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.

EDWARD J. MARKEY
7TH DISTRICT, MASSACHUSETTS

COMMITTEES:
ENERGY AND COMMERCE
CHAIRMAN
SUBCOMMITTEE ON
TELECOMMUNICATIONS AND
FINANCE
NATURAL RESOURCES
COMMISSION ON SECURITY AND
COOPERATION IN EUROPE

Congress of the United States
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FROM AREA CODE 508
DIAL 1-800-750-6037

April 18, 1994

The Honorable Lloyd Bentsen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Bentsen:

I am writing in regard to the Department's consideration of changes to current regulations aimed at halting the importation of military-style assault rifles. I continue to be deeply concerned about the importation into our country of cheap variants of military-style assault weapons -- particularly in light of the fact that entities controlled by or affiliated with elements of the Chinese military and secret police are profiting from this deadly form of commerce.

As you know, on March 18, 1994, Senator Kennedy and I wrote to you and to the Secretary of State to request that immediate steps be taken "to ban the importation of military-style firearms and ammunition, notably from China and former Soviet-bloc nations." These letters noted that "the Chinese actually produce for export to the United States semi-automatic handguns and assault rifles modeled after weapons used by the Chinese military" and that companies controlled by the Chinese government profit from these sales. In addition, we noted that over 95,000 surplus weapons have been imported from former Soviet-bloc countries over the last six months as "curios or relics," despite the fact that these deadly weapons are generally in perfect working order.

In a related March 22, 1994 letter, 113 of my House colleagues joined me in writing to President Clinton to urge that quick action be taken to close the legal loopholes that allow "foreign countries to dump millions of cheap, lethal assault weapons onto the streets of America." This joint letter noted the strong desire of many in Congress "to put an end to this practice now before more criminals obtain access to cheap and deadly assault weapons."

It is my understanding that there has been some uncertainty regarding whether the Treasury or the State Department should be the lead agency in this area (see "Agencies Debate Firearms Import Ban," Washington Post, March 26, 1994, at A13). The aforementioned article quotes unnamed Treasury officials who claimed that the Department's Bureau of Alcohol, Tobacco and Firearms (BATF) does not "have authority under the federal gun laws to ban these weapons." The article quoted these officials as stating that, "the State Department does [have authority], but they don't want to do it." In contrast, unnamed State Department officials were quoted in the article as saying that Treasury officials are "lying if they say we have the ball."

In light of this press report, I recently directed my staff to request an analysis by the Congressional Research Service (CRS) of the authority of federal agencies to ban the importation of certain firearms derived from foreign military-style firearms. A copy of the CRS legal analysis that was undertaken in response to my request is attached.

As you can see, the CRS legal analysis concludes that, "under both the Omnibus Crime Control and Safe Streets Act of 1968 and the Arms Export Control Act, it appears that the Secretary of Treasury has the authority to prohibit or otherwise restrict the importation of firearms." In this regard, the CRS analysis notes that:

> The legislative history of the Omnibus Crime Control and Safe Streets Act of 1968 indicates that at the time of its enactment and an early 1968 amendment, Congress was deeply concerned about the dumping of foreign surplus military articles and non-sporting firearms in the United States and about the deleterious effect these imports were having on crime and law enforcement. The Act was meant to address these issues, among others, from its inception. <u>Therefore, it would appear that the Secretary of the Treasury and the Director of BATF have primary responsibility for the importation of foreign military surplus items and other defense articles and for determining whether those items qualify as curious and relics and sporting items, although they are required by AECA [Arms Export Control Act] and relevant regulations to follow the guidance of and consult with the Secretaries of State and Defense regarding the importation of defense articles and the date of import proscription for some countries.</u>
> (emphasis added)

The CRS legal analysis indicates that "the statutory language was amended in 1986 specifically in order to liberalize the importation of firearms suitable for and readily adaptable to a sporting purpose." CRS noted that this amendment amended the statute "to eliminate the burden of proof from the importer and change discretionary language to mandatory language."

In light of the aforementioned legal analysis, I would like to again urge the Department to move forward quickly to stop the flow of Chinese and former Soviet-bloc weapons into the country. Preliminarily, it appears from the CRS analysis that your Department already may have sufficient legal authority to take such action. However, should you determine that the 1986 amendments pose any obstacles in this area, I request that you provide me with a legal analysis (with the appropriate citations), indicating why your current statutory authorities are insufficient to permit action and setting forth what specific statutory changes would be needed to authorize action to stop the aforementioned imports.

It is my understanding that H.R. 3527, "The Public Safety and Recreational Firearms Use Protection Act," presently is scheduled for House floor consideration in the very near future. Should the Department determine that it lacks legal authority to take action to halt the flow of Chinese manufactured semi-automatic weapons into this country, it would be my intention to offer appropriate remedial legislation that would grant the Department clear authority in this area. I therefore urgently request your assistance in clarifying whether legislation would be needed for the Department to have sufficient legal authorities to halt such imports. If, as appears to be the case, the Department has sufficient legal authorities to take action, I request a description of what specific steps the Department is in fact taking to halt the importation of such weapons.

Thank you for your assistance and cooperation in this matter. In light of the likelihood of House floor action on H.R. 3527, I request that a response to this inquiry be provided within 5 working days, or no later than close of business day, April 25, 1994. Should you have any questions about this request, please have your staff contact Ms. Karen Kovacs or Mr. Brian O'Shaughnessy of my staff at 225-2836.

Sincerely,

Edward J. Markey

Edward J. Markey
Member of Congress

Enclosure

cc: President William J. Clinton
The Honorable Warren M. Christopher

CRS

Congressional Research Service • The Library of Congress • Washington, D.C. 20540-7000

April 12, 1994

TO : Subcommittee on Telecommunications and Finance of the House Committee on Energy and Commerce
Attention: Jeff Duncan

FROM : American Law Division

SUBJECT : Authority of federal agencies to ban the importation of certain firearms derived from foreign military-style firearms

This memorandum is in response to your request for a legal analysis of whether, under the Omnibus Crime Control and Safe Streets Act of 1968 and the Arms Export Control Act (AECA), it is the Secretary of the Treasury or the Secretary of State who has authority to bar or otherwise restrict the importation into the United States of cheap firearms derived from military-style assault weapons. Apparently, the Departments of the Treasury and of State disagree as to who has jurisdiction, and each is pointing to the other. The concern over who has authority over imports of firearms arises because of recent serious problems with the dumping of foreign military-style firearms. Apparently, the Chinese are exporting semi-automatic handguns and assault rifles modeled on weapons used by the Chinese military. Also, surplus weapons have apparently been imported from former Soviet-bloc countries under the "curio or relic" exception.

Under both the Omnibus Crime Control and Safe Streets Act of 1968 and the Arms Export Control Act, it appears that the Secretary of the Treasury has the authority to prohibit or otherwise restrict the importation of such firearms. Section 38 of the AECA provides that, in furtherance of world peace and the security and foreign policy of the United States, the President has the authority to control the import and export of defense articles and services, to provide foreign policy guidance to persons involved in the import and export of such articles and services, and to designate those items to be considered such articles and services and promulgate regulations for the import and export of such articles and services.[1] The list of designated items is the U.S. Munitions List. Section 1(*l*)(2) of Executive Order No. 11958[2] delegated the authority of the President under section 38 of the AECA to the Secretary of the Treasury to the extent that they related to the import of defense articles and services. However, the Secretary of the Treasury is to have the guidance of views of the Secretary

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[1] 22 U.S.C.A. § 2778(a)(1) (1990 & Supp. 1993).

[2] Reprinted as amended at the note under 22 U.S.C.A. § 2751 (1990 & Supp. 1993).

of State on matters affecting world peace, and the external security and foreign policy of the United States. Designations of the Secretary of the Treasury to the U.S. Munitions List shall have the concurrence of the Secretaries of State and Defense.

The definition of defense article includes "any weapon . . . or other implement of war . . . any component or part of any article listed [in this statutory subsection]" except that for the purposes of commercial exports subject to section 38, "defense articles" means the items on the U.S. Munitions List.[3] The legislative history for the section indicates that Congress wished to make a distinction between defense articles for government-to-government military sales and for commercial export sales.[4] "Defense articles" for commercial export sales are determined by the nature of the article, whereas "defense articles" for military sales are determined by the intended use. Although both the statute and the legislative history discuss the definition of "defense articles" in terms of commercial export sales, arguably the definition also applies to commercial import sales, otherwise there would be no clear definition *vis-à-vis* authority delegated to the Secretary of the Treasury over the import of defense articles and the designations to the U.S. Munitions List.

Section 902 of the Omnibus Crime Control and Safe Streets Act of 1968 provides, *inter alia*, that the Secretary of the Treasury shall authorize the importation of firearms into the United States if the firearm is an unserviceable firearm other than a machine gun as defined in the Internal Revenue Code, not readily restorable to firing condition, that is imported as a curio or museum piece, or if the firearm is of a type that does not fall within the definition of firearm in the Internal Revenue Code and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding military firearms.[5] The provision bans the importation of parts of firearms that would be prohibited if assembled. The statute also provides that, notwithstanding any other provision of title 18 of the U.S. Code, the Secretary shall authorize the importation, by any licensed importer, of all rifles and shotguns listed as curios and relics by the Secretary pursuant to section 921(a)(13) and of all handguns listed as curios and relics provided that the handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.

The relevant import regulations are found at parts 47, 178 and 179 of Title 27, Code of Federal Regulations (CFR). Part 179 regulates sales of machine guns, destructive weapons and certain other firearms. It describes some of the general importation requirements such as registration of persons in the business of importing firearms. As the statutory provision described above indicates, importation of machine guns as curios, relics or sporting items is

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[3] 22 U.S.C.A. § 2794(3)(A & D) & (7) (1990 & Supp. 1993).

[4] H.R. Rep. No. 1144, 94th Cong., 2d Sess. 39 (1976).

[5] 18 U.S.C.A. § 925(d)(2 & 3) (1976 & Supp. 1993). The definitions of firearm and machine gun in the Internal Revenue Code are found at 26 U.S.C.S. § 5845(a & b) (1993).

generally prohibited (narrow exceptions for sales to federal, state and municipal governments, for scientific and research purposes, for use or testing as a model by a registered manufacturer or use as a sample by a registered importer or dealer).[6] Curios and relics are defined as firearms of special interest to collectors for reasons other than their function sporting, offensive or defensive weapons.[7] They must either have been manufactured at least fifty years ago, but are not replicas; or certified by the curator of a public museum as being of museum interest; or derive a substantial part of their value from the fact that they are rare, novel or bizarre or are associated with some historical figure, period or event. A person desiring a determination of whether a particular firearm qualifies as a curio or relic shall submit a written request for a ruling from the Director of the Bureau of Alcohol, Tobacco and Firearms (BATF).[8] Notwithstanding other provisions of part 178, a licensed importer may import all rifles and shotguns classified by the Director as curios or relics and all handguns classified by the Director as curios or relics and generally recognized as particularly suitable for or readily adaptable to sporting purposes.[9] Conditional importation of a firearm is permitted so that it may be examined and tested to determine whether it qualifies for importation under part 178.[10]

Part 47 deals with the importation of arms, ammunition and implements of war. It defines "defense articles" as including models and mockups as well as the items on the U.S. Munitions List, which it sets out.[11] Firearms are in Category I of the List; non-automatic and semi-automatic firearms are in Category I(a). It also describes the import restrictions applicable to certain countries.[12] Arms imports from China are not prohibited, but arms imports from most, but not all, former Soviet-bloc countries are prohibited.[13] However, certain firearms may be imported under a permit granted by the Director of BATF. A firearm may be imported even if it was manufactured in or has been in a proscribed country if it is in Category I(a) of the U.S. Munitions List; is importable as a curio or relic; was manufactured in the proscribed country (or area) prior to the date, as established by the Department of State, that the country (or area) became proscribed; and has been stored for the five-year period

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[6] 27 C.F.R. § 179.111 (4-1-93 Edition).

[7] 27 C.F.R. § 178.11 (4-1-93 Edition).

[8] 27 C.F.R. § 178.26 (4-1-93 Edition).

[9] 27 C.F.R. § 178.118 (4-1-93 Edition).

[10] 27 C.F.R. § 178.116 (4-1-93 Edition).

[11] 27 C.F.R. § 47.11 and 47.21 (4-1-93 Edition).

[12] 27 C.F.R. § 47.52 (4-1-93 Edition).

[13] 27 C.F.R. § 47.52(a) (4-1-93 Edition), as amended by T.D. ATF-349, 58 Fed. Reg. 47831 (1993).

immediately preceding importation in a non-proscribed country (or area).[14] The administration of part 47 is 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.[15]

The legislative history of the Omnibus Crime Control and Safe Streets Act of 1968 indicates that at the time of its enactment and an early 1968 amendment, Congress was deeply concerned about the dumping of foreign surplus military articles and non-sporting firearms in the United States and about the deleterious effect these imports were having on crime and law enforcement.[16] The Act was meant to address these issues, among others, from its inception. Therefore, it would appear that the Secretary of the Treasury and the Director of BATF have primary responsibility for the importation of foreign military surplus items and other defense articles and for determining whether those items qualify as curios and relics and sporting items, although they are required by the AECA and relevant regulations to follow the guidance of and consult with the Secretaries of State and Defense regarding the importation of defense articles and the date of import proscription for some countries.

The legislative history also indicates that the statutory language was amended in 1986 specifically in order to liberalize the importation of firearms suitable for and readily adaptable to a sporting purpose. In 1986, the House Judiciary Committee reported a clean bill on the Firearms Owners' Protection Act, having examined and rejected the existing House and Senate bills as unsatisfactory amendments to existing law. The Committee saw a problem with a provision in the Senate bill that would have liberalized the importation of firearms by mandating the Secretary of the Treasury to authorize importation of a firearm where there was a sporting purpose and eliminating the requirement that the importer has the burden of satisfying the Secretary of the

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[14] 27 C.F.R. § 47.52(d) (4-1-93 Edition).

[15] 27 C.F.R. § 47.55 (4-1-93 Edition).

[16] Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90-351, Title IV, § 901(7 & 8), 90th cong., 2d Sess., June 19, 1968, 82 Stat. 234; S. Rep. No. 1097, 90th Cong., 2d Sess., as reprinted in 2 U.S.C.C.A.N. 2112, 2163-2166, 2167, 2199, 2208 (1968). Gun Control Act of 1968, Pub. L. 90-618, Title 1, § 102, 90th Cong., 2d Sess., Oct. 22, 1968, 82 Stat. 1224. On the occasion of the 1968 amendment, the House Judiciary Committee believed that the import restrictions should not be relaxed, although some had advocated this. H. Rep. No. 1577, 90th Cong., 2d Sess., as reprinted in 3 U.S.C.C.A.N. 4410, 4416, 4424 (1968). The House Conference Report is a bit confusing because it indicates that the House bill banned the importation of all surplus military firearms and the Senate bill permitted importation of military surplus rifles and shotguns suitable or readily adaptable to sporting purposes, but the House Report indicates that the House bill, at least at the reporting stage, contained a provision like that in the Senate bill. In any case, although the Conference Report also notes that the total ban was adopted in the conference version, the bill must have changed again, because in the current law, the exception for rifles and shotguns suitable for sporting still exists. H. Conf. Rep. No. 1956, 90th Cong., 2d Sess., as reprinted at 3 U.S.C.C.A.N. 4426, 4433 (1968).

sporting purpose.[17] The Committee noted that the sporting requirement prevented Saturday Night Specials from being imported. However, the Committee's report notwithstanding, the provision in the earlier version of the legislation prevailed and Firearms Owners' Protection Act[18] amended the language to eliminate the burden of proof from the importer and change discretionary language to mandatory language.

If we can be of further assistance, please let us know.

Margaret Mikyung Lee

Margaret Mikyung Lee
Legislative Attorney

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17 H.R. Rep. No. 495, 99th Cong., 2d Sess., as reprinted at 4 U.S.C.C.A.N. 1327, 1340 (1986).

18 Pub. L. 99-308, § 105(2), May 19, 1986, 100 Stat. 459.

United States Department of State

Washington, D.C. 20520

SEP 29 1993

Dear Mr. Chairman:

You have asked for the Department's views on Section 8113 of the Department of Defense Appropriation Act, FY 94, as reported by the Committee on Appropriations.

Although it appears in Defense Appropriations legislation, this provision would amend the Arms Export Control Act (AECA) and waive key provisions of that Act and the Foreign Assistance Act of 1961, as amended (FAA). Specifically, it would amend provisions of those statutes that relate to the important matter of reimporting undemilitarized "significant military equipment" (SME) of U.S. origin. As such, this provision would affect the statutory responsibilities of the Secretary of State for the direction and supervision of U.S. military assistance programs. Accordingly, the Department views this provision as one which should properly be considered in connection with foreign assistance and arms export legislation and opposes its consideration and inclusion in Defense Appropriations legislation.

In addition, the provision would create a sweeping exception to the statutorily required assurances and control provisions of the FAA and AECA for a class of U.S.-origin lethal weaponry on the basis solely of a certification from the foreign government in possession of the firearms that the transfer is "for the purpose of returning such firearms to the United States for sale in the United States." This would effectively delegate to foreign governments the authority to completely and permanently remove controls on these weapons, including the fundamental FAA and AECA requirement for U.S. consent for further transfer to other governments. Upon receipt of such a certification, a purported importer (including non-U.S. citizens) of such firearms would appear no longer to be subject to AECA requirements, including criminal and civil penalties, that are intended to protect the United States against distribution of U.S.-origin arms to a person or government which, under U.S. arms control law and policy, should not receive them (e.g., embargoed countries). Accordingly, Section 8113 is contrary to important control provisions of the AECA and FAA and would thus appear to be inconsistent with fundamental policies and purposes of those statutes.

The Honorable
Lee H. Hamilton,
Chairman, Committee on Foreign Affairs,
House of Representatives.

In view of the foregoing, the Department of State opposes Section 8113. The Office of Management and Budget advises that there is no objection to the submission of this report.

Sincerely,

Wendy R. Sherman

Wendy R. Sherman
Assistant Secretary
Legislative Affairs

fense Mapping Agency Aerospace Center annex from the St. Louis, Missouri, area.

SEC. 8113. (a) During the current fiscal year and hereafter the provisions of law specified in subsection (b) 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 the Arms Export Control Act or any other foreign assistance or sales program of the United States if—

(1) such firearms are among those firearms described in clause (i) of the second subparagraph (B) of section 38(b)(1) of the Arms Export Control Act; and

(2) such foreign government certifies to the United States Government that such foreign government has transferred such firearms to a person who is not an officer, employee, or agent of such foreign government for the purpose of returning such firearms to the United States for sale in the United States.

(b) The provisions of law specified in this subsection are—

(1) the prohibition under the regulations required by the second sentence of section 38(b)(1)(A) of the Arms Export Control Act; and

(2) the requirements contained in—

(A) subsections (a)(1), (a)(4), and (e) of section 505 of the Foreign Assistance Act of 1961; and

(B) paragraph (2) of subsection (a), and the third sentence of such subsection, of section 3 of the Arms Export Control Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8114. In addition to amounts appropriated or otherwise made available by this Act, $21,700,000 is hereby appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard for a 2.2 percent pay increase for uniformed members.

SEC. 8115. None of the funds appropriated or made available in this Act shall be obligated or expended for the performance of depot-level maintenance by the Department of Defense unless such activities are conducted in accordance with section 2466(a) of title 10, United States Code, as amended by Public Law 102–484.

SEC. 8116. Notwithstanding any other provision of law, and in accordance with section 2905 of the Defense Base Closure and Realignment Act of 1990, Public Law

e. Modification of M1903 Series Rifles for Drill Purposes. Rifles may be rendered safe for drill purposes as follows:

(1) Remove stock, handguard and bolt assembly.

(2) Remove striking end of firing pin by grinding off at least ½ inch or remove the firing pin.

(3) Close firing pin hole in face of bolt by welding.

(4) Weld the barrel to the receiver utilizing a high heat range carbide impregnated welding rod. The length of weld will be a minimum of one inch.

(5) Insert a steel rod (drill rod) .300 inches in diameter and 4 inches long into the barrel through the chamber end, allowing a portion of the rod to extend into the chamber to prevent introduction of a cartridge.

(6) Utilizing an acetylene torch, arc welder cutting electrode or ⅜ inch drill, burn or drill through the upper portion of the barrel directly above and into the steel segment installed in the barrel bore. This is approximately 1½ inches forward of the receiver. Using a high heat range, carbon impregnated welding rod, apply weld into the bore cavity only (Figure 66 Appendix 7).

(7) With the bolt assembled to the receiver, weld the cutoff to the receiver in the "OFF" position (Figure 67 Appendix 7). Also use a high heat range carbide impregnated welding rod to perform the task.

(8) Reassemble stock and hand guard.

NOTE: An exception to the above modification requirement may be granted by the U.S. Army Armament, *Munitions and Chemical* Command (*AMSMC*-MMD-D) on a case-by-case basis, when rifles are required by veterans organizations for ceremonial firing of blank ammunition. Such rifles when furnished will be certified as safe to fire blank ammunition.

c. Pistol, Automatic, U.S. caliber .45, M1911 and M1911A1.

(1) Remove the right and left stock.

(2) Remove the firing pin and spring.

(3) Weld the firing pin stop and extractor to the slide.

(4) Weld the slide to the receiver in three places, equally spaced on both sides.

(5) Weld the grip safety to the receiver in three places, equally spaced on both sides.

(6) Weld the mainspring housing to the receiver in three places, equally spaced on both sides.

(7) Install the right and left stock.

d. Rifle, Automatic, Browning, Caliber .30, M1918; Caliber .30 (M1903 Series, M1917 or M1); Carbine M1 or M2 Series; Gun, Submachine, M3 Series; and Gun, Submachine, Caliber .45, Thompson, M1928A1 and M1A1.

(1) Weld bead on the face of bolt so that firing pin and surrounding area is covered. It is not necessary to remove firing pin.

(2) Weld barrel to receiver.

(3) Run a bead of welding around the shoulder of barrel chamber so that a cartridge cannot be inserted into chamber.

e. Demilitarization of Rifles for Drill Purposes. The cost of demilitarization will not exceed $8 per weapon. Rifles may be rendered safe for drill purposes as follows:

(1) Remove striker end of firing pin by grinding off at least a half inch or remove the firing pin.

(2) Close firing pin hole in face of bolt by welding.

(3) Weld barrel to receiver in such a manner as to prevent subsequent removal therefrom.

(4) Cool a segment of steel rod in a salt ice solution and drive into barrel through the chamber end for approximately three inches. Leave a sufficient portion of the rod protruding into the chamber to prevent introduction of a cartridge. Do not wipe the rod prior to driving it into the barrel as the salt solution will enhance the rusting and effect a greater degree of bond between the rod and the bore. The size of the rod at cold temperature will be such that drive fit is effected.

Note. An exception to the above demilitarization requirement may be granted by the U.S. Army Armament Command (AMSAR-MMD-D) on a case-by-case basis, when rifles are required by veterans organizations for ceremonial firing of blank ammunition. Such rifles when furnished will be certified as safe to fire blank ammunition.

f. Modification Procedures for Rifle Cal. .30, M1, into a Dummy Drill Rifle.

(1) Disassemble the rifle by removing the trigger housing group, stock assembly, operating rod spring and guide. Remove pin follower arm, catch, operating rod, arm follower, follower assembly, and guide bullet. Remove the rear hand guard from the barrel.

(2) Pull the operating rod and bolt assembly to the rear, hold the rifle with the muzzle up so the firing pin does not protrude the face of bolt, Tungsten Inert Gas (TIG) weld the bolt face cavity full. (Figure 71, Appendix 7.)

(3) Tungsten Inert Gas (TIG) weld the barrel to the receiver on the bottom side. The weld must be 1 inch in length minimum. (Figure 72, Appendix 7.)

(4) On the top side of the barrel, approximately 2⅝ inches forward to the receiver, grind a slot 1/4 inch wide across the barrel and deep enough to penetrate the bore. Insert a steel drill rod .296 inch diameter and 4 inches long (slightly bent so it will retain its position in the barrel while being welded), into the chamber. The rear end of the rod should be approximately 1/2 inch forward of the rear edge of the chamber. Through the 1/4 inch slot ground across the barrel on the top, TIG weld the rod to the barrel and fill the slot with weld to flush. The rod will prevent induction of a cartridge into the chamber. (Figure 73, Appendix 7.)

(5) On the bottom side of the gas cylinder, grind a 1/4 inch slot across the gas cylinder and the gas cylinder lock, deep enough to cut into the gas cylinder locking screw assembly. TIG weld the locking screw assembly to the gas cylinder and gas cylinder lock, then fill slot to flush. (Figure 74, Appendix 7.)

(6) With the operating rod assembled to the bolt assembly and in place on the receiver guide right side of receiver, bolt closed in the locked position, TIG weld the operating rod disassembly notch of the receiver flush to prevent disassembly of operating rod. The notch is directly below the rear sight knob on the right side of the receiver. After welding the takedown notch full, then using an End Mill, remove excess weld on the inside and top edge of rail to flush. Check by retracting bolt and operating rod to the rearmost position. (Figure 75, Appendix 7.)

(7) Touch up bare metal with solid film lubricant, as necessary.

(8) Assemble the follower assembly, bullet guide, catch operating rod, follower arm and insert the follower pin. Replace the operating rod spring and guide assembly. Install the rear hand guard, stock assembly, and the trigger housing group. The demilitarization conversion is complete; however, serial numbers must be converted to new NSN in serialization bank.

g. Modification of Revolvers for Classroom and Honor Guard Use.

(1) Frame will be welded in such a manner as to completely cover firing pin hole.

(2) Firing pin will be removed or ground down at least 1/4".

(3) Barrel will be welded to frame.

(4) Barrel will be plugged either by welding slag, or by welding an appropriately sized steel rod inside barrel.

(5) Each chamber of cylinder will have a ring of weld inside so that no round can be chambered into cylinder.

After a review of statutory and regulatory guidelines, DOS has come to the conclusion that the legal importation of arms classifiable as curios and relics into the United States does not have significant U.S. foreign policy implications. As a result the Department has no objection to the reimportation to the United States of US-origin curios and/or relics that were sold or granted to the selling state under a military assistance program (MAP). The Department is, therefore, favorably disposed to approve the sale of these U.S.-origin curios and/or relics for reimport to the U.S. For those items obtained via grants, this approval is contingent upon satisfaction of all reimbursement obligations to the USG.

SEAT 1889

INTRODUCTION

Federally Licensed Firearms Collectors

A collector of curios or relics may obtain a collector's license under the Gun Control Act of 1968 (Chapter 44 of Title 18, United States Code) and the Federal firearms regulations, 27 CFR Part 178. The privileges conferred by this license extend **ONLY** to curio or relic transactions, as discussed in detail below. In transactions involving firearms not classified as curios or relics, the licensed collector has the same status as a nonlicensee.

A person **need not** be federally licensed to collect curios or relics. However, the individual must be licensed in order to lawfully receive curios or relics by shipment from outside his or her State of residence. Federal law, regulations, and general information pertaining to licensed collectors and curios or relics can be found in ATF Publication 5300.4, **"(Your Guide to) Federal Firearms Regulation."** Recordkeeping requirements for licensed collectors are discussed in detail in Part 178 of Title 27, Code of Federal Regulations.

Curios or Relics

As set out in the Federal regulations (27 CFR 178.11), curios or relics include firearms which have special value to collectors. These firearms have special value because they possess some qualities not ordinarily associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must:

(1) Have been manufactured at least 50 years prior to the current date, but **NOT** including replicas thereof; **or**

(2) Be certified by the curator of a municipal, State or Federal museum which exhibits firearms to be curios or relics of museum interest; **or**

(3) Derive a substantial part of their monetary value from the fact that they are novel, rare, or bizarre, or from the fact of their association with some historical figure, period, or event.

THIS LIST IS COMPOSED OF FOUR MAJOR SECTIONS:

SECTION I. Ammunition Classified as Curios or Relics: **"Ammunition"** [as now defined in 18 U.S.C. 921(a)(17)(A)] has been deleted as items to be classified as curios or relics by the Congress during 1986. We have continued the listing herein only as a service to those who may rely or have relied on this list as a means of evaluation. **"Ammunition"** is not to be confused with **"armor piercing ammunition"**, defined during 1986 in Section 921(a)(17)(B).

SECTION II. Firearms Classified as Curios or Relics Under 18 U.S.C. Chapter 44: Licensed collectors may acquire, hold or dispose of these firearms as curios or relics. However, they are still **"firearms"** as defined in 18 U.S.C 921(a)(3) and are, therefore, subject to all Chapter 44 controls. Generally, this category includes commemorative handguns, semiautomatic pistols, revolvers and rifles.

SECTION III. National Firearms Act Weapons Removed From the National Firearms Act as Collectors' Items and Classified as Curios or Relics Under 18 U.S.C. Chapter 44: Weapons in this Section are excluded entirely from the provisions of the National Firearms Act (NFA) [26 U.S.C. Chapter 53]. Thus, approval from ATF to transfer these weapons is not required. They need not be registered in the National Firearms Registration and Transfer Record; there is no transfer tax liability. These weapons are still **"firearms"** under Chapter 44, and remain subject to regulation under Part 178. Licensed collectors may receive these weapons in both intrastate and interstate commerce, and may transfer them intrastate to both licensees and nonlicensees and interstate to licensed collectors and other licensees. While transfer may be made interstate to another licensee, they cannot be shipped interstate to a nonlicensee. **NOTE:** Certain antique firearms are discussed and listed in Section IIIA.

SECTION IV. National Firearms Act Weapons Classified as Curios or Relics Under 18 U.S.C. Chapter 44: These weapons (e.g., machineguns), are firearms within the scope of the National Firearms Act (NFA) [26 U.S.C. Chapter 53], and are subject to all the Act's provisions. Accordingly, these weapons cannot be lawfully transferred or received unless they are registered in the National Firearms Registration and Transfer Record, at ATF Bureau Headquarters. Once the registration requirements have been met, transfer may be made either intrastate or interstate to licensed collectors on ATF Form 4, **"Application For Tax Paid Transfer and Registration of a Firearm."** In each instance, the appropriate transfer tax must be paid and ATF must first approve the transfer application. The application to transfer must be accompanied by an individual transferee's fingerprints and photograph as prescribed on the form. The form also contains a law enforcement official's certification which must be completed.

Unserviceable weapons are still subject to the provisions of the National Firearms Act, except that they may be transferred free of transfer tax on ATF Form 5, **"Application For Tax Exempt Transfer and Registration of a Firearm."** Questions concerning the lawfulness of transactions in these weapons should be directed to the Bureau of ATF, National Firearms Act Branch, Washington, DC 20226.

Questions concerning the criteria for rendering a specific weapon unserviceable should be directed to the Firearms Technology Branch at the same address.

The Licensed Collector's Activities

Subject to other applicable provisions of the law and regulations, a collector's license entitles its holder to transport, ship, receive and acquire curios or relics in interstate or foreign commerce, and to dispose of curios or relics in interstate or foreign commerce to any other Federal firearms licensee. However, restrictions are imposed on importations into the United States. Only licensed importers can bring in military firearms. Military surplus firearms sold under "Lend Lease" and similar arms assistance programs can not be imported, as these weapons are **prohibited** by the Arms Export Control Act of 1976 (22 U.S.C. 2778). Those collectors having questions concerning the importability of specific curio or relic firearms should contact the Bureau of ATF, Firearms and Explosives Imports Branch, Washington, DC 20226.

The principal advantage of a collector's license is that the collector can acquire curios or relics from both licensees and nonlicensees without regard to his/her State of residence. A licensed collector may acquire and dispose of curios or relics at any location, the only limitation being that a disposition made to a nonlicensee is to be made to a resident of the same State in which the collector is licensed.

Restrictions on the Licensed Collector's Activities

As previously stated, the collector's license covers only transactions in curios or relics. A licensed collector has the same status as a nonlicensee with respect to transactions in firearms that are not curios or relics. While a licensed collector may acquire curios or relics and dispose of same from a personal collection, the collector is not authorized to engage in business as a dealer in curios or relics. A dealer's license is required for this activity. If the curios or relics acquired include National Firearms Act weapons, the collector is liable for the special (occupational) tax prescribed by the National Firearms Act. The sole intent and purpose of the collector's license is to enable a firearms collector to enhance a collection of curios or relics.

Collectors Wishing To Obtain a Determination

Collectors wishing to obtain a determination whether a particular firearm qualifies for classification as a curio or relic in accordance with 27 CFR 178.11, 178.26 or 179.11, should submit a written request for a ruling. The letter should include:

- o A complete physical description of the item;
- o Reasons the collector believes the item merits the classification;
- o Data concerning the history of the item, including production figures, if available, and market value.

In some cases, actual submission of the firearm may be required prior to a determination being made. Please submit your request to:

Bureau of Alcohol, Tobacco and Firearms
Firearms Technology Branch, Room 2208
1200 Pennsylvania Avenue, NW
Washington, DC 20226

NOTE: THE FOLLOWING LIST OF CURIOS OR RELICS IS NOT ALL INCLUSIVE.

* * * * * * *

SEC. I

AMMUNITION CLASSIFIED AS CURIOS OR RELICS

Prior to August 1986, the following ammunition was classified curios or relics. (Those with lengthy descriptions are at the bottom of their respective category.)

1. FOREIGN MILITARY RIFLE CARTRIDGES

.557 x 450 cal. Martini Henry
6.5 x 54Rmm Mannlicher (Dutch and Rumanian)
6.5 x 55mm Swedish Mauser
7.62 x 54Rmm Russian
8 x 60mm Guedes M85 Portuguese
8 x 50Rmm Austrian Mannlicher
8 x 53mm Japanese Murata
10.15 x 63mm Serbian Mauser
10.4 x 38Rmm Swiss Vetterli M69/81
10.75 x 58mm Russian Berdan
11 x 59mm French Gras
11 x 53mm Belgian Comblain M71
11.15 x 60Rmm (.43) Mauser
11.15 x 58mm Austrian Werndl M77
11.4 x 50mm Austrian Werndl M73
11:43 x 50mm (.43) Egyptian Remington
11.5 x 57mm (.43) Spanish Reformado
12.11 x 44mm Remington M67 (Norway & Sweden)
6.5 x 52mm Italian (Mannlicher-Carcano)
6.5 x 58mm Portuguese Vergueiro
7.5 x 54mm Swiss Schmidt-Rubin
7.65mm Argentine Navy Match
8 x 58Rmm Danish Krag
8 x 50Rmm Lebel
9.5 x 60mm Turkish Mauser
10.15 x 61mm Jarman
10.4 x 47Rmm Italian Vetterli M70
11 x 52mm Netherlands Beaumont M71/78
11 x 60 Japanese Murata
11 x 50mm Belgian Albini M67/72
11.15 x 58mm (.43) Spanish Remington
11.3 x 50mm Beaumont M71
11.4 x 50mm Brazilian Comblain M74
11.43 x 55mm Turkish
11.7 x 51mm Danish Remington

7.92mm anti-tank cartridge for the German PzB 38, PzB 39, & Gr 39 anti-tank rifle.
7.92mm Kurz (7.92 x 33mm), as originally produced prior to 1946.
7.92mm anti-tank cartridge for the Polish (Marosczek) anti-tank rifle described as a cal. 7.92mm, Gr 39 Granatbuchse.
8 x 52Rmm Siamese Mauser, manufactured in Japan, for the Government of Siam.
8 x 56Rmm Portuguese Kropacheck, mftrd. in Austria, for the Gov't. of Portugal.

(3) whether there will be a cooperative project and the scope thereof; and

(4) whether there will be delivery or other performance under the sale, lease, cooperative project, or export,

to the end that sales, financing, leases, cooperative projects, and exports will be integrated with other United States activities and to the end that the foreign policy of the United States would be best served thereby.

(c) The President shall prescribe appropriate procedures to assure coordination among representatives of the United States Government in each country, under the leadership of the Chief of the United States Diplomatic Mission. The Chief of the diplomatic mission shall make sure that recommendations of such representatives pertaining to sales are coordinated with political and economic considerations, and his comments shall accompany such recommendations if he so desires.

Sec. 3.[9] **Eligibility.**—(a) No defense article or defense service shall be sold or leased [10] by the United States Government under this Act to any country or international organization,[11] and no agreement shall be entered into for a cooperative project (as defined in section 27 of this Act), unless—

(1) the President finds that the furnishing of defense articles and defense services to such country or international organization will strengthen the security of the United States and promote world peace;

(2) the country or international organization shall have agreed not to transfer title to, or possession of, any defense article or related training or other defense service [12] so furnished to it, or produced in a cooperative project (as defined in section 27 of this Act),[13] to anyone not an officer, employee, or agent of that country or international organization (or the North Atlantic Treaty Organization or the specific member countries (other than the United States) in the case of a cooperative

[9] 22 U.S.C. 2753. Sec. 906 of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3356) provided the following:

"SEC. 906. ELIGIBILITY OF BALTIC STATES FOR NONLETHAL DEFENSE ARTICLES.

"(a) ELIGIBILITY.—Estonia, Latvia, and Lithuania shall each be eligible—

"(1) to purchase, or to receive financing for the purchase of, nonlethal defense articles—

"(A) under the Arms Export Control Act (22 U.S.C. 2751 et seq.), without regard to section 3(a)(1) of that Act, or

"(B) under section 503 of the Foreign Assistance Act of 1961 (22 U.S.C. 2311), without regard to the requirement in subsection (a) of that section for a Presidential finding; and

"(2) to receive nonlethal excess defense articles transferred under section 519 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321m), without regard to the restrictions in subsection (a) of that section.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'defense article' has the same meaning given to that term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)); and

"(2) the term 'excess defense article' has the same meaning given to that term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)).".

[10] The words "or leased" were added by sec. 109(b)(2)(A) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1526).

[11] The words "and no agreement * * * of this Act)", were added by sec. 115(b)(2)(A) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83; 99 Stat. 201).

[12] Sec. 203(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 735) added the words "or related training or other defense service".

[13] Sec. 115(b)(2)(B)(i) of Public Law 99-83 (99 Stat. 201), added the words "or produced * * * of this Act".

project) [14] and not to use or permit the use of such article or related training or other defense service [12] for purposes other than those for which furnished [15] unless the consent of the President has first been obtained;

(3) [16] the country or international organization shall have agreed that it will maintain the security of such article or service [17] and will provide substantially the same degree of security protection afforded to such article or service [17] by the United States Government; and

(4) [16] the country or international organization is otherwise eligible to purchase or lease [18] defense articles or defense services.

In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under paragraph (2) to the transfer unless the United States itself would transfer the defense article under consideration to that country.[19] In addition, the President shall not give his consent under paragraph (2) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.[20] The President shall promptly submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate on the implementation of each agreement entered into pursuant to clause (2) of this subsection.

(b) [21] * * * [Repealed—1977]

(c)(1)(A) [22] No credits (including participations in credits) may be issued and no guaranties may be extended for any foreign country

[14] Sec. 115(b)(2)(B)(ii) of Public Law 99-83 (99 Stat. 201), added the words "(or the North Atlantic Treaty Organization or the specific member countries (other than the United States) in the case of a cooperative project)".

[15] Sec. 25(2) of the FA Act of 1973 struck out "and" at the end of par. (2) and added the words to this point beginning with "and not to use or permit".

[16] Sec. 25(2)(B) of the FA Act of 1973 added par. (3) and redesignated former par. (3) as par. (4).

[17] The words "or service" were added by sec. 115(b)(2)(c) of Public Law 99-83 (99 Stat. 201). Sec. 1102(3)(C) of Public Law 99-145 (99 Stat. 710) made this same amendment.

[18] The words "or lease" were added by sec. 109(b)(2)(B) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1526).

[19] Sec. 204(b)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 736) amended sec. 3 by striking out the following language after "country": ", and prior to the date he intends to give his consent to the transfer, the President notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended consent, the justification for giving such consent, the defense article for which he intends to give his consent to be so transferred, and the foreign country to which that defense article is to be transferred".

[20] The words to this point, beginning with "In considering a request for approval" were added by sec. 25(2)(C) of the FA Act of 1973.

[21] Subsec. (b), as amended by sec. 1 of Public Law 91-71, was repealed by sec. 15 of the International Security Assistance Act of 1977 (Public Law 95-92; 91 Stat. 622). It had concerned U.S. military assistance to a country which had seized an American fishing vessel outside a 12-mile limit.

[22] Sec. 304(b)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 754) amended subsec. (c), which formerly read as follows:

Continued

under this Act as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, or any predecessor Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (i) by using such articles or services for a purpose not authorized under section 4 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 4 for a purpose not authorized under such agreement; (ii) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (iii) by failing to maintain the security of such articles or services.

(B) No cash sales or deliveries pursuant to previous sales may be made with respect to any foreign country under this Act as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, or any predecessor Act, in substantial violation (either in terms of quantity or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act by using such articles or services for a purpose not authorized under section 4 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 4, for a purpose not authorized under such agreement.

(2) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

(3)(A) A country shall be deemed to be ineligible under subparagraph (A) of paragraph (1) of this subsection, or both subparagraphs (A) and (B) of such paragraph in the case of a violation described in both such paragraphs, if the President so determines and so reports in writing to the Congress, or if the Congress so determines by joint resolution.

(B) Notwithstanding a determination by the President of ineligibility under subparagraph (B) of paragraph (1) of this subsection, cash sales and deliveries pursuant to previous sales may be made if the President certifies in writing to the Congress that a termination thereof would have significant adverse impact on United States security, unless the Congress adopts or has adopted a joint resolution pursuant to subparagraph (A) of this paragraph with respect to such ineligibility.

(4) A country shall remain ineligible in accordance with paragraph (1) of this subsection until such time as—

(A) the President determines that the violation has ceased; and

(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

"(c) Except as otherwise provided in subsection (d), any foreign country which hereafter uses defense articles or defense services furnished such country under this Act, in substantial violation of any provision of this Act or any agreement entered into under this Act, shall be immediately ineligible for further cash sales, credits, or guarantees.".

(d)[23] (1)[24] The President may not give his consent under par graph (2) of subsection (a) or under the third sentence of such sul section, or under section 505(a)(1) or 505(a)(4) of the Foreign Assis ance Act of 1961, to a transfer of any major defense equipmen valued (in terms of its original acquisition cost) at $14,000,000 o more, or any defense article or related training or other defens service valued (in terms of its original acquisition cost) a $50,000,000 or more,[25] unless[26] the President submits to th Speaker of the House of Representatives and the Committee o Foreign Relations of the Senate a written certification with respec to such proposed transfer containing—

(A)[24] the name of the country or international organizatio proposing to make such transfer,

(B)[24, 27] a description of the article or service proposed to b transferred, including its acquisition cost,

(C)[24] the name of the proposed recipient of such article o service,[28]

(D)[24] the reasons for such proposed transfer, and

(E)[24] the date on which such transfer is proposed to b made.

Any certification submitted to Congress pursuant to this paragrapl shall be unclassified, except that information regarding the dolla value and number of articles or services[28] proposed to be transferred may be classified if public disclosure thereof would be clearly detrimental to the security of the United States.

(2)[24] (A) Except as provided in subparagraph (B),[29] unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States,

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[23] Sec. 204(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 735) added subsecs. (e) and (f). Sec. 304(b)(2) of the same Act repealed subsec. (d) and redesignated subsecs. (e) and (f) as (d) and (e). Previously, subsec. (d) read as follows:

"(d) A country shall remain ineligible in accordance with subsection (c) of this section until such time as the President determines that such violation has ceased, that the country concerned has given assurances satisfactory to the President that such violation will not recur, and that, if such violation involved the transfer of sophisticated weapons without the consent of the President, such weapons have been returned to the country concerned.".

[24] Sec. 16 of the International Security Assistance Act of 1977 (Public Law 95-92; 91 Stat. 622) added the designation "(1)", redesignated former pars. (1) through (5) as subpars. (A) through (E), and added a new par. (2).

[25] The words to this point beginning with "or under section 505(a)(1) * * *" were inserted in lieu of similar text by sec. 101(a)(1)(A) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1519). Previously, the President was required to submit a certification to Congress on all transfers of these items regardless of their value.

[26] The words ", 30 days prior to giving such consent.", which previously appeared at this point were struck out by sec. 16(1) of the International Security Assistance Act of 1977 (Public Law 95-92; 91 Stat. 622).

[27] Subpar. (B) was amended and restated by sec. 101(a)(1)(B) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1519). It formerly read as follows:

"(B) a description of the defense article or related training or other defense service proposed to be transferred, including the original acquisition cost of such defense article or related training or other defense service".

[28] The words "defense" and "related training or other defense", which formerly appeared before the words "article" and "service", respectively, were deleted by sec. 101(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1519).

[29] Sec. 102(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1520) inserted the subpar. (A) designation, added the words to this point in subpar. (A), and added a new subpar. (B).

such consent shall not become effective until 30 calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact,[30] within such 30-day period, a joint resolution, as provided for in sections 36(b)(2) and 36(b)(3) of this Act [31] prohibiting the proposed transfer.

(B) [29] In the case of a proposed transfer to the North Atlantic Treaty Organization, or any member country of such Organization, Japan, Australia, or New Zealand, unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until fifteen calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact,[30] within such fifteen-day period, a law prohibiting the proposed transfer.

(3) [32] The President may not give his consent to the transfer of any major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more, or of any defense article or defense service valued (in terms of its original acquisition cost) at $50,000,000 or more, the export of which has been licensed or approved under section 38 of this Act,[33] unless at least 30 calendar days before giving such consent the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report containing the information specified in subparagraphs (A) through (E) of paragraph (1). Such consent shall become effective then only if the Congress does not enact, within a 30-day period, a joint resolution, as provided for in sections 36(c)(2) and 36(c)(3) of this Act prohibiting the proposed transfer.[34]

(4) [32] This subsection shall not apply—

(A) to transfers of maintenance, repair, or overhaul defense services, or of the repair parts or other defense articles used in furnishing such services, if the transfer will not result in any increase, relative to the original specifications, in the military capability of the defense articles and services to be maintained, repaired, or overhauled;

(B) to temporary transfers of defense articles for the sole purpose of receiving maintenance, repair, or overhaul; or

[30] Public Law 99-247 (100 Stat. 9) replaced the language "adopt * * * concurrent resolution disapproving" with the current text.

[31] Sec. 577 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461; 102 Stat. 2268-45), added text to this point beginning with "joint resolution", in lieu of "law".

[32] Sec. 101(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533; 94 Stat. 3131) redesignated existing par. (3) as par. (4) and added this new par. (3). Par. (4) was originally added as par. (3) by sec. 17 of the International Security Assistance Act of 1977 (Public Law 95-92; 91 Stat. 622).

[33] The value of the items listed in this sentence was increased from $7,000,000 and $25,000,000 to $14,000,000 and $50,000,000, respectively, by sec. 101(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1519).

[34] The last sentence was added by sec. 577 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461; 102 Stat. 2268-45).

(C) [35] to arrangements among members of the North Atlantic Treaty Organization or between the North Atlantic Treaty Organization and any of its member countries—

(i) for cooperative cross servicing, or

(ii) for lead-nation procurement if the certification transmitted to the Congress pursuant to section 36(b) of this Act with regard to such lead-nation procurement identified the transferees on whose behalf the lead-nation procurement was proposed.

(D) [36] * * * [Repealed—1981]

(e) [23] If the President receives any information that a transfer of any defense article, or related training or other defense service, has been made without his consent as required under this section or under section 505 of the Foreign Assistance Act of 1961, he shall report such information immediately to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

(f) [37] * * * [Repealed—1989]

Sec. 4.[38] **Purposes for Which Military Sales by the United States Are Authorized.**—Defense articles and defense services shall be sold or leased [39] by the United States Government under this Act to friendly countries solely for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of enabling foreign military forces in less developed friendly countries to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries. It is the sense of the Congress that such foreign military forces should not

[35] Subpar. (C) was amended and restated by sec. 11 of the International Security Assistance Act of 1979 (Public Law 96-92; 93 Stat. 705). It formerly read as follows:

"(C) to cooperative cross servicing arrangements among members of the North Atlantic Treaty Organization.".

[36] Subpar. (D), as added by sec. 101(b) of Public Law 96-536 (94 Stat. 3131), was repealed by sec. 101(a)(3)(C) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1520). Subpar. (D) had stipulated that subsec. (d) would not apply to transfers to NATO, member countries of NATO, Japan, Australia, or New Zealand of major defense equipment valued at less than $7,000,000 or defense articles or related training or other defense service valued at less than $25,000,000.

[37] Sec. 2(b) of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101-222; 103 Stat. 1896) repealed sec. 3(f). Added by sec. 18 of the International Security Assistance Act of 1977 (Public Law 95-92; 91 Stat. 622), sec. 3(f) formerly read as follows:

"(f)(1) Unless the President finds that the national security requires otherwise, he shall terminate all sales, under this Act to any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism. The President may not thereafter make or extend sales, to such government until the end of the one year period beginning on the date of such termination, except that if during its period of ineligibility for sales, pursuant to this section such government aids or abets, by granting sanctuary from prosecution to, any other individual or group which has committed an act of international terrorism, such government's period of ineligibility shall be extended for an additional year for each such individual or group.

"(2) If the President finds that the national security justifies a continuation of sales to any government described in paragraph (1), he shall report such finding to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.".

[38] 22 U.S.C. 2754.

[39] The words "or leased" were added by sec. 109(b)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1526).

chapter $805,100,000 for the fiscal year 1986 and $805,100,000 for the fiscal year 1987.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

(b) In order to make sure that a dollar spent on military assistance to foreign countries is as necessary as a dollar spent for the United States military establishment, the President shall establish procedures for programing and budgeting so that programs of military assistance come into direct competition for financial support with other activities and programs of the Department of Defense.

Sec. 505.[495] **Conditions of Eligibility.**—(a) In addition to such other provisions as the President may require, no defense articles or related training or other defense service[496] shall be furnished to any country on a grant basis unless it shall have agreed that—

(1) it will not, without the consent of the President—

(A) permit any use of such articles or related training or other defense service[496] by anyone not an officer, employee, or agent of that country,

(B) transfer, or permit any officer, employee, or agent of that country to transfer such articles or related training or other defense service[496] by gift, sale, or otherwise, or

(C) use or permit the use of such articles or related training or other defense service[496] for purposes other than those for which furnished;

(2) it will maintain the security of such articles or related training or other defense service,[496] and will provide substantially the same degree of security protection afforded to such articles or related training or other defense service[496] by the United States Government;

(3) it will, as the President may require, permit continuous observation and review by, and furnish necessary information to, representatives of the United States Government with regard to the use of such articles or related training or other defense service;[496] and

(4) unless the President consents to other disposition, it will return to the United States Government for such use or disposition as the President considers in the best interests of the United States, such articles or related training or other defense service[496] which are no longer needed for the purposes for which furnished.

(b) No defense articles shall be furnished on a grant basis to any country at a cost in excess of $3,000,000 in any fiscal year unless the President determines—

(1) that such country conforms to the purposes and principles of the Charter of the United Nations;

(2) that such defense articles will be utilized by such country for the maintenance of its own defensive strength, or[497] the defensive strength of the free world;

[495] 22 U.S.C. 2314. Former sec. 506 was redesignated sec. 505 by sec. 201(e) of the FA Act of 1967.

[496] Sec. 203(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 735) added "or related training or other defense service".

[497] Sec. 201(b) of the FA Act of 1971 substituted "or" in lieu of "and".

(3) that such country is taking all reasonable measures, consistent with its political and economic stability, which may be needed to develop its defense capacities; and

(4) that the increased ability of such country to defend itself is important to the security of the United States.

(c)[498] The President shall regularly reduce and, with such deliberate speed as orderly procedure and other relevant considerations, including prior commitments, will permit, shall terminate all further grants of military equipment and supplies to any country having sufficient wealth to enable it, in the judgment of the President, to maintain and equip its own military forces at adequate strength, without undue burden to its economy.

(d)[498, 499] (1) Assistance and deliveries of assistance under this chapter to any country shall be terminated as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, the Mutual Security Act of 1954,[500] or any predecessor Foreign Assistance Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (A) by using such articles or services for a purpose not authorized under section 502 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 502, for a purpose not authorized under such agreement; (B) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (C) by failing to maintain the security of such articles or services.

(2)(A) Assistance and deliveries of assistance shall be terminated pursuant to paragraph (1) of this subsection if the President so determines and so states in writing to the Congress, or if the Congress so finds by joint resolution.

(B) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

(3) Assistance to a country shall remain terminated in accordance with paragraph (1) of this subsection until such time as—

(A) the President determines that the violation has ceased; and

(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

(4) The authority contained in section 614(a) of this Act may not be used to waive the provisions of this section with respect to further assistance under this chapter.

[498] Subsecs. (c) and (d) were added by sec. 201(a) of the FA Act of 1962.

[499] Sec. 304(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 751) amended subsec. (d) which formerly read as follows:

"(d) Any country which hereafter uses defense articles or defense services furnished such country under this Act, the Mutual Security Act of 1954, as amended, or any predecessor foreign assistance Act, in substantial violation of the provisions of this chapter or any agreements entered into pursuant to any of such Acts shall be immediately ineligible for further assistance.".

[500] For text, see page 981.

(e)[501] In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under subsection (a)(1) or (a)(4) to the transfer unless the United States itself would transfer the defense article under consideration to that country.[502] In addition, the President shall not give his consent under subsection (a)(1) or (a)(4) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.

(f)[501] Effective July 1, 1974, no defense article shall be furnished to any country on a grant basis unless such country shall have agreed that the net proceeds of sale received by such country in disposing of any weapon, weapons system, munition, aircraft, military boat, military vessel, or other implement of war received under this chapter will be paid to the United States Government and shall be available to pay all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.[503] In the case of items which were delivered prior to 1985,[504] the President may waive the requirement that such net proceeds be paid to the United States Government if he determines that to do so is in the national interest of the United States.[505]

(g)[506] (1) It is the policy of the United States that no assistance under this chapter should be furnished to any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) from participating in the furnishing of defense articles or defense services under this chapter on the basis of race, religion, national origin, or sex.

(2)(A) No agency performing functions under this chapter shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(B) Each contract entered into by any such agency for the performance of any function under this chapter shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(3) The President shall promptly transmit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate concerning any transaction in which any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the furnishing of assistance under this chapter, or education and training under chapter 5, to any foreign country. Such reports shall include (A) a description of the facts and circumstances of any such discrimination, (B) the response thereto on the part of the United States or any agency or employee thereof, and (C) the result of such response, if any.

(4)(A) Upon the request of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, the President shall, within 60 days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State for Human Rights and Humanitarian Affairs,[507] with respect to the country designated in such request, setting forth—

(i) all the available information about the exclusionary policies or practices of the government of such country when such policies or practices are based upon race, religion, national origin, or sex, and prevent any such person from participating in a transaction involving the furnishing of any assistance under this chapter or any education and training under chapter 5;

(ii) the response of the United States thereto and the results of such response;

(iii) whether, in the opinion of the President, notwithstanding any such policies or practices—

(I) extraordinary circumstances exist which necessitate a continuation of such assistance or education and training transaction, and, if so, a description of such circumstances and the extent to which such assistance or education and training transaction should be continued (subject to such conditions as Congress may impose under this section), and

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[501] Former subsec. (e), which related to conditions of eligibility, was repealed by Public Law 92-226. New subsecs. (e) and (f) were added by sec. 12(3) of the FA Act of 1973.

[502] Sec. 204(b)(2) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 735) amended sec. 505(e) by striking out the following words after "country": ", and prior to the date he intends to give his consent to the transfer, the President notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each intended consent, the justification for giving such consent, the defense article for which he intends to give his consent to be so transferred, and the foreign country to which that defense article is to be transferred".

[503] For text, see *Legislation on Foreign Relations Through 1992*, vol. II, sec. E.

[504] Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1998), struck out "1975" and inserted in lieu thereof "1985".

[505] The last sentence of par. (f) was added by sec. 123(b) of the International Security Cooperation and Development Act of 1985 (Public Law 99-83; 99 Stat. 205).

[506] Subsec. (g) was added by sec. 302(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 751).

[507] Sec. 109(a)(4) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105; 91 Stat. 846) inserted the title designation of Assistant Secretary of State in lieu of Coordinator.

(II) on all the facts it is in the national interest of the United States to continue such assistance or education and training transaction; and

(iv) such other information as such committee may request.

(B) In the event a statement with respect to an assistance or training transaction is requested pursuant to subparagraph (A) of this paragraph but is not transmitted in accordance therewith within 60 days after receipt of such request, such assistance or training transaction shall be suspended unless and until such statement is transmitted.

(C)(i) In the event a statement with respect to an assistance or training transaction is transmitted under subparagraph (A) of this paragraph, the Congress may at any time thereafter adopt a joint resolution terminating or restricting such assistance or training transaction.

(ii) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.[508]

(iii) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under subparagraph (A) of this paragraph.

Sec. 506.[509] **Special Authority.**—(a)[510] (1)[511] If the President determines and reports to the Congress in accordance with section 652 of this Act that—

(A)[511] an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization; and

(B)[511] the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except this section;

he may direct, for the purposes of this part, the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value of not to exceed $75,000,000 in any fiscal year.[512]

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[508] For text, see page 546.

[509] 22 U.S.C. 2318. Former sec. 510 was redesignated sec. 506 by sec. 201(j)(1) of the FA Act of 1967. Sec. 506, as amended by sec. 102 of Public Law 94-329, was further amended and restated by sec. 5(b) of the International Security Assistance Act of 1979 (Public Law 96-92; 93 Stat. 702).

[510] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102-391; 106 Stat. 1672), provided the following:

"DEFENSE EQUIPMENT DRAWDOWN

"SEC. 545. (a) Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided*, That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

"(b) Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.".

[511] Sec. 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1236), inserted the designation "(1)" here, redesignated "(1)" and "(2)" as "(A)" and "(B)", and inserted a new "(2)(A)" and "(B)".

[512] The aggregate value of this special authority was increased from $10 million to $50 million by sec. 112(d) of the International Security and Development Cooperation Act of 1980 (Public

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(2)(A)[511, 513] If the President determines and reports to the Congress in accordance with section 652 of this Act that it is in the national interest of the United States to draw down defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, he may direct—

(i) the drawdown of such articles, services, and the provision of such training for the purposes and under the authorities of chapters 8 and 9 of part I, as the case may be; and

(ii) the drawdown of defense services for the purposes and under the authorities of the Migration and Refugee Assistance Act of 1962.

(B) An aggregate value of not to exceed $75,000,000 in any fiscal year of defense articles, defense services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph.

(b)(1) The authority contained in this section shall be effective for any such emergency only upon prior notification to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Appropriations of each House of Congress.

(2) The President shall keep the Congress fully and currently informed of all defense articles, defense services, and military education and training provided under this section.

(c) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section.

Law 96-533; 94 Stat. 3139). It was subsequently increased from $50 million to $75 million by sec. 110(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97-118; 95 Stat. 1526).

[513] In a determination of February 26, 1992, directed to the Secretaries of State and Defense, the President stated, pursuant to sec. 506(a)(2), "that it is in the national interest of the United States to draw down defense articles from the stocks of the Department of Defense and defense services of the Department of Defense for the purpose of the providing counternarcotics assistance to Mexico.

"Therefore, I hereby direct the drawdown of up to $26 million of such defense articles from the stocks of the Department of Defense and defense services of the Department of Defense for the purposes and under the authorities of Chapter 8 of Part I of the [Foreign Assistance] Act [of 1961]." (Presidential Determination 92-17 of February 26, 1992, 57 F.R. 8569).

In a determination of September 30, 1992, directed to the Secretaries of State and Defense, the President stated, pursuant to sec. 506(a)(2), "that it is in the national interest of the United States to drawdown defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training for the purpose of providing counternarcotics assistance to Colombia.

"Therefore, I hereby direct the drawdown of up to $7 million of such defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training for the purposes and under the authorities of Chapter 8 of Part I of the [Foreign Assistance] Act [of 1961]." (Presidential Determination 92-48 of September 30, 1992; 57 F.R. 46747).

In a determination of September 30, 1992, directed to the Secretaries of State and Defense, the President stated, pursuant to sec. 506(a)(2), "that it is in the national interest of the United States to drawdown defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, for the purpose of the providing international disaster assistance in Pakistan.

"Therefore, I hereby authorize the furnishing of up to $5 million of such defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, for the purposes and under the authorities of Chapter 9 of Part I of the [Foreign Assistance] Act [of 1961]." (Presidential Determination 92-49 of September 30, 1992; 57 F.R. 46749).

section 23, amounts received from the disposition of instruments evidencing indebtedness under section 24(b) (excluding such portion of the sales proceeds as may be required at the time of disposition to be obligated as a reserve for payment of claims under guaranties issued pursuant to section 24(b), which sums are made available for such obligations),[150] and other collections (including fees and interest) shall be transferred to the miscellaneous receipts of the Treasury.

(c)[151] 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.[152] Control of Arms Exports and Imports.—(a)(1) In furtherance of world peace and the security and foreign policy of the

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[150] The words to this point beginning with "under section 24(b) (excluding" were added by sec. 25(11) of the FA Act of 1973.

[151] 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).

[152] 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.

See also title IV, secs. 401-405, of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 718-722), relating to arms transfers restraint policy for the Middle East and Persian Gulf region.

See also in the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2561): sec. 1365, relating to landmine export moratorium; title XV—Weapons of Mass Destruction Control Act of 1992; and title XVI—Iran-Iraq Arms Non-Proliferation Act of 1992. As a result of sec. 1365 of that Act, the Department of State gave notice to the following:

"Notice is hereby given that all licenses, approvals, sales or transfers of landmines specifically designed for antipersonnel use, regardless of method of delivery, are suspended until further notice. Additionally, all existing authorizations for the sale, export, or transfer of such defense articles are revoked until further notice. This action has been taken pursuant to sections 2, 38 and 42 of the Arms Export Control Act, and section 1365 of the National Defense Authorization Act for Fiscal Year 1993." (Public Notice 1727 of November 25, 1992; 57 F.R. 55614).

Licenses and approvals to export or otherwise transfer defense articles and defense services to the following countries or foreign entities are suspended or restricted:

Iraq (August 2, 1990; Department of State Public Notice 1238; 55 F.R. 31808); Yugoslavia (effective July 11, 1991 Department of State Public Notice 1427; 56 F.R. 33322; July 19, 1991); Haiti—including those for use by the police (effective October 3, 1991; Department of State Public Notice 1496; 56 F.R. 50968; October 9, 1991); A. Rosenthal (Pty) Ltd, of Namibia and South Africa, and certain employees (April 3, 1992; Department of State Public Notice 1607; 57 F.R. 13152; April 15, 1992); Sudan (effective October 8, 1992; Department of State Public Notice 1711; 57 F.R. 49741; November 3, 1992); Yemen (effective November 16, 1992; Department of State Public Notice 1734; 57 F.R. 59852; December 16, 1992); the armed forces on Cyprus (except to the United Nations Forces in Cyprus) (effective November 18, 1992; Department of State Public Notice 1738; 57 F.R. 60265; December 18, 1992); Somalia (effective December 16, 1992; Department of State Public Notice 1736; 57 F.R. 59851; December 16, 1992); Liberia (other than for the peacekeeping forces of ECOWAS) (effective December 18, 1992; Department of State Public Notice 1737; 57 F.R. 60265; December 18, 1992).

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102-391; 106 Stat. 1666 and 1676) provided the following:

"NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

"Sec. 531. (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

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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,[153] increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.

(3)[154] In exercising the authorities conferred by this section, the President may require that any defense article or defense service be sold under this Act 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)(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) 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 for local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this Act or any other foreign assistance or

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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.

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"TURKISH AND GREEK MILITARY FORCES ON CYPRUS

"Sec. 557. 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.".

[153] 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.

[154] Par. (3) was added by sec. 107(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3136).

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) [155] 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.

(B) [155] 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 Act 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, United States Code (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.

(2) Except as otherwise specifically provided in regulations issued under subsection (a)(1), no defense articles or defense services designated by the President under subsection (a)(1) may be exported or imported without a license for such export or import, issued in accordance with this Act and regulations issued under this Act, 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) [156] (A) For each of the fiscal years 1988 and 1989, $250,000 in 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) Any person who willfully violates any provision of this section or section 39, 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,[157] or imprisoned not more than ten years, or both.

(d) [158] * * * [Repealed—1979]

(e) 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, and by subsections (a) and (c) of section 12 of such Act,[159] subject to the same terms and conditions as are applicable to such powers under such Act. 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, 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.[160]

(f) [161] 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.[162]

[155] The first subparagraph (B) was added by sec. 1255(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1431). The second subparagraph (B), which should probably have been designated subpar. (C) was added by sec. 8142(a) of the Department of Defense Appropriations Act, 1988 (sec. 101(b) of the Continuing Appropriations for 1988, Public Law 100–202; 101 Stat. 1329–88).

[156] Par. (3) was added by sec. 1255(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1431). The original par. (3), as amended by sec. of Public Law 96–92 (93 Stat. 710) and sec. 107(a) of Public Law 96–533 (94 Stat. 3136), was repealed by sec. 106 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1522). Par. (3) had stipulated that no license could be issued under this Act for the export of any major defense equipment sold under contract in the amount of $100,000,000 or more (exceptions were provided for NATO members, Australia, Japan, New Zealand, countries participating in co-production arrangements).

[157] Sec. 119(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 203) raised the amount of the fine to $1,000,000; added the limitation "for each violation"; and raised the period of imprisonment from two to ten years. Previously the fine was "not more than $100,000".

[158] Subsec. (d), which specified that sec. 38 would apply to and within the Canal Zone, was repealed by sec. 3303(a)(4) of the Panama Canal Act of 1979 (Public Law 96–70; 93 Stat. 499).

[159] These references to various sections of the Export Administration Act of 1979 were inserted in lieu of a series of references to secs. 6 and 7 of the Export Administration Act of 1969 (which expired on September 30, 1979), by sec. 22(a) of Public Law 96–72 (93 Stat. 535).

[160] The last sentence was added by sec. 119(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 204).

[161] Subsec. (f) was added by sec. 107 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1522).

[162] For text of Export Administration Act, see *Legislation on Foreign Relations Through 1992*, vol. III, sec. J.

(g)[163] (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, United States Code (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. 78dd1) or section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd2),

(vii) chapter 105 of title 18, United States Code (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, United States Code, 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—

[163] Subsec. (g) was added by sec. 1255 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1429).

(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, 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) [164] The designation by the President (or by an official to whom the President's functions under subsection (a) 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.

Sec. 39.[165] Fees of Military Sales Agents and Other Payments.—(a) In accordance with such regulations as he may prescribe, the Secretary of State shall require adequate and timely reporting on political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with—

(1) sales of defense articles or defense services under section 22, or of design and construction services under section 29 [166] of this Act; or

(2) commercial sales of defense articles or defense services licensed or approved under section 38 of this Act;

to or for the armed forces of a foreign country or international organization in order to solicit, promote, or otherwise to secure the conclusion of such sales. Such regulations shall specify the amounts and the kinds of payments, offers, and agreements to be reported, and the form and timing of reports, and shall require reports on the names of sales agents and other persons receiving such payments. The Secretary of State shall by regulation require such recordkeeping as he determines is necessary.

(b) The President may, by regulation, prohibit, limit, or prescribe conditions with respect to such contributions, gifts, commissions, and fees as he determines will be in furtherance of the purposes of this Act.

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[164] Sec. 6 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101-222; 103 Stat. 1899) added subsec. (h).

[165] 22 U.S.C. 2779. Sec. 39 was added by sec. 604(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 767). Sec. 604(c) of the same Act stated that this amendment "shall take effect sixty days after the date of enactment of this Act" (August 29, 1976).

[166] The reference to design and construction services under sec. 29 was added by sec. 105(e)(2)(A) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533; 94 Stat. 3135).

(c) No such contribution, gift, commission, or fee may be included, in whole or in part, in the amount paid under any procurement contract entered into under section 22 or section 29 [167] of this Act, unless the amount thereof is reasonable, allocable to such contract, and not made to a person who has solicited, promoted, or otherwise secured such sale, or has held himself out as being able to do so, through improper influence. For the purposes of this section, "improper influence" means influence, direct or indirect, which induces or attempts to induce consideration or action by any employee or officer of a purchasing foreign government or international organization with respect to such purchase on any basis other than such consideration of merit as are involved in comparable United States procurements.

(d)(1) All information reported to the Secretary of State and all records maintained by any person pursuant to regulations prescribed under this section shall be available, upon request, to any standing committee of the Congress or any subcommittee thereof and to any agency of the United States Government authorized by law to have access to the books and records of the person required to submit reports or to maintain records under this section.

(2) Access by an agency of the United States Government to records maintained under this section shall be on the same terms and conditions which govern the access by such agency to the books and records of the person concerned.

Sec. 40.[168] Transactions With Countries Supporting Acts of International Terrorism.

(a) PROHIBITED TRANSACTIONS BY THE UNITED STATES GOVERNMENT.—The following transactions by the United States Government are prohibited:

(1) Exporting or otherwise providing (by sale, lease or loan, grant, or other means), directly or indirectly, any munitions item to a country described in subsection (d) under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)). In implementing this paragraph, the United States Government—

(A) shall suspend delivery to such country of any such item pursuant to any such transaction which has not been completed at the time the Secretary of State makes the determination described in subsection (d), and

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[167] The reference to sec. 29 was added by sec. 105(e)(2)(B) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533; 94 Stat. 3155).

[168] 22 U.S.C. 2780. See also 22 CFR Part 120-130. Sec. 40 was added by sec. 509(a) of Public Law 99-399 (100 Stat. 874). Sec. 40 was amended and restated by the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101-222; 103 Stat. 1892). It previously read as follows:

"Sec. 40. Exports to Countries Supporting Acts of International Terrorism.

"(a) PROHIBITION.—Except as provided in subsection (b), items on the United States Munitions List may not be exported to any country which the Secretary of State has determined, for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), has repeatedly provided support for acts of international terrorism.

"(b) WAIVER.—The President may waive the prohibition contained in subsection (a) in the case of a particular export if the President determines that the export is important to the national interests of the United States and submits to the Congress a report justifying that determination and describing the proposed export. Any such waiver shall expire at the end of 90 days after it is granted unless the Congress enacts a law extending the waiver.".

UNCLASSIFIED

FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL
ASIAN AFFAIRS DIRECTORATE
OEOB, ROOM 493

FROM: Bob Suettinger

PHONE: 395-6173

FAX: 395-1184

TO	PHONE	FAX
Jose Cedra		67028

NUMBER OF PAGES INCLUDING TRANSMITTAL SHEET:

REMARKS:

per our telecon.

UNCLASSIFIED

Draft Presidential Letter

Dear Congressman Markey:

Thank you for the letter that you and so many other Members of Congress signed expressing your concern about the importation of cheap semi-automatic weapons from China. This is indeed a deplorable situation and I share your commitment to stopping it. In fact, we have actually taken concrete steps.

On March 8, the Bureau of Alcohol, Tobacco and Firearms issued a recall of MAK-90 rifles, notifying the public that the weapon may violate standards of the Gun Control Act and National Firearms Act. Those who have purchased the weapons were advised to return them to the suppliers to ascertain whether they had AK-47 receivers or threaded muzzles. Hereinafter, such weapons will be subject to seizure and forfeiture and owners liable to criminal prosecution. All import permits for the MAK-90 have been suspended, and the U.S. Customs Service is making an effort to stop any shipments in transit from China.

We must step up and coordinate our efforts to control crime in this country. I know all of you share my commitment to this critical task. Your letter is proof of your sincerity, as I hope this one is of mine. I intend to follow up, both with our own regulatory agencies, and with the Chinese, to insure that this particular problem is solved. Thank you again for bringing it to my attention. I hope I can count on you to support other steps we are taking against crime.

Sincerely,

The Honorable Edward J. Markey
House of Representatives
Washington, D.C. 20515

GUN
SUPPORTS