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February 21, 2019

The Honorable Patrick Shanahan
Acting Secretary of Defense
1000 Defense Pentagon
Washington, D.C.

The Honorable Mike Pompeo
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Acting Secretary Shanahan and Secretary Pompeo,

I write to request information on suspected retransfers of American weapons and other defense articles to armed groups and other unauthorized non-state actors – including suspected terrorists – by foreign governments. When the United States provides or sells weapons and other defense articles to foreign governments, they are subject to agreements that prohibit the retransfer of those weapons to third parties without prior authorization.¹ Ensuring that foreign governments do not divert American weapons to third parties is an important and necessary way to hold allies and partners accountable and protect U.S. national security.

A recent *CNN* investigation reported, “Saudi Arabia and its coalition partners have transferred American-made weapons to al Qaeda-linked fighters, hardline Salafi militias, and other factions waging war in Yemen, in violation of their agreements with the United States.”² Furthermore, that investigation reported that some “weapons have also made their way into the hands of Iranian-backed rebels battling the coalition for control of the country, exposing some of America’s sensitive military technology to Tehran and potentially endangering the lives of U.S. troops in other conflict zones.”³

In public testimony before the Senate Armed Services Committee regarding this report of improperly diverted weapons, the commander of U.S. Central Command (CENTCOM) General Joseph L. Votel stated that the Department of Defense (DoD) has mechanisms to monitor and

¹ Defense Security Cooperation Agency, “End-Use Monitoring and Third Party Transfers,” https://www.discs.dsca.mil/documents/greenbook/18_Chapter.pdf?id=1.

² Nima Elbagir, Salma Abdelaziz, Mohamed Abo El Gheit, and Laura Smith-Spark, “Sold to an ally, lost to an enemy,” *CNN*, February 2019, <https://edition.cnn.com/interactive/2019/02/middleeast/yemen-lost-us-arms/>.

³ *Id.*

enforce end user restrictions.⁴ General Votel further observed that the DoD “ha[s] not authorized Saudi Arabia or the Emirates to retransfer any of this equipment to other parties on the ground in Yemen” and that “we have to look more closely at the allegations in this particular situation to find out what happened.”⁵ If this report is true, it raises serious concerns that Saudi Arabia, the United Arab Emirates (UAE), and other governments may have violated their end user agreements with the United States by diverting American weapons to terrorists and other violent extremists without prior authorization from the U.S. government. It also suggests that Congress should consider whether new reporting requirements should be put in place for monitoring instances when U.S.-origin arms or equipment are lost to hostile actors while in use by authorized recipients.

Given my concerns about the potential threat to U.S. national security interests from our weapons being diverted to terrorists and other non-state actors or lost to our adversaries, I request unclassified answers to the following questions by March 8, 2019:

1. Have the end-use monitoring compliance plans developed by U.S. Security Cooperation Offices with their Saudi and Emirati counterparts been revised since the beginning of Fiscal Year 2015? If so, what specific changes have been implemented to account for the deployment and use of U.S.-origin weapons systems by Saudi and Emirati forces in Yemen? Have other members of the Saudi-led coalition informed U.S. Security Cooperation Offices of their deployment and use of U.S.-origin equipment in Yemen?
2. When were the last Familiarization Assessment Visits (FAVs) and Compliance Assessment Visits (CAVs) undertaken by DoD to the Kingdom of Saudi Arabia and the UAE? Please transmit their findings and results. Are any CAVs planned, or have CAVs already been conducted, for these countries for Fiscal Year 2019?
3. How many Blue Lantern end-use inquiries have been closed by the State Department in Saudi Arabia and the UAE since the beginning of Fiscal Year 2015? How many have been closed favorably and unfavorably?
4. How do you monitor and enforce restrictions on the retransfer of U.S.-origin weapons and other defense articles to unauthorized third party end users in cases where authorized end users have deployed items that would otherwise be subject to routine or enhanced end-use monitoring procedures?
5. Since the beginning of Fiscal Year 2015, have the governments of Saudi Arabia, the UAE, Yemen, or any other member of the Saudi-led coalition requested “prior approval”⁶ from the United States to transfer defense articles or services to any affiliated state or non-state actor in Yemen? What are the relevant thresholds for determining “physical possession or control”⁷ for forces nominally under the command and control of authorized end users?

⁴ Gen. Joseph L. Votel, Commander, U.S. Central Command, Testimony on the United States Central Command in review of the Defense Authorization Request for Fiscal Year 2020 and the Future Years Defense Program, Before the Senate Armed Services Committee, February 5, 2019.

⁵ *Id.*

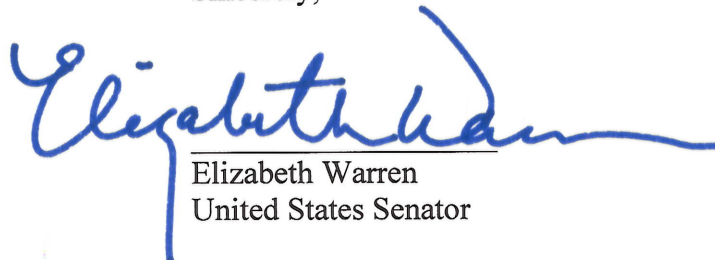
⁶ Defense Security Cooperation Agency, “End-Use Monitoring and Third Party Transfers,” https://www.discs.dsca.mil/documents/greenbook/18_Chapter.pdf?id=1.

⁷ *Id.*

6. Since the beginning of Fiscal Year 2015, have Security Cooperation Offices in Saudi Arabia, the UAE, or any other member of the Saudi-led coalition submitted any reports of potential unauthorized end-use, including unauthorized access, unauthorized transfers, or security violations in relation to the conflict in Yemen? Have any offices reported any indications that United States-origin defense articles are being used against anything other than a legitimate military target, are otherwise being used for unauthorized purposes, or are accessible by persons who are not officers, employees, or agents of the authorized recipient government? If so, how have your departments followed up on these reports?
7. When U.S. weapons and other defense articles are retransferred to unauthorized end users by a foreign government, how do your departments attempt to retrieve them? If there are there instances in which your departments have successfully retrieved them, please explain.
8. What reporting mechanisms and requirements exist for monitoring instances where U.S. origin arms or equipment is lost to hostile forces on the battlefield while in use by authorized end users? What factors should Congress consider when examining ways of improving oversight of such cases?
9. For each of the last five years, can you estimate the quantity and dollar value of U.S. weapons and other defense articles retransferred by foreign governments to unauthorized third party end users?
10. Will you confirm whether either of your departments is currently conducting an investigation into retransfers of U.S. weapons and other defense articles to unauthorized end users in Yemen, or in any other country?
11. What additional steps are your departments taking to improve the compliance of U.S. partners engaged in military operations in Yemen with U.S. end-use monitoring procedures?
12. Should Congress require special end-use monitoring and reporting requirements in cases where authorized recipients deploy and use U.S. equipment for the purposes of legitimate self defense, internal security, or other uses consistent with U.S. law and bilateral agreements? Why or why not?
13. Have you suspended or terminated an agreement within the last five years with Saudi Arabia, the UAE, or other foreign governments to provide weapons or other defense articles? If so, please explain those suspensions or terminations.

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren
United States Senator