



## **Brady Opposes Shift in U.S. Arms Export Oversight**

### **Background**

In escalation of the Obama administration's Export Control Reform Initiative, the Trump administration is expected to introduce a Proposed Rule that removes handguns, assault rifles, sniper rifles and other light weapons, equipment, and ammunition from the Department of State's export control jurisdiction via the International Trafficking in Arms Regulations (ITAR), and place it under the Department of Commerce's export control jurisdiction via the Export Administration Regulations (EAR). The Department of State is charged with regulating the sale and export of defense weapons under the ITAR since it retains the foreign policy and national security expertise to determine international threats and stability, while the Department of Commerce merely facilitates trade.

### **Implications of Expected Proposed Rule**

While the Trump administration has not yet released any proposed language for the rule change, there are media reports that outline the general concepts that are likely to be included. By shifting these categories of weapons (i.e. I, II, and III) on the ITAR's U.S. Munitions List (USML) to the EAR's Commerce Control List, the Trump administration would effectively eliminate Congress' authority, via the Arms Export Control Act (AECA), to review the sale and export of these weapons. In 2002, Congress amended AECA to ensure the sale and export of USML weapons received close scrutiny and oversight, including lowering the sales reporting threshold from \$14 million to \$1 million.

The expected new rule would streamline the sale and export, and ease the potential diversion, of combat weapons to foreign governments and entities; and benefit U.S. gun manufacturers whose sales have recently flattened. U.S. law enforcement would have less ability to track weapons after they leave the U.S., thereby limiting the investigation and prosecution of international crimes; and, it could allow combat weapons to more easily fall into the hands of criminal groups, terrorist organizations and enemy combatants. In sum, it would create a systematic channel for gun dealers and manufacturers to sell more guns to dangerous people by allowing for unaccountable diversion of firearms from legal to illegal markets internationally in parallel to the systemic problems within the US with respect to "straw purchasers" and gun traffickers today.

### **Brady Position**

This action comes after the gun lobby spent more than \$30 million in support of Donald Trump's presidential campaign, and in the wake of President Trump's commitment to the NRA at their conference in April stating, "I am going to come through for you." Indeed, as our 23 Year Report outlined this spring, the President, his administration, and the Republican controlled Congress have taken several aggressive steps within the first 100 days of his administration to attempt to undermine, weakened and rollback the strength and enforcement of our existing federal, state and local gun violence prevention laws and regulations, including limiting ATF and DOJ authorities regarding background checks, enforcement and

gun regulations. This is in direct contradiction to the will of the American people who continue to overwhelmingly support expanding Brady background checks to all gun sales, as well as supporting several other gun safety measures to increase police officer and the public's safety.

Thus far, Brady has not determined any justification for the transfer of oversight of these dangerous weapons from ITAR to EAR. Furthermore, there is every indication that, given the ongoing threat of terrorism and international criminal enterprises to the United States and its allies, we should be looking to strengthen oversight of these dangerous weapons of war. Finally, as a recent report issued by WOLA indicates, the United States and a small percentage of its federally licensed firearm dealers continue to be a major source of crime guns to Mexico, the Caribbean, and throughout much of south and central America. Until the US can effectively decrease that trend, we should not even entertain any proposal to loosen current oversight and regulations.