

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2627

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.

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## IN THE SENATE OF THE UNITED STATES

JULY 8, 2004

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

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## 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 2004”.

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, and promote global peace and freedom, and  
14 are critical to efforts to combat terrorism, narco-  
15 trafficking, international organized crime, regional  
16 and local conflicts, and the recruitment and use of  
17 child soldiers in these conflicts.

18           (3) It is in the national interest of the United  
19 States to promote responsibility and restraint in the  
20 transfer of small arms and light weapons, to combat  
21 irresponsible practices in such transfers, to ensure  
22 that nations engaged in substandard practices are  
23 held accountable, and to encourage other members  
24 of the 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 national interest of the United  
4           States to take all possible measures to prevent dan-  
5           gerous weapons from falling into the wrong hands.  
6           Special emphasis should be placed on combating the  
7           proliferation of small arms and light weapons within  
8           the broader counterterrorism strategy, given the  
9           clear links between global networks of terrorism,  
10          networks 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. Be-  
15          cause these groups take advantage of existing licit  
16          and illicit channels, an appropriate international re-  
17          sponse must target the suppliers of these weapons  
18          and the brokers who facilitate illicit deals and must  
19          shut down the networks that allow this trade to con-  
20          tinue.

21          (6) United States military personnel, diplomats,  
22          and humanitarian workers, as well as those of the  
23          allies of the United States, are threatened by the  
24          easy availability of small arms and light weapons in  
25          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, the  
5           Democratic Republic of the Congo, Bosnia and  
6           Herzegovina, Kosovo, The Former Yugoslav Repub-  
7           lic of Macedonia, Sri Lanka, East Timor, and Af-  
8           ghanistan and the violence endemic to narco-traf-  
9           ficking in Colombia, Mexico, Thailand, and  
10          Myanmar, and has contributed significantly to war  
11          crimes and crimes against humanity perpetrated in  
12          Cambodia, Rwanda, Sierra Leone, East Timor, Bos-  
13          nia and Herzegovina, and Kosovo.

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

1 by various actors with small arms and light weapons  
2 and if arms embargoes are systematically broken.

3 (9) The proliferation of small arms and light  
4 weapons continues to threaten civilians and members  
5 of the Armed Forces of the United States in Iraq  
6 and Afghanistan, undermine stabilization and recon-  
7 struction efforts Iraq and Afghanistan, and com-  
8 plicate efforts to establish effective and viable gov-  
9 ernments in those countries.

10 (10) The United States and the international  
11 community took an important step toward pro-  
12 moting global standards in the transfer of small  
13 arms and light weapons in completing in 2001 the  
14 Protocol Against the Illicit Manufacturing of and  
15 Trafficking in Firearms, their Parts and Compo-  
16 nents, and Ammunition, supplementing the United  
17 Nations Convention Against Transnational Orga-  
18 nized Crime.

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

23 (12) Because semiautomatic assault weapons  
24 and related equipment, the manufacture, transfer, or  
25 possession of which is unlawful under section 922 of

1 title 18, United States Code, are easily diverted to  
2 terrorist networks, the abstention by the United  
3 States from all transfers, for commercial use, of such  
4 weapons and equipment would assist efforts to limit  
5 the global proliferation of small arms and light weap-  
6 ons.

7 (13) To be successful in such efforts, it is nec-  
8 essary for the United States to work with other  
9 countries to improve effective international stand-  
10 ards.

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

20 (15) At the First Biennial Meeting of States to  
21 Consider the Implementation of the United Nations  
22 Programme of Action on the Illicit Trade in Small  
23 Arms and Light Weapons in All Its Aspects in July  
24 2003, Assistant Secretary of State Lincoln P.  
25 Bloomfield offered a progress report on the imple-

1       mentation by the United States of the United Na-  
2       tions Programme of Action on the Illicit Trade in  
3       Small Arms and Light Weapons in All Its Aspects  
4       and asserted that the United States has done much  
5       to implement the recommendations of the Pro-  
6       gramme. Nonetheless, there is an urgent and press-  
7       ing need for a greater United States commitment to  
8       eradicating the proliferation of small arms and light  
9       weapons.

10 **SEC. 3. SENSE OF CONGRESS ON INTERNATIONAL AGREE-**  
11 **MENTS.**

12       It is the sense of Congress that, because of the inter-  
13       est of the United States in combating international crime,  
14       preventing the diversion of small arms and light weapons  
15       to narco-traffickers, international organized criminal net-  
16       works, terrorists, and recipients engaged in gross and con-  
17       sistent violations of internationally recognized human  
18       rights and international humanitarian law, and promoting  
19       fairness in international trade, the United States should—

20               (1) support the effort to negotiate a binding in-  
21       strument on international small arms transfers, such  
22       as the global Arms Trade Treaty; and

23               (2) enter into negotiations for international  
24       agreements on—

1 (A) the marking and tracing of small arms  
2 and light weapons;

3 (B) regulations for the activities of arms  
4 brokers;

5 (C) greater transparency in licensing and  
6 export of small arms and light weapons; and

7 (D) the establishment of an international  
8 regime for the destruction of surplus weapons  
9 and the security of stockpiles.

10 **SEC. 4. DECLARATIONS OF POLICY.**

11 (a) **AFFIRMATION OF POLICY.**—It is the policy of the  
12 United States—

13 (1) to maintain the highest standards for the  
14 management of, restraint in, and safety in the ex-  
15 port of small arms and light weapons and the safety  
16 in the transfer abroad of small arms and light weap-  
17 ons;

18 (2) to refrain from exporting small arms and  
19 light weapons that might be used for internal repres-  
20 sion or international aggression or contribute to re-  
21 gional instability; and

22 (3) to increase the number of end-use checks of  
23 United States transfers in small arms and light  
24 weapons and to improve the quality of end-use moni-  
25 toring, particularly the cooperation between United

1 States missions abroad and the Office of Defense  
2 Trade Control.

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

5 (1) under section 502B(a)(2) of the Foreign  
6 Assistance Act of 1961, not to provide security as-  
7 sistance, including the transfer of small arms and  
8 light weapons, to any recipient that engages in a  
9 consistent pattern of gross violations of internation-  
10 ally recognized human rights;

11 (2) that, in an effort to protect the legitimate  
12 trade in small arms and light weapons, and to en-  
13 sure United States laws are enforced, individuals  
14 subject to the jurisdiction of the United States en-  
15 gaged in arms brokering activities register with the  
16 Department of State and obtain a license for each  
17 transaction;

18 (3) to carry out rigorous end-use checks of  
19 transfers in small arms and light weapons in order  
20 to prevent illegal retransfers of United States small  
21 arms and light weapons;

22 (4) not to authorize for export to commercial  
23 end-users semiautomatic assault weapons, or related  
24 equipment, the manufacture, transfer, or possession

1 of which is unlawful under section 922 of title 18,  
2 United States Code; and

3 (5) to continue to observe the “Statement of  
4 Common Principles on Small Arms and Light Weap-  
5 ons” agreed to by the United States and the Euro-  
6 pean Union at the December 17, 1999, summit in  
7 Washington, D.C.

8 **SEC. 5. INTERNATIONAL NEGOTIATIONS.**

9 (a) ADHERENCE TO PROHIBITION ON EXPORTS.—It  
10 is the sense of Congress that the President should enter  
11 into negotiations with foreign parties, beginning with the  
12 European Union and North Atlantic Treaty Organization  
13 (NATO) member states, for an international agreement  
14 not to export to commercial end-users semiautomatic as-  
15 sault weapons, or related equipment, the manufacture,  
16 transfer, or possession of which is unlawful under section  
17 922 of title 18, United States Code.

18 (b) MARKING OF SMALL ARMS AND LIGHT WEAP-  
19 ONS.—It is the sense of Congress that the President  
20 should make best efforts to conclude an international  
21 agreement on the marking of small arms and light weap-  
22 ons for international export as advocated by the Protocol  
23 Against the Illicit Manufacturing of and Trafficking in  
24 Firearms, Their Parts and Components, and Ammunition,  
25 supplementing the United Nations Convention Against

1 Transnational Organized Crime, adopted by United Na-  
2 tions General Assembly resolution 55/255 on June 8,  
3 2001.

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

13 (d) COMPREHENSIVE AGREEMENT.—

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

20 (A) The marking and tracing of small  
21 arms and light weapons.

22 (B) Regulating the activities of arms bro-  
23 kers, including an international register and  
24 watchlist of arms brokers.

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

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

8 (E) Establishment of an international re-  
9 gime for the destruction of surplus weapons and  
10 the security of stockpiles.

11 (2) PERIODIC REPORTS.—Not later than 180  
12 days after the date of enactment of this Act, and  
13 semiannually thereafter, the President shall submit  
14 an unclassified report to the appropriate congres-  
15 sional committees describing the progress toward ne-  
16 gotiating an agreement or agreements described in  
17 paragraph (1).

18 (e) IMPLEMENTATION OF PROGRAM OF ACTION OF  
19 UNITED NATIONS CONFERENCE.—

20 (1) IN GENERAL.—It is the sense of Congress  
21 that the President should make best efforts to ad-  
22 vance international negotiations to implement the  
23 Program of Action of the 2001 United Nations Con-  
24 ference on the Illicit Trade in Small Arms and Light  
25 Weapons in All Its Aspects, as well as to advance

1 and extend the goals of the Program of Action, in-  
2 cluding—

3 (A) establishing national regulations and  
4 international agreements on arms brokering;

5 (B) establishing national regulations and  
6 international agreements on the marking and  
7 tracing of small arms and light weapons;

8 (C) promoting greater security for weapons  
9 stockpiles held by states;

10 (D) efforts to carry out more effective  
11 post-conflict disarmament and demobilization  
12 programs;

13 (E) criminalizing the production, posses-  
14 sion, stockpiling, and trade of illicit small arms  
15 and light weapons; and

16 (F) advancing the role of civil society and  
17 nongovernmental institutions in addressing the  
18 proliferation of small arms and light weapons.

19 (2) PERIODIC REPORTS.—Not later than 180  
20 days after the date of enactment of this Act, and not  
21 later than December 31 of every year thereafter  
22 through 2006, the President shall transmit to the  
23 appropriate congressional committees a report de-  
24 scribing the activities undertaken, and the progress  
25 made, by the Department of State or other agencies

1 and entities of the United States Government in im-  
2 plementing the goals of the Program of Action, in-  
3 cluding specific steps taken to assist other countries  
4 in implementing the Program of Action.

5 **SEC. 6. NATO PROGRAMS.**

6 (a) SENSE OF CONGRESS.—It is the sense of Con-  
7 gress that the President should propose at the North At-  
8 lantic Council—

9 (1) the establishment among North Atlantic  
10 Treaty Organization (NATO) members of a program  
11 on stockpile management, security, and destruction  
12 of small arms and light weapons; and

13 (2) the establishment of cooperative programs  
14 on stockpile management, security, and destruction  
15 of small arms and light weapons with non-NATO  
16 states of Central and Eastern Europe and the  
17 former Soviet Union.

18 (b) REPORTS.—Not later than 180 days after the  
19 date of enactment of this Act, and semiannually there-  
20 after, the President shall submit to the appropriate con-  
21 gressional committees an unclassified report describing  
22 progress made toward the establishment of the programs  
23 referred to in subsection (a).

1 **SEC. 7. INTER-AMERICAN CONVENTION AGAINST THE IL-**  
2 **LICIT MANUFACTURING OF AND TRAF-**  
3 **FICKING IN FIREARMS, AMMUNITION, EXPLO-**  
4 **SIVES, AND OTHER RELATED MATERIALS.**

5 (a) SENSE OF CONGRESS.—It is the sense of Con-  
6 gress that the Secretary of State should encourage those  
7 countries that have not done so to sign and ratify the  
8 Inter-American Convention Against Illicit Manufacturing  
9 of and Trafficking in Firearms, Ammunitions, Explosives,  
10 and Other Related Materials, adopted at Washington No-  
11 vember 14, 1997, and entered into force July 1, 1998.

12 (b) REPORTS.—Not later than 180 days after the  
13 date of enactment of this Act, and annually thereafter,  
14 the President shall submit to the appropriate congres-  
15 sional committees a report describing—

16 (1) the activities undertaken, and the progress  
17 made, by the Department of State or other agencies  
18 and entities of the United States Government in  
19 prompting other countries that have not done so to  
20 sign and ratify the Convention;

21 (2) the implementation of, and compliance with,  
22 the provisions of the Convention by states that have  
23 signed and ratified the Convention; and

24 (3) the recommendations made by the Consult-  
25 ative Committee established under the Convention,

1 and any actions related to those recommendations  
2 taken by the United States.

3 **SEC. 8. ANNUAL REPORT ON STATES THAT HAVE NOT CO-**  
4 **OPERATED IN SMALL ARMS PROGRAMS.**

5 Not later than 180 days after the date of enactment  
6 of this Act, and annually thereafter, the Secretary of State  
7 shall submit to the appropriate congressional committees  
8 a report—

9 (1) listing each state that refuses to cooperate  
10 in programs related to small arms and light weap-  
11 ons, including programs with respect to stockpile  
12 management, security, and destruction, and describ-  
13 ing to what degree the failure to cooperate affects  
14 the national security of such state, its neighbors,  
15 and the United States;

16 (2) describing the activities undertaken, and the  
17 progress made, by the Department of State or other  
18 agencies and entities of the United States Govern-  
19 ment in prompting other states to cooperate in pro-  
20 grams related to small arms and light weapons; and

21 (3) recommending incentives and penalties that  
22 may be used by the United States Government to  
23 compel states to comply with programs on small  
24 arms and light weapons.

1 **SEC. 9. CONGRESSIONAL NOTIFICATION ON CERTAIN EX-**  
2 **PORT LICENSES.**

3 (a) IN GENERAL.—Not less than 15 days before the  
4 grant of any license for export to any country described  
5 in subsection (b) of any lethal defense article or defense  
6 service consisting of small arms or light weapons in the  
7 amount of \$1,000,000 or less, the President shall provide  
8 a detailed notification thereof to the Committees on Ap-  
9 propriations and Foreign Relations of the Senate and the  
10 Committees on Appropriations and International Rela-  
11 tions of the House of Representatives, including a state-  
12 ment describing the purposes for which the article or serv-  
13 ice is being provided to the country and stating whether  
14 or not such article or service has been previously provided  
15 to such country.

16 (b) COVERED COUNTRIES.—A country described in  
17 this section is a country where there is a clear risk that  
18 the defense article or defense service will—

19 (1) be used in a breach of peace or act of inter-  
20 national aggression—

21 (A) to commit gross violations of human  
22 rights;

23 (B) to commit gross violations of inter-  
24 national humanitarian law; or

25 (C) to commit acts of genocide or crimes  
26 against humanity; or

1           (2) be diverted to commit any of the acts de-  
2           scribed in paragraph (1).

3 **SEC. 10. 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           “(k) REGISTRY OF SMALL ARMS AND LIGHT WEAP-  
9           ONS SERIAL NUMBERS.—(1) The President shall require  
10 that, prior to the export of any firearm listed in category  
11 I of the United States Munition List that requires a li-  
12 cense for international export under this section, the ex-  
13 porter shall provide the President with written identifica-  
14 tion of the serial number of the firearm to be exported.

15           “(2) The President shall establish and maintain a  
16 registry of each serial number provided under paragraph  
17 (1).”.

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

21 **SEC. 11. STATUTORY CONSTRUCTION.**

22           Nothing in this Act—

23                   (1) interferes with the legitimate and lawful  
24                   ownership and use of guns; or

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

3 **SEC. 12. DEFINITIONS.**

4           In this Act:

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

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

12          (3) SMALL ARMS AND LIGHT WEAPONS.—

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

1 weapons, mobile containers with missiles or  
2 shells for single-action antiaircraft and antitank  
3 systems, antipersonnel and antitank hand gre-  
4 nades, landmines, and explosives.

5 (B) EXCEPTION.—The term does not in-  
6 clude any antique firearm manufactured before  
7 January 1, 1900, or any replica of such a fire-  
8 arm.

○