

## **Obama Administration Not Enforcing Ban on Assault Weapons Import to US**

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*Mexican cartels are slowly buying up Russian AK-47s at US gun shows even though their importation has been banned since 1968.*

“Buy your Saiga AK-47...made in the Izhmash factory in Russia. Yours for only \$369,” says an ad for the on-line shop, Atlantic Guns.

From the comfort of your own home, you or any adult in the United States can buy this type of assault weapon. Just go into an on-line gun shop, click on your weapon of choice, and enter your credit card information. The weapon will be sent by messenger to the gun store nearest your home in any part of the United States, except California. It’s as easy as buying a pair of shoes.

You can also get guns made in Eastern Europe—though their importation is banned by the 1968 Gun Control Act which only allows the entry of guns for “sporting purposes”—by going to one of 57,500 gun stores or to any of the 220 gun shows organized just in the month of October in the United States.

Mexican cartels take advantage of the ease with which weapons can be purchased in the United States. They use intermediaries—young Americans with no criminal records—to make the purchases and keep them supplied. Meanwhile, 28,000 people have died so far during this presidential administration in Mexico in violence associated with organized crime. Ninety percent of the weapons used by the criminal underworld are purchased in the United States.

But, what are Russian, Romanian, and Bulgarian-made AK-47 assault weapons doing in the United States if it is illegal to import them?

It’s simple, says Tom Díaz, a researcher at the Violence Policy Center (VPC) interviewed for this study: European manufacturers make some external changes to the guns to make them comply with the description of guns used for “sporting purposes,” which is allowed in the country, “but the Obama administration isn’t doing anything about it.”

The issue is in the hands of the White House. “The Gun Control Act of 1968 says you can only bring in to the United States guns that have sporting purposes, so the question then is: does this gun have a sporting purpose or not? President Obama can say to the Attorney General or the Director of the ATF [Bureau of Alcohol, Tobacco, Firearms, and Explosives]: ‘we need a new rule about importing these guns.’ It would be an administrative action. It has been done in the past. The first President Bush did it. President Clinton did it and stopped them from coming in here... Obviously, that would be the first thing we say can be done tomorrow. The president just has to say, ‘we are going to do this.’” Díaz said.

“That is a specific administrative action that could be taken. The leadership could come from Eric Holder or from President Obama to Holder, or to whoever in the ATF, but they are simply not doing it,” he added.

Jonathan Lowry, a lawyer for the Brady Campaign, and Kristen Rand, also of VPC, agree. Rand elaborated on the context in which former President George H.W. Bush used an administrative action to ask the ATF to enforce the Gun Control Act and ban Eastern European assault weapons from coming into the United States. “[In the 1980s] Miami police and federal agents were being killed. It was everywhere. There was a huge war over crack and cocaine. Then the head of the Office of Narcotics went to the President [George H.W. Bush] and said, ‘this is madness. We have to stop assault weapons’... The President spoke to the Treasury Department and the Secretary of the Treasury just told ATF ‘look we need rules for this,’ and they did it,” Rand said.

### **Weapons and Elections**

Experts in weapons trafficking say that President Obama has not required the ATF to enforce the 1968 Gun Control Act because he is afraid of being beaten at the polls on November 2, when both House and Senate seats are up for reelection.

In 1994 the Democrats did, in fact, sustain serious electoral defeats, a result that President Clinton attributed to a National Rifle Association (NRA) campaign to discredit his government for having backed a ban on the import of assault weapons. (The ban was in effect until 2004.) Democrat Carolyn McCarthy told *Excelsior* that since that time, Democrats have had a deep seeded fear of losing elections because of their gun control efforts.

### **Arms Purchases Made Easier by US Law**

There are 6,000 gun shops on the border between Mexico and the United States. The assault weapons in the windows are available to anyone, and the ease with which they are sold—no matter how many are requested—allows Mexican cartels to keep themselves well-armed in their struggle to control drug sales points. They do it through what is called *compra hormiga*, or “ant-like” gradual purchases, made by American youth with no criminal records. In English, these are called “straw purchases” because the buyer claims that the guns are for personal use, but he is actually purchasing them for someone else.

For example, on May 3, 2008 in Phoenix, Arizona, *Pedro A*, a US citizen, went into Cave Creek Lock and Gun. He saw the dozens of submachine guns displayed on the walls and in the display cases of the store, and he asked the clerk to show him a Russian-made Saiga AK-47 IZHMAH.

After looking it over, he said. “I’ll take two of these.” *Pedro A* filled out ATF Form 4473 where he indicated that the guns were being purchased for personal use.

Over a period of a year, *Pedro A*. and nine other straw purchasers bought 115 assault rifles and, in 51 days, took them to Mexico. Almost all of them passed through the Douglas, Arizona border crossing without being stopped by any Mexican or US customs agents.

They did not acquire the weapons for their personal use as they had indicated on ATF Form 4473, nor did they buy them to protect their homes or to hunt ducks, activities permitted by the United States government.

They purchased these heavy-caliber weapons in order to send them to Mexican cartels. *Pedro A* and the others took them over the border two by two, by car, and sometimes even on foot, as recorded in the file for Case 4:09-cr-00185-CKJ-HCE tried in an Arizona district court in 2009.

### **No Danger of Arrest**

In addition to the Russian, Romanian, or Bulgarian-made submachine guns, straw purchasers have at their disposition a wide range of assault weapons made in the United States. The quantity they might decide to buy is not a problem.

On May 20 of this year, a colleague of *Pedro A*, who we will call *Juan B*, decided to continue shopping. He went to a store called Mad Dawg Global in Phoenix, looked in the store window, and laid his eyes on one of the weapons used most frequently by the drug cartels—a .223 caliber Olympic Arms AR-15 semi-automatic rifle.

“Can I help you with something?” the clerk asked him in a friendly voice.

“I’ll take eight of these,” *Juan B* answered.

“Fine,” the clerk said. Then he did the FBI check and assured the buyer that he was clean. *Juan B* paid in cash and left with eight AR-15s in hand.

Kristen Rand from the Violence Policy Center explains: “[In the United States], there is no federal law that restricts the number of assault weapons a person can buy.”

Two days after he bought his eight AR-15s, *Juan B*—who according to the FBI had no criminal record—strolled out of the country through the Douglas, Arizona checkpoint with two of the guns in his backpack, according to information in file 4:09-cr-00185-CKJ-HCE.

Neither the customs agent on the US side nor the agent on the Mexican side stopped him. But even if the US agent had discovered what he was carrying in his backpack, it is not clear that he would have arrested him.

Colby Goodman, the author of a study called “U.S. Firearms Trafficking to Mexico” by the Woodrow Wilson Center, says that Customs Border Police (CBP) need to establish that the smuggler knew that he or she was breaking the law in order to arrest them.

“If, for instance, a CBP official does not advise the driver of a vehicle heading to Mexico of the reporting requirements, and the driver says, ‘I didn’t know that it was illegal to bring firearms across the border,’ but CBP finds several firearms well hidden in the vehicle, U.S. authorities may be able to show intent to smuggle, but may not be able to show he or she knew it was illegal without a license,” Goodman says.

Agents also have to be able to prove that the smuggler knew there were firearms in the car they were driving. Goodman says, "In a situation where the driver of the vehicle says, 'I didn't know that those firearms were hidden in the trunk-bed of the vehicle,' and the vehicle was registered to someone else, it may also complicate U.S. prosecution efforts."

Goodman explains that because of this situation, CBP agents have had to develop more round-about ways of questioning presumed weapons traffickers to keep them from saying "no" when they are asked whether they know that taking weapons to Mexico is a federal crime.

### **Weapons Seizure Leads to Trafficking Route**

June 17, 2008: another shopping day. *Pedro A* goes into the MDGM store in Phoenix, Arizona. That day he has an order to buy DPMS-brand .223 caliber rifles in the A3 Lite model, and he buys six.

One month later, one of his colleagues buys three Colt .38 pistols in the Advantage Pawn Shop and two days later he takes them to Mexico, once again over the bridge at Douglas, Arizona

From January to December of 2008, this group of buyers took 115 weapons to Mexico without being stopped by any border agent.

US and Mexican authorities realized what was happening only after Mexico reported that on June 7, 2008, a Saiga AK-47 assault rifle, serial number HO7100980, had been confiscated in Agua Prieta, Sonora.

Using the E-Trace program in the United States, they discovered that it was the AK-47 purchased by *Pedro A.* on February 23 that year at Cave Creek Lock and Gun in Phoenix, Arizona.

The gun purchasers were tried and sentenced by the state of Arizona. *Pedro A* was given only 50 months in prison. *Juan B* was given 44 months, and the rest were given between 14 and 30 months. All of them were working with the Sinaloa Cartel.

The MDGM store sold 31 guns to this group of buyers, Rangemaster sold them 16, and Advantage Pawn sold them 13. Authorities investigated whether the stores had colluded with the criminals, but were not able to prove that they were.

"Looking at some of the trafficking cases, we have seen that there is a clear pattern of individual dealers who are selling guns to people that to any reasonable person would be identifiable as a trafficker. They come into the gun store and they want to buy 15 to 20 Bushmasters. It's a one-on-one transaction. They pay cash or they come in with a straw purchaser, you know, someone who can pass the background check because the trafficker can't, either because he has a criminal conviction or is an illegal resident," said Rand.

Buying AK-47s, AR-15s, and Barret 50s is legal all over the United States, except in California. Meanwhile, 66,000 weapons that came over the US border have been seized in Mexico in the last three years.

### **Young People: the First Link between the Store and the Killing**

WASHINGTON, DC— On February 7, 2007, a group of men dressed in military uniforms broke into the offices of the Guerrero state attorney general in Acapulco with machine guns in hand. They fired at close range, killing three policemen, Carlos Castillo, Raúl Narciso, and José Luis Santoyo, and the secretary Griselda Olivares. One of the weapons used in the slaughter had been purchased in Texas 15 months earlier.

A US citizen of Mexican origin—we'll call him *Ernesto J.*—had no difficulties purchasing two Bushmasters on July 11, 2006 at Branch 18 of an Academy gun shop in Houston, Texas. The next day, he bought two more at Branch 19 of the same chain. That's according to Legal File No. H-08-317-m of a south Texas district court.

All he had to do was fill out ATF Form 4473, state that the guns were for his own use, and wait for the store employee to call the FBI where an official reported that *Ernesto J* was a US citizen with no criminal record and was therefore entitled to buy a weapon.

Seven months after the Acapulco massacre, a Zeta Cartel group was involved in a shootout with the Mexican army at a botanic garden in the town of Miahuatlán in Porfirio, Oaxaca. One of the machine guns used by the Zetas in this clash was a Bushmaster .223 purchased by *Ernesto J.*

*Ernesto J* belonged to a group of 23 straw purchasers who acquired 339 weapons in 15 months and then turned them over to other people who took them into Mexico and sold them to criminal gangs.

*Ernesto J*, who bought 23 of these weapons, was 23 years old when this happened: “The majority of people involved in straw purchasing are young. They are either students, or they are people that need the money. They don't think about buying three or five guns. It's quick money for them to make two or three hundred dollars per gun,” said Armando Salas, Assistant Special Agent of the Houston area ATF.

Agent Salas explained that weapons traffickers also recruit young women. And they recruit older people as well. “But older people have a better sense of what they are doing, and they aren't as eager to engage in an illegal activity,” he said.

### **The Point of a Gun: Recruiting Buyers**

The youth recruited by drug dealers to buy guns in small quantities (straw purchasers) are part of a larger structure that includes the people who recruit them, the people who provide them with the money to make the purchases, and the people who transport the weapons to Mexico.

In Legal File Number H-08-317, ATF Agent Carla Mayfield describes some of the strategies the weapons traffickers use to recruit buyers:

On January 29, 2007, myself and Special Agent Greg Alvarez interviewed a cooperating witness who stated that he/she had purchased some firearms for “John,” an individual that he/she had went to school with at Klein Forest High

School. He/she stated that when he/she asked “John” about the guns to be purchased that he told him that the guns were to be sold out of state for a large profit and that there was nothing to worry about. The cooperating witness stated that he/she was picked up at his residence by “John” and taken to Carter’s Country to make a purchase. “John” gave him/her the money outside the store and followed him/her to observe the purchase. The cooperating witness stated that he/she was paid approximately \$450 for purchasing these firearms and that “John” took custody of the firearms after they were purchased.

When the buyer got to the store, he realized that “John” had already arranged the purchase by phone. “The cooperating witness stated that he/she then went inside the store and the guns were already assembled behind the counter, ready for pickup,” the notes in the legal file state.

Jonathan Lowry from the Brady Center, a group dedicated to fighting the illegal arms trade, says that this case is consistent with many others. “Carter’s Country is a store that has sold many weapons to straw purchasers that are buying for Mexican drug cartels,” he said, emphasizing that the Houston chain has been investigated for selling pistols and rifles to US criminals that were later used in murders.

When asked what the authorities in Texas have done with that store, Lowry responded, “As far as we know, they haven’t done anything. They have only judged traffickers. But it is outrageous to see how the ATF has done nothing against these stores that are making huge profits selling weapons to straw purchasers.”