

# WebMemo



Published by The Heritage Foundation

No. 2905  
May 19, 2010

## President Calderón's Visit Should Not Lead to Support for the OAS's Firearms Convention

*Ted R. Bromund, Ph.D., Ray Walser, Ph.D., and David B. Kopel*

On May 19, Mexican President Felipe Calderón will arrive in Washington for a two-day state visit, during which he is likely to urge U.S. ratification of the Inter-American Convention Against the Illicit Manufacture of and Trafficking in Firearms (commonly known by its Spanish acronym, CIFTA). The convention is purportedly necessary to stem the flow of firearms legally purchased in the U.S. and then illegally exported to Mexico.

This convention, negotiated under the auspices of the Organization of American States (OAS), was signed by President Bill Clinton in 1997, but neither he nor President George W. Bush pressed for the Senate to consider it. Last year, during a visit to Mexico, President Obama called on the Senate to ratify the convention. This week's visit by President Calderón will increase pressure on the U.S. to act.

The U.S. should resist this pressure. The convention poses a series of prudential dangers to rights protected under the First and Second Amendments. It is also likely to impinge on U.S. sovereignty. Moreover, the convention has achieved little in practice. To the extent that it is not dangerous, it is irrelevant to security challenges in the Western Hemisphere.<sup>1</sup>

**The Convention Mandates the Creation of a Domestic Licensing System.** The core of the convention is its requirement that signatories prohibit the unlicensed “manufacture or assembly of firearms, ammunition, explosives, and other related materials.” These “related materials,” in turn, are defined as “any component, part, or replacement

part of a firearm, or an accessory which can be attached to a firearm.” The convention thus mandates the creation of a licensing system—in practice, at the federal level—that would control manufacture or assembly of any part of or accessory for a firearm.

This language covers a broad range of activities. Federal law already requires a license to manufacture firearms, but it defines a “firearm” as the receiver of the gun. Under the convention, attaching any accessory to a firearm—even a sling for a hunting rifle—would require a license, as would the manufacture of items such as screws or springs that are sold to firearms manufacturers or private gun owners but have many other uses entirely unrelated to the firearms industry. Ultimately, to comply with the convention's “manufacturing and assembly” clause, almost all gun owners and all manufacturers of components would have to be licensed as manufacturers, assemblers, or both.

To support this licensing system, the convention calls for a series of restrictions on domestic commerce and international trade. The system would have serious implications for privacy and would burden domestic manufacturers. It would also

This paper, in its entirety, can be found at:  
<http://report.heritage.org/wm2905>

Produced by the Margaret Thatcher Center for Freedom

Published by The Heritage Foundation  
214 Massachusetts Avenue, NE  
Washington, DC 20002-4999  
(202) 546-4400 • [heritage.org](http://heritage.org)

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

vastly expand the power and reach of the federal administrative state and criminalize the recreational pursuits of millions of Americans that have no connection to the problem the convention purports to address.

#### **The Convention Seeks to Restrict Speech.**

Moreover, the convention criminalizes the “counseling” of any of the activities that it prohibits. In other words, the convention seeks to restrict freedom of speech and requires signatories to afford each other “the widest measure of mutual legal assistance” in enforcing these restrictions.

Both conservatives and liberals, including the Obama Administration, have opposed other international instruments, such as the U.N.’s effort through the Durban Review Conference to prevent the “defamation of religion” that sought to curb free speech for the sake of other supposedly desirable ends. The convention embodies a philosophy on free speech that has been widely rejected in the U.S. because of the correct perception that it is contrary to American freedoms and the American desire to see those liberties flourish abroad as well as at home.

**The Convention Is Destructive of U.S. Sovereignty.** The convention’s limits on free speech are obnoxious domestically and undesirable internationally because of the aid and comfort they would give to tyrannies, regardless of any reservations applied by the Senate. Because the U.S. could not fulfill the convention’s terms in their entirety, ratifying it would immediately place the U.S. in the position of having to defend its declared noncompliance with freely accepted obligations, a situation that is never desirable.

The argument that the U.S. should ignore these difficulties and ratify the convention simply to fall in line with the rest of the OAS is fundamentally objectionable. It implies that the U.S. should disregard concerns about the convention’s effect on its liberties and act on matters within its national competence, not because it has decided to do so but because other states have already acted. It therefore advances the idea that self-government in the U.S.

should proceed under the guidance and suggestion of other states and, ultimately, of the “international community.” This idea is destructive of national sovereignty.

#### **The Convention Has a Poor Record of Success.**

The importance of the flow of firearms from the U.S. to Mexico has been exaggerated by the convention’s supporters, but, to the extent this flow exists, it is a violation of existing U.S. law, which requires a license for the import or export of arms. The ability of criminals to smuggle arms across the border points to the importance not of the convention but of maintaining control of the border.

Mexico’s problems are fundamentally home-grown. Consequently, U.S. ratification of the convention will not substantively improve the situation on the ground in Mexico. More broadly, while U.S. ratification may demonstrate U.S. commitment to the convention, it does nothing to guarantee that other member states, which often have weak enforcement regimes and different political agendas, will vigorously enforce its requirements.

This is illustrated by the convention’s failure in Colombia. When current Colombian President Alvaro Uribe took office in 2002, a range of armed non-state actors, notably narco-terrorists belonging to the Revolutionary Armed Forces of Colombia (FARC) and paramilitaries of the United Self-Defense Forces of Colombia, were maintaining field armies totaling more than 50,000 heavily armed combatants.

Yet the OAS failed to take a single action to sanction or punish those who provided arms to these illicit organizations. The OAS does not even consider the FARC to be a terrorist organization. Arms shipments continue today, with weapons arriving from military stocks throughout the Americas and, in particular, from Venezuela, in spite of the fact that both Colombia and Venezuela have ratified the convention.

**The Senate Should Regard the Convention with Caution.** The U.S. desire to assist Mexico in

---

1. See Ted R. Bromund, Ray Walser, and David B. Kopel, “The OAS Illicit Firearms Convention Is Incompatible with American Liberties,” Heritage Foundation *Background* No. 2412, May 19, 2010, at <http://www.heritage.org/Research/Reports/2010/05/The-OAS-Firearms-Convention-Is-Incompatible-with-American-Liberties>.

addressing their shared security challenges is laudable. But the convention is, at best, a public relations gesture, not a substantive policy. Neither the visit of President Calderón nor any request he makes for U.S. action on the convention should lead the Senate to regard it with anything other than extreme caution.

The right course is for the U.S. to continue to make and enforce its own laws on matters relevant to the convention, operate its existing programs that seek to combat the illicit traffic in arms, and coop-

erate on these matters on a bilateral basis with Mexico and other nations in the Western Hemisphere.

—*Ted R. Bromund, Ph.D.*, is Senior Research Fellow in the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, at The Heritage Foundation. *Ray Walser, Ph.D.*, is Senior Policy Analyst for Latin America in the Douglas and Sarah Allison Center for Foreign Policy Studies, a division of the Davis Institute, at The Heritage Foundation. *David B. Kopel* is Director of Research at the Independence Institute in Colorado.