To require the development of an inter-agency strategy and the submission of certain reports relating to the illegal export and trafficking of firearms from the United States to recipients in Mexico and certain Central American and Caribbean countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CASTRO of Texas introduced the following bill; which was referred to the Committee on

A BILL

To require the development of an inter-agency strategy and the submission of certain reports relating to the illegal export and trafficking of firearms from the United States to recipients in Mexico and certain Central American and Caribbean countries, 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 “Americas Regional Monitoring of Arms Sales Act of 2022” or the “ARMAS Act of 2022”.

December 12, 2022 (5:08 p.m.)
SEC. 2. FINDINGS.

Congress finds the following:

(1) Violence in Mexico, Central America, and the Caribbean is exacerbated by firearms originating in the United States.

(2) While firearms are trafficked to Mexico from a variety of countries, firearms originating in the United States account for 70 percent of the firearms recovered and traced from crimes in Mexico, according to the 2021 GAO report “Firearms Trafficking: U.S. Efforts to Disrupt Gun Smuggling into Mexico Would Benefit from Additional Data and Analysis”.

(3) United States-origin firearm flows contribute to human rights violations, organized crime and gang violence, extrajudicial killings, high homicide rates, domestic violence, and femicides in Mexico, Central America, and the Caribbean.

(4) According to the Executive Secretariat of National System for Public Security of Mexico, during the period beginning in 2012 and ending in 2021, Mexico experienced more than 168,000 firearms homicides.

(5) According to the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean, firearms are used
in 70 percent of homicides in the Caribbean compared to 30 percent globally; the Caribbean has less than one percent of the world’s population, but 23 percent of all recorded homicides.

(6) In an August 2022 press conference, U.S. authorities from Homeland Security Investigations reported a “marked uptick in the number of weapons”, and an increase in the caliber and type of weapons, being illegally trafficked to Haiti and the rest of the Caribbean.

(7) The Caribbean Basin Security Initiative of the Department of State that commenced in 2009 is the regional U.S. foreign assistance program that seeks to reduce illicit trafficking in the region and advance public safety and security. The program includes improving the capacity of Caribbean countries to intercept smuggled weapons at airports and seaports, as well as support for forensic ballistics and firearms destruction and stockpile management. Assistance under the Caribbean Basin Security Initiative has also included support for regional organizations, including—

(A) the Caribbean Community Implementation Agency for Crime and Security (CARICOM IMPACS), based in Trinidad and
Tobago, the lead agency involved in the issue of illicit arms trafficking and increasing the capacity of member states to detect and prevent firearms trafficking; and

(B) the Eastern Caribbean’s Regional Security System, based in Barbados.

(8) Firearms trafficking from the United States and firearm violence are key drivers of immigration and asylum claims from Central America.

(9) Two GAO reports (published in 2021 and 2022, respectively) on firearms trafficking have affirmed that firearms trafficking to Mexico and Central America continues to represent a security concern to the United States, as United States-origin firearms are diverted from legitimate owners and end up in the hands of violent criminals, including drug traffickers and other transnational criminal organizations. A GAO report on the effect of firearms trafficking in the Caribbean has not yet been compiled.

(10) In these reports, the Comptroller General found that Federal departments and agencies lacked information and analysis of the firearms trafficking networks in Mexico and Central America, that few efforts of the United States Government in the re-
gion focused on firearms trafficking, and that, as a result, such agencies lack a detailed understanding of the firearms trafficking that fuels violence and enables criminals in Belize, El Salvador, Guatemala, Honduras, and Mexico.

(11) In the 2022 GAO report “Firearms Trafficking: More Information Needed to Inform U.S. Efforts in Central America”, the Comptroller General found that efforts of the United States Government focused on firearms trafficking in Belize, El Salvador, Guatemala, and Honduras lacked information about relevant country conditions and performance measures to ensure such efforts were designed and implemented to achieve the intended objectives and, as a result, the Comptroller General recommended that the Secretary of State obtain information about the conditions in such countries, to support the development of effective programs to reduce the availability of illicit firearms.

(12) Data on firearms trafficking is limited and to understand the problem, data compilation is crucial.

(13) In 2021 and 2022, the annual Country Reports on Human Rights Practices of the Department of State included “unlawful and arbitrary
killings” as a significant human rights issue in Guate-

tela, yet despite such inclusion, the Under Sec-

retary of Commerce for Industry and Security has

authorized approximately 99,270 firearms exports to

Guatemala since assuming responsibility for firearms

licensing in 2020.

(14) When firearms were controlled under the

United States Munitions List and the licensing of

firearms was the responsibility of the Secretary of

State, the average number of firearms licensed for

export to Guatemala was approximately 4,000 per

year.

(15) The current number of exports specified in

paragraph (10) represents an extraordinary increase

(as much as 25 times the average) from the number

specified in paragraph (11), and the Under Sec-

retary of Commerce for Industry and Security has

only been able to conduct a very limited number of

end-use checks, according to the 2022 GAO report

“Firearms Trafficking: More Information Needed to

Inform U.S. Efforts in Central America”.

(16) The proposed security cooperation plan ti-

tled “U.S.-Mexico Bicentennial Framework for Secu-

rity, Public Heath, and Safe Communities” and

other new initiatives to address root causes of mi-
gration from Central America offer an opportunity
to reaffirm commitments and strengthen cooperation
on addressing firearms trafficking.

SEC. 3. REPORTS AND STRATEGY ON DISRUPTION OF ILLI-
GAL EXPORT AND TRAFFICKING OF FIRE-
ARMS TO MEXICO AND CERTAIN CENTRAL
AMERICAN COUNTRIES.

(a) REPORT.—Not later than 180 days after the date
of the enactment of this Act, the Secretary of State (in
consultation with the Secretary of Commerce, the Attor-
ney General, the Director of the Bureau of Alcohol, To-
bacco, Firearms and Explosives, and the heads of such
other Federal departments or agencies as the Secretary
of State may determine relevant) shall submit to the ap-
propriate congressional committees a report on the efforts
of the Secretary of State and the heads of other relevant
Federal departments and agencies to disrupt the illegal
export or diversion of firearms from the United States to
unauthorized recipients in countries designated as covered
countries under section 4 (including through unauthorized
third-party transfers), and the illegal trafficking of fire-
arms obtained in the United States to such recipients.
Such report shall include the following:

(1) An identification of any such efforts, includ-
ing efforts to accomplish the following objectives:
(A) Tracking and verifying information regarding the end-users of firearms so exported, including by entering into data-sharing agreements with appropriate counterparts from the governments of such covered countries.

(B) Ensuring the destruction of surplus firearms so exported.

(C) Ensuring that firearms so exported are not used to commit extrajudicial killings or other gross violations of internationally recognized human rights.

(D) Building the capacity of such covered countries to prevent the trafficking of firearms so exported, including through current programs supported or implemented by the United States Government.

(E) Tracking and verifying information regarding the end-users of firearms obtained in the United States and illegally trafficked to such covered countries.

(F) Combating all forms of cross-border smuggling of firearms from the United States.

(G) Engaging with subnational government officials in such covered countries to effectively implement and enforce agreements relating to
the trafficking of firearms that have been concluded between the United States Government and the national government of the respective covered country.

(H) Identifying the origin of trafficked weapons, including through the serial numbers of trafficked firearms.

(2) An assessment of the results of the efforts identified pursuant to paragraph (1).

(3) A description of how homicides, extrajudicial killings, and other gross violations of internationally recognized human rights committed in such covered countries using firearms exported from or obtained in the United States have been investigated.

(b) INTER-AGENCY STRATEGY.—

(1) IN GENERAL.—The Secretary of Commerce and the Secretary of State, taking into account the findings of the report under subsection (a), shall jointly develop an inter-agency strategy for the disruption of the trafficking of firearms exported from the United States to recipients in countries designated as covered countries under section 4.

(2) ELEMENTS.—The strategy under paragraph (1) shall include the following:
(A) A plan for the Secretaries to accomplish each of the objectives specified in subsection (a)(1).

(B) An identification of specific performance measures, targets (including the baselines for such targets), and timelines with respect to such objectives.

(C) An estimate of the resources and personnel necessary to carry out the strategy.

(3) REQUIRED CONSIDERATIONS; CONSULTATIONS.—In developing the strategy under paragraph (1), the Secretaries shall—

(A) consider how the strategy may support or otherwise align with broader efforts of the Secretaries relating to security assistance, anti-corruption, and the prevention of organized crime and drug and gang violence;

(B) consider whether the placement in the Western Hemisphere of an export control officer of the Bureau of Industry and Security of the Department of Commerce, or other personnel of the Department of Commerce or the Department of State, would support the strategy; and
(C) seek to consult with appropriate counterparts from the government of each country designated as a covered country under section 4.

(4) Submission to Congress.—Not later than January 1 of the year following the date of the enactment of this Act, the Secretary of Commerce and the Secretary of State shall jointly submit to the appropriate congressional committees the strategy under paragraph (1).

(c) Annual Report.—

(1) Submission.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Secretary of Commerce (in consultation with the Secretary of State and the heads of such other Federal departments or agencies as the Secretary of Commerce may determine relevant) shall submit to the appropriate congressional committees a report on the export of covered items to countries designated as covered countries under section 4.

(2) Matters.—Each report under paragraph (1) shall include, with respect to the year for which the report is submitted, the following information (disaggregated by country):
(A) Information regarding license applications approved or denied, and previously issued licenses modified or revoked, for the export of covered items to proposed recipients in covered countries.

(B) Information regarding how evolving country contexts, including with respect to developments in human rights, affected the approval of license applications for such exports.

(C) The number of licenses issued for the export of covered items to proposed recipients in covered countries.

(D) The number of covered items exported to recipients in covered countries.

(E) With respect to end-user checks for covered items exported to recipients in covered countries under section 38(g)(7) of the Arms Export Control Act (22 U.S.C. 2778(g)(7)) (commonly referred to as the “Blue Lantern” program), the monitoring program established under the second section 40A of the Arms Export Control Act (22 U.S.C. 2785) (as added by section 150(a) of Public Law 104–164), or other applicable programs of the Department of
Commerce or Department of State, the following information:

(i) The number of such end-user checks requested.

(ii) The number of such end-user checks conducted.

(iii) The type of such end-user checks conducted.

(iv) The results of such end-user checks conducted.

(F) Information on the extent to which the heads of the governments of covered countries shared with the Secretary of Commerce and the heads of other relevant Federal departments and agencies (such as the Bureau of Alcohol, Tobacco, Firearms and Explosives) data relating to the receipt and end-use of covered items exported from the United States, and the type of data so shared.

(G) For each covered country, a description of the U.S. funding and resources allocated for the purpose of disrupting trafficking of covered items.
SEC. 4. DESIGNATION OF COVERED COUNTRIES.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Commerce shall designate each country that the Secretary determines meets the requirements under subsection (b) as a covered country for purposes of this Act.

(b) REQUIREMENTS.—A country meets the requirements under this subsection if the country—

(1) is located in North America, South America, or the Caribbean;

(2) is not a member state of the North Atlantic Treaty Organization; and

(3) meets such other requirements as the Secretary of State may determine appropriate.

(c) INITIAL DESIGNATIONS.—The Bahamas, Belize, El Salvador, Guatemala, Honduras, Mexico, Haiti, Jamaica, and Trinidad and Tobago—

(1) shall be deemed to have been so designated by the Secretary of Commerce as of the date of the enactment of this Act; and

(2) shall continue to be deemed so designated for a five-year period, during which time the designation may not be terminated under subsection (d).

(d) TERMINATION OF DESIGNATION.—Subject to subsection (e)(2), the Secretary of Commerce may termi-
nate the designation of a country under this section only if, at least 180 days prior to such termination, the Secretary submits to the appropriate congressional committees a notification of such termination.

SEC. 5. LIMITATION ON LICENSES AND OTHER AUTHORIZATIONS FOR EXPORT OF CERTAIN ITEMS REMOVED FROM THE UNITED STATES MUNITIONS LIST AND INCLUDED ON THE COMMERCE CONTROL LIST.

(a) IN GENERAL.—The Secretary of Commerce may not grant a license or other authorization for the export of a covered item unless, before granting the license or other authorization, the Secretary submits to the chairman and ranking member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking member of the Committee on Foreign Affairs of the Senate a written certification with respect to such proposed export license or other authorization containing—

(1) the name of the person applying for the license or other authorization;

(2) the name of the person who is the proposed recipient of the export;

(3) the name of the country or international organization to which the export will be made;
(4) a description of the items proposed to be exported; and

(5) the value of the items proposed to be exported.

(b) FORM.—A certification required under subsection (a) shall be submitted in unclassified form, except that information regarding the dollar value and number of items proposed to be exported may be restricted from public disclosure if such disclosure would be detrimental to the security of the United States.

(c) DEADLINES.—A certification required under subsection (a) shall be submitted—

(1) at least 15 calendar days before a proposed export license or other authorization is granted in the case of a transfer of items to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, the Republic of Korea, Israel, or New Zealand, and

(2) at least 30 calendar days before a proposed export license or other authorization is granted in the case of a transfer of items to any other country.

(d) CONGRESSIONAL RESOLUTION OF DISAPPROVAL.—A proposed export license or other authorization described in paragraph (1) of subsection (c) shall become effective after the end of the 15-day period described
in such paragraph, and a proposed export license or other
authorization described in paragraph (2) of subsection (e)
shall become effective after the end of the 30-day period
specified in such paragraph, only if the Congress does not
enact, within the applicable time period, a joint resolution
prohibiting the export of the covered item for which the
export license or other authorization was proposed.

SEC. 6. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMIT-
TEES.—The term “appropriate congressional com-
mittees” means—

(A) the Committee on Foreign Affairs of
the House of Representatives; and

(B) the Committee on Foreign Relations
and the Committee on Banking, Housing, and
Urban Affairs of the Senate.

(2) COVERED ITEM.—The term “covered item”
means any item that—

(A) as of March 8, 2020, was included in
Category I, II, or III of the United States Mu-
nitions List; and

(B) is included on the Commerce Control
List.

(3) FIREARM.—The term “firearm” includes—
(A) any item that is included in Category I, II, or III of the United States Munitions List; and

(B) any covered item.

(4) GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.—The term “gross violations of internationally recognized human rights” has the meaning given that term in section 502B(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)).

(5) SECURITY ASSISTANCE.—The term “security assistance” includes—

(A) the types of assistance specified in section 502B(d)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304); and

(B) assistance furnished under an international security assistance program of the United States conducted under any other provision of law, including under the authorities under chapter 16 of title 10, United States Code.

(6) UNITED STATES MUNITIONS LIST.—The term “United States Munitions List” means the list maintained pursuant to part 121 of title 22, Code of Federal Regulations.