

TO: PATTY
BRUCE
ELENA
KAREN

THE WHITE HOUSE
WASHINGTON

Office of Legislative Affairs

House Liaison

Fax Cover Sheet

FROM: JOSE
ASSAULTS
AMENDMENT
R'S ME MY INK
TO ADD TO
SUPPLEMENTAL
TODAY!

Date:

4/28

To:

Jose Wada

Fax Number:

6-7028

From:

Peter Jacoby
Special Assistant to the President
for Legislative Affairs

at (202) 456-6620

Comments:

FYT

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Number of pages including cover:

5

AMENDMENT NO. _____ Ex. _____ Calendar No. _____

Purpose: To prohibit the denial of the entry of certain firearms previously approved for entry in the United States under 18 U.S. C. §925(d)(3).

United States Senate

One Hundred Fifth Congress

of the

United States of America

at the Second Session

AMENDMENTS SUBMITTED

MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1998, AND FOR OTHER PURPOSES.

_____ AMENDMENT NO. _____

() Referred to the Committee on _____
and ordered to be printed.

() Ordered to lie on the table and to be printed.

Mr. _____ submitted an amendment to the bill H.R. _____, supra; as follows:

At the appropriate places and divisions indicated, insert the following:

TITLE _____--GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. ____ IMPORTATION OF CERTAIN FIREARMS.

Notwithstanding any other provision of law, none of the amounts appropriated or otherwise made available under this Act, or under any other provision of law, may be obligated or expended by a department, agency, or instrumentality of the United States to pay administrative expenses, or to compensate an officer or employee of the United States, to

In transit relief**Page 2**

deny or refuse entry into the United States of 1 or more firearms (as defined in section 921 of title 18, United States Code) of the type or model the subject of the Department of the Treasury "Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles" released on April 6, 1998, for which authority had been granted to import such firearms into the United States, on or before April 6, 1998, and which were, on or before April 6, 1998 in a bonded warehouse or foreign trade zone, in port, or, as determined by the United States on a case-by-case basis, in transit to a U.S. importer by any air, sea or land routings after having left the facility where they had been manufactured.

Report Language

SEC. ____ CERTAIN IN-TRANSIT RELIEF. The Secretary of the Treasury, pursuant to 18 U.S.C. § 925(d)(3), is charged by Congress to approve the importation of firearms into the United States for private ownership. If such firearms are determined to be for "sporting purposes." On November 14, 1997 the President signed an executive memorandum that immediately directed the Secretary of the Treasury to suspend the importation of all "modified assault weapons for 120 days while we study whether they can be permanently blocked from our borders and banned from our streets." On April 6, 1998 the Secretary of the Treasury, along with the President, announced the results of the Treasury study and the Treasury Secretary permanently banned the importation of all the gun types the subject of the study except for one firearms model.

The Committee strongly opposes the President's avowed intent to re-interpret the "sporting purposes" test in a narrow and obstructive manner to ban a new and very broad category of firearms imports well beyond the national policy established in 1994.

This Administration's action will put many of this country's importers out of business as a result of wrongly reinterpreting the "sporting purposes" test. Additionally, importers who have bought qualified firearms, but had not entered them into U.S. commerce before November 14, 1997, have no available remedy for property that now has no value, no re-export market, and may not be returned for a refund from overseas manufacturers.

Pending the work by the authorizing Committees on a provision that reverses the Treasury decision, this provision gives immediate relief and allows any goods that were detained at the U.S. border under suspended permits on or before April 6, 1998, to enter the commerce of the United States.

Brief summary of why in transit relief is needed-

Amendment No. _____ should be enacted based on the following reasons:

- **It is a matter of fairness.**

The amendment is being offered in the interests of simple fairness. The U.S. importers of those firearms and ammunition had no prior notice from the government of the President's action suspending permits on November 14, 1997. The current situation essentially constitutes a taking of the importers' private property.

- **It addresses only the inequities of the embargo.**

This amendment does not reverse or erode the Treasury order.

- **It is narrowly tailored.**

The amendment is intended to release these goods and allow them into the United States ONLY IF they were (on or before April 6, 1998) in transit, in port, in a foreign trade zone, or in bond, and the authority had been granted on or before April 6, 1998 to import these items into the United States. Goods already produced, contracted for, paid for, enroute, but not yet received are covered by this amendment.

In transit relief**Page 4**

- **The amendment is based on past precedent in similar situations.**

In the past, U.S. companies have been given notice or granted concessions for in-transit goods before such policy changes were implemented -- in order to minimize unnecessary financial harm and honor commercial relationships and agreements. In 1994, Congress granted in transit relief for a very similar situation for a sporting arms embargo the President imposed on China.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

April 29, 1998

The Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On February 2, 1998, the President requested critical funding for the International Monetary Fund and for overdue payments to the United Nations that are in the best interest of our national security and our economy. On March 3, 1998, the President requested emergency funding for our troops in Bosnia and Southwest Asia and to ensure the readiness of our military forces worldwide. On March 3 and March 24, 1998, in response to natural disasters in many States, he requested emergency funding to provide assistance to the victims of those disasters.

As the conferees continue to meet in an effort to complete action on H.R. 3579, Emergency Supplemental Appropriations, FY 1998, I want to stress the importance of producing a clean bill that the President can sign. Regrettably, it is our understanding that, rather than narrowing our differences over the President's requests, the conferees are considering adding a number of provisions that are objectionable and extraneous.

It would be disappointing and disturbing if our ability to provide assistance to disaster victims, to support readiness and our troops in Bosnia and Southwest Asia, and to meet our international responsibilities, were held hostage to partisan politics in the Congress. It is our understanding that the conferees are not approving in this legislation two of these critical requests and are considering several objectionable and extraneous provisions.

It is imperative that the conferees approve requested funding for the International Monetary Fund and United Nations arrearage payments. The Senate approved the IMF funding by a vote of 84-16. The conferees are strongly urged to approve the IMF funding with workable terms and conditions. Delay could leave us unable to protect American workers, farmers and businesses in the event of an escalation or spread of the Asian financial crisis or a new crisis. The conferees are also strongly urged to approve UN funding, without linkage to international family planning issues, so that we do not jeopardize our chance to affect negotiations, starting in May, on lowering U.S. dues. Inaction would undermine U.S. leadership in the international community.

In addition, the Administration strongly urges the conferees to reject objectionable and extraneous issues such as:

- o a provision that could allow as many as 600,000 modified Uzis, AK-47s and other assault-type rifles to be imported into the country;
- o excessive student interest rate bank subsidies that could result in reductions in the discretionary funding levels agreed to in the in the bipartisan budget agreement. Offsets from the Defense Stockpile would violate the bipartisan budget agreement and take funds that would be used to support readiness;
- o an effort to break up the Agriculture Research Conference Report by approving crop insurance reform and the Food Stamp administrative offset, with no funding for Food Stamps benefits for vulnerable legal immigrants;
- o several environmental riders (a provision to build a highway through the Petroglyph National Monument, a provision concerning new road construction in our national forests and a new provision that would promote development along the Florida coastal barrier);
- o a provision requiring prior congressional authorization before offensive operations against Iraq can be conducted. While the Administration recognizes that this is an area of congressional concern and will consult with Congress if further military action becomes necessary, such a provision would seriously undermine the President's ability to carry out his responsibility as Commander-in-Chief and to conduct U.S. foreign relations effectively;
- o unnecessary reductions to assisted housing programs in order to pay for emergency disaster assistance; and
- o other extraneous issues that may be considered out of the scope of the conference.

If this wide range of extraneous issues is included in the bill, while not funding IMF and UN, the President's senior advisers would recommend that he immediately return the bill to the Congress without his approval. I urge the conferees to produce a bill that the President can sign.

Sincerely,



Franklin D. Raines
Director

Identical Letter Sent to The Honorable Bob Livingston, The Honorable David Obey,
The Honorable Ted Stevens, and The Honorable Robert C. Byrd

Amendment to Allow Importation of Large Capacity Military Magazine Rifles

- The proposed amendment would allow importers to bring in Large Capacity Military Magazine Rifles (LCMM Rifles) that *left the factory door* in foreign countries before announcement of the import ban on April 6, 1998.
- This exemption potentially covers 600,000 firearms of the 1.6 million firearms covered by the April 6 ban.
- Proponents of opening the door to assault weapons argue that it is the fair thing to do, because businesses made decisions based on the permits granted. They also argue that this is no different than the exemption that Congress carved out in 1994, when a similar amendment permitted assault weapons from China to be imported after the Chinese munitions embargo, if they were on the high seas.
- The exemption is not only *the wrong thing to do*, it is *not required by fairness considerations*, and it could *potentially destroy the public health and safety benefits* that the April 6 ban brings to our country.
- It is the wrong thing to do because the weapons we are talking about are large capacity military magazine rifles. These assault style weapons have the capacity to take magazines with more than 10 rounds. They can shoot a large number of rounds within a very short time without manually reloading, a capacity that makes them attractive to criminals and is a non-sporting purpose.
- We can confirm that this exemption would allow in thousands of AK47s. But for the Treasury decision, approximately 1,900 AK47 type weapons made in Romania would already have entered commerce and made their way to our streets. Approximately 100 HK type receivers made in Portugal would already have gained entry and be threatening our communities.
- There is nothing unfair about keeping these assault style weapons out. Importers did not learn of this overnight. Treasury put every single importer on official notice by overnight letter in November 1997 that the permits were being suspended, and were going to remain suspended during a review planned to be completed in 120 days, after which they could be permanently revoked. Importers were specifically told in this letter this action was being taken "*in consideration of the public health and safety*," and pursuant to the sporting purposes standard.
- This is very different from 1994, when the Administration placed an embargo on munitions from China. This was announced without advance notice.
- Moreover, the terms of the proposed amendment -- that the rifles could be *in transit from the factory door* by a certain date -- could well be *unverifiable* by ATF. It is difficult and sometimes impossible to verify the authenticity of foreign manufacture and export

documents. This is especially true since often gun exports involve *two foreign countries* - manufacture in one foreign country, and shipment to and export from a second foreign country to the U.S. This pile-up of foreign documents that cannot be verified is an invitation to fraud, all in the name of making it easier for assault style weapons to enter this country.

- There is nothing fair or just about trying to undo a policy that will save lives. The purpose of the Treasury review in the first place was to determine if imported assault style weapons were really meeting sporting purposes test, or whether "sporterization" was being used to permit large capacity military magazine rifles to once again enter the U.S.

If proponents of the Craig amendment argue that there are two importers (with AK47s and HK receivers) that have approximately 2000 LCMM rifles in warehouses here under Customs bond, and that the notice received by importers was not received in time to stop shipment:

- There is nothing fair or just about undoing a policy the whole purpose of which was to stop importers from bringing in LCMM rifles under the cover of so-called sporterization when these are really assault style weapons.
- Quite obviously, the gun importers recognized this problem and our concerns very early, because by the end of September and the beginning of October, there was a huge run-up in import applications to ATF, applications for a total of 1.4 million assault style weapons. Importers were clearly responding to their own assessment that there could well be a permanent ban but they were hoping to find a way through or around that possibility through some kind of special treatment for assault style weapons.
- This behavior on the part of the gun importers, to try to anticipate the possibility of a loophole within a policy the obvious purpose of which is to protect the public from non-sporting weapons, should not be rewarded.

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Sincerely,



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Director

Identical Letter Sent to The Honorable Bob Livingston, The Honorable David Obey,
The Honorable Ted Stevens, and The Honorable Robert C. Byrd

Amendment to Authorize the Importation of Certain Modified Semiautomatic Assault Rifles

- The proposed amendment would allow the importation of semi-automatic assault rifles that accept large capacity military magazines (those accepting magazines of more than 10 rounds of ammunition). This directly contravenes the Secretary of the Treasury's decision of April 6, 1998 to ban the importation of these weapons.
- The weapons covered by the Secretary's decision include: AK-47s; Uzis; and 3 other designs of sporterized military-style assault rifles.
- The Secretary's decision was the right one. These weapons have no legitimate sporting purpose and are attractive to criminals who want to shoot a large number of rounds within a very short time.
- What this amendment would do is potentially allow 600,000 of these firearms into the U.S.
- According to the Customs Service, there are 2135 of these rifles that are in bonded warehouses in New York and Baltimore.
- Letting any of these weapons into the U.S. would be a serious mistake. It would make our streets more dangerous while not further any legitimate sporting purpose.
- There is no way to estimate the precise number of such firearms "in transit" to a U.S. importer from a foreign manufacturer. Moreover, even if the underlying reasons for this amendment were sound (which they are not), there are practical realities which make it unworkable. For example, advance manifests provided to Customs only list merchandise generically, as guns or firearms, without listing the specific types.
- The current situation is substantially different from than that at the time of the Craig amendment in 1994. In this situation the importers have had 5 months in which to assess risks and make any adjustments in their plans.
- Proponents are saying that the amendment only involves about 5,000 weapons. We have no way of verifying this information. While we know there are currently some 2100 in bonded warehouses, we have no way of

knowing how many are in transit from the manufacturers—especially as “in transit” is defined in the amendment.

- In the case of the Craig amendment, for example, proponents argued at the time that the numbers of weapons importable from China were small. The actual number approved for importation turned out to be 159,000 assault weapons.
- I don't think we should let in 2100 of these assault rifles, much less take the risk that the number would be far greater.
- In addition, in 1994 the order involved firearms from a single country, the PRC, whereas at least 13 countries are involved with the current permits.
- The Administration strongly opposes the adoption of this amendment.

PROPOSED APPROPRIATIONS AMENDMENT TO ALLOW THE IMPORTATION OF CERTAIN MODIFIED SEMIAUTOMATIC ASSAULT RIFLES

I. Proposed Amendment

The proposed amendment would require ATF to allow, under certain conditions, the importation of those firearms that were determined to be non-importable in the Treasury Department's "Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles" (April 6, 1998).

- Relief would be provided if (1) ATF had approved the importation of such firearms on or before April 6, 1998 and (2) such firearms were, on or before April 6, 1998, in a foreign trade zone, in a bonded warehouse, in a port, or if such firearms were in transit to an importer in the United States by any air, sea, or land routings after departure from the manufacturing facility.
- The amendment would potentially affect 600,000 firearms because ATF had approved permits to import this number prior to Nov. 14, 1997. Approximately ~~2000~~ 2160 subject firearms were in bonded warehouses.

II. Comparison to Craig Amendment

- The proposed relief provision is similar to the so-called Craig Amendment enacted in 1994 after the President imposed a ban on munitions from China. The Craig Amendment provided similar relief except it did not provide relief for articles that had merely left the manufacturer's premises. Under Craig, the articles must have left port in the Peoples Republic of China (PRC) consigned to an importer in the United States on or before May 26, 1994 (the date of the announced ban).
- As evidence of departure from the PRC, ATF generally required that importers submit a sales contract, packing list, and a bill of lading (or air freight bill). ATF also required additional evidence to corroborate that the vessel departed the PRC on the laden on board date indicated on the bill of lading.
- ATF encountered numerous problems in establishing in transit status. Establishing corroboration often required credibility determinations. Further, many articles were routed through third countries and it was difficult to determine whether such items were "in transit" to the U.S. or were merely in storage.

- ATF encountered several other problems in implementing the Craig Amendment. First, importers applied for relief for nearly 1.5 million firearms. (In the end, only 159,000 firearms were approved for importation under the Craig amendment). Secondly, importers often submitted incomplete applications without the necessary supporting documentation. Finally, since the Craig amendment did not define a specific time limit for submitting completed applications, importers were allowed to submit them for as long as the appropriation was in effect. Due to continuing resolutions, the Craig Amendment was in effect from August 26, 1994, until April 25, 1996.

III. Difficulties in Administering the Proposed Amendment

- In accordance with the above, the Craig Amendment imposed significant administrative burdens on ATF. The proposed amendment, as currently drafted, would be even more difficult to enforce, since it extends "in transit status" to any firearms that have left their manufacturing facilities en route to a U.S. importer.
- It will be impossible to estimate the number of firearms that will be alleged to have left manufacturing facilities in foreign countries for export to the United States on or before April 6, 1998.
- Given the number of countries involved, ATF would have serious problems in determining which commercial documents would establish in transit status. The risk of departure date falsification would be much greater with the small transportation carriers taking firearms directly from the manufacturing facilities within a foreign country than with shipping lines and air carriers that do business internationally.
- Even if the companies at issue are not state owned or sponsored, as in the PRC, making credibility determinations on these foreign documents could easily offend foreign governments.
- Accordingly, the proposed amendment as currently drafted would present difficulties in administration, and could potentially create a large loophole that could seriously weaken the ban.