

27 CFR 47.45: IMPORTATION OF SURPLUS MILITARY CURIO OR RELIC FIREARMS

Importers of surplus military curio or relic firearms must submit originals of all appropriate statements supporting the Form 6 application.

ATF Rul. 2001-3

The Bureau of Alcohol, Tobacco and Firearms (ATF) has received inquiries from firearms importers concerning supporting documents required to be submitted with applications to import surplus military curio or relic firearms. Importers often rely upon documents obtained by the foreign shipper or seller and have asked whether copies of the documents, rather than originals, may be submitted with the application. For the reasons stated below, ATF has found that importers of surplus military curio or relic firearms must submit originals of all appropriate statements supporting the application.

ATF has the authority pursuant to section 38 of the Arms Export Control Act (AECA), 22 U.S.C. 2778, and implementing regulations, to approve import permits, as well as to deny, revoke, suspend, or revise import permits without prior notice whenever the proposed importation is found to be inconsistent with the purpose or in violation of section 38 or its implementing regulations. See 27 CFR 47.41, 47.44(a).

Under the AECA and implementing regulations, 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 as determined by the

Department of State. This policy applies to countries or areas with respect to which the United States maintains an arms embargo. See 27 CFR 47.52(a). Nonetheless, applications for permits to import articles that were manufactured in, or have been in, a proscribed country or proscribed area may be approved where the articles:

- Are covered by Category I(a) of the Import List (other than those subject to the provisions of 27 CFR Part 179);
- Are importable as curios or relics under the provisions of 27 CFR 178.118;
- Were manufactured in a proscribed country or area prior to the date the country or area became proscribed, or, were manufactured in a non-proscribed country or area; and,
- The articles have been stored for the five year period immediately prior to importation in a non-proscribed country or area.

22 U.S.C. 2778(b)(1)(B); 27 CFR 47.52(e).

Any persons seeking to import articles under these provisions must explain and certify how the firearms meet the applicable criteria. The certification statement must be executed under the penalties of perjury. In addition, the statement must be accompanied by documentary information both on the country or area of original manufacture, and on the country or area of storage for the five year period immediately prior to importation. Such information may, for example,

include a verifiable statement in the English language of a government official or any other person having knowledge of the date and place of manufacture and/or the place of storage. ATF reserves the right to determine whether documentation provided is acceptable, and to require the submission of additional documentation as may be necessary.

27 CFR 47.52(f).

To ensure the lawfulness of the importation of surplus military defense articles, ATF must be able to rely upon the validity of import permit applications and all supporting documentation. This documentation includes but is not limited to appropriate and verifiable documentation of the above-referenced:

- (1) Importer certification statement;
- (2) Statement on the country or area of original manufacture; and,
- (3) Statement on the country or area of storage for the five year period immediately prior to importation.

In the past, import permit applicants have submitted photocopies of the required statements. ATF has become aware that, in some cases, the photocopies are fraudulent. To assist ATF in confirming the validity and authenticity of these statements, importers must submit original statements in support of all import permit applications. Consistent with the purpose

of section 38 of the AECA and implementing regulations, ATF will deny all permit applications that fail to include the above-described original statements.

Held, all importers submitting permit applications to import surplus military defense articles, importable as curio or relics, must provide with the permit applications originals of all necessary supporting statements. ATF will deny permit applications when applicants fail to provide appropriate original statements, as ATF finds that copies are not acceptable documentation within the meaning of 27 CFR 47.52(f).

Date signed: October 31, 2001