

# **Study in view of a report evaluating the implementation of Regulation 258/2012**

Final Report – Annex I

22 November 2017

*This report has been prepared by EY and SIPRI for the European Commission DG Migration and Home Affairs.*

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**European Commission**

Directorate-General Migration and Home Affairs

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Final Report – Annex I

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## Table of contents

ANNEX 1.	METHODOLOGICAL NOTE .....	6
1.1	Methodology for the overall study .....	6
1.2	Methodology for the market analysis .....	9
ANNEX 2.	DETAILED DESCRIPTION OF REGULATION 258 PROVISIONS ....	17
ANNEX 3.	RESULTS OF THE MARKET ANALYSIS .....	21
3.1	Market size.....	23
3.2	Market Structure .....	28
3.3	Extra-EU Trade .....	30
ANNEX 4.	COHERENCE BETWEEN ARTICLE 10 OF THE UNFP AND REGULATION 258.....	44
ANNEX 5.	ACCESSION TO THE UN FIREARMS PROTOCOL: STATUS OF EU MEMBER STATES .....	49
ANNEX 6.	CASE STUDIES.....	50
6.1	Introduction .....	50
6.2	Export/import procedures .....	53
6.3	Simplified procedures.....	59
6.4	Information exchange .....	61
6.5	Categories.....	67
6.6	Transit and transportation .....	71
ANNEX 7.	ANALYSIS OF THE SURVEY .....	74
7.1	Methodological note.....	74
7.2	Provisions .....	75
7.3	Overall insights .....	100
ANNEX 8.	SUMMARY ANALYSIS OF THE OPEN PUBLIC CONSULTATION...	118
8.1	Introduction .....	118
8.2	Analysis .....	118
ANNEX 9.	TABLE OF CORRESPONDENCE BETWEEN FINDINGS AND EVALUATION CRITERIA.....	124
ANNEX 10.	LIST OF STAKEHOLDERS INVOLVED IN THE STUDY.....	128
10.1	Stakeholders answering the survey .....	128
10.2	Stakeholders involved in interviews.....	130
ANNEX 11.	BIBLIOGRAPHIC REFERENCES .....	132
11.1	Studies and Reports.....	135



## **Annex 1. Methodological note**

### **1.1 Methodology for the overall study**

The study relied on both desk and field research. The desk research focused on available documents at the national level including national legislative acts, implementing rules and administrative procedures implementing the provisions of Regulation 258. A list of the analysed documentation is presented in Annex 11.

The field research aimed at both collecting relevant data and input from stakeholders and validating information already found during the desk research. It relied on a **web-based survey** with relevant stakeholders, **interviews** (i.e. scoping, general, and to feed the case studies), and an EC **open public consultation**. In addition to what originally planned, the Evaluation team participated in a meeting of the Firearms Exports Coordination Group and launched an additional short survey addressed to National Competent Authorities to further investigate some key points.

#### **Survey**

The goal of the survey was to collect comprehensive and specific information on procedures and rules applied at the national level to ensure compliance with the requirements set in Regulation 258.

The survey targeted EU28 National Competent Authorities, representatives from firearms users and producers/exporters (the latter representing the EU28 top producers).

To this end, the Commission provided the Evaluation team with a list of contacts of National Competent Authorities responsible for the implementation of Regulation 258 and of relevant contacts within the Firearms Exports Coordination Group, which is responsible for examining any issues concerning the application of Regulation 258. Starting from these contacts, the Evaluation team progressively expanded the list by adding additional contacts suggested by stakeholders. Contacts related to firearms producers/exporters and users were identified on the basis of desk research, as well as on professional relationships established by team members during previous projects.

The survey was tailored to different stakeholders and tested with one representative from each category. The customisation of the questionnaires further facilitated the triangulation of data and information, with the aim of ensuring as much transparency and reliability as possible. The questionnaires were composed of around 90 questions (77 for firearms' users, 85 for firearms' industry and 125 for National Competent Authorities), most of which were closed; a limited number of open-ended questions were also included to give stakeholders the opportunity to provide comments and additional explanations.

The survey was launched through an online tool (eSurvey tool) on March 13<sup>th</sup> and lasted officially 67 days until May 19<sup>th</sup>. However, the Evaluation team left the system open and accommodated stakeholders' request to take more time to answer the survey. The last contributions to the survey were received on June 14<sup>th</sup>.

Four extensive reminders were sent by the Evaluation team through direct mail together with additional contacts via phone or mail. The Commission also supported the Evaluation team in the follow-up with some representatives from National Competent Authorities in order to ensure the full coverage of Member States. Unfortunately, these reminders

notwithstanding, answers of National Competent Authorities remained missing for a limited number of Member States.<sup>1</sup>

**Table 1 – Survey rate of response**

	National Competent Authorities	Firearms producers/exporters	Firearms users
Target <sup>2</sup>	93	139	60
Number of respondents	37	20	17
<b>Rate of response</b>	<b>39.8%</b>	<b>14.4%</b>	<b>28.3%</b>

The survey questions aimed at gathering descriptive information concerning implementing practices at the national level were also leveraged to integrate the implementation tables and then analysed horizontally vis-à-vis implementation aspects.

### **Interviews**

48 interviews were performed. A list of interviewees is included in Annex 10. These include:

- 4 scoping interviews (conducted between February 1<sup>st</sup> and 13<sup>th</sup>) with EU officials and one representative from producers/exporters were carried out during the Inception phase to identify key points of attention for the evaluation and ensure a good understanding of the main issues at stake in the implementation of Regulation 258;
- 33 case study interviews<sup>3</sup> (conducted between April 18<sup>th</sup> and July 12<sup>th</sup>) with representatives from National Competent Authorities, firearms' producers/exporters and users were performed to collect additional information and insights from different categories of stakeholders affected by the implementation of specific provisions of Regulation 258;
- 11 general interviews (conducted between June 30<sup>th</sup> and July 19<sup>th</sup>) were carried out with nine firearms experts belonging to international institutions, third country governments, research institutes and think tanks focused on firearms-related matters (to discuss the main trends and features of illicit trafficking of civilian firearms between EU and third countries as well as good practices implemented outside Europe to ensure control over exported/imported firearms), and two representatives of European associations of firearms producers/exporters (to further investigate bottlenecks in the implementation of Regulation 258 and retrieve more detailed quantitative information related to its costs and extra-EU firearms exports).

### **Case studies**

The aim of the case studies was to analyse in depth key issues linked to the implementation of Regulation 258, by gathering information through interviews with key stakeholders (see paragraph above on interviews), analysing relevant documents and integrating information

<sup>1</sup> DE, MT. For DE, however, the survey was replaced by a face-to-face interview on June 23<sup>rd</sup> following the Firearms Export Coordination Group meeting in Brussels.

<sup>2</sup> Target refers to the number of people who received the invitation to participate in the survey. To increase the rate of response, an invitation has been sent to all members of the Firearms Export Coordination Group, whose responses are included in the number of respondents to the survey.

<sup>3</sup> One of these is scheduled.



collected through other tools used in this evaluation. The information collected through case studies was used for the purposes of the overall evaluation study, considering case studies as representative of possible approaches to the most relevant issues related to the implementation of Regulation 258.

The Evaluation team undertook five case studies on the following areas, as discussed with the Commission during the Kick-off meeting and presented in the Inception report:

1. Export/import procedures;
2. Simplified procedures;
3. Exchange of information;
4. Categories;
5. Transportation and transit.

Overall, case studies covered 10 Member States, namely: Austria, Belgium, the Czech Republic, Finland, France, Germany, Italy, the Netherlands, Sweden, and the United Kingdom. These countries were selected considering their prominence in terms of: extra-EU export, extra-EU import, presence of major freight handling ports/airports and EU production (see the analysis of the market in Annex 3).

Case studies, including information derived from both desk and field research, are presented in Annex 6. When relevant, main findings coming from the analysis of the case studies have been included in the analysis of the implementation state of play (Chapter 5).

### ***Open public consultation***

The Commission launched on March 1<sup>st</sup> a public consultation addressed to anyone interested in providing input on the implementation of Regulation 258. The Open public consultation lasted 12 weeks, until May 24<sup>th</sup>.

The Evaluation team supported the Commission in drafting the questionnaire which was composed of 22 questions, mainly closed, with a limited number of open questions to provide overall comments and explanations.

On June 9<sup>th</sup>, only eight answers were received by respondents<sup>4</sup> representing brokers/dealers, manufacturers and other categories of stakeholders not better identified.<sup>5</sup> They are included in Annex 8. A synopsis report has been drafted. Feedback from the open public consultation has been analysed, however responses did not provide significant added value given their poor quality and low statistic representativeness.

### ***Firearms Exports Coordination Group***

This meeting, held on June 23<sup>rd</sup>, gave the Evaluation Team the opportunity to gather additional information on the implementation of some of the most controversial provisions of Regulation 258, as well as to validate some information already collected and included in the Interim Report.

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<sup>4</sup> In terms of geographical coverage, one respondent indicated "Estonia", one indicated "Germany" and six "No Answer".

<sup>5</sup> Answers to the Open public consultation include: n=2 Broker/dealer, n=3 Manufacturer, n=1 Other, n=2 not specified.

### **Additional short survey for National Competent Authorities**

In addition to the web-based survey, a second, shorter survey was drafted. It only targeted National Competent Authorities and was composed of 11 questions (mainly closed). The short survey was launched on June 16<sup>th</sup> and distributed by the Commission together with the Agenda of the Firearms Export Coordination Group meeting (June 23<sup>rd</sup>).

On July 7<sup>th</sup>, eight completed surveys were sent back by National Competent Authorities. Relevant input provided by these has been incorporated in the overall analysis of the survey (Annex 7) under "Additional survey".

## **1.2 Methodology for the market analysis**

The analysis focused on those dimensions deemed relevant to have an overview of the market of firearms for civilian use, parts, essential components, and ammunition. In particular, the topics covered were:

- Market Size;
- Market Structure, Employment and Investment;
- Extra-EU trade;

When referring to the EU market, it is intended EU28.

Official sources have been analysed to look for some specific indicators that could help to describe such dimensions. The table below summarises the dimensions of the analysis, and which sources and indicators have been used to provide a descriptive assessment of the context in which the firearms, their parts and components are produced, exported and imported. Together with this, the Evaluation team has added a detailed list of products covered by each dimension.

Market Dimension	Indicators	Sources	Products Covered
<b>Market Size</b>	Sold production quantity and value	Eurostat PRODCOM database, WFSA <sup>6</sup>	<b>Firearms</b>
			<ul style="list-style-type: none"> <li>• NACE Rev.2 – 25401230 – Revolvers and Pistols</li> <li>• NACE Rev.2 – 25401250 – Shotgun, rifles, carbines and muzzle loaders</li> <li>• NACE Rev.2 – 25401270 – Firearms (explosive charge)</li> </ul>
			<b>Parts and components</b>
			<ul style="list-style-type: none"> <li>• NACE Rev.2 – 25401400 – Parts and accessories for revolvers, pistols, non-military firearms and similar devices</li> </ul>
			<b>Ammunition</b>
			<ul style="list-style-type: none"> <li>• NACE Rev.2 – 25401300 – Cartridge and other ammunition</li> <li>• NACE Rev.2 – 20511130 – Propellant Powders</li> </ul>

<sup>6</sup> World Forum on the Future of Shooting Activities.

Market Dimension	Indicators	Sources	Products Covered
			<ul style="list-style-type: none"> <li>NACE Rev.2 – 20511270 – Percussion or detonating caps, igniters and electric detonators</li> </ul>
<b>Market Structure, Employment and Investment</b>	Turnover, Number and size of firms, Number of employees	Eurostat SBS, AMADEUS database	<b>Firearms, Parts and components, and Ammunition<sup>7</sup></b> <ul style="list-style-type: none"> <li>NACE Rev.2 – 2540 – Weapons and Ammunition</li> </ul>
<b>Extra-EU trade</b>	Export-EU28 export and import in quantity and value	Eurostat International Trade Database, UN COMTRADE database	<b>Firearms</b>
			<ul style="list-style-type: none"> <li>SITC – 89114 – Revolvers and Pistols</li> <li>SITC -89131 – Firearms, N.E.S. and similar devices</li> </ul>
			<b>Parts and components</b>
			<ul style="list-style-type: none"> <li>SITC – 89191 – Parts and accessories of revolvers or pistols</li> <li>SITC – 89195 – Other parts of shotguns and rifles of heading 891.31;</li> <li>SITC – 89199 – Parts and accessories, N.E.S., of the articles of heading</li> </ul>
			<b>Ammunition</b>
			<ul style="list-style-type: none"> <li>SITC – 89122 – Cartridges for shotguns</li> <li>SITC – 89124 – Other cartridges and parts</li> <li>SITC – 59311 – Propellant Powders</li> <li>SITC – 59320 – Safety fuses; Detonating fuses; Percussion or Detonating caps; Igniters and Electric Detonators</li> </ul>
<b>International Competitiveness</b>	Balassa Index	UN COMTRADE	<b>Firearms, Parts and components, and Ammunition</b>
			<ul style="list-style-type: none"> <li>SITC – 89114 – Revolvers and Pistols</li> <li>SITC -89131 – Firearms, N.E.S. and similar devices</li> <li>SITC – 89191 – Parts and accessories of revolvers or pistols</li> <li>SITC – 89195 – Other parts of shotguns and rifles of heading 891.31;</li> <li>SITC – 89199 – Parts and accessories, N.E.S., of the articles of heading</li> <li>SITC – 89122 – Cartridges for shotguns</li> <li>SITC – 89124 – Other cartridges and parts</li> <li>SITC – 59311 – Propellant Powders</li> <li>SITC – 59320 – Safety fuses; Detonating fuses; Percussion or Detonating caps; Igniters and Electric Detonators</li> </ul>

As mentioned in the core text of the market analysis<sup>8</sup> **additional sources from reports and interviews** and some estimation techniques were used in order to overcome issues

<sup>7</sup> Such a dimension of analysis considers all the sectors 2540 of NACE Rev.2, including also military weapons. The granularity of available data did not give the Evaluation team the possibility to extrapolate more detailed information related to specific aspects of interest of the evaluation exercise.

related to data availability. A detailed explanation of the methodology for each dimension of analysis is provided in the following pages.

### **1.2.1 Market Size**

To assess the Market Size, the main source of information was the Eurostat Community Production (PRODCOM) Database, which includes statistics on the production of manufactured goods. This database includes data from National Statistical Institutes which conduct surveys on enterprises at country level.

The database contains a list of 3900 products which are classified according to the Statistical Classification of products by activity (CPA) and the Statistical classification of economic activities in the European Community (NACE).

CPA classifies products by their physical characteristics as goods, or by their intrinsic nature as services, as well as by originating activity. Originating activities are those defined by NACE (CPA structure corresponds at all levels of that of NACE).

The section of PRODCOM database most relevant to the study is NACE Rev.2 C-Manufacturing, and the variables considered in such analysis are related to the values and volumes of sold production.

In particular, the following **variables** were considered:

- PROD\_VALUE\_EUR: value of sold production in Euro;
- PROD\_QNT: volume of production in number of items.

Moreover, as for the scope of the analysis of this market dimension, the classified products identified were:

- NACE Rev.2 – 25401230 – Revolvers and Pistols (excluding military firearms);
- NACE Rev.2 – 25401250 - Shotgun, rifles, carbines and muzzle loaders (excluding military firearms);
- NACE Rev.2 – 25401270 - Firearms (explosive charge, excluding military firearms);
- NACE Rev.2 – 25401400 – Parts and accessories for revolvers, pistols, non-military firearms and similar devices (excluding military firearms);
- NACE Rev.2 – 25401300 – Cartridge and other ammunition (excluding military firearms);
- NACE Rev.2 – 20511130 – Propellant Powders;
- NACE Rev.2 – 20511270 – Percussion or detonating caps, igniters and electric detonators.

The figures related to such codes were considered as upper limits in the study, since the values and volumes of each code do not discriminate between firearms, parts and components, and ammunition for civilian and military market.

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<sup>8</sup> Study in view of a report evaluating the implementation of Regulation 258/2012 (Interim Report), pag. 20.

For example, the NACE Rev.2 code 25401230 related to Revolvers and Pistols does not distinguish firearms for Law enforcement agencies (Police and similar entities) from those for civilian use. In this case, it was necessary to “correct” the figures with a discount factor, in order to have a more realistic estimation of the sector of interest. For these reasons, the Evaluation team adjusted existing figures according to estimation techniques designed by triangulating several sources of information. The market analysis included in the core report shows both the raw figures as extracted from PRODCOM and the estimations performed by the Evaluation team.

In relation to the estimation techniques, the Evaluation team used data available in Small Arms Survey reports<sup>9</sup> and the European Defence Agency website<sup>10</sup> in order to calculate the number of firearms owned by civilian and by military and Law enforcement agencies.

Assuming that the production of firearms, parts and components, and ammunition is driven by such a distribution in terms of shares, the Evaluation team corrected values and volumes in order to remove the portion not related to the civilian market. The table below describes in detail the rationale underpinning the calculation performed.

Variables	NACE codes	Explanation
<b>Sold Production Value</b>	<ul style="list-style-type: none"> <li>NACE Rev.2 – 25401230 – <i>Revolvers and Pistols (excluding military firearms)</i></li> <li>NACE Rev.2 – 25401250 – <i>Shotgun, rifles, carbines and muzzle loaders(excluding military firearms)</i></li> <li>NACE Rev.2 – 25401270 – <i>Firearms (explosive charge, excluding military firearms)</i></li> <li>NACE Rev.2 – 25401400 – <i>Parts and accessories for revolvers, pistols, non-military firearms and similar devices (excluding military firearms)</i></li> <li>NACE Rev.2 – 25401300 – <i>Cartridge and other ammunition (excluding military firearms)</i></li> <li>NACE Rev.2 – 20511130 – <i>Propellant Powders</i></li> <li>NACE Rev.2 – 20511270 – <i>Percussion or detonating caps, igniters and electric detonators</i></li> </ul>	<ul style="list-style-type: none"> <li>Data triangulation gave the Evaluation team the information that on average the share of firearms owned <b>by law enforcement officers</b> is around 3.5% of the overall number of firearms (in EU28 countries). For this reason, the Evaluation team multiplied the values related to the following codes: 25401230, 25401250, 25401270, 25401400 and 25401300 by <b>96.5%</b>, in order to remove from the original values the part not related to the civilian market</li> <li>Data triangulation gave the Evaluation team the information that on average the share of firearms <b>owned by law enforcement officers and military services</b> is around <b>27%</b> of the overall number of firearms (in EU28 countries). For this reason, the Evaluation team multiplied the values of the following codes: 20511130, and 20511270 by <b>73%</b>, in order to remove from the original values the parts not related to the civilian market.</li> </ul>
<b>Sold Production Volume</b>	<ul style="list-style-type: none"> <li>NACE Rev.2 – 25401230 – <i>Revolvers and Pistols</i></li> <li>NACE Rev.2 – 25401250 – <i>Shotgun, rifles, carbines and muzzle loaders</i></li> </ul>	<ul style="list-style-type: none"> <li>The same calculations above mentioned have been applied to the <b>volumes</b> of firearms, parts and components, and ammunition.</li> </ul>

<sup>9</sup> Small Arms Survey (2007), 'Small Arms Survey 2007: Guns and the city'. Karp, A. (2013), 'Data sources and the Estimation of Military-owned Small Arms', Small Arms Survey Research Notes, n.34. Karp, A. (2012), 'Estimating Law Enforcement Firearms' Small Arms Survey Research Notes, n.24.

<sup>10</sup> European Defence Agency, 'European Data Portal' available at <https://www.eda.europa.eu/info-hub/defence-data-portal>

Variables	NACE codes	Explanation
	<ul style="list-style-type: none"> <li>NACE Rev.2 – 25401270 - Firearms (explosive charge)</li> <li>NACE Rev.2 – 25401400 – Parts and accessories for revolvers, pistols, non-military firearms and similar devices</li> <li>NACE Rev.2 – 25401300 – Cartridge and other ammunition</li> <li>NACE Rev.2 – 20511130 – Propellant Powders</li> <li>NACE Rev.2 – 20511270 – Percussion or detonating caps, igniters and electric detonators</li> </ul>	

### 1.2.2 Market Structure, Employment and Investment

This dimension of analysis covered the competitive structure of the market and other relevant characteristics, such as the distribution of employees and the amount of investments. The Evaluation team used the following sources of information: Data from Eurostat Structural Business Statistics Database (SBS), the labour Force Survey (LFS), and AMADEUS Database produced by Bureau Van Djik.

Data from SBS and AMADEUS did not provide a granularity by product (as in the case of CPA) but only by sector. The sector which the Evaluation team took into consideration is C254 – Manufacture of Weapons and Ammunition, which includes military weapons.

As for LFS, the Evaluation team used data related to the sector C25 – Manufacture, in order to have the total number of employees of such a sector.

The main table the Evaluation team used from the SBS database was *Industry by employment size class* (NACE Rev.2 B-E) sbs\_sc\_ind\_r2.

The variables contained in the table belong to three main groups:

- Business Demographic Variables;
- Input related Variables;
- Output related Variables.

Within these groups, the Evaluation team considered the following key variables:

- No of enterprises: a count of the number of enterprises active during at least a part of the reference period;
- No of employees: those persons who work for an employer and who have a contract of employment and receive compensation in the form of wages;
- Turnover: total invoiced by the observation unit during the reference period.

The Amadeus database was used to estimate the distribution of firms operating in the weapons and ammunition sector (C2540) according to their size:

- Micro firms (0-9 employees);
- Small firms (10-49 employees);
- Medium firms (50-249 employees);

- Large firms (more than 249 employees).

Using LFS, the Evaluation team estimated the total number of employees working in the civilian firearms sector, using the shares of firearms, parts and components, and ammunition production on the overall manufacture production.

The table below shows in detail the calculation performed.

Variables	NACE codes	Explanation
<b>Turnover</b>	<ul style="list-style-type: none"> <li>• NACE Rev.2 – 2540</li> </ul>	<ul style="list-style-type: none"> <li>• Data from SBS provided the EU28 total turnover of the sector according to the size of the firms (Micro, Small, Medium and Large)</li> </ul>
<b>N. of firms</b>	<ul style="list-style-type: none"> <li>• NACE Rev.2 – 2540</li> </ul>	<ul style="list-style-type: none"> <li>• Data from SBS provided the EU28 total number of firms which operate in the sector of weapons and ammunition</li> </ul>
<b>N. of employees</b>	<ul style="list-style-type: none"> <li>• NACE Rev.2 – 25</li> <li>• NACE Rev.2 – 25401230 – <i>Revolvers and Pistols (excluding military firearms)</i></li> <li>• NACE Rev.2 – 25401250 – <i>Shotgun, rifles, carbines and muzzle loaders(excluding military firearms)</i></li> <li>• NACE Rev.2 – 25401270 – <i>Firearms (explosive charge, excluding military firearms)</i></li> <li>• NACE Rev.2 – 25401400 – <i>Parts and accessories for revolvers, pistols, non-military firearms and similar devices (excluding military firearms)</i></li> <li>• NACE Rev.2 – 25401300 – <i>Cartridge and other ammunition (excluding military firearms)</i></li> <li>• NACE Rev.2 – 20511130 – <i>Propellant Powders</i></li> <li>• NACE Rev.2 – 20511270 – <i>Percussion or detonating caps, igniters and electric detonators</i></li> </ul>	<ul style="list-style-type: none"> <li>• Data from LFS provided the total number of employees working in the manufacturing sector, combining this with the shares of production in the sector of civilian firearms; the Evaluation team obtained an estimated number of the total employees working in the civilian firearms sector.</li> </ul>

### 1.2.3 Extra-EU trade

Data on international trade were collected and analysed through the use of two databases:

- Eurostat International trade in goods statistics;
- UN COMTRADE.

Both databases offer a wide range of data classified in several ways: Harmonized System, Standard International Trade Classification (SITC), and Broad Economic Categories.

Following the explanatory notes of Eurostat, the SITC code appeared to be the most adequate to perform comparisons on a worldwide basis.<sup>11</sup> The categories considered coherent with the analysis were:

<sup>11</sup> International trade in goods (ext\_go), Reference Metadata in Euro SDMX Metadata Structure, p. 3.



- SITC 89114 – Revolvers and Pistols (...);<sup>12</sup>
- SITC 89122 – Cartridges for shotguns (...);
- SITC 89124 – Other cartridges and parts thereof (...);
- SITC 89131 – Firearms, N.E.S. and similar devices (...);
- SITC 89191 – Parts and accessories of revolvers or pistols (...);
- SITC 89195 – Other parts of shotguns and rifles of heading 891.31 (...);
- SITC 89199 – Parts and accessories, N.E.S., of the articles of heading (...);
- SITC 59311 – Propellant Powders;
- SITC 59329 – Safety fuses; Detonating fuses; Percussion or Detonating caps; Igniters and Electric Detonators.

The variables considered relevant to this dimension were:

- Imports;
- Exports.

These data made it possible to conduct comparisons with key third countries.

The table below shows in detail the calculation performed.

Variables	SITC codes	Explanation
<b>Export</b>	<ul style="list-style-type: none"> <li>• SITC – 89114 – Revolvers and Pistols</li> <li>• SITC -89131 – Firearms, N.E.S. and similar devices</li> <li>• SITC – 89191 – Parts and accessories of revolvers or pistols</li> <li>• SITC – 89195 – Other parts of shotguns and rifles of heading 891.31;</li> <li>• SITC – 89199 – Parts and accessories, N.E.S., of the articles of heading</li> <li>• SITC – 89122 – Cartridges for shotguns</li> <li>• SITC – 89124 – Other cartridges and parts</li> <li>• SITC – 59311 – Propellant Powders</li> <li>• SITC – 59320 – Safety fuses; Detonating fuses; Percussion or Detonating caps; Igniters and Electric Detonators</li> </ul>	<ul style="list-style-type: none"> <li>• Data from Eurostat International Trade Database provided information on Extra-EU28 values of exports of firearms, parts and components, and ammunition.</li> <li>• Data from UN COMTRADE provided information on exports of firearms of all the countries of the World.</li> </ul>
<b>Import</b>	<ul style="list-style-type: none"> <li>• SITC – 89114 – Revolvers and Pistols</li> <li>• SITC -89131 – Firearms, N.E.S. and similar devices</li> <li>• SITC – 89191 – Parts and accessories of revolvers or pistols</li> <li>• SITC – 89195 – Other parts of shotguns and rifles of heading 891.31;</li> <li>• SITC – 89199 – Parts and accessories, N.E.S., of the articles of heading</li> </ul>	<ul style="list-style-type: none"> <li>• Data from Eurostat International Trade Database provided information on Extra-EU28 values of imports of firearms, parts and components, and ammunition.</li> <li>• Data from UN COMTRADE provided information on imports of firearms of all the countries of the World.</li> </ul>

<sup>12</sup> Trade flows (Imports/Exports) from all EU28 to the rest of the World, both data available in terms of single country.



	<ul style="list-style-type: none"> <li>• SITC – 89122 – Cartridges for shotguns</li> <li>• SITC – 89124 – Other cartridges and parts</li> <li>• SITC – 59311 – Propellant Powders</li> <li>• SITC – 59320 – Safety fuses; Detonating fuses; Percussion or Detonating caps; Igniters and Electric Detonators</li> </ul>	
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**A limitation** of this dimension of analysis lies in the fact that SITC codes used to estimate the figures of exports and imports do not distinguish between firearms, parts and components, and ammunition for the civilian firearms market from those for law enforcement agencies.

World-exports from EU Member States and relevant trends compared to Third-Countries have been used in order to assess such dimension. The main database used to collect data was **UN COMTRADE**. These data made it possible to build the Balassa index<sup>13</sup> of Revealed Comparative Advantage (RCA).

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<sup>13</sup> The Balassa Index, known also as RCA index, is a measure of competitiveness. It is defined as:  $(E_{ij} / E_{it}) / (E_{nj} / E_{nt})$ , where: "E" is the export flow; "i" is the country; "n" is a set of countries; "j" is the commodity and "t" is a set of commodities. Values of the RCA index greater than one indicate that a given country has a comparative advantage in the production of a given product compared to a set of reference countries. For more information the reader can refer to: Balassa, B., (1965), 'Trade Liberalisation and 'Revealed Comparative Advantage', Manchester School of Economic and Social Studies (1965), Vol. 33, pp. 99–123.

## **Annex 2. Detailed description of Regulation 258 provisions**

### ***Scope, content and definitions***

Article 1 defines the purpose and main subject of Regulation 258, which is setting out rules concerning export authorisation, and import and transit measures for firearms, their parts and essential components, and ammunition, for the purpose of implementing Article 10 of the UN Firearms Protocol.

Article 2 of Regulation 258 contains definitions of key terms used throughout the text, including a number of terms important for the analysis of implementation and consistency between different EU instruments. In particular:

- ‘firearm’ is defined as any portable barrelled weapon that expels, is designed to expel or may be converted to expel, a shot, bullet or projectile by the action of a combustible propellant;
- ‘export’ is defined as an export procedure whereby Community goods leave the customs territory of the Community, and entailing the application of exit formalities, including commercial policy measures and, where appropriate, export duties.
- ‘export authorisation’ is defined as:
  - (a) a single authorisation or licence granted to one specific exporter for one shipment to one identified final recipient or consignee in a third country;
  - (b) a multiple authorisation or licence granted to one specific exporter for multiple shipments to one identified final recipient or consignee in a third country;
  - (c) a global authorisation or licence granted to one specific exporter for multiple shipments to several identified final recipients or consignees in one or several third countries;
- ‘*transit*’ is defined as the transport of goods leaving the customs territory of the European Union (EU) and passing through the territory of one or more third countries with final destination in another third country.
- ‘*illicit trafficking*’ is defined as the import, export, sale, delivery, movement or transfer of firearms, their parts and essential components or ammunition from or across the territory of one Member State to that of a third country under specified circumstances, including cases where ‘the imported firearms are not marked at the time of import at least with a simple marking permitting identification of the first country of import within the EU, or, where the firearms do not bear such a marking, a unique marking identifying the imported firearms’.
- ‘*tracing*’ indicates the systematic tracking of firearms, their parts, essential components, and ammunition from manufacturer to purchaser for the purpose of assisting the competent authorities of Member States in detecting, investigating and analysing illicit manufacturing and trafficking.

Article 3 defines the scope of Regulation 258 indicating specific circumstances and types of firearms (such as fully automatic firearms, deactivated firearms, and antique firearms and their replicas) to which it shall not apply.

Annex I of Regulation 258 also provides the list of firearms, their parts and essential components, and ammunition covered by the Regulation, classified according to the Combined Nomenclature (CN) system.

### **Export authorisation**

Article 4 of Regulation 258 establishes the requirements for an export authorisation. In particular:

- Article 4(2) draws attention to the fact that items defined as firearms in Regulation 258 may also be on the list of military items that require national export licencing in line with the provisions of the EU Council Common Position 2008/944/CFSP. Nonetheless, the Regulation (and Article 4(2)) cannot be interpreted in a way to leave the possibility to use the provisions of Common Position 2008/944/CFSP for firearms not under its scope.
- Article 4(3) permits exporters to apply for export authorisation in an EU Member State in conditions where the items to be exported are physically located within the territory of another EU Member State.

Article 7(1)(a) and 7(3) of Regulation 258 establishes the requirement to provide proof that the importing country has authorised the transaction, while paragraph 4 of the same Article defines 60 working days as the maximum time period in which Member States shall process the applications for export authorisation. Article 7(6) also allows the use of electronic documents for processing applications. As regards the period of validity of the export authorisation, Article 7(5) establishes that it cannot exceed the period of validity of the import authorisation presented by the exporter at the time of the application.

Article 8 provides a list of mandatory information that shall be contained in the import licence or import authorisation and the accompanying documentation issued by the importing third country. It also requires to the exporter to provide such information to the third country of transit at the latest before prior to the shipment.

Article 10 requires Member States to take account of their obligations under other relevant international and EU agreements and legal instruments, and to put in place procedures to assess the intended end use, consignee, identified final recipient and risk of diversion associated with the export.

Article 11 establishes “hard” criteria that will always lead to denial of authorisation to export. Member States that deny an export authorisation against these hard criteria must inform the competent authorities of the other Member States and share with them related information. The Article contains a so-called “no undercut” requirement, that if presented with an essentially identical application, no Member State should authorise export without prior consultation with the state that previously denied authorisation. If a Member State authorises an export that another Member State has previously denied, there is an obligation to explain why that authorisation was granted.

Article 13 enables Member States, if they have ground for suspicion, to seek confirmation from that the dispatched shipment of firearms reached the expected destination. The Article also specifies that Member States may address such request either to the importing third country or the other way round when the Member State is importing from third countries, depending on their national law or practice in force.

Article 14 imposes on Member States the obligation to take all the necessary measures to make export authorisation procedures secure as well as to allow for the verification and validation of the authenticity of the authorisation documents.

Article 15 of Regulation 258 requires Member States to take necessary and proportionate measures to allow their respective competent authorities to gather information on transactions involving firearms, their parts and essential component and ammunition, and to properly apply export control measures (specific reference is made to the power to enter the premises of persons interested in an export transaction).

### ***Transit***

Article 7(1)(b), (2) and (3) of Regulation 258 contains provisions regarding the transit of firearms, their parts and essential component and ammunition. In particular, these articles impose the obligation on Member States to verify that, before issuing an export authorisation, the third countries of transit have notified in a written form that they have no objections to the transit of shipped materials. Article 7(2) also specifies that in case no response is received by the consulted third countries of transit within the time frame of 20 working days, the absence of objections shall be regarded by the Member State responsible for issuing the export authorisation as a "silent approval" to the transit. These provisions do not apply when no transshipment of means of transportation is planned to take place in the third country, and in case of temporary exports for verifiable lawful purposes (e.g. hunting, sport shooting, exhibition, etc.), as specified in Article 7(1)(b).

### ***Import***

Regulation 258 also contains provisions regarding the import of firearms, their parts, essential components, and ammunition from third countries. In particular, Article 2(15) establishes that also the import of firearms not marked at the moment of their import with a simple marking (allowing for the identification of the first country of import within the EU) shall be regarded as illicit trafficking, thereby creating an obligation for importers to mark imported firearms, so to allow for their following tracking. Moreover, according to Article 13(2), upon request from a third country party to the UN Firearms Protocol, Member States must confirm to have received within their territories the dispatched shipment of firearms by producing the appropriate customs importation documents. It shall also be noted that recital 11 in the preamble of Regulation 258 indicates that firearms, their parts and essential components, and ammunition are subject to the requirements of Directive 91/477/EEC when imported from third countries.

### ***Customs export formalities***

Provisions regarding customs formalities for exports are enshrined in Articles 17 and 18 of Regulation 258.

Article 18 requires Member States to provide for customs formalities only at empowered customs offices, Article 17(1) and (2) imposes the obligation on the exporter to prove that any necessary export authorisation has been obtained when completing customs formalities, and enables customs offices to require a translation into the official language of the Member State issuing the export authorisation of any documents provided as a proof. Moreover, Article 17(3) and (4) empowers the customs offices of Member States to suspend the process of export of firearms from their territory, for a period no longer than 10 days (which may be extended to 30 days), if they suspect that relevant information was disregarded or material circumstances significantly changed since the issuance of export authorisation.

### ***Simplified procedures***

Article 9 lays down simplified procedures that Member States are requested to apply to the temporary export or re-exports of firearms, their parts, essential components, and ammunition. Article 9(1) provides that hunters and sport shooters who are temporarily exporting or re-exporting firearms to a third country for hunting and sport shooting activities do not have to request an export authorisation, provided that they may produce a EFP or another document considered valid for that purpose by competent authorities. Article 9(2) also identifies precise instances in which Member States are required to design and establish simplified procedures in accordance with national legislation (e.g. temporary export and re-export of firearms for the purpose of evaluation, repair, and exhibition without sale).

### ***Record keeping***

Article 12 establishes a record keeping obligation for Member States and requires them to store, for a period not shorter than 20 years, information related to firearms (e.g. the places, dates of issue and expiry of the export authorisation, the consignee, the country of import, etc.) which may be used for the purpose of tracing and identifying firearms, thereby enhancing prevention and detection of illicit trafficking of firearms.

### ***Penalties***

Article 16 requires Member States to establish penalties for violations of Regulation 258 that are 'effective, proportionate and dissuasive'.

### ***Sharing information and cooperation***

Article 19 requires Member States to cooperate and exchange information between themselves and with the Commission in order to improve the efficiency of the measures laid down in Regulation 258. In particular, Member States are required to share (a) details of exporters whose request for an export authorisation was refused, and (b) data on suspicious consignees and routes taken by exported materials. By sharing information, Member States are expected to be in a better position to take decisions and actions aimed at preventing and fighting the illicit trafficking of firearms in third countries. Relevant information that must be documented is enlisted in Article 8(1). Moreover, Article 11 requires Member States not only to notify decisions regarding refusal, annulment, suspension, modification or revocation of export authorisation to other Member States, but also to take into account all the refusals, issued by other Member States, of which they have been modified.

Article 20 of Regulation 258 establishes a Firearms Exports Coordination Group chaired by a representative from the Commission and made up of a representative from each Member State. The Coordination Group is tasked to examine any questions concerning the application of Regulation 258 which may be raised either by the Chair or by a representative from a Member State.

With regard to additional information obligations, Article 18(2) requires Member States to communicate to the Commission the duly empowered customs offices, while Article 21 requires Member States to communicate to the Commission both the legislative and regulatory measures adopted to implement Regulation 258 and the national authorities competent for implementing Articles 7, 9, 11 and 17.

### Annex 3. Results of the market analysis

This section presents the analysis of the civilian firearms sector in terms of **size, structure** (including employment and level of investment), **and extra-EU trade** (including import and export flows and international competitiveness).

The sector is analysed with a focus on **three main units of analysis** which reflect the scope of Regulation 258: civilian firearms, parts and essential components, and ammunition. Each unit of analysis includes several products as listed in Annex I of Regulation 258 which are classified according to the CN system. Since the CN codes are not used in databases that allow international comparisons, the Evaluation team identified the corresponding NACE and SITC codes to extract relevant data and information from EU and international statistical databases (see Table 2 for an overview and Annex 1 for further details).<sup>14</sup>

**Table 2 - Overview of products in scope per unit of analysis and dimension analysed**

Units of analysis	Market size	Extra-EU trade	Market structure
<b>Firearms</b>	NACE Rev.2 – 25401230 – Revolvers and Pistols NACE Rev.2 – 25401250 – Shotgun, rifles, carbines and muzzle loaders NACE Rev.2 – 25401270 – Firearms (explosive charge)	SITC – 89114 – Revolvers and Pistols SITC – 89131 – Firearms, N.E.S. and similar devices	NACE Rev.2 – C254 – Manufacture of Weapons and Ammunition (including civilian and military)  NACE Rev.2 – C25 – Manufacture of fabricated metal products, except machinery and equipment (including civilian and military)
<b>Parts &amp; components</b>	NACE Rev.2 – 25401400 – Parts and accessories for revolvers, pistols, non-military firearms and similar devices	SITC – 89191 – Parts and accessories of revolvers or pistols SITC – 89195 – Other parts of shotguns and rifles of heading 891.31; SITC – 89199 – Parts and accessories, N.E.S., of the articles of heading	
<b>Ammunition</b>	NACE Rev.2 – 25401300 – Cartridge and other ammunition NACE Rev.2 – 20511130 – Propellant Powders NACE Rev.2 – 20511270 – Percussion or detonating caps, igniters	SITC – 89122 – Cartridges for shotguns SITC – 89124 – Other cartridges and parts SITC – 59311 – Propellant Powders SITC – 59320 – Safety fuses; Detonating fuses;	

<sup>14</sup> SITC codes are created based on the CN data. The classification systems used for products are: CN, whose first six digit codes coincide with the Harmonized Commodity Description and Coding System and Standard International Trade Classification. According to the reference metadata of "Eurostat International trade in goods", statistical information available in the database is mainly provided by traders on the basis of Customs (extra-EU) and Intrastat (intra-EU) declarations. Data are collected by the competent national authorities of the Member States and compiled according to a harmonised methodology established by EU regulations before transmission to Eurostat. The Evaluation team preferred the use of the SITC classification system to the CN, to ease the cross country comparability of data related to import and export of civilian firearms, to ensure continuity with the methodology used in the 2014 Evaluation of the Firearms Directive 91/477/EEC, and to avoid any forms of manipulation or aggregation of data that could have occurred using CN statistics.

Units of analysis	Market size	Extra-EU trade	Market structure
	and electric detonators	Percussion or Detonating caps; Igniters and Electric Detonators	

*Source: Authors' elaboration*

The analysis is based on publicly available data only, retrieved from accessible databases at EU and international level.

The Evaluation team faced some **limitations** in the data used for the analysis of the civilian firearms sector, which made it necessary to make assumptions and adjustments.

Overall, the sector is overestimated. For some units of analysis it was possible to distinguish products which fall within the scope of Regulation 258 from products which do not through assumptions and estimation techniques, while for others this was not possible. Identified statistical codes often include more goods than those within the scope of Regulation 258. This is the case, for instance, of:

- The "Parts and accessories" code, which includes both firearms parts -which are covered by Regulation 258- and accessories which are not essential to the functioning of a firearm and are therefore not within the scope of Regulation 258;
- "Propellant Powders" and "Percussion or detonating caps, igniters and electric detonators" codes, which include also material for military firearms;
- All codes listed in Table 2, which include also products that are for the police and are therefore not within the scope of Regulation 258.

In all these cases the Evaluation team made some assumptions and adjusted available figures accordingly. Specifically, statistics about military and law enforcement firearms have been used to review proportionally figures related to product codes that include firearms for civilian, military and law enforcement use. Where relevant, the potential range of values is specified in footnotes to give evidence of the values in case no estimation is applied. The only code that still includes products falling outside the scope of the Regulation is "parts and accessories".

The different market dimensions were analysed using different classification codes (NACE and SITC) that, while representing the best solution identified to give a comprehensive overview, do not perfectly match in terms of products covered.

Moreover, depending on the dimension, the level of granularity of statistics is different. While the analysis of the market size and the extra-EU trade could be structured according to the three units of analysis, this was not feasible for the analysis of the market structure, which can only provide an aggregated picture of the whole firearms sector (including both civilian and military firearms).



Data were not available for all Member States,<sup>15</sup> so it was necessary to make some assumptions in order to give a relevant picture of the European market (see Annex 1 for a detailed description of all limitations and assumptions).

### 3.1 Market size

#### 3.1.1 EU level

In 2015 **the sold production<sup>16</sup> of civilian firearms, their parts and components and ammunition accounted for a small share of the overall EU28 total sold production value** (0.04%)<sup>17</sup>, corresponding to € 2,888 million.<sup>18</sup> In terms of volume such a value corresponds to more than 2.9 million units of firearms,<sup>19</sup> and around 151 million kilos of ammunition<sup>20</sup> and propellant powder (together with 368 million units of percussion and detonating caps).<sup>21</sup>

**Most of the EU sold production value is composed of ammunition**, which represents on average 58% of the EU sold production since 2007, followed by firearms, which accounted on average for 27% of sold production.

**The EU sold production increased over the 2007-2015 period<sup>22</sup>** by an average annual growth rate of around 2.3%, rising from a total value of € 2,412 million<sup>23</sup> in 2007 to almost 2,888 million<sup>24</sup> in 2015, with a peak of 3,556 million<sup>25</sup> in 2013<sup>26</sup> (year of the entry into force of Regulation 258) and a significant decrease in 2014 (see Figure 1).<sup>27</sup>

<sup>15</sup> Data for the majority of countries, especially for the main producers and exporters, were always available. This guaranteed an overall high level of robustness of the findings and evidence coming out from the study.

<sup>16</sup> According to Eurostat 'Industrial production statistics introduced - PRODCOM' available at [http://ec.europa.eu/eurostat/statistics-explained/index.php/Industrial\\_production\\_statistics\\_introduced\\_-\\_PRODCOM](http://ec.europa.eu/eurostat/statistics-explained/index.php/Industrial_production_statistics_introduced_-_PRODCOM), sold production means the value (or the volume) of the sold production of enterprises on the national territory of the reporting countries. Details on the destination of the production are not provided. Moreover, the document adds that data on sold production can be used to answer questions such as: "Which countries are specialised in the production of a given product?" or "How productive is a particular industry".

<sup>17</sup> The Eurostat PRODCOM database covers the industrial production carried out by enterprises, with the exception of military products and some energy products.

<sup>18</sup> The value of the sold production of civilian firearms, parts and components, and ammunition can reach €3,283 million in case no approximation is performed. Data used for calculations have been extracted on 18 May 2017.

<sup>19</sup> The number of firearms can reach 3.02 million units in case no approximation is performed.

<sup>20</sup> Around 145 million Cartridges and six million units of propellant powder, which without considering the approximation are 150.6 million of Cartridges and 8.7 million of propellant powder.

<sup>21</sup> Data on volumes of "Parts and Components" are not available in the Eurostat Database.

<sup>22</sup> The evaluation team considered such a period sufficiently long to provide a complete overview of the sold production of firearms, parts and components, and ammunition over time.

<sup>23</sup> The value of the EU sold production of civilian firearms, parts and components, and ammunition in 2007 can reach € 2,734 million in case no approximation is performed.

<sup>24</sup> The value the EU sold production of civilian firearms, parts and components, and ammunition in 2015 can reach €3,283 million in case no approximation is performed.

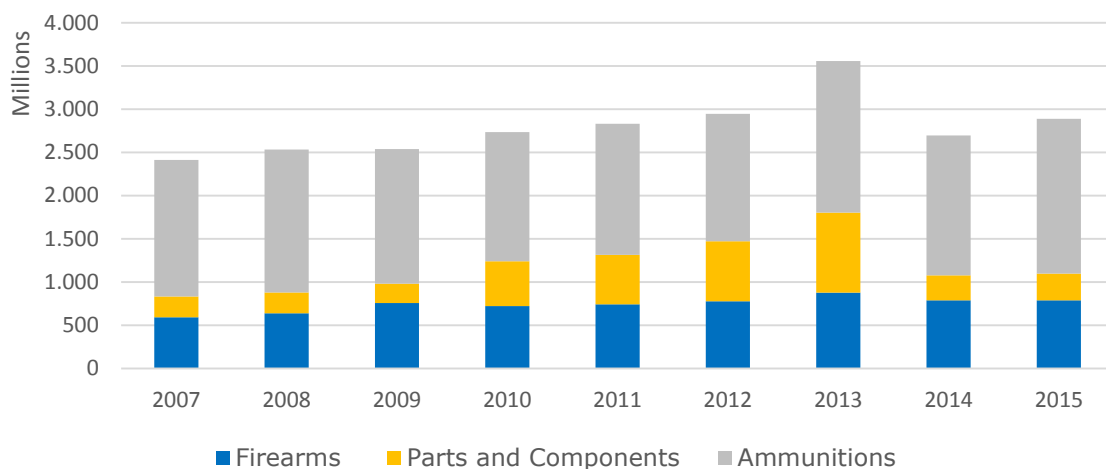
<sup>25</sup> The value of the EU sold production of civilian firearms, parts and components, and ammunition in 2013 can reach €4,013 million in case no approximation is performed.

<sup>26</sup> A possible explanation of the peak in 2013 can be related to the peak in extra-EU demand of arms from the US in the same year. People in the US, concerned about a tightening of the rules on gun control linked to the re-election of President Obama, bought a significantly higher number of arms compared to 2012. *The Washington Post* (2016), 'What's behind America's sudden drop in gun production?', 29 February.

<sup>27</sup> The fall of EU sold production in 2014 should be framed within general trends of global arms industry, that see lower arms sales for companies based in North America and Western Europe, and increasing sales for companies



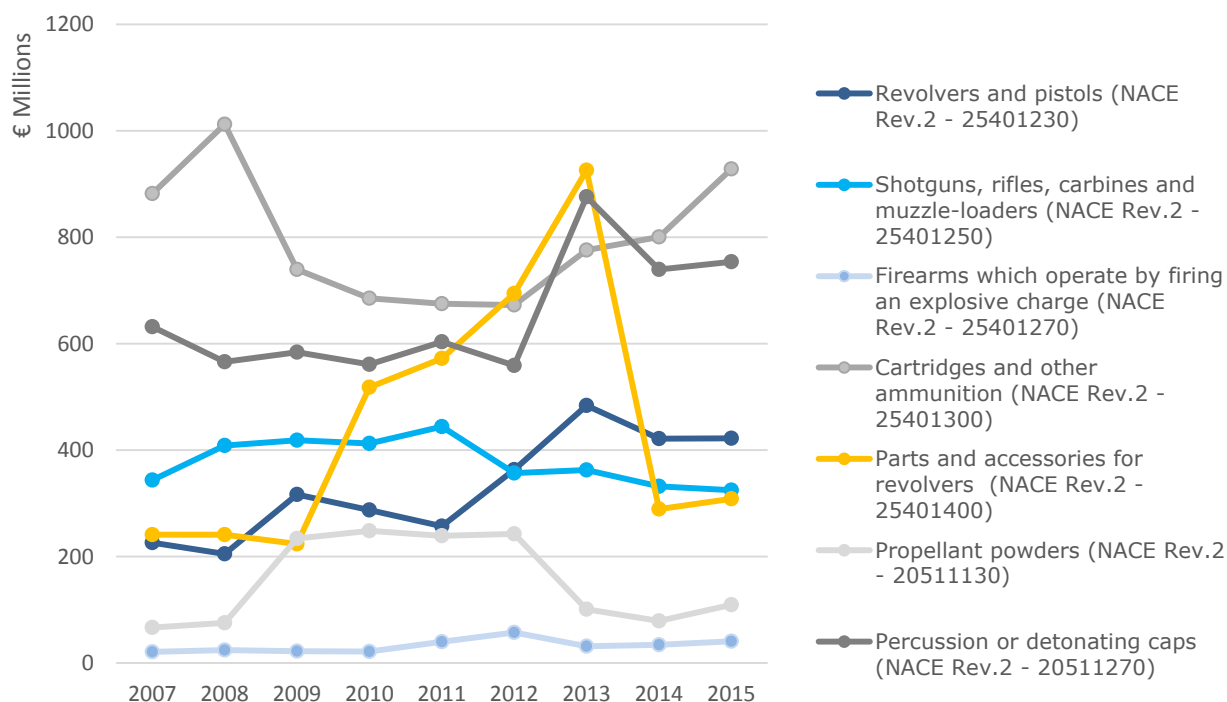
**Figure 1 - Annual sold production of firearms for civilian use, parts and components, and ammunition in EU28**



*Source: Authors' elaboration based on Eurostat Prodcom*

The analysis of the production of individual products indicates that **the steady increase in the overall EU production is driven by the increase in the production of cartridges and other ammunition** which, after a gentle decline until 2012 (which however began with a significant drop in 2008), experienced a noticeable growth over the 2012-2015 period (see Figure 2).

located in other regions of the world. (Source: SIPRI, 'Global arms industry: West still dominant despite decline; sales surge in rest of the world' available at <https://www.sipri.org/media/press-release/2015/global-arms-industry-west-still-dominant-despite-decline-sales-surge-rest-world-says-sipri>).

**Figure 2 - Annual sold production per type of product**

Source: Authors' elaboration based on Eurostat Prodcom

Among the different products analysed, the sold production values of "Parts and accessories for revolvers" are those which experienced the highest volatility. After peaking in 2013 (reaching almost €1,000 million)<sup>28</sup> the production fell considerably (by 69%) between this year (which coincides with the year of the application of Regulation 258) and 2014.

A steady growth characterises "Revolvers and pistols", which reached in 2015 a value of €422 million.<sup>29</sup> The production of "Firearms which operate an explosive charge" remained fairly stable over time, and showed the lowest absolute values among all types of product considered.

The category of "Shotgun, rifles, carbines and muzzle-loaders" amounted to around €444 million<sup>30</sup> in 2011, and during the observed period it experienced a decreasing trend, reaching a value of sold production of around €324 million<sup>31</sup> in 2015.

### 3.1.2 National level

Data on the production at the national level are extremely fragmented. Data available for 2012 allow for the most comprehensive overview.<sup>32</sup> The analysis is based on data from the

<sup>28</sup> The sold production values of "Parts and accessories for revolvers" can reach €960 million in case no approximation is performed.

<sup>29</sup> The sold production values of "Revolvers and pistols" can reach €437 million in case no approximation is performed.

<sup>30</sup> The sold production values of "Shotgun, rifles, carbines and muzzle-loaders" in 2011 can reach €460 million in case no approximation is performed.

<sup>31</sup> The sold production values of "Shotgun, rifles, carbines and muzzle-loaders" in 2015 can reach €336 million in case no approximation is performed.

<sup>32</sup> Data available in 2012 allowed a breakdown for the highest number of MS. More recent data were available only

Eurostat PRODCOM database when available, data provided by the World Forum on Shooting Activities (WFSA) and estimations of the Evaluation team. Table 3 provides an overview of the production of firearms, parts and components, and ammunition in **2012**. **Italy was the top producer of civilian firearms and parts and components, and France the top producer of ammunition.**

**Table 3 – Production of firearms, parts and components, and ammunition, per MS (2012)**

MS	Firearms			Parts and components		Ammunition	
	Num. of firearms	Total Value* - EUR Thousand	% on EU28 Tot. Sold Production Value*	Total value - EUR Thousand	% on EU28 Tot. Sold Production Value	Total value - EUR Thousand	% on EU28 Tot. Sold Production Value
AT	883,000	253,149	<b>31.8%</b>	-	-	-	-
BE	59,000	39,295	4.9%	-	-	-	-
BG	5,000	511	0.1%	-	-	-	-
HR	390,100	33,427	4.2%	-	-	645	0.0%
CY	-	-	-	-	-	-	-
CZ	163,000	30,435	3.8%	7,776	1.1%	82,022	5.5%
DK	-	-	-	-	-	-	-
EE	-	-	-	-	-	6	0.0%
FI	80,000	36,476	4.6%	4,889	0.7%	31,411	2.1%
FR	9,346	4,783	0.6%	1,971	0.2%	366,890	<b>24.8%</b>
DE	298,898	71,705	9.0%	61,170	8.8%	85,291	5.7%
EL	-	-	-	-	-	15,581	1%
HU	-	-	-	-	-	-	-
IE	-	-	-	-	-	-	-
IT	621,531	290,680	<b>36.6%</b>	538,810	<b>77.6%</b>	126,158	8.5%
LV	-	-	-	-	-	-	-
LT	-	-	-	-	-	-	-
LU	-	-	-	-	-	-	-
MT	-	-	-	-	-	-	-
NL	-	-	-	-	-	-	-
PL	11,000	663	0.1%	-	-	-	-
PT	38,000	16,816	2.1%	877	0.13%	3,739	0.2%
RO	51,000	11,321	1.4%	-	-	-	-
SI	0	0	0	-	-	-	-
SK	3,050	694	0.1%	-	-	-	-
ES	33,583	4,420	0.6%	11,792	1.7%	111,855	7.5%
SE	-	-	-	-	-	-	-
UK	250	661	0.1%	3,865	0.5%	67,848	4.6%
<b>EU28</b>	<b>2,646,758</b>	<b>795,035<sup>33</sup></b>	<b>100%</b>	<b>694,368</b>	<b>100%</b>	<b>1,474,541</b>	<b>100%</b>

at aggregated level.

<sup>33</sup> The EU28 total value of civilian firearms production does not correspond to the total value of production resulting from the Eurostat Prodcom database (see **Error! Reference source not found.**) since it comes from detailed national figures provided by the WFSA.

*Source: Authors' elaboration based on WFSA, Eurostat Prodcom data and Eurostat International Trade Database and SBS data*

In **2015**, looking at the overall production of firearms, parts and components, and ammunition, **Italy was still the main producer**, with a total sold production value of €479million<sup>34</sup> (16.65% of the EU28 production). Other major producers include France (15.3%), Germany (8.6%), Spain (5.6%), the Czech Republic (4.2%) and the United Kingdom (3.48%). These **six countries account all together for more than 54% of the total EU28 value of sold production.**<sup>35</sup>

As shown in the Figure below, the value of the Italian sold production varied significantly since 2006, ranging from €502 million<sup>36</sup> in 2009 to more than €1.000 million<sup>37</sup> in 2013. The significant decrease between 2013 and 2014 has been mainly caused by the reduction in the production of "Parts and accessories". This loss contributed to the decrease of related figures also at the EU level, since Italian shares in the sold production of such goods accounted for around 75% of the entire value produced in 2013.<sup>38</sup> During the same period, other European countries also experienced a reduction in the production value of the abovementioned goods.<sup>39</sup>

On average, over the 2007 – 2015 period, France, Germany and the Czech Republic experienced an increasing growth rate of 9.6%, 4.5% and 6.5% respectively, while the value of production in Italy decreased by 2.6% on a yearly basis. Values in the UK and Spain remained substantially stable over time (increasing by 0.25% and decreasing by 0.24% respectively).

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<sup>34</sup> The Italian sold production of firearms, parts and components, and ammunition can reach €496 million in case no approximation is performed.

<sup>35</sup> Data for other MS were extremely fragmented or missing. However, it is possible, for the year 2015, to add information about the sold production of firearms, parts and components, and ammunition for the following countries: Finland (€83 million euro, around 2.9% of the EU28 production), Croatia (€ 66 million euro, 2.3%), Bulgaria (€ 49 million euro, 1.7%), Portugal (€ 48 million, 1.7%) and Hungary (€ 23 million euro, 0.8%).

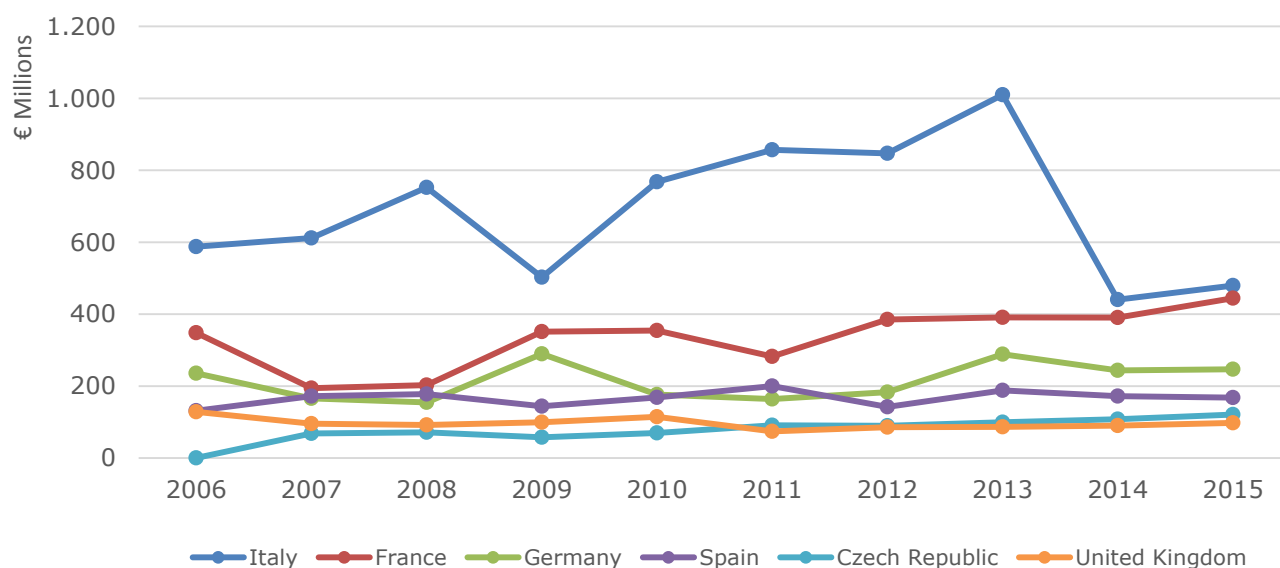
<sup>36</sup> The Italian production in 2009 can reach €522 million in case no approximation is performed.

<sup>37</sup> The Italian production in 2013 can reach €1,047 million in case no approximation is performed.

<sup>38</sup> Italy produced in 2013 around € 727 million in "Parts and accessories for revolvers and pistols". The same figure at EU28 level was € 960 million.

<sup>39</sup> Percentages ranges from -8% of Germany, to -25% of UK.

**Figure 3 - Sold production of firearms, parts and components, and ammunition per MS**



Source: Eurostat PRODCOM

## 3.2 Market Structure

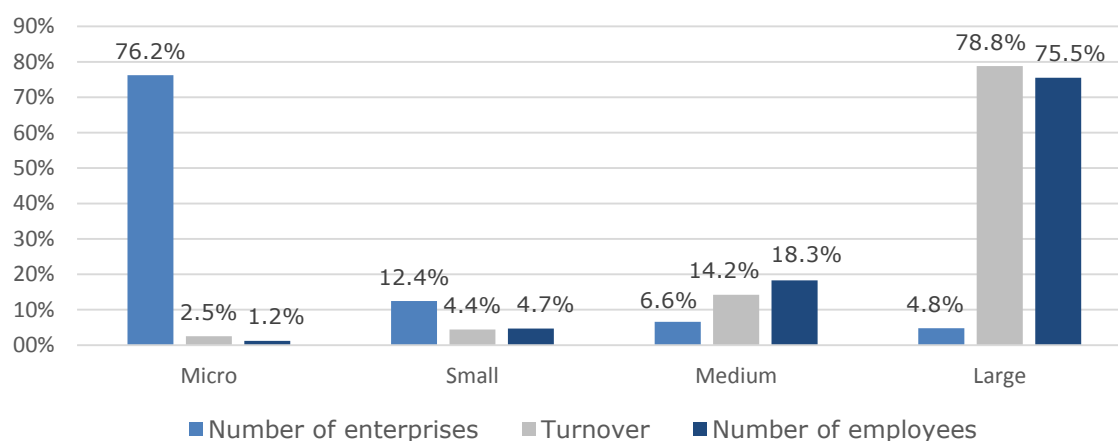
### 3.2.1 EU level

**The majority of firms operating in the manufacture of weapons and ammunition<sup>40</sup> in Europe are micro firms** (<10 employees). In 2014, these companies accounted for 76% of the total number of enterprises operating in the sector at the EU level, while small (10-49 employees), medium (50-249 employees) and large firms (> 250 employees) accounted respectively for 12.4%, 7% and 5% of the total number of enterprises in the sector.<sup>41</sup> This structure has underpinned the composition of the market since 2011.

**The firearms sector is rather concentrated.** Most of the total turnover (79%) is produced by 5% of the companies that are active in the sector and specifically by large companies. Micro-firms only account for less than 3% of the total turnover (see Figure 4).

<sup>40</sup> The analysis of the market structure does not distinguish between civilian and military firearms production. Eurostat SBS data do not distinguish between the two types of firearms and figures on military firearms are confidential therefore not allowing any assumptions to define the right scope of the market. The evaluation team considered such data as the best approximation to estimate the market structure of the civilian firearms, parts and components, and ammunition.

<sup>41</sup> According to SBS database, the total number of firms operating in the Manufacture of weapons and ammunition sector in the EU is 1,100, with 53 large enterprises (>250 employees), 73 medium (>50 employees), 138 small (>10 employees) and 846 micro (<9 employees). Available data do not allow to specify values of market share at the firm level.

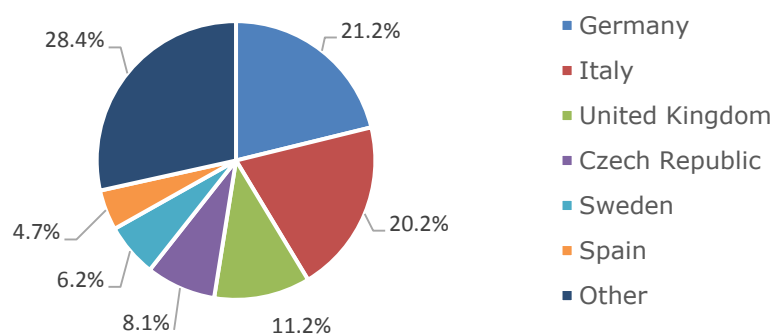
**Figure 4 - Shares of number of enterprises, employees and turnover (2014)**

Source: Authors' calculations based on Eurostat SBS for the number of firms and turnover and on Amadeus for the number of employees

In terms of employment, in 2014 the weapons and ammunition sector counted around 70,941 FTEs, out of which 32,448 are estimated to work in the civilian firearms and ammunition sector.<sup>42</sup> The figure above shows the estimated distribution according to the size of the firms.<sup>43</sup>

### 3.2.2 National level

**Most of the firms (around 70%) are located in six MS**, with Germany and Italy hosting the highest number of firearms-related companies (around 20% for each MS).<sup>44</sup>

**Figure 5 - Share of companies per Member State (2014)**

<sup>42</sup> Estimates based on LFS and PRODCOM data: LFS reported data aggregated at NACE Rev.2 two digits level for 'Manufacture of fabricated metal products, except machinery and equipment' (NACE Rev.2 – 25) whereas Prodcom reports data on production at eight digits level allowing for the calculation of the share of manufacture pertaining to firearms and ammunition for civilian use (including Revolvers and Pistols – 25401230, Shotgun, rifles, carabines and muzzle loaders – 25401250, Cartridges and other ammunition – 25401300, Firearms (explosive charge) – 25401400, Parts and accessories for revolvers, pistols, non-military firearms and similar devices), Propellant Powder – 20511130, Percussion or Detonating caps – 20511270. Based on the share of firearms and ammunition production on the overall manufacture production, the Evaluation Team apportioned the LFS data to estimate the number of employees in the civilian firearms sector.

<sup>43</sup> Data retrieved from Amadeus database were available across Europe on 333 companies covering 24 countries.

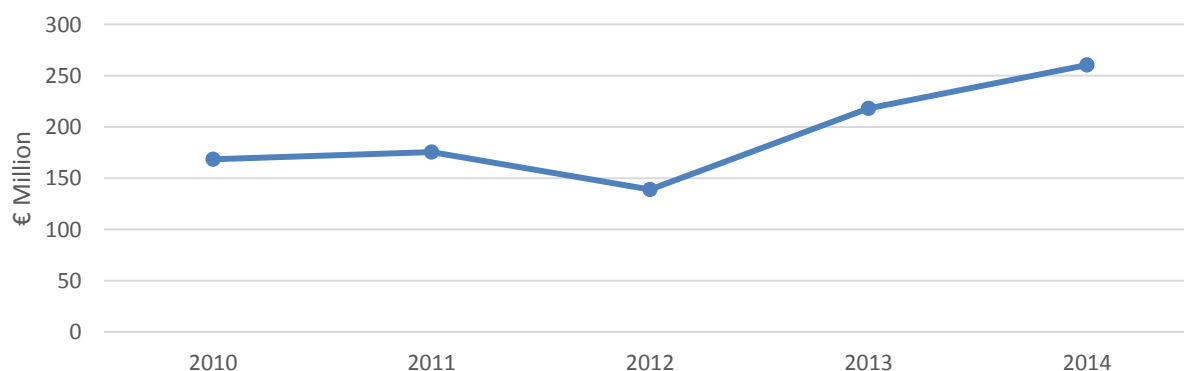
<sup>44</sup> Data were not available for the following countries: Belgium, Ireland, Romania, and Slovakia.

Source: Eurostat SBS

Such figures do not change considering EU28 Member States together with Norway and Switzerland,<sup>45</sup> which account respectively for 3.02% and 1.21% of the total number of firms.

**Investments<sup>46</sup> in the manufacture of weapons (both civilian and military) and ammunition increased** over time, and achieved €260.4 million in 2014 (see Figure 6). Germany, Italy and the UK cover all together almost 60% of the entire amount.<sup>47</sup>

**Figure 6 - Overall trend of investments in the manufacture of weapons and ammunition sector<sup>48</sup>**



Source: Eurostat SBS

The overall increase in the investments is led by some countries that experienced a significant influx of capital between 2013 and 2014: Hungary (+762.5%),<sup>49</sup> Italy (+39%) and Austria (+33.7%). At the same time, other Member States such as Greece, Spain, and Sweden suffered a dramatic drop in investments over the same period (-71.4%, -51.2%, and -50.8% respectively)

### 3.3 Extra-EU Trade

The EU28 is a **net exporter of firearms, their parts and components, and ammunition** to third countries, with a total value of €1,729 million of export and around €538 million of imported goods in 2015 (see Figure 7).

Overall, **both extra-EU imports and extra-EU exports have increased** over the period 2010-2015 by an average annual growth rate of 2.8% and 11% respectively. However, **between 2013 and 2014 there was a decrease in both** (-0.2% in imports and -5% in exports).

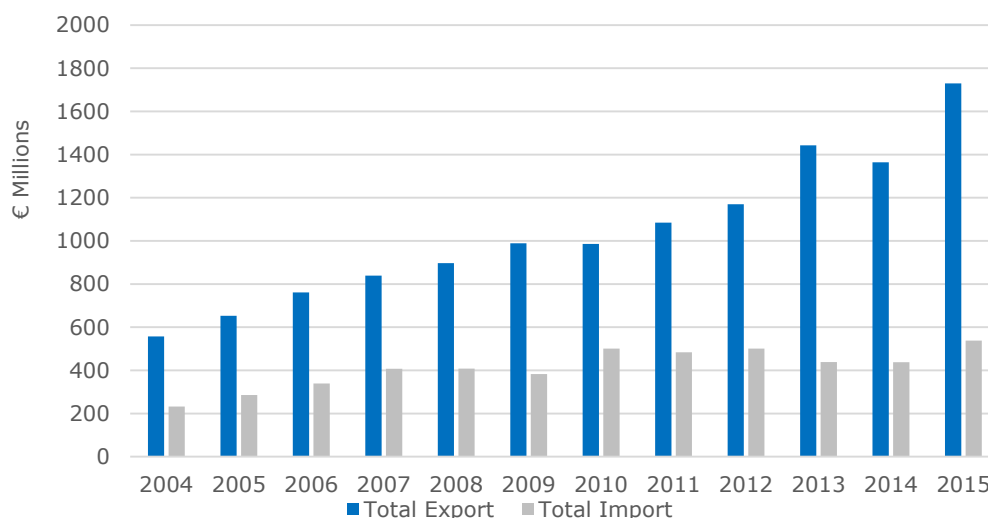
<sup>45</sup> Data are missing for Iceland and Lichtenstein.

<sup>46</sup> Investment in this context refers to "Gross Investment in machinery and equipment".

<sup>47</sup> Data about "Gross investment in machinery and equipment" were fragmented and SBS did not provide figures for the entire EU28. Figure shows data of 18 MS and does not cover: Denmark, Estonia, France, Croatia, Latvia, Lithuania, Luxemburg, the Netherlands, Romania and Slovakia, for which values were completely missing from 2005.

<sup>48</sup> Investments in machinery and equipment are considered relevant to the analysis.

<sup>49</sup> According to data from Eurostat SBS the amount of Investments in machinery and equipment in Hungary in 2013 was around €800 thousands, while in 2014 this value amounted to €6.8 million.

**Figure 7- Overall trend of Extra-EU trade**

Source: Eurostat International Trade Database

Based on the analysis carried out, there is no evidence that these figures and trends are connected with the entry into force of the measures implementing Regulation 258. It is true that two representatives from producers/exporters from a top producer/exporter country highlighted that the entry into force of the Regulation brought about a slowdown of exports (linked to the fact that National Competent Authorities needed some time to adapt their internal procedures to comply with the new requirements). However, this aspect does not explain the overall trend in EU imports/exports.

Looking at the broader picture at the international level, several drivers underpin such a trend, such as the rise in demand from the US in 2013, and the subsequent decline in the following year due to the so-called “Obama effect”,<sup>50</sup> and the strengthening of the Euro with respect to the US dollar, which made Europe’s export less convenient and attractive to the US as well as other importers in third countries.<sup>51</sup>

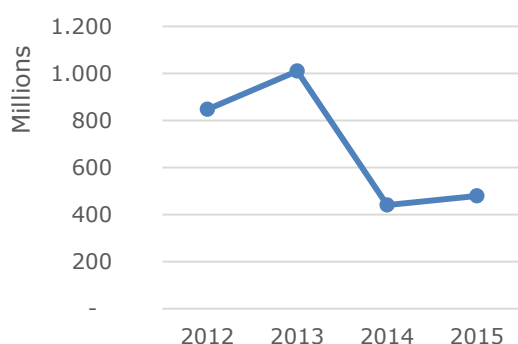
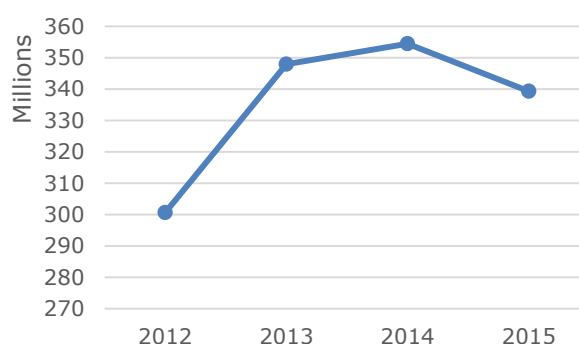
In order to investigate other possible reasons to explain the overall trends in EU imports/exports, the Evaluation team analysed the correlations between the lull in production and the reduction of exports in Italy. As shown in the figures below, there is no correlation between the dramatic decrease in sold production (Figure 8), and the trend in extra-EU exports (Figure 9).<sup>52</sup> Therefore, it is not possible to assume a direct correlation between the reduced production in Italy between 2013 and 2014, and the drop in extra-EU export during the same period.

<sup>50</sup> The reduction in export values in 2014 also needs to be assessed in view of the peak in 2013 that can be related to the increase in extra-EU demand of arms from the US in the same year. People in the US, concerned about a tightening of the rules on gun control linked to the re-election of President Obama, bought a significantly higher number of arms compared to 2012. *The Washington Post* (2016), ‘What’s behind America’s sudden drop in gun production?’, 29 February.

<sup>51</sup> According to FRED Database (<https://fred.stlouisfed.org/>) the €/€ exchange rate was 1.3099 on 07/01/2013, while the same was equal to 1.3618 on 07/01/2014 and reached 1.3924 on 06/05/2014. This means that buying European products was more costly during this period of time for US buyers.

<sup>52</sup> However, it is worth noticing that the classification systems used to give a representation of the production and of the exports are different (NACE vs SITC), meaning that there is not a perfect matching of products covered.



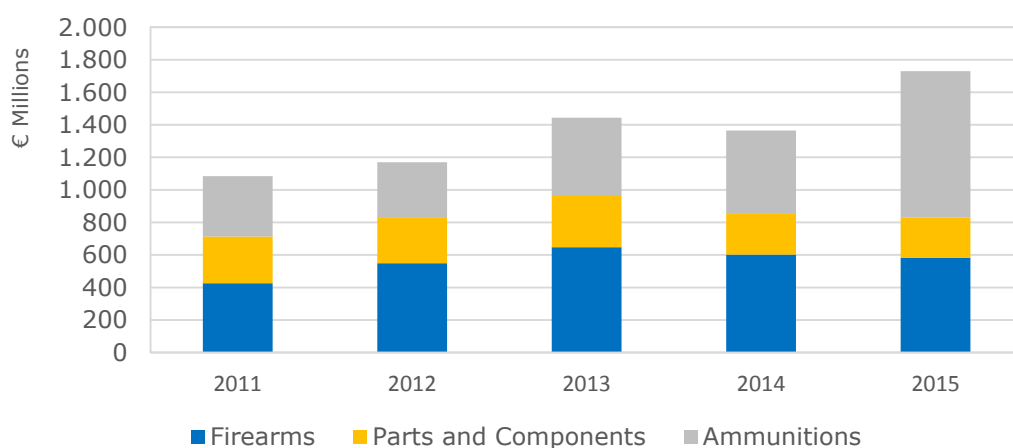
**Figure 8 - Italian overall production****Figure 9 - Italian extra EU exports**

Source: Eurostat PRODCOM for the production and Eurostat International Trade database for the exports

### 3.3.1 Extra-EU export

**On aggregate, EU28 is the first exporter of civilian firearms, parts and components, and ammunition in the world in terms of export value (2015),** even though the extra-EU export of such products only accounts for a small percentage of the overall value of exports (i.e. less than 0.01%).<sup>53</sup>

As shown in Figure 10, **most of the extra-EU exports consist of ammunition**, followed by firearms and parts and components (52%, 34% and 14% respectively in 2015). Over the period 2011-2015 both firearms and ammunition exports increased by an average growth rate of 8.1% and 24.8%, while exports of parts and components decreased by around 4% on a yearly basis. Over the 2013-2014 period, firearms and parts and components experienced a drop by respectively 7.1% and 20.4%, while ammunition exports increased by around 6.9%.

**Figure 10 – Extra-EU export values of firearms, essential components, and ammunition**

Source: Eurostat International Trade Database

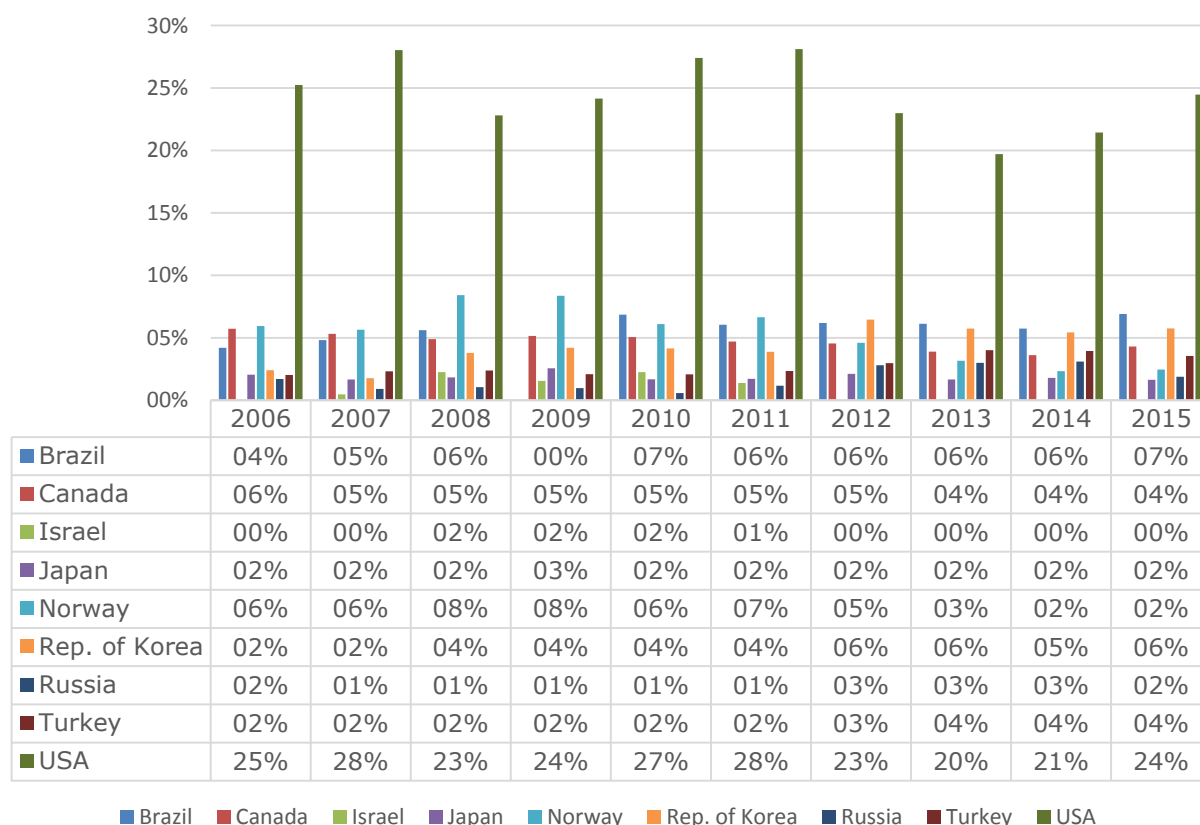
<sup>53</sup> The figure is calculated based on SITC codes 89114, 89122, 89124, 89131, 89139, 89191, 89195, 89199, 59311, 59320 over the total value of exports from EU28 Member States to third countries.

**The EU28 share of global exports is decreasing.** Over the 2006-2015 period, the EU28 overall share of exports of firearms, parts and components and ammunition decreased by around 6.8 percentage points, from 43.1% in 2006 to 36.3% in 2015). Brazil, the Republic of Korea, and Turkey increased their share of respectively 2.7, 3.3 and 1.5 percentage points.<sup>54</sup> A possible explanation of this trend is that 'new defence exporters', which include Brazil, Korea and Turkey, are participating in the global arms market with cheaper weapons that meet the quality requirements of global importers.

Other major exporters such as the US, Canada and Norway have also seen their shares of exports decrease. On the other hand, the market share of Israel, Japan and the Russian Federation remained almost constant over time.

Even though there is no clear evidence linking the reduced share of export to specific causes, the competitiveness advantage of other exporting countries such as Brazil and Turkey can be considered as one explanation of the difficulties the EU is facing to keep its share of world exports (see the analysis on the RCA index in the figure below).

**Figure 11 - World's shares of 10 major firearms, parts and components, and ammunition exporters over the period 2006 - 2015**

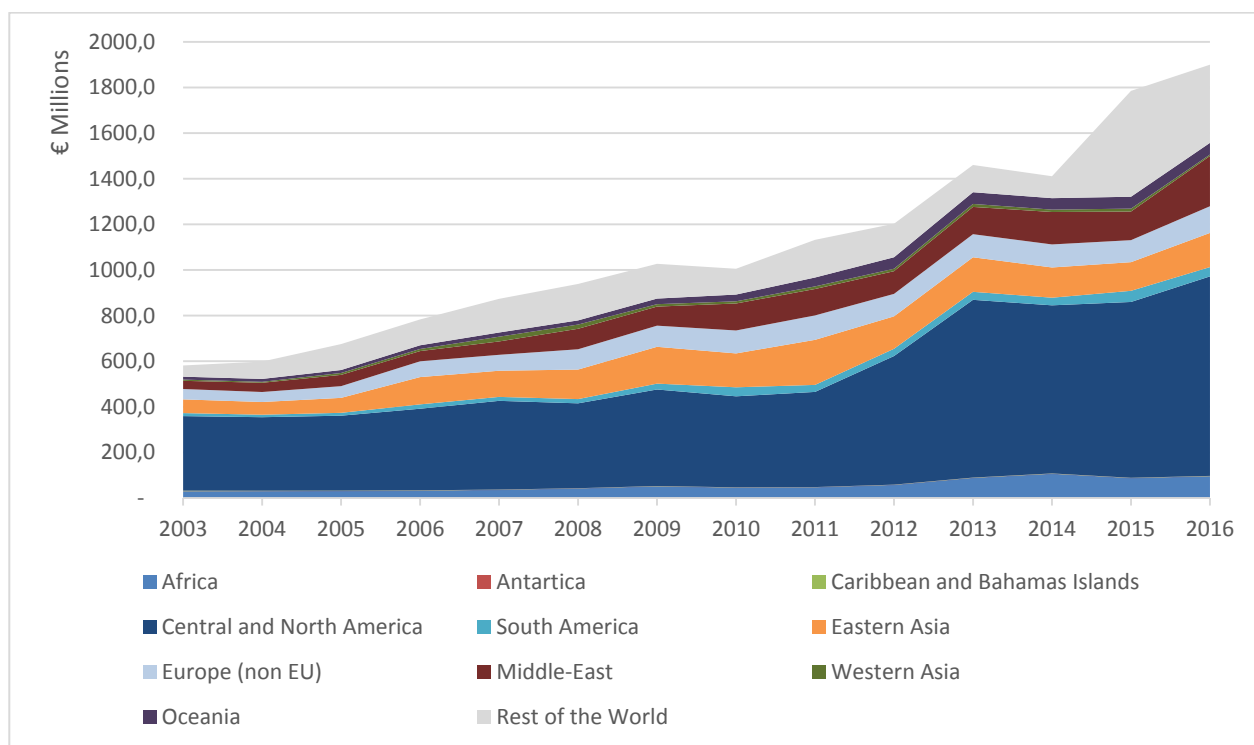


Source: UN Comtrade

<sup>54</sup> Katzman, J. (2015), 'The Hyundaization of the Global Arms Industry', The Wall Street Journal. Available at <https://www.wsj.com/articles/joe-katzman-the-hyundaization-of-the-global-arms-industry-1428271215>.

**Central and North America<sup>55</sup> is the main destination market** for European firearms, parts and components and ammunition (46.2% of the total exports value in 2016). Smaller, yet still significant export markets include the Middle-East (11.6%) and Eastern Asia (7.9%) (see Figure 12).

**Figure 12 - Destination of EU28 export of civilian firearms, parts and components, and ammunition, over the period 2003 - 2016<sup>56</sup>**



Source: Authors' elaborations on Eurostat International Trade Database

**There has been a steady increase in the aggregate value of extra-EU export from 2003 to 2013**, with a rapid increase over the last two years, and a reduction between 2013 and 2014 in all regions considered. In 2015 and 2016, all the destination regions analysed, including the residual category "rest of the world", display a growth.

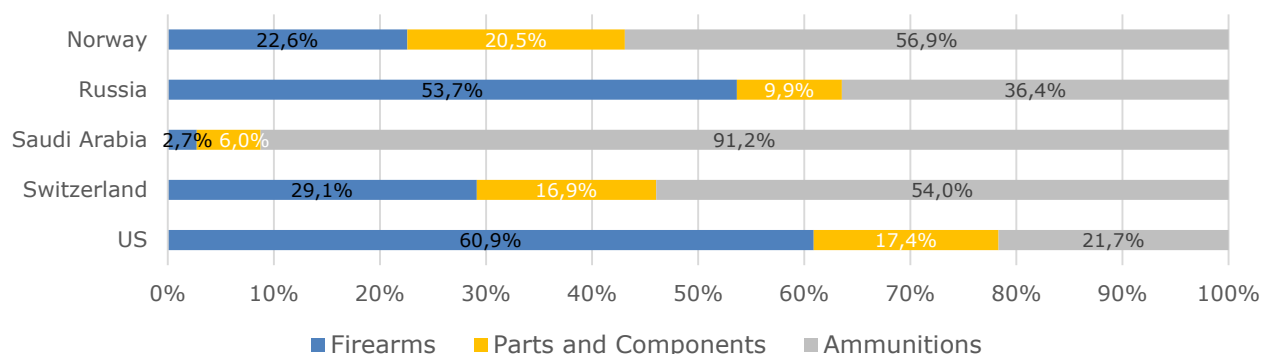
When considering individual countries, the main destination markets for European firearms, parts and components and ammunition are the US, Russia, Switzerland, Norway and Saudi Arabia.

<sup>55</sup> Regions have been shaped according to the official Geo-Nomenclature published by the European Commission – European Commission (2005), *Geonomenclature*.

<sup>56</sup> The graph include data on 'Countries and territories not specified within the framework of trade with third countries' and 'Countries and territories not specified for commercial or military reasons in the framework of trade with third countries'. Since it is not possible to attach to these categories numbers or figures related to some specific territories, these have been inserted in the category "Rest of the World". Percentages are calculated with respect to the total figures including such a data. In any case the Evaluation team does not expect any of these countries to have higher share than the other countries mentioned in the graph.

The US and Russia chiefly import firearms (61% and 54% of EU exports towards these countries consist of firearms, respectively) from EU Member States, while the other major destination countries import larger shares of ammunition (see Figure 13).

**Figure 13 - Shares of firearms, parts and components, and ammunition exported to the main destination markets of European firearms (2016)**



Source: Eurostat International Trade Database

**The increase over time in extra-EU exports is linked to a boost in international demand** rather than to an increased share of European exports in the major markets of destination. For instance, as shown in Table 4, in Norway imports of firearms and ammunition have increased by an average growth rate of 4.6% over the 2006-2015 period,<sup>57</sup> but out of total value of imports, the EU28 share has decreased from 72.6% to 64.5% (around 8.1 percentage points) over the same period. The same trend applies to other major destination countries which experienced increasing trends of imports, such as Russia (where the European market share decreased from 91.1% to 67.1%), Switzerland (where the EU28 market share decreased from 92.8% to 72.4%)<sup>58</sup> and Turkey (where the European market share decreased from 77.9% to 71.3%).<sup>59</sup> The US follow the same trend (where the European market share decreased from 58.2% to 51.3%).<sup>60</sup>

The decrease in the share of EU28 exports can be an indication of a **gradual loss of competitiveness of the EU** compared to non-EU countries exporting firearms and ammunition. This is correlated with the overall trend in EU industrial competitiveness, which is still hindered by several factors (including lack of investments, limited access to finance and high energy prices) though experiencing a recovery of exports and an increase in productivity in most countries after the crises.<sup>61</sup>

A slightly different trend can be observed for Canada and India. In Canada, despite the increasing demand (on average 9.6%),<sup>62</sup> European firearms and ammunition kept their market share unchanged (around 20%). Other examples are available in the table below. In

<sup>57</sup> CAGR.

<sup>58</sup> Around 20.4 less in percentage points.

<sup>59</sup> Around 6.6 less in percentage points.

<sup>60</sup> Around 6.9 less in percentage points.

<sup>61</sup> European Commission (2014), *Reindustrialising Europe – Member States' Competitiveness Report 2014*, Commission Staff Working Document SWD(2014) 278.

<sup>62</sup> CAGR.

India, the share of EU28 exports increased from 74.7% to 86.7%<sup>63</sup>. Indian firearms market grew at an extremely fast rate averaging 28% as a consequence of the recent strategy of modernisation in the weapons sector that the country is following.<sup>64</sup>

**Table 4 - EU28 and rest of the world market share in major countries of export over the period 2006-2015**

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	CAGR <sup>65</sup>
<b>Australia</b>											5.2%
<b>EU28</b>	26.1 %	24.53 %	16.5 %	22.6%	24.1%	16.1%	32.5%	35.5%	43.2%	32%	
<b>Rest of the World</b>	74%	75.4 %	83.5 %	77.4%	76%	84%	67.5%	6.5%	56.8%	68%	
<b>Canada</b>											9.6%
<b>EU28</b>	23.1 %	21.3 %	25.2 %	18%	20.7%	20.4%	21.5%	22.9%	22.2%	21.1%	
<b>Rest of the World</b>	77%	78.7 %	74.8 %	82.1%	79.3%	79.6%	78.5%	78.1%	77.8%	79%	
<b>India</b>											28%
<b>EU28</b>	74.7 %	90.8 %	57%	83.7%	84.4%	8%	67.2%	87%	60.2%	86.7%	
<b>Rest of the World</b>	25.3 %	9.2%	43%	16.3%	15.6%	92%	32.8%	13%	39.84%	13.2%	
<b>Japan</b>											1.9%
<b>EU28</b>	24.2 %	32.5 %	26.3 %	23.8%	29.1%	28.2%	24%	34.1%	36.7%	27.7%	
<b>Rest of the World</b>	75.7 %	67.5 %	73.7 %	76.2%	70.9%	71.7%	76%	65.8%	63.2%	72.3%	
<b>Norway</b>											4.5%
<b>EU28</b>	72.6 %	79.3 %	83.5 %	81.5%	65.3%	70.7%	83.7%	70.5%	77%	64.5%	
<b>Rest of the World</b>	27.3 %	20.6 %	16.4 %	18.4%	34.7%	29.2%	16.3%	29.5%	23%	35.4%	
<b>Russia</b>											12%
<b>EU28</b>	91.1 %	89.6 %	89.2 %	89.6%	84.4%	84.1%	83.1%	69.4%	73%	67.1%	
<b>Rest of the World</b>	8.9%	10.3 %	10.7 %	10.4%	15.5%	15.8%	16.8%	30.6%	26.9%	32.8%	
<b>Saudi Arabia</b>											33%
<b>EU28</b>	-	100%	100%	-	-	0%	-	-	-	87.3	
<b>Rest of the World</b>	-	0%	0%	-	-	100%	-	-	-	12.6	
<b>Switzerland</b>											-0.1%
<b>EU28</b>	92.8 %	79.6 %	60%	59.5%	64%	51%	44.4%	62%	75.7%	72.4%	

<sup>63</sup> Around 12 more in percentage points.

<sup>64</sup> Pandit, R. (2016), 'India remains world's largest arms importer, with 14% of total share', The Times of India available at <https://timesofindia.indiatimes.com/india/India-remains-worlds-largest-arms-importer-with-14-of-total-share/articleshow/51095168.cms>.

<sup>65</sup> Compound Annual Growth Rate refers to the overall figures of firearms' imports in the country.

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	CAGR <sup>65</sup>
<b>Rest of the World</b>	7.1%	20.3 %	40%	40.4%	36%	49%	55.5%	38.1%	24.2%	27.6	
<b>Turkey</b>											13%
<b>EU28</b>	77.9 %	83.5 %	82.1 %	83.2%	85.3%	55.6%	71.6%	63.7%	67%	71.3%	
<b>Rest of the World</b>	22.1 %	16.4 %	17.8 %	16.7%	14.6%	44.3%	28.3%	36.2%	32.9%	28.6%	
<b>US</b>											7.6%
<b>EU28</b>	58.2 %	55.8 %	54.4 %	52.6%	50.7%	51.7%	50.7%	51.2%	53.7%	51.3%	
<b>Rest of the World</b>	41.7 %	44.2 %	45.5 %	47.3%	49.3%	48.2%	49.2%	48.8%	46.2%	48.7%	

Source: Author's elaboration based on UN Comtrade

The RCA index offers an additional measure of EU28 international competitiveness over the 2006-2015 period. Such an index is built considering the country's share of sectorial export, normalised by a weighted sum of export shares in all sectors. Using the RCA index, the Evaluation team compared national shares in firearms trade with their international counterparts, inferring the existence of comparative advantages. In 2015, **Brazil and Turkey** were the countries with the highest values of the RCA index and, therefore, **showing the highest comparative advantages in the export of civilian firearms, ammunition and parts and components** (see Table 5).<sup>66</sup>

Such advantages can be explained considering the commitment of Brazil's Congress to creating a legislative framework enabling and promoting innovation<sup>67</sup> and competition in the defence sector.<sup>68</sup> Moreover, over the last years, many of Brazilian arms manufacturers have been heavily subsidised by the Brazilian Development Bank, accessing additional resources to expand their production and trade.<sup>69</sup>

In Turkey, the entire defence sector received the support of the Government in order to boost exports to existing and new markets.<sup>70</sup>

**Table 5 – The RCA index of firearms, parts and component, and ammunition for the EU28 and other major exporters, over the period 2011 - 2015**

Country	2011	2012	2013	2014	2015
<b>Brazil</b>	1.72	1.88	1.92	1.92	2.44
<b>Canada</b>	0.76	0.73	0.64	0.57	0.71
<b>EU28</b>	1.19	1.20	1.34	1.34	1.20
<b>Japan</b>	0.15	0.19	0.17	0.19	0.17
<b>Norway</b>	3.03	2.10	1.54	1.21	1.58

<sup>66</sup> It means that among the countries with the highest share of firearms, parts and components, and ammunition, the relative importance of such products on their total exports is more relevant compared to others.

<sup>67</sup> An example of the effects of these incentives can be seen looking at the technologies developed in Brazil to create new laser marking machines for the ammunition, that can mark 240 cartridges per minute. Source: Small Arms Survey (2011), 'Ammunition Marking'.

<sup>68</sup> The New York Times (2016), 'Brazil's Merchants of Death', 23 October.

<sup>69</sup> Taurus, a big Brazilian firearms producer, received \$ 16.7 million in low-interest loans between 2008 and 2015.

<sup>70</sup> Defence News (2017), 'Turkey launches Aggressive Defence Export Campaign', 19 January.

Country	2011	2012	2013	2014	2015
Korea	0.51	0.87	0.77	0.71	0.73
Russia	0.16	0.39	0.43	0.47	0.37
Switzerland	2.07	1.08	0.66	0.56	0.56
Turkey	1.27	1.44	2	1.88	1.67
US	1.38	1.09	0.98	0.99	1.10

Source: Author's elaboration based on UN Comtrade

Looking at the RCA index calculated with reference to firearms only, the competitiveness advantage of EU28 over the years is stable. In particular, in 2015, the EU28 displays the highest value of the index (7.20), followed by Turkey (4.92) and Brazil (3.05).

**Table 6 – RCA index of Firearms for the EU28 and other major exporters between 2011 and 2015**

Country	2011	2012	2013	2014	2015
EU28	<b>5.38</b>	<b>5.78</b>	<b>6.73</b>	<b>7.29</b>	<b>7.20</b>
USA	0.88	0.81	0.79	0.87	0.78
Brazil	<b>2.98</b>	<b>3.41</b>	<b>2.98</b>	<b>2.63</b>	<b>3.05</b>
Turkey	3.33	3.82	5.00	4.64	4.92
Israel	<b>3.74</b>	-	-	-	-
Japan	0.25	0.28	0.25	0.28	0.31
Russian Federation	<b>0.45</b>	<b>0.46</b>	<b>0.31</b>	<b>0.37</b>	<b>0.31</b>
Canada	0.36	0.49	0.45	0.34	0.43
Philippines	<b>1.34</b>	<b>1.80</b>	<b>2.53</b>	<b>1.35</b>	<b>1.95</b>
China	0.03	0.04	0.05	0.03	0.04

Source: Author's elaboration based on UN Comtrade

In terms of "Parts and Components", Norway tops the list of countries within the RCA index in 2015 (2.83), followed by India (1.87) and the US (1.49).

**Table 7 - RCA index of Parts and Components for the EU28 and other major exporters between 2011 and 2015**

Country	2011	2012	2013	2014	2015
US	1.79	1.35	1.17	1.29	1.49
EU28	0.79	0.86	1.02	1.05	0.88
Norway	7.21	5.51	3.91	2.72	2.83
Russia	-	0.60	1.03	1.21	0.70
Canada	0.94	0.95	0.90	0.80	1.05
Korea	0.58	1.03	0.83	0.38	0.40
Switzerland	1.29	1.22	0.92	1.15	0.84
India	0.23	0.39	0.66	0.70	1.87
Japan	0.16	0.27	0.27	0.34	0.29
Turkey	0.52	0.75	1.11	1.12	0.84

Source: Author's elaboration based on UN Comtrade

Finally, as for ammunition, Serbia is the most competitive country in 2015<sup>71</sup> with a value of 11.08, followed by Brazil (3.35) and Switzerland (1.32).

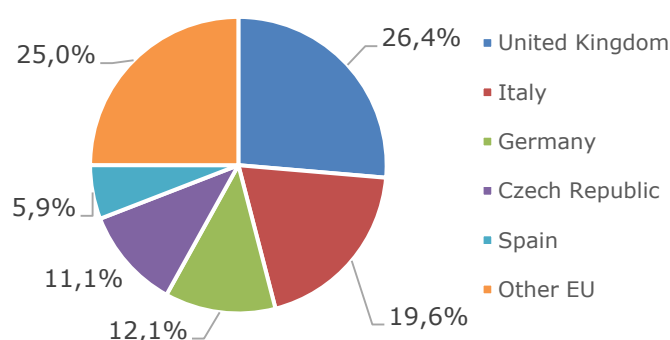
**Table 8 – RCA index of Ammunition for the EU28 and other major exporters between 2011 and 2015**

Country	2011	2012	2013	2014	2015
<b>EU28</b>	0.88	0.81	0.99	1.00	0.80
<b>US</b>	1.40	1.13	0.92	0.93	1.00
<b>Korea</b>	0.82	1.38	1.30	1.38	1.27
<b>Brazil</b>	2.13	1.97	2.30	2.54	3.35
<b>Switzerland</b>	0.76	2.04	1.64	1.44	1.32
<b>Canada</b>	0.91	0.77	0.63	0.61	0.64
<b>Norway</b>	1.79	1.34	1.19	1.20	1.64
<b>Serbia</b>	11.68	13.27	12.74	13.97	11.08
<b>Australia</b>	0.25	0.23	0.47	0.29	0.62
<b>Russia</b>	0.08	0.20	0.14	0.12	0.20

*Source: Author's elaboration based on UN Comtrade*

**Overall, five Member States accounted for more than 75% of the total extra-EU export value in 2015.** The UK and Italy were the major exporting countries with respectively 26.3% and 19.6% of the total value of extra-EU exports (see Figure 14).<sup>72</sup>

**Figure 14 - Share of extra-EU exports per MS (2015)**



*Source: Eurostat International Trade Database*

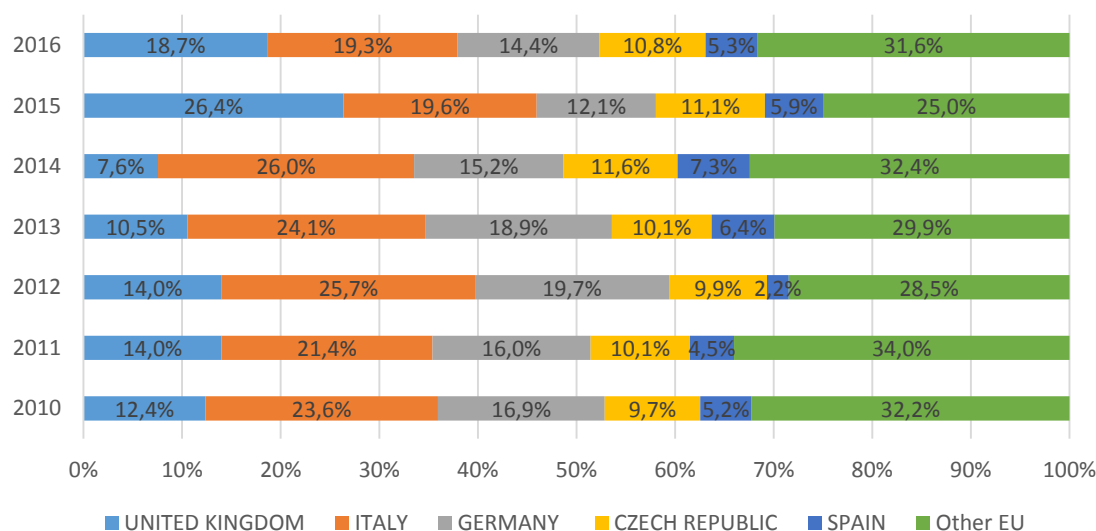
Such figures only remained broadly constant over time, with the exception of those concerning the UK (which gained market shares between 2010 and 2015, before declining in 2016) and Spain, which lost market shares to Sweden in 2010 and 2011, and to Croatia in 2014 and 2016 (see Figure 15).<sup>73</sup>

<sup>71</sup> To support such an evidence, Eurostat PRODCOM database reveals that Serbia has also a leading role as producer of ammunition (in particular "Cartridges and other ammunition and projectiles and parts thereof", NACE code 25401300) with a value of production for 2015 of around € 58.2 million.

<sup>72</sup> Data for Bulgaria were not available.

<sup>73</sup> The shares of Sweden were 1.4 and 0.3 percentage points higher than those of Spain in 2010 and 2011 respectively, while shares of Croatia were 0.17 and 5.04 higher than Spain in 2014 and 2016 respectively.



**Figure 15 - Share of extra-EU exports per MS from 2010 to 2015**

Source: Eurostat International Trade Database

Focusing on the growth of the UK exports, it is worth to underline how this leading position was reached only in that particular year since both before and after 2015 the situation was different.<sup>74</sup> In 2012, for instance, the UK ranked third among EU top exporters (behind Italy and Germany), while in 2014 it dropped to fourth (behind Italy, Germany, and the Czech Republic).

**The US are the main destination country for all the top exporters in 2015** (see Table 9).

**Table 9 – Main countries of destination of EU major exporters (2015)<sup>75</sup>**

EU Major Exporters	Share of national exports
<b>UK</b>	<b>US 4.9%</b> - Australia 0.4% - Oman 0.3%
<b>Italy</b>	<b>US 46.5%</b> - Turkey 3.4 - Canada 2.7%
<b>Germany</b>	<b>US 31%</b> - Switzerland 6.3% - Norway 2.7%
<b>Czech Republic</b>	<b>US 30.7%</b> - China 5.4% - Japan 3.1%
<b>Spain</b>	<b>US 26.9%</b> - Ghana 5.5% - Australia 3%

Source: Eurostat International Trade Database

The prominent role of the UK as exporter – compared to the still relevant but less prominent role as producer - deserves further attention in view of the forthcoming withdrawal of the UK from the European Union (colloquially known as “Brexit”). Box 1 below provides a synthetic

<sup>74</sup> The UK leading position in the exports in 2015 is linked to a significant increase in the values of the category “Other cartridges and parts thereof” (SITC code 89124). In 2015, the UK increased significantly the amount of exports of these products, becoming the EU leading exporter of civilian firearms, ammunition and parts and components. It is not possible, with the information available, to define a clear reason behind the peak of exports in 2015 and the UK overall trend. The products included in this statistical category are not clearly defined and exports data also include firearms, ammunition, parts and components for law enforcement agencies, resulting in an overestimation of trends and figures. Finally, data on re-exports, which can shed a light on the position of the UK as an importer/re-exporter rather than simple exporter of firearms, are not available.

<sup>75</sup> A big share of exports of firearms, parts and components, and ammunition goes for commercial or military reasons to countries and territories that are not specified in the Eurostat Database.

overview of the UK market, to highlight the main elements characterising production, intra-EU, and extra-EU trade.

### Box 1 – Focus on the UK market in 2015

#### **Production**

According to Eurostat PRODCOM database, the UK produces around 4% (around 97.5 million euro) of the total amount of firearms, parts and components and ammunition produced in the EU28.<sup>76</sup> Most of this value is represented by the production of cartridges and other ammunition (around €80 million, accounting for 82.1% of total value of national production in the sector).<sup>77</sup>

The country ranks as the sixth producer of civilian firearms in the EU28, after Italy, France, Germany, Spain, and the Czech Republic.

#### **Intra-EU trade**

**Most of the UK transfers of firearms, parts and components and ammunition come from Italy, France and Germany**, which respectively account for 32.6%, 30.9% and 4.9% of the UK intra-EU transfers value, and 17.2%, 16.2% and 2.3% of the overall UK transfers and imports from the EU and from outside the EU.

In terms of intra-EU trade, the UK is the first market of destination for Italy (23.8% of the total intra-EU transfers), while for Germany the UK ranks fourth (8.7%) after France, Austria and the Netherlands. Finally, the UK is the sixth destination country for France (5.1%).

**Germany is also an important market for the UK** since it accounts for around 3.5% of the total UK intra-EU transfers to EU countries. However, Denmark is the main destination country of UK intra-EU transfers (with 5.2% of the total UK intra-EU transfers). Belgium is also relevant with 3.4% of the total figure of transfers in EU28)

#### **Extra-EU trade**

**Extra-EU exports are very fragmented; the UK has no major commercial trading partner.**

The three main countries of destination for the UK firearms, parts and components, and ammunition are: the United States (5.7% of the total value of such a products exported to third countries), Australia (0.5%), and Oman (0.4%).<sup>78</sup>

**The United States, Taiwan and China are the main countries of origin of firearms, parts and components and ammunition entering the UK.**<sup>79</sup> In detail, imports from the United States are mainly composed of "Other cartridges" (around 46% of the total value of imports of firearms, parts and components, and ammunition)<sup>80</sup>, followed by "Firearms, N.E.S. and similar devices" (around 33.5%)<sup>81</sup> and "Parts and accessories" (11%).<sup>82</sup> Imports from Taiwan mainly cover "Parts and accessories" (around 99.8% of the total value of imports of firearms, parts and components, and ammunition),<sup>83</sup> and imports from China mainly cover "Other cartridges"<sup>84</sup> and "Parts and accessories" (53.1% and 39.4% of the total value of firearms, parts and components, and ammunition imported).

*Source: Authors' elaboration based on UN Comtrade, Eurostat International Database, Eurostat PRODCOM*

Information retrieved from stakeholders as relates the impact of Brexit is presented in the Box below.

<sup>76</sup> For the UK, the following codes returned missing values: 25401270, 20511270.

<sup>77</sup> NACE code 25401300.

<sup>78</sup> The Eurostat database did not allow to decompose the values of exports to "Countries and territories not specified for commercial and military reasons in the framework of trade with third countries" which cover almost 90% of the total exports to third countries.

<sup>79</sup> 19.1%, 4% and 3% of the total value of firearms, parts and components, and ammunition imported from third countries.

<sup>80</sup> SITC code 89124.

<sup>81</sup> SITC code 89131.

<sup>82</sup> SITC code 89199.

<sup>83</sup> SITC code 89199.

<sup>84</sup> SITC code 89124.

## Box 2 – Possible development due to the Brexit

Concerning Brexit, interviewed experts stated that the withdrawal of the UK from the EU would not chiefly impact the overall trade patterns or market, but rather the international regulatory landscape, for instance in terms of information sharing and storage. With Brexit, the UK procedures and systems may change compared to the ones used in the EU – which are already well linked with others such as those in the US – limiting the exchange of information between countries and making investigations potentially more difficult. However, this possibility remains unclear at the moment.<sup>85</sup>

On the other side, the UK National Competent Authorities expect that the current strict import and export licencing controls will remain in place post-Brexit.<sup>86</sup> Currently, UK controls are stricter than those imposed by EU legislation, and therefore it is expected that this level of control on imports and exports will continue. Once the UK leaves the EU, powers currently exercised at the EU level will be exercised directly by the UK authorities, and the Repeal Bill will provide a functioning statute book.

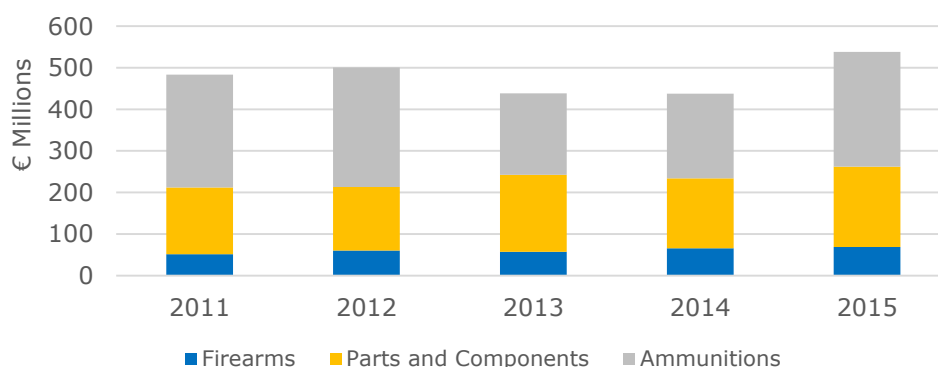
As for export controls, the Repeal Bill will convert those areas of EU law relating to Export Control into UK law. The representative from the national authority consulted indicated that the UK intends to continue close cooperation with the EU on export controls, seeking to ensure as far as possible that businesses do not face increased regulatory burdens as a result of Brexit.

*Source: Field research*

### 3.3.2 Extra-EU import

**Extra-EU imports mainly consist of ammunition** (see Figure 16). Over the 2011-2015 period imports of firearms, their parts and accessories and ammunition increased by 7.6%, 4.7% and 0.4% respectively. However, between 2012 and 2013 both firearms and ammunition imports dropped (by -5% and -32% respectively). Between 2013 and 2014, there was also a decrease of imports of parts and components (-9%).

**Figure 16 - Extra-EU import values of firearms, parts and components, and ammunition**



*Source: Eurostat International Trade Database*

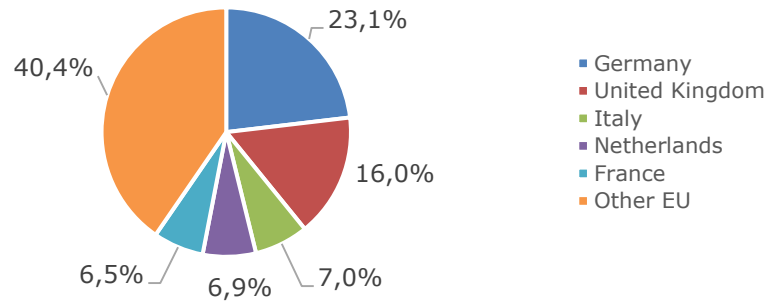
In 2015, **the most relevant Member States in terms of imports** of firearms, parts and components, and ammunition were: **Germany, the UK, Italy, the Netherlands, and France**. In total, they cover around 60% of the total value of extra-EU imports (see Figure 17).<sup>87</sup>

<sup>85</sup> Interview feedback: two representatives from experts.

<sup>86</sup> Interview feedback: two representatives from National Authorities.

<sup>87</sup> Data for Bulgaria were not available.

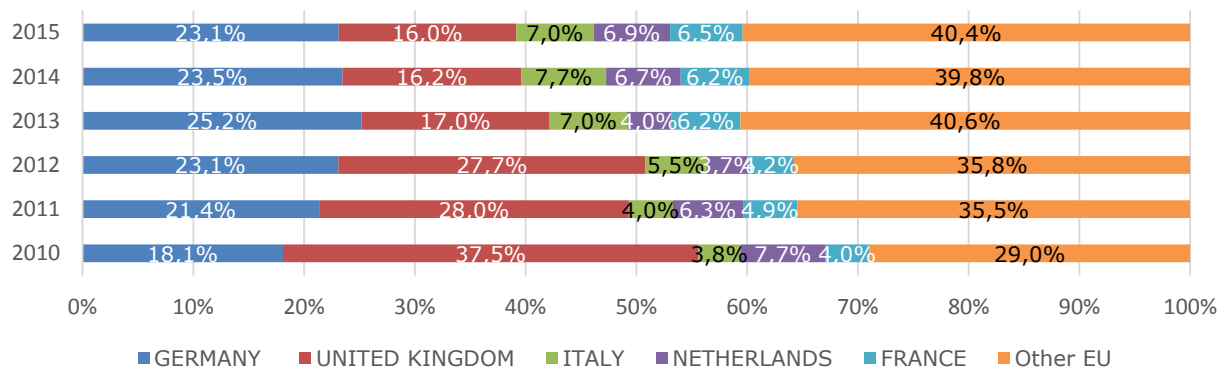
**Figure 17 - Share of extra-EU import per MS (2015)**



Source: Eurostat International Trade Database

Such figures **significantly changed over time** with the UK losing shares starting from 2010 (Figure 18), and the Czech Republic and Belgium increasing their share of imports.<sup>88</sup>

**Figure 18 - Share of extra-EU import per MS from 2010 to 2015**



Source: Eurostat International Trade Database

**The US is the main country of origin of imported firearms, parts and components, and ammunition in the EU28 (Table 10).**

**Table 10 – Main countries of origin of EU major importers – 2015**

EU Major Importers	Share of national imports
Germany	US 29.2% - Switzerland 11.9% - Russia 2.6%
United Kingdom	US 9% -Taiwan 1.9% - China 1.4%
Italy	US 23.2% - Turkey 10.8% - China 1.5%
Netherlands	US 14.3% - Norway 12.7% - Canada 7.6%
France	US 14.8% - Turkey 2.7% - Switzerland 1.7%

Source: Eurostat International Trade Database

<sup>88</sup> In percentage points, 0.1 and 1 respectively.

## Annex 4. Coherence between Article 10 of the UNFP and Regulation 258

The table below provides a comparison between the provisions of article 10 of the UNFP and the provisions of Regulation 258, and an assessment of coherence. The table highlights in light blue the specific measures and requirements added by Regulation 258 when compared with Art.10 of the UNFP.

Provisions of Article 10 of the UNFP	Provisions of Regulation 258/2012	Assessment of coherence
Article 10(1) Each State Party shall establish or maintain an <b>effective system of export and import licencing or authorisation</b> , as well as of measures on international transit, for the transfer of firearms, their parts and components, and ammunition.	Article 4(1) <b>An export authorisation established in accordance with the form set out in Annex II shall be required</b> for the export of firearms, their parts and essential components and ammunition listed in Annex I. Such authorisation shall be granted by the competent authorities of the MS where the exporter is established and shall be issued in writing or by electronic means.	Regulation 258 implements the provision by establishing the legal obligation for MS to issue a licence (based on Annex II) for authorising the export of items listed in Annex I to third countries. Regulation 258 specifies that the export authorisation may be granted either in writing or by electronic means.
Article 10(2) Before issuing export licences or authorisations for shipments of firearms, their parts and components, and ammunition, <b>each State Party shall verify:</b> (a) That the importing States have issued <b>import licences or authorisations</b> ; and (b) That, without prejudice to bilateral or multilateral agreements or arrangements favouring landlocked States, the <b>transit States have</b> , at a minimum, given <b>notice in writing</b> , prior to shipment, that they have <b>no objection to the transit</b> .	Article 7(1) Before issuing an export authorisation for firearms, their parts and essential components and ammunition, the <b>MS concerned shall verify that:</b> (a) the <b>importing third country has authorised the relevant import</b> ; and (b) the <b>third countries of transit, if any, have given notice in writing</b> — and at the latest prior to shipment — that they have <b>no objection to the transit</b> .  Article 7(2) MS may decide to <b>assume implied consent</b> by the consulted third country of transit which has not manifested objection <b>within 20 working days</b> from the request.  Article 7(3) The exporter shall supply the competent authority with the necessary documents proving that the importing third country has authorised the import and that the third country of transit had no objection to the transit.  Article 7(4) MS shall process applications for export	Regulation 258 implements the provision by creating a legal obligation for MS to always verify that importing countries have authorised the import, and for transit countries have no objection to the transit. <b>Moreover, Regulation 258 adds the following specific elements:</b> <ul style="list-style-type: none"> <li>• possibility to assume the implied consent of consulted third countries of transit</li> <li>• obligation for exporters to produce the documents demonstrating the authorisation of importing country and the non objection to the transit of third countries of transit</li> <li>• definition of the maximum time period for processing the application and taking a decision</li> <li>• definition of the maximum period of validity of export licence</li> <li>• possibility of using electronic documents to process application.</li> </ul>

Provisions of Article 10 of the UNFP	Provisions of Regulation 258/2012	Assessment of coherence
	<p>authorisations within a <b>period of time</b> to be determined by national law or practice, which <b>shall not exceed 60 working days</b>, from the date on which all required information has been provided to the competent authorities. Under exceptional circumstances and for duly justified reasons, that period may be extended to 90 working days.</p> <p><i>Article 7(5)</i> <b>The period of validity of an export authorisation shall not exceed the period of validity of the import authorisation.</b> Where the import authorisation does not specify a period of validity, except under exceptional circumstances and for duly justified reasons, the period of validity of an export authorisation shall be <b>at least nine months</b>.</p> <p><i>Article 7(6)</i> MS may decide to make use of <b>electronic documents</b> for the purpose of processing the applications for export authorisation.</p>	
<p><i>Article 10(3)</i> The export and import licence or authorisation and accompanying documentation together shall contain information that, at a minimum, shall include <b>the place and the date of issuance, the date of expiration, the country of export, the country of import, the final recipient, a description and the quantity of the firearms, their parts and components, and ammunition and, whenever there is transit, the countries of transit.</b> The information contained in the import licence must be provided in advance to the transit States.</p>	<p><i>Article 8(1)</i> For the purpose of tracing, the export authorisation and the import licence or import authorisation issued by the importing third country and the accompanying documentation shall together contain information that includes: (a) <b>the dates of issue and expiry;</b> (b) <b>the place of issue;</b> (c) <b>the country of export;</b> (d) <b>the country of import;</b> (e) whenever applicable, the third <b>country or countries of transit;</b> (f) <b>the consignee;</b> (g) <b>the final recipient, if known at the time of the shipment;</b> (h) <b>particulars enabling the identification of the firearms, their parts and essential components and ammunition, and the quantity thereof including, at the latest prior to the shipment, the marking applied to the firearms.</b></p>	<p>Regulation 258 reflects this provision on everything but <b>two points</b>:</p> <ul style="list-style-type: none"> <li>• It makes a distinction between the consignee and the final recipient (i.e. end-user) of the exported goods;</li> <li>• It specifies that the markings applied to the firearms shall be reported into the export authorisation along with other relevant particulars enabling their identification, at the latest prior to the shipment.</li> </ul>

Provisions of Article 10 of the UNFP	Provisions of Regulation 258/2012	Assessment of coherence
	<i>Article 8(2)</i> The information referred to in paragraph 1, if contained in the import licence or import authorisation, shall be provided by the exporter in advance to the third countries of transit, at the latest prior to the shipment.	
<i>Article 10(4)</i> <b>The importing State Party shall, upon request, inform the exporting State Party of the receipt of the dispatched shipment of firearms, their parts and components or ammunition.</b>	<p><i>Article 13(1)</i> <b>MS shall</b>, in case of suspicion, <b>request the importing third country to confirm receipt of the dispatched shipment</b> of firearms, their parts and essential components or ammunition.</p> <p><i>Article 13(2)</i> Upon request of a third country of export which is a Party to the UN Firearms Protocol at the time of the export, MS shall confirm the receipt within the customs territory of the Union of the dispatched shipment of firearms, their parts and essential components or ammunition, which shall be ensured in principle by producing the relevant customs importation documents.</p> <p><i>Article 13(3)</i> MS shall comply with paragraphs 1 and 2 in accordance with their national law or practice in force. In particular, with regard to exports, the competent authority of the MS may decide either to address the exporter or to contact the importing third country directly.</p>	Regulation 258 specifies that MS can both <a href="#">request</a> and be requested a confirmation of the receipt of the dispatched shipments of firearms. <a href="#">Moreover, MS may decide to address either the exporter or the importing third country to carry out this control.</a>
<i>Article 10(5)</i> Each State Party shall, within available means, take such measures as may be necessary to ensure that <b>licencing or authorisation procedures are secure</b> and that the <b>authenticity of licencing or authorisation documents</b> can be <b>verified or validated</b> .	<i>Art. 14</i> MS shall take such measures as may be necessary to ensure that their authorisation <b>procedures are secure</b> and that the <b>authenticity of authorisation documents</b> can be <b>verified or validated</b> . Verification and validation may also, where appropriate, be ensured by means of diplomatic channels.	Regulation 258 reflects this provision, only <a href="#">adding that diplomatic channels may be used by MS to verify and validate licencing documents.</a>
<i>Article 10(6)</i> States Parties may adopt <b>simplified procedures</b>	<i>Article 9(1)</i> <b>Simplified procedures for the</b>	Regulation 258 implements this provision by providing <a href="#">more</a>



Provisions of Article 10 of the UNFP	Provisions of Regulation 258/2012	Assessment of coherence
<p><b>for the temporary import and export</b> and the transit of firearms, their parts and components, and ammunition for verifiable lawful purposes such as <b>hunting, sport shooting, evaluation, exhibitions or repairs.</b></p>	<p><b>temporary export or the re-export</b> of firearms, their parts, essential components and ammunition shall apply as follows:</p> <p>(a) <b>No export authorisation</b> shall be required for temporary export or re-export by hunters and sport shooters of:</p> <ul style="list-style-type: none"> <li>• one or more firearms,</li> <li>• their essential components, if marked, as well as parts,</li> <li>• their related ammunition, limited to a maximum of 800 rounds for hunters and a maximum of 1 200 rounds for sport shooters;</li> </ul> <p>(b) When leaving the customs territory of the Union through a MS other than the MS of their residence, hunters and sport shooters shall produce to the competent authorities <b>an EFP</b>. When leaving the customs territory of the Union through the MS of their residence, hunters and sport shooters may, instead of a EFP, choose to produce <b>another document considered valid for this purpose</b> by the competent authorities of that MS.</p> <p><i>Article 9(2)</i> MS shall, in accordance with national law, establish simplified procedures for:</p> <p>(a) the re-export of firearms following temporary admission for evaluation or exhibition without sale, or inward processing for repair;</p> <p>(b) the re-export of firearms, their parts and essential components and ammunition if they are held in temporary storage from the moment they enter the customs territory of the Union until their exit;</p> <p>(c) the temporary export of firearms for the purpose of evaluation and repair and</p>	<p>detailed indications:</p> <ul style="list-style-type: none"> <li>• definition of the cases of temporary export or re-export to which simplified procedures shall be applied;</li> <li>• in case of temporary export or re-export for hunting and sport shooting, no export authorisation shall be required;</li> <li>• the EFP (or equally valid document) can be used in place of the export licence;</li> <li>• definition of the number of rounds that can be exported.</li> </ul>



Provisions of Article 10 of the UNFP	Provisions of Regulation 258/2012	Assessment of coherence
	exhibition without sale.	

## Annex 5. Accession to the UN Firearms Protocol: Status of EU Member States

Member State	Status	
	Signed	Acceded
Austria	12 November 2001	9 October 2013
Belgium	11 June 2002	24 September 2004
Bulgaria	15 February 2002	6 August 2002
Croatia		7 February 2005
Cyprus	14 August 2002	6 August 2003
Czech Republic		24 September 2013
Denmark	27 August 2002	4 February 2015
Estonia	20 September 2002	12 May 2004
Finland	23 January 2002	17 May 2011
France		
Germany	3 September 2002	
Greece	10 October 2002	11 January 2011
Hungary		13 July 2011
Ireland		
Italy	14 November 2001	2 August 2006
Latvia		28 July 2004
Lithuania	12 December 2002	24 February 2005
Luxembourg	11 December 2002	
Malta		
Netherlands		8 February 2005
Poland	12 December 2002	4 April 2005
Portugal	3 September 2002	3 June 2011
Romania		16 April 2004
Slovakia	26 August 2002	21 September 2004
Slovenia	15 November 2001	21 May 2004
Spain		7 February 2007
Sweden	10 January 2002	28 June 2011
United Kingdom	6 May 2002	

Source: *United Nations Treaty Series: Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components, and Ammunition (UNFP), supplementing the United Nations Convention against Transnational Organized Crime (UNTOC)* New York, 31 May 2001, Status at 20 July 2017.

## Annex 6. Case studies

### 6.1 Introduction

Along the project, the Evaluation team identified specific **areas with the potential to cause misunderstandings or reduce the coherence of Member State implementation of Regulation 258**. Considering the complexity of the matter, the project did not have the resources to investigate each of these issues in a comprehensive way across all 28 Member States. Therefore, a sample of Member States was selected for closer inspection, and a horizontal assessment of the sample cases was made to give an indication of how the specific issues are approached. The horizontal assessment of the sample cases should be considered indicative of how the specific areas are approached, but does not provide a sufficient basis to draw final conclusions.

The Evaluation team undertook **five case studies** on specific areas which overall cover **10 Member States** selected considering their high ranking in terms of: extra-EU export, extra-EU import, presence of major freight handling ports/airports, and EU production (see Table 11).

**Table 11 – Overview of case studies and MS covered**

	Case study areas	IT	FI	DE	UK	CZ	AT	BE	FR	SE	NL
1	Export/Import procedures	x		x			x		x		
2	Simplified procedures		x							x	
3	Exchange of information	x			x			x	x		
4	Categories					x		x	x		x
5	Transportation and transit					x					x

The following paragraphs illustrate the rationale for selecting these case studies and the main aspects analysed.

#### Export/import procedures

According to EU legislation, firearms can be authorised for different kinds of legitimate civilian use. The itemised list in the Finnish Weapons Act provides a useful summary of legitimate, approved end-uses:

- 1) Shooting of animals as permitted by hunting legislation;
- 2) Target shooting or target practice;
- 3) Work where a weapon is necessary, such as authorised private protection services;
- 4) Use in the entertainment industry, for example in a show, film or a corresponding presentation;
- 5) Acquisition of firearms of historical and cultural value by a museum or collection;
- 6) Firearms used in signalling.

Responsible export practice requires the verification that recipients of firearms will act responsibly. European systems need to be able to inform themselves that the end-user of exported firearms is engaged in a legitimate civilian end-use, and that the national

authorities of the country where the end-user is located have no objection to the export. The movement of firearms should be possible to monitor and trace, a process facilitated by proper marking of the firearms and their essential parts.

#### Simplified procedures

Regulation 258 foresees that measures to meet the requirements of Article 10 of the UNFP should be adapted, in order to provide for simplified procedures for firearms for civilian use in some cases where firearms are authorised for civilian use. Authorisation for certain lawful purposes that pose low risks to public safety and security should not be carried out in ways that impose an excessive burden on users. No export authorisation shall be required for certain types of export specified in the Regulation (temporary export from the EU of firearms for use in hunting or sport shooting events; re-export of firearms temporarily imported to the EU for use in hunting or sport shooting events). While described in Regulation 258 as a "simplified procedure", this is rather an exemption from export authorisation for specific beneficiaries.

Simplified procedures 'in accordance with national law' are envisaged also where there is (a) the re-export of firearms following temporary admission for evaluation or exhibition without sale, or inward processing for repair, provided that the firearms remain the property of a person established outside the customs territory of the Union and the firearms are re-exported to that person; (b) the re-export of firearms, their parts and essential components, and ammunition if they are held in temporary storage from the moment they enter the customs territory of the Union until their exit; (c) the temporary export of firearms for the purpose of evaluation and repair and exhibition without sale, provided that the exporter substantiates the lawful possession of these firearms and exports them under the outward processing or temporary exportation customs procedures.

In these cases, Regulation 258 envisages a certain national discretion in the specification of procedures to be followed.

#### Information exchange

Two of the specific objectives of Regulation 258 are to ensure the tracing of firearms and an improved exchange of information between Member States, in particular through the better use of existing communication channels. In deciding whether to authorise or deny authorisation for an export, responsible national authorities want to have sufficient understanding of the transaction they are assessing in order to reach an informed decision.

It is therefore important that responsible authorities have access to relevant information about the actors involved in a transaction, including the exporter and final end-user, but also those involved in handling and shipping items during its transport, including when in transit through third countries. To improve the likelihood that they have comprehensive information, responsible authorities should be able to draw on other Member States as well as on their own national resources.

### Categories

The technical definition of firearms in the UNFP, Supplementing the United Nations Convention against Transnational Organized Crime (UNTOC) is extremely broad.<sup>89</sup> The scope of application of the Protocol does not differentiate civilian and military transactions on the basis of end-users, but applies to all cross-border transactions except 'state-to-state transactions or to state transfers in cases where the application of the Protocol would prejudice the right of a State Party to take action in the interest of national security consistent with the Charter of the United Nations (UN).

Annex I of Regulation 258 contains a list of firearms, their parts and essential components, and ammunition for which an authorisation is required under the Regulation. The list is compiled from categories identified by the EU common customs code, using the CN system to the level of 8 digits. Regulation 258 states that it should not apply to firearms, their parts and essential components or ammunition that are intended specifically for military purposes. EU Member States have developed a Common Military List, and made a commitment to each other to apply common rules to govern the exports of items on that list.<sup>90</sup>

The EU needs to differentiate civilian and military exports to respect the different competences of the EU and its Member States, with a system for managing cases where an item appears on both Annex I and the Common Military List. However, the classification of items into different categories creates some possibilities for overlap and potential confusion between legal regimes to control military and civilian exports.

### Transit and transport

Regulation 258 requires Member States to verify that third countries of transit are aware of the transaction being authorised, and have no objection to it, before issuing an export authorisation for firearms, their parts and essential components, and ammunition.

Such notice authorising the transit should be in writing, unless the shipment is made by a vessel without either transshipment or change of means of transport, or the transaction refers to a temporary export for verifiable lawful purposes, which include hunting, sport shooting, evaluation, exhibitions without sale, and repair.

The Regulation allows for a silent consent procedure, where consent is considered to have been approved if no objections to the transit are received within 20 working days from the day of the written request for no objection by the exporter.

Regulation 258 should not impede the movement of firearms through the EU, and such movements should not fall within the scope of national definitions of transit and transshipment. Controls on intra-EU movements should not have the equivalent effect of a requirement for authorisation of import, transit or export of firearms within the EU.

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<sup>89</sup> "Firearm" shall mean any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas. Antique firearms and their replicas shall be defined in accordance with domestic law. In no case, however, shall antique firearms include firearms manufactured after 1899'.

<sup>90</sup> Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment.

## 6.2 Export/import procedures

### **6.2.1 Verification of import authorisations: who takes contact with whom between the EU and third countries in import procedures?**

It is very rare for the national authorities responsible for export authorisation to take contact with the authorities in recipient countries. Based on the survey responses and the national case study documents, national authorities either never take up direct contact with third countries (AT) or they do so only in rare cases where there is some reason for suspicion about a transaction (IT, DE), or a transfer is considered particularly sensitive (FR).<sup>91</sup>

In all cases, **only exporters with the relevant permits may carry out exports**. These could be commercial permits to trade in firearms, personal permits authorising ownership of firearms for legitimate purposes (such as hunting, sport shooting or collecting), or permits to maintain collections of historical and cultural value. Therefore, all exporters will have been authorised by national authorities as trusted to perform the activities contained in their permit. The relevant licences to conduct commercial trade, to own, transfer or carry firearms are only issued to people regarded as trusted and responsible licence holders.

For transactions under Regulation 258, the final recipient providing an assurance is not a state entity. Where firearms are exported to a civilian final recipient, the authorities in the exporting countries may require an end-use statement from the private consignee as well as an import certificate stating that the authorities of the importing state are aware of, and have no immediate objection to, the transaction.

Where firearms are exported for civilian use, in all cases, it is the responsibility of the consignee to acquire the relevant documents from the authorities of the receiving state, and supply them to the exporter for inclusion in the application,<sup>92</sup> who will be responsible to acquire the documents and submitting them to the authorities that authorise the export. The most common format is an end-use certificate designed by the exporting country and completed and signed by the final recipient of the goods, and export authorisation includes verification that the document received as part of the application is consistent with the required format.

Direct contact between the national authorities of exporting and importing states only takes place under rare circumstances. End-user verification is considered to have been achieved when the documents received as part of the application is consistent with the format required by the export licencing authority. The format of international import certificates is already harmonised. However, **exporting states have flexibility in terms of which kind of end-use statements they require**. The lack of harmonisation of end-use documents was highlighted in one country (IT) as a potential area for improving the efficiency of procedures.

Germany has developed standard end-user certificate templates.<sup>93</sup> However, there are reasons for the lack of complete harmonisation and standard documents. While the essential

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<sup>91</sup> Survey feedback: one representative from National Competent Authorities (AT). Interview feedback: two representatives from National Competent Authorities (FR, IT); National Implementation Table, DE.

<sup>92</sup> Survey feedback: one representative from National Competent Authorities (AT); Interview feedback: two representatives from National Competent Authorities (FR, IT); National Implementation Table, DE.

<sup>93</sup> Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA), *Manual – Completion of German end-use certificates*.

elements that end-user statements must contain is agreed, exporting authorities may periodically change the format and layout of end-user documents.<sup>94</sup> For example, the order in which information is recorded on a form may be changed, reducing the risk that a trafficker familiar with genuine, but older, documents will submit a counterfeit.

All EU Member States are members of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. The Wassenaar Arrangement is an informal export control regime where national authorities meet to discuss and exchange information on the procedures for export authorisation, including how to recognise the authenticity of documents needed as part of the process. Member States have access to the Wassenaar good practice documents related to measures to ensure the integrity of consignee/final recipient assurance documents. With regard to transactions under Regulation 258, measures taken to avoid circumvention can include: the assurance by the final recipient providing that it is not a state entity, the verification that the consignee (or final recipient) is under effective legal control and that national authorities employ effective control practices that would preclude violation of the assurance given.

As noted above, in rare cases the national authorities will check with their counterparts in the country of the consignee/end-user. According to the information provided, this is most likely to occur in the following circumstances:<sup>95</sup>

- When an application contains new factors for the first time. For example, a new country of destination that is believed to be sensitive;
- When applications contain unfamiliar documents for the first time;
- On the request of another country (in particular for countries that do not produce firearms but engage in re-exports this request might come from the original country production).
- After issuing an export authorisation, few Member States require importing third country to confirm receipt. AT and FR indicate that they never require confirmation of receipt from the consignee/final recipient.<sup>96</sup> In France, confirmation of receipt of the shipment into the country of destination is assured by providing customs documents from the importing country.<sup>97</sup> In Germany, a commercial exporter reported that in rare cases, a Bill of Entry will be required by the export licencing authority after a shipment has been made.<sup>98</sup> The Bill of Entry is a customs form confirming arrival of goods at the border and entry into the country concerned.

Where information comes to the attention of the authority that the conditions on which the licence was issued have changed, the licence is revoked.<sup>99</sup> This information can come from

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<sup>94</sup> The essential elements of end-use verification documents have been agreed in the European Union, the Organization for Security and Co-operation in Europe and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.

<sup>95</sup> Interview feedback: one representative from National Competent Authorities (AT).

<sup>96</sup> Survey feedback: two representatives from National Competent Authorities.

<sup>97</sup> Interview feedback: one representative from National Competent Authority (FR).

<sup>98</sup> Interview feedback: one representative from users (DE).

<sup>99</sup> In France competent authorities could at any time, under certain conditions, suspend, amend, repeal or withdraw the import or export authorisation (Art. 2331-1 and 2335-1 Code de la defense; Art. 10 of Decree No 2014-62).

another authority, from public sources, or from a national decision (for example, as a result of the imposition of an embargo on the country of the consignee/end-user).

### ***Difficulties encountered and good practices***

There are no specific difficulties reported by Member State authorities as such, but AT indicates that **the use of general licence puts the responsibility for certain tasks on to the commercial company, which could be interpreted as a difficulty**. Exports of essential parts to a foreign subsidiary of an Austrian company are regulated in a general licence that authorises exports up to a certain Euro-value. The licence allows multiple shipments of specified items to the same consignee. When the value of the exports reaches the maximum permitted in the licence, the licence must be renewed. The licence specifies that exported essential parts are only authorised for sale in the domestic market of the subsidiary, or to the state authorities of that country. The monitoring of the terms of the licence is a responsibility of the Austrian exporting company.

The company concerned is a trusted exporter, however the Austrian authority emphasises that a global licence (authorising multiple shipments to multiple consignees) would not be appropriate even for a responsible exporting company in their view, because of the difficulty of end-use monitoring.<sup>100</sup>

France also uses single licences and general licences, but can also authorise exports under global licences.<sup>101</sup> However, Germany does not allow the use of general licences for the export of firearms to civilian customers if the export is a matter of sale. If the export concerns the repair of firearms, or the re-export from Germany of temporarily imported firearms then companies may use a general licence.<sup>102</sup>

The appropriate use of general and global licences is one area where the case studies indicate that Member States have different perspectives. There is also a certain discrepancy on the use of electronic licencing procedures as a good practice. Germany uses an electronic licencing system. In Italy, the process of moving from paper to digital systems is presented as a good practice. France is still using a paper-based licencing system. One German user reported that the electronic licencing system is subject to frequent changes to the reporting format in the online system, and that this imposes a significant burden on the user (whereas the paper documents used previously were rarely modified).<sup>103</sup> However, one French industry representative reported that the continued use of FAX to exchange documents with the licencing authority means requests cannot be processed quickly.<sup>104</sup>

Difficulties reported by users and companies normally focus on the **time taken to receive authorisations**, the difficulties created by **frequent changes in procedures**, and the **costs imposed on applicants by the process**.

A significant number of German firearms users travel to Ukraine and Russia to hunt (in the case where the country of destination has been placed on a list of embargoed countries),

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<sup>100</sup> Interview feedback: one representative from National Competent Authorities (AT).

<sup>101</sup> Article 4 of Decree No. 204-62. Input collected from one representative from National Competent Authorities.

<sup>102</sup> Input collected from one representative from National Competent Authorities.

<sup>103</sup> Interview feedback: one representative from National Competent Authorities (IT). Interview feedback: one representative from users (DE).

<sup>104</sup> Input collected from one representative from producers/exporters.



and according to information provided by the German hunting association and an individual user, export authorisation for temporary export for such trips is likely to be no longer granted.<sup>105</sup>

According to a clarification from the German authority, Germany does not apply an embargo on firearm exports to civilian users in Ukraine, all firearms exports to Ukraine are a result of case-by-case decisions. Based on Council Decision 2014/512/CFSP, Germany applies an embargo on firearm exports to civilian users in Russia if the firearms are within the scope of the common military list of the EU. If the firearms are not documented in the common military list, German authorities will come to a case-by-case decision regarding exports to civilian users in Russia.<sup>106</sup>

Moreover, Germany has clarified in its law the scope of sport shooting (i.e. certain types of "combat" sport shooting do not qualify for the export authorisation exemption under Article 9.1 of Regulation 258.<sup>107</sup> Therefore, simplified procedures are not offered for all cases of sport shooting.

No cases of illicit export/import of firearms linked to poor controls performed are reported in the information provided to the project this far.

### **6.2.2 Validity**

#### ***Cases of discrepancies linked to the different length of the validity for the authorisations by the authorities in the exporting country and the importing country and consequences for economic operators.***

There are **a mix of approaches regarding the duration of a licence.**

In Austria and France an export authorisation is valid for one year.<sup>108</sup> However in some cases the licence is valid for the same duration as the import authorisation that is part of the transaction. In Austria, as noted above, for cases where there are regular, repeat export orders to the same end-user a general licence authorises the export of items worth a certain financial value. The export licence will remain valid until items have been exported to the value specified, unless there is a reason to change or revoke the licence. In the UK, an individual export authorisation usually is valid for two years.<sup>109</sup>

In Italy exporters receive a licence valid for three years to conduct a business transaction, and, within the scope of that licence, individual authorisations are issued for specific exports. These individual licences are valid for the same duration as the import licence, where specified. According to Italian authorities, no issues arise around the duration of the export and import licences. However, one representative of the Italian producers claimed that the time taken to process individual licence authorisation applications there have been cases where only a very narrow time window exists to complete a transfer before the expiry of the

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<sup>105</sup> Survey feedback: one representative from users (DE). Interview feedback: one representative from users (DE).

<sup>106</sup> Input from one representative from National Competent Authorities.

<sup>107</sup> Weapons Act of 11 October 2002 (Federal Law Gazette I, p. 3970, 4592; 2003 I p. 1957), most recently amended by Article 2 of the Act of 4 March 2013 (Federal Law Gazette I, p. 362).

<sup>108</sup> Survey feedback: two representatives from producers/exporters (AT, FR).

<sup>109</sup> There is the option for Open Individual Export Licences which may be valid for three years (Source: Implementation Table UK).

import licence, and on occasion the authorisation to export is released after the import licence has expired.<sup>110</sup>

### **6.2.3 National practice in relation to marking of firearms and essential parts at export and import**

To facilitate tracing (the systematic tracking of firearms and their essential components), it is important that firearms are properly marked, and that records of marked firearms are kept. Regulation 258 contains some specific provisions to facilitate the tracing of firearms:

- Article 2(15) establishes the legal requirement for imported firearms to be marked according to the same standards applied in the EU Firearms Directive 91/477/EC amended by Directive No. 2008/51/EC before being placed on the market, and that firearms not marked in such a manner are illicit.
- Article 8 defines the minimum information to facilitate tracing that the package of documents that together form part of the process of authorising a transaction must contain.
- Article 12 requires comprehensive record-keeping for a minimum of 20 years.

#### **Marking practices for import**

Regulation 258 establishes that the marking of all imported firearms must be consistent with the requirements of the EU Firearms Directive, and no unmarked firearms may legally be placed on the market in the EU.

Based on the information contained in the national legislation and summarised in the implementation tables, there seems to be a **standard approach to the verification of import marking**.

Customs authorities have a monitoring function by which firearms entering the EU are inspected at the external border, including the presence of the relevant marking. Where firearms are not properly marked, they are held from the market until the responsible authorities have verified that proper marks have been applied.

In Germany, a licence to transfer firearms may only be granted if the German consignee is authorised to acquire or possess the specific weapons. In case firearms arrive at German customs that are unmarked, or not marked in ways that are consistent with the Firearms Directive, releasing them to the consignee would be a violation of the domestic licence to possess firearms. Where firearms are not properly marked, the responsible authority is contacted.

The responsible authority in Germany is the Waffenbehörde, a local authority on the lowest administration level in Germany, and therefore not a Federal authority, generally part of a municipal authority. The firearms are held in temporary storage and the responsible local authority is asked to clarify the licence situation with the consignee.<sup>111</sup> Before the firearms are released to the market, the Waffenbehörde, in cooperation with the police, are responsible for making sure that they are marked in accordance with Section 24 of the

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<sup>110</sup> Input from one representative from producers/exporters.

<sup>111</sup> Input from one representative from National Competent Authorities.

Weapons Act.<sup>112</sup> The firearms are transported to the accredited Proof House to apply the correct markings.<sup>113</sup> Subsequently, a criminal case may be opened.<sup>114</sup>

As reported by a representative from users, in Germany the burden of ensuring that the marking of imported firearms is carried out according to Regulation (Article 2.15(c)) is the reason that they only deal with export transactions, and avoid import transactions.<sup>115</sup>

In Italy, firearms that arrive at the Italian border without the proper markings are sent to the Banco Nazionale di Prova in Gardone Val Trompia at the consignee's expense. The firearms are tested and receive proof marks using the standardised CIP marking requirements.<sup>116</sup>

### ***Marking practices for import***

As for the exports, unmarked firearms are illegal inside the EU. There are only two means by which firearms can enter the European market for the purpose of export: because they were manufactured in Europe, or because they were imported with a view to re-export.

Directive 2008/51/EC of 21 May 2008 amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons made it a legal requirement to ensure that any firearm or part placed on the market must be either marked (in accordance with standards set out in the Directive) or deactivated. Member states therefore require the marking of firearms at the time of manufacture in ways that are consistent with the EU legislation. The marking must include a serial number, and the year of manufacture (if that is not part of the serial number). It is recommended that marking follows the marking guidelines in the Convention of 1 July 1969 on Reciprocal Recognition of Proof marks on Small Arms. However, this is not a mandatory requirement.

At the point where they are imported to the EU, firearms and their parts become subject to the Firearms Directive (see above on import marking).

As part of the process of export authorisation, Regulation 258 requires Member States to use a form of document that is consistent with the model form that is Annex II of the Regulation. The model form requires the exporter to record the marking on the firearms that are included into the transaction.

The procedure leaves **very little room for national discretion in marking of firearms at the point of export.**

### **6.2.4 Fees**

Austria, Germany and France do not charge a fee for providing export authorisation. Italy charges an administration fee for the export/import authorisation of civilian firearms of €32: 16€ at the time the application is submitted and 16€ when the licence is issued. This fee refers exclusively to the release of the authorisation/licence and does not include any

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<sup>112</sup> Weapons Act of 11 October 2002 (Federal Law Gazette I, p. 3970, 4592; 2003 I p. 1957), most recently amended by Article 2 of the Act of 4 March 2013 (Federal Law Gazette I, p. 362).

<sup>113</sup> Survey feedback: one representative from producers/exporters.

<sup>114</sup> Input from one representative from National Competent Authorities.

<sup>115</sup> Interview feedback: one representative from users (DE).

<sup>116</sup> Input from one representative from National Competent Authorities.

potential customs fees/taxes and the fee is independent from the number of firearms being transferred.<sup>117</sup>

According to a German trader, **the relevant factor is not only the fee, but the overall cost of procedures.** First, the cost of ensuring compliance with marking procedures at import has led them to discontinue imports completely—they only export now. Second, the information systems of the authorities in DE are connected (licencing and customs), but there are separate processes for reporting data for export authorisation and customs declaration. So, if they make even a small mistake in data entry for the two systems, their transaction is blocked at the border because the details do not match.<sup>118</sup> According to the stakeholder, these factors are much more important than an administrative fee.<sup>119</sup>

### 6.3 Simplified procedures

Article 9 of Regulation 258 describes simplified procedures as related to activities that do not require export authorisation that may be applied in certain cases.

According to Article 9.1 of the Regulation, no export authorisation is required for the temporary export or re-export of a small number of firearms by the owner for a valid civilian purpose such as hunting or sport shooting:

- Temporary export by hunters or sport shooters as part of their accompanied personal effects of firearms and related ammunition, during a journey to a third country, provided that they substantiate to the competent authorities the reasons for the journey.
- Re-export by hunters or sport shooters as part of their accompanied personal effects of firearms and ammunition, following temporary admission for hunting or sport shooting activities, where firearms are re-exported to a person established outside EU.

According to Article 9.2 of the Regulation, Member States shall introduce simplified procedures in cases other than hunting and sport shooting:

- Re-export of firearms following temporary admission for evaluation or exhibition without sale, or inward processing for repair, where firearms are re-exported to a person established outside EU;
- Re-export of firearms, their parts and essential components, and ammunition if they are held in temporary storage from the moment they enter the customs territory of the Union until their exit;
- Temporary export of firearms for the purpose of evaluation and repair and exhibition without sale, provided that the exporter substantiates the lawful possession of these firearms and exports them under the appropriate customs procedures.

#### 6.3.1 Target and scope of simplified procedures

Sweden has a distinctive approach to simplified procedures.

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<sup>117</sup> Interview feedback: one representative from National Competent Authorities (IT). Interview feedback: one representative from producers/exporters (IT).

<sup>118</sup> Interview feedback: one representative from users (DE).

<sup>119</sup> Interview feedback: one representative from producers/exporters (DE).

In Article 9.1(b), the Regulation states that when exiting the customs territory of the Union through a Member State other than the Member State of their residence, hunters and sport shooters shall produce to the competent authorities an EFP as provided for in Articles 1 and 12 of Directive 91/477/EEC. Except for citizens of Denmark, Finland (and Norway), everyone else (including all foreign competitors or guest hunters) must have an import permit valid for a limited period issued by the Swedish Police before bringing firearms into Sweden. It is not possible to enter and travel through Sweden with firearms legally without the necessary permit, the EFP by itself is not sufficient.<sup>120</sup>

As mentioned, according to Article 9.2(c) of Regulation 258, Member States shall introduce simplified procedures in cases of the temporary export of firearms for the purpose of evaluation and repair and exhibition without sale, provided that the exporter substantiates the lawful possession of these firearms and exports them under the outward processing or temporary exportation customs procedures. In Sweden the national licencing authorities require an export authorisation for such cases.<sup>121</sup>

In general, Swedish authorities do not seem to agree with the idea of special “simplified procedures”, arguing that all procedures should be simplified to the fullest extent while remaining effective.

In Finland, Section 19 of the Firearms Act states that export authorisation is not required when firearms are exported for an authorised private purpose as described in the Act. The authorised private purposes are listed in Section 43 of the Firearms Act:

- 1) Shooting animals, as permitted by hunting legislation;
- 2) Target shooting or target practice;
- 3) Work where a weapon is necessary, such as authorised private protection services;
- 4) Use in the entertainment industry, for example in a show, film or a corresponding presentation;
- 5) Acquisition of firearms of historical and cultural value by a museum or collection;
- 6) Keeping firearms as a souvenir or heirloom, for example where a legally owned weapon is inherited on the death of a relative or spouse;
- 7) Firearms used in signalling.<sup>122</sup>

In these cases the private person making the export must have the authorisation needed for the specific purpose, and must demonstrate the knowledge and consent of the importing country. However, a separate export authorisation is not needed in any of these cases.

### **6.3.2 Operationalisation of simplified procedures**

#### ***Documents to be presented and the way they are presented***

As part of the use of simplified procedures there is uniformity regarding the simplified procedures related to Article 9.1:

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<sup>120</sup> Polisen, ‘Temporary import of weapons to Sweden’ available at <https://polisen.se/en/laws-and-regulations/firearms/temporary-import/> Interview feedback: one representative from users.

<sup>121</sup> Input from one representative from National Competent Authorities.

<sup>122</sup> Firearms Act, 1998 as amended up to 804/2003.

- Proof that the person is the legal owner of the firearms, and that the legally owned firearms are consistent with the stated purpose of the temporary export. This can be the Firearms Pass or an equivalent national document, such as the permit authorising possession of the firearm in question.
- Evidence of the activity to be carried out substantiating the use of the specific firearms in the country of final destination, e.g. the invitation to a hunting or shooting event and a description of it.
- Filing of an export declaration with Customs at the point of exit.<sup>123</sup>

A representative of Swedish sport shooters noted that there can be problems in making use of the simplified procedures envisaged in Regulation 258 in case of exit from the EU via the United Kingdom. The very strict UK national laws on possessing and carrying firearms mean that firearms in transit can be blocked by UK authorities under some conditions. Depending on the nature of the firearm and the destination of the journey, a visitor's firearm or shot gun permit granted under section 17 of the Firearms (Amendment) Act 1988 may be needed because of UK rules on countries and destinations subject to stricter export or trade controls.<sup>124</sup>

Collectors and exhibitors in the EU also benefit because they do not have to apply for export authorisation for temporary exports. However, in FI collectors indicate that there are problems caused by the different classification of firearms in different countries—meaning that firearms can face difficulties in transit if different authorities classify items in different ways.<sup>125</sup>

There are complaints from users that even with correct documentation there can be difficulties at airports in particular, where a lot of extra time is needed for inspections, and qualified staff to carry out checks may not be immediately available.<sup>126</sup>

As noted above, the regulations for simplified procedures can vary to a certain degree from one Member State to another. However, this was even truer before the Regulation was introduced, and so there has been some useful harmonisation. In FI, before Regulation 258 an export authorisation was required for all exports and imports, so the creation of simplified procedures at the EU level is seen as a useful development from that perspective.<sup>127</sup>

## **6.4 Information exchange**

One of the objectives of Regulation 258 was to ensure effective exchange of information between Member States. Regulation 258 includes provisions to improve the exchange of information between Member States:

- Article 11(2) requires sharing of information when export authorisation is denied, suspended, amended or revoked.

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<sup>123</sup> Survey feedback: two representatives from National Competent Authorities (FI, SE).

<sup>124</sup> Input from one representative from users (SE).

<sup>125</sup> Interview feedback: one representative from users (FI). This can also reflect the different rules applied by airlines rather than national authorities.

<sup>126</sup> Survey feedback: one representative from users (FI).

<sup>127</sup> Survey feedback: two representatives from users (FI).

- Article 11(3) requires a Member State to explain their reasons for granting an authorisation for an export if an essentially identical transaction has been denied by another Member State.

Regulation 258 emphasises exchange of information 'in particular through the better use of existing communication channels', rather than establishing a dedicated system for information related to civilian firearms.<sup>128</sup> However, the existing communication channels were not tailored to the exact purposes of Regulation 258.

#### **6.4.1 Exchange of information at the national level**

**National exchange of information is not harmonised** across different EU Member States in the sense that there is not one unified system for administrative organisation of export control. The need for information exchange between national authorities at least partly depends on the national organisation of responsibility related to export authorisation. In particular, whether exports' assessments and authorisation (civilian and military) are done by a single authority (as in the UK), or if export authorisation processes are divided by different authorities (e.g. law enforcement, customs, national ministries) depending on type of export, appears to have an impact on how information is exchanged.

In the UK, for example, all firearms exports (civilian and military) fall under the authority of a single agency created in July 2016: the Export Control Joint Unit (ECJU). The ECJU brings together staff and resources from the Export Control Organisation, the Foreign Office, and the Ministry of Defence. Its function is to promote global security through the UK strategic export controls, and facilitate responsible exports. The ECJU maintains a network of other agencies that are consulted on a case-by-case basis following a risk assessment conducted by the Unit and mostly based on the country of destination and nature of the end-use. The UK makes extensive use of electronic licence applications, and so information is recorded in an integrated system in a digital form and maintained by a dedicated body.

In Italy, information exchange at the national level was reported by one Italian interviewee to be effective.<sup>129</sup> In addition, national level information sharing and exchange of information between relevant authorities and industry has improved significantly since the launch of the SIGMA *Sistema Integrato di Gestione e Movimentazione Armi* (Integrated System for Arms Management and Mobilisation) portal.<sup>130</sup> SIGMA is an industry-led initiative launched and developed to allow a faster, more accurate and more efficient processing of all requests for licences (for both intra-EU and extra-EU transfers). The portal, powered by a dedicated software, was entirely developed and funded by 15 Italian industries (at a cost of about €800,000) and is accessible to relevant local (Questura) and national (Ministry of Interior) authorities to share and access information more effectively.<sup>131</sup> Industry participation is also increasing.<sup>132</sup>

In France, information is held by the Customs Authority, and shared with other authorities on the basis of need. For example, the Customs Authority will only consult the Ministry of

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<sup>128</sup> Regulation 258/2012, Preamble paragraph 3.

<sup>129</sup> Interview feedback: one representative from National Competent Authorities (IT).

<sup>130</sup> Interview feedback: one representative from producers/exporters (IT).

<sup>131</sup> Conarmi, 'Portale SIGMA' available at <http://www.conarmi.org/portale-sigma.jsp>.

<sup>132</sup> Interview feedback: one representative from producers/exporters (IT).



Foreign Affairs, Ministry of Interior or Ministry of Defence in case there is a need for additional information prior to deciding on an application—for example, if there is a sensitive destination.<sup>133</sup> As a result, not all parts of the French export control system that play a role in information exchange have full knowledge of all exports of civilian firearms. Since the MFA is responsible for managing information exchange with other Member States, it is not certain that all denials are reported.

#### **6.4.2 Exchange of information at the EU level**

Article 11 of Regulation 258 states that: 'Where Member States refuse, annul, suspend, modify or revoke an export authorisation, they shall notify the competent authorities of the other Member States thereof and share the relevant information with them.' The Regulation does not state, for example, how, through what channels, or after how much time, such information should be passed on. Furthermore, 'Before the competent authorities of a Member State grant an export authorisation under this Regulation, they shall take into account all refusals under this Regulation of which they have been notified.' Hence, when MS' authorities consider an export application, they need only to consider information already given by other MS, and do not need to seek out information. So, for Member States that never reject applications, it is possible that they do not engage in information exchange, yet are fully compliant with Regulation 258.

#### **Existing databases and categories of stakeholders with access**

**There is no complete exchange of information by all Member States concerning the implementation of Regulation 258.** Information on cases where export authorisation is denied, suspended or revoked is exchanged using several methods.

One method, which seems to be the most common, is by using the COARM database set up to monitor the implementation of the EU Common Position on Conventional Arms Exports. The database is managed by the European External Action Service and controlled by the Council Working Party on Conventional Arms Export. It plays a central role in discussions on arms transfer issues under the Common Position. Through completion of an electronic form, other Member States are notified on denied applications for export authorisation.<sup>134</sup> COARM facilitates information sharing among Member States and its central database of denial notifications is maintained by the European External Action Service to give all Member States immediate access to information enabling them to investigate specific denials. Denial notifications and bilateral consultations continued to take place via the EU electronic COREU system also after the modification of the COARM system and the introduction of the indication "Regulation 258" to notify denials. However, notifications through the COREU system, including information on any concerns arising from specific countries of final destination or end users, remained a very small part of this exchange, with only three cases of its use in the past three years (against over 450 denials notified through COARM).

In some cases information is exchanged using direct contact via FAX or email with counterparts in other Member States. The point of contact group for the exchange of information established under the Firearms Directive identifies the national authorities responsible for transmitting and receiving information needed to comply with the Firearms

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<sup>133</sup> Interview feedback: one representative from National Competent Authorities (FR).

<sup>134</sup> Interview feedback: one representative from National Competent Authorities (UK).



Directive, and the contact point information is also used to facilitate communication. Belgian authorities also made reference to the Expert Working Group on Exchange of Information of the Firearms Committee as a mechanism for information exchange.<sup>135</sup>

Article 11 of Regulation 258 states that: 'Before the competent authorities of a Member State grant an export authorisation under this Regulation, they shall take into account all refusals under this Regulation *of which they have been notified.*' Hence, when MS' authorities consider an export application, they need only to consider information already given by other MS, and do not need to seek out information.

As noted above, in cases of denials of export authorisation for civilian firearms, it is possible that the most commonly consulted database (COARM) does not contain comprehensive information. Those Member States that do share information under Regulation 258 tend to share information on the export applications that they have denied on the basis of the assessment procedures used under the Common Position, and not when denials are for other reasons.<sup>136</sup>

In the United Kingdom, where there is a unitary procedure for export authorisation, the responsible authority, the ECJU, can both enter and retrieve the information recorded through COARM on licence denials.

In France, the Ministry for Foreign Affairs is responsible for providing information on licence denials to the COARM database. For military items, this information is but, as noted above, for civilian firearms it is not certain that all denials are recorded.

In Italy, the Office for the Affairs of Administrative and Social Police (Area weapons and explosives) (Ministry of Interior) monitors denial notifications by consulting the COARM database. The information is passed to local offices in Italy, via the Ministry of Interior, so that they can check information on denials of essentially identical transactions as issued by other Member States (Ministerial Circular No 557/PAS/U/017550/10175(1) of 22 October 2013).

The information provided by the Central Office about the same consignee/third country of destination may be regarded as valid by local offices for a period of six months (Ministerial Circular No 557/PAS/U/017550/10175(1) of 22 October 2013).

As for information to be shared with and notified to other Member States (Article 11(2) and Article 19(1) of Regulation 258), the process is reversed. Local offices communicate their decisions regarding denial, suspension, annulment, revocation, or modification of an export authorisation to the Office for the Affairs of Administrative and Social Police (Area weapons and explosives) (Ministry of Interior), to facilitate information sharing with other Member States in a confidential manner (Ministerial Circular No 557/PAS/U/017550/10175(1) of 22 October 2013).

### ***Use of the information exchange on denials***

Overall, it appears that very few applications to export civilian firearms are denied, which could be one explanation of the perceived neglect of developing dedicated systems to share

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<sup>135</sup> Interview feedback: one representative from National Competent Authorities (BE).

<sup>136</sup> Interview feedback: one representative from National Competent Authorities (SE).

information on denials.<sup>137</sup> It is reported that most information on denials is reported by relatively few countries.<sup>138</sup>

The COARM database was mentioned by both the Flemish and the Brussels-Capital Region as a source to find information on denials, and the BCR also mentioned that they requested information from the European Commission (EC) on denials.<sup>139</sup>

The content of denial databases is seen as a useful part of the risk assessment procedure because the information it provides can be checked against the details in an application for authorisation to export, and the information in COARM may be supported by COREU if/when necessary.<sup>140</sup> In Italy, the COARM database is used as a means for administrative cooperation domestically, as described above, and the exchange of information on export and import of firearms with other Member States is carried out by the Ministry of Foreign Affairs.<sup>141</sup>

**The sharing of information on denials seem to be closely linked to the structure of the national export controls:** Member States that have one single authority for military and civilian export control, and thus are already using COARM for sharing information on export denials on a regular basis, are more likely to share information on denied applications for civilian exports under Regulation 258. Furthermore, in Sweden, for example, all weapon exports are considered military exports and so all exports receive a military export authorisation, and thus a military denial should the application be rejected. As a result, all denials are shared in the COARM system routinely.<sup>142</sup> In systems where military and civilian exports are authorised by different authorities, it is not certain that all information about export application denials are entered into the COARM system by law enforcement or trade departments.

Given the low number of denials of authorisation for civilian firearms exports, it would appear that entering all information on denied applications into the COARM system may only add a minor task for the export control authorities.

### ***Issues encountered by the different categories of stakeholders***

**A key issue is that currently there is no joint procedure to share information that is used across all EU MS.** This means that even though the COARM denials database include some of the denied applications for exports under Regulation 258, it does not include all.

The database is incomplete, and therefore less operational or useful to licencing authorities than it could be.

Some industry stakeholders also expressed their concern that the use of the Common Position 944/2008 control system to the export of civilian firearms and ammunition could

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<sup>137</sup> Several MS have underlined that the number of denied applications are very low (NL, SE), maybe even just one or two applications per year (SE).

<sup>138</sup> According to one source, Austria, Belgium, Germany, Finland, Italy, Sweden and the UK mainly exchange information on denials through the COARM system. Input from one representative from National Competent Authorities (SE).

<sup>139</sup> Interview and survey feedback: two representatives from National Competent Authorities (BE).

<sup>140</sup> Interview feedback: one respondent from National Competent Authorities (UK).

<sup>141</sup> Interview feedback: one representative from National Competent Authorities (IT).

<sup>142</sup> Interview feedback: one representative from National Competent Authorities (SE).

harm the private sector and European operators.<sup>143</sup> Applying information used to process military exports when considering civilian export applications may lead to an inappropriate assessment of risk. This point was raised by an interviewee representing the industry, indicating that, to his knowledge, the provision of Regulation 258 establishing a specific instrument for the consultation among Member States on denials was never created at the EU level.<sup>144</sup> As an appropriate instrument of cooperation has never been established, Member States decide about denials based on the different criteria established by Common Position 944. It was suggested by the industry stakeholders that a new system for monitoring and sharing information under Regulation 258 should be established.

Finally, interviewees highlighted that Article 19 of Regulation 258 already envisages establishing a specific instrument for the consultation among Member States on denials, but it does not seem to work properly at the EU level.<sup>145</sup>

### ***Further suggestions***

As different views have been expressed on the current situation regarding information exchange, there could be a focused discussion among experts about the advantages and disadvantages of three alternative options:

- Creating a single, common EU database for the exchange of all information (military and civilian) for licencing authorities, customs authorities and law enforcement authorities.
- Focusing attention on including all information on civilian firearms exports into the COARM system.
- Creating a new, separate information system tailored to the provisions of Regulation 258.

One interviewee<sup>146</sup> reported that, while the COARM database is working well, the creation of a dedicated database to share information on rejected authorisations for civilian firearms would likely improve the status quo by providing a more streamlined, immediate and precise instrument.

While a dedicated system would be preferable, the benefit of COARM is that it is already up and running, therefore there are no set-up costs, Member States are already familiar with the system and it is working with its limitations.<sup>147</sup> The problem is that COARM is a tool designed to deal with the whole range of military technology and equipment (including major platforms), therefore, regulated differently from civilian firearms and, in some circumstances, by different national authorities. COARM is mostly a tool used by MFAs and less appropriate for dealing with civilian firearms.<sup>148</sup>

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<sup>143</sup> Survey feedback: five representatives from producers/exporters.

<sup>144</sup> Interview feedback: one representative from producers/exporters.

<sup>145</sup> Interview feedback: one representative from the producers/exporters and one representative from National Competent Authorities.

<sup>146</sup> Interview feedback: one representative from National Competent Authorities (IT).

<sup>147</sup> Interview feedback: one representative from National Competent Authorities (UK).

<sup>148</sup> Interview feedback: one representative from National Competent Authorities (UK).

The proposal to rely on email exchanges for notifications seems particularly inefficient and it is not considered by the UK, for example, as a viable solution to replace a consistent and complete repository of all denials, always accessible.

While the lack of consistency in the use of COARM, added to the lack of a dedicated system, increases the risks of denials being undercut,<sup>149</sup> it should be pointed out that the project has not seen actual evidence of this scenario taking place, and the number of denials is overall very low.

A second suggestion on information sharing raised by interviewees focused on the need to better leverage and extract more value out of the meeting of the Firearms Exports Coordination Group (article 20 of Regulation 258), chaired by a representative of the Commission and with representatives of each MS.<sup>150</sup> In theory, the Coordination Group should examine any question concerning the application of the Regulation, but in practice it does not meet often enough to achieve support discussion (only three times so far).<sup>151</sup> As a result, Member States also discuss issues related to Regulation 258 on other occasions (e.g. at COARM meetings) where the focus should be first and foremost on military exports and where the appropriate representatives might not be present. To achieve better information sharing and, ultimately, better results, the Coordination Group should meet more regularly.<sup>152</sup>

## **6.5 Categories**

Export authorisation must respect both the requirement to apply Regulation 258 to items classified in Annex I of the Regulation, and the need to ensure that items that appear on the Common Military List are subject to the agreed common rules.

EU Member States have developed a Common Military List, and made a commitment to each other to applying common rules to govern the exports of items on that list. Category ML1 of the Common Military List includes portable barrelled weapons.<sup>153</sup> Annex I of Regulation 258 contains a list of firearms, their parts and essential components, and ammunition for which an authorisation is required under the Regulation. The list is compiled from categories identified by EU common customs code, using the CN system to the level of 8 digits.

Member States need a system for managing cases where an item appears on both Annex I and the Common Military List. Examples of items that would meet the criteria of both lists include short-barrelled, semi-automatic firearms that use centre-fire ammunition and precision long-barrelled firearms that are accurate to long distances.

To differentiate military and civilian exports, the Common Military List and Regulation 258 both rely to an extent on end-user and end-use criteria, rather than being exclusively limited to the technical specifications of items. Regulation 258 states that it should not apply to

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<sup>149</sup> Interview feedback: one representative from National Competent Authorities (UK).

<sup>150</sup> Interview feedback: one representative from National Competent Authorities (UK).

<sup>151</sup> European Commission, 'Register of Commission expert groups and other similar entities' available at <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=2990>.

<sup>152</sup> Interview feedback: one representative from National Competent Authorities (UK).

<sup>153</sup> Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment.

firearms, their parts and essential components or ammunition that are intended specifically for military purposes.

#### **6.5.1 Classification of firearms**

##### ***National practices with regard to firearms that can have both a civilian and military use - the relation between Regulation 258 and the Common Military List***

In some Member States such as Austria and Sweden, if an item for export falls into the technical category to which both civilian and military regulations, both procedures are applied to authorise the same transactions.<sup>154</sup> However, this is not a shared practice in all Member States, which may rather 'choose' one procedure to apply for each licence. As a result, where export controls are carried out by different authorities depending on the classification of the item, an item with the same specifications could receive a military export licence in one EU Member State but a civilian licence in another. In such cases executing an export could be complicated at the border in cases where items are exported through the territory of another Member State.

On rare occasions, the classification of firearms diverges within a single Member State. **In Belgium, the level of detail provided in regional law in terms of the definition of firearms, their parts and essential components differs per region.** Whilst for Walloon there is no definition provided, Brussels-Capital only specifies 'firearms' (Article 2 of the Regional Decree) and Flanders specifies firearms and its parts (Article 2 of the Arms Trade Act). Both for Walloon and Flanders there are broad definitions and there is no list provided as to specific firearms like Annex 1 of the Regulation.<sup>155</sup>

Firearms in France are classified according to four categories that mirror the ones included in the Firearms Directive (91/477 amended by 2008/51)<sup>156</sup>, and the export of the firearms and their parts and essential components, and ammunition are subject to authorisation (Article R311-2 and Article 316-40 of Internal Security Code). A decree dated May 2017 modifies the sharing of competencies in the matter of the control of the movement of firearms. The Ministry of Defence remains in charge of only war weapons, in terms of national security, while civilian weapons are now placed with the Ministry of Interior, in terms of public security. Both these **ministries are now respectively in charge of the classification of firearms and material relevant to their respective domains**, the delivery of fabrication authorisations, commercialisation, import and export, and the intra-community transfer of these same weapons and materials as well as the control of the relevant professionals.<sup>157</sup> The decree modifies the modalities of the classification of civilian firearms. Article R. 316-40 of Internal Security Code indicates the list of firearms, parts, essential components, and

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<sup>154</sup> See Annex 6.2 for further details.

<sup>155</sup> Service Public Fédérale Finances, Douanes et Accises, 'Mesures de prohibition et restriction' available at [https://finances.belgium.be/fr/douanes\\_accises/entreprises/mesures-de-prohibition-et-de-restriction/s%C3%A9curit%C3%A9/armes](https://finances.belgium.be/fr/douanes_accises/entreprises/mesures-de-prohibition-et-de-restriction/s%C3%A9curit%C3%A9/armes) .

<sup>156</sup> 1 ° Category A: war materials and weapons prohibited from acquisition and possession, subject to the provisions of articles L. 312-1 to L. 312-4-3 of the internal security code; 2 ° Category B: weapons subject to authorisation for acquisition and detention; 3 ° Category C: weapons subject to declaration for acquisition and detention; (4) Category D: weapons subject to registration and weapons and equipment the acquisition and possession of which are free.

<sup>157</sup> Décrets, arrêtés, circulaires. Textes Généraux. Ministère De l'Intérieur. Décret no 2017-909 du 9 mai 2017 relatif au contrôle de la circulation des armes et des matériels de guerre.

ammunition (from categories A1, B, C and D) that are subject to the authorisation according to Regulation 258.<sup>158</sup> In line with Article 3 of Regulation 258, the Internal Security Code (Article R. 316-38 and 39) lists the exemptions for which no export licence is required under the scope of this Decree:

- State transactions and State transfers;
- Military firearms and materials listed in Order of 27 June 2012 (they are subject to export authorisation for war materials);
- Collectors;
- Deactivated firearms;
- Antique firearms models pre-dating 1 January 1900.

In the Czech Republic foreign trade in civilian weapons and ammunition is governed by Act No. 228/2005 Coll., on control of trade in products whose possession is regulated in the Czech Republic for security reasons. The export of military items is regulated by Act No. 38/1994 Coll., on foreign trade in military material, as amended. In the country, civilian firearms are defined as weapons, their parts and ammunition that fall outside the scope of Act no. 38/1994 Coll., on foreign trade military material and supplementing Law no. 455/1991 Coll., on Trades (Trade Act), as amended, and Act no. 140/1961 Coll., Criminal Code, as amended.

Civilian firearms exports mainly involve weapons designed for shooting sports, hunting purposes and weapons intended for personal self-defence.<sup>159</sup> In the Czech system, it is therefore necessary to differentiate between civilian and military exports. Most foreign trade in civilian firearms involves revolvers and semi-automatic pistols, and each year more than 50 per cent of exports normally go to two countries (the United States and Canada).<sup>160</sup>

The exporter is responsible for classifying products and applying for the appropriate authorisation. However, in cases where classification is unclear, the Czech Proof House for Firearms and Ammunition (which is a specialised agency within the Ministry of Industry and Trade that represents the Czech Republic in the Convention on the Mutual Recognition of Proof Marks) is asked for a ruling. **The Proof House provides its assessment of whether an item should be considered military, civilian or deactivated.**

### ***Issues and good practice in the identification of the end use of a firearm***

Whereas the Firearms Directive and the EU Military List were designed to be complementary to one another, Regulation 258 and the Military List overlap in some categories. The lists thus coexist, but this does not need to create a classification problem for export control authorities.<sup>161</sup> One practice procedure that can be considered as good is to apply both legislative acts in cases of exports of items that appear on both lists, and thus issue two licences. Member States with a single export control authority tend to have one application

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<sup>158</sup> Ibid.

<sup>159</sup> Interview feedback: one representative from National Competent Authorities (CZ).

<sup>160</sup> Annual Report on Control of the Export of Military Material, Small Arms for Civilian Use and Dual-use Goods and Technology in the Czech Republic for 2014, Ministry for Trade and Industry.

<sup>161</sup> Survey feedback: one representative from National Competent Authorities (AT). Interview feedback: one representative from National Competent Authorities (SE).



window. Therefore, an application will be assessed once, even if the procedure may lead to two different licences being issued (one for military exports and one for civilian exports), hence there is no “double burden” at the point of assessment and authorisation.<sup>162</sup>

The differences in classifications and lists may create problems in Member States with multiple manufacturers producing a range of civilians and military weapons (such as IT, CZ) that classify similar products in different ways. However, companies are experienced in product classification and how to apply export procedures.

### **6.5.2 Deactivated firearms**

#### ***Existence of national controls on deactivated firearms***

**Deactivated weapons are exempt from Regulation 258 and from several Member States export control procedures.** However, Article 2(5) of Regulation 258 specifies that “Member States shall make arrangements for these deactivation measures to be verified by a competent authority”. Since deactivated firearms are exempt from Regulation 258, there may be no way for the numbers present in the EU as the result of import to be known, and no way to trace deactivated firearms or link them to their owner unless (as in e.g. Sweden) deactivated firearms remain within a national system for registration. For this reason, representatives from Member States emphasise that it is extremely important for the deactivation standards to be properly implemented. Otherwise, the potential reactivation of deactivated firearms can pose a security risk.

The revised EU Firearms Directive modifies the classification of firearms in its Annex I. One of the modifications is to classify firearms in category A, B or C that have been deactivated in accordance with Implementing Regulation (EU) 2015/2403 as Category C weapons.<sup>163</sup> Accordingly, Regulation 258 should be revised to include a direct link to the deactivation standards applied in Regulation (EU) 2015/2403. It should be clear that exporting deactivated firearms is possible, but that exports are regulated, and that items will only be treated as deactivated where deactivation is in accordance with the provisions of Regulation (EU) 2015/2403.<sup>164</sup>

Implementing new standards to achieve tracing of deactivated firearms does not necessarily require a change of national procedures. For example, in the Czech Republic, new deactivation standards would be applied using the same system as today, using the Czech Proof House for Firearms and Ammunition to determine whether a firearm has been deactivated.<sup>165</sup>

#### ***Impact of recent deactivation standards on import procedures***

In Belgium, the deactivation process is conducted by the Firearms Testing Bench in line with Article 2(5) of Regulation 258, and the Firearms Testing Bench issues a certificate indicating the deactivation of the firearm, which the holder of the firearm must be able to present at any time. In Poland, deactivation of firearms can only be carried out only by a company that is authorised to manufacture the given type of firearms, and deactivation is registered.

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<sup>162</sup> Interview feedback: one representative from National Competent Authorities (SE).

<sup>163</sup> 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.

<sup>164</sup> Interview feedback: one respondent from National Competent Authorities (PL).

<sup>165</sup> Interview feedback: one respondent from National Competent Authorities (CZ).

Anyone who acquires a deactivated firearm is obliged to notify the Polish police authorities within five days of acquisition, and receives a document from the police confirming that they have taken legal possession.<sup>166</sup>

The examples suggest that relevant resources appear to exist to ensure that firearms are deactivated according to the most up to date standards, and there are procedures for registering deactivation. However, there is a need to modify the legislation to make sure that deactivation is not only registered, but also controlled.

Regulation 258 does not apply to deactivated firearms and so Member States have their national laws and procedures on the import of deactivated firearms, with some Member States, for example Sweden, treating deactivated firearms like any other firearms, and some other Member States treating deactivated firearms like other non-weapon products, with other Member States falling somewhere in between.

The main benefit deriving from the technical guidelines in Regulation (EU) 2015/2403 is the increase in the minimum standards to be applied in national criteria across the EU. Member States may continue to apply stricter regulations and higher standards in the future, and so they will continue to have national differences regarding deactivation.

Regulation 258 may be impacted in the future where **firearms need to be deactivated according to standards defined in Regulation (EU) 2015/2403** Such items **should be classified as firearms** according to the appropriate category of the Firearms Directive, and therefore subject to the appropriate level of export and import authorisation.

### ***Issues and good practices***

National deactivation standards, using different deactivation methods, have caused security issues in the past. The common EU standards are significantly mitigating the problems, but **strict implementation of the most up-to-date EU standard in all Member States is necessary**.<sup>167</sup> However, users have complained about the likely impact of recent changes.

Deactivated weapons are imported to Finland by, for example, collectors. In some cases, firearms have not been deactivated to the extent prescribed by Finnish law, which means that they are still classified as firearms. The weapons either have to be deactivated again, or imported as live firearms before they can be handed over to the consignee. Finnish weapon collectors point to this as a problem, because the application of some deactivation procedures may diminish the value of the item as a collectable artefact or render it of no interest and therefore, in reality, firearms that collectors consider to be deactivated are licenced.<sup>168</sup>

Finnish users have raised the issue of whether potential problems will be caused by the interpretation of how deactivation standards will apply to essential parts, and how this will affect the classification of essential parts.

## **6.6 Transit and transportation**

### ***Application of the implied consent***

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<sup>166</sup> Interview feedback: one respondent from National Competent Authorities (PL).

<sup>167</sup> Survey feedback: one representative from National Competent Authorities.

<sup>168</sup> Interview feedback: one representative from users.



According to Regulation 258, all exports that include a transit in a third country before reaching their destination must seek approval from the third country of transit in writing. However, the option for a so called 'implied consent' from transit countries exists, meaning that if no objections to the transit are received within 20 working days, the third country may be regarded as having no objection to the transit.

**The use of the implied consent option is not mandatory**, meaning that harmonisation is not expected across MS. The Regulation mandates that transit countries must in all cases be notified of the transit, but no further contacts with the transit state's authorities are necessary. It is the responsibility of the exporter to seek the approval from the transit country, and include its proof of authorisation in the list of documents attached to the export application to the relevant authorities.<sup>169</sup> The national authorities of the exporting country may not have any contact at all with the authorities of the transit country or countries.

Austria and the Czech Republic apply the principle of implied consent, meaning that if no objection has been made by the transit country's authorities 20 days after the request, consent is assumed.<sup>170</sup> However, implied consent is not used in the Netherlands and Sweden,<sup>171</sup> and all applicants for an export licence must comply with the requirement of the Regulation concerning the provision of a written notice from the third country of transit.<sup>172</sup>

### ***Problems linked to the application of implied consent***

**Difficulties caused during transit are one of the most common complaints** from representatives of industry in their responses to the survey. Only six out of 22 respondents said they did not experience problems in transit for an export.

On this issue, respondents identified a series of common problems. Firstly, the **difficulty of collecting the necessary documents from transit countries** was mentioned as an issue. This often linked to difficulties encountered in identifying the competent authority.<sup>173</sup> Second, survey respondents mentioned that transport companies are sometimes unwilling to accept shipments based on implied consent because they fear that a vehicle may be stopped by the authorities of a transit country because the necessary documentation is missing.<sup>174</sup> Lastly, respondents mentioned that some countries do not have any provisions for issuing transit permits.<sup>175</sup>

The goal of the existing transit procedures is to **reduce the risk of firearms being diverted** during transportation. The principle of implied consent is a balancing act between the need to ensure that third countries are made aware of the transit and the recognition that legitimate exporters may face difficulties in acquiring the necessary documentation from all transit countries.

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<sup>169</sup> Interview feedback: one representative from National Competent Authorities (SE).

<sup>170</sup> Survey feedback: two representatives from National Competent Authorities (CZ, AT).

<sup>171</sup> Survey feedback: one representative from National Competent Authorities.

<sup>172</sup> Rijksoverheid, "Nota naar aanleiding van het verslag van de Wet wapens en munitie" available at <https://www.rijksoverheid.nl/documenten/rapporten/2014/12/12/tk-nota-nav-het-verslag-van-de-wet-wapens-en-munitie>

<sup>173</sup> This problem was identified in survey responses from industry representatives in DE, ES and IT.

<sup>174</sup> Survey feedback: one representative from producers/exporters.

<sup>175</sup> Survey feedback: two representatives from producers/exporters.

Even where the practice of implied consent is adopted by national authorities, it may nevertheless be impossible for commercial exporters to benefit from it. This is due to the fact that transport companies are unlikely to accept the risk of sending large consignments without all the formal documentation in place, because the costs and complications associated with having a shipment stopped might be significant. Transport companies therefore insist on written statements of consent, unless the consignment is passing through a country where they are confident there is no need for transit authorisation.<sup>176</sup>

Where no direct form of transport is available, exporters may have to work around the difficulties of obtaining a transit authorisation by choosing alternative routes and forms of transport that may increase the overall costs of the transaction and delay the delivery of authorised shipments. Given the costs incurred by exporters, an overall assessment on benefits of current transit procedures in terms of risk reduction may be warranted.

### ***Application for a fee to transit***

Dutch authorities do not ask for a fee for export licences for firearms, parts, essential components, and ammunition coming from another EU Member State to be exported to third countries.<sup>177</sup>

Member States may apply fees to export licences, but may also choose not to do so. Thus, the harmonisation of fees is not foreseen under Regulation 258. Some Member States do not apply fees for export applications (e.g. NL), while others do (e.g. SE). While there can be no burden perceived by the industry in relation to the application of a non-existing fee, exporters based in an EU Member State where fees do apply may perceive the application of fees as unfair vis-à-vis a Member State where fees are not applied.

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<sup>176</sup> Interview feedback: one representative from producers/exporters

<sup>177</sup> Survey feedback: one representative from National Competent Authorities.

## **Annex 7. Analysis of the Survey**

### **7.1 Methodological note**

The survey was launched on March 13<sup>th</sup> 2017 and remained open until May 19<sup>th</sup> 2017 with the possibility for some stakeholders to provide their answer after that date.

The categories of stakeholders targeted were: National Competent Authorities, firearms' producers/exporters, and users.

A total number of 292 people received the survey and 74 provided an answer, with an overall rate of response of 25% and the following distribution:

- National Competent Authorities: 41 answers to the survey;
- Producers/exporters: 20 answers to the survey;
- Users: 17 answers to the survey.

The survey included both closed and open questions. The analysis mainly focused on closed questions and used qualitative input provided by respondents to the open questions to further illustrate the results. When input provided was too heterogeneous or specific, it was either integrated in the core text when relevant, or removed from the analysis when irrelevant.

This Annex includes the analysis of survey answers providing qualitative feedback and opinions on specific provisions and the overall Regulation 258. Descriptive information gathered on national implementation practices was integrated into the implementation tables and analysed in the core report.

The analysis refers to all questions having at least 30% of responses. Questions with more than 70% of "No Answers entered" or "do not know" were not taken into account.<sup>178</sup> The shares of survey respondents indicated in the analysis were calculated based on the total number of stakeholders who provided an answer different from "do not know" and "No Answers entered".

An additional short survey was submitted to representatives from National Competent Authorities on June 16<sup>th</sup> to deepen a number of key aspects that deserved a more detailed assessment through an additional and more focused round of stakeholder consultation. The Evaluation Team received eight responses and namely from: Bulgaria, Germany, France, Italy, Lithuania, Portugal, Spain, and Sweden.

The analysis included in this Annex is structured in two main parts. The first part provides stakeholder insight on the provisions of the Regulation, and the second part overall insight on the effectiveness, efficiency, relevance, coherence, and EU added value of Regulation 258.

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<sup>178</sup> This applies to questions such as (users) "Based on your experience, does the period of validity for export authorisation vary significantly across Member States?"; (users and producers/exporters) "How often have you been requested to confirm to an exporting third country the receipt within the customs territory of firearms, their parts and essential components or ammunition?".

## 7.2 Provisions

### 7.2.1 Scope, Content and Definitions

#### National legislation

Respondents were asked to specify any **national law aimed at combating illicit trafficking and favouring the tracing of civilian firearms** but not directly related to the UNFP or Regulation 258. Representatives from National Competent Authorities (often one per Member State) mentioned the following.

#### National legislation combating illicit trafficking and favouring tracing of civilian firearms

AT: Austrian Foreign Trade Act (Außenwirtschaftsgesetz 2011)

BE: Decree 21/06/2012 transposing the directives 91/477/CEE, 2008/51/CE and 2009/43/CE, The Federal Weapons Law of 9 June 2006

BG: The Bulgarian Penal Code

CZ: Act No. 119/2002 on Firearms and Ammunition

DK: The Danish Act nr. 1005 of 22. October 2012 on Weapons and Explosives with subsequent changes and regulations issued on the basis thereof

ES: Royal Decree 137/1993, of 29 January, which approves the Regulation of arms and Royal Decree 989/2015 of 30 October, which approves the Regulation of pyrotechnic articles and cartridge

EE: National penal code

FI: Firearms Act (1/1998)

EL: Law 2168/1993 which is in line with the Council Directive 91/477/EEC

LV: law on the circulation of goods of strategic significance (cabinet regulation no 645 adopted 25 September 2007); regulation on the list of national strategic goods and services; law on the handling of weapons and special means (cabinet regulation no 1001 adopted 27 December 2011); regulations regarding the acquisition, registration, recording, possession, transportation, conveyance, carrying, sale of weapons and ammunition and possession of collections of weapons

LT: Criminal Code, Article 199 on smuggling of firearms, ammunition, explosives, radioactive or other strategic goods (they shall bear a maximum sentence of imprisonment of 3 to 10 years)

LU: law of 15th March 1983 on firearms and ammunition, and Grand-Ducal Regulation of 13th April 1983. Illicit trafficking is a criminal offence under this law. Tracing is ensured by the fact that each and every firearm has to be registered and authorised individually (brand, model, calibre and serial number) and all the data are stored in the national centralised data base of the Firearms Office

PL: Act of 16 November 2016 on National Fiscal Administration

PT: Law nº 5/2006, of 23 February and its amendments<sup>179</sup>

RO: Law no. 295/2004 regarding weapons regime; Law no. 32/2014 to ratify the treaty on arms trade; Law no.86/2006 regarding customs Code penal Code article 342

SE: Weapons Act no. 1996/67, Weapons Ordinance no. 1996/70<sup>180</sup> and no. 1992/1300, 1992/1303.

<sup>179</sup> Two representatives from National Competent Authorities.

<sup>180</sup> Two representatives from National Competent Authorities.

SI: Criminal Code (Article 307, Official Gazette, No. 50/12, 6/16, 54/15 and 38/16)

### Firearms

**The export of civilian firearms, their components and essential parts, and ammunition to third countries is reported to be regulated differently from the export of military firearms in most Member States.** 86% (n=19) of representatives from producers/exporters and 85% (n=11) of representatives from users reported that the export of civilian firearms to third countries is regulated differently from the export of military firearms. Only few Member States do not to make such a distinction are: Germany,<sup>181</sup> the Netherlands,<sup>182</sup> and the UK.<sup>183</sup>

**No major difficulties have been reported in terms of assessment of the final use of a firearm.** All representatives from producers/exporters that provided an answer (19) and four from users reported no difficulties.<sup>184</sup> Few representatives from National Competent Authorities (four) reported difficulties in defining the final recipient of a firearm, including cases when the importer is a trader,<sup>185</sup> the sender and final recipient are private legal entities and product features are military,<sup>186</sup> and companies are located in third countries and the verification of their activity permits is difficult.<sup>187</sup>

85% (n=17) of representatives from producers/exporters have never experienced a situation in which it was unclear whether the firearms they were seeking to export were covered by controls on civilian firearms exports in accordance with Regulation 258, or on military equipment in accordance with the Council Common Position 2008/944/CFSP.

As for the classification of firearms exports at national level, 58% (n=22) of representatives from National Competent Authorities stated that **firearms exports are classified according to the CN system** (as per Annex I of Regulation 258),<sup>188</sup> while 13% (n=5)<sup>189</sup> referred to a "national nomenclature". Few other respondents specified other classification systems, such as the categories of Directive 91/477/CEE (FR) and the military list of the EC and EU/CP 944/2008 (NL).

When asked if they experienced any **difficulties in classifying** firearms, parts and essential components, and ammunition according to Annex I of Regulation 258, the majority of representatives from National Competent Authorities (81%; n=25) replied that they did not encounter difficulties, whereas the majority of representatives from producers/exporters (57%; n=13) replied that they encountered difficulties.

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<sup>181</sup> One representative from producers/exporters and one from users.

<sup>182</sup> One representative from producers/exporters.

<sup>183</sup> One representative from users.

<sup>184</sup> As for users: out of those representatives that provided an answer, four (50%) reported to have encountered difficulties. Overall eight respondents (50%) chose the option "do not know".

<sup>185</sup> Two representatives from National Competent Authorities.

<sup>186</sup> One representative from National Competent Authorities.

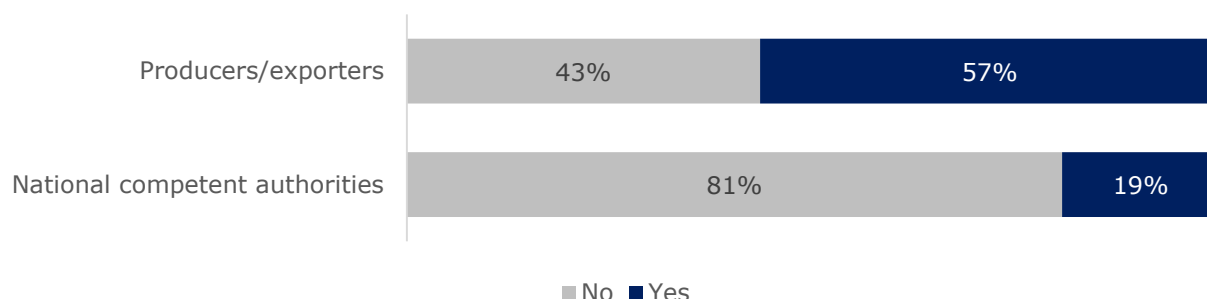
<sup>187</sup> One representative from National Competent Authorities.

<sup>188</sup> AT, BE, CY, EE, ES, FI, HU, IE, LT, LV, LU, PL, PT, RO, SE, SK.

<sup>189</sup> DK, IT, HR, UK, GR.

Do you experience any difficulties in classifying firearms, parts, essential components and ammunitions according to categories included in Annex I of Regulation 258?

National competent authorities: n=31; Producers/exporters: n=23.



Nine representatives from producers/exporters linked their difficulties to the lack of clarity in the distinction between parts and essential components. One respondent from National Competent Authorities stated that the difficulties are due to the lack of harmonisation between Annex I of Regulation 258 and the Military List. One National Competent Authority stated that national legislation considers technical characteristics to classify a firearm in the Military List 1 or in Regulation 258. Another National Competent Authority highlighted that determining whether a firearm is to be considered a civilian or a military firearm creates some difficulties.

This perception is also mirrored in the opinions on the **need for future changes in the classification system**. While the majority of representatives from National Competent Authorities (68%; n=17) and users (56%; n=5) did not suggest any improvement or further harmonisation in the categories of firearms, 81% (n=13) of representatives from producers/exporters are in favour of further harmonisation. Specifically, most of producers/exporters<sup>190</sup> and one representative from users suggested to reduce firearms classification into two main categories: forbidden and allowed.

Additional improvements suggested relate to: the harmonisation of Annex 1 of the Regulation with Directive 91/477/ECC<sup>191</sup> and more clarity in the distinction between military and civilian firearms.<sup>192</sup> In this view, one representative from users highlighted as an example that *"if hunting is made in mountainous or open area or shooting contest is for long distance, there are exactly the same parameters for rifle than it is for a military sniper firearm."*

From the users' point of view, half of the respondents (50%; n=4)<sup>193</sup> experienced difficulties in moving across Member States with civilian firearms destined to exports and the other half did not. As an example, one representative from users reported that its difficulties concerned the heterogeneous practices among Member States for exporting antique

<sup>190</sup> Nine representatives from producers/exporters.

<sup>191</sup> Two representatives from National Competent Authorities.

<sup>192</sup> Two representatives from National Competent Authorities and one from users.

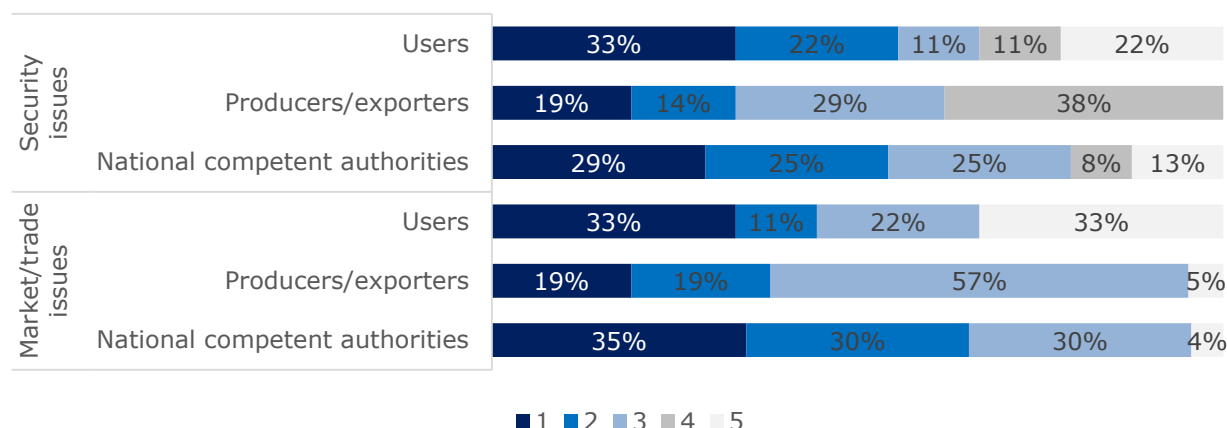
<sup>193</sup> The survey question "Do you experience any difficulties in moving across MS with civilian firearms destined to exports?" had 50% of no answers.

firearms,<sup>194</sup> and another complained about the burden for the picking up by a buyer since Regulation 258 does not regulate picking up but only shipping, this sometimes requiring a second permit for transporting the gun within the country and to other Member States.<sup>195</sup>

### Exemptions of Regulation 258

**Overall, the import/export of categories excluded from Regulation 258 (Article 3) is concerned by market or security issues to a low or very low extent.<sup>196</sup>**

To what extent the import/export of categories excluded from Regulation 258 (Art.3) are concerned by particular issues or problems?



65% (n=15) of representatives from National Competent Authorities, 38% (n=8) of producers/exporters and 44% (n=4) of representatives from users stated that exemptions from the application of Regulation 258 raise **market/trade issues** to a low or very low extent.<sup>197</sup>

A significant ratio of producers/exporters<sup>198</sup> and a few National Competent Authorities and users<sup>199</sup> reported also **security issues** in the import/export of categories excluded from the Regulation.

One National Competent Authority reported that there could be classification issues when crossing different Member States: for instance "A collector resident in "Member State 1" (MS1) is exporting firearms via MS2 to Brazil. Based on the different definitions of "collector" in MS1 and MS2 (already according to Directive 91/477 and Reg. 258), and the absence of harmonisation of Annex I of Reg. 258 and the Military List (example: see Reg. 258, Article 3.1. point d) and/or point f) and Annex I # 12 on the one side, and ML1.a. on the other side), the concerned firearm(s) might be considered as historical/ancient firearm(s) or even

<sup>194</sup> One representative from users.

<sup>195</sup> One representative from users.

<sup>196</sup> Number of respondents to the question for Security issues: National Competent Authorities: n=24; Producers/exporters: n=21; Users: n=9; for Market/trade issues: National Competent Authorities: n=23; Producers/exporters: n=21; Users: n=9.

<sup>197</sup> Low or very low extent correspond to the rating 1 or 2.

<sup>198</sup> 38% (n=8) scored as 4 the option on security issues.

<sup>199</sup> 21% (n=5) of representatives from National Competent Authorities and 33% (n=3) of representatives from users scored as 4 or 5 the option on security issues.



*military firearm(s) for MS1, and thus excluded from Reg. 258, but fall(s) under Reg. 258 for MS2."* One representative from producers/exporters highlighted the fact that there is lack of clarity in the cut-off date of antique firearms, and that there is also a lack of clarity in the definition of deactivated firearms.

### **7.2.2 Export authorisation**

#### Time for processing application

**The time needed to obtain an export authorisation is considered to be not fully adequate by producers/exporters and users.** 65% (n=15) of representatives from producers/exporters and 50% (n=5) from users rated this time period to be not adequate (i.e. rate of 1 in a scale of 1 to 5).

Overall, **National Competent Authorities reported no difficulties or delays** in the procedure in place to issue an export authorisation,<sup>200</sup> with the exception of representatives from National Competent Authorities from Greece, Luxembourg, the Netherlands, Spain and the UK. One National Competent Authority underlined that difficulties stem from heterogeneous application/interpretation of Regulation 258 Annex I and the Military List across Member States. Another representative highlighted that delays may result from the time needed to gain information on the transit route: transit routes are indeed not always known in advance and can be amended at short notice.

#### Period of validity

**There is no evidence of inconsistencies between the period of validity of export authorisations and the period of validity of import authorisations.** According to 77% (n=20) of representatives from National Competent Authorities there were never cases where the export authorisation duration exceeded the period of validity of the import authorisation, but 23% (n=6) of respondents reported such cases.<sup>201</sup>

Based on producers/exporters experience **the period of validity for export authorisation varies significantly across Member States.**<sup>202</sup>

#### Information to be contained in the export authorisation

The types of information/documents that producers/exporters are requested to provide to obtain an export authorisation in their country are the following:

- a copy of the import authorisation issued by competent authorities (also translated in foreign languages);<sup>203</sup>
- end-user certificate;<sup>204</sup>
- retrievable data about the legal entity and the representatives of the exporting company, of the importing company, of the customs operator/forwarder and of the end user if known;<sup>205</sup>

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<sup>200</sup> 83% (n=24).

<sup>201</sup> MS involved were: Austria, Belgium, Greece, Lithuania, Slovakia and Sweden.

<sup>202</sup> Survey question "Based on your experience, does the period of validity for export authorisation vary significantly across Member States?". 94% (n=17) replied "yes". Tot respondents: 18.

<sup>203</sup> 10 representatives from producers/exporters.

<sup>204</sup> Six representatives from producers/exporters.



- data about the firearms exported (number of guns, manufacturer, model, serial number address of client/ recipient with all details) and the type of export (single, multiple, global).<sup>206</sup> In Italy in particular it is mandatory to provide the kind of firearm (rifle, pistol, shotgun), the calibre, the category defined by annex 1-91/477/CEE, and the code assigned by Italian national proof house for each item. Point 13, 13.1, 13.2, 13.3 of the authorisation form annexed to Regulation 258 must be filled in for each single item.
- request for non-objection for the transit of ammunition.<sup>207</sup>

Moreover, one respondent pointed to the request of the commercial value in euro of the exported items, and any useful information about arrangements for transportation at destination if known (route, personal data of the drivers, plate numbers, timing for the transportation from the company warehouse to exit customs port).

**The import authorisation is the most mentioned type of document that producers/exporters provide to the competent authority in order to prove that the importing third country has authorised the export.**<sup>208</sup> Few respondents also mentioned a certificate by the competent law enforcement authority or by the company depending on the types of weapons and contract and an End User Certificate<sup>209</sup>.

**Overall, National Competent Authorities are satisfied with the information that exporters provide when submitting their request for an export authorisation.** 97% (n=29) of representatives from National Competent Authorities replied that the exporter usually provides them with all the necessary information and documents to issue the authorisation.

*Considerations as to the intended use, consignee, identified final recipient and the risk of diversion*

**Applications for export authorisation of civilian firearms presented in a Member State other than the one where the items to be exported are located rarely occur.** The majority of respondents (84%; n=21) from National Competent Authorities and from producers/exporters (83%; n=19) reported that this situation never occurred.

**According to National Competent Authorities importers frequently change and most of the EU exports are addressed to different importers, whereas according to producers/exporters' opinion importers tend to be always the same in the last five years.**

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<sup>205</sup> Three representatives from producers/exporters.

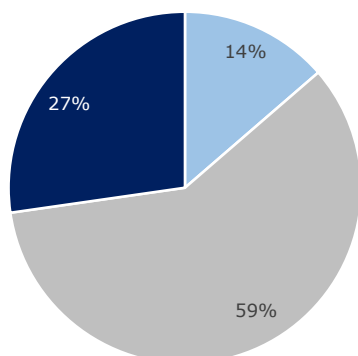
<sup>206</sup> Eight representatives from producers/exporters.

<sup>207</sup> Two representatives from producers/exporters.

<sup>208</sup> 13 representatives from producers/exporters. Survey question "What type(s) of documents do you provide the competent authority in your country with in order to prove that the importing third country has authorised the import?".

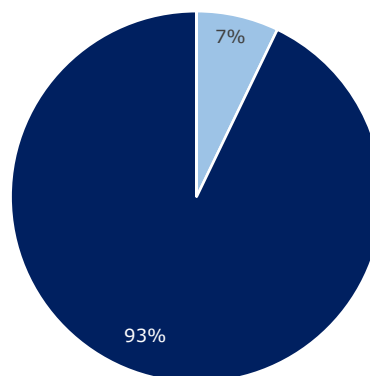
<sup>209</sup> One representative from producers/exporters.

To what extent are the exports addressed to the same importers in third countries?  
National Competent Authorities: n=22



- Approximately half of the yearly exports are always addressed to the same importer/s
- Importers change frequently and most of the exports are addressed to different importers
- Most of the exports are always addressed to the same importer/s

Do you have long lasting relationships with third country importers?  
Producers/exporters: n=14



- Half of importers of my products are the same in the last 5 years
- Most of the importers of my products are the same in the last 5 years
- Most of the importers of my products have changed in the last 5 years

#### Rules for refusals, annulment, suspension, modification or revoke

**Both National Competent Authorities and producers/exporters experienced refusal for an export authorisation of firearm for civilian use.** 59% (n=17) of representatives from National Competent Authorities reported they denied an export authorisation, and 85% (n=17) of producers/exporters experienced refusal for an export authorisation.

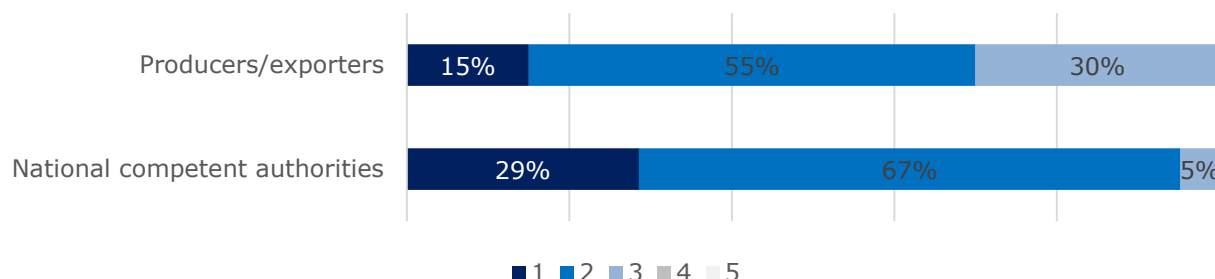
However, taking into account the total yearly number of applications submitted, **denials for export authorisation of firearms for civilian use rarely occur** according to both National Competent Authorities<sup>210</sup> and producers/exporters.<sup>211</sup>

<sup>210</sup> Survey question: "Taking into account the total yearly number of applications, how often do denials for export authorisation of firearms for civilian use occur?". The majority of respondents (96% n=23) chose the option 1 or 2 in a scale from 1 to 5.

<sup>211</sup> Survey question: "Taking into account the total yearly number of applications you submit, how often do denials for export authorisation of firearms for civilian use occur?". The majority of respondents (70% n=14) chose the option 1 or 2 in a scale from 1 to 5.

Taking into account the total yearly number of applications you submit, how often do denials for export authorisation of firearms for civilian use occur?

National Competent Authorities: n=24; Producers/exporters: n=23



The main reasons underpinning denials were the following:

- insecure political situation in the country of destination,<sup>212</sup> or embargoes;<sup>213</sup>
- negative feedback received from authorities on the legal representative from the importing companies;<sup>214</sup>
- risk of diversion;<sup>215</sup>
- human rights violations.<sup>216</sup>

Few respondents also mentioned errors in the classification of the product category<sup>217</sup> and inconsistencies between the actual final recipient(s) and the one indicated in the filled form,<sup>218</sup> the lack of original documents<sup>219</sup> (in Spain) and inconformity with the required documents (in Bulgaria).

The insecure political situation in the country of arrival<sup>220</sup> and the restrictions imposed by embargoes<sup>221</sup> have been recalled as reasons for denials in the additional short survey addressed to National Competent Authorities, together with negative feedback on importer,<sup>222</sup> risk of diversion by armed forces<sup>223</sup> or OCGs<sup>224</sup> and human rights violations.<sup>225</sup> Sweden added reasons related to national foreign policy and incompleteness of the application form (0-10% yearly). Finally, Spain specified the "unknown end user" as an additional reason.

<sup>212</sup> Seven representatives from National Competent Authorities and one from producers/exporters.

<sup>213</sup> Three representatives from National Competent Authorities and two from producers/exporters.

<sup>214</sup> Four representatives from producers/exporters.

<sup>215</sup> Three representatives from National Competent Authorities.

<sup>216</sup> Two representatives from National Competent Authorities.

<sup>217</sup> One representative from producers/exporters.

<sup>218</sup> One representative from National Competent Authorities.

<sup>219</sup> Two representatives from producers/exporters.

<sup>220</sup> Additional survey: ES (50-75%), FR (10-50%) IT (0-10%), LT (0-10%), PT (0-10%).

<sup>221</sup> Additional survey: ES (50-75%), LT (over 75%), IT (0-10%), PT (0-10%).

<sup>222</sup> Additional survey: ES (0-10%), IT (50-75%), LT (0-10%) , FR (0-10%).

<sup>223</sup> Additional survey: BG (over 75%), ES (50-75%) LT (0-10%), FR (10-50%).

<sup>224</sup> Additional survey: ES (50-75%), IT (50-75%), LT (0-10%) FR (10-50%).

<sup>225</sup> Additional survey: ES (0-10%), IT (0-10%), LT (0-10%).

The main reasons for **suspension and revocation** relate to cases where the conditions for granting the export authorisation were not (or no longer) met by the exporter<sup>226</sup> and to interests of national security, public order or foreign policy.<sup>227</sup> Even if to a lesser extent, another reason for suspension is false or incomplete information or data provided by the applicant.<sup>228</sup>

However, the number of denials and suspensions is low. Denials are reported to be between 1-10 in five Member States<sup>229</sup> and between 11-20 in Germany and France. Five Member States<sup>230</sup> report no suspensions and only Italy and Spain report suspensions between 1 and 10.

When denials/suspensions/revocations are notified, most Member States require the following information: final recipient, country of import, consignee, quantity, description items and reasons for denial. Differently from all other Member States, Portugal communicates only the exporter and the reason for denial.<sup>231</sup>

Five Member States (BG, ES, DE, LT, SE) communicate denials, suspensions and revocations in real time. Italy never communicates them.

Overall, the majority of representatives from National Competent Authorities have not reported difficulties in assessing whether an export authorisation was previously denied by another Member State.<sup>232</sup> Only one respondent highlighted that the lack of a database at the EU level for Regulation 258 could limit the exchange of information among competent authorities.

The majority of representatives from producers/exporters (80%; n=16) reported to have been negatively affected by obligations and commitments of their country to international export control arrangements and international treaties and by considerations of national and security policy. When asked to provide details, some respondents highlighted the following:<sup>233</sup>

- Italy<sup>234</sup> blocked the exports to Russia,<sup>235</sup> Ukraine,<sup>236</sup> Egypt,<sup>237</sup> Thailand, Guatemala,<sup>238</sup> Mexico.<sup>239</sup> One representative from producers/exporter stressed that he feels

<sup>226</sup> Additional survey: ES, (10-50%), BG (over 75%), LT (0-10%), FR (0-10%).

<sup>227</sup> Additional survey: ES (10-50%), IT (over 75%), LT (0-10%), PT (0-10%), FR (0-10%).

<sup>228</sup> Additional survey: ES (10-50%), LT (0-10%), FR (0-10%).

<sup>229</sup> BG, ES, LT, PT, SE.

<sup>230</sup> DE, FR, BG, LT, SE.

<sup>231</sup> Additional survey: Final recipient (if known at the time of shipment): BG, DE, IT, LT, SE. Country of import: BG, ES, DE, IT, LT, SE. Consignee: BG, DE, IT, LT, SE. Exporter: LT, PT, IT. Quantity: BG, DE, IT, LT, SE. Description of the items (including any marking applied to them): BG, ES, DE, IT, LT, SE. Place, date of issue and expiry of the authorisation (only for suspension): DE, LT. Third country of transit (where applicable): LT. Reason for denial: BG, DE, ES, IT, LT, PT, SE.

<sup>232</sup> 88% (n=23) representatives from National Competent Authorities replied "no" to the survey question: "Have you ever had difficulties in assessing whether an export authorisation was previously denied by another Member State?"

<sup>233</sup> One representative from producers/exporters reported that also Germany is blocking export to Russia, Ukraine and Thailand.

<sup>234</sup> Armenia, Georgia and Azerbaijan are reported to be countries where export are blocked by only one respondent from Italy.

<sup>235</sup> Six representatives from producers/exporters.

<sup>236</sup> Four representatives from producers/exporters.

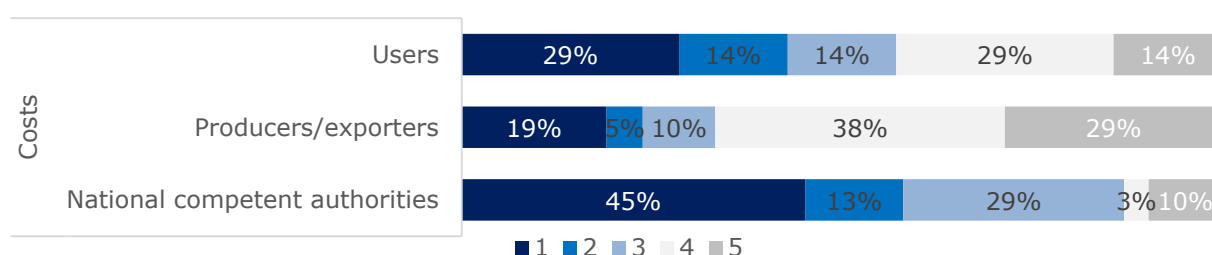
disadvantaged since these limitations are blocking his sales compared to his competitors who can freely export.

- Spain blocked the exports to Russia (due to the EU embargo), Egypt and Central America.<sup>240</sup>

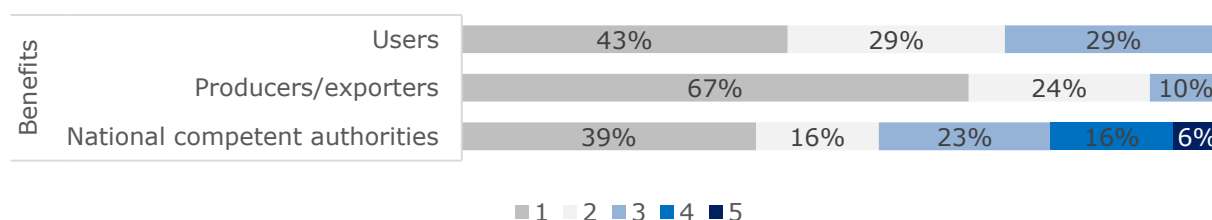
### *Costs and benefits associated with the export authorisation process*

**The procedures for obtaining an export authorisation that were implemented in Member States following Regulation 258 entailed additional costs and benefits to different extent depending on the category of stakeholder.**<sup>241</sup>

In your opinion, to what extent procedures for obtaining an export authorisation that were implemented in your country following Regulation 258 have entailed additional costs and benefits on your organisation?



In your opinion, to what extent procedures for obtaining an export authorisation that were implemented in your country following Regulation 258 have entailed additional costs and benefits on your organisation?



Producers/exporters are the category bearing, on average, higher costs when compared to National Competent Authorities and users. When looking at the benefits, on average the three categories expressed a low rate. National Competent Authorities are the category that reported the higher rate, and the only category with a slightly positive ratio between benefits and costs. One representative from National Competent Authorities reported -as a

<sup>237</sup> Four representatives from producers/exporters.

<sup>238</sup> Three representatives from producers/exporters.

<sup>239</sup> Three representatives from producers/exporters.

<sup>240</sup> Four representatives from producers/exporters.

<sup>241</sup> 56% (n=18) of NA for users. Tot respondents: National Competent Authorities: n=31; Producers/exporters: n=21; Users: n=7

specific benefit- the standardisation for issuing an export authorisation for all Member States.<sup>242</sup>

**Table 12 – Average costs and benefits perceived by stakeholders**

	National Competent Authorities	Producers/exporters	Users
Costs	2,2	3,5	2,9
Benefits	2,4	1,4	1,9

**For users and producers/exporters costs outweighed benefits.** None of the representatives from users and producers/exporters chose the option 4 or 5 for benefits, and for producers/exporters in particular, the majority of respondents (67%; n=14) scored as 1 the benefits (in a scale from 1 to 5).

*(Additional survey) Type and number of export authorisation granted in the timespan 2012-2016:*

**The individual export authorisation was the most used type of export authorisation** granted by Member States. Six<sup>243</sup> out of eight Member States reported to grant only individual export authorisations or licences. Bulgaria is the only Member State that grants only multiple authorisations or licences.

The country with the highest average number of export licences granted between 2012 and 2016 was Portugal (1161,5), followed by Germany (613,75). The country with the lowest average number of export licences granted was Lithuania (7,75 between 2015 and 2016).

### **7.2.3 Transit procedures**

**Both producers/exporters and users encountered problems/difficulties in the transit to third countries.**<sup>244</sup>

The main problems/difficulties in the transit to third countries relate to delays in the issuing of third countries authorisation<sup>245</sup> which may bring to: (i) redefine export routes;<sup>246</sup> (ii) high costs for storage in airports and/or ports.<sup>247</sup>

Moreover, few respondents mentioned that some exporters feel obliged to transit through airports where they are sure not to face problems in getting the transit authorisation.<sup>248</sup> However, some countries have a limited number of destinations with direct flights.<sup>249</sup> Moreover one respondent highlighted that it is not always easy to find the competent authority for a transit authorisation in third countries, and sometimes there are obstacles

<sup>242</sup> Survey question: "In case of other activities concerned, can you please specify them, also indicating a rate from 1 to 5?".

<sup>243</sup> Additional survey: ES, DE, FR, LT, PT, SE.

<sup>244</sup> Survey question: Have you ever encountered any problems/difficulties in the transit of third countries?. 68% (n=13) of representatives from producers/exporters and 86% (n=6) from users replied that they did.

<sup>245</sup> Eight representatives from producers/exporters.

<sup>246</sup> Four representatives from producers/exporters.

<sup>247</sup> Four representatives from producers/exporters.

<sup>248</sup> One representative from producers/exporters.

<sup>249</sup> One representative from users.

also for intra-EU transfers since in some Member States (e.g. UK) the transit with a firearm might not be possible.<sup>250</sup>

On the other hand, when a Member State requires written notice from the transit countries, several representatives from **National Competent Authorities** (67%; n=10) have reported that they **never had difficulties in gathering the notice of no objection** from the third country of transit, while 33% (n=5) reported that they had.<sup>251</sup>

Despite the explicit exemption of temporary exports from the requirement to get the written notice of no objection to the transit from third countries, **several representatives from users** (67%, n=6) **reported that they need to follow specific procedures when transiting through a third country**, including a transit permit.<sup>252</sup>

#### Implied consent

**56% (n=10) of representatives from producers/exporters encountered some problems/difficulties in the application of the implied consent for transit authorisations.**<sup>253</sup> Difficulties refer to the filling of the form for transit because of different firearms classification across Member States.<sup>254</sup> One respondent also reported difficulties related to the late release of a transit permit that made the exporter changing his route, and the risk associated to send goods without having the official transit authorisation, given that the implied consent of transit does not reassure the shipping lines or other transportation intermediaries.

#### Fees for transit authorisation

**The majority of producers/exporters (71%; n=12) were requested a fee by other Member States** when firearms, parts, essential components, and ammunition need to cross their territories to be exported to third countries. Only few users report such a request.<sup>255</sup>

When asked about difficulties/drawbacks related to the existence of fees and related administrative procedures, **nine respondents** from producers/exporters **reported that they encountered difficulties with Germany that requires a transit authorisation**. Two of them specified that the problem relies on the time needed to obtain the authorisation rather than the fee to be paid.

Overall, one of the major issues raised relates to difficulties in the identification of the authority responsible for issuing the consent.<sup>256</sup>

There is a slight consensus among producers/exporters and users that **the application of fees by some Member States did not affect the design of their export routes.**<sup>257</sup>

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<sup>250</sup> One representative from users.

<sup>251</sup> 56% (n=19) of no answer.

<sup>252</sup> Four representatives from users.

<sup>253</sup> Survey question: "Have you ever encountered any problems/difficulties in the application of the implied consent for transit authorisations?".

<sup>254</sup> Three representatives from producers/exporters.

<sup>255</sup> n=8. 43% (n=3) of NA (n=8).

<sup>256</sup> Nine representatives from producers/exporters.

<sup>257</sup> Survey question: "Does the application of fees by some MS ever influenced the design of your export route?". 69% (n=11) of producers/exporters and 60% (n=3) users replied "no". Response rate for users registered 67% (n=10) of "no answer". 31% (n=5) of representatives from producers/exporters and 40% (n=2) replied "yes".

Exporters are more affected by the burden of requiring a transit authorisation<sup>258</sup> rather than by cost to be paid. As a solution, they prefer to avoid to transit countries that require a transit authorisation.<sup>259</sup> One representative from users underlined that he had to face expensive direct airfreight to avoid to transit Member States and another specified that transit to some Member States (e.g. UK, IE and LU) is not possible since those countries do not accept the EFP.

*(Additional survey) Costs to verify that third country of transit has no objection:*

**No Member State reported specificities on costs.** Italy specified that costs are unknown because checks are carried out through the collateral Interpol Organisations. Germany highlighted that there are no such costs.

#### 7.2.4 Import procedures

Producers/exporters and users were asked about the national **authorities responsible for performing controls on imports** of civilian firearms from third countries. Information gathered is summarised in the table below.

Authorities responsible for controls on import from third country
BE: Walloon Government <sup>260</sup>
FI: National Police Board <sup>261</sup> and Ministry of Interior <sup>262</sup>
FR: Customs office and Direction générale de l'armement (DGA); <sup>263</sup> Ministère du Budget des Comptes Publics et de la Fonction Publique Direction Générale des Douanes et Droits Indirects Sous-direction du commerce <sup>264</sup>
DE: Customs office <sup>265</sup>
EL: Hellenic customs service and the police <sup>266</sup>
IT: National Proof House in Gardone Val Trompia <sup>267</sup> and the Ministry of Interior <sup>268</sup>
MT: Customs and Police <sup>269</sup>
NL: Customs office <sup>270</sup>
ES: Ministry of Interior <sup>271</sup> and the Ministry of Economy, Industry and Competitiveness <sup>272</sup> (Secretariat of State for Trade)

<sup>258</sup> Five representatives from producers/exporters.

<sup>259</sup> Three representatives from producers/exporters.

<sup>260</sup> One representative from producers/exporters.

<sup>261</sup> Two representatives from users.

<sup>262</sup> One representative from users.

<sup>263</sup> One representative from producers/exporters.

<sup>264</sup> International Bureau E2: Prohibitions et protection du consommateur. One representative from users.

<sup>265</sup> One representative from producers/exporters and three from users.

<sup>266</sup> One representative from users.

<sup>267</sup> Five representatives from producers/exporters.

<sup>268</sup> Five representatives from producers/exporters.

<sup>269</sup> One representative from users.

<sup>270</sup> One representative from producers/exporters.

<sup>271</sup> Two representatives from producers/exporters.



### Authorities responsible for controls on import from third country

SE: Custom<sup>273</sup> and Police<sup>274</sup>

UK: The Export Control Organisation<sup>275</sup>

The **types of control** that are performed on civilian firearms, parts, essential components, and ammunition coming from third countries are the following:

- Verification of the import authorisation;<sup>276</sup>
- Verification on the correct marking;<sup>277</sup>
- Verification of proof of purchase;<sup>278</sup>
- Dimensional and fire tests.<sup>279</sup>

### Control of marking at the time of the import

**Several representatives from producers/exporters and users experienced cases where a national marking was required despite the existence of a marking from the third country producer.**<sup>280</sup> As an example, one respondent from users reported that a marking was required with indication of the year and the country of the first entry to the EU, and another reported that existence of markings in some foreign alphabets such as Cyrillic made it necessary to apply a new marking according to EU standards.

Four representatives from producers/exporters specified that according to CIP (Permanent International Commission for Firearms Testing) procedures<sup>281</sup> all the imported products have to be marked. Only in case products are not marked with an appropriate mark, the customs send them to the National Proof House.

When asked which **types of control were performed in order to limit the risk of diversion**, the following ones were mentioned:

- check of import documents (e.g. import licence, customs declaration, invoice, waybill, packing list);<sup>282</sup>
- Physical inspections of shipments (also through the use of X-ray).<sup>283</sup>

<sup>272</sup> Two representatives from producers/exporters.

<sup>273</sup> Three representatives from users.

<sup>274</sup> Two representatives from users.

<sup>275</sup> One representative from producers/exporters.

<sup>276</sup> Nine representatives from producers/exporters and four from users.

<sup>277</sup> Three representatives from producers/exporters and four from users.

<sup>278</sup> Four representatives from producers/exporters.

<sup>279</sup> Two representatives from producers/exporters and one from users.

<sup>280</sup> Survey question: "Have you ever experienced cases where a national marking was required despite the existence of a marking from the third country producer?". 67% (n=12) of representatives from producers/exporters and 67% (n=6) of users replied "yes".

<sup>281</sup> Permanent International Commission for Firearms Testing.

<sup>282</sup> Five representatives from National Competent Authorities.

<sup>283</sup> Two representatives from National Competent Authorities.

Even if mentioned by fewer respondents, other types of control reported consist of (i) checking of the Country of origin and Country of dispatch,<sup>284</sup> (ii) regular customs checks with other national entities (Police & Department of Justice),<sup>285</sup> (iii) occasional checks on Customs points, warehouses and stockpiles,<sup>286</sup> (iv) check whether the exporter, consignee and consignor are included in the lists of sanctions and embargoes.<sup>287</sup>

One representative from National Competent Authorities specified that import and export controls performed by the Department of Customs and Excise are based on a risk analysis. Specifically, for controls on firearms and ammunition the following profiling is used:

- Risk indicators related to countries of origin and destination, adversely known consignors and consignees, commodity codes (list of UN dangerous goods).
- List of persons, groups and entities referred to in Article 1 of Reg. 2580/2001.
- Specific information received from different sources (the police, other national intelligence services, other organisations, EU, other countries, individuals etc.).

Furthermore, the following two specific Member States cases have been reported:

- In Luxembourg firearms can only be imported from a third country through the only EU external border existing in Luxembourg, which is the National Airport. Hence, the severe security and control measures applicable to Airports are also applicable to firearms;<sup>288</sup>
- In Portugal, National Competent Authorities require that a prior authorisation is always submitted before the weapons are subject to any customs procedures. Therefore, the risk has been minimised and filters have been placed in the customs declaratory systems that require the submission of prior authorisation.<sup>289</sup>

**There is no evidence of cases**, as reported by representatives from National Competent Authorities and producers/exporters, **where imported firearms from third countries which were not properly marked and traceable were diverted** from customs supervision (e.g. transit or any customs procedure, inward processing, customs warehouses, etc.) before being placed on the EU market. The majority of representatives from National Competent Authorities and producers/exporters reported that these cases did not occur in their Member State.<sup>290</sup> Even if to a lesser extent, some representatives from National Competent Authorities and from producers/exporters<sup>291</sup> reported that these cases occurred.<sup>292</sup>

#### Import authorisation

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<sup>284</sup> Two representatives from National Competent Authorities.

<sup>285</sup> One representative from National Competent Authorities.

<sup>286</sup> One representative from National Competent Authorities.

<sup>287</sup> One representative from National Competent Authorities.

<sup>288</sup> One representative from National Competent Authorities.

<sup>289</sup> One representative from National Competent Authorities.

<sup>290</sup> 85% (n=22) of representatives from National Competent Authorities and 61% (n=11) of representatives from producers/exporters.

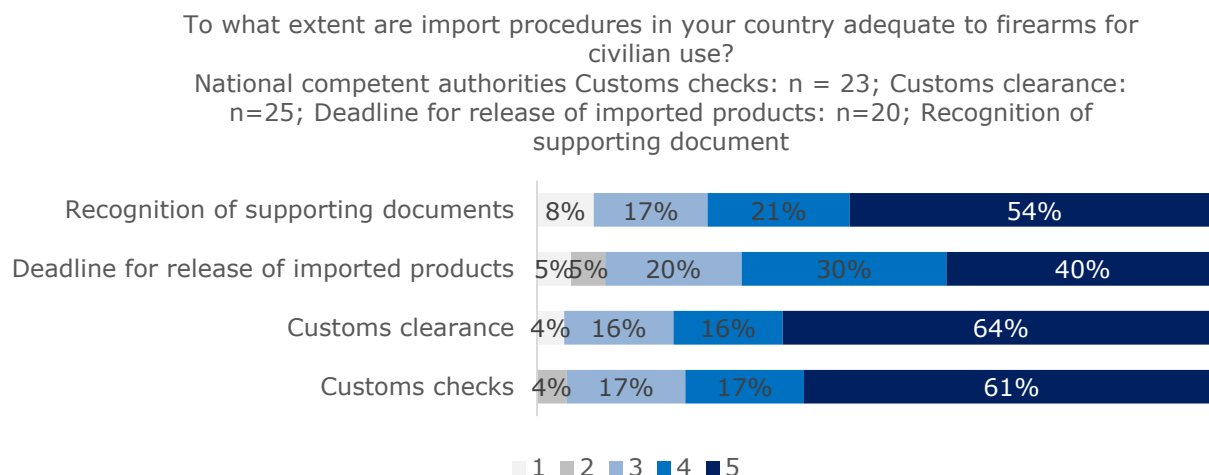
<sup>291</sup> 18% (n= 4) of representatives from National Competent Authorities and 39% (n=7) of representatives from producers/exporters.

<sup>292</sup> The Member States involved were BG, DE, ES, GR, IT, PL, HR.

Almost all respondents from producers/exporters and users reported that **it is necessary to obtain an import authorisation** to proceed with the import from third countries.<sup>293</sup>

#### Adequacy of import procedures

**The majority of representatives from National Competent Authorities perceive the import procedures in their countries to be adequate.** In particular, the majority of them reported the high adequacy of the customs clearance, customs checks, the recognition of supporting documents, and the overall adequacy of the deadline for the release of imported products.



Almost all of the National Competent Authorities representatives expressed a rating equal to or higher than 3.<sup>294</sup> Only in Greece and Lithuania import procedures were overall assessed to be not or only partially adequate. Greece rated as 1 the deadline for release of imported products and customs checks, and as 2 the procedures on customs clearance. Lithuania rated as 1 the procedures on customs clearance and checks.

<sup>293</sup> 90% (n=19) of representatives from producers/exporters and 100% (n=12) of representatives from users.

<sup>294</sup> In a scale from 1 to 5 where 1 means "to no extent" and 5 means "to very large extent".

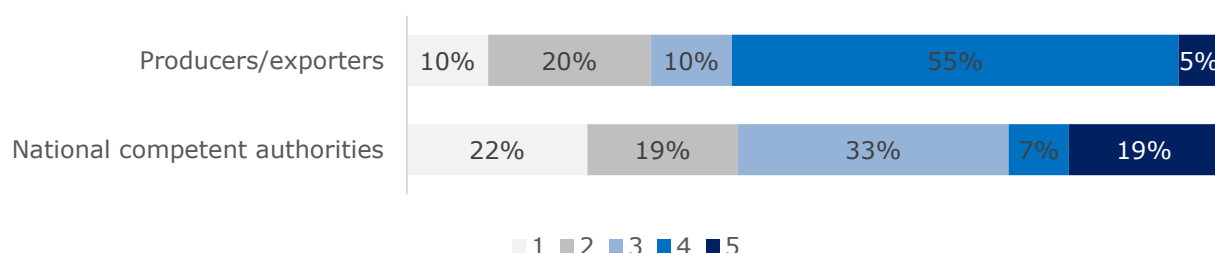
### 7.2.5 Customs formalities

#### Translation

As outlined in the figure below, National Competent Authorities had mixed opinions when responding to the question “How often is a translation of the relevant documentation into the official language of the Member State required to obtain an export authorisation?” Producers/exporters on the other hand reported that translations are often required.<sup>295</sup>

How often is a translation of the relevant documentation into the official language of the Member State required to obtain an export authorisation?

National Competent Authorities: n=27; Producers/exporters: n=20



**The Member States where translations are more frequently asked are Bulgaria, Luxembourg, Poland, Romania and Croatia.**<sup>296</sup> The table below shows the average rating per country and has been elaborated by calculating the weighted average of responses of representatives from National Competent Authorities by multiplying the rate indicated by respondents for the number of respondents.<sup>297</sup>

	AT	BE	BG	CY	CZ	DK	EE	ES	FI	FR	GR	HR	HU	IT	LV	LT	LU	NL	PL	PT	RO	SK	SI	SE	UK
National Competent Authorities	2	2	5	3	2	3	4	2	2	3	2	5	3	3	3	1	5	1	5	3	5	3	1	1	4

#### Suspension of the process

The majority of representatives from National Competent Authorities reported that their organisation **regularly or very frequently communicates the final assessment at the end of the period of suspension to other competent authorities.**

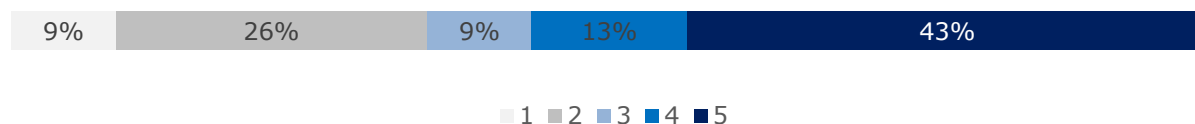
<sup>295</sup> 60% (n=12) scored the option 4 or 5.

<sup>296</sup> Survey question: “How often is a translation of the relevant documentation into the official language of the Member State required to obtain an export authorisation?”.

<sup>297</sup> 11% (n=2) chose 1, 21% (n=4) chose 2, 5% (n=1) chose 3, 5% (n=1) chose 5.

To what extent does your organisation communicate with other competent authorities the final assessment at the end of the period of suspension?

National competent authorities: n= 23



### Specific Member States features

When asked if in their countries there were **offices/institutions/bodies empowered to customs formalities** other than customs offices, representatives from National Competent Authorities reported the following.

#### Offices/institutions/bodies empowered to customs formalities

FI: border guard police<sup>298</sup>

ES: civil guard<sup>299</sup>

PL: border guard police,<sup>300</sup> and moreover the customs agencies acts on behalf of and for the benefit of individuals and economic operators before customs offices, by:

- preparing the necessary documents for customs clearance;
- making customs declarations on behalf of the entity;
- payment of import duties and other charges;
- lodging appeals and other applications by customs.

RO: General Directorate of Customs<sup>301</sup>

### **7.2.6 Simplified procedures**

Simplified procedures foreseen by Regulation 258 (Article 9) to export civilian firearms to third countries is **a renowned practice by producers/exporters and users.**

89% (n=16) of representatives from producers/exporters stated that they adopted simplified procedures, and 56% (n=5) of representatives from users reported that they benefited from simplified procedures.

When asked what types of documents were required when hunters and sport shooters leave the customs territory of the Union through a Member State other than the Member State of their residence and when hunters and sport shooters leave the customs territory of the Union through the Member State of their residence, responses from users were mixed (see the figure below).

Even if Regulation 258 requires the EFP when hunters and sport shooters leave the customs territory of the Union through a Member State other than the Member State of their

<sup>298</sup> One representative from National Competent Authorities.

<sup>299</sup> One representative from National Competent Authorities.

<sup>300</sup> One representative from National Competent Authorities.

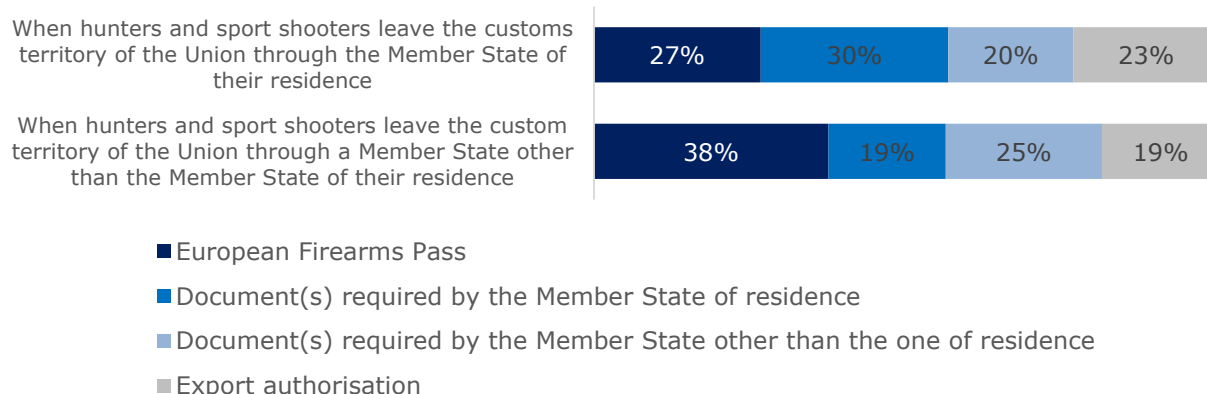
<sup>301</sup> One representative from National Competent Authorities.

residence, 19% (n=6) of the users reported to have experienced the request of an export authorisation. Only 38% (n=12) of the users experienced the request of the EFP.

Even if Regulation 258 requires the EFP or another document considered valid by the Member State of residence when hunters and sport shooters leave the customs territory of the Union through the Member State of their residence, 23% (n=7) experienced the request of an export authorisation. However, overall, 57% (n=17) of users experienced the request of the EFP or another document considered valid by the Member State of residence.

#### What type of documents are required?

Users: n=15



#### Temporary export for repair/evaluation/exhibition without sale for other users

Users were asked to specify the type of documents required for re-export of firearms following temporary admission for evaluation or exhibition without sale, repair, held in temporary storage, or for temporary export for evaluation and repair and exhibition without sale. One respondent reported that in the case of France there are specific requirements to satisfy (specified in Article R315-18 of the code de la Sécurité Intérieure).<sup>302</sup> Another respondent explained that in Italy export authorisation or temporary import authorisation are needed. Moreover, the UK requires the National Visitors Firearms Pass and Sweden requires a national permit for 70 Euro. Approvals are also required in Luxembourg and Ireland.<sup>303</sup>

#### Costs and benefits associated with the simplified procedures

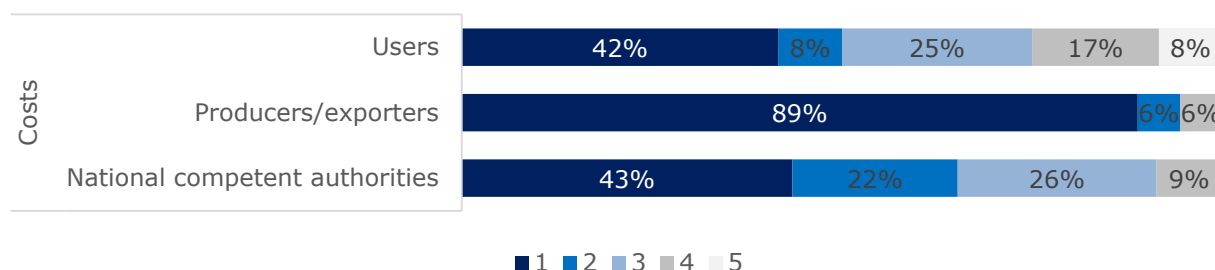
**Overall, benefits entailed by the implementation of simplified procedures outweigh related costs** (see the figures below). Simplified procedures entailed additional costs to a low or very low extent according to the majority of respondents from the three categories of stakeholders consulted. Users and National Competent Authorities have not particularly benefited from the introduction of simplified procedures, whereas 59% (n=10) of the producers/exporters reported that the introduction of simplified procedures brought benefits.

<sup>302</sup> E.g. "shipments and consignments of arms and parts of such weapons of categories A, B, C, 1 ° and g and h of 2 ° of category D, with the exception of paintball launchers, shall take All the necessary provisions to ensure that the stay of such equipment does not exceed twenty-four hours in the stations and airports and seventy-two hours in the ports."

<sup>303</sup> One representative from users.

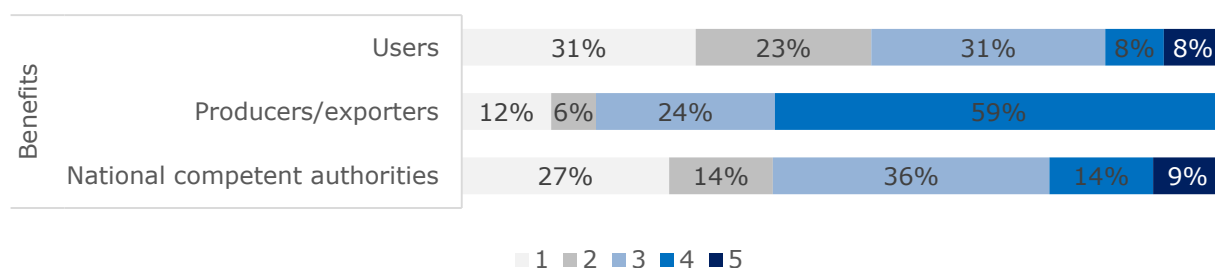
To what extent has the implementation of simplified procedures entailed additional costs and benefits for your organisation?

National Competent Authorities: n=23; Producers/exporters: n=19;  
Users: n=12



To what extent has the implementation of simplified procedures entailed additional costs and benefits for your organisation?

National Competent Authorities: n=22; Producers/exporters: n=18;  
Users: n=13



The table below shows the average rating per category of stakeholder and has been elaborated by calculating the weighted average of responses by multiplying the rate indicated by respondents for the number of respondents. Even if the ratings are overall low, the category perceiving more costs are the users and the one perceiving more benefits are Producers/exporters.

	National Competent Authorities	Producers/exporters	Users
Costs	2,0	1,2	2,4
Benefits	2,6	3,1	2,4

### Difficulties encountered

Users reported that they experienced **some difficulties in the application of simplified procedures**.<sup>304</sup> Examples of difficulties mentioned include: the need to get a prior

<sup>304</sup> Survey question: "Have you ever experienced any difficulties in the application of simplified procedures (e.g. acceptance of the European Firearms Pass)?". 67% (n=6) reported that they did.

permission to travel to some countries,<sup>305</sup> the non-acceptance of the EFP by some Member States (e.g. UK),<sup>306</sup> and the requirement of fees or special permits.<sup>307</sup>

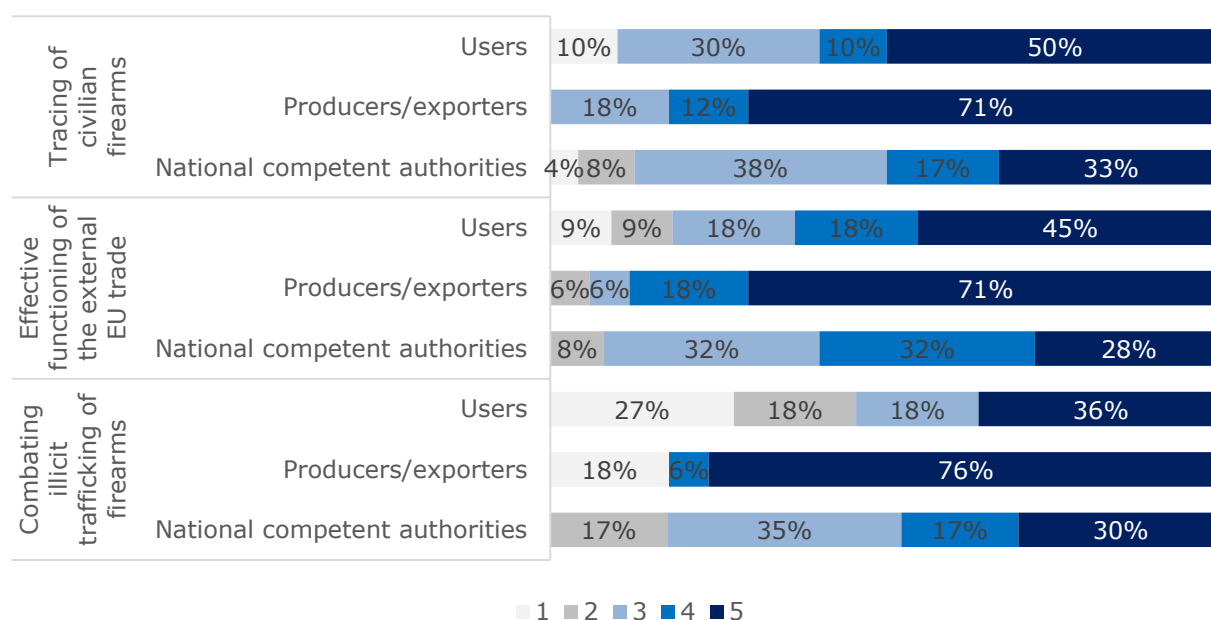
**No case of criminal offences perpetrated with firearms, parts or components exported through simplified procedures** have been reported by National Competent Authorities and users.<sup>308</sup>

### 7.2.7 Penalties

**Overall, respondents from different categories are satisfied with the current penalties** i) to ensure the tracing of civilian firearms, ii) to combat illicit trafficking of firearms and iii) for an effective functioning of the external EU trade (see the table below).<sup>309</sup>

Producers/exporters are the most satisfied category: the majority of them<sup>310</sup> rated penalties as very adequate (i.e. chose the score-5) for all of the three options.

To what extent do you think current penalties are adequate to ensure the following?



<sup>305</sup> Two representatives from users.

<sup>306</sup> Two representatives from users.

<sup>307</sup> One representative from users.

<sup>308</sup> 85% (n=22) of representatives from National Competent Authorities and 100% (n=14) from users. 15% (n=4: GR, PL, HR, BE- The Flamish Region) of representatives from National Competent Authorities reported the opposite.

<sup>309</sup> Tot. Respondents for "tracing of civilian firearms": National Competent Authorities n=24; producers/exporters n=17; Users n=10. For "effective functioning of the external trade": National Competent Authorities n=25; producers/exporters n=17; Users n=11. For "combating illicit trafficking of firearms": National Competent Authorities n=23; producers/exporters n=17; Users n=11.

<sup>310</sup> 71% (n=12) of representatives from producers/exporters chose the option 5 for tracing of civilian firearms and effective functioning of the external EU trade; 76% (n=13) for combating illicit trafficking of firearms.



One representative from users further specified that penalties linked to Regulation 258 can not affect illegal firearms trafficking in the legal market because legal operators usually do not deal with illegal firearms to avoid the risk of losing the firearms/dealer's licence.

### 7.2.8 Sharing information and administrative cooperation

#### Information to be shared and notified to other Member States

The main reasons for National Competent Authorities to share information with other Member States are reported to be:

- Communicate refusals and/or suspensions of authorisation to other Member State authorities;<sup>311</sup>
- Communicate modifications and/or revocations of authorisation to other Member State authorities;<sup>312</sup>
- Allow other Member States authorities for the verification of the authenticity of documents and information provided by exporters and importers;<sup>313</sup>
- Communicate data on actors involved in suspicious activities.<sup>314</sup>

Four representatives from National Competent Authorities reported that they do not share information. According to two representatives from National Competent Authorities this is due to the lack of a technical channel to allow a timely information sharing.

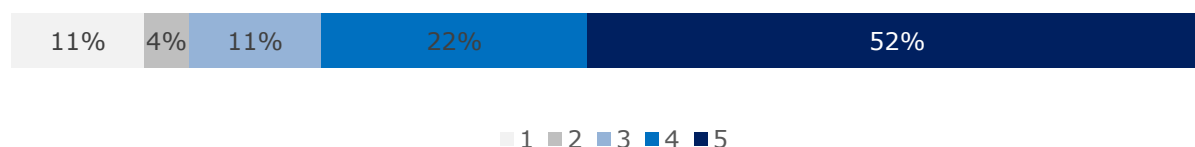
#### Check for refusals

Before issuing an export authorisation, several representatives from National Competent Authorities<sup>315</sup> stated that **they always check whether an essentially identical transaction was previously denied by another Member State.**

**Overall, information on denials from other Member States is considered very appropriate** to national pre-authorisation controls by representatives from National Competent Authorities (see the figure below).

To what extent do you consider available information on denials from other Member States appropriate for your national pre-authorisation controls?

National Competent Authorities: n=27



<sup>311</sup> 20 representatives.

<sup>312</sup> 14 representatives.

<sup>313</sup> 12 representatives.

<sup>314</sup> 11 representatives.

<sup>315</sup> 61% (n=17). 21% (n=6) chose the option "often"; 14% (n=4) chose the option "never"; 4% (n=1) chose the option "sometimes".

When asked to specify their assessment, two representatives from National Competent Authorities highlighted the importance of cooperation between Member States on a case-by-case basis, specifying that this is the only way to prevent circumvention of applicable legal rules. Another respondent reported that they use the COARM system, but specified that not all denials contain all the necessary information.

The appropriateness of information on denials is confirmed also by the fact that the majority of representatives from National Competent Authorities have **never granted an export authorisation to an exporter for an essentially identical transaction previously rejected by another Member State.**<sup>316</sup>

#### Means for administrative cooperation and information exchange

Usually, National Competent Authorities or other national authorities have **no access to national repositories on firearms exports and consignees of other Member States.**<sup>317</sup> **With regard to data and information on consignees or other actors involved in suspicious activities and, where available, routes taken, there is a system** or common practice to share such information in several Member States.<sup>318</sup>

This communication takes place through different channels, and specifically:

- BE: COREU;<sup>319</sup>
- CZ: Ministry of Foreign Affairs on behalf of National Competent Authorities;<sup>320</sup>
- EE and HU: Case-by-case inquires;<sup>321</sup>
- ES: International channels (e.g. Europol, Interpol).<sup>322</sup>
- NL: Export Control regimes Via Denial System;<sup>323</sup>
- RO: Centre for Police Cooperation, through internal attachés or through Southeast European Law Enforcement Centre (SELEC) centre;<sup>324</sup>
- SI: Regular COARM meetings. Police use the EUROPOL and INTERPOL communication

#### The effects of Regulation 258

**The current exchange of information allowed several National Competent Authorities to take timely decisions about export authorisations.**<sup>325</sup> One

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<sup>316</sup> Survey question "How many times has your organisation granted an export authorisation to an exporter for an essentially identical transaction previously rejected by another Member State?". 64% (n=14) replied "never"; 27% (n=6) chose the option "few times"; 9% (n=2) chose di option "sometimes".

<sup>317</sup> Survey question "Do you or any other national authorities have access to national repositories on firearms exports and consignees of other Member States?". 83% (n=20) replied "no". 17% (n=4) replied "yes" (BE, CZ, GR, PT).

<sup>318</sup> Survey question "Is there a system or common practice to share among Member States data on consignees or other actors involved in suspicious activities, and, where available, routes taken?" 58% (n=11) of representatives from National Competent Authorities replied "yes" (BE, CZ, EE, ES, GR, IE, NL, PT, RO, SI, UK), 42% (n=8) replied "no" (CY, FI, HU, IT, LU, PL, SE).

<sup>319</sup> One representative from National Competent Authorities.

<sup>320</sup> One representative from National Competent Authorities.

<sup>321</sup> Two representatives from National Competent Authorities.

<sup>322</sup> One representative from National Competent Authorities.

<sup>323</sup> One representative from National Competent Authorities.

<sup>324</sup> One representative from National Competent Authorities.

representative from National Competent Authorities reported that in the Czech Republic there is a time limit of 20 days for the Ministry of Foreign Affairs to give an opinion on the export authorisation and that this time limit can be extended if needed. However, a few stakeholders expressed some concerns. Specifically one representative from National Competent Authorities reported that the COARM database is a central repository of denials but its relevance strongly depends on the timely recording of denials by all Member States. Another respondent highlighted that due both to time limits provided for by the applicable rules and the fact that information requests are very often not answered very quickly, decisions to authorise or refuse an export have sometimes to be taken without all the relevant information at hand.

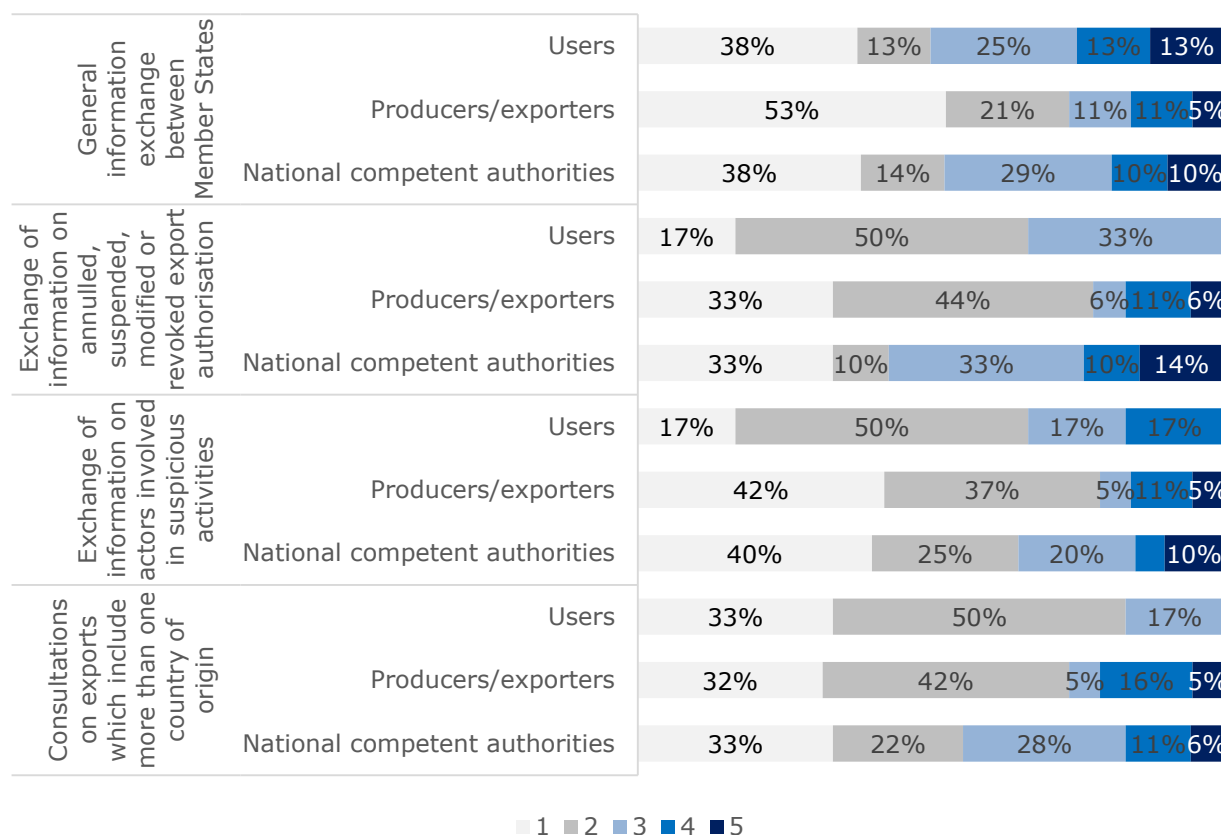
**Overall, the contribution of Regulation 258 to information sharing and administrative cooperation seems to be limited**, in particular with regard to the following aspect: *i)* consultations on exports which include more than one country of origin, *ii)* exchange of information on actors involved in suspicious activities *iii)* exchange of information on annulled, suspended, modified or revoked export authorisation, and *iv)* general information exchange between Member States (see the table below).<sup>326</sup>

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<sup>325</sup> Survey question: "Overall, does the actual exchange of information allow your organisation to take timely decisions about export authorisations?" 78% (n=18) replied "yes".

<sup>326</sup> Tot. respondents for "consultations on exports which include more than one country of origin" National Competent Authorities n=18, producers/exporters n=19, users n=6; "exchange of information on actors involved in suspicious activities" National Competent Authorities n=20, producers/exporters n=19, users n=6; "exchange of information on annulled, suspended, modified or revoked export authorisation" National Competent Authorities n=21 producers/exporters n=18, users n=6; "general information exchange between Member States" National Competent Authorities n=21, producers/exporters n=19, users n=8. For users the ratio of No answers was 57%.

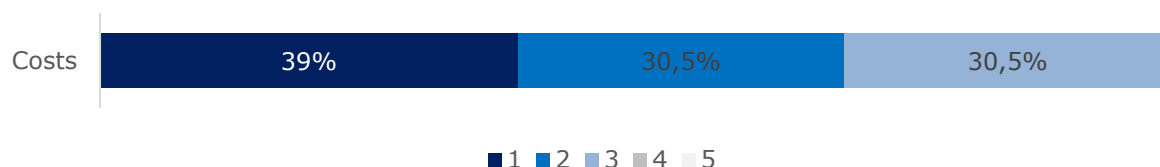
In your opinion, to what extent has Regulation 258 contributed to the following?



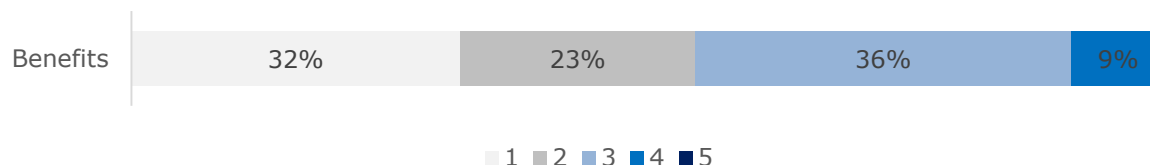
Overall, most of the representatives from all the categories consulted assessed the contribution of Regulation 258 to be none or very limited (score 1 or 2 in a range of 1 to 5) in all the four elements analysed.

From a cost-benefit point of view, the costs related to administrative cooperation and information sharing implemented following Regulation 258 outweigh the benefits (see the figures below).

In your opinion, to what extent the administrative cooperation and information sharing process implemented following Regulation 258 have entailed additional costs and benefits for your organisation?  
National Competent Authorities: n=23



In your opinion, to what extent the administrative cooperation and information sharing process implemented following Regulation 258 have entailed additional costs and benefits for your organisation?  
National Competent Authorities: n=22



**Suggestions to improve the exchange of information** included: the creation of a data base at the EU level for firearms for civilian use (as part as the COARM data base)<sup>327</sup> involving licencing authorities, customs authorities and law enforcement authorities;<sup>328</sup> a higher involvement of third countries in the information exchange mechanisms,<sup>329</sup> a closer and more regular contact between Competent National Authorities, and an improved guidance, coordination, exchange of case studies and practical examples at the EU level, organised by EU institutions.<sup>330</sup>

## 7.3 Overall insights

### 7.3.1 Relevance

**The definitions included in Regulation 258 (Article 2) are accurate and valid for the majority of survey respondents.**

Representatives from National Competent Authorities are the most satisfied: most of the respondents assessed each definition to be accurate and valid to a very large extent (scoring 5 in a range from 1 to 5). Representatives from producers/exporters and users were slightly less satisfied with the accuracy and validity of the definitions: most of the producers/exporters and several users rated 4 the definitions of Regulation 258 (see tables below).

**The relevance of the definitions seems to be controversial for “essential components”, “parts” and “deactivated firearms”.** There is consensus among users and producers/exporters on the lack of relevance of the definition that Regulation 258 provides for “essential components”. Similarly the definition of “parts” is considered poorly relevant (corresponding to 1 and 2 scores) by 39% (n=5) of users, and partly relevant (corresponding to a rate of 3) by 61% (n=11) of producers/exporters. Also the definition of “deactivated firearms” appears to be not fully relevant: most of the representatives from producers/exporters rated it 3 and there is not strong consensus among users (see the tables below).

<sup>327</sup> Four representatives from National Competent Authorities.

<sup>328</sup> One representative from National Competent Authorities.

<sup>329</sup> One representative from National Competent Authorities.

<sup>330</sup> One representative from National Competent Authorities.

**Table 13 - Firearms producers/exporters opinions on accuracy and validity of definitions**

Regulation 258 definitions	1	2	3	4	5	Grand Total
Ammunition	5%	0%	16%	63%	16%	100%
Customs territory of the Union	0%	0%	21%	63%	16%	100%
Deactivated firearms	5%	11%	58%	5%	21%	100%
Essential components	50%	11%	17%	11%	11%	100%
Export	0%	0%	21%	63%	16%	100%
Export authorisation	0%	5%	16%	63%	16%	100%
Export declaration	0%	5%	16%	63%	16%	100%
Exporter	0%	0%	17%	72%	11%	100%
Firearm	6%	0%	11%	72%	11%	100%
Illicit trafficking	0%	0%	11%	63%	26%	100%
Parts	6%	11%	61%	11%	11%	100%
Person	0%	0%	16%	63%	21%	100%
Temporary export	0%	11%	11%	67%	11%	100%
Tracing	0%	5%	11%	68%	16%	100%
Transshipment	11%	5%	11%	58%	16%	100%
Transit	5%	5%	16%	58%	16%	100%
<b>Grand Total</b>	<b>5%</b>	<b>4%</b>	<b>20%</b>	<b>54%</b>	<b>16%</b>	<b>100%</b>

**Table 14 – Firearms users' opinions on accuracy and validity of definitions**

Regulation 258 definitions	1	2	3	4	5	Grand Total
Ammunition	15%	8%	0%	<b>46%</b>	31%	100%
Customs territory of the Union	0%	0%	0%	<b>50%</b>	<b>50%</b>	100%
Deactivated firearms	14%	14%	21%	14%	<b>36%</b>	100%
Essential components	<b>43%</b>	21%	7%	14%	14%	100%
Export	0%	11%	11%	<b>44%</b>	33%	100%
Export authorisation	0%	0%	0%	<b>56%</b>	44%	100%
Export declaration	0%	0%	0%	<b>50%</b>	<b>50%</b>	100%
Exporter	11%	0%	0%	<b>44%</b>	<b>44%</b>	100%
Firearm	8%	15%	0%	<b>46%</b>	31%	100%
Illicit trafficking	11%	11%	11%	<b>44%</b>	22%	100%
Parts	<b>31%</b>	8%	23%	15%	23%	100%
Person	0%	0%	0%	<b>60%</b>	40%	100%
Temporary export	18%	18%	0%	<b>45%</b>	18%	100%
Tracing	0%	30%	0%	<b>40%</b>	30%	100%
Transshipment	0%	0%	0%	43%	<b>57%</b>	100%
Transit	0%	11%	0%	<b>44%</b>	<b>44%</b>	100%
<b>Grand Total</b>	<b>11%</b>	<b>10%</b>	<b>5%</b>	<b>39%</b>	<b>34%</b>	<b>100%</b>

Some reasons were provided to illustrate the limitations of the current definition.

- *Essential components and parts*: overall there is confusion between what is to be considered a part and what is an essential components.<sup>331</sup> The definition of essential components is perceived to be vague and with different meanings across Member States,<sup>332</sup> and several respondents highlighted the need to delete it.<sup>333</sup> However, one representative from users highlighted that the definition of parts is wrong since it says that parts should be essential to the operation of a firearm. This is in fact the definition of essential components. For instance, a sound moderator is considered a part, but it is not necessary for the operation of a firearm, as it merely moderates the sound of the shot. The definition of parts is not necessary considering the definition of essential components. Three representatives from producers/exporters suggested that all parts in the definition should be *numerus clausus* and no wider interpretation should be possible. One representative from National Competent Authorities raised the need to reshape the definition of essential components and parts in view of making a systematic control also for essential components.
- *Deactivated firearms*: One representative from National Competent Authorities highlighted that there is uncertainty on whether only complete firearm can be deactivated or also firearms where one or more essential components is missing. Moreover, the deactivation seems difficult to verify if all parts are incapable of removal.<sup>334</sup> In this view another representative from National Competent Authorities specified that there is the need to clarify also rules to be applied to antique firearms and their replica.
- *Temporary export*: one representative from users suggested that the definition should exclude the exports that last only for four weeks. Moreover, it should be clarified that taking firearms to a third country for purposes like hunting or target shooting is not seen and treated as the export of a firearm.
- *Export*: one representative from users highlighted that the fact that the Regulation refers to other rules, instead of listing them, makes the understanding complicated.
- *Illicit trafficking*: one representative from users highlighted that it may also occur between Member States and not only between an EU Member State and a third country.
- *Ammunition*: one representative from users highlighted the limited relevance of the definition since ammunition should refer only to the complete round and not also to separate components not assembled.

Besides the specific points mentioned above, the relevance of the definitions included in Regulation 258 seems to be undermined by:

- *Lack of harmonisation of definitions among different legal instruments*. Definitions throughout relevant legal instruments (for example Directive 91/477, Directive 2009/43, Directive 2009/48 and its Annex I, EU Customs Code, Military List, UN

<sup>331</sup> One representative from producers/exporters and one representative from users.

<sup>332</sup> One representative from users.

<sup>333</sup> Seven representatives from producers/exporters, one representative from National Competent Authority and one representative from users.

<sup>334</sup> One representative from National Competent Authorities.

Firearms Protocol, UN Arms Trade Treaty of 2013, etc.) are not harmonised and they are implemented differently in Member States.<sup>335</sup>

- *The revision of the Firearms Directive* which brought the need for an update of the definitions of Regulation 258 to ensure consistency between the internal and external market.<sup>336</sup>

When asked if Regulation 258 should include additional/modified elements, the majority of respondents replied that **no integrations are needed**.<sup>337</sup> The few respondents who raised the need for integrations suggested the inclusion of the following:

- Rules on import procedures from third countries to the EU in order to achieve harmonised national practices. More specifically, one representative from National Competent Authorities suggested the inclusion of an import licence template and a template of the request and consent of the third country for transit through its territory;
- Open licences without prior determination of 'identified final recipient' (e.g. provision for dealer to dealer licences without named end users).<sup>338</sup>

One representative from producers/exporters also highlighted the need to make clear that Regulation 258 applies exclusively to the export of civilian weapons, possibly leading to issues in terms of scope,<sup>339</sup> and one representative from National Competent Authorities stressed the need to clarify the civilian or military nature of a firearm.

**Regulation 258 only partially addresses the emerging trends and current needs in terms of both illicit trafficking and tracing of firearms, and international firearms trade.** When asked to what extent Regulation 258 addresses the emerging trends and current needs in terms of illicit trafficking, tracing and firearms international trade, the majority of respondents (46%; n=44) stated that it partially addresses them.

Looking at the distribution of stakeholders' opinions, **Regulation 258 seems to be more relevant to international firearms trade than to preventing illicit trafficking and improving firearms tracing.** As for this latter, 56% (n=10) of National Competent Authorities stated that the Regulation partially addresses the emerging trends and current needs, 59% (n=10) of producers/exporters stated that many needs remain uncovered and 50% (n=7) of users stated that it does not address at all.

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<sup>335</sup> One representative from National Competent Authorities and two representatives from users.

<sup>336</sup> Two representatives from National Competent Authorities and one from producers/exporters.

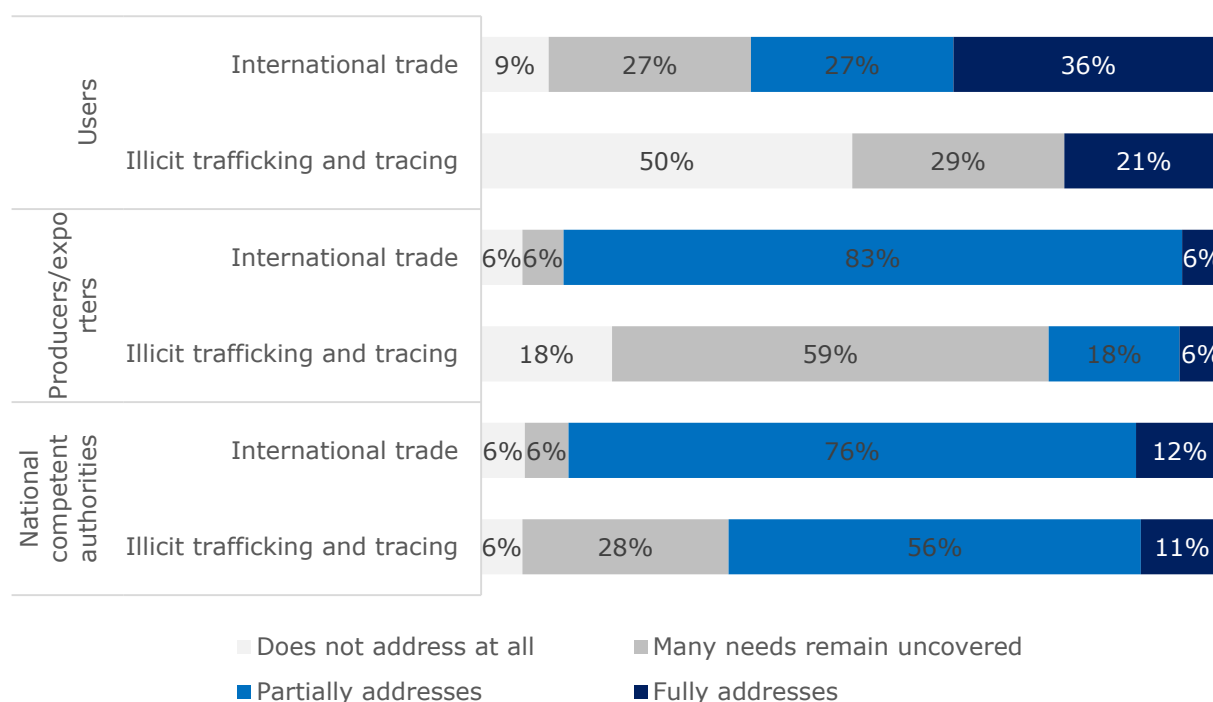
<sup>337</sup> 75% (n=12) National Competent Authorities, 88% (n=15) producers/exporters, 57% (n=7) users.

<sup>338</sup> One representative from producers/exporters.

<sup>339</sup> One representative from producers/exporters.



To what extent do you believe Regulation 258 addresses the the emerging trends and current needs in the following fields?



Regulation 258 seems to be more relevant to international trade. 76% (n=13) of National Competent Authorities and 83% (n=15) of producers/exporters stated that it partially addresses the emerging trends and current needs in terms of firearms international trade and 36% (n=4) of users stated that it fully addresses these needs.

Among the **issues or trends that need further consideration** at the EU level in terms of import/transit/export of firearms for civilian use, few respondents provided some illustrative examples:

- The use of online channels for trade. There is not a strong consensus among respondents on to which extent this represents an issue to be dealt. Representatives from National Competent Authorities<sup>340</sup> raise the need for additional controls on online sales and deliveries (e.g. one representative from National Competent Authorities mentioned the use of fast point to point parcels to traffic illicitly firearms components, and the use of the Darknet). Representatives from producers/exporters (mainly Italy, Germany and Spain)<sup>341</sup> highlighted that online firearms sales are not regulated in the same way across Member States, and push for a decision at the EU level to forbid the use of these channels. Representatives from users are against the introduction of additional controls on online channel transactions. In Finland, for instance, since both the seller and the buyer need to have a licence and be controlled by competent authorities, there is no need to regulate online channels more than other channels. Most illegal firearms are considered to come from depots or similar sources, therefore

<sup>340</sup> Four representatives from National Competent Authorities, and one from users.

<sup>341</sup> Five representatives from Industry.

an increase in the controls of legal sales would not affect illegal arms trade. Similarly, in Germany, two licences are requested. Moreover the online broker might inform the federal office BKA (Bundeskriminalamt) if an advert looks suspicious and cyber police can also control the online channels to check if the offers are legal.

- The differentiation between the classification of civilian and military firearms.<sup>342</sup>
- The harmonisation of information sharing procedures among Member States (e.g. through the creation of an EU database).<sup>343</sup>
- Better coordination of rules and procedures with third countries.<sup>344</sup>
- Lack of recognition of the EFP.<sup>345</sup>

### 7.3.2 Coherence

**Overall, the majority of respondents did not experience any difficulties and challenges in applying Regulation 258 in combination with other EU legislation/positions,** including: Council Common Position 2008/944/CFSP (Military list), Directive 91/477/EEC as amended in 2008 (Firearms Directive), Regulation 2015/2403 establishing common guidelines on deactivation standards, and Union Customs Code. 77% (n=59) of National Competent Authorities and 66% (n=37) of producers/exporters did not experience any difficulties/challenges whereas 56% (n=18) of users stated that they encountered some difficulties.

**However, there are some concerns with regard to specific pieces of legislation/positions and specific categories of stakeholders.** The pieces of legislation/positions that seem to have created more difficulties and challenges are the Council Common Position 2008/944/CFSP (Military list) for producers/exporters and users,<sup>346</sup> the Firearms Directive,<sup>347</sup> and Regulation 2015/2403 for users.<sup>348</sup>

When asked if there are other relevant pieces of legislation/positions (in addition to the ones mentioned above) which may create some problems in the interaction with Regulation 258, few stakeholders mentioned inconsistencies between Regulation 258 and their national legislation,<sup>349</sup> in particular the Italian<sup>350</sup> and the Spanish legislation.<sup>351</sup> One Italian representative from producers/exporters highlighted for instance that in the first phase of implementation, the application of the Italian laws had several aspects in contradiction with Regulation 258 which needed to be fixed with further procedures. In Spain two representatives from producers/exporters pointed at the existence of a double system of

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<sup>342</sup> One representative from producers/exporters, one from National Competent Authorities and one from users.

<sup>343</sup> Two representatives from National Competent Authorities.

<sup>344</sup> One representative from National Competent Authorities.

<sup>345</sup> One representative from Users.

<sup>346</sup> Respectively: 85% (n=11) of exporters/producers, and 60% (n=3) of users experienced difficulties/challenges.

<sup>347</sup> 64% (n=7) of users.

<sup>348</sup> 60% (n=6) of users.

<sup>349</sup> Eight representatives from users.

<sup>350</sup> Four representatives from users.

<sup>351</sup> Four representatives from users.

authorisation for the export of rifles from Spain to other Member States: a licence under 258 Regulation and a permit under the Firearms Directive.<sup>352</sup>

The revision of the Directive 477/1991 is also seen as a source of conflicts and inconsistencies by two stakeholders, who recommend to keep a close look in order to ensure an overall coherence between the internal and the external market.<sup>353</sup>

According to a few stakeholders that provided an answer, the co-existence of different pieces of legislation brought to a general lack of clarity on EU rules to be applied on firearms,<sup>354</sup> and subsequently to a lack of harmonised and streamlined approaches across Member States which may create uncertainty for economic operators.<sup>355</sup>

The combination of the different pieces of legislation brought some **consequences on firearms trade**, such as:

- Increased complexity of the procedures, multiplication of different classifications;<sup>356</sup>
- Confusion over when Regulation 258 should be applied (especially for the classification of firearms as military or civilian)<sup>357</sup> which might bring in some cases to losses of businesses due to unclear legislation for both the seller and the buyer.<sup>358</sup>
- Burden placed on individuals/businesses and on licencing authorities where global licences cannot be issued and individual licences are preferred<sup>359</sup>
- Unfair competition among EU operators<sup>360</sup> linked, for instance, to the fact that the monitoring system of Regulation 258 is not rightly implemented and the use of the CP 944/2008 control system to the export of civilian firearms and ammunition harms the private sector and European operators.<sup>361</sup>

### **7.3.3 Efficiency**

**There is consensus among producers/exporters and users<sup>362</sup> that the introduction of Regulation 258 brought additional costs, while for National Competent Authorities the introduction of Regulation 258 did not bring additional cost, even if with low consensus.**

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<sup>352</sup> Regulation 258, however, is applied only to third countries, and not to intra-EU transfers, which follow the Firearms Directive and are under the responsibility of the Guardia Civil. In all cases where a firearms is within the scope of the common military list, an authorisation is required for the export from Spain to other Member State. (Source: Input from the Spanish National Competent Authority).

<sup>353</sup> One representative from National Competent Authority and one from users.

<sup>354</sup> Two representatives from National Competent Authorities and one representative from industry.

<sup>355</sup> One representative from National Competent Authorities, one from industry and one from users.

<sup>356</sup> One representative from National Competent Authorities.

<sup>357</sup> One representative from National Competent Authorities.

<sup>358</sup> One representative from users.

<sup>359</sup> One representative from National Competent Authorities.

<sup>360</sup> Five representatives from producers/exporters.

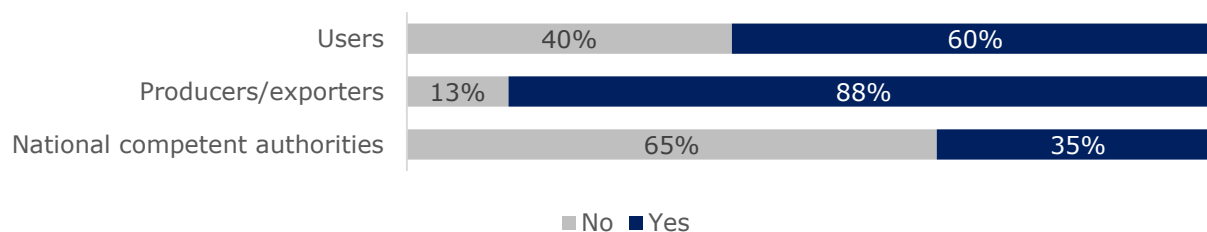
<sup>361</sup> Three representatives from producers/exporters and one representative from users.

<sup>362</sup> Respectively: 82% (=14) and 60% (n=6) respondent replied "yes" to the question "Overall, did the introduction of Regulation 258 bring any additional cost for you?".

Overall, did the introduction of Regulation 258 bring any additional cost for you?

National Competent Authorities: n=23; Producers/exporters: n=16;

Users: n=10



The **additional costs** that have been mentioned by respondents are listed in the table below: for each category, costs are ranked from the most mentioned to the least mentioned.

Costs	National Competent Authorities <sup>363</sup>	Producers/exp orters	Users
Costs to check and control conditions to grant an export authorisation / to collect and submit documentation for export authorisation (for industry) / to collect information and documents to export (for users)	3 (n=5)	1 (n=15)	1 (n=4)
Costs to check that third countries of transit have no objection to transit / collect and submit documentation for the acquisition of transit authorisation (for industry)	1 (n=7)	2 (n=14)	-
Costs related to the enforcement of Regulation 258	3 (n=5)	-	-
Costs related to the sharing of information	3 (n=5)	-	-
Costs related to the record keeping of information	3 (n=3)	-	-
Costs related to customs procedures involving civilian firearms / required translation (for industry)	4 (n=2)	3 (n=12)	-
Costs to check that the importing country has authorised to import / collect and submit documentation for the acquisition of import authorisation (for industry)	2 (n=6)	6 (n=5)	-
Possible losses/costs related to delays to obtain Export authorisation from MS	-	5 (n=8)	-
Costs related to the implementation of procedures related to the Military list when firearms may have a double use	3 (n=5)	7 (n=2)	-

<sup>363</sup> 65% (n=17) of no answers.

Costs	National Competent Authorities <sup>363</sup>	Producers/exporters	Users
Costs related to comply with different rules and requirements among Member States	-	4 (n=9)	1 (n=4)
Costs to check that third countries of transit have no objection to transit	4 (n=1)	-	-

In addition to the costs outlined in the previous paragraphs (i.e. export authorisation, transit procedures, simplified procedures and information sharing) some stakeholders reported to bear additional costs relating, for instance, to the increased time needed for applications and controls,<sup>364</sup> and the need of an import/export authorisation also for deactivated firearms unlike before the Regulation.<sup>365</sup>

As long as the quantification of costs is concerned, only representatives from producers/exporters from Italy and Spain provided a rough estimation. As long as **benefits** are concerned, respondents thought that the implementation of Regulation 258 brought the following benefits:

Benefits	National Competent Authorities	Producers/exporters	Users
Combating illicit trafficking of firearms	1 (n=12)	10 (n=1)	3 (n=1)
Harmonisation of MS procedures	1 (n=12)	1 (n=9)	1 (n=6)
Improvement of extra-EU trade procedures	3 (n=7)	1 (n=9)	-
Speeding up the export procedures	4 (n=4)	2 (n=8)	3 (n=1)
Better traceability of firearms	2 (n=10)	-	-
Better control on firearms exporters	3 (n=7)	-	-
Speeding up the process of obtaining an export authorisation	4 (n=4)	3 (n=6)	-
Speeding up the import procedures	5 (n=3)	2 (n=8)	-
Increase the perception of security of EU citizens	4 (n=4)	9 (n=2)	2 (n=2)
Speeding up the process of obtaining transit authorisation	6 (n=1)	8 (n=5)	-
Speeding up the process of obtaining an import authorisation	6 (n=1)	9 (n=2)	-
Speeding up the transit procedures	5 (n=3)	10 (n=1)	-

To the question "To what extent do you think Regulation 258 entailed the relevant benefits?" respondents were asked to provide a score from 1 to 5. Overall, benefits reported are low. The most striking scores are the following:

<sup>364</sup> One representative from users.

<sup>365</sup> One representative from users.

- The main benefit perceived by producers/exporters is the harmonisation of Member States procedures.<sup>366</sup>
- Opinions about the benefits triggered by the Regulation on combating illicit trafficking of firearms vary according to stakeholder categories. 50% (n=9) of National Competent Authorities stated that the Regulation entailed the benefit related to the illicit trafficking of firearms to a moderate extent, 64% (n=7) of producers/exporters to a very low extent.
- National Competent Authorities and users agree that the Regulation **entailed the harmonisation of procedures to a moderate extent**.<sup>367</sup>
- Producers/exporters and users stated that the Regulation increased the perception of security of EU citizens to a very low extent.<sup>368</sup>
- The three categories agree on the fact that the Regulation entailed the speeding up the export procedures,<sup>369</sup> and the speeding up of the process to obtain an export authorisation<sup>370</sup> to a very low extent.
- National Competent Authorities and producers/exporters agree on the fact that the Regulation entailed the benefit of speeding up the import procedures,<sup>371</sup> and of speeding up the process of obtaining an import authorisation<sup>372</sup> to a very low extent.
- National Competent Authorities and producers/exporters have quite divergent opinions on the benefit about speeding up the process of obtaining a transit authorisation. 50% (n=6) of National Competent Authorities stated that the Regulation entailed the benefit of speeding up the process of obtaining a transit authorisation to a very low extent,<sup>373</sup> whereas producers/exporters to a high extent.<sup>374</sup> Details on the answers provided by each categories are outlined in the table below.

**Table 15 – Responses to the question « To what extent do you think Regulation 258 entailed the relevant benefits? »**

Benefit	National Competent Authorities	Producers/exporters	Users	Overall
Better control on firearms exporters	3,0	-	-	3,0
Better traceability of firearms	3,3	-	-	3,3

<sup>366</sup> 67 (n=10) scored as 4 the benefit.

<sup>367</sup> 44% (n=7) of representatives from National Competent Authorities and 63% (n=5) of representatives from users scored as 3.

<sup>368</sup> Respectively 43% (n=6) and 79% (n=7) scored the benefit as 1.

<sup>369</sup> 58% (n=7) of representatives from National Competent Authorities, 33% (n=5) of representatives from producers/exporters and 44% (n=4) of representatives from users scored the benefit as 1.

<sup>370</sup> 43% (n=6) of representatives from National Competent Authorities, 60% (n=9) of representatives from producers/exporters and 44% (n=4) of representatives from users scored the benefit as 1.

<sup>371</sup> 50% (n=5) of representatives from National Competent Authorities, 87% (n=13) of representatives from producers/exporters scored the benefit as 1.

<sup>372</sup> 55% (n=6) of representatives from National Competent Authorities, 79% (n=11) of representatives from producers/exporters scored the benefit as 1.

<sup>373</sup> 57% (n=6) scored the benefit as 1.

<sup>374</sup> 57% (n=8) scored the benefit as 4.

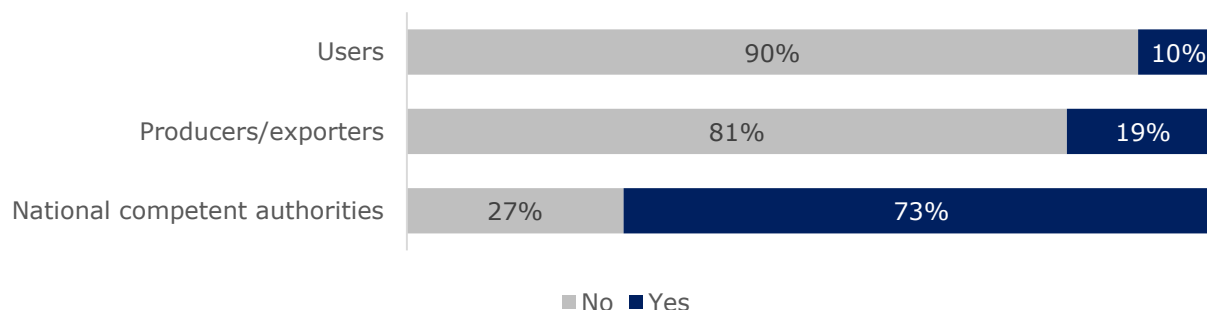
Benefit	National Competent Authorities	Producers/exporters	Users	Overall
Combating illicit trafficking of firearms	3,4	1,6	1,4	2,1
Harmonisation of MS procedures	3,4	3,3	1,6	2,8
Improvement of extra-EU trade procedures	2,5	2,2	-	2,3
Increase the perception of security of EU citizens	1,5	1,8	1,3	1,5
Speeding up the export procedures	1,3	2,1	1,3	1,6
Speeding up the import procedures	1,4	1,3	-	1,3
Speeding up the transit procedures	2,2	2,7	-	2,2
Speeding up the process of obtaining a transit authorisation	2,4	2,9	-	2,4
Speeding up the process of obtaining an export authorisation	1,8	1,9	1,2	1,8
Speeding up the process of obtaining an import authorisation	1,6	1,3	-	1,6

Considering all changes in rules and procedures occurred after the introduction of Regulation 258, **opinions about the question “do you think that overall benefits outweigh the costs?” were divergent.** 73% (n=11) of representatives from National Competent Authorities stated that the overall benefits outweigh the costs, whereas 81% (n=13) of representatives from producers/exporters and 90% (n=5) of users stated the opposite.

Considering all changes in rules and procedures occurred after the introduction of Regulation 258 in your country, do you think that overall benefits outweigh the costs?

National competent authorities: n=15; Producers/exporters: n=16;

Users: n=10



#### **7.3.4 Effectiveness**

**The majority of producers/exporters and users<sup>375</sup> found inconsistencies in the implementation of Regulation 258 across Member States** that hindered external trade of firearms, parts, components, and ammunition coming from/going to with third countries.

The major issue raised by producers/exporters (mainly from Italy and Spain) relates to the requirement by some third countries of specific information (e.g. the serial number) to start the import procedure and issue the related authorisation.<sup>376</sup> While it seems reasonable to provide information relating to the kind of product, the calibre, and the manufacturer name, it is more difficult to give the serial number since firearms will need to go to the Proof House for controls first, and the Proof House will put the serial number. This specification is considered not necessary for the import authorisation and increases the costs of trade. Regulation 258 states that the marking should be communicated at the latest prior to the shipment, but it seems that some Member States require this information before to issue the import licence.

When moving to users, one representative raised the issue about the non-acceptance of the EFP by some countries, and about the misalignment in the timing for obtaining an export authorisation.<sup>377</sup> For instance, in the case of Germany, the average time for obtaining an export authorisation is more than four weeks, and this may create a disadvantage in comparison to the Member States where less time is needed.<sup>378</sup> Another representative from users mentioned the existence of different rules for deactivated firearms.

**There is not a strong consensus on the relevance of illicit trafficking of civilian firearms coming from/going to third countries at the national and/or EU level.** While most of the representatives from producers/exporters (68%; n=13) agree that this phenomenon is a threat only to a limited extent, 36% (n=4) of representatives from users consider this to be a threat to a large or to a very large extent. Several producers/exporters (12) and users (6) highlighted the fact that illicit trafficking is independent from legal firearms trade legislation and that an increase in the regulation of the legal market will not automatically reduce the illicit market. One representative from users added also that today it is still easier to get a gun from the illegal market than through official channels.

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<sup>375</sup> 91% (n=10) producers/exporters and 63% (n=5) users.

<sup>376</sup> Eight representatives from producers/exporters.

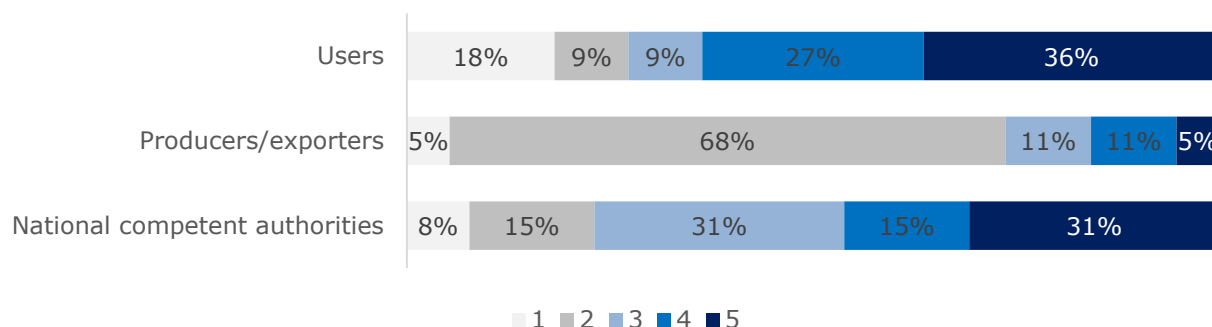
<sup>377</sup> One representative from users.

<sup>378</sup> One representative from users.



To what extent do you think the illicit trafficking of civilian firearms coming from/going to third countries is a threat in your country and/or at EU level?

National Competent Authorities: n=13; Producers/exporters: n=19; Users: n=11.



A few respondents pointed to the following **security risks** :

- The poor controls at EU borders,<sup>379</sup> and on the dark net;<sup>380</sup>
- Limited exchange of information between Member States;<sup>381</sup>
- The reactivation of deactivated weapons;<sup>382</sup>
- Military firearms traded as civilian firearms due to lack of harmonisation of implementation rules;
- Trafficking of firearms components, gas alarm weapons and deactivated firearms which are regulated differently across Member States ;
- The high flow of migrations (especially from the Middle East and Syria).<sup>383</sup>

When asked to what extent crimes involving civilian firearms were committed with firearms imported from third countries, only few respondents were able to answer. One representative from National Competent Authorities from Estonia replied that they had very few cases, and four representatives did not have information to record such cases.

In order to improve Regulation 258 respondents suggested the following actions:

- provide a clear definition of controlled items taking into account the Council Common Position 2008/944/CFSP (e.g. through the creation of a unique Annex with all categories so as to lighten the burden on legal trade and allow National Competent Authorities to focus on illicit activities),<sup>384</sup> and to align with Directive 91/477/EEC;<sup>385</sup>

<sup>379</sup> Three representatives from users and one from producers/exporters.

<sup>380</sup> One representative from users.

<sup>381</sup> One representative from industry.

<sup>382</sup> Two representatives from National Competent Authorities.

<sup>383</sup> Two representatives from National Competent Authorities.

<sup>384</sup> Three representatives from National Competent Authorities.

<sup>385</sup> Two representatives from producers/exporters and two representatives from users.

- provide a system for the exchange of information (e.g. through the creation of an EU data base);<sup>386</sup>
- delete the definition of essential components and provide a more rigid and non-expandable definition of “parts”;<sup>387</sup>
- establish a single European electronic procedure for the release of export authorisations and establish a list of trusted recipients to which authorisation is faster;<sup>388</sup>
- clarify that Member States cannot ask a fee or an authorisation for transit of goods that have been authorised for export;<sup>389</sup>
- establish the freedom for non-identified final recipients on export authorisations.<sup>390</sup>

### **7.3.5 EU added value**

Respondents were asked to provide a feedback on whether their national legislation/measures covered the content of Regulation 258 before its entry into force.

**Overall, most of the respondents outlined that their national legislation already covered the whole contents of the Regulation.**

**The only provisions that gathered divergent opinions among the three stakeholder categories were those on “record-keeping” and “simplified procedures”.** The majority of representatives from producers/exporters (69%; n=9) stated that national legislation covered only part of the content of the provision on record-keeping, whereas the majority of National Competent Authorities (73%, n=16) stated that national legislation covered the whole content of the provision.

With regard to the provision on simplified procedures, there is not a prominent opinion among representatives from National Competent Authorities. The majority of producers/exporters (86%; n=12) instead stated that national legislation covered only part of the content of the Regulation provision. The majority of users (63%; n=5) stated that the national legislation already covered the whole content of the Regulation provision.

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<sup>386</sup> Two representatives from National Competent Authorities and one from producers/exporters.

<sup>387</sup> Three representatives from producers/exporters and one representative from users.

<sup>388</sup> Two representatives from producers/exporters and one representative from users.

<sup>389</sup> Two representatives from producers/exporters and one representative from users.

<sup>390</sup> One representative from producers/exporters.

For the analysis of Member States positions the weighted average has been calculated. A weight has been attributed to each option that respondents had according to their added value and namely:

- In case National legislation/measures already covered the whole contents of the provisions of the Regulation the weigh was 1 (since the Regulation did not add value to national legislation/measures);
- In case National legislation/measures already covered most of the contents of the provisions of the Regulation the weigh was 2;
- In case National legislation/measures covered only part of the contents of the provisions of the Regulation the weigh was 3;
- In case National legislation/measures did not cover contents of the provisions of the Regulation the weigh was 4.

Each weigh has been multiplied for the number of Member States respondents and then divided by the total of respondents. Results are illustrated in the table below.

**Table 16 – Coverage of national legislation in respect to provision of the Regulation, before its entry into force**

	AT	BE	BG	HR	CY	CZ	DK	EE	FI	FR	DE	GR	HU	IT	LT	LU	MT	NL	PL	PT	RO	SK	ES	SE	SI	UK	Grand Total
Administrative cooperation and information sharing	1	1	0	1	4	2		3	1				2		4	2			1,5	1	2	1	1	1			1,8
Customs formalities		1	0	0	4	2		2	1	1			2			2			1			1	1				1,5
Export authorisation procedures	2	1	1	1	4	1	2	2	1	2	1,8	1	2	1	2	2	1	3	1	1	3	1	1	1	2	3	1,7
Import procedures		1	2	2	1	2	2	2	1	1	1	1	2	1,3	2	2	1	3	1	1	3	1	1,8	1	2	3	1,6
Penalties		1	1	1	4	2	1	1	1	2,5	1	1	2	1	1	1	1		2	1	2	1	1,4	1			1,4
Record-keeping	3	1	1	1	4	2	1	1	1	2,5	1		1	2,7	1	1		1	1	1	1	1	2,2	1	2		1,5
Simplified procedures	2	1	1	1	1	2	2	1	1,7	2,5	1,5	1	2	2,7	4	3			1,5	1	3	1	2,6	4		3	2
Transit procedures		4	2	2	4	2	2	2	1	2	1,7	1	2	1	2	2	1	3	1	1	2	1	1,4	1	2	3	1,8
<b>Grand Total</b>	2	1,4	1,3	1	3,3	1,9	1,7	1,8	1,1	1,9	1,3	1	1,9	1,6	2,3	1,9	1	2,5	1,3	1	2,3	1	1,6	1,4	2	3	

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Overall, the Regulation did not bring any remarkable added value. Cyprus and the UK seem to be the Member State for which the Regulation added value followed by Poland, Romania and Lithuania. The provision on simplified procedures is the one that brought the most added value.

When asked to describe the main rules applied to export/transit/import procedures of civilian firearms in their country before the introduction of Regulation 258, respondents from National Competent Authorities (if not otherwise indicated in the text below) outlined the following.

- Austria: Most of the civilian firearms were already covered by the Austrian foreign trade act and the corresponding implementing acts.
- Bulgaria: Before the introduction of Regulation 258, the Ministry of Interior had issued export/transit/import authorisations under one procedure without distinguishing categories of firearms for each activity (export/transit/import). There was not difference between category A and category B, C and D.
- Cyprus: The Firearms and Non Firearms Law 113(I) 2004 and the Customs Code Law 94(I) 2004. One representative from National Competent Authorities highlighted that before the introduction of Regulation 258 a licence was needed only at the time of import.
- The Czech Republic: Act No 228/2005 on control of trade in products. Government Regulation No 230/2005 laying down a list of listed products, conditions subject to which imports or exports or transport of listed products may be carried out, specific requirements and examples of applications for granting a licence.
- Finland: the firearms act, the firearms decree, the Act on the Export and Transit of Defence Materiel n. 242/1990 (according to one representative from National Competent Authorities). One representative from users highlighted that national legislation was already compliant with Regulation 258 and a licence for both import and export was requested.
- France: import, export and transshipment of civilian firearms were already subject to authorisation (according to one representative from National Competent Authorities). One representative from users added that also requested documents have not changed (i.e. *Autorisation d'Importation de Matériels de Guerre* for import and *Autorisation d'Exportation de Matériels de Guerre* for export).
- Hungary: national laws were very similar to the current legislation. It has been reported that items on the Military list are licenced by the national authority while their possession, private export-import is licenced by the police.
- Ireland: Section 17 of the Firearms Act 1925, provides that an importation licence is required for an import of a firearm.
- Italy: According to one representative from National Competent Authorities, the main rule for export/import/transit procedure of firearms was that it was necessary to ask for a permit for each one of them. Four representatives from exporters/producers highlighted that the system has not substantially changed.
- Luxembourg: Authorisation was required for every export/import of firearms, a background check of relevant persons dealing with import/exports was performed, there was individual tracing of every firearm and Penal sanctions for exports/imports without the required authorisation.
- Spain: Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components, and ammunition, supplementing the United Nations Convention

against Transnational Organised Crime in 2008, set down in Spain through Law 53/2007 and the Regulation approved by Royal Decree 2061/2008 now Royal Decree 679/2014, and the Arms Regulation approved by Royal Decree 137/1993 (according to one representative from National Competent Authorities). According to four representatives from producers/exporters no major differences were introduced to the Spanish system with the exception of simplified procedures.

- Poland: Before the introduction of Regulation 258 procedures related to civilian firearms were carried out by the competent economic authority on the basis of the export authorisation and possession of a concession of trading firearms. These procedures were very similar to those currently implemented.
- Portugal: The police authorities request the necessary documents to issue the export authorisation. If the exporter met the conditions, the export was authorised.
- Sweden: All commodities covered by Regulation 258 were already covered by national legislation (according to one representative from National Competent Authorities). Permit was requested for any import or export of firearms (according to one representative from users).

Several respondents from producers/exporters<sup>391</sup> highlighted that the new procedures brought by the Regulation have mainly increased formalities for companies and highlighted the value of simplified procedures for consumers.

When asked **to what extent a repealing of the Regulation would** affect them (e.g. in terms of changes in the legislative framework, organisation, and procedures, current functioning of your organisation) respondents reported that the repealing Regulation 258 would bring the following effects:

- adopt legislative measures,<sup>392</sup> for instance to cover specific types of weapons (e.g. rimfire weapons) that were covered before the Regulation;
- reorganise some departments since the personnel currently involved in the implementation of Regulation 258 would be able to perform other tasks<sup>393</sup>
- improvement of information exchange between Member States on the licencing and enforcement stages.<sup>394</sup>

Some respondents<sup>395</sup> highlighted that since overall previous national legislation was already aligned with most of the requirements of Regulation 258 there will not be major effects from a repealing of the Regulation. What is still missing is a real unified European export policy, which goes beyond national interests and administrative practices. This has not been achieved yet and brings negative effects in terms of competition policy.

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<sup>391</sup> Eight representatives from producers/exporters.

<sup>392</sup> Three representatives from National Competent Authorities.

<sup>393</sup> Two representatives from National Competent Authorities.

<sup>394</sup> Two representatives from National Competent Authorities.

<sup>395</sup> Four representatives from producers/exporters and one representative from users.

## **Annex 8. Summary analysis of the Open Public Consultation**

### **8.1 Introduction**

The EC launched the Open Public Consultation (hereinafter OPC) with the aim to give EU citizens and all concerned stakeholders an opportunity to express their views on the implementation of Regulation 258, implementing Article 10 of the UN Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components, and ammunition, and establishing export authorisation and import and transit measures for firearms, their parts and components, and ammunition.

The consultation was launched on 1<sup>st</sup> March 2017 and lasted **12 weeks**.

A total of **eight respondents** participated. Six of them participated to the consultation in their professional capacity or on behalf of an organisation and represent “manufactures” (three representatives), and “broker/dealers” (three representatives<sup>396</sup>). Two respondents participated as individuals in their personal capacity. Out of these two one specified to be a hunter.

The organisations represented by the six respondents have their headquarters in: Germany (3), Lithuania (2); Belgium (1). While the two respondents participating in their personal capacity are from Estonia and Germany.

In order to make a better use of the inputs, OPC questions have been associated to one of the five evaluation criteria this study needs to address and the analysis of the responses is structured in five sections corresponding to the criteria mentioned above (see Table 14 at the end of this Annex for indication of the questions corresponding to each evaluation criterion). Cross-cutting questions are addressed in a “general insights” section.

This Annex includes the analysis of all questions having at least a 30% response rate. Questions with more than 70% of “No Answers entered” or “do not know” were not taken into account. The share of survey respondents indicated in the analysis have been calculated based on the total number of stakeholders who provided an answer different from “do not know” and “No Answers entered”. However, due to the limited number of responses, the Evaluation team often preferred to report the absolute values rather than the percentages in order to avoid biased conclusions, and to limit the risk of overestimation of the findings.

The limited representativeness of the sample of respondents in both values and categories of stakeholders made it impossible to categorise the answers based on different views and to foster robust conclusions. When relevant, the Evaluation team integrated inputs from the analysis in the core report, making clear reference to it in the footnotes.

### **8.2 Analysis**

#### **8.2.1 General insights**

**Not all respondents reported to have enough information regarding Regulation 258.** While two representatives from broker/dealers and two from manufacturers reported to have enough information, one representative from each category and the two

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<sup>396</sup> The answers of one respondent reporting to be a “retailers/dealers association” have been analysed together with answers of “broker/dealers” representatives.

respondents participating in their personal capacity reported not to have enough information.

There is **no harmonisation in the competent authority primarily responsible for implementing Regulation 258 at the national level**. While in Lithuania Police<sup>397</sup> is the competent authority, in Germany and Belgium it is the export control agency.<sup>398</sup>

The most common destination countries for the export of civilian firearms in 2016 were the **US, South Africa and Australia**.<sup>399</sup> Even if mentioned by only one respondent other countries mentioned were United Arab Emirates, South Korea, India, Mexico,<sup>400</sup> Latvia, Estonia,<sup>401</sup> Ukraine and Russia.<sup>402</sup>

When asked if they/their organisations received authorisations or rejections to applications for authorisation of export of civilian firearms in 2016, **the majority of respondents (71%; n=5) reported to have received such authorisations, and nobody reported denials**. One representative from brokers/dealers reported to have received 60 authorisation in 2016, one representative from Manufacturers 20 and another one 1,000.

When asked about general opinions on the implementation of Regulation 258, one representative from brokers/dealers considers that Regulation 258 is generally correctly applied, although its application caused some additional burden when it was being initially implemented. S/he believes that currently there is no need to implement new legislative measures on legal trade, which is already subject to strict controls. The fight against terrorism and transnational crime should focus on police and border control work. The level of security provided by this Regulation and the rest of applicable European norms is considered to be among the highest in the world.

### **8.2.2 Effectiveness**

**Regulation 258 has not strongly contributed to improving the external EU trade of civilian firearms, parts and essential components, and ammunition.** Three respondents<sup>403</sup> reported Regulation 258 to have not improved the external EU trade and two<sup>404</sup> stated that the Regulation improved the external EU trade only to a limited extent.

Overall, manufacturers and brokers/dealers seem not to have had particular concerns when exporting firearms in the preceding two years. However, as outlined in the Figure below, two manufacturers reported to have lost deals due to the long time needed to obtain a licence and expressed their concerns with regard to the administrative burden linked to the requirements related to authorisations.<sup>405</sup>

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<sup>397</sup> One representative from broker/dealer and one from manufacturers.

<sup>398</sup> One representative from broker/dealer, one from hunters and one from manufacturers.

<sup>399</sup> Two representatives from Manufacturers.

<sup>400</sup> One representative from Manufacturers.

<sup>401</sup> One representative from Manufacturers.

<sup>402</sup> One representative from brokers/dealers.

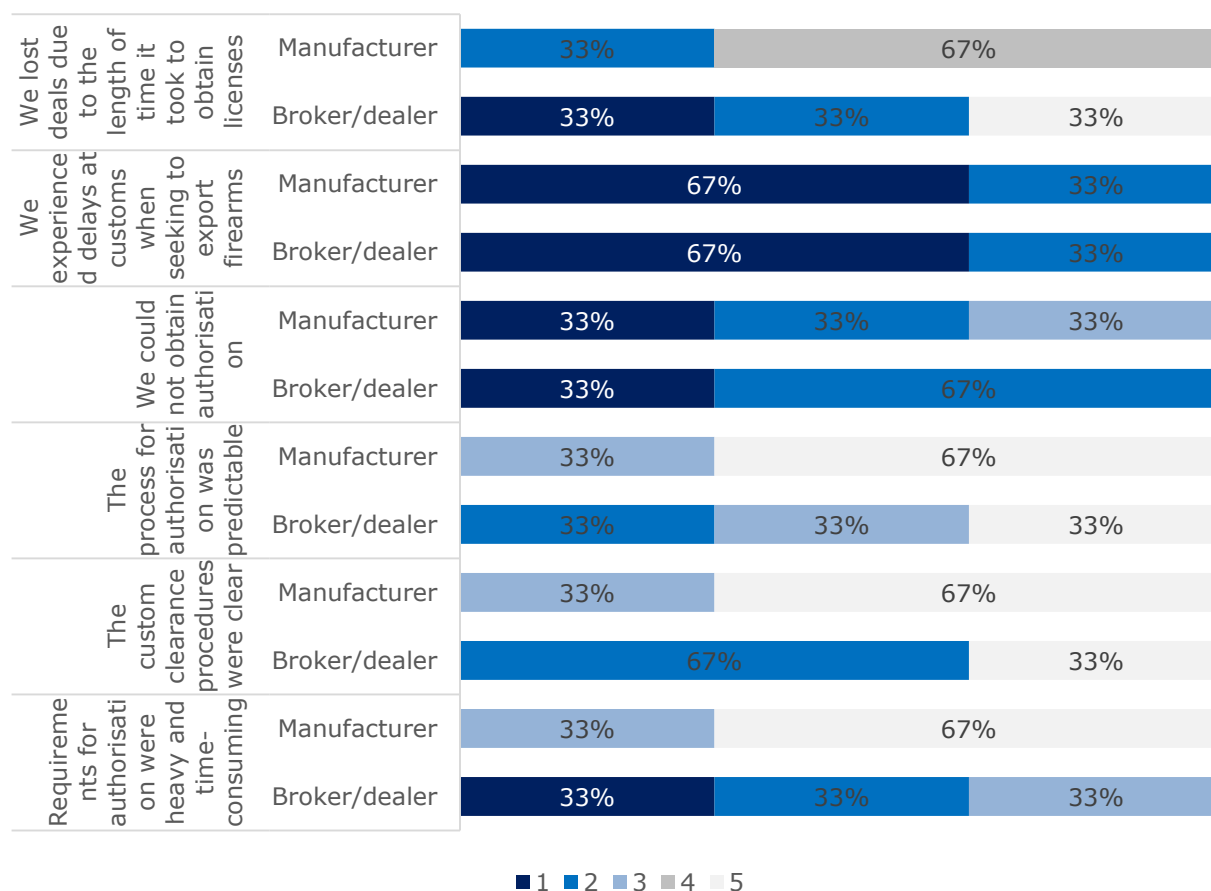
<sup>403</sup> Two representatives from Manufacturers and one from brokers/dealers.

<sup>404</sup> Two representatives from brokers/dealers.

<sup>405</sup> Two selected the option 4 to the survey question "How often did you/your organisation experience the following situations when EXPORTING firearms in the last 2 years?". 1=never, 2= rarely, 3= sometimes, 4= often, 5= very often.



How often did you/your organisation experience the following situations when EXPORTING firearms in the last 2 years?



**Respondents did not highlight particular issues regarding importing procedures** and the customs clearance procedure is reported to be overall clear.<sup>406</sup>

**There are mixed opinions with regard to the perceived level of harmonisation** of rules on import, export, transit and trans-shipment across EU Member States. One representative from manufacturers and one hunter reported that the rules are, in their view, not sufficiently harmonised whereas three representatives from brokers/dealers consider the rules to be harmonised from a moderate to a large extent.

Overall, **there is consensus on the effectiveness of authorities** in cooperating with other Member States to control manufacturing, marking, import and export of firearms, ensuring that exporters comply with all procedures set by Regulation 258, and identifying illegal firearms and components coming from third countries.<sup>407</sup>

<sup>406</sup> Five respondents selected the options from 3 to 5 in a scale from 1 to 5. To The survey question "When IMPORTING firearms, did you encounter issues not linked to the placing on the market (i.e. not subject to Directive 91/477 on the control of the acquisition and possession of weapons)? The customs clearance procedures are clear".

<sup>407</sup> All respondents selected the option "entirely" or "to a large extent" to the survey question "How effective do you believe authorities are in relation to: cooperating with other Member States to effectively control over the manufacturing, marking, import and export of firearms; ensuring that exporters comply to all procedures set by

### 8.2.3 Relevance

There is **consensus on the relevance of the Regulation objectives** in ensuring an efficient functioning of the international civilian firearms trade and a high level of security in the EU. Three respondents (out of five) reported that these were very important and two assessed them as moderately important.

Few respondents (one or two, depending on the question) provided an assessment of the relevance of the Regulation vis-à-vis a number of identified risks. According to this/these respondents the Regulation is perceived to adequately address the risk of diversion during import and export,<sup>408</sup> the risk of Approval in one Member State of an application previously denied in another<sup>409</sup> and ensure a fair regulatory competition between Member States.<sup>410</sup>

### 8.2.4 Coherence

Respondents reported few cases of application of procedures under Regulation 258 to transfers of types of weapons which are out of the scope of the Regulation, and namely deactivated firearms, firearms manufactured before 1899, firearms specially designed for military use, firearms of collectors or museums, fully automatic weapons, state to state transactions or transfers and weapons destined for the armed forces.<sup>411</sup>

**The only case where inconsistencies in the applicable regime may arise relates to the category of "semi-automatic weapons"** for which two representatives from brokers/dealers reported to have sometimes experienced a situation in which procedures under Regulation 258 have been applied and three representatives from manufacturers reported to have never experienced such a situation.

There are mixed opinions with regard to the existence of situations in which it was unclear if the firearms to be exported were covered by the controls on civilian firearms exports in accordance with Regulation 258 or controls on the export of military equipment covered by the Council Common Position 2008/944/CFSP. All representatives from brokers/dealers (n=3) reported to have never experienced this situation, whereas two representatives out of three from manufacturers reported the opposite, specifying that there is no clear delimitation between the fields of application of the Firearms Regulation 258 and Council Common Position 2008/944/CFSP.

### 8.2.5 Efficiency

**Four respondents<sup>412</sup> reported that there are fees associated with applying for an export authorisation by an individual or company.**

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Regulation 258 and in Identifying illegal firearms and components coming from third countries.

<sup>408</sup> One representative from brokers/dealers.

<sup>409</sup> One representative from brokers/dealers.

<sup>410</sup> Two representatives from brokers/dealers.

<sup>411</sup> For "firearms manufactured before 1899" one representative from broker/dealers answered "yes, sometimes" to the survey question "Have you ever experienced a situation in which procedures under Regulation 258 have been applied to transfers of:", whereas one representative from broker/dealers and three from Manufacturers selected the option "no, never". Concerning "state to state transactions or transfers", one representative from broker/dealers selected the option "yes, sometimes" whereas one representative from broker/dealers and one from Manufacturers selected the option "no, never".

<sup>412</sup> Five respondents provided an answer to the question "Are there any fees associated with applying for an export

**Table 17 – Reconciliation of OPC questions with Evaluation Criteria**

OPC Question	Evaluation Criterion
Do you consider that you have enough information regarding Regulation 258?	Overall
Overall do you think that Regulation 258 has improved the external EU trade of civilian firearms, parts and essential components and ammunition?	Effectiveness
In your opinion how important are the following objectives: Ensuring an efficient functioning of the international civilian firearms trade and Ensuring a high level of security in the EU	Relevance
Which competent authority is primary responsible for implementing Regulation 258 in your country	Overall
Which were the three most common destination countries where you / your organisation applied to export civilian firearms during 2016?	Overall
Did you / your organisation receive authorisations or rejections to applications for authorisation of export of civilian firearms in 2016? How many authorisation? How many rejection?	Overall
How often did you / your organisation experience the following situations when EXPORTING firearms in the last 2 years? Using a scale of 1=never, 2= rarely, 3= sometimes, 4= often, 5= very often, please rate	Effectiveness
When IMPORTING firearms, did you encounter issues not linked to the placing on the market (i.e. not subject to Directive 91/477 on the control of the acquisition and possession of weapons)? (Using the following scale: 1= disagree, 2=partially disagree, 3=neither agree nor disagree, 4= partially agree, 5= fully agree.	Effectiveness
Have you ever experienced a situation in which procedures under Regulation 258 have been applied to transfers of: fully automatic weapons; semi-automatic weapons; state to state transactions or transfers; firearms specially designed for military use; weapons destined for the armed forces; firearms to collectors or museums; deactivated firearms; firearms manufactured before 1899	Coherence
If yes, please specify	Coherence
If you are aware of cases where a similar export was approved by one Member State after having been denied in another, please provide any details you are willing to share.	Effectiveness
Are there any fees associated with applying for an export authorisation by an individual or company in your country? How much? Would you like to add some details?	Efficiency
Do you think rules in different EU Member States are sufficiently harmonised with regard to import, export, transit and transshipment?	Effectiveness
How effective do you believe authorities are in relation to: Ensuring that exporters comply to all procedures set by Regulation 258; Identifying illegal firearms and components coming from third countries; Cooperating with other Member States to effectively control over the manufacturing, marking, import and export of firearms	Effectiveness
To what extent do you believe Regulation 258 addresses the following risks? Diversion during export; Diversion during import; Approval in one MS of an application previously denied in another; Regulatory competition between Member States; Other (please specify)	Relevance

authorisation by an individual or company in your country?”. Only one representative from brokers/dealers answered “no”.

OPC Question	Evaluation Criterion
If you are aware of cases where a similar export was approved by one Member State after having been denied in another, please provide any details you are willing to share	Effectiveness
To what extent do you agree with the following statements related to Regulation 258? It lacks clarity in the definitions; It lacks clarity on the export or import procedures; It lacks clarity on the economic operators' responsibilities all along the value chain; It lacks clarity on the interplay of Regulation with other EU legislation relevant to firearms (e.g. Firearms Directive; Dual-use regulation; Common position on military exports, Transfers Directive 2009/43/EC)	Relevance
Have you / your organisation ever experienced a situation in which it was unclear if the firearms you were seeking to export were covered by the controls on civilian firearms exports in accordance with Regulation 258 or controls on the export of military equipment covered by the Council Common Position 2008/944/CFSP	Coherence
Please feel free to upload a concise document, such as a position paper. The maximal file size is 1MB. Please note that the uploaded document will be published alongside your response to the questionnaire which is the essential input to this open public consultation. The document is an optional complement and serves as additional background reading to better understand your position.	Overall
If you wish to add further information -within the scope of this questionnaire- please feel free to do so here.	Overall

**Annex 9. Table of correspondence between findings and evaluation criteria**

Provision	No. of finding	Subject of the finding	Evaluation criteria				
			Relevance	Effectiveness	Efficiency	Coherence/ Complementarity	EU Added Value
Definitions and scope	1	Correspondence definition of firearms across MS		x			
	2	Inconsistency in classification of firearms ML - Reg. 258		x		x	x
	3	Correspondence definition of parts across MS	x	x			
	4	Correspondence definition of components across MS	x	x			
	5	Correspondence definition of ammunition across MS		x			
	6	Correspondence definition of deactivated firearms across MS	x				
	7	Correspondence definition of export across MS		x			
	8	Correspondence definition of temporary export across MS	x	x			
	9	Correspondence definition of export authorisation across MS				x	
	10	Correspondence definition of exporter across MS		x			
	11	No evidence of application of exemptions to export authorisation (e.g. deactivated firearms, antique firearms, replicas)	x	x			
	12	Heterogeneous approach in export of exemptions and tracing requirements	x				
Export authorisation	13	Involvement of different authorities in the issuance of the export authorisation		x	x		
	14	Average time required to process export authorisation across MS		x			
	15	Difficulties and delays in the issuance of export authorisation across MS			x		
	16	Period of validity of the export authorisation vs import authorisation		x			
	17	Heterogeneous period of validity of export authorisation across MS		x		x	
	18	Application of a single procedure across MS		x		x	x
	19	Heterogeneous approach in implementing single procedure across MS	x	x		x	

Provision	No. of finding	Subject of the finding	Evaluation criteria				
			Relevance	Effectiveness	Efficiency	Coherence/ Complementarity	EU Added Value
	20	Inclusion of basic information in the export authorisation across MS	x	x		x	
	21	Request for additional information and documentation across MS	x				
	22	Use of single and multiple licences across MS	x		x		
	23	Verification of import authorisation across MS		x			
	24	Performance of additional checks on import authorisation across MS		x			
	25	Previous criminal record as a reason for refusal of the export authorisation		x			
	26	Definition of end-use across MS		x			
	27	Difficulties related to the assessment of end-use across MS		x			x
	28	Reported cases of refusals for export authorisation across MS		x			
	29	Communication of reasons for refusals		x			
	30	Check for denials across MS		x			
	31	Coverage of existing national legislation on export authorisation across MS			x		
Transit procedures	32	Application of the written notice of no objection across MS		x			
	33	Difficulties in the application of the request for written notice of no objection			x		
	34	Heterogeneous approaches for application of implied consent across MS		x	x	x	x
	35	Costs related to transit procedures			x		
	36	Coverage of existing national legislation on transit across MS			x		
Import procedures	37	Request for marking firearms at import across MS		x			
	38	Marking to allow the identification of the first country of import across MS		x			
	39	Application of confirmation of receipt from third countries across MS		x			
	40	Coverage of existing national legislation on import procedures across MS			x		

Provision	No. of finding	Subject of the finding	Evaluation criteria				
			Relevance	Effectiveness	Efficiency	Coherence/ Complementarity	EU Added Value
Customs formalities	41	Request of export authorisation as a proof of authorised trade across MS		x			
	42	Request for translation of documents across MS			x		
	43	Occurrence of suspension of export process across MS		x			
	44	Coverage of existing national legislation on customs formalities across MS			x		
Simplified procedures	45	Application of simplified procedures across MS		x			x
	46	Documents requested to hunters and sport shooters under simplified procedures across MS		x	x		
	47	Use of the European Firearms Pass across MS		x	x		
	48	Application of simplified procedures for categories other than hunters/sport shooters across MS		x	x		
	49	Difficulties related to the application of simplified procedures across MS		x			
	50	Coverage of existing national legislation on simplified procedures across MS			x		
Penalties	51	Coverage of penalties and sanctions for infringements across MS		x			
	52	Differences in penalties foreseen across MS		x			
	53	Presence of criminal penalties vs administrative sanctions across MS		x			
	54	Variability of criminal penalties and administrative sanctions across MS		x			
	55	Coverage of existing national legislation on penalties across MS		x			
Record-keeping	56	Keeping of information on firearms import and export across MS		x			
	57	Recording of different particulars enabling the identification of firearms across MS				x	
	58	Heterogeneous period of record-keeping across MS		x			
	59	Sharing of responsibilities for record-keeping across MS authorities		x			
	60	Differences in repositories used for record-keeping across MS		x		x	

Provision	No. of finding	Subject of the finding	Evaluation criteria				
			Relevance	Effectiveness	Efficiency	Coherence/ Complementarity	EU Added Value
	61	Use of digital or paper format for record-keeping across MS		x		x	
	62	Coverage of existing national legislation on record-keeping across MS			x		
Information sharing and administrative cooperation	63	Implementation of information sharing across MS		x			
	64	Main reasons for information sharing among MS		x			
	65	Types of information most frequently shared among MS		x			
	66	Actors involved in the information sharing		x			
	67	Channels use to notify denials among MS	x	x	x		
	68	Use of COARM online system to check denials among MS		x			
	69	Use of COARM online system to notify denials among MS		x			
	70	Heterogeneous approaches for information sharing within MS		x			
	71	Administrative cooperation practices across MS		x			



## Annex 10. List of stakeholders involved in the study

### 10.1 Stakeholders answering the survey<sup>413</sup>

Category	Member States	Institution
MS competent authority	AT	Federal Ministry of Science, Research and Economy
MS competent authority	BE	Région Wallonne   Walloon Region - Directorate-General for Economic Affairs, Employment and Research - Licencing Unit
MS competent authority	BE	Service public régional de Bruxelles - Direction des Relations extérieures, Cellule licences
MS competent authority	BE	Flemish Department of Foreign Affairs - Strategic Goods Control Unit
MS competent authority	BG	Ministry of Interior -Directorate Public Order - Control of Hazardous Materials Unit
MS competent authority	CY	Ministry of Energy, Commerce, Industry and Tourism - Imports/ Exports Licencing Section- Trade Service
MS competent authority	CY	Ministry of Finance- Department of Customs and Excise
MS competent authority	CZ	Ministry of Industry and Trade – Licencing office
MS competent authority	DK	Ministry of Justice(Justitsministeriet) <sup>414</sup>
MS competent authority	EE	Ministry of Interior
MS competent authority	EL	Ministry of Citizens Protection and Public Order - Directorate of State Security
MS competent authority	ES	Ministerio de Economía, Industria y Competitividad
MS competent authority	FI	National Police Board of Finland-Firearms Administration
MS competent authority	FR	Direction Générale des Douanes et Droits Indirects (DGDDI) - Bureau E2 – Prohibitions et protection du consommateur
MS competent authority	HR	Ministry of Economy - Directorate for Trade and Internal Market
MS competent authority	HU	Hungarian Trade Licencing Office - Authority of Defence Industry and Export controls - Defence Industry & Coventional Arms Trade Control Department
MS competent authority	IE	Department of Jobs, Enterprise and Innovation - Licencing Unit
MS competent authority	IT	Ministry of Interior - Department for Public Security – Office for police administrative and social affairs
MS competent authority	LT	Ministry of Interior Police department, Public Police Board - Public Police Board Licence division
MS competent authority	LU	Ministère de la Justice - Direction des affaires pénales - Service des Armes prohibées
MS competent authority	LV	State Revenue Service - National Customs Board - Customs permit control division - Restrictions and prohibitions control unit
MS competent authority	LV	Ministry of Foreign Affairs - Commissioner of Police
MS competent authority	NL	Ministry of Security and Justice - Directorate General for the Administration of Justice and Law Enforcement
MS competent authority	NL	Belastingdienst/Douane Groningen/Centrale Dienst
MS competent authority	PL	Unit for Qualified Trading - Department for Permits and Licences - Ministry of Interior and Administration
MS competent authority	PL	Trade Department of Strategic Goods - Department of Customs - Ministry of Finance
MS competent authority	PT	Police Security Public /Department of Weapons and

<sup>413</sup> It includes respondents to both the web-based and the short survey.

<sup>414</sup> Input also collected from the Ministry of Foreign Affairs and the Ministry of Taxation

Category	Member States	Institution
MS competent authority	PT	Explosives Tax and Customs Administration - Customs Regulatory Services Directorate
MS competent authority	RO	Ministry of Home Affairs - General inspectorate of the Romanian police
MS competent authority	SE	Swedish Inspectorate of Strategic Products (ISP) <sup>415</sup>
MS competent authority	SK	Ministry of Economy of the Slovak Republic-Department of Trade Measures
MS competent authority	SK	Financial Administration Criminal Office
MS competent authority	SI	Ministry of the Interior - European Affairs and International Cooperation Service
MS competent authority	SI	Customs Administration of the Republic of Slovenia
MS competent authority	UK	Export Control Joint Unit (Policy Unit) -Department for International Trade (DIT)
MS competent authority	UK	Import Licencing Branch – Department for International Trade (DIT)
Firearms user	DE	Forum Waffnenrecht e. V.
Firearms user	DE	German Shooting Sport Federation (Deutscher Sch)
Firearm user	DE	National German Hunters Association (Deutsche Jagdschutz-Verband e.V. - DJV)
Firearm user	DE	Firearms United/German Rifle association
Firearm user	DK	Danish Hunters' Association
Firearm user	EL	Hellenic Hunters Confederation
Firearm user	FI	Finnish Hunters Association
Firearm user	FI	The Arms Historic Society of Finland (SAHS)
Firearm user	FR	Union Française des Amateurs d'Armes (UFA)
Firearm user	IT	Associazione Utilizzatori delle Armi (AUDA)
Firearm user	MT	Federation for Hunting & Conservation Malta (FKNK)
Firearm user	SE	Nordic Hunters' Alliance
Firearm user	SE	Swedish Pistol Shooting Association (SPSF)
Firearm user	SE	Swedish Hunters Association
Firearm user	UK	British Association for Shooting and Conservation (BASC)
Firearm user	INT	European Federation of Associations for Hunting and Conservation (FACE)
Firearm user	INT	International Shooting Sport Federation (ISSF)
Firearms producers/exporters	BE	New Lachaussee
Firearms producers/exporters	DE	VDB Verband Deutscher Büchsenmacher und Waffenfachhändler e.V.
Firearms producers/exporters	DE	Verband der Hersteller von Jagd-, Sportwaffen und Munition (JSM)
Firearms producers/exporters	ES	AA Asociacion Armera
Firearms producers/exporters	ES	Asociacion Empresarial para la Caza y Tiro (ASECATI)
Firearms producers/exporters	ES	Beretta Benelli Iberica, S.A.
Firearms producers/exporters	ES	Grulla Armas
Firearms producers/exporters	ES	Maxam Outdoors
Firearms producers/exporters	FR	Nobel Sport S.A.

<sup>415</sup> Two separate contributions.

Category	Member States	Institution
exporters		
Firearms producers/exporters	IT	Beretta
Firearms producers/exporters	IT	Bruni
Firearms producers/exporters	IT	Caesar Guerini Srl
Firearms producers/exporters	IT	Cheddite S.R.L.
Firearms producers/exporters	IT	Fabarm S.P.A.
Firearms producers/exporters	IT	Pedersoli/Consorzio Armaioli Italiani (CONARMI)
Firearms producers/exporters	IT	World Forum on Shooting Activities (WFSA)/ Associazione Nazionale Produttori Armi e Munizioni Sportive e Civili
Firearms producers/exporters	IT	Chiappa Firearms S.R.L.
Firearms producers/exporters	NL	Dutch Association of Weapon Dealers (NVW Nederlandse Vereniging voor de Wapenhandel)
Firearms producers/exporters	UK	The Gun Trade Association Lt.
Firearms producers/exporters	INT	The European Association of the Civil Commerce of Weapons - AECAC

## 10.2 Stakeholders involved in interviews

Category	Member States	Institution
EU officials	EU	European External Action Service
EU officials	EU	DG GROW
EU officials	EU	DG TAXUD
MS competent authority	AT	Federal Ministry of Science, Research and Economy/Export Control Authority
MS competent authority	BE	Flanders - Flemish Department of Foreign Affairs, Strategic Goods Control Unit
MS competent authority	CZ	Ministry of Industry and Trade
MS competent authority	DE	Federal Office for Economic Affairs and Export Control <sup>416</sup>
MS competent authority	DE	Criminal Customs Authority
MS competent authority	DK	Ministry of Justice
MS competent authority	FR	Ministère des Affaires étrangères et du Développement international, contrôle des armements et de l'OSCE
MS competent authority	HU	Government Office of the Capital City Budapest
MS competent authority	IT	Ministry of Interior – Department for Public Security – Office for police administrative and social affairs
MS competent authority	IT	State Police – Questura di Brescia
MS competent authority	LU	Ministry of Justice
MS competent authority	NL	Ministry of Security and Justice
MS competent authority	NL	Customs Authority
MS competent authority	PL	Ministry of Interior
MS competent authority	SE	Swedish Inspectorate of Strategic Products (ISP)

<sup>416</sup> Two separate contributions.

Category	Member States	Institution
MS competent authority	UK	Department for International Trade <sup>417</sup>
Firearms user	DE	Firearms United and Triebel GbmH
Firearms user	FR	Fédération Française de Tir
Firearms user	SE	Swedish Sport Shooters
Firearms user	SE	Swedish Hunting Association
Firearms user	INT	FACE
Firearms producers/ exporters	ES	MAXAM
Firearms producers/ exporters	FR	French Association of Arms dealers
Firearms producers/ exporters	IT	Associazione Nazionale Produttori Armi e Munizioni Sportive e Civili/ World Forum on Shooting Activities <sup>418</sup>
Firearms producers/ exporters	IT	COMPANY BRUNI SRL
Firearms producers/ exporters	IT	Fratelli Tanfoglio
Firearms producers/ exporters	IT	Fabbrica d'armi Pietro Beretta
Firearms producers/ exporters	IT	Consorzio Armaioli Italiani/Fabbrica d'armi Pedersoli
Firearms producers/ exporters	IT	Air Sea Service srl
Firearms producers/ exporters	UK	The Gun Trade Association Ltd.
Firearms producers/ exporters	INT	The European Association of the Civil Commerce of Weapons - AECAC
Experts	EU	Europol
Experts	INT	Interpol
Experts	INT	Organization for Security and Co-operation in Europe (OSCE)
Experts	INT	Flemish Peace Research Institute
Experts	INT	Norwegian Initiative on Small Arms Transfers (NISAT)
Experts	INT	Small Arms Survey <sup>419</sup>
Experts	INT	South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC)
Experts	INT	Transcrime
Experts	INT	Conflict Armament Research
Experts	USA	Department of Justice-ATF (Bureau of Alcohol, Tobacco, Firearms and Explosives)

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<sup>417</sup> Two separate contributions.

<sup>418</sup> Two separate contributions.

<sup>419</sup> Two separate contributions.

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