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AID TO ISRAEL IN CONTEXT

Israel is the largest historical recipient of U.S. foreign assistance, totaling more than \$146 billion since 1950, equivalent to \$236 billion in 2018 dollars, the vast majority coming in the form of military aid.¹ But in the wake of Israel's recent offensive in Gaza that killed over 243 Palestinians, including 63 children, and wrought untold physical damage on the densely populated enclave, advocates and lawmakers are raising questions about the wisdom and risks of the current U.S. security partnership with Israel, including the ways in which the partnership contravenes traditional norms, regulations, and statutes governing U.S. arms sales and security sector assistance.



Israeli soldier with rifle. Source: Benjamin Rascoe via Unsplash

This brief summarizes the exceptional elements of the Israeli military partnership with Washington that pose unique challenges to oversight, accountability, and civilian protection.

Memoranda of Understanding

Since 1999, U.S. security assistance to Israel has been outlined in unique 10-year memoranda of understandings (MOU), agreements that commit the U.S. to billions in military aid years in advance. Though the funds must still be appropriated by Congress, language in the 2021 National Defense Authorization Act officially made the U.S. commitment to the agreement binding.² At the moment, Israel is in its third year of a memorandum signed in 2016 promising 33 billion in foreign military financing (FMF) and \$5 billion in missile defense

¹ Jeremy Maxwell Sharp, "U.S. Foreign Aid to Israel," (2020), <https://fas.org/sgp/crs/mideast/RL33222.pdf>

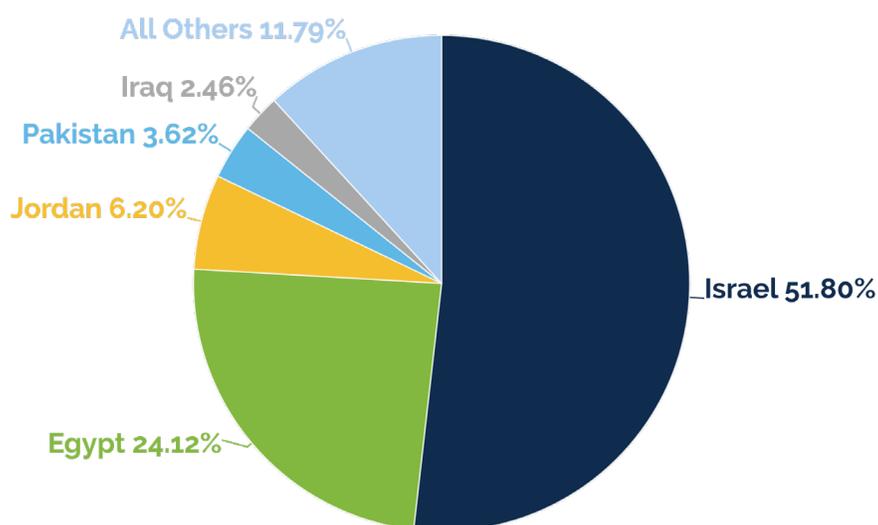
² National Defense Authorization Act for Fiscal Year 2021: Bill, Congress.gov (2021), <https://www.congress.gov/bill/116th-congress/house-bill/6395/text>

funding for FY 2019–2028.³ The agreement, while committing the Israeli government to certain transparency mechanisms, makes no mention of human rights or international humanitarian law concerns.

Foreign Military Financing

Israel is the largest recipient of the State Department’s Foreign Military Financing (FMF) program, a foreign aid program that provides grants to foreign countries to purchase American weapons. Israel receives approximately \$3.3 billion per year in FMF, accounting for over 50% of all FMF funding worldwide, and amounting to nearly 16.5% of Israeli military spending. Combined with the \$500 million in U.S. missile defense assistance, U.S. aid is equivalent to 20% of Israeli military spending, an unusually high level of support given Israel’s advanced degree of economic development.

Share of U.S. Foreign Military Financing Since FY2001



Cash Flow Financing

Successive administrations have allowed Israel to finance the purchase of large packages of U.S. weapons with multi-year installment payments serviced by their FMF aid.

Early FMF Transfer and Interest-Bearing Account

Unlike other countries that receive their FMF in installments, Congress has mandated that Israel receive its FMF in a lump sum within 30 days of appropriation. The aid is then transferred into an interest-bearing account, which Israel has used to pay down debt owed to U.S. government agencies.⁴

Offshore Procurement

Israel has been allowed to use a percentage of its FMF package on its domestic arms industry, known as offshore procurement (OSP). The current ten-year Memorandum of

³ “Memorandum of Understanding,” (2016), <https://2009-2017.state.gov/documents/organization/265160.pdf>

⁴ Jeremy Maxwell Sharp, “U.S. Foreign Aid to Israel,” (2020), <https://fas.org/sgp/crs/mideast/RL33222.pdf>

Understanding phases out this exemption, winding down the percentage from 26.3% to zero by 2028, in part because of the significant development of the Israeli arms industry and its substantial role in the global arms trade. This practice has posed a serious challenge for transparency and accountability, as OSP has no end-use monitoring.

Tracking of Military Assistance

Israel is one of the only recipients of U.S. military aid where the U.S. does not maintain a tracking mechanism to determine which weapon systems are going to which military units, making it impossible to implement Foreign Assistance Act vetting and oversight requirements, including Leahy law vetting.⁵

Defense Budget Appropriations for U.S. - Israeli Missile Defense

The U.S. has provided regular funding for Israeli and joint U.S.-Israeli missile defense programs, including at least the \$500 million per year stipulated in the current 10-year MOU. Though both Israel and the U.S. contribute financially to the initiatives, the primary purpose remains improving Israeli missile defense systems. Between FY2006 and FY2020, the U.S. has appropriated \$6.12 billion to U.S.-Israeli missile defense programs.

Qualitative Military Edge

The executive branch is obligated by law to take certain actions to maintain Israel's qualitative military edge (QME) over other regional powers. Legislation requires that proposed U.S. arms sales to any regional country other than Israel must include a determination that such a sale would not erode Israel's QME and has called for more regular QME assessments.⁶ In practice, QME obligations have meant Israel regularly enjoys first regional access to U.S. defense technologies, is provided with more advanced versions of defense platforms than its neighbors, and has frequently received offsetting weapons packages when transfers are made to other regional states.

Emergency Military Stockpiles in Israel

⁵ Josh Ruebner, Salih Booker, and Zaha Hassan, "Bringing Assistance to Israel in Line With Rights and U.S. Laws," Carnegie Endowment for International Peace, May 12, 2021, <https://buff.ly/3590EDa>

⁶ Jim Zanotti, "Israel: Background and U.S. Relations," (2020), <https://fas.org/sgp/crs/mideast/RL33476.pdf>

Schedule for Phasing Out FMF for OSP

Fiscal Year	FMF Funds Available for OSP
2019	\$815,300,000
2020	\$805,300,000
2021	\$795,300,000
2022	\$785,300,000
2023	\$775,300,000
2024	\$725,300,000
2025	\$450,300,000
2026	\$250,300,000
2027	\$250,300,000
2028	\$0

The U.S. maintains stockpiles of military equipment and hardware in Israel that the U.S. may transfer to Israel in the event of an emergency, including missiles, armored vehicles, artillery, and ammunition. The transfer of such equipment would circumvent traditional arms sales or processes. Israel has made use of the stockpile in at least two occasions - in 2006 during Israel's war with Lebanon, Israel was allowed access to precision guided munitions in the stockpile; and in the 2014 war with Hamas, when Israel replenished its stores of tank and illumination rounds from the stockpile. The current value of the stockpile is estimated to be \$3.4 billion.^{7,8}

FMF For Direct Commercial Sales

Though most countries are required to use their FMF grants to purchase arms through the Foreign Military Sales (FMS) process, in which the U.S. government purchases and manages the transaction on behalf of the recipient, Israel is one of a handful of countries that is allowed to use its FMF for Direct Commercial Sales (DCS), where it engages directly with a commercial vendor for an arms deal.⁹ Unlike the FMS process, the DCS process is subject to far fewer oversight and transparency requirements, including public posting of arms sales notifications.

Notification Window

Under U.S. law, arms sales of a certain value and type require notification to Congress before they can proceed.

While arms sales to most countries must be notified to Congress 30 days before licensing or offer, Israel is one of a handful of countries that enjoys an abridged notification window of just 15 days. The shortened window cuts in half the time available to lawmakers to block the sale before formal offer or licensing.

Top 5 Foreign Military Sales Notifications to Israel Since 2015



\$3,000,000,000

Aviation Fuel, Diesel Fuel, and Unleaded Gasoline



\$2,400,000,000

Aerial Refueling Aircraft



\$745,000,000

Precision Guided Munitions



\$440,000,000

76MM Naval Gun



\$300,000,000

Excess SH-60F Seahawk Helicopter

⁷ "DOD Releases Arms to Israel, Official Says," Stars and Stripes, (2014), <https://www.stripes.com/dod-releases-arms-to-israel-official-says-1.295996>

⁸ Jeremy Maxwell Sharp, "U.S. Foreign Aid to Israel," (2020), <https://fas.org/sgp/crs/mideast/RL33222.pdf>

⁹ "Guidelines for Foreign Military Financing of Direct Commercial Contracts," (2017), https://www.dsca.mil/sites/default/files/dsca_guidelines_for_foreign_military_financing_of_direct_commercial_contracts.pdf