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OA/ID Number: 18930

FolderID:

Folder Title:

Arms Trafficking Agreement

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11/20/1997

For: Jose Cerda

Jose,

The AG will host the first meeting for Justice and Interior Ministers of the P-8 (G-7 countries plus Russia) at DOJ on December 10. Attached is a Draft Communique, which will be discussed in a preparatory meeting November 24 at DOJ with representatives of the P-8 to see how much they can agree on in advance. Major issues will be (1) how far they can go on computer crime, a big interest of the AG, and (2) whether the Ministerial on Dec. 10 addresses other issues such as arms trafficking.

In the latter connection, I am told that other countries have objection to broadening the scope of the Justice Ministerial because of inadequate time to get government positions. However, **Justice wants/intends on Monday to propose the language on p. 5 of the attached Draft Communique re arms, asking experts of the 8 to consider: (1) a new instrument to combat international firearms trafficking, (2) adoption of a standard system for firearms identification, (3) a stronger international regime in import and export licensing of firearms.** I wanted to run this by you to make sure you have no problem. It looks to me as if you would not, but I would appreciate confirmation.

On the computer crime, I am checking it with the folks who work on Critical Infrastructure.

You should know also that **DOJ is looking to ask the Pres. or VPres. to give the keynote speech at a lunch on Dec. 10.** I will be working that through the process shortly (I think the Pres. has schedule conflict; haven't checked VPres.)

Pls let me know ASAP if you have any problem. I need to tell Justice today/tomorrow morning if there is any serious problem with what they are proposing.

Thanks.

Liz

69351



DRAFT COMMUNIQUE
MEETING OF JUSTICE AND INTERIOR MINISTERS OF THE EIGHT
WASHINGTON, D.C.
DECEMBER 10, 1997

[29 Oct. 1997, 12:00 p.m.]

At the Summit of The Eight in Denver, our Heads of State and Government directed us to intensify our efforts to implement the forty recommendations of the Summit of Lyon, in order to combat transnational organized criminal activity posing an ever-greater threat to the individual and collective security of our citizens. With increased international movement by organized criminal groups, and their use of new global communications technologies, the protection of our citizens' safety, traditionally a domestic concern, requires unprecedented levels of international cooperation. Our responsibility is not only to react to the activities of organized criminal groups, but also to anticipate and prevent their growth.

We meet today at the Ministerial level to agree upon a program of specific actions designed to accomplish two critical tasks: enhancing our abilities to investigate and prosecute high-tech crimes and strengthening international legal regimes for extradition and mutual legal assistance to ensure that no criminal receives safe haven anywhere in the world.

With regard to high-tech crime, we must start by recognizing that new computer and telecommunications technologies offer unprecedented opportunities for global communication. As nations become increasingly reliant upon these technologies, including wireless communications, their exploitation by high-tech criminals poses an ever-greater threat to public safety. This threat takes at least two forms. First,

sophisticated criminals are targeting computer and telecommunications systems to obtain or alter valuable information without authority, and may attempt to disrupt critical commercial and public systems. Second, criminals, including members of organized crime groups and terrorists, are using these new technologies to facilitate traditional offenses. Clearly, the misuse of information systems in these ways poses a serious threat to public safety.

National laws apply to the Internet and other global networks. But while the enactment and enforcement of criminal laws has been, and remains, a national responsibility, the nature of modern communications networks makes it impossible for any country acting alone to address this emerging high-tech crime problem. A common approach addressing the unique, borderless nature of global networks is needed, and must have several distinct components.

Each country must have in place domestic laws which ensure that the improper use of computer networks is appropriately criminalized, and that evidence of high-tech crimes can be preserved and collected in a timely fashion. Countries must also ensure that a sufficient number of technically-literate, appropriately-equipped personnel are available to address high-tech crimes.

Such domestic efforts must be complemented by a new level of international cooperation, especially since global networks facilitate the commission of transborder offenses. Therefore, consistent with principles of sovereignty, and the protection of human rights, democratic freedoms and privacy, nations must be able to collect and exchange information internationally, especially within the short time frame so often required when investigating international high-tech crimes.

The development of effective solutions will also require unprecedented cooperation between government and industry. It is the private sector that is designing, deploying and maintaining these global networks, and is primarily responsible for the development of technical standards. Thus, it is incumbent on the private sector to develop and distribute secure systems which, when accompanied by adherence to good computer and personnel security practices, serve to prevent computer abuse. Such systems should also be designed to help detect computer abuse, preserve electronic evidence, and assist in ascertaining the location and identity of criminals.

To meet the challenges of the information age, we have agreed to ten principles and a ten-point action plan, annexed to this communique. We direct our experts to promote these principles throughout the international community and take forward the action plan without delay.

Another core area of concern is mutual legal assistance and extradition. We reiterate the fundamental importance of either returning our nationals for trial in the country in which the crime was committed, or, where that is not possible, conducting effective domestic prosecutions in lieu thereof. Those of us that conduct domestic prosecution of their nationals in lieu of extradition agree to pursue such prosecutions with the same commitment of time, personnel and financial resources as are devoted to the prosecution of serious crimes committed within our own territory.

We recognize that the need for enhanced cooperation in extradition and mutual assistance is particularly acute with respect to high tech crime and other areas of emerging significance. We commit to remove impediments in existing cooperation regimes by such means as approaching issues of dual criminality with flexibility, and we

will ensure that serious computer abuses have criminal penalties sufficient to make them extraditable. We also commit to enhance coordination among States in multi-jurisdictional cases, so as to minimize conflicts and duplications in investigations and prosecutions, decide where best to prosecute, and allocate responsibility for gathering and sharing evidence.

We are also convinced that we must further enhance our abilities to obtain testimony from witnesses located abroad for use in criminal proceedings in our States. We agree to intensify our efforts to use video-link technology as a means of securing testimony or statements from a witness located abroad. Where possible, we will locate or establish facilities with technical video-link capability, allow the use of video-link as a form of mutual assistance to other States and provide for the punishment of perjury committed during video-link transmissions.

We emphasize that these agreed-upon cooperation measures can be used by all countries to enhance international cooperation in combating transnational organized crime. Our experts will review annually our implementation at the national level of these international legal cooperation measures. We also urge all States to adopt the recommendations of the Summit of Lyon pertaining to international legal cooperation and the best practices agreed upon by our experts to implement them.

We direct our experts to focus their future work on the following areas: Continued examination of the use of video-link technology and confiscation and sharing of assets obtained through criminal activity; international cooperation in computer crime cases; identification of any extradition and mutual assistance measures that would enhance cooperation in areas of emerging significance; ways to further promote acceptance by

other members of the international community of the principles set forth in the above recommendations and practical actions; and coordination among the Eight on the possible elaboration of a UN organized crime convention.

In addition to taking action on these two priority areas, we further direct our experts to pursue their work in implementing other aspects of the mandates from the Denver Summit. In this respect, we particularly highlight our desire for them to consider: a new instrument to combat international firearms trafficking, adoption of a standard system for firearms identification, and a stronger international regime in import and export licensing of firearms; developing and implementing an action plan to target organized crime groups involved in the illicit movement of people across international boundaries; and addressing various aspects of international financial crime, including detection of the illicit movements of assets across borders, exchange of information in money laundering investigations and enhancement of cooperation in the seizure and confiscation of illicit assets. Finally, we welcome the efforts of our law enforcement experts to develop joint operational projects to target major transnational criminal organizations and activities.

In conclusion, we recognize the urgent need to make rapid progress in these areas and will take the steps necessary to protect the public from the physical and financial predation of transnational organized crime. Our task is daunting, but we expect to report substantial progress in this endeavor to the Birmingham summit in May of 1998.

ANNEX OF PRINCIPLES AND ACTIONS TO COMBAT HIGH-TECH CRIMES

Statement of Principles

We hereby endorse the following principles, which should be supported by all countries:

- I. There must be no safe havens for those who abuse information technologies.
- II. Investigation and prosecution of international high-tech crimes must be coordinated among all concerned states, regardless of where harm has occurred.
- III. Law enforcement personnel must be trained and equipped to address high-tech crimes.
- IV. Legal systems must protect the confidentiality, integrity, and availability of data and systems from unauthorized impairment and ensure that serious abuse is penalized.
- V. Legal systems should permit the preservation of and quick access to electronic data, which are often critical to the successful investigation of crime.
- VI. Mutual assistance regimes must ensure the timely gathering and exchange of evidence in cases involving international high-tech crime.
- VII. Transborder electronic access by law enforcement to publicly available (open source) information does not require authorization from the state where the data resides.
- VIII. Forensic standards for retrieving and authenticating electronic data for use in criminal investigations and prosecutions must be developed and employed.
- IX. Information and telecommunications systems should be designed to help prevent and detect network abuse, and should also facilitate the tracing of criminals and the collection of evidence.

X. Work in this area should be coordinated with the work of other relevant international fora to ensure against duplication of efforts.

Action Plan

In support of these principles, we are directing our officials to:

1. Use our established network of knowledgeable personnel to ensure a timely, effective response to transnational high-tech cases.
2. Take appropriate steps to ensure that a sufficient number of trained and equipped law enforcement personnel are allocated to the task of combating high-tech crime and assisting law enforcement agencies of other states.
3. Review our legal systems to ensure that they appropriately criminalize abuses of telecommunications and computer systems and promote the investigation of high-tech crimes.
4. Consider issues raised by high-tech crimes, where relevant, when negotiating mutual assistance agreements or arrangements.
5. Continue to examine and develop workable solutions regarding: the preservation of evidence prior to the execution of a request for mutual assistance; transborder searches; and computer searches of data where the location of that data is unknown.
6. Develop expedited procedures for obtaining traffic data from all communications carriers in the chain of a communication and to study ways to expedite the passing of this data internationally.
7. Work jointly with industry to ensure that new technologies facilitate our effort to combat high-tech crime by preserving and collecting critical evidence.

8. Ensure that we can, in urgent and appropriate cases, accept and respond to mutual assistance requests relating to high-tech crime by expedited but reliable means of communications including voice, fax, or e-mail, with written confirmation to follow where required.
9. Encourage internationally-recognized standards-making bodies in the fields of telecommunications and information technologies to continue providing the public and private sectors with standards for reliable and secure telecommunications and data processing technologies.
10. Develop and employ compatible forensic standards for retrieving and authenticating electronic data for use in criminal investigations and prosecutions.

Pls call me up
any questions -
NSC Liz Veri, 669351

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SUBJ: Draft OAS Arms Trafficking Convention

Attached is a copy of the draft Arms Trafficking Convention which is being negotiated in the OAS. The President committed the USG to negotiating such a convention during his trip to Mexico, Central America and the Caribbean earlier this year.

The negotiation is in final stages, and we expect it to be concluded in a session beginning October 15. The U.S. position on the Convention, which is largely agreed at this point, has been vetted interagency under the leadership of Jonathan Winer, State INL DAS.

Jonathan assured Dick yesterday that the provisions largely reflect (and do not add to) current U.S. legal requirements and practice relating to criminalizing illicit arms trafficking or manufacturing (without government authorization), marking of weapons for tracing purposes, etc. Jonathan has also consulted with outside interests, including the NRA. He does not consider that any of the provisions should be controversial.

Dick Clarke will hold a SVTS meeting on the Convention on Tuesday October 14. If you are interested in attending or having someone attend on your behalf, please let me know. Also, please let me know if you have any questions or comments. I can be reached at 6-9351.

Thank you.

Attch: Draft Arms Trafficking Convention

|| Oldell Bricks →
② Treaty or Not
③ Event - Prime Minister
Jamaica

Talk w/ Jacoby
- Congressional
Notification
- Treaty vs.
Agreement

① Issue of Domestic Reception / Roll out
② Ongoing inconsistent policy that
Can't restrict locally +
wants to further restrict imports

Es. of
current
directive

③ Trafficking
↳ What exactly do we get?

- Money for INL
(change to ATF
+ Customs)
- No RFEs

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**DRAFT INTER-AMERICAN CONVENTION AGAINST THE
ILLICIT MANUFACTURING OF AND TRAFFICKING IN
FIREARMS, AMMUNITION, EXPLOSIVES,
AND OTHER RELATED MATERIALS**

(Version agreed to on August 29, 1997)

(Revised by the Style Committee, September 18, 1997)

PREAMBLE

THE STATES PARTIES,

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, endangering the well-being of peoples, their social and economic development, and their right to live in peace; **[AGREED]**

CONCERNED by the increase, at the international level, in the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials and by the serious problems resulting therefrom; **[AGREED]**

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REAFFIRMING that States Parties give high priority to preventing, combating, and eradicating the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials because of the links of such activities with drug trafficking, terrorism, transnational organized crime, and mercenary and other criminal activities; [AGREED]

CONSIDERING the urgent need for all states, and especially those states that produce, export, and import arms, to take the necessary measures to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials; [AGREED]

CONVINCED that combating the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials calls for international cooperation, exchange of information, and other appropriate measures at the national, regional, and international levels; [AGREED]

STRESSING the need, in peace processes and post-conflict situations, to achieve effective control of firearms, ammunition, explosives, and other related materials in order to prevent their entry into the illicit market; [AGREED]

MINDFUL of the pertinent resolutions of the United Nations General Assembly on measures to eradicate the illicit transfer of conventional weapons and on the need for all states to guarantee their security, and of the efforts carried out in the framework of the Inter-American Drug Abuse Control Commission (CICAD); [AGREED]

RECOGNIZING the importance of strengthening existing international law enforcement support mechanisms such as the International Weapons and Explosives Tracking System (IWETS) of the International Criminal Police Organization (INTERPOL), to prevent, combat, and eradicate the illicit

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manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials;
[AGREED]

RECOGNIZING that international trade in firearms is particularly vulnerable to abuses by criminal elements and that a "know-your-customer" policy for dealers in, and producers, exporters, and importers of, firearms, ammunition, explosives, and other related materials is crucial for combating this scourge; [AGREED]

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; [AGREED]

[REAFFIRMING 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 domestic firearms ownership, possession, or trade;] and

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REAFFIRMING the principles of sovereignty, nonintervention, and the juridical equality of states, [AGREED]

Have decided to adopt the following Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials [AGREED]

Article I: Definitions [AGREED]

For the purposes of this Convention, the following definitions shall apply: [AGREED]

1. "Illicit manufacturing": the manufacture or assembly of firearms, ammunition, explosives, and other related materials:

- a. from components or parts illicitly trafficked;
- b. without a license from a competent governmental authority of the State Party where the manufacture or assembly takes place; or
- c. without marking the firearms at the time of manufacturing. — ?

[AGREED]

2. "Illicit trafficking": the import, export, acquisition, sale, delivery, or any other transfer of firearms, ammunition, explosives, and other related materials from or across the territory of one State Party to that of another State Party, without the authorization of the said States Parties. [AGREED]

→ ?

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3. "Firearms:"

a. 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 [AGREED]

b. any other weapon or destructive device such as any explosive, incendiary or poison gas bomb, grenade, rocket, rocket launcher, missile, missile system, mine, or any device similar to those described in this subparagraph. [AGREED]

4. "Ammunition": the complete round or its components, including cartridge cases, primers, propellant powder, bullets, or projectiles that are used in any firearm. [AGREED]

5. "Explosives": any substance or article that is made, manufactured, or used to produce an explosion, detonation, or propulsive or pyrotechnic effect, except substances and articles that are not in and of themselves explosive, and those listed in the Annex to this Convention. [AGREED AD REFERENDUM]

6. "Other related materials": any component, part, or replacement part of a firearm, or an accessory which can be attached to a firearm. [AGREED]

7. "Controlled delivery": the technique of allowing illicit or suspect consignments of firearms, ammunition, explosives, and other related materials to pass out of, through, or into the territory of one or more states, with the knowledge and under the supervision of their competent authorities, with a view to identifying persons involved in the commission of offenses established in accordance with this Convention. [AGREED]

? What about specific pocket weapons in law

? Black Powder

AGGANTS?

?

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Article II: Purpose

The purpose of this Convention is:

to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials. [AGREED]

to promote and facilitate cooperation and exchange of information and experience among States Parties to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials. [AGREED]

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Article III: Sovereignty [AGREED]

1. States Parties shall carry out the obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of states and that of nonintervention in the domestic affairs of other states. [AGREED]

2. A State Party shall not undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved to the authorities of that other State Party by its domestic law. [AGREED]

→ Stein
→ arms + Fed. Officers

Article IV: Legislative Measures [AGREED]

1. States Parties that have not yet done so shall adopt the necessary legislative or other measures to establish as criminal offenses under their domestic law the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials. [AGREED]

2. Subject to the constitutional principles and the basic concepts of the legal systems of the States Parties, the criminal offenses established pursuant to the foregoing paragraph shall include participation in, association or conspiracy to commit, attempts to commit, and aiding, abetting, facilitating, and counseling the commission of said offenses. [AGREED]

Article V: [Jurisdiction]

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the offense in

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question is committed in its territory. [AGREED]

2. Each State Party may adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the offense is committed by one of its nationals or by a person who habitually resides in its territory. [AGREED]

3. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the alleged criminal is present in its territory and it does not extradite such person to another state on the grounds of the nationality of the alleged criminal. [AGREED]

4. This Convention does not preclude the exercise of any criminal jurisdiction established by a State Party under its domestic law. [AGREED]

Article VI: Marking of Firearms [AGREED]

For the purposes of identification and tracing of the firearms referred to in Article I.3.a, States Parties shall:

- a. require, at the time of manufacture, appropriate markings of the name of manufacturer, place of manufacture, and serial number; [AGREED]
- b. require appropriate markings on imported firearms permitting the identification of the importer's name and address; and [AGREED]

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- c. require appropriate markings on any firearms confiscated or forfeited pursuant to Article VII.1 that are assigned for official use. [AGREED]

Article VII: Confiscation or Forfeiture [AGREED]

1. States Parties undertake to ensure that firearms, ammunition, explosives, and other related materials that have been illicitly manufactured or trafficked are confiscated or forfeited. [AGREED]

2. States Parties shall adopt the necessary measures to ensure that all firearms, ammunition, explosives, and other related materials seized, confiscated, or forfeited as the result of illicit manufacturing or trafficking do not fall into the hands of private individuals or businesses through auction, sale, or other disposal. [AGREED]

Article VIII: Safeguarding [AGREED]

States Parties, in an effort to eliminate loss or diversion, undertake to adopt the necessary measures to ensure the security of firearms, ammunition, explosives, and other related materials imported into, exported from, or in transit through their respective territories. [AGREED]

Article IX: Export, Import, and Transit Licenses or Authorizations [AGREED]

1. States Parties shall establish or maintain an effective system of export, import, and international transit licenses or authorizations for transfers of firearms, ammunition, explosives, and other

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related materials. [AGREED]

2. States Parties shall not permit the transit of firearms, ammunition, explosives, and other related materials until the receiving State Party issues the corresponding license or authorization.

[AGREED]

3. States Parties, when issuing export licenses or authorizations, shall ensure that the importing and transit countries have issued the necessary licenses or authorizations. [AGREED]

4. The importing State Party shall inform the exporting State Party, upon request, of the receipt of dispatched shipments of firearms, ammunition, explosives, and other related materials.

[AGREED]

Article X: Strengthening of Controls at Export Points [AGREED]

Each State Party shall adopt such measures as may be necessary to detect and prevent illicit trafficking in firearms, ammunition, explosives, and other related materials between its territory and those of other States Parties, by strengthening controls at export points. [AGREED]

Article XI: [Recordkeeping]

States Parties shall assure that the information necessary for tracing and identifying illicitly manufactured and trafficked firearms is retained for a reasonable period of time.

[and its availability to enable them to comply with the obligations set out in Articles XIII and XVII, through a national body or single point of contact referred to in Article XIV.2.]

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Article XII: Confidentiality [AGREED]

States Parties shall guarantee the confidentiality of information received from other States Parties, if requested to do so by the State Party providing the information. [AGREED]

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Article XIII: Exchange of Information [AGREED]

1. States Parties shall exchange among themselves, in conformity with their domestic laws and applicable treaties, relevant information on such matters as: [AGREED]

- a. authorized producers, dealers, importers, exporters, and, whenever possible, carriers of firearms, ammunition, explosives, and other related materials; [AGREED]
- b. the means of concealment used in the illicit manufacturing of or trafficking in firearms, ammunition, explosives, and other related materials, and ways of detecting them; [AGREED]
- c. routes customarily used by criminal organizations engaged in illicit trafficking in firearms, ammunition, explosives, and other related materials; [AGREED]
- d. legislative experiences, practices, and measures to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials; and [AGREED]
- e. techniques, practices, and legislation to combat money laundering related to illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials. [AGREED]

2. States Parties shall provide to and share with each other, as appropriate, relevant scientific and technological information useful to law enforcement, so as to enhance one another's ability

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to prevent, detect, and investigate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials and prosecute those involved therein. [AGREED]

Article XIV: Cooperation [AGREED]

1. States Parties shall cooperate at the regional and international levels to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials. [AGREED]

2. States Parties shall identify a national body or a single point of contact to act as liaison among States Parties as well as between them and the Consultative Committee established in Article XX for purposes of cooperation and information exchange. [AGREED]

Article XV: Exchange of Experience and Training [AGREED]

1. States Parties shall cooperate in formulating programs for the exchange of experience and training among competent officials, and shall provide each other assistance that would facilitate their respective access to equipment or technology proven to be effective for the implementation of this Convention. [AGREED]

2. States Parties shall cooperate with each other and with competent international organizations, as appropriate, to ensure that there is adequate training of personnel in their territories to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials. The subject matters of such training shall include, *inter alia*:

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[AGREED]

- a. identification and tracing of firearms, ammunition, explosives, and other related materials; [AGREED]
- b. intelligence gathering, especially that which relates to identification of illicit manufacturers and traffickers, methods of shipment, and means of concealment of firearms, ammunition, explosives, and other related materials; and [AGREED]
- c. improvement of the efficiency of personnel responsible for searching for and detecting, at conventional and nonconventional points of entry and exit, illicitly trafficked firearms, ammunition, explosives, and other related materials [AGREED]

Article XVI: Technical Assistance [AGREED]

States Parties shall cooperate with each other and with relevant international organizations, as appropriate, so that States Parties that so request receive the technical assistance necessary to enhance their ability to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials, including technical assistance in those matters identified in Article XV.2. [AGREED]

Article XVII: Mutual Legal Assistance [AGREED]

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1. States Parties shall afford one another the widest measure of mutual legal assistance, in conformity with their domestic law and applicable treaties, by processing requests from authorities which, in accordance with their domestic law, have the power to investigate or prosecute the illicit activities described in this Convention, in order to obtain evidence and take other necessary action to facilitate procedures and steps involved in such investigations or prosecutions. [AGREED]

2. States Parties shall cooperate in the tracing of firearms, ammunition, explosives, and other related materials which may have been illicitly manufactured or trafficked. Such cooperation shall include accurate and prompt responses to trace requests. [AGREED]

3. [For purposes of mutual legal assistance under this article, each Party may designate a central authority or may rely upon such central authorities as are provided for in any relevant treaties or other agreements. The central authorities shall be responsible for making and receiving requests for mutual legal assistance under this article, and shall communicate directly with each other for the purposes of this article.]

Article XVIII: Controlled Delivery

1. Should their domestic legal systems so permit, States Parties shall take the necessary measures, within their possibilities, to allow for the appropriate use of controlled delivery at the international level, on the basis of agreements or arrangements mutually consented to, with a view to identifying persons involved in the offenses established in accordance with Article IV and to taking legal action against them. [AGREED]

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2. Decisions by States Parties to use controlled delivery shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned. [AGREED]

3. With the consent of the States Parties concerned, illicit consignments under controlled delivery may be intercepted and allowed to continue with the firearms, ammunition, explosives, and other related materials intact or removed or replaced in whole or in part. [AGREED]

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Article XIX: [PENDING PROPOSALS REGARDING EXTRADITION]

Article XX: Establishment and Functions of the Consultative Committee

1. In order to attain the objectives of this Convention, the States Parties shall establish a Consultative Committee responsible for: [AGREED]

- a. promoting the exchange of information contemplated under this Convention; [AGREED]
- b. facilitating the exchange of information on domestic legislation and administrative procedures of the States Parties; [AGREED]
- c. encouraging cooperation between national liaison authorities to detect suspected illicit exports and imports of firearms, ammunition, explosives, and other related materials; [AGREED]
- d. promoting training and exchange of knowledge and experience among States Parties and technical assistance between States Parties and relevant international organizations, as well as academic studies; [AGREED]

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c. requesting from nonparty states, when appropriate, information on the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials; and [AGREED]

f. promoting measures to facilitate the application of this Convention. [AGREED]

2. Decisions of the Consultative Committee shall be recommendatory in nature.

[AGREED]

Article XXI: Structure and Meetings of the Consultative Committee [AGREED]

1. The Consultative Committee shall consist of one representative of each State Party.

[AGREED]

2. The Consultative Committee shall hold one regular meeting each year and shall hold special meetings as necessary. [AGREED]

3. The meetings of the Consultative Committee shall be held at a place decided upon by the States Parties at the previous regular meeting. If no offer of a site has been made, the Consultative Committee shall meet at the headquarters of the General Secretariat of the Organization of American States. [AGREED]

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4. The first regular meeting of the Consultative Committee shall be held within 90 days following deposit of the 10th instrument of ratification of this Convention. This meeting shall be held at the headquarters of the General Secretariat of the Organization of American States, unless a State Party has offered to host it. [AGREED]

5. The host State Party for each regular meeting shall serve as Secretariat *pro tempore* of the Consultative Committee until the next regular meeting. When a regular meeting is held at the headquarters of the General Secretariat of the Organization of American States, a State Party that will serve as Secretariat *pro tempore* shall be elected at that meeting. [AGREED]

6. In consultation with the States Parties, the Secretariat *pro tempore* shall be responsible for:

- a. convening regular and special meetings of the Consultative Committee;
- b. preparing a draft agenda for the meetings; and
- c. preparing the draft reports and minutes of the meetings.

[AGREED]

7. [The Consultative Committee shall prepare its own internal rules of procedure. The Committee shall adopt its rules of procedure [without a vote / unanimously / by absolute majority / by consensus.]

Article XXII: Signature

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This Convention is open for signature by member states of the Organization of American States. [AGREED]

Article XXIII: Ratification

This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States. [AGREED]

Article XXIV: [Accession]

[This Convention is open for accession by any other member state of the United Nations.]

[The instruments of accession shall be deposited with the General Secretariat of the Organization of American States.]

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Article XXV: Reservations

States Parties may, at the time of adoption, signature, ratification, [or accession], make reservations to this Convention, provided that said reservations are not incompatible with the object and purposes of the Convention and that they concern one or more specific provisions thereof.

Article XXVI: Entry into Force

This Convention shall enter into force on the 30th day following the date of deposit of the second instrument of ratification. For each state ratifying [or acceding to] the Convention after the deposit of the second instrument of ratification, the Convention shall enter into force on the 30th day following deposit by such state of its instrument of ratification [or accession.]

Article XXVII: Denunciation

This Convention shall remain in force indefinitely, but any State Party may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After six months from the date of deposit of the instrument of denunciation, the Convention shall no longer be in force for the denouncing State, but shall remain in force for the other States Parties.

[The denunciation shall not affect the request made during the time the Convention is in force for the denouncing State.]

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Article XXVIII: Other Agreements and Practices

No provision in this Convention shall be construed as preventing the States Parties from engaging in mutual cooperation within the framework of other existing or future international, bilateral, or multilateral agreements, or of any other applicable arrangement or practice. [AGREED]

States Parties may adopt stricter measures than those provided for by this Convention if, in their opinion, such measures are desirable to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials. [AGREED]

Article XXIX: Conference of States Parties

Five years after the entry into force of this Convention, the depositary shall convene a conference of the States Parties to examine the functioning and application of this Convention. [AGREED]

Each conference shall determine the date on which the next conference should be held. [AGREED]

Article XXX: Dispute Settlement

Any dispute that may arise as to the application or interpretation of this Convention shall be resolved through diplomatic channels or, failing which, by any other means of peaceful settlement decided upon by the States Parties involved. [AGREED]

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Article XXXI: Deposit

The original instrument of this Convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall forward an authenticated copy of its text to the Secretariat of the United Nations for registration and publication, in accordance with Article 102 of the United Nations Charter. The General Secretariat of the Organization of American States shall notify the member states of the Organization [and the states that have acceded to the Convention] of the signatures, of the deposits of instruments of ratification, [accession], and denunciation, and of any reservations.

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ANNEX

ANNEX

The term "explosives" does not include: compressed gases, or flammable liquids, explosive actuated devices, such as air bags and fire extinguishers, propellant actuated devices, such as nail gun cartridges; consumer fireworks suitable for use by the public and designed primarily to produce visible or audible effects by combustion, that contain pyrotechnic compositions and that do not project or disperse dangerous fragments such as metal, glass, or brittle plastic; toy plastic or paper caps for toy pistols; toy propellant devices consisting of small paper or composition tubes or containers containing a small charge or slow burning propellant powder designed so that they will neither burst nor produce external flame except through the nozzle on functioning; and smoke candles, smokepots, smoke grenades, smoke signals, signal flares, hand signal devices, and Very signal cartridges designed to produce visible effects for signal purposes containing smoke compositions and no bursting charges.

[AGREED AD REFERENDUM]

versión corregida 19-sep-97

10/23

Jose Cerda

Jose - will you look this over and give us your comments. Have you had a chance to talk to Rahm?

October 23, 1997

Thanks,
Liz Verille

ACTION

MEMORANDUM FOR SAMUEL R. BERGER

THROUGH: JAMES F. DOBBINS

FROM: KARL HOFMANN

SUBJECT: Scheduling Proposal: Presidents Clinton and Zedillo to the OAS for Firearms Convention Signature

As Presidents Clinton and Zedillo agreed in Mexico City last May, the United States and Mexico have cooperated closely within the OAS to lead hemispheric negotiation of a convention against arms trafficking. The convention will be ready for signature once the OAS Permanent Council formally opens the text, sometime in the first half of November. (The Mexican OAS Ambassador has proposed November 13.)

The attached scheduling proposal would make this OAS convention an element of Zedillo's November 14 Official Working Visit to Washington. In addition to the normal bilateral meeting, luncheon and joint press conference, the two Presidents could jointly visit OAS headquarters to be present when their countries become, perhaps, the first signatories the convention. (Foreign Minister Gurria is expected to propose that he and Secretary Albright sign the Convention on November 13 with the two Presidents looking on and perhaps also signing as witness. In our practice, only one person signs, but the President might be present when MKA signs.)

Substantively, the event offers an attractive opportunity to highlight U.S.-Mexican cooperation in a multilateral venue (where binational cooperation has lagged behind our progress on purely bilateral issues), on a law enforcement theme that transcends narcotics alone. The signing would be an attractive centerpiece to the visit and give the press a substantive, proactive focus. The Mexicans are keenly interested in the prospect of highlighting this achievement during the visit.

The Convention provides, inter alia, for licensing of manufacture and marking of firearms, and we are assured by Treasury that it does not commit us to new requirements affecting domestic manufacture, use, etc. [The attached scheduling proposal has been coordinated with Rahm Emanuel.]

Concurrence by: Liz Verville, David Leavy, Will Davis, Jose Cerda (DPC)

RECOMMENDATION

That you forward the attached scheduling proposal that Presidents Clinton and Zedillo visit the OAS to sign the arms trafficking convention.

Approve _____ Disapprove _____

Attachment
Tab I Scheduling Proposal

Schedule Proposal

date ____/____/____

____ ACCEPT

____ REGRET

____ PENDING

TO: Stephanie Streett

FROM: Samuel Berger
Mack McLarty

REQUEST: Visit to OAS to Sign or Witness
Signing of Inter-American Arms
Trafficking Convention

PURPOSE: In connection with Mexican President
Zedillo's Official Working Visit
November 14, the two Presidents can
be the first to sign or witness
signing of an OAS convention on arms
trafficking.

BACKGROUND: This convention is the result of
unprecedented U.S.-Mexican
cooperation and fulfills a commitment
arising from the President's visit to
Mexico last May. The two Presidents
together at the OAS for this
signature event sends an important
message of binational cooperation on
a hemispheric issue with domestic
political relevance.

PREVIOUS PARTICIPATION: The President met with President
Zedillo last May in Mexico City.

DATE AND TIME: November 13 or 14, 1997; time TBD.

BRIEFING TIME: Concurrent with briefing for Zedillo
visit.

DURATION: As scheduled.

LOCATION: Organization of American States

PARTICIPANTS: The President
 Secretary of State Albright
 Attorney General Reno
 Mack McLarty
 Samuel R. Berger
 James F. Dobbins
 USOAS Ambassador Harriet Babbitt

OUTLINE OF EVENTS: The President, accompanied by President Zedillo, would visit the OAS Secretariat building (17th and Constitution Ave) to jointly sign or witness the signing of the OAS Arms Trafficking Convention, just opened for signature by a Special Assembly of the OAS Permanent Council.

REMARKS REQUIRED: Brief remarks, to be provided by NSC.

MEDIA COVERAGE: Open photo.

FIRST LADY'S ATTENDANCE: n/a

VICE PRESIDENT'S ATTENDANCE: n/a

RECOMMENDED BY: NSC, Department of State

CONTACT: Karl Hofmann, NSC Inter-American, x69136

ORIGIN OF THIS PROPOSAL: Planning for Zedillo Visit

SECOND LADY'S ATTENDANCE: n/a

Jose Carda

11/10/97

Verville, Elizabeth G.

From: LaFleur, Vinca S.
Sent: Sunday, November 09, 1997 4:11 PM
To: Blinken, Antony J.; Hofmann, Karl W.; Verville, Elizabeth G.; DeRosa, Mary B.
Cc: @INTERAM - Inter-American; @GLOBAL - Global Affairs; @LEGAL - Legal Advisor; Leavy, David C.; Gray, Wendy E.
Subject: oas firearms remx for POTUS.doc [UNCLASSIFIED]
Importance: High



oas firearms remx for POTUS.do...

Attached is my first cut at the OAS remarks. Liz, please tell me how to go about getting Jonathan Winer's clearance. (Tony -- Winer is the guy who negotiated the convention. Do you want him to review the draft before or after you do?) My biggest concern at this point is length. At 1,200 words, it will conceivably run 9-10 minutes. Therefore, please do not suggest additional language unless you also recommend compensating cuts. Comments to Vinca please - 6-9376 Thanks!

Jose — I left you a voice
mail. Any comments welcome
to Vinca or me. (Today pls — we need to give to Sandy B.)
Shanhe

LS

11/9/97 4 PM

**PRESIDENT WILLIAM JEFFERSON CLINTON
SIGNING OF INTER-AMERICAN CONVENTION
AGAINST ILLEGAL ARMS TRAFFICKING
ORGANIZATION OF AMERICAN STATES
WASHINGTON, DC
NOVEMBER 14, 1997**

Acknowledgments: President Gaviria, President Zedillo, distinguished representatives of the Organization of American States [TK]:

Today, the Americas are showing the world the power of cooperation. Our 35 [TK] nations are speaking with one voice, acting with one conviction and leading toward one goal: To stem the illegal flow of guns, ammunition and explosives in our hemisphere.

The United States has been proud to lead this fight. Three years ago at the United Nations, we called on others to work with us to shut down the gray markets that outfit terrorists and criminals with guns. We've passed laws to prevent brokers in this country from acting as middlemen for illicit arms sales overseas... and to prevent foreign visitors from buying or carrying guns in the United States [TK]. We've tightened our reviews of export licenses, to make sure that legally exported weapons are not diverted. We're helping train law enforcement in 15 American nations [TK] to crack down, track down and shut down those who would smuggle guns across borders.

And last May in Mexico City, I joined President Zedillo in pledging to work together for a hemisphere-wide agreement to curb the illegal arms trade. I want to thank President Zedillo and the Mexican government for their leadership and commitment.

I also want to thank the OAS member States for concluding this agreement in record time. No treaty this far-reaching has ever been settled this fast – or with more genuine fellowship.

The urgency we felt is appropriate – because there isn't a minute to spare. Over the last 12 months, the U.S. Customs Service has seized 639 handguns, 2,602 rifles and 237,000 rounds of ammunition destined for illegal export in our hemisphere. That's enough guns and rifles to equip an Army light brigade... and a bullet for WHAT.

Some weapons cross our border one-by-one, smuggled by an "Army of Ants." Others are ferried in cargo containers, railway cars and suitcases. Earlier this year, a Colombian citizen was caught trying to smuggle 12 semiautomatic shotguns in the bases of gum-ball machines. In another case, we seized a shipment of handguns sealed inside cans of tomato paste bound for Port au Prince.

And all too often, illegally imported weapons wind up in deadly hands – the drug traffickers, organized criminals, terrorists and gangs who menace our streets, target our children and tear at the fabric of our societies. Gun trafficking is not only an issue of national security – it is an issue of neighborhood security.

We see this in Jamaica, where guns are responsible for almost 90 percent of the murders this year. We see it in border communities along the Rio Grande, where drug-related violence has increased dramatically – from the August slayings of four doctors in Ciudad Juarez... to gangland shootouts in Phoenix. We see it in Colombia, where WHAT.

In an age where people, products and money cross borders with unprecedented ease, none of our nations is immune from these threats – and none can defeat them alone. For too long, international criminal gangs have been working together more effectively than law enforcement. Today, we say, no more.

Our treaty has four [TK] priority components. First, it requires states to establish and maintain a strong system of export, import and international transit licenses for arms, ammunition and explosives. We want to make sure that weapons won't move without explicit permission from all the states concerned. With greater control over legal trade, it will be easier to ferret out illegal trade.

Second, other nations will join the United States in putting markings on firearms – not only when these weapons are made, but also when they are imported. That way, if guns are diverted from legal purposes, we'll have clues to trace their path – and find out exactly when, why and how they got into the wrong hands.

Third, all our countries will adopt the laws to criminalize illicit arms production and sales.

Those who seek to profit from illegal trade in guns will pay a stiff penalty – in jail.

And fourth, we will step up every level of our information sharing – from the names of authorized gun makers, dealers and traders ... to common routes used by smugglers... to ways that traffickers are concealing their goods and tips on how to detect them. Working together, we can put the black market in weapons out of business.

Of course, we need to preserve and protect the legal trade in firearms. Let me say clearly to the American people: This treaty will neither discourage nor diminish lawful ownership and use of guns. But much of what American families worry about most – drugs, gangs, violence and crime – is tied to how well our nation can work with others in our hemisphere. If we want to stop narcotics from coming across our borders, we don't want international drug cartels to be better armed than law enforcement. If we want to keep organized criminal gangs from spreading violence in our communities, we don't want them to have easy access to contraband weapons next door. If we want to prevent guns that are barred in the United States from slipping across our border, we want high hurdles to be in place long before the smugglers make it that far.

And if we want the trend of democracy, free markets and peace in our hemisphere to continue, we need to help our closest neighbors control the trade in guns – so the foundations of their democracies will not be eroded by criminals, corruption or violence.

I believe the agreement we have forged underscores the new spirit of the Americas. The mood of the negotiations was not one of recrimination but one of cooperation on behalf of a common goal. Not only are we setting a new global standard in the fight against firearms trafficking, we are showing the way of the 21st century world: Proving that democracies can deliver for their people... that together, we can tackle problems that none can defeat alone... and that, working as partners, our collective well-being can be greater than the sum of its parts.

This is the same spirit that underpins America's growing partnership with Mexico. With our long border, rich history and complex challenges, Mexico and the United States have a special responsibility to work together on behalf of our common future. Over the last two days, we've reached an agreement on extradition that will allow cross-border criminals to be tried in both countries while the evidence is still fresh. We've pledged to build a new Rio Grande bridge as we work to make our border the symbol of our unity instead of the source of our differences. We've recommitted ourselves to our Alliance Against Drugs, and look forward to the completion of our Joint Counternarcotics Strategy.

We've also pledged to work together in Kyoto – because developed and developing countries alike must play a part in reducing greenhouse gas emissions. And I am very pleased that Mexico has become the first nation to join the United States in promoting a tariff-free environment for the growth of electronic commerce.

As I witness the signing of this firearms convention, I am proud that the unprecedented cooperation between the United States and Mexico is now helping to make a difference for our entire community of nations. Together, our hemisphere is building a better, safer future – of the Americas, by the Americas, for the Americas.

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