

Table 1 Firearms Protocol provisions

Theme	Firearms Protocol article	Provision
Criminalization	5	Establish criminal offences for: illicit manufacturing; illicit trafficking; and falsifying or illicitly obliterating, removing, or altering firearm markings. The deliberate removal of markings is also categorized as a criminal offence (UNGA, 2001c, art. 5(1)(c)).
Confiscation, seizure, and disposal	6	Adopt measures that enable states to confiscate, seize, and destroy illicitly manufactured or trafficked firearms, their parts and components, and ammunition, unless some other means of disposal is officially authorized <i>and</i> the firearms have been marked and the methods of disposal of the firearms and ammunition have been recorded.
Record-keeping	7	To enable tracing activities, maintain firearms-related records for at least ten years (and, if appropriate and feasible, information on parts and components of firearms and ammunition). This information can include markings and details of transnational transfers, such as export licences granted.
Marking	8	<p>Ensure that firearms are marked as follows:</p> <ul style="list-style-type: none"> ■ At the time of manufacture firearms must be marked with (a) a unique marking providing the name of the manufacturer, the country or place of manufacture, and the serial number, or (b) an alternative marking using simple geometric symbols in combination with a numeric and/or alphanumeric code, permitting ready identification of the country of manufacture. <p> Note Article 8 of the Protocol allows countries to use ‘geometric’ as well as ‘alphanumeric’ symbols to mark their weapons. In the negotiations, China had pushed for the right to use geometric symbols, especially for purposes of identifying manufacturers. Many countries were extremely reluctant to concede to China on this issue. The exclusive use of alphanumeric markings would have ensured a high degree of transparency, enabling governments to trace weapons back to the manufacturer without the assistance of the original exporting government (McDonald, 2002, p. 240).</p> <ul style="list-style-type: none"> ■ Imported firearms must be marked so as to permit identification of the country of import and, whenever possible, the year of import, as well as a unique marking, if the firearm does not bear such a marking. <p> Note There is no requirement to mark firearms that are imported into a country on a <i>temporary</i> basis.</p> <ul style="list-style-type: none"> ■ At the time of transfer from government stockpiles to permanent civilian use firearms must be marked in a way that permits identification of the transferring country. States parties must also encourage the firearms manufacturing industry to develop measures against the removal or alteration of markings. <p> What is the purpose of marking?</p> <p>If a firearm is recovered from a crime scene or in the course of illicit manufacturing or trafficking, its markings can be used by the investigating state to search its own records and as a basis for an international request for the tracing of that firearm.</p>

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Deactivation of firearms	9	<p>If national law does not recognize a deactivated firearm as a ‘firearm’, take measures to prevent the illicit reactivation of firearms, including by: establishing relevant criminal offences (such as illicit reactivation or inadequate deactivation); ensuring that deactivation involves rendering all essential parts permanently inoperable and incapable of reactivation; and officially verifying that the firearm has been deactivated and that the firearm is marked in a way that confirms it has been deactivated.</p> <p> Note In their national laws regulating firearms, most states include a definition of a ‘firearm’. In some countries, the definition is drafted in such a way that it includes only <i>functioning</i> firearms—that is, those capable of expelling a projectile. This means, for example, that antique firearms or deactivated firearms that form part of a museum collection may not be covered by the legislation; consequently, there is no requirement to hold a licence for such firearms or to store them in a secure way. However, it may be possible to alter—or <i>reactivate</i>—such firearms so that they are capable of expelling a projectile.</p>
Export	10(1)	Establish or maintain an effective system of export licensing or authorization for the transfer of firearms, their parts and components, and ammunition.
	10(2)	Before issuing export licences or authorizations, verify that importing states have issued import licences or authorizations and transit states have given notice in writing that they have no objection to the transit.
	10(3)	Ensure that the export licence or authorization and accompanying documentation contain information on: place and the date of issuance, the date of expiration, the country of export, the country of import, the final recipient, a description and the quantity of the firearms, their parts and components, and ammunition, and, if applicable, the countries of transit. The information contained in the import licence must be provided to the transit states in advance.
	10(5)	Ensure that licensing or authorization procedures are secure and that the authenticity of relevant documents can be verified or validated.
Import	10(1)	Establish or maintain a system of import licensing or authorization for the transfer of firearms, their parts and components, and ammunition.
	10(3)	Ensure that the import licence or authorization and accompanying documentation contain information on: place and the date of issuance, the date of expiration, the country of export, the country of import, the final recipient, a description and the quantity of the firearms, their parts and components, and ammunition, and, if applicable, the countries of transit. The information contained in the import licence must be provided to the transit states in advance.
	10(4)	Upon request, inform the exporting state of the receipt of the dispatched shipment.
Transit	10(1)	Establish or maintain measures on international transit for the transfer of firearms, their parts and components, and ammunition.

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Information exchange	12	Exchange relevant case-specific information and cooperate in tracing with other states parties, in line with their domestic legal and administrative systems; shared information can cover aspects such as known trafficking routes or organized criminal groups involved in trafficking.
Cooperation	13	Cooperate at the bilateral, regional, and international levels to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components, and ammunition.
Brokering	15	Consider establishing a system for regulating brokers that could include one or more of the following measures: registration of brokers operating within their territory; licensing or authorization of brokering; and disclosure of the names and locations of brokers involved in import and export licences or accompanying documents.  Note Brokering provisions are recommended rather than mandatory.

Scope

State-to-state transfers. The Protocol does *not* apply to state-to-state transactions (UNGA, 2001c, art. 4(2)). During the negotiations, states favouring the inclusion of such transfers argued that they were just as susceptible to diversion to the illicit market and should thus be subject to the same restrictions as commercial sales. States opposing their inclusion argued that it would broaden the scope of the Protocol too far and risk taking the negotiations into sensitive territory linked to national security concerns. The latter view prevailed (McDonald, 2002, p. 239).



What is a state-to-state transfer?

State-to-state (or government-to-government) transfers involve the sale of small arms by the government of an exporting state to the government of an importing state for use by its defence or security forces. These arms may be procured from the surplus stockpiles of the exporting government; they may be produced by a state-owned company; or the exporting government may procure them on behalf of the importing government from a private arms-manufacturing company operating in the exporting state.



What transfers are not state-to-state?

Private manufacturers in an exporting state engage in commercial sales when they sell their small arms to an entity in a foreign country. That entity could be a government or a firearms dealer in the importing state (Parker, 2009, p. 64). If a government transfers small arms to a private individual or company, it is carrying out a state-to-private-end-user transfer.