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United Nations Office on Drugs and Crime

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– Statement of the United Nations Office on Drugs and Crime –

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The United Nations Office on Drugs and Crime (UNODC), would like to thank the President-designate of the Sixth Conference of States Parties to the Arms Trade Treaty Secretariat, Ambassador Federico Villegas, and the Secretariat of the Arms Trade Treaty for having invited us to join this important event, despite the testing circumstances.

The diversion of small arms and light weapons (SALW) is an important enabler that allows organized criminal and terrorist groups as well as petty criminals alike to carry out their illicit businesses. It thus poses a significant threat to peace and security, facilitates the violation of human rights and undermines the economic, social, cultural, political and civil development of societies around the world. The UNODC Global Study on Firearms Trafficking 2020 reveals that on average, 85 per cent of arms seized in a single country in 2016-17 were uniquely marked – reflecting the fact that the vast majority of firearms originate from industrial legal manufacture.¹ Many of them were subsequently diverted and illicitly trafficked. Hence, the diversion of firearms cannot be considered in isolation from the illicit trafficking in such items, their parts and components and ammunition.

Although the term “diversion” is not formally defined in any international arms control instrument, the Modular Small Arms Control Implementation Compendium (MOSAIC), a set of voluntary guidelines on small arms and light weapons control issues developed within the United Nations system provide the follow guidance to help understand the term: “movement – either physical, administrative or otherwise – of a small arm or light weapon, its parts, components or ammunition, from the legal to the illicit realm”². It is generally recognized that essential elements of the act of diversion include the rerouting of SALW to the illicit market, for unauthorized end-use and for unauthorized end-users. In many cases these conducts fall under the definition of the offence of illicit trafficking in accordance with the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (Firearms Protocol) supplementing the United Nations Convention against Transnational Organized Crime. This

¹ See UNODC Global Study on Firearms Trafficking 2020, page 39, available at <https://www.unodc.org/unodc/en/firearms-protocol/firearms-study.html>.

² See MOSAIC MOSAIC 01.20 on “Glossary of terms, definitions and abbreviations”, available at <https://www.un.org/disarmament/convarms/mosaic/>.

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synergy underlines that in order to effectively combat the phenomenon of diversion, both, preventive measures and criminal justice responses, are fundamental (also article 11, para. 4 of the Arms Trade Treaty foresees taking follow-up measures through investigation and law enforcement in cases of diversion).

While approaching the issue of diversion of SALW from different angles, the Arms Trade Treaty and the Firearms Protocol should not be implemented in silos, but in a comprehensive manner, making use of the reinforcing synergies between the two instruments. That has, in particular, become apparent with regards to the role of transparency and information exchange, which is the topic of this year's working paper presented by the president of the 6th Conference of State Parties to the Arms Trade Treaty. Not only in the framework of the Arms Trade Treaty, but also in the Firearms Protocol, transparency and the exchange of information are envisaged in several provisions. The call upon States parties to the Arms Trade Treaty to exchange information related to specific import and export authorizations (article 7, paras. 6 and 7; article 8, para. 1) is complemented by the comprehensive export, import and transit authorization systems, required by article 10 of the Firearms Protocol, which is based on reciprocity. As a common underlying principle, the information exchange requirements of both instruments include that SALW and related items cannot be imported or exported without the awareness and consent of all States involved.

Where diversion of SALW is detected, information exchange must be lifted to the level of direct cross-border coordination between criminal justice authorities in order to address the act and bring the perpetrators to justice. This includes the systematic and spontaneous exchange of case-specific information, information related to trafficking networks, the means of concealment, routes and modi operandi used in the specific case, and cooperating in the tracing of the diverted items. The United Nation Convention against Transnational Organized Crime, celebrating its 20th anniversary this year, and its supplementing Firearms Protocol provide the legal framework for this kind of international cooperation in criminal justice matters related to illicit arms transfers and related forms of crime (articles 27 and 28 of the Convention and articles 12 and 13 of the Firearms Protocol). UNODC therefore encourages states parties to the Arms Trade Treaty to take into account the provisions of the Convention and the Firearms Protocol in order to enhance their responses to diversion and illicit arms trafficking, which are in many cases two sides of the same coin. To this regard, it is utterly important to aim for universal adherence of the Arms Trade Treaty and the Firearms Protocol – with 190 states parties, the Organized Crime Convention is already close to reaching this landmark. The status of implementation of the Convention and the Protocols thereto will be assessed through the mechanism for the review, which is expected to be formally adopted during the 10th session of the Conference of Parties to the Organized Crime Convention in October 2020.

For an effective and timely information exchange related to both, arms control measures aiming at preventing diversion as well as criminal justice responses, it is necessary that arms control

and criminal justice authorities know their counterparts in foreign jurisdictions. The establishment, maintenance and communication of national points of contacts, foreseen likewise in article 5, para. 6 of the Arms Trade Treaty and article 13, para. 2 of the Firearms Protocol are therefore essential in order to address the issue of diversion in an integrated manner. These points of contact act as a liaison between counterparts in different countries but can also facilitate an inter-institutional and proactive exchange of information between arms control and criminal justice authorities in order to effectively detect, investigate and prosecute cases of diversion.

Therefore, UNODC encourages states to initiate and institutionalize the exchange of information between the national points of contact established under the Arms Trade Treaty and the Firearms Protocol.

UNODC once again reiterates its continued support and commitment to assist states in building adequate criminal justice systems to effectively respond to the challenges posed by organized criminality specifically related to trafficking in firearms its parts and components.