

# UNITED STATES

## DANGEROUS DEALINGS Changes to U.S. Military Assistance After September 11

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## I. INTRODUCTION

In the weeks after the September 11 attacks on New York City and Washington, D.C., the United States declared a worldwide war on terrorism and assembled an international coalition to support its efforts. To conduct the war that has followed, the government has relied extensively on its foreign military assistance program, which it defines as a means for “friends and allies to acquire U.S. [military] equipment, services, and training for . . . legitimate self-defense and for participation in multinational security efforts.”<sup>1</sup> The United States has used this assistance both to advance specific military goals and to solidify the support of new allies. In the process, however, it has expressed minimal concern about the potential side effects of its policy. Asked in September if the lifting of arms export sanctions on Pakistan foreshadowed increased cooperation with other previously criticized states, State Department spokesman Richard Boucher said the United States would “work with” those governments that supported its fight.<sup>2</sup> About a week later, he said, “[I]f governments are willing to cooperate against terrorism . . . then we welcome that cooperation, and that [will] result in a change in the level of our ability to cooperate with them.”<sup>3</sup> These and other official statements suggest that, at least for the foreseeable future, the war on terrorism will dominate U.S. decision-making on foreign military assistance. In such a climate, human rights protection may become an unintended casualty.

In forging its international coalition against terrorism, the United States has modified its military assistance program in three significant ways. First it has changed its legal regime to facilitate arms transfers to foreign nations. Second it has granted military assistance to several states directly involved in the war in Afghanistan. Finally it has increased and expedited counterterrorism assistance and general military aid to other countries around the world. Whether these developments represent a long-term policy shift or a response to a specific crisis remains to be seen. In either case, they raise human rights issues that the United States should take into account.

Human Rights Watch is concerned about post-September 11 U.S. policy because it opposes military assistance to governments that have engaged in a pattern of gross violations of international human rights or humanitarian law. Several of the policy's potential beneficiaries have poor human rights records that include torture, political killings, illegal detention, and religious persecution, as well as histories of international humanitarian law violations, such as unlawful attacks on civilians. The modifications in the U.S. foreign military assistance program make it easier for known violators to acquire the tools of abuse, thus implicating the United States in abuses that result. The loosening of restrictions on military assistance also sets a dangerous example for arms exporting nations around the world.

## II. CHANGES IN THE LEGAL REGIME

The United States provides various forms of military assistance, including sales, financing, equipment grants, and training, which it acknowledges (see table 1), and covert assistance, which it does not. Foreign governments negotiate “foreign military sales” (FMS) directly with the U.S. government under a program that allows the United States to sell either current defense stocks or yet-to-be-produced items. Alternatively, potential purchasers can pursue “direct commercial sales” (DCS) with private U.S. companies and then apply for an export license from the State Department's Office of Defense Trade Controls. The United States sometimes helps fund arms purchases with its Foreign Military Financing (FMF) program, which provides congressionally appropriated loans or grants earmarked for purchasing U.S.-made weapons. The United States also offers two types of grants of military equipment. Under the

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<sup>1</sup> Defense Security Cooperation Agency (DSCA), “Military Assistance,” at [http://www.dsc.osd.mil/home/military\\_assistance\\_p2.htm](http://www.dsc.osd.mil/home/military_assistance_p2.htm) (accessed January 4, 2002).

<sup>2</sup> Richard Boucher, U.S. Department of State Daily Press Briefing transcript, September 24, 2001.

<sup>3</sup> Richard Boucher, U.S. Department of State Daily Press Briefing transcript, October 2, 2001.

Excess Defense Articles (EDA) program, the Pentagon gives away older equipment that it no longer uses at little or no cost. In emergencies, the government is authorized to offer “drawdowns,” grants of current defense stock, often but not always in the form of nonlethal equipment. Finally the United States organizes and helps fund different types of training for foreign security forces. The International Military Education and Training (IMET) program allows foreign military officials to train in the United States. Under the Joint Combined Exchange Training (JCET) program, U.S. special operations forces are deployed overseas and train with foreign militaries there.

Table 1—Types of U.S. Foreign Military Assistance

<b>Category</b>	<b>Type of Assistance</b>	<b>Acronym</b>	<b>Description</b>
Sales	Foreign Military Sales	FMS	Sales from U.S. government to foreign governments
	Direct Commercial Sales	DCS	Sales from U.S. companies to foreign governments
Financing	Foreign Military Financing	FMF	Congressionally appropriated grants and loans given to foreign governments to help finance FMS or DCS
Equipment Grants	Excess Defense Articles	EDA	Older surplus equipment that the Pentagon gives away at little or no cost
	Drawdowns		Grants of current (often nonlethal) defense stock given by the U.S. government in emergency situations
Training	International Military Education and Training	IMET	U.S. training of foreign military personnel
	Joint Combined Exchange Training	JCET	Joint training of U.S. special forces and foreign troops

A series of laws and associated regulations have governed U.S. military assistance since World War II. The Foreign Assistance Act of 1961 authorizes a variety of aid including foreign military sales, excess defense article grants, and IMET training.<sup>4</sup> Section 502B of the this act forbids the transfer of assistance to governments that engage in “a consistent pattern of gross violations” of human rights, but the president can waive the restriction in “extraordinary circumstances.”<sup>5</sup> The Arms Export Control Act of 1976, passed in response to escalating arms sales in the 1970s, sets up elaborate procedures to regulate foreign military and direct commercial sales. It also seeks to limit the use of U.S.-made weapons to self-defense, internal security, and U.N.-sanctioned actions.<sup>6</sup> Finally, Congress includes relevant provisions in its annual Foreign Operations Appropriations Act, which tend to restrict assistance to specific countries or situations. For example, a pair of provisions, known as the “Leahy Amendments” after their sponsor Senator Patrick Leahy (Democrat, Vermont), provides human rights-based controls on military assistance. The first prohibits the transfer of funds authorized by the act to any foreign security “unit” if the State Department “has credible evidence that such unit has committed gross violations of human rights.” This provision has to be renewed every year, but it is unwaivable during the year.<sup>7</sup> Its companion article, which can be waived under “extraordinary circumstances,” prohibits the training of security units that have committed gross violations of human rights.<sup>8</sup> Since September 11, both the executive and legislative

<sup>4</sup> Foreign Assistance Act of 1961, *U.S. Code*, vol. 22, secs. 2151-2430(i) (1994).

<sup>5</sup> *Ibid.*, sec. 2304.

<sup>6</sup> Arms Export Control Act of 1976, *U.S. Code*, vol. 22, secs. 2751-99(aa-2) (1994).

<sup>7</sup> *U.S. Statutes at Large* 114 (2001): 1900A-46.

<sup>8</sup> *Ibid.*: 694.

branches have taken steps to loosen legal controls on foreign military assistance, paving the way for future arms transfers to governments that are known human rights abusers.

### **Lifting Sanctions**

President George W. Bush exercised executive authority to waive restrictions on military assistance shortly after the September 11 attacks. On September 22, he lifted sanctions imposed on India and Pakistan after these nations performed nuclear tests in 1998. The 1976 Arms Export Control Act requires sanctions on countries that violate a range of nuclear controls by, for example, “detonat[ing] a nuclear explosive device.”<sup>9</sup> The sanctions prohibit, among other things, licenses for exports of goods on the U.S. Munitions List, foreign military financing, and the transfer of certain technology.<sup>10</sup> In a presidential determination on September 22, Bush said those sanctions “would not be in the national security interests of the United States.”<sup>11</sup> Although this waiver does not directly affect human rights protections, it loosens restrictions on military assistance to the two countries, opening the door to future transfers.<sup>12</sup>

Congress followed the president’s lead by waiving other sanctions on Pakistan. Public Law 107-57, which Bush signed into law on October 29, suspends sanctions that the United States imposed on Pakistan under the Foreign Operations Appropriations Act after a military coup deposed its elected government in 1999. The act grants a waiver for fiscal year 2002, requiring only that the president give certain congressional committees five days notice before he promises any military assistance funds.<sup>13</sup> With only five days notice to the relevant congressional committees, Bush can also extend the waiver through fiscal year 2003 if he finds that this “(A) would facilitate the transition to democratic rule in Pakistan; and (B) is important to United States efforts to respond to, deter, or prevent acts of international terrorism.”<sup>14</sup> In allowing this exception to its arms control policy, Congress relinquished part of its foreign military assistance oversight authority.

The State Department has also lifted sanctions as part of its post-September 11 foreign policy. On January 9, it announced the removal of arms sales restrictions imposed on Tajikistan in 1993. State Department spokesman Boucher said, “Tajikistan has been cooperating closely with the U.S. as a member of the international coalition against terrorism. We believe this cooperation and other changes in our relations merit removing Tajikistan from our proscribed countries list.”<sup>15</sup> Because of its instability in the early 1990s, Tajikistan had been included on a list in the International Traffic in Arms Regulations, which implement the Arms Export Control Act discussed above.<sup>16</sup> The regulations prohibit the licensing or export of defense articles and services to countries on a list that changes according to current U.S. foreign policy.<sup>17</sup> As discussed above, the war on terrorism has dominated this policy since September 11.

### **Expediting the Foreign Military Assistance Process**

Both the executive and legislative branches have also worked to expedite the military assistance process since September 11. In addition to lifting sanctions on Pakistan, Public Law 107-57 facilitates

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<sup>9</sup> Arms Export Control Act of 1976, sec. 102(b)(1)(B).

<sup>10</sup> Ibid., sec. 102(b)(2)(B, C, G). The U.S. Munitions List is the list of defense articles and services the export and import of which the president may regulate under the Arms Export Control Act.

<sup>11</sup> *Federal Register*, vol. 66, p. 50,095, October 2, 2001.

<sup>12</sup> For more information on Pakistan and India, see footnotes 63 and 64 and accompanying text.

<sup>13</sup> Public Law 107-57, *U.S. Statutes at Large* 115 (2001): 403. The U.S. fiscal year, a twelve-month period used for budgeting purposes, runs from October 1 to September 30.

<sup>14</sup> Ibid.

<sup>15</sup> Richard Boucher, U.S. Department of State Daily Press Briefing transcript, January 9, 2002.

<sup>16</sup> “Tajik Ministry Welcomes US Decision To Lift Ban from Arms Sale to Tajikistan,” *Asia-Pulse* (Tajikistan), January 11, 2002.

<sup>17</sup> *U.S. Code of Federal Regulations*, vol. 22, pt. 126 (2001).

military assistance around the world. It reduces the required notification deadlines for transfers of emergency drawdowns and excess defense articles by one half or more. The 1961 Foreign Assistance Act requires the president to notify Congress at least fifteen days in advance of any drawdown. The new act requires only five days notice if “the President determines it is important to United States efforts to respond to, deter, or prevent acts of international terrorism.”<sup>18</sup> The act similarly reduces the thirty-day notification requirement for EDA to fifteen days if the war against terrorism so requires.<sup>19</sup> The shorter notification requirements give Congress, and therefore the public, less time to review and challenge any proposed transfers that have human rights or humanitarian law implications.

Meanwhile, the Defense Security Cooperation Agency (DSCA), the organization within the Department of Defense that handles foreign military sales, has established a “war room” to speed up approval of assistance. The DSCA’s director, Air Force Lt. Gen. Tome Walters, said the agency formed an “Enduring Freedom Response Cell” to “fast track” requests from U.S. allies. “If you’re an allied country, let’s say Uzbekistan, and you need radios, we will do whatever we can to get the job done,” Walters said on September 26.<sup>20</sup> At its Security Cooperation Conference the same week, the DSCA also announced ten reforms designed to facilitate the approval process.<sup>21</sup> In the process of streamlining foreign military assistance, the United States must be careful not to reduce scrutiny of the human rights implications of proposed arms transfers.

### **A Measure To Increase Human Rights Protection: Uzbekistan**

While the administration and Congress have acted in unison to lift restrictions on military assistance since September 11, Congress has taken the initiative to increase monitoring in at least one country—Uzbekistan, a major human rights abuser. In late October, Senator Paul Wellstone (Democrat, Minnesota) introduced an amendment to the Foreign Operations Appropriations Act that requires the State Department to submit to the relevant congressional committees two reports on military assistance to Uzbekistan. According to its final version, the provision requires one report four months after the bill’s enactment and one six months after that. The reports must include a list of U.S. security aid given to Uzbekistan and describe in detail how Uzbek units used the U.S. defense articles, defense services, and financial assistance during that period.<sup>22</sup> Wellstone told the Senate that while Uzbekistan is a key U.S. ally in the war on terrorism, it has a record of serious human rights abuses, including torture, illegal detention, and persecution of independent Muslims. He said, “We must ensure that anti-terrorism efforts are conducted in a manner that protects religious freedom and other human rights, and we must carefully monitor our cooperation with Uzbekistan to ensure that protection.”<sup>23</sup> The Senate passed the amendment unanimously on October 24, and it appeared in the Conference Report accompanying the final Foreign

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<sup>18</sup> Public Law 107-57, *U.S. Statutes at Large* 115 (2001): 404.

<sup>19</sup> *Ibid.*

<sup>20</sup> “DSCA Forms ‘War Room’ To Speed Allied Arms Requests: Unveils 10 Reforms,” *Defense Daily International*, September 28, 2001. “Enduring Freedom” is the name given by the U.S. government to its campaign in Afghanistan.

<sup>21</sup> These reforms include better use of technology to speed up the processing of requests, allowing states to post commercial bonds rather than cash for the amount of their purchase, and more customer participation in the contract process. Sharon Weinberger, “DOD Promises Faster Foreign Military Sales: Ally Still Doubtful,” *Aerospace Daily* (Washington, D.C.), September 27, 2001; “DSCA Forms ‘War Room.’”

<sup>22</sup> Conference Report 107-345, 107th Congress, 1st session, December 19, 2001, p. 97.

<sup>23</sup> Foreign Operations Appropriations Act, Senate Amendment No. 1937, *Congressional Record*, 107th Congress, 1st session, October 24, 2001, vol. 47, p. S10,915.

Operations Appropriations Act in December.<sup>24</sup> The provision demonstrates the possibility of military assistance oversight even under extraordinary circumstances.

### III. MILITARY ASSISTANCE TO STATES DIRECTLY INVOLVED IN THE AFGHANISTAN CAMPAIGN

In the first four months of its war on terrorism, the United States has given military support to several of the countries involved in its campaign in Afghanistan. Its post-September 11 aid can be divided into two types. It has used foreign military assistance 1) to advance its military goals in Afghanistan by supplying forces opposed to the Taliban, and 2) to reward countries that have offered political or military support for its campaign.

#### **The United Front (or Northern Alliance)**

The Afghan opposition coalition, which helped the United States bring down the Taliban government, has received the most deliveries of military equipment to date. After September 11, U.S. officials repeatedly said they would support the efforts of the United Front, also known as the Northern Alliance, to defeat the Taliban. “[W]e want to help those forces in the country that are anxious to get the Taliban and al Qaeda out of there,” Secretary of Defense Donald Rumsfeld stated on October 19.<sup>25</sup> In mid-October, Rumsfeld announced that the United States had supplied the anti-Taliban forces with food, ammunition, and air support.<sup>26</sup> After that, announcements of increased aid appeared regularly. According to Pentagon officials, nonlethal assistance included food for army horses, blankets, water, and cold-weather gear.<sup>27</sup> U.S. planes airdropped ammunition requested by the United Front.<sup>28</sup> At a press conference on November 6, Gen. Peter Pace acknowledged delivery of “weapons” as well as ammunition, but would not specify the types or quantities of arms.<sup>29</sup> At the same press conference, Rumsfeld said that the U.S. military had supplied ammunition and supplies not only to the northern coalition of anti-Taliban fighters but also to southern opposition forces led by Hamid Karzai.<sup>30</sup> According to a December 7 report by the *Wall Street Journal*, the Central Intelligence Agency had airlifted weapons and supplies to anti-Taliban troops around Kandahar.<sup>31</sup> These shipments included Soviet-designed AK-47 assault weapons

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<sup>24</sup> Conference Report 107-345, p. 97. Although Wellstone’s provision was not included in the final version of the Foreign Operations Appropriations Act, which became law in November, the Conference Report directs the Department of State to produce both of the proposed reports on Uzbekistan. The Conference Report, which accompanies and explains the law, was produced by the conference committee that ironed out differences between House and Senate versions of the bill.

<sup>25</sup> “Secretary Rumsfeld Media Availability En Route to Whiteman,” U.S. Department of Defense (DoD) News Transcript, October 19, 2001.

<sup>26</sup> Ibid.

<sup>27</sup> “DoD News Briefing—Secretary Rumsfeld and General Pace,” U.S. DoD Defense News Transcript, November 6, 2001; “General Myers Interview with Meet the Press, NBC TV,” U.S. DoD News Transcript, November 4, 2001.

<sup>28</sup> “DoD News Briefing—Secretary Rumsfeld and General Myers,” U.S. DoD News Transcript, October 29, 2001.

<sup>29</sup> “DoD News Briefing—Secretary Rumsfeld and General Pace,” U.S. DoD News Transcript, November 6, 2001.

<sup>30</sup> Ibid.

<sup>31</sup> David S. Cloud, “CIA Supplies Anti-Taliban Forces in South,” *Wall Street Journal*, December 7, 2001. Earlier press articles bolster this report. About three weeks after the September attacks on New York and Washington, the *Washington Post* reported that President Bush had bypassed the more public forms of military assistance discussed above and signed an order authorizing covert aid to the United Front. Susan B. Glasser, “Northern Alliance Expects U.S. Aid Soon: Anti-Taliban Forces See Delivery of Military Support Within a Month,” Washington Post Foreign Service wire, October 2, 2001.

from CIA stocks; Afghani troops have used Russian weapons in the past and therefore prefer them.<sup>32</sup> The flow of U.S. military assistance to Afghanistan is likely to continue, but Rumsfeld said aid to its new provisional government, which took control in late December, would be conditioned on maintaining peace.<sup>33</sup>

In addition to lethal and nonlethal equipment, the United States provided extensive air support to opposition forces fighting the Taliban on the ground. In October, Rumsfeld said the United States was coordinating particularly well with northern opposition troops.<sup>34</sup> “Our effort would be to try to make them successful, to do things that are helpful to them so that they have the opportunity to move forward, as they are, toward Mazar-e-Sharif...,”<sup>35</sup> he said at the time. The United States not only bombed Taliban front lines but also sent advisers to help coordinate attacks. According to United Front officials and journalist eyewitnesses, about a dozen civilian-clothed advisers arrived in mid-October to help organize the campaign to take the town of Mazar-i Sharif, which fell to the United Front on November 9.<sup>36</sup> By November, U.S. Special Forces were “embedded in Northern Alliance elements,” assisting with communications, military equipment delivery, and targeting for bombing missions, Rumsfeld said.<sup>37</sup> The United States has also collaborated closely with anti-Taliban forces in the south. By late November, U.S. special operations troops had been in that region “for some time”<sup>38</sup> calling in air support and providing arms and other supplies.<sup>39</sup> With significant help from the U.S. bombing campaign in north and south, anti-Taliban forces had captured all but a few pockets of the country by the time the new interim government took control on December 22.

While the end of the abusive Taliban regime will have important consequences for human rights in Afghanistan, the victorious United Front and other opposition forces have a history of human rights abuses and international humanitarian law violations that the United States should consider when planning military assistance to the new government. During Afghanistan’s long civil war, Afghan forces

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<sup>32</sup> Cloud, “CIA Supplies Anti-Taliban Forces in South.” Russia has also provided between US\$40 million and \$70 million in military assistance to the Afghanistan opposition; its equipment deliveries include Soviet-era T-55 tanks, armored vehicles, helicopters, and infantry weapons. Veniamin Ginodman, “Renaissance of Council for Mutual Economic Assistance,” *Vesti.ru* (Moscow), October 11, 2001, in Foreign Broadcast Information Service (FBIS), document number CEP20011011000173. Several unconfirmed press accounts say that the United States or Great Britain paid for some of the Russian-supplied arms. The *Boston Globe*, for example, said a U.S. intelligence source and a Northern Alliance source confirmed U.S. funding of Russian arms transfers to the United Front. “Turning the Tide in Afghanistan as War Unfolded, US Strategy Evolved,” *Boston Globe*, December 31, 2001. See also Ginodman, “Renaissance of Council for Mutual Economic Assistance”; Artyom Vernidoub, “Afghan War Profitable for Russian Arms Industry,” *Gazeta.ru*, October 29, 2001. Rumsfeld denied these reports saying, “The Russians are providing assistance of their own. We have not engaged in any arrangement to that effect, to my knowledge.” “DoD News Briefing—Secretary Rumsfeld and General Myers,” U.S. DoD News Transcript, October 29, 2001.

<sup>33</sup> “Defense Secretary Donald Rumsfeld Wraps Up Visit to Central Asia,” Good Morning America broadcast transcript, December 17, 2001.

<sup>34</sup> “Secretary Rumsfeld Media Availability En Route to Whiteman,” U.S. DoD News Transcript, October 19, 2001.

<sup>35</sup> “DoD News Briefing—Secretary Rumsfeld and General Myers,” U.S. DoD News Transcript, October 18, 2001.

<sup>36</sup> Anna Badkhen, “Afghan Rebels Have Bark but Little Bite: Poorly Trained, Ill-Equipped and Calling for More Help,” *San Francisco Chronicle*, October 23, 2001.

<sup>37</sup> “Secretary Rumsfeld Media Availability at Great Lakes, Illinois,” U.S. DoD News Transcript, November 16, 2001.

<sup>38</sup> “DoD News Briefing—Secretary Rumsfeld and General Franks,” U.S. DoD News Transcript, November 27, 2001.

<sup>39</sup> “DoD News Briefing—Secretary Rumsfeld and General Franks,” U.S. DoD News Transcript, November 15, 2001.

on all sides were implicated in summary executions, rapes, indiscriminate attacks on civilians, and large-scale pillage.<sup>40</sup> Concerns about the post-September 11 conduct of anti-Taliban forces include reports of looting of private stores and humanitarian agency compounds and the summary execution of captured Taliban fighters in the immediate aftermath of the Taliban's collapse. The defense minister for the interim Afghan government, Gen. Qaseem Fahim, has announced plans to build a new national army and to demobilize about 500,000 of the estimated 700,000 armed fighters in the country. The United States should work with the Afghan interim government to ensure that respect for international humanitarian law be a primary criterion in recruiting this national army and its command, and that as far as possible past abusers be identified and screened out. In its counterterrorism operations, the United States should end direct military assistance to commanders who continue to commit abuses.<sup>41</sup>

### **Central Asia: Uzbekistan and Tajikistan**

In Central Asia, the United States has offered military assistance in exchange for political and military support, including the use of former Soviet bases. According to a *Washington Post* story that broke in October, the United States and Uzbekistan have secretly shared intelligence and conducted joint covert operations in an effort to capture Osama bin Laden since the 1998 embassy bombings in Kenya and Tanzania.<sup>42</sup> The U.S. campaign in Afghanistan led to increased military relations between these two countries. At least one thousand U.S. troops from the 10<sup>th</sup> Mountain Division had moved into an Uzbek military base by mid-October.<sup>43</sup> After meeting with Rumsfeld on his November trip to the region, Uzbek Minister of Defense Qodir Gulomov noted that his military had benefited from training and joint exercises with U.S. forces over the past several years and hinted that other types of aid might come in the future. Responding to a question about whether the United States would give lethal aid to Uzbekistan, Gulomov said, "I am confident that the kind of cooperation which is being developed now is characterized by a higher level, and consequently I am positive that the forms of our cooperation will change accordingly."<sup>44</sup> Rumsfeld concurred with this interpretation of their meeting.<sup>45</sup> Uzbekistan has an appalling human rights record that includes torture and extensive religious persecution.<sup>46</sup> It also laid

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<sup>40</sup> Human Rights Watch, "Military Assistance to the Afghan Opposition," *A Human Rights Watch Backgrounder*, October 5, 2001.

<sup>41</sup> Ibid. See also Human Rights Watch, "Crisis of Impunity: The Role of Pakistan, Russian, and Iran in Fueling the Civil War in Afghanistan," *A Human Rights Watch Report*, vol. 13, no. 3(C), July 2001; Human Rights Watch, *World Report 2000* (New York: Human Rights Watch, 1999), pp. 166-69; Human Rights Watch, "Afghanistan: The Massacre in Mazar-i Sharif," *A Human Rights Watch Report*, vol. 10, no. 7 (C), November 1998.

<sup>42</sup> Thomas E. Ricks and Susan B. Glasser, "U.S. Operated Secret Alliance with Uzbekistan," *Washington Post*, October 14, 2001.

<sup>43</sup> Ibid.

<sup>44</sup> "Media Availability with Uzbek Minister of Defense Qodir Gholomov," U.S. DoD News Transcript, November 4, 2001. The DoD transliterated Gulomov's name as "Gholomov," but both names refer to the same person.

<sup>45</sup> Ibid. The United States also signed a \$6 million agreement to help clean up a former Soviet anthrax test site in Uzbekistan. "U.S. Agrees [to] Anthrax Deal with Uzbekistan," CNN.com, October 23, 2001, at <http://www.cnn.com/2001/WORLD/asiapcf/central/10/23/gen.uzbek.anthrax/index.html> (accessed December 18, 2001).

<sup>46</sup> Human Rights Watch, "Human Rights Abuses in Uzbekistan," *A Human Rights Watch Backgrounder*, September 26, 2001. See also Human Rights Watch, *World Report 2002* (New York: Human Rights Watch, 2002), p. 370-78; Human Rights Watch, *World Report 2001* (New York: Human Rights Watch, 2000), pp. 335-42; Human Rights Watch, "'And It Was Hell All Over Again . . .': Torture in Uzbekistan," *A Human Rights Watch Report*, vol. 12, no. 12(D), December 2000; Human Rights Watch, "Uzbekistan: Leaving No Witnesses: Uzbekistan's Campaign Against Rights Defenders," *A Human Rights Watch Report*, vol. 12, no. 4 (D), March 2000; Human Rights Watch, "Uzbekistan: Class Dismissed: Discriminatory Expulsions of Muslim Students," *A Human Rights Watch Report*, vol. 11, no. 12 (D), October 1999; Human Rights Watch, "Republic of Uzbekistan: Crackdown in the Farghona Valley: Arbitrary Arrests and Religious Discrimination," *A Human Rights Watch Report*, vol. 10, no. 4(D), May 1998.

anti-personnel landmines along its borders with Tajikistan and Kyrgyzstan in 2000 and 2001, causing civilian casualties in all three countries.<sup>47</sup>

The United States has pursued similar military assistance exchanges with Tajikistan. In early November, the United States negotiated with Tajikistan about the possibility of using three bases for U.S. planes involved in air strikes and humanitarian airdrops over Afghanistan. It sent in a team of experts to inspect the bases and reportedly promised tens of millions of dollars if it decided to use them.<sup>48</sup> The United States took a significant step toward rewarding Tajikistan for its support when, as discussed above, the State Department lifted its eight-year-old arms sales restrictions in early January. The order states that the government will review requests to buy arms on a “case-by-case basis.”<sup>49</sup> A spokesman for the Tajik Defense Ministry said his government welcomed the decision to lift the ban.<sup>50</sup> He added, however, that arms purchases were not Tajikistan’s top priority because it did not have the money to buy them and its military will require training to use them.<sup>51</sup> Such comments suggest that Tajikistan may ask the United States for foreign military financing and training in the near future. Like Uzbekistan, Tajikistan has an extensive history of human rights violations including torture, suppression of political opposition and the media, and arrests based on religion.<sup>52</sup>

### **South Asia: Pakistan and India**

Having had sanctions against them lifted, both Pakistan and India stand to receive significant military assistance as a reward for supporting the U.S. war on terrorism. This assistance will likely come in the form of foreign military sales negotiated through the Defense Department. After President Bush lifted the nuclear-related sanctions allowing direct commercial sales, there was much speculation about what arms Pakistan would want to purchase. Reports said Pakistani officials would request new fighter aircraft and spare parts for older models, and possibly missile and artillery systems.<sup>53</sup> On a mid-October trip to the region, Secretary of State Colin Powell said he would be willing to discuss sales as well as future military-to-military relations, such as training.<sup>54</sup> The passage of Public Law 107-57, which lifted additional sanctions, paved the way for actual transfers. In early November, the United States agreed to provide US\$73 million in aid for “border security,” including six Apache helicopters and spare parts for F-16 fighter jets.<sup>55</sup> On November 9, during an official visit to the United States, Pakistani President Pervez Musharraf said he sought further “‘visible gestures’ of gratitude” for his country’s decision to support the U.S. campaign in Afghanistan. He asked President Bush to deliver twenty-eight F-16 fighter jets Pakistan purchased in the 1980s but never received because Congress cut off all military sales in 1990

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<sup>47</sup> International Campaign to Ban Landmines, *Landmine Monitor Report 2001* (New York: Human Rights Watch, 2001), p. 915.

<sup>48</sup> Michael R. Gordon and C.J. Chivers, “Tajikistan, U.S. Make Military Deal,” *San Diego Union-Tribune*, November 5, 2001.

<sup>49</sup> *Federal Register*, vol. 76, p. 1073, January 9, 2002.

<sup>50</sup> “Tajik Ministry Welcomes US Decision To Lift Ban from Arms Sale to Tajikistan.”

<sup>51</sup> *Ibid.*

<sup>52</sup> Human Rights Watch, “Press Backgrounder on Tajikistan,” *A Human Rights Watch Backgrounder*, October 5, 2001. See also Human Rights Watch, *World Report 2002*, p. 352-56; Human Rights Watch, *World Report 2001*, pp. 322-25; Human Rights Watch, “Tajikistan: Freedom of Expression Still Threatened,” *A Human Rights Watch Report*, vol. 11, no. 14 (D), November 1999; Human Rights Watch, “Tajikistan: Leninabad: Crackdown in the North,” *A Human Rights Watch Report*, vol. 10, no. 2 (D), April 1998.

<sup>53</sup> Mohammed Ahmedullah, “Pakistan Seeks U.S. Weapons for Anti-Terror Partnership,” *Defense Week*, October 22, 2001.

<sup>54</sup> Secretary Colin L. Powell, “Press Briefing on Board Plane En Route [to] Pakistan,” October 15, 2001.

<sup>55</sup> “US To Provide Pakistan Helicopters, F-16 Parts,” Dow Jones International News, November 10, 2001.

after learning Pakistan was secretly developing nuclear weapons.<sup>56</sup> The United States rejected Musharraf's request for the F-16s, claiming the transfer might destabilize South Asia.<sup>57</sup>

India initially complained that the United States had given a disproportionate amount of its post-September 11 military assistance to Pakistan, but in early November the United States demonstrated a willingness to collaborate with India as well. At a November 5 joint press conference with India's Minister of Defense George Fernandes, Rumsfeld said the United States would be sending officials to work out the details of military cooperation with India. "[T]hey will be discussing ways that we can establish the linkages between our two countries from the standpoint of military exchanges and training and various educational opportunities, and other aspects of the relationship," he said.<sup>58</sup> U.S. Ambassador to India Robert Blackwill reiterated Rumsfeld's support at a press conference on November 21. "We now anticipate a conclusive acceleration in defense cooperation. It will include arms sales, joint army exercises, and military-to-military cooperation that happens between very good friends," Blackwill said.<sup>59</sup> The next week Adm. Dennis Blair, commander-in-chief of the U.S. Pacific Command, met with Fernandes and Indian military officials to discuss joint exercises, military training, and counterterrorism cooperation.<sup>60</sup> Undersecretary of Defense Douglas Feith arrived in New Delhi during the first week of December to hold further strategic discussions with Indian officials.<sup>61</sup> On December 4, the United States agreed to expedite its review of India's military equipment priorities, including radars and light combat aircraft components.<sup>62</sup>

The United States should consider the human rights records of Pakistan and India as it renews its military assistance relations with these countries. Pakistani President Musharraf continues to consolidate the army's control over the government following the October 1999 coup and took steps in 2001 to all but ensure that the government would continue to operate under military tutelage. In the process, authorities arrested leaders of religious parties who challenged his authority, kept in force a ban on political rallies, and detained thousands of party members and activists to head off protests against continued military rule.<sup>63</sup> Abuses in India include systematic discrimination and violence against Dalit ("untouchable") communities, arbitrary arrests and torture, and attacks and legal restrictions on nongovernmental organizations and human rights activists. In the contested region of Kashmir, where violence has escalated, Indian security personnel targeted Muslim citizens suspected of supporting guerrillas, and

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<sup>56</sup> Serge Schmemmann and Patrick E. Tyler, "Pakistani Leader Seeks 'Gestures' for Backing U.S.," *New York Times*, November 10, 2001.

<sup>57</sup> Eric Schmitt, "U.S. Says Aid to Pakistan Won't Include F-16 Fighters," *New York Times*, November 13, 2001.

<sup>58</sup> "Secretary Rumsfeld Media Availability with Minister of Defense of India," U.S. DoD News Transcript, November 5, 2001.

<sup>59</sup> Uttara Choudhury, "Indo-US Military Cooperation To Strengthen," Agence France-Presse, November 21, 2001.

<sup>60</sup> Neelish Misra, "Commander of U.S. Pacific Fleet in India To Boost Defense Ties," Associated Press, November 28, 2001.

<sup>61</sup> Uttara Choudhury, "India, US Share Common Goals on Afghanistan," Agence France-Presse, December 4, 2001.

<sup>62</sup> "India, United States Outline Ambitious Defense Partnership," Associated Press Newswires, December 4, 2001.

<sup>63</sup> For more information human rights abuses in Pakistan, see Human Rights Watch, *World Report 2002*, p. 245-51; Human Rights Watch, *World Report 2001*, pp. 212-17; Human Rights Watch, *Reform or Repression?: Post-Coup Abuses in Pakistan* (New York: Human Rights Watch, 2000); Human Rights Watch, *Prison Bound: The Denial of Juvenile Justice in Pakistan*, (New York: Human Rights Watch, 1999); Human Rights Watch, *Crime or Custom?: Violence Against Women in Pakistan* (New York: Human Rights Watch, 1999).

arbitrary arrests, torture, and staged “encounter killings”—extrajudicial executions—were reported throughout the year.<sup>64</sup>

#### IV. MILITARY AND COUNTERTERRORISM AID TO OTHER COUNTRIES

The U.S. war on terrorism has also affected military assistance to countries not directly involved with the Afghanistan campaign. First the United States has increased military and counterterrorism assistance to nations deemed to face immediate threats of violence. Second it has cultivated military relations with governments willing to support the new international goals of the United States. Finally it has developed war-related tools it could use to expedite previously negotiated military sales to foreign states.

##### Philippines

Since September 11, the United States has made a commitment to help the Philippines defeat Abu Sayyaf, a guerilla group with alleged al Qaeda connections that has held two U.S. citizens hostage since May 2001. Philippine officials generally oppose the introduction of U.S. combat troops, but they have welcomed defense equipment and training to improve the military’s anti-terror capabilities.<sup>65</sup> A contingent of two dozen U.S. Army personnel traveled to the Philippines in October to advise its military on how to fight Abu Sayyaf.<sup>66</sup> The State Department meanwhile reiterated its spring 2001 pledge to request \$19 million in foreign military financing for the Philippines in 2002, up almost ten times from the \$2 million given in fiscal year 2001.<sup>67</sup> Most of the money would be used to improve the operation and maintenance of existing equipment.<sup>68</sup>

After meeting with President of the Phillipines Gloria Macapagal-Arroyo on November 20, President Bush announced a generous military assistance plan for this Southeast Asian ally. In addition to a “robust training package” and the \$19 million already promised in foreign military financing, Bush said he would earmark \$10 million in Defense Department goods and services for the Philippine military and \$10 million for counterterrorism initiatives and law enforcement.<sup>69</sup> He estimated his administration would give about \$100 million in military assistance to the Philippines in fiscal years 2001-2002.<sup>70</sup> The first piece of equipment, a C-130 transport plane, arrived on November 30 with “16,000 pounds of military hardware, including rifles.”<sup>71</sup> On December 20, the U.S. Army sent thirty sniper rifles, twenty-five 81mm mortars, and 350 M-203 grenade launchers.<sup>72</sup> Philippine officials said the equipment package would also

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<sup>64</sup> For more information on human rights abuses in India, see Human Rights Watch, *World Report*, p. 221-29; Human Rights Watch, *World Report 2001*, pp. 196-201; Human Rights Watch, “India: Politics by Other Means: Attacks Against Christians in India,” *A Human Rights Watch Report*, vol. 11, no. 6 (C), October 1999; Human Rights Watch, “Beyond the Kashmir Conflict: Abuses by Indian Security Forces and Militant Groups Continue,” *A Human Rights Watch Report*, vol. 11, no. 4(C), July 1999; Human Rights Watch, *Broken People: Caste Violence Against India’s “Untouchables”* (New York: Human Rights Watch, 1999).

<sup>65</sup> Jason Sherman, “Philippines To See Boost in U.S. Military Financing,” *Defense News*, November 5-11, 2001; “US Military Activity in the Philippines,” National Public Radio Morning Edition transcript, October 30, 2001.

<sup>66</sup> “DoD News Briefing—Secretary Rumsfeld and General Myers,” U.S. DoD News Transcript, October 29, 2001.

<sup>67</sup> U.S. Department of State, International Affairs (Function 150) Budget Request, April 9, 2001.

<sup>68</sup> Sherman, “Philippines To See Boost in U.S. Military Financing”; “US Military Activity in the Philippines.”

<sup>69</sup> “Joint Statement Between the United States of America and the Republic of the Philippines,” September 20, 2001.

<sup>70</sup> *Ibid.*

<sup>71</sup> Oliver Teves, “Philippines Lands U.S. Aid Package: Plane, Gear Set for Military Use,” *San Antonio Express-News*, December 1, 2001.

<sup>72</sup> “First Batch of US Military Aid Arrives in Fort Boni,” *Business World* (Philippines), December 21, 2001; Oliver Teves, “Philippines Receives U.S. Arms Shipment,” Associated Press, December 21, 2001.

include eight UH-1 “Huey” helicopters, Cyclone-class patrol boats, and 30,000 M-16 infantry rifles with 120,000 magazines.<sup>73</sup> Other items on their wish list are twelve AH-1 “Cobra” attack helicopters and an unmanned reconnaissance plane, or “drone.”<sup>74</sup> In mid-January, the first of a scheduled 650 U.S. troops arrived in the Philippines to train with and advise Philippine forces in their campaign against Abu Sayyaf.<sup>75</sup> The United States should consider the abuses discussed in the State Department’s annual human rights report as it distributes military assistance to that country. According to this report, abuses by military and police forces include extrajudicial killings, forced disappearances, torture, and arbitrary arrest and detention.<sup>76</sup>

## Indonesia

Shortly after September 11, the United States officially announced a decision made over the summer to increase military-to-military contacts with Indonesia. Indonesian President Megawati Sukarnoputri was the first head of state to come to the United States after the attacks, and President Bush used the opportunity to express his willingness to cooperate with this majority Muslim state. In a joint statement issued September 19, Bush and Sukarnoputri agreed to discuss ways to “strengthen bilateral cooperation on counter-terrorism” and enhance military and civilian defense relations.<sup>77</sup> As part of reform efforts, members of the Indonesian military will travel to the United States to take part in training and joint exercises. Bush said he would also ask Congress for \$400,000 in “Expanded IMET,” a variation of the IMET program that would give Indonesian civilian officials training in defense issues.<sup>78</sup> In the same statement, Bush opened the door to transfers of certain military equipment by lifting sanctions on commercial sales of nonlethal defense equipment.<sup>79</sup> On October 1, Indonesian Foreign Minister Hassan Wirayuda said that the United States and Indonesia had discussed plans to share information or organize joint training sessions in the fight against terrorism.<sup>80</sup> Admiral Blair conditioned “full military cooperation” on the Indonesian armed forces’ accountability for 1999 violence in East Timor. In a November 27 speech, Blair said, “We are ready to resume the full range of bilateral cooperation, when the military reforms which the TNI [Indonesian armed forces] is undertaking reach maturity.”<sup>81</sup> Indonesia suffers from widespread domestic unrest in several regions, and despite President Sukarnoputri’s

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<sup>73</sup> Juan V. Sarmiento, Jr., “GMA on Visit: ‘It’s \$4.6B and Counting,’” *Philippine Daily Inquirer*, November 21, 2001; Steven Mufson, “U.S. To Aid Philippines’ Terrorism War,” *Washington Post*, November 21, 2001.

<sup>74</sup> Adam Entous, “Bush Pledges Economic, Arms Aid to Philippines,” Reuters English News Service, November 20, 2001.

<sup>75</sup> Steve Vogel, “Special Forces Sent to Philippines Fight: 650 GIs Deployed for Training Exercises,” *Washington Post*, January 16, 2002.

<sup>76</sup> U.S. Department of State, *Country Reports on Human Rights Practice, 2000*, at <http://www.state.gov/g/drl/rls/hrrpt/2000/eap/index.cfm?docid=764> (accessed January 16, 2002).

<sup>77</sup> “U.S. and Indonesia Pledge Cooperation, Joint Statement Between the United States of America and the Republic of Indonesia,” September 19, 2001.

<sup>78</sup> *Ibid.*

<sup>79</sup> *Ibid.*

<sup>80</sup> “U.S. To Send Team to Indonesia To Discuss Combating Terrorism,” Xinhua News Agency, October 1, 2001.

<sup>81</sup> “US Admiral Urges Indonesian Military To Account for East Timor Mayhem,” Agence France-Presse, November 27, 2001.

expressions of concern about human rights, government and guerilla violence and impunity continue.<sup>82</sup> Although the negotiations with Indonesia were not related to September 11, the United States should make sure it does not weaken its human rights conditions on military assistance in its effort to maintain support for its war on terrorism.

### **The Middle East**

A range of countries, especially in the Middle East, may also benefit from the increased willingness of the United States to give military assistance. The DSCA has announced several possible foreign military sales since September 11. Although some, if not all, were negotiated prior to September 11, the DSCA's recently established "war room," discussed above, could expedite their approval. The list of countries and their purchase requests includes several Middle Eastern recipients:

- United Arab Emirates—twelve RGM-84L Harpoon Block II missiles worth \$40 million.
- Egypt—\$77 million of assistance overhauling 201 155mm self-propelled howitzers plus 240 wheeled bulldozers worth \$98 million.
- Oman—twelve F-16 fighter jets; dozens of Sidewinder, Maverick, Harpoon, and Advanced Medium Range Air-to-Air (AMRAAM) missiles; one hundred Paveway II bombs; and eighty Joint Direct Attack Munitions (JDAM), a total package valued at \$1.12 billion.

All of these requests include related equipment and services. In each case, the DSCA said the "proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability in the Middle East."<sup>83</sup> The Bush administration proposed additional arms sales to Egypt in November. The \$400 million deal would include fifty-three Harpoon Block II missiles, "highly accurate surface-to-surface missiles" like those the United Arab Emirates requested, and four patrol boats from which to use them.<sup>84</sup> According to the *Washington Post*, Bush, Powell, and CIA Director George Tenet also discussed a \$400 million package of U.S. aid with Yemeni President Ali Abdullah Saleh on November 27. The package, which has not yet been approved, would include special operations training and U.S. help in getting military assistance from U.S. allies.<sup>85</sup> Before expediting any of these requests in

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<sup>82</sup> Human Rights Watch, "Human Rights Background on Indonesia," *A Human Rights Watch Background*, September 2001. See also Human Rights Watch, *World Report 2002*, p. 229-39; Human Rights Watch, *World Report 2001*, pp. 201-08; Human Rights Watch, "Indonesia: Human Rights and Pro-Independence Actions In Papua, 1999-2000," *A Human Rights Watch Report*, vol. 12, no. 2 (C), May 2000; Human Rights Watch, "Indonesia: The Violence in Ambon," *A Human Rights Watch Report*, vol. 11, no. 1(C), March 1999; Human Rights Watch, "Indonesia: Human Rights and Pro-Independence Actions in Irian Jaya," *A Human Rights Watch Report*, vol. 12, no. 2(C), December 1998; Human Rights Watch, *Academic Freedom in Indonesia: Dismantling Soeharto-Era Barriers* (New York: Human Rights Watch, 1998); Human Rights Watch and Amnesty International, "Indonesia: Release Prisoners of Conscience Now," *A Human Rights Watch Joint Report*, vol. 10, no. 3(C), June 1998; Human Rights Watch, "West Kalimantan: Communal Violence in West Kalimantan," *A Human Rights Watch Report*, vol. 9, no. 10(C), December 1997.

<sup>83</sup> DSCA, "Major Arms Sales Notifications (Section 36(b) AECA [Arms Export Control Act of 1976]) – Arms Sales Notification Index," at [http://www.dsca.osd.mil/PressReleases/36-b/36b\\_index.htm](http://www.dsca.osd.mil/PressReleases/36-b/36b_index.htm) (accessed December 4, 2001).

<sup>84</sup> John Lancaster, "U.S.-Egypt Arms Deal Questioned," *Washington Post*, November 27, 2001. According to the *Washington Post*, the Bush administration sent a classified memorandum to Congress on November 2 proposing the additional arms sales to Egypt. The State Department publicly acknowledged the proposal on November 29. Richard Boucher, U.S. Department of State Daily Press Briefing transcript, November 29, 2001.

<sup>85</sup> Walter Pincus, "Yemen Hears Benefits of Joining U.S. Fight," *Washington Post*, November 28, 2001.

its new DSCA “war room,” the United States should ensure that the human rights and humanitarian law implications of the proposed transfers receive appropriate scrutiny.<sup>86</sup>

## V. CONCLUSION

The U.S. record of foreign military assistance since September 11 shows a trend toward lowering arms control standards and increasing military aid, especially for broadly defined counterterrorism efforts. Although Human Rights Watch does not take a position on the granting and transfer of military assistance in all circumstances, it does oppose giving such assistance to governments that engage in a consistent pattern of gross violations of international human rights and humanitarian law. In this time of international conflict, the United States should carefully monitor its military assistance programs and should not loosen controls without regard to human rights consequences.

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<sup>86</sup> For information on human rights abuses in Egypt, see Human Rights Watch, *World Report 2002*, p. 414-23; Human Rights Watch, *World Report 2001*, pp. 372-78; Human Rights Watch, “Underage and Unprotected: Child Labor in Egypt's Cotton Fields,” *A Human Rights Watch Report*, vol. 13, no. 1(E), January 2001; Human Rights Watch, *World Report 2000*, pp. 345-51.

For information on human rights abuses in Yemen, see Human Rights Watch, *World Report 2002*, p. 481-84; Human Rights Watch, *World Report 2001*, pp. 420-24; Human Rights Watch, *World Report 2001*, pp. 385-88.

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