

March 4, 2020

Dear Member of Congress:

The undersigned organizations write in strenuous opposition to the Administration's new rule, published on January 23, 2020, which significantly weakens regulation and oversight of firearms exports.¹ We strongly urge you to support legislation that will retain the regulations and Congressional oversight of the current export oversight structure, reiterating a request made last year by more than 100 organizations representing advocates from religious, gun violence prevention, human rights, education, arms control, peace, and domestic violence prevention organizations urging congressional action to prevent the implementation of this new rule.²

Under the new rule, export controls of semi-automatic pistols, assault-style firearms, sniper rifles, and ammunition from the United States Munition List under the authority of the Department of State will now move to the less-stringent controls of the Department of Commerce. If allowed to take effect on March 9, 2020, this dangerous regulation will thwart congressional oversight and exacerbate gun violence, human rights abuses, and armed conflict around the world.

The Administration's regulation makes several significant changes which could potentially make it easier for weapons to end up in the hands of dangerous actors. Under the new rule, Congress will lose its authority and ability to provide oversight of firearms exports. Under the previous regulatory structure, Congress received notification of firearms sales authorized by the State Department valued at \$1 million or more. No such notification requirements will exist if the new rule takes effect. In recent years, Congressional notification has prevented firearms transfers to repressive forces.³

The regulation will also transfer control of the technical information and blueprints for potentially undetectable 3D-printed guns from State to Commerce, a move that could facilitate printing of 3D guns worldwide, make these weapons readily available to terrorist groups and other criminal elements, and endanger American embassies, military bases, and passenger aircraft at home and abroad. Recently, 22 states and the District of Columbia cited these concerns and several others in a lawsuit aiming to stop the regulation from taking effect.⁴

Although proponents of the regulation argue that small arms are "less dangerous" because many can be bought in U.S. retail outlets, the fact is that armies are built from these firearms. Small arms are the weapons of mass destruction in countries and regions such as Congo, Burma, Mexico, and Central America. AR- and AK-type rifles and their ammunition that will be impacted by this regulation are weapons of choice for criminal organizations in Mexico and other Central American countries, contributing to the humanitarian catastrophe that drives many migrants north as guns flow south.⁵

¹ Department of Commerce, Industry and Security Bureau, "Control of Firearms, Guns, Ammunition and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List (USML)," Federal Register, January 23, 2020, at: <https://www.federalregister.gov/documents/2020/01/23/2020-00573/control-of-firearms-guns-ammunition-and-related-articles-the-president-determines-no-longer-warrant>

² See text of the letter at <https://www.forumarmstrade.org/2019firearmsletter.html>

³ "Trump's dangerous move to hasten gun exports," Editorial. *Boston Globe*, January 12, 2020, at: <https://www.bostonglobe.com/2020/01/12/opinion/trumps-dangerous-move-hasten-gun-exports>

⁴ "21 States File Lawsuit Against Trump Administration Over 'Dangerous' Changes to Federal Firearm Regulations," Josiah Bates. *TIME*, January 24, 2020, at: <https://time.com/5770589/21-states-lawsuit-trump-printed-guns/>

⁵ Violence Policy Center, "Cross-Border Gun Trafficking," at www.vpc.org/indicted; Alex Yablon, "Trump is Sending Guns South as Migrants Flee North," *Foreign Policy*, March 8, 2019, at: <https://foreignpolicy.com/2019/03/08/trump-guns-honduras-central-america/>.

Under the new rule, fully automatic firearms remain under State Department control, but semi-automatic weapons would move to the Commerce Department's control. Practically, however, the difference between these types of weapons is small. For example, soldiers in Cameroon during the summer of 2018 – in two separate incidents captured on video – used semi-automatic rifles to execute several men, two women, and two small children.⁶ In Mexico, local police in Guerrero State responsible for the forced disappearance of 43 students in 2014 were armed with semi-automatic rifles.⁷ Many sniper rifles and semi-automatic firearms that would be moved to the Commerce Department's control are currently in active use by the U.S. military, and many semi-automatic firearms can also easily be converted to fully automatic weapons, further illustrating the false dichotomy of arguments in support of this change.

The regulation will also increase the risk of exports to unauthorized end users and conflict zones as the Commerce Department, charged with promoting sales, will gather less information about those engaged in the arms trade and rely on post-shipment monitoring, rather than pre-license checks. Overall, Congress already has a robust framework for arms transfers, embedding important human rights and other critical provisions in two central statutes: the Arms Export Control Act and the Foreign Assistance Act. The provisions of these laws generally apply to defense articles listed on the U.S. Munitions List (USML). Removing weapons from this list exempts them from related statutory constraints.⁸

Ultimately, the weapons and ammunition that currently are controlled under U.S. Munition List Categories I-III belong there and should stay there. The best way to move forward is to **prohibit transfer of these weapons out of the U.S. Munitions List and maintain congressional oversight**, as is currently proposed in H.R. 1134 and S. 459.⁹ A prohibition on transfers out of the U.S. Munitions List or legislation to return these weapons to the USML could be included in other appropriations or authorization legislation, or resolutions of disapproval.

Sincerely,

Amnesty International USA
Arms Control Association
Brady United Against Gun Violence
Center for American Progress
Center for International Policy
CT Against Gun Violence
Episcopal Peace Fellowship
Gays Against Guns (GAG)
Giffords
Global Exchange
Granite State Progress
GunSense Vermont

Joint Action Committee
Maine Gun Safety Coalition
March For Our Lives
Newtown Action Alliance
North Carolinians Against Gun Violence
States United to Prevent Gun Violence
Stop Handgun Violence
Violence Policy Center
Win Without War
Women's Action for New Directions
Women's National Democratic Club

⁶ Susan Waltz, testimony before House Foreign Affairs Subcommittee on Oversight and Investigations, March 26, 2019, at: https://www.forumarmstrade.org/uploads/1/9/0/8/19082495/3-26_testimony_waltz.pdf.

⁷ Mexican Commission for the Defense and Promotion of Human Rights, Gross Human Rights Violations: The Legal and Illegal Gun Trade in Mexico, 2018, p. 16, at: <https://stopusarmstomexico.org/gross-human-rights-abuses-the-legal-and-illegal-gun-trade-to-mexico/>.

⁸ Susan Waltz testimony, op.cit, and Colby Goodman, Christina Arabia, and William Hartung, "Proposed Firearms Export Changes: Key Challenges for U.S. Oversight," Center for International Policy, July 9, 2018, at: <https://securityassistance.org/publication/proposed-firearms-export-changes-key-challenges-us-oversight>.

⁹ See legislative texts at: <https://www.congress.gov/bill/116th-congress/house-bill/1134> and <https://www.congress.gov/bill/116th-congress/senate-bill/459/>.