

FEDERATION of AMERICAN SCIENTISTS

Small Arms, Terrorism and the OAS Firearms Convention

Matthew Schroeder



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About the Author

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ABBREVIATIONS

AUC	Autodefensas Unidas de Colombia (United Self-Defense Groups of Colombia)
BATF	Bureau of Alcohol, Tobacco and Firearms
CICAD	Comisión Interamericana para el Control del Abuso de Drogas (Inter-American Drug Abuse Control Commission)
CIFTA	Convención Interamericana contra la Fabricación y el Tráfico Ilícitos de Armas de Fuego, Municiones, Explosivos y Otros Materiales Relacionados (Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Explosives, Ammunition, and Other Related Materials)
DAS	Departamento Administrativo de Seguridad (Administrative Department of Security), Colombia
ELN	Ejército de Liberación Nacional (National Liberation Army)
ETA	Euskadi ta Askatasuna (Basque Fatherland and Liberty)
FARC	Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia)
GARDAI	Garda Síochána (Guardians of the Peace, Irish National Police Force)
INDUMIL	Industria Militar de Colombia (Colombia Military Industry)
MANPADS	man-portable air defense system
NNP	Nicaraguan National Police
OAS	Organization of American States
ONDCP	Office of National Drug Control Policy
PIRA	Provisional Irish Republican Army
PNP	Panamanian National Police
RUF	Revolutionary United Front, Sierra Leone
SA/LW	small arms and light weapons
SFRC	Senate Foreign Relations Committee
WMD	weapons of mass destruction



Executive Summary

Over the past year, Americans have become acutely aware of the grave national security threat posed by the proliferation of small arms and light weapons (SA/LW). Near daily reports of US soldiers killed by Iraqi guerrillas remind us of the threat these weapons pose to our troops, and regular shoulder-fired missile scares remind us of our own vulnerability. Each new incident increases pressure on policymakers to take action. Yet government responses are often limited and myopic, focused on countering the threat posed by particular weapon systems while ignoring the broader problem of illicit small arms trafficking. Effectively addressing the problem of small arms and light weapons proliferation requires a multi-faceted, multilateral approach.

The Organization of American States' (OAS) Inter-American Convention Against the Illicit Manufacture of and Trafficking in Firearms, Ammunition, Explosives and Related Items is an important tool for developing such an approach in the Western Hemisphere. The Firearms Convention helps to prevent arms from entering the black market by requiring the establishment of basic controls over the manufacture, import, transit and export of firearms in each member state. By encouraging parties to the Convention to share information and resources, the Convention also strengthens regional efforts to dismantle existing arms trafficking networks. It enjoys broad support in the Western Hemisphere. Since the Convention was opened for signature in November 1997, 33 OAS member states have signed the Convention and 22 have ratified it. Its wide appeal is explained in part by its limited focus; the sole purpose of the Convention is to prevent the illicit trade in, and manufacturing of, firearms, ammunition and explosives. The lawful production and transfer of firearms and domestic gun ownership fall outside of the Convention's purview.

The need for universal ratification and full implementation of the Convention is urgent. Weapons from across the hemisphere flow into Colombia in a steady stream where they fuel a brutal internal war that threatens not only Colombians but also US lives and interests. The dangers of SA/LW proliferation in Latin America are not confined to Colombia; large weapons stockpiles in countries with inadequate export controls attract the attention of arms traffickers from around the world, including individuals with ties to terrorist groups hostile to the United States.

If fully implemented, the OAS Firearms Convention would help to stem the flow of weapons to the Colombian illegal groups and prevent the diversion of arms to international terrorists. For example, Colombian officials interviewed for this report identified a lack of cooperation from certain countries and inadequate training for law enforcement officials as impediments to reducing black market arms trafficking to the illegal groups. Better implementation of the Firearms Convention would help to address these concerns. Similarly, full implementation of the Convention's requirement to establish an effective licensing system for firearms transfers would reduce the likelihood of diversions to international criminal and terrorist groups.

The United States was an early supporter of the Convention, and was instrumental in preparing its text. The US signed the Convention in November 1997 and it was transmitted to the Senate Foreign Relations Committee in June 1998. Nearly six years have passed and the US still has not ratified the Convention. Ratification would boost the credibility of the Convention and would make US exhortations to comply with its provisions more persuasive. Ratification would also help to allay concerns about US unilateralism, and quell international outrage over US rejection of several international treaties and protocols. Many of the changes to US laws and regulations that were required by the Convention have already been made, and any financial costs associated with ratification would be minimal.



Introduction

On 28 November 2002, two SA-7 shoulder-fired missiles narrowly missed Tel-Aviv bound Arkia flight 582 as it took off from Mombasa (Kenya) airport. The only signs that the 261 passengers on board had narrowly escaped death were a “light jolt” and the trails of white smoke left by the missiles as they sailed past the plane. While many of the passengers remained oblivious to the attacks until the pilot informed them of the near-miss hours later, at least one of the would-be victims correctly sensed what had happened. “I was sure it was a terrorist incident,” passenger Avi Farodj later recalled. “...I thought we were doomed. And frankly, I still cannot really believe we were saved.”¹

The attack was a terrifying reminder of the immediate and widespread threat posed by small arms and light weapons (SA/LW).² The scourge of SA/LW is often overshadowed by the so-called weapons of mass destruction (WMD) — chemical, biological, radiological and nuclear — despite the fact that threat from catastrophic WMD attacks remains largely theoretical while their more mundane conventional counterparts cut short an estimated 500,000 lives a year.³

Horrified by the devastation wrought by SA/LW in the developing world, humanitarian and arms control groups have focused primarily on the human, economic, social, and political toll of SA/LW proliferation on the Global South — the world’s poor. Their efforts have increased awareness of the need for aggressive action to curtail the flow of SA/LW to war zones and underdeveloped regions. Less attention has been paid to the clear links between international arms trafficking and the threat that is now the number one preoccupation of policymakers in the *developed* world: terrorism.⁴

The following report highlights the link between SA/LW, terrorism and other transnational criminal activity in Latin America in order to build support

The witches' brew of evils boiling in Colombia — which is fueled by illicit arms transfers — is a direct threat to Americans at home and abroad.

for US ratification of the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Explosives, Ammunition, and Other Related Materials (often shortened to the OAS Firearms Convention). The

OAS Firearms Convention is the only legally binding regional agreement aimed at preventing the illicit transfer of firearms, ammunition and explosives. It was opened for signature in November 1997 and as of February 2004 it had been signed by 33 of 34 OAS member states, 22 of which have gone on to ratify it.⁵ Complementing the Convention is the Inter-American Drug Abuse Control Commission's (CICAD) Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components, and Ammuni-

tion. The Model Regulations seek to harmonize procedures and documentation used by OAS member states to control the import, export and in-transit movement of firearms.⁶

The need for full implementation of the OAS Convention is pressing despite the lack of attention it receives from policymakers and the press. The witches' brew of evils boiling in Colombia — which is fueled by illicit arms transfers — is a direct threat to Americans at home and abroad. Also of concern are large, inadequately controlled caches of Cold War weaponry in Central America — a potentially lucrative source of profit for unscrupulous arms brokers and a deadly threat to the rest of us.

The OAS Convention helps to restrain the illicit trade in SA/LW by

- facilitating the sharing of information on arms smugglers and their actions,
- requiring the establishment of basic export controls, and
- encouraging the transfer of legal and technical assistance needed by States Parties to control trafficking in their countries.

Report Outline

The following report is divided into four sections. Section I explains why US policymakers should concern themselves with the OAS Convention by highlighting the threats to US interests posed by the vibrant Latin American illicit

trade in SA/LW. Particular emphasis is placed on arms trafficking to the Colombian illegal groups both because of the acute threat they pose to US lives and interests, and because of the high level of arms trafficking needed to sustain their operations. Section II introduces and explains the Convention, including the requirements it imposes on member states. Section III uses a case study of arms trafficking to illegal groups in Colombia to highlight the practical value of the Convention in the battle against illicit arms transfers. Section IV discusses the United States' role in the development of the Convention and the need for its continued support, including ratification.

Small Arms and Latin America Threats to US Interests

The following section identifies four direct and indirect threats to US interests and lives that are fueled by SA/LW, the latter three of which are attributable to the four-decade old war of attrition in Colombia.⁷ These threats include:

- the acquisition of large quantities of SA/LW by international terrorists hostile to the US and its allies;
- violence committed against US soldiers and civilians by the Colombian illegal groups;
- the pernicious effects of Colombian cocaine and heroin shipped to the US; and
- foreign terrorist exploitation of the criminal infrastructure that flourishes in Colombia as a result of the SA/LW-fueled war and lawlessness.

Each of these four threats is a direct manifestation of, or is exacerbated by, the illicit trade in small arms and light weapons.

Threat: Latin America as a Source of Weapons for Foreign Terrorists

Existing evidence suggests that Hezbollah, al Qaeda, the IRA and other foreign transnational terrorist organizations connected to the region are not heavily dependent on Latin American black market weapons.⁸ Nonetheless, three recent examples of terrorist organizations tapping — or attempting to tap — into the gray and black SA/LW markets in the Western Hemisphere underscore its potential as a source of arms for terrorists.

The first case is mentioned in the US State Department's report, *Patterns of Global Terrorism 2002*. During a July 2002 raid of the apartment of Fajkumar

Paraguayan authorities found...letters detailing transfers of assault rifles...bomb-making materials and authorization...to use \$30 million for arms trafficking.

Sabnani — an alleged Hezbollah associate living in Ciudad de Este (Paraguay) — Paraguayan authorities found evidence of illegal activities, including letters detailing transfers of assault rifles and military equipment. According to press reports, police also found bomb-making materials and authorization for Sabnani to use \$30 million for arms trafficking.⁹

The second case centers on Conor Claxton, an IRA cell leader in Florida. His associate Robert Flint — a Californian with a history of drug running in Colombia and gun running for the IRA — claims that in May 1999, Claxton

asked his advice on how to ship “big weapons” (i.e. a 20-foot container of heavy weaponry) out of Buena Ventura, Colombia. Flint allegedly told him that

...Buena Ventura is on the west coast of Colombia and he would have to come through the Panama Canal. I told him the best way out of Colombia was through the north coast of Colombia into the Caribbean. He asked me what about a trawler. Either he had a trawler or felt I had access to one. He asked me how would he load a trawler with arms and inquired about the rigging on the trawler...He said he had plenty of places to land a trawler in Ireland.¹⁰

In February 2000, the *Sunday Times* of London reported that the Irish National Police Force (GARDAI) and the FBI were investigating the partial shipment of a 20-ton arms cache into Londonderry that allegedly included sniper rifles and machine guns from Colombia and Venezuela.¹¹ The results of the investigation have not been made public.

The final case involves two Lebanese diamond traders, Aziz Nassour and Samih Osailly, who are under investigation for helping al Qaeda convert \$20 million held in bank accounts into West African diamonds.¹² Evidence unearthed by *Washington Post* journalist Douglas Farah, an investigative team assembled by the Organization of American States, and the London-based organization *Global Witness* revealed a plot by Nassour and Osailly to acquire large quantities of weapons — including AK-47s, anti-tank weapons, two- and four-barrel anti-aircraft guns, sniper rifles, and SA-7 surface-to-air missiles — from Shimon Yelenik, an Israeli arms dealer operating out of Panama who is linked to the diversion of 3000 Nicaraguan AK-47 assault rifles to the Colombian paramilitaries.

According to documents collected by investigators, in January 2001 Yelenik forwarded an email from a “guy/alfa” to another Israeli, Ori Zoller, who is the proprietor of an arms dealership in Guatemala¹³ and another suspect in the diversion of assault rifles to the AUC. “Guy/alfa” is presumed to be Nassour, who often went by the code name “Alfa Zulu.” The email states that the weapons were to be delivered to Liberia and were for his “friends in Africa.” Nassour had many “friends in Africa,” including

- Ibrahim Bah, a representative of former Liberian President Charles Taylor’s thuggish regime. Bah fought with Islamic guerrillas in Afghanistan and later with Hezbollah in Lebanon;¹⁴
- the Revolutionary United Front (RUF), which caught the world’s attention in the mid-1990s by mutilating civilians to deter them from cooperating with government forces; and
- al Qaeda operatives with whom Nassour allegedly worked to convert bank account funds into diamonds.¹⁵

A few days later, the list of weaponry was faxed by Zoller to General Roberto Calderón, Inspector General of the Nicaraguan Army. General Calderón responded with a list of prices for the weapons, but existing evidence indicates that the deal fell through shortly afterward.¹⁶

Global Witness concluded that Charles Taylor and the RUF were the intended recipients of the aborted weapons deal. Whether some of these weapons would have found their way to other criminals is anyone’s guess. What can be concluded with some certainty is that African arms and diamonds traders who had done business with al Qaeda were looking for large quantities of weapons that, in the hands of terrorists hostile to the United States, could have taken many hundreds of lives. Among the most worrisome of the weapons on Nassour’s list are the “SAM 7” missiles. The Nicaraguan military has 2000 SA series man-portable air defense systems (SA-7s, SA-14s and SA-16s) in its inventory,¹⁷ which — in the hands of trained terrorists — could be used to shoot down commercial airliners.¹⁸

Furthermore, the fact that an international arms merchant operating out of Africa, which is also awash in small arms, sought weapons in Central America is indicative of its potential as a source of weapons for transnational terrorists.

African arms and diamonds traders who had done business with al Qaeda were looking for large quantities of weapons that...could have taken many hundreds of lives.

Threat: Kidnapping and Murder

Between 1992 and 2001, 51 US citizens were kidnapped by the FARC and ELN

The Colombian illegal groups and the criminal networks with which they cooperate are the most prolific kidnapers in the world, and Americans are regular targets. Between 1992 and 2001, 51 US citizens were kidnapped by the FARC and ELN, and at least ten of them were murdered.¹⁹ More recently, two journalists working for the Los Angeles Times spent 11 days in late January 2003 as captives of the Domingo Laim front of the ELN. According to one of their abductors, the journalists were lucky: “[t]he FARC might have killed you; they have killed others before.”²⁰ A month later, the FARC murdered one American civilian contractor and abducted three more after their single-engine plane went down in FARC territory.

The violence associated with the internal war, and the threat to Americans venturing into or near this war zone, is likely to continue in the near future as the FARC, ELN and the Colombian government ratchet up the tempo of the decades-old conflict. Shortly after taking office in 2002, Colombian President Alvaro Uribe threw down the gauntlet, declaring that “[f]or Colombia the only road is the restoration of order and authority. I will not give up until we defeat the violent groups who are abusing the people.”²¹ To accomplish this goal, Uribe has increased both the size and power projection capacity of the Colombian armed forces.²² This capability will be augmented by the integration of military assets provided as part of US military aid programs.²³ Since 1999, the US has provided an estimated \$2.28 billion in military equipment



Mortar Tubes Discovered After the FARC's Deadly August 2002 Mortar Attack on the Presidential Palace.

SOURCE: Embassy of Colombia, Washington DC

and training to the Colombian government, including 71 helicopters.²⁴ Furthermore, legislative constraints on the use of US military aid have been reduced. In August 2002, the US Congress lifted restrictions that had limited the use of US military aid to counter-narcotics operations. As a result, US-trained Colombian units can now use US-supplied equipment and weapons to engage in a “unified campaign” against drug runners and terrorists, allowing them to engage the illegal groups directly.

The FARC responded to President Uribe’s policies with a bloody spate of attacks in both the countryside and cities. As if to dispel any doubts that they were serious about “mak[ing] urban attacks, so the oligarchies feel the war” during the hardliner Uribe’s administration, the FARC rained mortar shells on the presidential palace on the day of the new president’s inauguration speech. Seven months later, a car containing 200kg of ammonium nitrate and fuel oil exploded outside of “El Nogal” nightclub in Bogota, killing 35 people and injuring around 160. While the FARC denied responsibility, US and Colombian authorities state that they have evidence of its involvement.²⁵

In short, the improvement in the Colombian armed forces’ ability to engage the enemy, and the FARC’s bloody response to Uribe’s hardline stance, suggests that the violence that imperils the lives of US military contractors, journalists and missionaries is unlikely to subside soon.

US support of the Colombian government’s escalation could focus more FARC-perpetrated violence at US citizens and personnel.²⁶ Evidence of FARC intentions to target Americans in response to the shift in US policy surfaced almost immediately after the policy change was announced. In August 2002, Colombian police intercepted a radio message from a FARC Commander during which he declared “[w]e must find where the gringos are because they have all declared war on us...You are obligated to fight them as well.”²⁷

Since that declaration, there have been several attacks on Americans, some of which are directly linked to Uribe’s US-funded campaign against the illegal groups. For example, the FARC and ELN abducted the two LA Times journalists to pressure Uribe to halt his intensified military campaign in Colombia’s Arauca province, where US military personnel were training Colombian counter-insurgency units.²⁸

*“[w]e must find where
the gringos are
because they have
all declared war on
us...You are obligated
to fight them as well.”*

As long as the conflict in Colombia continues to threaten US interests, and as long as the US continues to respond to that threat by putting personnel in harm's way, the probability of losing additional Americans to the conflict will remain high. Curtailing the flow of weapons that stock the Colombian illegal groups' arsenals will complement other initiatives aimed at bringing the conflict — and US involvement in that conflict — to an end.

Threat: The Drug Trade

According to the latest data from the Office of National Drug Control Policy (ONDCP), nearly 20,000 Americans lost their lives to drug-induced health problems in 2000.²⁹ Addiction wreaked various levels of havoc in the lives of millions of other American cocaine and heroin users, approximately 450,000 of whom entered drug treatment programs in 2000.³⁰ The economic toll of this drug abuse is staggering. The ONDCP estimates that the cost in dollars of drug use — including health care expenses and productivity losses — totaled \$160 billion in 2000.³¹ Colombian criminals produce and distribute 90 percent of the cocaine³² and between 22 and 33 percent of the heroin³³ consumed in the United States. These statistics underscore the cost of failing to rein in the Colombian drug trade, which is inseparably intertwined with the internal conflict and thus with illicit arms transfers. Curbing the flow of SA/LW would help to reduce the war-fighting capability of the Colombian illegal groups, thereby helping to bring an end to the war and the lawlessness in which the Colombian drug trade thrives.

Threat: Collaboration between the Colombian Illegal Groups and Foreign Terrorists

Over the past few years, several experts have voiced concern about the possibility of lawless areas in Latin America — including areas in Colombia — becoming areas of activity for international criminals, including terrorists.³⁴ The House International Relations Committee went as far as to assert that “Colombia is a potential breeding ground for international terror equaled perhaps only by Afghanistan...”³⁵ While Colombia is no Afghanistan and — barring utter catastrophe — will not become one, the globalization of international crime and the Colombian government's inability to wrest control of vast swaths of the country from the illegal groups has allowed Colombian criminals to tap into the expertise and resources of foreign criminal terrorist organizations and vice versa.

The FARC is alleged to have established ties with terrorist and criminal organizations from several continents, including the Japanese Red Army,³⁶ ETA, and the PIRA,³⁷ as well as crime syndicates operating out of the Former Soviet Union.³⁸ Hezbollah, which has already capitalized on the lawlessness of the Triple Frontier region at the borders of Argentina, Brazil and Paraguay, also allegedly “attempted to forge close ties with the FARC” in the 1990’s.³⁹

While the threat posed by transfer of foreign terrorists’ skills, contacts and weaponry to the Colombian illegal groups is highlighted frequently in the media, references to the reverse are less common. Crime infrastructures are two-way streets, however, and there is a danger that, after establishing contact with the Colombian groups, foreign terrorists would use pre-existing Colombian criminal infrastructures to engage in attacks on the United States, or against US interests elsewhere. The immediacy of this danger is illustrated by the 2003 arrest of 19 Chinese men who were planning on entering the United States illegally via a human smuggling ring. The men had traveled to the Colombian city of Cali — a hub of document forgery — to acquire “top quality fake Japanese passports.”⁴⁰

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

[The OAS Convention Requirements]... support the US in its efforts to thwart illicit firearms trafficking.

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.

Case Study

Illicit Arms Transfers to the Colombian Illegal Groups

“[W]ell-armed guerrillas, paramilitary organizations, and narcotraffickers challenge governmental control in Colombia. If these organizations acquire more technologically advanced systems, governments will face an even greater threat. SOUTHCOM’s challenge is to develop a cooperative approach with regional security forces to identify, stem and ultimately stop the illegal flow of arms within the region. A good first step was the passage in the Organization of American States of the Inter-American Convention Against Illicit Production of and Trafficking in Firearms, Ammunition, Explosives and Related Materials, now awaiting Senate ratification.”

—GENERAL CHARLES E. WILHELM
Commander and Chief, US Southern Command⁵¹

Section III highlights the ways in which the Convention could help to rein in illicit arms trafficking to the Colombian illegal groups. The section begins with a brief overview of the sources, methods and routes used by smugglers to keep the illegal groups’ vast arsenals stocked. Having identified the types of weapons and the means by which they are acquired, this information is used to demonstrate how rigorous implementation of the OAS Firearms Convention would help to prevent the diversion of government transfers to the illegal groups, and would bolster ongoing efforts by the Colombian government to dismantle arms smuggling networks that are fueling the internal war.

Firearms and the Colombian illegal Groups

The FARC, ELN and AUC are dependent upon the black and gray markets for many of the tools of their destructive trade. These weapons, which are purchased with drug profits or directly exchanged for drugs,⁵² are used to prosecute the ongoing war against the government and each other, and to ‘protect’ coca growers, drug processing facilities and the trafficking infrastructure. Firearms also play a

direct role in the illegal groups' other fundraising activities. Kidnapping and extortion — crimes often committed with firearms — accounted for around half of the revenue generated by the guerrillas and the paramilitaries in recent years.⁵³

Weapons and Sources

The Colombian illegal groups possess a wide array of small arms and light weapons with origins that span the globe and that range in sophistication from gas cylinder bombs which the FARC construct themselves⁵⁴ to technologically

Colombian Illegal Groups and Shoulder-fired Missiles

In light of the FARC's demonstrated willingness to target Americans, their alleged acquisition of shoulder-fired surface-to-air missiles (SAMs) is particularly disturbing. While conclusive evidence of FARC, ELN or AUC possession of these deadly weapons has not been made available to the public, evidence — including FARC statements, defector testimony, and analysis by government intelligence agencies — suggests that it is very likely that these groups possess at least a limited number of SAMs.⁵⁷

advanced imports. According to government documents and interviews with Colombian officials, the illegal groups' arsenals are stocked with mortars, grenades, grenade launchers, machine guns, submachine guns, RPG-7 rocket propelled grenades, and a variety of assault rifles. The FARC are also reported to have acquired Brazilian-made T-AB-1 anti-tank mines⁵⁵, Katyusha and other surface-to-surface rockets, night vision technology, and man-portable air defense systems (MANPADS).⁵⁶

Below is a brief summary of the means by which the Colombian illegal groups acquire these weapons. While most of the summary focuses on the international gray and black market transfers upon which these groups are most dependent, and which would be most vulnerable to disruption if the OAS Firearms Convention were fully implemented, other sources are touched upon as well to provide a more complete overview.

Craft production

The illegal groups have the capacity to produce some of their weaponry, including the gas cylinder bombs mentioned above. While devastatingly effective tools of terror, the military utility of the gas cylinder bombs at the tactical level is limited at best and thus cannot substitute for black market weapons. The FARC

has also set up weapons repair shops, some of which were allegedly equipped with machines capable of manufacturing firearms components.⁵⁸

Whether these facilities are capable of producing weapons of the quality needed by the FARC to engage in combat with the AUC and the Colombian military is unclear. Regardless, there is little evidence to suggest that craft production is a significant source of weaponry for the FARC and the other illegal groups.

The Colombian Armed Forces and INDUMIL

The Colombian government itself is another source of weapons for the illegal groups. In 2000, the FARC made off with a veritable arsenal from the Colombian military, including machine guns, grenade launchers, revolvers, mortars, Claymore mines, and rifles, during an attack on a naval base in Jurado.⁵⁹ The recent arrest of a National Police officer operating in Choco suggests that corrupt Colombian law enforcement and military personnel are another way for the Colombian illegal groups to acquire weapons. Colombian investigators found a \$20,000 grenade launcher in the police officer's home, which he reportedly intended to sell to the FARC. Individual members of the military are also alleged to have supplied weapons and other materiel to the AUC.⁶⁰

Members of the FARC have also acquired weapons from the State Military Industry Enterprise (INDUMIL), which produces — and coordinates the import of — weaponry used by the Colombian armed forces and police. In November 2002, police arrested 9 INDUMIL employees working in the imports department suspected of diverting dozens of weapons to the FARC.⁶¹

Publicly available information on the sources of the illegal groups' weapons is too incomplete to draw definitive conclusions about the importance of weapons captured or bought from the armed forces. Nonetheless, media and government reports suggest that the arms caches acquired this way are a small percentage of the thousands of weapons and millions of rounds of ammunition that sustain the operations of the illegal groups.⁶² In short, Colombian armed forces and INDUMIL are, at best, supplemental sources of weapons for the Colombian illegal groups.

International Grey and Black Market Transfers

While the cooking gas cylinder attacks make the headlines, publicly available information suggests that the majority of the weapons used by the illegal groups are smuggled in from abroad.⁶³ Weapons originating or circulating in dozens of

countries on at least five continents find their way into the hands of the Colombian illegal groups.⁶⁴

Illicit arms destined for the illegal groups pass through the territory of all of Colombia's neighbors. Traffickers operating in Brazil deliver thousands of weapons via airplane and along the many rivers that cut across both countries, often in exchange for cocaine.⁶⁵ The most notorious of these traffickers is Luiz Fernando Da Costa, a Brazilian drug and arms trafficker who was arrested by

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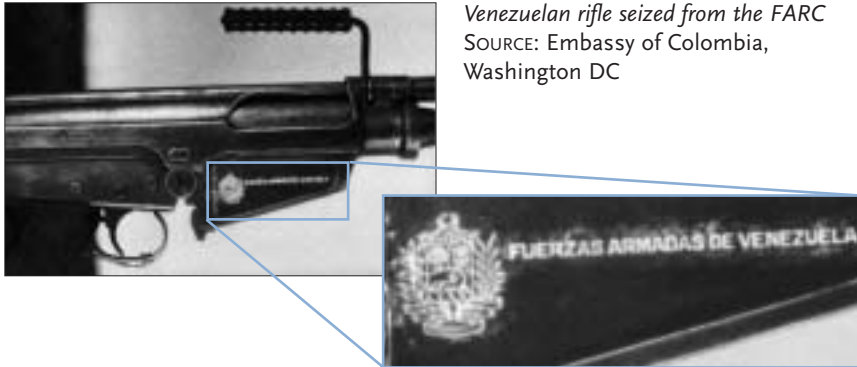
Colombian authorities in April 2001. Testimony collected from Da Costa reveals the scale of the drugs for guns trade between Brazil and Colombia. Da Costa claims to have purchased an average of 600 kg of "merchandise" per week from coca farmers in the Colombian town of Barranco Minas, paying the FARC in cash for the drugs and delivering large quantities of ammunition. According to the Brazilian kingpin, his contacts purchased the ammunition from a smuggler in

Paraguay who flew it into Colombia where it was loaded on speedboats, presumably for distribution to FARC fronts along the rivers near Barranco Minas. If Da Costa's estimates of his own trafficking are accurate, he delivered 150,000 boxes of ammunition — each containing 20 rounds — for a total of 3 million bullets to the FARC before he was apprehended by Colombian authorities.⁶⁶

In Ecuador and Venezuela, smugglers move weapons and military articles over the many roads and rivers that link the two countries with Colombia.⁶⁷ According to Colombian government officials and media sources, hundreds of these weapons started out in the possession of neighboring countries' armed forces. For example, SA/LW seized from the illegal groups that bear the symbol of the Venezuelan Armed Forces accounted for 400 of the 9,380 rifles seized from the illegal groups from 1995 to 2000.⁶⁸

Latin America experts estimate that small arms in Central America number in the millions.⁶⁹ These arms trickle into Colombia in a steady stream that flows through the Caribbean and the porous Costa Rican/Panamanian and Panamanian/Colombian borders, the latter of which was penetrated by "200 'critical' jungle paths that remain[ed] unsupervised" as of 2000.⁷⁰ Maritime and aerial deliveries of weapons from Nicaragua and El Salvador have also been reported.

Transoceanic shipments of weapons manufactured by arms producers like the states of the Former Soviet Union are another major source of weaponry for the illegal groups. According to media reports, Russian organized crime supplies



Venezuelan rifle seized from the FARC
 SOURCE: Embassy of Colombia, Washington DC

weapons to the FARC in exchange for cocaine to be sold in Russia, Europe and the Persian Gulf. Their relationship with Russian smugglers has been especially important to the FARC. Jane’s Information Group credits Russian organized crime with providing the FARC with the weaponry it needed to double the number of its armed members in the mid-1990’s.⁷¹

Trafficking Methods and Routes

The following section identifies several of the countries, routes and smuggling techniques used by gun runners to acquire and deliver their deadly wares to the Colombian illegal groups. Because the data are largely compiled from accounts of failed black market transfers, the picture it paints is incomplete, especially in regards to successful smuggling (i.e. the activities of the smugglers that evade detection). Nonetheless, these reports shed some light on the inner workings of trafficking networks and provide examples of transfers that might have been prevented had OAS member states fully implemented the Convention.



Light Machine Gun Confiscated from the FARC
 SOURCE: Embassy of Colombia, Washington DC

By Air. According to officials from the Colombian Government’s Administrative Department of Security (DAS), small aircraft are often used to transport arms from neighboring countries to the illegal groups.⁷² Colombian intelligence reportedly has “details of at least two arms-carrying flights a week”⁷³ mostly from neighboring countries, including Brazil, Paraguay, Suriname, Venezuela, and Panama.⁷⁴ In January 2001, for example, a plane flying into Colombia from

Venezuela was shot down by Colombian authorities. Inside the plane the Colombians discovered 15,000 rounds of ammunition for AK series assault rifles.⁷⁵

Weapons are also flown into Colombia via transcontinental flights. Perhaps the most sensational Latin American arms smuggling incident in the past ten years falls in this category. In 1999, 10,000 assault rifles were air dropped into FARC territory by a smuggling ring that included former Peruvian spy chief Vladimiro Montesinos and the “Merchant of Death” — Lebanese arms broker Sarkis Soghanalian.⁷⁶

Over Land. Stemming the cross-border flow of weapons to the illegal groups is complicated by Colombia’s vast, forested borders and the ease with which smugglers can conceal small quantities of weapons. Small arms and light weapons are often shipped along with innocuous commodities, such as food, or are hidden in secret compartments in vehicles.⁷⁷ According to DAS officials, perishable food items are often the commodities of choice among traffickers because border guards feel pressure to avoid inspection delays for fear the food will spoil as a result.⁷⁸ If shipments intercepted by Colombian authorities are any indicator, delivery via truck or bus is not uncommon. In September 2000, for example, the Colombian National Police pulled over a vehicle outside of Bogota that was en route to deliver 80 Chinese-made 86-P grenades and 15,000 rounds of AK-47 ammunition, allegedly from Ecuador, to the 22nd FARC Front.⁷⁹

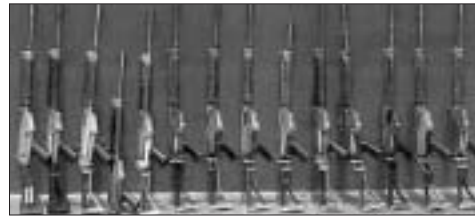
By Ocean, Sea and River. DAS officials interviewed for this report assert that the most common means of delivering weapons to the illegal groups is by way of the Caribbean Sea. Weapons are transported in different types of vessels including merchant marine ships and fishing boats. Some of the vessels travel directly to places along the shore while in other cases small speed boats offload the “mother ship” and deliver the cargo to pre-determined points on land.⁸⁰ From there, either the end-user takes possession of their order or the weapons are delivered to points inland via ground transport.⁸¹

Ocean and sea-going ships are not the only means of maritime delivery. Weapons are also loaded on smaller boats that run along the many rivers that cross the region.⁸² As recently as 1999, some of the areas of the Amazon were so loosely controlled that firearms for sale were “hung from ropes and hooks like in a swap meet” from boats congregating at the “floating shopping center” in the Amazon near the Colombian town of Leticia.⁸³

One of the best documented maritime deliveries of illicit arms to Colombia came to a head on 5 November 2001 when a Panamanian-registered ship, the *Ot-*

terloo, delivered its deadly cargo — 3000 AK-47 assault rifles and 2.5 million rounds of ammunition packed in 14 containers ostensibly carrying plastic balls — to representatives of the AUC waiting in Turbo, Colombia. As will be discussed in more depth later, this shipment, which AUC leader Carlos Castano later boasted was part of “the greatest achievement by the AUC so far,” highlights both the potential of the OAS Convention and the Model Regulations to stop illicit transfers, and the ease with which terrorists can acquire large quantities of weapons from governments that fail to comply with the Convention.

Like many such deals, the illegal sale took place under the guise of a legitimate transfer. Flush with AK-47s left over from Nicaragua’s civil wars but lacking weapons appropriate for civilian police work, the Nicaraguan National Police (NNP) approached Ori Zoller, an Israeli arms broker operating out of Guatemala, about exchanging military assault rifles for mini-Uzi submachine guns and Jericho pistols. Zoller then contacted three potential buyers for the assault rifles, ultimately selecting Simon Yelinek, a fellow Israeli broker operating out of Panama. Yelinek claimed to be representing the Panamanian National Police (PNP), and presented a forged PNP purchase order/end-user certificate. At approximately the same time, a Mexican associate of Yelinek’s set up a shipping company in Panama and purchased the company’s only ship, the *Otterloo*. Debarking from Mexico, the *Otterloo* arrived in the Nicaraguan port of El Rama on 26 October 2001 where it was loaded with the weapons. After signing a ship manifest and a bill of lading that identified Colon, Panama as the end destination, the *Otterloo* promptly set sail for Colombia.⁸⁴



FAL Assault Rifles seized from the FARC
PHOTO: Embassy of Colombia, Washington DC

Disrupting the flow: the Convention and the Colombian Illegal Groups

The absence of good empirical data on arms transfers to the illegal groups precludes any definitive conclusions about the current or potential impact of the Convention on illicit arms transfers in Latin America, including Colombia. Nonetheless, the Convention has already resulted in meaningful changes to the laws, practices and policies of several OAS member states, including countries through which arms bound for the illegal groups have been trafficked in the past.⁸⁵

Costa Rica enacted a series of reforms to its Law of Arms and Explosives, which includes:

- stiffer penalties for violations of arms trafficking laws;
- new penalties of up to five years in prison for company heads and managers that know of, and fail to prevent, their employees from engaging in illicit arms manufacturing or trafficking; and
- an expanded list of explosives regulated under trafficking laws.

The government of Venezuela designated DARFA (the Department of Arms and Explosives of the National Armed Forces) as its national coordination and contact point for both the OAS Convention and the UN Program of Action on

...the Convention has already resulted in meaningful changes to the laws, practices and policies of several OAS member states.

Small Arms and Light Weapons. The Guatemalan government's draft Law of Arms and Munitions (Ley de Armas y Municiones), and its efforts to reform the Law of Police Matters (Ley de Policías Particulares) were prompted, at least in part, by the OAS Firearms Convention. Guatemala is also considering creating a General Department for the Control of Arms (Dirección General de Control de Armas), and is working with the government of Mexico to increase information sharing on arms trafficking.⁸⁶

Most recently, Trinidad and Tobago introduced a new bill that stiffens penalties for firearms-related crimes and enables police to investigate such crimes more effectively.⁸⁷ Finally, the Convention has increased the flow of direct assistance to countries lacking the resources necessary to implement the Convention. Jamaica claims that, since signing the Convention, training and technical assistance from the United States has increased.⁸⁸

The OAS Convention has also prompted groups of states to take action through regional organizations. In April 1998 the States Parties of MERCOSUR⁸⁹ agreed to work on "rapid ratification of CIFTA" through the development of a joint mechanism for the registration of buyers and sellers of firearms, ammunition, explosives. As part of the registry mechanism, MERCOSUR is creating an integrated database and related archival systems of valid buyers and sellers of firearms, and officially recognized points of entry and exit for firearms transfers.⁹⁰

Despite the many positive steps taken by States Parties since the Convention entered into force in 1998, several of its key provisions have not been wide-

ly implemented, which contributes to the continued influx of weapons into Colombia. For example, Colombian law enforcement officials interviewed for this report identified a lack of cooperation from certain countries as a significant impediment to reducing illicit weapons transfers to the illegal groups.⁹¹ Similarly, an official from the Colombian Ministry of Defense asserted that “...cooperation between authorities (legal authorities, police authorities, military authorities and others) is very, very low or [does]n’t exist.”⁹²

The results of a survey on compliance with the Firearms Convention that was conducted by the OAS’ Department of Legal Cooperation and Information support these claims. As of April 2002, fewer than 50% of respondents had established a central point of contact for information exchanges (as required by Article XIV), and even fewer had designated a central authority for making and receiving requests for mutual legal assistance (Article XVII). Furthermore, only 41% of respondents indicated that their national laws provided for the exchange of information specified in Article XIII of the Convention. The percentage of respondents indicating that they had national laws requiring the record-keeping necessary to trace illicit firearms was only slightly higher (47%).⁹³ Greater compliance with these and other relevant articles of the Convention would address a key complaint of Colombian law enforcement officials and thereby help to reduce the amount of black market weapons flowing into Colombia (Article XVI).

Colombian officials also identified a need for more law enforcement training in Latin America. According to DAS officials, training in how to spot fraudulent end-user certificates, recognize the type and source of interdicted firearms, and identify links between criminal organizations would be especially valuable.⁹⁴ Article XV of the OAS Firearms Convention calls upon States Parties to “...cooperate with each other and with competent international organizations...to ensure that there is adequate training of personnel in their territories...” in skills necessary to effectively combat illicit arms trafficking and manufacturing. In those cases in which States Parties lack the capacity to impart these skills to their law enforcement personnel, other parties to the Convention are expected to provide them with necessary technical assistance.

Despite the many positive steps taken by States Parties since the Convention entered into force in 1998, several of its key provisions have not been widely implemented

The OAS Compliance survey suggests that implementation of the requirements of Article XV has been spotty. Of the 17 replies to the OAS survey, only five countries indicated that they have national laws and regulations that provide for the formation of training programs for personnel responsible for preventing and controlling illicit firearms traffic. Fewer still regularly conduct seminars, courses and training programs aimed at strengthening the technical capabilities of these personnel.⁹⁵ More thorough implementation of the Convention's training requirements would help to address Colombian officials' concerns about the regional proficiency in skills needed to combat illicit weapons trafficking.

Better implementation of articles in the Convention that require effective systems of arms transfer licensing and authorization would help to curtail grey market diversions, which result in some of the largest shipments of weapons to the illegal groups.⁹⁶ The 3,000 assault rifles diverted to the AUC during the *Otterloo* incident (see p. 27-28), for example, is equivalent numerically to a third of *all* small arms and light weapons estimated to have been smuggled across the Ecuadorian border from 1999 to 2001.⁹⁷

Large, grey market diversions are precisely the types of illicit transfers that the Convention is best able to prevent. Of particular importance are Articles

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VIII, IX, X, and XIV. Article VIII requires member states to adopt the measures necessary to ensure the security of arms transfers into, from or through their territories. Article X calls for the strengthening of controls at export points. Articles XIV and IX require the designation of a national contact point for information exchange; cooperation on firearms transfer issues; and the establishment of a system for controlling the import, export and transit of firearms. When combined with adoption of the CICAD's Model Regulations, implementation of the above-mentioned articles would make regional grey market diversions much more difficult.

The *Otterloo* case highlights the direct impact that these provisions could have on grey market diversions. After completing a thorough investigation, the OAS team responsible for looking into the case concluded that "...the Nicaraguan National Police, although perhaps adhering to national practice, violated the Convention" and "[a]dherence to the [CIFTA] Convention and

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application of its provisions to national practices would have made the diversion far more difficult, if not prevented it outright.⁹⁸ Among the most notable shortcomings on the part of Nicaraguan authorities was their failure to verify the legitimacy of the Panamanian purchase order which “alone, even if it had been legitimate, cannot serve as the sole and sufficient authority upon which Nicaraguan officials could authorize the export.”⁹⁹ Specifically, investigators found no evidence of attempts by the NNP or any other government body to contact their Panamanian counterparts, a violation of Articles IX and XIII of the Convention. As there is no evidence that the Panamanian National Police knew anything about the deal, there is reason to believe that direct communication between Nicaraguan and Panamanian authorities about the transfer would have raised red flags and prevented this particular diversion.

While Nicaragua is the only country to be publicly rebuked for failing to adhere to the requirements of Article IX, it is not alone. Only 4 of the 17 respondents to the OAS compliance survey indicated that they have laws and regulations that obligate the exporting government to make sure that authorized agencies in the recipient state took possession of the exported firearms.¹⁰⁰

Nicaragua’s initial response to the incident attests to the normative power of the Convention. Almost immediately after the OAS investigators declared that Nicaragua had failed to comply with their obligations under the Convention, Nicaraguan President Enrique Bolanos opened an investigation into the incident and set up an Inter-institutional Investigative Commission to address the recommendations in the Ambassador Busby’s report.¹⁰¹

Through the various requirements discussed above, the OAS Firearms Convention has the potential to make a real difference in the battle against arms trafficking in the Western Hemisphere. Indeed, steps already taken by several OAS members have closed gaps in regulations that are exploited by smugglers and have increased, to some extent, the regional capacity to identify, track and shut down smuggling rings. But fully realizing the potential of the Convention requires more countries to comply with its provisions. As the OAS’ most influential member, full US support for the Convention is an essential component of future initiatives to boost compliance.

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.

US Compliance with the OAS Convention¹¹⁵

The requirements of the OAS Convention are consistent with current features of US law and policy, in particular with respect to US efforts to combat terrorism and drug trafficking. Ratification will require no new laws in the United States.¹¹⁶ Some modest changes to regulations, which are consistent with underlying US policy, were undertaken in 1998.

The OAS Convention obligates states to establish or maintain an effective system of export, import, and international transit licenses or authorizations for firearms, ammunition, explosives, and other related materials. In addition, the Convention also calls for strengthening of export controls at border points. Some changes that were necessary for US compliance have already been made and codified in the Code of Federal Regulations as part of US implementation of the Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components, and Ammunition. For example, the Bureau of Export Administration (BXA) revised the Export Administration Regulations in 1999 to impose a new license requirement for exports to Canada and a procedure for using the Import Certificate required by the Convention.¹¹⁷ BXA also revised its policies for exporting firearms to OAS member countries.¹¹⁸

The Bureau of Alcohol, Tobacco, and Firearms (BATF) also changed some policies and procedures to implement the Model Regulations.¹¹⁹ The BATF amendments implementing the Model Regulations were modest. They require additional information to be included in the import permits (requiring the identification of a final recipient), alter the procedures for presenting export licenses to US Customs, specify the information to be included on import permit appli-

Ratification will require no new laws in the United States.

cations, and reduce the value of component parts that can be imported without a permit.¹²⁰ Along with these minor modifications, some technical amendments were made to the regulations implementing the Arms Export Control Act. These were changes to “merely improve the clarity of the regulations, simplify regulatory requirements, or implement foreign policy as directed by the Department of State.”¹²¹

Similarly, the State Department responded to President Clinton’s 1998 directive to implement the Model Regulations by making some minor changes to the US Munitions List, the Canadian licensing exemption and the State Department’s Office of Defense Trade Controls’ (ODTC)¹²² licensing practices. These changes included expanding the defense articles and related technical data that are not exempt from licensing to include all Category I firearms and Category III ammunition for such firearms,¹²³ and reducing the value of firearms parts and component that may be exported without a license from \$500 to \$100.¹²⁴ Finally, the ODTC began requiring that all requests for firearms export licenses be accompanied by a firm order and an import authorization.¹²⁵

As evidenced by the modest nature of the changes needed to bring US policies and practices into compliance with the Model Regulations, US laws on firearms transfers are already among the best in the hemisphere. If additional changes to US policies and procedures are required to fully comply with the Convention, they are likely to be minor as well.



Conclusion

“Just as Pearl Harbor awakened this country from the notion that we could somehow avoid the call to duty and defend freedom in Europe and Asia in World War II, so, too, should this most recent surprise attack erase the concept in some quarters that America can somehow go it alone in the fight against terrorism, or in anything else, for that matter.”⁹¹²⁶

—GEORGE HERBERT WALKER BUSH
September 14th, 2001

As former President Bush notes in the quote above, US security is inextricably intertwined with that of the rest of the world. What he fails to note is that twenty-first century threats to American lives and interests differ fundamentally from those of past eras. The German, Japanese and Soviet menaces of the 20th century have been replaced by a global criminal superstructure that evolves constantly to exploit new opportunities. There will be no decisive, pitched battle against this foe; the war against terrorism and its supporting infrastructure will be a perpetual war of attrition fought simultaneously on many different levels and on many different fronts. Waging this war successfully will require the United States to coordinate its actions with many governments, a task that is made easier by international instruments like the OAS Firearms Convention.

Small arms are too pernicious and resilient a scourge to eradicate with a single treatment. Over time and in combination with other initiatives, however, the Convention can play an invaluable role in establishing and implementing an effective hemispheric strategy to control the illicit trade in firearms, and dismantle the infrastructure that supports that trade. Realizing the full potential of the Convention requires the support of the major players in the Western Hemi-

sphere, especially the United States. Ratification requires few if any changes to US regulations and practices, and poses no threat to lawful gun ownership. Costs, in terms of dollars and staff time, are negligible, and the benefits — fewer illicit weapons in the hemisphere and the international goodwill generated by US support of a popular multilateral agreement — are immense. For these reasons, the US should immediately ratify the OAS Firearms Convention.

ENDNOTES

- ¹ Matthew Gutman, "Two Terrorist Missiles Narrowly Miss Arkia Flight from Mombasa," *Jerusalem Post*, 29 November 2002, <http://web.lexis-nexis.com>.
- ² When referring to small arms and light weapons, this report uses the definition of firearms contained in the OAS Firearms Convention. Article I of the Convention defines firearms as "any barreled weapon which will or is designed to or may be readily converted to expel a bullet or projectile by the action of an explosive, except antique firearms manufactured before the 20th Century or their replicas; or any other weapon or destructive device such as any explosive, incendiary or gas bomb, grenade, rocket, rocket launcher, missile, missile system, or mine." "Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials," 13 November 1997, Organization of American States Member Nations, S. Treaty Doc. No. 105-49 (1998), art. I.
- ³ Graduate Institute of International Studies, *Small Arms Survey 2001*, (Oxford: Oxford University Press, 2001), p. 1.
- ⁴ This report uses the US government's definition of terrorism: "premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents, usually intended to influence an audience." See US Department of State, *Patterns of Global Terrorism 2002*, 108th Congress, 1st Session, April 2003, <http://www.state.gov/s/ct/rls/pgtrpt/2002/>.
- ⁵ Every OAS member state except for Dominica has signed the Convention. The following member states have also ratified it: Antigua and Barbuda, Argentina, Bahamas, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Grenada, Guatemala, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Lucia, Trinidad & Tobago, Uruguay, and Venezuela.
- ⁶ Like the Firearms Convention, the Model Regulations also require states to, *inter alia*, keep adequate records of firearms transfers, designate a Central Information Office on firearms transfers, share information on relevant national legislation, regulations and government agencies, and provide training and technical assistance to implement the above-mentioned requirements.
- ⁷ Since the 1960's, Colombian society has been racked by an internal armed conflict between the Colombian government and the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and various right wing paramilitary organizations, several of which now comprise the United Self-Defense Forces (AUC) (Referred to hereafter as the Colombian illegal groups).

The Revolutionary Armed Forces of Colombia (FARC) was officially established in 1966 but came into existence under a different name a few years earlier. The FARC has Marxist roots and still uses Marxist rhetoric, although its current commitment to Marxist ideals is debatable. Membership estimates range from 9,000 to 17,500 armed members, and it is thought to have the support of no more than 5% of the population. The FARC raises funds primarily through kidnapping,

extortion and narco-trafficking. Peace negotiations with the government ended in deadlock in 2002.

The National Liberation Army (ELN) is a Marxist-Leninist group established in 1965. Its members are estimated to number between 3,000 and 5,000. The ELN engages in extensive criminal activity — including kidnapping, extortion, and bombings — much of which is directed at foreign corporations. Its attacks on the Cano Limon oil pipeline in 2001 resulted in environmental damage and \$500 million in lost government revenue. Recent efforts by the Colombian government to restart peace negotiations have been unsuccessful, and in August 2003 the FARC and ELN closed the door on future attempts by joining forces and declaring that “...while the illegitimate government of Alvaro Uribe persists in its fascist and militaristic policies, we will not advance any process of political accord and national dialogue...” See Rachel Van Dongen, “Colombia’s leftist rebels unite,” *Christian Science Monitor*, 27 August 2003, <http://www.web.lexis-nexis.com>.

The United Self-Defense Forces/Group of Colombia (AUC) is an umbrella organization of paramilitary groups that was formed to protect local communities from attacks by the FARC. The AUC was formed in 1997 but some of the individual paramilitary groups are much older. It has between 6,000 and 8,500 members which are supported with funds obtained from communities seeking protection from the FARC and from narco-trafficking. The AUC signed a ceasefire with the Colombian government in December 2002, and in July 2003, it agreed to a peace process whereby it would demobilize its fighters by the end of 2005.

- ⁸ Interviews with experts at Jane’s Information Group, May 2003 and other sources.
- ⁹ See US Department of State, *Patterns of Global Terrorism 2002*; “HK Businessman’s Associates Investigated in Paraguay for Terror Links,” *Agence France Presse*, 24 November 2002, <http://www.web.lexis-nexis.com> and “House-arrest 3 not Hopeful of Being Freed Soon,” *South China Morning Post* (Hong Kong), 12 January 2003, <http://www.web.lexis-nexis.com>. For additional reports of arms trafficking to Hezbollah by Central and South American trafficking rings, see Sue Lacky and Michael Moran, “Russian Mob Trading Arms for Cocaine with Colombia Rebels,” *MSNBC*, 10 April 2000, <http://www.nisat.org> and Kim Cragin and Bruce Hoffman, *Arms Trafficking and Colombia* (Santa Monica, CA: RAND Corporation, 2003), pp. 22-23.
- ¹⁰ Jeremy McDermott and Toby Harnden, “The IRA and the Colombian Connection,” *London Daily Telegraph*, 15 August 2001, <http://www.nisat.org>.
- ¹¹ Maeve Sheehan, “IRA Smuggled Arms while Talking Peace,” *Sunday Times* (London), 20 February 2000, <http://www.web.lexis-nexis.com>.
- ¹² See Douglas Farah, “Report Says Africans Harbored Al Qaeda; Terror Assets Hidden in Gem-buying Spree,” *Washington Post*, 29 December 2002, <http://www.web.lexis-nexis.com> and Global Witness, *For a Few Dollars More: How al Qaeda moved into the diamond trade* (Global Witness, April 2003).
- ¹³ Grupo de Representaciones Internacionales SA, or GIRSA.

- ¹⁴ Global Witness, *For a Few Dollars More*, p. 44.
- ¹⁵ Farah, "Report Says Africans"
- ¹⁶ See Global Witness, *For a Few Dollars More*, p. 49-51 and Ambassador Morris D. Busby, *Report of the General Secretariat of the Organization of American States on the Diversion of Nicaraguan Arms to the United Self Defense Forces of Colombia*, OEA/Ser.G, CP/doc. 3687/03 (Washington, DC: Organization of American States, January 2003), p. 21, http://www.fas.org/asmp/campaigns/smallarms/OAS_Otterloo.htm.
- ¹⁷ United States Department of Defense, "Secretary Rumsfeld Pentagon Town Hall Meeting," 14 August 2003, <http://www.defenselink.mil/transcripts/2003/tr20030814-secdef0581.html>. Under pressure from the United States, the Nicaraguans reportedly agreed to destroy an undisclosed number of its MANPADS in 2004, but is likely to retain some of the systems, which the Nicaraguan military has claimed it needs to counter Honduras' F-5 multirole fighter aircraft. "Nicaragua set to destroy air-defense systems," *Jane's Defense Weekly*, 3 December 2003, p. 10.
- ¹⁸ According to Nicaraguan press reports, the FARC has tried several times to acquire one or more of these missiles, offering up to \$1 million for a single system. See "Nicaragua: Resolve weakens on missile arsenal," *Latin American Weekly Reports*, 11 November 2003, <http://www.web.lexis-nexis.com>.
- ¹⁹ Assistant Secretary of State for Western Hemisphere Affairs Otto Reich testifying before the Subcommittee on the Western Hemisphere, House International Relations Committee, 107th Congress, 2nd Session, 11 April 2002, <http://fas.org/terrorism/at/docs/2002/Reich-ColombiaTerrorism.htm>.
- ²⁰ Scott Dalton, "Rebel's Words Changed Life of Photographer, Reporter for 11 Days," *Miami Herald*, 16 February 2003, <http://www.web.lexis-nexis.com>. When the journalists realized that their captors were serious about taking them hostage, Dalton exclaimed "[t]here are consequences if you kidnap international journalists!" According his account of the incident, the political commander of the 45th front merely chuckled and replied "What consequences?"
- ²¹ "President Uribe Vows to Defeat Violent Groups in War Speech," trans. BBC Worldwide Monitoring, *El Espectador* website, 22 November 2002, <http://www.web.lexis-nexis.com>.
- ²² Under Uribe, the army has increased in size from 120,000 to 135,000 and the police from 100,000 to 110,000. Frances Robles, "US Restates Its Support of Colombia; Rumsfeld Sees Progress by the Military" *Miami Herald*, 20 August 2003, <http://www.web.lexis-nexis.com>.
- ²³ According to the State Department, the 71 US helicopters provided to the Colombian military are "...the only reliable airlift available for military units engaged in counter-narcotics operations." Acting Assistant Secretary of State for International Narcotics and Law Enforcement Affairs Paul E. Simons testifying before the House Committee on Government Reform, 107th Congress, 2nd Session, 9 July 2003, <http://www.state.gov/g/inl/rls/rm/2002/15904.htm>. See also Jeremy McDermott, "Uribe Gains the Upper Hand in Colombia's Guerrilla War," *Jane's Intelligence Review*, December 2003.

- ²⁴ Center for International Policy, “US Aid to Colombia Since 1997: Summary Tables,” <http://www.ciponline.org/colombia/aidtable.htm> and United States General Accounting Office, *Drug Control: Specific Performance Measures and Long-Term Costs for US Programs in Colombia have not been Developed*, GAO-03-783, June 2003, <http://www.fas.org/asmp/resources/govern/GAO-03-783.pdf>.
- ²⁵ Jeremy McDermott, “Nightclub Attack Demonstrates FARC’s New Urban Capability,” *Jane’s Intelligence Review*, March 2003, p. 22.
- ²⁶ Planes engaged in coca eradication, which are often flown by private US military contractors, were fired upon by the rebel groups 70 times over a year’s period ending August 2003. See Rachel Van Dongen, “US Company Holds Colombia Operations Secret; Firm’s Plane Shot Down During Mission,” *Washington Times*, 18 March 2003, <http://www.web.lexis-nexis.com>.
- ²⁷ David Adams, “US Military Aid Turned Against Colombia Rebels,” *The Times* (London), 22 August 2002, <http://www.web.lexis-nexis.com>. The Director of Central Intelligence George Tenet affirmed this greater threat, commenting in February 2003 that “the FARC has shown a new willingness to inflict casualties on US nationals.” Director of Central Intelligence George J. Tenet testifying before the Senate Select Committee on Intelligence, *The Worldwide Threat in 2003: Evolving Dangers in a Complex World*, 108th Congress, 1st Session, 11 February 2003.
- ²⁸ Dalton, “Rebel’s Words Changed Life.”
- ²⁹ Office of National Drug Control Policy, Executive Office of the President of the United States, *National Drug Control Strategy Update 2003*, February 2003, <http://www.whitehousedrugpolicy.gov/publications/policy/ndcs03/table24.html>.
- ³⁰ Office of National Drug Control Policy, Executive Office of the President of the United States, *Drug Facts: Cocaine*, and *Drug Facts: Heroin*, accessed 5 September 2003, <http://www.whitehousedrugpolicy.gov/drugfact/cocaine/index.html> and <http://www.whitehousedrugpolicy.gov/drugfact/heroin/index.html>
- ³¹ Office of National Drug Control Policy, *The President’s National Drug Control Strategy 2003*, Washington, DC, February 2003, pp. 38-39, http://www.whitehouse.gov/publications/policy/ndcs03/drug_related_data.pdf.
- ³² Otto Reich, testimony before the House International Relations Committee.
- ³³ Paul E. Simons testifying before the House Committee on Government Reform, 107th Congress, 2nd Session, 12 December 2002, <http://www.state.gov/g/inl/rls/rm/2002/15904.htm>.
- ³⁴ Tamara Makarenko, “Colombia’s New Crime Structures Take Shape,” *Jane’s Intelligence Review*, April 2002, p. 19.
- ³⁵ Committee on International Relations, *Summary of Investigation of IRA Links to FARC Narco-Terrorists in Colombia*, 107th Congress, 1st Session, 24 April 2002, http://www.house.gov/international_relations/107/findings.htm

- ³⁶ Interview with officials from the Colombian Administrative Department of Security (DAS), January 2003.
- ³⁷ Among the most spectacular examples of FARC collaboration with foreign terrorists is their relationship with members of the Provisional Irish Republican Army (PIRA), which was brought to the world's attention by the August 2001 arrest of PIRA members as they prepared to depart for France from El Dorado Airport in Colombia. Colombian authorities accuse the men — one of whom is nicknamed “Mortar” for his role in the ongoing development of the improvised mortars used by both the FARC and the IRA — of training the FARC in the construction and handling of mortars, explosive charges and landmines, and the operation of missile launchers. According to one well-placed US government official, the “training manuals and maps found in the prisoner’s possession in Colombia were identical to material used by the IRA in Ireland.” Evidence collected by Colombian intelligence also suggests that the IRA members were arranging for the shipment of explosives to the FARC, which FARC leader ‘Mono Jojoy’ said would be used to “shake to [sic] the cities.” House Committee on International Relations, *International Global Terrorism: Its Links with Illicit Drugs and Illustrated by the IRA and Other Groups in Colombia*, 107th Congress, 1st Session, 24 April 2002, pp. 30 & 56.
- ³⁸ Jane’s Information Group asserts that Colombian criminal groups have also entered into alliances with criminal groups from Italy, Nigeria, South Africa, Spain, Poland, and Romania. See Makarenko, “Colombia’s New Crime Structures,” p. 18.
- ³⁹ House Armed Services Committee, *Hearing on Terrorism and Threats to US Interests in Latin America: Memorandum for Members of the Special Oversight Panel on Terrorism*, 106th Congress, 2nd Session, 29 June 2000, <http://www.web.lexis-nexis.com>.
- ⁴⁰ Jeremy McDermott, “Colombia Forges Ahead with Counterfeit Dollars,” *Jane’s Intelligence Review*, May 2003, p. 37.
- ⁴¹ This section draws heavily on research done by Carla Cartwright, former associate at the law firm Covington & Burling.
- ⁴² US law currently criminalizes such behavior, and no change would be required to comply with Convention requirements. See, e.g., 18 USC. § 922 (2000), which criminalizes unauthorized behavior involving the importing and transporting of firearms and ammunition; and 22 USC. § 2778 (2000), which criminalizes unauthorized exports of munitions.
- ⁴³ OAS Convention, art. VI.
- ⁴⁴ *Ibid.*, art. VII-VIII.
- ⁴⁵ *Ibid.*, art. XI.
- ⁴⁶ The Convention also encourages, but does not require, States Parties to share information on carriers of firearms.
- ⁴⁷ *Ibid.*, art. XII-XVII.

- ⁴⁸ *Ibid.*, art. XIV, sec. 5.
- ⁴⁹ Similarly, Article XVIII asks that treaty parties, “[s]hould their domestic legal systems so permit” and with due regard to jurisdictional issues, allow for the appropriate use of “controlled delivery” measures in specific cases as a means to identify and prosecute arms trafficking offenders. *Ibid.* art. XVIII, sec. 1-2.
- ⁵⁰ *Ibid.* art. XX-XXI.
- ⁵¹ Prepared Statement of General Charles E. Wilhelm, USMC, Commander in Chief, US Southern Command before the Senate Armed Services Committee, 105th Congress, 2nd Session, 5 March 1998, http://www.fas.org/irp/congress/1998_hr/s980305w.htm.
- ⁵² Jeremy McDermott, “Financing insurgents in Colombia,” *Jane’s Intelligence Review*, February 2003, p. 17.
- ⁵³ Angel Rabasa and Peter Chalk, *Colombian Labyrinth: The Synergy of Drugs and Insurgency and Its Implications for Regional Stability* (Santa Monica, CA: RAND, 2001), p. 32.
- ⁵⁴ The mortars are constructed from cooking stove gas tanks, which are loaded with fuel and shrapnel and then placed inside of tubes packed with dynamite. When the dynamite is ignited, the gas tanks are propelled out of the tubes and toward their targets. Human Rights Watch points out that the mortars “cannot be aimed accurately and are considered indiscriminate weapons.” See the chapter on “Indiscriminate Weapons” in Human Rights Watch, *Colombia: Beyond Negotiation*, April 2001, <http://www.hrw.org/reports/2001/farc/index.htm#TopOfPage>.
- ⁵⁵ Jane’s Information Group, “Army Operation Uncovers FARC Weapons Dump,” *Jane’s Terrorism Watch Report*, 8 October 2002.
- ⁵⁶ Information provided by Jane’s Information Group, April 2003.
- ⁵⁷ For more on the debate surrounding FARC possession of MANPADS, see Thomas B. Hunter, “The Proliferation of MANPADS,” *Jane’s Intelligence Review*, September 2001; “Rebels Reportedly Using New Type of Surface-to-Air Missile,” trans. BBC Worldwide Monitoring, *Notimex News Agency* (Mexico City), 21 January 2000, <http://www.web.lexis-nexis.com>; Amira Abultaif, “Damned; I Saw Bogota 3 Testing Surface-to-Air Missiles,” *The Mirror*, 8 February 2003, <http://www.web.lexis-nexis.com>; “Article Examines FARC Weapons Acquisition Activities,” *Cambio* website (Bogota), 22 October 2001, <http://www.nisat.org>; and Jeremy McDermott, “War Resumes After Collapse of Colombian Peace Process,” *Jane’s Intelligence Review*, April 2002, p. 11.
- ⁵⁸ In early 1999, an international arms trafficker allegedly tipped off Colombian police to a “factory” that was manufacturing silencers and parts for assault rifles and handguns. The facility, located in the heart of the Cali industrial zone, was raided by National Police during “Operation Coyote.” According to media reports, Colombian police found 2 milling machines, one of which was computerized, a parallel lathe and various firearms and firearm components. Two years later, the Colombian media claimed that US intelligence had compiled “precise” information

on three such factories in the FARC demilitarized zone. See “Police Dismantle FARC Weapons Factory in Cali,” trans. FBIS, *El Tiempo* website (Santa Fe de Bogota), 2 March 1999, <http://www.nisat.org> “Policia descubre “Principal fabrica de armas” de las FARC en Cali,” *Spanish Newswire Services*, 1 March 1999, <http://www.nisat.org>; “Article Examines FARC Weapons Acquisition Activities,” *Cambio* website (Bogota), 22 October 2001, <http://www.nisat.org>; and “FARC reportedly establishes facility for repairing weapons,” trans. BBC Worldwide Monitoring, *El Pais* website (Cali), 14 September 1999, <http://www.web.lexis-nexis.com>.

- ⁵⁹ Jane’s Information Group, “Fuerzas Armadas Revolucionarias de Colombia,” *Jane’s World Insurgency and Terrorism* 15, posted 28 June 2002.
- ⁶⁰ “Autodefensas Unidas de Colombia (AUC),” *Jane’s Terrorism and Security Monitor*, 1 February 2003.
- ⁶¹ “Weapons for the enemy,” trans. BBC Worldwide Monitoring, *Cambio* website (Bogota), 11 November 2002, <http://www.web.lexis-nexis.com>. See also Martha G. Rojas, “Military Explosives Detoured to FARC,” *El Espectador* website (Bogota), 10 February 2002.
- ⁶² Publicly available data on the rate at which they replace their small arms, and quantity of ammunition consumed, by the illegal groups is difficult to find, and is largely limited to media reports. For example, the Colombian newspaper *El Espectador* estimates that the FARC provides each of its fighters with 150 rounds of ammunition per month. See “Security report outlines sources of FARC, ELN weapons,” trans. BBC Worldwide Monitoring, *El Espectador* website (Bogota), 27 August 2000.
- ⁶³ While experts and government officials differ on which sources contribute the most to the flow of weapons to the illegal groups, most agree that foreign sources account for the majority of these weapons. Cragin and Hoffman found that “75% of the illegal small arms trafficking in Colombia originated outside of the country.” Cragin, *Arms Trafficking and Colombia*, p. xvii. See also Douglas Farah, “Colombian Rebels Tap E. Europe for Arms: Guerrilla’s Firepower Superior to Army’s,” *The Washington Post*, 4 November 1999, <http://www.web.lexis-nexis.com>; “Rifles from Foreign Armies among Weapons Seized from Armed Groups.” trans. BBC Worldwide Monitoring, *El Pais* website (Cali), 13 July 2000, <http://www.web.lexis-nexis.com>; Martha Paredes Rosero *et al.*, *Colombia’s War Against Drugs: Actions and Results 2002*, National Anti-Narcotics Agency, Strategic Investigation Subdivision, Bogota, 2003, p. 121; and Tamara Makarenko, “Colombia’s New Crime Structures.”
- ⁶⁴ Interview with DAS officials and Colombian National Police, January and April 2003. See also Rosero, *Colombia’s War Against Drugs*, p. 121 and Cragin, *Arms Trafficking in Colombia*.
- ⁶⁵ See Larry Rohter, “Rebels Linked to Drug Trade by Arrests in Colombia,” *The New York Times*, 4 March 2001, archived at <http://www.nisat.org>.

⁶⁶ “Brazilian Drug Trafficker Admits Links to the FARC,” trans. BBC Worldwide Monitoring, *Cambio* website (Bogota), 8 May 2002, <http://www.nisat.org>. In addition to Da Costa’s testimony, documents on his common law wife at the time of her arrest also link Da Costa with arms trafficked to the FARC. In his wife’s possession were notebooks containing records of a shipment of more than 500 rifles and machine guns to the FARC. She was also carrying a signed photograph of Da Costa which she supposedly used as a passport to access the former DMZ. See Rohter, “Rebels Linked to Drug.”

Da Costa’s huge network has allowed him to continue his illicit activities in prison. Brazilian authorities taped the incarcerated Da Costa instructing his contacts to acquire Stinger surface-to-air missiles for him, which he allegedly intended to swap for cocaine with the FARC. “Delivery of Drug-Running Guerrillas to US Hailed by Colombia,” *EFE News Services*, 20 June 2002, <http://www.web.lexis-nexis.com>.

⁶⁷ See Cragin, *Arms Trafficking in Colombia*, pp. 32-39. In 2000, Venezuelan President Hugo Chavez publicly acknowledged that weapons from his country stock the FARC’s arsenals, commenting that “...it is not strange for the Colombian guerrilla to wind up with Venezuelan and US weapons.” “FARC Supply Lines,” trans. FBIS, *El Comercio* website (Quito), 12 July 2000, <http://www.nisat.org>.

⁶⁸ Interview with DAS officials, January 2003. See also “Rifles from foreign armies among weapons seized from armed groups,” trans. BBC Worldwide Monitoring, *El Pais* (Cali), 13 July 2000, <http://www.web.lexis-nexis.com> and Cragin, *Arms Trafficking in Colombia*, p. 29.

⁶⁹ William Godnick, Robert Muggah and Camilla Waszink, “Stray Bullets: The Impact of Small Arms Misuse in Central America,” *Small Arms Survey Occasional Paper No. 5*, October 2002, <http://www.smallarmssurvey.org/OPs/OP05CentralAmerica.pdf>.

⁷⁰ Nayra Delgado, “Panama Becomes Bazaar for Central American Weapons,” *Reuters*, 21 April 2000, <http://www.nisat.org>.

⁷¹ Tamara Makarenko, “Colombia’s New Crime Structures,” p. 18.

⁷² Interview with DAS officials, January 2003.

⁷³ “Jordan-Peru Connection ‘Broken Up’ by Lima,” *Latin America Weekly Report*, 29 August 2000, <http://www.web.lexis-nexis.com>.

⁷⁴ Interview with DAS officials, January 2003. See also “Colombian Air Force Destroys Alleged Arms-smuggling Aircraft,” *EFE News Services*, 4 January 2001, <http://www.web.lexis-nexis.com>; “Air Force Destroys Plane Alleged to be Taking Weapons to FARC,” trans. BBC Worldwide Monitoring, *El Tiempo* website (Bogota), 7 September 2000, <http://www.web.lexis-nexis.com>; “Commander Interviewed about Aircraft Carrying Ammunition for FARC,” trans. BBC Worldwide Monitoring, *Caracol TV* (Bogota), 6 September 2000, <http://www.web.lexis-nexis.com>; “Congress Report Reveals Colombian Drug-trafficking Ties are Rife with Brazil,” trans. BBC Worldwide Monitoring, *Cambio* website (Bogota), 18 December 2000, <http://www.web.lexis-nexis.com>; “Defense

- Minister Says CIA was Notified about FARC Arms Traffic,” trans. BBC Worldwide Monitoring, *El Tiempo* website (Bogota), 27 August 2000, <http://www.web.lexis-nexis.com>; and Cragin, *Arms Trafficking in Colombia*, p. 38.
- ⁷⁵ International Crisis Group, *Colombia and its Neighbors: the Tentacles of Instability*, 8 April 2003, p. 12, http://www.crisisweb.org/library/documents/report_archive/A400939_08042003.pdf.
- ⁷⁶ According to media and NGO reports, the Jordanian government approached Soghanalian about finding a buyer for 50,000 AK-47s that it had acquired from East Germany in the mid-1980s but had never used. A colleague of Soghanalian introduced him to Peruvian operatives, and Soghanalian agreed to arrange for the delivery of 50,000 Jordanian AK-47s to the “intelligence side” of the Peruvian military in December 1998. The weapons were delivered via a modified Ilyusin-76 cargo plane piloted by a Russian and Ukrainian crew. The initial 22 crates of weapons were airdropped into Colombia, and landed near the town of Barranco Minas, which is in territory that is home to the FARC’s 16th Front. In total, 10,000 of the 50,000 assault rifles were delivered in this manner before the Jordanians were notified of the diversion and terminated the deal. See Kathi Austin, *Arms Trafficking: Closing the Net. A Test Case for Prosecution under the US Law on Arms Brokering* (Fund for Peace, June 2001), pp. 12-17, <http://www.fundforpeace.org/publications/reports/closingnet.pdf> and William C. Rempel and Sebastian Rotella, “Arms Dealer Implicates Peru Spy Chief in Smuggling Ring,” *Los Angeles Times*, 1 November 2001, <http://www.web.lexis-nexis.com>.
- ⁷⁷ Interview with Colombian National Police, April 2003.
- ⁷⁸ Interview with DAS officials, January 2003.
- ⁷⁹ “Colombian Police Seize Rebel-bound Weapons from Ecuador,” trans. BBC Worldwide Monitoring, *Colombian Office of the President* website, 21 September 2000, <http://www.web.lexis-nexis.com>. So extensive was the trade in weapons across the Ecuadorian border that the FARC constructed a 40 kilometer wood plank road over which smugglers transported guns from Ecuador to the FARC neutral area. The road was destroyed in March 2001 by the Southern Joint Task Force but the trafficking continues. See “40-km-long Road to Ecuador Built by Colombian Rebels Discovered,” *EFE News Service*, 24 March 2001, <http://www.web.lexis-nexis.com>.
- ⁸⁰ Rosero, *Colombia’s War Against Drugs*.
- ⁸¹ Interview with DAS officials, January 2003.
- ⁸² Interview with State Department official, February 2003. See also “Colombian Guerrillas’ Supply Base,” trans. FBIS, *Guayaquil Vistazo*, 19 June 1997, <http://www.nisat.org>.
- ⁸³ Roberto Godoy, “FARC Shops for Weapons in Leticia,” trans. FBIS, *O Estado de Sao Paulo* website, 7 September 1999, <http://www.nisat.org>.
- ⁸⁴ Busby, *Report of the General Secretariat*, pp. 17-22.
- ⁸⁵ The list of changes included in this section is not comprehensive.

- ⁸⁶ Information compiled from documents provided by the governments of Costa Rica, Venezuela, and Guatemala, September and October 2003. The Convention also prompted Argentina to add a comprehensive definition of illicit manufacturing and trafficking in firearms, ammunition, and explosives to their Penal Code. Similarly, Paraguay destroyed 3000 firearms and 15 tons of ammunition and explosives stockpiled in its War Materials Directorate "...in an effort to implement the Inter-American Convention."
- ⁸⁷ "Parliament Debates Stiffer Penalties for Gun-related Crimes," BBC Worldwide Monitoring, *Caribbean Media Corporation News Agency* (Bridgetown), 10 December 2003, <http://www.web.lexis-nexis.com>.
- ⁸⁸ Susannah L. Dyer and Geraldine O'Callaghan, *One Size Fits All? Prospects for a Global Convention on Illicit Trafficking by 2000* (British American Security Information Council, 1999), <http://www.basicint.org/pubs/Research/1999onesize1.htm>.
- ⁸⁹ The States Parties of MECOSUR are Argentina, Brazil, Paraguay, and Uruguay.
- ⁹⁰ See UN General Assembly, 53rd Session, *Asistencia a los Estados para detener la circulación ilícita de armas pequeñas y proceder a su recogida*", A/53/207, 31 July 1998 and Consejo del Mercado Comun, *Mecanismo Conjunto de Registro de Compradores y Vendedores de Armas de Fuego, Municiones, Explosivos y Otros Materiales Relacionados para el MERCOSUR*, MERCOSUR/CMC/DEC N° 7/98, 23 July 1998.
- ⁹¹ Specifically, officials from Colombia's Administrative Department of Security (DAS) interviewed for this report asserted that failure to respond to queries about illicit transfers, including tracing requests, hinders investigations.
- ⁹² Written response to questionnaire completed by an official from the Colombian Ministry of Defense, October 2003.
- ⁹³ OAS Secretariat for Legal Affairs, Department of Legal Cooperation and Information, *Replies to the Questionnaire on Ratification and Implementation of the Inter-American Convention on the Illicit Manufacturing of and Trafficking in Firearms, Explosives, and Other Related Materials*, OEA/Ser.L/XXII.2.2, CIFTA/CC-III/doc.5/02, 26 April 2002.
- ⁹⁴ Interview with DAS officials, January 2003.
- ⁹⁵ General Secretariat of the Organization of American States, *Inventory of Measures Already Taken by the States Parties to Promote Training and Mutual Exchange of Knowledge and Experiences*, OEA/Ser.L/XXI.2.3 CIFTA/CC-III/doc.4/02, 26 April 2002.
- ⁹⁶ Rosero, *Colombia's War Against Drugs*, p. 123.
- ⁹⁷ Cragin, *Arms Trafficking in Colombia*, p. 19. The relative importance of large, gray market shipments versus small black market activity to the illegal groups is debatable. RAND scholars Kim Cragin and Bruce Hoffman found that most of weapons used by the illegal groups "...trickle" into Colombia by ones and twos or at most by the dozen, rather than cascading into the country by the thousands."

They qualify this assertion by pointing to recent large, gray market shipments, which "...may indicate a shift by the FARC and the AUC toward buying in bulk." See Cragin, *Arms Trafficking and Colombia*, pp. 18 & 39. Even if this shift never materializes, preventing gray market transfers is an essential part of any effort to reduce the flow of weapons to terrorists and other criminals simply because of the size of these transfers.

The FARC itself has claimed that it cannot keep its arsenals consistently stocked via small deliveries of black market weapons. Commenting on the Ecuadorian black market, FARC commander Rodolfo Gonzalez pointed out that "[i]ndividuals looking to improve their economic lot could get a hold of 10 or 15 weapons and sell them to some FARC commander. However, this is a minor ingredient, there is no regularity to this, and such avenues could not resolve the FARC's strategic weapons needs." The commander claimed that the FARC could meet its supply needs through weapons it acquires from the Colombian domestic black market — which is fed by the international black market — and from weapons it seizes from Colombian troops. See "FARC Supply Lines," trans. FBIS, *El Comercio* website (Quito), 12 July 2000, <http://www.nisat.org>.

⁹⁸ Busby, *Report of the General Secretariat*, p. 32-33.

⁹⁹ *Ibid.*, p. 33.

¹⁰⁰ OAS Secretariat for Legal Affairs, *Replies to the Questionnaire on Ratification*.

¹⁰¹ Dirección General de Información and Comunicación, *Comunicado de Prensa Relativo al Informe de la Secretaria de la OEA Sobre el Desvio de Armas Nicaragüenses a las Autodefensas*, NP-10-2003, 20 January 2003. See also "Foreign Ministry Reacts to OAS Report on Diversion of Weapons," trans. BBC Worldwide Monitoring, *El Nuevo Diario* website (Managua), 21 January 2003, <http://www.web.lexis-nexis.com>.

¹⁰² "Remarks at Signing Ceremony for the Inter-American Convention Against Illicit Production of Firearms and Explosives," FDCH Political Transcripts, 14 November 1997, <http://www.web.lexis-nexis.com>.

¹⁰³ US Department of State Bureau of Political-Military Affairs, *Fact Sheet: Inter-American Convention Against the Illicit Trafficking and Manufacture of Firearms, Ammunition, Explosives and Related Items*, 1 August 2002 (emphasis added).

¹⁰⁴ Letter from Paul V. Kelly, Assistant Secretary of Legislative Affairs, to Joseph R. Biden, Chair of the Senate Foreign Relations Committee, 2 February 2002. This letter included three different priority lists of treaties currently in the SFRC. The OAS Convention was the first on the list of treaties which should be given very high priority, immediately after the top five treaties listed as having an urgent need for Senate approval.

As of January 2004, the treaty priority list for the 108th Congress had not been transmitted to the Senate Foreign Relations Committee. According to a State Department official, the list has been the subject of a year-long interagency review

that is currently deadlocked.

- ¹⁰⁵ This section draws heavily on research done by Carla Cartwright, former associate at the law firm Covington & Burling.
- ¹⁰⁶ See, e.g., 22 USC. § 2778 (2000). This section on the control of arms imports and exports lists US foreign relations objectives, which includes the furtherance of world peace and security of the United States. It also calls for regulations for the control of arms imports and exports, as well as criminalization of violations, that are similar to those required by the OAS Convention.
- ¹⁰⁷ *Report of the Chair of the Working Group to Consider an Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials*, Twenty-Fourth Special Session, at 6-12, AG/doc. 6 XXIV-E/97 (1997).
- ¹⁰⁸ Dyer, *One Size Fits All*, p. 13.
- ¹⁰⁹ Interview with OAS official, June 2003.
- ¹¹⁰ As an observer, the United States is not allowed to vote on recommendations. While most of the time the Consultative Committee makes decisions by consensus, in instances when the Committee is unable to come to consensus, a vote is taken. Thus, observers would be excluded from influencing the outcome of debates that end in a vote — the most contentious and presumably the most important debates.
- ¹¹¹ Interviews with officials from the permanent missions to the OAS and from the Organization of American States, September and November 2003.
- ¹¹² Several interviews with representatives of permanent government missions to the OAS and with senior OAS officials, June and July 2003.
- ¹¹³ See Anton La Guardia, “Humiliation as US loses UN human rights seat,” *The Daily Telegraph* (London), 4 May 2001, <http://www.web.lexis-nexis.com> and Stewart Stogel and Glenn Garvin, “US Loses Long-held Seat on U.N. Rights Commission,” *The Miami Herald*, 4 May 2001, <http://www.web.lexis-nexis.com>.
- ¹¹⁴ Bruce Stokes and Mary McIntosh, “How They See Us,” *The National Journal*, 21 December 2002, <http://www.lexis-nexis.com>.
- ¹¹⁵ This section draws heavily on research done by Priti Seksaria Agrawal, associate at the law firm Covington & Burling, and Carla Cartwright, former associate at Covington & Burling.
- ¹¹⁶ See *Message from the President of the United States Transmitting the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials*, 9 June 1998, 105th Congress, 2nd Session (Washington, DC: Government Printing Office, 1998).
- ¹¹⁷ Import Certificate for firearms destined for Organization of America States, 15 C.F.R. § 748.14 (2001) (explaining procedures for requirement of Import Certificates from OAS member nations).

- ¹¹⁸ 15 C.F.R. § 742.17. Exports of firearms to OAS member countries (Jan. 2001).
- ¹¹⁹ Implementation of the Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components, and Ammunition, 65 Fed. Reg. 38194, (20 June 2000) (codified at 27 C.F.R. pts. 47 and 178). The Bureau of Export Administration also made changes to policies in Exports of Firearms to OAS Member Countries 15 C.F.R. § 742.17 (1 January 2001).
- ¹²⁰ *Ibid.*
- ¹²¹ *Ibid.*
- ¹²² The ODTTC was renamed in 2002. It is now the Directorate of Defense Trade Controls.
- ¹²³ See 64 Fed Reg. 17531, 17532 (April 12, 1999). See also 22 C.F.R. § 121.1.
- ¹²⁴ See 64 Fed Reg. 17531, 17532 (April 12, 1999). See also 22 C.F.R. § 123.17.
- ¹²⁵ See 64 Fed Reg. 17532, 17533 (April 12, 1999).
- ¹²⁶ “George Bush Senior Delivers Remarks,” *Federal Document Clearing House Political Transcripts*, 13 September 2001, <http://www.web.lexis-nexis.com>.

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