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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

LAURA SWANSON, STAFF DIRECTOR
LILA NIEVES-LEE, REPUBLICAN STAFF DIRECTOR

May 21, 2024

The Honorable Gina Raimondo
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington D.C. 20230

Dear Secretary Raimondo:

We write to express serious concern regarding the Interim Final Rule (Rule) on firearms and related components and ammunition exports that the Department of Commerce (Department), through the Bureau of Industry and Security (BIS), released on April 26, 2024.¹ The Department's actions over the past year—including the controversial and unusual export pause on October 27, 2023,² this unprecedented rulemaking, and the Department's International Trade Administration (ITA) decision to curtail the promotion of firearms exports—collectively serve as yet another example of the Biden administration using the administrative state to target legal U.S. industries and advance progressive policies without meaningful consideration of the impact on U.S. commercial, economic, national security, and foreign policy interests.³

As you know, the Department's mission is to create the conditions for economic growth and opportunity for all communities, and Congress' leading policy directive to Commerce in the Export Control Reform Act was "to use export controls only after full consideration to the impact on the economy of the United States and only to the extent necessary."⁴ This suggests that, at a minimum, the Department should consider the economic impact and national security considerations of any major rulemaking. However, this is not the case with BIS's Rule, which makes widespread foreign country-wide changes to firearm export policy and establishes a bureaucratic license review process that will severely restrict the ability of firearm and ammunition manufacturers to receive export licenses. Despite BIS claiming to have conducted a cost-benefit analysis,⁵ the published Rule fails to provide any data concerning the impact it will have on the American economy. This omission only heightens our concerns and raises questions about the accuracy of the analysis BIS claims to have conducted.⁶

¹ Bureau of Industry and Security, Department of Commerce, Interim Final Rule: Revision of Firearms License Requirements (April 26, 2024). <https://public-inspection.federalregister.gov/2024-08813.pdf>

² Bureau of Industry and Security, Department of Commerce, Firearms Pause & Review: Frequently Asked Questions (Oct. 27, 2023), <https://www.bis.doc.gov/index.php/documents/policy-guidance/3374-2023-10-27-bis-faqs-firearms-pause-and-review/file>.

³ Brookings, Tracking regulatory changes in the Biden era. (January 4, 2024). <https://www.brookings.edu/articles/tracking-regulatory-changes-in-the-biden-era/>

⁴ Export Control Reform Act of 2018. 50 USC Ch. 58: EXPORT CONTROL REFORM, §4811. Statement of policy <https://uscode.house.gov/view.xhtml?path=/prelim%40title50/chapter58&edition=prelim>

⁵Bureau of Industry and Security, Department of Commerce, Interim Final Rule: Revision of Firearms License Requirements at p.54 (April 26, 2024) <https://public-inspection.federalregister.gov/2024-08813.pdf>

⁶ <https://public-inspection.federalregister.gov/2024-08813.pdf> at 54.

Concerns about BIS's failure to fully consider the economic impact of its decision-making are not new. Previously, Senators warned that the Department's^{7 8} firearm export-related actions will undoubtedly harm American businesses and the U.S. economy, which represents billions of dollars in annual commercial activity for the nation. Additionally, industry analysts estimated that the economic impact of the preceding 90-day firearm export license pause would cost a minimum of approximately \$121 million per year if finalized.⁹

Even if these economic concerns were properly addressed, BIS's claims that the Rule advances U.S. national security interests are dubious and open to debate. As part of implementing the new Rule, BIS plans to revoke existing licensing for 36 countries and subject current license holders to a new licensing system. BIS did not take such a drastic step even when acting on grave national security threats in the past, including previous actions related to Chinese hypersonic missiles, nuclear weapons proliferation, or China's resumed exercise of authority over Hong Kong. Moreover, this Rule is unilaterally applied and is likely to encourage foreign actors, like China, to fill the vacuum in firearms-related exports, bolstering illicit arms dealers to the detriment of legitimate U.S. businesses and leading to further adverse effects on U.S. commercial, economic, national security, and foreign policy interests.

Flying blindly on issues impacting American competitiveness is unacceptable. We are concerned that the Department issued the Rule in an attempt to intentionally harm the firearms industry. As you know, many of these businesses rely on the export of firearms, related components, ammunition, and related assistance activities for such products to meet their bottom lines.

We, therefore, call upon you to withdraw this deeply misguided rule and its associated license revocations. Additionally, we request that BIS Undersecretary Alan Estevez and Assistant Secretary Thea Kendler be available to testify before the Senate Committee on Banking, Housing, and Urban Affairs.

Thank you for your attention to this important matter.

Sincerely,



Tim Scott
Ranking Member



Bill Hagerty
United States Senator

⁷ Letter from Senate Republicans to Department of Commerce Secretary Gina Raimondo (Nov. 16, 2023), <https://www.banking.senate.gov/imo/media/doc/budd-letter-to-raimondo-on-commerce-firearms-export-pause.pdf>.

⁸ Letter from Ranking Member Tim Scott and Senator Bill Hagerty to Department of Commerce Secretary Gina Raimondo (Oct. 11, 2023) <https://www.banking.senate.gov/imo/media/doc/letter-to-bis-from-rm-scott-and-senator-hagerty.pdf>

⁹ Analysis conducted by the National Shooting Sports Foundation, Impact of Department of Commerce 90-Day License Pause and Potential Regulatory Changes (January 30, 2024).



Mike Crapo
United States Senator



Lindsey O. Graham
United States Senator



John Thune
United States Senator



Jim Risch
United States Senator



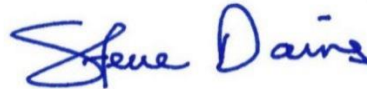
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