



# Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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## Working Group on Firearms

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**Investigative and prosecutorial approaches in  
countering illicit firearms trafficking and related  
forms of crime within and across jurisdictions**

### **Investigative and prosecutorial approaches in countering illicit firearms trafficking and related forms of crime within and across jurisdictions**

**Background paper prepared by the Secretariat**

#### **I. Introduction**

1. Effective measures for the investigation and prosecution of illicit firearms trafficking offences constitute, together with the implementation of comprehensive firearms control regimes, the core of combating illicit firearms trafficking and bringing perpetrators to justice. Detecting, investigating and adjudicating firearms trafficking remain challenging tasks because most illicitly trafficked firearms only surface after they have been used in other criminal contexts, such as organized crime activities, drug trafficking, terrorism or other violent crimes. Consequently, most investigative and prosecutorial efforts tend to focus on the principal offences, neglecting to investigate the illicit origin of the firearm used.

2. Unless firearms are seized directly at borders or when being illicitly trafficked, investigative leads on the basis of which investigations into firearm trafficking are initiated, either beyond or in parallel to the immediate charges of illicit possession, are rare. According to the *UNODC Study on Firearms 2020*, most illicit firearms are recovered in criminal contexts other than illicit trafficking and are seized on the ground of illicit possession predominantly.

3. Over the past few years, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and its Working Group on Firearms have discussed measures to strengthen the criminal justice response to firearms trafficking and related crimes (see [CTOC/COP/WG.6/2016/2](#) and [CTOC/COP/WG.6/2017/3](#)), addressed interlinkages between illicit firearms trafficking and terrorism and organized crime (see [CTOC/COP/WG.6/2018/2](#)) and

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\* [CTOC/COP/WG.6/2020/1](#).



integrated relevant mandates and recommendations for various criminal justice measures in their respective reports.<sup>1</sup>

4. Furthermore, through the meetings of its Community of Practitioners,<sup>2</sup> in which African, Latin American and Western Balkan countries participated, the United Nations Office on Drugs and Crime (UNODC) has promoted and facilitated the exchange of experiences and good practices among criminal justice practitioners from various countries on the detection, investigation and prosecution of firearms trafficking cases and related crimes, as well as on ways to enhance international cooperation in this field.

5. With a view to facilitating discussions among experts on the various approaches taken by authorities and good practices developed to counter efficiently illicit firearms trafficking and related forms of crime within and across jurisdictions, the present background paper builds on relevant provisions of the 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 (Firearms Protocol) and its parent Convention, and elaborates on investigative and prosecutorial approaches to and measures for countering illicit firearms trafficking and related forms of crime.

6. The paper also draws on the experience and good practices collected and shared by practitioners from various countries during meetings organized by the UNODC Global Programme on Firearms over the past three years. These include predominantly the following meetings of the Community of Practitioners: (a) regional meeting held in Algiers from 5 to 7 December 2017, with practitioners from Algeria, Mali, Morocco, Mauritania, the Niger and Portugal; (b) regional meeting held in Belgrade on 12 and 13 December 2017, with criminal justice practitioners from the Western Balkan region; (c) regional meeting held in Vienna on 29 and 30 May 2018, with prosecutors from the Western Balkan region, Italy and the United Kingdom of Great Britain and Northern Ireland; (d) subregional meeting held in Niamey from 2 to 4 July 2018, with criminal justice practitioners from Algeria, Burkina Faso, Mali, the Niger and Nigeria and Italian experts; (e) quadrilateral meeting on strengthening regional cooperation in Latin America to prevent and combat the trafficking in firearms and related crimes, held in Mexico City from 5 to 7 June 2019, with practitioners from Argentina, Brazil, Colombia and Mexico; (f) regional meeting held in Mexico City from 5 to 7 November 2019, with practitioners from Central America and the Caribbean (Costa Rica, Cuba, Dominican Republic, El Salvador, Guatemala and Honduras), Mexico and the United States of America; and (g) regional meeting held in Mexico City from 13 to 15 November 2019, with practitioners from Argentina, Brazil, Chile, Colombia, Ecuador, Guyana, Mexico, Paraguay, Peru and Uruguay.

7. Moreover, examples and good practices reflected in the present paper were shared during the following meetings: (a) regional meeting on firearms data collection and analysis for south-east European, Eastern European and neighbouring Member States on monitoring illicit firearms trafficking flows, held in Vienna on 17 and 18 July 2018; (b) international conference on “Addressing illicit trafficking and access to firearms in the context of organized crime and terrorism: towards a new paradigm”, held at Wilton Park, United Kingdom, from 23 to 26 January 2019; and (c) cross-regional meeting on the illicit trafficking in firearms, their parts and

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<sup>1</sup> At its tenth session, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime endorsed the recommendations adopted by the Working Group on Firearms at its fifth and sixth meetings, held in Vienna from 8 to 10 May 2017 and on 2 and 3 May 2018, respectively (see [CTOC/COP/WG.6/2017/4](#) and [CTOC/COP/WG.6/2018/4](#)).

<sup>2</sup> The Community of Practitioners countering firearms trafficking and related crimes is an informal transnational and interdisciplinary network. The network facilitates interaction and the sharing of knowledge and case-based experiences among firearms control and criminal justice practitioners in detecting, investigating, prosecuting and adjudicating illicit firearms flows, related crimes and terrorism through face-to-face meetings, such as those referred to in the present document, capacity-building activities and online tools.

components and ammunition from, to and across the European Union, held in Vienna on 7 and 8 October 2019.

## **II. Investigative and prosecutorial approaches in countering illicit firearms trafficking and related forms of crime within and across jurisdictions**

8. The present section provides an overview of the different components of investigative and prosecutorial approaches in countering illicit firearms trafficking and related forms of crime by focusing on four main aspects: (a) national strategies, policy responses and normative frameworks; (b) institutional set-up and coordination mechanisms; (c) investigative approaches and operational measures, including under the Firearms Protocol and its parent Convention; and (d) strategic measures to enhance operational action.

### **A. National strategies, policy responses and normative frameworks**

#### **1. Comprehensive strategies on firearms embedded in wider national crime policies**

9. Countering illicit firearms trafficking offences requires a varied set of investigative and prosecutorial approaches and strategies, tools and timely and effective cooperation mechanisms.

10. During the quadrilateral meeting among Argentina, Brazil, Colombia and Mexico, practitioners recommended taking holistic approaches to countering illicit trafficking in firearms and highlighted the importance of integrating national strategies on firearms into wider crime policies linked to national security and national development plans.

11. Colombia has developed a national policy that includes measures to counter illicit firearms trafficking and its links to drug trafficking, illegal mining and terrorism, among others. The strategy is based on a multipronged approach aimed at disrupting illicit flows of weapons, dismantling criminal organizations and networks, depriving criminals of their illicit assets through confiscation, and monitoring and preventing further crimes through enhanced understanding and analysis of the phenomenon, data analysis, information- and knowledge-sharing and the use of technical tools.

12. The European Union Policy Cycle for 2018–2021 includes illicit firearms trafficking as one of its 10 priorities.<sup>3</sup> The approach of the European Union to firearms trafficking<sup>4</sup> is part of this policy framework and develops around a wide range of operational actions and initiatives supported by several member States that act as drivers and co-drivers. In November 2018, the Council of the European Union also adopted a specific strategy against illicit firearms, small arms and light weapons and their ammunition.<sup>5</sup>

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<sup>3</sup> See European Union Agency for Law Enforcement Cooperation (Europol), Crime areas and trends, EU policy cycle: EMPACT, “Robust action to target the most pressing criminal threats”, available at [www.europol.europa.eu/](http://www.europol.europa.eu/); and European Council, Council of the European Union, Infographics, “Infographic: EU fight against organized crime, 2018–2021”, available at [www.consilium.europa.eu/](http://www.consilium.europa.eu/).

<sup>4</sup> See European Commission, Migration and Home Affairs, Policies, Organized Crime and Human Trafficking, “Trafficking in firearms”. Available at <https://ec.europa.eu/>.

<sup>5</sup> 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” (November 2018).

## **2. Keeping abreast of emerging trends and modus operandi, and periodically assessing the responsiveness of national legislative and regulatory frameworks on firearms and related crimes**

13. Comprehensive legal frameworks in line with international instruments, such as the Firearms Protocol and its parent Convention, are an important precondition for preventing and countering the diversion of and illicit trafficking in firearms and their illegal acquisition by criminal or terrorist groups.

14. Equally important are the monitoring of new trends and modalities of trafficking and technological innovations and conducting regular reviews of national policy and regulatory frameworks, as well as risk assessments, with a view to monitoring the overall threat environment and determining whether specific aspects of the regulatory and criminal justice regime require adjustments. Such a legislative review may also contribute to the harmonization and cross-fertilization of various legal frameworks on firearms trafficking and related forms of crime. It also includes an assessment of the responsiveness of existing legislative and regulatory frameworks to new and emerging threats, such as those posed by gas and alarm weapons or the deactivation or illicit reactivation of acoustic expansive weapons, Flobert and any other weapon subject to any kind of conversion; the diversion of firearms from their legal trade; illicit manufacturing done by 3D printers; the trafficking in firearm parts and components through parcel service delivery or involving the Internet, the darknet or other technological advancements (see [CTOC/COP/WG.6/2020/2](#)).

15. The harmonization of legal frameworks among countries is, in this connection, another important condition for establishing common definitions, criteria and rules that enable States to cooperate more effectively with one another and prevent the risk of criminals and terrorists exploiting legal loopholes and discrepant legislation.

16. By way of example, following the terrorist attacks in Europe in 2014 and 2015, the European Union identified important loopholes in its legal framework and that of its member States with regard to deactivation standards and the regulation of the possession of certain weapons (such as gas and alarm pistols) that enabled terrorists to acquire legal weapons susceptible to being illegally reactivated or converted into live firing weapons. In response to that legislative review, Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons was amended by Directive (EU) 2017/853 of the European Parliament and of the Council of 17 May 2017.

## **3. Addressing interconnected threats in an integrated manner**

17. Taking a holistic approach to addressing illicit firearms trafficking has multiple advantages, as it allows linking this crime to other criminal manifestations that are closely associated with or play an enabling role in the commission of firearms trafficking offences, as well as crimes fuelled by the availability of illicit weapons, such as organized crime and terrorism.

18. At one of the aforementioned meetings, experts acknowledged the growing arms-crime-terrorism nexus and the facilitating role played by illicitly trafficked firearms in the genesis and commission of those crimes. Consequently, they emphasized the need to critically assess current approaches and strategies in order to prevent and counter the illicit trafficking in and diversion of firearms and to move from traditional single-threat-based approaches to more comprehensive and integrated paradigms that take into account the broader socioeconomic and criminological context of those dynamic and mutually interacting threats, as well as their increased impact on peace, security and development.

19. At the same meeting, experts also noted that improved efforts had to be directed not only towards the effective implementation of international instruments against firearms trafficking, terrorism and organized crime, but also towards addressing the links between those various threats, with a view to combining strategies to counter arms trafficking, terrorism and organized crime into comprehensive approaches that

supported anti-organized crime and counter-terrorism efforts, reinforced current firearms control mechanisms and built greater resilience to crime and terrorism. Other interlinkages that Member States may wish to consider are between firearms trafficking on the one hand and gang criminality, human trafficking, migrant smuggling, violent extremism and wildlife and environmental crimes, among others, on the other hand.

20. Addressing the economic dimension of firearms trafficking is another aspect that is often neglected. Experts gathered at the quadrilateral meeting in Mexico emphasized the importance of further exploring crimes that were closely associated with or even facilitators of illicit firearms trafficking, such as cybercrime, trafficking transactions conducted over the Internet or the darknet and money-laundering, and to address the economic dimension of firearms trafficking. Some experts mentioned that they considered firearms smuggling as an economic, profit-oriented activity and that they used existing legal instruments and frameworks to address it, such as financial investigations into firearms-related transactions and criminal asset recovery.

21. During the aforementioned meetings, experts also considered the need to address the central and enabling role of corruption in various forms of firearms diversion into illicit markets and to apply strict and globally harmonized anti-corruption frameworks to support firearms control and transfer regimes, in order to mitigate risks related to corruption incidents in the theft or loss of firearms from government stocks, as well as in firearms-related transactions among both private and public actors.

## **B. Institutional set-up and coordination mechanisms**

22. Across the globe, countries have developed complex and multilayered institutional systems for regulating and controlling firearms and preventing, investigating and prosecuting cases of illicit firearms trafficking. The actors involved in those systems typically include various police services and prosecutorial directorates and departments and, in some cases, the military services and other specialized units. Such bodies or institutions may play different roles in coordinating efforts to tackle this type of crime, both at the national and international levels.

### **1. Coordination of national policies and action plans**

23. Bodies of a strategic nature oversee and coordinate various efforts to control firearms and counter illicit firearms trafficking at the national level. These bodies are typically inter-institutional entities involved in the implementation of national policies, action plans and initiatives.

24. An example of such an institution is the Coordination Board for the Control of Small Arms and Light Weapons in Bosnia and Herzegovina, an expert inter-institutional body founded by the Council of Ministers of Bosnia and Herzegovina. The task of the Coordination Board is to plan, coordinate, direct and supervise activities for the implementation of the national Strategy for the Control of Small Arms and Light Weapons.<sup>6</sup>

25. Another example is the National Coordination Committee to Prevent, Combat and Eradicate the Illicit Trafficking in Small Arms and Light Weapons in all its Aspects of Colombia, which is responsible, inter alia, for the development and implementation of a national action plan on small arms and light weapons.<sup>7</sup> The Committee was established in 2006 and is chaired by the Ministry for Foreign Affairs.

26. The National Commission to Fight against the Proliferation of Small Arms and Light Weapons of the Central African Republic, which was established in

<sup>6</sup> See Bosnia and Herzegovina, Ministry of Security, “The Small Arms and Light Weapons Control Strategy in Bosnia and Herzegovina, 2016–2020” (Sarajevo, 2016), p. 7.

<sup>7</sup> See Decree 1067 of 26 May 2015 of the Ministry for Foreign Affairs of Colombia. Available at [http://apps.migracioncolombia.gov.co/TEST/Decreto1067\\_2015.pdf](http://apps.migracioncolombia.gov.co/TEST/Decreto1067_2015.pdf).

February 2017 by the Office of the President of the Central African Republic, constitutes a recent example of such a coordination body. The Commission coordinates small arms and light weapons control matters and serves as focal point for international cooperation and information exchange on small arms and light weapons.<sup>8</sup>

## **2. National bodies and single points of contact**

27. Under paragraph 2 of article 13 of the Firearms Protocol, each State party is to identify a national body or a single point of contact to act as liaison between it and other States parties on matters relating to the Protocol. This function relates predominantly to international law enforcement and judicial cooperation and information exchange related to the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. The single point of contact can act as a point of entry that then directs queries to the appropriate agency or can be an office with subject matter expertise.<sup>9</sup> Requirements for the establishment of national contact points with those types of functions are also found in several other international and regional instruments.<sup>10</sup>

28. While the vast majority of the 72 Member States that have communicated their points of contact to the UNODC Directory of Competent National Authorities<sup>11</sup> have designated a specialized department in charge of internal or security issues, organized crime or, specifically, firearms control matters, others have designated the Ministry of Justice or the Ministry for Foreign Affairs as their focal point, the latter sometimes together with an office with subject matter expertise.

29. An example of the merging of coordination and operational functions is the establishment of national firearms focal points in some countries. Such focal points are responsible, inter alia, for collecting and gathering of intelligence and information on firearms; coordinating the collection, analysis, processing and dissemination of firearms information and data at the national and international levels, including for the UNODC illicit arms flows questionnaire; producing statistical reports; promoting operational actions on firearms; and facilitating international cooperation.

30. Examples of national firearms focal points show that these bodies can be located in different law enforcement units. For example, in Portugal and Spain, they are located within the weapons legal control unit, whereas they sit within the intelligence and criminal unit in Sweden and within the forensic and ballistic service in the United Kingdom. One example reflecting this multitude of functions is the Department of Arms and Explosives of the Public Security Police of Portugal, which has a firearms control and investigative function, hosts a firearms focal point with a coordination function and engages in transnational information exchange as focal point designated under article 13 of the Firearms Protocol, as well as through the European Multidisciplinary Platform against Criminal Threats (EMPACT), the group of European Firearms Experts and other forums.

## **3. Coordinated investigative and prosecutorial actions and specialized units**

31. While specialized units in charge of the administrative control and licensing of civilian arms, their transfers and disposal and of analysing firearms-related evidence, such as forensic and ballistic labs, exist in most countries, these functions are

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<sup>8</sup> See Decrees Nos. 17.069 and 17.070 of 14 February 2017.

<sup>9</sup> *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto* (United Nations publication, Sales No. E.05.V.2), part four, para. 259.

<sup>10</sup> For example, the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other Related Materials and the various subregional frameworks on small arms and light weapons adopted by African regional economic communities.

<sup>11</sup> The password-protected Directory is accessible to authorized and registered users through the Sharing Electronic Resources and Laws on Crime (SHERLOC) knowledge management portal.

sometimes scattered among various departments or even institutions, thus requiring a high degree of coordination and information exchange to support investigations and prosecutions effectively.

32. One example of integration of various firearms functions into one common structure is the Canadian Firearms Program, established in 2008 under the Royal Canadian Mounted Police. The programme oversees firearm licences and registration, maintains national firearm safety training standards, assists law enforcement agencies and aims to enhance public safety. Moreover, the programme offers a wide spectrum of investigative support services and tools to the police, such as the Firearms Reference Table<sup>12</sup> and assistance with firearms tracing, witness appearance and reference hearings, among others.<sup>13</sup>

33. Furthermore, countries like Brazil and Colombia have established integrated firearms units within their law enforcement structures, including a dedicated tracing centre, which has reportedly had a very positive impact on their investigative efforts. By way of example, the integrated tracing centre of Brazil was established in 2014, within the Federal Police, in response to the growing need to enhance analysis of and support criminal investigations into firearms trafficking cases. The centre traces first and foremost firearms seized in the context of serious crimes, such as organized crime, robbery, drug trafficking and homicides, liaises with international partners and bodies, such as the Bureau of Alcohol, Tobacco, Firearms and Explosives of the United States, the United States Immigration and Customs Enforcement and the International Criminal Police Organization (INTERPOL) Illicit Arms Records and Tracing Management System, and facilitates international cooperation among law enforcement agencies on the tracing and investigation of illicit firearms.

34. In July 2018, the Niger also established a specialized investigative unit on arms-related criminality within its central police service that focuses on the fight against terrorism and transnational organized crime. A first of its kind in the region, this specialized unit works closely with the judicial pool of anti-terrorism and anti-organized crime prosecutors with a view to supporting specifically investigations into illicitly trafficked firearms.

35. Within prosecution services, specialized units dealing specifically with firearms trafficking are less common. At its sixth meeting, the Working Group on Firearms invited Member States to consider establishing multidisciplinary pools of prosecutors in charge of cases involving organized crime, terrorism and trafficking in firearms, in order to better address those interconnected threats (CTOC/COP/WG.6/2018/4, recommendation 9).

36. One example of such a specialized structure is the Italian National Anti-Mafia and Counter-Terrorism Directorate and its decentralized 26 district directorates. Established with the aim of combating organized crime more effectively, the national and district directorates pursue the objectives of concentrating and centralizing organized crime investigations in the hands of specialized prosecutors within highly qualified structures and of promoting the centralized collection of data and information related to organized crime.

37. In Mexico, firearms trafficking offences fall under the competence of the new Public Prosecutor's Office, which recently replaced the Office of the Attorney General of the Republic. Guatemala also has a specialized unit on firearms trafficking, whereas Uruguay has established specialized criminal courts for organized crime, which, since 2014, have also had competence in matters of illicit firearms trafficking. This has reportedly contributed to a greater specialization of national prosecutors on firearms trafficking and related crimes.

<sup>12</sup> The Canadian Firearms Reference Table is a firearms database with more than 130,000 entries that establishes a systematic, standard method of identifying, describing and classifying firearms. It was donated to the International Criminal Police Organization and is regularly updated.

<sup>13</sup> See Royal Canadian Mounted Police, Canadian Firearms Program, *Evaluation: Final Approved Report* (February 2010).

## **C. Investigative approaches and operational measures, including under the Firearms Protocol and its parent Convention**

38. The Firearms Protocol and its parent Convention provide a wide spectrum of measures to foster the investigations and prosecutions of cases related to illicit trafficking in firearms and related forms of crime, at the national and international levels, through various forms of international law enforcement actions or judicial cooperation. The present section describes some key elements and measures provided within the scope of the Firearms Protocol and its parent Convention that support investigative and prosecutorial approaches.

### **1. Proactive, intelligence-led investigations**

39. The Firearms Protocol and its parent Convention provide a range of measures that promote intelligence-led and proactive investigations. During the aforementioned quadrilateral meeting, practitioners exchanged information on their respective investigative strategies and approaches. Noting that a vast majority of the trafficked firearms were intercepted as a result of intelligence information provided by specialized services or source countries, practitioners acknowledged the high importance that their countries attached to the use of criminal intelligence information and proactive investigative approaches for detecting illicitly trafficked items, as well as to international tracing and ballistic analysis work. Experts further emphasized the value of proper investigative plans and instructions for operators to ensure the conduct of systematic firearms-specific interventions, such as tracing and ballistic analysis, combined with specific intelligence and profiling work, to support focused and prioritized investigative actions.

40. Such an approach requires appropriate legislative and institutional frameworks that facilitate and foster proactive investigations and allow practitioners to fully address existing or potential links to other serious crimes. This could be done, for example, by applying successful investigative and prosecutorial tools and strategies and by taking advantage of international cooperation platforms and mechanisms developed to counter organized crime and terrorism, including in the framework of related firearms trafficking offences. Examples of intelligence-led investigations are the Joint Action Days carried out under the EMPACT programme of the European Union Agency for Law Enforcement Cooperation (Europol), which, since 2014, have helped to counter some of the most dangerous organized crime groups in the European Union.<sup>14</sup>

### **2. Strategic importance of firearms seizures**

41. Enabling the confiscation of firearms and related items entails granting the powers to search for and seize such items and to seek the order of a court allowing them to be forfeited or confiscated and eventually destroyed. Both the Convention and the Protocol provide measures for the seizure and final confiscation of illicit firearms and proceeds of crime.

42. From an investigative perspective, it is particularly important that law enforcement authorities be permitted to assume temporary custody or control of firearms, their parts and components and ammunition that are suspected to have been illicitly manufactured or trafficked, so that those authorities may adequately identify, analyse and trace them.

43. At one of the aforementioned meetings, some experts stressed that most of their investigations were initiated as a result of seizures and conducted around the contextual information linked to them. Other experts also recalled the importance of broad legislative frameworks on confiscation and asset recovery, which should also

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<sup>14</sup> See Europol, “EMPACT Joint Action Days generate big results in 2018”, press release of 21 December 2018.

be applicable to offences established under the Firearms Protocol, including financial investigations into money-laundering, illicit financing or illicit enrichment.

### **3. Enhancing intelligence pictures of firearms trafficking**

44. Part of an intelligence-led approach also consists of enhancing the intelligence information and the evidence base on firearms, to support investigative actions and decision-making. Seized firearms, especially those apprehended during cross-border trafficking attempts or in the context of actions against criminal and terrorist activities, can be invaluable pieces of evidence and circumstantial information that can help to identify firearms trafficking routes and patterns, connect incidents with suspects and ultimately uncover and disrupt larger weapons procurement schemes of organized criminal and terrorist groups.

45. Keeping registries and systematically collecting and analysing data on seized firearms and their criminal context are of crucial importance for developing an intelligence picture and enabling the operational use of such data in criminal investigations. Through EMPACT, the European Commission promotes the development of criminal intelligence and tasks the national firearms focal points with coordinating and filling in the UNODC illicit arms flows questionnaire. Increasingly, joint operations, such as the Joint Action Days organized under the EMPACT programme, the new generation of joint INTERPOL-UNODC Trigger operations in Latin America, and the UNODC-facilitated operation KAFO<sup>15</sup> in Burkina Faso, Côte d'Ivoire and Mali, promote the active use and sharing of seizure information for investigative purposes.

46. During the aforementioned meetings, several country delegations from various regions acknowledged the value of recording and analysing seizure data and contextual information, but they also recognized that their countries did not yet have the capacity to maintain and feed centralized registries on seizures. On the other hand, some country delegations stated that seizure information was the starting point of most of their investigations and was shared as soon as possible with source countries and the manufacturing industry, with a view to supporting parallel investigative processes in the other countries and enhancing cooperation to obtain further evidence relevant to proving the trafficking offence. In some countries, seizure data are kept and analysed for investigation and operational use, and where possible georeferenced and integrated into a geographical information system with a view to improving the intelligence picture on routes, trends and patterns of firearms trafficking, and better profiling and prioritizing risk areas, as well as investigative actions and interventions.

47. From the prosecutorial angle, the Italian National Anti-Mafia and Counter-Terrorism Directorate has been developing since January 2018 a research project based on seized firearms analyses, aimed at capturing data and information on the main ways for procuring firearms and on the operating methods of the transnational organizations that manage international firearms trafficking. The goal of this project is to boost the investigations of the district directorates, providing them with the results of a pre-investigative activity to expand investigations into the identification of the main firearms and explosive supply channels, the operational methods of transnational criminal organizations managing this illegal traffic and their links in the country.

### **4. Use of ballistic and forensic analysis**

48. While not explicitly mentioned in the Firearms Protocol, the ballistic and forensic analysis of seized firearms, their parts and components and ammunition constitute an important step in the investigation of firearms-related criminality. Such analyses can help investigators to establish whether a firearm was used in previous crimes, including in another jurisdiction, thus allowing for the determination of

<sup>15</sup> KAFO means “active solidarity” or “union in action” in both Hausa and Bambara, common languages of the three targeted countries.

possible links to crimes that would otherwise appear to have been committed in isolation. This is particularly important in relation to organized crime or terrorist investigations, where a major difficulty lies in the lack of knowledge of the structure and composition of the criminal groups, including their relationship to other groups.

49. A good practice in this regard could be to impose that all firearms, at the time of manufacturing or import, be subjected to ballistic tests and that this information be recorded and gathered together with firearms specific information. Such a “ballistic fingerprint” could greatly support criminal investigations, notwithstanding the fact that any firearm is potentially subject to post-manufacturing manipulation and that single parts and components may be replaced, which could limit the value of this information.

## **5. Tracing**

50. The capacity to trace firearms and the existence of procedures that foster international cooperation in tracing play a crucial role in the investigation and prosecution of criminal offences. The preventive and regulatory requirements for States to mark and record firearms and the related transfers, as well as to establish functioning licensing authorities for the legal manufacturing and transfer of arms and ammunition, are not only geared towards the correct operation of the firearms regime, but also towards the creation of clear conditions to facilitate enforcement and the conduct of related investigations (see [CTOC/COP/WG.6/2014/2](#)).

51. The timely tracing of illicit firearms at the national and, if necessary, international levels enables States to know the history of all legal transfers and movements of a firearm and to detect the moment where the firearm was diverted into the illegal circuit. Broader investigations into firearms and ammunition, including the tracking of firearms-related financial transactions, can provide invaluable contributions and mark a turning point in complex organized crime and terrorism cases.

52. Under paragraph 4 of article 12 of the Firearms Protocol, States parties are required to cooperate in the tracing of firearms, their parts and components and ammunition that may have been illicitly manufactured or trafficked. It is further specified in the Protocol that such cooperation shall include the provision of prompt responses to requests for assistance in tracing such firearms, their parts and components and ammunition, within available means.

53. The importance of tracing has been further underscored by the Conference of the Parties to the Convention and the Working Group on Firearms. For example, in its resolution 9/2, the Conference called upon States parties to use tracing results to conduct in-depth criminal investigations into illicit trafficking in firearms and urged them to consider entering into effective international cooperation arrangements for investigations and prosecutions, including through joint investigative teams. In the same resolution, the Conference also encouraged States parties to provide one another with the broadest possible cooperation in tracing firearms and in investigating and prosecuting their illicit manufacturing and trafficking, including by responding in a timely and effective manner to international cooperation requests relating to tracing and criminal investigations, and in this regard, to consider making use of tracing or facilitation mechanisms, including, as appropriate, the Convention and its Firearms Protocol, and the INTERPOL Illicit Arms Records and Tracing Management System, among others.

54. Despite its recognized importance, and except for those with established firearms tracing centres, most countries struggle to engage systematically in tracing activities. Reasons for this include lack of knowledge, awareness and skills, as practitioners often refer to widespread difficulties among their staff to identify and record the firearms correctly, with the consequence that incomplete or incorrect data entry by front-line officers at times affects the traceability of the firearm.

55. A good practice, currently promoted by UNODC, is the use of standardized template formats that facilitate, from the outset, the correct identification and recording of seized firearms and their criminal context. Another good practice is the use of automated systems that reduce the error of operators. Some experts, for example, reported at one of the aforementioned meetings that their countries operated an advanced record-keeping system, which included a nomenclature with predefined entries based on the technical specifications of firearms by make, type and calibre, which facilitated the correct identification and recording of firearms.

56. Other challenges to tracing are linked to time and resource considerations by investigators who fear that long delays in responses could bring investigations to a halt. As in many jurisdictions with accusatorial criminal procedure systems, prosecutors play a crucial role in initiating international tracing operations and investigating the illicit origin of firearms. It is often the prosecutor who is not sufficiently aware or lacks the technical skills to understand and support tracing operations as a fundamental element in any investigation involving illicit firearms.

57. A good practice to overcome this challenge could be the development of investigative guidelines for both law enforcement and prosecutors that explain the tracing process and make it mandatory for each investigator and prosecutor to inquire systematically about the illicit origin of any seized, found or surrendered firearm every time that they appear in the hands of someone other than its legal owner.

## **6. Measures to enhance cooperation with law enforcement authorities**

58. Other measures to strengthen investigative approaches are those that encourage persons who participate or who have participated in organized criminal groups to cooperate with law enforcement authorities (art. 26 of the Convention).

59. With a view to obtaining insider information, facilitating investigations and obtaining leads on perpetrators and potential witnesses, article 26 of the Convention provides that State parties shall take appropriate measures to encourage persons who participate or who have participated in organized criminal groups: (a) to supply information useful to competent authorities for investigative and evidentiary purposes on such matters as: (i) the identity, nature, composition, structure, location or activities of organized criminal groups; (ii) links, including international links, with other organized criminal groups; and (iii) offences that organized criminal groups have committed or may commit; and (b) to provide factual, concrete help to competent authorities that may contribute to depriving organized criminal groups of their resources or of the proceeds of crime.

60. In mafia-type cases, collaborators play a crucial role in disclosing insights into the criminal organization and supporting investigations. At one of the aforementioned meetings, participants shared information about encouraging results obtained by integrating specific questions on the origins of the seized firearms and on the persons involved as part of the cooperation with mafia “collaborators”.

## **7. Special investigative techniques**

61. Special investigative techniques, such as controlled deliveries and electronic and other forms of surveillance, can constitute important measures to investigate the illicit manufacturing of and trafficking in firearms, their parts and components and related forms of crime, both within and across jurisdictions.

62. Defined as techniques for gathering information in such a way as not to alert the target persons, and applied by law enforcement officials for the purpose of detecting and investigating crimes and suspects,<sup>16</sup> these techniques are especially useful in dealing with sophisticated organized criminal groups because of the dangers and difficulties inherent in gaining access to their operations and gathering information

<sup>16</sup> *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime*, part one, para. 442.

and evidence for use in national prosecutions, as well as in providing mutual legal assistance to other States parties.

63. Under paragraph 1 of article 20 of the Convention, each State party shall, under the conditions prescribed by its domestic law, take necessary measures to allow for the appropriate use of controlled delivery and other special investigative techniques. Paragraph 2 of article 20 provides that appropriate bilateral or multilateral agreements or arrangements for using such techniques at the international level shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

64. In practice, not all special investigative techniques can be equally applied to firearms trafficking cases. Acknowledging the severe consequences of losing firearms during a controlled delivery, practitioners at one of the aforementioned meetings stressed the need to plan the controlled delivery of firearms properly, implement necessary arrangements between the participating countries and ensure a high degree of fluid communication between them. On the other hand, at another meeting, practitioners reported positive results with simulated purchases and use of undercover agents, including from other countries, in order to make the simulation more credible and realistic. Moreover, a good practice in simulating purchases on the darknet comes from Europol, which can support European Union member States, as well as, in certain cases, third countries, in conducting online investigations and simulating purchases online or can provide the financial means to pay for the simulation exercise.

## **8. Information exchange**

65. Articles 12 and 13 of the Firearms Protocol establish a framework for international cooperation and information exchange, which supplements the more general provisions of the Convention. The systematic and spontaneous exchange of information in the area of firearms criminality constitutes an important measure both at the investigative and prosecutorial levels, as it may yield important insights for national authorities and can help them to adapt and strengthen investigative and prosecutorial approaches in countering illicit firearms trafficking and related forms of crime.

66. Under article 12, State parties are also specifically required to exchange information on a wide range of topics that can help to understand, among other things, possible threats related to organized criminal groups, routes and modus operandi, as well as relevant information on authorized dealers, producers and importers. Similarly, the Convention also calls for greater information exchange at all levels by providing for specific types of information that should be exchanged spontaneously and regularly, requiring the establishment of channels of communication among competent authorities and entering into bilateral or multilateral agreements or arrangements on direct cooperation between law enforcement agencies of various State parties (arts. 18 and 27 of the Convention).<sup>17</sup>

67. The importance of spontaneous information exchange was particularly stressed by some practitioners who, at several of the aforementioned meetings, emphasized the great role that such exchange played in their investigative strategy and explained that informal contacts with other institutions and practitioners from other countries were very important and often established very informally, such as through mailing lists, the exchange of telephone numbers or even the use of such social media as WhatsApp groups.

## **9. Joint investigations and operations**

68. Increasingly, the transnational and complex nature of firearms trafficking requires States to enter into cooperation agreements with other States from an early stage for its detection, interception and subsequent investigation and prosecution.

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<sup>17</sup> Ibid., para. 589.

Practitioners have often noted that most cases of transnational trafficking are disclosed thanks to spontaneous information or intelligence information provided by another country and to the subsequent establishment of bilateral or multilateral cooperation mechanisms involving customs, police and prosecutors, leading at times to the establishment, at the national or at international levels, of inter-institutional or cross-national task forces or joint investigative teams that work on the same case.

69. Closer cooperation in the form of joint investigations, with personnel from two or more States, may prove more effective, especially in complex cases. Under article 19 of the Convention, States parties are therefore requested to consider concluding agreements or arrangements on the establishment of joint investigative bodies.<sup>18</sup>

70. Two models of joint investigations are commonly used in practice. Either model can be used as a basis for implementing article 19 of the Convention, and it is for States to decide which model is more appropriate to them.<sup>19</sup>

71. The first model consists of parallel, coordinated investigations with a common goal, assisted by a liaison officer network or through personal contacts and supplemented by formal mutual legal assistance requests in order to obtain evidence. This type of cooperation requires a good degree of coordination to ensure that judicial proceedings in one country do not undermine those in the other.

72. The second model consists of integrated joint investigation teams with officers from at least two jurisdictions. Less frequent than the first, this model includes examples of teams that integrate a foreign law enforcement officer in an advisory or consultancy role or in a supportive role based on the provision of technical assistance to the host State. An actively integrated team would include officers from at least two jurisdictions with the ability to exercise equivalent or at least some operational powers under control of the host State in the territory or jurisdiction where the team is operating. Joint investigation teams are promoted actively among European Union member States and countries from the Western Balkan region.

73. Different from joint investigations are the so-called joint operations. Examples of such operations include the Joint Action Days carried out under the EMPACT programme of EUROPOL, the INTERPOL-UNODC joint Trigger operations and joint operations of more targeted scopes.

74. One practical example of the latter is operation KAFO, which was implemented throughout 2019 by Burkina Faso, Côte d'Ivoire and Mali, with the support of UNODC and INTERPOL. The operation targeted the people and networks behind illicit firearms trafficking and was jointly set up by the three countries, which designated police, customs, border police and prosecution services to plan, implement and follow up on the operation. Prior to the launch of the operation, countries gathered investigative crime intelligence to help to target specific locations for action, including cross-border and bypass points and known firearms trafficking hotspots where cars, buses, trucks and cargo transporters suspected of moving illicit weapons were searched. UNODC is currently supporting those countries in following up on the cases opened as a result of the operation.

## 10. Cooperation through the use of modern technology

75. Criminals and terrorists increasingly exploit new technologies, such as the Internet, the darknet, new developments in the design and material of firearms and their production, to facilitate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. In light of these new and emerging threats, paragraph 3 of article 27 of the Convention provides that States parties shall endeavour to cooperate within their means to respond to transnational organized crime committed through the use of modern technology. The collection and lawful

<sup>18</sup> Ibid., para. 581.

<sup>19</sup> Ibid., para. 596.

use of electronic evidence, including across borders, becomes particularly important in this context, and Europol and UNODC provide specific support to countries in strengthening capacity on, inter alia, cybercrime and online investigations and the use of electronic evidence.

#### **11. Exchange of personnel and experts and posting of liaison officers**

76. Other recommended measures include the exchange of personnel and other experts, including the posting of liaison officers (art. 27, para. 1 (d), of the Convention). Such measures may yield important results in making investigations and prosecutions more efficient. Several country delegations confirmed at the aforementioned meetings the contribution that their liaison officers provided in furthering or initiating in situ investigations and operations. Similarly, liaison magistrates have been used successfully in other countries.

#### **12. Judicial cooperation**

77. Finally, judicial cooperation can enable authorities to obtain evidence abroad in a way that it is admissible domestically. For example, witnesses can be summoned, persons located, documents and other evidence produced and warrants issued. Article 18 of the Convention provides that States parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings, and expands the scope of application to all offences covered by the Convention and the supplementary Protocols and to transnational serious crimes involving an organized criminal group.

78. Extradition complements this array of measures that supports prosecutorial approaches in countering illicit firearms trafficking, as it leads to the return or delivery of fugitives to the jurisdiction in which they are wanted in relation to criminal activities. Article 16 of the Convention provides a detailed framework for extradition and that the Convention may serve as legal basis for extradition, should a bilateral extradition treaty among the concerned State parties not exist. In practice, however, it remains to be seen how many countries have included firearms trafficking among the list of extraditable offences that they have decided to adopt.

### **D. Strategic measures to enhance operational action**

79. During the aforementioned meetings, practitioners noted that proactive investigative approaches could not solely depend on the good will and initiative of single actors but must be encouraged through an enabling environment and measures geared towards such approaches. It is crucial to count on appropriate operating procedures that ensure that all relevant data on firearms, parts and components and ammunition are duly recorded, analysed and traced in order to obtain as much information as possible on the last legal record and the potential link of the items to crimes, and that make specific investigations into firearms trafficking offences compulsory, regardless of whether they happen in conjunction with, independent from or in parallel to ongoing investigations linked to other associated crimes. Such operating procedures should be accompanied by investigative plans that guide operators through all relevant stages of the investigative process, from identification to recording, analysis and tracing of firearms, and allow authorities to collect a body of information and criminal intelligence that can form into an evidence base. Such guidelines and procedures on how to apply various investigative and prosecutorial measures can constitute an important tool for criminal justice practitioners who may not deal with those crimes on a frequent basis.

### III. Conclusions and recommendations

80. The information above shows that adopting effective investigative and prosecutorial approaches is essential to countering illicit firearms trafficking and related forms of crime within and across jurisdictions.

81. The Working Group may wish to consider recommending that the Conference:

(a) Encourage Member States to adopt broad views on illicit firearms trafficking offences that consider their links to other crimes, such as organized crime, terrorism, gang criminality and violent extremism, as well as to their economic dimension, including corruption and money-laundering;

(b) Call upon Member States to develop holistic investigative approaches based on cooperation among various institutions within and across jurisdictions, a sound legislative basis, guiding or standard operational procedures to strengthen the detection-investigation-prosecution chain, and the capacities of criminal justice practitioners to effectively take advantage of the measures available to them;

(c) In that context, invite Member States to strengthen their capacities and practices for proactive, intelligence-led investigations into illicit firearms trafficking, including where needed through financial and online investigations and the use of electronic evidence;

(d) Invite States parties that have not yet done so to designate a national body or single point of contact, in line with paragraph 2 of article 13 of the Firearms Protocol, to act as a liaison between them and other State parties on matters relating to the Protocol, where possible with substantive functions in the field of firearms, and that can also serve as national coordination body or national focal point, and to register the institution with the Directory of Competent National Authorities, which serves as a repository of all focal points established under the Convention and its Protocols;

(e) Request UNODC to conduct a comparative analysis of the institutional set-up, functions and impact of various coordination bodies and to synthesize good practices for establishing and operationalizing such bodies;

(f) Invite State parties to review national legal frameworks and administrative texts to address legal loopholes and ensure that the multitude of investigative and prosecutorial measures provided under the Convention and the Firearms Protocol may be implemented at the national level;

(g) Encourage Member States to develop integrated investigative plans that complement, as routine measures, the systematic recording, analysis, tracing and sharing of data and information on firearms;

(h) Call upon stakeholders to raise awareness and enhance technical knowledge among all criminal justice operators of the new and emerging trends and modalities of firearms trafficking and its links to other crimes, with a view to facilitating the paradigm shift from reactive to proactive investigations into firearms trafficking;

(i) Request UNODC to develop guidelines for investigating and prosecuting illicit firearms trafficking cases and their links to other forms of crime.