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United States Senate

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The Honorable Mark T. Esper  
Secretary of Defense  
U.S. Department of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301-1000

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

Dear Secretary Esper and Secretary Pompeo:

I write to reiterate my previous request for information on suspected transfers of American weapons and other military hardware to armed groups and other unauthorized non-state actors by foreign governments, and to request additional information on newly reported findings of improper, and potentially unlawful, diversions of similar military equipment in Yemen by U.S. allies.

In February of this year, a *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.”<sup>1</sup> That investigation revealed 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.”<sup>2</sup>

I am writing today because a new investigation by *CNN* revealed that similar American-made military hardware is being used by separatist militias in southern Yemen to combat the internationally recognized government.<sup>3</sup> According to this latest report, “U.S.-made vehicles

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<sup>1</sup> 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/>.

<sup>2</sup> *Id.*

<sup>3</sup> Nima Elbagir, Mohamed Abo El Gheit, Florence Davey-Attlee, and Salma Abdelaziz, “American weapons ended up in the wrong hands in Yemen. Now they're being turned on the US-backed government,” *CNN*, October 20, 2019, <https://amp.cnn.com/cnn/2019/10/18/world/american-weapons-yemen-war-intl/index.html>.

[are] being used in attacks on key locations and personnel within the U.S.-backed legitimate government of Yemen” despite the assertion of the UAE government that “[t]here were no instances when U.S.-made equipment was used without direct UAE oversight[,]” except for four armored vehicles “captured by the enemy.”<sup>4</sup> For example, the new *CNN* report found a U.S.-made military vehicle “being paraded by a [United Arab Emirates]-backed militia known as the Giants Brigade ... to fight against the very legitimate government the Emiratis armed them to restore.”<sup>5</sup> In other words, “the UAE-backed separatist forces turn[ed] their U.S.-made weaponry on the Yemeni government,”<sup>6</sup> which suggests that that military hardware has improperly landed in the hands of unauthorized third parties – in violation of the UAE’s contract with the United States. As a member of the Senate Armed Services Committee, I am deeply troubled by these new findings of American-made military hardware ending up in the hands of anti-government militias in Yemen.

Shortly after the initial *CNN* report, I wrote to both the Departments of Defense and State to express my concern that the apparent diversion of American-made weapons to armed groups may be violations by the governments of Saudi Arabia and the United Arab Emirates (UAE) of agreements that require the weapons we sell be used only by authorized parties. I asked several questions about the circumstances described in this original *CNN* investigation, such as whether Saudi Arabia and the UAE violated their end user agreements with the United States; whether the U.S. government efforts to monitor allies’ compliance with these agreements have been, or should be, revised; and how the United States government attempts to retrieve U.S.-origin weapons after they have been improperly diverted.<sup>7</sup> I received a brief acknowledgment from the State Department on March 26, 2019, stating, “The Department of State is coordinating with the Department of Defense to provide a comprehensive written response[.]”<sup>8</sup> Other than this brief acknowledgment, I have not received answers to any of the questions that I posed in my February letter.

The latest report underscores the need for concrete answers to my initial inquiry, highlights the importance of preventing unauthorized access, unauthorized transfers, or other violations of end-user agreements by foreign governments, and raises legitimate questions about whether it is in America’s interest to continue selling arms and other military hardware to the Saudi and UAE governments. These unauthorized diversions of American military hardware to armed groups also undermine U.S. national security objectives in securing a political settlement to the conflict in Yemen, which has no military solution and remains one of the world’s worst humanitarian crises.

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Nima Elbagir, Mohamed Abo El Gheit, Florence Davey-Attlee, and Salma Abdelaziz, “American weapons ended up in the wrong hands in Yemen. Now they’re being turned on the US-backed government,” *CNN*, October 20, 2019, <https://amp.cnn.com/cnn/2019/10/18/world/american-weapons-yemen-war-intl/index.html>.

<sup>7</sup> Senator Elizabeth Warren, “Warren Seeks Answers from DOD & State Department on Reports of American Weapons Transferred to Suspected Terrorists and Militias,” press release, February 22, 2019, <https://www.warren.senate.gov/oversight/letters/warren-seeks-answers-from-dod-and-state-department-on-reports-of-american-weapons-transferred-to-suspected-terrorists-and-militias>.

<sup>8</sup> U.S. Department of State response to Senator Warren, March 26, 2019 [on file with office of Senator Warren].

Accordingly, I resubmit my questions to your departments from my February 21, 2019 letter and pose additional questions regarding the newly published follow-up account of diverted American weapons to unauthorized groups. I respectfully request unclassified responses to these questions by November 15, 2019:

1. According to *CNN*'s follow-up report, a DoD spokesperson stated that an "investigation is ongoing"<sup>9</sup> into unauthorized diversions of U.S.-made military hardware to armed groups. Are either of your Departments in possession of any credible information or intelligence indicating that American-made weapons and other military hardware are being used by separatist militias in southern Yemen to combat the internationally recognized government? If so, please provide a summary of this information, and a timeline indicating when you became aware of this information and what actions, if any, you took at the time.
2. 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? Please explain.
3. Have any end-use monitoring Investigation Visits (IVs)<sup>10</sup> occurred related to the deployment and use of U.S.-origin military equipment in Yemen since January 2019? When were the last Familiarization Visits (FAVs) and Compliance Assessment Visits (CAVs)<sup>11</sup> 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? Are any CAVs or IVs planned for Fiscal Year 2020? Please explain.
4. How many Blue Lantern<sup>12</sup> 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? Please explain.
5. 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

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<sup>9</sup> Nima Elbagir, Mohamed Abo El Gheit, Florence Davey-Attlee, and Salma Abdelaziz, "American weapons ended up in the wrong hands in Yemen. Now they're being turned on the US-backed government," *CNN*, October 20, 2019, <https://amp.cnn.com/cnn/2019/10/18/world/american-weapons-yemen-war-intl/index.html>.

<sup>10</sup> U.S. Defense Security Cooperation Agency, "End-Use Monitoring (EUM)," <https://www.dsca.mil/chapter/chapter-8#C8>; U.S. Defense Security Cooperation Agency, "End-Use Monitoring and Third Party Transfers," [https://www.dsca.mil/documents/greenbook/18\\_Chapter.pdf?id=1](https://www.dsca.mil/documents/greenbook/18_Chapter.pdf?id=1).

<sup>11</sup> *Id.*

<sup>12</sup> U.S. Department of State, "End-Use Monitoring of Defense Articles and Defense Services, Commercial Exports FY 2018,"

[https://www.pnddtc.state.gov/sys\\_attachment.do?sysparm\\_referring\\_url=tear\\_off&view=true&sys\\_id=d53a84ef1b917704556411e01961910](https://www.pnddtc.state.gov/sys_attachment.do?sysparm_referring_url=tear_off&view=true&sys_id=d53a84ef1b917704556411e01961910) ("Blue Lantern's mission is to help ensure the security and integrity of U.S. defense trade. The program minimizes the risk of diversion and unauthorized use of U.S. defense articles, combats gray arms trafficking, uncovers violations of the AECA, and builds confidence and cooperation among defense trade partners.").

- end users have deployed items that would otherwise be subject to routine or enhanced end-use monitoring procedures? Please explain.
6. 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 or consent<sup>13</sup> 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”<sup>14</sup> for forces nominally under the command and control of authorized end users? Please explain.
  7. 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”<sup>15</sup> in relation to the conflict in Yemen? Have any offices reported any indications that American military hardware is being used against anything other than a legitimate military target, is otherwise being used for unauthorized purposes, or is accessible by individuals who are not officers, employees, or agents of the authorized recipient government? If so, how have your departments followed up on these reports? Please explain.
  8. 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.
  9. 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? Please explain.
  10. 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? Please explain.
  11. 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? Please explain.
  12. 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? Please explain.
  13. 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

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<sup>13</sup> U.S. Defense Security Cooperation Agency, “End-Use Monitoring (EUM),” <https://www.samm.dsca.mil/chapter/chapter-8#C8>; U.S. Defense Security Cooperation Agency, “End-Use Monitoring and Third Party Transfers,” [https://www.dises.dsca.mil/documents/greenbook/18\\_Chapter.pdf?id=1](https://www.dises.dsca.mil/documents/greenbook/18_Chapter.pdf?id=1).

<sup>14</sup> U.S. Defense Security Cooperation Agency, “End-Use Monitoring and Third Party Transfers,” [https://www.dises.dsca.mil/documents/greenbook/18\\_Chapter.pdf?id=1](https://www.dises.dsca.mil/documents/greenbook/18_Chapter.pdf?id=1).

<sup>15</sup> U.S. Defense Security Cooperation Agency, “End-Use Monitoring (EUM),” <https://www.samm.dsca.mil/chapter/chapter-8#C8>.

self defense, internal security, or other uses consistent with U.S. law and bilateral agreements? Please explain why or why not.

14. 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.
15. Have the Departments of State and Defense conducted an assessment regarding the impact of unauthorized diversions of U.S.-origin weapons in Yemen on the likelihood of securing a political settlement in that country? If yes, please share any assessment(s).
16. Based on the available information, what steps have the Saudi and UAE governments taken to address Yemen-related diversion concerns and to remain eligible for future sales of arms and other American-made military hardware? Please explain.
17. Based on the available information, is it in the national security interest of the United States to continue selling arms and other military hardware to the governments of Saudi Arabia and the UAE? Please explain.

Thank you for your attention to this matter.

Sincerely,



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Elizabeth Warren  
United States Senator