

## ARMS SALES

Policymakers should

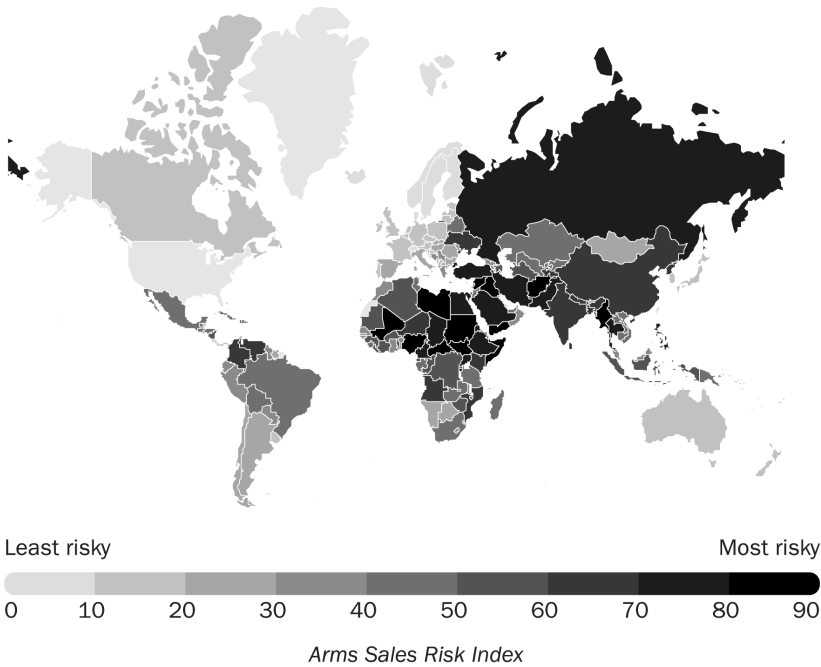
- incorporate the risks of arms sales more stringently into their review process and suspend sales to countries that are the riskiest, including those that are in conflict, serial violators of human rights, and fragile or corrupt states;
- support "flip the script" legislation that would require Congress to approve arms sales instead of the current model where Congress can only block sales;
- transfer monitoring and regulator responsibilities for the sales of small arms and light weapons from the Commerce Department back to the State Department;
- support efforts to increase human rights monitoring; and
- create an oversight board that can determine and—in cases where recipients are violating human rights against the terms of the sale—publicize those transgressions.

Since 2017, the United States has been the world's dominant exporter of weapons, with a global arms market share of 39 percent. Since 2009, the U.S. government has approved over \$1.3 trillion in weapons sales to 167 countries. These include powerful weapons—like fighter jets, anti-aircraft missiles, and tanks—as well as small arms and light weapons (SALW)—like handguns, man-portable air defense systems, and ammunition.

These sales have a net negative impact on U.S. security and global human rights. U.S. weapons sales can lead to arms dispersion to cartels and terrorists, empower dictators, and help aid in serial violations of human rights.

There are three major problems with the current U.S. weapons sales process. First, it does not incorporate the risks of arms sales into the review process (see Figure 1). Risks include discounting of human rights, state fragility, authoritarianism, and participation in a conflict. Second, Congress lacks authority to

Figure 1  
**World arms sales risk**



Sources: “UCDP/PRIO Armed Conflict Dataset,” Uppsala Conflict Data Program, Peace Research Institute Oslo; Sarah Repucci and Amy Slipowitz, “Freedom in the World 2021: Democracy under Siege,” Freedom House, 2021; “Fragile States Index,” Fund for Peace; Mark Gibney et al., “The Political Terror Scale 1976–2020,” 2021; *Global Terrorism Index 2019: Measuring the Impact of Terrorism* (Sydney, Australia: Institute for Economics and Peace, November 2019); “Corruption Perceptions Index, 2020,” Transparency International; “SIPRI Arms Industry Database,” Stockholm International Peace Research Institute; and Pieter Wezeman et al., “Trends in International Arms Transfers, 2020,” Stockholm International Peace Research Institute, March 2021.

regulate sales effectively, giving the executive branch unrivaled power over the process. Third, after an arms transfer, Washington lacks the mechanisms and capability to track them, especially for SALW sales.

Given the scope and complexity of the U.S. arms sales process, it is impossible to examine every case in which American weapons are used improperly. Instead, this chapter will examine these problems and offer policy recommendations. Solving the issues at hand will mitigate the risks involved in arms sales and better protect U.S. interests.

## Assessing Risk in the Arms Sales Process

Four factors inform the risks of arms sales: corruption, instability, domestic human rights abuses, and conflict. Yet the United States frequently ignores these factors. Since 2009, Washington's top 10 customers have included risky countries like Egypt, Iraq, and Saudi Arabia (see Table 1). These sales have aided human rights abuses and war crimes in Yemen, led to weapons falling into the hands of ISIS, and facilitated military attacks against citizens.

Table 1

### Arms Sales Risk Index scores

Country	Arms sales in millions of U.S. dollars (2009–2020)	Risk score 2020	Risk score 2019	Risk score 2018	Risk score 2017	Risk index change year on year
Afghanistan	1,234	93	92	84	84	1
Albania	39	31	29	29	40	2
Algeria	359	51	51	52	51	0
Angola	13	69	70	69	71	–1
Antigua and Barbuda	4	11	12	11	10	–1
Argentina	367	26	26	23	36	0
Armenia	26	35	39	34	28	–4
Australia	10,956	10	9	8	22	2
Austria	101	10	9	6	13	1
Azerbaijan	27	56	55	58	60	1
Bahamas	3	19	17	16	18	2
Bahrain	798	47	48	45	41	–1
Bangladesh	45	66	65	62	66	1
Barbados	7	13	15	14	23	–3
Belarus	0	41	39	34	47	2
Belgium	634	13	12	20	23	1
Belize	11	16	18	16	32	–2
Benin	3	31	29	27	41	3
Bhutan	0	22	22	17	17	1
Bolivia	5	43	37	31	37	6
Bosnia and Herzegovina	40	36	35	32	28	1
Botswana	14	20	23	18	29	–3

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Brazil	895	43	42	35	37	1
Brunei	219	29	25	25	23	4
Bulgaria	80	25	24	26	27	1
Burkina Faso	3	55	46	40	50	9
Burundi	1	82	80	76	79	2
Cambodia	8	48	47	42	41	1
Cameroon	12	74	73	72	60	1
Canada	4,935	11	9	6	22	2
Cape Verde	1	18	18	17	29	0
Central African Republic	2	81	81	81	76	0
Chad	9	78	77	83	83	0
Chile	654	24	21	14	18	3
China	0	63	63	60	56	0
Colombia	1,905	63	62	66	71	1
Comoros	0	41	37	32	38	4
Costa Rica	18	15	13	12	14	2
Côte d'Ivoire	3	53	54	57	64	-1
Croatia	43	19	17	16	29	2
Cuba	0	41	40	35	24	1
Cyprus	2	21	20	18	34	0
Czech Republic	140	15	14	15	25	1
Democratic Republic of Congo	5	91	90	89	87	1
Denmark	1,027	6	4	5	8	3
Djibouti	25	55	54	60	51	1
Dominica	3	9	10	9	28	-1
Dominican Republic	20	41	36	42	49	5
Ecuador	49	36	36	42	43	0
Egypt	8,517	78	78	74	74	0
El Salvador	52	36	35	38	42	1
Equatorial Guinea	0	52	37	23	40	15
Eritrea	0	79	78	79	75	1
Estonia	89	10	10	11	13	0

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Ethiopia	23	76	76	75	76	0
Fiji	0	17	20	20	21	-3
Finland	1,025	6	5	5	9	1
France	2,083	19	21	17	27	-3
Gabon	10	43	44	38	41	-1
Gambia	0	33	38	52	50	-5
Georgia	175	38	38	37	41	0
Germany	2,779	13	12	11	27	2
Ghana	9	34	33	35	39	1
Greece	2,459	30	25	29	38	5
Grenada	3	20	17	17	17	3
Guatemala	30	43	43	46	47	0
Guinea	1	55	55	61	56	0
Guinea-Bissau	0	38	40	51	42	-2
Guyana	3	30	29	28	28	2
Haiti	10	61	54	59	61	7
Honduras	20	47	43	46	52	4
Hungary	101	27	25	24	35	2
Iceland	4	7	5	4	20	2
India	2,677	60	58	53	55	2
Indonesia	896	53	52	50	51	1
Iran	0	72	66	62	59	6
Iraq	10,445	89	85	91	88	4
Ireland	26	12	10	10	17	2
Israel	8,949	54	52	53	60	1
Italy	2,350	21	20	18	27	1
Jamaica	16	31	30	34	46	1
Japan	12,840	12	12	11	23	0
Jordan	2,286	45	42	47	51	3
Kazakhstan	30	43	44	47	49	-1
Kenya	150	65	65	63	69	0
Kosovo	24	23	32	27	17	-9
Kuwait	3,773	36	36	48	39	0
Kyrgyzstan	6	45	44	49	45	1
Laos	0	44	44	43	37	0

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Latvia	109	16	14	18	25	2
Lebanon	558	59	58	65	67	1
Lesotho	0	37	32	41	43	5
Liberia	20	59	53	61	68	6
Libya	10	89	88	89	89	1
Lithuania	62	14	13	12	14	1
Luxembourg	132	5	3	2	18	2
Macedonia	32	28	33	34	34	-5
Madagascar	1	47	44	48	57	3
Malawi	1	40	38	34	33	1
Malaysia	568	37	37	38	43	0
Maldives	1	34	36	41	45	-2
Mali	5	84	75	70	75	9
Malta	3	15	12	11	24	3
Mauritania	27	54	54	50	51	0
Mauritius	88	20	19	18	33	1
Mexico	1,994	49	48	43	39	2
Moldova	12	37	37	32	39	0
Mongolia	27	27	25	24	31	2
Montenegro	6	29	28	21	27	1
Morocco	1,978	37	37	36	36	0
Mozambique	2	65	60	60	56	4
Myanmar	0	82	80	79	83	2
Namibia	3	22	21	21	28	1
Nepal	10	66	65	68	70	1
Netherlands	2,164	10	8	5	7	2
New Zealand	268	11	2	1	4	9
Nicaragua	11	53	53	48	47	0
Niger	27	66	64	66	58	2
Nigeria	137	81	79	76	70	2
North Korea	0	62	61	53	48	1
Norway	1,766	6	2	4	16	4
Oman	1,505	32	33	28	31	-1
Pakistan	3,660	79	78	74	81	1
Panama	40	22	20	19	19	2

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Papua New Guinea	2	46	41	35	40	5
Paraguay	10	37	37	34	44	0
Peru	115	34	34	34	42	0
Philippines	613	72	71	66	64	2
Poland	1,609	17	19	13	13	-2
Portugal	439	11	8	8	11	2
Qatar	2,290	25	24	28	16	1
Republic of Congo	0	54	54	49	37	1
Romania	388	24	22	21	34	2
Russia	66	74	73	70	68	0
Rwanda	0	69	62	66	64	7
São Tomé and Príncipe	0	23	22	21	33	1
Saudi Arabia	26,889	71	71	71	60	0
Senegal	11	39	39	41	53	0
Serbia	10	31	29	28	31	2
Seychelles	1	18	18	22	18	0
Sierra Leone	3	43	48	43	39	-5
Singapore	2,977	13	12	11	17	1
Slovakia	42	21	15	18	32	6
Slovenia	23	11	10	9	23	2
Solomon Islands	0	26	26	26	29	0
Somalia	19	91	91	87	74	0
South Africa	163	40	39	37	46	1
South Korea	7,917	19	8	12	20	11
South Sudan	5	93	93	94	93	0
Spain	1,482	22	22	14	25	0
Sri Lanka	12	66	61	65	68	5
St. Kitts and Nevis	3	2	4	3	20	-1
St. Lucia	3	13	16	10	14	-3
St. Vincent and the Grenadines	2	8	10	10	12	-2
Sudan	11	89	90	91	82	-1
Suriname	1	29	26	22	27	2

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Swaziland	1	31	37	49	49	-6
Sweden	718	9	8	8	22	1
Switzerland	761	5	3	2	8	2
Syria	0	96	95	96	80	1
Taiwan	9,489	8	11	8	9	-3
Tajikistan	18	64	63	66	68	1
Tanzania	2	47	45	49	49	1
Thailand	1,062	72	72	73	76	1
Timor-Leste	7	32	32	32	39	0
Togo	1	52	46	41	32	5
Tonga	2	4	6	6	14	-2
Trinidad and Tobago	18	26	24	25	26	2
Tunisia	381	40	35	37	38	5
Turkey	5,493	78	77	69	63	1
Turkmenistan	3	50	49	53	44	1
Uganda	13	73	69	73	72	4
Ukraine	171	66	67	65	65	-1
United Arab Emirates	10,504	40	39	43	45	1
United Kingdom	8,121	18	16	14	22	3
Uruguay	9	10	8	7	16	1
Uzbekistan	31	48	48	53	50	0
Vanuatu	0	13	16	15	18	-3
Venezuela	1	67	60	51	46	6
Vietnam	31	43	48	46	49	-4
Yemen	59	94	92	93	84	2
Zambia	4	41	40	43	50	1
Zimbabwe	0	53	52	49	47	1

Sources: "UCDP/PRIO Armed Conflict Dataset," Uppsala Conflict Data Program, Peace Research Institute Oslo; Sarah Repucci and Amy Slipowitz, "Freedom in the World 2021: Democracy under Siege," Freedom House, 2021; "Fragile States Index," Fund for Peace; Mark Gibney et al., "The Political Terror Scale 1976–2019," 2021; *Global Terrorism Index 2019: Measuring the Impact of Terrorism* (Sydney, Australia: Institute for Economics and Peace, November 2019); Security Assistance Monitor, Center for International Policy; A. Trevor Thrall and Caroline Dorminey, "Risky Business: The Role of Arms Sales in U.S. Foreign Policy," Cato Institute Policy Analysis no. 836, March 13, 2018; A. Trevor Thrall, Caroline Dorminey, and Jordan Cohen, "The 2019 Arms Sales Risk Index," Cato Institute, September 10, 2019; A. Trevor Thrall, Caroline Dorminey, and Jordan Cohen, "The 2020 Arms Sales Risk Index," Cato Institute, October 27, 2020; and "Corruption Perceptions Index, 2020," Transparency International.



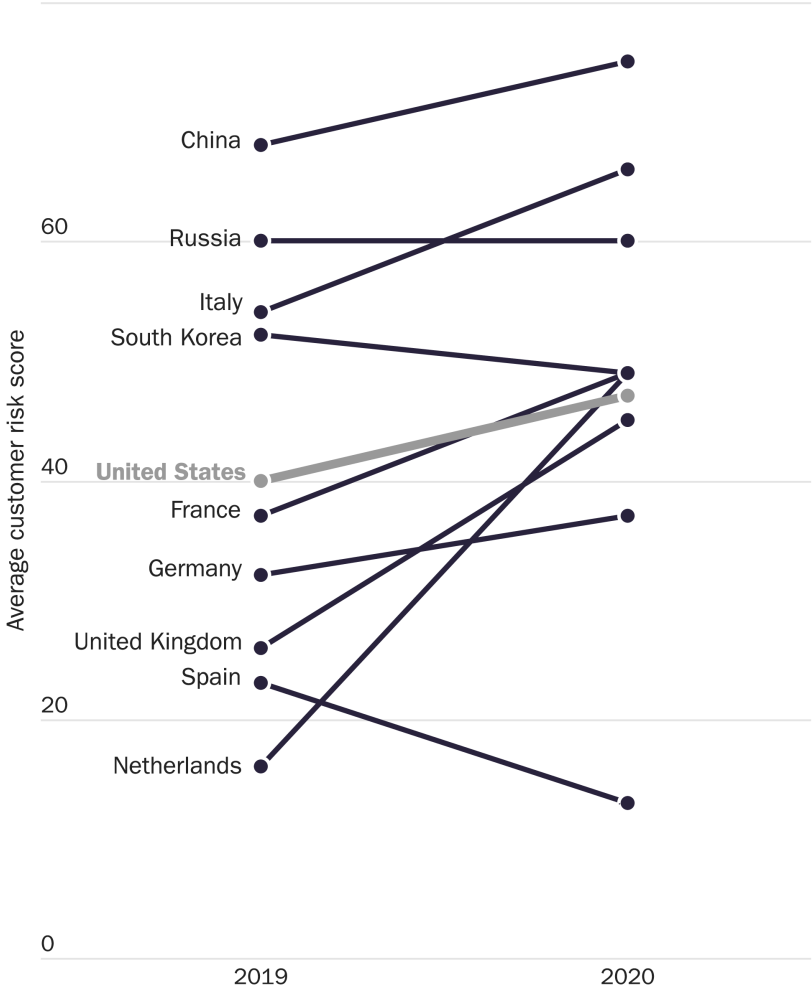
Not all U.S. arms sales present these sorts of risks. The United States also sells its most expensive weapons platforms (like the F-35) to less risky countries, such as Japan, South Korea, and the United Kingdom. Nor is the United States the only country selling to risky recipients (see Figure 2). Authoritarian countries like China and Russia sell to riskier countries than does America. U.S. allies do too, with France, Italy, and South Korea selling to riskier clients than the United States.

Still, the United States has a responsibility to lead by example and match its actions to its rhetoric. As President Biden notes, Washington's diplomacy should be "rooted in America's most cherished democratic values: defending freedom, championing opportunity, upholding universal rights, respecting the rule of law, and treating every person with dignity." Current U.S. weapons transfer policies do the opposite and, as a result, open the door to entanglement (involving the United States in a conflict) and dispersion (weapons falling into the wrong hands).

Recent examples include the Saudi intervention in Yemen and weapons dispersion in Central America's Northern Triangle. In Yemen, Riyadh uses U.S. ammunition and warheads with laser guidance to target innocent civilians. Selling weapons to a country that abuses human rights at home or abroad directly opposes the Biden administration's strategy to build a foreign policy based on democratic values.

The story is no better in Central America's Northern Triangle, which contains some of the highest crime areas in the world. According to a study conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives, a total of 27,240 firearms were recovered in Central America's Northern Triangle, of which nearly 57.6 percent were made outside the United States. Weapons made in the United States made up 40.1 percent of the total; of these firearms, 39.1 percent were traced to a nonoriginal purchaser and only 43.6 percent were traced to the party who purchased the weapons through American federal firearms sales (see Figure 3). The same study found that Washington spent over \$38 million trying to disrupt this dispersion. In other words, U.S. weapons are used by gangs to commit murder. Lack of oversight prior to sales likely led to criminal misuse and a costly post hoc cleanup effort paid for by the U.S. taxpayer.

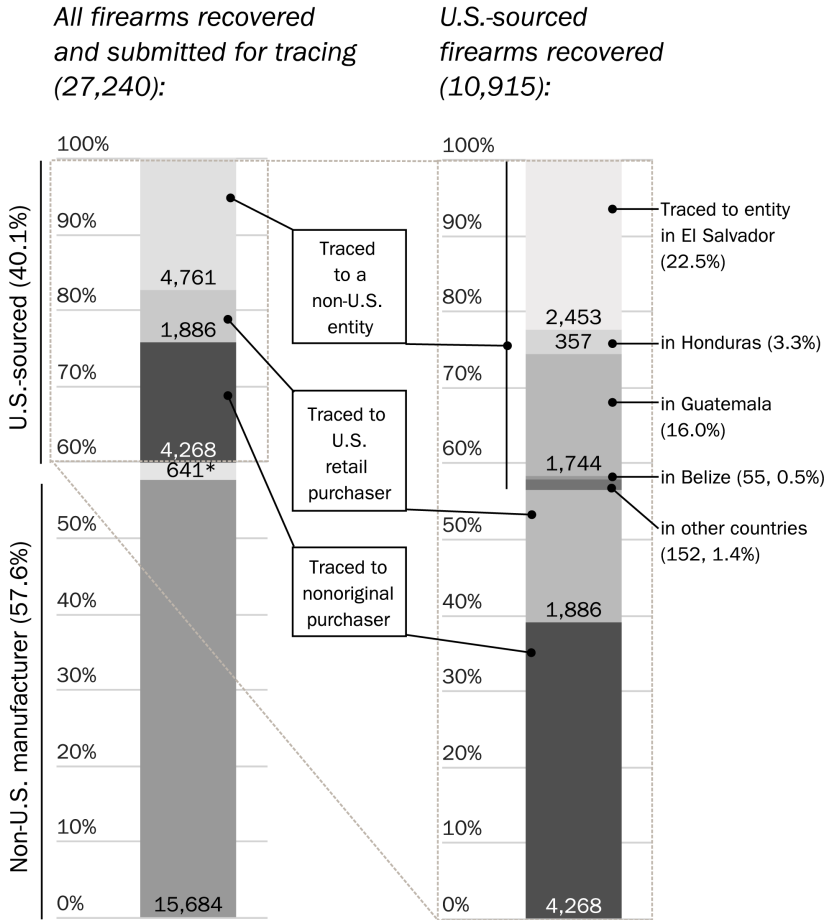
Figure 2  
**Average customer risk scores for leading arms exporting nations,  
2019–2020**



Sources: “Stockholm International Peace Research Institute Arms Transfer Database,” Stockholm International Peace Research Institute; “UCDP/PRI Armed Conflict Dataset,” Uppsala Conflict Data Program, Peace Research Institute Oslo; Sarah Repucci and Amy Slipowitz, “Freedom in the World 2021: Democracy under Siege,” Freedom House, 2021; “Fragile States Index,” Fund for Peace; Mark Gibney et al., “The Political Terror Scale 1976–2020,” 2021; *Global Terrorism Index 2019: Measuring the Impact of Terrorism* (Sydney, Australia: Institute for Economics and Peace, November 2019); “Corruption Perceptions Index, 2020,” Transparency International; “SIPRI Arms Industry Database,” Stockholm International Peace Research Institute; and Pieter Wezeman et al., “Trends in International Arms Transfers, 2020,” Stockholm International Peace Research Institute, March 2021.

Figure 3

**Origins of firearms recovered in Belize, El Salvador, Guatemala, and Honduras, and traced by ATF to U.S. and non-U.S. entities, 2015–2019**



Source: U.S. Government Accountability Office, “Firearms Trafficking: More Information Is Needed to Inform U.S. Efforts in Central America,” January 2022.

Note: \*Undetermined origin; ATF = Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Although problematic, these incidents underscore the need for the United States to move away from selling arms to risky countries and toward a more responsible weapons sales policy. The first step is to incorporate metrics to measure the risk of weapons sales on which to base these policy changes, such as requiring the State Department to issue public risk assessments or by creating an oversight board that evaluates every sale, in addition to the State Department's analysis. The world's riskiest countries should receive no weapons, even if they are current clients. Further, countries that receive weapons and are at risk of dispersion or violations of human rights should demonstrate improved handling of these issues before receiving more U.S. weapons. Finally, this review process should be publicized so constituents can understand the risks of selling weapons to dangerous countries. Incorporating risk into arms sales decisions is a simple solution, but it will have an outsized impact on avoiding risk from current U.S. arms sales policy. The goal is not to prevent all sales but to identify and stop those that could pose threats to U.S. security in the future.

This change, however, will not be effective without further empowering policymakers and policy implementers. A current lack of congressional influence and limited end-use monitoring capabilities prevent such action.

## **The Importance of Flipping the Script on Arms Sales**

The current arms export system—as defined in the 1961 Foreign Assistance Act and 1976 Arms Export Control Act—gives Congress the ability to stop a sale 30 calendar days before a transfer of equipment valued at \$14 million or more. Additionally, Congress can stop a sale of firearms controlled under category 1 of the U.S. Munitions List (a type of SALW) 30 calendar days before a transfer of equipment, as long as it is valued at \$1 million or more. To do so, Congress must pass a joint resolution of disapproval. Yet because of the difficulty of overriding a presidential veto of a disapproval resolution, Congress has rarely voted to block an arms sale. When it has, those attempts have always been overturned by the president's veto.

This process is slow and difficult. Many sales of SALW are less than \$1 million, skirting congressional oversight. The executive branch and weapons manufacturers can put together packages of sales for \$999,999 and avoid notifying Congress. As a result, many lethal weapons are sold in small packages valued below \$1 million. Congress often does not know about such sales, let alone have any mechanism through which to stop the process. Beyond that, 30 days is not much time. This is especially true in the House of Representatives because there is no method for a House member to force the House Foreign

Affairs Committee to debate stopping a sale, which allows this legislation to die in committee.

Recently, the president has superseded Congress through emergency declarations. Former president Donald Trump was able to prevent Congress from stopping sales to Saudi Arabia multiple times. He first did so in May 2019 by declaring the sales to be an emergency-use authorization, or when a sale is in the immediate national security interests of the United States. The president can make such a declaration under the claim that a certain sale or group of sales is classified as an emergency and thus circumvents the 30-day rule. In another instance, President Trump simply vetoed a congressional resolution of disapproval in July 2019. Because Congress needs to pass a resolution disapproving of the president's sale, the president can veto Congress's joint resolution of disapproval. The legislature, therefore, needs two-thirds majorities in both the House and Senate to stop a sale.

Congress could make two major changes to current arms sales policy that could help reduce risks in sales. First, Congress should pass legislation reducing the threshold at which the president must notify the legislature. Many SALW packages are sold for under \$1 million. By lowering this number, Congress will be able to stop dangerous sales in the Northern Triangle and other fragile regions.

Still, the most important change that policymakers can make is flipping the script on the sales process. The president holds all the power over arms sales, relegating Congress to a rubber-stamping role. Instead, if all arms sales are null unless Congress *approves* the sale, the presidential veto threat will no longer exist. Those supporting the sale, therefore, will need to defend it publicly, which will pose a greater challenge for the riskiest of sales.

An additional benefit to this policy is that, if Congress decides a sale is in U.S. interests, it would pass a resolution of approval. For example, on April 25, 2022, President Biden notified Congress about a \$165 million sale of nonstandard ammunition—such as grenades and grenade launchers—to Ukraine. Given Congress's near-unanimous support for arming Ukraine, if legislation had already flipped the script on arms sales, it likely would have passed a resolution of approval. Flip-the-script legislation empowers Congress to make decisions on weapons sales, and this makes that process more democratic.

## Improving End-Use Monitoring of U.S. Weapons

The United States does not adequately monitor weapons and prevent dispersion, partially because the Trump administration placed the monitoring and regulating of most SALW under the Commerce Department's jurisdiction,

moving it away from the State Department. In Central America, the consequences are severe. A 2022 Government Accountability Office study found that the Commerce Department conducted only two end-use checks in the Northern Triangle in 2021. In the six previous years, when the State Department conducted end-use monitoring checks, it found 130 firearms, 3,500 firearm components, and 217,000 rounds of ammunition destined for illicit transfers to Central America.

Beyond SALW, monitoring major weapons systems is a challenge in other parts of the world. For example, on May 26, 2015, Saudi Arabia used U.S. bombs to bomb a school. These systems have been sold to Saudi Arabia since 2008, per the U.S. Department of Defense. As a result, poor monitoring by the United States has resulted in deaths of innocent civilians in Yemen. The United States clearly lacks the proper infrastructure to monitor the weapons it sends to high-risk areas. This deficiency allows U.S. weapons to end up in the hands of cartels, terrorists, and other anti-American groups, unbeknownst to the American government.

In the worst cases, loose weapons are used to violate human rights or harm Americans. For example, before the U.S. withdrawal from Afghanistan, a U.S. military investigation into the Taliban's killing of two Americans found that there was a "distinct possibility" that the Taliban had used U.S.-made SALW in the attack. Policymakers should move SALW monitoring back to the State Department. Although the previous system was imperfect, improving monitoring of small arms that go to fragile states helps Washington avoid future headaches. Problems with bureaucratic oversight of U.S. weapons after delivery often result in millions of dollars spent and hours wasted in recovering dispersed weapons.

Not only should the United States trace its weapons after delivery, but so should recipient countries. Agreements like the Arms Trade Treaty provide an avenue for doing so, as similar requirements can be written into arms sales agreements themselves. Rather than spend tens of millions of dollars recovering weapons, Washington should mandate that the recipient ensures their safety or faces repercussions. By working with other countries to institute such processes, policymakers can certify that American bureaucratic organizations know how to track weapons in places where governments are more likely to stop weapons dispersion and selling arms to recipients with poor human rights records.

## **Restraining Risky Arms Sales**

Washington discounts risk in weapons sales, and doing so comes with consequences. Over the past 15 years, U.S. weapons sales have aided human rights abusers, countries at war, and fragile and corrupt states.

There is a better option. Preventing presidents from unilaterally selling weapons to whomever they choose and monitoring where U.S. arms end up will help avoid these problems. Policymakers need to reform the weapons sales process. Doing so will positively affect U.S. security.

### **Suggested Readings**

Cohen, Jordan. "Biden's Conventional Arms Transfer Policy Review Could Be a Turning Point." *War on the Rocks*, November 29, 2021.

Government Accountability Office. "Export Controls: State and Commerce Should Share Watch List Information if Proposed Rules to Transfer Firearms Are Finalized." GAO-19-307, March 2018.

———. "Firearms Trafficking: More Information Is Needed to Inform U.S. Efforts in Central America." GAO 22-104680, January 2022.

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Thrall, A. Trevor, Jordan Cohen, and Caroline Dorminey. "Power, Profit, or Prudence? US Arms Sales since 9/11." *Strategic Studies Quarterly* 14, no. 2 (2020): 100–126.

—*Prepared by Jordan Cohen and A. Trevor Thrall*

