

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms  
T.D. ATF-393

Removal of Restrictions on Importation of Defense Articles From Specified New Independent States of the Former Soviet Union and Yugoslavia and To Amend the Term ``Military Firearms and Ammunition''

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

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule removes the following States of the former Soviet Union from the list of countries from which the import of defense articles into the United States is proscribed: Georgia, Kazakstan, Kyrgyzstan, Moldova, Russian Federation, Turkmenistan, Ukraine, and Uzbekistan. The rule also restricts the importation of certain firearms and ammunition located or manufactured in any of the above countries or previously manufactured in the Soviet Union to conform to limitations contained in an agreement between the United States and the Russian Federation and in accordance with advice from the Department of State. The final rule specifies the firearms that are allowed to be imported from these countries as well as ammunition that may not be imported from these countries. The final rule also revises the list of proscribed countries to reflect the lifting of the embargo on importation of defense articles and defense services from the states of the former Yugoslavia, except for Serbia and Montenegro. Finally, the regulations are being revised to require applications to import parts of military firearms or ammunition of United States manufacture to be submitted with statements certifying that the parts were not furnished to a foreign government under a foreign assistance or sales program of the United States.

[[Page 61233]]

DATES: The amendments to 27 CFR 47.52 are effective November 17, 1997.

The amendment to 27 CFR 47.52(c) was effective December 20, 1996. Applicability dates. Removal of the Russian Federation from the list of proscribed countries was applicable April 5, 1996. Removal of Georgia, Kazakstan, Kyrgyzstan, Moldova, Turkmenistan, and Uzbekistan was applicable August 12, 1996. Removal of Ukraine was applicable September 10, 1996. Lifting of the embargo on importation of defense articles, other than heavy weapons, ammunition therefor, mines, military aircraft and helicopters from a number of the states of the country formerly known as Yugoslavia was applicable March 14, 1996.

Lifting of restrictions on the importation of the remainder of defense articles and defense services from a number of the states of the former Yugoslavia was applicable July 12, 1996.

FOR FURTHER INFORMATION CONTACT: Scott Mendoza, Specialist, Firearms and Explosives Imports Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927-8320.

SUPPLEMENTARY INFORMATION: The Arms Export Control Act of 1976 (AECA), 22 U.S.C. 2778, gives the President of the United States the authority to control the import and export of defense articles and defense services.

Executive Order 11958 of January 18, 1977, as amended (42 FR 4311), delegated the authority to control exports of defense articles and defense services to the Secretary of State. The Executive Order also delegated to the Secretary of the Treasury the authority to control the import of such articles and services. However, as stated in 27 CFR 47.55, ATF is guided by the views of the Departments of State and Defense on matters affecting world peace and the external security and foreign policy of the United States.

#### New Independent States of the Former Soviet Union

By letter dated April 5, 1996, the Secretary of State advised the Director, ATF, that, under the authority of Section 38 of the AECA it is no longer the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services destined for or originating in the Russian Federation (Russia). The State Department requested that the Director implement this decision immediately with respect to his authority over imports under Section 38 of the AECA and amend the regulation at 27 CFR 47.52(a) to reflect this change in foreign policy. On April 29, 1996,

ATF published in the Federal Register a Statement of Policy announcing this change in foreign policy (Notice No. 821, 61 FR 18678).

The April 5, 1996, letter also informed ATF that an agreement between the United States and the Russian Federation on exports of firearms and ammunition from the Russian Federation to the United States (the Agreement) was signed on April 3, 1996, and entered into force on that date. The letter stated that carrying out such an agreement and keeping out unacceptable types of munitions from the United States are United States foreign policy concerns. On this basis, the State Department advised the Department of the Treasury to exercise its authority under the AECA by denying applications to import firearms and ammunition located or manufactured in Russia or previously manufactured in the Soviet Union that would be inconsistent with the Agreement. The State Department advised Treasury that the foregoing did not apply to conditional imports of firearms and ammunition that would serve as samples for purposes of determining whether the items are of a type authorized for importation under the Agreement. The Agreement provides that Russia shall not allow the exportation to the United States of firearms other than those specified in Annex A to the Agreement and will prohibit exportation to the United States of ammunition specified in Annex B to the Agreement. The Agreement also provides that new types of firearms and ammunition manufactured after February 9, 1996, may not be exported by Russia under the Agreement unless the parties agree in writing to amend the Agreement accordingly.

The Agreement, including Annexes A and B, was published in its entirety in Notice No. 821.

By letter dated June 24, 1996, the Secretary of State requested that ATF deny applications to import firearms located or manufactured in the non-Russian newly independent states of the former Soviet Union (NIS) that are not listed in Annex A to the Agreement, once those countries have been removed from the proscribed countries list. The letter further requested that ATF deny applications to import ammunition located or manufactured in the non-Russian NIS that is listed in Annex B to the Agreement, once those countries have been removed from the proscribed countries list. The letter stated that, for purposes of this request, the non-Russian NIS should be considered as Armenia, Azerbaijan, Belarus, Georgia, Kazakstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine and Uzbekistan. The letter advised that the State Department would notify ATF when a decision had been made to remove from the list of proscribed countries any of the NIS listed above.

By letter dated August 12, 1996, the Secretary of State notified the Director, ATF, that the State Department had removed Georgia, Kazakstan, Kyrgyzstan, Moldova, Turkmenistan, and Uzbekistan from the list of proscribed

countries in 22 CFR Part 126. The letter stated that it is no longer the policy of the United States to deny licenses or other approvals for exports and imports of defense articles and defense services destined for or originating in these countries, except as provided in the June 24, 1996, letter. Consistent with ATF's authority over the importation of defense articles and defense services, the Secretary of State requested that ATF amend the list of proscribed countries in 27 CFR Part 47 to reflect this change in foreign policy. By letter dated September 10, 1996, the Secretary of State advised the Director, ATF, that the Department of State had removed Ukraine from the list of proscribed countries in 22 CFR Part 126. The letter stated that it is no longer the policy of the United States to deny licenses or other approvals for exports and imports of defense articles and defense services destined for or originating in Ukraine, except as provided in the June 24, 1996, letter. The letter requested that ATF exercise its authority over the importation of defense articles and defense services and amend 27 CFR Part 47 to reflect this change in foreign policy.

The regulations in 27 CFR 47.52 have been amended to remove all the above NIS from the list of countries from which defense articles and defense services may not be imported. The regulations have also been amended to indicate that firearms may be imported from these countries only if they are listed in Annex A to the Agreement and that ammunition may be imported only if it is not listed in Annex B to the Agreement.

The regulations also provide that firearms and ammunition manufactured in the NIS may not be imported from any location unless they are listed in Annex A, in the case of firearms, or not listed in Annex B, in the case of ammunition.

[[Page 61234]]

Importation of Defense Articles and Defense Services From States of the Former Yugoslavia The States of Bosnia and Herzegovena, Croatia, Federal Republic of Yugoslavia (Serbia and Montenegro), Macedonia, and Slovenia were created with the dissolution of Yugoslavia.

Effective March 14, 1996, the Department of State announced a partial lifting of the suspension of licenses and approvals to export or otherwise transfer defense articles and defense services to the states of the former Yugoslavia, except Serbia and Montenegro, pursuant to section 38 of the AECA. The Department of State advised ATF that the suspension remained in place for all states of the former Yugoslavia with regard to importation of heavy weapons, ammunition therefor, mines, military aircraft and helicopters.

The Department of State subsequently advised ATF that, effective July 12, 1996, the remainder of the restrictions on importation of defense articles

and defense services from the states of the former Yugoslavia, except Serbia and Montenegro, had been lifted (See 61 FR 36625, July 12, 1996). The State Department amended its regulations concerning exports of defense articles and defense services and requested that ATF amend the regulations in 27 CFR Part 47 to reflect this change in foreign policy.

The list of proscribed countries in 27 CFR 47.52(a) is being revised to replace the listing of Yugoslavia with the names of the former states still subject to import restrictions, i.e., the Federal Republic of Yugoslavia (Serbia and Montenegro). Accordingly, ATF will approve applications to import defense articles from Bosnia and Herzegovina, Croatia, Macedonia, and Slovenia.

#### Importation of Parts of Military Firearms or Ammunition of United States Manufacture

By letter dated December 20, 1996, the Department of State requested that ATF amend the regulations in 27 CFR 47.57(c) to require that applications to import parts of military firearms or ammunition of United States manufacture include statements certifying that the parts were not furnished to a foreign government under a foreign assistance or sales program of the United States. The letter advised ATF that the Department of State believes that the importation of such parts must be subject to their review to be consistent with the law and Department of State policy.

The regulations in 27 CFR 47.57(c) are being revised to delete the current exemption for component parts of firearms and ammunition.

#### Executive Order 12866

Because the amendments to 27 CFR Part 47 involve a foreign affairs function of the United States, Executive Order 12866 does not apply.

#### Administrative Procedure Act

Under 27 CFR 47.54, amendments made to 27 CFR Part 47 are excluded from the rulemaking provisions of 5 U.S.C. 553 because this Part involves a foreign affairs function of the United States. Accordingly, it is not necessary to issue this Treasury Decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitations in 5 U.S.C. 553(d).

#### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis are not applicable to this final rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law. 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

#### Compliance With 5 U.S.C. Chapter 8

In accordance with 5 U.S.C. 808(2), ATF has found that, consistent with guidance from the Department of State and for reasons of the foreign policy of the United States, notice and public procedure under 5 U.S.C. 801 are unnecessary, impracticable, and contrary to the public interest.

#### Drafting Information

The principal author of this document is Scott Mendoza, Specialist, Firearms and Explosives Imports Branch, Bureau of Alcohol, Tobacco and Firearms.

#### List of Subjects in 27 CFR Part 47

Administrative practice and procedure, Arms and munitions, Arms control, Authority delegation, Chemicals, Customs duties and inspection, Imports, Penalties, Reporting and recordkeeping requirements, Scientific equipment, Seizures and forfeitures.

#### Authority and Issuance

Accordingly, 27 CFR Part 47 is amended as follows:

#### **PART 47--IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR**

Paragraph 1. The authority citation for Part 47 continues to read as follows:

Authority: 22 U.S.C. 2778.

Par. 2. Section 47.52 is amended by revising paragraph (a); by redesignating paragraphs (b), (c), and (d) as paragraphs (d), (e), and (f); by removing ``paragraph (c)" in the first sentence of redesignated paragraph (f) and adding in its place ``paragraph (e)"; and by adding new paragraphs (b) and (c) to read as follows:

Sec. 47.52 Import restrictions applicable to certain countries.

(a) It is the policy of the United States to deny licenses and other approvals with respect to defense articles and defense services originating in certain countries or areas. This policy applies to Cuba, Iran, Iraq, Libya, Mongolia, North Korea, Sudan, Syria, Vietnam, and some of the states that comprised the former Soviet Union (Armenia, Azerbaijan, Belarus, and Tajikistan). This policy applies to countries or areas with respect to which the United States maintains an arms embargo (e.g., Burma, China, the Federal Republic of Yugoslavia (Serbia and Montenegro), Haiti, Liberia, Rwanda, Somalia, Sudan, UNITA (Angola), and Zaire). It also applies when an import would not be in furtherance of world peace and the security and foreign policy of the United States.

Note: Changes in foreign policy may result in additions to and deletions from the above list of countries. The ATF will publish changes to this list in the Federal Register. Contact the Firearms and Explosives Imports Branch at (202) 927-8320 for current information.

(b) Notwithstanding paragraph (a) of this section, the Director shall deny applications to import into the United States the following firearms and ammunition:

(1) Any firearm located or manufactured in Georgia, Kazakstan, Kyrgyzstan, Moldova, Russian Federation, Turkmenistan, Ukraine, or Uzbekistan, and any firearm previously manufactured in the Soviet Union, that is not one of the models listed below:

(i) Pistols/Revolvers:

(A) German Model P08 Pistol.

(B) IZH 34M, .22 caliber Target Pistol.

(C) IZH 35M, .22 caliber Target Pistol.

(D) Mauser Model 1896 Pistol.

(E) MC-57-1 Pistol.

(F) MC-1-5 Pistol.

(G) Polish Vis Model 35 Pistol.

(H) Soviet Nagant Revolver.

(I) TOZ 35, .22 caliber Target Pistol.

(ii) Rifles:

- (A) BARS-4 Bolt Action Carbine.
- (B) Biathlon Target Rifle, .22LR caliber.
- (C) British Enfield Rifle.
- (D) CM2, .22 caliber Target Rifle (also known as SM2, 22 caliber).
- (E) German Model 98K Rifle.
- (F) German Model G41 Rifle.
- (G) German Model G43 Rifle.
- (H) IZH-94.
- (I) LOS-7 Bolt Action Rifle.
- (J) MC-7-07.
- (K) MC-18-3.
- (L) MC-19-07.
- (M) MC-105-01.
- (N) MC-112-02.
- (O) MC-113-02.
- (P) MC-115-1.
- (Q) MC-125/127.
- (R) MC-126.
- (S) MC-128.
- (T) Saiga Rifle.
- (U) Soviet Model 38 Carbine.
- (V) Soviet Model 44 Carbine.
- (W) Soviet Model 91/30 Rifle.
- (X) TOZ 18, .22 caliber Bolt Action Rifle.
- (Y) TOZ 55.



(Z) TOZ 78.

(AA) Ural Target Rifle, .22LR caliber.

(BB) VEPR Rifle.

(CC) Winchester Model 1895, Russian Model Rifle;

(2) Ammunition located or manufactured in Georgia, Kazakstan, Kyrgyzstan, Moldova, Russian Federation, Turkmenistan, Ukraine, or Uzbekistan, and ammunition previously manufactured in the Soviet Union, that is 7.62X25mm caliber (also known as 7.63X25mm caliber or .30 Mauser); or

(3) A type of firearm the manufacture of which began after February 9, 1996.

(c) The provisions of paragraph (b) of this section shall not affect the fulfillment of contracts with respect to firearms or ammunition entered or withdrawn from warehouse for consumption in the

United States on or before February 9, 1996.

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Par. 3. Section 47.57(c) is amended by removing the last sentence.

Signed: August 22, 1997.

John W. Magaw,

Director.

Approved: August 29, 1997.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).