

Red Flags and Red Diamonds:

the warning signs and political drivers of arms trade corruption

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This briefing paper is part of a series published by the World Peace Foundation highlighting the role of corruption in the global arms business. It draws on cases presented in the [“Compendium of Arms Trade Corruption”](#). The author is Sam Perlo-Freeman, who was director of the WPF program from 2016 – 2019, and remains a WPF Senior Policy Fellow. Currently, he is Research Coordinator at [Campaign Against Arms Trade](#) in the UK, where he focuses on UK military spending and arms procurement.

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INTRODUCTION

The biggest corruption risk in an arms deal is a company’s decision to pay bribes to secure the deal.

Discussion of ‘corruption risks’ or ‘red flags’ is often framed as if corruption is something that accidentally happens to companies, as if there is a series of traps that a well-intentioned company may innocently stumble into if it does not act with sufficient care. But some of the major arms corruption cases – such as Al Yamamah, the South African arms deal, or the numerous corrupt submarine sales by France and Germany – did not happen because some mid-level executive failed to conduct due diligence on a particular agent; they happened because corruption was sanctioned and executed at the highest levels of the company, facilitated by a complex financial infrastructure of shell companies, off-shore accounts, and intermediaries. In many cases, the willingness of the governments of the seller countries to tolerate, turn a blind eye to, or even actively engage in corrupt practices, was also a key enabler.

This is not to say that due diligence and well-established anti-corruption policies, procedures, training, and implementation strategies are irrelevant, or that corporate compliance officers serve no purpose—far from it. Without such measures, it is easy for smaller-scale corruption to occur at lower levels of the company, where eager sales agents are willing to cut corners to advance their careers. Internal compliance systems also provide companies with a pre-emptive defense against charges of failing to prevent corruption. But an exclusive focus on such technical measures, without addressing the fundamental political and economic drivers of high-level corruption by both corporations and governments, risks missing the forest for the trees. Or, to put it more bluntly, the fish rots from the head.

UK-based BAE Systems provides numerous examples. During the 1990s and 2000s, BAE Systems maintained an offshore shell company registered in the British Cayman Islands called Red Diamond Trading. This shell company was used to channel hundreds of millions of pounds of bribes, through a well-established network of agents, to key decision makers in a succession of arms deals, including with Saudi Arabia, South Africa, Tanzania, the Czech Republic, and Hungary. A U.S. judge, commenting on a settlement between

BAE and the U.S. Department of Justice in which BAE agreed to pay \$400 million in fines, said that BAE paid these huge sums of money to Red Diamond with full knowledge that they would likely be used to pay bribes.¹ Again, it was not the case that BAE's management or compliance department failed to look sufficiently closely at Red Diamond's accounts and corporate structure, or question the services that the shell company was performing in return for the vast sums channeled to it; indeed, any executive who did raise such questions would likely have received short shrift, and possibly a dismissal notice. In the end it was only through whistleblowers that these payments came to light. The existence and use of Red Diamond was a deliberate choice that came from the top, with full knowledge of the shell company's purpose. Key agents such as Alfons Mensdorff-Pouilly and Fana Hlongwane were recruited precisely because of their willingness to employ unethical methods to secure deals for their clients.

The existence of entities such as Red Diamond, and similar infrastructures of corruption created by other large arms companies, I argue, is the result of fundamental political and economic drivers of the arms trade in both buyer and seller countries. They are a product of the political nature of the arms trade itself.

This report builds on the work of World Peace Foundation's [Compendium of Arms Trade Corruption](#), a collection of more than 40 cases of corruption in the arms trade and the broader military sector. It will consider both the 'red flags' – the warning signs that can help citizens, NGOs, governments, and those companies actually seeking to avoid corruption to identify and avoid corruption risks – and the 'Red Diamonds', the underlying politics and economics of the arms trade that create situations where companies and governments actively choose corruption at a high level.

Section 1 briefly presents the cases discussed in the World Peace Foundation Compendium of

Arms Trade Corruption, and uses this and other research to give an overview of the scope and scale of corruption, and draws out patterns. **Section 2** sets out the key 'red flags' that indicate corruption risk. These include factors relating to the buyer country, the practices of the seller company, and factors associated with the details of the deal itself. This analysis draws on literature on this topic from NGOs such as Transparency International Defence & Security, industry sources, NGOs working on other areas of corruption, in particular extractive industries, and the insights afforded by the Compendium itself. **Section 3** discusses the fundamentally political nature of the international arms trade and its relationship with international relations, internal politics, and security policy within the buyer and seller countries. It considers the higher-level political drivers and warning signs of arms trade corruption. These include the nature of the contemporary international arms trade as a buyer's market, the powerful incentive for seller companies and countries to win export orders at all costs to maintain domestic industries, and the close relationship between arms industry, trade agreements, and government in both buyer and seller countries. Connected to this last point, one of the most important drivers is the role of arms trade corruption as a source of political finance: funding for political parties and election campaigns, and as a means of patronage to buy or rent political allegiance. **Section 4** concludes.

1. The Compendium of Arms Trade Corruption

Through our work on the [Compendium of Arms Trade Corruption](#), World Peace Foundation (WPF) has examined in detail more than 40 cases of corruption in the domestic and (primarily) the international arms trade. In addition, WPF has conducted in-depth case studies into corruption in the arms industry and trade in Indonesia and Russia, focusing primarily on domestic corruption.² The cases involve 14 different exporter countries, of which the UK, Germany, and France

1 "The Al Yamamah arms deals," Compendium of Arms Trade Corruption, n.d., <https://sites.tufts.edu/corruptarms-deals/the-al-yamamah-arms-deals>.

2 See Polina Beliakova and Sam Perlo-Freeman, "Corruption in the Russian Defense Sector," World Peace Foundation Oc-

are most strongly represented, and recipients in every region of the world (except, currently, Oceania). The sums involved in the corruption allegations range from less than \$1 million, to possibly as much as £6 billion (in the [Al Yamamah](#) series of arms deals between the UK and Saudi Arabia). All types of equipment, as well as military services, are involved.

As the cases do not constitute either a complete or a representative sample of arms trade corruption cases, it is not meaningful to try to draw statistics from them. In particular, they only cover cases where corruption has been identified with some degree of confidence, at least to the point of opening an investigation. This means that arms deals involving countries where government transparency is low, and independent media and institutions weak on both the buyer and the seller sides, are not likely to be represented. Also, because corruption cases often take years to come to light, more recent cases are underrepresented. However, numerous threads and patterns have emerged, which allow us to draw six main lessons:³

One: Corruption is very common in the international arms trade, and seems to occur particularly frequently in certain sectors. Submarine sales in particular appear to be an area where a very high proportion of the small overall number of deals involve major corruption. Indeed, the number of cases suggests corruption may be routine. Such once-in-a-generation, big-ticket purchases offer particularly lucrative potential for personal enrichment, while the frequent lack of a clear defense requirement for them means that buyers can pick and choose based on personal gain rather than military value. Major combat aircraft sales by European producers are another area where there are a large number of cases in relation to the frequency of such deals. In general, sectors with very high spending on individual deals, a high prestige element, and a

limited number of suppliers seem to be particularly prone to corruption.

Two: Most of the cases involve bribery as the central element of the corruption; that is where the seller company has paid bribes – usually via an agent or other intermediary – to key decision-makers, or to individuals closely connected to decision-makers, to help win the contract. The bribe recipients may be politicians, senior military officers, or defense officials. However, in some cases, such as the Nigerian ‘[Armstrong](#)’ scandal, or the Russian [Peter the Great](#) battle cruiser case, there is much more brazen corruption. In these cases, the contracts involved, and often the companies themselves, were fake, and were used as a means of embezzlement of state funds, sometimes on a vast scale; no actual equipment or services were provided.

Three: Arms trade corruption is not limited to the ‘third world’, or countries with particularly high levels of corruption in general, but can also occur when western democracies with relatively robust institutions are the buyers. The complexity of arms deals, the increased secrecy, and the close connection to political power, all make arms deals more vulnerable to corruption where otherwise strong institutions might be thought to offer some protection.

Four: Nonetheless, processes and institutions do matter. The worst cases, where state funds were looted through fake contracts and direct embezzlement, occurred in countries where institutions and mechanisms of transparency and accountability are at their weakest. The Nigerian [Armstrong scandal](#) was the most extreme case, where as much as \$15 billion may have been looted over the course of eight years—in a country with an official annual defense budget of only around \$2 billion—largely due to procurement being placed in the hands of a single senior official with no monitoring or accountability. The

casional Paper, May 11, 2018, <https://sites.tufts.edu/wpf/files/2018/05/Russian-Defense-Corruption-Report-Beliakova-Perlo-Freeman-20180502-final.pdf>; and Xiaodon Liang and Sam Perlo-Freeman, “Corruption in the Indonesian Arms Business: Tentative Steps towards an End to Impunity,” World Peace Foundation Occasional Paper, December 13, 2017, <https://sites.tufts.edu/wpf/files/2017/12/Corruption-in-the-Indonesian-arms-business-20171211-2.pdf>.

³ These are also discussed in Sam Perlo-Freeman, “Arms, corruption, and the state: understanding the role of arms trade corruption in power politics,” *Economics of Peace and Security Journal*, Vol. 13, No. 2 (Oct. 2018), pp. 37-46.

WPF study of the Russian arms industry and procurement processes also found endemic fraud and embezzlement, while in Indonesia, commission payments to generals are regarded as a routine element of the procurement process.

Five: There are a relatively small number of major cases involving the United States as a seller. There are two likely factors behind this, one legal and one structural. The legal factor is the Foreign Corrupt Practices Act (FCPA) of 1977, which has been around longer and has more credible enforcement mechanisms than comparable European legislation, and which appears to have proved at least somewhat effective in deterring corruption. The structural factor is that U.S. companies have less need to bribe due to the very large internal market, which is their largest source of revenue. The U.S. government also has less incentive to turn a blind eye to corruption to guarantee scarce export opportunities as a means of maintaining the industry. The size of U.S. domestic demand for arms means that the U.S. arms industry enjoys substantial economies of scale and learning, compared to its global competitors, and does not have to worry so much about large gaps in major procurement programs that must be filled with exports if capabilities are to be maintained. Of course, this structural factor may help explain why the relatively strong application of the FCPA is politically possible.

Six: The extent to which political finance is a common feature of corruption in arms deals;⁴ while personal enrichment is clearly a motive in many cases, another occasional purpose of such corruption is to fund political parties, election campaigns, or political patronage networks. This happens both in the buyer country, where the recipients of the bribes are typically found, but also sometimes in the seller country, through so-called *retrocommissions*.

This last point in particular has directed our attention to the highly political nature of the arms trade. Decision-making in international arms deals in particular cannot be separated from domestic and international political relationships and motivations—the fundamental insight that motivates this paper.

Legal and illegal corruption – institutional influence and state capture

This report is primarily concerned with *illegal* forms of corruption – that is, when bribes are paid to foreign or domestic decision-makers in violation of anti-corruption laws. A wider issue, not covered in detail here, is the variety of legal ways by which arms companies may influence government decision-making processes. While these methods stay within the bounds of the law, they can undermine democratic processes, waste public resources to the benefit of arms companies (often even at the expense of the narrow goal of military effectiveness, aside from the wider public good), and arguably represent a form of legalized or institutionalized corruption. The term *state capture* is sometimes used for such cases where private interests gain effective control of areas of government policy and decision-making.⁵

The example of the U.S. defense market, discussed briefly above, is one of the most glaring cases. Huge lobbying expenditures and campaign contributions by arms companies are one means by which they seek to ensure Congressional and administration policy favorable to their interests, although this is hardly unique to the arms industry.⁶ Companies also take full advantage of ‘pork barrel’ politics, whereby members of Congress seek to maximize Federal expenditure in their own states and districts, and thus will sometimes add items of expenditure to the Department of Defense (DOD) budget to achieve this. One of the most significant channels of influence, and one

4 See Xiaodan Liang and Sam Perlo-Freeman, “Arms Trade Corruption and Political Finance,” World Peace Foundation Occasional Paper, July 9, 2018, <https://sites.tufts.edu/wpf/arms-trade-corruption-and-political-finance>.

5 For a discussion of these issues, see for example Bill Hartung, *Prophets of War: Lockheed Martin and the Making of the Military Industrial Complex* (New York: Nation Books, 2010); and Paul Holden et al., *Indefensible: Seven Myths that Sustain the Global Arms Trade* (London: Zed Books, 2017).

6 See the Center for Responsive Politics’ database on lobbying and campaign contributions, accessible at <https://www.opensecrets.org/donor-lookup>.

where the arms industry has a particular advantage, is the so-called ‘revolving door’ between the DOD, the military, and the arms industry, whereby senior military officers and DOD officials routinely take high-level positions with arms companies upon retirement, giving them a strong incentive to seek the best interests of these companies while in public service.⁷ The case of DOD procurement official Darleen Druyun, discussed in Section 2 below is a rare example where such an official actually broke the law and was punished. Druyun stepped over the line by negotiating an explicit arrangement with an arms company in return for favorable decision-making, rather than relying on the informal understandings and mutual interests that normally govern such practices.⁸

This revolving door is replicated in many other countries, and has been detailed in the UK by, for example, Campaign Against Arms Trade.⁹ The highly favorable treatment afforded by successive UK governments to the UK’s dominant arms company, BAE Systems, is arguably in part the result of the close integration of the company with government, through the revolving door, secondments to the Ministry of Defense (MOD), and involvement in numerous government policy forums. BAE has seen plentiful returns through this relationship. This is visible in, for example, the willingness of the government to continue arms sales to Saudi Arabia in spite of the devastating war in Yemen, and the 2006 cancellation of a Serious Fraud Office investigation into corruption in BAE arms sales to Saudi Arabia (see section 3). Not only is BAE by far the largest contractor to the UK MOD, but receives well over 90% of its MOD contracts through non-competitive, sole-source procedures.¹⁰ Such outcomes are in line with the UK’s 2005 Defence Industrial

Policy statement, which emphasized long-term partnerships with key companies, most notably BAE but with others as well, over competitive contracting in many cases.¹¹

There is no evidence or suggestion that BAE has bribed top government politicians or officials to achieve these outcomes – it has not needed to. Rather, the tightly intertwined relationship it has developed with the government as a result of its strategic importance has helped ensure that its arguments and interests have been given a privileged place in government thinking about defense procurement and arms exports.

The Canadian F-35 case, discussed in Section 2 (“the procurement process”) is another example where, despite there being no evidence of illegal bribery, decision-making has been skewed in favor of arms industry interests at the expense of the public interest.

The rest of this report will focus on the more traditional, illegal forms of corruption in the arms trade.

2. Red flags: the biggest warning signs for corrupt arms deals

The notion of ‘red flags’ or warning signs for corruption can be viewed from different perspective and purposes. One is from a *policy* perspective, typically adopted by governments and companies, which has the goal of avoiding involvement in corruption. For governments engaged in procurement (arms or otherwise), red flags can help prevent decisions being influenced by corrupt means and stop corrupt officials and politicians

7 This revolving door in the United States is detailed extensively in Mandy Smithberger, “Brass Parachutes: the Problem of the Pentagon Revolving Door,” Project on Government Oversight Report, Nov. 5, 2018, <https://www.pogo.org/report/2018/11/brass-parachutes>. The Center for Responsive Politics (footnote 6, above) also has information on the revolving door for various industries.

8 The Center for Responsive Politics (footnote 6, above) maintains information on revolving doors for various industries.

9 Campaign Against Arms Trade, “Political Influence Browser,” n.d., <https://www.caat.org.uk/resources/influence>. The author is an employee of CAAT.

10 UK Ministry of Defence, “Ministry of Defence Trade, Industry, and Contracts,” website, last updated Sep. 5, 2019, <https://www.gov.uk/government/collections/defence-trade-and-industry-index>

11 UK Ministry of Defence, “Defence Industrial Strategy,” Defence White Paper, Dec. 15, 2005, <https://www.gov.uk/government/publications/defence-industrial-strategy-defence-white-paper>.

from siphoning off public resources. For governments in arms producing countries, red flags can avert the authorization of export licenses and provision of public support (e.g. export credits) for corrupt deals. For companies, red flags enable compliance with anti-foreign bribery legislation such as the FCPA, and inform internal policies that inhibit violations of such legislation.

Another perspective on and purpose for red flags work is *investigative*, aimed at civil society, investigative journalists, and concerned citizens in general. Red flags research provides the tools to effectively scrutinize government and industry from *outside*, and to highlight where to look for evidence of corrupt dealings.

The first perspective is aimed at improving institutions and processes. It presupposes that governments and companies are committed to preventing and reducing corruption – which, as discussed, is far from always the case. A focus on corporate due diligence procedures to prevent the unintentional hiring of sales agents who will use corrupt means makes little sense if the company also has high-level mechanisms, such as BAE's Red Diamond shell company, for the precise purpose of making corrupt payments. The second perspective does not involve such an assumption of benign intent, and it indeed often begins from the opposite assumption: that companies and governments are likely to seek to break the rules given the opportunity.

Writing from the investigative perspective is hampered by the fact that the governments and companies engaged in the procurement process naturally have access to more information on its inner workings, and are thus in a better position to spot some red flags, compared to those on the outside.

Most of the corruption red flags literature, in particular on the military sector and arms trade, tends to come from the policy perspective. Beyond the military sector, there is considerable material relating to the extractive and infrastructure industries which, like the arms trade, are areas of international business with particularly high corruption risks. Much of the material

comes from NGOs such as Transparency International (including its Defence & Security arm), the legal sector, government and inter-governmental bodies, and industry itself. This can include company policy documents and material from the legal compliance sector, aimed at helping companies develop robust anti-corruption policies.

Material from an investigative perspective is more limited, certainly in relation to the military sector, although Corruption Watch UK has done previous work on the subject. Of course, the two perspectives overlap, and some civil society materials, in particular, combine both perspectives.

Regardless of the source or perspective, there is a significant degree of consensus, based on research and evidence from professional practice, on many of the main corruption risks. There is also a considerable overlap between the red flags identified in different sectors of international business, in particular the arms trade and extractive industries, suggesting commonalities in the mechanisms of corruption across sectors.

The rest of this section is divided into three sub-sections, highlighting corruption risks or red flags related to the customer, the supplier, the individual deal, and the procurement process.

2.1 Red flags related to the buyer

Transparency International (TI) Defence & Security publish a [Government Defence Anti-Corruption Index](#) (the Government Index), which assesses the level of corruption risk in the defence sector in each country, based on a variety of criteria. Countries are placed in six bands, A to F, ranging from a very low corruption risk to a "critical" corruption risk. Of the 115 countries surveyed in the most recent (2015) study, 81 were placed in bands D through F, indicating a "high", "very high", or "critical" level of risk.

The corruption risks are subdivided into five categories: political, financial, personnel, operations, and procurement. The procurement category is most relevant to the arms trade, although the political and financial categories are also highly relevant as they encompass the key

background conditions under which arms procurement takes place.

SIPRI researchers have also produced work highlighting some of the key risks associated with arms procurement which can lead either to corruption or, more generally, to waste, overspending, and acquisitions unrelated to genuine security needs (themselves strong correlates of corruption).¹²

The TI Government Index includes 76 indicators, that fall into three key categories: *transparency*, or information availability; *decision-making* institutions, laws, and procedures; and *monitoring, scrutiny, and oversight*. This categorization provides a helpful framework for discussion of corruption risks related to the buyer.

Transparency – how much information is made available

It is much easier to act corruptly if you hide all the information that could expose your corruption. Availability of information is certainly not a sufficient condition for preventing corruption, but it is a necessary one. Transparency is critical in these three key areas:

One: Defense policy: A clearly-expressed national defense policy sets out the government’s perceptions of the global and regional environment in which it operates, the key security threats and challenges it sees, goals it seeks to achieve, the key missions for its armed forces, and, following from this, the resources (financial, human, and material) required to conduct those missions. Without such a clearly-expressed policy, arms procurement may be ad-hoc, unplanned, and unrelated to security goals. This is very likely to lead to badly directed spending, and opens the door for corruption, allowing acquisitions to be steered by political whim or bureaucratic manipulation. Not only must a policy exist, it is important that it be publicly available and debated, that the thinking behind it be clear, and that there be mechanisms that link spending and procurement decisions to policy.

Two: Military budgeting and expenditure:

Some countries, like Qatar and the UAE, provide absolutely no information about their military expenditure. Others, like Saudi Arabia or China, provide little more than a single total. Moreover, many countries have substantial off-budget expenditure that is excluded from reported figures. However, what matters is not just how much information is provided, but whether it is possible to scrutinize budgets and monitor what happens to the spending. A country might provide a very detailed budget, but if there are no reports on actual spending and on how spending progresses through the year, then the budget itself is of limited value. It is also important to publish spending justifications, connecting budgets to policy goals. In the absence of transparency, it is much easier for recurring defense expenses to be embezzled through fake contracts or ‘ghost soldier’ schemes. Unmonitored procurement budgets can likewise be easily abused. Where procurement takes place through off-budget mechanisms—for example, the use of oil revenue funds by, among others, Saudi Arabia and its Gulf neighbors, Venezuela, and Vietnam, or Chile’s copper funds, which go direct to the armed services without parliamentary scrutiny—it is much easier to hide bribes and other corruption, as such funds may be exempt from the transparency requirements for the regular budget.

Three: Procurement, and in particular procurement contracts. The public must know what is being bought, why, and for how much. Procurement tenders should be published in official journals or on government e-procurement websites. As much as possible, information about procurement requirements should be transparent, exempting only those elements that are genuinely sensitive to national security concerns. When a final contract is awarded, parliament and the public must know exactly what is included in the contract and how much is being paid for each element (e.g., the initial acquisition of the equipment, through-life support, offset arrangements). Again, a lack of transparency in these areas greatly facilitates corruption. If no one beyond the inner circle of decision-makers knows

¹² See Sam Perlo-Freeman and Carina Solmirano, “Why arms procurement goes wrong,” SIPRI working paper, 2012, https://www.academia.edu/16487498/Why_arms_procurement_go_wrong.

how much is being paid, and for what, it is very easy to hide bribes in the overall package.

Decision-making

In many countries, government procurement is the subject of clear rules and procedures, with dedicated government agencies to implement them; nonetheless, the largest and most sensitive defense procurement contracts are often exempted from at least some aspects of these

“When it comes to military procurement, there are almost always exceptions to regular procurement rules.”

procedures. At the other end of the spectrum, in some of the absolute monarchies of the Gulf, like Qatar or Oman, major arms deals lie at the personal discretion of the ruler, with nothing resembling a procurement procedure. Such a system naturally lends itself to corruption – hence these countries receiving an “F”, indicating “Critical Risk,” in the TI Government Index.

Robust procurement procedures—for all government procurement, not just defense—should, among other things,

- Clearly state criteria that tenders must meet, which in turn should be based on a clear needs assessment;
- Be widely publicized, ideally in the modern era on an online notice-board;
- Be open to all qualified bidders;
- Ensure that due diligence is carried out on all bidders;
- Only allow for single-source (no-competition) procurement in rare circumstances, and with clear justification based on specific criteria;
- Have robust processes, implemented by trained procurement professionals, for

evaluating bids;

- Have anti-corruption checks built in at all stages;
- Allow for minimal political interference in tender processes; the political role should be to establish what is needed and how much may be spent, rather than to select bidders;
- Have robust and accessible appeals processes for losing bidders.

As always, what appear to be good laws and procedures on paper may be subject to great variation in how effectively they are implemented, depending on the professionalism and independence of civil servants, susceptibility to political or financial manipulation, and robustness of oversight mechanisms.

When it comes to military procurement, there are almost always exceptions to regular procurement rules. In some cases, all military procurement, or at least all arms procurement, may be completely exempt from the regular procedures, as appears to be the case in Nigeria, for example.¹³ But even in relatively transparent countries, there are likely to be some deviations. For example, aspects of technical selection criteria may be kept secret; there may be much wider use of single-source procurement, partly due to very specialized requirements but also due to political and defense-industrial considerations; there may be a strong ‘national preference’ for domestic providers, as opposed to opening competition up to whoever can provide the best value for money regardless of national origin; and politicians may be much more directly involved at all stages of procurement, especially for major acquisitions.

For example, the EU treaties, which normally require all trade, including government procurement, to be subject to a “level playing field” for all EU suppliers, allow for “national security” exemptions.¹⁴ While exemptions are supposed to

13 Transparency International Defence & Security, “Government Index, 2015 country assessment for Nigeria,” website, n.d., <http://government.defenceindex.org/countries/nigeria/>.

14 European Union, “Treaty on the Functioning of the European Union,” consolidated version 2016, Art. 346, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12016E346>.

be justified on specific grounds in each case, in practice major arms-producing countries in the EU procure major systems overwhelmingly from their own national arms companies, or from collaborative EU programs like Eurofighter. The WTO Agreement on Government Procurement, to which all OECD members and a number of other states are party, and which bans the use of offsets (discussed in detail later), allows states-parties to exempt arms procurement.¹⁵

In the UK, almost half of MOD procurement is sole source,¹⁶ and this is likely higher for arms procurement. (Non-arms procurement includes civilian goods and services, such as financial and consultancy services, food, and fuel.) Major UK-based arms companies, such as BAE Systems, Leonardo UK, QinetiQ, and Rolls-Royce, get an average of 90% of their MOD revenue through non-competitive contracts.¹⁷

In Canada, generally rated one of the most transparent countries in the world, the F-35 Joint Strike Fighter procurement process was particularly controversial. The sole-source selection was announced by Stephen Harper's Conservative government in 2010. The sole-source contract was justified by the government on the grounds that the F-35 was the only plane that could meet the technical requirements; these requirements, however, were kept secret, even from Parliament, on national security grounds. The government's failure to provide accurate financial information on the deal led to it being found in contempt of Parliament in 2011, leading to a new election. While Harper's Conservatives won the resulting contest, questions about the appropriateness of the F-35 did not go away and the procurement was eventually cancelled amid delays and soaring costs.¹⁸

There has been no suggestion of financial corruption in the F-35 procurement, but the govern-

ment's justifications certainly appear disingenuous, masking the political motivations for the deal. Canada's alliance with the United States is seen as central to its defense and security policy, and the Canadian arms industry is a partner in the development of the F-35 program, with Lockheed Martin Canada earning substantial revenues from it.¹⁹ For the Harper government, not selecting the F-35 was likely seen as politically unthinkable, but instead of stating these motivations it hid behind supposedly secret technical requirements. This is an illustration of the earlier point that, however robust a country's procurement procedures, the biggest arms deal decisions are always a political matter.

The national security exceptionalism that is associated with arms procurement, allowing major exemptions from otherwise robust procurement rules, does not automatically mean corruption will happen, but certainly opens the door to it.

Before one gets to the procurement stage, the question of how priorities are set for defense policy, military spending, and therefore arms acquisitions, and who is involved in these decisions, is also very relevant. In the worst cases, procurement decisions are left almost entirely in the hands of military officers, or open to major influence by individual officers, without proper political and civilian oversight.

In Indonesia, there is a widespread practice of "special references" by senior officers in arms acquisition, whereby generals work with their own agents acting for different supplier companies, and are able to have their own recommendations for arms taken into account, receiving a cut of the contract price. This system was so deeply entrenched that in an interview in 2006, Indonesian Defense Minister Sudarsono admitted that it could not readily be eliminated, and expressed a hope merely to reduce the cuts received by gen-

15 World Trade Organization, "Agreement on Government Procurement," 1994, https://www.wto.org/english/tratop_e/gproc_e/gpa_1994_e.htm.

16 UK Ministry of Defence, "Ministry of Defence Trade, Industry, and Contracts."

17 UK Ministry of Defence, "Ministry of Defence Trade, Industry, and Contracts."

18 Perlo-Freeman and Solmirano, "Why arms procurement goes wrong."

19 Lockheed Martin, "F-35: the right choice for Canada," website, n.d., <https://www.f35.com/global/participation/canada>.

erals to around 10%, instead of 30-40%.²⁰

In Chile, arms procurement was until July of this year funded by a “secret copper law” (Ley Reservada del Cobre), whereby 10% of export revenues of state copper company Codelco were automatically set aside for arms procurement, divided three-ways between the armed services without any assessment of military need, and handled by the service chiefs without parliamentary oversight. This system led to numerous cases of corruption.²¹

In Nigeria, former President Goodluck Jonathan placed arms procurement decisions, involving regular budgetary funds, extra funds voted by the legislature to fight Boko Haram, and a variety of off-budget funds, entirely in the hands of his National Security Advisor Lt. Col. Sambo Dasuki. Between 2012 and 2015, Dasuki used this power to steal over \$2 billion for himself and a wide circle of cronies in the military, as well as the political, civil service, and business worlds.²²

Monitoring, scrutiny, oversight

Who gets to look at the books? In particular, it is a key matter who gets to monitor and scrutinize a) spending, and b) procurement processes—the two topics discussed above. Generally, the more separate sources of scrutiny exist, and the more freedom and capacity they have to act, the better the prospects for restricting corruption. In an ideal case, those separate sources would include:

- Legislative committees, in particular a defense committee, and a public accounts committee or similar;
- Internal auditors within the Ministry of Defense;
- External auditors in a national audit institution;
- A national anti-corruption body, and/or state prosecutorial authorities;

- Media and civil society groups.

For such scrutiny to be effective, those doing it must have *access to sufficient information*; they must be *sufficiently independent of government*. Members of Parliament must have the will to investigate government spending, even if it is their own party in government, and the ability to do so without negative political repercussions. Internal audit departments must be able to raise issues without retaliation. External state bodies must be reasonably well shielded from political interference (such as the dismissal of senior personnel as retaliation for investigating the government too closely). Civil society must be able to operate freely, be well-resourced, and possess or have access to sufficient training and expertise to carry out effective scrutiny. Within governmental bodies, there must be strong whistleblower protections.

Ironically, it is frequently in countries with fairly good transparency and oversight that most cases of arms trade corruption come to light. In the most closed countries, effective investigations that would reveal corruption simply cannot take place. If we hear about corruption cases in these countries, it is because of information coming from the seller country—as was the case with the Al Yamamah UK arms sales to Saudi Arabia.

The existence of major corruption risks associated with a buyer country does not necessarily mean that any specific deal is corrupt, even if there is evidence that in some countries, corruption is absolutely routine in arms procurement. The presence of risk factors certainly does not tell us anything about what sort of corruption is happening in a particular deal, what are the channels of corruption in the deal, who is organizing it, who are the beneficiaries, and so forth.

Good laws, regulations, and institutions are not a complete guard against corruption in arms pro-

20 Liang and Perlo-Freeman, “Corruption in the Indonesian Arms Business.”

21 “Chile’s Milicogate Scandal,” Compendium of Arms Trade Corruption, n.d., <https://sites.tufts.edu/corruptarmsdeals/chiles-milicogate-scandal/>; “Caso Mirage,” Compendium of Arms Trade Corruption, n.d., <https://sites.tufts.edu/corruptarmsdeals/caso-mirage>

22 “Nigeria’s Armsgate Scandal,” Compendium of Arms Trade Corruption, n.d., <https://sites.tufts.edu/corruptarmsdeals/nigerias-armsgate-scandal>.

curement by any means, in part because of the tendency for arms procurement to deviate from normal rules. However, they certainly provide some guard. Very few of the cases in the Compendium of Arms Trade Corruption involve buyer countries in the TI Government Index Bands A or B, indicating very low or low risk; one involving Belgium is from the early 1990s and the others all involve the United States as a buyer – perhaps a reflection of the sheer amount of military spending by the United States, or perhaps suggesting that the Government Index’s B rating for the United States is over-optimistic.

2.2 Red flags related to the supplier

The question of red flags related to the supplier is most pertinent to small-scale arms and military service contracts, often involving less well-established companies. When it comes to, for example, BAE Systems, Naval Group, Leonardo, Thales, ThyssenKrupp, Rolls-Royce, one could certainly argue that a history of corruption should be considered a red flag, but the problem is that just about all major arms companies have shown themselves willing to engage in corruption to win contracts. The primary exception is that the strength of the U.S. Foreign Corrupt Practices Act appears to have had some effect in deterring U.S. companies.

TI Defence & Security has published a [Defence Companies Anti-Corruption Index](#), assessing companies’ policies and procedures for anti-corruption due diligence measures;²³ however, this index relies primarily on the existence of appropriate policies, procedures, and training, and is thus more focused on procedural checks on paper, rather than effective outcomes. Thus, TI is currently working on a new model which will focus on implementation, and interrogate much more deeply the active steps companies take to avoid corruption. A recent report by the organization, laying the ground for the new index, ad-

vocates far greater transparency on the part of companies.²⁴ But at present, among established arms companies, it is hard to identify a clear set of criteria by which one could say that one is more or less likely to be involved in corruption than another.

Some of the commonly identified red flags related to the supplier apply more readily include:

- The company was only just established prior to applying for the tender;
- The company has no track record in the type of business involved in the contract, and no relevant experience among its personnel to suggest the capacity to do the work;
- The company appears to lack employees, premises, a website, or clear financial records;
- The company’s directors have been involved in corrupt or other criminal activity in the past;
- The company’s directors or beneficial owners include politically well-connected individuals, such as friends and families of senior government or ruling party figures. This is not always readily apparent, as politicians and their associates may go to considerable length to hide their ownership of the company, by use of anonymous shell companies registered in a jurisdiction that does not provide ownership information.

These red flags are applicable to lower-level procurement, for services, regular supplies, and simpler types of equipment. For larger procurement contracts, involving major equipment, companies for which these issues might be relevant would simply not be in the running.

Many of these factors apply to areas other than

23 Transparency International Defence & Security, “Defence Companies Anti-Corruption Index,” website, n.d., <http://companies.defenceindex.org/>.

24 Katherine Dixon, et al., “Out of the Shadows: Promoting Openness and Accountability in the Global Defence Industry,” Transparency International Defence & Security, Sep. 2018, https://ti-defence.org/wp-content/uploads/2018/09/Out_of_the_Shadows_WEB3.pdf.

the arms trade: these and related red flags are all listed, for example, in a report by the Natural Resource Governance Institute, entitled *Twelve Red Flags: Corruption Risks in the Award of Extractive Sector Licenses and Contracts*.²⁵ They are also discussed in connection with defense contracts in a publication by TI and NAKO (Ukraine's Independent Defense Anti-Corruption Committee), *Six Red Flags: the Most Frequent Corruption Risks in Ukraine's Defense Procurement*.²⁶

One case in the Compendium exhibits several of these red flags, namely the contract in Russia for the refurbishment of the nuclear power plant for the *Peter the Great battle cruiser*. The contract was awarded to a company that had taken on the name of a real ship repair company, but which was in fact itself a shell company. This fake company had no employees and had never engaged in the type of work involved, or indeed any substantive activities. The repair work involved was never required in the first place, and none was carried out. The contract was purely a means of siphoning off funds to the company's owners and directors, with a cut going to the procurement officials who awarded the contract.

Many of these issues are most likely to crop up at the lower levels of domestic military procurement. In the international arms trade, politicians, officials, and their associates are unlikely to be significant shareholders in foreign arms companies bidding for profits. In domestic procurement, major companies in countries with smaller arms industries are often state-owned; corruption certainly happens within state-owned companies, despite the lack of suspect shareholders, but the corruption is likely to happen within the state apparatus, for example by the diversion of funds, or the awarding of sub-contracts to private sector firms.

In the international arms trade, politicians and other politically connected people can use arms

deals as a means of profiting from contract awards by means of offsets, discussed below, including through the award of subcontracts and the choice of local partner companies by the prime contractor.

2.3 Red flags associated with the deal itself

We consider several aspects of a procurement process that tend to raise the biggest red flags in terms of corruption: a) acquisitions with no clear relation to defense and security strategy; b) irregularities within the procurement processes; c) use of agents/intermediaries; and d) offsets.

Lack of defense policy justification

When an arms purchase, especially a large one, is made without any clear rationale in terms of the country's defense policy and strategy, this may raise questions as to what other motives lie behind the purchase. This does not necessarily mean the deal is corrupt, but certainly it raises questions. Other motivations, aside from corruption, may be rooted in political relationships with the seller country (see Section 6); they may be based on a sense of national self-image and status, rather than any specific military purpose; or they may be based on a military rationale that seems highly dubious to some observers, but is accepted by policymakers.

This red flag can be hard to assess; for one, many countries don't publish a national defense or security policy document, which is in itself a red flag (see Section 4.1), which precludes assessing the purchase against it. Second, it is usually possible to come up with *some*, albeit spurious, security rationale. Determining whether the case is being made in good faith or obscuring a corrupt motivation is difficult.

Nonetheless, major purchases that seem out of

25 Aaron Sayne, Alexandra Gillies, and Andrew Watson, "Twelve red flags: corruption risks in the award of extractive sector licenses and contracts," Natural Resource Governance Institute report, Apr. 6, 2017, <https://resourcegovernance.org/analysis-tools/publications/twelve-red-flags-corruption-risks-award-extractive-sector-licenses-and>.

26 Eva Anderson and The Independent Defence Anti-Corruption Committee/Nezalezhny Antikorupciynii Komitet z pytan oborony (NAKO), "Six red flags: the most frequent corruption risks in Ukraine's defense procurement," Transparency International Defence & Security/NAKO, 2018, http://ti-defence.org/wp-content/uploads/2018/09/Ukraine_Six_Red_Flags_Eng.pdf.

proportion to a country's capabilities and requirements may set off alarm bells. The [South African Arms Deal](#) is a case in point, where the justification for why a country like South Africa, which faced no internal or external military threats, should need advanced combat aircraft and submarines, was highly suspicious. The deal did indeed conceal bribes to the tune of hundreds of millions of dollars. Ultimately, the Gripen combat aircraft purchased at great expense sit largely unused. Most are not even in operational condition because the South African defense budget is insufficient to provide suitable maintenance for the aircraft and training for their pilots.

A high proportion of international submarine sales have been found to be corrupt, and these hugely expensive items are a case in point where, for most countries, their military purpose is often unclear. However, distinguishing corrupt motivations from considerations such as 'our neighbors have them, so should we', is difficult. The rationality of defense policy cannot always be assessed objectively. Hence, this criterion should be considered more an indication to look more closely, rather than a clear sign of corruption in itself.

The procurement processes

There are numerous stages of the procurement process where irregularities can be a potential sign of corruption, and where there is potential to manipulate the process in favor of a particular company in return for bribes.²⁷ Many of these appear frequently in the Compendium.

Sole sourcing of contracts is far more common in defense procurement, and especially in arms procurement, than in other sectors. This is partly because of the very high degree of specialization in equipment, which may mean that only one company can meet requirements. Another key reason is the tendency for countries to give preference to their domestic arms industries, which further restricts the potential pool of suppliers. Within the EU, where free trade rules normally require contracts to be open equally to bidders

from all member states, a derogation is permitted with regards to arms procurement. Although such derogations are supposed to be limited to cases where there is an overriding national security concern, in practice they tend to be applied to most major arms contracts.

Whether justified or unjustified, sole sourcing creates the potential for corruption, either in the *decision* to adopt a sole-source process, or in the subsequent *negotiations*, when the company benefiting from the sole source decision is in a strong position and can potentially influence the officials with whom they are negotiating, and with whom they likely have a long-standing relationship. The latter dynamic is apparent in the [Boeing tanker scandal](#) in the United States.

The Canadian F-35 case, where corruption is not suspected but where arguably the process was subverted in a way that made for wasteful and inappropriate expenditure, is another relevant case.

TI discusses the risks associated with sole sourcing and the different practices in a number of arms-producing countries in *Single Sourcing: A Multi-Country Analysis of Non-Competitive Defence Procurement* (TI, 2014), although unfortunately the small number of countries providing information limits the generalizability of the study. Nor does the report produce a clear set of pointers as to when sole-sourcing may indicate corruption.

Sole sourcing is less common in the international arms trade (with exceptions such as the Canadian F-35 case), because when a country is not buying from its own industry it is likely to seek competition—including potentially in terms of bribes—from multiple suppliers. Some arms procurement by highly opaque states may, however, in practice amount to sole-sourcing, where no regular tender process is enacted and deals are formed simply by negotiation between political leaders and arms suppliers.

There are other ways in which competition may

27 Sayne, Gillies, and Watson, "Twelve red flags: corruption risks in the award of extractive sector licenses and contracts"; Anderson and NAKO, "Six red flags."

be artificially restricted or subverted. Rival companies may, for example, attempt bid rotation or collusive bidding, whereby they agree to take turns winning contracts by having other companies not bid, or deliberately submit very high-priced bids. This may also involve the collusion of procurement officials and is more likely in procurement of simpler items, such as ammunition, food, and clothing, for which there is sufficiently frequent procurement to make bid rotation viable, and multiple companies able to provide the goods in the same country. It is not particularly relevant to the international arms trade.

What does show up much more frequently in major arms deals, domestic and international, is *manipulation of procurement criteria*, that is the requirements placed on potential suppliers in the tender, and the weighting given to various factors in the final decision. This may be done for various purposes: to *exclude* certain companies from the competition, by tightening requirements to disqualify their product; to *include* certain companies by loosening key requirements to allow a company to compete that would not have met more stringent requirements; or to *advantage* one company over another, by giving greater or lower weight to certain criteria.

In the Compendium, the Indian [VVIP helicopter scandal](#) is one of the clearest cases where a key requirement was changed mid-process—namely, the requirement for the height the helicopters needed to be able to operate at—to allow AgustaWestland’s AW-101 to compete and win the contract. This meant that the winning helicopter was not fit for one of its key purposes: carrying VIPs to outlying Himalayan regions. In addition, the conspirators also interfered with field trials, increasing the emphasis placed on tests of flight with one or more engines disabled. The AW-101, the only three-engine helicopter in the competition, naturally benefitted. A key example of the third type of change, advantaging one criterion over others, is the South African Arms Deal, where Defence Minister Joe Modise announced in the middle of the process that cost would be discarded as a criterion for evaluating rival bids

for fighter and trainer aircraft, so as to advantage the BAE/Saab offer of Hawk trainers and Gripen fighters.

The most visible red flag of this type is a change in the tender criteria in the middle of a tender process. This may be detectable if there is a requirement for all tenders, including changes to tenders, to be posted in an official journal or an electronic noticeboard.

A final key red flag, in arms deals small and large, is when the *terms* of the deal are unusually favorable to the company, or especially when the price is increased in the middle of the process in a way that cannot be explained in terms of what is on offer. For major international arms deals, however, there is no true ‘market price’, so these manipulations can be hard to pinpoint—though not impossible. An increase in price at a late stage was a warning sign in the case of the Al Yamamah deals between the UK and Saudi Arabia, and the [Malaysian submarine deal](#). The Malaysian Hawk deal ([Pergau Dam scandal](#)) with the UK also involved an unusually high price for the plane. In the Boeing tanker scandal in the United States, senior procurement official Darleen Druyun, later convicted of violating conflict of interest laws, was described as often seeming to take the side of the supplier, Boeing, rather than the DOD for which she worked, when negotiating the details of the contract.

Agents

The vast majority of international corruption cases in the arms trade and elsewhere involve agents, or third-party intermediaries hired by companies to promote their offerings to the customer, often using corrupt means. Since the U.S. FCPA passed into law in 1977, almost 90% of cases reported under the act involved the use of agents. In the Compendium, out of 33 cases related to the international arms trade, 30 clearly involved the use of agents.²⁸

The legitimate cover for an agent’s work is that they are familiar with local market conditions and

28 Stanford Law School, Foreign Corrupt Practices Clearing House, “Third-party intermediaries,” website, n.d., <http://fcpa.stanford.edu/chart-intermediary.html>.

can provide valuable advice and expertise to the international company that can help them win a contract. In practice, the purpose of an agent is very often to pay bribes to key officials and politicians. Agents are useful for this purpose for two key reasons: first, they provide a layer of distance between the company and the bribe recipient which, combined with the use of financial intermediaries, shell companies, and other financial obfuscations, can make proving bribery against a company very difficult. Second, they provide expertise in ‘market conditions’, in terms of exactly who needs to be bribed to achieve success. They may themselves be politically well-connected individuals, often former politicians or military officials, who have easy ‘ins’ with the current decision makers. In Indonesia, where bribery is institutionalized in defense procurement, individual generals often have their own particular agents whom they expect companies to work through.

Some countries, notably including India, have sought to ban or severely restrict the use of agents, to guard against corruption, but this is frequently circumvented or ignored. Defining who is an illegitimate ‘agent’ and who is a legitimate ‘consultant’ can also be difficult. Clearly, there are some types of third parties with which companies cannot avoid working in relation to a deal, such as lawyers or translators, but the type of third party intermediary that is of greatest concern is those associated with sales, marketing, and PR in the intended recipient country.

Lockheed Martin has published a long [list of red flags](#) for the company’s employees to look for in conducting due diligence on third-party intermediaries hired in relation to export contracts, as part of its efforts to comply with the U.S. FCPA.²⁹ Some of the key broad areas for concern are:

- *Who the agent is*; whether the agent has a record of involvement in corrupt activities, fails to pass due diligence tests, or

uses shell companies;

- *Who the agent knows*; whether the agent is, or has a close connection with, a politically-exposed person, in particular, if they appear to have been hired primarily for their access to public figures; whether the agent’s company has a beneficial owner connected to a politician;
- *What the agent does*; whether there is little or no discernible legitimate work that the agent is doing in return for their fee, or if their terms of reference are extremely vague; whether their primary activity appears to be to lobby or influence public figures;
- *What and how the agent is paid*; whether the agent’s fees are very high in relation to the market rate, which, admittedly, can be rather subjective; if the ‘market rate’ tends to include bribes, then this is not very helpful; whether fees are based on a share of deals secured, or other ‘success’ fees, which may encourage dubious practices; and whether the agent is paid via a shell company or offshore accounts.

Many of these are echoed by TI’s 2016 report, *License to Bribe*,³⁰ on the role of agents in arms trade corruption, which also carries a wide range of recommendations to companies, exporting governments, importing governments, and civil society, regarding the handling of agents.

Companies can certainly reduce corruption risk by conducting due diligence in relation to agents they hire, but this does not help when the *intention* behind hiring agents is to facilitate corruption. This includes cases where the intent may be to create ‘plausible deniability’, or to follow a ‘head in the sand’ approach, whereby the intermediary is paid a large sum of money to secure the deal and little attention is paid to the means used to do so.

29 Lockheed Martin, “Bribery and corruption red flags,” report, 2018, <https://www.lockheedmartin.com/content/dam/lockheed-martin/eo/documents/ethics/corruption-red-flags.pdf>.

30 Katie Fish and Michelle Man, “Licence to Bribe? Reducing Corruption Risks around the Use of Agents in Defence Procurement,” Transparency International Defence & Security report, 2016, <http://ti-defence.org/wp-content/uploads/2016/06/Licence-to-Bribe-web.pdf>.

Paul Holden of Corruption Watch UK notes that a useful means of detecting potential corruption involving agents is court records of cases in which agents have sued the companies that hired them over fee disputes.³¹

Offsets

Offsets have long been recognized as a major corruption risk in arms procurement, and may be becoming even more of a focus for corruption going forward.

Offsets are not unique to the arms trade, but are particularly prominent within this sector. Offsets in an international trade deal (generally between a company and a foreign government) mean that the exporting company agrees to spend money in the recipient country to ‘offset’ the foreign currency cost of the deal. This can involve counter-trade, subcontracting, licensed production or local assembly, investment in local industry, creation of joint venture companies, and much else. Additional elements of an arms deal, such as training or technology transfer, are often classified as offsets, although they don’t directly involve the exporting company making any “offsetting” expenditure in the recipient country.

In the arms trade, offsets are divided into “direct” offsets which are directly related to the arms industry in the buyer country, and can include licensed production, sub-contracting, or technology transfer, and “indirect” offsets, such as countertrade or investment in unrelated industries that are not directly related to the arms industry.

Offsets are frequently negotiated to be 100% of the value of the main deal, or even more. However, the face value of offset deals is often deceptive, as companies typically receive ‘offset credits’ that are many multiples of actual expenditure

for certain types of offsets. In some cases, this is because a high weighting is allocated to types of offset (for example, technology transfer) that are particularly valued by the customer. In other cases, multipliers are assigned as a sleight of hand applied to make an offset deal look better than it is.³² In one case in the Compendium involving a sale of tanks by Germany to Greece, some additional free second-hand tanks thrown in as part of the deal were classified as an ‘offset’, although they do not fit the normal definition. The UAE has been known to accept cash payments in fulfillment of offset obligations; these monies are transferred into a slush fund that has been used for influencing U.S. think tanks.³³

Offsets were a feature of the corruption in at least 11 cases in the Compendium. Offsets create enormous possibilities for corruption for several reasons:

- Offset deals are typically far less transparent than even the arms deals they originate from, and details of offset-related contracts are very rarely published;
- Offsets create an extra layer of distance and deniability between the company and the corruption; a company may claim to have no knowledge that the customer government was deliberately directing offsets so as to benefit particular individuals;
- Offsets create an expectation of a financial flow between the exporting company and the offset recipient, thus allowing a bribe to be masked and rebranded as a payment related to an offset contract;³⁴
- There is potential for corruption in the allocation of offset credits itself, as happened, for example, in the Portuguese

31 Paul Holden, “Investigating and tracking the global arms trade,” presentation, Corruption Watch UK, 2018, https://docs.wixstatic.com/ugd/54261c_1f0bc83eeabf4207b4dcd10a4555d0a0.pdf.

32 See, for example, in relation to the case of the Port Elizabeth swimming pool, Andrew Feinstein, *The Shadow World: Inside the Global Arms Trade* (London: Penguin, 2011), p. 180.

33 Alex Emmons, “Weapons Money Intended for Economic Development Being Secretly Diverted to Lobbying,” *The Intercept* (online), Aug. 17, 2017, <https://theintercept.com/2017/08/17/weapons-money-intended-for-economic-development-being-secretly-diverted-to-lobbying>.

34 See e.g. Holden, “Investigating and tracking the global arms trade.”

submarine case;³⁵

- Perhaps most importantly, offsets provide for the distribution of very large benefits to a wide range of actors in the recipient country: subcontractors, local partners in joint ventures, recipients of investors, companies involved in countertrade deals, and the many agents who may be involved in identifying and implementing offset deals.

As anti-bribery legislation has strengthened, and more and more companies have been investigated for paying large bribes in relation to arms deals—even if they have suffered few consequences—offsets have become an increasingly enticing means of winning contracts. They may be corrupt, but this corruption is very hard to detect and can be plausibly (or implausibly) denied.

Governments, and individual politicians and officials, may have leeway to direct offset contracts in directions that can benefit themselves or their allies or circles of friends and family. Alternatively, offset agents may identify potential offset deals that will prove beneficial to politically relevant individuals. The companies that benefit from offsets may have hidden beneficial owners that include such politically exposed persons. All this may happen while the exporting company can claim – very likely truthfully – to have no knowledge of any corrupt dealings in the offset contracts. While they may still be liable for a failure to conduct due diligence, these risks may be much lower and the lapses harder to prove than in the case of explicit bribery. Meanwhile, the opacity of offset contracts may make it harder for investigators, including those from civil society, to detect corruption.

As offsets are almost ubiquitous in international arms deals, it is not much help to say that offsets in themselves are a corruption red flag. However, a number of specific risks can be identified,

some of which are discussed in TI's report, *Due Diligence and Corruption Risk in Defence Industry Offset Programmes*. (TI, 2012).³⁶

- *Who decides on the offsets?* Are substantial elements of the offset package, in particular the selection of offset recipients and partners, directed by the buyer government, or officials within the government?
- *Who are the offset recipients?* In particular, who are the beneficial owners and directors, and are any of these connected with those involved in the decision over the main contract, or in general politically well-connected persons who the decision-makers may wish to reward through the offsets? Are any of the subcontractors or partners unqualified, or with no track record in the relevant business? Are they a shell company, or registered offshore?
- *Who are the offset brokers,* agents or companies engaged to identify and negotiate offset contracts; what is their reputation or track record, and how much are they paid and how; do they have political connections or hidden beneficial owners;
- Most importantly, *who are the ultimate beneficiaries of the offset programs?*

Essentially, an offset package takes one major international arms deal, and generates from it a hundred smaller local deals, with new sets of agents and decision processes, all with very little transparency—a recipe for corruption. Moreover, each offset transaction actually involves two transactions—first, a transaction between the exporting company and the offset recipient, and second, a transaction between the exporting company and the buyer government, to determine how much offset credit the company will be awarded—creating a double corruption opportunity.

35 “German Submarine Sales to Portugal,” Compendium of Arms Trade Corruption, n.d., <https://sites.tufts.edu/corruptarmsdeals/german-submarine-sales-to-portugal>.

36 Louise Fluker, et al., “Due Diligence and Corruption Risk in Defence Industry Offset Programmes,” Transparency International Defence & Security, Feb. 2012, <http://ti-defence.org/publications/due-diligence-and-corruption-risk-in-defence-industry-offsets-programmes>

3. The political economy of the international arms trade

The international arms trade is worth around \$100 billion a year,³⁷ less than half of one percent of total world trade in goods and services. However, its political importance vastly outweighs its raw economic significance, and it receives far more intense attention and support from politicians than its economic value would appear to warrant. This is due both to the role of the arms trade in foreign policy relationships, and to the way most arms producers perceive a strong domestic arms industry as an essential instrument of national security and power, with the international arms trade an important means of maintaining and strengthening this industry.

A major arms deal, thus, is rarely just an arms deal. Very often, it is an expression of a long-term security and foreign policy relationship, and a signal of an alliance. It also depends on, and in turn develops, relationships between the political leadership in the supplier and recipient countries. It will often establish or further relationships between the two countries' militaries, through training and support. It establishes industrial connections through offset programs, such as subcontractor relationships between the supplier company and component producers in the recipient country. Ongoing maintenance and supply of spare parts are very often part of a deal. These ongoing links and dependencies in turn serve to cement the foreign policy and political relationships.

During the Cold War, the arms trade was a dimension of superpower competition, wherein the United States and the USSR would each use arms sales to support existing allies, to seek to win favor and influence among non-aligned countries, or simply to frustrate the aims of the rival superpower. Arms were often supplied as military

aid, or at 'friendship' prices. Western European suppliers were more concerned with strengthening their own domestic industries, but generally kept to supplying western-friendly nations. China took something of an ideological approach to arms sales, supplying ideologically-aligned nations as well as recently independent post-colonial nations.³⁸

The end of the Cold War left the United States as the overwhelmingly dominant supplier in the global arms market, but also opened the field up by largely removing ideological barriers to arms sales. For a country to buy from both western suppliers and Russia was no longer unthinkable—previously, only explicitly non-aligned countries, such as India, could diversify. Thus, the scope for buyers to choose between multiple potential suppliers was widened, while the cuts in military spending at the end of the Cold War increased the dependence of the arms industries in most supplier nations, except the United States, on exports. The end of superpower competition also reduced the willingness of exporters to provide arms as military aid or at reduced prices, although this practice was already in decline by the 1970s.³⁹

Nonetheless, while buying arms from the United States, Russia, or other producers was no longer linked to picking a side in the Cold War, major arms sales have often remained a key element of a broader security relationship. This is especially true of buyers of U.S. arms, given the United States' role as the sole superpower, and thus the only country, in most of the world, capable of providing meaningful security guarantees. In the Middle East and former Soviet states of central and Eastern Europe in particular, buying U.S. weapons is seen as representing and cementing an alliance and entry into the U.S.-guaranteed security system.

Beyond the symbolism and the overall foreign policy significance, major arms deals offer a

37 Sam Perlo-Freeman, "How Big is the International Arms Trade?" (revised and updated), Occasional Paper, World Peace Foundation, July 19, 2018, <https://sites.tufts.edu/wpf/files/2018/08/How-big-is-the-International-Arms-Trade-20180725-f.pdf>.

38 Rachel Stohl and Susan Grillot, *The International Arms Trade* (Cambridge: Polity Press, 2009).

39 Rachel Stohl and Susan Grillot, *The International Arms Trade* (Cambridge: Polity Press, 2009).

number of non-security benefits to both suppliers and recipients. For the supplier country, arms deals are often lauded on the grounds of the jobs and foreign earnings they produce, but in fact the magnitude of these is very small in relation to the overall economy, and the loss of such trade in arms would have a minimal impact on figures for unemployment or balance of payments. What is much more important is the role of arms exports in sustaining the viability and profitability of the arms industry in the seller country, especially where domestic demand from the armed forces is limited, as it is in all countries except the United States and now, possibly, China. In some cases, there are also still direct political and security motivations. Thus, the United States seeks to support allies in the war on terror by supplying arms to combat insurgencies and terrorist groups—or, in Latin America, rebels and other armed groups linked with the ‘war on drugs may provide a similar justification.’ U.S. support for Israel, on the other hand, is underpinned by a long-standing bipartisan domestic political commitment, as well as by a view of Israel as a reliable western ally in the Middle East. In the Asia-Pacific, guaranteeing the security of U.S. allies (primarily Japan, South Korea, Taiwan, and the Philippines) against any potential Chinese challenge is a key motivation. A belief that arms exports gain the United States geopolitical influence in general is also a frequently-used argument, although the practical extent and value of such influence is unproven and open to question.⁴⁰

Russia also uses arms sales as a foreign policy and security tool in certain cases, in particular in the former-Soviet space and, most worryingly in recent years, in Syria. For the most part, though, Russia, like the western European suppliers and China and Israel, sells arms where it can, in the face of fierce competition, to ensure the strength of its industry.

Buyers, except those facing a UN or a western em-

bargo, typically enjoy a wide choice of potential suppliers, and can thus consider a much broader range of factors in their choices. The specific military utility of the weapons purchased is not necessarily the most important one.

As discussed, the choice of the United States as a supplier is often linked to the latter’s role as the sole superpower. For many countries, being a U.S. ally is perceived as a key guarantor of their security, and an arms sales relationship may be an important element in establishing and strengthening such an alliance. This is particularly true of countries in the Middle East and in North-East Asia (except for those countries, such as China, North Korea, Iran, or Syria, which the United States regards as rivals or enemies) whose arms markets the United States dominates. How true it is that purchases of U.S. arms bring with them U.S. security guarantees, separate from those obtained from stronger measures such as hosting military bases or support for U.S. regional goals, has not been clearly tested, but it seems to be something that many countries believe.⁴¹ Saudi Arabia in particular seems to regard U.S. security guarantees as a key side benefit to purchases of U.S. arms.

However, many countries to which the United States would be happy to sell nonetheless choose other suppliers for major deals, for a variety of reasons. One of these may be price, as U.S. weapons are often the most expensive. Some of the other considerations may include:

- Long-standing arms supply relationships with other countries that the buyer may be keen to maintain; Russia, for example, remains India’s leading arms supplier as it was during the Cold War, although Israel and the United States have now established themselves in the Indian market, alongside European countries;
- A desire to maintain a diversity of arms sup-

40 See, for example, A. Trevor Thrall and Caroline Dorminey, “Risky Business: The Role of Arms Sales in U.S. Foreign Policy,” Policy Analysis No. 836, CATO Institute, Mar. 13, 2018, <https://www.cato.org/publications/policy-analysis/risky-business-role-arms-sales-us-foreign-policy>.

41 For a discussion of the trade-offs and strategic logic, see Keren Yarhi-Milo, Alexander Lanoszka, and Zack Cooper, “To Arm or to Ally? The Patron’s Dilemma and the Strategic Logic of Arms Transfers and Alliances,” *International Security*, Vol. 41, No. 2 (Fall 2016), pp. 90–139.

pliers to avoid excessive dependence on one, or more generally to express political independence from established suppliers (e.g. India diversifying its supplier base, Brazil choosing a non-U.S. supplier for its combat jets);

- Specific political relationships between individual leaders and security and foreign policy establishments (e.g. the long-standing UK-Saudi relationship);
- Offsets, which are increasingly used as a key competitive factor by rival arms suppliers;
- In particular, technology transfer, which buyers may use as a means of developing their domestic arms industries. Non-U.S. suppliers are typically more willing to provide full technology transfer to recipients, while the United States has more of an incentive to protect its technological edge;
- Last, but not least, corruption, another key competitive tool among arms exporters. This consideration will often intersect with offsets, which as discussed provide major corruption opportunities, and with long-standing political relationships, which can be used to facilitate corruption.

Hence, when an arms deal is large enough for such political calculations to come to bear—the threshold varying from country to country, depending on size and resources—the acquisition process will never be simply a technical competition between the different options, decided on objective grounds by impartial civil servants and military personnel, with politicians setting overall strategic priorities for the capabilities desired but otherwise playing no role. Politicians will always be involved in negotiations and in the final decision, and indeed requirements will be set with implications for which sellers can compete and win. Thus: “Arms transfers are best understood as ‘reciprocal, bargaining relations’ rather than ‘separate unilateral acts of supplying and

receiving”⁴².

The political nature of the choice, and the discretionary involvement of senior politicians, opens the door for grand corruption. Bribes can be the determining factor when assessments of an overall package of economic, strategic, and technical factors are so highly subjective. Moreover, the involvement of senior politicians means that the arms trade seems to be particularly susceptible to corruption as a means of political finance, to fund political parties, election campaigns, and patronage networks. This is a factor in a significant proportion of the major cases in the Compendium, and is discussed at greater length in the WPF report *Arms Trade Corruption and Political Finance*.⁴³

This does not mean that all large arms deals are necessarily corrupt; in some cases, as perhaps

“Bribes can be the determining factor when assessments of an overall package of economic, strategic, and technical factors are so highly subjective.”

with many countries that choose the United States as their main arms supplier, the strategic consideration of security guarantees may be a sufficient determinant. But how does one tell the two apart? The fact that the reasons for deals include highly subjective matters of international strategy and geopolitics can itself give a cover for corrupt motivations.

The following examples, some from the Compendium and some more recent cases where the picture is still too uncertain to include in the Compendium, are intended to illustrate the political nature of decision-making in major arms deals, in both the buyer and the seller country. The actual or potential corruption in these deals is not an incidental footnote or bolt-on to the arms deal, but a key part of the overall political

42 Stohl and Grillott, *The International Arms Trade*, quoting Edward Kolodziej, “Arms transfers and International Politics: the Interdependence of Independence,” in Robert Harkavy and Stephanie Neuman (eds.), *Arms Transfers in the Modern World* (New York: Praeger, 1979), pp. 3-26.

43 Liang and Sam Perlo-Freeman, “Arms Trade Corruption and Political Finance.”

arrangement from which the arms deal emerges.

CASE STUDIES

Al Yamamah

The UK has a long and dishonorable relationship with the Saudi royal family, having supported the House of Saud's rise to power, and subsequently maintaining an alliance based around oil, arms sales, and corruption.⁴⁴ The institutionalized corruption in UK arms sales to Saudi Arabia dating back to the 1970s has been detailed by Nick Gilby.⁴⁵

It was in the mid-1980s, however, that an opportunity to take British arms sales to Saudi Arabia to new heights emerged, when the U.S. Congress developed a reluctance to approve the sale of advanced combat aircraft to the Kingdom due to concerns from the Israel lobby. The UK government of Margaret Thatcher took full advantage, entering into negotiations with the Saudis, represented by Prince Bandar bin Sultan, the Saudi ambassador to the United States, and a grandson of King Abdulaziz ibn Saud, the founding king of Saudi Arabia. The resulting Al Yamamah and Al Salam series of arms sales, involving first Tornado combat aircraft and Hawk trainers, later Eurofighter Typhoon aircraft, as well as a host of other equipment, arose out of the close personal and institutional connections between the UK and Saudi sides, and involved direct negotiations between Thatcher and senior members of the Saudi royal family. The deals provided a lifeline for the UK's top arms company, British Aerospace, which subsequently gained a role at the heart of the post-Cold War restructuring of the UK arms industry and defense industrial policy, as BAE Systems. Up to 2007, BAE earned £43 billion in revenues from sales to Saudi Arabia, with the Kingdom continuing to represent between 15-20% of BAE's annual turnover. In return, BAE channeled over £1 billion in commission payments to Prince Bandar over 20 years, helping him consolidate his position among the Saudi

Royal elite. Overall, UK police estimated that as much as £6 billion may have been paid out in bribes to various members of the Royal Family and military elite.⁴⁶

So crucial was the Saudi relationship to the survival of the UK arms industry, in particular the capacity to build advanced combat aircraft, successive UK governments went to extraordinary lengths to cover up the corruption. A 1991 National Audit Office report into corruption allegations became the only such report ever to be classified. It was not revealed even to the UK Parliament's Public Accounts Committee, except its chair. In 2006, a Serious Fraud Office investigation, which resulted from a series of whistleblower revelations, was cancelled by the government of Prime Minister Tony Blair to maintain the relationship with Saudi Arabia and, specifically, to safeguard the signing of the new Al Salam contract for Typhoon aircraft in 2007.

The supply of arms began long before any prospect emerged of Saudi Arabia actually using these planes in combat. The arms purchases were the product of a political relationship between the UK and Saudi elites, and an opportunity to channel the country's oil wealth into vast personal gain for Prince Bandar and others closely involved, as well as a source of patronage within Saudi Arabia's often complex and inter-cine family relationships.

La Système DCNS

A raid on the offices of French state shipbuilder [DCNS](#) in 2008, in connection with one of many corruption scandals, produced, among other evidence, a notebook from the company's former chief financial officer. This detailed DCNS's marketing strategy for its vessels, noting that, from 1991 to 2002, the company sold 60 billion francs-worth of vessels (EUR 9.15 billion), of which 8-10%, or around EUR 732-915 million, were paid in "Frais Commerciaux Exceptionnelles" (FCE) ["Exceptional Commercial Expenses"] to agents and lobbyists, who redistributed them to

44 David Wearing, *AngloArabia: why Gulf wealth matters to Britain* (London: Polity Press, 2018).

45 Nick Gilby, *Deception in High Places: a History of Bribery in Britain's Arms Trade* (London: Pluto Press, 2014).

46 "The Al Yamamah arms deals," *Compendium of Arms Trade Corruption*, n.d., <https://sites.tufts.edu/corruptarms-deals/the-al-yamamah-arms-deals>.

their ultimate beneficiaries.⁴⁷ This was the term given to commission payments, in other words bribes, which were legal until the implementation of France's accession to the OECD Convention on Corruption in 1999. In many cases, commissions were arranged by French state arms export agencies.

The apparent ubiquity of bribery as a means of securing such sales may be partly explained by the extreme scarcity of deals in the market. Over a ten-year period, 2006-15, only 72 submarines were ordered by just 16 countries, from five suppliers: Germany (32), France (17), China (11), Russia (9), and South Korea (3). Deals for major surface combatants were slightly more frequent, but not much so, and there were more competitors in the market. The United States and UK only produce nuclear-powered submarines, which so far they have not sought to export.

Submarines are, above all, a vanity purchase for most countries, certainly providing military strength in the distant prospect of an all-out interstate war, but rarely being a matter of urgency for the buyer. They are also huge, once-in-a-generation purchases, which cannot be signed-off without the highest level of political approval.

The Compendium includes eight cases involving submarines, three involving France and five with Germany.

In some of the French cases in particular, there is evidence of high-level political manipulation and corruption on the seller's side, as well as the buyer's, most notably in [L'affaire Karachi](#), the 1994 EUR 825 million sale of French submarines to Pakistan.⁴⁸ These sales involved the payment of bribes to top decision-makers in the recipient countries, which were . Sales also included the diversion of funds—, supposedly intended for 'legitimate' bribes to Pakistani recipients—, in the form of 'retrocommissions' to French politicians' political campaigns, specifically that of Prime Minister Edouard Balladur, who was running for president. The recipients on the Pakistani side

included the Chief of Naval Staff, Admiral Mansur al-Haq, later imprisoned for his role, but likely also included Asif Ali Zardari, husband of Prime Minister Benazir Bhutto, known in Pakistan as 'Mr 10%' (Guisnel, 2011).

Of crucial importance was the fact that the main seller company, DCNS, was state-owned, giving the minister of defence, Francois Léotard, a close Balladur ally, a key role in the process. Léotard imposed on DCNS, towards the end of the process, two additional agents, Abdul Rahman el-As-sir and Ziad Takiieddine, who were charged with distributing additional commissions of EUR 33 million, or 4% of the deal's value, on top of the 6.25% previously agreed with the Pakistani side. It is this additional 4% that appears to have been redirected to the Balladur campaign.

Thus, a major arms deal served as a platform for the enrichment both of senior Pakistani and Saudi politicians and senior military officers, and to further the political ambitions of senior French politicians involved in the deal. The military value of the submarines was perhaps only a subsidiary consideration.

India's Rafale deal

India has been searching for a new contingent of advanced fighter aircraft for many years now. In 2012, it appeared that the search had been settled, when the Congress Party-led government selected France's Dassault Rafale aircraft, with a preliminary agreement to buy 126 planes, of which 18 would be 'off the shelf' and the remaining 108 produced in India as a joint venture between Dassault and Hindustan Aeronautics Limited (HAL), India's state-owned aircraft producer.

However, negotiations over the final price and other key elements faltered and an election in 2014, which brought to power a government led by Narendra Modi of the Hindu-nationalist BJP, led to this deal being cancelled. Instead, during a visit to Paris in April 2015, Modi suddenly announced a revised plan to buy 36 aircraft in 'fly-away' condition. In 2016, India and France

47 Jean Guisnel, *Armes de Corruption Massive: Secrets et Combines des Marchands de Canons* [Weapons of mass corruption: secrets and tricks of the gun merchants] (Paris: Le Découverte, 2011).

48 A \$3.4 billion sale of frigates to Saudi Arabia was also involved in the same web of corruption.

signed an Inter-Governmental Agreement for the sale of 36 planes for EUR 7.8 billion (\$8.8 billion), along with weaponry and other equipment. The local production element involving HAL was abandoned, and instead a 50% offset clause was agreed, including 30% of the deal's value to be invested in the Indian Defence Research & Development Organization (DRDO), and 20% in investment and counter-purchases with Indian companies.⁴⁹

One of the companies benefitting from the offset agreement is Reliance Defence Limited, part of the Reliance industrial empire of the politically connected Indian billionaire industrialist Anil Ambani. Reliance had no previous experience in the aerospace sector in which it was to work under the offset agreement, said to be worth EUR 100 million to Reliance.⁵⁰

Accusations of cronyism intensified after a number of revelations from the French side: first, in October 2018, former French President Francois Hollande stated, contrary to the insistence of the Modi government, that the choice of Reliance as an offset partner for Dassault had been dictated to it by the Indian side, a claim later backed up by internal Dassault documents.⁵¹ Second, a revelation in April 2019 that, at the time the negotiations for the revised Rafale deal were taking place, French authorities agreed to write off a \$162 million tax debt for the Reliance group.⁵² Ambani was in France at the time of the negotiations. Another irregularity in the deal was an exemption from the usual Indian Defence Procurement Procedure, including its anti-corruption clauses.

As yet, there have been no clear allegations of corruption established in relation to the deal, despite the urgent insistence by the Congress opposition that this is the case. The Indian Supreme Court in December 2018 ruled that there was no case for the government to answer in relation to the deal. However, many revelations regarding the offset deals have come out since then, and there is at the very least strong grounds for suspicion that the deal has been used to benefit a powerful political-business operator, securing a valuable ally for the Modi government.

One confounding factor in the debate over the Rafales is dispute over whether the deal is cheaper, or more expensive, per plane than the original one negotiated by the Congress-led government. The final price of the earlier deal was never definitely agreed. The average price per plane of the current deal, at \$244 million, appears to be very high, but the deal also includes weaponry and EUR 1.8 billion-worth of 'India-specific' adaptations to the Rafales. Indeed, a report by the Comptroller and Auditor General's office in February 2018 found that the deal was a little under 3% cheaper per plane than the original. However, the CAG report also stated that some of the 'India-specific enhancements' were not needed, and had not been requested by the Indian Air Force. Other analysts have claimed that the various India-specific enhancements increased the price per plane by 41%. The fact that the Indian government has refused to disclose the full pricing details, even to the responsible parliamentary committee, has made a precise analysis of the costs impossible for outsiders.⁵³

Many of the key red flags are present here: a deal

49 Jay Hilotin, "India's Rafale deal: What the controversy is all about?" Gulf News India (online), Feb. 12, 2019, <https://gulfnews.com/world/asia/india/indias-rafale-deal-what-the-controversy-is-all-about-1.1549975118566>.

50 Manu Pubby, "Reliance Defence will get 3% of Rs 30,000 crore Rafale offset," The Economic Times (online), Oct. 16, 2018, <https://economictimes.indiatimes.com/news/defence/reliance-defence-to-get-3-of-rs-30000-crore-offset/article-show/66228334.cms>.

51 Noopur Tiwari, "Papers Show Reliance Joint Venture 'Mandatory' For Rafale Deal: Report," NDTV (online), Oct. 11, 2018, <https://www.ndtv.com/india-news/dassault-document-shows-reliance-joint-venture-was-mandatory-to-get-rafale-jet-deal-says-french-jour-1930056>.

52 "Le Monde drops Rafale bombshell: French authorities cleared Anil Ambani's \$162 million tax after NDA deal," India Today (online), Apr. 13, 2019, <https://www.indiatoday.in/india/story/rafale-deal-french-authorities-anil-ambani-162-6-million-dollar-debt-narendra-modi-1501000-2019-04-13>.

53 N. Ram, "Modi's decision to buy 36 Rafales shot the price of each jet up by 41%," The Hindu (online), Jan. 18, 2019, <https://www.thehindu.com/news/national/modis-decision-to-buy-36-rafales-shot-the-price-of-each-jet-up-by-41/article26019165.ece>.

negotiated at the highest political levels (with leaked documents showing that the Prime Minister's Office negotiated directly with the French on the deal), circumventing regular defense procurement procedures; offsets specifically requested by the buyer-side benefiting a politically-connected individual; late changes to the deal and the requirements; and obscure pricing. Whether, ultimately, any corruption will be found in the deal remains to be seen, but the highly politicized nature of major arms contracts, and the potential for this to interact with domestic political maneuvering, alliance building, and favor-granting, is clearly on display.

Qatar's hybrid air force

One of the more bizarre sets of recent arms deals has been Qatar's acquisition of three different types of major combat aircraft. First, Qatar signed a deal for 24 Dassault Rafales from France in May 2015 for EUR 6.7 billion,⁵⁴ and exercised an option for an additional 12 in December 2017 (the value of the latter is not clear). Then, in June 2017, Qatar ordered 36 F-15Q Strike Eagles from the United States in a deal worth a potential \$12 billion, if an option for a further 36 is exercised. The U.S. DOD awarded a \$6.2 billion contract for the initial 36 to Boeing in December 2017, under the government-to-government Foreign Military Sales program.⁵⁵ Finally in September 2018, Qatar signed a contract for 24 Eurofighter Typhoons from BAE Systems of the UK, for £5 billion.⁵⁶ This will represent a massive expansion of the Qatari air force, replacing 12 ageing Dassault Mirage-2000 fighters with 96 state-of-the-art aircraft – 132 if the option for 36 more F-15s is exercised.

Qatar has a population of 2.6 million, of which only 313,000 are Qatari citizens, the rest being expatriate workers. With such a small number of citizens, it is hard to see how Qatar could possibly find sufficient numbers of trained pilots to fly such a large fleet. The country will almost certainly depend on foreign pilots, essentially mercenaries, to fly its air force, if indeed it is ever fully assembled.

Qatar's desire to expand and modernize its military capabilities is not surprising given the major row that broke out in 2015 with its much more powerful regional Gulf neighbors, Saudi Arabia and the UAE, who along with Egypt have been operating an ineffective blockade of the country since 2015. What requires explanation from a military point of view is the decision to purchase three separate types of fairly similar multirole aircraft, thus multiplying costs for training, operational support, and repair and maintenance, while creating problems of integrating these different systems into a single force. Moreover, as Gareth Jennings of Jane's by IHS Markit notes, the three are all twin-engine, 4th-generation multirole aircraft, so that the different planes offer little by way of unique capabilities to distinguish one from the other.⁵⁷

In short, there is no conceivable military rationale for buying three different types. As one senior Qatari officer commented on the F-15 deal, "This is not a purchase, it is a strategic partnership".⁵⁸ Thus, the most widely suggested explanation is that, in the face of the potential threat from Saudi Arabia and the—there are suggestions that U.S. Secretary of State Rex Tillerson had to talk Saudi Crown Prince Mohammed bin Salman out of

54 Stockholm International Peace Research Institute, "SIPRI Arms Transfer Database," website, n.d., <https://www.sipri.org/databases/armstransfers>.

55 SIPRI Arms Transfers Database, and "Pentagon: Boeing wins \$6.2bn contract for Qatar's F-15," Al Jazeera (online), Dec. 23, 2017, <https://www.aljazeera.com/news/2017/12/pentagon-boeing-wins-62bn-contract-qatar-15-171223192108186.html>.

56 Sarah Young, "BAE Systems finalises deal to sell Typhoon jets to Qatar," Reuters, Sep. 18, 2018, <https://uk.reuters.com/article/uk-bae-systems-qatar/bae-systems-finalises-deal-to-sell-typhoon-jets-to-qatar-idUKKCN1LY261>

57 Gareth Jennings, "More money than sense? Qatar's shopping spree for new fighters continues unabated," YouTube video, Jane's by IHS Markit, Jan. 17, 2018, <https://www.youtube.com/watch?v=pf5dIHZNvck>.

58 Eric Knecht, "Qatar expects to receive six F-15 fighter jets from U.S. by March 2021," Reuters, Sep. 26, 2018, <https://www.reuters.com/article/us-qatar-defence-f15/qatar-expects-first-six-f-15-fighter-jets-delivered-by-march-2021-idUSKCN1NV1AV>.

launching a military attack on Qatar in 2017⁵⁹— Qatar is seeking to buy friends and allies more than it is seeking to acquire usable aircraft.

This is plausible, but still doesn't completely fly (as it were). As Jennings points out, rather than buy superfluous aircraft, why not buy land and marine systems the country could actually use? Moreover, given the dominant U.S. role in the region, including the presence of 10,000 U.S. troops at the Al Udeid air base in Qatar, the largest U.S. base in the Middle East,⁶⁰ it is hard to see what additional security guarantees the UK and France could meaningfully provide in return for the aircraft purchases—although they were doubtless grateful for the boost to their major combat aircraft industries, which otherwise were in danger of running out of orders.

Given the prevalence of corruption in the major combat aircraft sector of the arms trade – especially for non-U.S. sellers—it is natural to ask whether corruption may have been one of the factors motivating the acquisition decisions in one or more of the deals. At present there have been no allegations of corruption. However, Qatar is given the lowest possible rank by TI's Government Defence Anti-Corruption Index – an 'F' grade, indicating a 'critical' risk of corruption, with the procurement area being awarded a particularly low score of 4 out of 100.⁶¹ Qatar is one of the least transparent countries in the world for military spending, having provided no information whatsoever on such spending – even a total amount – since 2003. TI describes the country's procurement processes as a 'black box', with no evidence of strategic planning or systematic evaluation according to defined requirements. No information is provided to the public, or even a parliamentary committee, regarding procurement decisions, which appear to be tightly controlled by the ruling emir. The use of intermediaries is not restricted and is said to

be widespread.⁶²

This is not in itself evidence of corruption in any of these specific deals. However, the general lack of transparency or rationality in the Qatari procurement process, together with the complete absence of military justification in the diversity of the three aircraft deals, do amount to a significant set of red flags. Meanwhile, the invocation of strategic relationship-building (or buying of allies) provides a semi-plausible political cover. In this case, it is indisputable that these deals are wholly political in nature; whether this political motivation masks a corrupt financial element, allowing state funds to be distributed in patronage to key individuals, is at this stage impossible to tell.

Many more cases in the Compendium exhibit some of these key political features, on smaller or larger scales, such as:

- The South African arms deal, where the need for the ANC to raise funding for its election campaign in the post-Apartheid era – as well as the personal benefit of leading politicians – was a key factor motivating the deals, and explain the eagerness of top decision-makers (such as Defence Minister Joe Modise) to manipulate the procurement process;
- The Austrian Eurofighter case, in which both political finance and manipulation of offsets to the benefit of the allies of leading politicians were factors;
- The Brazilian Gripen deal, where geopolitical factors (a desire to avoid dependence on the United States following revelations of U.S. surveillance of President Dilma Rousseff) are hard to disentangle from allegations of large influence payments by Sweden's Saab, producer of the Gripen, to the son of Dilma's pre-

59 "Rex Tillerson stopped Saudi and UAE from 'attacking' Qatar," Al Jazeera (online), Aug. 1, 2018, <https://www.aljazeera.com/news/2018/08/rex-tillerson-stopped-saudi-uae-attacking-qatar-180801125651449.html>

60 Matthew Wallin, "US Military Bases and Facilities in the Middle East," American Security Project Fact Sheet, June 2018, <https://www.americansecurityproject.org/wp-content/uploads/2018/06/Ref-0213-US-Military-Bases-and-Facilities-Middle-East.pdf>

61 Wallin, "US Military Bases and Facilities in the Middle East."

62 Transparency International Defence & Security, "Government Defence Anti-Corruption Index: Qatar, 2015," website, n.d., <http://government.defenceindex.org/countries/qatar>.

decessor Lula da Silva;

- The Pergau Dam “arms for aid” scandal;
- Many other cases where funding of political parties and campaigns was a relevant factor, including the CDU party funding scandal, Belgium’s F-16 upgrades and helicopter purchases (linked to Socialist Party funding), the Portuguese submarine case, and the Gripen Central European deals.

Not all cases involve such complex political machinations. Some appear to be simply cases of leading decision-makers taking the opportunity to enrich themselves on the back of an arms deal. But the fundamentally political nature of the arms trade and decision-making around it keeps the door open for grand corruption.

4. Conclusions

Corruption is embedded in the political-economic structures that drive the international arms trade. Corruption serves many different purposes, political and economic, for buyers, sellers and intermediaries. It is the norm, not a deviation. Corruption is commonly a policy, not a failure of policy. Efforts to combat corruption through improved procedures and due diligence face an uphill battle against strong incentives, often operating at the highest political level, in both recipient and supplier countries.

Warning signs of corruption are therefore almost too ubiquitous to be useful, in that the great majority of major arms deals involve high-level political maneuvering that might well constitute a red flag, were it not so normalized. Where arms deals are seldom simply a matter of best value for money against defined technical criteria, corruption may be just one of a range of domestic and international political factors driving a deal.

Nonetheless, there are plenty of more specific warning signs, or red flags, that can point to particularly high risks of corruption in individual cases. The same red flags are highlighted by a variety of sources, including civil society, such as TI, as well as industry bodies such as those working on promoting compliance with anti-corruption

legislation. There is also considerable overlap between commonly identified red flags in the arms trade and those for other sectors with a high prevalence of corruption, in particular extractive industries.

The background condition of a country’s institutions, legislation, and procedures form a first, general layer of red flags. Specific attention should be paid to the level of transparency and accountability in military spending and the arms trade; the robustness of procurement processes, and the mechanisms within those procedures to prevent corruption; and the institutions and processes for scrutinizing spending and procurement. However, such indicators (many of them captured by TI Defence & Security’s Government Index) can only illustrate the level of vulnerability of a country to corruption in arms procurement and the military sector, rather than pointing to signs of corruption in a particular deal. The term ‘vulnerability’ in itself betrays a certain casuistry of language, suggesting that corruption is something that *happens* to a country’s government or defense establishment, rather than being, as is sometimes the case, an established mode of operation at the highest level of government.

Deal-specific red flags can relate to the company awarded the contract – where they are unqualified, anonymously owned, or with financial or other connections to highly-placed individuals. Others concern the process by which procurement decisions are made. Of particular relevance are the use of agents or intermediaries, and the presence (and details) of offset contracts, which open up a whole new world of corruption ‘vulnerabilities’, or opportunities, depending on one’s perspective. Signs of interference in and late-stage changes to the procurement process and criteria are also key red flags.

Governments and companies can implement procedures, and checks and balances that reduce the likelihood of corruption occurring at different levels of arms procurement or sale. The effectiveness of such measures depends critically on leaders having taken a clear, strategic decision to stop using corruption as a means of winning contracts, or of using arms deals as a means of

self-enrichment, patronage, and political finance. Those outside elite circles, such as civil society and journalists, can also use the red flags as a means of scrutinizing their government's activities, although many such red flags will be less visible from the outside.

While U.S. arms companies do still engage in corrupt deals from time to time, it seems that this is less systematic, smaller-scale, and more likely to be punished than is the case for other arms exporters. In part, this may be due to the Foreign Corrupt Practices Act, passed in 1977, which created strong incentives for U.S. companies to engage in serious compliance efforts. It is also partly due to the lower export dependence of U.S. companies and the overwhelming U.S. dominance of the global arms market, which means U.S. companies have less need of corruption for competitive advantage.

Corresponding legislation in Europe is more recent, following the 1999 OECD Convention on Corruption, and its implementation so far appears to have been patchy at best, although there are some signs of companies facing more serious consequences for corruption. At the very least, the passing of national legislation, such as the 2010 UK Bribery Act, means that companies have to attempt the appearance of compliance, and may be more cautious in creating corruption-enabling corporate structures, such as BAE's former Red Diamond shell company. Bribes paid by French arms companies can no longer be officially sanctioned and arranged by state agencies.

What remains to be seen is if the governments of major European arms producers have taken the strategic decision to stop employing bribery as one of the key marketing tools for their leading arms companies, and a key means of maintaining their defense industrial bases. The signs are not all positive. One major corruption case, that of GPT Communications' contract with the Saudi Arabia National Guard whereby the company works closely with UK MOD personnel on the ground in Saudi Arabia, began to be investigated by the Serious Fraud Office in 2010, following revelations from a GPT whistleblower. The SFO concluded its investigation in late 2017, since

then the dossier has been sitting with the Attorney General, whose permission is required to proceed with any prosecution. At the moment, it appears that he is sitting on the decision. To halt the case, as Prime Minister Blair did with the Al Yamamah investigation in 2006, would damage the UK's anti-corruption reputation, but to allow it to go forward would jeopardize the UK's relationship with its number-one arms customer, presenting an equally unpalatable option.

Unless and until governments make such hard choices, approaches based on treating anti-corruption as a matter of correct internal processes and due diligence will have a limited impact.

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