U.S. DEPARTMENT OF STATE
Bureau of Political-Military Affairs

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FACT SHEET

Final Rules for Oversight of Firearms Exports

On January 23, 2020, the Department of State published final rules in the Federal Register to amend Categories I, II and III of the U.S. Munitions List (USML) in the International Traffic in Arms Regulations (ITAR). The Department of Commerce also published a companion final rule on the same date. These final rules transfer oversight for export of some types of firearms, ammunition, and related items included in these categories from the Department of State to the Department of Commerce and will be effective 45 days after publication in the Federal Register.

WHAT THESE FINAL RULES DO

These final rules are the product of a larger effort since 2010 to modernize the U.S. export control regulations to create a simpler, more robust system that eases industry compliance, improves enforceability, and better protects America's most sensitive technologies. The publication of these final rules are the latest development in efforts by the Trump Administration to streamline defense trade, and follow the April 2018 release of the Administration's Conventional Arms Transfer Policy and an updated policy on exports for Unmanned Aerial Systems.

Under these final rules submitted by the U.S. Department of State's Directorate of Defense Trade Controls (DDTC) and the U.S. Department of Commerce's Bureau of Industry and Security (BIS), firearms and related articles that are inherently military or provide a critical military or intelligence advantage to the United States will remain under State Department export licensing controls.

Other items, including those that are widely available in retail outlets, that are currently regulated by State Department authorities as set forth under Categories I, II and III of the USML in the ITAR will, upon the effective date, be subject to the new 500 and 600 series controls in Category 0 of the U.S. Department of Commerce's Commerce Control List (CCL) in its Export Administration Regulations (EAR), and remain subject to export authorization requirements, interagency review, and monitoring of commercial entities involved in export and sales.

These final rules significantly reduce the regulatory burden on the U.S. commercial firearms and ammunition industry, promote American exports, and clarify the regulatory requirements for independent gunsmiths, while at the same time prioritizing national security controls and continuing our ability to restrict exports where human rights, illicit trafficking, and related issues may be of concern. We anticipate that a number of firearms manufacturers, including many small businesses, that are currently required to register with the Department of State, will be relieved

from an annual fee burden under these rules. The Department of Commerce's Bureau of Industry and Security does not have registration requirements or export licensing fees.

These final rules relate only to the export and temporary importation of some types of firearms and ammunition. These final rules do not have any impact on the ability of American citizens in the United States to exercise their Second Amendment rights, nor do they decontrol exports of any firearms or ammunition. Exports of firearms ammunition and related items will continue to require U.S. Government authorization, and exports will continue to be restricted where the risk of human rights abuses or illicit diversion are of concern.

The Administration continues to work through the interagency process with the Departments of State, Commerce, Homeland Security, Justice, and other stakeholders to reexamine longstanding bureaucratic policies and regulatory processes to ensure that U.S. industries have every advantage in the global marketplace, while at the same time ensuring the export of arms does not undermine U.S. national security and foreign policy.

MYTHS AND FACTS

Myth: Transferring control of firearms from State to Commerce will result in deregulation of U.S. firearms exports, increasing numbers of U.S.-manufactured small arms around the world, and contributing to conflicts in places such as Africa or Central America or those involving gangs and non-state actors.

Fact: The transfer of certain firearms to the control of the Department of Commerce does not deregulate the export of firearms. All firearms moved from the jurisdiction of the Department of State to the jurisdiction of the Department of Commerce will continue to require U.S. Government authorization. The U.S. Government is not removing the export authorization requirements for any firearms regardless of which agency has licensing jurisdiction or the proposed destination.

Myth: Publication on the internet of technology and software capable of producing firearms via 3-D printing will cease to be controlled when these rules go into effect.

Fact: Certain technology and software posted on the internet that is capable of 3-D printing firearms previously controlled by State will continue to be controlled by the Department of Commerce, meaning the U.S. Government will continue to maintain restrictions. Commerce's controls under the EAR will help ensure that U.S. national security and foreign policy interests are not undermined by foreign persons' access to firearms production technologies.

- **The Departments of Commerce and State regulate exports and the transfer of controlled technologies to foreign persons in the United States; the domestic manufacture or possession of 3-D printed firearms by U.S. persons in the United States is beyond the purviews of the Departments of Commerce and State and will fall within the jurisdiction of existing domestic law.**

Myth: Transferring control to Commerce will remove the requirement of U.S. Government authorization for firearms to many countries under License Exception Strategic Trade Authorization (STA).

Fact: The Commerce License Exception STA may not be used for the firearms and shotguns that transition from the U.S. Munitions List (USML). Only long barreled shotguns that were previously controlled by Commerce may be exported using License Exception STA.

- **Additionally, the receivers, detachable magazines, and other significant parts and components of these formerly USML firearms, such as the barrels, cylinders, barrel extensions, mounting blocks (trunnions), bolts, bolt carriers, operating rods, gas pistons, trigger housings, triggers, hammers, sears, disconnectors, pistol grips that contain fire control "parts" or "components," and buttstocks that contain fire control "parts" or "components" are similarly ineligible for export under License Exception STA.**

Myth: Even after this change, small U.S. gunsmiths will continue to be burdened by export licensing fees.

Fact: Most gunsmiths are not required to register as manufacturers under the International Traffic in Arms Regulations (ITAR) today. Moreover, Commerce does not have a registration requirement for manufacturers and exporters of the items under its jurisdiction, including items transferred to EAR control under the final rules. Therefore, small gunsmiths who do not manufacture, export, or broker the automatic weapons and other sensitive items that remain on the USML will, upon the effective date, no longer need to determine if they are required to register under the ITAR, but they may still be required to comply with Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) licensing requirements.

- **These final rules will help to clarify what is controlled on which list, ending jurisdictional confusion and making it easier for exporters, especially small businesses, to comply with U.S. export controls.**

- **For those items moved from the USML to the Commerce Control List (CCL), the export licensing requirements and process implemented by the Department of Commerce will be calibrated both to the sensitivity of the item and the proposed destination.**

- **As a result, foreign manufacturers will enjoy a greater opportunity to source from small U.S. companies. This is good for: U.S. manufacturing, the defense industrial base, security of supply to the U.S. military, and interoperability with allies, to name but a few benefits.**

Myth: The transfer of items from State Department export control to Commerce Department export control will also change items that are controlled for permanent import.

Fact: The State and Commerce Department final rules do not alter permanent import controls.

- **The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) administers permanent import controls for Arms Export Control Act defense articles on the U.S. Munitions Import List.**

- **The transfer of items to the Commerce Department for export control does not change ATF permanent import controls.**

Myth: The licensing of U.S. arms by the Commerce Department will lead to less regulation, resulting in U.S.-origin items being more widely available for use in human rights abuses.

Fact: The movement of certain firearms to the Commerce Department will allow for more tailored export controls of items while at the same time increasing resources to identify and investigate violations.

- **The U.S. Government will continue its longstanding end-use monitoring efforts, including vetting of potential end-users, to help prevent human rights abuses. The U.S. Government is not removing the requirements of export authorization for firearms or ammunition.**

- **In addition to these efforts, Commerce has enforcement analysts and Special Agents dedicated to identifying and investigating violations, including through use of criminal and administrative enforcement authorities.**

- **The Department of Defense and the Department of State will remain active in the process of determining how an item is controlled and reviewing export license applications for national security and foreign policy reasons, including the prevention of human rights abuses.**

Myth: The Commerce Department has a lack of subject matter experts in firearms licensing and control, making it a poor choice to control small arms exports.

Fact: The Commerce Department has been licensing shotguns and shotgun ammunition for decades. The Commerce Department has investigated and disrupted numerous diversion rings and will bring that expertise to bear on small arms.

Myth: U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) will lose the authority and jurisdiction to investigate the illegal export of those items being transferred (firearms, firearms parts, and ammunition) when this transfer of authority occurs.

Fact: This transfer does not affect ICE HSI's authority or jurisdiction in any way. ICE HSI will continue to enforce the regulations governing the export of firearms, firearms parts, and ammunition.

For further information, please contact the Bureau of Political-Military Affairs, Office of Congressional and Public Affairs at PM-CPA@state.gov and follow us on Twitter @StateDeptPM.

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