

**AMENDMENT TO RULES COMM. PRINT 117-54**  
**OFFERED BY MS. JACOBS OF CALIFORNIA**

At the appropriate place in title LVIII, insert the following:

1 **SEC. \_\_\_\_ . VALUE IN ARMS EXPORT ACT OF 2022.**

2 (a) MONITORING AND VERIFICATION OF USE OF DE-  
3 FENSE ARTICLES AND DEFENSE SERVICES.—Chapter 3A  
4 of the Arms Export Control Act (22 U.S.C. 2785) is  
5 amended—

6 (1) by redesignating the second section des-  
7 ignated section 40A as section 40B; and

8 (2) by inserting after section 40B, as so redес-  
9 ignated, the following new section:

10 **“SEC. 40C. MONITORING AND VERIFICATION OF USE OF DE-**  
11 **FENSE ARTICLES AND DEFENSE SERVICES.**

12 “(a) PRINCIPLES.—

13 “(1) STATEMENT OF POLICY.—It is the policy  
14 of the United States that a country’s respect for and  
15 compliance with internationally recognized principles  
16 of human rights and the law of war are central and  
17 deciding factors in determining the eligibility of the  
18 country to purchase defense articles or defense serv-  
19 ices under this Act.

1           “(2) EXAMPLES OF INCONSISTENT ACTIONS  
2           AND BEHAVIORS.—Actions or behavior by a country  
3           inconsistent with the principles described in para-  
4           graph (1) include the following:

5                   “(A) Gross violations of internationally  
6                   recognized human rights (as defined in section  
7                   502B(d) of the Foreign Assistance Act of 1961  
8                   (22 U.S.C. 2304(d))).

9                   “(B) Failure to adhere to standards of  
10                  proportionality and discrimination.

11                  “(C) Patterns or egregious incidents of de-  
12                  struction or damage of medical facilities or  
13                  other civilian infrastructure.

14                  “(D) Patterns or egregious incidents of  
15                  harming or disregard for the safety of medical  
16                  personnel, aid workers, peacekeepers, or jour-  
17                  nalists.

18                  “(E) Patterns or egregious incidents of  
19                  harming or disregard for the safety of civilians.

20                  “(F) The denial of humanitarian relief re-  
21                  sulting in serious harm to civilian populations.

22                  “(G) Gross or systemic corruption, lack of  
23                  transparency, or lack of accountability in the  
24                  government or among security forces.

1           “(3) REPORTING OF INCONSISTENT ACTIONS  
2           AND BEHAVIORS.—

3                   “(A) REPORTS BY OFFICERS OR EMPLOY-  
4                   EES OF UNITED STATES.—Any officer or em-  
5                   ployee of the United States Government sta-  
6                   tioned in a country with knowledge of action or  
7                   behavior by that country that is inconsistent  
8                   with the principles described in paragraph (1)  
9                   shall report the action or behavior to the chief  
10                  of mission (as defined in section 102 of the  
11                  Foreign Service Act of 1980 (22 U.S.C. 3902))  
12                  for that country.

13                   “(B) REPORTING TO SECRETARY OF  
14                   STATE.—A chief of mission that receives a re-  
15                   port under subparagraph (A) with respect to an  
16                   action or behavior shall promptly report the ac-  
17                   tion or behavior to the Secretary of State.

18                   “(C) REPORTING TO CONGRESS.—Not  
19                   later than seven days after the Secretary re-  
20                   ceives a report under subparagraph (B) with re-  
21                   spect to an action or behavior, the Secretary  
22                   shall submit to Congress a report on the action  
23                   or behavior. The report shall be submitted in  
24                   unclassified form, but may include a classified

1 annex if necessary. The report shall include at  
2 a minimum the following information:

3 “(i) The title or subject of each re-  
4 port.

5 “(ii) A description of significant prob-  
6 lems, abuses, and deficiencies related to  
7 the inconsistent actions and behaviors of  
8 the country in question.

9 “(iii) A description of the evidence or  
10 information used to form the basis for the  
11 report.

12 “(4) INTELLIGENCE COMMUNITY REPORTING.—  
13 The Director of National Intelligence may specify  
14 additional reporting procedures for officers or em-  
15 ployees who are members of the intelligence commu-  
16 nity. Such procedures shall encompass reporting and  
17 analysis of information relevant to the principles de-  
18 scribed in this subsection but which may be insuffi-  
19 ciently verified or not of sufficient severity for re-  
20 porting under paragraph (3).

21 “(5) INCLUSION IN INTELLIGENCE PRIOR-  
22 ITIES.—The Director of National Intelligence shall  
23 ensure that collection and analysis of information re-  
24 lated to the principles described in this subsection is

1 included in each National Intelligence Priorities  
2 Framework, or any successor directive.

3 “(b) MONITORING AND VERIFICATION PROGRAM.—

4 “(1) IN GENERAL.—The Secretary of Defense  
5 shall carry out a program of monitoring and  
6 verification of the use of defense articles and defense  
7 services acquired under this Act by countries of con-  
8 cern.

9 “(2) ELEMENTS.—The program established  
10 under this subsection shall include the following ele-  
11 ments:

12 “(A) The observation and evaluation by  
13 members of the United States Armed Forces of  
14 the targeting process used by the country of  
15 concern, the employment of the acquired de-  
16 fense articles by the country of concern, the re-  
17 turn of any unused defense articles, and the  
18 post-use assessment of damage and casualties.

19 “(B) Employment by the Secretary of De-  
20 fense of direct observation, real-time video  
21 feeds, other real-time sensory data and collec-  
22 tion methods, and other appropriate sources of  
23 information that can be independently authenti-  
24 cated by the United States Government, as op-  
25 posed to reports or other nonobjective media

1           created or provided by a country of concern,  
2           which are not appropriate sources of informa-  
3           tion.

4           “(3) AVAILABILITY AND USE OF INFORMA-  
5           TION.—

6                   “(A) IN GENERAL.—The Secretary of De-  
7                   fense shall make available to the Secretary of  
8                   State, the appropriate congressional commit-  
9                   tees, and the Human Rights and Law of War  
10                  Oversight Board established under section 4 of  
11                  the Values in Arms Export Act of 2022 all in-  
12                  formation collected or evaluated as part of the  
13                  program established under this subsection.

14                  “(B) APPROPRIATE CONGRESSIONAL COM-  
15                  MITTEES DEFINED.—In this paragraph, the  
16                  term ‘appropriate congressional committees’  
17                  means—

18                           “(i) the Committee on Foreign Rela-  
19                           tions, the Committee on Armed Services,  
20                           and the Committee on Appropriations of  
21                           the Senate; and

22                           “(ii) the Committee on Foreign Af-  
23                           fairs, the Committee on Armed Services,  
24                           and the Committee on Appropriations of  
25                           the House of Representatives.

1           “(4) SEPARATE BUDGETARY LINE ITEM.—The  
2           Secretary of Defense shall include in the budget jus-  
3           tification materials submitted to Congress in support  
4           of the Department of Defense budget for each fiscal  
5           year (as submitted with the budget of the President  
6           under section 1105(a) of title 31, United States  
7           Code) specific identification, as a budgetary line  
8           item, of the amounts required for the program es-  
9           tablished under this subsection.

10           “(5) FUNDING.—Funding to carry out the re-  
11           quirements of this section shall be derived from  
12           amounts collected under section 21. The President  
13           shall ensure such charges pursuant to such section  
14           are sufficient to fully meet all requirements of this  
15           section without cost to the United States.

16           “(c) EVALUATION BY THE SECRETARY OF STATE.—

17           “(1) CONSIDERATION OF INFORMATION.—The  
18           Secretary of State—

19           “(A) shall consistently review all relevant  
20           information related to a country of concern to  
21           determine to whether the country has engaged  
22           in any action or behavior inconsistent with the  
23           principles described in subsection (a)(1), includ-  
24           ing—

1 “(i) information gathered through the  
2 program established under subsection (b);

3 “(ii) information from any agency of  
4 the United States Government, including  
5 reports under subsection (a)(3);

6 “(iii) information referred by Mem-  
7 bers of Congress; and

8 “(iv) credible reports or information  
9 gathered by members of the media, non-  
10 governmental organizations, foreign coun-  
11 tries, international organizations, or aca-  
12 demic experts; and

13 “(B) may consider exculpatory information  
14 proffered by the country if—

15 “(i) the information can be independ-  
16 ently authenticated by the United States;

17 “(ii) the country provides access to all  
18 information in its possession about alleged  
19 incidents of the use of security forces of  
20 the country in a manner that is incon-  
21 sistent with the principles described in sub-  
22 section (a)(1); and

23 “(iii) there is no evidence that the  
24 country has attempted to obstruct inves-  
25 tigation by independent parties.



1           “(2) DETERMINATIONS REQUIRED.—In each  
2 case in which a country of concern may have en-  
3 gaged in an action or behavior inconsistent with the  
4 principles described in subsection (a)(1), the Sec-  
5 retary of State, based on United States standards  
6 and policy for the conduct of the United States  
7 Armed Forces or international law, as applicable,  
8 shall make a determination as to the legality and ap-  
9 propriateness of—

10                   “(A) the action or behavior; and

11                   “(B) the employment of defense articles or  
12 defense services acquired under this Act in the  
13 action or behavior.

14           “(d) DESIGNATION OF COUNTRIES OF CONCERN.—

15                   “(1) COUNTRY OF CONCERN DEFINED.—In this  
16 section, the term ‘country of concern’—

17                           “(A) means—

18                                   “(i) a country designated as a country  
19 of concern by the President, the Secretary  
20 of State, the Secretary of Defense, or the  
21 Human Rights and Law of War Oversight  
22 Board established under section 4 of the  
23 Values in Arms Export Act of 2022;

24                                   “(ii) a country designated as a coun-  
25 try of concern by law or by Congress

1 through the adoption of a concurrent reso-  
2 lution; or

3 “(iii) any country with respect to  
4 which the United States has determined  
5 that one or more units of the security  
6 forces of the country is ineligible for assist-  
7 ance pursuant to section 620M of the For-  
8 eign Assistance Act of 1961 (22 U.S.C.  
9 2378d) or section 362 of title 10, United  
10 States Code, notwithstanding any waiver  
11 exercised under such sections; and

12 “(B) does not include the North Atlantic  
13 Treaty Organization, or any member country of  
14 such Organization, Japan, Australia, the Re-  
15 public of Korea, Israel, or New Zealand.

16 “(2) DURATION OF DESIGNATION.—The des-  
17 ignation of a country as a country of concern under  
18 paragraph (1)—

19 “(A) shall remain in effect for a period of  
20 three years; and

21 “(B) may be renewed, before the previous  
22 designation expires, in any manner in which a  
23 designation may be made under paragraph (1).

24 “(3) EXPEDITED PROCEDURES.—

1           “(A) CONSIDERATION IN SENATE.—Any  
2           bill, joint resolution, or concurrent resolution  
3           designating a country as a country of concern  
4           under paragraph (1)(A)(ii) shall be considered  
5           in the Senate in accordance with the provisions  
6           of section 601(b) of the International Security  
7           Assistance and Arms Export Control Act of  
8           1976 (Public Law 94–329; 90 Stat. 765).

9           “(B) CONSIDERATION IN HOUSE OF REP-  
10          RESENTATIVES.—For the purpose of expediting  
11          the consideration of bills, joint resolutions, or  
12          concurrent resolutions designating a country as  
13          a country of concern under paragraph  
14          (1)(A)(ii), a motion to proceed to the consider-  
15          ation of any such bill, joint resolution, or con-  
16          current resolution after it has been reported by  
17          the appropriate committee shall be treated as  
18          highly privileged in the House of Representa-  
19          tives.

20          “(e) INELIGIBILITY FOR SALES AND TRANSFERS.—

21                 “(1) IN GENERAL.—A country shall be ineli-  
22                 gible for sale or transfer of defense articles (includ-  
23                 ing spare parts for such articles) or defense services,  
24                 or the extension of credit (including participation in  
25                 the extension of credit) or loan guarantees under

1 this Act, for a 10-year period beginning on, and  
2 shall immediately discontinue the use of, or return  
3 to the United States, any covered defense articles in  
4 its possession effective as of, the date—

5 “(A) the country is designated a country of  
6 concern under subsection (d) for the second  
7 time in a 10-year period;

8 “(B) the Secretary of State, in consulta-  
9 tion with the Secretary of Defense, determines  
10 that the country, at the end of the three-year  
11 designation period under subsection (d)(2), has  
12 failed to demonstrate sufficient improvement in  
13 adherence to the principles described in sub-  
14 section (a)(1); or

15 “(C) during the three-year designation pe-  
16 riod under subsection (d)(2), the country en-  
17 gages in an action or behavior inconsistent with  
18 those principles.

19 “(2) RESTORATION OF ELIGIBILITY.—A coun-  
20 try may qualify for early termination of the 10-year  
21 ineligibility period under paragraph (1)—

22 “(A) if the Secretary of State determines  
23 and reports to Congress that the government of  
24 the country has taken meaningful steps to cor-

1           rect the deficiencies upon which such ineligi-  
2           bility is based, which shall include—

3                   “(i) enacting and enforcing new laws  
4                   or policy;

5                   “(ii) substantial remedial training for  
6                   government officials and members of the  
7                   military or security forces;

8                   “(iii) in the case of organized armed  
9                   groups that are not part of the formal  
10                  chain of command for regular and irreg-  
11                  ular forces of the country, but that are  
12                  controlled or supported by the country to  
13                  any degree, taking actions to cease any  
14                  support for or affiliation with those organi-  
15                  zations or to cause them to cease partici-  
16                  pation in hostilities; and

17                  “(iv) fully investigating and holding  
18                  accountable individuals at any level who  
19                  were responsible for human rights and law  
20                  of armed conflict violation; and

21                  “(B) upon the enactment of a joint resolu-  
22                  tion approving such early termination of ineligi-  
23                  bility.

24                  “(3) IMMEDIATE LIMITED INELIGIBILITY UPON  
25                  INITIAL DESIGNATION.—A country shall be ineligible

1 for sale or transfer of a covered defense article  
2 under this Act for a three-year period beginning on  
3 the date the country is designated a country of con-  
4 cern.

5 “(4) WAIVER FOR VALID TRAINING.—

6 “(A) IN GENERAL.—The President may  
7 waive the application of this subsection to  
8 International Military Education and Training  
9 (IMET) assistance or training provided by any  
10 United States Government agency, and carried  
11 out by United States Government personnel, re-  
12 lating to the law of armed conflict, human  
13 rights, anticorruption, or similar issues.

14 “(B) LIMITATION ON SCOPE OF WAIVER.—  
15 In no case may a waiver under subparagraph  
16 (A) extend to cover operations that are part of  
17 any armed conflict or any activity that would be  
18 subject to the War Powers Resolution (50  
19 U.S.C. 1541 et seq.).

20 “(5) COVERED DEFENSE ARTICLE DEFINED.—  
21 In this subsection, the term ‘covered defense article’  
22 means—

23 “(A) any defense article in the same cat-  
24 egory of the United States Munitions List as a  
25 defense article determined to have been involved

1 in the country's designation as a country of  
2 concern; and

3 “(B) any spare parts or services related to  
4 the defense article determined to have been in-  
5 volved in the country's designation as a country  
6 of concern.

7 “(f) IMPOSITION OF SANCTIONS WITH RESPECT TO  
8 GOVERNMENT OFFICIALS.—

9 “(1) IN GENERAL.—The Secretary of the  
10 Treasury shall impose sanctions pursuant to the  
11 International Emergency Economic Powers Act (50  
12 U.S.C. 1701 et seq.) with respect to appropriate of-  
13 ficials of the government of a country described in  
14 subsection (e)(1). In imposing such sanctions, the  
15 Secretary shall prioritize senior members of the gov-  
16 ernment, or those in significant leadership positions,  
17 who have authority over the personnel or conduct in-  
18 volved in the country's designation as a country of  
19 concern.

20 “(2) WAIVER.—The President may waive the  
21 imposition of sanctions under paragraph (1) with re-  
22 spect to an official described in that paragraph if the  
23 President—

1           “(A) determines that it is in the vital na-  
2           tional security interests of the United States to  
3           issue the waiver; and

4           “(B) submits to Congress a justification  
5           for the waiver, including a comprehensive expla-  
6           nation for why the official should receive the  
7           waiver.

8           “(3) REPORTS REQUIRED.—Not later than one  
9           year after the date of the enactment of this section,  
10          and annually thereafter, the Secretary of the Treas-  
11          ury shall submit to Congress a report on the imposi-  
12          tion of sanctions under paragraph (1) that in-  
13          cludes—

14                 “(A) a description of any waivers issued  
15                 under paragraph (2); and

16                 “(B) an assessment of the effectiveness of  
17                 the sanctions in changing the action or behavior  
18                 of each country that resulted in ineligibility  
19                 under subsection (e).

20          “(g) REQUIRED AGREEMENT TERMS.—Any agree-  
21          ment for the sale of defense articles or defense services  
22          under this Act entered into after the date of the enactment  
23          of this section shall include terms requiring the country  
24          receiving such articles or services to agree to the require-  
25          ments of this section and to permit and fully cooperate



1 with any investigation by United States Government per-  
2 sonnel into an action or behavior by the country that may  
3 be inconsistent with the principles described in subsection  
4 (a)(1). No such sale or transfer shall be permitted without  
5 inclusion of such requirements.

6 “(h) REPORTS REQUIRED.—

7 “(1) IN GENERAL.—Not later than 180 days  
8 after the date of the enactment of this section, and  
9 every 180 days thereafter, the Secretary of State  
10 shall submit to Congress a report that includes—

11 “(A) an assessment of whether each coun-  
12 try of concern has engaged in actions or behav-  
13 ior inconsistent with the principles described in  
14 subsection (a)(1) during the 180-day period  
15 preceding submission of the report, including  
16 any progress in improving, or worsening of,  
17 such actions or behavior of that country;

18 “(B) an identification of each country of  
19 concern for which, during the 180-day period  
20 following submission of the report—

21 “(i) the designation of the country as  
22 a country of concern will expire;

23 “(ii) more than 10 years will have  
24 elapsed following the designation of the  
25 country as a country of concern; or

1                   “(iii) a 10-year ineligibility period  
2                   under subsection (e) will expire;

3                   “(C) an assessment of any progress made  
4                   during the 180-day period preceding submission  
5                   of the report by a country subject to a 10-year  
6                   ineligibility period under subsection (e) toward  
7                   eligibility for early termination of that period  
8                   under paragraph (2) of that subsection;

9                   “(D) all reports submitted pursuant to  
10                  subsection (a)(3) during the 180-day period  
11                  preceding submission of the report;

12                  “(E) in coordination with the Secretary of  
13                  Defense, the findings of the program estab-  
14                  lished under subsection (b), including any in-  
15                  stances in which a country failed to fully com-  
16                  ply with the program; and

17                  “(F) an identification of any country that  
18                  has failed to fully comply with investigations  
19                  described in subsection (g).

20                  “(2) FORM OF REPORT.—Each report required  
21                  by paragraph (1) shall be submitted in unclassified  
22                  form to the maximum extent possible, but may in-  
23                  clude a classified annex.

24                  “(i) RULE OF CONSTRUCTION.—Nothing in this sec-  
25                  tion shall be construed as authorizing the use of military

1 force or otherwise authorizing the President to introduce  
2 United States forces into hostilities that have not been  
3 specifically authorized by Congress pursuant to the War  
4 Powers Resolution (50 U.S.C. 1541 et seq.).”.

5 (b) REQUIRED ASSESSMENT OF RISK OF EXPORTED  
6 WEAPONS BEING USED TO VIOLATE PRINCIPLES OF  
7 HUMAN RIGHTS OR THE LAW OF ARMED CONFLICT.—

8 (1) LETTERS OF OFFER.—Section 36(b)(1) of  
9 the Arms Export Control Act (22 U.S.C.  
10 2776(b)(1)) is amended—

11 (A) in subparagraph (O), by striking “;  
12 and” and inserting a semicolon;

13 (B) in subparagraph (P), by striking the  
14 period at the end and inserting “; and”; and

15 (C) by inserting after subparagraph (P)  
16 the following new subparagraph:

17 “(Q) an assessment of the risk of the de-  
18 fense articles, defense services, or design and  
19 construction services to be offered being used to  
20 violate principles of human rights or the law of  
21 armed conflict, prepared by the Secretary of  
22 State through the Assistant Secretary for the  
23 Bureau of Democracy, Human Rights, and  
24 Labor, in consultation with the Secretary of

1 Defense and the Director of Central Intel-  
2 ligence.”.

3 (2) EXPORT LICENSE APPLICATIONS.—Section  
4 36(c)(1) of the Arms Export Control Act (22 U.S.C.  
5 2776(e)(1)) is amended—

6 (A) by striking “and (C)” and inserting  
7 “(C)”; and

8 (B) by inserting after “items to be ex-  
9 ported” the following: “, and (D) an assessment  
10 of the risk of the items being used to violate  
11 principles of human rights or the law of armed  
12 conflict, prepared by the Secretary of State  
13 through the Assistant Secretary for the Bureau  
14 of Democracy, Human Rights, and Labor, in  
15 consultation with the Secretary of Defense and  
16 the Director of Central Intelligence”.

17 (c) HUMAN RIGHTS AND LAW OF WAR OVERSIGHT  
18 BOARD.—

19 (1) IN GENERAL.—There is established as an  
20 independent agency within the executive branch a  
21 Human Rights and Law of War Oversight Board  
22 (referred to in this subsection as the “Board”).

23 (2) PURPOSE.—The Board shall—

24 (A) analyze and review the actions and  
25 conduct of recipient countries for strict adher-

1           ence to the law of armed conflict and human  
2           rights principles, and their continual efforts to  
3           improve such adherence; and

4                   (B) ensure that human rights and law of  
5           armed conflict concerns are appropriately con-  
6           sidered in the negotiation, approval, and execu-  
7           tion of arms sales, including as required under  
8           section 40C of the Arms Export Control Act, as  
9           added by subsection (a) of this section.

10           (3) FUNCTIONS.—

11                   (A) ADVICE AND COUNSEL ON POLICY DE-  
12           VELOPMENT    AND    IMPLEMENTATION.—The  
13           Board shall—

14                           (i) review proposed legislation, regula-  
15                           tions, and policies related to international  
16                           arms sales;

17                           (ii) advise the President and the de-  
18                           partments, agencies, and elements of the  
19                           executive branch to ensure that human  
20                           rights and the law of armed conflict are  
21                           appropriately considered in the develop-  
22                           ment and implementation of such legisla-  
23                           tion, regulations, policies, and guidelines;

1 (iii) in providing advice on such pro-  
2 posals, consider whether such proposals  
3 would—

4 (I) diminish to any degree the  
5 oversight by entities of the executive  
6 branch of the end use of United  
7 States-provided arms; or

8 (II) lessen to any degree the cen-  
9 trality of compliance by recipient  
10 States with principles of human rights  
11 or the law of armed conflict as a core  
12 factor in decisions of whether to ap-  
13 prove sales; and

14 (iv) submit to Congress, the Presi-  
15 dent, or the head of any executive branch  
16 department, agency, or entity, such rec-  
17 ommendations for policy, regulation, or law  
18 relevant to the purpose or functions of the  
19 Board that the Board deems advisable.

20 (B) OVERSIGHT.—The Board shall contin-  
21 ually review—

22 (i) the regulations, policies, and proce-  
23 dures, and the implementation of the regu-  
24 lations, policies, and procedures, of the de-  
25 partments, agencies, and elements of the

1 executive branch relating to arms sales to  
2 ensure that principles of human rights or  
3 the law of armed conflict are a central  
4 focus and consideration at each stage of  
5 the arms sales process, including end use;

6 (ii) whether entities of the executive  
7 branch are adhering to such policies;

8 (iii) other actions by the executive  
9 branch relating to arms sales to determine  
10 whether such actions—

11 (I) diminish to any degree the  
12 oversight by entities of the executive  
13 branch of the end use of United  
14 States-provided arms; or

15 (II) lessen to any degree the cen-  
16 trality of compliance by recipient  
17 States with principles of human rights  
18 or the law of armed conflict as a core  
19 factor in decisions of whether to ap-  
20 prove sales; and

21 (iv) the adherence of recipient States  
22 to human rights principles and the law of  
23 armed conflict, the extent to which United  
24 States-provided weapons are being used or  
25 could be used in contravention of those

1 principles and laws, and whether recipient  
2 States are working to improve their adher-  
3 ence to the maximum extent of their capa-  
4 bilities.

5 (C) TESTIMONY.—The members of the  
6 Board shall appear and testify before Congress  
7 upon request.

8 (D) ASSESSMENTS.—The Board shall sub-  
9 mit to Congress, at the time of any notification  
10 under subsection (b) or (c) of section 36 of the  
11 Arms Export Control Act (22 U.S.C. 2776), the  
12 assessment of the Board, along with any minor-  
13 ity views, of the appropriateness of the pro-  
14 posed sale based on the recipient State's adher-  
15 ence to principles of human rights and the law  
16 of armed conflict.

17 (4) DESIGNATIONS.—

18 (A) IN GENERAL.—The Board may in its  
19 sole discretion, by a majority vote of the Mem-  
20 bers, designate a country as a country of con-  
21 cern under section 40C(d)(1)(A)(i) of the Arms  
22 Export Control Act, as added by subsection (a)  
23 of this section. Not later than the time of the  
24 designation, the Board shall transmit to the  
25 Senate, the House of Representatives, and the



1 President the Board's determination supporting  
2 such designation, along with any minority  
3 views. The determination shall be in unclassi-  
4 fied form to the maximum extent possible, but  
5 may include a classified annex as necessary.

6 (B) REVERSAL.—The President may va-  
7 cate a designation by the Board under subpara-  
8 graph (A). In exercising this authority, the  
9 President shall submit to the Board, the Sen-  
10 ate, and the House of Representatives a de-  
11 tailed justification for the action. This authority  
12 may not be delegated.

13 (5) REPORTS.—

14 (A) IN GENERAL.—The Board shall peri-  
15 odically, but not less frequently than annually,  
16 submit to the Senate, the House of Representa-  
17 tives, and the President a report on the activi-  
18 ties of the Board.

19 (B) ELEMENTS.—The report required  
20 under subparagraph (A) shall include the fol-  
21 lowing elements:

22 (i) A description of the major activi-  
23 ties of the Board during the preceding pe-  
24 riod.

1 (ii) Information on the findings, con-  
2 clusions, and recommendations of the  
3 Board resulting from its advice and over-  
4 sight functions under subsection (c).

5 (iii) The minority views on any find-  
6 ings, conclusions, and recommendations of  
7 the Board resulting from its advice and  
8 oversight functions under subsection (c).

9 (iv) A summary of each proposal re-  
10 viewed by the Board under paragraph  
11 (3)(A) that—

12 (I) the Board advised against im-  
13 plementation or advised significant  
14 modifications of; and

15 (II) notwithstanding such advice,  
16 actions were taken to implement.

17 (v) For the preceding period, a de-  
18 scription of any requests submitted under  
19 paragraph (7)(A)(iii) for the issuance of  
20 subpoenas that were modified or denied by  
21 the Attorney General.

22 (C) FORM.—The report required under  
23 this paragraph shall be submitted in unclassi-  
24 fied form to the greatest extent possible, but  
25 may include a classified annex as necessary.

1 (6) INFORMING THE PUBLIC.—The Board—

2 (A) shall make its reports, including its re-  
3 ports to Congress, available to the public to the  
4 greatest extent that is consistent with the pro-  
5 tection of classified information and applicable  
6 law; and

7 (B) shall hold public hearings and other-  
8 wise inform the public of its activities, as ap-  
9 propriate and in a manner consistent with the  
10 protection of classified information and applica-  
11 ble law, but may, notwithstanding section 552b  
12 of title 5, United States Code, meet or other-  
13 wise communicate in any number to confer or  
14 deliberate in a manner that is closed to the  
15 public.

16 (7) ACCESS TO INFORMATION.—

17 (A) AUTHORIZATION.—If determined by  
18 the Board to be necessary to carry out its re-  
19 sponsibilities under this section, the Board is  
20 authorized to—

21 (i) have access from any department,  
22 agency, or element of the executive branch,  
23 or any Federal officer or employee of any  
24 such department, agency, or element, to all  
25 relevant records, reports, audits, reviews,

1 documents, papers, recommendations, or  
2 other relevant material, including classified  
3 information consistent with applicable law;

4 (ii) interview, take statements from,  
5 or take public testimony from personnel of  
6 any department, agency, or element of the  
7 executive branch, or any Federal officer or  
8 employee of any such department, agency,  
9 or element;

10 (iii) at the direction of a majority of  
11 the members of the Board, submit a writ-  
12 ten request to the Attorney General that  
13 the Attorney General require, by subpoena,  
14 persons (other than departments, agencies,  
15 and elements of the executive branch) to  
16 produce any relevant information, docu-  
17 ments, reports, answers, records, accounts,  
18 papers, and other documentary or testi-  
19 monial evidence; and

20 (iv) conduct travel or site visits.

21 (B) ASSISTANCE.—The Secretary of State,  
22 the Secretary of Defense, and any other head of  
23 a department, agency, or entity shall provide to  
24 the Board any necessary assistance to facilitate  
25 activities set forth under subparagraph (A).

1 (C) REVIEW OF SUBPOENA REQUEST.—

2 (i) IN GENERAL.—Not later than 30  
3 days after the date of receipt of a request  
4 by the Board under subparagraph (A)(iii),  
5 the Attorney General shall—

6 (I) issue the subpoena as re-  
7 quested; or

8 (II) provide the Board, in writ-  
9 ing, with an explanation of the  
10 grounds on which the subpoena re-  
11 quest has been modified or denied.

12 (ii) NOTIFICATION.—If a subpoena re-  
13 quest is modified or denied under clause  
14 (i)(II), the Attorney General shall, not  
15 later than 5 days after the date of that  
16 modification or denial, notify the Senate  
17 and the House of Representatives.

18 (D) ENFORCEMENT OF SUBPOENA.—In  
19 the case of contumacy or failure to obey a sub-  
20 poena issued pursuant to subparagraph (A)(iii),  
21 the United States district court for the judicial  
22 district in which the subpoenaed person resides,  
23 is served, or may be found may issue an order  
24 requiring such person to produce the evidence  
25 required by such subpoena.

1           (E) AGENCY COOPERATION.—Whenever in-  
2           formation or assistance requested under clause  
3           (i) or (ii) of subparagraph (A) is, in the judg-  
4           ment of the Board, unreasonably refused or not  
5           provided, the Board shall report the cir-  
6           cumstances to the head of the department,  
7           agency, or element concerned without delay.  
8           The head of the department, agency, or element  
9           concerned shall ensure that the Board is given  
10          access to the information, assistance, material,  
11          or personnel the Board determines to be nec-  
12          essary to carry out its functions.

13          (F) ACCESS.—Nothing in this subsection  
14          shall be construed to authorize the Board, or  
15          any agent thereof, to gain access to information  
16          regarding an activity covered by section 503(a)  
17          of the National Security Act of 1947 (50  
18          U.S.C. 3093(a)).

19          (8) MEMBERSHIP.—

20                (A) MEMBERS.—The Board shall be com-  
21                posed of a full-time chairman and four addi-  
22                tional members, who shall be appointed by the  
23                President, by and with the advice and consent  
24                of the Senate.

25                (B) QUALIFICATIONS.—

1 (i) IN GENERAL.—Members of the  
2 Board shall be selected solely on the basis  
3 of their professional qualifications, achieve-  
4 ments, public stature, expertise in human  
5 rights and the law of armed conflict, and  
6 relevant experience, and without regard to  
7 political affiliation, but in no event shall  
8 more than three members of the Board be  
9 members of the same political party.

10 (ii) PROHIBITION ON APPOINTMENT  
11 OF INDIVIDUALS EMPLOYED BY CERTAIN  
12 ENTITIES.—An individual who was em-  
13 ployed, during the preceding 5-year period,  
14 by an entity that engages in activities sub-  
15 ject to the Arms Export Control Act (22  
16 U.S.C. 2751 et seq.) is not eligible to serve  
17 as a member of the Board.

18 (iii) SELECTION OF MEMBERS NOT OF  
19 POLITICAL PARTY OF PRESIDENT.—The  
20 President shall, before appointing an indi-  
21 vidual who is not a member of the same  
22 political party as the President, consult  
23 with the leadership of that party, if any, in  
24 the Senate and the House of Representa-  
25 tives.

1           (C) INCOMPATIBLE OFFICE.—An indi-  
2           vidual appointed to the Board may not, while  
3           serving on the Board, be an elected official, of-  
4           ficer, or employee of the Federal Government,  
5           other than in the capacity as a member of the  
6           Board.

7           (D) TERM.—Each member of the Board  
8           shall serve a term of 6 years, except that—

9                   (i) a member appointed to a term of  
10                  office after the commencement of such  
11                  term may serve under such appointment  
12                  only for the remainder of such term; and

13                   (ii) upon the expiration of the term of  
14                  office of a member, the member shall con-  
15                  tinue to serve until the member's successor  
16                  has been appointed and qualified, except  
17                  that no member may serve under this sub-  
18                  paragraph—

19                           (I) for more than 60 days when  
20                           Congress is in session unless a nomi-  
21                           nation to fill the vacancy shall have  
22                           been submitted to the Senate; or

23                           (II) after the adjournment sine  
24                           die of the session of the Senate in  
25                           which such nomination is submitted.



1                   (E) QUORUM AND MEETINGS.—The Board  
2 shall meet upon the call of the chairman or a  
3 majority of its members. Three members of the  
4 Board shall constitute a quorum.

5                   (9) COMPENSATION AND TRAVEL EXPENSES.—

6                   (A) COMPENSATION.—

7                   (i) CHAIRMAN.—The chairman of the  
8 Board shall be compensated at the rate of  
9 pay payable for a position at level III of  
10 the Executive Schedule under section 5314  
11 of title 5, United States Code.

12                   (ii) MEMBERS.—Each member of the  
13 Board shall be compensated at a rate of  
14 pay payable for a position at level IV of  
15 the Executive Schedule under section 5315  
16 of title 5, United States Code, for each day  
17 during which that member is engaged in  
18 the actual performance of the duties of the  
19 Board.

20                   (B) TRAVEL EXPENSES.—Members of the  
21 Board shall be allowed travel expenses, includ-  
22 ing per diem in lieu of subsistence, at rates au-  
23 thorized for persons employed intermittently by  
24 the Government under section 5703(b) of title  
25 5, United States Code, while away from their

1 homes or regular places of business in the per-  
2 formance of services for the Board.

3 (10) STAFF.—

4 (A) APPOINTMENT AND COMPENSATION.—

5 The chairman of the Board, in accordance with  
6 rules agreed upon by the Board, shall appoint  
7 and fix the compensation of a full-time execu-  
8 tive director and such other personnel as may  
9 be necessary to enable the Board to carry out  
10 its functions, without regard to the provisions  
11 of title 5, United States Code, governing ap-  
12 pointments in the competitive service, and with-  
13 out regard to the provisions of chapter 51 and  
14 subchapter III of chapter 53 of such title relat-  
15 ing to classification and General Schedule pay  
16 rates, except that no rate of pay fixed under  
17 this subsection may exceed the equivalent of  
18 that payable for a position at level V of the Ex-  
19 ecutive Schedule under section 5316 of title 5,  
20 United States Code.

21 (B) APPOINTMENT IN ABSENCE OF CHAIR-

22 MAN.—If the position of chairman of the Board  
23 is vacant, during the period of the vacancy, the  
24 Board, at the direction of the unanimous vote  
25 of the serving members of the Board, may exer-

1           eise the authority of the chairman under sub-  
2           paragraph (A).

3           (C) DETAILEES.—Any Federal employee  
4           may be detailed to the Board without reim-  
5           bursement from the Board, and such detailee  
6           shall retain the rights, status, and privileges of  
7           the detailee's regular employment without inter-  
8           ruption.

9           (D) CONSULTANT SERVICES.—The Board  
10          may procure the temporary or intermittent  
11          services of experts and consultants in accord-  
12          ance with section 3109 of title 5, United States  
13          Code, at rates that do not exceed the daily rate  
14          paid a person occupying a position at level IV  
15          of the Executive Schedule under section 5315  
16          of such title.

17          (11) SECURITY CLEARANCES.—

18          (A) IN GENERAL.—The appropriate de-  
19          partments, agencies, and elements of the execu-  
20          tive branch shall cooperate with the Board to  
21          expeditiously provide the Board members and  
22          staff with appropriate security clearances to the  
23          extent possible under existing procedures and  
24          requirements.

1 (B) RULES AND PROCEDURES.—After con-  
2 sultation with the Secretary of Defense, the At-  
3 torney General, and the Director of National  
4 Intelligence, the Board shall adopt rules and  
5 procedures of the Board for physical, commu-  
6 nications, computer, document, personnel, and  
7 other security relating to carrying out the func-  
8 tions of the Board.

9 (12) TREATMENT AS AGENCY, NOT AS ADVI-  
10 SORY COMMITTEE.—The Board—

11 (A) is an agency (as defined in section  
12 551(1) of title 5, United States Code); and

13 (B) is not an advisory committee (as de-  
14 fined in section 3(2) of the Federal Advisory  
15 Committee Act (5 U.S.C. App.)).

16 (13) ETHICS POLICY.—

17 (A) IN GENERAL.—Not later than 180  
18 days after the first date on which three mem-  
19 bers have been appointed to the Board, by and  
20 with the advice and consent of the Senate, the  
21 Board shall adopt policies governing ethical  
22 conduct of its members and staff, which shall  
23 include—

24 (i) restrictions on lobbying or advo-  
25 cating to the Board by entities that engage

1 in activities covered by the Arms Export  
2 Control Act (22 U.S.C. 2751 et seq.); and

3 (ii) periods of prohibition on employ-  
4 ment of members and staff of the Board  
5 by such entities following their service on  
6 the Board or the staff of the Board.

7 (B) REVIEW.—The Board shall review and  
8 revise as appropriate such policies not less fre-  
9 quently than every three years.

10 (C) TRANSMISSION TO PRESIDENT AND  
11 CONGRESS.—The Board shall transmit the poli-  
12 cies required by subparagraph (A), and any re-  
13 visions to such policies under subparagraph  
14 (B), to the President and to Congress.

15 (14) INITIAL ASSESSMENT.—The Board shall  
16 conduct an initial assessment of the capability of the  
17 Department of State, the Department of Defense,  
18 and the Defense Security Cooperation Agency to  
19 carry out the requirements of section 40C of the  
20 Arms Export Control Act, as added by subsection  
21 (a) of this section. The Board shall transmit to Con-  
22 gress a report on its findings not later than 18  
23 months after the first date on which three members  
24 shall have been appointed to the Board, by and with  
25 the advice and consent of the Senate.

1           (15) AUTHORIZATION OF APPROPRIATIONS.—

2           There are authorized to be appropriated to carry out  
3           this section amounts as follows:

4                   (A) For fiscal year 2023, \$5,000,000.

5                   (B) For fiscal year 2024, \$7,000,000.

6                   (C) For fiscal year 2025, \$9,000,000.

7                   (D) For fiscal year 2026, \$11,000,000.

8                   (E) For fiscal year 2027 and each subse-  
9                   quent fiscal year, such sums as may be nec-  
10                  essary.

11          (d) INCLUSION IN BLUE LANTERN PROGRAM OF  
12          CONSIDERATION OF USE OF DEFENSE ARTICLES AND  
13          SERVICES TO COMMIT SERIOUS VIOLATIONS OF THE  
14          LAWS OF ARMED CONFLICT AND INTERNATIONAL  
15          HUMAN RIGHTS LAW.—Subsection (b)(1) of section 40B  
16          of the Arms Export Control Act, as redesignated by sub-  
17          section (a), is amended by inserting “(including use to  
18          commit serious violations of the laws of armed conflict and  
19          international human rights law)” after “to diversion or  
20          other misuse”.

21          (e) CONSIDERATION OF RISK OF COMMISSION OF  
22          VIOLATIONS OF HUMAN RIGHTS OR THE LAW OF ARMED  
23          CONFLICT IN ISSUING EXPORT LICENSES.—Section  
24          38(a)(2) of the Arms Export Control Act (22 U.S.C.  
25          2778(a)(2)) is amended by inserting after “conflict,” the

1 following: “be used to commit violations of human rights  
2 or the law of armed conflict,”.

3 (f) INITIAL DESIGNATIONS OF COUNTRIES OF CON-  
4 CERN.—

5 (1) DESIGNATIONS.—Saudi Arabia and the  
6 United Arab Emirates are hereby designated as  
7 countries of concern for purposes of section 40C of  
8 the Arms Export Control Act, as added by sub-  
9 section (a) of this section.

10 (2) BASIS FOR DESIGNATIONS.—The designa-  
11 tions under paragraph (1) are based on the following  
12 defense articles:

13 (A) GBU–12 Paveway II Laser Guided  
14 Bomb.

15 (B) GBU–31/32/38 Joint Direct Attack  
16 Munition.

17 (C) MK–82 bomb.

18 (D) White phosphorus munitions.

19 (g) COMPTROLLER GENERAL REPORT.—Not later  
20 than three years after the date of the enactment of this  
21 Act, the Comptroller General of the United States shall  
22 submit to Congress a report reviewing the implementation  
23 of section 40C of the Arms Export Control Act, as added  
24 by subsection (a) of this section.

