

July 1, 2024

The Honorable Chuck Schumer
Senate Majority Leader
United States Senate
Washington, D.C., 20510

The Honorable Hakeem Jeffries
House Minority Leader
United States House of Representatives
Washington, D.C., 20515

Re: Civil Society Organizations Support Department of Commerce Reforms to Firearms Export Policy

Dear Majority Leader Schumer and Minority Leader Jeffries:

As the undersigned 35 organizations working on issues of human rights, gun violence, arms control, and national security, we are writing to express our support for the reforms to the Department of Commerce's firearms export policy, as presented in the April 30, 2024, interim final rule (IFR), which took effect on May 30. While we believe there are areas in which the new rules may be improved, they contain necessary reforms to Commerce's firearms export license review process to reduce the risk of weapons diversion or their use in political violence, human rights abuses, or other destabilizing activity. We strongly oppose legislative efforts by Congress to nullify this rule.

The new rules make a number of important changes to the export policy by creating a new class of identification numbers to improve data collection; requiring more robust documentation for applicants in countries with weaker export control regimes; reducing the license validity period from four years to one; and subjecting all firearms exports to the same scrutiny as other commercial items easily abused by security forces (including water cannons and tear gas) by adding "crime control" to a list of reasons for control. Additionally, the new regulations clarify and strengthen criteria for an interagency working group (led by the State Department) to review license applications to non-government end-users. The State Department presented a methodology for this review process in a detailed memorandum that presented risk factors that should inform review of license applications, including risk a sale may contribute to trafficking/diversion, terrorism, corruption, human rights abuse and political violence, state fragility, organized crime, or drug trafficking. The memorandum also lists 36 countries where non-state applicants should presume denial of license applications.

These changes are critical to improving a license export regime that had allowed for more permissive transfers of U.S.-manufactured firearms since the Commerce Department assumed regulatory authority over certain classes of firearms in 2020. Under this more permissive framework, U.S. firearms contributed to violence and instability abroad, often in ways that undermined U.S. foreign policy and national security objectives. In presenting the new rules, the Commerce Department described some of these examples:

“In one case, a firearm that was licensed for export to one country was subsequently diverted to a bordering country and used in a political assassination. In another, a license exception was used to export parts for the unlawful assembly of firearms in Taiwan. BIS also identified instances of firearms and ammunition exports being diverted to Russia via commercial resellers in third countries; such firearms and ammunition may be used to support Russia's further invasion of Ukraine.”

Ultimately, we believe that firearms should be regulated as weapons and listed in the U.S. Munitions List under the authority of the State Department. In the meantime, the Commerce Department could still improve upon the IFR to further protect these interests:

- The rule should require a presumption of denial for all non-state applications for license of assault weapons, which are used for disproportionate harm.
- The rule should also provide more transparency around and ensure the durability of the interagency working group and its methodology by including details from the State Department's memorandum in the text of the regulations. Further, because state security forces have also used U.S. firearms to commit abuses, the rule should extend the same rigor of risk assessment to license applications for government end-users.
- In implementing the rule, with new data collected, the Department should also provide much greater public transparency, and at a minimum disaggregate information to country-level as it did in initial reports after assuming regulatory responsibility.
- In line with using one-year licenses, the Department should also notify Congress at the one-million-dollar sale threshold rather than the four-million-dollar threshold applied to four-year licenses.

While it may be imperfect, when it comes to the protection of human rights, promotion of peace, and the national security interests of the United States, the perfect cannot be the enemy of the good. We urge you to support the Commerce Department's IFR, to work with the Commerce Department to implement the recommendations included therein, and to oppose any legislation that seeks to undermine the reforms present in the new regulations. Doing so will be in the best interest of the United States and the millions of people worldwide who deserve to live free of violence and abuse.

Sincerely,

Amnesty International USA
Brady
Bulletproof Pride
The Campaign to Keep Guns Off Campus
Ceasefire Oregon
Center for American Progress
Center for Civilians in Conflict (CIVIC)
Center for International Policy
CT Against Gun Violence
Delaware Coalition Against Gun Violence
Democracy for the Arab World Now (DAWN)
Enough of Gun Violence
Faith Leaders for Ending Gun Violence
Gays Against Guns
GIFFORDS
Global Exchange
Grandmothers Against Gun Violence
Gun Violence Prevention Center of Utah
Indivisible Wrigleyville
KAN-WIN

Leaders of Kenosha
Marylanders to Prevent Gun Violence
MomsRising
Newtown Action Alliance
Nuns Against Gun Violence
People for a Safer Society
SAFE Illinois
Safer Country
States United to Prevent Gun Violence
Sisters of Mercy of the Americas Justice Team
Stop US Arms to Mexico
Texas Gun Sense
The United Methodist Church — General Board
of Church and Society
WAVE Educational Fund
Win Without War