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INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION

cicad

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FINAL REPORT

(Provisional Version)

**MEETING OF THE GROUP OF EXPERTS FOR
THE CONTROL OF FIREARMS**
April 7 – 9, 2003
Managua, Nicaragua

I. BACKGROUND

In November 1997, a special session of the OAS General Assembly adopted the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and other Related Materials. Also in November 1997, CICAD at its 22nd regular session adopted Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Ammunition. These were subsequently approved by a regular session of the OAS General Assembly in June 1998.

Since the adoption of the Model Regulations, certain member states have expressed concern over increases in the quantities of illegal firearms in circulation and the possibility that the activities of brokers operating without government controls may be responsible. Additional mechanisms to better control these activities are required.

In order to address these concerns and to examine the currency of the Model Regulations, the 32nd Regular Session of CICAD held in Mexico City in December 2002 decided to convene the Group of Experts for the Control of Firearms.

II. INAUGURAL, OPENING, WORKING AND CLOSING SESSIONS

In accordance with the Schedule of Activities, on April 7, 2003 at 9:00 a.m., the inaugural session of the Expert Group was held in the Salon Roble II of the Hotel Real Intercontinental in Managua, Nicaragua. Opening remarks were made by Mr. Eduardo Urcuyo, Minister of Government Affairs, Mr. Leandro Marin Abaunza, Secretary of the Presidency of Nicaragua, Ms. Maria Auxiliadora Cuadra, Vice-Minister of Defence and Mr. Michael Sullivan, Senior Attorney for CICAD.

The following eighteen countries and international organizations attended the event: Argentina, Bahamas, Brazil, Bolivia, Canada, Chile, Colombia, Costa Rica, Ecuador, Grenada, Guatemala, Haiti, Jamaica, Mexico, Nicaragua, Panama, Trinidad and Tobago, the United States, the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UN-LiREC) and the United Nations Office on Drugs and Crime (UNODC).

The meeting was carried out in six plenary sessions, and addressed the following matters: the report by the Executive Secretariat on the election of the Chair and the reconvening of the Group of Experts; consideration of the addition to CICAD's Firearms Model Regulations of new control measures for firearms brokers and their activities; consideration of measures to update the Model Regulations to strengthen controls over exporters and importers of firearms; consideration of additional harmonized forms such as end-user certificates and delivery verification certificates; consideration of measures to update the Model Regulations in relation to secure storage, stockpile management, and destruction of firearms; presentation on the importance of tracing and marking of firearms to create a paper trail of firearms and ammunition; and a presentation on

software for implementing the Model Regulations on an electronic basis in member states.

The closing session was held on April 9, 2003. The Chair of the meeting, Mr. Alfonso Sandino Camacho, Vice-Minister of Government Affairs (Gobernacion) of Nicaragua, summarized the work and decisions reached by the Group. He also stressed the need for countries to cooperate with each other and to facilitate exchanges of information if controls to deal with the trafficking of firearms are to be effective.

Thanks were exchanged among the participants who then expressed their appreciation to the organizers and the administrative support personnel and, in particular, the translators for a job well done.

III. AUTHORITIES AND PARTICIPANTS

The names of the attending experts are contained in the Directory of Participants, (CICAD/?).

IV. DOCUMENTATION

The working documents of the meeting compiled by the Executive Secretariat are included in the list of Documents, (CICAD/?).

V. CONCLUSIONS AND RECOMMENDATIONS

1. Agenda, Order of the Day and General Consideration of the issues

The draft Agenda was approved with no changes.

2. Report by the Executive Secretariat on the Work Plan and the Election of the Chair

The Executive Secretariat gave a brief report on the proposed Work Plan and the election of Nicaragua as Chair of the Group of Expert Meeting at the 32nd regular session of CICAD held in Mexico City, Mexico in December 2002.

The Executive Secretariat gave a brief background on the origins of the Inter-American Convention and CICAD Model Regulations. It was stressed that the Model Regulations provide a mechanism to implement provisions in the Inter-American Convention on controls over the import, export and in-transit movement of firearms and ammunition. However, since 6 years had passed since the adoption of these instruments by the General Assembly of the OAS, the Group was being reconvened in order to review the currency and application of the Model Regulations and to consider the addition of new subject matters, including brokers, stockpile management, storage

and destruction of firearms, export controls, and end-user and delivery verification instruments. The Executive Secretariat also stressed the need to look at information technology and how these could be applied to record-keeping and information exchange.

3. Control Measures over Firearms Brokers and their Activities

To introduce the subject, the Executive Secretariat presented a draft study on brokers prepared for the Committee on Hemispheric Security for presentation at the Special Conference in Security to be held in Mexico later this year. An overview was given on the role brokers play in bringing together buyers and sellers of firearms. It was also noted that brokers and the scope of activities that they perform is not commonly understood. Few countries have legislation in place to regulate the activities of these persons. However, controls are needed, because certain unscrupulous brokers arrange for firearms to be supplied to individuals operating outside the law, such as criminal organizations and terrorists. To do so they tend to operate outside of the jurisdictions in which there are controls or where control systems generally are weak. This gives rise to questions about the scope of broker controls and whether broker control laws should have territorial application. The Secretariat also briefly summarized national laws broker laws in force in several European countries and the United States. It also reviewed international initiatives on the subject including those of the United Nations Firearms Experts, the countries of the Wassenaar Group, Lancaster House and the Organization for Security and Cooperation in Europe.

The representative from the United States, Ms. Patricia Slygh, made a presentation on the U.S. broker law. She stated that the law which was enacted in July 1996 required brokers to go through two control stages; registration and licensing. In addition to U.S. citizens anywhere, the U.S. law requires non-U.S. persons engaged in brokering activities involving U.S. firearms to register, as well as those persons engaged in brokering of firearms that enter the United States. The law also requires licensing brokering transactions and requires the reporting of a wide range of information similar to that required in an export transaction including the name of the broker and the end-user, a complete description of the goods as well as their quantity and value. Another element of the U.S. legislation to control brokers is the requirement that they provide an annual report of their activities and fines and other penalties for non-compliance. She observed that while the law has not been shown to completely stop illegal brokering activities, it does provide a valuable tool for enforcement and prosecution.

Upon completion of the presentation by the United States, the Executive Secretariat presented a draft Model Regulation on brokers for review and discussion by the Group of Experts. The discussion focused on the structure of the draft, considering the adequacy of the terms defined, the identification and scope of authority of the entity responsible for registration and/or licensing, prohibitions in relation to brokering activities, offences, the liability of legal entities, reports and inspections and finally, draft forms for the registration and licensing of brokers. The Executive Secretariat emphasized that the purpose of the exercise was to receive feedback and input from the experts on

the document for its approval by the group and eventual adoption by CICAD. At the suggestion of one of the Nicaraguan experts, it was decided to undertake a line-by-line analysis of the draft. The draft Regulation resulting from this analysis was adopted by the Group subject to editorial and linguistic adjustments and is annexed to this report as Annex 1.

4. Consideration of Modifications to update the Model Regulations for the Control of the International Movement of Firearms

The Executive Secretariat made a presentation on the operation of the Model Regulations for the Control of the International Movement of Firearms and presented some possible modifications that could be made to expand the scope of its operation. The proposed modifications included the following: identification of any brokers used in a firearms transaction, if applicable (which would be included only after the provisions of the firearms brokers regulations were adopted by CICAD); changes in the import and export certificates forms that would explicitly state that the authorized quantity of a shipment of firearms is not to exceed the amount approved in the import certificate; the use of information exchanges to prevent falsification of information; the maintaining of records of the international movement of firearms for a ten-year, rather than a five-year period; and the keeping of electronic records and, to the extent permitted by law the exchange of information relating to those records taking advantage of the electronic system for applying the Model Regulations known as the Small Arms and Light Weapons System, SALSA. The Group heard a presentation by Canada and discussed for inclusion in the Regulations the employment of end-user documentation as a further tool towards preventing diversion after a firearms shipment had reached its intended destination. Another provision was included for the employment of delivery verification documentation which would be used to certify that the shipment of firearms and ammunition arriving at a particular destination was the same as that shipped from the exporting country. A further modification involved the setting out of more complete information about the officials responsible for the various aspects of firearms importation and export. Additional language was provided to urge countries to improve their stockpiling and firearms destruction capabilities and for countries with more advanced technologies of this nature to assist other countries with less developed systems. Finally, a provision was added for countries to assist one another with effective firearms marking systems to facilitate identification and tracing. The recommendations of the Group concerning the modifications to the Model Regulations are annexed to this report as Annex 2.

The above measures on end-user and delivery verification were introduced by the representative of Canada, Mr. Mike Buisson, and from the United States, Ms. Patricia Slygh. The two experts made a joint presentation on the importance of using end-user and delivery verification documentation to ensure not only that firearms shipments reach their approved destination in the form in which they were exported, but that also, if required by the exporting country, that the arms will not be re-exported without its prior agreement. This discussion also led to a consideration of the concern of countries over forgeries and alterations to documents and for this reason, the

Regulations have been up-dated in this respect. The experts expressed some concerns about the complexities involved in the issuance of these documents and the steps needed to ensure that the relevant actors to a transaction could comply with the norm, but agreed that these documents would be helpful towards preventing diversion and losses of firearms. The Group supported CICAD's proposals to carry out a pilot project on implementing the Model Regulations electronically including the end-user and delivery verification components, if possible.

5. Stockpiling and Destruction of Firearms

Major David Gray, of the United States delegation, made a presentation on the secure stockpile management training program and another on the small arms and light weapons destruction program carried out by the Defense Threat Reduction Agency in the U.S. Department of State. Major Gray also spoke about the work of his Agency in combating small arms and light weapons proliferation by instituting worldwide programs or destruction activities. Countries that have thus far received assistance in destruction of firearms include Albania, Macedonia, Bulgaria, Guyana, Lesotho and Romania. Major Gray also discussed the different ways in which firearms are destroyed, indicating that torch cutting is the most proficient and cost-efficient. He noted that the serial numbers of the destroyed firearms should be recorded. He also indicated that stopping the proliferation of these goods is best achieved when countries institute proper storage. To illustrate he gave examples of improper storage, showing mixed boxes of ammunition, loose weapons and rounds and poor security and no accountability and cross checking system established for those responsible. Countries that have received assistance for proper storage techniques of firearms include Albania, Moldova, Nigeria, Guyana, Ecuador and Peru. Gray indicated that the assistance could be provided to other countries but did not specifically indicate what circumstances would prioritize a country's request.

In response to questions by the Experts, Major Gray further explained that the United States works multilaterally with countries, but not directly with the United Nations.

6. Tracing

The Canadian expert, Mr. Mike Buisson, gave a presentation on the importance of tracing and information exchange to combat the illicit trafficking of firearms. The United States also reported on their efforts at tracing and the work being conducted by the Bureau of Alcohol, Tobacco and Firearms.

It was also reported that marking of small arms and light weapons as an adjunct to facilitating tracing is under active discussion in other fora. One of the problems identified is that apparently some countries and manufacturers have been marking several weapons with the same serial number. Some Experts also observed that while tracing of firearms is possible to the first purchaser of those weapons from the manufacturer, that tracking subsequent sales is more difficult.

7. Software on Implementing the Model Regulations

Mr. Richard Clark, a consultant for CICAD, made a presentation on the different management systems and tools available for controlling the international movement of firearms. Mr. Clark focused his presentation on two such systems, the Small Arms and Light Weapons Administration (SALSA) application and a product called FASTRACS. SALSA, he indicated, allows countries to access a website where the firearms legislation, regulations and other relevant documents of the member states of the OAS are posted. Moreover, it provides specific contact information for officials responsible or firearms control in the countries and it also provides a bulletin board for posting information of interest to those officials. FASTRACS, which will be integrated into SALSA, effectively computerizes the operation of the Model Regulations. The program would allow countries to electronically approve applications for the import and export of firearms and to transmit the information to all relevant countries involved in the transaction, an information-sharing concept favored in the Model Regulations and under the CIFTA. Mr. Clark stressed that these systems allow for effective information exchange but that to protect the security of the diffusion of the information, only those countries involved in a shipment transaction would be able to access information about that shipment, unless they agreed, say for investigation or intelligence purposes, to share it with other interested countries.

The experts agreed that such an electronic system would greatly assist in effectively controlling movements of firearms internationally. Moreover, the system contemplates improved record keeping and thus a better paper trail of movements of these goods. The Executive Secretariat indicated that a pilot project would be instituted this year to implement the software involved, with an initial focus on Central America and the Caribbean.