

118TH CONGRESS
1ST SESSION

H. R. 1801

To enhance the consideration of human rights in arms exports.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2023

Mr. MEEKS (for himself, Ms. WILD, Ms. SPANBERGER, Ms. JACOBS, Mr. CASTRO of Texas, and Mr. PHILLIPS) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To enhance the consideration of human rights in arms exports.

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 “Safeguarding Human
5 Rights in Arms Exports Act of 2023” or the “SAFE-
6 GUARD Act of 2023”.

1 **SEC. 2. STATEMENT OF POLICY ON CONTROL OF DEFENSE**
2 **EXPORTS AND PROTECTION OF HUMAN**
3 **RIGHTS.**

4 It is the policy of the United States that one of the
5 purposes for controlling the export of defense articles and
6 defense services to foreign countries is to prevent such ex-
7 ports from being used in violation of international humani-
8 tarian law or internationally recognized human rights, to
9 require accountability for any such violations, and to en-
10 sure that the sale, export, or transfer of such articles and
11 services serves to encourage governments of foreign coun-
12 tries to fully comply with international humanitarian law
13 and observe internationally recognized human rights.

14 **SEC. 3. PROHIBITION OF ARMS SALES TO COUNTRIES COM-**
15 **MITTING GENOCIDE OR WAR CRIMES.**

16 (a) IN GENERAL.—No sale, export, or transfer of de-
17 fense articles or defense services may occur to any country
18 if the Secretary of State has credible information that the
19 government of such country has committed or is commit-
20 ting genocide or violations of international humanitarian
21 law after the date of the enactment of this Act.

22 (b) EXCEPTION.—The restriction under subsection
23 (a) shall not apply if the Secretary of State certifies to
24 the appropriate congressional committees that—

25 (1) the government has adequately punished the
26 persons directly or indirectly responsible for such

1 acts through a credible, transparent, and effective
2 judicial process;

3 (2) appropriate measures have been instituted
4 to ensure that such acts will not recur; and

5 (3) other appropriate compensation or appro-
6 priate compensatory measures have been or are
7 being provided to the persons harmed by such acts.

8 **SEC. 4. MISUSE OF ARMS SALES FOR HUMAN RIGHTS**
9 **ABUSES.**

10 (a) IN GENERAL.—The President shall ensure that—

11 (1) the sale, export, or transfer of any defense
12 article or defense service to a foreign country or
13 international organization shall be pursuant to an
14 agreement that the government of such country or
15 such international organization will not use such ar-
16 ticle or service in the commission, or to enable the
17 commission, of a violation of international humani-
18 tarian law or internationally recognized human
19 rights;

20 (2) the United States Government has the legal
21 right to require the return of any defense articles
22 sold, exported, or transferred to a foreign country or
23 international organization if the government of such
24 country or such organization has used United
25 States-origin defense articles in the commission, or

1 has enabled the commission, of a violation of inter-
2 national humanitarian law or internationally recog-
3 nized human rights; and

4 (3) if defense articles are sold, exported, or
5 transferred to a foreign country in a manner in
6 which the intended end-user has not been identified
7 at the unit level for human rights vetting, the agree-
8 ment for such sale, export, or transfer includes a list
9 of units ineligible to receive such articles, consistent
10 with applicable provisions of United States law.

11 (b) ELIGIBILITY FOR DEFENSE SERVICES OR ARTI-
12 CLES.—

13 (1) ARMS EXPORT CONTROL ACT.—Section 3(a)
14 of the Arms Export Control Act (22 U.S.C.
15 2753(a)) is amended—

16 (A) in paragraph (1), by striking “and
17 promote world peace” and inserting “, promote
18 world peace, and is unlikely to contribute to
19 human rights abuses”;

20 (B) in paragraph (3), by striking “; and”
21 and inserting a semicolon;

22 (C) by redesignating paragraph (4) as
23 paragraph (5); and

24 (D) by inserting after paragraph (3) the
25 following new paragraph:

1 “(4) the country or international organization
2 has agreed not to use such article or service in the
3 commission, or to enable the commission, of a viola-
4 tion of international humanitarian law or inter-
5 nationally recognized human rights; and”.

6 (2) FOREIGN ASSISTANCE ACT OF 1961.—Sec-
7 tion 505 of the Foreign Assistance Act of 1961 (22
8 U.S.C. 2314(a)) is amended—

9 (A) in subsection (a)—

10 (i) in paragraph (3), by striking “;
11 and” and inserting a semicolon;

12 (ii) by redesignating paragraph (4) as
13 paragraph (5); and

14 (iii) by inserting after paragraph (3)
15 the following new paragraph:

16 “(4) the country or international organization
17 has agreed not to use such articles or service in the
18 commission, or to enable the commission, of a viola-
19 tion of international humanitarian law or inter-
20 nationally recognized human rights; and”;

21 (B) in subsection (e), by striking “sub-
22 section (a)(1) or (a)(4)” both places it appears
23 and inserting “subsection (a)(1) or (a)(5)”.

1 (c) AUTHORIZED PURPOSE FOR MILITARY SALES.—
2 Section 4 of the Arms Export Control Act (22 U.S.C.
3 2754) is amended—

4 (1) by inserting “legitimate” before “internal
5 security”; and

6 (2) by inserting “, provided that such defense
7 articles and defense services will not present a sig-
8 nificant risk of being used to violate international
9 humanitarian law or internationally recognized
10 human rights” after “such friendly countries”.

11 **SEC. 5. CONSIDERATION OF HUMAN RIGHTS AND DEMOC-**
12 **RATIZATION IN ARMS EXPORTS.**

13 (a) IN GENERAL.—In considering the sale, export, or
14 transfer of defense articles and defense services to foreign
15 countries, the Secretary of State shall—

16 (1) also consider the extent to which the gov-
17 ernment of the foreign country protects human
18 rights and supports democratic institutions, includ-
19 ing an independent judiciary; and

20 (2) ensure that the views and expertise of the
21 Bureau of Democracy, Human Rights, and Labor of
22 the Department of State in connection with any sale,
23 export, or transfer are fully taken into account.

24 (b) INSPECTOR GENERAL OVERSIGHT.—Not later
25 than one year after the date of the enactment of this Act,

1 and annually thereafter for four years, the Inspector Gen-
2 eral of the Department of State shall submit to the appro-
3 priate congressional committees a report on the implemen-
4 tation of the requirement under subsection (a) during the
5 preceding year.

6 **SEC. 6. ENHANCEMENT OF CONGRESSIONAL OVERSIGHT**
7 **OF HUMAN RIGHTS IN ARMS EXPORTS.**

8 (a) IN GENERAL.—Any letter of offer to sell, or any
9 application for a license to export or transfer, defense arti-
10 cles or defense services controlled for export shall be sub-
11 ject to the congressional review and disapproval require-
12 ments, regardless of monetary value, of section 36 of the
13 Arms Export Control Act (22 U.S.C. 2776) if the Sec-
14 retary of State has credible information, with respect to
15 a country to which the defense articles or defense services
16 are proposed to be sold, exported, or transferred, that—

17 (1) the government of such country on or after
18 the date of enactment of this Act has been deposed
19 by a coup d’etat or decree in which the military
20 played a decisive role, and a democratically elected
21 government has not taken office subsequent to the
22 coup or decree; or

23 (2) a unit of the security forces of the govern-
24 ment of such country—

1 (A) has violated international humani-
2 tarian law and has not been credibly inves-
3 tigated and subjected to a credible and trans-
4 parent judicial process addressing such allega-
5 tion; or

6 (B) has committed a gross violation of
7 human rights, and has not been credibly inves-
8 tigated and subjected to a credible and trans-
9 parent judicial process addressing such allega-
10 tion, including, inter alia—

11 (i) torture or rape;

12 (ii) ethnic cleansing of civilians;

13 (iii) recruitment or use of child sol-
14 diers;

15 (iv) unjust or wrongful detention;

16 (v) the operation of, or effective con-
17 trol or direction over, secret detention fa-
18 cilities; or

19 (vi) extrajudicial killings, whether by
20 military, police, or other security forces.

21 (b) INCLUSION OF INFORMATION IN HUMAN RIGHTS
22 REPORT.—The Secretary of State shall also provide to the
23 appropriate congressional committees the report described
24 in section 502B(c) of the Foreign Assistance Act (22
25 U.S.C. 2304(c)) biannually for the period of time specified

1 in subsection (c) of this section regarding any country cov-
2 ered under subsection (a).

3 (c) DURATION.—

4 (1) IN GENERAL.—With respect to a letter of
5 offer to sell or an application for a license to sell,
6 export, or transfer described in subsection (a), the
7 letter or application shall be subject to the require-
8 ments and procedures for congressional review and
9 disapproval under section 36 of the Arms Export
10 Control Act (22 U.S.C. 2776) for 2 years after the
11 date on which the Secretary of State receives the in-
12 formation described in subsection (a).

13 (2) TERMINATION.—

14 (A) IN GENERAL.—With respect to such a
15 letter or application, the enhanced congressional
16 oversight under subsections (a) and paragraph
17 (1) of this subsection shall terminate on the
18 date on which the Secretary of State determines
19 and so informs the appropriate congressional
20 committees that—

21 (i) the credible information described
22 in subsection (a)(2) is inaccurate; or

23 (ii) the activity has ceased, and the
24 government of the applicable country has
25 taken appropriate steps to ensure that

1 nished under this Act, the Arms Export Control Act, or
2 any other provision of law controlling the export or trans-
3 fer of such articles and services”.

4 **SEC. 8. END-USE MONITORING OF MISUSE OF ARMS IN**
5 **HUMAN RIGHTS ABUSES.**

6 (a) **END-USE MONITORING.**—Section 40A(a)(2)(B)
7 of the Arms Export Control Act (22 U.S.C. 2785) is
8 amended—

9 (1) in clause (i), by striking “; and” and insert-
10 ing a semicolon;

11 (2) in clause (ii), by striking the period at the
12 end and inserting “; and”; and

13 (3) by adding at the end the following new
14 clause:

15 “(iii) such articles and services are
16 not being used to violate international hu-
17 manitarian law or internationally recog-
18 nized human rights.”.

19 (b) **REPORT.**—The Secretary shall report to the ap-
20 propriate congressional committees on the measures that
21 will be taken, including any additional resources needed,
22 to conduct an effective end-use monitoring program to ful-
23 fill the requirement of clause (iii) of section 40A(a)(2)(B)
24 of the Arms Export Control Act, as added by subsection
25 (a)(3).

1 **SEC. 9. HUMAN RIGHTS ELEMENTS IN AUXILIARY RE-**
2 **PORTS.**

3 Section 36(b)(1) of the Arms Export Control Act (22
4 U.S.C. 2776(b)(1)) is amended—

5 (1) in subparagraph (O), by striking “; and”
6 and inserting a semicolon;

7 (2) in subparagraph (P), by striking the period
8 at the end and inserting “; and”; and

9 (3) by adding at the end the following new sub-
10 paragraph:

11 “(Q) an assessment of the risk that such
12 defense articles or defense services will be used
13 in the commission of violations of international
14 humanitarian law or internationally recognized
15 human rights, and a description of any meas-
16 ures to be taken by the recipient government or
17 by the United States to prevent and monitor
18 any such use.”.

19 **SEC. 10. REQUIREMENT FOR CERTAIN WEAPONS TO BE**
20 **SUBJECT TO CONDITIONS AND END-USE**
21 **MONITORING AS FOREIGN MILITARY SALES.**

22 Beginning on the date that is 180 days after the date
23 of the enactment of this Act, the following defense articles
24 may be sold, exported, or transferred only pursuant to sec-
25 tion 36(b) of the Arms Export Control Act (22 U.S.C.
26 2776(b)):

1 (1) Rockets, space launch vehicles, missiles,
2 bombs (including equipment to enable precision
3 guidance), torpedoes, depth charges, mines, and gre-
4 nades.

5 (2) Armored combat ground vehicles, including
6 ground vehicles and trailers that are armed or are
7 specially designed to be used as a firing or launch
8 platform to deliver munitions or otherwise destroy or
9 incapacitate targets, excluding any unarmed ground
10 vehicles, regardless of origin or designation, manu-
11 factured prior to 1956 and unmodified since 1955.

12 (3) Aircraft, whether manned, unmanned, re-
13 motely piloted, or optionally piloted, as follows:

14 (A) Bombers.

15 (B) Fighters, fighter/bombers, and fixed-
16 wing attack aircraft.

17 (C) Turbofan- or turbojet-powered trainers
18 used to train pilots for fighter, attack, or bomb-
19 er aircraft.

20 (D) Attack helicopters.

21 (E) Unmanned aerial vehicles (UAVs) spe-
22 cially designed to incorporate a defense article.

23 (F) Aircraft specially designed to incor-
24 porate a defense article for the purpose of per-

1 forming an intelligence, surveillance, and recon-
2 naissance function.

3 (G) Aircraft specially designed to incor-
4 porate a defense article for the purpose of per-
5 forming an electronic warfare function, airborne
6 warning and control aircraft, or aircraft spe-
7 cially designed to incorporate a defense article
8 for the purpose of performing a command, con-
9 trol, and communications function.

10 **SEC. 11. DEFINITIONS.**

11 In this Act:

12 (1) The term “appropriate congressional com-
13 mittees” means—

14 (A) the Committee on Foreign Relations
15 and the Committee on Appropriations of the
16 Senate; and

17 (B) the Committee on Foreign Affairs and
18 the Committee on Appropriations of the House
19 of Representatives.

20 (2) The terms “defense article” and “defense
21 service” have the same meanings given the terms in
22 section 47 of the Arms Export Control Act (22
23 U.S.C. 2794).

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