

114TH CONGRESS  
2D SESSION

# S. J. RES. 32

To provide limitations on the transfer of certain United States munitions from the United States to Saudi Arabia.

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IN THE SENATE OF THE UNITED STATES

APRIL 13, 2016

Mr. MURPHY (for himself and Mr. PAUL) introduced the following joint resolution; which was read twice and referred to the Committee on Foreign Relations

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## JOINT RESOLUTION

To provide limitations on the transfer of certain United States munitions from the United States to Saudi Arabia.

Whereas the enduring security partnership between the United States Government and the Government of Saudi Arabia has historically served to preserve the stability of the Arabian Gulf region;

Whereas the United States Government appreciates the Government of Saudi Arabia's participation in the global counter-ISIL coalition;

Whereas the United States Armed Forces provide dedicated personnel and assets to the armed forces of Saudi Arabia to support their military operations in Yemen, including over 700 air-to-air refueling sorties, and to assist with effectiveness and reduction of collateral damage;

Whereas the Department of State has consistently urged all sides of the conflict in Yemen to take all feasible precautions to reduce the risk of harm to civilians and to comply with their obligations under international humanitarian law, which includes minimizing harm to civilians and differentiating between civilian infrastructure and military objectives;

Whereas the Panel of Experts established pursuant to United Nations Security Council Resolution 2140 (2014) reported on January 22, 2016, that the military coalition led by the Government of Saudi Arabia in Yemen “had conducted air strikes targeting civilians and civilian objects, in violation of International Humanitarian Law, including camps for internally displaced persons and refugees; civilian gatherings, including weddings; civilian vehicles, residential areas, medical facilities schools, mosques, markets, factories and food storage warehouses and other essential civilian infrastructure such as the airport in Sanaa, the port in Hudayadah, and domestic transit routes”;

Whereas the Panel of Experts reported on January 22, 2016, that Houthi-Saleh forces in Aden and Ta’izz had “attacked civilians and civilian objects, including by shelling civilian residential areas, medical facilities, schools and other civilian infrastructure and using snipers positioned atop buildings to target people seeking safety, medical care or food”;

Whereas in the course of the conflict in Yemen, the systematic and widespread blockade of commercial goods has directly contributed to the obstruction of deliveries of aid and humanitarian assistance, while restricting vital imports of commercial fuel, food, and other goods;

Whereas, since 2010, the President has submitted for review sales to Saudi Arabia of defense articles and services with a potential value of more than \$100,000,000,000, including a \$1,300,000,000 sale of precision guided air-to-ground munitions that was notified to Congress on November 13, 2015; and

Whereas designated foreign terrorist organizations, including al Qaeda in the Arabian Peninsula and the Islamic State in Iraq and the Levant, which pose a grave threat to the national security of the United States, have significantly expanded the territory under their control in Yemen since the Government of Saudi Arabia began military operations in Yemen on March 26, 2015: Now, therefore, be it

1        *Resolved by the Senate and House of Representatives*  
 2        *of the United States of America in Congress assembled,*  
 3        **SECTION 1. SENSE OF CONGRESS.**

4        It is the sense of Congress that no transfer to Saudi  
 5        Arabia of United States air-to-ground munitions should  
 6        occur until the President certifies that the Government of  
 7        Saudi Arabia—

8                (1) demonstrates an ongoing effort to combat  
 9        the mutual threat our nations face from designated  
 10        foreign terrorist organizations; and

11                (2) takes all feasible precautions to reduce the  
 12        risk of harm to civilians and civilian objects, in com-  
 13        pliance with international humanitarian law, in the  
 14        course of military actions it pursues for the purpose

1 of legitimate self-defense as described in section 4 of  
2 the Arms Export Control Act (22 U.S.C. 2754).

3 **SEC. 2. DEFINITIONS.**

4 In this resolution:

5 (1) AIR-TO-GROUND MUNITIONS.—The term  
6 “air-to-ground” munitions means any United States  
7 bomb or missile designed as a Category IV item on  
8 the United States Munitions List pursuant to sec-  
9 tion 38(a)(1) of the Arms Export Control Act (22  
10 U.S.C. 2778(a)(1)).

11 (2) APPROPRIATE CONGRESSIONAL COMMIT-  
12 TEES.—The term “appropriate congressional com-  
13 mittees” means the Committee on Foreign Rela-  
14 tions, the Committee on Armed Services, and the Se-  
15 lect Committee on Intelligence of the Senate.

16 (3) AUTHORIZED SALE.—The term “authorized  
17 sale” means any sale of United States defense arti-  
18 cles or services authorized pursuant to the Arms Ex-  
19 port Control Act (22 U.S.C. 2751 et seq.).

20 (4) DESIGNATED FOREIGN TERRORIST ORGANI-  
21 ZATIONS.—The term “designated foreign terrorist  
22 organizations” means groups designated by the  
23 United States as foreign terrorist organizations pur-  
24 suant to section 219 of the Immigration and Nation-  
25 ality Act (8 U.S.C. 1189) or Specially Designated

1 Global Terrorists pursuant to Executive Order  
2 13224 (50 U.S.C. 1701 note).

3 (5) PROPOSED SALE.—The term “proposed  
4 sale” means any sale notified to Congress pursuant  
5 to subsection (b) or (c) of section 36 of the Arms  
6 Export Control Act (22 U.S.C. 2776).

7 **SEC. 3. CONDITIONS OF TRANSFER.**

8 (a) LIMITATION.—No transfer to Saudi Arabia of  
9 United States air-to-ground munitions may occur until the  
10 President makes the certification described under section  
11 4.

12 (b) CERTIFICATION AT TIME OF CONGRESSIONAL  
13 NOTIFICATION.—Any notification to Congress made on or  
14 after the date of the enactment of this resolution with re-  
15 spect to a proposed sale to Saudi Arabia of air-to-ground  
16 munitions shall be accompanied by the certification de-  
17 scribed under section 4.

18 **SEC. 4. CONDITIONS REQUIRED PRIOR TO SALE.**

19 The certification described under this section is a cer-  
20 tification by the President to the appropriate congres-  
21 sional committees as follows:

22 (1) The Government of Saudi Arabia is not pro-  
23 viding funding, material support, or lethal aid to in-  
24 dividuals or groups designated by the United States  
25 as foreign terrorist organizations pursuant to section

1 219 of the Immigration and Nationality Act (8  
2 U.S.C. 118a), or Specially Designated Global Ter-  
3 rorists pursuant to Executive Order 13224 (22  
4 U.S.C. 1701 note).

5 (2) The Government of Saudi Arabia and its  
6 coalition partners are taking all feasible precautions  
7 to reduce the risk of harm to civilians and civilian  
8 objects to comply with their obligations under inter-  
9 national humanitarian law, which includes mini-  
10 mizing harm to civilians, discriminating between ci-  
11 vilian objects and military objectives, and exercising  
12 proportional use of force in the course of military ac-  
13 tions it pursues for the purpose of legitimate self-de-  
14 fense as described in section 4 of the Arms Export  
15 Control Act (22 U.S.C. 2754).

16 (3) The Government of Saudi Arabia and its  
17 coalition partners are making demonstrable efforts  
18 to facilitate the flow of critical humanitarian aid and  
19 commercial goods, including commercial fuel and  
20 commodities not subject to sanction or prohibition  
21 under United Nations Security Council Resolution  
22 2216 (2015).

23 (4) The Government of Saudi Arabia is taking  
24 all necessary measures to target designated foreign  
25 terrorist organizations, including al Qaeda in the

1       Arabian Peninsula and affiliates of the Islamic State  
2       of Iraq and the Levant as part of its military oper-  
3       ations in Yemen.

4       **SEC. 5. REPORTING REQUIREMENTS.**

5       (a) REPORTING REQUIREMENTS.—Prior to any  
6 transfer of United States air-to-ground munitions to  
7 Saudi Arabia pursuant to an authorized sale to Saudi Ara-  
8 bia of air-to-ground munitions or the notification to Con-  
9 gress of a proposed sale to Saudi Arabia of air-to-ground  
10 munitions, the President or the President’s designee shall  
11 provide a briefing to the appropriate congressional com-  
12 mittees. The briefing shall include—

13           (1) a description of the nature, content, costs,  
14           and purposes of any United States support for the  
15           Government of Saudi Arabia’s coalition military op-  
16           erations in Yemen on or after March 26, 2015;

17           (2) an assessment of whether the Government  
18           of Saudi Arabia’s military operations in Yemen on  
19           or after March 26, 2015, constitute legitimate self-  
20           defense;

21           (3) an assessment of whether the Government  
22           of Saudi Arabia’s coalition operations have delib-  
23           erately targeted civilian infrastructure in Yemen on  
24           or after March 26, 2015, and whether the armed  
25           forces of the Government of Saudi Arabia and its co-

1 alition partners have taken all possible steps to com-  
2 ply with the rules of distinction, proportionality, and  
3 precautions, as regulated by Additional Protocol I to  
4 the Geneva Conventions of 12 August 1949, and Re-  
5 lating to the Protection of Victims of International  
6 Armed Conflicts, done at Geneva June 8, 1977;

7 (4) an assessment of whether the armed forces  
8 of Saudi Arabia have used United States-origin mu-  
9 nitions in any attacks against civilians or civilian in-  
10 frastructure in Yemen on or after March 26, 2015,  
11 and how that affects the United States credibility in  
12 the region;

13 (5) an assessment of the effect of Saudi Ara-  
14 bia’s military operations in Yemen on its ability to  
15 contribute to United States efforts to defeat al  
16 Qaeda in the Arabian Peninsula and the Islamic  
17 State of Iraq and the Levant; and

18 (6) an assessment on how the transfer of major  
19 defense equipment to Saudi Arabia contributes to  
20 United States foreign policy and national security  
21 objectives in the region.

22 (b) FORM OF BRIEFING.—The briefing required  
23 under subsection (a) shall be conducted in an unclassified  
24 forum but may be conducted in a classified setting as re-  
25 quired.

1 **SEC. 6. SUNSET.**

2       This resolution shall cease to have effect three years  
3 after the date of the enactment of this resolution, unless  
4 renewed.

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