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United Nations Office on Drugs and Crime



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

(New York, 31 May 2001)

RATIFICATION KIT

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(New York, 31 May 2001)

OBJECTIVES

The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (the Protocol) supplements the United Nations Convention against Transnational Organized Crime (the Convention) adopted in 2000. Its purpose is to strengthen and unify international cooperation and to develop cohesive mechanisms to prevent, combat and eradicate the illicit manufacturing of, and trafficking in firearms, their parts and components and ammunition (firearms). The Protocol is the first legally binding instrument on small arms that has been adopted at the global level. By ratifying or acceding to the Protocol, States make a commitment to adopt a series of anti-crime measures and implement in their domestic legal systems three sets of normative provisions. The first of such provisions relates to the establishment of criminal offences pertaining to the illegal manufacturing of, and trafficking in, firearms on the basis of the Protocol's requirements and definitions. The second concerns a system of government authorization or licensing for ensuring the legitimate manufacturing of, and trafficking in, firearms. The third relates to the marking and tracing of firearms. Thus, the Protocol provides for a framework for States to control and regulate licit arms and arms flows, prevent their diversion into the illegal market and facilitate the investigation and prosecution of related offences without hampering legitimate transfers. Ensuring that the Firearms Protocol fulfils its purpose requires the widest possible adherence and implementation among States.

KEY PROVISIONS

While the Convention provides for basic measures to prevent and combat transnational organized crime, its Protocols provide for specific measures to deal with specific crimes. As such, the Protocols should be interpreted together with the Convention. The provisions of the Convention apply *mutatis mutandis* to each Protocol. Although this Protocol recognizes the rights of a Party to take action in the interest of its national security consistent with the Charter of the United Nations, Parties to the Protocol undertake to adopt and implement the strongest possible legislation to investigate and prosecute the offences arising from the illicit manufacturing of and trafficking in firearms.

Specific measures include the confiscation, seizure and destruction of firearms illicitly manufactured or trafficked; maintenance of records for at least 10 years in order to identify and trace firearms; the issuance of licences for the import and export of firearms; and the marking of firearms permitting identification of the manufacturer of the firearm, and the country of and year of import. Parties undertake to cooperate extensively at the bilateral, regional and international levels in order to achieve the Protocol's objectives, including providing training and technical assistance to other Parties. Finally, Parties undertake to exchange relevant case-specific information on matters such as authorized producers, dealers, importers, exporters and carriers of firearms, as well as information on organized criminal groups known to take part in the illicit manufacture and the trafficking of such items. States Parties must identify a national body or single point of contact to act as a liaison with other States on matters relating to the Protocol. The Conference of the Parties is the treaty body established by the Convention to improve the capacities of States Parties to combat transnational organized crime and to promote and review the implementation of the Convention and the Protocol.

HOW TO BECOME A PARTY TO THE FIREARMS PROTOCOL

The Protocol was adopted by the United Nations General Assembly, in its resolution 55/255 of 31 May 2001. In accordance with article 17, paragraphs 1 and 2, the Protocol was opened for signature from 2 July 2001 to 12 December 2002, at the United Nations Headquarters in New York, to all Member States and to regional economic integration organizations as well, provided that at least one Member State of such organizations had already signed the Protocol.

The Protocol entered into force on 3 July 2005, and is now closed for signature. Signatories may become Parties by depositing an instrument of ratification, acceptance

or approval. While signature produces limited legal effects, the Protocol only becomes legally binding upon ratification or accession.

The Protocol is also open for accession by Non-Signatory States or regional economic integration organizations of which at least one member State is a Party. In order to become a Party to the Protocol, a State or a regional economic integration organization must also be a Party to the Organized Crime Convention (article 17 of the Protocol and article 37 of the Convention).

RATIFICATION AND ACCESSION

The purpose of ratification or accession is to become a Party to the Protocol and, therefore, to assume the legal obligations arising from the treaty. Normally, a government becomes a Party after consideration of the implications of the treaty for its national implementation.

Ratification or accession is normally preceded by domestic procedures required by the national law. A State that has signed the Protocol will generally declare its consent to be bound, by preparing an instrument of ratification. A State that has not signed the Protocol will usually declare its consent to be bound by preparing an instrument of accession. For constitutional reasons, certain States use the terms “acceptance” or “approval” to describe their adherence to international treaties. These terms have the same legal effect as ratification and consequently express a State’s consent to be bound by a treaty.

The procedure to ratify or accede to an international instrument differs from country to country and is usually set by the constitution or in national law. For some countries, ratification or accession requires drafting new national legislation. In almost every case, ratification or accession involves consideration by the parliament and/or executive, in addition to consultations among various government departments or ministries.

After the decision to become a Party to the Protocol has been made at the national level, States must then deposit their instrument of ratification or accession with the Secretary-General of the United Nations, who has been tasked as depositary of the Firearms Protocol. The Protocol enters into force on the thirtieth day after the date of deposit of the relevant instrument, becoming a source of international obligations, including with respect to other States Parties.

The United Nations Office on Drugs and Crime (UNODC) makes available a model instrument of ratification and accession in annex 1 and annex 2. To deposit the

instrument of ratification or accession, States should contact the United Nations Treaty Office in New York at the following address:

United Nations Treaty Section
Office of Legal Affairs
United Nations Headquarters
Room M-13002
New York, NY 10017
Fax: +1-212-963-3693

Under Article 102 of the United Nations Charter, the Treaty Section is charged with the responsibility to carry out the registration of treaties and subsequent treaty actions with the Secretariat and to publish them in a timely fashion. In addition, by virtue of Article 98 of the United Nations Charter the Treaty Section performs the depositary functions on behalf of the Secretary-General in respect of multilateral treaties for which he acts as a depositary. National authorities are encouraged to consult the Treaty Handbook elaborated by the Treaty Section as required (available at: http://treaties.un.org/Pages/Publications.aspx?pathpub=Publication/TH/Page1_en.xml).

OPTIONAL AND/OR MANDATORY DECLARATIONS AND NOTIFICATIONS

States Parties are invited to notify the Treaty Section of the United Nations Office of Legal Affairs about the contact details of the national body or a single point of contact designated under article 13 of the Firearms Protocol, responsible to act as liaison with other States Parties on matters relating to the Protocol, for inclusion and regular update of the Online Directory of Competent National Authorities (CNA Directory). The CNA Directory has been established by UNODC to facilitate international cooperation under the Drugs and Crime Conventions, including the Organized Crime Convention and its Firearms Protocol.

A regional economic integration organization shall declare the extent of its competence with respect to matters governed by the Protocol. Such organizations must also inform the depositary of any relevant modification in the extent of its competence (article 17).

RESERVATIONS

Pursuant to article 16 (3), Parties may declare that they do not consider themselves bound by article 16 (2), according to which disputes among Parties relating to the interpretation or application of the Protocol which are not settled by negotiation will be submitted for arbitration and, failing agreement on the organization of the arbitration, six months after the date of the request for arbitration, to the International Court of Justice (article 16 (3)). The Protocol is otherwise silent with regard to reservations.

DENUNCIATION/WITHDRAWAL

A States Party may denounce the Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General. A regional economic integration organization shall cease to be a Party to the Protocol when all of its member States have denounced it (article 20). Denunciation of the Convention also entails the denunciation of the Protocol (article 40 of the Convention).

NATIONAL IMPLEMENTATION

The Protocol requires that States take appropriate legal, administrative and other measures to implement its provisions. The UNODC is available for guidance on preparing such legislation. The UNODC has developed a Legislative Guide for the implementation of the Protocol, which has been drafted chiefly for policymakers and legislators in countries preparing for the ratification and implementation of the Convention and its Protocols. The Guide aims also at providing a helpful basis for bi-lateral technical assistance projects and other initiatives that will be undertaken as part of international initiatives to promote the broad ratification and implementation of the Convention and its Protocols.

A Model Law against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (Model Law), has also been developed and is available as a download in the official United Nations languages (<http://www.unodc.org/unodc/en/legal-tools/model-treaties-and-laws.html>). The Model Law was developed in response to the request of the General Assembly to the Secretary-General to promote and assist the efforts of Member States to become party to and implement the United Nations Convention against Transnational Organized Crime and the Protocols thereto. It was developed, in particular, to assist States in implementing a

legislative regime consistent with the provisions contained in the Firearms Protocol. The Model Law is designed to be adaptable to the needs of each State, whatever its legal tradition and social, economic, cultural and geographical conditions. The Model Law is not meant to be incorporated as a whole and a careful review of the whole legislative context of a given State should be undertaken. In that respect, the Model Law cannot stand alone and domestic legislation also implementing the provisions of the Organized Crime Convention is essential for it to be effective.

ANNEX 1

MODEL A For States Signatories

Model instrument of ratification (acceptance or approval) 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

WHEREAS 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 was adopted at New York on 31 May 2001 and opened for signature at United Nations Headquarters in New York from 2 July 2001 to 12 December 2002,

WHEREAS the said Protocol has been signed on behalf of the Government of [name of State] on [date],

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister of Foreign Affairs], declare that the Government of [name of State], having considered the above mentioned Protocol, ratifies (accepts, approves) the same Protocol and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF I have signed this instrument of (ratification, acceptance, approval) at [place] on [date].

(Seal)

*Signature of Head of State,
Head of Government or
Minister for Foreign Affairs*

ANNEX 2

MODEL B For non-signatory States

Model instrument of accession to
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

WHEREAS 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 was adopted at New York on 31 May 2001,

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister of Foreign Affairs], declare that the Government of [name of State], having considered the above mentioned Protocol, accedes to the same Protocol and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF I have signed this instrument of accession at [place] on [date].

(Seal)

*Signature of Head of State,
Head of Government or
Minister for Foreign Affairs*



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