

The OAS Convention

The Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Explosives, Ammunition, and Other Related Materials is an important tool for reducing the illicit trade in SA/LW that fuels the violence in Colombia, and for securing government arsenals in the Americas.

As is the case with any multilateral instrument, the Convention should not be viewed as a panacea. It does not — and cannot — address all of the myriad factors that contribute to illicit arms transfers. Nonetheless, the Convention is suited to accomplish several goals essential to the curbing of illicit transfers of firearms in Latin America.

The following section provides an overview of the legal and collaborative requirements of the Convention which, if fully implemented by States Parties (i.e. states that have ratified the Convention), would close many legal and regulatory gaps that facilitate illicit arms trafficking in Latin America. To illustrate the concrete impact of full implementation of these requirements, they are then analyzed in the context of a case study — illicit arms trafficking to the Colombian illegal groups.

The Requirements of the OAS Convention⁴¹

The purpose of the Convention is to end the illicit manufacture and trafficking of firearms, ammunition, explosives, and other related materials. Generally, the Convention requires each States Party to create, if they do not currently exist, laws that establish procedures for the import, export, and tracing of firearms, ammunition, explosives, and other related materials, and mechanisms for dealing with individuals who do not follow the Convention procedures.

Member State Legal Requirements

The Convention requires, in Article IV, that states take legislative steps to criminalize acts of illicit manufacturing and trafficking in firearms, ammunition, explosives, and other related materials.⁴² Article VI requires States Parties to place the name of the manufacturer, place of manufacture, and serial number on firearms.⁴³ States are also required to use appropriate markings on imported firearms. Articles VII and VIII require states to confiscate illicitly trafficked or

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manufactured firearms, and to adopt safety measures to ensure the security of materials imported, exported, or transited through their own territories.⁴⁴ Of particular importance to preventing diversions of legal transfers is Article IX, which requires members to establish an effective system of import, export and international transit licensing.

In Article XI, the OAS Convention requires the keeping of records needed to trace and identify illicitly manufactured and trafficked firearms.⁴⁵ The regulations concerning import certificates create mechanisms in which firearms will be properly documented, thereby creating a paper trail that will make it possible to discern which weapons were legally manufactured and transited and which were not.

All of these requirements help bring the laws and policies of other nations in line with those of the United States, and support the US in its efforts to thwart illicit firearms trafficking.

Member State Collaborative Requirements

The remainder of the Articles of the OAS Convention involve the type of good will and fair dealing that characterizes US relations with OAS member nations. States Parties agree to share with each other relevant information on authorized producers, dealers, and exporters⁴⁶ of the firearms, as well as information about smuggling routes. States agree to keep any information received confidential. In addition, states agree to:

- provide, either bilaterally or through international organizations, technical assistance necessary to enhance the ability of individual states to prevent and combat illicit firearms manufacturing and trafficking;
- cooperate to prevent illicit manufacturing and trafficking of firearms;
- participate in programs to exchange experience and training to improve the implementation of the Convention;

- provide technical assistance to member countries when necessary;
- and cooperate in law enforcement matters.⁴⁷

Other sections of the Convention grant deference to existing legal structures within each nation. For example, the extradition provision of Article XIX is subject to the conditions provided by the law of the requested country or by applicable extradition treaties.⁴⁸ Thus, the Convention provides that the offenses it covers should be included as extraditable offenses in any extradition treaty between member states. However, it does not require the creation of extradition agreements or establish any terms for extradition.⁴⁹

The remaining articles of the Convention establish and explain the function of the Consultative Committee.⁵⁰ This body facilitates the exchange of information, works with nonmember nations to achieve the goals of the treaty, encourages training and cooperation, and makes recommendations to facilitate the successful operation of the Convention. Each member nation shall have a representative, and the role of host country will rotate among member nations.