

# POLITICAL EXPORT REFORM

## BACKGROUND

On October 27, 2023, the Commerce Department's Bureau of Industry and Security (BIS) implemented a major and unprecedented policy change halting the issuance of new export licenses for firearms, related parts, shotguns, optics and ammunition, for 90 days to non-government agencies, with the exceptions at the time of publication for Ukraine, Israel and Country Group A:1, which consists of NATO and Wassenaar Arrangement partner countries. Hundreds of license applications were immediately held up, including the A:1 group of NATO and partner countries and U.S. Government sponsored or supported programs which were frozen for 45 days. BIS stated the so-called 90-day "pause" was to "assess current firearm export control review policies to determine whether any changes are warranted to advance U.S. national security and foreign policy interests."

On April 30, 2024, BIS issued an interim final rule (IFR<sup>1</sup>), effective May 30, 2024, and well before the public comment period closed on July 1, 2024, that details strict and overreaching new export regulations for firearms and related items. The new licensing policy is contrary to the Export Control Reform Act of 2018<sup>2</sup>, 50 U.S.C. §§4801-4852, is redundant, adds unnecessary new export license burdens, and is contrary to the facts presented in reports issued by various U.S. Government firearm enforcement agencies.

## SUMMARY OF FIREARM LICENSING POLICY CHANGES

Under the IFR, firearm export licenses are reduced to just one year from a four-year lifespan. Four

- The politically motivated BIS IFR is composed of overreaching new export regulations for firearms and related items.
- NSSF estimates that the IFR will have an economic impact of nearly \$500 million annually towards industry. So far, the IFR has cost reportedly over \$200 million according to a mere fraction of industry.
- NSSF supports the efforts of legislators on the Hill including various letters, appropriations amendments, subpoenas, and legislation, including the Protect American Gun Exporters Act (H.R.6504/ S.3531) and H.J. Res.164/ S.J.Res.93.

new Export Control Classification Numbers (ECCN) have been created. One each for semiautomatic rifles, pistols and shotguns. And one for certain firearm parts for which the control language is so vague that it is nearly impossible to determine the items being controlled. Licenses are being approved on an inefficient and time-consuming case-by-case basis with a presumption of denial for commercial firearm export licenses to those countries arbitrarily identified by the State Department as "at risk," which include 36 countries – mostly in Latin America, the Caribbean and Southeast Asia. All existing previously approved firearm export licenses to so-called "high risk" countries were revoked 60 days after the Interim Final Rule went into effect. Additionally, those U.S. companies with existing firearm export licenses to these countries are required to re-apply for new licenses which will be reviewed under the new restrictive licensing policy. The annual firearm license application caseload will increase to approximately 16,600 cases, or more than double the previous average caseload of 7,700 per year—a 115% increase—for which BIS is not adequately funded or staffed to handle. The IFR restricts

the use of license exceptions to most of the world, including certain trusted allies and partner nations, with no explanation for the regulatory change. The new licensing requirement for sporting shotguns and optical devices to trusted Wassenaar Arrangement countries is an abrupt reversal of the December 2023 final rule removing license requirements for these low technology commodities, is completely contrary to BIS's strong recognition of adequate export and human rights controls in these countries, and has hamstrung U.S. manufacturers of sporting shotguns and optics ability to compete in foreign markets. New reporting requirements and certain additional support documents are weighing down the process and are broadly required, even for trusted ally countries.

While the firearm industry has always agreed with the goals of national security and reducing the illegal diversion of firearms, the IFR's stated license policy and regulatory changes are unduly burdensome and will have a significant negative impact on the legal export of all firearms worldwide without providing a similarly significant increase in national security.

## COST TO INDUSTRY

NSSF estimates that the economic impact to the firearm industry and overall cost of the rule will be nearly \$500 million annually. In the short time the BIS IFR has been in effect, however, a mere fraction of our industry has reported over \$200 million in lost business in just the first few months of enactment. It clearly exceeds the threshold to qualify as a major rule and is far above the farcically low \$10 million estimate that U.S. Commerce Secretary Gina Raimondo and other BIS senior management officials have been telling NSSF and the Hill. For the industry members whose doors haven't been shuttered yet because of BIS's draconian rule, they are being placed at a competitive disadvantage in the international marketplace and ties with longstanding commercial partners and allies are ending.

## UNDER THE GUISE OF NATIONAL SECURITY

There have been recent attempts to conflate the illegal diversion/smuggling of firearms and ammunition that are misused to commit human rights violations with lawful commercial sales to well-established longstanding customers. ATF's report, National Firearms Commerce and Trafficking

Assessment (NFCTA): Crime Guns – Volume Two, PART IV: Crime Guns Recovered Outside the United States and Traced by Law Enforcement<sup>3</sup>, published January 2023 proves this wrong. According to the report, recovered and traced crime guns represent 0.67% of the total (2,793,002) firearms lawfully exported out of the U.S. between 2016 and 2020. The other 99.33% of U.S. firearms legally exported are NOT used in crime. Lawfully exported products are NOT ending up in conflict zones being used to commit human rights violations. In addition, by allowing the export of U.S. arms and ammunition, BIS has insight into who the foreign end users are and has a nexus to these entities for enforcement and compliance with U.S. export controls. If commercial sales of firearms continue to be banned, the unintended reverse effect will be higher risk of diversion, and increased exports to riskier, even terrorist, countries. It is very clear that the demand for firearms will not disappear. In fact, the demand for firearms will be met by other countries that manufacture these products seeking to expand their global reach (e.g. a new firearm manufacturing facility that is currently being set up in Paraguay jointly between a local company and a Turkish firearm manufacturer that

will be producing AR-type rifles and semi-automatic pistols) and other countries which do not have the high-level export controls of the U.S. and other Wassenaar Agreement countries, including China.

## CONGRESSIONAL ACTION

Since the Export Control Reform initiative (aka USML to CCL Transition), which started under President Barack Obama and was completed by President Donald Trump, there have been attempts to reverse it or scale back reforms ever since. The latest is BIS's IFR. NSSF is appreciative of congressional efforts to aggressively push back against BIS and provide much-needed oversight, including various letters, appropriations amendments, subpoenas, and legislation, including the Protect American Gun Exporters Act (H.R.6504<sup>4</sup>/ S.3531<sup>5</sup>), introduced by Rep. Mark Green (R-TN) and Sen. Mike Lee (R-UT), which would have put a stop to the "pause" and would help prevent future substantially similar actions unless certain criteria is met, and H.J.Res.164<sup>6</sup> and S.J.Res.93<sup>7</sup>, introduced by Rep. Mark Green and Sen. Bill Hagerty (R-TN) to utilize the Congressional Review Act to disapprove BIS's IFR and reassert Congress's authority to put an end to this misguided, antigun endeavor.

<sup>1</sup> <https://www.federalregister.gov/documents/2024/04/30/2024-08813/revision-of-firearms-license-requirements>

<sup>2</sup> H.R.5040 - 115th Congress (2017-2018): Export Control Reform Act of 2018, H.R.5040, 115th Cong. (2018), <https://www.congress.gov/bills/115/congress/house-bill/5040>.

<sup>3</sup> <https://www.atf.gov/firearms/docs/report/nfcta-volume-ii-part-iv-crime-guns-recovered-outside-us-and-traced-le/download>

<sup>4</sup> H.R.6504 - 118th Congress (2023-2024): Protect

American Gun Exporters Act, H.R.6504, 118th Cong. (2023), <https://www.congress.gov/bills/118th-congress/house-bill/6504>.

<sup>5</sup> S.3531 - 118th Congress (2023-2024): Protect American Gun Exporters Act, S.3531, 118th Cong. (2023), <https://www.congress.gov/bills/118th-congress/senate-bill/3531>.

<sup>6</sup> H.J.Res.164 - 118th Congress (2023-2024): Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Commerce relating to "Revision of Fire-

arms License Requirements", H.J.Res.164, 118th Cong. (2024), <https://www.congress.gov/bills/118th-congress/house-joint-resolution/164>.

<sup>7</sup> S.J.Res.93 - 118th Congress (2023-2024): A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Commerce relating to "Revision of Firearms License Requirements", S.J.Res.93, 118th Cong. (2024), <https://www.congress.gov/bills/118th-congress/senate-joint-resolution/93>.

**NSSF**  
The Firearm Industry  
Trade Association