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Via <http://www.regulations.gov>

Anthony Christino  
Acting Director  
Office of Nonproliferation and Foreign Policy Controls  
[NFPC\\_firearms@bis.doc.gov](mailto:NFPC_firearms@bis.doc.gov)

**Re: Safari Club International Comments on Revision of Firearms License Requirements, RIN 0694-AJ46, Docket No. 240419-0113.**

Dear Acting Director Christino,

Safari Club International (SCI) submits these comments in response to the Industry and Security Bureau's (BIS) interim final rule revising firearms license requirements, RIN 0694-AJ46. Although SCI respects and supports the need for the United States to advance and protect national security and foreign policy interests, SCI disagrees that additional restrictions are warranted for individuals traveling abroad with firearms for personal use. In particular, SCI opposes the interim final rule's inclusion of new limits on use of the License Exception Baggage (BAG). Further, in response to the request for comments on potential future changes to the License Exception BAG, SCI strongly urges BIS to not adopt either of the suggested amendments.

### **Safari Club International**

SCI, a nonprofit IRC § 501(c)(4) corporation, has approximately 100,000 members and advocates worldwide, many of whom are U.S. residents who travel with their firearms for hunting and recreational shooting around the world. SCI's missions include the conservation of wildlife, protection of the freedom to hunt, and education of the public concerning hunting and its use as a conservation tool. SCI is also a proud sponsor of USA Shooting and the athletes who will soon travel abroad with their firearms to represent the United States in the 2024 Olympics.

Most SCI members are individuals, not businesses, many of whom seek to bring their own firearms with them when they travel and return to the U.S. with those same firearms. SCI members' activities are legal and regulated by the countries they visit. It is very important for SCI members to bring their own firearms, with which they have practiced extensively and are familiar with their specific safety features, to ensure a successful and safe hunt or shooting competition.

**SCI opposes unnecessary changes in the interim final rule.**

SCI respectfully disagrees with the premise in the interim final rule that the changes to the License Exception BAG, 15 C.F.R. § 740.14, are necessary to protect national security and foreign policy interests. The interim final rule fails to provide any justification for the new restriction on the total number of firearms and shotguns individuals can take abroad. It simply notes the new limitation without any explanation. SCI cannot provide meaningful comment related to this unexplained change and strongly objects to this sort of indiscriminate, arbitrary, and capricious decision-making.

Regarding the new restrictions on destination eligibility under the License Exception BAG, BIS briefly notes that this regulation “*may* have been used” to illegally traffic firearms into CARICOM countries, and nothing relevant is asserted regarding Country Group D:5. But BIS glosses over the fact that any such transfer of firearms was already a violation of the conditions of the License Exception BAG. 15 C.F.R. § 740.14(e). Thus, any concerns about such speculative illegal use of the exception can and should be addressed by enforcement of existing regulations and not by increasing restrictions on otherwise law-abiding hunters and recreational shooters.

Likewise, the State Department’s Firearms Guidance Memorandum, referenced in the interim final rule, does not identify misapplication of the License Exception BAG as an issue of concern related to trafficking firearms to any destination. Rather, the State Department highlighted issues with *legally sold* firearms to non-governmental end users being diverted or misused in a manner adverse to U.S. interests. Firearms legally taken abroad under the License Exception BAG are not sold abroad; they are only allowed to be temporarily exported for personal use. Therefore, the State Department’s concerns do not apply and cannot support the revisions to the License Exception BAG.

Both changes implemented in the interim final rule are “solutions” either without a problem or that do not address an identified problem. Both changes are arbitrary and unsupported in violation of the Administrative Procedure Act. SCI opposes both changes and encourages BIS to reverse them in a future final rule.

**SCI opposes additional changes to the License Exception BAG.**

SCI also opposes changes that BIS suggests it might implement in a future rulemaking. As with the implemented changes to the License Exception BAG, BIS again suggests changes without justifying the need for them. First, BIS provides no explanation for its assertion that a time limit on the use of the BAG exception *could* address risks of diversion. It is not clear why BIS presumes that illegal diversion is less likely to occur if a time limit is imposed. For example, no evidence is cited that illegal diversions occur more often when hunters and sport-shooters take longer trips compared to shorter trips. Because there is no support for a time limit and it runs the risk of arbitrarily limiting individuals’ travel plans, BIS should not pursue adopting a time limit for the License Exception BAG.

Second, SCI strongly opposes any effort to reimpose mandatory Electronic Export Information (EEI) filings in the Automated Export System (AES) for individuals who utilize the License Exception BAG. Without any justification, BIS asserts that reimposing the requirement would increase transparency and reduce the chance of diversion. No reason is provided how this filing requirement would be any more transparent or prevent diversion more than the current filing requirement—submission of Form 4457. BIS does not provide any reasoning for adding requirements when it could rely on data collection that already exists and avoid imposing further paperwork on hunters and increasing the risk of user error.

SCI is not opposed to a *reasonable* filing requirement, such as use of Form 4457. But the AES is unreasonable and frankly unworkable for individuals traveling abroad with their personal firearms. The AES is designed to intake data from commercial businesses. It requires business-related information that individuals traveling abroad with their personal firearms simply cannot provide.

Using the AES is also more complicated and burdensome than necessary for individuals seeking to travel with their personal firearms. Unsurprisingly, use of the AES for individual travelers failed when it was previously tried. It failed for two primary reasons: the system is complicated and not targeted to individuals; and a better option is available through use of Customs and Border Protection (CBP) Form 4457 as the mechanism to facilitate temporary firearms export. BIS is aware of this failed attempt to use AES for the License Exception BAG, and it is unreasonable for BIS to consider returning to its use.

1. Because it is designed for businesses, the AES is overly complicated for individual travelers.

Using the AES for individual travelers is like trying to fit a square peg into a round hole. The AES is not designed to facilitate the temporary export and reimport of firearms and ammunition by individuals, and the system does not work for this purpose.

According to the U.S. Census Bureau, the collection of export data through the AES is designed to help with the “compilation of the U.S. position on merchandise *trade*,” and that data are an “essential component of the monthly totals provided in the U.S. International Trade in Goods and Services (FT900) press release, a principal economic indicator and a primary component of the Gross Domestic Product.”<sup>1</sup> Of course, individuals who wish to temporarily travel with their personal firearms and ammunition have nothing to do with the “U.S. position on merchandise trade” or the “Gross Domestic Product.”

Further, the AES is an overly complicated process for individual registration. The system is designed for businesses whose repeated use of the system merits the time and patience required for registration. As just one example, the AESDirect User Guide (which contains no reference to individuals, temporary export, or firearms) is a 39-page manual that would require significant study before an individual could register with and use the system. This investment of time and

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<sup>1</sup> AESDirect User Guide, U.S. Census Bureau, Jan. 2023, <https://www.census.gov/foreign-trade/aes/aesdirect/AESDirect-User-Guide.pdf> (emphasis added).

effort is totally unnecessary for individuals who do not wish to participate in commercial trade but merely want to take their firearms abroad for recreational hunting or sport-shooting.

Finally, the AES system requires an Employer Identification Number (EIN) before a user can submit data. The IRS limits EINs “for use in connection with your business activities only.”<sup>2</sup> To obtain an EIN, an individual must represent himself or herself as a business. For individual travelers, the AES would essentially require a misrepresentation. It is illogical and inappropriate for BIS to force individuals to make the choice of lying to the IRS or not bringing personal firearms when use of Form 4457 is sufficient.

2. Use of the AES is duplicative given the required use of CBP Form 4457.

Adding an AES filing for temporary export and reimport of personal firearms and ammunition is an unnecessary step given a filing process already exists. Hunters and recreational shooters are currently required to file Form 4457. Individuals are required to properly complete the form in the presence of a CBP officer and allow the officer to inspect registered firearms. Individuals must then present the completed form prior to departure and upon return.

Even if BIS were to remove the requirement to complete Form 4457 currently contained in BIS regulations (15 C.F.R. § 758.11), individuals would still need to complete Form 4457 pursuant to CBP regulations (19 C.F.R. § 148.1). If BIS were to require AES filing instead of Form 4457, BIS would create more work (for itself and individuals), with no benefit or reduction in paperwork. If BIS believes the use of Form 4457 can be improved to better fit its perceived needs, then BIS should work with CBP to implement any necessary changes to the form. BIS should not add burdensome paperwork to individuals traveling with personally owned firearms—especially when BIS has not explained at all the “need” for such a change in process.

**BIS should simplify firearms export regulations.**

Instead of adopting unnecessary regulations, SCI encourages BIS to implement changes that clarify and simplify the regulations related to firearms export and reimport. Adoption of the 2020 rules, including the switch from the AES to Form 4457 for the License Exception BAG, was a good start. But further amendments are appropriate, as relevant BIS regulations remain a prime example of unchecked bureaucracy with little regard for usability. And the changes in the interim final rule are not helpful in this regard. The regulations are dense and use unnecessarily complicated terminology—so complex that federal agency personnel have difficulty applying them. As one example, some CBP officers still demand an AES filing from individuals traveling abroad with firearms, even though the AES requirement was removed from the License Exception BAG in 2020. If those responsible for enforcing BIS’ regulations cannot properly implement them, how can BIS and other federal agencies expect users to comply without mistake? SCI encourages BIS to make amendments to relevant regulations with the aim to untangle the morass of overly complicated rules for more effective enforcement and increased compliance.

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<sup>2</sup> Employer Identification Number: Understanding Your EIN, Internal Revenue Service, Rev. 2-2014, <https://www.irs.gov/pub/irs-pdf/p1635.pdf>.

## Conclusion

For the reasons above, SCI opposes the changes made in the interim final rule related to the License Exception BAG and the two suggested future changes to the exception. Most importantly, BIS should not reimpose AES filing for individuals utilizing the exception. BIS requests alternative suggestions to using the AES. SCI recommends that BIS and cooperating agencies continue to utilize Form 4457 to fulfill all filing requirements. Form 4457 is simple and effective, and BIS has not provided justification to change the current process, especially considering the various well-established problems with individuals using the AES.

Thank you for the opportunity to comment on the interim final rule and potential future changes to the License Exception BAG. If you have any questions or need anything further, please contact Jeremy Clare, SCI Litigation Counsel and International Affairs Liaison, at [jclare@safariclub.org](mailto:jclare@safariclub.org).

Sincerely,

A handwritten signature in black ink, appearing to read "John McLaurin". The signature is fluid and cursive, with a large initial "J" and "M".

John McLaurin  
President, Safari Club International