at his or her own expense.

2. Member States shall withdraw the authorisations and refuse their renewal if any of the conditions on the basis of which the authorisation was granted are no longer met.

Member States shall not prohibit persons resident within their territory from possessing a firearm acquired in another Member State unless they prohibit the acquisition of the same type of firearm within their own territory.

12. Art. 6 - Exceptional authorisations, trade by means of distance communication

Allowing for exceptional authorisations only for possession of firearms does not meet the requirements of practice. Insofar, the current wording of the Directive („authorisations for such firearms“) should be maintained. However, non-exhaustive examples of cases requiring special authorisations could be added in order not to allow for an extensive practice of authorisations.

The proposal in para. 3 is not convincing and is not required besides para. 2. While collectors and museums should fall within the scope of the Directive, there is no need to subject them to stricter rules than other persons or institutions requiring exceptional authorisations.

The rules for trade in firearms by means of distance communication should apply to dealers and to sales of firearms as well (this is not the case under the current Directive). However, the proposed ban is going too far. Dealers have no better means to check the identity and relevant authorisations of their customers than private sellers. The rules on strict control should therefore be maintained and rendered more precisely as laid out below.

Germany proposes the following changes:

1. **Without prejudice to Article 2(2),** Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition listed in category A in Annex I. They shall ensure that those firearms and ammunition unlawfully held in contravention of that prohibition are seized.
2. **In special cases (production, development, testing, transport, research, expert activity and other cases in which there is a legitimate interest), and without prejudice to paragraph 6.1, the competent authorities may grant authorisations for such firearms and ammunition where this is not contrary to public security or public order.**

- 3. Without prejudice to paragraph 6.1**, Member States may authorise bodies concerned with the cultural and historical aspects of weapons and recognised as such by the Member State in whose territory they are established to keep in their possession firearms classified in category A acquired before* the date of entry into force of this Directive] provided they have been deactivated in accordance with **Commission Implementing Regulation (EU) 2015/2403 or have been exempted from deactivation on grounds of the conservation of cultural and historical heritage and if it can be demonstrated that their storage does not put public safety and security or public order at risk .**
- 4.** Member States shall ensure that, the acquisition of firearms and the selling of firearms and their essential components and ammunition by means of distance communication, as defined in *Article 2 of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts*, shall, where authorised, be strictly controlled. Member States shall require the contracting parties to verify at least their respective identity and the relevant authorisations and to document said verification. This shall apply to cross-border transactions as well. The verification shall - *where possible* - be done by electronic means or - where such means are not yet available - by reporting acquisitions and sales to the competent authority.

(*) OJ: Please insert a date: data of publication of this amending Directive +20 days.

(**) Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts (OJ L 144, 4.6.1997, p.19)."

13. Art. 7 - Maximum period of validity

The added value of authorisations expiring after a maximum of five years is unclear. The decisive point is the periodic verification that the conditions for granting an authorisation are still met. Art. 7 para. 4 lit. b already contains a provision to this effect that could be rendered more precisely.

Germany proposes the following changes:

Art. 7 para. 4 lit. b is replaced by the following:

“(b) the periodic verification - at intervals not exceeding three years - that those persons continue to satisfy the conditions; and”

14. Art. 10a - Rules on alarm and signal weapons, salute and acoustic weapons

Replica should not fall under the scope of the directive (see above). Given the definition of alarm and signal weapons in Art. 1 para. 1 if the mention of „gas weapons“ is not necessary as these are clearly covered by the current definition.

Germany proposes the following changes:

Member States shall take measures to ensure that alarm and signal weapons as well as salute and acoustic weapons cannot be converted into firearms.

The Commission shall adopt technical specifications for alarm and signal weapons as well as for salute and acoustic weapons to ensure they cannot be converted into firearms.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Art. 13b(2).

15. Art. 10aa - Safe storage

Preventing the access of unauthorised persons to firearms is undisputedly essential to safeguarding public security. It is, however, less clear whether - with regard to Art. 114 TFEU - this subject can be dealt with in the Directive. Storage of firearms has no obvious cross-border implications, is of limited relevance for the common market and (unlike other subjects dealt with in the proposed amendment) is not merely a continued development of subjects already dealt with in the current Directive. Should a majority of Member States wish to see storage included in the scope of the Directive, the corresponding rules should be limited to basic standards, thus leaving detailed regulation in the hands of Member States.

Germany proposes the following changes:

Member States shall establish rules on the proper storage of firearms and ammunition that ensure that they are stored in a way that there is not risk of being accessed by an unauthorised person. This shall include as a minimum the storage in a standardised safe box, safe room or equivalently safe device. The level of scrutiny for the storage arrangements shall correspond to the level of dangerousness and the number of firearms authorised.

16. Art. 10b - Deactivation of firearms

New Art. 10b will be the future legal basis for the Commission Implementing Regulation on Deactivation that already requires marking and a certificate.

Germany proposes the following changes:

Member States shall make arrangements for the deactivation of firearms to be verified by a competent authority in order to ensure that the modifications made to a firearm render it irreversibly inoperable. Member States shall, in the context of this verification, provide for the issuance of a certificate **and** record attesting to the deactivation of the firearm and the apposition of a clearly visible mark to that effect on the firearm.

The Commission shall adopt deactivation standards and techniques to ensure that deactivated firearms are rendered irreversibly inoperable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Art. 13b(2)."

17. Art. 13 (4, 5) - Information exchange

a. para. 4

Sharing information about refused authorisations does not seem to provide added value, if such refusal is based on other grounds than the reliability of the applicant (e.g. age).

We cannot see any need for such information in any other Member State. In any case, information should be exchanged electronically. It is, however, not necessary to specify the systems to be used for it.

b. para. 5

The same holds true for Art. 13 (5): the sentence referring to the exchange of information about refused authorisations should be deleted.

Germany proposes the following changes:

4. The competent authorities of the Member States shall exchange **by electronic means** information on the authorisations granted for the transfers of firearms to another Member State.
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 13a concerning the detailed arrangements for the exchange of information on authorisations granted for the transfer of firearms."

18. Annex I - Categories of firearms

The current proposal to transfer category B7 to A7 (even if limited to long firearms) is still based on the looks of the firearms in question instead of criteria with relevance for the dangerousness of firearms. It should be replaced by the proposal added below (semi-automatic firearms that can be converted into automatic firearms using standard tools). This would complement the ban of automatic firearms and automatic firearms which have been converted into semi-automatic firearms and would thus establish a coherent set of rules for (potentially) automatic firearms.

The current version of the draft subjects alarm and salute weapons to stricter regulations than shotguns (category D weapons). This is inconsequential and should be amended by transferring category D to category B.

Given the current definition of replica in Art. 1 para. 1h, replicas are objectively not dangerous. They should therefore (if it is deemed necessary that they be covered by the Directive at all) not be subject to declaration.

(1) (...) Annex I to Directive 91/477/EC (...) is amended as follows:

(a) **part II is replaced by the following:**

"For the purposes of this Directive, the following categories of firearms are set out:"

(i) point A **and definition of firearms are deleted.**

(ii) in Category A, the following points are added:

- "6. Automatic firearms which have been converted into semi-automatic firearms;
- 7. Semi-automatic firearms that can be converted into automatic firearms using standard tools;
- 8. (...)

(ii) in category B the following point is added:

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

(iii) In Category C, the following points are added:

- "5. Alarm and signal weapons (...);

Salute and acoustic weapons stay in the category in which they would fall according to how they were originally built.

- 6. Firearms **from categories A, B , C [and D] that have** been deactivated **in accordance with Regulation on deactivation."**

(iv) Category D is deleted.

II. Article 2 of the Proposal - Transposition deadline

The deadline of the Commission's proposal cannot be met in any circumstances. The Directive provides for comprehensive amendments which in turn will have extensive impact on the Member States' weapons legislation. First of all, these amendments must be transposed in the Member States' weapons legislation. This alone cannot be done within less than one year. In addition to comprehensive legal adjustments, the amendments also require the technical expansion of the computerised data-filing systems. From a German point of view, this will take at least two years – depending on the technical requirements. It should, however, be examined whether or not some provisions could be brought into force earlier than others.

Depending on the amendments that will eventually have to be transposed into national law, transitional periods for registration, marking and other provisions need to be considered.

Germany proposes the following changes:

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive [**12** months after publication to the OJ]. The technical adaptations of Article [...] shall be implemented [24 months after publication in the OJ]. Regarding Article [...] Member States may provide for a transitional period of up to [24 months after publication in the OJ]. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

GREECE

Our Country, generally sees positively the draft amending Directive 91/477/ EEC on control of the acquisition and possession of firearms , since base is given on information exchange, better control of transport, tracing of firearms and curtailing their purchase over the internet. Many changes-additions in the proposal are already included in our national legislation. Some points need better explanation and analysis on the part of the Committee, as described below:

3. Gas-alarm weapons, flare-signal weapons, and replicas, are already included in our national legislation. They must be given further definition and clarification from the Commission since:
 - a) In Article 1, paragraph 1f where the concept - definition of «Alarm and Signal Weapons» is given, it is not clear whether it refers only to «Flare - Signal Weapons» meaning weapons using flares etc for signaling, or also to «Gas Alarm Weapons», since in the definition given for weapons in category «Alarm and Signal Weapons» describes them to be designed to fire apart from blanks cartridges and cartridges with «irritants» substances or other pyrotechnic ammunition.
 - b) Regarding the addition of paragraph 1g, stating «Salute and Acoustic Weapons» which are suitably modified weapons to fire blanks cartridges for theater performances etc, there should be more accurate identification of the type of such weapons and to provide examples and technical data in order to understand exactly what type of weapons the draft refers to.
 - c) About the addition 5 in category C (apart from the clarifications to be made for «Alarm and Signal Weapons» and «Salute and Acoustic Weapons»), we believe that there should be greater clarity in the definition given for replicas. Since they will belong to a category of weapons of the Directive, the definition must be specific and not cause confusion as to which weapons fall into this definition.

- d) In any case, for all the above additions, the details need to be clarified, on how to ensure that these weapons can not be converted into active firearms, as described in the draft of the Directive, and the role of the committee on this. Note that «Gas Alarm Weapons» are not for civilian use in our country and we want this to remain as is.
4. Deactivated firearms: For firearms in category A, the proposal states that they have to remain in category A and firearms in category B to be transferred in category C, after being deactivated. That means that they would still be considered as firearms even after deactivation.
- However, the regulation in signing, of Deactivation of firearms, clearly provides the procedures for deactivation and issuing certificates, of both Cat. A, and Cat. B firearms.
 - Our department agrees with the contents of the proposal on this matter, but should be put into consideration that, if ratified, it would contradict the regulation of Deactivation of firearms, as is, on the prohibited of category A firearms.
5. There should be given a more detailed description on the addition of semi-automatic firearms, which 'resemble' firearms with automatic mechanisms, in Category A, because there will be problems with firearms being already on the market. It has to be determined which types of weapons are mentioned here (pistols, rifles, etc.).
6. In Article 6, expressly provide for the prohibition on acquisition and selling of firearms concerning categories A, B and C by means of distance communication, by civilians and between them.
7. The period of three months, for adapting the Directive into national legislation is too small.
8. Closing, while understanding the need to speed up procedures, our department's assessment is that the technical details of the whole issue should be examined and specialized at experts level, to avoid any descriptive failures and confusion.

Following our preliminary comments, concerning the draft amending Directive 91/477/ EEC on control of the acquisition and possession of firearms, we submit additional comments for the revised Article 6 of the draft proposal.

- In particular, the revised version of Article 6 (1) of the Directive, omits the provision that: "In special cases the competent authorities may grant authorizations for such firearms and ammunition, where this is not contrary to public security or public order".
- Our point of view is that, since there are legitimate interests of non-public, private, banks, organizations and businesses, of particularly high value and importance, which require the exceptional authorization for such firearms concerning their security needs, it should be discussed at which exceptional cases, it is necessary to keep the possibility for the Member States, to grant such authorizations.

HUNGARY

Hungary welcomes the amended proposal, especially the revised articles and paragraphs. However, smaller but important points for us were left where changes are proposed as follows.

We would like to make a proposal to Article 1f as follows: *“This Directive shall not apply to any alarm and signal weapons placed on the internal market before it entered into force.”* The reason behind this proposal is that the authorization of permits for alarm weapons developed from firearms would create controversy of alarm weapons sold before the Directive’s entry into force. Additionally, it would cast doubt on the statuses of the ownership of the current alarm and signal weapons.

Regarding Article 1h we would like to see a more consistent definition of replica because the current one would make all devices which resemble a firearm fall under the scope of the Directive and this is to be avoided as it would create insurmountable workload to register everything.

The proposal does not say what would become to firearms deactivated before the proposal’s entry into force. Re-deactivation would cause enormous workload and significant indemnification for current owners. Therefore we propose to include this sentence at the end of the Article: *This Directive shall not apply to any alarm and signal weapons placed on the internal market before it entered into force.”*

It is imperative that the derogation has been included in the revised text to the right of Member States, particularly in cases pursuant to Article 6. This is high priority for us. The cultural and historical purposes permitted derogation is also welcomed.

We support the supplementation of Article 7 (4), which makes a maximum of five years for granting gun licenses, as well as support the possibility of a renewal given to Member States, as Hungary’s recently adopted national legislation and other considerations we agree with the renewal of firearm licenses and not revoking and reissuing.

Relating to Article 10a we urge the Commission to adopt technical specifications of the alarm and signal arms concerned.

We agree with the newly inserted Article 10aa, we need to monitor compliance with firearms regulations and we welcome the work of the Commission to develop this.

The deletion of Annex I Part II A8 which we among other Member States also proposed is welcomed, as the amendments made to the C category as well.

We would like to make a proposal to point (b) of part III of Annex I as follows: *"are solely designed for life-saving, animal slaughter or harpoon fishing or for industrial or technical purposes provided that they can be properly used for the stated purpose only;"* The reason behind this is that there is no device would fall under the currently proposed definition.

The 12-months which are proposed to implement the Directive are welcomed by Hungary.

IRELAND

Ireland fully supports steps to strengthen firearms legislation and procedures across Europe and improve the traceability of firearms, strengthen co-operation and establish minimum standards on deactivation.

Article 1

“Gas weapons” need to be defined as they are referenced later in the text.

Paragraph 1h

The definition for “Replica firearms” needs to be refined to exclude toy guns.

Article 4 – final subparagraph:

“Each Member shall ensure that the registers of the dealers and brokers established in their territory are connected to a single centralised computerised data filing system of firearms”

This is an onerous requirement, the benefit of which, compared to resources required, is uncertain. We support, as more proportionate, those MS who propose “that Member States shall ensure that authorities have at any time access to the registries of the dealers and brokers.”

Article 5

A revised text is proposed beneath comments.

General comment

Under the current law in Ireland firearms possession among young hunters & target shooters is already subject to very stringent rules and a person over 14 years of age can only apply for a firearms training certificate. Such a certificate authorises the person to possess a firearm only while carrying and using the firearm for hunting or target shooting and under the supervision of a specified person over 18 years of age who holds a firearms certificate in respect of the firearm concerned. The deciding police officer in any individual case may impose other conditions in the interests of public safety and security.

An application for a training certificate, where the applicant is under 16 years of age, shall be accompanied by the written consent of the applicant's parent or guardian. Furthermore, Paragraph 8 of Statutory Instrument 493 of 2010: EC (Acquisition and Possession of Weapons and Ammunition) (Amendment) Regulations, provides that it shall not be lawful for any person to sell a firearm to a person under 18 years of age.

Paragraph 1

The text “Member States shall authorise” suggests that this Article only refers to Category B firearms – i.e. firearms subject to authorisation. This needs to be clarified as Article 5 in the existing Directive applies to all firearms. We do not want a situation where there are no effective controls for holders of Category C and D firearms.

Paragraph 2

Medical tests would entail additional costs to licensed firearms holders. We have no evidence to suggest standard medical tests as a reliable means of predicting future violent behaviour. Currently, when applying for a firearms certificate in Ireland, applicants provide a brief medical history and must consent for the police force to make further medical inquiries if necessary. Mandatory medical and psychological reviews would not be workable from our perspective.

As background, the Barr Tribunal was a Public Inquiry in Ireland charged with investigating the facts and circumstances surrounding a fatal shooting in 2000. Regarding obligatory medical certs, the Barr Tribunal Report noted that such a proposed requirement was criticized by various legal and medical organisations that furnished submissions to the Tribunal. It was perceived to be unworkable from an administrative point of view. The point was strongly made by various medical organisations that if any future amendment of the existing law made provision for the furnishing of medical certificates that the contents thereof should be limited to factual matters concerning the applicant’s health rather than the expression of an opinion by the medial advisor on whether the applicant was a fit or proper person to hold a firearm certificate. The medical authorities were of the opinion that the decision to grant or refuse a gun licence should remain one for the licensing authority only and medical advisors should not be required to participate in that function.

Proposed revised text:

Article 5

9. Without prejudice to Article 3, Member States shall ~~authorize~~ **permit** the acquisition and possession of firearms only by persons who have good cause and who:
- a) are at least 18 years of age, except in relation to the possession of firearms for hunting and target shooting, provided that in that case persons of less than 18 years of age have parental permission, or are under parental guidance or the guidance of an adult with a valid firearms or hunting licence, or are within a licenced or otherwise approved training centre;
 - b) are not likely to be a danger to themselves, to public order or to public safety. Having been convicted of a violent intentional crime shall be considered as indicative of such danger.
10. Member States shall ~~provide for standard medical tests for issuing or renewing authorization as referred to in paragraph 1 and shall~~ withdraw an authorisation if any of the conditions on the basis of which it was granted is no longer met.

Member States may not prohibit persons resident within their territory from possessing a firearm acquired in another Member State unless they prohibit the acquisition of the same type of firearm within their own territory.

Annex

Category A

Reference is made to banning "Semi-automatic long firearms for civilian use which resemble weapons with automatic mechanisms". However, we have had difficulty with licensing officers and in the Courts with the interpretation of vague terms such as "resemble" in this jurisdiction. Further clarity will be necessary on what is proposed.

Category C

There would appear to be an anomaly in the revised text as deactivated single shot shotguns are included in Category C, whereas working single shot shotguns are included in Category D.

We propose the deletion of Category D. All lethal firearms should be at least subject to declaration –i.e. Category C.

ITALY

Italian observations on the European Commission proposal concerning a European Parliament and Council Directive amending the directive on firearms (91/477/EEC).

Italy would like to express the following observations:

ARTICLE 1

(1B) ESSENTIAL COMPONENTS

In relation to the individuation of firearms essential components we draw the attention of the Commission to the opportunity to consider the possibility to include in a stricter regime also the detachable loaders of semi-automatic firearms.

In fact, one of the essential elements taken into account for the assessment of the high offence power of a firearm is the fire volume which is defined both by the firearm functioning and its loaders capacity.

To this regard it is to be stressed that the Italian legislation in order to curb the circulation of firearms with a high fire volume provides for the obligation to report the loaders/magazines with more than 15 and 5 cartridges capacity for short and long firearms, respectively. Only sporting – whose possession should not exceed 6 exemplars - and antique firearms and their reproductions fall not under said limitation and can therefore be endowed with loaders with higher capacity.

(1G.) SCENE WEAPONS (Salute and Acoustic Weapons)

In order to enable a better individuation of the firearms described in this paragraph – in relation to their specific and exclusive use - may be opportune to define them as “scene weapons”.

The regulation of this kind of firearms should be more in-depth dealt with also to avoid inconsistencies which seem to be contained in the proposed text also in relation to the submitted classification of deactivated firearms. In fact, while all scene weapons – without consideration of their previous category - are included in the Category C5 to be set up deactivated weapons are included in Category A8 – if previously falling within Category A1 to A7 – and in Category B6 if previously falling within Category B1 to B5.

While we agree in general to the opportunity of their inclusion in the provisions of Directive 91/477/EEC, we think however that other not less stringent mechanisms can be defined to strictly control them.

In fact, the proposed solution seems to contain some criticality elements. The fact that the category of scene weapons should be subject to specific conversion operations may involve some contraindication elements:

- Under a technical point of view (i.e. to cause an incorrect kinematic mechanism of the weapon with the subsequent inaccurate reproduction of its functioning within the scene);
- Under the point of view of a possible depletion of the weapons economic, historic and cultural value in case of technical structural high-impact modifications. As an example we can consider the damages which may be caused to First or Second World War weapons.

A possible solution – not affecting security – may be the following:

- a) Individuation of easily realizable technical devices with the aim to enable only the use of salute ammunition;
- b) Envisaging of an additional specific marking distinguishing these weapons from other firearms;
- c) Listing of scene weapons in the respective categories of origin envisaged in Annex I to the Directive, also to establish a specific authorization regulation for the purposes and within the limits under the following letter d);
- d) Envisaging that scene weapons are no longer available to private people and make them exclusively at disposal of duly authorized companies professionally operating in said sector. Said companies shall comply with precise custody security instructions keeping also specific registers and be responsible for the compliance with security provisions during the use of scene weapons by actors.

(11.) DEACTIVATED FIREARMS

Perplexities are expressed about the wording of the regulation proposal on said “firearms”.

In fact, in consideration of the fact that deactivated firearms are considered by definition “weapons modified to make them irreversibly inoperable also in their essential parts following deactivation” – procedure subject to a recent Regulation - and consequently devoid of any functional characteristics of real weapons it is considered more adequate – also to keep their traceability – their inclusion in Category C of Annex I (weapons subject to declaration) and not – as in the proposal under examination – in the Category of origin.

ARTICLE 2

(2) COLLECTORS

In order to avoid any discrimination between nationals of different Member States it is advisable to give more detailed information on the concept “firearms collection” or on the collection nature and relevant quality and quantity limits and security instructions to be imposed on collectors.

ARTICLE 4

(3) MARKING

Agreeing to the necessity of defining univocally the firearm part on which the unique marking should be placed on we underline the fact that the receiver – part which was individuated in the amendment proposal – is not present in all weapons and sometimes - though present - may be so small not to enable the apposition of all marking elements. It may be envisaged that the unique marking may be placed - in addition to the receiver – also on the frame.

In addition, to guarantee a better traceability it is considered opportune to envisage that also all essential components of a finished firearm carry at least part of the weapons marking. To this end, it is considered opportune that such marking part be the serial number.

(4) – WEAPONS REGISTRATION

To this regard we suggest to evaluate the opportunity of the obligation of firearms data maintenance also for a period of time following the firearms destruction.

ARTICLE 5

ACQUISITION AND POSSESSION OF FIREARMS

It may be useful to establish the modalities by which community and extra-community nationals residing or - where envisaged - domiciled in the Union should demonstrate to have no previous criminal records at the time of the request of a firearms authorization issued in one country different from the one of origin (for example a certification issued by the judicial authority of the country of origin translated and asseverated, or if the possession of an authorization for the acquisition and possession of firearms issued by the country of origin may be considered as exhaustive).

ARTICLE 6

Also in relation to the proposed amendment of firearms categories the provision of a general obligation of firearms destruction – including those falling within Category B7 - is considered problematic. They would transit - according to the proposal - to Category A without a relevant provision of a specific safeguard instruction on the acquired rights by the legitimate holders of such firearms at the time of the entry into force of the new directive provisions. In fact, in lack of an express derogation from the above-mentioned conditions obvious economic damages would arise to the above-mentioned persons with consequent possible class actions and compensation claims towards Member States.

ANNEX I

CATEGORY A

We agree to the inclusion in Category A of the firearms converted from automatic to semiautomatic operation.

More in general, in consideration of the fact that the proposal under examination would include in Category A of the Directive all firearms presently included under Category B7 a clear definition of such firearms category or the clear individuation of the “similarity” concept is considered necessary.

To this end, with the cooperation of the Italian test bench a tentative document was drawn up - which is attached to the present note – to be considered as a common exploring starting point to facilitate the obtainment of a desirable necessary shared definition of the above concept.

However, we consider in general useful to share the Italian domestic legislation, i.e. in order to curb a more widespread diffusion of firearms under Category B7 a provision banning the use of such firearms for hunting activities was recently passed. As a direct consequence of such a ban a notable decrease in the total number of firearms under such category which can be held - no more than six - and the limitation of their use exclusively to sports activities was introduced.

Such an hypothesis which may be also more strict, where necessary, limiting further the number of exemplars which can be held may be a reasonable alternative to the absolute possession ban also to avoid the possible consequences illustrated in the paragraph concerning article 6.

ANNEX II

Hypothesis of criteria for the classification of semi-automatic firearms under Category B7 of Directive 477/91/EEC

Category B7 includes.

1. Clone war weapons and their spin-off provided that they are not suitable for containing the release devices of the original weapon;
2. Semi-automatic weapons that have two or more of the following characteristics:
 - a) Folding or telescopic butt;
 - b) Gun grip¹
 - c) Presence of two or more optics supports (Piccatinny rail);
 - d) Bayonet connection or bayonet if fixed;
 - e) Weapons with length less than 830 mm²;
3. Weapons with barrel length less than 450 mm³;

Semi-automatic weapons suitable to fire the same ammunition as war weapons which have one or more of the characteristics indicated in the above point 2)⁴

¹ It is not considered as gun grip the one obtained from the butt and having a hole for the housing of the thumb (thumbhole);

² Length is to be considered with close butt, excluding any flash eliminators.

³ Barrel length measured without attachments as flash eliminators, mouth brakes, compensators;

⁴ Following you will find a non-exhaustive list of the more common calibres suitable for war ammunition: i.e. 5.45 mm x 36; 7.62 mm x 39; 7.62 mm x 54; .223 Remington; .308 Winchester; .30-06.

ARTICLE 1

Paragraph 1a.:

- In order to overcome the scarce understanding claimed by a lot of Member States' representatives as to the definitions of “part” (which is not involved in the Directive enforcement) and weapon“ essential component” (which is crucial, instead), it would be easier to delete this paragraph, rendering the following paragraph 1b more detailed and precise.

Paragraph 1b.:

- In the present wording a generic “such as” is not deemed adequate because it can be subject to potential broad interpretations; therefore, a wording with a precise listing shall be preferred;
- It is not deemed appropriate to include the silencer among the essential components;
- As proposed by a Belgian representative, the opportunity should be taken into account it to highlight removable magazines of weapons, in particular as to semiautomatic weapons. In fact, as already said, a removable magazine makes a weapon potentially more offensive, not only for its functioning but also because of the magazines it is fitted with.

Paragraph 1e.:

- The proposed definition of “broker” overlaps, for some aspects, with the definition of “dealer” arousing doubts among a lot of Member States representatives that asked for a clarification. Since the discriminating element between the two professional profiles is represented by the physical possession “**of firearms, their essential components** (and not “parts”, as defined in the present draft) and **ammunition**”, the amendment shall be proposed precisising that the activities envisaged for brokers are exerted “**without having the relevant material availability**”.

Paragraphs 1f. and 1g.:

- The drawing up of the two paragraphs concerned aroused a lot of doubts. Just to make an example, the formulations are proposed as suggested by the Italian proof house :

Paragraph 1f.

- For the purposes of this Directive “alarm weapons, acoustic or visual signal and tear weapons” means any portable weapon not designed to fire solid projectiles from chamber through the barrel and which are based and produced on an independent construction, which is not a conversion of a firearm and which are only designed:
 - to fire blanks;
 - to fire irritants or other active substances;
 - to shoot pyrotechnic ammunition or pyrotechnic article.

Paragraph 1g.

- Replace “salute and acoustic weapons” with “scenic weapons”.

Paragraph 1h.:

- We are puzzled by the fact that the Directive application might include an object defined as “replica”, of a firearm, with which it shares the physical appearance only. Mention is made of the questions it could bring about : shall the manufacturers be given a particular authorization for weapons? Shall replicas bear a unique marking? Shall they be stored in databases for firearms? Said measures seem exaggerate.

For a better understanding, it is suggested to replace “replica” with “mock-up” and to delete “by the action of a combustible propellant” since said items cannot use other propelling systems (for example.: air, gas, spring, etc.).

ARTICLE 4

Paragraph 1.:

- The provision by which firearms and their essential components shall be marked “in a durable way” looks very generic, thus the wording “in an indelible way”, even though lacking concrete elements, looks more appropriate.

Paragraph 2.:

- The German proposal could be shared, according to which the calibre should be included among the elements bearing a unique marking; to simplify, it could suffice to provide for it to be present “at least on the barrels”;
- The measure providing for a traceability element together the serial number with a unique marking shall become compulsory for every essential component of a firearm;

Paragraph 4.(a):

- The provision was deleted by which the destruction of firearms should be certified by the competent public authority. The provision was in line with the stricter objectives which the Directive would like to achieve as regards control and traceability of firearms.

Paragraph 4.(b):

- Some doubts are shared as aroused by some Member States representatives as to the contents of registers of dealers and brokers. In fact, it is fundamental that the registers of dealers contain the elements indicated in the provision, while, as to the register of brokers, since the latter - as already said - shall not have the physical availability of firearms, essential components and ammunition included in the transaction, it is not always necessary for them to bear detailed information on the aforesaid items. Should that be the case, a compulsory registration could be envisaged for the “carried out operations”, containing a detailed list of persons, materials and relevant quantities, as object of transaction;

- The provision that the registers of dealers and brokers shall be linked to the centralized weapons data bank is a good solution to guarantee a stricter weapons traceability. However, attention should be drawn on the economic and organization impact of such fulfilment; the implementation of the data bank presently used for the census of weapons owners in which such information shall be entered into requires the provision of an adequate timetable for the relevant adjustment.

ARTICLE 5

Paragraph 1.(c)

- We agree with the provision that persons of less than 18 years of age – under the guidance of a parent or other adult **authorized by the parental authority** - may use weapons for hunting and sports purposes; in addition, it is deemed opportune to indicate the minimum age that, however, should be no less than 14 year of age.

Paragraph 2.

- We agree to the provision according to which the issuance and renewal of the authorization relative to weapons shall be subject to the assessment of the possession of specific psycho-physical requirements by the applicants.

ARTICLE 6

Paragraph 1.

- The ban introduced on the purchase and possession of the weapons under Category A of the Annex I has the drawback to produce many administrative and economic effects which shall be faced by Member States, as well as effects on the acquired rights of nationals who presently legally hold them.

Such effects may be overcome through the provision of a ban only on the purchase enabling therefore the present owners to keep their items with a possible introduction of stricter requirements. In fact, the ban on the weapons transfer to third parties – except to public bodies and professional operators – as well as on the possession of ammunition of calibers for those weapons and the absolute ban on their use may be provided for.

Paragraph 2.

- During the meeting the expression “in special cases” produced conflicting interpretations among MS representatives. It is therefore necessary a re-wording of the paragraph avoiding in the provision transposition any inappropriate differences.

Paragraph 3.

- The exclusion provisions defined for collectors are not considered sufficient to overcome the consequent administrative and economic effects which in this case would be more significant than in the one illustrated under paragraph 1. To curb the burden on the public administration and collectors the same proposals formulated under paragraph 1 are considered sufficiently effective.

ARTICLE 7

Sub-paragraph added to paragraph 4, after point c)

- We agree on the opportunity to introduce a time limit after which it is necessary a renewal of the authorization for the weapons possession which shall be then subject to the assessment of the existence of the issuance requirements.

ARTICLE 10a

- We reassert the perplexity expressed on the fact that the replica – so as defined – falls within the Directive implementation scope.

ARTICLE 10aa

- We agree on the opportunity to define the criteria for the safe storage of weapons and ammunition. It is however advisable to entrust Member States with the specifics of the devices to that end.

ARTICLE 10b

- The provision on the marking of deactivated weapons shall not be alternative, but compulsory.

ARTICLE 13

Paragraph 4.

- We are in favour of the adoption of computer systems for the exchange of information on intra-community weapons transfers which will have the positive effect of a stricter traceability of firearms.

ANNEX I

Categories

- We agree to the introduction of Category A6 under which automatic firearms converted to semi-automatic mode are envisaged. They represent a category of firearms with particularly critical aspects because there are not technical protocols which may absolutely exclude that the previous mode be reactivated.
- We reassert the perplexities about a transfer of the weapons presently listed under Category B7 - semi-automatic firearms for civil use similar to automatic firearms in relation to which it is necessary to clarify the concept of similarity with the introduction of concrete evaluation elements. To this end, **see the following proposal drawn up with the cooperation of the Italian Proof House** – to the proposed Category A7 because it would produce – as already mentioned – both huge administrative and economic effects on the nationals who are legitimate holders and economic consequences on the interested sectors. In addition, it is deemed not opportune the introduction of the adjective “**long**” for the definition of Category A7, because it would exclude from stricter rules weapons with more critical aspects due to their concealability.
- To avoid such dangerous effects - instead of an absolute ban - it is advisable to resort to restrictions which would curb the circulation of weapons under Category B7. A provision banning their use for hunting purposes – allowing therefore their use only for sports purposes - may be adopted. In addition, limits on the number of holdable exemplars may be introduced.

- Category C5 – if the wording of art. 1, paragraphs 1.f, 1.g and 1.h is agreed to – should be reformulated envisaging, if opportune, the deletion of “as well as replicas” and replacement of “salute and acoustic weapons” with “scenic weapons”.
- We agree to the provision that “salute and acoustic weapons” are put in the original categories and propose that it is not envisaged that they may be at disposal of private people making them exclusively at disposal of duly authorized companies operating professionally in the specific sector.

Confirming the intention to maintain the present Category B7 according to the wording of the following criteria, we propose the introduction of category A7 under which **semi-automatic bull pup firearms and semi-automatic pistol machines should be listed.**

HYPOTHESIS OF CRITERIA FOR THE CLASSIFICATION OF SEMI-AUTOMATIC FIREARMS UNDER CATEGORY B7 OF
ANNEX I TO DIRECTIVE 477/91/EEC.

Category B7 includes:

1. **Clone war weapons and their spin-off⁵;**
2. **Semi-automatic weapons that have three* or more of the following characteristics:**
 - a) removable magazine;
 - b) folding or telescopic butt;
 - c) gun grip⁶
 - d) total weapon length less than 830 mm⁷;
 - e) barrel length less than 450 mm⁸;

Additional characteristics of firearms which may be considered may be the following:

- f) Presence of two or more optics supports (Piccatinny rail);
- g) Bayonet connection or bayonet if fixed;
- h) Od green or desert tan coloured weapon.

*** Three are the characteristics that should be present, obviously the number may be evaluated differently.**

⁵ As clone war weapons are considered the semi-automatic weapons with one of the following characteristics:
a) Same release device or release device compatible with components of the release device of automatic weapons;
b) Upper receiver identical to the one of automatic weapons;
c) Breech or breech carrier identical to the one of automatic weapons;
d) Flash eliminator if it has also the function of a grenade launcher.

⁶ It is not considered as gun grip the one obtained from the butt and having a hole for the housing of the thumb (thumbhole);

⁷ Length is to be considered with close butt, excluding any flash eliminators.

⁸ Barrel length measured without attachments as flash eliminators, mouth brakes, compensators.

LATVIA

Amendment 1(a) Art.1b.

LV considers that any device designed or adapted to diminish the sound caused by firing a firearm (e.g. “*silencers*”) is not an essential component of the firearm. Therefore LV is among those MS delegations that are of the opinion that “*silencers*” should not be in the scope of the Art.1b. of the Directive as an essential component.

Amendment 8, Art.10aa

LV suggests deleting the second para of Art.10aa. The minimum rules and specifications for the storage of firearms and ammunitions should be in the scope of national rules of each MS.

(Example: National rules and specifications of LV provides that the thickness of a metal safe for storage of firearms and ammunition should be not less than 2.5mm, if the Commission will adopt rules with the technical specifications for the metal safe and its thickness of at least 3mm, it will affect around 33 601 legal owners of firearms, who will have to purchase new metal safes).

Amendment 7, Art.7

LV is of the opinion that it is a matter of national rules of each MS to determine the maximum period of authorisation for possession of firearms.

(Example: LV issues the hunting and sports licences for the indefinite time, but in case of self-protection for 10 years. Such provisions were introduced in order to minimise the administrative burden on the competent authorities as well as on legal owners. Thus, instead of focussing on the period of authorisation for possession of firearms, Latvia pays attention to other (more effective) safeguards such as medical examinations (including psychological tests), which are being done on a regular basis (e.g. in LV each 5 years).)

Amendment 13 (a)(ii), Annex I category A

LV is against the addition of point 6 (“automatic firearms which have been converted into semi-automatic firearms”) and point 7 (“semi-automatic long firearms for civilian use which resemble weapons with automatic mechanisms”) to the category A. Inclusion of such weapons in the category A will affect national budgets of MS as it will be necessary to provide compensation for removal of these weapons from the private property. The storage and destruction of removed firearms is also considered as an administrative burden and will have financial impact on MS national budgets. In this regard, it would be useful to receive an estimation from the COM on the number of firearms in the EU that would fall under these categories.

(Example: If there are 1000 semi-automatic firearms registered in the possession in the MS A, which will fall under the scope of the Directive’s Annex I point 7 category A, and the price of 1 semi-automatic firearms is at least 1000 EUR, this means that MS A will bear the costs for removal of at least $1000 \times 1000 \text{ EUR} = 1 \text{ million EUR}$. In addition, the costs of storage and destruction of removed firearms will also arise.)

Amendment 13 (a)(iii), Annex I category C and category D

LV considers that only those “alarm and signal weapons” that can be converted to firearms should be included into category C, those “alarm and signal weapons” that cannot be converted into firearms should be included into category D.

LITHUANIA

COUNCIL DIRECTIVE of 18 June 1991 on control of the acquisition and possession of weapons

CHAPTER 1 Scope

Article 1

Recently there are two definitions of firearms in the directive. The first one is in the Article 1 (I) and the second one in the Annex I (II).

These two definitions are different. It is unclear which definition should be followed. On the other hand the directive defines a firearm as a weapon which can be converted with a view to shooting bullets. In our opinion, this part of definition isn't clear. Many devices can be converted. It is very important to define firearms very precisely in the directive, because we need to know what kind of devices are required to control. So our proposal is to leave only one definition of the firearm (in the annex of the directive) or to delete provisions related to the possibility to convert a firearm.

The[se] criteria of convertible firearms are designated for alarm and signal weapons. But there is separate definition for alarm and signal weapons. So there is no need to have these criteria in the definition of firearm.

Article 5

In order to ensure safety of legally obtained firearms (theft protection) we propose to set up obligation to the holder of firearm to have proper condition for keeping firearms.

Article 6

It is important to prohibit not only acquisition but also selling of firearms through internet.

Article 13

We would like to propose to clearly identify the obligation to establish an EU centralized data base and set up the date for this obligation.

Article 17

We would like to propose to clearly identify the obligation to establish an EU centralized data base and set up the date for this obligation.

ANNEX I

Category A — Prohibited firearms

We can not accept the proposal to prohibit semi-automatic firearms. The implementation of such a provision could increase the number of illegal weapons and would require resources from the Member State. Such firearms are registered in Lithuania for individuals whose reputation and health are verified before issuing the permit to purchase and possess weapons (reviewed every 5 years). Moreover, the electronic data base of firearms' holders and Register of criminal and administrative law offences, the National register of health services and other national registers are interlinked. Therefore the police receives notifications (alarm messages) related to reputation or diseases of individual during all period of 5 years and takes weapons if it is needed. We would like to propose to leave semi-automatic firearms in Category B and to check every person instead of prohibition of semi-automatic firearms. This measure is effective, because it is a person who is responsible for pulling the trigger. Not a single gun can shoot by itself. I would like to emphasize the advantage of this proposal. We will have the possibility to trace the owners of these weapons, but also ensure that number of illegal weapons will not increase.

We can not accept the proposal to prohibit deactivated firearms of Category A.

The Commission has already approved very strict EU requirements for deactivated weapons. We think it is enough to assure, that they never be reactivated.

Category C — Firearms subject to declaration

Handguns of small power (such as revolvers of caliber 4 mm or 6 mm Flobert type; pistols (revolvers) that are manufactured to shoot rubber bullets) can be easily converted to the real ones. It is enough to convert cartridges for Flobert type hand guns or to use rubber or lead bullets with 9 mm Knall cartridges for traumatic revolvers.

Replicas of antique firearms initially are made as lethal firearms. For example cylinder loading revolvers (designed from 1858 until 1863) are normal six-shot revolvers, which can be used with live fire ammunition. Only one difference from the real one - there is no possibility to use cartridge cases. So it takes more time to load the revolver.

Category D — Other firearms

It is likely, that most Member States register single-shot long shotguns.

Therefore we propose to move single-shot long shotguns from Category D to Category C and delete the Category D from the Directive.

Article 2

The period of 3 months is too short for transposing provisions of Directive into the national Law.

It is very important to set up the transition period for people to declare or to register firearms, which will be included into the Category C.

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NORWAY

Norway supports the initiative from the European Commission to strengthen the work against illicit firearms and consider it essential to have provisions that effectively hinders the unlawful possession and use of firearms. We consider it important that the strengthening of the firearms directive addresses those issues that pose a serious threat to the public security and therefor can be considered proportional to the more than 500 000 Norwegian hunters, sport shooters and collectors which can be affected by the proposed changes in the firearms directive.

Given the short period for revision, only a cursory examination of the draft has been possible so far. The following remarks therefore make no claim to be exhaustive.

The proposed prohibitions in Article 6 and Annex I, does not distinct between semi-automatic rifles, shotguns and pistols. The security risk of these firearms categories varies, and the article should more clearly define which firearm that poses the greatest threat to public security. The wording “resemble” in Annex I should also be clarified. The prohibition should not be related to the appearance but to the functioning of a firearm.

Some of the proposal will impose great administrative burdens for the Member States. Especially the proposals to establish a register for deactivated firearms, to provide for standard medical tests, and to restrict the limit for an authorization to five years. It should be further explored if those proposals are proportionate and effective to prevent unlawful possession and use of firearms.

PORTUGAL

Article 2

In PT we have specific legislation for the acquisition, possession, use and possession of firearms and ammunition and accessories aimed at cultural history collecting. They need an authorization to possess and authorization to acquire and training.

Article 4

2. *Imported firearms are only marked if not complied with the requirements of Directive.*

*Imported arms and EU firearms as standard are marked with the serial number , caliber and the manufacturer's mark. Imported sometimes have no marking at all the essential parts and in these cases shall be marked in Portugal **all the essential parts** .*

In Portugal the marking is requested to the Public Security Police (PSP) is the national competent authority on firearms for civil use, and through its Firearms and Explosives Department, and the guidelines set out in national legislation defined by PSP.

*For identification of the marking firearms in national territory or other countries the PSP is affixed by a mark **on all essential parts** , marking in Portuguese language , the letters PT (Portugal) and symbol (coat) of the Public Security Police (PSP).*

*For a control of marking firearms in Portugal is only the Public Security Police **the entity that proceed the marking on firearms.***

3. [Dealers and brokers] *Must have a training course requested to competent authority to obtain certification before requesting authorization*

4. *including manufacturers*

Article 5

Ensure limits in the acquisition of different Categories of firearms and respective proper conditions in is keeping in accordance with the quantities.

Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons

Comments by PORTUGAL

In addition to the written comments sent on 2 December 2015 Portugal would like to make the following comments:

- Article 1^[1]

We believe that the text should provide clear and consistent definitions, **which do not allow several interpretation.**

- 1h The proposed definition of „**replica firearms**“ makes it possible that certain objects – such as toys for kids - are also considered and should be treated as replica firearms. Having in mind that replica firearms are included in Category C with a registration regime, we believe that this definition needs a rewording in a way that it is fully clear that **toys are excluded** from the scope of the Directive.

Example of Portuguese law:

“ Air weapons and airsoft for recreational activities - the portable mechanism with the configuration of the classes firearm A, B, C and D, painted with color fluorescent yellow or red, indelible, clearly visible when wielded in 5 cm from the mouth of the barrel and the entire handl en the case of handfirearm, or 10 cm from the muzzle and the entire stock, in the case of long firearm in order to not be capable of confusion with the weapons of the same classes, able only to shoot ball nonmetallic which the muzzle energy does not exceed to 13J less than or equal to 6mm gauge and compact ammunition or for other calibers, 13J or equal to 6mm and compound unexploded gelatinous substances.

It is allowed to a 18 years person, by purchasing statement and proof of enrollment in a sports promotion association recognized by the Sports Institute of Portugal and registered with the Public Security Police (competent authority in the licensing and superintend of firearms);

without prejudice to the above, the under 18 and over 16 are allowed to purchase from that authorized thereto by whoever has parental responsibility.

^[1] All references in the comments are from the current text of the Directive 91/477/EEC



Measuring device of projectile speed



Marker paintball- (excluded)

Portable mechanism powered by compressed air, not only capable of firing metal sphere consisting of water soluble and biodegradable non-polluting ink contained in the gelatin shell, whose energy out of the muzzle of the barrel does not exceed 13J:



Toys- compact plastic objects without mechanisms



- **Article 2**

Portugal supports the including of the collectors and bodies concerned with the cultural and historical aspects firearms in the scope of the directive. We have specific legislation for acquisition, possession, use of firearms and accessories aimed at cultural history collecting. It's needed an authorization to possess and a declaration to acquire, as well a training course for that purpose.

- **Article 4**

Portugal supports the text on marking weapons and their essential components, regardless of date of manufacture; we believe that the issue of marking historical firearms should be considered for storing the data of firearms until the destruction of the weapon. In Portugal we have a laser procedure for marking that does not devalue the historical value of firearms.



Throughout their period of activity, manufactures ((PT proposal) dealears and brockers shall be required to maintain a register in which all firearms and ammunitions (PT proposal) subject to this Directive and which are received or disposed of by them shall be recorded, together with such particulars as enable the firearm to be identified and traced, in particular the name of the manufacturer (PT proposal), type, make, model, caliber and serial number thereof and the names and addresses of persons, dealears and brockers (PT proposal) supplying and acquiring, respective permit or authorization number when required (PT proposal).

- Article 4b

The system referred to in paragraph 1 shall include at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the legal person and on the person who directs the undertaking."

In Portugal, dealers must have a training course requested to the competent authority to obtain certification before requesting authorization, and responds on criminal cases.

- Article 5

In Portugal is important to ensure limits in the acquisition of different categories of firearms and respective proper conditions in is keeping in accordance with the quantities.

Example of Portuguese law:

Acquisition limits:

Category B, only 2 firearms;

Category C, only 2 firearms; unless guard is made in safe or not portable security cabinet, vault or fortified to guard the same, verified by competent authority;

Category D, only 2 firearms; unless guard is made in safe or not portable security cabinet, vault or fortified to guard the same, verified by competent authority;

Except for collectors and sports shooters, but whenever the holder holds a total of more than 25 firearms are required to have strong home or fortified to guard the same , verified by the competent authority.

- Article 6

Portugal does not support this proposal.

In our view, the text on the deactivation of firearms of Category A, possessed by bodies concerned with the cultural and historical aspects of weapons and recognized as such by the Member State, constitutes an overregulation, as there are no known cases of using museum exhibit to commit crimes. The deactivation would lead to a loss of cultural and historical value.

Firearms owners must have authorization to keep these firearms, and at the moment of renewing authorization, must submit it to inspection of an expert of the competent authority.

Member States may authorize persons and (PT proposal) bodies (...)

Portugal is in favor of prohibiting the acquisition and selling (PT proposal) of firearms and ammunition by natural persons through the means of distance communication. The possibility to order the firearms on-line might be considered though, provided that it is obligatory to receive them at the shop, after having obtained the required authorization.

- Article 10b

The text should be examined in view of the adopted *Commission Implementing Regulation (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable, a unique mark, and a certificate.*

Annex I, Part II, Point A

6. Portugal supports the proposed text.

7. Portugal supports de text, but including the following :

Portugal proposal – include specific definitions, for example:

Flash hider, sound suppressor, or silencer, rail picatinny, high capacity magazine (more than five rounds), stocks with grip, telescopic stock, retractable, grip without stock, support for saber bayonet, firing selector with full automatic possibility, or other considered by MS.

8. Portugal does not support this proposal

The established common guidelines on deactivation standards and technics for ensuring that deactivated firearms are rendered irreversibly, must guarantee maintenance possession by the owners.

Annex I, Part II, Point C

5. Portugal does not support this proposal.

Portugal proposal should be included in: Prohibited firearms, Point A

All alarm and signal weapons, they are convertible into firearms.

Example of Portuguese: Alarm weapon



Signal weapon



Alarm weapon



1.



Alarm weapon transformed

In addition, we consider and the Portugal proposal: the salute and acoustic weapons they are not convertible into firearms. Such weapons should be allowed.

Example of Portuguese:

Salute and acoustic weapon



Salute and acoustic weapon

Proposal from Portugal- Air weapons- Category C- subject to declaration

All air weapons -able to propel projectiles of a size over 5.5mm and of any caliber, and of any size, capable of propelling projectiles whose kinetic energy , measured at the muzzle is equal to or greater than 24J. Either by piston compression, is a cylinders CO2 or charging air pump.

Portuguese Example:

They are acquired through declaration, lacking prior authorization of the competent authority that verifies the requirements, use and possession , purchase limits and guard weapons.



ROMANIA

Our observations are the following:

1. The transportation of weapons and ammunition should to be included and regulated by the Directive. This can be done in art. 1 by adding a definition of weapons and ammunition carrier.
2. The barrel, where it can be detached, and other essential parts must be marked. (art. 4)
3. We disagree with art. 5 on reducing the age under 18 for hunters, but just maintaining the age limit for people who work in sports clubs / federations -marksmen.
4. The last paragraph of art. 5 paragraph. (2) needs to be clarified, particularly for the situation where a person buys a gun from a Member State where prior authorization is not mandatory and then possesses that weapon in a Member State where that particular type of weapon is not prohibited, but subject to authorization. We believe that the paragraph in question leaves room for interpretation that can be speculated by those who use the legislative differences between states to illegally procure weapons and ammunition.
5. We maintain our opinion in favor of an authorization for each weapon and not a license multiannual procuring arms. (art. 7 para. 4)
6. Non-lethal weapons should be maintained in the scope of the Directive and a clearer delimitation of these categories of weapons in the sense of clearly differentiation between this type and alarm and signal arms and arms used for movies.
7. We call for the establishment of compulsory both marking deactivated arms, and the issuing a certificate to that effect (Art. 10b).
8. We call for definition of the terms "life-savingweapon" and "ammunition with expandingprojectiles" under pt. IV of Appendix 1.
9. The 3 months regulated by art. 2 of the directive to transpose the Directive is impossible to meet and ask to be extended to 1 or even 2 years.

SLOVAKIA

Written contribution by the Slovak republic on the Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons

The Commission's proposals for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons has as one of its objectives the general prohibition of possession of semi-automatic firearms, which have been converted to such and also other important restrictions. We do not think that such prohibition can solve the issue of civil population protection against the threat of using firearms similarly to some recent terrorist incidents.

In our opinion, the Commission's proposal represents an overall ban of legal weapons in the hands of authorized legal possessors. It is well known that terrorist attacks are, as a rule, not committed using legal firearms. We are of the opinion, that in terrorist perpetrators use illegally acquired weapons (assault firearms or submachine guns) which were bought as such on the "black market" or are the result of improvised homemade conversion (mainly from blank firing guns).

In general terms, the envisaged prohibition would also outlaw the possession of semi-automatic firearms by sport shooters and and would also lead to destruction of museum pieces and firearms of considerable historical value. It is also necessary to take into account the important economic impact of these proposals on firearm producers and dealers, as well as issues of private property. We do not think that envisaged ban is a good solution to the currently existing situation and bears no relation to the core problem of the illegal "black market" with firearms, which is the main source of weapons used in crime including terrorism.

We think that the Commission's efforts should be focused primarily on a more effective suppression of illegal trade in weapons. Legally held weapons are not a problem, but rather the increasing range of opportunities for the acquisition illegally held weapons and the unlawful modifications of deactivated weapons to fully operational. It is necessary to reach a balance between the regulation of the possession of weapons, restrictions and right of citizens to possess a weapon. An overly strict regime of possession or making it impossible to possess specific categories of weapons has the potential of stimulating the "black market", including using internet based platforms.

The Commission's proposals towards a better registration or tightening of conditions as regards handling of specific categories of weapons can be seen positively

The Slovak Republic appreciates the efforts of the Netherlands Presidency and wishes to make the following comments and suggestions on the text most recently distributed by the Presidency (doc. no. 5662/16). At the same time, the Slovak Republic also remains committed to the comments it had made on the subject previously.

1. The relation between the "device designed or adapted to diminish the sound caused by firing a firearm" referred to in Art. 1(1)(1a) of the current directive and the same formulation in the proposed new wording of Art. 1(1)(1b) should be clarified to make sure if that device is to be considered a "part" or an "essential component".
2. The proposed wording of Art. 1(1)(1f) is designed to introduce a joint definition of "alarm and signal weapons", which we consider to be an artificial category lumping together two unrelated things. These two categories should, in our view, be defined separately, as they are different from the technical perspective and different technical security challenges are related to them. For that reason, the directive should enable national legislators to treat them differently, which should also be appropriately reflected in Annex.

3. The proposed wording of Art. 1(1)(1g) should not contain the list of purposes for which blank firers are used, as the purpose is irrelevant to the technical characteristics of the weapon and cannot, in any case, be enforced. The Presidency's proposal to make the list non-exhaustive could be acceptable, but we have preference for deleting the list altogether.
4. We suggest deleting any reference to replicas from the draft directive, most notably the proposed Art. 1(1)(1h) and Art. 10a. What is proposed to be defined as "replica" has no relation to public security, as by definition, replicas cannot be used to fire. Furthermore, such a provision could have severe negative impact on the production of toys, collectors' items, souvenirs and other legitimate businesses.
5. We can support the proposed wording of Art. 1(1)(1i).
6. We suggest keeping the current exemption of museums and collectors in the wording of Art. 2(2). We appreciate the efforts by the Presidency to take the concerns for historical heritage into account in the proposed wording of Art. 6(3), but this should, in order to be considered a viable alternative, at the very least incorporate the possibility of future acquisitions by such organizations.
7. Concerning the proposed wording of Art. 4(2) on attaching marks on essential components of a firearm, we concur with the comment by IT and MT. We share the concern about the loss of historical value caused by marking of historical firearms and also the concern about the feasibility of full size marking with respect to the size of components to be marked.
8. Concerning Art. 10b, we are interested in making sure that the deactivation standards and techniques adopted by the Commission under this provision would be a unified set of EU-wide standards, not a set of minimal standards. We are not sure the current language reflects that

9. Concerning the proposed wording of the Annex, referring to “6. Automatic firearms which have been converted into semi-automatic firearms”, which are being proposed to be included in Category A, we join the position expressed by IT that there is no need for this provision.
10. Concerning the proposed wording of the Annex, referring to “7. Semi-automatic long firearms for civilian use which resemble weapons with automatic mechanisms”, we suggest to delete this provision. The criterion of resemblance is not clear enough to provide for legal certainty and furthermore, outside appearance has no relation whatsoever to the functioning of a firearm.
11. Concerning the proposed modifications of the Annex in more general terms, we wish to underline that crime in general and terrorist attacks in particular are, as a rule, not committed using legal firearms. Perpetrators tend to use illegally acquired weapons (assault firearms or submachine guns) which had been acquired as such on the “black market” or are the result of improvised and illegal homemade conversion. The envisaged prohibition would outlaw the possession of semi-automatic firearms by sport shooters, who do not represent a security threat of any kind. The proposed ban bears no relation to the core problem of the illegal “black market” with firearms. An overly strict regime of possession or making it impossible to possess specific categories of weapons has the potential of stimulating the “black market”, including internet based platforms.
12. Concerning the proposed wording of the Annex, referring to “Firearms from categories A, B , C [and D] that have been deactivated in accordance with Regulation on deactivation”, we are in a position to accept this provision, provided that it would cover firearms deactivated after the Directive becomes applicable and does not cover previously deactivated firearms.
13. Concerning the transposition period, we are willing to accept 12 months, but prefer a longer period of 24 months.

SPAIN

"In relation with the document "GENVAL 60" about the "Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/ECC on control of the acquisition and possession of weapons", it has been added in the point 1.c the definition of acoustic weapons, being included within Category C as it appears in point 13.a.iii.

With this respect, it is necessary to point out that several firearms experts groups affirm that the regulation of acoustic weapons can pose a risk of firearms proliferation, due to the facility to transform them in real weapons.

Likewise, it is inconsistent that a firearm of category A, although being deactivated (and because of that suffers a number of modifications much more severe than those that are necessary for converting it into a real firearm in an acoustic one), continues being listed as Category A and, because of that, it is a prohibited weapon, while a firearm of Category A after being converted in an acoustic one, it is considered of Category C and, thus, its possession is allowed."

ART.1 DEFINITIONS.

- **Point 1h. The current definition can include the regulation of toys with the appearance of firearms, so this is the change suggested:**

For the purposes of this Directive, "replica firearms" shall mean objects that have the physical appearance of a firearm, but are manufactured in such a way that they cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant, with the exception of toys with the appearance of a firearm, which be ruled by its specific regulation.

- **New Point 1j. Replica firearms. It is necessary to define the term "firearm replica", in order to specify the scope of application of the Directive concerning Annex I Part III. The following definition is suggested**

"Concerning this Directive, a "replica of an antique firearm" is the copy of an original firearm, with all its features, characteristics and possibility of use, excepting those firearms that can shoot current ammunition with smokeless powder".

ART 4. MARKING.

The following considerations are taken into account:

- **Art. 4 point 1.** The following wording is suggested:

" 1. Member States shall ensure either that any firearm or essential part placed on the market has been marked and registered in compliance with this Directive".

- **Art.4 point 2.** There is a contradiction with the latter point, as it only requires one mark in the receiver after being assembled.

In order to ensure the finding or tracing of not only the essential component that can be placed on the market separately but also those essential component of an assembled weapon without individual marking on such component, which allows its interchangeability with those of another weapon or can be used to transform a deactivated weapon into a fully operational one,

The following wording is suggested

"2. For the purpose of identifying and tracing each assembled firearm and its essential component, the Member States...

The marking shall be affixed to an essential component."

- **Art. 4 point 2.** Concerning the need to ensure the safety of the shooter when using firearms and ammunitions, and in compliance with art 11.2 of the Directive, the previous wording of the Directive is suggested;

"for these purposes, the Member States may opt to implement the dispositions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms

- **Art. 4 .** Due to the wide situations that may derivate from the marking of firearms, concerning
 - **The type of weapons on which the marking should be affixed:** warning / alarm weapons, signal weapons, replica firearms...
 - **In what components and how should they be marked**
 - **How to ensure its endurance and presence in different materials such as polymers.**

It is suggested that, in compliance with art 13. Bis and 13 Ter, a Committee of Experts that helps the Commission to elaborate delegate acts for the adoption of standards on marking of firearms and their components.

ART 4. REGISTRATION.

- **Art 4 POINT 4.** The records of dealers and brokers are not connected to official firearms databases; however the communications of data are done on a monthly basis by different means. A technical study should be carried out to study its feasibility.

ART 4.BROKERS.

- **Art 4b. point.1.** Both control measures are suggested: the registration of brokers and dealers (a) as well as the need of licenses or authorizations for such activities (b).

“Such system will include, at least, **the following measures**”

ART.10. DEACTIVATION.

- **Art 10 b) first paragraph.** In compliance with the Regulation on Deactivation of firearms, of 19 November 2015, it is mandatory the certificate of deactivation AND the marking on the firearm, so the following wording is suggested:

“Member States, in the framework of this verification, will issue a certification or document that states that the firearm has been properly and fully deactivated, AND the inclusion of a clearly visible mark on the firearm for that purpose”

ANNEX I. CONVERSION.

- **ANNX I. Cat A.7.** Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms”.

This sub-category is not clearly defined, so an explanation on the following wording is requested:

“...which resemble weapons with automatic mechanisms”

SWEDEN

Sweden has been looking at the proposal amending the firearms directive (91/477/ECC) and feel that a real added value could be had with adding rules on storage and transport of firearms. We propose a robust requirement for storage in a way that eliminates the risk so that an unauthorized person can get access to this, e.g. through the storage in standardized safe boxes. This would limit theft and loss of firearms and hinder firearms from falling into the wrong hands or being used for illegal purposes. Our national experience in this regard has been very positive.

We propose adding a new article, ideally placed between article 10a and article 10b.

"Article 10aa

Member States shall provide for rules on storage of firearms and ammunition that ensure that these are kept under supervision and stored in a way so that there is no risk that an unauthorized person will get access to the firearm or ammunition. Supervision in this case shall mean that the person possessing the firearm or ammunition has immediate control over these and shall include as a minimum storage in a standardized safe box when the firearm or ammunition is not being used. The level of security for the storage arrangements shall correspond to the level of dangerousness a weapon has.

The Commission shall adopt minimum rules and specifications for the storage of firearms and ammunition that ensure that there is no risk that an unauthorized person will get access to the firearm or ammunition. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2)."

Article 5

SE would like to propose the following amendment to Article 5.1 c): Member States may also allow authorization for a persons of less than 18 years of age in cases where this person is undergoing an education where a firearm is mandatory, such as biathlon high schools or hunting training, and provided that the person comply with point b).”

SE would like to change the text in Article 5.2 as follows: ”Member States shall ensure that in cases where the competent authority deems it necessary for the public security or for any other appropriate reason, the issuance of the authorization referred to in paragraph 1 shall be subject to a standard system of medical, including psychological, review.”

Article 6

Like FI, SE suggests the following compromise proposal to Article 6.2: ”In cases where Member States considers it necessary for national security purposes, the competent authorities may grant authorization for the acquisition and possession of such firearms and ammunition”.

Article 7

SE suggests to add the following text in Article 7.5: ”Member States may adopt exemptions from this rule in cases where the competent authorities deem it not being contrary to national security, for example regarding semi-automatic firearms with limited firing capacity, with limited magazine capacity or when the circumstances otherwise are deemed to allow for it.”

Annex

SE suggest to replace the text under (a) (ii) 7. with the following definition: ”Semi-automatic long firearms for civilian use which have or can be equipped with a firing capacity exceeding 6 rounds without reloading, or which otherwise are constructed in a way that they are more appropriate for combat than for hunting.”

Article 5

SE would like to propose the following amendment to Article 5.1 c): *Member States may also allow authorization for a person of less than 18 years of age in cases where this person is taking part in a formal education where a firearm is mandatory, such as biathlon high schools or hunting training, and provided that the person fully comply with point b).*”

SE would like to change the text in Article 5.2 as follows: *”Member States shall ensure that in cases where the competent authority deems it necessary for the public security or for any other appropriate reason, the issuance of the authorization referred to in paragraph 1 shall be subject to a standard system of medical, including psychological, review.”*

Article 6

Like FI, SE suggests the following compromise proposal to Article 6.2: *”In cases where Member States considers it necessary for national security purposes, the competent authorities may grant authorization for the acquisition and possession of such firearms and ammunition”.*

Point 7, Article 7

SE suggests to add the following text in Article 7.5: *”Member States may adopt exemptions from this rule in cases where the competent authorities deem it not being contrary to public security, for example regarding semi-automatic firearms for hunting with limited firing capacity, with limited magazine capacity or when the circumstances otherwise are deemed to allow for it.”*

Point 13, Annex

SE suggest to replace the text under (a) (ii) 7. with the following definition: *”Semi-automatic long firearms for civilian use which have or can be equipped with magazines with a capacity exceeding 5 rounds, or firearms which are constructed in a way that they are more appropriate for combat than for hunting.”*

SWITZERLAND

Comments on the proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons

Swiss opinion:

General:

Switzerland thanks the Commission for drafting and presenting the proposed amendment to the Weapons Directive so expeditiously.

Combating the illegal trade in weapons is an important element in preventing terrorism and organised crime. Accordingly, Switzerland is in principle in favour of the proposed amendments; the proposals must however be analysed in detail and assessed as to their expediency and practicability.

Connecting weapons dealers and brokers to the computerised data-filing system

(Article 4 paragraph 4)

In this connection, Switzerland supports the written opinion filed by Austria. There seems to be a disparity between the benefits that connecting weapons dealers and brokers to the computerised data-filing system would bring when compared with the related costs. In Switzerland, there are numerous small-scale weapons dealers, some of whom do not keep computerised records of their business. They must first obtain the required technical equipment.

As Austria, taking a view that Switzerland shares, has pointed out, it must instead be guaranteed that the relevant authorities have access at all times to the records maintained by weapons dealers and brokers. In this way the information required in individual cases, e.g. on sales of specific weapons, can be obtained quickly from weapons dealers and brokers. This appears to be enough to achieve the aim of being able to obtain reliable information quickly.

Accordingly, Switzerland would propose that the sentence be reformulated as follows: “All Member States shall ensure that dealers and brokers established in their territory allow access to their records at all times.”

Switzerland is of the opinion that this provision takes adequate account of security and safety concerns.

Absolute ban on possession of weapons in category A (Article 6)

On this matter, Switzerland supports the view taken by the Czech Republic and other states which oppose an absolute ban on possession of weapons in category A. Strict requirements for possession of such weapons already apply in Switzerland as well. These weapons are almost exclusively owned by weapons collectors or museums. If these weapons, which were lawfully acquired at the time, now had to be confiscated under a ban on their possession, this would involve a great deal of time and expense for the law enforcement authorities. It would also give rise to questions of compensation. It must also be assumed that some of these weapons would find their way on to the black market, where they are likely to command higher prices.

Lastly, Switzerland does not have a deactivation procedure and has no wish to introduce such a procedure. The proposed directive however provides that prohibited weapons that are exhibited in museums will have to be deactivated.

In Switzerland’s view, an absolute ban on possession of weapons in category A is disproportionate, as these weapons are already subject to adequate controls.

Distance communication trading (Article 6)

Switzerland recognises the efforts being made to stop distance trading in weapons, e.g. on the internet, or at least to make it more difficult. In relation to trading on the internet in particular, there are general problems such as the issue of who has jurisdiction to prosecute. Unfortunately, these problems cannot be solved by banning internet trading.

In the proposals, weapons dealers and brokers are given authorisation for the **acquisition** of weapons on the internet only. Switzerland wonders whether the **sale** of weapons should not be mentioned as well.

Under the current law, Switzerland requires that weapons may only be offered for sale if the authorities are able to identify the vendor. This satisfies safety and security concerns and prevents weapons from being sold anonymously.

Limiting authorisation to 5 years and passing medical tests (Article 7 para. 4 lit. c)

The proposals provide that authorisation for weapons in category B be limited to five years. Switzerland does not currently impose any time limits on the possession of weapons. If the weapons have been lawfully acquired, then their possession is also permitted. Grounds for a person not being permitted to continue to possess weapons include the acquisition of a criminal record, and also indications that the holder of the weapons could be a danger to themselves or to others. If there are such grounds, the police must confiscate the weapons. Switzerland takes the view that these rules are expedient and take sufficient account of security and safety concerns. Limiting authorisation to five years, on the other hand, would lead to unnecessary administrative work and financial costs.

The passage of time alone is not sufficient reason to assume that holders of weapons cannot meet their responsibilities. There should be specific grounds for suspicion before the authorities are entitled to review the continued possession of weapons.

Switzerland takes the view that it is sufficient to confiscate weapons immediately in cases where the requirements for possessing weapons are no longer being met.

Information on refused authorisations (Article 13 para. 4)

Article 13 of the proposal to amend the Weapons Directive provides that states should exchange information on cases where authorisation is refused. In Switzerland's opinion, this measure seems disproportionate. The requirements for acquiring weapons vary from state to state. This has the consequence that the refusal of authorisation in one state does not necessarily mean that authorisation will be refused in another state. This means that the significance of information about refused authorisations is limited. The proposed procedure, which requires information to be given on authorisations that have been refused, would however entail considerable administrative work and expense. This can hardly be justified when compared with the limited benefits and knowledge gained.

Reclassification as category A weapons of automatic firearms that have been converted into semi-automatic firearms and semi-automatic civilian firearms that resemble fully automatic military weapons (Annex 1, category A, nos 6, 7)

Like Finland, Switzerland has special provisions on the possession of automatic firearms that have been converted into semi-automatic firearms. Under the current law, persons who have completed military service may be granted authorisation (for weapons in category B) to acquire from the Swiss Armed Forces the Sturmgewehr 90 (SG 550 assault rifle) that was loaned to them by the for the purpose of military service. These weapons may also be sold on if the relevant authorisation is granted.

These automatic firearms, which have been converted into semi-automatic firearms, along with semi-automatic civilian firearms that resemble fully automatic military weapons (e.g. civilian versions of the Sturmgewehr 90) are used in large numbers in Switzerland for recreational shooting unconnected with military service.

Weapons collectors also hold large numbers of these weapons. In Switzerland's opinion, these weapons should not therefore be reclassified as category A weapons. As Sweden has proposed, it would on the other hand make sense to enact regulations on the safe storage of firearms, for example to prevent weapons from being stolen in burglaries.

Deadline for implementation

Switzerland appreciates the efforts to bring the amendments into force quickly. However, in Switzerland some amendments will have to be made to domestic legislation as well. This means that implementation within three months is not feasible. Switzerland's association agreement with the EU currently allows Switzerland a maximum period of two years for implementing Schengen Acquis developments. Switzerland would probably have to make use of this allowance. If technical modifications to the computerised data-filing system are also required, an even longer period will probably have to be granted.

General:

Switzerland thanks the Commission for drafting and presenting the proposed amendment to the Weapons Directive so expeditiously.

Combating the illegal trade in weapons is an important element in preventing terrorism and organised crime. Accordingly, Switzerland is, in principle, in favour of amending the current directive.

It is crucial that all the proposals be analysed in detail and examined as to their expediency and practicability. To that end, the deadlines imposed hitherto have been too short. Nor have they allowed us to conduct the necessary internal consultation. At ministerial level, it was also impossible to evaluate the proposals conclusively in the time available. Switzerland is of the opinion that future provisions should be comprehensible and objectively legitimate in order to achieve the desired impact (combating terrorism). However, this requires more time.

Switzerland therefore requests the Presidency to grant Member States longer deadlines to examine the proposals.

Article 1 paragraph 1a

Should be deleted.

The definition of "part" in the Directive is superfluous. The Directive only attaches legal consequences to the term "essential components," so it is sufficient to define this term only. Retaining the definition of "part" leads to confusion because the definition also embraces "essential components."

As a consequence, the term "part" should be replaced with "essential components" throughout the whole Directive, and if necessary supplemented with "accessories" (see hereinafter Article 1 paragraph 1b).

Article 1 paragraph 1b

It is factually inaccurate to define silencers as "essential components" because they are not "essential to the operation of a firearm." Therefore, they should be defined as an individual category (accessories). A consequence of this is that the category would require its own regulations on acquisition, ownership, transfer, etc.

In this paragraph, "parts" should be replaced with "essential components", and possibly "accessories."

Article 1 paragraph 1f

The addition "that are not converted" can be omitted because the word "originally" already implies this.

Article 1 paragraph 1h

Switzerland does not recognise the need to regulate "replica firearms." According to the proposed definition, "replica firearms" mean objects that cannot be converted to firearms. However, objects that can be converted to firing are indeed dangerous and already fall under the wording of Article 1 paragraph 1, "or may be converted to expel a shot, bullet or projectile..."

Article 2 paragraph 1

The wording "or parts" should be deleted. Instead, the provision should read: "...of firearms or essential components thereof."

Article 4 paragraph 4

Amendment a)

Switzerland sees no reason why weapons that have been destroyed should continue to be registered "for an indefinite period." Once a weapon has been irrevocably destroyed by the authorities, there is no further interest in information on the weapon. Accordingly, data pertaining to the weapon should be deleted, also for data protection reasons. Moreover, a timespan should be defined (for example, 50 years) because the term "indefinite" is unspecific.

Article 4 paragraph 4

Amendment b) broker

Switzerland wonders whether brokers are even in possession of the necessary information to fulfil their obligation to register weapons. Accordingly, this provision is questionable.

Amendment b) centralised data-filing system for dealers (and brokers)

Having a centralised system is not necessary and is not required under the previous paragraph.

There seems to be a disparity between the benefits that connecting weapons dealers and brokers to the computerised data-filing system would bring when compared with the related costs. In Switzerland, there are numerous small-scale weapons dealers, some of whom do not keep computerised records of their business. They must first obtain the required technical equipment.

As Austria, taking a view that Switzerland shares, has pointed out, it must instead be guaranteed that the relevant authorities have access at all times to the records maintained by weapons dealers and brokers. In this way the information required in individual cases, e.g. on sales of specific weapons, can be obtained quickly from weapons dealers (and brokers).

Accordingly, Switzerland would propose that the sentence be reformulated as follows: **“Each Member State shall ensure that dealers (and brokers) established in their territory allow the competent authorities access to their records at all times.”**

Article 4b

Switzerland does not see what other measures could be foreseen besides those mentioned in a) and b). Accordingly, Switzerland is of the opinion that the wording “at least” should be deleted.

The word “and” in a) should be replaced with “or.”

Art. 5 c)

The condition “have parental permission”, which exists in the current text, should be reinstated as an additional alternative.

Article 5 paragraph 2

The first sentence should be deleted. Limiting authorisation to five years would lead to unnecessary administrative work and financial costs. Furthermore, it is not clear what tests psychologists should carry out and how comprehensive these tests should be.

Switzerland takes the view that it is sufficient to confiscate weapons immediately in cases where the requirements for possessing weapons are no longer being met.

The passage of time alone is not sufficient reason to assume that holders of weapons cannot meet their responsibilities.

Article 6

The newly inserted paragraph 2 should be retained. In contrast, paragraph 3 should be deleted because, as opposed to paragraph 2, it is too narrowly defined.

Such weapons are almost exclusively owned by weapons collectors or museums. If these weapons, which were lawfully acquired at the time, now had to be confiscated under a ban on their possession, this would involve a great deal of time and expense for the law enforcement authorities. It would also give rise to questions of compensation. It must also be assumed that some of these weapons would find their way onto the black market, where they are likely to command higher prices.

In paragraph 4, "parts" are once again to be replaced with "essential components." Switzerland wonders whether it is realistic to exclude private persons from selling weapons over the internet. Switzerland doubts the feasibility of implementing this provision.

Article 7

The amended part should be deleted (see comments on Article 5 paragraph 2). The large volume of administrative work seems disproportionate to the potential improvement in security.

Article 10a

Switzerland does not see the point of the rule in the first part of the provision. What specific obligations do the Member States have? Should weapons that are not produced according to the conditions mentioned in the second part of the provision be prohibited? In Switzerland's opinion, the first part of the provision should be deleted. The second part, in our opinion, is directed at the manufacturers of the relevant objects.

Article 10aa

In Switzerland's opinion, the second part of the provision should be left up to the individual Member States and therefore be deleted. The requirements of the first part of the provision are strict enough to do justice to security considerations.

Article 13

In Switzerland's opinion, this measure seems disproportionate. The requirements for acquiring weapons vary from state to state. This has the consequence that the refusal of authorisation in one state does not necessarily mean that authorisation will be refused in another state. This means that the significance of information about refused authorisations is limited. The proposed procedure, which requires information to be given on authorisations that have been refused, would however entail considerable administrative work and expense. This can hardly be justified when compared with the limited benefits and knowledge gained.

The current system in the Directive, whereby no-one may acquire a firearm in another Member State unless their own Member State has also given authorisation (dual authorisation procedure) is cost-efficient and effective. This system could be further strengthened, for example by specifying the exact content of the authorisation of the person's own Member State.

Annex 1

Category A 7

Reclassification as category A weapons of automatic firearms that have been converted into semi-automatic firearms and semi-automatic civilian firearms that resemble fully automatic military weapons

Like Finland, Switzerland has special provisions on the possession of automatic firearms that have been converted into semi-automatic firearms. Under the current law, persons who have completed military service may be granted authorisation (for weapons in category B) to acquire from the Swiss Armed Forces the *Sturmgewehr 90* (SG 550 assault rifle) that was loaned to them by the for the purpose of military service. These weapons may also be sold on if the relevant authorisation is granted.

These automatic firearms, which have been converted into semi-automatic firearms, along with semi-automatic civilian firearms that resemble fully automatic military weapons (e.g. civilian versions of the *Sturmgewehr 90*) are used in large numbers in Switzerland for recreational shooting unconnected with military service.

Weapons collectors also hold large numbers of these weapons. In Switzerland's opinion, these weapons should not therefore be reclassified as category A weapons.

Annex 1 Category C

The following passage should not be incorporated into category C, but remain separate, because it is of a general nature. Appropriate weapons could also fall under category B.

"Salute and acoustic weapons stay in the category in which they would fall according to how they were originally built."

Annex 1 Category D

This category could be transferred to category C. It does not seem logical to incorporate weapons that cannot be fired into category C and leave weapons that can be fired in category D.

Art. 2, Deadline for implementation

Switzerland's association agreement with the EU currently allows Switzerland a maximum period of two years for implementing Schengen Acquis developments. Switzerland would probably have to make use of this allowance.

UNITED KINGDOM

The proposed Directive is still under Parliamentary scrutiny but the UK offers the following preliminary views on the text.

Article 1 (1a) and (1b) – that the definitions of part and essential component need to be rationalised given the current wording tends to cause confusion in practice.

Article 1 1b – further consideration should be given to whether sound moderators should remain classed as an “essential component” (in the UK they are classed as an accessory).

Article 1 (1h) – a distinction needs to be drawn between live firing replicas, already covered by the Directive and imitation firearms. As currently drafted the definition appears to cover air weapons. We have attached at annex A an extract of the current law in the Great Britain.

Article 1(1i) – suggest insert *rendered* before irreversibly...’

Article 1e - The UK believes those aspects of brokering that relate to a third country would more appropriately be covered by inclusion in Regulation 258/2012. This Directive should just cover brokering within the Union.

Article 1 2d(i) – should make clear that the reference to parts thereof is to firearms and not to essential components.

The UK would also encourage the Commission to provide exact guidance on the precise activities they envisage being covered under their brokering definition and therefore subject to a brokering licence. Furthermore, clarification is required on who is the broker under their definition. This guidance will ensure harmonisation among Member States and avoid inconsistent/uneven implementation.

Article 2 - We are concerned about the disproportionate impact that the removal of the deleted text would have on collectors and bodies concerned with the cultural and historical aspects of weapons. We suggest either reinstating the text or suggest some revised text along the following lines:

'...the police, publicly-owned bodies, bodies managing publicly-owned collections, or legal or natural persons dedicated to the gathering and conservation of arms and associated artefacts for their heritage, historical, cultural, technical, scientific, aesthetic or educational value and/or for display and/or for their use in academic or practical research or study, subject to the regulation of the Member State in whose territory they are established'.

Article 4 (2) implies that a replacement part or parts imported separately would need to be permanently marked with the firearm's serial number. Does this mean that, until such fitting, a replacement part has no number on it, or does it also have its own serial number allocated when manufactured? This would mean it ends up with two serial numbers, recorded in different places. Is it intended that the manufacturer of the part should be told of the part's new number when it is installed into a firearm and adopts the firearm's number, so the maker can update its records? We also consider that the article should be amended to except antique firearms and those of historic value from the marking requirements.

Article 4(3) - We have concerns about the requirements to be placed on brokers. We therefore ask the Commission to fully explain the benefits of introducing this system and their assessment of the anticipated costs of doing so. We would like information on the research the Commission as undertaken to arrive at their conclusion to pursue this option. The UK agrees there is a need for controls for dealers and brokers but sees no need for brokers to be on a pre-approved register. The UK has undertaken a comprehensive analysis of this subject (which we can largely share if this would help the Commission and MS decide on this point).

<https://www.gov.uk/government/consultations/pre-licensing-register-of-arms-brokers-call-for-evidence>

The UK feels that an option for establishing a register of brokers should be left to the discretion of each Member State who should be allowed to evaluate whether a register could benefit and support their own particular licensing system for brokers. This should be reflected in a revision of Article 4b. IB

Article 4(4) - We think it is disproportionate to record deactivated and destroyed firearms on databases. No evidence has been presented to support the proposal that this would improve security and safety, and there would also be a significant burden on the police. We are also concerned about brokers being required to maintain a register with the information set out in the Directive as unlikely they would have this. We require clarification as to what is meant by connecting the registers of dealers and brokers to the central firearms data system.

Article 4(b) - As the UK outlined at the GENVAL meeting on 8 February,]the UK can support the introduction of a licensing system for brokering activities within the Directive. However, the UK does not see the merit of linking this licensing system to a registration system of pre-approved brokers. The UK has carried out extensive research on this subject which included a public consultation (April 2015) to explore the pros and cons of such a system. As promised by the UK representative at GENVAL, the results from this consultation are shared with the Presidency, Commission and Member States – see the attached link -

<https://www.gov.uk/government/consultations/pre-licensing-register-of-arms-brokers-call-for-evidence> to help them with their understanding of this complex issue. As a result of this evidence, the UK decided in June 2015 not to set up such a register as it provided no “overwhelming evidence” or a “clear-cut case” in support of doing so. The UK feels therefore that an option for establishing a register of brokers should be left to the discretion of each Member State who should be allowed to evaluate whether a register could benefit and support their own particular licensing system for brokers. This should be reflected in a revision of Article 4b.

Article 5- the wording currently removes the ability of under-18s to shoot unaccompanied with parental permission. There are concerns that this could affect trainee gamekeepers or pest controllers. It is suggested that existing wording should be retained: ‘persons of less than 18 years of age have parental permission.

Article 5(1) – We are content with the original wording so seek clarification as to why permit has been replaced with authorise.

Article 5(1) – the original wording of this provision allowed acquisition other than through purchase. The removal of this text presents some difficulty for the UK because it is not possible to possess without acquiring. The proposed new wording overcomes this difficulty in part, however would still appear to ban the acquisition of firearms as gifts or through inheritance (purchase is already prohibited within the current framework) by persons under the age of 18 years. Significant changes were fairly recently made by Directive 2008/51/EC to the minimum ages of supervisory adults and we are not aware of any evidence where the current laws are not working sufficiently in relation to young hunters or sport shooters.

Article 5 1 (c) - There is no concept of a ‘licensed target shooting location’ in the UK. This would be a serious burden if implemented. The existing wording ‘...or are within a licensed or otherwise approved training centre’ is suggested.

Article 5(2) - We would seek flexibility for MS to decide on their own approach to medical processes. We can support the proposed revised wording to medical review but do not think there should be a reference to psychological tests or a standard system.

Article 6 (2) – We welcome the proposed text in 6(2) to allow MS to authorise prohibited weapons in special circumstances but would suggest that the wording in the current directive is used given the need to cover manufacture, acquisition etc.

Article 6 (3)–We welcome the proposed wording but this would only permit museums to retain their existing collections, and does not authorise new acquisitions after the date on which the Directive becomes effective. The revised text fails to make provision for collectors.

Article 6 (4) - We have stringent requirements for final transfer which although allowing for mail/remote sales requires final face to face transfer of the firearm. In brief, where a firearm is transferred to a person who is not a registered firearms dealer transfer, the transferee must produce to the transferor the certificate entitling him to purchase or acquire the firearm or ammunition being transferred. The transferor must comply with any instructions contained in the certificate produced by the transferee. The transferor must hand the firearm and ammunition to the transferee, and the transferee must receive it, in person. Failure to do so is a criminal offence.

Article 7 - Our view is that having robust processes in place to ensure 24/7 monitoring of licensing is essential and that duration of licence should be the decision of the Member State.

Article 10a – consideration might usefully be given to limiting the number of definitions used in respect of blank firing weapons. The important issue is to ensure that sufficiently robust standards are in place to ensure they cannot be converted or are otherwise treated as live firing weapons and categorised accordingly.

We support the development of technical standards and can share UK standards for blank firearms. Further detailed information can be found at

<http://www.legislation.gov.uk/ukxi/2011/1754/regulation/4/made>

Article 10 aa we welcome the principle that there should be a general requirement to ensure that firearms are kept securely but we think the level of detail should be left for Member State.

Annex I

Category A - We share concerns of other MS about the definition of A7 in particular the term resemble.

Category C – Given the stringent new deactivated firearm standards recently introduced we think it is disproportionate and unnecessary for deactivated prohibited weapons to be in Category C.

ANNEX A – GB LAW ON REALISTIC IMITATION FIREARMS

Section 36 of the Violent Crime Reduction Act 2006 makes it an offence for a person to manufacture, sell, import or cause a realistic imitation firearm to be brought into Great Britain. The Act also makes it an offence to modify an imitation firearm so that it becomes a realistic imitation firearm. Section 38 (1) defines a ‘realistic imitation firearm’ as an imitation firearm which:

- a) has an appearance that is so realistic as to make it indistinguishable, for all practical purposes, from a real firearm; and
- b) is neither a de-activated firearm nor an antique.

This definition of ‘realistic imitation firearm’ applies for the purposes of sections 36 and 37. The term 'real firearm' is defined in section 38(7) as either a firearm of an actual make or model of a modern firearm, or a generic modern firearm. The term 'modern firearm' is defined in subsection 8 as a firearm other than one whose appearance would tend to identify it as having a design and mechanism of a sort first dating before 1870.

Section 37 provides for a number of specified defences, which apply for the offence under section 36, where a realistic imitation firearm is made available for one or more of the following purposes:

- i) for the purposes of a museum or gallery
- ii) for the purposes of theatrical performances and of rehearsals for such performances
- iii) in the production of films (within the meaning of Part 1 of the Copyright, Designs and Patents Act 1988 (c.48))
- iv) in the production of television programmes (within the meaning of the Communications Act 2003))
- v) for the organisation and holding of historical re-enactments organised and held by persons specified or described for the purposes of this section by regulations made by the Secretary of State (see paragraph 2.33)
- vi) for the purposes of functions that a person has in their capacity as a person in the service of Her Majesty.

Section 37 (3) provides a further defence for businesses to import realistic imitation firearms for the purpose of modifying them so that they cease to be realistic imitation firearms.

The Violent Crime Reduction Act 2006 (Realistic Imitation Firearms) Regulations 2007 (SI 2007/2606) provided two further defences which apply to an offence under section 36 of the 2006. The first is a defence for making a realistic imitation firearm available for ‘permitted activities’, defined as “the acting out of military or law enforcement scenarios for the purposes of recreation” and primarily intended to cover those participating in airsoft skirmishing. It is a requirement under the regulations that third party liability insurance is held in connection with such activities.

The second is a defence for display of realistic imitation firearms at a ‘permitted event’, defined as a commercial event at which firearms or realistic imitation firearms (or both) are offered for sale or displayed (i.e. arms fairs).

The Regulations also specify that those relying on the historical re-enactment defence must have third party liability insurance in connection with the organisation and holding of historical re-enactments.

In determining whether an imitation firearm is to be considered a realistic imitation firearm, section 38(3)(a) of the Violent Crime Reduction Act 2006 states that its size, shape and principal colour are to be taken into account. Section 38(3)(b) confirms that an imitation is to be regarded as distinguishable if its size, shape or principal colour is unrealistic for a real firearm. The Violent Crime Reduction Act 2006 (Realistic Imitation Firearms) Regulations 2007 specify a set of colours and dimensions in order to distinguish between imitation firearms and realistic imitation firearms. An imitation firearm with dimensions less than 38mm in height and 70mm in length is to be regarded as unrealistic. An imitation firearm which is principally coloured bright red, bright orange, bright yellow, bright green, bright pink, bright purple, bright blue, or which is transparent should also be regarded as unrealistic.

An imitation firearm whose principal colour is not one of those listed in the Regulations does not automatically fail to be regarded as realistic, although it is more likely that that will be the case. In these circumstances, the general test of whether it is distinguishable from a real firearm, taking into account its size, colour etc. should be applied.
