

## **IDPC Policy Briefing**

### **Arms Trafficking from the United States to Mexico: Divergent Responsibilities**

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Arms trafficking from the United States to Mexico is a central issue in bilateral relations, closely linked to drug trafficking and, in particular, the lethal violence unleashed by Mexican drug trafficking organizations. Violence is always a possibility in any illegal activity, but the magnitude of the current violence is largely related to the availability of high-powered firearms being trafficked across the border from the United States to Mexico. Contributing to this are the divisions and disputes among the leaders of the drug trafficking organizations and their fight for hegemony over routes, markets and other areas created by the diversification of the profits and power derived from this business, as well as the increasing level of conflict with the police and armed forces. Other areas that cannot be overlooked include the weaknesses of Mexican institutions in charge of guaranteeing security and justice, and the decisions of those who run institutions to reduce or neutralize the capacity of criminal organizations, which could be contributing to the violence unleashed by drug traffickers.

The availability of guns alone does not necessarily generate violence, but when such violence does exist access to weapons allows it to take on greater dimensions and makes it much harder to control. Drug traffickers are obtaining increasingly sophisticated weapons at reasonably low prices thanks to easy access to guns in the U.S. market. As with drug trafficking, gun smuggling implies a relationship of co-responsibility between supplier and consuming countries; the responsibilities and the capacities of states are different, as are the actions and policies that they should adopt.

#### **Market regulations for weapons in the United States and Mexico**

Illegal Mexican drug-trafficking organizations represent the most important organized crime threat for the U.S. government. U.S. authorities maintain that these illegal organizations control drug distribution in at least 230 U.S. cities and that they are beefing up their presence in markets currently not under their control. It is often viewed from the United States as like an invasion of Mexican or Hispanic drug traffickers. This data might be different if the focus were not on the ethnic origin of the detainees, but their actual citizenship, which in many cases is the United States. In Mexico, the anti-drug strategy followed by President Felipe Calderón's administration has not had a significant impact on reducing the violence associated with drug trafficking. Drug trafficking organizations create problems with governance. They attack each other for hegemony over their illicit activities and go after the police and military forces, which

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have been unable to contain or weaken them. They have transformed traditional hired guns into true paramilitary groups, which is why they need to continuously arm themselves with more powerful tools of death. They have found the right conditions to feed and reinforce their violent networks precisely in the principal destination of their illegal goods. There are fears that the violence in Mexico could be reproduced on the other side of the border.

In Mexico, the Federal Firearms and Explosives Law establishes that possession of any kind of weapon be reported to the National Defense Secretariat (SEDENA) for registration in the Federal Registry of Firearms. With few exceptions, it is illegal to carry and own weapons reserved exclusively for use by the army, navy or air force. Article 11 of the law lists weapons for exclusive use by the armed forces. Article 84 establishes prison sentences ranging from five to 30 years for anyone who clandestinely introduces into the country weapons, ammunition, explosives and materials reserved for use by the military. These kinds of weapons have not been discovered in Mexico as a result of investigations, but because of fighting between rival gangs, raids or merely by chance. The United States, on the other hand, has weak regulations for purchasing weapons. Many states, including the border states of Arizona, New Mexico and Texas, do not have a limit on the number of handguns, assault weapons or ammunition that can be purchased, and while personal verification is required before buying a firearm from an authorized dealer, criminals can easily pay someone without a record to acquire weapons for them. In addition, purchases made at so-called gun fairs do not require verification, making it easier to buy high-powered weapons with no questions asked.

## **The weapons circulating in Mexico**

The importance of the U.S. weapons industry, in terms of its economic power and technological development, as well as the high societal value placed on weapons that is seen in the widespread possession of guns for recreational use and personal safety, make the United States the ideal market to obtain weapons of war. According to the National Drug Intelligence Center (NDIC), Mexican drug-trafficking cartels are the primary beneficiaries of weapons and ammunition trafficked from the United States to Mexico. The expansion of these criminal organizations in U.S. territory has meant that all 50 U.S. states are now a source for firearms entering the Mexican market. Competition between these organizations has also increased levels of violence and the need for even greater fire power to guarantee an advantage in self-defense, control of territories, elimination of rivals, and in combating authorities, keeping members of organizations in line and ensuring that transactions are completed. Weapons can be trafficked by individuals, gangs, trafficking organizations or other criminal groups. Mexican authorities have not detected any organizations inside or outside the country that controls arms trafficking, only intermediaries working for them. They claim it is a form of “ant” trafficking, with U.S. citizens or legal residents bringing in weapons in exchange for cash. The same routes used to get drugs into the United States are used in the reverse direction to get weapons into Mexico.

There are 19 formal border crossings between Mexico and the United States, and an undetermined number of informal crossings (PGR 2009). There are around 100,000 establishments in the United States where weapons are sold, around 12,000 of them in the border area, which translates into a massive legal and largely uncontrolled source of weapons, according to the Mexican government. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), a division of the U.S. Department of Justice, has a different take, stating that there are 6,700 locations, including stores and pawn shops, in the border zone with Mexico, and a total of 55,000 in the entire country. Of the weapons seized in Mexico that have been traced, 39 percent come from stores in Texas, 20 percent from California, 10 percent from Arizona, and the rest from other states (GAO 2009: 20). Street and prison gangs in the United States have links to this kind of trafficking. Weapons are purchased in stores that sell arms, gun fairs and pawn shops. Trafficking in hand grenades and AK-47 automatic weapons has also been detected on Mexico’s southern border, but there is no definitive information on the sources of these weapons. The Mexican government has specified the brands of weapons that have been smuggled into the country and where they are manufactured, but has not determined if they were smuggled from these countries. It is important to highlight that there is a large

number of AK-like automatic weapons in the United States that were manufactured in other nations. There are also weapons that may have been imported legally to the United States from different countries and diverted to the illegal market in Mexico. There are weapons circulating in Mexico that were manufactured in Austria, Belgium, China, Germany, Italy, Japan, Romania, Spain and the United States. Prices fluctuate between \$800 and \$2,000, depending on model, make, age, etc.

Mexican authorities have not provided an estimate of the number of illegal weapons in the country. The available data refers to weapons seized in raids, searches or in battles with or between criminals. In slightly more than two years, from the end of 2006 to the start of 2009, Mexican authorities captured 38,404 weapons, of which 23,308 were rifles, particularly assault rifles, 3,009 grenades and cartridges, and millions of rounds of ammunition (PGR 2009). The U.S. government has admitted that it is impossible to accurately know how many weapons are smuggled into Mexico in a given year. According to the ATF, 87 percent of the weapons seized in Mexico between 2004 and 2008 that could be traced were purchased in the United States. The Department of Homeland Security (DHS) does not accept this number and the way in which the U.S. Government Accounting Office (GAO) presented data in its June 2009 report on U.S. efforts to combat arms trafficking to Mexico. The DHS states that of the approximately 30,000 weapons seized in Mexico, only 4,000 could be traced and 87 percent of these, or 3,480, came from the United States. It maintains that there are various problems with the manner in which the data was collected and the sample that was used, wresting credibility from the information.

In order of importance based on the caliber of the weapons that were seized are the Gulf-Zeta cartel, the Arellano Félix organization, and what the Mexican federal government calls the "Pacific Cartel and related groups." When referring to this final category, it mentions Ismael Zambada and the Vicente Carrillo Fuentes organization. The Gulf-Zeta cartel has used RPG-7 rocket launchers, M-72 anti-tank missiles and AT-4 grenade launchers, fragmentation grenades, .50 caliber Barrett automatic rifles and Barrett submachine guns, and FN Herstal handguns, known in Mexico as the "cop killer" for the ability to penetrate bulletproof vests. The Arellano Félix organization has used Barrett automatic rifles, rocket launchers, and FN Herstal handguns. Authorities have seized handguns, assault rifles, and a few grenade launchers and grenades from the Pacific cartel. Seizures of weapons have generally occurred in states where these organizations have the greatest presence. The most important states for seizures of high-powered rifles and ammunition are Tamaulipas, Sinaloa, Michoacán, Sonora, Baja California and Chihuahua. With regards to grenades, the leaders are Tamaulipas, Sinaloa, Michoacán, Nuevo León and Chiapas.

## **Bilateral cooperation between Mexico and the United States**

While the Mexican and U.S. governments have established cooperation mechanisms to attempt to prevent and control arms trafficking, the violence on the Mexican side of the border poses challenges for bilateral cooperation among agencies. The office of Mexico's Attorney General (PGR) signed a collaboration protocol with the U.S. Immigration and Customs Enforcement (ICE) to go after arms traffickers. The agreement is aimed at gathering information to prepare legal cases against traffickers on both sides of the border. The Mexican government has also created the Inter-Institutional Coordination Group to Prevent and Control Trafficking of Firearms, Ammunition and Explosives (GC-Armaz), which includes six Cabinet secretaries and the PGR, to work closely with the U.S. ATF.

The U.S. government, for its part, has established mechanisms to exchange intelligence information between its agencies and with its Mexican counterparts. A major component of this effort is the Border Violence Intelligence Cell (BVIC), within the El Paso Intelligence Center (EPIC), which serves as a central reference point for ICE to analyze trends in border violence and arms trafficking. BVIC also provides support to Mexican police institutions investigate the assassinations of police officers and government authorities. The goal is for ICE and ATF to share better information with other U.S. and Mexican agencies. It is also aimed at getting U.S. agencies to work with U.S. Department of Defense to include the issue of shared information in talks with Mexican and Central American militaries. This is important considering the

kinds of military weapons being employed by the drug cartels. In 2008, ICE launched Operation “Armas Cruzadas” to combat transnational networks trafficking firearms from the United States to Mexico, and the ATF has developed Project Gunrunner to focus its intelligence, investigative and training capacities on combating arms smuggling to Mexico. This project got underway in 2005 and provides training on weapons trafficking to Mexican agents. These strategies are complemented by the use of gamma ray equipment and specially trained dogs in both countries. The U.S. government is considering an increase in the number of trained border patrols to improve border security, identify firearms and detect where traffickers stash weapons in vehicles. The Mexican and Central American governments can request military-like training and equipment from the U.S. Department of Defense.

Another resource is the use of a system known as e-Trace that is administered by the ATF, the only U.S. agency that is authorized to track the sale of a firearm from the manufacturer to the initial purchaser. The e-Trace system uses the Internet to respond to requests for information from authorized agencies to trace weapons. Using funds for security cooperation with Mexico and Central America under the Mérida Initiative, the U.S. government is currently working on a Spanish version of this program that will be ready at the end of Fiscal Year 2010 and made available to police institutions in these countries. There is a plan to establish some kind of collaborative mechanism that would allow for weapons seized by the military in Mexico to be physically examined by experts from U.S. government agencies and identified through e-Trace. The information obtained would be shared with the Mexican government.

The ATF has highlighted some problems that impede efforts to prevent weapons trafficking, including: Difficulties gathering and reporting information on firearms purchases; lack of requirements for verifying the backgrounds of individuals buying firearms; and limitations on requirements to report multiple purchases. For its part, the GAO reports that there is no effective coordination among the principal institutions that oversee issues related to firearms (ATF, ICE and DHS), due in part to the lack of clarity concerning their roles and responsibilities and because they have acted on the basis of inter-agency agreements that are now outdated. Nevertheless, U.S. organizations working on the issue of firearms state that the ATF could identify and go after licensed arms dealers, who constitute one of the principal sources of weapons smuggled into Mexico, within the existing legal framework. They question whether the agency has the will to do this.

## Recommendations

The United States has recognized its responsibility in the violence afflicting Mexico as a result of the drug market and the money that it generates for the trafficking organizations, who invest part of their profits in high-powered weapons sold freely in the United States. The Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and other Related Materials was approved by the Organization of American States (OAS) on Nov. 13, 2007 and applied as of July 1, 1998. The document was submitted to the U.S. Senate in June 1998 and to date has not been ratified. President Barack Obama stated on April 17, 2009, during the Fifth Summit of the Americas, held in Trinidad & Tobago, that one of the priorities of his government would be ratification of the treaty. Doing this could have extremely important practical effects.

Another measure that could reduce the ease with which powerful weapons are acquired would be re-establishing the U.S. federal ban on the sale of assault weapons to civilians in the United States that was in place between 1994 and 2004. It was proposed at the start of the Obama administration, but unfortunately discarded. It seems unlikely that there will be substantive changes in existing legislation in the short term, given the political reticence in the United States to establishing controls on the sale of firearms. Nevertheless, an important bi-national group working on U.S.-Mexico border issues, which includes the participation Robert C. Bonner, a former head of the Drug Enforcement Administration (DEA) and ex-commissioner of the U.S. Customs and Border Protection, and Andrés Rozental, former deputy secretary of Foreign Affairs in Mexico, has asked the Obama administration and the U.S. Congress to re-instate the ban

on the sale of assault weapons. It is an issue the Mexican government and civil society groups on both sides of the border will continue to insist on, and with reason.

The Mexican government should improve training for its customs agents and police officers, and substantially reduce corruption by strengthening internal and external accountability mechanisms for the police and other government agencies to prevent weapons from illegally entering the country. It may be easy to buy weapons in the United States, but it is just as easy to smuggle them into Mexico.

Mexico and the United States must reinforce, without fail, cooperation among institutions that deal with weapons trafficking. Important results will not materialize, however, if the conditions spelled out above are not met, given that the disappearance of weapons is not a realistic scenario and the weapons manufacturers and vendors, as well as the traffickers, are not about to impose self-regulations.

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