

HR 5749 IH

112th CONGRESS

2d Session

**H. R. 5749**

To prohibit the transfer of defense articles and defense services to the governments of foreign countries that are engaging in gross violations of internationally-recognized human rights, and for other purposes.

**IN THE HOUSE OF REPRESENTATIVES**

**May 15, 2012**

Mr. GRIJALVA (for himself, Mr. CONYERS, Mr. DEFAZIO, Mr. FARR, Mr. FILNER, Ms. HAHN, Mr. HOLT, Mr. JACKSON of Illinois, Mr. KUCINICH, Ms. LEE of California, Mr. POLIS, Mr. STARK, and Ms. WATERS) introduced the following bill; which was referred to the Committee on Foreign Affairs

**A BILL**

To prohibit the transfer of defense articles and defense services to the governments of foreign countries that are engaging in gross violations of internationally-recognized human rights, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Arms Sale Responsibility Act of 2012'.

**SEC. 2. SENSE OF CONGRESS PROVISIONS.**

(a) Transfer of Conventional Arms- It is the sense of Congress that it should be the policy of the United States to maintain adherence to a policy of restraint in transferring conventional arms if evidence exists of substantial risk that such arms will be used to commit or facilitate serious violations of international human rights law or international humanitarian law.

(b) Arms Control Agreements- In furtherance of the policy described in subsection (a), the President, in negotiating any conventional arms control agreement, should undertake a concerted effort--

(1) to encourage the national control list of each party to the agreement to

cover all types of weaponry, munitions, armaments and related material used for potentially lethal force in military and law enforcement operations, as well as any parts, components and accessories thereof, and machines, technologies and technical expertise for making, developing and maintaining those items;

(2) to conduct an effective inquiry and meaningful assessment of each application or proposal for authorization to export or internationally transfer arms on a case-by-case basis;

(3) to deny an arms transfer authorization if there is a substantial risk that the arms will be used to commit or facilitate serious violations of international human rights law or international humanitarian law and to ensure such denial remains in place until steps are taken to mitigate the level of risk;

(4) to require import and transit state authorizations, and certified end use assurances, before issuing an export license or authorization for any international transfer of conventional arms and to ensure minimum details in the end use assurance include the exporter, consignee, purchasers, country of final destination, description of type and quantity of items, specific purpose they will be used, an expiration date, and an undertaking that they will not be used for purposes other than those declared or re-exported without permission;

(5) to require delivery verification to be officially certified on receipt of the shipment of conventional arms by the end user, which includes at a minimum, the name and address of the exporter and the importer, the serial number of the import certificate, a description of the goods, the quantity and value, the port of arrival and the name of the ship, aircraft or other carrier; and

(6) to require each party to the agreement to establish a clear legal framework for lawful brokering and shipping activities relating to transfers of conventional arms.

### **SEC. 3. PROHIBITION ON TRANSFER OF DEFENSE ARTICLES AND DEFENSE SERVICES TO CERTAIN FOREIGN GOVERNMENTS.**

(a) Prohibition- For each fiscal year beginning on or after the date of enactment of this Act, no defense articles or defense services may be transferred to the government of a foreign country under the Foreign Assistance Act of 1961 or the Arms Export Control Act unless the President submits to Congress a certification described in subsection (b) with respect to the transfer of such defense articles or defense services.

(b) Certification- A certification referred to in subsection (a) is a certification that--

(1) the government of the foreign country is not engaging in gross violations of internationally-recognized human rights, including--

(A) by carrying out--

- (i) excessive force against or unlawful killings of unarmed protesters;
- (ii) extrajudicial or arbitrary executions;
- (iii) disappearances;
- (iv) torture or severe mistreatment;
- (v) prolonged arbitrary imprisonment;
- (vi) systematic official discrimination on the basis of race, ethnicity, religion, gender, national origin, or political affiliation; or
- (vii) grave breaches of international humanitarian law; and

(B) by failing to--

- (i) vigorously investigate, discipline, or prosecute those individuals responsible for gross violations of internationally-recognized human rights;
- (ii) allow the free functioning of domestic and international human rights organizations;
- (iii) provide access on a regular basis to humanitarian organizations in humanitarian emergencies; or
- (iv) divert the transfer of defense articles or defense services to a third country which facilitates 1 or more of the actions described in subparagraph (A); and

(2) the government of the country is not identified by the Secretary of State in the Department of State's most recent Country Reports on Human Rights Practices as having governmental armed forces or government supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit or use child soldiers.

(c) Failure To Continue To Comply- Any certification with respect to a foreign government for a fiscal year under subsection (b) shall cease to be effective for that fiscal year if the President certifies to Congress that such government has not continued to comply with the requirements contained in such subsection.

(d) Notifications to Congress- The President shall submit to Congress initial certifications under subsection (b) as part of the submission of the annual

congressional presentation documents for foreign assistance programs for each fiscal year beginning on or after the date of enactment of this Act and shall, where appropriate, submit additional or amended certifications at any time thereafter in that fiscal year.

(e) Exemptions-

(1) IN GENERAL- The prohibition contained in subsection (a) shall not apply with respect to a foreign government for a fiscal year if--

(A) subject to paragraph (2), the President submits a request for an exemption to Congress containing a determination that it is in the national security interest of the United States to provide defense articles or defense services to such government; or

(B) the President determines that an emergency exists under which it is vital to the interest of the United States to provide military defense articles or defense services to such government.

(2) DISAPPROVAL- A request for an exemption to provide defense articles or defense services to a foreign government shall not take effect, or shall cease to be effective, if a law is enacted disapproving such request.

(f) Definitions- In this section--

(1) the term `defense article' has the meaning given the term in section 47(3) of the Arms Export Control Act; and

(2) the term `defense service' has the meaning given the term in section 47(4) of the Arms Export Control Act.

*END*

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**Bill Name:** [Arms Sale Responsibility Act](#)

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<b>Arizona</b>			
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YES ✓	<a href="#">John Garamendi</a> (D 10th)	06/21/2012	
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Peace Action West • 2201 Broadway, Ste 321 Oakland, CA 94612 • 800.949.9020

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