

(Acts adopted pursuant to Title VI of the Treaty on European Union)

COUNCIL COMMON POSITION

of 31 January 2000

on the proposed 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

(2000/130/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 34(2)(a) thereof,

Having regard to the initiative of the Portuguese Republic,

Whereas:

- (1) The importance is recognised of international co-operation in criminal matters for the purposes of preventing and combating all serious forms of crime, including illicit arms trafficking, as provided for in Article 29 of the Treaty.
- (2) Arrangements have been made for the development and negotiation of a 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.
- (3) The United Nations General Assembly has decided that the final text of the draft Convention and the Protocols thereto should be submitted to it for early adoption prior to a high-level signing conference which will take place in Palermo.
- (4) A number of international instruments adopted in the Union and in other fora already provide for the adoption of measures to combat the illegal manufacture of and trafficking in destructive devices.
- (5) A Joint Action was adopted on 17 December 1998 on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons ⁽¹⁾.
- (6) It is desired to contribute as fully as possible to the negotiation of the proposed Protocol and to avoid

incompatibility between the proposed Protocol and instruments drawn up in the Union.

- (7) The Council in its Conclusions of 5 October 1998 requested the Presidency to propose one or several joint positions, in accordance with the Treaty on European Union, in relation to the draft United Nations Convention and its Protocols.
- (8) Account is taken of the Joint Position adopted by the Council on 29 March 1999 on the proposed United Nations Convention against organised crime ⁽²⁾,

HAS ADOPTED THIS COMMON POSITION:

Article 1

In the negotiation of the draft United Nations Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, the Member States of the European Union shall support the definition of a firearm based on the concept of a lethal 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, but excluding antique firearms or their replicas. In that context the definition of an antique firearm should be dealt with under domestic law but should not include a firearm manufactured after 1870.

Article 2

For the purposes of the draft Protocol, explosive weapons, such as bombs, grenades, rockets or missiles, should not be regarded as firearms. However, provision should be made in the text for the criminalisation of the illicit manufacture of and trafficking in such weapons.

⁽¹⁾ OJ L 9, 15.1.1999, p. 1.

⁽²⁾ OJ L 87, 31.3.1999, p. 1.

Article 3

1. Member States agree that further consideration of any question relating to the illicit manufacture of and trafficking in explosives by criminals and their use for criminal purposes should await the outcome of the study to be carried out by the ad hoc expert group identified in United Nations General Assembly Resolution E/1999/30 and the possible elaboration of an international instrument on the illicit manufacture of and trafficking in explosives by the United Nations Ad Hoc Committee on elaboration of a convention against transnational organised crime.

2. Member States shall support the work of the United Nations ad hoc expert group and shall seek to ensure that its activities will be completed as quickly as possible.

Article 4

The Council shall endeavour to achieve further Common Positions, as necessary, in relation to the draft Protocol.

Done at Brussels, 31 January 2000.

For the Council

The President

J. PINA MOURA
