

COUNCIL *on* FOREIGN RELATIONS

POLICY INNOVATION MEMORANDUM NO. #36

Date: July 29, 2013

From: Julia Sweig

Re: A Strategy to Reduce Gun Trafficking and Violence in the Americas

The flow of high-powered weaponry from the United States to Latin America and the Caribbean exacerbates soaring rates of gun-related violence in the region and undermines U.S. influence in the Western Hemisphere. Though the Senate rejected measures to expand background checks on firearms sales, reinstate a federal assault-weapons ban, and make straw purchasing a federal crime, the Obama administration can still take executive action to reduce the availability and trafficking of assault weapons and ammunition in the Americas.

THE PROBLEM

With the launch of the Merida Initiative in 2007, the U.S. and Mexican governments agreed to a regional security framework guided by the principle of shared responsibility. Among its domestic obligations, the United States committed to intensify its efforts to combat the illegal trafficking of weapons and ammunition to Mexico and elsewhere in the Americas.

Six years later, little has changed: the U.S. civilian firearms market continues to supply the region's transnational criminal networks with high-powered weaponry that is purchased with limited oversight, especially from unlicensed individuals at gun shows, flea markets, pawn shops, and on the Internet. Lax U.S. gun laws enable straw purchasers, including those under investigation in Operation Fast and Furious, to legally procure thousands of AK-47 and AR-15 variants every year and traffic them across the border to sell them illegally to criminal factions.

U.S. government data highlights the problem. The Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) Web-based firearm trace request and analysis system, eTrace, enables law enforcement officials to collaborate with ATF to track the path of recovered weapons from the manufacturer or importer through the distribution chain to the first retail purchase. Over 70 percent of the ninety-nine thousand weapons recovered by Mexican law enforcement since 2007 were traced to U.S. manufacturers and importers. Likewise, 2011 eTrace data for the Caribbean indicates that over 90 percent of the

weapons recovered and traced in the Bahamas and over 80 percent of those in Jamaica came from the United States. The ATF has not released data for Central America, but the numbers are likely similar.

The UN Office on Drugs and Crime reports that easy access to firearms is a major factor influencing homicide trends in Latin America and the Caribbean; the gun-related homicide rate in Latin America exceeded the global average in 2010 by more than 30 percent. The World Bank estimates that crime and violence cost Central America nearly 8 percent of its GDP when accounting for the costs of law enforcement, security, and health care.

The U.S. government has empowered law enforcement in the region to recover and investigate the source of weapons used by criminal factions. In December 2009, the ATF introduced the Spanish version of eTrace. Since 2012, the State Department has funded the Organization of American States' (OAS) program to provide firearm-marking equipment and training to law enforcement in twenty-five countries. Yet, these efforts notwithstanding, Mexican authorities intercepted only 12.7 percent of the roughly 250,000 guns smuggled into Mexico between 2010 and 2012, while the ATF intercepted no more than 2 percent. In effect, the United States undermines its own efforts at preventing arms trafficking with its unwillingness to strengthen oversight of the firearms industry and lukewarm support for multilateral agreements.

The United States is one of three countries that have not ratified the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA). In addition to requiring parties to criminalize the illegal manufacture, import, or export of high-powered weapons, the treaty encourages information exchange and cooperation on initiatives including the marking and tracing of weapons and the identification of criminal transit routes. President Bill Clinton signed CIFTA in 1997 and submitted it for ratification to the Senate, where it has lingered for over a decade. Likewise, although the United States voted in favor of the United Nations' Arms Trade Treaty in April 2013, it has yet to sign or ratify the treaty.

Given the political complexity of legislative action to reduce arms trafficking, Latin American governments have moved to disarm criminal networks by tightening their own gun codes: Mexico prohibits the sale of handguns with calibers greater than .38 and Colombia bans civilians from carrying firearms in Medellin and Bogota. Brazil, Mexico, and El Salvador have implemented gun buyback programs.

At the 2012 Summit of the Americas, heads of state demanded a new approach to the failed war on drugs, including greater efforts to disarm criminal networks. U.S. allies have repeatedly urged the United States to reinstate the federal assault-weapons ban and take action against weapons trafficking. Their patience—and the United States' credibility as a responsible partner—is waning. U.S. action will strengthen those regional heads of state who want to work with the United States and who also regard lax U.S. gun laws as fueling violence and anti-Americanism among their own publics. Across the board, Latin American governments are turning toward the Community of Latin American and Caribbean States and the Union of South American Nations, which pointedly exclude the United States, to handle regional political and security dilemmas. Stronger action to regulate the southward flow of weapons represents an opportunity for the Obama administration to enhance U.S. relevance in the region, especially at the early stages of new regional institutions and security protocols.

RECOMMENDATIONS

In the absence of major legislative action, the Obama administration should pursue the following executive and diplomatic actions—consistent with the Second Amendment—to reduce the trafficking of firearms that contribute to crime and violence across the Americas:

Expand nationwide the state-level multiple-sale reporting requirement for assault weapons. In 2011, the Obama administration adopted a federal rule that requires gun dealers in California, Texas, Arizona, and New Mexico to report sales of more than

two semiautomatic rifles to the same person within a five-day period. Unintentionally, the rule shifted gun sales to states not covered by the requirement, prompting the need for improved oversight of all suspicious semiautomatic firearm sales.

Incorporate strategies to reduce existing stocks of illegal firearms into U.S.-Brazil dialogue on defense and security. As home to the two largest firearms industries in the hemisphere, the United States and Brazil have a mutual interest in incorporating this topic into their ongoing bilateral policy dialogues. For example, sharing best practices regarding gun buyback programs in border regions on the U.S.-Mexican and Brazilian-Bolivian borders will build mutual confidence between the two largest Hemispheric powers.

Exclude firearms and ammunition products from the Export Control Reform Initiative. As currently crafted, President Barack Obama's reform initiative may make it easier for U.S. manufacturers to export military-style weapons to allies. Liberalizing export restrictions on firearms poses a serious security risk to the Americas; potential reexport of firearms without U.S. oversight could jeopardize local law enforcement efforts to keep weapons from criminal groups and rogue security forces in the region.

Apply the “sporting test” standards of the 1968 Gun Control Act. This provision prohibits the import of weapons not “suitable or readily adaptable for sporting purposes,” including but not limited to military-style firearms. Throughout the 1990s, under Presidents George H.W. Bush and Bill Clinton, the ATF adhered to the sporting test guidelines, preventing thousands of assault weapons from entering the U.S. firearms market. Enforcement of the test lapsed under President George W. Bush and has not been reestablished under President Obama.

Continue to support federal, state, and local initiatives to improve regulation of the U.S. civilian firearms market. As grassroots organizations prepare their long-term legislative strategies, the White House should back state and local legislation, based on reforms in Maryland and Connecticut, which bans the sale of assault rifles and high-capacity magazines, broadens existing background check requirements for firearm purchases, and modernizes gun-owner registries by requiring, among others, that buyers submit their fingerprints when applying for a gun license. While piecemeal regulation of the U.S. civilian firearms market does not represent a comprehensive solution, passage of state and local measures, including gun buyback programs, will reduce the number of weapons in circulation and available for smuggling and generate momentum for a broader federal approach over the long run.

CONCLUSION

Strengthening U.S. gun laws will not eliminate gun violence in Latin America, where weak judiciaries and police forces, the proliferation of gangs and black markets, and deep inequality exacerbate violent conflict. Nonetheless, lax U.S. gun regulations do enable international trafficking. While the effects of tighter regulation will not be felt overnight, such steps will offset widespread regional views that the United States remains indifferent to its own role in exacerbating one of Latin America's most significant challenges. Although recent federal gun control measures have run aground on congressional opposition, the Obama administration retains considerable leeway in the foreign policy arena, where concerted action can help U.S. allies in Latin America make the case to their constituents and to other skeptical governments that the United States can be a legitimate partner in combating transnational crime. At a juncture in U.S.-Latin American relations that again features both tension and opportunity, these actions will demonstrate that the United States is prepared, if imperfectly, to fulfill its shared responsibility for regional security and enhance American standing and positive influence in Latin America.

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