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The Hidden Arsenal: Evaluating WRSA-I's Legal Framework and Oversight Mechanisms

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EXECUTIVE SUMMARY

The U.S. War Reserve Stockpile Allies- Israel (WRSA-I), situated in Israel, is a reserve of the Department of Defense (DoD) prepositioning equipment accessible for DoD use or transfer to foreign nations. Although typically earmarked for wartime or emergency use, no explicit legal mandate exists for such transfers. The contents of the stockpile, reportedly spanning across numerous warehouses, lack a publicly available inventory.

The WRSA-I's legal framework is insufficient in ensuring transparent and accountable defense material transfers. Despite being intended primarily for wartime or emergency use, the absence of a clear mandate has led to inconsistent management and transfer practices. The stockpile's origins trace back to the 1973 Arab-Israeli War, following which the United States began pre-positioning military equipment in Israel. Over the decades, this evolved from storing single-use armaments to dual-use materials accessible by both U.S. and Israeli forces.

Management of WRSA-I has shifted from U.S. European Command (EUCOM) to U.S. Central Command (CENTCOM), further complicating oversight efforts. The bilateral agreements governing WRSA-I entail Israel covering costs related to storage and maintenance, yet public policy guidance on transfers remains unavailable. Notably, significant withdrawals from WRSA-I have been made for Israeli use during conflicts, and more recently, for U.S. military aid to Ukraine, although there is no public documentation of the details of the transfers in most cases.

The legal foundation for WRSA-I involves Section 514 of the Foreign Assistance Act (FAA) and the Arms Export Control Act (AECA), along with various specific transfer authorities created by Congress. However,

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these statutes fall short in requiring comprehensive reporting to Congress for defense articles added to or transferred from WRSA-I, limiting legislative oversight and public accountability.

Recent legislative amendments, such as those under the 2021 National Defense Authorization Act (NDAA), have further facilitated the rapid transfer of munitions from WRSA-I without standard congressional notifications. Additionally, the 2023 Securing American Arms Act and emergency supplemental appropriations have reduced constraints on the transfer of U.S. weapons to WRSA-I, diminishing transparency and increasing the potential for unmonitored military support to Israel.

The implications of these practices extend beyond logistical concerns, as reduced constraints on weapons transfers from the stockpile run the risk of weapons dispersion and misuse. As global military spending reaches unprecedented levels, the unchecked transfer of arms, particularly through programs like WRSA-I, exacerbates regional conflicts and undermines global security.

From Single-Use Armaments To Dual-Use Materiel: The History Of WRSA-I

The stockpile's foundation is said to be rooted in the legacy of the 1973 Arab-Israeli War where the United States conducted airlifts to furnish Israeli forces with weaponry.[1] Post-war, the United States established warehouses in Israel, ensuring accessibility for future military needs.[1]

Leading up to the early 1980s, Israeli leaders had promoted Israel as a "strategic asset" to the United States, citing its crucial location in the Middle East and increasingly sophisticated military power.[2] Israeli leaders sought to expand their strategic collaboration with the U.S. military by inviting the United States to stockpile, or preposition, heavy artillery, tanks, armored personnel carriers, ammunition, medical supplies and other equipment at Israeli bases for American use in wartime.[2]

During Prime Minister Menachem Begin's trip to the United States in September of 1981, it was reported that Defense Minister Ariel Sharon provided the Americans with a set of proposals for "strategic collaboration", including a reported offer to store large quantities of American-owned weapons, including tank ammunition that would be manufactured by Israel and sold to the United States, to maintain the equipment for a fee, and to defend it from attack.[2]

In the early 1980s, the United States started to stockpile military equipment in Israel, specifically "single-use" armaments that were not intended for use by the Israel Defense Forces (IDF).[3] In contrast, at the time in South Korea, the United States had historically stationed weapons with dual-use capabilities, suitable for both South Korean and American forces.[3] The South Korean Army could access the U.S. weapon stockpiles on a "pay as you use" basis, subject to approval from the United States.[3] Defense Secretary Dick Cheney reportedly tentatively endorsed a similar initiative with Israel, which entailed the United States pre-positioning military equipment valued at up to $100 million in Israel, designed for use by either army. Israel would have access to these stocks pending approval from Washington.[3] At the time, the United States was in the process of negotiating the sale of approximately 300 United States Army battlefield tanks to Saudi Arabia, while also seeking Israel's approval for the deal.[3] Defense Secretary Cheney reportedly communicated to Israeli Defense Minister Yitzhak Rabin that the Pentagon's timeline for building up the proposed $100 million stockpile in Israel could be influenced by the level of Israel's cooperation regarding the potential Saudi tank deal.[3]

The United States and Israel signed a memorandum of understanding in the 1980s, which established the prepositioning or stockpiling of Pentagon assets in Israel.[1] Later, during the George H.W. Bush administration, Congress amended the existing statute governing the stockpiling of U.S. defense articles for potential transfer to foreign forces.[4] This amendment permitted the stockpiling of U.S. articles in nations designated as "major non-NATO allies," such as Israel, expanding beyond the previous iteration, which confined such accumulations to NATO member states.[4] Consequently, WRSA-I established its legal footing within the framework of U.S. law.

In 1989, the first Bush Administration changed the conditions of the stockpile to allow Israel to access it during emergencies.[4] That October, the United States and Israel agreed to preposition $100 million worth of dual-use defense equipment in Israel.[4]

But Who Manages WRSA-I?

The Defense Security Cooperation Agency (DSCA) defines War Reserve Stocks for Allies (WRSA) as "a [U.S. Department of Defense, or DoD] program whereby the services procure or retain in their inventories those minimum stockpiles of materiel such as munitions, equipment, and combat essential consumables to ensure support for selected allied forces in time of war until future in-country production and external resupply can meet the estimated combat consumption."[5] This definition represents the majority of publicly available information on the program from a U.S. government agency.

The WRSA-I program was managed by the U.S. European Command (EUCOM) up until 2021.[4] In January 2021, President Trump directed the transfer of Israel from the area of responsibility (AOR) of EUCOM to that of the U.S. Central Command (CENTCOM).[4] CENTCOM formalized Israel's relocation in September 2021 and has since managed the program, through which the United States stores missiles, armored vehicles, and artillery ammunition in Israel.[4] Presently, the United States and Israel operate under a bilateral agreement governing the storage, maintenance, in-country transit, and other related costs associated with WRSA.[4] The bilateral agreement is classified, along with all other policy guidance on the program. Israel's government, utilizing both national funds and Foreign Military Financing (FMF), covers the expenses for constructing, maintaining, and refurbishing WRSA ammunition storage facilities.[4]

Additionally, Israel handles the packaging, crating, handling, and transportation of armaments to and from the stockpile.[4] In any future expedited procedures, reserve stocks managed by CENTCOM could be transferred to Israel, with U.S. officials subsequently initiating an after-the-fact Foreign Military Sale (FMS) to account for the transferred equipment.[4]

In terms of WRSA-I-focused bilateral training and engagement, not much is publicly known other than that in February 2019, as part of the bilateral military exercise Juniper Falcon 2019, officers from the 405th Army Field Support Brigade simulated a transfer of munitions from the WRSA-I to Israeli Defense Forces (IDF) control.[4] (See Figure 1)

Figure 1: The command team visits two of its WRSA-I sites to assess facilities

Source: 405th Army Field Support Brigade exercises War Reserve Stocks for Allies transfer. (Defense Visual Information Distribution Service, February 28, 2019.)

According to an Israeli officer in 2010, "Officially, all of this equipment belongs to the US military…. If however, there is a conflict, the IDF can ask for permission to use some of the equipment."[6] However, public reporting suggests that the final approval authority rests with the Prime Minister of Israel, and not with the U.S. government. In 2023, the Pentagon and the Israeli government reportedly came to an agreement to transfer 300,000 155-millimeter shells to Ukraine.[1] The Pentagon's desire to transfer the munitions was reportedly officially submitted in an encrypted phone conversation between the U.S. Secretary of Defense, Lloyd J. Austin III, and Benny Gantz, the Israeli Minister of Defense at the time.[1] Following the phone conversation, "Mr. Gantz brought the issue to the Israeli cabinet. The officials asked to hear the opinion of the defense establishment, whose representatives recommended accepting the plan to avoid tension with the United States, in part because the ammunition was American property. Yair Lapid, then the prime minister, approved the request at the end of the discussion."[1] If this policy process accurately reflects the decision-making dynamics, it

suggests that the United States does not retain the final approval authority over its own weapons stockpiles, but instead delegates that power to a foreign government.

WRSA-I Legal Authorities

The legal framework for the WRSA-I consists of two components. First, Section 514 of the Foreign Assistance Act (FAA) regulates the stockpiling of defense articles in foreign countries, including limitations on the amount and location. Secondly, other statutes govern the transfer of these items to foreign governments.[7]

Section 514 of the Foreign Assistance Act of 1961 (FAA) (22 USC 2321h) authorizes the Department of Defense to stockpile U.S. defense articles in certain foreign countries, primarily NATO member states or major non-NATO allies (MNNA), for future use by these countries. Currently, the United States maintains such stockpiles only in Israel and South Korea, distinguishing these munitions from other U.S. weapon stores overseas.[7]

Congress imposes limits on the value of assets that can be transferred into WRSA stockpiles in foreign countries during any fiscal year through authorizing legislation.[4] Section 514 limits the value of defense articles deposited into WRSA-I to $200 million annually. According to the Congressional Research Service, the current value of items in WRSA-I could be as high as $4.4 billion (not adjusted for inflation). The United States retains ownership of the WRSA stocks, and the title must be transferred to the foreign country before it can use the assets. The FY2022 Consolidated Appropriations Act extended the authorization of WRSA-I through FY2025.[4]

Section 514 establishes the framework for overseas stocks but does not authorize the transfer of weapons to foreign countries. Transfers from stockpiles like WRSA-I must occur under separate transfer authorities.[7] The FAA and Arms Export Control Act (AECA), both codified in Title 22 of the U.S. Code, provide various authorities for weapons transfers. Title 10 of the U.S. Code also includes some potential transfer authorities, and Congress has created specific transfer authorities for Israel in subsequent defense appropriation and authorization acts.[7]

The provision known as Section 506 of the Foreign Assistance Act (22 USC 2318), commonly referred to as the "presidential drawdown authority," presents an alternative avenue for the U.S. government to move weapons from WRSA-I to Israel. Under Section 506, the president has the power to approve withdrawals of defense equipment or services. This involves the transfer of current U.S. military materials or capabilities, like airlift support, upon a determination that an "unforeseen emergency" necessitates immediate military aid to the recipient, and that such aid cannot be fulfilled through any other legal means.

Black Hole Of Transfers Out Of WRSA-I

A press release from the Office of the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation announced the transfer of $400 million in military equipment to Ukraine, yet no similar press release has been issued regarding transfers to Israel.[8]

Since 1989, Israel has made requests for access to the stockpile on at least two occasions. During the summer 2006 war between Israel and Hezbollah, Israel sought expedited delivery of precision-guided munitions from the United States. The George W. Bush Administration opted not to utilize the emergency authority outlined in the AECA, instead allowing Israel access to the WRSA-I stockpile.[9]

In July 2014, amid Israeli military operations against Hamas in the Gaza Strip, the DoD authorized Israel to utilize the stockpile, paid for by FMF, for replenishing 120-mm tank rounds and 40-mm illumination rounds used in grenade launchers.[9] It should be noted that a U.S. defense official offered a different description of the ammunition, saying they were grenades and mortar rounds.[9] The Pentagon stated that it was uncertain whether the munitions would be utilized for training or operational purposes. Despite Israel not specifying an emergency situation, the United States transferred some munitions from the stockpile regardless, in order to replace older weapons.[9] "This is simply a rotating (of) munitions out of the stockpile in order to get newer munitions placed in there," said former Pentagon spokesman Colonel Steve Warren.[9]

In 2022 and 2023, the United States reportedly withdrew 300,000 155-millimeter artillery shells from

WRSA-I, along with additional materials from the U.S. stockpile in South Korea, to send to Ukraine.[4] Israeli officials reportedly agreed to the Pentagon's request to avoid confrontation and because, as one Israeli official stated, "it's their ammunition and they don't really need our permission to take it."[4]

Congress has, at times, passed legislation allowing the U.S. military to increase the value of materials stored in Israel.[4] According to the DSCA, this process does not involve new procurement but rather utilizes defense articles already within the stocks of the U.S. armed forces. The legislation simply identifies a level of value for which a stockpile may be established or increased.[4]

Foreign Military Sales Under the Congressional Reporting Threshold

Under the AECA, the executive branch must notify Congress of FMS and Direct Commercial Sales (DCS) that meet certain minimum dollar thresholds before proceeding with letters of offer and acceptance (LOAs for FMS) or licenses (for DCS). These thresholds differ based on whether the recipient countries are NATO members or not, with additional criteria that further define the notification and approval process.

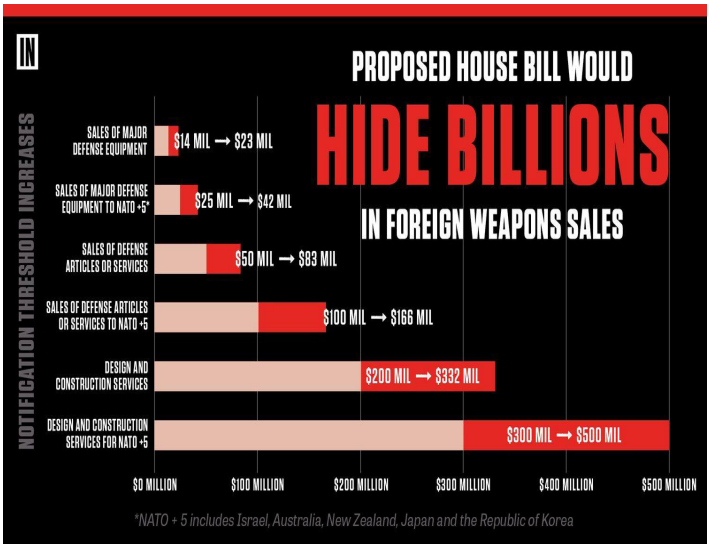
Under the AECA, sales are categorized into four types: major defense equipment, defense articles and services, design and construction services, and enhancements or upgrades in technology sensitivity or capability. Congressional reporting requirements vary based on the category of the items, whether the sale is DCS or FMS, and the recipient country. However, most sales are subject to a dollar threshold that triggers mandatory congressional reporting. If a sale falls below this threshold, Congress does not need to be notified, and details of the sale do not have to be disclosed publicly.[10]

In December 2024, Rep. Michael Waltz (R-FL-6) introduced the "Foreign Military Sales Technical, Industrial, and Governmental Engagement for Readiness Act" or the "TIGER Act." This legislation aims to amend the AECA to increase the dollar amount thresholds for proposed transfers or sales of defense articles or services. (See Figure 2)

The proposed changes are as follows:

- Major Defense Equipment: Threshold increased from $14 million to $23 million.
- Major Defense Equipment to NATO +5: Threshold increased from $25 million to $42 million.
- Defense Articles or Services: Threshold increased from $50 million to $83 million.
- Defense Articles or Services to NATO +5: Threshold increased from $100 million to $166 million.
- Design and Construction Services: Threshold increased from $200 million to $332 million.
- Design and Construction Services for NATO +5: Threshold increased from $300 million to $500 million.

Figure 2. Proposed Notification Threshold Increases



Source: House Bill Would Hide Billions More Dollars in U.S. Weapons Sales. (In These Times, February 7, 2024.)

The proposed amendments under the TIGER Act would increase the efficiency of arms sales by reducing the instances that necessitate congressional review. While this could enhance operational readiness and streamline processes, it raises serious concerns about diminishing the already limited transparency and oversight of arms sales. Higher thresholds mean fewer transactions will be reported to Congress, further limiting the ability of lawmakers and the public to scrutinize and understand the full scope of U.S. arms sales abroad. This reduction in oversight could lead to unchecked proliferation of military equipment, exacerbating regional conflicts. Prioritizing combat

readiness in this manner significantly undermines the transparent governance necessary for accountable foreign policy and could have long-term negative effects on global security and stability.

Representatives on the committee raised significant concerns about the proposed changes. The bill "would essentially eliminate congressional review for billions of dollars worth of arms transfers," said Sara Jacobs (D-CA-51).[11] Rep. Kathy Manning (D-NC-6) criticized the DoD task force whose recommendations the bill drew from: "[While] the taskforce and the bill it produced consulted with many defense industrial firms and military officials, it did not take into account the views of civil society, human rights groups, legal scholars or government transparency groups."[11]

Section 514 mandates reporting to Congress when the President designates a country for a new stockpile. Apart from separate transfer authority reporting requirements, there is no congressional reporting requirement in Section 514 for all defense articles added to or transferred from an existing stockpile.[7]

This lack of comprehensive reporting in Section 514 stands in stark contrast to the AECA's requirements. While the AECA requires varying levels of congressional notification based on the category of items and dollar thresholds, Section 514 only mandates reporting when a new stockpile is designated. This gap means that many transactions involving defense articles and major defense equipment can occur without congressional oversight or public disclosure, undermining transparency and accountability in U.S. arms sales abroad.

The pre-positioning of weapons in WRSA-I creates a dangerous incentive for the executive branch to split transfers into separate cases to avoid meeting the congressional reporting threshold. This could lead to situations where the cumulative value of equipment transferred in a short period exceeds the threshold, yet individual transfers remain below it.[7]

According to David Schenker, former U.S. Assistant Secretary of State for Near Eastern Affairs, the WRSA-I program is highly advantageous to Israel. He notes, "WRSA-I is a strategic boon to Israel. The process is streamlined: No 60-day congressional notification is required, and there's no waiting on delivery," thereby underscoring the reduced transparency and expedited process for certain stockpiles .[12]

Limitless Transfer Of PGMs: Section 1275 of the 2021 National Defense Authorization Act

In January 2021, Congress passed Section 1275 of the 2021 NDAA, which authorized the President, through the Secretary of Defense and with the concurrence of the Secretary of State, to transfer precision-guided munitions (PGMs) from U.S. reserve stocks, including WRSA-I, to Israel without the usual congressional notifications, provided U.S. "combat readiness" is not compromised.[13]

A Rand Corporation technical report prepared for the Army recommended that "the Army should ensure that the process for allocating war reserve budgets is flexible and agile so that it can be updated quickly as equipment, operational forecasts, and empirical demand data change. War reserve resources should be focused (1) on those items that should be forward positioned to avoid the excessive early sustainment burden and (2) on those items for which additional inventory minimizes the risk to operational readiness." The process for allocating war reserve budgets is indeed flexible and agile, as can be observed in recent allocations to the WRSA-I.

This flexibility is evident in the recent allocations to WRSA-I, where rapid deployment and responsiveness are prioritized at the expense of transparency and congressional oversight. The ability to bypass normal congressional notifications under Section 1275 means significant munitions transfers can occur without full accountability, undermining transparency and weakening the governance designed to ensure responsible oversight. By emphasizing what is referred to as combat readiness, the system sacrifices the transparency needed for robust oversight and public accountability.

H.R.815: Emergency Supplemental Appropriations Erases WRSA-I Restrictions

On October 20, 2023, the White House sent to

the Senate a supplemental request including amendments that sought to eliminate constraints on the transportation of U.S. weapons to WRSA-I and the subsequent transfer of arms from the stockpile to Israel. In April 2024, the supplemental request became law. The revisions effectively reduce congressional oversight, facilitating increased weapon transfers to WRSA-I with fewer restrictions and diminished public scrutiny.

The emergency supplemental amended Section 12001 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287) as seen below:

- In paragraph (2) of subsection (a): The phrase "armor and all that follows" will be replaced with "defense articles that are in the inventory of the Department of Defense as of the date of transfer, are intended for use as reserve stocks for Israel, and are located in a stockpile for Israel as of the date of transfer."[14] Instead of just armor, any defense articles that the U.S. Department of Defense already owns can be transferred to Israel for their reserve stocks, as long as these items are in the U.S. inventory and already located in Israel's stockpile at the time of transfer.

- In subsection (b): The phrase "at least equal to the fair market value of the items transferred" will be replaced with "in an amount to be determined by the Secretary of Defense."[14] Instead of needing to transfer items worth at least their market value, the value of items transferred will now be decided by the Secretary of Defense. This means the transfers do not have to meet a specific monetary value.

- In subsection (c): Before the comma in the first sentence, add: "or as far in advance of such transfer as is practicable as determined by the President on a case-by-case basis during extraordinary circumstances impacting the national security of the United States."[14] The President can now decide on a case-by-case basis how far in advance to notify about these transfers if there are extraordinary circumstances affecting U.S. national security.

- Section 306 indicates for fiscal year 2024, section 514(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)) will not apply to defense articles set aside, earmarked, reserved, or intended for use as reserve stocks in stockpiles in Israel.[14] For 2024, the rule that usually limits the amount of defense articles the U.S. can set aside for Israel will not be in effect. This allows the U.S. to add as many defense articles as needed to Israel's stockpiles without the usual restrictions.

These amendments to the Department of Defense Appropriations Act, 2005, and the suspension of Section 514(b) of the Foreign Assistance Act of 1961 for fiscal year 2024 significantly impact transparency and oversight. By allowing defense articles already in the DoD inventory to be transferred to Israel without adhering to fair market value assessments and by enabling transfers to be made at the discretion of the President during extraordinary circumstances, the process becomes less transparent. Moreover, waiving the $200 million annual limit on U.S. contributions to the WRSA-I stockpile facilitates continuous replenishment, reducing the visibility of these transactions to Congress and the public. This diminishes the accountability of U.S. arms transfers, potentially leading to unchecked increases in military support to Israel without the usual legislative scrutiny.

Josh Paul, a former official in the State Department's Bureau of Political-Military Affairs noted, "By dropping the requirement that such articles be declared excess, it [...] also increase[s] the existing strain on U.S. military readiness in order to provide more arms to Israel."[15]

Paul continues, "The President's emergency supplemental funding request, would essentially create a free-flowing pipeline to provide any defense articles to Israel by the simple act of placing them in the WRSA-I stockpile, or other stockpiles intended for Israel."[15] Paul resigned over U.S. military assistance to Israel.

These amendments come at a time when the U.S. government is under heightened public scrutiny due to its strong support for Israel, which faces accusations of major violations of international law and human rights.

Securing American Arms Act Of 2023 Secures Swift, Non-Competitive Contracts

The Securing American ARMS Act of 2023, recently signed into law as part of the National Defense Authorization Act, amends the DoD's emergency acquisition authorities, enabling it to utilize non-competitive procedures to swiftly award contracts for this purpose.[16] This has significant implications for WRSA-I, particularly concerning the replenishment of defense article stocks following an attack by a foreign adversary of the United States.

By authorizing the DoD to utilize non-competitive procedures for swiftly awarding contracts to replenish defense article stocks sent to allies following an attack by a foreign adversary of the United States, this legislation undermines congressional oversight and potentially accountability in the procurement process in favor of expediting contract awards.

The use of non-competitive procedures may limit transparency by circumventing competitive bidding processes, which are designed to ensure fairness, efficiency, and public scrutiny in government contracting. In the context of the WRSA-I program, these concerns about transparency and accountability are particularly relevant, given the program's specialization in readily providing materiel to allied nations. Transparent and accountable procurement processes are essential for ensuring that defense article stocks are replenished efficiently and fairly, in accordance with established U.S. guidelines and standards.

Weapons Proliferation Leads To Greater Risk Of Regional Destabilization

Historically, the United States sold or transferred fewer weapons through FMS and WRSA. This restrained approach helped mitigate the risks of regional destabilization. However, recent policy changes and increasing allocations to the WRSA-I illustrate a shift towards greater militarization, raising concerns about the long-term impacts on regional stability and global security.

The current surge in global military spending and arms sales poses a significant threat to regional stability and international peace. Insights from the Stockholm International Peace Research Institute (SIPRI) and subject matter experts highlight the urgent need for measures to control and monitor weapons proliferation. A recent report from SIPRI highlights escalating global tensions and an increase in military expenditure.[17] This trend raises significant concerns about regional destabilization and the potential for conflict. The SIPRI report provides a comprehensive analysis of the growing insecurity linked to the surge in military spending worldwide.

According to a report by *The New York Time*s, worldwide military spending in the previous year reached $2.2 trillion.[18] This figure represents the highest level of inflation-adjusted military expenditure since the end of the Cold War. This immense spending encompasses weapons, personnel, and other military-related costs.

Michael Klare, a board member of Arms Control Now, warns that these sales could exacerbate regional conflicts and potentially trigger wars among major powers. Klare's observations underscore the dangers of unchecked weapons proliferation in an already volatile global landscape. He notes, "There is a risk these arms sales will exacerbate a regional conflict," he said, "and trigger the outbreak of war among the great powers ultimately,"[18]

A Restraint-Oriented Framework Governing US Weapons Stockpiles is Needed

The WRSA-I program, as it stands, lacks the necessary checks and balances to ensure that weapons are used responsibly. The absence of rigorous oversight and transparency mechanisms enables U.S. partners to deploy these weapons in ways that can provoke regional conflicts. For instance, the perception that U.S. weapons are readily available can embolden certain actors to take aggressive stances, leading to destabilizing arms races and escalating regional tensions. This not only threatens local peace efforts but also tarnishes the reputation of the United States as a proponent of international stability and human rights.

The legal framework governing the WRSA-I, including Section 514 of the FAA and the AECA, is insufficient in mandating comprehensive reporting and

accountability. Legislative amendments such as those in the 2021 NDAA and the 2023 Securing American Arms Act have further weakened constraints on the transfer of U.S. weapons to the WRSA-I, reducing the already limited oversight.

Human Rights Watch and Amnesty International have documented several instances where U.S.-supplied weapons have been used by Israeli forces in operations resulting in significant civilian casualties and violations of international humanitarian law. Israeli military operations in Gaza and Lebanon used U.S. weapons in direct attacks on civilian areas, highlighting the urgent need for stringent oversight to ensure that U.S. weapons are not misused in ways that contravene international law and human rights standards. For example, Human Rights Watch found that Israeli forces used a U.S. weapon to conduct a strike that killed seven civilian relief workers in Lebanon, among other violations.[19]

In February, President Joe Biden issued National Security Memorandum 20 (NSM-20), which acknowledged that "it is reasonable to assess" that Israeli security forces have used U.S. weapons in ways that violate international humanitarian law or best practices for reducing harm to civilians. However, the report conspicuously avoids making specific legal determinations. Instead, it concludes that Israel's assurances regarding humanitarian aid and compliance with international law are "credible and reliable," allowing the continued supply of weapons to Israel under NSM-20. This stance has raised significant concerns among human rights organizations and experts, who argue that the memorandum falls short in addressing the reality of the situation.[20]

The Independent Task Force on NSM-20 presented a comprehensive analysis of Israeli military operations and the use of U.S.-supplied weapons. The report detailed numerous instances where U.S.-made munitions were used in operations resulting in civilian casualties and extensive damage to civilian infrastructure. This evidence clearly demonstrated that Israeli forces engaged in actions that likely violated international humanitarian law.[21] However, NSM-20 largely disregarded these findings, opting instead to rely on Israeli assurances of compliance and humanitarian concern. The Task Force's report provided a stark contrast to the conclusions drawn in NSM-20, suggesting a need for more rigorous scrutiny and accountability.

Furthermore, Amnesty International USA submitted detailed evidence to NSM-20, highlighting the unlawful use of U.S.-made munitions by Israeli forces since January 2023. This submission included documented cases of attacks on civilian areas, schools, and hospitals, which are clear violations of international humanitarian law. Amnesty International's findings were grounded in meticulous field research and eyewitness accounts, providing a credible and alarming picture of the misuse of U.S. weapons.[22]

The NSM-20 report also reflects broader issues of insufficient oversight and accountability within the U.S. weapons transfer framework. The reliance on partner assurances without independent verification undermines the integrity of U.S. foreign policy and fails to prevent the misuse of U.S. arms. Enhanced oversight mechanisms, including mandatory reporting and independent investigations, are essential to ensure that U.S. weapons are not used to perpetrate human rights abuses.

Furthermore, the emergency supplemental appropriations for 2024 have virtually eliminated existing restrictions on weapons transfers to Israel, allowing for a free flow of arms with minimal congressional notification. This unrestricted pipeline not only strains U.S. military readiness but also diminishes the transparency and accountability necessary for responsible foreign policy.

To address these critical issues, a restraint-oriented framework is needed. This framework should include enhanced congressional oversight including mandating detailed reporting on all transfers to and from the WRSA-I that ensure significant transactions are subject to congressional review, human rights safeguards, and publicly available documentation of transfers out of WRSA-I to allow for greater scrutiny and accountability.

Implementing such a framework will not only mitigate the risks associated with unmonitored weapons transfers but also strengthen the ethical foundation of U.S. foreign policy, promoting global stability and respect for human rights.

Recommendations

Congress should enact legislation to place restrictions on the transfer of defense articles out of the WRSA to enhance national security and safeguard strategic assets. Enhancing restrictions on defense article transfers from WRSA will help preserve critical U.S. military resources and ensure that strategic assets remain available for unforeseen contingencies.

Furthermore, Congress should mandate the DoD and the State Department to establish and maintain a comprehensive reporting process for all weapons transfers, irrespective of transfer authority, particularly delineating instances of weapons movement out of WRSA-I. Implementing a comprehensive reporting process will ensure that all weapons transfers are documented and monitored, enhancing transparency and accountability. Detailed records of weapons movements, especially from WRSA-I, will provide a clearer picture of U.S. arms distribution and usage.

The Stimson Center's Elias Yousif's recommendation for public accessibility of weapons transfer reporting should also be enacted.[23] Congress should mandate the publication of a publicly accessible fact sheet detailing the authorities invoked for assistance provision, alongside specifics such as the type and quantity of arms provided. Making weapons transfer reports publicly accessible will promote transparency and allow for independent analysis and public scrutiny. This measure will enhance public trust and provide researchers and analysts with the information needed to assess the implications of U.S. arms transfers.

Finally, Congress should compel the executive branch to ensure rigorous oversight and accountability by reporting to Congress through congressional notifications for FMS cases whenever defense materiel is transferred out of WRSA-I. Requiring congressional notifications for FMS cases involving WRSA-I transfers will ensure that such actions are subject to legislative scrutiny. This oversight will help prevent unaccounted transfers, potential human rights violations, and reinforce the checks and balances necessary for responsible governance.

ENDNOTES

1 Schmitt, E., Entous, A., Bergman, R., Ismay, J., & Gibbons-Neff, T. (2023, January 17). Pentagon Sends U.S. Arms Stored in Israel to Ukraine. *The New York Times*. https://www.nytimes.com/2023/01/17/us/politics/ukraine-israel-weapons.html

2 Shipler, D, K. (1981, October 2). U.S.- Israel Strategic Link: Both Sides Take Stock. *The New York Times.* https://www.nytimes.com/1981/10/02/world/us-israel-strategic-link-both-sides-take-stock.html

3 Friedman, T, L. (1989, September 29). U.S. Tells Israel It Plans to Sell Saudis 300 Tanks. *The New York Times.* https://www.nytimes.com/1989/09/29/world/us-tells-israel-it-plans-to-sell-saudis-300-tanks.html

4 Congressional Research Service. (2023). (rep.). *U.S. Foreign Aid to Israel*. Retrieved from https://sgp.fas.org/crs/mideast/RL33222.pdf

5 *War Reserve Stocks for Allies: Defense security cooperation agency*. Defense Security Cooperation Agency. (n.d.). https://samm.dsca.mil/glossary/war-reserve-stocks-for-allies

6 Katz, Yaakov. (2011, February). US may give Israel Iraq ammo. *The Jerusalem Post*. https://www.jpost.com/israel/us-may-give-israel-iraq-ammo

7 Ramming Chappell, J., & Harrison, S. (2024, January 16). *The War Reserve Stockpile Allies (WRSA-I) Explained: Why Congress Should Not Expand It*. Just Security. https://www.justsecurity.org/91213/the-war-reserve-stockpile-allies-israel-explained-why-congress-should-not-expand-it/

8 Garamone, J. (2023, March 3) U.S. Sends Ukraine $400 Million in Military Equipment. Retrieved from: https://www.dasadec.army.mil/News/Article-Display/Article/3327426/us-sends-ukraine-400-million-in-military-equipment/

9 Stewart, P. (2014, July 31). *U.S. defends supplying Israel ammunition during Gaza conflict.* Reuters. https://www.reuters.com/article/us-mideast-gaza-usa-pentagon-idUSKBN0G022120140731/

10 Mauldin, L. (2021, August 19). U.S. Arms Exports Under Congressional Reporting Thresholds: A Clear and Present Danger. *The Baraza.* https://thebaraza.org/national-security/u-s-arms-exports-under-congressional-reporting-thresholds-a-clear-and-present-danger/

11 Khan, R., Abou-Elias, J., Mauldin, L., & Women for Weapons Trade Transparency. (2024, February 7). House Bill Would Hide Billions More Dollars in U.S. Weapons Sales. *In These Times.* https://inthesetimes.com/article/house-bill-would-hide-billions-more-dollars-in-u-s-weapons-sales

12 Schenker, D. (2014, August 14). Best friends don't have to ask. *Politico Magazine.* https://www.politico.com/magazine/story/2014/08/best-friends-dont-have-to-ask-110036/

13 Tolany, A., Abou-Elias, J., & Mauldin, L. (2023, December 4). *How Israel got an endless supply of U.S.-made smart bombs*. In These Times. https://inthesetimes.com/article/united-states-israel-precision-guided-munitions-stockpile

14 House -Veterans' Affairs. [Bill], H.R.815 - Making emergency supplemental appropriations for the fiscal year ending September 30, 2024, and for other purposes. Retrieved from https://www.congress.gov/bill/118th-congress/house-bill/815/text?s=8&r=4&q=%7B%22search%22%3A%22war+reserve+stockpile%22%7D.

15 Klippenstein, K. (2023, November 25). *Joe Biden moves to lift nearly every restriction on Israel's access to U.S. weapons stockpile*. The Intercept. https://theintercept.com/2023/11/25/biden-israel-weapons-stockpile-arms-gaza/

16 (2023, December 22). Cornyn, Colleagues' Bill to Quickly Replenish U.S. Defense Stockpiles After Providing Aid to Allies Signed Into Law. Retrieved from: https://www.cornyn.senate.gov/news/cornyn-colleagues-bill-to-quickly-replenish-u-s-defense-stockpiles-after-providing-aid-to-allies-signed-into-law/

17 Global military spending surges amid war, rising tensions and insecurity. (2024, April 22). *Stockholm International Peace Research Institute*. Retrieved from https://www.sipri.org/media/press-release/2024/global-military-spending-surges-amid-war-rising-tensions-and-insecurity

18 Lipton, E. (2023, October 17). Middle East War adds to surge in International Arms Sales. *The New York Times.* https://www.nytimes.com/2023/10/17/us/politics/israel-gaza-global-arms-sales.html

19 *Israel: US Arms Used in Strike that Killed Lebanon Aid Workers*. Human Rights Watch. (2024, May 7). https://www.hrw.org/news/2024/05/07/israel-us-arms-used-strike

-killed-lebanon-aid-workers
20 Ramming Chappell, J. Key Takeaways from Biden Administration Report on Israeli Use of US Weapons. (2024, May 11). *Just Security*. https://www.justsecurity.org/95583/israel-weapons-hamas-us-report-takeaways/
21 *Report of the Independent Task Force on the Application of National Security Memorandum-20 to Israel*. (2024, April 18). Retrieved from: https://www.justsecurity.org/wp-content/uploads/2024/04/NSM20-TF-Report-_-Final.pdf
22 *Amnesty International USA Submission to NSM-20*. (2024, April 29). Amnesty International. https://www.amnestyusa.org/wp-content/uploads/2024/04/4.29.2024-NSM-20-AIUSA-submission-re-Israel.pdf
23 Yousif, E. (2023, November 3). *Learning from Ukraine to strengthen oversight of US military aid to Israel*. Stimson. https://www.stimson.org/2023/learning-from-ukraine-to-strengthen-oversight-of-u-s-military-aid-to-israel/