

How to Stop Doing Business with Russia's Arm Exporter

BLUEPRINT
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On human rights, the United States must be a beacon. Activists fighting for freedom around the globe continue to look to us for inspiration and count on us for support. Upholding human rights is not only a moral obligation; it's a vital national interest. America is strongest when our policies and actions match our values.

Human Rights First is an independent advocacy and action organization that challenges America to live up to its ideals. We believe American leadership is essential in the struggle for human rights so we press the U.S. government and private companies to respect human rights and the rule of law. When they don't, we step in to demand reform, accountability and justice. Around the world, we work where we can best harness American influence to secure core freedoms.

We know that it is not enough to expose and protest injustice, so we create the political environment and policy solutions necessary to ensure consistent respect for human rights. Whether we are protecting refugees, combating torture, or defending persecuted minorities, we focus not on making a point, but on making a difference. For over 30 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership.

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"Preventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States."

Presidential Study Directive 10, August 4, 2011

"We're making sure that the United States government has the structures, the mechanisms to better prevent and respond to mass atrocities... It's why I created a new Atrocities Prevention Board, to bring together senior officials from across our government to focus on this critical mission. This is not an afterthought. This is not a sideline in our foreign policy... Our Treasury Department will work to more quickly deploy its financial tools to block the flow of money to abusive regimes. Our military will take additional steps to incorporate the prevention of atrocities into its doctrine and its planning."

President Obama, April 23, 2012

Introduction

As part of the United States plan to begin military withdrawals from Afghanistan in 2014, the Department of Defense (DOD) contracted with the Russian state-owned arms dealer, Rosoboronexport, to provide helicopters to the Afghanistan National Security Forces (ANSF). DOD has continued and expanded its purchases from Rosoboronexport even while acknowledging that the Russian arms dealer has enabled mass atrocities by supplying Syria's Bashar al-Assad with weapons that have been used to murder Syrian civilians.

Facing increasing, bipartisan opposition from Congress, DOD has stated its objective as "eventually eliminating the need to procure equipment through Rosoboronexport." But the Pentagon has not outlined a strategy to reach this goal and appears to have taken no steps toward achieving it. In fact, senior Pentagon officials insist that there is no viable alternative to Rosoboronexport if Afghanistan is to have a functional air force.

Following revelations that Assad's forces used chemical weapons against civilians, President Obama announced in June, 2013, that the United States would supply military aid to the anti-Assad rebels. Russian leaders have refused to order Rosoboronexport to cut off its contracts with the Assad regime.

This has placed the United States in a bizarre position: supplying weapons and aid to Syrian rebels while purchasing weapons from the very supplier that is arming their enemy—the Assad regime. And U.S. taxpayers are making profits for a Russian state-owned arms dealer with close ties to President Putin at the same time U.S. diplomats are attempting to persuade Mr. Putin to cut off Russia's lucrative arms sales to Syria. At the same time, the U.S.-Afghan program—which is the genesis of U.S. contracts with Rosoboronexport—has been plagued by allegations of waste and incompetence, prompting an audit by the Office of the Special Inspector General for Afghan Reconstruction (SIGAR.) On June 3, 2013, SIGAR

provided DOD with its draft audit report¹ on the \$772 million Rosoboronexport contract. The report concluded that the Afghan forces suffered from lack of literacy, English skills, pilot training and maintenance skills, and would not be able to fly or maintain the aircraft. It recommended suspending the contract.

Just 13 days after the draft was provided to DOD for comment, SIGAR wrote, “despite our recommendations, the Department awarded a \$553,759,240 contract modification to Rosoboronexport, a Russian government agency, on June 16, 2013, for 30 Mi-17 helicopters, spare parts, test equipment and engineering support services.” This continues a perplexing pattern in which DOD has not only continued its existing contracts with Rosoboronexport but repeatedly expanded them to an estimated \$1.1 billion in violation of the expressed will of Congress, in the face of an alarming increase in the death toll in Syria (from an estimated 5,000 people killed in 2011 to more than 93,000 killed to date), and despite evidence that Afghanistan will not have pilots capable of flying the helicopters by the time they are delivered. More than a year after Secretary of State Clinton expressed concern over Rosoboronexport’s activities and former Treasury Secretary Timothy Geithner called for expanding sanctions against Syria, the Defense Department has yet to propose a Plan B for acquiring helicopters for Afghanistan without enriching the Russian arms dealer that is profiting from the Syrian civil war.

The Rosoboronexport Helicopter Deal

To ensure that Afghanistan can meet its security needs when the U.S. military leaves, there is broad consensus that Afghanistan needs to upgrade its aging air fleet and its capabilities to fly its own counter-narcotics and counter-terrorism missions. The Defense Department’s goal has been to supply, support and mentor the ANSF’s Special Mission Wing (SMW) until it becomes an independent and self-sustaining aviation unit that can conduct professional operations. To do this, DOD concluded that the SMW would require both fixed-wing aircraft—18 cargo planes to be supplied by Sierra Nevada Corp. of Sparks, Nevada—and 30 Mi-17 dual

use helicopters manufactured in Kazan, Russia, to be supplied by Rosoboronexport.

DOD determined that Russian-made Mi-17 helicopters would be most suitable for Afghanistan’s “hot and high” conditions and that the Mi-17 would require the least amount of training for Afghan pilots already familiar with Russian aircraft and be easiest to repair. However, the new Mi-17s that were delivered to Afghanistan have reportedly been refitted with U.S cockpits that are familiar to the U.S pilots but foreign and unfamiliar to the Afghan pilots for whom they were intended. Despite the “buy American” sentiment in Congress, DOD has insisted that existing U.S.-manufactured alternatives to the Mi-17 (e.g., Bell and Sikorsky helicopters) were unacceptable, and that the expense and timetable of developing a new easy-to-repair helicopter that could perform in the high-temperature, high-altitude and rough conditions of Afghanistan would be prohibitive.

Mi-17s and their parts are widely available on the open market in Eastern Europe. However, Russia claims that its laws—and international intellectual property rules—require that the U.S. military buy the helicopters from its state-run export corporation, Rosoboronexport. The Pentagon asserts that helicopters not purchased from Rosoboronexport, such as used aircraft purchased in Eastern European markets, would be more expensive to maintain and face difficulty obtaining certification of airworthiness.

Rosoboronexport accounts for 95% of Russian arms sales, and its markets are growing.² But those markets should worry the United States. Rosoboronexport’s customers have included Iran, Syria, North Korea, Sudan, Burma, Libya and Venezuela. In 2006, the Bush administration banned dealings with Rosoboronexport after the firm inked a deal to sell S-300 air defense systems to Iran. That ban was lifted in 2010³ after Russia voted in the United Nations Security Council to impose sanctions on Iran and canceled the contract with

¹ <http://www.sigar.mil/pdf/audits/2013-05-27-audit-13-13.pdf>

² Russia is the second largest arms exporter after the United States, and its arms sales hit \$12 billion in 2012, up 6% from 2011: <http://www.defensenews.com/article/20130721/DEFREG02/307210013/Top-100-Looking-Beyond-Defense>
³ <http://www.akingump.com/en/news-publications/state-department-lifts-sanctions-against-russian-entities-imposed-for-exports-to-iran-and.html>

Iran. Rosoboronexport is Syria's top arms supplier, and 2007-2010 sales to Syria reportedly totaled \$4.7 billion.⁴

There are deep links between the management of Rosoboronexport, Russian President Vladimir Putin, and the increasingly wealthy elite in Putin's inner circle. Rosoboronexport is under the helm of Sergey Victorovich Chemezov, who became friends with Putin in the early 1980s when the two served in the KGB together in Dresden. Chemezov now runs a conglomerate of state-own defense-industrial giants that includes Rosoboronexport. Chemezov ranked #10 on Forbes Magazine's 2013 list of the wealthiest people in Russia; his wife owns multiple restaurants and other businesses and has a large stake in a Russian automotive components manufacturer, and his son has multiple business interests in related industries.

This intimate connection with Putin was highlighted in a 2007 State Department cable published by Wikileaks⁵, which noted that Rosoboronexport's profits were enriching senior Russian officials. "It is an open secret that the Russian defense industry is an important trough at which senior officials feed, and weapons sales continue to enrich many," said the cable, signed by then-U.S. Ambassador to Moscow William Burns, who is now Deputy Secretary of State.⁶ "The recent creation of RosTechnologiya State Corporation, headed by Putin intimate Sergey Chemezov, which consolidates under state control RosoboronExport (arms exports), Oboronprom (defense systems), RusSpetsStal (specialized steel production), VSMPO (titanium producer), and Russian helicopter production, is further proof of the importance the Putin government places on the industry," the cable said.

In May, 2011, DOD awarded Rosoboronexport a \$900 million no-bid contract to supply 21 Mi-17 helicopters to Afghanistan. In March 2012, responding to mounting concern in Congress that the Russian weapons were being turned on civilians in Syria, DOD Under Secretary for Policy James Miller said the helicopter acquisitions

were "critical to building the capacity of Afghanistan security forces and supports the president's continuing efforts to build improved relations with Russia."⁷ In June, 2012, DOD announced another contract for 10 more helicopters despite legislation already moving through the House and Senate to cut off the Rosoboronexport deal. In September, 2012, Under Secretary of Defense for Acquisition, Technology and Logistics Frank Kendall condemned Rosoboronexport for supplying weapons to Assad, "whose forces have used these weapons to murder Syrian civilians."⁸ Kendall noted "the objective of eventually eliminating the need to procure equipment through Rosoboronexport" and promised to consider competitive sourcing and/or overhauling existing aircraft to eliminate the need to buy new ones from Rosoboronexport. However, Kendall argued that a mixed fleet of aircraft for the Afghans to maintain would be "highly undesirable at this time."

Congressional Response

Frustrated by the Pentagon's failure to find alternatives to Rosoboronexport, in 2012 Congress included a provision (section 1277) in the National Defense Authorization Act for Fiscal Year 2013 (FY13 NDAA) that expressly prohibited the use of funds to enter into any contracts or agreements with Rosoboronexport. The ban took effect on January 3, 2013⁹. Separately, a House amendment to the FY13 Defense Appropriations Act prohibiting FY13 funding of ROE passed by a vote of 407-5.

Despite congressional opposition, the Department of Defense announced that it had grounds to issue a national security waiver of the FY 2013 restriction and proceeded with the helicopter purchase. However, DOD said it would use its remaining FY 2012 funds to proceed with the MI-17 purchase, thereby skirting the FY 2013 funding restriction altogether. A bipartisan group of House members complained that the use of prior-year funds would constitute "a direct subversion of existing

⁴ DPD Under Secretary James A. Miller statement March 29, 2012, Senate Armed Services Committee

⁵ <http://www.guardian.co.uk/world/us-embassy-cables-documents/127252>

⁶ The State Department has never confirmed the authenticity of any of the cables published by Wikileaks.

⁷ "Pentagon is OK with Buying Helos from Putin's Favorite Arms Dealer," Spencer Ackerman, Wired Magazine, May 8, 2012,

<http://www.wired.com/dangerroom/2012/05/pentagon-rosoboronexport/>

⁸ Letter from Under Secretary of Defense for Acquisition, Technology and Logistics Frank Kendall to Sen. John Cornyn, Sept. 20, 2012.

⁹ <http://www.govtrack.us/congress/bills/112/hr4310/text>

law” and demanded an open competition to identify alternative suppliers for helicopters for Afghanistan.

Lawmakers also demanded an audit of the Afghan aviation contracts by SIGAR. The SIGAR draft report made seven specific recommendations “that would help protect planned DOD investments¹⁰” in the Afghan air wing. It also recommended “suspending major aircraft acquisitions until the Afghan government takes necessary steps¹¹” to build its own capacity to fly and maintain the aircraft.

On June 3, SIGAR provided DOD with a copy of its draft report, flagging major waste and deficiencies in the contract and recommending that DOD suspend further aircraft acquisitions until the problems could be corrected. Instead of attempting to correct the problems revealed by the audit, on June 16, 2013, the U.S. Army went ahead with a \$553.8 million contract modification with Rosoboronexport for a total of 30 Mi-17 helicopters as well as spare parts.

On July 8, Senator Richard Blumenthal, D-Conn, and eight other senators from both parties released a letter to Defense Secretary Charles Hagel demanding again that DOD reconsider the Rosoboronexport contract in light of Russia’s sheltering former National Security Agency contractor Edward Snowden.¹²

Implications for Syria

With the death toll in Syria estimated to soon exceed 100,000, President Obama announced that for the first time the U.S. would provide lethal aid, including small arms, to some Syrian opposition forces. Secretary of State John Kerry has pressured Russia not to deliver S-300 air defense systems previously pledge to Assad.¹³ Russian officials have said they will not halt arms sales to the Assad regime so long as such sales are not

prohibited by the U.N. Security Council.¹⁴ Attempts to impose a U.N. ban have failed because of Russian and Chinese opposition in the Security Council.

The arms from Rosoboronexport have continued to flow to Syria since the 2011 crackdown began. In January, 2012, Russia signed a \$550 million contract¹⁵ to provide the Assad regime with attack jets capable of hitting civilian targets on the ground. On June 12, 2012, Secretary of State Clinton expressed dismay that Russia was sending attack helicopters to Syria. This statement served to highlight the conflict in U.S. policy—the State Department criticizing Russia for selling lethal weaponry, including helicopters, to Syria while the Defense Department was purchasing helicopters from Russia.

Human Rights First documented attempts by Russia to send four repaired Mi-25 attack helicopters¹⁶ to Syria in June 2012. The U.S was able to work with British and Dutch counterparts to halt this shipment, which violated existing EU sanctions. We also obtained a March 12, 2013 letter¹⁷ from The Syrian Army High Command’s Army Supply Bureau to the General Manager of Russian State Arms exporter, Rosoboronexport, soliciting a wide range of new offensive weapons. The letter appears to be an order for a range of weapons, including assault rifles and grenade launchers, with a request for expedited delivery. The letter’s authenticity has not been confirmed. However, these orders are consistent with a regime that was plotting further mass offensives against civilians.

Such offensives have continued from March until the present, with multiple reports of mass killings of civilian. In April, the Syrian National Army recaptured Jdaidet al-Fadl, and 250 civilians were allegedly massacred. Forces loyal to Assad also seized Qusair¹⁸, attacked the northern city of Aleppo with SCUD missiles and heavy artillery, and bombarded many other towns and cities, continuing a pattern of indiscriminate attacks on civilian

¹⁰ SIGAR letter to Defense Secretary Charles Hagel, June 28, 2013, <http://www.sigar.mil/pdf/audits/2013-05-27-audit-13-13.pdf>

¹¹ Ibid.

¹² <http://www.blumenthal.senate.gov/newsroom/press/release/blumenthal-again-urges-department-of-defense-to-reconsider-russian-made-helicopter-contract-in-light-of-recent-recommendations-by-special-inspector-general-for-afghanistan-reconstruction>

¹³ http://www.nytimes.com/2013/06/01/world/middleeast/kerry-castigates-russia-over-syria-bound-missiles.html?pagewanted=all&_r=0

¹⁴ <http://www.jpost.com/Diplomacy-and-Politics/Israel-reportedly-mulling-deal-that-would-see-Russian-troops-on-Golan-319462>

¹⁵ <http://defensetech.org/2012/01/23/russia-selling-syria-36-attack-jets/>

¹⁶ <http://www.humanrightsfirst.org/wp-content/uploads/HRF-Syria-case-study.pdf>

¹⁷ <http://www.humanrightsfirst.org/wp-content/uploads/SAR-Rosoboronexport-letter.pdf>

¹⁸ <http://www.washingtontimes.com/news/2013/jun/5/assad-forces-hezbollah-retake-qusair-head-aleppo-s/?page=all>

targets. There is every reason to believe that disproportionate attacks and reports of alleged war crimes committed with Russian weaponry will continue apace.

RECOMMENDATIONS

Congress

- Congress should enact legislation that explicitly orders the Department of Defense to cancel all contracts with Rosoboronexport, including but not limited to contracts for helicopters, spare parts and maintenance. This would include the contract extension signed on June 16, 2013. There are at least two opportunities for such legislative action: the 2014 National Defense Authorization Act and the FY14 Defense Appropriations bill. This legislation should include a specific prohibition on the use of FY12 or other funding to fulfill previous contracts.
 - National Security Waiver: Congress should amend Sec. 8119 (b) to prohibit the use of a national security waiver unless the three conditions in Sec. 8119 (a) are met: 1) Rosoboronexport must cooperate with all U.S. auditing agencies and law enforcement inquiries; 2) Rosoboronexport has pledged not to deliver S-300 air defense systems to Syria and, according to intelligence estimates, has not delivered them; 3) No new contracts have been signed between Rosoboronexport and the Government of Syria since January, 2013.
 - Congress should request immediate notification of what FY 2012 funds have already been transferred to Rosoboronexport under the June 13, 2013 contract extension, and how many Mi-17 helicopters and parts have already been paid for. This information will enable lawmakers to assess whether Afghan forces have an urgent need for the remaining helicopters to be supplied under the contract, and what effect, if any, a delay in delivering the balance of the helicopters would have on operations. In light of the training and maintenance delays reported by SIGAR, it is likely there are other methods to procure helicopters that would meet the needs of the Afghan forces and can be flown and maintained on a slower timetable. Congress should
- request that DOD report within 60 days on these options, including a) procuring smaller numbers of used helicopters from NATO allies or other sources; b) overhauling the helicopters in non-Russian nations; and c) procuring spare parts from other sources and c) establishing quality-control mechanisms by which helicopters can be certified and maintained after U.S. forces depart without continuing access to Rosoboronexport support.
- Preference should be given to sourcing helicopters and spare parts from suppliers in countries that are U.S. NATO allies, such as the Czech Republic, Slovakia or Hungary, all of which contributed troops to the peacekeeping mission in Afghanistan.
 - Congress should enact legislation that requires the office of the DOD Under Secretary of Acquisitions, Technology and Logistics office to review all defense procurement contracts with foreign entities to assess the risk that the contract might enable the flow of arms into areas where they are being used or are likely to be used to commit mass atrocities. The office should be required to provide details of such contracts to the National Intelligence Council, the Atrocities Prevention Board (APB) and the State Department as authors of the annual Human Rights Reports. The Pentagon should also be required to provide details of any such contracts to the APB upon request. The new legislation should require that the APB inform the Secretaries of State and Defense, the National Security Advisor, and Congress within 30 days should it find reasonable risk that the United States is contracting with entities that may be enabling atrocities.

Department of Defense

- DOD should report to Congress within 60 days on the subject of modifications to the Mi-17 cockpits, including details of such modifications, the benefits to the United States, and the estimated cost if the cockpits must be returned to Russian standard before turning the craft over to the SMW.
- DOD has repeatedly promised Congress to look into alternative suppliers for helicopters able to perform the functions of the Mi-17. In light of DOD's repeated

insistence that access to this Russian product is vital to Afghan national security and the new developments in Syria and Russia, DOD should within six months perform a study to determine the options and costs of alternatives to Rosoboronexport.

- To prevent recurrence of the type of problem spotlighted by the Rosoboronexport contract, the office of the DOD Under Secretary of Acquisitions, Technology and Logistics office should review defense procurement contracts to assess the risk of the contractor enabling the flow of arms into areas where they are being used or are likely to be used to commit mass atrocities. The office should seek and share information about such potential risks with the National Intelligence Council, the APB, and the State Department and develop joint strategies for atrocities prevention.

CONCLUSION

Despite Department of Defense objections, there are a range of broader U.S. political, moral, financial and security interests that demand alternatives to doing business with a Russian arms exporter that is complicit in the murder of Syrian civilians.

In light of recent developments in Syria, including the Rosoboronexport contract to sell S-300 air defense systems that would be highly destabilizing both to Syria and the region, DOD's insistence that failure to proceed

with the Rosoboronexport contract will lead to mission failure in Afghanistan is unacceptable. Instead of attempting to find loopholes in Congress's legislation to cut off funds for Rosoboronexport, DOD should be tasked with finding viable alternatives to the contract. This should include consideration of used helicopters for Afghanistan, and proper systems by which Afghans themselves could maintain them. It must also entail fresh effort to find low-cost, sustainable solutions that do not foster Afghan dependence on Russia for its ongoing security needs.

The Rosoboronexport problem exemplifies the tensions between the complex and competing interests that the United States must navigate: a clear national interest in helping Afghanistan take over its own security as U.S. combat troops depart, and a compelling national interest in preventing mass atrocities of the kind occurring in Syria. There is no acceptable trade-off that involves abandoning either of these vital interests; the Obama administration must redouble its efforts to satisfy both. The United States is distinctive around the world for its abhorrence of mass atrocities and genocide, and its global leadership depends on prioritizing human life and human dignity – especially when it is difficult to do so. The United States has an opportunity to lead now by finding better means that Rosoboronexport to further the national interest, respect its taxpayers, preserve its moral leadership, and help the Afghan and Syrian citizens whose lives may depend on U.S. policies.



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