



# General Assembly

Distr.: Limited  
12 October 1999

Original: English

---

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

Fifth session

Vienna, 4-15 October 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: Chairman's report of the Vienna Technical Session on the Firearms Protocol, held on 11 and 12 October 1999**

1. Participants from 40 countries and organizations attended the Vienna Technical Session on the Firearms Protocol, held in Vienna on 11 and 12 October 1999. The Technical Session was hosted by the Government of Japan and chaired by James Hayes (Canada). There was an informal exchange of views on the revised 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. The highlights of the views expressed are provided below.

#### **Definitions (article II)**

*"Ammunition"*

2. The definition of ammunition was broadly supported. One participant stated that the definition was too broad.

*“Controlled delivery”*

3. Two participants suggested that discussion of controlled delivery be deferred until the subject was dealt with in the discussion on the revised draft United Nations Convention against Transnational Organized Crime.

*“Firearm”*

4. One participant proposed a new definition of “firearm”.
5. There were no technical issues raised that would require new options. Participants discussed the technical viability of existing options.
6. Most participants supported option 1, subparagraph (c) (i). Some suggested that the items listed in that subparagraph were illicitly trafficked while others noted that those items should not be included in the draft Protocol since they were under the control of different legal regimes than firearms. Some participants favoured a broad definition of firearm for the purposes of law enforcement cooperation.
7. With respect to the terms “portability” and “lethality”, some participants cautioned that those terms required a value judgement to be made and might therefore present challenges for law enforcement.
8. Concerning “antique firearm”, some participants suggested that a more precise definition of “antique firearm” was needed to prevent illicit trafficking in those items.
9. Some participants proposed excluding the word “barrelled” from the definition of “firearm”, to allow for more flexibility.
10. Some participants suggested excluding military firearms from the definition since civilian possession of such firearms was already prohibited under their domestic law. One participant noted that military firearms often found their way into criminal hands. Another suggested that it would be more appropriate to deal with the issue under scope of application.
11. On the issue of airguns, one participant noted that some were of concern because they were readily convertible.

*“Illicit manufacturing”*

12. The discussion focused mainly on the difference in the wording of the two options under subparagraph (d) (ii). To some participants, the difference between the two options was not clear. One participant suggested that the words “appropriate authority” provided more flexibility than the words “competent government authority”. One participant suggested adding the word “conversion” after the word “manufacturing”.

*“Illicit trafficking”*

13. One participant proposed that the bracketed words at the end of subparagraph (e) (i) be retained.

*“Other related materials”/“Parts and components”*

14. Many participants supported the inclusion of the phrase “parts and components” because it was consistent with the relevant Economic and Social Council and General Assembly resolutions. Some participants suggested deleting the phrase “barrel, frame, cylinder or slide” in option 2 of subparagraph (f). On the issue of accessories, one delegation expressed concern about excluding accessories because they could be used to convert a legitimate sporting gun into something more dangerous.

*“Tracing”*

15. Although there were no objections to the definition of “tracing”, one participant suggested deleting the phrase “establishing stolen status and proving ownership”. Another participant suggested adding the word “ammunition” after the word “firearms”. One participant suggested adding, at the end of the subparagraph (f) *bis*, an order to analyse and monitor illegal trafficking.

*“Explosives”*

16. One participant suggested retaining the subparagraph on explosives. Following comments made by many other participants about the appropriateness of the proposal, the chairman suggested that the topic should be dealt with by the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime because the mandate to negotiate the proposal did not include explosives.

**Record-keeping (article VIII)**

17. Many participants suggested a period of record-keeping “for as long as possible and for a minimum of ten years”, recognizing that firearms were durable goods.

**Marking of firearms (article IX)**

18. Regarding subparagraph 1 (a) of article IX, there were no objections to marking firearms at the time of their manufacture. Some participants suggested that the markings should at least contain the name of the manufacturer, the place of manufacture and the serial number of the firearm, as those were essential to law enforcement. One participant suggested that ammunition could and should be marked.

19. Regarding subparagraph 1 (b), some participants recognized the value of marking firearms at the time of their import while others questioned the modalities. In particular, some participants discussed at what point the marking would be done, i.e. before or after import. One participant noted the challenges facing the European Union, given the treaty on the free movement of goods in that region. The practical challenges and the necessity of marking at import were also discussed.

20. Criminal liability for unmarked firearms was also raised by one participant, who noted that the importer was criminally liable for unmarked firearms.

21. Regarding subparagraph 1 (c), some participants questioned whether marking was necessary for confiscated weapons, which did not re-enter the civilian market.

22. One participant drew attention to the advantages of stamp marking in terms of its technical feasibility, its cost-effectiveness and its resistance to criminal obliteration.

**Preventing the reactivating of deactivated firearms (article X)**

23. There was considerable discussion concerning article X, whereby a number of participants supported the establishment of a minimum standard of deactivation. One participant noted that a definition and standard of deactivation could be included in the draft Protocol. Another participant suggested that deactivated firearms could be regulated as parts and components. Another participant noted that domestic legislation could be introduced to criminalize the reactivation of deactivated firearms. It was noted that records on deactivated firearms were kept in several jurisdictions.

**Export, import and transit licensing (article XI)**

24. The need for an effective import and export system was generally agreed upon.

25. With regard to export authorizations, option 1 was broadly supported. There were questions raised with respect to how transfers and trans-shipments would take place within the European Union and between European Union member States and States outside the European Union. Participants stated that there was no free circulation of firearms within the European Union, that exports were accompanied by transfer authorizations and that transit shipments were accompanied by routing slips. It was noted that not all shipments within the European Union were subject to a dual authorization regime.

**Security measures (article XII) and strengthening controls at export points (article XIII)**

26. There was a discussion about merging articles XII and XIII. One participant stated that there were concerns with regard to requirements at export points, given the internal border configuration of the European Union. Another participant raised the issue of the lack of controls in free trade zones.

**Exchange of information (article XIV), cooperation (article XV) and establishment of a focal point (article XV bis)**

27. There was recognition of the important functions to be carried out by a focal point distinct from a national point of contact. One participant noted that many of the functions in this part of the draft Protocol were duplicated in the draft Convention and suggested that the discussion be deferred until the relevant provisions in the draft Convention had been discussed. Several participants recognized that the focal point should have expertise in criminal matters. Another participant noted that the role or function of the International Criminal Police Organization (Interpol) should be considered, as well as the need to identify the kind of information to be exchanged. It was also noted that it was important to clearly define the scope of the information that would be exchanged.

**Registration and licensing of brokers (article XVIII bis)**

28. One participant made a new proposal that was the subject of discussion. Many participants expressed concern with regard to the registration and licensing of brokers in the country of nationality as well as the country of operation. One participant also mentioned the difficulties that could arise in cases involving dual nationality. Another participant raised concerns with regard to registration, in particular global licences with which dealers could transfer shipments without individual authorizations. One participant noted that a clear definition of brokering was essential. There was concern about how that provision would operate.

---