

United States Senate

WASHINGTON, DC 20510

October 9, 2020

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

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

Dear Secretary Pompeo and Secretary Esper:

We write today to seek clarity on public reporting and mixed messaging from the Administration on a proposed sale of the F-35 aircraft to the United Arab Emirates. As you well know, Congress has statutory authority over foreign arms sales, but it appears that the Administration is trying to rush through a precedent-setting sale of the United States' most advanced fighter aircraft to a country in a volatile region with multiple ongoing conflicts. The Administration appears to be ignoring long-standing, deliberative, internal U.S. processes for considering whether selling such a sophisticated and mission-critical military system abroad could compromise the United States' national security interests – and in this case Israel's – and instead is rushing to meet a political deadline.

There are numerous questions as to how the national security interests of both the U.S. and Israel will be served, or undermined, by such a sale. We fear that the Trump Administration's recklessly accelerated timeline will preclude sufficient and comprehensive consideration of these issues by the national security professionals in the Departments of State and Defense, as well as by the Congress.

Emirati officials have publicly and privately declared that their decision to normalize relations with Israel was not dependent on getting the F-35; however, the Administration's attempt to move at breakneck speed so close to this announcement would give the appearance that it was. Additionally, this sale seems more tied to the American political calendar than to a sober deliberation about regional security.

U.S. national security and the safety of American troops could be seriously compromised by this sale. The F-35 is one of the most advanced aircraft in the world, giving the United States and its allies and partners a tremendous military advantage. This therefore creates an immense counterintelligence threat against this aircraft. Indeed, assessing the risk to our own military advantage is a critical part of the internal deliberations we must make before agreeing to provide

this aircraft, including any recipient country's history of use of U.S. origin weapons and its capacity and willingness to protect critical U.S. technology. Indeed, given that the F-35 has been financed, developed, produced, and sold to our security partners as part of an international consortium, the sale has the risk of undermining their security as well.

In light of these concerns, we have listed below a series of vital questions that must be fully answered before this sale is sent to Congress for review, as required by statute.

1) What precisely has the U.S. agreed to in terms of selling the F-35 and other aircraft to the UAE?

- How many?
- On what timeline for delivery?
- Has the U.S. received a formal Letter of Request from the UAE for these aircraft?

2) Would the Emiratis have signed the Abraham Accords if not for the promise of this sale? Were F-35s or any other military sales discussed as part of deliberations related to the Abraham Accords?

3) Has the UAE articulated a military threat necessitating the acquisition of F-35 aircraft?

- How would the UAE employ F-35s against that threat?
- Are there other military or other means that could also counter this threat or threats?

4) It has been reported that the U.S. and the UAE have agreed to conclude a Letter of Offer and Acceptance (LOA) for the aircraft by December 2nd. This is an extremely accelerated schedule for interagency review, consultation with Congress, and preparation of the LOA and negotiation on its terms with the UAE – a process that can take months, if not longer.

- Is this deadline correct?
- If so, why did the Administration agree to this arbitrary deadline in concluding an LOA?
- How would such an accelerated timeline affect the Congressional review and approval process?

5) It has traditionally taken months for a complete and comprehensive interagency review of a proposed sale of this importance and sensitivity.

- Has the U.S. interagency reviewed and determined what variant of the aircraft would be best to sell, in terms of protecting the aircraft's technology and in terms of protecting Israel's Qualitative Military Edge (QME)?
- If not, when will that review commence and how long might it take?

6) Has a determination been made that the sale of this aircraft to the UAE will not jeopardize Israel's Qualitative Military Edge?

- If so, upon what basis was that determination made?

7) Will any aircraft sold to the UAE be reduced in capabilities compared to comparable U.S. aircraft?

- If so, how much less capable will these aircraft be compared to Israeli and U.S. F-35 aircraft and other aircraft?

- Exactly which systems, software, and components will be reduced in terms of operational capability in comparison with Israeli and U.S. aircraft, and to what degree and with what effect? Please provide a detailed written and graphic comparison.

8) What anti-tamper measures will be incorporated into the F-35 and other aircraft sold to the UAE to ensure that critical or sensitive military technology and components within such aircraft are not compromised, either in operation or in terms of revealing classified information about such technology and components?

9) Will the UAE be required to enter into binding commitments not to employ such aircraft in situations that might expose them to technological intelligence collection efforts, such as exposure to advanced anti-aircraft radar systems?

10) What secondary security measures will be put in place to protect critical U.S. technology inherent in the F-35?

- Will the U.S. require continuous U.S. presence on base to monitor the security of the aircraft?
- Will the U.S. be made aware of any proposed third-party nationals to visit the base(s) where the F-35 aircraft are based?
- Will the U.S. be able to veto any physical presence of such nationals if, in the opinion of U.S. personnel present in the U.S. Embassy or in Washington, the close physical proximity of such third-party nationals could constitute an intelligence threat to sensitive technology in or of these aircraft?
- Will any automatic electronic security measures be employed to protect U.S.-origin aircraft, manuals, and related documents?
- Will the maintenance and servicing of these aircraft be performed solely by U.S. personnel, or in concert with Emirati personnel?

11) What measures will be taken to counteract any reduction in Israel's QME?

- Will the U.S. shift from a Qualitative Military Edge measurement to a Quantitative one, selling or providing more aircraft and munitions meant to overwhelm the heightened military threat to Israel?
- If so, how will these additional arms to Israel be financed? Will the U.S. need to increase Foreign Military Finance levels in order to offset this sale to the UAE?

12) The UAE has taken an active role in supporting Khalifa Haftar, who has continued a brutal military campaign in Libya against the internationally recognized Libyan government. According to recent reports, the UAE may even have violated the U.N. arms embargo on Libya.

- What will prevent the UAE from using F-35 aircraft in conflicts where the United States and its allies are pressing for a diplomatic solution?
- Will the United States require any commitments from the UAE that it will not employ such aircraft to the detriment of Israel's security interests or the foreign policy and national security interests of the United States, as determined by the Israel and the U.S. respectively?

13) To what extent would this sale stimulate an arms race in the region, both among the Gulf States and with Iran? With the arms embargo against Iran in danger of expiring, would this sale provide greater encouragement to China and Russia to sell Tehran advanced fighter aircraft and advanced air defense systems, in numbers and under more favorable financial terms than would otherwise be the case?

14) In 2017, the UAE and Russia signed an agreement to develop a fifth-generation fighter jet, along with a separate UAE purchase of Russian Sukhoi Su-35 fighters. In addition, after being rebuffed in its attempts to purchase armed drones from the United States, the UAE reportedly purchased Chinese surveillance drones and outfitted them with targeting systems. Other reports indicate that expatriates from countries aligned with China operate some of the UAE's weapons systems.

- What is the status of the UAE's cooperation with Russia? Would these efforts present security and counterintelligence threats to the F-35?
- What assurances and commitments, if any, has the UAE made to the United States to safeguard U.S. technology from Russian and Chinese personnel that may be involved in either of these programs?
- Has the UAE agreed to terminate all such cooperation and purchases from Russia and China?

15) What are the Administration's thoughts regarding other sales of the F-35 in the region?

16) Have you, or will you, consult with our partners about these risks and their views of this potential sale to the UAE concluding the sale?

- Will you take their concerns into account during the interagency review process to address their concerns?

We look forward to your immediate response.

Sincerely,



Robert Menendez
United States Senator



Jack Reed
United States Senator