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Policy implications of the phenomenon of illicit firearms trafficking through the hidden web

Side Event

“Web-based Arms Trafficking: Investigating the illegal trade of firearms through the hidden web”

23 May 2017, 26th Session of the CCPCJ
Vienna, Austria

Narrowing down the problem

Arms trafficking on the hidden web seems to have the following **key features**:

- **Scope**
 - Includes cases of domestic and international trafficking
 - Relates to transfers of firearms, parts and components and ammunition
- **Actors involved**
 - Owner of the item/ Vendor
 - Host of the crypto-market (→ Broker)
 - Buyer
 - Dark web seems to be used by individuals and organized criminal groups

Narrowing down the problem



- **Personal Anonymity**
 - Undermines all national efforts to **control access** to firearms, parts and components and ammunition
 - Impedes law enforcement from **identifying suspects and charging individuals**

- **Geographical Anonymity**
Increases risks of law enforcement action in **foreign territory** ( : Competency, different criminal and investigative rules and procedures)





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Are existing international tools useful in addressing the problem?

- **UN Convention against Transnational Organized Crime (UNTOC)**
 - Adopted in November 2000, entry into force in September 2003
 - Objective: “To promote cooperation to prevent and combat transnational organized crime more effectively”
 - Adherence status: 187 State Parties
- **UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing UNTOC**
 - Adopted in May 2001, entry into force in July 2005
 - Objective: “To promote, facilitate and strengthen cooperation among States Parties in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition”
 - Adherence status: 114 State Parties



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Are existing international tools useful in addressing the problem?

The Firearms Protocol:

- Covers **firearms, their parts and components** (Art. 4)
- **Criminalizes** transnational transfers without authorization (Art. 5 FP, Art. 34 II UNTOC)
- **Criminalizes** manufacture of weapons from parts and components illicitly trafficked (Art. 5)
- Requires State Parties to take appropriate measures to increase effectiveness of import, export and transit controls, including, where appropriate, **border controls**, and of **police and customs trans-border cooperation** (→ Art. 11 b)



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Are existing international tools useful in addressing the problem?

- Requires State Parties to **share information** on, among others, **means of concealment** used in the illicit firearms trafficking, **methods and means** used by organized criminal groups, relevant **scientific and technological information** to mutually enhance law enforcement authorities abilities to prevent, detect and investigate cases of trafficking in firearms (Art. 12)
- Requires **cooperation** among State Parties at **bilateral, regional and international level** to address firearms trafficking (Art. 13)
- Requires **cooperation with**, among others, **carriers** of firearms and other items to prevent and detect illicit trafficking thereof (Art. 13)
- Suggests establishment of **brokering control system** (Art. 15)



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The UNTOC:

- Applicable to **offences** established by the **Convention** and supplementing **Protocols**, as well as other '**serious crimes**' under conditions of **transnational nature** and **involvement of an organized criminal group**
- Provides for establishment of **jurisdiction** (Art. 15)
- Provides for tools for **judicial cooperation** (Extradition and MLA, Art. 16, 18 – Consider: MLA request on basis of suspicion)
- Encourages States to conclude bilateral or multilateral agreements that facilitate **joint investigations** in multiple territories (Art. 19) Requests States to allow for **special investigative techniques** such as controlled deliveries and undercover operations (Art. 20)
- Requests strengthened law enforcement cooperation that facilitates **information exchange** (Art. 27)



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Conclusion:

- Firearms Protocol and UNTOC **applicable** as regards transnational cases of trafficking in firearms, their parts and components and ammunition
- Firearms Protocol requests **criminalization** of these acts
- Provisions on **cooperation** generally applicable when organized criminal group is involved
- Firearms Protocol provides framework to regulate **arms brokers**
- UNTOC provides framework to engage in **joint investigations** and to use **special investigative techniques**
- Firearms Protocol and UNTOC and provide framework for **information exchange and police and judicial cooperation** at bilateral, regional and international levels

Are existing international tools useful in addressing the problem?



- **Legal basis** to address the phenomenon seems to exist, when transnational nature and involvement of organized criminal group is at least suspected
- Need to **apply** the existing tools to support investigations and prosecutions and international cooperation **to the changing criminal environment**
- Enforcement potentially hindered by bureaucratic and organisational challenges linked to involvement of multiple actors based in multiple jurisdiction: Strong focus should be placed on **swift information exchange and cooperation**



Thank you!

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