

The United States and the OAS Firearms Convention

“This convention will neither discourage or diminish the lawful sale, ownership, or use of guns, but it will help us to fight the unlawful trade in guns that contributes to the violence associated here in America with drugs and gangs.”¹⁰²

—PRESIDENT WILLIAM J. CLINTON
November 14th, 1997

As established in Section I, terrorists and criminals that regard the Western Hemisphere as a source of illicit weapons pose an acute threat to US lives and interests, both directly through violent acts perpetrated against US citizens and indirectly through the Colombian illegal groups’ complicity in the Andean drug trade. Because these groups rely on a protean, hydra-headed criminal infrastructure for their weapons, unilateral and even bilateral measures alone have little chance of success. Turning off the small arms spigot in Latin America requires a relentless, coordinated, multi-pronged strategy implemented by all countries in the region. As the region’s most influential country, US leadership is essential to the development and implementation of this strategy.

The OAS Convention embodies US policies for controlling illicit arms traffic and is consistent with existing US law. As the State Department has said:

The Convention will make the citizens of the hemisphere safer by helping to shut down the illicit transnational arms market that fuels the violence associated with drug trafficking, terrorism, and international organized crime. . . . While strengthening countries’ abilities to eradicate illicit arms trafficking, this regional agreement **protects the legal trade in firearms and lawful ownership and use of firearms and it is modeled on US laws, regulations, and practices.**¹⁰³

After working to help shape the treaty to reflect US laws and policies, the United States signed the Convention when it was originally submitted to the

Organization of American States General Assembly in November of 1997. On 8 June 1998, the President and the State Department transmitted the OAS Convention to the Senate Foreign Relations Committee (SFRC), where it was assigned number 105-49. Nearly six years later, the United States has still not ratified the OAS Convention despite the fact that it appears to have the full support of the current administration. It was on a list of “Treaties which should be given very high priority” in a February 2002 letter sent to the SFRC from the Assistant Secretary of Legislative Affairs.¹⁰⁴

US Involvement in the Development of the OAS Convention¹⁰⁵

The OAS Convention was drafted by the Organization of American States to achieve policy objectives analogous with those of the United States. It is modeled on US policies and regulations governing the import, export and manufacturing of the weapons and other materials in question.¹⁰⁶ Since the Convention was signed, the United States has already taken action, through small modifications to existing regulations, to bring US law into compliance with the language and spirit of this Convention. These changes are discussed in more detail in Section V. As the region’s most influential country, US leadership is essential to the development and implementation of this strategy.

US influence in drafting the OAS Convention led to great compatibility between the Convention and existing US law. The Convention was drafted by a Working Group that met six times, most often in four day sessions, from April to October 1997.¹⁰⁷ Fourteen participants represented the United States on the Working Group, including high ranking individuals from the Departments of State, Treasury, and Justice. Their input was instrumental in developing the form and structure of the Convention, and they were able to ensure that it was consistent with the US campaigns against terrorism, illegal drug use, and crime.

In keeping with the Convention’s focus on illicit firearms trafficking and manufacturing, US negotiators were careful not to include provisions that would challenge or restrict the lawful civilian ownership of firearms. This concern is reflected in the Convention’s preamble (emphasis added):

RECOGNIZING that states have developed different cultural and historical uses for firearms, and that the purpose of enhancing international cooperation to eradicate illicit transnational trafficking in firearms **is not intended to discourage or diminish lawful leisure or recreational activities** such as travel or

tourism for sport shooting, hunting, and other forms of lawful ownership and use recognized by the States Parties;

RECALLING that States Parties have their respective domestic laws and regulations in the areas of firearms, ammunition, explosives, and other related materials, and recognizing that **this Convention does not commit States Parties to enact legislation or regulations pertaining to firearms ownership, possession, or trade of a wholly domestic character**, and recognizing that States Parties will apply their respective laws and regulations in a manner consistent with this Convention...

Statements made by US gun rights groups confirm that at least some of their views and concerns were addressed during the drafting of the Convention. Shortly after the conclusion of the drafting process, an analyst from the British American Security Information Council interviewed Tom Mason, a representative for the National Rifle Association, who reportedly expressed satisfaction with the influence his organization was able to exert over the process.¹⁰⁸

The Need for US Ratification

As a senior OAS official pointed out, the value of the Convention is that “it gets people pointed in the right direction and sets out marching orders.”¹⁰⁹ Ensuring that those marching orders are followed, however, is the responsibility of the OAS members themselves, and no member is more important to this effort than the United States.

US failure to ratify the Convention hinders efforts to enforce these “marching orders.” By not ratifying the Convention, the US has relegated itself to observer status at meetings of the Convention’s Consultative Committee and at the five-year Conference of States Parties. While states that have not ratified the Convention have been — and are likely to continue to be — permitted to attend meetings and make statements,¹¹⁰ their status as observers detracts from the persuasive power of their statements and recommendations. On more than one occasion, States Parties have expressed annoyance with observer states that make strong recommendations at Consultative Committee meetings.¹¹¹ Similarly, unilateral efforts by the US to lean on non-compliant states are hindered by its failure to ratify the Convention. Exhortations by American diplomats to comply with the Convention ring hollow when their own country has not ratified it.

Equally as important if less tangible is the impact of US ratification on the overall credibility of the OAS Convention. The vast majority of the govern-

ment representatives and OAS officials interviewed for this report agreed that US ratification would provide an immediate boost to the Convention's credibility. Conversely, continued failure on the part of the United States to ratify the convention would damage its prestige over time.¹¹²

US ratification of the Convention would also help to reduce resentment generated by the Bush administration's refusal to endorse other internationally popular multilateral instruments, resentment that hinders the pursuit of key foreign policy objectives. Governments worldwide resent US rejection of the Kyoto Protocol, the International Criminal Court statute, and the verification protocol to the Biological Weapons Convention. This resentment spills over into other fora, as illustrated by the United States' loss of its seat on the UN Human Rights Commission in May 2001. After the vote, UN diplomats confirmed to the media that US rejection of the above-mentioned international agreements contributed to the decision to vote the US off the Commission.¹¹³

Resentment over US unilateralism is not limited to foreign diplomats; it is rife among those they represent as well. A 2002 Global Attitudes Survey completed by the Pew Research Center found that world opinion of America has soured in many countries over the last couple of years. Fewer individuals in three of six Eastern European countries, Germany, Britain and seven out of eight Latin American countries support America than in years past. While the reasons for this decline are manifold, it is explained in part by the perception that the US prefers to act unilaterally and fails to take other countries' interests into account when making decisions about its international policies.¹¹⁴ Signals that the US recognizes the value of multilateralism — like ratification of the OAS Firearms Convention — will help dampen an anti-US sentiment which could pose a long-term barrier to international cooperation on transnational security issues.