

VALUES IN ARMS EXPORT ACT OF 2022

Violations of Human Rights and Law of War

Around the world, attacks on medical facilities, humanitarian workers, and civilian populations are on the rise. This conduct is inexcusable and the U.S. cannot tolerate it from any nation claiming to be a partner. Arms sales programs are often discussed as a way to build the capabilities of these countries and to have influence over their conduct, but far too often this has simply not happened, and will not happen, until a statute forces human rights and the law of armed conflict to be core considerations in approving arms sales.

Congress's Eroding Authority

Regulating foreign commerce, such as the trade in arms, is the prerogative of Congress. If Congress is to continue delegating authority to the Executive Branch to carry out these sales, strict and effective Congressional oversight is imperative. When strong bipartisan majorities object to a sale, especially over critical issues like law of armed conflict violations, that has to mean something. Instead, the Executive Branch, particularly under the previous administration, has too often overridden Congress and looked to remove meaningful Congressional oversight. This is a distortion of the fundamental separation of powers, and Congress must reassert its authority.

The *Values in Arms Export Act of 2022*

This bill amends the *Arms Export Control Act* to specify the principles of responsible behavior and compliance with human rights and law of war the U.S. demands of states purchasing U.S. weapons. To enforce these principles, the bill creates a mechanism where the Executive Branch, Congress, or a newly created Human Rights and Law of War Oversight Board can each designate a country as a "country of concern" if the country is violating those principles. A designation would last for three years and the country would be required to submit to a program of enhanced monitoring. The monitoring program, administered by the Department of Defense (DoD), would require oversight of any use of U.S.-provided weapons. That information (along with any other relevant information, e.g. NGO reports) would then be provided to the State Department where the Secretary of State would determine if any actions violate the principles laid out at the start of the bill. The committees of jurisdiction and the oversight board would also have direct access to the information.

If a country: commits further violations during the three-year period; is designated a second time within a ten-year period; or fails to make sufficient progress in reforms, the country would be banned from arms sales for ten years. The Treasury Department would be required to impose sanctions on officials responsible for the offenses. The bill would provide a mechanism for early termination of the ban, but only after an arduous process of remediation and accountability, and subject to Congressional approval.

The new Human Rights and Law of War Oversight Board would have significant oversight and policy responsibilities. In addition to the authority to make designations, the Board would be empowered to conduct its own investigative and oversight work, monitor compliance, and assess new policies to ensure respect for human rights and law of armed conflict remain central considerations in the future.

The bill would also require assessments of the risk of weapons being used to commit human rights and law of war violations before a sale or export license can be approved. Finally, the bill makes the first initial designations, Saudi Arabia and the UAE.