Negative Brief: Arms Export Agents

By “Coach Vance” Trefethen

AFF Plan says  “agents are sellers in the arms trade that organize exports that are currently corrupt. So our plan is to vet them to make sure they do not have a corrupt background or activity that can fuel more corrupt export sales.” The "corruption" they're worried about comes from agents or brokers who arrange for bribes to foreign government officials if they agree to buy weapons from the company they represent. This probably is a big problem, but not for US companies. US companies are dominant in the arms export market and don't need to bribe anyone to buy their products. Also, it's already illegal to bribe foreign officials and the US federal government enforces it pretty well. It's really the European, Russian and Chinese governments that do most of the corruption and bribery in arms exports.

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Negative: Arms Export Agents

TOPICALITY

1. Insignificant reform

Link: Corruption is already illegal

By definition. If it's currently legal then it's not corruption, and the Affirmative doesn't expand the definition of what practices are "corrupt" or "illegal."

Violation: Better enforcement of existing policy isn't significant policy reform

The policy of opposing and preventing corruption in arms exports is Status Quo policy. AFF doesn’t significantly reform it, they merely say we ought to enforce existing policy better. Well, frankly, we ought to enforce all laws against evil behavior more effectively. Great, but that's not something we can debate in a policy debate round. Making something even more illegal than it already is - that's not a significant policy reform.

Impact: Negative ballot

If no one in the round is affirming the resolution,

INHERENCY

1. AECA. The Arms Export Control Act of 1976

AECA was amended in the 1990s to require arms export agents to be certified against corruption

COLBY GOODMAN 2019. (Senior Consultant at Transparency International Defence and Security at TRANSPARENCY INTERNATIONAL DEFENSE & SECURITY; former Deputy Director at the United Nations Office of Disarmament Affairs Regional Office in Africa) PROGRAMHOLES IN THE NET: US ARMS EXPORT CONTROL GAPS IN COMBATTING CORRUPTION https://ti-defence.org/wp-content/uploads/2020/01/US\_Arms\_Export\_Gaps\_in\_Combatting\_Corruption\_v2d\_digital.pdf

In the mid 1990s, Congress amended the AECA to curb arms brokers that were greasing their way past national and international arms embargoes in Africa and beyond by operating in multiple countries and hiding behind various activities and shell companies. These legal provisions require US persons brokering US or foreign weapons in the United States or abroad and foreign persons brokering US weapons anywhere to register and obtain a license from the US government. Exporters and brokers must also certify to the US government that none of their employees or affiliates have been involved in fraud, bribery, and smuggling, among other items.

2. ITAR Part 130

International Trafficking in Arms Regulations, Part 130, requires vetting of arms brokers by companies employing them

Descartes Visual Compliance 2018. (Consulting firm that advises on export control compliance) THE EXPORT COMPLIANCE JOURNAL 5 July 2018 Registration and Licensing of Arms Brokers (accessed 24 Dec 2022) https://www.visualcompliance.com/blog/?p=1552

In the next section of the [ITAR, Part 130](https://www.law.cornell.edu/cfr/text/22/part-130), the possibly-related matters of political contributions, fees, and commissions are regulated, which overlap with the Foreign Corrupt Practices Act (FCPA). These regulations entail a reporting requirement for certain payments (paid, offered, or agreed) “for the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services” in relation to license or agreement applications and Foreign Military Sale (FMS) contracts involving defense articles or services valued at $500,000 or more for use by the armed forces of a foreign country or international organization. For companies retaining the services of a broker, the responsibilities are clear. Perform anti-corruption due diligence. Ensure the party is registered, if required. Then ensure they have the required approvals before starting. Monitor payments. And include any offers, agreements, or payments in your own reporting.

3. Lots of review and verification in Status Quo

Defense exports require extensive investigation, review and authorization

US State Dept., Bureau of Political-Military Affairs 2021. "U.S. Arms Sales and Defense Trade" 20 Jan 2021 (accessed 24 Dec 2022) https://www.state.gov/u-s-arms-sales-and-defense-trade/

Under the International Traffic in Arms Regulations (ITAR), any U.S. company or individual involved in certain activities involving defense articles described on the USML is required to register with DDTC. Further, a DDTC license or other approval is required before exporting a defense article (including ITAR-controlled technical data), or providing a defense service to a foreign end-user. As with FMS, export licenses approved under DCS are approved following an intensive U.S. government review, and after congressional notification, as required. Export licenses are valid up to four years. Authorizations for defense services may be for longer timeframes.  They may be extended or amended as needed.

HARMS / SIGNIFICANCE

1. Arms export corruption isn't a significant problem

Corruption in other countries' exports doesn't happen in the US export market because of our commanding market position

Prof. Jonathan Caverley 2018 (*Associate Professor of Strategy, United States Naval War College and Research Scientist, Massachusetts Institute of Technology*) 6 Apr 2018 " AMERICA’S ARMS SALES POLICY: SECURITY ABROAD, NOT JOBS AT HOME" (accessed 24 Dec 2022) https://warontherocks.com/2018/04/americas-arms-sales-policy-security-abroad-not-jobs-at-home/

The United States is so economically advantaged in making and selling weapons that it can limit conventional-weapons proliferation, technology diffusion, and corruption in contracting arrangements (and maintain a robust defense industrial base) while retaining its commanding market position. Less powerful exporting states are generally too constrained by the economics of production to pursue any goals besides increased sales.

US doesn't have much arms export corruption: 1) Not needed to win contracts. 2) FCPA solves. 3) Not dependent on exports

Dr. Samuel Perlo-Freeman 2018 (associate senior researcher at Stockholm International Peace Research Institute) 11 Dec 2018 "Arms trade corruption – what do we know?" (accessed 24 Dec 2022) https://sites.tufts.edu/reinventingpeace/2018/12/11/arms-trade-corruption-what-do-we-know/

European companies selling major combat aircraft are competing in a crowded market dominated by the US and Russia. Bribery is one of their main competitive advantages compared to the US.
- US companies really do seem to bribe less.
Not because they are inherently cleaner or more moral. But the US Foreign Corrupt Practices Act (FCPA), banning bribing of foreign officials, has been in place a lot longer than comparable legislation in Europe, is more robust, and is subject to more rigorous enforcement. The biggest cases of arms trade corruption prosecuted by the US authorities in recent years have been of companies like [BAE Systems](https://sites.tufts.edu/corruptarmsdeals/tag/bae-systems/) and [Embraer](https://sites.tufts.edu/corruptarmsdeals/embraer-dominican-indian-schemes/), whose main bases are in the UK and Brazil respectively. Cases involving US-headquartered companies, like [Litton Industries](https://sites.tufts.edu/corruptarmsdeals/litton-industries-contracts-with-greece-and-taiwan/), are much smaller beer. But this more rigorous enforcement may have a lot to do with the fact that US companies have far less need to bribe: the US generally has the most technologically advanced equipment, and US arms are often in high demand due to the security guarantees that come with them, that no other country is able to offer to a comparable level. Moreover, US companies have the largest domestic market in the world in Department of Defense (DOD) procurement, and are thus much less dependent on exports than their European counterparts.

SOLVENCY

1. Foreign offenders. AFF can't enforce US laws against foreign agents

US companies are following the rules. The real problem is foreign agents (outside US jurisdiction)

Frank Vogl 2020 (co-founder of Transparency International; member of the International Council of the New Israel Fund and of the Advisory Council of the United Nations Association of the Greater Washington Area. A former spokesman for the World Bank, Mr. Vogl was previously the international economics correspondent for the Times of London) Bribery: The Driving Force Behind Middle Eastern Arms Sales 22 Jan 2020 (accessed 24 Dec 2022) https://www.theglobalist.com/donald-trump-saudi-arabia-arms-sales-corruption-transparency-international/

U.S. companies assert that they are sensitive to being in compliance with U.S. laws that criminalize bribes to foreign government officials. But, the intricacies of the offset deals are often directed by the Saudis, with some ventures involving senior defense officials, or new ventures where control is with a Saudi partner or Saudi agents — and no doubt commissions — to finalize arrangements.

Corruption is hard to find because of all the tricks going on inside the importing countries

Dr. Samuel Perlo-Freeman 2020(associate senior researcher at Stockholm International Peace Research Institute) THE ECONOMICS OF PEACE AND SECURITY JOURNAL Volume 15 Number 1, "Red flags for arms trade corruption" (accessed 24 Dec 2022) https://www.epsjournal.org.uk/index.php/EPSJ/article/view/332/361

Discussion of “corruption risks” or “red flags” sometimes seems to be framed as though corruption is the result of a series of traps that a well-intentioned company or government may stumble into if care is not taken. However, some of the major arms corruption cases—such as Saudi Arabia’s Al Yamamah, the South African arms deal, or the numerous corrupt submarine sales by France and Germany—did not happen because of a failure of due diligence, but because corruption was sanctioned and executed at the highest levels. Such corrupt deals are typically facilitated by a complex network of shell companies, offshore accounts, and intermediaries. In many cases, the willingness of supplier governments to tolerate such practices was also a key enabling feature.

2. Shell companies

**[A "shell company" is a company that owns a company that owns a company… so many times that no one can figure out the actual affiliation of the company at the bottom that is doing the transaction.]**

Shell companies are legal under existing law and are a major source of corruption in arms exports because they are hard to investigate

Dr. Samuel Perlo-Freeman 2020(associate senior researcher at Stockholm International Peace Research Institute) THE ECONOMICS OF PEACE AND SECURITY JOURNAL Volume 15 Number 1, "Red flags for arms trade corruption" (accessed 24 Dec 2022) https://www.epsjournal.org.uk/index.php/EPSJ/article/view/332/361

However, at the smaller end of the arms industry and trade, in particular in relation to domestic procurement rather than major international arms deals, there are a number of supplier-related red flags to look out for. These include companies that have: Only just established prior to applying for the tender; no track record in the type of business involved in the contract, and no relevant experience suggesting capacity to do the work; no evidence of employees, premises, a website, or financial records; directors involved in corrupt or criminal activity in the past; directors or beneficial owners that include politically well-connected individuals, such as friends and families of senior government or ruling party figures. The last point is not always readily apparent, as politicians and their associates may go to considerable lengths to hide their ownership of the company by use of anonymous shell companies registered in a jurisdiction that does not provide ownership information. Such anonymous shell companies are a major source of corruption in general, and are at present still legal in the United States, although the Corporate Transparency Act, which passed the House of Representatives in 2019, would ban them, requiring disclosure of companies’ beneficial ownership for the first time.

3. "Offset brokers"

["Offsets" are additional deals that importing countries require as part of an arms deal. For example, Country X might tell a US arms export manufacturer, "We'll buy a billion dollars worth of your airplanes, but you have to set up a $300 million business operation (like a shrimp farm) in our country." They're not really illegal - companies can trade business deals all they want, and the arms exporter could always say No. But they open up the possibility of corruption if Country X's president's brother will be the director of the new shrimp farm. An "offset broker" is the guy in Country X who negotiates the "offset" part of the deal. If he's corrupt, the exporting company won't know about it and can't do anything.]

US exporting companies have no knowledge and cannot control "offset brokers"

Dr. Samuel Perlo-Freeman 2020(associate senior researcher at Stockholm International Peace Research Institute) THE ECONOMICS OF PEACE AND SECURITY JOURNAL Volume 15 Number 1, "Red flags for arms trade corruption" (accessed 24 Dec 2022) https://www.epsjournal.org.uk/index.php/EPSJ/article/view/332/361

Key individuals within the purchasing government may have considerable scope to decide how offset investments and contracts are allocated. They may use this scope to benefit their friends, family, or patronage networks. Offset brokers may also identify suitable politically connected recipients of offsets. The original exporter company may genuinely have no direct knowledge of the corrupt nature of some offset transactions, yet will benefit from them through their value in securing the deal. Again, a lack of beneficial ownership transparency (something which the U.S. Corporate Transparency Act is trying to address), along with the opacity of offset contracts, casts a veil of obscurity over the business that investigators may struggle to penetrate.

4. "More enforcement" won't solve

Corruption is baked into the process. Lack of diligence (scrutiny, enforcement) isn't the cause nor the solution.

Dr. Samuel Perlo-Freeman 2020(associate senior researcher at Stockholm International Peace Research Institute) THE ECONOMICS OF PEACE AND SECURITY JOURNAL Volume 15 Number 1, "Red flags for arms trade corruption" (accessed 24 Dec 2022) https://www.epsjournal.org.uk/index.php/EPSJ/article/view/332/361

Corruption should be seen as an integral part of the international arms trade, deeply intertwined with political, economic, and security relationships, and the drivers of the business. It is a feature, rather than a bug in the system, and often a policy deliberately pursued by governments and companies, instead of being the result of a failure of due diligence. Combating corruption in the arms trade therefore faces an uphill struggle against entrenched interests in both recipient and supplier countries.

DISADVANTAGES

1. Reduced US global influence

Link: Slowing down arms transfers reduces US global influence

Jordan Cohen 2021. (*policy analyst in Defense and Foreign Policy Studies at the Cato Institute and a Ph.D. candidate in political science at the Schar School of Policy and Government at George Mason Univ*) 29 Nov 2021 "BIDEN’S CONVENTIONAL ARMS TRANSFER POLICY REVIEW COULD BE A TURNING POINT" (accessed 24 Dec 2022) https://warontherocks.com/2021/11/bidens-conventional-arms-transfer-policy-review-could-be-a-turning-point/

Second, in an era of strategic competition, slowing down arms transfers will see [reduced influence](https://warontherocks.com/2021/11/the-ambivalent-supplier-u-s-arms-transfer-policy-under-biden/) relative to Russia and China, two countries that will attempt to fill the gap left by fewer U.S. weapons sales. Arms exports can be a tool that provides the United States with political power to increase global communication, strengthen relationships, and keep mutual adversaries at bay. Indeed, [recent work](https://warontherocks.com/2019/04/the-case-against-arms-embargos-even-for-saudi-arabia/) finds that embargoing sales to risky clients pushes them to “diversify sourcing rather than to change behavior.”

Link: US arms sales assist with diplomacy and ensure military assistance

Thomas Frohlich 2019. (Assistant Managing Editor of 24/7 Wall St., a financial news and opinion company) “Saudi Arabia buys the most weapons from the US government. See what other countries top list.” March 26, 2019. (accessed 4 Oct 2022) USA Today. <https://www.usatoday.com/story/money/2019/03/26/us-arms-sales-these-countries-buy-most-weapons-government/39208809/> (brackets added)

The United States selects its clients based on well-established partnerships, as well as for strategic reasons related to the leverage it could gain during conflicts. Of the 25 countries buying the most weapons from the U.S., 10 are either NATO member nations or part of other alliances formed with the United States since the Cold War. “The US transfers to these countries are meant to ensure allies security, as arms transfers from the US brings with it security guarantees, which basically entail diplomatic and military assistance in case of troubles,” said [Aude] Fleurant [director of the arms and military expenditure program with the Stockholm International Peace Research Institute].

Link: US arms exports are key to countering Russia and maintaining influence in the global order

Fatima Munib 2019 (master's degree candidate in international studies at Univ. of San Francisco) Dec 2019 (accessed 5 Oct 2022) "The United States Eroding Global Military Advantage; Is There A Way Back?" https://repository.usfca.edu/cgi/viewcontent.cgi?article=2400&context=thes

On the other hand, Russia’s case-study makes the connection between its increased market share in the global defense industry hampering U.S defense corporations’ arms sales and its challenge to the U.S influence in global affairs. While Russia provides a cost-conditionalities benefit to non-NATO members in its 2 arms sales, it also seeks to impact the future of the U.S. relationship with NATO, which contains military implications for Europe as well as for the global order.

Disregarding our allies weakens US hegemony because we need them to maintain global leadership

Ashley Tellis 2020 (Tata Chair for Strategic Affairs and a senior fellow at the Carnegie Endowment for International Peace. He is also a counselor at the National Bureau of Asian Research and the research director of the Strategic Asia Program) 4 May 2020 "COVID-19 Knocks on American Hegemony" (accessed 5 Oct 2022) https://carnegieendowment.org/2020/05/04/covid-19-knocks-on-american-hegemony-pub-81719

This disregard for the alliance system that the United States has carefully nurtured now for over half a century is grounded fundamentally in a failure to appreciate its importance for both the effectiveness and the legitimacy of American primacy in international politics. All previous administrations intuitively understood the benefits that the alliances provided in material, institutional, and ideational terms and consequently sought to preserve, if not actually deepen, them. The Covid-19 pandemic ordinarily would have stimulated the United States to lead a collective response, if not globally, then at least involving its allies and partners because this crisis was both genuinely transnational and immediately affected U.S. interests as well those of its closest friends in Europe and Asia.

Brink: Now is the critical time. We should be increasing, not decreasing, commitment to allies. It's essential to maintaining US hegemony

Ashley Tellis 2020 (Tata Chair for Strategic Affairs and a senior fellow at the Carnegie Endowment for International Peace. He is also a counselor at the National Bureau of Asian Research and the research director of the Strategic Asia Program) 4 May 2020 "COVID-19 Knocks on American Hegemony" (accessed 5 Oct 2022) https://carnegieendowment.org/2020/05/04/covid-19-knocks-on-american-hegemony-pub-81719

But even as it attends to the business of internal regeneration, Washington must double down on its alliances and partnerships. Only this U.S.-led confederation contains the preponderance of the global product that will durably immunize the “strategic West” against any future challenges emanating from China or other rivals. Preserving American hegemony over the long term thus must begin with consolidating Washington’s leadership within the largest single bloc of material power in order that it may be effective beyond. Ensuring this outcome requires the United States to take seriously—and deepen meaningfully—the special geopolitical ties it has nurtured throughout the postwar period, which would among other things enable it to better shape the world’s engagement with China to advance its own interests.

Backup Brink: Global order is in crisis, multiple trends make the international system fragile, and US leadership is in danger of retreat

Prof. [Alexander Cooley and Prof. Daniel H. Nexon](https://www.foreignaffairs.com/author) 2020. (COOLEY is Claire Tow Professor of Political Science at Barnard College and Director of Columbia University’s Harriman Institute.  NEXON is an Associate Professor in the Department of Government and at the Edmund A. Walsh School of Foreign Service at Georgetown University) July/Aug 2020 “How Hegemony Ends” <https://www.foreignaffairs.com/articles/united-states/2020-06-09/how-hegemony-ends> (accessed 5 Oct 2022)

Multiple signs point to a crisis in global order. The uncoordinated international response to the COVID-19 pandemic, the resulting economic downturns, the resurgence of nationalist politics, and the hardening of state borders all seem to herald the emergence of a less cooperative and more fragile international system. According to many observers, these developments underscore the dangers of U.S. President Donald Trump’s “America first” policies and his retreat from global leadership.

Global Impact: World peace & prosperity at risk without US influence. US hegemony is key to global peace & prosperity

Capt. M. V. Prato 2009 (United States Marine Corps, Command and Staff College, Marine Corps Combat Development Command, Marine Corps University) “The Need for American Hegemony” <https://apps.dtic.mil/sti/citations/ADA508040> (accessed 3 June 2021)

The world witnessed a vast shift in the polarity of geopolitics after the Cold War. The United States became the world’s greatest hegemon with an unequalled ability to globally project cultural, political, economic, and military power in a manner not seen since the days of the Roman Empire. **[END QUOTE]** Coined the “unipolar moment” by syndicated columnist Charles Krauthammer, the disparity of power between the U.S. and all other nations allows the U.S. to influence the world for the mutual benefit of all responsible states. Unfortunately, the United States is increasingly forced to act unilaterally as a result of both foreign and domestic resentment to U.S. dominance and the rise of liberal internationalism. [**He goes on to conclude later in the same context QUOTE**:] The United States must exercise benevolent global hegemony, unilaterally if necessary, to ensure its security and maintain global peace and prosperity.

Voting impact: US national interests take priority over other foreign policy goals

Doug Bandow 2021 (senior fellow at the Cato Institute, specializing in foreign policy and civil liberties. He worked as special assistant to President Ronald Reagan; JD from Stanford Univ.) “Eight Ways We Can Serve US Interests and Pursue Human Rights Too”  28 May 2021  (accessed 7 Sept 2022) <https://www.cato.org/commentary/eight-ways-we-can-serve-us-interests-pursue-human-rights-too>

“The central purpose of Washington’s international strategy should be to advance the interests of the American people. That means protecting them along with their territory, constitutional system, liberties, and prosperity. These objectives transcend the many other goals routinely set by governments.”