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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

October 11, 2023

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

Dear Secretary Raimondo:

We write to request information regarding the Department of Commerce's plans to move the processing of lawful firearms licenses from the Office of Nonproliferation and Treaty Compliance ("NPTC") to a new division, the "Office of Embargoes and Human Rights," within the Bureau of Industry and Security ("BIS"). We have already heard concerns from constituents regarding delays in the processing of legal export licenses, and are concerned that this new division will only further impede the process of obtaining export licenses for lawful commercial firearms and ammunition, creating an unduly burdensome and politicized environment for a lawful U.S. industry.

Lawful firearms, ammunition, and other products included in this potential reorganization are already subject to extensive review. As such, if the Biden administration intends to reorganize BIS, it must ensure that it does not create a process that improperly stalls or prevents the issuance of lawful export licenses. Currently, firearms and ammunition export license applications are reviewed by interagency officials from the Departments of Defense, State, and Energy and screened for any concerns related to national security, foreign policy, regional stability, and national defense.¹ No firearms or ammunition can be exported to embargoed countries, and license applications for export to high-risk countries are subject to presumption of denial policies and must pass rigorous end-user checks and transfer authorizations by the BIS Office of Export Enforcement.² Given the rigor and comprehensiveness of the current review process, it is unclear why a new licensing division is warranted.

¹ See Control of Firearms, Guns, Ammunition and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List (USML), Rule of the Bureau of Industry and Security, Department of Commerce (effective Mar. 9, 2020), <https://www.federalregister.gov/documents/2020/01/23/2020-00573/control-of-firearms-guns-ammunition-and-related-articles-the-president-determines-no-longer-warrant>.

² Ibid.

Moreover, we are concerned that this proposed reorganization could be leveraged to advance partisan efforts to restrict export licenses for lawful U.S. businesses like the firearms industry. Under no circumstances should the Biden administration create a novel licensing division that politicizes export control licensing, undermines the competitiveness of U.S. companies, or inappropriately intervenes in lawful commercial sales that meet existing review requirements.

In light of these concerns, we request that you submit a full justification in writing for this proposed re-organization as well as provide the following information³ by no later than October 30, 2023:

1. Detailed information on the criteria and guidelines used by BIS in evaluating firearm export license applications;
2. All firearm or ammunition export license applications BIS received from January 1, 2019 to October 1, 2023;
3. All firearm or ammunition export license applications that BIS has denied since January 1, 2019, and the justification for any such denials;
4. All firearm or ammunition export license applications received since January 1, 2019, that BIS took 45 days or longer to process;
5. All currently pending firearm or ammunition export license applications received since January 1, 2019, that have been pending for over 45 days;
6. The average processing time for a firearm export license application;
7. All records⁴ related to any BIS decision to deny a firearm or ammunition license application since January 1, 2019;
8. The total number of BIS employees who are responsible for reviewing firearms export license applications;
9. The total number of BIS employees who are responsible for reviewing firearm export license applications that, on average, have worked in their government workstation at least four days per week in calendar 2023 to date;

³ See also, 50 U.S.C. § 4820 (h)(2)(b) (“Any information obtained at any time under any provision of the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.) (as in effect on the day before August 13, 2018, and as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)), under the Export Administration Regulations, or under this subchapter, including any report or license application required under any such provision, shall be made available to a committee or subcommittee of Congress of appropriate jurisdiction, upon the request of the chairman or ranking minority member of such committee or subcommittee.”).

⁴ The term “records” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded or preserved, and whether original or copy.

10. All memoranda created since January 20, 2017, related to the decision to establish a new licensing division named the “Office of Embargoes and Human Rights”; and

11. All memoranda created since January 20, 2017, related to firearm or ammunition license applications.

In addition, moving forward, we request that you provide us a list (updated monthly) of all companies with firearm and ammunition export license applications that have been pending for more than 45 days.

Thank you for your attention to this matter.

Sincerely,



Tim Scott
Ranking Member



Bill Hagerty
United States Senator

CC: The Honorable Alan F. Estevez, Under Secretary of Commerce for Industry and Security;
The Honorable Thea Kandler, Assistant Secretary of Commerce for Export
Administration;
Mr. Matthew S. Borman, Deputy Assistant Secretary of Commerce for Export
Administration;
Mr. Alexander Lopes, Director of the Office of Nonproliferation and Treaty Compliance