

**WHAT EMERGENCY?: ARMS SALES
AND THE ADMINISTRATION'S
DUBIOUS END-RUN AROUND
CONGRESS**

HEARING

BEFORE THE

**COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES**

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**WHAT EMERGENCY?: ARMS SALES AND THE
ADMINISTRATION'S DUBIOUS END-RUN
AROUND CONGRESS**

**Wednesday, June 12, 2019
House of Representatives
Committee on Foreign Affairs**

Washington, DC

The committee met, pursuant to notice, at 10:08 a.m., in room 2172 Rayburn House Office Building, Hon. Eliot Engel (chairman of the committee) presiding.

Chairman ENGEL. The committee will come to order.

Without objection, all members will have 5 days to submit statements, extraneous material, and questions for the record, subject to the limitation in the rules.

We meet today to examine the fiasco surrounding the Trump Administration's decision to invoke emergency authority under the Arms Export Control Act and abuse of authority, in my view, and ram through \$8 billion in arm sales to Gulf countries.

We will hear testimony from the Assistant Secretary of State for Political-Military Affairs, Clarke Cooper. Mr. Assistant Secretary, thank you for appearing before us today.

Welcome to members of the public and the press and thank you to our friends from C-SPAN, who are broadcasting this important proceeding.

Before I recognize myself for an opening statement, I want to just say to the members I am going to be a little heavy with the gavel today because we want to try to get in as many people asking questions as possible. So the 5-minutes will be pretty hard and fast, instead of letting it go for six or 7 minutes. So I would ask people to please speak within the 5-minute recognized period.

Let me say that the war in Yemen and America's role in it have been a major focus of this committee since the start of the Congress. I have made my views clear. While our Gulf partners have legitimate security concerns, the coalition's war effort has been reckless. We have heard too many heartbreaking reports about hospitals, school buses, weddings, and funerals wiped out in a fiery flash of destruction.

At the same time, I am also angry. I am angry because, once again, the Administration wants to cut Congress out of the process. We are a co-equal branch of government. That is the way our Constitution was written. And it is not simply the executive branch's decision to disregard what Congress' will is. And we have seen, unfortunately, too many times, time, and time, and time again.

Some of the weapons that cause the destruction are made in the United States. Other weapons made in our country have ended up

in the hands of militias in Yemen, some of which are on the terrorist list. These are just a few of the reasons Congress has voiced deep concern about American policy on these matters and why offensive arms sales to the Gulf face a rocky path forward, when subjected to congressional review.

Let's be clear. Congress' ability to review arms exports is upheld by law and upheld by long-standing tradition.

In light of these concerns in Congress, did the Administration come to us to negotiate a path forward? No. Did they listen to Members on both sides of the aisle who wanted greater assurances that American weapons would not be used in the slaughter of civilians? No. Did they pay the least amount of respect to a co-equal branch of government and its legitimate and vital role? No.

No, instead they employed an obscure and rarely used provision of the law to declare a phony emergency, rammed these sales through, and undercut Congress' ability to carry out its oversight role. If it were a real emergency for security under such an imminent threat that the transfer of weapons was the only way to prevent the catastrophe, then we probably would not be sitting here today. It would just be approved because it would be a real catastrophe.

But here is the reality: there is no emergency. Do you know how I know? I know because a real emergency would require weapons that can be delivered immediately. If you need them right now, you want weapons that can be delivered immediately, not months or even years from now as these do.

A real emergency would require weapons that have already been built and are relevant to whatever the immediate threat is. A real emergency would not justify building new factories in Saudi Arabia and the United Arab Emirates to manufacture weapons that have been built in the United States for years and years. A real emergency would not be followed by our Defense Secretary telling us the threat has now diminished.

Again, there is no emergency. It is phony. It is made up and it is an abuse of the law, once again, attempting to cut Congress out of the whole picture. This is not a dictatorship. We do not rule this nation by fiat.

Again, we are a co-equal branch of government. Remember when you were in school and you learned the checks and balances? Congress is a co-equal branch of government. We are not going to permit this to go by without a whimper.

Just a few days before the Administration notified Congress about this so-called emergency, we got a briefing on the threat that Iran poses in the region. I have no doubt that Iran is a threat to the United States, to our interests, and our allies and partners. It is the world's most prolific state-sponsor of terrorism. Its activities in the Gulf could paralyze commerce and air travel. Tehran has supplied the Houthis with dangerous weapons and the Houthis have avoided negotiations to end the conflict, all while they have blocked assistance to help alleviate the world's worst humanitarian catastrophe.

But this is nothing new. I obviously cannot talk about the details of the briefing we received but suffice it to say, though, we did not hear a single word about an emergency or a plan to move ahead

with this sale. For this major fiasco, the Administration quietly let us know on a Friday afternoon before a holiday weekend. It is really a slap in the face.

Congress is going to have to give itself stronger tools before the Administration just starts ignoring us completely. I have been working with Ranking Member McCaul for months on legislation to make sure future arm sales only go forward if the country buying those weapons meet certain conditions.

We will also have to strongly consider changing the Arms Export Control Act's emergency provision, which the Administration again has flagrantly abused in this case. And we are looking at every possible avenue for stopping these transfers before they go forward under this phony justification, including measures that members of this committee will introduce later today.

But for now, I would like some answers. I would like to know about the process that led to this outrageous decision. I would like to know who was involved, who thought it was a good idea to conjure up an emergency and cut an entire branch of the Federal Government out of the conversation.

And we will get to those questions and others, Mr. Assistant Secretary, following your opening statement.

Before that, I will yield to my friend, the ranking member, Mr. McCaul of Texas, for any opening comments he may have.

Mr. MCCAUL. And I thank you, Mr. Chairman. Let me first start out by saying what an honor it was to attend the Normandy ceremony with you this past weekend.

Make no mistake, the Iranian regime is our strategic enemy in the Middle East. They are the No. 1 state-sponsor of terror in the world today. They have a brutal history of American bloodshed, from the Marine barracks bombing in Lebanon in 1983, to the deaths of over 600 U.S. Servicemembers from 2003 to 2011. They continue to hold American hostages and plot against our allies in Europe.

Iran's destabilizing behavior in the Middle East threatens that region, and is a growing threat to the security of the United States, our military, and our citizens.

Just last week, Marine General Frank McKenzie, our top military commander in the region, warned about attacks by Iran and/or its proxies, stating: I think the threat is immanent. Our allies in the region face this menace every day.

I fully support the efforts of Saudi Arabia and the United Arab Emirates to defend themselves against Iran, including U.S. arms and training. I support the efforts to combat the violent overthrow of a legitimate U.N.-backed Government in Yemen by the Iran-backed Houthi rebels. These rebels repeatedly launch missiles and armed drones into Saudi Arabia, threatening innocents, including Americans.

But I am also troubled by the numerous civilian deaths in this war, including from Coalition airstrikes. I firmly believe we can support our strategic partners while also insisting they prosecute that arm more responsibly. And for this reason, I am working with Chairman Engel on legislation conditioning certain future arms sales with the goal of helping stop civilian deaths.

We are here today because the State Department recently certified to Congress that the Iran threat constitutes an emergency, requiring the immediate provision of certain defense systems to Saudi Arabia, the UAE, and Jordan. This rarely used emergency authority bypassed Article I congressional review of these sales. The founding fathers put Article I first, which represents the American people, before Article II in the Constitution, and they did that for a reason.

There have been times when international emergencies required expedited sales. For example, President George H. W. Bush used emergency authority in the immediate wake of the Iraqi invasion of Kuwait. President Reagan made such a determination in 1984 during the Iran-Iraq War. In both of those cases, critical weapons were delivered very quickly during hot wars.

But as I said last month, the recent use of this emergency authority, in my judgment, was unfortunate. Of note, some of these sales will not be ready for delivery for over a year. I would have preferred State to adhere to the formal statutory 30-day congressional review process to expedite these 22 arms sales, where a resolution of this approval process could have been an option.

In fact, I had a very good conversation with Ambassador Bolton about a week or two before this decision was made. I discussed the legislation the chairman and I were working on, and I thought things were actually going in the correct and proper direction.

I do share the Administration's frustration that some of these informal holds of these arms sales for over a year was a little too long. In your written statement, you have said that these arms sales are necessary to ensure the United States remains a credible supplier of choice for our partners, rather than Russia and China. And I agree with that.

Last week, it was reported that Saudi Arabia, however, has been buying ballistic missiles from China. And while we are not discussing ballistic missile technology today, it is disturbing if our allies are depending or deepening their defense relationships with our adversaries, like China.

Assistant Secretary Cooper, I want to thank you for your service to our country in so many ways, and some ways we cannot even discuss here in public. And I look forward to hearing your views on the threat, the decisionmaking process in designating this an emergency, and the details on these 22 weapons sales.

And with that, Mr. Chairman, I yield back.

Chairman ENGEL. Thank you. I want to thank the gentleman from Texas, our ranking member.

Our witness this morning is Mr. R. Clarke Cooper, Assistant Secretary of State for Political-Military Affairs. Mr. Assistant Secretary, thank you for coming. I recognize you for 5 minutes to summarize your testimony. Everything will go into the record, including your written testimony as well.

Assistant Secretary, the floor is yours.

**STATEMENT OF THE HONORABLE R. CLARKE COOPER, AS-
SISTANT SECRETARY OF STATE, POLITICAL-MILITARY AF-
FAIRS**

Mr. COOPER. Chairman Engel, Ranking Member McCaul, members, in recent days, neutral shipping has been attacked. By providing a deterrent against hostile actions, this transfer lowers the risk of a broader conflict. The determination reflects the United States' grave concern with the growing escalation in the Gulf and its implication for the security of our friends in the region.

These words could precisely describe the context of the recent emergency certification this hearing has been convened to discuss but they are actually from a State Department statement from 1984. Then, as now, Iran's Revolutionary Government threatened international shipping in the Gulf and, through its proxies, supported attacks on American interest in the region, resulting in the deaths of 241 American Servicemembers in Beirut. Then, as now, our partners required the reassurance provided by an American demonstration of resolve. And then, as now, the Administration took steps to deter war, not to bring it closer.

In his recent certification, Secretary Pompeo advanced a set of arms transfers to support our partners in this current crisis. These capabilities include aircraft support, munitions, logistic services, unmanned intelligence, surveillance, and reconnaissance platforms, training, and advisory services. None of these constitute introductions of fundamentally new capabilities to the region. None fundamentally altered the military balance of power. None are in a nature or category that Congress has not previously reviewed and approved for these particular partners.

The Secretary's decision to exercise his statutory authorities under the Arms Export Control Act reflect the current threat from Iran. But before speaking to that, I would like to describe the broader context.

First, in today's world, our partnership are more vital, not less so. We must ensure our partners that they have the capabilities, the systems, the communications, the intelligence, and the training to play their particular role in maintaining the stability and security of their regions.

Our adversaries recognize the importance of our partnerships and have adopted purposeful strategies of trying to disrupt them at all levels, including in terms of our security cooperation. For instance, by seeking to replace us, as has been noted, as suppliers of choice. Congress is very much aware of this, which is why you passed the Countering America's Adversaries Through Sanctions Act in 2017.

At the same time, we deeply appreciate the particular considerations that relate to arms transfers. Many members, many Americans, are concerned about the use of the arms we provide overseas, including in the context of the Yemen Civil War. These concerns are appropriate and we share them.

From the beginning of the conflict, we have maintained that a political solution is urgently needed and we have supported the United Nations-led effort working toward that objective. Moreover, what makes America stand out from many foreign suppliers of de-

fense material is the premium we place on ensuring that our capabilities are not contributing to gross violations of human rights.

We have worked with the Saudi-led Coalition over the course of its operations to reduce the occurrence of civilian casualties. Our support in this regard has ranged from the provision of training on targeting, and the supply of more precise munitions, to mentoring and advising the Coalition on best practices, lessons learned, and integrating complex data into a system that is specifically designed to reduce civilian casualties.

We have also provided higher end legal training on the laws of our own conflict and have directly and regularly engaged both military and political leadership in this topic. So this is the context: The need to remain engaged partners, to ensure we remain their primary security partner, and to make clear that we support our partners in the defense of their realms, and the security of their regions, and to deter our shared adversaries from disrupting those objectives.

This mention of adversaries brings me back to the emergency cited by the Secretary in his certification—Iran and its maligned activities. As Secretary Pompeo stated publicly, and as he and acting Secretary of Defense Shanahan briefed the Congress, we have seen increased threat streams from Iran, relating both to U.S. and partner equities in the region. These troubling and escalatory indications and warnings from the Iranian regime have prompted an increased U.S. force posture in the region. The Iran-backed Houthis publicly threatened to increase operations, targeting vital military targets in the United Arab Emirates, Saudi Arabia, and the Saudi-led Coalition positions in Yemen.

Add to this, as Ambassador Bolton recently described, Iranian attacks on commercial shipping off the coast of the United Arab Emirates, the unmanned aerial vehicle attacks on pumping stations of the Saudi East-West pipeline, and the rocket fired into a park just about a kilometer from our U.S. Embassy in Baghdad just a few days after that. And just today, today a Houthi cruise missile fell on the Arrivals Hall of the Saudi Arabia's Aba Airport—International airport, reportedly injuring 26 civilians.

These provocative actions mark a new evolution in the threat Iran poses to the region to our partners and to our own national security, including the security of hundreds of thousands of Americans and their families who live and work in the Gulf States. It is this situation, the significant increase in both the intelligence of threat streams and clear provocative and damaging actions taken by Iran's Government that the Secretary did determine it constituted an emergency.

It is this confluence of strategic priorities, the vitality of our bilateral relationships and partnerships, and the urgent regional threat that drove him to make the certification.

Before closing, I would like to make one further point. In the process of his confirmation and my own, the Secretary and I each provided Congress with our commitments to the congressional review process for arms sales. This commitment stands. I value deeply Congress' role in the review of the arms transfer process. I take pride in the depth and the detail of the working relationship that we have with the committees in the course of this process. I do not

view the Secretary's certification as setting aside this process. Indeed, by carving out a certain set of cases in the context of a statutory authority long-granted by Congress, the Secretary's action is an affirmation of the value we place on our engagement with you on arms transfers and broader security assistance issues.

Mr. Chairman, in 1984, Ambassador Michael Armacost explained President Reagan's emergency certification to Congress in these words. I quote: Our decisions were a prudent yet clear response to an escalating emergency which threatens Saudi Arabia and the Gulf. They satisfied a clear military need. In addition, we sent a political signal, both reassurance and deterrence. It was a measured response which promotes regional stability and security.

Mr. Chairman, Mr. Ranking Member, members, political signal of both reassurance and deterrence, a measured response which promotes regional stability and security, these are the purposes for which President Reagan certified an emergency in 1984 and they are the purposes for which Secretary Pompeo invoked the same authority just 2 weeks ago.

Thank you and I look forward to your questions.

[The prepared statement of Mr. Cooper follows:]

TESTIMONY OF R. CLARKE COOPER
ASSISTANT SECRETARY OF STATE, POLITICAL-MILITARY AFFAIRS
BEFORE THE HOUSE FOREIGN AFFAIRS COMMITTEE
JUNE 12, 2019, 10 O'CLOCK AM

Mr. Chairman, Ranking Member McCaul, Members:

"In recent days, neutral shipping has been attacked... By providing a deterrent against hostile actions, this transfer lowers the risk of a broader conflict. The... determination reflects United States grave concern with the growing escalation in the Gulf and its implication for the security of our friends in the region."

These words could describe the context of the recent Emergency Certification this hearing has been convened to discuss, but they are actually from a State Department announcement from 1984. A hearing took place 35 years ago shortly after that announcement was made, similar to the one we are participating in today. At that hearing, then Under Secretary for Political Affairs, Ambassador Michael Armacost, told Congress of our "need to respond firmly and decisively to requests from the Gulf states for appropriate and justifiable security assistance." He added that:

"The states in the area must be confident that our interests in the Gulf are sufficiently important for us to help in a crisis. The United States has to be seen as a credible partner in the search for stability and security."

Then, as now, Iran's revolutionary government threatened international shipping in the Gulf. Then, as now, our partners required the reassurance provided by an American demonstration of resolve. And then, as now, the Administration took steps to deter war, not to bring it closer.

On May 24th, 2019, the Department of State notified Congress that the Secretary determined that "an emergency exists which requires the immediate sale" of 22 foreign military and direct commercial sales to Saudi Arabia, the United Arab Emirates, and, in one case, Jordan. These sales included aircraft support, munitions, logistics services, unmanned intelligence, surveillance and reconnaissance platforms, training, and advisory services.

These sales and the associated emergency certification are intended to address the military need of our partners in the face of an urgent regional threat posed by Iran; promote the vitality of our bilateral relationships by reassuring our partners; and preserve strategic advantage against near-peer competitors.

A combination of factors led the Secretary to determine that the situation constituted an emergency and prompted him to make the Certification, including the significant increase in the intelligence threat streams related to Iran; the clear, provocative, and damaging actions taken by Iran's government; and the need to respond to military capability requests from our partners.

Iran is a malign actor and the leading state sponsor of terrorism. It poses conventional and asymmetric threats to our partners in the Gulf, and to U.S. equities in the region and beyond. While these facts are well-known, we have seen new, troubling and escalatory indications and warnings from the Iranian regime that have prompted an increased U.S. force posture in the region. Members of Congress were briefed on the current threat streams in greater detail in a classified setting in May. In this unclassified setting, I would note my concurrence with the

commander of the U.S. Central Command, General Kenneth F. McKenzie Jr., who late last week described the threats posed by Iran as clear, compelling, very real, and possibly imminent.

In May, the Iran-backed Houthis in Yemen publicly threatened to increase operations targeting vital military targets in the United Arab Emirates, Saudi Arabia, and Saudi-Led Coalition positions in Yemen – sites where many American citizens are present. In addition, Ambassador John Bolton described recent Iranian attacks on commercial shipping off the coast of the United Arab Emirates, recent attacks on pumping stations of the Saudi East-West Pipeline utilizing unmanned aerial vehicles, and a rocket fired into a park about a kilometer from the U.S. Embassy in Baghdad on May 19th. These malign – even provocative – actions mark a new evolution in the threat Iran poses to the security of the hundreds of thousands of Americans who live and work in the Gulf States, and to the security of the region, and our partners.

Our posture regarding Iran remains focused on assuring our partners of our commitment to enhancing their defense capabilities. This action is not intended to be an escalatory military step; instead, it is a loud and clear message to Iran that we stand by our regional partners. This set of cases demonstrate the United States' resolve to stand with our partners and to ensure we remain their partner of choice.

In the Memorandum to Congress, the Secretary explained that “Iranian malign activity poses a fundamental threat to the stability of the Middle East and to American security at home and abroad.” He noted that “Iran’s actions have led directly to the deaths of over six hundred U.S. military personnel in Iraq, untold suffering in Syria, and significant threats to Israeli security,” and he observed that “current threat reporting indicates Iran engages in preparations for further malign activities throughout the Middle East region, including potential targeting of U.S. and allied military forces in the region.” While the law requires the Department of State to

notify Congress, Members of the Committee should understand clearly that the intended audience of this notification extends beyond Congress or even Iran.

As the 2017 National Security Strategy makes clear, we are in an era of global competition against near-peer adversaries, including Russia and China. That competition includes security and defensive relationships that have political, military, and economic ramifications. In such an environment it is crucial that the United States remain the partner of choice and be trusted as a dependable provider of defense capabilities – including materiel – to our partners.

Our National Security Strategy describes the invaluable advantages that our strong relationships with allies and partners deliver. While the United States continues to build and offer our partners with the most capable, advanced, defense technologies, we do not have a monopoly on fostering or maintaining reliable security relationships.

The National Security Strategy makes clear that the United States must compete for positive relationships around the world as China and Russia target their investments in the developing world to expand influence and gain competitive advantages against the United States.

Our adversaries, including Russia and China, have adopted deliberate, long-term strategies of trying to disrupt our partnerships by seeking to replace the United States as the credible supplier of choice. We simply cannot allow openings that our adversaries will exploit to disrupt partnerships, to reduce our regional influence, to impact our defense industrial base, and to spread chaos.

Remaining a reliable security partner to our allies and friends around the world is also in the interest and furtherance of our values. When our adversaries sell weapons of war, they do not place the same, if any, premium that we do on addressing the risk that the capabilities we

provide may contribute to abuses of human rights or violations of international humanitarian law. China does not work to expand transparency on the battlefield, and there is no Russian Conventional Arms Transfer Policy that requires action to facilitate partner efforts to reduce civilian casualties, which is a policy we have had in place since 2018.

When President Trump issued the updated Conventional Arms Transfer Policy in 2018, a centerpiece of the new Policy was its unprecedented directive that we work with partners to reduce the risk of civilian harm in their military operations. We are working on the implementation of that directive to shape future engagements, including with partners in advance of conflict situations.

Before I close, let me address a few other aspects of these sales and the emergency certification that may be of interest to you.

First, the step recently taken by the Secretary to certify an emergency has ample precedent. The statutory authority in the Arms Export Control Act has been exercised three other times in past Administrations, both Republican and Democratic. In two of those cases, it was also for sales to Saudi Arabia due to threats posted by other countries in the region. There is, however, one element of the most recent emergency notification that is new: unlike previous instances this authority has been invoked, Congress was provided with an unclassified Memorandum of Justification by the Department of State.

Second, we value deeply this Committee's and Congress' role more broadly in the review of the arms transfer process. We take pride in the depth and detail of the working relationship the Department – and the Bureau of Political Military Affairs in particular – have with the Committees in the course of this process. As the Secretary made very clear, we intend for this certification to be a one-time event for a discrete set of cases, utilizing statutory authority

provided by Congress. As such, we view the Secretary's action as an affirmation of the value that we continue to place on our engagement with you on arms transfers and broader security assistance issues.

We will continue to use the Tiered Review process, the informal review that this Committee, and its Senate counterpart, conduct of pending arms transfers, before those transfers are formally notified. In fact, since the emergency notification on May 24, 2019, the Department of State has already utilized the tiered review process for a new sale of F-16s to Bulgaria worth more than \$1.6 billion.

Third, none of these sales constitute introductions of fundamentally new capabilities to the region; none fundamentally alter the military balance of power; none are of a nature or category that Congress has not previously reviewed and supported for these partners.

Finally, many Members – indeed, many Americans – are concerned about the end use of the arms we provide overseas, including in the context of the Yemen civil war. These concerns are appropriate and we share them. From the beginning of this conflict we have maintained that a political solution is urgently needed, and supported the UN-led effort working toward that objective. In addition, we have worked with the Saudi-led Coalition over the course of its operations to reduce the occurrence of civilian casualties.

Our support in this regard has included the provision of training on targeting and the supply of more precise munitions, to mentoring and advising the Coalition on best practices to reduce civilian casualties – such as the standing up and operationalization of the Saudi Joint Incident Assessment Team – to training on international humanitarian law, and direct engagement with political leadership on this topic. While more work is undoubtedly needed, our

engagement with the Coalition has improved its ability to avoid civilian casualties in its operations.

So that is the global, steady-state picture: the need to remain engaged with partners; to ensure we, rather than near-peer adversaries, are their primary security partners; to make clear that we support our partners in the defense of their realms and the security of the regions; and to deter our shared adversaries from disrupting those objectives. Or, as Ambassador Armacost put it to Congress all those years ago,

"Our decisions were a prudent yet clear response to an escalating emergency which threatens Saudi Arabia" (and the Gulf). "They satisfied a clear military need. In addition... we sent a political signal of both reassurance and deterrence. It was a measured response which promotes regional stability and security."

Mr. Chairman, Mr. Ranking Member, Committee Members: Those were the purposes for which President Reagan certified an emergency in 1984; and, within the context of the imminent threat posed by Iran, they are the purposes for which Secretary Pompeo invoked the same authority two weeks ago.

Thank you, and I look forward to your questions.

Chairman ENGEL. I thank you for your testimony.

I will now recognize members for 5 minutes each. All time yielded is for the purposes of questioning our witness. And I will start by recognizing myself.

Look, Mr. Secretary, Saudi Arabia is an ally and they have legitimate security concerns. And Iran is not an ally and they are the leading state-sponsor of terrorism and have all kinds of maligned intentions. But it is not an excuse to cut Congress out of the picture. It is not an excuse to say we know better and, therefore, Congress is superfluous or irrelevant. It is really, really a bad policy to act like that.

The Houthis are bad. They threatened Saudi Arabia and civilians but it does not mean we give the Saudis a blank check. It does not mean that we look the other way when they drop bombs on children in school buses. And I think there has to be some responsibility here, and I just do not understand the Administration's decision to totally cut Congress out of the process when we have a process that works. And I really just hope this does not happen again.

The State Department has cited an increase in Iranian threats as a major justification for invoking the Arms Export Control Act emergency power provisions. I have long believed, again as I said, that Iran remains the greatest threat to the region but this appears to be a convenient excuse, a convenient way to get these weapon sales out the door without consulting Congress.

So let's discuss the timing of these sales. When was the decision made to move forward with these sales under emergency authority? Was it before May 4th, when the White House announced the deployment of the carrier strike group to the Gulf?

The New York Times reported last night that this decision was made in the spring, saying that, quote, "Mr. Pompeo told State Department officials to find a way to push through the arms sales", unquote. So which came first, the arms sales or the threat? Defense Secretary Shanahan indicated that Iranian threat had diminished. Does this mean the emergency no longer exists?

So I understand that some of these items on the emergency list will take months, if not a year or more to produce. So let me ask you this: What kind of emergency responds in months or years to circumstances you claim exist right now? And if the Iran threat were to be reduced in some way, would you move ahead with these transfers?

These are all very important questions. I hope you can summarize them because it really makes me more dubious in fact believing that the Administration, for some reason, has decided not to partner with the Congress in these important issues. And I really think that in the future the Administration should change its attitude and work with Congress, working with the American people. We are all here to serve the same country, and the same people, and we should not be cut out of the process and treated like enemies.

So if I could get a comment on anything I have said.

Mr. COOPER. Thank you, Mr. Chairman. I will start with the partnering with Congress and our communications.

Yes, as I stated in my testimony, we value that engagement and want to return, and we have returned to the normal consultative process on arms transfers and sales. This is an emergency. This was a one-time event, as the Secretary stated. And I would note that the sales that were included in the emergency declaration certification had been through the consultative process and review with Congress.

There is nothing new in those 22 sales, which does lead to your point about the release of those. On the DCS or direct commercial sales side of it, yes, there are immediacy of receipt of shipment in that sense. But as to an emergency on timing, yes, the protracted process did contribute to the conditions that necessitated an emergency.

So in some of these cases, you are right, there is going to be a tail or a logistical latency on them. That tail or logistical latency has been built in because of the protracted process. But again, consultation, review period with Congress, that is desirous for all parties; for not only the legislative branch but for the executive branch. It makes our transfer stronger. It actually provides accountability to the partners that are in the receipt of that.

As for the timing of the emergency declaration, similar to the timing of the release on imposition of sanctions, the emergency declaration or that certification is in the Secretary's toolkit. It is a tool of diplomatic deterrence or prudential diplomatic deterrence. To say that it was preconceived is like saying that we are predetermining sanctions being issued to a particular partner. There are partners right now that we are looking at that we are reviewing potential imposition of sanctions.

In this case, because of the uptick of the threat streams that were being reported, risking not only equities but persons made it more of a priority.

Again, I would be happy to talk more in a closed fora about those threat streams. But talking about timing, timing certainly was of the essence in regards to sending a message. There were three audiences on that message, Mr. Chairman, one being Tehran, sending a message of deterrence to Tehran. The other one, not mutually exclusive, is sending a message to our partners to reassure them that we are with them shoulder-to-shoulder, that we do value their sovereignty, that we do value their role in the greater region that they play to protect our interest and equities.

And then finally, one that has been touched upon here already today, a third audience was our near-peer adversaries. Our national security strategy is very transparent, so transparent that our adversaries see it as a way to also communicate in a fashion where they see opportunity. And what we do not want to do is we do not want to create conditions that would provide opportunity for our near-peer adversaries.

So there was a certainly a shared aspect on this declaration, the primary one being, Mr. Chairman, was the immediacy of the threat streams that were coming and know that the threat has not abated.

Chairman ENGEL. Thank you.
Mr. MCCAUL.

Mr. MCCAUL. Thank you, Mr. Chairman. We certainly hope this is a one-time exception. I think there is a process. This emergency was declared. There is an informal notification and a formal notification. Typically, when you start the informal process, it is an opportunity to negotiate and work things out. Usually that takes place within a matter of a month or two. Some of these holds have been in place for over a year. So in some respects, I certainly understand the frustration with the State Department.

Having said that, getting the classified briefing, you know the top Marine general calling on his proxies to prepare for war, and our top commander in the region calling the threat imminent, can you tell me what impact the authorization of these sales by the Secretary have had on these threats?

Mr. COOPER. In an open fora like this, I can tell you that there is a postured response. Again, our emergency declaration is just, I mentioned, it is a tool. It is not the only tool that our Government has. There was citation earlier this morning about our forced posture in the region. That, also, is a tool.

It does not mean that the threat has abated but it sends a very clear message to Tehran. But equally important, we are reassuring our partners that we have not abandoned them or that we have left them to carry the full load of responsibility in the region.

Mr. MCCAUL. And do you think these precision-guided weapons that have been now sent, that certainly would help prevent some of the collateral damage that we are seeing.

Mr. COOPER. Precise targeting, actually, would actually mitigate civilian casualties. It is not just the precision weapons. It also comes with the training.

One thing that Members who have been involved in the informal review process of not just precision-guided weapons but any platform, what makes us a preferred partner, not just in the Gulf region but globally, is we do not just provide a munition. We do not just provide a platform. We provide a partnership. And a partnership comes with that a long tail on training, capacity building, getting our partners to not only have the system but actually operate in a way that we would find it acceptable by our standards, by USG standards.

When I say training, that also is a matter of understanding the application of these things. It includes teaching them about the Law of Armed Conflict. It also helps them better understand what would be considered no-go/go for the targeting process. So it is not just a matter of conveyance of a munition.

Mr. MCCAUL. Now this gets to the emergency issue. Out of these 22 sales—I do not know if you can answer this off the top of your head—but how many were ready to deliver in less than 60 days, or have already been delivered in theater?

Mr. COOPER. Thank you.

I will do a quick little one-on-one. So foreign military sales and when we are doing the letters of offer, there is a process there that can take 20 to 30 days. Direct commercial sales, however, to your point on the immediacy and it is the point that the chairman raised as well, to paraphrase a colloquialism, our DOD colleagues refer to pushing then—pushing munitions is happening now and actually has happened prior to this hearing.

Mr. McCAUL. How many would take over a year or two to deliver?

Mr. COOPER. It depends on if it has not been built or manufactured. But if anything is what is called off-the-shelf, it is already moving.

Mr. McCAUL. And then finally, how many have not even been built yet?

Mr. COOPER. I would have to followup on that in detail.

Part of the difference is if it is a direct commercial sale, we do not have, State Department does not have jurisdiction on a direct commercial sale export. It is on the FMS cases that we have that direct jurisdiction over.

Mr. McCAUL. Well and my last point is that the chairman and I are working on legislation, as we had prior to this announcement, to authorize the sales. We understand the policy of arming the Saudis, and the threat that Iran poses, and the alliance between the Saudis and Israel. And we understand the Houthi proxy in Yemen is a threat to Saudi Arabia, and Israel, and the region, and to the United States.

We just have an issue with the process. And we think consulting with Congress is always the better route. I understand, in this case, there is an emergency. We are continuing our work in good faith on legislation to address future sales. And we hope that we can work with the State Department on this legislation, and I talked to Senator Risch yesterday about this as well, something that I think would be practical common sense that could pass the House, Senate, and be signed into law.

And with that, Mr. Chairman, I yield back.

Chairman ENGEL. Thank you, Mr. McCaul.

Mr. SHERMAN.

Mr. SHERMAN. I do agree with you that the Houthi are evil and supported by Iran. At the same time, you tell us that with more accurate targeting techniques and technology, Saudi Arabia will hit fewer hospitals. That assumes they are not trying to hit hospitals. I hope your assumption is correct.

You tell us that you want to send a message with this to our adversaries—to your adversaries. It appears as if your adversary is Congress and the message is loud and clear. You will stretch every statute beyond its breaking point in order to make Congress irrelevant to the decisionmaking process.

The arms sales you are talking about are controversial. There is significant opposition in Congress. And rather than confront that, you go around it. And so the issue is not what is our foreign policy but whether we protect and defend the Constitution of the United States.

We have heard some criticism from both sides of the aisle on this. The fact of the matter is if Congress were united, we could stop this. We could go right now to those on the floor and demand that the rule be changed, and we make an order and protect an amendment to the Foreign Ops approps bill and the Defense approps bill pending on the floor today, requiring—and we could require that any transfer of weapons to Saudi Arabia or the Emirates get an affirmative vote by Congress. We could, at minimum, just repudiate this phony declaration of emergency.

And so I will yield to any Republican member that wants to join me in that effort.

As you see, Congress is divided. You have defeated your enemy.

Now this declaration of emergency is bogus. A court may very well decide that in a few years. And if this one is not, you can imagine that at some future time, there would be a bogus declaration.

Is there any personal liability that anybody in the executive branch faces if they just decide to ignore the Arms Export Control Act or come up with absurd definitions designed to be adhering to it when a court determine that they had violated? Can you basically do anything you want, as long as you can say it with a straight face, as a practical matter? Or do you face—or do you or anyone else in the Administration face any civil or criminal liability?

Please limit your answer to that question.

Mr. COOPER. Thank you, Congressman Sherman.

So no, the short answer is no. We are in compliance with statute.

Mr. SHERMAN. Well, let's say that in some future decision you were not in compliance with statute because we do not—would you face any liability or can you violate the statute with impunity should you or your successor choose to do so?

Mr. COOPER. I am not aware of anybody, regardless of branch of government, being able to violate statute at will.

Mr. SHERMAN. But what is the outcome if some successor of yours decides to violate the statute?

Mr. COOPER. I am not going to gander that. I am going to focus on what is legal and what is not legal, sir.

Mr. SHERMAN. I would hope that you would get legal advice on this—

Mr. COOPER. Yes.

Mr. SHERMAN [continuing]. Because as extreme as this Administration is, it is quite possible that a court would determine that you folks have gone too far, that you have violated the law, that there is not a good faith emergency, and that those involved are deliberately, intentionally violating the Arms Export Control Act.

Mr. COOPER. Congressman Sherman, this is in compliance with the Arms Export Control Act.

Mr. SHERMAN. You think you are complying. Many of us do not. And who knows what the determination of what some future tribunal or court would be? We have swung very far in the direction of a Presidential power.

So the question here, it appears as if you have determined that the emergency is that Congress will not agree with you.

Mr. COOPER. No, sir.

Mr. SHERMAN. Well, you told us what you wanted to do. We did not approve. And so you declared an emergency.

If Congress had promptly agreed with your plans, would there be an emergency?

Mr. COOPER. Yes. So an emergency are conditions-based—and I am glad you asked that question, Congressman Sherman—the conditions that we have discussed here today and we can discuss further in another fora. Not only were the threat streams emanating from Tehran, there were the conditions of the readiness of our part-

ners, ensuring our partners that we stand with them, and then there were also the conditions of looking at near-peer adversaries looking for opportunistic——

Mr. SHERMAN. Right and so you decided that whatever policy you want to carry out must be carried out and that anything that prevents you from doing it, even for a short time, constitutes an emergency. Please read the Constitution.

I yield back.

Mr. COOPER. Thank you, sir. I have been swearing to support the Constitution for over 20 years in different capacities in my career. And Congress is a partner. We are partners with Congress. We will continue to work with Congress on reviews.

Chairman ENGEL. Thank you, Mr. Sherman.

Mr. PERRY.

Mr. PERRY. Thanks, Mr. Chairman.

Thank you, Secretary Cooper, for being here. If you can generalize, how long have these sales been in the works?

Mr. COOPER. Thank you Congressman. So not each sale but many, there are a number of sales that have gone up to 18 months. So it has been raised here that this is where we get into partners being concerned, not surprising, through engagements not only with Members of Congress but in bilateral discourse, there has been concern about our ability to be standing shoulder-to-shoulder with partners who are carrying a number of equities for us in the region.

Mr. PERRY. And during that 18 months or throughout that 18 months, has Congress been made aware of the Administration's intent to make the sales?

Mr. COOPER. Yes, Congressman. In fact, going back to the process at large, the informal review process includes a lengthy consultation period. I think a number of members already cited the normal turnaround time, depending if it is a NATO or non-NATO partner, it can be anywhere from 20 to 30 days. That is usually when issues may be flagged or identified by the Congress that we are able to address.

Why we have that period of time and why it is done in a fashion that is just between the Department and Congress is because these are issues that need to be resolved inside the USG, inside U.S. Government so we are not exposing our partners to our own internal scrutiny. But normally, it could be up to 30 days. In these cases, we were reaching months, if not close to 2 years.

Mr. PERRY. Eighteen months is a little longer than 30 days. If you know, how long ago did Senator Menendez object?

Mr. COOPER. Again, some of these cases go back to over 18 months.

Mr. PERRY. And is the fact that Senator Menendez objected testimonial, to a certain extent, to the fact that the Administration is complying with the process because, if you were not complying with the process, Senator Menendez would not have had the opportunity to object?

Mr. COOPER. And to that point, we—after the emergency declaration, we returned immediately to that process. So there are cases that are currently under informal review right now before the Con-

gress right after the declaration. So the process has not stopped, essentially.

The declaration was a highlight of 22 particular cases but the process of informal review, tiered review notification never stopped.

Mr. PERRY. Did you, Mr. Secretary Cooper, did you receive a request from this committee to conduct a classified briefing regarding these sales and the particular circumstances surrounding the sales from a threat perspective prior to—that we would have that briefing prior to this hearing?

Mr. COOPER. Congressman, I know that we had offered a classified briefing. The offer still stands. Happy to come to come back either in a closed hearing or in a briefing setting. We were not able to secure one. But again, happy—if there is interest, happy to provide that.

There is threat stream data that is worth noting. There was citation of some of that by Central Command General McKenzie. I think it was cited here but in an open fora, we cannot go there right now.

Mr. PERRY. So you made the offer but did the committee request a classified briefing regarding the actions precipitating the emergency declaration regarding these arms sales prior to this hearing?

Mr. COOPER. No, sir, not that I am aware of.

Mr. PERRY. Would you say that this move is based on new intelligence received regarding Iran in particular?

Mr. COOPER. The short answer is yes. A little bit more to that is that there were evolving threat streams. I think one thing that we cannot is that there is always a persistent threat, as several members have noted that here today, that is not going to abate, not just direct threats but through proxies outside of the region, threats to our equities outside the region. That is not new.

What was new was the particular uptick in the threat posture.

Mr. PERRY. Well, thank you, Secretary Cooper. And I, for one, if I have the authority to do so, I am requesting a classified briefing at your convenience and availability regarding the action precipitating the sales. And if no one else wants to attend, I will be happy to sit down with you myself and do that. So I would like to work that out with your schedule.

I just want to remind all my colleagues that we are here for the United States of America, for the security of the United States of America, and remind my colleagues on the other side of the aisle that when I brought up the fact that the IRGC was driving around in M-1 tanks, American-made M-1 tanks, no one here seemed to have a problem with that during the last administration.

When the last Administration sent pounds of cash to a vowed enemy of the United States, nobody on the other side of the aisle seemed to have a problem with that.

And when the last administration crafted the JCPOA to expressly exclude Congress, nobody on the other side of the aisle seemed to have a problem with that process either.

I yield.

Chairman ENGEL. I just want to quote my dear late mother, who used to tell me two wrongs do not make a right.

Let me call on Mr. Meeks.

Mr. MEEKS. Thank you, Mr. Chairman.

Mr. Secretary, one thing that I think that all Members of Congress do agree upon that Iran is a bad actor, and that Iran has done things, and continues to do things that threatens the region.

One thing that I think some Members also know, maybe not everyone articulates it, that Saudi Arabia also does not have clean hands. And they, too, at times, malign the region. And they too bring some—because when I think about Wahhabism, that is a threat to us. When I think about who were in those planes that—I come from New York—that destructed the World Trade Center, they were Saudi Arabians.

When I think about the tragedy that continues to take place in Yemen, and the killing of innocent people, in that regard, I believe it is our responsibility to also hold them in check. I think that it is important that when you see the killing of an American columnist, that we should say something and do something in that regard.

Now it seems to me that the Administration realizes that also because the Administration—you know I just saw the President yesterday talk about a beautiful letter that he received from Kim Jong-Un. Kim Jong-Un does not—I believe in talking to our adversaries but Kim Jong-Un does not send beautiful letters when we see him killing his own people and starving his own people, as a similar crisis is continuing to take place in Saudi Arabia.

So the concern that Members of Congress have had was about how our partners were using the weapons that they received, and how that was fueling the conflict in Yemen, and creating the worst humanitarian catastrophe possibly in the world. These concerns still have not disappeared. The administration did not come to Congress to ask how to move forward with these sales and did not make any policy changes to assuage our concerns.

The Administration could have sent the sales to Congress under the regular notification period, allowing Congress to disapprove, 30 days to disapprove. Three days prior to the emergency declaration, there was a classified meeting and the Secretary was there. He did not mention at all that there was an emergency situation. Yet, just 3 days later, all of a sudden there was an emergency situation. It seems evident that that was utilized to get around Congress because some in Congress do want to hold everyone accountable for their actions and to make sure that we are setting a standard.

My concern and question when I just look at the number of mortar bombs, 15,000 mortar bombs that may end up in the hands of militants in Yemen and may be used against civilians. So my one question to you is: Why in the world would a regime need 15,000 mortar bombs in the scenario that we are talking about?

Yes, sir.

Mr. COOPER. Thank you, Congressman Meeks. To start with, we will start with the munitions and weapons. As cited in my testimony, we have partners that are under direct threat. They are not just carrying our equities or our water. We just had an attack by the Houthis on a Saudi Arabian civilian international airport. So it is not just a matter of defense. It is a matter of posture in Yemen.

As you noted, the Houthis are Iran-sponsored. So this is not just a matter of a civil war. This is addressing a greater threat.

As to the threat streams, it is ever-evolving. So yes, Congress was briefed on the threats by State, by Defense, and yes, there was a constant assessment process taking place before that briefing, after that briefing; even today, the intelligence community with the executive branch monitors that threat for changes in posture. So it did necessitate the emergency declaration.

And we are with you on accountability. Holding a partner accountable, any partner, does not preclude us from working with a partner. If anything, detaching ourselves from our partner, removing ourselves from our partner puts at risk ensuring that accountability.

So no, having a security cooperation status with a partner does not mean we do not hold them to account on human rights. It does not mean we do not hold them to account on rule of law. And it does not mean that we do not hold them to account on civil society.

Chairman ENGEL. Thank you, Mr. Meeks.

Mr. YOHO.

Mr. YOHO. Thank you, Mr. Chairman.

Secretary Cooper, thank you for being here. And I think the question has been raised about why the Administration took this route versus the normal route and I think that has been covered.

I realize you may not be able to say, and you have already stated that you cannot say much in this setting, and I ask the chairman to hold a classified briefing with this committee, if the chairman would do that, to second what Mr. Perry said, because I think there is confusion. And if we are not united as a government, it shows confusion and weakness to any adversary we may have. And I think the best thing that the Administration can do is work to get all of us onboard of why because I question some of it, too, and I want to support the Administration. But without having a SCIF-type of briefing, what we have over there at the Capitol Visitor Center is not real in-depth. And so I ask the chairman to hold that as soon as possible, so that we can be on the same side of this.

We have certainly learned that when an administration moves past or bypasses Congress, like the Obama Administration did with the JCPOA and passed over a billion dollars to Iran, the consequences of that take a long time to go back and correct. And we do not want to make that mistake.

We have heard reports of arms going into the hands of people we do not want them to. And what guarantees do we have that this equipment will not get into the hands of radical Islamic terrorists like the five or six different ISIS terrorist groups that are in that region?

Mr. COOPER. Thank you, Congressman Yoho.

And yes, I would reaffirm that I would be happy to come back to have a further conversation on the classified setting.

As to the point on the delivery of systems and weapons to coalition partners, this is part of our relationship in a bilateral sense of the advocacy and the credibility of what they are applying, where they are applying it, and who has actual command and control of whatever weapon or system is in place. That is constantly part of the program.

I earlier mentioned that when we provide a munition or an arms transfer, it does not just stop at the transfer. It goes come with a

longer tail, not just on providing capability and sustainment, but also accountability as well. So it is not limited to just provision of a good. There is an accountability aspect there.

This is actually part of the portfolio in my part of the Department is when we actually do followup. In cases, we do precondition future transfers based on their ability to account for munitions or arms.

Mr. YOHO. Let me interrupt there because I have got reports of radical Islamic terrorists having MANPADS that went to Saudi Arabia and now they have them. We need better safeguards.

And I guess a more direct question is what information have you requested from Saudi, and the UAE, and Jordan about how the defense articles transferred as part of these sales will be used, so that we have checks and balances? Because we suffer the consequences of that. If you kill one radical terrorist, 20 get born out of that. And we are the ones that our name is on that ammunition and they know it.

Mr. COOPER. Thank you, Congressman Yoho. It is incumbent upon us from a nonproliferation aspect, a protection, a command and control of those elements, those arms, those munitions.

As to talking about certain aspects of that from a bilateral sense, I would like to save that for when we are together in a non-open fora. But I would like to add that on the MANPADS issue, Members may or may not know that there is an interagency task force on the tracking of, the decommissioning of, knowing where they are in the globe. That interagency task force actually is housed, not only at the Department of State, but it is within my part of the Department. So we do have jurisdiction on that specifically from an interagency standpoint. I am happy to talk about that further.

Mr. YOHO. All right, thank you.

And one more important question. Do these sales threaten Israel's qualitative military edge and has Israel expressed any concerns about these sales?

Mr. COOPER. I can tell that on any sale, not only these sales, every sale, QME is part of the analytical review process. I do not want to talk into detail about our bilateral communications in an open fora but, with every sale, as you mentioned, QME is an assessment factor.

Mr. YOHO. Thank you for your time and your service.

Mr. COOPER. Thank you, sir.

Chairman ENGEL. Thank you, Mr. Yoho. Mr. Sires.

Mr. SIRES. Secretary Cooper, thank you for being here today.

You know following up on the concerns of the transfer of arms, that we make sure it does not wind up in the wrong hands, I think this is why the process of going through Congress and making sure that we are part of it is important. Because at the end of the day, when these arms are found with al-Qaida, like they were in the past, you know they are going to come to us and say well you did not supervise this, you did not keep an eye on this, and we have to answer to the public because they know there is a process by which we approve these arms sales.

So at the end, it just seems like the Administration always likes to bypass Congress. And then I go back to my district and I have to answer why do they think that it is important for them to just

go about doing business without the approval of Congress. One of the most important things in this country is the fact that we have checks and balances.

So you know, let's get with it. Let's go back and tell them that hey, we are part of this country.

And the other issue that I have, are they running out of ammunition? Are they running out of arms, the Saudis, that we have to do this in an emergency?

Mr. COOPER. Thank you, Congressman. As to talking about particular readiness and capacity posture, I do not want to talk about that in open fora. But what I can say in an open fora is that reassurance be provided to not just Saudi Arabia but the other Gulf partners in the emergency declaration was not just the message. There was the material aspect of it. But to particular readiness and capacity issues on any bilateral partner, we would not want to have in open fora.

And I am with you on the relationship with Congress. This is why I emphasized in my testimony the value of having the review process. All these cases have been under congressional review for quite some time. It does not preclude any review of any future cases. And we did, as soon as the one-time declaration was issued by Secretary Pompeo, returned to the normal review consultative process with Congress.

Mr. SIRES. I always get a kick out of these classified briefings because it was supposed to be classified the type of arms that we are selling to the Saudis. I mean I think everybody in the world knows what is going there. So how classified do you do that when everybody seems to have a list of what kind of arms they are getting?

Mr. COOPER. The sale, the transparency aspect is not classified. What is classified is when we talk about any partner's capacity of readiness. We certainly would not want an adversary to know the strengths or weaknesses of any of our partners.

Mr. SIRES. Well, Mr. Secretary, all I can say is keep us informed. It seems to be that this Administration has a habit of just doing things without informing or not even turning information over to the Congress that we need to make our decisions. It seems that we constantly have to go to court. Some of the other committees have to constantly go to court to get information. It is like pulling teeth with this Administration, information that belongs to us so we can make our decision. I know you do not have an answer to that.

Mr. COOPER. Well, I do. All the information, as you mentioned, there is no secret about the cases here because we do operate in a transparent fashion. So the cases have been under congressional review, in some cases, almost 2 years. I do not know how more consultative we can be in that sense. This is what probably contributed to the Secretary's decision point, the primary one being the uptick in the threat streams.

But the process has been in place. We value the process. We are not walking away from the process but in this particular case, an emergency necessitated a declaration to move forward.

Mr. SIRES. And we all get the fact that Iran is a bad actor. And we all understand, at least I understand, how important it is to make sure that Israel is not overpowered by Iran and his minions. So, it is important. Thank you.

Chairman ENGEL. Thank you, Mr. Sires.

Mrs. WAGNER.

Mrs. WAGNER. Thank you, Mr. Chairman.

And thank you, Secretary Cooper, for your time and certainly for your service and also, at the beginning when we were all casually talking, your offer to bring this committee together in a closed and classified setting. So I appreciate that very, very much. And I think it would do much good because I much agree with my friends across the aisle and colleagues on this side of the aisle that oftentimes what happens over at the CVC is inane.

So while I understand the strategic imperative to reassure regional partners standing against an aggressive Iran, I am seeking to better understand the Administration's decision, I think we all are, to sidestep normal processes, especially giving ongoing reports, frankly, of Saudi human rights abuses; very important to me.

Russia remains, sir, the largest arms supplier to the strategically important Asia-Pacific region. How do the pending arms sales to partners in the Middle East effect long-term efforts to convince Asia-Pacific countries to buy American?

Mr. COOPER. Thank you, Congresswoman Wagner. I actually just came back from South Asia and there was some honest, if not difficult, conversations with partners about their current status, their wanting to have a more deep, fulsome relationship with the United States. However, they needed to find ways to off-ramp some legacy requirements or legacy equipping from, say, Russia.

Earlier in this hearing, I referenced in my testimony CAATSA sanctions.

Mrs. WAGNER. Right.

Mr. COOPER. That is a tool. That is a tool that Congress provided the Administration. It is certainly a tool that is available in any of our partnerships. Again, being in an open fora, I do not want to go into detail where we are looking for that to be applied but it is certainly something that having that as a tool factors in our discussions and negotiations bilaterally with our partners.

Mrs. WAGNER. Well I am comforted to know that you were there and that you are having these discussions. And I look forward to perhaps some more detail in that regard.

So if, as you mentioned in your testimony, none of the sales would alter the military balance of power in the region, why are emergency procedures necessary, Mr. Secretary?

Mr. COOPER. Yes, again as noted, these were not new sales. We are not introducing new technology, new capabilities. What made it an emergency was a confluence of these conditions.

So when one looks at the conditions not just on where our partners are or where they assess we are, there was the immediacy of the threat streams emanating from Iran. So the direct threats, not only to our interest, but to our partners as well. Couple that being able to reassure our partners that we are still with them and then also add to the layer, also referred to here earlier, of sending a message to our near-peer adversaries that do not take advantage of the current threat posture in the region; we are standing with our partners.

Mrs. WAGNER. Secretary Cooper, you explained in your testimony that China and Russia are, I believe you called them, secondary

audiences for May's notification. Can you explain how the emergency notification advantages the United States in competition with Russia and China?

Mr. COOPER. Yes, thank you. Russia and China are extremely aggressive in their advocacy for sale, pushing their arms munitions to anybody. They usually do it at a cut price, cut rate. They certainly do not do it in a transparent fashion the way we do it.

It is unique that the United States arms transfer process, by statute and by policy, is done in such a transparent fashion, not only for our accountability to the taxpayer, but also our accountability to a partner who we are investing in.

We also, as I mentioned, have a long what I would say tail of support with our sales that is not replicated by our near-peer adversaries. We provide not just training sustainment; we are with them along the way. And it is important to factor in in that training sustainment, it is inclusive of human rights, Rule of Armed Conflict, making sure that our partners are using these systems in a way that we would find appropriate from our standards.

Sending that message to our near-peer adversaries is to say do not take advantage of a situation in a particular conflict area and by no means think that we are stepping away from a partner who we are working with, who is not only protecting their sovereignty and their region, they are carrying equities on our behalf, on behalf of American national security.

Mrs. WAGNER. Thank you for your time and your service. My time has expired.

Mr. Chairman, I yield back and I look forward to our further discussions.

Chairman ENGEL. Thank you, Mrs. Wagner.

Mr. KEATING.

Mr. KEATING. Thank you, Mr. Chairman.

Thank you for being here, Mr. Cooper, Secretary Cooper, and thank you for your service to the country.

You said earlier that you want to make sure that with actions that the Administration took like this, that you want to make sure the transfer appears stronger. You want to make sure that we are making sure our partnerships are vital. Well what about the partnership with Congress that is required under the constitution? The partnership that is there is at equal level of government. And how can it be perceived as stronger in a statement because of the actions that were taken by the Administration for so-called emergency when, next week, it appears the Senate is going to take 22 resolutions of disapproval and vote against this and it would only take a President's veto to overcome this? And you are here today in front of this committee asking questions that should have been asked and answered before this was done. How is that possibly making our Country look stronger when this action divides our Country, not only internally, but in the eyes of all those allies and not internationally? How can that possibly be stronger?

Mr. COOPER. Thank you, Congressman Keating. Actually, having this hearing is stronger. Our open society, our discourse is a message of strength.

Mr. KEATING. I am sorry. I hate to interrupt. My time is limited here.

But it is not stronger when it happens afterwards. It is not stronger.

Now you have been—you know you are Assistant Secretary of Political-Military Affairs Secretary. So you do have some knowledge of the crafting of this memorandum of justification. Is that correct?

Mr. COOPER. That is correct, sir.

Mr. KEATING. Now is Jared Kushner part of that? Was he at any meeting?

Mr. COOPER. I am not going to talk about anything pre-decisional but what I can tell you—

Mr. KEATING. Why not?

Mr. COOPER [continuing]. This is a Secretary of State policy decision.

Mr. KEATING. Excuse me. Excuse me. You want it both ways. You are not going to talk about anything pre-decision and you are here—you cannot talk about everything after the decision. I mean we are here to ask questions about the pre-decision. So how can you sit here and say you are not going to—just you are dismissing us.

Mr. COOPER. I am not, sir.

Mr. KEATING. You are just saying we are not going to talk about it.

Mr. COOPER. If I may—

Mr. KEATING. Answer this question: Was in any way, indirectly or directly, Jared Kushner involved in any discussions on this? Was he involved when there was the Saudi Summit? Were there discussions about this? Was Jared Kushner, since you are in a position to know, in any way involved in this whatsoever?

Mr. COOPER. Congressman Keating, what I can tell you that I do know is that Mr. Kushner does not have an interagency role in the review of these cases. These cases were done in the interagency process that we discussed earlier.

Mr. KEATING. The cases?

Mr. COOPER. This is the 22 cases in the emergency declaration.

Mr. KEATING. What about the overall issue of providing arms to the Saudis? Was Jared Kushner involved in that? Do not define it so narrowly.

Mr. COOPER. I am not defining it narrowly. I am talking about the emergency declaration that was conditions-based.

Mr. KEATING. Well just please answer my question.

Mr. COOPER. So I can talk to you about the conditions.

Mr. KEATING. No, no, I want you to answer my question. It is pretty simple. You were involved in all of this. Was Jared Kushner involved? How could you not answer that?

Mr. COOPER. Not in the emergency declaration.

Mr. KEATING. No, I am not asking that—in discussions with the Saudis about arms sales?

Mr. COOPER. There are a number—

Mr. KEATING. This was a predicate to that.

Mr. COOPER. Congressman, OK, I see what you are asking.

Mr. KEATING. OK.

Mr. COOPER. On bilateral communications from Ambassador, country team, MIL to MIL relationships, there are a number of lines of communication with our partners, including——

Mr. KEATING. Please answer my question.

Mr. COOPER [continuing]. Saudi Arabia that include a host of government——

Mr. KEATING. Was he involved?

Mr. COOPER. Not in the emergency declaration.

Mr. KEATING. No, answer my question.

Mr. COOPER. I am, sir.

Mr. KEATING. Evidently, you are not answering the question.

Mr. COOPER. So, Congressman——

Mr. KEATING. How is that a tough question?

Mr. COOPER. It is not. Congressman, it is not if I can answer it.

Mr. KEATING. This is a man that is in charge of the Middle East process. He has got a direct line to the Saudi leadership, is well-established. He has discussions all the time with the Saudi rules, himself sometimes in private. So tell me——

Mr. COOPER. Congressman Keating——

Mr. KEATING [continuing]. Why cannot you answer that question?

Mr. COOPER. I am. Congressman Keating——

Mr. KEATING. No you are not.

Mr. COOPER. Congressman Keating, there are multiple lines of communication with our partners in Riyadh, including here in Washington, as well as our embassy with Ambassador Abizaid.

Mr. KEATING. I did not ask you about the multiple lines. Is Jared Kushner——

Mr. COOPER. He would be one of the lines of communication as a government official.

Mr. KEATING. He was involved. Is that a yes?

Mr. COOPER. No, sir, that is not what I am tracking.

Mr. KEATING. I have got 16 seconds. I can see you are not going to answer my question.

Mr. COOPER. So we are talking about an emergency declaration that was a policy decision by the Secretary of State that was based on conditions——

Mr. KEATING. I am sorry, my time is up. I am going to have to yield back. I did not get an answer.

Chairman ENGEL. Thank you, Mr. Keating.

Mr. Curtis.

Mr. CURTIS. Thank you, Mr. Chairman. And I would like to personally express my appreciation to you and the ranking member for holding this hearing.

I also would like to express, like many of my colleagues, frustration that we find ourselves here. I, too often, as a Member of Congress, am reminded of what it was like to raise six children and hear their squabbles and their differences. And not too different than that, I find plenty of blame to go around on all sides.

As a Member of Congress, I think we are frustrated more than we would like with powers that we believe belong to us not being exercised. If I were to put myself in the shoes of the Presidents, I would be very frustrated if my lot was dependent on a dysfunc-

tional Congress who, time after time, could not act together and resolve these problems, as is our responsibility.

I would like to associate myself with the comments of both the chairman and the ranking member, and move just slightly onto a slightly different view of this issue, and talk about what concerns me even more, and that is the situation on the ground for the civilians in Yemen.

And I would like to know, in your opinion, what the U.S. Government is currently doing with Saudi Arabia and UAE to minimize civilian casualties in Yemen, and ensure adherence to the Geneva Convention, and deal with the humanitarian crisis on the ground. In my mind, there is one justification for the United States to be involved in this and that is that we can make it better for Yemen than if we were not involved. I would like to hear your comments on that.

Mr. COOPER. Thank you, Congressman Curtis.

Yes, I will start with no question about the conditions, the deplorable humanitarian conditions, the heartbreaking conditions in Yemen. As stated earlier, we are fully supportive of the United Nations led political process to get resolution, to seek resolution in Yemen.

As to enabling our partners to be better at mitigating not only civilian casualties but mitigating any kind of contact with civilian infrastructure, that comes with training. That is in place. That is in process. There are evidence in elements of improvement that has been reported from the field on that. However, decoupling ourselves from our partners puts at risk a greater risk of further civilian casualties.

So it is not to say that it is going away immediately but the work is there. The commitment is there. Our being tied to our partner, our being committed to our partner helps ensure mitigation of civilian casualty, as well as destruction of civilian property.

Mr. CURTIS. Thank you. I would like to join with my colleagues on two points. One is to thank you for your service. And the other, Mr. Chairman, is to ask for further classified briefing so that we can better understand the conditions here and the type of classified briefing that would allow us to go into much greater detail than we frequently get.

Thank you and I yield my time.

Chairman ENGEL. Thank you, Mr. Curtis. We will talk about another classified briefing. Thank you.

Mr. CICILLINE.

Mr. CICILLINE. Thank you, Mr. Chairman, and thank you for calling this hearing on what is an egregious and legally questionable move by the Administration to transfer weapons to Saudi Arabia and the United Arab Emirates.

Let me be clear. I believe this committee, on a bipartisan basis, is absolutely committed to supporting America's allies. We are committed to defending America from emerging threats and we are committed to our security. But we are also committed to upholding the rule of law, the Constitution, and the respect for human rights.

The administration is trying to abuse the law in order to sell weapons to supposed allies, Saudi Arabia and the UAE. These are countries that are already using American-made weapons in a cam-

campaign in Yemen that has resulted in innocent civilians being targeted and killed. The justification for this appalling action by the Administration is a bogus emergency. The Administration claims that Iran poses such an imminent threat to our allies that emergency assistance is needed for Saudi Arabia and the United Arab Emirates to defend themselves.

This is an administration that has cozied up to Riyadh, sweeping aside gross human rights violations, turning a blind eye to the Saudis taking a buzz saw to Washington Post journalists, and supporting an intervention in Yemen that is causing famine, destruction, and amounting loss of life.

Just because you do not like the process does not mean you get to ignore it. In your opening statement, you noted the importance of them being able to send a political signal with these arms sales. It does send a signal and a message. It is a message that we abandon our principles if you write a big enough check. Congress does not agree and the Constitution does not permit it.

So I am going to begin. We understand—Mr. Cooper, I want to followup on Mr. Keating's question with respect to the role of Jared Kushner in this process. Was Mr. Kushner in any meetings that you attended on this topic of arms sales broadly to Saudi Arabia. That is a yes or a no.

Mr. COOPER. Mr. Cicilline, I will not talk about pre-decisional in this fora—in this fora. But I will tell that from an interagency standpoint on assessment, that is not in his wheelhouse.

Mr. CICILLINE. Mr. Secretary, I have limited time.

Mr. Chairman, I will ask that you direct the witness to answer my question.

Chairman ENGEL. I will direct the witness to answer the question. It is a pretty simple question.

Mr. COOPER. Thank you, Mr. Chairman.

No. The answer is no.

Mr. CICILLINE. OK. We understand Mr. Kushner was involved in the Saudi Summit, where these were promised. Did he try to push to deliver on these promises? That is a yes or a no.

Mr. COOPER. No.

Mr. CICILLINE. Is your testimony that documents will show that Mr. Kushner has no involvement in this whatsoever?

Mr. COOPER. As I said, Mr. Cicilline, there are a number of bilateral lines of communication—

Mr. CICILLINE. Mr. Secretary, with all due respect—

Mr. COOPER. But—

Mr. CICILLINE [continuing]. I am going to repeat the question.

Mr. CICILLINE. Is it your testimony that documents will show that Mr. Kushner had no involvement in this discussion relating to arms sales to Saudi Arabia? That is a yes or a no.

Mr. COOPER. If it is that broad, I cannot attest to that. But what I can attest to is that on any—any of our partners, we have a long deep list of USG officials, be it executive branch or otherwise, including Congress—

Mr. CICILLINE. Mr. Secretary, I understand the process. I am asking you to answer a specific question and you literally are not going to.

Mr. COOPER. I am.

Mr. CICILLINE. Does the Administration, Mr. Secretary, believe Iran is likely to attack Saudi Arabia or the UAE? That is a yes or a no.

Mr. COOPER. I am not going to go into detail on threat posture here but there are threats that are ongoing, that are evolving against our partners, as well as us. We are not going to discuss—I am not going to spill classified in an open hearing.

Mr. CICILLINE. OK. The vast majority of the arms the Administration wants to sell with respect to this transaction are offensive weapons, correct?

Mr. COOPER. It is not limited to that. There is sustainment.

Mr. CICILLINE. I did not say limited. The vast majority are offensive weapons.

Mr. COOPER. There are offensive weapons, there are sustainment packages, there are training packages—

Mr. CICILLINE. But the vast majority are offensive. Is that not correct, sir?

Mr. COOPER. A number of them are offensive.

Mr. CICILLINE. And the Saudi-led Coalition has used American-made offensive weapons to strike civilian targets in Yemen. Is that not correct?

Mr. COOPER. Regrettably, there have been civilian targets that have been hit in the coalition operations.

Mr. CICILLINE. And the emergency request includes equipment that will not be ready, in some cases for months, in some cases for years. Is that not correct?

Mr. COOPER. That is part of the emergency, Congressman, is that there has been a protraction of the process. So what we can get delivered immediately, we can but because of the extended review process, yes, there is an emergency because there has been an extension on that latency of the logistics tail. So there is some—

Mr. CICILLINE. It is hard to understand how an emergency response could take years but—

Mr. COOPER. Those conditions help create the emergency.

Mr. CICILLINE [continuing]. I accept your representation.

Finally, Mr. Secretary, you stated in your testimony, and I am going to quote you, that, and I quote, we review the Secretary's action, in this case, to bypass Congress as an affirmation of the value that we continue to place on our engagement with you on arms transfers and broader security issues, end quote.

Well I have to say, it is a little hard to believe that we are supposed to take your complete disregard for the congressional review process as an indication that you value congressional engagement. This is gaslighting. You are claiming your ignoring this provision is your way of affirming the role Congress plays. That is an absurdity. Can you explain that?

Mr. COOPER. Our communication and our engagement with Congress never abated. There was never a cessation of it at all. So we do value that communication. This emergency was a one-time declaration authorized through statute provided by Congress 40 years ago.

Mr. CICILLINE. And finally, then, Mr. Secretary, final question. Are there any other emergencies on the horizon that will so en-

hance your appreciation of the consultative process that you plan to completely bypass Congress?

Mr. COOPER. I cannot—I do not have a crystal ball or a Magic 8 Ball like some people use as a paperweight on their desk, but I will tell you that we are constantly monitoring threat streams with our colleagues in the intelligence community. I am not going to also opine about particular threats that may or may not be developing, especially in an open fora. Why tip our hats to our adversaries?

So I cannot say that there are not future emergencies that may befall U.S. interests or our national security. That risks—

Mr. CICILLINE. Mr. Secretary, the point of the question was the lack of consultation.

And with that, I yield back, Mr. Chairman.

Chairman ENGEL. Thank you, Mr. Cicilline.

Mr. MAST.

Mr. MAST. Thank you, Chairman.

I would just say I do not like to waste my time and I do not like to ask questions twice, as I do not believe any of my colleagues do. I apologize, Mr. Chairman, I do not know the appropriate procedural request but is there a request that we can make to move into a closed door portion of this hearing, remove individuals of staff that do not have classified clearances or security clearances, and attempt to get the answers that we seek? Is there a procedural motion that I can make to move into that process?

Chairman ENGEL. Yes, Mr. Mast, this is an open hearing but we will schedule those sessions at an appropriate time, classified session.

Mr. MAST. So there is no option right now to ask to move into a portion of this hearing be closed door?

Chairman ENGEL. No, but we will, in the short-term, have another briefing.

Mr. MAST. I thank you for committing to having another briefing in a classified session in that, as I said, I do not like to waste my time and I do not like to ask questions twice.

Chairman ENGEL. I think, if I can just interrupt you for a minute, I think Mr. Secretary Cooper has to leave by about 12:30 was it? So we would not be able to do that now but we will. I promise you, in the future, we will do it.

Mr. MAST. That being the answer, I yield back.

Chairman ENGEL. Thank you, Mr. Mast.

Mr. BERA.

Mr. BERA. Thank you, Mr. Chairman.

Mr. Cooper, you are the Assistant Secretary for Political and Military Affairs, correct?

Mr. COOPER. Yes, Congressman.

Mr. BERA. And PM has responsibility for ensuring the proposed weapon sales comply with the Arms Export Control Act, right?

Mr. COOPER. That is correct.

Mr. BERA. That is the AECA.

Mr. COOPER. Correct.

Mr. BERA. So you would have been aware of both the proposed sales and the legal rationale under the AECA.

Mr. COOPER. Yes, Congressman.

Mr. BERA. And that is why it was you who briefed congressional staff on the emergency declaration on May 24th?

Mr. COOPER. That is correct. The declaration was issued on the 23d.

Mr. BERA. Yes, right.

Mr. COOPER. We did a formal notification and the same day did a briefing.

Mr. BERA. Right, thank you. And in fact, that is why you are here today.

So PM would have been involved in crafting the memorandum justification for the Secretary to explain the exercises of emergency powers under the AECA, right?

Mr. COOPER. Yes, in a broad sense, but we cannot go into details of that crafting.

Mr. BERA. OK but—

Mr. COOPER. But it was the Secretary's decision based on our—

Mr. BERA. But PM would be involved in crafting the justification.

Mr. COOPER. Correct.

Mr. BERA. Great. And that information would be reflected on the clearance page of that document, correct?

Mr. COOPER. Say that one more time.

Mr. BERA. The information of who drafted the justification memo would be reflected on the clearance page of that document, showing both who drafted it and who cleared it.

Mr. COOPER. In a very broad, general sense, that is—you have identified the process.

Mr. BERA. We will expect to get that information to us within the next 48 hours. And we will make sure H and your staff have that request, in terms of who drafted and cleared that document.

Which bureau had the pen on drafting the justification memo?

Mr. COOPER. I am not going to go into internal processes. What I can share in an open fora is that all these cases leading up to the declaration fulfilled interagencies—

Mr. BERA. Just I am asking which bureau had the pen drafting the justification memo. That is not classified.

Mr. COOPER. There was an interagency process for all these cases that contributed to the declaration but—

Mr. BERA. That information would be reflected on the clearance page of that document, showing both, again, who drafted it and who cleared it. And again, we will expect to get that information to us within the next 48 hours and we will make sure H and your staff get that request in writing today.

Was Marik String involved?

Mr. COOPER. Are you referring to our legal advisor?

Mr. BERA. Well, at the time of the drafting, was Marik String—at that time he was Deputy Assistant Secretary of State.

Mr. COOPER. Again, Congressman, I am not going to talk about individuals in the Department in the interagency—

Mr. BERA. But he worked for you at that time.

Mr. COOPER. There are—well, there are—

Mr. BERA. On May 23d.

Mr. COOPER. There are hundreds of people in our bureau but—

Mr. BERA. But on May 23d, he worked for you. Was he a lawyer in your Department during that time?

Mr. COOPER. He is a lawyer in our Department.

Mr. BERA. Was he a lawyer at that time? My understanding is that was not his position. What position does Mr. String hold now?

Mr. COOPER. Mr. String is our legal advisor.

Mr. BERA. Right. So he is legal advisor to the Department of State. He is the top lawyer at the State Department and he is in an acting capacity. When was that transition announced?

Mr. COOPER. I do not remember but I could tell you that he is not the only lawyer in the Department. He is—

Mr. BERA. He is the top lawyer in the Department.

Mr. COOPER. That is correct. That is correct but he is one person.

Mr. BERA. That transition, my understanding, was announced May 24th per an email from the L front office around 3:30 p.m.

So on the very day that this emergency declaration was sent to the Hill, according to public records, you know this is when he got this promotion to be the top lawyer.

According to public records, Mr. String was first admitted to the bar in 2013. And of course, when he was at PM, he was not there acting as a lawyer. So he has only practiced law for 4 years or so. And as far as we can tell, none of that was in international law, which is central to what the legal advisor does.

Do you know of otherwise?

Mr. COOPER. I go back to that the L Bureau is a pretty robust bureau with—

Mr. BERA. But he is the top lawyer at the State Department.

Mr. COOPER [continuing]. There are lawyers, paralegals, just like we say, analysts.

Mr. BERA. He is the top lawyer at the State Department.

Mr. COOPER. That is correct.

Mr. BERA. The website for the Office of Legal Advisors says they typically hire about 15 people for every 1,000 applicants, which is something just over 1 percent for an entry level position, not for the top lawyer.

Was Mr. String promoted to this position because of his work on the Gulf arms sales?

Mr. COOPER. No.

Mr. BERA. Did his promotion have any connection to work on these Gulf arms sales?

Mr. COOPER. Not that I am aware of. I would say his promotion to that position was based on his merit, his performance, and his ability to do the job.

Mr. BERA. Who would know the justification of that promotion and who can we get that information to us?

Mr. COOPER. I honestly do not know.

Mr. BERA. OK. Well, we will expect to get that information to us within 48 hours as well. And we will make sure H and your staff has that request in writing.

So you had no awareness that Mr. String was going to be promoted.

Mr. COOPER. I am not going to talk about personnel issues here but I could tell you that it is not uncommon for personnel to do transfers within department like any other interagency move.

Mr. BERA. Your testimony is that there is no documents that would show that you were aware of Mr. String's promotion?

Mr. COOPER. Of course I was aware of his promotion.

Mr. BERA. OK, great. We would like to see any documents that suggest your awareness of that promotion.

Chairman ENGEL. The gentleman's time has expired.

Mr. BURCHETT.

Mr. BURCHETT. Thank you, Mr. Chairman and I appreciate your leadership in shepherding us through this minefield. And thank you, sir, for being here.

I am concerned with the Saudi Coalition's disregard for our end use requirements. More specifically, the February reports that the coalition had gifted armored personnel carriers to various third-party militia groups on the ground in Yemen, including al-Qaida-linked groups.

Additionally, I was incredibly disturbed at the Houthis and the Iranians have gotten their hands on American-made MRAPs and are probably busy reverse-engineering them.

What steps are being taken to ensure that none of these weapons end up in our third-party—in third-party hands or even the hands of our enemies, which generally third-parties turn out to be?

Mr. COOPER. Congressman, thank you.

What I can share in this open fora is that with security partnerships, not only—provision of arms munition does not preclude us on accountability and on followup. So in that particular case, on the MRAPs, one of the first things I did in arriving at the Department was to contact bilaterally our partners, the Emiratis. I do not want to go into detail here but I can tell you that there are some requirements that they need to be responsive to on that. And it is not limited to this partner. This would be every partner where we do lay out some conditions that need to be met.

So it is not the first time in the history of the Department where we have approached a partner for not only accountability but also some reconciling points on particular third-party transfers.

Mr. BURCHETT. Yes, sir, I would like to have one of those closed door meetings, although I do not know really what good they do. I left one once early on and I asked my colleague beside me, I said I am going to miss about 30 minutes of it, I guess I can probably catch it on CNN or FOX pretty quickly after I leave here.

Mr. COOPER. I hope not.

Mr. BURCHETT. Yes, well, I am afraid this—anyway.

Are you concerned that this created a precedent where non-Gulf partners may try to use near-peer competition as leverage to extract demands from the United States?

Mr. COOPER. No, sir, and the reason why is because what was the prime predicate to this emergency was the threat streams from Iran.

So again, I want to share that while there were multiple audiences, and there certainly were several conditions contributing to the emergency determination by the Secretary, the primary one was the threat streams from Iran.

Mr. BURCHETT. OK, thank you very much and thank you for being here.

Mr. Chairman, thank you for allowing me always to speak. And I will yield back the remainder of my time.

Chairman ENGEL. Thank you, Mr. Burchett.

Mr. ESPAILLAT.

Mr. ESPAILLAT. Thank you, Mr. Chairman.

We are here today, Mr. Chairman, obviously because President Trump has declared an emergency, has authorized the U.S. sale of arms to Saudi Arabia and the UAE while circumventing Congress. The problem, Mr. Chairman, is that this Administration has been discredited with regards to fabricating emergencies when there are not and ignoring emergency when in fact there are emergency.

Mr. Chairman, I submit to you that this practice by the Administration is very troubling. And as I said, it has a dismal record of fabricating emergencies where there are none and ignoring emergencies when, in fact, there are.

Now let's go to the tape on this one. So there was hundreds and thousands of women, primarily, showing up on our border with little children. Many had characterized that as a humanitarian crisis. So what does this Administration do? It ignores it and tries to build a wall.

So there is a Muslim ban put into practice. I, myself, went to JFK Airport when it did try to stop folks of Muslim faith. The two families that I assisted were both families of members of the Armed Forces of Muslim faith, whose mother and wife were coming into the country and they were detained with the potential of being sent back. So much for a fabricated crisis.

The scientific community says that there is a problem with global warming, that there is an emergency. And yet, this Administration chooses to walk away from the Paris Accord.

And then let's go to now Saudi Arabia, MBS, Khashoggi. We all know the Khashoggi entered the Saudi Embassy in Istanbul on October 2, 2018 at about 1 p.m. and that in fact he was chopped up into little pieces with a buzz saw.

Mr. Secretary, do you feel that Khashoggi is a law-abiding democratic leader? I am sorry, MBS—do you feel that MBS is a law-abiding democratic leader?

Mr. COOPER. To your question on our partners in Riyadh, their system of government is different. They are a partner of ours. They are an important regional security partner.

As you mention Khashoggi, however, it does not preclude us holding those who committed that murder accountable. That is something that the Government is committed to and—

Mr. ESPAILLAT. Is there a problem—

Mr. COOPER [continuing]. I think both Congress and—

Mr. ESPAILLAT. Is there a problem in Saudi Arabia of women's rights?

Mr. COOPER. It is fair to say that we, as a Government, continue to lean on and continue to encourage our partners to validate rule of law, recognize the rights, the human rights of individuals—

Mr. ESPAILLAT. Is there a problem in Saudi Arabia with dissidents being tracked down and disappearing or, perhaps, being tortured and jailed?

Mr. COOPER. Congressman, our security relationship does not preclude our work, our constant and necessary work to get a partner like Saudi Arabia to do better when it comes to human rights in open society—

Mr. ESPAILLAT. So we are dealing with a thug, here. We are dealing a thug here that we are giving arms to.

Do we, as a common practice, sell arms to the Kim regime in North Korea?

Mr. COOPER. Different—different—

Mr. ESPAILLAT. Do we sell arms to Putin in Russia?

Mr. COOPER. That adversary is not the same.

Mr. ESPAILLAT. So we do not sell—

Mr. COOPER. They are not a security partner of ours.

Mr. ESPAILLAT. So we do not sell arms to Putin. We do not sell arms to Kim because they are thugs.

Mr. COOPER. Well, we do not sell arms to adversaries—

Mr. ESPAILLAT. And yet, we are selling arms to MBS?

Mr. COOPER. We do not sell arms to those who are an existential threat to the United States and U.S. interest.

Moscow is a threat. We are addressing a threat in Pyongyang. Riyadh is a security partner of ours. We are working with a security partner. One that does not preclude us from addressing those issues that you enumerated—

Mr. ESPAILLAT. I think—

Mr. COOPER [continuing]. But they are still a security partner.

Mr. ESPAILLAT. Mr. Secretary, I think that having an American citizen go into an Saudi embassy in Istanbul and disappearing is troubling and that MBS has a troubled record with regards to women's right, dissidents in that nation, and that we are dealing with a thug. We are arming a street thug and that we should be ashamed of that. And that this Administration, once again, has fabricated a crisis and has circumvented Congress.

I yield back, Mr. Chairman.

Chairman ENGEL. Thank you, Mr. Espailat.

Mr. LIEU.

Mr. LIEU. Thank you, Mr. Chair. Thank you, Secretary Cooper for being here.

Both the Wall Street Journal and The New York Times have written articles about Charles Faulkner. He was a Deputy Assistant Secretary of State for Legislative Affairs. Prior to that position, he lobbied for a defense contractor that made precision-guided munitions, which form a large part of these weapon sales.

Did you know Mr. Faulkner?

Mr. COOPER. I did not get a chance to meet him. He had departed the Department before I arrived.

Mr. LIEU. Was he involved in these weapon sales that we are talking about?

Mr. COOPER. Not that I am aware of but I never had a chance to meet Mr. Faulkner.

Mr. LIEU. Was he forced to resign?

Mr. COOPER. I am not aware and I cannot also talk about personnel actions.

Mr. LIEU. Did you read The New York Times and Wall Street Journal articles about Charles Faulkner?

Mr. COOPER. I saw one of the articles, I believe.

Mr. LIEU. But is the article accurate?

Mr. COOPER. I do not know. I do not know. I do not think so. I do not know Mr. Faulkner but, again, he had a particular function in the H Bureau but I am not aware of him having a role.

Mr. LIEU. So you are not aware if he was involved in these?

Mr. COOPER. No, sir, I am not.

Mr. LIEU. Could he have had a role in these 22 cases?

Mr. COOPER. Well if one looks at processing with H, so we were talking earlier today about the consultative process on informal review, tier review—

Mr. LIEU. He could have had a role in that process.

Mr. COOPER. He would have on the—absolutely. So the notification process, from an historic nature, based on how old some of these cases were—

Mr. LIEU. Thank you.

Mr. COOPER [continuing]. Based on his time, he would have, especially the ones that were 18 months, nearly 2 years old, he would have been aware of communicating that to Congress on the informal notification.

Mr. LIEU. So part of the weapons would be precision-guided munitions. Behind me is a strike at a civilian funeral in Yemen in 2016. And what happened is Saudi jets came by, dropped very precise precision-guided munitions, killed and injured hundreds of civilians. Then those jets came around again and struck the same place.

As a result, the State Department and other agencies went into a huge agency review process and they realized that precision-guided munitions were making things worse in Yemen because the Saudis were actually intending to hit the targets that they struck. We saw that last year, when the Saudis very precisely struck a school bus, killing over 40 children.

There was a legal memo written the State Department about possible war crimes that the U.S. may be involved in because we were giving weapons to an organization that we knew, a coalition that was committing war crimes. Have you seen that memo?

Mr. COOPER. I am not aware of that memo, Congressman.

Mr. LIEU. In your job, do you have to make sure that weapon sales comply with the Law of Armed Conflict?

Mr. COOPER. We do.

Mr. LIEU. Were you given any advice from State Department lawyers or other lawyers about whether these sales complied with the Law of Armed Conflict?

Mr. COOPER. We do. That is part of the process on the front end. So if we talk about the left side of this, and we are talking about the early stages, we—that part of that review takes place.

Mr. LIEU. Is this written or oral guidance you were given?

Mr. COOPER. Both, in some cases.

Mr. LIEU. All right. Could we see the written guidance you were given as to how these weapon sales comply with the Law of Armed Conflict?

Mr. COOPER. As far as legal analysis or intelligence analysis, I do not think that is in my purview but I note that.

I could tell you that from when we are looking at any case, it is not just a matter of regional political policy dynamics. It does include the legal review that you mentioned. It also includes—

Mr. LIEU. You were given written guidance on the Law of Armed Conflict about these weapon sales.

Mr. COOPER. There is always an ongoing process on any case.

Mr. LIEU. I get it. Were you given any written guidance on the Law of Armed Conflict?

Mr. COOPER. There is going—there would be at some times in these cases—

Mr. LIEU. Either in an open or a classified setting, can we get that written guidance?

Mr. COOPER. I cannot commit to release of internal deliberations. Again, that is not just legal. That is also intelligence, human rights, foreign policy, a number of considerations that go through not only the Department but external to the Department.

Mr. LIEU. So you know that under Law of Conflict in international law, personnel can be liable for war crimes if they give weapons to people they know are going to commit war crimes. So in the case of Charles Taylor, he was prosecuted for war crimes. The U.S. Government actually cited that case in a supplemental governmental filing.

So let me ask you this: Do you agree with that principle that if we sold a whole bunch of weapons to a coalition that we knew was going to commit war crimes that we could also be liable for war crimes, personnel?

Mr. COOPER. Our security partner, our partner in the Gulf—our partners in the Gulf, we are working with them to mitigate civilian casualties.

So as you noted, precision—it is not just precision. I would agree with you on that. It is about process. It is about getting it right, getting it good on mitigating.

So it is not just a matter of precision weapons because that is not enough. It is a matter of targeting integrity. It is also getting a partner up to a standard that we would not only find acceptable in the U.S. but as well as in other fora.

Mr. LIEU. Thank you. And the Republicans in our U.S. Senate is about to pass 22 resolutions blocking these arms sales on a bipartisan basis because those standards have not been met.

I yield back.

Chairman ENGEL. Thank you, Mr. Lieu.

Ms. WILD.

Ms. WILD. Thank you, Mr. Chairman.

Greetings, Secretary Cooper. The administration informed Congress just last week that included in the Administration's emergency authorization for arms is a provision that allows Raytheon Company, a top American defense firm, as you are aware, to team with the Saudis to build high-tech bomb parts in Saudi Arabia.

Previously, the U.S. has guarded such technology and we have seen what has happened in China as American companies were forced to produce key technological parts of wind turbines in Chinese plants. In January 2018, a wind turbine company based in Beijing called Sinovel was found guilty of stealing trade secrets. Specifically, the obtained software developed by the U.S. company, AMSC, to manage the flow of electricity from wind turbines into the electrical grid.

So my question to you is: Can you assess the risk of Saudi Arabia potentially stealing highly sensitive defense information that will be used to build these weapons?

Mr. COOPER. Thank you Congresswoman Wild. And you are correct to observe that when we are working with any partner, be it Saudi Arabia or anybody, that as far as protection of not only trade information but unique technology do need to be protected. It is part of our risk assessment in any transfer of arms, as well as any transfer of tech. This is not just Saudi Arabia. This is all partners.

To your particular question, those are not unique technologies that have not already been introduced into the ecosystem, so to speak, with Saudi Arabia. And another point that was part of the analysis was also how that would impact or not impact our defense industrial base back here at home.

So when we are looking at it from a global supply chain aspect, not new to the region, not new to the partner certainly does not preclude protections or Governors and assessed not an impact on our industrial base as well.

Ms. WILD. OK, let me stop you there.

So is it your testimony that the technology that will be shared is out there in the chain of knowledge and information in this industry?

Mr. COOPER. Specific to Saudi Arabia, it is not a new application but it is not in the open fora, if that is what you are asking.

Ms. WILD. So you are saying it is technology that Saudi Arabia already has that we are sharing with them.

Mr. COOPER. That they have not already been exposed to is probably a better way to put it.

Ms. WILD. Exposed to in what way?

Mr. COOPER. Through our MIL to MIL, our security cooperation status.

Ms. WILD. So is it your testimony there is no new technology that is being shared with the Saudis?

Mr. COOPER. There is technology associated with this manufacturing that is not new.

Ms. WILD. I do not think that is an answer to my question.

Mr. COOPER. OK. All right.

Ms. WILD. My question to you is, very specifically: Is there any new technology being shared with the Saudis as part of this emergency authorization for arms?

Mr. COOPER. In this declaration, I am not aware of there being new technology, not only not new to the partner but also not new as far as what has been presented to Congress.

Ms. WILD. I am not sure that is an answer but let me just move on.

The arms sale notification States that the Saudis and Emiratis will co-produce some of the weapons in the arms sale package, meaning they will co-produce with the United States. That means that this weapons deal will ship American jobs, manufacturing, and technology overseas. At least three of the 22 arms sale licenses would allow a U.S. defense company to shift production of military items to Saudi Arabia and the Emiratis, which will hurt American workers and could cost Americans jobs.

First question: Why is the co-production needed and included in this deal?

Mr. COOPER. The co-production is part of our reassurance of our allies. To your point about the industrial base, we want to make sure that these particular partners not only had that reassurance but to send a message that we do trust them as a partner.

The assessment aspect of it—

Ms. WILD. Wait a second. Wait, wait, wait. We are selling them arms, right?

Mr. COOPER. Right. So this—

Ms. WILD. Why do they need assurance that they can trust us?

Mr. COOPER. This is interoperability. This is also integration. This is a global supply chain. And these are parts that are American-produced. So when we talked about the assessment question on our impact or not impact on our industrial base, that did factor.

This is inclusive of American made components—

Ms. WILD. I understand that.

Mr. COOPER [continuing]. That would be manufactured—

Ms. WILD. I understand it is a co-production process but it seems to me that what we have got is a situation where we are—this arms sale deal and emergency authority is basically shipping American jobs and manufacturing abroad, right?

Mr. COOPER. It is actually a creation of jobs. It is a proliferation of jobs. So you could call it a positive proliferation but it is inclusive of jobs for manufacturing components here that are integrated with those components and manufacturing abroad.

This was something that was part of the assessment and did not see an incursion upon, essentially, our bottom line.

Ms. WILD. And that is the end of justification.

Thank you, I yield back.

Chairman ENGEL. Thank you.

Mr. LEVIN.

Mr. LEVIN. Thank you, Mr. Chairman.

Mr. Secretary, thanks for coming. I know people talked about having a further classified briefing. I would welcome that. However, as a couple of my colleagues have discussed, Secretary Pompeo briefed Members of Congress in a classified setting on May 20th and 21st, yet there was no mention made of a need for the emergency that was announced 3 days later. I know because I was there.

Had there been discussions about an emergency declaration before he briefed us? Had you been involved in any discussions about the need for an emergency declaration before he briefed us?

Mr. COOPER. I could tell you that there is ongoing—

Mr. LEVIN. Was there before—sir, we do not have a lot of time. Yes or no?

Mr. COOPER. So, OK. Congressman Levin, certainly looking at what we call tools, the emergency declaration was certainly in the toolkit, no different than us being—

Mr. LEVIN. But why did not the Secretary say a dang thing about it when he came and briefed us in a classified setting—

Mr. COOPER. I am not going to—

Mr. LEVIN [continuing]. Three days before you announced it?

Mr. COOPER. I am not going to take a guess or gander but I could provide here right now is that you had an emerging, changing posture on the——

Mr. LEVIN. So within 3 days, an emergency was created that required that declaration.

Mr. COOPER. Congressman, yes. Yes.

Mr. LEVIN. So your testimony here is that in those two or three intervening days, an emergency arose that required a declaration.

Mr. COOPER. I would—yes. And I would parallel this to also imposition of sanctions. I mean we have a number of tools in our diplomatic——

Mr. LEVIN. Sir, with all due respect, I just do not think that is credible.

Let me move on. You said here, and I am quoting you as best I can, earlier, holding a partner accountable does not prevent us from working with that partner, quote, unquote. And you referenced human rights, civil society.

In what ways is the United States holding Saudi Arabia accountable for the gruesome murder of the Washington Post journalist, Mr. Khashoggi? How are we holding them accountable?

Mr. COOPER. There has been a line of communication, not only by the Secretary but others, with Riyadh on——

Mr. LEVIN. So we are chit-chatting about it in private.

Mr. COOPER. And there is no question, I do not think there is any question or daylight on the concurrence that his murder was prosecuted in a fashion that needs to be addressed, and needs to be made accountable, and those involved need to be brought to justice.

As to that——

Mr. LEVIN. Was the Crown Prince involved, sir?

Mr. COOPER. I do not know.

Mr. LEVIN. The CIA has concluded that he was.

Has the President of the United States and the Secretary admitted the findings of our intelligence agencies that the Crown Prince ordered the murder of Mr. Khashoggi?

Mr. COOPER. As a 20-year member of the intelligence community, I am not going to talk classified information in here.

I will say, though, that there is no disagreement on anybody in the Administration or on Capitol Hill that Mr. Khashoggi's murder needs to be addressed——

Mr. LEVIN. OK, so——

Mr. COOPER [continuing]. And those who prosecuted the murder need to be brought to justice.

Mr. LEVIN. OK, let me move on. I have limited time. I appreciate your answer.

In what way are we holding Saudi Arabia accountable for the war crimes it has committed by murdering civilians on multiple, multiple occasions in Yemen and for causing a famine in Yemen through the prosecution of this war that we have been actively involved in? In what way are we holding them accountable, besides vetoing congressional resolutions about it?

Mr. COOPER. We are also combating the Houthi threat, which——

Mr. LEVIN. I am not asking about the Houthi threat.

Mr. COOPER. Well, the Houthi treat contributed to the famine.

Mr. LEVIN. Sir, the Houthi threat does not necessitate war crimes.

Mr. COOPER. Houthi's mining grain mines and denying access to food—

Mr. LEVIN. You just want to change the subject.

Mr. COOPER. OK.

Mr. LEVIN. We can have another hearing about Houthi war crimes. I am talking about—you are selling arms to Saudi Arabia and you are making a simplistic black and white thing; this is the good guys, this is the bad guys.

Mr. COOPER. It is not binary. It is not simplistic, Congressman Levin. I think no one here would ever say that this—

Mr. LEVIN. So in what way are we holding Saudi Arabia accountable for the horrific crimes it is committing in Yemen?

Mr. COOPER. Our partnership with this security partner—

Mr. LEVIN. Namely, Saudi Arabia.

Mr. COOPER. Correct, they are—

Mr. LEVIN. You can name them.

Mr. COOPER. They are not the only one but that particular partner in the region, our partnership with Riyadh does—it is incumbent upon us to provide not only the munitions but also the training and the sustainment that goes with it. That is inclusive of our relationship to get them to be a better partner.

Mr. LEVIN. Sir, my time has expired. In the end, we all have to answer for our actions in the same way and I just pray that we take more seriously the horrific reality on the ground in Yemen and change course immediately.

I yield back, Mr. Chairman.

Chairman ENGEL. Thank you. The gentleman yields back.

I am going to call on Ms. Spanberger to ask a question, and Mr. Malinowski to take the chair, and then ask his question after Ms. Spanberger.

Ms. SPANBERGER.

Ms. SPANBERGER. Thank you, Mr. Chair.

Mr. Secretary, thank you for being here today. As followup to my colleague Mr. Levin's comment, I want to give you the opportunity to perhaps correct what it is you said. The statement related to Jamal Khashoggi's murder, a Virginia resident. You said his murder was prosecuted in a fashion that needs to be addressed.

It is my hope that the Department does not think that any State-sponsored murder that happens in a consulate is ever one that is perhaps just discussed related to how it was actually prosecuted. I hope that you will denounce that murder. Would you like to take the opportunity to do that now?

Mr. COOPER. Thank you. We have denounced the murder and, of course, we would never abide by State-sponsored acts like that. So no, we—there is no daylight on that one.

Ms. SPANBERGER. Thank you. Mr. Cooper, in your testimony, you have repeatedly referred to the need to provide our partners in the region with defensive capabilities. In fact you say, specifically, this is not intended to be an escalatory military step and yet, many of the 22 cases are distinctly offensive weapons, including the Paveway precision-guided munitions or smart bombs. We have a picture of that weapon system right here.

Can you explain to me the disconnect to why we are providing offensive and extremely lethal weapons for apparently defensive purposes?

Mr. COOPER. Thank you. So as far as weapons capability, we want to make sure that not only these partners in the region, if they are actually carrying equities for us, that it is not a matter of just their own sovereignty but ensuring that they are providing protection for our equities. So it is not just a matter of saying we want to make sure your sovereignty is protected, they are carrying a weight for us.

As far as the precision aspect, as discussed earlier, it is contributing to what would be considered the improvement or targeting integrity in any realm to ensure that the target is actually the one that is supposed to be hit is hit versus a scattagorical or a less precise target.

Ms. SPANBERGER. OK, so let's talk about that targeting integrity with the next image we have here.

This is actually a school bus that was hit by one of these Paveways. More than 40 children died when this precision-guided weapon hit a school bus. More than 50 people killed, more than 40 of them school children.

So when are talking about the offensive weapons that we deem—that the Department now deems is in an emergency exigent circumstance, one that the Department chooses to circumvent the congressional power, Article I of the Constitution, which gives us the authority to approve weapon sales of these types of weapons to entities that will commit mass atrocities like this, I just want to make sure we are clear on the level of lethality that we are discussing.

And that brings me to a point. You have referred multiple times to a protracted process. And I would remind you, sir, that the protracted process you are bemoaning is, in fact, the constitutional process that we, as Members of Congress, have a responsibility to exercise when we are selling our weapon systems that are this lethal to countries abroad, be they allies or otherwise.

And you have specifically said this is a one-time event, a one-time event. But I would note that there is nothing specified in this statute that says the Department can have this one-time circumvent effort around constitutional authority.

Are you committing to this being a one-time event?

Mr. COOPER. One-time event is conditions-based. But I will tell you if you look at the history and the precedent, this is only the fifth time in 40 years that this has been applied. The first time was in 1979 during the Carter Administration. This is only the fifth time.

So it is, you are right, it is highly unusual. The circumstances are unusual but it is a part of that toolkit for diplomatic deterrence.

Ms. SPANBERGER. So I would also note, having spent time in national security myself, these are not toolkits for diplomatic returns. These are toolkits for more aggressive offensive natures.

And speaking of offensive, the U.S. is supporting the Saudi offensive efforts against the Houthis but where does that lead us? We have talked a lot about Iran. We have talked a lot about the esca-

lation with Iran. We are now supplying these weapons to Saudi Arabia and another—a number of other partners in the Gulf, including fighter jets, precision-guided munitions, anti-tank missiles.

What it is we are preparing for, sir? I did attend that classified briefing as well. There was no clear discussion that some major incident was imminent and, therefore, the need to circumvent Congress. What is it that we are preparing for that we are arming our allies in the region with this many offensive weapons?

Mr. COOPER. On readiness and capability. We can talk further in a closed brief.

I would also say there are some threat streams that are not just directly tied to U.S. interest. I was able to talk about one here today because it was open source. So the attack on the civilians at the International Airport in Saudi Arabia—

Ms. SPANBERGER. That happened today, more than weeks after this emergency declaration was put in place.

Mr. COOPER. Right but I am using that as an example in an open fora. That is not unique.

So we do need to have a further conversation about those types of impacts and capital I impacts. So threat streams definitely are a factor but it is not, when I say streams, it is direct threats to us, the indirect threats to us via proxies in other locations outside the region, and then direct threats to our partners in the region.

Ms. SPANBERGER. And many of my colleagues have raised the issue of this being a general trend that we are seeing out of this Administration to circumvent the responsibility of Congress. And I would like to again note for the record that we also have constitutional responsibility as it relates to any aggressive war-making actions, be it with Iran or anyone else.

So I hope that if the Administration is, indeed, trying to preparing itself for any sort of offensive hostilities, they will begin respecting the Constitution, Article I of the Constitution and come before Congress to make their case.

Thank you. I yield back.

Mr. MALINOWSKI [presiding]. Thank you.

I will recognize myself.

Secretary, you opened your testimony by referring to the last time this happened in 1984 when we shipped a bunch of Stinger missiles to Saudi Arabia to defend against a threat from Iran. Can you tell us what a Stinger missile is?

Mr. COOPER. It is an offensive capability.

Mr. MALINOWSKI. It is a weapon for shooting down aircraft that are attacking you.

Mr. COOPER. Yes.

Mr. MALINOWSKI. It is a defensive weapon.

Mr. COOPER. Yes.

Mr. MALINOWSKI. It was designed to defend Saudi Arabia against potential air attacks from Iran. And at that point, actually, the Department made explicitly the case that the reason these weapons were being provided is that they were available immediately to help the Saudis deal with an imminent threat.

Mr. COOPER. Right.

Mr. MALINOWSKI. We are now talking about precision-guided munitions, Paveways and the like. These are not defensive weapons.

These are weapons designed to enable Saudi Arabia to continue conducting air strikes in Yemen, is that not right?

Mr. COOPER. That is correct but I would go back to the defensive capability issue that you brought up. Our partners, we do provide—there are some defensive systems that we have provided that are anti-aircraft, anti-air artillery, ADA capabilities. However, when one looks at the concentric ring of security, we are not just talking about particular capabilities that are coming or occurring upon sovereign space of our partners. There is addressing the threat streams that are direct to their sovereignty but also in a regional capacity.

So yes, those are offensive capability—

Mr. MALINOWSKI. They are offensive weapons. They are not going to help the Saudis defend against attacks on their shipping or missile attacks on the airport in Riyadh.

You also mentioned, at one point earlier today, that precision weapons are helpful in avoiding civilian casualties in Yemen, which I find that rather strange. They are using precision weapons now, are they not?

Mr. COOPER. That is correct.

Mr. MALINOWSKI. They have been using precision weapons to precisely hit hospitals, schools, bridges, humanitarian targets. These are precision strikes.

So how is the provision of additional PGMs going to help them avoid civilian casualties? Help us there.

Mr. COOPER. No one would deny the tragedy, the heartbreak of the civilian casualties. There is no question about that.

There is room to improve the integrity of the targeting process. It does not preclude us from making sure that our partners, as we are doing, as is reported, to get them to be in a better place to apply precision weapons in a precise manner for targets that are not civilian targets, that are not civilian entities.

Mr. MALINOWSKI. Well, we have been trying to do that for 5 years.

In March, there was a strike by the Saudis, presumably using precision weapons on a Save the Children Hospital in Yemen. That hospital was on a no-strike list that we provided to the Saudis, was it not?

Mr. COOPER. I do not know but it should have been on a no-strike list.

Mr. MALINOWSKI. Well, there you have it and yet, you have testified today, Secretary, that the reason we are doing this is because we need to reassure the Saudis to trust us and they continue, year after year in Yemen, to hit targets that we have specifically asked them not to hit. And our response to that is to blow past congressional objections, to give them these weapons so that they can trust us.

Isn't the issue whether we can trust them?

Mr. COOPER. With any partnership, including Saudi Arabia, there is an ongoing discourse, ongoing engagement. There is work to be done. But to walk away from our partner would make—would exacerbate the situation in Yemen.

Mr. MALINOWSKI. No one is suggesting we walk away.

Mr. COOPER. There were civilian targets that have been victim by Houthi targeting. But to walk away from our partner, would exacerbate the current situation.

Mr. MALINOWSKI. No one is suggesting we walk away.

Let me shift to one last issue. We brought up, several members have brought up the Khashoggi killing. And setting aside the controversial question of who ordered it, did they set out to kill him or kidnap him? Would you say it is fair to assume that the Saudi Government's intention in targeting Khashoggi was to send a message to Saudi exiles in countries like the United States who are critical of the Saudi regime? Is that a fair starting assumption, would you say?

Mr. COOPER. I am not going to assess the assumption but what I can provide is that from a USG standpoint is that we do support dissident voices, wherever they are located, Saudi Arabia or any other partner, that we do not silence civil society; that we actually bolster and support civil society.

Mr. MALINOWSKI. Understood. The reason I asked, are you familiar with Section 6 of the Arms Export Control Act?

Mr. COOPER. If you are referring to 36(c)—are you talking about Section—

Mr. MALINOWSKI. No, Section 6. It says that we—no export licenses may be issued under—

Mr. COOPER. Yes.

Mr. MALINOWSKI [continuing]. This Act with respect to any country determined by the President to be engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States.

Have you looked at this case and others with respect to the application of the Arms Export Control Act?

Mr. COOPER. That is correct. And that was part of the calculus on all these cases when they entered the congressional informal process, the review process, the tier review process. Again, some of these predating the murder of Mr. Khashoggi, some of these actually after the murder of Mr. Khashoggi.

Mr. MALINOWSKI. So you see no pattern of intimidation of individuals in the United States by the Saudis?

Mr. COOPER. Addressing any kind of intimidation by any partner is not precluded from any assessment. That also includes—I think what you are referring to in the statute is inclusive of the human rights report that is issued by every country team and that is also part of the calculus.

Mr. MALINOWSKI. All right. Well, I yield back and recognize Congresswoman Omar.

Ms. OMAR. Thank you, Chairman.

So it is no secret that you know with in line of what my colleague from New York said, Saudi Arabia and the Emirates are brutal regimes. They export brutality. They crush democratic movements abroad, directly and indirectly. I also believe that they have been funders of terrorists. And we have heard reports that they are transferring U.S. weapons to al-Qaida.

I believe that our relationship with them, in its current form, is immoral, but it is not only immoral, it is counterproductive to our national security. I believe trusting them to protect our needs and

protecting us against terroristic threats is like trusting a thief to protect your shop.

This Administration, selling them billions of dollars of weapons, is dangerous and it is outrageous. Doing so is open disregard for the will of Congress and the American people, a slap in the face to our democracy and our values.

Twice in the last 25 years Saudi Arabia and the Emirates have invaded Bahrain to crush democratic uprisings. The Saudis actively supported the Egyptian coup in 2013. In April of this year, the United Nations finally believed they were on the verge of negotiating peace in Libya. This has, instead, collapsed into a civil war. Haftar has waged his bloody campaign with Saudi backing and Emirate weapons.

More recently in Sudan, Hemeti visited MPS in Jeddah. And shortly after that, him and the Janjaweed immediately began murdering democratic protesters by the hundreds.

It is clear that State see Saudi's hand in the crackdown, since David Hale called MBS' brother, Khalid bin Salman, to ask him to use Saudi influence to stop the killings.

This is a disturbing pattern of destabilization and totalitarianism. Backing the Saudi and Emirates is backing war crimes and crimes against humanity; providing them with arms is complicity.

So I ask you: How can we make sure that U.S. weapons do not end up in the hands of the Janjaweed? How can we ensure that U.S. weapons are not being used to murder political protesters in Sudan?

Mr. COOPER. Congresswoman Omar, thank you.

As to our partnerships, and you mentioned Saudi Arabia and the Emirates, and there are some other partners that are either developing or devolving in some cases, all of our partnerships, on a security sense, including some that are economic, are predicated on our interests, on U.S. interest. But that is not new. That is not unique to this Administration, or the previous administration, or back to the time of Washington.

We develop partnerships because of what works best for U.S. interest. It does not preclude us, though from holding partners accountable, not just on human rights, access to civil society, but also holding accountable on protecting our interests. And so when we are either provision of a weapon system, or a capacity, or a certain kind of sustainment, with that comes a relationship. So it is a long-term investment. That is what makes us unique to our adversaries.

Ms. OMAR. But to the question of how can we assure that this partnership can be trusted to protect us from eventually having some of our weapons end up in the hands of terrorists, is my question, and making sure that it does not go into murdering political protesters in Sudan. Because what we have seen is that our weapons have been used to assault schools, bridges, hospitals in places like Yemen. We have seen the Saudis' involvement and their footprint in Libya. We have seen their involvement and footprint in Somalia with al-Shabab.

So what I am asking you is: How can you assure the American people that we are not emboldening them to continue to reign their

terror in destabilizing that region, when we trust them to be a partner in stabilizing it?

Mr. COOPER. Saudi Arabia has been a long-time security partner in the region for almost 40 years. It does not and never has precluded us from accountability on the front end of the process, not just on Saudi arms transfers and security cooperation, security assistance, there is a non-proliferation aspect to it.

And I think an interesting point you brought up is in our assessment and our consideration we do in the interagency is making sure that in a MIL to MIL sense, there is not spillage, so to speak, into law enforcement in that law enforcement entities do not—are not in receipt of systems because MIL to MIL, those relationships are for sovereignty and security, not for the crackdown of civil society, not for the crackdown of their own people.

Ms. OMAR. Secretary Cooper, my time is up. What I will say is I do not believe this is the case of spillage. This is an active engagement. Report after report has shown that this is not an accident. This is a part of what the Saudis and the Emirates are engaged in and I hope that we will reassess our relationship with them in trying to make sure that we are stabilizing that region and that we are continuing to engage in our war against terror.

Mr. MALINOWSKI. Representative Deutch.

Mr. DEUTCH. Thank you, Mr. Chairman.

Secretary Cooper, the Administration has repeatedly asserted that issuing these licenses is essential to deal with an emergency. In fact, you said earlier in our hearing it was a policy decision by the Secretary of State based on an emergency so urgent, so urgent that you cannot even wait for a 30-day congressional review. In fact, the Secretary's determination on May 24th is based on exactly that finding. That was the determination, I would just remind you again, that came 3 days after a classified briefing for the entire House with the Secretary of State, where while it was clearly under consideration, he did not take the time to even mention it to the Congress.

But you have clearly made an assessment that the weapons and ordnates in these licenses are available for delivery very soon, right, if it is an emergency?

Mr. COOPER. Yes, the ones that were direct commercial sales—

Mr. DEUTCH. No, no, no.

Mr. COOPER. OK.

Mr. DEUTCH. But that is a—if it is an emergency to deliver these, you have considered when they could be delivered, right?

Mr. COOPER. It is part of the calculus, right.

Mr. DEUTCH. So you have got to have specific information about when each of these items in these licenses will be available for delivery to the Saudis and Emiratis, right?

Mr. COOPER. Again, part of the calculus.

Mr. DEUTCH. Well, I am just asking if you have done that. You have done that for each of these, right?

Mr. COOPER. Yes, so from not just the Department of State side, from the interagency side. Regardless if there is an emergency status, it is incumbent upon us to—

Mr. DEUTCH. No, I understand.

Mr. COOPER. It is a timing issue, sir.

Mr. DEUTCH. Assistant Secretary, I get it. I get it. I have sat through this whole hearing.

Mr. COOPER. OK.

Mr. DEUTCH. It is a timing issue and it is such an emergency that you could not wait 30 days.

So what I am trying to figure out is, and what I would ask you is, if you could provide the information to the committee here, which we have not had an opportunity to hear from you on, when each of these items is going to be ready for delivery.

Mr. COOPER. I cannot say on specific—on specificity on each one. What I can say is if it is a DCS sale, a direct commercial sale, if it is already off the shelf, it is going. It is moving now.

Mr. DEUTCH. I cannot—

Mr. COOPER. What would not be moving is if it is in a manufacturing line.

Mr. DEUTCH. I get it. I understand.

Mr. COOPER. OK.

Mr. DEUTCH. We all understand that. That is what I am asking you. I do not need you to tell me—

Mr. COOPER. OK.

Mr. DEUTCH. No, no, let me just finish. I do not need you to tell me if it is manufactured, it is going to come later. I want to know if this is an emergency, what is the time line? How long will it take? Not the—I will get to the other ones. I will get to the commercially made ones. How long will it take to manufacture these to produce them for delivery?

Mr. COOPER. To your question, per case—per case, not all cases—

Mr. DEUTCH. Yes.

Mr. COOPER [continuing]. Per case it is conditions based. Part of it is contractually based. So we can talk, based on it is either going to be a few months or longer, which has contributed to the emergency calculus.

Mr. DEUTCH. I got you. So it is a few months or longer for all but the commercial, which I will get to.

Mr. COOPER. That is correct.

Mr. DEUTCH. It is a few months or longer. So it is such an emergency, a few months or longer, for every single one of the other items but there was not 30 days for Congress to review. You understand why that is so difficult for this institution to understand, right?

Mr. COOPER. The review never stopped, Congressman.

Mr. DEUTCH. There was no formal—

Mr. COOPER. The review was currently happening at the time.

Mr. DEUTCH. There was no formal—come on. Assistant Secretary, please do not—you said earlier that the review is ongoing because we know about this. There was no formal 30-day notice, correct?

Mr. COOPER. The informal notification—

Mr. DEUTCH. Correct?

Mr. COOPER. The informal—

Mr. DEUTCH. There was no—there was no formal 30-day notice given.

Mr. COOPER. Congress was in communication with us.

Mr. DEUTCH. Was there a formal 30-day notice given?

Mr. COOPER. The formal—

Mr. DEUTCH. Yes or no? Can you direct him to answer that, Mr. Chairman?

Mr. MALINOWSKI. It is a pretty simple yes or no question.

Mr. DEUTCH. Yes.

Mr. COOPER. Yes, there was formal notification in the form of an emergency declaration by the Secretary of State.

Mr. DEUTCH. That is not what I am asking you and that is the problem that we have with the way this whole thing has been handled.

Let me move on. And you understand that, Assistant Secretary, and I do not appreciate the—I do not appreciate the attempt to try to be clever and simply refuse to answer the question, which is no. Pursuant to law, you have not granted that 30-day notice. You have gone forward with this emergency on a list of items that none of which will be available for at least months, except for the ones I am going to talk about now. And you could not find time to give us the 30-day notice.

Let me talk about the commercial ones. Two and a half—over \$2 billion of precision-guided munitions are available now. Is it typical for those to be manufactured before approval is given by Congress?

Mr. COOPER. There are going to be items that are going to be on the shelf ready for any partner at any time.

Mr. DEUTCH. I want to make sure I understand that. So one company manufactured over \$2 billion of precision-guided munitions just to have on the shelf in case it was decided that perhaps they would be available, someone might have interest in purchasing them. Is that what you are telling us?

Mr. COOPER. There are other weapons systems that are readily available.

Mr. DEUTCH. I understand but with respect to PGMs.

Mr. COOPER. If it is an earlier generation item, it is going to be—

Mr. DEUTCH. I just—I want to know about these \$2 billion in PGMs that are scheduled to be delivered to the Saudis and Emiratis by one company. Were these—you are telling me that that company built these, hoping 1 day to have a buyer, that it was not part of a longer plan. That it was not part of a discussion that the President had when he was in Saudi Arabia 2 years ago; that none of that happened. They just built them and oh, here we come; perhaps we will have a chance to sell them.

Mr. COOPER. I would offer that Saudi Arabia is not the only partner that we work with in security cooperation, security assistance. So that particular item, PGMs, would not be limited to just Saudi Arabia.

Mr. DEUTCH. I understand.

Mr. MALINOWSKI. I have to be ruthless on timing. We have 8 minutes—seven minutes to vote and we still have Mr. Allred. I apologize.

Mr. DEUTCH. We do. I just do not think it is too much to ask whether the Assistant Secretary is telling us that \$2.5 billion, over \$2 billion of precision-guided munitions manufactured to be sold to the Saudis and Emiratis were not actually manufactured for that

purpose and it is a coincidence that they are available now pending this emergency declaration.

Mr. MALINOWSKI. I would say the non-answer does answer the question.

Mr. ALLRED.

Mr. ALLRED. OK. Well, thank you, Mr. Secretary for being here.

Like my colleague, Mr. Levin, I attended the classified briefing on May 21st. And the question that Mr. Levin posed to you that the emergency emerged—you said that an emergency emerged between the classified briefing on May 21st on Iran, and the notification to necessitate the use of an emergency authorities.

When was the decision memo prepared?

Mr. COOPER. Thank you, Congressman Allred.

The decision process certainly developed with the threat streams but what I would offer, as far as having it as a known toolkit, it has always been there. So any Secretary of State knows that they have, as authorized through statute by Congress, that they had this emergency declaration as an option—

Mr. ALLRED. Excuse me. Are you aware of when the memo was prepared?

Mr. COOPER. Yes, the memo was prepared—

Mr. ALLRED. When was that?

Mr. COOPER. It would have been right before we issued the declaration.

Mr. ALLRED. So it was prepared before the briefing on May 21st?

Mr. COOPER. It was prepared and issued at the time of declaration.

Mr. ALLRED. All at once?

Mr. COOPER. But to be fair, to be fair, the ongoing analysis and the monitoring of the threat streams well predates May 21st threat brief, hence, the necessity to have Secretary Pompeo and the Acting Secretary of Defense Shanahan come here and brief Congress. So—

Mr. ALLRED. You know what I do not appreciate is that when Congress assembles and we receive a briefing, that there is an emergency declaration made 3 days later that we were not made aware of. That should have been given to us at that time. That is part of our oversight responsibilities.

So if the memo was prepared before that briefing, which I am going to ask some very directed questions in writing that I hope will be responded to about when that was prepared, I want to know why we were not briefed on that at that time, when we could have asked questions about this.

So do you have an answer to that question? Do you know why Congress was not briefed at the time on May 21st by the Secretary of State, the Acting Secretary of Defense, and the Chairman of the Joint Chiefs of Staff about an emergency declaration that was going to be made 3 days later?

Mr. COOPER. In a broad sense, Congress was briefed on two counts. The first count is before May 21st there was already the ongoing consultative process, not only on these 22 cases relevant to Iran and the emergency declaration, but also any other host of cases that we have before Congress on other partners in other parts of the world. That was already happening anyway.

What was unique, as you noted, was the necessity for the executive branch to come to Congress and update Congress and what had been identified on very specific threat streams that were of concern and direct threats to U.S. interest, U.S. persons, as well as our partners.

Mr. ALLRED. OK. I am going to try and get to the bottom of this because I want to know whether or not Congress was kept in the dark. That is what I want to know. We are the duly elected representatives of the American people and we have a constitutional responsibility to oversee what you are doing in the name of the American people.

And if that decision was reached before we were briefed, I want to know why we were not told about it. And if it was reached after that briefing, then I want to know that as well. I want to know what went into that decisionmaking.

Because to me, this sounds like and it seems like, as many of my colleagues have said, an attempt just basically to circumvent Congress because we did not agree with the decision to sell these arms to Saudi Arabia because of what they are doing in Yemen with these weapons.

The rationale you have given centers around Iran. And I want to ask you, because I have asked some of your colleagues in the Administration, whether or not you accept the United States intelligence assessment by the CIA with high confidence that Mohammed bin Salman ordered Jamal Khashoggi's assassination, whether you, personally, accept that assessment?

Mr. COOPER. I am not going to talk about any intelligence assessments.

Mr. ALLRED. That is not an—

Mr. COOPER. I am not.

Mr. ALLRED. No, I am asking you whether you accept an intelligence assessment—

Mr. ALLRED. I am not. I am not going to talk about any particular assessments, not only on posture, not only on threat, not on any assessment in the I.C. in an open hearing.

Mr. ALLRED. Oh, this is something that cannot be shared with the American people whether or not you accept the CIA's own assessment?

Mr. COOPER. We are talking about assessments.

Mr. ALLRED. OK.

Mr. COOPER. We are not talking about—

Mr. ALLRED. Was the declaration of emergency dependent on a CIA assessment or on an intelligence assessment, broadly speaking?

Mr. COOPER. The emergency declaration absolutely included threat reporting, some of it raw, some of it finished intelligence.

Mr. ALLRED. So do you see the problem here? Do not answer that.

The problem here is that you are willing to accept an assessment here that serves your ends and what you want to do, which is sell arms that the Congress does not want you to sell to an ally. But you are not willing to accept that assessment when it goes to holding that ally responsible for the murder of an American resident, of a journalist.

What happens when the United States of America starts sanctioning murders abroad? What happens to the world order when we do not stand up and say something? When the Russians are able to kill someone in Great Britain, we say something but we will not say something when the Saudis do. This is not who we are and I think that you know that.

Mr. TRONE [presiding]. Thank you.

Secretary Cooper, we have got about 2 minutes left. In your testimony earlier, you said when our adversaries sell weapons of war, they do not place the same, if any, premium that we do in addressing the risk of the capabilities that we provide may contribute to the abuses of human rights or violation of international humanitarian law.

Do you acknowledge the likelihood these weapons would, in fact, contribute to an abuse of human rights or a violation of international law?

Mr. COOPER. Congressman, with all partners, we are committed to mitigate any of those abuses. And when we conduct our inter-agency assessments on any transfer, on any sale, that is calculated in there.

It is also not just a part of statute. It is actually a part of our policy. Our Conventional Arms Transfer policy mandates that we guarantee that we ensure that, as we move forward in the consultative process with Congress, that we are looking at how we mitigate those risks and that we also provide—

Mr. TRONE. What are the guarantees? What guarantees do you have with the Saudis or the Emiratis that these weapons will not be used against civilians in Yemen? What guarantees?

Mr. COOPER. Particular to the Saudis in this partnership is that this comes with not only the receipt of systems, or munitions, or weapons, along with that comes our capacity training, our precision training, our rule of law, our Rule of Armed Conflict training. This is us being coupled with a partner to make them a better partner, not just make them a capable partner, make them a better partner. It is incumbent upon us to do this.

Walking away from a partner increases risk, exposes potential risks for a more difficult, more catastrophic situation.

Mr. TRONE. What type of commitment do we have that they are going to actually do that?

Mr. COOPER. Reportedly, we are getting commitments from the Government that they have acknowledged the room to improve, the room to be a better partner and actually mitigate civilian casualties. There is an acknowledgment—

Mr. TRONE. This is the same guy, the same folks that made the deal that took care of Khashoggi with a bone saw? The same guys that kidnapped the Prime Minister of Lebanon? The same guys that have disappeared hundreds of dissidents who disagree? The same group? That is the same group you made the deal with?

Mr. COOPER. Our relationship with Saudi Arabia is almost four decades old. Our relationship with Saudi Arabia—

Mr. TRONE. Four decades old and going in the wrong direction.

Mr. COOPER. It is a relationship that has long invested and they are carrying our water, and they are carrying our equities on our behalf in a very difficult, fraught region with direct threats to us,

to our persons and our interest. It does not preclude us, though, as you noted, it does not preclude us from working with Saudi Arabia or any other partners to ensure that they have improved their processes, that it is not just about precision, that it is about more dedication and delicacy—

Mr. TRONE. Improvements seem to be going the wrong way. That is my clear inclination and everybody else in this committee. It is not getting better. It is getting worse by the arrogance of the Crown Prince.

We are all done. Thank you for your testimony.

Adjourned.

[Whereupon, at 12:34 p.m., the committee was adjourned.]

APPENDIX

FULL COMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Eliot L. Engel (D-NY), Chairman

June 12, 2019

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs to be held in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at <https://foreignaffairs.house.gov/>):

DATE: Wednesday, June 12, 2019

TIME: 10:00 a.m.

SUBJECT: What Emergency?: Arms Sales and the Administration's Dubious End-Run around Congress

WITNESSES: The Honorable R. Clarke Cooper
Assistant Secretary
Bureau of Political-Military Affairs
U.S. Department of State

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

HOUSE COMMITTEE ON FOREIGN AFFAIRS
FULL COMMITTEE HEARING

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X	Colin Allred, TX
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X	Ann Wagner, MO
X	Brian J. Mast, FL
	Francis Rooney, FL
X	Brian K. Fitzpatrick, PA
X	John Curtis, UT
	Ken Buck, CO
	Ron Wright, TX
	Guy Reschenthaler, PA
X	Tim Burchett, TN
X	Greg Pence, IN
X	Steve Watkins, KS
	Michael Guest, MS

ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD

Statement for the Record from Representative Gerry Connolly
 What Emergency?: Arms Sales and the Administration's Dubious End-Run around Congress
 June 12, 2019

The Trump Administration's May 24 invocation of an emergency waiver to bypass Congressional review of arms sales to the Middle East is more than simply the President's latest genuflection to a morally bankrupt Saudi regime. This maneuver blows apart a longstanding, bipartisan Congressional review process that has ensured diligent consultations on highly sensitive national security matters for more than a decade. The President's cry of wolf to invoke an "emergency" does not pass the smell test, and this Committee must not stand for it.

To begin, there is no emergency. And if there were, we would be in deep trouble because much of this materiel is years away from completed production and delivery. The Trump Administration has warned of new or stronger threats from Iran – which, to be clear, has threatened U.S. and allied national security interests for decades – but failed to provide any evidence in support of its dubious claims. In the Administration's justification to Congress for using the emergency authority, Secretary Pompeo stated that "the rapidly-evolving security situation in the region requires an accelerated delivery of certain capabilities to U.S. partners in the region," and that such transfers "must occur as quickly as possible in order to deter further Iranian adventurism in the Gulf and throughout the Middle East." If there is an emergent threat in that description, then the munitions identified in these arms sales would not be available in time to address it.

Congress is not simply crying a process foul – there are legitimate and well-documented concerns regarding the transfer of these weapons to the proposed recipients. The notification involved the sale of more than \$8 billion worth of weapons, including precision guided munitions, mortar bombs, Javelin Anti-Tank Missiles, and Patriot Guidance Enhanced Missiles, to Saudi Arabia and the United Arab Emirates (UAE). Congress passed a resolution (S.J. Res. 7) directing the President to cease U.S. military support for the Saudi-led coalition's war in Yemen, due in part to heightened concerns over civilian casualties. In September 2018, Secretary Pompeo certified to Congress that the Saudi and Emirati governments were mitigating harm to civilians and civilian infrastructure in Yemen; meanwhile, the Saudi-led coalition has continued conducting attacks killing dozens of civilians at a time, often with U.S.-provided munitions. These concerns about civilian targeting in Yemen, and the Administration's failure to hold accountable those Saudi officials responsible for Jamal Khashoggi's murder, are the basis for Congressional resistance to these sales.

Considering the Administration's exaggerated claims of an emergency, Congress should re-examine the Arms Export Control Act to prevent the President from abusing the emergency authority going forward. According to reports, a former lobbyist for one of the defense contractors named in the sales may have been involved in pressuring the State Department to accelerate the review process and eventually to bypass Congress altogether, despite opposition from all State offices with relevant expertise. This Committee and the State Department's Inspector General must get to the bottom of how this process took place and determine if any wrongdoing occurred.

Congress is a co-equal branch of government with constitutionally defined foreign policymaking and oversight authorities. Congressional involvement in the sale of arms to foreign countries is not a box-checking exercise. President Trump's conjuring of a false emergency to justify the sale of offensive weapons to Gulf countries despite Congressional resistance is a direct challenge to this Committee's authority. Republicans and Democrats alike must oppose this maneuver and stand up for Congress' duty to oversee the sale of arms that threaten U.S. national security interests.

RESPONSES TO QUESTIONS SUBMITTED FOR THE RECORD

**Questions for the Record Submitted to
Assistant Secretary R. Clarke Cooper
Chairman Eliot L. Engel (#1)
House Foreign Affairs Committee
June 12, 2019**

Question:

Assistant Secretary Cooper, please provide details on the exact (or best estimated) timing of deliveries of noticed items/cases included in the May 24th Congressional notification as offered in response to multiple questions from committee members.

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

Please provide an assessment of remaining Saudi and UAE munitions stocks as they relate to the need articulated in the May 24th Congressional notification.

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

Please provide a full description and copies (in a closed/classified setting if necessary) of the legal justification memo behind the May 24th notification and details on the timing and clearance process of said memo as well as which bureaus signed off on issuing these sales via an emergency declaration.

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

Further the above question, did any bureaus object, either informally or formally, or did not support the decision, and if so, which ones? Please answer these same questions for any other agencies that were consulted or participated in your decision-making process regarding these determinations.

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

Please provide details on the readiness and capabilities of countries to receive defense articles mentioned in the May 24th notification given you offered to provide to the committee.

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

Please provide details on any bilateral conversations or correspondence between the U.S. and Saudi as well as U.S. and UAE governments as to how the defense articles will be used and for what purposes.

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

What, if any, demonstrated security threat from Iran to Jordan does this retransfer of 500 Paveway II bombs address? Why does Jordan need these weapons?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

You have stated publicly that one reason for your determination to waive the 30-day congressional review period for these sales was your fear that “near-peer competitors” in arms exports, such as China and Russia, could provide similar arms. You highlighted the possible loss of the sale of precision-guided munitions. In fact, in order for Saudi Arabia or UAE to acquire precision-guided munitions from a U.S. competitor, such as China or Russia, the Department of State would have to give permission for any foreign munitions to be used by either country on U.S.-origin aircraft. Is that accurate? If not, why? If so, would you grant that permission?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

**Questions for the Record Submitted to
Assistant Secretary R. Clarke Cooper
Representative Ted Lieu (#1)
House Foreign Affairs Committee
June 12, 2019**

Question:

What specific criteria were used to determine whether an emergency existed?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

Of the 22 defence articles and services listed in the notification to Congress, which items are expected to be ready for export within 60 days of the notification date?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

Please explain the specific role that State Department lawyers and the Office of the Legal Adviser play in the Department's internal deliberations on the proposed arms sales and invocation of the emergency provision of the Arms Export Control Act, including what type of written guidance or analysis was provided and to whom.

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

Was the Office of the Legal Adviser consulted regarding potential legal liability for the U.S. in transferring arms to the Saudi-led coalition conducting operations in Yemen, including whether the U.S. could be considered a "co-belligerent?"

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

We understand that this emergency declaration, and the sales it would authorize, was shepherded in large part by a political appointee who formerly worked as a Raytheon lobbyist. Assistant Secretary Cooper confirmed at our hearing that Mr. Faulkner “absolutely” could have been involved in these transactions. Under the Administration’s ethics pledge, however, Mr. Faulkner should have been recused from having any involvement in this matter, which would potentially result in Raytheon reaping contracts in excess of \$4 billion. **What role did Mr. Faulkner play with respect to these weapons sales and/or the emergency declaration?**

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

Was Mr. Faulkner’s employment terminated as a result of his involvement in the emergency declaration or arms sale review process?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

When did the Secretary become aware of Mr. Faulkner’s involvement?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

When did Assistant Secretary Mary Elizabeth Taylor or any of her staff become aware of Mr. Faulkner’s involvement, and what actions did she or her staff take in response?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

When did the Office of the Legal Adviser become aware of Mr. Faulkner’s involvement? What actions did Department attorneys take in response?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

**Questions for the Record Submitted to
Assistant Secretary R. Clarke Cooper
Representative Dean Phillips (#1)
House Foreign Affairs Committee
June 12, 2019**

Question:

Mr. Cooper, why is the Administration pursuing the course of action of selling arms to Saudi Arabia and the United Arab Emirates when only 13% of the American public said they want lawmakers to maintain or increase arms sales to the US allies in the conflict?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

Mr. Cooper, what part of the FY2018-2022 Joint Strategic Plan for the Department of State and USAID is supported by selling arms to Saudi Arabia and the United Arab Emirates? Specifically, where can one find selling arms to Saudi Arabia and the United Arab Emirates and fighting a proxy war in Yemen in the "Strategies for Achieving the Objective" under each strategic objective heading?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

**Questions for the Record Submitted to
Assistant Secretary R. Clarke Cooper
Representative Colin Allred (#1)
House Foreign Affairs Committee
June 12, 2019**

Question:

Please list the date on which the decision memo that would establish the need for an emergency declaration under the Arms Export Control Act to move forward on the 22 arms transfers was first discussed.

- Please list the parties involved in these initial discussions.

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

On what date did you first see a draft of the decision memo?

- With whom did you discuss the first draft of the decision memo?
- On what date(s) did you have these discussions?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

Did you personally have, or have knowledge of, any discussion or other communication about the decision memo, with or among, Secretary of State Mike Pompeo, Acting Secretary of Defense Patrick Shanahan, and/or Chairman of the Joint Chiefs of Staff General Joseph Dunford, before the briefing to Congress on May 21st?

- If yes, why wasn't the possibility of an emergency declaration brought up during the May 21st Congressional briefing?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.

Question:

What were the specific threats that increased between May 21st, 2019 and May 23rd 2019 that necessitated an emergency declaration?

- What intelligence was used to make the emergency determination?
- When did these increased threats first come to your attention?
- With whom did you first discuss these increased threats?

Answer:

Assistant Secretary Cooper did not submit a response in time for printing.