



June 2022

YEMEN

State and DOD Need Better Information on Civilian Impacts of U.S. Military Support to Saudi Arabia and the United Arab Emirates

GAO Highlights

Highlights of [GAO-22-105988](#), a report to congressional committees

Why GAO Did This Study

The United Nations has characterized the conflict in Yemen as one of the world's worst humanitarian crises. The U.S. has long-standing security relationships with Saudi Arabia and UAE—two primary actors in the conflict—and has continued to provide them military support, including for operations in Yemen since 2015.

Public law 116-283 calls for GAO to review U.S. military support to the Saudi-led coalition in Yemen. This report examines the (1) total financial value of military support provided by DOD to Saudi Arabia and UAE in fiscal years 2015–2021, (2) extent to which DOD and State have assessed the use of U.S. military support in Yemen and to which this support contributed to or reduced civilian harm, and (3) extent to which State certifications and a DOD report submitted in response to two congressional mandates were timely and complete. GAO analyzed DOD data and State and DOD documents, and interviewed agency officials in headquarters, Saudi Arabia, and UAE.

This is a public version of a sensitive report that GAO issued in April 2022. Information that DOD and State deemed sensitive has been omitted.

What GAO Recommends

GAO is making four recommendations, including that State and DOD, respectively, develop specific guidance for investigating and reporting whether U.S.-origin equipment was used for unauthorized purposes in Yemen, and that State provide current information to Congress. DOD concurred with the recommendations. State agreed to develop specific guidance and to continue to regularly update Congress.

View [GAO-22-105988](#). For more information, contact Jason Bair at (202) 512-6881 or bairj@gao.gov.

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State and DOD Need Better Information on Civilian Impacts of U.S. Military Support to Saudi Arabia and the United Arab Emirates

What GAO Found

The Department of Defense (DOD) administered at least \$54.6 billion of military support to Saudi Arabia and the United Arab Emirates (UAE) from fiscal years 2015 through 2021. The vast majority of this support was defense articles and defense services, including training, purchased by these countries through the Foreign Military Sales program. For example, sales of defense articles included helicopters, missiles, and small diameter bombs. DOD also provided advisory services to Saudi Arabia and UAE, some addressing civilian harm reduction.

Examples of Defense Articles That May Be Purchased through Foreign Military Sales: Helicopters, Missiles, and Small Diameter Bombs



Source: Defense Visual Information Distribution Service. Photos by Sgt. Steven Gaimore (left), Spc. Avery Cunningham (center), Staff Sgt. Jordan Martin (right). | GAO-22-105988

DOD and the Department of State have not fully determined the extent to which U.S. military support has contributed to civilian harm in Yemen. State officials said they consider civilian harm and use of equipment when considering potential Foreign Military Sales for Saudi Arabia and UAE. In addition, DOD and State officials said they have made some efforts to understand the extent to which U.S.-origin defense articles were used in Yemen. However, despite several reports that airstrikes and other attacks by Saudi Arabia and UAE have caused extensive civilian harm in Yemen, DOD has not reported and State could not provide evidence that it investigated any incidents of potential unauthorized use of equipment transferred to Saudi Arabia or UAE. According to DOD policy, officials overseeing security cooperation efforts should be alert to and report any indication that U.S.-origin defense articles are being used against anything other than legitimate military targets. Additionally, State investigates alleged incidents of unauthorized use. DOD officials told GAO they lack guidance for reporting such incidents, and State officials could not provide specific guidance. Without such guidance, DOD and State may not be able to assess the extent to which U.S.-origin equipment has contributed to civilian harm in Yemen.

DOD submitted its report regarding U.S. and coalition partners' operations in Yemen on time and fully addressed all required elements that we reviewed, but State has not submitted all required certifications on Saudi Arabia's and UAE's actions in Yemen. DOD's unclassified report fully addressed four relevant elements required in its mandate, including whether any coalition partners committed gross violations of human rights. State submitted an initial certification in 2018 that the Saudi and Emirati governments had made efforts to reduce harm to civilians in Yemen, but did not submit two subsequent, required certifications. Although State's initial certification was complete, its supporting documentation— not required by law—did not address all elements required in the certification.

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Abbreviations

ACSA	acquisition and cross-servicing agreement
AGATRS	Acquisition and Cross-Servicing Agreement Global Automated Tracking and Reporting System
CENTCOM	U.S. Central Command
DIILS	Defense Institute of International Legal Studies
DOD	Department of Defense
DLA	Defense Logistics Agency
DSCA	Defense Security Cooperation Agency
EUM	end-use monitoring
FMS	Foreign Military Sales
MOJ	memorandum of justification
MRAP	Mine-Resistant Ambush Protected vehicle
NDA	National Defense Authorization Act
Section 1274	Section 1274 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019
Section 1290	Section 1290 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019
State	Department of State
UAE	United Arab Emirates
UN	United Nations

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June 15, 2022

Congressional Committees

The United Nations (UN) has characterized the conflict in Yemen as one of the world’s worst humanitarian crises, with almost 21 million people—66 percent of the country’s population¹—requiring emergency aid, including food, hygiene kits and water treatment supplies, and medical supplies, as of 2021. In 2015, a multinational coalition led by Saudi Arabia—the Saudi-led coalition—began military operations in Yemen after an Iran-backed Houthi military offensive succeeded in overtaking Sana’a, Yemen’s capital. The U.S. has had a long-standing security relationship with Saudi Arabia and the United Arab Emirates (UAE) and has provided military support in many forms for decades. The U.S. continued providing support, including weapons sales, logistical support, and advisory services, to these two long-standing partners throughout their involvement in the Saudi-led coalition in Yemen.²

The William M. (Mac) Thornberry National Defense Authorization Act (NDAA) for Fiscal Year 2021 includes a provision for us to review U.S. military support to the Saudi-led coalition in Yemen.³ This report examines (1) the total financial value of all military support⁴ provided by the Department of Defense (DOD) to Saudi Arabia and UAE from fiscal years 2015 through 2021, (2) the extent to which DOD and the Department of State have assessed the use of U.S. military support in Yemen and the extent to which this support contributed to or reduced

¹United Nations Office for the Coordination of Humanitarian Affairs, *Yemen: Humanitarian Needs Overview - 2021* (Sana’a, Yemen: February 2021), <https://yemen.un.org/en/122718-yemen-humanitarian-needs-overview-2021>.

²In addition to including Saudi Arabia and UAE, the Saudi-led coalition in Yemen initially included eight other members: Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar, Senegal, and Sudan, according to Defense Intelligence Agency information. The coalition has also received logistical and other noncombat support from countries that were not members of the initial coalition, including Djibouti, Eritrea, Malaysia, Pakistan, and Somalia. As of April 2021, most countries other than Saudi Arabia had reduced their participation and forces.

³William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No.116-283, § 1296, 134 Stat. 3388, 3996 (2021).

⁴For the purposes of this report, military support includes security cooperation and security assistance.

civilian harm,⁵ and (3) the extent to which certifications State submitted and a report DOD submitted in accordance with sections 1274 and 1290 of the Fiscal Year 2019 NDAA were timely and complete.⁶

This report is a public version of a sensitive report that we issued in April 2022.⁷ DOD and State deemed some of the information in our April report to be sensitive, which must be protected from public disclosure. Therefore, this report omits sensitive information about DOD's advisory services and State's internal decision-making related to U.S. military support to Saudi Arabia and UAE. Although the information provided in this report is more limited, the report addresses the same objectives as the sensitive report and uses the same methodology.

To determine the total financial value of all military support provided by DOD to Saudi Arabia and UAE from fiscal years 2015 through 2021, we analyzed DOD data for (1) defense articles and defense services transferred through the Foreign Military Sales (FMS) program; (2) logistic support, supplies, and services exchanged under acquisition and cross-servicing agreements (ACSA); and (3) foreign military training.⁸ For FMS, we reviewed data reported in the Security Cooperation Information Portal

⁵For the purposes of this report, we define the term "civilian harm" to include movement of persons into or out of Yemen, civilian casualties, and damage to civilian infrastructure.

⁶John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, §§ 1274, 1290, 132 Stat. 1636, 2067, 2081-2083 (2018). Section 1290 of the Fiscal Year 2019 NDAA required the Secretary of State to submit three certifications indicating whether the governments of Saudi Arabia and UAE were undertaking demonstrable efforts to reduce harm to civilians and appropriate measures to alleviate the humanitarian crisis in Yemen, among other things. Section 1274 of the Fiscal Year 2019 NDAA required the Secretary of Defense to submit a report on the results of its review into whether the U.S. armed forces or coalition partners of the U.S. violated federal law, the laws of armed conflict, or DOD policy while conducting operations in Yemen, among other things.

⁷GAO, *Yemen: State and DOD Need Better Information on Civilian Impacts of U.S. Military Support to Saudi Arabia and the United Arab Emirates*, GAO-22-105073SU (Washington, D.C.: Apr. 27, 2022).

⁸10 U.S.C. § 2342 authorizes the reciprocal provision of "logistic support, supplies, and services" through ACSAs. Under 10 U.S.C. § 2350, "logistic support, supplies, and services" includes, among other things, food, transportation, petroleum, ammunition, base operations support, training services, spare parts and components, repair and maintenance services, and port services. The term also includes temporary use of general purpose vehicles and other nonlethal military equipment that are not designated as significant military equipment on the U.S. Munitions List.

for sales to Saudi Arabia and UAE with agreements, officially known as Letters of Offer and Acceptance, signed from fiscal years 2015 through 2021. For ACSAs, we reviewed data reported in the ACSA system of record for orders authorized to Saudi Arabia and UAE from fiscal years 2015 through 2021. For foreign military training, we analyzed data for training reported in DOD's and State's joint congressional foreign military training report from fiscal years 2015 through 2020.⁹ To assess the reliability of these data, we conducted several validity checks and interviewed DOD officials. We found the data to be sufficiently reliable for our purposes.

In addition, we reviewed DOD and State documents to identify advisory services provided to Saudi Arabia and UAE. Further, we interviewed DOD and State officials at headquarters, U.S. Central Command (CENTCOM), and security cooperation organizations in Saudi Arabia and UAE.¹⁰

To examine the extent to which DOD and State have assessed the use of U.S. military support in Yemen and whether this support contributed to or reduced civilian harm, we reviewed DOD and State documents to identify processes and measures in place to reduce civilian harm and track the use of U.S.-origin weapons provided to Saudi Arabia and UAE. For example, we evaluated four country team assessments for potential FMS sales to Saudi Arabia. We judgmentally selected cases that (1) potentially related to the conflict in Yemen; (2) represented a range of years; and (3) for at least one case, was included in the Secretary of State's May 2019 certification that an emergency existed under section 36(b) of the Arms Export Control Act.¹¹ Further, to determine the extent to which the agencies collected information about the use of U.S.-origin weapons in Yemen, we reviewed end-use monitoring (EUM) country reports from DOD related to allegations of end-use violations for U.S.-origin defense

⁹Foreign military training data for fiscal year 2021 was not available at the time of our analysis.

¹⁰Security cooperation organizations are DOD organizations permanently located in a foreign country responsible for carrying out security cooperation management functions.

¹¹Section 36(b) of the Arms Export Control Act requires the President to submit certifications to Congress containing the details of certain proposed arms sales before extending a letter of offer. 22 U.S.C. § 2776(b). The law further prohibits the issuance of a letter of offer with respect to a proposed sale to any country or organization, if the Congress within 30 calendar days after receiving such certification enacts a joint resolution prohibiting the proposed sale, unless the President states in his certification that an emergency exists that requires such sale in the national security interests of the U.S.

articles transferred to Saudi Arabia and UAE. We reviewed DOD documents to determine whether DOD officials assessed the effectiveness of DOD's training and advising efforts. We determined that the internal control principle related to quality information was significant to this objective.¹² We interviewed DOD officials at headquarters, CENTCOM, and security cooperation organizations in Saudi Arabia and UAE and current and former advisors.

We analyzed the extent to which State submitted certifications and DOD submitted a report in accordance with sections 1274 and 1290 of the Fiscal Year 2019 NDAA (Section 1274 and Section 1290). To determine whether State's certification and DOD's report were timely, we compared the date these documents were submitted to Congress with the required submission date in the Fiscal Year 2019 NDAA. To determine whether DOD's unclassified report to Congress addressed required elements, we assessed the extent to which DOD fully, partially, or did not address four elements identified in Section 1274 as "matters to be included" in DOD's review. We will assess whether DOD's report to Congress included the other elements required by Section 1274 in a subsequent classified product.

To determine whether State's certification was complete, we compared the certification with the requirements outlined in Section 1290 of the Fiscal Year 2019 NDAA. We also analyzed the extent to which a memorandum of justification (MOJ) accompanying a certification addressed the elements identified in the certification. To determine whether the MOJ accompanying a certification that provides State's rationale addressed all of the certification elements, we compared the elements identified in the Section 1290 certification requirement against the elements contained in the MOJ to assess whether those elements were fully, partially, or not addressed. In addition, we collected and reviewed select internal decision communications from State and interviewed officials from State and DOD. For more information about our scope and methodology, see appendix I.

The performance audit upon which this report is based was conducted from March 2021 to April 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide

¹²GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We subsequently worked with DOD and State from April 2022 to June 2022 to prepare the original sensitive report for public release. This public version was also prepared in accordance with these standards.

Background

U.S. Military Support Related to the War in Yemen and Civilian Harm Concerns

The Saudi-led coalition—including Saudi Arabia and UAE—began military operations with U.S. military support in 2015 to restore the authority of the Republic of Yemen Government—which is officially recognized as a member of the UN—after an Iran-backed Houthi military offensive succeeded in overtaking Sana’a. In mid-2020, the Houthis advanced towards Marib following a period of maintaining static positions on their eastern flank, according to DOD officials. In February 2021, the Houthi frontlines progressed to seize Marib amid reports of rockets and missiles that hit neighborhoods in Marib city and heavy airstrikes across the governorate, according to the Civilian Impact Monitoring Project.¹³ In response to Houthi gains, the Saudi-led coalition targeted airstrikes on Sana’a; the offensive killed hundreds of fighters and complicated peace processes, according to the Council on Foreign Relations.¹⁴

The collapse of Yemen’s economy and stability as a result of this conflict has exacerbated Yemen’s long-standing poor living conditions, according to a Congressional Research Service report.¹⁵ Yemen is considered one of the world’s worst humanitarian crises, according to the UN Secretary General, the World Food Program, and the U.S. Agency for International Development, among others. Concerns include the possibility that a collapsed state may empower Yemen-based transnational terrorist

¹³Civilian Impact Monitoring Project, *Thematic Report: A Review of the Civilian Impact of Recent Hostilities in Ma’rib April 2021* (n.p.: April 2021), https://civilianimpactmonitoring.org/onewebmedia/20210420_CIMP%20Thematic%2006_Marib.pdf.

¹⁴Council on Foreign Relations, “War in Yemen,” *Global Conflict Tracker* (Washington, D.C.: Jan. 3, 2022), <https://cfr.org/global-conflict-tracker/conflict/war-yemen>.

¹⁵Jeremy M. Sharp, *Yemen: Civil War and Regional Intervention R43960*. Congressional Research Service. (Washington, D.C.: Nov. 23, 2021), <https://crsreports.congress.gov/search/#/0?termsToSearch=R43960&orderBy=Relevance&fromDate=11%252F01%252F21&toDate=11%252F30%252F21>.

groups, destabilize vital international shipping routes, and provide opportunities for Iran to threaten Saudi Arabia's borders.

In addition, the UN and Members of Congress have raised concerns about the conflict's negative impacts on civilians and infrastructure in Yemen.

- The UN estimates that from March 2015 to August 2021 there were about 23,000 airstrikes by the Saudi-led coalition in Yemen, killing or injuring over 18,000 civilians. For example, in September 2018, the Saudi-led coalition admitted error and took responsibility for an attack in Yemen that killed more than 40 children, according to a State memo.
- In February 2021, the UN reported that Yemen's humanitarian crisis is a result of the conflict and subsequent economic instability, among other things. According to the UN, these factors have led to a growing risk of famine, severe malnutrition, and disease outbreaks, among other issues.¹⁶ For example, the UN estimated that over 16 million people—more than half the country—would suffer from hunger in 2021, according to its report.¹⁷ In addition, the UN reported that in 2021, Yemen was still experiencing poor water and sanitation services, inadequate living conditions, and other underlying conditions for the cholera outbreak Yemen experienced several years prior.¹⁸
- In congressional letters and hearings, Members of Congress have raised concerns about the destruction of civilian infrastructure and limited access to humanitarian aid. For example, a May 2021 letter to the President from over a dozen U.S. Senators noted that the war has led to the collapse of much of Yemen's infrastructure, including the destruction of schools, hospitals, businesses, and other public buildings by both Houthi and Saudi-led coalition forces.
- In addition, during a March 2019 congressional hearing on the humanitarian crisis in Yemen, one Member of Congress noted that

¹⁶*Yemen: Humanitarian Needs Overview – 2021*, <https://yemen.un.org/en/122718-yemen-humanitarian-needs-overview-2021>.

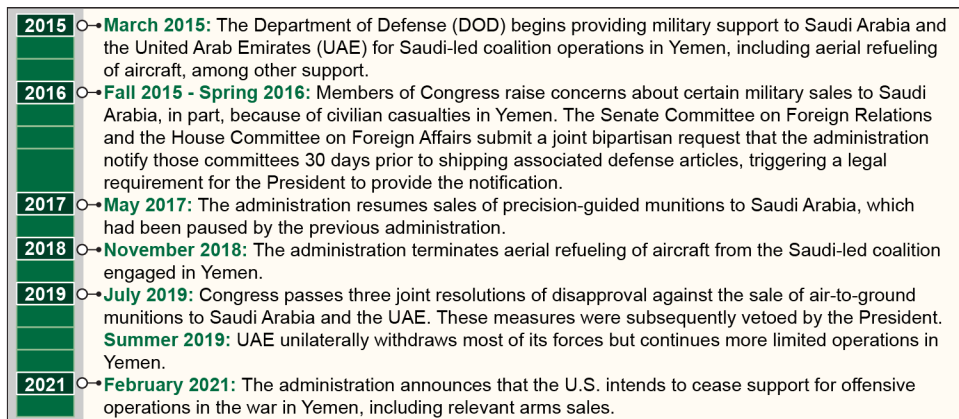
¹⁷In 2020, according to the UN, Yemen experienced one of the highest levels of acute malnutrition, particularly in children under the age of five. *Yemen: Humanitarian Needs Overview – 2021*, <https://yemen.un.org/en/122718-yemen-humanitarian-needs-overview-2021>.

¹⁸*Yemen: Humanitarian Needs Overview – 2021*, <https://yemen.un.org/en/122718-yemen-humanitarian-needs-overview-2021>.

Houthi forces had been targeting and detaining humanitarian workers in the country, risking access to much needed humanitarian aid.

Since the conflict began, the U.S.—through DOD’s and State’s efforts—continued to provide military support to Saudi Arabia and UAE for their defense and regional security, including at times specifically for their operations in Yemen. The military support the U.S. has provided to Saudi Arabia and UAE for their operations in Yemen throughout the course of this conflict has changed. For example, the U.S. has paused sales of certain defense articles and defense services to these countries at various times, in part because of civilian casualties in Yemen, and terminated its aerial refueling of aircraft from the Saud-led coalition engaged in Yemen. Figure 1 shows specific actions related to U.S. military support to Saudi Arabia and UAE for operations in Yemen since the conflict began in March 2015.

Figure 1: Timeline of Key Events Related to U.S. Military Support to Saudi Arabia and the United Arab Emirates for Saudi-led Coalition Operations in Yemen



Source: GAO summary of Congressional Research Service and DOD information. | GAO-22-105988

Agency Roles and Efforts

Various DOD and State components oversee and implement programs that provide military support to foreign partners, such as Saudi Arabia and UAE. See table 1 for information about DOD’s and State’s roles and efforts related to providing U.S. military support to Saudi Arabia and UAE.

Table 1: Selected Agencies' Efforts Related to Saudi Arabia and the United Arab Emirates (UAE)

Federal agencies	Efforts related to U.S. military support of Saudi Arabia and UAE
Department of Defense (DOD)	<p>DOD's Office of the Under Secretary of Defense for Policy provides policy advice and support to DOD in alignment with national security objectives, including those related to Foreign Military Sales (FMS), acquisition and cross-servicing agreements (ACSA), and other U.S. military support to Saudi Arabia and UAE, as well as efforts to reduce civilian harm.^a</p> <p>DOD's Defense Security Cooperation Agency (DSCA)—which is under the authority of the Office of the Under Secretary of Defense for Policy—is responsible for building the capacity of foreign partners to encourage and enable them to respond to shared challenges. The agency administers the FMS program and tracks FMS sales, including to Saudi Arabia and UAE.</p> <p>DSCA's Defense Institute of International Legal Studies (DIILS) is the lead security cooperation resource for professional legal education, training, and rule of law programs for international military and related civilians globally. DIILS—one of multiple security cooperation entities with civilian harm mitigation–related programming—focuses on operationalizing the law of armed conflict^b and international human rights law, according to DIILS officials.</p> <p>The Defense Logistics Agency (DLA) is DOD's combat logistics support agency and manages the global defense supply chain. DLA manages the ACSA system of record that is used to create, track, and manage transactions.</p> <p>U.S. Central Command (CENTCOM) directs military operations and activities to increase regional security and stability in its area of responsibility, which covers 21 countries in Northeast Africa, the Middle East, and Central and South Asia, including Saudi Arabia, UAE, and Yemen. CENTCOM operates with component commands, such as U.S. Air Forces Central Command.</p> <p>DOD officials working in security cooperation organizations worldwide liaise with partner nations and all DOD organizations for security cooperation issues, ranging from FMS to combined exercises. For example, the U.S. Military Training Mission—the security cooperation organization in Saudi Arabia—manages FMS cases.</p>
Department of State (State)	<p>State's Bureau of Political-Military Affairs is State's main point of contact with DOD. The bureau provides policy direction in such areas as international security, security assistance, and military operations. The bureau oversees FMS sales, including deciding whether to approve potential sales.</p> <p>State's Bureau of Democracy, Human Rights, and Labor provides policy counsel on matters relating to integrating democracy, human rights, and labor affairs into U.S. foreign policy, including through country-specific efforts to promote human rights in Saudi Arabia and Yemen. The bureau also provides input about human rights concerns for proposed arms transfers.</p> <p>State's Bureau of Near Eastern Affairs leads U.S. foreign policy in the Middle East and North Africa region, including Saudi Arabia and UAE.</p>

Source: GAO interviews with agency officials and agency documents. | GAO-22-105988

^aThe Secretary of Defense generally delegates the responsibilities of managing ACSA implementation to various components, including the Chairman of the Joint Chiefs of Staff, defense agencies, military departments and service components, and combatant commands.

^bDOD defines the "law of war," also known as the "law of armed conflict," as the treaties and customary international law binding on the U.S. that regulate the conduct of hostilities and the protection of war victims in international and non-international armed conflict, among other things. DOD's Law of War Manual states that combatants may not direct attacks against civilians, civilian objects, or other protected persons and objects, such as educational institutions, hospitals, or places of worship.

Key Forms of Military Support Provided by DOD

Saudi Arabia and UAE are long-standing strategic partners of the U.S. and are among the U.S.'s largest security cooperation customers. DOD provides various types of military support to these countries for their defense and regional security, including defense articles and defense services; logistic support, supplies, and services; training; and advisory services through a variety of security cooperation programs.

Defense articles and defense services through FMS. The FMS program is one of the primary ways through which the U.S. government provides support to its foreign partners, by selling defense articles and defense services if the President has determined that doing so will strengthen the security of the U.S. and promote world peace.¹⁹ According to DOD's Defense Security Cooperation Agency (DSCA), the U.S. managed \$908.5 billion in FMS sales from fiscal years 1950 through 2020.²⁰ Under the FMS program, the U.S. government and a foreign partner enter into a government-to-government agreement, called a Letter of Offer and Acceptance. Defense articles and defense services sold to foreign partners through FMS range from fighter jets and integrated air and missile defense systems to combat helmets and training on the use of equipment.

State oversees the sales of defense articles and defense services through the FMS program, while DOD administers the program according to five general phases for each sale. See appendix II for more information about DOD's FMS process.

Logistic support, supplies, and services through acquisition and cross-servicing agreements (ACSA). DOD uses ACSAs to exchange logistic support, supplies, and services with the military forces of partner countries and international organizations in return for cash or in-kind

¹⁹The FMS program is authorized by 22 U.S.C. § 2751 et seq. In addition to purchasing defense articles and defense services through FMS, foreign countries can purchase U.S.-manufactured equipment directly from U.S. industry through Direct Commercial Sales, which are authorized by State through an export licensing process under the International Traffic in Arms Regulations. 22 U.S.C. § 2778; 22 C.F.R. Parts 120-130.

²⁰According to DSCA, the value includes not only new sales implemented in a fiscal year, but also any adjustments to existing programs through amendments or modifications implemented that fiscal year.

reimbursement.²¹ Figure 2 shows examples of the types of support provided through ACSAs.

Figure 2: Examples of Types of Support Provided through Acquisition and Cross-Servicing Agreements (ACSA): General Purpose Bombs, Aerial Refueling, and Water



Source: Defense Visual Information Distribution Service. Photos by Staff Sgt. Chad Thompson (left), Kyra Helwick (center), Sgt. Whitney Houston (right). | GAO-22-105988

Note: These photos show examples of types of logistic support, supplies, and services that may be exchanged through ACSA transactions, rather than specific instances of such support provided through an ACSA.

According to DOD, it uses ACSAs primarily during wartime, training, deployments, or humanitarian or foreign disaster relief operations, among other things. DOD officials noted that the agreements have provided DOD with flexibility, enhanced readiness at minimal cost, and increased military effectiveness by allowing partners and allies to access U.S. logistics capabilities and practice mutual support procedures.

End-Use Monitoring

In 1996, Congress amended the Arms Export Control Act to require the President to establish a program for monitoring the end use of defense articles and defense services sold, leased, or exported under the act, or

²¹U.S. armed forces can use ACSAs to acquire logistic support, supplies, and services directly from, or provide them to, a foreign government or international organization, such as the UN. This review focuses on ACSA exchanges in which elements of the U.S. armed forces have provided support to such entities (also referred to as a “sale” in DOD’s ACSA system of record) and excludes ACSA exchanges through which such entities have provided support to elements of the U.S. armed forces.

the Foreign Assistance Act of 1961, including through FMS.²² The law requires that, to the extent practicable, the program be designed to provide reasonable assurance that recipients are complying with restrictions imposed by the U.S. government on the use, transfers, and security of defense articles and services, and that recipients use such articles and services for the purposes for which they are provided.

DOD established the Golden Sentry program to monitor the end use of defense articles and defense services transferred through FMS. Monitoring the use of U.S.-origin defense articles and defense services is a joint responsibility of the foreign partners and the U.S. government, to include the military departments, the combatant commands, and the security cooperation organizations, according to DOD policy. DSCA administers the Golden Sentry program, under which security cooperation organizations conduct two levels of end-use monitoring (EUM): routine EUM and enhanced EUM.

- **Routine EUM.** DOD requires routine EUM for all defense articles and defense services provided through FMS. Security cooperation organization officials conduct routine EUM in conjunction with other security cooperation functions using any readily available source of information. In conducting routine EUM, these officials are required to observe and report any potential misuse or unapproved transfer of U.S.-origin defense articles.
- **Enhanced EUM.** DOD requires enhanced EUM for specifically designated items, such as advanced medium range air-to-air missiles, Harpoon Block II missiles, and certain night vision devices. In addition to an initial inventory by serial number, enhanced EUM requires security cooperation organization officials to assess the physical security of the storage facilities and visually inventory 100 percent of in-country enhanced EUM defense articles annually to verify compliance with the conditions of transfer agreements.

²²22 U.S.C. § 2785. In addition, the statute requires that the end-use monitoring program provide for the end-use verification of defense articles and defense services that are particularly vulnerable to diversion or other misuse. Further, it requires that the recipient comply with the requirements imposed by the U.S. government with respect to transfers, among other things. The statute does not apply to logistic support, supplies, and services exchanged under ACSAs.

In addition to routine and enhanced EUM, DSCA may conduct in-country visits, including:

- **compliance assessment** visits to review and evaluate the security cooperation organization's compliance with EUM policies on a regular basis, among other things;
- **focused verification checks** to inspect U.S.-origin defense articles for which there are concerns regarding their use, transfer, and physical security, as needed; and
- **investigation visits** to examine whether the foreign partner is using U.S.-origin defense articles and defense services in ways that do not comply with U.S. laws and policies.

State's Bureau of Political-Military Affairs investigates potential end-use violations in coordination with DSCA and security cooperation organizations and communicates the status of these investigations to DOD and, as appropriate, Congress.

DOD Administered At Least \$54.6 Billion of Military Support to Saudi Arabia and UAE from Fiscal Years 2015 through 2021

From fiscal years 2015 through 2021, DOD administered military support worth at least \$54.6 billion to Saudi Arabia and UAE, primarily for defense articles and defense services, including training, transferred through FMS, as well as logistic support, supplies, and services exchanged under ACSAs and advisory services. Some of the training and advisory services provided to these two countries have addressed civilian harm reduction.

Defense Articles and Defense Services, including Training, through Foreign Military Sales

Foreign Military Sales (FMS) Cases

Signed FMS agreements—or “Letters of Offer and Acceptance”—are referred to as “FMS cases,” and the individual items or services included for purchase within FMS cases are referred to as “case lines.” The Letter of Offer and Acceptance is the legal instrument used by the U.S. government to sell defense articles to a foreign country or international organization under authorities provided in the Arms Export Control Act. The Letter of Offer and Acceptance itemizes the defense articles or defense services offered and, when implemented, becomes an official tender by the U.S. government.

Source: GAO summary of Defense Security Cooperation Agency documents. | GAO-22-105988

DOD administered sales of at least \$54.2 billion in defense articles and defense services, including training, to Saudi Arabia and UAE through FMS agreements signed from fiscal years 2015 through 2021, according to DSCA data.²³ Of the \$54.2 billion in defense articles and defense services, DOD administered 197 FMS cases worth \$44.6 billion for Saudi Arabia and 55 FMS cases worth \$9.6 billion for UAE.²⁴ The value of individual FMS cases ranged from \$20,000 to \$7.9 billion. See the sidebar for a description of FMS cases. Both Saudi Arabia and UAE use their own funds to purchase defense articles and defense services through FMS, according to DOD officials.

The total annual value of FMS cases for Saudi Arabia and UAE varied over time, ranging from \$1.5 billion in fiscal year 2021 to \$14.7 billion in fiscal year 2018. State officials noted that the value of FMS cases for these countries declined in fiscal year 2021.²⁵ See appendix III for more information about the total value of FMS cases for these countries by fiscal year.

As shown in figure 3, missiles²⁶—including air-launched, ground-launched, and sea-launched—represent the greatest value (34 percent) of defense articles and defense services for Saudi Arabia and UAE from

²³FMS agreements are known as Letters of Offer and Acceptance. Letters of Offer and Acceptance are implemented when the foreign partner signs the agreement and provides the initial deposit, according to DOD policy. The total value of agreements implemented over this period is based on the case value reported in DSCA’s data as of October 8, 2021. This value can change with amendments and modifications to FMS cases after the original agreements were implemented. In addition to the \$54.2 billion in agreements implemented over this period, DOD continued to manage sales for agreements implemented in prior years. The total value of active FMS cases for Saudi Arabia is \$126.6 billion, as of January 2021, and \$29.3 billion for UAE, as of June 2021, according to State.

²⁴In addition to FMS, State authorized export licenses for direct commercial sales worth \$19 billion to Saudi Arabia and \$13 billion to UAE from fiscal years 2015 through 2020, according to State’s congressional reports.

²⁵According to our analysis of DSCA data, the total annual value of FMS cases for Saudi Arabia and UAE declined in several other years besides fiscal year 2021, including fiscal years 2016, 2017, and 2020.

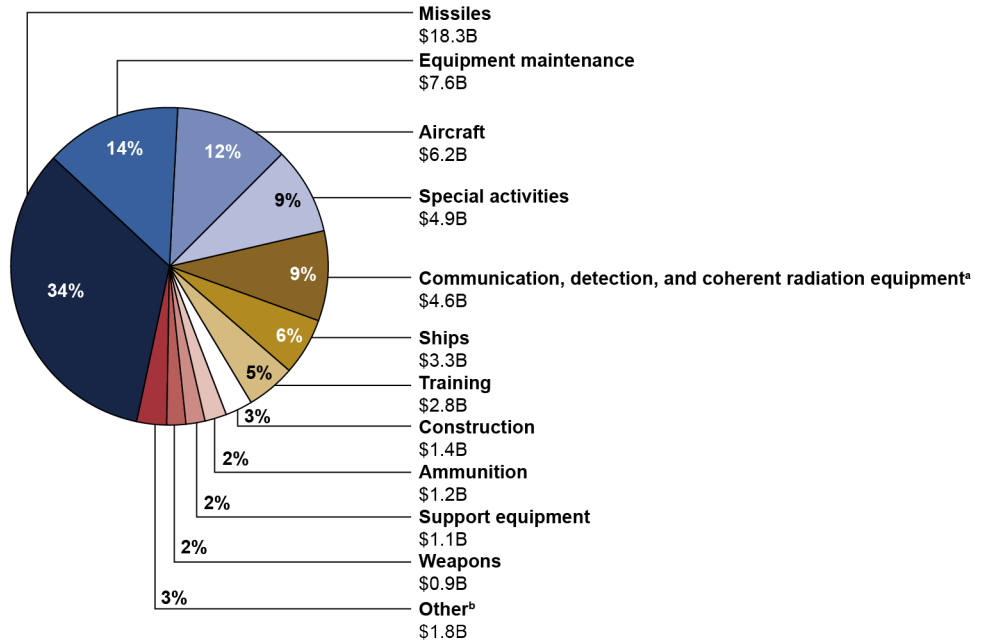
²⁶This category also includes related support equipment, spares, spare parts, and components. In addition, State officials noted this category includes air defense and other types of missiles and thus, is not specific to missiles used in ground targeting, which are of potential concern for civilian harm.

fiscal years 2015 through 2021, according to DSCA data.²⁷ Equipment maintenance represents the next highest value (14 percent). According to DOD policy, DOD applies a “total package approach” for FMS, which enables the partner country to obtain support articles—such as spare parts—and services—such as training and technical assistance—to effectively operate and sustain the equipment consistent with U.S. intent in approving the transfer. In particular, DOD’s November 2019 Targeting Infrastructure Policy requires certain transfers of U.S.-origin munitions and their delivery systems to include targeting capabilities, such as collateral damage estimation—the ability to estimate the potential for collateral damage resulting from engaging targets.²⁸

²⁷The proportion of the total value of FMS cases represented by different types of defense articles and defense services sold to Saudi Arabia and UAE varied by fiscal year. For example, missiles represented 0 percent of the total value of FMS cases for these countries in fiscal year 2017, 39 percent in fiscal year 2020, and 8 percent in fiscal year 2021, according to DSCA data.

²⁸In addition to collateral damage estimation, DOD’s Targeting Infrastructure Policy states advanced targeting capabilities include: (1) target coordinate mensuration—the ability to generate geographic points at the level of precision and accuracy necessary for the effective use of a coordinate-seeking weapon; and (2) weaponeering—the ability to predict the type and quantity of a particular type of weapon required to achieve a specific level of target damage by considering the effects of target vulnerability, warhead damage mechanisms, delivery errors, damage criteria, and weapon reliability. This policy specifies that a U.S. targeting solution—including the software, data, training, and applicable publications to conduct these capabilities—will be required unless the foreign partner has a sufficient capability.

Figure 3: Financial Value of the Types of Defense Articles and Defense Services Sold by the U.S. to Saudi Arabia and the United Arab Emirates through Foreign Military Sales (FMS) Agreements Signed in Fiscal Years 2015-2021



Legend: B = billion.

Source: GAO analysis of Defense Security Cooperation Agency data. | GAO-22-105988

Notes: Percentages do not sum to 100 due to rounding. These categories also include related support equipment, spares, spare parts, and components. The data depicted are defense articles and defense services specified in FMS agreements the Department of Defense implemented (i.e., the foreign partner signed the Letter of Offer and Acceptance and provided the initial deposit) from fiscal years 2015 through 2021. The percentages of these categories varied by fiscal year.

^aCommunication, detection, and coherent radiation equipment includes global positioning systems, missile warning systems, and long-range radio systems, among other things.

^bOther includes supplies; combat, tactical, and support vehicles; research and development; and administrative expenses; among other things.

DOD has provided various types of training to Saudi Arabia and UAE through FMS.²⁹ Training has covered various topics, such as aircraft fuel systems, maritime security, munitions systems, the English language, and management information systems. For example, DOD conducted training for Saudi airfield operations officers and pilots in fiscal year 2016. In

²⁹DOD reports on the foreign military training it provides in DOD’s and State’s Foreign Military Training Report to Congress. Over 99 percent of the reported value of training DOD provided to Saudi Arabia and UAE from fiscal years 2015 through 2020 was through FMS.

addition, DOD security cooperation officials in UAE told us that the U.S. has provided tactical assistance field teams through FMS, which train UAE armed forces on a daily basis on topics ranging from missile systems to rehabilitative medicine. See appendix IV for information about the financial value of training provided to these countries.

In addition, DOD has provided some training that addressed reducing civilian harm. For example:

- DSCA's Defense Institute of International Legal Studies (DIILS) conducted training at the Saudi War College that focused on the law of armed conflict, including laws related to air-to-ground targeting, in May 2017, April 2018, June 2019, and May 2020.³⁰
- Saudi Arabia has an active FMS case for training on targeting capabilities, which DOD officials noted aims to reduce civilian harm.³¹ The case includes technical assistance for digital precision strike software and collateral damage estimation, according to DSCA data.
- UAE also has an active FMS case for training on targeting capabilities.³² DOD security cooperation officials in UAE told us the training includes multiple courses that aim to reduce the incidence of civilian harm. For example, the FMS case includes training related to weaponeering—the process of determining the type and quantity of a particular type of weapon required to achieve a specific level of target damage—and collateral damage estimation. These officials said that some of the training was delivered in 2020.

Of the FMS sales DOD administered to Saudi Arabia and UAE through agreements signed from fiscal years 2015 through 2021, DOD has collected nearly \$17.3 billion or 32 percent of the total case value

³⁰DIILS officials noted that this training was funded through FMS. DIILS has not provided any civilian harm-related training for UAE since 2015, according to DIILS officials.

³¹The Letter of Offer and Acceptance for this case was implemented in January 2020, according to DSCA data.

³²The Letter of Offer and Acceptance for this case was implemented in August 2019, according to DSCA data. DOD security cooperation officials in UAE highlighted that UAE signed the Letter of Offer and Acceptance before DSCA implemented its Targeting Infrastructure Policy in November 2019. The Targeting Infrastructure Policy requires that FMS for air-to-surface or indirect fire surface-to-surface munitions and their delivery systems account for targeting capabilities that enable the responsible and effective employment of such munitions.

reported for these countries, according to DSCA data.³³ For Saudi Arabia, DOD has collected \$14.7 billion or 33 percent of the total case value reported. For UAE, DOD has collected \$2.5 billion or 26 percent of the total case value reported.

Logistic Support, Supplies, and Services under ACSAs

DOD authorized orders for at least \$379 million in logistic support, supplies, and services to Saudi Arabia and UAE under ACSAs from fiscal years 2015 through 2021, according to DOD data. Of the \$319 million in orders for logistic support, supplies, and services reported in the ACSA system of record,³⁴ DOD authorized 12 orders worth at least \$202 million to Saudi Arabia and 53 orders worth at least \$117 million to UAE.³⁵ The value of individual ACSA orders ranged from \$40 for lunch supplies to nearly \$104 million for flight services, according to orders reported in the ACSA system of record.³⁶ In addition to the \$319 million in orders reported in the ACSA system of record, the Defense Logistics Agency Energy officials reported they had administered ACSA orders for fuel to Saudi Arabia and UAE worth about \$60 million since fiscal year 2015, as of September 2021.³⁷

As shown in figure 4, flight services, such as flying hours to conduct aerial refueling, represent the greatest value (71 percent) of logistic support,

³³DSCA officials said that there is no typical collection rate for FMS sales due to such factors as payment schedules and subsequent amendments or modifications to FMS cases.

³⁴DOD uses the ACSA Global Automated Tracking and Reporting System (AGATRS) as its system of record to create, track, and manage transactions executed under ACSAs. DOD's Defense Logistics Agency has managed this system since 2013. See appendix I for the steps we took to ensure the order data reported in the ACSA system of record were sufficiently reliable for our purposes.

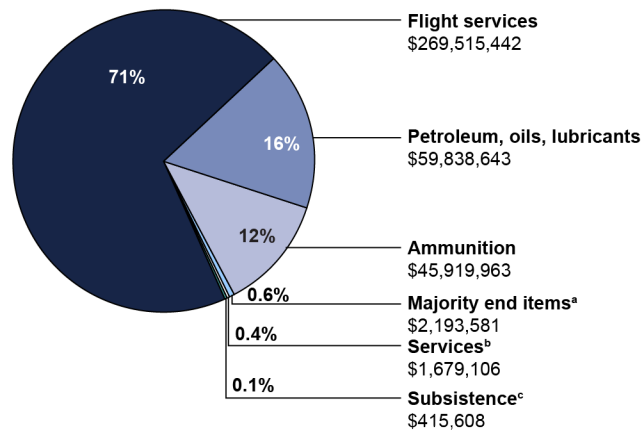
³⁵DOD signed ACSAs with Saudi Arabia and UAE in May 2016 and January 2006, respectively.

³⁶An ACSA order may also be referred to as a transaction and contain one or more line items. For example, one order or transaction may include an exchange of water and meals, in which the water provided may be recorded as one line item and the meals provided may be recorded as a separate line item in DOD's records.

³⁷Defense Logistics Agency Energy officials said they use open-ended ACSA orders for fuel and do not update the ACSA system of record for fuel orders until all transactions have been reconciled because the ACSA system of record is not a financial system. Therefore, we report the value of such orders based on information provided by Defense Logistics Agency Energy officials from their financial system. For more information, see appendix I.

supplies, and services authorized to Saudi Arabia and UAE, according to data reported in the ACSA system of record.

Figure 4: Financial Value of the Types of Logistic Support, Supplies, and Services Authorized by DOD to Saudi Arabia and the United Arab Emirates (UAE) under ACSAs in Fiscal Years 2015-2021



Source: GAO analysis of order data reported in Department of Defense's (DOD) acquisition and cross-servicing agreement (ACSA) system of record and information provided by Defense Logistics Agency Energy officials. | GAO-22-105988

Notes: Percentages do not sum to 100 due to rounding. DOD uses ACSAs to exchange logistic support, supplies, and services with foreign partners in return for cash or in-kind reimbursement. UAE and Saudi Arabia signed ACSAs in January 2006 and May 2016, respectively. The data depicted above are based on information reported in the ACSA system of record and provided by Defense Logistics Agency Energy officials for ACSA orders for petroleum, oils, and lubricants. In addition to the data depicted above, DOD authorized ACSA orders for about \$3,900 in clothing, tools, and administrative supplies.

^aFor example, majority end items include tracked vehicles, tanks, missiles, weapons, and ground support material.

^bFor example, services include transportation, recycling, and laundry.

^cFor example, subsistence includes combat rations, nonperishables, and water.

As noted earlier, DOD uses ACSAs to exchange logistic support, supplies, and services with foreign partners in return for cash or in-kind reimbursement. As of October 2021, 18 ACSA orders were recorded as completed in the ACSA system of record indicating that full reimbursement had been received for \$281.6 million, or 88 percent of the total value of orders for Saudi Arabia and UAE from fiscal years 2015 through 2021. Reimbursement for 33 ACSA orders was recorded as overdue in the ACSA system of record, worth \$37.8 million, or 12 percent of the total value of orders for Saudi Arabia and UAE, as of October

2021.³⁸ According to DOD, there are various factors that might result in overdue ACSA orders, such as manual processing of service financial data, use of open-ended orders for high volume supplies (such as fuel), and incomplete documentation uploaded into the ACSA system of record.³⁹ In addition, DOD officials said delays from foreign partners in providing reimbursement might also result in overdue orders. We previously reported that DOD had not received reimbursement for thousands of ACSA orders identified as overdue and recommended that DOD develop and implement a mechanism to record and track the extent to which it is meeting required time frames to receive reimbursement for ACSA orders.⁴⁰

Advisory Services

DOD has provided advisory services to Saudi Arabia and UAE. In particular, DOD provides military advisors to both countries to advise counterparts on military functions.⁴¹ DOD also provides advisors to both Saudi Arabia and UAE through its security cooperation organizations. For example, there are more than 140 advisors working in Saudi Arabia for the U.S. Military Training Mission—the security cooperation organization. U.S. Military Training Mission officials told us that these advisors primarily work on FMS case development and coordination with Saudi Arabia’s Ministry of Defense.

³⁸Overdue ACSA transactions are those that have not been reconciled more than 1 year after the date on which the transaction occurred, according to DOD. There are 14 orders worth about \$329,000 that have not been completed and are not recorded as overdue in the ACSA system of record.

³⁹According to DOD’s Inspector General, open-ended ACSA orders are used when elements, such as quantity or period of time over which services are to be provided, cannot be defined in advance. Open-ended ACSA orders should include a “not-to exceed” amount and may be used as long as both parties understand how orders will be billed.

⁴⁰See GAO, *Defense Logistics Agreements: DOD Should Improve Oversight and Seek Payment from Foreign Partners for Thousands of Orders It Identifies as Overdue*, [GAO-20-309](#) (Washington, D.C.: Mar. 4, 2020). DOD concurred with the recommendation and as of April 2021, launched an update of its ACSA system of record to capture key order dates in a standardized operational format. We are working with DOD officials to confirm that the system is working as intended and that tracking mechanisms are in place.

⁴¹In addition to military advisors and advice, DOD officials told us that they have also facilitated intelligence sharing with Saudi Arabia and UAE. DOD officials at Defense Attaché Offices in these countries told us that they advise the U.S. Defense Intelligence Enterprise on opportunities to enhance intelligence interoperability, among other things.

In addition, DOD has a resident advising program in Saudi Arabia funded by Saudi Arabia through FMS.⁴² DOD officials told us that three advisors began working in Saudi Arabia in 2020; their efforts focused on advising Saudi Arabia's Ministry of Defense in (1) strategy and policy, (2) training and education, and (3) legal affairs. As of September 2021, DOD officials said the two advisors for strategy and policy and training and education had departed. There are no plans to provide additional advisors because the FMS case was amended to reduce the number of advisors, according to DOD officials. These officials said DOD has not provided any resident advisors to UAE over the past 5 years.

DOD has provided some advisory services to Saudi Arabia and UAE that have addressed reducing civilian harm. For example:

- Since October 2018, U.S. Air Forces Central Command officials told us that they have conducted quarterly seminars for military officers in Saudi Arabia focused on civilian harm mitigation. These officials told us that the seminars focus on best practices for reducing civilian harm and cover such topics as targeting, civilian casualty investigations, and the law of armed conflict. For example, in March 2021, U.S. Air Forces Central Command conducted such a seminar for more than 100 Royal Saudi Air Force and Joint Forces Command personnel that included discussions on the target validation process.
- CENTCOM officials said U.S. military officials in the Joint Coordination and Planning Cell within the Saudi military provided advice on law of armed conflict compliance and procedures related to civilian casualties with the goal of reducing civilian harm and collateral damage.⁴³
- DSCA's DIILS has engaged with Saudi Arabia's Ministry of Defense on institutional capabilities related to international human rights and international humanitarian law, according to DIILS officials.

⁴²DOD officials said the Ministry of Defense Advisors program is known as a "resident advising program" in Saudi Arabia because it is funded by Saudi Arabia through the FMS program rather than through DOD's operations and maintenance budget.

⁴³This cell's efforts ended in April 2016 following a ceasefire, according to an academic study. Larry Lewis, *Promoting Civilian Protection during Security Assistance: Learning from Yemen* (Arlington, VA: CNA, May 2019), <https://www.cna.org/reports/2019/05/promoting-civilian-protection-during-security-assistance>.

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- DOD officials have provided advice to UAE that has affected targeting practices and addressed reducing civilian harm, according to DOD security cooperation officials in UAE.

In addition to DOD's advisory services, State's Bureau of Democracy, Human Rights, and Labor advisor provided civilian harm mitigation advice to the Saudi military at various times from October 2015 through April 2017, according to State officials. This advisor analyzed civilian harm and used the results of the analysis to advise the Saudi military on operations, according to the former advisor. State officials told us that the advisor also helped set up the Joint Incidents Assessment Team. The team is an investigative mechanism with members from countries participating in the Saudi-led coalition responsible for receiving all complaints of civilian harm resulting from Saudi-led coalition operations, examining these incidents, and offering recommendations to avoid such incidents in the future, according to DSCA documentation. In addition to State, DOD has engaged with the team. For example, in October 2020, DSCA held a virtual conference with the team that included a discussion of best practices and lessons learned, including civilian harm tracking and analysis, according to DSCA documentation.

DOD and State Have Not Fully Determined the Extent to Which U.S. Military Support Has Contributed to or Reduced Civilian Harm in Yemen

DOD and State have not fully determined the extent to which U.S. military support provided to Saudi Arabia and UAE has contributed to or reduced civilian harm in Yemen, even though the U.S. government has had indications that U.S.-origin defense articles may have been used in strikes that caused civilian harm. Investigations into unauthorized use could provide agencies with information on the extent to which U.S.-origin equipment contributed to civilian harm in Yemen. However, neither DOD nor State could provide examples of reports or investigations of any incidents of potential unauthorized use of U.S.-origin equipment transferred to Saudi Arabia and UAE through FMS from fiscal years 2015 through 2021. In addition, DOD has not fully measured the extent to which its advising and training have facilitated civilian harm reduction in Yemen.

DOD Has Not Reported and State Could Not Provide Evidence That It Has Investigated Indications Saudi Arabia and UAE Potentially Used U.S.-Origin Equipment for Unauthorized Purposes in Yemen

State and DOD have made some efforts to understand civilian harm and the use of U.S.-origin defense articles in Yemen from fiscal years 2015 through 2021. However, during this time frame, DOD has not reported to relevant State officials nor could State provide evidence that it investigated indications that U.S.-origin equipment transferred to Saudi Arabia and UAE through FMS was used for unauthorized purposes or against anything other than legitimate military targets.⁴⁴

State and DOD Have Made Some Efforts to Understand Civilian Harm and the Use of U.S.-Origin Defense Articles in Yemen

State officials told us they consider civilian harm and use of U.S.-origin equipment transferred to Saudi Arabia and UAE when making FMS approval decisions for Saudi Arabia and UAE. Specifically, State uses the 2018 Conventional Arms Transfer Policy, which aims to reduce the risk of civilian harm in U.S. arms sales, to guide its FMS transfer decisions, according to State officials.⁴⁵ The officials noted that it does so by outlining various issues to be considered when evaluating a potential FMS transfer, including the risk of undermining international peace, violating international humanitarian law, or contributing to human rights abuses.

⁴⁴In August 2020, State's Office of Inspector General (OIG) reported that State did not fully assess risks and implement mitigation measures to reduce casualties and legal concerns associated with the transfer of certain precision-guided munitions. In the report, State/OIG described this matter in detail and made an associated recommendation in the classified annex to its report. See Office of Inspector General U.S. Department of State, *Review of the Department of State's Role in Arms Transfers to the Kingdom of Saudi Arabia and the United Arab Emirates* ISP-I-20-19, (Arlington, VA: August 2020).

⁴⁵White House, *National Security Presidential Memorandum Regarding U.S. Conventional Arms Transfer Policy* (Washington, D.C.: Apr. 19, 2018). The Conventional Arms Transfer Policy requires State to account for human rights and international humanitarian law, among other things, in making arms transfer decisions. Specifically, State must account for (i) the risk that the transfer may be used to undermine international peace and security or contribute to abuses of human rights, including acts of gender-based violence and acts of violence against children, violations of international humanitarian law, terrorism, mass atrocities, or transnational organized crime; and (ii) whether the U.S. has actual knowledge at the time of authorization that the transferred arms will be used to commit: genocide; crimes against humanity; grave breaches of the Geneva Conventions of 1949; serious violations of Common Article 3 of the Geneva Conventions of 1949; attacks intentionally directed against civilian objects or civilians who are legally protected from attack; or other war crimes as defined in section 2441 of title 18, U.S. Code. If the U.S. has such knowledge, the transfer shall not be authorized.

Our review of four country team assessments recommending FMS sales to Saudi Arabia from fiscal years 2015 through 2020⁴⁶ found that State and DOD security cooperation officials in Saudi Arabia included some high-level information about the intended use of equipment in their assessments.⁴⁷ Specifically, officials included information in these assessment documents that indicated that some U.S.-origin equipment transferred to Saudi Arabia, including a variety of bombs and other munitions, could potentially be used in Yemen. Additionally, one document included a brief discussion of the potential risk of the equipment contributing to civilian harm and of whether additional training was necessary to reduce this risk, and two documents stated that no additional training was necessary. In particular, for a prospective 2019 FMS case for small diameter bomb precision-guided munitions, State and DOD officials described DOD-provided training and advising for members of the Saudi military, as well as steps taken by Saudi military leaders to reduce civilian harm. They stated that DOD would continue existing training and advising regarding targeting best practices and civilian casualty mitigation techniques.

⁴⁶While we were conducting the audit work for the original sensitive report on which this public version is based, State officials could not locate three selected country team assessments recommending FMS sales to UAE, including one we requested for a sale that was notified to Congress in fiscal year 2021. We originally requested the assessments in September 2021. In June 2022, while reviewing a draft of this product, State officials said they located the assessments and were working to obtain clearance to provide them to us for a subsequent classified product.

⁴⁷According to DOD policy, country team assessments describe the coordinated position of senior U.S. Embassy leadership in support of a proposed FMS sale that provides key information necessary to evaluate and explain it. The country team assessments must accompany certain FMS letters of request. The security cooperation organization is responsible for drafting the country team assessment, coordinating it with the country team, and transmitting it to DSCA and the appropriate DOD component. The Combatant Command endorses the country team assessment, according to DSCA officials. According to DOD policy, all country team assessments must (1) include the human rights, terrorism, and proliferation record of the proposed recipient and the potential for misuse of the defense articles in question; (2) describe how the articles or services would contribute to both the U.S. and the recipient's defense and security goals; and (3) describe additional training or support, if any, necessary to reduce the risk that the recipient will inadvertently cause civilian harm during operations; among other things. See DOD, *Security Assistance Management Manual*, Chapter 2, Security Cooperation Organization and Case Manager Responsibilities, Security Assistance Planning and Survey Teams, Section C2.1.4. FMS Case Development and Chapter 5, FMS Case Development, Section C5.1.4. Country Team Assessment. <https://samm.dsca.mil/chapter/chapter-2> and <https://samm.dsca.mil/chapter/chapter-5>.

State officials also noted that they made efforts to distinguish between offensive and defensive operations in State’s FMS transfer decisions⁴⁸ in response to the President’s February 2021 announcement of his intent to end U.S. support for offensive operations in the war in Yemen, in part to mitigate civilian harm.⁴⁹ For example, in November 2021, State approved an FMS transfer to Saudi Arabia for advanced medium range air-to-air missiles and related articles and services. A statement of administration policy issued the following month stated that the missiles are used to defend against cross-border aerial attacks and are not used to engage ground targets. According to the statement, this transfer was fully consistent with the administration’s pledge to lead with diplomacy to end conflict in Yemen and end U.S. support for offensive operations in the war in Yemen, while also ensuring that Saudi Arabia has the means to defend itself from Iranian-backed Houthi air attacks.⁵⁰ In addition, State paused two munitions sales to Saudi Arabia; according to State officials, this decision was based on concerns about civilian harm.

State officials told us that State has sought to understand the causes and prevalence of Saudi-led coalition strikes that resulted in civilian harm, both in specific instances and holistically throughout the conflict. For example, State provided evidence that State officials followed the activities of the Joint Incidents Assessment Team—an investigative mechanism with members from countries participating in the Saudi-led coalition. For instance, State officials attended several press briefings

⁴⁸State officials told us they have no specific definitions for what constitutes “offensive weapons” and “defensive weapons” to direct the sale of weapons to Saudi Arabia. Nevertheless, State officials said they consider the threats posed to Saudi Arabia’s borders and infrastructure when deciding which weapons are “offensive” and which are “defensive.” U.S. Military Training Mission officials told us that all of the equipment the U.S. sells through FMS to Saudi Arabia must be for defensive purposes in accordance with the Arms Control Export Act. However, these officials could not provide a definition for equipment that is defensive in nature when we asked how they distinguish between equipment used for defensive purposes and equipment used for offensive purposes.

⁴⁹The White House, “Remarks by President Biden on America’s Place in the World” (Washington, D.C.: Feb. 4, 2021).

⁵⁰The statement of administration policy was issued to oppose the passage of a joint resolution introduced in Congress that would have prohibited this sale. Executive Office of the President, “Statement of Administration Policy, S.J.Res. 31 — Providing for Congressional Disapproval of the Proposed Foreign Military Sales Case to the Kingdom of Saudi Arabia of Certain Defense Articles” (Washington, D.C.: Dec. 7, 2021). <https://www.whitehouse.gov/omb/statements-of-administration-policy/>.

provided by the Joint Incidents Assessment Team announcing the results of its investigations of coalition activities since October 2016.

According to a March 2021 State cable, since October 2019, the Joint Incidents Assessment Team completed 219 investigations on coalition activities between 2015 and 2020. The Joint Incidents Assessment Team reported on 48 of these investigations in its press briefings, and found the coalition responsible for material damage to civilian objects in four investigations and for civilian casualties in eight investigations. The State cable noted that the Joint Incidents Assessment Team recommended the coalition pay financial compensation to the victims or their families as appropriate in each of those cases and recommended the coalition hold officers legally accountable for violations of targeting procedures in two cases. The Joint Incidents Assessment Team had completed 233 investigations to date as of December 2021, according to a December 2021 State cable.

In addition, DOD and State officials told us they have made some efforts to understand how U.S.-origin defense articles were used in Yemen. For example, DOD's Defense Intelligence Agency issued a report in 2021 that addressed the use of some equipment in Yemen.⁵¹ In addition, State officials told us they have sought to assess whether U.S. military support has contributed to or reduced civilian harm. For example, State officials told us that they monitor open source and classified information for data on how U.S.-origin weapons are being used in Yemen. These officials told us they have also examined allegations of violations of the law of armed conflict and used diplomacy with the Saudi-led coalition to address civilian harm.

Further, DOD and State have investigated some allegations of potential end-use violations; specifically, the agencies investigated allegations that UAE made unauthorized transfers of U.S.-origin defense articles in Yemen.⁵² For example, in 2020, officials from DSCA and State's Bureau of Political-Military Affairs, among others, conducted a focused verification check to investigate allegations that UAE transferred U.S.-origin Mine Resistant Ambush Protected vehicles (MRAP) to partners in Yemen

⁵¹Additional details about this study are excluded from this report because the information is classified.

⁵²According to State officials, they have investigated all allegations that Saudi Arabia and UAE made unauthorized transfers of U.S.-origin defense articles in Yemen.

DOD Has Not Reported and State Could Not Provide Evidence That It Has Investigated Potential Indications of Unauthorized Use of U.S.-Origin Equipment in Yemen

without the appropriate approvals for third-party transfers. Officials from State’s Bureau of Political-Military Affairs told us they ultimately resolved the issue and consider the matter closed.⁵³

DOD has not reported and State could not provide evidence that it has investigated indications that U.S.-origin equipment transferred to Saudi Arabia and UAE through FMS may have been used for unauthorized purposes or against anything other than legitimate military targets. DOD and State policies and documents indicate DOD should incorporate reporting and State should incorporate investigations of incidents of potential misuse into their EUM processes. The Arms Control Export Act requires the President to establish an EUM program that, to the extent practicable, is designed to provide reasonable assurances that defense articles and defense services are being used for the purposes for which they were provided. Section 4 of the Arms Export Control Act states that the authorized purposes of FMS transfers include internal security, legitimate self-defense, and permitting the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the UN, among other purposes.

According to DOD policy, EUM includes all actions to prevent the misuse or unauthorized transfer of defense articles or defense services from the time of title transfer until disposal. However, the terms “misuse” or “unauthorized use” are not defined in DOD or State policy. DOD and State officials both said that use that causes civilian harm would not necessarily constitute “misuse.” In its section on unauthorized end use, DOD policy states that it is particularly important that security cooperation organizations are alert to, and report on, any indication that U.S.-origin defense articles are being used against anything other than legitimate

⁵³In conjunction with the focused verification check, officials from DSCA and other agencies conducted a compliance assessment visit to UAE to review and evaluate DOD’s overall EUM compliance with FMS transfer agreements with the Emirati government. In addition, officials from DSCA, State, and other agencies conducted a focused verification check from 2019 through 2020 to investigate allegations made in 2018 that Saudi Arabia air-dropped two U.S.-origin Tube-launched, Optically-tracked, and Wire-guided II-A-version (TOW-2A) missiles in Yemen in 2015 and lost command and control of the munitions. These officials also conducted a compliance assessment visit to Saudi Arabia to review and evaluate DOD’s overall EUM compliance with FMS transfer agreements with the Saudi government. According to DSCA officials, as of October 2021, these agencies have not conducted any additional focused verification checks or compliance assessment visits in Saudi Arabia or UAE since 2015, when DOD began providing military support to these countries for Saudi-led coalition operations in Yemen.

military targets or are otherwise being used for unauthorized purposes, among other things.⁵⁴

According to DSCA officials, DSCA would not necessarily expect security cooperation organizations to report all instances in which a foreign partner's use of a U.S.-origin defense article resulted in civilian harm. These officials stated that DSCA only expects security cooperation organizations to report a foreign partner's use of a U.S.-origin defense article that results in civilian harm if the security cooperation organization has credible information that a foreign partner has violated the law of war.⁵⁵ According to a State fact sheet on EUM, the end use of U.S.-origin defense articles should be in accordance with international law.⁵⁶ The fact sheet does not explicitly define "misuse" or "unauthorized use."

State's Bureau of Political-Military Affairs investigates potential end-use violations in coordination with DSCA and security cooperation organizations. The Arms Export Control Act requires State to report to Congress promptly upon receipt of information that a substantial violation of an agreement under which the U.S. government provides defense articles or defense services, or any transfer made without the consent of the U.S. government, in which such articles or services were used for

⁵⁴The definition of what constitutes a "legitimate military target" is governed by international treaties applicable to armed conflict and customary international law, according to DSCA officials. The DOD Law of War Manual provides information about the law of war to DOD personnel responsible for implementing the law of war and executing military operations.

⁵⁵All DOD personnel, including DOD personnel responsible for fulfilling EUM responsibilities are required by DOD Directive 2311.01, DOD Law of War Program, to report a suspected or alleged violation of the law of war, for which there is credible information, or conduct during military operations other than war that would constitute a violation of the law of war if it occurred during an armed conflict. DOD's guidance that directs security cooperation organizations to report the use of defense articles against anything other than legitimate military targets is consistent with this reporting requirement, according to DSCA officials. If any such information were reported, DSCA would share any reported information with the applicable Geographic Combatant Commander, the Joint Staff, and State.

⁵⁶Department of State, Bureau of Political-Military Affairs, *Fact Sheet: End-Use Monitoring of U.S.-Origin Defense Articles*, January 2021, accessed Nov. 5, 2021, <https://www.state.gov/end-use-monitoring-of-u-s-origin-defense-articles/>.

unauthorized purposes, occurred.⁵⁷ The bureau also communicates the status of its investigations to DOD and, as appropriate, reports its findings to Congress, according to DOD policy. In the event the U.S. government receives notification of a suspected violation of the underlying agreement that supported the transfer of defense articles, State aims to promptly gather information to confirm the validity of the report, assess whether the activities described in the report constitute a violation of the agreement, and determine the actions the U.S. government will take to prevent such violations from happening again, according to a State fact sheet on EUM. These investigation and reporting activities could provide the agencies with insight to help determine the extent to which U.S. military support provided to Saudi Arabia and UAE has contributed to civilian harm in Yemen.

DSCA officials confirmed that neither U.S. Military Training Mission officials in Saudi Arabia nor DOD security cooperation officials in UAE have submitted any reports regarding indications that U.S.-origin defense articles were used by Saudi Arabia or UAE in Yemen against anything other than legitimate military targets or for other unauthorized purposes. DOD officials said there is no mechanism to track how foreign partners use defense articles and defense services transferred through FMS.⁵⁸ DSCA officials stated that neither routine nor enhanced EUM is intended to provide insight into whether or how equipment sold to Saudi Arabia and UAE through FMS was used in Yemen. Officials from DOD's U.S. Military Training Mission—the security cooperation organization in Saudi Arabia that manages the largest number of FMS cases and is responsible for drafting the country team assessments for that country—told us they do not track how the equipment provided to Saudi Arabia is used, including whether Saudi Arabia has used such equipment for operations in Yemen. In addition, these officials told us that they generally do not consider the past use of equipment when developing new FMS cases. According to DOD officials, they are not required to track where or how FMS transfers are used operationally because the EUM program is not designed for that

⁵⁷According to the act, whether a violation is substantial is determined by reference to the quantity of items involved or the gravity of the consequences regardless of the quantities involved. 22 U.S.C. § 2753(c).

⁵⁸DOD officials said they do not have the capacity to monitor the use of logistic support exchanged through ACSAs either. As we previously reported, DOD identified approximately \$300 million in logistic support, supplies, and services provided to Saudi Arabia and UAE for operations in Yemen ([GAO-20-309](#)). See appendix V for more information.

purpose.⁵⁹ In addition, DOD officials said that monitoring the operational end use of FMS transfers would be extremely challenging. For example, DOD officials said that obtaining information about FMS transfers from foreign partners can be difficult, in part because they are sovereign nations, and access to such information varies.⁶⁰

State officials could not provide evidence that they conducted any investigations to determine if or how U.S.-origin equipment was misused, and could not provide specific guidance for doing so. State officials told us they implement the requirements laid out in the Arms Export Control Act and DOD's Golden Sentry EUM program guidance in its *Security Assistance Management Manual*. However, neither document provides specific guidance for conducting investigations to determine whether congressional reporting is necessary.

Moreover, while the U.S. government has had indications that U.S.-origin defense articles may have been used in strikes that caused civilian harm, the agencies have not investigated these cases to determine if or how U.S.-origin equipment was used for unauthorized purposes, such as in violation of the agreements under which the defense articles were provided. For example, a UN investigative team⁶¹ has published several

⁵⁹CNA, the Center for Civilians in Conflict, and the Stimson Center have reported on the limits of current end-use monitoring. They reported that end-use monitoring does not track where or how defense articles and defense services transferred through FMS are used. In addition, controls throughout the arms sales process are focused on protecting technology from unauthorized transfer, rather than misuse or other unintended consequences. See Larry Lewis, *Promoting Civilian Protection during Security Assistance: Learning from Yemen* (Arlington, VA: CNA, 2019) and Daniel Mahanty, Annie Shiel, and Rachel Stohl, *With Great Power: Modifying U.S. Arms Sales to Reduce Civilian Harm* (Washington, D.C.: Center for Civilians in Conflict and the Stimson Center, 2018). <https://www.cna.org/reports/2019/05/promoting-civilian-protection-during-security-assistance> and <https://www.stimson.org/2018/great-power-modifying-us-arms-sales-reduce-civilian-harm-0/>.

⁶⁰State officials noted that in light of these challenges, State relies on embassies, nongovernmental organizations, open media, and other sources for information that indicate uses of U.S.-origin equipment transferred through FMS that are inconsistent with the provisions of the letters of offer and acceptance.

⁶¹The Group of Eminent International and Regional Experts on Yemen was mandated by a UN Human Rights Council resolution, adopted in September 2017 to monitor, examine, and report on human rights violations and abuses committed by all parties to the conflict in Yemen since September 2014. U.N. Doc. A/HRC/RES/36/31 (2017). In October 2021, the Human Rights Council rejected a resolution to renew the mandate for this group.

reports on the topic of human rights abuses in Yemen, including incidents resulting in civilian harm. Since 2018, the UN investigative team has published detailed accounts of dozens of coalition airstrikes that killed and injured civilians, including those receiving care in hospitals and attending weddings and funerals, and children on buses, according to a September 2021 report.⁶² Most recently, in September 2021, this team reported⁶³ that the U.S.—along with other countries—continues to sell weapons to countries participating in the Saudi-led coalition in Yemen despite the group’s previous findings regarding civilian casualties and potential violations of human rights as a result of airstrikes and other activities. The team concluded that it continued to have “reasonable grounds to believe that the parties to the armed conflict in Yemen have committed a substantial number of violations of international humanitarian law, including that individuals in the coalition, in particular from Saudi Arabia, may have conducted airstrikes in violation of the principles of distinction, proportionality and precaution, acts that may amount to war crimes.”⁶⁴ Without investigating such incidents, State does not know whether U.S. defense articles were used in these cases.

DOD officials told us that DOD lacks guidance on how security cooperation organizations should identify and report indications that U.S.-origin defense articles are being used for unauthorized purposes or against anything other than legitimate military targets. CENTCOM officials told us that they do not know how DOD security cooperation officials in Saudi Arabia and UAE would obtain the information necessary to determine whether U.S.-origin defense articles were used in Yemen by Saudi Arabia or UAE against anything other than legitimate military targets, such as civilians or civilian infrastructure. In addition, these

⁶²Human Rights Council, *Situation of Human Rights in Yemen, including Violations and Abuses since September 2014: Report of the Group of Eminent International and Regional Experts on Yemen*, U.N. Doc. A/HRC/48/20 (Geneva: UN, Sept. 13, 2021). <https://digitallibrary.un.org/record/3953934>.

⁶³U.N. Doc. A/HRC/48/20 (2021).

⁶⁴The Joint Incidents Assessment Team found that “technical error” was responsible for civilian losses in some cases. However, the UN group that monitors and reports on the human rights situation in Yemen stated that the frequency with which the Joint Incidents Assessment Team has reached this conclusion without leading to apparent changes in coalition procedures raises significant concerns about the coalition’s commitment to meeting the requirements of international humanitarian law. U.N. Doc. A/HRC/48/20 (2021).

officials told us that they do not currently have access to that information because they focus on FMS cases rather than on military operations.

Additionally, while DOD policy states that DOD's security cooperation organizations should report use of U.S.-origin defense articles transferred through FMS against anything other than legitimate military targets, DSCA officials told us they are not certain the role for reporting such incidents should fall within the scope of security cooperation organizations' EUM responsibilities, in part because of the limited visibility into foreign partners' use of equipment, and in part because of limited resources within the office that conducts EUM. In addition, DSCA officials noted that, ultimately, State determines how to proceed in investigating potential EUM violations and that any solution to this challenge would require a joint effort with State. Specific guidance for implementing EUM requirements related to reporting and investigating allegations of the unauthorized use of U.S.-origin defense articles and defense services, or their potential use against anything other than legitimate military targets, could better enable DOD and State to determine the extent to which U.S.-origin defense articles have contributed to civilian harm.

DOD Has Not Fully Assessed the Extent to Which Advisory and Training Efforts Have Facilitated Civilian Harm Reduction in Yemen

DOD has taken some steps to assess civilian casualty trends related to the conflict in Yemen and the progress of selected advisory efforts in reducing civilian harm. For instance, DOD's Defense Intelligence Agency assessed civilian casualty trends related to the conflict in Yemen from 2015 through 2020.⁶⁵ In addition, U.S. Air Forces Central Command officials assessed Saudi progress in reducing civilian harm, in part as a result of U.S. Air Forces Central Command's advisory efforts from October 2017 through February 2019, according to a DOD memo. The assessment noted that Saudi Arabia's joint forces had made clear and substantial progress related to civilian harm reduction. Specifically, U.S. advisory efforts directly addressed operational gaps that had been contributing to civilian casualties, including gaps related to intelligence, strike preparation, strike command and control, and investigations. The assessment described the content of several civilian harm-related seminars and provided observations of resulting improvements. For example, it stated that officials held a 4-day scenario-based event with the Joint Incidents Assessment Team—created in part with the help of a U.S. advisor—that focused on improving law of armed conflict integration and communicating in written products and through media engagement to

⁶⁵Additional details about this study are excluded from this report because the information is classified.

improve legitimacy. The assessment noted that the day following the seminar, the Joint Incidents Assessment Team held a press conference to announce its most recently completed investigations and communicated a higher degree of investigative rigor and nuance that it had previously.

However, DOD has not fully assessed the extent to which its advisory and training efforts have facilitated civilian harm reduction in Yemen. Specifically, DOD has not assessed other advisory efforts in Saudi Arabia, its advisory efforts in UAE, or its training efforts in either Saudi Arabia or UAE. For example, DIILS officials noted that they were unable to initiate some assessments due to the COVID-19 pandemic. According to DIILS officials, DIILS generally assesses various factors for its legal institutional capacity-building activities that are relevant to foreign partners' institutional legal capacity for civilian harm mitigation, including accountability structures or mechanisms for legal compliance.⁶⁶ However, DIILS officials said that institutional legal capacity is only one component of an institutional civilian harm mitigation capability within an armed force.⁶⁷ In addition, DIILS officials noted that COVID-19 affected their engagement with the Saudis in 2020 and 2021, and that DIILS engagement was discontinued in fiscal year 2021.

Federal internal control standards state that management should use quality information to achieve the entity's objectives.⁶⁸ In addition, DOD policy requires its offices to ensure they assess and monitor their security cooperation activities.⁶⁹

Aside from U.S. Air Forces Central Command's assessment, DOD officials said they are not aware of any evaluations of DOD advising or other support to Saudi Arabia and UAE from fiscal years 2015 through

⁶⁶Additional relevant factors include the legal regulatory framework and general institutional factors for implementing the law, such as structure and resources; lines of communication; and doctrine, policy, and process, according to DIILS officials.

⁶⁷In addition, DIILS officials said that these legal factors are not relevant to all DOD institutional capacity-building activities.

⁶⁸Principles 13 and 16, [GAO-14-704G](#).

⁶⁹DOD Instruction 5132.14, *Assessment, Monitoring, and Evaluation Policy for the Security Cooperation Enterprise*, (Washington, D.C.: Jan. 13, 2017). https://open.defense.gov/portals/23/documents/foreignasst/dodi_513214_on_am&e.pdf. While this requirement does not apply to training conducted through FMS, it does apply to other DOD security cooperation efforts, such as advisory services.

2021. These officials told us that the vast majority of Saudi operations are done without any oversight or visibility by U.S. advisors due to policy, legal, or congressional limitations on the scope of DOD's involvement. Accordingly, advising is difficult to assess because DOD cannot observe how it is used in practice. DOD officials also said that, in their opinion, measuring the U.S.'s very narrow efforts against the entirety of Saudi activity would not fairly assess U.S. efforts, in part because the U.S.'s narrow efforts could be successful while the Saudis' broader efforts may not be.

Over the last few years, State and DOD officials expressed varying opinions about DOD's ability to facilitate civilian harm reduction in Yemen through advising and training. U.S. Air Forces Central Command officials reported in October 2021 that advisors observed Saudi operators exercise tactical patience by refining both their deliberate and time-sensitive targeting processes, among other things. State's former advisor said he observed temporary improvements in Saudi military officials' efforts to reduce civilian harm and civilian casualties. However, the former State advisor also told us that he ultimately does not think the U.S.'s efforts to train and advise the Saudis have been effective because the U.S. has not focused on assessing and addressing the root cause of civilian casualties. For example, he said that dynamic targeting operations have caused the vast majority of coalition-induced civilian casualties in Yemen. But, from his perspective, DOD has focused much of its training on the deliberate targeting process, which has not been a major cause of civilian harm.⁷⁰ In its 2019 assessment, the U.S. Air Forces Central Command similarly reported that officials do not have access to the Saudis' dynamic targeting operations cell, and therefore have gaps in their knowledge about DOD's ability to facilitate civilian harm reduction related to those operations.

Without fully assessing its advisory and training efforts, DOD cannot determine the extent to which its advisory and training support has facilitated civilian harm reduction in Yemen, as intended.

⁷⁰According to DOD joint doctrine, dynamic targeting is normally employed in the current 24-hour period because the nature and time frame associated with current operations typically requires more immediate responsiveness than is achieved in deliberate targeting. Joint Chiefs of Staff, *Joint Publication 3-60, Joint Targeting* (Washington, D.C.: Jan. 1, 2013).

DOD Submitted Its Required Report but State Has Not Submitted All Required Certifications on Saudi Arabia's and UAE's Actions in Yemen

DOD's Unclassified Report was Timely and Addressed Required Elements We Reviewed

The Fiscal Year 2019 NDAA included a provision in Section 1274 that required the Secretary of Defense to review whether the U.S. armed forces or coalition partners of the U.S. violated federal law, the laws of armed conflict, or DOD policy while conducting operations in Yemen, and report on this review to Congress, among other reporting requirements. For example, DOD was required to provide information regarding U.S. armed forces' and coalition partners' interrogations of Yemeni citizens and whether any coalition partners committed gross violations of internationally recognized human rights while conducting operations in Yemen that would make such coalition partner ineligible for assistance under the U.S. law that prohibits assistance to units of foreign security forces for whom there is credible evidence of gross violations of human rights. DOD was also required to report to Congress on several things, including on the findings of its review into whether there were any violations of law and policy. For details about DOD's reporting requirements, see appendix I. This report was required not later than 120 days after the enactment of the Fiscal Year 2019 NDAA on August 13, 2018.

The Assistant Secretary of Defense submitted the report in a timely manner, and the unclassified report fully addressed the required elements we reviewed. We reviewed the unclassified report that DOD submitted to Congress in response to the Section 1274 mandate.⁷¹ This unclassified report covered the results of DOD's review, which was one of nine elements DOD was required to report on. DOD's mandate included four

⁷¹DOD submitted an unclassified report with a classified annex. We did not analyze the classified annex as a part of this review.

matters to be included in its review. We reviewed the extent to which DOD reported on those four matters in its unclassified report. We found that the unclassified report fully addressed all four matters in this section of the Fiscal Year 2019 NDAA. Specifically:

- DOD was required to determine whether the U.S. armed forces interrogated Yemeni citizens in prisons within Yemen or provided questions to any U.S. coalition partner for use in such interrogations, and whether such interrogations or actions were consistent with U.S. law and policy. The unclassified report stated that U.S. forces had been conducting intelligence interrogations on detainees in Yemen, and these interrogations had been consistent with U.S. law and policy. DOD reported that it had no credible information indicating abuse of detainees in Yemen by U.S. personnel or U.S. allies and partners. The report also described required training for all DOD interrogators and debriefers on how to abide by the law of armed conflict and the reporting policy for suspected or alleged detainee abuse.
- DOD was required to determine whether the armed forces violated the prohibitions of the DOD Leahy law while conducting operations in Yemen.⁷² The report outlined U.S. policy and law regarding the process for enforcing compliance with and reporting any violations of the DOD Leahy law, and stated that DOD had not identified any violations of the DOD Leahy Law in Yemen to date.
- DOD was required to determine whether any U.S. coalition partner committed gross violations of internationally recognized human rights while conducting operations in Yemen that would make such coalition partner ineligible for any training, equipment, or other assistance for a unit of a foreign security force under the DOD Leahy law. The report stated that DOD personnel had not observed any indications of detainee abuse by coalition partners or developed any credible information that U.S. allies or partners had committed any abuses against detainees in Yemen that would make them ineligible for assistance under the DOD Leahy law. It also noted that U.S. partners in Yemen did not receive assistance for their operations there that would be subject to the Leahy law prohibition.
- Lastly, DOD was required to determine whether a waiver or exception had been granted to any U.S. coalition partner under the DOD Leahy

⁷²The DOD Leahy law, codified at 10 U.S.C. § 362, requires that DOD-appropriated funds may not be used for any training, equipment, or other assistance for a foreign security force unit if the Secretary of Defense has credible information that such unit has committed a gross violation of human rights.

law while conducting operations in Yemen. The report stated that no waiver or exception had been granted to any U.S. partner under the DOD Leahy law in Yemen.

Although we ultimately received and analyzed DOD's report, DOD officials could not readily access the report. We initially requested the report in April 2021. In November 2021, a DOD official provided a transmittal letter, stating that the Assistant Secretary of Defense submitted the report ahead of the deadline stated in the Fiscal Year 2019 NDAA but was unable to locate a copy of the report. However, since DOD could not readily access either the classified or unclassified report, we could not initially analyze its completeness. In February 2022—almost 10 months after we initially requested it—DOD officials provided both the unclassified and classified versions of the report during the agency review period for our draft report.⁷³ Our draft report included a recommendation that DOD should ensure officials could readily access the report, which we subsequently removed from the final report once DOD officials located and provided the report. DOD was required to report on eight other elements in its Section 1274 report, which we will assess in a subsequent classified product.

State's Initial Certification Was Timely, but State Did Not Submit Subsequent Certifications

The Fiscal Year 2019 NDAA included a provision in Section 1290 that required the Secretary of State to submit three certifications indicating whether the governments of Saudi Arabia and UAE were undertaking demonstrable efforts to reduce harm to civilians and appropriate measures to alleviate the humanitarian crisis in Yemen, among other things. These certifications were required not later than 30, 180, and 360 days after the enactment of the Fiscal Year 2019 NDAA on August 13, 2018.

The Secretary of State submitted the complete initial 30-day certification on time on September 10, 2018, but the accompanying supporting documentation—the memorandum of justification (MOJ)—did not fully

⁷³In February 2022, we reported on DOD's process for responding to congressional reporting requirements and the department's efforts to improve it. We reported that DOD has ongoing efforts to modernize and improve tracking of reports that it provides to Congress, but that additional outreach could more fully address stakeholder challenges. These ongoing efforts and our review of DOD's process for responding to congressional reporting requirements address DOD's unclassified reports; they do not address the department's classified reports. See GAO, *Defense Management: DOD Should Collect More Stakeholder Input and Performance Data on Its Congressional Reporting Process*, [GAO-22-105183](#) (Washington, D.C.: Feb. 10, 2022).

address each element in the certification. The Fiscal Year 2019 NDAA does not require State to provide the MOJ to Congress alongside the certification. However, the document provides information that is integral to understanding why the administration made the decision to certify. As shown in table 2, of the six reporting elements in the certification related to Saudi Arabia, the MOJ fully addressed four elements and partially addressed two elements. Relating to UAE, the MOJ fully addressed three reporting elements and partially addressed two reporting elements.⁷⁴

Table 2: Department of State Inclusion of Reporting Elements in the Memorandum of Justification Accompanying the Certification Pursuant to Section 1290 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019

Certification elements		Inclusion of reporting elements in State's memorandum of justification	
		Saudi Arabia's actions	United Arab Emirates' actions
Whether the Government of Saudi Arabia and the Government of the United Arab Emirates are undertaking -	an urgent and good faith effort to support diplomatic efforts to end the civil war in Yemen	●	●
	appropriate measures to alleviate the humanitarian crisis in Yemen by increasing access for Yemenis to food, fuel, medicine, and medical evacuation	◐	◐
	appropriate measures to alleviate the humanitarian crisis in Yemen, including through the appropriate use of Yemen's Red Sea ports, including the port of Hudaydah, the airport in Sana'a, and external border crossings with Saudi Arabia	●	●
Whether the Government of Saudi Arabia and the Government of the United Arab Emirates are undertaking demonstrable actions to reduce the risk of harm to civilians and civilian infrastructure resulting from military operations of the Government of Saudi Arabia and the Government of the United Arab Emirates in Yemen, including by -	complying with applicable agreements and laws regulating defense articles purchased or transferred from the U.S.	◐	◐
	taking appropriate steps to avoid disproportionate harm to civilians and civilian infrastructure	●	●
In the case of Saudi Arabia, whether the Government of Saudi Arabia is undertaking appropriate actions to reduce any unnecessary delays to shipments associated with secondary inspection and clearance processes other than the [UN Verification and Inspection Mechanism for Yemen]		●	Not applicable

Legend:

- indicates that the element of the 30-day certification was fully addressed by the text in the memorandum of justification (MOJ).
- ◐ indicates that the element of the 30-day certification was partially addressed by the text in the MOJ.

Source: GAO analysis of State documentation. | GAO-22-105988

⁷⁴One element was applicable to Saudi Arabia but not to UAE.

We found that the MOJ fully addressed most elements of the certification requirement and partially addressed the remaining elements. For example, the law required the Secretary of State to certify whether the governments of Saudi Arabia and UAE were undertaking appropriate measures to alleviate the humanitarian crisis in Yemen by increasing access for Yemenis to food, fuel, medicine, and medical evacuation. The MOJ addressed Saudi government efforts to increase access for Yemenis to food and medicine, but it did not address Saudi efforts to increase Yemeni access to fuel or medical evacuation, nor did it discuss Emirati government efforts to increase access for Yemenis to food, fuel, medicine, and medical evacuation with specificity.

In addition, the law required the Secretary of State to certify whether the governments of Saudi Arabia and UAE were taking demonstrable actions to reduce the risk of harm to civilians and civilian infrastructure resulting from their military operations, including by complying with applicable agreements and laws regulating defense articles purchased or transferred from the U.S. The MOJ stated that the governments of Saudi Arabia and UAE were following applicable agreements and laws “with rare exception.” By including the phrase “with rare exception,” State indicated that it believed there were instances where Saudi Arabia and UAE were not complying with applicable agreements and laws, but the MOJ provided no additional insight into what the rare exceptions were.

Several Members of Congress also raised concerns about the contents of the MOJ, citing the extent to which State addressed certain elements of the certification in the MOJ. For example, several Members of Congress wrote a letter in October 2018 expressing “significant concern” about the decision to certify that the Saudi and Emirati governments were “complying with applicable agreements and laws regulating defense articles when the MOJ explicitly stated that, in certain instances, they have not done so.” Specifically, the members questioned how the administration could claim that the governments of Saudi Arabia and UAE were taking demonstrable actions to reduce civilian casualties in light of the rise in civilian casualties from coalition airstrikes.

In November 2018, State responded to the members’ concerns in a letter, reiterating many of the examples of actions undertaken by Saudi Arabia and UAE to reduce civilian harm that it cited in the MOJ. According to State, these actions included the Saudi-led coalition’s incorporation of a no-strike list into its target development procedures, and the adjustment of rules of engagement to incorporate U.S. recommendations. Additionally, the letter stated that the Saudi-led coalition had undertaken

some investigations of civilian casualty incidents and continued to work with the U.S. to review its rules of engagement.

State did not submit the 180- and 360-day certifications, due on February 9, 2019, and August 8, 2019, respectively, in accordance with Section 1290 of the Fiscal Year 2019 NDAA. Section 1290 states that if the Secretary of State were unable to certify that Saudi Arabia and UAE were, among other things, taking demonstrable action to reduce the risk of civilian harm resulting from the military operations of those countries in Yemen, then no federal funds could be obligated or expended for in-flight refueling of Saudi-led coalition non-U.S. aircraft conducting missions in Yemen, with some exceptions. In November 2018, the U.S. discontinued aerial refueling support for Saudi-led coalition actions in Yemen in a mutual agreement with Saudi Arabia. In a letter to Congress, State announced that its Office of the Legal Advisor determined that due to the decision to suspend aerial refueling to the Saudi-led coalition in 2018 and its interpretation of the Section 1290 requirements regarding in-flight refueling, the subsequent 180- and 360-day certifications were no longer required. However, the requirement to complete the certifications was independent of the U.S.'s aerial refueling policy and the Secretary of State was still required to submit the subsequent certifications indicating whether the governments of Saudi Arabia and UAE were taking the specified actions. Without current information from State on each of the certification elements, Congress may lack information needed to provide oversight of U.S. support to Saudi Arabia and UAE.

Conclusions

The conflict in Yemen is a pressing humanitarian concern, and the U.S. government lacks a clear and complete picture of how military support provided to Saudi Arabia and UAE has contributed to or reduced civilian harm in Yemen. Under DOD policy, DOD's security cooperation organizations must report any indication that U.S.-origin defense articles are being used against anything other than legitimate military targets or for unauthorized purposes to relevant officials within DOD and State. However, DOD and State have not determined whether U.S. military support provided to Saudi Arabia and UAE has contributed to or reduced civilian harm in Yemen. Further, the UN has indicated that U.S.-origin defense articles may have been used in strikes that caused substantial civilian harm in a manner that violated international humanitarian law. However, DOD has not reported to relevant State officials and State could not provide evidence that it has investigated any indications that U.S.-origin defense articles were used against anything other than a legitimate military target or for other unauthorized purposes in violation of the terms of their transfer agreements.

According to DOD officials, they have not done so, in part, because they lack guidance for implementing EUM requirements related to reporting potential end-use violations after they receive allegations. The officials also told us they lack clarity on DOD roles and responsibilities for doing so. In addition, State officials could not provide evidence that they conducted any investigations of potential misuse or any specific guidance for doing so. As a result, DOD and State lack reasonable assurances that Saudi Arabia and UAE have only used U.S.-origin articles against legitimate military targets and for authorized purposes. Further, without such guidance they may be unable to assess the extent to which U.S.-origin equipment is being used in offensive operations in Yemen or whether it has contributed to civilian harm. In addition, DOD has not fully assessed the extent to which the advisory services and training provided to Saudi Arabia and UAE have helped reduce civilian harm in Yemen. Without such assessments, DOD cannot determine the extent to which its advisory and training support has helped facilitate civilian harm reduction in Yemen, as intended.

Moreover, Members of Congress remain interested in State's assessment of whether the governments of Saudi Arabia and UAE are undertaking certain efforts to reduce civilian harm and humanitarian distress in Yemen. Although State submitted its initial 30-day certification on time, the agency has not submitted subsequent required certifications. Timely and complete information would help Congress more fully understand and assess the nature and extent of actions taken by Saudi Arabia and UAE while conducting operations in Yemen and what, if any, implications that has for U.S. support of these efforts.

Recommendations for Executive Action

We are making a total of four recommendations, including two to State and two to DOD. Specifically:

The Secretary of State should ensure that the Bureau of Political-Military Affairs, in consultation with DOD, develops specific guidance for investigating any indications that U.S.-origin defense articles have been used in Yemen by Saudi Arabia or UAE in substantial violation of relevant agreements with those countries, including for unauthorized purposes. (Recommendation 1)

The Secretary of Defense should develop guidance, in consultation with State, on how to implement DOD policy, including clarifying DOD roles and responsibilities, for reporting any indications that U.S.-origin defense articles were used in Yemen by Saudi Arabia or UAE against anything

other than legitimate military targets or for other unauthorized purposes. (Recommendation 2)

The Secretary of Defense should fully assess the extent to which DOD's advisory and training efforts for Saudi Arabia and UAE facilitated civilian harm reduction in Yemen. (Recommendation 3)

The Secretary of State should provide current information to relevant congressional committees on each of the certification elements required by Section 1290 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019. (Recommendation 4)

Agency Comments and Our Evaluation

We provided a draft of the sensitive report to State and DOD for review and comment. We received written comments on the sensitive report from both agencies, which we have reproduced in appendixes VI and VII, respectively. In addition, both agencies provided technical comments on the sensitive report, which we incorporated as appropriate.

In its written comments, State concurred with one recommendation and neither agreed nor disagreed with another. State said that it found significant factual and analytical errors in the draft report we provided for review and stated that the department provided additional documentation and other feedback to clarify those concerns. We disagree with this assessment. During the agency comments period, State provided additional documentation in response to several requests we had made over the course of our review. We reviewed this information and incorporated it where appropriate, but it did not fundamentally change our findings.

In response to our recommendation that State develop guidance for investigating any indications that U.S.-origin defense articles have been used in Yemen by Saudi Arabia or UAE in substantial violation of relevant agreements with those countries, including for unauthorized purposes, State concurred with our recommendation and noted that it has started drafting specific guidance and procedures regarding reports of civilian casualties or unauthorized use. However, State noted that it has existing guidance to weigh significant allegations of civilian harm from partner military operations before approving new transfers under the Conventional Arms Transfer Policy. In addition, State stated that it has guidance to investigate potential unauthorized use or transfer of U.S.-origin arms under the Arms Export Control Act. Further, State noted that the department and its interagency partners have routinely investigated reports of alleged civilian harm, law of armed conflict violations,

unauthorized use, and unauthorized transfers, consistent with those sets of guidance.

In our report, we acknowledge that State officials said they use the 2018 Conventional Arms Transfer Policy to guide its FMS transfer decisions and have generally referred to requirements laid out in the Arms Export Control Act for conducting investigations of unauthorized use or transfer of U.S.-origin equipment. Further, we acknowledge that DOD and State have investigated allegations of potential unauthorized transfers. However, none of these investigations are related to indications that U.S.-origin equipment transferred to Saudi Arabia and UAE through FMS was used for unauthorized purposes. In addition, the Arms Export Control Act requires State to report to Congress promptly upon receipt of information that a substantial violation of an agreement under which the U.S. government provides defense articles or defense services, or any transfer made without the consent of the U.S. government, in which such articles or services were used for unauthorized purposes, occurred. However, State could not provide any specific guidance for how to determine if congressional reporting is necessary. We continue to believe that it is important for State to develop specific guidance to help ensure that the U.S. government has a clear and complete picture of how military support provided to Saudi Arabia and UAE has contributed to or reduced civilian harm in Yemen.

State neither agreed nor disagreed with our recommendation that it provide current information to relevant congressional committees on each of the certification elements required by Section 1290 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019. In its written comments, State indicated that it regularly engages with Congress on the Yemen conflict and related issues and provides current information on each of the elements noted in Section 1290 in those consultations. However, State noted that the 180- and 360-day certifications were no longer required because the U.S. had discontinued in-flight refueling to the Saudi-led coalition in 2018 that would have been subject to the funding restriction in Section 1290.

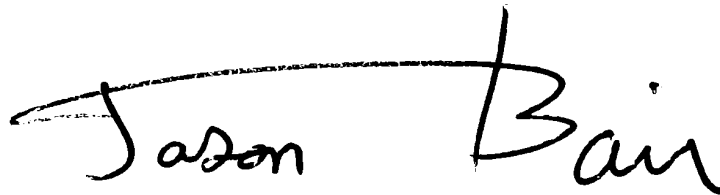
In our report, we acknowledge that State's Office of the Legal Advisor determined the certifications were no longer required. However, the requirement to complete the certifications was independent of the U.S.'s aerial refueling policy and the Secretary of State was still required to submit the subsequent certifications indicating whether the governments of Saudi Arabia and UAE were taking the specified actions. Therefore, we continue to believe that our recommendation to State to provide current

information on each of the certification elements is warranted to help ensure that Congress has the necessary information to provide oversight of U.S. support to Saudi Arabia and UAE.

In its written comments, DOD concurred with our recommendations and said it will take steps to implement them. Our draft report included a recommendation that the Secretary of Defense should ensure that DOD officials can readily access the report required by Section 1274 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019. During the department's review of our draft, DOD concurred with our recommendation and provided its report submitted to Congress in response to the Section 1274 mandate. We reviewed the information that DOD provided in February 2022, confirmed it was the correct report, and therefore removed the recommendation from our final report. As a result of locating its congressional report, DOD can now readily access useful information that may be needed for its support to Saudi Arabia and UAE for these countries' operations in Yemen.

We are sending copies of this report to the appropriate congressional committees, the Secretaries of State and Defense, the Commander of CENTCOM, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-6881 or bairj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VIII.

A handwritten signature in black ink that reads "Jason Bair". The signature is written in a cursive style with a long horizontal stroke underlining the first name.

Jason Bair
Director, International Affairs and Trade

List of Committees

The Honorable Jack Reed
Chairman
The Honorable James M. Inhofe
Ranking Member
Committee on Armed Services
United States Senate

The Honorable Sherrod Brown
Chairman
The Honorable Patrick J. Toomey
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Robert Menendez
Chairman
The Honorable James E. Risch
Ranking Member
Committee on Foreign Relations
United States Senate

The Honorable Mark Warner
Chairman
The Honorable Marco Rubio
Vice Chairman
Select Committee on Intelligence
United States Senate

The Honorable Jon Tester
Chairman
The Honorable Richard Shelby
Ranking Member
Subcommittee on Defense
Committee on Appropriations
United States Senate

The Honorable Christopher Coons
Chairman

The Honorable Lindsey Graham
Ranking Member
Subcommittee on State, Foreign Operations, and Related Programs
Committee on Appropriations
United States Senate

The Honorable Adam Smith
Chairman

The Honorable Mike Rogers
Ranking Member
Committee on Armed Services
House of Representatives

The Honorable Maxine Waters
Chairwoman

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives

The Honorable Gregory Meeks
Chairman

The Honorable Michael McCaul
Ranking Member
Committee on Foreign Affairs
House of Representatives

The Honorable Adam Schiff
Chairman

The Honorable Michael Turner
Ranking Member
Permanent Select Committee on Intelligence
House of Representatives

The Honorable Betty McCollum
Chair

The Honorable Ken Calvert
Ranking Member
Subcommittee on Defense
Committee on Appropriations
House of Representatives

The Honorable Barbara Lee
Chairwoman
The Honorable Hal Rogers
Ranking Member
Subcommittee on State, Foreign Operations, and Related Programs
Committee on Appropriations
House of Representatives

Appendix I: Objectives, Scope, and Methodology

The William M. (Mac) Thornberry National Defense Authorization Act (NDAA) for Fiscal Year 2021 includes a provision for us to review U.S. military support to the Saudi-led coalition in Yemen.¹ This report examines the (1) total financial value of all military support² provided by the Department of Defense (DOD) to Saudi Arabia and the United Arab Emirates (UAE) from fiscal years 2015 through 2021, (2) extent to which DOD and the Department of State have assessed the use of U.S. military support in Yemen and the extent to which this support contributed to or reduced civilian harm,³ and (3) extent to which certifications State submitted and a report DOD submitted in accordance with sections 1274 and 1290 of the Fiscal Year 2019 NDAA were timely and complete.⁴

This report is a public version of a sensitive report that we issued in April 2022.⁵ DOD and State deemed some of the information in our April report to be sensitive, which must be protected from public disclosure. Therefore, this report omits sensitive information about DOD's advisory services and State's internal decision-making related to U.S. military support to Saudi Arabia and UAE. Although the information provided in this report is more limited, the report addresses the same objectives as the sensitive report and uses the same methodology.

To determine the total financial value of all military support provided by DOD to Saudi Arabia and UAE from fiscal years 2015 through 2021, we analyzed DOD data for (1) defense articles and defense services transferred through the Foreign Military Sales (FMS) program; (2) logistic

¹William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No.116-283, § 1296, 134 Stat. 3388, 3996 (2021).

²For the purposes of this report, military support includes security cooperation and security assistance.

³For the purposes of this report, we define the term "civilian harm" to include movement of persons into or out of Yemen, civilian casualties, and damage to civilian infrastructure.

⁴John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No.115-232, §§ 1274, 1290, 132 Stat. 1636, 2067, 2081-2083 (2018).

⁵GAO, *Yemen: State and DOD Need Better Information on Civilian Impacts of U.S. Military Support to Saudi Arabia and the United Arab Emirates*, GAO-22-105073SU (Washington, D.C.: Apr. 27, 2022).

support, supplies, and services exchanged under acquisition and cross-servicing agreements (ACSA); and (3) foreign military training.⁶

- **FMS.** For FMS, we reviewed data reported in the Defense Security Cooperation Agency's (DSCA) Security Cooperation Information Portal for sales to Saudi Arabia and UAE with Letters of Offer and Acceptance implemented from fiscal years 2015 through 2021.⁷ DSCA downloaded the FMS data report on October 8, 2021. DSCA officials told us that the delivery date field is not consistently recorded, so the shipping date field would more reliably indicate when DOD transferred defense articles and defense services through FMS. However, these officials said that the data system does not distinguish what portion of the FMS case or line value applies to the specific shipment. Therefore, we could not determine the financial value of defense articles and defense services shipped from fiscal years 2015 through 2021 and instead, analyzed the value, types, and collection status of defense articles and defense services to Saudi Arabia and UAE based on Letters of Offer and Acceptance implemented during this period.⁸ To calculate the total financial value of FMS cases for fiscal years 2015 through 2021, we analyzed the total case value field for the 252 cases with Letters of Offer and Acceptance implemented during this period.⁹ We also identified the highest and lowest value FMS case for this period. To describe the types of defense articles and defense services, we analyzed the generic code description for the 3,047 case lines associated with these same FMS cases. To

⁶This review focuses on ACSA exchanges in which elements of the U.S. armed forces have provided support to Saudi Arabia and UAE (also referred to as a "sale" in DOD's ACSA system of record) and excludes ACSA exchanges through which Saudi Arabia and UAE have provided support to elements of the U.S. armed forces.

⁷The signed Letters of Offer and Acceptance are referred to as "FMS cases," and the individual items or services included for purchase within FMS cases are referred to as "case lines." Letters of Offer and Acceptance are the legal instruments used by the U.S. government to sell defense articles to a foreign country or international organization under authorities provided in the Arms Export Control Act and when implemented become official tenders by the U.S. government.

⁸According to DOD policy, the Letter of Offer and Acceptance is implemented when the foreign partner signs the agreement and provides the initial deposit.

⁹Our analysis is based on the total case value field reported in DSCA's FMS data report downloaded on October 8, 2021. Total case value includes all of the above-the-line and below-the-line costs for the specific FMS case. The total case value can increase or decrease with amendments or modifications to the specific case after the Letter of Offer and Acceptance is implemented. In addition to agreements implemented over this period, DOD continued to manage sales from agreements implemented in prior years.

calculate the value of collections for FMS cases with Letters of Offer and Acceptance implemented from fiscal years 2015 through 2021, we analyzed the total collections value for the 252 cases for Saudi Arabia and UAE. In addition, we compared the total collections with the total case value to identify the rate of FMS collections for the 252 cases.

To determine the reliability of the data reported for FMS cases to Saudi Arabia and UAE in DSCA's Security Cooperation Information Portal, we conducted testing for missing data, such as FMS cases identified by DOD security cooperation officials in Saudi Arabia and UAE, outliers, and other signs of erroneous information. Specifically, we confirmed that the total case value and total line value were consistent in the data reported for FMS with Letters of Offers and Acceptance implemented from fiscal years 2015 through 2021. In addition, we confirmed the data entered (1) for "total case value" for all rows of data associated with the same case were consistent and (2) for "total line amount" for all rows of data associated with the same case line were consistent. We also compared the data for FMS cases reported in the Security Cooperation Information Portal with publicly available information. Further, we interviewed DSCA officials about the data and refined the data fields of interest over several data reports. We found that the FMS case data reported in DSCA's Security Cooperation Portal for cases with Letters of Offer and Acceptance implemented from fiscal years 2015 through 2021 were sufficiently reliable for our purposes.

In addition, we reviewed State's annual *Report to Congress on Direct Commercial Sales Authorizations to Foreign Countries and International Organizations* to identify the total value of Direct Commercial Sales authorized to Saudi Arabia and UAE from fiscal years 2015 through 2020. The report for fiscal year 2021 was not available at the time of our analysis.

- **ACSAs.** For ACSAs, we reviewed data reported in the ACSA system of record for orders authorized to Saudi Arabia and UAE from fiscal years 2015 through 2021.¹⁰ We downloaded the ACSA order data on October 13, 2021, and excluded orders with statuses marked as cancelled or draft in the ACSA system of record from our analysis. To

¹⁰DOD uses the ACSA Global Automated Tracking and Reporting System (AGATRS) as its system of record to create, track, and manage transactions executed under ACSAs. DOD's Defense Logistics Agency has managed AGATRS since 2013.

determine the financial value of ACSA orders authorized to Saudi Arabia and UAE from fiscal years 2015 through 2021, we analyzed the item total field for the 65 orders reported in the ACSA system of record.¹¹

To describe the types of logistic support, supplies, and services authorized during this period, we analyzed the stock class field, which specifies the category of logistic support. To describe the reimbursement status of ACSA orders authorized during this period, we analyzed orders recorded as “completed” for order status. Defense Logistics Agency (DLA) officials said that recording orders as “completed” indicates complete reimbursement. In addition, we analyzed orders recorded as “overdue.” Overdue ACSA transactions are those that have not been reconciled more than 1 year after the date on which the transaction occurred, according to DOD.¹²

To determine the reliability of the data for ACSA orders reported in the ACSA system of record, we tested for missing data, outliers, and other signs of erroneous information. We also compared the ACSA order data with publicly available information, such as DOD’s *Report to Congress Concerning Acquisition and Cross-Servicing Activities for Fiscal Year 2020*. Further, we interviewed DOD officials about the ACSA order data, including officials from DLA, U.S. Air Forces Central Command, and the Joint Staff.

We previously found that DOD lacks quality data to track ACSA orders and made recommendations to DOD.¹³ For example, we recommended that DOD (1) take steps to verify the accuracy of ACSA order statuses recorded in the system of record and (2) implement a process to reconcile data in financial systems with the data and associated documents collected and stored in DOD’s ACSA system of

¹¹An ACSA order may also be referred to as a transaction and contain one or more line items. For example, one order or transaction may include an exchange of water and meals, in which the water provided may be recorded as one line item and the meals provided may be recorded as a separate line item in DOD’s records.

¹²DOD officials noted that orders become overdue in the ACSA system of record 365 days from the order main date, or when the replacement in kind or equal value exchange transactions exceed the agreed return date by one day.

¹³[GAO-20-309](#).

record on a periodic basis.¹⁴ Therefore, we took additional steps to determine the reliability of the data. Specifically, we verified the data reported in the ACSA system of record with supporting documentation uploaded into the system, such as ACSA order forms, for 18 ACSA orders representing 94 percent of the total value of orders for Saudi Arabia and UAE authorized from fiscal years 2015 through 2021 reported in the ACSA system of record.¹⁵

Through this verification effort, we identified inconsistencies for ACSA orders for fuel administered by DLA Energy reported in the ACSA system of record, such as different financial values reported in the ACSA system of record and the ACSA order form. DLA Energy officials told us that they use open-ended ACSA orders for fuel. In addition, they told us that they do not update the ACSA system of record for fuel orders until all transactions have been reconciled because the ACSA system of record is not a financial system.¹⁶

Therefore, we reported the financial value of ACSA orders for fuel administered by DLA Energy to Saudi Arabia and UAE since fiscal year 2015 according to information officials provided from DLA Energy's financial system in September 2021. We did not further verify the financial data provided by DLA Energy officials.

Given our additional data verification steps, we found the data reported in the ACSA system of record for ACSA orders authorized to Saudi Arabia and UAE from fiscal years 2015 through 2021 that were not administered by DLA Energy sufficiently reliable for our purposes.

To provide an update on the reimbursement status of ACSA orders related to Saudi Arabia and UAE's operations in Yemen, we reviewed orders that DOD previously identified as such, including flight hours to

¹⁴GAO-20-309. DOD concurred with these recommendations and is taking steps to implement them. For example, as of April 2021, DOD officials indicated that some military services were beginning to design and implement methodologies to verify and correct the status of ACSA orders for which they were responsible. We will continue to work with DOD to monitor these efforts.

¹⁵We verified the following four data fields: (1) support country, (2) order status, (3) stock class, and (4) item total.

¹⁶According to DOD's Inspector General, open-ended ACSA orders are used when elements, such as quantity or period of time over which services are to be provided, cannot be defined in advance. Open-ended ACSA orders should include a "not-to exceed" amount and may be used as long as both parties understand how orders will be billed.

conduct aerial refueling, in the ACSA system of record.¹⁷ We confirmed with DOD officials and documentation that Saudi Arabia and UAE have reimbursed the U.S. for the \$261 million in flight hours provided for aerial refueling and that UAE provided the remaining in-kind reimbursement for general-purpose bombs.¹⁸ Of the \$38 million for fuel provided to Saudi Arabia and UAE, DOD officials confirmed that \$17.2 million remained unreimbursed by Saudi Arabia, as of September 2021.¹⁹ Further, we confirmed with DOD officials that there have not been any additional ACSA orders for Saudi Arabia and UAE's operations in Yemen since November 2018.

- **Foreign military training.** For foreign military training, we reviewed data provided by DSCA for training for Saudi Arabia and UAE reported in DOD's and State's joint congressional foreign military training report from fiscal years 2015 through 2020.²⁰ Specifically, we reviewed the programs through which the training was delivered and the financial value for training marked as "completed" in the data provided by DSCA. DSCA officials told us that the fiscal year data sets are not updated once published and are therefore specific to the information provided at the time of data collection. To describe the types of training provided to Saudi Arabia and UAE, we reviewed the course descriptions recorded in DSCA's foreign military training data,

¹⁷We previously reported that DOD had determined reimbursement charges for aerial refueling support—flying hours to conduct aerial refueling and the fuel exchanged—provided to Saudi Arabia and UAE for operations in Yemen from March 2015 through November 2018 that it had failed to process and seek to collect. [GAO-20-309](#).

¹⁸We previously reported that, in addition to aerial refueling support, DOD provided approximately \$2 million of general purpose bombs to UAE for which UAE had received U.S. approval for an ACSA retransfer to Saudi Arabia for operations in Yemen. [GAO-20-309](#).

¹⁹UAE reimbursed the U.S. for approximately \$15 million for fuel and Saudi Arabia assumed the balance of \$23 million for fuel, according to DOD documentation. DLA Energy officials told us they do not record ACSA orders for fuel by operation. Therefore, we could not identify the ACSA orders for fuel for Saudi Arabia and UAE's operations in Yemen in the ACSA system of record.

²⁰Foreign military training data for fiscal year 2021 were not available at the time of our analysis. DOD and State are required to report on all military training provided to foreign military personnel to Congress on an annual basis. The report is generated using data submitted by multiple sources, including security cooperation organizations, combatant commands, and other DOD agencies.

as well as interviewed DOD officials at headquarters and security cooperation organizations in Saudi Arabia and UAE.

To describe the advisory services provided to Saudi Arabia and UAE, we reviewed DOD and State documents and interviewed DOD and State officials at headquarters, U.S. Central Command (CENTCOM), and security cooperation organizations in Saudi Arabia and UAE. In addition, we interviewed current and former advisors.

To examine the extent to which DOD and State have assessed the use of U.S. military support in Yemen and whether this support contributed to or reduced civilian harm, we reviewed DOD and State documents to identify processes and measures in place to reduce civilian harm and track the use of U.S.-origin weapons provided to Saudi Arabia and UAE. For example, we evaluated four country team assessments for potential FMS sales to Saudi Arabia. We judgmentally selected cases that (1) potentially related to the conflict in Yemen; (2) represented a range of years; and (3) for at least one case, was included in the Secretary of State's May 2019 certification that an emergency existed under Section 36(b) of the Arms Export Control Act.²¹ We were unable to review country team assessments for potential FMS sales to UAE because State could not locate them while we were conducting the audit work for the original sensitive report on which this public version is based.²² Further, we reviewed end-use monitoring (EUM) country reports from DOD related to allegations of potential end-use violations for U.S.-origin defense articles transferred to Saudi Arabia and UAE to determine the extent to which the agencies collected information about the use of U.S.-origin weapons in Yemen.

²¹Section 36(b) of the Arms Export Control Act requires the President to submit certifications to Congress containing the details of certain proposed arms sales before extending a letter of offer. 22 U.S.C. § 2776(b). The law further prohibits the issuance of a letter of offer with respect to a proposed sale to any country or organization, if the Congress within 30 calendar days after receiving such certification enacts a joint resolution prohibiting the proposed sale, unless the President states in his certification that an emergency exists that requires such sale in the national security interests of the U.S.

²²We originally requested the assessments in September 2021. In June 2022, while reviewing a draft of this product, State officials said they located the assessments and were working to obtain clearance to provide them to us for a subsequent classified product.

We determined that the internal control principle related to quality information was significant to this objective.²³ We reviewed DOD documents to determine whether DOD officials assessed the effectiveness of DOD's training and advising efforts and collected and reviewed data on civilian casualty trends. We interviewed DOD officials at headquarters, CENTCOM, and security cooperation organizations in Saudi Arabia and UAE and current and former advisors.

We analyzed the extent to which State submitted certifications and DOD submitted a report in accordance with sections 1274 and 1290 of the Fiscal Year 2019 NDAA (Section 1274 and Section 1290). To determine whether State's certification and DOD's report were timely, we compared the date these documents were submitted to Congress with the required submission date in the Fiscal Year 2019 NDAA.

Section 1274 required DOD to review whether the armed forces or coalition partners of the U.S. violated federal law, the laws of armed conflict, or DOD policy while conducting operations in Yemen. For example, DOD was required to provide information regarding U.S. armed forces' and coalition partners' interrogations of Yemeni citizens and whether any coalition partners committed gross violations of internationally recognized human rights while conducting operations in Yemen that would make such coalition partner ineligible for assistance under the DOD Leahy law. DOD was also required to report to Congress on several things, one of which was the findings of its review into violations of law and policy. This report was due on December 11, 2018.

To determine whether the DOD report was complete, we compared the unclassified report to certain requirements in the Fiscal Year 2019 NDAA to assess whether those requirements were fully, partially, or not addressed. We did not assess the remaining reporting elements because doing so would necessitate a discussion of classified materials. We plan to assess the extent to which DOD included each of the elements required in its report in a follow-on classified product. See table 3 for information about which of the requirements under Section 1274 we assessed.

²³[GAO-14-704G](#).

Appendix I: Objectives, Scope, and Methodology

Table 3: Assessed Reporting Elements in Department of Defense (DOD) Report Pursuant to Section 1274 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019

Matters and Elements	Assessed by GAO
"Matters to be Included" in DOD's Review	✓
Whether the U.S. armed forces interrogated Yemeni citizens in prisons within Yemen or provided questions to any U.S. coalition partner for use in such interrogations, and whether such interrogations or actions were consistent with U.S. law and policy	✓
Whether the armed forces violated the prohibitions of section 362 of title 10, U.S. Code, while conducting operations in Yemen	✓
Whether any U.S. coalition partner committed gross violations of internationally recognized human rights while conducting operations in Yemen that would make such coalition partner ineligible for any training, equipment, or other assistance for a unit of a foreign security force under section 362 of title 10, U.S. Code	✓
Whether a waiver or exception has been granted to any U.S. coalition partner under section 362 of title 10, U.S. Code, while conducting operations in Yemen	✓
Elements to be Included in DOD's Report	✓
The findings from the review required under subsection "matters to be included"	✓
An analysis of DOD's detention and interrogation policies and guidance	✗
The application of such policies and guidance to the detention and interrogation operations of allies and partners that are supported by the U.S.	✗
An assessment of U.S. responsibilities and obligations under federal law, the laws of armed conflict, relevant treaties and agreements, and any other applicable law relating to the treatment of detainees held by allies or partners with U.S. support	✗
An assessment of any applicable policy requirements or considerations in addition to such responsibilities and obligations	✗
An assessment of the compliance standards and enforcement mechanisms associated with such responsibilities, obligations, policy requirements, or considerations	✗
A description of any assurances required to be obtained from allies and partners with respect to the treatment of detainees in custody when the U.S. is involved in the capture or interrogation of such detainees, including the manner in which and level at which such assurances are provided	✗
A description of the means by which DOD determines whether allies and partners comply with such assurances	✗
An explanation of the extent to which U.S. support for the detention and interrogation operations of allies and partners is conditioned on their compliance with such assurances	✗

Appendix I: Objectives, Scope, and Methodology

Matters and Elements	Assessed by GAO
A description of the procedures used to report violations of detainee treatment standards, including procedures relating to violations occurring at facilities operated by allied or partner countries	X

Legend:

✓ indicates that GAO assessed the element.

X indicates that GAO has not yet assessed the element.

Source: GAO analysis of Department of Defense documentation. | GAO-22-105988

Section 1290 required the Secretary of State to submit three certifications indicating whether the governments of Saudi Arabia and UAE were undertaking demonstrable efforts to reduce harm to civilians and appropriate measures to alleviate the humanitarian crisis in Yemen, among other things. These certifications were due on September 12, 2018; February 9, 2019; and August 8, 2019.

To determine whether State’s certification was complete, we compared the certification and its accompanying documentation against the requirements in the Fiscal Year 2019 NDAA to assess whether those requirements were fully, partially, or not addressed. Specifically, Section 1290 required the Secretary of State’s certifications to address six elements—five of which applied to both Saudi Arabia and UAE, and the remaining one applied only to Saudi Arabia. While a memorandum of justification (MOJ) accompanying a certification was not required by law, it provides important information on the Secretary of State’s decision to certify, so we therefore analyzed its contents to determine whether it addressed each element mentioned in the certification. To determine this, we compared the elements identified in the Section 1290 certification requirement against the elements contained in the MOJ to assess whether those elements were fully, partially, or not addressed.

In addition, we collected and reviewed select internal decision communications from State and interviewed officials from State and DOD.

The performance audit upon which this report is based was conducted from March 2021 to April 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit

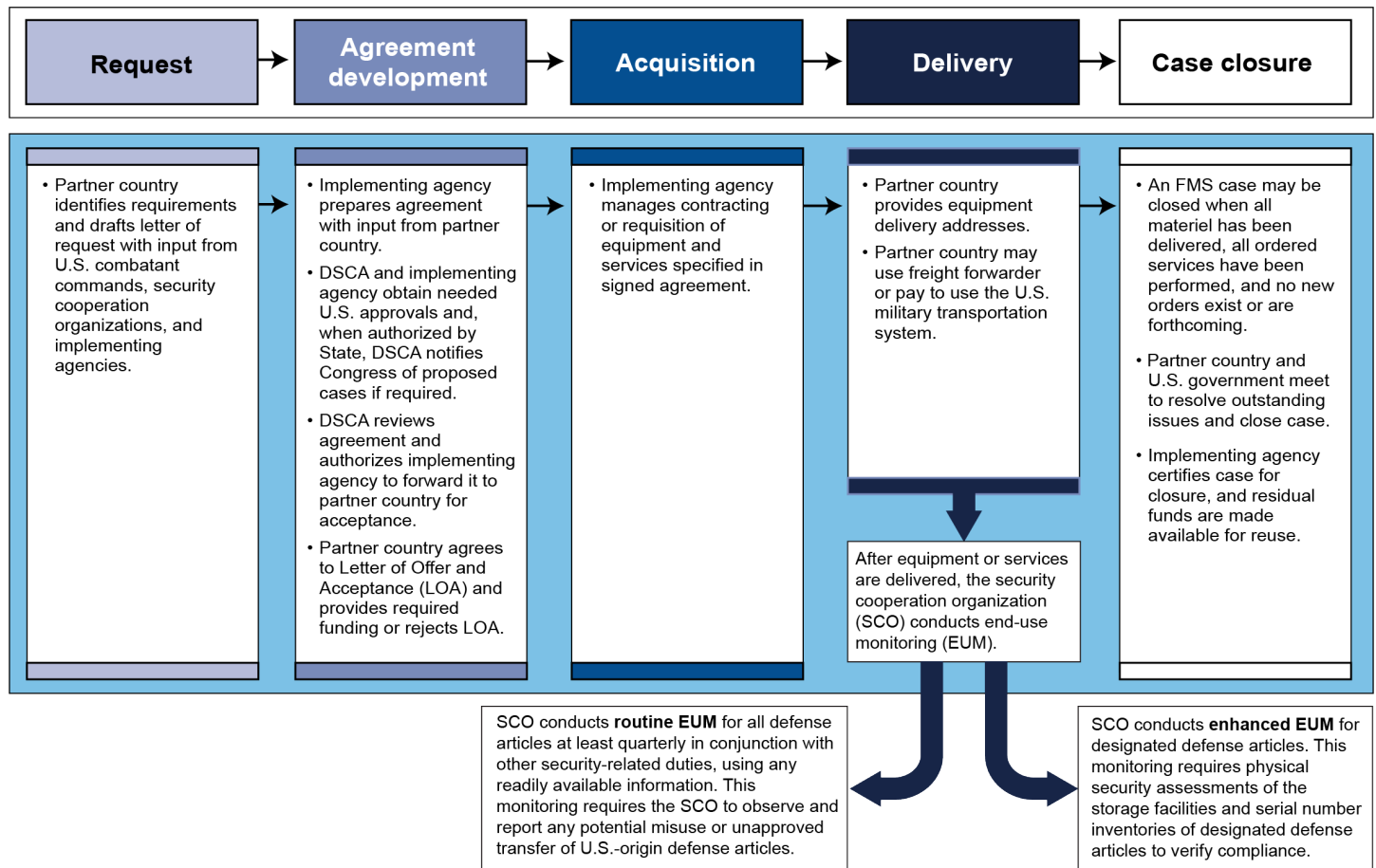
**Appendix I: Objectives, Scope, and
Methodology**

objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We subsequently worked with DOD and State from April 2022 to June 2022 to prepare the original sensitive report for public release. This public version was also prepared in accordance with these standards.

Appendix II: Department of Defense's General Process for the Foreign Military Sales Program

The Foreign Military Sales (FMS) program is one of the primary ways through which the U.S. government provides support to its foreign partners, by selling defense articles and defense services ranging from fighter jets to training.¹ The Department of State oversees the sales of defense articles and defense services through the FMS program. The Department of Defense (DOD) administers the FMS program according to five general phases shown in figure 5.

Figure 5: Five General Phases of Department of Defense's (DOD) FMS Process



Legend: DSCA = Defense Security Cooperation Agency, FMS = Foreign Military Sales.

Source: GAO analysis of DSCA documents. | GAO-22-105988

¹The FMS program is authorized by 22 U.S.C. § 2751 et seq. Under the FMS program, the U.S. government and a foreign partner enter into a government-to-government agreement, called a Letter of Offer and Acceptance.

Appendix III: Foreign Military Sales to Saudi Arabia and the United Arab Emirates from Fiscal Years 2015 through 2021

The Department of Defense (DOD) administered sales of at least \$54.2 billion in defense articles and defense services, including training, to Saudi Arabia and the United Arab Emirates (UAE) through Foreign Military Sales (FMS) agreements signed from fiscal years 2015 through 2021, according to Defense Security Cooperation Agency (DSCA) data.¹ As shown in table 4, the total annual value of signed agreements—referred to as FMS cases—for these countries varied over time, ranging from \$1.5 billion in fiscal year 2021 to \$14.7 billion in fiscal year 2018.

Table 4: Financial Value of Defense Articles and Defense Services Sold by the U.S. to Saudi Arabia and the United Arab Emirates through Foreign Military Sales (FMS) Agreements Signed in Fiscal Years 2015-2021

Dollars in billions

Fiscal year	Total case value
2015	10.5
2016	3.6
2017	2.7
2018	14.7
2019	14.3
2020	6.8
2021	1.5
Total	54.2

Source: GAO analysis of Defense Security Cooperation Agency (DSCA) data. | GAO-22-105988

Notes: Amounts do not sum to the total due to rounding. The amounts represented are based on the case value reported in DSCA's data as of October 8, 2021, for FMS agreements implemented (i.e., the foreign partner signs the agreement and provides the initial deposit) from fiscal years 2015 through 2021. Case value represents the value of the original FMS agreement, as well as any amendments and modifications to the case, according to DSCA officials. The case value reported could change over time with additional amendments or modifications.

¹FMS agreements are implemented when the foreign partner signs a Letter of Offer and Acceptance and DOD has received the initial deposit, according to DOD policy. The total value of agreements implemented over this period is based on the case value reported in DSCA's data as of October 8, 2021. According to DSCA officials, case value represents the value of the original agreements, as well as any amendments and modifications to FMS cases after the original agreements were implemented. The case value reported could change over time with additional amendments or modifications.

Appendix IV: Foreign Military Training Provided to Saudi Arabia and the United Arab Emirates

The Department of Defense (DOD) reported that it provided military training worth \$644 million to Saudi Arabia and the United Arab Emirates (UAE) from fiscal years 2015 through 2020, almost entirely through the Foreign Military Sales (FMS) program.¹ Specifically, DOD provided over 99 percent of the reported value of training to Saudi Arabia and UAE from fiscal years 2015 through 2020 through FMS.² Table 5 shows the financial value of training provided to Saudi Arabia and UAE by fiscal year.

Table 5: Financial Value of Military Training for Saudi Arabia and the United Arab Emirates (UAE), Fiscal Years 2015-2020

Dollars in millions

Country	Fiscal year 2015	Fiscal year 2016	Fiscal year 2017	Fiscal year 2018	Fiscal year 2019	Fiscal year 2020	Total
Saudi Arabia	114	92	81	84	94	92	558
UAE	24	9	23	11	11	9	86
Total	138	101	104	95	105	101	644

Source: GAO analysis of the Defense Security Cooperation Agency's training data. | GAO-22-105988

Notes: Amounts may not sum to the totals due to rounding. The amounts represented do not include the value of planned or ongoing training for each fiscal year. Over 99 percent of the reported value of training was purchased by Saudi Arabia and UAE through the Foreign Military Sales program.

¹This amount does not include the financial value of planned or ongoing training for each fiscal year. Training data for fiscal year 2021 were not available at the time of our analysis.

²DOD provided the remaining value of training to Saudi Arabia and UAE through its military service academies (0.14 percent); the International Military Education and Training program (0.05 percent); and Regional Centers for Security Studies (0.03 percent).

Appendix V: Logistic Support, Supplies, and Services Provided to Saudi Arabia and the United Arab Emirates for Operations in Yemen

The Department of Defense (DOD) uses acquisition and cross-servicing agreements (ACSA) to exchange logistic support, supplies, and services with foreign partners in return for cash or in-kind reimbursement. Saudi Arabia and the United Arab Emirates (UAE) signed ACSAs in May 2016 and January 2006, respectively. From fiscal years 2015 through 2021, DOD authorized at least \$319 million in logistic support, supplies, and services for items ranging from fuel to bombs, according to data reported in the ACSA system of record.¹

In general, DOD officials said they do not track how countries use the logistic support, supplies, and services provided under ACSAs. However, DOD identified approximately \$300 million in logistic support provided to Saudi Arabia and UAE for operations in Yemen—83 percent of the total value of logistic support authorized to both countries from fiscal years 2015 through 2021 reported in the ACSA system of record.²

We previously reported that, following a March 2018 congressional inquiry regarding DOD's use of ACSAs to provide support to the Saudi-led coalition for operations in Yemen, DOD determined reimbursement charges for aerial refueling support—flying hours to conduct refueling and the fuel exchanged—provided from March 2015 through November 2018 that it had failed to process and seek to collect.³ After reviewing flight and fuel data from U.S. and partner databases, DOD identified \$261 million for flying hours and \$38 million for fuel provided to Saudi Arabia and UAE for operations in Yemen and requested retroactive reimbursement through the ACSA authority from these two countries.⁴ According to DOD documentation, Saudi Arabia and UAE have reimbursed the U.S. for the

¹In addition to the \$319 million in orders reported in the ACSA system of record, the Defense Logistics Agency Energy officials reported they had administered ACSA orders for fuel to Saudi Arabia and UAE worth about \$60 million since fiscal year 2015, as of September 2021.

²Defense Logistics Agency Energy officials told us they do not record ACSA orders for fuel by operation. Therefore, this percentage does not include the value of fuel identified for operations in Yemen because it is not identified as such in the ACSA system of record.

³[GAO-20-309](#).

⁴According to DOD officials, DOD is treating these transactions as third-party transfers. According to DOD documents and officials, UAE agreed to reimburse the U.S. for transactions supporting operations in Yemen before June 2016, and Saudi Arabia agreed to reimburse the U.S. for transactions after this date. Saudi Arabia signed an ACSA on May 16, 2016.

Appendix V: Logistic Support, Supplies, and Services Provided to Saudi Arabia and the United Arab Emirates for Operations in Yemen

\$261 million for flying hours.⁵ Of the \$38 million for fuel, DOD officials confirmed that \$17.2 million remained unreimbursed by Saudi Arabia, as of September 2021.⁶

We previously reported that in 2015, in addition to aerial refueling support, DOD provided approximately \$2 million of general purpose bombs to UAE for which UAE had received U.S. approval for an ACSA retransfer to Saudi Arabia for operations in Yemen.⁷ As of September 2019, DOD received reimbursement in the form of reciprocal support for two-thirds of the value of the bombs initially provided. DOD officials confirmed that they received the remaining in-kind reimbursement.

⁵UAE reimbursed the U.S. for approximately \$104 million for flying hours, and Saudi Arabia reimbursed the U.S. for the remaining balance of \$157 million for flying hours, according to DOD's congressional report on expenses incurred for in-flight refueling of Saudi-led coalition aircraft in response to section 1275(a) of the National Defense Authorization Act for Fiscal Year 2020.

⁶UAE reimbursed the U.S. for approximately \$15 million for fuel, and Saudi Arabia assumed the balance of \$23 million for fuel, according to DOD documentation.

⁷[GAO-20-309](#). DOD had not recorded this order in the ACSA system of record as required until August 2019.

Appendix VI: Comments from the U.S. Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of State
Comptroller
Washington, DC 20520

FEB 25 2022

Thomas Melito
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Mr. Melito:

We appreciate the opportunity to review your draft report, “YEMEN: State and DOD Need Better Information on Civilian Impacts of Military Support to Saudi Arabia and the United Arab Emirates” GAO Job Code 105073.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

Sincerely,

A handwritten signature in blue ink that reads "Jeffrey C. Mounts".

Jeffrey C. Mounts

Enclosure:
As stated

cc: GAO – Jason Bair
PM – Jessica Lewis
OIG - Norman Brown

Department of State Response to the GAO Draft Report

YEMEN: State and DOD Need Better Information on Civilian Impacts of U.S. Military Support to Saudi Arabia and the United Arab Emirates
(GAO-22-105073SU, GAO Code 105073)

Thank you for the opportunity to comment on your draft report "*Yemen: State and DOD Need Better Information on Civilian Impacts of U.S. Military Support to Saudi Arabia and the United Arab Emirates.*"

Thank you also for engaging with the Department as the GAO prepared this report. The Department provided many rounds of documents and interviews covering the Department's investigation of the issues of civilian harm in the conflict in Yemen and potential unauthorized use or transfer of U.S.-origin arms. These documents and interviews also covered the policy changes that occurred following President Biden's February 2021 guidance to end support for offensive operations in Yemen, and that Department's implementation of that guidance, including suspending two transfers of air-to-ground munitions which the previous Administration had notified Congress it intended to approve. The Department found significant factual and analytical errors in the draft GAO report provided for the Department's review, and the Department provided additional documentation and other feedback to clarify those concerns. We appreciated the GAO's willingness to consider that additional information.

Recommendation: The Secretary of State should ensure that the Bureau of Political-Military Affairs, in consultation with DOD, develops guidance for investigating any indications that U.S.-origin defense articles have been used in Yemen by Saudi Arabia or UAE in substantial violation of agreements with those countries, including for unauthorized purposes. (Recommendation 1)

Department Response: The Department agrees with the GAO recommendation. The Department already has guidance to investigate potential unauthorized use or transfer of U.S.-origin arms under the Arms Export Control Act.

The Department has existing guidance to weigh significant allegations of civilian harm from partner military operations, including those using U.S.-origin arms, before approving new transfers under the U.S. Conventional Arms Transfer Policy. Throughout the Yemen conflict, the Department and interagency partners have routinely investigated reports of alleged civilian harm, law of armed conflict violations, unauthorized use, and/or unauthorized transfer, consistent with those sets of guidance.

See comment

Nonetheless, the Department does see value in more specific guidance and memorialized procedures regarding reports of civilian casualties or unauthorized use. Such guidance and procedures may be helpful in ensuring consistent review of such incidents, regardless of location. The Department has started drafting such a document.

Recommendation: The Secretary of State should provide current information to relevant congressional committees on each of the certification elements required by section 1290 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019. (Recommendation 4)

Department Response: As set out in the letter to Congress referenced on page 33 of the GAO report, because the United States had discontinued in-flight refueling to the Saudi-led Coalition in 2018 that would be subject to the restriction in Section 1290, the Department determined in 2019 that subsequent 180- and 360-day certifications were no longer required.

Nonetheless, the Department regularly engages with Congress on the Yemen conflict and related issues, and provides current information on each of the elements noted in section 1290 in those consultations.

GAO Comments

With respect to paragraph 2, page 2 of the letter above, State noted that it found significant factual and analytical errors in the draft report we provided for review and stated that the department provided additional documentation and other feedback to clarify those concerns. We disagree with this assessment. During the agency comments period, State provided additional documentation in response to several requests we had made over the course of our review. We reviewed this information and incorporated it where appropriate, but it did not fundamentally change our findings.

Appendix VII: Comments from the U.S. Department of Defense



INTERNATIONAL
SECURITY AFFAIRS

ASSISTANT SECRETARY OF DEFENSE
2400 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-2400

Mr. Jason Bair
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Bair:

This is the Department of Defense (DoD) response to the GAO Draft Report, GAO-22-105073SU, YEMEN: State and DOD Need Better Information on Civilian Impacts of U.S. Military Support to Saudi Arabia and the United Arab Emirates, dated December 16, 2021 (GAO Code 105073).

Thank you for the opportunity to comment on this draft report. Attached is DoD's response to the subject report. My point of contact is Colonel Ed Callahan, who can be reached at e-mail edwin.j.callahan2.mil@mail.mil and phone 703-695-0372.

Sincerely,

A handwritten signature in blue ink that reads "Celeste A. Wallander".

Celeste A. Wallander, PhD



GAO DRAFT REPORT DATED DECEMBER 16, 2021
GAO-22-105073SU (GAO CODE 105073)

“YEMEN: State and DOD Need Better Information on Civilian Impacts of U.S. Military Support to Saudi Arabia and the United Arab Emirates”

DEPARTMENT OF DEFENSE COMMENTS
TO THE GAO RECOMMENDATIONS

RECOMMENDATION: The GAO recommends that the Secretary of Defense should develop guidance, in consultation with State, on how to implement DoD policy, including clarifying DoD roles and responsibilities, for reporting any indications that U.S.-origin defense articles were used in Yemen by Saudi Arabia or UAE against anything other than legitimate military targets or for other unauthorized purposes.

DoD RESPONSE: DoD concurs in the recommendation, will consult with the Department of State, and assess where improvements can be made regarding existing DoD guidance concerning monitoring of U.S.-origin defense articles used by partner countries for unauthorized purposes. Of note, all DoD issuances undergo regular review, and the Department seeks opportunities to improve and clarify them as part of the regular processes to update those issuances.

RECOMMENDATION: The GAO recommends that the Secretary of Defense should assess the extent to which DoD’s advisory and training efforts for Saudi Arabia and UAE facilitated civilian harm reduction in Yemen.

DoD RESPONSE: DoD concurs in this recommendation to assess the contribution of DoD’s advisory and training efforts to assist Saudi Arabia’s and the UAE’s efforts to reduce civilian harm stemming from their operations in Yemen.

RECOMMENDATION: The GAO recommends that the Secretary of Defense should ensure that DoD officials can readily access the report required by section 1274 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019.

DoD RESPONSE: DoD concurs and has made the report readily accessible to DoD officials.

Appendix VIII: GAO Contact and Staff Acknowledgments

GAO Contact

Jason Bair, (202) 512-6881, or bairj@gao.gov

Staff Acknowledgments

In addition to the contact named above, Kara Marshall (Assistant Director), Jaime Allentuck (Analyst in Charge), Ashley Alley, Justin Fisher, John Hussey, Bridget Jackson, William Johnson, Chris Keblitis, Sally Newman, and Maria Psara made key contributions to this report.

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