

Canada's robust firearms import/export regulations already comply with the recommendations of the UN Firearms Protocol – the Criminal Code Firearms Marking Regulation goes too far.

On June 1st, 2017 Canada's Criminal Code Firearms Marking Regulation, passed into law in 2004, will come into force. The Firearms Marking Regulation is the Canadian Government's interpretation of the recommendations contained in the UN Firearms Protocol, which Canada signed in 2001.

The goal of the UN Firearms Protocol is laudable – preventing shipments of small arms from illegally ending up in conflict zones around the world – one which Canada's sporting arms industry supports. However, it is our position that Canada's Firearms Marking Regulation is both unnecessary and deeply flawed. The Coming-into-Force of this regulation as written will cause catastrophic damage to thousands of licenced and lawful Canadian small businesses operating in the shooting sports sector.

Canada is already a world leader in the regulation of the import/export of firearms and already complies with the stated objectives of the UN Firearms Protocol.

In Canada, prior to importing any firearms a business must first apply for and receive a business firearms licence. To acquire a business firearms licence, a comprehensive application must first be completed listing the business activities the business will undertake.

The application requires that "Employees MUST have a valid Possession and Acquisition Licence for the class of firearm(s) handled." So prior to an application being made for a business licence the applicant has passed a screening at both the federal and provincial levels.

The business application requires that the applicant receive acknowledgement from both the local policing agency and local government to confirm the awareness of the proposed business activities taking place and confirmation that this is not in violation of any local bylaws.

The Chief Firearms Officer is involved in this process to advise the applicant of the requirements regarding safety, storage, documentation, etc. required to acquire the business firearms licence.

Once all the documentation has been collected and submitted both the application and applicant are screened for any concerns at both the federal and provincial levels. If there are no safety concerns and the documentation is in order the business is issued a business firearms licence which outlines in detail the activities the business is licensed to perform, the conditions/limitations, etc. that the business must follow in conducting its activities.

Now that a business is in possession of a business firearms licence if they wish to directly import firearms they must apply for and receive an International Import Certificate (IIC).

On the application for this IIC they will provide information such as classification of firearm or controlled good they wish to import (non-restricted, restricted, etc.), quantity, manufacture, model, caliber (in the case of a firearm), etc.

The IIC application must include a Firearms Reference Table (FRT) number for the products. The Royal Canadian Mounted Police Canadian Firearms Program-Firearms Investigative and Enforcement Services Directorate issues FRT numbers once a firearm has been reviewed and classified. The government of Canada has spent millions of dollars developing the FRT and it is proudly held up by the R.C.M.P. as being the most advanced and comprehensive firearms identification tool in the world today.

If this falls within the parameters of the businesses licence and the government “approves” of the product the application has been submitted for, the applicant will receive an IIC, which is based on the product/quantities being requested with a timeline within which the goods must be imported.

The IIC can now be supplied to the manufacturer/distributor of the product the applicant would like to import.

Normally in conjunction with the International Import Certificate, the business will provide a DSP83 Form to the manufacturer/distributor of the products they would like to import. This form is issued by and must be submitted to the US Directorate of Defense Trade Controls division of the Political-Military Affairs Bureau of the US Department of State to ensure that “foreign consignees and foreign end-users in defense trade will not re-export, resell or otherwise dispose of significant military exports outside of an approved foreign country. On the DSP83 the Canadian importer will provide the information once again of the product they wish to import along with the importer information and state an “end user” of the products. Depending on the classification of the product being imported and the stated “end user” multiple signatures may be required other than the businesses representative.

The manufacturer/distributor must in most cases now make application to the government of the manufacturer/distributor country to acquire an export permit which advises their government that they will be shipping goods to another country and that the receiving country is aware of the importation of these goods by providing the IIC and DSP83 which was supplied. In some cases, depending on the value of the IIC, the exporter must go before a federal body for consent prior to the export permits being approved. This is to ensure control on the product being exported and prevent “stockpiling” and “trafficking” of firearms and controlled goods.

The home government of the manufacturer/distributor at this point reviews the licensing of the applicant for the export permit, the licensing of the business listed on the import permit, the goods being exported, quantities being exported, the stated end user, country, etc. to ensure that all documentation and parties involved do not cause any concerns. In some cases

the government of the manufacturer/distributor has placed provisos on the export permit limiting in some cases the end user that these products can be sold to.

If successful in acquiring the export permit the manufacturer/distributor will now produce and ship the product to the applicant of the import permit or their named importer. The manufacturer/distributor will provide shipping documents, which identify the products being shipped and typically include the manufacturer, model, serial number, quantity, etc.

This documentation is now provided to a carrier, which is licensed to transport the classification of products being ordered.

The carrier must now make arrangements to have the products enter Canada and ensures that with Canada Customs all documentation (IIC, Export permit, Business Licence, etc.) match the product being imported into Canada.

Canada Customs at this time has opportunity to inspect all products to ensure their legality, markings, etc. to ensure compliance with all Canadian Laws. If all documentation is acceptable and the product is compliant with all Canadian Laws the product is released to the business. The classification of the products, end user, etc. will at this time dictate the recording, transfer, etc. of the products that have been imported.

In most cases the import of this product is restricted for use and resale in Canada only. If the importer wishes to sell the imported products outside of Canada it is normally required that they apply to the Canadian Government for an export permit and in some cases, the original country of manufacture requires a re-export permit. Any firearms product manufactured in the United States for example (about 70% of the firearms imported into Canada), are not allowed to be re-exported out of Canada without permission from U.S. Homeland Security. This allows both Canada and the Country of manufacture to be aware of any re-exporting of imported product tracking the "end user" and classification of goods being sold. As a result, no Canadian importers are re-exporting firearms out of Canada; it's simply too difficult and not profitable.

Most businesses involved in importing firearms also employ a verifier. This individual has completed a course approved by the federal government and are trained in the ability to identify a firearm utilizing the government's Firearms Reference Table. The Verifier also checks that each firearm received matches the IIC and complies with all Canadian regulations.

As shown above the licensing and permitting that is currently in place, ensures all individuals in the transaction are vetted by the government, the firearms are uniquely identifiable, and the government has controlled this process at each step.

We currently have laws in place that address, among other things, unauthorized importing and exporting, trafficking, assembling, tampering with serial numbers. These laws can be viewed by visiting the link below:

<http://laws-lois.justice.gc.ca/eng/acts/C-46/page-19.html#h-37>

What the UN Firearms Protocol Recommends vs. what the Canadian Firearms Marking Regulation requires.

United Nations: 8 June 2001 - 55/255. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime

Article 8 -Marking of firearms

1. For the purpose of identifying and tracing each firearm, States Parties shall:

(a) At the time of manufacture of each firearm, either require unique marking providing the name of the manufacturer, the country or place of manufacture and the serial number, or maintain any alternative unique user-friendly marking with simple geometric symbols in combination with a numeric and/or alphanumeric code, permitting ready identification by all States of the country of manufacture;

(b) Require appropriate simple marking on each imported firearm, permitting identification of the country of import and, where possible, the year of import and enabling the competent authorities of that country to trace the firearm, and a unique marking, if the firearm does not bear such a marking. The requirements of this subparagraph need not be applied to temporary imports of firearms for verifiable lawful purposes;

(c) Ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the appropriate unique marking permitting identification by all States Parties of the transferring country.

In 2001 the United Nations Convention against Transnational Organized Crime adopted the text above as a section of the Firearms Protocol.

In section 1(a) it demands a marking that permits identification of the manufacturer, country of manufacture and a serial number. Note that there is no specification as to the type of marking.

In section 1(b) it specifies a marking that permits identification of the country of import and if possible, the year of import. It also requires a unique marking.

To address these sections, we find that virtually all modern firearms, imported into Canada, already comply with these information requirements.

On virtually all commercial firearms imported into Canada the "Make" of the firearm is marked on the gun. Note that the "Make" permits identification of the "Manufacturer" and "Country of Manufacture" i.e., a firearm marked with the "Make" of Browning could easily be identified as being manufactured by Miroku of Japan.

Virtually all firearms currently imported into Canada have a serial number unique to that make and model of firearm. Records kept by commercial manufacturers of firearms are so detailed they can provide specific information as to what country the guns were shipped to, when they were shipped, when they were released by CBSA and who received them. All this information is contained by the serial number and the tremendous tracing and inventory systems currently in use.

It must also be noted that the government of Canada has spent millions of dollars developing the Firearms Reference Tables (FRT.) The FRT is proudly held up by its creators, the RCMP, as being the most advanced and comprehensive firearms identification tool in the world today.

To summarize, Canada and its licenced and lawful firearms industry, already fully comply with the demands being made by the United Nations Firearms Protocol.

On December 23rd, 2004, the Government of Canada introduced the new regulations on Firearms Marking. By their own admission, they were intended to comply with the ***United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime and the Inter- American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials.***

This law, postponed for 11 consecutive years by three consecutive governments, will come into force **June 1, 2017** and its effect on the Canadian firearms industry could be disastrous. This program will require ALL imported guns to be marked with the name of the manufacturer, and the country and year of importation. Canada's marking regulations (**passed into law** but not yet in force) are the following:

The above appears in Canada's Marking Regulations. The intention of the Canadian Regulations is to put "CA- 15" and the name of the "manufacturer" on the frame or receiver of all newly imported guns. It doesn't sound like much, but in truth, its impact on Canadian industry is somewhat different and considerably darker than what appears by a simple reading of the above text. It may spell the end for much of Canada's legitimate gun industry.

MARKING OF IMPORTED FIREARMS (Bill C-10A Regulations)

3. (1) Every individual, business or public service agency that imports a firearm shall ensure that the **firearm is marked in accordance with section 4 before the 60th day after its release as defined in subsection 2(1) of the Customs Act or before transferring the firearm, whichever occurs first.**

(2) Subsection (1) does not apply to (a) a firearm imported by an individual under section 35 or 35.1 of the Act; (b) a specially imported firearm; (c) a protected firearm; (d) a firearm that was initially exported from Canada by an individual or business if the individual or business retained ownership of the firearm while the firearm was outside Canada; or (e) a firearm that was initially exported from Canada by a public service agency and that was retained by that agency as an agency firearm while the firearm was outside Canada.

MANNER OF MARKING 4. (1) The firearm shall be marked by permanently stamping or engraving on the **firearm's frame or receiver** the word "Canada" or the letters "CA" and (a) in the case of a manufactured firearm, the name of the manufacturer and the firearm's serial number; and (b) in the case of an imported firearm, the last two digits of the year of the importation.

(2) The markings shall (a) be legible; (b) have a depth of at least 0.076 mm and a height of at least 1.58 mm; and (c) subject to subsection (3), be visible without the need to disassemble the firearm.

(3) In the case of an imported firearm, the Registrar, on application by the individual, business or public service agency that is importing it, shall grant the applicant an exemption from the requirement set out in paragraph (2)(c) if (a) marking the firearm in a place that is visible only by disassembling the firearm is consistent with the current practices of the manufacturer of that model of firearm;

(b) the firearm does not provide a visible space suitable to stamp or engrave the markings; (c) the firearm is rare; (d) the firearm is of a value that is unusually high for that type of firearm and that value would be significantly reduced if the markings were visible without disassembly; or (e) the firearm is imported by a business that holds a licence for the purpose of using the firearm in respect of motion picture, television, video or theatrical productions or in publishing activities.

Please note that Section 3. (1) explicitly states the firearm must be marked " **before the 60th day after its release**" from CBSA. This effectively precludes any possibility of the firearm having Canadian import markings added at time of manufacture. The spirit of the regulation

must also be considered too. The spirit being the addition of an import marking, it makes little sense to add the marking prior to its arrival in Canada. In this situation, the marking becomes an export marking from the country where the gun was manufactured, not an import marking to denote actual entry into Canada. Indeed, one can assume a myriad of possibilities where firearms made in other countries but stamped with Canadian markings could be diverted and Canada blamed for the diversion.

The regulation states in 4. (1) (A) that; **in the case of a manufactured firearm, the name of the manufacturer.**

While it is commonly assumed that all new firearms have the name of the manufacturer on them we must be careful not to confuse "Manufacturer" with "Make." A case in point; Browning (a time-honoured name in Canada) firearms are all marked with the Browning name. But that is the "make" (brand name), not the manufacturer. Very few Browning firearms have the name of the actual manufacturer on them because the information is meaningless. If a trace needs to be conducted on the firearm, Browning has that information, not the (several) companies that actually build firearm for Browning.

The marking of firearms imported into the United States has been addressed for a long time in one form or another; imports represent a small portion of their domestic consumption, and several foreign manufacturers such as Beretta, SIG and Glock have built production facilities in the U.S. to obtain a stronger market base. In Canada, this situation does not exist and we have a very small production industry for domestic consumption and lower imports due to our restrictive legislation and smaller population base.

Canada represents between 2- 3% of the world market for firearms. The vast majority of our firearms imports are new firearms. Even if the current regulations were changed to permit the useless exercise of marking during manufacturing, many manufacturers cannot mark especially for Canada, a very small percentage of their global market. Indeed, many of the world's largest manufacturers have already told us that we will have to put the U.N. Marking on ourselves.

The next issue is: How do we apply the Marking?

Canada does not have a large firearms manufacturing industry for domestic consumption, and Canadian importers do not have existing facilities that could be modified for this purpose, since they do no manufacturing. The time and cost to do this would be borne by the importers who would then have to pass these costs on to the Canadian consumer.

The only practical method of adding markings is by Computer Numerically Controlled (CNC) Laser Engraving. Firearms are made out of many different materials with different finishes (case hardened, camouflage film, plating etc.) and only the computerized laser has the versatility to engrave different grades of steel, aluminum, titanium, alloys, brass, case-hardening, plated metals and polymer frames/receivers. High grade engraved receivers are another issue entirely.

However, the specialized laser-engraving units are expensive, with costs approaching \$100,000 each. Also, the jigs, fixtures and retainers for each make and model of manufactured firearms will be different from each other, and cost approximately \$3,000 each. There are literally thousands of different models required and each model of firearm will require three fixtures per machine to maintain production.

This costly process is also very time-consuming if attempted in Canada. Each importer would have to prepare a proper “factory area”, something they do not have in terms of sufficient space in existing facilities, or the profit margins to move to larger single purpose premises. In addition, specifically trained CNC employees (with restricted firearms licences) would be needed solely for the purpose of marking imports with “CA 15” in addition to employees (with licences) whose job would be the handling and inventorying of the firearms.

The actual marking process, if the necessary fixtures and laser equipment were available, entails that each firearm be removed from inventory, removed from its packaging, cleaned, disassembled if necessary, placed into a specific type fixture, engraved as required, refinished as needed and re-greased, repackaged and returned to inventory with the correct labeling to display its marked status..

All of this must also, of course, be scrupulously paper-worked. A time/cost analysis conducted with a major Canadian importer of firearms showed a best time of **20 minutes per firearm** to do these tasks, or some 24 guns per eight-hour shift. Factor this into the hundreds of thousands of firearms imported into Canada every year and the problem is obvious. Major importers will need several skilled full time employees (specifically trained CNC operators) doing nothing but applying the cursed U.N. mark to the guns, with expensive CNC machines, using expensive fixtures for each model of gun, in expensive new premises.

To stay in business, this enormous cost can only be absorbed by being passed on to the consumer, and **the cost of a new firearm in Canada will skyrocket, perhaps more than \$200 per firearm in the first five years, per CSAAA estimates. This is the average cost applicable to any firearm regardless of retail price. It also makes the assumption that the importer can withstand the astronomical set up costs and is still in business.**

This means a new firearm retailing at \$150 will rise to about \$350, while one retailing at \$1,000 will rise to about \$1,200. Based upon recent imports, this could result in a net cost to Canada’s firearms industry/consumers of approximately \$60 million per year after the set up costs.

As if that isn’t enough, how will sellers of these firearms deal with the chronic corrosion problems (the laser burns through the firearm’s finish, of course). Marking the guns this way will certainly invalidate the factory warranty, and repair costs will therefore fall upon the Canadian industry. There may even be serious metallurgical issues caused by the application of intense heat to certain materials. Certainly any collector’s value will be destroyed and the resale value will be correspondingly reduced.

It is the position of the CSAAA that Canada's Firearms Marking Regulations adds nothing to Canada's already robust import/export regulation nor would post import marking add anything to ability of domestic or foreign law enforcement authorities to trace firearms entering or leaving the country. All firearms imported into to Canada or exported from Canada can be easily tracked through the import/export process by virtue of their unique serial number.

More importantly the Firearms Marking Regulations jeopardize a small business community at a time when our domestic economy is already vulnerable and should be the government's top priority. The loss of these businesses/employers would mostly affect smaller, rural and northern communities – all of which the government have said are key areas of focus and investment.

The CSAAA, along with its industry partner, the CSSA, remain strongly opposed to the implementation of the Firearms Marking Regulations and respectfully request an opportunity to continue discussions of this issue with the office of the Minister of Public Safety at the Minister's very earliest convenience.

Submitted by the CSAAA Firearms Marking Committee

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