

DEMYSTIFYING END-USE MONITORING

IN U.S. ARMS EXPORTS

Overview

The United States (U.S.) remains the world's largest purveyor of arms, representing nearly [37% of global arms exports](#) between 2015 and 2020. In 2020 alone, the U.S. government approved over [\\$110 billion](#) in arms sales to countries in every corner of the globe. Concerned about U.S. arms facilitating [human rights violations](#), [civilian harm in conflict](#), and [corruption](#), U.S. lawmakers and advocates have long sought to create safeguards against the misuse of the billions of dollars in American weaponry shipped abroad every year. **End-use monitoring (EUM)** is aimed at satisfying statutory requirements for the U.S. government to provide assurances that American arms are not being misused, diverted, or otherwise violating the terms of their export. Unfortunately, the current EUM regime fails to adequately address concerns about the human impact of U.S. arms transfers. This brief provides an overview of current EUM policies, dispels commonly held misconceptions of current EUM practice, and offers recommendations for how these regulations could be strengthened. The brief focuses purely on items on the U.S. Munitions List and thus does not contain a comprehensive explanation of EUM for items on the Commerce Department's Commerce Control List.

What is End-Use Monitoring and How Does it Work?

The Arms Export Control Act (AECA) of 1976 requires the U.S. government to provide reasonable assurance that the recipient of an arms transfer complies with requirements around the use, transfer, and security of U.S. defense articles or services. These requirements have resulted in two separate EUM programs: **the Golden Sentry program**, managed by the Department of Defense (DoD) and responsible for EUM of government-to-government foreign military sales (FMS); and **the Blue Lantern program**, managed by the Department of State (DoS) and responsible for EUM of arms sold via direct commercial sales (DCS).

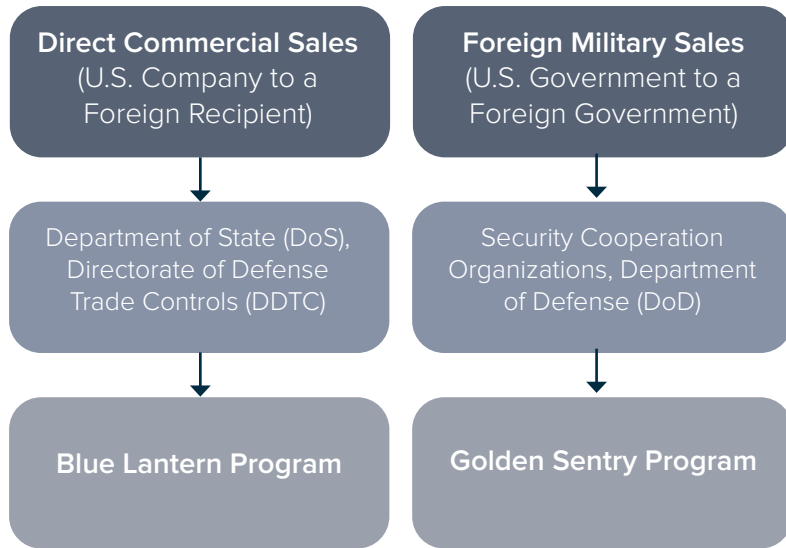
Foreign Military Sales: Golden Sentry

EUM for government-to-government arms sales is managed by the Department of Defense through the Golden Sentry program, and take place in three stages: pre-transfer, during transfer, and post-transfer. Before a transfer, U.S. officials assess the recipient's willingness and ability to protect U.S. technologies and abide by end-use regulations. During the transfer process, a Letter of Offer and Acceptance (LOA) that outlines the specifics of a FMS will also include stipulations for the recipient's end-use obligations, including conditions on the transfer and security of U.S. arms. After delivery, Golden Sentry provides for two types of EUM: Routine EUM (REUM) and Enhanced EUM (EEUM). REUM is required for all defense articles and services provided through FMS and involves visits to partner nation security installations and inspections of U.S. arms and their storage, as well as basic information gathering at the embassy level and through other sources. EEUM, which is mandated for [certain defense articles or munitions-controlled items](#), requires U.S. personnel to regularly assess the physical security of the storage facilities for the transferred articles, conduct regular, on-site inspections to ensure the physical security of storage facilities, and verify serial numbers of all EEUM-designated defense articles. These EUM measures emphasize the protection of proprietary U.S. defense technology and are almost always concerned with the unauthorized transfer of defense articles, rather than how those weapons, technologies, or services are used. Unfortunately, public reporting on Golden Sentry is scarcer than its State Department counterpart, making civic oversight and accountability more challenging.

Direct Commercial Sales: Blue Lantern

EUM checks for commercial arms sales are conducted by U.S. embassy personnel under the Blue Lantern program, which can include pre-license, post-license, and post-shipment checks to verify the information of defense article purchasers and end-users — namely, whether the recipient is compliant with U.S. government standards about use, transfer, and security of defense articles and services. Due to the high volume of sales, Blue Lantern checks are more targeted than those in the Golden Sentry program and are conducted on the basis of potential risk. [According to State Department reporting](#), only around 1% of total license applications lead to a Blue Lantern check, while about 25% of checks result in an “unfavorable” finding. Unfavorable findings may result from incorrect information on the application (such as an incorrect address), information suggesting an individual or party involved in the sale is unreliable (for example, currently under investigation or with past criminal records), or refusal to cooperate with the check.

End-Use Monitoring Flow Chart



EUM for “dual-use” items – those designed for commercial purposes, but which could have military applications – is conducted by the Commerce Department’s Bureau of Industry and Security (BIS). BIS conducts EUM of items subject to the U.S. Export Administration Regulations (EAR), including items on the Commerce Control List. Examples of EAR-controlled items include certain electronics, nuclear materials, and firearms. Similar to Blue Lantern, the Commerce Department’s EUM involves targeted pre-license verifications and post-shipment checks.

Items Subject to Enhanced End-Use Monitoring for Golden Sentry

✂	Advanced Medium Range Air-to-Air Missiles	✂	Lethal Miniature Aerial Missile System Switchblade
✂	Air Intercept Missiles 9X	🔦	Man Portable Night Vision Devices
📡	Advanced Threat Infrared Countermeasures System	🔧	Small Diameter Bomb, Increment Two/GBU-53
🔒	Communication Security Equipment	✂	Standard Missiles-3 and Missiles-6
✂	Harpoon Block II Missiles	✂	Standoff Land Attack Missiles Expanded Response
➔	Javelin Missiles and Command Launch Units	🔪	Singer Missiles and Gripstocks
✂	Joint Air-to-Surface Standoff Missiles	🚀	THAAD Missile System
🔧	Joint Standoff Weapons	✂	Tomahawk Missiles
🔒	Large Aircraft Infrared Countermeasures	+	Unmanned Aircraft Systems Designated as Category I by the MTCR* or as Specified in the LOA

*Missile Technology Control Regime (MTCR)

Shortcomings in End-Use Monitoring

Although both Blue Lantern and Golden Sentry are meant to satisfy requirements ensuring U.S. arms are “being used in accordance with the terms and conditions of the transfer agreement,” neither program is practically geared towards investigating, verifying, or preventing inappropriate use of U.S. arms. The current EUM framework traces its origins to the Cold War, when the United States was deeply preoccupied with its defense technology falling into the hands of the Soviet Union or aligned regimes. EUM today remains fundamentally shaped by that paradigm, resulting in a system that is focused almost exclusively on protecting technology from diversion by confirming the physical location of exported defense articles, ensuring the physical security of those items, and verifying that they remain reasonably under the control of the agreed-upon end-user. What these programs don’t do is monitor the actual use of U.S. weapons and the conduct of forces employing them, including the use of U.S. weapons in human rights abuses, violations of international humanitarian law (IHL), and other civilian harm. Essentially, **current EUM programs are designed to protect U.S. technology, not people**. The word “use” in end-use monitoring is an unfortunate misnomer.

Contrary to popular belief, the so-called Leahy laws, which prohibit assistance to security force units that have committed gross violations of human rights, do not apply to many arms transfers due to the executive branch’s overly narrow interpretation of “assistance.”

Recommendations: Putting the “Use” Back in End-Use Monitoring

Comprehensive end-use monitoring is essential to mitigate risk, ensure that U.S. weapons do not fuel violations of human rights or the laws of war, and promote accountability when they do. **To develop end-use monitoring policies and practices that actually monitor use, the executive branch can:**

- Include human rights and IHL in all standard FMS terms and conditions and DCS licensing conditions for all arms transfers to ensure that human rights abuses and IHL violations are considered as end-use violations;
- Develop new end-use monitoring processes that are designed to monitor and assess the use of U.S.-origin equipment, including compliance with international human rights law and IHL, reported cases of civilian harm and harm to civilian objects, and deployment of such equipment in conflict; and
- Enforce consequences for violations of end-use agreements by consistently linking, on paper and in practice, the results of end-use monitoring and recipient conduct with future or prospective sales.

Congress can also improve U.S. end-use monitoring practices by codifying these same practices in law, including by:

- Amending the AECA to make clear that violations of human rights and IHL constitute violations of relevant end-use agreements;
- Requiring all end-use monitoring programs to continuously monitor weapons’ use and recipient behavior in addition to diversion risks, including human rights violations, violations of IHL, civilian casualties, and association with corrupt acts and actors;
- Requiring congressional notifications for proposed arms transfers to include additional information on planned end-use monitoring;
- Establishing time-bound requirements for congressional notification when recipients of U.S. defense equipment violate terms of sale or end-use agreements and when U.S. equipment is used in violation of human rights or IHL, and making such notifications public; and
- Barring arms transfers to specific countries in cases where the executive branch fails to hold end-users accountable for violations of terms of sale and end-use agreements, including human rights violations and civilian harm, and conditioning relief from arms sanctions upon specific behavioral changes and compliance with human rights law and IHL.

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