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Gun Laws of America
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<http://www.gunlaws.com>

1. CIFTA Gun Treaty Removes Congressional Oversight
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3. National Ammo Shortage Is Suspicious

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1. CIFTA Gun Treaty Removes Congressional Oversight
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(Note: How this treaty can overrule U.S. law or the Constitution itself is discussed at the end, after the treaty analysis below.)

I've completed my review of the South America gun-control treaty that Mr. Obama wants to get ratified.

It is known as CIFTA, the Inter-American Convention Against The Illicit Manufacturing Of And Trafficking In Firearms, Ammunition, Explosives, And Other Related Materials. It can be found here verbatim: <http://www.oas.org/juridico/English/treaties/a-63.html>

-- EVERY aspect of the treaty introduces major required gun controls, most of which will affect average citizens (as well as the targeted criminal syndicates, dictators and other bad actors).

-- The controls go way past anything EVER attempted by gun-control groups in the United States.

-- NONE of the proposed gun controls are likely to pass by themselves through Congress. If the treaty is enacted they don't have to -- they become law when the treaty is ratified.

-- Virtually NO PROTECTIONS FOR RKBA are to be found, and the wordings are loose enough to allow all sorts of attacks on gun rights American enjoy today.

-- The U.S. government under this treaty GAINS POWER to manage firearms almost any way it would like to, without checks and balances.

-- Once signed, many of the restrictions and government intrusions become MANDATORY, and the full Congress, already cut out of ratification (only the Senate approves treaties) would be cut out of the implementation process entirely.

-- Top to bottom registration of all firearms, ammunition, ammunition components and other related materials is required if they are "in transit" and records must be kept indefinitely. This vague language, and the requirement to comply are a gun-banner's dream and a rights advocate's nightmare.

-- "Transit licenses or authorizations" for transfers of firearms are required for imported firearms, and loose language could include the same for all domestic firearms.

-- Lengthy recordkeeping is required that directly conflicts with U.S. law, and would be left up to bureaucrats and arbitrary controls and implementation.

-- Home reloading of ammunition would become illegal and subject to severe sanctions, without government licensing that is undefined and could include almost any conditions, taxes and limitations, including scrupulous inventorying, recordkeeping and unscheduled audit searches of people who reload.

-- Similar licensing and controls will be required on anything made "that can be attached to a firearm," known as "other related materials." This includes components, parts, replacement parts and such items as wood or composite stocks, slings, bayonets, bayonet lugs, sights, scopes, rails, lasers, grips, flash hiders, suppressors, muzzle brakes and other paraphernalia. Attaching any such parts without a government license would be "illicit manufacture," a criminal act with undefined penalties.

-- Record sharing requirements ensure that any gun-owner data that must be destroyed under current U.S. law can be easily stored abroad, and can be retrieved at will as required under various international "cooperation" clauses.

If I were advising Mr. Obama IN FAVOR of using this treaty for gun control -- here is what I would suggest.

This creative vantage point helps me to underscore the serious threat the treaty presents. I DO NOT approve of any of the anti-rights suggestions, easily drawn from the treaty language -- they merely show you what Americans face. Everything I outline below comes directly from the treaty itself. Be sure you're sitting down.

Alan Korwin, Author
Gun Laws of America

To: Barack Hussein Obama, President of the United States
From: (As if written by the anti-gun-rights lobby)
Re: CIFTA Treaty

Dear Mr. President,

We commend your common-sense support of the CIFTA Treaty for reducing illicit arms manufacture and gun trafficking. This is a brilliant stratagem in the exhausting effort to rid our country of the scourge of gun violence.

With the treaty in place and ratified by the Senate, you will be obligated to take certain steps with regard to private ownership of firearms that we have never been able to move through the houses of Congress. Further, you will be able to take these actions unilaterally, making swift change possible and, under international obligation to act you are insulated from direct criticism.

Our attorneys assure us the steps we outline here are in full compliance with international law and the terms of the treaty itself. Article VI of the U.S. Constitution unambiguously gives such a treaty a degree of supremacy over the nation, its laws, the states and the public (even though some in the powerful gun lobby deny this or point to questionable court precedents). This is especially useful as we adapt to a global economy, world courts, an empowered U.N. and environmental concerns on a planetary scale.

In addition, we know that if a law can be interpreted to either spread or curtail the proliferation of arms in the hands of average people, the common-sense interpretation must be to curtail arms whenever possible. CIFTA provides the perfect platform for this very reasonable approach.

There will be little disagreement that CIFTA's surface goal of keeping arms out of the hands of dictators, tyrants, terrorists, violent criminal cartels, syndicates and gangs, insurgents, non-state actors, and genocidal regimes is a worthy goal. The value for domestic gun control here and abroad is equally worthy, and lies in virtually every measure required to track and control arms. We are eager to see your signature on this important step forward for the safety of Americans.

[Language from CIFTA appears in brackets.]

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Statement of Purpose

["...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..."]

Note that "trafficking" is not explicitly limited by "illicit" and this is critical. It is perfectly reasonable to bring all firearms trafficking under control to properly manage the portion that is illicit or undesirable. This construction is precise and appears throughout the treaty.

["give priority... because of the links of such activities with drug trafficking, terrorism, transnational organized crime, and mercenary and other criminal activities"]

The unconditional inclusion of "other criminal activities" assures a broad jurisdiction for every facet of existing and not-yet-defined gun crime, even minor and paperwork violations, if so desired.

["international cooperation... appropriate measures at the national, regional and international levels... 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... support mechanisms such as the International Weapons and Explosives Tracking System (IWETS) of the International Criminal Police Organization (INTERPOL)"]

The emphasis on globalization dovetails smoothly with current plans. Potential exists to wed NICS and IWETS functionality.

["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"]

Firearms dealers are specifically included in the web of CITRA.

["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"]

This is one rare spot where "trafficking" and "illicit" are connected, and then only for transnational acts. We do not expect this to inhibit any reasonable domestic gun-control activity associated with CIFTA. The sapient inclusion here of "acceptable" gun activity is neatly compartmentalized and removed from the ability to apply controls.

["this Convention does not commit States Parties to enact legislation or regulations pertaining to firearms ownership, possession, or trade of a wholly domestic character"]

While the treaty doesn't seem to require Parties to enact domestic gun laws, the careful wording does not prevent Parties from enacting domestic gun laws either. And it additionally requires that the parties "will apply their respective laws and regulations in a manner consistent with this Convention," binding future actions into compliance, while giving a comfortable appearance of autonomy. Our attorneys were impressed with how well this is drafted.

Article I, Definitions.

The definitions are suitably robust and need little description here.

However, "Illicit manufacture" includes any ammunition made, "b. without a license from a competent governmental authority of the State Party where the manufacture or assembly takes place;". This unequivocally places dangerous homemade "reloading" operations under any reasonable controls deemed necessary. Such controls are not optional. Any so-called hobbyist operating outside a yet-to-be designed licensing scheme would be in violation. Penalties are to be independently determined by the Parties.

Also note that "an accessory that can be attached to a firearm" is included as "other related materials," and also subject to illicit manufacture rules. This provides the broadest controls over anyone making, transporting, possessing or transferring such items as wood or composite stocks, slings, bayonets or bayonet lugs, sights, scopes, rails, lasers, grips, flash hidere, suppressors, muzzle brakes and other paraphernalia. The tax dollars from this new revenue source is not determined but believed to be potentially large.

Article II, Purpose.

Reiterates introductory remarks, promotes exchanges of information.

Article III, Sovereignty.

Ensures that territorial jurisdictions and a nonintervention policy are maintained.

Article IV, Legislative measures.

["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... 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."]

Once the treaty is signed, laws (if needed) or "other measures" (regulations, memoranda of understanding, policies, operations manuals, AG opinions, basically any legal construct without limitation) are required to implement the terms of the treaty. This is excellent for our purposes. We believe the legal framework exists to handle most if not all the requirements outside cumbersome legislative channels, facilitating easy adoption of the treaty's conditions.

Some objections may be raised by opposition leaders or the gun lobby, but the signed treaty puts this game well into the home stretch by the time such annoyances arise.

Article V, Jurisdiction.

["Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses"]

CIFTA doesn't even contemplate statutes, just "measures" for establishing jurisdiction, including rules for extradition.

Article VI, Marking of Firearms.

Serial numbers and similar markings already required on firearms by U.S. law become an international standard, and now include place of manufacture and name and address of importers, plus special marks for arms retained for official use. There is no enforcement mechanism for rogue nations that do not comply.

Article VII, Confiscation or Forfeiture.

["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."]

The treaty, when signed, will once and for all end the intolerable practice of returning guns and accessories back to the public after they have fallen into police hands. Our legal opinion is that even recovered stolen guns would also be unreturnable, since these have been illegally trafficked as defined. State laws allowing gun resales and auctions will become null and void, under the U.S. Constitution's supremacy clause. This may impact some police departments that have come to rely on such revenues, but the net gain in public safety and gun control is more than worth the small loss, which could perhaps be mitigated through use of bailout funds or other government monies.

Article VIII, Security Measures.

["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."]

It seems clear that the only way to effectively meet this common-sense security obligation (eliminate loss or diversion of firearms and related supplies) is to have universal registration and tracking of all firearms in the country. This long-sought elusive goal now within reach. The phrase "in transit" effectively touches every firearm, all ammunition and related gear.

Article IX, Export, Import, Transit Licenses

Port of entry and exit requirements already in place cover this section.

Article X, Strengthening Controls at Export Points

Same as above.

Article XI, Recordkeeping

["States Parties shall assure the maintenance for a reasonable time of the information necessary to trace and identify illicitly manufactured and illicitly trafficked firearms to enable them to comply with their obligations under Articles XIII and XVII."]

This provision provides clear authority to establish large scale comprehensive gun-registration databases. The "reasonable time" for recordkeeping had been determined by the FBI, under former AG Reno, as permanent.

We do anticipate some political objections to this provision, since U.S. laws place some restrictions on firearm recordkeeping on the public. However, as we learned under Attorney General Janet Reno, during the original implementation of the NICS background checks, government systems can be set up in any manner desired with little effective oversight, and only after prolonged and arguable challenges need the systems be changed. The true nature of such complex systems remains difficult to ascertain, is difficult to monitor on an ongoing basis, can be modified in future iterations to more closely reflect desired policy without raising warning flags, and system backups maintained by allies do not fall under the same controls as domestic versions.

A review of the remaining 19 Articles of the treaty will be provided shortly. These are minor and deal largely with exchange of information among the parties, cooperation, training (for which the U.S. can play a significant role by financing and controlling programs among the Parties), mutual legal assistance (another area where the U.S. can exert significant influence), "controlled delivery" or sting

operations, extradition of U.S. citizens, and structural elements such as a consultative committee, periodic meetings, ratifications, withdrawal, effective dates and dispute settlements.

An interesting "Annex" exempts certain items from the definition of explosives, including:

["compressed gases; 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."]

END OF ANALYSIS

The Supremacy Issue

Numerous attorneys and others wrote to challenge my position in Page Nine #63 <http://www.gunlaws.com/Page9Folder/PageNine-63.htm> that Mr. Obama's run-around gun treaty could conveniently bypass the legislative process and the Constitution, like John M. says here:

"While your item in "Page 9" about Congress and the Obamanation Administration using an Inter-American Treaty on 'arms trafficking' to do an end-run around the Second Amendment is certainly scary, I'm not ready to concede (as you appear to do) that a treaty supersedes the Constitution under Article VI." He goes on to describe why Art. VI and other safeguards will protect us.

Many people went into greater detail. Cases were cited (Reid v. Covert; Missouri v. Holland; Whitney v. Robinson; Cherokee Tobacco). One high-placed lobbyist felt fairly safe because, "While an international treaty bypasses House consideration, it requires two-thirds of the Senate for ratification - a tall order even in ObamaNation."

Other people were less sure, like Chuck G. here: "I'm still up in the air about it as I've heard all my life exactly what you stated."

I too always heard what he had heard -- treaties supercede the Constitution -- and always thought it odd. Go read Article VI, cl. 2 yourself. The language is crystalline. One attorney at a high-profile think

tank believes, "The federal government will have arguable legal authority to seize our guns and ammunition if this treaty is signed." So...

1. Opinions on the supremacy issue are inconsistent (though often adamant).
2. People who say the treaty won't be a problem point to a number of SCOTUS decisions, and perhaps stare decisis. Maybe that makes those folks fully comfortable with where Mr. Obama is heading on this. Less so for me.
3. SCOTUS precedents are increasingly ignored by those in power, with groovy rationalizations each time. And SCOTUS decisions have so eviscerated key elements of the Constitution, my faith there is shaken, not stirred.
4. The courts, which should provide more balance, a) don't, b) are run by the very people they're supposed to balance, and c) all too often use the completely worthless rational-basis test, knowing it's worthless, to allow every short-of-insane law to stand.
5. Given a choice of support for gun-rights or outright gun bans, we know which way this administration will go.
6. Four of the current SCOTUS Justices have expressed interest in defining U.S. law from foreign sources, leaving us one vote away from a new understanding of the supremacy clause.
7. Perhaps the biggest issue, though, making all else moot, is that new regs you can easily forecast coming from this treaty will be portrayed as a) required by international law so we're only doing what's right, b) required by Article VI however you like to read it, c) consistent with precedent, and most of all, d) not violative of the Second Amendment so no big deal.

After all, if, for instance, every home reloading enthusiast simply has to get a government license, pay an annual tax called a "fee," pass a test, accept "routine" BATFE searches without notice like FFLs must, and keep detailed records so government can fulfill its obligation to track all guns and ammo, backed up with threats of prison time for paperwork errors or a miscount of a single round, what's wrong with that?

Besides, you have an attorney general to protect you who's on record saying a ban on any working firearm in your own home is acceptable under 2A, so, what me worry?

You have a choice: assume the treaty won't be a problem, the supremacy clause will void any abuse and just let Mr. Obama enact the treaty, or remain a bit more skeptical of this man's motives. Choose wisely.

Alan.

P.S. If Mr. Obama is indeed a Marxist at heart as so many people fear and some evidence tends to support, a debate over constitutional principles would be pointless.

2. Amend Constitution by Statute, Using EPA Laws
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"The National Parks Service has announced it will not challenge a court order that temporarily stops the late-term Bush administration policy of allowing CCW-permit holders to carry in National Parks."

That's the news media's backwards way of saying the bureaucrats running the National Parks are delighted they don't have to allow CCW-permit holders to exercise their civil rights in the parks, at least for now.

U.S. District Judge Colleen Kollar-Kotelly issued a temporary injunction, favoring a lawsuit brought by gun-control and environmental activists. She gave the Interior Dept., which runs the parks, until April 20 to respond.

The idea that parks must first undergo environmental-impact approval before partially honoring the right to keep and bear arms is a complete subterfuge and extremely dangerous on several grounds.

Most obvious, there is NO environmental impact of carrying an unfired gun in a park or elsewhere. Even fired, at the rate CCW permittees fire their guns, the impact is so small it is essentially unmeasurable. The District Court/EPA/Brady effort is a transparent deception, used by hoplophobes and gun banners, to stop a ruling that would restore limited civil rights (for government permittees only) and could save lives and deter crime.

The original 25-year-old ban was created during the Reagan era, reversing the right to carry that existed on these public lands since the nation's founding.

A bigger problem however is that, if EPA can be used to stop mere concealed carry on the basis of enviro-impact, what does that say for any form of outdoor marksmanship? The impact difference between carry and use is obvious. If the precedent of allowing EPA to regulate CCW stands, this invites the wholesale destruction of any outdoor target practice on public land. Officials know this. Nationwide, public land is a mainstay of open-air exercise of the right to bear arms -- for practicing for proficiency and safety.

Using environmental threats to deny the civil and human right of self defense and the constitutional right to keep and bear arms is environmental terrorism.

The biggest problem though is that this repugnant scheme uses a statute and its regulations -- the EPA machinery -- to suppress the Constitution itself, namely the Second Amendment.

An ongoing and increasing problem, EPA and numerous other federal agencies, FHA, FCC, FTC, FDA, TSA, EEOC and others have suppressed First Amendment free-speech guarantees for decades. Now, using EPA legislation, people in charge are making inroads into infringing RKBA out of existence. Such activity is patently illegal. The terms of the Constitution can only be changed by amendment, as described in the Constitution itself, and not by law making from Washington or anywhere else.

People suggesting or implementing such actions should be quickly removed from office for violation of their oath, and brought up on charges of denial of civil rights and abuse of power. That had better happen soon, because we are reaching a tipping point. How many abuses and usurpations need we endure before people take to their pitchforks?

3. National Ammo Shortage Is Suspicious 3. National Ammo Shortage Is Suspicious

Call me skeptical, but something doesn't smell right about the length and severity of the ammo shortage in America. We're not short of ammo, we're out. Since November. This is the end of April. WalMart shelves are bare. Big 5 Sports here in Phoenix got its weekly truck and it had 3 boxes of .38s (150 rounds), no 9mm, no .357, no .380, no .45. Dealers I've asked uniformly say their orders are just not being filled, and they get no word on what or when they'll get more.

Anyone with DIRECT connections to ammo makers is encouraged to ask questions, get names, and let me know what you hear. I've seen the unsubstantiated rumors on the web that there's a conspiracy, but the talk sounds wacky and the parts don't make sense. Why would for-profit companies voluntarily cut back production in hard economic times when demand has exploded?

That said, note that most American gun owners are not short of ammo. They have plenty socked away. They just can't buy more, or replace supplies used at the range and elsewhere. The situation is most acute however for newcomers, of which there are hundreds of thousands scared into buying their first gun, who learn quickly that a new gun without some shells isn't much of a good deal.

Also note that this panic/obsessive buying is a shot across the bow for the temperature of America -- what would it take to trigger similar runs on supplies of toilet paper, bottled water, tobacco, liquor, batteries, light bulbs, canned goods, coffee, medicines and any other commodities people depend upon. If ammo, a minor niche product is any gauge, we live in delicate times.

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"One man with courage is a majority."
--Thomas Jefferson

"No one could make a greater mistake than he who did nothing
because he could do only a little."
--Edmund Burke

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take a look at my page on Tactics That Work:
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