



AECAC
report 2019

March 2020



AECAC activities in 2019

1. The last AECAC **GENERAL ASSEMBLY** was held in Nuremberg on **March 2019**.

2. FULFILMENT OF TAX OBLIGATIONS before the Belgian authorities.

We should thank the Belgian association which representative, **Mr. Nico Demeyere** (Belgian Lawyer), gives AECAC tax assistance without any charge.

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

3. TRANSPOSITION OF THE NEW EUROPEAN FIREARMS DIRECTIVE

The "**Firearms**" Directive (**91/477/EEC on control of the acquisition and possession of weapons**) amendment by **Directive 2017/853** is currently being transposed by most Member States.

This is the transposition calendar:

- MS should have brought into force the laws necessary to comply with the general rules of the Directive by **14 September 2018**.
- Registration of dealers and brokers and new computerized data-filing system had to be implemented by **14 December 2019**.
- Registration of firearms under Categories C 5 (converted to fire blanks), 6 (deactivated) and 7 (Single-shot long firearms with smooth-bore barrels), might be suspended by MS until **14 March 2021**.

Briefly these are the main questions of the new text:

- Firearms of categories A-6 (converted from full-auto) and A-7 (firearms with high capacity magazines – 20 rounds for short firearms and 10 rounds for long firearms) are prohibited. Its possession could be possible with a special authorization and condition to the practice of sport shooting.
- The possession of firearms for sport shooting activities will require an effective sporting activity.
- The duration of a firearms license will be of 5 years.
- Collectors fall into the scope of the Directive. Their license will also be of 5 years.
- Dealers shall have an electronic data base, with records of all firearms.
- Firearms manufactured or imported into the EU will require a unique marking in all essential parts.
- Deactivated firearms shall be registered.
- Marking of historical firearms will be regulated by each member state.
- Reproductions of antique firearms, previously excluded from the scope of the Directive, are now treated as normal firearms.

AECAC studied the text in several languages and pointed some issues on the linguistic versions that could lead to confusion.

We shall mention that although the English version is the one that was originally negotiated and voted, all other linguistic versions are equally valid. So in case of discrepancy the wording shall be interpreted according to the general sense of the text.



To facilitate the negotiation of the different transposition AECAC prepared a schedule with the most relevant issues including information of the transpositions to those Member States that had already done so. Main questions are the transposed regulation for the following issues:

- High capacity magazines
- Silencers
- Alarm Weapons
- Electronic Data System
- Periodic checks for authorizations
- Shipments
- Transfers communications

Attached as **Annex I** you can find the schedule including the information obtained from some national associations. We encourage all national associations to update this information as most associations have still not provided the answers.

4. ACT ON FIREARMS MARKING

On **17 of January 2019** the implementing Directive 2019/68 to implement the technical specifications for firearms marking according to the new Directive was published (**Directive establishing technical specifications for the marking of firearms and their essential components**).

Although AECAC and other associations challenged the initial proposal it was passed including these main points:

- Minimum size of marking: 1,6mm
- Possibility to apply smaller size for small essential components.
- For firearms made with non-metallic frames or receivers: marking to be applied at a metal plate. Other techniques (as laser cuts) also possible.
- Alphabets to be used: Latin, Cyrillic or Greek.
- Numbers: Arabic or Roman.

There is no reference to a minimal depth of the marking.

This Directive should have been transposed to all Member States national legislations in **January 2020**.

The text gives the Member States wide discretion in establishing the content of the marking, what might lead to non-uniform national marking rules across the EU. This could create significant damages to the sector.

Big concerns are arising on the implementation of this Directive, as Member States are working on different systems that will certainly create many problems for the movement and distribution of products within the EU.

AECAC supported the idea that the act shall contain only technical rules on mutually recognized methods of marking, and not on the content of the same, which is already governed by the Firearms Directive.

The wish of the European Commission to impose on Member States provisions containing obligations not provided for in the directive - in particular the obligation to mark all essential parts of assembled weapons - has led to disagreement and ended up with Member States having the power to establish the manners and specificities of the marking. All this happened despite the contrary indications expressed by the European firearms sector at different stages of the procedure.



With the current legal frame, each Member State is deciding differently how to mark the civilian firearms that are produced imported or transferred on their territory. This might require the re-marking of products when transferred from one Member State.

5. IMPLEMENTING ACT ON ALARM AND SIGNAL WEAPONS

On 17 of January 2019 the implementing Directive 2019/69 was published (Directive laying down technical specifications for alarm and signal weapons).

MS shall bring into force the transposition by **17 January 2020**.

These are the main points:

- This Directive lays down technical specifications for the **production** of alarm and signal weapons.
- Main objective is to avoid these weapons to be transformed into shooting firearms.
- Provides a check system which results shall be shared between MS.

Main technical specifications:

- Devices shall be capable of shooting pyrotechnic signalling rounds only if an adaptor at the muzzle is attached
- Shall have a durable device within the device that prevents the firing of “real” cartridges
- Designed for cartridges listed in Table VIII of the Tables of Dimensions of Cartridges and Chambers (TDCC) of the C.I.P.
- Not capable of being modified through the use of ordinary tools
- Essential components cannot be fitted or used as essential components of “real” firearms
- Barrels of the devices are not capable of being removed or modified without significantly damaging.
- Shall incorporate irremovable barriers such that a shot, bullet or projectile is not able to pass through the barrel.
- Barriers shall block the barrel in such a way that no gas can be fired from the front of the device
- All barriers are permanent and incapable of being knocked out without destroying the chamber or barrel of the device.
- Specifications on hardness of the barriers are laid down (minimum hardness of 700 HV 30 for blank firing devices and minimum hardness of 610 HV 30 for other devices).
- Devices shall prevent ammunition from being loaded in and fired from the device.

6. Exports to Russia

Due to the embargo over Russia there have been several problems with the exports of firearms to this country.

The problem was due to the dual system applicable to Civil or Military goods.

The Common Military List was transposed from the so called "**Munitions List**" of the **Wassenaar Arrangement** (<https://www.wassenaar.org/>) (agreement for the control of exports of conventional weapons and sensitive goods and technologies with **dual-use**) and the two lists were kept consistent over time. Due to the fact that the Wassenaar Agreement applies to dual-use materials, the Munitions List, and therefore the Common Military List, includes explicit **reference to firearms and ammunition with no military interest**.



For this reason the system of export controls created with the aim to control military weapons was also applied to civilian firearms.

After the approval of the **Firearms Directive (91/477/EEC)** the civilian firearms were fully included in the regulation of the Single Market, and their movement was (in theory) hence exempted from Member States autonomous control.

Notwithstanding the above said, the system of Common Position (2008/944/CFSP) was still applied to civilian products by some Member States, generating difficulties for traders of some Member States to export civil firearms to countries with trade restrictions for military weapons.

In 2012, **Regulation (EU) 258/2012** (Firearms Export Regulation) of the European Parliament and of the Council of 14 March 2012, was approved. This Regulation excluded military weapons from its scope, and provided **directly applicable rules** for **exports of firearms outside the EU**. The Regulation does not require any transposition, nor national legislation to be applied. It is “hierarchically” superior to any national legislation.

Contrary to that, Common Position only incorporates minimum standards for **military exports**. Such minimum standards are **not directly applicable**; they shall be taken into account by Member States while legislating. The different solutions of each Member State for this application has led to different national regulations around the EU.

If a product might fall into the scope of both systems (Regulation (EU) n. 258/2012 and Common Position 2008/944/CFSP), the application of the Regulation shall prevail due to the fact that it is directly applicable, it is hierarchically superior to any national legislation and due to the fact that **Common Position has no legislative value**. Also, national laws shall not apply in fields directly governed by EU Regulations.

As a consequence of that, national legislation shall apply to exports excluded from the scope of the Regulation. Such national legislation may apply the criteria of the Common Position 944/2008 only when exports involve **weapons included in the Common Military List** for exports to “sensitive countries”.

Additionally to this, Article 4 of the Regulation provides the treatment when there is an export that includes both civilian and military goods, giving the Member State the possibility to apply one only single procedure.

AECAC prepared a position paper to be shared with each national authority which participated in the Working Party on Conventional Arms Export (COARM) that took place in May.

The result of the discussion was that the **shotguns and related ammo could be exported to Russia but not rifles**, according to the following:

The updated Sanctions Guidelines issued by the Council on 4 May 2018 (5664/18) state that, unless otherwise specified, EU arms embargoes should be interpreted as covering **at least all goods and technology on the EU Common Military List**. The Common Military List (CML) defines in ML1 and ML2 which firearms fall under the CML’s scope and which ones do not.

The EU sanctions on the Russian Federation include an arms embargo, but no restrictions on equipment used for internal repression. Therefore **firearms outside of the CML’s scope do not fall under the EU sanctions on the Russian Federation**. Please note that firearms that are not included in the scope of the CML, can fall under the scope of Regulation EU 258/2012 on civilian firearms. This Regulation obliges EU Member States' export control authorities to apply the criteria of Common Position 2008/944 when assessing export authorisation applications.



7. THE LEAD ISSUE

There are three open fronts concerning the lead issue; (i) the classification of lead metal as a SVHC (in all uses); (ii) the restriction of lead shots over wetlands, and (ii) the restriction of lead shots over lands different of the wetlands.

A) Lead in REACH Candidate List of Substances of very high concern

In February 2018, upon request of the **Swedish Chemical Agency (CHEMI)**, the **European Chemicals Agency (ECHA)** started a procedure aiming at **including Lead for all its uses**, including the manufacturing of ammunition, in the **REACH Candidate List of Substances of very high concern**. Lead metal was already classified as **Toxic for Reproduction** (Category 1A) in the harmonized EU CLP Classification and thus meet the criteria for Candidate Listing.

Notwithstanding AECAC's and other stakeholders opposition, lead was **finally included in the Candidate List** on the **27th of June 2018** after the ECHA Member State Committee.

Such inclusion brings to the following:

- From now on, manufacturers and distributors will have to **inform (also users)** of the risks related to its use
- Lead might be subject to ECHA authorization
- Gradual replacement by other appropriate substances might be required

So, from now on, a number of communication obligations are mandatory. In particular, under Article 31 (Requirements for safety data sheets) and Article 33 (Duty to communicate information on substances in article):

- Suppliers of lead metal as a substance or in a mixture should indicate in their **Safety Data Sheets that Pb metal is a Candidate Listed SVHC**
 - For pre-fabricated lead metal or mixtures (including alloys), a threshold of 0.3% or more applies
 - For Pb powder, or mixtures containing more than 0.03% Pb powder, the threshold of 0.03% or more applies
- **Suppliers** of articles containing more than 0.1% Pb by weight must inform **business recipients** that Pb metal is present when the article is supplied for the first time after the substance is formally included in the Candidate List.
- **In the case of supply to the general public**, the same information must be provided within 45 days of a consumer request.

Although these duties are mainly **to be fulfilled by producers and gross distributors**, it is possible that consumers request information, so you shall be prepared.

The Association of Ammunition Producers AFEMS, has prepared specific templates to fulfil the communication duties in force from now on. You can access to these templates at www.afems.org. Anyway, address any doubt to the AECAC Secretary.

Next stages will be the most possible identification of lead as a **“substance of relative high-priority” within the Candidate List** by the European Commission. After that a 5-6 years countdown will start, which might end in its **total ban or sever restrictions**.

A public consultation on this question may be launched during the following months. This means that in the event of a concrete evolution of the process towards “authorization”, a sunset date could be potentially set from mid-late 2024 to early 2025.



B) Ban of lead in wetlands

In November 2019 the EC's proposal for a regulation on phasing out the use of lead shot for hunting over wetlands was published:

The proposal was quite dangerous for several reasons, the most important being the following:

- it included also peatlands in the definition
- it introduced 400m buffer zones where the use of lead shots would be prohibited
- it recommended to ban the “possession” of lead shot while hunting over wetlands, causing any hunters to be liable for prosecution for being in possession of lead shot over wetlands.
- it proposed a very short transition period

Thanks to the coordinated actions of the sector, some MS made objections to the proposed text, which has been amended including some improvements. Here you can find the text and the annex (updated January 2020):

- [COMMISSION REGULATION \(EU\) .../... of XXX amending Annex XVII to Regulation \(EC\) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals \(REACH\) as regards lead in gunshot in or around wetlands](#)
- [Annex](#)

The new formulation includes the following “small” improvements:

- Transition period: **24 months**;
- Buffer zone **300 m**;

But still includes most problematic issues; ban of possession of lead ammunition over wetlands, peatlands still included, existence of buffer zone, etc...

A new meeting took place in February 2020, and the proposed text was again rejected as it was requested a third revision of the Restriction proposal and the related Annex.

C) Restrictions on lead in gunshots outside of wetlands

The European Commission asked the European Chemicals Agency (ECHA) to prepare a proposal for a possible restriction on the placing on the market and use of **lead in ammunition in terrestrial environments**, “addressing the risks to wildlife and humans he consumption of game meat” arising from lead in gunshot and ammunition, together with lead in fishing tackles. In its letter to ECHA, dated 16th July 2019 and made public on 21st August, the EC also requested to evaluate animal welfare issues, potential accidents to hunters using lead ammunition and its alternatives.

The next steps foreseen by the process are the following: ECHA has until **October 2020** to publish the “**restriction report**” which will be subject to a **6-month public consultation**. The committees within ECHA (SEAC and RAC) will then adopt two binding opinions on this restriction, taking into consideration the environmental, health and socio-occupational aspects. These procedures, interspersed with a further public consultation of 3 months, could probably end by **October 2021** and can subsequently be adopted by the European Commission, through the REACH Committee, in **January 2022**. Without opposition from the Council and Parliament, the restriction could be issued, in the worst case scenario, in **winter 2022**.

8. Collaboration with FACE

AECAC is non-voting member of the FACE (European Hunting Federation).



Our Secretary General has been appointed as member of the **FACE Firearms Expert Group**. Our collaboration with FACE within the Firearms Expert Group has been is very constructive and extremely important taking into consideration the weight and influence of FACE in the EU.

9. ESSF (European Sport Shooting Forum)

The ESSF is a “think tank” of the European hunting and shooting sector.

In gathering EU manufacturers of civilian firearms and ammunition, dealers, collectors, hunters and sport shooters, the European Sport Shooting Forum (ESSF) represents a substantial socio-economic sector (including many thousands of small and medium-sized enterprises) with the participation of over 12 million citizens. The ESSF thus represents virtually all EU stakeholders.

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

The ESSF has coordinated very efficiently the Common Position of all sectors concerning different legislative initiatives.

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

AECAC is voting member of the WFSA and contributes yearly with **3.600 €**.

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

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

Brussels, March 2020



Annex I Transposition Schedule



Annex II. ACAC position paper on exports to Russia

Problems with firearms exports to Russia

Legal Frame

Common Position 2008/944/CFSP of 8 December 2008. (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008E0944>).

The Common Position defines common rules governing the control of exports of **military technology and equipment**, replacing an earlier political agreement, the **EU Code of Conduct on arms exports**. The Common Position incorporates minimum standards to be taken into account by Member States when assessing export license applications for **military technology and equipment**, but also for brokering, transit transactions and intangible transfers of technology.

Common Military List. (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015XG0421%2805%29>)

The Common Military List contains a list of products and technologies (covering 22 categories of arms, munitions, military equipment and technologies), which shall be subject to the Common Position.

Regulation (EU) n. 258/2012 of the European Parliament and of the Council of 14 March 2012.

(<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:094:0001:0015:En:PDF>)

Establishes export authorizations, and import and transit measures for firearms, their parts and components and ammunition. It is directly applicable (does not require transposition).

The Working Party on Conventional Arms Export (COARM) (<https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/working-party-conventional-arms-exports/>) is an information exchange platform. COARM handles work concerning **export controls for conventional arms**. It also works as a forum, where the member states communicate and share information on their export policies to non-EU countries, and on national denials of applications for export licenses to non-EU countries. COARM **doesn't take decisions on how to interpret legislation**. It is up to Member States to interpret EU rules and positions that fall under the Common Foreign and Security Policy.

Dual system applicable to Civil or Military goods

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If a product might fall into the scope of both systems (Regulation (EU) n. 258/2012 and Common Position 2008/944/CFSP), the application of the Regulation shall prevail due to the fact that it is directly applicable, it is hierarchically superior to any national legislation and due to the fact that **Common Position has no legislative value**. Also, national laws shall not apply in fields directly governed by EU Regulations.

As a consequence of that, national legislation shall apply to exports excluded from the scope of the Regulation. Such national legislation may apply the criteria of the Common Position 944/2008 only when exports involve **weapons included in the Common Military List** for exports to “sensitive countries”.

To avoid any doubt, the Regulation clearly excludes the products that shall not fall under its scope. Article 3, of the Regulation provides the following:

*“This Regulation shall not apply to: (a) State to State transactions or State transfers; (b) **firearms, their parts and essential components and ammunition if specially designed for military use and, in any case, firearms of the fully automatic firing type**; (c) firearms, their parts and essential components and ammunition when destined for the armed forces, the police, or the public authorities of the Member States; (d) collectors and bodies concerned with cultural and historical aspects of firearms, their parts and essential components and ammunition and recognized as such for the purpose of this Regulation by the Member State in whose territory they are established, provided that tracing measures are ensured; (e) deactivated firearms; (f) antique firearms and their replicas as defined in accordance with national legislation, provided that antique firearms do not include firearms manufactured after 1899.”*

A contrario sensu, this implies that any other “firearms, their parts and essential components and ammunition” (as defined in Article 2 of the Regulation and detailed in its Annex I) shall fall into the scope of the Regulation.

Additionally to this, Article 4 of the Regulation provides the treatment when there is an export that includes both civilian and military goods, giving the Member States the possibility to apply one only single procedure:

*“Where the export of firearms, their parts, essential components and ammunition requires an export authorization pursuant to this Regulation and that export is also subject to authorization requirements in accordance with **Common Position 2008/944/CFSP, Member States may use a single procedure** to carry out the obligations imposed on them by this Regulation and by that Common Position.”*