

FOIA MARKER

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Draft Executive Order - Assault Weapons Importation

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STATUS OF PROPOSED EXECUTIVE ORDERS
RE: ASSAULT WEAPONS IMPORTATION AND GUN DEALER LICENSING

ASSAULT PISTOLS

- We have a draft Executive Order/Presidential Memorandum which would suspend the importation of assault pistols and direct ATF to reassess the appropriateness of importation of these weapons under the sporting purposes test. We are ready to proceed with finalizing the EO immediately. Basically, the final step requires forwarding a draft to OMB for review and to coordinate an appropriate commenting procedure within the Administration. For example, the draft needs to be reviewed by the Justice Department and White House Counsel's Office.
- There is evidence that there has been a significant increase in the number of assault pistols found by police at crime scenes in recent years. The number of assault pistols imported into this country, however, is relatively small. Taking this action will provide Presidential leadership on this issue, but will not solve the problem by itself because it does not affect domestically-produced assault pistols. That would require legislation.
- Because any action taken in this area will be controversial and the likely subject of litigation, it is advisable to ensure that a full opportunity be extended for careful consideration and comment prior to issuance. OMB can expedite the process, but it has generally requested two weeks for the review and comment period.
- ATF is presently attempting to rework the sporting purposes factoring criteria to exclude assault pistol importation. ATF has indicated that there are definitional challenges and I am sure that they would appreciate as much time as possible to work on a solution prior to the issuance of an EO directing them to address the problem.

GUN DEALER LICENSING

- There are approximately 284,000 gun dealers licensed by ATF. One estimate puts the number of new applications at approximately 60,000 a year. A gun dealer's license essentially waives certain legal restrictions on the buying and selling of guns -- such as federal laws restricting interstate gun transactions -- that would normally apply.

- We have a draft Executive Order/Presidential Memorandum that generally calls for tougher enforcement of compliance requirements under present law. ATF has indicated that they are "largely in agreement with the proposals" contained therein. ATF's concerns are directed mostly at the availability of resources. We need to make some modest changes in the language based upon some of ATF's comments and allow ATF to have one more look at the draft. Otherwise, it is ready to forward to OMB for review and initiation of the comment process.

FOREIGN MILITARY SURPLUS WEAPONS

- ATF is concerned about the influx of surplus military weapons from other countries and appears motivated to address the problem. This can be done either legislatively or through Executive or administrative action.
- During the past six months almost 95,000 surplus military firearms were imported into the United States and pending permit applications would bring hundreds of thousands more into the country classified as curios and relics.
- ATF brought this problem to our attention so we need to add language to the original draft which would suspend the issuance of import permits of these weapons and direct ATF to reassess the "curio and relic" classification under which these weapons enter the country. Treasury/ATF has the power to do this as the statute delegates to the Secretary the power to define what qualifies as a curio or relic. The justification for the review would be the dramatic rise in importation of these weapons which is on its face inconsistent with the intent of the curio and relic classification.
- The present law permits importation as a relic or curio of any gun 1) over 50 years, or 2) if certified by the curator of a municipal, State, or Federal museum, or 3) with "evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less." Satisfying any one of these will suffice.
- One possible regulatory solution would be simply to drop the language that creates the presumption that old guns, based upon age alone, have value as curios and relics and require the importer to file a museum certification or proof of authentic value as a curio or relic with the import application.
- The timeframe for readying this for issuance is consistent with the assault pistol and gun dealer licensing initiatives.

INEXPENSIVE FOREIGN HANDGUNS

- During the past six months almost 25,000 of these semiautomatic handguns have been imported. Pending permits are estimated by the ATF to cover as many as 100,000 additional handguns. Many are essentially replicas of foreign military pistols and are permitted into this country under the sporting purposes test.

- ATF presently has the discretion to deny import permits to keep these weapons out as not qualifying under the sporting purposes test. The challenge is that very few handguns of any type are actually sporting pistols and ATF would have a difficult task trying to draw a reasonable line separating these "inexpensive handguns" from other handguns which are more generally viewed as acceptable for importation. It is a classic slippery slope problem. We need to get more feedback from ATF as to how they are progressing before we can estimate a timeframe for issuance. Issuing an EO prematurely could lead unnecessarily to legal problems and potentially embarrass the President.