



Congressional Update

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August 31, 2016*

Arms Sale to Saudi Arabia

Congressional criticism of the pending arms sale to Saudi Arabia has grown louder, even though the sale is likely to go through.

On August 29, Representative Ted Lieu (D-California), along with 63 members of Congress sent a bipartisan [letter](#) to Secretary of State John Kerry expressing opposition to the arms sale for Saudi Arabia and urging the Administration to postpone the sale. The opposition to the sale stems from congressional opposition to US support for the Saudi-led bombing campaign in Yemen against the Iran-backed Houthi rebels and the high number of civilian casualties in this war.

As noted in last week's Congressional Update, under the provisions of the Arms Export Control Act (AECA), Congress has 30 days to block the sale, but members have expressed frustration that the notice was sent during the summer recess and the 30-day period will end just as Congress is returning to session. Members also complained that past congressional concerns about the war in Yemen have not been addressed.

The Administration has refused to comment on whether or not it would delay the sale. The US remains committed to confronting any external threat to Saudi Arabia, and other Gulf Allies, but has called for a halt to military action between Saudi Arabia and the Houthi rebels.

These members of Congress are not likely to succeed in their efforts to delay the sale, but they will continue to challenge the Obama Administration over its support for the Saudi military campaign in Yemen. They are likely to do this through more resolutions and bills that impose conditions on arms sales to Saudi Arabia. For example, Senator Christopher Murphy (D-Connecticut) also has deep concerns about the sale, and in April 2016, he and Senator Rand Paul (R-Kentucky) introduced legislation (SJRes 32) that would require the President to certify to Congress that Saudi Arabia is demonstrating an ongoing effort to target terrorist groups, minimize harm to civilians and facilitate humanitarian assistance before Congress could consider the sale or transfer of air-to-ground munitions to Saudi Arabia. That resolution is pending before the Senate Foreign Relations Committee. Murphy's attempt to offer the resolution as an amendment to the FY 2017 Defense bill failed.

In a related development, on August 19, Sarah Margon, Washington Director of Human Rights Watch sent a letter to Secretary Kerry regarding his trip to Kenya, Nigeria and Saudi Arabia. In the letter she expressed her concerns with the Saudi sale. Below is an excerpt from the letter.

“Your visit to Saudi Arabia offers an important opportunity to raise concerns about the Saudi-led military intervention in Yemen. Over the last year and a half of the conflict, Human Rights Watch has documented numerous violations of the laws of war by the Saudi-led coalition, including indiscriminate and disproportionate airstrikes that have caused high civilian casualties. These include repeated strikes on residential homes, markets, medical



facilities, schools, civilian factories, and structures that did not appear to be military objectives. In the renewed fighting since the breakdown of peace talks, coalition airstrikes have hit homes, another hospital, a school, and a civilian factory.

Under the laws of war, the United States, by directly assisting coalition military operations such as by providing targeting intelligence and in-air refueling, is a party to the conflict in Yemen. As such, the US has a legal obligation to investigate alleged violations of the laws of war in which US forces may have been responsible and appropriate prosecute war crimes that may have been committed. We are unaware of US participation in any investigations of alleged laws of war violations committed in Yemen.

The United States has also for many years sold munitions, including cluster munitions, weapons, and weapons platforms to Saudi Arabia. Human Rights Watch has documented that US-supplied munitions have been used in apparently unlawful airstrikes in Yemen. As you know, members of Congress have made several attempts this year to condition or restrict US military sales and assistance to Saudi Arabia. They are also likely to do so with respect to the \$1.15 billion shipment of tanks, guns, and related equipment and services that the Pentagon revealed last week. Human Rights Watch supports a full arms embargo against Saudi Arabia until it adopts serious measures to abide by the laws of war, including impartially investigating alleged violations by its forces. Suspending weapons shipments would encourage Saudi Arabia to improve its compliance with international law.

Given growing congressional concern, we urge you to make clear to the Saudi government that airstrikes and other attacks that violate the laws of war need to end, and to credibly and impartially investigate alleged violations, which to date they have failed to do.

By participating in attacks that violate the laws of war and by providing weapons and munitions to a military force that can be expected to use them unlawfully, the US risks complicity in violations by coalition forces. This would be damaging both for US long-term interests in Yemen, including counterterrorism concerns, and its standing in the region.

We urge you to press the Saudi government to support the presence of independent international observers with access to assist in investigations of alleged laws of war violations by all parties to the conflict. We also ask that you call upon the Saudi government to meet with independent human rights organizations, including Human Rights Watch, to discuss issues of concern. (To date, our letters seeking information and requests for meetings have gone unanswered.)

The Foreign Assistance of 1961, as amended

For years, Congress enacted a Foreign Aid Authorization bill, designed to provide guidelines on the many aspects of the US foreign aid program, including military assistance, development and humanitarian assistance, budget support and democracy promotion.



However, over the past 30 years, Congress has been unable to pass a foreign aid authorization bill – the last bill was enacted in 1985. Since that time, there have been few unsuccessful attempts to rewrite the foreign assistance legislation. Beginning in 2010, House Foreign Affairs Committee (HFAC) Chairman Howard Berman (D-California) and his staff spent three years drafting a new comprehensive foreign assistance bill, but when the Republicans took control of the 113th Congress, the new HFAC Chair, Ileana Ros-Lehtinen (R-Florida) had no interest in considering the bill. As a result, foreign assistance legislation has become the purview of the Appropriations and Armed Services Committees, leaving the authorizing committee, i.e., Senate Foreign Relations and House Foreign Affairs little role in foreign aid programs. Moreover, many of the programs, instituted decades ago, have become wasteful and in many cases inefficient. Many of the programs have failed to meet the goals envisioned.

In addition to the functional problems with the foreign assistance legislation, there has been a lack of interest in supporting the bill. Members of Congress differ over providing funding related to national security versus economic development. The focus lately has been on national security issues and counterterrorism programs. Unless a member serves on the four committees with primary jurisdiction over foreign policy – Senate Foreign Relations, House Foreign Affairs and the House and Senate Foreign Operations Appropriations Subcommittee – there is little interest in foreign assistance. In short, the foreign aid legislation lacks a strong constituency on Capitol Hill.

The American public complains that too much money, needed for important domestic programs, is being sent overseas. This Administration and past administrations have done a poor job of gaining support for foreign aid. The total foreign assistance budget is less than 1 percent of the total US budget but few Americans understand this.

Recently, however, it has become apparent that the need to address foreign assistance is growing. In the past few months Congress passed three foreign aid bills with strong bipartisan leadership and support: The Foreign Assistance Accountability and Transparency Act of 2016; The Global Food Security Act of 2016; and the Electrify Africa Act of 2015. While unlikely to be enacted into law, these bills are a good first step toward reform of the US foreign assistance program.

Senate Foreign Relations Committee Chairman Bob Corker (R-Tennessee) wants to change this. Since becoming Chairman in 2015 Corker has held a number of hearings on foreign aid and whether foreign aid programs are accomplishing the intended objectives. Corker wants the SFRC to get back to its oversight of US foreign policy and that includes a foreign assistance authorization bill. As a first start to this effort, the Committee has passed a FY 2016 and 2017 State Department Authorization bill, neither of which has been enacted.

Although Corker wants to produce a foreign assistance authorization bill, he has not announced a time table. Both Corker and ranking member Ben Cardin (D-Maryland) want to build a more comprehensive approach to foreign aid authorization and this will take time.

Corker and Cardin face a huge challenge in rewriting the foreign aid bill, but there is optimism within the foreign assistance community that some progress will be made. One issue is to recognize that foreign assistance programs often lack strategic focus and are not accomplishing intended objectives. According to congressional sources, the crucial step is to build momentum toward a more comprehensive approach to foreign aid authorization.