AMENDMENT TO RULES COMM. PRINT 117–54

OFFERED BY MR. MCGOVERN OF MASSACHUSETTS

At the end of division E, add the following:

TITLE LIX—PROHIBITION OF ARMS SALES TO COUNTRIES COMMITTING GENOCIDE OR WAR CRIMES AND RELATED MATTERS

SEC. 5901. PROHIBITION OF ARMS SALES TO COUNTRIES COMMITTING GENOCIDE OR WAR CRIMES.

(a) IN GENERAL.—No sale, export, or transfer of defense articles or defense services may occur to any country if the Secretary of State has credible information that the government of such country has committed or is committing genocide or violations of international humanitarian law after the date of the enactment of this Act.

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

(1) the government has adequately punished the persons directly or indirectly responsible for such
acts through a credible, transparent, and effective judicial process;

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

(3) other appropriate compensation or appropriate compensatory measures have been or are being provided to the persons harmed by such acts.

SEC. 5902. CONSIDERATION OF HUMAN RIGHTS AND DEMOCRATIZATION IN ARMS EXPORTS.

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

(1) also consider the extent to which the government of the foreign country protects human rights and supports democratic institutions, including an independent judiciary; and

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

(b) INSPECTOR GENERAL OVERSIGHT.—Not later than one year after the date of the enactment of this Act, and annually thereafter for four years, the Inspector General of the Department of State shall submit to the appropriate congressional committees a report on the implemen-
Sec. 5903. Enhancement of Congressional Oversight of Human Rights in Arms Exports.

(a) In General.—Any letter of offer to sell, or any application for a license to export or transfer, defense articles or defense services controlled for export shall be subject to the congressional review and disapproval requirements, regardless of monetary value, of section 36 of the Arms Export Control Act (22 U.S.C. 2776) if the Secretary of State has credible information, with respect to a country to which the defense articles or defense services are proposed to be sold, exported, or transferred, that—

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

(2) a unit of the security forces of the government of such country—

(A) has violated international humanitarian law and has not been credibly investigated and subjected to a credible and trans-
parent judicial process addressing such allegation; or

(B) has committed a gross violation of human rights, and has not been credibly investigated and subjected to a credible and transparent judicial process addressing such allegation, including, inter alia—

(i) torture or rape;

(ii) ethnic cleansing of civilians;

(iii) recruitment or use of child soldiers;

(iv) unjust or wrongful detention;

(v) the operation of, or effective control or direction over, secret detention facilities; or

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

(b) Inclusion of Information in Human Rights Report.—The Secretary of State shall also provide to the appropriate congressional committees the report described in section 502B(c) of the Foreign Assistance Act (22 U.S.C. 2304(c)) biannually for the period of time specified in subsection (e) of this section regarding any country covered under subsection (a).

(c) Duration.—
(1) In general.—With respect to a letter of offer to sell or an application for a license to sell, export, or transfer described in subsection (a), the letter or application shall be subject to the requirements and procedures for congressional review and disapproval under section 36 of the Arms Export Control Act (22 U.S.C. 2776) for 2 years after the date on which the Secretary of State receives the information described in subsection (a).

(2) Termination.—

(A) In general.—With respect to such a letter or application, the enhanced congressional oversight under subsections (a) and paragraph (1) of this subsection shall terminate on the date on which the Secretary of State determines and so informs the appropriate congressional committees that—

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

(ii) the activity has ceased, and the government of the applicable country has taken appropriate steps to ensure that such activity does not recur, including appropriate punishment for the person or persons involved in such activity.
(B) INFORMATION SUPPORTING DETERMINATION.—The Secretary of State shall submit to the appropriate congressional committees all information forming the basis for a determination under subparagraph (A). The determination shall, to the fullest extent possible, be unclassified, but may include a classified annex.

(d) MODIFICATION OF PRIOR NOTIFICATION OF SHIPMENT OF ARMS.—Section 36(i) of the Arms Export Control Act (22 U.S.C. 2776(i)) is amended by striking “subject to the requirements of subsection (b) at the joint request of the Chairman and Ranking Member” and inserting “subject to the requirements of this section at the request of the Chairman or Ranking Member”.

SEC. 5904. END USE MONITORING OF MISUSE OF ARMS IN HUMAN RIGHTS ABUSES.

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

(1) in clause (i), by striking “; and” and inserting a semicolon;

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

(3) by adding at the end the following new clause:
“(iii) such articles and services are not being used to violate international humanitarian law or internationally recognized human rights.”.

(b) REPORT.—The Secretary shall report to the appropriate congressional committees on the measures that will be taken, including any additional resources needed, to conduct an effective end-use monitoring program to fulfill the requirement of clause (iii) of section 40A(a)(2)(B) of the Arms Export Control Act, as added by subsection (a)(3).

SEC. 5905. DEFINITIONS.

In this title:

(1) The term “appropriate congressional committees” means—

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

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

(2) The terms “defense article” and “defense service” have the same meanings given the terms in

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