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Large Capacity Magazines

- The 1994 Crime Act generally banned the possession of "large capacity ammunition feeding devices" (magazines with capacity greater than 10 rounds) **manufactured after September 13, 1994**. The law also contains an exception for magazines which were lawfully possessed as of that date.
- Initially, ATF interpreted the law to prohibit the importation of any large magazines after September 13, 1994, no matter when manufactured. This position was based upon the exception to the prohibition for magazines that were "lawfully possessed" before the effective date. Since magazines outside of the country could not have been "lawfully possessed" in the United States before September 13, 1994, ATF took the position that Congress intended to prohibit the importation of these magazines.
- Certain importers brought suit challenging this interpretation. Pursuant to consultations with the Department of Justice, it was determined that this interpretation failed to account for the date in the definition of large magazines. By its terms, the definition only covers devices manufactured after September 13, 1994. Consequently, in July 1996, ATF announced that a magazine manufactured on or before September 13, 1994, does not meet the statutory definition regardless of its size or capacity. Accordingly, such magazines were importable.

Importation of Large Capacity Ammunition Feeding Devices

- Q. Since the assault weapons ban was passed on September 13, 1994 as part of Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994 ("the Act"), why are any large capacity ammunition feeding devices magazines ("magazines") able to be legally imported?**
- A. The Act defines "large capacity ammunition feeding devices" to exclude those devices manufactured before the date of enactment of the Act. The Department of Justice concluded that ATF does not have authority to preclude the importation of magazines manufactured before the date of enactment. Therefore, magazines manufactured on or before September 13, 1994 may be lawfully imported.
- Q. Since the Act was passed, has there been a change in this interpretation?**
- A. ATF initially interpreted the statute to restrict the importation of magazines after the date of enactment of the Act. The Department of Justice found that this interpretation, which was challenged in two lawsuits, was not supportable as a matter of law. Based on guidance from the Department of Justice, ATF changed its interpretation so that the relevant fact was the date of a magazine's manufacture and not the date of importation.
- Q. Was this explanation provided to interested members of Congress?**
- A. Yes. Briefings were provided to members or their staffs. ATF provided a copy of the temporary July 29, 1996 regulations to Congress as required by 5 U.S.C. 801(a). (Final regulations are being drafted.)
- Q. Are there any procedural requirements attached to importation?**
- A. Yes. ATF regulations require importers to complete an import application, provide relevant information and present reasonable evidence -- either physical or documentary -- that the magazines in question were manufactured before the enactment of the Act.
- Q. Have any import permits for magazines manufactured on or before September 13, 1994 been denied because of lack of supporting documentary evidence called for by ATF's July 29, 1996 regulations?**

It is estimated that approximately 20 permits have been denied. No information is available on the name of the importer, or the description of the large capacity magazines, if the permit application was denied for lack of sufficient documentation. These permits could have been resubmitted upon obtaining sufficient documentation.

Q. How many large capacity magazines have been imported since the effective date of the Act?

A. As of March 1, 1997, importation records indicate that 157,236 large capacity magazines from a variety of countries have been imported, through 21 approved permits. 83 permits seeking importation of 2,112,441 large capacity magazines have been approved.

Q. From what countries were these magazines imported and where were they manufactured?

A. The magazines were manufactured in and imported predominantly from the following countries: Argentina, Austria, Belgium, Brazil, Canada, Chile, England, Germany, Haiti, India, Israel, Italy, Morocco, Nicaragua, Portugal, Spain, Sweden, Taiwan, Zimbabwe.

Q. How many clips of what capacity have been imported? (magazines by number of rounds)

see attached chart

Q. What is the total number of rounds imported?

see attached chart

Q. What are the names of the manufacturers of the clips that were exported?

not available at this time

Q. How many magazines from each country are covered by the permits, (a) already imported, (b) permitted, but not yet imported?

see attached chart

Q. Are the number of import applications for large capacity magazines increasing?

A. The number of import applications for large capacity magazines has remained fairly constant since the implementation of the temporary rule on July 29, 1996.

Q. How many large capacity magazines have been sold domestically since the implementation of the Act?

A. It is unknown and the information is not ascertainable because sales of large capacity magazines are not required to be recorded under the Gun Control Act.

Q. Are U.S. manufacturers and importers known to have large stores of magazines manufactured on or before September 13, 1994?

A. Based on advertisements in firearms publications, dealers in firearms and firearms parts appear to have large quantities of high capacity magazines on hand.

Q. Do you have an idea of what the impact would be on the domestic supply of a ban on the foreign supply of large capacity devices?

A. Indications are that there is a full supply in the domestic market. One indication is that of the authorized 2,112,441 imports, only 157,236 have been actually imported. Price is a second indicator. Prices for large capacity feeding devices have generally ranged from \$5 to \$80. According to advertisements of domestic supply seen by ATF, large capacity devices: (1) for AK-47s are selling for \$3.50 in lots of 50; \$5 in lots of 10; (2) for M1 carbines are selling for \$5 per magazine; (3) for AR-15's are selling for \$5 to \$15; (4) for handguns are selling from \$20 to \$50, a middle range price. The handgun magazines are more expensive because they are newly manufactured, and there are fewer available in the surplus marketplace. The magazines for the other types of weapons listed are military surplus (from a variety of countries including the U.S.), and available in very large quantities. This price data suggests that there would be a minimal impact on domestic supply if the remaining permits expired without being acted upon. If a ban were only to affect future permits, the addition of 2 million large capacity devices to the market is not likely to affect ATF's informal sense that there are enough magazines in domestic circulation to supply the domestic market for years.

Q. Are large capacity ammunition feeding devices reusable?

A. Yes. Magazines and clips are gun parts. Ammunition is separate. Properly maintained, a clip can last a lifetime. Typically, criminals get new clips with new guns, but unless a clip is damaged, only the ammunition is replaced.

Q. Are there special restrictions that apply to China on importation of large capacity magazines?

A. Yes. *Exports* of defense articles to China have been prohibited since 1989, after the Tiananmen Square crackdown. The State Department's International Traffic In Arms regulations (ITAR) and Treasury's regulations on importation of arms, ammunition and implements of war, state that it is the *policy* of the United States to prohibit *imports* of defense articles from countries that are subject to an U.S. arms *export* embargo. However, the President has authority under the Arms Export Control Act to control the export and import of defense articles for foreign policy reasons, and before May 1994, *China was exempted from the policy* of prohibiting imports from countries that are subject to U.S. arms *export* embargo.

On May 26, 1994 (during the period of the decision on China's Most Favored Nation status), President Clinton revoked this exemption under the authority of the Arms Export Control Act and the terms of Executive Order 11958, which gives authority to the Secretary of the Treasury to control imports of arms under the Arms Export Control Act, subject to foreign policy guidance from the Secretary of State.

- Q. What is the legal relationship if any between the 1994 effective ban on the importation of large capacity magazines and the 1989 ban on the importation of assault weapons?**
- A. The two bans are legally unrelated. The Gun Control Act of 1968 prohibits the importation of firearms unless they are "*generally recognized as particularly suitable for or readily adaptable to sporting purposes.*" In July 1989, ATF applied this statute to permanently ban from importation 41 models of semiautomatic assault rifles that did not meet the sporting purposes test. These included semiautomatic versions of machine guns, possessing military characteristics.
- Q. Have there been any exceptions made to the May 26, 1994 ban all imports of arms and ammunition from China?**
- A. Yes. Senator Craig sponsored an amendment (Sec. 609, Public Law 103-317), effective July 25, 1994, that prevented appropriated funds from being used to bar the importation of previously importable munitions from China that were *in transit* as of May 26, 1994.
- Q. Were any large capacity magazines imported from China under the Craig amendment?**
- A. Yes. 35,000. None came in after the Act's implementation, September 13, 1994.
- Q. Have there been any other exceptions made to the May 26, 1994 ban on imports of arms and ammunition from China?**
- A. The President can make specific one-time exemptions, or waivers, from the import ban, subject to guidance from the departments of State and Defense. Limited exemptions have been granted, in connection with DOD defense needs.

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Additional questions from Sen. Feinstein's staff, 4/1/97:

Q. What is the capacity of the clips imported under the Craig amendment?

Q. (?) What is the total number of rounds in these clips?

Q. What are the names of the manufacturers that exported these clips?