

Chapter 4

The Organisation of American States

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Introduction

The Organisation of American States (OAS) is the oldest regional organisation in the world. Its origins go back to the First International Conference of the American States in 1889, when the International Union of American Republics was established, later becoming the Pan American Union (PAU). In 1948 the Bogotá Charter was signed creating the OAS from the PAU. At that time twenty Latin American countries and the United States signed the Charter. Today, thirty-five countries belong to the OAS, representing all the sovereign states in the Americas. In addition there are thirty-seven observers countries and organisations, including the EU. The idea for an association of countries in the Americas can be traced back to 1826, when Simon Bolivar held the Congress of Panama.

The purposes of the OAS are to strengthen the peace and security of the continent; to promote and consolidate representative democracy; to prevent possible causes of difficulties and to ensure the pacific settlement of disputes; to provide for common action in the event of aggression; to seek solutions to political, juridical and economic problems; to promote, by co-operative action, economic, social and cultural development and to achieve an effective limitation of conventional weapons that will make it possible to devote resources to economic and social development.¹ At the Summit of the Americas in 1994, a plan of action was adopted which gave the OAS a new agenda to follow up decisions taken at the Summit. These new responsibilities include strengthening democracy, promoting and protecting human rights, combating corruption, eliminating the threat of national and international terrorism, building mutual confidence and combating the problem of illegal drugs and related crimes.²

The Structure of the OAS

In order to fulfil these duties, the OAS has a Secretariat in Washington, DC, which is headed by the Secretary-General, César Gaviria. The Secretariat is

responsible for the administration and the co-ordination of the activities of the OAS. In addition, there is the General Assembly which meets annually. The General Assembly is attended by every member country, each of whom has one vote on all issues. In addition, there is a Permanent Council, resembling the UN Security Council, which is comprised of ambassadors from each member country. The Permanent Council is the preparatory committee for the General Assembly, but also performs, as necessary, special 'pacifc-settlement' functions.³ In addition to these core bodies, the OAS also has a number of specialised agencies, organisations and conferences. These include the Pan American Health Organisation, the Inter-American Children's Institute, the Inter-American Commission of Women, the Inter-American Court of Human Rights, the Special Committee on Trade, the Committee on Hemispheric Security and the Inter-American Drug Abuse Control Commission (CICAD).

The OAS is considered to be "*the most significant of the multipurpose regional organizations. This significance is established on the basis of the elaborate structure and functions of the OAS and its long, continuous history.*"⁴ During the course of time, the Charter of the OAS has been revised time to time to reflect changes in the region. In 1967 it was amended by the Protocol of Buenos Aires which "*changed the structure of the Organization and incorporated new provisions in the economic, social, educational, scientific and cultural areas*".⁵ Later changes occurred in 1985 with the Protocol of Cartagena, the Protocol of Managua in 1993 and the Protocol of Washington which in 1992 established that participation in the Organisation may be suspended for countries which have had their democratically-elected governments overthrown. It also enshrined the eradication of poverty as one of the basic objectives of the Organisation. This latter Protocol was the last to enter into force, doing so in September 1997.

As part of its function to strengthen peace and security, the OAS has been active in the settlement of disputes, notably in the series of conflicts in Central America in the 1950s and 1960s. These included the conflicts between Costa Rica and Nicaragua in 1948-49, 1955-56 and 1959, between Honduras and Nicaragua in 1957, Venezuela and the Dominican Republic in 1960-61, Venezuela and Cuba in 1963 and 1967 and the 'soccer war' between El Salvador and Honduras in 1969-1970. The OAS did not play a

role in the Malvinas/Falkland Islands war in the 1980s, due in part to the United States' support for the United Kingdom, while most of the other OAS members supported Argentina. However, resolutions were passed by the General Assembly supporting Argentina. More recently the OAS, with the UN, has been involved in the settlement of conflicts again in Central America and the Caribbean, including Guatemala and Haiti.

The OAS continues to recognise and respond to the changing development needs and security trends in the region. The 1994 Summit of Heads of States of the Americas, which was initiated by the United States and was not officially an OAS meeting, reoriented that Organisation to meet current challenges, including economic and trade issues, terrorism and drug trafficking. This Summit signalled the continued vitality of the OAS, and the re-entrance of the United States into its activities. Prior to this meeting, the United States had shown little interest in the activities of the OAS, having last participated in an hemispheric summit in 1967.⁶ The most recent Summit was held in Chile in 1998, the wide participation in which seems to signal the presence of a dynamic organisation for the twenty-first century.

Arms Trafficking and the OAS

Within the OAS there are currently two initiatives that relate to the trafficking of illegal firearms. The first is a set of model regulations which have been prepared by an expert group within the CICAD. The other is the convention on arms trafficking which was prepared by the Group of Rio and opened for signature at the OAS headquarters in November 1997. The CICAD currently has thirty-two members, including the United States, Colombia, Argentina, Peru, Mexico and Canada. Countries ask to be nominated to the Commission by the General Assembly for a two-year term. The CICAD is in charge of developing and implementing the Inter-American Program of Action of Rio de Janeiro Against the Illicit Use and Production of Narcotic Drugs and Psychotropic Substances and Traffic Therein. As such, it has a drug control programme with five key areas:

- Demand reduction, including prevention, education and community participation in reducing demand for illicit drugs;

- Institution building in the national drug commissions, including support to member states in formulating policy;
- Legal development which includes measures to improve the capacity of governments to prosecute drug-related crimes and, in particular, legislation to control arms trafficking and money laundering;
- The Inter-American Drug Information System, a network of drug information centres; and
- Supply reduction, including assistance to countries to reduce the availability of illicit drugs, for example, training of police and customs officials.

The inclusion of firearms on the CICAD agenda in part reflects the security realities of the hemisphere. The power and influence drug smuggling syndicates have in the region is a cause for concern about regional security. The combating of illicit drugs was identified in 1994 as one of the new objectives for the organisation. There was also a provision to focus on crimes related to illicit drugs, which is clearly where the issue of arms trafficking fits into the CICAD's work. The complex relationship between drugs and firearms has been under-researched, especially in the Latin American context where the connection is extremely close. Initially, weapons were purchased largely for the protection of individuals involved in drug production and smuggling. However, there are indications that a shift has occurred and now drugs are being sold to purchase weapons.⁷ The validity of this hypothesis still needs to be explored in more detail, but serves to illustrate that the two issues — drugs and arms — may together fit more snugly into the agenda of the CICAD than when arms trafficking is studied in isolation from other supply and demand factors.

Thus the OAS established an expert group on firearms and explosives within the CICAD. The group, known as the Group of Experts on the Control of Arms and Explosives Connected to Drug Trafficking, had as its objective “to determine applicable measures for effecting inter-country cooperation for controlling illicit transnational movements of arms and explosives related to drug trafficking with a view to preparing model regulations in this field”.⁸ The CICAD has two other sets of model regulations which have been completed, one on laundering and drug offences and the other on the control of chemical precursors. Both provided reference for the work of the firearms expert group.

The expert group's model regulations were finalised in September 1997 and agreed to in Lima, Peru in November. The model regulations are not binding, acting rather as suggestions to countries on steps to take to combat the illicit trafficking of firearms, ammunition and explosives. The regulations provide information on:

- Detailed procedures on the export of firearms and ammunition, including the issuance of an export certificate and the information to be contained on such certificates;
- Detailed procedures on the import of firearms and ammunition, including the issuance of an import certificate and the information to be contained on the certificate;
- Steps to be followed for in-transit shipments, including the receipt of both the import and export certificates by the country being used for transit and the preparation of an in-transit authorisation form;
- General information on validity periods for certificates, authorised quantities of shipments, steps to ensure the authenticity of all certificates; and
- Responsibilities of member states, including record-keeping, information exchange, sharing of information, training and technical assistance, confirmation of export and import shipments, and processes to be undertaken should an irregularity be noted in the import, export or in-transit documentation.

In addition, the group of experts makes a series of recommendations to the CICAD, including the periodic review of the model regulations, the provision of technical collaboration to countries as necessary, the exchange of information and experience among countries through seminars and workshops and the creation of a group of experts to devise model regulations on the control of explosives.⁹ The group also suggests that the OAS work closely with the UN and other regional organisations and governments undertaking similar initiatives.

The Inter-American Convention Against the Illicit Manufacture, Traffic, Sale and Transfer of Firearms, Ammunition, Explosives, and Other Related Materials was signed by twenty-nine countries on 13 and 14 November at OAS headquarters in Washington, DC. Completed within seven months, the Convention is the first of its kind: a regional initiative to address the illicit trafficking of firearms. It has six main provisions:

- Import, Export and Transit Licenses. Parties to the Convention are required to establish or maintain effective licensing systems for the export, import and transit of firearms. States may not permit firearms to be exported or transited without receiving licensing from the import or transit countries.
- Marking of Firearms. All firearms are required to be marked at time of manufacture with name, place of manufacture and serial number.
- Criminalisation of Illicit Arms Production and Sales. Countries that have not yet done so are required to adopt laws and regulations criminalising the illicit manufacture of and traffic in firearms.
- Information Exchange. Parties to the Convention are asked to exchange information on legislative practices and national measures to combat arms trafficking, as well as known smuggling routes and methods used for concealing and detecting firearms, ammunition and explosives.
- Law Enforcement and Regulatory Co-operation. Parties to the Convention agree to co-operate to reduce arms trafficking through the establishment of liaison offices in each country.
- Technical Assistance and Training. Countries agree to co-operate to ensure adequate training in areas such as identification and tracing, intelligence gathering and detection methods and search protocols at borders.

The Convention will enter into force after the second ratification has been deposited. It has wide support within the OAS, not only among members of the Rio Group, but also countries from the Caribbean who are affected by the smuggling of firearms.

The Convention is the first in which specific recommendations are made for action against the smuggling of firearms. The preamble states that the parties are “aware of the urgent need to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives and other related materials, due to the harmful effects of these activities on the security of each state and the region as a whole”.¹⁰ The purpose of the Convention expands on the preambular section, stating that it is to “promote and facilitate cooperation and exchange of information and experience among States Parties” in the illicit manufacturing of and trafficking in firearms, ammunition and explosives.¹¹ In addition, the Convention calls for the creation of a Consultative Committee whose responsibilities

will include facilitating the exchange of information on legislation and administrative procedures among parties to the Convention, encouraging co-operation for the detection of suspected illicit shipments of firearms, promoting training and technical assistance.¹²

The Consultative Committee will meet annually, and each state party will be represented. Provision has also been made for special meetings. There will be a review conference for the Convention five years after its entry into force and subsequent review conferences may also be held.

In addition to the two OAS initiatives, there is a third on combating arms trafficking in the Americas: a draft regional agreement among members of the Central American Security Commission. This draft agreement makes provision for the following:

- Exchange of information relating to investigations and prosecution of arms trafficking-related crimes;
- Notification, transfer and receipt of statements by witnesses or experts for testimony; and
- Preparation of expert reports and inspections.¹³

This agreement is a parallel effort to that of the OAS, relating only to countries in Central America. If this agreement is concluded among members of the Commission, it will be deposited with the OAS Secretariat in Washington, DC. The draft text developed from a 1992 agreement on assistance, co-operation and co-ordination for the illegal trafficking of weapons in Central America.

There are also discussions in the region on more traditional arms control and disarmament measures. Included in the work of the OAS Committee on Hemispheric Security are discussions on regional confidence-building measures, the prevention of arms races, and transparency in military exercises and expenditures. However, these have remained in the realm of theoretical politics and have not been acted upon. For example, discussions on developing a regional arms register to complement the UN Register of Conventional Arms have not advanced, the Committee on Hemispheric Security simply requesting that OAS members participate in the UN Register.

The success the OAS will have in addressing the practical issues related to drug trafficking and its associated crimes, including arms smuggling, remains to be seen. However, the inclusion of the US, Argentina, Colombia and Mexico in both of the OAS anti-arms trafficking initiatives seems to point towards the desire politically for action to be taken “multilateral[ly] ... so that [the American multilateral system] can offer a substitute to the temptation to take unilateral measure in response to common problems”.¹⁴

Promoting Initiatives on Controlling Arms Trafficking in the OAS

The inclusion of arms trafficking within the CICAD’S broader drug control agenda is a novel approach by an organisation to the issue of weapons proliferation. It illustrates the degree to which current security threats are inter-related and unable to be resolved in isolation.

Currently among the member countries there is a growing realisation of the threat posed by arms trafficking. Statements made recently at the 27th General Assembly attest to this: “Jamaica wishes to emphasize the importance it attaches to the conclusion of an effective regional instrument to curb the illicit production of and trafficking in firearms and ammunition. [The latter] is an insidious threat to public safety and security, and it must be addressed swiftly and unequivocally.”¹⁵ Other countries urged for regional approaches: “[T]he illegal trafficking in guns recognize[s] no borders [W]e in the region ... recognize that the most effective means of reducing crime at national and transnational levels is through our joint and collaborative efforts.”¹⁶ As in other regions, the growing concern with the problem of arms trafficking and proliferation has prompted action. As stated recently by the OAS Secretary-General, referring to the work of the Rio Group: “[It] is a clear reflection that governments have the political will to devise new and more effective instruments for international cooperation in this effort at providing safety for their citizens.”¹⁷

The Convention prepared by the Rio Group also offers an example for other regions contemplating similar initiatives. The UN Panel of Experts on Small Arms stated in its recommendations that “other regional organisations should take note, and make use, as appropriate, of the work

of the OAS in preparing a Draft Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials”.¹⁸ In addition, the UN Commission on Crime Prevention and Criminal Justice, in its report on firearms regulation, suggests that future work be initiated on developing model agreements for combating illicit trafficking in firearms.¹⁹ The CICAD initiative on model regulations may serve well as a prototype, should these agreements be developed.

After the Convention on illicit arms trafficking comes into force, it remains to be seen whether it will be effective in reducing the illegal manufacture and trafficking of firearms. Some see the initiative as an effort by Mexico to raise the awareness of other countries to the threats posed by weapons trafficking in the region. Most noticeably, this would apply to the United States, which Mexico holds has been irresponsible in allowing illegal shipments of weapons to be exported to Mexico.²⁰ In May 1997, US President Clinton and Mexican President Zedillo announced their “intention to work together, jointly, in order to have a hemispheric agreement against illegal trafficking of weapons”.²¹ The decision of the United States to recognise the threat posed by arms trafficking, and the commitment by the government to work towards a regional solution to the problem seems positive. However, whether the Convention has an impact on arms trafficking in the region will depend more on action taken by the parties than on the Convention itself.

The success of the Convention will also depend on the authority given to the Consultative Committee to actively fulfil its duties. If it is given the scope to implement the tasks assigned it, this could lead to concrete steps being taken regionally to reduce the amount of illegal weapons trafficking. If, however, the Consultative Committee is held hostage to political agendas and power play, its utility could be called into question.

The work of the Expert Group on Model Regulations may prove to be the more important of the two initiatives currently with the OAS. The regional co-ordination of legislation and regulation is seen globally as being essential in curbing the proliferation of weapons. As noted in the report of the UN Crime Commission, “the absence of effective legislation in one Member State can undermine not only the regulatory efforts but also the

effective governance of other Member States”.²² If specific elements from the current CICAD drug plan are implemented by members, namely common information on import and export permits, the sharing and exchange of information on the criminal use of firearms, and the organisation of information on the identification, possession and ownership of firearms by countries in the hemisphere, the ability of law enforcement agencies to increase the sharing of information and co-operation will be invaluable. It is through practical measures such as these that the aims of the OAS initiatives could be realised.

The model regulations may also be useful to other regions and regional organisations which are looking for practical ways in which to improve inter-governmental co-operation on issues threatening regional stability. It is often concrete measures such as those being proposed by the CICAD expert group which prove most useful in enhancing co-operation; often, too, they are relatively simple and inexpensive to implement.

As with any initiative, its success or failure is rarely determined by the text of the convention or treaty but rather by the actions that back the words. The current convention on illegal firearms smuggling may be no different. Its success will lie in the motivation of the parties to see that tangible steps are taken to reduce the illicit trafficking in weapons, and that the recommendations of the convention are acted upon. Likewise, in order for the model regulations drafted by the expert group to work, they must be adopted by countries. However, both of these initiatives go far beyond prior actions taken by a regional organisation to identify and respond to the threat posed by the trafficking in weapons. As noted by the OAS Secretary-General: “I am certain that in the light of the enthusiasm and political will the governments have demonstrated by moving so speedily on this issue, this convention will become the point of departure for citizen security-related matters to be taken up at the multilateral level, which are today not part of the international agenda.”²³ In these initiatives, the OAS leads the way for the rest of the world to follow.

Endnotes

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- 3 A Bennett, International Organizations, 3rd ed., Prentice-Hall, Englewood Cliffs, New Jersey, 1984.
- 4 *Ibid.*, p. 357.
- 5 OAS, The OAS, *op. cit.*
- 6 A Moss Jr, *Introduction: The Summit of the Americas, 1994*, Journal of Interamerican Studies and World Affairs, 36 (Fall 1994), p. i.
- 7 For example, see preliminary research conducted by Eduardo Marino, *Arms and Drugs: the Nexus*, paper presented at the conference on “Light Weapons Proliferation and Opportunities for Control”, held by the British American Security Information Council in London, June-July 1996, see also, D Garcia-Peña Jaramillo, *Light Weapons and Internal Conflict in Colombia*, in J Boutwell, M Klare and L Reed (eds.), Lethal Commerce: The Global Trade in Small Arms and Light Weapons, American Academy of Arts and Sciences, Cambridge, MA, 1995, pp. 98-115.
- 8 OAS, *Inter-American Drug Abuse Control Commission*, explanatory document, Internet version (<http://www.oas.org>).
- 9 OAS, CICAD Drug Abuse Control Commission, *Final Report: Meeting of the Group of Experts on the Control of Firearms and Explosives Related to Drug Trafficking*, OAS, Washington, DC, 1997 (OEA/ser.L/XIV.4 - CICAD/AREX/doc.5/97).
- 10 See Annex 2 in this volume, preambular paragraph 1.
- 11 *Ibid.*, article II.
- 12 *Ibid.*, article XX.
- 13 *Draft of Regional Agreement for Mutual Legal Assistance with Respect to Illegal Trafficking in Weapons* (undated).
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- 19 UN Criminal Justice Reform and Strengthening of Legal Institutions: Measures to Regulate Firearms, UN, Vienna, 7 March 1997, E/CN.15/1997/4, p. 5.
- 20 L Lumpe, *The US Arms Both Sides of Mexico's Drug War*, Covert Action Quarterly, No. 61, Summer 1997, Internet version (<http://www.fas.org/asmplibrary/articles/us-mexico.html>)
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- 22 UN, Criminal Justice Reform, *op. cit.*
- 23 OAS, News Release, *op. cit.*