

A row of military Humvees parked in front of a large blue aircraft fuselage with "U.S. AIR FORCE" written on it. The vehicles are arranged in a line, receding into the distance. The aircraft's nose and cockpit area are visible at the top of the frame. The scene is set outdoors on a tarmac or airfield.

U.S. AIR FORCE

# A MUTUAL EXTORTION RACKET: THE MILITARY INDUSTRIAL COMPLEX AND US FOREIGN POLICY — THE CASES OF SAUDI ARABIA & UAE

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## ABBREVIATIONS

<b>AECA</b> – Arms Export Control Act	<b>HLOGA</b> – Honest Leadership and Open Government Act
<b>AGEAR</b> – After Government Employment Advisory Repository	<b>IG</b> – Inspector general
<b>AIA</b> – Aerospace Industry Association	<b>IRS</b> – Internal Revenue Service
<b>AQAP</b> – Al Qaeda in the Arabian Peninsula	<b>JAC</b> – Joint Aviation Command
<b>ATT</b> – Arms Trade Treaty	<b>LLC</b> – Limited Liability Corporation
<b>AWACS</b> – Airborne Warning and Command System	<b>MENA</b> – Middle East and North Africa
<b>CEO</b> – Chief Executive Officer	<b>MIC</b> – Military Industrial Complex
<b>CNAS</b> – Center for New American Security	<b>MRAP</b> – Mine-resistant ambush protected vehicle
<b>COO</b> – Chief Operating Officer	<b>NATO</b> – North Atlantic Treaty Organization
<b>CREW</b> – Citizens for Responsibility and Ethics in Washington	<b>NCIS</b> – Naval Criminal Investigative Service
<b>CSIS</b> – Center for Strategic and International Studies	<b>NDAA</b> – National Defense Authorization Act
<b>DCS</b> – Direct Commercial Sales	<b>NDIA</b> – National Defense Industrial Association
<b>DEAC</b> – Defense and Aerospace Export Council	<b>OSD</b> – Office of the Secretary of Defense
<b>D-FL</b> – Democrat from Florida	<b>PAC</b> – Political action committee
<b>D-IL</b> – Democrat from Illinois	<b>PGM</b> – Precision guided munition
<b>D-MO</b> – Democrat from Missouri	<b>POGO</b> – Project on Government Oversight
<b>D-NJ</b> – Democrat from New Jersey	<b>PP&amp;B</b> – Programming, Policy, and Budgeting
<b>DoD</b> – Department of Defense	<b>R-AK</b> – Republican from Alaska
<b>DoD/IG</b> – Department of Defense Inspector General	<b>R-CA</b> – Republican from California
<b>DPB</b> – Defense Policy Board	<b>R-KY</b> – Republican from Kentucky
<b>DSCA</b> – Defense Security Cooperation Agency	<b>R-SC</b> – Republican from South Carolina
<b>D-TN</b> – Democrat from Tennessee	<b>R-TN</b> – Republican from Tennessee
<b>EAIG</b> – Emirates Advanced Investments Group	<b>R-WI</b> – Republican from Wisconsin
<b>ECSSR</b> – Emirates Center for Strategic Studies and Research	<b>SAIC</b> – Saudi Advanced Industries Company
<b>EDIC</b> – Emirates Defense Industries Company	<b>SALW</b> – Small arms and light weapons
<b>FAA</b> – Foreign Assistance Act	<b>SEC</b> – Securities and Exchange Commission
<b>FCPA</b> – Foreign Corrupt Practices Act	<b>SOFA</b> – Status of Forces Agreement
<b>FDD</b> – Foundation for Defense of Democracies	<b>TACCGG</b> – Transparency, accountability, counter corruption, and good governance
<b>FMS</b> – Foreign Military Sales	<b>TI</b> – Transparency International
<b>GCC</b> – Gulf Cooperation Council	<b>TOW</b> – Tube-launched, optically-tracked, wire-guided (type of anti-tank weapon)
<b>GDI</b> – Government Defence Integrity Index (Governance Index as renamed in 2019)	<b>UAE</b> – United Arab Emirates
<b>GDMA</b> – Glenn Defense Marine Asia	<b>US</b> – United States
<b>GI</b> – Governance Index (2015 TI Defense & Security Index)	<b>USAID</b> – United States Agency for International Development
<b>HE</b> – His Excellency	
<b>HI</b> – Huntington Ingalls Corporation	

# EXECUTIVE SUMMARY

This report examines the underlying processes and pathways to influence between the American defense export sector, the federal government, the defense bureaucracy, and Middle East and North Africa (MENA) governments. These pathways enable American defense firms to export arms and defense services to MENA countries despite many regimes' poor human rights and governance records, lack of transparency and accountability, and questionable outcomes for US foreign policy. This not only often leads to poor outcomes for American national security and foreign policy, but it is also harms international peace by helping to fuel conflict and human rights abuses in the MENA region.

This report specifically examines how the US defense industry uses a combination of pathways to influence the American federal government to ensure the ability to export to countries such as Saudi Arabia and the United Arab Emirates (UAE), despite growing concerns both of their repressive regimes and their increasingly aggressive foreign policies, specifically their involvement in the civil war in Yemen. To illustrate these pathways of influence, this report provides examples such as key lobbying firms associated with a former member of the House Armed Services Committee and lobbyists with the Trump presidential campaign. It will assess how some recently retired senior military officers now work for the defense industry in MENA-related lobbying jobs, and even one case where a former Army officer joined the Emirati military, leading their helicopter forces there. This report will include examples such as the UAE's role in using an American private security company as a possible intermediary to push for policy change vis-à-vis US foreign policy with Qatar and Saudi Arabia's aggressive lobbying to limit censure for conduct in the conflict in Yemen.

The American arms industry is the largest in the world: 42 of the top 100 defense companies in the world are American, as are five of the top ten companies. American companies were responsible for 57 percent of worldwide arms sales in 2018, totaling \$226.6 billion dollars. Foreign military sales by American defense firms were 6.2 percent of the value of all US exports between 2007 and 2014. The combined aerospace and defense sectors export more than they import, thereby improving America's trade balance. The sector is also a major force in American manufacturing and employment. In 2017, ten percent of the \$2.2 trillion in American factory output went to produce weapons sold to the Defense Department and 839,171

American workers were employed in the defense sector in 2016 in jobs often paying above the national wage.

Beyond the sheer size of the sector, American defense export companies exhibit unique characteristics that make this economic sector especially important for scrutiny. First, the sector provides vital equipment and services to the United States and those of MENA regimes essential to their national security; without these goods and services, the United States would lack the military pillar of American foreign policy. American defense goods exported to MENA regimes are often key aspects of their own internal security as well as placing them firmly under the American defense umbrella against their external enemies. The fact that key defense components such as fighter aircraft and naval ships are often produced by one or a few firms, along with the significant control exercised by the United States federal government as the primary customer for most defense goods and its role in approving nearly all defense exports means that the defense sector and US government are intertwined in ways not exhibited in other export sectors.

The MENA region is an especially important export customer for American defense firms. MENA is considered one of the most militarized regions in the world, with six out of the ten top ten defense budgets as a percentage of GDP found there. Between 2012 and 2015, the Middle East made up 61.1 percent of the value of all arms agreements with suppliers in the developing world. From 2012 to 2015, 45.8 percent of all arms delivered to the Middle East came from the United States, and in 2016, 35 of the 57 major American arms sales proposed were to countries in MENA, making up \$49 billion of the total \$63 billion of proposed sales. In May 2017, the Trump Administration famously publicized plans to sell \$110 billion in weapons just to Saudi Arabia, though many of these were leftover deals from the Obama Administration or were vague promises of purchases rather than firm purchase agreements. With conflicts in Syria and Yemen continuing, arms sales to MENA countries will likely continue to be brisk in the coming years.

This report documents how these unique characteristics of the US defense export sector are intertwined with key pathways for influence vis-à-vis the US federal government in order for the defense export sector to ensure a relatively open legislative and regulatory environment to continue to export to the Middle East. Rarely is only one pathway used for influence by the defense sector; they are often intermingled to magnify influence towards desired policy outcomes. The pathways analyzed here are:

**Lobbying.** Lobbying is any oral or written communication to influence executive and legislative branch officials on behalf of a client to formulate, modify, or adopt certain legislation, regulations, or policies of the US government. The defense sector runs extensive in-house lobbying activities as well as hiring outside lobbying firms, public relations firms, and consultants in order to help influence the US federal government towards defense export-friendly policies.

**Campaign Finance.** Running for and staying in office is exceptionally expensive, and the defense industry is able to make significant campaign contributions, especially for elected officials on important Congressional committees or representing key defense firms in their districts. The role of so-called "dark money," where money is donated theoretically separate from individual political campaigns by anonymous donors, including those in the defense sector, are especially pernicious. As a result, the US defense export sector is able to use its campaign contributions to not only ensure a relatively benign export environment, but perhaps more importantly, to prevent significant reforms unfavorable to the industry, for while there may be only one way to pass a Congressional bill, there are many ways to kill an unfavorable one.

**Revolving Door.** This refers to high-level government employees, including members of Congress and their staffs, senior military personnel, and other members of the executive branch rotating to senior jobs in industry or lobbying-associated activities. It can also refer to industry leaders rotating into senior governmental jobs, usually on a relatively short-term basis of a few years, where they have the potential to make decisions that can affect their companies' interests. Empirical studies demonstrate that it is often access to government officials and insider knowledge rather than expertise in a particular policy arena that leads to these hiring decisions. This is especially common in national security-related work: the Project on Government Oversight found that in 2018 alone, there were at least 645 instances where the top 20 defense contractors hired former government officials, military officers, members of Congress, and senior legislative staff to be lobbyists, board members, or senior executives.

**Defense Offsets.** These are provisions in foreign government defense procurement contracts that promise specific benefits to the contracting country as a condition for purchasing defense goods and services from a non-domestic supplier such as an American defense firm; in short, they are side deals and sweeteners for countries who purchase American defense goods. US defense contractors typically enter into an average of 30 to 60 offset agreements representing \$3 to \$7 billion in obligations each year. These contracts are a notorious conduit for corruption. Saudi Arabia and the UAE require defense offset contracts as part of defense deals, while keeping both the deals themselves and the beneficial owners of the firms associated with them secret. Thus, defense offset deals in these countries exhibit significant red flags for potentially corrupt activity. One such offset deal funneled cash from American arms contracts to the UAE government who then funneled it through a local think tank to an American one to conduct research and advocacy activities that supported loosening drone exports to the UAE.

**"Soft" Influence.** These include defense industry funding of think tanks, media campaigns, and academic work that supports industry policies and goals. These methods of influence are not necessarily bad, but they can reinforce other pathways of influence in ways that benefit the defense industry but can hurt American foreign policy or national security interests. Soft influence includes the influence companies can gain from sitting on various policies boards, such as the Defense Policy Board, which provides advice on long term and enduring issues of defense planning as well as research and analysis on topics assigned by the Defense Secretary or his senior staff. That the board members provide advice on policies that have a direct financial bearing on their companies can be a conflict of interest. In some cases, former senior military leaders, once they left the service, have joined senior positions of defense companies and then also sat on the Defense Policy Board while at the same time enjoying fellowships with leading think tanks, demonstrating the overlapping aspects of the revolving door and soft influence.

Conflict of Interest. The other pathways above represent potential conflicts of interest. Conflicts of interest occur

when officials make decisions that can affect their private wealth or that of business firms in which they or families have a stake. No bribery is actually necessary in these situations; the mere possibility of such conflicts themselves are the problem in that they erode citizen's trust that their leaders are acting in the nation's best interests rather than for personal interests. The fact that so many senior leaders from industry have recently held senior positions in the Department of Defense—up to and including the last two Senate-confirmed Secretaries of Defense (Mike Esper and James Mattis)—can create an impression of conflicts of interest.

**Corruption.** Worldwide, the defense industry is considered one of the most corrupt economic sectors, while Saudi Arabia and the UAE are rated as at very high risk of defense corruption according to Transparency International's 2015 edition of the Government Defence Anti-Corruption Index. While laws such as the Foreign Corrupt Practices Act (FCPA) and other American anti-corruption laws should help limit corruption in the defense sector, there are numerous loopholes. The FCPA, for instance, only sanctions the bribe giver and any intermediaries who facilitate paying bribes, but not foreign government officials who receive bribes. Emirati contracts to private security companies linked to American politically exposed persons and institutions have raised red flags, for example.

These pathways sustain a complex network of interactions between the US federal government, the defense industry, governments in MENA countries, and the American national security bureaucracy. Intermediaries facilitating these pathways include lobbying organizations, public relations firms, think tanks, the media, and other forms of influence, as the graphic on page 8 demonstrates.

The defense industry relies on the US federal government to authorize contracts and appropriate funds that keep defense firms afloat, along with the regulatory and legislative environment to permit exports under conditions not too onerous to industry. Elected officials, in turn, rely on the defense industry for campaign donations and other forms of support. The defense bureaucracy relies on elected officials to provide authorizations, appropriations, and the policy framework to defend the nation and act as the military pillar of US foreign policy, while also relying on defense industry to provide the goods and services it needs to operate. MENA countries also play a role, using similar pathways of influence—sometimes covertly or even illegally—to influence industry, the defense bureaucracy, and US federal elected officials. As MENA is one of the largest importers of American defense goods, MENA governments provide contracts to defense firms, along with the associated funding and jobs. These MENA governments also allow American bases

and personnel in their countries and overall military-to-military cooperation, which are important to American foreign policy.

The result of each of these actors working towards their own self-interest, however, can mean that actual American foreign policy in the MENA region often hinders important American goals of democracy, rule of law, human rights, and conflict prevention and resolution.

Because of these complex pathways, simply limiting lobbying and campaign finance, while a necessary condition, will be insufficient to rebalance the influence of the US defense industry with those of American foreign policy overall. Policy recommendations are therefore combined into three broad themes:

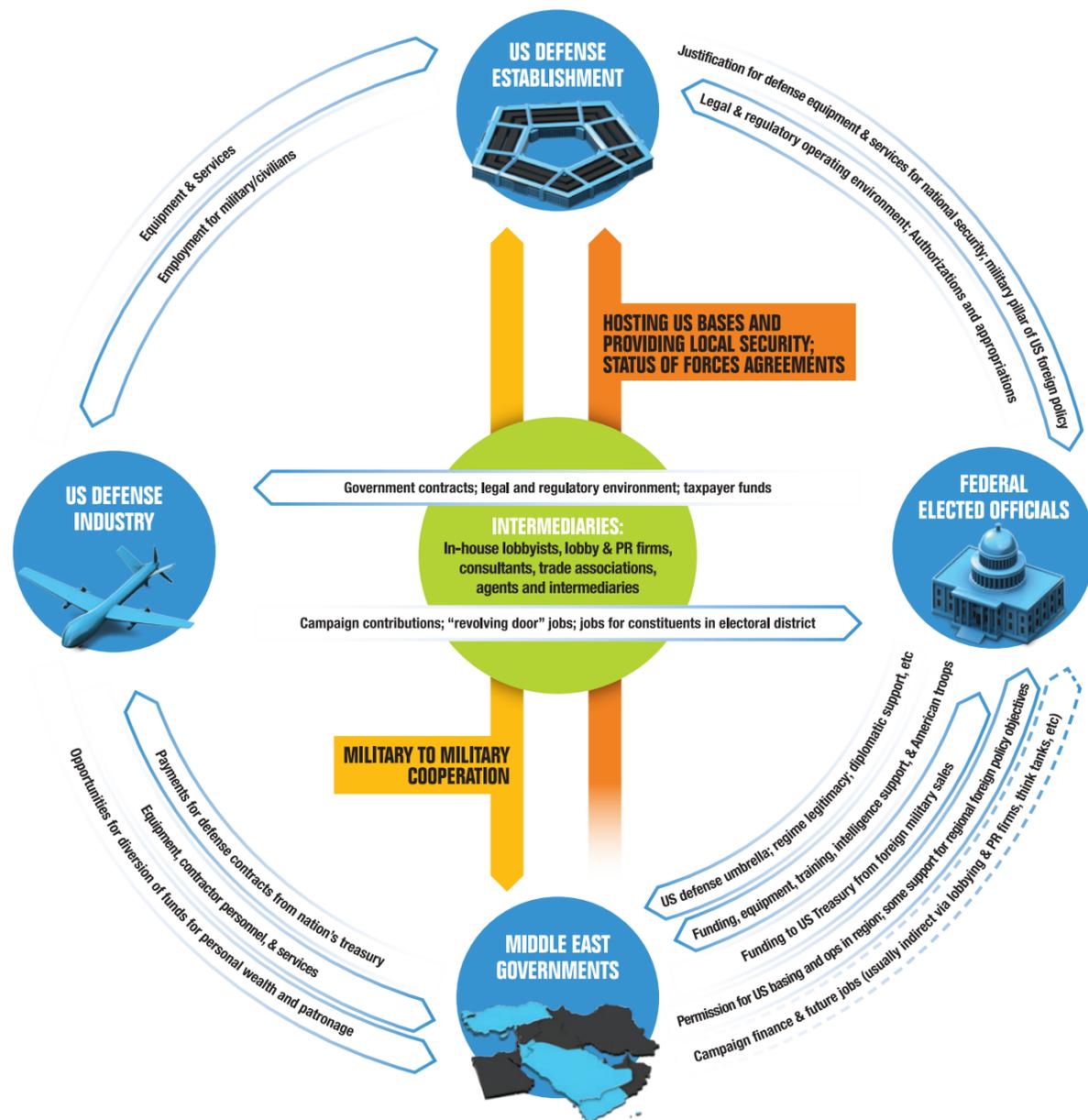
To help create the conditions for better alignment of defense exports with US foreign policy:

- The United States should establish an agency to oversee all aspects of US foreign assistance, including defense exports, and that agency would be best placed under the US State Department as the lead agency authorized to conduct US foreign policy. As a stop-gap measure, the US should establish a "Defense Exports Czar" on the National Security Council to ensure exports comport with larger US foreign policy goals. Congress should legislate that no arms commitments can be made until a sale is fully vetted in accordance with larger American strategic considerations. Approvals for such sales should take into account the transparency, accountability, counter corruption, and good governance (TACCGG) levels of recipient countries, and corruption-related trip wires should be established on defense export contracts.
- The State and Defense Departments should customize technical assistance to countries that emphasize appropriate and lawful TACCGG practices and procedures in countries receiving US defense goods.
- The State, Defense, and Commerce departments should also provide additional TACCGG training to key American security cooperation staffs. The Defense Department should update its doctrine and training to address the nexus of corruption and other rent-seeking activity associated with US defense exports and conflict and human rights abuses in recipient countries.
- Congress and their staffs should demand more insight and education on defense exports and specific export contracts from the defense bureaucracy, and American defense exports should be made more transparent to the public.

Defense exports can have especially pernicious effects on American foreign policy due to the role of weapons in conflict and transnational organized crime, as well as the role a well-armed security service can play in maintaining authoritarian regimes. To help mitigate these potentially malicious effects:

- In addition to re-establishing the State Department as the lead agency for all security-related assistance (including arms exports), US embassies should be required to enhance considerations of how individual American defense contracts fit into larger security interests in recipient countries, including considerations of corruption. Publication of additional arms export information on potential sales should be provided to Congress and the public, and there should be a mandate to change the terms of individual arms sales contracts later if required for US foreign policy interests.
- The United States should seek to regain its leadership role in encouraging governments to enact and enforce laws on bribery and anti-corruption within their own defense sectors. As first steps to this, the United States should re-sign and abide by the Arms Trade Treaty, as well as forbid US small and light weapons from being moved from the highly regulated US munitions list to less regulated Commerce Department export procedures.
- Legislation and regulations should be modified so that taking bribes by foreign officials is illegal for contracts associated with US firms, and all defense firms and their associated sub-contractors should have to declare their beneficial owners if they are not publicly traded companies.
- Defense offset contracts should be forbidden for US defense firms. Barring that, cash offset payments should be outlawed and Congress should demand additional information on such contracts for themselves and the public. Companies should be required to conduct the highest levels of due diligence on offset contracts and any associated contractors or sub-contractors, and Congress should ensure that US companies cannot be reimbursed by the US government for expenses associated with offset deals.
- To limit the excessive influence of the defense industry and foreign governments on US foreign policy considerations:
- Congress should further restrict revolving door employment for Congressional members and staff that have worked on key defense-related committees or policies, such as by restricting former congressional members and their staffs from taking a job in the defense industry or in associated influence industry companies for at least a two year period after leaving office.
- All senior military personnel and civilian equivalents in the Defense, State, and Commerce departments should have to enter into binding revolving door exit plans. Revolving door transparency should be improved by having the Defense Department make its After Government Employment Repository (AGEAR) ethics database public. Legislation should be created to require the Defense Department to create and maintain a database to track all its ethics opinions for senior officials and officers seeking employment with Defense Department contractors and subcontractors.
- State, Defense, and Commerce departments should revise conflict of interest ethics rules for employees and contractors who have worked on behalf of defense companies or foreign governments and mandate "cooling off" periods so that these senior employees or contractors cannot take jobs in the defense bureaucracy for at least two years on a broader array of decision-making positions regarding arms procurement and export than is currently required.
- Legislation should be passed to limit contributions to political actions committees (PACs) and so-called Super PACs, while anonymous donations by the defense industry or its intermediaries should be forbidden. Lobbying requirements should prevent for-profit corporate firms from representing foreign governments on defense-related issues to the US government on national security grounds.
- Legislation should be established to require all firms associated with exporting defense or dual-use items to publicly disclose all donations or political activity over \$10,000, including so-called "dark money" contributions associated to companies or their employees, on national security grounds.

# CYCLE OF INFLUENCE



# SECTION 1: INTRODUCTION

The death of journalist Jamal Khashoggi on October 2, 2018 in the Saudi Consulate in Istanbul, Turkey marked a turning point in US-Saudi relations, shining a spotlight on Saudi Arabia's terrible human rights record, both against its own citizens and in its war in Yemen. Pressure had already been mounting for years by the international community for the US to reduce its support to coalition efforts in Yemen. The bombing of a school bus on August 9, 2018 that killed 44 children and ten adults,<sup>1</sup> the bombing of a wedding in April 2018, and of an apartment building in September 2016, all of which used American weaponry,<sup>2</sup> had helped galvanize public support against US assistance, including US arms exports, to the Saudi-led coalition in the conflict. As a result of Khashoggi's murder, seventeen Saudi nationals were sanctioned using the Global Magnitsky Act.<sup>3</sup> The US Congress also sought to block most weapons sales and other support to Saudi Arabia and end most American involvement in hostilities there, including through the National Defense Authorization Act (NDAA) for Fiscal Year 2020 that was still making its way through Congress as of October 2019.<sup>4</sup>

Arms sales such as these to Saudi Arabia and the United Arab Emirates (UAE) clearly have a direct impact on international security. The conflict has evolved into one of the most severe humanitarian crises in the world today, and there is no end in sight. A variety of Yemeni warlords and militia have been emboldened with arms and funding. The United Arab Emirates and Saudi Arabia have pulled in mercenaries from Sudan into Yemen; this has been one reason for both Saudi Arabia and the UAE to support the leaders of these mercenary groups rather than bolster a civilian-led democratic movement in Sudan. With the almost certain continuation of conflict in Yemen for years to come combined with regional blowback in the form of further authoritarianism and conflict in the region, the long-term security issues will be severe.

Given the clear trend of growing popular and political support to stop arms sales to Saudi Arabia and the UAE,<sup>5</sup> one would think that weapons shipments associated with the Yemen conflict might at least pause for a while. Instead, arms exports continue:

1 Robert F. Worth and Lynsey Addario, "How the War in Yemen Became a Bloody Stalemate — and the Worst Humanitarian Crisis in the World," *The New York Times*, October 31, 2018, sec. Magazine, <https://www.nytimes.com/interactive/2018/10/31/magazine/yemen-war-saudi-arabia.html>.

2 Nima Elbagir, Salma Abdelaziz, and Laura Smith-Spark, "Made in America: Shrapnel in Yemen Ties US Bombs to Civilian Deaths," *CNN*, September 2018, <https://www.cnn.com/interactive/2018/09/world/yemen-airstrikes-intl/>.

3 The Global Magnitsky Act, passed in 2016, allows the executive branch to impose visa bans and targeted sanctions on individuals anywhere in the world responsible for corruption or human rights violations. It builds on the 2012 "Magnitsky Act" which had allowed for asset freezes and visa bans for those involved in gross human rights abuses in Russia. For more information, see "The US Global Magnitsky Act," *Human Rights Watch*, September 13, 2017, <https://www.hrw.org/news/2017/09/13/us-global-magnitsky-act>.

4 "U.S. Lawmakers Still Plot to Push Saudi Arabia on Rights, despite Trump," *Reuters*, August 1, 2019, <https://www.reuters.com/article/us-usa-saudi-arms-idUSKCN1UR5T1>.

5 In July 2019, media reports announced that the UAE was withdrawing from the Saudi-led coalition. Declan Walsh and David D. Kirkpatrick, "U.A.E. Pulls Most Forces From Yemen in Blow to Saudi War Effort," *The New York Times*, July 11, 2019, sec. World, <https://www.nytimes.com/2019/07/11/world/middleeast/yemen-emirates-saudi-war.html>.

in May 2019, the Trump administration announced it would bypass Congress entirely and use a legislative loophole to sell \$8 billion in weapons to Saudi Arabia and the UAE.<sup>6</sup> Congress' attempts to block these sales were vetoed by the Trump Administration, with the Senate unable to muster the votes needed to override.<sup>7</sup>

How does Saudi Arabia continue to sign multi-billion-dollar deals with American defense firms despite growing calls from Congress and the American people to end arms exports? How can American defense firms feel confident that these contracts will move forward, even as the Yemen War continues and as human rights violations only grow? This paper explores the underlying processes and pathways to influence and associated corruption risks that enable American defense firms to continue to export arms and defense services to the Middle East, despite extremely poor human rights records, very poor levels of transparency and accountability, and questionable outcomes for US foreign policy interests. These pathways to influence run the gamut from explicit corruption (defined as the abuse of public position for private gain and illegal for American companies) to many processes which, while technically legal in the United States, nevertheless hold the potential for weakening oversight and accountability, such as lobbying, campaign finance, the "revolving door" for employment, defense offset contracts, and conflicts of interest. This paper examines these general processes, highlighting specific examples in order to reveal the underlying mechanisms and how they can influence American national security issues related to the Middle East and North Africa (MENA) region. The Yemen coalition provides an especially fruitful case for examining these influence pathways because the Saudi and Emirati regimes are historically very large purchasers of American defense goods and services, despite decades of human rights abuses, alleged support of terrorist and insurgent activities, and significant examples of defense-related corruption.

This report will then present a model for understanding the key actors' connections with one another, demonstrating how they form a complex web of interactions, incorporating individuals in the defense industry, executive and legislative branches of government, as well as Middle East governments and the American security sector (especially some senior leaders in the Department of Defense bureaucracy). Important intermediaries include lobbyists, public relations firms, and think tanks. Each key player in this US military industrial complex (MIC) network is acting in his or her own interests and gains by his or her involvement. At the same time, each node in this networked web relies on the actions of every other player, creating a unique collective action problem for advocates seeking to rein in its worst aspects.

6 Edward Wong, Catie Edmondson, and Eric Schmitt, "Trump Officials Prepare to Bypass Congress to Sell Weapons to Gulf Nations," *The New York Times*, May 24, 2019, sec. U.S., <https://www.nytimes.com/2019/05/23/us/politics/trump-saudi-arabia-arms-sales.html>.

7 Joe Gould, "US Senate Allows Arms Sales to Saudi Arabia, Sustaining Trump Vetoes," *Defense News*, July 30, 2019, <https://www.defensenews.com/congress/2019/07/29/us-senate-allows-arms-sales-to-saudi-arabia-sustaining-trump-vetoes/>.

With a clearer understanding of this model, legislative and regulatory reforms will be suggested to better ensure a balance between the imperatives of the American defense industry as an important economic sector of the American economy and the real concerns of American foreign policy and national security interests.

## SECTION 2: THE ROLE AND IMPORTANCE OF THE AMERICAN DEFENSE SECTOR: ECONOMY, POLITICS, AND FOREIGN POLICY

### The Economy

The American military industrial complex (MIC) is often described as an “iron triangle” formed of defense sector interest groups, Congress, and the executive branch bureaucracy. The MIC has a high degree of influence on American politics and society, often in ways that may lead to high defense spending that does not necessarily meet American defense or foreign policy needs.<sup>8</sup> As President Dwight D. Eisenhower noted in his farewell address in 1961, “The conjunction of an immense military establishment and a large arms industry is new in the American experience. The total influence – economic, political, even spiritual – is felt in every city, every State house, every office of the Federal government.”<sup>9</sup>

The American arms industry is the largest in the world. 42 of the top 100 defense companies in the world are American, as are five of the top 10 companies. American companies were responsible for 57 percent of worldwide arms sales in 2018, totaling \$226.6 billion dollars.<sup>10</sup> Most arms sales by US defense firms are to the American government or otherwise financed by the US Treasury, making the defense sector a major consumer of American taxpayer dollars. This does not count tax incentives, free land, and other perks given by local governments to defense firms to build factories in their areas,<sup>11</sup> nor other bonuses like loan guarantees to the sector. In 2017, General Dynamics Corporation received \$15.3 billion in US government contracts – three percent of all public money paid to firms who work for the US government<sup>12</sup> – and that is only America’s fifth largest defense company. That same year, Lockheed Martin,

8 Ethan B. Kapstein, *The Political Economy of National Security: A Global Perspective* (New York, NY: McGraw-Hill, 1992), 92.

9 Dwight D. Eisenhower, “Military-Industrial Complex Speech, Dwight D. Eisenhower, 1961,” Avalon Project, Yale Law School, January 17, 1961, [http://avalon.law.yale.edu/20th\\_century/eisenhower001.asp](http://avalon.law.yale.edu/20th_century/eisenhower001.asp).

10 “Global Arms Industry: US Companies Dominate the Top 100; Russian Arms Industry Moves to Second Place,” SIPRI, December 10, 2018, <https://www.sipri.org/media/press-release/2018/global-arms-industry-us-companies-dominate-top-100-russian-arms-industry-moves-second-place>.

11 Louis Uchitelle, “The U.S. Still Leans on the Military-Industrial Complex,” *The New York Times*, December 22, 2017, sec. Business, <https://www.nytimes.com/2017/09/22/business/economy/military-industrial-complex.html>.

12 Danielle Paquette, “Huge Federal Contractor ‘Failed’ to Pay Workers \$100 Million in Wages, Union Says,” *Washington Post*, April 23, 2018, sec. Wonkblog, <https://www.washingtonpost.com/news/wonk/wp/2018/04/23/huge-federal-contractor-failed-to-pay-workers-100-million-in-wages-union-says/>.

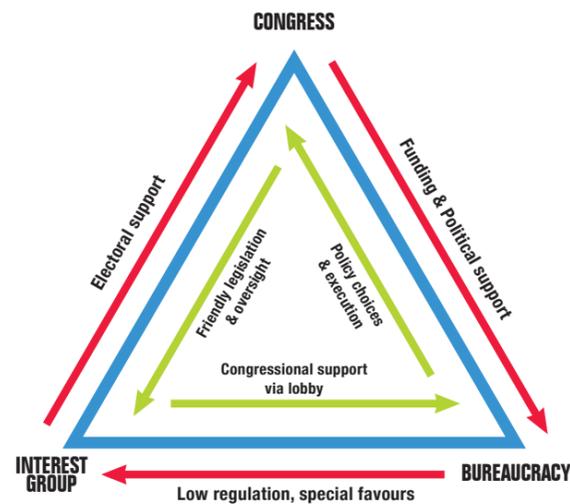


Figure 1: The Iron Triangle

the world’s largest arms manufacturer, had contracts worth \$36 billion with the US government as either the prime contractor or subcontractor, 69 percent of their entire \$51 billion in net sales. \$21 billion of those sales were Department of Defense (DoD) contracts.<sup>13</sup> In 2018, their total sales grew to \$53.8 billion, of which 58 percent (\$37.7 billion) were to the US government.<sup>14</sup>

The defense sector is thus a major force in American manufacturing and employment. In 2017, 10 percent of the \$2.2 trillion in factory output in the US went to produce weapons sold to the Department of Defense.<sup>15</sup> 839,171 American workers were employed in the US defense sector in 2016 (though that is down by 165,000 since 2011), and many of these jobs pay above the national wage rate.<sup>16</sup>

13 “2017 Annual Report” (Lockheed Martin Corporation, 2017), sec. SEC Form 10-K page 3, <https://www.lockheedmartin.com/content/dam/lockheed-martin/ea/documents/annual-reports/2017-annual-report.pdf>. Based on calculations from information in the report.

14 “2018 Annual Report” (Bethesda, MD: Lockheed Martin Corporation, 2018), sec. SEC Form 10-K page 3, <https://www.lockheedmartin.com/content/dam/lockheed-martin/ea/documents/annual-reports/2018-annual-report.pdf>.

15 Uchitelle, “The U.S. Still Leans on the Military-Industrial Complex.”

16 “2017 US Aerospace and Defense Sector Export and Labor Market Study” (Deloitte, 2017), 2–3, 14, <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/manufacturing/us-2017-us-a&d-exports-and-labor-market-study.pdf>.

The area of the MIC focused on defense exports is also economically significant. From 2007 to 2014, foreign military sales represented 6.2 percent of the value of all US exports.<sup>17</sup> By way of comparison, for the second biggest arms exporter in the world, Russia, the figure over the same period was only 1.9 percent.<sup>18</sup> In 2018, all US arms sales came to \$82.2 billion, with \$49.1 billion processed through the Pentagon’s Foreign Military Sales (FMS) program and another \$29.7 billion in direct commercial sales (DCS) between American defense firms and foreign governments.<sup>19</sup> The combined aerospace and defense sectors also export more than they import, thereby improving America’s overall balance of payments.<sup>20</sup> One industry insider estimated that international sales made up about a fifth of US defense firms’ total sales, and that these percentages are expected to grow.<sup>21</sup> Indeed, Lockheed Martin was the top arms exporter in the world with \$25 billion in sales in 2018, followed by Boeing at \$7.1 billion, Raytheon at \$5.5 billion, and Northrop Grumman at \$2.5 billion.<sup>22</sup>

The defense sector exhibits some key attributes that make it a unique, and, indeed, uniquely important, economic sector. First, the American defense industry is a crucial component of the overall American defense establishment. Even though many defense goods could be bought overseas often at a lower price and with higher quality, given the critical nature of these goods, many Americans would be hesitant to allow for entirely free markets for defense goods, or to rely on foreign suppliers for crucial weapons and their components. For that reason, many defense firms, especially the largest ones, are considered a “natural resource,” and many in the American government are unwilling to allow major firms or weapon production lines to wither or die. Thus, firms can be fed contracts just to ensure their survival or to keep open production capability that could be useful in wartime.<sup>23</sup>

Moreover, the defense industry is increasingly concentrated: many key systems have few manufacturers, making it difficult to switch suppliers for a cheaper price or better quality. For example, only one firm – Huntington Ingalls (HI) – designs, builds and refuels American nuclear-powered aircraft carriers. It is also one of only two builders of nuclear-powered submarines (the other being General Dynamics). HI has built almost 70 percent of the US warship fleet.<sup>24</sup> Only three American companies still

17 Clayton Thomas, “Arms Sales in the Middle East: Trends and Analytical Perspectives for US Policy” (Washington, DC: Congressional Research Service, October 11, 2017), 1, <https://fas.org/spp/crs/mideast/R44984.pdf>.

18 Thomas, 1.

19 “Trends in Major U.S. Arms Sales in 2018: The Trump Record - Rhetoric Versus Reality I Security Assistance Monitor” (Washington, DC: Security Assistance Monitor, April 4, 2019), 3, <https://securityassistance.org/publication/trends-major-us-arms-sales-2018-trump-record-rhetoric-versus-reality>.

20 “2017 US Aerospace and Defense Sector Export and Labor Market Study,” 8.

21 Thomas, “Arms Sales in the Middle East,” 2.

22 “Trends in Major US Arms Sales in 2018,” 11.

23 Kapstein, *The Political Economy of National Security: A Global Perspective*, 94–96.

24 “Homepage,” Huntington Ingalls Shipbuilding, accessed May 16, 2019, <https://ingalls.huntingtoningalls.com/>.

make fighter aircraft: Lockheed Martin, Boeing, and Northrop Grumman. This gives some defense firms immense monopolistic or oligopolistic power to keep supplying the American market even when quality is poor and prices high.

In addition, the defense industry has a monopsony customer: the US Government. A monopsony is where a market has only one buyer. While defense firms try to diversify customers, in reality, all are reliant on one primary customer who can make or break the firm. For example, nearly two thirds of Lockheed Martin’s sales are to the Defense Department. Likewise, 68 percent of Raytheon’s sales were to the US government in 2018.<sup>25</sup> Even Boeing, one of the world’s two leading producers of civilian commercial aircraft, has a large defense business. In 2018, almost 23 percent of its revenues came from defense, space, and security services (\$23.2 billion out of a total of \$101 billion).<sup>26</sup> For many smaller defense companies, more than 90 percent of revenues may be linked to the US government either directly as a contractor or indirectly as a sub-contractor. This means that the American government often has significant leverage over the defense industry, just as the defense industry has a hold over the Department of Defense.

Even in those situations where the buyer is not the US government, defense exports must be licensed and approved by the US government (see the Transparency International report “Holes in the Net: US Arms Export Control Gaps in Combatting Corruption.”). Thus, all firms must ultimately contend not only with the fact that they have one dominant buyer, but also with the considerable control this buyer has over sales to other buyers. For Lockheed Martin, this means that almost 90 percent of all its sales are either direct to the US government or require a US government license for export. For Raytheon, this percentage was 81 in 2018.<sup>27</sup> Thus, all American defense firms, even if they sell primarily to foreign customers, are ultimately reliant on the US government to make or break their businesses.

### Politics and Foreign Policy

Everything the defense industry does is highly political in a manner not common in other economic sectors: the ability to defend itself goes right to the heart of what it means to be a state. A state cannot have a monopoly on the use of violence – the traditional definition of statehood – without the necessary arms and associated services. The defense industry is also highly political in terms of its effect on foreign policy. Exports of arms can have significant effects on American foreign policy overseas, and deadly consequences against American citizens should these arms fall in the wrong hands. Such weapons can help fuel wars, inadvertently push the US into conflicts it

25 “Transforming Tomorrow: 2018 Annual Report” (Raytheon, 2018), sec. SEC Form 10-K page 7, <https://www.raytheon.com/sites/default/files/2019-05/raytheon-crr-2018.pdf>.

26 “Boeing Reports Record 2018 Results and Provides 2019 Guidance,” January 30, 2019, <http://investors.boeing.com/investors/investor-news/press-release-details/2019/Boeing-Reports-Record-2018-Results-and-Provides-2019-Guidance/default.aspx>.

27 “Transforming Tomorrow: 2018 Annual Report,” sec. SEC Form 10-K page 7.

would rather avoid and have dire consequences for the regions receiving the exports as well as the US itself. For instance, American support – including military assistance – to the authoritarian and kleptocratic regime of the Shah of Iran was a major impetus for the eventual Iranian Revolution, an act that profoundly changed US foreign policy in the MENA region and which still reverberates today. Arms have therefore usually had more stringent oversight than other export products.

There are generally at least three broad arguments for supporting US arms exports. First, advocates state that arms sales enhance American security by bolstering the military capabilities of allies, helping them to deter and contain their adversaries, promote national or regional stability, succeed over insurgencies, and, since 9/11, prevent or fight against terrorism.<sup>28</sup> A side benefit is that these arms sales can improve America's ability to assist its allies, as using American equipment allows for easier interoperability and logistics to support those allies.

Second, arms sales—along with associated sales of parts, ammunition, and other consumable items—give the United States leverage over the behavior and foreign policies of its clients.<sup>29</sup> The permission (or lack thereof) for weapons exports allows the United States an easy way to ratchet up or down its support for countries. Such defense export programs can be large or small and kept clandestine or announced in high level press conferences, allowing remarkable flexibility for policymakers. As defense exports are often not a part of the defense budget and there is little oversight of such weapons by Congress, this is an important tool for the executive branch. Indeed, Congress can be quite supportive of such deals if jobs or other economic benefits will result for constituents.<sup>30</sup> This can be especially useful leverage with countries reliant upon American weapons.<sup>31</sup> For countries engaged in human rights abuses, for example, the United States can limit or cease defense exports to send a message that is stronger than a diplomatic demarche, but not necessarily as strong as full-fledged trade sanctions. Arms sales can also provide the US with the means to support a friendly country short of endangering American troops.<sup>32</sup> This is often the goal of so-called “train and equip” programs, where the United States and allies provide training and equipment and perhaps other support (such as intelligence support), but no US combat troops. As a corollary to this, America's provision of arms to both state and non-state actors can help keep their incentives aligned with American interests, limiting their susceptibility to the influence of other countries through possible arms sales.<sup>33</sup>

28 A. Trevor Thrall and Caroline Dorminey, “Risky Business: The Role of Arms Sales in US Foreign Policy” (Washington, DC: CATO Institute, March 13, 2018), 2, <https://object.cato.org/sites/cato.org/files/pubs/pdf/pa-836.pdf>, 9.

29 Thrall and Dorminey, 2.

30 Thrall and Dorminey, 11.

31 Thrall and Dorminey, 10.

32 Thrall and Dorminey, 10.

33 A notable Cold War example is that of Egypt after the signing of the Camp David Accords in 1978 when Egypt switched from Soviet Union arms imports to US arms imports.

Third, and perhaps the most common argument in the domestic political arena, is that arms sales are supposed to provide jobs to American workers and an overall boost to the American economy.<sup>34</sup> As noted above, American arms are a major part of the manufacturing economy, and exports make up a substantial portion of that. As President Trump famously quipped when he met Saudi Crown Prince Mohammad bin Salman at the White House in May 2017, “Saudi Arabia is a very wealthy nation and they're going to give the United States some of that wealth, hopefully, in the form of jobs, in the form of the purchase of the finest military equipment anywhere in the world.”<sup>35</sup> During Crown Prince Salman's visit to the White House on March 20, 2018, President Trump displayed several charts showing the types of weapons, vehicles, and equipment that were being bought by Saudi Arabia. The chart included \$12.5 billion in finalized deals with Saudi Arabia and another \$20 billion in four sales that were still pending. The chart depicting pending sales included the statement, “Over 40,000 jobs in key states,” highlighting how Saudi Arabia had specifically linked pending sales to American jobs.<sup>36</sup>

The jobs argument is often used to help justify arms sales to the Middle East. For example, large export deals for the F/A-18 and F-15 fighter jets to Kuwait and Qatar were credited with keeping the production lines for those aircraft open, and thereby saving jobs in key congressional districts associated with them.<sup>37</sup> Likewise, the sale of F-16s to Bahrain reinvigorated the Lockheed Martin plant in South Carolina while the sale of General Dynamics tanks to Saudi Arabia helped a plant in Ohio and the purchase of the Raytheon Patriot Missile system by the UAE revitalized a plant in Massachusetts.<sup>38</sup> As then House Defense Appropriations Subcommittee Chairwoman Kay Granger put it regarding a Trump administration decision to delay military aid to Egypt, “the companies and the workers that put that equipment together in the United States are hurt.”<sup>39</sup>

The MENA region has been an especially important customer for the US defense industry. The Middle East is considered one of the most militarized regions in the world, with six out of the top 10 defense budgets as a percentage of GDP found there (Oman, Iraq, Saudi Arabia, Algeria, Israel, and Bahrain).<sup>40</sup> With various insurgencies and other conflicts raging in such countries as Yemen, Iraq, Syria, and Libya, there is plenty of demand for weapons. Between 2012 and 2015, the Middle East made up 61.1 percent of the value of all arms agreements with suppliers in the developing world, up from 54.5 percent from 2008 to

34 Thrall and Dorminey, “Risky Business,” 2.

35 Dexter Filkins, “A Saudi Prince's Quest to Remake the Middle East,” *The New Yorker*, April 2, 2018, <https://www.newyorker.com/magazine/2018/04/09/a-saudi-princes-quest-to-remake-the-middle-east>.

36 Ben Brimelow, “Trump Showed off Saudi Arabia's Massive US Military Buys in Giant Charts — Here's Everything That's on Them,” *Business Insider*, March 20, 2018, <https://www.businessinsider.com/saudi-arabia-us-military-buys-charts-2018-3>.

37 Thomas, “Arms Sales in the Middle East,” 2.

38 Thomas, 2.

39 Thomas, 2.

40 Thomas, 4.

2011.<sup>41</sup> From 2012 to 2015, 45.8 percent of all arms delivered to the Middle East came from the United States.<sup>42</sup> In 2016, 35 of the 57 major US arms sales proposed were to countries in the Middle East, making up \$49 billion of the total \$63 billion of proposed sales.<sup>43</sup> Likewise, in 2017, \$52 billion of the proposed \$75.9 billion in US arms sales went to Middle East countries.<sup>44</sup> In May 2017, the Trump administration famously publicized plans to sell a total of \$110 billion in weapons to Saudi Arabia.

## The Role of the Defense Sector Called into Question

There has been criticism of these arguments, however, beginning with how much leverage the United States actually receives from its arms exports. A. Trevor Thrall and Caroline Dorminey of the Cato Institute argue that the United States acquires very little leverage from arms sales. They argue that many of the arms sales of expensive and high tech goods are poorly suited to fighting the wars the United States expects its allies to fight, such as the provision of many types of conventional weapons for low-tech, counter-insurgency fights.<sup>45</sup> Instead, American defense exports can inadvertently create a chain of adverse responses such as changing the balance of power in a region in unexpected ways, exacerbating conflict and instability, and endangering an ally by making it a target.<sup>46</sup> These have been the key arguments against American arms and other support to the Saudi-led coalition in Yemen.

Especially in the post-9/11 era, the billions the US has provided in security assistance, including through defense exports and various train and equip programs, were supposed to help fight violent extremism. Instead, the US Institute of Peace has noted that while the US has often been tactically successful on the battlefield, it is losing the strategic fight against extremism. Since 9/11, the number, size, lethality, and geographic reach of violent extremist groups have all expanded. There are estimated to be twice as many Salafist-jihadist groups as in 2001, and many more fighters in those groups. Much of this failure has been placed at the feet of American security assistance programs, of which defense exports form a part. US security assistance can empower repressive regimes that provoke people to join the very jihadists the security assistance is supposed to combat, and the weapons themselves often end up in the hands of jihadists.<sup>47</sup>

Limited empirical evidence also indicates that defense exports provide little foreign policy leverage, at least when it comes to UN voting patterns. A study of the 1986 decision by the Reagan

41 Thomas, 3.

42 Thomas, 3.

43 Thomas, 3.

44 Thomas, 3.

45 Thrall and Dorminey, “Risky Business,” 11–12.

46 Thrall and Dorminey, 11–13.

47 “Preventing Extremism in Fragile States: A New Approach” (Washington, DC: United States Institute of Peace, February 26, 2019), 7–8, 50, <https://www.usip.org/publications/2019/02/preventing-extremism-fragile-states-new-approach>.

administration to lower aid to countries not sufficiently deferential to US interests in the UN found no linkage between support for American positions and UN voting patterns by recipient states.<sup>48</sup> A 1994 study of 191 attempts by the US to use arms exports for influence found that 40 percent of attempts were successful, though Thrall and Dorminey argue that the actual percentage should be 32 because some of these attempts were really exchanges where the US provided arms instead of cash in order to buy access to military bases or raw materials.<sup>49</sup>

The United States' ability to use defense exports to change state behavior is questionable as well. States usually have strong interests when they make strategic choices, and American threats to sanction defense exports may be insufficient to shape those interests unless those sanctions are part of a larger package or a multilateral sanctions regime. In the case of defense exports to allies generally in compliance with American interests, American defense exports may be “pushing on an opening door,” perhaps much appreciated by the recipient state, but not actually changing behavior or creating additional leverage points.<sup>50</sup> For those regimes who do not share American foreign policy priorities, especially when it comes to fighting violent extremism, the desired leverage provided by US defense exports does not seem to significantly change regime behavior.<sup>51</sup>

The amount of blowback for American defense exports can also be substantial. American service members can find themselves facing off against their own weapons,<sup>52</sup> as has been the case with US weapons captured by ISIS – a 2014 study of spent ammunition found in ISIS controlled areas revealed that 20 percent was of US origin.<sup>53</sup> A 2014 UN Security Council report noted that ISIS had seized enough weapons from Iraqi government stocks to arm and equip three Iraqi army divisions. This included US equipment such as Humvees, mine protected vehicles, and howitzers.<sup>54</sup>

Defense exports, including arms and training, can also strengthen an already predatory regime. This can build additional grievances in a population, making civil unrest more likely. For example, it was the predatory nature of various Arab regimes that was seen as a catalyst for the Arab Spring.<sup>55</sup> America's stated goals for its foreign assistance include helping states become more democratic and more committed to the rule of law, with thriving economies to purchase American products. American defense exports can instead inadvertently reinforce

48 Thrall and Dorminey, “Risky Business,” 15.

49 Thrall and Dorminey, 15.

50 Thrall and Dorminey, “Risky Business.”

51 Stephen Tankel, *With Us and Against Us: How America's Partners Help and Hinder the War on Terror* (New York, NY: Columbia University Press, 2018).

52 Thrall and Dorminey, “Risky Business,” 16.

53 Paul Holden, *Indefensible: Seven Myths That Sustain the Global Arms Trade* (Zed Books Ltd., 2016), 62–63.

54 Holden, 62–63.

55 Karolina MacLachlan, “The Fifth Column: Understanding the Relationship Between Corruption and Conflict” (Transparency International Defence and Security Program, July 2017), [http://ti-defence.org/wp-content/uploads/2017/09/The\\_Fifth\\_Column\\_Web.pdf](http://ti-defence.org/wp-content/uploads/2017/09/The_Fifth_Column_Web.pdf).

predatory regimes – allowing them to maintain even more repressive forms of rule and the kind of kleptocracy and crony capitalism which limit economic growth. Furthermore, the knowledge that American weapons are being used to support such predatory regimes can turn populations against the United States. It was American support for the Saudi regime against Saddam Hussein's invasion of Kuwait in 1990, for instance, which supposedly made Al Qaeda leader Usama bin Laden a sworn enemy of the United States.<sup>56</sup> Many citizens in Arab countries assume weapons and other support to regimes like Israel and Saudi Arabia mean that the United States wholeheartedly backs those regimes' goals and methods.

US defense exports can also exacerbate the very internal conflicts the United States seeks to use its leverage to end.<sup>57</sup> A 2018 RAND study found a correlation between military assistance (which includes efforts to train and equip foreign militaries) and an increased likelihood of state repression and intra-state conflict. Regarding the Middle East, the study specifically noted that, "Increasing US military assistance may strengthen and assure US partners in the region [Middle East], but it may do so at the cost of increased risk of repression and greater domestic instability among the recipient states."<sup>58</sup> This mirrors the fact that American military assistance in the War on Terror, with its heavy focus on supporting often repressive regimes with equipment and training, seems to be making violent extremism worse rather than better.<sup>59</sup> American military assistance can also bring other external actors to take part in internal conflicts on the side of non-state actors. Empirical studies have demonstrated that external influence of violent non-state actors can increase the likelihood of gross human rights abuses such as massacres<sup>60</sup> as well as increase the odds overall that the non-state actor will ultimately prevail against the government, especially if there is a lack of political will on the part of the government.<sup>61</sup>

The jobs argument has also largely been called into question. While there is no doubt that the arms industry creates many jobs, defense industry claims about both how many jobs an individual program creates and how widespread those jobs are across congressional districts have in some cases been exaggerated. For example, Lockheed Martin has argued that the F-35 program sustains 129,000 direct and indirect jobs across 45 states. Analysis by defense expert Bill Hartung from the Center for International Politics estimated that 50,000 to

56 Lawrence Wright, *The Looming Tower: Al-Qaeda and the Road to 9/11*, Reprint edition (New York, NY: Vintage, 2007), 176–83.

57 Thrall and Dorminey, "Risky Business," 17–18.

58 Angela O'Mahony et al., U.S. Presence and the Incidence of Conflict (RAND Corporation, 2018), xiv, <https://doi.org/10.7249/RR1906>. The report also notes, however, that there does not seem to be a correlation between US presence overall (including American troops and other assistance) and the likelihood of interstate war.

59 "Preventing Extremism in Fragile States."

60 Jeremy M. Weinstein, *Inside Rebellion: The Politics of Insurgent Violence* (Cambridge University Press, 2006).

61 See, for instance Caitlin Talmadge, *The Dictator's Army: Battlefield Effectiveness in Authoritarian Regimes* (Ithaca, NY: Cornell University Press, 2015); Jeffrey Record, *Beating Goliath: Why Insurgencies Win* (Potomac Books, Inc., 2007).

60,000 jobs would be created based on standard accounting methods. He also found that while there may be jobs in 45 states, just five states accounted for 70 percent of those jobs, and 11 states (Iowa, South Dakota, Montana, West Virginia, Delaware, Nebraska, North Dakota, Alaska, Hawaii, Louisiana, and Wyoming) would each have a dozen or fewer F-35 related jobs.<sup>62</sup>

Moreover, the defense sector may be a relatively inefficient way to create jobs. A 2017 study found that each \$1 million in spending in the defense sector creates 6.9 jobs (5.8 jobs directly in defense industries and 1.1 jobs in the sector's associated supply chain). Spending in wind and solar energy, however, create 8.4 and 9.5 jobs respectively while spending on general infrastructure such as building roads, tunnels, and bridges yields 9.8 jobs. For \$1 million in healthcare spending, there are 14.3 jobs created, 19.2 jobs created for the same amount of money in primary and secondary education, and 11.2 jobs for higher education.<sup>63</sup>

In many ways the jobs argument may be becoming moot. While Middle East countries still largely import defense goods, especially from the United States, they are now demanding more technology transfer and fabrication in their own countries.<sup>64</sup> Raymond Vernon's product life cycle theory (a tenet of neo-classical economic theory) is holding true for the defense sector as it has for other sectors: product innovation begins at home and is exported to foreign countries; the product is later manufactured in foreign countries and exported back to the originating country.<sup>65</sup> More and more military gear can be purchased overseas, and often, the United States has helped set up the initial manufacturing capabilities there.

While the Middle East has been slower to develop significant defense industries that export back to the US, it is only a matter of time, and it is certainly clear that Middle East governments are gearing themselves towards that goal. As the number of weapons licensing and coproduction agreements for US-developed weaponry increase, more and more American weapons will be made overseas rather than at home.<sup>66</sup> In May 2017 for example, then Deputy Crown Prince Mohammad bin Salman announced the creation of the Saudi Arabian Military Industries (SAMI) company, a state-owned enterprise. SAMI is supposed to manage the production of various missiles, weapons, and electronics systems, as part of Saudi Arabia's overall goal of half of its military procurement spending being domestic by 2030.<sup>67</sup> As part of the May 2019 emergency arms

62 Holden, *Indefensible*, 42.

63 Heidi Garrett-Peltier, "Job Opportunity Cost of War" (Brown University Watson Institute of International and Public Affairs, May 24, 2017), [https://www.peri.umass.edu/economists/heidi-peltier/item/download/721\\_28464b895d4be56b0275509f8764dce1](https://www.peri.umass.edu/economists/heidi-peltier/item/download/721_28464b895d4be56b0275509f8764dce1).

64 Chirine Mouchantaf, "What's Driving the Middle East's Armored Vehicles Market?," *Defense News*, May 4, 2018, <https://www.defensenews.com/global/mideast-africa/2018/05/02/whats-driving-the-middle-east-armed-vehicles-market/>.

65 Kapstein, *The Political Economy of National Security: A Global Perspective*, 190.

66 "Trends in Major US Arms Sales in 2018," 12–13.

67 Thomas, "Arms Sales in the Middle East," 11–12.

sale to Saudi Arabia, the Trump Administration authorized Raytheon to team up with Saudi Arabia to assemble the control systems, guidance electronics, and circuit cards for Paveway laser guided munitions.<sup>68</sup> In April 2018, Boeing announced it was establishing a joint venture with SAMI for aircraft maintenance. Maintaining aircraft in Saudi Arabia makes operational sense, as shipping broken aircraft to back to the US or shipping parts from the US to Saudi Arabia is a cumbersome process. The joint venture is a \$450 million investment by 2030 to localize 55 percent of maintenance, repair, and overhaul services for US-made aircraft within Saudi Arabia. The project is anticipated to bring 6,000 jobs and revenues of \$22 billion by 2030 to Saudi Arabia. The Chairman of SAMI hopes that it will be one of the world's top 25 defense firms by 2030.<sup>69</sup> Should the project meet its expectations, Boeing will be helping to draw thousands of jobs plus investment for US products away from US workers. Similarly, as part of a \$6 billion agreement between Lockheed Martin and the Saudi government, 150 Blackhawk helicopters will be assembled in Saudi Arabia under the auspices of the Saudi Technology Development and Investment Company (TAQNIA), another state-owned enterprise.<sup>70</sup>

The UAE has likewise pushed to make its military procurements more domestic. In 2014, it established the Emirates Defense Industries Company (EDIC) as part of plans to both become less reliant on foreign defense suppliers and also to start diversifying the economy away from hydrocarbons. UAE equipment such as armored personnel carriers and assault rifles have been used in the conflict in Yemen. EDIC also has contracts with customers such as Algeria, Russia, and Kuwait.<sup>71</sup>

## Case Study: US Arms Sales and the War in Yemen

Nowhere have the controversies over American arms sales to the MENA region, particularly Saudi Arabia and the UAE, come to the fore as much as through the conflict in Yemen. Most analysts believe that the Saudi-led coalition decided to go to war without a clear strategy or even strategic objectives. Since then, the conflict has evolved into one of the most severe humanitarian crises in the world today. The war has largely been undertaken using American weaponry, with various US arms exports to resupply the coalition. Those weapons have been used in a variety of actions considered by many to be war crimes, such

68 Michael LaForgia and Walt Bogdanich, "Trump Allows High-Tech U.S. Bomb Parts to Be Built in Saudi Arabia," *The New York Times*, June 12, 2019, sec. U.S., <https://www.nytimes.com/2019/06/07/us/saudi-arabia-arms-sales-raytheon.html>.]

69 Chirine Mouchantaf, "Boeing Establishes Joint Venture with Saudi Arabian Military Industries for Aircraft Maintenance," *Defense News*, April 13, 2018, <https://www.defensenews.com/global/mideast-africa/2018/04/13/boeing-establishes-joint-venture-with-saudi-arabian-military-industries-for-aircraft-maintenance/>.

70 Thomas, "Arms Sales in the Middle East," 11–12.

71 Thomas, 16.

as the aforementioned attack on the school bus in 2018.<sup>72</sup> As a result, discomfort with the war among the American populace and Congress alike has grown, as have efforts to block arms sales and other support. At least one legal analysis of US arms sales, conducted by the American Bar Association's Center for Human Rights, has concluded that the arms sales to Saudi Arabia "should not be presumed to be permissible" under US laws, including the Arms Export Control Act (AECA) and the Foreign Assistance Act.<sup>73</sup>

There have been continuing efforts to block arms sales by members of Congress, and while there is not yet a veto-proof majority in Congress to override a Trump veto, there is a clear and growing bipartisan trend supporting an end to arms sales. This has most notably led to the Trump administration's second legislative veto blocking the implementation of the War Powers Resolution that would cease most American support to that conflict.

In January 2015, Houthi insurgents<sup>74</sup> in Yemen (who have been engaged intermittently in actions against the Yemeni government since the 1990s) seized the Presidential Palace; Yemeni President Abd Rabbu Mansour Hadi and his government then resigned. (Hadi rescinded his resignation in September 2015 and set up in Aden, though he now resides in Saudi Arabia.) The Houthis continued to take Yemeni territory, including the main ports at Hodeidah and Aden.<sup>75</sup> In response, in March 2015, Saudi Arabia began a full-scale military campaign called Operation Decisive Storm (renamed Operation Restoring Hope a month later) against the Houthis. It assembled a coalition including eight other countries: Egypt, Morocco, Jordan, Sudan, the United Arab Emirates, Kuwait, Qatar (expelled from the coalition in June 2017), and Bahrain. Of these nine countries, however, Saudi Arabia and the UAE have contributed the bulk

72 In September 2019, a United Nations report stated that the US, UK, and France may be complicit in war crimes by arming and providing support to the coalition. Patrick Wintour, "UK, US and France May Be Complicit in Yemen War Crimes – UN Report," *The Guardian*, September 3, 2019, sec. World news, <https://www.theguardian.com/world/2019/sep/03/uk-us-and-france-may-be-complicit-in-yemen-war-crimes-un-report>.

73 Thomas, "Arms Sales in the Middle East," 23.

74 The Houthis had emerged in the 1990s; they had fought six wars against the Yemeni government between 2004 and 2010. Named after a leading family in the movement, the group was originally called the "Believing Youth Group" and claimed they were reviving Zaydi Shia beliefs and countering the presence of Sunni Wahabi schools in the north of the country, as well as protesting the chronic underdevelopment in the region. Sama'a Al-Hamdani, "Understanding the Houthi Faction in Yemen," *Lawfare*, April 7, 2019, <https://www.lawfareblog.com/understanding-houthi-faction-yemen>; Christopher Boucek, "War in Saada: From Local Insurrection to National Challenge" (Washington, DC: Carnegie Endowment for International Peace, April 2010), [https://carnegieendowment.org/files/war\\_in\\_saada.pdf](https://carnegieendowment.org/files/war_in_saada.pdf).

75 Bruce Riedel, "Who Are the Houthis, and Why Are We at War with Them?," *Brookings* (blog), December 18, 2017, <https://www.brookings.edu/blog/markaz/2017/12/18/who-are-the-houthis-and-why-are-we-at-war-with-them/>; Worth and Addario, "How the War in Yemen Became a Bloody Stalemate — and the Worst Humanitarian Crisis in the World"; Jeremy Sharp, "Yemen: Civil War and Regional Intervention" (Washington, DC: Congressional Research Service, August 24, 2018), 9–10, <https://fas.org/sgp/crs/mideast/R43960.pdf>.

of the forces.<sup>76</sup> In June 2018, the coalition launched a major offensive to retake the coastal city of Hodeida, which was the major port for food aid entering the country. That offensive has bogged down. With the UAE drawing down forces and possibly leaving the coalition in the summer of 2019, it is unclear what effect this will have on the Saudi-led coalition efforts.

The United States was initially very reluctant to support the Saudi-led coalition, seeing the conflict as an unwinnable proxy war against Iran. The Obama administration feared, however, that not backing the Saudis would jeopardize 70-year relationship (especially as the United States was negotiating the Joint Comprehensive Plan of Action (JCPOA) to halt Iran's nuclear weapons program, which was unpopular with the Saudi leadership) and so provided support. Since then, the United States has played a very active role in this conflict. In addition to significant arms sales, it has provided extensive logistical and intelligence support, including aerial refueling of aircraft and some training of Emirati troops. The weapon used by Saudi Arabia in the August 2018 school bus attack, for instance, was reportedly a GBU-12 Paveway II bomb produced by General Dynamics Corporation.<sup>77</sup> How much US involvement remains unclear. The US Defense Department had claimed that US military officials do not track what occurs after planes have been refueled, nor do US forces track whether US fuel or munitions have been used in coalition operations that have led to civilian deaths, though US weapons have repeatedly been found at the site of strikes against Yemeni civilians.<sup>78</sup>

American involvement goes even further: there are also American counterterrorism operations in Yemen. In 2017, the United States launched 130 airstrikes in Yemen with most attacking Al Qaeda militants and 10 airstrikes against Islamic State fighters. In 2016, there were 38 airstrikes. American Green Berets have also been working along the Saudi border to help locate and destroy Houthi ballistic missiles and launch sites.<sup>79</sup> Moreover, US Special Forces in Yemen have reportedly worked with the UAE to defeat Al Qaeda in the Arabian Peninsula (AQAP) fighters in the port of Mukalla. There have been credible reports that US personnel were involved in interrogating suspects in Yemen, and former Yemeni prisoners claim that US personnel may have been present while they were being tortured by UAE personnel. The

76 "War in Yemen," Council on Foreign Relations Global Conflict Tracker, accessed February 1, 2019, <https://www.cfr.org/global/global-conflict-tracker/p32137#/>; Worth and Addario, "How the War in Yemen Became a Bloody Stalemate — and the Worst Humanitarian Crisis in the World"; "Qatar Aids Yemen with \$20 Million," Middle East Monitor, April 5, 2018, <https://www.middleeastmonitor.com/20180405-qatar-aids-yemen-with-20-million/>.

77 "Yemen: Coalition Bus Bombing Apparent War Crime," Human Rights Watch, September 2, 2018, <https://www.hrw.org/news/2018/09/02/yemen-coalition-bus-bombing-apparent-war-crime>; Elbagir, Abdelaziz, and Smith-Spark, "Made in America."

78 John Hudson and Missy Ryan, "Trump Administration to End Refueling of Saudi Coalition Aircraft in Yemen Conflict," Washington Post, November 10, 2018, [https://www.washingtonpost.com/world/national-security/trump-administration-to-end-refueling-for-saudi-coalition-aircraft-in-yemen/2018/11/09/d08ff6c3-babd-4958-bcca-cdb1caa9d5b4\\_story.html](https://www.washingtonpost.com/world/national-security/trump-administration-to-end-refueling-for-saudi-coalition-aircraft-in-yemen/2018/11/09/d08ff6c3-babd-4958-bcca-cdb1caa9d5b4_story.html); "War in Yemen."

79 Helene Cooper, Thomas Gibbons-Neff, and Eric Schmitt, "Army Special Forces Secretly Help Saudis Combat Threat From Yemen Rebels," The New York Times, November 5, 2018, sec. World, <https://www.nytimes.com/2018/05/03/us/politics/green-berets-saudi-yemen-border-houthi.html>.

Defense Department denies these charges.<sup>80</sup> Moreover, there have been some reports of American mercenaries in Yemen acting on behalf of the UAE government.<sup>81</sup>

Today, the Yemen civil war is one of the world's worst humanitarian crises. At least 10,000 civilians have been killed, 22 million Yemenis need humanitarian assistance, eight million are at risk of famine, and a cholera epidemic has affected over one million people. 78 percent of infants in the Houthi heartland of Sa'dah governate suffer from stunting or chronic malnutrition. Child marriage and the use of child soldiers has soared. All sides have committed gross human rights abuses while the Saudi-led blockade has made the import of food and medicines incredibly difficult, especially since about 70 percent of Yemen's aid and commercial food imports come through Hodeida and nearby Saleef port. The fall of the Yemeni currency means food prices have increased dramatically. Saudi Arabia blocks all commercial flights from Yemen as well. Major bridges to the north of the country have been bombed, damaging the economic lifelines inside the country, and numerous government buildings in the north, including health clinics, have also been bombed.<sup>82</sup> In 2017, the UAE was accused of maintaining a secret network of prisons in Yemen, which the UAE denies.<sup>83</sup>

Many in Congress are deeply concerned that American intelligence and logistical support, arms sales, and the use of American weapons in the conflict will indelibly link the United States with both this conflict and its humanitarian consequences in the eyes of many in the region.<sup>84</sup> Another concern is that American weapons have ended up in the hands of various anti-American groups. A CNN investigation in 2019 revealed that American armored vehicles were in the hands of the Abu Abbas Brigade, an Al Qaeda in the Arabian Peninsula (AQAP)-linked group whose founder, Abu Abbas, was formally declared a terrorist by the United States in 2017. Abu Abbas is also supported by the Saudi coalition and has been absorbed into the 35th Brigade of the Yemeni Army. US TOW anti-tank weapons were airdropped by Saudi Arabia in October 2015 to areas where AQAP was operating at the time, in contravention of US arms control requirements. Another Saudi-backed militia, the Giants Brigade, has acquired at least six US mine-resistant ambush protected (MRAP) vehicles. According to the export sticker on one vehicle, it had been exported by US company

80 William Hartung, "'Little Sparta:' The United States-United Arab Emirates Alliance and the War in Yemen" (Washington, DC: Center for International Policy, February 2019), 5–6, [https://static.wixstatic.com/ugd/3ba8a1\\_4498bdea89b148989be12b75281be4f5.pdf](https://static.wixstatic.com/ugd/3ba8a1_4498bdea89b148989be12b75281be4f5.pdf).

81 Aram Roston, "A Middle East Monarchy Hired American Ex-Soldiers To Kill Its Political Enemies. This Could Be The Future Of War.," BuzzFeed News, October 16, 2018, <https://www.buzzfeednews.com/article/aramroston/mercenaries-assassination-us-yemen-uae-spear-golan-dahlan>.

82 Worth and Addario, "How the War in Yemen Became a Bloody Stalemate — and the Worst Humanitarian Crisis in the World"; "War in Yemen"; "Yemen: Key Concerns for Hodeida Battle," Human Rights Watch, June 15, 2018, <https://www.hrw.org/news/2018/06/15/yemen-key-concerns-hodeida-battle>.

83 Kenneth Katzman, "The United Arab Emirates (UAE): Issues for U.S. Policy" (Congressional Research Service, May 3, 2019), 14, <https://fas.org/sgp/crs/mideast/RS21852.pdf>.

84 Christopher M Blanchard, "Saudi Arabia: Background and U.S. Relations.," 33, accessed May 21, 2019, <https://fas.org/sgp/crs/mideast/RL33533.pdf>.

Navistar from Beaumont, Texas to Abu Dhabi, UAE. The UAE denied that the transfer of the vehicles to the militia was a violation of US end user requirements since the Green Brigade "is part of Yemeni forces." The Houthi rebels have also captured MRAPs, including vehicles which were part of a \$2.5 billion sale to the UAE in 2014. Members of a Houthi unit stated that Iranian and Hezbollah advisers had already acquired US armored vehicles and other hardware for exploitation.<sup>85</sup> This diversion of American weapons highlights many of the weaknesses of the American weapons end-use inspection regime, as highlighted in the Transparency International report "Holes in the Net: US Arms Export Control Gaps in Combatting Corruption."

As the war has become more controversial, Congress has ramped up its response. Congressional pushback against American support for the war in Yemen was relatively muted in 2015, but increased significantly in 2016, and Congress began to suggest a hold on precision-guided munition (PGM) sales to Saudi Arabia.<sup>86</sup> In the summer of 2016, the Obama administration reduced some US support for the Saudi-led air campaign by withdrawing US personnel from a joint US-Saudi planning cell, but, at the same time, still approved a proposed sale of M1A2 tanks to Saudi Arabia.<sup>87</sup> After an October 2016 Saudi airstrike on a funeral hall in Sana'a killed 140 people, the Obama administration blocked a sale of 16,000 guided munition kits to upgrade "dumb bombs" to precision-guided munitions. The US also cut back on some intelligence support in response to the high number of civilian casualties but did not end its refueling support for Saudi coalition aircraft.<sup>88</sup>

In 2017, the new Trump administration reversed Obama-era blocks related to the civil war in Yemen, improved relations with Saudi Arabia, and increased American counterterrorism operations in Yemen.<sup>89</sup> Even with a growing humanitarian crisis in Yemen and congressional reservations, arms sales continued. In June 2017, Chairman of the Senate Foreign Relations Committee Bob Corker (R-TN) announced he would withhold consent on future arms sales to any Gulf state until they resolved the dispute between the Gulf Cooperation Council and Qatar over a variety of grievances with that state.<sup>90</sup> That same month, the Senate had narrowly voted (53 to 46) against an unprecedented resolution to block the sale of \$500 million in precision-guided munitions kits as part of the \$110 billion arms package that President Trump had pledged to Saudi

85 "US Arms Sold to Saudi Arabia and UAE End up in Wrong Hands," February 2019, <https://www.cnn.com/interactive/2019/02/middleeast/yemen-lost-us-arms/>.

86 Jeremy Sharp and Christopher M. Blanchard, "Congress and the War in Yemen: Oversight and Legislation 2015-2019" (Washington, DC: Congressional Research Service, February 1, 2019), 2–6, <https://fas.org/sgp/crs/mideast/R45046.pdf>.

87 Sharp and Blanchard, 4.

88 Helene Cooper, "U.S. Blocks Arms Sale to Saudi Arabia Amid Concerns Over Yemen War," New York Times, December 13, 2016, <https://www.nytimes.com/2016/12/13/us/politics/saudi-arabia-arms-sale-yemen-war.html>.

89 Sharp and Blanchard, "Congress and the War in Yemen," 8.

90 Robbie Gramer and Dan De Luce, "Corker: No More U.S. Arms Sales to Gulf Until Qatar Crisis Solved," Foreign Policy, June 26, 2017, <https://foreignpolicy.com/2017/06/26/no-more-arms-sales-to-gulf-until-qatar-crisis-solved-senate-foreign-relations-saudi-arabia-united-arab-emirates-middle-east/>.

Arabia in May 2017.<sup>91</sup> Nevertheless, Senator Corker lifted his hold in February 2018, enabling a flurry of lobbying for defense contracts that coincided with Saudi Prince Mohammad bin Salman's March 2018 visit.<sup>92</sup>

A full blockade of all Yemeni ports by the Saudi-led coalition after a Houthi missile landed deep in Saudi Arabia only increased the various executive and legislative branch tensions in the US. The 2018 National Defense Authorization Act (NDAA) gave the Trump administration until mid-September 2018 and every six months thereafter to certify that the coalition was making increasing efforts to prevent civilian deaths or Congress would prevent the obligation of expenditure of US funds for in-flight refueling of coalition aircraft for many types of operations; the State Department duly sent such a report.<sup>93</sup> The February 2019 certification was never sent by the State Department.<sup>94</sup> Calls from Congress to rein in support to the coalition after the Khashoggi murder and the school bus attack in August 2018 resulted in a decision by the Trump administration in November 2018 to halt refueling of Saudi coalition aircraft.<sup>95</sup> In December 2018, Congress passed a bipartisan bill to remove US forces from the hostilities in Yemen except US forces engaged in directly fighting Al Qaeda. A similar bipartisan bill passed in the House in February 2019. In April 2019 the bill was vetoed by President Trump, using the second veto of his administration.

On May 24, 2019, the Friday before Memorial Day (a major holiday when many Americans are traveling), the Trump administration announced that it would approve \$8 billion in arms sales despite congressional blocks through President Trump's declaration of a national emergency regarding Iran. Nearly all the sales will go to Saudi Arabia and the UAE, including precision-guided munitions (PGMs). The UAE will also be able to transfer PGMs to Jordan. Using his emergency powers, the President was able to waive the requirement for a 30-day notification to Congress before concluding a major arms sale, as required under the Arms Export Control Act. The last time a national emergency exemption was used was in August 1990, when the first Bush administration approved the emergency sale of tanks, fighters, anti-tank ammunition, and Stinger anti-aircraft missiles to Saudi Arabia in the immediate wake of Iraq's invasion of Kuwait.<sup>96</sup>

91 Paul McCleary, "Saudi Arms Sale Clears Contentious Senate Vote," Foreign Policy, June 13, 2017, <https://foreignpolicy.com/2017/06/13/saudi-arms-sale-clears-contentious-senate-vote/>.

92 Joe Gould, "Corker Lifts Hold on Arms Sales to Gulf Nations in Qatar Row," Defense News, February 14, 2018, <https://www.defensenews.com/breaking-news/2018/02/14/corker-lifts-hold-on-arms-sales-to-gulf-nations-over-qatar-row/>.

93 Sharp and Blanchard, "Congress and the War in Yemen," 10–11.

94 Jack Detsch, "Trump Blows off Congressionally Mandated Yemen Certification," Al-Monitor, February 13, 2019, <http://www.al-monitor.com/pulse/originals/2019/02/trump-blows-off-congress-yemen-war-certification.html>.

95 Sharp and Blanchard, "Congress and the War in Yemen," 12.

96 Jeremy M Sharp, Christopher M Blanchard, and Clayton Thomas, "U.S. Arms Sales to the Middle East: Trump Administration Uses Emergency Exception in the Arms Export Control Act" (Washington, DC: Congressional Research Service, May 31, 2019).

The controversial sale will allow Raytheon to sell 120,000 precision-guided munitions. It will also allow Raytheon to team up with Saudi industry to build control systems, guidance electronics, and circuit cards for precision-guided bombs, a part of the agreement that was not in the original notification to Congress. The fact that former Raytheon executives are the Secretary of Defense<sup>97</sup> and the Undersecretary of Defense has been noted by members of Congress. Also noted was that President Trump and Crown Prince Mohammad bin Salman stood together to view the signing of an agreement between Raytheon and the Saudi Arabian Military Industries Company during Trump's first trip overseas in 2017.<sup>98</sup>

In response, a bipartisan group of senators, including Robert Menendez (D-NJ) and Lindsey Graham (R-SC) have introduced 22 bills (one for each weapons deal) to block the sale. These bills, like similar resolutions in the past, have not been successful in overriding a presidential veto. US law gives Congress 30 days to block arms sales, but the use of the declaration of emergency and the fact that key information on the arms sales was withheld has left Congress especially short of time to pass such bills. (For more information on this, see the Transparency International report "Holes in the Net: US Arms Export Control Gaps in Combatting Corruption.")

American support to the Saudi-led coalition also has led to a disagreement between the executive branch and many in the legislative branch on whether US forces have been introduced into active or imminent hostilities, and thus whether there should be a War Powers Resolution.<sup>99</sup> Helping the coalition fight the Houthis cannot fall under the Authorization for the Use of Military Force (AUMF) passed by Congress in September 2001 to fight against Al Qaeda and those who harbor them since Houthis are in no way linked to Al Qaeda and have expelled Al Qaeda from the territories they control. The Department of Defense has argued that the limited military and intelligence support given to the coalition does not rise to the level requiring a War Powers Resolution. Those calls for a resolution have increased since a November 2018 New York Times article highlighting how US Green Beret soldiers had operated on the Saudi-Yemeni border to help the coalition find ballistic missiles and their launch sites in 2017, though it did not appear that the commandos actually crossed into Yemen. It belied, however, the Department of Defense argument that American support had been limited to aircraft refueling, logistics, and intelligence sharing.<sup>100</sup>

Despite the tussles between the legislative and executive branches, the American arms industry – especially the biggest four companies – has continued its exports. The State

Department has approved \$30.1 billion in arms contracts to Saudi Arabia for Lockheed Martin, Raytheon, Boeing, and General Dynamics. Boeing has supplied Apache helicopters, fighters and 6000 guided missile kits, as well as maintenance and support contracts, worth over \$21 billion in the last ten years. Lockheed Martin has made \$7.2 billion in sales by selling four warships, over 5000 Hellfire missiles, and their own maintenance and support contracts to Saudi Arabia over the last decade. In the same timeframe, Raytheon made over \$1.8 billion, most of it from selling over 11,000 anti-tank weapons and more than 16,000 guided bombs, plus maintenance contracts. General Electric made over \$1 billion selling jet aircraft engines. Textron has also sold 1300 cluster munitions worth \$641 million.<sup>101</sup>

Some argue that these weapons help keep the war in Yemen going. As Jonathan Caverly, an associate professor at the US Naval War College noted, "We can stop providing munitions, and they could run out of munitions, and then it would be impossible to keep the war going." He further notes that the Saudi military requires significant assistance to keep its planes flying, "And so most of the planes would be grounded if Lockheed Martin or Boeing turned off the helpline."<sup>102</sup> But these arms sales clearly have support all the way to the top. The Obama administration approved \$115 billion in weapons to Saudi Arabia, though it did later block the sale of 16,000 precision-guided bombs from Raytheon and cancel the delivery of 400 cluster munitions from Textron. When the Trump administration came in, it reversed that order. During his first overseas visit in May 2017, which was to Saudi Arabia, President Trump famously agreed to an apparent sale of \$110 billion in weapons, though that number has been proven to be vastly overstated and included deals accomplished during the Obama administration. Trump also boasted that the deal would bring in 500,000 jobs, though the State Department and other experts expect it in fact to bring in tens of thousands. During that trip, Saudi King Salman bin Abdulaziz Al Saud and President Trump attended the signing of Memorandums of Agreement for arms contracts between the Saudi government and Boeing and Raytheon. During that signing ceremony, Raytheon announced it had opened a new division of its company, Raytheon Saudi Arabia.<sup>103</sup> The signing ceremony demonstrates one of the inherent conflicts of interest a President holds when it comes to foreign arms exports: the President is both charged with helping US industry export goods (including arms) overseas, and at the same time, he leads an executive branch that, according to legislation, is supposed to seek to limit overseas arms sales and balance those sales with other vital interests.

These deals also highlight the role key pathways to influence play in keeping such exports going. After the 2017 deal was announced, Senator Rand Paul (R-KY) announced he was blocking the sale, and that he had previously worked with three Democrats to make arms sales contingent on reining in the Saudi-led coalition in Yemen.<sup>104</sup> To help break the impasse, Lockheed, Boeing, Northrop Grumman, and Raytheon together spent more than \$50 million on lobbying in 2017.<sup>105</sup> Ultimately, five Democrats were swayed to ensure the arms sales continued. One, Bill Nelson (D-FL), received \$44,308 from political action committees (PACs) and employees of Boeing and Raytheon for the 2018 election cycle, while another, Claire McCaskill (D-MO), received \$57,230. Both had previously received election donations from the arms industry as well.<sup>106</sup> Neither former Senator Nelson nor Senator McCaskill responded to the opportunity to comment by Transparency International on the linkages between their votes and campaign donations.

Even with the contentions over their Middle East sales and other contract controversies, the share prices of the arms companies remain robust. Since March 2015, General Dynamics' stock has risen from \$135 per share to \$169, while Raytheon's has gone

<sup>104</sup> Elana Schor, "Rand Paul to Tee up Vote on Blocking Trump's Saudi Arms Deal," POLITICO, May 23, 2017, <https://www.politico.com/story/2017/05/23/rand-paul-saudi-arabia-arms-sales-238730>.

<sup>105</sup> Aaron Gregg and Christian Davenport, "Defense Contractors Stand with White House on Saudi Arms Sales," Washington Post, October 25, 2018, sec. Business, <https://www.washingtonpost.com/business/2018/10/25/defense-contractors-stand-with-white-house-saudi-arms-sales/>.

<sup>106</sup> Kane, "Here's Exactly Who's Profiting from the War on Yemen." Neither former Senator Nelson nor Senator McCaskill responded to the opportunity to comment by Transparency International on the linkages between their votes and campaign donations.

## SECTION 3: PATHWAYS TO INFLUENCE AND CORRUPTION RISKS IN THE AMERICAN DEFENSE SECTOR

Lawrence Lessig, in the 2015 edition of his study on lobbying, *Republic, Lost*, describes the problems of the various pathways to influence of American politicians, especially Congress, taking a more expansive view of the term "corruption" than is typically used by legal scholars:

**But as well as corrupt individuals, there are corrupt institutions. And not corrupt in the sense that the crime has just metastasized from one to many. But corrupt in the sense that the institution has lost its way. For at least some institutions, there is a clear sense of the institution's purpose. That purpose**

from \$108 to \$180. Even in the midst of a variety of scandals related to one of its most successful products, the Boeing 737 Max, Boeing's share price since 2015 has risen from \$150 to \$360.

While the claims of industry clout and the importance of defense jobs to the American economy are controversial, there is no doubt that the American defense industry is a force to be reckoned with. American arms export legislation, however, was written with the purpose of ensuring that American arms exports are transparent and accountable and that the economic needs of the defense sector are balanced against larger American foreign policy and national security concerns. Yet clearly, as continued involvement in the war in Yemen demonstrates, those legislative safeguards have failed. The remainder of this report will assess the various pathways to influence between American defense firms and the US government that enable firms like these to continue to sell arms and defense services to countries in the Middle East like Saudi Arabia and the UAE, despite the likely blowback the war in Yemen and American involvement in it will bring. The American defense industry (both in the past and today) has the power to shift American foreign interests in a manner which may be good for that industry, but which can be of significant detriment to America's long term foreign interests. Legislative and policy reforms are needed to ensure the sometimes-competing interests of the two remain in balance.

**has been corrupted when an economy of influence has steered that institution away from its purpose. That steering is corruption.<sup>107</sup>**

Also taking a broader view of corruption than the traditional quid pro quo definition, scholar Zephyr Teachout argues that the issues of corruption are at the heart of the US Constitution. As she writes,

**Corruption, in the American tradition, does not just include blatant bribes and theft from the public till, but**

<sup>97</sup> At the time, the Secretary of Defense, Mark Esper, was the acting Secretary of Defense; he was confirmed by the Senate in July 2019.

<sup>98</sup> LaForgia and Bogdanich, "Trump Allows High-Tech U.S. Bomb Parts to Be Built in Saudi Arabia."

<sup>99</sup> Sharp, "Yemen: Civil War and Regional Intervention," 14–15.

<sup>100</sup> Cooper, Gibbons-Neff, and Schmitt, "Army Special Forces Secretly Help Saudis Combat Threat From Yemen Rebels."

<sup>101</sup> Alex Kane, "Here's Exactly Who's Profiting from the War on Yemen," In These Times, May 20, 2019, <http://inthesetimes.com/features/us-saudi-arabia-yemen-war-arms-sales.html>.

<sup>102</sup> Kane.

<sup>103</sup> Kane.

<sup>107</sup> Lawrence Lessig, *Republic, Lost: The Corruption of Equality and the Steps to End It* (New York, NY: Twelve, 2015), 18.

encompasses many situations where politicians and public institutions serve private interests at the public's expense. The idea of corruption jealously guards the public morality of the interactions between representatives of government and private parties, foreign parties, or other politicians.<sup>108</sup>

This interaction between government, private parties and foreign parties forms the core of the pathways to influence and areas of potential corruption in the American defense sector. Defining these pathways to influence clearly is complicated because the term “lobbying” is often used as short hand for a variety of actors and pathways. Some of these actors include in-house congressional liaison personnel working on behalf of industries and industry association groups. Relevant actors can also include professional lobbying firms, public relations firms, consultants, advertising firms, and other professionals hired from outside to intervene on behalf of a firm or firms. There are, in addition, other actors who can be less direct, but also quite effective in the policy space, including academics who are hired to conduct research or give lectures with an explicit or implicit understanding that the research should largely support certain policy perspectives.

Both lobbying in a narrower sense (see the following section) and the variety of actors and pathways described above and often denoted by the term “lobbying” are closely tied to other key pathways to influence and areas of potential corruption: campaign finance, the possibility of future lucrative employment for individuals (the so-called revolving door), conflicts of interest, and outright bribery. One of the key functions of companies’ in-house congressional liaisons, for example, is to ensure that donations in the form of campaign finance contributions are provided to relevant decisionmakers. And one of the key responsibilities of trade associations and outside lobbying firms is to bundle donations to key decisionmakers from firms and individuals. Thus, in reality, the lines between each of these pathways are blurry.

In many ways, the defense sector is the embodiment of these forms of legal but problematic influence. Though clear incidences of bribery and overt corruption still occur, most of the influence peddled by the sector within the United States is entirely legal, and rarely in the form of the fabled “suitcases of cash” to American politicians. Nevertheless, the balance of power between corporations like those in the defense sector and citizens is tilted towards corporations. While American citizens are not denied their ability to petition the government

<sup>108</sup> Zephyr Teachout, *Corruption in America: From Benjamin Franklin's Snuff Box to Citizens United* (Cambridge, MA: Harvard University Press, 2014), 2.

regarding the American defense industry or US relations in the Middle East, in reality, the defense industry has significant advantages over average voters via these pathways to influence. The first and most fundamental advantage of these pathways to influence is simply access. As Paul Simon (D-IL from 1985 to 1997) put it, “If I got to a Chicago hotel at midnight, when I was in the Senate, and there were 20 phone calls waiting for me, 19 of them names I didn’t recognize and the 20th someone I recognized as a \$1,000 donor to my campaign, that is the one person I would call.”<sup>109</sup> This access in the form of donations and campaign finance contributions to members of both the legislative and executive branches of government, facilitated through lobbying, gives industry priority over average citizens in setting the legislative and regulatory agenda.<sup>110</sup>

These pathways also provide industry with additional advantages in what Lessig refers to as “vetocracy,” or the ability to block or veto proposed changes.<sup>111</sup> As Lessig notes, “Regardless of the issue, so long as there exists on one side of a fight a sufficiently concentrated economic interest, vetocracy will give that concentrated interest the levers it needs to block change.”<sup>112</sup> As Lessig also notes, “there is only one way to pass a bill in Congress, but a million ways to kill it.”<sup>113</sup> The following pathways to influence detail how help can stymie reforms to the US defense export sector and prevent other groups from blocking or substantially altering defense industry interests and contracts.

These access and agenda-setting capabilities are especially helpful since much of what the defense industry cares about are relatively obscure laws and rules in which all but the most wonkish are unlikely to have a strong interest one way or another. In cases where such minutiae reign supreme, such as federal contract legislation, a politician may be perfectly comfortable with siding with the side with the greatest consistent use of the various pathways to influence. After all, it improves the politician’s chances of staying in power, and such small details are unlikely to generate any media support, much less comment from constituents one way or another, regardless of the actual merits of the piece of legislation.<sup>114</sup>

The key pathways explored in this chapter include the most direct ones: the promise of lucrative jobs through the so-called “revolving door,” and in some cases, conflicts of interest and outright corruption. This chapter also examines soft influencers, including the use of think tanks and advisory boards to help shape the defense export industry environment.

<sup>109</sup> Quoted in Lessig, *Republic Lost*, 132.

<sup>110</sup> Indeed, lobbying has been described as a “legislative subsidy” whereby lobbyists gain access to key decisionmakers and effectively subsidize the work of members of Congress, encouraging them to support measures favorable to the lobbyist’s client. See Lessig, 130-31.

<sup>111</sup> Lessig, *Republic Lost*, 29.

<sup>112</sup> Lessig, 30.

<sup>113</sup> Lessig, 137.

<sup>114</sup> Lessig, 135–37.

## Lobbying

The Lobbying Disclosure Act (2 U.S.C. Section 1601), passed in 1995 in the wake of the Keating Five scandal,<sup>115</sup> defines lobbying as oral or written communications to various executive and legislative branch officials on behalf of a client in the formulation, modification, or adoption of federal legislation (including legislative proposals), a federal rule or regulation, executive order, or any other program, policy or position of the US Government. It also includes the administration or execution of a federal program or policy (including the negotiation, award, or administration of a federal contract, grant, loan, permit or license). Finally, it includes the nomination or confirmation of a person by the Senate.<sup>116</sup>

Modern lobbying practices are relatively open and highly regulated. With the expense of contemporary political campaigns, lobbying has also become very important: lobbyists are often the key link between special interests and members of Congress in providing both funding and information.<sup>117</sup> Indeed, one of lobbyists’ most basic duties is to provide information to policymakers on various policy considerations, especially information on detailed issues rarely produced in the larger information marketplace.<sup>118</sup> Sometimes this information is provided in the form of independent research and media accounts, used as empirical evidence to bolster a request for some policy action. In other cases, information in the form of empirical research is arguably less independent as it is financed by the lobbyist, a trade association, or an industry. In some cases, “information provision” can veer into “ghost writing,” for example when firms, industry associations, or intermediaries actually write relevant verbiage that is inserted directly into legislation or regulations.

In terms of funding, lobbyists play a key role in bundling support from various donors and exploiting various campaign finance loopholes. One example is the bundling of so-called “dark money” (explained in the following campaign finance section). Another is a rule that lobbyists do not need to report bundled campaign donations if they arise from a jointly sponsored event and each lobbyist gave less than \$16,000. Thus, ten lobbyists can hold a joint fundraiser with each bringing a bundle of \$15,000 to equate to a total contribution of \$150,000 without it

<sup>115</sup> Thomas Holyoke, *The Ethical Lobbyist: Reforming Washington's Influence Industry* (Washington, DC: Georgetown University Press, 2015), 17–18. The Keating Five scandal is named after Charles Keating, the chairman of Lincoln Savings and Loan Association. Keating paid five senators (Alan Cranston, Dennis DeConcini, John Glenn, John McCain, and Donald Riegle, Jr) over \$1 million in campaign contributions in total. The senators met twice with federal banking regulators on Keating’s behalf. In 1991, the Senate reprimanded Senator Cranston and the other four. Keating’s bank collapsed, costing taxpayers \$3 billion, and he spent five years in jail. “Top Ten Political Scandals,” *Rolling Stone*, September 26, 2011, <https://www.rollingstone.com/politics/politics-lists/top-ten-political-scandals-22369/the-keating-five-184443/>.

<sup>116</sup> This is slightly abbreviated from the full definition in “Lobbying Disclosure Act,” 2 USC § 1602, accessed September 7, 2018, <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title2-section1602&num=0&edition=prelim>.

<sup>117</sup> Lessig, *Republic Lost*, 88.

<sup>118</sup> Teachout, *Corruption in America*, 144–45.

having to be reported.<sup>119</sup> The knowledge of the legal system plus the organizational skills and relationships to pull off this kind of fundraising make lobbying very important to members of Congress.

The Lobbying Disclosure Act and the 2007 Honest Leadership and Open Government Act (HLOGA) currently govern lobbying. These laws are more about disclosure than actual regulation, with the rationale being that disclosing more information will make the industry more transparent, lead to better self-regulation, and make lobbying overall more acceptable. HLOGA requires all lobbyists and interest groups to disclose all campaign donations that exceed \$200 within a semi-annual period, limits gift-giving, and imposes civil and criminal penalties on those who break gift-giving rules.<sup>120</sup> There are of course exceptions and loopholes to be found in lobbying regulation. For example, the Byrd Amendment prohibits federal contractors from using taxpayer funds to lobby or try to influence federal contracting decisions, but executive board members, employees, and consultants who try to influence the executive branch are not required to register as lobbyists.<sup>121</sup> Moreover, various forms of other “influencers” are not required to register as lobbyists either, such as policy advisers, strategic consultants, trade association chiefs, and corporate government relations executives.<sup>122</sup> Much “behind the scenes” work is not considered lobbying as well according to the Office of Government Ethics, including drafting proposed communications to a government agency, consulting on strategies to persuade an agency, or writing speeches and articles, conducting interviews, serving on advisory committees, and some types of written comments.<sup>123</sup>

Rather than a succession of explicit quid pro quo, one-off transactions, lobbying works through a series of relationships buttressed by deep networks and repeated interactions. It is these deep relationships, the repeated interactions, and the (usually unstated) understandings that go with them that help make other pathways like the use of campaign finance and the “revolving door” especially effective.<sup>124</sup> One of the roles of lobbyists is to create information asymmetries for citizens versus industries via their role as information gatherers. It is a lobbyist’s job to know what political candidates or key civil servants need and what their clients want and ensure the two are sufficiently linked. As Teachout puts it, “They then figure out how to enable a series of actions that do not operate like quid pro quo exchanges, but allow for the flow from client to candidate, and from politician to client, while taking a fee for enabling the flow, and obscuring the transaction-like elements by submerging

<sup>119</sup> Lessig, *Republic Lost*, 105–6.

<sup>120</sup> Lessig, 105–6.

<sup>121</sup> “Brass Parachutes: Defense Contractors’ Capture of Pentagon Officials Through the Revolving Door” (Washington, DC: Project on Government Oversight, November 5, 2018), 29, [https://s3.amazonaws.com/docs.pogo.org/report/2018/POGO\\_Brass\\_Parachutes\\_DoD\\_Revolving\\_Door\\_Report\\_2018-11-05.pdf](https://s3.amazonaws.com/docs.pogo.org/report/2018/POGO_Brass_Parachutes_DoD_Revolving_Door_Report_2018-11-05.pdf).

<sup>122</sup> “Brass Parachutes,” 30.

<sup>123</sup> “Brass Parachutes,” 30–31.

<sup>124</sup> Lessig, *Republic Lost*, 96–97.

them in other, nontransactional elements."<sup>125</sup> The major defense firms have their own in-house lobbying activities. In addition, they are represented primarily by three trade associations: the Aerospace Industries Association (AIA), the National Defense Industrial Association (NDIA), and the Professional Services Council. NDIA, which is made up of executives from a number of major military businesses, notes that it is a 501(c)(3) non-profit organization and specifically not a lobbying firm,<sup>126</sup> though its 2015 IRS Form 990 notes that the organization engages in lobbying activities<sup>127</sup> and it is in fact widely considered one of the most powerful defense advocacy groups in the United States.

A number of studies have demonstrated that lobbying can be well worth the investment of time and money. Clients better their chances of obtaining favorable government policy, federal subsidies, beneficial tax arrangements, and (sometimes lucrative) contracts. One study at the University of Kansas found that the return on lobbying to modify the American Jobs Creation Act in 2004 was 22,000 percent. Another study in 2009 found that every dollar that a firm spent lobbying resulted in \$6 to \$20 in targeted tax benefits, and that firms that increased their lobbying by one percent each year saw their tax rates fall between 0.5 and 1.6 percent the next year.<sup>128</sup> Others have found that firms that engaged in lobbying were also less likely to be detected for fraud.<sup>129</sup>

In 2018 the defense industry was the tenth largest in terms of lobbying expenditures, below health care, the banking industry and agriculture, but above lawyers and construction.<sup>130</sup> In the 2018 midterms, even without a presidential election, the defense industry spent just under \$126 million on lobbying, and employed 770 registered lobbyists.<sup>131</sup> \$27 million of that went directly to political candidates, with Republicans receiving \$16.4 million to Democrats' \$11 million. Historically, the defense industry has given relatively evenly to both parties; since 1990, 57 per cent of spending has gone to Republicans.<sup>132</sup> A 2013 study by the Sunlight Foundation of the ten biggest government contractors (nine of which are defense firms) estimated they received an average 125-to-1 return on money spent on lobbying and campaign contributions. This did not include any

125 Teachout, *Corruption in America*, 144–45.

126 "About NDIA, Association History," National Defense Industrial Association, accessed January 15, 2019, <http://www.ndia.org/about>.

127 "National Defense Industrial Association 2015 IRS Form 990" (National Defense Industrial Association, August 11, 2017), <http://www.ndia.org/-/media/sites/ndia/about/leadership-and-governance/ndia-public-inspection-copy-990-990t.ashx?la=en>. The Schedule C of this form states that there were no lobbying expenditures in 2015, but over \$25,000,000 in "other exempt purpose expenditures" under the lobbying section. According to the same Schedule C, lobbying expenditures between 2012 and 2015 were \$1,000,000 per year.

128 Brian Kelleher Richter, Krislert Samphantharak, and Jeffrey F. Timmons, "Lobbying and Taxes," *American Journal of Political Science* 53, no. 4 (October 1, 2009): 893–909, <https://doi.org/10.1111/j.1540-5907.2009.00407.x>.

129 Lessig, *Republic Lost*, 101.

130 "Lobbying Spending Database Defense, 2018," OpenSecrets, accessed June 12, 2019, <https://www.opensecrets.org/lobby/indus.php?id=D&year=2018>.

131 "Lobbying Spending Database Defense, 2018."

132 "Defense Background," OpenSecrets, accessed June 12, 2019, <https://www.opensecrets.org/lobby/background.php?id=D&year=2018>.

money contributed via the AIA. The top defense contractor, Lockheed Martin, received \$175 in benefit for every dollar spent, while number two, Boeing, received \$142 for every dollar.<sup>133</sup> Lobbying by the defense industry on the state and local level can also provide localized subsidies, such as tax relief for building defense plants in certain areas. In addition, it provides an understanding that if a particular defense industry gets "in trouble" for some reason, the grateful politician will be willing to help them out. Lobbying further ensures that, even if there are significant questions about the viability, efficacy, or morality of the issues, these are more likely to be minimized or swept aside entirely.

## Campaign Finance

When the average person thinks of industry influencing Congress, they tend to think of the role campaign finance plays and how that impacts policymaking. After all, elections are expensive and require a sizeable war chest: in 2016, the average winner of a House or Senate seat spent nearly \$1.5 million on their campaign; even losing is expensive, with the average loser spending \$354,000.<sup>134</sup> Campaigns were not always this expensive: in 1974, total spending for all candidates for both the House and Senate was \$77 million, but by 2012 it was \$1.8 billion (though this dipped slightly to \$1.6 billion in 2014).<sup>135</sup>

This need for continuous fundraising to win and maintain office has a number of outcomes. The first is the capability of special interests with their own large war chests to influence legislation, encouraging their own agendas and improving the odds of veto for anything contravening those agendas. Another outcome is simply the distraction of the legislative branch by fundraising and meeting with donors rather than actual legislating. Empirical evidence notes how non-appropriations oversight meetings and even the number of days the House is in session have decreased since 1975. This decrease is all the more concerning with regards to the defense sector given the need for significant oversight of national defense-related policies. It also means that more work is farmed out to staffers and to lobbyists.<sup>136</sup> Passing on work to lobbyists such as policy research or even writing legislation and regulations further increases the role of lobbyists in the system.

133 The nine largest defense firms, in descending order, were Lockheed Martin, Boeing, Raytheon, General Dynamics, Northrup Grumman, United Technologies, SAIC, L-3, and BAE System. Lee Drutman, "Top Government Contractors Spend Less than a Penny on Politics for Every Dollar at Stake in Sequester," Sunlight Foundation, February 25, 2013, <https://sunlightfoundation.com/2013/02/25/sequester-cuts/>.

134 "Election Trends Election Cycle 2016," OpenSecrets, accessed July 27, 2018, <https://www.opensecrets.org/overview/election-trends.php>.

135 Lessig, *Republic Lost*, 73–74. Lessig argues that the impetus for this increase in the cost of elections for Congress dates back to the 1964 Civil Rights Act. That act alienated many southern Democratic voters, who then rallied to the Republicans, making control of Congress again competitive after Democrats had dominated Congress since 1933. With new competition came the need for both sides to raise ever-increasing amounts of money. Campaigns also became more complicated due to the need for better and more expensive media buys, political consultants, and so forth to give each party the edge. The 1994 Republican takeover of the House, and the immense amount of money spent by Republicans to do so, sealed this need for money.

136 Lessig, *Republic Lost*, 124–29.

The role of campaign finance in US politics might not necessarily be too bad if political donors were broadly representative of voters in general, but that is not the case: those who provide money to federal elections are a tiny, wealthy group. For the 2016 election cycle (the last year with both presidential and congressional races), only 0.52 per cent of the US population gave at least \$200 to candidates or political action committees (PACS); only 0.10 per cent gave at least \$2700. Of those donors, 3,030 gave over \$100,000.<sup>137</sup> For the 2014 election, 5.4 million Americans (about 1.75 per cent of the American population) gave something to a campaign, political party, or PAC, but the top 100 individuals and organizations gave 60 percent of the super PAC money donations.<sup>138</sup> This allows for a significant concentration of influence in the hands of very few individuals and corporations.<sup>139</sup> It enables rich corporations, unions, and individuals to hold great sway over elections and policy platforms. Those same groups are also far more likely to contact politicians, especially those in Congress, and their discussions are likely to involve issues of narrow self-interest, such as how legislation involves a particular business.<sup>140</sup> As a result, the interests of these rich and well-connected groups largely crowd out the policy agenda that average American citizens tell pollsters they want.

The literature on how money skews elections is contested. There are some studies that show that money has little or no effect on voting behavior, as well as noting that campaign contributions as a percentage of GDP have not increased.<sup>141</sup> A significant number of studies, however, show a link between campaign contributions and roll call votes, as well as studies showing that industry PACs attain immediate access to and favors from members of Congress and that businesses that contribute to PACs receive tax benefits.<sup>142</sup> One study even demonstrates how campaign contributions from the financial services industry could be used to predict the voting patterns of members of Congress

137 "Donor Demographics Election Cycle 2016," OpenSecrets, accessed July 27, 2018, <https://www.opensecrets.org/overview/donordemographics.php?cycle=2016&filter=A>.

138 Lessig, *Republic Lost*, 15–16.

139 Lessig, *Republic Lost*, 33.

140 Lessig, 79–82; Benjamin I. Page, Larry M. Bartels, and Jason Seawright, "Democracy and the Policy Preferences of Wealthy Americans," *Perspectives on Politics* 11, no. 01 (March 2013): 51–73, <https://doi.org/10.1017/S153759271200360X>; "As Inequality Grows, so Does the Political Influence of the Rich," *The Economist*, July 21, 2018, <https://www.economist.com/finance-and-economics/2018/07/21/as-inequality-grows-so-does-the-political-influence-of-the-rich>. The Page, Bartels, and Seawright study also showed that their wealthy respondents were more likely to argue for cutbacks in defense and economic aid to other nations, the two more direct questions related specifically to the US defense industry. Their survey was in Chicago, however. If the survey had been in Kansas City or Seattle (home to two major defense contractors), it is possible that survey results would have varied on this topic.

141 Stephen Ansolabehere, John M. de Figueiredo, and James M. Jr Snyder, "Why Is There So Little Money in US Politics?," Working Paper (Cambridge, MA: National Bureau of Economic Research, December 2002), <http://www.nber.org/papers/w9409.pdf>.

142 For an excellent literature review how money or does not influence campaigns, see Lessig, *Republic Lost*, 116–21.

for the 2008 Emergency Economic Stabilization Act.<sup>143</sup> Indeed, one highly controversial study goes so far as to argue that "economic elites and organized groups representing business interests have substantial intended impacts on US government policy, while average citizens and mass-based interests groups have little or no independent influence."<sup>144</sup>

The 1907 Tillman Act ostensibly banned corporate contributions to federal election campaigns, but it has been significantly weakened by a 2010 Supreme Court decision: *Citizens United v. Federal Elections Commission*, usually called *Citizens United* for short. In this case, the US Supreme Court held that Congress did not have the power to forbid corporations and unions from spending funds to support or oppose political candidates, at least with regard to giving independently of those candidates' campaigns, such as through Political Action Committees. The Supreme Court reaffirmed that corruption was a valid reason for restricting political speech, but used a very narrow "quid pro quo" definition of corruption focused on bribery.<sup>145</sup> Since campaign donations to PACs were supposed to be independent of the political candidates, the Supreme Court argued that there could be no "this for that" corruption, and thus, limits on such donations would be unconstitutional. As a result, corporations, individuals, and trade unions can give unlimited money to so-called super PACs, which then spend that money on behalf of, though theoretically independently of, candidates. Corporations have to disclose their contributions to super PACs, but due to a loophole in the law, they can give to non-profit organizations, which can then give the money to super PACs, without having to disclose these contributions (though donations from the non-profits to the super PACs are disclosed).<sup>146</sup> This is the so-called "dark money" of campaign finance and lobbying.<sup>147</sup>

There are three specific paths for these "dark money" funds. The first is the use of limited liability companies.<sup>148</sup> In the United States, there is no requirement for companies to reveal their beneficial owners, or the names of those who own or control the company, so that when these anonymous companies give donations, it is impossible to know who is actually behind the

143 Atif Mian, Amir Sufi, and Francesco Trebbi, "The Political Economy of the US Mortgage Default Crisis," Working Paper (Cambridge, MA: National Bureau of Economic Research, November 2008), <http://www.nber.org/papers/w14468.pdf>. This paper notes that strong ideological motivations did attenuate the willingness of some very conservative members to vote for various mortgage relief packages in spite of financial industry lobbying efforts. This could indicate that there may be limits to the US defense industry as well: if legislation is considered extremely detrimental to some members' of Congress views, some members might be willing to vote against such bills regardless of the amount of lobbying efforts.

144 Martin Gilens and Benjamin I. Page, "Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens," *Perspectives on Politics* 12, no. 03 (September 2014): 564, <https://doi.org/10.1017/S1537592714001595>. For an analysis of the academic research opposing Gilens and Page's arguments, see Dylan Matthews, "Remember That Study Saying America Is an Oligarchy? 3 Rebuttals Say It's Wrong.," *Vox* (blog), May 9, 2016, <https://www.vox.com/2016/5/9/11502464/gilens-page-oligarchy-study>.

145 Lessig, *Republic Lost*, 52–54.

146 Lessig, 54–55.

147 Lessig, 54–55.

148 "Dark Money Illuminated" (Washington, DC: IssueOne, September 2018), 9, <https://www.issueone.org/wp-content/uploads/2018/09/Dark-Money-Illuminated-Report.pdf>.

donation. The other two paths are named after sections of the US tax code. The second employs 501(c)(4) “social welfare” organizations that are supposed to be operated exclusively for the purpose of social welfare rather than conducting political activity (in which case the organization would have to declare its donors). But the Internal Revenue Service (IRS) has never set up a bright light as to how much political activity is acceptable, and a study of dark money groups between 2010 and 2016 by IssueOne found that eight of the fifteen leading dark money groups spent at least 25 percent of their money on election-focused work, and some groups at times spent over forty percent.<sup>149</sup> The third path involves 501(c)(6) organizations, which are trade associations such as chambers of commerce and real estate boards. Most notable is the US Chamber of Commerce, the largest American business lobbying organization. It is under no obligation to reveal its donors and spends considerable sums on political advertisements – \$130 million between 2010 and 2016, or one in every six dollars spent on political ads by dark money groups in that time.<sup>150</sup> Moreover, at least two dozen trade associations, which can under some situations themselves be dark money groups, contributed to dark money groups during that time, often contributing to more than one group.<sup>151</sup> Using these three paths allows donors to political campaigns to remain hidden and avoid scrutiny of how their donations may influence US politics.<sup>152</sup>

According to IssueOne’s study, like other industries, defense firms utilize dark money paths. Lockheed Martin gave at least \$50,000 per year to the US Chamber of Commerce between 2012 and 2016, while the Boeing Corporation PAC gave a total of \$250,000 in 2017 to American Action Network, a Republican-associated dark money group.<sup>153</sup> Indeed, when it comes to the defense industry, the US Chamber of Commerce may have an exceptional level of pull. The Chamber of Commerce includes

149 “Dark Money Illuminated,” 11.

150 “Dark Money Illuminated,” 5–7.

151 “Dark Money Illuminated,” 8.

152 This situation has worsened with a July 2016 announcement by the US Treasury Department that some tax-exempt organizations no longer need to report their donations to the Internal Revenue Service. See “U.S. Treasury Moves to Protect Identities of ‘dark Money’ Political...,” Reuters, July 17, 2016, <https://www.reuters.com/article/us-usa-tax-groups/u-s-treasury-moves-to-protect-identities-of-dark-money-political-donors-idUSKBN1K704F>; Ian MacDougall, “Why the IRS’ Recent Dark Money Decision May Be Less...,” text/html, ProPublica, July 25, 2016, <https://www.propublica.org/article/why-the-irs-recent-dark-money-decision-may-be-less-dire-than-it-seems>. Additionally, though a subsequent series of court orders has led the FEC to require that dark money organizations reveal their political spending in some circumstances, most have not. See Maggie Severns, “Dark-Money Groups Were Ordered to Reveal Their Donors. They Didn’t,” POLITICO, October 16, 2016, <https://politi.co/2QUTrxp>.

153 Links to all five years of reporting can be accessed via the IssueOne Dark Money donor spreadsheet. “Dark Money Illuminated” Issue One Database of Dark Money Donors,” Google Docs, accessed November 15, 2018, [https://docs.google.com/spreadsheets/d/1vplmNT1tSNoBWPsig7Hx\\_gqG85hcM70CJ\\_5DTpClYBI/edit?usp=embed\\_facebook](https://docs.google.com/spreadsheets/d/1vplmNT1tSNoBWPsig7Hx_gqG85hcM70CJ_5DTpClYBI/edit?usp=embed_facebook). Avionics and electronics firm also gave at least \$250,000 during the same period to the US Chamber of Commerce, but their filing specifically notes that the company gave no money directly or indirectly for any election-related expenses at any level. Though officially a social welfare organization, American Action Network used as much as forty per cent of its funds for political activity. In 2014 and 2016, the Federal Election Commission deadlocked 3-3 on whether it should be registered as a political action committee, and thus reveal its donors. Only 13 per cent of its donor funding could be accounted for by IssueOne. “American Action Network,” IssueOne, accessed November 15, 2018, <https://www.issueone.org/dark-money-groups-american-action-network/>.

the Defense and Aerospace Export Council (DAEC) whose mission is “to increase the competitiveness of defense and aerospace exporters.” It is led by Keith Webster, who held senior jobs in various export-related Defense Department institutions between 2003 and 2017 and is currently on the Board of Directors of defense contractor Hensoldt Inc.<sup>154</sup> Furthermore, the Chamber of Commerce is a 501(c)(4), giving it significant advantages over the other defense lobbying trade associations. First, as noted above, it can be a purveyor of dark money in a manner that many in-house defense lobbyists and trade associations cannot. Second, the Chamber of Commerce also provides advocacy and expert materials to its members. This reportedly includes a “heat map” of defense jobs in each congressional district. According to a defense lobbyist, the Chamber’s goal is to move any discussion about US defense exports “straight down to dollars and jobs in a congressional district.”<sup>155</sup> As there is tremendous pressure for Congress to preserve jobs, this heat map of jobs can be used to incentivize members of Congress.

Citizens United limited campaign finance reform to only the most egregious and obvious cases of quid pro quo political corruption. It specifically denied that “the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public’s support for the corporation’s ideas” constitute corruption.<sup>156</sup> This is unfortunate because while quid pro quo corruption still occurs, much of the potentially damaging influence of corporate campaign finance comes from repeated patterns of conduct and established relationships. A politician does not necessarily have to tell a company officer or lobbyist that he needs a campaign contribution because that need is already understood.<sup>157</sup> The quid pro quos need not be named. Moreover, many of these relationships are long-term, perhaps even genuine relationships between various company personnel and key policymakers or gatekeepers.<sup>158</sup> While it may all be legal, the results can be quite pernicious, with politicians and civil servants acting at least in part with an eye to their own self-interest (and the interests of their donors) rather than to those of the US citizens they are supposed to represent.<sup>159</sup>

## Revolving Door

The “revolving door” refers to “the phenomena of high-level government employees – including members of Congress, the staffers who work for them, and members of the executive branch – leaving their jobs in government and becoming

154 “Keith Webster,” U.S. Chamber of Commerce, May 22, 2018, <https://www.uschamber.com/keith-webster>. See also “Biography of Keith B. Webster, Director, International Cooperation” (Department of Defense, March 2017), <https://www.acq.ods.mil/ic/Links/Webster%20bio.pdf>.

155 Anonymous Defense Congressional Lobbyist 1, Anonymous Defense Congressional Lobbyist 1, interview by Jodi Vittori, January 2019.

156 As quoted in Teachout, *Corruption in America*, 232.

157 Teachout, 250–51.

158 Teachout, 251–53.

159 Teachout, 253–55.

lobbyists.”<sup>160</sup> While not all former members of Congress or their staffers become lobbyists, a 2012 survey by Lobbyists.info and George Washington University of almost 18,000 registered and non-registered lobbyists found that 54.3 percent of those surveyed had previously been an employee of the US Congress and 25.9 percent had been an employee of the executive branch.<sup>161</sup> Using the revolving door, industry (including the defense industry) can influence the behavior of officials today through the power they can wield over their future.<sup>162</sup>

While many members of Congress and their staff undoubtedly do their work for the greater good, the reality is that nowadays many use Congress as a stepping-stone for future high-paying jobs in lobbying.<sup>163</sup> In the 1970s, only three percent of retiring members of Congress became lobbyists. But between 1998 and 2004, over 50 percent of senators and 42 percent of House members became lobbyists.<sup>164</sup> In 2012, half of those who left the House and 60 percent of those who left the Senate had registered as lobbyists.<sup>165</sup> As Congressman Jim Cooper (D-TN, 1983-1995 and 2003 to present), who currently sits on the House Armed Services Committee has put it, “Capitol Hill has become a farm league for K Street.”<sup>166</sup> Of those who “revolved” to become lobbyists, 78 percent of those from the House and 87 percent of those from the Senate joined lobbying firms (which included consulting and public relations firms), 8.6 percent from the House and 8.5 percent from the Senate went to work lobbying directly for a corporation, 5.8 percent from the House and 2.5 percent from the Senate worked for a trade association, and a mere 6.8 percent of former House members and 2.5 percent from the Senate went to work on behalf of non-profits. Many former congressional members eventually start their own lobbying firms – 133 of 407 from 1976 to 2012 who became lobbyists eventually started their own firms.<sup>167</sup> Nearly all former congressional members who became lobbyists did so within the first two years of leaving office, indicating that it is access rather than policy expertise that makes former congressional members

160 Jeffrey Lazarus, Amy McKay, and Lindsey Herbel, “Who Walks Through the Revolving Door? Examining the Lobbying Activity of Former Members of Congress,” *Interest Groups & Advocacy* 5, no. 1 (2016): 82, [https://link.springer.com/epdf/10.1057/iga.2015.16?shared\\_access\\_token=NTN3rZmiyUG85-sJuy4b1x0t48VBPO10Uv7D6sAgHu0a1usHzv7kvtXR\\_RNFqq7sE3kGgz6jRNCdI0wQsdFAuWQNERe3wKAZdot65FcMnv\\_yYWLcAGdGBsfHKnoL9iW6Yh4\\_-QyXPb7lkjcoUDp2K\\_mWw7Q1HBwNM003QVM2Ng=](https://link.springer.com/epdf/10.1057/iga.2015.16?shared_access_token=NTN3rZmiyUG85-sJuy4b1x0t48VBPO10Uv7D6sAgHu0a1usHzv7kvtXR_RNFqq7sE3kGgz6jRNCdI0wQsdFAuWQNERe3wKAZdot65FcMnv_yYWLcAGdGBsfHKnoL9iW6Yh4_-QyXPb7lkjcoUDp2K_mWw7Q1HBwNM003QVM2Ng=).

161 David Rehr, “The Honest Leadership and Open Government Act: Five Years Later” (Washington, DC: Lobbyists.org and George Washington University, October 24, 2012), 14, [http://legaltimes.typepad.com/files/hloga\\_report.pdf](http://legaltimes.typepad.com/files/hloga_report.pdf).

162 Lessig, *Republic Lost*, 107.

163 For both former members of Congress and their staff, a move into lobbying can entail substantially increased pay and therefore quality of life, especially since public sector pay has stagnated while the cost of living in the Washington, DC area has increased. See “Keeping Congress Competent: Staff Pay, Turnover, And What It Means For Democracy,” Sunlight Foundation, December 21, 2010, [https://sunlightfoundation.com/policy/documents/keeping\\_congress\\_competent/](https://sunlightfoundation.com/policy/documents/keeping_congress_competent/).

164 Lessig, *Republic Lost*, 107. See also Lazarus, McKay, and Herbel, “Who Walks Through the Revolving Door? Examining the Lobbying Activity of Former Members of Congress,” 85–86.

165 Lazarus, McKay, and Herbel, “Who Walks Through the Revolving Door? Examining the Lobbying Activity of Former Members of Congress,” 90.

166 Lessig, *Republic Lost*, 223.

167 Lazarus, McKay, and Herbel, “Who Walks Through the Revolving Door? Examining the Lobbying Activity of Former Members of Congress,” 95–96.

and staffers a valuable commodity for lobbying firms.<sup>168</sup> This is despite the fact the House members are supposed to wait one year and senators two years after leaving office as a “cooling off” period before lobbying.<sup>169</sup>

Lobbyists often argue, however, that they are in fact being hired for their policy expertise and knowledge of how the system works, rather than for any other reason. Certainly, former members of Congress and their staffs can bring a great deal to a new employer, including policy expertise, knowledge of the views of key policy makers on specific issues and which arguments are likely to carry the most weight, as well as perhaps useful personal relationships.<sup>170</sup> Yet empirical studies indicate that it is the access that former members of Congress and their staff can bring which primarily motivates their being hired as lobbyists. A 2018 study found that those lobbyists most connected to their former Hill coworkers had substantially higher salaries in their first year than those who had fewer connections.<sup>171</sup> Lobbyists who are former Senate staffers tend to see a 24 percent decrease in their income when the senator they worked for leaves.<sup>172</sup> Those who had worked in Congress also tend to engage in lobbying more economic sectors than those who are not “revolvers,” indicating it is the access these lobbyists have rather than their specific policy knowledge.<sup>173</sup>

There are some rules about the revolving door for members of Congress and their staff, such as the requirement to report outside job negotiations to the House or Senate ethics committees. Former members of Congress who register to lobby also lose access to the chamber floor and some other areas. Senate rules bar a current senator from negotiating a future lobbying position until the senator’s successor is chosen (House rules are not as specific). In addition, congressional staff cannot lobby their former offices for one year and must disclose that they were formerly employed in Congress.<sup>174</sup> There are, however, ways to circumvent the rules. Many former members of Congress and staffers participate in “shadow lobbying” by joining a law firm or public relations group as a consultant, engaging in as much activity as they can just short of having to formally register as a lobbyist. This can be done to avoid breaking the law over the “cooling off” period or just to avoid what is still sometimes considered the “scarlet letter” of being labeled as

168 Lazarus, McKay, and Herbel, 96–97.

169 Lazarus, McKay, and Herbel, 97.

170 In addition, those former members of Congress who use a variety of loopholes to avoid registering as lobbyists can also access useful networking areas like the members-only gym and the chamber floor. See Lazarus, McKay, and Herbel, 84.

171 Joshua McCrain, “Revolving Door Lobbyists and the Value of Congressional Staff Connections,” *The Journal of Politics* 80, no. 4 (August 6, 2018), <https://doi.org/10.1086/698931>.

172 Lazarus, McKay, and Herbel, “Who Walks Through the Revolving Door? Examining the Lobbying Activity of Former Members of Congress,” 84.

173 Lazarus, McKay, and Herbel, 84; McCrain, “Revolving Door Lobbyists and the Value of Congressional Staff Connections.”

174 Lazarus, McKay, and Herbel, “Who Walks Through the Revolving Door? Examining the Lobbying Activity of Former Members of Congress,” 84; Russell Berman, “An Exodus From Congress Tests the Lure of Lobbying,” *The Atlantic*, May 1, 2018, <https://www.theatlantic.com/politics/archive/2018/05/lobbying-the-job-of-choice-for-retired-members-of-congress/558851/>.

a lobbyist. For example, former Speakers of the House Newt Gingrich and John Boehner both joined lobbying firms but did not register as lobbyists.<sup>175</sup>

The revolving door works the other way, too, in a phenomenon sometimes referred to as the “reverse revolving door.” Though both Presidents Obama and Trump stated that they would restrict lobbyists in government, the Trump administration in particular has not enforced its rules on lobbyists in federal positions, with at least 187 political appointees who were former federal lobbyists.<sup>176</sup>

The revolving door is a significant element of the US defense sector, representing a pathway to influence between the defense industry and the government and, therefore, a potential corruption risk. In the Department of Defense, in particular, many individuals ping pong between defense contractors and government work and then back again. This can mean that actors in the legislative and executive branches of government influence policies with an eye towards making their future employers in the defense industry happy. This helps entrench the revolving door system.<sup>177</sup> Former lobbyist Jack Abramoff once famously quipped, “I would say or my staff would say to him or her at some point, ‘You know, when you’re done working on the Hill, we’d very much like you to consider coming to work for us.’ Now the moment I said that to them or any of our staff said that to ‘em, that was it. We owned them.”<sup>178</sup> Many members of Congress, their staffers, military leaders, and Defense, State, and Commerce Department officials see lobbying as an important part of their overall compensation packages – a combination of lower-paid government posts and lucrative private sector work results in a substantial average salary over the course of a career. Absent the revolving door, the retirement plans of many from relatively lower level military jobs all the way up to very senior political appointments would downsize considerably, “For the choice to make Washington clean is now a choice to make a member poor.”<sup>179</sup>

One example of the revolving door is Eric Fanning, head of the Aerospace Industries Association (AIA), a defense trade group, who reportedly makes about \$1 million per year.<sup>180</sup> Prior to becoming President and CEO of AIA, Fanning was the Secretary of the Army, as well as having served as Chief of Staff to the Secretary of Defense, Acting Secretary of the Air Force, Deputy Undersecretary of the Navy, and as a staffer on the House Armed Services Committee.<sup>181</sup> [There is no suggestion that Fanning has acted improperly.] The revolving door is not

<sup>175</sup> Berman, “An Exodus From Congress Tests the Lure of Lobbying.”

<sup>176</sup> Berman.

<sup>177</sup> Lessig, *Republic Lost*, 225.

<sup>178</sup> Teachout, *Corruption in America*, 246–47.

<sup>179</sup> Lessig, *Republic Lost*, 229.

<sup>180</sup> Anonymous Defense Congressional Lobbyist 1, Anonymous Defense Congressional Lobbyist 1.

<sup>181</sup> “Eric Fanning,” Aerospace Industries Association, accessed January 15, 2019, <https://www.aia-aerospace.org/personnel/eric-k-fanning/>.

confined to civilians: plenty of senior military officers go on to employment in the private sector, some of which can involve at least the appearance of a conflict of interest. The laws on this kind of employment for former senior military officers, like those regarding other federal employees, require a variety of “cooling off” periods, often lasting one to two years, though some can last for life. However, just as with other federal and congressional employees, these laws are riddled with loopholes.<sup>182</sup>

The major defense trade associations rely on the revolving door for their leadership. As mentioned above, the head of the Chamber of Commerce’s DEAC is Keith Webster, who between 2003 and 2017 held senior jobs in various export-related Defense Department institutions.<sup>183</sup> The CEO of the NDIA trade association, Craig R McKinley, who made \$463,000 in 2015 while the COO, is the former head of the Air Force Association and a retired Air Force four-star general.<sup>184</sup> The head of the Professional Services Council is David Berteau. Before joining PSC, he was the Assistant Secretary of Defense for Logistics and Materiel Readiness.

The Project on Government Oversight (POGO) maintains a database of all senior political appointees, military officers ranked at O-6 (colonel or captain, depending on the branch of service), and civilian equivalents in the Department of Defense who go to work for “an entity with a significant financial interest in the operations of the Department of Defense within two years—the recommended ‘cooling off period’ between when someone leaves government service and when they join an entity that has a financial interest in the work they performed while in government.”<sup>185</sup> In this case, significant financial interest is defined as \$10 million or more in Defense Department contracts per fiscal year.<sup>186</sup> In 2018 alone, POGO found 645 instances where the top 20 defense contractors hired former senior government officials, military officers, members of Congress, and senior legislative staff to be lobbyists, board members or senior executives; a quarter of that 645 went to work in the top 5 defense firms (Lockheed Martin, Boeing, Raytheon, General Dynamics, and Northrop Grumman). Of those 645, 25 were (4-star) generals, 9 were (4-star equivalent) admirals, 43 were (3-star) lieutenant generals, and 23 were (3-star equivalent) vice admirals.<sup>187</sup>

Examples over the last few years include Rear Admiral Gary W. Rosholt, former defense attaché to the US Embassy in Abu

<sup>182</sup> For an extensive list of laws and executive orders related to senior military and civilians and the revolving door, see the “Ethics Law Guide,” Appendix A in “Brass Parachutes,” 64–87.

<sup>183</sup> These included Principal Director of Business Operations for the Defense Security Cooperation Agency (DSCA) (which administers the financial aspects of all Foreign Military Sales programs) (2003-2007), Deputy Assistant Secretary of the Army for Defense Exports and Cooperation (2007-2012), and Director for International Cooperation for the Under Secretary of Defense for Acquisition, Technology, and Logistics (AT&L) (2012-2017). See “Biography of Keith B. Webster, Director, International Cooperation.”

<sup>184</sup> “National Defense Industrial Association 2015 IRS Form 990.”

<sup>185</sup> “Brass Parachutes,” 7.

<sup>186</sup> “Brass Parachutes,” 7.

<sup>187</sup> “Brass Parachutes,” 9–10.

Dhabi in the United Arab Emirates, and, from February 2017, Vice President of Middle East operations at L3 Technologies.<sup>188</sup> He is also the co-founder and CEO of Trident Military Equipment Trading, LLC in Abu Dhabi, and on the advisory board of the Defense Services Marketing Council, a “by invitation only” group of business development, public relations, and marketing executives who do business in the Middle East region.<sup>189</sup> Another example is Vice Admiral Robert Harward, former Deputy Commander of US Central Command (2011 to 2013), who became Chief Executive Officer of Lockheed Martin in charge of all aspects of the company’s business in the UAE a year later, followed by a promotion in June 2018 to CEO of the entire Middle East region (which also includes Pakistan and Afghanistan).<sup>190</sup> Likewise, Lt General James Terry was the Army component commander to the US Central Command from June 2013 to November 2015, when he retired from the Army and joined Cubic Corporation in August 2016 as senior vice president for business development for all ground systems training and services for the Army, Marine Corp, and special operations in the Middle East.<sup>191</sup>

The revolving door connects the US government not only with US defense firms but sometimes also directly with Middle East governments. President Barack Obama’s first national security advisor, General (Retired) James Jones, also a former Commandant of the Marine Corps and Supreme Allied Commander of NATO, had a contract with Saudi Arabia to assist with the country’s military overhaul through his company Jones Group International.<sup>192</sup> While the contract was entirely legal and approved by the Defense Department, given the criticism of the Saudi-led coalition against Yemeni rebels and the American support of it, there is a possibility of the perception of a conflict of interest.<sup>193</sup> Indeed, with the appropriate permissions it is entirely legal for retired US military officers to work on

<sup>188</sup> “Brass Parachutes,” 26–27; “L3 Appoints Retired Rear Admiral Gary W. Rosholt as Vice President of Middle East Operations,” L3 Technologies, February 8, 2017, <https://www.l3t.com/press-release/l3-appoints-retired-rear-admiral-gary-w-rosholt-vice-president-middle-east-operations>.

<sup>189</sup> “Defense Services Marketing Council UAE | About Us,” Defense Services Marketing Council UAE, accessed November 9, 2018, <https://www.defenseservicesmarketingcouncil.com/about-us-c1dxx>; “Defense Services Marketing Council (DSMC),” Crunchbase, accessed November 9, 2018, <https://www.crunchbase.com/organization/defense-services-marketing-council-dsmc>.

<sup>190</sup> “Robert S. Harward Jr.: Executive Profile & Biography,” Bloomberg, accessed November 9, 2018, <https://www.bloomberg.com/research/stocks/private/person.asp?personId=275945774&privcapId=225809259>; “Lockheed Martin Appoints Bob Harward to Lead Middle East Business,” Media - Lockheed Martin, accessed November 14, 2018, <https://news.lockheedmartin.com/2018-06-25-lockheed-martin-appoints-bob-harward-to-lead-middle-east-business>; “Brass Parachutes,” 26–27. Vice Admiral Harward had turned down an offer to be the National Security Advisor after General Michael Flynn was fired.

<sup>191</sup> “James Terry,” Cubic Corporation, accessed November 14, 2018, <https://www.cubic.com/about/people/james-terry>; “Former Army Centcom Chief James Terry Joins Cubic in Defense BD SVP Post, Eric Carr Gets Promotion,” GovCon Wire (blog), August 15, 2016, <https://www.govconwire.com/2016/08/former-army-centcom-chief-james-terry-joins-cubic-as-defense-bd-lead-eric-carr-promoted-to-svp-role/>; “Lt. Gen. James L. Terry, U.S. Army Retired,” Association of the United States Army, June 22, 2016, <https://www.ausa.org/people/lt-gen-james-l-terry-us-army-retired>; “Brass Parachutes,” 32.

<sup>192</sup> The contract is actually with a subsidiary of Jones Group International called Ironhand Security. According to its website, it has since merged back into its parent company. “Ironhand Security,” accessed November 9, 2018, <http://www.ironhand.us/>.

<sup>193</sup> Betsy Woodruff, “Obama’s First National Security Adviser Now Works for the Saudis,” Daily Beast, October 18, 2018, sec. politics, <https://www.thedailybeast.com/obamas-first-national-security-adviser-now-works-for-the-saudis>.

behalf of governments and other entities in the Middle East.<sup>194</sup> For example, Secretary of Defense James Mattis received permission to conduct unpaid military advisory work for the UAE government in 2015.<sup>195</sup> Former American servicemembers are also permitted to serve in foreign militaries, provided that military is not at war with the US (in which case it would be considered treason). If the former servicemember is technically a contractor, then the US State Department is supposed to sign off if they plan to undertake training, advising, or other support functions, though this is a policy rather than a law.<sup>196</sup>

The UAE has been especially prominent in hiring Westerners to lead some of its most important units. The Presidential Guard, the most elite unit in the UAE military, was created and continues to be commanded by retired Australian Major General Mike Hindmarsh.<sup>197</sup> In addition, the head of the Joint Aviation Command (JAC) in the UAE is His Excellency (HE) Major General Staff Pilot Stephen Toumajan, who prior to joining the UAE military, was a Lieutenant Colonel in the US Army.<sup>198</sup> According to his biography posted on the UAE National Search and Rescue Center (which Maj Gen Toumajan also commands), he is “...the Commander and Senior Aviation Advisor for the Joint Aviation Command. [sic] Specifically responsible for combat readiness and execution of all aviation missions and training for UAE forces and numerous Foreign Military Sales (FMS) and Direct Commercial Sales (DCS) programs.”<sup>199</sup> This means that even though Toumajan is apparently paid by the UAE, he is tightly intertwined in potential US defense export pathways through his role in UAE FMS and DCS purchases, along with his board memberships of various Emirati defense-related firms, including a joint venture between Lockheed Martin and UAE’s state-owned holding company Emirates Defense Industries Company.<sup>200</sup>

<sup>194</sup> “Brass Parachutes,” 27.

<sup>195</sup> Jeremy Herb, “First on CNN: Mattis Advised UAE Military before Joining Trump Administration,” CNN, August 2, 2017, <https://www.cnn.com/2017/08/02/politics/mattis-advised-uae-military/index.html>.

<sup>196</sup> Aram Roston, “A Former US Army Officer Is Now A General For A Country Accused Of War Crimes,” BuzzFeed News, May 7, 2018, <https://www.buzzfeednews.com/article/aramroston/stephen-toumajan-general-us-uae-yemen-contractor>.

<sup>197</sup> Dylan Welch et al., “They Were Our Best. Now They Advise a Foreign Army Accused of War Crimes,” ABC News (Australia), December 14, 2018, <https://www.abc.net.au/news/2018-12-14/australian-army-veterans-advising-foreign-army-accused-war-crime/10611142>.

<sup>198</sup> Though Maj Gen Toumajan carries business cards with his rank as a UAE officer he denies he is directly within the command structure of the UAE military. This could be because he is concerned about allegations that helicopters from the Joint Aviation Command may have been involved in war crimes in Yemen, for which, under the concept of command responsibility, he could be held responsible. A retired CIA official who worked with the UAE was quoted by BuzzFeed as saying, “The two operational guys that they [UAE] rely on to run the fucking war for them is Mike Hindmarsh and Stephen Toumajan...basically, they’ve got foreign mercenaries fighting the war—or commanding the war, I should say.” See Roston, “A Former US Army Officer Is Now A General For A Country Accused Of War Crimes.”

<sup>199</sup> “Director General’s Message | About NSRC | National Search and Rescue Center | UAE,” United Arab Emirates The Supreme Council for National Security Search and Rescue Center, accessed June 12, 2019, <https://www.nsrc.gov.ae/en/about-us/director-generals-message.aspx>.

<sup>200</sup> Lockheed Martin and Sikorsky helicopter (now owned by Boeing) both have a relationship with AMMROC, which does repair and maintenance of Black Hawk helicopters and C-130 cargo aircraft. BAE just signed a technology transfer agreement with AMMROC in February 2019. Agnes Helou, “BAE Systems Inks Deal with Emirati Repair and Overhaul Center for F-16 Tech Transfer,” Defense News, February 19, 2019, <https://www.defensenews.com/digital-show-dailies/dex/2019/02/18/bae-systems-signs-agreement-with-emirati-repair-and-overhaul-center-for-f-16-tech-transfer/>.

Though a revolving door case like that of Toumajan is rare – the vast majority of servicemembers and civilians who move into the defense industry will never have been in a position to significantly affect the bottom lines of any defense companies – it serves to highlight the potential conflict of interest and corruption risks for a few individuals in especially influential positions. Military personnel and key civilian staffs in the Defense and State Departments may find themselves acting with an eye towards potential future employment opportunities rather than making decisions based on the good of the nation. Likewise, former officials may be monetizing their past employment to use their influence in ways that may be good for their civilian employers, but not necessarily for the good of the United States. Those in key positions who make decisions with an eye to possible future lucrative employment can potentially compromise the good of the American nation for their own personal benefit.

## Case Study: the McKeon Group and the Congressional Revolving Door

The McKeon Group provides a vivid example of the use of the revolving door and campaign finance for influencing elected officials. The McKeon Group was founded by Howard “Buck” McKeon, a Republican Congressman representing a California district from 1993 to 2015. This district includes the eastern edge of Los Angeles and borders the southern edge of Edwards Air Force Base. The entire region is an important defense industrial center. From 1991 to 2014, Buck McKeon received over \$1.5 million from the defense industry in campaign contributions, and the defense sector was his largest industrial sector donor. During that time period, his top five donors (in order) were Lockheed Martin, Northrop Grumman, General Atomics, General Dynamics, and Boeing. BAE systems was his tenth largest donor, Textron his sixteenth, and Raytheon his nineteenth.<sup>201</sup> Overall, he was one of the top five recipients of defense industry money during this time period.<sup>202</sup>

When McKeon left Congress, he set up the McKeon Group, a lobbying firm. Buck McKeon is not shy about advertising his revolving door status. The McKeon Group’s homepage states that it is “the only firm led by a former Chairman of two full congressional Committees [...] leveraging years of experience as a member of Congress and on several key committees.” The webpage further states, “We leverage our established relationships throughout the government to network.”<sup>203</sup> Also on staff is John Chwat, a Hill staffer since 1971, who was Chief of

201 “Rep. Buck McKeon - Campaign Finance Summary,” OpenSecrets, accessed December 11, 2018, <https://www.opensecrets.org/members-of-congress/summary?cid=N00006882&cycle=CAREER>.

202 Avi Asher-Shapiro, “Arms Sales To Saudi Arabia: The Kingdom Hires A Powerful Former Lawmaker To Lobby Trump White House And Congress,” *International Business Times*, November 23, 2016, <https://www.ibtimes.com/political-capital/arms-sales-saudi-arabia-kingdom-hires-powerful-former-lawmaker-lobby-trump-white>.

203 “McKeon Group--Who We Are,” McKeon Group, accessed December 11, 2018, <https://mckeongrp.com/>.

Staff to three members of Congress and a national defense and foreign policy analyst for the Congressional Research Service.<sup>204</sup>

McKeon signed as a registered foreign agent for the Saudi government in 2016 soon after setting up his firm. During McKeon’s time as Chairman of the House Armed Services Committee, \$10 billion in military sales were approved to Saudi Arabia – a doubling of previous sales to Saudi Arabia. Over his tenure he received numerous campaign contributions from companies exporting to Saudi Arabia.<sup>205</sup> Indeed, as defense expert William Hartung noted, “Hiring the former head of the House Armed Services Committee to run interference for them [the Saudi government] makes sense from a Saudi perspective...McKeon will be helping old friends like Boeing and Lockheed Martin, major campaign contributors of his who are profiting handsomely from the US-Saudi weapons trade.”<sup>206</sup>

## Defense Offsets

Defense offsets are provisions in contracts that promise specific benefits to the contracting country as a condition of that country purchasing goods and services from a nondomestic supplier. These are often requirements for contractors to use local subcontractors or for some level of local content such as locally produced parts, called direct offsets. Defense offsets can also include requirements for financial or other support to local businesses or other entities with no direct connection to the original contract itself, called indirect offsets (examples are noted below).<sup>207</sup> Purchasing countries usually justify offset contracts as a means of developing indigenous technology or industrial capacity, protecting national sovereignty, or reducing imports and improving overall balance-of-payments accounts.<sup>208</sup>

As Thomson Reuters notes, “In shorthand, that means that offsets are side agreements, or sweeteners, ancillary to a government contract that provide additional benefits to the buyer.”<sup>209</sup>

Defense offsets rarely make economic sense. Arms deals using offsets are usually more expensive than off-the-shelf arms purchases and they generally create little or no sustainable employment. That often leaves a state’s citizens footing a higher defense bill, while public subsidies go to local interests.<sup>210</sup>

204 “McKeon Group--John Chwat,” McKeon Group, accessed December 11, 2018, <https://mckeongrp.com/who-we-are/john-chwat/>.

205 Asher-Shapiro, “Arms Sales To Saudi Arabia: The Kingdom Hires A Powerful Former Lawmaker To Lobby Trump White House And Congress.”

206 Asher-Shapiro.

207 Susan Rose-Ackerman and Bonnie J. Palifka, *Corruption and Government: Causes, Consequences, and Reform*, 2nd ed. (New York, NY: Cambridge University Press, 2016), 108; Kevin Dehoff, John Dowdy, and O Sung Kwon, “Defense Offsets: From ‘Contractual Burden’ to Competitive Weapon,” McKinsey & Company, July 2014, <https://www.mckinsey.com/industries/public-sector/our-insights/defense-offsets-from-contractual-burden-to-competitive-weapon>.

208 Andy Irwin, Peter Jeydel, and Christian Sylvain, “Offsets in International Trade,” Thomson Reuters Briefing Papers, no. 15–8 (July 2015): 1–2, <https://www.steptoe.com/images/content/6/0/v4/6067/Offsets-in-International-Defense-Trade-Thomson-Reuters-Briefing-Paper.pdf>.

209 Irwin, Jeydel, and Sylvain, 1.

210 “Guns and Sugar,” *The Economist*, May 25, 2013, <https://www.economist.com/business/2013/05/25/guns-and-sugar>.

The World Trade Organization prohibits offsets in all sectors except for defense.<sup>211</sup> Official American government policy, as laid out in the Defense Production Act Amendments of 1992, also discourages offsets as “economically inefficient and distorting,”<sup>212</sup> though in reality, “the law [on American defense offsets] might be said to take a see-no-evil-hear-no-evil policy and leaves it to the private sector to work out any offset arrangements without government support or hinderance.”<sup>213</sup> The Department of Commerce estimates that offset contracts valued at \$11 billion could have sustained over 42,000 jobs in the United States if the work involved in those contracts had been performed at home rather than abroad between 2014 and 2016.<sup>214</sup>

These contracts are also often a common means of kickbacks to various elites and other forms of corruption, such as when a defense offset is directed to companies linked to senior defense officials in the purchasing country. For instance, due to the complexity of local offset rules, local counsel, advisors, or other consultants are often needed to navigate requirements, which can lead to a high risk of bribery.<sup>215</sup> Moreover, since offset contracts are usually secret or provide only the most minimal information, the lack of transparency in the contract itself or with regard to the beneficial owners of companies associated with the contract, enables the possibility of corruption. Defense firms often argue that offsets should be classified as “proprietary” information to prevent an offset contract’s disclosure. Because of its association with corruption and other “dark arts,” the term “offset” is considered a dirty word, and the industry now often uses the term “industrial participation.”<sup>216</sup>

Offsets have been a major means for defense companies to improve their contract’s standing vis-à-vis other competitors, and some countries require offsets as part of their contracting processes. As McKinsey & Company noted in 2014, “Although they are not usually reported in annual filings ... [o]ver the past 20 years, US defense contractors have typically entered into an average of 30 to 60 offset agreements each year, representing between \$3 and \$7 billion in obligations per year.”<sup>217</sup> In 2016, the American defense industry reported 33 new offset agreements valued at \$1.5 billion out of total sales of \$4.4 billion. Thus, offset agreements accounted for an astounding 34 percent of the total value of defense articles and services which included

211 Irwin, Jeydel, and Sylvain, “Offsets in International Trade,” 2.

212 Rose-Ackerman and Palifka, *Corruption and Government*, 108; “Offsets in Defense Trade, Twenty-Second Study” (Washington, DC: US Department of Commerce Bureau of Industry and Security, June 2018), 1, <https://bis.doc.gov/index.php/documents/pdfs/2231-22nd-offsets-in-defense-trade-report-public/file>.

213 Irwin, Jeydel, and Sylvain, “Offsets in International Trade,” 4.

214 The Department of Commerce estimates that the associated American defense export contracts were nevertheless a net benefit to the United States with a net gain of \$20.2 billion to the American economy and over 65,000 net jobs created between 2014–2016. “Offsets in Defense Trade, Twenty-Second Study,” 16–18. Foreign military sales (FMS) rules allow contracts to recover costs associated with some offsets in their FMS transactions. Irwin, Jeydel, and Sylvain, “Offsets in International Trade,” 4.

215 Irwin, Jeydel, and Sylvain, “Offsets in International Trade,” 6; “Guns and Sugar.”

216 “Guns and Sugar.”

217 Dehoff, Dowdy, and Kwon, “Defense Offsets.”

offset agreements. And because offset obligations are normally multi-year requirements, in 2016, American firms reported 508 offset transactions for prior offset agreements with 26 countries worth \$2.6 billion.<sup>218</sup> Between 1993 and 2016, 61 firms engaged in 1,089 offset agreements with 50 countries. The total contract value was nearly \$186 billion, of which the offset agreements totaled almost \$113 billion, so that offsets made up 61 percent of the value of the contract agreements.<sup>219</sup>

At least since 1993, indirect offsets have been the favored type for American defense firms, making up about 60 percent of offset obligations, and 2016 was no exception with indirect offsets making up almost 66 percent of the total.

The remaining third of offsets were direct offsets. In 2016, the three most common types of offset transactions were purchases, subcontracting and “other,” a category historically consisting generally of technology transfer. Purchasing agreements are by far the most common type of offset transaction, making up almost 47 percent of agreements from 1993 to 2016.<sup>220</sup> US defense exports associated with aircraft manufacturing were the most likely to include offset requirements, followed by guided missile and space vehicle exports. In contrast, only a paltry 3.36 percent of American defense services contracts had offset requirements.<sup>221</sup>

Offsets to Middle East governments, especially the UAE and Saudi Arabia, go back decades. The Saudis’ first offset programs began in the 1960s when they purchased Lightning and Strikemaster aircraft from what was then the British Aircraft Corporation (now BAE). This became more formalized in 1983 when the Saudi government established the Saudi Economic Offset Committee to facilitate and monitor offsets. The first American offsets to Saudi Arabia came in 1985 when Saudi Arabia purchased a ground-based air defense system called Peace Shield, which included the sale of the Airborne Warning and Command System (AWACS). Boeing assumed a thirty-five percent offset obligation, about \$600-\$700 million. Out of the Peace Shield deal came major actors in the Saudi defense industry, including the Saudi Advanced Industries Company (SAIC), International Systems Engineering, Middle East Propulsion Company, and Advanced Electronics Company.<sup>222</sup> A summary of the program requirements for Saudi Arabia and the UAE are as follows:

218 The Department of Commerce is required to submit an annual report to Congress on the impact of offsets on the US defense industrial base. Companies must report annually on contracts for sale of defense articles or services to foreign governments or foreign firms that exceed \$5,000,000 in value and offset transactions with an offset credit of \$250,000 or more. As a result of the high thresholds, actual offset obligations may be undercounted. The 22nd report cited here is the most recent report. Unfortunately, the report only provides total numbers and industrial sectors, and does not break out defense offset information by US firm nor by purchasing country. “Offsets in Defense Trade, Twenty-Second Study,” ii.

219 “Offsets in Defense Trade, Twenty-Second Study,” 3.

220 “Offsets in Defense Trade, Twenty-Second Study,” 7–8.

221 “Offsets in Defense Trade, Twenty-Second Study,” 11–12.

222 Leo G.B. Welt and Dennis B. Wilson, “Offsets in the Middle East,” *Middle East Policy Council VI*, no. 2 (1998), <https://www.mepec.org/journal/offsets-middle-east>; Florence Gaub and Zoe Stanley-Lockman, *Defence Industries in Arab States: Players and Strategies*, Chaillot Papers, No 141 (March 2017) (Paris: European Union Institute for Security Studies, 2017), 27.

	Saudi Arabia	United Arab Emirates
Agency handling	Economic Offset Committee	UAE Offsets Group (UOG)
Part of Procurement Decision	Yes	Yes
Offset Sector	Civilian and military	Military
Minimum Value of Contract	Not specified	\$10 million
Minimum Offset Required	35%	60%
Term	Within 10 years	7 years
Multipliers	Subject to approval of offset authority	Yes but unpublished
Penalties	Best efforts reconsidering policy	8.5% of offset obligation or 4.5% of total contract
Focus	Jobs, training, technology transfer and investment	Sustainable wealth creation
Direct vs. Indirect	Mix with original focus on direct	No distinction
Eligible Offset Activities	Investment in joint ventures with local parties	Profits of joint ventures with local parties

Figure 2 Comparing Offset Obligations in Saudi Arabia & UAE<sup>223</sup>

The chart above highlights key issues with Saudi Arabia and Emirati offset programs. First, both of these countries make offsets a requirement for defense contracts. Those offsets are also quite large, with the value worth a third (in the case of Saudi Arabia) to almost two-thirds (in the case of the UAE) of the defense contract itself, though companies negotiate with these governments over how much they must actually invest, often using offset brokers as intermediaries.<sup>224</sup> Both countries also allow offset contracts through local joint ventures, which itself is not necessarily a problem if the actual owners of the local contracts are publicized and the joint ventures comply with strict conflict of interest laws and regulations. In both Saudi Arabia and the UAE, however, the owners of companies involved in joint ventures are not known,<sup>225</sup> hypothetically allowing those with influence over the outcomes of specific defense procurement to also directly benefit from the offset contracts. At least some senior leaders in the UAE military also have direct ties to defense companies there.

Offsets to Arab countries have been notable for the range of indirect offsets related to defense contracts. Thompson-CSF became involved in the garment industry as part of a defense offset obligation. Raytheon took part in aluminum smelting. McDonnell-Douglas Helicopter Company (which later become

part of Boeing) became part of an oil spill cleanup company.<sup>226</sup> Raytheon even took part in a shrimp farm in Saudi Arabia, which eventually went bust after it could not keep its pools properly maintained.<sup>227</sup>

In some cases, the defense contractor and the purchasing country do not need to be directly involved in the offset. In the late 1990s, for instance, the UAE required a sustainable joint venture with a local UAE partner which would have at least 51 percent ownership. The foreign joint partner did not have to be the actual defense contractor, however, but could be a third party that the supplier encouraged into the joint venture.<sup>228</sup> Companies working in the UAE who had more offset credits than they needed on one particular project could also trade such credits to other companies.<sup>229</sup> Such inducements to third parties could easily be a means of corruption. Given the extremely opaque nature of offsets in the UAE, it is unclear whether this arrangement is still permissible.

Both the UAE and Saudi Arabia have also allowed for pre-emptive offset investments “in anticipation of receiving a contract for the sale of military equipment.”<sup>230</sup> For example, before McDonnell Douglas competed for a contract to sell \$5 billion in F-15 fighter jets, it announced it would set up an \$18 million plant to refine oils into shampoo and paint. Lockheed Martin and BAE have also previously set up companies in anticipation of offsets should their companies win their respective defense contracts. Perhaps one of the strangest pre-contract offsets was when three French companies – Dassault Aviation, Thomson-CSF, and Snecma – jointly formed a venture with Al-Hamed Enterprises to build greenhouses to produce fresh flowers.<sup>231</sup>

## Case Study: The UAE and the Middle East Institute

While offsets are usually focused on MENA states, in at least one case they were used to encourage American defense export policies. In 2017, a series of leaked emails indicated that a Washington, DC-based think tank, the Middle East Institute, had received \$20 million in donations between 2016 and 2017, a grant larger than its annual budget. The donations were to “augment its scholar roster with world class experts in order to counter the more egregious misperceptions about the region, inform US government policy makers, and convene regional leaders for discreet dialogue on pressing issues.” That donation was routed through the Emirates Center for Strategic Studies and Research (ECSSR), an Abu Dhabi-based think tank, at the behest of Ambassador Yousef Otaiba, the UAE Ambassador to

226 Welt and Wilson, “Offsets in the Middle East.”

227 “Guns and Sugar.”

228 Welt and Wilson, “Offsets in the Middle East.”

229 Welt and Wilson.

230 Welt and Wilson.

231 Welt and Wilson.

223 Originally cited in Bilal Y Saab and Atlantic Council of the United States, *The Gulf Rising: Defense Industrialization in Saudi Arabia and the UAE*, 2014, [www.atlanticcouncil.org/images/publications/The\\_Gulf\\_Rising.pdf](http://www.atlanticcouncil.org/images/publications/The_Gulf_Rising.pdf), as displayed in Gaub and Stanley-Lockman, *Defence Industries in Arab States*, 28.

224 “Guns and Sugar.”

225 “United Arab Emirates Government Defense Anti-Corruption Index 2015” (London, UK: Transparency International Defence and Security Program, 2015), [http://government.defenceindex.org/generate-report.php?country\\_id=6357](http://government.defenceindex.org/generate-report.php?country_id=6357); “Saudi Arabia Government Defence Anti-Corruption Index 2015” (London, UK: Transparency International Defence and Security Program, 2015), [http://government.defenceindex.org/generate-report.php?country\\_id=6333](http://government.defenceindex.org/generate-report.php?country_id=6333).

Washington. The funds for the ECCSR grant in turn came from Tawazun, a fund created for companies to donate cash in lieu of offset projects in the UAE.<sup>232</sup>

The Tawazan Economic Council (formerly the Offset Program Bureau) was founded in 1992 in the UAE and runs six defense training facilities. It is also the arbitrator for the Emirati offset program.<sup>233</sup> It manages firms through its Tawazun Holding Company LLC (established in 2007), many of which were unified with two other major state-owned holding companies in 2014 (Emirates Advanced Investments Group (EAIG) and Mubadala Development Company) to form the Emirates Defense Industries Company (EDIC). The Tawazun Economic Council claims it was responsible for helping to create such companies as Etihad Airways, the Mubadala Investment Corporation, the Abu Dhabi Water and Electricity Authority, and its stock markets.<sup>234</sup>

The UAE accepted cash payments to Tawazun as part of companies’ required offsets to win UAE defense contracts, a procedure that was in State Department national trade estimates for the UAE.<sup>235</sup> The use of actual cash rather than some form of investment is highly unusual. The offset cash was then funneled through ECCSR, which is controlled by the UAE government, to the Middle East Institute which was used to create advocacy via reports, meetings, and so forth that would encourage American foreign policies deemed friendly to the Emirati and Saudi governments in particular. As defense analyst William Hartung noted, “Offsets are a common practice in the global arms trade, and they are largely unregulated...I’m less familiar with the idea of using cash payments, which seem at best a form of legalized bribery. And if the UAE is truly ploughing some of these funds back into lobbying efforts or funding of think tanks in the US, it seems particularly inappropriate – an egregious case of foreign influence peddling, indirectly financed by US companies.”<sup>236</sup>

## “Soft” Influence

This indirect influence in the US defense sector can take any number of forms from financial support, to think tanks, to senior leaders who sit on voluntary boards, to advertising. While these indirect influence methods do not necessarily have the same impact on policies as the more direct pathways such as

232 Ryan Grim, “Gulf Government Gave Secret \$20 Million Gift To D.C. Think Tank,” *The Intercept* (blog), August 10, 2017, <https://theintercept.com/2017/08/09/gulf-government-gave-secret-20-million-gift-to-d-c-think-tank/>.

233 Gaub and Stanley-Lockman, *Defence Industries in Arab States*, 48–52.

234 “Tawazun Economic Council, the Organisation That Helped Create Mubadala, Etihad Airways and Adwea, Celebrates 25 Years,” *The National*, October 31, 2017, <https://www.thenational.ae/uae/tawazun-economic-council-the-organisation-that-helped-create-mubadala-etihad-airways-and-adwea-celebrates-25-years-1.671946>.

235 See, for example, “UAE Draft 2008 National Trade Estimate Report,” *Wikileaks Public Library of US Diplomacy* (United Arab Emirates Abu Dhabi, November 8, 2007), [https://wikileaks.org/plusd/cables/07ABUDHABI1865\\_a.html](https://wikileaks.org/plusd/cables/07ABUDHABI1865_a.html). This was also stated in a 2005 UAE National Trade Estimate report on UAE, also published by Wikileaks.

236 Alex Emmons, “Weapons Money Intended For Economic Development Being Secretly Diverted to Lobbying,” *The Intercept* (blog), August 17, 2017, <https://theintercept.com/2017/08/17/weapons-money-intended-for-economic-development-being-secretly-diverted-to-lobbying/>.

campaign finance or the revolving door, they nevertheless help prop up these more direct influence routes.

Think tanks have already been highlighted above in the offsets section detailing the case of the Middle East Institute. US defense industry money also played an important role in a parallel campaign with the Center for Strategic and International Studies (CSIS). Boeing and Lockheed Martin, who had been long time contributors to CSIS, plus General Atomics (maker of the Predator drone), helped fund a study of drone exports in 2013. As part of this project, CSIS set up closed-door workshops between the various military services, the Office of the Secretary of Defense (OSD), congressional staff, and key members of industry including representatives from Lockheed Martin, Boeing, Northrop Grumman, and General Atomics. No lobbying report was filed by CSIS, and CSIS publicly stated that they do not engage in lobbying.<sup>237</sup> Then in February 2015, the State Department gave approval for sales of unarmed Predator drones to the UAE.

It is impossible to disentangle how much the final CSIS report favoring drone exports contributed to the State Department decision to grant approvals, but the situation certainly raises questions. Of course, CSIS researchers may genuinely and legitimately have reached the conclusion that more drone exports are good for American foreign policy. Additionally, workshops like the one CSIS organized where government experts, legislative experts, and civil society groups get together can be an important and legitimate means for understanding policy dilemmas on controversial issues. Meetings are often closed door and under some form of Chatham House rules that allow for non-public disclosure of the specifics of a meeting in order to ensure all participants can air their concerns freely. Nonetheless, the State Department’s ultimate approval of drone sales in this context warrants scrutiny and raises concerns.

CSIS and the Middle East Institute are not the only think tanks where interactions between funding sources and policy recommendations have raised concerns.<sup>238</sup> Leaked emails revealed at least 15 meetings between Lockheed Martin leaders and Heritage Foundation senior researchers as the Heritage Foundation undertook a series of reports and blog posts supporting continued funding of the F-22 fighter jet. This campaign ran in parallel with a 2009 decision by then-Secretary of Defense Robert Gates and Air Force Secretary Michael Donley to strongly request that Congress end further production once 187 F-22s had been produced, given the plane’s very significant cost overruns and decade-long delay. The Heritage Foundation publications ran in parallel with Lockheed Martin lobbying on the

237 Eric Lipton and Brooke Williams, “How Think Tanks Amplify Corporate America’s Influence,” *The New York Times*, August 7, 2016, sec. Politics, <https://www.nytimes.com/2016/08/08/us/politics/think-tanks-research-and-corporate-lobbying.html>. To see the original documents associated with this case, go to “C.S.I.S. and the Military Drone Maker,” *The New York Times*, August 7, 2016, sec. U.S., <https://www.nytimes.com/interactive/2016/07/24/us/politics/document-CSIS.html>.

238 Note that it is not only Saudi Arabia and the UAE who fund think tanks in order to help influence American foreign policy. Qatar, for example, has also done so.

issue to reinstate funding. In 2008, Lockheed Martin contributed \$40,000 to the Heritage Foundation.<sup>239</sup>

Determining what constitutes legitimate think tank work versus what crosses the line into lobbying can be tricky. Advocacy groups regularly seek out empirical work that bolsters their case from academics and think tanks, and some think tanks and academics may help advocacy causes they support by undertaking work they believe will help provide empirical backing for those causes. Nevertheless, a think tank setting up conferences and arranging meetings with government leaders can appear to parallel traditional lobbyist work. If industry donations help pay the bills for those think tanks or academics, it can look like a quid pro quo relationship.

Think tanks acting as lobbyists can be a particularly useful form of soft influence, especially in Washington, DC. Members of the executive and legislative branches rely on think tanks for their expertise, assistance in crafting public policy, congressional testimony, and for authoritative views on a variety of topics. A logo from a credible think tank on a report can lend weight to that report. Moreover, since corporate donations to think tanks and academia are generally tax deductible, the American taxpayer is then essentially subsidizing that lobbying-like work. While many think tanks are fully transparent about their donors, there is no legal requirement for them to be so, making such influence especially difficult to track.

The good news is that think tanks around the world appear to be becoming more transparent, in part due to stories in the media like those above. The Georgian think tank Transparify ranks think tanks worldwide based on how much information they provide about their donors, and the number of organizations with a five-star transparency rating (highly transparent, all donors listed, clearly identifying funding sources and amounts for all projects) has gone from only 12 in 2013 (their baseline year) to 67 in 2018. The Heritage Foundation has been rated as four-stars since their baseline assessment, but CSIS has gone from one star in its 2014 report to four stars today, while the Middle East Institute was evaluated for the first time in 2018, receiving a score of four stars.<sup>240</sup> This movement towards a norm of financial transparency in think tanks will hopefully make it harder in the future for think tanks which wish to be considered credible to privately accept secret donor money from governments to influence American foreign policy.

One of the other, softer forms of industry influence is via a variety of policy boards and other advisory positions. For example,

239 Lee Fang, "Emails Show Close Ties Between Heritage Foundation and Lockheed Martin," *The Intercept* (blog), September 15, 2015, <https://theintercept.com/2015/09/15/heritage-foundation/>.

240 "How Has Think Tank Transparency Evolved in 2018? A Reassessment of 92 Think Tanks in 24 Countries Worldwide" (Tbilisi, Georgia: Transparify, July 17, 2018), <https://static1.squarespace.com/static/52e1f399e4b06a94c0cdaa41/t/5b4cfa3d758d463a3bfb54ac/1531771467608/Transparify+2018+Think+Tanks+Report.pdf>; "How Transparent Are Think Tanks about Who Funds Them? A Survey of 169 Think Tanks in 47 Countries Worldwide" (Tbilisi, Georgia: Transparify, May 7, 2014), <https://static1.squarespace.com/static/52e1f399e4b06a94c0cdaa41/t/536a108ee4b0e77a5729562c/1399459982820/How+Transparent+are+Think+Tanks+%28Transparify+07May2014%29.pdf>.

General James Cartwright, the former Vice Chairman of the Joint Chiefs of Staff, and Admiral Gary Roughead, the former Chief of Naval Operations, were appointed to the Defense Policy Board (DPB) Advisory Committee in 2011 after retiring. The board is made up of approximately 30 members from the private sector, and their job is to provide advice on long-term and enduring issues of defense planning to the US government, as well as research and analysis on topics assigned by the Secretary of Defense or other senior defense staff. General Cartwright had also been appointed to the board of Lockheed Martin and Admiral Roughead had joined Northrop Grumman's board, meaning that senior members of two of the largest defense firms had a role advising the government on issues that could directly benefit those companies.<sup>241</sup> While the dates, broad topics, and attendees of meetings of the committee are announced in the Federal Register, the finer details of the meetings can be withheld, especially if classified information is discussed.<sup>242</sup>

There are plenty of other soft forms of influence with regard to American foreign and defense policy, such as industry leaders accompanying senior politicians or political appointees on key trips as in the example above of the head of Raytheon signing a memorandum of understanding with a Saudi state-owned enterprise in the presence of the Saudi Crown Prince and President Trump during a presidential visit to Saudi Arabia. Advertising also constitutes a form of soft influence, such as the often wall-to-wall advertisements for defense firms in the Pentagon metro station, which help the defense industry to shape the information environment regarding foreign policy.

## Conflicts of Interest

Every one of the pathways described above constitutes a potential form of conflict of interest. As Susan Rose-Ackerman and Bonnie Palifka note, "Financial conflicts of interest arise from confusion of roles. If public officials make decisions that can affect their private wealth or that of business firms in which they or their families have a stake, they may skew their choices in favor of these private interests. No bribery is necessary to create problems. Officials simply follow their own economic self-interest."<sup>243</sup> A conflict of interest may exist even if there is not actual impropriety, because it is the mere fact that such considerations could arise that leads to the conflict.

241 With his previous Naval career, membership of the DPB committee, role as Director of Northrop Grumman since 2012, various think tank positions and board memberships, Admiral Roughead exemplifies the various means of soft power key individuals can exercise in the defense sector. See "Gary Roughead: Executive Profile & Biography," Bloomberg, accessed May 21, 2019, <https://www.bloomberg.com/research/stocks/people/person.asp?personId=144727120&privcapId=97199>; "DoD Announces New Defense Policy Board Members," US Department of Defense, November 30, 2017, <https://dod.defense.gov/News/News-Releases/News-Release-View/Article/1384846/dod-announces-new-defense-policy-board-members/>.

242 For a recent meeting example, see the February 2019 DPB announcement regarding 5G technology, available at "Defense Policy Board; Notice of Federal Advisory Committee Meeting," Federal Register, February 26, 2019, <https://www.federalregister.gov/documents/2019/02/26/2019-03287/defense-policy-board-notice-of-federal-advisory-committee-meeting>.

243 Rose-Ackerman and Palifka, *Corruption and Government*, 174–75.

This is because, as Stuart Gilman notes, "Ethics codes and systems in the executive branch are designed primarily to protect the image of the government in the eyes of the governed. Democratic societies must have the confidence of the governed to function effectively. Therefore, appearance of conflicts of interest is as vital a problem as actual conflicts of interest."<sup>244</sup>

In the wake of the Watergate Scandal, conflict of interest rules (which had developed over decades alongside other anti-corruption measures in the United States) were strengthened. The Office of Government Ethics was created and eventually placed under the Office of Personnel Management to help limit conflicts of interest, thereby setting up a single oversight system for the entire federal government. Rules around public financial disclosures were strengthened and the Office of Special Counsel was also set up.<sup>245</sup> Later, in 1989, George H.W. Bush made the creation of the President's Commission on Ethics Reform his first executive order. The Ethics Reform Act put legislative teeth into many acts of the commission on gifts, gratuities, and financial interests and disclosures.<sup>246</sup> The Clinton administration also instituted some ethical reforms, most notably by restricting the revolving door for senior officials so that they could not represent private parties for five years after leaving office.<sup>247</sup>

Throughout most of its history, Congress has granted itself much more lax rules on conflicts of interest than those for employees of the executive branch. While Congress fell under the federal bribery statute, it was not until the 1980s that Congress was held accountable under legislation that prohibited accepting gifts and travel reimbursements from private sources.<sup>248</sup> Ethics scandals in Congress, including those that forced House Speaker James Wright Jr to resign and the "Keating Five" scandal involving the Lincoln Saving and Loan Bank in the financial crisis in the late 1980s, brought ethics rules to the fore, leading to the eventual passage of the 1989 Ethics in Government Reform Act, which also tightened rules on Congress.<sup>249</sup>

244 Stuart C. Gilman, "Presidential Ethics and the Ethics of the Presidency," *The Annals of the American Academy of Political and Social Science* 537 (January 1995): 74, <http://www.jstor.org/stable/1047754>.

245 Gilman, 72.

246 This is not to say, however, that the first Bush administration was not rocked with its share of ethical controversies. See Gilman, 73; Robert N. Roberts and Marion T. Doss, "Public Service and Private Hospitality: A Case Study in Federal Conflict-of-Interest Reform," *Public Administration Review* 52, no. 3 (June 1992): 264, <https://www.jstor-org.proxy.library.georgetown.edu/stable/pdf/976924.pdf?refreqid=excelsior%3A1c5adc6bcc94d7dee010b160dfbd7ef2>.

247 Gilman, "Presidential Ethics and the Ethics of the Presidency," 74.

248 Roberts and Doss, "Public Service and Private Hospitality," 264.

249 Roberts and Doss, 265.

## Case Study: Boeing and the Department of Defense

Plenty of major American defense firms have been caught up in a variety of conflict of interest scandals, and Boeing is no exception. Aircraft are the US's biggest export, and Boeing is the biggest exporter of those aircraft. Randy Tinseth, Boeing's marketing chief, has said that 80 percent of what they build is delivered outside the United States, making its ability to export crucial to the company's success.<sup>250</sup>

Boeing is a significant force on Capitol Hill. It has spent \$275 million on lobbying since 1998, \$15.1 million of that just in 2018 on its own lobbyists, with another \$3 million that year spent on outside lobbying firms. Boeing spent more on lobbying in 2018 than any other defense aerospace company, with donations tending to focus on members of House and Senate Appropriations Subcommittees that allocate federal defense money. In 2018, it had 117 lobbyists including 87 revolving door personnel of former Department of Defense and other executive branch officials, and dozens of former congressional aides. While the company cannot make corporate campaign finance donations to elected politicians, individual employees and political action committees do give quite generously on Boeing's behalf.<sup>251</sup> The company has also supported presidential inaugural committees, giving \$1 million to the Trump inaugural committee,<sup>252</sup> and \$1.05 million to the Obama 2013 inauguration.<sup>253</sup> Boeing is also a major employer, with over 153,000 employees in the US, concentrated in Washington State, California, and Missouri. This, too, gives the company important clout with key congressional representatives,<sup>254</sup> as do the personal relationships it has developed with the administration: after the second crash of a Boeing 737 Max aircraft, there were multiple phone calls between the Boeing CEO Dennis Muilenburg and President Trump. President Trump has also used Boeing products and locations as props in major announcements, such as a March 2018 visit to a Boeing plant in St Louis where he touted his tax overhaul bill. He has explicitly encouraged American allies to buy Boeing products, for example

250 Tripti Lahiri, "Boeing's Share Price Is a Good Gauge of the US-China Trade War," Quartz, December 6, 2018, <https://qz.com/1484910/boeings-share-price-shows-what-people-think-about-the-us-china-trade-war/>.

251 Heather Timmons Frost Natasha, "How Money and Influence Flows between the US Government and Boeing," Quartz, March 14, 2019, <https://qz.com/1572381/the-relationship-between-boeing-trump-and-the-federal-government/>; "Boeing Co: Summary | OpenSecrets," OpenSecrets, accessed April 8, 2019, <https://www.opensecrets.org/orgs/summary.php?id=D000000100&cycle=A>. Historically, Boeing has split its political funding nearly equally, giving slightly more to Republicans than Democrats over the years.

252 "Trump Administration: 2017 Inauguration Donors," OpenSecrets, accessed April 8, 2019, <https://www.opensecrets.org/trump/inauguration-donors>. Donors committing at least \$1 million to the inauguration were given admission to a "leadership luncheon" of members of Trump's cabinet and GOP congressional leaders.

253 "Obama 2013 Inauguration: Donors," accessed April 8, 2019, <https://www.opensecrets.org/obama/inaug.php>. Obama's 2009 inauguration barred corporate, labor, PAC and lobbyist contributions as well as any individual gifts over \$50,000. This 2013 donation by Boeing was nearly the entire defense aerospace sector contribution, which totaled \$1,112, 859. "Trump Administration."

254 Frost, "How Money and Influence Flows between the US Government and Boeing."

when he pressed the Emir of Kuwait to proceed with an order for fighter jets in 2018.<sup>255</sup>

The money and relationship-building appear to have paid off. Boeing received \$21 billion in government contracts in 2017, which made up about 22 percent of its revenue.<sup>256</sup> This does not include three new multi-billion dollar contracts noted below. In all, Boeing has received \$104 billion in unclassified defense contracts since 2017, making it the second largest defense contractor after Lockheed Martin.<sup>257</sup>

Most recently, a potential conflict of interest has been flagged by the media and members of Congress over then Acting Secretary of Defense Patrick Shanahan. Prior to his appointment as Acting Secretary of Defense on January 1, 2019, Shanahan had spent 30 years at Boeing.<sup>258</sup> He promised to recuse himself from discussion of any matters involving Boeing. Many experts have noted, however, that given Boeing's immense size and the significant number of contracts it has with the Department of Defense, that would leave the Acting Secretary of Defense potentially out of the loop for many of the most important Pentagon programs. His staff would redirect issues relating to Boeing to alternative defense officials without the Acting Secretary knowing, according to his ethics agreement published in March 2019 by the Defense Department.<sup>259</sup> Acting Secretary Shanahan and other senior Pentagon officials with defense industry ties have aides who are trained to ensure that those officials are not involved in any discussions relating to their former employers. Despite such precautions, as explained above, the mere appearance of conflicts of interest can be enough to undermine trust.

The correlation between recent new Boeing programs and Shanahan's appointment to the Defense Department (initially as Deputy Secretary of Defense) in 2017 only further raised concerns. In 2018, Boeing won three major multi-billion-dollar Defense Department aircraft contracts: the first for 80 new F-15Xs for the US Air Force by 2024, costing \$90 million each,<sup>260</sup> the second for new F/A-18 Super Hornet fighters for the Navy, and the third for a new Air Force One presidential aircraft for \$3.9 billion, a deal negotiated directly by President Trump and Boeing

255 David Shepardson and Jeff Mason, "Ties between Boeing and Trump Run Deep," Reuters, March 13, 2019, <https://www.reuters.com/article/us-ethiopia-airlines-trump-idUSKBN1QT2MQ>.

256 Frost, "How Money and Influence Flows between the US Government and Boeing."

257 Shepardson and Mason, "Ties between Boeing and Trump Run Deep."

258 "Patrick M. Shanahan," US Department of Defense Biography, accessed April 5, 2019, <https://dod.defense.gov/About/Biographies/Biography-View/Article/1252116/patrick-m-shanahan/>.

259 Aaron Mehta, "Shanahan Ethics Agreement Released in Wake of Department Investigation," Defense News, March 24, 2019, <https://www.defensenews.com/pentagon/2019/03/22/shanahan-ethics-agreement-released-in-wake-of-department-investigation/>.

260 See Lara Seligman, "Boeing's Pentagon Takeover," Foreign Policy (blog), December 23, 2018, <https://foreignpolicy.com/2018/12/23/boeing-pentagon-takeover-defense-department-mattis-shanahan/>. See also Marcus Weisgerber, "Pentagon: We're Buying Boeing F-15s to Keep 2 Fighter Makers in Business," Defense One, March 22, 2019, <https://www.defenseone.com/business/2019/03/pentagon-were-buying-f-15s-keep-2-fighter-makers-business/155773/>. and Marcus Weisgerber, "Lockheed Martin Is Waging War on Boeing's F-15EX," Defense One, March 15, 2019, <https://www.defenseone.com/business/2019/03/lockheed-martin-waging-war-boeings-f-15ex/155598/>.

CEO Dennis Muilenburg.<sup>261</sup> The timing of these purchases could of course be coincidental. Or the Boeing aircraft could simply be the most appropriate purchases.<sup>262</sup> However, experts have noted that allowing the Air Force and Navy to purchase upgraded fourth generation aircraft has been off the table for 20 years, and now two types are suddenly back in the Pentagon budget within a very short time period.<sup>263</sup> Yet the Defense Department denied that Acting Secretary Shanahan's tenure had anything to do with the purchases, stating that the decision to buy additional F-15s came under then-Secretary James Mattis's watch. But in December 2018, reports surfaced that then-Deputy Defense Secretary Shanahan had been pushing for the Air Force to buy new F-15Xs, and that the Air Force had not initially planned for F-15X purchases at all in its 2020 budget.<sup>264</sup>

In March 2019, the Department of Defense Inspector General (DoD/IG) initiated an investigation into Acting Secretary Shanahan. The DoD/IG spokeswoman, Dwrena Allen, said in a statement that the inspector general had "decided to investigate complaints we recently received that Acting Secretary Patrick Shanahan allegedly took actions to promote his former employer, Boeing, and disparage its competitors, allegedly in violation of ethics rules."<sup>265</sup> This came after the watchdog group Citizens for Responsibility and Ethics in Washington (CREW) filed an ethics complaint with the IG's office regarding reports of the acting secretary touting Boeing programs over those of Lockheed Martin.<sup>266</sup> In April, the Department of Defense Inspector General found no evidence that Acting Secretary of Defense Shanahan had used his position to give preferential treatment to Boeing. He was cleared of accusations that he pressured the Marine Corp to buy Boeing F/A-18 fighter jets and the Air Force to buy Boeing F-15Xs as well.<sup>267</sup>

Then-acting Secretary of Defense Shanahan is not the only senior official who has had to navigate complex conflict of interest issues in the Pentagon. The new Secretary of Defense (and formerly the Secretary of the Army) Mark Esper was the former vice president of government relations at Raytheon.<sup>268</sup>The

261 Seligman, "Boeing's Pentagon Takeover."

262 The F-15X, in particular, has the largest weapons payload of any American fighter aircraft and is a multi-role fighter, making it a more flexible option as an all-around combat jet. Additionally, its rival – the Lockheed F-35 Lightning II Joint Strike Fighter – has been plagued by problems such as cost overruns and maintenance issues. See Valerie Insinna, "Industrial Base Considerations Played Role in F-15X Decision," Defense News, March 22, 2019, <https://www.defensenews.com/air/2019/03/22/industrial-base-considerations-played-role-in-f-15x-decision/>.

263 Seligman, "Boeing's Pentagon Takeover."

264 Valerie Insinna, "The US Air Force Doesn't Want F-15X. But It Needs More Fighter Jets.," Defense News, February 28, 2019, <https://www.defensenews.com/digital-show-dailies/air-warfare-symposium/2019/02/28/the-air-force-doesnt-want-f-15x-but-it-needs-more-fighter-jets/>.

265 Tara Copp, "A Government Watchdog Is Investigating Trump's Defense Secretary. Here's Why.," Military Times, March 20, 2019, <https://www.militarytimes.com/news/your-military/2019/03/20/ig-launches-investigation-into-shanahan-over-alleged-boeing-bias/>.

266 Copp.

267 Helene Cooper, "Acting Defense Secretary Patrick Shanahan Is Cleared in Ethics Inquiry," The New York Times, April 26, 2019, sec. U.S., <https://www.nytimes.com/2019/04/25/us/politics/defense-shanahan-boeing-cleared.html>.

268 LaForgia and Bogdanich, "Trump Allows High-Tech U.S. Bomb Parts to Be Built in Saudi Arabia."

Undersecretary of Defense for Policy, John Rood, has moved back and forth through the revolving door over the years, holding senior positions at Lockheed Martin and Raytheon, as well as roles in the State Department, National Security Council, Central Intelligence Agency, and as a Senate Staffer.<sup>269</sup> The Undersecretary of Defense for Acquisition and Sustainment is Ellen Lord, a former President and CEO of Textron Systems, who has also been a Vice Chairman of the National Defense Industrial Association (NDIA), on a steering committee for the Center for New American Security (CNAS) and on the Board of Trustees for the US Naval Institute Foundation.<sup>270</sup>

On the one hand, having so many "revolvers" can be a benefit to the Department of Defense in ensuring that leadership is well aware of the strengths and limitations of the defense industrial base. On the other hand, as the Inspector General's investigation of Acting Defense Secretary Shanahan indicates, all these "revolvers" can raise significant concerns about conflicts of interest, even if no ethics rules are technically violated. Many of these senior Pentagon leaders have recently held senior positions in defense firms which have very large contracts with the Pentagon and which specifically stand to benefit. While all of these officials may be in compliance with various ethics rules, there is at least an appearance of potential conflicts of interest for these individuals now in a position to influence US defense export policies to countries like Saudi Arabia and the UAE, potentially benefitting their former corporate employers.<sup>271</sup>

## Corruption

Worldwide, the defense industry is considered one of the most corrupt economic sectors. Control Risks, a consultancy, found that from 2001 to 2006, 26 percent of defense companies they interviewed believed that they had lost contracts due to corruption and 31 percent of companies believed that corruption was a decisive factor in the allocation of contracts.<sup>272</sup> The defense sector is a particularly lucrative source for corrupt deals for a number of reasons. First, much of what takes place is necessarily secret due to its association with national security, including arms contracts. Often, parliaments and the public have no authority to review defense budgets or the procurement of

269 "John C. Rood," US Department of Defense Biography, accessed April 5, 2019, <https://dod.defense.gov/About/Biographies/Biography-View/Article/1418413/john-c-rood/>.

270 "Ellen M. Lord," US Department of Defense Biography, accessed April 5, 2019, <https://dod.defense.gov/About/Biographies/Biography-View/Article/1281505/ellen-m-lord/>.

271 Textron has contracts to provide cluster munitions to the Saudis (though in 2016 Textron announced it would stop producing the CBU-105, a munition used extensively in the conflict in Yemen), Raytheon provides missiles and Boeing supplies F-15 aircraft to Saudi Arabia, and Lockheed Martin has various contracts for aircraft, ships and helicopters. See Thomas Gibbons-Neff, "Why the Last U.S. Company Making Cluster Bombs Won't Produce Them Anymore," Washington Post, September 2, 2016, sec. Military, <https://www.washingtonpost.com/news/checkpoint/wp/2016/09/02/why-the-last-u-s-company-making-cluster-bombs-wont-produce-them-anymore/>. See also Aaron Mehta, "Here Are the Big Industry Winners in the Saudi Weapons Offer," Defense News, August 8, 2017, <https://www.defense-news.com/pentagon/2017/06/09/here-are-the-big-industry-winners-in-the-saudi-weapons-offer/>.

272 Holden, *Indefensible*, 46.

goods and services associated with them, nor can these deals be audited. Second, it can be difficult to compare prices for goods because defense goods are frequently packages tailored to specific customers. This enables contracts to be padded, and the extra disbursed as kickbacks. Third, defense budgets are often some of the largest in government. The combination of large pools of money and little oversight makes the defense industry especially ripe for corruption, a problem exacerbated when government officials in purchasing countries are largely unaccountable, as is generally the case throughout the MENA region.

Sometimes, corruption takes the form of outright cash bribes; other times, euphemisms are used. One of the most common is "commissions" for "consultants." Commissions are paid to consultants who act as middlemen; they often keep part of the commission for themselves and pass the remainder on as bribes to grease the necessary wheels on defense contracts. But as Jonathan Winer, former US Deputy Assistant Secretary of State, put it in a 2005 article regarding bribes by European defense companies to African governments, "The notion that Europeans offer and the Africans take bribes isn't at all the case in regards to arms. Everybody takes bribes from everybody, and if not bribes, then gratuities, benefits, undue advantage, commissions, contracts for friends and relations, other benefits material or political, and so on."<sup>273</sup> As demonstrated below, in many ways the Middle East is no different.

US laws such as the Foreign Corrupt Practices Act (FCPA) and the Anti-Kickback Act of 1986 make most overt corrupt practices by the defense industry illegal, though violation of these laws still occurs from time to time. For example, in 2018 a Security and Exchange Commission (SEC) order found United Technologies subsidiary Pratt & Whitney "improperly provided trips and gifts to various foreign officials in China, Kuwait, South Korea, Pakistan, Thailand and Indonesia..."<sup>274</sup> In 2016, Brazilian aircraft manufacturer Embraer (currently in merger talks with Boeing) settled with the SEC, agreeing to pay a fine of \$205 million for bribery, including bribes to Saudi Arabia.<sup>275</sup> In 2014, FLIR Systems Inc. was charged with offering expensive watches and lavish trips to Saudi and Egyptian government officials.<sup>276</sup> A major loophole in the FCPA, however, is that only the bribe giver and associated intermediaries can be charged; the official receiving the bribe is not included in this legislation.

Corruption is not just a matter of the US defense industry paying bribes to foreign officials. Sometimes American officials accept bribes, as the so-called "Fat Leonard" case highlights.

273 Joe Roeber, "Hard-Wired for Corruption," Prospect, August 28, 2005, <https://www.prospectmagazine.co.uk/magazine/hardwiredforcorruption>.

274 "United Technologies Charged With Violating FCPA," US Securities and Exchange Commission, September 12, 2018, <https://www.sec.gov/news/press-release/2018-188>.

275 "Embraer Paying \$205 Million to Settle FCPA Charges," US Securities and Exchange Commission, October 24, 2016, <https://www.sec.gov/news/pressrelease/2016-224.html>.

276 "SEC Charges Oregon-Based Defense Contractor With FCPA Violations," US Securities and Exchange Commission, April 8, 2015, <https://www.sec.gov/news/pressrelease/2015-62.html>.

Fat Leonard is Leonard Glenn Francis, a Malaysian businessman and owner of Glenn Defense Marine Asia (GDMA), a company that provided support services to the US Navy. From at least 2006 until his arrest in 2013, he was able to use money, gifts, wild parties, and prostitutes as enticements to ensure his company received US Navy support contracts despite regular complaints by various whistleblowers. He was able to continue for so long because he had infiltrated the Naval Criminal Investigative Service (NCIS) and senior staff in the Navy also quashed some of the investigations. Ultimately, 20 people pled guilty in US federal court, 12 more have cases pending, five were charged under military law, and seven admirals and two captains were disciplined by the Navy.<sup>277</sup>

No country can ever entirely eliminate corruption; the key is for a country to work to prohibit it, close down corruption risks and loop holes, and then aggressively investigate and prosecute it when it occurs. As a country rated in the “B” band (low risk of corruption category) in Transparency International’s 2015 edition of the Government Defence Anti-Corruption Index which measures the risks of corruption in the defense sectors of countries, the American security sector stands out as relatively accountable and transparent. The American Congress has more oversight of the defense sector than most legislatures, and citizens also have more access to defense-related information than most, even if that information is not always easy to find or understand.<sup>278</sup> The Department of Defense finally completed its first financial audit in 2018, and although it failed, at least it has now begun the process of moving forward towards better financial accountability.<sup>279</sup>

Though the United States may be considered relatively low risk for corruption, the same cannot be said for Saudi Arabia or the UAE. American arms sales to these countries have continued despite a lack of transparency or accountability around weapons purchases, their use and how such purchases fit into larger national security needs. Saudi Arabia is an absolute monarchy with political decision-making centralized under the authority of Crown Prince Mohammad bin Salman.<sup>280</sup> Saudi law does not allow for freedom of assembly, religion, the press, or association. Political parties and opposition groups are prohibited. The easing of some social restrictions has coincided

277 Cid Standifer, “Timeline: The ‘Fat Leonard’ Case,” USNI News (blog), March 16, 2017, <https://news.usni.org/2017/03/16/timeline-fat-leonard-case>; Craig Whitlock and Kevin Uhrmacher, “Prostitutes, Vacations and Cash: The Navy Officials ‘Fat Leonard’ Took Down,” Washington Post, September 20, 2018, <https://www.washingtonpost.com/graphics/investigations/secluding-the-seventh-fleet/>; Craig Whitlock and Kevin Uhrmacher, “The Man Who Seduced the 7th Fleet,” Washington Post, May 27, 2016, <http://www.washingtonpost.com/sf/investigative/2016/05/27/the-man-who-seduced-the-7th-fleet/>; Craig Whitlock, “Navy Officers Convicted of Corruption in ‘Fat Leonard’ Scandal Haven’t Lost Their Pensions,” Washington Post, March 18, 2017, sec. Investigations, [https://www.washingtonpost.com/investigations/navy-officers-convicted-of-corruption-in-fat-leonard-scandal-havent-lost-their-pensions/2017/03/18/d60c6d4c-0363-11e7-b1e9-a05d3c21f7cf\\_story.html](https://www.washingtonpost.com/investigations/navy-officers-convicted-of-corruption-in-fat-leonard-scandal-havent-lost-their-pensions/2017/03/18/d60c6d4c-0363-11e7-b1e9-a05d3c21f7cf_story.html).

278 “United States,” Transparency International Government Defence Anti-Corruption Index, 2015, <http://government.defenceindex.org/countries/united-states/>.

279 “High Risk: DOD Financial Management,” U.S. Government Accountability Office, 2019, [https://www.gao.gov/highrisk/dod\\_financial\\_management/why\\_did\\_study](https://www.gao.gov/highrisk/dod_financial_management/why_did_study).

280 Blanchard, “Saudi Arabia: Background and U.S. Relations,” 5.

with a further crackdown on those seeking political reform.<sup>281</sup> Indeed, Transparency International’s Government Defence Anti-Corruption Index from 2015 ranks Saudi Arabia in the very high-risk category (Band E on a scale from A to F) for corruption in its defense and security sector.<sup>282</sup> Defense represents about 30 percent of public spending in Saudi Arabia, but the Ministry of Defense does not seem to exert centralized control over procurement. Rather, larger, strategic purchases can be made according to the whims of individual, high-ranking members of the Royal Family.<sup>283</sup>

Like Saudi Arabia, the UAE is an absolute monarchy where political parties are prohibited. In practical terms, there is no parliamentary or other citizen oversight of the monarchy.<sup>284</sup> And like Saudi Arabia, the UAE is in Band E for defense and security sector corruption. The UAE does not release details on general public procurement and spending, much less defense spending, and that procurement does not follow generally accepted international standards.<sup>285</sup> UAE-based defense firms often have complex ownership. Firms’ investors may include sovereign wealth funds, private citizens, and personal investment vehicles run by the Royal Family. Even state-owned enterprises are not publicly accounted for. There is little separating the defense and political sectors and no rules barring defense institutions and personnel from involvement in business ventures, such as in the lucrative oil and gas industry.<sup>286</sup>

Thus, even if American defense firms may have strong programs within their corporations to prevent corruption within their chains of command, they may still be contributing to state corruption. Countries such as Saudi Arabia and the UAE do not publish offset contracts nor the beneficial owners of various firms receiving offset contracts, for instance. Moreover, countries can use various contracts and subcontracts as forms of patronage, ensuring that the favored receive lucrative contracts, thereby enriching those within the inner circle. Neither Saudi Arabia nor the UAE allow for any parliamentary or civil society oversight of the security sector, much less security sector procurement. Multi-billion dollar arms contracts can be signed at the whim of members of the royal families, and citizens have no say into whether they agree with this use of their taxes and money earned from natural resources. All of this reinforces corruption and authoritarianism in states like Saudi Arabia and the United Arab Emirates.<sup>287</sup>

281 Blanchard, 12–13.

282 In 2019, the index was renamed the “Government Defence Integrity Index.” “Saudi Arabia Government Defence Anti-Corruption Index 2015.”

283 “Saudi Arabia Government Defence Anti-Corruption Index 2015.”

284 Katzman, “The United Arab Emirates (UAE): Issues for U.S. Policy,” 4.

285 “United Arab Emirates Government Defence Anti-Corruption Index 2015.”

286 “United Arab Emirates Government Defence Anti-Corruption Index 2015.”

287 For an examination of how defense procurement reinforces corruption, authoritarianism, sectarianism, and overall state fragility, see the case of Bahrain in Jodi Vittori, “Bahrain’s Fragility and Security Sector Procurement” (Washington, DC: Carnegie Endowment for International Peace, February 26, 2019), <https://carnegieendowment.org/2019/02/26/bahrain-s-fragility-and-security-sector-procurement-pub-78443>.

## Case Study: The United Arab Emirates, George Nader, and Elliott Broidy

In Spring 2018, a corruption scandal broke highlighting how corruption, private security company contracts, and highly placed advisers impacted American-Qatari foreign relations. For the United States, Qatar is an important ally. It hosts the Al Udeid military base, which is a major logistical base and hub for command and control of wartime operations for the United States throughout the Middle East, including those in Syria, Iraq, and Afghanistan. In the summer of 2017, Qatar had found itself in a foreign relations battle with the UAE, Saudi Arabia, and Bahrain. Qatar had long had an independent foreign policy compared with that of countries like Bahrain, which generally toe a Saudi line. Its funding of the Muslim Brotherhood and the news organization Al Jazeera had long ruffled its neighbors. The immediate cause of the crisis had been a clumsy hack of an official Qatari site where comments sympathetic to Iran and Hezbollah were then posted. Even after it was clear it was a hack, Saudi Arabia and the UAE continued to claim the statements were authentic. Diplomatic and economic pressure was put on Qatar, culminating in a 13-point list of demands which included curbing ties with Iran, ceasing funding of Al Jazeera, paying reparations for loss of life caused by Qatari policies, and aligning with other Arab countries militarily, politically, socially and economically. Qatar refused to sign. As a result, Qatar’s only land border was closed by Saudi Arabia, ships flying the Qatari flag had to leave the ports of countries allied against Qatar, and Qatar Airways had to cancel a number of flights. The Qatari stock market and economy overall initially took a big hit, though new workarounds have since been developed.<sup>288</sup>

Information from the Special Counsel of the US Department of Justice Investigation (better known as the Mueller Investigation) and leaks of hacked emails from a senior Republican fundraiser for the Trump administration have pointed to significant allegations that contracts and kickbacks could have played a role in the Trump administration’s decision to side with the UAE and its allies against Qatar in this matter.

According to an investigation conducted by the AP news wire service, in April 2017, George Nader, an adviser to the UAE (who was a witness in the Mueller Investigation) wired \$2.5 million to Elliott Broidy, the deputy finance chairman of the Republican National Committee, via first a Dubai-based,

288 Ishaan Tharoor, “The Persian Gulf Crisis over Qatar, Explained,” Washington Post, June 6, 2017, sec. WorldViews Analysis Analysis Interpretation of the news based on evidence, including data, as well as anticipating how events might unfold based on past events, <https://www.washingtonpost.com/news/worldviews/wp/2017/06/06/the-persian-gulf-crisis-over-qatar-explained/>; “Qatar Crisis: What’s It About?,” BBC News, July 19, 2017, sec. Middle East, <https://www.bbc.com/news/world-middle-east-40173757>.

and then a Canadian, company.<sup>289</sup> After receiving the money, Broidy sponsored conferences on Qatar’s ties to Islamist extremism held at the Foundation for Defense of Democracies (FDD) think tank in May 2017 and at the Hudson Institute in October 2017.<sup>290</sup> It was at the FDD event that Congressman Ed Royce (R-CA), then-Chairman of the House Foreign Affairs Committee, announced legislation that would brand Qatar a state sponsor of terrorism, a designation with significant political and economic ramifications.<sup>291</sup> Broidy received about \$10 million in total in Emirati currency from Nader via an entity controlled by the UAE government around the time of the think tank conferences.<sup>292</sup> That July, Broidy passed Congressman Royce \$5,400 in campaign gifts (the maximum allowed under US law), a small part of the almost \$600,000 Broidy gave to Republican congressional members and political action committees to push the legislation. Anonymous sources told AP the money was specifically to bankroll a push by the UAE to take a hard line against Qatar. As of March 2017, Broidy had not registered as a foreign agent for the UAE.<sup>293</sup> The AP investigation alleges that Royce and a staff member met with Broidy to discuss the bill, and that an associate of Broidy’s also had frequent contact with Royce’s congressional staff.<sup>294</sup>

Elliott Broidy had pled guilty in 2009 for giving almost \$1 million in gifts, sometimes through fraudulent contracts, to New York state officials to gain investment from the state’s pension fund, after which he had largely disappeared from politics until recently.<sup>295</sup> Though Broidy had given hundreds of thousands of dollars to Republicans in the past, the \$600,000 he has given to Republican candidates since early 2017 is more than he has given in a decade and a half. Moreover, he had never given to Royce until the \$5,400 in July 2017.<sup>296</sup> His private security company Ciricinus used \$80,000 to hire the lobbying firm Fidelis Government Relations to lobby the Vice President’s Office, the first time (according to lobbying reports) that it had hired any lobbying firm on its behalf to advocate for “opportunities for

289 Chad Day and Richard Lardner, “Mueller Probe Witness Secretly Backed UAE Agenda in Congress,” AP News, March 26, 2018, [https://apnews.com/b4946f7bf1fe4328b0c81506434aa082/Mueller-probe-witness-secretly-backed-UAE-agenda-in-Congress?wpmm=1&wpsrc=nl\\_daily202](https://apnews.com/b4946f7bf1fe4328b0c81506434aa082/Mueller-probe-witness-secretly-backed-UAE-agenda-in-Congress?wpmm=1&wpsrc=nl_daily202). See also David D. Kirkpatrick and Mark Mazzetti, “How 2 Gulf Monarchies Sought to Influence the White House,” The New York Times, March 21, 2018, sec. Politics, 2, <https://www.nytimes.com/2018/03/21/us/politics/george-nader-elliott-broidy-uae-saudi-arabia-white-house-influence.html>.

290 In the interest of full disclosure, the primary author of this report is on the Advisory Committee of the Kleptocracy Initiative at the Hudson Institute.

291 Day and Lardner, “Mueller Probe Witness Secretly Backed UAE Agenda in Congress.”

292 Kenneth P. Vogel, “How a Trump Ally Tested the Boundaries of Washington’s Influence Game – The New York Times,” New York Times, August 13, 2019, [https://www.nytimes.com/2019/08/13/us/politics/elliott-broidy-trump.html?nl=todayshheadlines&emc=edit\\_th\\_190814?campaign\\_id=2&instance\\_id=11587&segment\\_id=16137&user\\_id=291816a02ec7f22388f14f771e78277&regi\\_id=289443850814](https://www.nytimes.com/2019/08/13/us/politics/elliott-broidy-trump.html?nl=todayshheadlines&emc=edit_th_190814?campaign_id=2&instance_id=11587&segment_id=16137&user_id=291816a02ec7f22388f14f771e78277&regi_id=289443850814).

293 Day and Lardner, “Mueller Probe Witness Secretly Backed UAE Agenda in Congress.”

294 Day and Lardner.

295 Vogel, “How a Trump Ally Tested the Boundaries of Washington’s Influence Game – The New York Times.”

296 Day and Lardner, “Mueller Probe Witness Secretly Backed UAE Agenda in Congress.”

government contracts.<sup>297</sup> Two weeks after Royce introduced his legislation, the UAE and Saudi Arabia launched the embargo, travel, and trade restrictions on Qatar.<sup>298</sup> On June 5, 2017 Saudi Arabia, the UAE, Egypt, and Bahrain cut diplomatic relations with Qatar; on June 6, President Trump tweeted to accuse Qatar of funding terrorism.<sup>299</sup>

AP found no evidence that Broidy used Nader's funds for campaign donations or broke any laws.<sup>300</sup> As Broidy's lawyer, Chris Clark, told the New York Times, "Elliott Brody has never agreed to work for, been retained or compensated by, nor taken direction from a foreign government directly or indirectly for any interaction with the United States government, ever...any implication to the contrary is a lie."<sup>301</sup>

At the time, Broidy's private security company Circinus had not done business in the UAE before, but in January 2017, it was awarded a \$200 million contract by the UAE to establish a 60 person office to compile intelligence reports for the UAE government,<sup>302</sup> and there are reports that Nader tempted Broidy with up to \$1 billion in contracts.<sup>303</sup> Circinus continued to receive payments from the UAE, including \$24 million in March 2019. His partner George Nader was also paid millions by the UAE as he and Broidy worked to win security and intelligence contracts from the UAE and Saudi Arabia along with the campaign against Qatar.<sup>304</sup>

The Mueller investigation has looked into whether Broidy should have registered with the US government as a foreign agent on behalf of the UAE and Malaysia.<sup>305</sup> The Mueller Investigation has also looked into three meetings associated with Broidy and Nader. One meeting, just before Trump's inauguration in December 2016, occurred in New York's Trump Tower and included Nader, Jared Kushner (son-in-law to Donald Trump), and Steve Bannon (at the time, Trump's senior strategist). The second occurred in January 2017 in the Seychelles between

Nader, UAE Crown Prince Mohammed bin Zayed al Nahyan, Erik Prince (who now runs a private security company out of Sharjah, UAE), and Kirill Dmitriev (a so-called Russian oligarch who heads a large Russian sovereign wealth fund).<sup>306</sup> The third is a meeting in early 2017 between Jared Kushner, Steve Bannon, and hedge fund manager Richard Gerson, who is a friend of Jared Kushner and founded Falcon Edge Capital. Gerson has significant business ties with the UAE and a relationship with the Crown Prince. Gerson's brother Mark is a long-time close friend of Jared Kushner, and Mark has invested in a real estate investment with Jared Kushner while Kushner has donated money to a foundation run by Mark.<sup>307</sup>

After Trump's election, Broidy capitalized on his connections to Trump with other foreign politicians by suggesting to clients and prospective clients that his company could broker meetings with Trump, his administration, and Congressmen.<sup>308</sup> Broidy became a vice chairman of finance for Trump's inauguration, arranging invitations to parties celebrating the event. For instance, in a letter in January 2017, Broidy indicated that he was sending an invitation to inauguration activities and a proposal for Circinus to a "top Angolan official."<sup>309</sup> In a later letter to the then-Angolan Defense Minister (now President) Joao Lourenco and another official, Broidy asked in regards to a \$6 million contract proposal over five years that "with numerous preparations ahead, we request that you kindly return the executed document no later than January 9, 2017."<sup>310</sup> Three days before the inauguration, Angola sent a \$6 million payment to Circinus. On that day, Broidy and the Angolans met with Senators Tom Cotton (R-AK) and Ron Johnson (R-WI), a meeting arranged by Broidy and his team.<sup>311</sup> According to the New York Times, while Broidy denies he was lobbying on behalf of Angola, Angolan officials believed they were paying Broidy to lobby on their behalf rather than to provide intelligence services. In total, he sought \$266 million in intelligence contracts from Angola, the Republic of Congo, and Romania.<sup>312</sup>

Broidy and other Circinus executives also met in Tunisia right after Trump's election to seek a five-year, \$80 million contract to build an open source intelligence center. That contract proposal was turned down by the Tunisians.<sup>313</sup> Federal prosecutors allege that Elliot Broidy and his wife, Robin Rosenzweig, had also tried

to help launder tens of millions of dollars in money from the 1MDB scandal, a grand corruption case involving Malaysia's former prime minister in money siphoned off from a Malaysian sovereign wealth fund, and which has embroiled various Emirati sovereign wealth funds and the Emirati ambassador to the US. If Broidy had been successful in having the US Department of Justice investigation into 1MDB dropped, Broidy would allegedly receive a \$75 million "success fee."<sup>314</sup> The financier behind the 1MDB scandal, Low Taek Jho (better known as Jho Low) transferred \$6 million to Broidy's wife's law firm.<sup>315</sup>

In addition to Broidy's alleged "pay to play schemes" between various governments and the White House, as well his advocacy for a change in American foreign policy in the Middle East, Broidy has reportedly lobbied Trump directly on behalf of his company. He has allegedly discussed a paramilitary force that he has been developing with Trump and lobbied Trump to meet with the Emirati Crown Prince bin Zayed. Broidy was also apparently asked by Prince bin Zayed to discuss a UAE counterterrorism task force with President Trump and to press the President to meet with the UAE Crown Prince in a more informal setting, a meeting which eventually occurred at Trump Tower in New York. Broidy has also encouraged Trump to back the UAE's policies in the Middle East and to fire the now former Secretary of State Rex Tillerson.<sup>316</sup> Even if Trump himself or senior advisers like Stephen Bannon or Jared Kushner did not receive financial benefits, Broidy apparently had the ear of the President on at least some occasions and may have been able to make personal appeals which resonated.<sup>317</sup>

While no corruption charges have been filed in this case, it represents an example, albeit an extreme one, of a US defense company and a couple of well-placed, well-connected individuals involved in activities that raise red flags for corruption and suggest the possible influencing of American foreign policy in the Middle East. Though it is unclear how much Broidy has actually influenced American foreign policy, the current evidence suggests that he has made significant efforts towards that effect. Trump initially tweeted his support of the Saudi-led boycott of Qatar, despite the existence of a major American military base in Qatar. This disrupted a delicate balance the United States

had engineered between Saudi Arabia and its allies versus Qatar. Given Qatar's role in various negotiations, including those involving the Taliban, it could disrupt sensitive talks important to United States' interests. The clumsy nature of the entire dispute, with allegations of a false flag operation by the UAE or Saudi Arabia against Qatar, has also led to concerns that some recent attacks against oil tankers in and around the Gulf of Hormuz may be another false flag operation, designed to push the United States towards a war with Iran. Broidy and Nader's work has potentially made a shaky situation all the more delicate. Neither Elliott Broidy nor his wife, Robin Rosenzweig, responded to requests to comment via letters and a message through Mr. Broidy's private security firm Circinus by Transparency International.

All the pathways described in this section often work in tandem; in most cases, which pathways to influence were the most important in any one case may be impossible to untangle. Though no specific work has been done to empirically assess the importance of various pathways for the defense industry, a 2014 academic study of lobbying by the US financial industry between 1999 and 2006 by two International Monetary Fund economists gives indications of how different pathways build on one another. In this case, the authors sought to understand the regulatory failure of the financial industry that led to the 2008 financial crisis. They looked at company lobbying expenditures targeted at 47 specific bills on financial regulation involving 790 legislators, 575 lobbyists, and an average of \$4 million spent on lobbying per bill, along with campaign contributions to particular legislators.<sup>318</sup> They also looked at prior employment histories to understand links between legislators, lobbyists, and the financial industry. They found that intense lobbying increased the likelihood that a legislator would switch their stance on a bill (an increase in spending on lobbying by one standard deviation led to a 3.7 percent increase in the probability of switching). The chance of extra money leading to a legislator switching was higher if the lobbyist had also worked for the legislator (an increase in likelihood of 2.5 percent), so putting the two together was more effective than just a connected lobbyist or extra money alone. Lobbying was also more effective with legislators who were more conservative and/or had previously worked on Wall Street, indicating that the reverse revolving door also has some value. And this result was broad-based: 71 percent of legislators switched their position on a bill at least once.<sup>319</sup> Unfortunately, no similar study exists related to defense industry bills, but one would anticipate a similar conclusion: pathways to influence can be tightly intertwined and built upon one another.

The next chapter focuses on the results of these pathways to influence, laying out the argument that the defense industry, key

297 "Lobbying Spending Database-Circinus LLC, 2017," OpenSecrets, accessed March 26, 2018, [https://www.opensecrets.org/lobby/client\\_reports.php?id=F138797&year=2017](https://www.opensecrets.org/lobby/client_reports.php?id=F138797&year=2017). The LD-2 forms signed by Fidelis Government Relations does not note any specific bills which were advocated for, such as the aforementioned bill in the House of Representatives to sanction Qatar. It is unclear what specific issues or contracts the lobbying firm was to bring forth to the Vice President's office. Fidelis Government Relations is headed by Chief of Staff of former Congressman Steve Largent (R-OK) and works in partnership with Sextons Creek Consulting founder Bill Smith, who served 16 years as now-Vice President Mike Pence' Chief of Staff when he was Governor of Indiana and a Congressman. "Fidelis Government Relations," accessed March 26, 2018, <http://fidelisgr.com/>.

298 Day and Lardner, "Mueller Probe Witness Secretly Backed UAE Agenda in Congress."

299 Day and Lardner.

300 Kirkpatrick and Mazzetti, "How 2 Gulf Monarchies Sought to Influence the White House."

301 Vogel, "How a Trump Ally Tested the Boundaries of Washington's Influence Game - The New York Times."

302 Day and Lardner, "Mueller Probe Witness Secretly Backed UAE Agenda in Congress"; Vogel, "How a Trump Ally Tested the Boundaries of Washington's Influence Game - The New York Times." Day and Lardner, "Mueller Probe Witness Secretly Backed UAE Agenda in Congress."

303 Kirkpatrick and Mazzetti, "How 2 Gulf Monarchies Sought to Influence the White House."

304 Vogel, "How a Trump Ally Tested the Boundaries of Washington's Influence Game - The New York Times."

305 Vogel.

306 Day and Lardner, "Mueller Probe Witness Secretly Backed UAE Agenda in Congress."

307 Mark Mazzetti et al., "Witness in Mueller Inquiry Who Advises U.A.E. Ruler Also Has Ties to Russia," The New York Times, April 4, 2018, sec. Politics, <https://www.nytimes.com/2018/04/04/us/politics/george-nader-russia-uae-special-counsel-investigation.html>.

308 Kenneth P. Vogel and David D. Kirkpatrick, "Fund-Raiser Held Out Access to Trump as a Prize for Prospective Clients," The New York Times, March 25, 2018, sec. Politics, <https://www.nytimes.com/2018/03/25/us/politics/elliott-broidy-trump-access-circinus-lobbying.html>.

309 Vogel and Kirkpatrick.

310 Vogel and Kirkpatrick.

311 Vogel and Kirkpatrick.

312 Vogel, "How a Trump Ally Tested the Boundaries of Washington's Influence Game - The New York Times."

313 Vogel and Kirkpatrick, "Fund-Raiser Held Out Access to Trump as a Prize for Prospective Clients."

314 Kenneth P. Vogel, "Trump Fund-Raiser Received Laundered Foreign Money, Prosecutors Say," The New York Times, December 2, 2018, sec. U.S., <https://www.nytimes.com/2018/11/30/us/politics/broidy-trump-foreign-money.html>.

315 Vogel, "How a Trump Ally Tested the Boundaries of Washington's Influence Game - The New York Times."

316 Mark Mazzetti, David D. Kirkpatrick, and Maggie Haberman, "Mueller's Focus on Adviser to Emirates Suggests Broader Investigation," The New York Times, March 3, 2018, sec. Politics, <https://www.nytimes.com/2018/03/03/us/politics/george-nader-mueller-investigation-united-arab-emirates.html>; Kirkpatrick and Mazzetti, "How 2 Gulf Monarchies Sought to Influence the White House," 2.

317 Adam Entous, "Israeli, Saudi, and Emirati Officials Privately Pushed for Trump to Strike a 'Grand Bargain' with Putin," July 10, 2018, <https://www.newyorker.com/news/news-desk/israeli-saudi-and-emirati-officials-privately-pushed-for-trump-to-strike-a-grand-bargain-with-putin>; Peter Baker and David E. Sanger, "With Oil Under Attack, Trump's Deference to Saudis Returns - The New York Times," New York Times, September 16, 2019, <https://www.nytimes.com/2019/09/16/us/politics/trump-saudi-tweet.html>; "MBS Tells Trump Saudi 'willing and Able' to Respond to Attacks," Al Jazeera, September 15, 2019, <https://www.aljazeera.com/news/2019/09/mbs-tells-trump-saudi-respond-attacks-190914192436368.html>.

318 The authors note that while there was lobbying on behalf of more regulation by as well as by other affected firms such as consumer organizations, the amounts spent were tiny compared to those of the financial industry seeking deregulation.

319 Deniz Igan and Prachi Mishra, "Wall Street, Capitol Hill, and K Street: Political Influence and Financial Regulation," The Journal of Law and Economics 57, no. 4 (November 2014): 1063-84, <https://doi.org/10.1086/680933>.

players in the executive branch (especially the Departments of State, Commerce, and Defense), politicians, and Middle East regimes, each pursuing their own interests, are locked into a cycle of perverse outcomes that reinforces the position of the predatory governments in the Middle East that will continue to breed violence and instability. Within this cycle, Congress and industry remain locked in a mutual extortion racket where industry provides money and other support for presidential and congressional campaigns, and, later, lucrative jobs, and in return, defense companies secure their access to US taxpayer money via federal contracts and access to lucrative contracts with

Middle East regimes. They also receive permission to continue to export under a profitable and not-too-onerous legislative and regulatory environment. Intermediaries, such as lobbyists, public relations firms, and some think tanks, also rely on this mutual extortion racket to maintain their funding and *raison d'être*. As a result, US taxpayers are straddled with significant debts and substandard American foreign policy in the region, while the citizens of the Middle East regimes continue to live under predatory governments that will use all means necessary to resist implementing substantial reforms.

## SECTION 4: THE CONSEQUENCES — A NEVER-ENDING CYCLE OF PERVERSE OUTCOMES

The pathways to influence described in the last section, especially campaign finance, impact the actual choices of voters, because they help promote candidates who are considered friendly to the defense industry while hindering those who may be willing to take a more balanced approach to the role of the defense industry and US foreign policy in the Middle East. Because of the expense of political campaigns, large donations from the defense industry (or any other industrial sector) make it easier for candidates to make it through the primaries and into the election itself. Moreover, if elected, the benefits of incumbency mean that these politicians are likely to remain in office, in part due to the continuing pathways to influence existing between them and various defense industry groups. Given the importance of campaign finance and future jobs to a politician, they may well take positions favorable to industry without actually being asked, knowing they are likely to curry favor with those industry groups. To maintain that pathway, however, requires that the politician continue to prioritize what industry wants.<sup>320</sup>

This situation has resulted in an entire industry of lobbyists and public relations firms that facilitate information-sharing and interaction between industry and policy makers. Though clearly providing a good return on their investment, the lobbying, big paychecks for employment for former military officers and political insiders, and checks to fund political campaigns and PACs all cost defense industry firms a great deal of money. Thus, the lobbying and influence industry needs the defense industry to view it as worth the expense. And for politicians and staffers to see future employment in lobbying as a viable incentive to engage in the revolving door, influence firms must be profitable enough to offer big salaries. This ultimately ties the pathways to influence system together. After all, if the lobbyist cannot “persuade” effectively with the promise of money, either in the form of high-paying future employment or campaign

contributions, they will find that their access to the system slows.<sup>321</sup> The incentive is for lobbyists to ensure the current system remains, for their paychecks quite literally depend on these pathways to influence remaining important to the larger political system.

The ability of the defense industry, among others, to influence politics in this way, has a larger degrading effect on American democracy. Various pathways to influence have concentrated wealth into relatively few hands, and those with access to that wealth, both individually and as part of corporations, have greater access to political power. And money buys more than just influence over individual politicians – it also buys influence over the larger political narrative through financing think tanks and gaining access to the media.<sup>322</sup> This system hurts the larger democratic system by contributing to the erosion of trust between voters and their elected officials and helps create voter apathy.<sup>323</sup> This level of system capture by private and corporate interests, over time, weakens how individuals perceive the fairness of their society. As a result, some citizens opt out of the system all together, thereby increasing opportunities for further capture, and a vicious cycle of rising inequality and lack of trust in the political process ensues.<sup>324</sup>

This system may also impact the defense of the nation by stifling innovation in the defense industry. There has been a significant round of consolidation in the American defense industry, which can in part be attributed to the largest defense contractors being able to secure lucrative contracts, both in the United States and overseas, especially in the Middle East. This gives American defense companies, especially the largest, a big advantage over smaller firms, even if those smaller firms might be more

innovative.<sup>325</sup> Furthermore, the largest firms generally have the money and wherewithal to sue the Federal government in regard to unfair tendering processes for defense contracts,<sup>326</sup> whereas smaller companies lack this capability, making it likely that more innovative and cheaper products may be crowded out of the contracting system entirely.

And finally, many economic studies argue that such strong pathways to influence hurt the long-term economic growth of the nation. As the World Bank notes, firms with powerful political connections are generally favored in terms of policy design and implementation, sometimes at the expense of general social welfare. They receive preferential access to state credit, land, and licensing. They are also often protected from competition from other firms. State actors may collude with such firms, to the detriment of firms less connected to key actors. This favoritism eventually hurts the dynamism of the larger economy.<sup>327</sup> Though issues of US economic dynamism can hardly be laid solely on the shoulders of the US defense industry, much less the smaller sector that exports to Middle East countries, this economically significant industry clearly contributes to ongoing economic trends within the US. Under these conditions of favoritism, taxpayers are also likely to have to pay higher costs. The World Bank notes that private firms contracted to provide government services in so-called public-private partnerships, or PPPs, as is often the case in the defense sector, rarely produce the savings and efficiency originally promised. Governments often fail to enforce the terms of such contracts, with contracts frequently renegotiated in favor of the contractor, often because the bidder deliberately underbids; once the contract is awarded, the contractor can then lobby the government to renegotiate the terms.<sup>328</sup> The result is that taxpayers receive lower quality goods at higher prices. This is particularly troubling with regard to the defense industry since those lower quality goods can put America’s national security at risk, especially if a foreign adversary purchases innovative, higher quality goods that can put America at a disadvantage. This practice can also reinforce crony capitalism and contribute to a further erosion of Americans’ support for their own democratic institutions.

### Cycle of Influence Model

So far, the story outlined above is one of greedy industry players and various lobbyists using pathways to influence to affect American foreign policy outcomes. The politicians and their staff

accept the monetary gifts of those pathways in order to fund their political campaigns, whether for personal power or as a path to legislating for the greater good, and some also look to that same industry and its lobbyists for future compensation through the revolving door. In this way, the defense industry is almost a form of extortion racket, in large part helping to determine the political chances and future employment of a variety of political personnel who can be cut out of the benefits the industry can offer if they do not “play ball.” But the influence exerted in this arrangement is not, in fact, only one-way, flowing from the defense industry via campaign contributions and jobs to the political sphere. Rather, politicians and staff in the executive and legislative branches of government have power over the defense industry and can exert their own influence in what Lessig terms “extortion.”<sup>329</sup>

**Campaign contributions are not about buying votes, they are often about extortion. Legislators have the bargaining power, and they largely initiate solicitations of money. It isn’t a bribe. In white-collar crime, the distinction between bribery and extortion is often based on the determination of “which party initiates the exchange.” This also explains why many corporate executives and PACs largely give to incumbents regardless of party. A challenger can’t do very much to them. But if they fund only the losing candidate, there might be hell to pay from the winner. If it’s a close election, execs might hedge their bets and give to both candidates to secure protection from both sides. Of course, once an election is over, there is only one extortionist left. Corporate PACs send money “disproportionately to incumbents, majority party leaders, and those serving in leadership positions, especially those on the most powerful committees.”<sup>330</sup>**

<sup>320</sup> Lessig, Republic Lost, 132–33.

<sup>321</sup> Lessig, 51.

<sup>322</sup> “As Inequality Grows, so Does the Political Influence of the Rich.”

<sup>323</sup> Lessig, Republic Lost, 156–58.

<sup>324</sup> “Governance and the Law,” World Development Report (Washington, DC: World Bank, 2017), 169–70.

<sup>325</sup> Lessig, Republic Lost, 214.

<sup>326</sup> See for example Jen Judson, “Palantir — Who Successfully Sued the Army — Has Won a Major Army Contract,” Defense News, April 1, 2019, <https://www.defensenews.com/land/2019/03/29/palantir-who-successfully-sued-the-army-just-won-a-major-army-contract/>. See also May Jeong, “Has Bezos Become More Powerful in D.C. Than Trump?,” Vanity Fair, August 13, 2018, <https://www.vanityfair.com/news/2018/08/has-bezos-become-more-powerful-in-dc-than-trump>; Jason Miller, “Oracle’s Latest JEDI Filings Cite AWS, Ex-DoD Official’s Conflict of Interest,” Federal News Network, June 7, 2019, <https://federalnewsnetwork.com/defense-main/2019/06/oracles-latest-jedi-filings-cite-aws-ex-dod-officials-conflict-of-interest/>.

<sup>327</sup> “Governance and the Law,” 137, 141–44.

<sup>328</sup> “Governance and the Law,” 164.

<sup>329</sup> Lessig, Republic Lost, 121.

<sup>330</sup> Peter Schweizer, quoted in Lessig, 121.

Moreover, the cycle of giving is never really finished, for “one year’s law may be next year’s repeal target.” Because the legislative, regulative, and approval rules of the game can be changed (even if they are difficult to change), Congress’ “extortion racket” requires companies to pay to play over and over again. In short, at least where the legislative branch is concerned, donors and legislators (and their staff) are locked in a form of “mutually assured destruction.”<sup>331</sup> The legislative branch needs the campaign donations provided by contributors like the defense industry to maintain political power, and the defense industry needs the support of legislators to maintain its position and economic power.

In this mutual extortion racket model, the defense industry’s relationship with the US government is more intertwined than in most industries, because much of the defense sector is nearly entirely reliant on US government contracts in a way that other American industrial sectors are not. Moreover, even sales to customers outside the US federal government are frequently still reliant on the government for various forms of licensing and approvals. Congress also has the power to restrict or block sales to Middle East countries, one of the most profitable markets for defense goods.<sup>332</sup> In addition, Congress can also exert financial control over defense firms in other ways, requiring them, for instance, to participate in extensive congressional hearings (which can cost them millions of dollars in legal and consulting fees),<sup>333</sup> or affecting their stock prices by hinting that major arms sales may not go through.

The President, too, is involved in this mutual extortion racket – he also both needs campaign contributions from the defense industry and simultaneously has the power to extort that industry. Though presidential campaigns tend to have a diverse range of funding sources, defense firms still provide plenty of money. But the President and his executive branch also have significant day-to-day oversight of the defense industry. The President’s budget provides an initial template for the support of major defense programs, and he sets the implementing regulations that govern defense firms. In most cases, the President is the person of last appeal for licensing disputes between companies and the US government as well. The President also sets out the larger foreign policy of the United States: which countries are friends and which are foes, and which countries will receive US military assistance. The President can largely determine tariff rates as well, along with which technologies can be shared with other countries and which cannot, affecting American defense exports. In addition, the President can help drum up business for defense firms.<sup>334</sup>

<sup>331</sup> Lessig, 155.

<sup>332</sup> For example through ITAR regulations, licensing regimes, legislative action or simply hints from key players like committee chairmen which can derail sales.

<sup>333</sup> Lessig, Republic Lost, 122.

<sup>334</sup> For example, in 2018, President Trump personally intervened with Kuwait over a long-delayed purchase of Boeing F/A-18 aircraft. See Shepardson and Mason, “Ties between Boeing and Trump Run Deep.”

Even a few tweets about important defense programs can dramatically change stock prices. For example, in December 2016, Lockheed Martin shares dropped 4 percent, reducing the company’s value by \$4 billion, then recovered to a 2 percent loss at the end of that trading day because of this tweet:



Figure 3: President Trump tweet about the F-35

After the tweet, Boeing shares dipped by 0.72 percent and General Dynamics shares by 2.87 percent briefly, and fund portfolios of aerospace and defense stocks also fell.<sup>335</sup> While policy by presidential tweeting has not been the historical norm in the United States, it demonstrates the amount of power over industry a single presidential statement can have.

An especially important actor within this sector is the American national security bureaucracy, especially the Department of Defense, with lesser but important roles for the Departments of State and Commerce. The President delegates nearly all duties to his departments and agencies, giving them immense approval and veto power. Pathways to approve defense-related exports are incredibly complex, with the Departments of Defense, State, and Commerce having immense control over what defense firms can export and under what conditions. These departments, though staffed mostly by career civil servants rather than political appointees, are nevertheless characterized by a sense of “mutually assured destruction” existing between themselves and the defense industry. (See Transparency International’s report “Holes in the Net” for a detailed discussion of these issues.)

Defense is critical to the nation in a way that other economic sectors usually are not. The defense sector also receives the largest portion of the federal discretionary budget. This has important ramifications for the American economy in terms of spending, industry, and jobs. Moreover, unlike in sectors such as education and infrastructure construction, nearly all of the money allocated is from the federal government. State and local governments may rely on local defense industries for jobs and perhaps entice certain industries with various tax breaks and other incentives, but the federal budget – and thus Congress and the President – ultimately control the purse strings.

<sup>335</sup> Berkeley Jr. Lovelace, “Lockheed Martin Shares Drop after Trump Says F-35 Program Too Expensive,” CNBC, December 12, 2016, <https://www.cnbc.com/2016/12/12/lockheed-martin-shares-drop-after-trump-says-f-35-program-too-expensive.html>.

Also unique is the significant role various executive branch departments play in the overall defense sector. Take the Department of Defense. It legitimately needs the goods and services that the American defense industry provides and cannot therefore survive without a strong defense industry. The Defense Department also reaps some benefits from defense exports indirectly, such as better cooperation with Middle East allies when those allies use American military gear. But the Department of Defense, especially key leaders, can also to a large extent “extort” defense firms. It is the Defense Department’s Programming, Policy, and Budgeting Process (PP&B) that lays the foundation for which programs will be funded and to what levels. The Defense Department does not always get what it asks for, but generally receives a great deal of it and sets most of the agenda most of the time.

The State and Commerce Departments also have symbiotic relationships with the defense industry, though perhaps not quite as strong as those of the Department of Defense or Congress. Both State and Commerce (and to a lesser extent, agencies like the Departments of Energy and Homeland Security) have some veto power over exports to Middle East countries. But like Congress and the Department of Defense, the State and Commerce Departments also need defense industries. Though the Defense Department administers most security assistance, it is the State Department which is in charge of security assistance strategy and policy, and defense goods are an important part of export promotion for the Department of Commerce.

US defense firms sell goods and services to the Middle East, one of the most unstable parts of the world. The Department of Defense not only has a key role in implementing some defense sales, including to MENA regimes, but it is also a customer of these same defense firms. The Department of Defense also operates in the MENA region and is reliant on MENA regimes for basing rights. This puts the federal government at the heart of defense exports in a unique way and makes influencing federal agencies crucial to survival for the defense export sector. Moreover, there are the direct military-to-military relations that take place between senior members of the Department of Defense and those of host government militaries which constitute important pathways of communication and influence.

MENA states are also important, independent actors in the relationship between the US federal government and the defense industry. Here, too, defense sector exports are different from exports in most economic sectors. In those sectors, most goods go to commercial purchasers. But in the case of defense goods, most purchases are ultimately state purchases. In addition, those exports are a major pillar of US foreign policy in a way sectors like textiles or construction equipment are not. For the American defense industry, MENA states are major customers. And MENA regimes try to affect American defense exports to their regions using similar pathways to influence as industry, hiring their own lobbyists and public relations firms,

setting up their own think tanks, and offering the possibility of lucrative future employment and even sometimes outright corruption.<sup>336</sup>

Parts of the federal government may advocate on behalf of American defense exports to the MENA region as well, whether explicitly on behalf of regimes or independently because of the belief that those exports play a key role in the defense of the nation or US foreign policy. For example, in March 2018, then-Secretary of Defense James Mattis was overtly advocating continued US support for the Saudi-led coalition in Yemen, alongside the State Department.<sup>337</sup>

The US defense sector continues to play an important role in the survival of the authoritarian MENA regimes, with issues such as humanitarian concerns, democratic reforms, or transparency and accountability regularly sacrificed to the goal of regime maintenance.<sup>338</sup> This is problematic for a number of reasons. First, a number of regimes in the region, including close allies, rely on coercive force in the absence of other forms of legitimacy. This has been especially true since the Arab Spring in 2011. For countries which devolved into civil wars, weapons and military services are key to taking back territory, as Syria has mostly managed to do with Russian and Iranian assistance. In other states (such as Egypt under President Sisi or the Gulf Cooperation Council (GCC) states), violent repression is used. Here, exports of American weapons have often played a key role.<sup>339</sup>

Second, in addition to coercion, these countries rely on complex patronage networks to stay in power. Here, defense exports can also play a significant role such as in the Al Yamamah case, where \$6 billion of a \$43 billion Saudi defense deal between BAE, the British government, and Saudi Arabia was spent on bribery. Even if US defense companies themselves guard against internal corruption, their products can often be diverted to bolster patronage networks overseas.<sup>340</sup>

Third, weapons are a means of buying political (and military) backing – one of the reasons countries like Saudi Arabia and Bahrain buy so many American weapons systems is that it helps cement their ties to the United States. Despite all their defense spending, GCC countries in particular are weak and would have a hard time defending themselves without the support of a major power like the United States. This support sends a signal from

<sup>336</sup> For a discussion of states using corruption as a pillar of foreign policy, see MacLachlan, “The Fifth Column.”

<sup>337</sup> “Mattis: Don’t Restrict U.S. Support to Saudi-Led Forces in Yemen,” Reuters, March 16, 2018, <https://www.reuters.com/article/us-usa-yemen-mattis-idUSKCN1GS00N>. See also Eric Schmitt and Thomas Gibbons-Neff, “Before Saudi Visit, Congress Questions U.S. Support for Yemen Campaign,” The New York Times, March 18, 2018, sec. Politics, <https://www.nytimes.com/2018/03/18/us/politics/trump-saudi-yemen.html>.

<sup>338</sup> See the Transparency International report Holes in the Net: US Arms Export Control Gaps in Combatting Corruption for additional details on the arms control proves, including the current lack of influence by the State Department’s Bureau of Democracy, Human Rights and Labor (DRL).

<sup>339</sup> For a detailed discussion of Arab government responses to the Arab Spring, see, for example Marc Lynch, The New Arab Wars: Uprisings and Anarchy in the Middle East (New York, NY: PublicAffairs, 2016).

<sup>340</sup> For an example of how a GCC regime uses arms procurement to reinforce patronage networks, see Vittori, “Bahrain’s Fragility and Security Sector Procurement.”

these regimes to external enemies as well as internal dissidents. In return, Middle East governments provide money to the US Treasury in the form of foreign military sales, as well as money to individuals in the federal government (often indirectly) through lobbying, the revolving door, and potentially even corruption. They also have direct contacts and directly influence US policies in their states, such as through Status of Force Agreements (SOFAs) under which the US military operates overseas as well as by providing local security to American bases and operations.

Therefore, instead of a rather straightforward path of defense industry influence through intermediaries like lobbyists to politicians or other government personnel, the various pathways to influence are really a cycle in which each actor is working in such a way as to maximize their own benefit, yet with the outcome that the cycle can harm the American nation as a whole.

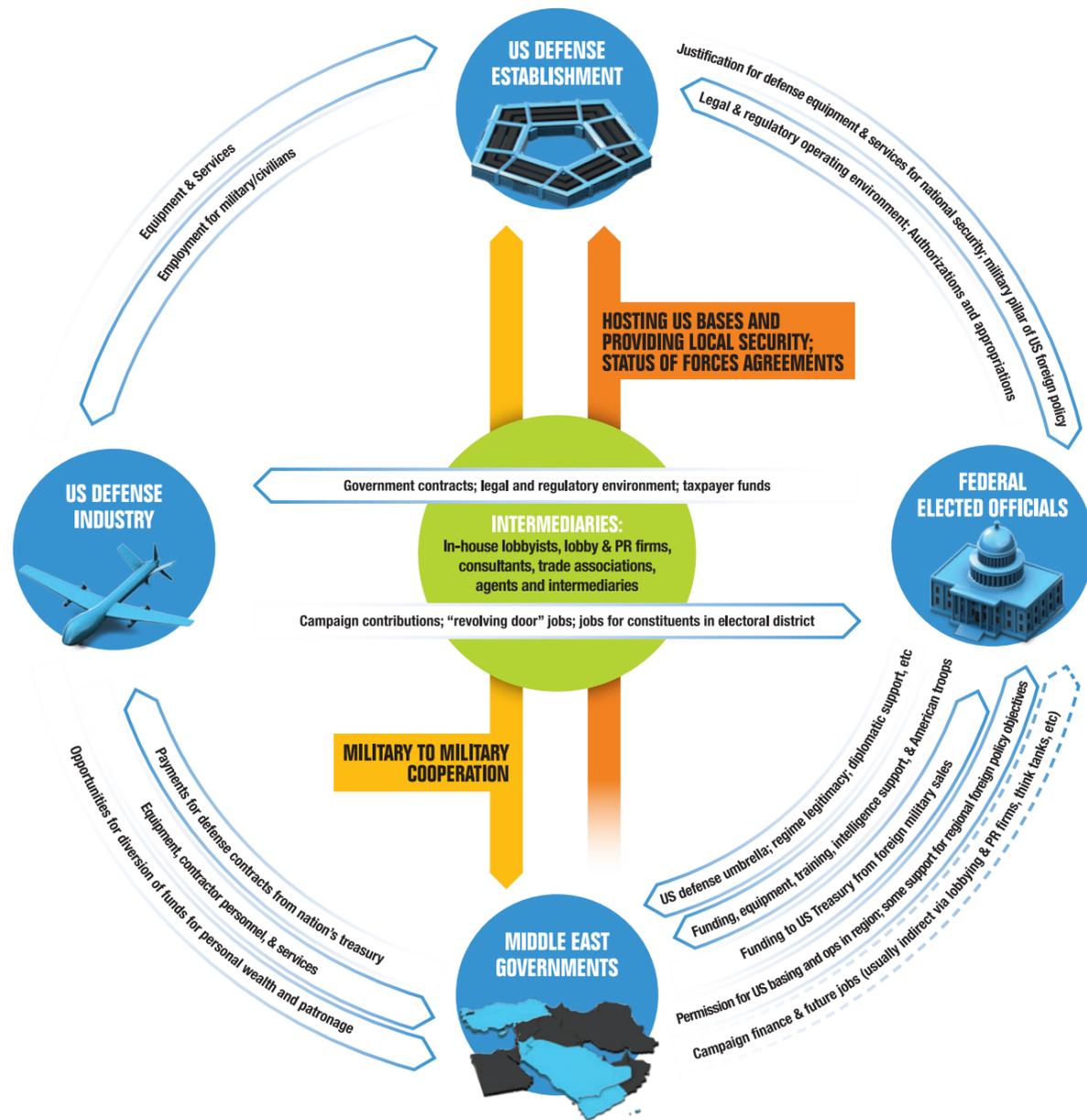


Figure 4: Cycle of Influence

### Case Study: The US Military Industrial Complex and the Saudi-led Campaign in Yemen

Few recent cases exemplify this cycle as clearly as the war in Yemen involving Saudi Arabia and the United Arab Emirates, especially in the wake of the death of Saudi journalist Jamal Khashoggi. Aggressive lobbying on the part of industry has been especially apparent to prevent efforts by the US Congress or executive branch to stop or limit American military support of the Saudi-led campaign in Yemen. There have been clear instances of lobbying to continue to sell weapons to Saudi Arabia and the UAE under the Trump administration, but this in fact predates the Trump administration. Raytheon, for example, has been successfully lobbying to continue to sell precision-guided munitions, Patriot missile systems, and other defense goods to Saudi Arabia and the UAE since the start of the war in 2015.<sup>341</sup> But with these sales has come controversy, because Raytheon products have been documented as used in potential war crimes in Yemen. In May 2017, Human Rights Watch was able to show how Raytheon-made munitions were used in at least four Saudi-led coalition strikes against civilians. In one case, Human Rights Watch was able to recover a portion of a bomb used in an October 2015 strike that had Raytheon production markings.<sup>342</sup>

In December 2016, the Obama administration blocked a Raytheon sale of 16,000 guided munition kits to upgrade "dumb bombs" to precision-guided munitions, a purchase worth an estimated \$350 million to the company. Prior to the sale being blocked, Raytheon's CEO had personally lobbied then-Deputy Secretary of State Tony Blinken.<sup>343</sup> But the executive branch blocks were lifted when President Trump took office, and Trump famously made his very first foreign trip as president to Saudi Arabia in May 2017. As part of that trip, Trump offered Saudi Arabia a controversial \$110 billion arms package, though \$23.7 billion of it had actually been authorized under the Obama administration.<sup>344</sup> Yet attempts to block weapons sales to Saudi Arabia continued. In June 2017, sales to Gulf countries were put on hold due to the aforementioned dispute with Qatar, which was lifted in February 2018 just in time for Saudi Prince bin Salman's US visit.<sup>345</sup> Senator Robert Menendez (D-NJ) put arms sales to Saudi Arabia on hold again in April 2018. That hold technically remains in place but has since been overridden by President Trump's June 2019 announcement that he would declare a national emergency to force sales through, thereby bypassing Congress.

341 Schmitt and Gibbons-Neff, "Before Saudi Visit, Congress Questions U.S. Support for Yemen Campaign."  
 342 Schmitt and Gibbons-Neff.  
 343 Cooper, "U.S. Blocks Arms Sale to Saudi Arabia Amid Concerns Over Yemen War."  
 344 Schmitt and Gibbons-Neff, "Before Saudi Visit, Congress Questions U.S. Support for Yemen Campaign."  
 345 McCleary, "Saudi Arms Sale Clears Contentious Senate Vote"; Gould, "Corker Lifts Hold on Arms Sales to Gulf Nations in Qatar Row."

Some of the greatest support and advocacy for arms sales has come from the President himself. After a meeting between Saudi Prince Mohammad bin Salman, President Trump, and Trump's son-in-law Jared Kushner (apparently a stalwart backer of the Saudi Crown Prince)<sup>346</sup> at the White House in May 2017, Trump expressed the hope that Saudi Arabia would give some of its "wealth" to the US "in the form of jobs, in the form of the purchase of the finest military equipment anywhere in the world."<sup>347</sup> Author Dexter Filkins notes that it was the same day that the US Senate blocked the latest resolution to limit US involvement in Yemen.<sup>348</sup> But the administration's latest move is perhaps the most audacious: the announcement of a declaration of national emergency in order to allow defense exports of \$8 billion to Saudi Arabia and the UAE.<sup>349</sup>

Saudi Arabia and the UAE have their own formidable lobbying operations in the United States. Saudi Arabia, in particular, has Foreign Agent Registration Act (FARA) filings going back to the 1950s, and spent over \$100 million on influence in the US in the ten years following the terrorist attacks on September 11, 2001.<sup>350</sup> The United Arab Emirates spent over \$30 million between January 1, 2017 and December 2018 based on their FARA filings, making them the fifth largest state spender.<sup>351</sup> Saudi Arabia was ranked ninth, spending \$24 million to influence American policies and the public, most of that from the Saudi government directly. Of that, more than \$1.6 million was spent on political donations, both via operatives working on behalf of Saudi interests and through PACs associated with lobbying and public relations firms.<sup>352</sup> Some PR and lobbying firms have publicly dropped representing various Saudi interests in the wake of the Jamal Khashoggi murder in Turkey in October 2018, but plenty remain.

Lobbying firms perceived as close to the Trump administration have substantial contracts with Saudi entities. Saudi Arabia added six new lobbying firms to its roster soon after Trump's election, many tightly linked to Trump campaign insiders.<sup>353</sup> Saudi Arabia has also hired lobbyists from both sides of the aisle, including the Democratic lobbying firm Podesta Group. The lobbying firm Brownstein Hyatt Farber and Schreck (the

346 Indeed, media reports indicate that the American intelligence community is concerned that Kushner can be manipulated by Saudi Arabia and the UAE due to his lack of diplomatic experience and his lack of historical or policy knowledge of the region. See David D. Kirkpatrick et al., "The Wooing of Jared Kushner: How the Saudis Got a Friend in the White House," The New York Times, December 9, 2018, sec. World, <https://www.nytimes.com/2018/12/08/world/middleeast/saudi-mbs-jared-kushner.html>.  
 347 Filkins, "A Saudi Prince's Quest to Remake the Middle East."  
 348 Filkins.  
 349 LaForgia and Bogdanich, "Trump Allows High-Tech U.S. Bomb Parts to Be Built in Saudi Arabia."  
 350 Anna Massoglia, "Saudi Foreign Agents' Political Donations Top \$1.6 Million in 2018 Elections," OpenSecrets, October 23, 2018, <https://www.opensecrets.org/news/2018/10/saudi-foreign-agents-donations-top-1point6-mill/>.  
 351 "Foreign Lobby Watch Home," OpenSecrets, accessed December 11, 2018, <https://www.opensecrets.org/fara>.  
 352 Massoglia, "Saudi Foreign Agents' Political Donations Top \$1.6 Million in 2018 Elections"; "Foreign Lobby Watch Home."  
 353 Thomas Frank, "Saudi Arabia Ramps up Washington Lobbying with Former Trump Advisers," CNN Investigates, June 1, 2017, <https://www.cnn.com/2017/06/01/politics/saudi-arabia-lobbyists-trump/index.html>.

second largest lobbying shop in Washington, DC by revenue), also on contract with the Saudi government, sent two 60-page reports explaining the Saudi bombing in Yemen to members of Congress and their staffs. One of its lobbyists is Mimi Burke, who formally worked for over two decades in the Saudi Embassy in Washington, DC, and who registered to lobby for the Saudi Foreign Ministry in May 2017.<sup>354</sup> The Saudi government also engages in direct state-to-state lobbying. Much of this constitutes the normal diplomatic interactions states would be expected to have, but other interactions look suspiciously like lobbying activities. For example, on October 16, 2018, the same day Secretary of State Mike Pompeo was due to arrive in Riyadh to discuss the Khashoggi murder and its fall-out, the Saudi government transferred \$100 million originally pledged in August to the US government to help pay for American efforts to stabilize parts of Syria.<sup>355</sup> In July 2018, the UAE had pledged \$50 million to stabilize areas in Syria under US control, though there is no indication of that money having been disbursed yet.<sup>356</sup>

This example of the cycle of influence model in action highlights the systemic forces that propel linkages between the federal government, the US defense export section, and MENA regimes. Often, political reform advocates make a case that if lobbying or lobbyists were simply banned, the influence of money and politics would go away. While restrictions on lobbying are indeed an important means of reducing this influence, as the model demonstrates, they will hardly be sufficient. Section 5 of this paper provides policy recommendations that take into account the overall model of the US military industrial complex in relation to Middle East foreign policy.

### Case Study: The Sonoran Policy Group (SPG) & Lobbying by Middle East Governments

While the McKeon lobbying firm demonstrates the links between industry and Congress, the Sonoran Policy Group (SPG) exemplifies the links between a President, his senior staff, industry, and foreign governments. SPG was founded by a Trump campaign advisor in California, Robert Stryk and was a rather small, struggling consultancy before the Trump election in November 2016. It garnered notice when it received a \$5.4 million payment from the Saudi Ministry of the Interior under a one-year contract signed in May 2017 – SPG’s first time lobbying on behalf of a foreign government – the day after Trump announced his first visit to Saudi Arabia.<sup>357</sup> It was unclear

354 Frank; Theodor Meyer, “The Most Powerful Lobbyist in Trump’s Washington,” POLITICO Magazine, April 2, 2018, <https://politi.co/2uEFEVB>.

355 Ben Hubbard, “Saudi Arabia Delivers \$100 Million Pledged to U.S. as Pompeo Lands in Riyadh,” The New York Times, October 17, 2018, sec. World, <https://www.nytimes.com/2018/10/16/world/middleeast/saudi-arabia-money-syria.html>.

356 Jack Moore, “UAE Pledges \$50m for Stabilisation Efforts in Raqqa,” The National, July 13, 2018, <https://www.thenational.ae/world/mena/uae-pledges-50m-for-stabilisation-efforts-in-raqqa-1.749906>.

357 Frank, “Saudi Arabia Ramps up Washington Lobbying with Former Trump Advisers.”

what work the lobbying group had accomplished during its short contract, but the \$5.4 million was the bulk of the \$6 million in total receipts the firm received in 2017.<sup>358</sup> Saudi Arabia’s hiring of SPG seems to have been part of a secession struggle between Crown Prince Muhammad Bin Nayef (the then-Saudi Interior Minister) and Crown Prince Mohammed bin Salman. Prince Nayef considered hiring SPG as a means to influence the Trump administration after Mohammad bin Salman had lunch with President Trump at the White House on March 14, 2017.<sup>359</sup> After Crown Nayef was relieved of all duties by royal decree and replaced by the new Crown Prince, Mohammad bin Salman, the SPG contract with the Saudi government was not renewed.<sup>360</sup>

SPG’s President was Stuart Jolly, originally political director of the Great America PAC, one of the leading pro-Trump PACs,<sup>361</sup> from 2015 and later Trump’s national field director until April 2017 when he left with then Trump campaign manager Corey Lewandowski. In January 2017, Stryk claimed in an interview that Jolly could get Trump’s private cell phone within 30 minutes, though the White House stated in June 2017 that Jolly no longer had such access.<sup>362</sup> Jolly left SPG in May 2017 after a Facebook post of a visit to the White House that appeared to be used to brag about his access.<sup>363</sup> Another SPG lobbyist is Jacob Daniels, who was chief of staff for the Trump campaign in Michigan.<sup>364</sup> It is unclear who remains with SPG because the SPG website only lists the name of the firm, that it engages in “Global Private Diplomacy,” and provides a Washington, DC-based phone number and email address.<sup>365</sup>

In 2017, Bahrain contracted with Sonoran. Though Bahrain only spent around \$400,000 on lobbying per year in 2017 and 2018, over half of their spend – \$250,000 – went to SPG in 2018. That contract specifies a payment of \$500,000 in total to “facilitate meetings and interactions with US administration

358 Massoglia, “Saudi Foreign Agents’ Political Donations Top \$1.6 Million in 2018 Elections.”

359 Frank, “Saudi Arabia Ramps up Washington Lobbying with Former Trump Advisers.”

360 Nicholas Confessore, “How to Get Rich in Trump’s Washington,” The New York Times Magazine, August 30, 2017, <https://www.nytimes.com/2017/08/30/magazine/how-to-get-rich-in-trumps-washington.html>.

361 Alex Isenstadt and Kenneth P. Vogel, “Trump Ally Stuart Jolly Joins Super PAC,” POLITICO, May 27, 2016, <https://www.politico.com/story/2016/05/stuart-jolly-donald-trump-backer-super-pac-223681>. Great America PAC, formerly known as TrumpPAC, is a unique hybrid PAC that maintains two separate banks accounts. One is for candidate contributions and one (called a “non-contribution account”) is for independent expenditures which can accept unlimited contributions from individuals, corporations, labor organizations, and other PACs. “Great America PAC,” Ballotpedia, accessed January 7, 2019, [https://ballotpedia.org/Great\\_America\\_PAC](https://ballotpedia.org/Great_America_PAC).

362 Frank, “Saudi Arabia Ramps up Washington Lobbying with Former Trump Advisers.”

363 Anna Palmer, Jake Sherman, and Daniel Lippman, “IVANKA’S LISTENING TOUR -- TRUMP to Announce Slate of Judges -- TAKEAWAYS from Macron’s Win -- OBAMA Urges ‘Political Courage’ to Save ACA -- SCOOP: STUART JOLLY Parts Ways with Lobbying Firm SPG -- WEEKEND WEDDINGS,” POLITICO Playbook, accessed January 7, 2019, <https://www.politico.com/tipsheets/playbook/2017/05/ivankas-listening-tour-trump-to-announce-slate-of-judges-takeaways-from-macrons-win-obama-urges-political-courage-to-save-aca-scoop-stuart-jolly-parts-ways-with-lobbying-firm-spg-weekend-weddings-220171>.

364 Frank, “Saudi Arabia Ramps up Washington Lobbying with Former Trump Advisers.” Current employees of SPG cannot be verified via the SPG website because the website only lists the name of the firm, that it engages in “Global Private Diplomacy,” and provides a Washington, DC-based phone number and email address. Frank.

365 “SPG – Global Private Diplomacy,” accessed January 7, 2019, <https://www.spgdc.com/>.

officials for Client [US Embassy of The Kingdom of Bahrain].”<sup>366</sup>

In December 2018, Robert Stryk arranged for President Trump’s personal lawyer and former New York City mayor Rudy Giuliani to visit Manama, Bahrain for a meeting with King Hamad bin Isa al-Khalifa, the US Ambassador to Bahrain, Sheikh Abdullah bin Rashid bin Abdullah al-Khalifa (son of the interior minister and a relative of the king) and Bahrain’s Chief of Police. The Bahraini government claimed that Giuliani was leading “a high-level delegation.” Giuliani claims he was not in Bahrain on US government business, but instead was seeking a contract for his company, Giuliani Security and Safety.<sup>367</sup> On the trip with Giuliani were Mr. Stryk, Kirsten Fontenrose (a new SPG employee who until November 2018 held a National Security Council post overseeing US policy towards Saudi Arabia), and John Huvane

366 “Registration Statement Pursuant to Foreign Agents Registration Act of 1938 between Sonoran Policy Group and Embassy of the Kingdom of Bahrain” (US Department of Justice, February 27, 2018), <https://efile.fara.gov/docs/6399-Exhibit-AB-20180227-16.pdf>.

367 Kenneth P. Vogel, “While Working for Trump, Giuliani Courts Business Abroad,” The New York Times, December 13, 2018, sec. U.S., <https://www.nytimes.com/2018/12/12/us/politics/giuliani-consulting-abroad.html>.

## SECTION 5: POLICY RECOMMENDATIONS

Using this cycle of influence model, it is now possible to develop policy recommendations for mitigating the worst effects of this system, while amplifying some of its strengths. Though there are a number of excellent policy recommendations for reforming campaign finance and lobbying practices on a larger scale within the United States, from constitutional amendments to overturn the Citizens United ruling to allowing public financing of elections, these are beyond the scope of this report. Rather, the focus here is on how to reform oversight of the defense export sector and how better to align that with US foreign policy objectives in the Middle East by altering some of the incentive structures for various actors, marginalizing the incentive structures of others, and adjusting the amount of discretion for some key actors. This narrower set of policy proposals is more attainable yet still mitigates the most egregious flaws of this system.

The policy recommendations are grouped into three key areas. The first area concerns better alignment of security sector exports with the real needs and capabilities of American partners in the MENA region, and in a manner more likely to accord with larger American foreign policy interests. The second key initiative is to alter the narrative around defense exports to recognize their unique and influential role in US foreign policy, unlike other “normal” exports subject to standard US export regulations. The third key initiative is to limit both defense industry and foreign governments’ excessive influence on American policymaking. These recommendations focus on constraining the lobbying and campaign finance practices associated with the defense sector, as well as creating greater transparency and accountability.

(chief executive of Giuliani Security).<sup>368</sup>

SPG has other state clients as well, including Afghanistan, for whom SPG agrees to provide not only “Executive Branch and legislative engagement” but also “defense consultation” and “strategic advice pertaining to extremism/terrorism” as well as democracy promotion and foreign direct investment.<sup>369</sup> Other state customers include Kenya, the Democratic Republic of Congo, and Somalia.<sup>370</sup>

368 Mark Mazzetti and Maggie Haberman, “Top White House Official Involved in Saudi Sanctions Resigns,” The New York Times, November 18, 2018, sec. U.S., <https://www.nytimes.com/2018/11/17/us/politics/trump-khashoggi-saudi-arabia.html>; Vogel, “While Working for Trump, Giuliani Courts Business Abroad.”

369 “Registration Statement Pursuant to the Foreign Agents Registration Act of 1938 between Sonoran Policy Group and the Embassy of the Islamic Republic of Afghanistan” (US Department of Justice, August 2, 2017), <https://efile.fara.gov/docs/6399-Exhibit-AB-20170802-11.pdf>.

370 “Foreign Lobby Watch Sonoran Policy Group,” OpenSecrets, accessed January 8, 2019, <https://www.opensecrets.org/fara/registrants/F225095>; Kevin J. Kelley, “Somalia Hires US Lobbyists to Lift Travel Ban,” Daily Nation, August 21, 2018, <https://www.nation.co.ke/news/africa/Somalia-hires-US-lobbyists/1066-4722554-i25xjiz/index.html>; “Short Form Registration Statement Pursuant to the Foreign Agents Registration Act of 1938 for Robert Daniel Stryk” (US Department of Justice, August 10, 2018), <https://efile.fara.gov/docs/6399-Short-Form-20180810-118.pdf>.

### Key Criteria for Evaluating US Arms Sales<sup>371</sup>

The US Arms Export Control Act (AECA) and the Foreign Assistance Act (FAA) establish several key criteria the US government must take into account when deciding whether or not to approve a potential arms sale. According to the AECA, the administration must refrain from arms sales to any country that engages in a consistent pattern of intimidation against US individuals. The President must also weigh whether a potential sale of defense articles or defense services may:

- Contribute to an arms race;
- Aid in the development of weapons of mass destruction;
- Support international terrorism;
- Increase the possibility of an outbreak or escalation of conflict; or
- Adversely impact the financial or economic situation in the recipient country.

The FAA requires the President to evaluate other aspects when reviewing proposed arms sales. The President must assess whether there is credible information that a proposed recipient of US arms is engaged in a consistent pattern of gross human rights violations. The President must also determine if the proposed recipient restricts US humanitarian aid to that country. If the President finds the country has engaged in these activities, the President is required to deny arms sales to the country unless there are extenuating circumstances.

371 Excerpted from the Transparency International report Holes in the Net: US Arms Export Control Gaps in Combatting Corruption.

## Better Alignment of Defense Exports with US Foreign Policy

As the cycle of influence demonstrates, the major players each act in their own best interests. The defense sector wants to stay in business and be profitable, making as many sales as possible, including to countries in the Middle East. Members of Congress and the executive branch would like to remain in power, and after they leave power, many choose high-paying jobs in the defense sector. The defense sector is able to facilitate these goals, and intermediaries like lobbyists and public relations firms help “grease the wheels” of these interactions. The Department of Defense relies on money and authorization from Congress, and equipment and services from the defense industry. Regimes across the region want to stay in power and American foreign policies, including arms export policies, can have a significant impact. This is especially the case since most regimes in the region are largely brittle and authoritarian. With each player acting in their own interests in this way, consideration of the long-term good of the United States vis-à-vis its foreign policies in the Middle East can fall by the wayside.

Numerous laws, however, speak to the need for American defense exports to align with larger American interests, including the Arms Export Control Act and the Foreign Assistance Act. (See the Transparency International report “Holes in the Net” for more details on these laws.) Yet without overarching objective standards or criteria for what constitutes good use of US defense industry products, or under what circumstances defense exports should be curtailed or ceased altogether, it is relatively easy to justify almost any sale.

A lack of standards also hampers the ability to measure the effectiveness of defense exports or hold industry or decision makers accountable for problematic defense exports to the MENA region.<sup>372</sup> While the United States has made the security of the Middle East an important national security goal, it often lacks specific political and economic goals and strategies in the Middle East. Furthermore, the lack of standards allows for considerable discretion to be exercised by key powerbrokers. While each actor within the federal government is supposed to consider the larger foreign policy needs of the United States in deciding whether to permit exports, those same actors are ultimately rewarded by the number and value of defense export sales. Indeed, as Thrall and Dorminey note, “Without the need to worry about congressional oversight, executive branch risk assessments serve more as routine paperwork than serious attempts to weigh the positive and negative consequences of an arms deal.”<sup>373</sup> In addition, a conflict situation which may not be advantageous in terms of broader American foreign policy could be good news for a defense firm in terms of sales. The war in Yemen is a clear example of this.

<sup>372</sup> Andrew Miller, Interview with Andrew Miller, interview by Jodi Vittori, March 28, 2018.

<sup>373</sup> Thrall and Dorminey, “Risky Business,” 8.

The Middle East region has always represented a significant pillar of US foreign policy, and its links with terrorism and continued instability and volatility serve to cement this significance. To ameliorate these issues, the United States should ultimately want to see the establishment of reasonably democratic regimes able to maintain a monopoly on the legitimate use of violence, establish the rule of law (especially in relation to terrorism and crime), and provide a growing economy able and willing to purchase American goods. Most MENA regimes, however, largely eschew these goals. Most are deeply authoritarian and becoming more so, and reforms towards democracy would undermine these regimes. The rule of law, likewise, undermines regime stability since it restricts the ability to provide patronage and immunity for certain key powerbrokers that underpins these regimes. And the market for American consumer goods is probably limited for the foreseeable future, since building the strong middle classes able to buy these products would require beginning to dismantle the worst of the patronage networks and authoritarianism. Even in the absence of a clear American strategy for the Middle East, it is hard to see how regimes that bolster authoritarianism, corruption, criminality, terrorism, insurgency, and overall instability are good for American interests.

There is often a lack of objective criteria of defense needs within the MENA importing states themselves according to which the United States can attempt to evaluate their exports. Many Middle East countries do not have national security strategies, and it is often unclear how US defense purchases, especially very large purchases, fit into the interests of these states, despite requirements laid out in laws like the AECA and FAA. Expensive projects may not actually enhance the security of the state, such as when expensive fighter jets are purchased while lower tech, lower cost counter insurgency forces are starved for funds during an active insurgency.<sup>374</sup> In addition, the diversion of much-needed social and economic development spending to potentially “white elephant” defense projects can build grievances that ultimately undermine governments while fostering support for insurgencies, terrorists, transnational criminal networks, and other forms of alternative governance. The United States should therefore develop a better means to assess and respond to recipient state defense needs, and an obvious place to start is with strengthening practical congressional oversight of arms exports. The fact that Congress has never successfully cancelled an arms sale via a joint resolution that could override a presidential veto even once in nearly half a century, even given some of the incredible corruption and other arms sales scandals during that time, speaks to the current lack of effective oversight. Congressional oversight of defense industry contracts is also hampered by the premature commitments associated with the arms sales process – sales are often locked in before due diligence procedures can

<sup>374</sup> Adapted from Daniel Mahanty and Annie Shiel, “With Great Power: Modifying US Arms Sales to Reduce Civilian Harm” (Washington, DC: Stimson Center and Center for Civilians in Conflict, January 10, 2018), 9, <https://civiliansinconflict.org/wp-content/uploads/2018/01/With-Great-Power.pdf>.

be completed, increasing pressure not to subsequently cancel export permissions since this could harm bilateral or multilateral relations involved in the transaction.<sup>375</sup>

Moreover, the Department of Defense lacks the expertise, doctrine, and training to understand and evaluate the role corruption plays in state fragility and security assistance. Joint Publication 3-24 Counterinsurgency, the key publication guiding planning and force employment for American missions in places like Yemen, for instance, discusses how corruption can undermine a counterinsurgency mission, but it provides no guidance on how to diminish corruption. It also briefly discusses that external support to a host government can foster corruption, and that American security assistance can exacerbate this. While the role that contractors can play in corruption receives a single sentence in this doctrine, American defense exports receives no mention at all. The total guidance given to American troops on how to mitigate these issues is this: “US counterinsurgents should carefully calibrate civil and military assistance programs to ensure they are having the desired political impact while focusing assistance programs on only the critical issues driving the insurgency.”<sup>376</sup> Field Manual 3-7 Stability, which also governs American security assistance in fragile states, acknowledges corruption is a major task for building governance in fragile states, but does not even mention the role of American defense exports as a potential destabilizer.<sup>377</sup> Likewise, the associated manual ATP 3-07.5 describing specific techniques for security assistance (especially Chapter 5 on Governance) does not even mention American security assistance, much less defense exports, as an issue.<sup>378</sup> Additionally, there is no one at the Defense Department specifically tasked with assessing the role of corruption in security assistance. There are thus very large gaps in the ability of the Department of Defense to assess and respond to the linkages of corruption, American defense exports, and state fragility.

The ability of the American public to have insight into arms sales and speak up with their concerns is also limited. Civil society has the almost impossible task of understanding the incredibly complex defense export system, and then tracking contracts through that system. The short to non-existent timelines for defense disclosure and the lack of information provided only exacerbate this. It then takes immense resources (which are often unavailable to civil society) to uncover and challenge potential corruption. The recommendations below therefore seek to improve oversight of the defense sector by Congress, civil society, and the media. These recommendations are in addition

<sup>375</sup> Mahanty and Shiel, 27–28.

<sup>376</sup> “Joint Publication 3-24 Counterinsurgency” (Washington, DC: US Department of Defense, April 25, 2018), III–19, [https://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp3\\_24.pdf](https://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp3_24.pdf).

<sup>377</sup> “Field Manual 3-07 Stability” (Washington, DC: US Department of the Army Headquarters, June 2014), [https://www.globalsecurity.org/military/library/policy/army/fm/3-07/fm3-07\\_2014.pdf](https://www.globalsecurity.org/military/library/policy/army/fm/3-07/fm3-07_2014.pdf).

<sup>378</sup> “Army Techniques Publication 3-07.5 Stability Techniques” (Washington, DC: Department of the Army Headquarters, August 2012), [https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/pdf/web/atp3\\_07x5.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/atp3_07x5.pdf).

to those laid out in the Transparency International report “Holes in the Net.”

## Recommendations for the Executive Branch

**Establish a “Defense Exports Czar” on the National Security Council.** There is currently no one agency or individual with the authority and mandate to oversee all aspects of security assistance, including defense exports, and assess whether exports align with larger US foreign policy goals. This is exacerbated by the fact that there are three different types of arms export programs run by three different agencies: Foreign Military Sales (FMS, run by the State Department but administered by the Defense Department), Direct Commercial Sales (DCS, run and administered by the State Department), and dual use export programs (run and administered by the Department of Commerce). There should thus be a single point of contact within the executive branch to ensure defense exports align with larger national security objectives. As part of their duties, the Defense Exports Czar should be required to meet with principles or their designated deputies from the relevant agencies on a regular basis to review overall defense export strategies and policies, as well as to adjudicate particularly controversial defense export requests.

**Require the Departments of State and Defense to customize technical assistance to include a focus on appropriate and lawful transparency, accountability, counter corruption, and good governance (TACCGG) policies and procedures for American arms exports.** The goal of TACCGG technical assistance is to build the capacity of host governments to improve governance over host state security forces and instill an expectation of civilian control over the security sector. This may include helping recipient countries establish appropriate civilian and parliamentary oversight mechanisms, improving command and control relationships within the armed forces, improving personnel systems, and improving logistical systems before weapons are released for sale or personnel are trained. As noted in this report, many MENA regimes—including Saudi Arabia and the UAE—allow for absolutely no parliamentary control nor other civilian oversight of the security sector, including defense procurement. Instead, all control is vested in a small number of royal family members. Thus, technical assistance and conditionality for civilian control over the security sector, especially through legitimate and freely elected legislatures, should be critical requirements for defense export approvals.

### Provide more insight and education to Congress and staff.

The Departments of State and Defense should work with relevant congressional committees and staff earlier in the process in order to minimize corruption risks for American defense industry exports. Congress should demand additional information and analysis as part of the notification process.<sup>379</sup>

### Make American defense exports more transparent to the public.

Civil society and the interested public in the US and recipient countries often have pertinent information about specific defense companies and countries' behavior and capacity that may be directly affected by a misguided sale, but they are often unaware of a potential sale until they are officially notified by Congress. The State and Defense Departments should identify ways to make the process more transparent, including by putting summaries of all defense contract and licensing approvals on one website available to the public. National security waivers for any approvals deemed too sensitive should be signed by the Secretary of State and reported to Congress.

### Provide transparency, accountability, counter-corruption, and good governance (TACCGG) training to security cooperation officers and key staffs.

Provide education and training to security cooperation officers, country teams, attaché staff, and other relevant embassy staff on the relationship between conflict, corruption, and security assistance in order to better assist them in assessing American defense exports to recipient countries.<sup>380</sup>

### Establish corruption-related trip wires on defense contracts.

Led by the Department of State but supported by the Department of Defense, USAID, and the intelligence community, trip wires should be established with the onset of deepening levels of corruption and associated civil unrest, criminality, or conflict that require the review of all security sector-related contracts with recipient countries. Evaluation criteria and trip wires should also be established for when major US defense industry contracts are likely being used to bolster corrupt regimes, such as if there is information that defense items are being contracted through parties with a substantial conflict of interest with known corrupt policymakers or when goods are diverted to government agencies known as enforcers of corrupt regimes to the detriment of broader citizen interests. In those situations, such contracts should be considered for modification or termination. These mitigation strategies should be published before such contracts can be signed (albeit with classified annexes, if required) and appended to notifications for Congress of arms sales.

### Update military doctrine and training to address the role of corruption and other rent-seeking activity in conflict.

Update military doctrine and training to take into account lessons learned in the field and the latest research on the

initiation, duration, and resolution of conflict situations.

The role American security assistance, including US defense exports, plays in conflict and in state fragility should be specifically addressed.

## Recommendations for Congress

### Establish one single licensing agency for defense exports.

All types of arms export agreements, licenses, and contracts should be brought under one agency, as originally suggested under the Obama administration. This agency would be required to evaluate all defense exports in relation to larger US foreign policy goals, with input from the relevant agencies. Unclassified summaries of all exports and evaluations should be made available to Congress and the public via one single website. This agency should have a robust public affairs branch in order to interact with relevant subject matter experts in civil society, academia, and so forth.

### Legislate that no arms sales commitments can be made until the sale is fully vetted in accordance with larger American strategic considerations.

American policymakers are locked into sales decisions too early in the process and before appropriate levels of strategic consideration and due diligence can be accomplished. No commitments to large-scale sales should be made until those sales are fully vetted in accordance with larger American strategic considerations.<sup>381</sup>

### To improve oversight of the US defense export system, establish a special inspector general with oversight of all defense-related exports and train and equip programs.

Currently, inspectors general of each agency can audit only those export programs within their specific agency. A special inspector general for all defense-related exports could audit programs across agencies.

### Legislate requirements that defense export approval agencies consider recipients' levels of democratic consolidation and their transparency, accountability, counter-corruption, and good governance (TACCGG) records.

The State Department should take the lead on these assessments, but with support from the Department of Defense, Commerce Department, intelligence community, and other agencies relevant to specific defense contracts. Assessments can be based on a bespoke TACCGG survey as recommended by the Combating Global Corruption Act (Senate Bill 1309) which was re-introduced in May 2019, or use existing TACCGG indices from recognized expert organizations such as the World Bank, Freedom House, and Transparency International. States displaying low levels of TACCGG should be required to undergo much higher levels of scrutiny over defense export approvals. As part of that assessment, the US should consider whether American defense industry sales to that country are likely to

improve TACCGG or likely to degrade the current TACCGG situation, and if defense contracts are approved, develop mitigation strategies to better ensure those contracts improve TACCGG.<sup>383</sup> These justifications should be published before such contracts can be signed (albeit with classified annexes, if required) and appended to notifications for Congress of arms sales.

## Changing the Narrative of Arms Exports

The Arms Export Control Act recognizes defense exports as unique items requiring exceptional oversight, but reforms beginning during the first Bush administration in the early 1990s have weakened regulations – defense companies are now allowed a remarkable amount of discretion in terms of exports. The current reforms to the US Munitions List exemplify how current regulation has strayed from original legislative intent. These reforms, started under the Obama administration, moved many types of small arms and light weapons (SALW) from the highly controlled US Munitions List (USML) onto the much less regulated Commerce Control List (CCL) run by the Department of Commerce. Items on the CCL are also less subject to congressional and public oversight. Loosening restrictions for these weapons for overseas export will have dangerous consequences. Small arms and light weapons are the primary weapons that cause casualties in a wide variety of violent settings, from gang activity to civil war. The greater availability of these weapons abroad threatens American lives and American interests. The Mexican drug war is an example of how the easy export of American small arms and light weapons can have significant foreign policy and national security effects on the United States. American weapons ending up in the hands of local militia (including Al Qaeda affiliates) in Saudi Arabia and the UAE is another.

The practical lack of oversight over defense industry export contracts combined with the profit motive driving defense firms incentivizes the defense industry to create contracts no matter how misaligned they may be with larger American interests. Required terms and conditions of sales contracts are relatively weak, despite legislation. For state-to-state defense sales contracts, the standard terms and conditions laid out in the “Green Book” textbook by the Defense Security Cooperation Agency (DSCA) provide a low baseline for ensuring the defense items are used in accordance with Arms Export Control Act. In particular, the purchaser is able to interpret the contract requirement of “legitimate use” of defense items quite loosely.<sup>384</sup> Misuse of defense items is unlikely to lead to any sanctions or blacklisting for future sales. Indeed, misuse by the purchasing country may actually be beneficial to the American defense industry as in the case of vehicles provided by the United States to the Iraqi government prior to 2011. Because of poor maintenance, these vehicles were either unavailable for the fight

against ISIS or were captured by ISIS and used against the Iraqi government. To fill the resulting shortage in vehicles for the Iraqi Army to fight ISIS, US companies were re-contracted to again provide vehicles. As a result, those American companies that produced the vehicles may have done better financially because the Iraqi government misused its vehicles than if the Iraqi government had acted responsibly in the first place. With ongoing export reforms, fewer defense goods will even be checked against existing watch lists. There is little reason for a defense company, therefore, to ensure that the purchases will abide by the larger contract stipulations, so long as delivery is accepted and payment is made on time.

The lack of oversight of exports contracts is coupled with a lack of end use monitoring. Even if the terms of contracts were stronger, the lack of end use monitoring of goods by the United States means that any contracts that go awry are unlikely to be noticed. This is especially true because the very little end use monitoring that exists is focused on safeguarding technology or unauthorized transfers of arms,<sup>385</sup> and not on the legitimate financing or use of those weapons. Even if caught, the vendor is unlikely to be held liable, again incentivizing sales contracts regardless of the likely behavior of the purchaser.

Finally, a larger issue is the role of defense exports in corruption and in strengthening authoritarian regimes. While American companies may largely abide by the terms of the Foreign Corrupt Practices Act and other legislation, significant loopholes allow certain regimes to corruptly benefit from these contracts. This is especially highlighted in the role defense offset contracts can play in corruption, and by substantial loopholes in the Foreign Corrupt Practices Act and similar legislation. Policy reforms should limit the discretion of American defense firms, improve monitoring of exports and export outcomes, and increase the penalties for inappropriate sales.

## Recommendations for the Executive Branch

### Re-establish the State Department as the lead agency for all foreign assistance, including all security assistance.

As part of this requirement, establish procedures that explicitly deem all defense exports – including direct commercial sales by companies to governments--a subset of overall American foreign assistance. Various Department of Defense programs that train and equipment foreign militaries are also often outside of State Department channels. As defense-related foreign assistance is an important subset of American foreign policy overall, it should be placed in its entirety back within the purview of the State Department.

Re-sign the United Nations Arms Trade Treaty (ATT). In April 2019, at the annual convention of the National Rifle Association advocacy group, President Trump “unsigned” the ATT, which the United States had initially signed, but not ratified, in 2013 (see

<sup>379</sup> Adapted from Mahanty and Shiel, “With Great Power,” 32.

<sup>380</sup> Adapted from Mahanty and Shiel, 32.

<sup>381</sup> Adapted from Mahanty and Shiel, 9.

<sup>382</sup> Miller, Interview with Andrew Miller.

<sup>383</sup> Adapted from Mahanty and Shiel, “With Great Power,” 29.

<sup>384</sup> Mahanty and Shiel, 28.

<sup>385</sup> Mahanty and Shiel, 28.

following text box).<sup>386</sup> The United States should rejoin the over 100 countries who have ratified or who abide by this treaty. As part of re-signing this treaty, the United States should establish robust mechanisms to ensure the treaty is implemented by the United States with all deliberate speed.

**Supplement assessments of potential American security assistance by US embassies with an enhanced requirement for establishing where American defense industry contracts fit into larger American security interests for a recipient country and establish a clear requirement for considerations of corruption within the recipient state.** As the Transparency International report “Holes in the Net” lays out, US Embassy country teams engage in a robust assessment framework, but larger issues of strategic interest are relatively far down that framework and corruption is not a consideration. Risk assessments should include systemic factors, such as ongoing political repression and/or violence, past human rights conduct, and corruption levels (using Transparency International’s Corruption Perceptions Index, Corruption Barometer, or Defense Governance Integrity Index). They should also consider technical and governance capacities for defense contracts, such as doctrine, command and control, personnel systems, logistical systems, and internal affairs and inspectors general. These assessments should receive inputs from relevant American agencies and from civil society in both the United States and the recipient country.<sup>387</sup>

**Require the publication of additional arms export information on potential sales and mandate changes in terms of sale when necessary.** This should include corruption mitigation measures, dissenting opinions on a sale within the executive branch, end use monitoring plans, and how these defense exports link to larger American national security goals.<sup>388</sup>

**Regain its leadership role in encouraging other governments to enact and enforce national laws on bribery and anti-corruption within their defense sectors.** In order to reduce corruption and help US companies more effectively compete with other countries’ companies, the United States should strongly consider pushing other countries bilaterally and multilaterally to enact and enforce effective national laws to help reduce corruption in arms sales and procurement.

386 Bill Chappell, “Trump Moves To Withdraw U.S. From U.N. Arms Trade Treaty,” accessed September 26, 2019, <https://www.npr.org/2019/04/26/717547741/trump-moves-to-withdraw-u-s-from-u-n-arms-trade-treaty>. President Trump reaffirmed the US withdrawal from the ATT in his September 2019 speech to the United Nations. Madeleine Carlisle, “Trump Defends ‘America First’ Policy in U.N. Speech | Time,” Time, accessed September 26, 2019, <https://time.com/5684890/trump-un-address-america-first/>.

387 Adapted from Mahanty and Shiel, 30.

388 Adapted from Mahanty and Shiel, 32.

## Recommendations for Congress

**Establish legislation to ratify the Arms Trade Treaty.** See the following text box.

**Strengthen Anti-Corruption Strategy Requirements for Defense Exports.** The 2018 National Defense Authorization Act (FY2018 NDAA) requires the Secretaries of State and Defense plus the Administrator of USAID to jointly develop a strategy to prevent corruption in reconstruction efforts associated with US contingency operations, including measurable benchmarks to be met as a condition for disbursement of funds for reconstruction efforts.<sup>389</sup> This is important legislation, as it marks the beginning of American efforts to tackle corruption across a broad spectrum of contingency operations, rather than focusing on specific, discrete operations such as Afghanistan or Nigeria. Many requirements for improving transparency and accountability of US foreign assistance, including those related to the security sector, were stripped out of the original bill. These proposals should be reconsidered for future bills.

**Legislate that firearms and associated components will remain categorized as a munition.** Though these arms may be commercially available in the United States, the potential effects of easing exports of these arms to American foreign policy and national security could be significant, and in some cases, even catastrophic. Nothing represents the imbalance of defense industry considerations over that of American foreign policy more than removing small arms munitions from the US Munitions List.

**Congress should legislate for the elimination of offset contracts between the American defense industry and foreign governments.** The World Trade Organization only allows for offset contracts associated with the defense sector; the United States should push to close that loophole and to forbid offset contracts by its own defense firms. If offset contracts are not banned outright, then at a minimum, the United States should undertake the following actions:

**At the moment, the US government takes a hands-off approach to US companies negotiating and agreeing to offset arrangements when a foreign government purchases US arms.** The Defense and State Departments should consider elevating their reviews of these offset arrangements, especially for offset arrangements for indirect offsets. Cash in lieu of offset contracts should be forbidden.

- Congress should demand that appropriate committees in Congress have the necessary information they need to review offset deals as part of their defense export oversight requirements. As part of this, Congress should demand that any defense offset deals and political contributions defense companies make are included in notifications to Congress.

389 “National Defense Authorization Act for Fiscal Year 2018,” Pub. L. No. PL 115-91, § 1279 (2017), <https://www.congress.gov/115/plaws/publ91/PLAW-115publ91.pdf>.

- Congress should legislate that the Defense Department reduce incentives for US companies to engage in offset arrangements by removing the possibility for US companies to be reimbursed by the US government when foreign governments seek offset deals.
- Summaries of all offset contracts – both direct and indirect – should be published.
- Companies should be required to conduct the strictest due diligence with any contract partners, and the beneficial owners of all entities associated with offset contracts should be published.
- Amend the Foreign Corrupt Practices Act to make both the bribe-taker and the bribe-receiver equally culpable in defense-related procurement. The Foreign Corrupt Practices Act currently only penalizes the bribe-giver along with any intermediaries or consultants associated with the bribe-giver. Due to the importance of defense exports to the national security and foreign policy of the United States, legal penalties should be in place for bribe-takers as well, even if the recipients of those bribes are senior foreign officials.

**Legislate a requirement that the State Department take the lead on establishing robust monitoring and evaluation criteria for arms exports, as well as procedures for integrating lessons learned into future arms sales.** The State Department, with Defense and Commerce Department support, should establish procedures to evaluate whether defense exports to different countries are beneficial to American interests. Procedures should be established to strengthen due diligence on tracking defense exports to recipient countries. Congress should establish mechanisms to assess prior behavior by recipient countries to factor into future defense export considerations.<sup>390</sup>

**Require all contractors and sub-contractors to list their beneficial owners, and establish vendor vetting units to ensure compliance.** Anonymous shell companies are a well-established means of diverting contract funds to political cronies and those tied to insurgents, terrorists, warlords, criminal networks, and other malign actors. American defense industry contracts should list the beneficial owners of entities involved in all contracts and sub-contracts. Vendor vetting cells should be established within the contracting or intelligence communities to verify the beneficial owners and ensure there are no links to malign actors.

## Re-Signing and Ratification of the Arms Trade Treaty

Congress has already legislated that arms exports should be treated as unique exports and considered part of the larger foreign policy interests of the United States. As this report has demonstrated, however, this is often not the case. A first major

390 Miller, Interview with Andrew Miller.

step to re-asserting the unique nature of arms exports for American foreign policy is for the United States to re-sign, and then for Congress to formally ratify, the Arms Trade Treaty (ATT). The ATT is a common standard for the international trade in conventional weapons with the goal of reducing the illicit arms trade, reducing human suffering, improving regional security and stability, and promoting transparency and accountability. The treaty explicitly does not regulate countries’ internal gun control laws or firearms owning policies. It was approved by the UN General Assembly in 2013 and came into force in 2014.<sup>391</sup>

Many of the requirements of the ATT are already undertaken by the United States, such as adopting basic regulations and approval processes for arms exports, along with reporting requirements. Adoption of the ATT would bolster existing American legislation by requiring the United States to specifically prohibit states from receiving American arms if the exporting state “has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Convention of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes.” Exporting states specifically have to assess the potential that the arms exported would “contribute to or undermine peace and security” or if they could be used to commit violations of humanitarian and human rights law, transnational organized crime, or acts of terrorism.<sup>392</sup> It also requires stronger controls to prevent the diversion of arms, an issue noted in this report with American weapons diverted by Saudi Arabia and the UAE to various jihadist groups in Yemen, for instance. Adhering to this treaty would thereby help bolster the criteria the United States currently uses to assess its arms exports, putting arms export effects more front-and-center in consideration versus a current emphasis on the role of US arms in jobs or its balance of trade.

Eventually, the United States should adopt standards above those required by the ATT. For example, the ATT does not explicitly take into account issues related to corruption, nor the extent to which citizens’ views are considered in the recipient country when considering whether arms can be exported to recipient states. As noted, many MENA countries, especially Saudi Arabia and the UAE, allow no practical citizen oversight of arms transfers. This enables MENA governments to use their security procurement not only to directly oppress their citizens or attack citizens of other countries, but also as a form of patronage and personal aggrandizement. Arms exports to countries without free and fair elections to legislative bodies with real power, a free media, and an independent civil society

391 “The Arms Trade Treaty At a Glance,” Arms Control Association, January 2016, [https://www.armscontrol.org/factsheets/arms\\_trade\\_treaty](https://www.armscontrol.org/factsheets/arms_trade_treaty). Attempts were made in the 1990s to establish a US “Code of Conduct on Arms Transfers” and, later, an “International Arms Sales Code of Conduct”. These efforts eventually became the ATT. See “US Arms Transfer Code of Conduct,” Federation of American Scientists, accessed April 6, 2018, <https://fas.org/asmp/campaigns/code/uscodecon.html>.

392 “Arms Trade Treaty,” United Nations Office for Disarmament Affairs, accessed September 26, 2019, <http://disarmament.un.org/treaties/t/att/text/>; “The Arms Trade Treaty At a Glance.”

should only be granted in extreme circumstances and under the highest levels of scrutiny and oversight. Furthermore, human rights abuses and corruption are deeply intertwined, and these entanglements should be acknowledged in American foreign policy, specifically when considering defense exports.

Moreover, while the ATT includes a broad array of weaponry, including battle tanks and armored personnel carriers, small arms and light weapons, artillery systems, warships, missiles and their launchers, and combat aircraft, there are still a number of items it does not include. Surveillance gear and software, for instance, is not covered. And while ammunition and spare parts are included, the service contracts associated with those parts and services are not. The ATT specifically allows for the items proscribed within it to be the minimums; countries are able to establish more stringent requirements than those in the ATT.<sup>393</sup> The United States should therefore plug these gaps in its domestic implementing legislation and regulations, as well as seek to amend the treaty to fill these gaps in the future.

A model for how to improve upon the ATT could come from the European Common Position on Arms Exports. The Common Position is a stronger treaty than the ATT. According to the European Common Position, an export license can only be granted by a member state when it has reliable knowledge of how the arms will be used by the recipient country, including knowledge of the country's adherence to humanitarian law and human rights. A member state must deny an export license if there is a clear risk the item will be used for internal repression or for serious violations of international humanitarian law. Export licenses must also be refused if the arms could be used to prolong an armed conflict or aggravate racial, ethnic, political, or religious tensions within the recipient country.<sup>394</sup> An EU state must also consider the economy of the recipient country, "taking into account the desirability that the states should meet their legitimate security and defense needs with the least diversion of human and economic resources and armaments."<sup>395</sup>

To implement the ATT, a single point of contact should be established for all defense exports authorized to evaluate arms exports against these standards. Ideally, a single agency would be established to do this. Such an agency could be placed under the State Department as the lead agency on all foreign policy matters. As a stopgap measure, a Defense Export Czar should be established on the National Security Council as just such a point of contact. Using the ATT to set criteria could also lessen the impact of the various pathways to influence, especially lobbying, campaign finance, and the revolving door, since officials would have less leeway and also be subject to additional scrutiny and potential legal action for defense sales

393 "Arms Trade Treaty."

394 Mahanty and Shiel, "With Great Power," 18.

395 "Acts Adopted Under Title V of the EU Treaty: Council Common Position 2008/944/CFSP as of December 8, 2008 Defining Common Rules Governing Control of Exports of Military Technology and Equipment" (European Union, December 8, 2008), <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ%3AL%3A2008%3A335%3A0099%3A0103%3AEN%3APDF>.

that, while in the interest of the US defense industry and regimes in the Middle East, may not be in the best interest of American foreign policy.

## Limiting Defense Industry and Foreign Governments' Excessive Influence

The following policy recommendations are not opposed to lobbying per se – the defense industry must be able to bring its questions and concerns to elected officials and their designated representatives, just like any other business sector, or, indeed, as citizens do. Similarly, Congress and executive branch officials must be able to gather information from this important industrial sector as with any other. Industry should also be able to easily approach employees of the federal government on defense export issues and questions on licensing, for instance. This is part of responsive, democratic governance. The key issue addressed in the following recommendations is how to limit self-interested behavior by industry, politicians, various federal government employees and the influence industry in such a way as to better ensure that the interests of the American public are more equally represented, including the larger foreign policy needs of the US citizenry.

The recommendations in this report also do not seek to hamper necessary and appropriate employment flows between executive and legislative branch politicians and employees, former military service members, and the defense industry. Rather, the recommendations are aimed at placing limitations and controls on the very small number of revolving door situations where there is the greatest likelihood of either the impression of a conflict of interest or an actual conflict. Draconian measures should not be used to preclude an aircraft maintainer from going to work for Boeing in the future, for instance. The key is to limit the revolving door for the most senior federal officials related to the defense industry, senior federal politicians, and their staffs.

## Recommendations for the Executive Branch

**Improve revolving door transparency.** The Department of Defense should make the After Government Employment Advisory Repository (AGEAR) ethics database public. The Department of Defense should adopt a Government Accountability Office recommendation to require defense contractors who are awarded a contract to disclose to the contracting officer the names of employees who are former active duty senior military personnel in the most senior enlisted rank (E-9), Lieutenant Colonel and its equivalent (O-5) and above, as well as Department of Defense civilian equivalents, plus any acquisition officials. Contractors should certify that employees are in compliance with post-government ethics rules.<sup>396</sup>

396 Adapted from "Brass Parachutes," 39.

**Improve revolving door databases' effectiveness.** In the National Defense Authorization Act of Fiscal Year 2008, Congress required the Department of Defense to create and maintain a database to track its ethics opinions for its senior officials and officers who seek employment with Defense Department contractors. The Departments of State and Commerce or Congress should consider establishing the same type of database for its employees. Some of the key information in these databases for all three departments should also be made public to help understand and prevent conflicts of interest. The Inspector Generals of these departments should periodically review these databases to ensure the departments are complying with ethics rules.

**Revise ethics rules for former defense company employees working for the government.** State, Defense, and Commerce Department officials and contract employees of these departments that have previously worked on behalf of defense companies or foreign governments pose clear conflict of interest risks when they are involved in the decision-making process to approve US arms exports that could benefit these companies or governments. These departments or Congress should consider establishing clear ethics rules that would restrict such individuals from participating in US government arms sales decisions for at least two years after they terminated work on behalf of defense companies or foreign governments.

**Establish "Revolving Door Exit Plans" for senior government employees associated with the defense sector.** All military personnel in the most senior enlisted rank (E-9), Lieutenant Colonel and its equivalents (O-5) and above, as well as civilian equivalents in the Departments of Defense, State, and Commerce, should be required to enter into a binding revolving door exit plan that will set forth programs and projects from which those individuals are banned. These should be filed with the Office of Government Ethics and made public.<sup>397</sup> This exit plan should prohibit government officials from going to work for any division or department of a defense company for at least two years in which the officials have participated in arms sales decisions requested by the defense company or the officials have participated in policies that materially impacted the defense companies. As recently included in the House version of the National Defense Authorization Act for Fiscal Year 2020, the public should also be notified when senior government officials within these departments have been approved to work with foreign governments.

## Recommendations for Congress

**Limit revolving doors in Congress.** Congressional members and staff that have worked on key defense-related committees have been big players in helping the defense industry push for questionable arms sales and arms sales policies. Congress should consider restricting former congressional members and

397 Adapted from "Brass Parachutes," 39.

staff from taking a job in the defense industry or in associated influence industry companies for at least a two-year period in order to take away the ability of key politicians and their staffs to monetize their relationships into influence. This recommendation would of course not restrict former politicians and staffers who felt strongly on an issue to pen op eds, blog posts, and so forth on behalf of key industries and the larger defense sector on a voluntary basis. Even without a complete ban shutting off the revolving door, the cooling off period should be lengthened and strengthened. This would include closing the loopholes the influence industry uses to avoid the current lobbying requirements, such as coding people as "consultants." This would require other systemic changes. One would be to raise the pay of members of Congress and, especially, staffers. Additionally, research support functions like the Congressional Research Service associated with defense issues would need to be expanded, at least for defense sector issues.

**Establish legislation to limit contributions to super PACs by the defense industry or its intermediaries and prevent anonymous donations.** Due to the unique nature of the defense market with the nation's foreign policy and domestic monopoly on violence, all contributions to politicians and their staff, including via super PACs, should be forbidden on national security grounds (one of the few acceptable exceptions to free speech guarantees).

**Amend current lobbying requirements to forbid US influence industry for-profit corporate firms from representing foreign governments on defense-related issues to the US government.** Governments have a number of means of influencing American policies towards them, including diplomacy. The use of lobbyist groups and public relations firms to represent those governments, especially on an anonymous basis where it can be difficult to ascertain the original source or intent of those influence operations, can undermine larger foreign policy efforts.

**Establish legislation that all firms that export defense or dual use items be required to publicly disclose all donations associated with any political activity over \$10,000.**<sup>398</sup> Due to the uniquely important role of the defense sector in American foreign policy and national security, the highest levels of scrutiny on election-related funding by the defense sector should be required. All donations, including so-called "dark money" contributions should be required to be publicly revealed by defense sector companies and employees.

398 Adapted from "Dark Money Illuminated," 17.

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Acknowledgements:

We would like to thank the Carnegie Corporation for their generous financial support to this project.

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Published November 2019.

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