

United States Senate Committee on
FOREIGN RELATIONS

FOR IMMEDIATE RELEASE

February 26, 2019

CONTACT

Juan Pachon (202) 224-4651

Menendez Announces Hold on Trump Admin's Proposed Move to Weaken Regulatory Control over U.S. Guns Sales Abroad

WASHINGTON— **Senator Bob Menendez (D-N.J.), Ranking Member of the Senate Foreign Relations Committee**, sent a [letter to Secretary of State Mike Pompeo](#) expressing his concern about a proposal to drastically weaken firearms export regulations, and announcing he will not allow the proposed rules to move forward unless the State Department fully addresses the dangerous and far-reaching implications of this proposal prior to its taking effect.

In a move designed to stifle Congressional oversight and weaken controls over exports of guns from the United States, the Trump Administration announced last month that it will formally seek to transfer control of the export of semi-automatic pistols, assault-style rifles, sniper rifles and ammunition from the United States Munition List (USML) under the authority of the Department of State to the less-stringent controls of the Department of Commerce. As part of the move, the Administration also seeks to transfer the control of the technical information and blueprints for nearly undetectable 3D Guns from State to Commerce, where lax regulations will facilitate printing of 3D guns worldwide.

“[Firearms] are easily modified, diverted, and proliferated, and are the primary means of injury, death, and destruction in civil and military conflicts throughout the world. As such, they should be subject to more, not less, rigorous export controls and oversight,” **wrote Menendez.**

As the top Senate Democrat with oversight on U.S. firearms exports and weapons sales, Menendez announced he would refuse to consent to formal congressional notification of the proposed transfer until the Trump administration is more forthcoming in responding to his questions and concerns. Specifically, Menendez listed his concerns that all Congressional oversight and right of disapproval over firearms sales to countries of concern would be eliminated, despite Congress tightening such oversight under law; and that Commerce has admitted that it will not control or prevent the global internet publication of 3D printing of nearly-undetectable guns by terrorist groups, a real danger to American embassies, military bases, and passenger air carriers abroad. Despite the new statutory requirements on the President and Secretary of Commerce to control emerging technologies like 3D printing, the Administration is seeking in effect to eliminate meaningful control over 3D gun printing.

“By proceeding with the transfer of firearms, including 3D printing technical information, to Commerce, the Administration is acting recklessly and endangering innocent lives. It should go without saying that we collectively need to understand the threat and have a plan to address this issue before making the regulatory change,” **added the Senator**, specifically raising concerns about the capability to 3D-print lethal weaponry that cannot easily be detected by metal detectors at airports, schools, or government facilities.

Earlier this month, Senator Menendez also led a group of his colleagues in introducing the [Stopping the Traffic in Overseas Proliferation of Ghost Guns Act](#), legislation that would statutorily prohibit this transfer, and therefore maintain the strict controls over firearms and 3D printed “ghost gun” information that currently exist on the United States Munitions List.

As a champion for major gun safety reforms, Sen. Menendez was an outspoken opponent of the Trump Administration’s action last year allowing a Texas company to publish the downloadable designs for 3D printable firearms, which was later blocked by a federal court, and has taken a series of additional actions to prevent the proliferation of untraceable, undetectable 3D printed guns. He [called on Secretary of State Mike Pompeo to intervene and reverse his department’s decision](#) and [spoke out about his decision at a hearing](#) of the Senate Foreign Relations Committee.

The text of the letter announcing the hold can be found [here](#) and below:

Dear Secretary Pompeo:

On February 4, 2019, I received a congressional notification from the Department for a proposal to transfer responsibility for the export control of firearms and ammunition from the United States Munitions list (USML) to the Commerce Control List (CCL). I write to inform you that I am placing a hold on the congressional notification, pursuant to the authority of Section 38(f) of the Arms Export Control Act (AECA).

I am deeply concerned about this proposed transfer. As you no doubt are aware, firearms and ammunition – especially those derived from military models and widely used by military and security services – are uniquely dangerous. They are easily modified, diverted, and proliferated, and are the primary means of injury, death, and destruction in civil and military conflicts throughout the world. As such, they should be subject to more, not less, rigorous export controls and oversight.

Combat rifles, including those commonly known as “sniper rifles,” should not be removed from the USML, nor should rifles of any type that are U.S. military-standard 5.56 (and especially .50 caliber). Semi-automatic firearms should also not be removed, and neither should related equipment, ammunition, or associated manufacturing equipment, technology, or technical data.

Consequently, my hold will remain in place until such time as the issues identified below are sufficiently addressed.

1) Removal of Firearms Exports from Congressional Information and Review

The AECA enables congressional review of exports of lethal weapons to ensure that they comport with U.S. foreign policy interests. Congress took action in 2002 to ensure that the sale and export of these weapons would receive stringent oversight, including by amending the AECA to set a lower reporting threshold (from \$14 million to \$1 million) specifically for firearms on the USML. Moving such firearms from the USML to the CCL would directly contradict congressional intent and effectively eliminate congressional oversight and potential disapproval of exports of these weapons. Congressional oversight must be retained.

2) Proliferation of 3D Gun Printing Technical Information

There is a serious risk that this transfer will open the floodgates of information for the 3D printing of nearly-undetectable firearms and components by foreign persons and terrorists that intend to harm U.S. citizens and interests. The Department of Commerce claims that it cannot, by its own regulations, prevent the publication, including on the Internet for global consumption, of technical information and blueprint files that would enable this 3D production, if such information has once been published, even illegally. This is outrageous and simply unacceptable given the dangers it poses to U.S. citizens and interests.

Moreover, it may also be at variance with recent law. Section 1758 of the Export Control Reform Act of 2018 authorizes the Secretary of Commerce to control “emerging and foundational technologies” that (A) are essential to the national security of the United States; and (B) are not critical technologies described in clauses (i) through (v) of section 721(a)(6)(A) of the Defense Production Act of 1950. 3D printing has been identified by this Administration as an emerging technology of concern, and the Department of Commerce itself used 3D printing as an example of “emerging technology” in its November 19, 2018 Federal Register notice seeking public comment on what constitutes emerging technologies pursuant to this new statutory charge. Then-Secretary of Defense Mattis twice mentioned the challenges of 3D printing in congressional testimony, and Director of National Intelligence Coats, in his 2018 Worldwide Threat Assessment of the U.S. Intelligence Community, stated that, “[a]dvances in manufacturing, particularly the development of 3D printing, almost certainly will become even more accessible to a variety of state and non-state actors and be used in ways contrary to our interests.”

It would seem axiomatic that the capability to 3D-print lethal weaponry that cannot easily or reliably be detected by metal detectors at airports, schools, governmental or other facilities (including the U.S. Capitol and the Department of State) would qualify as an emerging technology in need of regulatory control. Yet, the Commerce Department has told my staff that the interagency process to identify emerging and foundational technologies to be controlled has not been completed, and is unlikely to be completed for months. By proceeding with the transfer of firearms, including 3D printing technical information, to Commerce, the Administration is acting recklessly and endangering innocent lives. It should go without saying that we collectively

need to understand the threat and have a plan to address this issue before making the regulatory change.

Moreover, the Department of Commerce would seem to have adequate additional regulatory authority to control 3D gun printing information, at least temporarily. Commerce can control any item for foreign policy reasons under the miscellaneous category of 0Y521, according to a final rule issued by Commerce in 2012. Preventing foreign terrorists and thugs from acquiring the means to print undetectable guns to use against U.S. citizens is a sufficient foreign policy justification to control this technology from public release.

Ultimately, the specific provision of the Export Administration Regulations is cited as preventing Commerce from controlling the publication of 3D Printed guns in the longer term needs to be rewritten to permit this control. Until that occurs, or until Commerce determines that such technical information can and will be controlled, this technical information cannot and should not be transferred from USML to the CCL.

I look forward to your prompt response to my concerns.

###