

AMENDMENT TO RULES COMM. PRINT 118–10

OFFERED BY MR. MEEKS OF NEW YORK

At the end of title XVIII, add the following:

1 **Subtitle D—SAFEGUARD Act of**
2 **2023**

3 **SEC. 1861. SHORT TITLE.**

4 This subtitle may be cited as the “Safeguarding
5 Human Rights in Arms Exports Act of 2023” or the
6 “SAFEGUARD Act of 2023”.

7 **SEC. 1862. STATEMENT OF POLICY ON CONTROL OF DE-**
8 **FENSE EXPORTS AND PROTECTION OF**
9 **HUMAN RIGHTS.**

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

1 **SEC. 1863. PROHIBITION OF ARMS SALES TO COUNTRIES**
2 **COMMITTING GENOCIDE OR WAR CRIMES.**

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

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

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

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

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

21 **SEC. 1864. MISUSE OF ARMS SALES FOR HUMAN RIGHTS**
22 **ABUSES.**

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

24 (1) the sale, export, or transfer of any defense
25 article or defense service to a foreign country or
26 international organization shall be pursuant to an

1 agreement that the government of such country or
2 such international organization will not use such ar-
3 ticle or service in the commission, or to enable the
4 commission, of a violation of international humani-
5 tarian law or internationally recognized human
6 rights;

7 (2) the United States Government has the legal
8 right to require the return of any defense articles
9 sold, exported, or transferred to a foreign country or
10 international organization if the government of such
11 country or such organization has used United
12 States-origin defense articles in the commission, or
13 has enabled the commission, of a violation of inter-
14 national humanitarian law or internationally recog-
15 nized human rights; and

16 (3) if defense articles are sold, exported, or
17 transferred to a foreign country in a manner in
18 which the intended end-user has not been identified
19 at the unit level for human rights vetting, the agree-
20 ment for such sale, export, or transfer includes a list
21 of units ineligible to receive such articles, consistent
22 with applicable provisions of United States law.

23 (b) ELIGIBILITY FOR DEFENSE SERVICES OR ARTI-
24 CLES.—

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

4 (A) in paragraph (1), by striking “and
5 promote world peace” and inserting “, promote
6 world peace, and is unlikely to contribute to
7 human rights abuses”;

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

10 (C) by redesignating paragraph (4) as
11 paragraph (5); and

12 (D) by inserting after paragraph (3) the
13 following new paragraph:

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

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

22 (A) in subsection (a)—

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

1 (ii) by redesignating paragraph (4) as
2 paragraph (5); and

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

5 “(4) the country or international organization
6 has agreed not to use such articles or service in the
7 commission, or to enable the commission, of a viola-
8 tion of international humanitarian law or inter-
9 nationally recognized human rights; and”;

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

13 (c) AUTHORIZED PURPOSE FOR MILITARY SALES.—
14 Section 4 of the Arms Export Control Act (22 U.S.C.
15 2754) is amended—

16 (1) by inserting “legitimate” before “internal
17 security”; and

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

1 **SEC. 1865. CONSIDERATION OF HUMAN RIGHTS AND DE-**
2 **MOCRATIZATION IN ARMS EXPORTS.**

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

6 (1) also consider the extent to which the gov-
7 ernment of the foreign country protects human
8 rights and supports democratic institutions, includ-
9 ing an independent judiciary; and

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

14 (b) INSPECTOR GENERAL OVERSIGHT.—Not later
15 than one year after the date of the enactment of this Act,
16 and annually thereafter for four years, the Inspector Gen-
17 eral of the Department of State shall submit to the appro-
18 priate congressional committees a report on the implemen-
19 tation of the requirement under subsection (a) during the
20 preceding year.

21 **SEC. 1866. ENHANCEMENT OF CONGRESSIONAL OVER-**
22 **SIGHT OF HUMAN RIGHTS IN ARMS EXPORTS.**

23 (a) IN GENERAL.—Any letter of offer to sell, or any
24 application for a license to export or transfer, defense arti-
25 cles or defense services controlled for export shall be sub-
26 ject to the congressional review and disapproval require-

1 ments, regardless of monetary value, of section 36 of the
2 Arms Export Control Act (22 U.S.C. 2776) if the Sec-
3 retary of State has credible information, with respect to
4 a country to which the defense articles or defense services
5 are proposed to be sold, exported, or transferred, that—

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

12 (2) a unit of the security forces of the govern-
13 ment of such country—

14 (A) has violated international humani-
15 tarian law and has not been credibly inves-
16 tigated and subjected to a credible and trans-
17 parent judicial process addressing such allega-
18 tion; or

19 (B) has committed a gross violation of
20 human rights, and has not been credibly inves-
21 tigated and subjected to a credible and trans-
22 parent judicial process addressing such allega-
23 tion, including, inter alia—

24 (i) torture or rape;

25 (ii) ethnic cleansing of civilians;

- 1 (iii) recruitment or use of child sol-
2 diers;
3 (iv) unjust or wrongful detention;
4 (v) the operation of, or effective con-
5 trol or direction over, secret detention fa-
6 cilities; or
7 (vi) extrajudicial killings, whether by
8 military, police, or other security forces.

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

16 (c) DURATION.—

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

1 (2) TERMINATION.—

2 (A) IN GENERAL.—With respect to such a
3 letter or application, the enhanced congressional
4 oversight under subsections (a) and paragraph
5 (1) of this subsection shall terminate on the
6 date on which the Secretary of State determines
7 and so informs the appropriate congressional
8 committees that—

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

11 (ii) the activity has ceased, and the
12 government of the applicable country has
13 taken appropriate steps to ensure that
14 such activity does not recur, including ap-
15 propriate punishment for the person or
16 persons involved in such activity.

17 (B) INFORMATION SUPPORTING DETER-
18 MINATION.—The Secretary of State shall sub-
19 mit to the appropriate congressional committees
20 all information forming the basis for a deter-
21 mination under subparagraph (A). The deter-
22 mination shall, to the fullest extent possible, be
23 unclassified, but may include a classified annex.

24 (d) MODIFICATION OF PRIOR NOTIFICATION OF
25 SHIPMENT OF ARMS.—Section 36(i) of the Arms Export

1 Control Act (22 U.S.C. 2776(i)) is amended by striking
2 “subject to the requirements of subsection (b) at the joint
3 request of the Chairman and Ranking Member” and in-
4 serting “subject to the requirements of this section at the
5 request of the Chairman or Ranking Member”.

6 **SEC. 1867. LIMITATION ON SALES TO SECURITY FORCES IN-**
7 **VOLVED IN GROSS VIOLATION OF HUMAN**
8 **RIGHTS.**

9 Section 620M(a) of the Foreign Assistance Act of
10 1961 (23 U.S.C. 2378d(a)) is amended by striking “No
11 assistance” and all that follows through “Arms Export
12 Control Act” and inserting “No assistance, including the
13 sale of defense articles or defense services, shall be fur-
14 nished under this Act, the Arms Export Control Act, or
15 any other provision of law controlling the export or trans-
16 fer of such articles and services”.

17 **SEC. 1868. END-USE MONITORING OF MISUSE OF ARMS IN**
18 **HUMAN RIGHTS ABUSES.**

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

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

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

1 (3) by adding at the end the following new
2 clause:

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

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

14 **SEC. 1869. HUMAN RIGHTS ELEMENTS IN AUXILIARY RE-**
15 **PORTS.**

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

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

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

22 (3) by adding at the end the following new sub-
23 paragraph:

24 “(Q) an assessment of the risk that such
25 defense articles or defense services will be used

1 in the commission of violations of international
2 humanitarian law or internationally recognized
3 human rights, and a description of any meas-
4 ures to be taken by the recipient government or
5 by the United States to prevent and monitor
6 any such use.”.

7 **SEC. 1870. REQUIREMENT FOR CERTAIN WEAPONS TO BE**
8 **SUBJECT TO CONDITIONS AND END-USE**
9 **MONITORING AS FOREIGN MILITARY SALES.**

10 Beginning on the date that is 180 days after the date
11 of the enactment of this Act, the following defense articles
12 may be sold, exported, or transferred only pursuant to sec-
13 tion 36(b) of the Arms Export Control Act (22 U.S.C.
14 2776(b)):

15 (1) Rockets, space launch vehicles, missiles,
16 bombs (including equipment to enable precision
17 guidance), torpedoes, depth charges, mines, and gre-
18 nades.

19 (2) Armored combat ground vehicles, including
20 ground vehicles and trailers that are armed or are
21 specially designed to be used as a firing or launch
22 platform to deliver munitions or otherwise destroy or
23 incapacitate targets, excluding any unarmed ground
24 vehicles, regardless of origin or designation, manu-
25 factured prior to 1956 and unmodified since 1955.

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

3 (A) Bombers.

4 (B) Fighters, fighter/bombers, and fixed-
5 wing attack aircraft.

6 (C) Turbofan- or turbojet-powered trainers
7 used to train pilots for fighter, attack, or bomb-
8 er aircraft.

9 (D) Attack helicopters.

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

12 (F) Aircraft specially designed to incor-
13 porate a defense article for the purpose of per-
14 forming an intelligence, surveillance, and recon-
15 naissance function.

16 (G) Aircraft specially designed to incor-
17 porate a defense article for the purpose of per-
18 forming an electronic warfare function, airborne
19 warning and control aircraft, or aircraft spe-
20 cially designed to incorporate a defense article
21 for the purpose of performing a command, con-
22 trol, and communications function.

23 **SEC. 1871. DEFINITIONS.**

24 In this subtitle:

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

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

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

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

