



REACTION TO IMCO DRAFT REPORT 2015/0269(COD) 22.3.2016 – 4 APRIL 2016

Dear Ms Ford,

We thank you for your draft report and the work that you have put into it. It is evident that you have listened to justified concerns by stakeholders and this is reflected in the manner in which the majority of issues created by the Commission proposal have been addressed in your document. However we are deeply concerned by some aspects of your draft report and we are setting out our thoughts as follows:-

1. In the Explanatory Statement it is stated that the Rapporteur "***recommends maintaining the status quo wherever there is insufficient evidence to justify changing it.***"

This is a sensible statement that should be kept in mind in seeking to establish a distinction between proposed measures which are justified and others which are simply an overreaction based on incorrect conclusions.

2. In AM 14 to the Commission Recital it is proposed to delete point 5 "***Since collectors have been identified as a possible source of traffic of firearms, they should be covered by this Directive.***"

Your proposal vindicates FESAC's position that recognised collectors owning licensed firearms have not been and will not be a source of illicit trafficking. The Commission has alleged that collectors are a source of illicit firearms in order to justify its objective of bringing collectors into the Directive. However the Commission has not produced any evidence that recognised collectors are guilty of such a serious crime. Nor will it be able to. The absolute majority of MS regulate collectors in accordance with the Directive. What is required is enforcement in the case of those MS which do not.

3. In the justification to AM 34 it is stated that "***Entities concerned with the historical or cultural aspects of firearms, other than those which are public authorities, are brought under the Directive...***"

4. The Draft Report seeks to include collectors in the Directive. This is inconsistent with the text in the Explanatory Statement wherein it is stated that the status quo should be "***maintained wherever there is insufficient evidence to justify changing it***". FESAC finds this position unacceptable especially when considering that public museums with which recognised collectors share a common mission are to remain exempt. Recognised collectors are at risk of becoming the only stakeholders to have suffered the injustice of being declared guilty without proof. The Draft Report acknowledges the fact that the Commission accusation is unfounded but stops short of addressing this issue by keeping recognised collectors exempt under the reasonable conditions proposed by FESAC.



5. In AM 49 it is proposed to amend the Commission text as follows: ***“Member States may choose to grant strictly limited authorisations to legal or natural persons dedicated to the gathering, study and conservation of firearms and associated artefacts for historical, cultural, scientific, technical, educational, aesthetic or heritage purposes and recognised as such by the Member State in whose territory they are for firearms and ammunition classified in category A, provided that such persons demonstrate that measures are in place to address any risks to public security or public order and that the firearm or firearms concerned are stored with a level of security proportionate to the risks associated with unauthorised access to such firearms.”***

FESAC notes with satisfaction that its proposed definition of a Collector is being generally adopted. However the definition is applied to an exception for the acquisition and possession of Category A firearms and/or ammunition which you may have regarded as a solution to recognised collectors' concerns. However such exceptions in law are extremely tenuous and offer no guarantee to recognised collectors and NGOs which manage private museums who dedicate their time and resources in acquiring, conserving and researching firearms and/or ammunition. Moreover the exception does not resolve other issues including avoiding the marking of historical firearms which only an exemption may guarantee (kindly refer to our comments on page 3 in respect of AM 36)

In view of what is stated in points 1 to 4 above, FESAC asks you to consider our proposal which we have updated with wording taken from the Draft Report:

A. The introduction of a definition of museum and collectors in Article 1

For the purpose of this directive “museums” and “collectors” shall mean legal or natural persons dedicated to the gathering, conservation and academic or practical study of arms, ammunition and associated artefacts for historical, cultural, scientific, technical, educational, aesthetic or heritage purposes.

B. Maintaining the status quo in the case of recognised collectors by re-introducing the exemption in Article 2.2

This Directive shall not apply to.....

the acquisition and possession of firearms and ammunition in accordance with national law by Museums and Collectors recognised as such by the Member State in whose territory they are established provided that such Museums and Collectors demonstrate, prior to being granted authorisation, that they have taken the necessary measures to address proportionate risks to public security or safety, including by way of secure storage and provided, inter alia, that such applications are accompanied by a confirmation of membership from a collector organisation or endorsement from such an organisation or a recognised expert.



6. In AM 18 it is proposed to amend Recital 8 as follows: ***In order to increase the traceability of firearms and essential components and to facilitate their free movement, the provisions of Directive 91/477/EEC should be clarified to ensure that both an assembled firearm and all essential components, whether included in an assembled firearm or not, are marked irremovably at the time of their being manufactured, imported or otherwise placed on the market, unless the firearm has been deactivated in accordance with that Directive.***

The marking of all essential components of an assembled firearm is not a realistic objective for technical reasons that the industry will undoubtedly point out. As recognised collectors our concern is that historic or important firearms should be exempt from harmful retroactive marking. Please refer to point 7 for further clarification. The following alternative text is proposed for Recital 8:

In order to increase the traceability of firearms and essential components and to facilitate their free movement, the provisions of Directive 91/477/EEC should be clarified to ensure that an irremovable mark shall be applied on one essential component of an assembled firearm as well as on separate components at the time of their being manufactured, imported or otherwise placed on the market, unless such firearms and essential components pertain to previous generations in terms of EU Customs Taric code 97.05 or if they are destined for or in circulation between collectors, public entities, museums and intermediary dealers, or if they have been deactivated in accordance with that Directive.

7. In AM 36 it is proposed to amend the Commission text as follows: ***“For the purposes of identifying and tracing each assembled firearm and each essential component, Member States shall, at the time of manufacture of each firearm and each essential component, or at the time of its being placed on the market or imported in 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.”***

FESAC is deeply concerned that such a measure would severely impact on the proper conservation of historic or important firearms in their original form and condition. Our proposal to retain the exemption of museums and collectors from the Directive addresses this issue insofar as it is applied to firearms that they acquire and possess. However care should be taken to ensure that such firearms are protected from very damaging retroactive marking which spoils their integrity *before* they can be acquired by museums and collectors such as when they are about to be put on the market or imported from third countries. An exemption from retroactive marking is clearly required in the case of historic or important firearms, many of which already bear original markings that are well-documented and are identifiable. FESAC therefore proposes the addition of the following qualification to AM 36:



The requirement of such unique marking or proofing shall not be applicable retroactively in the case of firearms and essential components at the time of their being placed on the market or imported into the Union if such firearms and essential components pertain to previous generations in terms of EU Customs Taric code 97.05 or if they are destined for or in circulation between collectors, public entities, museums and intermediary dealers.

8. In AM 74, it is proposed to include under Annex I – Part II – Category A – point 7 of Directive 91/477/EEC the following: ***“Semi-automatic firearms which have been converted into automatic firearms”***

In AM 19 it is proposed to amend Recital 9 as follows: ***“There is a risk that any firearms converted to firing blanks, irritants, other active substances or pyrotechnic ammunition can be converted back in such a way as to make them capable of firing live ammunition. Such firearms should therefore remain in the categories in which they were classified prior to their conversion”.***

There are thousands of persons in Member States who legally possess historic and important firearms that were originally automatic and which have been properly converted to semi-automatic and blank firearms. As a result of national legislation this was the only way they could acquire and possess such firearms.

In order to avoid the confiscation and destruction of these firearms, FESAC proposes the introduction of a Regulation on Firearm Conversion Standards, establishing the technical specifications for converting automatic firearms to semi-automatic or blank firing that would render them permanently irreversible to automatic firearms. They would then be classified under Category B. This practice has been enforced successfully in Germany for several years.

This proposal would avoid the destruction of such legally-held firearms, particularly those that are part of collections throughout the EU. It would also allow persons who have a legitimate interest in firearms, but who may only acquire and possess semi-automatic and blank-firing firearms, the possibility to keep their existing collections and acquire new pieces.

9. In AM 8 it is proposed to add a new Recital 3g: ***Member States should lay down particularly high requirements for secure storage with respect to firearms or ammunition classified in category A. Such requirements could include measures ensuring real-time monitoring, as well as requirements to maintain essential components and ammunition in safe storage separate from the firearms in which they can be used.***

The language is of major concern as it could lead to particularly onerous conditions imposed by Member States thereby making it impossible for legal owners to comply. What is meant by “real-time monitoring”? Does the separate storage of essential components imply that all Category A firearms must be broken down into parts that are stored separately? FESAC strongly disagrees with the introduction of measures at EU level that infringe on Member States’ areas of competence in the regulation of their own citizens. It therefore proposes the following alternative text:

Member States should lay down proportionate levels for the secure storage of firearms or ammunition, particularly those classified in category A.

10. In AM 54 it is proposed to add the following to Article 10 point 8: ***The acquisition and possession of ammunition shall be allowed only by persons who are allowed to possess a firearm.***

While this is applicable to hunters and sports shooters it creates a problem for museums and collectors of ammunition who do not collect firearms. The Rapporteur may not have been aware that there are many such collectors who are represented by the European Cartridge Research Association (ECRA) www.ecra.info. The following alternative text to replace the last sentence would suffice to cover their legitimate activity:

The acquisition and possession of ammunition shall be allowed only by persons who are allowed to possess a firearm or by recognised museums and collectors.

Whilst thanking you for giving due consideration to our concerns and proposals, we remain at your disposal for further consultation in finding the best way forward.

Best regards,



Stephen A. Petroni
Chairman