

**OPENING STATEMENT TO THE SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS OF THE HOUSE ARMED SERVICES COMMITTEE**

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Thank you Chairwoman Hartzler, Ranking Member Speier, Members of the subcommittee. I am pleased to be here today to share with you my thoughts on the overall health and wellbeing of the Foreign Military Sales (FMS) process and the Department of Defense's (DOD) role in the program – from my vantage point as the Director of the Defense Security Cooperation Agency (DSCA). As I said when I first briefed you several weeks ago, the FMS system is burdened but not broken, and we've made important strides not only within the DOD, but across the Interagency, in mapping out – and beginning to develop and implement – important initiatives that can further benefit the Security Cooperation mission area.

Context

Building partnerships, supporting allies, and protecting national interests are essential elements of U.S. foreign policy and national security. These activities require a careful balancing of short- and long-term considerations and a deliberate decision-making process to ensure our programs and strategies reflect our values and serve our interests.

FMS system is the government-to-government process through which the U.S. Government purchases defense articles, training, and services on behalf of foreign governments. Authorized in the Arms Export Control Act (AECA) of 1976, as amended, FMS process is a long-standing foreign policy and national security program that supports partner and regional security, enhances military-to-military cooperation, enables interoperability, and develops and maintains international relationships. Foreign Military Sales are key Security Cooperation tools, enabling a full spectrum of capability the Department seeks to provide its foreign partners.

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The FMS process begins with a discussion with partner nations to determine their requirements, referred to as the Pre-Letter of Request, or Pre-LOR, phase. That determination is laid out in the LOR which the partner nation submits to the U.S. Government. Upon receipt, the U.S. Government begins a process of interagency and, depending on whether the case crosses certain thresholds, Congressional consultation and agreement that can lead to a Letter of Offer and Acceptance, or LOA, which is a contractual agreement for the partner's signature. Fundamentally, through this process the U.S. Government must determine whether or not the sale is of mutual benefit to us and the partner, whether the technology can and will be protected, and whether the partner nation adheres to U.S. foreign policy standards. This is a simplified characterization of the process -- and I'll provide more detail later -- but upon positive validation of these principles, and subsequent signing of the LOA by the partner, an FMS case flows into the DOD procurement process beginning with the Department negotiating a contract on behalf of the partner nation or making requisitions from DOD stock.

The Department uses the same acquisition process to procure systems under our FMS program as we do for U.S. programs. Hardware can come off the same production lines, so the same facilities that produce the weapon systems and platforms that support U.S. forces and operations also support our partner nations. I believe this is a strength of our FMS system and one reason among many for our status as "supplier of choice" for the international community.

Before going further, I want to review DSCA's role in FMS. Under the authority and direction of the Under Secretary of Defense for Policy, DSCA is responsible for directing, administering, and providing Defense-wide guidance for the execution of many of the Department's security cooperation activities including defense institution building, international education and training, humanitarian assistance and disaster relief, and defense trade and arms transfers. FMS is actually a Title 22 authority, and DSCA operates on the basis of authorities delegated from the President as well as in consultation and coordination with Secretary of State. DSCA:

- Provides policy guidance, oversight and funding for the Defense Implementing Agencies that execute FMS and other Security Cooperation programs

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- Manages foreign partner and U.S. Government funds used to finance the transfer of defense articles and services; that is, DSCA exercises financial management and fiduciary responsibility for those funds used to purchase defense articles and services
- Determines training requirements necessary for the Security Cooperation Workforce to carry out its FMS responsibilities. The workforce includes approximately 12,000 civilian, military, and contractor personnel both in the United States performing FMS related responsibilities, as well as security cooperation office personnel located in U.S. missions overseas.

There has been a great deal of press over the past six months regarding FMS – some of it quite negative. I want to say clearly that -- while I can understand where some of the issues that have been raised stem from, particularly those that may be associated with specific cases – overall the system is performing very well.

The United States continues to remain the provider of choice for our international partners, with over 1,700 new FMS cases implemented in FY2015 worth more than \$47 billion. This included \$35 billion in cases funded by partner nations' own funds and approximately \$12 billion in cases funded by DOD or Department of State appropriations. These numbers are consistent with the U.S. retaining, according to a December 2015 study released by the Congressional Research Service, the number one ranking in worldwide arms sales.

FMS system is effectively achieving its critical role supporting our foreign policy and national security objectives. For example:

- In the Gulf, previously procured major weapons systems, such as aircraft to Kuwait and Qatar, and armor/vehicle fleets to the United Arab Emirates and Saudi Arabia, are sustained through FMS cases for support services, spare parts, and weapons and munitions replenishment.
- In Europe, partners continue to purchase unmanned aerial vehicles and transport aircraft to support counterterrorism operations.
- In the Pacific, FMS provides significant capabilities to Indo-Pacific allies and partners- for example, advanced warfighting capabilities, transportation capabilities and logistics

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support, and humanitarian assistance capabilities, leveraging the system to provide grant aid items to critical partners in the South China Sea region.

It is important to note that the FMS process is conducted at no cost to the U.S. taxpayer. Each sale has an associated surcharge that collects funding from partner nations into the FMS Trust Fund Administrative Surcharge Account. DSCA provides funds from this account to the military services and defense agencies over the entire life of FMS cases to execute the FMS process and deliver the equipment, services, and training to our international partners.

Broadly speaking, the FMS system currently has over \$460 billion in total program value on over 13,500 cases. In turn, very strong sales over the past few years has led to growth in the FMS Administrative Surcharge Account that aligns to the corresponding growth in value of the yet-to-be-delivered equipment, services, and training that partners have paid for, either in whole or in part.

In addition to operating a three-year budget cycle to plan for the future use of these funds, DSCA conducts frequent assessments on the overall health of this account to ensure that we have sufficient funds to deliver the very significant and growing undelivered value of current FMS agreements.

The Process and DOD's Role

As I already noted, the FMS process is executed through a system designed to consider several factors and fulfills requirements of the AECA, ensuring three fundamental and critical validations before a capability can be offered:

- that the sale is of mutual benefit to the partner nation and U.S. Government,
- that the technology will be protected, and
- that the transfer is consistent with U.S. conventional arms transfer policies.

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The FMS system is actually a set of systems overseen primarily by three organizations: Congress plays a critical role. Under the AECA, cases that meet specific monetary thresholds must be notified to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate for a period of time during which an LOA may not be offered to the foreign partner. During this period, Congress may seek to prohibit the sale through the joint resolution process. The State Department reviews each case through application of the Administration's Conventional Arms Transfer policy, and also considers industrial base concerns and U.S. warfighter needs. The Department of Defense executes a number of different processes in support of FMS, including:

- Management of the FMS case lifecycle, overseen by DSCA;
- Technology transfer reviews, overseen by the Defense Technology Security Administration (DTSA), to validate that our critical technologies will be protected, and
- Management of the defense acquisition and logistics systems, which are overseen by AT&L and the Military Departments as they acquire the partner nation capability.

I want to be clear that both DOD and the Department of State have extensive interaction and engagement with Capitol Hill counterparts throughout the year to ensure that information is shared to support the timely and comprehensive review of notified cases.

Criticism of the alleged slow approval timelines in the FMS program is largely associated with a few high-profile cases that are the focus of press and congressional attention. I believe this criticism – while understandable, depending on where you sit in this process – is actually misplaced. In almost all instances, the FMS process is acting as designed in considering foreign policy, technology transfer, and industrial base concerns. These delays are natural outcomes of the validations required by the Arms Export Control Act, rather than a negative reflection on the performance of the FMS program, itself. It should be noted that the validations required by the Arms Export Control Act -- such as national security or technology transfer reviews -- occur regardless of whether a sale is conducted via FMS or Direct Commercial Sales (DCS). When foreign partners choose FMS, however, they are assured that their procurements are executed with the same level of confidence as ours and they will be receiving a total package approach that includes associated capabilities such as training, logistics, and maintenance.

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Initiatives

As I have mentioned to members of the committee before, DSCA is working with DOD and interagency partners, as well as our U.S. industry partners, to continuously analyze the FMS process and target areas for improvement to keep the FMS system responsive to partner needs and agile to support national security objectives. We have identified approximately 40 interagency initiatives to better enable the United States to remain the provider of choice for our foreign partners -- providing them the full spectrum of required capabilities to receive, maintain, and sustain the products they receive through the FMS program.

I will not address each of them, but will highlight a few that hold particular promise for positively impacting our work in the FMS area.

We are developing options to provide more transparency of the process, as it occurs, to the FMS customer. Part of this initiative is the development of ways, by both using lessons learned and developing new innovations to best work with the FMS customer early to define and understand their requirements. This will enable the United States to better align our partners' needs with U.S. stakeholder priorities up front, both within the U.S. Government and with U.S. defense industries, as well as to manage partner expectations.

Another important focus of our attention has been contracting for FMS. DSCA has been working with AT&L on improving the responsiveness and effectiveness of contracting for FMS. The FMS program uses the same contracting and procurement system used by our Department of Defense. Foreign Military Sales are subject to the Federal acquisition regulations, which are in place to ensure that the U.S. Government gets the best value for taxpayer money. We look to provide the same value for our partners. Our greatest challenge in the area of contracting is manpower, both ensuring there are sufficient billets in place to support both FMS and domestic contracting requirements and to ensure that there are trained and certified professionals available to fill the contracting officer billets.

I want to note that AT&L has a number of initiatives underway to improve acquisition writ large, which will also benefit FMS.

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DSCA is also working on initiatives that enable us to help posture the system to respond more effectively to requirements. One example relates to risk transparency that will better define technical risk early on as a case is in development, especially for sales that involve new equipment being developed, modified, or integrated for the first time.

Additionally, to support urgent requests from our partners, DSCA has been working closely with the Department of State on the Special Defense Acquisition Fund. This authority enables us to purchase selected items and services ahead of a request from a partner country. By purchasing the items and services in advance, we are better able to meet the urgent needs of our international partners. Over the past four years, we have used the Fund to purchase more than \$400 million worth of items and services which, on average, have been delivered to our partners 6 to 12 months sooner than would have otherwise been possible. During this time, the items and services purchased by the Fund have been transferred to more than 30 countries worldwide, to include Afghanistan, Iraq, Tunisia, Ukraine, Jordan, and Lebanon, among others.

Since the 2011 directive from the Deputy Secretary of Defense to "streamline and harmonize" the various Technology Security and Foreign Disclosure (TSFD) processes, we have made significant improvements for both FMS and DCS processes. As part of this focused effort, the Arms Transfer and Technology Release Senior Steering Group (ATTRSSG), consisting of senior representatives across DOD and the State Department, was established to guide and direct TSFD processes in support of U.S. foreign policy and national security objectives. The ATTRSSG is co-chaired by the senior representatives of the Undersecretaries for Policy and Acquisition, Technology, and Logistics.

The improved TSFD functions include:

- overseeing urgent Priority TSFD Reviews (PTRs), for high-profile cases and trying to be more anticipatory in our processes;
- establishing interagency working groups which include the Departments of Defense, State and Commerce, as well as industry representatives; and
- improving coordination between the various TSFD processes.

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Overall, TSFD process improvements combined with Export Control Reform, Security Cooperation Reform, DSCA's Vision 2020 initiatives, and enhanced U.S. Government-to-industry engagement are better preparing us to support partner requirements through FMS, DCS and/or cooperative agreements.

Finally, an initiative that will have broad impact on our efforts is the professionalization of the Security Cooperation Workforce. DSCA is taking several steps to improve training and education for the over 12,000 members of the workforce, from personnel working at our embassies, at the implementing agencies and supporting components, and at our own headquarters. For example we are working to:

- define training, education, and experience standards for the workforce, in particular the specialized training required for personnel deployed to Security Cooperation Offices, as well as ensuring these offices are appropriately resourced according to the volume and complexity of the workload,
- conduct a complete review of our security cooperation schoolhouse – in terms of the curriculum content and the teaching methods and media, and
- ensure that -- in conjunction with AT&L – we are including FMS planning and execution in the range of the acquisition training offerings

Conclusion

As I've noted, DSCA plays a key role – but we are only one element of the broader U.S. Government system for FMS. In addition to other elements of the Department of Defense, the Department of State, the interagency, and the U.S. Congress play important roles. My intent today was to comment specifically on DSCA's contribution to this important mission – both in terms of the programs we execute and the initiatives we are championing – and at the same time demonstrate the linkages and close coordination between us and the larger FMS enterprise. Distinguished committee members, I want to thank you again for the opportunity to sit before you today, and I look forward to your questions.

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FMS System

