

Multilateral Forums in Vienna and the Control of Illicit Manufacturing and Trafficking in Firearms*

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The purpose of the Palermo Convention is to promote cooperation to more effectively prevent and combat transnational organized crime.¹

Introduction

The fight against transnational organized crime has always been complex and goes beyond the prosecution and punishment of a criminal act committed by a person or a group of persons. Such criminal acts rarely occur in isolation. A robbery or a murder usually goes hand in hand other with crimes such

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¹ The complexity of the ecosystem in Vienna and at the multilateral level in terms of controlling illicit arms production and trafficking is reflected in the United Nations Convention against Transnational Organized Crime, as can be seen in the Preamble to its Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts, Components and Ammunition: “*Aware* of the urgent need to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts, and components and ammunition, owing to the harmful effects of those activities on the security of each State, region and the world as a whole, endangering the well-being of peoples, their social and economic development and their right to live in peace, *Convinced*, therefore, of the necessity for all States to take all appropriate measures to this end, including international cooperation and other measures at the regional and global levels.” Furthermore, the Wassenaar Arrangement reflects the way in which the international arms control regime has been built and consolidated, on the basis of blocks that reinforce or evolve previous initiatives; its initial elements state that this arrangement “has been established in order to contribute to regional and international security and stability, by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilising accumulations.”

as illicit trafficking in firearms and sometimes forms a prelude to committing larger crimes such as drug trafficking, trafficking in persons or illicit trafficking in species, as well as leading to the commission of new crimes such as money laundering or corruption. Therefore, the effective combatting of crime requires the involvement and adequate coordination of the various bodies responsible for the administration of justice and the application of the rule of law.

This complexity at national level is multiplied at the international level, as the fight against transnational organized crime requires the cooperation and coordination of various national sovereignties with regulatory legal frameworks in place. In recent years, the complexity of effectively tackling transnational organized crime has grown due to factors such as greater exposure of individuals to other national realities, including greater ease of travel and establishing business relations in other countries; advances in information and communication technologies; the universalization and digitization of banking and financial services; and the accelerated development of existing technologies and the emergence of new ones such as artificial intelligence, the Internet of things, 3D printers, blockchains or crypto-currencies.

These and other developments make it easier for criminal organizations to access weapons, including high-powered weapons, enhancing their firing capacity, increasing harm and violence towards individuals, communities and the environment, and testing the capacity of law enforcement to react and negotiate. This challenge is particularly pressing in developing countries, as for States it means allocating resources, not for development but for combating criminal organizations whose firepower far exceeds the resources available to law enforcement, particularly at local level.

Already in the Preface to the 2004 edition of the United Nations Office on Drugs and Crime (UNODC) of the United Nations Convention against Transnational Organized Crime (Palermo Convention), the then United Nations Secretary-General Kofi Annan warned that “criminal groups had wasted no time in embracing today’s globalized economy and the sophisticated technology that goes with it. But our efforts to combat them have remained up to now very fragmented and our weapons almost obsolete”.²

² Kofi A. Annan, “Preface,” in UNODC, *United Nations Convention against Transnational Organized Crime and its Protocols*, New York, UN, 2004, p. iv.

Thus, among the main tasks carried out by Mexico's representatives in multilateral forums—in this case in Vienna—devoted to preventing and combating the illicit manufacture and trafficking of firearms are those of promoting the strengthening of international cooperation and the use of the instruments available to States, as well as incorporating the discussion of new challenges and trends in this area.

Two of the main multilateral mechanisms on preventing and combating the illicit manufacturing and trafficking of firearms, their components and ammunition are based in Vienna: the Group of Experts on Firearms established by the Conference of Parties (COP) to the Palermo Convention to facilitate the full implementation of the Protocol on the subject, which complements the Convention and the Wassenaar Arrangement.

Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (Firearms Protocol)³

In May 2001, the United Nations General Assembly adopted the Firearms Protocol. The fact that this instrument was finalized and consequently opened for signature and entered into force after the Palermo Convention, the Protocol against the Smuggling of Migrants by Land, Sea and Air, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, reflects the complexity of dealing with an issue in which legitimate national security concerns are intertwined with the commercial interests of companies involved in the manufacture and marketing of firearms, their parts, components and ammunition.

To date, the Firearms Protocol has 118 Parties, including the European Union. It has also been signed by 52 States, including Australia, Canada,

³ U.N. General Assembly, "Protocol against the Illicit Manufacturing of and Trafficking of Firearms, their parts, components and ammunition, supplementing the United Nations Convention against Transnational Organized Crime," A/RES/55/255, June 8, 2001, available at <https://undocs.org/en/A/RES/55/255> (date of access: March 13, 2020).

China, Germany, Romania and the United Kingdom,⁴ some of which are countries of origin of arms arriving in Mexico, even illicitly.⁵

The purpose of the Firearms Protocol is “to promote, facilitate and strengthen cooperation among States Parties in order to prevent, combat and eradicate the illicit manufacturing and trafficking of firearms, their parts and components and ammunition” (Article 2).

The measures provided for in the Firearms Protocol include the obligation of States Parties to adopt legislative or other measures to establish as criminal offences the illicit manufacturing and trafficking of firearms, as well as the counterfeiting or obliteration of, or removal of the markings from, a firearm, in addition to attempts to commit such offences and the organization, direction, aiding, abetting, facilitating or counselling of the commission of such offences.

It also obliges Parties to take measures to prevent firearms, their parts, components and ammunition that have been illicitly manufactured or trafficked from falling into the hands of unauthorized persons, to establish a system of registration, marking, safe disposal, export and import licensing or authorization systems, as well as measures applicable to international transit, and to adopt both security and preventive measures. The Protocol promotes the exchange of information and cooperation at the regional, binational and international levels, as well as with manufacturers, commercial agents, importers, exporters, brokers and commercial carriers, in addition to training and technical assistance provided by other States or international organizations. It also calls upon States Parties to consider establishing systems for regulating the activities of those engaged in brokering activities.

⁴ Information on the status of ratifications of the Protocol is available at UNODC, “The Firearms Protocol”, at <https://www.unodc.org/unodc/en/firearms-protocol/the-firearms-protocol.html> (date of access: March 13, 2020).

⁵ The Mexican Foreign Ministry (SRE), “México y países de la Unión Europea inician cooperación en materia de flujo ilícito de armas y seguridad. Comunicado Conjunto Relaciones Exteriores-Seguridad”, press release, Mexico City, December 9, 2019, at <https://www.gob.mx/sre/prensa/mexico-y-paises-de-la-union-europea-inician-cooperacion-en-materia-de-flujo-ilicito-de-armas-y-seguridad> (date of access: March 13, 2020).

Since the negotiations aimed at the elaboration and adoption of the Palermo Convention and its three protocols, Mexico has been an active promoter of the international control of firearms trafficking.

Mexico signed the Protocol on December 31, 2001 and deposited its instrument of ratification on April 10, 2003. And during the COP 5 of the Palermo Convention, held in 2010, Mexico promoted the adoption of the resolution 5/4,⁶ “Illicit manufacturing of and trafficking in firearms, their parts and components and ammunition”, through which and among other actions, promoted the establishment of the Group of Experts on Firearms, with the mandate of:

- Facilitating the implementation of the firearms Protocol through the exchange of experiences and practices among experts and officials involved in this field, including identifying successful practices, weaknesses, gaps and challenges, as well as prioritizing issues and relevant topics in the fight against firearms trafficking;
- Making recommendations to the COP on how States Parties can fully implement the provisions of the Protocol;
- Assisting the Conference in providing guidance to its secretariat on the activities to be undertaken, including the development of technical assistance tools related to the implementation of the Protocol, &
- Making recommendations to the COP on how this Group could better coordinate with the various international bodies responsible for combating the illicit manufacturing and trafficking of firearms, their parts, components and ammunition, in supporting and promoting the implementation of the Protocol.

The six meetings held between 2012 and 2018 by the Group of Experts, formed during the inception of the Protocol, produced reports that provided States Parties with important recommendations aimed at strengthening the international regime for preventing and combating the illicit

⁶ U. N. Convention against Transnational Organized Crime, “Resolution 5/4: Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition”, available at https://www.unodc.org/documents/organized-crime/COP_5_Resolutions/Resolution_5_4.pdf (date of access: March 13, 2020).

manufacturing and trafficking of firearms, established since the Protocol entered into force.

Wassenaar Arrangement ⁷

The agreement to establish the Wassenaar Arrangement was reached at a high-level meeting held on 19 December 1995, in the Dutch town of the same name, and was announced in a statement at the Peace Palace in The Hague. From the outset, the headquarters of the Wassenaar Arrangement Secretariat were established in Vienna. The inaugural plenary meeting was held there in April 1996.

The Wassenaar Arrangement contributes to regional and international stability by promoting greater transparency and responsibility in transfers of conventional arms and dual-use goods and technologies. These controls make it possible to combat terrorism and prevent the diversion of firearms to unauthorized end-users.

Within the framework of the Arrangement and with the aim of preventing unauthorized transfers, participating States apply export controls to materials included in the lists of dual-use items, technology and ammunition.

In order to facilitate a common understanding of the risks associated with transfers, the participating States exchange information on a regular basis and are therefore required to report, every six months, on their arms transfers and transfers/denials of dual-use items and technologies to recipients outside the Agreement. Currently, the Participating States (Parties) to the Agreement are Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, India, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, the United Kingdom and the United States.

⁷ For more information on the Wassenaar Arrangement please see <https://www.wassenaar.org>.

The 2011 plenary meeting agreed on Mexico's entry into the Agreement, which was formalized on January 20, 2012 and was based on Mexico's strong and long-standing commitment to global peace and stability, and to disarmament and non-proliferation. The positive outcome of the evaluation of the functioning and effectiveness of the federal Government's national export control system also allows Mexico to have access to advanced technologies to bolster national development.

Final considerations

The Seventh Meeting of the Group of Experts on Firearms was originally scheduled for March 17 & 18, 2020.⁸ When it is held, it will be conducted in line with most of the previous meetings of the Group and will be chaired by Mexico, as a reflection of its commitment to that mechanism and to strengthening cooperation and understanding of the new challenges facing the international community in this area.

For its part, Mexico's participation in the Wassenaar Arrangement will continue to reflect its faith in international cooperation mechanisms to establish effective measures to prevent the proliferation of weapons and their components.

In addition to efforts in those frameworks, Mexico will continue to promote Vienna-based forums and mechanisms focusing on other types of crime, such as drug trafficking, trafficking in persons, illicit trafficking in flora and fauna, crimes committed in the fisheries, forestry and mining sectors and corruption, also address the relationship between the committing of those crimes and the illicit manufacture of and trafficking in firearms.

These forums include the U.N. Commission on Crime Prevention and Criminal Justice, the U.N. Commission on Narcotic Drugs, the U.N. Congress on Crime Prevention and Criminal Justice, the COP to the Convention against Transnational Organized Crime and its Expert Groups

⁸ The meeting was postponed due to the health crisis caused by COVID-19. At the time of writing, there are still no known proposed dates for its rescheduling.

on Trafficking in Persons and on Trafficking in Migrants, in addition to the abovementioned forums on Firearms, and the COP to the U.N. Convention against Corruption.

The meetings of the aforementioned forums will continue to promote the international community's commitment to and development of appropriate tools and mechanisms for strengthening cooperation in preventing and combating the illicit manufacture and trafficking of firearms, their parts, components and ammunition. In 2020, there are several opportunities to advance this objective: the celebration of the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice, in Kyoto, Japan; the Twenty-ninth Session of the United Nations Commission on Crime Prevention and Criminal Justice, and the COP 10 of the Palermo Convention, where the questionnaire on the implementation of the Firearms Protocol, for the mechanism for the review of the implementation of that Convention and the protocols that complement it, will be approved.