



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

JUN 13 1991

SC 12
CC-39,855 FE:TGF

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards
United States Nuclear Regulatory Commission
Washington, DC 20555

Dear Mr. Bernero:

This is in response to your request for the Bureau of Alcohol, Tobacco and Firearms (ATF) to approve the importation of certain semiautomatic assault rifles for the use of two commercial fuel fabrication facilities licensed by the Nuclear Regulatory Commission (NRC).

Your request stems from ATF's recent denial of permits to import such rifles, specifically Heckler & Koch model HK91A3 rifles, for these facilities. This action was based upon 18 U.S.C. § 925(d)(3), which prohibits the importation of firearms not generally recognized as particularly suitable for or readily adaptable to sporting purposes. Although the importation of these firearms for the use of the United States or any State would be exempt from the prohibition (see 18 U.S.C. § 925(a)(1)), ATF concluded that this exemption would not apply with respect to an importation for commercial, rather than governmental, fuel fabrication facilities.

You state that the prohibition against the importation of semiautomatic assault rifles has resulted in a hardship to commercial nuclear facilities since they are not able to obtain replacement parts or new weapons to meet future needs. You advise that Federal law requires that these facilities maintain physical security requirements designed to provide protection against the theft of nuclear materials that could be used in nuclear weapons. Although weapons of domestic manufacture could be obtained to meet these requirements, you state that imported models are preferred

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Robert M. Bernero, Director

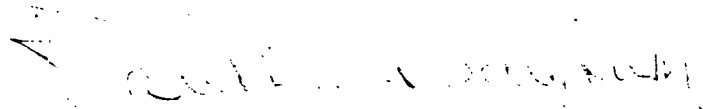
by security personnel at the facilities because of their quality and reliability. You also point out that it is not feasible for the NRC to procure or maintain the weapons for the facilities. Accordingly, you request that ATF exempt two licensees, Nuclear Fuel Services, Inc. of Erwin, Tennessee, and Babcock and Wilcox Company of Lynchburg, Virginia, from the prohibition.

ATF has no authority to administratively exempt particular persons or entities from the prohibition on importation of nonsporting firearms. As pointed out above, such firearms, including semiautomatic assault rifles, are generally not eligible for importation into the United States under the provisions of section 925(d)(3). An exception to this prohibition is the importation of firearms for the official use of governmental entities. However, since the facilities mentioned in your letter are clearly commercial nuclear facilities as opposed to governmental, we have no authority to authorize the importation of the semiautomatic assault rifles for their use.

However, the ban on importation does not extend to replacement parts for firearms, other than frames or receivers of semiautomatic assault rifles which are themselves defined as "firearms" and are subject to all the restrictions imposed on firearms (see 18 U.S.C. § 921(a)(3)(B)). Thus, persons who currently possess imported weapons in this country may lawfully obtain such imported replacement parts without restriction.

We regret that our response could not be more favorable. Should you wish to discuss this matter further, please advise.

Sincerely yours,


Robert E. Daugherty
Chief, Firearms and Explosives Division