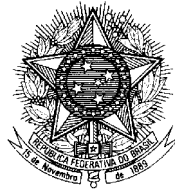


**UNITED NATIONS CONFERENCE ON THE ILLICIT TRADE OF
SMALL ARMS AND LIGHT WEAPONS IN ALL ITS ASPECTS**

THIRD BIENNIAL MEETING – 14/18 JULY 2008

**IMPLEMENTATION OF THE PROGRAMME OF ACTION AND OF THE
INTERNATIONAL TRACING INSTRUMENT**



**REPORT SUBMITTED BY
THE FEDERAL REPUBLIC OF BRAZIL**

I. International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (International Tracing Instrument, ITI)

Introduction

Since the entry into force of the Disarmament Statute (Law No. 10826, December 2003), Brazil has been thoroughly committed to the marking and registration of small arms and light weapons, including their ammunition. From the Brazilian point of view, it is extremely important for other countries to follow the same path, especially considering that there is a growing tendency in Brazil, detected by the Federal Police Department, toward the seizure of illicit foreign firearms and ammunition. We therefore consider that all efforts should be made to stimulate the adoption of comprehensive legislation in the largest possible number of countries regarding small arms, light weapons and their ammunition.

The Army's Directorate for Inspection of Controlled Goods exercises controls (register, licensing, inspection, military customs) to prevent the manufacture, stockpiling, transfer and possession of unmarked or inadequately marked small arms and light weapons. Erasing or altering markings of small arms and light weapons or ammunition is a crime, subject to the penalty of 3-6 years imprisonment and fines.

Weapons

The marking of firearms is regulated by the Ministerial Act No. 7D (issued by the Logistics Department – Ministry of Defense, April 28th 2006).

According to this legislation, all firearms produced in Brazil must bear the following markings:

- i. name or brand of the manufacturer;
- ii. name or code of the country;
- iii. caliber;
- iv. serial number;
- v. year of manufacture.

The actual marking system is subject to military inspections and all markings must be resistant to removal or alteration attempts. A printing depth of 0.10 mm is required by means of mechanical deformation in metallic components.

In addition, all firearms acquired by the Armed Forces, the Federal Police Department, the Federal Highway Police Department, the Military Police, the Military Fire Brigades and other federal public bodies must be marked with the Federal Republic blazon as well as the name or initials of the organization. The equivalent demand is placed upon all firearms acquired by state public bodies and municipal guards.

In case of firearms destined for export, besides the marking explained above, any marking required by the importing country must also be provided. At the same time, all imported firearms to be sold in the specialized commerce by registered companies must be marked

by the manufacturer with the name of the importer. Firearms imported to be used by public bodies are required to have the same marking as those produced in Brazil. Replacement parts produced to the national market must also be marked with the same numbering used in the weapon they are destined to, preceded by the letter "R".

Lastly, manufacturers are required to maintain indefinitely the register of sales of firearms.

Ammunitions

The marking of ammunitions is regulated by the Ministerial Act No. 16D (issued by the Logistics Department – Ministry of Defense, December 28th 2004).

According to this legislation, all ammunition commercialized in Brazil, whether manufactured nationally or abroad, must be placed in packages containing a bar code engraved (not stamped or glued) on the box, in order to enable the identification of the manufacturer, the purchaser, the product and the delivery lot. Besides, most of the ammunition (calibers .380, .38, .357, 9mm, .40, .45, 5,56mm, .30, 7,62mm, .50 and 12-gauge shotguns) purchased by public bodies must contain identification of the lot and of the acquirer on the butt of each round.

Manufacturers and importers are also required to create and maintain databases which are able to provide, at least, the traceability of the following information:

- i. name of the purchaser;
- ii. sale authorization issued by the Army;
- iii. product code;
- iv. ammunition description;
- v. delivery lot;
- vi. sale receipt (number, series, date and amount);
- vii. transport authorization (number and date).

Such information must be made available at real time to the appropriate division of the Brazilian Army and must be kept for a period of ten years, at the end of which it should be transferred to the Army and the Federal Police Department.

The legislation also establishes close cooperation between the Army and the Federal Police Department regarding the traceability of seized ammunition and registration of imported ammunition.

II. United Nations Programme of Action (UNPoA) to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects

Introduction

As stated in previous reports, Brazil remains greatly concerned with the illicit trade of small arms and light weapons, given its adverse effects on our national public security. From the Brazilian point of view, the adoption of the Programme of Action by the United Nations

Conference on the Illicit Trade of Small Arms and Light Weapons in All Its Aspects confirms the unequivocal importance of multilateralism in addressing global challenges through globally coordinated responses. Over the past years, Brazil has taken numerous measures aimed at addressing the problem of illicit small arms and light weapons and at fully implementing the Programme of Action.

Legislation

The legislation presently in force in Brazil comprises the following main laws and decrees¹:

- i. Law No. 10826 (December 22nd 2003)² – main arms control legislation, known as Disarmament Statute;
- ii. Decree No. 5123 (July 1st 2004) – regulates the Disarmament Statute;
- iii. Decree No 3665 (November 20th 2000), known as R-105 – regulates the activities (manufacture, use, import, export, customs clearance, transit and trade) involving products controlled by the Army;
- iv. Ministerial Act No. 7 (April 28th 2006) – issued by the Logistics Department of the Ministry of Defense to regulate the marking of firearms;
- v. Ministerial Act No. 16 (December 28th 2004) – issued by the Logistics Department of the Ministry of Defense to regulate the marking of ammunition;

Besides these regulations, arms embargoes decided by the United Nations Security Council are timely incorporated into Brazilian legislation through Presidential Decrees, so that the existing legislation on controls and sanctions ensure enforcement of the arms embargoes.

The Directorate for the Inspection of Controlled Goods of the Brazilian Army exerts control over activities involving small arms and light weapons as follows:

- i. manufacture is controlled through registry requirements for production facilities, which must also provide the Army Command and SINARM (explained in section “National Registration Systems”) with real-time information on the production of weapons or ammunition;
- ii. sportive use, including as collection items, is controlled through registry requirements by owners;
- iii. import is controlled through registry and previous licensing requirements;
- iv. export is controlled through registry and previous licensing requirements;
- v. customs clearance requires inspection by an authorized Army agent;

¹ It should be noted that Brazil has ratified the Convention against the Illicit Manufacture and Trade of Firearms, Ammunition and Explosives (CIFTA), negotiated in the Organization of American States (OAS), by Presidential Decree 3.229, in force since October 29th, 1999.

² A few alterations were made by Law No. 10867 (May 12th 2004).

- vi. transport requires previous licensing;
- vii. trade requires previous registration.

According to Decree No. 3665, all civilian arms export and transit operations can only be conducted by authorized dealers (incl. brokers) and require previous export licensing by the Army. Requests for licenses must be accompanied by one of the following documents: a) import license or equivalent, issued by authorities of the importing State; b) end-user certificate; c) declaration by Brazilian Diplomatic Mission located in the importing State that arms importation is free in that State. Military inspection is mandatory at point-of-entry and exit. Military arms are subject to additional controls under the National Exportation Policy for Military-Use Materials (PNEMEM).

The Brazilian Army is also the only organization legally responsible for the destruction of small arms and light weapons and ammunition, whether surplus, seized or collected. Article 25 of Law 10.826 determines that all small arms and light weapons or ammunition found or seized in illicit situations must be promptly destroyed by the Brazilian Army, immediately after completion of judicial measures that may be needed for criminal investigation purposes. The Law expressly forbids any alternative uses for seized weapons.

Public Agencies

Within the Ministry of Justice, the National Secretariat for Public Security was created in 1997, working in close collaboration with States' governments, as well as competent federal agencies (Federal Police, Brazilian Intelligence Agency, Army's Directorate for Inspection of Controlled Goods, Customs). The National Public Security Plan provides for policy guidance, research and monitoring of efforts to prevent, combat and eradicate the illicit trade in small arms and light weapons, in line with paragraph 4, section II of the Programme of Action.

Registration Systems

Since 1997, the Brazilian Government maintains a National Arms Registry (Sistema Nacional de Armas, SINARM), initially created by Law No. 9437 (20/Feb/1997). After the entry into force of the Disarmament Statute, in 2003, SINARM has co-existed with the Military Firearms Management System (Sistema de Gerenciamento Militar de Armas, SIGMA). SINARM was instituted by the Ministry of Justice and has been operated by the Federal Police, while SIGMA was instituted by the Ministry of Defense and has been operated by the Army Command. Both registries have jurisdiction over the whole national territory and, at present, are mutually accessible.

These registration systems allow the Brazilian Government to identify the characteristics and owners of firearms, as they contain information regarding all firearms produced, imported and sold in Brazil. The records also include all authorizations to carry firearms and the renewals issued by the Federal Police, as well as all transfers of ownership, loss, theft, robbery and other events liable to alter the enrollment data. All firearms dealers operating in Brazil are registered, including authorized manufacturers, wholesalers, retailers, exporters and importers of firearms, accessories and ammunitions. Another important data refers to firearms seizures, including those related to police and judicial proceedings.

Every effort has been made to successfully integrate both registries and to consolidate all existing information regarding firearms in Brazil. Despite the undeniable difficulties of such undertaking, all involved areas of the Brazilian Government are committed to the continuous improvement of the available information, a process which has been receiving increased attention over the last years.

The firearms registered under SINARM are:

- i. institutional firearms of the Federal Police, the Federal Highway Police, the State Police and other public bodies whose officers may have the right to carry firearms;
- ii. seized firearms not present in SINARM or SIGMA;
- iii. firearms of restricted and permitted usage³ of public security officers, as allowed by current legislation;
- iv. other firearms of restricted usage, except those of the Armed Forces, the Brazilian Intelligence Agency and the Institutional Security Cabinet of the Presidency;
- v. firearms acquired by citizens, as allowed by current legislation;
- vi. firearms belonging to private security and transportation companies.

The firearms registered under SIGMA are:

- i. institutional firearms of the Armed Forces, the Military Police, the Military Fire Brigades, the Brazilian Intelligence Agency and the Institutional Security Cabinet of the Presidency;
- ii. firearms of officers of the Armed Forces, the Brazilian Intelligence Agency and the Institutional Security Cabinet of the Presidency;
- iii. exported firearms, ammunition and other products controlled by the Army Command;
- iv. imported firearms or firearms acquired by Brazil for testing and technical evaluation purposes;
- v. obsolete firearms;
- vi. firearms belonging to collectors, sport shooters, hunters, as well as diplomatic representations.

³ All firearms, ammunitions and related accessories end equipment are classified by Decree No 3665 as being of permitted or restricted usage. The latter are restricted to the Armed Forces, law enforcement agencies and, in certain cases, to collectors, sport shooters and hunters. Firearms of restricted usage and their ammunition can only be purchased directly from the factory with a special authorization from the Brazilian Army.

Law Enforcement and Criminalization

The Disarmament Statute of 2003 establishes the following crimes and penalties with regard to firearms:

- i. Irregular ownership of firearms of permitted usage. Penalty: imprisonment from one to three years, plus fine;
- ii. Careless handling or storage of firearms, defined as failure to observe the attention necessary to prevent an individual under the age of eighteen years old or a mentally incapacitated individual to get hold of a firearm. Penalty: imprisonment from one to two years, plus fine;
- iii. Illegally carrying of firearms of permitted usage. Penalty: confinement from two to four years, plus fine;
- iv. Shooting firearms. Penalty: confinement from two to four years, plus fine;
- v. Illegally possessing or carrying firearms of restricted use. Penalty: confinement from three to six years, plus fine. The same penalties are be imposed on anyone who: (a) removes or alters the marking, numbering or any identification mark of a firearm or artifact; (b) modifies the characteristics of a firearm with a view to making it equivalent to a firearm of prohibited or restricted usage, or for the purpose of hampering or, by any means, inducing error on the part of police authorities, experts, or judges; (c) possesses, holds, manufactures or uses explosive or incendiary artifacts without authorization or in in violation of the legal or regulatory norms; (d) carries, possesses, acquires, transports or furnishes firearms with its numbering, mark or any other identification mark scratched, removed or adulterated; (e) sells, delivers or furnishes, even if free of charge, firearms, accessories and ammunitions or explosives to children or adolescents; and (f) produces, reloads or recycles, without legal authorization, or adulterates, by any means, ammunition or explosives;
- vi. Illegal trading of firearms. Penalty: confinement from four to eight years, plus fine;
- vii. International traffic of firearms. Penalty: confinement from four to eight years, plus fine.

Cooperation and Assistance

The Regional Public Security Training Center (TREINASP) was established in December 2004, in Brasilia, as a result of a Technical Cooperation Agreement between the Brazilian government and the United Nations Development Programme (UNDP). The initiative supported by the United Nations Regional Center for Peace, Disarmament and Development in Latin America and the Caribbean (UN-LiREC) offers training in different areas, including the illicit trade of firearms. Last year, the following courses were focused on this issue and included the participation of foreign officials:

- 23/04/07-04/05/07, Tabatinga (triple border of Peru, Colombia and Brazil), II TREINAR – Second Training Course on the Legal Trade and Combat Against the Trafficking of Firearms, Ammunition and Explosives, 62 attendants;
- 18/06/07-29/06/07, Rio de Janeiro, III TREINAR – Third Training Course on the Legal Trade and Combat Against the Trafficking of Firearms, Ammunition and Explosives, 61 attendants;
- 19/11/07-30/11/07, Caracas (Venezuela), National Training Course on the Capacity Building of Investigation Techniques to Control the Legal Trade, Prevent and Combat the Illicit Trafficking of Firearms, Ammunition and Explosives, 45 attendants.

It should also be noticed that Brazil has signed with Argentina, in 2003, a Memorandum of Understanding to Establish a Permanent Mechanism of Information Exchange on the Circulation and the Illicit Traffic of Firearms, Ammunition, Explosives and Other Related Materials. The MoU has entered into force in July 2006. Another bilateral MoU was signed with Paraguay in November 2006: Memorandum of Understanding for Cooperation Against the Illicit Traffic of Firearms, Ammunition, Accessories, Explosives and Other Related Materials. Both agreements are in accordance with a related instrument signed within Mercosur, entitled Memorandum of Understanding for Information Exchange on the Manufacture and the Illicit Traffic of Firearms, Ammunition, Explosives and Other Related Materials (CMC Decision No. 15/04).

From the Brazilian point of view, cooperation and assistance are a crucial element to the fulfillment of the objectives put forward in the UNPoA with regard to the implementation of the Programme by developing countries. It would be helpful to have a strengthening of concrete international efforts and bilateral cooperation, as well as further engagement of multilateral organizations.

As stated in our previous report, Brazil believes that the United Nations should profit from the positive experience of regional organizations such as the Organization of American States (particularly of the Inter-American Drug Abuse Control Commission) in optimizing resources earmarked for cooperation and assistance, by means of widening the scope of applicability of assistance programmes (i.e. devising programmes for regions or groups of countries, instead of specific single countries) and of exploring trilateral cooperation schemes (i.e. financing horizontal cooperation between developing countries).

It should be stressed that Brazil firmly supports the adoption of common standards on small arms and light weapons import, export and transit controls, provided that such standards are objective, transparent, non-discriminatory and negotiated through the framework of the United Nations. Brazil also highlights the urgent need to halt and prohibit transfers to non-State actors who are not authorized by competent authorities of the importing State.

Public awareness

There is undoubtedly a growing awareness in Brazil regarding the importance of controlling firearms in all its aspects, given the impact on public security. In 2004, in collaboration with State Governments, organized civil society and Churches, the Federal Government launched a major nationwide initiative known as “Disarmament Campaign”

("Campanha do Desarmamento") aimed at promoting a culture of peace, raising public awareness on the dangers inherent to the possession of weapons and stimulating their voluntary disposal. Between July 2004 and October 2005, 464.000 guns were collected by the campaign, which is also considered instrumental in reducing homicides in Brazil (12% from 2003 to 2006). According to the Ministry of Justice, before the campaign homicide rates were constantly increasing in Brazil since 1992, a trend which has been reversed since 2004.

Considering the positive result achieved, the Brazilian Government has recently re-launched the campaign (January 31st 2008), by means of Provisional Measure No. 417, with the main objective of supporting other public security policies. Among the new provisions in place, two of the most important are the fact that the voluntary hand-in of firearms will be kept indefinitely and the possibility of registration of legal unregistered firearms until December 31st 2008.

III. National Point of Contact

The Division for Disarmament and Sensitive Technologies (DDS), within the Ministry of External Relations, has been designated the national point of contact to act as liaison between States on matters relating to the implementation of the United Nations Programme of Action on Small Arms and Light Weapons.

Address

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