

Congress of the United States

Washington, DC 20515

May 13, 2024

The Honorable Katherine Tai
United States Trade Representative
Executive Office of the President
600 17th Street NW
Washington, D.C. 20508

Dear Ambassador Tai:

We write in support of the Office of the U.S. Trade Representative's (USTR) decision to remove the designation of import license requirements for explosives, firearms, and ammunition as trade barriers in the annual National Trade Estimate (NTE) report.¹ This is a commonsense decision that continues USTR's record, under your leadership, of fighting for families. This and other similar decisions break with USTR's history of using trade policy to line the pockets of industry executives and undermine important protections for workers, consumers, and small business owners.

The *Trade Act of 1974* codified a requirement for USTR to produce an annual National Trade Estimate report cataloging significant foreign barriers to, or distortions of, U.S. exports of goods and services.² Critically, the *Trade Act* gives USTR discretion to identify which foreign government policies truly constitute "significant" trade barriers.³ However, under previous administrations, the NTE became a laundry list of industry complaints, including attacks on legitimate public policies that U.S. trading partners have pursued in order to protect workers, consumers, and small businesses.⁴ For example, previous NTEs have targeted trading partners' prohibitions and licensing requirements for imports of firearms, ammunition, and explosives, even though these are highly dangerous weapons that merit regulation.⁵ This is especially troubling given that the United States also maintains restrictions on firearms imports: prospective

¹ Office of the U.S. Trade Representative, "2024 National Trade Estimate Report on FOREIGN TRADE BARRIERS," March 2024, https://ustr.gov/sites/default/files/2024%20NTE%20Report_1.pdf.

² 19 U.S.C. 2241; Office of the U.S. Trade Representative, Federal Register Notice, "Request for Comments on Significant Foreign Trade Barriers for the 2024 National Trade Estimate Report," September 11, 2023, <https://www.federalregister.gov/documents/2023/09/11/2023-19521/request-for-comments-on-significant-foreign-trade-barriers-for-the-2024-national-trade-estimate>.

³ *Id.*

⁴ Public Citizen, "Consumers Welcome News That USTR Will Not Criticize Allies for Protecting Privacy and Competition," press release, March 14, 2014, <https://www.citizen.org/news/consumers-welcome-news-that-ustr-will-not-criticize-allies-for-protecting-privacy-and-competition/>.

⁵ Office of the U.S. Trade Representative, "2023 National Trade Estimate Report on FOREIGN TRADE BARRIERS," March 2023, pp. 39, 44, 116, 386, 415, <https://ustr.gov/sites/default/files/2023-03/2023%20NTE%20Report.pdf>.

firearms importers must generally secure a license from the federal government, and arms imports from certain countries of concern are even prohibited outright.⁶

We were pleased to see that under your leadership, USTR has removed these arms control policies from the 2024 NTE report.⁷ Thanks to this change in approach, the NTE no longer attacks the arms import policies of countries where U.S.-made weapons have been implicated in horrific killings.⁸ For example, in Thailand—which has an import licensing requirement for firearms that is no longer targeted by the NTE report—in October 2022, a gunman entered a nursery school and used an American-made Sig Sauer pistol to murder 36 people, including 23 children.⁹ And firearms used to perpetrate crimes in Bolivia and Brazil have been found to be legally exported American-made guns.¹⁰ Restrictions on imports of lethal weapons are important, good faith public policies aimed at stemming the flow of firearms entering a country, often to mitigate gun violence, corruption, and other issues; they should not be categorized as significant trade barriers in the NTE alongside actually discriminatory regulations, simply due to complaints from corporate interests.¹¹

USTR’s decision aligns with President Biden’s efforts to crack down on gun violence at home and abroad and demonstrates the Biden administration’s commitment to addressing the flow of U.S.-made weapons to foreign countries.¹²

We continue to urge the Commerce Department to build on USTR’s action and take concrete steps to stem the tide of commercial gun exports from the United States. The Trump administration transferred oversight of exports of certain assault weapons and other firearms from the State Department to the Commerce Department in 2020.¹³ Under Commerce’s oversight, the number of approved firearms export licenses skyrocketed, fueling further gun

⁶ 27 C.F.R. 447.52; Bureau of Alcohol, Tobacco, Firearms and Explosives, “Import Firearms, Ammunition, and Defense Articles,” February 16, 2023, <https://www.atf.gov/firearms/import-firearms-ammunition-and-defense-articles>.

⁷ Office of the U.S. Trade Representative, “2024 National Trade Estimate Report on FOREIGN TRADE BARRIERS,” March 2024, https://ustr.gov/sites/default/files/2024%20NTE%20Report_1.pdf.

⁸ Those countries are Bolivia, Brazil, Côte d’Ivoire, Thailand, and the United Arab Emirates. Office of the U.S. Trade Representative, “2024 National Trade Estimate Report on FOREIGN TRADE BARRIERS,” March 2024, pp. 27, 32, 104, 333, 334, https://ustr.gov/sites/default/files/2024%20NTE%20Report_1.pdf.

⁹ Bloomberg, “How the US Drives Gun Exports and Fuels Violence Around the World,” Michael Riley, David Kocieniewski and Eric Fan, July 24, 2023, <https://www.bloomberg.com/graphics/2023-us-made-gun-exportsshootings-violence-sig-sauer/>.

¹⁰ Bureau of Alcohol, Tobacco, Firearms, and Explosives, “Part IV: Crime Guns Recovered Outside the United States and Traced by Law Enforcement,” <https://www.atf.gov/firearms/docs/report/nfcta-volume-ii-part-iv-crime-guns-recovered-outside-us-and-traced-le/download>.

¹¹ The Hill, “Big business bristles at USTR reporting change on trade,” Tobias Burns, March 29, 2024, <https://thehill.com/business/4563984-big-business-bristles-at-ustr-reporting-change-on-trade/>.

¹² The White House, “White House Announces New Actions to Promote Safe Storage of Firearms,” press release, January 25, 2024, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/01/25/white-house-announces-new-actions-to-promote-safe-storage-of-firearms/>.

¹³ Forum on the Arms Trade, “Transfer of Arms and Ammunition (USML Cat I-III) to Commerce,” <https://www.forumarmstrade.org/catitooiii.html>.

violence abroad.¹⁴ Commerce paused some new license approvals at the end of October 2023 to conduct a review of its export policies, and recently published a rule that will implement the results of that review.¹⁵ While the rule makes changes to more closely align Commerce’s process with State’s—including shortening firearms export licenses from four years to one and creating an interagency firearms export review process that State will lead¹⁶—it does not take several key commonsense steps to rein in exports – steps that several of us recommended in a letter to the Commerce Department earlier this year.¹⁷

Again, we applaud USTR’s decision to remove foreign countries’ restrictions on imports of firearms, ammunition, and explosives. This action not only reflects the Biden Administration’s efforts to address gun violence and put people’s lives over gun manufacturer profits; it is also another step forward in aligning U.S. trade policy with our domestic policy agenda and the interests of American families, instead of giant corporations.

Sincerely,



Elizabeth Warren
United States Senator



Joaquin Castro
Member of Congress



Adriano Espaillat
Member of Congress



Ilhan Omar
Member of Congress

CC: The Honorable Gina Raimondo, Secretary of Commerce

¹⁴ *Id.*

¹⁵ Bureau of Industry and Security, Federal Register Notice, “Revision of Firearms License Requirements,” April 30, 2024, <https://www.federalregister.gov/documents/2024/04/30/2024-08813/revision-of-firearms-license-requirements>.

¹⁶ *Id.*

¹⁷ Letter from Senator Warren and colleagues to Secretary Raimondo, January 23, 2024, <https://www.warren.senate.gov/imo/media/doc/2024.01.23%20Letter%20to%20Commerce%20re.%20arms%20export%20pause.pdf>.