April 14, 2014

Stephen Pomper  
Chairman  
Atrocities Prevention Board  
1600 Pennsylvania Ave NW  
Washington, D.C. 20500

RE: Arms Exports to Countries with a Consistent Pattern of Gross Human Rights Abuses

Dear Chairman Pomper:

On behalf of the American Bar Association (ABA) and its Center for Human Rights (Center), which develops and implements ABA policy, projects and educational initiatives on human rights concerns, I write to commend the Administration for issuing a new directive on U.S. arms exports and to suggest that the Atrocities Prevention Board conduct a review of such exports to ensure that U.S.-origin weapons do not inadvertently contribute to atrocities.

The ABA was very pleased to learn the new directive on U.S. arms transfers includes specific human rights protections. We understand the directive was issued, in part, in response to suggestions from the Atrocities Prevention Board. In an effort to ensure that the human rights objectives of the new directive are achieved, the Center has performed a preliminary analysis of U.S. arms exports to determine whether existing legal restrictions regarding such transfers are being fully implemented and to identify countries in which there is cause for concern that U.S. exports could inadvertently contribute to atrocities.

As you know, U.S. law provides that, except under narrowly-defined circumstances, no security assistance – including certain arms sales – “may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.”1 The Center’s preliminary analysis indicates that there may be a number of countries that have been authorized to receive significant levels of arms exports that also engage in a consistent pattern of gross violations of human rights. As illustrated in the attached table, a review of U.S. government records identified eleven countries that were authorized to receive over $10 million worth of arms exports in FY2012 that, according to State Department human rights reports, appear to have engaged in gross human rights violations consistently over the last three years. These include three countries identified by the State Department’s Bureau of Conflict and Stabilization Operations as countries of concern.2 While not all countries meeting

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2 The three countries are Kenya, Nigeria, and Honduras. Honduras is listed as “priority.” The list is available at http://www.state.gov/j/cso/whc/index.htm.
this standard are necessarily prone to mass atrocities, full implementation of this law would likely help reduce the risk of atrocities before they become acute.

We appreciate that the U.S. government conducts vigorous vetting of foreign security units receiving U.S. security assistance but are nonetheless concerned that not all arms exports are subject to such vetting and that military equipment – including especially small arms that can greatly contribute to atrocities – can be highly fungible. We therefore urge you to conduct a comprehensive review of countries receiving U.S. arms exports to ensure that such exports do not contribute to atrocities.

Thank you in advance for your consideration.

Sincerely,

James R. Silkenat
President
American Bar Association

Cc: Sarah Sewall, Under Secretary for Civilian Security, Democracy, and Human Rights
    Tomasz P. Malinowski, Assistant Secretary of State for Democracy, Human Rights and Labor