

107TH CONGRESS
1ST SESSION

S. 1555

To express the policy of the United States with respect to the adherence by the United States to global standards in the transfer of small arms and light weapons, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 16, 2001

Mrs. FEINSTEIN (for herself, Mr. LEAHY, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To express the policy of the United States with respect to the adherence by the United States to global standards in the transfer of small arms and light weapons, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Security and Fair En-
5 forcement in Arms Trafficking Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The global proliferation of small arms and
2 light weapons represents a real and pressing threat
3 to peace, development, democracy, human rights,
4 and United States national security interests around
5 the globe.

6 (2) The legitimate and responsible transfer of
7 small arms and light weapons, and the application of
8 international standards and legally binding instru-
9 ments to stem the illicit trade in these weapons, are
10 important elements of United States foreign policy
11 that enhance United States and international secu-
12 rity, strengthen United States alliances and partner-
13 ships, promotes global peace and freedom, and are
14 critical to efforts to combat terrorism, narco-traf-
15 ficking, international organized crime, regional and
16 local conflict, and the recruitment and use of child
17 soldiers in these conflicts.

18 (3) It is in the United States national interest
19 to promote responsibility and restraint in the trans-
20 fer of small arms and light weapons, to combat irre-
21 sponsible practices in such transfers, to ensure that
22 nations engaged in substandard practices are held
23 accountable, and to encourage other members of the
24 international community to meet, as minimum
25 standards, United States law and practice.

1 (4) In light of the cruel terror attacks on Wash-
2 ington, D.C., and New York City on September 11,
3 2001, it is in the United States national interest to
4 take all possible measures to prevent dangerous
5 weapons from falling into the wrong hands. Special
6 emphasis should be placed on combating the pro-
7 liferation of small arms and light weapons within the
8 broader counter-terrorism strategy given the clear
9 links between the global networks of terrorism, net-
10 works of the illicit trade in small arms and light
11 weapons, and states that harbor and support terror-
12 ists.

13 (5) Small arms and light weapons are the weap-
14 ons of choice of terrorists and their networks. These
15 groups take advantage of existing licit and illicit
16 channels, and an appropriate international response
17 must therefore target suppliers of these weapons and
18 brokers who facilitate illicit deals and shut down the
19 networks that allow this trade to continue.

20 (6) United States military personnel, diplomats,
21 and humanitarian workers, as well as those of the
22 allies of the United States, are threatened by the
23 easy availability of small arms and light weapons in
24 conflict zones.

1 (7) The proliferation and ready availability of
 2 small arms and light weapons has been a major fac-
 3 tor in the devastation in Angola, Cambodia, Liberia,
 4 Mozambique, Rwanda, Sierra Leone, Somalia,
 5 Congo, Bosnia, Kosovo, Macedonia, Sri Lanka, East
 6 Timor, Afghanistan and the violence endemic to
 7 narco-trafficking in Colombia, Mexico, Thailand, and
 8 Myanmar, and has contributed significantly to war
 9 crimes and crimes against humanity perpetrated in
 10 Cambodia, Rwanda, Sierra Leone, East Timor, Bos-
 11 nia, and Kosovo.

12 (8) The case of Afghanistan, where the Taliban
 13 and the al Qaeda network have been able to amass
 14 a small arms and light weapons arsenal from various
 15 actors in the regional and international illicit trade,
 16 including links to the international drug trade, other
 17 regional terrorist groups, and donations from certain
 18 individuals in other countries in the region, and
 19 from continued support of the civil war in Afghani-
 20 stan by various countries, clearly demonstrates how
 21 a country can become a threat to regional and even
 22 global peace and security if it is continuously flooded
 23 by various actors with small arms and light weapons
 24 and if arms embargoes are systematically broken.

1 (9) The United States and the international
2 community took an important step toward pro-
3 moting global standards in the transfer of small
4 arms and light weapons in concluding and signing in
5 March 2001, the Protocol on Illicit Firearms Traf-
6 ficking to the United Nations Transnational Orga-
7 nized Crime Convention.

8 (10) The United States, as a major supplier
9 country, has a special obligation to promote respon-
10 sible practices in the transfer of small arms and
11 light weapons.

12 (11) The United States must abstain from all
13 transfers, for commercial use, of semiautomatic as-
14 sault weapons or related equipment, the manufac-
15 ture, transfer, or possession of which is unlawful
16 under section 922 of title 18, United States Code,
17 because such transfers could easily be diverted to
18 terrorist networks.

19 (12) To be successful in such efforts the United
20 States must work with other countries to improve ef-
21 fective international standards.

22 (13) Because of the United States interest in
23 combating international crime, preventing the diver-
24 sion of small arms and light weapons to narco-traf-
25 fickers, international organized criminal networks,

1 terrorists, and recipients engaged in gross and con-
2 sistent violations of internationally recognized
3 human rights, and promoting fairness in inter-
4 national trade, the United States should enter into
5 negotiations for international agreements on—

6 (A) the marking and tracing of small arms
7 and light weapons;

8 (B) regulations for the activities of arms
9 brokers;

10 (C) greater transparency in licensing and
11 export;

12 (D) a prohibition against the transfer to
13 recipients engaged in gross and consistent viola-
14 tions of internationally recognized human rights
15 and international humanitarian law;

16 (E) a prohibition against the transfer to
17 recipients engaged in breaking international
18 arms control regimes and United Nations arms
19 embargoes;

20 (F) the improved enforcement of United
21 Nations arms embargoes, which are frequently
22 broken by arms brokers and covert state oper-
23 ations; and

1 (G) the establishment of an international
2 regime for the destruction of surplus weapons
3 and the security of stockpiles.

4 (14) The United Nations Conference on the Il-
5 licit Trade in Small Arms and Light Weapons in All
6 Its Aspects, held in New York from July 9 to 20,
7 2001, represented an opportunity to develop better
8 national and international regulations to control the
9 trade in illicit small arms and light weapons. How-
10 ever, the Program of Action did too little to advance
11 international standards in the transfer of small arms
12 and light weapons.

13 **SEC. 3. STATUTORY CONSTRUCTION.**

14 Nothing in this Act—

15 (1) interferes with the legitimate and lawful
16 ownership and use of guns; or

17 (2) limits otherwise authorized activities of the
18 United States Government.

19 **SEC. 4. DECLARATIONS OF POLICY.**

20 (a) AFFIRMATION OF POLICY.—It is the policy of the
21 United States—

22 (1) to maintain the highest standards for the
23 management of, restraint in, and safety in the ex-
24 port of small arms and light weapons and of safety

1 in the transfer abroad of small arms and light weap-
2 ons;

3 (2) to refrain from exporting small arms and
4 light weapons that might be used for internal repres-
5 sion or international aggression or contribute to re-
6 gional instability; and

7 (3) to increase the number of end-use checks of
8 United States transfers in small arms and light
9 weapons and to improve the quality of end-use moni-
10 toring, particularly the cooperation between United
11 States missions abroad and the Office of Defense
12 Trade Control.

13 (b) CONTINUATION OF EXISTING POLICIES.—It is
14 the policy of the United States—

15 (1) under section 502B(a)(2) of the Foreign
16 Assistance Act of 1961, not to provide security as-
17 sistance, including the transfer of small arms and
18 light weapons, to any recipient that engages in a
19 consistent pattern of gross violations of internation-
20 ally recognized human rights;

21 (2) that, in an effort to protect the legitimate
22 trade in small arms and light weapons, and to en-
23 sure United States laws are enforced, that individ-
24 uals subject to the jurisdiction of the United States
25 engaged in arms brokering activities register with

1 the Department of State and obtain a license for
2 each transaction;

3 (3) to carry out rigorous end-use checks of
4 transfers in small arms and light weapons in order
5 to prevent illegal retransfers of United States small
6 arms and light weapons;

7 (4) not to authorize for export to commercial
8 end-users semiautomatic assault weapons, or related
9 equipment, the manufacture, transfer, or possession
10 of which is unlawful under section 922 of title 18,
11 United States Code; and

12 (5) to continue to observe the “Joint Statement
13 of Principles”, agreed by the United States and the
14 European Union at their Washington summit on De-
15 cember 17, 1999.

16 **SEC. 5. INTERNATIONAL NEGOTIATIONS.**

17 (a) ADHERENCE TO A PROHIBITION ON EXPORTS.—
18 It is the sense of Congress that the President should enter
19 into negotiations with foreign parties beginning with the
20 European Union and NATO member states for an inter-
21 national agreement not to export to commercial end-users
22 semiautomatic assault weapons, or related equipment, the
23 manufacture, transfer, or possession of which is unlawful
24 under section 922 of title 18, United States Code.

1 (b) MARKING OF SMALL ARMS AND LIGHT WEAP-
 2 ONS.—It is the sense of Congress that the President
 3 should make best efforts to conclude an international
 4 agreement on the marking of small arms and light weap-
 5 ons for international export as advocated by the 2001 Pro-
 6 tocol on Illicit Firearms Trafficking to the United Nations
 7 Transnational Organized Crime Convention.

8 (c) ENFORCEMENT OF UNITED NATIONS ARMS EM-
 9 BARGOES.—It is the sense of Congress that the President
 10 should enter negotiations at the United Nations level in
 11 order to improve the enforcement of United Nations arms
 12 embargoes insofar as they relate to small arms and light
 13 weapons. The President should propose to the United Na-
 14 tions Security Council the establishment of an arms em-
 15 bargo monitoring unit at the United Nations headquarters
 16 in New York.

17 (d) COMPREHENSIVE AGREEMENT.—

18 (1) IN GENERAL.—It is the sense of Congress
 19 that the President should enter into negotiations on
 20 a legally binding international agreement or agree-
 21 ments with foreign parties beginning with the Euro-
 22 pean Union that would comprise the following ele-
 23 ments:

24 (A) The marking and tracing of small
 25 arms and light weapons.

1 (B) Regulating the activities of arms bro-
2 kers, including an international register and
3 watchlist of arms brokers.

4 (C) Greater transparency in the licensing
5 and export of small arms and light weapons.

6 (D) A prohibition against the transfer of
7 small arms and light weapons to recipients en-
8 gaged in gross and consistent violations of
9 internationally recognized human rights and
10 international humanitarian law.

11 (E) Establishment of an international re-
12 gime for the destruction of surplus weapons and
13 the security of stockpiles.

14 (2) PERIODIC REPORT.—Not later than six
15 months after the date of enactment of this Act, and
16 semiannually thereafter, the Secretary of State shall
17 submit an unclassified report to the appropriate con-
18 gressional committees describing the progress to-
19 ward negotiating such an agreement or agreements.

20 (e) ESTABLISHMENT OF UNITED STATES-EUROPEAN
21 UNION COORDINATING GROUP ON SMALL ARMS AND
22 LIGHT WEAPONS.—

23 (1) IN GENERAL.—It is the sense of Congress
24 that the President should seek to establish a United
25 States-European Union Coordinating Group on

1 Small Arms and Light Weapons and to encourage
2 the participation of non-European Union NATO
3 member states, to meet at least semiannually, and
4 as the need arises, to negotiate the agreements de-
5 scribed in subsections (a), (b), and (c), to assess
6 trends in the flow of small arms and light weapons
7 to regions of conflict, to coordinate United States
8 and European Union activities, and to address con-
9 cerns as they arise.

10 (2) PERIODIC REPORT.—Not later than six
11 months after the date of enactment of this Act, and
12 semiannually thereafter, the Secretary of State shall
13 submit an unclassified report to the appropriate con-
14 gressional committees describing the progress to-
15 ward establishing a United States-European Union
16 Coordinating Group on Small Arms and Light
17 Weapons, together with a list and summary of all
18 contacts during the period covered by each report
19 between the United States and the European Union
20 and European Union member states.

21 (f) IMPLEMENTATION OF PROGRAM OF ACTION OF
22 UNITED NATIONS CONFERENCE.—

23 (1) IN GENERAL.—It is the sense of Congress
24 that the President should make best efforts to ad-
25 vance international negotiations to implement the

1 Program of Action of the 2001 United Nations Con-
2 ference on the Illicit Trade in Small Arms and Light
3 Weapons in All Its Aspects, as well as to advance
4 and extend the goals of the Program of Action,
5 including—

6 (A) establishing national regulations and
7 international agreements on arms brokering;

8 (B) establishing national regulations and
9 international agreements on the marking and
10 tracing of small arms and light weapons;

11 (C) promoting greater security for weapons
12 stockpiles held by states;

13 (D) efforts to carry out more effective
14 post-conflict disarmament and demobilization
15 programs;

16 (E) criminalizing the production, posses-
17 sion, stockpiling, and trade of illicit small arms
18 and light weapons; and

19 (F) advancing the role of civil society and
20 nongovernmental institutions in addressing the
21 proliferation of small arms and light weapons.

22 (2) PERIODIC REPORT.—Not later than six
23 months after the date of enactment of this Act, and
24 not later than December 31 of every year thereafter
25 through 2006, the Secretary of State shall transmit

1 to the appropriate congressional committees a report
 2 describing the activities undertaken, and the
 3 progress made, by the Department of State or other
 4 agencies and entities of the United States Govern-
 5 ment in implementing the goals of the Program of
 6 Action.

7 **SEC. 6. CONGRESSIONAL NOTIFICATION; SEMIANNUAL RE-**
 8 **PORTS.**

9 (a) CONGRESSIONAL NOTIFICATION OF EXPORT LI-
 10 CENSE APPLICATIONS.—Section 36(c) of the Arms Export
 11 Control Act (22 U.S.C. 2776(c)) is amended by inserting
 12 “(or, in the case of a defense article that is a firearm con-
 13 trolled under category I of the United States Munitions
 14 List, \$1,000,000 or more)” after “\$50,000,000 or more”.

15 (b) REPORT.—Not later than six months after the
 16 date of enactment of this Act, and annually thereafter,
 17 the Secretary of State shall submit an unclassified report
 18 to the appropriate congressional committees on the num-
 19 bers, range, and findings of end-use monitoring of United
 20 States transfers in small arms and light weapons.

21 (c) SEMIANNUAL REPORTS.—Section 655 of the For-
 22 eign Assistance Act of 1961 (22 U.S.C. 2415) is
 23 amended—

24 (1) in subsection (a)—

1 (A) by striking “Not later” and inserting
2 the following:

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), not later”; and

5 (B) by adding at the end the following:

6 “(2) EXCEPTION.—In the case of licenses for
7 the export of defense articles that are firearms con-
8 trolled under category I of the United States Muni-
9 tions List, the information required by subsection
10 (b) with respect to those firearms shall be included
11 in a report transmitted to the Committee on Foreign
12 Relations of the Senate and the Committee on Inter-
13 national Relations of the House of Representatives
14 not later than February 1 and August 1 of each
15 year covering the period since the last report.”; and

16 (2) in subsection (b)(3), by inserting before the
17 period at the end the following: “, including, in the
18 case of defense articles that are firearms controlled
19 under category I of the United States Munitions
20 List, a statement of the aggregate dollar value and
21 quantity of semiautomatic assault weapons, or re-
22 lated equipment, the manufacture, transfer, or pos-
23 session of which is unlawful under section 922 of
24 title 18, United States Code, that were licensed for
25 export during the period covered by the report”.

1 (d) SPECIAL NOTIFICATION.—

2 (1) IN GENERAL.—Not less than 15 days prior
3 to the grant of any license export to any country de-
4 scribed in paragraph (2) of any lethal defense article
5 or defense service in the amount \$1,000,000 or less,
6 the President shall provide a detailed notification to
7 the Committees on Appropriations and Foreign Re-
8 lations of the Senate and the Committees on Appro-
9 priations and International Relations of the House
10 of Representatives, including a statement describing
11 the purposes for which the article or service is being
12 provided to the country and stating whether or not
13 such article or service has been previously provided
14 to such country.

15 (2) COUNTRIES DEFINED.—A country described
16 in this paragraph is a country where there is a clear
17 risk that the defense article or defense service will—

18 (A) be used in a breach of peace or act of
19 international aggression—

20 (i) to commit gross violations of
21 human rights;

22 (ii) to commit gross violations of
23 international humanitarian law; or

24 (iii) to commit acts of genocide or
25 crimes against humanity; or

1 (B) be diverted to commit any of the acts
2 described in subparagraph (A).

3 **SEC. 7. REGISTRY OF SMALL ARMS AND LIGHT WEAPONS**
4 **SERIAL NUMBERS.**

5 (a) IN GENERAL.—Section 38 of the Arms Export
6 Control Act (22 U.S.C. 2778) is amended by adding at
7 the end the following new subsection:

8 “(i)(1) The President shall require that, prior to the
9 export of any firearm listed in category I of the United
10 States Munition List that requires a license for inter-
11 national export under this section, the exporter shall pro-
12 vide the President with written identification of the serial
13 number of the firearm to be exported.

14 “(2) The President shall establish and maintain a
15 registry of each serial number provided under paragraph
16 (1).”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to applications for licenses to
19 export filed on or after the date of enactment of this Act.

20 **SEC. 8. ANNUAL REPORT ON ARMS BROKERING.**

21 Not later than six months after the date of enactment
22 of this Act, and annually thereafter, the Secretary of State
23 shall submit an unclassified report to the appropriate con-
24 gressional committees on activities of registered arms bro-

1 kers, including a list of all registered brokers and any vio-
2 lations of the Arms Export Control Act.

3 **SEC. 9. ANNUAL REPORT ON INVESTIGATIONS OF THE BU-**
4 **REAU OF ALCOHOL, TOBACCO AND FIRE-**
5 **ARMS.**

6 Not later than six months after the date of enactment
7 of this Act, and annually thereafter, the Secretary of the
8 Treasury, shall submit an unclassified report to the appro-
9 priate congressional committees on investigations and
10 other work undertaken by the Bureau of Alcohol, Tobacco
11 and Firearms (including the cooperation with other agen-
12 cies) to stop United States-source weapons from being
13 used in terrorist acts, insurgency, and international crime.

14 **SEC. 10. SENSE OF CONGRESS.**

15 It is the sense of Congress that the Secretary of State
16 should encourage those countries that have not done so
17 to sign and ratify the 1997 Inter-American Convention
18 Against the Illicit Manufacturing of and Trafficking in
19 Firearms, Ammunitions, Explosives, and Other Related
20 Materials and the 2001 Protocol on Illicit Firearms Traf-
21 ficking to the United Nations Transnational Organized
22 Crime Convention.

23 **SEC. 11. DEFINITIONS.**

24 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means the Committee on Foreign Relations
4 of the Senate and the Committee on International
5 Relations of the House of Representatives.

6 (2) PRESIDENT.—The term “President” means
7 the President, acting through the Secretary of State.

8 (3) SMALL ARMS AND LIGHT WEAPONS.—

9 (A) COVERED ITEMS.—Except as provided
10 in subparagraph (B), the term “small arms and
11 light weapons” means revolvers and self-loading
12 pistols, rifles and carbines, submachine guns,
13 assault rifles, light machine guns, heavy ma-
14 chine guns, hand-held underbarrel and mounted
15 grenade launchers, portable anti-aircraft guns,
16 portable antitank guns, recoilless rifles, portable
17 launchers of antitank missiles and rocket sys-
18 tems, portable launchers of anti-aircraft missile
19 systems, mortars of calibers of less than 100
20 millimeter, ammunition and explosives, car-
21 tridges and rounds for small arms and light
22 weapons, mobile containers with missiles or
23 shells for single-action anti-aircraft and anti-
24 tank systems, antipersonnel and antitank hand
25 grenades, landmines, and explosives.

1 (B) EXCEPTION.—Subparagraph (A) does
2 not include any antique firearm manufactured
3 before January 1, 1900, or any replica of such
4 a firearm.

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