



**COUNCIL OF
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7654/07 ENFOPOL 51 CRIMORG 60
6368/01 ENFOPOL 16
7329/05 ENFOPOL 27
11576/05 ENFOPOL 100
12492/1/05 ENFOPOL 115 REV 1

Subject : Proposal for a Council Recommendation on a standard procedure in Member States for cross-border enquiries by police authorities in investigating supply channels for seized or recovered crime-related firearms

1. Tracing of the source of illegal firearms (supply channels) provides a crucial key aid in the systematic combating of arms crime. Therefore, a manual for cross-border inquiries in tracing supply channels has been submitted, together with a related Council Recommendation.
2. The Police Cooperation Working Party examined this proposal in detail in its meeting of 12-13 April 2007 and agreed on some amendments. The Article 36 Committee endorsed it in its meeting of 22-23 May 2007.
3. Therefore, COREPER is invited to submit the draft Council Recommendation on a standard procedure in Member States for cross-border enquiries by police authorities in investigating supply channels for seized or recovered crime-related firearms, as contained in annex, to the Council for approval.

Background:

In view of the threat posed to public security in the European Union by organised crime and international terrorism, particular importance attaches to combating arms trafficking and other forms of arms crime. Tracing of the source of illegal firearms (supply channels) provides a crucial key aid in the systematic combating of arms crime.

The Police Cooperation Working Party has been engaged in groundwork in this area since 2001 (6368/01 and 7329/05) and has drawn up a technical manual for the identification of firearms (annexed to 7329/05). That technical manual provides a good underlying basis for effective action on supply channel enquiries, since it opens the way for ascertaining and compiling the requisite information. At its meeting on 19 October 2005, on the basis of preparations by the Police Cooperation Working Party, the Article 36 Committee accordingly approved the voluntary introduction of the manual in Member States. The Article 36 Committee also asked the Police Cooperation Working Party to follow up its introduction and application (12492/1/05 REV 1).

Further to the proposals and instructions on tracing supply channels, the European Firearms Expert (EFE) Working Group manual now submitted, to be annexed to the proposed Council Recommendation, continues the course taken in the above documents¹. The key to EFE work lies in implementation and application of the technical knowledge base previously established and brought together in 7329/05. Europol assisted with the drafting and supported the EFE Working Group. The manual and form are also consistent with the bases for Interpol correspondence and with the United Nations Firearms Protocol.

The manual annexed to the Council Recommendation thus combines the knowledge and experience of Member States' specialists in combating arms crime. With its form for practical processing of supply channel enquiries, it will help improve information sharing between Member States' police forces in combating arms crime, by means of a user-friendly standard procedure, and hence advance the process of harmonising cooperation between Member States in this important crime-fighting area.

¹ The manual in 7329/05, in contrast, is broader and also deals with technical procedures for identifying arms. This includes identification of illegally produced or converted arms. The EFE manual is confined to tracing supply channels for seized or recovered arms originally marketed lawfully.

After signing the UN Firearms Protocol ¹, on behalf of the Community, as part of the 2001 UN Convention against Transnational Organised Crime, the Commission has also been pursuing these aims. Through a number of technical amendments, it has proposed ², among other things, making it easier to trace weapons covered by the EU Weapons Directive (91/477/EEC) and thereby providing lasting assistance in fighting crime. The principle of marking weapons at the time of manufacture, so far only regulated indirectly in the Directive, is thus to be turned into a clear marking requirement. In order to strengthen the security aspect of the Directive, the minimum ten-year period specified by the Protocol for keeping registers is also to be adopted.

The EFE manual now submitted, to be annexed to the proposed Council Recommendation and used by Member States' police authorities for enquiries in tracing supply channels, is broadly in line with the approach of the above Commission proposal to amend the Weapons Directive. It is to be expected that the measures provided for in the Commission proposal will also improve the basis for tracing supply channels.

¹ Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (Resolution adopted by the UN General Assembly on 31 May 2001).

² Commission proposal of 2 March 2006 for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons (COM(2006) 93 final – 7258/06 of 17 May 2006).

Proposal for a
COUNCIL RECOMMENDATION
on a standard procedure in Member States for cross-border enquiries by police authorities
in investigating supply channels for seized or recovered
crime-related firearms

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Whereas:

- (1) In view of the threat posed to public security in the European Union by organised crime and international terrorism, particular importance attaches to combating arms trafficking and other forms of arms crime. Coordinated joint action by all Member States of the European Union is required in order to refine and build on existing routine cross-border cooperation in combating such crime and eliminate recognised shortcomings.
- (2) Tracing of supply channels, which as a means of international investigation of the source of arms relates to illegal firearms only, provides an important aid in combating arms crime. Swift tracing of the full route taken by a firearm here serves three crucial purposes in combating arms crime.

In the first place, tracing of supply channels seeks to identify the person responsible for the disappearance of a firearm into illegality. It thus involves identifying what is in most cases a hitherto unknown offender. The directly related second purpose is to uncover arms-trafficking market structures within the European Union and detect offenders operating in that market. The third purpose served is to gather and assess material information on the present state of arms crime in Europe, for the production of an EU arms crime situation report based on solid facts.

- (3) The making of cross-border enquiries regarding supply channels for illegal firearms is in line with United Nations General Assembly Decision 60/519 of 8 December 2005, whereby States adopted an international instrument enabling illicit small arms and light weapons to be identified and traced in a timely and reliable manner by way of cooperation to that end. That Decision is expressly referred to by the European Parliament in its Resolution on the Council's seventh and eighth annual reports according to operative provision 8 of the European Union Code of Conduct on Arms Exports (2006/2068 (INI)).
- (4) After signing the UN Firearms Protocol ¹, on behalf of the Community, as part of the 2001 UN Convention against Transnational Organised Crime, the Commission has also been pursuing these aims. Through a number of technical amendments, it has proposed ², among other things making it easier to trace weapons covered by the EU Weapons Directive (91/477/EEC) and thereby providing lasting assistance in fighting crime.
- (5) Member States need to improve their use of cross-border tracing of supply channels as a factor in combating international arms crime (quantitative improvement needed). Also, standard procedures and uniform (technical) information standards for cross-border enquiries regarding supply channels for crime-related firearms should be established (qualitative improvement needed). Furthermore, adequate background information should be available within the Community for a nuanced EU arms crime situation report. Such information is essential in order to provide the basis, in the medium term, for coordinated operations by Member States to tackle arms crime effectively at both national and international level (strategic improvement needed).

¹ Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (Resolution adopted by the UN General Assembly on 31 May 2001).

² Commission proposal of 2 March 2006 for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons (COM(2006) 93 final – 7258/06 of 17 May 2006).

- (6) The manual and form drawn up by the European Firearms Expert (EFE) Working Group in the light of earlier discussions in the Article 36 Committee and preparatory work by the competent Council Working Party together with experts from Member States and Europol should, by means of a user-friendly standard procedure, facilitate information sharing between Member States' police forces in combating arms crime, drive forward cross-border supply channel tracing between Member States and hence steadily advance the process of harmonising cooperation between Member States in this important crime-fighting area,

HEREBY RECOMMENDS THAT MEMBER STATES:

1. make effective use of tracing of supply channels as a crucial key criminal investigation technique in the systematic combating of arms crime. This applies in particular to cross-border investigation of sources;
2. for this purpose, endeavour to have the manual annexed to this Recommendation used and followed by police authorities;
3. make provision for use of the form in this manual for cross-border enquiries in tracing supply channels;
4. regularly assess their own national practice, especially use of the recommended form, and submit their findings to the Council.

Done at Brussels, ...

For the Council
The President

European Union Manual

Traces on the Ownership of Firearms

A Handbook for Systematic Tracking of Firearms
Seized from Illegal Possession or in the Course of Criminal Offences

2006

Introduction

In view of a strong common concern for combating international firearms crime by way of illegal firearms trafficking, especially within the European Community, the Member States of the European Union are highly aware and convinced that international co-operation and control in the field of firearms manufacture and sale should be intensified and improved. One important step on the way to this goal is to use the investigative means of ascertaining the origin of a firearm seized from illegal possession or in the course of illegal use by tracing. Tracing means to shed light on the sales history of a weapon and follow the chain of possession starting with the manufacturer and ending with the latest legal owner within the country. The European Member States lay utmost stress on the statement that tracing is the essential means of locating the origin of a firearm, an effective instrument of combating firearms crime and a good starting point for analysing and evaluating weapons crime phenomena.

Enclosed are samples of the two templates, i.e. functional screen formats, to be used by the Member States for direct emailing. The templates have been derived from and comply with the formats having been developed and established by the ENFOPOL 16 working group chaired by Sweden and the following ENFOPOL 27 program, which give technical support.

The Member States of the European Union

Aware of the urgent need to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components,

Convinced, therefore, of the necessity for all EU Member States to take appropriate measures besides those already effected on the regional and national levels, especially including international co-operation and information exchange,

Recalling the Directive 91/477/EEC of 18th June 1991 and the international Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime of 31st May 2001 that contribute to creating a legal framework for harmonised European and international co-operation in the control of firearms, their parts and components and the fight against firearms crime in general,

Bearing in mind the principle of equal rights and the need for harmonised legislation to achieve approved and intensified co-operation of law enforcement authorities,

Convinced that supplementing the EU regulations with an instrument for a systematic tracking of firearms, their parts and components, will improve firearms control and prevent further misuse and illegal activities,

Have agreed as follows:

European Union Manual

Traces on the Ownership of Firearms

1 General Provisions

Any interested Member State is invited to adopt this Manual as a common instrument of intensified co-operation in matters of firearms tracing which should be made a framework ruling harmonised and formatted information exchange on the international level. This is a practical follow-up of the technical provisions of ENFOPOL 16/27.

1.1 Statement of purpose

The purpose of this Manual is to facilitate bilateral communication in tracing back seized firearms. This is an important means of combating general crime and terrorism as manifested in illicit manufacturing of and trafficking in firearms, their part and components.

1.2 Use of terms

For the purpose of this Manual, the following definitions apply:

- (a)** "Firearms" means any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive;
- (b)** "Parts and Components" means any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm;
- (c)** "Illicit manufacturing" means the manufacturing or assembly of firearms, their parts and components:
 - (i)** from parts and components illicitly trafficked;
 - (ii)** without a licence or authorisation from a competent authority of the Member State where the manufacture or assembly takes place; or
 - (iii)** without marking the firearms at the time of manufacture, in accordance with the corresponding national regulations.
- (d)** "Illicit trafficking" means the import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components from or across the territory of one Member State to that of another Member State if any one of the Member States concerned does not authorise it in accordance with the national regulations or if the firearms are not marked in accordance with national laws.
- (e)** "Tracing" means the systematic tracking of firearms and, where possible, their parts and components from manufacturer to purchaser for the purpose of assisting the competent authorities of Member States in ongoing criminal investigations. The results of tracing can give valuable intelligence to be used in combating illicit manufacturing and trafficking. The working group that has elaborated this Manual welcomes initiatives towards this second step in the process for a more systematic gathering of such intelligence.

1.3 Scope of application

- (a) This Manual should apply to a systematic tracking of firearms aiming at combating illicit manufacturing and illicit trafficking and using means and methods commonly agreed on and established by the EU Member States in this manual.
- (b) Therefore, Member States of the European Union may adopt in their national regulations provisions that "tracing" should be considered an essential means of national and international control of legitimate acquisition and possession of firearms as well as firearms commerce and also an important instrument of combating firearms crime in general.
- (c) It is assumed that each Member State has made provisions that national marking and registration of firearms as an indispensable basis for tracing activities are laid down in its national firearms legislation. Marking and registration requirements should hereby correspond with the provisions laid down in the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime of 31st May 2001.

2 Means and Measures

2.1 National traces on the ownership of firearms

(a) Legal situation

Pursuant to the domestic weapons legislation persons, who - by way of business - purchase, sell or put firearms at the disposal of others are obligated to keep records on their arms trade to document the types, quantities, origins and whereabouts of firearms. According to the domestic weapons legislation persons, who possess weapons, must have this fact recorded in their firearms owner licence.

(b) Tracing procedure

It shall be checked whether the firearm in question was produced by a domestic manufacturer and/or whether it bears a domestic dealer's mark, where obligatory. Traces on firearms produced or marketed by domestic manufacturers or dealers should be effected by any competent authority.

2.2 *International traces on the ownership of firearms*

(a) *Legal situation*

Pursuant to Articles 6 and 7 of the European Convention on Mutual Assistance in Criminal Matters and domestic regulations for correspondence with foreign countries in criminal law matters, a tracing request should contain information on the ongoing investigation concerning:

- the suspected person's full personal details; if necessary according to national legislation
- the offence committed;
- a short summary of the case and, if applicable,
- the public prosecutor's office dealing with the case and file number.

(b) *Tracing procedure*

If enquiries reveal that a seized firearm was sold to a foreign country, was produced in a foreign country or was purchased in a foreign country, a tracing request should contain information on the date the firearm was resold as well as on the purchaser (person/company, address, invoice number and date, if available). In such cases the tracing request for ascertaining the sales history of a firearm should be sent to a domestic Central Point of Contact that as a tracing centre co-ordinates the information exchange between the domestic and foreign police services.

2.3 *Tracing minimum standard*

International firearms tracing should be done by exchanging information by way of formatted documents, so-called templates, to make sure that corresponding requests are readable in all EU Member States without translation. The templates should contain the following minimum details:

(a) *Case related information*

An international tracing request should contain information on the ongoing investigation, i.e. criminal matters, as follows:

- the suspected person's full personal details, if necessary according to national legislation
- the offence committed;
- a short summary of the case and, if applicable,
- the public prosecutor's office dealing with the case, including case number.

(b) *Technical firearms details*

To establish the sales history of a firearm made by manufacturers or sold by dealers, the tracing request should be provided with any data available on the weapon concerned, i.e.

- Precise type of weapon (e.g. "shotgun"),
to be specified if necessary (e.g. "double-barrelled shotgun")
- Model / brand
- calibre
- serial (individual) number
- proof marks
- additional possible markings and/or dealer's marks (where obligatory).

In case the model, calibre etc. cannot be clearly identified, the police service in charge is asked to provide detailed photographs of the firearm.

Recommendation:

It is expected that the reply from the requested country reflects effected checks like e.g.

- "the weapons was sold to..."
- "there is no information available"
- "the weapon is not reported lost or stolen", etc.

3 Final Provisions

3.1 Information

- (a) The EU Member States co-operate in the tracing of firearms, their parts and components that may have been illicitly manufactured or trafficked. Such co-operation should include the provisions of prompt responses to requests for assistance in tracing such firearms, their parts and components with all available means.
- (b) Subject to the basic components of its legal system or any international agreements, each Member State guarantees the confidentiality of and comply with any restrictions on the use of information that it receives from another Member State, including proprietary information pertaining to commercial transactions, if requested to do so by the Member States providing the information. If such confidentiality cannot be maintained, the Member State that provided the information should be notified prior to its disclosure.

3.2 Co-operation

Each Member State identifies the national body or Single Point of Contact to act as liaison between it and other Member States on matters relating to firearms tracing.

These national bodies or Single Points of Contact are the address for direct information forwarding which should be done by emailing electronic formatted messages, so-called templates. The information exchange should be effected by using secure channels.

4 Final Remarks

This Manual based on and derived from the technical provisions of ENFOPOL 16/27 (a project chaired by Sweden) is the second step in firearms tracing which needs a follow-up in form of intelligence gathering for the purpose of detecting among others phenomena of firearms crime, criminal-geographic regions of concern, technical fields of interest, etc. This third step is on the way already.

Firearms Related Case

Section 1; Contact Details

Reporting country: _____ Date: _____
Force/Squad: _____ Case number: _____
Officer: _____

Section 2; Firearms Information

See the attached MTS Form;

Additional info: _____

Manufacturers / Importers / Law Enforcement Information: _____

Section 3; Case Information / Details

Date / Time: _____

Address / Location: _____

Type of crime: _____

Single offence: Repeated offence: Offence series:

Country of produce: _____ Country of origin: _____

Trafficking / Smuggling route: _____

Means of transport: Air: Road: Rail: Sea:

Section 4; Information on Possessor of Firearm, (Criminal Possession only)

Name: _____ First Name(s): _____

Address: _____ Phone/e-mail: _____

Male: Female: DoB: _____

Nationality / Ethnic Origin: _____

Licensed firearms owner: Illicit firearms owner:

Criminal: Criminal group:

Organized crime group: Terrorist / Political background:

Connection to other suspects / persons: _____

Section 5; General Information on Firearm Recovery

Circumstances of how the firearm was recovered: _____

Remark: Insert obligatory information according to the descriptive text passages of the Manual. Additional information is optional and can be given if necessary or useful.

Reporting Officer: _____ Date: _____

Force / Squad/: _____ Case number: _____

Firearms Facts (Minimum Technical Standard - Form)

Name and model of the firearm: _____

Manufacturer: _____

Country of manufacture: _____

Type: Pistol Sub machine gun Revolver Rifle Shotgun
 Other firearms device _____

Sub type: Fully automatic Semi automatic
 Single shot Repeating
 Blank firing / and if Converted; specify below
 Non firing; add information to "other comments" below

Serial number: _____

Location: _____

Not present Removed Restored / attempt

Calibre: _____

Not actual calibre Measured:

Rifling characteristics: Polygonal
 Smooth
 Conventional lands / grooves

Direction: Left Right
Number: _____

Other Identifying Marks: _____

Alterations / Modifications: _____

Other comments /Remarks: _____

Photographs: Available
 Attached

Proof House Marks: _____

Dealers Import Marks: _____

Remark: Insert obligatory information according to the descriptive text passages of the Manual.
Additional information is optional and can be given if necessary or useful.