

# Israel and U.S. Aid: Humanitarian Access in Gaza

October 17, 2024

## Overview

On October 13, 2024, U.S. Secretary of State Antony Blinken and Secretary of Defense Lloyd Austin jointly sent a [letter](#), which the State Department [described](#) as a “private diplomatic communication,” to Israeli’s Minister of Defense Yoav Gallant and Minister of Strategic Affairs Ron Dermer. The letter states that “Israel must, starting now and within 30 days,” act on several “concrete measures” vis-a-vis Gaza, such as enabling a surge of humanitarian aid into Gaza. The letter states that “(f)ailure to demonstrate a sustained commitment to implementing and maintaining these measures may have implications for U.S. policy” under existing law.

The letter coincides with continued conflict and possible escalation between Israel and Iran. Hostilities persist in Gaza, the West Bank, Lebanon, Yemen and the Red Sea, Iraq, and Syria. U.S. officials have continued to [reaffirm U.S. support for Israel’s right to defend itself](#) and [U.S. commitment to Israel’s security](#). The letter also coincides with the [arrival](#) of roughly 100 U.S. military personnel in Israel to operate a [Terminal High-Altitude Area Defense \(THAAD\)](#) missile defense battery; media reports assert that Israel is currently facing [a shortage of air defense interceptors to counter incoming projectiles](#).

The letter is the latest expression by the Administration critical of some aspects of Israel’s prosecution of the war in Gaza. As a cease-fire agreement remains elusive, [Israel and Hamas](#) have continued to engage in urban warfare amidst a civilian population subject to Israeli military strikes, Hamas military use of civilian infrastructure, low levels of humanitarian aid, and increasing disorder and lawlessness in some areas.

In early October, in response to some Hamas fighters reportedly reconstituting in northern Gaza, Israel resumed major ground operations in Gaza’s Jabaliya. Since July, Israel also [reduced the flow of aid](#) into Gaza according to the Blinken-Austin letter. One U.N. official [has described](#) Israeli impediments to food entering northern Gaza and said that no food came in from October 2 to 15, at which point “a trickle was allowed in.” As Israeli officials [released data](#) in mid-October (after the transmittal of the letter) indicating increased aid volume entering Gaza, the U.S. State Department [said](#) it has seen Israel taking initial steps, and seeks additional aid delivery to civilians.

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## U.S. Law and Biden Administration Policy

The letter cites both provisions in standing law and Administration policies governing U.S. security assistance and arms sales. Some relevant policies and authorities include:

- **General Legal Provisions** - The President has [a number of mechanisms](#) to alter or end the sale of U.S.-origin defense articles. [The Arms Export Control Act](#) (AECA) and the [Foreign Assistance Act of 1961](#) (FAA) establish the statutory foundations governing arms sales to foreign governments. The [AECA](#) prohibits the transfer of U.S. defense articles if the President finds that a recipient country has used U.S. defense articles for unauthorized purposes until the President determines the violation has ceased and recipients provide satisfactory assurances that violations will not recur.
- **Section 620I of the Foreign Assistance Act** - This provision states that no assistance shall be furnished to any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of U.S. humanitarian assistance (Section 620I of the FAA, [22 U.S.C. 2378-1](#)).
- **National Security Memorandum-20** - On February 8, 2024, President Biden issued [NSM-20](#), a National Security Memorandum requiring that prior to the transfer of any U.S. defense article, the Departments of State and Defense must obtain “credible and reliable” written assurances from the recipient country that it will use any such defense articles in accordance with international humanitarian law and, as applicable, other international law. It also requires that in any area where such defense articles are used, the “recipient country will facilitate and not arbitrarily deny, restrict, or otherwise impede the transport or delivery” of humanitarian assistance. NSM-20 additionally requires the Secretaries of State and Defense to assess for Congress whether U.S. defense articles have been used after the memorandum’s issuance in a manner not consistent with international law. In March, Israel provided its recipient country assurances to the United States. In May 2024, the Administration released its report to Congress under Section 2 of NSM-20, concluding ([according to a release by an advocacy group stating that it is a copy](#)) that “it is reasonable to assess that defense articles covered under NSM-20 have been used by Israeli security forces since October 7 in instances inconsistent with its IHL [International Humanitarian Law] obligations or with established best practices for mitigating civilian harm.” Despite the concerns raised, the reputed report assessed Israel’s March assurances to be “credible and reliable so as to allow the provision of defense articles covered under NSM-20 to continue.”

## Issues for Congress

### Humanitarian Aid Entering Gaza

The [Integrated Food Security Phase Classification](#) (IPC), in September-October 2024, reported that more than 1.8 million of 2.1 million people in Gaza were experiencing high levels of acute food insecurity, and the risk of famine persisted. According to the [State Department](#), Israel had improved humanitarian access in April 2024 after U.S. urging, but aid had since fallen to less than 50% of its prior peak. Some Members of Congress have [supported U.S. pressure on Israel](#) to improve the humanitarian situation in Gaza; others have [raised concerns](#) about the “likely misuse” of humanitarian aid to Gaza since October 2023, citing

“credible reporting” and a [USAID Inspector General report](#) that suggested addressing “shortcomings and vulnerabilities” in oversight mechanisms.

## U.S. Arms Sales to Israel

In May 2024, after Israel launched major ground operations in Rafah, the Administration [paused a shipment of 2,000-pound and 500-pound bombs to Israel](#). Though the Administration later released the shipment of 500-pound bombs, as of October 2024, it was reportedly continuing to review the 2,000-pound bomb shipment. In August 2024, during a congressional recess, [the Administration formally notified Congress of five potential Foreign Military Sales \(FMS\)](#) to Israel for over \$20 billion. On September 25, Senator Bernie Sanders introduced multiple [joint resolutions of disapproval](#) (JRDs) corresponding to the notified sales. Per Section 36(b)(2) of the AECA, Senate consideration of these JRDs shall receive expedited congressional consideration.

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