To amend the Arms Export Control Act to provide for better monitoring and verification of the use of defense articles and defense services by countries of concern, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. MURRAY introduced the following bill; which was read twice and referred to the Committee on ______________________

A BILL

To amend the Arms Export Control Act to provide for better monitoring and verification of the use of defense articles and defense services by countries of concern, 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 “Values in Arms Export Act of 2022”.
SEC. 2. MONITORING AND VERIFICATION OF USE OF DEFENSE ARTICLES AND DEFENSE SERVICES.

Chapter 3A of the Arms Export Control Act (22 U.S.C. 2785) is amended—

(1) by redesignating the second section designated section 40A as section 40B; and

(2) by inserting after section 40B, as so redesignated, the following new section:

“SEC. 40C. MONITORING AND VERIFICATION OF USE OF DEFENSE ARTICLES AND DEFENSE SERVICES.

“(a) Principles.—

“(1) Statement of policy.—It is the policy of the United States that a country’s respect for and compliance with internationally recognized principles of human rights and the law of war are central and deciding factors in determining the eligibility of the country to purchase defense articles or defense services under this Act.

“(2) Examples of inconsistent actions and behaviors.—Actions or behavior by a country inconsistent with the principles described in paragraph (1) include the following:

“(A) Gross violations of internationally recognized human rights (as defined in section 502B(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d))).
“(B) Failure to adhere to standards of proportionality and discrimination.

“(C) Patterns or egregious incidents of destruction or damage of medical facilities or other civilian infrastructure.

“(D) Patterns or egregious incidents of harming or disregard for the safety of medical personnel, aid workers, peacekeepers, or journalists.

“(E) Patterns or egregious incidents of harming or disregard for the safety of civilians.

“(F) The denial of humanitarian relief resulting in serious harm to civilian populations.

“(G) Gross or systemic corruption, lack of transparency, or lack of accountability in the government or among security forces.

“(3) REPORTING OF INCONSISTENT ACTIONS AND BEHAVIORS.—

“(A) REPORTS BY OFFICERS OR EMPLOYEES OF UNITED STATES.—Any officer or employee of the United States Government stationed in a country with knowledge of action or behavior by that country that is inconsistent with the principles described in paragraph (1) shall report the action or behavior to the chief
of mission (as defined in section 102 of the Foreign Service Act of 1980 (22 U.S.C. 3902)) for that country.

“(B) REPORTING TO SECRETARY OF STATE.—A chief of mission that receives a report under subparagraph (A) with respect to an action or behavior shall promptly report the action or behavior to the Secretary of State.

“(C) REPORTING TO CONGRESS.—Not later than seven days after the Secretary receives a report under subparagraph (B) with respect to an action or behavior, the Secretary shall submit to Congress a report on the action or behavior. The report shall be submitted in unclassified form, but may include a classified annex if necessary. The report shall include at a minimum the following information:

“(i) The title or subject of each report.

“(ii) A description of significant problems, abuses, and deficiencies related to the inconsistent actions and behaviors of the country in question.
“(iii) A description of the evidence or information used to form the basis for the report.

“(4) INTELLIGENCE COMMUNITY REPORTING.—The Director of National Intelligence may specify additional reporting procedures for officers or employees who are members of the intelligence community. Such procedures shall encompass reporting and analysis of information relevant to the principles described in this subsection but which may be insufficiently verified or not of sufficient severity for reporting under paragraph (3).

“(5) INCLUSION IN INTELLIGENCE PRIORITIES.—The Director of National Intelligence shall ensure that collection and analysis of information related to the principles described in this subsection is included in each National Intelligence Priorities Framework, or any successor directive.

“(b) MONITORING AND VERIFICATION PROGRAM.—

“(1) IN GENERAL.—The Secretary of Defense shall carry out a program of monitoring and verification of the use of defense articles and defense services acquired under this Act by countries of concern.
“(2) Elements.—The program established under this subsection shall include the following elements:

“(A) The observation and evaluation by members of the United States Armed Forces of the targeting process used by the country of concern, the employment of the acquired defense articles by the country of concern, the return of any unused defense articles, and the post-use assessment of damage and casualties.

“(B) Employment by the Secretary of Defense of direct observation, real-time video feeds, other real-time sensory data and collection methods, and other appropriate sources of information that can be independently authenticated by the United States Government, as opposed to reports or other nonobjective media created or provided by a country of concern, which are not appropriate sources of information.

“(3) Availability and Use of Information.—

“(A) In General.—The Secretary of Defense shall make available to the Secretary of State, the appropriate congressional commit-
tees, and the Human Rights and Law of War Oversight Board established under section 4 of the Values in Arms Export Act of 2022 all information collected or evaluated as part of the program established under this subsection.

“(B) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this paragraph, the term ‘appropriate congressional committees’ means—

“(i) the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate; and

“(ii) the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.

“(4) SEPARATE BUDGETARY LINE ITEM.—The Secretary of Defense shall include in the budget justification materials submitted to Congress in support of the Department of Defense budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) specific identification, as a budgetary line
item, of the amounts required for the program established under this subsection.

“(5) FUNDING.—Funding to carry out the requirements of this section shall be derived from amounts collected under section 21. The President shall ensure such charges pursuant to such section are sufficient to fully meet all requirements of this section without cost to the United States.

“(e) EVALUATION BY THE SECRETARY OF STATE.—

“(1) CONSIDERATION OF INFORMATION.—The Secretary of State—

“(A) shall consistently review all relevant information related to a country of concern to determine to whether the country has engaged in any action or behavior inconsistent with the principles described in subsection (a)(1), including—

“(i) information gathered through the program established under subsection (b);

“(ii) information from any agency of the United States Government, including reports under subsection (a)(3);

“(iii) information referred by Members of Congress; and
“(iv) credible reports or information gathered by members of the media, non-governmental organizations, foreign countries, international organizations, or academic experts; and

“(B) may consider exculpatory information proffered by the country if—

“(i) the information can be independently authenticated by the United States;

“(ii) the country provides access to all information in its possession about alleged incidents of the use of security forces of the country in a manner that is inconsistent with the principles described in subsection (a)(1); and

“(iii) there is no evidence that the country has attempted to obstruct investigations by independent parties.

“(2) Determinations Required.—In each case in which a country of concern may have engaged in an action or behavior inconsistent with the principles described in subsection (a)(1), the Secretary of State, based on United States standards and policy for the conduct of the United States Armed Forces or international law, as applicable,
shall make a determination as to the legality and appropriateness of—

“(A) the action or behavior; and

“(B) the employment of defense articles or defense services acquired under this Act in the action or behavior.

“(d) DESIGNATION OF COUNTRIES OF CONCERN.—

“(1) COUNTRY OF CONCERN DEFINED.—In this section, the term ‘country of concern’—

“(A) means—

“(i) a country designated as a country of concern by the President, the Secretary of State, the Secretary of Defense, or the Human Rights and Law of War Oversight Board established under section 4 of the Values in Arms Export Act of 2022;

“(ii) a country designated as a country of concern by law or by Congress through the adoption of a concurrent resolution; or

“(iii) any country with respect to which the United States has determined that one or more units of the security forces of the country is ineligible for assistance pursuant to section 620M of the For-
eign Assistance Act of 1961 (22 U.S.C. 2378d) or section 362 of title 10, United States Code, notwithstanding any waiver exercised under such sections; and

“(B) does not include the North Atlantic Treaty Organization, or any member country of such Organization, Japan, Australia, the Republic of Korea, Israel, or New Zealand.

“(2) DURATION OF DESIGNATION.—The designation of a country as a country of concern under paragraph (1)—

“(A) shall remain in effect for a period of three years; and

“(B) may be renewed, before the previous designation expires, in any manner in which a designation may be made under paragraph (1).

“(3) EXPEDITED PROCEDURES.—

“(A) CONSIDERATION IN SENATE.—Any bill, joint resolution, or concurrent resolution designating a country as a country of concern under paragraph (1)(A)(ii) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 765).
“(B) Consideration in House of Representatives.—For the purpose of expediting the consideration of bills, joint resolutions, or concurrent resolutions designating a country as a country of concern under paragraph (1)(A)(ii), a motion to proceed to the consideration of any such bill, joint resolution, or concurrent resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

“(e) Ineligibility for Sales and Transfers.—

“(1) In general.—A country shall be ineligible for sale or transfer of defense articles (including spare parts for such articles) or defense services, or the extension of credit (including participation in the extension of credit) or loan guarantees under this Act, for a 10-year period beginning on, and shall immediately discontinue the use of, or return to the United States, any covered defense articles in its possession effective as of, the date—

“(A) the country is designated a country of concern under subsection (d) for the second time in a 10-year period;
“(B) the Secretary of State, in consultation with the Secretary of Defense, determines that the country, at the end of the three-year designation period under subsection (d)(2), has failed to demonstrate sufficient improvement in adherence to the principles described in subsection (a)(1); or

“(C) during the three-year designation period under subsection (d)(2), the country engages in an action or behavior inconsistent with those principles.

“(2) Restoration of Eligibility.—A country may qualify for early termination of the 10-year ineligibility period under paragraph (1)—

“(A) if the Secretary of State determines and reports to Congress that the government of the country has taken meaningful steps to correct the deficiencies upon which such ineligibility is based, which shall include—

“(i) enacting and enforcing new laws or policy;

“(ii) substantial remedial training for government officials and members of the military or security forces;
“(iii) in the case of organized armed groups that are not part of the formal chain of command for regular and irregular forces of the country, but that are controlled or supported by the country to any degree, taking actions to cease any support for or affiliation with those organizations or to cause them to cease participation in hostilities; and

“(iv) fully investigating and holding accountable individuals at any level who were responsible for human rights and law of armed conflict violation; and

“(B) upon the enactment of a joint resolution approving such early termination of ineligibility.

“(3) IMMEDIATE LIMITED INELIGIBILITY UPON INITIAL DESIGNATION.—A country shall be ineligible for sale or transfer of a covered defense article under this Act for a three-year period beginning on the date the country is designated a country of concern.

“(4) WAIVER FOR VALID TRAINING.—

“(A) IN GENERAL.—The President may waive the application of this subsection to
International Military Education and Training (IMET) assistance or training provided by any United States Government agency, and carried out by United States Government personnel, relating to the law of armed conflict, human rights, anticorruption, or similar issues.

“(B) LIMITATION ON SCOPE OF WAIVER.—
In no case may a waiver under subparagraph (A) extend to cover operations that are part of any armed conflict or any activity that would be subject to the War Powers Resolution (50 U.S.C. 1541 et seq.).

“(5) COVERED DEFENSE ARTICLE DEFINED.—
In this subsection, the term ‘covered defense article’ means—

“(A) any defense article in the same category of the United States Munitions List as a defense article determined to have been involved in the country’s designation as a country of concern; and

“(B) any spare parts or services related to the defense article determined to have been involved in the country’s designation as a country of concern.
“(f) Imposition of Sanctions With Respect to Government Officials.—

“(1) In general.—The Secretary of the Treasury shall impose sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) with respect to appropriate officials of the government of a country described in subsection (e)(1). In imposing such sanctions, the Secretary shall prioritize senior members of the government, or those in significant leadership positions, who have authority over the personnel or conduct involved in the country’s designation as a country of concern.

“(2) Waiver.—The President may waive the imposition of sanctions under paragraph (1) with respect to an official described in that paragraph if the President—

“(A) determines that it is in the vital national security interests of the United States to issue the waiver; and

“(B) submits to Congress a justification for the waiver, including a comprehensive explanation for why the official should receive the waiver.
“(3) Reports required.—Not later than one year after the date of the enactment of this section, and annually thereafter, the Secretary of the Treasury shall submit to Congress a report on the imposition of sanctions under paragraph (1) that includes—

“(A) a description of any waivers issued under paragraph (2); and

“(B) an assessment of the effectiveness of the sanctions in changing the action or behavior of each country that resulted in ineligibility under subsection (e).

“(g) Required agreement terms.—Any agreement for the sale of defense articles or defense services under this Act entered into after the date of the enactment of this section shall include terms requiring the country receiving such articles or services to agree to the requirements of this section and to permit and fully cooperate with any investigation by United States Government personnel into an action or behavior by the country that may be inconsistent with the principles described in subsection (a)(1). No such sale or transfer shall be permitted without inclusion of such requirements.

“(h) Reports required.—
“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, and every 180 days thereafter, the Secretary of State shall submit to Congress a report that includes—

“(A) an assessment of whether each country of concern has engaged in actions or behavior inconsistent with the principles described in subsection (a)(1) during the 180-day period preceding submission of the report, including any progress in improving, or worsening of, such actions or behavior of that country;

“(B) an identification of each country of concern for which, during the 180-day period following submission of the report—

“(i) the designation of the country as a country of concern will expire;

“(ii) more than 10 years will have elapsed following the designation of the country as a country of concern; or

“(iii) a 10-year ineligibility period under subsection (e) will expire;

“(C) an assessment of any progress made during the 180-day period preceding submission of the report by a country subject to a 10-year ineligibility period under subsection (e) toward
eligibility for early termination of that period
under paragraph (2) of that subsection;

“(D) all reports submitted pursuant to
subsection (a)(3) during the 180-day period
preceding submission of the report;

“(E) in coordination with the Secretary of
Defense, the findings of the program estab-
lished under subsection (b), including any in-
stances in which a country failed to fully com-
ply with the program; and

“(F) an identification of any country that
has failed to fully comply with investigations
described in subsection (g).

“(2) FORM OF REPORT.—Each report required
by paragraph (1) shall be submitted in unclassified
form to the maximum extent possible, but may in-
clude a classified annex.

“(i) RULE OF CONSTRUCTION.—Nothing in this sec-
tion shall be construed as authorizing the use of military
force or otherwise authorizing the President to introduce
United States forces into hostilities that have not been
specifically authorized by Congress pursuant to the War
Powers Resolution (50 U.S.C. 1541 et seq.).”.
SEC. 3. REQUIRED ASSESSMENT OF RISK OF EXPORTED

WEAPONS BEING USED TO VIOLATE PRINCIPLES OF HUMAN RIGHTS OR THE LAW OF

ARMED CONFLICT.

(a) LETTERS OF OFFER.—Section 36(b)(1) of the

Arms Export Control Act (22 U.S.C. 2776(b)(1)) is

amended—

(1) in subparagraph (O), by striking “; and”

and inserting a semicolon;

(2) in subparagraph (P), by striking the period

at the end and inserting “; and”; and

(3) by inserting after subparagraph (P) the fol-

lowing new subparagraph:

“(Q) an assessment of the risk of the de-

fense articles, defense services, or design and

construction services to be offered being used to

violate principles of human rights or the law of

armed conflict, prepared by the Secretary of

State through the Assistant Secretary for the

Bureau of Democracy, Human Rights, and

Labor, in consultation with the Secretary of

Defense and the Director of Central Intel-

ligence.”.

(b) EXPORT LICENSE APPLICATIONS.—Section

36(c)(1) of the Arms Export Control Act (22 U.S.C.

2776(c)(1)) is amended—
(1) by striking “and (C)” and inserting “(C)”;

and

(2) by inserting after “items to be exported” the following: “, and (D) an assessment of the risk of the items being used to violate principles of human rights or the law of armed conflict, prepared by the Secretary of State through the Assistant Secretary for the Bureau of Democracy, Human Rights, and Labor, in consultation with the Secretary of Defense and the Director of Central Intelligence”.

SEC. 4. HUMAN RIGHTS AND LAW OF WAR OVERSIGHT BOARD.

(a) In General.—There is established as an independent agency within the executive branch a Human Rights and Law of War Oversight Board (referred to in this section as the “Board”).

(b) Purpose.—The Board shall—

(1) analyze and review the actions and conduct of recipient countries for strict adherence to the law of armed conflict and human rights principles, and their continual efforts to improve such adherence; and

(2) ensure that human rights and law of armed conflict concerns are appropriately considered in the negotiation, approval, and execution of arms sales,
including as required under section 40C of the Arms Export Control Act, as added by section 2 of this Act.

(c) Functions.—

(1) Advice and counsel on policy development and implementation.—The Board shall—

(A) review proposed legislation, regulations, and policies related to international arms sales;

(B) advise the President and the departments, agencies, and elements of the executive branch to ensure that human rights and the law of armed conflict are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines;

(C) in providing advice on such proposals, consider whether such proposals would—

   (i) diminish to any degree the oversight by entities of the executive branch of the end use of United States-provided arms; or

   (ii) lessen to any degree the centrality of compliance by recipient states with principles of human rights or the law of armed
conflict as a core factor in decisions of whether to approve sales; and

(D) submit to Congress, the President, or the head of any executive branch department, agency, or entity, such recommendations for policy, regulation, or law relevant to the purpose or functions of the Board that the Board deems advisable.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch relating to arms sales to ensure that principles of human rights or the law of armed conflict are a central focus and consideration at each stage of the arms sales process, including end use;

(B) whether entities of the executive branch are adhering to such policies;

(C) other actions by the executive branch relating to arms sales to determine whether such actions—
(i) diminish to any degree the oversight by entities of the executive branch of the end use of United States-provided arms; or

(ii) lessen to any degree the centrality of compliance by recipient states with principles of human rights or the law of armed conflict as a core factor in decisions of whether to approve sales; and

(D) the adherence of recipient states to human rights principles and the law of armed conflict, the extent to which United States-provided weapons are being used or could be used in contravention of those principles and laws, and whether recipient states are working to improve their adherence to the maximum extent of their capabilities.

(3) TESTIMONY.—The members of the Board shall appear and testify before Congress upon request.

(4) ASSESSMENTS.—The Board shall submit to Congress, at the time of any notification under subsection (b) or (e) of section 36 of the Arms Export Control Act (22 U.S.C. 2776), the assessment of the Board, along with any minority views, of the appro-
priateness of the proposed sale based on the recipi-
ent state’s adherence to principles of human rights
and the law of armed conflict.

(d) Designations.—

(1) In General.—The Board may in its sole
discretion, by a majority vote of the Members, des-
ignate a country as a country of concern under sec-
tion 40C(d)(1)(A)(i) of the Arms Export Control
Act, as added by section 2 of this Act. Not later
than the time of the designation, the Board shall
transmit to the Senate, the House of Representa-
tives, and the President the Board’s determination
supporting such designation, along with any minor-
ity views. The determination shall be in unclassified
form to the maximum extent possible, but may in-
clude a classified annex as necessary.

(2) Reversal.—The President may vacate a
designation by the Board under paragraph (1). In
exercising this authority, the President shall submit
to the Board, the Senate, and the House of Rep-
resentatives a detailed justification for the action.
This authority may not be delegated.

(e) Reports.—

(1) In General.—The Board shall periodically,
but not less frequently than annually, submit to the
Senate, the House of Representatives, and the President a report on the activities of the Board.

(2) ELEMENTS.—The report required under paragraph (1) shall include the following elements:

(A) A description of the major activities of the Board during the preceding period.

(B) Information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (c).

(C) The minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (c).

(D) A summary of each proposal reviewed by the Board under subsection (c)(1) that—

(i) the Board advised against implementation or advised significant modifications of; and

(ii) notwithstanding such advice, actions were taken to implement.

(E) For the preceding period, a description of any requests submitted under subsection (g)(1)(C) for the issuance of subpoenas that
were modified or denied by the Attorney General.

(3) FORM.—The report required under this subsection shall be submitted in unclassified form to the greatest extent possible, but may include a classified annex as necessary.

(f) INFORMING THE PUBLIC.—The Board—

(1) shall make its reports, including its reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) shall hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law, but may, notwithstanding section 552b of title 5, United States Code, meet or otherwise communicate in any number to confer or deliberate in a manner that is closed to the public.

(g) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or
any Federal officer or employee of any such de-
partment, agency, or element, to all relevant
records, reports, audits, reviews, documents, pa-
pers, recommendations, or other relevant mate-
rial, including classified information consistent
with applicable law;

(B) interview, take statements from, or
take public testimony from personnel of any de-
partment, agency, or element of the executive
branch, or any Federal officer or employee of
any such department, agency, or element;

(C) at the direction of a majority of the
members of the Board, submit a written re-
quest to the Attorney General that the Attorney
General require, by subpoena, persons (other
than departments, agencies, and elements of the
executive branch) to produce any relevant infor-
mation, documents, reports, answers, records,
accounts, papers, and other documentary or tes-
timonial evidence; and

(D) conduct travel or site visits.

(2) ASSISTANCE.—The Secretary of State, the
Secretary of Defense, and any other head of a de-
partment, agency, or entity shall provide to the
Board any necessary assistance to facilitate activities
set forth under paragraph (1).

(3) REVIEW OF SUBPOENA REQUEST.—

(A) IN GENERAL.—Not later than 30 days
after the date of receipt of a request by the
Board under paragraph (1)(C), the Attorney
General shall—

(i) issue the subpoena as requested; or

(ii) provide the Board, in writing, with
an explanation of the grounds on which the
subpoena request has been modified or de-

(B) NOTIFICATION.—If a subpoena request
is modified or denied under subparagraph
(A)(ii), the Attorney General shall, not later
than 5 days after the date of that modification
or denial, notify the Senate and the House of
Representatives.

(4) ENFORCEMENT OF SUBPOENA.—In the case
of contumacy or failure to obey a subpoena issued
pursuant to paragraph (1)(C), the United States
district court for the judicial district in which the
subpoenaed person resides, is served, or may be
found may issue an order requiring such person to
produce the evidence required by such subpoena.
(5) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department, agency, or element concerned without delay. The head of the department, agency, or element concerned shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions.

(6) ACCESS.—Nothing in this section shall be construed to authorize the Board, or any agent thereof, to gain access to information regarding an activity covered by section 503(a) of the National Security Act of 1947 (50 U.S.C. 3093(a)).

(h) MEMBERSHIP.—

(1) MEMBERS.—The Board shall be composed of a full-time chairman and four additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public
stature, expertise in human rights and the law
of armed conflict, and relevant experience, and
without regard to political affiliation, but in no
event shall more than three members of the
Board be members of the same political party.

(B) PROHIBITION ON APPOINTMENT OF IN-
DIVIDUALS EMPLOYED BY CERTAIN ENTI-
TIES.—An individual who was employed, during
the preceding 5-year period, by an entity that
engages in activities subject to the Arms Export
Control Act (22 U.S.C. 2751 et seq.) is not eli-
gible to serve as a member of the Board.

(C) SELECTION OF MEMBERS NOT OF PO-
LITICAL PARTY OF PRESIDENT.—The President
shall, before appointing an individual who is not
a member of the same political party as the
President, consult with the leadership of that
party, if any, in the Senate and the House of
Representatives.

(3) INCOMPATIBLE OFFICE.—An individual ap-
pointed to the Board may not, while serving on the
Board, be an elected official, officer, or employee of
the Federal Government, other than in the capacity
as a member of the Board.
(4) Term.—Each member of the Board shall serve a term of 6 years, except that—

(A) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term; and

(B) upon the expiration of the term of office of a member, the member shall continue to serve until the member’s successor has been appointed and qualified, except that no member may serve under this subparagraph—

(i) for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate; or

(ii) after the adjournment sine die of the session of the Senate in which such nomination is submitted.

(5) Quorum and Meetings.—The Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

(i) Compensation and Travel Expenses.—

(1) Compensation.—
(A) CHAIRMAN.—The chairman of the Board shall be compensated at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(B) MEMBERS.—Each member of the Board shall be compensated at a rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

(2) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(j) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The chairman of the Board, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full-time executive director and
such other personnel as may be necessary to enable
the Board to carry out its functions, without regard
to the provisions of title 5, United States Code, gov-
erning appointments in the competitive service, and
without regard to the provisions of chapter 51 and
subchapter III of chapter 53 of such title relating to
classification and General Schedule pay rates, except
that no rate of pay fixed under this subsection may
exceed the equivalent of that payable for a position
at level V of the Executive Schedule under section
5316 of title 5, United States Code.

(2) APPOINTMENT IN ABSENCE OF CHAIR-
MAN.—If the position of chairman of the Board is
vacant, during the period of the vacancy, the Board,
at the direction of the unanimous vote of the serving
members of the Board, may exercise the authority of
the chairman under paragraph (1).

(3) DETAILEES.—Any Federal employee may
be detailed to the Board without reimbursement
from the Board, and such detailee shall retain the
rights, status, and privileges of the detailee’s regular
employment without interruption.

(4) CONSULTANT SERVICES.—The Board may
procure the temporary or intermittent services of ex-
perts and consultants in accordance with section
3109 of title 5, United States Code, at rates that do not exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(k) Security Clearances.—

(1) In general.—The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements.

(2) Rules and procedures.—After consultation with the Secretary of Defense, the Attorney General, and the Director of National Intelligence, the Board shall adopt rules and procedures of the Board for physical, communications, computer, document, personnel, and other security relating to carrying out the functions of the Board.

(l) Treatment as agency, not as advisory committee.—The Board—

(1) is an agency (as defined in section 551(1) of title 5, United States Code); and

(2) is not an advisory committee (as defined in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.)).
(m) Ethics Policy.—

(1) In general.—Not later than 180 days after the first date on which three members have been appointed to the Board, by and with the advice and consent of the Senate, the Board shall adopt policies governing ethical conduct of its members and staff, which shall include—

(A) restrictions on lobbying or advocating to the Board by entities that engage in activities covered by the Arms Export Control Act (22 U.S.C. 2751 et seq.); and

(B) periods of prohibition on employment of members and staff of the Board by such entities following their service on the Board or the staff of the Board.

(2) Review.—The Board shall review and revise as appropriate such policies not less frequently than every three years.

(3) Transmission to President and Congress.—The Board shall transmit the policies required by paragraph (1), and any revisions to such policies under paragraph (2), to the President and to Congress.

(n) Initial Assessment.—The Board shall conduct an initial assessment of the capability of the Department
of State, the Department of Defense, and the Defense Security Cooperation Agency to carry out the requirements of section 40C of the Arms Export Control Act, as added by section 2 of this Act. The Board shall transmit to Congress a report on its findings not later than 18 months after the first date on which three members shall have been appointed to the Board, by and with the advice and consent of the Senate.

(o) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section amounts as follows:

(1) For fiscal year 2023, $5,000,000.
(2) For fiscal year 2024, $7,000,000.
(3) For fiscal year 2025, $9,000,000.
(4) For fiscal year 2026, $11,000,000.
(5) For fiscal year 2027 and each subsequent fiscal year, such sums as may be necessary.

SEC. 5. INCLUSION IN BLUE LANTERN PROGRAM OF CONSIDERATION OF USE OF DEFENSE ARTICLES AND SERVICES TO COMMIT SERIOUS VIOLATIONS OF THE LAWS OF ARMED CONFLICT AND INTERNATIONAL HUMAN RIGHTS LAW.

Subsection (b)(1) of section 40B of the Arms Export Control Act, as redesignated by section 2(1), is amended by inserting “(including use to commit serious violations
of the laws of armed conflict and international human
rights law)” after “to diversion or other misuse”.

SEC. 6. CONSIDERATION OF RISK OF COMMISSION OF VIO-
LATIONS OF HUMAN RIGHTS OR THE LAW OF
ARMED CONFLICT IN ISSUING EXPORT LI-
CENSES.

Section 38(a)(2) of the Arms Export Control Act (22
U.S.C. 2778(a)(2)) is amended by inserting after “con-
flict,” the following: “be used to commit violations of
human rights or the law of armed conflict,”.

SEC. 7. INITIAL DESIGNATIONS OF COUNTRIES OF CON-
CERN.

(a) DESIGNATIONS.—Saudi Arabia and the United
Arab Emirates are hereby designated as countries of con-
cern for purposes of section 40C of the Arms Export Con-
trol Act, as added by section 2 of this Act.

(b) BASIS FOR DESIGNATIONS.—The designations
under subsection (a) are based on the following defense
articles:

(1) GBU-12 Paveway II Laser Guided Bomb.

(2) GBU-31/32/38 Joint Direct Attack Mun-
tion.

(3) MK-82 bomb.

(4) White phosphorus munitions,
SEC. 8. COMPTROLLER GENERAL REPORT.

Not later than three years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report reviewing the implementation of section 40C of the Arms Export Control Act, as added by section 2 of this Act.