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A Moment of Decision on Egypt

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Brief Analysis

Washington is all but certain to resume its military financing to Egypt at some point, but there is little to be gained and potentially much to be lost by waiting for Cairo's Federal Reserve accounts to zero out in the meantime.

Although Egypt is an important strategic asset for the United States -- granting priority Suez Canal access to American warships and unrestricted overflights to American military aircraft -- the new government led by former military commander Abdul Fattah al-Sisi is increasingly repressive. Accordingly, the Obama administration has been reluctant to resume full military and economic assistance to the longtime U.S. aid recipient. If Washington does not deliver in the coming weeks, U.S. foreign military financing (FMF) to Egypt -- a constant since Cairo's 1979 peace treaty with Israel -- will run out, damaging the already tenuous bilateral relationship.

BACKGROUND

Over the past three decades, Washington has given Egypt over \$40 billion in military assistance, a program that today accounts for 80 percent of the country's total annual military procurement budget. Cairo receives \$1.3 billion per year in FMF under a program that allows it to purchase U.S.-produced military hardware and technical assistance in coordination with the State and Defense Departments, as well as \$250 million in annual economic support funds (ESF). While not an "earmark" per se, U.S. assistance has underpinned Israeli-Egyptian peace since 1981. To be sure, the funds have declined in significance to Egypt over the years: in the early 1980s, they were equivalent to 10 percent of Egypt's GDP, but today the figure is less than 1 percent. Nevertheless, the money remains an important symbol of U.S. commitment and locks Cairo, at least nominally, into a pro-West orbit.

For the past three years, Egypt has been battling a burgeoning insurgency in the Sinai. The revolt -- which has killed

over 500 military and security personnel to date -- is led by U.S.-designated terrorist group Ansar Beit al-Maqdis, which recently declared allegiance to the "Islamic State"/ISIS. Worse, the violence is proliferating into the Nile Valley, as the latest series of attacks that killed six police officers in Cairo suggest.

Despite this threat, last year a congressional hold greatly delayed the transfer of ten Apache attack helicopters for use in Egypt's counterinsurgency. Meanwhile, the administration continues to delay the transfer of previously purchased M1A1 tank kits, F-16 fighter jets, and Harpoon missiles.

CONGRESSIONAL CONDITIONS

Alarmed by the toppling of Egypt's previous elected government and creeping authoritarianism under Sisi, Congress legislated conditions in the fiscal year 2014 budget limiting the disbursement of funds. To release the first half of FY 2014 funding, the administration had to certify that Egypt was sustaining the strategic relationship and meeting its peace treaty obligations with Israel. For the remainder of the assistance to be transferred, the secretary of state must certify that Egypt: (1) held a constitutional referendum, (2) is supporting a democratic transition, (3) has held presidential and parliamentary elections, and (4) is taking steps to govern democratically. Alternatively, the secretary can waive these conditions if the assistance is allocated to counterterrorism, border security, counterproliferation, and development efforts in the Sinai.

While the FY 2015 budget passed in December added a general national security waiver to the Sinai waiver provision-- something not present in the FY 2014 legislation -- it was even more restrictive in other ways. Among other things, it compelled the secretary to certify that parliamentary elections were free and fair, and that Egypt was implementing reforms to protect freedom of expression and association, providing detainees with due process, and releasing American political prisoners. At present, Cairo has met none of these conditions, and the FY 2015 funds normally designated for Egypt are yet to be allocated.

CURRENT STATE OF PLAY

Traditionally, U.S. military financing for Egypt was deposited at the beginning of the year in an interest-bearing account at the New York Federal Reserve. Since 2011, however, the funds have been released sporadically in tranches, after administration certifications. In April 2014, the administration certified that Egypt had met its obligations to Washington and Israel and deposited the first tranche of \$572 million (half of the \$1.3 billion minus the cost of the Apaches). Egypt has been steadily drawing down those funds to the point where both the interest-bearing and management-reserve accounts at the Federal Reserve will likely be exhausted in the coming weeks.

To transfer the remaining \$650 million in committed FY 2014 assistance, Secretary Kerry will have to either certify that Egypt is "governing democratically" or invoke the security waiver, ostensibly by allocating the assistance to Sinai counterterror efforts. While the administration may consider these conditions onerous, both the White House and Cairo would likely view the counterterrorism allocation broadly; to wit, the Sisi government regards its imprisonment of Muslim Brotherhood members as "counterterrorism."

Any administration waiver would probably be issued via a letter from the State Department to Congress. This would be followed by briefings to key legislators, most prominently Sen. Patrick Leahy (D-VT), a member of the Appropriations Committee who placed the hold on the Apaches last year out of concern for human rights in Egypt.

Given the deterioration in Libya, Syria, Yemen, and Iraq, as well as the growing ISIS threat in the Sinai, Washington is loath to decrease its security assistance to Egypt. But Cairo's policies are not making the decision any easier for Washington.

A week before the terrorist violence in Paris, President Sisi issued a statement calling for reformation in Islam, generating some rare positive buzz in Washington; his conciliatory Christmas Eve visit to a Coptic church had a

similar effect. Unfortunately, the vast majority of recent headlines are not as encouraging. For example, Egypt continues to incarcerate homosexuals and atheists, and it has the second-largest contingent of jailed journalists in the world, according to Journalists Without Borders. Meanwhile, Cairo has announced that no Western organizations will be permitted to monitor the spring 2015 parliamentary elections. And just last week, as part of its strategy to defeat the ISIS insurgency, the government declared that it would raze the Sinai city of Rafah and forcibly remove its 75,000 residents.

CONCLUSION

Repressive and otherwise ill-advised Egyptian policies have no doubt fueled some of the Obama administration's reticence to issue waivers and provide military support. Indeed, Cairo's behavior is problematic and perhaps even counterproductive to the state's long-term stability, and many in Washington would prefer to withhold military funding as leverage for improvements in human rights. But a full cutoff in U.S. assistance -- especially in the midst of the Sinai insurgency -- would neither improve Cairo's conduct nor enhance the already fraught U.S.-Egyptian relationship. Indeed, precedent suggests that withholding assistance would aggravate -- not moderate -- the worst tendencies in Egyptian governance. For example, between October 2013 and December 2014, when U.S. funding was conditioned on democratic progress, Cairo passed a draconian new anti-protest law, implemented a more restrictive NGO law, and witnessed Sisi win the presidential election with 97 percent of the popular vote.

At this point, the ball is firmly in the administration's court: although Congress conditioned U.S. assistance to Egypt in the first place, it is unlikely to resist if the secretary invokes the waiver and releases the remaining funding. To wit, when the months-long hold on the Apaches was finally lifted in April 2014, there was little if any grumbling on the Hill, and the helicopters were delivered without fanfare or protest in December.

Ultimately, the administration is all but certain to relent and release the remainder of the FY 2014 funding, even if only designated for Sinai-related and counterterrorism activities. Through its hesitancy to issue the waiver, Washington has already signaled its distaste for some of Cairo's policies. It can further demonstrate its aversion to repression in Egypt by taking steps to end the courtesy of "cash flow financing," which allows Cairo to commit to purchasing expensive weapons systems from American defense contractors and cover them with projected future FMF grants. For the time being, though, there is little to be gained and potentially much to be lost by waiting for Egypt's FMF accounts at the Federal Reserve to zero out.

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