

PROPOSED SMALL ARMS TRANSFERS: BIG IMPLICATIONS FOR U.S. FOREIGN POLICY

HEARING BEFORE THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

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MARCH 26, 2019
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Serial No. 116-17

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Printed for the use of the Committee on Foreign Affairs



Available: <http://www.foreignaffairs.house.gov/>, <http://docs.house.gov/>,
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35-614PDF

WASHINGTON : 2019

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Tuesday, March 26, 2019

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
COMMITTEE ON FOREIGN AFFAIRS

Washington, DC

The committee met, pursuant to notice, at 10:02 a.m., in Room 2200 Rayburn House Office Building, Hon. Ami Bera (chairman of the subcommittee) presiding.

Mr. BERA. This hearing will come to order. The hearing titled Proposed Small Arms Transfers: Big Implications for U.S. Foreign Policy will focus on the implications of the Trump Administration's proposal to transfer approval for small arms sales from the State Department to the Commerce Department.

Without objection, all members may have 5 days to submit statements, questions, extraneous materials for the record, subject to the length limitations in the rules.

I will now make an opening statement and turn it over to the ranking member for his opening statement.

And hopefully Mr. Zeldin will make it to the hearing soon. We have 2 panels today. If Mr. Zeldin does not make it in time after I finish the opening statement, we will turn it over to Congresswoman Torres, for her statement.

So, let's frame this hearing and why I think this is an important topic. When we are thinking about this, this is not a hearing about gun control. There is already a decision that we will be selling, exporting small arms, regardless of what my personal opinion might be or the opinion of others. That is not what this hearing is about.

In addition, this hearing is not meant to be a criticism of the Trump Administration. That is not what we are talking about here as well, since the Obama Administration actually contemplated a similar rule change and then made the decision not to go through with it. What this hearing really is about is something that I think we can all agree on—Democrats and Republicans. When we choose to export these weapons, we want to make sure that they are going to legitimate allies, that they are being used for legitimate purposes, and that they are being used by our friends.

We also want to make sure we have a thorough vetting process to make sure the weapons are not being used to commit human rights atrocities. We need to ensure that we have mechanisms in place to ensure they end up where they were meant to be shipped. And since this is the Oversight Committee, we also want to make sure Congress has appropriate oversight and the abilities, and there is a congressional notification process.

Now, we have been exporting more and more arms to Latin American countries, particularly those in the Northern Triangle. And if I can have the first slide.

If you look at this slide, again, you will see it is not just under the Trump Administration. You will see the exports, both to Mexico where we have seen a rise in violence, but also to the Northern Triangle countries, and that has been going up over the last few years. And the reason why I am choosing to focus in a little bit on the Northern Triangle countries is, when we think about the crisis we are having on our southern border right now, it is in part because of the rise of violence in these 3 countries.

If you look, there were 110,000 asylum seekers in 2015 from the Northern Triangle. That was a 5-fold increase from 2012. In 2016, 42 percent of those apprehended at the southern border came from the Northern Triangle. These countries rank in the top 10 for homicides. Doctors Without Borders, doing a survey of Northern Triangle citizens in Mexico, said 40 percent had relatives who had been killed in the last 2 years; 31 percent knew someone who had been kidnapped.

Again, look at that graph and look at the exports of small arms to those countries. That is the reason I believe we should be having a process to make sure we are not inadvertently creating the chaos in the Northern Triangle, we are not inadvertently creating that unrest, because when I think about addressing the crisis at the southern border, these are individuals that are human beings.

They are just choosing to try to find a better life for themselves. They are fleeing that violence. And if we do not address it in the countries there and try to create some stability and find solutions in the Northern Triangle, we will have to do it at our borders.

Now, State can do a better job ensuring arms do not fall into the wrong hands, but removing oversight mechanisms will increase the probability these weapons are being misused to create further violence.

Again, I will acknowledge that all of us want to prevent U.S.-manufactured weapons from ending up being used against civilian populations and human rights abuses. In fact, in the Philippines, security forces have committed thousands of extrajudicial killings. According to the Simpson Center, the U.S. has sold some \$2 billion in arms to the Philippines, and it is likely American-made pistols have been used in many of these killings.

What we are talking about today is what department has the best mechanism to control this, and both Commerce and State have different approval processes for arms exports. The U.S. Munitions List administered by the State Department under the Arms Control Act provides more control over arms exports than the Commerce Control List.

It requires sales advance our foreign policy objectives and the national interest. Sales must be for friendly countries, solely for the use of internal security, legitimate self-defense, or to participate in U.N. efforts to restore international peace and security.

Additionally, it requires annual registration of manufacturers, exporters, and brokers of defense articles or services. It ensures no security assistance is provided to countries with a pattern of internationally recognized human rights abuses. Under the Administra-

tion's plan, many small arms would be transferred to the new 500 Series of the Commerce Control List from the U.S. Munitions List.

Although the Department of Commerce would still conduct inter-agency review before approving a small arms export license, there will still be significant shortcomings as compared to the State Department review. Philosophically, Commerce and State differ. State has to have the big picture foreign policy considerations and human rights considerations in mind. Commerce aims to boost our exports.

In addition, no annual registration of manufacturers, exporters, and brokers of defense articles or services would be required, if this rule change were to go through. There would not be a specific criterion for human rights abuses. Items on the U.S. Munitions List currently require congressional notification for small arms sales over \$1 million.

This goes away with the transfer of these items to Commerce. And, again, that is not to say State Department is perfect. A State OIG report requested by the office responsible for export control licensing found that the office had not followed proper internal controls, and that licensing personnel were not properly trained. And this, in some ways, was attributed to a 28 percent reduction in staffing.

So as we kind of go through this hearing, I think it is important for us to—again, it is not a hearing on gun control. It is not a hearing on whether we will be exporting small arms or not exporting small arms. But it is a hearing on the proper way to make sure these arms are ending up where they are supposed to end up, that we are selling these to friends, allies, and that they are not being used to commit human rights atrocities.

And with that, I want to acknowledge our colleague, Congresswoman Norma Torres. I also want to acknowledge the witnesses on the second panel.

And with that, I will turn it over to the ranking member. The ranking member is now recognized for 5 minutes to deliver his opening remarks.

Mr. ZELDIN. Thank you, Mr. Chairman, and thank you to all of our witnesses who will be testifying today on the decision to transfer certain defense articles and services from State to Commerce that began in the prior Administration. This was part of a larger interagency process to modernize the United States Munitions List to ensure the State Department retained oversight over only the most critical military and defense articles with military end use.

This rule was supposed to be rolled out in December 2012. This rule change had strong bipartisan support but got caught up in a domestic gun control debate that had nothing to do with export control reform. The process to remove certain defense articles has already begun. In fact, here are just some of the categories of weapons that have already moved to Commerce licensing controls—launch vehicles and missiles, explosive, military aircraft, submersible vessels, tanks, and the list goes on.

Once again, these defense articles have already moved to Commerce control. The jurisdictional transfer of certain defense articles in Categories I, II, and III, to Commerce will reduce the regulatory burden on State to create a simpler and more robust system of

compliance. And the U.S. Government is not removing export controls for firearms or ammunition.

Commerce still requires that U.S. companies obtain a license to export or re-export to any country any weapon currently on the Commerce Control List, a function it already performs. Any licenses that include these transferred items would still be reviewed by the State Department.

Additionally, the government—that is, both State and Commerce—will continue its longstanding end use monitoring efforts, including vetting of potential end users, to help prevent human rights abuses. This rule change should be finalized. After years of input from both sides of the aisle to make the change from State to Commerce, there is no reason this decision needs to be delayed any longer.

I ask unanimous consent that the following letter from the National Sports Shooting Foundation be submitted for the record.

[The information referred to follows:]



NATIONAL SHOOTING SPORTS FOUNDATION, INC.

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Lawrence G. Keane
 SVP Gov't & Public Affairs
 Assistant Secretary & General Counsel

March 25, 2019

The Honorable Ami Bera
 The Honorable Lee Zeldin
 U.S. House Foreign Affairs Subcommittee on Oversight and Investigations
 2170 Rayburn House Office Building
 Washington, D.C. 20515

Dear Chairman Bera and Ranking Member Zeldin,

On behalf of the National Shooting Sports Foundation, Inc.[®] (NSSF[®]), the firearms industry's trade association, I am writing in regard to the March 26, 2019 hearing titled "Proposed Small Arms Transfers: Big Implications for U.S. Foreign Policy" and in strong support for the completion of Export Control Reform (ECR), also known as the "USML to CCL Transition."

As you are aware, Export Control Reform rules have been implemented for all other industries; however, despite repeated confirmation that there would be a final rule published, the previous administration never completed the transfer of Categories I, II, and III. Members of the firearms industry understand the importance of protecting our national security by safeguarding critical U.S. technologies and goods and ensuring that sensitive material does not fall into the hands of our adversaries, but also of the importance of maintaining U.S. competitiveness. Exporting U.S. goods not only increases our nation's presence in the global marketplace, but it also creates jobs and strengthens the American economy.

As our member companies have experienced, the Arms Export Control Act and the International Traffic in Arms Regulations have been hurting U.S. businesses by giving foreign companies a competitive advantage over U.S. companies in the global marketplace. We believe that completing Export Control Reform and moving the export licensing of commercial dual-use items in Categories I, II, and III to the Commerce Department's Commerce Control List (CCL) from the U.S. Munitions List (USML), would allow the State Department to place greater focus on those sensitive articles that would remain on the USML, streamline the licensing process, help level the playing field with our foreign competitors and significantly increase American exports while creating good-paying domestic manufacturing jobs.

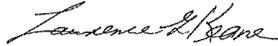
Despite misrepresentation by opponents, there would be no change to the licensing policies for end item firearms and related ammunition. If a gun required a license to export when it was regulated by the State Department then it would require a license to export when it is regulated by the Commerce Department. If an export to a destination or end user would have been denied or approved before, it would be denied or approved in the same manner under the new rules. Applications would go through the same interagency review process, including by the Defense Department and the State Department's human rights and other experts.

Our industry's small- and medium-sized companies will economically benefit because the regulatory simplification and cost reductions will allow them to consider exporting when they might not have otherwise. Those that already export will be able to expand sales of exports that would have otherwise been approved. This reflects the fact that the ITAR exists to regulate the export of defense articles that provide a significant military or intelligence advantage in a "one size fits all" type approach with regulatory requirements that are more relevant to the export of a fighter aircraft than something that can be purchased at a retail outlet.

Additionally, we have a significant number of members who perform some type of gunsmithing activity and are being forced to pay an onerous and burdensome annual minimum fee of \$2,250 regardless of whether they export any products or not. This too is having a serious, negative impact on small businesses throughout the country, many of which do not even make \$2,250, forcing them to close their doors. Completing the transition would remove the costly regulatory burden on gunsmiths.

To date this initiative has enjoyed strong bipartisan support, including nearly a third of your colleagues in both Houses. Under President Trump, the State and Commerce departments published proposed rules in May 2018 and are poised to publish final rules. These rules are the logical continuation of the effort begun in 2010 under the Obama Administration to modernize the administration of U.S. export control regulations "to create a simpler, more robust system that eases industry compliance, improves enforceability, and better protect America's most sensitive technologies." We would appreciate support from your subcommittee in completing what the previous administration had begun and affording members of our industry the benefits of ECR that other industries for more than a year have been experiencing.

Sincerely,



Lawrence G. Keane

Mr. ZELDIN. And if I may yield 1 minute to Mr. Perry of Pennsylvania.

Mr. PERRY. I thank the chairman and the ranking member. I hope that we have a robust conversation this morning about our export control system and the ways we can make it more effective and efficient.

In 2009, the Obama Administration launched the Export Control Initiative with the goal to strengthen our national security and increase the competitiveness of U.S. manufacturing and technology sectors. The Administration rightfully determined that our then-export control system was overly complicated, contained too many redundancies, and an overly protective posture diminished our ability to focus our efforts on the most critical national security priorities.

I am disappointed that this common sense, good government, and bipartisan, or should I say once-bipartisan issue has been politicized, and our domestic industries will continue to be unduly over-regulated until the government takes action. The proposal we are about to discuss is the epitome of this politicization.

This bill does not provide ideas of how we can better regulate the export of defense articles or lift the burdensome regulations and registration fees our domestic industry is suffering under. Instead, it proposes to completely stop this conversation and halt the actions that the current and former administrations embarked upon to create a better export system. We must work together and propose ideas that will create a more effective export control regime.

I look forward to this discussion and hope that we can once again come to a bipartisan agreement on export controls that protect our national security, our constitutional rights, and our constitutional rights while promoting American industries. And I yield.

Mr. ZELDIN. Thank you, Mr. Perry, and I yield back to the chair.

Mr. BERA. Great. Thank you, Mr. Zeldin.

I am pleased to announce and welcome our witnesses to today's hearing. We are first joined by my friend and fellow Californian, the Honorable Norma Torres. She will give 5 minutes of remarks and then depart because I know you have got another hearing to get to.

Following that, we will be joined by our second panel. Jeff Abramson serves as a senior fellow for arms control and conventional arms transfers for The Arms Control Association. Dr. Susan Waltz is a professor at the Gerald R. Ford School of Public Policy and the University of Michigan. Finally, Ms. Johanna Reeves is an attorney and executive director of the Firearms and Ammunition Import/Export Roundtable, F.A.I.R. Trade Group.

I ask that the witnesses limit their testimony to 5 minutes. And without objection, your prepared statements will be made part of the record.

Thank you so much for being here today. I now ask Ms. Torres to summarize her remarks.

**STATEMENT OF THE HONORABLE NORMA J. TORRES, A
MEMBER OF CONGRESS**

Ms. TORRES. Good morning, and thank you, Mr. Chairman, and Mr. Ranking Member, distinguished members of the subcommittee.

Thank you for the opportunity to provide testimony today. It is good to be back in the Foreign Affairs Committee.

Across the world, firearms are used to kill people in a range of settings—the armed conflict in Syria, turf battles between drug cartels in Mexico, the repression of public protest in Venezuela, and terrorist attacks in a mosque in New Zealand.

Whatever our views on firearms policy, we should all be able to agree that putting more firearms in the wrong hands would make the world a more dangerous place. Some of the most urgent challenges facing this committee—addressing the root causes of migration from Central America, defeating ISIS, ending the scourge of human trafficking—are more difficult because dangerous people have firearms.

Failure to address these challenges will not only pose risks to the safety of U.S. service members and citizens abroad, but will also impact our homeland in the form of increased migration, terrorism, and crime.

That is why I am so concerned about this Administration's plan to change our firearms export licensing system. Under the status quo, if a U.S. company wants to export firearms, the company needs to apply for a license from the State Department, which will weigh the risks of that sale before granting a license. If the sale is over \$1 million, the appropriate congressional committees, including this committee, receive a notification and can review the sale before it moves forward.

The system is not perfect; I get that. For example, the State Department should have more resources to track where firearms are used, and to carry out due diligence on recipients before the sales are approved.

Sadly, the Administration is taking the opposite approach—proposing to move licensing authority from the State Department to the Commerce Department. This is a bad idea for several reasons. I will describe just a few of them here.

First, the Commerce Department has different priorities, a different mission, than the State Department. If Commerce is making the final decision on firearm exports, I worry that they will do what is best for firearm manufacturers, even if it puts our national security at risk. When it comes to keeping firearms out of the hands of terrorists and drug cartels, we should err on the side of caution. That means keeping the State Department in charge.

Second, the Commerce Department is not required to notify Congress before a sale proceeds. That means this committee would lose the ability to object to sales that raise national security or human rights concerns. It also means that Congress would be in the dark about where guns are going. This would be very dangerous, as it would undermine Congress' ability to conduct effective oversight.

Third, taking on this new responsibility would require significant additional staff time and expertise at the Commerce Department's Bureau of Industry and Security, but this Administration has not provided Congress with a plan for increasing the Bureau's capacity.

For these and other reasons, many experts and Members of Congress have expressed their deep concerns about this change. I am glad that Senator Menendez has placed a hold on the rule.

To permanently block the Administration's dangerous proposal from moving forward, I urge this committee to consider a markup of my legislation, the Prevent Crime and Terrorism Act.

Thank you, Mr. Chairman, and I yield back.

[The prepared statement of Ms. Torres follows:]

Mr. Chairman, Mr. Ranking Member, distinguished members of the Subcommittee, thank you for the opportunity to provide testimony today. It is good to be back in the Foreign Affairs Committee.

Across the world, firearms are used to kill people in a range of settings—the armed conflict in Syria; turf battles between drug cartels in Mexico; the repression of public protest in Venezuela; a terrorist attack in a mosque in New Zealand.

Whatever our views on firearms policy, we should all be able to agree that putting more firearms in the wrong hands would make the world a more dangerous place. Some of the most urgent challenges facing this committee—addressing the root causes of migration from Central America; defeating ISIS; ending the scourge of human trafficking—are more difficult because dangerous people have firearms. Failure to address these challenges will not only pose risks to the safety of U.S. service members and citizens abroad, but will also impact our homeland in the form of increased migration, terrorism, and crime.

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The system is not perfect. For example, the State Department should have more resources to track where firearms are used, and to carry out due diligence on recipients before the sales are approved.

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This is a bad idea for several reasons. I will describe just a few of them here.

First, the Commerce Department has different priorities than the State Department. If Commerce is making the final decision on firearm exports, I worry that they will do what is best for firearm manufacturers, even if it puts our national security at risk. When it comes to keeping firearms out of the hands of terrorists and drug cartels, we should err on the side of caution. That means keeping the State Department in charge.

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Third, taking on this new responsibility would require significant additional staff time and expertise at the Commerce Department's Bureau of Industry and Security, but the administration has not provided Congress with a plan for increasing this Bureau's capacity.

For these and other reasons, many experts and Members of Congress have expressed their deep concerns about this change, and I am glad that Senator Menendez has placed a hold on the rule.

To permanently block the administration's dangerous proposal from moving forward, I urge this Committee to consider a markup of my legislation, the Prevent Crime and Terrorism Act. It is a very simple bill that prevents the President from removing firearms, flame throwers, ammunition, and other items that are listed in Categories One, Two, and Three of the United States Munitions List. The bill does not prevent the export of firearms, and it does not create any new restrictions. It simply keeps the status quo in place, so we can focus our efforts on strengthening the current system.

Again, I thank the committee for the opportunity to provide testimony.

Mr. BERA. Thank you, Ms. Torres.
We will now briefly recess, so that the second panel can be seated.

[Recess.]

Mr. BERA. Thank you. We will now reconvene.
I will first go to Mr. Abramson.

STATEMENT OF JEFF ABRAMSON, SENIOR FELLOW ARMS CONTROL AND CONVENTIONAL ARMS TRANSFERS, THE ARMS CONTROL ASSOCIATION

Mr. ABRAMSON. Good morning, Chair Bera and Ranking Member Zeldin and other members of the committee. It is a privilege to testify before this committee today and discuss concerns about how the United States exports some of the weapons most used in violence around the world and proposed changes that I fear could lead to greater human suffering.

My comments here are an abbreviated version of my longer written testimony. In brief, the weapons and ammunition that are currently controlled under U.S. Munitions List Categories I to III belong there and should stay there. There are many concerns about the administration's proposal to move semiautomatic and select other weapons from State Department regulatory control of military weapons to the Commerce Department's control of so-called dual-use items.

Rather than transfer responsibility to an arm of the executive branch whose mission is to promote sales and for Congress to abdicate oversight, the best way to move forward is to strengthen the State Department's capacity and for Congress to better use its authority.

We commend Representative Norma Torres and co-sponsor Eliot Engel for introducing H.R. 1134, which a number of members of the subcommittee have also now co-sponsored, and Senator Menendez for introducing S. 459, which keep the control lists from changing.

These legislative efforts have the backing of a wide range of civil society organizations, including Amnesty International USA, Brady, Giffords, Global Exchange, the Violence Policy Center, and the Arms Control Association, where I am a senior fellow.

The proposed regulatory changes are problematic for several reasons, many of which have already surfaced so far. First, the type of weapons pictured here this Administration wants to remove from State Department review and congressional notification actually merit the tightest export control. Research indicates that AR- and AK-type rifles and their ammunition are weapons of choice of drug trafficking organizations in Mexico and other Central American countries.

Many can also be easily converted to fully automatic weapons. Many sniper rifles that would be moved to Commerce control are currently in U.S. military use. And as in the Sig Sauer advertisement from this year's catalog, many of these weapons are marketed domestically as "featuring the same innovation and versatility as the U.S. Army's available in a civilian version."

Second, the fact that these weapons may be widely available in the United States does not mean they should be widely exported.

In many of the countries where these weapons are likely to be marketed, they are considered military weapons and are tightly controlled. The fact is that anyone can build their own army with guns you can buy retail in the United States.

While the rationale for the shifting to Commerce was that the State Department should focus on weapons that provide the United States with a critical military or intelligence advantage, or that are inherently for military end use, drawing that distinction in this case does not match the realities of the world.

Third, by shifting licensing authority to the Commerce Department, these weapons will be removed from the statutory regime devised for them by Congress. This has significant implications because there are a number of counterterrorism, humanitarian, and human rights provisions of the Foreign Assistance Act and the Arms Export Control Act that are tied to the State Department's control list.

To begin with, Congress will not be notified of the sale of these weapons. In recent years, congressional involvement has helped forestall firearms transfers to repressive forces in Turkey and the Philippines, but it is difficult to imagine how Congress could do that moving forward if never provided the information that such sales were under consideration.

My longer testimony details how the current regime provides requirements for suspension of future sales, reporting of misuse to Congress, and other critical capabilities for identifying and enabling prosecution of bad actors that will be threatened or lost under a Commerce-controlled system.

Unfortunately, we know abuses of U.S.-supplied weapons will occur as in Guatemala last year when that government used U.S.-donated military vehicles to surround the U.S. Embassy as seen here, and as with Saudi Arabia and the United Arab Emirates who reportedly transferred U.S. weapons to al-Qaeda linked militias in Yemen. Under State Department authority, Congress will simply have greater awareness and ability to act on such abuse.

Fourth, the Commerce-led approach is different than that of the State Department and creates new risks, including capturing less information in licensing requests, a different end use monitoring approach, lack of enforcement personnel in the Western Hemisphere, exemptions and broad implications for the proliferation of untraceable ghost guns and 3-D printed guns for which the Commerce Department is expected to abandon control efforts. Many of these differences are detailed in a recent Government Accountability Office report.

Looking ahead, the United States is far and away the world's largest arms exporter, and as such, can and should uphold the highest standards. That begins with Congress continuing to receive arms sales notifications, so that they are informed and are able to act. Congress can also play a role in improving transparency in the State Department-led direct commercial sales process through which the majority of small arms sales occur.

Congress can block or amend the sale up until weapons are delivered, and it is important for Congress to scrupulously monitor the entire process. Congress should also mandate much greater transparency on the specifics of what is in U.S. weapons deliveries.

Finally, this committee, with its oversight over the State Department, should consider looking into the hollowing out of this critical part of the executive branch. As already mentioned, an alarming Office of the Inspector General report last month found that the Directorate of Defense Trade Controls did not implement sufficient internal controls.

While proponents of the rule changes argue that Commerce is better staffed, the State Department has the most appropriate expertise to consider the human rights, security, and political implications of arms transfers. If further investment is needed to improve State's capabilities, that is the correct path to explore.

Wrapping up, we must be mindful that we are not talking about benign trade commodities, but, rather, the types of killing machines that are arguably the ones most responsible for death and injury worldwide. In the words of Maria Herrera of Mexico, 4 of whose sons were forcibly disappeared by heavily armed men, "They have their gun factories and they send them here as if they were pears or apples. They should think about the damage and destruction these weapons bring."

Thank you again for the opportunity to testify, and I look forward to your questions.

[The prepared statement of Mr. Abramson follows:]

Arms Control Association

Working to Eliminate the Threats Posed by
the World's Most Dangerous Weapons

Testimony by Jeff Abramson

Senior Fellow, Arms Control Association

Before the House Foreign Affairs Subcommittee on Oversight and Investigations

“Proposed Small Arms Transfers: Big Implications for U.S. Foreign Policy”

March 26, 2019

Good morning, Chair Bera and Ranking Member Zeldin. It is a privilege to testify before this Committee and discuss concerns about how the United States exports some of the weapons most used in violence around the world and proposed changes that I fear could lead to greater human suffering.¹

To sum up my forthcoming remarks in just a few lines: The weapons and ammunition that are currently controlled under U.S. Munition List Categories I-III belong there and should stay there. There are many concerns about the administration's proposal to move semiautomatic and select other weapons to the Commerce Control List, from arms control, human rights, and gun safety groups, to mention a few. The best way to move forward is to strengthen the State Department's capacity and for Congress to better use its authority, not to transfer responsibility to an arm of the executive branch whose mission is to promote sales and for Congress to abdicate oversight.

Where we are today

Under the current system, the State Department regulates the export of military equipment and the Commerce Department controls so-called dual use items. The State Department employs more vigorous oversight powers than the Commerce Department, including a registration regime that provides insight into the manufacturing of weapons.

The Export Control Reform Initiative, begun under the Obama administration, upended this arrangement, transferring licensing authority for a significant percentage of military equipment to the Commerce Department. The rationale for the shift was that the State Department should focus on weapons that provide the United States with a critical military or intelligence advantage or are inherently for military end use. Most Commerce-licensed items, however, are not subject to Congressional notification requirements or the prohibition on further transfers to governments that misuse U.S. weapons. Such misuse

¹ The views expressed in this testimony are the author's own and do not necessarily reflect the views of the members or the Board of Directors of the Arms Control Association. I am grateful to my community colleagues Brittany Benowitz, Colby Goodman, Daryl Kimball, John Lindsay-Poland, Kristen Rand, and Adzi Vokhiwa for their insights and suggestions on this testimony.

WINNER OF THE MACARTHUR AWARD FOR CREATIVE AND EFFECTIVE INSTITUTIONS

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appears to have recently occurred with Saudi Arabia and the United Arab Emirates, who reportedly transferred U.S. weapons to al Qaeda -linked militias in Yemen.²

During the previous administration, however, the first three categories of the U.S. Munitions List, addressing firearms and their ammunition, were not changed, perhaps because those leaders correctly understood the unique dangers these weapons posed and that the logic behind the reform initiative did not apply well to them.

Last year, the government's approach changed. The Trump administration proposed new rules that would move semi-automatic and certain nonautomatic weapons and their ammunition, as well as some other weapons to Commerce Department control. This generated thousands of public comments, the majority of which were negative.³ Early last month, the administration presented revised versions of those rules that that mostly ignored expressed concerns and started a 30-day Congressional review before the rules could be officially published. In late February, Senator Robert Menendez sent a letter to Secretary of State Mike Pompeo placing a hold on the proposed rules change, giving Congress time to act.

We commend Representative Norma Torres, and co-sponsor Chairman Eliot Engel for introducing H.R. 1134, the "Prevent Crime and Terrorism Act," which would keep the control lists from changing.

In the Senate, Menendez, Ranking Member of the Senate Foreign Relations Committee, introduced S.459, the "Stopping the Traffic in Overseas Proliferation of Ghost Guns Act," which also prohibits the changes.

These legislative efforts have the backing of a wide range of civil society organizations, including Amnesty International USA, Brady, Giffords, Global Exchange, the Violence Policy Center, and the Arms Control Association.

Dangers of the new approach

The proposed regulatory changes are problematic for several reasons.

First, the types of weapons the administration wants to remove from State Department review and Congressional notification actually merit the tightest export control because of their real and potential role in fueling violence, including violence against U.S. military and law enforcement personnel. Research indicates that the types of weapons being transferred to Commerce control—AR- and AK-type rifles and their ammunition—are “weapons of choice” of drug trafficking organizations in Mexico and other Central

² See "[Exclusive Report: Sold to an ally, lost to an enemy.](#)" *CNN*, February 5, 2019

³ A wide range of resources is compiled on the Forum on the Arms Trade [website](#), including the [public comments](#) published by the State Department that were uploaded to the DDTC website on July 25, 2018.

American countries.⁴ Many can also be easily converted to fully automatic weapons.⁵ Many sniper rifles that would be moved to Commerce control are currently in U.S. military use, again undermining the core distinction between these weapons.

Second, the fact that these weapons may be widely available in the United States does not mean they should be widely exported. In many of the countries where these weapons are likely to be marketed, they are considered military weapons and are tightly controlled.⁶ As Kristen Rand of the Violence Policy Center argued in a press briefing earlier this month, "...the fact is that many of these guns and other weapons are identical or virtually identical to military firearms. The fact is that anyone can build their own army with guns you can buy retail in the United States."⁷

Third, by shifting licensing authority to the Commerce Department, these weapons will be removed from the statutory regime devised by Congress for these weapons. This has significant implications because there are a number of counterterrorism, humanitarian, and human rights provisions of the Foreign Assistance Act and the Arms Export Control Act that are all tied to the State Department's control list. It would also undermine statutory prohibitions on transfers to specific countries, such as the Tiananmen Square sanctions.⁸

To begin with, Congress will not be notified of the sale of these weapons. In 2002, Congress amended notifications requirements so it would be informed of sales authorized by the State Department for firearms valued at \$1 million or more. No such notification requirements exist if these weapons are transferred to Commerce control. In recent years, Congressional involvement has helped forestall firearms transfers to repressive forces in Turkey and the Philippines, but it is difficult to imagine how Congress could do that moving forward if never provided the information that such sales were under consideration.

When items controlled by the State Department are misused or re-transferred without permission, the State Department is required by Section 3 of the Arms Export Control

⁴ AR and AK-type rifles have consistently been identified by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) as the "weapons of choice" of cross border gun traffickers. For a recent example in the context of a federal prosecution of traffickers see, *United States v. Soto, et al*, No. 6:18mj173, U.S. District Court, S. D. Tex., December 5, 2018 (ATF agent noting that AK- and AR-style rifles are "weapons of choice" for Mexican cartels). In addition, the Violence Policy Center tracks the specific types of firearms involved in federal cross-border trafficking prosecutions and finds that AK- and AR-type rifles are the firearms most preferred by traffickers at - resource page "[Cross-Border Gun Trafficking](#)."

⁵ See "[Examples of Firearms Transferred to Commerce Under New Export Rules](#)," Violence Policy Center, and two submitted images, one from *Middle East Eye* of weapons that would be "easier to export" and another from Sig Sauer of the P320 M17 advertised as an Army weapon in civilian version.

⁶ See John Lindsay-Poland, Global Exchange, public comments submitted to proposed rule as part of public comment period in 2018 addressing retail availability in other countries ([pdf](#)).

⁷ "Press Briefing on Firearms Export Reform," March 5, 2019, audio and other resources available at the Forum on the Arms Trade [website](#).

⁸ See "[Five dangers of giving the Commerce Department oversight of firearms exports \[commentary\]](#)," Colby Goodman and Rachel Stohl, *DefenseNews*, Sept 25, 2017, and "[Proposed Firearms Export Changes: Key Challenges for U.S. Oversight](#)," Center for International Policy: Colby Goodman, Christina Arabia, and William Hartung, July 9, 2018.

Act to notify the Congress. That Act conditions the sale of weapons on compliance with end-use agreements. Any use of the weapons for anything other than legitimate defense purposes is not permitted. Section 3 requires the suspension of further sales and deliveries to any recipient that violates the end-use agreements. The Commerce Department typically does not require such end-use agreements, without which there are significant legal hurdles to suspending deliveries once sales are approved if the recipients prove to be untrustworthy.

If licensing authority shifts to the Commerce Department, then these statutory requirements will no longer apply. Therefore, if foreign security personnel misuse U.S. weapons or transfer weapons to organized crime networks, the Congress would not be notified and there would be no statutory requirement to suspend further sales or deliveries to the same security forces. Unfortunately, this is all too common. For example, in Guatemala, the government used U.S. military vehicles to surround the U.S. Embassy when it was displeased with the United States stance on anti-corruption investigations.⁹

The proposed shift of jurisdiction to Commerce would also undermine key components of the Foreign Assistance Act. The Secretary of State is required by that Act to suspend the sale of weapons to countries that consistently violate human rights. No such requirement would exist for the Commerce Department under the proposed rule. While the Commerce Department has stated that it would consult with State Department, there is no statutory requirement that the Secretary of State consent to any transfers. Under the current system, if the State Department fails to implement these human rights provisions, there is a procedure for expedited Congressional review. So, the proposed rule would undermine both this Committee's jurisdiction over a major component of U.S. foreign policy and the authority of the Secretary of State.

Fourth, the Commerce-led approach is different than that of the State Department and creates new risks. A recent Government Accountability Office report provides a detailed look at the differences between the two departments, identifying many of the following:¹⁰

- The State Department requires more information as part of export license requests, which gives a better understanding of company ownership and location, as well as those individuals involved in an arms transfer, making anti-corruption efforts and prosecution for misdeeds easier.
- State's approach on end-use monitoring puts a much greater emphasis on pre-license checks rather than post-delivery verification. State's approach is a better way to prevent misuse and diversion.

⁹ See "[US suspends some military aid to Guatemala over vehicle use](#)," Associated Press, March 14, 2019 and submitted photos of Guatemalan forces using Jeep outside the U.S. Embassy.

¹⁰ "[EXPORT CONTROLS: State and Commerce Should Share Watch List Information If Proposed Rules to Transfer Firearms Are Finalized](#)," Government Accountability Office, GAO-19307, March 1, 2019. For more information on a number of these concerns, see also "[Proposed Firearms Export Changes: Key Challenges for U.S. Oversight](#)," Center for International Policy: Colby Goodman, Christina Arabia, and William Hartung, July 9, 2018, "[Key Questions about the U.S. 'Export Control Reform Initiative'](#)," Security Assistance Monitor, April 16, 2016, Key Questions, Security Assistance Monitor, and "[White Paper: Proposals to Relax Export Controls for Significant Military Equipment](#)," American Bar Association (ABA) Center for Human Rights, Jan. 14, 2013.

- The Commerce Department has no enforcement personnel for end-use controls of weapons exports in the entire Western Hemisphere and Africa, regions where diversion of these weapons is particularly harmful.
- The State Department and Commerce Department have not established a way to share State's internal watch list, which contains derogatory information from past screening of licenses for firearms, artillery, and ammunition exports.
- The Commerce Department has no database of allegations of human rights abuses similar to the State Department's database for implementing the Leahy Law, which is a critical tool for screening weapons export applications to state forces.
- The proposed rule change has broad implications for the proliferation of untraceable ghost guns and 3D-printed guns, including homemade AR- and AK-type rifles. The Obama-era State Department characterized the online publication of 3D-printed gun code as a violation of restrictions on exporting weapons. A court case currently prevents the Trump administration's State Department from abandoning these restrictions, which the Commerce Department is expected to do if control were transferred to it.
- The new proposal would allow for license exemptions under certain circumstances and would allow for multiple exports pursuant to a single license. Both of these changes could well fuel the grey market, where small arms and spare parts are in high demand.

Finally, the new approach threatens to undermine an already challenged international system that is striving to make the arms trade more responsible via an array of treaties, regional agreements, and political commitments. The United States is far and away the world's largest arms exporter¹¹ and as such can and should uphold the highest standards.

While we certainly have concerns about decisions made by prior administrations, we fear that this President, in his stated Conventional Arms Transfer Policy and in his willingness to arm repressive regimes, prioritizes commercial considerations over human rights concerns and even some U.S. national security objectives. Functionally making these weapons easier to export and less subject to review would constitute a dangerous erosion of long-standing, proven practices designed to support U.S. national security objectives and human rights values.

A more responsible approach

Congress, and an informed American public, can play a significant role in making sure U.S. weapons exports are made as responsibly as possible. That is critically important given the decades-long lifespan of many types of small arms.¹²

That begins with Congress continuing to receive arms sales notifications so that they are informed and able to act. The loss of that critical initial notification is unwise and should be rejected. Of course, Congress must also pay close attention in order to act on these

¹¹ See "Trends in international arms transfers, 2018," SIPRI, March 2019.

¹² See "[How Congress Can Exert Responsible Oversight on Trump's Dangerous Approach to Arms Sales](#)," Arms Control Association issue brief, January 15, 2019, for elaboration on these suggestions.

notifications, and this committee needs to closely monitor these notifications and set aside the time necessary to engage in the informal and formal notification processes.

Congress can also play a role in helping the public be aware of these potential sales. The majority of small arms sales are notified through the Direct Commercial Sales (DCS) process, rather than the Foreign Military Sales (FMS) process. FMS notifications are announced on a public website. Congress should endeavor to find ways to make DCS sales more accessible.

According to data analysis by the Security Assistance Monitor, in 2018 the Trump administration requested Congress to approve at least \$746 million in firearms sales to a total of 14 countries in 2018, with more than \$575 million for Saudi Arabia, another nearly \$100 million to the Philippines, and more than \$21 million to the United Arab Emirates.¹³ These countries are some of the ones most watched for human rights and security concerns, especially after the murder of Jamal Khashoggi by Saudi Arabia and revelations that the UAE may be providing arms to militia in Yemen that are fighting against U.S. efforts.

While the notification period garners the most attention, Congress also can block a sale up until weapons are delivered. Given how security, geopolitical, and humanitarian realities can change between the time of notifications and often years-later deliveries, it is important that Congress scrupulously monitor the entire process.

In 2014, Congress gave itself the authority to receive from the State Department notification of an arms shipment at least 30 days before its delivery. It is currently limited to joint requests by the chair and ranking members of this committee or the Senate Foreign Relations Committee. We encourage those leaders to be even more diligent in their oversight and would recommend that Congress consider allowing any member of these committees the opportunity to request pre-delivery notifications.

In general, transparency concerning arms deliveries is limited. Under the current system, the State Department reports publicly the annual value of exports by category of weapon and recipient country. The Commerce Department only provides such information on around 20 countries. Even with that limited insight into how the Commerce Department is using its new authority over the export of military equipment, it is clear that a number of countries of significant concern—including Vietnam and Uzbekistan—have been authorized by the Commerce Department to receive military equipment previously controlled by the State Department. I find it disturbing that such delicate decisions concerning U.S. foreign relations are no longer the subject of this Committee's jurisdiction. More broadly, Congress should mandate a change demanding much greater transparency on the specifics of what is in U.S. weapons deliveries.

Finally, this Committee, with its oversight over the State Department, should consider looking into the hollowing out of this critical part of the executive branch.

An alarming Office of the Inspector General report last month found that the Directorate of Defense Trade Control (DDTC) did not implement sufficient internal controls when

¹³ "Congressional Notifications for Proposed U.S. Commercial Firearms Exports in 2018," Security Assistance Monitor, February 12, 2019.

examining export license applications.¹⁴ While proponents of the rules change argue that Commerce is better staffed, the State Department has the most appropriate expertise to consider the human rights, security, and political implications of arms transfers. If further investment is needed to improve State's capabilities, that is the correct path to explore.

We must be mindful that we are not talking about benign trade commodities, but rather the types of killing machines that are arguably the ones most responsible for death and injury in conflict worldwide. Export of small arms deserve the highest level of oversight and attention from the executive branch and the Congress.

In closing, I urge you to keep in your minds and hearts the impact on human suffering of weapons that fall into the wrong hands. In the words of Maria Herrera of Mexico, four of whose sons were forcibly disappeared by heavily armed men: "They have their gun factories and they send them here, as if they were pears or apples. They should think about the damage and destruction these weapons bring."¹⁵

Thank you again for the opportunity to testify before you today. I look forward to your questions.

¹⁴ "Audit of Department of State Directorate of Defense Trade Controls Export Licensing Processes." AUD-SI-19-07, Office of Inspector General, February 2019.

¹⁵ For additional insights from Maria Herrera and others on the human impact, see "Where the Guns Go: U.S. Policy and Human Rights in Mexico," film produced by Encinal, 2017.

Mr. BERA. Thank you, Mr. Abramson.
Ms. WALTZ.

STATEMENT OF SUSAN WALTZ, PH.D., PROFESSOR, GERALD R. FORD SCHOOL OF PUBLIC POLICY, UNIVERSITY OF MICHIGAN

Ms. WALTZ. Thank you, Chairman Bera, Ranking Member Zeldin, and members of the subcommittee. I want to thank you for the opportunity to testify about the proposal to remove certain weapons from the U.S. Munitions List. In a nutshell, I am concerned that we are on the verge of unraveling an interlocking set of policies that are intended to prevent exported U.S. weapons from falling into unintended hands where they can be used for human rights abuse and criminal activity.

I have long been associated with Amnesty International, and my remarks are informed by its published human rights research. In an internal review that was undertaken about 10 years ago, Amnesty International found that some 60 percent of the grave human rights abuses it had investigated involved firearms.

If that inventory were to be updated today, it would include, for example, the recent cold-blooded execution of civilians by uniformed Cameroon soldiers—an event that prompted the U.S. to withdraw millions of dollars of military aid earlier this year. It would also include Philippines, where since 2016 the government has encouraged targeted political killings that have claimed more than 4,000 lives in operations specifically conducted by the police.

My concerns about the proposal under consideration were only heightened last month when the State Department released its audit report about a 2017 of 400,000 semi-automatic rifles to Philippines, a sale that never should have been licensed and for which the license was ultimately revoked.

In my remarks today, I want to make 3 key points. First, the proposed regulatory changes seek to draw a bright line between fully automatic weapons on one hand and semi-or non-automatic weapons on the other. And in human rights situations where it really matters, this is a distinction without a difference. It is a false dichotomy.

In practical reality, there may be little difference between the semi-and fully automatic types of firearms. A semi-automatic firearm can fire about 45 rounds a minute, and non-automatic sniper rifles can shoot with great accuracy over long distances.

These are powerful lethal weapons. The soldiers in Cameroon last summer used semi-automatic rifles. In Mexico, the local police in Guerrero State that were responsible for the enforced disappearance of 43 students in 2014 were armed, again, with semi-automatic rifles.

The point here is that in many perilous human rights situations the weapons that are slated for transfer to the Commerce Control List are every bit as threatening as fully automatic weapons. The bright line, as I have said, proposed by the Administration makes a distinction without true difference.

And, second, there is more to the proposed regulatory changes than first meets the eye. What is ultimately at stake here—and this is I think a crucial point for the committee—is which rules,

which laws will apply to the exports of these small but lethal weapons.

Over the years, Congress has embedded important human rights provisions in 2 key statutes—the Arms Export Control Act and the Foreign Assistance Act. And the provision of these laws, generally speaking, apply only to defense articles as defined by their presence on the U.S. Munitions List.

So if you remove these weapons from that particular list, then ipso facto you exempt them from the related statutory constraints, and therein lies the rub. These various statutory controls are tied together in an elaborate legislative architecture that in the past 15 years American officials have touted as the gold standard of arms export laws and regulations.

The “cradle to grave” control system that we have promoted internationally includes multiple statutory requirements, including, among others, a multi-step registration and licensing procedure for exporters that provides several opportunities to detect irregular aspects of an application. It requires, as has been noted, congressional notification of firearm sales that exceed \$1 million. It includes tough controls on brokering and the possibility of both pre- and post-shipment review through the State Department’s Blue Lantern Program.

So together these provisions constitute a robust oversight mechanism. And without mitigating action from Congress now, the straightforward and seemingly innocuous act of transferring items from one regulatory regime to another would essentially nullify the export laws as they apply to non-automatic and semi-automatic weapons in one fell swoop.

My final point relates to a specific concern about the regulation of firearms brokering and human rights implications. I do not have time to go into details now, but let me just say that brokering activities, which by statute are defined as financing, transport, and freight forwarding, are understood by human rights advocates to be the weakest link in the chain of regulatory controls.

And it is of note that in the case of the 2017 Philippines sale it was an issue with the middlemen in Florida that alerted U.S. Embassy personnel to the likelihood that something was awry with that transaction.

In closing, I want to say that I am not opposed in principle to export control reform, but it strikes me that these particular regulatory changes are irresponsible. As far as I have been able to ascertain, these are the only complete lethal weapons that are being transferred to the Commerce Control List.

In December 2000, the U.S. pledged to the world that we would observe the highest standards of restraint in our small arms export policies, and these proposed changes betray that pledge.

The best course of action, in my view, would be to retain the current range of firearms on the U.S. Munitions List by supporting H.R. 1143. And failing that, I would urge you to amend the statutes to ensure that the weapons transferred to the Commerce Control List would be included in the statutory definitions of defense articles and security assistance.

Thank you very much for your attention and the opportunity to share these concerns.

[The prepared statement of Ms. Waltz follows:]

**SUBCOMMITTEE HEARING
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128**

Proposed Small Arms Transfers: Big Implications for U.S. Foreign Policy
March 26, 2019

Comments by
Susan Waltz, Ph.D.
Professor
Gerald R. Ford School of Public Policy
University of Michigan

Chairman Bera, Ranking Member Zeldin and Members of the House Foreign Affairs Subcommittee on Oversight and Investigation:

Thank you for holding this hearing on Small Arms Transfers and for the opportunity to share my views about the proposal to remove certain weapons from the US Munitions List. In a nutshell, I am concerned that we are on the verge of unraveling a sophisticated policy architecture intended to prevent exported US weapons from falling into unintended hands – where they can be used for human rights abuse and criminal activity.

I have long been associated with Amnesty International, and my remarks are informed by its published human rights research. In an internal review about 10 years ago, Amnesty International found that some 60% of the grave human rights abuses it had investigated involved firearms. If that inventory were to be updated today, it would include, for example, the recent cold-blooded execution of civilians by uniformed Cameroon soldiers – which prompted the US to withdraw millions of dollars of military aid earlier this year and rescind an invitation for Cameroon to join a partnership program with the US National Guard.

It would also include Philippines, where since 2016 the government of Rodrigo Duterte has encouraged targeted political killings that have claimed more than 4000 lives in operations led by the police. My concerns about the proposal under consideration were only heightened last month when the State Department released its audit report about a 2017 sale of FDR-15 semi-automatic rifles to Philippines, a sale that never should have been licensed and for which the license was ultimately revoked.

In my remarks today, I want to make three general points.

- First, the proposed regulatory changes seek to draw a bright line between fully automatic weapons on one hand, and semi- or non-automatic weapons on the other. In human rights situations where it matters, this is a false dichotomy. In practical reality, there may be little difference between the semi- and fully-automatic types of firearms. A semi-automatic weapon can fire 45 rounds per minute, and non-automatic sniper rifles can shoot with great accuracy over long distances. These are powerful, lethal weapons. The soldiers in Cameroon last summer used semi-automatic rifles in their executions of several men, two women, and two small children – in two separate incidents captured on video. In Mexico, the local police in Guerrero State responsible for the enforced disappearance of 43 students in 2014 were armed with semi-automatic rifles.

In many perilous human rights situations, the weapons slated for transfer to the Commerce Control List are every bit as threatening as fully automatic weapons. The bright line proposed by the Administration makes a distinction without true difference.

- Secondly, with regards to human rights oversight, there is more to the proposed regulatory changes than first meets the eye. What is ultimately at stake here is which rules – which *laws* – will apply to exports of these small but lethal weapons. Over the years, Congress has embedded important human rights provisions in two central statutes, the Arms Export Control Act (AECA) and the Foreign Assistance Act (FAA). The provisions of these laws, generally speaking, apply to *defense articles*, defined as such by their presence on the US Munitions List. Removing weapons from this list – ipso facto – exempts them from the related statutory constraints. And therein lies the rub. These various statutory controls are tied together in an elaborate legislative architecture that American officials have touted as the gold standard of arms export laws and regulations. The “cradle to grave” control system that we have promoted internationally includes multiple statutory requirements, including:
 - an explicit scrutiny of human rights implications mandated by the Foreign Assistance Act,
 - a multi-step registration and licensing procedure for commercial exporters that provides several opportunities to detect irregular aspects of an application,
 - Congressional notification of firearms sales exceeding \$1 million,
 - tough controls on brokering,
 - requirements for end use certification,
 - prohibition against unauthorized re-transfers, and
 - the possibility of pre- or post-shipment review through the Blue Lantern program.

Together these provisions constitute a robust oversight mechanism. Without mitigating action from Congress now, the straightforward and seemingly innocuous act of transferring items from one regulatory regime to the other would essentially nullify the arms export laws as they apply to non-automatic and semi-automatic weapons. In one fell swoop.

- My final point relates to a specific concern about the regulation of firearms brokering and human rights implications. Brokering activities—including financing, transportation, and freight forwarding¹—are understood to be the weakest link in the chain of regulatory controls. As human rights research has shown, legitimate transactions entrusted to unscrupulous middlemen, or illicit transactions confided to unsuspecting transporters, are among the main ways that weapons are diverted to the gray and black markets. (And I might note, it was the disappearance of middlemen in Florida that alerted Embassy personnel in Manila to the irregularities of the 2017 license for the sale of semi-automatic rifles to Philippines.) With the proposed changes I am particularly concerned about potential new opportunities for illicit trade involving unscrupulous brokers.² The proposals circulated last June included an exemption from the standard brokering controls for licensed transactions subject to the Export Administration Regulations (which houses the Commerce Control List). Such a change risks creating a substantial loophole that could open new conduits for weapons

¹ 22 USC 2778 (b)(1)(A)(ii)(IV)

² The State Department has proposed an amendment to Federal Regulations that would allow it to maintain regulatory control over brokers of items remaining on the USML but also on the US Munitions *Import* List (a separate list which will continue to include the items that—for export purpose—are deemed no longer to warrant control under the USML). The intended effect is that brokers wanting to *export* items that are included on the list of items controlled as defense articles for *import* (but not for export) will be subject to the rules pertaining to the export of such items. The logic is convoluted at best, and it raises questions about the statutory grounding for requiring brokers who are exporting items “no longer warranting control under USML” to register with the State Department and comply with related requirements of the International Traffic in Arms Regulations (ITAR). It is also hard to imagine the bureaucratic mechanisms by which the licensing of a transaction will be handled by Commerce and any brokering aspects (including completion of information required by 22 CFR 129.6) will be handled by State. The carve out anticipated for 22 CFR 129.2 further complicates the application of brokering rules.

to be diverted to the gray and black markets where they could be acquired by otherwise prohibited parties.

In closing: I am not opposed in principle to export control reform, but these particular regulatory changes are irresponsible. In 2000 the US pledged to the world that we would observe the highest standards of restraint in our small arms export policies, and these proposed changes betray that pledge. The best course of action, in my view, would be to retain the current range of firearms on the US Munitions List, by supporting HR 1134. Failing that, I urge you to amend relevant statutes³ to ensure that weapons transferred to the Commerce Control List (as 500-series items) are included within the statutory definitions of defense articles and security assistance.

Thank you very much for your attention, and for the opportunity to share these concerns.

³ Notably 22 USC 2304(d)(2)(C) should be amended to include the "500 Series" and section 2778 should likewise be amended to ensure that relevant provisions apply to the 500 series. Further, to prevent the diversion to unauthorized users or those engaged in atrocities, Congress should ensure that such security assistance is subject to relevant oversight provisions, including Sections 2314 (diversion), 2378d (vetting) and 2776 (Congressional notification of proposed sales). To ensure that Congress continues to receive a comprehensive annual report on US arms sales, the Arms Export Control Act (22 USC 2778) should be amended to clarify that "defense articles" includes any 500-series items on the CCL.

Mr. BERA. Thank you, Professor Waltz.
And Ms. Reeves.

**STATEMENT OF JOHANNA REEVES, EXECUTIVE DIRECTOR,
F.A.I.R. TRADE GROUP**

Ms. REEVES. Good morning and thank you. Chairman Bera, Ranking Member Zeldin, and other distinguished members of this subcommittee, thank you for inviting the F.A.I.R. Trade Group to testify today on this important issue of reform to our export control regulations and the perceived impact such reform may have on our national security and foreign policy.

The Firearms and Ammunition Import/Export Roundtable, or F.A.I.R. Trade Group, is made up of firearms and ammunition manufacturers, importers, and exporters who serve both civilian and government customers. We work closely with U.S. Federal agencies to improve regulations governing the import and export of firearms, ammunition, and other similar articles.

The proposed rules that are at the heart of today's hearing are to transition commercially available firearms from the export controls of the U.S. Department of State's International Traffic in Arms Regulations, or ITAR, to the controls of the U.S. Department of Commerce known as the Export Administration regulations, or EAR.

Since the publication of the proposed transition rules, there has been a plethora of misinformation and mischaracterizations. First, the proposed transition rules are not a de-control of manufacture, transfer, or export of firearms or ammunition. The proposed changes are part of an effort to reform outdated regulations and right size our export control system—an effort that started under President Obama in 2010.

The proposed shift in oversight responsibility is long overdue and will help strengthen the national security of the United States by ensuring the exporting licensing authorities can focus on those items that warrant control under the ITAR rather than waste resources on export licensing for springs and bolts or for items that are available in sporting goods stores and retail outlets.

Not all firearms and ammunitions are slated to transition to the Commerce Controls. The firearms that will remain under the Department of State are those that are inherently military, including fully automatic firearms, modern large-caliber munitions, such as mortars and howitzers, high-capacity magazines and drums, and all specially designed parts and components for those articles.

For the firearms and ammunition that will transition over to the Department of Commerce, this is not a de-control or a deregulation of those articles. Under the EAR, exports and license applications for firearms and ammunition will be subject to controls under national security, regional stability, crime control and detection, the Firearms Convention, United Nations sanctions, and anti-terrorism.

Indeed, the proposed rules make it abundantly clear that the Commerce Department will require a license to export or re-export firearms or ammunition to any country, including Canada.

The proposed changes are to licensing processing, not policy. End use monitoring will continue under the Commerce Department, in-

cluding vetting of potential end users. In addition, the State Department, as well as the Department of Defense, will remain very involved in the review of export license applications for national security and foreign policy reasons, pursuant to the Export Control Reform Act.

Further, the Commerce Department will not approve any license application if the export will violate the laws of the destination country.

Another myth is that the Department of Commerce does not have the capability to control firearms or ammunition exports. This is not true. The Office of Export Enforcement is the only Federal law enforcement agency exclusively dedicated to the enforcement of export control laws, specifically the EAR, and does so to protect the national security, foreign policy, and economic interests of the United States.

OEE works closely with the Department of Justice to prosecute criminal violations and with the Office of Chief Counsel for Industry and Security for civil enforcement cases. This reform to our export control system is long overdue. Because of the age and wide-scale availability of the underlying technology, many firearms and ammunition do not have the characteristics that provide critical military advantage to the United States, nor are they exclusively available from the United States.

Unfortunately, the current policies and regulations have prevented the U.S. firearms and the ammunition industries from becoming reliable suppliers to our allies and, in general, competing effectively in the global marketplace.

We, therefore, urge Congress to permit the right sizing of the outdated one-size-fits-all export policy for firearms and ammunition, so that these industries may be regulated like the other defense sectors that have experienced export control reform.

This reform will not result in the de-control of firearms and ammunition, and it is critical to the positioning of our manufacturers in the world market and, thus, our national security.

Chairman Bera, Ranking Member Zeldin, and other distinguished members of this subcommittee, this concludes my testimony on behalf of the F.A.I.R. Trade Group. Thank you for the opportunity to speak today, and I welcome your questions.

[The prepared statement of Ms. Reeves follows:]

United States House Committee on Foreign Affairs
“Proposed Small Arms Transfers: Big Implications for U.S. Foreign Policy”

Written Testimony for Johanna Reeves
Executive Director, F.A.I.R. Trade Group

March 26, 2019

Chairman Bera, Ranking Member Zeldin, and other distinguished members of the House Foreign Affairs Committee’s Oversight and Investigations Subcommittee, thank you for inviting the F.A.I.R. Trade Group to testify today on this important issue of reform to our export control regulations, and the perceived impact such reform may have on our national security and foreign policy.

The F.A.I.R. Trade Group is made up of firearms and ammunition manufacturers, importers and exporters who serve both civilian and government customers. We work closely with U.S. federal agencies, such as the Bureau of Alcohol, Tobacco, Firearms and Explosives, the U.S. Department of State, and U.S. Customs and Border Protection, among others, to improve regulations governing the import and export of firearms, ammunition, and other military articles.

Almost a year ago, the Administration published the last in a series of proposed rules to reform the U.S. export control system; which reform initiative began in 2010 under the Obama Administration. The proposed rules that are at the heart of today’s hearing are to transition commercially available firearms from the export controls of the U.S. Department of State’s *International Traffic in Arms Regulations* (ITAR) to the controls of the U.S. Department of Commerce known as the *Export Administration Regulations* (EAR). It is interesting to note that when the Obama Administration launched the Export Control Reform (ECR) initiative, the ITAR U.S. Munitions List (USML) Categories I, II, and III, the Categories that control firearms and ammunition, were the first categories to be revised. The fact that the rules were not rolled out until May 2018 does not make it a creation of President Trump.

Although no longer branded “ECR,” the proposed rules to revise Categories I, II and III are a continuation of the U.S. Government’s effort to modernize U.S. export controls and better focus ITAR controls over those weapons or articles that are inherently for military use or that provide the United States with a critical military or intelligence advantage. The purpose of the proposed revisions to the USML is to adjust the scope of the Department of State’s jurisdiction to focus on those weapons or articles that are inherently for military use, or that provide the United States with a critical military or intelligence advantage. All other items will transition to the export controls of the Department of Commerce, as has happened for all previously implemented reform efforts. What is being proposed for USML Categories I, II, and III is nothing new.

Since the publication of the proposed rules for USML Categories I, II, and III, there has been a plethora of misinformation and mischaracterizations of the proposed rules. Indeed, these distortions, many of which are politically motivated, have given rise to the current attempts to prevent the President from exercising authority which Congress originally granted under the Arms Export Control Act.

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The fact is, the proposed transition rules are not a decontrol over the manufacture, transfer, or export of firearms or ammunition. The proposed changes are an effort to reform outdated regulations and right-size our export control system. The proposed shift in oversight responsibility is long overdue and will help strengthen the national security of the United States by ensuring that export licensing authorities can focus on those items that warrant control under the ITAR rather than waste resources on export licensing for springs and bolts for items that are abundant throughout the world. In addition, this reform is absolutely necessary to ensure “America’s ability to engage effectively with the rest of the world and keep our most sensitive technology away from those who would do us harm.”

These are not my words. These are the words of Defense Secretary Gates in 2010, when President Obama issued the directive to overhaul the overly complicated U.S. export controls system, a system with too many redundancies to effectively support the national security and foreign policy interests of the United States. By modernizing U.S. export controls, we could more effectively account for emerging critical technologies, whose exports would be subject to closer scrutiny than those items readily available at Walmart or hardware stores.

Items that Have Already Transitioned from State to Commerce Export Controls

Since the Obama Administration first rolled out ECR in 2010, several items once classified as defense articles and subject to ITAR licensing controls of the Department of State have moved over to the licensing controls of the Department of Commerce. The following USML categories were revised under the Obama Administration:

- Launch vehicles and missiles;
- Explosives and propellants
- Vessels of War
- Tanks and military vehicles
- Military aircraft
- Training equipment
- Personal protective equipment
- Military electronics
- Fire control
- Toxicological agents
- Spacecraft and satellites
- Nuclear weapons
- Directed energy weapons
- Gas turbine engines
- Submersible vessels

The list of items that have already moved off the U.S. Munitions List and over to the Commerce Control List is extensive. Every single one of these items is subject to the same set of controls that

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commercially available firearms and ammunition would be, including the treatment of information published on the Internet.

Military Weapons Will Stay Controlled Under ITAR

Under the proposed transition rules, military weapons will remain under the State Department licensing authority. As I stated earlier, fully automatic firearms will remain under USML Category I. A fully automatic firearm includes those firearms that have the option to select either a semi-automatic function, a two or three-round burst function (in other words it fires two or three rounds with a single pull of the trigger), and also a fully automatic function. These firearms, known as "select-fire" firearms, are well recognized as military weapons. These should not be confused with purely semi-automatic firearms. To that end, some argue the AR15 rifle, a purely semi-automatic rifle, is a military-style weapon. It is not, and it should not be conflated with a rifle that has full automatic capabilities. AR15-type rifles are not used in the military, and to say there is little difference between a semi-automatic firearm and a fully automatic firearm is disingenuous. Congress itself recognized this substantial difference when it established the National Firearms Act of 1934, which imposed significant restrictions on civilian possession of fully automatic firearms, but not on semi-automatic firearms.

While it is true that soldiers in combat may use fully automatic firearms in semi-automatic mode, this is dependent on the situation and threat level. In close quarters, the military trains shooters to engage targets with controlled pairs (two shots). If fire suppression is needed, then full auto is more effective at keeping the enemy down and permits freedom of movement by friendly forces. The use of semi or single shot or controlled pair is more prevalent but it is mostly a matter of ammunition consumption so as not to waste ammunition. For the soldier, the full auto option offers reassurance and a tactically sound choice. It provides lethality overmatch and makes a smaller fighting force more effective.

The AR15, a sporting rifle that has been widely available on the commercial market since 1963, cannot and must not be grouped in the same category as the assault weapon described above. The semi-automatic AR15 (or other model) rifle does not have the design features that allows it to accept a full automatic sear that changes its design into a machinegun capable of shooting automatically. Indeed, the current effort to reform our export control laws will allow the U.S. Government to focus more on controlling true military assault weapons.

Domestic Controls over Firearms and Ammunition

Any reforms to our export control system will not affect in any way domestic controls over firearms and ammunition. The Bureau of Alcohol, Tobacco, Firearms and Explosives is the agency in charge of enforcing the Gun Control Act and the National Firearms Act, and these statutes will continue to regulate the manufacture, transfer and possession of firearms and ammunition.

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ATF controls over firearms in the United States extends to 3D printed guns. The Gun Control Act prohibits the manufacture, import, sale, shipment, delivery, possession, transfer and receipt of any handgun that is undetectable by x-ray machines commonly used at airports. Violations of this statute are punishable by up to five years imprisonment and a fine of \$250,000. The last time this prohibition was due to sunset in 2013, Congress passed a renewal unanimously by voice vote.

U.S. Department of Commerce Export Controls

1. Export License Requirements

It is important to remember that not all firearms and ammunition are slated to transition to Commerce controls. The firearms that will remain under the Department of State are those that are inherently military, including fully automatic firearms, regardless of the caliber, fully automatic shotguns, magazines and drums with a capacity of 50 rounds or greater, and all specially designed parts and components therefor. The types of ammunition that will remain with the Department of State include ammunition preassembled into links or belts, and projectiles with a core or projectile produced from tungsten, steel, or beryllium copper alloys (also referred to as armor piercing ammunition).

Contrary to many of the objections that have been voiced about the proposed rules, the transition of firearms and ammunition from State Department's oversight to the Department of Commerce's control will NOT result in a decontrol or a deregulation of these articles. Firearms transitioning to the Department of Commerce will be subject to licensing controls under National Security, Regional Stability, Crime Control and Detection, the Firearms Convention, United Nations Sanctions, and Anti-Terrorism. Indeed, the proposed rules make it abundantly clear that the Commerce Department will require U.S. Government authorization to export or reexport firearms or ammunition transitioning from the USML to ANY country, including Canada. The transition will not result in the unlicensed export of firearms and ammunition.

It must be emphasized that the proposed changes are to license processing, NOT POLICY. End-use monitoring will continue, including vetting of potential end-users, and contrary to popular belief, the State Department, as well as the Department of Defense will remain very involved in the review of export license applications for national security and foreign policy reasons. Commerce Department will continue to staff license requests to executive agencies for review, just as State Department has done under ITAR. Of course, we must not forget the fact that the Commerce Department, like the State Department today, will not approve any license application if the export will violate the laws of the destination country.

2. Office of Export Enforcement

Another myth is that the Department of Commerce does not have the capability to control firearms or ammunition exports, or has looser licensing rules and procedures. In reality, the Department of Commerce has an arsenal of tools it can use, and indeed does use already to effectively control exports and enforce against export violations, including those that have not yet occurred.

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The Department of Commerce, Bureau of Industry and Security (BIS) Export Enforcement consists of the Office of Export Enforcement (OEE), the Office of Enforcement Analysis (OEA), and the Office of Antiboycott Compliance (OAC). The overarching mission is to protect the U.S. national security, homeland security, foreign policy and economic interests through a law enforcement program focused on: sensitive exports to hostile entities or those that engage in onward proliferation; prohibited foreign boycotts; and related public safety laws. BIS's Export Enforcement is an elite law enforcement organization recognized for its expertise, professionalism, integrity, and accomplishments. It accomplishes its mission through preventative and investigative enforcement activities and then, pursuing appropriate criminal and administrative sanctions against export violators.

In particular, the Office of Export Enforcement is dedicated to protecting U.S. national security, foreign policy, and economic interests by investigating violations, prosecuting violators of export control laws, interdicting illegal exports, and educating parties to export transactions on how to improve export compliance practices. To accomplish this, OEE Special Agents work with Commerce Department licensing officials and policy staff to deter the export of items which, in the hands of unreliable users, can prove damaging to U.S. national security and foreign policy interests.

Noteworthy is the fact that Commerce enforcement of export controls is carried out by Special Agents, sworn federal officers with "authority to bear firearms, make arrests, execute search warrants, serve subpoenas, detain and seize items about to be illegally exported, and order the redelivery to the United States of items exported in violation of U.S. law." Indeed, OEE is the only federal law enforcement agency exclusively dedicated to the enforcement of export control laws, specifically the EAR, and it works closely with the Department of Justice to prosecute criminal violations, and with the Office of Chief Counsel for Industry and Security for civil enforcement cases.

Under the ITAR, the State Department's Office of Defense Trade Controls Compliance investigates export violations. This office is comprised of Compliance Specialists who are not law enforcement officers.

What does this all mean? Stated plainly, this means that the Commerce Department already has in place the resources to send special agents to investigate suspected violations of the EAR. And, they do. This includes investigating suspected export violations by U.S. persons, as well as suspected unauthorized reexports or transfers by foreign persons. As outlined on OEE's website, OEE Special Agents also conduct end use checks to confirm items are being used in accordance with any license conditions, as well as to assess the suitability of foreign end-users to receive U.S.-origin licensed goods and technology, assess prospective end-users on pending license applications for diversion risk, and conduct educational outreach to foreign trade groups.

In a recent Commerce publication, *Don't Let This Happen To You* (Nov. 2018), in fiscal year 2017, BIS investigations led to the criminal convictions of 31 individuals and businesses for export

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violations with penalties of over \$287 million in criminal fines, more than \$166 million in forfeitures, and 576 months of imprisonment. In addition, OEE and BIS's Office of Chief Counsel completed 52 administrative export matters, resulting in over \$692 million in civil penalties." In contrast, in 2017 and 2018 combined the U.S. Department of State, Directorate of Defense Trade Controls (DDTC) issued only two consent agreements.

Fostering Competitiveness of the American Manufacturer

Another unfortunate truth of our current export control system is the unintended harm on our ability to provide weapons to our allies. It is no secret that many foreign governments restrict bidding on supply contracts to non-ITAR-controlled product. This affects U.S. manufacturers from being able to sell firearms and firearm components, all controlled under the ITAR. To illustrate, let me draw your attention to a French tender for semi-automatic pistols. Although it does not specifically reference "ITAR-free," the governing French legislation requires the applicant offer:

1. A certification according to which the offeror will be able to meet all obligations in terms of export, import, transfer and transit of defense articles related to the awarded contract, including those obligations contained in any other document related to such tender; and
2. The indication of any restrictions resulting from any security or export-control regime applicable to such offeror and/or its defense articles or services and which affects the disclosure, transfer and/or usage of such defense articles and/or defense services (i.e. maintenance services, product support services, etc.).

The legislation does not cite to the ITAR precisely. However, because of the inherent controls of the ITAR that affect all U.S.-origin defense articles and services, especially in terms of prior export license and the required prior approvals from the Department of State for reexports or retransfers, the above provisions of the French legislation nearly eliminate any chance for success in proposing US-origin ITAR-controlled defense articles and/or services in response to this tender (and to any tender for defense articles and services issued by the French Government).

On the contrary, this situation does not replicate among E.U. Member States to the extent that, E.U. member states have agreed to principles of mutual trust and reciprocity between the Member States' export control policies and procedures for the defense sector so that once delivered to one Member State, defense articles and/or services from another Member State are controlled onward only by the recipient Member State export control policies and procedures.

Another example is the restriction on countries sourcing product made with U.S. – origin components and parts. The ITAR restrictions on reexport attach to each defense article, so that even for ITAR-controlled parts and components that are incorporated into a non-U.S. end-item, the end-item becomes subject to the ITAR requirement for advance U.S. Government approval for nearly all reexports. At this time, *all* firearm parts and components and accessories are subject to

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ITAR export and reexport controls, with very few exceptions. Regardless of the size of the part, whether it be a bolt or a spring, or a barrel or a receiver, the part is subject to ITAR restrictions on reexports. In many cases, the process for obtaining such reexport approval has resulted in significant and even detrimental delays, even when the reexport is for ally governments. Consequently, there is a push to reduce U.S.-made components from defense products so as not to be burdened with the reexport restrictions under ITAR.

Our allies are shunning U.S. products because of ITAR, both because of unreliable delivery and the inability to reexport. The result is they source their products from other countries, including Russia and China. This poses a significant threat to our national security, because not only is the U.S. removed from the immediate supply chain (including potential U.S. government oversight thereof), but long term we are isolated from the replacement and repair market. This has very significant consequences on the American defense sector, not the least of which is the firearms and ammunition manufacturers.

Conclusion

Because of the age and wide-scale availability of the underlying technology, most firearms do not possess characteristics or parameters that provide a critical military advantage to the United States, nor are firearms exclusively available from the United States. In fact, it is these points that make the current system of export controls particularly harmful to U.S. industry, and indeed U.S. national security because of global competition and the inability of U.S. firearms companies to compete with foreign sources.

The policies and regulations currently in place have not prevented firearms or the related technology from going to restricted places. Indeed, to our detriment they have only prevented the U.S. firearms industry from becoming reliable suppliers to our NATO and non-NATO allies, and in general competing effectively in the global market place. Similar to the challenges faced by other defense industries, the firearms trade has been negatively impacted by the incentives of foreign companies and governments to avoid U.S.-origin firearms. Our inability to effectively compete globally will undermine our firearms manufacturing base by inducing U.S. companies to move production offshore. This will affect jobs and domestic production levels, thus weakening the US Defense Industrial base.

In conclusion, F.A.I.R. Trade Group supports the Administration's continued efforts to reform and modernize our export control system. We urge Congress to permit the right-sizing of the long-standing one-size-fits-all export policy for firearms and ammunition, and allow the firearms and ammunition sector to be regulated as other defense sectors are. This reform will not result in the decontrol of firearms or ammunition, and is critical to the positioning of our manufacturers in the world market and thus our national security. It is time to control exports of firearms and ammunition as we do all other sectors in the defense industry, and we look to this Committee to ensure this occurs.

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Chairman Bera, Ranking Member Zeldin, and other distinguished members of the House Foreign Affairs Committee's Oversight and Investigations Subcommittee, this concludes my testimony. On behalf of the members of F.A.I.R. Trade Group, thank you for the opportunity to testify, and I look forward to your questions.

Mr. BERA. Thank you, Ms. Reeves. And thank you to all of the witnesses for being here.

Mr. Abramson, in your opening remarks you touched on something about 3-D printing rules, and so forth. And I think this is an important component that we ought to touch on. Within State Department, when 3-D printing and how to make a gun that was undetectable was going to be posted on the internet, the State Department put a stop to it.

Now, there was a lawsuit that was filed with that, and State Department settled it. But right now that lawsuit is being contested by about 20 state attorney generals. What we are told is if this rule change goes through, Commerce will not enforce, the ruling not to post this on the internet.

We do not know how this lawsuit is going to get settled, but I do think, from an oversight perspective I have some concern, and I think this body ought to have some concern, as to whether we think it is a good idea for people to post how to make a 3-D printed gun that might not be detectable. That puts our kids at risk. That puts all of us at risk.

All of you had to go through security screening when you came into this building. Again, from my end, I do not think it is a great idea for someone to figure out how to make a 3-D printed gun. That, hopefully, is something that we can work on in terms of trying to figure out how do we make sure that technology does not end up in the wrong hands.

I just thought it was important for us to point that out, and I actually think State Department did the right thing. I am not thrilled that they settled this, and I am glad the state attorney generals have stepped up to try to prevent that posting.

Again, this hearing is not about gun control, from my perspective. That is not the intent. It is also not about putting our manufacturers at a disadvantage to the rest of the world. I have long been an advocate for looking at our export control regime and making it a little bit more streamlined.

In some of my dealings with other countries, and India in particular, there are items that do not make sense to be on the Export Control List, that, if they are not purchasing from us, they will be purchasing from others.

My concern in this hearing—and what might happen with this rule—change is I want to make sure we are not treating everyone the same, that as we are interacting with countries that are allies, that share similar values, et cetera, that is one thing. But the reason why I focused on the Northern Triangle countries is in areas where we know there is an increase in violence, we know there is an increase in homicide, our values as Americans, and as leaders in the world and wanting to occupy the higher moral ground, we should not want you to think that our guns are contributing to that, or our small arms are contributing to that destabilization, particularly, as the President has pointed out, some of the crises on the southern border.

If we do not try to address it in the countries that, are contributing to some of this migration, we will be addressing it on the southern border. And I think, again, as the world leader, we have a responsibility to try to address this.

So maybe I will turn to either Mr. Abramson or Professor Waltz on this one. It does seem to me that there is, a lack of—once these arms are sold, to be able to trace whether U.S. arms are being used in some of these atrocities.

Professor Waltz, you touched on, what happened in Cameroon and other places, and I think that is something that we ought to figure out. Whether that is State Department doing this, whether that is Commerce, whether it is an interagency process, but if atrocities are happening, are these U.S.-made arms that are being used in those atrocities?

Ms. WALTZ. I would say that this is the most difficult issue with regards to these weapons. They are small, and they come from many different places. And to try to do a ballistic analysis to figure out what weapon was used in what particular instance is really, really challenging.

On top of that, trying to figure out whether the weapon was transferred in a lawful way or in an unlawful way makes it a really tricky issue to tackle, period. That is the reason why doing all of the due diligence up front to make sure that you have done as much as you possibly can to prevent the arms from going in the direction where they are going to end up in unintended hands is so important.

We do have some examples of U.S. weapons being used—of weapons that were known to be transited from or supplied via U.S. channels that have ended up in hands, but very often these are not ones that were sold commercially. They were sold, perhaps transferred by U.S. military.

But that is in many ways besides the point. The part that I think all of us are really concerned about is the prevention. What is the best system for keeping the weapons from getting out and into the wrong hands in the first place? The system that is now in place has a review at registration, a second review at licensing, and the possibility of going into a place and looking at the weapons.

The last comment that I would make here is that while Commerce Department does have uniformed and armed officers, they do not actually have anyone on the ground in place overseas in the Northern Triangle of Central America. So they are really without the possibility of pursuing on the ground investigations at this point.

Mr. BERA. Right. Well, I would love to work with the ranking member again, if we are selling small arms to Canada, it is one thing. If we are selling, small arms to Honduras, it might be another thing.

And what I understand is it is better to be sure and do our due diligence on the front end to make sure where those weapons are going, and then at least on the back end having some ability to make sure they ended up in the right place. So I would love to work with you, Mr. Zeldin, on what that might look like.

And with that, I will turn it over to the ranking member.

Mr. ZELDIN. Thank you, Mr. Chair.

And, Ms. Reeves, is there anything that you would like to weigh in on the conversation I was just having—taking place?

Ms. REEVES. I think one—regarding the registration point, I think it is important to notice that under the Gun Control Act

manufacturers of firearms and ammunition must obtain a Federal firearms license from ATF. And the form to do that is—it is an application for a Federal firearms license, and on that form manufacturers or would-be licensees must disclose all responsible persons who are at the company. And a responsible person is not a nomination; it is actually a role of the job function.

So if you have the power to make decisions at the company pertaining to firearms or ammunition, you must be designated. The background check that goes into that licensing process is pretty extensive, and on the form itself it includes country of birth, it includes citizenship, and it includes addresses for the last 5 years.

So in terms of registration, it is not a completely black hole because that will be covered domestically under the Gun Control Act for licensing.

Mr. ZELDIN. And how does the Commerce's license review process differ from State's?

Ms. REEVES. Actually, not that much different because what will happen on the back end is when a license application is submitted, Commerce Department will take that license application and put it through an interagency review process. This is actually going to be required under the Export Control Reform Act.

Part of those agencies include Department of Defense and the Department of State. The Department of State will refer everything to the Democracy, Rights, and Labor Bureau, DRL, so they will be intricately involved in reviewing license applications on the front end, and they will do so under foreign policy and national security.

Mr. ZELDIN. Do either of the 2 witnesses want to weigh in on that?

Mr. ABRAMSON. Yes, briefly. It is not a question in my mind of the Commerce Department suddenly wants weapons to end up in the wrong hands. I do not think that is the concern. Obviously, I have concerns about Commerce's approach, more toward sales, but the reality is the way the system is set up the State Department captures more information during the licensing process, and ICE officials and others have told us that that information is very helpful as a deterrent value, but also later for prosecutions.

The State Department will have a role in the Commerce—if Commerce is taking control, but the State Department will not have the primary authority of making that decision. Commerce will still hold that, so the State Department's role will be lessened. But there is other pieces of this where the Congress will not be notified of misuse. That will happen if it is something that is controlled through the State Department.

But when we go through the Commerce Department, you have different requirements about how the law is applied, so your oversight capacity will change. That is some of the big changes that we are talking about.

Ms. WALTZ. If I might add, the changes and the processes that we are talking about right now, once these items move off of the U.S. Munitions List and are no longer defined as defense articles, will no longer be mandated by law.

It is all a matter of regulatory practice and procedures within the—and I think that that is a crucial point, because what is required—in the early years, in the 1970's, when some of this was

set up, for 6 or 7 years the administrations did not follow the general guidance of Congress. It was not until it was locked into law that these became really enforceable provisions. And what we are really talking about is possibly exiting them from the legal requirements.

Mr. ZELDIN. I appreciate all 3 witnesses for that exchange. But, just to sum up some of the items that have already transitioned from U.S. ML to the CCL, Category IV, launch vehicles, guided missiles, ballistic missiles, rockets, torpedoes, bombs, and mines; Category VI, surface vessels of war and special naval equipment; VII, ground vehicles; IX, military training equipment; X, personal protective equipment; Category XIV, toxicological agents; Category XV, spacecraft and related articles; Category XVI, nuclear weapons-related articles.

So it is just really important to note just how much of a transition has already been completed between U.S. ML and CCL. I appreciate the hearing and the conversation today, but, Commerce has already established quite a robust and proven role in many other pieces of equipment that, people would also suggest are consequential for this related debate as to context of this hearing. And I yield back.

Mr. BERA. Yes. If I could just comment on the ranking member's observation, that last observation. I think, Professor Waltz, you talked about the difficulty of tracing and tracking small arms, which is why much of the due diligence I suspect has to be done on the front end, whereas if we are selling an aircraft carrier to a country, we can probably better track how that aircraft carrier is being utilized and used. So, but I appreciate that, I am glad that we made some of those.

I will now turn to Mr. Malinowski for purposes of questioning the witnesses.

Mr. MALINOWSKI. Thank you, Mr. Chairman. Ms. Reeves, you mentioned the State Department's DRL Bureau. I ran the State Department's DRL Bureau, so I can speak a little bit to these questions. And when we were having this debate at the State Department in the last administration, there were arguments on both sides, but let me first attest the arguments have nothing to do with our domestic uncontrolled debate. They have to do with a broad understanding that violence against civilians around the world, mass violence by militias, by criminal terrorist organizations, by rapacious abuse of governments, is not committed by aircraft carriers. It is not committed by boats, largely not by planes or by tanks or by howitzers or by mortars. It is committed by small arms.

The reality of places like Congo, Central America, Burma, is that small arms are the weapons of mass destruction of our time, and that is why we are very, very sensitive about getting this right.

One case I was involved with involved the Philippines where we discovered an impending commercial sale of small arms, not to the Philippine government or Philippine police, but because we, in the State Department, had a thing called an Embassy in the Philippines and large numbers of people who monitored such things, we realized that the Philippine police was purchasing arms from the dealers to whom these small arms were going to be sold.

This was at a time when the Duterte Regime—well, it is still doing so—was conducting a campaign of extrajudicial executions as part of its so-called drug wars, including a lot of innocent kids who were being rounded up, killed in the middle of the night by gangs that were actually police officers off duty.

And so we made the decision at the State Department to freeze that sale. I can 100 percent guarantee to you that if the Commerce Department had the final say in that sale they would not have made the same decision because the Commerce Department's ethos, mandate, and mission was to support American manufacturers in their efforts to export their products. That is perfectly fine. That is exactly why the Commerce Department exists. The State Department exists to raise foreign policy, human rights, and national security considerations.

So let me ask a few questions. Maybe, Mr. Abramson, Ms. Waltz, you can take the first few. Does the Commerce Department have personnel at U.S. embassies around the world that monitor these sorts of issues? Yes or no.

Ms. WALTZ. No.

Mr. ABRAMSON. No.

Mr. MALINOWSKI. Does it have any staff assigned to review firearms sales to Central America, the Philippines, Afghanistan, Congo, Cameroon, Sudan, any of the countries where these issues might be of concern?

Ms. WALTZ. It has a few—3 or 4 people stationed in various parts of the world, but none for Latin America. And I do not believe any for Africa as well.

Mr. MALINOWSKI. All right. And does it perform these due diligence checks, particularly on human rights, before a sale goes through?

Ms. WALTZ. It has not so far.

Mr. MALINOWSKI. So let me ask you, Ms. Reeves, you spoke in your testimony about outdated regulations. Is the requirement that Congress be notified of sales over \$1 million an outdated regulation?

Ms. REEVES. No, I would not call that an outdated regulation for items governed by the U.S. Munitions List.

Mr. MALINOWSKI. For small arms, for semi-automatic weapons. So if we were to sell 20,000 AR-15s to the Philippines, would it be an outdated regulation for Congress to be notified of that?

Ms. REEVES. Well, one thing that I will point out is that the \$1 million threshold only applies to small arms, and it is significantly different from the next highest threshold, which is \$14 million. This, of course, affects significantly U.S. manufacturers from being able to ship to our allied governments, because when they have contracts that exceed that amount of money it is significantly delayed.

Mr. MALINOWSKI. So if the rules change goes through, would you support legislation that would impose the same \$1 million threshold reporting requirement, even though it is going through the State Department for small arms?

Ms. REEVES. I would have to see what the legislation is.

Mr. MALINOWSKI. Would you support legislation that would require the Commerce Department to do a review of the potential human rights implications of a sale before the sale takes place?

Ms. REEVES. I think the legislation is already there. I think under the Export Control Reform Act there is a review process that is specified under the statute. And in the review process, DRL, State Department objections to a license would not be overruled.

Mr. MALINOWSKI. OK. Well, I can just—I will close by saying, in my experience, for any item or issue where the Commerce Department had the final say, under current rules—and I can say, for example, surveillance technology is a very good example of this, where there is a vote by a committee in which Commerce, DoD, and the State Department each have one vote.

In literally every single case, in my experience, where the State Department did not have the final say, and the Commerce Department had either a vote or the deciding vote, the Commerce Department 100 percent of the time voted for the export of, say, surveillance equipment to dictatorships that were going to use them against dissidents, journalists, et cetera.

Unless there is a change in the ethos, mission, and mandate of the Commerce Department, I have no reason to believe that that will change. And I would hope that the industry, in its own interest, would support maintaining a very robust review process, because if you do not have that, you are going to find yourselves caught up in front page stories about U.S. weapons, weapons manufactured by your members, being used for things that will outrage the American people, and people will wonder who is responsible. You need the State Department to protect you from them.

Thank very much, Mr. Chairman.

Mr. BERA. Thank you. And I will recognize Mr. Perry for purposes of questioning the witnesses.

Mr. PERRY. Thank you, Mr. Chairman.

Ms. Reeves, are you familiar with the IRGC? Do you know who that is?

Ms. REEVES. Yes.

Mr. PERRY. Are you familiar with the fact that the IRGC or components of those folks are driving around in Iraq in American-made M1 tanks?

Ms. REEVES. Am I aware of that?

Mr. PERRY. Yes. I am just asking.

Ms. REEVES. Yes.

Mr. PERRY. Yes. Right? And we are outraged by it, but the point—and do you suspect that a tank, an M1 tank, is significantly more lethal than, let's say, an AK-47 or an AR-15?

Ms. REEVES. That would be my assessment.

Mr. PERRY. That would be mine as well. So let me just—in the last—I think you characterized it—I do not know the exact date, but this transfer to the Commerce Control List. When did that start? When did that effort start?

Ms. REEVES. 2010 is when it really started.

Mr. PERRY. 2010. Did you come to the Hill and testify in that regard?

Ms. REEVES. No, I did not.

Mr. PERRY. And at all, between 2010 and now, have you come and testified?

Ms. REEVES. No, I have not.

Mr. PERRY. Why do you suppose that when that action was being proposed under the previous administration there did not seem to be any aversion to it, but now there appears to be? Why do you suppose that is?

Ms. REEVES. I think that is a really good question. My own perception is that it is a different landscape right now. It is highly political. I think that there is a lot of conflation between modernizing our export control laws and domestic gun control and gun control arguments.

Mr. PERRY. And in the context, I mean, look, I hate to bring this up, but I think it is important to bring this up, you are familiar with the Fast and the Furious—

Ms. REEVES. Yes, I am.

Mr. PERRY [continuing]. Operation, et cetera.

Ms. REEVES. Yes, I am.

Mr. PERRY. Even in the context of the previous administration and the—let me ask you this. How did that arms transfer take place, if you know?

Ms. REEVES. That was a lawful—as far as I know, it was a combination of lawful transfers and also unlawful exports by non-U.S. persons purchasing weapons from licensed firearms dealers who were trying to get ATF involved in monitoring and preventing the transfers.

Mr. PERRY. Was the State Department involved?

Ms. REEVES. Not that I know of.

Mr. PERRY. Was the Commerce Department involved?

Ms. REEVES. Well, the State Department was involved in terms of the lawful exports that went down there.

Mr. PERRY. OK. But they still went, right?

Ms. REEVES. Right. They did.

Mr. PERRY. They still went. And they are credited with killing not only people of a foreign country but American citizens; is that correct as well?

Ms. REEVES. Correct.

Mr. PERRY. It seems to me that the current process, if that is allowed to happen, is certainly lacking for a lot of reasons, and it also seems to me that even in the face of that, at that time, nobody apparently—well, certainly you were not asked to come—and you are an expert in what you do, you are here now, but nobody at the time in Congress thought it important enough to bring you to testify and answer questions under that administration. But now that it is this administration, is the action significantly different under this administration than the previous one?

Ms. REEVES. No. My understanding is that the proposed rules are largely unchanged from what was originally drafted. These categories were the first categories drafted.

Mr. PERRY. OK. And even under the Commerce Control List, national security, foreign policy, review of applications still takes place; is that correct?

Ms. REEVES. Yes.

Mr. PERRY. Would they still be reviewed by the State Department for human rights, illicit trafficking, and other security concerns?

Ms. REEVES. Yes.

Mr. PERRY. So it is essentially the same thing.

Ms. REEVES. Yes.

Mr. PERRY. Just streamlining it. But because we have a new administration—my words, not yours—that we disagree with—what before was OK is now not OK. That is—those are my—but you would tend to agree with them.

Ms. REEVES. Yes.

Mr. PERRY. Do American small arms manufacturers sell abroad? I mean, is it a part of their—a significant part of their business profile and their ability to stay in business and make a profit and produce not only items that are used by the military but by American citizens to defend themselves, by law enforcement in America, and around the world?

Ms. REEVES. For some companies, it is very significant.

Mr. PERRY. It is very significant. This technology has been around for a fairly—for a long time I think.

Ms. REEVES. For a long time. I think it might have originated with the Chinese.

Mr. PERRY. About the 11th century, right?

Ms. REEVES. Something like that.

Mr. PERRY. So the question is—and you have already heard the list that—which is incomplete, but you heard the list that my good friend from New York enumerated about the things that are already moved here of military concern.

But is there any critical military advantage in the items listed in Categories I, II, or III, that are proposed to move to the CCL that would imperil the United States or where we would be giving away a significant and military advantage, understanding one of the items that Mr. Zeldin talked about was nuclear weapons. Just one of them was nuclear weapons. That is already there.

Ms. REEVES. From what I understand, this was looked at very, very closely, and very extensively by experts within the government. And what they found is that the items listed to transition over to the Commerce Department do not give any significant improvements or—yes, exactly, for United States security.

Mr. PERRY. I thank the ladies and gentleman. And I have exceeded my time. I yield.

Mr. BERA. Thank you, Mr. Perry.

If I could just—clarify, the purpose of this hearing is not because it is the Trump Administration proposing the rule change. I was not in Congress when the Obama Administration was proposing this rule change. Otherwise, I would have hoped we would have had a similar hearing. It really is: how do we make sure, when we are exporting these small arms, they do not end up in the hands of the wrong people?

Again, I think we can all agree that we do not want, as Mr. Malinowski was pointing out, to see U.S.-made weapons on the front page of our hometown newspaper being used to kill civilians. We ought to figure out the best way to prevent that from happening.

With that, I will recognize my colleague from California, Mr. Lieu, for purposes of questioning the witnesses.

Mr. LIEU. Thank you. Thank you to the witnesses for being here today. Let me just say for the record I opposed the Obama Administration's unauthorized war in Syria. I oppose the Trump Administration's unauthorized war in Syria. I would have opposed this rule change had I been able to vote on it under the Obama Administration. I am going to oppose it now under the Trump Administration. This is not a partisan issue. This is about saving lives.

So I have heard my colleagues' statements. I simply note there are troops who are stationed in Afghanistan and Syria and Iraq on the front lines that are not being killed by nuclear weapons, by directed-energy weapons, or by torpedoes. Many of them are getting shot. They are being killed by small arms weapons.

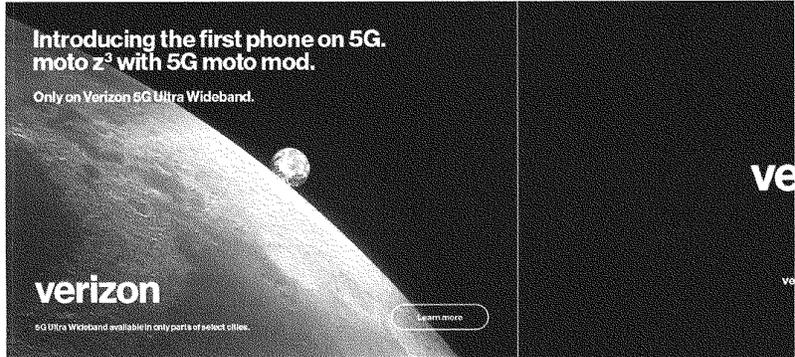
And I have this article here that I want to enter into the record. It is called Trump's New Gun Export Rules Could Aid Terrorists, Tyrants, and Criminals. And it is from CNN dated February 14, 2019. If I could enter that into the record.

Mr. BERA. Without objection.

[The information referred to follows:]

3/26/2019

New US gun export rules could aid terrorists, tyrants and criminals (opinion) - CNN

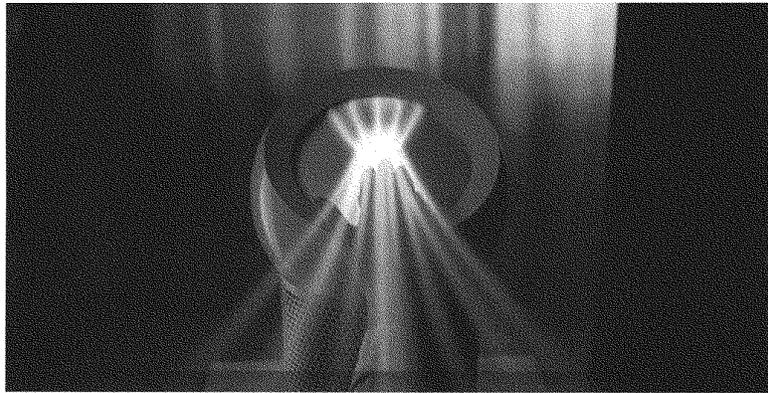


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Live TV

By William D. Hartung

Updated 4:33 PM ET, Thu February 14, 2019



Source: CNN

Trump's complex relationship with guns 02.07

Editor's Note: William D. Hartung is the director of the Arms and Security Project at the Center for International Policy. The views expressed in this commentary are his own. View more opinion articles on CNN.

(CNN) — For a man who regularly rails against the activities of criminal gangs and has claimed victory in the war on ISIS, President Donald Trump sure plays fast and loose when it comes to keeping weapons out of the hands of those who shouldn't possess them. Just last week, his administration formally notified Congress of changes in US export rules that will make it easier for criminals to acquire US firearms.

<https://www.cnn.com/2019/02/14/opinions/donald-trump-dangerous-new-gun-rules-hartung/index.html>

1/2

3/26/2019

New US gun export rules could aid terrorists, tyrants and criminals (opinion) - CNN

According to the Forum on the Arms Trade, an informal global network of experts of which I am a member, the new rules would transfer jurisdiction over exports of everything from semi-automatic rifles to some types of handguns, from the State Department to the Department of Commerce. The systems covered by the change include AR-15 style rifles, which have been used in mass shootings like that in Parkland, Florida, a year ago. These are not harmless items or mere sporting rifles -- in the wrong hands, they can and have been used as tools of mass slaughter.



William Hartung

trials.



Related Article: Four huge obstacles for Congress to do something on gun control

administration's new gun export scheme is worth far more than boosting the bottom lines of a few US gun makers.

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Congress has a few weeks left to address this crucial issue. The time to act is now.

The change in which department oversees exports of many varieties of US firearms is a huge step in the wrong direction. The State Department is set up to vet gun exports on human rights and security grounds. The Commerce Department is not. Commerce is also ill-equipped to track where US firearms end up once they have been exported, which will prove a boon to illegal weapons traffickers.

The impact of these dramatic changes in export regulations will likely be severe. The flow of refugees from Central America to the United States that has so troubled Trump is due in significant part to the activities of criminal gangs that have made it unsafe for people to remain in their home countries. Many of these gangs have acquired US-origin firearms, and the new rules will make it even easier for them to do so.

The consequences of freer firearms exports will reach far beyond the Western Hemisphere. According to statistics compiled by the Security Assistance Monitor, governments like Saudi Arabia and the United Arab Emirates -- which are waging a brutal war in Yemen that has killed thousands of civilians and pushed the country to the brink of famine -- have aggregately requested to buy hundreds of millions of dollars of firearms from the US under the Trump administration. And last year, the Philippines was allowed to order \$22 million worth of guns from the US, despite its record of collaborating in the murders of thousands of alleged criminal suspects without providing proof or conducting

Another major flaw in the administration's new approach to gun exports is the fact that Congress will no longer be required to be notified of these deals in advance. In recent years, Congress has taken action to block sales of guns to the body guards of Turkish President Recep Tayyip Erdogan, as well as to the Philippines police due to human rights concerns. Congress should be stepping up its scrutiny of these kinds of sales, but now it will be much more difficult to do so.

Thankfully, the new regulations will not go unchallenged. Democratic representatives Norma Torres from California and Eliot Engel from New York have introduced legislation that would block their implementation. And Bob Menendez, a Democratic senator from New Jersey and the ranking Democrat on the Senate Foreign Relations Committee, has joined with fellow Democratic Sen. Chris Murphy of Connecticut and other colleagues to introduce similar legislation in the Senate. Menendez has also indicated to the New York Times that he may put a hold on the new rules to buy time to debate and revise them.

The biggest beneficiaries of the new export push will be US gun manufacturers and their allies in the National Rifle Association, who have pushed for and welcomed these changes. But as Kris Brown, president of the Brady Campaign to Prevent Gun Violence, has noted, exporting the tools of gun violence is a "shortsighted and reckless decision ... that will directly result in putting deadly weapons in the most dangerous of hands." Preventing this likely impact of the

The Trump administration asserts that it is merely lifting controls on arms that are widely available in order to focus enforcement efforts on systems that, if exported, would undermine US military superiority over potential adversaries. But while some of the systems being deregulated are available in the United States, they are not easy to acquire in many of the nations to which US manufacturers are exporting. And it is this aspect of the rule -- making it easier for foreign terrorists, tyrants and gangs to get their hands on deadly US weaponry -- that poses the greatest danger.

Ideally, Congress should move to prevent these new rules from taking effect. Short of that, it should attempt to blunt their worst potential impacts by stopping the deregulation of weapons like the AR-15 and flamethrowers, which serve no legitimate purpose other than harming other human beings. And it is crucial that the practice of notifying Congress of major firearms export offers be maintained.

Mr. LIEU. All right. So let me ask some questions. Either Mr. Abramson or Professor Waltz, the U.S. has lost weapons that we gave to Syrian rebels and other folks that now end up in the hands of ISIS; is that right?

Mr. ABRAMSON. That is correct.

Mr. LIEU. And this is under the State Department, and would have even less regulations and less oversight under the Commerce Department; is not that correct?

Mr. ABRAMSON. That is correct.

Mr. LIEU. What we actually would want is more oversight, not less, if these weapons are ending up in our enemy's hands and then they are killing U.S. troops; is not that right?

Mr. ABRAMSON. That is correct.

Mr. LIEU. OK. So, Ms. Reeves, I have a question for you. You had said that a bunch of these weapons could be brought in, commercial retail places. Flamethrowers are one of the things here that will be transferred to the Commerce Department, right?

Ms. REEVES. Yes.

Mr. LIEU. Do you know—

Ms. REEVES. Up to 20 meters.

Mr. LIEU. Right. So do you know if Dick's Sporting Goods sells flamethrowers?

Ms. REEVES. No, they do not.

Mr. LIEU. That is right.

Ms. REEVES. Not that I know of.

Mr. LIEU. So there is actually items here that you could not actually go to a commercial retail establishment and buy, like flamethrowers, correct?

Ms. REEVES. OK.

Mr. LIEU. OK. Now, I am going to reference this article we entered into the record from February. It says that "Saudi Arabia and the United Arab Emirates, which are waging a brutal war in Yemen, has killed a thousand civilians and pushed the country to the brink of famine have"—actually, thousands of civilians—"have aggregately requested to buy hundreds of millions of dollars of firearms from the U.S."

You would not want Congress to know that that is the case, that countries are going to buy hundreds of millions of dollars of these kinds of weapons? Why would you want to Congress to not know that?

Ms. REEVES. Well, for military weapons, Congress will know about that. That is written into the law, and there is the potential for including congressional notifications. That is something that should be worked out between Congress and the Commerce Department.

Mr. LIEU. So you would not oppose that if there was this rule change that Congress would still be notified of sales over \$1 million?

Ms. REEVES. I would have to see it.

Mr. LIEU. OK. Another part of this article was that the Philippines ordered \$22 million worth of guns from the U.S. Professor Waltz or Mr. Abramson, would not Congress want to know about that?

Ms. WALTZ. Yes, of course they would. And they should have, actually. And in the case that I referred to earlier, one of the big problems was that they did not receive the notification by error.

Mr. LIEU. So now that this proposal is to have a bunch of these weapons go under the Commerce Department's jurisdiction, I would simply note that the head of the Commerce Department, Wilbur Ross—do any of you know if he has any military experience? He does not have any. He is a banker, and so we are going to have a banker make these kinds of decisions, which does not make a lot of sense to me.

I have got another question for either Professor Waltz or Mr. Abramson. What was your understanding of the original rationale under the Obama Administration for proposing this?

Mr. ABRAMSON. My understanding was it was just part of the broader export control reform initiative, which had this process of changing how things were done, and eventually ending up with one list that we never got to that point. But the arguments that this was never raised—no one raised an alarm during the Obama Administration—disregards the fact that it was never introduced for us to raise an alarm. We certainly were ready and at that point would have raised this. We have been waiting for many years knowing this was coming, and so to say that somehow this is an Obama era thing, and why did not we raise an alarm, really is a false reading of the history.

Mr. LIEU. Thank you. And we just heard from our colleague, Congressman Malinowski, which basically said that he was opposed to it. He was in charge of one of the main offices at the time.

Mr. ABRAMSON. Yes.

Mr. LIEU. I also want to just make 2 requests for the consideration of the chair. I do hope that either this subcommittee or their House Foreign Affairs Committee will mark up the legislation that Congresswoman Torres presented on today.

I also want to offer for the chair's consideration my legislation called the Arms Sales Oversight Act. Right now, in the U.S. Senate, any member of the Senate can introduce a privileged resolution, which would cause a vote on arms sales transfers. We do not have the same thing in the House. This legislation would simply harmonize that and would request this committee to look at that legislation as well and decide what we want to do with it.

Mr. BERA. Great. Thank you, Mr. Lieu.

Mr. LIEU. And with that, thank you all for being here, and I yield back.

Mr. BERA. All right. Thank you.

I will recognize Congresswoman Omar for purposes of questioning the witnesses.

Ms. OMAR. Thank you, and I hope you all will indulge me because I know that many of the people who are watching this testimony are like me. They are not really following most of the conversations and the kind of questions a lot of my colleagues are asking. It seems like a little inside baseball conversation.

So I just want to simplify and sort of ask particular examples, and I hope you will give me leniency with time as I try to get the public to sort of understand what we are really talking about.

So I will start with you, Mr. Abramson. There was a mass shooting in Munich in July 2016 that left 10 people dead, and there was a Glock 17 semi-automatic weapon that was used. It is my understanding—is it your understanding that this administration’s policy would make a weapon like that for gun manufacturers to export?

Mr. ABRAMSON. Yes. The semi-automatic weapons would move to the Commerce Control under this proposal.

Ms. OMAR. Wonderful. Thank you. And then, as there were about 67 of the 77 people killed in the 2011 attacks in Norway were killed by gunfire. The shooter was armed by a Ruger Mini-14 semi-automatic rifle and a Glock 37 semi-automatic handgun. Is it your understanding that this administration’s policy would make a weapon like that for American manufacturers to export?

Mr. ABRAMSON. That is my understanding, yes.

Ms. OMAR. Wonderful. Thank you. And in 2015—I mean, on March 15 of this year, there was a shooting at a mosque in Christchurch, New Zealand, that left 50 people dead. The shooter was armed with 5 guns, 2 of which were semi-automatic rifles. Is it your understanding that this policy would make it easier for American manufacturers to export that weapon?

Mr. ABRAMSON. Indeed. That is exactly what we are talking about.

Ms. OMAR. OK. So according to Insight Crime, 85 percent of the pistols that are used by MS-13 in Guatemala were stolen from Guatemalan law enforcement agencies. Is it your understanding that this administration would make it easier for American manufacturers to sell weapons to Guatemalan police?

Mr. ABRAMSON. Yes. I mean, there is going to be a process either way, but, yes—

Ms. OMAR. Wonderful.

Mr. ABRAMSON [continuing]. That is the case.

Ms. OMAR. Thank you. And so, Ms. Reeves, I also have a few questions following up to that. In your testimony, you talked about the need for American gun manufacturers to have an easier time selling weapons to NATO and none NATO allies. Norway and Germany are our allies. So I can have this be clear for our constituents who are watching, is it your position that the United States should make it easier to export the kind of weapons that were used in the mass shootings that I just mentioned in Norway and Germany?

Ms. REEVES. I do not agree with the word “easier” because in fact if it does—if these items do move over to Commerce Department, I do not think it is going to be easier. It is going to be different. It is going to—we are talking about right sizing the export control policy, and so it is a difference of who is going to be issuing the licenses—

Ms. OMAR. In your testimony—

Ms. REEVES [continuing]. Because I do not think what we are talking—

Ms. OMAR [continuing]. You did say we have to ease the process, we have to make it a little easier for these weapons to move. So in that, would it make it easier for us to sell? It is just very simple. Would it make it easier for us to sell these weapons in Norway and Germany?

Ms. REEVES. The licensing process would still be in place, and it would be a very extensive review on the front end for national security and human rights issues and foreign policy issues. So all of those reviews would still be in place by Commerce, State Department, and DoD.

Ms. OMAR. All right. Wonderful. And, Ms. Reeves, in light of what happened last week, I find it a little disturbing that we are having this conversation after 11 days of the shooting in New Zealand, talking to people who manufacture guns, arguing for the need to loosen restrictions to import assault rifles.

But as you mentioned, domestic laws of trading with our partners still does not violate the Administration's policy. That means that American gun manufacturers will not be able to export semi-automatic rifles and assault rifles to places like New Zealand, even under these regulations, correct?

Ms. REEVES. Well, again, I mean, we are not talking about loosening controls over exports of firearms. We are talking about a different agency that would be in charge of issuing licenses. And, again, those reviews would still be in place, and there would be reviews after the fact with end use monitoring and end use checks by Commerce Department.

Ms. OMAR. In New Zealand, would we still be able to sell these semi-automatic weapons with—

Ms. REEVES. I am not going to speak for the government and what they will or will not approve. But my understanding is that there is a long history of the State Department issuing export licenses for New Zealand.

Ms. OMAR. The reason you are not speaking on it, is it correct, is that in New Zealand they had just passed a law that prohibits these kind of weapons to be used and sold?

Ms. REEVES. I think the law was passed after.

Ms. OMAR. Yes. After the shooting happened.

Ms. REEVES. Right. And so the U.S.—

Ms. OMAR. No. That was—

Ms. REEVES [continuing]. Government would not issue a license, though, if it would violate local law.

Ms. OMAR. Precisely. That is what I was trying to get at. Thank you so much.

And then I will just finish up with asking Dr. Waltz, I believe that insisting on human rights standards around the world is not just a moral responsibility but a national security imperative. You mentioned in your testimony that 60 percent of the grave human rights abuses investigated by Amnesty International involved firearms.

The country that I come from—Somalia—really is an example of what my colleague from New York was talking about. He mentioned Congo and other places, but Somalia is a really good example of what happens when we just allow firearms to run rampant. Is it correct that the Administration's policy would make it easier for gun manufacturers to sell to governments with patterns of human rights violations?

Ms. WALTZ. I think it would, yes. And if I might add, I think the big error in the consideration of this category of weapons is not to consider their lethality. It is to treat them as though they are sim-

ple commercial products that are easily available instead of the dangerous items that they are.

Ms. OMAR. Yes. And, last, I just wanted to—I had the opportunity to visit Honduras when the elections were happening in 2017, and so I know that we have a lot of interactions with Honduras, and so I wanted to talk to you a little bit about the post-electoral violence in Honduras where dozens of people were killed by State security forces, and the military police and other Honduras security forces.

They used semi-automatic weapons to kill a lot of these protestors. The post-electoral crisis was one of the main drivers of the current refugee crisis that we are seeing from Central America. And so I just wanted to have on the record, is it correct that the administration's policy would make it easier for gun manufacturers to sell weapons to Honduras security forces?

Ms. WALTZ. It could very well have that effect.

Ms. OMAR. Thank you so much. And thank you for your indulgence.

Mr. BERA. Thank you. And I will recognize my colleague from New York, Mr. Espailat, for purposes of questioning the witnesses.

Mr. ESPAILLAT. Thank you, Mr. Chairman, ranking member. I am proud to be a co-sponsor of H.R. 1134 for multiple reasons. First and foremost, I believe it is important that this function remains within the State Department.

Simply, it just sends the wrong message that moving arms, export from the Department of State to the Department of Commerce sort of like creates the real impression that this is a commercial transaction, right? That no human factor is involved. That it is going to be so clean and septic that no one is ever going to die. It is like, we are trading coffee or sugar or something, but in this case obviously it is arms.

Second, I believe that it is vital that Congress continues to conduct strong oversight over these transactions, as we must be able to ensure that American interests and priorities are upheld. And, obviously, this does not strengthen oversight. I believe that it weakens it.

Finally, I believe that it is vital because of the threat of gun violence at home and abroad that we must do all we can do to ensure that guns do not fall into the wrong hands. I want to address this from a sort of like different angle, right, because although semi-automatic weapons are horrible and they show their ugly face every so often, and the consequences are so tragic as we just saw in New Zealand, it is handguns really that are taking the vast number of lives here in the United States and in urban cities across the world.

And as sectors, very radical sectors of urban settings begin to radicalize themselves, and begin to act in very aggressive and violent ways, I think it is incumbent upon us to make it even more difficult for the wrong people to get their hands on handguns.

Now, I sponsored a piece of legislation that is called the Ghost Guns are Guns Act, because ghost guns are a way to circumvent local measures to restrict access to guns as well as 3-D printed guns. How do you see this whole debate with regards to access to handguns? Is it going to make it easier to access handguns, ghost

guns, 3-D printed guns, et cetera, across the world? Are we going to be the great exporter of death now, not just through semi-automatic weapons but also through handguns?

Anybody that would like to tackle this.

Mr. ABRAMSON. I am glad you asked this question, because this is clearly one of the areas where our export policy has a big play on this, because currently ghost guns, or 3-D printed guns, are regulated as an export. You put them online and anybody can get them. That is what this proposal would change, and it is completely alarming. It is completely alarming for domestic reasons and for international reasons that you are talking about, which is where, we are not having a domestic gun control debate when we are talking about the export, but in this case we are and it is very important.

Dr. Waltz has been looking at this a bit more than I have, if you wanted to—

Mr. ESPAILLAT. Dr. Waltz.

Ms. WALTZ. Well, just simply in terms of the regulations that are involved. The Commerce Department has, as part of its rules, that if any technology is available open source, and readily available for anyone, they do not make any effort to regulate it. They have asserted that for firearms that migrate over to the Commerce Control List they simply will not have any control at all over open source instructions for 3-D production.

We have seen slightly different approaches in the previous State Department and this State Department, but I think we are at a place where right now the possibilities of control for export remain in place as long as they are on the State Department side of the divide. If they move over to Commerce, it is crystal clear that there will be no control.

Mr. ESPAILLAT. Finally, Mr. Abramson, there is a pending court case that prevents the online publication of 3-D printed guns. How did this lawsuit come about? And with the transfer of some of these items, how will this lawsuit be impacted?

Mr. ABRAMSON. I am not a lawyer, but my understanding is functionally, if this transaction were to happen and it is moved over to State Department, there would be no longer any control—moved over to Commerce, there would no longer be any control in the State Department. So I do not understand why the lawsuit would continue. Other lawyers may know better, but functionally you would abdicate the suit because there would be no purpose for it because it is no longer a State Department-controlled weapon.

Mr. ESPAILLAT. Any lawyers in the house? No.

Thank you so much, Mr. Chairman.

Mr. BERA. Thank you. I will recognize my colleague from Rhode Island, Mr. Cicilline, for purposes of questioning the witnesses.

Mr. CICILLINE. Thank you, Mr. Chairman. And thank you to you and Ranking Member Zeldin for holding today's hearing on the importance of export controls to properly regulate the sale of defense articles and firearms, and I thank our witnesses for being here today and for their testimony.

Our Nation's export control regime is a critical tool for ensuring that the weapons, materials, and technologies that we produce for military and commercial purposes, particularly those that can in-

flict deadly harm, do not end up in the wrong hands. Recent proposals from the Trump Administration in the last year to remove several types of military model firearms from the U.S. Munitions List under the jurisdiction of the State Department, and move them to the Commercial Control List, could jeopardize our ability, in my view, to determine the manner in which these weapons may be used and could ultimately lead to these weapons ending up in the hands of those who would threaten our Nation's security interests.

And I thank the witnesses for their testimony regarding the impact that these policy proposals could have on foreign policy, and the suggestions that you have made in your testimony and ways that we can strengthen our export control system.

I would like to start with you, Mr. Abramson. In your testimony, you mentioned that the State Department requires the suspension of sales to countries that violate human rights. Could you talk a little bit about some kind of historical examples of that and what the implications of this new proposal might be on those efforts?

Mr. ABRAMSON. Certainly. And I think maybe the most relevant right now is what we are seeing with the arming of the Saudis and the Emiratis as they conduct their war in Yemen. There have been concerns about their misuse of U.S.-supplied weapons. It is very rare, actually, to hear publicly that the Administration has found a violation of human rights, but that does seem to be what is happening, and that is what has driven a lot of concern about how that misuse of weaponry could occur.

It is very important that these regulations within the current system also provide a chance for the Congress to be notified if violations occur, and then actions do occur. My understanding is if it is moved to Commerce, that would not be the case any longer.

Mr. CICILLINE. Thank you. And, Professor Waltz, would you speak a little bit about the relationship that you have observed between countries that have security forces that—and may not have kind of strong internal controls and that relationship to organized criminal activity in those countries, and the danger of weapons falling into the hands of, organized crime or criminals, and the significance of that, particularly in countries with weak internal controls, and how these policies might impact those dangerous.

Ms. WALTZ. So, really, you are talking about issues of diversion. There may be one authorized recipient, and then because of lax controls, as we have seen in Mexico where all of the weapons that are lawfully commercially supplied to Mexico go to the Army (National Defense Secretariat). They transfer them, and then, in the hands of local police, they are used to violate human rights, sometimes in the most awful sorts of extrajudicial executions and forced disappearances.

We are seeing something very similar with the Philippines. So it is not at all uncommon for the controls locally to be lax. If you are thinking particularly about issuing a license for a country as a whole and not scrutinizing which units might actually receive those weapons, you are multiplying the possibilities of abuse.

Mr. CICILLINE. Thank you. And I thank the chairman and the ranking member again. You know, as we all know, we have a very pernicious gun violence problem in this country. We ought not to

put forward policies that will in any way export that very pernicious problem we have in America to other countries around the world and bring less stability and more unrest to places all over the world.

So I thank you for convening this hearing on this very important subject, and I yield back.

Mr. BERA. Thank you. I want to thank the witnesses and all the members for being here today.

And with that, the committee is adjourned.

Ms. WALTZ. Chairman Bera, may I ask for just 1 second?

Mr. BERA. Yes. I will—

Ms. WALTZ. I know this is—

Mr. BERA. With some latitude, I will go ahead and give you a second. I will then extend the same courtesy to Ms. Reeves and Mr. Abramson, if they—

Ms. WALTZ. I realize this is highly exceptional. But I want to say that over the weekend I spent a lot of time combing through the Commerce Control List looking for items that have been transferred, the 600 items—the 600 Series items. And what I found were not military lethal weapons.

What I found were unarmed, unarmored vehicles, non-submersible, unarmed submarine rescue ships, shelters that were specifically to provide against nuclear or biological contamination, radar equipment, telecommunications, joysticks, circuit boards, rheostats, et cetera. I did not find any weapons, any items that were recognizable as lethal weapons.

The one item I am aware of that has caused concern in the human rights community is the equipment to spray tear gas. I would really appreciate that being entered into the record. Thank you very much.

Mr. BERA. It will be. Ms. Reeves, I will extend you—

Ms. REEVES. What I will say to that is one of the—some of the items that have moved from the U.S. Munitions List is riot control agents, and those have moved over to the Commerce Control List.

I will also just reiterate that, again, State Department will have absolute visibility in the review process of license applications. If there is any objection or reservation from the State Department on issuing a license, that will not be overruled, my understanding is, by Commerce Department.

So those review processes for human rights and unrest in certain regions will be reviewed and adhered to.

Mr. BERA. Great. And with that, this committee is adjourned.

[Whereupon, at 11:30 a.m., the subcommittee was adjourned.]

APPENDIX

**SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128**

Subcommittee on Oversight and Investigations

Ami Bera (D-CA), Chairman

March 26, 2019

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on Oversight and Investigations in Room 2200 of the Rayburn House Office Building (and available live on the Committee website at <https://foreignaffairs.house.gov/>):

DATE: Tuesday, March 26, 2019

TIME: 10:00 a.m.

SUBJECT: Proposed Small Arms Transfers: Big Implications for U.S. Foreign Policy

WITNESSES: **Panel I**
The Honorable Norma J. Torres
Member of Congress (D-CA)

Panel II
Mr. Jeff Abramson
Senior Fellow for Arms Control and Conventional Arms Transfers
The Arms Control Association

Susan Waltz, Ph.D.
Professor
Gerald R. Ford School of Public Policy
University of Michigan

Ms. Johanna Reeves
Executive Director
F.A.I.R. Trade Group

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS HEARING

Day Tuesday Date March 26, 2019 Room Rayburn 2200

Starting Time 10:02 AM Ending Time 11:30 AM

Recesses () (to)

Presiding Member(s)

Chairman Ami Bera, M.D.

Check all of the following that apply:

Open Session [x]

Electronically Recorded (taped) [x]

Executive (closed) Session []

Stenographic Record [x]

Televised [x]

TITLE OF HEARING:

Proposed Small Arms Transfers: Big Implications for U.S. Foreign Policy

SUBCOMMITTEE MEMBERS PRESENT:

See attached attendance sheet.

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an * if they are not members of full committee.)

HEARING WITNESSES: Same as meeting notice attached? Yes [x] No []

(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

Chairman's Opening Statement

TIME SCHEDULED TO RECONVENE

or TIME ADJOURNED 11:30 AM

[Signature] Subcommittee Staff Associate

OPENING STATEMENT OF CHAIRMAN BERA

Opening Statement
The Honorable Ami Bera
Chairman, Subcommittee on Oversight & Investigations
House Committee on Foreign Affairs

Proposed Small Arms Transfers: Big Implications for U.S. Foreign Policy
Tuesday, March 26, 2019
10:00 AM, 2200 Rayburn House Office Building

I want to thank Ranking Member Mr. Zeldin, members of the subcommittee, our witnesses, and members of the public for joining us for today's hearing on the Administration's proposal to transfer the export licensing of small arms from the Department of State to the Department of Commerce. This proposal has raised a series of questions about the implications for continued adherence to congressional oversight requirements and foreign policy directives. The responsibility to conduct oversight of such matters lies with Members of Congress, in particular those of us who serve on the Foreign Affairs Committee.

This hearing is not about questioning the basis for the U.S. arms export control system. Reasonable people will disagree about whether we are exporting too many weapons abroad or how economic considerations should factor into such decisions. This hearing is not about gun control, or whether we should or should not be exporting these weapons, regardless of my personal opinion or the opinions of others. Nor is this hearing meant as a blanket criticism of the Trump administration; in fact, the Obama administration contemplated the same rule change but elected not to pursue it.

This hearing is about something that Democrats and Republicans can all agree on: when the United States chooses to export weapons, we want to make sure that they are going to legitimate allies for purposes that align with our foreign policy interests. We want to be sure they are going

through a vigilant vetting process and are not ending up in the hands of foreign governments or organizations using them to commit human rights atrocities, and that once the arms are shipped, we have mechanisms in place to track the arms to ensure they end up with the intended recipients and are used for the agreed-upon purposes.

Over the past decade, reasonable questions have been raised about the strengths and weaknesses of the current system, including by the previous and current administrations. The Obama administration sought to streamline the export administration of defense articles and services and “dual-use” items that are used for both military and civilian purposes. As the Vice-Chairman of the Science Committee, I’ve been supportive of this overall initiative in the past. For example, many of our domestic satellite manufacturers lost out on business because of the lengthy approval process for civilian satellites, which fall into the dual-use category. I therefore supported moving those satellites off U.S. Munitions List and to Commerce Control List.

The rule change we are discussing here today, however, is fundamentally different. This proposal has implications for three related and very important issues:

- 1) ensuring the small arms export control system protects U.S. human rights interests;
- 2) ensuring this system maintains - and does not in any way weaken - current congressional oversight mechanisms and practices; and
- 3) export laws and regulations related to potentially harmful and weaponizable 3D technologies.

I’m confident that all of us gathered here today want to prevent U.S. manufactured weapons from ending up in the wrong hands and being used to commit human rights abuses of civilian

populations. The proliferation of small arms and light weapons is a major cause of instability and the rise of low intensity conflicts around the world. The items being proposed to shift to the Commerce Department's purview differ than the items that have been transferred in recent years. A spare part for an engine cannot be used by criminal elements or to commit human rights abuses by security forces. We must be vigilant in our export controls to ensure these small arms do not fuel criminal activities that could be used against civilians.

Of particular relevance is the export of weapons to the countries that comprise the Northern Triangle - Guatemala, Honduras, and El Salvador. These exports have increased in recent years as the slide being displayed shows. [Insert slide].

These countries are wracked by political instability, violent crime, and weak internal security. Not coincidentally, the United States has seen a dramatic increase in migrants from these countries. Between 2012 and 2015, there was a five-fold increase in the number of asylum seekers from the Northern Triangle- 110,000 in 2015. In 2016, 42% of those apprehended at the southern border came from the Northern Triangle, according to the Department of Homeland Security.

They are being driven here by violence in their home countries. All three countries rank in the top 10 for homicide according to the Brookings Institution. A Doctors Without Borders survey of Northern Triangle migrants in Mexico from 2015 found that an astounding 40% of respondents had relatives who had been killed in the last two years; over 33% knew someone

who had been kidnapped. Is it really in our interest to make reduce controls and make it *easier* to send weapons to these countries?

Over decades the U.S. has refined our arms export control system to ensure weapons do not end up in the wrong hands abroad. There is no doubt that the State Department can and must do a better job of ensuring these weapons are not slipping through the cracks. If this proposal is put into place, the disappearance of oversight mechanisms that *do* exist lead to a greater probability that these weapons will more easily fall into the hands of those who commit acts of violence around the world.

The State Department and Commerce Department fundamentally treat arms exports differently. The State Department requires sales advance our foreign policy objectives and the national interest. Sales must be for friendly countries “solely” for use in “internal security”; “legitimate self-defense”; or to participate in UN efforts to restore international peace and security. They have strict human rights criteria.

Commerce differs from the State Department. Unlike the State Department, they do not have an automatic requirement that manufacturers and brokers register. They also are not required to take human rights criteria into consideration when granting a license.

Finally, Congress loses its oversight role under this rule change. Through legislatively-mandated notification and consultation processes, Congress regularly questions proposals of small arms sales to ensure they do not endanger the national security, foreign policy and moral interests of our nation. Congress is notified for sales over \$1,000,000 and allowed time for the appropriate review and approval or disapproval of such sales. There are many moments when Congress has

arrived at different conclusions related to a proposed sale than previous administrations, irrespective of our political parties. Last year, Congress blocked the sale of semi-automatic handguns and assault rifle sales to the Philippines and Turkey because of concerns that they would be unlawfully used against civilians.

The proposed rule change would eliminate the congressional oversight function written in current legislation. We have a responsibility on our end to ensure that congressional inquiries and holds are placed based on legitimate reasons, and we are not slowing down sales due to our own inefficiencies. That said, while we seek to improve efficiencies and effectiveness of the system as a whole, simultaneously abandoning congressional oversight is not something I can support.

The system is not perfect. A State Department OIG investigation of the office in charge of approving licenses, the Directorate of Defense Trade Controls, found significant flaws. They discovered that DDTC failed to implement proper internal controls and that DDTC licensing personnel weren't properly trained. They attributed this, in part, to a 28% reduction in staff from previous years.

In response, they made a series of recommendations including establishing proper procedures for license reviews and developing a staffing plan to address shortfalls in capacity.

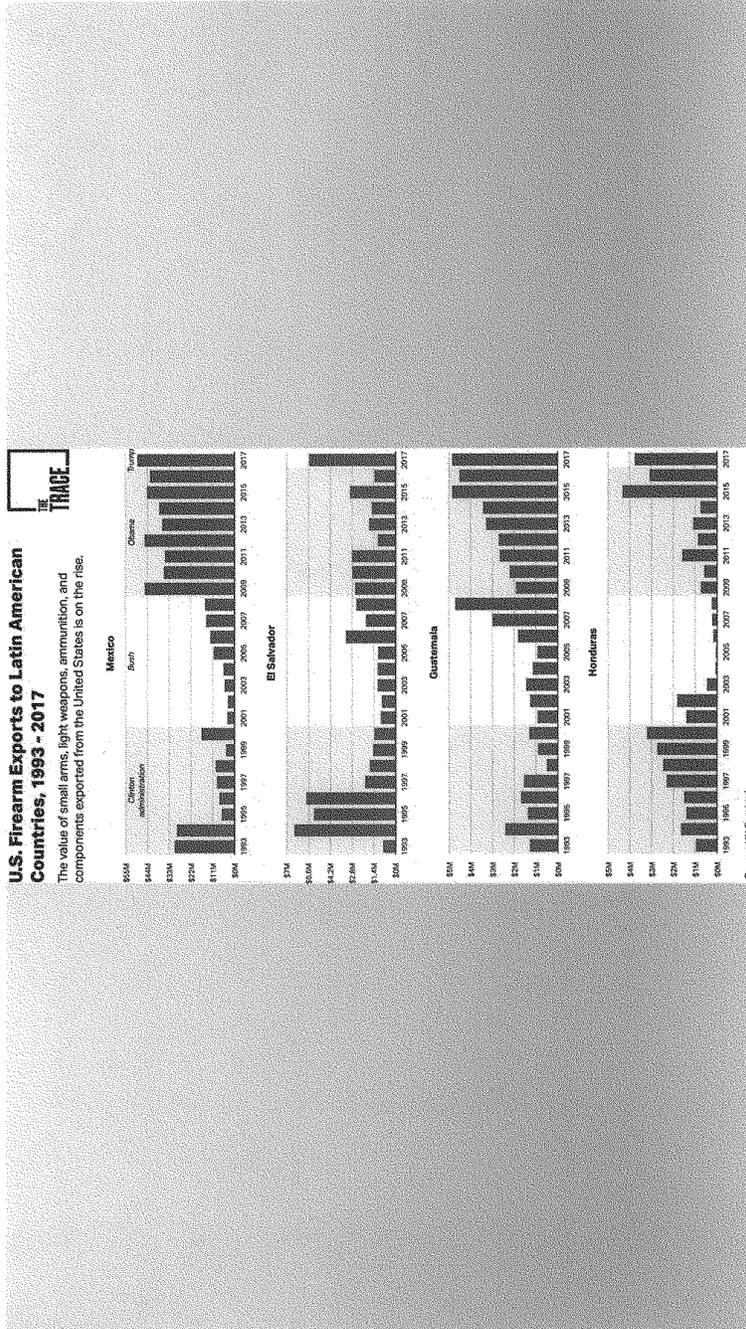
And while we must focus on improving the system and the near term implications of the rule change, we also shouldn't ignore longer term consequences. The State Department is currently involved in a lawsuit with over 20 State Attorneys General involving the publication of manuals for 3D guns. Right now, the State Department can regulate these publications. The

Commerce Department argues that due to pre-existing internal regulations it cannot prevent the publication of this information online. While the technology is still in its infancy, it has dramatic potential to upend the safety of our airports, schools, and public buildings- not to mention the serious risk of proliferation. It is in the interest of all Americans to figure out a way to prevent such technologies from ending up in the wrong hands, irrespective of whether the authority for control rests with the Commerce or State Departments.

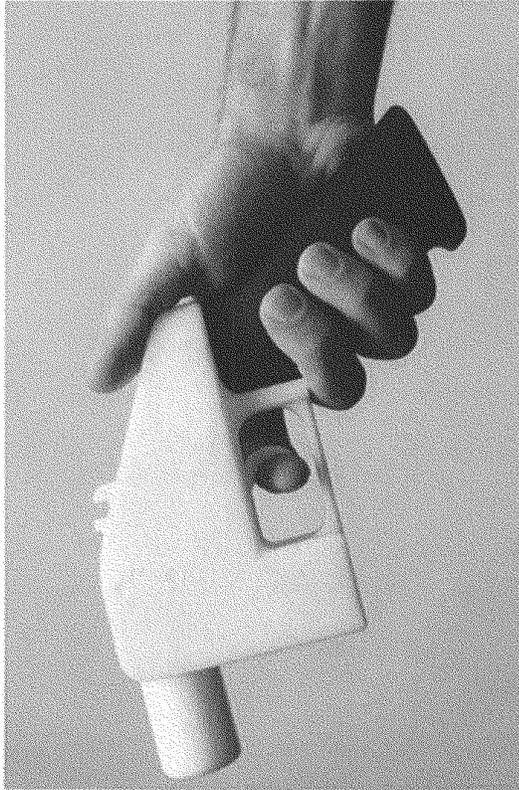
I look forward to hearing solutions to ensure we have the right controls in place before approving the export of small arms. This is not a perfect system. It's our job in Congress to devise solutions so that these kinds of weapons don't end up in the wrong hands - whether or not these licenses are processed by the State Department or the Commerce Department

In the near term, I recommend one such solution offered by my friend and fellow Californian, Congresswoman Norma Torres. We welcome Ms. Torres back to the Foreign Affairs committee, which we served together on for a number of years. I look forward to her testimony, as well as the testimony of our witnesses. With that, I turn to my Ranking Member, Mr. Zeldin, for his opening statement

MATERIALS SUBMITTED FOR THE RECORD FROM
CHAIRMAN BERA



3-D Printed gun software



MATERIALS SUBMITTED FOR THE RECORD FROM MR. ABRAMSON

US guns that will be easier to export under proposed rule

Bushmaster XM15 (AR-type rifle)



Glock M007 (Glock 19M)



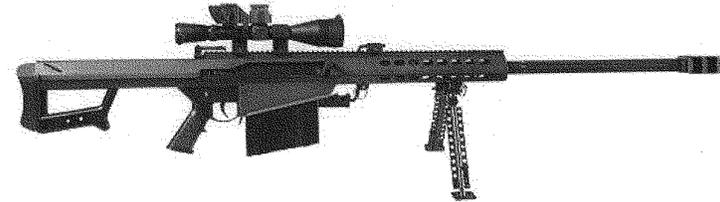
Kalashnikov KR-9



Sig Sauer XM17



Barrett M82



Source: Violence Policy Center



RESPONSES TO QUESTIONS SUBMITTED FOR THE RECORD

9 April 2019

To: Congressman Ami Bera, Chairman, Subcommittee on Oversight & Investigations, Committee on Foreign Affairs, U.S. House of Representatives

From: Susan Waltz, Professor, Ford School of Public Policy, University of Michigan

RE: Replies to Questions for the Record
Subcommittee Hearing, March 26, 2019 -- Proposed Small Arms Transfers: Big Implications for U.S. Foreign Policy

Thank you for the opportunity to testify as part of the March 26 Hearing on Proposed Small Arms Transfers. My responses to your Questions for the Record follow.

1. Which items have been moved from the U.S. Munitions List (USML) to the Commerce Control List (CCL)? How were those items identified? Was there a formal notification articulating these items?

Short answer.

Over the past several years, the United States has moved numerous defense articles previously controlled under the USML to the CCL. The main types of military equipment on the CCL are *parts and components* for a range of sophisticated and unsophisticated US weapons systems, including F-16s, Apache helicopters, and M1A1 tanks. The administration has also placed on the CCL some complete defense articles without their armor or munitions, including military transport vehicles. (See Appendix for more details).

However, the United States has yet to move any complete weapons that are designed to directly harm or kill individuals or that have been implicated in sparking and fueling armed conflict--as has been the case with small arms and light weapons in recent decades. This is why firearms are currently categorized as significant military equipment.

More detailed response.

The process and criteria for identifying items for transfer was initially outlined in Advance Notices of Proposed Rulemaking issued by the Departments of State and Commerce in 2010. The two departments jointly called for the establishment of a "bright line" between the USML and the CCL "to distinguish the types of items that should be controlled at different levels for different types of destinations, end-uses, and end-users" and "to reduce government and industry uncertainty about whether a particular item is subject to the jurisdiction of the ITAR or the EAR."¹ According to notices subsequently published in the Federal Register, the main criteria used to determine which defense articles would move from the USML to the CCL have generally been linked to an item's inherent military nature or, for items with common civilian application, a critical military advantage it supplies.²

¹ See "Revisions to the United States Munition List: A Proposed Rule by the State Department, 2010, <https://www.federalregister.gov/documents/2010/12/10/2010-30994/revisions-to-the-united-states-munitions-list> accessed April 8, 2019.

² See for example, BIS, Revisions to the Export Administration Regulations: Auxiliary and Miscellaneous Items That No Longer Warrant Control Under the United States Munitions List and Items on the Wassenaar Arrangement Munitions List, 2012, <https://www.federalregister.gov/documents/2012/05/18/2012-12124/revisions-to-the-export-administration-regulations-auxiliary-and-miscellaneous-items-that-no-longer> accessed 8 April 2019.

The identification of firearms recently proposed for transfer was "based on a review of those categories by the Department of Defense, which worked with the Departments of State and Commerce in preparing the amendments."³ Several reasons were offered to justify the proposed transfer of non-automatic and semi-automatic firearms from the USML to the CCL, including: an assessment that these weapons do not provide the US a critical military or intelligence advantage; they are manufactured from technology that is widely available and they are available outside the US; they have commercial and other non-military characteristics distinguishing them from other items on the Munitions List; there is a significant market for firearms related to civil and recreational activities; they are available in US retail outlets; and the current controls burden U.S. industry without any proportionate benefits to United States national security or foreign policy objectives.⁴

The criteria have not included an assessment of the risks that these weapons could be diverted or used for unintended purposes. Nor have they accounted for the current military utility of these firearms, evidenced by the fact that some are regularly issued to US military personnel.⁵ Paradoxically, and perhaps ironically, the firearms currently proposed for removal from the US Munitions List for purpose of export would remain on the US Munitions Import List (USMIL) for purposes of import into the United States.⁶

The items that have thus far been moved from the USML to the CCL as part of the Arms Export Control Reform initiative are classified as "600-series" on the CCL, and for general purposes they can be identified by the third character "6" in the 5-character CCL classification numbers (ECCNs).⁷ The 600-series is considered a munitions list within the CCL.⁸ Firearms are intended to be classified separately, in a series of ECCN numbers with the third character "5" (the "500-series").

As for notification of proposed changes, throughout the reform process notifications of all proposed rule changes have been posted in the Federal Register with the customary request for public comment.⁹ Furthermore, for previous proposed rule changes, the State Department and Commerce Department have offered substantive responses to public comments, occasionally by adjusting the proposed rules.¹⁰

³ BIS, "Control of Firearms, Guns, Ammunition and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List (USML)," May 2018, <https://www.federalregister.gov/documents/2018/05/24/2018-10367/control-of-firearms-guns-ammunition-and-related-articles-the-president-determines-no-longer-warrant>, accessed April 8, 2019.

⁴ BIS, "Control of Firearms, Guns, Ammunition and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List (USML)," May 2018, <https://www.federalregister.gov/documents/2018/05/24/2018-10367/control-of-firearms-guns-ammunition-and-related-articles-the-president-determines-no-longer-warrant>, accessed April 8, 2019.

⁵ Several sidearms (pistols) and sniper rifle models used by US armed forces are slated for transfer to the CCL, for example the Glock M007 (Glock 19M) pistol used by the US Marines and the Heckler & Koch MK 23 pistol used by US Special Forces, and the M24 Sniper Rifle used by the US Army. See Comments of the Brady Center in "Public Comments on USML I-III" accessed via Directorate of Defense Trade Controls, https://www.pmdtfc.state.gov/?id=ddtc_public_portal_news_and_events&p=3 April 8, 2019.

⁶ Firearms imported to the US are controlled by the US Munitions Import List (USMIL), under the jurisdiction of the Bureau of Alcohol, Tobacco and Firearms.

⁷ The full Commerce Control List is found at <https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>, accessed April 8, 2019. (The middle character "6" while a reliable indicator of transferred items, the rule is not without exceptions. A few items listed on the CCL prior to the Export Control Reform were renumbered to harmonize with Wassenaar classification, and some space-related technologies and commodities were assigned an ECCN number of 9A515.)

⁸ See "Definition of Terms," CCL <https://www.bis.doc.gov/index.php/documents/regulations-docs/2344-772-10-24-18/file> accessed April 8, 2019.

⁹ A summary table of notifications, public comment and final rules is available at https://build.export.gov/build/groups/public/@eg_main/documents/webcontent/eg_main_048264.pdf, accessed 8 April 2019.

¹⁰ See for example, Department of State, Amendment to the International Traffic in Arms Regulations: Third Rule Implementing Export Control Reform <https://www.govinfo.gov/content/pkg/FR-2014-01-02/pdf/2013-31323.pdf>, accessed April 8, 2019.

2. What is the nature of the controls proposed for firearms intended for transfer from the U.S. Munitions List to the Commerce Control List?

Short answer

Firearms transferred to the CCL would be subject to a relatively streamlined licensing process that relies heavily on the systematic application of several screens rather than country specific information available to the Department of State for licensing of defense articles on the USML. The Department of Commerce's streamlined process would leave fewer opportunities for pre-license screening and scrutiny of middlemen because these would not necessarily be detailed at the time of license application. (See below for a comparison of the CCL and the USML license procedures, as provided by the Department of Commerce.)

The CCL licensing process extends from a series of controls ("reasons for control") that are applied to individual countries, or groups of countries. Within this regulatory framework, the Department of Commerce (BIS) has proposed that firearms exports be subject to controls specifically for reasons of National Security (NS), Regional Stability (RS), the OAS Firearms Convention (FC), United Nations restrictions (UN), and Anti-Terrorism (AT).¹¹ (What this means, in a nutshell, is that for firearms exports, transactions to destinations in countries that have been flagged in the Country Chart for any one of these reasons would be reviewed for related concerns. Transactions to destinations not flagged for the particular control would not receive similar scrutiny.) According to the proposed regulatory changes, for exports that involve complete firearms a license would be required for all destinations and all applications would be subject to case-by-case review. A few countries and situations would be explicitly subject to a "policy of denial."¹²

Human rights. While the RS screen does mention human rights considerations as an aspect of US foreign policy, most of the firearms proposed for transfer to the CCL would not be subject to the Crime Control (CC) screen--which is more explicitly linked to human rights-related concerns (and is sometimes called the Crime Control/Human Rights control). State Department evaluations based on statutorily-mandated annual human rights reports to Congress are also directly linked to the CC reason for control.¹³ (See below for details.)

More detailed response

According to the Commerce Department (BIS), the general process for licensing under the CCL is streamlined in two ways that are generally advantageous to industry: a license can be issued before all the arrangements of the sale are known, and a license may authorize multiple transactions. The Commerce Department (BIS) has frequently highlighted differences between the USML and CCL licensing processes, as in the following passage:

"Under the USML licensing procedure, an applicant must include a purchase order or contract with its application. There is no such requirement under the CCL licensing procedure. This difference gives the CCL applicant at least two advantages. First, the applicant has a way of determining whether the U.S. government will authorize the transaction before it enters into potentially lengthy, complex and expensive sales presentations or contract negotiations. Under the USML procedure, the applicant will need to caveat all sales presentations with a reference to the need for government approval and is more likely to have to engage in substantial effort and expense only to

¹¹ From BIS, "Control of Firearms, Guns, Ammunition and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List (USML)," May 2018, <https://www.federalregister.gov/documents/2018/05/24/2018-10367/control-of-firearms-guns-ammunition-and-related-articles-the-president-determines-no-longer-warrant>, accessed April 8, 2019.

¹² See licensing policies for National Security (742.2) and Regional Security controls in CCL Part 742, <https://www.bis.doc.gov/index.php/documents/regulations-docs/2342-742-10-24-18/file>, accessed April 8, 2019.

¹³ See 2018 Report On Foreign Policy-Based Export Controls, p. 9, at <https://www.bis.doc.gov/index.php/documents/regulations-docs/2342-742-10-24-18/file>, accessed April 8, 2019.

find that the government will reject the application. Second, a CCL license applicant need not limit its application to the quantity or value of one purchase order or contract. It may apply for a license to cover all of its expected exports or reexports to a particular consignee over the life of a license (normally two years, but may be longer if circumstances warrant a longer period), reducing the total number of licenses for which the applicant must apply."¹⁴

In addition to the general procedures described above, for firearms transfers an exemption from the standard brokering controls is anticipated for licensed transactions subject to the CCL (via an amendment to Section 129.2 of International Traffic in Arms Regulations, ITAR).¹⁵

In its licensing process, the CCL relies on two basic forms of control, country-specific controls and a series of listed reasons for control (which in combination automatically trigger the need for a license unless exemptions are available).¹⁶ Each article on the CCL is tagged by one or more "reasons for control," and license applications are evaluated according to the listed reasons as they apply to particular countries (as set forth in a Country Chart). When reviewing license applications, only the tagged reasons for control are considered.

A separate "licensing policy" is outlined for each control reason in the Export Administration Regulations that house the CCL.¹⁷ Many items are controlled for more than one reason.

Within the CCL control system, there are two separate "reasons for control" that specifically mention human rights concerns. As detailed below, the CC reason has conventionally been associated with human rights considerations, to the extent that BIS regularly reports on this control under the rubric of "Crime Control/Human Rights." While the RS (Regional Stability) control licensing policy does assert that promoting human rights is a US foreign policy interest and includes it in determining whether a transaction is contrary to the national security or foreign policy interests, human rights concerns within the RS control are not necessarily a prominent consideration nor are they explicitly listed as cause for a policy of denial.

To expand on these points:

(1) Semi-automatic and non-automatic firearms transferred to the CCL would be subject to control for reasons of Regional Stability (RS). The RS control is intended to:

"... to determine whether the export could contribute, directly or indirectly, to a country's military capabilities in a manner that would destabilize or alter a region's military balance contrary to U.S. foreign policy interests. Regional Stability controls provide a mechanism for the U.S. Government to monitor the export of controlled items, to restrict their use in instances that would adversely affect regional stability or the military balance within a region, and to protect the national security and foreign policy interests of the United States."¹⁸

¹⁴ BIS, "Revisions to the Export Administration Regulations (EAR): Control of Military Vehicles and Related Items That the President Determines No Longer Warrant Control on the United States Munitions List," <https://www.federalregister.gov/documents/2011/12/06/2011-30976/revisions-to-the-export-administration-regulations-ear-control-of-military-vehicles-and-related>, accessed 8 April 2019.

¹⁵ Department of State, International Traffic in Arms Regulations: U.S. Munitions List, proposed rule May 2018 <https://www.federalregister.gov/documents/2018/05/24/2018-10366/international-traffic-in-arms-regulations-us-munitions-list-categories-i-ii-and-iii>

¹⁶ The list of reasons includes National Security (NS), Missile Technology (MT), Regional Stability (RS), Crime Control (CC), provisions of the OAS Firearms Convention (FC), and Anti-Terrorism (AT).

¹⁷ In addition, an annual report from BIS offers expanded commentary on the reason-related policies. See 2018 Report On Foreign Policy-Based Export Controls, <https://www.bis.doc.gov/index.php/documents/pdfs/2186-bis-foreign-policy-report-2018/file>, accessed April 8, 2019.

¹⁸ BIS, 2018 Report on Foreign Policy-Based Export Controls, pp. 15-18. <https://www.bis.doc.gov/index.php/documents/pdfs/2186-bis-foreign-policy-report-2018/file>, accessed April 8, 2019.

With regards to human rights, the license policy statement for Regional Stability asserts:

"Applications for exports and reexports... will be reviewed on a case-by-case basis to determine whether the transaction is contrary to the national security or foreign policy interests of the United States, including the foreign policy interest of promoting the observance of human rights throughout the world."¹⁹

Proposed amendments to this regulation (742.6) would extend the case-by-case examination of license applications to most of the firearms slated for transfer. They would also impose a "policy of denial" (i.e. deny a license) on firearms exports and retransfers destined for a few specific countries (China, Cuba, Iran, North Korea, Sudan, and Syria) or when there is reason to believe the transaction involves criminal organizations, rebel groups, street gangs, or other similar groups or individuals, that may be disruptive to regional stability, including within countries.

(2) Semi-automatic and non-automatic firearms transferred to the CCL would not be subject to control for reasons of Crime Control. The CC control is intended to:

... ensure that U.S.-origin crime control and detection items are not exported to countries where governments fail to respect internationally recognized human rights or where civil disorder is prevalent. Denial of export license applications for crime-controlled items to such countries helps to prevent human rights violations and clearly signals U.S. concerns about human rights in these countries. The license requirements for most destinations allow close monitoring of exports of crime control items that could be misused to commit human rights violations.

With regards to human rights, the license policy statement for Crime Control asserts:

Applications for items controlled under this section (Crime Control) will generally be considered favorably on a case-by-case basis unless there is civil disorder in the country or region or unless *there is evidence that the government of the importing country may have violated internationally recognized human rights*. The judicious use of export controls is intended to deter the development of a consistent pattern of human rights abuses, distance the United States from such abuses and avoid contributing to civil disorder in a country or region.²⁰ [emphasis added]

And as further commentary on the CC licensing policy, BIS has added these remarks in its 2018 report:

The Department of State annually compiles for submission to Congress the Country Reports on Human Rights Practices. The Department of State prepares these reports in accordance with Sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961. The factual information presented in these reports is a significant element in dual use export licensing recommendations made by the Department of State. In accordance with the Foreign Assistance Act, the Department of Commerce denies license applications to export crime control items to any country whose government engages in a consistent pattern of violations of internationally recognized human rights. Applications to export crime control items to countries that are not otherwise subject to economic sanctions or comprehensive embargoes, but that are identified by the Department of State as human rights violators, receive additional scrutiny in the license review process. The Department

¹⁹ CCL Part 742, Control Policies, <https://www.bis.doc.gov/index.php/documents/regulations-docs/2342-742-10-24-18/file> accessed April 8, 2019.

²⁰ CCL Part 742, Control Policies, <https://www.bis.doc.gov/index.php/documents/regulations-docs/2342-742-10-24-18/file> accessed April 8, 2019.

of State reviews all license applications for these countries on a case-by-case basis and makes recommendations to Commerce.²¹

BIS documents that set forth the proposed transfers and listed the proposed controls²² do not explain why firearms would not be subject to CC as well as RS. This is puzzling, as both categories of control already do apply to long barreled shotguns, the only modern firearms currently included on the CCL.

In summary reply to this second question, it appears that the standard CCL licensing process—as describe by the Department of Commerce—would reduce pre-license screening and scrutiny of middlemen (brokers) involved in licensed transactions. Moreover, there is reason to be concerned that the semi-automatic and non-automatic weapons proposed for transfer have not been tagged with the Crime Control/Human Rights control on the CCL. If the proposed transfer goes forward, not only would firearms exports no longer be subject to Congressional oversight (by virtue of their removal from the USML), but the transferred semi-automatic and non-automatic firearms would be subject only to a weak form of available human rights controls on the CCL.

²¹ 2018 Report on Foreign Policy-Based Export Controls, pp. 9-10 at <https://www.bis.doc.gov/index.php/documents/pdfs/2186-bis-foreign-policy-report-2018/file>, accessed April 8, 2019.

²² BIS, "Control of Firearms, Guns, Ammunition and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List (USML)," May 2018, <https://www.federalregister.gov/documents/2018/05/24/2018-10367/control-of-firearms-guns-ammunition-and-related-articles-the-president-determines-no-longer-warrant>, accessed April 8, 2019.

Appendix. 600-Series Systems, Equipment and Components transferred from the US Munitions List to the Commerce Control List (CCL), in conjunction with the 2010 Export Control Reform initiative.²³

CCL CATEGORY 0 – MISCELLANEOUS

[Note: The full title assigned to this category is “Nuclear Materials, Facilities, and Equipment (and Miscellaneous Items).” However, readers should be aware most nuclear-related items and materials are controlled by the Department of Energy and the Nuclear Regulatory Commission. The only nuclear-related listed on the CCL pertain to equipment for testing nuclear radiation.²⁴ The semi-automatic and non-automatic firearms and ammunition proposed for transfer to the CCL are intended for inclusion in this CCL category, as 500-series items.]

0A604 Commodities related to military explosive devices and charges.

Items moved from the USML include: Smoke hand grenades, demolition blocks and corresponding detonators. *[Note: Military explosive devices including torpedos, bombs and mines remain on the Munitions List and are explicitly excluded from the Commerce Control List.]*

0A606 Ground vehicles and related commodities

Includes: Unarmed and unarmored ground vehicles and related commodities, such as air-cooled diesel engines and engine blocks for armored vehicles, transmissions, military vehicle fording kits, and military vehicle self-launching bridge components (0A606). This control category also includes a number of parts, components, accessories and attachments for military vehicles, including for example: brake discs, axles, batteries, alternators, hoses, latches, seats, tires, and windows for unarmored vehicles. *[Note: Armed and/or armored ground vehicles, including tanks and infantry fighting vehicles remain on the US Munitions List.]*

0A614 Military training equipment

Includes operational flight trainers, radar target trainers, certain flight simulators, navigation trainers for military items, and target equipment.

0A617 Miscellaneous “equipment,” materials, and related commodities

Includes certain concealment and deception equipment, i.e. special paints, decoys, smoke or obscuration equipment and simulators and ferries, bridges and pontoons for military use.

CCL CATEGORY 1 - SPECIAL MATERIALS AND RELATED EQUIPMENT, CHEMICALS, “MICROORGANISMS,” AND “TOXINS”

1C607 and 1A607 Tear Gases, Riot Control Agents and Military dissemination equipment

Includes various chemical tear gases and riot control agents (1C607a) and equipment for dissemination (1A607.e), protection (1A607.f), decontamination (1A607.g) and detection (1A607.h).

1A613 Armored and protective “equipment” and related commodities

Includes armor plate and helmets, certain shelters designed to provide ballistic protection for military systems or protect against nuclear, biological, or chemical contamination, and atmospheric diving suits for rescue operations

CCL CATEGORY 2 – MATERIALS PROCESSING

No items have been transferred from the US Munitions List to this portion of the CCL as part of the Export Controls Reform initiative. (No 600-items are included in this portion of the CCL.)

²³ The CCL includes a range of items from 5 product groups: (A) Systems, Equipment & Components; (B) Test, Inspection & Production Equipment; (C) Materials; (D) Software; and (E) Technology. This list inventories transferred items that have been classified in Group A. Graduate students at the Ford School of Public Policy, University of Michigan, helped to compile this list.

²⁴ See <https://www.bis.doc.gov/index.php/documents/regulations-docs/2331-ccl0-10-24-18/file>, accessed April 8, 2019.

CCL CATEGORY 3 – ELECTRONICS**3A611 Military Electronics**

Includes a range of military electronic equipment that are not specifically listed in the USML, ranging from computers and circuit boards to high frequency surface wave radar capable of tracking surface targets on oceans, electric fans, joy sticks, multichip modules, rheostats, solenoids, speakers, transformers and microwave transistors.

CCL CATEGORY 4 - COMPUTERS

No items have been transferred from the US Munitions List to this portion of the CCL as part of the Export Controls Reform initiative. (This category generally includes software and computer technology. Computer equipment is controlled under Category 3 above.)

CCL CATEGORY 5 – TELECOMMUNICATIONS AND INFORMATION SECURITY**5A611 Telecommunications equipment and related components**

This is a residual control category that includes equipment not listed on the US Munitions List and not specifically controlled in CCL Category 3 above.

CCL CATEGORY 6 – SENSORS AND LASERS

No items have been transferred from the US Munitions List to this portion of the CCL as part of the Export Controls Reform initiative. (Acoustic systems and radar equipment are controlled under Category 3 above.)

CCL CATEGORY 7 – NAVIGATION AND AVIONICS**7A611 Military fire control, laser, imaging, and guidance equipment**

Includes certain guidance or navigation systems that are not included in the US Munitions List. [Note: This is a residual control category. No specific items have been transferred from the US Munitions List to this portion of the CCL as part of the Export Controls Reform initiative.]

CCL CATEGORY 8 - MARINE**8A609 Surface vessels of war and related commodities**

Includes unarmed and unarmored rescue and repair ships and Coast Guard patrol boats with mounts or hardpoints for firearms. Also includes a wide range of commodities for use on ships, ranging from non-magnetic diesel engines to equipment such as compasses public address systems, galleys, lavatories, medical facilities and water tanks as well as various hoses, gauges and filters. [Note: this category of the CCL does not include actual surface vessels of war and special naval equipment, which are covered by the US Munitions List.]

8A620 Commodities related to submersible vessels

Includes submarine rescue vehicles and Deep Submergence Vehicles (DSV) as well as semi-submersible vessels for cargo transport. Also includes a wide range of commodities for use on submarines, ranging from diesel engines, harbor entrance detection devices, submarine and torpedo nets, and diving and underwater swimming apparatus designed for military use to equipment such as public address systems, galleys, lavatories, and water tanks as well as various hoses, gauges, and filters.

CCL CATEGORY 9 – AEROSPACE AND PROPULSION**9A604 Commodities related to launch vehicles, missiles, and rockets**

Includes thermal batteries and various components and composite structures--such as motors, engines, stages, and re-entry vehicles--related to missiles and rockets that are themselves controlled on the US Munitions List.

9A610 Military aircraft and related commodities

Includes trainer aircraft, cargo aircraft, military helicopters, observation aircraft, utility fixed wing aircraft and all other *unarmed* military aircraft.²⁵ (All armed aircraft, including attack helicopters and Unmanned Aerial Vehicles specially designed to incorporate a defense article) are controlled on the US Munitions List.) This control number also covers a wide array of equipment, such as refueling equipment, equipment to launch and control unmanned aerial vehicles, parachutes, flight control systems, galleys, lavatories and water tanks, along with related commodities, such as brake pads, ejection seats, fire detectors and extinguishers, cockpit mirrors, and windshield wipers.

9A619 Military gas turbine engines and related commodities.

Includes military gas turbine engines that are specially designed for defense articles controlled on the US Munitions List (Categories VI, VII or VIII) or elsewhere on the Commerce Control List, as well as specific parts and components including certain compressors, fuel lines, oil lines and tubes, oil tank and reservoirs for gas turbine engines.²⁶

9A620 Cryogenic and "superconductive" equipment.

Includes cryogenic and superconductive electrical equipment (rotating machinery and transformers) specially designed to be installed in a vehicle for military ground, marine, airborne, or space applications, and capable of operating while in motion.

²⁵ Some of these items were already on the CCL and have simply been renumbered to conform to Wassenaar classification numbers.

²⁶ Military trainer aircraft Turbo prop engines were already included in the CCL prior to the Export Control Reform initiative and have been renumbered to align with Wassenaar classification numbers.

