

AMENDMENT TO RULES COMM. PRINT 117-54
OFFERED BY MR. MCGOVERN OF
MASSACHUSETTS

At the end of division E, add the following:

1 **TITLE LIX—PROHIBITION OF**
2 **ARMS SALES TO COUNTRIES**
3 **COMMITTING GENOCIDE OR**
4 **WAR CRIMES AND RELATED**
5 **MATTERS**

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

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

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

17 (1) the government has adequately punished the
18 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. 5902. CONSIDERATION OF HUMAN RIGHTS AND DE-**
9 **MOCRATIZATION IN ARMS EXPORTS.**

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

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

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

21 (b) **INSPECTOR GENERAL OVERSIGHT.**—Not later
22 than one year after the date of the enactment of this Act,
23 and annually thereafter for four years, the Inspector Gen-
24 eral of the Department of State shall submit to the appro-
25 priate congressional committees a report on the implemen-

1 tation of the requirement under subsection (a) during the
2 preceding year.

3 **SEC. 5903. ENHANCEMENT OF CONGRESSIONAL OVER-**
4 **SIGHT OF HUMAN RIGHTS IN ARMS EXPORTS.**

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

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

20 (2) a unit of the security forces of the govern-
21 ment of such country—

22 (A) has violated international humani-
23 tarian law and has not been credibly inves-
24 tigated and subjected to a credible and trans-

1 parent judicial process addressing such allega-
2 tion; or

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

8 (i) torture or rape;

9 (ii) ethnic cleansing of civilians;

10 (iii) recruitment or use of child sol-
11 diers;

12 (iv) unjust or wrongful detention;

13 (v) the operation of, or effective con-
14 trol or direction over, secret detention fa-
15 cilities; or

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

18 (b) INCLUSION OF INFORMATION IN HUMAN RIGHTS
19 REPORT.—The Secretary of State shall also provide to the
20 appropriate congressional committees the report described
21 in section 502B(c) of the Foreign Assistance Act (22
22 U.S.C. 2304(c)) biannually for the period of time specified
23 in subsection (c) of this section regarding any country cov-
24 ered under subsection (a).

25 (c) DURATION.—

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

10 (2) TERMINATION.—

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

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

20 (ii) the activity has ceased, and the
21 government of the applicable country has
22 taken appropriate steps to ensure that
23 such activity does not recur, including ap-
24 propriate punishment for the person or
25 persons involved in such activity.

1 (B) INFORMATION SUPPORTING DETER-
2 MINATION.—The Secretary of State shall sub-
3 mit to the appropriate congressional committees
4 all information forming the basis for a deter-
5 mination under subparagraph (A). The deter-
6 mination shall, to the fullest extent possible, be
7 unclassified, but may include a classified annex.

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

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

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

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

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

24 (3) by adding at the end the following new
25 clause:

1 “(iii) such articles and services are
2 not being used to violate international hu-
3 manitarian law or internationally recog-
4 nized human rights.”.

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

12 **SEC. 5905. DEFINITIONS.**

13 In this title:

14 (1) The term “appropriate congressional com-
15 mittees” means—

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

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

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

1 section 47 of the Arms Export Control Act (22
2 U.S.C. 2794).

