

December 4, 2023

Dear President Biden:

We write to urge you to fully implement the commitment you made during your 2020 presidential campaign to transfer authority over semi-automatic firearm export controls back to the State Department from the Commerce Department.

We also urge you to give direction to the White House Office for Gun Violence Prevention to include in its agenda actions to address cross-border gun trafficking impacting communities in Mexico and other countries where U.S.-sourced firearms are used in violence.

In 2020, the Trump Administration transferred authority over exports of certain firearms, including semi-automatic assault rifles, from the State Department to the Commerce Department by removing those firearms from the United States Munitions List (USML) and placing them on the Commerce Control List (CCL).¹ At the time, a State Department official stated they were applying the “Walmart test” to oversight of exports: “We kind of refer to it as the Walmart rule. If it’s like something you can buy at a Walmart, why should we have control?”²

This has had important implications: The State Department is better equipped than Commerce to assess the human rights and security impact of arms exports.³ After the transfer of license authority to the Commerce Department, the rate of export license approvals jumped by 30%.⁴

In addition, the State Department is required to notify Congress of license approvals for certain firearm exports exceeding \$1 million (and Congress has the power to adopt a joint resolution to disapprove the sale).⁵ This is not the case for exports controlled by the Commerce Department. The voluntary, but more limited, notification policy adopted by the Commerce Department has not resulted in any greater public transparency. In the most recent public reporting for July 2021-June 2023, the Commerce Department provided less granular reporting on the final destination of exports than it did for March 2020-June 2021.⁶

For an administration that supports banning assault weapons because of the harm these weapons cause domestically, to not express the same concern about their export is alarming. To that end, we appreciate and welcome the Commerce Department’s announcement of a review of policy for firearms exports. We urge that this review consider steps to return oversight to the State Department, including adequate staffing, criteria for licensing, and end use control mechanisms to ensure that assault rifles and

other firearms exported by the United States do not contribute to organized crime, human rights violations, gender violence, terrorist activity, or instability.

The State and Commerce Departments should publish rules returning export licensing authority to the State Department. Many of the endorsers of this letter have included the reversion of such authority in previous recommendations to the administration in February and August last year. And this year in September, sixty-eight members of Congress did the same.

We look forward to your response.

Sincerely,

Amnesty International USA

Arms Control Association

Barbara J. Allen Studio

Brady

Center for International Policy

Change the Ref

Church Women United in New York State

Colorado Ceasefire Legislative Action

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Demand Progress Education Fund

Dominican Sisters of Sinsinawa Peace and Justice Office

Enough of Gun Violence

Everything 4 Walter

Faith Leaders for Ending Gun Violence

Felician Sisters of North America

Franciscan Action Network

Franciscan Peace Center, Clinton, Iowa

Gate City Coalition

Global Exchange

Gun Violence Prevention Center of Utah

Gun Violence Prevention PAC

Gun-violence Survivors Advisory Council

Gun Control Today

Holy Spirit Missionary Sisters, JPIC-USA

Jared's Heart of Success Inc

Jewish Women International

Journey4ward

Jr Newtown Action Alliance

Justice4Ellis
Latin American Working Group (LAWG)
Lives Robbed
Loretto Community
Medical Mission Sisters
Medical Missionaries of Mary
National Council of Jewish Women, Virginia
Newtown Action Alliance
No Do-Overs
No Weapon #1Life Empowerment Foundation
North American Climate, Conservation and Environment (NACCE)
Nuns Against Gun Violence
Ohio Council of Churches
Oklahoma Homicide Survivors Support Group
Peace Action
People Power United
Protect Minnesota
Remembering Darien Victims Foundation
Safer Country
San Diegans for Gun Violence Prevention
Sikh American Legal Defense and Education Fund (SALDEF)
Sisters of Charity of Nazareth Congregational Leadership
Sisters of Charity of Nazareth Western Province Leadership
Sisters of Mercy of the Americas Justice Team
Sisters of Notre Dame de Namur EW Unit
Sisters of St. Francis of Philadelphia
Sisters of St. Joseph of Baden, PA
Sisters of St. Joseph of Carondelet Albany
Sisters of St. Joseph of Springfield, MA
Sisters of the Humility of Mary
South Asian Network
St. Marks Episcopal Church Capitol Hill DC
Surviving the Pain Together, Inc.
Shadow World Investigations (SWI)
The Ethan Miller Song Foundation
The Ohio Council of Churches
Trauma 2 Triumph
U.S. Federation of the Sisters of St. Joseph
Upper East Side for Change (UESFC)
Ursuline Sisters of Cleveland

Violence Policy Center
Violent Crime Survivors
WAVE Educational Fund
Women Against Gun Violence
Women for Weapons Trade Transparency

(list above amended and re-published December 11, 2023)

Notes:

¹ U.S. Department of State, "Final Rules for Oversight of Firearms Exports," January 23, 2020, <https://2017-2021.state.gov/proposed-rules-for-oversight-of-firearms-exports-published-for-public-comment/index.html>; U.S. Department of Commerce, "USML Categories I-III: Firearms and Related items – Transitioned to the EAR," August 18, 2020, <https://www.bis.doc.gov/index.php/documents/2020-virtual-conference/2614-usml-categories-i-iii-to-ccl-firearms/file>.

² David Sherfinski, "Trump officials to roll back rules on some gun exports," *The Washington Times*, May 1, 2018, <https://m.washingtontimes.com/news/2018/may/1/trump-officials-to-roll-back-rules-on-some-gun-exp/>. It should also be noted that Walmart does not operate in more than 100 nations (see: <https://corporate.walmart.com/our-story/our-locations> and that in the United States Walmart does not sell semi-automatic assault rifles, high capacity magazines, or even (except in Alaska) handguns. See: <https://news.walmart.com/2018/02/28/walmart-statement-on-firearms-policy>).

³ House Committee on Foreign Affairs, Subcommittee on Oversight and Investigations, "Proposed Small Arms Transfers: Big Implications for U.S. Foreign Policy," Hearing, March 26, 2019, pp. 12-26, <https://www.congress.gov/116/meeting/house/109161/documents/HHRG-116-FA17-Transcript-20190326.pdf>; Letter from Senator Robert Menendez, et al., to President Joseph R. Biden, Jr., April 19, 2021, <https://www.foreign.senate.gov/imo/media/doc/04-19-21%20Menendez%20Leahy%20Feinstein%20letter%20to%20Biden%20re%20small%20arms%20export%20control%20lists.pdf>.

⁴ Bloomberg, "The US Is Pushing Guns on a Country It Labels Violent and Corrupt," Monte Reel, August 10, 2023, <https://www.bloomberg.com/graphics/2023-us-gun-violence-border-crisis-guatemala/#xj4y7vzkg>; Letter from Senator Elizabeth Warren, et al., to Commerce Secretary Gina Raimondo, September 28, 2022, <https://www.warren.senate.gov/imo/media/doc/Letter%20to%20%20Commerce%20re%20assault%20weapons%20exports.pdf>. According to the most recent Commerce Department report, it has approved 24,741 licenses with a total approval value of \$34.7 billion since March 2020.

⁵ 22 CFR § 123.15.

⁶ See analysis provided at <https://www.forumarmstrade.org/catitooiii.html> comparing official reports from the Commerce Department, which for March 2020-June 2021 provided a breakdown of export destinations for those items moved to their oversight under the "Eighth Change." Destination information specific to this change is missing in more recent reports.