

**U.S. Industry Perspectives on the Department of Defense's Policies, Roles, and Responsibilities for Foreign Military Sales  
Testimony before the Committee on Armed Services  
United States House of Representatives  
Subcommittee on Oversight and Investigations**

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Chairwoman Hartzler, Ranking Member Speier, and Members of the Subcommittee, thank you for the opportunity to testify this morning. I appear before you this morning in my capacity as Senior Fellow at the National Defense Industrial Association (NDIA). NDIA is defense industry's oldest and largest association promoting national security, and is comprised of over 1,600 corporate members and nearly 90,000 individual members.

While today's hearing focuses on the specifics of the Department of Defense's (DoD) involvement in the Foreign Military Sales (FMS) process, it is important to recognize that the FMS process itself is merely one component within a broader governance regime over arms transfers, which is a vital component of U.S. security cooperation. Over the past two decades, the FMS process has come under fire from a number of critics including those interested in protecting the vital technological advantage enjoyed by U.S. forces, and those interested in the health of the defense industrial base during a period of budgetary constraint and major market change. Industry shares the concern that FMS delays compromise U.S. national security interests; however, the core problems with FMS are not actually problems with the FMS process, but rather the burdens of associated components within the broader governance regime overseeing arms sales and technology transfers.

With that in mind, my statement this morning will attempt to frame FMS and the broader governance over arms transfers within the context of the 21<sup>st</sup> century international security environment. This Committee has recognized this environment and the challenges it poses in its approach to acquisition reform – FMS should be no different. Security threats and technology are rapidly evolving, and FMS, as a mechanism for advancing U.S. security cooperation interests, must be capable of meeting the needs of our partners and allies. My testimony today will be driven by the following observations:

1. Foreign military sales are an integral component of our national defense strategy;

2. Criticism of the FMS process has been too narrowly focused;
3. The governance regime for foreign sales needs to adapt to the challenges of the 21<sup>st</sup> century international security environment; and
4. Foreign sales play a key role in sustaining a robust defense industrial base.

Before I go any further it is important to remember that FMS is contingent on a determination that it is in the best interest of U.S. national security. This is best encapsulated in the Defense Security Cooperation Agency's mission statement, which is to "Lead the Security Cooperation (SC) community in developing innovative security cooperation solutions that support mutual U.S. and partner interests." Thus, the end goal for FMS reform is to optimize the FMS process to enhance U.S. security cooperation objectives, not simply to make the process faster to generate more sales for industry.

### **FMS is an integral component of our national defense strategy.**

The United States has maintained the most powerful military since the conclusion of World War II. There is no reason to believe that will change anytime soon, however the present-day dynamics of the international security environment and domestic concerns over our long-term fiscal position will alter how we utilize our military to achieve our national security goals and the resources we dedicate to do so. In his assessment of the 2014 Quadrennial Defense Review, General Martin Dempsey, then-Chairman, Joint Chiefs of Staff, highlighted reliance on allies and partners as a main area of higher risk for the U.S. military to meet the updated national defense strategy. FMS, by enhancing security cooperation, helps mitigate that risk.

Allow me to elaborate a bit on our current condition regarding the nation's defense industrial base. We no longer have the military-industrial complex described by President Eisenhower fifty-five years ago; we now live in a new era of military-industrial complexity where important technologies are being derived from commercial sources, where component technologies are often as vital as the end-items that house them, and where globalization has proliferated technologies across the globe. This means the list of dual-use items is growing, while at the same time globalization is ensuring that new items and services that were once only available in the U.S. market are now readily available from foreign sources.

These changes have occurred during a period in which the American defense industrial base is itself undergoing major change and significant contraction. Whereas in 1961 there were 14 companies on the in the top 100 companies of the *Fortune* 500 who were significant defense entities, today there are four – and when the next *Fortune* 500 is released next month there will probably be only three. In 1981, when President Reagan re-started the B-1 bomber program, there were fourteen American companies capable of

designing and manufacturing high-performance military aircraft. Today there are three.

This contraction naturally reflects the changed strategic condition that resulted from the end of the Cold War in 1991, but continues today as a result of many fewer programs being pursued by the Department of Defense, and the effects of budget restrictions. All of these factors have combined to make international sales relatively more important to the companies remaining in the defense industrial base. The quality of the military products we produce makes them very attractive to foreign customers; but the often laborious process for securing the approval of a sale often reduces their appeal and general competitiveness.

One of industry's major concerns is that uncertainty and lengthy delays in the FMS process force other nations who are seeking to do business with U.S. companies to deal with and ultimately buy products and services from other nations including adversaries such as China and Russia, even when U.S. vendors offer better value. This undermines our international standing, while allowing our near-peer competitors, China and Russia, who do not always share our foreign policy objectives, to forge greater ties with other nations.

FMS, and direct commercial sales, give the United States numerous advantages by "Building Partner Capability." Not only can we operate better when necessary with countries having equipment compatible with our own, but the training and sustaining of the equipment produce enduring military-to-military and company-to-company connections that can prove invaluable. The situation in Egypt during the 2011 Arab Spring provides a good example. Moreover, FMS can also be used to 'reward' good behavior. Allowing 'access' to superior U.S. capabilities can be used as an incentive for other countries to align their national security interests with those of the U.S.

Further, as witnessed in the global coalition to combat the Islamic State, and cooperation within NATO to deter Russian aggression in Eastern Europe, it seems inconceivable that the U.S. will ever face an adversary, from near-peers to non-state actors, without a coalition of support from partners and allies. The reduced size of our own forces and our greatly reduced global basing footprint requires such an approach. FMS enables greater collective capability in military operations with our partners and allies through greater interoperability and training. As the U.S. seeks to reduce its footprint on the ground abroad, it will increasingly rely on allies and partners to carry out the operations necessary to provide for global security. As Winston Churchill commented decades ago, "There is only one thing worse than fighting with allies, and that is fighting without them."

**Criticism of the FMS process has been too narrowly focused.**

Industry has been pleased by recent efforts by the Defense Security Cooperation Agency (DSCA) to improve the FMS process, and further reform efforts should take into account the broader interagency governance regime. Foreign sales are subjected to an interagency review process, comprised of multiple parties with different missions. Changes to FMS will have to balance the roles and responsibilities of various parties to ensure proper oversight, while taking into consideration how delays and the uncertainty of the current process undermine our security cooperation goals.

As for areas where DoD should focus its efforts for improvement, industry suggests two components that bookend the actual FMS process. First, the technology release process, managed by military departments (MILDEPs) and the Office of the Secretary of Defense (OSD), is obtuse, stovepiped and prone to delays. Based on estimates from our members companies, it takes on average between two and three years for a new program of record to navigate the process. This is further complicated by the fact that many technology release processes have not been updated to reflect a number of factors including partner burden-sharing, cyber security, existing inventory integration, or compliance monitoring, to name a few.

Second, some of the biggest delays occur following contract award, which is managed by the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics (OUSD [AT&L]). This is largely a resourcing and human capital problem. Simply put, domestic programs take a higher priority over FMS programs, and the internal staffing within DoD is insufficient to review licensing requests in a timely manner. Although DoD is making headway with efforts such as the Defense Export Feasibility Pilot program, which has been applied to fifteen programs, more needs to be done. Industry has been concerned that FMS case management billets have been reduced substantially across the Services to focus managerial interest on the Pentagon's own programs of record, and often staffing is already insufficient to manage FMS contracts in the first place. The Air Force, for instance, staffs billets for 18 month, whereas the average FMS case lasts 3 years.

**The governance regime for foreign sales needs to adapt to the challenges of the 21<sup>st</sup> century environment.**

Over the last several Administrations, the United States has encouraged our allies to undertake a greater share of the cost burden for defense. Unfortunately, the governance regime for arms sales is not properly aligned to enable that through FMS. In combination with the changing dynamics of the international security environment in the 21<sup>st</sup> century, institutional reforms are necessary.

Industry's experience is that the aforementioned governance regime is designed to operate transactionally, rather than strategically. As it is currently stands, the system is optimized to simply deliver an end item that has already been procured by the U.S.

government. But that's not what FMS customers want, nor how the system should operate. Our allies and partners need a complete package including training, integration with existing capabilities, and configuration management throughout the lifecycle. And, FMS customers in many cases want capabilities that the U.S. government has not already procured, but for those capabilities, without a domestic program office to standup an FMS program office or a MILDEP to champion the sale, sales take far longer and run a higher risk of languishing.

DoD also needs to take a more strategic approach towards exportability planning. The Design of System for Export program should be supported robustly to fund industry efforts to integrate exportability early in the development cycle. This would enable a full guarantee of export approval to industry for a defense article absent a foreign policy issue. Funding for this effort can also come from foreign partners or the Special Defense Acquisition Fund. This is not simply paying industry so that they can profit later off foreign sales, but a strategic approach to inject considerations for enhanced future security cooperation early in the acquisition process.

### **Foreign sales provide for a more robust industrial base.**

Finally, Foreign Military Sales have a number of positive impacts for our domestic industrial base and workforce at a time when the long-term budget climate for DoD is, quite frankly, bleak. Continued growth in mandatory spending will put pressure on DoD's top line, while continued growth in Operations and Maintenance and Military Personnel accounts within the defense budget will drive reductions in acquisition spending (Procurement and Research, Development, Test, and Evaluation accounts). Equally concerning as the DoD's top line is the declining number of new program starts.

The major concern here is that a growing portion of the defense budget goes for paying the forces and providing for its training and readiness. As the committee is well aware, over the past few years health care has been the fastest growing portion of the defense budget. From the defense budget perspective, the modernization accounts are discretionary spending. The irony we face, therefore, is although we have shifted from a military force that is capital rather than labor intensive, the portions of the budget supporting this essential capital intensity are the ones most under stress. In that regard, starting and continuing modernization programs for international customers provide an increasingly important buffer preventing further contraction of the defense manufacturing base.

Injecting additional revenues through foreign sales will boost the health of the industrial base throughout the supply chain, help sustain a larger industrial base to increase competition for domestic programs, make domestic firms more competitive in the international marketplace, and provide additional incentive to invest in innovation.

Added FMS revenues also put industry in a better position to attract and retain a highly skilled workforce.

## **Conclusion**

Again, it is important to remember that DoD's role in FMS is contingent on a determination that the sale is in the best interest of U.S. national security, and that FMS is a 'tool' to enhance security cooperation. Accordingly, foreign sales should not be an afterthought. Such sales not only increase our strategic reach and operational capability, they also support a defense industrial base that many feel has contracted further than desired. International defense sales should be treated and resourced on par with domestic programs. To accomplish this, the governance regime encompassing FMS should be strategically aligned to meet national security objectives and to operate in the 21<sup>st</sup> century international security environment. Adequate resources should be dedicated to enable system design for exportability and to support FMS programs even when a domestic program of record may not exist, and OSD and the Services should provide an acquisition workforce sufficient in size and skill to manage FMS programs and expedite approvals when and where needed.

Thank you again for the opportunity to testify this morning and I'm happy to take any questions you may have.