

United Nations Convention against Transnational Organized Crime Review
Mechanism

Constructive Dialogue on Firearms

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Official Observer of the American Society of International Law*

Thank you, Mr. Chairperson.

The European Union (EU) and its member states are currently discussing new legislation which will change the regulatory makeup applicable to firearms. As a major export region, Europe has an outsize role in defining global standards to prevent firearms trafficking and diversion. This is why my intervention today addresses guiding thematic question number two on how the Protocol fits into the wider international and regional arms control framework.

The UNTOC Firearms Protocol is incorporated into EU law through the 2012 Firearms Protocol Regulation. This binding instrument has been interpreted by EU member-states together with the non-binding Common Position on Arms Exports of 2008. However, none of these instruments contains mandatory rules for Member States to provide data on the import or export of firearms.

To address this challenge, a Proposal for a Regulation on Arms Import, Export and Transit was presented by the European Commission October 2022 which seeks to create harmonized rules for the import and export of civilian firearms. This proposal includes clear provisions for improved cooperation and information exchange between national authorities.

* This statement is made in a personal capacity and does not represent the views of the American Society of International Law or those of any other organization. León Castellanos-Jankiewicz is currently a researcher at the Asser Institute for International and European Law, The Hague, and serves as the supervisor of the International Law Clinic on Access to Justice for Gun Violence at the University of Amsterdam Faculty of Law.

Further EU legislation which may impact application of the UNTOC Firearms Protocol is the Draft Proposal for a Directive on Corporate Sustainability Due Diligence Directive, which was published by the European Commission in February of 2022. The proposal intends to encourage European corporations of a certain size to adopt responsible and sustainable business practices by identifying, and where necessary, preventing, mitigating or ending harmful impacts of their business dealings on human rights and the environment. The Commission provided for a scope of corporate due diligence obligations which extend to the use of the product and its disposal. The European Council, however, has called for a more restrictive material scope of application by limiting the application of the Directive to the supply chain as it relates to the manufacturing process.

These proposals have the potential of changing the regulatory landscape of the Firearms Protocol and its regional application in Europe and, therefore, the rest of the world. Put together, they represent an opportunity for improved information sharing that can neutralize the risks of trafficking and diversion, improve traceability within and outside the EU, and promote the human rights due diligence from production to end-use. Relevant stakeholders in the Constructive Dialogue should seize the opportunity to harness these initiatives in a way that ensures the coherence between the international, regional and national legal regimes and leads towards more positive outcomes.

Thank you.

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Dr. León Castellanos-Jankiewicz