



# General Assembly

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## **Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime**

Third session

Vienna, 28 April-3 May 1999

Agenda item 4

**Consideration of the additional international legal instrument against  
illicit manufacturing of and trafficking in firearms, their parts  
and components and ammunition**

### **Proposals and contributions received from Governments on the draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition and Other Related Materials, Supplementary to the United Nations Convention against Transnational Organized Crime**

#### **Japan: comments on the draft Firearms Protocol**

#### **I. Measures to ensure efficient and smooth negotiation of the Protocol**

1. Japan considers that more time needs to be allocated for the negotiation of the three Protocols to the Convention than currently planned by the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime while ensuring the development of the main Convention, in order to complete drafting by the end of the year 2000, as mentioned in the report of the 1998 meeting of the inter-sessional open-ended intergovernmental group of experts, established pursuant to General Assembly resolution 52/85.<sup>1</sup> One possible way to expedite negotiation of the Firearms Protocol would be to hold expert sessions, as proposed by several Member States at the first session of the Ad Hoc Committee, held in Vienna in January 1999. Such sessions would be designed to deepen the knowledge and understanding of technical issues such as definitions, marking of firearms and record-keeping, as well as to examine the concept of an import, export and in-transit licensing regime.

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<sup>1</sup> E/CN.15/1998/5.

2. In March 1998, the Government of Japan made a voluntary contribution of \$200,000 to the United Nations Crime Prevention and Criminal Justice Fund in order to facilitate the drafting of the Convention and its Protocols. In addition, the Government of Japan has pledged an additional voluntary contribution of \$300,000 to the Fund for the same purpose. The Government of Japan will consult with the Centre for International Crime Prevention about how to expend those contributions, taking into consideration its position on the deliberations relating to the Convention.
3. In addition, regional meetings hosted by individual Governments or groups of Governments at their own expense for the purpose of explaining the objectives of the Protocol and related issues could be helpful. Japan, for example, is planning to host a meeting, the International Seminar on Illicit Manufacturing of and Trafficking in Firearms, for several countries in the region of Asia and the Pacific on 9 and 10 June 1999.
4. We hope that other Member States will also consider making similar voluntary contributions.

## **II. United Nations resolutions regarding the Firearms Protocol and concordance of wording**

5. Elaboration of the Firearms Protocol is based on Economic and Social Council resolution 1998/18 of 28 July 1998, on measures to regulate firearms. The Council referred to a firearms protocol in paragraph 4 of the resolution, as “an international instrument to combat the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition within the context of a United Nations convention against transnational organized crime”. In its resolution 53/111 of 9 December 1998 on transnational organized crime, the General Assembly also used the same phrase.
6. Therefore, according to the wording of the above United Nations resolutions, Japan believes that the Firearms Protocol should be entitled “Protocol to Combat the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Supplementary to the United Nations Convention against Transnational Organized Crime”. The same wording should be used in the draft text of the Firearms Protocol so that the wording of the Protocol is consistent with that of the related resolutions.
7. In this connection, Japan proposes the following definition:

“‘Parts and components’: any elements of a firearm that are essential to its operation, such as a barrel, frame, cylinder or slide.”
8. Articles where it is necessary to replace the phrase in the revised draft Firearms Protocol (A/AC.254/4/Add.2/Rev.1) are listed in the annex to the present document.

## **III. Scope of the Firearms Protocol**

9. Japan is of the view that the Protocol should not cover explosives because:
  - (a) The above-mentioned Economic and Social Council resolution 1998/18 on measures to regulate firearms, in which the Council recommended negotiation of a firearms protocol, does not indicate that the protocol should cover explosives. The other related

Council resolution, resolution 1998/17 of 28 July 1998, on regulation of explosives for the purpose of crime prevention and public safety, was adopted separately;

(b) The action plan for the study of bombing incidents mentioned in paragraph 2 of Council resolution 1998/17 has not been completed;

(c) Discussions on this matter are already being held in connection with counter-terrorism and an international legal instrument against terrorist bombings, the International Convention for the Suppression of Terrorist Bombings has already been adopted within the framework of the United Nations (General Assembly resolution 52/164, annex);

(d) Japan is concerned that discussion of terrorist issues may politicize deliberations on the Protocol.

10. Despite the reasons mentioned above, if some Member States consider that the Protocol should include provisions concerning the regulation of explosives for the purpose of combating bombing incidents, Japan believes that those States should explore the formulation of a separate “explosives protocol”.

11. Concerning the debate over whether the Firearms Protocol should include the small arms issue for the purpose of disarmament or not, Japan is of the view that the Protocol should have the same aim and scope as the United Nations Convention against Transnational Organized Crime, to be based on principles of criminal justice and law enforcement, such as crime prevention, investigation and prosecution. In this regard, the Firearms Protocol should not cover disarmament measures such as restraint or control of the legal transfer of small arms in general. Disarmament measures include moratoria on the export, import and manufacture and Government-to-Government transfer of such weapons, as well as the collection and disposal of accumulated firearms in post-conflict situations.

12. Thus, the scope of the Firearms Protocol should be limited to the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. The provisions of the Protocol should be limited to matters relating to crime prevention and include tracing by law enforcement agencies as one of the means of suppressing firearms-related crimes. This would include, for example, the marking of firearms and record-keeping, information-sharing and cooperation among law enforcement authorities.

13. In order to ensure that the Protocol is to be applied widely and flexibly, the definition of “firearms” should not include an illustrative list. In the opinion of Japan, it is internationally accepted and thought to be reasonable that firearms are weapons designed to expel a bullet or projectile by the action of an explosive and to project it over a certain distance, as well as to inflict damage on a target. However, given technological innovations, Japan is of the view that a definition of firearms that is limited to barrelled weapons would not correspond to the current situation. Accordingly, further careful consideration of the definition of “firearms” is needed. Japan proposes the following definition at the present time:

“Firearms’: any portable weapon that will or is designed to or may be readily converted to expel a bullet or projectile by the action of an explosive, but not including any weapons that are designated antique firearms or replicas of such firearms as defined in accordance with the laws and regulations of each State Party.”

## Annex

Places where it is necessary to replace the phrase “ammunition [, explosives] and other related materials” with “their parts and components and ammunition” in the revised draft Firearms Protocol (A/AC.254/4/Add.2/Rev.1) are as follows:

### **Title**

#### **Preambular paragraphs**

Paragraph (a), option 2

Paragraph (b), options 1 and 2

Paragraph (c), options 1 and 2

Paragraph [(...)] (second paragraph of option 2 (c))

Paragraph (d), options 1 and 2

Paragraph (e)

Paragraph [(...)] (second paragraph of (e))

Paragraph (f)

Paragraph [(...)] (option for replacing preambular paragraphs (e) and (f))

Paragraph (g) (This paragraph uses the wording “their parts and components and ammunition” with “other related materials”.)

Paragraph (i), option 1

#### **Operative paragraphs**

Article II, paragraph (f)

Article III, paragraph (a) and paragraph (b), options 1 and 2

Article IV, options 1, 2, 3 and 4

Article V, paragraph 1 (a)-(c)

Article VII, paragraph 1 and paragraph 2, option 1

Article XI, paragraph 1, paragraph 2, options 1 and 2, paragraph 3, options 1 and 2, and paragraph 4

Article XII

Article XIII, paragraph 1, options 1 (a)-(e) and 2, paragraph 2, options 1 and 2, and paragraph 3, options 1 and 2

Article XV, paragraphs 1 and 3

Article ..., paragraph 1 (c), (e), (h) and (j)

Article XVI, paragraph 2 (chapeau and (a)-(c))

Article XVIII

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