

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BLOOMBERG L.P.,)
731 Lexington Ave)
New York, NY 10022)
)
Plaintiff,)
)
v.)
)
U.S. DEPARTMENT OF STATE,)
2201 C Street, N.W.,)
HST, Room 6421,)
Washington, D.C. 20520)
)
Defendant.)

COMPLAINT

1. Plaintiff BLOOMBERG L.P. brings this suit to force Defendant U.S. DEPARTMENT OF STATE to comply with Plaintiff's FOIA requests and produce records pertaining to the government's regulation of firearm exports. In violation of FOIA, Defendant failed to issue determinations by the statutory deadlines and failed to produce records responsive to the requests.

PARTIES

2. Plaintiff BLOOMBERG L.P. is the owner and operator of Bloomberg News. Bloomberg's newsroom of more than 2,700 journalists and analysts delivers thousands of stories a day, producing content that is featured across multiple platforms, including digital, TV, radio, streaming video, print, and live events. BLOOMBERG L.P. made the FOIA request at issue in this case.

3. Defendant U.S. DEPARTMENT OF STATE (“DOS”) is a federal agency and subject to the Freedom of Information Act, 5 U.S.C. § 552.

JURISDICTION AND VENUE

4. This case is brought under 5 U.S.C. § 552(a)(4)(B) and presents a federal question conferring jurisdiction on this Court. *See* 28 U.S.C. § 1331.

5. Venue is proper under 5 U.S.C. § 552(a)(4)(B).

MARCH 10, 2023 FIRST FOIA REQUEST (DIRECT COMMERCIAL SALES - THAILAND)

6. On March 10, 2023, BLOOMBERG submitted the following FOIA request to DOS:

[1] Documents created by the Department’s Directorate of Defense Trade Controls referencing decisions to approve or deny new Category 1 arms export license applications involving direct commercial sales (DCS) for the calendar years 2014 through 2020. Please limit your search to export licenses involving the following subcategories and the following countries only. Those documents should include the final decision on each application and the rationale supporting that decision.

Subcategories:

- (a) Non-automatic and semi-automatic firearms to caliber .05 inclusive (12.7 mm);
- (b) Fully automatic firearms to .05 caliber inclusive (12.7 mm);
- (d) Combat shotguns. This includes any shotgun with a barrel length less than 18 inches;
- (g) Barrels, cylinders, receivers (frames) or complete breech mechanisms for the articles in paragraphs (a) through (g) of this category;

Countries: Thailand

[2] I request any documents or emails created for the calendar years 2014 through 2020 by other State Department bureaus related to (or as a part of the review of) DCS export applications involving the following subcategories and the following countries. That includes, but is not limited to, the Bureau of Democracy, Human Rights, and Labor, the Bureau of International Security and Nonproliferation, and the Office of Regional Security Arms Transfers, as well as any of the State Department’s regional bureaus.

Subcategories:

- (a) Non-automatic and semi-automatic firearms to caliber 0.50 inclusive (12.7 mm);
- (b) Fully automatic firearms to .50 caliber inclusive (12.7 mm);
- (d) Combat shotguns. This includes any shotgun with a barrel length less than 18 inches;

(g) Barrels, cylinders, receivers (frames) or complete breech mechanisms for the articles in paragraphs (a) through (d) of this category;
Countries: Thailand

A true and correct copy of the FOIA request is attached as Exhibit 1.

7. On March 14, 2023, DOS acknowledged receipt of the request and assigned reference number F-2023-05984 to the request. A true and correct copy of the email is attached as Exhibit 2.

8. In the same email, DOS stated that it is not able to respond within the 20 working days due to “unusual circumstances” under 5 U.S.C. § 552(a)(6)(B)(i)-(iii). *Id.*

9. As of the date of this filing, in violation of FOIA, Defendant has not issued a determination and has produced no records responsive to the request.

MARCH 10, 2023 SECOND FOIA REQUEST (GAO 19-307)

10. On March 10, 2023, BLOOMBERG submitted a FOIA request DOS for the following records:

[1] Any memos, reports, emails or documents used by the State Department’s DDTC, Bureau of Political and Military Affairs and/or Comptroller’s Office to respond to the General Accountability Office’s review of the proposed changes in export regulations for firearms, which shifts oversight authority from the Department of State to the Department of Commerce . (GAO 19-307);

[2] Any memos, reports, emails or documents assessing whether the GAO 19-307 audit’s recommendation that the DOS and Commerce Department share a watchlist had been adopted and, if so, whether it had been effective in restricting arms sales to proscribed countries and restricted parties;

[3] Any reports submitted to DDTC (under ITAR section 130) from vendors, contractors, applicants and suppliers of items on category I of the USML who gave gifts, political contributions, loans or commissions to political officials, brokers or other parties involved in an arms sale and purchase from 2014 - 2022;

[4] Copies of annual activity reports from 2014-2022 filed by brokers involved in arms deals of items on category I of the USML in the following countries: Thailand, Philippines, Guatemala, Mexico, Canada, Saudi Arabia, United Arab Emirates, Argentina; and

[5] Any DOS diplomatic cables to or from the following countries and which include the indicated keywords for the years 2015 through 2023:

Keywords: Panya Khamrab; Sig Sauer; arms diversion investigation; arms misuse investigation; welfare gun program; small arms and light weapons (SA/LW).

i) Mexico: small arms and light weapons (SA/LW); arms diversion investigation; arms misuse investigation; Sig Sauer, arms imports;

ii) Philippines: small arms and light weapons (SA/LW); arms diversion investigation; arms misuse investigation; arms imports; extrajudicial killing;

iii) Honduras: small arms and light weapons (SA/LW); arms imports; arms misuse investigation; [and]

iv) Guatemala: small arms and light weapons (SA/LW); arms imports; arms misuse investigation; arms diversion investigation

v) Brazil: Sig Sauer; small arms and light weapons (SA/LW)

A true and correct copy of the FOIA request is attached as Exhibit 3.

11. On March 14, 2023, DOS acknowledged receipt of the request and assigned reference number F-2023-06035 to the request. A true and correct copy of the email is attached as Exhibit 4.

12. In the same email, DOS stated that it is not able to respond within the 20 working days due to “unusual circumstances” under 5 U.S.C. § 552(a)(6)(B)(i)-(iii). *Id.*

13. As of the date of this filing, in violation of FOIA, DOS has not issued a determination and has produced no records responsive to the request.

MARCH 22, 2023 FOIA REQUEST (DTC & SHOT SHOW)

14. On March 22, 2023, BLOOMBERG submitted a FOIA request to DOS for the following records:

[1] Any written or electronic correspondence between the Department of State’s Directorate of Defense Trade Control employees (level GS15 and above) and the SHOT Show’s sponsor, the National Shooting Sports Foundation (or its legal representatives) regarding SHOT Show 2022 and 2023 (Date range of search is from January 1, 2021 until the date this request is processed). Search keywords should include (but not limited to): “SHOT Show,” “NSSF,” “Tepp program,” “buyer’s delegation,” “HAVA,” “Hava NSSF Golf Classic,” “Bear’s Best,” “International Buyer Program,” “International Buyer Recruitment,” “Business-to-Business Matchmaking,”

“Country-Specific Briefings,” “ITA match,” “Showtime Program,” and “Export Counseling”;

[2] Any written or electronic correspondence between the Department of State’s DDTC employees (level GS15 and above) and the U.S. Department of Commerce regarding SHOT Show 2022 and 2023 (Date range of search is from January 1, 2021 until the date this request is processed). Search keywords should include (but not limited to): “SHOT Show,” “International Trade Administration,” “Bureau of Industry and Safety,” “buyer’s delegation”;

[3] Any written or electronic correspondence about SHOT SHOW 2022 and/or 2023 between employees of the State Department DDTC employees (level GS 15 and above) and employees (or representatives) of the following companies: Smith & Wesson, Glock, Sig Sauer, Bushmaster, Winchester, Savage Arms, Heckler & Koch;

[4] Copies of any memos, reports, presentations, or briefing slides about the State Department DDTC’s involvement in SHOT SHOW 2022 and 2023.

A true and correct copy of DOS’ acknowledgement of receipt that quotes BLOOMBERG’s March 22, 2023 FOIA request is attached as Exhibit 5.

15. On March 29, 2023, DOS acknowledged receipt of the request and assigned reference number F-2023-06415 to the request. *Id.*

16. DOS also stated that it is not able to respond within the 20 working days due to “unusual circumstances” under 5 U.S.C. § 552(a)(6)(B)(i)-(iii). *Id.*

17. As of the date of this filing, in violation of FOIA, DOS has not issued a determination and has produced no records responsive to the request.

MARCH 31, 2023 FOIA REQUEST (DTC POLICIES AND RULE CHANGE)

18. On March 31, 2023, BLOOMBERG submitted a nine-part FOIA request to DOS for various records including, but not limited to, “standard operating procedures the State Department’s Directorate of Defense Trade Controls” used between 2015 and 2020 to review Category 1 arms transfers to foreign countries and records created by the Directorate of Defense Trade Controls in response to a proposed rule change to move licensing authority for export of

Category 1 arms to the Commerce Department. A true and correct copy of the FOIA request is attached as Exhibit 6.

19. On April 7, 2023, DOS acknowledged receipt of the request and assigned reference number F-2023-06735 to the request. A true and correct copy of the email is attached as Exhibit 7.

20. DOS also stated that it is not able to respond within the 20 working days due to “unusual circumstances” under 5 U.S.C. § 552(a)(6)(B)(i)-(iii). *Id.*

21. As of the date of this filing, in violation of FOIA, Defendant has not issued a determination and has produced no records responsive to the request.

**COUNT I – MARCH 10, 2023 FIRST FOIA REQUEST
(DIRECT COMMERCIAL SALES - THAILAND),
DOS’ FOIA VIOLATION: FAILURE TO ISSUE A DETERMINATION**

22. The above paragraphs are incorporated by reference.

23. BLOOMBERG’s FOIA request seeks the disclosure of agency records and was properly made.

24. Defendant DOS is a federal agency and subject to FOIA.

25. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

26. Defendant DOS has failed to issue a complete determination within the statutory deadline.

**COUNT II – MARCH 10, 2023 FIRST FOIA REQUEST
(DIRECT COMMERCIAL SALES - THAILAND),
DOS' FOIA VIOLATION: FAILURE TO CONDUCT A REASONABLE SEARCH**

27. The above paragraphs are incorporated by reference.
28. BLOOMBERG's FOIA request seeks the disclosure of agency records and was properly made.
29. Defendant DOS is a federal agency and subject to FOIA.
30. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.
31. Defendant DOS has failed to conduct a reasonable search for records responsive to the request.

**COUNT III – MARCH 10, 2023 FIRST FOIA REQUEST
(DIRECT COMMERCIAL SALES - THAILAND),
DOS' FOIA VIOLATION: FAILURE TO PRODUCE RECORDS**

32. The above paragraphs are incorporated by reference.
33. BLOOMBERG's FOIA request seeks the disclosure of agency records and was properly made.
34. Defendant DOS is a federal agency subject to FOIA.
35. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.
36. Defendant DOS has failed to produce all non-exempt records responsive to the request.

**COUNT IV – MARCH 10, 2023 SECOND FOIA REQUEST (GAO 19-307),
DOS' FOIA VIOLATION: FAILURE TO ISSUE A DETERMINATION**

37. The above paragraphs are incorporated by reference.

38. BLOOMBERG's FOIA request seeks the disclosure of agency records and was properly made.

39. Defendant DOS is a federal agency and subject to FOIA.

40. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

41. Defendant DOS has failed to issue a complete determination within the statutory deadline.

**COUNT V – MARCH 10, 2023 SECOND FOIA REQUEST (GAO 19-307),
DOS' FOIA VIOLATION: FAILURE TO CONDUCT AN ADEQUATE SEARCH**

42. The above paragraphs are incorporated by reference.

43. BLOOMBERG's FOIA request seeks the disclosure of agency records and was properly made.

44. Defendant DOS is a federal agency and subject to FOIA.

45. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

46. Defendant DOS has failed to conduct a reasonable search for records responsive to the request.

**COUNT VI – MARCH 10, 2023 SECOND FOIA REQUEST (GAO 19-307),
DOS' FOIA VIOLATION: FAILURE TO PRODUCE RECORDS**

47. The above paragraphs are incorporated by reference.

48. BLOOMBERG's FOIA request seeks the disclosure of agency records and was properly made.

49. Defendant DOS is a federal agency and subject to FOIA.

50. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

51. Defendant DOS has failed to produce all non-exempt records responsive to the request.

**COUNT VII – MARCH 22, 2023 FOIA REQUEST (DTC & SHOT SHOW),
DOS’ FOIA VIOLATION: FAILURE TO ISSUE A DETERMINATION**

52. The above paragraphs are incorporated by reference.

53. BLOOMBERG’s FOIA request seeks the disclosure of agency records and was properly made.

54. Defendant DOS is a federal agency and subject to FOIA.

55. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

56. Defendant DOS has failed to issue a complete determination within the statutory deadline.

**COUNT VIII – MARCH 22, 2023 FOIA REQUEST (DTC & SHOT SHOW),
DOS’ FOIA VIOLATION: FAILURE TO CONDUCT AN ADEQUATE SEARCH**

57. The above paragraphs are incorporated by reference.

58. BLOOMBERG’s FOIA request seeks the disclosure of agency records and was properly made.

59. Defendant DOS is a federal agency and subject to FOIA.

60. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

61. Defendant DOS has failed to conduct a reasonable search for records responsive to the request.

**COUNT IX – MARCH 22, 2023 FOIA REQUEST (DTC & SHOT SHOW),
DOS’ FOIA VIOLATION: FAILURE TO PRODUCE RECORDS**

62. The above paragraphs are incorporated by reference.

63. BLOOMBERG’s FOIA request seeks the disclosure of agency records and was properly made.

64. Defendant DOS is a federal agency and subject to FOIA.

65. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

66. Defendant DOS has failed to produce all non-exempt records responsive to the request.

**COUNT X – MARCH 31, 2023 FOIA REQUEST
(DTC POLICIES AND RULE CHANGE),
DOS’ FOIA VIOLATION: FAILURE TO ISSUE A DETERMINATION**

67. The above paragraphs are incorporated by reference.

68. BLOOMBERG’s FOIA request seeks the disclosure of agency records and was properly made.

69. Defendant DOS is a federal agency and subject to FOIA.

70. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

71. Defendant DOS has failed to issue a complete determination within the statutory deadline.

**COUNT XI – MARCH 31, 2023 FOIA REQUEST
(DTC POLICIES AND RULE CHANGE),
DOS’ FOIA VIOLATION: FAILURE TO CONDUCT AN ADEQUATE SEARCH**

72. The above paragraphs are incorporated by reference.

73. BLOOMBERG's FOIA request seeks the disclosure of agency records and was properly made.

74. Defendant DOS is a federal agency and subject to FOIA.

75. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

76. Defendant DOS has failed to conduct a reasonable search for records responsive to the request.

**COUNT XII – MARCH 31, 2023 FOIA REQUEST
(DTC POLICIES AND RULE CHANGE),
DOS' FOIA VIOLATION: FAILURE TO PRODUCE RECORDS**

77. The above paragraphs are incorporated by reference.

78. BLOOMBERG's FOIA request seeks the disclosure of agency records and was properly made.

79. Defendant DOS is a federal agency and subject to FOIA.

80. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

81. Defendant DOS has failed to produce all non-exempt records responsive to the request.

WHEREFORE, Plaintiff asks the Court to:

- i. declare that Defendant has violated FOIA;
- ii. order Defendant to conduct a reasonable search for records responsive to the requests;
- iii. order Defendant to issue a complete determination for all requests at issue in this case;
- iv. order Defendant to produce all non-exempt requested records or portions of records promptly;

- v. enjoin Defendant from withholding non-exempt public records under FOIA;
- vi. award Plaintiff attorneys' fees and costs; and
- vii. award such other relief the Court considers appropriate.

Dated: May 19, 2023

RESPECTFULLY SUBMITTED,

/s/ Matthew V. Topic

Attorneys for Plaintiff
BLOOMBERG L.P.

Matthew Topic, D.C. Bar No. IL0037
Stephen Stich Match, D.C. Bar No. MA0044
Merrick Wayne, D.C. Bar No. IL0058
LOEVY & LOEVY
311 N. Aberdeen, Third Floor
Chicago, IL 60607
(312) 243-5900
foia@loevy.com