Target America

Can the Flood of Foreign Assault Weapons be Stopped?

March 1998
The Violence Policy Center is a national non-profit educational organization that conducts research on violence in America and works to develop violence-reduction policies and proposals. The Center examines the role of firearms in America, conducts research on firearms violence, and works to reduce firearm-related death and injury.

For more information about this study please contact VPC Director of Federal Policy Kristen Rand at 202-822-8200 x102.

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Introduction

In 1989, Patrick Purdy—armed with an imported semiautomatic AK-47 assault rifle—opened fire in a Stockton, California schoolyard. Purdy killed five and wounded 29. Since then, two Administrations have grappled with how to keep foreign-made assault weapons out of the United States. Unfortunately, these efforts have met with little success.

This failure is primarily the result of profound flaws in the manner by which the federal Bureau of Alcohol, Tobacco and Firearms (ATF)\(^1\) has attempted to regulate the import of such weapons. The major shortcoming of ATF’s approach is the agency’s unwillingness to develop import criteria that treat assault weapons as a distinct class of firearm. Instead, the agency has relied on a gun-by-gun analysis which has allowed manufacturers to make slight cosmetic modifications that have little effect on the weapons’ lethality.

The effects of ATF’s short-sighted approach have been exacerbated by its practice of working with foreign manufacturers to circumvent the agency’s own import standards. In essence, ATF has supplied foreign manufacturers with a road map to beat the ban. The most common method used by foreign manufacturers to gain import approval for their weapons is to "sporterize"\(^2\) them.

This study offers a brief chronology of the renewed debate over the import of foreign-made "sporterized" semiautomatic assault rifles leading up to ATF’s decision regarding the import of these weapons. The study contains four sections.

- **Section One: The Debate Over Imported Assault Weapons** is a short narrative of the events leading to the ATF decision.

- **Section Two: Advertising and Catalog Photos** presents pictures of the specific firearms considered for import by ATF.

- **Section Three: Tracing Data** offers information on criminal traces for specific foreign-made assault weapons broken out by state for the years 1995 and 1996.

- **Section Four: Appendices** offers in chronological order a set of original source documents cited in Section One of the study.

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1. ATF is the government agency charged with enforcing federal firearms laws. The agency decides which firearms meet the standards for import.

2. "Sporterized" assault weapons incorporate minor cosmetic modifications in an effort to subvert restrictions on their manufacture and sale. For example, one common tactic is to substitute a "thumbhole" stock for a pistol grip. This slight modification changes the appearance of the firearm while maintaining the function of a pistol grip—allowing the gun to be easily fired from the hip.
Section One: The Debate Over Imported Assault Weapons

Reports of Rising Import Applications

In the summer of 1997, news outlets began reporting that the Bureau of Alcohol, Tobacco and Firearms was poised to once again allow the import of the Israeli-made UZI assault rifle. The rifle was to be imported by O. F. Mossberg & Sons. The pending approval of the UZI focused public and press attention on the fact that although foreign-made assault rifles such as the UZI, AK-47, and others were supposedly banned from import since 1989, ATF was allowing an increasing number of slightly modified ("sporterized") weapons into the country. In November 1997, the Los Angeles Times reported that ATF had expedited the approval of import permits for 150,000 foreign-made assault rifles and that permits for another 600,000 assault weapons were pending.3

Public concern intensified as it became clear that the UZI was only the tip of the iceberg. Members of Congress, led by Senator Dianne Feinstein (D-CA), began urging the Clinton Administration to use its executive powers to stop this most recent wave of assault weapons from coming into the country.

Presidential Reaction

Apparently recognizing that ATF’s lax import criteria was a clear and direct violation of long-standing Administration policy,4 President Clinton moved to counteract ATF’s actions. On November 14, 1997, the President issued a memorandum [please see Appendix One] to Secretary of the Treasury Robert Rubin ordering him to review within 120 days ATF’s interpretation and implementation of the "sporting purposes" test, the provision of The Gun Control Act of 1968 that governs the importability of most firearms.5 The memorandum instructed, "The results of this review will govern action on pending and future applications for import permits...." The President also ordered that all outstanding import permits be suspended.

3 The import permit process requires importers to submit an application that includes an explanation as to why the firearm is suitable for "sporting purposes." Approval by the director of ATF serves as a permit to import the firearm described in the application [27 C.F.R. § 178.112]. In practice, ATF often gives importers advice on ways to modify specific weapons to ensure importability.

4 The Clinton Administration has always opposed the manufacture, distribution, and sale of new assault weapons and supported passage of a ban on the domestic production of such weapons in 1994.

ATF's Initial Response: A Closed Process

On December 10, 1997, ATF Director John Magaw sent a letter and survey to hunting and shooting sports magazine editors as well as competitive shooting groups [please see Appendix Two for the version of the survey that was sent to competitive shooting groups]. The purpose of the letter and survey was to solicit their opinions as to whether specific guns with pending import applications were "particularly suitable for or readily adaptable to hunting or organized competitive target shooting" in accordance with the "sporting purposes" test of The Gun Control Act of 1968. The National Rifle Association (NRA) and some firearm manufacturers responded to this inquiry with a coordinated campaign to deluge ATF with comments urging that the weapons in question be approved for import.

ATF Modifies Its Position

On December 15, 1997, the Violence Policy Center (VPC) wrote to ATF Director Magaw [please see Appendix Three] protesting that the closed process by which ATF was conducting the "sporting purposes" test review was not in accordance with the instructions set forth in the November presidential memorandum. Joining the VPC in protest were Representatives Charles Schumer (D-NY), the ranking member of the House Judiciary Subcommittee on Crime, and Representative Carolyn McCarthy (D-NY). Representatives Schumer and McCarthy wrote to Secretary Rubin on December 16, 1997 [please see Appendix Four] urging that the review process be opened to public comment.

ATF responded to the VPC on December 17, 1997 with a letter [please see Appendix Five] inviting submission of information related to whether "semiautomatic rifles based on the AK-47, FN-FAL, HK91, HK93, SIG SG550-1, and UZI designs...are particularly suitable for or readily adaptable to hunting or organized competitive target shooting."

The NRA's Flawed Reasoning

On December 24, 1997, the NRA submitted its written comments to ATF [please see Appendix Six]. In its comments, the NRA insisted that the fact that a specific firearm could be used for target shooting, hunting, or even informal target shooting at tin cans (commonly known as "plinking") should suffice to imbue that gun with a "sporting purpose." Yet such an interpretation of the statutory standard is clearly at odds with the intent of Congress. During Senate consideration of the 1968 Gun Control Act, Senator Thomas Dodd (D-CT), one of the primary sponsors of the legislation, engaged in a colloquy with one of his Senate colleagues to clarify the

meaning of the "sporting purposes" test:

Mr. HANSEN. [T]he type of firearms used at Camp Perry [national target shooting match]...includes a wide variety of military types.... Would all of these firearms be classified as weapons constituting a "sporting purpose"?

Mr. DODD. No. I would not say so. I think when we get into that, we definitely get into a military type of weapon for use in matches like that at Camp Perry; but I do not think it is generally described as a sporting weapon. It is a military weapon. I assume they have certain types of competition in which they use military weapons as they would in an otherwise, completely sporting event. I do not think that fact would change the nature of the weapon from a military to a sporting one.

Mr. HANSEN. Is it not true that military weapons are used in Olympic competition also...?

Mr. DODD. Here again I would have to say that if a military weapon is used in a special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event....I do not know how else we could describe it.

Minutes after Senator Dodd completed these remarks, the Senate overwhelmingly rejected an amendment to change the "sporting purposes" test to "not peculiarly susceptible to criminal use for which there is an active market for sporting and other legitimate purposes." Such action makes clear that the intent of the "sporting purposes" test is to allow the import only of sporting firearms and not of military weapons that might be used in a sporting event.

**Lobbying by the NRA and the Gun Industry**

In addition to its submitted comments, the NRA redoubled its efforts to ensure that the voice of the pro-gun community would drown out that of those seeking to restrict the import of assault weapons. According to the NRA's March 1998 Grassfire newsletter, "That action [ATF's sending surveys to pro-gun control organizations] made it that much more important for BATF to receive responses from a variety of pro-gun individuals and organizations, and prompted NRA to convene a working group of firearms experts that prepared our reply to the BATF survey and helped individuals and groups respond as well."

Heckler and Koch, the manufacturer of the SR9 and PSG1 assault rifles, began an advertising campaign urging owners of such rifles to write to ATF about how they use their SR9s and PSG1s for hunting, target shooting, and "even informal plinking."

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7 According to the National Rifle Association, the "original BATF survey was mailed to only three pro- and three anti-gun groups, NRA-ILA learned that in an apparent effort to influence the outcome of this supposedly impartial study, the Clinton Administration had ordered BATF to send surveys to an additional 30 anti-gun organizations." [American Guardian, NRA Grassfire newsletter, March 1998.]
The company also urged gunowners to submit photographs as well as magazine and newspaper articles that would provide "supporting documentation concerning the sporting use" of the SR9 and PSG1 [please see Appendix Seven].

In a similar vein, importer Century Arms International posted a questionnaire on the Internet asking respondents to describe their uses for "AK-type semi-auto sporting rifles" and other assault rifles [please see Appendix Eight]. The questionnaire admonished, "[W]e must prove to them [ATF] that people do use...[these weapons]...for "sporting purposes," otherwise you know what will happen...! The bottom line is that we feel your response to this survey can make a difference in their decision in not banning this group of firearms and who knows which group next year?"

**The Position of the Violence Policy Center**

On January 9, 1998 the VPC responded to the ATF letter with correspondence [please see Appendix Nine] arguing that the gun-by-gun approach being taken by ATF was not in accordance with the instructions contained in the presidential memorandum and could not produce a rule that would effectively govern action on future applications. The VPC also laid out specific, substantive recommendations for the rule.

To date, the Bureau of Alcohol, Tobacco and Firearms' action on foreign-made assault weapons has better served the interests of foreign manufacturers and firearm importers than the American public. ATF now has the opportunity to abandon its failed gun-by-gun approach and develop a comprehensive rule that treats assault weapons as a specific class of firearm. Any solution short of a tightly crafted rule prohibiting the import of all firearms with an assault weapon configuration—including "sporterized" weapons—is, unfortunately, doomed to fail.
Section Two: Advertising and Catalog Photos
Century MAK 90

First Time Available GREAT BARGAIN

$199.95 3 or more $194.95
NHM 90 and NHM 91

**NHM-90 7.62X39 AK-SPORTER** - $189.95
17" BBL. STAMPED RCVR., INCLUDES A 5-RND MAG, CLEANING ROD, AND KIT NEW BOYD THUMBHOLE DARKWOOD STOCK

**NORINCO NHM-91**
7.62X39 21" BBL. WITH BI-POD STAMPED RCVR.
CLEANING KIT, SLING AND OILER BOTTLE. VERY ACCURATE.
MISR

Misr-90 Semi-Auto Rifle 7.62 x 39

Egyptian AK
Includes: Sling, Oiler, 5-Shot Mag.

199.95
SA-85 Hungarian AK-47
$269.95

No AK quality matches this gun. Purchase before all AK-47s are banned.
Bulgarian AK-47
SA-93 7.62x39

Laminated wooden stocks milled receiver with Steyer chrome lined barrel

This the the very last of the SA-93

5 or more $229.95
4 or less $239.95
L1A1 Sporter

Fal L1A1 Sporter Rifle 7.62 x 51 (.308 Win.)

New Black Synthetic Stock

Original Military Handguard • 20 Round Magazine

$359.95
The Springfield Armory SAR-4800 and SAR-8 are the ultimate in high-performance sporting rifles. Both are quality built, rugged semi-automatic firearms that will appeal to collectors, competitors and sportmen. Dependable and reliable under any conditions, the SAR-4800 and SAR-8 are among the very best values on the market.

SAR-4800

**Description:** SPR-4800 Sporter Rifle

**Caliber:** 7.62mm

**Barrel:** 21" 1/29 5/8 four- groove, 10.43 lbs., 38.25" long

**Sight:** Gas-operated, adjustable Rear: Adjustable

**Features:** The Springfield SAR-4800 rifle is an exact copy of the semi-automatic FN-FAL rifle. It's a brand new, compact precision rifle that's quality built from forged steel parts, including a forged receiver and bolt, and a barrel forged from stainless steel. The adjustable gas system design enables easy shooting from virtually any .308 caliber/7.62mm or .223 caliber/5.56mm accuracy.

SAR-8

**Description:** SPR-8 Sporter Rifle

**Caliber:** 7.62mm

**Barrel:** 18" 1/12 1/4 four- groove, 10.43 lbs., 38.25" long

**Sight:** Gas-operated, adjustable rear

**Features:** The Springfield SAR-8 Sporter rifle and the new SAR-8 Heavy Barrel Counter Sniper Rifle are two of the most highly regarded precision rifles. They are both based on the semi-automatic FN-FAL rifle and feature the same adjustable gas system design. The accuracy and reliability of these rifles make them the perfect choice for the serious shooter.
SR 9

SR9 Series Rifles

Using the combined expertise of the FSC Precision and Sauer, the SR9 Series has been
unmistakably for the past four years, these three sporting rifles return in 1993.

[Diagram of rifles with annotations]
Uzi Sporter

Galil Sporter
SIAGA

RUSSIAN SIAGA RIFLE
7.62X39 Cal.

$229.
The Only AK-47 Semi-Imported From Russia
Galil™ Sporter

Semi-Automatic

16" Barrel Length

10 Round Magazine

.223 & .308 Caliber

Synthetic Stock w/Cheekpiece
Romanian AK-47
Brand New
WUM-1 7.62 x 39
Beautiful blond laminated Stocks
Chrome lined bbl
$209.95
Attention SLR-95 Owners

Our last shipment of Bulgarian stock kits arrived just before the ban. Direct from Bulgarian Military arsenals. Brand new! A perfect match to your rifle.

Call Now For Our Super Low Price!

Romanian AK-47
Yes! We Have Them! In stock now.

Bulgarian SLR-95
7.62x39 w/ Muzzle brake
7.62x39 or 5.45x39 Calibers

High Quality, Fully Assembled
Skeletalized, Dragunov Style Stock
Built-In Gas Block 
Muzzle compensator original Italian

$42.95
Sec 92r Applies

This may be your last chance to own these high quality firearms that have now officially been banned from importation. Call now for our special price.
Bulgarian SLR-96 7.62 x 39 Ca., 5Rd. mag, oil can, canvas sling, cleaning kit & rod, wood stock, muzzle break, Steyr hammer forged barrel.

Sale ........................................... $359.95
SLG 95

The new SLG 95

Get the last pieces !!! We only have a few pieces left in stock. Do not miss this last chance and get your quality rifle. Our sporting rifle is a licensed production of HK and is made in Portugal by FMP. All rifles are brand new and of excellent quality. All parts interchangeable with semi auto HK rifles.
Section Three: Sporterized Assault Weapons Traced to Crime Scenes in the United States, 1995 and 1996

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8 From 1995 to 1996 the number of sporterized assault weapons traced to crime scenes in the United States increased 33 percent.
Section Four: Appendices
Appendix One

Presidential Memorandum on Importation of Modified Semiautomatic Assault-Type Rifles
MEMORANDUM FOR THE SECRETARY OF THE TREASURY

SUBJECT: Importation of Modified Semiautomatic Assault-Type Rifles

The Gun Control Act of 1968 restricts the importation of firearms unless they are determined to be particularly suitable for or readily adaptable to sporting purposes. In 1989, the Department of the Treasury (the Department) conducted a review of existing criteria for applying the statutory test based on changing patterns of gun use. As a result of that review, 43 assault-type rifles were specifically banned from importation. However, manufacturers have modified many of those weapons banned in 1989 to remove certain military features without changing their essential operational mechanism. Examples of such weapons are the Galil and the Uzi.

In recent weeks Members of Congress have strongly urged that it is again necessary to review the manner in which the Department is applying the sporting purposes test, in order to ensure that the agency's practice is consistent with the statute and current patterns of gun use. A letter signed by 30 Senators strongly urged that modified assault-type weapons are not properly importable under the statute and that I should use my authority to suspend temporarily their importation while the Department conducts an intensive, expedited review. A recent letter from Senator Dianne Feinstein emphasized again that weapons of this type are designed not for sporting purposes but
for the commission of crime. In addition, 34 Members of the House of Representatives signed a letter to Israeli Prime Minister Binyamin Netanyahu requesting that he intervene to stop all sales of Galils and Uzis into the United States. These concerns have caused the Government of Israel to announce a temporary moratorium on the exportation of Galils and Uzis so that the United States can review the importability of these weapons under the Gun Control Act.

The number of weapons at issue underscores the potential threat to the public health and safety that necessitates immediate action. Firearms importers have obtained permits to import nearly 600,000 modified assault-type rifles. In addition, there are pending before the Department applications to import more than 1 million additional such weapons. The number of rifles covered by outstanding permits is comparable to that which existed in 1989 when the Bush Administration temporarily suspended import permits for assault-type rifles. The number of weapons for which permits for importation are being sought through pending applications is approximately 10 times greater than in 1989. The number of such firearms for which import applications have been filed has skyrocketed from 10,000 on October 9, 1997, to more than 1 million today.

My Administration is committed to enforcing the statutory restrictions on importation of firearms that do not meet the sporting purposes test. It is necessary that we ensure that the statute is being correctly applied and that the current use of these modified weapons is consistent with the statute's criteria for importability. This review should be conducted at once on an expedited basis. The review is directed to weapons such as the Uzi and Galil that failed to meet the sporting purposes test in 1989, but were later found importable when certain military features were removed. The results of this review should be applied to all pending and future applications.

The existence of outstanding permits for nearly 600,000 modified assault-type rifles threatens to defeat the purpose of the expedited review unless, as in 1989, the Department temporarily suspends such permits. Importers typically obtain authorization to import firearms in far greater numbers than are actually imported into the United States. However, gun importers could effectively negate the impact of any Department determination by simply importing weapons to the maximum amount allowed by their permits. The public health and safety require that the only firearms allowed into the United States are those that meet the criteria of the statute.

Accordingly, as we discussed, you will:

1) Conduct an immediate expedited review not to exceed 120 days in length to determine whether modified semiautomatic assault-type rifles are properly importable under the statutory sporting purposes test. The results of this review will govern action on pending and future applications for import permits, which shall not be acted upon until the completion of this review.

2) Suspend outstanding permits for importation of modified semiautomatic assault-type rifles for the duration of the 120-day review period. The temporary suspension does not constitute a permanent
revocation of any license. Permits will be revoked only if and to the extent that you determine that a particular weapon does not satisfy the statutory test for importation, and only after an affected importer has an opportunity to make its case to the Department.

WILLIAM J. CLINTON

# # #

To comment on this service: feedback@www.whitehouse.gov
Appendix Two

Version of ATF Survey Sent to Competitive Shooting Groups
ATF SURVEY OF COMPETITIVE SHOOTING GROUPS FOR RIFLE USAGE

NOTE: This survey should be completed only by those groups that conduct high-power rifle competitions.

1. Does your group have published guidelines for your competitions?
   ___ Yes (Continue)  ___ No (Skip to #3)

2. If your group has published guidelines, please provide a current copy. It will be very beneficial for use in our study. (Continue)

3. Does your group have competitive events using high-power semiautomatic rifles?
   ___ Yes (Continue)  ___ No (You are finished with the survey. Thank you.)

4. If your answer to item 3 is "Yes", do these events cover:
   4a. Sporting "bulls-eye" competition?  ___ Yes  ___ No
   4b. Military or police-style combat competition?  ___ Yes  ___ No
   4c. Other? Please identify type.

5. If your answer to item 3 is "Yes", do you permit the use of semiautomatic rifles whose design is based on the AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi in competitions?
   ___ Yes, for all competitions
   ___ Yes, for some competitions. Please explain:
   ___ No

6. If your answer to item 3 is "Yes", do you prohibit or restrict the use of any of the semiautomatic rifle types whose design is based on the AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi?
   ___ Yes, for all competitions (Continue)
   ___ Yes, for some competitions. Please explain:
   ___ No (You are finished with the survey. Thank you.)

7. If your answer to item 6 is "Yes, for all competitions" or "Yes, for some competitions", please indicate the rifles prohibited or restricted and the type of prohibition or restriction imposed.
   __Rifle_____ __Prohibition or Restriction_

An agency may not conduct or sponsor, and a person is not required to respond to, the collection of information unless it displays a currently valid OMB control number.

OMB No. 1512-0542
Appendix Three

Letter of December 15, 1997 from Violence Policy Center
to ATF Director John Magaw
December 15, 1997

John Magaw, Director
Bureau of Alcohol, Tobacco and Firearms
650 Massachusetts Ave., NW
Washington, DC 20226

Dear Director Magaw:

As you may know, the Violence Policy Center (VPC) is a non-profit, non-partisan public policy institute devoted to reducing gun violence in America. For almost a decade we have been particularly concerned about and have issued studies on the import, sale and use of semi-automatic assault rifles and assault pistols. It was the VPC that in 1990 first identified the problem of "sporterized" assault weapons designed to evade the Bush administration ban on the import of assault weapons.

We are aware that your agency is currently studying the application of the "sporting purposes" test mandated by the 1968 Gun Control Act to imports of certain firearms, including so-called "sporters," with the military-style design features that distinguish assault weapons from true sporting guns.

We write to urge you to open this process to public notice and comment. The VPC has developed a substantial body of information and analysis directly relevant to the questions before you, as have other organizations of which we are aware.

We believe that the most full and fair way for all sides to present their points of view would be in an orderly, public process giving notice to all interested parties and allowing their filing of comments for the record.

Thank you for your kind consideration of this request.

Sincerely,

M. Kristen Rand
Director, Federal Policy

Tom Diaz
Senior Policy Analyst

cc: Hon. Robert Rubin, Secretary of the Treasury
Appendix Four

Letter of December 16, 1997 from Representatives Charles Schumer and Carolyn McCarthy to Treasury Secretary Robert Rubin
Hon. Robert Rubin
Secretary of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Rubin:

We are gravely concerned by recent media reports that the Bureau of Alcohol, Tobacco, and Firearms has virtually ignored guidelines restricting the importation of assault weapons that were written in 1989. As a result, tens of thousands of deadly guns have apparently made their way into the country, threatening to undermine the domestic assault weapons ban, which passed with our strong support in 1994.

Under current regulations, firearms can be imported only if they have a legitimate "sporting purpose" such as hunting or competitive target shooting. Now we learn, however, that importers have stretched the definitions further than the guidelines permit, allowing them to bring in military-style killing machines based on spurious "sporting" claims. No real hunter would sneak up on a deer lugging an SLR-95. No real skeet shooter would practice precise aim and hair-trigger timing with an SAR 4800, which recoils dramatically as it spits out a spray of bullets. Yet both of these weapons have recently been imported into the United States.

Even more troubling are allegations that ATF provided substantial advice to help importers in their efforts to skirt the spirit of the law. While ATF has a responsibility to make the rules clear and fair, it has no business giving how-to tips on converting banned weapons into barely legal ones.

We are pleased that President Clinton has called a temporary halt to the approval of new applications, and has asked Treasury to redraft the 1989 rules so they live up to the original intention of a narrow "sporting purposes" test for assault weapons. Now we must guarantee that the strict spirit of the law is matched by its letter and its enforcement. To achieve this goal, we ask the Treasury Department to take three simple, swift steps:

1. Investigate whether any rules were broken in granting previous importation licenses. Treasury should conduct an immediate review to determine whether the 1989 restrictions on importing assault weapons were broken. If rules were broken, there should be disciplinary consequences for the responsible personnel and the wrongly-granted licenses should be revoked.

2. Open up the drafting of the new rules for public comment. Rather than drafting the new importation regulations internally, as is currently planned, Treasury should open a formal rulemaking process with a public comment period to strengthen the restrictions. Public officials and advocacy groups should have input.
to prevent the new rules from springing leaks later on. We understand the Violence Policy Center has made a similar formal request.

3. **Make the new importation rules strict and airtight.** There is no reason to retreat from the strong stand that the President and Congress have taken against assault weapons. Some in the gun lobby have tried to confuse the issue by arguing that the standards for domestic assault weapons we passed in 1994 should apply to imports too, which would have the perverse effect of weakening the rules for imports. They are wrong. The law against importing assault weapons is even stronger and broader than the 1994 ban on their domestic manufacture -- and we should enact regulations with enough teeth to enforce it.

We must not waver in our dedication to keeping assault weapons out of criminals' hands and off our streets, whether they were made in California or China. We urge you to follow these three recommendations and ensure that the new rules benefit families, not gun importers.

Sincerely,

Charles E. Schumer
Member of Congress

Carolyn McCarthy
Member of Congress
Appendix Five

Letter of December 17, 1997 from ATF Director John Magaw to the Violence Policy Center
Dear Sir or Madam:

On November 14, 1997, the President and the Secretary of the Treasury decided to conduct a review to determine whether modified semiautomatic assault rifles are properly importable under Federal law. Under 18 U.S.C. section 925(d)(3), firearms may be imported into the United States only if they are determined to be of a type generally recognized as particularly suitable for, or readily adaptable to, sporting purposes. The firearms in question are semiautomatic rifles based on the AK47, FN-FAL, HK91, HK93, SIG SG550-1, and Uzi designs.

As part of the review, the Bureau of Alcohol, Tobacco and Firearms (ATF) is interested in receiving information that shows whether any or all of the above types of semiautomatic rifles are particularly suitable for, or readily adaptable to, hunting or organized competitive target shooting.

Although ATF is not required to seek public comment on this study, the agency would appreciate any factual, relevant information concerning the sporting use suitability of the rifles in question.

Your voluntary response must be received no later than January 9, 1998; those received after that date cannot be included in the review. Please forward your responses to the Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50860, Washington, DC 20091.

Sincerely yours,

John W. Magaw
Director
Appendix Six

Comments of National Rifle Association Regarding "Sporting Purposes" Test
December 24, 1997

Mr. John W. Magaw
Director
Bureau of Alcohol, Tobacco and Firearms
Department of the Treasury
Room 8000
650 Massachusetts Avenue, N.W.
Washington, D.C. 20226

RE: Comments pursuant to the ATF “120 day study” on the importation of firearms into the United States under the “sporting purposes” test.

Dear Director Magaw:

I received your letter dated December 10, 1997, requesting comments from the National Rifle Association of America (NRA) concerning the importation of certain semi-automatic rifles. ATF’s review, as ordered by the President, concerns a study on the importability of these rifles, as well as the laws governing their importation and sale under 18 U.S.C. § 925(d)(3) and the Gun Control Act generally. Your letter further stated that comments will be considered only if submitted no later than 30 days from the date of the letter.

I. Executive Summary

On behalf of the millions of NRA members, many of whom own semi-automatic firearms, we strongly object to the President’s actions, and your derivative actions, for three reasons. The actions are:

1. a wrongful and contorted application of law and Congressional intent;

2. fundamentally unfair, as well as being executed in a closed and politically biased manner; and

3. the wrong policy for America, and one that only hurts law abiding gun owners, does nothing to reduce or prevent crime, reduces personal freedom, and economically destroys small businesses.
This letter explains in detail our views. At the outset, we state for the record, that ATF is using a pre-determined internal standard to routinely deny import permits for semi-automatic rifles. We believe that your past conduct and present course of action to expand the import ban constitutes the establishment of a de facto regulation. As in 1989, this is being undertaken without a public opportunity for notice and comment, and thus in violation of the Administrative Procedures Act (hereafter “APA”).

Further, we strongly believe that ATF should recognize this process is so significant, that under 18 U.S.C. §926(b) and 5 U.S.C. §553, it should be carried out pursuant to the provisions provided for formal rulemaking, or at the very least, the informal rulemaking provisions. See 27 C.F.R. § 70.701(a). Clearly notice and comment is required as the anticipated agency action goes well beyond a mere statement of general policy, or interpretive rule. Furthermore, as ATF has already suspended outstanding permits, there is no support for the argument that notice and comment are impractical, unnecessary, or contrary to the public interest. We believe that any attempt to evade the notice and comment process required for rulemaking would be contrary to the agencies’ responsibility to the public and a violation of the APA.

We believe that as a career appointee you have a fundamental and sacred obligation to the people of the United States to carry out the administration of law in a fundamentally fair and objective manner. Indeed, you have commented on several occasions to Congress on why ATF must be a detached and disinterested party in carrying out its regulatory responsibility.

This so called “study” appears to be a part of a process conceived by the White House with a predetermined goal in mind. It is also equally obvious that this issue has been further politicized by the Treasury Department. We hope, after reading these comments, that ATF will open up the process, and let the light of day shine on the policy proposal that has but one purpose: “...taking the law and bending it as far as it can to capture a whole new class of guns.”

II. The National Rifle Association of America

Since its inception in 1871, the NRA has been the nation’s unchallenged leading authority on a broad range of subjects relating to firearms; firearms uses, including sporting uses; firearms law and hunting. NRA publishes several of the most widely read magazines dealing with these subjects; is the governing body for some of the preeminent organized marksmanship competitions held at the national, regional, state and local levels; maintains within its membership approximately 50,000 Certified Firearms Instructors and Coaches who train hundreds of thousands of private citizens and police officers annually; and has extensive experience and expertise with and in hunting-related issues.

Pursuant to your request for NRA’s comments, NRA formed a working group composed of representatives of its Publications Division; Competitions Division; Conservation, Wildlife & Natural Resources Division; Community Services Division; Field Operations Division; Research and Information Division; Office of the General Counsel; and others to determine whether the rifles suspended from importation are sporting firearms and, thus, meet the standards imposed by 18 U.S.C. §921(a)(30)(A) and (B), and 18 U.S.C. §925(d)(3).
III. Federal gun control in the 20th Century and firearms imports

In 1934, Congress enacted the National Firearms Act (NFA), which established a legal distinction between fully-automatic firearms and other firearms, and subjected the former group to a special set of regulations. Later, short-barreled rifles, short-barreled shotguns, certain firearms having bores larger than one-half inch diameter, and certain relatively uncommon types of firearms, such as pen guns, were placed in the same group as fully-automatic firearms.

In 1968, Congress enacted the Gun Control Act (GCA), which established a legal distinction between firearms that are eligible for importation and those that are not. As amended, the law requires the Secretary of the Treasury to authorize the importation of, among other firearms, any non-military surplus, non-NFA firearm that “is of a type ... generally recognized as particularly suitable for or readily adaptable to sporting purposes.” 18 U.S.C. §925(d)(3).

The NRA did not object to this provision in 1968, as there was a consensus on what the provision was intended to accomplish, namely a prohibition on the importation of surplus military firearms of inferior quality by reason of wear or abuse and handguns of a quality clearly inferior to anything manufactured in the United States (then or now). In April 1967, during hearings of Subcommittee Number 5 of the House Committee on the Judiciary, the Commissioner of Internal Revenue, Sheldon S. Cohen, stated that “The bill would not, and I emphasize, would not, preclude the importation of good quality sporting type firearms or of military surplus rifles or shotguns particularly suitable for or adaptable to sporting use.” Cohen referred to the statement made by NRA Executive Vice President Franklin Orth, before a Senate Subcommittee in 1965, that “the objectionable traffic in imported firearms involves the relatively inexpensive, non-military, .22 caliber pistols and revolvers...”

Also, on October 1, 1968, Rep. Harold T. Johnson of California noted that the purpose of the Omnibus Crime Control and Safe Streets Act, which also contained the “sporting purposes” importation provision, was to reduce crime and that of all crimes committed in 1966, “rifles and shotguns were involved in less than one-half of one percent.” Thus, Johnson said, firearms the Act sought to restrict were limited to “surplus military firearms” and “destructive weapons such as bazookas, mortars, anti-tank guns, and grenades.” CONG. REC. (daily ed. October 1, 1968)(statement of Rep. Johnson).

The NRA does not believe a “sporting purposes” restriction comports with the Second Amendment to the Constitution of the United States, which protects “the right of the people to keep and bear arms” to ensure their fundamental and legal rights. The amendment reads: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” There is no reference to “sports” in the amendment. The right to keep and bear arms for purposes of recreational activity, self defense, or any other legal purpose is a right so obvious as not to require enumeration in the Bill of Rights.

That the Second Amendment protects the right to keep and bear arms for protective purposes is the clear consensus of the vast majority of scholarship, including the most recent scholarship, on the issue, in both qualitative and quantitative terms. See Appendix G for a list of law review articles and other works on the subject.
Constitutional provisions in 43 states protect the right to arms. Of these, 37 enumerate “defense” and/or “security” as either the reason, or one reason, for protecting the right to arms. Of the 37 states, six states additionally enumerate hunting, sporting, or recreational firearms use as other protected uses of arms. The other six states’ provisions protect the broad right to arms with language identical or similar to that which is found in the federal Constitution’s Second Amendment. See Appendix B for the text of the state provisions.

All states recognize the right to keep and bear arms for protection at home and in certain other situations, and 43 states recognize the right to carry concealed firearms for protection in certain public settings. Some states recognize the right to carry firearms openly for protection. Noting that the President’s November 14, 1997 memorandum suggested ATF might follow its 1989 review in “applying the statutory test based on changing patterns of gun use,” we suggest that the increased popularity of certain firearms for protective purposes is directly relevant.

Additionally, Congress stated in the preamble to the GCA, one of the legislative vehicles which included what is now 18 U.S.C. §925(d)(3), and reaffirmed in the Firearms Owners Protection Act of 1986, that:

The Congress hereby declares... it is not the purpose of this title to place any undue or unnecessary federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity... (Emphasis added).

IV. The “sporting purposes” test

18 U.S.C. §925(d) states in part that:

[The Secretary shall authorize a firearm ... to be imported or brought into the United States or any possession thereof if the firearm ... (3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms, except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled ...]

In the GCA, Congress had not defined what was meant by the “sporting purposes” language of §925(d)(3), so the Secretary of the Treasury soon established a Firearms Advisory Panel to provide guidelines for interpreting it. The Panel did not draft criteria to be used in applying the law’s “sporting purposes” requirement. However, it considered the Beretta BM-59 Sporter Version Rifle, essentially an M1 “Garand” modified to .308 Winchester caliber and to use a 20-round ammunition magazine, and two other .308 caliber semi-automatic rifles of the same style, also using 20-round detachable magazines, the SIG-AMT Sporting Rifle and the CETME Sporting Rifle, found those rifles to meet the law’s “sporting purposes” requirement and recommended that they be approved for importation, provided that they did not possess flash suppressors that also could serve as
letter to director magaw

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grenade launchers. (Grenades are restricted under the NFA). In fact, the ATF official responsible for determinations under this test has testified that the standard remained constant during his tenure. See Appendix H.

For some years prior to 1989, rifles of the same style as the BM-59, SIG-AMT, and CETME were evaluated by ATF and found to be “of a type ... generally recognized as particularly suitable for or readily adaptable to sporting purposes.” These included semi-automatic variants of AK-47/AKM (including Galil and Valmet models), FN-FAL, HKG3/91, and Uzi rifles (variants of which are suspended from importation) and other rifles of the same style. As required by law, ATF approved these rifles for importation. Each rifle possessed all or most features that in 1989 ATF would claim as grounds for prohibiting rifles from importation, including “folding/telescoping stocks,” “well-defined pistol grip that protrudes conspicuously beneath the action of the weapon,” “ability to accept a bayonet,” “flash suppressor,” “bipods,” “grenade launcher designed to function as a grenade launcher,” and/or “night sights”. ATF, Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles, 1989, pp. 7-8 (hereafter “ATF 89 Report”). See Appendix B.

In the mid-1980s, ATF interpreted §925(d)(3) to prohibit the importation of a small number of shotguns. In the late 1980s, however, a larger group of firearms began to be subjected to sensational political treatment. For example, semi-automatic firearms were branded “Rambo Guns.” Editorial, N. Y. TIMES, Aug. 1, 1988, at A14. One leading anti-gun activist recommended that anti-gun lobbying groups and activists attempt to use “assault weapons” as an issue to further their agenda, observing that “The weapons’ menacing looks, coupled with the public’s confusion over fully-automatic machine guns versus semi-automatic assault weapons -- anything that looks like a machine gun is presumed to be a machine gun -- can only increase the chance of public support for restrictions on these weapons.” Educational Fund to End Handgun Violence and the New Right Watch, Assault Weapons in America, 1988 at 26.

In 1989, President Bush, in response to political pressure built upon the senseless acts of a lone, crazed gunman with a long criminal record, instructed ATF to reinterpret §925(d)(3) in a manner designed to relieve that political pressure. ATF suspended the importation of certain rifles and reviewed their eligibility for importation. At the end of its review, ATF rejected not only the rationale it and its predecessor had used previously, but that of the earlier Firearms Advisory Panel as well, and declared that 43 (virtually all) of the rifle makes and models were no longer considered to meet the “sporting purposes” requirement of §925(d)(3) and, thus, no longer eligible for importation. Affected by the new prohibition were rifles which had been approved for importation for 21 years (including rifles that had been specifically recommended favorably by the 1968 Firearms Advisory Panel) and rifles of the same style.

In 1989, the NRA surveyed 4,658 hunting clubs, 3,454 rifle and pistol clubs, 51 state associations, 128 other groups, and 106 gun collectors. Preliminary results showed that 78.5% of respondents believed that the rifles in question were generally recognized as particularly suitable for or readily adaptable to sporting purposes. Another 11% agreed that under varying conditions some or all of the rifles met the law’s “sporting purposes” requirement. Virtually all respondents believed that all common forms of target shooting (formal and informal, competitive or practice) constitute sport shooting. The results of the survey were provided to ATF.
Prior to enactment of the GCA, Members of Congress had foreseen the danger of providing broad authority to the Secretary of the Treasury to determine which sporting rifles were eligible for importation. On April 7, 1967, during the House hearings noted previously, Rep. Robert Sikes of Florida complained that importation provision legislation “permits the Secretary of the Treasury broad discretionary powers on which rifles are to be admitted. This in itself could lead to great confusion in the hands of bureaucracy in the years ahead.” ATF’s 1989 conclusions demonstrated that a pattern of abuse had begun.

The Administration’s rhetoric makes clear that this action has been ordered with a goal of prohibiting the importation of as many firearms as can possibly be done without breaking the law. An aide to the President, Jose Cerda, recently noted, “We are taking the law and bending it as far as we can to capture a whole new class of guns.” NRA believes that a pattern of abuse of §925(d)(3) has emerged, and that it is long past the time that an effective remedy be provided to correct the problem.

Indeed, in 1997, an American firearms company sought approval to import two variants of Israeli-made semi-automatic rifles: variants of the Galil AR/ARM and Uzi Carbine that meet the 1994 Public Safety and Recreational Firearms Use Protection Act’s (hereafter referred to as the “Recreational Firearms law”) standard and ATF’s 1989 standard. Thus, ATF approved their importation. Subsequently, President Clinton ordered ATF to suspend the importation of the Israeli rifles and other rifles referred to as “AK-47 variants,” “FAL variants,” “HK91 variants,” and “Uzi variants”, pending a re-consideration of whether the rifles are eligible for importation. Semiautomatic Rifles Subject To October 1997 Import Suspension, ATF, 1997.

V. ATF’s erroneous 1989 interpretation of §925(d)(3)

A. “Of a type”

As ATF noted in 1989, “section §925(d)(3) expressly provides that the Secretary shall authorize the importation of a firearm that is of a type that is generally recognized as particularly suitable for sporting purposes.” Emphasis in the original, ATF 89 Report, p. 5.

The 1968 Firearms Advisory Panel considered the importability of the semi-automatic Beretta BM-59 rifle. The BM-59 is identical in function and similar in other respects to both the M1 and the U.S. M14/M1A rifle, at that time and to this day widely used in NRA-sanctioned competitions, U.S. Army-sponsored matches, and other competitive disciplines. This fact was likely on the minds of the Panel in approving the importation of the BM-59. Both the BM-59 and M14/M1A rifles made prior imposition of the Recreational Firearms law possess both bayonet mounts and flash suppressors.

The Panel also approved the importation of the CETME Sporting Rifle and the SIG-AMT, both of which were also .308 caliber semi-automatics with detachable magazines and thus clearly “of a type” with the BM-59. (Notably, both a match-grade variant and a moderately priced variant of the CETME’s successor, the HK91, have been suspended from importation under the current directive.)

In 1989, however, ATF stated that features and characteristics found on the BM-59 and other rifles suspended from importation in 1989 were of a kind “which distinguishes [them] from traditional sporting rifles.” ATF called these features and characteristics “military configuration” (including “ability to accept a detachable magazine,”
"folding/telescoping stocks," "well-defined pistol grip that protrudes conspicuously beneath the action of the weapon," "ability to accept a bayonet," "flash suppressor," "bipods," "grenade launcher designed to function as a grenade launcher," and/or "night sights"), "semi-automatic version of a machinegun," and "chambered to accept a centerfire cartridge case having a length of 2.25 inches or less." *ATF 89 Report*, pp. 6-9.

ATF misinterpreted the law by concluding that because the rifles possessed the features and characteristics noted, and these features and characteristics were common also to military-origin rifles, the rifles could not possibly meet the law's "sporting purposes" test. "We found that the modern military assault rifle contains a variety of physical features and characteristics designed for military applications which distinguishes it from traditional sporting rifles. These military features and characteristics ... are carried over to the semiautomatic versions of the original military rifle," ATF said. *ATF 89 Report*, p. 6.

That belief was at odds with the statement of Treasury Undersecretary Joseph W. Barr, during the House Subcommittee hearings noted previously, that "The restriction on imports would not preclude the importation of all surplus military rifles. Some of these weapons are suitable for or readily adaptable to use in hunting and could be brought in for that purpose." That is, the mere presence on a rifle of military-style features and characteristics does not necessarily render the rifle at odds with §925(d)(3), as ATF believed.

ATF noted that this approach had a fundamental problem, the fact that many rifles it considered "sporting" possess some of these features and characteristics. "This is not to say that a particular rifle having one or more of the listed features should necessarily be [considered non-sporting]. Indeed, many traditional sporting firearms are semiautomatic or have detachable magazines," ATF said. ATF dealt with this problem by concluding that "[T]he criteria must be viewed in total to determine whether the overall configuration places the rifle fairly within the semiautomatic assault rifle category." *ATF 89 Report*, p. 9. That is, ATF concluded that a firearm possessing some of these features and characteristics could be "sporting," but become non-sporting by possessing all or most of the features and characteristics simultaneously.

The problem with ATF's approach is that the mere fact that a non-military rifle's physical features and characteristics are also found on military rifles does not mean that the non-military rifle does not meet the standard imposed by §925(d)(3). As ATF noted, many rifles and other firearms whose sporting credentials are beyond question possess features and characteristics that have military roots. The standard that §925(d)(3) applies to non-military surplus, non-NFA rifles, is concerned with whether, irrespective of whatever else the rifle or its features and characteristics might be suitable for or adaptable to, the rifle is "generally recognized as particularly suitable for or readily adaptable to sporting purposes."

Clearly, rifles and other small arms can be used for a variety of purposes. For example, Model 1903 and M1 rifles and Model 1911 pistols were originally designed for military application, but have also been widely used for an activity ATF in 1989 considered a "sporting purpose," namely, "organized marksmanship competition." The notion, often stated or implied by persons who oppose the right to arms, that every particular firearm can be used for only one purpose, is without basis. As ATF recognized in 1989, "firearms particularly suitable for those purposes (target shooting and hunting) can obviously be used for other purposes..." *ATF 89 Report*, p. 3.
B. "Generally recognized"

ATF has consistently argued, as the court in *Gilbert Equip. Co. v. Higgins* 709 F.Supp. 1071, 1084, (S.D. Ala. 1989), put it, “that a particular use of a firearm [must] have attained general recognition as being a ‘sporting purpose,’ or that an event have attained general recognition as being a ‘sport,’ before those uses and/or events can be ‘sporting purposes’ or ‘sports’ under Section 925(d)(3).”

We believe that this interpretation is flawed. There are many sports with small but steady and loyal followings around the world, but merely because they are not recognized by persons who do not participate in them does not make them any less sporting. Boule, luge and biathlon, to cite just three examples, are sports by any definition, even if not widely known. Certainly practical shooting is widely known among those with any knowledge of the shooting sports, since it is covered regularly in the mass-circulation firearms magazines. The standard should be one of informed recognition, not recognition by those who have no basis for knowledge of the activity in question.

C. "Particularly suitable for or readily adaptable to"

Based upon a single instance in the legislative history of the GCA, ATF’s 1989 Working Group concluded that, “The mere fact that a military firearm may be used in a sporting event does not make it importable as a sporting firearm” and “mere use in some competition would not make the rifle a sporting rifle.” *ATF 89 Report*, pp. 2 and 10.

Contrary to that conclusion, and as already discussed above, the Firearms Advisory Panel convened in 1968 (considerably closer to the passage of the GCA) examined various centerfire semi-automatic rifles based on military-style designs and reached “the consensus that these rifles do have a particular use in target shooting and hunting,” provided that they were imported without flash suppressors that would also serve as grenade launchers. (It is clear from the Panel’s minutes that the concern about the flash suppressors was not based on the idea that flash suppressors are a “military characteristic” in and of themselves, but that they might actually be used to launch grenades.)

ATF’s 1989 Working Group dismissed the Panel’s conclusion as “superficial and unpersuasive” *ATF 89 Report*, p. 4., most likely because two of the three firearms in question were on the temporary suspension list at that time and to take the 1968 Panel’s conclusion seriously would have been at odds with the predetermined conclusions of the Working Group. As mentioned previously, one of the rifles currently suspended for importation, the Heckler & Koch PSG-1, is one of the variants of the HK91, a direct descendant of one of those firearms.

In its 1989 Working Group report, ATF conspicuously neglected and in some places appeared to deliberately avoid the “readily adaptable” language of §925(d)(3). While the entire text of the relevant language of the provision reads “particularly suitable for or readily adaptable to sporting purposes.” *Emphasis added.* ATF concluded that the provision has “the expressed purpose of restricting importation to firearms particularly suitable for target shooting or hunting since firearms particularly suitable for those purposes can obviously be used for other purposes...” *Emphasis added, ATF 89 Report*, p. 3.

Noting its regulatory authority over the importation of firearms, ATF stated that “The
determination of a weapon’s suitability for sporting purposes ‘rest[s] directly with the Secretary of the Treasury.’” ATF 89 Report, p. 3. In rejecting the Firearms Advisory Panel’s opinion that the BM-59, SIG-AMT and CETME rifles should be approved for importation, ATF stated “these rifles are not generally recognized as particularly suitable for sporting purposes.” Emphasis added, ATF 89 Report, p. 4. In explaining its evaluation of one firearm, ATF said that it “was asked to determine whether the Striker-12 shotgun was suitable for sporting purposes....When the importer was asked to provide evidence of sporting purposes of the weapon. . . . ATF determined that . . . this shotgun was not suitable. . . .” Emphasis added, ATF 89 Report, pp. 4-5. Not only had ATF ignored whether the shotgun could be “readily adaptable” to sporting purposes, it had ignored the question of whether the shotgun was of such a “type.”

In its 1989 review ATF claimed that it sought to determine whether the rifles in question were “a type of rifle generally recognized as particularly suitable for or readily adaptable to the traditional sporting applications discussed above” by conducting a survey of various parties. Emphasis in the original, ATF 89 Report, p. 11. However, none of the seven survey questions ATF posed asked whether the rifles in question were considered “readily adaptable” to sporting purposes. As ATF itself noted, “the working group used the information gathered under Items 1-7 [the survey questions] outlined in the next section in determining whether this type of firearm is generally recognized as particularly suitable for sporting purposes.” Emphasis added, ATF 89 Report, p. 11.

Further, ATF’s questions and the conclusions it reached based upon responses to those questions were contradictory to ATF’s stated purpose. While the questions should have been aimed at determining whether the firearms were either “generally recognized as particularly suitable for or readily adaptable to sporting purposes,” they instead had a different focus. The questions were as follows:

1. How has the weapon been advertised, marketed and categorized by the manufacturer and/or importer?
2. How has the use of the rifle been described by firearms technical writers?
3. What is the rifle’s reported use by importers?
4. Do hunting guides recommend the rifle?
5. Do editors of hunting magazines recommend the rifle?
6. Is the rifle used in target shooting competitions?
7. Do State game commissions allow the use of the rifle to hunt?

The responses to the survey indicated significant evidence that the rifles were “generally recognized as particularly suitable for or readily adaptable to sporting purposes. As ATF noted, “The competitive shooting groups indicated that the rifles could be used in certain shooting events.” But ATF rejected that as irrelevant, based upon a standard not found in the law: “[T]here was no evidence of any widespread use for such purposes.” Emphasis added, ATF 89 Report, p. 14. It is clear that ATF misunderstood the relevance of the answers it received to these questions.
Similarly, in its current survey, ATF avoids asking questions directly related to the language of §925(d)(3). The 10 questions ATF has posed to Hunting/Shooting Editors read:

(Questions 2, 4, 6, 8 and 10 allows those who answer “yes” to odd-numbered questions to list specific examples.)

1. Does your publication recommend specific types of centerfire automatic rifles for use in hunting medium game (for example, turkey) or larger game (for example, deer)?

3. Does your publication recommend against the use of any semiautomatic rifles whose design is based upon the AK 47, FN-FAL, HK91, SIG 550-1, or Uzi for use in hunting medium game (for example, turkey) or larger game (for example, deer)?

5. Does your publication recommend specific types of centerfire semiautomatic rifles for use in high-power rifle competition?

7. Does your publication recommend against the use of any semiautomatic rifles whose design is based upon the AK 47, FN-FAL, HK91, SIG 550-1, or Uzi for use in high-power rifle competition?

9. Have you or any other author who contributes to your publication written any articles since 1989 concerning the use of semiautomatic rifles and their suitability for use in hunting or organized competitive shooting?

Clearly, Congress envisioned that there existed or could exist non-military surplus firearms that, if not particularly suitable for sporting purposes, were “readily adaptable” to sporting purposes. Taking the term literally, virtually any firearm would be “readily adaptable” by some modification. But certainly in 1968, as today, “sporterizing” a rifle often included removing from the rifle any military-style hardware (such as a bayonet mount), and modifying or replacing a military-style stock with what is commonly referred to as a “sporter” stock. Innumerable Model 1903, Lee-Enfield, Mauser and similar bolt-action rifles have been modified in this fashion and used extensively for hunting and target shooting. Not coincidentally, ATF, from 1989 until the recent suspension, required manufacturers or importers of various semi-automatic rifles to perform similar modifications to “sporterize” their firearms.

D. “Sporting purposes”

In the absence of a Congressional definition of “sporting purposes,” ATF in 1989 concluded that the “sporting purposes” of firearms were limited to hunting and participating in “organized marksmanship competition,” as distinguished from any other target shooting, such as practice for organized marksmanship competition, informal competition, or informal practice. ATF adopted the view that the only sporting uses of firearms were those that in 1968 were “traditional.” ATF 89 Report, p. 3. Congress did not use the word “traditional” in 18 U.S.C. §925(d)(3), however, and certainly did not envision that the development of shooting sports or firearms design had permanently stopped by 1968.

ATF and the Firearms Advisory Panel have consistently and wrongly excluded “plinking” and other informal, recreational target shooting activities from their definition of
“sport.” The Panel, whose work ATF cites, held the peculiar view that “while many persons participated in this type of activity [plinking] and much ammunition was expended in such endeavors, it was primarily a pastime and could not be considered a sport for the purposes of importation...” Reaching a conclusion that would come as a shock to many millions of gun owners, ATF stated, “[T]he so-called activity of plinking is not a recognized sport.” ATF 89 Report, p. 10. ATF, however, did not seek to determine whether plinking was “recognized” as a sport. Of the seven survey questions ATF referred to in its 1989 report, none asked whether the respondent considered plinking as a sport. On the only question addressing target shooting particularly, ATF asked, “Is the rifle used in target shooting competitions?” Emphasis added, ATF 89 Report, p. 12.

Gun owners are left to wonder how the Panel then, or the ATF today, would characterize baseball, which every school child knows is commonly referred to as “the great American pastime.” See Appendix I. To cite only one dictionary, “recreation” is defined as including “any form of play, amusement, or relaxation ... as games, sports, hobbies, etc.” Webster’s New World Dictionary. The same dictionary defines “sport” as “any activity or experience that gives enjoyment or recreation.”

Any lawful shooting activity can provide valuable and enjoyable experiences that prepare the shooter for more formalized competition. By analogy, if the goods in question were athletic shoes rather than firearms, ATF would apply a similar test by deeming that only specific models of running shoes actually used in competitive racing events such as the Boston Marathon are “particularly suitable” for “sporting purposes,” while shoes used by average citizens to enjoy themselves and get exercise by jogging around their neighborhoods and parks would not be “suitable,” even though all running shoes are functionally equivalent and “of a type.”

Beyond the recreational shooting issue, ATF has systematically excluded certain types of organized competitive events from the definition of sporting purposes. The 1968 Firearms Advisory Panel “generally agreed that firearms designed and intended for hunting and all types of organized competitive target shooting would fall within the sporting purpose category.” See Minutes, 1968 Firearms Advisory Panel. By implication, “all types of organized competitive target shooting” are “sporting purposes.”

By contrast, ATF’s 1989 Working Group, following the precedent set during the earlier examinations of two models of shotguns for importation, concluded that “police/combat style competitions ... did not constitute ‘sporting purposes’ under the statute.” ATF 89 Report, pp. 4-5. That conclusion was based on the idea that “The broadest interpretation could take in virtually any lawful activity or competition which any person or group of persons might undertake. Under this interpretation, any rifle could meet the ‘sporting purposes’ test. A narrower interpretation which focuses on the traditional sports of hunting and organized marksmanship competition would result in a more selective importation process.” ATF 89 Report, pp. 9-10. Continuing, ATF stated “[w]e believe that reference to sporting purposes was intended also to stand in contrast to military and law enforcement applications. Consequently, the working group does not believe that police/combat-type competitions should be treated as sporting activities.” ATF 89 Report, pp. 10-11.

Where respondents to ATF’s 1989 survey differed in their opinions “The recommendations of editors were contradictory” and “The opinions of the editors were fairly divided with respect to the sporting uses of these rifles.” ATF 89 Report, pp. 13 and
14. ATF resolved the difference in favor of restrictive conclusions.

ATF adopted a narrow interpretation in which lawful competitions in which any rifle could be used would have to be ignored to make it possible to ban certain rifles. The suggestion by ATF that citizens should not be able to obtain firearms suitable for "any lawful activity' which might be undertaken, however, speaks volumes about the priorities of those who advocate gun bans, whether selective or absolute.

In addition, by relying on "tradition" as the test for the legitimacy of a sport, ATF thereby essentially froze the standard as to what constituted a shooting sport at the status quo as of 1968. Unfortunately for such an interpretation, the shooting sports, like other athletic activities, have developed since then, with the introduction of new disciplines, techniques, and equipment. For example, in the 1968 Olympics, seven shooting events were conducted. At the 1996 Olympics in Atlanta, 13 different shooting events were held and of the 13, only five were competitions conducted 28 years earlier.

Clearly certain competitive disciplines which are popular today did not exist in 1968. In particular, practical shooting, which may be conducted with rifles, pistols, shotguns or any combination of the three, has grown dramatically in popularity. The first nationally sanctioned practical rifle competition in the U.S. was held in the late 1980s, and so the 1989 Working Group could be forgiven for overlooking it. However, now that those competitions are an ongoing, regular event, any failure to consider them in the current study would be indefensible.

VI. The suspended rifles are importable

A. The rifles suspended for importation are protected as sporting firearms under the Recreational Firearms Use Protection Act

Following ATF’s 1989 reinterpretation of §925(d)(3), manufacturers of some of the rifles affected by the reinterpretation produced versions of their rifles that did not possess any of what ATF called "military configuration" characteristics other than the ability to use a detachable magazine. ATF evaluated these modified rifles, determined them to meet the law’s "sporting purpose" requirement, and approved them for importation. In fact in a 1996 letter from Edward Owen, Chief of ATF’s Firearms Technology Branch, to Interport, Inc., Mr. Owen stated that an AK type rifle, "as submitted is more in the configuration of a traditional sporting rifle and as such is suitable for importation under the provisions of 18 U.S.C., Chapter 44, Section 925(d)(3)." See Appendix D. Similar letters have been received from numerous importers over the last eight years.

In 1994, Congress enacted the Recreational Firearms law, commonly referred to as the federal "assault weapons" law or the "Feinstein Amendment" to the 1994 Crime Bill, after the amendment's author, Sen. Dianne Feinstein (D-Calif.). The law established new standards for what constitutes a sporting firearm. The law divided non-military surplus, non-NFA firearms into two groups:

1. "Semiautomatic assault weapons" (only certain kinds of semi-automatic firearms and certain revolving cylinder shotguns)

2. Recreational (sporting) firearms (including all other firearms, including many semi-automatics).
With respect to rifles, the Recreational Firearms law declares that a semi-automatic rifle that uses a detachable magazine is a sporting firearm, unless it bears one of a group of make and model names, 18 U.S.C. §921(a)(30)(A), or has two or more specific features or characteristics: “a folding or telescoping stock,” “a pistol grip that protrudes conspicuously beneath the action of the weapon,” “a bayonet mount,” “a flash suppressor or muzzle threaded to accommodate a flash suppressor,” or “grenade launcher.” 18 U.S.C. §921(a)(30)(B).

The Recreational Firearms law imposes a different standard than the one ATF adopted in 1989. That is, while ATF’s 1989 standard prohibits any of the five features or characteristics noted in the previous paragraph, and bipods and night sights, the Recreational Firearms law allows a rifle to possess any one of the five features or characteristics, and both a bipod and night sights. Proof of this is apparent in the fact that all rifles that are “sporting” under ATF’s 1989 guidelines are “sporting” under the Recreational Firearms law, while the reverse may be, but is not necessarily, true. We would note that the rifles suspended from importation are eligible for importation under the Recreational Firearms law standard not only in their present configuration, but in a configuration possessing no more than one of the features and characteristics listed in 18 U.S.C. §921(a)(30)(B) as well. For example, these rifles would be eligible for importation if possessing conventional fixed stocks and pistol grips, rather than the thumbhole stocks ATF required beginning in 1989.

B. The rifles suspended for importation are “of a type ... generally recognized as particularly suitable for or readily adaptable to sporting purposes.”

Specifically, rifles suspended from importation are particularly suitable for a variety of target shooting activities, and those chambered to use rifle-caliber ammunition are particularly suitable for hunting big and medium-size game and/or varmints and, with the installation of a .22 rimfire caliber device in .223 caliber models, small-game as well.

Rifles, including semi-automatic rifles, are widely used for hunting throughout the United States. Only eight states prohibit the use of modern rifles for big game hunting, all of them for safety reasons due to population density. Only one state that permits the use of rifles for hunting does not permit the use of semi-automatic rifles (Pennsylvania). All states permit the ownership and use of semi-automatic rifles for self-defense, target shooting, and/or other lawful purposes. The calibers of ammunition used by the rifles are commonly used for organized marksmanship competition and other varieties of target shooting.

The suitability of a rifle for hunting or target shooting depends largely upon whether the caliber of ammunition that the rifle uses is appropriate for the type of activity concerned. The rifle-caliber rifles suspended from importation use calibers of ammunition that are appropriate to a wide range of hunting and target shooting applications: .308 Winchester (a/k/a/ 7.62x51, 7.62 NATO), .223 Remington (a/k/a/ 5.56x45, 5.56 NATO),7.62x39mm, 5.45x39mm, and as noted previously, AK-47/AKM/Galil-variants chambered to use .223 ammunition can be readily adapted to use .22 rimfire ammunition. The Uzi variants use 9mm Luger ammunition (a/k/a 9x19mm, 9mm Parabellum, 9mm NATO).

.308 Winchester is one of the several centerfire calibers most widely used for big and medium size game hunting and target shooting, including but not limited to, NRA High
Power Bullseye, High Power Sporting Rifle, High Power Silhouette and similar competitive disciplines, other competitive disciplines, and practice and other non-competitive target shooting. The caliber is ballistically similar to .30-06 Springfield, during the 20th century one of the several most widely used centerfire calibers for hunting and target shooting. Projectile diameter for both .308 Win. and .30-06 Springfield is .308." Typical bullet weight for both is 150-165 grains. With 150-grain projectiles, muzzle velocity and muzzle energy for .308 are approximately 2,820 f.p.s. and 2,648 ft./lbs., compared to 2,920 f.p.s. and 2,839 ft./lbs. for .30-06. Federal, Hornady, Nosler, PMC, Remington, Sierra, Speer, Winchester and other American and foreign ammunition and bullet manufacturers produce a wide variety of .308 Win. ammunition and .308" projectiles suitable for hunting and target shooting. Dillon, Hornady, Lee, Lyman and RCBS, major manufacturers of ammunition loading dies, manufacture dies for .308 Win.

.223 Remington is one of the several centerfire calibers most widely used for medium and small game and varmint hunting (and in some states big game hunting) and target shooting, including but not limited to NRA High Power Bullseye, High Power Sporting Rifle, and similar competitive disciplines as well as practice and other non-competitive target shooting. It is ballistically similar to a wide assortment of calibers commonly used for hunting and target shooting including, but not limited to .22 Hornet, .220 Swift, .222 Remington, .222 Remington Magnum, .225 Winchester, and .22-250. These calibers all use projectiles of .224" diameter, typically weighing upwards of 50 grains, with muzzle velocities upwards of 3,000 f.p.s. and muzzle energies generally between 1,100-1,900 ft./lbs. Federal, Hornady, Nosler, PMC, Remington, Sierra, Winchester and other American and foreign manufacturers produce a wide variety of .223 caliber ammunition and .224" projectiles suitable for hunting and target shooting. Dillon, Hornady, Lee, Lyman and RCBS manufacture dies for .223 Rem. The 5.45x39mm caliber used by some AK-47/AKM-variants is almost identical to the .223 Remington in every respect.

.22 rimfire is the most widely used hunting and target shooting caliber in the world.

7.62x39mm ammunition is ballistically similar to .30-30 Winchester caliber ammunition, during the past century the caliber most widely used for hunting deer and game of a comparable size. Caliber 7.62x39 is also ballistically suitable for target shooting at short and moderate ranges. Projectiles used in 7.62x39mm ammunition have a diameter of .310", compared to .308" for .30-30 projectiles. Typical projectile weight for 7.62x39 is 122 grains, compared to 150 grains for .30-30. With those projectiles, muzzle velocity for 7.62x39 is approximately 2,350 f.p.s., delivering a muzzle energy of 1,495 ft./lbs., compared to 2,390 f.p.s. for .30-30, delivering a muzzle energy of 1,902 ft./lbs. Federal, Hornady, PMC, Remington, Winchester and other American and foreign manufacturers produce a wide variety of 7.62x39 ammunition and .310" projectiles suitable for hunting and target shooting. Dillon, Hornady, Lee, Lyman and RCBS manufacture dies for 7.62x39.

9mm Luger is a medium-powered pistol caliber, suitable for target shooting at ranges of approximately 100 yards or less.

The rifles in question possess features and characteristics that contribute to their suitability for sporting purposes, as follows, in alphabetical order:

* **Ammunition availability and cost**
Compared to many calibers, .308 Win., .223 Rem., 7.62x39, and 9mm ammunition and projectiles are more available and less costly. As noted, .22 rimfire ammunition, the most widely available and least expensive ammunition in the world, can be used in .223 caliber models of the rifles in question, if equipped with a device for such use.

**Barrels**

Most AK-47/AKM, Galil and FAL-variant rifles possess chrome-lined barrels. Such barrels are more resistant to corrosion and wear than the unchromed barrels common to many rifles used for sporting purposes.

**Magazines**

Each of the rifles is capable of using detachable magazines of a variety of sizes, commonly including 5-round magazines (to comply with some states’ hunting regulations, or simply to reduce the profile of the rifle for ease of carriage and handling) and larger-capacity magazines (to comply with the rules governing certain organized marksmanship competitions, to practice for such competitions, or to reduce the need for frequent reloading during practice).

**Semi-automatic mechanism**

Such a mechanism is particularly suitable for any target shooting in which a person is required to fire a prescribed number of shots in a limited amount of time. For example, in NRA High Power Bullseye (Service Rifle Category), there are two stages of fire in which, within 60/70 seconds, the competitor must move from a standing position to a sitting or prone position, fire two shots from one magazine, remove that magazine, insert into the rifle a magazine holding eight rounds, and fire those rounds. Some hunters who use rifles favor semi-automatic rifles for the relative ease with which they can fire a follow-up shot, if required. The semi-automatic mechanisms employed by the rifles suspended from importation are well-known for their exceptional reliability and durability. FAL-variant rifles have a gas system that can be quickly adjusted to deliver optimum mechanical function in a given set of circumstances.

**Sights**

The iron sights that are standard equipment on the rifles in question are very durable, enable the user to quickly obtain a sight picture facilitating precise aiming, and are capable of precise adjustments without the need for special tools. (Note: Target sights are a factor earning points in ATF’s factoring criteria for handguns.) Typically, AK-47/AKM-variant rifles incorporate a well-constructed leaf type rear sight, Galil- and FAL-variant rifles an aperture rear sight, and HK91-variant rifles a rear sight unit that has a leaf sight for shorter range shooting and aperture sights for longer ranges. Additionally, for each such rifle there exists a variety of bases and rings for mounting a telescopic sight without the services of a gunsmith. Such bases are in the form of easily removable top covers into which the scope ring mounting apparatus is integrated (AK-47/AKM and FAL-variant rifles), and slip-on or snap-on units (Galil and HK91-variant rifles). By contrast, many rifles are sold without iron sights and such sights cannot be installed without the services of a gunsmith.
Spare parts and service

Spare parts are more commonly available for these rifles than for many rifles commonly used for sporting purposes and such parts are generally replaceable by the average user.

C. Discussion of rifle variants by ATF categorization

AK-47/AKM/Galil-variant Rifles

Relative to pre-1989 variants of the rifles, rifles suspended from importation have been modified by the substitution of thumbhole-type stocks for the conventional fixed or folding stocks and pistol grips. Flash suppressors (previously on some AK-47/AKM and Galil-variant rifles), muzzles threaded to accept flash suppressors, bayonet mounts, flash suppressors that serve as grenade launchers (previously on Galil variants) bipods (previously on some Galil variants) and night sights (previously on Galil variants) have been removed or are omitted. As with previous variants of the rifles, those suspended from importation employ a semi-automatic receiver and fire control mechanism.

The AK-47/AKM/Galil-variant rifles are, like most centerfire semi-automatic rifles, gas-operated. By a large margin, most are designed to use 7.62x39mm caliber ammunition. One Galil variant rifle is designed to use .308 Win. caliber ammunition, while others and some AK-47/AKM-variant rifles are designed to use .223 Rem. caliber ammunition. Some models use 5.45x39mm ammunition.

The AK-47/AKM/Galil-variant rifles are identical in function and caliber to semi-automatic rifles protected as sporting rifles in the Recreational Firearms law, including the Ruger Mini-14 and Mini-Thirty rifles (protected by name) and ArmaLite, Bushmaster, Colt, Olympic Arms and other rifles (protected by description). Like all these rifles, the AK-47/AKM/Galil-variant rifles do not possess two or more of the features or characteristics proscribed by Congress in the Recreational Firearms law or that ATF in 1989 began to prohibit with respect to imported rifles.

For the reasons noted previously, AK-47/AKM/Galil-variant rifles are particularly suitable for hunting and target shooting. Additionally, in densely forested or brushy areas, the rifle's relatively compact profile and light weight contribute to a hunter's ability to carry it without undue fatigue and to move silently (longer rifles are more likely to become caught in brush, vines, etc.).

The AK-47/AKM/Galil-variant rifles are permitted under the rules governing NRA High Power Bullseye (Match Rifle Category), High Power Sporting Rifle and High Power Silhouette (7.62x39 and .308 Win. only). The .308 caliber variant rifles are particularly suitable for all three disciplines. Due to factors relating to ballistics and the scoring system used in the competition, 7.62x39 caliber variant rifles are particularly suitable for the latter two disciplines, while .223 caliber variant rifles are particularly suitable for High Power Sporting Rifle. The .223s and the 5.45x39mm are readily adaptable to NRA High Power Bullseye (Match Rifle Category). All the rifles are suitable for various other competitive disciplines and non-competitive target shooting.

The relatively light recoil of 7.62x39, 5.45x39mm, and .223 caliber models is of
importance to some hunters and target shooters.

**FAL Variants**

Relative to pre-1989 variants of the rifles, the rifles suspended from importation have been modified by the substitution of thumbhole-type stocks for the conventional fixed or folding stocks and pistol grips. Flash suppressors, muzzles threaded to accept flash suppressors, bayonet mounts, flash suppressors that serve as grenade launchers, bipods (not standard previously) and night sights (not standard previously) have been removed or are omitted. As with previous models of the rifles, those suspended from importation employ a semi-automatic receiver and fire control mechanism.

Semi-automatic FAL-variant rifles, like most centerfire semi-automatic rifles, are gas-operated. Most are designed to use .308 Win. caliber ammunition.

The FAL-variant rifles are identical in function and caliber to .308 caliber semi-automatic rifles protected as sporting rifles in the Recreational Firearms law, including the Browning and Remington rifles (protected by name) and the Springfield M1A (protected by description). Like the Browning, Remington and Springfield rifles, the FAL-variant rifles do not possess any of the features or characteristics proscribed by Congress in the Recreational Firearms law or that ATF in 1989 began to prohibit with respect to imported rifles.

FAL-variant, Browning, Remington and Springfield rifles typically measure 40”-44” in length, overall, with barrels of 21”-22.” FAL-variant rifles and Springfields weigh approximately nine pounds, while the Remingtons and Brownings weigh approximately eight pounds.

For the reasons noted previously, FAL-variant rifles are particularly suitable for hunting and target shooting. Additionally, among NRA competitive marksmanship disciplines, semi-automatic FAL-variant rifles are permitted under the rules governing High Power Bullseye (Match Rifle Category), High Power Sporting Rifle and in High Power Silhouette and are particularly suitable for each. The rifles are suitable for various other competitive disciplines and non-competitive target shooting. In addition to high-quality standard-grade FALs, customized match-grade FALs have been on the market for some time. Match-grade components, such as sights, triggers, barrels, etc., have also been available for some time to consumers who wish to improve the performance of standard-grade FAL-variant rifles.

**HK91 Variants**

Relative to pre-1989 variants of the rifles, the rifles suspended from importation have been modified by the substitution of thumbhole-type stocks for the conventional fixed or folding stocks and pistol grips. Flash suppressors, muzzles threaded to accept flash suppressors, bayonet mounts, flash suppressors that serve as grenade launchers, bipods and night sights (not standard previously) have been removed or are omitted. As with previous models of the rifles, those suspended from importation employ a semi-automatic receiver and fire control mechanism.

HK91-variant rifles are delayed roller blowback system semi-automatics chambered to use .308 Winchester caliber ammunition.
HK91-variant rifles are identical in function and caliber to .308 caliber semi-automatic rifles protected as sporting rifles in the Recreational Firearms law, including the Browning and Remington rifles (protected by name) and the Springfield M1A (protected by description). Like the Browning, Remington and Springfield rifles, the HK91-variant rifles do not possess any of the features or characteristics proscribed by Congress in the Recreational Firearms law or that ATF in 1989 began to prohibit with respect to imported rifles.

The HK91-variant, Browning, Remington and Springfield rifles are of a comparable overall and barrel length. Specifically, HK91-variant rifles typically measure 40” overall with barrels of 18” and weigh 9-10 pounds. The lengths and weight of the other rifles has been noted previously.

For the reasons noted previously, HK91-variant rifles are particularly suitable for hunting and target shooting. Additionally, HK91-variant rifles are permitted under the rules governing NRA High Power Bullseye (Match Rifle Category), High Power Sporting Rifle and High Power Silhouette and are particularly suitable for each. In addition to high-quality standard-grade HK91-variant rifles, match-grade HK91-variant rifles have been on the market for some time. Match-grade components have also been available for some time, to consumers who wish to improve the performance of standard-grade HK91-variant rifles. The PSG-1 trigger group, which can be used in HK91-variant rifles, is widely recognized as a first-rate unit.

**Uzi Variants**

Relative to pre-1989 Uzi-variant rifles, those suspended from importation have been modified by the substitution of thumbhole-type stocks for the conventional fixed or folding stocks and pistol grips. Flash suppressors (not standard previously), muzzles threaded to accommodate flash suppressors, bayonet mounts, flash suppressors that serve as grenade launchers (not standard previously), bipods (not standard previously) and night sights (not standard previously) have been removed or are omitted. As with previous models, those suspended from importation employ a semi-automatic receiver and fire control mechanism.

The Uzi-variant rifles employ a closed-bolt blowback-type semi-automatic mechanism. Most use 9mm Luger caliber ammunition, while some models use .45 ACP ammunition.

The Uzi-variant rifles are identical in function and caliber to 9mm and .45 caliber semi-automatic rifles protected as sporting rifles in the Recreational Firearms law, including the Marlin Model 9 (9mm) and Marlin Model 45 (.45 ACP). Like the Marlin rifles, the Uzi-variant rifles do not possess any of the features or characteristics proscribed by Congress in the Recreational Firearms law or that ATF in 1989 began to prohibit with respect to imported rifles.

Among NRA competitive marksmanship disciplines, Uzi-variant rifles are permitted under the rules governing High Power Bullseye (Match Rifle Category), High Power Sporting Rifle and in High Power Silhouette. However, 9mm Luger and .45 ACP ammunition are ballistically inadequate for shooting at the longer ranges required in these disciplines. By reason of ammunition used, Uzi-variant rifles are suitable for target shooting at ranges of 100 yards or less.
VII. Conclusion

The consequences of this study are to be primarily directed toward creating a rationale to almost certainly permanently ban all or most of the firearms on the suspension list. This clearly flies in the face of Congressional intent, not only from 1968, but in the 1986 and 1994 acts as well. Let us reiterate that we strenuously object to the absence of a formal rulemaking process. In closing, we hope you will realize that this action is not supported by law, the law abiding gun owner, or the public interest in reducing the criminal misuse of guns. We believe that the obvious recommendation to the President is for ATF to recommend to him that his suspension order be lifted in full with no further action.

Sincerely yours,

Tanya K. Metaksa

cc: The Hon. Orrin Hatch
Chairman
Committee on the Judiciary
United States Senate

The Hon. Henry Hyde
Chairman
Committee on the Judiciary
United States House of Representatives
Appendix Seven

Heckler and Koch Advertisement
THE CLINTON GUN-GRABBERS ARE AT IT AGAIN...
AND WE NEED YOUR HELP.

URGENT! A CALL FOR ACTION

To all Heckler & Koch SR9 and PSG1 Rifle owners:

Heckler & Koch is soliciting the help of past and current owners of semi-automatic Heckler &
Koch SR9 or PSG1 Rifles. If you currently own or have owned an SR9, SR9(T) or SR9(TC) and/or
PSG1 rifle, we would like to hear from you concerning your legitimate sporting uses of these
firearms.

As you may know, the White House has recently placed a temporary suspension on the
importation of numerous imported semi-automatic rifles, including the HK SR9 and PSG1 models.
This suspension is in effect for 120 days pending the review of the Secretary of the Treasury as to
the appropriateness of these types of semi-automatic rifles being "particularly suitable for or
readily adaptable to sporting purposes" as defined by the 1968 Gun Control Act. Without action
from American gun owners like you, at the end of this review period, these rifles, and many more
like them from other manufacturers, may be banned from further importation and sale.

Heckler & Koch is asking for your help to counter this further import ban on these sporting
firearms. These rifles are regularly used for all types of sporting purposes, including hunting,
target shooting, competition, collecting, and even informal plinking.

We would like to receive from American shooters, written accounts of their uses, especially
hunting and target shooting, of the rifles in question. Photographs, magazine or newspaper articles
and other supporting documentation concerning the sporting use with the SR9 or PSG1 would
also be useful, and most welcome. Legible handwritten or typed accounts are preferred. Please
include your name, address and original signature on your letters.

HK has been given only a short time to present information or materials in support of the clear
fact that these rifles are used by law-abiding Americans like you for all types of sporting
purposes, every day, and are not "the choice of criminals" as some would have us believe. We
cannot return your submissions as they will be submitted in their original forms.

If you can help, we would like your responses no later than February 15, 1998. However, we can
still use them if received past this date. Please send your information and photographs to:

Heckler & Koch, Inc.
Dept SGN: Protect the Second Amendment
21480 Pacific Blvd.
Sterling, VA 20166-8903

Please spread the word and join HK, the firearms industry, and the entire American shooting
community in this effort to prevent again another direct assault on your Second Amendment
rights to keep and bear arms, any arms of your choosing.

Thank you,

Jim Woods
President, Heckler & Koch, Inc.

In a world of compromise, some don't.
Appendix Eight

Century Arms International Questionnaire
EMERGENCY BULLETIN

If you have already answered these questions, please do not answer them again.

Firearms Industry Crisis!

Due to concerns some of you may have, we will protect your privacy and your survey will be handled on a no name basis to BATF.

The firearms industry is under siege! Your business is threatened and your Second Amendment rights are being diminished, the right to keep and bear arms! After more than 40 years in the firearms importation business we are worried about our future and yours!

Please fill out the attached survey form and if possible have your customers fill it out too! You can print this out and fax us back at: 561-998-1993.

On November 14th, BATF temporarily halted the importation of the following semi-automatic rifles:

AK Type Semi-Auto Sporting Rifle, Caliber 7.62x39 - Caliber 5.45x39 - Caliber 5.56 NATO - Caliber .223 Remington

L1A1 Semi-Auto Sporting Rifle and similar using L1A1 style, Caliber 7.62x51 (.308 NATO) - .308 Winchester

G3 Style Semi-Auto Rifle, Cal. 7.62x51 (.308 NATO) - 7.62 NATO - .308 Winchester
While BATF determines whether any of the above are "generally recognized" as suitable for "sporting purposes", they have stated that anyone wishing to comment on their suitability for "sporting purposes" can have something in writing to them by January 9th, 1998. In other words, we must prove to them that people do use the above for "sporting purposes", otherwise you know what will happen! Therefore we have undertaken this initiative to complete the following survey which results will be forwarded to BATF before the deadline.

The bottom line is that we feel your response to this survey can make a difference in their decision in not banning this group of firearms and who knows which group next year?

Lets begin......

Only one survey per person may be completed. Please only check one box.

I. AK Type Semi-Auto Sporting Rifle, Caliber 7.62x39 - Caliber 5.45x39 - Caliber 5.56 NATO

A. [ ] I do not use the above sporting rifle: If you check this box, please skip to section IA. DO NOT ANSWER QUESTIONS 1-5! GO TO SECTION IA!

B. I am only a collector and want to keep my rights in being able to collect the AK Type Semi-Auto Sporting Rifle.

Yes [ ]

1) Is the AK Type Semi-Auto Sporting Rifle, Caliber 7.62x39 - Caliber 5.45x39 - Caliber 5.56 NATO used for hunting? Yes [ ] No [ ]

2) Is the AK Type Semi-Auto Sporting Rifle, Caliber 7.62x39 - Caliber 5.45x39 - Caliber 5.56 NATO used for organized marksmanship competitions? Yes [ ] No [ ]

3) Is the AK Type Semi-Auto Sporting Rifle, Caliber 7.62x39 - Caliber 5.45x39 - Caliber 5.56 NATO used for non-competitive target shooting? Yes [ ] No [ ]

4) Is the AK Type Semi-Auto Sporting Rifle, Caliber 7.62x39 - Caliber 5.45x39 - Caliber 5.56 NATO used for plinking? Yes [ ] No [ ]

5) Is the AK Type Semi-Auto Sporting Rifle, Caliber 7.62x39 - Caliber 5.45x39 - Caliber 5.56 NATO used for home defense? Yes [ ] No [ ]

IA. Please only answer this section if you selected Yes to question A above. Otherwise go to Section II.

If you were to own the above rifle would you use it for any of the following purposes: >>>Do not answer if you answered section above - Go to Section II Below!<<<<

1a) I would use it for hunting? Yes [ ] No [ ]

1b) I would use it for organized marksmanship competitions? Yes [ ] No [ ]

1c) I would use it for non-competitive target shooting? Yes [ ] No [ ]

1d) I would use it for plinking? Yes [ ] No [ ]

1e) I would use it for home defense? Yes [ ] No [ ]

Section II. L1A1 Semi-Auto Sporting Rifle and similar using L1A1 style, Caliber 7.62x51
.(308 NATO)

A. [ ] I do not use the above sporting rifle. - If you check this box, please skip to section IIA. DO NOT ANSWER QUESTIONS 6-10! GO TO SECTION IIA!

B. I am only a collector and want to keep my rights in being able to collect the L1A1 Semi-Auto Sporting Rifle and similar using L1A1 style. Yes [ ]

6) Is the L1A1 Semi-Auto Sporting Rifle and similar using L1A1 style, Caliber 7.62x51 (.308 NATO) used for hunting? Yes [ ] No [ ]

7) Is the L1A1 Semi-Auto Sporting Rifle and similar using L1A1 style, Caliber 7.62x51 (.308 NATO) used for organized marksmanship competitions? Yes [ ] No [ ]

8) Is the L1A1 Semi-Auto Sporting Rifle and similar using L1A1 style, Caliber 7.62x51 (.308 NATO) used for non-competitive target shooting? Yes [ ] No [ ]

9) Is the L1A1 Semi-Auto Sporting Rifle and similar using L1A1 style, Caliber 7.62x51 (.308 NATO) used for plinking? Yes [ ] No [ ]

10) Is the L1A1 Semi-Auto Sporting Rifle and similar using L1A1 style, Caliber 7.62x51 (.308 NATO) used for home defense? Yes [ ] No [ ]

IIA Please only answer this section if you selected Yes to question A above. Otherwise go to Section III. If you were to own the above sporting rifle would you use it for any of the following purposes: >>>Don't answer if you answered section above - Go to Section III Below!<<<

2a) I would use it for hunting? Yes [ ] No [ ]

2b) I would use it for organized marksmanship competitions? Yes [ ] No [ ]

2c) I would use it for non-competitive target shooting? Yes [ ] No [ ]

2d) I would use it for plinking? Yes [ ] No [ ]

2e) I would use it for home defense? Yes [ ] No [ ]

Section III. G3 Style Semi-Auto Sporting Rifle, Caliber 7.62x51 (.308 NATO)

A. [ ] I do not use the above sporting rifle. - If you check this box, please skip to section IIIA. DO NOT ANSWER QUESTIONS 11-15! GO TO SECTION IIIA BELOW!

B. I am only a collector and want to keep my rights in being able to collect the G3 Style Semi-Auto Sporting Rifle. Yes [ ]

11) Is the G3 Style Semi-Auto Sporting Rifle, Caliber 7.62x51 (.308 NATO) used for hunting? Yes [ ] No [ ]

12) Is the G3 Style Semi-Auto Sporting Rifle, Caliber 7.62x51 (.308 NATO) used for organized marksmanship competitions? Yes [ ] No [ ]

13) Is the G3 Style Semi-Auto Sporting Rifle, Caliber 7.62x51 (.308 NATO) used for non-competitive target
14) Is the G3 Style Semi-Auto Sporting Rifle, Caliber 7.62x51 (.308 NATO) used for plinking?  
Yes [□] No [□]

15) Is the G3 Style Semi-Auto Sporting Rifle, 7.62x51 (.308 NATO) used for home defense?  
Yes [□] No [□]

III A Please only answer this section if you selected Yes to question A above.  
If you were to own the above rifle would you use it for any of the following purposes:

3a) I would use it for hunting? Yes [□] No [□]

3b) I would use it for organized marksmanship competitions? Yes [□] No [□]

3c) I would use it for non-competitive target shooting? Yes [□] No [□]

3d) I would use it for plinking? Yes [□] No [□]

3e) I would use it for home defense? Yes [□] No [□]

Any comments?

Please enter the following information which will validate this survey:

Name: ___________________________  Are you a Business [□] or Consumer [□] - Please only select one.

Email: ___________________________

Phone: ___________________________

Fax: _____________________________

FFL #: ___________________________

Address: ___________________________

Submit Survey - ONLY HIT THIS BUTTON ONCE! IT MAY TAKE 1 MIN!

Thanks for your vote which will make a difference in all our freedoms. We must keep the 2nd
amendment in place, The Right To Keep And Bear Arms as it's part of our nation's constitution!
Appendix Nine

Letter of January 9, 1998 from Violence Policy Center to ATF Director John Magaw
January 9, 1998

John W. Magaw
Director
Bureau of Alcohol, Tobacco and Firearms
650 Massachusetts Avenue, NW
Washington, D.C. 20226

Dear Director Magaw:

This is in response to your letter of December 17, 1997, which was first received by our office by way of a facsimile transmission sent on December 23, 1997. We offer the following points in response to your letter, reserving our right of course to make whatever further representations and take whatever further action we deem appropriate.

1. The questions you have framed and the process by which you propose to pursue them are not responsive to the Presidential directive and are too narrow to properly address the problem. The White House certainly conveyed the message, by the memorandum to the Secretary of the Treasury that it released on November 15, 1997, that the President desired a full and comprehensive review of "the manner in which the Department is applying the sporting purposes test" and instructed that "the results of this review should be applied to all pending and future applications". Moreover, it is clear that the members of Congress and others who wrote to the Secretary, and according to the President’s memorandum thereby inspired this review, asked for a comprehensive review of both the content of the criteria by which you make the so-called "sporting purposes" decision and the process by which that decision is made.

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1 Memorandum from President William J. Clinton to the Secretary of the Treasury, November 15, 1997.

2 See, e.g., letter to Hon. Robert Rubin, Secretary of the Treasury, from Reps. Charles E. Schumer and Carolyn McCarthy, dated December 16, 1997 urging new rules to be "strict and airtight".
By contrast, your letter simply asks for our comments on a short list of semi-automatic rifles based on certain well-known assault rifle designs.

In our view, this extremely narrow framing of the question is wholly inadequate to the task. It misses the essential point that a wide variety of non-sporting weapons, including rifles and pistols, have been routinely admitted to the country under existing criteria and procedures and will continue to be until those criteria and procedures are substantially revised and thoroughly tightened. Moreover, a determination of importability based on a weapon-by-weapon review cannot serve the function of establishing a rule by which future applications are judged, as required by the Presidential memorandum.

Furthermore, the restrictive manner in which you have addressed this question ignores the continuing problem of "rule-beaters," which has plagued the existing process since it was first implemented under the Bush administration. Nowhere in your solicitation do you indicate that your determination (in whatever form it may take) will address the continuing problem of slight modifications to "beat" whatever rules or criteria you may "determine" apply to the specific classes of firearms listed in your letter.

2. The applicable gun control law, on its face and as interpreted by the federal courts, creates an extraordinarily strong power in the President, the Secretary, and their delegates to limit the import of firearms into the United States. As you well know, only those firearms that meet the so-called sporting purposes test may be imported (with a few exceptions not applicable to the commercial market). "The Act generally forbids the Secretary from authorizing the importation of firearms into the United States."3 Furthermore, since the Bureau "must necessarily retain the power to correct the erroneous approval of firearms import applications" in a particular case4 it most certainly also must have the power to correct or modify at any time and on its own initiative the general criteria by which it makes its determinations. In short, the Bureau in this instance, acting within the umbrella of the authority delegated to it by the President and the Secretary, clearly has the power to completely review the standards by which it makes all "sporting purposes" determinations. We urge you to use that power to its fullest extent so as to restrict the import of firearms of all types to a narrow range of guns and in the manner in which the existing law clearly intends.

3. The Bureau should, at a minimum, articulate and apply a much higher and more realistic standard than that which it apparently applies now. Although we do not agree that the process in which you are currently engaged adequately addresses the problem, we urge that as a minimum, such a standard include the following as

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3 Gun South, Inc. v. Stephen E. Higgins, 877 F.2d 858 (11th Cir. 1989)
4 Gun South, Inc. v. Stephen E. Higgins, 877 F.2d 858 (11th Cir. 1989)
raising a *presumption* that the firearm in question is *not* particularly suitable for or readily adaptable to sporting purposes and therefore may not be imported:

- Any semi-automatic firearm capable of accepting a magazine, whether or not supplied with the firearm, with a capacity of more than 10 rounds, and any semi-automatic rifle having an internal capacity or capable of accepting a magazine with a capacity of more than the maximum number of rounds permitted to be carried for hunting in the state with the lowest number of permitted rounds.

- Any semi-automatic firearm that exceeds the above-described magazine capacity and incorporates a cosmetically altered characteristic that functions as a known assault weapon characteristic, e.g. a thumbhole stock that functions as a pistol grip, a folding barrel substituted for a folding stock, or any other such "rule-beating" cosmetic alterations.

- Any semi-automatic firearm capable of being converted [e.g., by use of parts available in the domestic after-market] to the configuration of any of the named or characteristics classes of firearms banned under the Violent Crime and Law Enforcement Act of 1994.

- Any semi-automatic firearm manufactured by any entity controlled by a foreign government, or any semi-automatic firearm manufactured or exported by any foreign entity (or parent, subsidiary, or affiliate thereof) that also manufactures, assembles, or exports assault-type weapons (this criteria is necessary to address the trend of imports from companies affiliated with foreign governments, e.g. imports from China, Russia, and Israel).

- Any semi-automatic firearm that contains a part that is a material component of any assault type weapon or any automatic weapon made, assembled or exported by the foreign entity (or parent, subsidiary, or affiliate thereof) which is the source of the firearm proposed to be imported.

4. Your reliance on the views of the so-called "gun press" is ill-advised and will skew the results. We understand that you are basically replicating the process by which the ATF made its determination on a similar question in 1989. We regard this as a serious procedural error, in view of the fact that the "gun press" whose views you are soliciting has fabricated significant "commentary" purporting to document the use of such firearms in "sporting" events. These events are transparently nothing more than after-the-fact inventions designed to create a record to justify the claim that assault-type weapons are used in "sports." In
response to your solicitation of these views, we have enclosed several studies and documents showing that the overwhelming purpose and use of these weapons is not for recognized sporting purposes.

In summary, we are greatly disappointed in the failure of your agency to exercise strong leadership with respect to this matter, which is peculiarly within your jurisdiction and which the President, the Secretary of the Treasury, and members of Congress, among others, have expressed strong views. We believe that the manner in which you are proceeding will ensure that the problem continues and is a serious disservice to the American people.

Sincerely,

Tom Diaz
Senior Policy Analyst

M. Kristen Rand
Director of Federal Policy

cc: President William J. Clinton
    The Honorable Robert Rubin, Secretary of the Treasury
    Rahm Emanuel, Senior Advisor to the President

Enclosures (4)