

# Withdrawal/Redaction Sheet

## Clinton Library

| DOCUMENT NO.<br>AND TYPE | SUBJECT/TITLE                                                       | DATE       | RESTRICTION            |
|--------------------------|---------------------------------------------------------------------|------------|------------------------|
| 001. memo                | Jose Cerda to Martha Foley re: Update on Gun Imports (4 pages)      | 10/12/1994 | P1/b(1)                |
| 002. fax                 | Russian Firearm Imports (2 pages)                                   | 09/23/1994 | P1/b(1)                |
| 003. paper               | re: Importation of Munitions (4 pages)                              | 00/00/0000 | P1/b(1)                |
| 004. fax                 | re: Firearms Imports - Options (2 pages)                            | 10/07/1994 | P1/b(1)                |
| 005. fax                 | Deborah E. Graze to Andy Sens et al re: Munitions Imports (5 pages) | 10/01/1994 | P1/b(1)                |
| 006. list                | re: list of names (1 page)                                          | 00/00/0000 | P3/b(3), b(7)(C), b(6) |
| 007. list                | DOBs [Personally Identifiable Information] (1 page)                 | 00/00/0000 | b(6)                   |

### COLLECTION:

Clinton Presidential Records  
Domestic Policy Council  
Jose Cerda  
OA/Box Number: 5875

### FOLDER TITLE:

Russian/Chinese Guns [2]

2016-0931-S

rc2351

### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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March 24, 1994

**MEMORANDUM:**

**TO:** Jose Cerda

**FROM:** Bill McDonnell  
Rebecca Hedlund

**SUBJECT:** Limitations on Firearms Imports

**BACKGROUND/ANALYSIS:**

In light of the current flood of surplus military and other inexpensive firearms pouring into the U.S., we have been looking at ways to address these imports. A number of recent news stories have highlighted the fact that in 1993, 3,043,000 firearms were imported into the United States, up from 700,000 in 1991. As you know, Treasury is responsible for the administration and enforcement of the importation provisions of the Gun Control Act of 1968 (GCA) and the Arms Export and Control Act (AECA), therefore any White House policy decision to reduce these imports will either involve or affect Treasury.

**I. Volume of Firearms Imports**

Prior to 1968, the U.S. was the dumping ground for inexpensive surplus military firearms and cheap "Saturday Night Special" type handguns. As firearms import levels rose to 1.2 million in 1967, Congress responded with the GCA, which banned the import of all surplus military firearms, and permitted the import of non-military firearms only to the extent that the weapons were designed to meet a "sporting purpose." The "sporting purpose" test effectively stopped the importation of cheaply made, easily concealable handguns that were the crime guns of the day.

The AECA, which pre-dates the GCA, moderated the volume of firearms imports in the late 1960's. Pursuant to the AECA, firearms trading with specific countries designated by the State Department ("list of proscribed countries") was prohibited. Among the nations from whom firearms imports were precluded were China and the nations of eastern Europe.

In recent years, however, several factors have combined to once again make the U.S. a potential dumping ground for cheap weapons from around the world.

In 1984, Congress amended the GCA to allow surplus military firearms to be imported if the weapons fit within the category of "curios or relics." The sponsors of the legislation intended that this change would apply only to a few rare collectable

U.S. international obligations might permit restriction on imports of weapons under a national security exception. This exception would be more difficult to justify where the goods involved are sporting in nature and available from domestic production or other foreign sources. For suppliers who are members of the GATT (most eastern European countries), some potential exists that retaliation against our exports would be authorized, although this would take some time. This risk would be increased if the restraint were applied on a discriminatory basis. China and members of the former Soviet Union, with whom we have only bilateral agreements, would have the right only to consultations, but could unilaterally retaliate if they so decided.

Treasury could attempt to limit the volume of inexpensive firearms imports through a regulatory change in the definition of "sporting purpose". However, the sporting purpose test has been made about as restrictive as can be justified from a technical point of view. To the extent that the inexpensive rifles and handguns being manufactured in China and elsewhere pose a crime problem, it is generally a function of their availability in large quantities at low cost, rather than their particular design or purpose. The design and performance features meet reasonable standards for use in sporting activities. Moreover, it is likely that China and other importing manufacturers would simply adjust their design to respond to any further modification of the sporting purpose requirement.

Treasury also could attempt to restrict further the import of surplus military firearms by redefining the regulatory definition of "curios or relics." The "50 year rule" which defines as an exempt "curio or relic" every firearm more than 50 years old, is arguably broader than is necessary. Prior to the 1984 amendment to the GCA, which allowed the import of these surplus military weapons, the only significance to a "curio and relic" classification was that licensed collectors could acquire these firearms interstate. Under this scheme, the broad definition served only to provide a very limited benefit to licensed collectors. As an importation standard, however, this expansive definition of "curios and relics" has a very significant effect. Contrary to the stated Congressional intention of allowing the import of curios and relics for collectors, most surplus military firearms being imported are not of collector quality, and are not being imported for sale to licensed collectors.

One potential redefinition of "curios and relics" would change the 50 year rule to a fixed date. For example, the regulation might be amended to define as curios and relics firearms manufactured prior to 1934 (the same effective date at the time the 50 year rule was initially adopted.) Treasury should recognize that any restriction of the curios and relics exemption will almost certainly be controversial. Moreover, while it would likely reduce the flow of surplus military weapons, such an amendment would not address the issue of all high volume imports because it would have no effect on the import of non-military firearms currently being imported under the "sporting purposes" exception.

It appears that State has authority under the AECA to continue to restrict the importation of surplus military and other inexpensive firearms. Treasury officials have suggested to State Department officials that State maintain firearms importation restrictions on certain eastern European countries and reimpose restrictions on other nations, including China and Poland, that have been removed from the list. Understandably, State is reluctant for foreign policy reasons to maintain or reinstate these countries on the proscribed list. State officials have offered to delay action on individual import applications forwarded by ATF for advice and clearance, but have stated that limitation of firearms imports is essentially a domestic problem that Treasury should address through its regulatory authority and, if necessary, through legislative amendments to the GCA.

To the extent that issues such as world peace, national security, and foreign policy concerns can be used to address the firearms importation issue, Treasury may be able to avoid making the import limitations strictly a "gun control issue." Accordingly, in recent meetings we have attempted to identify grounds under which State might be persuaded to assert its AECA authority. For example, it can be argued that it is contrary to the security interests of the U.S., and U.S. interest in world peace, for the U.S. to support and encourage the small arms production segment of the Chinese economy. Moreover, since the U.S. is the major firearms consuming nation in the world, any action opening up the U.S. market to foreign firearms has a major impact on small arms trafficking throughout the world.

Should the State Department refuse to use its authority pursuant to the AECA to limit the importation of firearms, the President could direct Treasury to restrict the importation of firearms under circumstances he might specify. The AECA grants the authority to restrict firearms importation directly to the President, and State's authority to do so arises from Presidential Executive Order No. 11958. The AECA authorizes the President to regulate importation in the interests of world peace, security, and foreign policy, and the President could direct Treasury to restrict firearms imports based on any of these interests.

### III. Conclusion

You have indicated that there is strong White House interest in issuing a press announcement in early April describing the problems with high volume firearms imports, and stating that importations of surplus military and inexpensive firearms are being temporarily banned pending a study by the Treasury and State Departments. It appears that based on foreign policy concerns and the President's authority under the AECA, a temporary ban could be justified.

**RESTRICTIONS ON THE IMPORTATION OF DEFENSE ARTICLES  
FROM CHINA**

On May 26, 1994, the President decided to impose a ban on the import of munitions from China. To implement this decision, Secretary of State Warren Christopher advised the Secretary of the Treasury, by letter dated May 28, 1994, that, under the authority of section 38 of the Arms Export Control Act (AECA) and Executive Order 11958, imports of defense articles from China are prohibited.

The AECA provides that, in furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and export of defense articles, to designate those items which shall be considered as defense articles, and to promulgate regulations for the import and export of such articles. See 22 U.S.C. § 2778.

By Executive Order 11958, January 18, 1977, 42 FR 4311, the functions conferred upon the President by section 38 of the AECA were delegated to the Secretary of State, except that the Secretary of the Treasury was delegated the authority to control the import of defense articles. The Executive Order provided that the Secretary of the Treasury is to be guided by the Secretary of State on matters affecting world peace and the external security and foreign policy of the United States. Changes in designations of items as defense articles by the Secretary of the Treasury are required to have State Department concurrence. The authority of the Secretary of the Treasury over these imports was further delegated to the Bureau of Alcohol, Tobacco and Firearms in 27 C.F.R. Part 47.

As provided in Part 47, the lawful importation of defense articles, as listed on the U.S. Munitions Import List, requires an approved import application on ATF Form 6. In light of Secretary Christopher's letter, ATF is denying all new applications for permits to import defense articles from China.

Section 47.44(a) of the regulations provides that permits issued under Part 47 may be denied, revoked, suspended, or revised without prior notice whenever the Director finds the proposed importation to be inconsistent with the purpose or in violation of section 38 of the AECA. In view of the foreign policy determination of the Secretary of State that importations of defense articles from China should be

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prohibited, ATF is also taking action to revoke outstanding permits. This action is based on finding that the proposed importation of articles from China covered by existing permits would be inconsistent with the purpose or in violation of section 38 of the AECA.

Pursuant to 27 C.F.R. § 47.44(c), within 30 days after receipt of the revocation decision, permit holders may make a written request for an opportunity to present additional information and to have a full review of their case by the Director. In addition, ATF's letter revoking outstanding permits invited importers seeking exceptions from the importation prohibitions on defense articles from China should submit a Form 6 application to the Firearms and Explosives Imports Branch along with an explanation of why the importation should be allowed.

Under this procedure, it is expected that new Form 6's will be approved for articles that had already arrived in the U.S. prior to May 28, even if they were still in Customs or a Foreign Trade Zone at the time the policy change became effective. ATF expects to receive application for new Form 6's covering articles that were in transit at the time the policy change took effect, and arrived in the U.S. shortly thereafter. ATF will act on applications to import these articles only after consultation with the State Department. At this point in time ATF does not know the exact numbers of firearms and ammunition in these categories. The purpose of requiring new form 6 applications is so that ATF will have all of the pertinent facts and circumstances before final decisions are made effecting these articles.

THE WHITE HOUSE

WASHINGTON

May 18, 1994

**MEMORANDUM FOR MACK MCLARTY**

**FROM: RAHM EMANUEL  
BRUCE REED**

**SUBJECT: Importation of Chinese Firearms and MFN**

Recent news stories have highlighted the fact that in 1993, more than 3 million military surplus and other inexpensive firearms were imported into the U.S. --up from 700,000 in 1991. The majority of these weapons are from China and many have been characterized by the press as assault weapons, although they are not. For some months now, we have been working with the Departments of Treasury and State to find ways to address this issue. However, we have come to no resolution, and the issue is sure to come up in the context of the President's decision to continue Most Favored Nation (MFN) trading status for China

**I. BACKGROUND**

Prior to 1968, the U.S. was the dumping ground for inexpensive surplus military firearms and cheap "Saturday Night Special" type handguns. As firearms import levels rose to 1.2 million in 1967, Congress responded by passing the Gun Control Act of 1968 (GCA), which banned the import of all surplus military firearms and permitted the import of non-military firearms only to the extent that such weapons were designed to meet a "sporting purpose." The "sporting purpose" test stopped the importation of cheaply made, easily concealable handguns that were the crime guns of the day.

The Arms Export and Control Act (AECA), which pre-dates the GCA, moderated the volume of firearms imports in the late 1960s. Pursuant to the AECA, firearms trading with specific countries designated by the State Department's proscribed list -- such as China, South Africa, Vietnam and the nations of Eastern Europe -- was prohibited.

In recent years, however, several factors have combined to once again make the US a potential dumping ground for cheap weapons from around the world.

First, in 1984, Congress amended the GCA to allow surplus military weapons to be imported if the weapons fit within the category of "curios and relics." This amendment originally applied to only a few rare collectibles that were more than 50 years old. But in 1994, virtually all World War II surplus military firearms are eligible for this exemption.

Second, as trade with China and Eastern European countries has opened, these nations have been removed from the State Department's proscribed list, lifting the restrictions against

arms importation under the AECA. As a result, large quantities of surplus military rifles and handguns are being imported and sold in the U.S., often at prices below \$100. China, and to a lesser extent Eastern European countries, are apparently converting their military firearms industry to produce civilian firearms for sale in the U.S. Over 300,000 SKS semiautomatic rifles, which sell for about \$100, were imported from China in 1993. China has also begun exporting a 9mm semiautomatic pistol selling in the \$100 price range.

## **II. RECOMMENDATION**

Prior to the House vote in support of an assault weapons ban, we had pushed Treasury and State to come to agreement on what could be done about the gun importation issue. However, with the assault weapons ban shaping up to be one of the defining issues in the crime bill conference, announcing any new gun control initiatives will jeopardize the crime bill. **Thus, we would strongly recommend that the restrictions on the import of Chinese firearms be addressed in the context of the pending MFN decision.**

Banning Chinese gun imports in the context of MFN minimizes the impact of this issue on the crime bill -- and, in our opinion, makes the most sense. We believe that to the extent that gun imports impact on world peace, national security and foreign policy concerns, State has authority to restrict their importation. For example, it can be argued that it is contrary to the security interest of the U.S. -- and U.S. interest in world peace -- to support and encourage the small arms production segment of the Chinese economy. Moreover, since the U.S. is the major firearms consuming nation in the world, any action opening up the U.S. market to foreign firearms has a major impact on small arms trafficking throughout the world.

State has already suggested amending the AECA's regulations (the International Trafficking in Arms Regulations, or ITAR) to cut-off Chinese imports, but is reluctant to pursue these changes as a pure foreign policy matter. They would prefer to act jointly with Treasury -- separate from MFN -- and de-emphasize the foreign policy link. However, we agree with Treasury that State, as part of its MFN strategy, can most effectively accomplish our goal of restricting Chinese gun imports.

Treasury would prefer not to act on this issue, but recognizes that we may not have a choice in the matter. Rep. Ed Markey, who has already met with representatives from Treasury and State, is threatening to launch a media campaign on this issue and pursue restrictions on the importation of Chinese firearms as part of any legislative package in response to our final MFN policy.

**If a decision on MFN is imminent -- and that decision is likely to include some type of restrictions on China -- we need your help to get State and Treasury to agree on what type of importation restriction is appropriate and get such a restriction immediately included as part of the debate to grant or not grant MFN to China.**

cc: Carol Rasco  
Bob Rubin  
Tony Lake

# Withdrawal/Redaction Marker

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| DOCUMENT NO.<br>AND TYPE | SUBJECT/TITLE                                                  | DATE       | RESTRICTION |
|--------------------------|----------------------------------------------------------------|------------|-------------|
| 001. memo                | Jose Cerda to Martha Foley re: Update on Gun Imports (4 pages) | 10/12/1994 | P1/b(1)     |

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est) shall be transferred to the miscellaneous receipts of the Treasury.

(c) <sup>152</sup> Notwithstanding the provisions of subsection (b), to the extent that any of the funds constituting the reserve under section 24(c) are paid out for a claim arising out of a loan guaranteed under section 24, amounts received from a foreign government or international organization after the date of such payment, with respect to such claim, shall be credited to such reserve, shall be merged with the funds in such reserve, and shall be available for any purpose for which funds in such reserve are available.

Sec. 38. <sup>153</sup> Control of Arms Exports and Imports.—(a)(1) In furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

(2) Decisions on issuing export licenses under this section shall be made in coordination with the director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether the export of an article will contribute to an arms race, support international terrorism, <sup>154</sup> in-

<sup>152</sup> Subsec. (c) was added by sec. 104(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533; 94 Stat. 3133).

<sup>153</sup> 22 U.S.C. 2778. Sec. 38 was added by sec. 212(a)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 744). Sec. 212(b) of the same Act repealed sec. 414 of the Mutual Security Act of 1954 and stated that any reference to sec. 414 would be considered as a reference to sec. 38 of the Arms Export Control Act.

On August 2, 1990, the Department of State revoked "all licenses and approvals to export or otherwise transfer defense articles and defense services to Iraq pursuant to section 38 of the Arms Export Control Act. All such licenses and approvals with respect to Kuwait are suspended." (Department of State, Bureau of Political-Military Affairs, Public Notice 1238; 55 F.R. 31808).

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 2012, 2026), provided the following:

"NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

"Sec. 532. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least fifteen days in advance.

"(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country."

"TURKISH AND GREEK MILITARY FORCES ON CYPRUS

"Sec. 560. Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section."

<sup>154</sup> Sec. 3(a) of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101-222; 103 Stat. 1896) inserted "support international terrorism" at this point.

*Pres: don't  
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# **List of Subjects in 17 CFR Part 30**

Commodity futures, Consumer protection, Fraud.

Issued in Washington, DC, on August 4, 1994.

Jean A. Webb,  
Secretary of the Commission.

Accordingly, Chapter I of Title 17 of the CFR is amended as set forth below:

## **PART 30—FOREIGN FUTURES AND FOREIGN OPTIONS TRANSACTIONS**

1. The authority citation for part 30 continues to read as follows:

**Authority:** 7 U.S.C. 1a, 2, 4, 6, 6c and 12a, unless otherwise noted.

2. Appendix A to part 30 is amended by adding a new center heading and listing at the end of the appendix to read as follows:

**Appendix A to Part 30—Interpretative Statement With Respect to the Commission's Exemptive Authority Under § 30.10 of its Rules**

*Marketing Activities by Firms Granted Rule 30.10 Relief*

FR date and citation: November 3, 1992, 57 FR 49644; August 17, 1994, 59 FR [insert FR page number].

[FR Doc. 94-19437 Filed 8-16-94; 8:45 am]  
BILLING CODE 6351-01-P

## **DEPARTMENT OF STATE**

### **Bureau of Political-Military Affairs**

#### **22 CFR Part 126**

[Public Notice 2050]

#### **Amendment to the International Traffic in Arms Regulations**

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State is amending the International Traffic in Arms Regulations (22 CFR parts 120-130) (ITAR) to reflect that it is no longer the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in South Africa. The regulations are also amended to add Rwanda to the list of states for which such a policy of denial is in effect. A new provision is added to indicate that whenever the United Nations Security Council imposes an arms embargo, all transactions which involve defense articles and services and which are prohibited by the embargo are prohibited under the ITAR.

**EFFECTIVE DATE:** August 17, 1994.

**FOR FURTHER INFORMATION CONTACT:** Dean A. Rogers, Office of Export Control Policy, Bureau of Political-Military Affairs, Department of State (202-647-4231).

**SUPPLEMENTARY INFORMATION:** The Department of State is amending § 126.1(a) and striking § 126.1(c) of the ITAR to reflect that it is no longer the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and services, destined for or originating in South Africa. With respect to South Africa, all requests for licenses or other approvals involving items covered by the U.S. Munitions List (22 CFR part 121) will now be reviewed on a case-by-case basis. This policy change was announced in a notice published at 59 FR 31667 on June 20, 1994.

The arms export embargo on South Africa was imposed by the U.N. Security Council in Resolution 418 of November 4, 1977. An arms import embargo was called for by Security Council Resolution 558 of December 13, 1984. The Security Council terminated both embargoes in U.N. Security Council Resolution 919 of May 25, 1994. The Council's actions follow the first all-race multiparty election and the establishment of a democratic South African Government inaugurated on May 10, 1994.

Section 126.1(a) is also amended to add Rwanda to the list of countries with respect to which the United States maintains an arms embargo. It is the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and services, destined for or originating in Rwanda. This policy was announced in a notice published at 59 FR 28563 on June 2, 1994. This policy and amendment implement U.N. Security Council Resolution 918 of May 17, 1994, which requires all states to prevent the sale or supply to Rwanda of arms and related material, and Executive Order 12918 of May 26, 1994.

Licenses and approvals subject to the South Africa and Rwanda policies include manufacturing licenses, technical assistance agreements, technical data, and commercial military exports and reexports of any kind involving these countries under the authority of the Arms Export Control Act.

A new section 126.1(c) is added to indicate that whenever the United Nations Security Council mandates an arms embargo, all transactions which are prohibited by the embargo and which involve U.S. persons anywhere,

or any person in the United States, and defense articles and services of a type enumerated on the United States Munitions List (22 CFR part 121), irrespective of origin, are prohibited under the ITAR for the duration of the embargo, unless the Department of State publishes a notice in the **Federal Register** specifying different measures. This would include, but is not limited to, transactions involving trade by U.S. persons who are located inside or outside of the United States in defense articles and services of U.S. or foreign origin which are located on U.S. territory or elsewhere.

This amendment involves a foreign affairs function of the United States. It is exempt from review under Executive Order 12866 but has been reviewed internally by the Department to ensure consistency with the purposes thereof. It is also excluded from the procedures of 5 U.S.C. 553 and 554.

Accordingly, for the reasons set forth in the preamble, and under the authority of section 38 of the Arms Export Control Act (22 U.S.C. 2778) and Executive Order 11958, as amended 22 CFR Subchapter M is amended as follows:

## **PART 125—GENERAL POLICIES AND PROVISIONS**

1. The authority citation for part 126 is amended to read as follows:

**Authority:** Secs. 2, 39, 40, 42, and 71, Arms Export Control Act, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 41 FR 4311; E.O. 11322, 32 FR 119; 22 U.S.C. 2658; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205.

2. Section 126.1 is amended by revising paragraphs (a) and (c), as follows:

### **§ 126.1 Prohibited exports and sales to certain countries.**

(a) General. It is the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in certain countries. This policy applies to Armenia, Azerbaijan, Belarus, Cuba, Georgia, Iran, Iraq, Kazakhstan, Kyrgyzstan, Libya, Moldova, Mongolia, North Korea, Russia, Syria, Tajikistan, Turkmenistan, Ukraine, Uzbekistan and Vietnam.

This policy also applies to countries with respect to which the United States maintains an arms embargo (e.g., Burma, China, Haiti, Liberia, Rwanda, Somalia, Sudan, the former Yugoslavia, a Zaire) or whenever an export would no otherwise be in furtherance of world peace and the security and foreign

policy of the United States. Comprehensive arms embargoes are normally the subject of a State Department notice published in the **Federal Register**. The exemptions provided in the regulations in this subchapter, except §§ 123.17 and 125.4(b)(13) of this subchapter, do not apply with respect to articles originating in or for export to any proscribed countries or areas.

(c) Exports and sales prohibited by United Nations Security Council embargoes. Whenever the United Nations Security Council mandates an arms embargo, all transactions which are prohibited by the embargo and which involve U.S. persons anywhere, or any person in the United States, and defense articles and services of a type enumerated on the United States Munitions List (22 CFR part 121), irrespective of origin, are prohibited under the ITAR for the duration of the embargo, unless the Department of State publishes a notice in the **Federal Register** specifying different measures. This would include, but is not limited to, transactions involving trade by U.S. persons who are located inside or outside of the United States in defense articles and services of U.S. or foreign origin which are located inside or outside of the United States.

Dated: August 9, 1994.

Lynn E. Davis,

*Under Secretary for Arms Control and International Security Affairs.*

[FR Doc. 94-20218 Filed 8-16-94; 8:45 am]

BILLING CODE 4710-25-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

24 CFR Parts 880, 881, 882, 883, 884, 886, and 889

[Docket No. R-94-1671; FR-3122-C-04]

### Preferences for Admission to Assisted Housing; Correction

AGENCY: Office of the Secretary, HUD.  
ACTION: Final rule; correction.

**SUMMARY:** This document makes corrections to a final rule that was published in the **Federal Register** on July 18, 1994 (59 FR 36616), that revised the tenant selection preference provisions of regulations of several project-based assisted housing programs.

**EFFECTIVE DATE:** August 17, 1994.

### FOR FURTHER INFORMATION CONTACT:

Barbara D. Hunter, Acting Director, Planning and Procedures Division, Office of Multifamily Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, (202) 708-3944 (voice); (202) 708-4594 (TDD). (These are not toll-free numbers.)

Accordingly, FR Doc. 94-16886, a final rule published in the **Federal Register** on July 18, 1994 (59 FR 36616), is corrected to read as follows:

### § 880.613 [Corrected]

1. On page 36624, in the second column, § 880.613, the last sentence of paragraph (c)(1)(i), the phrase "a mixed population project, the owner will" is corrected to read "an elderly project, the owner may"; and the phrase "(see subpart D of this part)" is corrected to read "(see § 880.612a)".

### § 881.613 [Corrected]

2. On page 36628, in the second column, § 881.613, the last sentence of paragraph (c)(1)(i), the phrase "a mixed population project, the owner will" is corrected to read "an elderly project, the owner may"; and the phrase "(see subpart D of this part)" is corrected to read "(see § 881.612a)".

### § 882.517 [Corrected]

3. On page 36632, in the second column, § 882.517, paragraph (c)(1)(i) is corrected by removing the last sentence.

### § 883.714 [Corrected]

4. On page 36635, in the third column, § 883.714, the last sentence of paragraph (c)(1)(i), the phrase "a mixed population project, the owner will" is corrected to read "an elderly project, the owner may"; and the phrase "(see § 883.704a)" is inserted before the period at the end of the paragraph.

### § 884.226 [Corrected]

5. On page 36639, in the second column, § 884.226, the last sentence of paragraph (c)(1)(i), the phrase "a mixed population project, the owner will" is corrected to read "an elderly project, the owner may"; and the phrase "(see § 884.223a)" is inserted before the period at the end of the paragraph.

### § 886.132 [Corrected]

6. On page 36643, in the third column, § 886.132, the last sentence of paragraph (c)(1)(i), the phrase "a mixed population project, the owner will" is corrected to read "an elderly project, the owner may"; and the phrase "(see § 886.329a)" is inserted before the period at the end of the paragraph.

### § 889.611 [Corrected]

7. On page 36647, in the third column, § 889.611, paragraph (c)(1)(i) is corrected by removing the last sentence.

Dated: August 11, 1994.

Brenda W. Gladden,

*Acting Assistant General Counsel for Regulations.*

[FR Doc. 94-20095 Filed 8-16-94; 8:45 am]

BILLING CODE 4210-32-M

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### 27 CFR Parts 4, 5, and 7

[T.D. ATF-359]

RIN 1512-AB31

### Signature Authority for Approval of Certificates of Label Approval (COLAS) (94F-002P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule, Treasury decision.

**SUMMARY:** This Treasury decision will authorize the removal of imported alcoholic beverage products from Customs custody in conformity with certificates of label approval signed by ATF specialists. Currently, ATF specialists issue label approvals by affixing the Director's name to each application. This Treasury decision will eliminate from 27 CFR §§ 4.40(b) (wine), 5.51(b) (distilled spirits), and 7.31(b) (malt beverages) the requirement that certificates of label approval bear the signature of the Director. This change will streamline internal procedures and improve resource management.

**EFFECTIVE DATE:** August 17, 1994.

### FOR FURTHER INFORMATION CONTACT:

Robert White, Coordinator, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226 (202-927-8230).

### SUPPLEMENTARY INFORMATION:

#### Background

Section 205(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), requires that all distilled spirits, wine, and malt beverage products have either a certificate of label approval or a certificate of exemption from label approval prior to bottling, or in the case of imported products, prior to removal from Customs custody. Section 205(e) grants authority to the Secretary of the Treasury to issue certificates of label

evidence to the government of the exporting company that the U.S. importer has complied with import regulations of the U.S. Government and is prohibited from diverting, transshipping, or reexporting the material described therein without the approval of the U.S. Government. Foreign governments may also require documentation attesting to the delivery of the material into the United States. When such delivery certification is requested by a foreign government, the U.S. importer may obtain directly from the U.S. District Director of Customs the authenticated Delivery Verification Certificate (U.S. Department of Commerce Form JTA-647P) for this purpose.

(Approved by the Office of Management and Budget under control number 0625-0064)

(T.D. ATF-215, 50 FR 42162, Oct. 18, 1985)

§ 47.52 Import restrictions applicable to certain countries.

(a) It is the policy of the United States to deny licenses and other approvals with respect to defense articles and defense services originating in certain countries or areas. This policy also applies to imports from these countries or areas. This policy applies to Albania, Bulgaria, Cuba, Estonia, Kampuchea, Latvia, Lithuania, North Korea, Outer Mongolia, Rumania, Vietnam and the States that comprise the former Soviet Union (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan). This policy applies to countries or areas with respect to which the United States maintains an arms embargo. It also applies when an import would not be in furtherance of world peace and the security and foreign policy of the United States.

(b) A defense article authorized for importation under this part may not be shipped on a vessel, aircraft or other means or conveyance which is owned or operated by, or leased to or from, any of the countries or areas covered by paragraph (a) of this section.

(c) In accordance with United Nations Security Council Resolution 553

of December 13, 1984, it is the policy of the United States to deny licenses and other approvals with respect to defense articles, and technical data relating to defense articles, from South Africa.

(d) Applications for permits to import articles that were manufactured in, or have been in, a country or area proscribed under this section may be approved where the articles are covered by Category I(a) of the Import List (other than those subject to the provisions of 27 CFR Part 179), are importable as curios or relics under the provisions of 27 CFR 178.118, and meet the following criteria:

(1) The articles were manufactured in a proscribed country or area prior to the date, as established by the Department of State, the country or area became proscribed, or, were manufactured in a non-proscribed country or area; and

(2) The articles have been stored for the five year period immediately prior to importation in a non-proscribed country or area.

(e) Applicants desiring to import articles claimed to meet the criteria specified in paragraph (d) of this section shall explain, and certify to, how the firearms meet the criteria. The certification statement will be prepared in letter form, executed under the penalties of perjury, and submitted to the Director at the time application is made for an import permit. The certification statement must be accompanied by documentary information on the country or area of original manufacture and on the country or area of storage for the five year period immediately prior to importation. Such information may, for example, include a verifiable statement in the English language of a government official or any other person having knowledge of the date and place of manufacture and/or the place of storage; a warehouse receipt or other document which provides the required history of storage; and any other document that the applicant believes substantiates the place and date of manufacture and the place of storage. The Director, however, reserves the right to determine whether documentation

is acceptable. Applicants shall, when required by the Director, furnish additional documentation as may be necessary to determine whether an import permit application should be approved.

(T.D. ATF-202, 50 FR 14382, Apr. 12, 1985, as amended by T.D. ATF-215, 50 FR 42162, Oct. 18, 1985; T.D. ATF-287, 54 FR 13681, Apr. 5, 1989; T.D. ATF-323, 57 FR 24189, June 8, 1992)

§ 47.53 Exemptions.

(a) The provisions of this part are not applicable to:

(1) Importations by the United States or any agency thereof;

(2) Importation of components for items being manufactured under contract for the Department of Defense; or

(3) Importation of articles (other than those which would be "firearms" as defined in 18 U.S.C. 921(a)(3)) manufactured in foreign countries for persons in the United States pursuant to Department of State approval.

(b) Any person seeking to import articles on the U.S. Munitions Import List as exempt under paragraph (a)(2) or (3) of this section may obtain release of such articles from Customs custody by submitting, to the Customs officer with authority to release, a statement claiming the exemption accompanied by satisfactory proof of eligibility. Such proof may be in the form of a letter from the Department of Defense or State, as the case may be, confirming that the conditions of the exemption are met.

(T.D. ATF-8, 39 FR 3251, Jan. 25, 1974, as amended by T.D. ATF-215, 50 FR 42162, Oct. 18, 1985)

§ 47.54 Administrative procedures inapplicable.

The functions conferred under section 38, Arms Export Control Act of 1976, as amended, are excluded from the operation of Chapter 5, Title 5, United States Code, with respect to Rule Making and Adjudication, 5 U.S.C. 553 and 554.

(T.D. ATF-8, 39 FR 3251, Jan. 25, 1974, as amended by T.D. ATF-215, 50 FR 42162, Oct. 18, 1985)

§ 47.55 Departments of State and Defense consulted.

The administration of the provisions of this part will be subject to the guidance of the Secretaries of State and Defense on matters affecting world peace and the external security and foreign policy of the United States.

§ 47.56 Authority of Customs officers.

(a) Officers of the U.S. Customs Service are authorized to take appropriate action to assure compliance with this part and with 27 CFR Parts 178 and 179 as to the importation or attempted importation of articles on the U.S. Munitions Import List, whether or not authorized by permit.

(b) Upon the presentation to him of a permit or written approval authorizing importation of articles on the U.S. Munitions Import List, the Customs officer who has authority to release same may require, in addition to such documents as may be required by Customs regulations, the production of other relevant documents relating to the proposed importation, including, but not limited to, invoices, orders, packing lists, shipping documents, correspondence, and instructions.

(T.D. ATF-8, 39 FR 3251, Jan. 25, 1974, as amended by T.D. ATF-215, 50 FR 42162, Oct. 18, 1985)

§ 47.57 U.S. military firearms.

(a) Notwithstanding any other provision of this part or of 27 CFR Part 178, no military firearms or ammunition of United States manufacture may be imported for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State or local law enforcement agency) if such articles were furnished to a foreign government under a foreign assistance or sales program of the United States.

(1) The restrictions in paragraph (a) of this section covers firearms which are advanced in value or improved in condition in a foreign country, but it does not include those which have been substantially transformed as to become, in effect, articles of foreign manufacture.

(2) A person desiring to import into the United States military firearms

**DOMESTIC AND IMPORTED FIREARMS DATA**  
**(IN MILLIONS)**

|                                                                                   |    |           |           |           |              |           |           |           |           |           |                |           |
|-----------------------------------------------------------------------------------|----|-----------|-----------|-----------|--------------|-----------|-----------|-----------|-----------|-----------|----------------|-----------|
| <b>FIREARMS AVAILABLE<br/>FOR SALE IN U.S.</b>                                    | FY | <u>84</u> | <u>85</u> | <u>86</u> | <u>87</u>    | <u>88</u> | <u>89</u> | <u>90</u> | <u>91</u> | <u>92</u> | <u>TOTAL</u>   | <u>93</u> |
|                                                                                   |    | 4.4       | 4.0       | 3.5       | 4.5          | 4.8       | 5.0       | 4.4       | 3.9       | 5.8       | 40.3           | NA        |
| <b>DOMESTIC FIREARMS<br/>SOLD IN U.S.†</b>                                        | FY | <u>84</u> | <u>85</u> | <u>86</u> | <u>87</u>    | <u>88</u> | <u>89</u> | <u>90</u> | <u>91</u> | <u>92</u> | <u>TOTAL</u>   | <u>93</u> |
|                                                                                   |    | 3.6       | 3.2       | 2.8       | 3.3          | 3.5       | 4.0       | 3.5       | 3.1       | 3.6       | 30.6           | NA        |
| <b>FOREIGN FIREARM<br/>IMPORTS</b>                                                | FY | <u>84</u> | <u>85</u> | <u>86</u> | <u>87</u>    | <u>88</u> | <u>89</u> | <u>90</u> | <u>91</u> | <u>92</u> | <u>TOTAL</u>   | <u>93</u> |
|                                                                                   |    | .8        | .8        | .7        | 1.2          | 1.3       | 1.0       | .9        | .8        | 2.2       | 9.7            | 3.0       |
| <b>FIREARM IMPORTS FROM<br/>PROSCRIBED COUNTRIES*</b>                             |    |           |           |           | FY <u>87</u> | <u>88</u> | <u>89</u> | <u>90</u> | <u>91</u> | <u>92</u> | <u>TOTAL</u>   | <u>93</u> |
|                                                                                   |    |           |           |           | .17          | .06       | .12       | .07       | .12       | .62       | 1.16           | NA        |
| <b>FIREARM IMPORTS<br/>FROM CHINA</b>                                             |    |           |           |           | FY <u>87</u> | <u>88</u> | <u>89</u> | <u>90</u> | <u>91</u> | <u>92</u> | <u>TOTAL</u>   | <u>93</u> |
|                                                                                   |    |           |           |           | .07          | .06       | .08       | .04       | .09       | .19       | .53            | 1.0       |
| <b>FIREARM IMPORTS<br/>FROM RUSSIA</b>                                            |    |           |           |           | FY           |           |           | <u>90</u> | <u>91</u> | <u>92</u> | <u>TOTAL</u> † | <u>93</u> |
| (IN HUNDREDS)                                                                     |    |           |           |           |              |           |           | 348       | 977       | 1,036     | 2,361          | 18,046    |
| <b>PERCENTAGE OF FIREARMS<br/>FOR SALE IN U.S. FROM<br/>PROSCRIBED COUNTRIES*</b> |    |           |           |           | FY <u>87</u> | <u>88</u> | <u>89</u> | <u>90</u> | <u>91</u> | <u>92</u> | <u>TOTAL</u>   | <u>93</u> |
|                                                                                   |    |           |           |           | 4%           | 1%        | 2%        | 1%        | 3%        | 10%       | 4%             | NA        |

\* DOES NOT INCLUDE CHINA

ALL INFORMATION WAS SUPPLIED BY BATF EXCEPT FOR CATEGORIES DESIGNATED BY (†)  
INFORMATION DESIGNATED BY † WAS SUPPLIED BY THE AMERICAN FIREARMS ASSOCIATION.

|                                         |           |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                     |
|-----------------------------------------|-----------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|---------------------|
| <b>DOMESTIC FIREARM<br/>PRODUCTION†</b> | <b>FY</b> | <u><b>84</b></u> | <u><b>85</b></u> | <u><b>86</b></u> | <u><b>87</b></u> | <u><b>88</b></u> | <u><b>89</b></u> | <u><b>90</b></u> | <u><b>91</b></u> | <u><b>92</b></u> | <u><b>93</b></u> | <u><b>TOTAL</b></u> |
|                                         |           | 3.8              | 3.4              | 3.0              | 3.5              | 3.8              | 4.3              | 3.8              | 3.5              | 4.0              | x                | 33.1                |

|                                          |           |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                     |
|------------------------------------------|-----------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|---------------------|
| <b>DOMESTIC FIREARM<br/>EXPORTATION†</b> | <b>FY</b> | <u><b>84</b></u> | <u><b>85</b></u> | <u><b>86</b></u> | <u><b>87</b></u> | <u><b>88</b></u> | <u><b>89</b></u> | <u><b>90</b></u> | <u><b>91</b></u> | <u><b>92</b></u> | <u><b>93</b></u> | <u><b>TOTAL</b></u> |
|                                          |           | .2               | .2               | .2               | .2               | .3               | .3               | .3               | .4               | .4               | x                | 2.5                 |

**FIREARMS IMPORTED FROM PROSCRIBED COUNTRIES FY 1989 - 1993**

|          | <b>AUTHORIZED</b> | <b>IMPORTED</b> |
|----------|-------------------|-----------------|
| ALBANIA  | 191,983           | 12,026          |
| BULGARIA | 16,000            | 6,776           |
| CZECH.   | ---               | 18,792          |
| ROMANIA  | 104,459           | 1,921           |
| RUSSIA   | 197,536           | 46,410          |
| UKRAINE  | 55,000            | 0               |

**CURIO OR RELIC FIREARMS FROM PROSCRIBED COUNTRIES FY 1987 - 1993**

|               | <b>AUTHORIZED</b> | <b>IMPORTED</b> |
|---------------|-------------------|-----------------|
| ALBANIA       | 137,032           | 12,026          |
| BULGARIA      | 6,000             | 0               |
| CHINA         | 41,822            | 61              |
| CZECH.        | 29,075            | 3,000           |
| ROMANIA       | 7,743             | 0               |
| RUSSIA        | 51,000            | 22,644          |
| UKRAINE       | 55,000            | 0               |
| USSR          | 94,635            | 8,329           |
| <b>TOTALS</b> | <b>422,307</b>    | <b>46,060</b>   |

# FOREIGN FIREARM IMPORTS BY COUNTRY FY 1987 - 1993

|               | <u>1987+</u>     | <u>1988</u>      | <u>1989</u>      | <u>1990</u>    | <u>1991</u>    | <u>1992+</u>     | <u>1993</u>      | <u>TOTAL</u>      |
|---------------|------------------|------------------|------------------|----------------|----------------|------------------|------------------|-------------------|
| ITALY         | 130,436          | 483,048          | 132,837          | 163,852        | 54,720         | 361,249          | 268,102          | 1,594,244         |
| CHINA         | 73,793           | 56,299           | 80,220           | 45,047         | 90,571         | 188,143          | 964,903          | 1,498,976         |
| BRAZIL        | 292,717          | 68,051           | 168,887          | 93,633         | 59,332         | 343,871          | 220,616          | 1,247,107         |
| JAPAN         | 126,236          | 307,600          | 65,455           | 106,904        | 101,123        | 100,481          | 160,472          | 968,271           |
| GERMANY       | 107,485          | 50,068           | 76,032           | 89,087         | 86,663         | 134,107          | 187,596          | 731,038           |
| AUSTRIA       | 13,500           | 13,057           | 51,445           | 96,913         | 62,176         | 164,619          | 206,082          | 607,792           |
| SPAIN         | 72,216           | 17,868           | 53,045           | 57,172         | 69,540         | 44,365           | 154,365          | 468,571           |
| PORTUGAL      | 12,364           | 13,350           | 68,217           | 82,299         | 39,310         | ---              | 82,142           | 297,682           |
| SWEDEN        | ---              | 102,575          | 7,236            | 24,226         | 3,104          | 1,078            | 116,458          | 254,677           |
| BELGIUM       | 30,390           | 11,057           | 2,385            | 8,966          | 7,519          | 47,289           | 105,953          | 213,559           |
| CANADA        | ---              | 93,971           | 12,104           | 11,886         | 7,314          | 13,648           | 69,901           | 208,824           |
| U.K.          | 2,329            | 5,997            | 82,978           | 647            | 555            | 46,244           | 66,238           | 204,988           |
| ARGENTINA     | 126,650          | 19,310           | --               | 19,829         | 16,986         | 15,805           | ---              | 198,580           |
| FINLAND       | 35,511           | 27,254           | 70,234           | 1,160          | 2,349          | 3,800            | 54,227           | 194,535           |
| ISRAEL        | 23,780           | 5,879            | 10,699           | 8,241          | 11,353         | 12,435           | 61,155           | 133,542           |
| HUNGARY       | ---              | ---              | ---              | ---            | 14,005         | 70,992           | 42,960           | 127,957           |
| SWITZ.        | 4,639            | 1,961            | 892              | 368            | 5,110          | 2,703            | 72,818           | 88,391            |
| FRANCE        | ---              | 9,034            | 1,839            | 232            | 18             | 2,363            | 15,036           | 28,522            |
| MEXICO        | ---              | 160              | 1                | ---            | 970            | ---              | 0                | 1,131             |
| OTHERS        | 172,768          | 64,610           | 123,256          | 67,195         | 117,756        | 624,130          | 149,842          | 1,319,557         |
| <b>TOTALS</b> | <b>1,224,814</b> | <b>1,351,149</b> | <b>1,007,762</b> | <b>877,657</b> | <b>750,474</b> | <b>2,177,322</b> | <b>2,998,866</b> | <b>10,388,044</b> |

**Washfax Receipt**  
Department of State**B**

S/S #

011394

Message No. \_\_\_\_\_

Classification CNo. Pages 5From: DEBORAH E. GRAZE  
(Office name)S/S  
(Office symbol)647-5302  
(Extension)7224  
(Room number)Message Description CABLE TO MOSCOW -- Munitions Imports from the NISTo (Agency):

NSCS

Deliver To:

Andy Sens

Executive Secretariat

BURNS

BEYRLE / GOTTEMOLLER

Extension

456-6534

Room No.

WHSITRM

For: Clearance ☒ Information ☐ Per Request ☐ Comment ☐

Remarks: Please clear by: 10/2 This \*MUST GO\* before OOB Moscow time 10/3.  
(Press stories are already starting to gush forth.)  
NOTE FOR WILL ITOH FROM KEN BRILL: Ken has discussed this issue with  
both Nick Burns' office and with the Cabinet Affairs office (Dana Hyde et al).

Also,  
We are sending under separate cover for your clearance (with the same folks)  
a proposed press statement on same 8/8 Officer: Deborah E. Graze  
subject.

Thanks

**CROSSHATCH**

Return Time-Stamped Coversheet to 8/8

UNCLASSIFIED UPON REMOVAL  
OF CLASSIFIED ATTACHMENTS  
Initials: RLR Date: 11/30/13

2016-0931-5

# Withdrawal/Redaction Marker

## Clinton Library

| DOCUMENT NO.<br>AND TYPE | SUBJECT/TITLE                            | DATE       | RESTRICTION |
|--------------------------|------------------------------------------|------------|-------------|
| 004. fax                 | re: Firearms Imports - Options (2 pages) | 10/07/1994 | P1/b(1)     |

### COLLECTION:

Clinton Presidential Records  
Domestic Policy Council  
Jose Cerda  
OA/Box Number: 5875

### FOLDER TITLE:

Russian/Chinese Guns [2]

2016-0931-S

rc2351

### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

#### Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

# Withdrawal/Redaction Marker

## Clinton Library

| DOCUMENT NO.<br>AND TYPE | SUBJECT/TITLE                                                       | DATE       | RESTRICTION |
|--------------------------|---------------------------------------------------------------------|------------|-------------|
| 005. fax                 | Deborah E. Graze to Andy Sens et al re: Munitions Imports (5 pages) | 10/01/1994 | P1/b(1)     |

### COLLECTION:

Clinton Presidential Records  
Domestic Policy Council  
Jose Cerda  
OA/Box Number: 5875

### FOLDER TITLE:

Russian/Chinese Guns [2]

2016-0931-S  
rc2351

### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
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# DRAFT

## Statement by the State Department Spokesperson

As you are aware, the BATF has the statutory responsibility to grant or deny licenses for imports of munitions. In carrying out this function, BATF is guided by the views of the Secretary of State on matters affecting world peace, and the external security and foreign policy of the United States. At present, there are over 250 pending license requests from American firms wishing to import munitions from the states of the former Soviet Union (FSU). These requests are valued at over \$1 billion in potential sales, including over seven billion rounds of ammunition and 7.6 million rifles and pistols.

Because of the dramatic increase in the volume of potential imports from the FSU, the Secretary of State has ordered the Department to undertake a thorough study of the foreign policy and national security considerations involved in these munitions trade issues. The study will also examine existing statutory and regulatory authorities for managing the importation of guns into the United States with a view to determining whether any changes are needed to manage such imports in a more orderly manner, consistent with our foreign policy and national security interests.

The Secretary has asked that this study be completed expeditiously. Until these issues can be addressed, we will not recommend approval of any munitions import licenses from the FSU. Accordingly, I would also like to announce that the Department is sending to the Treasury Department's Bureau of Alcohol, Tobacco and Firearms our recommendation that the BATF deny approval to pending license requests from American firms wishing to import firearms and ammunition from Russia and other states of the FSU.

We anticipate that many of the license applicants will resubmit applications in the near future. Clearing away all pending FSU license applications will enable the Department to have an accurate understanding of the current magnitude of the potential imports as we conduct our review.

Lastly, I want to make clear that some of the speculation that went on in press reports concerning this issue was completely off base. At no point did we consider the idea of "compensating" Russia for halting arms sales to Iran by approving these licenses. That sort of linkage was never even discussed.

SENR 758

# DRAFT

THE WHITE HOUSE

Office of the Press Secretary

-----  
For Immediate Release

September 28, 1994

CRIME ASSISTANCE PACKAGE FOR THE RUSSIAN FEDERATION

Since the collapse of the Soviet Union, the United States has recognized the importance of assisting Russia and the other New Independent States (NIS). A substantial portion of our assistance program has been devoted to helping Russia develop a system based on market principles and the rule of law. However, with the rise of organized crime and other criminal activities, many Russians have begun to equate a free market and democratic society with chaos and a breakdown in law and order. In addition to undermining the transition to democracy in Russia and our assistance efforts there, the rise of crime and corruption in Russia carries potentially dangerous international consequences.

In recognition of this problem, the U.S. Congress recently recommended expenditure of up to \$30 million in FREEDOM Support Act and SEED funds to help eastern Europe and the NIS fight crime and corruption. New programs in support of assisting law enforcement activities in Russia will receive approximately \$12 million. These programs will supplement our ongoing efforts to reform civil procedures, develop legal curricula and bar associations, and draft a new commercial code. In all, U.S. assistance to support a new legal infrastructure in Russia will total some \$30 million in fiscal year 1995.

Various U.S. government agencies, with expertise in the reform of the criminal justice system and law enforcement activities, are responsible for implementing the new programs to help the Russian Federation cope with the rise of criminal activities. The package will include programs to develop skills to combat organized crime, strengthen export and other financial controls, train judges and prosecutors, and reform the criminal code.

U.S. law enforcement agencies that will participate in the Russia program include the Department of Justice's Federal Bureau of Investigation (FBI) and the Drug Enforcement Agency (DEA), and the Department of Treasury's Internal Revenue Service, Bureau of Alcohol, Tobacco and Firearms, U.S. Customs Service, U.S. Secret Service, and the Federal Law Enforcement Training Center. Under contracts with the U.S. Agency for International Development (USAID), a number of U.S. legal organizations, including the American Bar Association, will assist in the reform of the criminal justice system and the reintroduction of jury trials in

selected regions of the Russian Federation. In addition, the Department of Justice's Criminal Division will provide training to prosecutors.

With funding from the FREEDOM Support Act, these agencies intend to provide training and technical assistance in consultation with Russian law enforcement and criminal justice agencies. These partnerships are designed to aid Russian counterparts in planning and executing a strategy to subdue Russian organized crime and other criminal activities. The major components of this program include:

#### Criminal Justice Reform

The FREEDOM Support-funded rule-of-law initiative will include more activities to support enabling legislation and the reform of the criminal justice system to help fight the rise of crime. Specific programs planned include:

- expansion of the program under the Russia jury trial initiative to incorporate the training of prosecutors (thirteen regions in the Russian Federation have reintroduced trials-by-jury);
- technical assistance to the procuracy in Russia;
- expanded training programs in the U.S. for parliamentarians and executive branch officials involved in the fight against crime in Russia.

#### Combating Organized Crime

Department of Justice agencies, with the assistance of Department of Treasury personnel, will assist Russian law enforcement agencies to combat activities of international organized criminal groups by providing:

- the management tools and skills to law enforcement executives and supervisors so they can discharge their responsibilities under the rule of law;
- specialized skills and knowledge used by the FBI and other U.S. law enforcement agencies to combat organized crime, including its involvement in drug trafficking and financial crimes;
- investigative and forensics training for trainers and specialists.

### The Fight Against Financial Crimes

Department of Treasury agencies, with the assistance of Department of Justice officials, plan to provide mutual assistance to federal agencies in Russia through the development of a regional training program featuring financial investigative techniques, industry oversight measures, and criminal analysis methods. The program will provide expert guidance to:

- prevent, detect, analyze and investigate civil and criminal abuse within the financial and commercial sectors;
- enhance Customs and inland revenue administration, compliance, and recordkeeping laws and regulations;
- develop executives, investigators, and trainers;
- provide liaison and technical assistance programs relating to the investigation of financial crimes internationally.

### Interdicting the Flow of Narcotics

The Drug Enforcement Administration and U.S. Customs Service will provide training to law enforcement, judicial, and legislative officials to develop the capabilities of drug control agencies in Russia. The program concentrates on providing:

- law enforcement training for agencies responsible for controlling narcotics trafficking and production in Russia, as well as anti-corruption and internal controls training. The training includes seminars in Russia and on-site visits for officials in the United States.
- demand reduction training at a facility in the Federal Republic of Germany, to be provided jointly with the European Union (EU) and the German government, for Russian government officials responsible for drug treatment and prevention programs.

### Nuclear Smuggling

U.S. government strategy to address the danger of nuclear smuggling from Russia embodies two distinct but complementary approaches: 1) initiatives to improve the safety and security of Russian fissile materials and warheads as the long-term key to reducing the potential for theft of fissile material; and 2) greater sharing of intelligence and coordination of law enforcement efforts, both to stem the tide of smuggling in the short-term and provide a safety net once improved accounting/control measures are in place.

The Department of Defense (DOD) and the Department of Energy play leading roles in the first area, through our bilateral efforts to improve the Russian chain of custody of fissile material. Ongoing activity funded by Nunn-Lugar includes:

Our two governments are implementing a plan to permit expeditious construction of a new, long-term storage facility for fissile materials from dismantled nuclear weapons. Up to \$90 million in Nunn-Lugar funds will be provided for this project.

The U.S. has an agreement with Russia on nuclear material, protection, control and accountability (MPC&A), providing up to \$10 million in assistance. We are prepared to provide an additional \$20 million for nuclear materials security and accounting system upgrades.

The U.S. nuclear laboratories, funded by the Department of Energy, are working directly with their Russian counterparts in a lab-to-lab effort to improve MPC&A. This effort is funded at \$2 million in FY94, and DOE plans to provide over \$50 million in FY95-FY96.

Additionally, we are negotiating an export control agreement with the Russians, similar to the program currently in place in Belarus, which would make up to \$2.26 million available for export control assistance.

DOD also lends support to increased bilateral interaction between U.S. and foreign (especially German and Russian) intelligence and law enforcement services. The U.S. is working to establish cooperation with Russia to share intelligence and enhance law enforcement capabilities. We also encourage international cooperative efforts that complement our bilateral approaches.

###

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

September 28, 1994

JOINT STATEMENT  
BY THE PRESIDENT OF THE RUSSIAN FEDERATION  
AND  
THE PRESIDENT OF THE UNITED STATES OF AMERICA  
ON COOPERATION IN PROMOTING THE RULE OF LAW  
AND COMBATING CRIME

President Boris Yeltsin and President William Clinton, during their meeting in Washington on September 27 and 28, 1994, noted the threat which crime poses to the Russian and American societies and to the entire international community. Of particular concern to the Presidents was the rise in financial crime, nuclear materials smuggling, organized crime, and drug trafficking. They agreed that bilateral and international cooperative efforts would be necessary to combat this growing threat.

The Presidents noted that cooperation in law enforcement between their two countries could in a substantial way help to resolve the problem of crime and should be institutionalized through bilateral agreements. To this end, delegations from the United States and the Russian Federation held a first round of negotiations for an Agreement on Cooperation in Criminal Matters which commits each country to assist the other in criminal investigations and crime prevention. The Presidents expressed their intention to sign and bring into force as quickly as possible this Agreement. The Presidents also announced their intention to enter into negotiations for a broader Mutual Legal Assistance Treaty.

President Clinton announced the intention of the United States to offer an expanded program of assistance to the Russian Federation, including technical assistance and training of personnel to support cooperation between the Russian Federation and the United States in promoting the rule of law and combating crime.

# # #

OCT-17-1994 15:56

BARNES ATT AT LAW

202 434 5707 P.02

**MARK BARNES**

ATTORNEY AT LAW

SUITE 800

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(202) 434-6766

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HEATHER K. WINGATE\*

ALSO ADMITTED IN ARIZONA AND ALASKA  
\*ALSO ADMITTED IN KANSAS

October 17, 1994

Mr. Robert W. Maggi  
Deputy Director  
Office of Defense Relations and Security Assistance  
U.S. Department of State  
Room 7924  
2201 C Street, N.W.  
Washington, D.C. 20520

**RE: Importation of firearms and ammunition from Russia**

Dear Mr. Maggi:

I want to thank you for arranging the meeting that Mr. Dowd and I had with your policy group last Wednesday concerning the Department of State's decision to recommend to the Bureau of Alcohol, Tobacco and Firearms (BATF) that they deny approval of all pending license requests from American businesses seeking to import firearms and ammunition from Russia and other states of the former Soviet Union.

The Department of State clearly has the authority to deny license applications for the imports of munitions from proscribed countries, as listed in 22 C.F.R. § 126.1 and 27 C.F.R. § 47.52. Russia and the other states of the former Soviet Union are currently included on the proscribed countries list. However, in an appropriate response to the close of the Cold War the Department of State made a policy decision to ease these restrictions and to proceed on a case-by-case review of each application without a presumption of denial, and imports were allowed in under this review process.

As you know this period of supporting the approval of import permit applications was short lived. It lasted for about six months, starting in mid-1993. The Department then put a "hold" in early 1994 on all Form 6 applications referred over to it for an approval/disapproval recommendation. The decision to put all applications on hold, and to subsequently recommend their disapproval, has created a severe hardship for all of the importers who reasonably anticipated that the State Department's earlier actions would lead to a permanent trade relationship in these consumer goods. Therefore, agreements, plans and investments were made in anticipation that Russia would be removed from the proscribed countries list.

For nearly the last 10 months the importing community has been told that a "study" was underway at the State Department to determine what the policy should be with regard to Russia in terms of small arms and munitions imports. We were not told the precise reasons for the study, only that foreign policy considerations necessitated the review.

It therefore came as a surprise to us, especially after the recent visit of President Yeltsin, that the Department took the action that it did in announcing the "study", and

Letter to Mr. Maggi

Page 2

recommending the denial of all the importers' applications to BATF. As you explained at the meeting, the Department believed that this action was necessary to clear out all of the pending applications so that the importers could be given a decision immediately (a negative one). This move on the part of the Department would then put an end to the importers' state of limbo with regard to their applications, and their hopes that their pending applications might be approved.

The Department notes in its public statement on the matter that it anticipates that importers will reapply for importation permits for Russian firearms and ammunition, presumably when the Department completes its study and announces its policy. You informed me at our meeting that the "study" will be centered around an interagency group to review the matter. Undoubtedly, this will include representatives from the Departments of State, Justice, and Treasury.

I noted at our meeting that studies like this typically take six months to a year. You acknowledged that could be the case, but also noted that the staff had been instructed to complete this review as quickly as possible. We hope that will be case, and as we said at the meeting, the F.A.I.R. Trade Group will pledge its full cooperation to the Department in providing any information and technical advice that would be helpful to completing the study. We realize that the interagency group you have or will form will not be subject the Federal Advisory Committee Act's requirements for public input, nor do we suggest that it should be since its is a purely internal government working group. However, to the extent possible, we would be pleased to meet with the group and to offer our views that we believe would be helpful in obtaining an early completion of the study.

We stated at our meeting that we represent the vast majority of firearms importers in this nation seeking business in the FSU. Our members are obviously frustrated by the inability to proceed with trade relationships with Russia. We also recognize that there are important foreign policy issues at stake with Russia, some of which we may never know because they are classified matters. Certainly, the Department of State has the obligation to monitor the import trade of all defense articles, and clearly there are weapons diversion activities reported in the press that have taken place in the former Soviet republics that all Americans must be seriously concerned about now and in the near future.

We want to emphasize that the firearms and ammunition sought to be imported are not state of the art military or law enforcement equipment, but are arms and ammunition that are well regulated commercial goods suitable for civilian use. In fact, many of the firearms sought are curios and relics for collectors in the U.S. who historically have not had access to collectable firearms from Russia. In the United States the three great collectables are coins, stamps and guns. Estimates for the number of gun collectors in the U.S. range from four to six million collectors, obviously presenting a sizable market where a good demand could be expected for previously unavailable collectables.

However, preventing Russia from competing with Germany, Brazil and other nations for American business in the collectable and sporting firearms and ammunition arena appears to be frustrating dramatically our country's important foreign policy objectives to expand and encourage trade with a new nation struggling to establish a free market economy and a democratic political infrastructure. This trade matter is not unimportant to the Russians. President Yeltsin made that point on his recent visit to the United States, which included discussions with Members of Congress on the matter.

We understand the Department's concerns that were obviously raised by the flood of Form 6 applications for Russia for apparently inexplicable amounts of goods. Your

Letter to Mr. Maggi

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public statement stated that these "dramatic increases" prompted the Department's actions. As we stated at the meeting, our trade group has adopted a resolution on firearms curios and relics. It urges each member to voluntarily take such action as is necessary to ensure that all curios or relics applications submitted to BATF are not speculative applications, and are fully consistent with the intent of the law permitting the importation of curios or relics into the United States.

We believe that this self-review process has applicability as well to new product applications, and our importers are continuing their review with that in mind. Already as a result, one importer alone has voluntarily withdrawn applications that were pending before you to import 5-7 billion rounds of ammunition and 400,000 firearms from Russia. If we understand the Department's press statement correctly, it stated that over 7 billion rounds of ammunition had been sought by applicants. It's very possible that this one importer's actions alone have mooted the concerns raised about the amount of Russian ammunition sought by importers.

We further explained in our discussions with you that we believe that the supply and demand data that we will provide to you will demonstrate an important point. While we anticipate that the domestic demand for Russian sporting arms will be positive, especially for curios and relics of great interest to U.S. collectors, the supply and the ability of markets to absorb these products will be limited. In short, the actual numbers for importation will be far, far less than those indicated on the recent applications pending before you.

In light of the significant effect that the Department's actions have on domestic commerce, the importance of this issue to the Russians, and the need to avoid a total disintegration of the initial good will developed in this trade area between the Russian and American business communities, we respectfully request that the Department immediately implement an interim policy that will permit some trade to go forward in this area.

In light of our request to have an interim policy established, it is important that we be clear on the point of our trade policy position, in general, as it concerns Russia. We want full and free trade with Russia in this area, with no restraints on lawful trade, or the free competition in lawful trade or commerce. In this case, however, the Department of State has the power to determine, for foreign policy reasons, what is lawful trade in the well regulated categories of collectable and sporting arms and ammunition with Russia. At the present time, that means new permits will not be approved for the entry of Russian goods into the United States.

What we are suggesting, consistent with U.S. law, is an interim policy that will permit some level of trade. Again, we believe that there would be a positive demand for these articles, especially among the many curios and relics collectors in the U.S. Obviously, what we want is a level of trade solely determined by legitimate market forces, and not encumbered by foreign policy restraints. Hopefully, that will be the outcome of the Department's study. In the meantime, U.S. interests, foreign policy and otherwise, can still be well served by an interim policy.

You asked if we had a specific framework for such a policy; we do not as of this date, but we are working on a proposal that we can recommend to you shortly. Again, such a proposal would be consistent with U.S. law and the foreign policy interests that we believe you consider important in this matter.

OCT-17-1994 15:58

BARNES ATT AT LAW

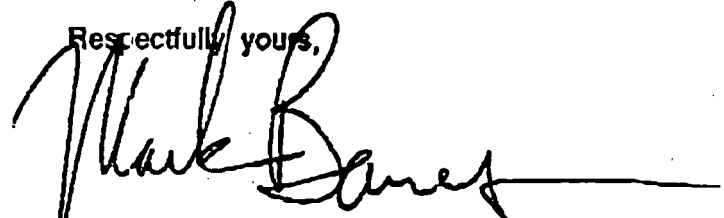
202 647 1346 P.05

Letter to Mr. Maggi

Page 4

In closing, I am authorized to say on behalf of the F.A.I.R. Board of Directors that the views expressed in this letter represent the entire membership's views. I look forward to discussing these matters with you more fully in the coming week.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Mark Barnes", with a long horizontal line extending to the right.

Mark Barnes

**42158 Federal Register / Vol. 59, No. 158 / Wednesday, August 17, 1994 / Rules and Regulations****List of Subjects in 17 CFR Part 30**

Commodity futures, Consumer protection, Fraud.

Issued in Washington, DC, on August 4, 1994.

Jean A. Webb,

Secretary of the Commission.

Accordingly, Chapter I of Title 17 of the CFR is amended as set forth below:

**PART 30—FOREIGN FUTURES AND FOREIGN OPTIONS TRANSACTIONS**

1. The authority citation for part 30 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 6, 6c and 12a, unless otherwise noted.

2. Appendix A to part 30 is amended by adding a new center heading and listing at the end of the appendix to read as follows:

**Appendix A to Part 30—Interpretative Statement With Respect to the Commission's Exemptive Authority Under § 30.10 of its Rules**

*Marketing Activities by Firms Granted Rule 30.10 Relief*

FR date and citation: November 3, 1992, 57 FR 49644; August 17, 1994, 59 FR [insert FR page number].

IFR Doc. 94-19437 Filed 8-16-94; 8:45 am]  
BILLING CODE 6351-01-P

**DEPARTMENT OF STATE**

Bureau of Political-Military Affairs

**22 CFR Part 126**

[Public Notice 2050]

**Amendment to the International Traffic in Arms Regulations**

AGENCY: Department of State.

ACTION: Final rule.

**SUMMARY:** The Department of State is amending the International Traffic in Arms Regulations (22 CFR parts 120-130) (ITAR) to reflect that it is no longer the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in South Africa. The regulations are also amended to add Rwanda to the list of states for which such a policy of denial is in effect. A new provision is added to indicate that whenever the United Nations Security Council imposes an arms embargo, all transactions which involve defense articles and services and which are prohibited by the embargo are prohibited under the ITAR.

**EFFECTIVE DATE:** August 17, 1994.

**FOR FURTHER INFORMATION CONTACT:** Dean A. Rogers, Office of Export Control Policy, Bureau of Political-Military Affairs, Department of State (202-647-4231).

**SUPPLEMENTARY INFORMATION:** The Department of State is amending § 126.1(a) and striking § 126.1(c) of the ITAR to reflect that it is no longer the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and services, destined for or originating in South Africa. With respect to South Africa, all requests for licenses or other approvals involving items covered by the U.S. Munitions List (22 CFR part 121) will now be reviewed on a case-by-case basis. This policy change was announced in a notice published at 59 FR 31667 on June 20, 1994.

The arms export embargo on South Africa was imposed by the U.N. Security Council in Resolution 418 of November 4, 1977. An arms import embargo was called for by Security Council Resolution 558 of December 13, 1984. The Security Council terminated both embargoes in U.N. Security Council Resolution 919 of May 25, 1994. The Council's actions follow the first all-race multiparty election and the establishment of a democratic South African Government inaugurated on May 10, 1994.

Section 126.1(a) is also amended to add Rwanda to the list of countries with respect to which the United States maintains an arms embargo. It is the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and services, destined for or originating in Rwanda. This policy was announced in a notice published at 59 FR 28583 on June 2, 1994. This policy and amendment implement U.N. Security Council Resolution 918 of May 17, 1994, which requires all states to prevent the sale or supply to Rwanda of arms and related material, and Executive Order 12918 of May 26, 1994.

Licenses and approvals subject to the South Africa and Rwanda policies include manufacturing licenses, technical assistance agreements, technical data, and commercial military exports and reexports of any kind involving these countries under the authority of the Arms Export Control Act.

A new section 126.1(c) is added to indicate that whenever the United Nations Security Council mandates an arms embargo, all transactions which are prohibited by the embargo and which involve U.S. persons anywhere,

or any person in the United States, and defense articles and services of a type enumerated on the United States Munitions List (22 CFR part 121), irrespective of origin, are prohibited under the ITAR for the duration of the embargo, unless the Department of State publishes a notice in the Federal Register specifying different measures. This would include, but is not limited to, transactions involving trade by U.S. persons who are located inside or outside of the United States in defense articles and services of U.S. or foreign origin which are located on U.S. territory or elsewhere.

This amendment involves a foreign affairs function of the United States. It is exempt from review under Executive Order 12866 but has been reviewed internally by the Department to ensure consistency with the purposes thereof. It is also excluded from the procedures of 5 U.S.C. 553 and 554.

Accordingly, for the reasons set forth in the preamble, and under the authority of section 38 of the Arms Export Control Act (22 U.S.C. 2778) and Executive Order 11958, as amended 22 CFR Subchapter M is amended as follows:

**PART 126—GENERAL POLICIES AND PROVISIONS**

1. The authority citation for part 126 is amended to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Arms Export Control Act, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 41 FR 4311; E.O. 11322, 32 FR 1119; 22 U.S.C. 2658; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205.

2. Section 126.1 is amended by revising paragraphs (a) and (c), as follows:

**§ 126.1 Prohibited exports and sales to certain countries.**

(a) General. It is the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in certain countries. This policy applies to Armenia, Azerbaijan, Belarus, Cuba, Georgia, Iran, Iraq, Kazakhstan, Kyrgyzstan, Libya, Moldova, Mongolia, North Korea, Russia, Syria, Tajikistan, Turkmenistan, Ukraine, Uzbekistan and Vietnam.

This policy also applies to countries with respect to which the United States maintains an arms embargo (e.g., Burma, China, Haiti, Liberia, Rwanda, Somalia, Sudan, the former Yugoslavia, a Zaire) or whenever an export would no otherwise be in furtherance of world peace and the security and foreign

policy of the United States.

Comprehensive arms embargoes are normally the subject of a State Department notice published in the *Federal Register*. The exemptions provided in the regulations in this subchapter, except §§ 123.17 and 125.4(b)(13) of this subchapter, do not apply with respect to articles originating in or for export to any proscribed countries or areas.

(c) Exports and sales prohibited by United Nations Security Council embargoes. Whenever the United Nations Security Council mandates an arms embargo, all transactions which are prohibited by the embargo and which involve U.S. persons anywhere, or any person in the United States, and defense articles and services of a type enumerated on the United States Munitions List (22 CFR part 121), irrespective of origin, are prohibited under the ITAR for the duration of the embargo, unless the Department of State publishes a notice in the *Federal Register* specifying different measures. This would include, but is not limited to, transactions involving trade by U.S. persons who are located inside or outside of the United States in defense articles and services of U.S. or foreign origin which are located inside or outside of the United States.

Dated: August 9, 1994.

Lynn E. Davis,

*Under Secretary for Arms Control and International Security Affairs.*

[FR Doc. 94-20218 Filed 8-16-94; 8:45 am]

BILLING CODE 4710-25-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

24 CFR Parts 880, 881, 882, 883, 884, 886, and 889

[Docket No. R-94-1671; FR-3122-C-04]

### Preferences for Admission to Assisted Housing; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; correction.

**SUMMARY:** This document makes corrections to a final rule that was published in the *Federal Register* on July 18, 1994 (59 FR 36616), that revised the tenant selection preference provisions of regulations of several project-based assisted housing programs.

**EFFECTIVE DATE:** August 17, 1994.

### FOR FURTHER INFORMATION CONTACT:

Barbara D. Hunter, Acting Director, Planning and Procedures Division, Office of Multifamily Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, (202) 708-3944 (voice); (202) 708-4594 (TDD). (These are not toll-free numbers.)

Accordingly, FR Doc. 94-16886, a final rule published in the *Federal Register* on July 18, 1994 (59 FR 36616), is corrected to read as follows:

#### § 880.613 [Corrected]

1. On page 36624, in the second column, § 880.613, the last sentence of paragraph (c)(1)(i), the phrase "a mixed population project, the owner will" is corrected to read "an elderly project, the owner may"; and the phrase "(see subpart D of this part)" is corrected to read "(see § 880.612a)".

#### § 881.613 [Corrected]

2. On page 36628, in the second column, § 881.613, the last sentence of paragraph (c)(1)(i), the phrase "a mixed population project, the owner will" is corrected to read "an elderly project, the owner may"; and the phrase "(see subpart D of this part)" is corrected to read "(see § 881.612a)".

#### § 882.517 [Corrected]

3. On page 36632, in the second column, § 882.517, paragraph (c)(1)(i) is corrected by removing the last sentence.

#### § 883.714 [Corrected]

4. On page 36635, in the third column, § 883.714, the last sentence of paragraph (c)(1)(i), the phrase "a mixed population project, the owner will" is corrected to read "an elderly project, the owner may"; and the phrase "(see § 883.704a)" is inserted before the period at the end of the paragraph.

#### § 884.226 [Corrected]

5. On page 36639, in the second column, § 884.226, the last sentence of paragraph (c)(1)(i), the phrase "a mixed population project, the owner will" is corrected to read "an elderly project, the owner may"; and the phrase "(see § 884.223a)" is inserted before the period at the end of the paragraph.

#### § 886.132 [Corrected]

6. On page 36643, in the third column, § 886.132, the last sentence of paragraph (c)(1)(i), the phrase "a mixed population project, the owner will" is corrected to read "an elderly project, the owner may"; and the phrase "(see § 886.329a)" is inserted before the period at the end of the paragraph.

#### § 889.611 [Corrected]

7. On page 36647, in the third column, § 889.611, paragraph (c)(1)(i) is corrected by removing the last sentence.

Dated: August 11, 1994.

Brenda W. Gladden,

*Acting Assistant General Counsel for Regulations.*

[FR Doc. 94-20095 Filed 8-16-94; 8:45 am]

BILLING CODE 4210-32-M

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, and 7

[T.D. ATF-359]

RIN 1512-AB31

### Signature Authority for Approval of Certificates of Label Approval (COLAS) (94F-002P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule, Treasury decision.

**SUMMARY:** This Treasury decision will authorize the removal of imported alcoholic beverage products from Customs custody in conformity with certificates of label approval signed by ATF specialists. Currently, ATF specialists issue label approvals by affixing the Director's name to each application. This Treasury decision will eliminate from 27 CFR §§ 4.40(b) (wine), 5.51(b) (distilled spirits), and 7.31(b) (malt beverages) the requirement that certificates of label approval bear the signature of the Director. This change will streamline internal procedures and improve resource management.

**EFFECTIVE DATE:** August 17, 1994.

### FOR FURTHER INFORMATION CONTACT:

Robert White, Coordinator, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226 (202-927-8230).

### SUPPLEMENTARY INFORMATION:

#### Background

Section 205(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), requires that all distilled spirits, wine, and malt beverage products have either a certificate of label approval or a certificate of exemption from label approval prior to bottling, or in the case of imported products, prior to removal from Customs custody. Section 205(e) grants authority to the Secretary of the Treasury to issue certificates of label

evidence to the government of the exporting company that the U.S. importer has complied with import regulations of the U.S. Government and is prohibited from diverting, transshipping, or reexporting the material described therein without the approval of the U.S. Government. Foreign governments may also require documentation attesting to the delivery of the material into the United States. When such delivery certification is requested by a foreign government, the U.S. importer may obtain directly from the U.S. District Director of Customs the authenticated Delivery Verification Certificate (U.S. Department of Commerce Form FTA-647P) for this purpose.

(Approved by the Office of Management and Budget under control number 0625-0084)

(T.D. ATF-215, 50 FR 42162, Oct. 18, 1985)

§ 47.52 Import restrictions applicable to certain countries.

(a) It is the policy of the United States to deny licenses and other approvals with respect to defense articles and defense services originating in certain countries or areas. This policy also applies to imports from these countries or areas. This policy applies to Albania, Bulgaria, Cuba, Estonia, Kampuchea, Latvia, Lithuania, North Korea, Outer Mongolia, Rumania, Vietnam and the States that comprise the former Soviet Union (Armenia, Azerbaijan, Byelorussia, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan). This policy applies to countries or areas with respect to which the United States maintains an arms embargo. It also applies when an import would not be in furtherance of world peace and the security and foreign policy of the United States.

(b) A defense article authorized for importation under this part may not be shipped on a vessel, aircraft or other means or conveyance which is owned or operated by, or leased to or from, any of the countries or areas covered by paragraph (a) of this section.

(c) In accordance with United Nations Security Council Resolution 868

of December 18, 1964, it is the policy of the United States to deny licenses and other approvals with respect to defense articles, and technical data relating to defense articles, from South Africa.

(d) Applications for permits to import articles that were manufactured in, or have been in, a country or area proscribed under this section may be approved where the articles are covered by Category I(a) of the Import List (other than those subject to the provisions of 27 CFR Part 179), are importable as curios or relics under the provisions of 27 CFR 178.118, and meet the following criteria:

(1) The articles were manufactured in a proscribed country or area prior to the date, as established by the Department of State, the country or area became proscribed, or, were manufactured in a non-proscribed country or area; and

(2) The articles have been stored for the five year period immediately prior to importation in a non-proscribed country or area.

(e) Applicants desiring to import articles claimed to meet the criteria specified in paragraph (d) of this section shall explain, and certify to, how the firearms meet the criteria. The certification statement will be prepared in letter form, executed under the penalties of perjury, and submitted to the Director at the time application is made for an import permit. The certification statement must be accompanied by documentary information on the country or area of original manufacture and on the country or area of storage for the five year period immediately prior to importation. Such information may, for example, include a verifiable statement in the English language of a government official or any other person having knowledge of the date and place of manufacture and/or the place of storage; a warehouse receipt or other document which provides the required history of storage; and any other document that the applicant believes substantiates the place and date of manufacture and the place of storage. The Director, however, reserves the right to determine whether documentation

# BATF REGS - SAT

Bureau of Alcohol, Tobacco and Firearms, Treasury

is acceptable. Applicants shall, when required by the Director, furnish additional documentation as may be necessary to determine whether an import permit application should be approved.

(T.D. ATF-202, 50 FR 14382, Apr. 12, 1985, as amended by T.D. ATF-215, 50 FR 42162, Oct. 18, 1985; T.D. ATF-257, 54 FR 13481, Apr. 8, 1989; T.D. ATF-323, 57 FR 24189, June 1, 1992)

§ 47.53 Exemptions.

(a) The provisions of this part are not applicable to:

(1) Importations by the United States or any agency thereof;

(2) Importation of components for items being manufactured under contract for the Department of Defense; or

(3) Importation of articles (other than those which would be "firearms" as defined in 18 U.S.C. 921(a)(3)) manufactured in foreign countries for persons in the United States pursuant to Department of State approval.

(b) Any person seeking to import articles on the U.S. Munitions Import List as exempt under paragraph (a)(2) or (3) of this section may obtain release of such articles from Customs custody by submitting, to the Customs officer with authority to release, a statement claiming the exemption accompanied by satisfactory proof of eligibility. Such proof may be in the form of a letter from the Department of Defense or State, as the case may be, confirming that the conditions of the exemption are met.

(T.D. ATF-8, 50 FR 5281, Jan. 20, 1974, as amended by T.D. ATF-215, 50 FR 42162, Oct. 18, 1985)

§ 47.54 Administrative procedures inapplicable.

The functions conferred under section 38, Arms Export Control Act of 1978, as amended, are excluded from the operation of Chapter 5, Title 5, United States Code, with respect to Rule Making and Adjudication, 5 U.S.C. 553 and 554.

(T.D. ATF-8, 50 FR 5281, Jan. 20, 1974, as amended by T.D. ATF-215, 50 FR 42162, Oct. 18, 1985)

§ 47.55 Departments of State and Defense consulted.

The administration of the provisions of this part will be subject to the guidance of the Secretaries of State and Defense on matters affecting world peace and the external security and foreign policy of the United States.

§ 47.56 Authority of Customs officers.

(a) Officers of the U.S. Customs Service are authorized to take appropriate action to assure compliance with this part and with 27 CFR Parts 178 and 179 as to the importation or attempted importation of articles on the U.S. Munitions Import List, whether or not authorized by permit.

(b) Upon the presentation to him of a permit or written approval authorizing importation of articles on the U.S. Munitions Import List, the Customs officer who has authority to release same may require, in addition to such documents as may be required by Customs regulations, the production of other relevant documents relating to the proposed importation, including, but not limited to, invoices, orders, packing lists, shipping documents, correspondence, and instructions.

(T.D. ATF-8, 50 FR 3261, Jan. 25, 1974, as amended by T.D. ATF-215, 50 FR 42162, Oct. 18, 1985)

§ 47.57 U.S. military firearms.

(a) Notwithstanding any other provision of this part or of 27 CFR Part 178, no military firearms or ammunition of United States manufacture may be imported for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State or local law enforcement agency) if such articles were furnished to a foreign government under a foreign assistance or sales program of the United States.

(1) The restrictions in paragraph (a) of this section covers firearms which are advanced in value or improved in condition in a foreign country, but it does not include those which have been substantially transformed as to become, in effect, articles of foreign manufacture.

(2) A person desiring to import into the United States military firearms

Terms of Reference

- 1) PM will take the lead in conducting a study of the implications for U.S. foreign policy and national security interests of the importation of armaments from states of the former Soviet Union. The study will be completed and provided to Under Secretary Davis by October 25 for her review. A final version of the study is to be presented to the Secretary by November 1.
  - Specifically, the study will examine whether or not the transactions involving armaments from the states of the FSU contribute to the development of threatening military capabilities in the states involved.
  - Th study will also assess the impact that these transactions may have on the defense industries of the FSU states.
- 2) In its examination of these issues, PM will draw on the analytical and technical expertise of all of the relevant State Department bureaus, as well as that of the Intelligence Community and the Department of Defense.
- 3) In recognition of the fact that the NIS will likely be removed from the ITAR list of proscribed countries in the future, and working with the Departments of Justice, Treasury, Commerce and Defense, as well as with the NSC, Domestic Policy Council, FBI and U.S. Customs Service, PM will examine legislative and regulatory options for instituting broader limitations on trade in small arms, regardless of source (consistent with the Secretary's responsibilities under Section 38 of the Arms Export Control Act).
  - PM and relevant State bureaus will assess the foreign policy and national security implications of possible efforts to limit imports more broadly.
  - PM and relevant State bureaus will also assess the foreign policy and national security implications of efforts to reach agreement with Russia on voluntary limitations on its arms and ammunition exports to the U.S.

## Outline

### **I. BACKGROUND/DATA BASE**

- A. Facts/figures of potential firearms/munitions imports from the NIS.**
  - Assessment (both qualitative and quantitative) of the level of license requests for NIS munitions once the slate has been wiped clean and new applications are submitted.
- B. Facts/Figures from ATF on levels firearms/munitions imports, regardless of source.**
  - Data should be broken out by source country, actual import levels and license approval levels.
- C. Comparison of level of imports from all sources before and after the ban on firearm imports from China took effect.**
- D. Assessment of "likely" level of demand for FSU imports in both the short and medium term. (Will there be a one-time surge in demand for FSU arms to be followed by a precipitous drop once collectors have made their one-time purchase.).**
- E. Assessment of likely level of imports once Russia and other FSU states are no longer proscribed by the ITAR.**
- F. Annual sales of firearms in the U.S., whether imported or domestically produced.**
- G. Number of privately owned firearms in the U.S.**
- H. Facts/Figures on U.S. munitions exports to Russia and other NIS states.**

### **II. FOREIGN POLICY AND NATIONAL SECURITY ISSUES**

- A. Extent to which munitions imports from the NIS contribute to development of a threatening military capability in FSU states.**
- B. Effect of Transactions on defense industries of FSU states.**
- C. Relationship between munitions imports from the NIS and our defense conversion objectives in those states.**
- D. Potential effect of restrictions on munitions imports on our efforts to promote trade with NIS.**

-2-

### III. COMMERCIAL IMPLICATIONS

- A. Would restrictions on FSU-origin imports result in fewer total imports, or would other, non-proscribed suppliers fill any gap?
- B. Analysis of impact that any restrictions on imports would have on ability of U.S. firms to export to NIS e.g. will there be retaliatory action from Russia?
- C. Would a lack of restrictions affect U.S. manufacturing, i.e. will domestic manufacturing firms seek protection?

### IV. LEGAL AND REGULATORY ISSUES/OPTIONS

- A. Analysis of Current Legal/Regulatory Authorities and their ability to limit imports of firearms and munitions.
  - Section 38, Arms Export Control Act (22 U.S.C. 2778)
  - International Traffic in Arms Regulations (ITAR, 22 C.F.R. Parts 120-130)
  - Department of Treasury Regulations - Bureau of Alcohol, Tobacco and Firearms relating to the import of Arms, Ammunition and Implements of War (27 C.F.R. Part 47)
- B. Options for changing existing statutory and/or regulatory authorities to manage or limit munitions imports, regardless of source.
- C. Options for new legislation to manage or limit munitions imports, both discriminatory and non-discriminatory.
- D. Other options for restricting imports from NIS
  - Voluntary Restraint Agreements

### V. CONCLUSIONS

## NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

October 24, 1994

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: NICHOLAS BURNS NB

FROM: JESSICA STERN

SUBJECT: Presidential Letter to Representative Schumer and  
Other Members of Congress

Attached is a Presidential letter of response to Representative Schumer and other members of Congress, who wrote to express their concerns about imports to the U.S. of Russian munitions. This letter has been cleared by the State Department and by the Domestic Policy Council.

Concurrences by: William Danvers, Jose Cerda

RECOMMENDATION

That you sign the memorandum to the President at Tab I.

## Attachments

- Tab I Memorandum to the President
- Tab A Letter to Representative Schumer and Other Members  
of Congress
- Tab B Incoming

TAB I

THE WHITE HOUSE  
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE  
PATRICK GRIFFIN

SUBJECT: Letter to Representative Schumer and Other Members  
of Congress

Purpose

To reply to a letter from Representative Schumer and other members of Congress.

Background

Representative Schumer and other members of Congress wrote you to express their concern about the Administration's purported plans to permit imports of up to seven million firearms from Russia and the other newly independent states. Your response explains that all import licenses for Russian guns were denied on October 3. Secretary Christopher has commissioned an interagency study of the issue. Until that study is complete, all additional import license requests will be put on hold.

RECOMMENDATION

That you sign the letters to Representative Schumer and other members of Congress at Tab A.

Attachments

Tab A Letters to Representative Schumer and other members  
of Congress  
Tab B Incoming

cc: Vice President  
Chief of Staff

THE WHITE HOUSE

WASHINGTON

Dear Chuck,

Thank you for writing to let me know your concern about the issue of prospective imports of Russian-made firearms and ammunition. I want you to know that I share your concern. As you may already be aware, we denied the pending license requests on October 3.

I am deeply troubled by the level of gun violence in this country. In the next month the Administration will be looking into how Russian gun imports could affect the entire range of our interests, both domestic and foreign. At the conclusion of this review, we will decide how best to satisfy simultaneously our domestic and foreign policy concerns related to this issue.

Thank you again for taking the time to write to me on this important issue.

Sincerely,

The Honorable Charles E. Schumer  
House of Representatives  
Washington, D.C. 20515

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ONE HUNDRED THIRD CONGRESS

## Congress of the United States

## House of Representatives

## COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-8216

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 BOB WOLFE, SOUTH CAROLINA  
 BOB GOODLATTE, VIRGINIA

MAJORITY-328-3891

MINORITY-225-8800

September 30, 1994

President William J. Clinton  
 The White House

Dear Mr. President:

We are gravely concerned that the State Department may approve pending requests to import as many 7 million Russian firearms into the United States, along with millions of parts and millions of rounds of ammunition.

This would be a disastrous step for the American people. These are cheap guns. Hundreds of thousands of them will end up in the hands of the wrong people -- criminals, children at risk, and the mentally ill.

We are convinced beyond doubt that allowing the import of these guns would cause the needless deaths of tens of thousands of Americans. Innocent men, women, and children will be killed by firearms that were originally manufactured for the military and police forces of the old Soviet Union. These weapons have no place in America.

The fact that this proposal could have gotten as far as it did in the State Department has convinced us that it is time to completely overhaul the laws governing the import of firearms into America. We have enough handguns to murder 13,000 Americans every year. We have more than enough domestic manufacturers to meet our legitimate needs.

We don't need more guns from Russia, or anywhere else. We urge you to kill this very bad idea.

Sincerely,

*Charles E. Schumer*  
 CHARLES E. SCHUMER  
 Chairman, Subcommittee on Crime  
 and Criminal Justice

*Carolyn B. Maloney*  
 CAROLYN B. MALONEY  
 Member of Congress

THE WHITE HOUSE

WASHINGTON

September 30, 1994

MEMORANDUM FOR WILLIAM ITOH  
NSC Executive Secretariat

FROM: SUSAN BROPHY *CB*  
SUBJECT: Presidential Correspondence

Attached are copies of letters sent to the President from various members of Congress.

Since these letters address national security issues, we would appreciate your assistance in having drafts written.

Thank you very much for your assistance. If you have any questions, please feel free to call LeeAnn Inadomi at x7500.

The following is a brief description of the letter:

- 1) Leslie Byrne (D-VA), concerning Russian government;
- 2) Chuck Schumer (D-NY) and Carolyn Maloney (D-NY), concerning Russian firearms;
- 3) Steny Hoyer (D-MD) and Dennis DeConcini (D-AZ), concerning establishing diplomatic relations with Macedonia;
- 4) Howard Metzenbaum (D-OH), concerning the CIA.

Attachments

8589

**Congress of the United States**

**House of Representatives**

**Washington, DC 20515**

October 7, 1994

34 DC-11 All: 54

President William J. Clinton  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C. 20500

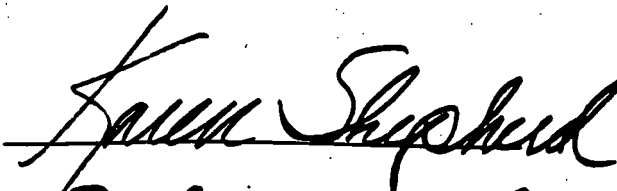
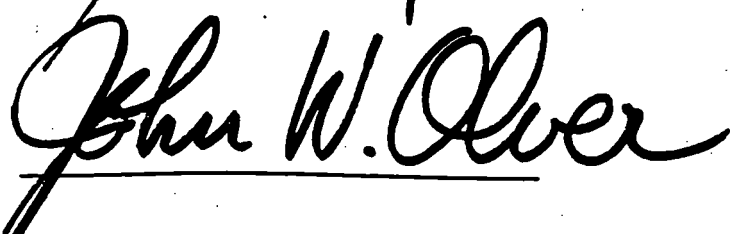
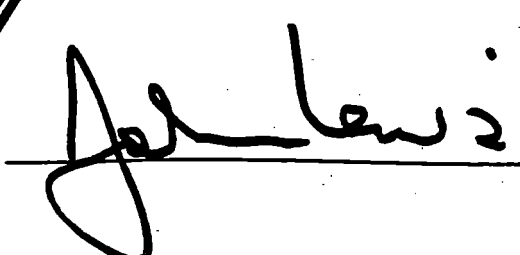
Dear President Clinton:

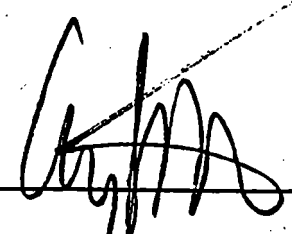
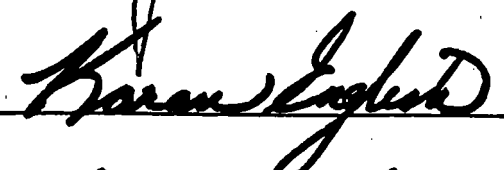
It has come to our attention that there has been some discussion between the Bureau of Alcohol, Tobacco and Firearms and State Department officials to consider the importation of a well-known Russian product, the Makarov semiautomatic pistol. The mere discussion of this action has given us great cause for concern, and we are writing to request that such a consideration be ceased immediately.

Although we understand the need to develop stronger economic ties with our Russian allies, we believe that the decision to import the Makarov semiautomatic weapon would directly undermine our efforts to fight crime. We strongly urge you to not only resist such a policy from being implemented, but to actively take actions to ensure that future recommendations of this nature are carefully scrutinized to ensure that international economic growth is not attained at the expense of domestic safety.

Thank you for your consideration in this important matter. We would appreciate a response indicating the Administration's position on this issue.

Sincerely,


Tony Eileen

Maud Antares

Lyn Schenk

Lydia M. Veljko

Rae Hummer

Joe M. Dent

Marjorie Angela Hyatt

Charles Se

Don Barrett

Vi Frj

Harold Hark

Don G. Shro

Nancy Pelosi

Don Edwards

Sam Tan

Bob Kandy

Mike Bryan

Bill Hughes

Patry T. Munk

Lynn C. Walker

Neil Abernethy

John D. Hark

Rosa Lee Jones

James Jones

Lucille Raphael-Allard

Wm M Clayton

Lillian Haughton

Carrie A. Meek

Leslie Byrne

~~James Jones~~

Eugene Jones

Jack Kennedy

Bob Fisher

Cyril McK

OCT-14-94 FRI 12:01

NOVECON

FAX NO. 2026593215

1.02

**Novecon**

Suite 200  
1020 16th Street, N.W.  
Washington, D.C. 20036

Dr. Richard W. Rahn  
President

Tel. (202) 659-3200  
Fax. (202) 659-3215

October 14, 1994

Hon. Ed Knight  
General Counsel  
Department of the Treasury  
Washington, D.C.  
By Fax: 622-0073

Dear Mr. Knight:

Perhaps it has come to your attention that our client, VWM, Inc. of Virginia, has made application to import hunting ammunition from Russia, but that his contract has been jeopardized by a delay in the issuance of an ATF Form 6.

Novecon represents numerous U.S. businesses in their efforts to sell products in the Eastern European and Russian markets. Likewise, Novecon itself has formed and operates its own companies that sell in Russia, including U. S. made helicopters.

The collapse of the ruble this week again illustrates the importance of helping the Russians find export markets for the limited number of competitive goods they produce. Allowing the Russians to sell hunting ammunition in this country on the same basis that other countries already do would help them to strengthen their economy and aid in the economic transition.

Our successful efforts, on behalf of ourselves and others, have resulted in an increasing trade imbalance in favor of the U.S. Understandably, some of our Russian associates seek our services in an effort to fairly sell to the American market as well. In August, we negotiated the ammunition deal for VWM and the Karat Association in Moscow. VWM has already contracted to resell this ammunition to the U.S. retail sporting goods market.

This seems to us a perfectly normal and straightforward transaction. Karat has converted military production to civilian purposes, in conformance with the policies of both countries and with the encouragement of the U.S. Government. The ammunition to be manufactured is legal in the U.S., cannot be fired from a handgun, is new production "lead core" rather than surplus military "steel core", and is designed

OCT-14-94 FRI 12:01

NOVECON

FMA NO. 202033213

**Novecon**

Suite 200

1020 16th Street, N.W.  
Washington, D.C. 20036Dr. Richard W. Rahn  
PresidentTel. (202) 659-3200  
Fax. (202) 659-3215

specifically for hunting purposes. The shells are even smaller than a 30-30 hunting cartridge, and are not "armor piercing". It is my information that there are nearly two million rifles in the U.S. that can use this cartridge, but that there is virtually no U.S. production.

Last Friday, I bought a box of these type cartridges, labeled "Made in Russia", at a sporting goods store in Fairfax. We are told that currently these same type cartridges are being imported from South Korea and numerous other countries, but that only Russian import permits (and those from such pariah countries as Cuba and Libya) are being delayed.

Russia is our new friend and ally. It seems unjust that these same products can be imported from other sources but not Russia. What sort of message does that send to them? What are we to tell our Russian business associates when we seek to sell into their market? What will the U.S. say if Russia, instead of converting to civilian production, sells cartridges to Iran because they have no peaceful market here?

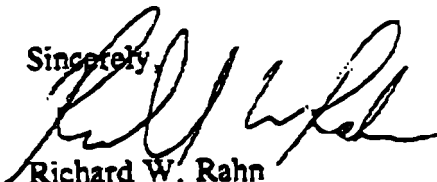
I have served as an economic advisor to senior officials in the Russian government. In this case, they have done exactly what the U.S. government has encouraged them to do. Action like this - to deny the Russians legitimate exports markets - alienates them and may result in a loss of U.S. jobs because of reduced exports to Russia.

The delay of this permit to VWM makes no sense: not economically, diplomatically, politically, functionally, nor militarily.

I urge you to expedite the approval of the three applications of VWM, Inc. to import ammunition from the Karat company in Russia.

Thank you for your consideration of this matter. I am available at your convenience to meet with you to discuss this matter.

Sincerely,

  
Richard W. Rahn

October 20, 1994

Mr. Keith Walton  
Deputy General Counsel for Enforcement  
U.S. Treasury Department  
Washington, D.C.  
Ph. 202-622-1448  
Fx. 202-622-5040

Dear Mr. Walton:

It has come to my attention that the letter of Dr. Richard Rahn to Mr. Knight regarding and ATF-5 application for VWM, Inc. has been forwarded to your attention, and that perhaps you and I or Dr. Rahn should visit in that regard.

Please forgive the informality of this letter, but I am in Houston tending to the details of my father's funeral, and my sister's computer will not process my legal stationary. However, I represent Dr. Rahn and VWM, Inc. in some of their eastern European matters. By way of background, for many years I was a federal prosecutor, and in fact for one year held a position similar perhaps to your own--as Special Counsel for Enforcement to the Commissioner of INS.

Attached is an article which appeared last weekend in the Moscow newspaper which indicates that Presidents Clinton and Yeltsin have in fact agreed to the processing of some of these permits. For the reasons articulated by Dr. Rahn, we feel strongly that VWM should be included in these approvals.

May we discuss this matter in detail with you, and seek your guidance if we need to speak to anyone at State? Dr. Rahn is available to see you immediately (phone: 202-659-3200), and perhaps you and I can just visit by phone today at 713-665-1217.

Thank you for your courtesy and attention to this matter.

Sincerely,



Brad Cates, Esq.  
4515 Swiss Ave.  
Dallas, Texas 75204  
214-828-2667

OFFICE OF DAVID GERGEN  
SPECIAL ADVISOR TO THE PRESIDENT AND  
TO THE SECRETARY OF STATE

Phone# 202-647-5527

Fax# 202-647-5573

TO: Jose Cerda

FROM: Jody Greenstone

FAX #: 456-7028

# OF PAGES: 3

COMMENTS:

This is the paper I mentaed, I will  
fall to the folks here and Martha  
If you have any suggestions about a  
resolution, please let me know.  
Tlx  
Jody

## Narration

### KARAT Ammunition Transaction

Because of the success of Novecopter and other Novecon ventures in Russia, a substantial trade surplus is being developed. In an effort to equalize this, and because of the opportunity presented by one of Novecon's other clients, Novecon was able to help bring together these parties.

VWM, Inc of Virginia (C. Davila, President), a federally licensed firearm importer, and their partner, General Arms Corporation, U.S.A. of Idaho (M. Standley, President), a sporting goods broker, have signed a contract to import \$8 million of hunting ammunition from Russia, and subsequently amended this contract for an additional \$16 million.

The seller is "Karat", which is variously translated as the "Association of Business Cooperation" or the "Industrial Commerce and Credit Association".

VWM applied to ATF for the transaction specific "End User Certificate" (also known more correctly as the ATF Form 6, or the Import Permit) on August 22, 1994. They listed the seller address as the address of Novecon in Moscow, and the manufacturer as a state arsenal.

On August 27, 1994, VWM filed the second application for the additional order, this time listing the actual street address of Karat. Also known and listed by that time was the specific arsenal from which these orders will be filled.

A third application for the balance of the order is being filed this week.

The ammunition being produced is new production hunting ammunition for rifles only (there is no handgun in the world made to use this ammunition). Although smaller in size, it is comparable in power to a 30-30 Winchester cartridge (as used since 1894 in their deer hunting carbines). It is virtually identical in size to the US made .223, but is not interchangeable. It is estimated that there are over 1 million rifles in this country that use this cartridge.

This cartridge is widely imported from Korea, Germany, Bulgaria, and numerous other countries, but is not believed to be made in this country, or certainly not in any quantity.

The usual processing time for the issuance of a permit is three weeks or so, and the permit is virtually never denied unless from an outcast country (such as Cuba). The physical process is that ATF passes the paperwork to the State Department's Office of Defense Trade Control (under the Assistant Secretary for

Politico-Military Affairs). State has total discretion whether or not to grant this approval. For example, they do not permit imports from Libya. Once State grants clearance, the paperwork is returned to ATF, where, if the applicant is otherwise qualified (e.g. has a license), the End User Certificate permit (ATF Form 6) is automatically granted.

VWM called ATF about the status of their permits in early September, and was told that State was "quietly" ( and without announcement ) holding all applications for guns and ammunition from CIS since late spring, except in a few cases for special applicants.

Novecon did some inquiry to confirm this, and additionally was told at State that State is completing (within a week or so) a policy review of whether to allow any imports from CIS. Apparently Russia knew of this "review" already, and the matter was raised in June by the Russian Prime Minister with the Vice President, and last week between Mr. Yeltsin and Mr. Clinton.

Russia does not intend to shut down its production facilities. It is willing to sell hunting ammunition to hunters and sportsmen in the U.S., but absent that option, will sell military ammunition to about any buyer, such as Iran. The same production lines that make the hunting ammunition can be reconverted to military ammunition. Conversely, if this order had been from Poland or Germany, it would have been approved routinely in three weeks.

In summary, it is requested that the applications of VWM for the import of hunting ammunition from the Russian company Karat (Association of Business Cooperation or Industrial Commerce and Credit Association) be granted. (The applications are not given numbers, but are filed by name of applicant--here it is VWM). There is no valid business or political reason that these applications should be denied or delayed any longer.

Rahm, Martha, Dana:

My thoughts on how to proceed with the Russian guns issue:

**1. Reel in State.** We can't afford to have state preclude our ability -- at least in the short-term -- to invoke some type of foreign policy concern for not allowing these guns in, and we certainly can't afford to have them arrive at some conclusion by November 1st. Thus, I think we should ask State to put their study on a 6-month track and give them some specific parameters. For instance:

- explore possible foreign policy reasons. Specifically, consider the impact of proscribed countries converting state-owned military arms manufacturers to civilian production -- or alternatively, strengthening/modernizing their capacity to produce small arms; consider nexus with international organized crime, drug trafficking and terrorism; look into proliferation issues.

**2. Learn more about trade options.** There are some unexplored trade options that we need to learn more about. We should ask USTR -- and possibly the trade folks at Treasury and State. Here's a sampling:

- Section 232 of the Trade Expansion Act of 1962. Under this law Commerce can send a determination to the President that the importation of certain goods poses a national security threat. If the President agrees, he can order adjustment or restrictions. To date, this law has been used to protect the US oil machine tool industry; the legislative intent was to protect the US industrial base. This could be used as the basis for entering in a Voluntary Restraining Agreement (VRA). I doubt we could use this to take unilateral action.

- Sections 406 (market disruptive imports from communist countries) or section 201 (market disruptive imports) or anti-dumping action.

- Bilateral VRAs. What can we use to leverage a VRA with Russia and FSU? Can we invoke sections 232, 401 or 201 -- or any other trade statute -- as a basis for a VRA. Can we make a case for crime control here (based on the Administration's new crime and gun control policies) and in Russia and the FSU (based on their own crime concerns?

**3. Get more info from Treasury, too.** First, some of the guns that we're concerned about are "curios and relics" that Treasury intends to redefine anyway. When are they going to do this? How many guns does this impact? Should this be done sooner or as part of the study's final product?

Second, is there any legislative amendment at all that is realistic? Even if we can't get it, can we come up with a harmless proposal that puts this issue back in the Hill's court?

Third, how about an argument -- with some evidence -- on why these guns shouldn't come in. Intuitively, we know these guns are cheap and getting to the street, but do we have any documentation? Even information showing the growing numbers of imports would be useful.

**4. Pass off to Freeh and Noble.** This is a separate option altogether. Giving it to the Law Enforcement guys insulates us quite a bit, and they have tremendous credibility in dealing with this overseas -- more so than our trade folks, I would think. Of course, there is a danger here that we won't like what we get -- and we'll be stuck with it. That's why I think Noble is key. We can work more closely with him than with Freeh.

- ① Postpone report
- ② Work on report recommendation (Riz)
- ③ Quietly draft begin based on American jobs.

~~XXXXXXXXXXXX~~

④ Put Russian back on STAR

⑤ Freeh-Noble-Gelbman

Gelbman

THE WHITE HOUSE

WASHINGTON

October 19, 1994

MEMORANDUM FOR RAHM EMANUAL  
JOSE CERDA

FROM: DANA HYDE  
Cabinet Affairs

SUBJECT: Russian Munitions

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Attached are draft documents stemming from last week's State Department inter-agency meeting on the Russian Munitions issue. From their perspective, the next step is to assign portions of the attached "outline" to various agencies for formulation of the study. Nothing is imminent and they have been apprised that we will be coordinating the effort from this point forward. They are, however, waiting for direction from us.

cc: Martha Foley

### Terms of Reference

- 1) PM will take the lead in conducting a study of the implications for U.S. foreign policy and national security interests of the importation of armaments from states of the former Soviet Union. The study will be completed and provided to Under Secretary Davis by October 25 for her review. A final version of the study is to be presented to the Secretary by November 1.
  - Specifically, the study will examine whether or not the transactions involving armaments from the states of the FSU contribute to the development of threatening military capabilities in the states involved.
  - Th study will also assess the impact that these transactions may have on the defense industries of the FSU states.
- 2) In its examination of these issues, PM will draw on the analytical and technical expertise of all of the relevant State Department bureaus, as well as that of the Intelligence Community and the Department of Defense.
- 3) In recognition of the fact that the NIS will likely be removed from the ITAR list of proscribed countries in the future, and working with the Departments of Justice, Treasury, Commerce and Defense, as well as with the NSC, Domestic Policy Council, FBI and U.S. Customs Service, PM will examine legislative and regulatory options for instituting broader limitations on trade in small arms, regardless of source (consistent with the Secretary's responsibilities under Section 38 of the Arms Export Control Act).
  - PM and relevant State bureaus will assess the foreign policy and national security implications of possible efforts to limit imports more broadly.
  - PM and relevant State bureaus will also assess the foreign policy and national security implications of efforts to reach agreement with Russia on voluntary limitations on its arms and ammunition exports to the U.S.

# Withdrawal/Redaction Marker

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### COLLECTION:

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Jose Cerda  
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Russian/Chinese Guns [2]

2016-0931-S  
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### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]  
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]  
P3 Release would violate a Federal statute [(a)(3) of the PRA]  
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]  
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]  
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

#### Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]  
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]  
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]  
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]  
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]  
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]  
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]  
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

## Outline

### I. BACKGROUND/DATA BASE

- A. Facts/figures of potential firearms/munitions imports from the NIS.
  - Assessment (both qualitative and quantitative) of the level of license requests for NIS munitions once the slate has been wiped clean and new applications are submitted.
- B. Facts/Figures from ATF on levels firearms/munitions imports, regardless of source.
  - Data should be broken out by source country, actual import levels and license approval levels.
- C. Comparison of level of imports from all sources before and after the ban on firearm imports from China took effect.
- D. Assessment of "likely" level of demand for FSU imports in both the short and medium term. (Will there be a one-time surge in demand for FSU arms to be followed by a precipitous drop once collectors have made their one-time purchase.).
- E. Assessment of likely level of imports once Russia and other FSU states are no longer proscribed by the ITAR.
- F. Annual sales of firearms in the U.S., whether imported or domestically produced.
- G. Number of privately owned firearms in the U.S.
- H. Facts/Figures on U.S. munitions exports to Russia and other NIS states.

### II. FOREIGN POLICY AND NATIONAL SECURITY ISSUES

- A. Extent to which munitions imports from the NIS contribute to development of a threatening military capability in FSU states.
- B. Effect of Transactions on defense industries of FSU states.
- C. Relationship between munitions imports from the NIS and our defense conversion objectives in those states.
- D. Potential effect of restrictions on munitions imports on our efforts to promote trade with NIS.

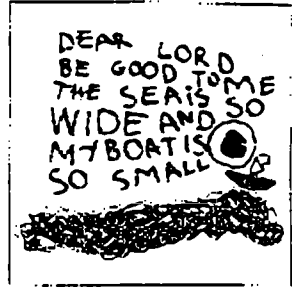
### III. COMMERCIAL IMPLICATIONS

- A. Would restrictions on FSU-origin imports result in fewer total imports, or would other, non-proscribed suppliers fill any gap?
- B. Analysis of impact that any restrictions on imports would have on ability of U.S. firms to export to NIS e.g. will there be retaliatory action from Russia?
- C. Would a lack of restrictions affect U.S. manufacturing, i.e. will domestic manufacturing firms seek protection?

### IV. LEGAL AND REGULATORY ISSUES/OPTIONS

- A. Analysis of Current Legal/Regulatory Authorities and their ability to limit imports of firearms and munitions.
  - Section 38, Arms Export Control Act (22 U.S.C. 2778)
  - International Traffic in Arms Regulations (ITAR, 22 C.F.R. Parts 120-130)
  - Department of Treasury Regulations - Bureau of Alcohol, Tobacco and Firearms relating to the import of Arms, Ammunition and Implements of War (27 C.F.R. Part 47)
- B. Options for changing existing statutory and/or regulatory authorities to manage or limit munitions imports, regardless of source.
- C. Options for new legislation to manage or limit munitions imports, both discriminatory and non-discriminatory.
- D. Other options for restricting imports from NIS
  - Voluntary Restraint Agreements

### V. CONCLUSIONS



Children's Defense Fund

October 4, 1994

The Honorable Peter Tarnoff  
Undersecretary of State for  
Political Affairs  
Department of State  
2201 C Street, NW  
Room 7240  
Washington, DC 20520

Dear Peter:

I am very troubled by reports that the Administration is considering permitting the Russians to sell 5 million handguns in the United States -- as a compromise because we do not want the guns sold to Iran. Our children are dying by the thousands because of the proliferation of guns on the streets, in schools, and in homes. According to the FBI, approximately 80 percent of all firearm homicides are committed with a handgun. Allowing more guns onto the market in the United States while we are struggling to reduce the number of firearms being used to kill Americans and get them out of the hands of children (who are among the most likely recipients of cheap guns) is illogical and destructive and sends a mixed message to gun owners, dealers, and manufacturers -- as well as to our children.

If our trade policies require that we remove these guns from foreign markets, then the answer may be to purchase them at government expense and destroy them -- not that we raise the domestic death toll in the interests of trade.

I urge you to take whatever steps are necessary to ensure that these handguns are not added to the long list of guns which are already killing our children -- a classroomful every two days.

Thank you very much.

Sincerely yours,

Marian Wright Edelman

Please deliver to;

José Cerda

---

Tel: 456-5568  
Fax: 456-7431

From: Rebecca Hedlund

Tel: 622-1429  
Fax: 622-7493

STATE DEPARTMENT  
Statement by the State Department Spokesperson

As you are aware, the BATF has the statutory responsibility to grant or deny licenses for imports of munitions. In carrying out this function, BATF is guided by the views of the Secretary of State on matters affecting world peace, and the external security and foreign policy of the United States. At present, there are over 250 pending license requests from American firms wishing to import munitions from the states of the former Soviet Union (FSU). These requests are valued at over \$1 billion in potential sales, including over seven billion rounds of ammunition and 7.6 million rifles and pistols.

Because of the dramatic increase in the volume of potential imports from the FSU, the Secretary of State has ordered the Department to undertake a thorough study of the foreign policy and national security considerations involved in these munitions trade issues. The study will also examine existing statutory and regulatory authorities for managing the importation of guns into the United States with a view to determining whether any changes are needed to manage such imports in a more orderly manner, consistent with our foreign policy and national security interests.

The Secretary has asked that this study be completed expeditiously. Until these issues can be addressed, we will not recommend approval of any munitions import licenses from the FSU. Accordingly, I would also like to announce that the Department is sending to the Treasury Department's Bureau of Alcohol, Tobacco and Firearms our recommendation that the BATF deny approval to pending license requests from American firms wishing to import firearms and ammunition from Russia and other states of the FSU.

We anticipate that many of the license applicants will resubmit applications in the near future. Clearing away all pending FSU license applications will enable the Department to have an accurate understanding of the current magnitude of the potential imports as we conduct our review.

Lastly, I want to make clear that some of the speculation that went on in press reports concerning this issue was completely off base. At no point did we consider the idea of "compensating" Russia for halting arms sales to Iran by approving these licenses. That sort of linkage was never even discussed.

SENR 758

**DRAFT**

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SENR 758

DRAFT

THE WHITE HOUSE  
Office of the Press Secretary

For Immediate Release

September 30, 1994

PRESS BRIEFING  
BY DEE DEE MYERS

The Briefing Room

1:51 P.M. EDT

MS. MYERS: A couple of just brief comments before we get started here. As you know, the President met this morning with his foreign policy advisers where he was updated and briefed on the situation in Haiti. Clearly, people here are following it closely, and the President is being informed as the situation develops.

I think generally the President's view is that the progress there has been very good. He's very proud of the work that the U.S. military has done there in stabilizing that environment and beginning the very difficult transition to democracy. I think the President and everybody within the administration has known throughout this process that there was no guarantee that there wouldn't be some violence, that this was always something that was not going to be easy. But I think by and large, the progress has been good and the President is pleased with that.

In the past week we've seen the parliament meeting for the first time in several years. We've seen Evans Paul, the Mayor of Port-au-Prince reinstated for the first time in three years. And we've seen people begin to express their political views on the streets of Port-au-Prince and other cities and towns throughout the country. So we have a long way to go, but I think the President feels at this point certainly very proud of the U.S. military and the role that they have had there and the progress that they've made.

Q Has the administration asked Father Aristide to say something later today? Is he doing this at your request?

MS. MYERS: Well, I think we've certainly been talking to him on a daily basis. I think he's very interested in maintaining a peaceful atmosphere. And as you know, he's done things -- taped a message to the people asking for calm, particularly today on the third anniversary of the coup.

As you know, U.S. military forces now control the radio and television stations, so they are no longer broadcasting very inflammatory messages; rather they're broadcasting messages of reconciliation and peace, including one from Father Aristide.

Q Did we ask him to do this?

MS. MYERS: I don't know if specifically -- I mean, we talk with him regularly, but this is something that he's very committed to. I don't think he needs us to ask him.

Q With us now in charge of the radio and the television and also ensuring the peace, aren't we responsible now for this situation, which is violent today and has the potential for continuing to be violent?

MS. MYERS: Well, the farph is still very much involved in keeping -- in policing the situation in Port-au-Prince. Certainly there are U.S. military officials on the ground as well, U.S. military personnel backing them up and helping to ensure order. We said all along that one of the missions of the U.S. military there would be to maintain civil order and to keep things from disrupting into a very chaotic situation. Clearly, that's an important role, and one that we'll continue to pursue.

Q Hasn't Mission Creep already happened? We're now in charge and responsible for whatever happens --

MS. MYERS: That's not true, Andrea. That's not true. I mean, to a very limited degree we're there on the ground on a day-to-day basis, but the farph is still there, the Haitian police force is still there working with the military, helping to ensure civic order, helping to police the streets. That is still the primary function of the farph in Port-au-Prince today.

As you also know, we're in the process of bringing in police monitors and in training and in separating the police and military. That is a process that is ongoing, a former police commissioner from New York, Raymond Kelly, is now in charge of that overall process of monitoring and retraining the police force. That's going to continue forward. This is something that the international community has undertaken, and we've made some progress. But this is something the Haitians will ultimately have to work out for themselves. It is not our responsibility.

Q That's long-term --

MS. MYERS: That is long-term, but --

Q The view in Congress is quite the opposite today.

MS. MYERS: I'm not sure that that's true.

Q They're very upset up there.

MS. MYERS: Well, I think everybody is watching the situation today very carefully. That's why -- I think there was a briefing there -- Ambassador Swing yesterday talked about the steps that we were going to take, both the U.S. military and the international community, to try to prevent violence on the streets today. Father Aristide, again is broadcasting a message of reconciliation and urging people to express their views, but to do so peacefully. And we've taken an number of steps to try and prevent it. But at the same time, I think we've warned throughout this process that there -- it is potential for violence; we can't guarantee against it; we'll take what steps we can, though, to guard against it.

Q Dee, Dee, before the lights go out I need to ask you for your reaction to the comatose state of campaign finance reform on Capitol Hill.

MS. MYERS: Well, obviously the President is very disappointed. He's committed to political reform; it's something he's been fighting for throughout the last 20 months. This is a bill the President introduced over a year ago. And unfortunately it was defeated today by a partisan filibuster. I think the President is committed to this, and he'll be back next year to fight for campaign finance reform. He's committed to getting special interest out of government, and passing a campaign finance bill is one way to do that. Also, lobbying reform is in its final phases -- it passed the House yesterday by an overwhelming margin. The President urges the Senate to pass it and send it to him.

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Q Is he disappointed in congressional leaders for taking so long to reach a compromise and keeping this bill bottled up until the very end of the session when it could be affected by a filibuster?

MS. MYERS: Well, I think, he, again, he's disappointed that it didn't pass. This is something that he considers very important -- political reform, generally, he considers very important. And it's something that he'll fight for again next year.

He believes it should have passed; he believes without the filibuster that it would have. The majority of the Senate supported it, and it's unfortunate that it was blocked again by a partisan filibuster. But we'll be back next year and fight for it again.

Q Well, it could have passed earlier.

MS. MYERS: Maybe. I mean, who's to say. I certainly can't say for sure whether it would have passed earlier. But I think the President is disappointed that it didn't pass. And again, he'll be back next year to fight for it.

Q Getting back to Haiti, can you confirm what others are telling us -- that Francois' family has already gone to the Dominican Republic and --

Q Can we leave the lights on?

MS. MYERS: Hit them back, we'll go a couple more minutes.

Q Thanks.

Q Thank you very much.

Q Thank you.

MS. MYERS: Sure. (Laughter.)

I don't have any independent confirmation --

Q Turn them back off. (Laughter.)

MS. MYERS: That's right, turn them off. (Laughter.) As long as Wolf's not live, we're okay.

Q He's still breathing.

MS. MYERS: I do not have any independent confirmation of the whereabouts of Francois' family.

Q What about Francois?

MS. MYERS: As far as I know, he's still in the country. I've seen news accounts that he's planning to leave.

Q He ain't in that warehouse, though, is he?

MS. MYERS: It's not his warehouse. It's somebody else's last name. What we're told -- somebody else whose last name is Francois, but not related.

Q What, the one that was looted today?

MS. MYERS: The one that was --

Q -- looted yesterday.

MS. MYERS: It was looted after the --

Q What about the cash-n-carry store --

MS. MYERS: I don't know who -- I do not know who owns the cash-n-carry store.

Q Do we know -- have we cut a deal with Francois? Are we involved in helping him relocate?

MS. MYERS: We haven't cut a deal with him. I mean, he is covered under the agreement --

Q No, a separate deal.

MS. MYERS: -- that's reached. We don't have any deal with him. I mean, certainly we're willing to help facilitate the departure of the military leaders. But we don't have any independent deal with him.

Q Are we in the process of relocating him to the Dominican Republic?

MS. MYERS: I don't know that he needs our help. I can take that question and see if there's anything. But I don't think he needs our help in doing that.

Q You say you're in daily contact with Aristide. Has the President spoken to him since the night of the agreement?

MS. MYERS: I think the President spoke to him once last week. I don't remember which day it was. But he talks to Bill Gray and Jon Plebani from the State Department, as well as he's met with Tony Lake and talked with other people, including General Sheehan, and others at the Pentagon over the course of the last few weeks.

Q The President was briefed at the meeting this morning by the military on the situation. How many troops do you now expect will be deployed, when all is said and done, to Haiti?

MS. MYERS: Well, I think that's a question best referred to the Pentagon on specific deployment details. I will say this, that the military commanders on the ground are making decisions based on their best judgement. It was always anticipated that there would be somewhat of a spike in troop numbers as the 10th Mountain Division and the military police went in, and the Marines were still on the ground.

The U.S. troops are also doing other things that are sort of Army Corps of Engineer-related type projects -- rebuilding the airport and the port to allow for the delivery of humanitarian supplies and construction materials. It is still expected that as soon as it's possible and feasible, the troops will be drawn down. There's a plan in place to do that. I think that could begin as early as next week.

Q How high will the spike go?

MS. MYERS: I think there have been some reports that have exaggerated it. But again, I would refer you to the Pentagon. I think there are a little over 20,000 today, and I don't think they expect it to go much higher. But you should check in with the Pentagon.

Q Was the President specifically consulted before the level of the troops was raised as high as it has gone?

MS. MYERS: It was looted after the --

Q What about the cash-n-carry store --

MS. MYERS: I don't know who -- I do not know who owns the cash-n-carry store.

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Q Was the President specifically consulted before the level of the troops was raised as high as it has gone?

MS. MYERS: He is kept informed about the situation on the ground and what the military commanders believe they need. He is not trying to micromanage those decisions from Washington, but he is kept informed of them.

Q You said the U.S. was still working with the farph -- they're still responsible for police and security in the area. And yet, that appears to be -- their headquarters appears to be a flashpoint of violence. Today we've got reports that supporters of Cedras gathered there, and then when the marchers walked by there was violence, shooting, a man pulled out of his car and shot point-blank. Is there going to be increased pressure on these folks to stop that? Why were they allowed to have supporters of the old regime gather there to begin with?

MS. MYERS: Well, I don't think we're going to try to manage every single -- or expect that we can manage every single situation on the ground throughout this. We're monitoring it today, keeping track to the best of our ability on what's happening. And we're always a little reluctant to make judgments based on preliminary reports because so often they turn out to be wrong or incomplete or only part of the picture. So I think to a very large degree the U.S. forces there have had a stabilizing effect. It doesn't mean they can prevent every incident of violence. The farph continues to work and work with the U.S. military. The U.S. military is there to back them up; soon we'll have the police monitors there to provide further guarantees that there are no excessive uses of force or abuses of human rights. And we'll continue to work with that to the best of our ability.

Q The situation is getting a little more dangerous with grenades flying -- with opposition in Congress, if the U.S. army takes casualties -- I mean, somebody gets killed -- have you given special instructions to the military to protect the loss of lives --

MS. MYERS: Well, certainly, that's their primary responsibility. And their overriding concern is to protect against the loss of U.S. life and to make sure that they carry out their operations with a real commitment to the security of U.S. troops. You can never guarantee that something won't happen. And I think their mission there is certainly first and foremost to make sure that they conduct their operations in a way that protects life -- U.S. life and that of civilians as well. But you can't ever guarantee against it.

Q But let's say it happens, you will get a backlash from Congress --

MS. MYERS: Who knows. I mean, we'll have to wait and see. And we're all hopeful that things will go as peacefully as possible and that violence will be limited. But we can't guarantee that there won't be some incident.

Q Is part of the American military mission to protect American journalists who are in Haiti? And is there any concern about the safety of American journalists?

Q Oh, no -- (laughter) --

MS. MYERS: I try not to -- no, I mean, of course there is concern about the safety of civilians, including American journalists. I think that the military will do what it can to prevent violence against -- as you know, against Haitians as well as Americans as long as they're in a position to do so. In other words, as long as they have adequate force, adequate numbers there to take on whatever situation is at hand without endangering U.S. troops. And I think that applies to journalists as well.

Q Has the administration contacted any news organizations recently to discuss this --

MS. MYERS: Not -- I don't know. The State Department may have, but not that I know of. I think every -- I think news organizations -- as you know, we have worked very closely with the news organizations, with the network bureaus and others in the initial stages of this. But I think all the news organizations understand the risks of going into an environment like this.

Now, I think the military and the embassy down there are working closely with -- providing whatever backup they can, whatever help they can to citizens and journalists, but I think the journalists probably better than anybody understand the risks, particularly when you're in the heart of whatever's happening.

Q What's the purpose of today's Cabinet meeting?

MS. MYERS: It was an informal lunch without -- the President didn't have any agenda. He just asked the Cabinet to come together to discuss whatever is on their minds. We did this once before, just an informal lunch at the Blair House.

Q Does the President support lifting baseball's antitrust exemption --

MS. MYERS: The President hasn't taken a position on that. He said he was looking at it a couple of weeks ago, and I don't think he's really come to any conclusions about it.

Q The Senate is debating it today.

MS. MYERS: I understand that, but the President has not reached any conclusions and I don't know what his timetable is for doing so.

Q Is there any indication that the U.S. Government will allow Russian small arms into this country as part of arrangement made with Mr. Yeltsin?

MS. MYERS: No, it wasn't discussed at the -- at the summit with President Yeltsin. Let me just give you a little bit of background on that. A couple of things -- Russian arms -- currently you can't sell -- you cannot buy -- or Russian guns are not sold here. Just generally, most assault weapons have been banned from importation since '89. Assault pistols have been banned since August of '93, Saturday night specials have been banned since the late '60s. I think in the wake of the Cold War and the end of communism, et cetera, there has been expanded opportunity for weapons sales from countries around the world -- China, Russia, and other countries -- to the U.S. Ultimately, the Bureau of Alcohol, Tobacco and Firearms makes decisions about that. The State Department, among other departments, makes recommendations to ATF.

Q Is there a request pending and has the State Department made a recommendation?

MS. MYERS: The State Department has not made a recommendation. They are in the process of putting that together now. And I think they'll have more to say about it once they have done that. And ultimately, the Bureau of Alcohol, Tobacco and Firearms will make the decision. Obviously, we're concerned from a domestic perspective. The State Department will look at it from an international perspective to determine whether there is any impact on national security. We're concerned about it from a domestic perspective of not allowing a big influx of weapons into this country. And so, those are determinations that will have to be made.

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Q Are you going to weigh in on this from here?

Q Dee Dee, how does that work -- if somebody asks for a permit to import --

MS. MYERS: Yes. They -- correct.

Q And you're saying that there is a request of that sort pending now that's being examined?

MS. MYERS: I believe there is a request. The ATF is charged with making the final determination, and there is a review process underway. And at this point we don't have any more specifics on it.

Q Who is the request from?

MS. MYERS: I guess from -- I'll have to take that -- but I think it's from the Russian government -- that they make a request.

Q In other words, they want to export firearms into the U.S.

MS. MYERS: Let me take that -- exactly what the source of the request is, though whether it's a private or a government.

Q Does the White House have a view? Does the President have a view? Will you make it known in this -- process?

MS. MYERS: Well, I think we'll wait and see what the recommendations of the State Department are and then the Bureau will take a look at it and make some determinations. At this point, we haven't expressed a view. I mean -- other than concern about the importation of weapons generally.

Q Will American troops be protecting Aristide when he goes back?

MS. MYERS: Yes. Yes.

Q They will form a sort of a guard?

MS. MYERS: I don't know exactly -- I mean, again, the Pentagon may have more specifics about how they'll do that, but that is clearly one of their functions is to protect President Aristide.

Q Is the First Lady campaigning in Florida tomorrow for her brother?

MS. MYERS: She is.

Q The schedule doesn't say anything about that. It just says she's in Florida. Is there some reason that that was omitted?

MS. MYERS: No. I don't know, actually, why -- you'll have to check with Lisa Caputo over in the First Lady's office to find out why that was done; but she is campaigning for her brother. It's something that she's been, that they've been trying to work out a mutually acceptable schedule to do for quite a while.

Q Dee Dee, go back to the guns for a second. The things the President has said about semiautomatic weapons, why would he even consider for even a second -- why would it not be a closed question?

MS. MYERS: I don't know what weapons they've requested to import. I don't know whether they're semiautomatic or not. And, again, I can take that and find out what the source of the request is and what kind of weapons they've requested to import. But I think that we're taking a look at it. This is something that will be reviewed, and we'll have more to say about it later.

Q Would it be fair to infer from your answer that if they were semiautomatic the President would veto it? I realize it's not a formal veto --

MS. MYERS: Yes, I just don't know what the nature of the request or whether semiautomatic weapons are included in that. I'm just not prepared to go beyond that.

Q Dee Dee, I'm interested in the semi-automatic specificity here. Since almost no one makes revolvers except two U.S. companies, or three, any European weapon is liable to be a semiautomatic weapon. I don't believe the European companies make any revolvers hardly any more.

MS. MYERS: I'm just not familiar enough with European weapons manufacturers to have a comment on that --

Q I don't mean the question to be -- I mean it's not a question of great expertise.

MS. MYERS: Well, there is a process for reviewing gun sales apparently. And it is something that is spearheaded by the Bureau of Alcohol, Tobacco and Firearms. I don't know -- I know there is a review in process, and I don't know the source of the request of these guns or exactly what kind of guns they've requested. But you can check with the Bureau and see if they have more specifics on it, and we can post a little bit more information later.

Q Back to Frank's question -- why would the White House consider any kind of new gun importation since this apparently also includes Saturday night special kinds of --

MS. MYERS: Well, no, I just said Saturday night specials have been banned for import since the late 1960s.

Q I'm sorry, I don't mean -- I just mean small guns. Why would the White House even entertain the possibility of opening any new avenue for weapons --

MS. MYERS: I don't know that it's a new avenue. Our laws -- we have laws that exist, and we operate within the framework of those laws. And in our trade laws there is room for import of weapons.

Q Are you saying the Russians have a right to then, to --

MS. MYERS: I am saying that we -- we operated within the context of our laws. And our laws allow for importation of some guns. Now there is a process for reviewing requests to import guns, and when those requests are deemed legitimate, then they're approved, and when we have problems with them, we don't approve them.

Now, you can go to the Bureau of Alcohol, Tobacco and Firearms for more specifics on this, but we do operate within the context of our laws. So we don't make judgments outside of the context of existing trade law.

Q But doesn't it put the President in kind of an awkward position to be on the one hand signing a Crime Bill and on the next hand opening the door --

MS. MYERS: I don't know what weapons they've requested to import. I don't know whether they're semiautomatic or not. And, again, I can take that and find out what the source of the request is and what kind of weapons they've requested to import. But I think that we're taking a look at it. This is something that will be reviewed, and we'll have more to say about it later.

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MS. MYERS: There is no question that we've banned 19 assault weapons; we've just a Crime Bill the President feels very strongly about that doesn't change existing laws in the areas of international trade. Now we're going to review the request, as I said, with an eye toward its implications for national security and its implications for domestic security. No final judgments about this have been made.

Q On the Japanese talks, midnight tonight is the deadline?

MS. MYERS: Midnight tonight is the deadline. So Ambassador Kantor starts -- he meets with Foreign Minister Kono beginning at 3:00 and then meeting Minister Hashimoto beginning at 8:00 p.m. He's scheduled a press conference tomorrow at noon.

Q Where?

MS. MYERS: That could be at USTR, it could be here, and we'll just have to wait and see what the outcome is.

Q Is the President involved --

Q Victory is here --

Q -- bad news there -- (laughter) --

MS. MYERS: Not necessarily. Not necessarily. The President has been involved. He's certainly been involved in the Japanese trade -- international trade issues generally. Under U.S. trade law -- the President signed an executive order re-upping Super 301 last year. And under U.S. trade law, Mickey Kantor, as U.S. Trade Rep, has the authority to impose sanctions under Title VII or to take action under Super 301. It wouldn't request the President taking any additional action, although it's something he certainly talked about with Mickey.

Q And that ball starts rolling after midnight, and imposed at any time?

MS. MYERS: Yes, I think, right. The deadlines are coincidental, as you know. We listed Japan under government procurement and insurance July 30th, which set the deadline for us making the decision about whether to impose any sanctions for September 30th. And then Super 301 was set -- that deadline was set by executive order, so it's a coincidence that these happen at the same time.

Nonetheless, we're in discussions on all of the sectors affected by both, which includes autos, auto parts, glass, government procurement and insurance.

Q Housekeeping question, Dee Dee. When are we going to have this room finished and get some restroom facilities and machines back in here?

MS. MYERS: Any predictions?

Q There's no progress --

Q -- haven't even seen a --

Q They're still hauling dirt up out of that hole with a bucket.

Q And the fumes have been impossible. People have gone home sick from the gaseous fumes back there.

MS. MYERS: Okay, we're going to make this a crusade. We'll fix it. I don't know -- they told us what was originally, they said they'd have it done within a few weeks --

Q Over the weekend.

Q Just be glad they're not working on your kitchen.

MS. MYERS: Yes, right, it always takes longer than you expect. Thanks.

THE PRESS: Thank you.

END

2:14 P.M. EDT

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THE PRESS: Thank you.

END

2:14 P.M. EDT

UNCLASSIFIED

FOR TRANSMITTAL SHEET

NATIONAL SECURITY COUNCIL  
OLD EXECUTIVE OFFICE BUILDING  
ROOM 374

WASHINGTON, D.C. 20500

FROM: JOSSIE STEIN

PHONE: (202) 456-9160

FAX: (202) 456-9160

TO: JOSE Cerde 67028 65568  
FAX PHONE

NUMBER OF PAGES INCLUDING COVER SHEET \_\_\_\_\_

SPECIAL INSTRUCTIONS:

Jose - These are  
just my thoughts on the various  
policy options you might consider.

It's a fascinating problem. Let me  
know if you want to talk more -  
especially after the Summit!

Best, Josefa S.

UNCLASSIFIED

THE RUSSIAN GUNS PROBLEM 9/14/94

MISSIA STEKIN

Ken Brill from Executive Affairs at the State Department came to "raise a red flag" about what he characterized as a domestic policy issue.

Russia will have to be taken off the ITAR list as soon as it stops selling weapons to Iran. This will open the floodgates to over 250 licence applications to sell a total of 7 billion rounds of ammunition; over 7 million guns; 60,000 scopes; and 2 MIG 17s (?).

The bottom line: there is no longer any foreign policy rationale good enough to convince State department lawyers to keep Russian guns out of the US.

Domestic gun manufacturers are not united in terms of their view. Some hope to protect markets. Others hope to go into business with the Russians.

Jose Cerda of DPC and others believe that the President has a "visceral" reaction to crime related issues and will find this news appalling.

OPTIONS

1. Let this go forward. Potential negative consequences: would look extremely bad in the press; could increase crime. Would look especially bad to have US flooded with 7 million guns right after the crime bill was signed.

2. Apprise the president of the situation, and recommend that he request of Yeltsin that he voluntarily exercise restraint in the spirit of a US-Russian anti-crime offensive.

3. Come up with a foreign policy justification to ban Russian guns. Potential negative consequences: It will look like we're targetting Russians unfairly. Better to pursue option 4, although it too will pose tactical difficulties.

4. Ban all gun imports. Justification: crime and corruption are a threat to US national and international security. [In general, when we ban imports, such as Swedish child pornography films, the justification is that they banned outright in the US. Not so for guns. But I think there is some kind of loophole for items that affect national security in the GATT.] Consequences: US gun manufacturers will reap significantly higher profits; price of guns will rise (which is good for crime). A good way to reduce

the number of guns on the street with out having to battle the NRA. Problems: how will Congress react? Foreign gun exporters will be furious that we've closed the single best market for them -- what are the consequences for us?

5. Impose sufficiently high tax on all guns that demand for guns will not increase despite the inflow of 7 million relatively cheap ones. This is the best policy from the standpoint of economic efficiency, but negative consequences include that domestic gun manufacturers will be furious. This option unlikely to be politically feasible just after the Crime bill squeaked through.

#### CONCLUSION

Option 4 is probably the best option if feasible. Must find out from Treasury lawyers whether it is legal, and from the (DPC?) whether the President approves. Option 2 would be much easier to carry out, but may not be successful. Option 2 could be a temporary fall back position.

#### ACTION:

We need to make the (Vice President?) and the President aware of this problem before the Summit; perhaps providing them with an options paper. This issue must be part of our briefings.

Can we include the Domestic Policy Council in our preparations for the summit on this issue? Should I call Jose Cerda and say we will; ask him for a paper?

What happens when we cut off russian guns:

1. Price of guns goes up.
2. Demand for guns goes down.
3. US gun manufacturers make more profits.
4. We violate GATT?
5. We make Russians mad.

What happens if we tax Russian guns:

1. Price of (all) guns goes up.
2. Demand for guns goes down.
3. US gun manufacturers make more profits.
4. We violate GATT?
5. We make Russians mad, but less mad than in A).
6. US government receives tax revenue from Russian guns.

What happens if we tax all guns?

1. Price of guns goes up.
2. Demand for guns goes down.
3. US gun manufacturers make lower profits.
4. We make Russians mad, but less mad than in A) or B).
5. US government receives tax revenue from all guns.

What is the purpose of this exercise? If it is to reduce demand for guns, the most efficient way to do it would be to tax all guns (because at least the gov't reaps revenues); the least efficient to ban Russian guns (highest dead weight loss; Russians get mad). If the purpose is to assist US gun manufacturers, then banning Russian guns is the best policy.

To calculate the effect on demand of any of these policies, we need to know, how sensitive is demand for guns to price (price elasticity of demand).



DIRECTOR

DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, D.C. 20226  
July 21, 1994

Honorable Howard M. Metzenbaum  
United States Senate  
Washington, D.C. 20510

Dear Senator Metzenbaum:

This is in response to your request for an assessment of the impact of a proposed amendment that would prohibit the use of appropriated funds to:

"1) to deny or refuse entry into the United States of any goods manufactured or produced in the People's Republic of China which were, on or before May 26, 1994, in a bonded warehouse or foreign trade zone, in port, in transit, or for which payment had been made; or 2) otherwise to impair the validity of any license or permit approved on or before May 26, 1994, authorizing the importation into the United States of such goods."

While the amendment does not specifically refer to firearms or other defense article, it appears to be aimed at the President's announcement on May 26, 1994, of a ban on the importation of defense articles from China under the terms of the Arms Export Control Act. Our response is limited to the amendments impact on that decision.

The first part of the amendment referring to goods in bonded warehouses, foreign trade zones, in port or in transit would address a finite number of firearms and ammunition. ATF is in the process of determining exactly what shipments fall in these categories. Preliminary figures would indicate that it may cover approximately 12,000 firearms. Since nearly a million firearms a year were being imported from China prior to the President's decision, this is a fairly small number. The remaining language of the amendment, however, would potentially open the door to the importation of millions of firearms from China. We have no way of knowing what the universe of firearms "for which payment has been made" would be. First, it doesn't even specify payment by whom. If it covered purchases by Chinese exporters, the numbers could be staggering. If it covered only payments by U.S. based importers, the best we can say is that we have no way of

-2-

Honorable Howard M. Metzenbaum

estimating what quantities of arms and munitions would be covered.

Finally, the provision protecting the validity of all existing licenses could potentially authorize the importation of millions of weapons. Permits are currently issued for a one-year period, and importers routinely procure permits that cover far more weapons (frequently double or triple) than are eventually imported. Allowing all firearms to be imported that are listed on permits valid on May 26, would in effect be a windfall, allowing importers to import now, more weapons than they had ever intended to import during the term of the permit.

I trust that this has been useful in your evaluation of the amendment. If we may be of further assistance, please let us know.

Sincerely yours,



for John W. Magaw  
Director

- Russia on STAR \* | 7 million weapons  
 | 7 billion rounds of ammo  
 | 1 billion
- Move from 250 permits
  - 1993 — 18,000 weapons let-in under exceptions
  - Inevitable But they will be taken off the STAR
    - ↳ responsive to our requests w/ Iraq
  - July '93 — exceptions to STAR began
    - ↳ Mid-'92 document in licensing trade w/ Russia.

9/29 - 2-5 pm briefing for USA's  
 ↳ morning briefing for all Hill staff

- Announcement: if you start to train — and we fund you later — we'll continue to pay for those costs

- April/May Study Study + subsequent booklets developed by AG.

② - work w/ education on VHS — Mid October  
 10-6-94 for Cops Announcement.

① October  
 3rd  
 Steering  
 Committee

REV-5/1/94 11:24

# IMPORTED FIREARMS BY COUNTRY AND TYPE FISCAL YEARS 1989 - 1993

| Country of Exportation | Shotguns       | Rifles           | Handguns         | Total Firearms   |
|------------------------|----------------|------------------|------------------|------------------|
| AUSTRIA                | 12,419         | 22,067           | 403,042          | 437,528          |
| BELGIUM                | 21,080         | 1,558            | 106,224          | 128,862          |
| BRAZIL                 | 97,637         | 192,604          | 315,771          | 606,012          |
| CANADA                 | 47,298         | 57,804           | 51,288           | 156,390          |
| CHINA (P.R.C.)         | 8,317          | 1,145,762        | 130,014          | 1,284,093        |
| CZECHOSLOVAKIA *       |                | 36,900           | 35,087           | 71,987           |
| FINLAND                | 79,569         | 30,760           | 38,283           | 148,612          |
| FRANCE                 | 2,545          | 16,183           | 56               | 18,784           |
| HUNGARY *              |                | 7,850            | 35,110           | 42,960           |
| ISRAEL                 | 79             | 33,212           | 61,086           | 94,377           |
| ITALY                  | 210,257        | 104,770          | 376,448          | 691,475          |
| JAPAN                  | 298,940        | 210,705          | 65,179           | 499,824          |
| KOREA *                | 17,235         |                  | 35,053           | 52,288           |
| MEXICO                 | 9              | 1,418            | 12               | 1,439            |
| POLAND *               | 1              | 7,500            | 20               | 7,521            |
| PORTUGAL               | 204,095        | 22,764           | 76,810           | 303,669          |
| RUSSIA *               | 6,230          | 2,895            | 8,921            | 18,046           |
| SCOTLAND               | 12             | 14               | 1                | 27               |
| SPAIN                  | 27,152         | 115,423          | 231,798          | 375,373          |
| SWEDEN                 | 125            | 95,556           | 61,485           | 157,166          |
| SWITZERLAND            | 208            | 25,436           | 53,889           | 79,528           |
| UNITED KINGDOM         | 13,660         | 146,594          | 420              | 160,674          |
| WEST GERMANY           | 6,431          | 78,622           | 406,097          | 490,150          |
| <b>TOTALS</b>          | <b>988,294</b> | <b>2,356,397</b> | <b>2,481,094</b> | <b>5,825,785</b> |

\* - Figures provided for fiscal year 1992 only

05/27/94

## FAX COVER SHEET

## OFFICE OF CHIEF COUNSEL

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, DC 20226DATE: 5/18/94TO: JOSE GRED A RECIPIENT'S FAX NUMBER: 456-7028FROM: BRAD BUCKLES SENDER'S PHONE NUMBER: (202) 927-7772SENDER'S FAX NUMBER: (202) 927-8673NUMBER OF PAGES TO FOLLOW: 2

COMMENTS: \_\_\_\_\_

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President's Letter to Cgr. Markey Regarding  
Importation of MAC-90 Rifles

The President's letter states that these weapons may not be lawfully imported into the United States. It further states that permits to import the weapons have been suspended and purchasers advised to return them to their suppliers. In addition, the letter states that in the future the weapons will be subject to seizure and forfeiture and owners held criminally liable.

The letter is misleading, if not in error. Semiautomatic MAC-90 rifles are importable into the United States since they meet the sporting purposes test for imports under the Gun Control Act. Since they were first approved for importation in 1991, over 80,000 of the weapons have been imported into the United States. The problem referred to in the President's letter is ATF's discovery that between September 1993 and February 1994 some number of the MAC-90 rifles contained machinegun frames or receivers and, therefore, were unlawfully imported. Machinegun frames or receivers are treated as machineguns under the law and are generally prohibited from importation under the Gun Control Act and the National Firearms Act. Consequently, ATF suspended all outstanding permits to import MAC-90 rifles. ATF also advised importers of MAC-90s who were found to have imported machinegun frames or receivers to conduct a recall of all their MAC-90s. ATF is reinstating the permits of those importers who are not found to be unlawfully importing such frames or receivers. Unless MAC-90s are found to have machinegun frames or receivers, they are not subject to seizure and forfeiture and their possessors would not have been criminally liable.

## China Importation Statistics for 1989 through 1993

|                | 1989   | 1990   | 1991   | 1992   | 1993    | TOTAL   |
|----------------|--------|--------|--------|--------|---------|---------|
| SKS Rifles     | 10,101 | 18,483 | 55,629 | 46,733 | 282,223 | 413,169 |
| MAK-90 Rifles  | 0      | 0      | 8,600  | 4,950  | 66,709  | 80,259  |
| Other Rifles*  | 48,180 | 34,531 | 30,238 | 64,948 | 606,814 | 784,711 |
| Misc. Handguns | 13,438 | 4,038  | 13,768 | 2,853  | 96,494  | 130,591 |
| Shotguns       | 1,503  | 23     | 17     | 75     | 4,408   | 6,026   |
| TOTALS         | 73222  | 57075  | 108252 | 119559 | 1056648 | 1414756 |

\* Rifles covered by the "Other rifle" category include:

Some SKS and MAK90's that use other designations  
 22 caliber rifles  
 Chinese M-1A type rifles (similar to SKS)  
 Bolt action surplus military curio and relic firearms

## 1993 Importations from China by Customs Tariff Schedule

|                        |         |
|------------------------|---------|
| Military type rifle    | 543,877 |
| Centerfire Sporting    | 33,081  |
| Rimefire Sporting      | 15,193  |
| Centerfire Autoloading | 174,446 |
| Bolt Action            | 48,358  |
| Other                  | 140,801 |

Total 955,756

| DEPARTMENT OF THE TREASURY                                                                                 |                                 |                                                                |
|------------------------------------------------------------------------------------------------------------|---------------------------------|----------------------------------------------------------------|
| <b>Bureau of<br/>Alcohol, Tobacco and Firearms</b><br>650 Massachusetts Ave. N.W.<br>Washington, DC. 20226 | <b>Date:</b><br><i>7/21/94</i>  | <b>Number of pages:</b><br>(including cover sheet)<br><i>3</i> |
| <b>From:</b> <i>Jim Pasco</i><br>Office of<br>Congressional and Media Affairs<br>office ph.: 202-927-8490  | <b>To:</b><br><i>Jose Cerda</i> |                                                                |
| <b>FAX From:</b> <b>202-927-8863</b>                                                                       | <b>FAX To:</b> <i>456-7028</i>  |                                                                |
| <b>Subject:</b> <u><i>Restrictions on the Importation of Defense<br/>Articles from China</i></u>           |                                 |                                                                |

**GANGS...****GUNS...****DRUGS...**

# HAD ENOUGH?

**call 1-800-ATF-GUNS***To report criminal activity*

THE WHITE HOUSE

WASHINGTON

May 18, 1994

**MEMORANDUM FOR MACK MCLARTY**

**FROM: RAHM EMANUEL  
BRUCE REED**

**SUBJECT: Importation of Chinese Firearms and MFN**

Recent news stories have highlighted the fact that in 1993, more than 3 million military surplus and other inexpensive firearms were imported into the U.S. -- up from 700,000 in 1991. The majority of these weapons are from China and many have been characterized by the press as assault weapons, although they are not. For some months now, we have been working with the Departments of Treasury and State to find ways to address this issue. However, we have come to no resolution, and the issue is sure to come up in the context of the President's decision to continue Most Favored Nation (MFN) trading status for China

**I. BACKGROUND**

Prior to 1968, the U.S. was the dumping ground for inexpensive surplus military firearms and cheap "Saturday Night Special" type handguns. As firearms import levels rose to 1.2 million in 1967, Congress responded by passing the Gun Control Act of 1968 (GCA), which banned the import of all surplus military firearms and permitted the import of non-military firearms only to the extent that such weapons were designed to meet a "sporting purpose." The "sporting purpose" test stopped the importation of cheaply made, easily concealable handguns that were the crime guns of the day.

The Arms Export and Control Act (AECA), which pre-dates the GCA, moderated the volume of firearms imports in the late 1960s. Pursuant to the AECA, firearms trading with specific countries designated by the State Department's proscribed list -- such as China, South Africa, Vietnam and the nations of Eastern Europe -- was prohibited.

In recent years, however, several factors have combined to once again make the US a potential dumping ground for cheap weapons from around the world.

First, in 1984, Congress amended the GCA to allow surplus military weapons to be imported if the weapons fit within the category of "curios and relics." This amendment originally applied to only a few rare collectibles that were more than 50 years old. But in 1994, virtually all World War II surplus military firearms are eligible for this exemption.

Second, as trade with China and Eastern European countries has opened, these nations have been removed from the State Department's proscribed list, lifting the restrictions against

arms importation under the AECA. As a result, large quantities of surplus military rifles and handguns are being imported and sold in the U.S., often at prices below \$100. China, and to a lesser extent Eastern European countries, are apparently converting their military firearms industry to produce civilian firearms for sale in the U.S. Over 300,000 SKS semiautomatic rifles, which sell for about \$100, were imported from China in 1993. China has also begun exporting a 9mm semiautomatic pistol selling in the \$100 price range.

## **II. RECOMMENDATION**

Prior to the House vote in support of an assault weapons ban, we had pushed Treasury and State to come to agreement on what could be done about the gun importation issue. However, with the assault weapons ban shaping up to be one of the defining issues in the crime bill conference, announcing any new gun control initiatives will jeopardize the crime bill. **Thus, we would strongly recommend that the restrictions on the import of Chinese firearms be addressed in the context of the pending MFN decision.**

Banning Chinese gun imports in the context of MFN minimizes the impact of this issue on the crime bill -- and, in our opinion, makes the most sense. We believe that to the extent that gun imports impact on world peace, national security and foreign policy concerns, State has authority to restrict their importation. For example, it can be argued that it is contrary to the security interest of the U.S. -- and U.S. interest in world peace -- to support and encourage the small arms production segment of the Chinese economy. Moreover, since the U.S. is the major firearms consuming nation in the world, any action opening up the U.S. market to foreign firearms has a major impact on small arms trafficking throughout the world.

State has already suggested amending the AECA's regulations (the International Trafficking in Arms Regulations, or ITAR) to cut-off Chinese imports, but is reluctant to pursue these changes as a pure foreign policy matter. They would prefer to act jointly with Treasury -- separate from MFN -- and de-emphasize the foreign policy link. However, we agree with Treasury that State, as part of its MFN strategy, can most effectively accomplish our goal of restricting Chinese gun imports.

Treasury would prefer not to act on this issue, but recognizes that we may not have a choice in the matter. Rep. Ed Markey, who has already met with representatives from Treasury and State, is threatening to launch a media campaign on this issue and pursue restrictions on the importation of Chinese firearms as part of any legislative package in response to our final MFN policy.

**If a decision on MFN is imminent -- and that decision is likely to include some type of restrictions on China -- we need your help to get State and Treasury to agree on what type of importation restriction is appropriate and get such a restriction immediately included as part of the debate to grant or not grant MFN to China.**

cc: Carol Rasco  
Bob Rubin  
Tony Lake

THE WHITE HOUSE

WASHINGTON

May 18, 1994

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cc: Carol Rasco  
Bob Rubin  
Tony Lake

Joint Announcement by Treasury and State:

Control of the Import of Firearms

Today the Departments of Treasury and State are announcing a series of actions designed to deal more effectively with the increasingly dangerous flow of firearms into the United States. [MATERIAL ON SCOPE OF PROBLEM, INCLUDING SOME CONSPICUOUS EXAMPLES.]

A fundamental cause of this dangerous trade in firearms is the inadequacy of the statutory authority of the Executive Branch to control the importation of these items. [MATERIAL ON LOOPHOLES IN GUN CONTROL ACT.]

The President has therefore directed that the Department of Treasury develop specific proposals for amendments to the Gun Control Act for the purpose of narrowing the scope and effect of these exceptions. [MATERIAL GENERALLY DESCRIBING LEGISLATIVE PROPOSALS.]

As soon as the details of these proposals have been coordinated within the Executive Branch, they will be provided to the President for his review and submission to Congress. When enacted, these amendments will enable the Department of Treasury to control effectively all aspects of the import of firearms into the United States and to protect our citizens from the dangers inherent in this trade.

In the meantime, the President has directed the Departments of Treasury and State to take immediate steps within their current statutory authorities to restrict and control firearms imports into the United States. The Department of Treasury will: [DESCRIPTION OF REGULATORY AND OTHER ACTIONS.]

The Department of State will:

(1) Suspend approval of all requests for reimport into the United States of firearms originally exported from the United States or produced with technology or components for which a U.S. export license or approval was required. [This would cover U.S.-origin firearms previously exported commercially or under U.S. security assistance programs, such as in the case of Korea.]

(2) Suspend approval of all requests for import into the United States of firearms originally taken from the United States by U.S. Armed Forces and that later fell under foreign control. [This would cover U.S. firearms left behind in Southeast Asia.]

(3) Initiate the process of amending the ITAR to eliminate the current exemptions from licensing requirements for temporary imports of firearms to and from Canada, and from any country for repair and return.

(4) Institute procedures to ensure that firearms brought into the United States under temporary import licenses are not retained in this country without the approval of the State and Treasury Departments. [This might involve addition of language to the temporary import license requiring such approval.]

(5) Request the Treasury Department to refer all applications for firearms imports to the State Department for review of foreign policy and national security implications.

(6) Intensify the foreign policy and national security review of firearms import applications, with particular attention in each case to the policy and behavior of the country of export concerning nonproliferation and other areas of foreign policy and national security concern. This would apply, for example, in cases where exports of arms from the United States are currently denied for such reasons. [This would cover foreign-origin items from China, Indonesia and Vietnam. It would also enable us to consider possible action in other specific problem cases, such as countries which have exported arms to Iran or exported U.S.-origin arms or technology without our consent.]

These steps are explained in greater detail in a paper which is now available for distribution. (Attached.)

It is our hope and expectation that the actions announced today will enable our agencies to exercise more effective control over the dangerous volume of firearms imports into the United States, both for the protection of American citizens and for the enhancement of important foreign policy and national security interests.

**VIOLENCE  
POLICY  
CENTER***Press  
Release*

FOR IMMEDIATE RELEASE:  
Tuesday, March 22, 1994

CONTACT: Josh Sugarmann  
202-783-4071 (work)  
202 387 4525 (home)

**"SPORTERIZED" UZI ASSAULT RIFLES SCHEDULED TO AGAIN BE IMPORTED  
TO UNITED STATES FOR SALE TO GENERAL PUBLIC**

"Sporterized" versions of UZI assault rifles are scheduled to be imported into the United States by Action Arms, Ltd. of Philadelphia next month for sale to the general public. Action Arms promised one caller, "There'll be at least 2,500 in the first batch and they'll be available nationwide. So you shouldn't have any problem getting one."

As first revealed by the Violence Policy Center in July 1990 from documents obtained under the Freedom of Information Act (FOIA), in spite of the 1989 federal import ban on foreign-made assault rifles, the Bureau of Alcohol, Tobacco and Firearms (ATF) allows the import of such weapons if they "no longer [have] the characteristics common to military assault rifles" and are "more in the configuration of a traditional sporting rifle." The weapons must also have a new name. The result has been the continued import of assault rifles that are cosmetically slightly different but have the same firepower and design characteristics—ability to accept high-capacity ammunition magazines, pistol grips, and semi-automatic mechanism—as the original banned weapons. The UZI gained notoriety in 1984 when James Huberty went "hunting for humans" in a San Ysidro, California McDonald's with one of the assault rifles as well as a shotgun and a handgun. Huberty killed 21 and injured 19 in the largest mass shooting in American history. Most of those killed were children.

Action Arms had continued to import UZI pistols (which did not fall under the 1989 rifle ban) until August 1993 when President Clinton directed ATF to ban their import pending a review of whether the assault pistols met the "sporting purposes" test for imported handguns. Action Arms' decision to once again import the UZI assault rifle is most likely driven by market concerns stemming from the ban on the pistol version of the firearm.

The UZIs scheduled for import are virtually identical to the previously banned weapons except for the addition of a full "thumbhole" stock that retains the weapon's pistol grip. Although the weapon comes with a 10-round detachable magazine, higher capacity magazines can be easily purchased. Promotional literature (please see other side of press release) for the weapon promises, "All of the design and engineering features that made the 9mm Model B famous are back in limited quantities. This no compromise design offers the blowback, closed breech system, pistol grip safety and adjustable sights of the original."

Josh Sugarmann, executive director of the Violence Policy Center, states, "Action Arms' plans to import 'sporting' UZIs is the most cynical and grotesque exploitation of the 'sporterization' loophole in the assault weapons import ban that we've seen. Clearly—as was the case with imported assault pistols—it is time for ATF to review the definitional standards contained in the original import ban. With new leadership and the support of the Clinton Administration, ATF has shown itself in the past year to be willing to correct problems that were previously allowed to fester. Hopefully this will be one such case."

—OVER—

## Action Arms, Ltd. Advertising Flyer

## The popular legendary 9mm Model B returns as a rugged, reliable sporter.

LIMITED  
AVAILABILITY

All of the design and engineering features that made the 9mm Model B famous are back in limited quantities. This no-compromise design offers the blowback, closed breech system, pistol grip safety and adjustable sights of the original. New features are a hardwood thumbhole stock with recoil pad and a standard 10 round magazine.

**Specifications:**  
 Caliber: 9mm Parabellum  
 Operating: Blowback, closed breech system  
 Sights: Front post, elevation adjustable  
 Rear: 4x magnifying, windage adjustable  
 Action: Manual action, bolt blocking latch  
 & grip safety  
 Length: 16.1" barrel, 32.2" overall  
 Weight: 4.8 lbs. unloaded  
 Finish: Parkwood  
 Magazine: 10 rounds  
 Accessories: Right adjustment key, carry sling,  
 4 m. weapons oil bottle, speed loader  
 and 100 magazine key  
 -WHILE STOCKS LAST!

**Suggested Retail:**  
**\$595.00**

# Model B Sporter



P.O. Box 5573, Philadelphia, PA 19124  
 © 1994 Action Arms Ltd.

The Violence Policy Center is a 501(c)(3) non-profit educational foundation that conducts research on firearms violence in America and works to develop violence-reduction policies and proposals. Past studies released by the Center include February 1994's *Cease Fire: A Comprehensive Strategy to Reduce Firearms Violence*, December 1992's *More Gun Dealers Than Gas Stations: A Study of Federally Licensed Firearms Dealers in America*, and May 1992's *Putting Guns Back Into Criminals' Hands: 100 Case Studies of Felons Granted Relief From Disability Under Federal Firearms Law*.

—END—

**The White House  
Washington**

**FAX COVER SHEET**

**Office of Domestic Policy**

**Old Executive Office Building  
Washington, D.C. 20500  
FAX: (202)-456-7028**

To: ANDY TOMBACK / BRAD BUCKLES

FAX No: 622-1423 / 927-8673

From: JOSE CERDA

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

Pages (Including cover): 4

Comments: \_\_\_\_\_

THIS MUST BE KEPT

CLOSE HOLD!

Joe

# DRAFT

For Immediate Release

March 30, 1994

## STATEMENT BY (THE PRESIDENT/THE PRESS SECRETARY)

The United States is a major consumer nation in the world for firearms and ammunition covered as defense articles on the United States Munitions List. Firearms imports into the United States have totalled almost six million in the last two years, compared to a historical mean of approximately 700,000 per year. There is every reason to believe that these numbers will continue to increase.

This Administration is committed to taking action to stem crime and violence in the United States. Throughout the Executive Branch, we have been reviewing this problem and considering solutions. Today I am pleased to announce to you that **(I have/the President has)** accepted recommendations from the Secretary of the Treasury and the Secretary of State to take measures within their Departments and under relevant statutory and regulatory authorities.

Accordingly, in order to address this problem, **(I have/The President has)** today directed the Secretaries of the Treasury and State to take a series of actions designed to deal more effectively with the increasingly dangerous flow of firearms into the United States.

The Secretary of the Treasury will:

- (o Proceed with the steps necessary to amend regulations concerning importations of firearms classified as "curios and relics," which is necessary because current regulations allow imports of far more firearms than true collectors' items under this category.
- o Take such administrative and regulatory action as warranted to strengthen import controls on firearms which are authorized under the general rubric of "a type...generally recognized as particularly suitable for or readily adaptable to sporting purposes" under the Gun Control Act.)

(Or such similar language as Treasury may recommend.)

# DRAFT

# DRAFT

MEMORANDUM FOR THE SECRETARY OF THE TREASURY  
THE SECRETARY OF STATE

SUBJECT: Restrictions on the Import of Firearms

I hereby direct the Secretary of the Treasury to take all appropriate actions regarding controlling the import of firearms including but not limited to the following:

- o Proceed with the steps necessary to amend regulations concerning the importation of firearms classified as "curios and relics"; and
- o Take such administrative and regulatory action as warranted to strengthen import controls on firearms which are authorized under the general rubric of "a type ... generally recognized as particularly suitable for or readily adaptable to sporting purposes" under the Gun Control Act.

(or such similar language as Treasury may recommend)

I further direct the Secretary of State to take all appropriate actions including but not limited to the following:

- o Establish policy guidelines for foreign policy and national security review of permanent or temporary import applications, with a presumption of denial for imports from, or originating in, all countries to which we would not transfer or allow to be transferred firearms;
- o Establish policy guidelines requiring review of all requests, with presumption of denial, for permanent or temporary reimportation of United States Munitions List (USML) articles previously exported from the United States.
- o Implement a change to the ITAR to exclude all firearms, rather than just fully-automatic firearms, from the ITAR temporary import license exemption to and from Canada;
- o Implement a change to the ITAR to exclude firearms from the "repair and return" exemption from the temporary import license requirement.

Finally, I direct the Secretary of the Treasury and the Secretary of State to review existing legislation governing import of firearms and recommend any changes which they deem appropriate to better control these imports to me within 60 days.

In discharging these responsibilities, you are directed to consult with the heads of other Executive departments and agencies as may be appropriate.

# DRAFT

# DRAFT

In addition, **(I have/the President has)** directed the Secretary of State, pursuant to his authority under the Arms Export Control Act, to strengthen State Department policies concerning review of arms imports, including firearms, based on foreign policy and security considerations.

Specifically, **(I have/the President has)** directed the Secretary to:

- o Establish policy guidelines for foreign policy and national security review of permanent or temporary import applications, with a presumption of denial, for arms imports from, or originating in, all countries to which we would not export or transfer arms;
- o Establish policy guidelines requiring review of all requests, with presumption of denial, for permanent or temporary reimportation of United States Munitions List (USML) articles previously exported from the United States.
- o Implement changes to the International Traffic in Arms Regulations to exclude all firearms, rather than just fully-automatic firearms, from the temporary import license exemption to and from Canada, and to exclude firearms from the "repair and return" exemption from the temporary import license requirement.

Finally, since our preliminary review has revealed a real need for changes to the statutes governing firearms imports, **(I have/the President has)** further directed the Secretary of the Treasury and the Secretary of State to complete their review of these statutes and to provide **(me/the President)** their legislative proposals within 60 days.

**(My/The President's)** decision was based on fundamental U.S. domestic and national security concerns. A basic cause of this influx of firearms is the inadequacy of current statutory authority for the Executive Branch to control firearms imports. After **(I receive/the President receives)** the report from Secretaries Bentsen and Christopher, we will be consulting with Congress on legislation necessary to correct this situation. I look forward to working closely with the Congress on this important initiative.

For further information, I refer you to the Treasury and State Departments. **(Delete if the President makes the announcement.)**

# DRAFT

EDWARD J. MARKEY  
7TH DISTRICT, MASSACHUSETTS

COMMITTEES:  
ENERGY AND COMMERCE  
CHAIRMAN  
SUBCOMMITTEE ON  
TELECOMMUNICATIONS AND  
FINANCE  
INTERIOR AND INSULAR  
AFFAIRS  
COMMISSION ON SECURITY AND  
COOPERATION IN EUROPE

2133 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-2107  
(202) 225-2838

DISTRICT OFFICE:  
8 HIGH STREET, SUITE 101  
MEDFORD, MA 02155  
(617) 286-2900

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-2107**

**FAX COVER SHEET**

Number of sheets, including cover sheet: \_\_\_\_\_

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To: Jose Cerda

Fax #: 456.7028

Date: 3/16/94

From: /Karen Kovacs/

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Congressman Edward J. Markey at 202-225-2836.**

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This Script of  
"Deadly Cargo" is  
EMBARGOED  
For release until  
10 pm ET —

Please Credit  
"Dateline NBC"  
or Brian Ross

Just before midnight off the coast of Los Angeles...as a freighter from China enters the harbor.

On board the freighter this night...is a load of cargo from a company in China called Norinco...a company few people in this country have ever heard of...but whose products have now left a trail of blood across America.

sot: And she was screaming and there was somebody there with a gun. Immediately, please.

sot: The gunman came up behind the school.

sot: I mean it was just pow, pow, pow. This thing was made to kill.

Odette - start clip here.

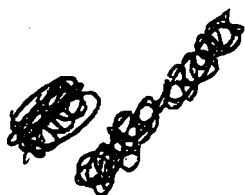
Each of some 40 huge containers strapped to the top of this freighter is packed full with guns...Chinese military-style rifles made by the Norinco company...guns that have become the cheapest and most available of their kind in the American market today.

sot: (Steven Del Negro) This is an SKS Chinese military rifle. It was manufactured by Norinco in China.

Massachusetts state trooper Steven Del Negro had never heard of Norinco until a year ago...when for about the same price as a fancy pair of sneakers...this Norinco gun and Norinco bullets ended up in the hands of a disturbed college student.

sot: (Del Negro) He cashed a check and then went up and purchased a weapon for a hundred and twenty nine dollars plus tax.

sot: (911 tape) You've got to get somebody to the Simon's Rock guard shack immediately. My wife was just talking and she's--she's a security guard there and she was screaming and there was somebody there with a gun.



Jose Cordero  
456-7028

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incredible, I think it's very sad. I'd just like to know why. Why are they so easy, why are--you know, why can we get these. What are they here?

The same questions...about the same cheap but powerful Norinco guns..are being asked in a lot of places.

It was a Chinese Norinco rifle that was OBed last year in the attack on motorists near the CIA in Virginia.

Just last Christmas...it was a Norinco rifle that killed two outside a Walmart in Oklahoma.

In Louisville, Kentucky...eight killed, twelve wounded by a co-worker firing a Chinese military rifle.

And perhaps saddest of all...it was a Norinco AK47 used by the madman who opened fire on a school playground in Stockton, California.

got: (wounded child) He shoot her on the head.

Five children were killed. 29 were wounded.

For Joe Charles of US Customs in Los Angeles...Norinco has become an all too familiar name.

got  
Q: (Brian Ross) Is it fair to say we're being flooded with those Chinese weapons?

A: (Joe Charles) We're being inundated with those weapons.

Last year alone...in a country already overwhelmed by guns...a record 965-thousand Chinese weapons came through U.S. Customs.

And what's of such great concern to law enforcement officials is that the Chinese imports are so cheap that it is now possible now to buy a semi-automatic military rifle...for 129-dollars or less...a similar American weapon costs about ten times as much.

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sot: (Joe Charles) It just allows more and more individuals to put their hands on those weapons.

sot: (Lee Montoya) They're inexpensive guns. Fun to shoot with. And once we get them, the difficult part's keeping them in stock because they're pretty good sellers.

Federal authorities had announced a ban on foreign military assault rifles following the shooting at the school yard in California.

But Lee Montoya...an executive at the Turners Outdoorsman store chain in California...says Norinco has been able to easily get around the ban...using a loophole that still allows so-called sporting guns to be imported.

sot: (Lee Montoya) They redesigned the stock to make it a thumb grip. Put a shorter magazine in. And now it's a sporting rifle.

Q: (Ross) So this is the same gun.

A: (Montoya) Yes sir.

Q. It shoots the same way.

A. Exactly.

Q. Shoots the same bullets.

A. Right.

Q. And just because they've redesigned this.

A. Cosmetic difference.

Q. This is legal.

A. That's correct.

Q. And the one before, the AK 47.

A. Is illegal.

Q. But it's the same gun really.

A. Yes, it is.

sot: (Joe Charles) It still remains the AK-47.

*What exactly is the ban  
- when imposed  
when does it run out*

*How can loophole apply  
Does it apply to all  
countries  
What % of assault  
weapons come from  
China v. other  
countries v.  
manufactured here*

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*sheep  
wolf*

Q: (Brian Ross) So it's the same weapon, an AK-47 in sheep's clothing?

A: (Joe Charles) That's correct. And as those people in the street have greater access to that weapon, the fire power is far beyond anything that the local law enforcement agency has at its command.

And as if that's not enough...American law enforcement and intelligence authorities have now told Dateline that the companies bringing the Chinese guns in...like Norinco...aren't just any companies...but actually extensions of the Chinese military.

so: (William Triplett) The same people who killed their own children in Tiananmann are now selling weapons that kill our children in the United States.

*How Get in touch*

William Triplett...is a leading expert on China who's worked for the CIA and Congress...

so: (William Triplett) This is the golden market for them.

And Triplett says what's going on now is that the Chinese army is making hundreds of millions in hard currency selling guns to America.

so: (William Triplett) There's money going right into the pockets of the People's Liberation Army.

Q: (Brian Ross) Has any other foreign army ever had this opportunity?

A: (William Triplett) Never, not even close.

Q: (Brian Ross) And that's good business for them?

A: (William Triplett) Good business for them, and very bad business for us.

But it's not something the Chinese want to talk about.

Despite repeated requests...no one at the Chinese embassy in Washington would

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now booming sales of Chinese military rifles to the United States.

And we found the same reaction at three of the companies that have been getting licenses from Washington to import the Chinese guns.

sot: Excuse me, you're on private property.

No comment...and threats of arrest at a company called China Sports in Ontario, California...which federal authorities say is one of Norinco's main outlets.

sot: The police are coming if you do not leave now.

In Atlanta...at the offices of another Chinese military-connected weapons importer...Polytechnologies...an employee said he couldn't talk and the boss was away in China.

sot: No.

And outside Detroit...there were outright denials of any ties to the Chinese military from a company called CJA Equipment...which federal authorities say is really connected to the People's Armed Police.

Who says  
CJA = Peoples  
Armed Police

sot: No, no way. I can say definitely not.

To get the real story from the Chinese about its gun sales...it took a trip to China...to the recent big trade show in the bustling city of Guangzhou.

In China...reporters must travel with government escorts...so with the help of an American labor union that has been investigating Chinese labor conditions...we went posing as American business people...interested in buying large quantities of guns.

And starting with the Norinco company...known as China North Industries...we saw first hand just how eager the Chinese are to sell their

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got: (Norinco salesman) I can supply SKS.

Q: (Brian Ross) You can?

A: (Norinco salesman) I supply SKS to U.S. in large quantity.

What we were offered were the same kinds of cheap and powerful military rifles that were used on the college campus in Massachussets and in the school playground in California.

got: (James Lilly) Exposing this thing is quite important because America has to address this problem.

The former American ambassador to China...James Lilly...said he had no idea Norinco was sending so many guns to this country.

got: (James Lilly) Now that's astounding. And it seems to me you've really got to look very carefully at your system if you've got a million rifles floating around this country.

Q: (Brian Ross) What must they be thinking in Beijing? That they can sell so many weapons?

A: (James Lilly) If the Americans are dumb enough to allow this to happen, then do it.

Just as eager at the trade show to do weapons business with America...was another company...none other than the Chinese People's Armed Police.

got

Q: (Brian Ross) So then really you're the Chinese police.

A: (salesman) Yeah.

Q: (Brian Ross) But you're also in business?

A: (salesman) Yeah.

Q: (Brian Ross) Do both?

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sot: (William Triplett) These are the people who run the labor camps. These are the people who take the demonstrators to the back rooms and torture them and beat them to death.

sot

Q: (Brian Ross) Is it a problem to bring in an order as large as 30,000?

A: (salesman) No problem.

And the man with the People's Armed Police...told us he could arrange the order through what he described as the People's Armed Police subsidiary...the CJA company of Detroit.

sot: (salesman) CJA. CJA. CJA.

The people in China told us CJA stands for China Jing An...the official name of the Chinese People's Armed Police...something the office manager in Detroit apparently has never been told.

sot: Q. What does CJA stand for?

A. It stands for nothing. I've never asked what CJA stand's for.

Q. It stands for nothing?

A. They're just the initials. That's it.

sot: (William Triplett) Certainly the People's Armed Police is in the midwest, the Chinese Army is all over the place, from southern California to Georgia to the northeast, they're everywhere.

Q: (Ross) And they're doing business in this country.

A: (Triplett) That's right.

Q: (Ross) They get licenses from the federal government to import firearms, they have an office in Detroit. What does that say to you?

A: (Triplett) It says that somebody in the American government is asleep at the switch that's what it says

We spent the last two months trying to talk to the officials in charge of American policy.

But a spokesman for Secretary of State Warren Christopher...who spent this past weekend in Beijing...said the subject of gun imports was quote not his kind of thing.

As for Secretary of Treasury Lloyd Bentsen...whose department issues weapons import licenses...he didn't seem to know much about it until we told him.

sot: (Bentsen) ...but I'm not prepared to make a determination on that one standing here.....

Q: (Brian Ross) Are you aware of the problem?

A: (Bentsen) I am aware of it, you've been telling me about it.

And Bentsen's assistant secretary in charge of law enforcement...Ken Noble...didn't want to talk about it.

sot: (Brain Ross) Do you know anything about it?

A: (Ken Noble) No comment.

Q: (Ross) You don't know anything about it?

But one week after we tried to get our questions answered, officials finally took some limited action....

The Treasury's Bureau of Alcohol, Tobacco and Firearms the ATF has now announced a temporary suspension of new import licenses for Chinese weapons...but only while authorities investigate whether illegal machine guns are being smuggled in the containers carrying the so-called sporting rifles.

But it is only a temporary suspension, not at all a change in the American policy that has allowed hundreds of thousands of cheap, powerful Norinco rifles to flood this country.

**Executive Order xxxxx -- Importation of Defense Articles  
Under the Arms Export Control Act.**

By virtue of the authority vested in me by the Constitution and section 38 of the Arms Export Control Act (22 U.S.C. 2778), it is hereby ordered as follows:

**Section 1. Findings and Purpose.**

(a) Section 38 of the Arms Export Control Act authorizes the President to regulate the importation of defense article in the furtherance of world peace and the security and foreign policy of the United States.

(b) The United States is the major consumer nation in the world for firearms and ammunition covered as defense articles on the United States Munitions List. Decisions to open U.S. markets to such items has a significant impact on arms production and trafficking throughout the world. Just as military arms production capacity can be converted to civilian arms production, civilian arms production capacity can easily be converted to military arms. Accordingly, decisions about the importation of arms into the United States can have the potential effect of subsidizing arms industries and arms trafficking enterprises. This flourishing production and distribution network is then also available to supply arms and other defense articles in areas of war and unrest around the world.

(c) The collapse of the Soviet Union, and the Eastern bloc alliance, and improved relations with the Peoples Republic of China, have had an impact on firearms being imported into the United States. Historically, defense articles originating in these countries were not eligible for importation. As part of the process of removing trade restrictions generally, restrictions on the importation of defense articles have been removed. This action, however, has been taken without a complete analysis of the potential impact on world peace or the security and foreign policy of the United States.

(d) Firearms imports into the United States have totalled almost 6 million in the last two years, compared to a historical average of approximately 700,000 per year. There is every reason to believe that these numbers will continue to increase. Before we continue to fuel this massive arms production and trafficking build up, a study of the consequences of changes in our importations policies must be conducted.

**Section 2. Temporary Importation Restrictions.**

(a) The Secretary of the Treasury, together with the Secretary of State and the Secretary of Defense [National

Security Council?], are directed to reexamine the United State firearms importation policy in terms of its impact on world peace, and the security and foreign policy of the United States, and provide me with recommendations.

(b) Pending the completion of this study and the adoption of new policies on the importation of defense articles, the Secretary of the Treasury shall immediately suspend the issuance of importations permits for surplus military firearms, parts for such firearms, semiautomatic military type firearms and firearms that represent a sporting reconfiguration of military firearms, or other firearms that, in consultation with the Secretary of Defense, are determined to be the product of converted military arms production capacity created by the end of the cold war.

### Section 3. Exceptions.

The importation restrictions of section 2(b) shall not apply to -

(a) a permit for the importation of defense articles for or on behalf of the United States or any State or political subdivision thereof;

(b) a permit where the Secretary of the Treasury, in consultation with the Secretary of State, makes an affirmative determination that the importation would be in furtherance of world peace, or the security or foreign policy of the United States; or

(c) a permit to import firearms for personal use and not for resale.

## **CRIME AND VIOLENCE INITIATIVES**

To help highlight the Administration's commitment to take on the crime and violence issue -- and to follow-up on the President's statement last fall that he would pursue an organized, Administration-wide approach to the issue, not just the crime bill -- we have suggested some ideas below. Public focus on the issue of crime and violence offers an opportunity -- not only to help pass the President's crime initiative -- but to engage the entire government in this pressing issue and to have as broad a policy impact as possible.

We have outlined several possible options below and would like your thoughts.

### **1. Stop importing of military surplus firearms and other inexpensive handguns.**

While much attention has been paid to the importation of assault pistols, there has been little focus on a new and potentially more serious problem -- the importation of large numbers of surplus military rifles and handguns from Eastern Bloc countries, China and now Vietnam.

Prior to 1968 the United States was the dumping ground for millions of surplus military firearms and other cheaply made and inexpensive firearms. The Gun Control Act of 1968 (GCA) banned the importation of firearms unless they met the sporting purposes test, and the importation of surplus military firearms was banned altogether. In 1984, Congress weakened the GCA to allow the importation of surplus military firearms that qualify as curios and relics. At the time, the amendment's sponsor, Senator Dole, argued that this change to the GCA would apply to only a small number of firearms.

Until recently, the curio and relic exception had been a minor problem. Not only was it illegal to import surplus military firearms between 1969 and 1984, but the Arms Export Control Act (AECA) prohibited the importation of rifles and handguns -- of any type -- from virtually all communist countries. However, after the passage of Dole's 1984 amendment, the importation of surplus military firearms started to increase, and their prices started to drop. The opening up of trade with Eastern European countries has made millions of World War II era firearms eligible for importation into the United States -- mostly bolt action or fixed magazine semiautomatic rifles and semiautomatic handguns. With the breakup of the former Soviet Union, most former European communist countries have been removed from the list of restricted countries under the AECA. So has China. ATF estimates that last year alone, some 95,000 surplus military firearms were imported into the United States, the number of firearms that could enter the country under already existing importation permits has jumped into the hundreds of thousands, and the prices of these weapons has dropped to or below their pre-1969 levels. Also, the recent decision to lift the trade embargo against Vietnam is likely to result in the importation of massive quantities of U.S. military surplus firearms, ammunition, vehicles and other military equipment for commercial resale.

In addition, the State Department's relaxing of the AECA has resulted in the increased importation of cheap -- but powerful -- handguns that do not technically classify as military surplus firearms. The Chinese are exporting large quantities of semiautomatic pistols used by their military forces -- most of which sell for less than \$100. Last year, some 25,000 of these handguns were imported, and importation permits covering as many as 100,000 are pending.

We have two non-legislative options to address this problem. First, the President could direct ATF to change the regulations on curio and relic classification. Curios and relics are defined by law to mean firearms of interest to collectors which are (a) 50 years old, (b) certified by museum directors to be of interest, or (c) of value because they are novel and are associated with some historical figure, period or event. At the rate these arms are being imported, they can no longer be regarded as collectors items.

Ordering ATF to amend these regulations would require a 90-day comment period -- and would not address the problem of inexpensive handguns. As an alternative, the President could order the State Department to suspend the importation of these weapons under the AECA. Under this statute, the President has broad authority to control the importation of firearms in furtherance of world peace, security and the foreign policy of the United States.

## **2. Anti-gang Initiative.**

Youth gangs are at the very center of the public's concern with crime and violence and represent everything that is unacceptable about violence on our streets today -- senseless violence, guns, drugs, and kids not knowing the difference between right and wrong. The Administration needs to address this problem directly and can do so by coordinating existing agency efforts. For instance:

**Enforcement** -- The Justice Department currently administers two anti-gang programs: the Urban Street Gang Drug Trafficking Suppression program, which currently funds five pilot sites involving different suppression techniques; and the Comprehensive Gang Initiative, which is currently being implemented in four different sites. Justice, through the use of discretionary monies, could expand these enforcement programs to include other sites where they could be linked to other anti-gang efforts.

**Gang Intelligence** -- The hundreds of gangs that exist nationwide, coupled with their expansion into rural and suburban areas, make accurate and timely gang intelligence a critical element of anti-gang enforcement efforts. Justice and Treasury (FBI and ATF) have been historically at odds over what agency take the lead in assisting state and local law enforcement in tapping into gang intelligence. Justice provides funding for the Regional Information Sharing System (RISS), but Treasury is also engaged in anti-gang enforcement. These efforts need to be more closely linked.

## 22 USCS § 2751

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"Nothing in this Act [which amended this section, among other things; for full classification of such Act, consult USCS Tables volumes] is intended to authorize any additional military or civilian personnel for the Department of Defense for the purposes of this Act [which amended this section, among other things; for full classification of such Act, consult USCS Tables volumes], the Foreign Assistance Act of 1961 [22 USCS §§ 2151 et seq., generally; for full classification of such Act, consult USCS Tables volumes], or the Arms Export Control Act [22 USCS §§ 2751 et seq., generally; for full classification of such Act, consult USCS Tables volumes]. Personnel levels authorized in statutes authorizing appropriations for military and civilian personnel of the Department of Defense shall be controlling over all military and civilian personnel of the Department of Defense assigned to carry out functions under the Arms Export Control Act [22 USCS §§ 2751 et seq., generally; for full classification of such Act, consult USCS Tables volumes] and the Foreign Assistance Act of 1961 [22 USCS §§ 2151 et seq., generally; for full classification of such Act, consult USCS Tables volumes]."

Administration of Arms Export Control Act. Ex. Or. No. 11958 of Jan. 18, 1977, 42 Fed. Reg. 4311, as amended by Ex. Or. No. 12118 of Feb. 6, 1979, 44 Fed. Reg. 7939; Ex. Or. No. 12163 of Sept. 29, 1979, 44 Fed. Reg. 56673; Ex. Or. No. 12210 of April 16, 1980, 45 Fed. Reg. 26313; Ex. Or. No. 12321 of Sept. 14, 1981, § 2, 46 Fed. Reg. 46109; Ex. Or. No. 12365 of May 24, 1982, § 2, 47 Fed. Reg. 22933; Ex. Or. No. 12423 of May 26, 1983, § 2, 48 Fed. Reg. 24025; Ex. Or. 12560 of May 24, 1986, 51 Fed. Reg. 19159; Ex. Or. No. 12680 of July 5, 1989, 54 Fed. Reg. 28995; Ex. Or. No. 12738 of Dec. 14, 1990, 55 Fed. Reg. 52033, provides:

"Section 1. Delegation of Functions. The following functions conferred upon the President by the Arms Export Control Act (22 U.S.C. 2751 et seq.), hereinafter referred to as the Act, and related legislation, are delegated as follows:

"(a) Those under Section 3 of the Act [22 USCS § 2753], with the exception of subsections (a)(1), (b), (c)(3), (c)(4), and (f) [22 USCS § 2753(a)(1), (b), (c)(3), (c)(4), (f)], to the Secretary of State: Provided, That the Secretary of State, in the implementation of the functions delegated to him under Sections 3(a) and (d) of the Act [22 USCS § 2753(a), (d)], is authorized to find, in the case of a proposed transfer of a defense article or related training or other defense service by a foreign country or international organization not otherwise eligible under Section 3(a)(1) of the Act [22 USCS § 2753(a)(1)], whether the proposed transfer will strengthen the security of the United States and promote world peace.

"(b) Those under Section 5 [22 USCS § 2755] to the Secretary of State.

"(c) Those under Section 21 of the Act [22 USCS § 2761], with the exception of the last sentence of subsection (d) and all of subsection (i) [22 USCS § 2761(d), last sentence, and (i)], to the Secretary of Defense.

"(d) Those under Sections 22(a), 29, 30 and 30A of the Act [22 USCS §§ 2762(a), 2769, 2770, and 2770a] to the Secretary of Defense.

"(e) Those under Section 23 of the Act [22 USCS § 2763] and section 571 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) [22 USCS § 2763 note].

to the Secretary of State  
Secretary of State  
dent shall determine  
the market  
"(f) Those under  
2767, and 27  
in implementing  
[22 USCS §  
and the Secretary  
"(g) Those under  
Secretary of State  
Control and  
responsibility  
materials for  
§ 2765].

"(h) Those under  
Secretary of State  
guaranty trans-  
policies, the  
Secretary of

"(i) Those under  
Secretary of

"(j) Those under  
§ 2776(a) and  
agency as pro-  
Secretary of  
the functions  
§ 2776(a) and  
with respect to  
36(b)(1) [22 U  
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functions under  
the Secretary  
Management

"(k) Those under  
and (d)] to the

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"(1) to the  
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ment or agree-  
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"(2) to the  
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carrying out  
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## 22 USCS § 2751

to the Secretary of Defense, to be exercised in consultation with the Secretary of State and the Secretary of the Treasury, except that the President shall determine any rate of interest to be charged which is less than the market rate of interest.

"(f) Those under Sections 24, 27, and 28 of the Act [22 USCS §§ 2764, 2767, and 2768] to the Secretary of Defense. The Secretary of Defense, in implementing the functions delegated to him under Sections 24 and 27 [22 USCS §§ 2764 and 2767], shall consult with the Secretary of State and the Secretary of the Treasury.

"(g) Those under Section 25 of the Act [22 USCS § 2765] to the Secretary of State. The Secretary of Defense and the Director of the Arms Control and Disarmament Agency, within their respective areas of responsibility, shall assist the Secretary of State in the preparation of materials for presentation to the Congress under that Section [22 USCS § 2765].

"(h) Those under Section 34 of the Act [22 USCS § 2774] to the Secretary of State. To the extent the standards and criteria for credit and guaranty transactions are based upon national security and financial policies, the Secretary of State shall obtain the prior concurrence of the Secretary of Defense and the Secretary of the Treasury, respectively.

"(i) Those under Section 35(a) of the Act [22 USCS § 2775(a)] to the Secretary of State.

"(j) Those under Sections 36(a) and 36(b)(1) of the Act [22 USCS § 2776(a) and (b)(1)], except with respect to the certification of an emergency as provided by subsection (b)(1) [22 USCS § 2776(b)(1)], to the Secretary of Defense. The Secretary of Defense, in the implementation of the functions delegated to him under Sections 36(a) and (b)(1) [22 USCS § 2776(a) and (b)(1)] shall consult with the Secretary of State, who shall, with respect to matters related to subparagraphs (D) and (I) of Section 36(b)(1) [22 USCS § 2776(b)(1)(D) and (I)], consult with the Director of the Arms Control and Disarmament Agency. With respect to those functions under Sections 36(a)(5) and (6) [22 USCS § 2776(a)(5) and (6)], the Secretary of Defense shall consult with the Director of the Office of Management and Budget.

"(k) Those under Sections 36(c) and (d) of the Act [22 USCS § 2776(c) and (d)] to the Secretary of State.

"(l) Those under Section 38 of the Act [22 USCS § 2778]:

"(1) to the Secretary of State, except as otherwise provided in this subsection. Designations, including changes in designations, by the Secretary of State of items or categories of items which shall be considered as defense articles and defense services subject to export control under Section 38 [22 USCS § 2778] shall have the concurrence of the Secretary of Defense. The authority to undertake activities to ensure compliance with established export conditions may be redelegated to the Secretary of Defense, or to the head of another department or agency as appropriate, which shall exercise such functions in consultation with the Secretary of State;

"(2) to the Secretary of the Treasury, to the extent they relate to the control of the import of defense articles and defense services. In carrying out such functions, the Secretary of the Treasury shall be guided by the views of the Secretary of State on matters affecting

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world peace, and the external security and foreign policy of the United States. Designations including changes in designations, by the Secretary of the Treasury of items or categories of items which shall be considered as defense articles and defense services subject to import control under Section 38 of the Act [22 USCS § 2778] shall have the concurrence of the Secretary of State and the Secretary of Defense;

"(3) to the Secretary of Commerce, to carry out on behalf of the Secretary of State, to the extent such functions involve Section 38(e) of the Act [22 USCS § 2778(e)] and are agreed to by the Secretary of State and the Secretary of Commerce.

"(m) Those under Section 39(b) of the Act [22 USCS § 2779(b)] to the Secretary of State. In carrying out such functions, the Secretary of State shall consult with the Secretary of Defense as may be necessary to avoid interference in the application of Department of Defense regulations to sales made under Section 22 of the Act [22 USCS § 2762].

"(n) Those under Sections 42(c) and (f) of the Act [22 USCS § 2791(c) and (f)] to the Secretary of Defense. The Secretary of Defense shall obtain the concurrence of the Secretary of State and the Secretary of the Treasury on any determination proposed under the authority of Section 42(c) of the Act [22 USCS § 2791(c)].

"(o) Those under Sections 52(b) and 53 of the Act [22 USCS §§ 2795a(b) and 2795b] to the Secretary of Defense.

"(p) Those under Sections 61 and 62(a) of the Act [22 USCS §§ 2796 and 2796a(a)] to the Secretary of Defense.

"(q) Those under Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) to the Secretary of State.

"(r) Those under Section 588(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461) [unclassified], to the Secretary of Defense, except with respect to the determination of an emergency as provided by subsection (b)(3). The Secretary of Defense in implementation of the functions delegated to him under section 588(b) [unclassified] shall consult with the Secretary of State.

"Sec. 2. Coordination. (a) In addition to the specific provisions of Section 1 of this Order, the Secretary of State and the Secretary of Defense, in carrying out the functions delegated to them under this Order, shall consult with each other and with the heads of other departments and agencies, including the Secretary of the Treasury, the Director of the United States International Development Cooperation Agency, the Director of the Arms Control and Disarmament Agency, and the Chairman of the Export-Import Bank, on matters pertaining to their responsibilities.

"(b) In accordance with Section 2(b) of the Act [22 USCS § 2752(b)] and under the directions of the President, the Secretary of State, taking into account other United States activities abroad, shall be responsible for the continuous supervision and general direction of sales and exports under the Act [22 USCS §§ 2751 et seq., generally; for full classification of such Act, consult USCS Tables volumes], including but not limited to, the negotiation, conclusion, and termination of international agreements, and determining whether there shall be a sale to a country and the amount thereof, and whether there shall be delivery or other performance under

such sale or other United States activity is best served.

"Sec. 3. All carrying out of classification to be allocated to the President.

"Sec. 4. Report except that, authorizations, contracts, agreements under the provisions revoked, shall have full force and effect as authorized.

Similar provisions of Fed. Reg. 2 section and Reg. 4311, Report by foreign government States. Act appeared at P. L. 95-38

tial report on defense Study by International executive department P. L. 95-92 § 734(a)(13)

"(a) The Policy and practical national security technology should be considered

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## ARMS EXPORT CONTROL

## 22 USCS § 2751

such sale or export, to the end that sales and exports are integrated with other United States activities and the foreign policy of the United States is best served thereby.

"Sec. 3. Allocation of Funds. Funds appropriated to the President for carrying out the Act [22 USCS §§ 2751 et seq., generally; for full classification of such Act, consult USCS Tables volumes] shall be deemed to be allocated to the Secretary of Defense without any further action of the President.

"Sec. 4. Revocation. Executive Order No. 11501, as amended, is revoked; except that, to the extent consistent with this Order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, taken or entered into under the provisions of Executive Order No. 11501, as amended, and not revoked, superseded or otherwise made inapplicable, shall continue in full force and effect until amended, modified or terminated by appropriate authority."

Similar provisions appeared in Ex. Or. No. 11501 of Dec. 22, 1969, 34 Fed. Reg. 20169, as amended, which formerly appeared as a note to this section and was revoked by Ex. Or. No. 11958 of Jan. 18, 1977, 42 Fed. Reg. 4311, which appears as a note to this section.

Report by President on impact of foreign arms sales and transfers to foreign governments on defense readiness and national security of United States. Act Aug. 4, 1977, P. L. 95-92, § 23, 91 Stat. 624, which formerly appeared as a note to this section, was repealed by Act Sept. 26, 1978, P. L. 95-384, § 29 (c)(2)(B). It set forth provisions respecting Presidential report on the impact of United States foreign arms sales and transfers on defense readiness and national security.

Study by President of national security and military implications of international transfers of technology; scope of study; utilization of Executive departments and agencies; report to Congress. Act Aug. 4, 1977, P. L. 95-92, § 24, 91 Stat. 64; Dec. 29, 1981, P. L. 97-113, Title VII, § 734(a)(13) in part, 95 Stat. 1560, provided:

"(a) The President shall conduct a comprehensive study of the policies and practices of the United States Government with respect to the national security and military implications of international transfers of technology in order to determine whether such policies and practices should be changed. Such study shall examine—

- "(1) the nature of technology transfer;
- "(2) the effect of technology transfers on United States technological superiority;
- "(3) the rationale for transfers of technology from the United States to foreign countries;
- "(4) the benefits and risks of such transfers;
- "(5) trends in technology transfers by the United States and other countries;
- "(6) the need for controls on transfers of technology, including controls on the use of transferred technology, the effectiveness of existing end-use controls, and possible unilateral sanctions if end-use restrictions are violated;
- "(7) the effectiveness of existing organizational arrangements in the



FACSIMILE COVER SHEET

OFFICE OF THE  
ASSISTANT SECRETARY FOR ENFORCEMENT  
DEPARTMENT OF THE TREASURY

Phone # (202) 622-0240

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DATE: 3/25

Page 1 of 5

TO: Jose Cerda

PHONE: \_\_\_\_\_

FAX: 456-7 028

FROM: Rebecca Hedlund

MESSAGE: As discussed



## **CRIME AND VIOLENCE INITIATIVES**

To help highlight the Administration's commitment to take on the crime and violence issue -- and to follow-up on the President's statement last fall that he would pursue an organized, Administration-wide approach to the issue, not just the crime bill -- we have suggested some ideas below. Public focus on the issue of crime and violence offers an opportunity -- not only to help pass the President's crime initiative -- but to engage the entire government in this pressing issue and to have as broad a policy impact as possible.

We have outlined several possible options below and would like your thoughts.

### **1. Stop importing of military surplus firearms and other inexpensive handguns.**

While much attention has been paid to the importation of assault pistols, there has been little focus on a new and potentially more serious problem -- the importation of large numbers of surplus military rifles and handguns from Eastern Bloc countries, China and now Vietnam.

Prior to 1968 the United States was the dumping ground for millions of surplus military firearms and other cheaply made and inexpensive firearms. The Gun Control Act of 1968 (GCA) banned the importation of firearms unless they met the sporting purposes test, and the importation of surplus military firearms was banned altogether. In 1984, Congress weakened the GCA to allow the importation of surplus military firearms that qualify as curios and relics. At the time, the amendment's sponsor, Senator Dole, argued that this change to the GCA would apply to only a small number of firearms.

Until recently, the curio and relic exception had been a minor problem. Not only was it illegal to import surplus military firearms between 1969 and 1984, but the Arms Export Control Act (AECA) prohibited the importation of rifles and handguns -- of any type -- from virtually all communist countries. However, after the passage of Dole's 1984 amendment, the importation of surplus military firearms started to increase, and their prices started to drop. The opening up of trade with Eastern European countries has made millions of World War II era firearms eligible for importation into the United States -- mostly bolt action or fixed magazine semiautomatic rifles and semiautomatic handguns. With the breakup of the former Soviet Union, most former European communist countries have been removed from the list of restricted countries under the AECA. So has China. ATF estimates that last year alone, some 95,000 surplus military firearms were imported into the United States, the number of firearms that could enter the country under already existing importation permits has jumped into the hundreds of thousands, and the prices of these weapons has dropped to or below their pre-1969 levels. Also, the recent decision to lift the trade embargo against Vietnam is likely to result in the importation of massive quantities of U.S. military surplus firearms, ammunition, vehicles and other military equipment for commercial resale.

In addition, the State Department's relaxing of the AECA has resulted in the increased importation of cheap -- but powerful -- handguns that do not technically classify as military surplus firearms. The Chinese are exporting large quantities of semiautomatic pistols used by their military forces -- most of which sell for less than \$100. Last year, some 25,000 of these handguns were imported, and importation permits covering as many as 100,000 are pending.

We have two non-legislative options to address this problem. First, the President could direct ATF to change the regulations on curio and relic classification. Curios and relics are defined by law to mean firearms of interest to collectors which are (a) 50 years old, (b) certified by museum directors to be of interest, or (c) of value because they are novel and are associated with some historical figure, period or event. At the rate these arms are being imported, they can no longer be regarded as collectors items.

Ordering ATF to amend these regulations would require a 90-day comment period -- and would not address the problem of inexpensive handguns. As an alternative, the President could order the State Department to suspend the importation of these weapons under the AECA. Under this statute, the President has broad authority to control the importation of firearms in furtherance of world peace, security and the foreign policy of the United States.

## **2. Anti-gang Initiative.**

Youth gangs are at the very center of the public's concern with crime and violence and represent everything that is unacceptable about violence on our streets today -- senseless violence, guns, drugs, and kids not knowing the difference between right and wrong. The Administration needs to address this problem directly and can do so by coordinating existing agency efforts. For instance:

**Enforcement** -- The Justice Department currently administers two anti-gang programs: the Urban Street Gang Drug Trafficking Suppression program, which currently funds five pilot sites involving different suppression techniques; and the Comprehensive Gang Initiative, which is currently being implemented in four different sites. Justice, through the use of discretionary monies, could expand these enforcement programs to include other sites where they could be linked to other anti-gang efforts.

**Gang Intelligence** -- The hundreds of gangs that exist nationwide, coupled with their expansion into rural and suburban areas, make accurate and timely gang intelligence a critical element of anti-gang enforcement efforts. Justice and Treasury (FBI and ATF) have been historically at odds over what agency take the lead in assisting state and local law enforcement in tapping into gang intelligence. Justice provides funding for the Regional Information Sharing System (RISS), but Treasury is also engaged in anti-gang enforcement. These efforts need to be more closely linked.

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"Nothing in this Act [which amended this section, among other things; for full classification of such Act, consult USCS Tables volumes] is intended to authorize any additional military or civilian personnel for the Department of Defense for the purposes of this Act [which amended this section, among other things; for full classification of such Act, consult USCS Tables volumes], the Foreign Assistance Act of 1961 [22 USCS §§ 2151 et seq., generally; for full classification of such Act, consult USCS Tables volumes], or the Arms Export Control Act [22 USCS §§ 2751 et seq., generally; for full classification of such Act, consult USCS Tables volumes]. Personnel levels authorized in statutes authorizing appropriations for military and civilian personnel of the Department of Defense shall be controlling over all military and civilian personnel of the Department of Defense assigned to carry out functions under the Arms Export Control Act [22 USCS §§ 2751 et seq., generally; for full classification of such Act, consult USCS Tables volumes] and the Foreign Assistance Act of 1961 [22 USCS §§ 2151 et seq., generally; for full classification of such Act, consult USCS Tables volumes]."

Administration of Arms Export Control Act. Ex. Or. No. 11958 of Jan. 18, 1977, 42 Fed. Reg. 4311, as amended by Ex. Or. No. 12118 of Feb. 6, 1979, 44 Fed. Reg. 7939; Ex. Or. No. 12163 of Sept. 29, 1979, 44 Fed. Reg. 56673; Ex. Or. No. 12210 of April 16, 1980, 45 Fed. Reg. 26313; Ex. Or. No. 12321 of Sept. 14, 1981, § 2, 46 Fed. Reg. 46109; Ex. Or. No. 12365 of May 24, 1982, § 2, 47 Fed. Reg. 22933; Ex. Or. No. 12423 of May 26, 1983, § 2, 48 Fed. Reg. 24025; Ex. Or. 12560 of May 24, 1986, 51 Fed. Reg. 19159; Ex. Or. No. 12680 of July 5, 1989, 54 Fed. Reg. 28995; Ex. Or. No. 12738 of Dec. 14, 1990, 55 Fed. Reg. 52033, provides:

"Section 1. Delegation of Functions. The following functions conferred upon the President by the Arms Export Control Act (22 U.S.C. 2751 et seq.), hereinafter referred to as the Act, and related legislation, are delegated as follows:

"(a) Those under Section 3 of the Act [22 USCS § 2753], with the exception of subsections (a)(1), (b), (c)(3), (c)(4), and (f) [22 USCS § 2753(a)(1), (b), (c)(3), (c)(4), (f)], to the Secretary of State: Provided, That the Secretary of State, in the implementation of the functions delegated to him under Sections 3(a) and (d) of the Act [22 USCS § 2753(a), (d)], is authorized to find, in the case of a proposed transfer of a defense article or related training or other defense service by a foreign country or international organization not otherwise eligible under Section 3(a)(1) of the Act [22 USCS § 2753(a)(1)], whether the proposed transfer will strengthen the security of the United States and promote world peace.

"(b) Those under Section 5 [22 USCS § 2755] to the Secretary of State.

"(c) Those under Section 21 of the Act [22 USCS § 2761], with the exception of the last sentence of subsection (d) and all of subsection (i) [22 USCS § 2761(d), last sentence, and (i)], to the Secretary of Defense.

"(d) Those under Sections 22(a), 29, 30 and 30A of the Act [22 USCS §§ 2762(a), 2769, 2770, and 2770a] to the Secretary of Defense.

"(e) Those under Section 23 of the Act [22 USCS § 2763] and section 571 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) [22 USCS § 2763 note].

## ARMS EXPORT

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"(f) Those under 2767, and 2' in implement [22 USCS §. and the Secr

"(g) Those under the Secretary of State Control and responsibility materials for § 2765].

"(h) Those under the Secretary of State guaranty trade policies, the Secretary of

"(i) Those under the Secretary of

"(j) Those under § 2776(a) and agency as provided Secretary of State the functions.

§ 2776(a) and with respect to 36(b)(1) [22 U.S.C. the Arms Control functions under the Secretary of Management

"(k) Those under and (d)] to the

"(l) Those under (1) to the subsection.

Secretary of State considered control under of the Secretary ensure compliance with the agreement or agreement consultation "(2) to the Secretary of State control of the carrying out guided by the

## ARMS EXPORT CONTROL

## 22 USCS § 2751

to the Secretary of Defense, to be exercised in consultation with the Secretary of State and the Secretary of the Treasury, except that the President shall determine any rate of interest to be charged which is less than the market rate of interest.

"(f) Those under Sections 24, 27, and 28 of the Act [22 USCS §§ 2764, 2767, and 2768] to the Secretary of Defense. The Secretary of Defense, in implementing the functions delegated to him under Sections 24 and 27 [22 USCS §§ 2764 and 2767], shall consult with the Secretary of State and the Secretary of the Treasury.

"(g) Those under Section 25 of the Act [22 USCS § 2765] to the Secretary of State. The Secretary of Defense and the Director of the Arms Control and Disarmament Agency, within their respective areas of responsibility, shall assist the Secretary of State in the preparation of materials for presentation to the Congress under that Section [22 USCS § 2765].

"(h) Those under Section 34 of the Act [22 USCS § 2774] to the Secretary of State. To the extent the standards and criteria for credit and guaranty transactions are based upon national security and financial policies, the Secretary of State shall obtain the prior concurrence of the Secretary of Defense and the Secretary of the Treasury, respectively.

"(i) Those under Section 35(a) of the Act [22 USCS § 2775(a)] to the Secretary of State.

"(j) Those under Sections 36(a) and 36(b)(1) of the Act [22 USCS § 2776(a) and (b)(1)], except with respect to the certification of an emergency as provided by subsection (b)(1) [22 USCS § 2776(b)(1)], to the Secretary of Defense. The Secretary of Defense, in the implementation of the functions delegated to him under Sections 36(a) and (b)(1) [22 USCS § 2776(a) and (b)(1)] shall consult with the Secretary of State, who shall, with respect to matters related to subparagraphs (D) and (I) of Section 36(b)(1) [22 USCS § 2776(b)(1)(D) and (I)], consult with the Director of the Arms Control and Disarmament Agency. With respect to those functions under Sections 36(a)(5) and (6) [22 USCS § 2776(a)(5) and (6)], the Secretary of Defense shall consult with the Director of the Office of Management and Budget.

"(k) Those under Sections 36(c) and (d) of the Act [22 USCS § 2776(c) and (d)] to the Secretary of State.

"(l) Those under Section 38 of the Act [22 USCS § 2778]:

"(1) to the Secretary of State, except as otherwise provided in this subsection. Designations, including changes in designations, by the Secretary of State of items or categories of items which shall be considered as defense articles and defense services subject to export control under Section 38 [22 USCS § 2778] shall have the concurrence of the Secretary of Defense. The authority to undertake activities to ensure compliance with established export conditions may be redelegated to the Secretary of Defense, or to the head of another department or agency as appropriate, which shall exercise such functions in consultation with the Secretary of State;

"(2) to the Secretary of the Treasury, to the extent they relate to the control of the import of defense articles and defense services. In carrying out such functions, the Secretary of the Treasury shall be guided by the views of the Secretary of State on matters affecting

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world peace, and the external security and foreign policy of the United States. Designations including changes in designations, by the Secretary of the Treasury of items or categories of items which shall be considered as defense articles and defense services subject to import control under Section 38 of the Act [22 USCS § 2778] shall have the concurrence of the Secretary of State and the Secretary of Defense;

"(3) to the Secretary of Commerce, to carry out on behalf of the Secretary of State, to the extent such functions involve Section 38(e) of the Act [22 USCS § 2778(e)] and are agreed to by the Secretary of State and the Secretary of Commerce.

"(m) Those under Section 39(b) of the Act [22 USCS § 2779(b)] to the Secretary of State. In carrying out such functions, the Secretary of State shall consult with the Secretary of Defense as may be necessary to avoid interference in the application of Department of Defense regulations to sales made under Section 22 of the Act [22 USCS § 2762].

"(n) Those under Sections 42(c) and (f) of the Act [22 USCS § 2791(c) and (f)] to the Secretary of Defense. The Secretary of Defense shall obtain the concurrence of the Secretary of State and the Secretary of the Treasury on any determination proposed under the authority of Section 42(c) of the Act [22 USCS § 2791(c)].

"(o) Those under Sections 52(b) and 53 of the Act [22 USCS §§ 2795a(b) and 2795b] to the Secretary of Defense.

"(p) Those under Sections 61 and 62(a) of the Act [22 USCS §§ 2796 and 2796a(a)] to the Secretary of Defense.

"(q) Those under Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) to the Secretary of State.

"(r) Those under Section 588(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461) [unclassified], to the Secretary of Defense, except with respect to the determination of an emergency as provided by subsection (b)(3). The Secretary of Defense in implementation of the functions delegated to him under section 588(b) [unclassified] shall consult with the Secretary of State.

"Sec. 2. Coordination. (a) In addition to the specific provisions of Section 1 of this Order, the Secretary of State and the Secretary of Defense, in carrying out the functions delegated to them under this Order, shall consult with each other and with the heads of other departments and agencies, including the Secretary of the Treasury, the Director of the United States International Development Cooperation Agency, the Director of the Arms Control and Disarmament Agency, and the Chairman of the Export-Import Bank, on matters pertaining to their responsibilities.

"(b) In accordance with Section 2(b) of the Act [22 USCS § 2752(b)] and under the directions of the President, the Secretary of State, taking into account other United States activities abroad, shall be responsible for the continuous supervision and general direction of sales and exports under the Act [22 USCS §§ 2751 et seq., generally; for full classification of such Act, consult USCS Tables volumes], including but not limited to, the negotiation, conclusion, and termination of international agreements, and determining whether there shall be a sale to a country and the amount thereof, and whether there shall be delivery or other performance under

such sale or other United States activity.

"Sec. 3. All carrying out of classification to be allocated to the President.

"Sec. 4. Re-except that, authorization, contracts, agreements under the provisions revoked, shall have full force and effect as authorized. Similar provisions of Fed. Reg. 2 section and Reg. 4311,

Report by foreign governments. States Act appeared as P. L. 95-38 title report on defense

Study by International executive department P. L. 95-92 § 734(a)(13)

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such sale or export, to the end that sales and exports are integrated with other United States activities and the foreign policy of the United States is best served thereby.

"Sec. 3. Allocation of Funds. Funds appropriated to the President for carrying out the Act [22 USCS §§ 2751 et seq., generally; for full classification of such Act, consult USCS Tables volumes] shall be deemed to be allocated to the Secretary of Defense without any further action of the President.

"Sec. 4. Revocation. Executive Order No. 11501, as amended, is revoked; except that, to the extent consistent with this Order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, taken or entered into under the provisions of Executive Order No. 11501, as amended, and not revoked, superseded or otherwise made inapplicable, shall continue in full force and effect until amended, modified or terminated by appropriate authority."

Similar provisions appeared in Ex. Or. No. 11501 of Dec. 22, 1969, 34 Fed. Reg. 20169, as amended, which formerly appeared as a note to this section and was revoked by Ex. Or. No. 11958 of Jan. 18, 1977, 42 Fed. Reg. 4311, which appears as a note to this section.

Report by President on impact of foreign arms sales and transfers to foreign governments on defense readiness and national security of United States. Act Aug. 4, 1977, P. L. 95-92, § 23, 91 Stat. 624, which formerly appeared as a note to this section, was repealed by Act Sept. 26, 1978, P. L. 95-384, § 29 (c)(2)(B). It set forth provisions respecting Presidential report on the impact of United States foreign arms sales and transfers on defense readiness and national security.

Study by President of national security and military implications of international transfers of technology; scope of study; utilization of Executive departments and agencies; report to Congress. Act Aug. 4, 1977, P. L. 95-92, § 24, 91 Stat. 64; Dec. 29, 1981, P. L. 97-113, Title VII, § 734(a)(13) in part, 95 Stat. 1560, provided:

"(a) The President shall conduct a comprehensive study of the policies and practices of the United States Government with respect to the national security and military implications of international transfers of technology in order to determine whether such policies and practices should be changed. Such study shall examine--

- "(1) the nature of technology transfer;
- "(2) the effect of technology transfers on United States technological superiority;
- "(3) the rationale for transfers of technology from the United States to foreign countries;
- "(4) the benefits and risks of such transfers;
- "(5) trends in technology transfers by the United States and other countries;
- "(6) the need for controls on transfers of technology, including controls on the use of transferred technology, the effectiveness of existing end-use controls, and possible unilateral sanctions if end-use restrictions are violated;
- "(7) the effectiveness of existing organizational arrangements in the

shall be available for any purpose for which funds in such reserve are available.

(Pub. L. 90-629, c. 3, § 37, Oct. 22, 1968, 82 Stat. 1326; Pub. L. 93-189, § 25(11), Dec. 17, 1973, 87 Stat. 731; Pub. L. 96-533, Title I, §§ 104(b), 105(e)(1), Dec. 16, 1980, 94 Stat. 3133, 3135.)

#### HISTORICAL AND STATUTORY NOTES

**Revision Notes and Legislative Reports**  
1968 Act. Senate Report No. 1632, see 1968 U.S. Code Cong. and Adm. News, p. 4474.

1973 Act. House Report No. 93-388 and Conference Report No. 93-664, see 1973 U.S. Code Cong. and Adm. News, p. 2806.

1980 Act. House Report No. 96-884 (Parts I and II) and House Conference Report No. 96-1471, see 1980 U.S. Code Cong. and Adm. News, p. 6540.

#### Amendments

1980 Amendment. Subsec. (a). Pub. L. 96-533, § 105(e)(1), inserted reference to section 2769 of this title.

Subsec. (c). Pub. L. 96-533, § 104(b), added subsec. (c).

1973 Amendment. Subsec. (b). Pub. L. 93-189 added provisions relating to indebtedness under § 2764(b) of this title and exclusions of portions of the sales proceeds required at the time of disposition as a reserve for payment of claims under guaranties issued under § 2764(b) of this title.

#### Effective Dates

1968 Act. Section effective July 1, 1968, see § 41 of Pub. L. 90-629, set out as a note under section 2751 of this title.

#### LIBRARY REFERENCES

##### American Digest System

Foreign trade restrictions, see War and National Emergency §§ 501 to 514.

##### Encyclopedias

Foreign trade restrictions, see C.J.S. War and National Defense §§ 200, 201.

#### WESTLAW ELECTRONIC RESEARCH

War and National Emergency cases: 402k [add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

### § 2778. Control of arms exports and imports

(a) **Presidential control of exports and imports of defense articles and services, guidance of policy, etc.; designation of United States Munitions List; issuance of export licenses; condition for export; negotiations information**

(1) In furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

(2) Decisions on issuing export licenses under this section shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether the export of an article will contribute to an arms race, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.

(3) In exercising the authorities conferred by this section, the President may require that any defense article or defense service be sold under this chapter as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the export of defense articles and services keep the President fully and currently informed of the progress and future prospects of such negotiations.

(b) **Registration and licensing requirements for manufacturers, exporters, or importers of designated defense articles and defense services**

(1)(A) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under subsection (a)(1) of this section shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State or local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this chapter or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

(B)<sup>1</sup> The prohibition under such regulations required by the second sentence of subparagraph (A) shall not extend to any military firearms (or ammunition, components, parts, accessories, and attachments for such firearms) of United States manufacture furnished to any foreign government by the United States under this chapter or any other foreign assistance or sales program of the United States if—

(I) such firearms are among those firearms that the Secretary of the Treasury is, or was at any time, required to authorize the importation of by reason of the provisions of section 925(e) of Title 18 (including the requirement for the listing of such firearms as curios or relics under section 921(a)(13) of that title); and

(II) such foreign government certifies to the United States Government that such firearms are owned by such foreign government.

(B)<sup>1</sup> A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. The Secretary shall report to the President regarding such concerns as necessary.

(2) Except as otherwise specifically provided in regulations issued under subsection (a)(1) of this section, no defense articles or defense services designated by the President under subsection (a)(1) of this section may be exported or imported without a license for such export or import, issued in accordance with this chapter and regulations issued under this chapter, except that no license shall be required for exports or imports made by or for an agency of the United States Government (A) for official use by a department or agency of the United States Government, or (B) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(3)(A) For each of the fiscal years 1988 and 1989, \$250,000 of registration fees collected pursuant to paragraph (1) shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for—

(i) contract personnel to assist in the evaluation of munitions control license applications, reduce processing time for license applications, and improve monitoring of compliance with the terms of licenses; and

(ii) the automation of munitions control functions and the processing of munitions control license applications, including the development, procurement, and utilization of computer equipment and related software.

(B) The authority of this paragraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

**(c) Criminal violations; punishment**

Any person who willfully violates any provision of this section or section 2779 of this title, or any rule or regulation issued under

either section, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined for each violation not more than \$1,000,000 or imprisoned not more than ten years, or both.

(d) **Repealed.** Pub. L. 96-70, Title III, § 3303(a)(4), Sept. 27, 1979, 93 Stat. 499

**(e) Enforcement powers of President**

In carrying out functions under this section with respect to the export of defense articles and defense services, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (g) of section 11 of the Export Administration Act of 1979 [50 App. U.S.C.A. § 2410(c), (d), (e), and (g)], and by subsections (a) and (c) of section 12 of such Act [50 App. U.S.C.A. § 2411(a) and (c)], subject to the same terms and conditions as are applicable to such powers under such Act [50 App. U.S.C.A. § 2401 et seq.]. Nothing in this subsection shall be construed as authorizing the withholding of information from the Congress. Notwithstanding section 11(c) of the Export Administration Act of 1979 [50 App. U.S.C.A. § 2410(c)], the civil penalty for each violation involving controls imposed on the export of defense articles and defense services under this section may not exceed \$500,000.

**(f) Periodic review of items on Munitions List**

The President shall periodically review the items on the United States Munitions List to determine what items, if any, no longer warrant export controls under this section. The results of such reviews shall be reported to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate. Such a report shall be submitted at least 30 days before any item is removed from the Munitions List and shall describe the nature of any controls to be imposed on that item under the Export Administration Act of 1979 [50 App. U.S.C.A. § 2401 et seq.].

**(g) Identification of persons convicted or subject to indictment for violations of certain provisions**

(1) The President shall develop appropriate mechanisms to identify, in connection with the export licensing process under this section—

(A) persons who are the subject of an indictment for, or have been convicted of, a violation under—

- (i) this section,
  - (ii) section 11 of the Export Administration Act of 1979 (50 U.S.C.App. 2410),
  - (iii) section 793, 794, or 798 of Title 18 (relating to espionage involving defense or classified information),
  - (iv) section 16 of the Trading with the Enemy Act (50 U.S.C.App. 16),
  - (v) section 206 of the International Emergency Economic Powers Act (relating to foreign assets controls; 50 U.S.C. App. 1705),
  - (vi) section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) or section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd-2),
  - (vii) chapter 105 of Title 18 (relating to sabotage),
  - (viii) section 4(b) of the Internal Security Act of 1950 (relating to communication of classified information; 50 U.S.C. 783(b)),
  - (ix) section 57, 92, 101, 104, 222, 224, 225, or 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2077, 2122, 2131, 2134, 2272, 2274, 2275, and 2276),
  - (x) section 601 of the National Security Act of 1947 (relating to intelligence identities protection; 50 U.S.C. 421), or
  - (xi) section 603(b) or (c) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5113(b) and (c));
- (B) persons who are the subject of an indictment or have been convicted under section 371 of Title 18 for conspiracy to violate any of the statutes cited in subparagraph (A); and
- (C) persons who are ineligible—
- (i) to contract with,
  - (ii) to receive a license or other form of authorization to export from, or
  - (iii) to receive a license or other form of authorization to import defense articles or defense services from,
- any agency of the United States Government.
- (2) The President shall require that each applicant for a license to export an item on the United States Munitions List identify in the application all consignees and freight forwarders involved in the proposed export.

- (3) If the President determines—

(A) that an applicant for a license to export under this section is the subject of an indictment for a violation of any of the statutes cited in paragraph (1),

(B) that there is reasonable cause to believe that an applicant for a license to export under this section has violated any of the statutes cited in paragraph (1), or

(C) that an applicant for a license to export under this section is ineligible to contract with, or to receive a license or other form of authorization to import defense articles or defense services from, any agency of the United States Government, the President may disapprove the application. The President shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.

(4) A license to export an item on the United States Munitions List may not be issued to a person—

(A) if that person, or any party to the export, has been convicted of violating a statute cited in paragraph (1), or

(B) if that person, or any party to the export, is at the time of the license review ineligible to receive export licenses (or other forms of authorization to export) from any agency of the United States Government,

except as may be determined on a case-by-case basis by the President, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to export and a finding by the President that appropriate steps have been taken to mitigate any law enforcement concerns.

(5) A license to export an item on the United States Munitions List may not be issued to a foreign person (other than a foreign government).

(6) The President may require a license (or other form of authorization) before any item on the United States Munitions List is sold or otherwise transferred to the control or possession of a foreign person or a person acting on behalf of a foreign person.

(7) The President shall, in coordination with law enforcement and national security agencies, develop standards for identifying high-risk exports for regular end-use verification. These standards shall be published in the Federal Register and the initial standards shall be published not later than October 1, 1988.

(8) Upon request of the Secretary of State, the Secretary of Defense and the Secretary of the Treasury shall detail to the office primarily responsible for export licensing functions under this

section, on a nonreimbursable basis, personnel with appropriate expertise to assist in the initial screening of applications for export licenses under this section in order to determine the need for further review of those applications for foreign policy, national security, and law enforcement concerns.

(9) For purposes of this subsection—

(A) the term “foreign corporation” means a corporation that is not incorporated in the United States;

(B) the term “foreign government” includes any agency or subdivision of a foreign government, including an official mission of a foreign government;

(C) the term “foreign person” means any person who is not a citizen or national of the United States or lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C.A. § 1101 et seq.], and includes foreign corporations, international organizations, and foreign governments;

(D) the term “party to the export” means—

(i) the president, the chief executive officer, and other senior officers of the license applicant;

(ii) the freight forwarders or designated exporting agent of the license application; and

(iii) any consignee or end user of any item to be exported; and

(E) the term “person” means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities.

(h) **Judicial review of designation of items as defense articles or services**

The designation by the President (or by an official to whom the President's functions under subsection (a) of this section have been duly delegated), in regulations issued under this section, of items as defense articles or defense services for purposes of this section shall not be subject to judicial review.

(Pub. L. 90-629, c. 3, § 38, as added Pub. L. 94-329, Title II, § 212(a)(1), June 30, 1976, 90 Stat. 744, and amended Pub. L. 95-92, § 20, Aug. 4, 1977, 91 Stat. 623; Pub. L. 96-70, Title III, § 3303(a)(4), Sept. 27, 1979, 93 Stat. 499; Pub. L. 96-72, § 22(a), Sept. 29, 1979, 93 Stat. 535; Pub. L. 96-92, § 21, Oct. 29, 1979, 93 Stat. 710; Pub. L. 96-533, Title I, § 107(a), (c), Dec. 16, 1980, 94 Stat. 3136; Pub. L. 97-113, Title I, §§ 106, 107, Dec. 29, 1981, 95 Stat. 1522; Pub. L. 99-64, Title I, § 123(a), July 12, 1985, 99 Stat. 156; Pub. L. 99-83, Title I, § 119(a), (b), Aug. 8, 1985, 99 Stat. 203; Pub. L.

100-202, § 101(b), [Title VII, § 8142(a)], Dec. 22, 1987, 101 Stat. 1329-88; Pub. L. 100-204, Title XII, § 1255, Dec. 22, 1987, 101 Stat. 1429; Pub. L. 101-222, §§ 3(a), 6, Dec. 12, 1989, 103 Stat. 1896, 1899.)

<sup>1</sup> So in original. There are two subpars. designated “(B)”.

## HISTORICAL AND STATUTORY NOTES

### Revision Notes and Legislative Reports

**1976 Act.** House Report No. 94-1144 and House Conference Report No. 94-1272, see 1976 U.S. Code Cong. and Adm. News, p. 1378.

**1977 Act.** House Report No. 95-274 and House Conference Report No. 95-503, see 1977 U.S. Code Cong. and Adm. News, p. 978.

**1979 Acts.** House Report No. 96-98, (Part I), and House Conference Report No. 96-473, see 1979 U.S. Code Cong. and Adm. News, p. 1034.

Senate Report No. 96-169 and House Conference Report No. 96-482, see 1979 U.S. Code Cong. and Adm. News, p. 1147.

Senate Report No. 96-136 and House Conference Report No. 96-495, see 1979 U.S. Code Cong. and Adm. News, p. 1651.

**1980 Act.** House Report No. 96-884 (Parts I and II) and House Conference Report No. 96-1471, see 1980 U.S. Code Cong. and Adm. News, p. 6540.

**1981 Act.** Senate Report No. 97-83 and House Conference Report No. 97-413, see 1981 U.S. Code Cong. and Adm. News, p. 2404.

**1985 Acts.** House Conference Report No. 99-180, see 1985 U.S. Code Cong. and Adm. News, p. 108.

Senate Report No. 99-34, and House Conference Report No. 99-237, see 1985 U.S. Code Cong. and Adm. News, p. 158.

**1987 Act.** Senate Report No. 100-75, House Conference Report No. 100-475, and Statement by President, see 1987 U.S. Code Cong. and Adm. News, p. 2314.

### References in Text

This chapter, referred to in subsec. (b)(1)(B), was in the original “this Act”, meaning Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1321, as amended, which enacted this chapter, amended sections 2382, 2392, 2394, and 2403 of this title, repealed sections 2341 to 2343, 2344(b)(3), 2345, 2394(g), and 2399a of this title and enacted provisions set out as notes under sections 2751 and 2341 of this title. For complete classification of this Act to the

Code, see Short Title note set out under section 2751 of this title and Tables.

The Export Administration Act of 1979, referred to in subsecs. (e), (f), and (g)(1)(A)(ii), is Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to sections 2401 to 2420 of the Appendix to Title 50, War and National Defense, and made technical and conforming amendments to other Titles. Subsections (c), (d), (e), and (f) of section 11 and subsections (a) and (c) of section 12 are classified to sections 2410(c), (d), (e), and (f), and 2411(a) and (c), respectively, of the Appendix to Title 50. For complete classification of the Act to this Code, see Short Title note set out under section 2401 of Appendix to Title 50 and Tables.

Section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd-2), referred to in subsec. (g)(1)(A)(vi), probably means section 104 of the Foreign Corrupt Practices Act of 1977, which is classified to section 78dd-2 of Title 15, Commerce and Trade.

The Immigration and Nationality Act, referred to in subsec. (g)(9)(C), is Act June 27, 1952, c. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (section 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

### Reference to Section 1934 of This Title Deemed Reference to This Section

Section 212(b)(1) of Pub. L. 94-329 provided in part that: “Any reference to such section [former section 1934 of this title] shall be deemed to be a reference to section 38 of the Arms Export Control Act [this section] and any reference to licenses issued under section 38 of the Arms Export Control Act shall be deemed to include a reference to licenses issued under section 414 of the Mutual Security Act of 1954.”

**Codifications**

Enactment of subsec. (h) by Pub.L. 101-222, § 6, was executed to this section notwithstanding directory language directing such addition to "22 U.S.C. 2278", as the probable intent of Congress.

**Amendments**

**1989 Amendment.** Subsec. (a)(2). Pub.L. 101-222, § 3(a), inserted "support international terrorism," following "arms race."

Subsec. (h). Pub.L. 101-222, § 6, added subsec. (h).

**1987 Amendments.** Subsec. (b)(1). Pub.L. 100-204, § 1255(b), designated provisions which related to registration requirements for manufacturers, exporters, or importers of designated defense articles and defense services as subpar. (A), and added subpar. (B) relating to review by Secretary of the Treasury of munitions control registrations.

Subsec. (b)(1)(A). Pub.L. 100-202, § 101(b) [Title VIII, § 8142(a)(1)], designated existing provisions as subpar. (A).

Subsec. (b)(1)(B). Pub.L. 100-202, § 101(b) [Title VIII, § 8142(a)(2)], added subpar. (B) relating to allowance of return to United States of certain military firearms, etc., under certain circumstances.

Subsec. (b)(3). Pub.L. 100-204, § 1255(c), added par. (3).

Subsec. (g). Pub.L. 100-204, § 1255(a), added subsec. (g).

**1985 Amendments.** Subsec. (c). Pub.L. 99-83, § 119(a), added "for each violation" preceding "not more" and substituted "\$1,000,000" for "\$100,000" and "ten" for "two".

Subsec. (e). Pub.L. 99-83, § 119(b), added provisions relating to civil penalty for each violation.

Pub.L. 99-64 substituted "(g)" for "(f)".

**1981 Amendment.** Subsec. (b)(3). Pub.L. 97-113, § 106, struck out the \$100,000,000 ceiling on commercial arms exports of major defense equipment to all countries other than NATO countries, Japan, Australia, and New Zealand.

Subsec. (f). Pub.L. 97-113, § 107, added subsec. (f).

**1980 Amendment.** Subsec. (a)(3). Pub.L. 96-533, § 107(c), added par. (3).

Subsec. (b)(3). Pub.L. 96-533, § 107(a), increased the limitation in the sale of major defense equipment exports to \$100,000,000 from \$35,000,000.

**1979 Amendments.** Subsec. (b)(3). Pub.L. 96-92 increased the limitation in the sale of major defense equipment exports to \$35,000,000 from \$25,000,000.

Subsec. (d). Pub.L. 96-70 struck out subsec. (d), providing that this section applies to and within the Canal Zone.

Subsec. (e). Pub.L. 96-72 substituted "subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act" for "sections 6(c), (d), (e), and (f) and 7(a) and (c) of the Export Administration Act of 1969".

**1977 Amendment.** Subsec. (b)(3). Pub.L. 95-92 added provisions relating to exceptions to prohibitions against issuance of licenses under this section and procedures applicable for implementation of such exceptions.

**Effective Dates**

**1987 Acts.** Section 101(b) [Title VIII, § 8142(b)] of Pub.L. 100-202 provided that:

"(1) Except as provided in paragraphs (2) and (3), subparagraph (B) of section 38(b)(1) of the Arms Export Control Act, as added by subsection (a) [subsec. (b)(1)(B) of this section], shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act [Dec. 22, 1987].

"(2)(A) Such subparagraph shall take effect on the date of the enactment of this Act [Dec. 22, 1987] with respect to any military firearms or ammunition (or components, parts, accessories and attachments for such firearms) with respect to which an import permit was issued by the Secretary of the Treasury on or after July 1, 1986, irrespective of whether such import permit was subsequently suspended, revoked, or withdrawn by the Secretary of the Treasury based on the application of section 38(b)(1) of the Arms Export Control Act [subsec. (b)(1) of this section] as in effect on the day before the date of the enactment of this Act.

"(B) In the case of an import permit described in subparagraph (A) which

was suspended, revoked, or withdrawn by the Secretary of the Treasury during the period beginning on July 1, 1986, and ending on the date of the enactment of this Act [Dec. 22, 1987] under the conditions described in such subparagraph, such import permit shall be reinstated and reissued immediately upon the enactment of this Act, and in any event not later than ten days after the date of the enactment of this Act.

"(3) During the period preceding the revision of regulations issued under section 38(b)(1) of the Arms Export Control Act [subsec. (b)(1) of this section] to reflect the provisions of subparagraph (B) of such section, as added by subsection (a) [subsec. (b)(1)(B) of this section] such regulations may not be applied with respect to matters covered by paragraph (2) of this subsection so as to prohibit or otherwise restrict the importation of firearms described in that paragraph or in any other manner inconsistent with that paragraph, notwithstanding that such regulations have not yet been so revised: *Provided*, That this section shall not take effect if during the twenty day period beginning on the date of enactment of this section [Dec. 22, 1987] the Secretary of State, the Secretary of Defense, or the Secretary of the Treasury notifies Congress that he has an objection to the intent of this section: *Provided further*, That the Attorney General shall, within the period of time stated in the first proviso, submit a certification to Congress indicating whether the enactment of this section will interfere with any ongoing criminal investigation with respect to this section. If a certification of criminal investigative interference or an objection to the intent of this section is made, as herein provided, no permit shall be issued to anyone."

Amendment by Pub.L. 100-204, effective Dec. 22, 1987, except as otherwise provided, see section 1301 of Pub.L. 100-204, set out as a note under section 2651 of this title.

**1985 Act.** Section 119(c) of Pub.L. 99-83 provided that: "This section [amending this section] shall take effect upon the date of enactment of this Act [Aug. 8, 1985] or October 1, 1985, whichever is later. The amendments made by this section apply with respect to violations occurring after the effective date of this section."

**1979 Acts.** Amendment by Pub.L. 96-72 effective upon the expiration of the Export Administration Act of 1969, which terminated on Sept. 30, 1979, or upon any prior date which the Congress by concurrent resolution or the President by proclamation designated, see section 2418 and Prior Provisions note set out under section 2413 of Appendix to Title 50, War and National Defense.

Amendment by Pub.L. 96-70 effective on the date on which the Panama Canal Treaty of 1977 enters into force [Oct. 1, 1989], see section 3304 of Pub.L. 96-70, set out as a note under section 3601 of this title.

**Delegation of Functions**

Functions of the President under this section, except as specifically provided below, delegated to the Secretary of State with designations, including changes in designations, by the Secretary of State of items or categories of items which shall be considered as defense articles and defense services subject to export control under this section to have the concurrence of the Secretary of Defense, with provision for consultation with other federal departments and agencies, with the authority to undertake activities to ensure compliance with established export conditions to be redelegated, if necessary, to the Secretary of Defense, or to the head of another department or agency as appropriate, which shall exercise such functions in consultation with the Secretary of State, see sections 1(f)(1) and 2 of Ex.Ord. No. 11958, Jan. 18, 1977, 42 F.R. 4311, set out as a note under section 2751 of this title.

Functions of the President under this section delegated to the Secretary of the Treasury, to the extent they relate to the control of the import of defense articles and defense services, with the Secretary of the Treasury, in carrying out such functions being guided by the views of the Secretary of State on matters affecting world peace, and the external security and foreign policy of the United States, and with designations, including changes in designations, by the Secretary of the Treasury of items or categories of items which shall be considered as defense articles and defense services subject to import control under this section to have the concurrence of the Secretary of State and the Secretary of De-

fense, see section 1(l)(2) of Ex. Ord. No. 11958.

Functions of the President under this section delegated to the Secretary of Commerce, to carry out on behalf of the Secretary of State, to the extent of such functions involve subsec. (e) of this section and are agreed to by the Secretary of State and the Secretary of Commerce, see section 1(l)(3) of Ex. Ord. No. 11958.

#### Continuation of Export Control Regulations

Section 3 of Ex.Ord. No. 12525, July 12, 1985, 50 F.R. 28757, set out as a note under section 1701 of Title 50, War and National Defense, provided that: "All rules, regulations, orders, licenses, and other forms of administrative action issued, taken or continued in effect pursuant to the authority of the IEEPA and Executive Order No. 12470 [formerly set out as a note under section 1701 of Title 50, War and National Defense] relating to the administration of Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) [subsec. (e) of this section] shall remain in full force and effect until amended or revoked under proper authority."

[Section 3 of Ex.Ord. No. 12470, Mar. 30, 1984, 49 F.R. 13099, formerly set out as a note under section 1701 of Title 50, War and National Defense, provided that: "Provisions for the administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this Order also shall constitute authority for the issuance and continuation in full force and effect of all rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative action issued, taken or continued in effect pursuant thereto, relating to the administration of section 38(e)." The national emergency declared by Ex.Ord. No. 12470, was continued in effect beyond Mar. 31, 1985, by Notice of the President, dated Mar. 28, 1985, set out as a note under section 1701 of Title 50. Ex.Ord. No. 12470 was revoked by Ex.Ord. No. 12525, July 12,

1985, 50 F.R. 28757, set out as a note under section 1701 of Title 50.]

Section 3 of Ex.Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563, set out as a note under section 1701 of Title 50, War and National Defense, provided that: "All orders, licenses and other forms of administrative action issued, taken or continued in effect pursuant to the authority of the IEEPA and Executive Order No. 12444 [formerly set out as a note under section 1701 of Title 50] relating to the administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) [subsec. (e) of this section] shall remain in full force and effect until amended or revoked under proper authority."

[Section 3 of Ex.Ord. No. 12444, Oct. 14, 1983, 48 F.R. 48215, formerly set out as a note under section 1701 of Title 50, War and National Defense, provided that: "Provisions for the administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this Order also shall constitute authority for the issuance and continuation in full force and effect of rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative action issued, taken or continued in effect pursuant thereto, relating to the administration of section 38(e)." Ex.Ord. No. 12444 was revoked by Ex.Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563, set out as a note under section 1701 of Title 50, which further directed that administrative actions taken under such provisions remain in full force and effect until amended or revoked under proper authority.]

#### Self-Defense in Accordance With International Law

Use by any government of armed force in exercise of self-defense in accordance with international agreements and international law not to be considered act of international terrorism for purposes of amendment of this section by Pub.L. 101-222, see section 10 of Pub.L. 101-222, set out as a note under section 2371 of this title.

#### CROSS REFERENCES

Authorizing interceptions of wire, oral, or electronic communications, see 18 USCA § 2516.

Civil penalties for violations, see 50 App. USCA § 2410.  
Congressional policy objectives and restraints, see 22 USCA § 2751.  
Cooperative projects with NATO countries, see 22 USCA § 2767.  
Coordination of presidential controls, see 50 App. USCA § 2416.  
Criminal violations, see 18 USCA § 1956.  
Defense articles and services defined, see 22 USCA § 2794, 50 USCA § 415.  
Defense sales to U.S. companies, see 22 USCA § 2770.  
Mutual Security Act of 1954, see 26 USCA § 5847.  
Prohibited arms sales to Cyprus, see 22 USCA § 2373.  
Reporting requirements for high priced equipment or services, see 22 USCA § 2753.  
Revocation and suspension of export licenses, see 22 USCA § 2791.  
Security assistance defined, see 22 USCA § 2304.  
Working capital funding, see 10 USCA § 2208.

#### LIBRARY REFERENCES

##### Administrative Law

International traffic in arms, see 22 C.F.R. § 120.1 et seq.; 27 C.F.R. §§ 47.1 et seq., 179.1 et seq.

##### American Digest System

Foreign trade restrictions, see War and National Emergency §§ 501 to 514.

##### Encyclopedias

Foreign trade restrictions, see C.J.S. War and National Defense §§ 200, 201.

#### WESTLAW ELECTRONIC RESEARCH

War and National Emergency cases: 402k [add key number].  
See, also, WESTLAW guide following the Explanation pages of this volume.

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##### 1. Constitutionality

Former § 1934 of this title [now covered by this section] and applicable regulations, construed as prohibiting only the exportation of technical data significantly and directly related to specific articles on the Munitions List, did not interfere with constitutionally protected speech, were not overboard and the licensing provisions of said former § 1934 were not an unconstitutional prior restraint on speech. U.S. v. Elder Industries, Inc., C.A.Cal.1978, 579 F.2d 516.

Former § 1934 of this title [now covered by this section] did not work an unconstitutional congressional delegation of legislative power to executive to extent that it empowered President to criminalize attempted export of specified types of ammunition. U.S. v. Gurrola-Garcia, C.A.Ariz.1976, 547 F.2d 1075.

# **Congress of the United States**

**Washington, D.C. 20515**

**March 19, 1994**

The Honorable Lloyd M. Bentsen, Jr.  
Secretary of the Treasury  
Department of the Treasury  
15th and Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

Dear Secretary Bentsen:

We are writing to urge you to take immediate steps to ban the importation of military-style firearms and ammunition, notably from China and former Soviet-bloc nations. This deadly form of commerce has reached epidemic proportions in recent months, and urgent action is needed.

As you know, as part of the omnibus crime bill, Congress is currently considering legislation to ban the manufacture, sale, and possession of assault weapons in the United States. However, we believe the Department of Treasury already has sufficient power under existing law to halt the importation of these and other highly lethal weapons, and we urge you to exercise that power as soon as possible.

At the very least, we urge you to use your authority to place an emergency moratorium on these imports, pending final action by Congress, so that the current flood of imports can be halted while responsible action is taken. These weapons are being heavily advertised in gun trade publications, and the ads often offer multi-round ammunition magazines to go with the assault weapons.

The Chinese actually produce for export to the United States semi-automatic handguns and assault rifles modeled after weapons used by the Chinese military. Indeed, it is the Chinese military that is selling these weapons to us and is profiting directly. While we oppose the import of these dangerous weapons into the United States from any public or private source, it is especially egregious that a foreign government is engaged in this activity.

Ironically, at a time when a number of cities in the United States have instituted programs to "buy back" firearms for \$100 in cash or merchandise, these Chinese-made semi-automatic handguns are selling for less than \$100.

At the same time, over 95,000 surplus weapons have been imported from former Soviet-bloc countries during the past six months under the "curio or relic" exception, allegedly because they are World War II surplus weapons, despite the fact that these guns are in perfect working order.

The Gun Control Act of 1968, among its many important provisions, bans the importation of surplus military firearms and other highly lethal weapons, but there are two notable exceptions -- (1) guns that are "generally recognized as particularly suitable for or readily adaptable to sporting purposes," and (2) military-style weapons that are deemed to be "curios or relics" (18 U.S.C. 925).

These exceptions in the 1968 Act have been dormant until recent years, because the Arms Export Control Act prohibited the importation of firearms from communist countries. But that restriction was lifted for China in 1987, and for the nations of the former Soviet bloc in 1991.

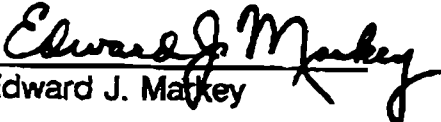
Today, with the Cold War over, these nations are exporting unprecedented quantities of surplus military assault weapons and ammunition to the United States under one or both of the exceptions to the 1968 Gun Control Act. It is preposterous to believe that Congress intended to permit the massive importation of semi-automatic weapons from other nations.

There is no justification for this country to be a dumping ground for Iron Curtain and Chinese military-style firearms and ammunition. The American public is already fed up with the violence caused by domestically manufactured weapons. We urge you to use your existing authority under the Gun Control Act to reconsider the regulations defining the statutory terms "curio or relic" and "sporting purposes" to halt this irresponsible and highly dangerous arms trade.

In light of the significant threat to public safety posed by these weapons, we urge you to act as soon as possible, or to advise us without delay if you believe that the Department lacks legal authority to curb these imports.

We are sending a similar letter to Secretary Christopher urging him to exercise his regulatory authority under the Arms Export Control Act to address this issue.

Sincerely,

  
Edward J. Markey

  
Edward M. Kennedy

# **Congress of the United States**

**Washington, D.C. 20515**

**March 19, 1994**

The Honorable Warren M. Christopher  
Secretary of State  
Department of State  
2201 C Street, N.W.  
Washington, D.C. 20520

Dear Secretary Christopher:

We are writing to urge you to take immediate steps to ban the importation of military-style firearms and ammunition, notably from China and former Soviet-bloc nations. This deadly form of commerce has reached epidemic proportions in recent months, and urgent action is needed.

As you know, as part of the omnibus crime bill, Congress is currently considering legislation to ban the manufacture, sale, and possession of assault weapons in the United States. However, the Department of State already has broad power under existing law to halt the importation of these and other highly lethal weapons, and we urge you to exercise that power as soon as possible.

At the very least, we urge you to use your authority to place an emergency moratorium on these imports, pending final action by Congress, so that the current flood of imports can be halted while responsible action is taken. These weapons are being heavily advertised in gun trade publications, and the ads often offer multi-round ammunition magazines to go with the assault weapons.

The Chinese actually produce for export to the United States semi-automatic handguns and assault rifles modeled after weapons used by the Chinese military. Indeed, it is the Chinese military that is selling these weapons to us and is profiting directly. While we oppose the import of these dangerous weapons into the United States from any public or private source, it is especially egregious that a foreign government is engaged in this activity.

Ironically, at a time when a number of cities in the United States have instituted programs to "buy back" firearms for \$100 in cash or merchandise, these Chinese-made semi-automatic handguns are selling for less than \$100.

At the same time, over 95,000 surplus weapons have been imported from former Soviet-bloc countries during the past six months under the "curios or relics" exception to the Gun Control Act, despite the fact that these World War II era guns are in perfect working order.

During the Cold War, importation of these weapons from communist countries

was barred by the Arms Export Control Act. But that restriction was lifted for China in 1987, and for the nations of the former Soviet bloc in 1991, and now these nations are exporting unprecedented quantities of surplus military assault weapons and ammunition to the United States.

The Arms Export Control Act (22 U.S.C. 2278 (a)(1)) provides that "in furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles..." It is clear that the domestic security of the United States is seriously threatened by the importation of these military-style weapons in such massive quantities; in our view section 2278 is intended to address domestic as well as international security concerns. Moreover, the foreign policy interests of the United States may be adversely affected by the rapid expansion of the munitions industries in these countries as a result of their ability to export military-style weaponry to the United States. We believe you have authority to curb these imports on either domestic or foreign policy grounds.

There is no justification for this country to be a dumping ground for Iron Curtain and Chinese military-style firearms and ammunition. The American public is already fed up with the violence caused by domestically manufactured weapons. We urge you to use your existing authority under the Arms Export Control Act to halt this irresponsible and highly dangerous arms trade.

In light of the significant threat to public safety posed by these weapons, we urge you to act as soon as possible, or to advise us without delay if you believe that the Department lacks legal authority to curb these imports.

We are sending a similar letter to Secretary Bentsen urging him to exercise his regulatory authority under the Gun Control Act to address this issue.

Sincerely,

  
Edward J. Markey

  
Edward M. Kennedy

# **Congress of the United States**

**Washington, D.C. 20515**

**March 19, 1994**

The Honorable Lloyd M. Bentsen, Jr.  
Secretary of the Treasury  
Department of the Treasury  
15th and Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

Dear Secretary Bentsen:

We are writing to urge you to take immediate steps to ban the importation of military-style firearms and ammunition, notably from China and former Soviet-bloc nations. This deadly form of commerce has reached epidemic proportions in recent months, and urgent action is needed.

As you know, as part of the omnibus crime bill, Congress is currently considering legislation to ban the manufacture, sale, and possession of assault weapons in the United States. However, we believe the Department of Treasury already has sufficient power under existing law to halt the importation of these and other highly lethal weapons, and we urge you to exercise that power as soon as possible.

At the very least, we urge you to use your authority to place an emergency moratorium on these imports, pending final action by Congress, so that the current flood of imports can be halted while responsible action is taken. These weapons are being heavily advertised in gun trade publications, and the ads often offer multi-round ammunition magazines to go with the assault weapons.

The Chinese actually produce for export to the United States semi-automatic handguns and assault rifles modeled after weapons used by the Chinese military. Indeed, it is the Chinese military that is selling these weapons to us and is profiting directly. While we oppose the import of these dangerous weapons into the United States from any public or private source, it is especially egregious that a foreign government is engaged in this activity.

Ironically, at a time when a number of cities in the United States have instituted programs to "buy back" firearms for \$100 in cash or merchandise, these Chinese-made semi-automatic handguns are selling for less than \$100.

At the same time, over 95,000 surplus weapons have been imported from former Soviet-bloc countries during the past six months under the "curio or relic" exception, allegedly because they are World War II surplus weapons, despite the fact that these guns are in perfect working order.

The Gun Control Act of 1968, among its many important provisions, bans the importation of surplus military firearms and other highly lethal weapons, but there are two notable exceptions -- (1) guns that are "generally recognized as particularly suitable for or readily adaptable to sporting purposes," and (2) military-style weapons that are deemed to be "curios or relics" (18 U.S.C. 925).

These exceptions in the 1968 Act have been dormant until recent years, because the Arms Export Control Act prohibited the importation of firearms from communist countries. But that restriction was lifted for China in 1987, and for the nations of the former Soviet bloc in 1991.

Today, with the Cold War over, these nations are exporting unprecedented quantities of surplus military assault weapons and ammunition to the United States under one or both of the exceptions to the 1968 Gun Control Act. It is preposterous to believe that Congress intended to permit the massive importation of semi-automatic weapons from other nations.

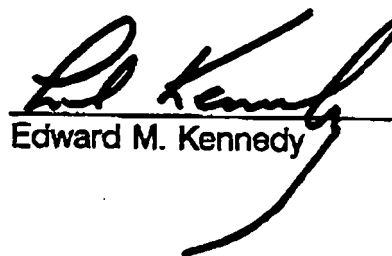
There is no justification for this country to be a dumping ground for Iron Curtain and Chinese military-style firearms and ammunition. The American public is already fed up with the violence caused by domestically manufactured weapons. We urge you to use your existing authority under the Gun Control Act to reconsider the regulations defining the statutory terms "curio or relic" and "sporting purposes" to halt this irresponsible and highly dangerous arms trade.

In light of the significant threat to public safety posed by these weapons, we urge you to act as soon as possible, or to advise us without delay if you believe that the Department lacks legal authority to curb these imports.

We are sending a similar letter to Secretary Christopher urging him to exercise his regulatory authority under the Arms Export Control Act to address this issue.

Sincerely,

  
Edward J. Matkey

  
Edward M. Kennedy

# **Congress of the United States**

**Washington, D.C. 20515**

**March 19, 1994**

The Honorable Warren M. Christopher  
Secretary of State  
Department of State  
2201 C Street, N.W.  
Washington, D.C. 20520

Dear Secretary Christopher:

We are writing to urge you to take immediate steps to ban the importation of military-style firearms and ammunition, notably from China and former Soviet-bloc nations. This deadly form of commerce has reached epidemic proportions in recent months, and urgent action is needed.

As you know, as part of the omnibus crime bill, Congress is currently considering legislation to ban the manufacture, sale, and possession of assault weapons in the United States. However, the Department of State already has broad power under existing law to halt the importation of these and other highly lethal weapons, and we urge you to exercise that power as soon as possible.

At the very least, we urge you to use your authority to place an emergency moratorium on these imports, pending final action by Congress, so that the current flood of imports can be halted while responsible action is taken. These weapons are being heavily advertised in gun trade publications, and the ads often offer multi-round ammunition magazines to go with the assault weapons.

The Chinese actually produce for export to the United States semi-automatic handguns and assault rifles modeled after weapons used by the Chinese military. Indeed, it is the Chinese military that is selling these weapons to us and is profiting directly. While we oppose the import of these dangerous weapons into the United States from any public or private source, it is especially egregious that a foreign government is engaged in this activity.

Ironically, at a time when a number of cities in the United States have instituted programs to "buy back" firearms for \$100 in cash or merchandise, these Chinese-made semi-automatic handguns are selling for less than \$100.

At the same time, over 95,000 surplus weapons have been imported from former Soviet-bloc countries during the past six months under the "curios or relics" exception to the Gun Control Act, despite the fact that these World War II era guns are in perfect working order.

During the Cold War, importation of these weapons from communist countries

was barred by the Arms Export Control Act. But that restriction was lifted for China in 1987, and for the nations of the former Soviet bloc in 1991, and now these nations are exporting unprecedented quantities of surplus military assault weapons and ammunition to the United States.

The Arms Export Control Act (22 U.S.C. 2278 (a)(1)) provides that "in furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles..." It is clear that the domestic security of the United States is seriously threatened by the importation of these military-style weapons in such massive quantities; in our view section 2278 is intended to address domestic as well as international security concerns. Moreover, the foreign policy interests of the United States may be adversely affected by the rapid expansion of the munitions industries in these countries as a result of their ability to export military-style weaponry to the United States. We believe you have authority to curb these imports on either domestic or foreign policy grounds.

There is no justification for this country to be a dumping ground for Iron Curtain and Chinese military-style firearms and ammunition. The American public is already fed up with the violence caused by domestically manufactured weapons. We urge you to use your existing authority under the Arms Export Control Act to halt this irresponsible and highly dangerous arms trade.

In light of the significant threat to public safety posed by these weapons, we urge you to act as soon as possible, or to advise us without delay if you believe that the Department lacks legal authority to curb these imports.

We are sending a similar letter to Secretary Bentsen urging him to exercise his regulatory authority under the Gun Control Act to address this issue.

Sincerely,

  
Edward J. Markey

  
Edward M. Kennedy

**BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
OFFICE OF CHIEF COUNSEL  
650 Massachusetts Ave. N.W.  
Washington, D.C. 20226**

**2/16/94**

**FAX COVER SHEET**

**To: Jose Cerda**

**Fax No. 456-7028**

**From: Brad Buckles**

**Phone: 927-7772**

**Fax: 927-8673**

**No. Pages to Follow: 4**

**Comments:** Jose, here is the briefing paper on the potential importation problem relating to firearms from Viet Nam. If you have any questions, give me a call.

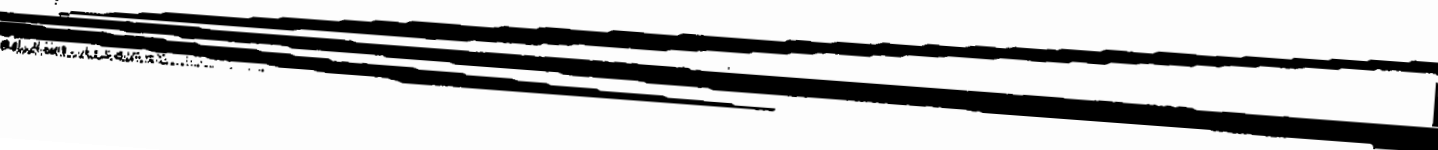
Briefing Paper  
Firearms Technology Branch  
Prepared by: Edward M. Owen  
February 2, 1994

**Purpose:** To provide background information on the probability of the importation of very large numbers of firearms, military vehicles, and equipment from Vietnam.

On February 2, 1994, it was reported in the news media that the trade embargo against Vietnam may be lifted in the near future. If the trade embargo is lifted and the Department of State removes Vietnam from the list of countries from which the importation of defense articles is prohibited (27 CFR §47.52), very large quantities of military firearms, vehicles, (to include armored vehicles) and related military equipment can be expected to be imported into the United States for commercial resale.

**BACKGROUND:**

From the late 1950's through the mid-1970's, massive quantities of U.S. Military weapons, ammunition, vehicles, and other military equipment was provided to the Government of South Vietnam. With the fall of the South Vietnamese Government, all of this existing equipment came under the control of the present Vietnamese Government.



-4-

It has been noted that where trade embargoes have been lifted from other countries, i.e., China and the former Soviet satellites, the Department of State has also removed prohibitions against the importation of firearms and military equipment from those countries. If the same situation occurs with Vietnam, additional large quantities of inexpensive military firearms and related equipment will likely enter U.S. commerce.

EDWARD J. MARKEY  
7TH DISTRICT, MASSACHUSETTS  
COMMITTEE  
ENERGY AND COMMERCE  
CHAIRMAN  
SUBCOMMITTEE ON  
TELECOMMUNICATIONS AND  
FINANCE  
INTERIOR AND INSULAR  
AFFAIRS  
COMMISSION ON SECURITY AND  
COOPERATION IN EUROPE

WASHINGTON DC 20515-2107  
(202) 225-2836  
DISTRICT OFFICE  
5 HIGH STREET SUITE 101  
MEDFORD MA 02155  
(617) 386-2900

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-2107**

**FAX COVER SHEET**

Number of sheets, including cover sheet: 9

**PLEASE DELIVER THIS FAX IMMEDIATELY**

To: JOSE CERDA

Fax #: 4156-7028

Date: 3/28

From: Karen Kovacs & Brian O'Shaughnessy

If you have any questions or problems with this fax, please contact the Office of Congressman Edward J. Markey at 202-225-2836.

Jose -

Here is a copy of the letter that went to the President last week. If you have any questions, please call us at 225-2836.

Also, if you have any difficulty getting copies of the Dateline stories, we have a copy here. Hope to see you next week.

-Karen

PRINTED ON RECYCLED PAPER

**Congress of the United States  
House of Representatives  
Washington, DC 20515**

**March 22, 1994**

**The President  
White House  
Washington, D.C. 20500**

**Dear Mr. President:**

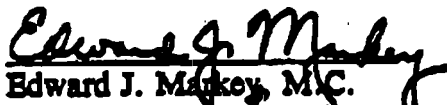
**We are writing to you to express our strong concerns over the flood of foreign semi-automatic, military style assault weapons that are on the streets of America.**

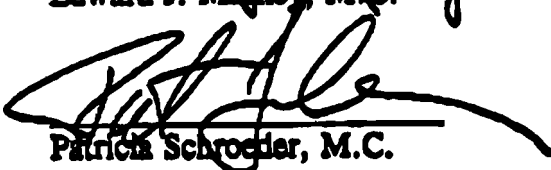
**As you know, the cancer of gun-related violence threatens to destroy the very fabric of our society and unfortunately this cancer is being fed by an influx of deadly, inexpensive combat weapons, the very weapons that in 1989 the Department of Treasury banned from importation into the United States. However, foreign weapons manufacturers, notably China's Norinco Company, have circumvented Treasury's factoring criteria by cosmetically modifying their assault weapons so that their weapons can enter the United States as "sporting rifles." These alterations do not diminish the deadly-efficient functionality of the weapons.**

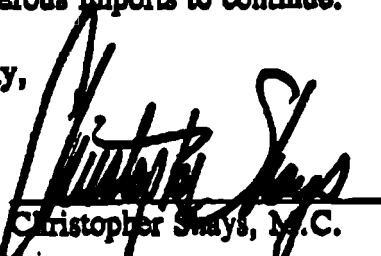
**We believe that the Secretary of Treasury and Secretary of State have sufficient regulatory authority under the Gun Control Act of 1968 and the Arms Export Control Act respectively to end this insane masquerade. We are writing to urge you to ask Secretaries Bentsen and Christopher to close this loophole that allows foreign countries to dump millions of cheap, lethal assault weapons onto the streets of America. We want to put an end to this practice now before more criminals obtain access to cheap and deadly assault weapons.**

**This is a matter of vital importance, and we urge your swift attention to close the regulatory loopholes that have allowed these dangerous imports to continue.**

**Sincerely,**

  
**Edward J. Markey, M.C.**

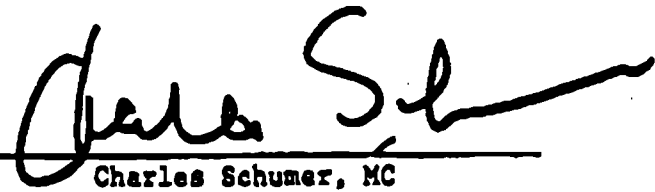
  
**Patricia Schroeder, M.C.**

  
**Christopher Smays, M.C.**

  
**Marge Roukema, M.C.**

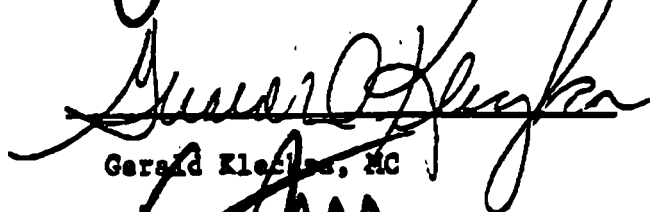
The President  
March 22, 1994

  
John LaFalce, MC

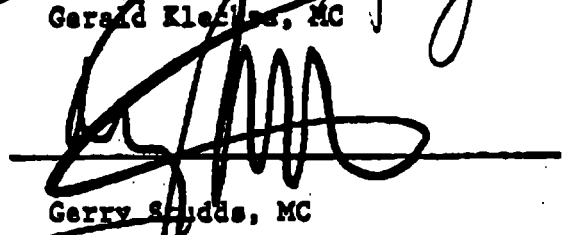
  
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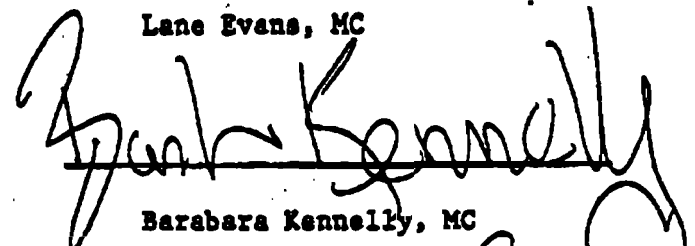
  
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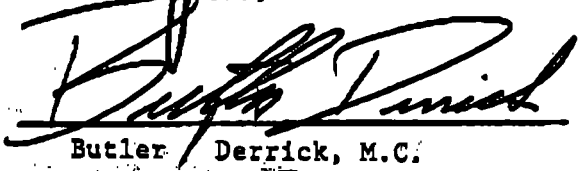
  
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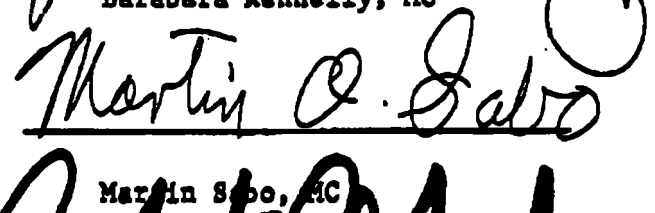
  
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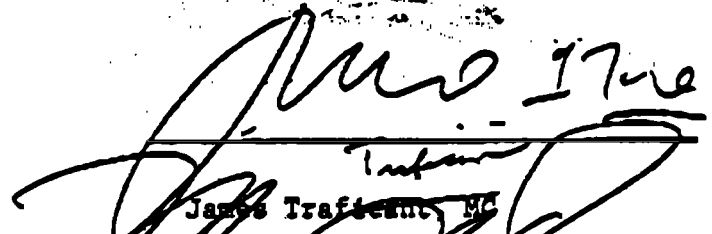
  
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Gerry Studds, MC

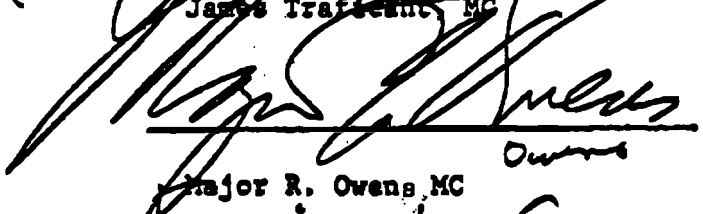
  
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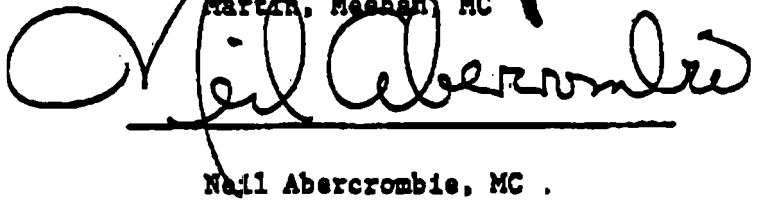
  
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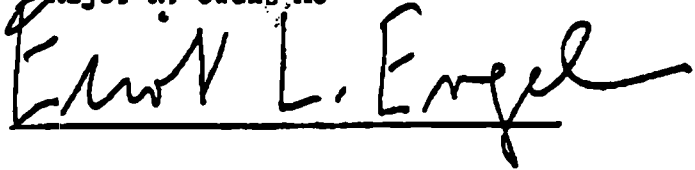
  
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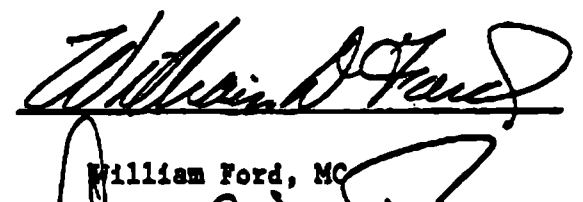
  
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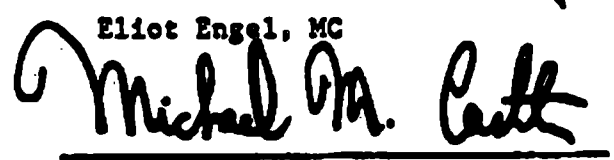
  
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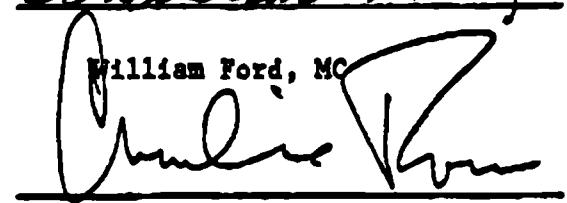
  
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Neil Abercrombie, MC

  
Eliot Engel, MC

  
William Ford, MC

  
Michael A. Castle, MC

  
Charlie Rose, MC

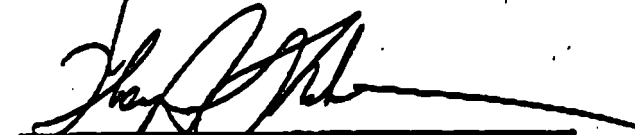
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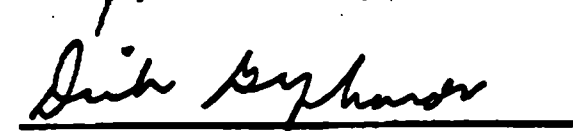
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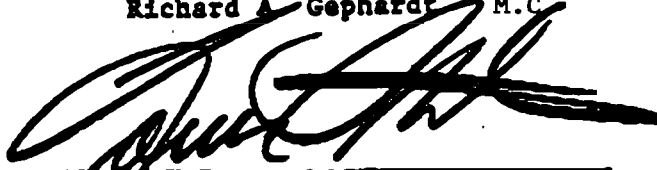
The President  
March 22, 1994

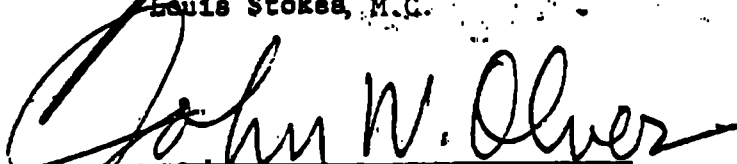
  
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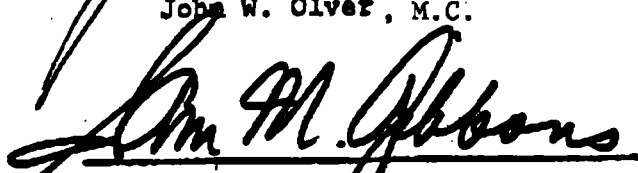
  
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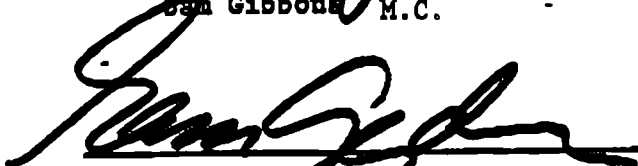
  
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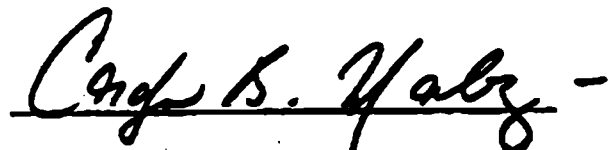
  
Richard A. Gephardt M.C.

  
Louis Stokes, M.C.

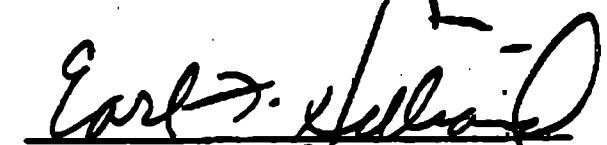
  
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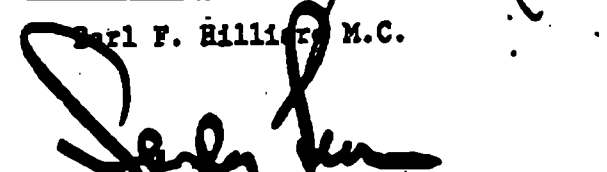
  
Sam Gibbons M.C.

  
Sam Geffen M.C.

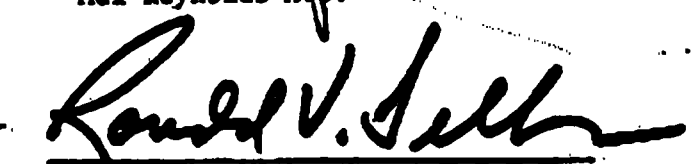
  
Carolyn B. Maloney, M.C.

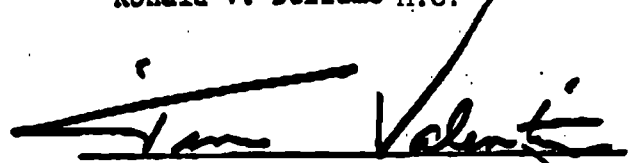
  
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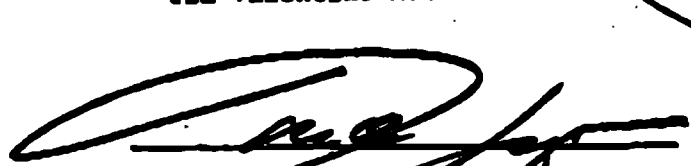
  
Earl F. Hillier M.C.

  
Sander Levin M.C.

  
Mel Reynolds M.C.

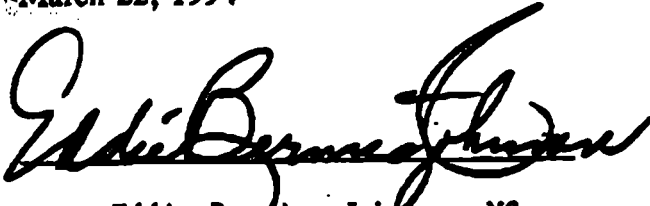
  
Ronald V. Dellums M.C.

  
Tim Valentine M.C.

  
Ron de Lugo M.C.

The President

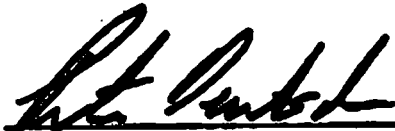
March 22, 1994



Eddie Bernice Johnson, MC



Ron Wyden, MC



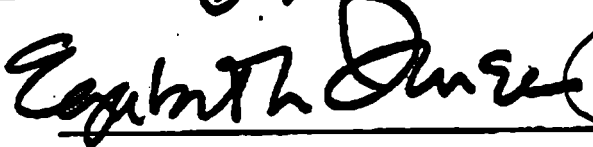
Peter Deutsch, MC



Luis Gutierrez, MC



Harry Johnson, MC



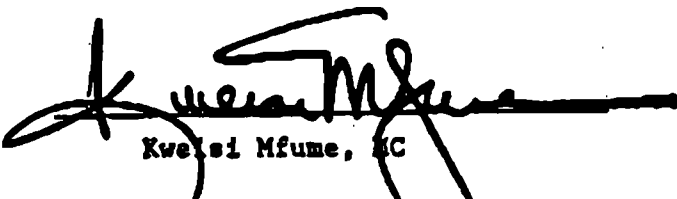
Elizabeth Furse, MC



Marcy Kaptur, MC



Jane Harman, MC



Kweisi Mfume, MC



Tom Lantos, MC



Jill Long, MC



Karen Shepard, MC



Ben Cardin, MC



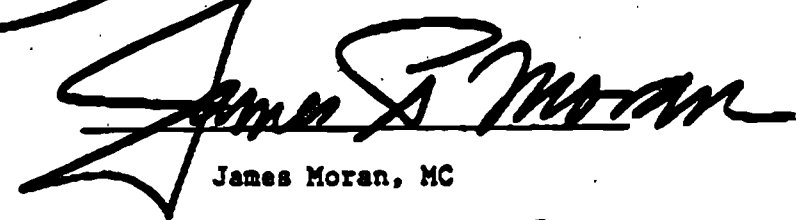
Maurice Hinchey, MC



Rosa Delauro, MC



Anna Eschoo, MC

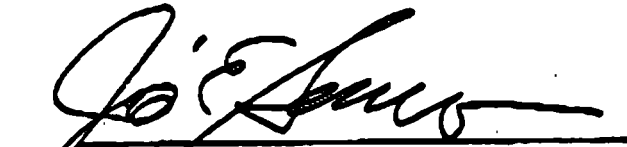


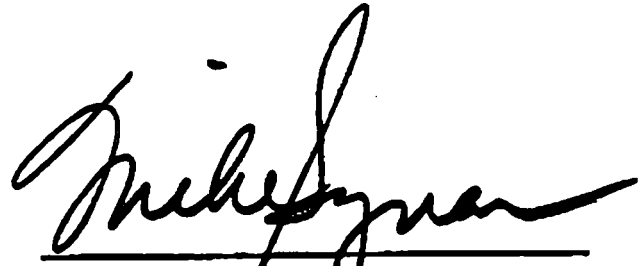
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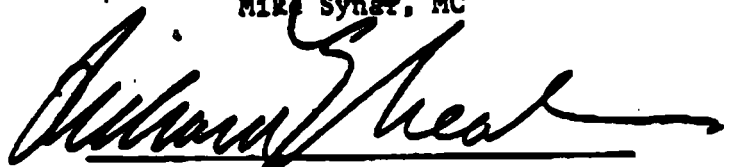
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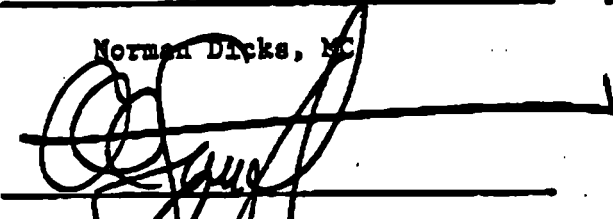
The President  
March 22, 1994

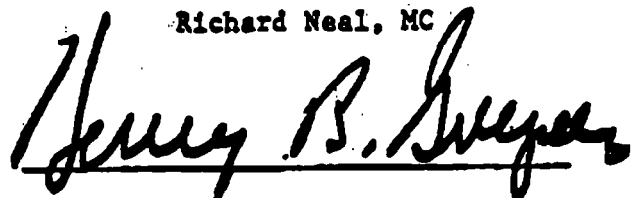
  
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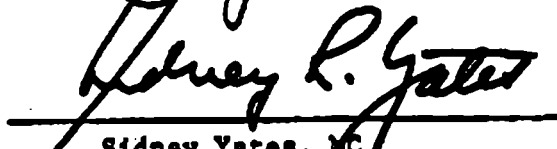
  
Mike Synar, MC

  
Norman Dicks, MC

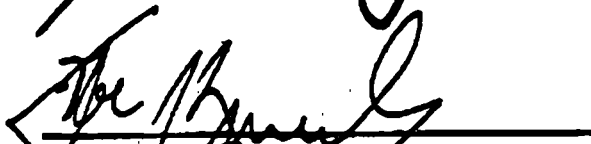
  
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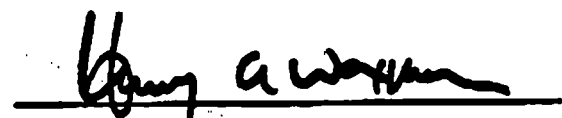
  
Al Swift, MC

  
Henry Gonzalez, MC

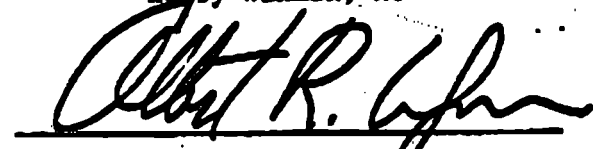
  
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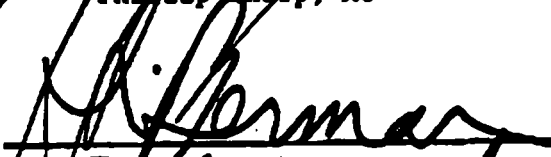
  
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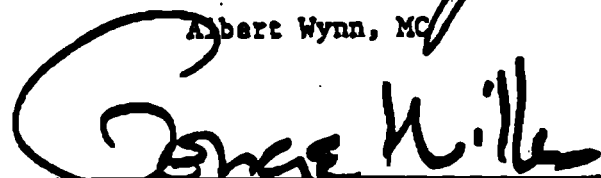
  
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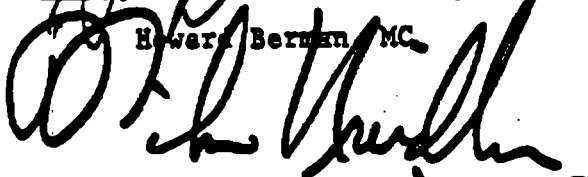
  
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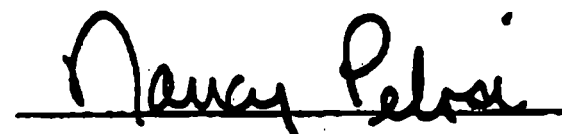
  
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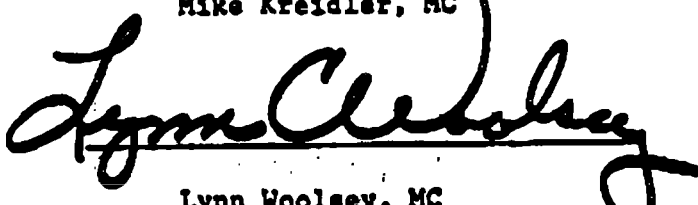
  
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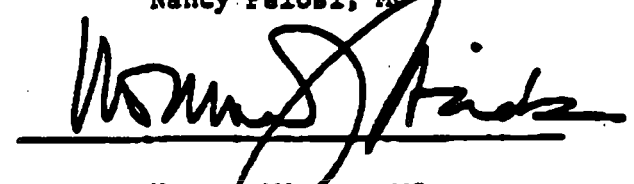
  
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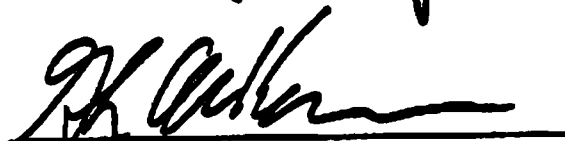
  
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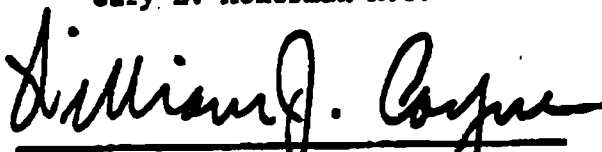
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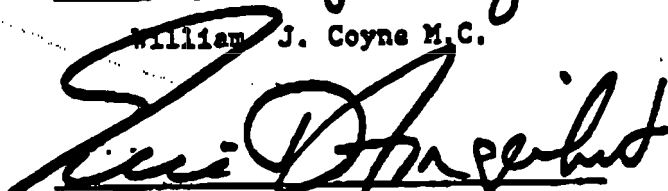
  
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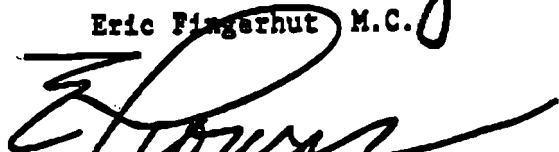
  
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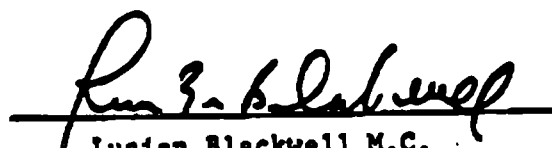
  
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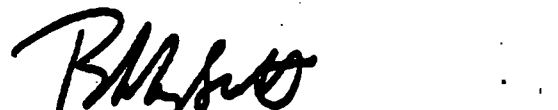
  
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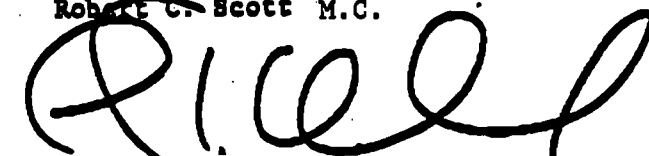
  
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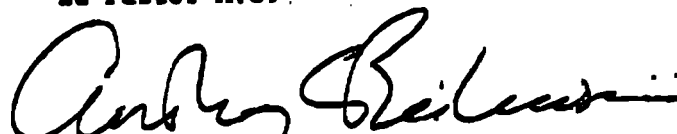
  
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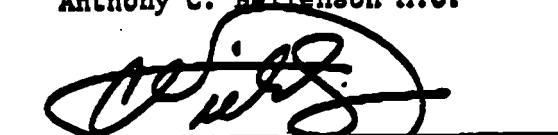
  
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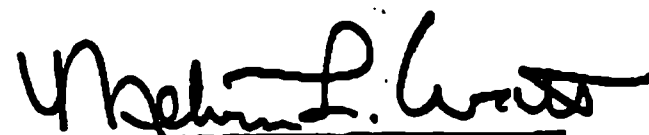
  
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Ed Pastor M.C.

  
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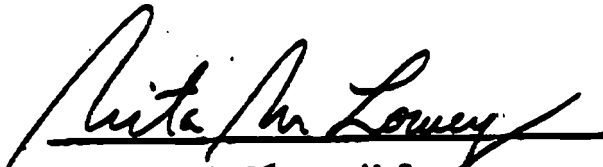
  
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William Clay M.C.

The President  
March 22, 1994

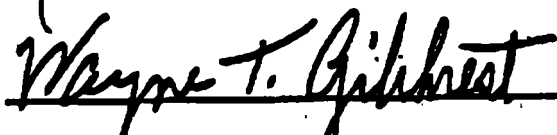
  
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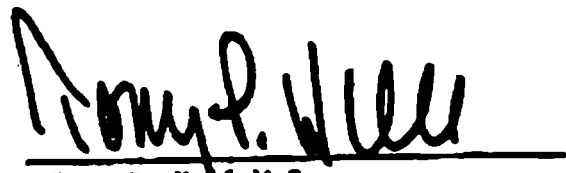
  
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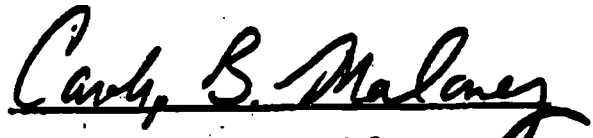
  
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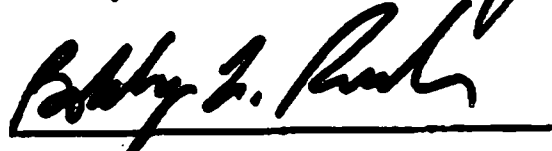
  
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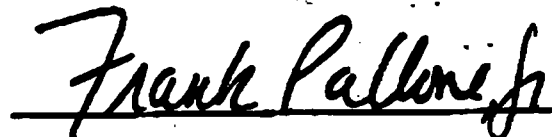
  
Tony P. Hall M.C.

  
Peter Hoagland M.C.

  
Eleanor Holmes Norton M.C.

  
Carolyn B. Maloney M.C.

  
Bobby L. Rush M.C.

  
Frank Pallone M.C.

  
Patsy T. Mink M.C.

The President  
March 22, 1994

Robert A. Underwood  
Robert A. Underwood M.C.

Jerrold Nadler  
Jerrold Nadler M.C.

Lynn Schenk  
Lynn Schenk M.C.

Phil Reynolds

~~Thomas J. Manton~~

Thomas J. Manton  
Thomas Manton M.C.

Constance Morella  
Constance Morella M.C.

George Hochbrueckner  
George Hochbrueckner M.C.

Fortney Peter Stark  
Fortney Peter Stark M.C.

Nancy Pelosi

David E. Skaggs  
David E. Skaggs M.C.

Leslie Byrne  
Leslie Byrne M.C.

Doug Applegate  
Doug Applegate M.C.

William D. Lipinski  
William Lipinski M.C.

## **CRIME AND VIOLENCE INITIATIVES**

To help highlight the Administration's commitment to take on the crime and violence issue -- and to follow-up on the President's statement last fall that he would pursue an organized, Administration-wide approach to the issue, not just the crime bill -- we have suggested some ideas below. Public focus on the issue of crime and violence offers an opportunity -- not only to help pass the President's crime initiative -- but to engage the entire government in this pressing issue and to have as broad a policy impact as possible.

We have outlined several possible options below and would like your thoughts.

### **1. Stop importing of military surplus firearms and other inexpensive handguns.**

While much attention has been paid to the importation of assault pistols, there has been little focus on a new and potentially more serious problem -- the importation of large numbers of surplus military rifles and handguns from Eastern Bloc countries, China and now Vietnam.

Prior to 1968 the United States was the dumping ground for millions of surplus military firearms and other cheaply made and inexpensive firearms. The Gun Control Act of 1968 (GCA) banned the importation of firearms unless they met the sporting purposes test, and the importation of surplus military firearms was banned altogether. In 1984, Congress weakened the GCA to allow the importation of surplus military firearms that qualify as curios and relics. At the time, the amendment's sponsor, Senator Dole, argued that this change to the GCA would apply to only a small number of firearms.

Until recently, the curio and relic exception had been a minor problem. Not only was it illegal to import surplus military firearms between 1969 and 1984, but the Arms Export Control Act (AECA) prohibited the importation of rifles and handguns -- of any type -- from virtually all communist countries. However, after the passage of Dole's 1984 amendment, the importation of surplus military firearms started to increase, and their prices started to drop. The opening up of trade with Eastern European countries has made millions of World War II era firearms eligible for importation into the United States -- mostly bolt action or fixed magazine semiautomatic rifles and semiautomatic handguns. With the breakup of the former Soviet Union, most former European communist countries have been removed from the list of restricted countries under the AECA. So has China. ATF estimates that last year alone, some 95,000 surplus military firearms were imported into the United States, the number of firearms that could enter the country under already existing importation permits has jumped into the hundreds of thousands, and the prices of these weapons has dropped to or below their pre-1969 levels. Also, the recent decision to lift the trade embargo against Vietnam is likely to result in the importation of massive quantities of U.S. military surplus firearms, ammunition, vehicles and other military equipment for commercial resale.

In addition, the State Department's relaxing of the AECA has resulted in the increased importation of cheap — but powerful — handguns that do not technically classify as military surplus firearms. The Chinese are exporting large quantities of semiautomatic pistols used by their military forces — most of which sell for less than \$100. Last year, some 25,000 of these handguns were imported, and importation permits covering as many as 100,000 are pending.

We have two non-legislative options to address this problem. First, the President could direct ATF to change the regulations on curio and relic classification. Curios and relics are defined by law to mean firearms of interest to collectors which are (a) 50 years old, (b) certified by museum directors to be of interest, or (c) of value because they are novel and are associated with some historical figure, period or event. At the rate these arms are being imported, they can no longer be regarded as collectors items.

Ordering ATF to amend these regulations would require a 90-day comment period — and would not address the problem of inexpensive handguns. As an alternative, the President could order the State Department to suspend the importation of these weapons under the AECA. Under this statute, the President has broad authority to control the importation of firearms in furtherance of world peace, security and the foreign policy of the United States.

## **2. Anti-gang Initiative.**

Youth gangs are at the very center of the public's concern with crime and violence and represent everything that is unacceptable about violence on our streets today — senseless violence, guns, drugs, and kids not knowing the difference between right and wrong. The Administration needs to address this problem directly and can do so by coordinating existing agency efforts. For instance:

**Enforcement** — The Justice Department currently administers two anti-gang programs: the Urban Street Gang Drug Trafficking Suppression program, which currently funds five pilot sites involving different suppression techniques; and the Comprehensive Gang Initiative, which is currently being implemented in four different sites. Justice, through the use of discretionary monies, could expand these enforcement programs to include other sites where they could be linked to other anti-gang efforts.

**Gang Intelligence** — The hundreds of gangs that exist nationwide, coupled with their expansion into rural and suburban areas, make accurate and timely gang intelligence a critical element of anti-gang enforcement efforts. Justice and Treasury (FBI and ATF) have been historically at odds over what agency take the lead in assisting state and local law enforcement in tapping into gang intelligence. Justice provides funding for the Regional Information Sharing System (RISS), but Treasury is also engaged in anti-gang enforcement. These efforts need to be more closely linked.

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"Nothing in this Act [which amended this section, among other things; for full classification of such Act, consult USCS Tables volumes] is intended to authorize any additional military or civilian personnel for the Department of Defense for the purposes of this Act [which amended this section; among other things; for full classification of such Act, consult USCS Tables volumes], the Foreign Assistance Act of 1961 [22 USCS §§ 2151 et seq., generally; for full classification of such Act, consult USCS Tables volumes], or the Arms Export Control Act [22 USCS §§ 2751 et seq., generally; for full classification of such Act, consult USCS Tables volumes]. Personnel levels authorized in statutes authorizing appropriations for military and civilian personnel of the Department of Defense shall be controlling over all military and civilian personnel of the Department of Defense assigned to carry out functions under the Arms Export Control Act [22 USCS §§ 2751 et seq., generally; for full classification of such Act, consult USCS Tables volumes] and the Foreign Assistance Act of 1961 [22 USCS §§ 2151 et seq., generally; for full classification of such Act, consult USCS Tables volumes]."

Administration of Arms Export Control Act. Ex. Or. No. 11958 of Jan. 18, 1977, 42 Fed. Reg. 4311, as amended by Ex. Or. No. 12118 of Feb. 6, 1979, 44 Fed. Reg. 7939; Ex. Or. No. 12163 of Sept. 29, 1979, 44 Fed. Reg. 56673; Ex. Or. No. 12210 of April 16, 1980, 45 Fed. Reg. 26313; Ex. Or. No. 12321 of Sept. 14, 1981, § 2, 46 Fed. Reg. 46109; Ex. Or. No. 12365 of May 24, 1982, § 2, 47 Fed. Reg. 22933; Ex. Or. No. 12423 of May 26, 1983, § 2, 48 Fed. Reg. 24025; Ex. Or. 12560 of May 24, 1986, 51 Fed. Reg. 19159; Ex. Or. No. 12680 of July 5, 1989, 54 Fed. Reg. 28995; Ex. Or. No. 12738 of Dec. 14, 1990, 55 Fed. Reg. 52033, provides:

"Section 1. Delegation of Functions. The following functions conferred upon the President by the Arms Export Control Act (22 U.S.C. 2751 et seq.), hereinafter referred to as the Act, and related legislation, are delegated as follows:

"(a) Those under Section 3 of the Act [22 USCS § 2753], with the exception of subsections (a)(1), (b), (c)(3), (c)(4), and (f) [22 USCS § 2753(a)(1), (b), (c)(3), (c)(4), (f)], to the Secretary of State: Provided, That the Secretary of State, in the implementation of the functions delegated to him under Sections 3(a) and (d) of the Act [22 USCS § 2753(a), (d)], is authorized to find, in the case of a proposed transfer of a defense article or related training or other defense service by a foreign country or international organization not otherwise eligible under Section 3(a)(1) of the Act [22 USCS § 2753(a)(1)], whether the proposed transfer will strengthen the security of the United States and promote world peace.

"(b) Those under Section 5 [22 USCS § 2755] to the Secretary of State.

"(c) Those under Section 21 of the Act [22 USCS § 2761], with the exception of the last sentence of subsection (d) and all of subsection (i) [22 USCS § 2761(d), last sentence, and (i)], to the Secretary of Defense.

"(d) Those under Sections 22(a), 29, 30 and 30A of the Act [22 USCS §§ 2762(a), 2769, 2770, and 2770a] to the Secretary of Defense.

"(e) Those under Section 23 of the Act [22 USCS § 2763] and section 571 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) [22 USCS § 2763 note].

## ARMS EXPORT

to the Secretary of State shall be the market:

"(f) Those under 2767, and 27 in implementation [22 USCS § and the Secretary

"(g) Those under the Secretary of State Control and responsibility materials for § 2765].

"(h) Those under the Secretary of State guaranty transactions, the Secretary of

"(i) Those under the Secretary of

"(j) Those under § 2776(a) and agency as provided Secretary of the functions.

§ 2776(a) and with respect to 36(b)(1) [22 U.S.C. the Arms Control functions under the Secretary of Management

"(k) Those under and (d) to the

"(l) Those under (1) to the subsection.

Secretary of State considered control under of the Secretary ensure compliance with the management or age consultation "(2) to the Secretary of control of carrying out guided by the

## ARMS EXPORT CONTROL

## 22 USCS § 2751

to the Secretary of Defense, to be exercised in consultation with the Secretary of State and the Secretary of the Treasury, except that the President shall determine any rate of interest to be charged which is less than the market rate of interest.

"(f) Those under Sections 24, 27, and 28 of the Act [22 USCS §§ 2764, 2767, and 2768] to the Secretary of Defense, The Secretary of Defense, in implementing the functions delegated to him under Sections 24 and 27 [22 USCS §§ 2764 and 2767], shall consult with the Secretary of State and the Secretary of the Treasury.

"(g) Those under Section 25 of the Act [22 USCS § 2765] to the Secretary of State. The Secretary of Defense and the Director of the Arms Control and Disarmament Agency, within their respective areas of responsibility, shall assist the Secretary of State in the preparation of materials for presentation to the Congress under that Section [22 USCS § 2765].

"(h) Those under Section 34 of the Act [22 USCS § 2774] to the Secretary of State. To the extent the standards and criteria for credit and guaranty transactions are based upon national security and financial policies, the Secretary of State shall obtain the prior concurrence of the Secretary of Defense and the Secretary of the Treasury, respectively.

"(i) Those under Section 35(a) of the Act [22 USCS § 2775(a)] to the Secretary of State.

"(j) Those under Sections 36(a) and 36(b)(1) of the Act [22 USCS § 2776(a) and (b)(1)], except with respect to the certification of an emergency as provided by subsection (b)(1) [22 USCS § 2776(b)(1)], to the Secretary of Defense. The Secretary of Defense, in the implementation of the functions delegated to him under Sections 36(a) and (b)(1) [22 USCS § 2776(a) and (b)(1)] shall consult with the Secretary of State, who shall, with respect to matters related to subparagraphs (D) and (I) of Section 36(b)(1) [22 USCS § 2776(b)(1)(D) and (I)], consult with the Director of the Arms Control and Disarmament Agency. With respect to those functions under Sections 36(a)(5) and (6) [22 USCS § 2776(a)(5) and (6)], the Secretary of Defense shall consult with the Director of the Office of Management and Budget.

"(k) Those under Sections 36(c) and (d) of the Act [22 USCS § 2776(c) and (d)] to the Secretary of State.

"(l) Those under Section 38 of the Act [22 USCS § 2778]:

"(1) to the Secretary of State, except as otherwise provided in this subsection. Designations, including changes in designations, by the Secretary of State of items or categories of items which shall be considered as defense articles and defense services subject to export control under Section 38 [22 USCS § 2778] shall have the concurrence of the Secretary of Defense. The authority to undertake activities to ensure compliance with established export conditions may be redelegated to the Secretary of Defense, or to the head of another department or agency as appropriate, which shall exercise such functions in consultation with the Secretary of State;

"(2) to the Secretary of the Treasury, to the extent they relate to the control of the import of defense articles and defense services. In carrying out such functions, the Secretary of the Treasury shall be guided by the views of the Secretary of State on matters affecting

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world peace, and the external security and foreign policy of the United States. Designations including changes in designations, by the Secretary of the Treasury of items or categories of items which shall be considered as defense articles and defense services subject to import control under Section 38 of the Act [22 USCS § 2778] shall have the concurrence of the Secretary of State and the Secretary of Defense;

"(3) to the Secretary of Commerce, to carry out on behalf of the Secretary of State, to the extent such functions involve Section 38(e) of the Act [22 USCS § 2778(e)] and are agreed to by the Secretary of State and the Secretary of Commerce.

"(m) Those under Section 39(b) of the Act [22 USCS § 2779(b)] to the Secretary of State. In carrying out such functions, the Secretary of State shall consult with the Secretary of Defense as may be necessary to avoid interference in the application of Department of Defense regulations to sales made under Section 22 of the Act [22 USCS § 2762].

"(n) Those under Sections 42(c) and (f) of the Act [22 USCS § 2791(c) and (f)] to the Secretary of Defense. The Secretary of Defense shall obtain the concurrence of the Secretary of State and the Secretary of the Treasury on any determination proposed under the authority of Section 42(c) of the Act [22 USCS § 2791(c)].

"(o) Those under Sections 52(b) and 53 of the Act [22 USCS §§ 2795a(b) and 2795b] to the Secretary of Defense.

"(p) Those under Sections 61 and 62(a) of the Act [22 USCS §§ 2796 and 2796a(a)] to the Secretary of Defense.

"(q) Those under Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) to the Secretary of State.

"(r) Those under Section 588(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461) [unclassified], to the Secretary of Defense, except with respect to the determination of an emergency as provided by subsection (b)(3). The Secretary of Defense in implementation of the functions delegated to him under section 588(b) [unclassified] shall consult with the Secretary of State.

"Sec. 2. Coordination. (a) In addition to the specific provisions of Section 1 of this Order, the Secretary of State and the Secretary of Defense, in carrying out the functions delegated to them under this Order, shall consult with each other and with the heads of other departments and agencies, including the Secretary of the Treasury, the Director of the United States International Development Cooperation Agency, the Director of the Arms Control and Disarmament Agency, and the Chairman of the Export-Import Bank, on matters pertaining to their responsibilities.

"(b) In accordance with Section 2(b) of the Act [22 USCS § 2752(b)] and under the directions of the President, the Secretary of State, taking into account other United States activities abroad, shall be responsible for the continuous supervision and general direction of sales and exports under the Act [22 USCS §§ 2751 et seq., generally; for full classification of such Act, consult USCS Tables volumes], including but not limited to, the negotiation, conclusion, and termination of international agreements, and determining whether there shall be a sale to a country and the amount thereof, and whether there shall be delivery or other performance under

such sale or other United States activities.

"Sec. 3. All carrying out of classification to be allocated to the President.

"Sec. 4. Re-except that authorizations, agreements, and orders, under the provisions of the Act, shall have full force and effect until they are revoked, suspended, or modified. Similar provisions of the Federal Reserve Act, section 2, and the Federal Reserve Act, section 4311, Report by the Secretary of the States Act appeared at P. L. 95-38.

trial report on defense. Study by the International Executive Department, P. L. 95-97, § 734(a)(13).

"(a) The President and practice of international security technology should be considered.

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## ARMS EXPORT CONTROL

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such sale or export, to the end that sales and exports are integrated with other United States activities and the foreign policy of the United States is best served thereby.

"Sec. 3. Allocation of Funds. Funds appropriated to the President for carrying out the Act [22 USCS §§ 2751 et seq., generally; for full classification of such Act, consult USCS Tables volumes] shall be deemed to be allocated to the Secretary of Defense without any further action of the President.

"Sec. 4. Revocation. Executive Order No. 11501, as amended, is revoked; except that, to the extent consistent with this Order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, taken or entered into under the provisions of Executive Order No. 11501, as amended, and not revoked, superseded or otherwise made inapplicable, shall continue in full force and effect until amended, modified or terminated by appropriate authority."

Similar provisions appeared in Ex. Or. No. 11501 of Dec. 22, 1969, 34 Fed. Reg. 20169, as amended, which formerly appeared as a note to this section and was revoked by Ex. Or. No. 11958 of Jan. 18, 1977, 42 Fed. Reg. 4311, which appears as a note to this section.

Report by President on impact of foreign arms sales and transfers to foreign governments on defense readiness and national security of United States. Act Aug. 4, 1977, P. L. 95-92, § 23, 91 Stat. 624, which formerly appeared as a note to this section, was repealed by Act Sept. 26, 1978, P. L. 95-384, § 29 (c)(2)(B). It set forth provisions respecting Presidential report on the impact of United States foreign arms sales and transfers on defense readiness and national security.

Study by President of national security and military implications of international transfers of technology; scope of study; utilization of Executive departments and agencies; report to Congress. Act Aug. 4, 1977, P. L. 95-92, § 24, 91 Stat. 64; Dec. 29, 1981, P. L. 97-113, Title VII, § 734(a)(13) in part, 95 Stat. 1560, provided:

"(a) The President shall conduct a comprehensive study of the policies and practices of the United States Government with respect to the national security and military implications of international transfers of technology in order to determine whether such policies and practices should be changed. Such study shall examine--

"(1) the nature of technology transfer;

"(2) the effect of technology transfers on United States technological superiority;

"(3) the rationale for transfers of technology from the United States to foreign countries;

"(4) the benefits and risks of such transfers;

"(5) trends in technology transfers by the United States and other countries;

"(6) the need for controls on transfers of technology, including controls on the use of transferred technology, the effectiveness of existing end-use controls, and possible unilateral sanctions if end-use restrictions are violated;

"(7) the effectiveness of existing organizational arrangements in the

shall be available for any purpose for which funds in such reserve are available.

(Pub. L. 90-629, c. 3, § 37, Oct. 22, 1968, 82 Stat. 1326; Pub. L. 93-189, § 25(11), Dec. 17, 1973, 87 Stat. 731; Pub. L. 96-533, Title I, §§ 104(b), 105(e)(1), Dec. 16, 1980, 94 Stat. 3133, 3135.)

#### HISTORICAL AND STATUTORY NOTES

**Revision Notes and Legislative Reports**  
1968 Act. Senate Report No. 1632, see 1968 U.S. Code Cong. and Adm. News, p. 4474.

1973 Act. House Report No. 93-388 and Conference Report No. 93-664, see 1973 U.S. Code Cong. and Adm. News, p. 2806.

1980 Act. House Report No. 96-884 (Parts I and II) and House Conference Report No. 96-1471, see 1980 U.S. Code Cong. and Adm. News, p. 6540.

#### Amendments

1980 Amendment. Subsec. (a). Pub. L. 96-533, § 105(e)(1), inserted reference to section 2769 of this title.

Subsec. (c). Pub. L. 96-533, § 104(b), added subsec. (c).

1973 Amendment. Subsec. (b). Pub. L. 93-189 added provisions relating to indebtedness under § 2764(b) of this title and exclusions of portions of the sales proceeds required at the time of disposition as a reserve for payment of claims under guaranties issued under § 2764(b) of this title.

#### Effective Dates

1968 Act. Section effective July 1, 1968, see § 41 of Pub. L. 90-629, set out as a note under section 2751 of this title.

#### LIBRARY REFERENCES

##### American Digest System

Foreign trade restrictions, see War and National Emergency §§ 501 to 514.

##### Encyclopedias

Foreign trade restrictions, see C.J.S. War and National Defense §§ 200, 201.

#### WESTLAW ELECTRONIC RESEARCH

War and National Emergency cases: 402k [add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

### § 2778. Control of arms exports and imports

(a) **Presidential control of exports and imports of defense articles and services, guidance of policy, etc.; designation of United States Munitions List; issuance of export licenses; condition for export; negotiations information**

(1) In furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

(2) Decisions on issuing export licenses under this section shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether the export of an article will contribute to an arms race, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.

(3) In exercising the authorities conferred by this section, the President may require that any defense article or defense service be sold under this chapter as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the export of defense articles and services keep the President fully and currently informed of the progress and future prospects of such negotiations.

(b) **Registration and licensing requirements for manufacturers, exporters, or importers of designated defense articles and defense services**

(1)(A) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under subsection (a)(1) of this section shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State or local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this chapter or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

(B)<sup>1</sup> The prohibition under such regulations required by the second sentence of subparagraph (A) shall not extend to any military firearms (or ammunition, components, parts, accessories, and attachments for such firearms) of United States manufacture furnished to any foreign government by the United States under this chapter or any other foreign assistance or sales program of the United States if—

(I) such firearms are among those firearms that the Secretary of the Treasury is, or was at any time, required to authorize the importation of by reason of the provisions of section 925(e) of Title 18 (including the requirement for the listing of such firearms as curios or relics under section 921(a)(13) of that title); and

(II) such foreign government certifies to the United States Government that such firearms are owned by such foreign government.

(B)<sup>1</sup> A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. The Secretary shall report to the President regarding such concerns as necessary.

(2) Except as otherwise specifically provided in regulations issued under subsection (a)(1) of this section, no defense articles or defense services designated by the President under subsection (a)(1) of this section may be exported or imported without a license for such export or import, issued in accordance with this chapter and regulations issued under this chapter, except that no license shall be required for exports or imports made by or for an agency of the United States Government (A) for official use by a department or agency of the United States Government, or (B) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(3)(A) For each of the fiscal years 1988 and 1989, \$250,000 of registration fees collected pursuant to paragraph (1) shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for—

(i) contract personnel to assist in the evaluation of munitions control license applications, reduce processing time for license applications, and improve monitoring of compliance with the terms of licenses; and

(ii) the automation of munitions control functions and the processing of munitions control license applications, including the development, procurement, and utilization of computer equipment and related software.

(B) The authority of this paragraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

**(c) Criminal violations; punishment**

Any person who willfully violates any provision of this section or section 2779 of this title, or any rule or regulation issued under

either section, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined for each violation not more than \$1,000,000 or imprisoned not more than ten years, or both.

(d) **Repealed.** Pub. L. 96-70, Title III, § 3303(a)(4), Sept. 27, 1979, 93 Stat. 499

**(e) Enforcement powers of President**

In carrying out functions under this section with respect to the export of defense articles and defense services, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (g) of section 11 of the Export Administration Act of 1979 [50 App. U.S.C.A. § 2410(c), (d), (e), and (g)], and by subsections (a) and (c) of section 12 of such Act [50 App. U.S.C.A. § 2411(a) and (c)], subject to the same terms and conditions as are applicable to such powers under such Act [50 App. U.S.C.A. § 2401 et seq.]. Nothing in this subsection shall be construed as authorizing the withholding of information from the Congress. Notwithstanding section 11(c) of the Export Administration Act of 1979 [50 App. U.S.C.A. § 2410(c)], the civil penalty for each violation involving controls imposed on the export of defense articles and defense services under this section may not exceed \$500,000.

**(f) Periodic review of Items on Munitions List**

The President shall periodically review the items on the United States Munitions List to determine what items, if any, no longer warrant export controls under this section. The results of such reviews shall be reported to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate. Such a report shall be submitted at least 30 days before any item is removed from the Munitions List and shall describe the nature of any controls to be imposed on that item under the Export Administration Act of 1979 [50 App. U.S.C.A. § 2401 et seq.].

**(g) Identification of persons convicted or subject to indictment for violations of certain provisions**

(1) The President shall develop appropriate mechanisms to identify, in connection with the export licensing process under this section—

(A) persons who are the subject of an indictment for, or have been convicted of, a violation under—

- (i) this section,
  - (ii) section 11 of the Export Administration Act of 1979 (50 U.S.C.App. 2410),
  - (iii) section 793, 794, or 798 of Title 18 (relating to espionage involving defense or classified information),
  - (iv) section 16 of the Trading with the Enemy Act (50 U.S.C.App. 16),
  - (v) section 206 of the International Emergency Economic Powers Act (relating to foreign assets controls; 50 U.S.C. App. 1705),
  - (vi) section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) or section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd-2),
  - (vii) chapter 105 of Title 18 (relating to sabotage),
  - (viii) section 4(b) of the Internal Security Act of 1950 (relating to communication of classified information; 50 U.S.C. 783(b)),
  - (ix) section 57, 92, 101, 104, 222, 224, 225, or 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2077, 2122, 2131, 2134, 2272, 2274, 2275, and 2276),
  - (x) section 601 of the National Security Act of 1947 (relating to intelligence identities protection; 50 U.S.C. 421), or
  - (xi) section 603(b) or (c) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5113(b) and (c));
- (B) persons who are the subject of an indictment or have been convicted under section 371 of Title 18 for conspiracy to violate any of the statutes cited in subparagraph (A); and
- (C) persons who are ineligible—
- (I) to contract with,
  - (II) to receive a license or other form of authorization to export from, or
  - (III) to receive a license or other form of authorization to import defense articles or defense services from,
- any agency of the United States Government.
- (2) The President shall require that each applicant for a license to export an item on the United States Munitions List identify in the application all consignees and freight forwarders involved in the proposed export.
- (3) If the President determines—

- (A) that an applicant for a license to export under this section is the subject of an indictment for a violation of any of the statutes cited in paragraph (1),
  - (B) that there is reasonable cause to believe that an applicant for a license to export under this section has violated any of the statutes cited in paragraph (1), or
  - (C) that an applicant for a license to export under this section is ineligible to contract with, or to receive a license or other form of authorization to import defense articles or defense services from, any agency of the United States Government,
- the President may disapprove the application. The President shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.
- (4) A license to export an item on the United States Munitions List may not be issued to a person—
- (A) if that person, or any party to the export, has been convicted of violating a statute cited in paragraph (1), or
  - (B) if that person, or any party to the export, is at the time of the license review ineligible to receive export licenses (or other forms of authorization to export) from any agency of the United States Government,
- except as may be determined on a case-by-case basis by the President, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to export and a finding by the President that appropriate steps have been taken to mitigate any law enforcement concerns.
- (5) A license to export an item on the United States Munitions List may not be issued to a foreign person (other than a foreign government).
- (6) The President may require a license (or other form of authorization) before any item on the United States Munitions List is sold or otherwise transferred to the control or possession of a foreign person or a person acting on behalf of a foreign person.
- (7) The President shall, in coordination with law enforcement and national security agencies, develop standards for identifying high-risk exports for regular end-use verification. These standards shall be published in the Federal Register and the initial standards shall be published not later than October 1, 1988.
- (8) Upon request of the Secretary of State, the Secretary of Defense and the Secretary of the Treasury shall detail to the office primarily responsible for export licensing functions under this

section, on a nonreimbursable basis, personnel with appropriate expertise to assist in the initial screening of applications for export licenses under this section in order to determine the need for further review of those applications for foreign policy, national security, and law enforcement concerns.

(9) For purposes of this subsection—

(A) the term "foreign corporation" means a corporation that is not incorporated in the United States;

(B) the term "foreign government" includes any agency or subdivision of a foreign government, including an official mission of a foreign government;

(C) the term "foreign person" means any person who is not a citizen or national of the United States or lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C.A. § 1101 et seq.], and includes foreign corporations, international organizations, and foreign governments;

(D) the term "party to the export" means—

(i) the president, the chief executive officer, and other senior officers of the license applicant;

(ii) the freight forwarders or designated exporting agent of the license application; and

(iii) any consignee or end user of any item to be exported; and

(E) the term "person" means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities.

(h) Judicial review of designation of items as defense articles or services

The designation by the President (or by an official to whom the President's functions under subsection (a) of this section have been duly delegated), in regulations issued under this section, of items as defense articles or defense services for purposes of this section shall not be subject to judicial review.

(Pub. L. 90-629, c. 3, § 38, as added Pub. L. 94-329, Title II, § 212(a)(1), June 30, 1976, 90 Stat. 744, and amended Pub. L. 95-92, § 20, Aug. 4, 1977, 91 Stat. 623; Pub. L. 96-70, Title III, § 3303(a)(4), Sept. 27, 1979, 93 Stat. 499; Pub. L. 96-72, § 22(a), Sept. 29, 1979, 93 Stat. 535; Pub. L. 96-92, § 21, Oct. 29, 1979, 93 Stat. 710; Pub. L. 96-533, Title I, § 107(a), (c), Dec. 16, 1980, 94 Stat. 3136; Pub. L. 97-113, Title I, §§ 106, 107, Dec. 29, 1981, 95 Stat. 1522; Pub. L. 99-64, Title I, § 123(a), July 12, 1985, 99 Stat. 156; Pub. L. 99-83, Title I, § 119(a), (b), Aug. 8, 1985, 99 Stat. 203; Pub. L.

100-202, § 101(b), [Title VII, § 8142(a)], Dec. 22, 1987, 101 Stat. 1329-88; Pub.L. 100-204, Title XII, § 1255, Dec. 22, 1987, 101 Stat. 1429; Pub.L. 101-222, §§ 3(a), 6, Dec. 12, 1989, 103 Stat. 1896, 1899.)

<sup>1</sup> So in original. There are two subpars. designated "(B)".

## HISTORICAL AND STATUTORY NOTES

**Revision Notes and Legislative Reports**  
1976 Act. House Report No. 94-1144 and House Conference Report No. 94-1272, see 1976 U.S.Code Cong. and Adm.News, p. 1378.

1977 Act. House Report No. 95-274 and House Conference Report No. 95-503, see 1977 U.S.Code Cong. and Adm.News, p. 978.

1979 Acts. House Report No. 96-98, (Part I), and House Conference Report No. 96-473, see 1979 U.S.Code Cong. and Adm.News, p. 1034.

Senate Report No. 96-169 and House Conference Report No. 96-482, see 1979 U.S.Code Cong. and Adm.News, p. 1147.

Senate Report No. 96-136 and House Conference Report No. 96-495, see 1979 U.S.Code Cong. and Adm.News, p. 1651.

1980 Act. House Report No. 96-884 (Parts I and II) and House Conference Report No. 96-1471, see 1980 U.S.Code Cong. and Adm.News, p. 6540.

1981 Act. Senate Report No. 97-83 and House Conference Report No. 97-413, see 1981 U.S.Code Cong. and Adm.News, p. 2404.

1985 Acts. House Conference Report No. 99-180, see 1985 U.S.Code Cong. and Adm.News, p. 108.

Senate Report No. 99-34, and House Conference Report No. 99-237, see 1985 U.S.Code Cong. and Adm.News, p. 158.

1987 Act. Senate Report No. 100-75, House Conference Report No. 100-475, and Statement by President, see 1987 U.S.Code Cong. and Adm.News, p. 2314.

### References in Text

This chapter, referred to in subsec. (b)(1)(B), was in the original "this Act", meaning Pub.L. 90-629, Oct. 22, 1968, 82 Stat. 1321, as amended, which enacted this chapter, amended sections 2382, 2392, 2394, and 2403 of this title, repealed sections 2341 to 2343, 2344(b)(3), 2345, 2394(g), and 2399a of this title and enacted provisions set out as notes under sections 2751 and 2341 of this title. For complete classification of this Act to the

Code, see Short Title note set out under section 2751 of this title and Tables.

The Export Administration Act of 1979, referred to in subsecs. (e), (f), and (g)(1)(A)(ii), is Pub.L. 96-72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to sections 2401 to 2420 of the Appendix to Title 50, War and National Defense, and made technical and conforming amendments to other Titles. Subsections (c), (d), (e), and (f) of section 11 and subsections (a) and (c) of section 12 are classified to sections 2410(c), (d), (e), and (f), and 2411(a) and (c), respectively, of the Appendix to Title 50. For complete classification of the Act to this Code, see Short Title note set out under section 2401 of Appendix to Title 50 and Tables.

Section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd-2), referred to in subsec. (g)(1)(A)(vi), probably means section 104 of the Foreign Corrupt Practices Act of 1977, which is classified to section 78dd-2 of Title 15, Commerce and Trade.

The Immigration and Nationality Act, referred to in subsec. (g)(9)(C), is Act June 27, 1952, c. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (section 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

### Reference to Section 1934 of This Title Deemed Reference to This Section

Section 212(b)(1) of Pub.L. 94-329 provided in part that: "Any reference to such section [former section 1934 of this title] shall be deemed to be a reference to section 38 of the Arms Export Control Act [this section] and any reference to licenses issued under section 38 of the Arms Export Control Act shall be deemed to include a reference to licenses issued under section 414 of the Mutual Security Act of 1954."

**Codifications**

Enactment of subsec. (h) by Pub.L. 101-222, § 6, was executed to this section notwithstanding directory language directing such addition to "22 U.S.C. 2278", as the probable intent of Congress.

**Amendments**

**1989 Amendment.** Subsec. (a)(2). Pub.L. 101-222, § 3(a), inserted "support international terrorism," following "arms race."

Subsec. (h). Pub.L. 101-222, § 6, added subsec. (h).

**1987 Amendments.** Subsec. (b)(1). Pub.L. 100-204, § 1255(b), designated provisions which related to registration requirements for manufacturers, exporters, or importers of designated defense articles and defense services as subpar. (A), and added subpar. (B) relating to review by Secretary of the Treasury of munitions control registrations.

Subsec. (b)(1)(A). Pub.L. 100-202, § 101(b) [Title VIII, § 8142(a)(1)], designated existing provisions as subpar. (A).

Subsec. (b)(1)(B). Pub.L. 100-202, § 101(b) [Title VIII, § 8142(a)(2)], added subpar. (B) relating to allowance of return to United States of certain military firearms, etc., under certain circumstances.

Subsec. (b)(3). Pub.L. 100-204, § 1255(c), added par. (3).

Subsec. (g). Pub.L. 100-204, § 1255(a), added subsec. (g).

**1985 Amendments.** Subsec. (c). Pub.L. 99-83, § 119(a), added "for each violation" preceding "not more" and substituted "\$1,000,000" for "\$100,000" and "ten" for "two".

Subsec. (e). Pub.L. 99-83, § 119(b), added provisions relating to civil penalty for each violation.

Pub.L. 99-64 substituted "(g)" for "(f)".

**1981 Amendment.** Subsec. (b)(3). Pub.L. 97-113, § 106, struck out the \$100,000,000 ceiling on commercial arms exports of major defense equipment to all countries other than NATO countries, Japan, Australia, and New Zealand.

Subsec. (f). Pub.L. 97-113, § 107, added subsec. (f).

**1980 Amendment.** Subsec. (a)(3). Pub.L. 96-533, § 107(c), added par. (3).

Subsec. (b)(3). Pub.L. 96-533, § 107(a), increased the limitation in the sale of major defense equipment exports to \$100,000,000 from \$35,000,000.

**1979 Amendments.** Subsec. (b)(3). Pub.L. 96-92 increased the limitation in the sale of major defense equipment exports to \$35,000,000 from \$25,000,000.

Subsec. (d). Pub.L. 96-70 struck out subsec. (d), providing that this section applies to and within the Canal Zone.

Subsec. (e). Pub.L. 96-72 substituted "subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act" for "sections 6(c), (d), (e), and (f) and 7(a) and (c) of the Export Administration Act of 1969".

**1977 Amendment.** Subsec. (b)(3). Pub.L. 95-92 added provisions relating to exceptions to prohibitions against issuance of licenses under this section and procedures applicable for implementation of such exceptions.

**Effective Dates**

**1987 Acts.** Section 101(b) [Title VIII, § 8142(b)] of Pub.L. 100-202 provided that:

"(1) Except as provided in paragraphs (2) and (3), subparagraph (B) of section 38(b)(1) of the Arms Export Control Act, as added by subsection (a) [subsec. (b)(1)(B) of this section], shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act [Dec. 22, 1987].

"(2)(A) Such subparagraph shall take effect on the date of the enactment of this Act [Dec. 22, 1987] with respect to any military firearms or ammunition (or components, parts, accessories and attachments for such firearms) with respect to which an import permit was issued by the Secretary of the Treasury on or after July 1, 1986, irrespective of whether such import permit was subsequently suspended, revoked, or withdrawn by the Secretary of the Treasury based on the application of section 38(b)(1) of the Arms Export Control Act [subsec. (b)(1) of this section] as in effect on the day before the date of the enactment of this Act.

"(B) In the case of an import permit described in subparagraph (A) which

was suspended, revoked, or withdrawn by the Secretary of the Treasury during the period beginning on July 1, 1986, and ending on the date of the enactment of this Act [Dec. 22, 1987] under the conditions described in such subparagraph, such import permit shall be reinstated and reissued immediately upon the enactment of this Act, and in any event not later than ten days after the date of the enactment of this Act.

"(3) During the period preceding the revision of regulations issued under section 38(b)(1) of the Arms Export Control Act [subsec. (b)(1) of this section] to reflect the provisions of subparagraph (B) of such section, as added by subsection (a) [subsec. (b)(1)(B) of this section] such regulations may not be applied with respect to matters covered by paragraph (2) of this subsection so as to prohibit or otherwise restrict the importation of firearms described in that paragraph or in any other manner inconsistent with that paragraph, notwithstanding that such regulations have not yet been so revised: *Provided*, That this section shall not take effect if during the twenty day period beginning on the date of enactment of this section [Dec. 22, 1987] the Secretary of State, the Secretary of Defense, or the Secretary of the Treasury notifies Congress that he has an objection to the intent of this section: *Provided further*, That the Attorney General shall, within the period of time stated in the first proviso, submit a certification to Congress indicating whether the enactment of this section will interfere with any ongoing criminal investigation with respect to this section. If a certification of criminal investigative interference or an objection to the intent of this section is made, as herein provided, no permit shall be issued to anyone."

Amendment by Pub.L. 100-204, effective Dec. 22, 1987, except as otherwise provided, see section 1301 of Pub.L. 100-204, set out as a note under section 2651 of this title.

**1985 Act.** Section 119(c) of Pub.L. 99-83 provided that: "This section [amending this section] shall take effect upon the date of enactment of this Act [Aug. 8, 1985] or October 1, 1985, whichever is later. The amendments made by this section apply with respect to violations occurring after the effective date of this section."

**1979 Acts.** Amendment by Pub.L. 96-72 effective upon the expiration of the Export Administration Act of 1969, which terminated on Sept. 30, 1979, or upon any prior date which the Congress by concurrent resolution or the President by proclamation designated, see section 2418 and Prior Provisions note set out under section 2413 of Appendix to Title 50, War and National Defense.

Amendment by Pub.L. 96-70 effective on the date on which the Panama Canal Treaty of 1977 enters into force [Oct. 1, 1989], see section 3304 of Pub.L. 96-70, set out as a note under section 3601 of this title.

**Delegation of Functions**

Functions of the President under this section, except as specifically provided below, delegated to the Secretary of State with designations, including changes in designations, by the Secretary of State of items or categories of items which shall be considered as defense articles and defense services subject to export control under this section to have the concurrence of the Secretary of Defense, with provision for consultation with other federal departments and agencies, with the authority to undertake activities to ensure compliance with established export conditions to be redelegated, if necessary, to the Secretary of Defense, or to the head of another department or agency as appropriate, which shall exercise such functions in consultation with the Secretary of State, see sections 1(f)(1) and 2 of Ex.Ord. No. 11958, Jan. 18, 1977, 42 F.R. 4311, set out as a note under section 2751 of this title.

Functions of the President under this section delegated to the Secretary of the Treasury, to the extent they relate to the control of the import of defense articles and defense services, with the Secretary of the Treasury, in carrying out such functions being guided by the views of the Secretary of State on matters affecting world peace, and the external security and foreign policy of the United States, and with designations, including changes in designations, by the Secretary of the Treasury of items or categories of items which shall be considered as defense articles and defense services subject to import control under this section to have the concurrence of the Secretary of State and the Secretary of De-

fense, see section 1(f)(2) of Ex. Ord. No. 11958.

Functions of the President under this section delegated to the Secretary of Commerce, to carry out on behalf of the Secretary of State, to the extent of such functions involve subsec. (e) of this section and are agreed to by the Secretary of State and the Secretary of Commerce, see section 1(f)(3) of Ex. Ord. No. 11958.

#### Continuation of Export Control Regulations

Section 3 of Ex.Ord. No. 12525, July 12, 1985, 50 F.R. 28757, set out as a note under section 1701 of Title 50, War and National Defense, provided that: "All rules, regulations, orders, licenses, and other forms of administrative action issued, taken or continued in effect pursuant to the authority of the IEEPA and Executive Order No. 12470 [formerly set out as a note under section 1701 of Title 50, War and National Defense] relating to the administration of Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) [subsec. (e) of this section] shall remain in full force and effect until amended or revoked under proper authority."

[Section 3 of Ex.Ord. No. 12470, Mar. 30, 1984, 49 F.R. 13099, formerly set out as a note under section 1701 of Title 50, War and National Defense, provided that: "Provisions for the administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this Order also shall constitute authority for the issuance and continuation in full force and effect of all rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative action issued, taken or continued in effect pursuant thereto, relating to the administration of section 38(e)." The national emergency declared by Ex.Ord. No. 12470, was continued in effect beyond Mar. 31, 1985, by Notice of the President, dated Mar. 28, 1985, set out as a note under section 1701 of Title 50. Ex.Ord. No. 12470 was revoked by Ex.Ord. No. 12525, July 12,

1985, 50 F.R. 28757, set out as a note under section 1701 of Title 50.]

Section 3 of Ex.Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563, set out as a note under section 1701 of Title 50, War and National Defense, provided that: "All orders, licenses and other forms of administrative action issued, taken or continued in effect pursuant to the authority of the IEEPA and Executive Order No. 12444 [formerly set out as a note under section 1701 of Title 50] relating to the administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) [subsec. (e) of this section] shall remain in full force and effect until amended or revoked under proper authority."

[Section 3 of Ex.Ord. No. 12444, Oct. 14, 1983, 48 F.R. 48215, formerly set out as a note under section 1701 of Title 50, War and National Defense, provided that: "Provisions for the administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this Order also shall constitute authority for the issuance and continuation in full force and effect of rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative action issued, taken or continued in effect pursuant thereto, relating to the administration of section 38(e)." Ex.Ord. No. 12444 was revoked by Ex.Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563, set out as a note under section 1701 of Title 50, which further directed that administrative actions taken under such provisions remain in full force and effect until amended or revoked under proper authority.]

#### Self-Defense In Accordance With International Law

Use by any government of armed force in exercise of self-defense in accordance with international agreements and international law not to be considered act of international terrorism for purposes of amendment of this section by Pub.L. 101-222, see section 10 of Pub.L. 101-222, set out as a note under section 2371 of this title.

#### CROSS REFERENCES

Authorizing interceptions of wire, oral, or electronic communications, see 18 USCA § 2516.

Civil penalties for violations, see 50 App. USCA § 2410.  
Congressional policy objectives and restraints, see 22 USCA § 2751.  
Cooperative projects with NATO countries, see 22 USCA § 2767.  
Coordination of presidential controls, see 50 App. USCA § 2416.  
Criminal violations, see 18 USCA § 1956.  
Defense articles and services defined, see 22 USCA § 2794, 50 USCA § 415.  
Defense sales to U.S. companies, see 22 USCA § 2770.  
Mutual Security Act of 1954, see 26 USCA § 5847.  
Prohibited arms sales to Cyprus, see 22 USCA § 2373.  
Reporting requirements for high priced equipment or services, see 22 USCA § 2753.  
Revocation and suspension of export licenses, see 22 USCA § 2791.  
Security assistance defined, see 22 USCA § 2304.  
Working capital funding, see 10 USCA § 2208.

#### LIBRARY REFERENCES

##### Administrative Law

International traffic in arms, see 22 C.F.R. § 120.1 et seq.; 27 C.F.R. §§ 47.1 et seq., 179.1 et seq.

##### American Digest System

Foreign trade restrictions, see War and National Emergency §§ 501 to 514.

##### Encyclopedias

Foreign trade restrictions, see C.J.S. War and National Defense §§ 200, 201.

#### WESTLAW ELECTRONIC RESEARCH

War and National Emergency cases: 402k [add key number].  
See, also, WESTLAW guide following the Explanation pages of this volume.

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##### 1. Constitutionality

Former § 1934 of this title [now covered by this section] and applicable regulations, construed as prohibiting only the exportation of technical data significantly and directly related to specific articles on the Munitions List, did not interfere with constitutionally protected speech, were not overboard and the licensing provisions of said former § 1934 were not an unconstitutional prior restraint on speech. *U.S. v. Elder Industries, Inc.*, C.A.Cal.1978, 579 F.2d 516.

Former § 1934 of this title [now covered by this section] did not work an unconstitutional congressional delegation of legislative power to executive to extent that it empowered President to criminalize attempted export of specified types of ammunition. *U.S. v. Gurrola-Garcia*, C.A.Ariz.1976, 547 F.2d 1075.

# **Congress of the United States**

**Washington, D.C. 20515**

**March 19, 1994**

The Honorable Lloyd M. Bentsen, Jr.  
Secretary of the Treasury  
Department of the Treasury  
15th and Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

Dear Secretary Bentsen:

We are writing to urge you to take immediate steps to ban the importation of military-style firearms and ammunition, notably from China and former Soviet-bloc nations. This deadly form of commerce has reached epidemic proportions in recent months, and urgent action is needed.

As you know, as part of the omnibus crime bill, Congress is currently considering legislation to ban the manufacture, sale, and possession of assault weapons in the United States. However, we believe the Department of Treasury already has sufficient power under existing law to halt the importation of these and other highly lethal weapons, and we urge you to exercise that power as soon as possible.

At the very least, we urge you to use your authority to place an emergency moratorium on these imports, pending final action by Congress, so that the current flood of imports can be halted while responsible action is taken. These weapons are being heavily advertised in gun trade publications, and the ads often offer multi-round ammunition magazines to go with the assault weapons.

The Chinese actually produce for export to the United States semi-automatic handguns and assault rifles modeled after weapons used by the Chinese military. Indeed, it is the Chinese military that is selling these weapons to us and is profiting directly. While we oppose the import of these dangerous weapons into the United States from any public or private source, it is especially egregious that a foreign government is engaged in this activity.

Ironically, at a time when a number of cities in the United States have instituted programs to "buy back" firearms for \$100 in cash or merchandise, these Chinese-made semi-automatic handguns are selling for less than \$100.

At the same time, over 95,000 surplus weapons have been imported from former Soviet-bloc countries during the past six months under the "curio or relic" exception, allegedly because they are World War II surplus weapons, despite the fact that these guns are in perfect working order.

The Gun Control Act of 1968, among its many important provisions, bans the importation of surplus military firearms and other highly lethal weapons, but there are two notable exceptions -- (1) guns that are "generally recognized as particularly suitable for or readily adaptable to sporting purposes," and (2) military-style weapons that are deemed to be "curios or relics" (18 U.S.C. 925).

These exceptions in the 1968 Act have been dormant until recent years, because the Arms Export Control Act prohibited the importation of firearms from communist countries. But that restriction was lifted for China in 1987, and for the nations of the former Soviet bloc in 1991.

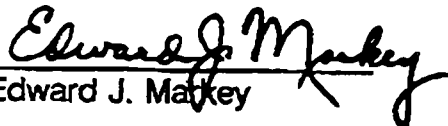
Today, with the Cold War over, these nations are exporting unprecedented quantities of surplus military assault weapons and ammunition to the United States under one or both of the exceptions to the 1968 Gun Control Act. It is preposterous to believe that Congress intended to permit the massive importation of semi-automatic weapons from other nations.

There is no justification for this country to be a dumping ground for Iron Curtain and Chinese military-style firearms and ammunition. The American public is already fed up with the violence caused by domestically manufactured weapons. We urge you to use your existing authority under the Gun Control Act to reconsider the regulations defining the statutory terms "curio or relic" and "sporting purposes" to halt this irresponsible and highly dangerous arms trade.

In light of the significant threat to public safety posed by these weapons, we urge you to act as soon as possible, or to advise us without delay if you believe that the Department lacks legal authority to curb these imports.

We are sending a similar letter to Secretary Christopher urging him to exercise his regulatory authority under the Arms Export Control Act to address this issue.

Sincerely,

  
Edward J. Markey

  
Edward M. Kennedy

# **Congress of the United States**

**Washington, D.C. 20515**

**March 19, 1994**

The Honorable Warren M. Christopher  
Secretary of State  
Department of State  
2201 C Street, N.W.  
Washington, D.C. 20520

Dear Secretary Christopher:

We are writing to urge you to take immediate steps to ban the importation of military-style firearms and ammunition, notably from China and former Soviet-bloc nations. This deadly form of commerce has reached epidemic proportions in recent months, and urgent action is needed.

As you know, as part of the omnibus crime bill, Congress is currently considering legislation to ban the manufacture, sale, and possession of assault weapons in the United States. However, the Department of State already has broad power under existing law to halt the importation of these and other highly lethal weapons, and we urge you to exercise that power as soon as possible.

At the very least, we urge you to use your authority to place an emergency moratorium on these imports, pending final action by Congress, so that the current flood of imports can be halted while responsible action is taken. These weapons are being heavily advertised in gun trade publications, and the ads often offer multi-round ammunition magazines to go with the assault weapons.

The Chinese actually produce for export to the United States semi-automatic handguns and assault rifles modeled after weapons used by the Chinese military. Indeed, it is the Chinese military that is selling these weapons to us and is profiting directly. While we oppose the import of these dangerous weapons into the United States from any public or private source, it is especially egregious that a foreign government is engaged in this activity.

Ironically, at a time when a number of cities in the United States have instituted programs to "buy back" firearms for \$100 in cash or merchandise, these Chinese-made semi-automatic handguns are selling for less than \$100.

At the same time, over 95,000 surplus weapons have been imported from former Soviet-bloc countries during the past six months under the "curios or relics" exception to the Gun Control Act, despite the fact that these World War II era guns are in perfect working order.

During the Cold War, importation of these weapons from communist countries

was barred by the Arms Export Control Act. But that restriction was lifted for China in 1987, and for the nations of the former Soviet bloc in 1991, and now these nations are exporting unprecedented quantities of surplus military assault weapons and ammunition to the United States.

The Arms Export Control Act (22 U.S.C. 2278 (a)(1)) provides that "in furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles..." It is clear that the domestic security of the United States is seriously threatened by the importation of these military-style weapons in such massive quantities; in our view section 2278 is intended to address domestic as well as international security concerns. Moreover, the foreign policy interests of the United States may be adversely affected by the rapid expansion of the munitions industries in these countries as a result of their ability to export military-style weaponry to the United States. We believe you have authority to curb these imports on either domestic or foreign policy grounds.

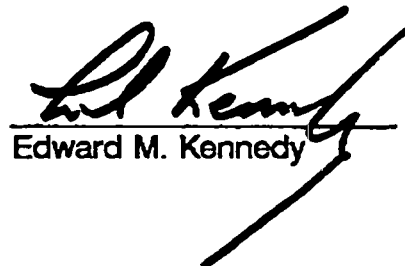
There is no justification for this country to be a dumping ground for Iron Curtain and Chinese military-style firearms and ammunition. The American public is already fed up with the violence caused by domestically manufactured weapons. We urge you to use your existing authority under the Arms Export Control Act to halt this irresponsible and highly dangerous arms trade.

In light of the significant threat to public safety posed by these weapons, we urge you to act as soon as possible, or to advise us without delay if you believe that the Department lacks legal authority to curb these imports.

We are sending a similar letter to Secretary Bentsen urging him to exercise his regulatory authority under the Gun Control Act to address this issue.

Sincerely,

  
Edward J. Markey

  
Edward M. Kennedy

THE WHITE HOUSE  
WASHINGTON

3/24  
A.M.

Jose:

- BARBARA Tobias  
is free on Fri.  
a short time after  
11 and then from  
1pm after Hill  
visit. Questions  
Treasury input.

- Schedule mtg. in your  
office Fri. Afternoon.

Thanks,            Dev.

# Withdrawal/Redaction Marker

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P2 Relating to the appointment to Federal office [(a)(2) of the PRA]  
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P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]  
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]  
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

#### Freedom of Information Act - [5 U.S.C. 552(b)]

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b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]  
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]  
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]  
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]  
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]