

113TH CONGRESS  
1ST SESSION

# H. R. 599

To prohibit the transfer of defense articles and defense services to the governments of foreign countries that are engaging in gross violations of internationally recognized human rights, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2013

Mr. GRIJALVA (for himself, Mr. BLUMENAUER, Mr. DEFazio, Mr. HOLT, Mr. HONDA, Ms. LEE of California, Ms. MCCOLLUM, Mr. MCGOVERN, Mrs. NAPOLITANO, Ms. PINGREE of Maine, Mr. RANGEL, Ms. SLAUGHTER, Mr. FARR, and Mr. ELLISON) introduced the following bill; which was referred to the Committee on Foreign Affairs

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## A BILL

To prohibit the transfer of defense articles and defense services to the governments of foreign countries that are engaging in gross violations of internationally recognized human rights, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Arms Sale Responsi-  
5 bility Act of 2013”.

1 **SEC. 2. SENSE OF CONGRESS PROVISIONS.**

2 (a) **TRANSFER OF CONVENTIONAL ARMS.**—It is the  
3 sense of Congress that it should be the policy of the  
4 United States to maintain adherence to a policy of re-  
5 straint in transferring conventional arms if evidence exists  
6 of substantial risk that such arms will be used to commit  
7 or facilitate serious violations of international human  
8 rights law or international humanitarian law.

9 (b) **ARMS CONTROL AGREEMENTS.**—In furtherance  
10 of the policy described in subsection (a), the President,  
11 in negotiating any conventional arms control agreement,  
12 should undertake a concerted effort—

13 (1) to encourage the national control list of  
14 each party to the agreement to cover all types of  
15 weaponry, munitions, armaments and related mate-  
16 rial used for potentially lethal force in military and  
17 law enforcement operations, as well as any parts,  
18 components and accessories thereof, and machines,  
19 technologies and technical expertise for making, de-  
20 veloping and maintaining those items;

21 (2) to conduct an effective inquiry and mean-  
22 ingful assessment of each application or proposal for  
23 authorization to export or internationally transfer  
24 arms on a case-by-case basis;

25 (3) to deny an arms transfer authorization if  
26 there is a substantial risk that the arms will be used

1 to commit or facilitate serious violations of inter-  
2 national human rights law or international humani-  
3 tarian law and to ensure such denial remains in  
4 place until steps are taken to mitigate the level of  
5 risk;

6 (4) to require import and transit state author-  
7 izations, and certified end use assurances, before  
8 issuing an export license or authorization for any  
9 international transfer of conventional arms and to  
10 ensure minimum details in the end use assurance in-  
11 clude the exporter, consignee, purchasers, country of  
12 final destination, description of type and quantity of  
13 items, specific purpose they will be used, an expira-  
14 tion date, and an undertaking that they will not be  
15 used for purposes other than those declared or re-  
16 exported without permission;

17 (5) to require delivery verification to be offi-  
18 cially certified on receipt of the shipment of conven-  
19 tional arms by the end user, which includes at a  
20 minimum, the name and address of the exporter and  
21 the importer, the serial number of the import certifi-  
22 cate, a description of the goods, the quantity and  
23 value, the port of arrival and the name of the ship,  
24 aircraft or other carrier; and

1           (6) to require each party to the agreement to  
2       establish a clear legal framework for lawful  
3       brokering and shipping activities relating to trans-  
4       fers of conventional arms.

5 **SEC. 3. PROHIBITION ON TRANSFER OF DEFENSE ARTI-**  
6 **CLES AND DEFENSE SERVICES TO CERTAIN**  
7 **FOREIGN GOVERNMENTS.**

8       (a) PROHIBITION.—For each fiscal year beginning on  
9       or after the date of enactment of this Act, no defense arti-  
10      cles or defense services may be transferred to the govern-  
11      ment of a foreign country under the Foreign Assistance  
12      Act of 1961 or the Arms Export Control Act unless the  
13      President submits to Congress a certification described in  
14      subsection (b) with respect to the transfer of such defense  
15      articles or defense services.

16      (b) CERTIFICATION.—A certification referred to in  
17      subsection (a) is a certification that—

18           (1) the government of the foreign country is not  
19      engaging in gross violations of internationally recog-  
20      nized human rights, including—

21                   (A) by carrying out—

22                           (i) excessive force against or unlawful  
23                           killings of unarmed protesters;

24                           (ii) extrajudicial or arbitrary execu-  
25                           tions;

- 1 (iii) disappearances;
- 2 (iv) torture or severe mistreatment;
- 3 (v) prolonged arbitrary imprisonment;
- 4 (vi) systematic official discrimination
- 5 on the basis of race, ethnicity, religion,
- 6 gender, national origin, or political affili-
- 7 ation; or
- 8 (vii) grave breaches of international
- 9 humanitarian law; and
- 10 (B) by failing to—
- 11 (i) vigorously investigate, discipline, or
- 12 prosecute those individuals responsible for
- 13 gross violations of internationally recog-
- 14 nized human rights;
- 15 (ii) allow the free functioning of do-
- 16 mestic and international human rights or-
- 17 ganizations;
- 18 (iii) provide access on a regular basis
- 19 to humanitarian organizations in humani-
- 20 tarian emergencies; or
- 21 (iv) divert the transfer of defense arti-
- 22 cles or defense services to a third country
- 23 which facilitates one or more of the actions
- 24 described in subparagraph (A); and

1           (2) the government of the country is not identi-  
2       fied by the Secretary of State in the Department of  
3       State's most recent Country Reports on Human  
4       Rights Practices as having governmental armed  
5       forces or government supported armed groups, in-  
6       cluding paramilitaries, militias, or civil defense  
7       forces, that recruit or use child soldiers.

8       (c) FAILURE TO CONTINUE TO COMPLY.—Any cer-  
9       tification with respect to a foreign government for a fiscal  
10      year under subsection (b) shall cease to be effective for  
11      that fiscal year if the President certifies to Congress that  
12      such government has not continued to comply with the re-  
13      quirements contained in such subsection.

14      (d) NOTIFICATIONS TO CONGRESS.—The President  
15      shall submit to Congress initial certifications under sub-  
16      section (b) as part of the submission of the annual con-  
17      gressional presentation documents for foreign assistance  
18      programs for each fiscal year beginning on or after the  
19      date of enactment of this Act and shall, where appro-  
20      priate, submit additional or amended certifications at any  
21      time thereafter in that fiscal year.

22      (e) EXEMPTIONS.—

23           (1) IN GENERAL.—The prohibition contained in  
24      subsection (a) shall not apply with respect to a for-  
25      eign government for a fiscal year if—

1 (A) subject to paragraph (2), the President  
2 submits a request for an exemption to Congress  
3 containing a determination that it is in the na-  
4 tional security interest of the United States to  
5 provide defense articles or defense services to  
6 such government; or

7 (B) the President determines that an  
8 emergency exists under which it is vital to the  
9 interest of the United States to provide military  
10 defense articles or defense services to such gov-  
11 ernment.

12 (2) DISAPPROVAL.—A request for an exemption  
13 to provide defense articles or defense services to a  
14 foreign government shall not take effect, or shall  
15 cease to be effective, if a law is enacted disapproving  
16 such request.

17 (f) DEFINITIONS.—In this section—

18 (1) the term “defense article” has the meaning  
19 given the term in section 47(3) of the Arms Export  
20 Control Act; and

21 (2) the term “defense service” has the meaning  
22 given the term in section 47(4) of the Arms Export  
23 Control Act.

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