

Transnational Organized Crime and Firearms Global Counteraction

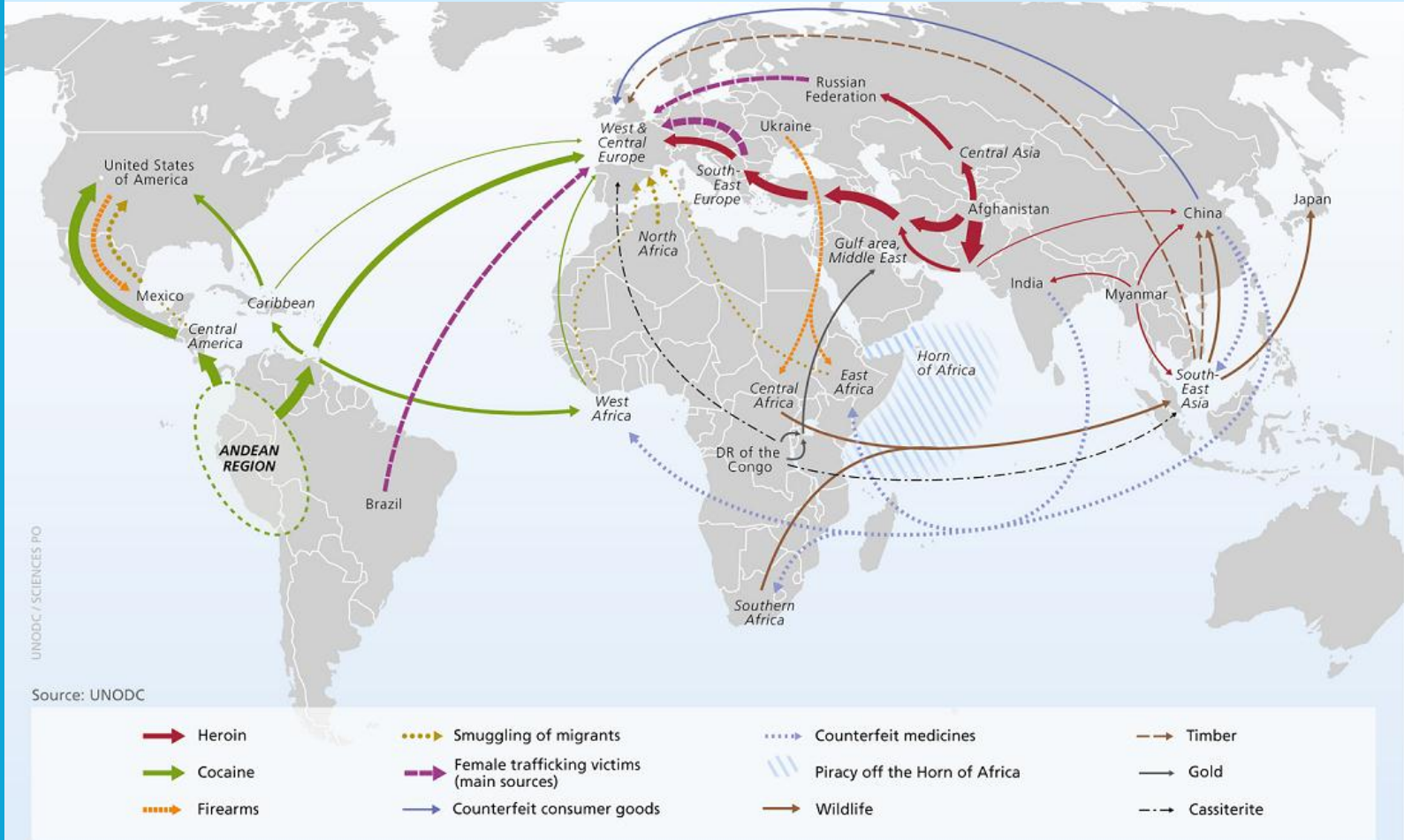


“Urban Youth Crime and Violence: Can it be Prevented?”

UN Webinar, Vienna, 22 November 2011

TOC: Increasingly global

Selected Transnational Organized Crime Flows (published in 2010)



Most TOC flows begin on one continent and end on another, often by means of a third, so only interventions at the scale of the problem – *global* – are likely to have a sustained effect.

TOC: Increasingly diverse

Traditional forms of TOC

- Heroin and cocaine trafficking
- Extortion
- Human trafficking
- Migrant smuggling
- Firearms trafficking
- Money laundering

→ New players

→ (Re-)emerging forms of TOC

- Natural resource trafficking
- Counterfeit goods trafficking
- Cultural property trafficking
- Piracy
- Cybercrime

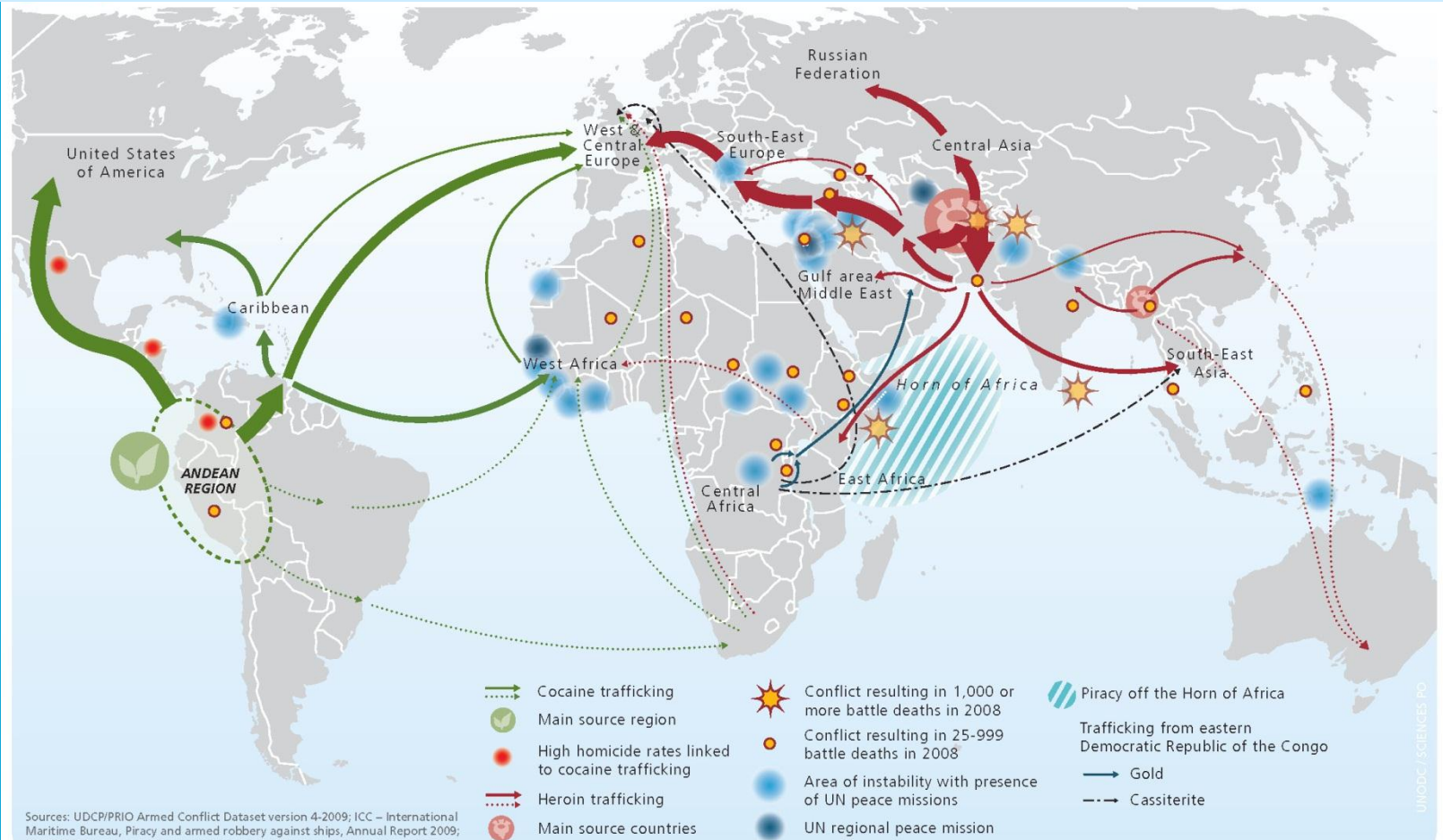
→ New means



Increasingly threatening

TOC threatens international peace and security, human rights and development

The intersection of TOC and instability (published in 2010)



The Security Council has noted with *growing concern* the threat TOC poses to international security (S/PRST/2010/4)



Firearms and Transnational Organized Crime

- Firearms relate to transnational organized crime in distinct ways:
 - 1) As means to facilitate the commission of crimes and to enhance the military power of criminal groups
 - 2) As a lucrative commodity for the illegal trafficking by criminal organizations, firearms trafficking is often inter-connected with other criminal activities
- Few criminals are brought to justice for firearms trafficking charges - far more are investigated for drug trafficking or associated crimes
- The link between illicit firearms and organized is often neglected by analysts, policy makers, and legislators. The relevance of firearms for the purpose of investigation and prosecution of TOC is often underestimated.
- **Tendency to go for the more serious or the easier offences and to neglect the others... or to go after the weapon and not after the traffickers. Isolated approaches to firearms control can jeopardize actions against TOC!**
- Firearms trafficking *is* a transnational and global crime that crosses borders and regions and needs to be addressed through global solutions.



Central role of Firearms in armed violence

Firearms and armed conflicts

- Firearms proliferation and misuse can contribute to exacerbate armed conflicts and pose a major threat to human security and to development

Firearms and crimes: as instrumentality

- Although firearms are commonly associated with armed conflicts, a predominant part of armed violence is linked to common and organized crime.
- 9 out of 10 deaths happen outside of armed conflicts (The Global Burden of Armed Violence, Small Arms Survey, 2011);
- 43% of all homicides committed in 2010, were committed with a firearm. In Latin America, 74% (Global Homicide Study, UNODC, 2011).
- In countries with high homicide rates, 1 out of 50 young men under 20 risk to be killed before they reach the age of 31 years *UNODC, 2011)
- Firearms availability contribute to increase the power of criminal gangs and organizations



Firearms as trafficking commodity

- Firearms trafficking is a **complex transnational crime** that often **requires the involvement or participation of an organized criminal group** for its commission
- Firearms trafficking is often combined with other serious crimes (eg. drugs trafficking, trafficking in precious metals, human beings; migrant smuggling; piracy, terrorism, money laundering;
- Criminal investigation involving firearms must consider the involvement of criminal organizations, their modus operandi and the connections with other crimes;
- Money laundering offences need to consider its predicate offences (eg. Contraband, illicit trafficking); addressing only the operational aspects of firearms trafficking, without inquiring about the financial dimension and its links to drugs and other crimes means not capturing the broader dimension of the problematic.

Four Legal Instruments against Transnational Organized Crime

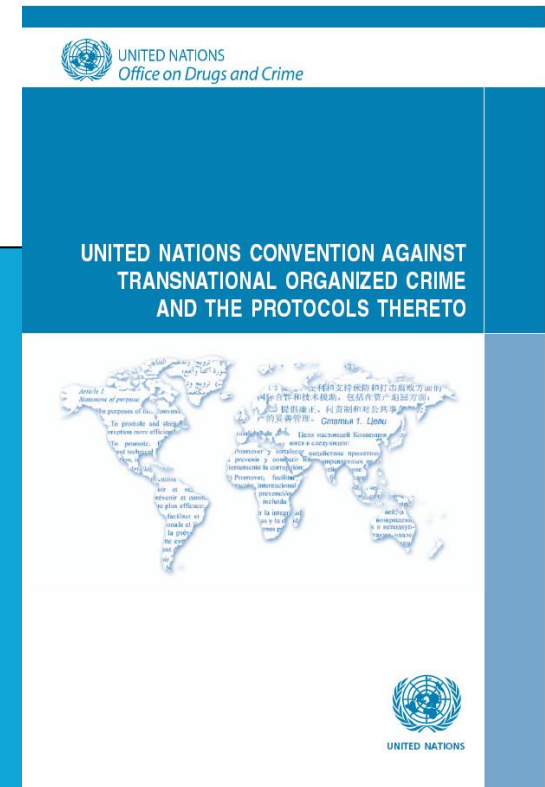
Convention against Transnational Organized Crime (UNTOC)

And its Protocols on: (164 Parties)

- Trafficking in Persons (147 Parties)
- Smuggling of Migrants (129 Parties)
- Trafficking in Firearms (89 States Parties)

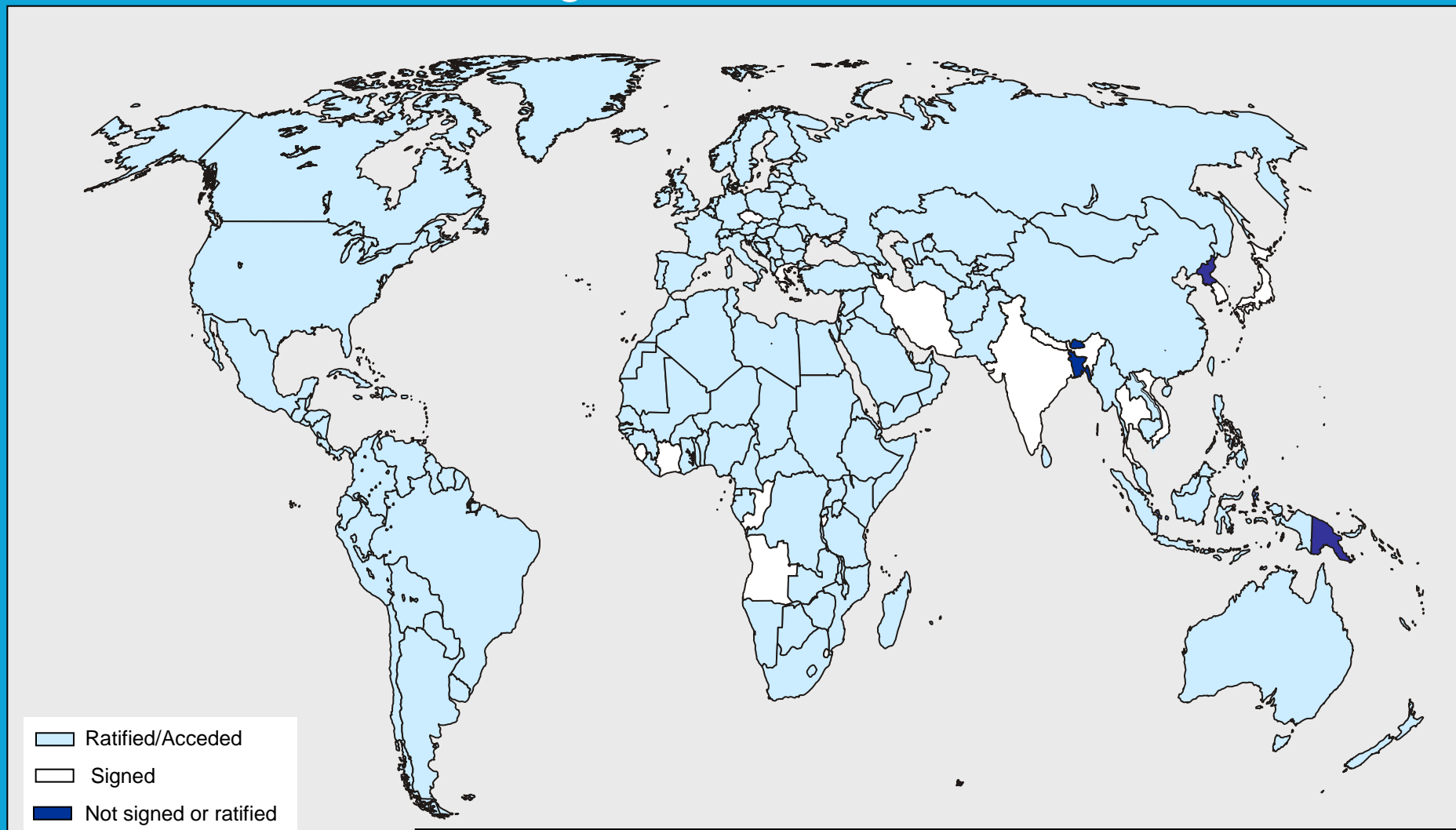
A global, flexible and practical legal instrument with the aim of **promoting cooperation to prevent and combat transnational organized crime more effectively**

(UNTOC, Art.1)





Ratification of the Organized Crime Convention (In force 09/2003)



158 countries have ratified or acceded to UNTOC (as of 10/11/2010)

Broad scope of application

UNTOC applies to the “prevention, investigation and prosecution” of:

(1) Convention offences

- Participation in an organized criminal group (Art.5)
- Laundering of proceeds of crime (Art.6)
- Corruption (Art.8)
- Obstruction of justice (Art.23)

(2) Protocol offences

- Trafficking in persons
- Migrant smuggling
- **Illicit trafficking or manufacturing in firearms**

(3) Serious crimes

When the offence

(a) is transnational
in nature

and

(b) involves an
organized criminal
group

Transnationality and involvement of an organized criminal group must not be made elements offences established under domestic law (Art. 34. 2)

Broad definitions

<p>Serious crime</p>	<p>Any offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty</p>
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Applicable to any existing or unforeseen form of serious crime meeting this definition

<p>Organized criminal group</p>	<ul style="list-style-type: none"> • A structured group of three or more persons; • Existing for a period of time and acting in concert; • With the aim of committing one or more serious crimes or Convention offences; • To obtain a direct or indirect financial or other material benefit
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“Structured” and “material benefit” to be interpreted broadly

<p>Transnational in nature</p>	<ul style="list-style-type: none"> • Committed in more than one State; or • A substantial part of preparation, planning, direction or control takes place in another State; or • Involves an organized criminal group engaging in criminal activities in more than one State; or • Has substantial effects in another State
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Definition further expanded in Articles 16 and 18 on Extradition and Mutual Legal Assistance.

Tools for cooperation

UNTOC establishes legal frameworks that enable and legal obligations that compel international cooperation

Acts as an autonomous legal basis for:

- **Extradition (Art.16)**
 - Minimum standards
- **Mutual legal assistance (Art.18)**
 - “Mini treaty”
- **International cooperation for the purpose of confiscation (Art.13)**
 - Proceeds of crime, instrumentalities
- **Law enforcement cooperation (Art.27)**
 - Measures to enhance communication and collaboration

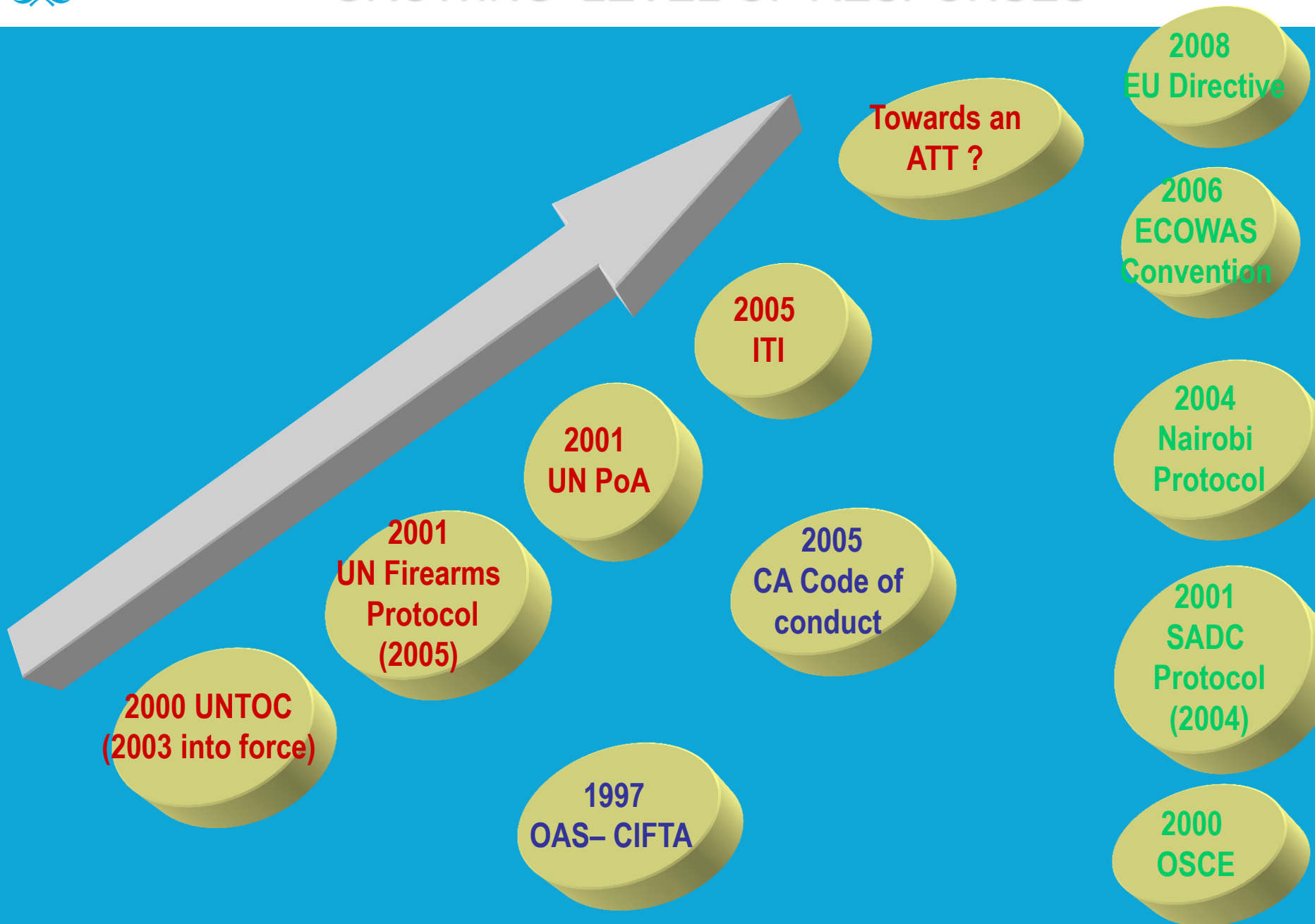
Permits case-by-case cooperation for:

- **Joint investigations (Art.19)**
 - Creation of international teams
- **Special investigative techniques (Art. 20)**
 - Domestically and internationally





FIREARMS GROWING LEVEL OF RESPONSES





THE FIREARMS PROTOCOL

- Only globally binding instrument on firearms control.
- It is **NOT** a disarmament instrument: It addresses the firearms problematic from a crime prevention and criminal justice perspective
- Firearms are not per se illegal – it is the way they are being produced and used that can be illicit
- FP is a preventive instrument: it establishes a broad framework to regulate the legal activities involving firearms, and introduces control and enforcement measures to combat the illicit manufacturing and trafficking of firearms and ammunition (Crime control)
- The combined application of both instruments provides a framework for States **to enhance international cooperation and information exchange** among States, **for the purpose of tracing illicit firearms**, and to facilitate investigation and prosecution of traffickers

**Make a Distinction b/w
Legal and Illegal Firearms**

Legal Firearms

Illegal Firearms

*Definitions (Art.3)
Criminalization (Art.5)*



**Export/Import
License (Art.10)**

**Prevent Diversion of
Legal Firearms into the
Hands of Criminals**



**Confiscation
(Art. 6)**

**Curb the Illicit
Circulation of Firearms**

In Case of Diversion



**Marking
(Art.8)**



**Record-
Keeping**



**Tracing
(Art.12)**



Distinction between legal and illegal firearms

- Article 3 - Definition
- Article 5 – Criminalisation
- Article 6 – Confiscation and Disposal

Prevent Diversion of Legal Firearms into the Hands of Criminals

- Article 7 – Record-keeping
- Article 8 – Marking of Firearms
- Article 10 – Export, Import, Transit Licensing of Authorisation Systems
- Article 11 – Security & Preventive Measures
- Article 12 – Tracing & Information Sharing
- Article 15 – Brokers and Brokering Activities

Criminalization (Art.5)

States must criminalize:

- Illicit manufacturing
- Illicit trafficking
- Falsifying, obliterating, removing or altering markings
- Attempts, participation as an accomplice, organizing or directing others to commit Protocol offences



What can be done to help?

- Many countries lack criminal offences
- legislative assessment, legal adv drafting support
- Development of model laws





- Measures to enable confiscation of firearms, their parts and components illicitly manufactured or trafficked
- Measures to prevent such arms and components to be diverted in the hand of unauthorized persons
- Seizure and destruction - unless other disposal is officially authorized, provided firearms are marked and methods of disposal have been recorded
 - Disarmament measures: collection and buy-back campaigns
 - Strict controls over stockpiles,
 - Operational protocols for seizure and destruction
 - Enforcement measures

How do we help





Article 7

Record Keeping

- **Obligation to establish registries and to maintain records for <10 years to assist in tracing**

Minimum information requirements:

- ✓ **marking on a manufactured/imported/transferred firearm, component, ammunition**
- ✓ **description of the firearm, component, ammunition**
- ✓ **name and location of the owner**
- ✓ **date of entry of the information in the records**

How do we help?

- **Establishing registries (national, regional)**
- **Promoting regional and international harmonization efforts and information exchange**

Article 8 Marking of Firearms

For purpose of identifying and tracing, firearms must be marked with:

- a) Unique marking identifying name of manufacturer, country or place of manufacture, serial number
- b) At time of import, marking to identify country of import and where possible, year
- c) Unique marking at time of transfer from government stocks to civilian use





Article 10 Export, Import, Transit Licensing

States must maintain effective systems of export/import licensing and measures on international transit

Before issuance of export license must verify:

- a) Importing state has import license
- b) transit States consent in writing to shipment

- Licensing regimes
- Legislative support
- - Training and capacity building
- Stricter controls over brokers and brokering activities



How do we help?



Article 11 Security and Preventive Measures

- Purpose is to prevent theft, loss, diversion of firearms and ammunition
- Requires security of firearms at time of manufacture, export and transit
- Institute measures to increase effectiveness of import, export, transit, border controls and transborder cooperation between police and customs

How do we help?

- A broad range of legislative and operational measures, including border control, international cooperation, information exchange

Information exchange among States (art. 12)

- authorized producers, dealers, exporters, carriers
- Organized criminal groups known or suspected to be involved in illicit manufacturing or trafficking
- Means of concealment used and ways of detecting them
- Methods and means of trafficking, routes etc.
- Legislation and practices, relevant scientific and technological information
- Guarantee confidentiality and restricted use of information, or notify a priori
- **Ensure prompt responses to assistance requests to trace illicit firearms**

Cooperation (Artt.13 Protocol)

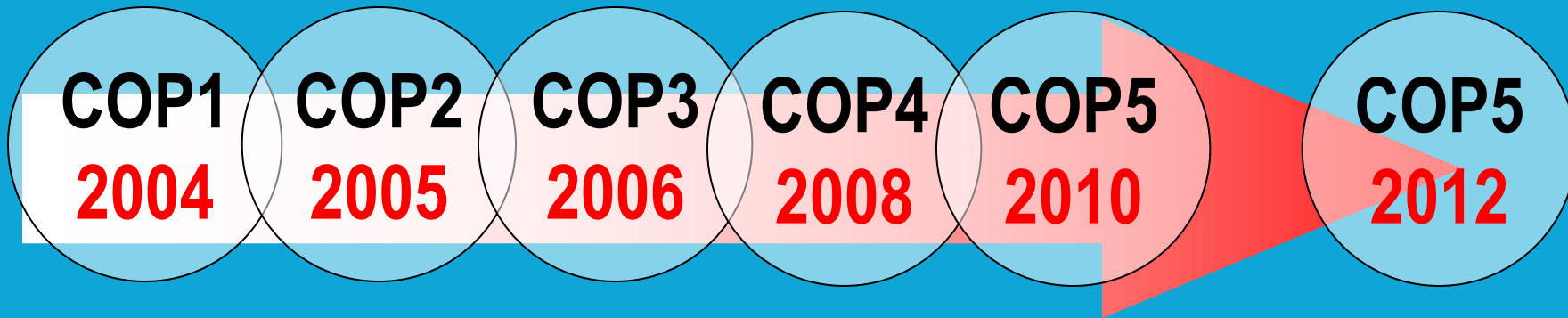
- States are encouraged to **cooperate at bilateral, regional and international level** to prevent, combat and eradicate illicit trafficking and manufacturing of firearms
- Identification of a national body or a **focal point**
- Seek support and cooperation from manufacturers, dealers, importers, exporters, brokers and commercial carriers to prevent and detect illicit activities

 **How do we help?**

- Promoting international cooperation for law enforcement, judiciary, competent authorities, customs and firearms control authorities
- UN as a platform for information exchange, and confidence building



Mandate



The Convention established a **Conference of the Parties** to:

- promote and review implementation of Convention (including Protocols) and reporting cycles (questionnaires – self-assessment software)
- consider means of implementing and difficulties encountered by States
- facilitate technical assistance for ratification and implementation



Relevant COP decisions on Firearms

DECISION 4/6:

- **Urged States Parties to strengthen their national legislation in a manner consistent with the Protocol**
- **Requests UNODC to support States in the ratification and implementation of the Firearms Protocol.**
- **UNODC to develop technical assistance tools to assist States parties in the implementation**

DECISION 5/4:

- **Urges States to become Party to the Protocol**
- **UNODC to facilitate TA to State parties to implement the Firearms Protocol.**
- **UNODC to finalize model law and disseminate it in 6 official UN languages**
- **Develop other technical assistance tools to support implementation**
- **Conduct a study on the transnational nature and routes of arms trafficking**
- **Decides to establish an open-ended intergovernmental working group on firearms, to hold at least one inter-sessional meeting and one meeting during the COP, and to report to COP6.**



UNODC Activities on Firearms

- UN Coordination on Small Arms – CASA
 - 19 Agencies, Funds and Programme: joint strategy, coordinated actions and joint positions (eg. ATT)
- Promotion of Awareness and Knowledge on the FP
- Development of Legal and Operational Tools
 - Legislative Guide (2006)
 - Technical Guide (2009)
 - Model Law (2010)
 - Comprehensive Training Curriculum (2011)
- Technical Assistance for ratification and implementation
 - Legislative Assistance and Capacity Building



Four Activity Clusters

1. Legislative Development
 - Legislative drafting workshops;
 - Individualized legislative assistance and drafting support

2. Capacity Building and International Cooperation:
 - Development of training curriculum
 - National and regional capacity building workshops

3. Increased knowledge and enhanced civil society engagement in firearms control issues
 - Empiric study on seized arms
 - Specialized Capacity building for CSO

4. Focus group study on use and origins of firearms in urban communities (Jamaica):
 - Assessment of local arms availability and source, impact on community security, and development of effective crime prevention strategies in Jamaica

Participating countries

West Africa

Benin



Burkina Faso



The Gambia



Ghana



Mali



Mauritania



Senegal



Togo



Latin America and the Caribbean

Argentina



Bolivia



Brazil



Chile



Paraguay



Uruguay



Jamaica



Additional countries have requested to join

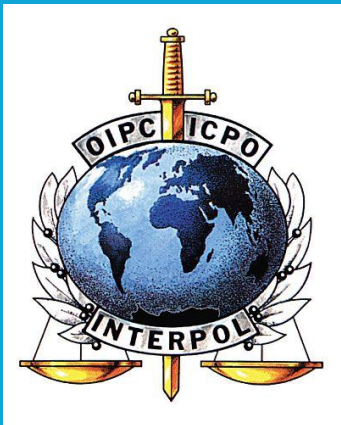
Partnerships

Donor



Interested countries and other entities are equally invited to join and support with expertise and know how the initiative

Partners



For further information:

United Nations Office on Drugs and Crime

Vienna International Centre

PO Box 500, A-1400 Vienna, Austria

simonetta.grassi@unodc.org

Tel: +43-1-26060-5484

Fax: +43-1-26060-75484



THANK YOU

Simonetta Grassi

Legal Officer

Implementation Support Section

Organized Crime and Illicit Trafficking Branch

Division for Treaty Affairs