

## Effect of Granting Retransfer Authority to the Republic of Korea for M1 Garand and M1 Carbine Rifles

By letter dated May 7, 2009, the Department of State approved a request by the Government of the Republic of Korea (ROK) to transfer 87,310 M1 Garand rifles and 770,160 M1 carbine rifles to U.S. private entities for subsequent commercial resale in the United States. There are a number of countries that have these kinds of U.S. origin firearms – as well as M-1911 pistols – that were originally provided to their governments by the United States and are subject to retransfer restrictions. Given that the foreign policy rationale for denying retransfer authority for resale in the U.S. commercial market has historically been the same for all of these U.S. origin firearms, regardless of country, the approval of this transfer will likely set a precedent for granting future requests by other countries for transferring these firearms for resale in the U.S.

For the reasons stated below, ATF believes the importation of these firearms, particularly the M1 carbine rifle and M-1911 pistol, poses a threat to public safety in the U.S.

### Increase in Imported Firearms

The grant of retransfer authority is likely to significantly increase the number of firearms imported into the United States each year. For example, the retransfer authority recently granted to ROK gives it the right to retransfer of a total of 857,470 rifles for commercial sale in the United States. According to information obtained from the Department of Commerce, a total of 602,264 rifles – of every kind, from every source – were imported into the U.S. last year. Accordingly, a quarter of a million more rifles could be imported under the retransfer authorization granted to ROK than were imported into the United States in all of last year. To mitigate this potential, however, the State Department has indicated that ROK has agreed to spread out the sale of these firearms over ten years.<sup>1</sup> However, even if you assume ROK sells only 10% of the authorized firearms each year, that would still represent almost 15% of all the rifles imported last year. And that is just what could come in from Korea.

ROK is only the beginning. In the 1998 Report to Congress on U.S. Military Curio or Relic Firearms, the Department of State and ATF estimated that there were approximately 950,000 M1 Garands, 1.2 million M1 carbines and almost 300,000 M-1911 pistols that had been transferred to foreign governments. Report at 5. These figures were conservative estimates and now appear low given that ROK alone is requesting retransfer authority for more than 770,000 M1 carbines. The 1998 report estimated that there were only 743,697 M1 carbines in all of the non-proscribed countries. *Id.* The report stated that there were 6,117,767 M1 carbines produced. While many of these firearms may not have been exported to a foreign government, it is indicative of the universe of these firearms that may exist. Similarly, the report indicated that 5,468,772 M1 Garands and more than 2,500,000 M1911 and M1911A1 pistols were produced.

Generally speaking, the greater the supply of a good, the less it costs. Although it is impossible to predict with accuracy how much prices for M1 Garands and M1 carbines will decrease as a result of the newly authorized imports, it seems safe to assume there will be at least some price drop, particularly for the M1 carbines given that ROK is authorized to retransfer more than 770,000 of them. Currently, the M-1 Garand depending upon its conditions can sell from \$495.00 to \$3,500.00. The M-1 Carbine depending upon its condition can sell from \$420.00 to \$675.00. Source: [www.thecmp.org](http://www.thecmp.org).

### Lack of Controls on Distribution of Firearms Imported into the United States

The 2005 memorandum that sets out the basis for the change in policy by State to permit retransfer of U.S. origin firearms sets out a number of conditions before any retransfer authorization will be given. Among these conditions is that "importers provide end-use and retransfer assurances related to the importation" of the firearms. Although the State Department memo refers to "end-use" assurances, neither the Gun Control Act of 1968 (GCA) nor the Arms Export Control Act of 1976 (AECA) require prospective importers to establish end user information prior to importation, and so ATF does not – and could not – collect such information on its import permit applications. The only thing ATF can require is for the importer to attest to the fact they will not divert, transship or re-export the defense articles without the approval of the Departments of State, Commerce and ATF. There are no controls on the domestic sales of the firearms.

As a result, the condition referenced in the State Department memo does not permit ATF or any other government agency to track the imported firearms inside the United States. The imported firearms will be injected into U.S. commerce with no more controls than any other firearm. They may be legitimately sold, trafficked or otherwise transferred. The only controls are the ones in the GCA and, while these controls require Federal firearms licensees to keep certain records and place some restrictions on their firearms sales, such as requiring a background check and limiting interstate shipments to licensees, very few records are required to be provided to ATF and ATF is specifically prohibited from maintaining any form of a firearm registry. Instead, the records of firearms dispositions – from importers to wholesalers to retailers to the public – are maintained by each FFL at its business premises. The only time the government traces a firearm is when it is recovered in a crime and ATF traces it back to the FFL and first purchaser.

### Ease in Converting the M1 Carbine to a Machinegun

The M1 carbine is easily converted to a machinegun. To convert the firearm requires seven parts. Each of these parts, by itself, is unregulated in the United States. It is only when all seven are together that they become a "combination of parts designed and intended, for use in converting a weapon into a machinegun" and subject to the restrictions on machineguns found in 18 U.S.C. § 922(o) and the National Firearms Act. 26 U.S.C. § 5845(b). Because each individual part is unregulated, it is not unusual to find individual parts for sale over the internet or at gun shows. A recent internet search

turned up one source for six of the parts and another for the one remaining part. The search took approximately 20 minutes.

An experienced machinist could manufacture all of the needed parts within eight hours using materials that cost less than \$100. In light of the ease of manufacturing the needed parts, there is no limit to the availability of the conversion parts. Because individual parts are unregulated, there is nothing ATF can do to restrict the manufacture or sale of parts so long as the individual is restricting the manufacture and/or sale to less than all of the seven parts. This low cost contrasts with the cost of lawfully registered M2 carbines (the fully automatic version of the M1 carbine), which is approximately \$6,000 to \$8,000.

In addition to potential conversion of M1 carbines, importing M1 carbines may raise the risk that fully automatic M2 carbines will be smuggled into the United States. In the past, CBP and ATF have discovered instances where fully automatic versions of firearms were attempted to be imported into the U.S. using import permits for the semi-automatic version of the rifle. This kind of smuggling can be difficult to detect because CBP lacks resources to check every shipping container carrying firearms and because there is an import permit for firearms associated with the shipment. Moreover, even when these cases are uncovered, they are almost never prosecuted because of the difficulty in proving that the importer knew the shipment contained machineguns instead of the semi-automatic firearms.

### Crime Guns

It is unlikely that a significant number of the M1 Garands will be used in crimes. Garands are big, heavy firearms that, depending on the condition, can be expensive to purchase. The M1 carbines, as well as the M1911 and M1911A1 pistols, are more likely to be recovered in crimes. As noted above, the M1 carbine is likely to become relatively inexpensive and is easily converted to a machinegun, making it potentially popular with criminals.

From January 1, 2003 through June 30, 2009, ATF received requests to trace 1,965 M1 carbines recovered by law enforcement officers.<sup>2</sup> All but 12 of these recovered firearms were U.S. surplus military firearms.<sup>3</sup>

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<sup>2</sup> Eighty-one of these firearms were recovered outside the United States.

<sup>3</sup> At various times, different manufacturers in the United States have made firearms mechanically identical to the M1 carbine for domestic sale. These firearms, however, are generally more expensive than their imported counterparts. For example, Auto Ordnance, which currently makes firearms mechanically identical to the M1 carbines for commercial sale, suggests a retail price of between \$860 and \$1,030. Generally speaking, the more expensive a firearm is, the less likely it will be recovered in crimes.