



Testimony of Mr. Remy Nathan
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“U.S. Industry Perspectives on the Department of Defense’s Policies, Roles and Responsibilities for Foreign Military Sales”

Subcommittee on Oversight and Investigations
House Committee on Armed Services
United States House of Representatives

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The Aerospace Industries Association (AIA) appreciates the opportunity to present our views to the House Armed Services Subcommittee on Oversight and Investigations on the *Department of Defense's Policies, Roles and Responsibilities for Foreign Military Sales*.

My name is Remy Nathan, Vice President of International Affairs at the Aerospace Industries Association. AIA is the premier trade association representing major aerospace and defense manufacturers and suppliers in the United States. More than 300 of our member companies embody every high-technology manufacturing segment of the U.S. aerospace and defense industry from commercial aviation and avionics, to manned and unmanned defense systems, to space technologies and satellite communications. AIA and our members are very proud of the fact that we produce the best technology at the best price for the U.S. warfighter, as well as our close allies and partners who share our interests and our commitment to global security and stability.

AIA's members actively engaged with the previous and current presidential administrations and Congress to support reform of the U.S. export control regime to improve security cooperation and build partner capacity. Today, we need continued bipartisan commitment to support improvements to the broader interagency Security Cooperation Enterprise that ensure decisions on exporting U.S. military technology are synchronized, more timely, and supportive of American national security and foreign policy priorities. Indeed, a single sale of a U.S. defense platform can reenergize a strategic relationship with an ally, build the foundation for an emerging regional partnership, or provide a critical deterrent to military conflict. These transactions also create and grow high skilled, high wage U.S. jobs, and provide significant savings to the U.S. taxpayer via the sharing of research and development costs with our partners and the lowering of unit production and support costs.

U.S. industry recognizes the "built-in inefficiency" of the necessary checks and balances in the Security Cooperation Enterprise that ensure defense exports are consistent with U.S. national security and foreign policy interests. As the "arsenal of democracy," our industry is committed to making certain that America's warfighters always have technological superiority against any potential adversary. However, the dynamics of the current global security environment are placing greater and greater demands on the Security Cooperation Enterprise that will challenge the system in the future.

Many of our international partners and allies – the potential purchasers of American defense equipment – do not possess a deliberate budget cycle, a professional acquisition corps, a systems life-cycle manager, or even an effective strategy development process for their security needs. They are operating with much shorter time horizons, and timeliness in meeting their needs is increasingly the most important discriminator as they try to identify their "partner of choice" who supplies them with defense equipment.

The international market is also intensely competitive. U.S. companies are often competing against foreign companies who are heavily subsidized and supported by their governments –

often at the highest levels – from an approval process, price, and advocacy perspective. Foreign buyers are increasingly dissuaded by our competitors from “buying American” through claims that they are easier to work with and quicker to deliver. The extent to which these assertions can be corroborated by our partners’ experiences affects the United States’ ability to realize the above-stated benefits of international defense article and technology transfers.

We must consider the question of whether or not the Security Cooperation Enterprise is able to manage on a sustainable basis Foreign Military Sales (FMS), Direct Commercial Sales (DCS), and hybrid cases that are growing in complexity, number, and urgency. In the absence of greater resources, training, and a focus on Security Cooperation Enterprise Reform, we will discover the answer is no at the worst possible time.

Let us be clear – we in industry are not calling for reforms that are simply going to change “No” to “Yes” during reviews of whether or not a defense export is in the national interest. If the answer is “no,” then industry can accept that answer. However, let it be a quick and early “no” with industry-government consultation to develop alternative proposals to meet our partners’ needs and advance U.S. national security objectives. Let us also have a sense of urgency and focused attention on the “yes” calls so that when a partner seeks to purchase military equipment they turn to the U.S. first, and not to countries like Russia and China, which are becoming increasingly aggressive in using defense exports as tools to advance their strategic geopolitical objectives. If we do this, our industry will be in a much better position to make the right technology investments and business development decisions in the right timeframe to generate the capabilities that best support our warfighters and our allies and partners.

Before I go any further, I should acknowledge the successes of the FMS system in managing over \$34 billion in sales in FY14 and exceeding \$47 billion in FY15. The Defense Security Cooperation Agency (DSCA) has announced about \$29 billion in FMS cases through April 2016. Industry is deeply appreciative of the efforts of Vice Admiral Joseph Rixey, Director of DSCA, and his interagency and military partners in the Security Cooperation Enterprise, to manage this significant and increasingly burdensome workload. We also welcome the opportunities industry has been provided to engage with the Security Cooperation Enterprise to support and suggest additions to their reform proposals that will help address the challenge of getting to the right security cooperation decisions at the right time.

My remaining testimony will focus on three areas of suggested reform and improvement in the Foreign Military Sales (FMS) system, specifically areas that are within the purview of the Department of Defense. For instance, industry has put forward recommendations to address the selection of types of contracts for FMS transactions, namely Fixed Price Incentive Fee (FPIF) contracts versus Firm Fixed Price (FFP) contracts. Many of our foreign customers wish to avoid FPIF contracts because of the requirement to commit excess funds -- averaging 5-10% above what would be required in a traditional FFP contract -- for the entire period of performance. This commitment is required even though it is unlikely these funds will ever need to be utilized. Additionally, an FPIF contract must remain open until all contract obligations have been

completed. In many instances this extends the period of performance by 5-10 years after final delivery is complete, further prolonging the period during which excess funds have to remain committed. Taking these financial burdens into account, foreign partners who believe FFP contracts make the most sense should not be hindered from utilizing that contract vehicle. While we appreciate the Committee's report language asking the Government Accountability Office to look into this issue, we believe stronger action is needed now to streamline this aspect of the FMS contracting process.

Industry is appreciative of the Committee's consideration of and support for language requiring contracting officers to definitize FMS contracts within 180 days of a qualifying proposal submission. A number of these Undefined Contract Actions (UCAs) are now over 1,000 days old. Such delays are unacceptable from an efficiency and execution standpoint, and place an unnecessary and burdensome level of risk on the U.S. contractor and foreign customer. This issue is also illustrative of the challenge faced by the Security Cooperation Enterprise to process FMS contracting in a timely fashion through an acquisition workforce constrained by personnel cuts and often lacking the requisite FMS training and expertise.

Finally, it should be noted that every FMS case requires a DoD disclosure review to determine whether the technology is releasable to a foreign partner. Industry continues to engage with DoD's Technology Security & Foreign Disclosure (TSFD) process to encourage consultations, reforms, and resources to make that system more predictable, efficient, and transparent. Action in this area, coupled with continued export control reform initiatives aimed at technologies remaining on the U.S. Munitions List (USML), will be critical in ensuring industry can continue to support security cooperation and build partner capacity most effectively.

In conclusion, it is clear that America needs our allies and partners to step up and work with us to promote and protect global peace and stability. We therefore need Security Cooperation Enterprise Reform to ensure that America remains their first and best security partner of choice.