

# Is One for All Good For All? How Consensus Norms in Negotiations Shape the Design of International Agreements\*

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## Abstract

Why do international agreements within the same issue area vary drastically in their enforcement? Consider the case of international institutions handling firearms trafficking. Overlapping delegates negotiated these agreements between 1997 and 2001 where states showed consistent preferences. However, their decisions to include enforcement mechanisms differed significantly in different venues of negotiation. For example, the OAS Convention that regulates illicit firearms trafficking includes embedded enforcement mechanisms. However, despite the strong advocacy from the US and European countries for their inclusion, the United Nations Firearms Protocol failed to include any monitoring mechanisms. To account for this puzzling divergence in treaty design, I draw from 6 months of fieldwork in UN Vienna, implement cross-case comparisons, and process trace the OAS convention and the Firearms Protocol. I find that when delegates self-bind to negotiate based on consensus, even though procedural rules allow the right to vote, weaker states can politicize a necessary institutional element and remove it from the negotiation text entirely. The implications of this research show that seeking international legitimacy through consensus could paradoxically diminish the strength of an international treaty, posing a dilemma between consensus and efficacy, but also show that specific organizational cultures matter in negotiations of treaties.

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## **Note to Readers**

Dear readers, this article summarizes chapters 1 through 4 of the dissertation which is briefly laid out below. The substantive cases discussed in this article (The CIFTA Convention and the Firearms Protocol) are stand-alone chapters in the dissertation. The broader question asked in the dissertation is why these international institutions regulating firearms and drug trafficking vary greatly in their design of mechanisms for enforcement. However, this particular paper focuses on the comparison between CIFTA and the Firearms Protocol, which show variation as presence or absence of enforcement mechanisms. Due to the difficulty of summarizing four chapters in one article format, the article is rather long. As such, I provide the pages of the article section that correspond to the summary of the specific dissertation chapters below.

**Chapter 1:** Introduction (pages 3-6)

**Chapter 2:** Literature Review / Theory / Research Design (pages 6 - 16)

**Chapter 3:** The Negotiation of the CIFTA convention (pages 16 - 20)

**Chapter 4:** The Negotiation of the Firearms Protocol (pages 20 - 27)

**Chapter 5:** The Negotiation of the UN Programme of Action on Small Arms and Light Weapons

**Chapter 6:** The Drug Conventions and the International Narcotics Control Board

**Chapter 7:** Effective Implementation Regarding Criminalization

**Chapter 8:** Conclusion (pages 27-29)

# 1 Introduction

States have created international agreements to regulate illicit firearms trafficking. The very first agreement was the *Inter-American Convention against the Illicit Manufacturing of Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials* created in 1997 (short for CIFTA). Modelling this treaty, the *UN Protocol Against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components, and Ammunition* created in 2001 (short for the Firearms Protocol) was created.

Both agreements focus on regulating the flow of illicit firearms and have very similar tactics. They require the criminalization of certain activities such as illicit trafficking and activities of transnational organized crime. They also require states to change regulatory policy regarding the legal production and movement of firearms so that once firearms are either diverted or illegally trafficked, these weapons could be traced back to its place of origin. As illicit flows become clandestine, active enforcement for monitoring is required, while producer states have incentives to shirk heavy responsibility in regulating legal production. As such, implementation review mechanisms are core elements of these types of international agreement.

Implementation review mechanisms are institutional measures that allow state parties and other entities to be able to systematically collect relevant data, observe whether states are following agreed upon standards of behavior, and apply measures to enhance the effectiveness of the agreement. These mechanisms are important for agreements such as the Firearms Protocol because (1) they inform scholars and practitioners about the of illicit firearms trafficking, (2) compliance or non-compliance can be flagged and remedied at domestic and international levels, (3) and practitioners can find new ways to improve effectiveness of these international agreements.

While the CIFTA included implementation review mechanisms, the Firearms protocol was unable to include similar mechanisms in the agreement. This variance is especially puzzling because the existing literature, drawing from state preferences, rational calculation, or the availability of civil society and NGOs providing low-cost monitors, should predict that these two agreements created within the same time frame from 1997 to 2001 would have a similar form of implementation review mechanism. However, we observe divergent results. Furthermore, even in practical terms, considering implementation review mechanisms are required in effective regulation of crime and informed future-policy making, why states did not create implementation review mechanism just in the Firearms Protocol is puzzling.

As such, I explore the question: Why do international institutions that regulate illicit economies vary in their inclusion of implementation review mechanisms? I pay attention to politics within actual negotiations that attempt to regulate firearms trafficking.<sup>1</sup> This case is particularly interesting for several reasons. First, gun regulation is a contentious topic that is drastically different amongst countries at the domestic level, as states vary in gun rights in regards to civilian possession. Second, several regional treaties and overlapping international mandates have been created by the same negotiators, allowing for a comparison within the

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<sup>1</sup>Delegates commonly mention the difference of each cohort of delegations having an impact on creating a better agreement (Interview with Bill Kullman, April 2023).

same issue area. Lastly, the issue of illicit firearms maintains an interesting issue area that is relevant to the activities of security and peace but is not considered essential to national security. This is because even within the United Nations, the regulation of illicit firearms is not part of the first committee, which deals with issues core to peace and security, but of the third committee, related to international law. Therefore, this paper focuses on looking at institutional design choices made by states when they were attempting to regulate firearms during the late 1990s to early 2000s.

Through a 6-month embedded fieldwork, I have interviewed negotiation participants, conducted archival research, and interned at the UN department that manages the Firearms Protocol. During this internship, I gained access to closed negotiations of diplomats, where they attempted to mold treaty language bit by bit in informal gatherings, the contents of which do not usually end up in formal documents of the United Nations. I also observed departmental discussions by UN bureaucrats and diplomat socialization in social settings. I also use process-tracing and cross-case comparisons of two international agreements that regulate illicit firearms trafficking: CIFTA and the UN Firearms Protocol.

I find that in certain negotiations, delegates self-bind to negotiate based on consensus, what I call informal norms of consensus. When these norms are further strengthened by regular interaction of delegations, weaker states gain leverage to be able to discard necessary elements of the institutional design by framing it as a non-technical issue, politicizing what is being discussed. In the case of the Firearms protocol, the informal consensus norm that the delegates collectively call “Ah! The famous Vienna Spirit” (Interview with Eduardo Vetere (2023), Jean Paul Laborde (2023), Alias Neil (2023), and Alias Malcom (2023)), led to the abandonment of implementation review mechanisms, which was a vital component of the agreement to ensure compliance and effectiveness.

This finding paradoxically shows that in some cases, the more delegates interact with each other, the worse off they can be in enhancing the effectiveness of a treaty. While collegiality works well for finding middle ground in technical discussions, it could diminish how well the agreement is enforced.

In the following section, I briefly explain the two treaties, CIFTA and the Firearms Protocol. Next, I introduce the puzzle, provide a conceptual analysis of the Implementation Review Mechanism, discuss the theory and methods, and then provide two case studies utilizing cross-case comparisons and process-tracing.

## **2 Background: Institutions Regulating Firearms Trafficking**

Initial efforts to curb illicit firearms trafficking started with the 1994 General Assembly request, where states requested assistance to curb illicit traffic in small arms and its collection, specifically in the Saharo-Sahelian region. During that time, the issue of illicit arms transfers was dealt with by Working Group II of the Disarmament Commission, under Agenda item 5 on international arms transfers. During this year, through resolution 49/75, member states were also invited to implement national control measures to check illicit circulation of firearms. This paper particularly focuses on the two efforts that involve the negotiation of the CIFTA convention and the Firearms Protocol, which took place between the latter half

of 1990 and the start of 2000.<sup>2</sup>

While efforts in the United Nations were ongoing with general invitations extended to states to curb firearms domestically, the Organization of American States (OAS) created CIFTA in 1997 and encouraged states within Latin America to join.

## 2.1 The CIFTA Convention (1997)

CIFTA was created to prevent illicit trafficking of firearms and related materials, as they have significant ties to drug trafficking and transnational organized crime (CIFTA Convention Preamble). As such, this convention seeks to encourage states to implement legislative and regulatory measures to prevent illicit manufacturing and trafficking in firearms, ammunition, explosives and other related materials.

The CIFTA convention is a legally binding treaty which requires states to establish as criminal offenses, the illicit manufacturing of and trafficking of firearms, ammunition, explosives and other related materials (CIFTA Article II). Among many requirements, CIFTA obligates states to mark manufactured items, maintain licenses for export and import authorization, strengthen controls at export points, encourages information exchange on illicit trafficking, and creates a point of contact for interstate cooperation.

Most importantly, the CIFTA convention includes an implementation review mechanisms called the Consultative Committee, which requires each state party to have one representative. The consultative committee is responsible for promoting exchange of information related to this convention, and information on domestic legislation and administrative procedures. The committee also encourages cooperation between national liaison authorities, promotes training and exchange of knowledge, requests information from non-party states related to illicit activities, and most importantly, promotes measures to facilitate the application of this convention.<sup>3</sup>

## 2.2 The Firearms Protocol Negotiations (2001)

Once CIFTA was concluded, Canada submitted a proposal based on the negotiated results from CIFTA to create a similar protocol within the United Nations, which the US supported as a sponsor ([A/AC.254/4/Add.2, 1998](#)). The Firearms Protocol is part of a broader convention called the United Nations Convention on Transnational Organized Crime (UNTOC hereafter).

The UNTOC is the very first legally binding and global treaty dealing with criminalization of transnational crime beyond the issue area of drug control. UNTOC requires countries to criminalize participation in organized criminal groups, money laundering, corruption, and obstruction of justice. Other measures such as seizures, jurisdiction, extradition, mutual legal assistance, joint investigations, transfer of criminal proceedings and criminal records, assistance to and protection of victims, law enforcement cooperation and collection of information at the domestic level were discussed. The

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<sup>2</sup>While there have been other instruments such as the International Tracing Instrument, the Arms Trade Treaty and the UN Program of Action on Small Arms and Light Weapons that have been developed later on, these efforts will be analyzed further in a different paper.

<sup>3</sup>For more detailed explanation on each of the articles refer to [9.1](#) in the Appendix

Firearms Protocol, along with the Human Trafficking Protocol<sup>4</sup>, and the Migrant Smuggling Protocol<sup>5</sup> were created as sub protocols that states could opt into as they ratify the UNTOC more broadly.

The firearms protocol requests states to criminalize illicit manufacturing, trafficking and alteration of firearms, their parts and components and ammunition. Similar to the CIFTA convention, states are asked to mark firearms<sup>6</sup> at the time of manufacture, maintain licensing and authorization systems for export, import and transit, exchange information amongst state parties, provide training and technical assistance, and requires states to engage in the regulation of brokers of firearms trade.

There are two main differences from CIFTA. First, the firearms protocol excluded explosives from the scope of criminalization. Second, and more importantly, unlike the creation of the consultative committee in the CIFTA, no monitoring implementation mechanisms were included at all in either the UNTOC or the Firearms Protocol. As a result it became difficult to collect data either voluntarily or in an obligatory manner, as there were no mention of such mechanisms, until 2018 when the Conference of the Parties finally came to an agreement on how to monitor implementation. However, even this newly created mechanism is greatly faltering with low response rates from states, and a process that takes around 5 years to review all countries, making the implementation review ineffective. However, this paper focuses on the process during the initial negotiations of the protocol, looking at why the Firearms Protocol was unable to include such mechanisms in the first place.

### 3 The Puzzle

Why implementation review mechanisms vary in similar institutions dealing with the same issue-area is puzzling for two reasons. First, the conventional explanations in the literature on institutional design do not explain this variance.

Literature on institutional design beyond transnational organized crime which involves issue areas such as environmental regimes, economic and financial regulations and human rights have been extensively developed but also do not account for the variance in the inclusion of monitoring mechanisms. For instance, accounts relying on factors such as power preference (Mearsheimer, 1994; Stone, 2011; Ikenberry, 2011; Drezner, 2008; Efrat, 2009; Bewley-Taylor, 2012; Herschinger, 2010; Drezner, 2008) do not explain why the U.S. was unable to succeed in creating a firearms monitoring center during negotiations, even though the U.S. and other Western and European countries were strongly in favor of including such peer-review mechanisms.<sup>7</sup>

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<sup>4</sup>This is short for The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children

<sup>5</sup>this is short for the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition

<sup>6</sup>Marking of firearms essentially entails engraving a serial number on the firearms so that once it is illicitly trafficked and confiscated, the authorities could locate the firearm back to its original manufacturer.

<sup>7</sup>Looking at the design of institutions dealing with transnational crime, Efrat (2009) using a two-stage approach argues that domestic preference of states in dealing with illicit trade are created based on the preference of exporters, consumers, and factors determining primary and secondary externalities. These

Rational calculation and functionalism (Koremenos et al., 2001; Koremenos, 2016; Goldstein et al., 2001; Rosendorff and Milner, 2001; Jojarth, 2009) also do not explain why the CIFTA convention, which was used as the template for the Firearms protocol, succeeded in including implementation review mechanisms while the Firearms Protocol failed to do so.<sup>8</sup>

Literature on the trade-off between breadth and depth (Downs et al., 1998) suggests that negotiations involving fewer states are likely to be substantially weakened when the number of participating states increases. However, while this depth vs. breadth trade-off applies to the specificity of obligations, it does not significantly impact on implementation review mechanisms (Bernauer et al., 2013). As such, the depth vs. breadth trade-off does not fully explain why implementation review mechanisms were discarded from the negotiations. Furthermore, when pre-existing negotiation norms exist, they can alter the function of the depth-versus-breadth trade-off. This means that under certain conditions of consensus, not every multilateral agreement ends up significantly weakened as can be seen by the United Nations Programme of Action on Small Arms and Light Weapons which is also a UN agreement dealing with illicit firearms, which includes moderate levels of implementation review mechanisms.

Second, why states chose to discard implementation review mechanisms in the Firearms Protocol while including implementation reviews in CIFTA is puzzling in light of the nature of criminal regulation.

Regulating criminal actors and illicit flows through international agreements requires significant domestic changes. Such cooperation entails normative changes at the domestic level (Sheptycki, 2000), consequent legal reforms, updating of penalization, and changes in investigation and enforcement of new law regulating criminal behavior that could have been deemed legal before. Unlike issue-areas such as economic or environmental agreements where defection could be beneficial to the state, criminalization imposes externalities on neighboring states that do not criminalize according to international standards.<sup>9</sup> If regulations are relatively lax in a different country, criminal organizations adapt and utilize states that have weaker regulations (Gootenberg, 2007). As such in theory, the impact of externalities presents a simple coordination issue for international cooperation and would not require the creation of monitoring mechanisms (Stein, 1982).

However, state corruption further complicates this issue. This is because there are cases where states either provide illicit commodities to non-state actors or cases in which the state itself is connected to organized crime. Elites within the state may also provide

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domestic preferences, he argues, can be aggregated up to the international level, in which the distribution of power determines the type of institutional design.

<sup>8</sup>Within this strand of literature, Jojarth (2009) relies on the problem constellation of different crimes, and mentions that differing levels of asset specificity, behavioral uncertainty, and environmental uncertainty determine the level of institutional legalization. In consideration of these factors, Jojarth (2009) argues that an optimal design should have been a moderate level of legalization in terms of regulating illicit firearms, but that we instead end up with are low levels of legal bindingness. In her argument, Implementation Review Mechanisms are a part of obligation, which is one of the components Jojart assesses within the legalization framework. Jojarth analyzes the Programme of Action on Small Arms and Light Weapons (PoA from here on), which overlaps in its mandate with the firearms protocol, but is not legally binding.

<sup>9</sup>Simmons et al. (2018) mentions that the increase in states criminalizing human trafficking can be explained by two factors: (1) the framing of a human rights issue as a criminal matter; (2) and the potential externalities imposed on states that do not criminalize human trafficking (Simmons et al., 2018)

protection rackets for organized crime (Shaw, 2015). These issues may seem like a simple coordination game, but considering potential avenues for corruption, monitoring is required to ensure successful implementation of international treaties when dealing with illicit flows.<sup>10</sup>

Furthermore, because enforcement is limited to specific state actors such as legal and policing departments, NGOs or Civil Society cannot become low-cost alternative monitors, similar to human rights issues. Data required to monitor organized crime, information sharing, and informed policy making can only be obtained through investigations by related police and legal departments. This is because data on illicit trade are particularly difficult to gather due to the fact that the success of illicit trafficking and its related activities involve clandestine activities that go undetected and therefore requires active enforcement of relevant law (Andreas and Greenhill, 2019)[7].

In the case of international firearms regulation, data for effective enforcement are largely missing. In my interviews with the participants of the negotiations, many highlighted that one reason we cannot truly assess whether these mechanisms are effective is due to the lack of information to trace whether these treaties are being effectively implemented by states (Matti Joutsen, February 2023). Even if states comply by “ticking boxes” without monitoring of implementation, we do not know if states are really implementing the conventions well (Interview with Peter Gastrow, July 2023). As such, the inclusion of implementation review mechanisms in some form is essential for effective enforcement and compliance of international criminalization requirements. Therefore, it is puzzling why the the Firearms Protocol did not include any implementation review mechanisms compared to CIFTA.

## 4 Dependent Variable: Implementation Review Mechanisms

Implementation is one of the central factors that affect behavior: “pushing such accords into practice often entails a complex process of forming and adjusting domestic policy to conform with international standards, plus the added complexity of coordinating activities among many governments implementing different policies in parallel” (Victor et al., 1998)[2]. This is because Implementation Review Mechanisms allow easier scrutinization of behind-the-border activities.

Implementation review mechanisms (short for IRM) are used synonymously with monitoring mechanisms, compliance mechanisms, and enforcement mechanisms, or systems for implementation review (Victor et al., 1998)[16]. In this project, IRMs are defined as institutional measures that allow state parties, as well as other entities, to be able to systematically collect relevant data, observe whether states are following the agreed upon standards of behavior, and apply measures to enhance effectiveness of the agreement. As scholars have highlighted, monitoring mechanisms or implementation review mechanisms are a significant portion of treaty design as they provide information that could be used to apply social pressure to conform to agreed upon norms (Kelley and Simmons, 2015; Dai, 2007; Kelley and Simmons, 2019; Bukovansky et al., 2015; Kelley, 2012; Koliev et al., 2021). IRMs can incur severe sovereignty costs depending on their designs (Abbott and

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<sup>10</sup>While not an example of state capture, the United States also supplied arms to the Contras during the Reagan administration.



Snidal, 2000; Goldstein and Martin, 2000), and therefore, states opt for different levels of IRMs.

Monitoring mechanisms directly relate to the effectiveness of the enforcement of an international agreement (Bradlow, 2004). First, without an implementation review mechanism, it is difficult to gather relevant data. The issue area where agreements require criminalization at the domestic level entails significant legal changes in criminal codes, police departments, and legal departments. International bureaucrats in organizations, as well as practitioners, cannot observe fine-grained changes in the legal codes and regulatory policy.<sup>11</sup> Typically, these types of information are not frequently updated by the media at a global scale unless an invested non-governmental organization tracks implementation, like the human rights regimes. Furthermore, even if these changes are observable, international organizations such as the UN do not have the capacity or budget to single-handedly track and record these changes at a global scale without any kind of mandate or funding. These fundings or mandates are typically provided by and legitimized through the embedding language of implementation review mechanisms in the agreement. Therefore, states are responsible for collecting and maintaining data, an obligation they will not be compelled to fulfill unless an implementation review mechanism exists to encourage participation.

Second, because of this lack of data, tracking state compliance is difficult. If information is not collected systematically through implementation review mechanisms, it is difficult to tell whether there is, in fact, compliance at the domestic level. Furthermore, the data that is being collected not only fosters compliance (Tallberg, 2002), but aids inter-state cooperation between countries that share borders. For example, data on where illicit flows are increasing provide valuable information to law enforcement to understand which routes organized criminal networks are utilizing. However, bilateral channels are usually slow because of bureaucratic hurdles or the unwillingness of neighboring states to cooperate. As such, monitoring mechanisms relate to the effectiveness of an agreement because they provide the basic information through which scholars and practitioners can assess whether the purpose of the treaty is being met, but also to understand the current situation on illicit flows.

Third, implementation review mechanisms can contribute to discerning whether the state is lacking in capacity or simply unwilling to comply, and thus inform policy makers on the steps forward. In the event that states cannot comply due to problems of state capacity, these related organizations can find ways to remedy it through the provision of financial aid or technical expertise (Chayes and Chayes, 1993). In cases where states are unwilling, reputation costs may nudge compliance (Simmons, 2000). Furthermore, by collecting related data, more effective ways to curb illicit trafficking could be illuminated for both related departments at the international and domestic levels. For example, having

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<sup>11</sup>Related data could be collected without informal mandates (Doshi et al., 2019). However, this case on the Ease of Doing Business Indicator from the World Bank differs from the situation dealing with criminalization at the United Nations. First, the departments that manage related agreements on criminalization rely on specialized funding from the states. Therefore, going beyond the mandate provided by the states may cause future funding problems. In the case of the World Bank, their projects are not highly dependent on country funding, as they also obtain funds from capital markets. Second, indicators such as EDB can ask participants in companies through surveys. In the case of illicit commodity trafficking, one cannot ask illicit actors questions about easier routes and weaker legal infrastructure similar to the EDB.

information on where illicit commodities are flowing allows relevant police and customs officials to prepare the flow of illicit commodities through their borders. However, without an IRM, the uncertainty of whether the states actually comply or not makes evaluations difficult.

There are many different forms of IRM that vary in strength (see Table 1). Non-existent or weak forms of IRMs involve treaties that do not mention IRMs within the international treaty. In such a case, states are simply trusted or left alone to abide by the agreed upon norms voluntarily. For example, the initial design of UNTOC does not include any IRMs. When monitoring is indeed required in some cases, civil society and non-governmental organizations invested in this issue would be responsible for following and exposing states that deviate significantly from international standards <sup>12</sup>

	Weak	Moderate	Strong
<b>Data Collection</b>	No Requirement	Voluntary Requirement Secretariat may gather information but needs to confirm with the state party	States required to submit related documents Secretariat may gather information, could confirm with the state party but this is not a requirement
<b>Remedies</b>	None	May advise States	Punitive measures available
<b>Examples</b>	UN Firearms Protocol	OAS CIFTA Convention UN Programme of Action on Small Arms and Light Weapons	1961 UN Single Convention on Narcotic Drugs

Table 1: Different Levels of Implementation Review Mechanisms

Moderate forms of IRM include requirements for data collection, either through voluntary submissions or through a secretariat collecting data and tracking compliance. However, these would be moderate forms, as remedies or punishment would be absent if countries did not comply with the agreed upon norms. An example of such an IRM is the *Program of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN PoA)*. The UN PoA requests states to meet biannually to convene a conference to review progress on implementation, and the Secretary General of the United Nations is tasked to “collate and circulate data and information provided by States on a voluntary basis, including national reports, on implementation by those States of the Program of Action” ([A/CONF.192/15, 2001](#)). However, as this is a non-legally binding agreement, punishment or forms of remedies are unavailable for non-compliant states.

Stronger forms of IRMs exist as well. The United Nations Conventions on drugs, for instance (1961 UN Single Convention, 1972 UN Psychotropic Substances Convention, and 1988 UN drug trafficking convention), include strong measures of IRM. The drug convention tasks an independent body made up of individual experts in the field with assessing the compliance of states through the International Narcotics Control Board (INCB). This body has been created to monitor state compliance relevant to drug conventions and can independently assess whether states are fully complying. In cases where states are not complying, the board can recommend the UNSC to sanction a country through arms embargo’s. In fact, Afghanistan was sanctioned through this mechanism for non-compliance based on this IRM process for widespread illicit cultivation of opium poppy

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<sup>12</sup>As of 2018, the UNTOC conference of the parties have agreed on a mechanism to track compliance, but this mechanism is very slow with each cluster of reviews taking over 4 years to complete globally, and the information is not available publicly: [Click to see UNTOC review website](#).

(See INCB Treaty Compliance).

## 5 Argument: Informal Consensus Norms and Negotiations

In conversation with the existing literature, I argue that a different factor, namely informal consensus norms, impacts institutional design choices. The current literature on organizational culture looks at bureaucracy and organizational culture (Nelson, 2014; Pillinger et al., 2016; Lounsbury, 2007; Johnson, 2014), impediments to effective international organizations (Barnett and Finnemore, 2012; Gutner and Thompson, 2010; Autesserre, 2009), and perceived hypocrisy (Weaver, 2003, 2008). Building on this literature, I examine how organizational culture of delegates can impact the outcomes of negotiations. The scope of this argument applies to international institutions that regulate crime. This is because depending on the issue-area, organizational bureaucrats may have more agenda setting power (Johnson, 2014). The institutional environment also matters in decision making (Gidisoglu, 2010; Lewis, 2003; Checkel, 2003).

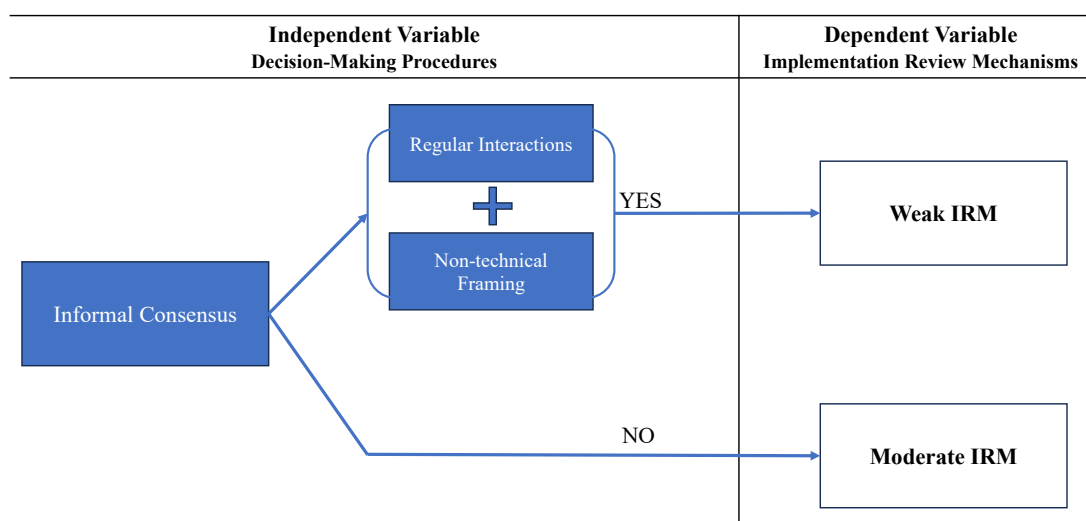


Figure 1: The Path of Informal Consensus

Informal norms of consensus are defined as a mutual understanding amongst delegates that consensus shall be the main decision-making procedure through which negotiation takes place. This requires the exclusion of voting as a means to achieving the outcomes of negotiation, even if the rules of procedure allow these delegates to put issues to a vote when they meet a deadlock. These are considered informal norms as decision-making procedures do not formally mandate delegates to go through consensus as the only decision-making procedure, rather it is the delegate's collective choice to rely on this mechanism as the form of negotiation. These informal norms, when strongly embedded

in the negotiations, could become binding to the level of obligation, where delegates do not even think of voting, even if certain issues are significantly slowing down the negotiations and are met at a deadlock. In these situations, the informal norms of consensus become so deeply ingrained in the negotiations that the delegates sometimes threaten to put the issues to vote and overturn the consensus. This prompts other delegates to seek a middle ground to prevent the decision from going to a vote.<sup>13</sup>

For example, such norms are also present in the EU Council (Heisenberg, 2005). “Decision-making in most major policy areas under EU jurisdiction has long been subject to qualified majority rule, yet unanimous decisions are still the norm rather than the exception in the Council of the EU” (Häge, 2013)[481]. Delegates of such negotiations can resort to voting as a fall-back, but would prefer decision-making through consensus.

I argue that when such informal norms of consensus are present, there are two pathways that could either lead to a moderate or weaker level of implementation review mechanisms. Not every result of the negotiations is weakened simply because consensus is the negotiating norm. As can be seen in figure 1, when informal norms are further strengthened by regular interactions of delegates, and when the issue being discussed is framed as non-technical, negotiation outcomes would lead to a weakened IRM. These three conditions, the presence of informal norms, regular interactions, and non-technical framing are jointly necessary conditions that can lead to a Weak IRM.<sup>14</sup>

Regular communication of delegates is necessary because this enables informal norms of consensus to become even more strongly embedded in the negotiation environment. If delegates are given the time to regularly communicate and interact with each other over a longer period of time, this leads to greater rapport. Regular communication also provides time to build a reputation amongst each other. Peer-pressure amongst delegates to conform to the existing norms becomes stronger for the maintenance of a reputation that the delegate knows the rules of the trade: “the ‘small world’ of permanent representation in an international organization, feeding on regular and face-to-face interaction, heightens the probability that breaching the rules will spark an immediate and practical reaction (Pouliot, 2011)[548].” This continued interaction further solidifies the informal norms of consensus to settle in. And so even if newly incoming delegates arrive, they are the ones that would have to adjust and become socialized to the already existing group-dynamics.<sup>15</sup> However, this also means that if communication of these delegates are not as regular and constant, it also means that there is more room for discarding these norms.

The informal norms of consensus through regular interactions become established

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<sup>13</sup>This was observed during an informal negotiation during my time at the United Nations

<sup>14</sup>More specifically, these are considered to be INUS conditions. INUS conditions are “insufficient but necessary part of a condition which is itself unnecessary but sufficient for the result” (Mackie, 1965)[246]. This means that while there could be multiple causal pathways through which the implementation review mechanism could be weakened, this particular pathway which requires informal consensus + regular interactions + and non-technical framing is sufficient to lead to a weakened IRM by itself (Mahoney, 2008). In Boolean terms, the following would be the impact on institutional design, where the presence of regular communication patterns (RCP), non-technical framing (NTF) and presence of informal norms of consensus (INC) leads to a weakened institutional design where: Weakened Institutional Design = INC \* RCP \* NTF

<sup>15</sup>Indeed, during the enlargement of the EU, the incoming countries adjusted to this consensus driven decision-making structure. (Heisenberg, 2005)

within an organization, creating a path-dependent organizational culture going forward. This kind of culture where negotiators know each other well also allows room for diplomats to give way, a bit more than they would if this was the first time they are meeting each other. Favors between diplomats during negotiations are in an iterative process where giving a bit of leeway this time round, would be reciprocated in a different negotiation. As such, “multilateral diplomacy requires permanent representation to take more distance from their capital than regular ambassadors would typically do. Negotiations are so continuous that diplomats often need to act quickly on pieces of information that are available only to people on the ground. [...] The specific temporality of the multilateral game, which imposes its own pace on other political processes, opens a significant room for maneuver (Pouliot, 2011)[552].”

Once these informal norms of consensus are further solidified through regular interactions and communication amongst delegates, delegates begin to understand issues being discussed as having to go through consensus no matter what. Recall that the scope of these negotiations involves criminalization of illicit flows at the international level. The negotiation therefore involves discussions of whether an agreement article is acceptable and can be implemented at the domestic level in light of the country’s legal structure. As such, issues that are considered to be technical allow delegates more agency in negotiations. First, the delegates’ activities are not under intense scrutiny from the public and the media. Second, the issues being discussed involve more technical choices, which may not be precisely dictated by the capital, allowing delegates to make necessary and technical interjections in communication with counterparts. Negotiators have more delegated power on issues where contextual knowledge is required to continue negotiations.

In contrast, when issues are framed as non-technical, informal norms of consensus that are strongly embedded through regular interactions make non-technical issues a point of contention, sometimes to the extent of what delegates call “the red line.” Certain issues that are considered a red-line cannot be persuaded through negotiations, as these issues are framed either as a breach of sovereignty or a sensitive political issue that may be problematic for the country to agree to. These issues are also most likely to be politicized domestically and could become critical for the government. In such cases, when delegates make the point that they would not budge on a certain issue due to its non-technical nature, other delegations give up on pushing the issue further for the sake of the entire negotiation. This is because their primary goal is to achieve full consensus on an agreement that criminalizes illicit activity.

In contrast, when issues are framed as technical, delegates have more agency and more room for maneuver. They can negotiate the specifics of the wording or the concepts used in their articles, in which consensus actually pushes these delegates to find a common ground. Similar notions of technical aspects have been discussed in the climate regime as a concept of depoliticization that aides the daily activities of IOs and makes compromises more neutral (Louis and Maertens, 2021; Skovgaard et al., 2023).

Therefore, when these three conditions, 1) informal norms of consensus, 2) regular interactions, 3) non-technical framing, are present, implementation review mechanisms that are being discussed in the negotiation will be significantly weakened or discarded. However, in cases where such conditions do not exist, the delegates are able to reach moderate levels of implementation review mechanisms. The presence of informal consensus norms makes it difficult for implementation review mechanisms to be strong and punitive. This is because

the punitive nature of IRMs can be easily dissented by participating countries, and the presence of informal consensus norms makes this easier.

The selection of which element to be weakened by negotiators may vary from case to case, and this argument could be applied to a broader set of cases. However, in this project, I focus on how the joint conditions created by informal norms of consensus weaken implementation review mechanisms.

## 6 Methods and Data

I use cross-case analysis and process tracing to analyze how informal norms within organizations impact institutional design. First, cross-case comparisons are used to show whether informal norms are related to the weakening of institutional design. Next, process tracing is used to show the more specific mechanisms through which informal norms impact treaty design. The positive case analyzed and used as the basis for comparison will be the negotiation of the UN Firearms Protocol, where delegates decided to exclude IRM provisions during its negotiation (1997-2001).

### 6.1 Alternative Explanations

There are three main alternative explanations that I plan to test my argument against roughly categorized into power preferences, rational calculations, and domestic factors. The first is the power-preference argument which explains the design of international institutions as a reflection of the preferences of powerful states (Ikenberry, 2011; Drezner, 2008; Efrat, 2009; Simmons, 2001). As such, specific elements, such as the inclusion of implementation review mechanisms, would reflect these preferences. Based on this literature, we would expect the following proposition.

Proposition 1: (State preference) If stronger states do not prefer a strong international agreement regulating a particular commodity, they will oppose stronger forms of IRM.

Second, the rational design literature (Jojarth 2009; Koremenos et al. 2001; Koremenos 2016) looks at the nature of the problem being addressed. Jojarth more especially focuses on asset specificity. Asset specificity is “the risk that states do not agree on or honor a cooperative solution to a shared problem” (Jojarth, 2009)[74]. Therefore, a high degree of asset specificity occurs when “some states face great potential loss, while others have strong incentives to dodge obligations” (Jojarth, 2009)[75]. Such a high degree of asset specificity would then naturally require stronger forms of implementation review mechanisms. Thus, when asset specificity is low, we would observe weaker forms of implementation review mechanisms.

Proposition 2: (Asset Specificity) If states do not face great potential loss, while others do not have much incentive to dodge obligations, weaker forms of IRM will be created.

Third, some argue that domestic groups that have a vested interest in the substance of international cooperation can influence the outcome of institutional design (Raustiala, 2005; Dai, 2007). Raustiala focuses on interest groups that are impacted by the issue area being regulated, while Dai focuses on the availability of low-cost monitors (domestic groups



that are invested in the issue and can assume the responsibility of monitoring) at the domestic level states can pass their responsibilities to.

Proposition 3-A: (Interest Groups) If international cooperation hampers the activity of domestic interest groups, they will pressure governments to choose weaker forms of IRM.

Proposition 3-B: (Low-cost monitors) If low-cost domestic monitors are available, states will opt for weaker forms or IRM.

## 6.2 Cross-case Comparison

In this paper, I implement a most similar systems design case-comparison to observe whether the cases that are most similar in various aspects except the independent variable lead to a difference in the dependent variable. The following table briefly presents the comparison.<sup>16</sup>

	State Preference	Asset Specificity	Interest Groups	Low-cost Monitors	Informal Norms	Outcome
Firearms Protocol	Support	Moderate	Strong - changed overtime	Not available	Yes	Weakened
CIFTA	Support	Moderate	Strong - changed overtime	Not Available	No	Baseline: Moderate IRM

Table 2: Summary of Case Comparison

## 6.3 Process-Tracing

Next, using process tracing,<sup>17</sup> I try to show how the joint condition, which includes informal consensus norms, impacted the outcome of the UN Firearms Protocol. This case is particularly interesting as it varies significantly in its inclusion of IRM provisions, but also because it functions as a crucial case study. This is because this case is the least likely case for ideational factors to impact the outcome. As firearms are commodities that major powerful states are weary of regulating, it would be natural that a weak IRM provision would be included. However, evidence through process-tracing will show that, surprisingly, this was indeed not the case. I also use a set of hoop tests for alternative explanations, which may eliminate the explanations if it cannot pass the test. More specific hoop tests can be found in the Appendix 9.4.

<sup>16</sup>In the broader project, I include a combination of most similar systems design and a most different systems design. A most similar systems design involves the comparison of cases, which involves cases that are most similar in all various aspects except the independent variable of interest (Seawright and Gerring 2008, 304). A most different systems design are cases that are different in all aspects, but have similarity in the variable of interest, and the outcome (Seawright and Gerring 2008, 304). In the appendix, I attach the broader comparisons that will be used to test the argument.

<sup>17</sup>“the examination of intermediate steps in a process to make inferences about hypotheses on how that process took place and whether and how it generated the outcome of interest, (Bennett and Checkel 2015, 6)”

## 6.4 Data

I draw from archival materials obtained at the United Nations Office on Drugs and Crime (UNODC) through a 6-month fieldwork at the UNODC from 2022 October to 2023 April in Vienna. Documents I obtained detail each session of the negotiations that took place in the Ad Hoc Committee for this convention and the negotiation of the protocols. These data are complemented with in-person interviews with more than 30 people who have direct relevance to the negotiations being analyzed.

As a part of field work, I also interned at the UNODC, in the Firearms Trafficking Department which manages the Firearms Protocol. During this internship, I worked within the United Nations from 9:00 AM to 6:00 PM every weekday for six months. During this internship, I had the opportunity to drop in to observe informal conferences within UN Vienna, support the Firearms Trafficking Section hold its Conference of the Parties and related employee meetings, interview active diplomats that are negotiating within the UN, receive introductions to higher level UN bureaucrats for brief interviews, and obtain archival data that was used to prepare the *travaux préparatoire* for the Firearms Protocol. Current members of the UN also connected me to previous UN bureaucrats who had worked during the late 1990s to the early 2000s.

Confidentiality for some of the interviewees was crucial due to potential issues interviews may cause for their careers. As such, many participants in the interviews have chosen to remain anonymous, allowing only the date of the interview to be indicated, or a more general role related to the negotiation to be stated.<sup>18</sup> Some interviewees have indicated that they are fine with their names cited. In such cases, I have cited the name of the interviewee.

## 7 Negotiation of the CIFTA Convention

The CIFTA convention was adopted in 1997 and applied to OAS member states. This treaty is significant as it is one of the first legally binding multilateral treaties that addresses the issue of firearms trafficking as a means of addressing transnational organized crime and is also recognized for its successful implementation (Carlson, 2010).

The negotiation of this convention took place between April and October 1997 and was drafted by a working group that held a total of six meetings that lasted approximately four days each (Schroeder, 2008)[31]. Major small-arms manufacturers such as the US and Canada did not ratify the treaty after the negotiation, but did sign the convention. The US was intent in participating in the negotiations and had fourteen delegates ranging from individuals from the Department of State, Treasury, and Justice all sent to these negotiations (Schroeder, 2008)[32].

In terms of IRM, the convention established a consultative committee to facilitate information exchange, promote cooperation, and promote measures to facilitate the

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<sup>18</sup>Unfortunately, the issue with complete anonymity is that it could raise questions related to the validity of this research. In order to manage this balance as much as possible, I employ a similar format used by (Gilbert, 2022) where she provides an alias of interviewees who are ex-combatants or former commanders. As such, the Appendix of this research includes the list of those who have been interviewed along with the list of aliases that will be used for citation throughout this paper.



application of the convention. Every year, this consultative committee convenes to review implementation and seek ways to improve it. For instance, Carlson (2010, 621) notes that “The Second Conference of States Parties also resulted in a report compiling data on states’ compliance with CIFTA. Although the report showed that many states are failing to comply with CIFTA’s provisions, it singled out Argentina, Brazil, and Nicaragua as significantly complying with CIFTA.” Even to this day, states are meeting annually to convene the consultative committee. This consultative meeting is not a high-level meeting of diplomats. Rather, discussions of review implementation are technical focusing on what works and what does not. Technocrats participate in these review processes, which are held annually (Interview with Alias Mac, July 2023).

## 7.1 Informal Norms of Consensus

During negotiations, informal norms of consensus were present within the OAS. In her interview for the foreign affairs oral history project, Horsey-Barr, who was a part of the US mission to the OAS from 1992 to 1997 mentioned the following:

“[...] unlike the United Nations which has the Security Council which, for example, can impose sanctions, everything in the OAS is voluntary, and its decisions are reached by consensus. Many people criticize the Organization for that. It requires such a lower threshold of decision-making in order to get them to a consensus. Other people, on the other hand, say that, despite that, decisions end up being much stronger once they are made. [...] But it is a peculiar organization in many respects” (Kennedy, 2000)[62].

This consensus was informal in the sense that rules of procedure within the OAS provide a right to implement majority voting, similar to the consensus in UN Vienna. Decisions were made by consensus, as confirmed by other participants, such as Jonathan Winer, who was the head of the delegation during the CIFTA negotiations, and interview alias Joanne (2023). However, communication patterns and how IRM was framed within the negotiations were significantly different from the Vienna negotiations on the Firearms Protocol, and therefore did not lead to a significant weakening of IRMs.

The interactions were not as regular as the negotiations that took place in Vienna. First, the time put in for the preparation as well as the discussions leading up to the draft convention was much shorter than that of the Firearms Protocol negotiations, which took 4 years of discussions leading up to the negotiation and two years of actual negotiations. The draft organized by the Rio group under the leadership of Mexico was submitted to the OAS in March 1997. The actual negotiations for this convention took place between April and October of the same year, with a total of only six meetings (Schroeder, 2008). The meetings consisted of delegates from all OAS member states, including professionals who have knowledge on the issue of firearms and related topics. The delegates did not know each other in the negotiations.

The heads of delegations to this convention were not ambassadors who were in OAS as permanent missions, but others who were appointed to the process with knowledge in firearms issues (Kennedy, 2002) [63]. As such, the time to establish rapport between the negotiators and to build trust in the process of negotiations was relatively shorter and

somewhat absent compared to the negotiations that took place in Vienna when the Firearms Protocol was negotiated.

As the CIFTA negotiation was the first multilateral attempt to create a legally binding obligation to curb firearms trafficking, this was considered a political issue for some states. For Mexico, CIFTA was crucial as they felt they were being pressured to control the trafficking of drugs, while the US did not control the outflow of illicit firearms. In fact, President Zedillo cited this imbalance and urged the US administration to consider such a convention (Alias Alon, 2022). Indeed, the start of this conversation was also something the US considered a major political issue, as Harriet Babbitt, who was the ambassador at OAS during that time, stated in her interview with Kennedy:

“I remember Clinton was about to take a trip to Mexico, and someplace in the Caribbean, and then Argentina. When we were planning the trip to Mexico, the Mexicans really wanted a small arms trafficking convention. Everybody said that it couldn’t be done. The Justice Department was crazy, the NRA was going to go crazy. Everybody said it was impossible. Bill Clinton, in a Bill Clinton kind of way, said, “We owe it to them. The Latin Americans are saying that we are condemning them for exporting drugs to our country. We are trying to be helpful there. You are filling our country full of arms, and we deserve some help there.” Clinton said that they were right. But, what it put in place was negotiations with the NRA guys sitting in the back seat all day long, every day” (Kennedy, 2002)[63].

What was politically salient was the fact that in the initial negotiations, Latin American countries attempted to include provisions related to regulating civilian gun use, which were negotiated out of the final text of the convention (Interview with Kullman). As Kullman recalls (April 2023), a member of the U.S. delegate to both CIFTA and UNTOC negotiations, he notes: “With so many other things to negotiate, done within such a limited amount of time, nobody really objected or thought about the inclusion of monitoring provisions during the CIFTA negotiations.” Considering that the firearms trafficking issue itself was a hot topic, the inclusion of a consultative committee into the Convention was less noticed and was considered a technical addition that would foster cooperation.

Even if there were countries that wanted to do away or weaken the monitoring provisions during this stage of the negotiations, further fine-tuning this provision may have taken time or the willingness on the part of other negotiators to accommodate. However, considering the limited time to negotiate other important substantive aspects of the negotiation, as well as the short-term communication between these negotiators, this was not possible.

## 7.2 Alternative Explanations

If the power preference proposition were to hold, it would most likely be Canada and the US who would be against the idea of including implementation review mechanisms. However, during the negotiations, the US and Canada were not against the inclusion of monitoring provisions, but, to be more precise, less interested in making these issues the main point of

discussion. This is because both the US and Canada focused on other aspects of the treaty and did not have strong inclinations related to monitoring provisions within the convention.

For instance, the US delegates' main goals were to (1) remain consistent with existing US law, and (2) to make sure that this convention would not interfere with gun rights of civilians (Interview with Jonathan Winer, February 10th). Furthermore, with the Clinton administration interested in gun control, and having introduced the Brady Bill and the Federal Assault Weapons Ban, the administration was more favorable towards a creation of such a convention (Interview with Jonathan Winer, February 10th).

Canada had similar goals focusing on whether the content of the treaty would reflect the legal structures of Canadian domestic law. Control of explosives and export-import licensing were core concerns of Canada, and therefore inclusion of monitoring provisions was not of great concern to the delegates (Alias Joanne, 2003).

The argument for asset specificity cannot really be discarded in this case for CIFTA. Asset specificity was somewhat moderate in this case, as states such as Mexico would have faced significant costs if other states had dodged their obligations from this Convention ([Jojarth, 2009](#))[233]. The outcome of implementation review mechanisms for CIFTA indeed corresponds to a moderate level (voluntary data submission, yet with annual meetings reviewing implementation). Many countries within the Caribbean and Latin America were impacted by the illicit flow of firearms from major gun-producing countries such as the US. During the late 1990s, the US was “a major exporter of over- and under-the-counter arms,” creating an issue for Caribbean countries such as Haiti and Jamaica ([Gibbings, 1997](#)).

Latin American countries faced similar issues with guns being smuggled into their countries. For example, according to Mexico City newspaper *El Financiero*, Honduran officials estimated that there are more than 500,000 AK-47s just in Honduras, Nicaragua and El Salvador, and within Honduras alone, where the population is 4 million, as much as 1 million weapons were suspected of being in circulation ([LaFranchi, 1997](#)). Firearms were similarly flowing into Mexican borders, which is why Ernesto Zedillo, the Mexican president at that time, suggested the creation of the CIFTA convention.

Domestic interest groups were involved in the ongoing negotiations. Organizations such as the National Rifle Association (NRA) were always interested in observing whether the ongoing negotiations would impact gun rights at the national level. The NRA has been active during both the negotiations taking place during the OAS, as well as within the UN in making sure that gun rights would not be infringed upon. The interview with Jonathan Winer, the head of delegation to the CIFTA convention and the Firearms Protocol, explained that the US would constantly inform interested parties, such as the NRA, on what the strategies of the US were. As such, the NRA was supportive during the initial phases of the CIFTA convention. However, indeed, “NRA guys [were] sitting in the back seat all day long, every day” ([Kennedy, 2002](#))[36].

Furthermore, the negotiations that took place within OAS only dealt with illicit firearms which would be trafficked out of the country, and did not deal with regulations that would impact domestic gun rights to the extent that NRA would strongly interfere with the process.

Second, while there were some non-governmental organizations (NGOs) that attempted to reduce guns and provide relevant information and data, none had enough

impact or the capacity to function as low-cost monitors at a global level. For example, the Violence Policy Center founded in 1988 was active in providing data and research relevant to gun violence. Saferworld, another global NGO was created during the 1990s to provide politically independent research on arms control. These organizations focused on providing data and related research on firearm violence, rather than specifically focusing on the monitoring of illicit firearms trafficking. Also, considering that enforcement was highly dependent on information from customs and law enforcement, this was not an issue-area in which low-cost monitors could serve as a replacement for monitoring provisions embedded within the convention.

## 8 Negotiation of the Firearms Protocol

### 8.1 Background

The UNTOC process started with the World Ministerial Conference on Organized Crime held in Naples, Italy. The conference recommended an international instrument as part of the Global Action Plan against Transnational Organized Crime ([A/RES/49/159, 1995](#)). The Commission for Crime Prevention and Criminal Justice was asked to seek the views of the countries regarding the creation of a possible convention and as to what kind of issues shall be included in the discussion of the convention. Initial conversations focused on whether a convention was necessary to handle organized crime. As delegates entered the meetings which led up to the ad hoc committee, they were unclear as to what should be included in this document (Correspondence with Matti Joutsen, March 2023).

This was followed by the submission of a draft text by Poland in its resolution 51/120 of 12 December 1996, where the IRM provisions included in this draft resembled that of the IRM provisions in the Drug Conventions (Correspondence with Matti Joutsen, representative of Finland, February 1st, 2023). Discussions consolidated into creating a main convention on organized crime and protocols on more specific issues, which states had separately suggested. One of these issues was the firearms trafficking protocol.

There had been international efforts to curb firearms more specifically, starting around the mid-1990s. Initial efforts started with the 1994 General Assembly request, where states were seeking assistance to curb illicit traffic in small arms and its collection specifically in the Saharo-Sahelian region. During that time, the issue of illicit arms transfers was managed by Working Group II of the Disarmament Commission under agenda item 5 on international arms transfers, and member states were also invited to implement national control measures to check illicit circulation of firearms ([A/RES/49/75](#)).

Although efforts in the United Nations were ongoing, with general invitations extended to states to curb firearms domestically, the Organization of American States (OAS) had succeeded in creating the CIFTA convention. This fueled efforts within the UN to create a similar mechanism. As such, the United States along with Canada and Brazil supported and co-sponsored the UN resolution on reducing illicit firearms trafficking, which was its first endorsement of a UN resolution on firearms regulation ([Bonner, 1998](#)). Along with Canada, the US sought co-sponsors for this resolution, which included Russia, Germany, Britain, Japan, Australia and Argentina ([Bonner, 1998](#)).

Although the United Nations protocol on firearms greatly resembled this structure, it did not include any form of IRMs. Canada, which participated in negotiating the OAS treaty, submitted a first-version draft of the Firearms Trafficking protocol for states to negotiate within the United Nations (Alias Joanne, 30 January 2023). The negotiation of the firearms trafficking protocol was contentious and the only protocol that required additional sessions to complete the final draft.

## 8.2 Discarded Implementation Review Mechanisms

First Option	Second Option	Third Option
1. Report to Commission on Crime Prevention and Criminal Justice 2. Similar Reports every five years 3. Make reports widely available to public	1. Report to Committee of the States Parties 2. Adopting periodic reports 3. Creation of Evaluation teams made up of experts from state Parties 4. Meetings held in front of the camera	1. Meet during the Conference of the Parties (COP) to review Implementation 2. Regularly review implementation at COP 3. Periodically examine obligations

Table 3: Summary of the Options suggested for Implementation Review

The discussion of IRM was a no-go even from the beginning of the negotiation of the firearms protocol. First, since the firearms protocol is a protocol under the umbrella of the broader convention, the broader convention, the United Nations Transnational Organized Crime convention had to agree to IRM provisions, which could then apply to the protocols. As such, the very initial draft by Poland ([A/C.3/51/7, 1996](#)) and the very first draft discussed at the ad hoc committee for the broader convention included strong IRM provisions (included in the appendix below as an example) ([A/AC.254/4, 1998](#)). Because the inclusion of IRM became contentious even from the beginning, many states had attempted to find a middle ground by suggesting different wordings and options for IRMs.

During the first and second sessions of discussions related to IRM provisions within the Convention, two different options were presented. The first was Article 23 which stated that states would have to: (1) provide periodic reports to the Commission on Crime Prevention and Criminal justice, (2) provide similar reports after every five years with the first report having to be submitted within the two years of entry into force, and (3) make these reports widely available to the public in their own countries ([A/AC.254/4/Rev.1, 1999](#))[p.61]. The roles of intergovernmental and non-governmental bodies were also clearly laid out. The Commission could share information with NGOs and intergovernmental bodies when it was deemed necessary ([A/AC.254/4/Rev.1, 1999](#)) [p.62]. Some states mentioned that this would not be an effective monitoring mechanism and that the signatories may not coincide with the members of the Commission on Crime Prevention and Criminal Justice. Other delegations did not like the idea of publicly disseminating these reports ([A/AC.254/4/Rev.1, 1999](#))[p.61].

The second option suggested was monitoring implementation (Article 23), where a committee of the States parties would be established to monitor functions of the convention, similar to CIFTA. This article included committee responsibilities such as “ (a) adopt periodic reports evaluating implementation of States Parties and adopt and issue reports on its own activities; (b) promulgate procedures for assessing the level of implementation by States Parties including with respect to submission of information by the Party being evaluated, the formation of evaluation teams made up of experts from

States Parties to visit that Party and preparation of a preliminary evaluation for consideration by the Committee, and the discussion and adoption of the final evaluation report and for carrying out its other functions [...]” (A/AC.254/4/Rev.1, 1999)[p.63]. The meetings of this committee would also be held in front of the camera and decisions would be reached by consensus. The ad hoc committee discussions on this and refusal to provide either the committee or the commission with important roles in relation to monitoring reflected certain countries unwillingness to be monitored by a “policing watchdog” (Interview with Eugenio Curia, 2023).

As these two options were not making progress, Austria proposed a third option which included a weaker implementation review mechanism where states would meet during the conference of the parties to make periodic assessments and adopt implementation reports.<sup>19</sup>

The final draft only refers to the possibility of creating an implementation review mechanism in a later period through the Conference of the Parties.<sup>20</sup> This means that any type of evaluation or procedures related to IRM would be discussed later within the conference of the parties and that countries are yet to create a review implementation mechanism.

Even if an implementation review mechanism is created at a later point in time, considering that there are more than 191 parties to this convention, reviewing each countries’ implementation in the course of a one-week Conference of the Parties held biannually is in reality difficult. The Finnish delegate who has participated in the negotiations of both the Firearms Protocol and the UN Convention against corruption (UNCAC) known for its well-functioning peer review IRM, mentioned that the articles in the Firearms Protocol in its current form reflect the lack of intention to review implementation (Interview with Matti Joutsen, 2023). Indeed, why were IRMs discarded in the final negotiations of the Firearms Protocol?

### 8.3 Informal Norms: The Vienna Spirit

During these negotiations, the delegates were bound by informal consensus norms, which they called “the Vienna Spirit.” The Vienna Spirit is a unique diplomatic norm embedded in the culture of United Nations Vienna and within the United Nations Commission on the Crime Prevention and Criminal Justice. It is a well-known terminology amongst the permanent representatives and delegates who have experienced negotiations within the United Nations Vienna, but not well known elsewhere. Within the UN Vienna, there is a very strong tendency of diplomats to pursue full consensus on all outcomes of its documents, resolutions, negotiations and discussions, and to avoid resolving the issue through a majority vote.<sup>21</sup> More strongly put, those who negotiate in Vienna think negotiations have failed when things are

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<sup>19</sup>For a more detailed text refer to Appendix 7.

<sup>20</sup>“acquiring the necessary knowledge of the measures taken by State Parties in implementing this Convention and the difficulties encountered by them in doing so through information provided by them and through such supplemental review mechanisms as may be established by the Conference of the Parties”(A/RES/55/25, 2000)[Article 32]

<sup>21</sup>A similar norm is mentioned in a working paper by Mikulaschek (forthcoming 2016) where power is shared with weaker countries by the permanent mission by seeking unanimity. However, the strength and type of these norms differ, as we still see cases in which UNSC resolutions resort to voting with abstentions



put to a vote. Although the rules of procedure explicitly provide the right to vote on substantive and procedural matters, these diplomats are under peer-pressure to always opt for full consensus during negotiations. Voting is out of the question.

One interviewee goes as far as to say that the Vienna Consensus is a “visceral aversion to voting, and no delegate has the guts to put issues to a vote as there is major push back if this takes place” (Interview with Alias Alan, 2023). Another anonymous interviewee mentioned that this is a double edged sword as countries that do not have the veto power like UNSC member states can wield the Vienna Spirit in discussions and negotiations within UN Vienna and use it as a form of veto. Other countries that want to pass these resolutions would still prefer to give up some of their interests and water down the language by respecting this necessity for consensus, in light of the fact that this veto power could become useful at a negotiation elsewhere at a later period (Interview with Diego Simancas, 2023).

The strength of this Vienna Spirit is surprising to the extent that some proposals are even withdrawn if one single country decides to block the whole process. A participant in the creation of UNTOC discusses that “delegations must often weaken texts or accept compromises, and if these go too far or to make the proposal ineffective, then its proponents have the option of withdrawing or abandoning it, perhaps with a view to building the necessary support over the longer term (Correspondence with Matti Joutsen, February 27th, 2023).”

Then why is this Vienna spirit so strong? Diverse explanations exist as to the creation of this spirit and why it has such a strong hold over past and ongoing negotiations. Some mention the importance of preventing the G77 from constantly taking over majority voting (Interview with alias Brent, 2023), and avoiding the “tyranny of the majority” within the United Nations (Bailey, 1966). Others mention that the importance of consensus is based on the fact that the UN Vienna’s main area of substance is on legal measures and crime, and therefore procedures to respect decision-making through consensus are critical for states to be able to technically implement the legal obligations created at the international level. This instance seems to be valid when we look at the case of the United Nations Convention on Jurisdictional Immunities of States and Their Property that was created in 2004. States were not interested in ratifying or signing this treaty, and there were only 23 state parties to the convention. As such, when full consensus is not the basis of negotiations, whatever convention that is created as an outcome may be abandoned, and even fail to enter into force at all.

Another interviewee mentioned that it is how diplomats have been trained to function in UN Vienna as long as they can remember, and therefore this has become something of an institution that would require the “guts of a delegate to break this spirit” (Interview with Alias Alan, February 16, 2023). Even the delegations do not know why the spirit of Vienna has such a strong hold over the negotiations. Regardless of its origin, the Vienna spirit strongly binds the negotiation.

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(e.g. UNSC Resolution 2393 (2017)). However, the Vienna Spirit as an informal consensus norm is very binding to the extent that the CCPCJ has never voted on a substantive matter.

### 8.3.1 Regular Interactions

One of the reasons why the “Vienna Spirit” impacts negotiations is due to the long-term and regular interactions these diplomats have with each other. Within the UN Vienna, negotiations are primarily handled by the permanent missions in Vienna. These permanent missions not only focus on one type of negotiation but also any negotiation within the IAEA (International Atomic Energy Agency), UNODC, UNIDO (United Nations Industrial Development Organization), CTBTO (Comprehensive Nuclear-Test-Ban Treaty Organization), CND (Commission on Narcotic Drugs), as well as other organizations stationed in Vienna UN. As such, these negotiators know each other well from multiple interactions through many negotiations, and occasional interactions with each other in the main coffee shops located on the 4th and 7th floors of the UN, and a bar located within the United Nations (multiple interviewees have mentioned this).

Indeed, similar regular interactions occurred during the negotiation of the firearms protocol, and some delegates were already well aware of each other from previous negotiations (Interview with Eugenio Curia, 7 March). The interaction between the delegates went smoothly and well, with utmost respect for each other (Interview with Jonathan Winer, February 10, 2023). One delegate explained more specifically how these interactions occurred.

“Each classroom may be different, but sometimes you have a cohort that just works really well. I think the UNTOC negotiation delegates were that kind of cohort that just worked great with each other. We all would meet at this Brazilian bar, sing, and embarrass ourselves, which allowed us to see each others’ weaknesses and have this human interaction. This, in turn, would influence positively how negotiations go” (Interview with Bill Kullman, April 2023).

This interaction continued for around two-years during the negotiations with the first session of the ad hoc committee starting in 19th January 1999, and ending with the signature in Palermo on 14th December ([A/AC.254/1, 1998](#)).

Having this rapport means that trust is built amongst the delegates, but it leads to a deepened socialization in the shared norms of the Vienna Spirit. As such, the delegates commonly understood voting as an entire failure of the negotiations. They would find ways to overcome issues that were at a deadlock and, if there were no solutions, the only way out of this deadlock was to give up on the whole thing. Therefore, regular interactions are important because these informal norms exist through path dependency and peer pressure, where delegates try to conform to the norms already embedded in the negotiations ([Pouliot, 2011, 2016](#)).

### 8.3.2 Non-technical Framing

However, even if there are these informal norms and a greater rapport among diplomats, countries whose interests could be greatly infringed would not follow these norms if they considered the negotiation crucial to their safety and security. Indeed, compared to the negotiation patterns that take place at the New York UN, which is considered the political arm of the United Nations, we can observe significant differences. This is because UN Vienna



is known by UN members as the legal arm of the United Nations. Here, delegates mainly deal with criminal law and legal matters of the United Nations meaning technical and legal issues that are considered “less political” are discussed by the delegates (Alias Alan, February 16, 2023).

For example, the *travaux preparatoire* and the documents of the ad hoc committee negotiations show no sign of voting at the start or at the final adoption of the treaty language during the UNTOC negotiations in UN Vienna. This is directly in contrast to the way the Single Convention on Narcotic Drugs was negotiated. The UN Single Convention, which is currently housed at UN Vienna, was initially negotiated in New York because this was before UNODC moved headquarters from New York to Vienna. During this negotiation, even substantive provisions of the articles were decided on the basis of majority voting.<sup>22</sup> Although the same rules of procedure apply in both UN Vienna and UN New York, where there could be a majority vote for procedural matters and a 2/3rds majority vote for substantive matters, UN Vienna would informally avoid using voting procedures.

As such, UNTOC was considered a technical and legal document compared to negotiations taking place in UN New York. This allowed diplomats more leeway into how negotiations would go as they were the ones with technical capacity to discuss criminalization. However, the implementation review mechanisms in this negotiation, unlike the discussions in CIFTA, became significantly politicized. Developing countries mentioned the difficulty of implementing measures due to financial and technical difficulties and requested that implementation review mechanisms be removed from the text, while technical assistance would be included in the negotiation document. Algeria, on behalf of G77 for instance, mentioned:

“The Governments of the States members of the Group of 77 and China were convinced that developing countries would need long-term assistance to implement the obligations arising from the convention and the protocols. Therefore, he proposed the establishment of a special technical assistance fund for that purpose and announced that a proposal would be submitted under article 21 of the draft convention. He stated that the states members of the Group of 77 and China would also propose a separate section of the draft convention, on international economic cooperation for sustainable development, in order to deal with the causes of organized criminal activity. Finally, the States members of the Group of 77 and China were of the view that the main objective of the convention and its protocols should be to promote international cooperation through partnership based on shared responsibility and respect for the principles of sovereignty, equal rights and non-intervention” ([A/AC.254/9, 1999](#)).

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<sup>22</sup>When reviewing the documents of this final plenipotentiary conference where delegates were negotiating the Single Convention, there are multiple references to voting behavior ([E/CONF.34/24, 1961](#)). Within this conference document ([E/CONF.34/24, 1961](#)) that includes verbatim statements provided by plenipotentiaries, there were 526 references to “vote” in the first volume and 254 references to “vote” in the second volume of the conference document [E/CONF.34/24/Add.1 \(1961\)](#). There are also actual instances of voting related to specific treaty language and voting on whether specific treaty language should be put up to a vote. Even until today, UN New York has conducted many negotiations through the voting procedure.

The delegate of Argentina recalls that developing countries were weary of these provisions turning into a so-called “policing and watchdog mechanism” and were unfamiliar with the peer-review system compared to European countries that already had similar mechanisms in place (Interview with Eugenio Curia, March 2023). Indeed, the initially suggested mechanism was a strong IRM which surpassed the level in the UN drug convention, the previous convention dealing with organized crime within the UN, which are monitored by individual experts (Interview with Eugenio Curia, March 9th 2023).

Other interviewees commonly mentioned that the global south was generally weary of the idea of IRM provisions (List of interviewees in the appendix). As such, the spirit of Vienna, which requires a consensus of countries, made this deadlock impossible to overcome, and rendered this IRM provision a nonstarter during the negotiations as countries would never budge and agree to establishing an IRM provision. The countries that supported the idea of having a stronger IRM had to abandon this idea based on the fact that strong informal norms of consensus made pushing for the IRM provisions extremely difficult.

In order to prevent the entire negotiation from falling apart, even the countries that pushed for a strong IRM provision gave up, as consensus was the only available and acceptable way through which the convention would be created. When asked why they did not consider putting this to a vote if they deemed IRM provisions to be an important factor, delegates who had participated commonly mentioned voting was not even a consideration as that is not how it was done in Vienna. An interviewee said it is better to have a convention without IRM provisions, rather than having none at all (Interview with Eduardo Vetere, February 2023). As such, delegates at that time decided to defer this issue to the Conference of the Parties later on.

## 8.4 Alternative Explanations

Contrary to what alternative explanations would expect, it was not strong gun right states such as the US that were against monitoring provisions. In fact, what the delegates call WEOG countries (Western European and Others Group) strongly supported the idea of including IRM provisions at that time. The United States had no problem with IRM provisions and preferred its inclusion in the convention (Interview with Jonathan Winer, the US head of delegate at that time, February 10, 2023). The Clinton administration was interested in finding ways to regulate firearms at the global level and was supportive of this endeavor (Interview with Jonathan Winer, 10 February 2023). In the travaux préparatoire, there is actual evidence that the United States had suggested “the creation of a United Nations transnational firearms center” to carry out implementation review functions similar to those of the OAS CIFTA convention ([A/AC.254/5/Add.5, 1999](#))[5].

The countries that pushed for this protocol were aware that certain states may not be motivated to comply with the protocol.<sup>23</sup> This means that because the asset specificity was moderate to high, moderate levels of IRMs should have been included, which was not the case. Indeed, all interview participants mentioned that the downside of the Firearms Protocol is the lack of IRM provisions. In light of the given problem structure of illicit

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<sup>23</sup>Potential state defection existed as there were illicit flows of state-owned weapons being provided to organized criminal groups, and legislative changes had to be monitored and tracked.

	CIFTA	FIREARMS PROTOCOL
Did Western European and Others Group prefer weaker IRM provisions during negotiations?	No	No
Were sunk costs of leaving this agreement low?	No	No
Were there significant interest groups that were against this treaty?	Yes to No	Yes to No
Were there alternative low-cost monitors that could supplement the Monitoring of these issues?	No	No
Informal Norms and Related Conditions		
Were informal norms present?	Not Strong	Yes
Were communication patterns regular?	No	Yes
Was the issue framed as non-technical?	No	Yes
Outcome	<b>Moderate IRM</b>	<b>No IRM</b>

Table 4: Summary of Comparison Between CIFTA and the Firearms Protocol

firearms regulation, IRM was actually the logical choice. Even the first convention on illicit firearms trafficking, CIFTA, had included these provisions for further implementation.<sup>24</sup>

Domestic preferences from strong gun-rights countries such as the US remained the same, as the negotiations during CIFTA and the UN Firearms Protocol were only 1-2 years apart. NRA was, as they were in CIFTA, cautious about what this negotiation would become. Indeed, a republican congressman had attended the UNTOC negotiations to observe whether the negotiations were not a backhanded way of controlling for civilian possession of firearms at the international level, but once nothing to that extent was being discussed, the congressman returned to the states (Interview with Jonathan Winer February 10, Matti Joutsen, March 2nd). However, once issues regarding civilian possession were excluded from the convention (initially proposed by Japan), there was less interest in these negotiations.

Furthermore, the delegates did not consider low-cost monitors (Dai, 2007) as an alternative to monitoring compliance. No delegates mentioned availability, nor were there organizations at that time that could manage the implementation of the firearms protocol at a global stage, similar to the CIFTA convention. This is why even during the negotiations, states strived to include IRM provisions that could manage state compliance through the UN, which had failed. The following table briefly summarizes the evidence and case comparison of the CIFTA and the Firearms Protocol negotiations.

## 9 Conclusion

This paper analyzed how informal consensus norms impacted the negotiations of the Firearms Protocol, where delegates chose to eliminate implementation review mechanisms. I argued that when the Vienna spirit was further strengthened and embedded into the negotiations through regular interactions, and when implementation review mechanisms were framed as a non-technical issue, delegates gave up on including implementation review mechanisms. This was because the primary goal of the delegates was the success of negotiations through

<sup>24</sup>Even after the signing of the convention, many countries attempted for over 18 years to create a review implementation mechanism, and succeeded to a limited extent through the Conference of the Parties for UNTOC. The dynamics of the negotiations changed and warrants a separate discussion.

full consensus. As such, a core element within the institution such as implementation review mechanisms, which allows states to maintain effectiveness of the treaties, are discarded for the sake of continuation of the negotiation, and an outcome reliant on consensus decision-making.

Although previous discussions focused on elements such as state preferences (Efrat, 2009), rational calculations of the problem Jojarth (2009), or domestic constituencies (Raustiala, 2005) and the presence of civil society (Dai, 2007) I show that these explanations do not account for the institutional outcome of the Firearms Protocol.

In fact, contrary to expectations, strong gun rights countries were interested in making this treaty work. Furthermore, the regulation of firearms, as mentioned, required implementation review mechanisms. However, the embedded norms that led delegates to prioritize consensus-decision making allowed weaker states to leverage their argument on this norm, to achieve what they have wanted: to discard any mention of implementation review mechanisms in the treaty. Multilateralism becomes more complicated and weaker states gained more leverage in this case (Mikulasek, 2016).

Countries well aware of this informal norm “threaten to put issues to a majority vote” to get their voices heard, as everyone knows that they will not be voting (Interview with Eugenio Curia, 2023). All interviewees who participated during that time and current delegates working and negotiating within Vienna know instantly when asked about “the Vienna spirit,” which is surprising, as it has not really been discussed as an element that affects negotiations.

This is interesting because it points to the difference in what effectiveness means to actors involved in this process of treaty design. Practitioners that require these mechanisms to be actually applied to monitor state behavior and induce change would consider this a failed treaty. However, the time-horizon for these delegates is different in light of their individual reputations, but also for the long game. Individually, abiding by this consensus decision allows them to be socialized into the negotiations to get concessions in the next iteration of negotiations. More broadly, having an international and legally binding agreement that deals with firearms, even though the institution may not be able to track effectiveness, means that a new international standard has been created, so that these delegates could rely on the wordings agreed on the text to improve upon in the coming years. The idea of achieving full consensus lends legitimacy to the agreement, which for the delegates is understood as the effective outcome. The takeaway for policy, however, could be that a technical agreement or Memorandum of Agreement of some form through lower-level departments where practitioners directly negotiate these elements may contribute to more effective regulatory changes.

Second, while the Vienna spirit is particular to the United Nations in Vienna and, therefore, is local and context-specific, the norm to resort to consensus decision making is not unique to Vienna. For instance, such decision-making takes place in venues such as the EU Council (Heisenberg, 2005), ASEAN, NATO, and other decision-making bodies. As such, the implications of this project contribute to the discussion in the broader literature about the trade-offs between deliberative legitimacy and efficiency. My research suggests that the pursuit of deliberative democracy, at least within the level of international negotiations, may paradoxically diminish the effectiveness of international treaties. For issue-areas that require quick and constant updating reflecting changes of illicit behavior, is consensus decision-

making really the way to go?

Third, drawing from primary data collected from interviews and archival research, as well as informal gatherings of diplomats, this paper offers a more nuanced understanding of how institutional designs are actually negotiated. The findings of this research contribute to an understudied area of international criminalization and the regulation of organized crime ([Nadelmann, 1990](#); [Morse, 2019](#); [Efrat, 2009](#); [Andreas and Nadelmann, 2008](#); [Bewley-Taylor, 2012](#)). Furthermore, this paper contributes to research that focuses on bureaucratic decision-making in foreign policy and international relations ([Biermann and Siebenhüner, 2009](#); [Bauer, 2006](#); [Fleischer and Reiners, 2021](#)). Although existing studies often focused on state-level or leadership level, this study contributes to the importance of examining bureaucrats and technocrats.

Two types of future research seem promising. The first is to look at negotiations within the UN that take place at two headquarters. The Cyber Convention currently being negotiated will be an interesting subject for further study within the United Nations, as negotiations take place in both New York and Vienna, alternating one session after another.

A second strand of research would be to enlarge the comparison of these different international institutions to regimes that target the trafficking of endangered fauna and flora, human trafficking regimes, and money laundering regimes for a more broader comparison of whether the argument holds.

## References

- A/AC.254/1 (1998). Ad hoc committee on the elaboration of a convention against transnational organized crime.
- A/AC.254/4 (1998). Draft united nations convention against transnational organized crime.
- A/AC.254/4/Add.2 (1998). Draft protocol against the illicit manufacturing of and trafficking in firearms, ammunition and other related materials supplementary to the united nations convention against transnational organized crime.
- A/AC.254/4/Rev.1 (1999). Revised draft united nations convention against transnational organized crime.
- A/AC.254/5/Add.5 (1999). Ad hoc committee on the elaboration of a convention against transnational organized crime: Proposals and contributions received from governments (a/ac.254/5/add.5).
- A/AC.254/9 (1999). Report of ad hoc committee on the elaboration of a convention against transnational organized crime on its first session, held in vienna from 19 to 29 january 1999 (a/ac.254/9).
- Abbott, K. W. and D. Snidal (2000). Hard and soft law in international governance. *International organization* 54(3), 421–456.
- A/C.3/51/7 (1996). Draft united nations framework convention against organized crime.
- A/CONF.192/15 (2001). Report of the united nations conference on the illicit trade in small arms and light weapons in all its aspects.
- Aggarwal, V. K. and J. T. Chow (2010). The perils of consensus: how asean’s meta-regime undermines economic and environmental cooperation. *Review of international political economy* 17(2), 262–290.
- Andreas, P. and K. M. Greenhill (2019). *Sex, drugs, and body counts: The politics of numbers in global crime and conflict*. Cornell University Press.
- Andreas, P. and E. Nadelmann (2008). *Policing the globe: Criminalization and crime control in international relations*. Oxford University Press.
- A/RES/49/159 (1995). Naples political declaration and global action plan against organized transnational crime.
- A/RES/55/25 (2000). United nations convention against transnational organized crime and the protocols thereto.
- Autesserre, S. (2009). Hobbes and the congo: frames, local violence, and international intervention. *International Organization* 63(2), 249–280.
- Bailey, S. D. (1966). Un voting: Tyranny of the majority? *The World Today* 22(6), 234–241.

- Barnett, M. and M. Finnemore (2012). Rules for the world. In *Rules for the World*. Cornell University Press.
- Bauer, S. (2006, February). Does Bureaucracy Really Matter? The Authority of Intergovernmental Treaty Secretariats in Global Environmental Politics. *Global Environmental Politics* 6:1, 23–49.
- Bernauer, T., A. Kalbhenn, V. Koubi, and G. Spilker (2013, December). Is there a “Depth versus Participation” dilemma in international cooperation? *The Review of International Organizations* 8(4), 477–497.
- Bewley-Taylor, D. R. (2012). *International drug control: Consensus fractured*. Cambridge University Press.
- Biermann, F. and B. Siebenhüner (Eds.) (2009). *Managers of global change: the influence of international environmental bureaucracies*. Cambridge, Mass: MIT Press.
- Bonner, R. (1998, Apr). U.s., in a shift, backs u.n. move to curb illicit trade in guns.
- Bradlow, D. D. (2004). Private complaints and international organizations: A comparative study of the independent inspection mechanisms in international financial institutions. *Geo. J. Int’l L.* 36, 403.
- Bukovansky, M., A. Cooley, and J. Snyder (2015). Ranking the world: Grading states as a tool of global governance.
- Carlson, K. L. (2010). Fighting firearms with fire in the oas: A critical evaluation of the inter-american convention against the manufacturing of an trafficking in firearms, ammunition, and other related materials. *Am. U. Int’l L. Rev.* 25, 611.
- Chayes, A. and A. H. Chayes (1993). On compliance. *International organization* 47(2), 175–205.
- Checkel, J. T. (2003). ” going native” in europe? theorizing social interaction in european institutions. *Comparative Political Studies* 36(1-2), 209–231.
- Dai, X. (2007). *International institutions and national policies*. Cambridge University Press.
- Doshi, R., J. G. Kelley, and B. A. Simmons (2019). The power of ranking: The ease of doing business indicator and global regulatory behavior. *International Organization* 73(3), 611–643.
- Downs, G. W., D. M. Roche, and P. N. Barsoom (1998). Managing the evolution of multilateralism. *International Organization* 52(2), 397–419.
- Drezner, D. W. (2008). All politics is global. In *All Politics Is Global*. Princeton University Press.
- E/CONF.34/24 (1961). United nations conference for the adoption of a single convention on narcotic drugs volume i.

- E/CONF.34/24/Add.1 (1961). United nations conference for the adoption of a single convention on narcotic drugs volume ii.
- Efrat, A. (2009). *Governing guns, opposing opium: The politics of internationally regulated goods*. Harvard University.
- Fleischer, J. and N. Reiners (2021, December). Connecting International Relations and Public Administration: Toward A Joint Research Agenda for the Study of International Bureaucracy. *International Studies Review* 23(4), 1230–1247.
- Gibbins, W. (1997, Apr). Caribbean-trade: Leaders gear for clinton/caricom meet.
- Gidisoglu, S. (2010). Who is deciding in the eu?: the growing role of eu’s institutional culture and informal procedures in decision-making. In *Fifth Pan-European Conference on EU Politics*, pp. 23–26.
- Gilbert, D. (2022). The logic of kidnapping in civil war: Evidence from colombia. *American Political Science Review* 116(4), 1226–1241.
- Goldstein, J. and L. L. Martin (2000). Legalization, trade liberalization, and domestic politics: a cautionary note. *International organization* 54(3), 603–632.
- Goldstein, J. L., J. Goldstein, M. Kahler, R. O. Keohane, and A.-M. Slaughter (2001). *Legalization and world politics*. MIT Press.
- Gootenberg, P. (2007). The “pre-colombian” era of drug trafficking in the americas: Cocaine, 1945-1965. *The Americas* 64(2), 133–176.
- Gutner, T. and A. Thompson (2010). The politics of io performance: A framework. *The review of international organizations* 5, 227–248.
- Heisenberg, D. (2005, January). The institution of ‘consensus’ in the European Union: Formal versus informal decision-making in the Council. *European Journal of Political Research* 44(1), 65–90.
- Herschinger, E. (2010). *Constructing global enemies: hegemony and identity in international discourses on terrorism and drug prohibition*. Routledge.
- Häge, F. M. (2013, July). Coalition Building and Consensus in the Council of the European Union. *British Journal of Political Science* 43(3), 481–504.
- Ikenberry, G. J. (2011). The future of the liberal world order: Internationalism after america. *Foreign affairs*, 56–68.
- Johnson, T. (2014). *Organizational progeny: Why governments are losing control over the proliferating structures of global governance*. Transformations in Governance.
- Jojarth, C. (2009). *Crime, war, and global trafficking: Designing international cooperation*. Cambridge University Press.



- Kelley, J. G. (2012). Monitoring democracy. In *Monitoring Democracy*. Princeton University Press.
- Kelley, J. G. and B. A. Simmons (2015). Politics by number: Indicators as social pressure in international relations. *American journal of political science* 59(1), 55–70.
- Kelley, J. G. and B. A. Simmons (2019). Introduction: The power of global performance indicators. *International Organization* 73(3), 491–510.
- Kennedy, C. S. (2000, Mar). Interview with sarah horsey-barr.
- Kennedy, C. S. (2002, Nov). Interview with ambassador harriet c. babbitt.
- Koliev, F., T. Sommerer, and J. Tallberg (2021). Compliance without coercion: Effects of reporting on international labor rights. *Journal of Peace Research* 58(3), 494–509.
- Koremenos, B. (2016). *The continent of international law: Explaining agreement design*. Cambridge University Press.
- Koremenos, B., C. Lipson, and D. Snidal (2001). The rational design of international institutions. *International organization* 55(4), 761–799.
- LaFranchi, H. (1997, Apr). Mexicans too have a problem border: Awash in us guns.
- Lewis, J. (2003). Institutional environments and everyday eu decision making: rationalist or constructivist? *Comparative Political Studies* 36(1-2), 97–124.
- Louis, M. and L. Maertens (2021). *Why international organizations hate politics: depoliticizing the world*. Taylor & Francis.
- Lounsbury, M. (2007). A tale of two cities: Competing logics and practice variation in the professionalizing of mutual funds. *Academy of management journal* 50(2), 289–307.
- Mackie, J. L. (1965). Causes and conditions. *American philosophical quarterly* 2(4), 245–264.
- Mahoney, J. (2008). Toward a unified theory of causality. *Comparative Political Studies* 41(4-5), 412–436.
- Mearsheimer, J. J. (1994). The false promise of international institutions. *International security* 19(3), 5–49.
- Mikulaschek, C. (2016). *The power of the weak: how informal power-sharing shapes the work of the un Security Council*. SSRN.
- Morse, J. C. (2019). Blacklists, market enforcement, and the global regime to combat terrorist financing. *International Organization* 73(3), 511–545.
- Nadelmann, E. A. (1990). Global prohibition regimes: The evolution of norms in international society. *International organization* 44(4), 479–526.

- Nelson, S. C. (2014). Playing favorites: how shared beliefs shape the imf's lending decisions. *International Organization* 68(2), 297–328.
- Pillinger, M., I. Hurd, and M. N. Barnett (2016). How to get away with cholera: The un, haiti, and international law. *Perspectives on politics* 14(1), 70–86.
- Pouliot, V. (2011, September). Diplomats as Permanent Representatives: The Practical Logics of the Multilateral Pecking Order. *International Journal: Canada's Journal of Global Policy Analysis* 66(3), 543–561.
- Pouliot, V. (2016). *International pecking orders: The politics and practice of multilateral diplomacy*. Cambridge University Press.
- Raustiala, K. (2005). Form and substance in international agreements. *American journal of international law* 99(3), 581–614.
- Rosendorff, B. P. and H. V. Milner (2001). The optimal design of international trade institutions: Uncertainty and escape. *International Organization* 55(4), 829–857.
- Schroeder, M. (2008). Small arms, terrorism and the oas firearms convention.
- Shaw, M. (2015). Drug trafficking in guinea-bissau, 1998–2014: the evolution of an elite protection network. *The Journal of Modern African Studies* 53(3), 339–364.
- Sheptycki, J. W. (2000). *Issues in transnational policing*. Psychology Press.
- Simmons, B. A. (2000). International law and state behavior: Commitment and compliance in international monetary affairs. *American Political Science Review* 94(4), 819–835.
- Simmons, B. A. (2001). The international politics of harmonization: The case of capital market regulation. *International Organization* 55(3), 589–620.
- Simmons, B. A., P. Lloyd, and B. M. Stewart (2018). The global diffusion of law: Transnational crime and the case of human trafficking. *International Organization* 72(2), 249–281.
- Skovgaard, J., K. M. Adams, K. Dupuy, A. Dzebo, M. Funder, A. M. Fejerskov, and Z. Shawoo (2023). Multilateral climate finance coordination: Politics and depoliticization in practice. *Global Environmental Politics* 23(2), 125–147.
- Stein, A. A. (1982). Coordination and collaboration: regimes in an anarchic world. *International organization* 36(2), 299–324.
- Stone, R. W. (2011). *Controlling institutions: International organizations and the global economy*. Cambridge University Press.
- Tallberg, J. (2002). Paths to compliance: Enforcement, management, and the european union. *International organization* 56(3), 609–643.

- Victor, D. G., K. Raustiala, and E. B. Skolnikoff (1998). *The implementation and effectiveness of international environmental commitments: Theory and practice*. MIT press.
- Weaver, C. (2008). Hypocrisy trap. In *Hypocrisy Trap*. Princeton University Press.
- Weaver, C. E. (2003). *The hypocrisy of international organizations: The rhetoric, reality, and reform of the World Bank*. The University of Wisconsin-Madison.

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## 9.1 Summarized CIFTA Convention

- apply markings at the time of manufacture, during importation, and when it is confiscated for the purposes of official use (Article IV, VI)
- confiscate or forfeit illicitly manufactured or trafficked items (Article VII)
- take security measures to prevent loss or diversion
- establish and maintain licenses and authorizations for export, import, and transit of firearms, ammunition, explosives and other related materials (Article IX)
- strengthen controls at export points (Article X)
- keep records of maintenance for the purposes of exchange of information, and mutual legal assistance
- states are to exchange information<sup>25</sup> (Article XIII)
- cooperate through creating a national body or single point of contact to act as liaisons for state parties and the consultative committee (Article XIV)
- exchange experience and training, provide technical assistance, provide mutual legal assistance, enable extradition under applicable situations (Article XV - XVII, XIX)
- use controlled delivery when domestic legal systems permit, and intercept illicit consignments (Article XVIII).

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<sup>25</sup>Such information include: (a) authorized producers, dealers, importers, exporters, and carriers; (b) means of concealment and ways for detection; (c) routes used by criminal organizations engaged in illicit trafficking; (d) legislative experiences and practices; and (e) techniques for combating related crimes.

## 9.2 Summarized Firearms Protocol, and UNTOC

- Scope applies to the prevention, investigation, and prosecution of illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. Does not apply to state-to-state transactions, or the right of parties taking action in the interest of national security (Article 4)
- States are to criminalize: manufacturing, trafficking, falsifying or illicitly obliterating markings of firearms, their parts and components and ammunition. The states are to adopt legislative measures to also criminalize organizing, directing, aiding, abetting, facilitating, attempting to commit, or participating as an accomplice to the above activities (Article 5).
- states are to confiscate, seize, and dispose of firearms, their parts, and components, and ammunition that are illicitly manufactured or trafficked. States are also to prevent the diversion of these materials. (Article 6)
- States are to keep records for maintenance (Article 7)
- states have to mark firearms at the time of manufacture, including the information of the name of manufacturer, the country or place, and the serial number. States are to also require appropriate markings on imported firearms (Article 8).
- states are to prevent illicit reactivation of firearms (Article 9), maintain effective systems for export, import and licensing or authorization (Article 10), prevent loss or diversion (Article 11), and exchange information among states (Article 12).
- States are to cooperate at bilateral, regional, and international levels, and can receive training and technical assistance (Article 13-14).
- States should establish a system for regulating the activities of those who engage in brokering of firearms (Article 15)

## 9.3 Formal Consensus and Majority Voting

The following figure<sup>2</sup> shows alternative pathways leading to different strengths of IRM.

### Formal Consensus

Certain institutions at the international and regional levels require consensus as the only formal way to reach a decision. Formal consensus is when, procedurally, consensus is the only medium through which delegates negotiate. The requirement for such consensus is institutionally and formally laid out, where diplomats entering the negotiation venue are well-aware that their decisions must be created based on consensus and only through consensus. Examples of such organizations include NATO ([Pouliot, 2016](#))[90] where decisions are only through consensus and ASEAN, ([Aggarwal and Chow, 2010](#)) which also makes decisions based on mutual consultation and consensus.

The commonality of these consensus decision-making venues are that the outcomes “reflect the lowest common denominator of interest, leading to incremental rather than radical change” ([Aggarwal and Chow, 2010](#))[269]. When countries propose elements of negotiation, they already know that reaching consensus will be difficult unless these proposals meet the requirements of other countries. As a result, the outcome of such

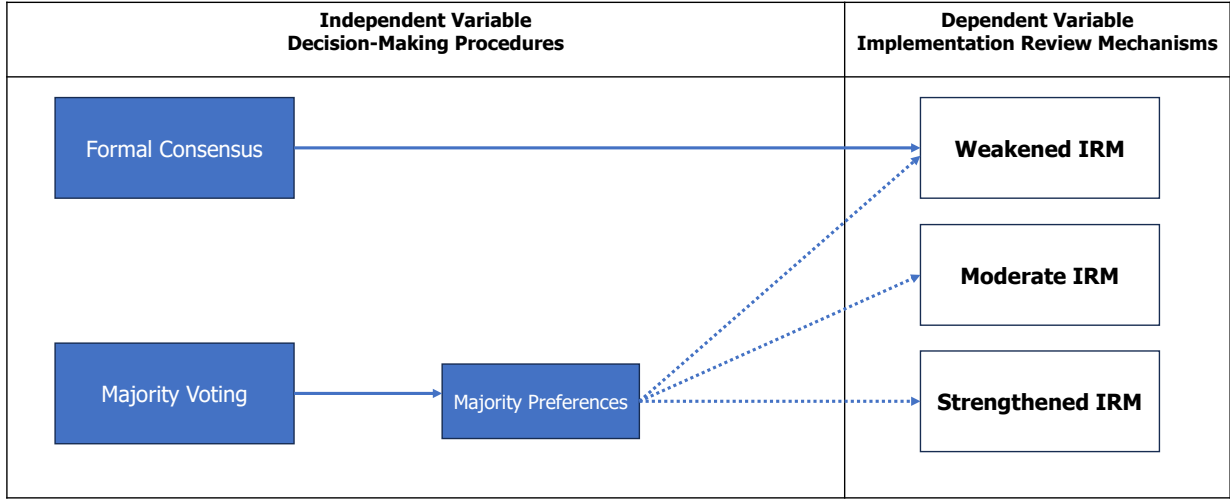


Figure 2: Paths From Formal Consensus and Majority Voting

negotiations is unsurprisingly weakened. However, as for the current case details, there aren't negotiation venues in which consensus is formally required. Therefore, the figure below is more of a theoretical prediction rather than an actual case.

### Majority Voting

Unlike consensus-decision making, majority voting has multiple pathways. The outcome would depend on what the majority preferences are at that time of the negotiation. Therefore, 2 shows dotted lines leading to the outcome, as it is contingent on how preferences have been built. In such cases, powerful countries with bigger clout may sway the outcomes of the negotiation by persuading or vote-buying from other countries. For instance, the case illustrated in the broader dissertation show that majority voting was used extensively to create the 1961 Single Convention on Narcotic Drugs, where a strengthened IRM was chosen.

## 9.4 List of Hoop-tests

- Power-preference: Did WEOG (Western Europe and others Group) prefer weaker IRM provisions during negotiations?
  - statements by countries that disagree with the suggested provisions.
  - Participants of the negotiations detailing what countries' positions were regarding this issue.

- Asset Specificity: Were the sunk costs of leaving this firearms protocol low? Did countries perceive states would strictly adhere to the agreed-upon standards in this issue-area, rendering a strong IRM unnecessary?
  - States mentioning IRM provisions are unnecessary regarding the issue-area during negotiations.
  - Drafts and iterations of negotiations not including IRM provisions at all, or no mention of inclusion.
  - A potential counter-factual explanation on what it would mean to leave this treaty.
- Interest Groups: Were there significant interest groups that were against this treaty, or supporting the weakening of the treaty?
  - Domestic discussions within strong gun-rights countries regarding this treaty negotiation.
  - UN communication from interest groups providing their input regarding this issue.
  - Participants of the negotiations mentioning domestic climates and state preferences related to these interest groups.
- Low-Cost Monitors: Were there alternative low-cost monitors that could supplement the monitoring of these issues?
  - Presence of influential NGOs and organizations that have been actively monitoring state compliance regarding this issue-area.
  - Negotiation participants acknowledging presence of these organizations that could serve as a monitoring mechanism.

#### 9.4.1 List of Case Comparisons for the Broader Project



Treaty and Venue	Issue-Area	Proposition 1	Proposition 2	Proposition 3A	Proposition 3B	IV (INUS Condition)	DV: Weakened IRM
Firearms Protocol (UN Vienna)	Firearms, parts and components	N	Y	Y	N	Y	Y
CIFTA (OAS)	Firearms, parts and components, ammunition, explosives	N	Y	Y	N	N	N
UN PoA (UN New York)	Small Arms Light Weapons	N	N	Y	N	N	N
1961 Single Convention (UN New York)	Drugs	Y	Y	Y	N	N	N
1988 Drug Trafficking Convention (UN Vienna)	Drugs	Y	N	N	N	Y	Y

Table 5: Brief Summary of Case Comparisons

Date	Interviewee	Alias
5/2/2022	A Participant of the Negotiations who will remain Anonymous	Alon
5/6/2022	Anonymous Interviewee	Mark
5/25/2022	A Participant of the Negotiations who will remain Anonymous	Susan
6/3/2022	A Participant of the Negotiations who will remain Anonymous	Wayne
6/23/2022	Former member of the UN who will remain Anonymous	William
6/28/2022	Anonymous Interviewee related to Law enforcement	Julie
7/23/2022	Former Delegate to the UN who will remain Anonymous	Ian
7/24/2022	Law enforcement related official who will remain Anonymous	Craig
7/27/2022	Members of international law enforcement who will remain Anonymous	Kevin, Anthony, Richard
7/30/2022	A member of law enforcement who will remain anonymous	Deborah
8/9/2022	Law enforcement related officials who will remain Anonymous	James, Andrew
8/27/2022	A diplomat who will remain anonymous	Grant
8/28/2022	Official relevant to criminal affairs who will remain Anonymous	Steven
1/4/2023	A staff at UN who will remain Anonymous	Murray
1/11/2023	Diego Simancas, current delegate	
1/27/2023	Participant of the Negotiations who will remain anonymous	Joanne
1/30/2023	Participant of the Negotiations who will remain anonymous_follow up	Joanne
1/31/2023	Delegate to UN who will remain Anonymous	Ross
2/10/2023	A Participant of the Negotiations who will remain Anonymous	Brent
2/10/2023	Jonathan Winer, US Delegate to the Convention	
2/13/2023	Participant of the Negotiations who will remain anonymous	Neil
2/16/2023	Participant of the UN who will remain anonymous	Alan
2/21/2023	Jean Paul Laborde, UN Secretariat member during the Negotiations	
2/21/2023	Participant of the Negotiations who will remain anonymous	Garry
2/24/2023	Matti Joutsen, Participant of the Negotiations	
2/28/2023	Eduardo Vetere, Former Director of UNODC DTA	
3/1/2023	Matti Joutsen, Participant of the Negotiations_follow up	
3/1/2023	Former Delegate to the UN who will remain Anonymous	Douglas
3/7/2023	Eugenio Curia, Forder Delegate to the UN	
3/9/2023	Member of the UN	Manny
3/10/2023	Participant of the Negotiations who will remain anonymous	Trevor
4/18/2023	Bill Kullman, Participant of CIFTA and Firearms Protocol	
6/2/2023	Relevant Expert at an NGO	Sam
7/4/2023	Peter Gastrow (South African Delegate), Rapporteur for the Convention	

Table 6: List of Interviewees

Figure 3: Initial Articles related to IRM included in the Second Session of the Ad Hoc Committee

Option 3<sup>169</sup>

*Article 23*

*Conference of the Parties to the Convention*

1. A Conference of the Parties to this Convention is hereby established.
2. The Conference, as the supreme body of this Convention, shall keep under regular review the implementation of the Convention and any legal instruments related to the Convention and shall make, within its mandate, the decisions necessary to promote the effective monitoring and implementation of the Convention. To this end, the Conference shall:
  - (a) Periodically examine the obligations of the Parties and the institutional arrangements under the Convention, in the light of the objectives of the Convention, the experience gained in its implementation and the evolution of scientific and technological knowledge;
  - (b) Promote and facilitate the exchange of information on measures adopted by the Parties to counter transnational organized crime;
  - (c) Assess, on the basis of all information made available to it in accordance with the provisions of the Convention, the implementation of the Convention by the States Parties, the overall effect of the measures taken pursuant to the Convention and the extent to which progress is being made towards the achievement of the objectives of the Convention;<sup>170</sup>
  - (d) Consider and adopt regular reports on the implementation of the Convention;
  - (e) Make recommendations on any matters necessary for the implementation of the Convention;
  - (f) Seek to mobilize financial resources pursuant to articles 21 and 22 of the Convention;
  - (g) Agree upon and adopt, by consensus, its own rules of procedure and financial rules;
  - (h) Seek and utilize, where appropriate, the services and cooperation of and information provided by competent international organizations and intergovernmental and non-governmental bodies.
3. The Conference shall adopt its rules of procedure at its first session.
4. The first session of the Conference shall be convened by the Centre for International Crime Prevention of the Secretariat of the United Nations and shall take place not later than one year after the date of entry into force of the Convention. Thereafter, regular sessions of the Conference shall be held every year unless otherwise decided by the Conference.
5. [Text on the participation of observers to be added].

<sup>169</sup> Option 3 is a proposal of the delegation of Austria, intended to replace options 1 and 2 on article 23. It was submitted during the first session of the Ad Hoc Committee and preliminarily discussed. The delegation of Austria also submitted explanatory notes on option 3 in a non-paper (A/AC.254/5/Add.3). The proposal consists of new articles 22 *ter*, 23, and 23 *bis* of the Convention.

<sup>170</sup> There is a need for an article on the provision of information by States Parties for the evaluation of the progress made in the implementation of the Convention (see article 22 *ter*).

Figure 4: Current Article 32 of the UNTOC

*Article 32. Conference of the Parties to the Convention*

1. A Conference of the Parties to the Convention is hereby established to improve the capacity of States Parties to combat transnational organized crime and to promote and review the implementation of this Convention.

2. The Secretary-General of the United Nations shall convene the Conference of the Parties not later than one year following the entry into force of this Convention. The Conference of the Parties shall adopt rules of procedure and rules governing the activities set forth in paragraphs 3 and 4 of this article (including rules concerning payment of expenses incurred in carrying out those activities).

3. The Conference of the Parties shall agree upon mechanisms for achieving the objectives mentioned in paragraph 1 of this article, including:

(a) Facilitating activities by States Parties under articles 29, 30 and 31 of this Convention, including by encouraging the mobilization of voluntary contributions;

(b) Facilitating the exchange of information among States Parties on patterns and trends in transnational organized crime and on successful practices for combating it;

(c) Cooperating with relevant international and regional organizations and non-governmental organizations;

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(d) Reviewing periodically the implementation of this Convention;

(e) Making recommendations to improve this Convention and its implementation.

4. For the purpose of paragraphs 3 (d) and (e) of this article, the Conference of the Parties shall acquire the necessary knowledge of the measures taken by States Parties in implementing this Convention and the difficulties encountered by them in doing so through information provided by them and through such supplemental review mechanisms as may be established by the Conference of the Parties.

5. Each State Party shall provide the Conference of the Parties with information on its programmes, plans and practices, as well as legislative and administrative measures to implement this Convention, as required by the Conference of the Parties.

Figure 5: Initial Articles related to IRM included in the Polish submission

Article 15

1. For the purpose of examining the progress made by the Contracting States in achieving the realization of the obligations undertaken in the present Convention, these States will provide periodical reports to the Commission on Crime Prevention and Criminal Justice, which will carry out the functions hereinafter provided.
2. The Contracting States undertake to provide such reports within two years of the entry into force of the Convention for the Contracting State concerned, and thereafter every five years.
3. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Commission with a comprehensive understanding of the implementation of the Convention in the country concerned.
4. A Contracting State which has submitted a comprehensive initial report to the Commission need not, in its subsequent reports submitted in accordance with paragraph 1 of this article, repeat basic information previously provided.
5. The Commission may request from the Contracting States further information relevant to the implementation of the Convention.
6. The Commission shall make its recommendations, and submit to the Economic and Social Council reports on its activities, in accordance with existing provisions.
7. The Contracting States shall make their reports widely available to the public in their own countries.

Figure 6: Initial Articles related to IRM included in the Polish submission

Article 16

In order to foster the effective implementation of the Convention and to encourage international cooperation in the field covered by the Convention:

/...

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(a) Intergovernmental and non-governmental organizations, in consultative status with the Economic and Social Council, and other invited multilateral organizations, shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Commission may invite the specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Commission shall transmit, as it may consider appropriate, to the intergovernmental, non-governmental organizations, other multilateral organizations and the specialized agencies, any reports from the Contracting States that contain a request, or indicate a need, for technical advice or assistance, along with the Commission's observations and suggestions, if any, on these requests or indications;

(c) The Commission may recommend to the Economic and Social Council that it request the Secretary-General to undertake on its behalf studies on specific issues relating to the control and prevention of organized crime;

(d) The Commission may make suggestions and general recommendations based on information received pursuant to article 14 of the present Convention. Such suggestions and general recommendations shall be transmitted to any Contracting Party concerned and reported to the Economic and Social Council, together with comments, if any, from the Contracting States.

Figure 7: Initial Articles related to IRM included in the First Ad Hoc Committee Meeting Document

Option 2

*Article 23*  
*Monitoring of implementation*<sup>60</sup>

1. States Parties shall cooperate in carrying out a programme of systematic monitoring of the implementation of the measures provided for by this Convention to combat organized crime.
2. A committee of the States Parties shall be established for the purpose of carrying out monitoring functions under this article. The Committee shall:
  - (a) Adopt periodic reports evaluating implementation by States Parties and adopt and issue reports on its own activities;
  - (b) Promulgate procedures for assessing the level of implementation by States Parties (including with respect to submission of information by the Party being evaluated, the formation of evaluation teams made up of experts from States Parties to visit that Party and preparation of a preliminary evaluation for consideration by the Committee, and the discussion and adoption of the final evaluation report) and for carrying out its other functions.
3. Meetings of the Committee shall be held at [insert location] once a year or, where circumstances require, in special session. They shall be held in camera.
4. Every effort shall be made to reach decisions by consensus in the Committee. If consensus cannot be reached, decisions on substantive matters must be approved by a two-thirds majority of those States Parties present and voting, an absolute majority of States Parties constituting a quorum, while decisions on procedural matters shall be taken by a simple majority of those States Parties present and voting.

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<sup>60</sup>This is a new proposal and was discussed only preliminarily.

5. Expenses incurred in conjunction with the work of the Committee shall be paid from assessed contributions made by States Parties and voluntary contributions from Governments, international organizations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Committee.