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United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510-6225

June 28, 2018

The Honorable Michael Pompeo
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

The Honorable James Mattis
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Secretaries Pompeo and Mattis,

Several months ago, your Administration proposed the sale of tens of thousands of precision-guided munitions kits to the Governments of Saudi Arabia and the United Arab Emirates. In support of these sales, the State and Defense Departments provided information related to long-standing concerns expressed by a bipartisan group of Members of Congress. However, that information failed to sufficiently address my concerns. I am also concerned that it will not pass muster with many of my colleagues, who remain gravely concerned by continued sales of sophisticated U.S. weapons to members of the Saudi-led Coalition in Yemen, without more forthcoming assessments by the national security officials in your Administration.

I cannot support moving forward with the formal congressional notification process for either of the sales at this time. I am therefore requesting that your Administration provide me with additional briefings that demonstrate commitment to addressing concerns Members of Congress have consistently expressed during debates on legislation related to U.S. involvement in this conflict, as well as in public hearings and private briefings. The remainder of this letter articulates the areas for which I am requesting follow-on due diligence by the Administration.

Civilian Casualties: On April 18, 2018, regarding communications with the governments of Saudi Arabia and the United Arab Emirates, Acting Assistant Secretary of State Satterfield informed the Senate Foreign Relations Committee that, “we regularly emphasize the strategic importance and legal obligations to comply with the Law of Armed Conflict, including the obligation to take all feasible precautions to reduce the risk of harm to civilians. [W]e assess that progress has been made over the past six months.”

In contrast, the January 2018 report of the UN Panel of Experts on Yemen assessed that airstrikes attributed to the Saudi-led Coalition resulted in significant civilian casualties. The report went on to assert that:

...the Panel finds it highly unlikely that the principles of international humanitarian law of proportionality and precautions in attack were respected. The cumulative effect on civilians and the civilian infrastructure demonstrates that even if precautionary measures were taken, they were largely inadequate and ineffective.

It is no longer acceptable for the Administration to rely on civilian protection arguments as justification for continued sales of precision-guided weapons unless it provides credible evidence to support this contention.

Refueling: In testimony to the Senate Armed Services Committee on March 13, 2018 U.S. Central Command Commander General Votel stated that the Department of Defense does not track or assess the targets, or results of the missions, of aircraft receiving U.S. refueling. In testimony to the Senate Foreign Relations Committee on April 18, 2018, Assistant Secretary of Defense Karem asserted, “[a]erial refueling allows Coalition aircraft to spend more time in the air, thus giving our partners time to validate targets, practice tactical patience, and reduce the risk of civilian casualties.”

It is no longer acceptable to rely on unsubstantiated assertions regarding the operational value of U.S. refueling support if the Department of Defense refuses to develop a process for validating these assertions.

U.S. Policy on Yemen: Acting Assistant Secretary Satterfield also stated on April 18, 2018 that “the only possible solution to the conflict in Yemen is a negotiated political settlement under UN auspices,” and that “[U.S. military support] provides...access and influence to push for a political solution to the conflict.” The previous Administration, as well as your Administration, argued that the sale of precision-guided weapons provides access and influence necessary for assisting the Saudi-led Coalition in negotiating an end to the conflict.

Four years into this conflict, I am increasingly pessimistic that the Administration has effectively deployed any leverage gained by selling weapons for use in the Yemen conflict to move toward a political settlement. Moreover, the Administration has failed to implement a whole-of-government counter-Iran strategy that includes an action plan, with appropriate resources, for blunting Iranian malign activities in Yemen.

It is unreasonable to expect that Congress will continue to approve weapons sales absent articulation of a strategy that utilizes all the tools of U.S. power.

I remind you that the American public has a right to insist that the sales of U.S. weapons to foreign governments - especially those of this magnitude and lethality - are consistent with U.S. values and national security objectives. The Congress, as the direct representative of the American public, is charged with exercising effective oversight of such sales. Accordingly, Congressional review and, if necessary, disapproval of arms sales, is enshrined in statute.

Based on the information provided thus far, serious questions remain and the Administration must be forthcoming in providing answers if it hopes for continued support in Congress for these sales. I am not confident that these weapons sales will be utilized strategically as effective leverage to push back on Iran's actions in Yemen, assist our partners in their own self-defense, or drive the parties toward a political settlement that saves lives and mitigates humanitarian suffering. Even worse, I am concerned that our policies are enabling perpetuation of a conflict that has resulted in the world's worst humanitarian crisis.

I look forward to your timely response to this letter and to additional briefings addressing the concerns I have raised.

Sincerely,


Robert Menendez
United States Senator