

2023 ANNUAL CONFERENCE REPORT: RECOMMENDATIONS and RESOURCES



The Forum on the Arms Trade’s 2023 annual conference was held as three virtual sessions on February 16 and 21, 2023. Over the course of the conference, more than 125 unique individuals participated from 28 countries: Australia, Austria, Canada, Colombia, France, Germany, Greece, India, Israel, Italy, Jamaica, Kenya, Malawi, Morocco, Nepal, Netherlands, Norway, Pakistan, Romania, Sri Lanka, South Korea, Sweden, Switzerland, Taiwan, Turkey, Ukraine, United Kingdom, and the United States.

Sessions of the conference were co-sponsored or hosted by the Center for Civilians in Conflict (CIVIC), the Security Assistance Monitor at the Center for International Policy, Democracy for the Arab World Now (DAWN), Harvard Law School’s International Human Rights Clinic, and the Stimson Center.

The Forum is based at the Arms Control Association, which also serves as the Forum's fiscal sponsor. The Arms Control Association, the Center for Civilians in Conflict, and the Security Assistance Monitor are partners of the Forum. Philanthropic support for events such as these is currently provided by the Carnegie Corporation of New York and Rockefeller Brothers Fund.

www.forumarmstrade.org

February 16: The Changing Arms Trade - Regional Impacts of the War in Ukraine

Panelists:

- **Michael Klare**, Senior Visiting Fellow, Arms Control Association
- **Nancy Okail**, President and CEO, Center for International Policy
- **Pieter Wezeman**, Senior Researcher, Stockholm International Peace Research Institute (SIPRI)
- **Sarah Leah Whitson**, Executive Director, Democracy for the Arab World Now (DAWN)
- **Jeff Abramson**, Senior Fellow, Arms Control Association and Director, Forum on the Arms Trade (moderator)

Video:

Video available at the Forum website ([link](#)) and can also be watched directly at

<https://youtu.be/BlqtKMMDoqI?t=86>



click image to launch video

Assessments, Recommendations and Resources:

Panelists provided the following observations, recommendations, and resources, during and building off of their comments from this event. *The Forum on the Arms Trade does not itself take positions, but does provide a mechanism for the sharing of experts' ideas. Inclusion here does not indicate endorsement or agreement by the Forum, other panelists, or event co-sponsors.*

Pieter Wezeman, Senior Researcher, Stockholm International Peace Research Institute (SIPRI)

Contrasting European Arms Sales to Ukraine and Other Countries

Assessment:

Due to the accelerated demand for arms in Europe, arms transfers will continue to play a greater role in global great power competition. Ukraine has received a large number of weapons over the last year, however, these sales have been transparent and more restrained as opposed to when Europe has sent armaments to many other countries. France has sent a significant number of fighter jets and missiles to India even when the risk of conflict with Pakistan is present. France has not given the type nor the same amount of arms to Ukraine. The UK has supplied arms to Saudi Arabia for years, even though there have been many allegations of violations of International Humanitarian Law by Saudi Arabian armed forces in Yemen and the use of force by Saudi Arabia is widely seen as contributing to the humanitarian

crisis in Yemen. At a broad level, the case of Ukraine does not significantly stray from European existing patterns of supplying weapons to states at war.

Yet, differences do exist. Arms sales to Saudi Arabia, India, or South Korea can often be assumed to be economically motivated, while arms to Ukraine are presented as part of clearly described security policies aimed at containing Russia. The West is outspoken regarding arms supply policies towards Ukraine, whereas in other cases there has been less transparency about the linkage between arms transfers and global or regional security policies. Furthermore, several countries consistently provide detailed and timely updates on their weapons contributions to Ukraine compared to the less detailed and generally only annually published information on arms exports to other countries. Weapons contributions to Ukraine are relatively restrained, and although Europe and the U.S. acted quickly in response to the Russian invasion, they have still refrained from sending long-range missiles or combat aircraft. Only recently have limited numbers of main battle tanks been committed to Ukraine. Clearly, concerns of arms transfers risking leading to a confrontation between states supplying arms to Ukraine and Russia continue to be present.

Recommendations:

- The transparency that several key European states have shown in their arms exports to Ukraine, related to the quantities and types of arms supplied and the objectives of such supplies, could be applied elsewhere. For example, the motives for supplying arms to Saudi Arabia or India, how this is part of a security policy and how it is linked to assessment of the risks to regional security could be explained in the same clear terms as the missives for arms supplies to Ukraine.
- The Russian military has been exposed as much less capable than was previously assumed. It is therefore necessary for policymakers, researchers and civil society to critically evaluate the accelerated and expanded arms procurement that most European countries pursue as a key element in their policies to counter and contain Russia.

Suggested Resources:

- Pieter D. Wezeman, Alexandra Kuimova and Siemon T. Wezeman, "[Trends in International Arms Transfers, 2021](#)," SIPRI, March 2022. Note, updated report to be released in March 2023.
- [SIPRI arms transfers database](#)
- "[Arms Transfers to Ukraine](#)," Forum on the Arms Trade resource page

Sarah Leah Whitson, Executive Director, Democracy for the Arab World Now (DAWN)

Implications of the War in Ukraine and U.S. Support to Middle East Arms

Assessment:

The war in Ukraine has had profound impacts on U.S. policy towards the Middle East, particularly in regard to renewed arms sales to Saudi Arabia and the UAE, two of the United States' most lucrative clients. The U.S. is pursuing the goals of keeping oil prices down and gaining support in the Middle East for its agenda against Russia. This gives Saudi Arabia and the UAE leverage and the ability to push for what their goals are, which are bilateral defense agreements. The Biden administration has pushed for a joint air defense initiative in the region as an alternative to bilateral defense agreements under the rubric of a "Middle East Air Defense Alliance," which notably includes Israel in its framework. This will mean more U.S. arms sales to the countries in the alliance, but also direct and prolonged military support of Saudi Arabia and other participant countries. The Middle East is also seeing integration in drone surveillance efforts and artificial intelligence hubs in Jordan and Bahrain. We should expect to see this strategic framework in the Middle East persist into the future.

Recommendations:

- President Biden has not made clear what the Middle East Air Defense Alliance entails and what it obliges the U.S. to do. Will the U.S. be coming to the defense of Saudi Arabia, a state Biden previously termed a "pariah?" Transparency is essential for the Biden administration going forward.
- The U.S. should halt unprecedented arms dumping in the Middle East to prevent further destabilizing the region.
- The defense industry is benefiting significantly from the war in Ukraine, but the war is not positively impacting U.S. national security interests. As evidenced by the results of the wars in Afghanistan and Iraq, it would be a dangerous mistake for the U.S. military to have a monopoly over strategic decisions made regarding war policy toward Ukraine.
- Only civilian and defense officials who pledge to never work for the defense industry or a foreign government, whether as a lobbyist or a business partner, should be allowed to have control over political, strategic, and policy decisions in Ukraine (or any other foreign policy/military decision making)
- Will the conflict in Ukraine begin to resemble that of Syria: widespread destruction with no end or solution reachable? Congress needs to construct a five- to ten-year plan for what the U.S. wants to see in Ukraine.

Suggested Resources:

- ["The Lobbyist Hall of Shame"](#) and on resources on [aid conditionality](#), DAWN
- Sarah Leah Whitson, ["Unsatisfactory - U.S. support for Saudi Arabia,"](#) in "Assessing Biden's First Two Years" resource, Forum on the Arms Trade, January 20, 2023
- ["Biden Admin's Controversial Arms Sales,"](#) Forum on the Arms Trade resource page
- ["U.S., Gulf Nations Assess Same Threats in Middle East,"](#) U.S. Department of Defense, February 13, 2023
- ["Israel announces regional air defense network with Middle East partners, US,"](#) *Breaking Defense*, June 20th, 2022

Nancy Okail, President and CEO, Center for International Policy

Implications of the War in Ukraine and Middle East Arms (especially exports)

Assessment:

Although it is too early to detect long-term trends due to the war in Ukraine, we could still see indications of how the war impacted arms exports to and from the region, where it created opportunities for some, while representing restrictions for others. The inclusion of new technologies in the conflict has significant implications on arms transfers to and from the region. The U.S. is still the biggest arms exporter to the Middle East, providing three times what Russia supplies. This trend has not greatly changed due to the war in Ukraine. However, Ukraine has still impacted the dynamic between Russia and the Middle East, notably in that Iran has recently agreed with Russia to buy SU-35 fighter jets from Russia. Iran is also exporting a significant quantity of drones to Russia, while Ukraine has been limited recently in its ability to use drones due to restrictions on Starlink satellites.

The war in Ukraine will ultimately always benefit those producing weapons. This is not only true in terms of the quantity sold but also the opportunity to test and adapt technologies through combat experience. Iran is both able to advance its drones' capabilities and more effectively market them to other countries. The war in Ukraine has provided opportunities for exports from the Middle East, mainly from Turkey and Israel, the two major arm exporters in the region. Turkey is providing Bayraktar TB2 drones to the war and to build a manufacturing plant of the TB2 in Ukraine. The war is also encouraging the collective integration of air-defense systems such as Israel's Iron Dome among U.S. partners in the Middle East, this was partly affected by the improved relations of Israel with Arab states, where Israel has been attempting to sell arms to Saudi Arabia. Israel's advanced defense system also found new opportunities in Europe. Most recently, Germany agreed to invest four billion Euros to obtain the Arrow 3 air defense system from Israel.

Recommendations:

- The level of transparency in arms sales to Ukraine is not necessarily indicative of U.S. sales to other countries. Due to the close public attention to Ukraine and the clear objectives present, there is a risk that this would be seen as representative of the U.S. security assistance and arms sales to the rest of the world, which is not the case for other regions. There is still an urgent need to focus on tracking, transparency, and monitoring of U.S. security assistance.
- We must revisit the overall approach to security assistance and arms sales in the Middle East as the U.S. cannot effectively limit weapons to one country without impacting the surrounding region. This is due to realities such as the integration of U.S. air defense among numerous countries in the Middle East. U.S. interests will not be served either by favoring one authoritarian regime over the other in the region.

Suggested Resources:

- Nancy Okail, "[US aid to Egypt and the wider failures of American security assistance](#)," *Responsible Statecraft*, February 11, 2022
- "[Iranian UAVs in Ukraine: A Visual Comparison](#)," Defense Intelligence Agency, October 27, 2022
- "[What Iran's Purchase of Russian Jets Means for Regional Security](#)," The Stimson Center, February 8, 2023
- "[Starlink Limits Ukraine's Maritime Drones At Time Of New Russian Threat](#)," *NavalNews*, February 15, 2023
- "[Germany Snubs Lockheed, Opts for Israeli Air-Defense System](#)," *Bloomberg*, September, 2022
- "Event Resources and Recommendations: [War in Ukraine and Impact on Arms Trade and Human Rights: the Middle East](#)," Forum on the Arms Trade co-sponsored event, August 30, 2022

Michael Klare, Senior Visiting Fellow, Arms Control Association

U.S. Relationship with China and Taiwan

Assessment:

Taiwan is central to the United States' ongoing effort to contain the rise of China in the Asia-Pacific. The U.S. views China as its principal adversary and thus will continue to support Taiwan militarily and work to incorporate it into the U.S. regional defensive network. This support will include counter-intervention armaments, such as anti-ship missiles and air defense weapons, intended to discourage an invasion of Taiwan. The ways Ukraine defends itself, including the weapons used, are being watched closely for lessons. At a larger level, however, the war in Ukraine is seen as a secondary conflict by U.S. policymakers in the geopolitical struggle against China, and arms sales to Ukraine are intended to weaken Russia and subsequently impact China's strength. The recent "Taiwan Enhanced Resilience Act," incorporated into the National Defense Authorization Act for fiscal year 2023 (signed into law on Dec. 23, 2022) will provide \$10 billion in arms sales over the next five years, includes training of Taiwanese troops on the use of these weapons, and could lead to U.S. soldiers being stationed in Taiwan for that ostensible purpose. These actions will further China's perception of U.S.-Taiwan collaboration as a threat and will result in a more stressful relationship between the two countries.

Recommendations:

- President Biden must meet with President Xi Jinping of China as soon as possible to overcome recent divisions between the two countries.
- Diplomacy must be emphasized over military escalation and continued arms sales.
- We must reevaluate the dangerous drift of U.S./China relations and consider how U.S. policies towards Taiwan are making war with China increasingly likely.

Suggested Resources:

- Committee for a Sane U.S.-China Policy, [website](#)
- “[U.S. Arms Sales to Taiwan](#),” Forum on the Arms Trade resource page
- Congressional Research Service, “[Taiwan: Political and Security Issues](#),” Updated January 10, 2023
- Michael Klare, “[Unsatisfactory - U.S. arms sales to Taiwan](#),” in “Assessing Biden's First Two Years” resource, Forum on the Arms Trade, January 20, 2023
- Michael Klare, “[Could the Fight Over Taiwan Trigger Nuclear War?](#)” *The Nation*, October 13, 2022
- [Indo-Pacific Strategy Report](#), White House, February 2022

February 21: US Arms Sales Reform and Oversight in 2023 and Beyond

Panelists:

- **Lora Lumpe**, Chief Executive Officer, Quincy Institute
- **Tess McEnery**, Executive Director, Project on Middle East Democracy
- **Rachel Stohl**, Director, Conventional Defense Program, and Vice President, Stimson Center
- **Ari Tolany**, United States Program Manager, Center for Civilians in Conflict (CIVIC) (moderator)

Video:

Video available at the Forum website ([link](#)) and can also be watched directly at

<https://youtu.be/V30U7sNetRg?t=62>



click image to launch video

Assessments, Recommendations and Resources:

Panelists provided the following observations, recommendations, and resources, during and building off of their comments from this event. *The Forum on the Arms Trade does not itself take positions, but does provide a mechanism for the sharing of experts' ideas. Inclusion here does not indicate endorsement or agreement by the Forum, other panelists, or event co-sponsors.*

Lora Lumpe, Chief Executive Officer, Quincy Institute

Restraint Focused Arms Transfer Policies

Assessment:

U.S. arms sales are rarely value-based. The quest for global dominance often leads to an exchange of arms sales in return for the ability to establish military bases abroad. This allows for the U.S. military to exert force anywhere, at any time, and on short notice. However, there is little evidence to suggest that this contributes to our security. Instead, it is often the case that arms sales actively fuel conflicts across the globe and contribute to prolonging violence and instability. Congress has historically found it impossible to block these arms sales, even when it has the political will to do so. Key legislation reforms to the Arms Export Control Act were included in the National Security Powers Act in the Senate and the National Security Rights and Accountability Act in the House. Currently, Congress only has 30 days to pass a law blocking a proposed arms sale and must gain a two-thirds majority if the law is vetoed by the executive branch. This has never been achieved. The proposed reforms would “flip the script” and require Congress to have to take action for an arms sale to be approved, and only have to remain idle for the sale to be blocked.

Recommendations:

- Institute “flip the script” reforms, requiring Congress to take action on a sale for it to move forward rather than having to pass a law within a limited window of time to prevent the sale.
- Leahy Laws should be more rigorously implemented, requiring that at a minimum the U.S. not provide military aid to foreign units that are believed to have engaged in gross human rights violations.

Resources:

- S.2391 - [National Security Powers Act](#), 117th Congress, 2021-2022 and [press release](#)
- William Hartung, "[Promoting Stability or Fueling Conflict? The Impact of U.S. Arms Sales on National and Global Security](#)," Quincy Institute for Responsible Statecraft, October 20, 2022

Tess McEnery, Executive Director, Project on Middle East Democracy

Unexamined Assumptions on Arms Sales and Security Assistance

Assessment:

Are arms sales in the Middle East with the intention of upholding U.S. national security interests worth sacrificing human rights and democracy? The justification for MENA arms sales is based on three primary assumptions: First, that U.S. sales increase regional security and thus U.S. security as well. However, security assistance has allowed interventions in areas such as Yemen and Libya by Arab states, worsening and prolonging these conflicts. These sales are counterproductive to U.S. security in that by enabling human rights violations and endless

conflict, they foster local resentment which benefits recruitment for terrorist groups. Decades of security assistance has also not significantly increased the ability of U.S. regional allies to defend themselves, nor has it isolated or deterred Iran's aggressions.

Second, U.S. security assistance assumes that we must engage with autocrats in order to provide oil and energy to the American people. Yet, even after recent U.S. defense assistance initiatives, Saudi Arabia has not increased oil production per President Biden's request. Third, these sales act under the assumption that if we don't sell to the Middle East, our partners will turn to Russia and China. However, despite our increased sales, MENA states have still sought security and economic partnerships with these countries. Some MENA states have even aided and abetted Russia's financing of the war in Ukraine, which directly undermines U.S. security interests.

In total, these disproven assumptions demonstrate not only that U.S. arms sales don't provide the regional influence they promise, but are often destabilizing, increase the risk of the U.S. being drawn into conflicts, contribute to human rights violations, and support terrorist recruitment. Democracy and human rights must therefore be treated as vital U.S. national security interests and essential for stability in the Middle East.

Recommendations:

- Because the current model of U.S. arms sales is contrary to national security interests, the Biden administration should attach more stringent human rights and anti-corruption conditions to security assistance.
- There must be robust bureaucratic systems in place to consistently outline and apply such standards for U.S. international arms sales. There should be similarly transparent and accountable standards for all governments engaged in the arms trade.
- We should enhance and improve the training and education of U.S. government employees who focus on security assistance and arms transfers to improve vetting and implementation.
- We must move past the persistent focus on Russia and China when addressing corruption, especially transnational kleptocracy. The U.S. should implement its "Strategy on Countering Corruption" in regards to arms sales and assistance, including improving security sector governance and civilian oversight mechanisms.

Resources:

- Tess McEnery, "[Commentary – Democracy Over Autocracy: The Missing Middle East](#)," Project on Middle East Democracy, November 11, 2022
- Nick Turse, "[Advocates Demand Oversight and Accountability for U.S. Arms Trade](#)," *The Intercept*, February 23, 2023
- "[Toward A More Responsible US Arms Trade Policy: Recommendations for the Biden-Harris Administration](#)," *Just Security*, January 19, 2021
- William Hartung, "[Promoting Stability or Fueling Conflict? The Impact of U.S. Arms Sales on National and Global Security](#)," Quincy Institute for Responsible Statecraft, October 20, 2022

- Andrew Miller and Seth Binder, "[The Case for Arms Embargoes Against Uncooperative Partners](#)," *War on the Rocks*, May 10, 2019
- "[Countering Corruption in Security Cooperation](#)," Remarks, Mira K. Resnick, Deputy Assistant Secretary for Regional Security, Bureau of Political-Military Affairs, U.S. State Department, April 14, 2022
- POMED [newsletters](#) for regional Gulf and country specific updates

Rachel Stohl, Director, Conventional Defense Program, and Vice President, Stimson Center

Improving U.S. Policy

Assessment:

Thus far, a bit underwhelmed at the Biden administration's progress in reforming America's arms transfer, military assistance, and defense cooperation enterprise, in part due to high expectations the administration itself set, both during the campaign and during its early days in office. The continued absence of a revised conventional arms transfers policy, or CAT policy, has been especially disappointing and been used to remain silent on the Arms Trade Treaty for which there is no legal barrier preventing President Biden from rescinding President Trump's letter claiming to "un-sign" the treaty. [Note: the CAT policy was released two days after the event.]

On other arms control issues, the Biden Administration has pursued a middling approach that earns both positive and negative marks for reform. For example, the new anti-personnel landmine policy that rescinded the more permissive directive implemented by the Trump administration is welcome, but it still has not rescinded the carve-out for their use in South Korea, made concrete commitments to destroy America's existing stocks of anti-personnel mines, or laid out a path for the U.S. to join the Mine Ban Treaty. On cluster munitions, the U.S. has remained definingly silent. The administration has made notable progress on some key arms trade issues, but many of these steps have included exceptions and caveats. In the context of a growing U.S. arms trade, the concerns are all the more troubling. Already, foreign military notifications for proposed arms sales grew by more than 127% between 2021 and 2022. With the war in Ukraine catalyzing a global sense of insecurity and rising demand for conventional arms, the odds that the scale of the U.S. role in the global arms trade will grow are high.

Recommendations:

- The Biden administration must be held accountable for the commitments its campaign promised.
- The U.S. government must implement the new CAT policy and make demonstrable how it will impact arms transfers and arms transfer decisions.
- More transparency in the U.S. security cooperation enterprise is necessary, including more detailed reporting and data on its Defense Department-led building partner capacity programs, making arms sales notifications for direct commercial sales public,

and considering some form of reporting on arms sales that fall below mandated threshold notification values.

- The United States should promote international instruments that help ensure a more responsible arms trade such as the Arms Trade Treaty, Mine Ban Treaty, and Convention on Cluster Munitions.
- Make holistic changes to the end-use monitoring regime to build in measures for human rights and civilian protection imperatives, and apply them across a much broader range of arms transfers.

Resources:

- Rachel Stohl and Elias Yousif, "[Over Promising and Under Delivering on Arms Transfer Policies](#)" in "Hits & Strikes From Biden's First Two Years," The Stimson Center, January 23, 2023
 - Rachel Stohl, "[Unsatisfactory: The Arms Trade Treaty](#)" in "Assessing Biden's First Two Years," Forum on the Arms Trade, January 20, 2023
 - [Conventional Arms](#) program and projects, Stimson Center
 - "[Demystifying End-Use Monitoring in U.S. Arms Exports](#)," Security Assistance Monitor, Center for Civilians in Conflict & Stimson Center, September 2021
 - [U.S. Conventional Arms Transfer Policy](#) resource page, Forum on the Arms Trade
-

February 21: Trade and Investment in Weapons, Technology, and Services Used in Repression

Panelists:

- **Colby Goodman**, Senior Researcher, Transparency International Defence and Security
- **Anna Crowe**, Associate Director, International Human Rights Clinic, Harvard Law School
- **Sam Jones**, President, Heartland Initiative
- **Jodi Vittori**, Professor and Co-Chair, Global Politics and Security Program, Georgetown University (moderator)

Video:

Video available at the Forum website ([link](#)) and can also be watched directly at <https://youtu.be/V30U7sNetRg?t=3911>



click image to launch video

Assessments, Recommendations and Resources:

Panelists provided the following observations, recommendations, and resources, during and building off of their comments from this event. *The Forum on the Arms Trade does not itself take positions, but does provide a mechanism for the sharing of experts' ideas. Inclusion here does not indicate endorsement or agreement by the Forum, other panelists, or event co-sponsors.*

Colby Goodman, Senior Researcher, Transparency International Defence and Security

Emerging Concerns for Private Military Security Companies

Assessment:

The war in Ukraine continues to bring private military security companies (PMSCs) into the spotlight. The valuation of the PMSC industry is expected to double in the next ten years, increasing from \$224 billion in 2020 to \$457 billion in 2030. The Wagner Group continues to deploy thousands of operators as a paramilitary arm of the Russian government. The U.S. granted more than 500 waivers for former military officials to work for foreign governments such as the UAE over the last year. Chinese PMSCs are expected to experience the fastest growth going forward due to the Belt and Road Initiative and other priorities.

The distance and deniability that employing PMSCs afford governments makes them all the more appealing. As their operations become widespread, a number of concerning developments have arisen. PMSCs have been accused of being involved in corruption, human rights violations, torture, and surveillance of political dissidents. It appears that some former U.S. military officials have directly supported foreign government military operations. However, the U.S. and other governments do not effectively regulate PMSC activities abroad.

Recommendations:

- The U.S. should more closely regulate PMSC abroad, requiring commercial export licenses for services provided to police and intelligence services and for combat activities.
- The U.S. should institute a more rigorous Department of Defense waiver process, including enhancing corruption risks assessments and strengthening penalties for failing to obtain a waiver.
- The U.S. should support the new United Nations framework on PMSCs, especially the anti-corruption provisions.

Resources:

- Michael Picard and Colby Goodman, "[Hidden Costs: US private military and security companies and the risks of corruption and conflict](#)," Transparency International - Defence and Security, September 8, 2022
- [Open-ended intergovernmental working group on international regulatory framework relating to the activities of private military and security companies](#) and [second draft instrument](#) (October 2022), UN Human Rights Office of the High Commission website

- [Working Group on the use of mercenaries](#), UN Human Rights Office of the High Commission website
- Colby Goodman, "[Holes In The Net: US Arms Export Control Gaps In Combatting Corruption](#)," Transparency International - Defence and Security, 2020

Anna Crowe, Associate Director, International Human Rights Clinic, Harvard Law School

Regulation of Law Enforcement Equipment

Assessment:

Torture and other cruel, inhuman, or degrading treatment ("other ill-treatment") does not have to occur in a dark police cell, but can happen at protests, during forced evictions, traffic stops, or in any public setting. Equipment, weapons, and devices sold to and used by law enforcement ("law enforcement equipment") can enable torture, but the trade in law enforcement equipment is currently upregulated on the international level. Although there are some national and regional controls in the U.S. and EU, for example, the majority of countries do not regulate the trade; there is minimal transparency and no common international standards. There is ample evidence to show that law enforcement equipment is being used for torture and other ill-treatment, and potentially thousands of companies manufacture and sell these products. Law enforcement equipment used for torture and other ill-treatment can be classified into two categories: inherently abusive equipment, which includes thumb cuffs, body-worn electric shock devices, spiked batons, and spiked shields; and all other equipment, such as handcuffs, batons, and riot control agents. (Firearms are not included as they are regulated under the Arms Trade Treaty.) Inherently abusive equipment should be completely banned since it has no practical use other than for the purpose of torture or other ill-treatment. Other equipment should be subject to trade controls supported by risk assessment criteria. To remedy the gap in international regulation, a Torture-Free Trade Treaty should be established. This treaty would not eliminate torture as a practice, but it would further stigmatize this kind of violence and reduce the risk of it occurring.

Recommendations:

- There should be a Torture Free Trade Treaty that prohibits inherently abusive equipment and establishes trade controls coupled with risk assessments for other equipment. This treaty could be effective in laying out norms and reporting mechanisms and would include definable equipment to be regulated.
- Human rights standards should be required for companies that manufacture law enforcement equipment. Inherently abusive equipment can never meet these criteria and thus should never be produced.
- We should work alongside supportive states to build a robust treaty. Companies manufacturing law enforcement have an opportunity to be partners in this process.

Resources:

- "[Essential Elements of a Torture-Free Trade Treaty](#)," - Amnesty International, Harvard Law School's International Human Rights Clinic, Omega Research Foundation, September 2022

- [“Ending the Torture Trade: the path to global controls on the ‘Tools of Torture’,”](#) Amnesty International and Omega Research Foundation, December 2020

Sam Jones, President, Heartland Initiative

Theoretical and Practical Challenges for Investors in the Arms Trade

Assessment:

Socially responsible investors occupy a unique place in the business and human rights community - both an “inside” role as shareholders in companies and an “outside” role because they have their own interests and ethical investment guidelines that guide their business decisions. It is essential to focus on investors since they are key stakeholders and can be potential change agents. In order to work with these shareholders as they engage with or divest from companies who won't meaningfully consider human rights, civil society should conduct research and analysis that provides the legal and normative criteria for excluding certain types of weapons companies. Currently, these criteria are rooted in a Cold War or mid-90's framework, focusing on controversial weapons such as nuclear, biological, and chemical and cluster munitions and landmines, but recently has come to consider other new technologies, such as surveillance and cyber tools along with lethal autonomous weapons. The challenge is how to get investors to conceptualize and modernize their weapons screening in the companies in which they own shares. A way to begin to remedy this issue is to provide investors with the information they need on the fundamental incompatibility of certain modern weapons with international humanitarian and human rights law (e.g., product-based exclusion) and those companies providing weapons to rights-violating regimes (e.g., conduct-based exclusion).

Recommendations:

- Regulation is behind the curve on torture, surveillance, and lethal autonomous technologies. We need regulatory progress for these emerging systems.
- There should be greater coordination between the government and civil society on what constitutes surveillance technology and which ones are incompatible with international humanitarian/human rights law.
- We should work to develop a theoretical framework around types of dual-use technology and other modern weapons that are incompatible with international humanitarian law. Investor policies must then be adapted to make them consistent across the board.
- We should encourage companies to develop better monitoring systems for technologies deployed in conflict zones, “know-your-customer” due diligence processes to identify high-risk individuals/entities, and contractual and operational human rights safeguards for higher-risk situations.

Resources:

- [“Navigating the surveillance technology ecosystem: A human rights due diligence guide for investors,”](#) Access Now, Business & Human Rights Resource Centre & Heartland Initiative, March 9, 2022

- [“Defense Industry Human Rights Due Diligence Guidance,”](#) American Bar Association, July 2022
- [2021 Arms Sales Risk Index](#) - Cato Institute
- [“Loitering munitions preview the autonomous future of warfare,”](#) Brookings, August 2021
- [“Values and Responsibility The Ethical Framework for the Norwegian Government Pension Fund Global,”](#) June 2020