



## Senator Feinstein Questions Importation of Banned Assault Weapons into the U.S. May 6, 2004

*Washington, DC – U.S. Senator Dianne Feinstein (D-Calif.) today raised questions about reports indicating that a large number of military-style assault weapons bound for the United States were granted permits by the Bureau of Alcohol, Tobacco, and Firearms, despite clear laws prohibiting such importation.*

*On April 28, 2004, the Associated Press reported that approximately 7,500 AK-47s, AKM rifles and other weapons had legal permits to be imported. Yet, current law prohibits such importation.*

*The 1994 federal assault weapons ban prohibited the manufacture and importation of 19 types of assault weapons (and many others by characteristic). The current ban is set to expire on September 13, 2004 unless Congress approves new legislation, and it is signed into law by President Bush.*

*The Senate went on record in support of renewing the ban, when it voted in favor of an amendment to a gun immunity bill in March. However, in a bizarre twist, the National Rifle Association scuttled its own underlying bill so that the ban would not be extended.*

*A recent study indicates that 77 percent of voters and 66 percent of gun-owning voters support renewing the ban. The ban's extension is also supported by virtually every major law enforcement organization in the country.*

*In a letter to Bureau of Alcohol, Tobacco, Firearms and Explosives Director Carl J. Truscott, Senator Feinstein wrote:*

*"I am concerned about recent press reports indicating that a large number of assault weapons bound for the United States may have been granted permits despite clear laws prohibiting such importation.*

*According to an April 28, 2004 Associated Press story by Curt Anderson titled 'AK-47s headed to U.S. had legal permits,' about '7,500 AK-47s, AKM rifles and other weapons worth an estimated \$6 million were seized April 20 aboard a Turkish-flagged ship in the port of Gioia Tauro. They were bound for New York from Romania.' Even more troubling, an ATF spokesperson, Andrew Lluberes, is quoted in the article as saying that the weapons were cleared by U.S. authorities. 'The permits are valid,' he said. The article further states that 'under ATF regulations, a properly licensed company can ship such weapons to a "custom bonded warehouse" in the United States. There, they are disassembled and their key firing components destroyed. The remaining parts can then be reconfigured into a weapon that will meet the letter of the 1994 [federal Assault Weapons] law and can be sold legally in the United States.'*

This press report, which states that the importation of these weapons is legal, seems to be contradicted by federal law and ATF policy. Federal law prohibits the importation of firearms that are not ‘particularly suitable or readily adaptable to sporting purposes.’ 18 U.S.C. § 925(d)(3) (the ‘sporting purposes test’). ATF interprets the sporting purposes test to bar the importation of semiautomatic assault rifles. *See* ATF Items of Interest #21 (Federal Firearms Regulations Reference Guide 2000 at 126). ATF policy further states that any firearm banned by the federal Assault Weapons Act ‘would also be denied importation into the United States because its possession would be illegal’ under that Act. *Id.* If this press report is accurate, the weapons on this ship appear to be semiautomatic assault weapons banned from importation by both the federal Assault Weapons Act and 18 U.S.C. § 925(d)(3).

ATF defines ‘importation’ broadly to mean ‘[t]he bringing of a firearm or ammunition into the United States,’ with the only exception being ‘that the bringing of a firearm or ammunition from outside the United States into a foreign-trade zone *for storage* pending shipment to a foreign country or subsequent importation into this country, pursuant to this part, shall not be deemed importation.’ 27 C.F.R. § 478.11 (emphasis added). Here, it appears that the importer will not merely be storing weapons in a foreign trade zone, but actively disassembling them. As ATF regulations do not exempt disassembly in a foreign trade zone from the definition of importation, such disassembly would bring the importer under ATF’s definition of importation and subject the importer to the federal prohibition on the importation of semiautomatic assault weapons. Under ATF’s regulations, an importer who intends to bring semiautomatic assault weapons into a foreign trade zone for disassembly will clearly be importing banned weapons, which is illegal under 18 U.S.C. § 925(d)(3).

Because this ship may soon reach our shores, I respectfully request an expeditious answer to the following questions:

- 1) Are the weapons on this ship semiautomatic assault weapons or firearms that do not meet the sporting purposes test of 18 U.S.C. § 925(d)(3)?
- 2) Under what authority did ATF grant the importer of the firearms on this ship a permit to import these weapons? Please cite the statute section, regulation or policy that authorizes this permit and import.
- 3) Does ATF allow the importation of semiautomatic assault weapons or other firearms that do not meet the sporting purposes test of 18 U.S.C. § 925(d)(3)? If so, please cite the statute section, regulation or policy that authorizes this and state what restrictions ATF places on importers of these weapons.
- 4) Does ATF allow importers to bring semiautomatic assault weapons or other firearms that do not meet the sporting purposes test into this country and then disassemble them or make changes to them in this country (for example, in a customs bonded warehouse or foreign trade zone)? If so, please cite the statute section, regulation or policy that authorizes this.
- 5) Given that U.S. criminal laws apply in customs bonded warehouses and foreign trade zones, does ATF nevertheless consider it to be legal for an importer to possess semiautomatic assault weapons in such locations? If so, please cite the statute section, regulation or policy that allows such possession.

Thank you in advance for your prompt reply.”

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