

PROHIBITION AGAINST THE ILLICIT MANUFACTURING OF AND
TRAFFICKING IN FIREARMS, THEIR PARTS AND COMPONENTS AND
AMMUNITION (ENFORCEMENT) BILL, 2016

ARRANGEMENT OF CLAUSES

Clause

1. Enforcement 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.
2. Citation

1 SCHEDULE

2 The States Parties to the present protocol, bearing in mind the principle of equal
3 rights and self-determination of peoples, as enshrined in the Charter of the
4 United Nations and the Declaration on Principles of International Law
5 concerning Friendly Relations and Cooperation among States in accordance
6 with the Charter of the United Nations; and Convinced that supplementing the
7 United Nations Convention against Transnational Organized Crime with an
8 international instrument against the illicit manufacturing of and trafficking in
9 firearms, their parts and components and ammunition will be useful in
10 preventing and combating those crimes,

11 HAVE AGREED as follows:

12 PART I - GENERAL PROVISIONS

Relation with the
United Nations
Convention against
transnational
organized crime

13 1.-(1) This Protocol supplements the United Nations Convention
14 against Transnational Organized Crime. It shall be interpreted together with
15 the Convention.

16 (2) The provisions of the Convention shall apply, mutatis mutandis, to
17 this Protocol unless otherwise provided herein.

18 (3) The offences established in accordance with article 5 of this
19 Protocol shall be regarded as offences established in accordance with the
20 Convention.

Statement of
purpose

21 2. The purpose of this Protocol is to promote, facilitate and strengthen
22 cooperation among States Parties in order to prevent, combat and eradicate the
23 illicit manufacturing of and trafficking in firearms, their parts and components
24 and ammunition.

Use of terms

25 3. For the purposes of this Protocol:

26 (a) "Firearm" shall mean any portable barrelled weapon that expels, is
27 designed to expel or may be readily converted to expel a shot, bullet or
28 projectile by the action of an explosive, excluding antique firearms or their
29 replicas. Antique firearms and their replicas shall be defined in accordance
30 with domestic law. In no case, however, shall antique firearms include firearms

1 manufactured after 1899;

2 (b) "Parts and components" shall mean any element or replacement
3 element specifically designed for a firearm and essential to its operation,
4 including a barrel, frame or receiver, slide or cylinder, bolt or breech block,
5 and any device designed or adapted to diminish the sound caused by firing a
6 firearm;

7 (c) "Ammunition" shall mean the complete round or its
8 components, including cartridge cases, primers, propellant powder, bullets
9 or projectiles, that are used in a firearm, provided that those components are
10 themselves subject to authorization in the respective State Party;

11 (d) "Illicit manufacturing" shall mean the manufacturing or
12 assembly of firearms, their parts and components or ammunition:

13 (i) From parts and components illicitly trafficked;

14 (ii) Without a licence or authorization from a competent authority
15 of the State Party where the manufacture or assembly takes place; or

16 (iii) Without marking the firearms at the time of manufacture, in
17 accordance with clause 8 of this Protocol; Licensing or authorization of the
18 manufacture of parts and components shall be in accordance with domestic
19 law;

20 (e) "Illicit trafficking" shall mean the import, export, acquisition,
21 sale, delivery, movement or transfer of firearms, their parts and components
22 and ammunition from or across the territory of one State Party to that of
23 another State Party if any one of the States Parties concerned does not
24 authorize it in accordance with the terms of this Protocol or if the firearms
25 are not marked in accordance with clause 8 of this Protocol:

26 (f) "Tracing" shall mean the systematic tracking of firearms and,
27 where possible, their parts and components and ammunition from
28 manufacturer to purchaser for the purpose of assisting the competent
29 authorities of States Parties in detecting, investigating and analysing illicit
30 manufacturing and illicit trafficking.

Scope of
application

1 **4.-(1)** This Protocol shall apply, except as otherwise stated herein, to
2 the prevention of illicit manufacturing of and trafficking in firearms, their parts
3 and components and ammunition and to the investigation and prosecution of
4 offences established in accordance with clause 5 of this Protocol where those
5 offences are transnational in nature and involve an organized criminal group.

6 **(2)** This Protocol shall not apply to state-to-state transactions or to
7 state transfers in cases where the application of the Protocol would prejudice
8 the right of a State Party to take action in the interest of national security
9 consistent with the Charter of the United Nations.

Criminalization

10 **5.-(1)** Each State Party shall adopt such legislative and other
11 measures as may be necessary to establish as criminal offences the following
12 conduct, when committed intentionally:

13 **(a)** Illicit manufacturing of firearms, their parts and components and
14 ammunition;

15 **(b)** Illicit trafficking in firearms, their parts and components and
16 ammunition;

17 **(c)** Falsifying or illicitly obliterating, removing or altering the
18 marking(s) on firearms required by clause 8 of this Protocol.

19 **(2)** Each State Party shall also adopt such legislative and other
20 measures as may be necessary to establish as criminal offences the following
21 conduct:

22 **(a)** Subject to the basic concepts of its legal system, attempting to
23 commit or participating as an accomplice in an offence established in
24 accordance with paragraph 1 of this clause; and

25 **(b)** Organizing, directing, aiding, abetting, facilitating or counselling
26 the commission of an offence established in accordance with paragraph 1 of
27 this clause.

Confiscation,
seizure and
disposal

28 **6.-(1)** Without prejudice to clause 12 of the Convention, States Parties
29 shall adopt, to the greatest extent possible within their domestic legal systems,
30 such measures as may be necessary to enable confiscation of firearms, their

1 parts and components and ammunition that have been illicitly manufactured
2 or trafficked.

3 (2) States Parties shall adopt, within their domestic legal systems,
4 such measures ~~as may~~ be necessary to ~~prevent~~ illicitly manufactured and
5 trafficked firearms, parts and components and ammunition from falling into
6 the hands of unauthorized persons by seizing and destroying such firearms,
7 their parts and components and ammunition unless other disposal has been
8 officially authorized, provided that the firearms have been marked and the
9 methods of disposal of those firearms and ammunition have been recorded.

10 PART II - PREVENTION

11 7. Each State Party shall ensure the maintenance, for not less than
12 ten years, of information in relation to firearms and, where appropriate and
13 feasible, their parts and components and ammunition that is necessary to
14 trace and identify those firearms and, where appropriate and feasible, their
15 parts and components and ammunition which are illicitly manufactured or
16 trafficked and to prevent and detect such activities. Such information shall
17 include:

Record-keeping

18 (a) The appropriate markings required by clause 8 of this Protocol;

19 (b) In cases involving international transactions in firearms, their
20 parts and components and ammunition, the issuance and expiration dates of
21 the appropriate licences or authorizations, the country of export, the country
22 of import, the transit countries, where appropriate, and the final recipient
23 and the description and quantity of the articles.

24 8.-(1) For the purpose of identifying and tracing each firearm,
25 States Parties shall:

Marking of
firearms

26 (a) At the time of manufacture of each firearm, either require
27 unique marking providing the name of the manufacturer, the country or
28 place of manufacture and the serial number, or maintain any alternative
29 unique user friendly marking with simple geometric symbols in
30 combination with a numeric and/or alphanumeric code, permitting ready

1 identification by all States of the country of manufacture;

2 (b) Require appropriate simple marking on each imported firearm,
3 permitting identification of the country of import and, where possible, the year
4 of import and enabling the competent authorities of that country to trace the
5 firearm, and a unique marking, if the firearm does not bear such a marking. The
6 requirements of this subparagraph need not be applied to temporary imports of
7 firearms for verifiable lawful purposes;

8 (c) Ensure, at the time of transfer of a firearm from government stocks
9 to permanent civilian use, the appropriate unique marking permitting
10 identification by all States Parties of the transferring country.

11 (2) States Parties shall encourage the firearms manufacturing
12 industry to develop measures against the removal or alteration of markings.

Deactivation of
firearms

13 9. A State Party that does not recognize a deactivated firearm as a
14 firearm in accordance with its domestic law shall take the necessary measures,
15 including the establishment of specific offences if appropriate, to prevent the
16 illicit reactivation of deactivated firearms, consistent with the following
17 general principles of deactivation:

18 (a) All essential parts of a deactivated firearm are to be rendered
19 permanently inoperable and incapable of removal, replacement or
20 modification in a manner that would permit the firearm to be reactivated in any
21 way;

22 (b) Arrangements are to be made for deactivation measures to be
23 verified, where appropriate, by a competent authority to ensure that the
24 modifications made to a firearm render it permanently inoperable;

25 (c) Verification by a competent authority is to include a certificate or
26 record attesting to the deactivation of the firearm or a clearly visible mark to
27 that effect stamped on the firearm.

General
requirements for
export, import
and transit licensing
or authorisation
systems

28 10.-(1) Each State Party shall establish or maintain an effective
29 system of export and import licensing or authorization, as well as of measures
30 on international transit, for the transfer of firearms, their parts and components

1 and ammunition.

2 (2) Before issuing export licences or authorizations for shipments
3 of firearms, their parts and components and ammunition, each State Party
4 shall verify:

5 (a) That the importing States have issued import licences or
6 authorizations; and

7 (b) That, without prejudice to bilateral or multilateral agreements
8 or arrangements favouring landlocked States, the transit States have, at a
9 minimum, given notice in writing, prior to shipment, that they have no
10 objection to the transit.

11 (3) The export and import licence or authorization and
12 accompanying documentation together shall contain information that, at a
13 minimum, shall include the place and the date of issuance, the date of
14 expiration, the country of export, the country of import, the final recipient, a
15 description and the quantity of the firearms, their parts and components and
16 ammunition and, whenever there is transit, the countries of transit. The
17 information contained in the import licence must be provided in advance to
18 the transit States.

19 (4) The importing State Party shall, upon request, inform the
20 exporting State Party of the receipt of the dispatched shipment of firearms,
21 their parts and components or ammunition.

22 (5) Each State Party shall, within available means, take such
23 measures as may be necessary to ensure that licensing or authorization
24 procedures are secure and that the authenticity of licensing or authorization
25 documents can be verified or validated.

26 (6) States Parties may adopt simplified procedures for the
27 temporary import and export and the transit of firearms, their parts and
28 components and ammunition for verifiable lawful purposes such as hunting,
29 sport shooting, evaluation, exhibitions or repairs.

Security and
preventive
measures

1 11. In an effort to detect, prevent and eliminate the theft, loss or
2 diversion of, as well as the illicit manufacturing of and trafficking in, firearms,
3 their parts and components and ammunition, each State Party shall take
4 appropriate measures:

5 (a) To require the security of firearms, their parts and components and
6 ammunition at the time of manufacture, import, export and transit through its
7 territory; and

8 (b) To increase the effectiveness of import, export and transit controls,
9 including, where appropriate, border controls, and of police and customs trans-
10 border cooperation.

Information

11 12.-(1) Without prejudice to clauses 27 and 28 of the Convention,
12 States Parties shall exchange among themselves, consistent with their
13 respective domestic legal and administrative systems, relevant case-specific
14 information on matters such as authorized producers, dealers, importers,
15 exporters and, whenever possible, carriers of firearms, their parts and
16 components and ammunition.

17 (2) Without prejudice to clauses 27 and 28 of the Convention, States
18 Parties shall exchange among themselves, consistent with their respective
19 domestic legal and administrative systems, relevant information on matters
20 such as:

21 (a) Organized criminal groups known to take part or suspected of
22 taking part in the illicit manufacturing of or trafficking in firearms, their parts
23 and components and ammunition;

24 (b) The means of concealment used in the illicit manufacturing of or
25 trafficking in firearms, their parts and components and ammunition and ways
26 of detecting them;

27 (c) Methods and means, points of dispatch and destination and routes
28 customarily used by organized criminal groups engaged in illicit trafficking in
29 firearms, their parts and components and ammunition; and

30 (d) Legislative experiences and practices and measures to prevent,

1 combat and eradicate the illicit manufacturing of and trafficking in firearms,
2 their parts and components and ammunition.

3 (3) States Parties shall provide to or share with each other, as
4 appropriate, relevant scientific and technological information useful to law
5 enforcement authorities in order to enhance each other's abilities to prevent,
6 detect and investigate the illicit manufacturing of and trafficking in
7 firearms, their parts and components and ammunition and to prosecute the
8 persons involved in those illicit activities.

9 (4) States Parties shall cooperate in the tracing of firearms, their
10 parts and components and ammunition that may have been illicitly
11 manufactured or trafficked. Such cooperation shall include the provision of
12 prompt responses to requests for assistance in tracing such firearms, their
13 parts and components and ammunition, within available means.

14 (5) Subject to the basic concepts of its legal system or any
15 international agreements, each State Party shall guarantee the
16 confidentiality of and comply with any restrictions on the use of information
17 n that it receives from another State Party pursuant to this article, including
18 proprietary information pertaining to commercial transactions, if requested
19 to do so by the State Party providing the information. If such confidentiality
20 cannot be maintained, the State Party that provided the information shall be
21 notified prior to its disclosure.

22 13.-(1) States Parties shall cooperate at the bilateral, regional and Cooperation
23 international levels to prevent, combat and eradicate the illicit
24 manufacturing of and trafficking in firearms, their parts and components
25 and ammunition.

26 (2) Without prejudice to clause 18, paragraph 13, of the
27 Convention, each State Party shall identify a national body or a single point
28 of contact to act as liaison between it and other States Parties on matters
29 relating to this Protocol.

30 (3) States Parties shall seek the support and cooperation of

1 manufacturers, dealers, importers, exporters, brokers and commercial carriers
2 of firearms, their parts and components and ammunition to prevent and detect
3 the illicit activities referred to in paragraph 1 of this clause.

Training and
technical assistance

4 **14.** States Parties shall cooperate with each other and with relevant
5 international organizations, as appropriate, so that States Parties may receive,
6 upon request, the training and technical assistance necessary to enhance their
7 ability to prevent, combat and eradicate the illicit manufacturing of and
8 trafficking in firearms, their parts and components and ammunition, including
9 technical, financial and material assistance in those matters identified in
10 clauses 29 and 30 of the Convention.

Brokers and
brokering

11 **15.**-(1) With a view to preventing and combating illicit manufacturing
12 of and trafficking in firearms, their parts and components and ammunition,
13 States Parties that have not yet done so shall consider establishing a system for
14 regulating the activities of those who engage in brokering. Such a system could
15 include one or more measures such as:

16 (a) Requiring registration of brokers operating within their territory;

17 (b) Requiring licensing or authorization of brokering; or

18 (c) Requiring disclosure on import and export licences or
19 authorizations, or accompanying documents, of the names and locations of
20 brokers involved in the transaction.

21 (2) States Parties that have established a system of authorization
22 regarding brokering as set forth in paragraph 1 of this clause are encouraged to
23 include information on brokers and brokering in their exchanges of
24 information under clause 12 of this Protocol and to retain records regarding
25 brokers and brokering in accordance with clause 7 of this Protocol.

26 PART III - FINAL PROVISIONS

Settlement of
disputes

27 **16.**-(1) States Parties shall endeavour to settle disputes concerning the
28 interpretation or application of this Protocol through negotiation.

29 (2) Any dispute between two or more States Parties concerning the
30 interpretation or application of this Protocol that cannot be settled through

1 negotiation within a reasonable time shall, at the request of one of those
2 States Parties, be submitted to arbitration. If, six months after the date of the
3 request for arbitration, those States Parties are unable to agree on the
4 organization of the arbitration, any one of those States Parties may refer the
5 dispute to the International Court of Justice by request in accordance with
6 the Statute of the Court.

7 (3) Each State Party may, at the time of signature, ratification,
8 acceptance or approval of or accession to this Protocol, declare that it does
9 not consider itself bound by paragraph 2 of this clause. The other States
10 Parties shall not be bound by paragraph 2 of this clause with respect to any
11 State Party that has made such a reservation.

12 (4) Any State Party that has made a reservation in accordance with
13 paragraph 3 of this clause may at any time withdraw that reservation by
14 notification to the Secretary-General of the United Nations.

15 **17.-(1) This Protocol shall be open to all States for signature at**
16 **United Nations Headquarters in New York from the thirtieth day after its**
17 **adoption by the General Assembly until 12 December 2002.**

Signature,
ratification,
acceptance,
approval and
accession

18 (2) This Protocol shall also be open for signature by regional
19 economic integration organizations provided that at least one member State
20 of such organization has signed this Protocol in accordance with paragraph 1
21 of this article.

22 (3) **This Protocol is subject to ratification, acceptance or approval.**
23 **Instruments of ratification, acceptance or approval shall be deposited with**
24 **the Secretary-General of the United Nations. A regional economic**
25 **integration organization may deposit its instrument of ratification,**
26 **acceptance or approval if at least one of its member States has done likewise.**
27 **In that instrument of ratification, acceptance or approval, such organization**
28 **shall declare the extent of its competence with respect to the matters**
29 **governed by this Protocol. Such organization shall also inform the**
30 **depository of any relevant modification in the extent of its competence.**

1 (4) This Protocol is open for accession by any State or any regional
2 economic integration organization of which at least one Member State is a
3 Party to this Protocol. Instruments of accession shall be deposited with the
4 Secretary-General of the United Nations. At the time of its accession, a
5 regional economic integration organization shall declare the extent of its
6 competence with respect to matters governed by this Protocol. Such
7 organization shall also inform the depositary of any relevant modification in
8 the extent of its competence.

Entry into force

9 18.-(1) This Protocol shall enter into force on the ninetieth day after
10 the date of deposit of the fortieth instrument of ratification, acceptance,
11 approval or accession, except that it shall not enter into force before the entry
12 into force of the Convention. For the purpose of this paragraph, any instrument
13 deposited by a regional economic integration organization shall not be counted
14 as additional to those deposited by member States of such organization.

15 (2) For each State or regional economic integration organization
16 ratifying, accepting, approving or acceding to this Protocol after the deposit of
17 the fortieth instrument of such action, this Protocol shall enter into force on the
18 thirtieth day after the date of deposit by such State or organization of the
19 relevant instrument or on the date this Protocol enters into force pursuant to
20 paragraph 1 of this clause, whichever is the later.

Amendment

21 19.-(1) After the expiry of five years from the entry into force of this
22 Protocol, a State Party to the Protocol may propose an amendment and file it
23 with the Secretary-General of the United Nations, who shall thereupon
24 communicate the proposed amendment to the States Parties and to the
25 Conference of the Parties to the Convention for the purpose of considering and
26 deciding on the proposal. The States Parties to this Protocol meeting at the
27 Conference of the Parties shall make every effort to achieve consensus on each
28 amendment. If all efforts at consensus have been exhausted and no agreement
29 has been reached, the amendment shall, as a last resort, require for its adoption
30 a two-thirds majority vote of the States Parties to this Protocol present and

1 voting at the meeting of the Conference of the Parties.

2 (2) Regional economic integration organizations, in matters within
3 their competence, shall exercise their right to vote under this clause with a
4 number of votes equal to the number of their member States that are Parties
5 to this Protocol. Such organizations shall not exercise their right to vote if
6 their member States exercise theirs and vice versa.

7 (3) An amendment adopted in accordance with paragraph 1 of this
8 clause is subject to ratification, acceptance or approval by States Parties.

9 (4) An amendment adopted in accordance with paragraph 1 of this
10 article shall enter into force in respect of a State Party ninety days after the
11 date of the deposit with the Secretary-General of the United Nations of an
12 instrument of ratification, acceptance or approval of such amendment.

13 (5) When an amendment enters into force, it shall be binding on
14 those States Parties which have expressed their consent to be bound by it.
15 Other States Parties shall still be bound by the provisions of this Protocol
16 and any earlier amendments that they have ratified, accepted or approved.

17 **20.-(1)** A State Party may denounce this Protocol by written
18 notification to the Secretary-General of the United Nations. Such
19 denunciation shall become effective one year after the date of receipt of the
20 notification by the Secretary-General.

Denunciation

21 (2) A regional economic integration organization shall cease to be a
22 Party to this Protocol when all of its member States have denounced it.

23 **21.-(1)** The Secretary-General of the United Nations is designated
24 depositary of this Protocol.

Depositary and
languages

EXPLANATORY MEMORANDUM

This Bill enforces 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.