

Collaboration between Mexico and the European Union to Fight Illicit Firearms Trafficking: A Strategic Perspective*

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Introduction

The Mexican Government headed by President Andrés Manuel López Obrador ascribes high priority to fight illicit firearms trafficking to Mexico, as a fundamental basis for guaranteeing peace and citizen security in the country. To that end, under the leadership of Foreign Minister Marcelo Ebrard, Mexico's foreign policy is deploying an unprecedented diplomatic effort, in coordination with all the relevant entities of the Government, aimed at clarifying the characteristics of illicit firearms trafficking to Mexico and, on the basis of the best intelligence information, articulating and promoting effective strategies for bilateral, regional and international cooperation to help diminish this scourge.

In this context, the strengthening of political dialogue and cooperation in this area with the European Union (EU) and its Member States has become one of the main objectives of Mexico's policy towards this bloc.¹ Our diplomatic work in Brussels, the head office of the EU institutions, including

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¹ Marcelo Ebrard Casaubón, Opening message at the 31st Meeting of Ambassadors and Consuls, Mexico City, January 7, 2020.

the European Council (at the level of Heads of State), the Council of the European Union (in its various ministerial and high-level configurations), the European Commission, the European External Action Service (EEAS) and the European Parliament, as well as the headquarters of the World Customs Organization, is essential.

Illicit flows

As a group, the European Union is the world's second largest manufacturer of weapons in the world, exporting 26% of the global total.² According to data from the Stockholm International Peace Research Institute (SIPRI), the United States ranks first, while Russia ranks third.³ It is also noted that since 2004, illicit firearms trafficking flows from Europe to Africa, the Americas, Asia, and Oceania have increased.⁴ According to figures from the Ministry of National Defense, between 2014 and 2019, 51% of the arms recovered in Mexico came from the United States, 27% from Europe and 22% from the rest of the world. Europe was the main source of small arms (77% of European arms seized).

According to official records from the last five years, the illicit firearms that reach Mexico from Europe come mainly from six producers: Spain (23%), Italy (20%), Romania (14%), Germany (12%), Austria (12%) and Belgium (8%).⁵ Nearly half of these arms enter Mexico via the United States, as authorized exports from EU countries to this country, and are

² "EEUU reforzó su liderazgo como exportador mundial de armas en el último lustro," *El Diario*, March 9th, 2020, at https://www.eldiario.es/politica/EEUU-reforzo-liderazgo-exportador-mundial_0_1004049769.html (date of access: March 13, 2020).

³ See Stockholm International Peace Research Institute (SIPRI), "TIV of Arms Exports from the Top 50 Largest Exporters, 2019-2019", in SIPRI Arms Transfers Database, 20 March 2020, at http://armstrade.sipri.org/armstrade/html/export_toplist.php (date of access: March 20, 2020).

⁴ Jana Arsovska. "Introduction: Illicit Firearms Market in Europe and Beyond", in *European Journal on Criminal Policy and Research*, vol. 20, no. 3, September 2014, p. 296.

⁵ Fabián Medina, "Las rutas de armas ilícitas a México desde Europa a través de EU (IV)," *Milenio*, February 6, 2020, at <https://www.milenio.com/opinion/fabian-medina/columna-fabian-medina/rutas-armas-ilicitas-mexico-europa-eu-iv> (date of access: March 16, 2020).

then trafficked to Mexico, in most cases under the protection of criminal firearms trafficking networks,⁶ which take advantage of the laxity of US regulations for the acquisition of arms.⁷

But in addition to their illicit trafficking abroad, European weapons are also diverted within their own territory to be used to commit crimes. According to official reports, the weapons used in the terrorist attacks in Paris, in November 2015, and Brussels, in May 2014, were weapons recycled or stolen from legitimate owners.⁸ It is therefore also in the interest of European authorities to strengthen the implementation of their legal frameworks and intelligence tools to bolster their internal security.

In view of the foregoing, within the framework of the comprehensive strategy that Mexico is promoting to fight illicit firearms trafficking, Mexican diplomacy is actively promoting the consolidation of mechanisms for collaboration with the European Union and with the European countries where these weapons are manufactured. Particularly, we are agreeing to make the best use of existing instruments and to create new methods for the exchange of information and cooperation to track secured weapons, curb their illicit flow and prosecute the criminal networks involved.

Working with the EU institutions is an essential part of these cooperation efforts, especially in light of the opportunities presented by the ongoing strengthening of Mexico's bonds with E.U. cooperation platforms with third countries, as well as our approaches to the Community information, coordination and harmonization mechanisms established to align and standardize EU Member States' policies and actions in this matter.

⁶ Robin Eveleigh, "European Gun Makers Are Quietly Supplying the Mexican Drug Wars," in *Vice*, January 28, 2020, at https://www.vice.com/en_us/article/3a8dxb/european-gun-makers-are-quietly-supplying-the-mexican-drug-wars (date of access: January 30, 2019).

⁷ Bryan Schatz, "Amazingly, There Is No Federal Law Against Gun Trafficking," in *Mother Jones*, 13 October 13, 2016, at <https://www.motherjones.com/politics/2016/10/gun-trafficking-law-maloney-kenneth-thompson/> (date of access: February 17, 2020).

⁸ Jason Burke, "Military Grade Firearms Increasingly Available to Terrorists in Europe—Report," *The Guardian*, April 18, 2018, at <https://www.theguardian.com/world/2018/apr/18/arms-race-criminal-gangs-helping-terrorists-get-weapons-report-warns> (date of access: February 1st, 2019).

Regulatory Framework

The production, export, commercialization of arms and the fight against their illicit trafficking fall in the first instance within the internal jurisdictions of the EU Member States. While the European Council, the Council of the European Union, the European Commission, the EEAS and the European Parliament have a key role in the development of E.U. Member States' public policies in this area, their scope is limited by the preponderance of national regulations, since Article 346 of the Treaty on the Functioning of the European Union gives Member States the power to take the necessary measures in relation to the production and trade in arms to protect their national security interests.⁹

The Council of the European Union, in its configuration as the Justice and Home Affairs Council, promotes cooperation between Member States on legal matters, including the fight against illicit firearms trafficking. In turn, in convergence with the Council, the European Commission, through its Directorate-General for Migration and Home Affairs (DG HOME), cooperates to fight terrorism and organized crime, through police cooperation and the strengthening of regulatory frameworks against illicit trade in firearms.¹⁰ In 2010, the Council decided to establish a four-year cycle to give greater strength and continuity to the fight against international organized crime through the coordination of national law enforcement agencies, the E.U. institutions and different Community agencies, as well as 'relevant third parties', and established, with the support of Europol, the European Multidisciplinary Platform against Criminal Threats (EMPACT),¹¹ one of whose working groups is dedicated to the combat against illicit firearms trading.¹²

⁹ Sophia Besch and Beth Oppenheim, *Up in Arms: Warring over Europe's Arms Export Regime*, London/Brussels/Berlin, Centre for European Reform, September 2019, p. 10.

¹⁰ European Commission, "Migration and Home Affairs: About Us", at <https://ec.europa.eu/home-affairs/who-we-are/about-us> en (date of access: February 3rd, 2020).

¹¹ Council of the European Union, *The EU Policy Cycle to Tackle Organised and Serious International Crime*, Brussels, Council of the European Union, 2018.

¹² "EU Policy Cycle-Empact", in Europol, at <https://www.europol.europa.eu/empact> (date of access: January 31st, 2020).

Also, in November 2018, the European Union updated its previous strategy (2005) to combat illicit trade in firearms, small arms and light weapons (SALW). It aims to direct European action in an integrated, collective and coordinated manner towards measures to prevent and curb the illicit acquisition of SALW and their ammunition by terrorists, criminals and other unauthorized actors, and to promote accountability and responsibility regarding the legal arms trade. This new EU strategy will guide the actions of its institutions and Member States, as well as the full implementation of the U.N. Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Arms (PoA) and the International Traceability Instrument (ITI) at national, regional and global levels.¹³

The actions foreseen by the strategy are the following: strengthening the regulatory framework, implementing norms in different phases of the firearms life cycle, monitoring the implementation of existing norms and strengthening international cooperation and assistance.¹⁴

With regard to the last element, at regional level, the strategy foresees the strengthening of law enforcement capacities to combat illicit firearms trade in Member States, through information exchange and operational cooperation between national law enforcement agencies, especially between countries along the main trafficking routes to and from the EU. The latter is of particularly interesting to Mexico.

In a broader perspective, it is interesting to note that, just like Mexico, the EU is a party to the Arms Trade Treaty (ATT) and its Firearms Protocol, and actively promotes the implementation of the 2030 Agenda for Sustainable Development, whose Goal 16 includes the purpose of significantly reduce illicit financial and arms flows.¹⁵

¹³ Council of the European Union, "Council Conclusions on the Adoption of an EU Strategy Against Illicit Firearms, Small Arms and Light Weapons and their Ammunition", 13581/18, November 19, 2019.

¹⁴ Nils Duquet, *The 2018 EU SALW Strategy: Towards an Integrated and Comprehensive Approach*, Stockholm, EU Non-Proliferation and Disarmament Consortium (Non-Proliferation and Disarmament Paper, 62), 2019, p. 7.

¹⁵ General Assembly of the United Nations, "Transforming Our World: The 2030 Agenda for Sustainable Development", A/RES/70/1, October 21st, 2015.

Without undermining the normative and operational efforts of the European Union, there are still ample areas of opportunity to improve the alignment between E.U. regulation and the national policies of its Member States.¹⁶ The European regime, known as the *Common Position*, sets out eight general criteria that Member States must meet in order to grant export licenses. However, as defense issues are a matter of national sovereignty, the Common Position is not fully implemented.¹⁷ Thus, export policies are not the same in the various E.U. states and, among other systemic shortcomings, not all countries update existing databases on the licenses they grant.

A better alignment between community legislation and action and the policies of its Member States would make it possible to underpin the effectiveness of their fight against illicit firearms trafficking, ensuring the proper traceability and monitoring of arms manufactured on European territory and by European firms outside it, in accordance with relevant international agreements, particularly the ATT.

Cooperation platforms

In addition to their internal efforts and multilateral commitments, the EU and its Member States have mechanisms for assistance and cooperation with their closest neighbors: the Balkans, Turkey, Eastern Europe, the Middle East and North Africa. These mechanisms seek to strengthen the rule of law to prevent firearms from reaching the illicit market and the hands of organized crime or terrorists. These programs cover actions regarding financing networks, transportation and include cooperation schemes with border and customs authorities.

The European Union and its Member States do not have a structured strategy for the Americas, although they have committed themselves in various forums to improve cooperation and synergies of efforts with Latin America.¹⁸ Addressing this issue is of the highest priority for Mexico.

¹⁶ N. Duquet, *op. cit.*, p. 16.

¹⁷ S. Besch y B. Oppenheim, *op. cit.*, p. 5.

¹⁸ See Council of the European Union, "Council Decision (CFSP) 2018/2010 of 17 December 2018 in Support of Countering Illicit Proliferation and Trafficking of Small Arms, Light

Here are some lines of action to address these challenges, through the existing mechanisms.

In the area of bilateral relations, we are working on the relaunching of the Mexico-European Union High-level Political Dialogue on Security and Justice, which seeks to promote cooperation between the two parties from a comprehensive perspective, with emphasis on supporting specific efforts to combat illicit firearms trade.

Two dialogues have been held to date. The first took place in July 2011 in Brussels and, among other issues, discussed the possible establishment of a contact group on ballistic aspects of European weapons to take a broader view and complement the work being done with the United States. The second took place in May 2016 in Mexico City and reviewed the issues of drugs, citizen security in Central America and the Caribbean, terrorism, cyber-crime and inter-institutional cooperation.

The third dialogue, scheduled for September 2020, is a breakpoint in EU-Mexico cooperation and will address an important set of priority issues, including cyber-security, combating corruption, personal data protection and, mainly, concerted action to effectively combat the trafficking of firearms to Mexico from Europe. For this last purpose, we are working on a specific collaboration agreement, which will include specific measures to make the tracing of weapons more effective and flexible, in support of bilateral efforts with EU Member States, as well as to help implement the export licenses granted by States in terms consistent with the international commitments shared by Mexico and the EU, mainly as the weapons in question pose a high risk of diversion.

At the Latin American regional level, the opportunities offered by the Europe Latin America Technical Assistance Programme against Transnational Organized Crime (EL PACCTO) are noteworthy. This is a cooperation mechanism between the European Union and 18 Latin American countries, including Mexico, whose purpose is to strengthen the fight against

Weapons (SALW) and Ammunition and Their Impact in Latin America and the Caribbean in the Framework of the EU Strategy against Illicit Firearms, Small Arms & Light Weapons and their Ammunition 'Securing Arms, Protecting Citizens', L 322/27, in *Official Journal of the European Union*, December 18, 2018, at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018D2010> (date of access: March 20, 2020).

organized crime through the reinforcement of national capacities, including the exchange of best practices and the creation of appropriate communication channels.¹⁹

It is interesting to note that in the framework of the implementation of the Plan of Action of the Community of Latin American and Caribbean States (CELAC)-EU under the pro tempore presidency of CELAC by Mexico in 2020, we are supporting the efforts of the region to enhance the scope of EL PACCTO and extend its application to all CELAC members, including the Caribbean countries.

In the framework of EL PACCTO, a workshop was held in November 2019 in Mexico City to address the problem of illicit firearms trafficking in Latin America and the EU with a regional vision of the problem and inter-institutional coordination mechanisms among the countries of the region.²⁰ The following proposals emerged from the meeting:

- Foster the use of common tools for traceability, the ballistic study of weapons and the exchange of information.
- Encourage legislative harmonization at the national, sub-regional and regional levels.
- Strengthen inter-institutional coordination.
- Promote patrimonial investigation (location, identification, recovery, confiscation and management of criminal assets).
- Strengthen the exchange of good practices.
- Promote comprehensive public policies to control and prevent the trafficking and illegal use of firearms.
- Create a network of police officers specialized in illicit firearms trafficking between Latin America and the European Union, with the support of Interpol and the EU's EMPACT cooperation platform, dedicated to arms trafficking.

¹⁹ Europe Latin America Technical Assistance Programme against Transnational Organized Crime (EL PACCTO), "About EL PACCTO," at en <https://www.elpaccto.eu/en/about-el-paccto/que-es-el-paccto/> (date of access: February 3rd, 2020).

²⁰ EL PACCTO, "Coordination and Cooperation against Arms Trafficking," November 13, 2019, at <https://www.elpaccto.eu/en/news/espanol-coordinacion-y-cooperacion-contra-el-trafico-de-armas/> (date of access: February 17, 2020).

As part of these efforts, with the support of EL PACCTO, the suitability of creating the Latin American Committee for Internal Security (CLASI) is also currently being explored. This would be an informal structure, inspired by the experience and methodology developed by the Standing Committee on Operational Cooperation on Internal Security (COSI), made up by the Home and Justice Secretaries of each E.U. Member State, as well as representatives of the European Commission and the EEAS and their Latin American counterparts. Relevant E.U. agencies, such as Europol, could participate as observers.

The CLASI would be made up of volunteer Latin American countries at the level of Home, Security, Government or Justice secretaries, ministers and senior officials, depending on each country's aptitudes, and would include among its purposes: to promote dialogue and high-level coordination; to determine common priorities, among which combating illicit firearms trafficking could have a fundamental place; as well as the legal and practical strengthening of AMERIPOL as the central body for police cooperation in Latin America.

Enhanced collaboration in the bilateral Mexico-EU and bi-regional LA-EU and CELAC-EU areas will strengthen information exchanges for tracing seized weapons, such as the iARMS weapons traceability system hosted by Interpol and supported by the EU, which allows police services around the world, including Mexican state security forces, to check whether seized weapons are lost or stolen, or whether they have been trafficked. It will also reinforce support for the police investigation and prosecution of criminal networks responsible for illicit firearms trafficking with the purpose of eradicating it.

Concluding remarks

In the Mexico's foreign policy scene, the ongoing strengthening of our bilateral strategic partnership with the EU is noteworthy, highlighted by the imminent conclusion of the new Mexico-EU Global Agreement, as well as the broad and diversified collaboration that Mexico and the EU support at the bi-regional level in the CELAC-EU and multilateral forums.

In this context, on the basis of shared principles and values, the respective institutional strengths and a significant set of converging political

perspectives and social aspirations, Mexico and the EU are strengthening their collaboration to combat the illicit trafficking into Mexican territory of weapons of European origin and manufactured by European companies in third countries.

The programs and actions that we are agreeing on between Mexico and the EU, outlined briefly in this article, are not only relevant because of their contribution to tackling the illicit flow of European arms into Mexico, but also because they provide us with new perspectives that could be useful for strengthening and enriching Mexico's overall strategy for combating illicit firearms trafficking.

In short, our diplomatic work with the European Union in this area contributes to providing a comprehensive and balanced national strategy for effectively and decisively combating the illicit trafficking of firearms to Mexico, in line with the high priority that the Government assigns to this fundamental challenge to guarantee the security and well-being of the Mexican population.