

[H.A.S.C. No. 114-122]

**U.S. INDUSTRY PERSPECTIVES ON THE  
DEPARTMENT OF DEFENSE'S POLICIES,  
ROLES, AND RESPONSIBILITIES FOR  
FOREIGN MILITARY SALES**

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HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT  
AND INVESTIGATIONS

OF THE

COMMITTEE ON ARMED SERVICES  
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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HEARING HELD

MAY 11, 2016



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U.S. GOVERNMENT PUBLISHING OFFICE

20-790

WASHINGTON : 2017

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ARMED SERVICES,  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,  
*Washington, DC, Wednesday, May 11, 2016.*

The subcommittee met, pursuant to call, at 10:02 a.m., in room 2212, Rayburn House Office Building, Hon. Vicky Hartzler (chairwoman of the subcommittee) presiding.

**OPENING STATEMENT OF HON. VICKY HARTZLER, A REPRESENTATIVE FROM MISSOURI, CHAIRWOMAN, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

Mrs. HARTZLER. Welcome. I'm delighted to convene this hearing. This is the second of three events for the subcommittee's oversight of the Department of Defense's role in our Nation's Foreign Military Sales program or FMS program.

But before I continue, I would like to note that the gentleman from Texas, Mr. O'Rourke, may be joining us today. And so, therefore, I ask unanimous consent that Mr. O'Rourke, and any other committee members not assigned to this subcommittee, be permitted to participate in this hearing with the understanding that all subcommittee members will be recognized for questions prior to those not sitting on the subcommittee.

Without objection, so ordered.

The goal of our FMS oversight series is to take an in-depth look at the Department of Defense's role in the FMS process. We seek to determine whether DOD's involvement is efficient, effective, and timely in aiding the State Department's administration of the larger FMS program.

While FMS is only one way in which the Departments of Defense and State foster security cooperation, it is probably the most visible. It is vital to provide the opportunity for our allies to acquire military equipment and services to bolster their security needs. It's also important to note the benefits the United States realizes from our allies' collective safety, especially as threats to democracy and freedom expand. But some believe the Department of Defense's FMS process is too cumbersome and bureaucratic. Others offer that the process is designed to be deliberately slow and methodical in order to achieve the correct outcome in determining whether or not the U.S. supplies military capabilities that appropriately further U.S. national security interests.

Recently, the subcommittee was briefed about the intricacies of the FMS program and processes by representatives of the Depart-

ments of Defense, Department of State, and the Congressional Research Service. It seems the FMS is likely one of our government's most complex interagency programs, making our examination here even more significant.

Over recent years the defense budget has declined, our military capacity has been reduced, and a corresponding contraction of the defense industrial base has occurred. At the same time, the world has become more dangerous and complex, military technologies and capabilities more prolific and globalized, operational tempo has remained high, and our military's readiness has reached critically low levels. In short, we are asking our troops to do much more with much less.

So, while we strive to rebuild the capacity and capability of our military, many of our foreign partners and allies look to do the same. To that effect, they seek to procure military equipment and services from the U.S. But if this takes too long or if bureaucratic red tape proves too debilitating, our foreign partners and allies may seek help elsewhere. This potentially weakens our security, reduces military-to-military cooperation, and represents missed opportunities for our defense industrial base to keep workers with valuable and needed skills sufficiently employed.

Industry and its representatives are critical stakeholders in a robust and thriving FMS program. As such, we are here today seeking valuable input from defense industrial base associations as to how they see Congress working with the Department of Defense to improve the execution of foreign military sales.

But before I introduce the witnesses, I turn to the Oversight and Investigations Subcommittee ranking member for any opening remarks she wishes to make.

[The prepared statement of Mrs. Hartzler can be found in the Appendix on page 29.]

**STATEMENT OF HON. JACKIE SPEIER, A REPRESENTATIVE FROM CALIFORNIA, RANKING MEMBER, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

Ms. SPEIER. Madam Chair, thank you.

And thank you to our witnesses for joining us this morning.

The purpose, as our chair has pointed out, of today's hearing is to provide members of the subcommittee an industry perspective on the U.S. foreign military sales policy and practices. I understand we will receive the governmental perspective on this topic at a future hearing.

The goal is to ensure that this committee and its members are fully informed as we oversee the role of the Department of Defense in the FMS process and determine whether the FMS process is suitably efficient, effective, and timely. We've heard many complaints about the slowness of the FMS program, yet we must not forget that it is an instrument of our U.S. foreign policy. That means we must ensure the weapons systems and services we sell to foreign countries are used appropriately, responsibly, and are in our best interest. Although that may delay the process, it's a policy we can't lose sight of. At the same time, it's critical that we identify areas where we can make improvements to the process.

We have representatives from two different associations with us today, and I'm interested in hearing from them what improvements can be made in the process and whether there are ways to reduce uncertainty and delays as well.

According to the Defense News article from last week, through the first 6 months of fiscal year 2016, foreign military sales are on track to meet or surpass last year's total of \$43 billion. The Defense Security Cooperation Agency [DSCA] has announced about \$29 billion in FMS sales through the end of April. We are also aware of reports of pending U.S. aircraft orders that could increase that number if they are approved.

Foreign military sales are clearly an important part of the health of the defense manufacturing base, and the growing rate of sales underscores why it is important that we look for ways to improve the process.

Further, as we rely more on coalitions and our allies and partners around the world to address our global security challenges, we should be thinking strategically about FMS. Given the current global instability, it seems clear that FMS will remain strong based on demand from the Gulf, Europe, and the Asia-Pacific. As our allies and partners work with us to promote global stability, we should ensure our FMS process enables them to face our shared security challenges in those regions and encourages them to select the United States as their partner of choice to meet their defense capability needs. As demand for FMS grows, it's imperative that we are ensuring that the process is timely, while consistent with our national security and foreign policy interests.

At this hearing, focus on just one aspect of the FMS process, I look forward to examining this issue further at future hearings.

And I yield back.

[The prepared statement of Ms. Speier can be found in the Appendix on page 31.]

Mrs. HARTZLER. Thank you, Ms. Speier. I'm pleased to recognize our witnesses today and I want to thank them for taking the time to be with us. We have Mr. Tom Davis, senior fellow at the National Defense Industrial Association; and Mr. Remy Nathan, vice president for international affairs from the Aerospace Industries Association.

So thank you again for being with us today, and now we'll begin with your opening statements.

Mr. Davis.

**STATEMENT OF TOM DAVIS, SENIOR FELLOW, NATIONAL  
DEFENSE INDUSTRIAL ASSOCIATION**

Mr. DAVIS. Thank you, Chairwoman Hartzler, Ranking Member Speier, and members of the subcommittee. I appreciate the opportunity to testify this morning.

I appear before you today in my capacity as a senior fellow in residence at the National Defense Industrial Association, the Nation's oldest and largest association promoting national security and industrial readiness, comprising over 1,600 member companies and 90,000 individual members.

Allow me to express my appreciation to the committee for reviewing this difficult issue of foreign military sales that is a complex

thicket of regulations and procedures developed over time to keep the Nation safe. I have provided the committee a written statement, but allow me the liberty of providing oral observations, having a slightly different approach from my more formal written input, and highlighting a couple of key points.

I've had the opportunity in my professional life to examine this issue from many perspectives as an assistant professor of economics at the Military Academy, as an artillery commander in Desert Storm, as part of a 39-nation coalition, and as a corporate vice president of one of the Nation's major defense providers. In these roles, I've experienced firsthand the importance to the Nation of having and sustaining a vibrant, competitive, and technologically innovative defense industrial base. Having such an industrial base is not, as Defense Secretary Ashton Carter frequently says, a God-given right. It requires thoughtful planning, policy, and resourcing, which brings us to today's discussion on foreign military sales, an area earning considerable foreign exchange, enhancing military operations, and supporting our defense industrial base.

For these three reasons, among many others, the Nation needs a process for military foreign sales and direct commercial sales which protects American interests and our technological edge, while allowing a timely market response.

While today's hearing focuses on the specifics of the Department of Defense's involvement in foreign military sales, it is important to recognize that the FMS process itself is merely one component within a much broader governance regime regulating arms transfers. Over the past two decades, the FMS process has come under fire from numerous critics, including those concerned about protecting vital technological advantages enjoyed by U.S. forces and those interested in the health of the defense industrial base during this period of budgetary constraint.

Industry understands its role in our national security strategy, but it also understands that FMS delays can contribute to slowing our efforts. The core problem with FMS are not actually problems with the process itself, but rather, with the burdens resident within the broader governance regime overseeing arms transfers and technology transfers.

With that in mind, my statement this morning will attempt to frame FMS and the broader governance of arms transfers within the context of the 21st century international security environment. This committee has recognized this environment and the challenges it poses in its approach to acquisition reform, and FMS should be no different. The comments of both the chairwoman and the ranking member today indicate an awareness of the committee of all the challenges that exist.

My written testimony to the committee focused on the following observations: first, foreign military sales are an integral component of our national defense strategy; second, criticism of the FMS process has been often too narrowly focused; third, the governance regime for foreign sales needs to adapt to the changes of the 21st century international security environment; and finally, foreign sales play a key role in sustaining a robust defense industrial base.

But for my immediate purposes, let me focus solely on the last item, as that is the core mission of the National Defense Industrial



Association. At NDIA, we believe the end goal of any reform is the enhancement of U.S. security cooperation objectives, not merely the generation of sales for industry. We believe this requires the system be made more transparent, less complex in an era of widely available component technologies, strategically rather than transactionally focused, and perhaps more centered on end users than components, and either reduced in procedural scale or expanded in administrative staffing. Allow me to elaborate a bit on why this is important to the Nation's contemporary defense industrial base.

In brief, today's defense industry is a fraction of the size of the military-industrial complex referenced by President Eisenhower 55 years ago. It is now a handful of large providers and systems integrators supported by a large number of component providers, with many components having commercial origins. 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 solely the purview of the U.S. market are now readily available from numerous forces and foreign sources overseas.

The Wall Street Journal recently had an article which referenced this phenomenon as "the Hyundaization of the global arms industry." The post-Cold War contraction of our defense industry has left us with a base where the remaining five largest firms have combined annual revenues that are less than half that of Walmart. As their annual revenues have gone flat due to reduced domestic spending, international sales have become more relatively important.

The quality of the military products we produce makes them very attractive to foreign customers, but the 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 forces potential international customers to turn to other nations, often including potential adversaries such as China and Russia, even though U.S. vendors offer better value. This undermines our international standing while allowing near-peer competitors who do not necessarily share our foreign policy objectives to forge greater ties and expand their influence with other nations.

Industry's experience is that the current FMS governance regime is designed to operate transactionally rather than strategically. In other words, it focuses on individual pieces rather than the big picture. DOD and the other agencies with a role in international arms sales, the State Department, the Commerce Department, and even the Congress, need to take a more strategic approach toward supporting FMS as well as approving direct commercial sales.

Given the sheer volume of licensing requests, largely driven by a shift towards component and commercially based items, either rules and regulations need to be reduced and streamlined or staffing at the review agencies increased. If we retain a 3-year process for completing an FMS case, officials on an 18-month tour of duty cannot efficiently administer it.

In addition, international sales have their own version of Moore's Law. Conditions change rapidly in this market and most international customers want a capability addressing what we would call a near-term problem. If we cannot provide it, someone else cer-

tainly will. Foreign customers are increasingly reluctant to wait two or more years to complete a transaction.

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 the U.S. national security and that FMS is a tool to enhance security cooperation. Both the government and industry share this fundamental perspective. Nonetheless, 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 more than is prudent.

To accomplish this, the government's regime encompassing FMS should be strategically aligned to meet national security objectives and to operate in the 21st century global security environment that has evolved.

Thank you again for the opportunity for testifying this morning, and I await your questions.

[The prepared statement of Mr. Davis can be found in the Appendix on page 33.]

Mrs. HARTZLER. Thank you, Mr. Davis. Mr. Nathan.

**STATEMENT OF REMY NATHAN, VICE PRESIDENT, INTERNATIONAL AFFAIRS, AEROSPACE INDUSTRIES ASSOCIATION**

Mr. NATHAN. Chairwoman Hartzler, Ranking Member Speier, and members of the subcommittee, thank you for the opportunity today.

My name is Remy Nathan and I'm the vice president of international affairs at the Aerospace Industries Association. As the voice of America's leading aerospace and defense manufacturers and suppliers, we look forward to presenting our views on how the Defense Department can best work with industry to advance U.S. national security, foreign policy, and economic interests through the foreign military sales process.

Indeed, a single sale of a U.S. defense platform can reenergize a strategic relationship with an ally, build a foundation for an emerging regional partnership, or provide a critical deterrent to military conflict. These transactions also create high-skill, high-wage U.S. jobs.

In addition, security cooperation provides significant savings to the taxpayer through research and development cost-sharing with partners and the lowering of unit production and support costs. U.S. industry recognizes the necessary checks and balances in the security cooperation enterprise to ensure defense exports are consistent with U.S. national security and foreign policy interests.

Our industry is committed to making sure that America's warfighters always have technological superiority against any potential adversary. However, the dynamics of the current global security environment are placing significantly greater demands on the enterprise that need to be addressed. For instance, many of our international partners and allies do not possess a deliberate budget cycle, a professional acquisition core, a system lifecycle manager, or even an effective strategy development process for their security needs. They operate with much shorter time horizons and are looking for responsiveness from their preferred security partners of choice.

Also, in the intensely competitive international market, our foreign competitors are heavily subsidized and supported by their governments. Our competitors also make frequent claims that they are easier to work with and quicker to deliver.

Let's be clear. Industry is not calling for reforms that are simply going to change "no" to "yes" during reviews of potential defense exports. If the answer is "no," we're okay with that. However, let it be a quick and early "no," with industry-government consultation to develop alternative proposals that meet our partners' needs and advance U.S. national security objectives. Let's also have a sense of urgency for the "yes" calls so a potential partner turns to the U.S. first and not to countries like Russia and China, which are increasingly using defense exports to advance their own geopolitical objectives.

If we do this, industry will be better positioned to make timely and correct investment decisions and business development choices to best support our warfighters and our allies and partners.

Industry is deeply appreciative of the efforts of Vice Admiral Joe Rixey, director of DSCA, and his interagency and military partners in the security cooperation enterprise. They manage to make this significant and increasingly burdensome workload work under a great deal of challenge. We also welcome the opportunities we have been provided to engage with the security cooperation enterprise on reform proposals.

I'll now focus on three areas of suggested reform and improvement in the foreign military sales system. First, we support our foreign customers' decision if they select firm fixed price contracts as opposed to fixed price incentive fee contracts for their FMS transactions. The latter require many foreign customers to commit an average of 5 to 10 percent above the price that they would pay for firm fixed price contracts in excess funds, even when those funds are rarely used. Additionally, fixed price incentive fee contracts must remain open as long as 5 to 10 years after final delivery is complete, further prolonging the period for committing excess funds.

While we appreciate the committee's report language asking the GAO [Government Accountability Office] to look into this issue, we believe stronger action is needed now on this aspect of the FMS contracting process.

Secondly, industry appreciates the committee's support for language requiring contracting officers to definitize FMS contracts within 180 days of a qualified proposal submission. A number of these undefinitized contract actions are now over 1,000 days old, which is unacceptable.

Finally, industry continues to engage with DOD's technology security and foreign disclosure 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, will be critical in ensuring industry can best 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.

That concludes my testimony and I look forward to your questions.

[The prepared statement of Mr. Nathan can be found in the Appendix on page 45.]

Mrs. HARTZLER. Thank you, gentlemen. We really appreciate you being here and sharing your expertise on this really important matter.

As far as Mr. Davis, I'll start with you for questions. You mentioned in your written testimony that the Department of Defense puts a higher priority in staffing weapons contracts for the U.S. military services than it does towards staffing foreign customer contracts, which ultimately leads to a delay in the licensing review and moving forward with a foreign customer contract. Can you provide us examples of which program contracting actions for which this was the case?

Mr. DAVIS. Madam Chairwoman, actually, I probably cannot provide you any specific examples because these examples come from our companies, and many of them have proprietary restrictions on them. What I would point out is that the contracting officers themselves generally don't have any dedicated group dedicated and focused on FMS contracts.

So when it comes to making a choice between working on a contract that has to do with the domestic program, that has an immediate degree of pressure on it because it involves a capability we're trying to get out to our Armed Forces in the field, inevitably, the focus will go there, which kind of goes back to the point that I made in my oral testimony that FMS and getting those contracts through can become something of an afterthought to the contracting community.

I think Mr. Nathan's comment about some of these contracts, you know, lingering, getting pushed down to the bottom of the pile and going on for 1,000 days, which is, you know, better known as 3 years, 3-plus years, is really an unacceptable thing, when you're talking about a situation where we absolutely need to move at a quicker pace.

I had a friend in the Air Force, senior officer in the Air Force years ago who was talking about our FMS process as well as our planning and programming process, and generally he made the comment to me that, over the course of time, we've developed processes to ensure that nothing bad happens quickly. Unfortunately, it also ensures nothing good happens quickly.

So we have to take a look at our procedures and try to raise the visibility, the importance of the FMS sale to something which is on the par of the effort that we'll put into a domestic program.

Mrs. HARTZLER. Do you think separating the two out would be helpful and having one that deals just strictly with foreign military sales and the other dealing with our own?

Mr. DAVIS. Well, my intuition is, is that if you were to separate the two out and give them their own force and their own sense of urgency and maybe even their own chain of command, so to speak, that you probably don't have to worry about having the competitive

nature going back and forth between, do I work on this one today, do I work on that one. I'll tell you that is something that probably ought to be seriously looked into and considered as it might undo the logjam just a little bit.

But the major problem in that, as I mentioned in my oral statement, is that, you know, we've got a situation right now where the demand on the system, because of the component-based situation that we have at the moment, things that get into the system with all the licensing requirements, tend to be components that are upgrades that provide this and provide that, those take a lot of individual review, which takes more staffing, which takes more time. So we need to start to look at the bigger picture and come up with a process that I think will get this thing through from a more general perspective as opposed to spending as much time as I believe we tend to just on evaluating a component to see if it has some sort of dual-use technology—or dual-use capability.

Mrs. HARTZLER. Thank you.

Mr. Nathan, you mentioned in your written testimony that while foreign customers prefer to enter into firm fixed price contracts with the Department of Defense for equipment because of less capital commitment up front, the Department of Defense has implemented a policy of requiring foreign customers to enter into fixed price incentive fee contracts instead. So for the record, could you explain to the subcommittee the differences between these two types of contracts and why you believe the Department of Defense has moved towards a contracting mechanism for which most foreign customers do not prefer?

Mr. NATHAN. So a firm fixed price contract has been the historical default since the inception of international sales, and it is the model that most other countries follow. A firm fixed price contract provides for a price that is not subject to any adjustment. A fixed price plus incentive fee contract includes potential increases or decreases in price, based on target sets such as cost containment.

Since 2014, DOD has started to select this model. In their opinion, it is best for the foreign customer, arguing that it can provide the foreign customer with the best price for their systems. What DOD's reasoning does not fully consider is the extent to which foreign customers want to avoid paying that up to 10 percent additional in contingency fees that have to be held for up to 5 to 10 years longer in order to potentially realize some benefit through that contracting process.

Further, a number of the traditionally firm fixed price contracts that our companies are operating under are for mature systems, which have very accurate cost estimates attached to them. So yet again, there is this extra fee structure that's in place that our foreign customers don't really understand what the benefit is for.

And then finally, the reporting costs associated with the fixed price plus incentive fee contract that have to be passed back to the customer, and yet again, they see no benefit for it.

Mrs. HARTZLER. What do you think the implications would be if the country was given a choice; they could participate in either-or?

Mr. NATHAN. I believe that they would gravitate towards the firm fixed price contract because it's a model that they're very familiar with. It's a model that a number of our foreign competitors

are offering. And in many ways, the fact that we are not being responsive to their needs can be considered a lack of good customer service, if you will.

Mrs. HARTZLER. Sure. Thank you very much.  
Ranking Member Speier.

Ms. SPEIER. Thank you. Let me start by asking both of you. What would you say are the main reasons for slow approvals? If you could just be short in your answers, please.

Mr. DAVIS. I would say, Congresswoman, the main reason for slow approval is, right now, largely the volume of what is being presented to the contract officers and to the approval authorities. As we move away to—

Ms. SPEIER. Okay. Let's move on.

Mr. DAVIS [continuing]. Instate, we get different things.

Mr. NATHAN. If I may add, it's actually the aggregation of the numerous approvals that have to come in that are also a challenge. So you could have a number of fast approvals coming through, but the sheer volume of yeses that have to be accumulated for a sale to occur can be a challenge.

Ms. SPEIER. To what extent is the FMS driven by the courting of U.S. defense manufacturing companies to foreign nations?

Mr. NATHAN. Obviously, our companies are interested in trying to meet with, engage, be responsive to our customers' needs, as much as they possibly can. But we are always mindful of the fact that we must be consistent with U.S. national security and foreign policy objectives. So if anything, I think you see the trend lines in foreign military sales being a reflection of the threat environment that our foreign partners and allies are facing right now.

Ms. SPEIER. Okay. Each of you referenced that there are examples of countries turning to other countries to purchase military equipment because our process is too slow. I don't know that I agree with you on that because I think they like the superior product that the U.S. companies manufacture.

But having said that, give me specific examples of countries that have shifted from purchasing something from the U.S. and gone to another country. And, you know, there's like two other countries, really. Correct?

Mr. DAVIS. Well, I'd say it's more than two other countries.

Ms. SPEIER. Okay. Well, tell us, who are our, quote, "competitors" in terms of selling to foreign countries?

Mr. DAVIS. The main two competitors that we have, and various markets are different, but when it comes to aircraft, which I think is the one that gets most of the visibility these days, the competitors are going to be Europe. I think right now you're seeing an uncertain situation in the Persian Gulf area because of decisions—pending decisions on the sales for F-16s and F-18s going forward, when an obvious alternative, which is being pushed rather hard, would be Typhoons that are produced in Europe.

The Soviets—I am sorry, I slip back into my Cold War. The Russians, have upgraded a lot of their ground equipment lately. If you take a look at some of the silhouettes that I grew up familiar with, T-62s and T-72s and T-80 tanks and so forth, they've got a whole new set of equipment out there that they're willing to provide very quickly.

So I think you're absolutely right, Congresswoman. I mean, most people out there would prefer to get what is obviously recognized in most places as the superior U.S. product. But if—as we both mentioned, most countries out there want a product because they believe they have a reasonably near-term security issue that they want to solve.

Ms. SPEIER. No, I understand that. Can you just give me examples of countries that have come to us and because of the slow process have then left, withdrawn their requests, and moved to another country and purchased through them?

Mr. NATHAN. So there are a few examples that have been in the press. Of great concern, of course, the Turks at one time were contemplating a Chinese missile defense system whereas normally they would be turning to a partner like the United States for that purpose.

If I can offer two anecdotes that perhaps help illustrate the problems that Mr. Davis and I are trying to illustrate. Both come from the Dubai Airshow, which took place late last year. In one case, we heard from one of our member companies that one of our Middle Eastern partners told us that they face a choice. They can buy a U.S. system, but for the same price they can buy a comparable or, you know, a competitive Chinese system and get 10 of them. Now, they conceded that eight of those probably wouldn't work, but they'd still have two, and they'd get it faster from that partner, from the Chinese, than they would necessarily from the U.S.

The other anecdote I'll share—

Ms. SPEIER. Well, and what did they do in the end?

Mr. NATHAN. These are ongoing sales, sales campaigns that I'm talking about.

Ms. SPEIER. Well, I guess I want to know whether or not they chose to go with the Chinese manufacturer versus the U.S. manufacturer.

Mr. NATHAN. In both of the cases I'm giving you, these are cases that our companies are still pursuing, trying to make sure that the U.S. choice is the correct choice.

The other anecdote that I'll relay, actually, this one is a little bit more final. We were told by one of our member companies that they were told not to bid, not to provide a response for the RFP [request for proposal].

Ms. SPEIER. And which company was this?

Mr. NATHAN. I'm not at liberty to say. These anecdotes were provided for illustrative purposes to us.

Ms. SPEIER. Well, okay, then I got to tell you. I'm not interested in anecdotes that we can't even, you know, then go to the company and find out specifically what the issue is so—

Mr. NATHAN. If I could take that back then for the record and follow up with you.

Ms. SPEIER. All right, that would be helpful.

[The information referred to can be found in the Appendix on page 55.]

Ms. SPEIER. Mr. Nathan, in your statement, you assert that the FMS provides savings to the U.S. taxpayer via sharing of research and development [R&D] costs. You know what, as I think about the money we spend on our military weapon systems, we pay for the

R&D. And then after the weapon system is built and the company goes to sell it to third countries, I'm asking the question to myself and to you, when does the U.S. benefit from the R&D that we have actually put into these systems when the companies go and sell to foreign countries and reap all of the benefits? Where is our share, so to speak, our licensing fee for having done the R&D and paid for it?

Mr. NATHAN. So the benefits—

Ms. SPEIER. Outside of the F-35 program.

Mr. NATHAN. Sure. The benefits I would point to, I'd point to two or three here. First of all, when our foreign partners are purchasing systems that are in U.S. inventory, in many cases, they are purchasing systems that we are upgrading relative to the items that are in U.S. inventory because the U.S. has moved on to other technologies, like the F-35. In those cases, you have an opportunity to use the revenue from those sales for those systems also to test out new technologies, new improvements to the system, that can be cycled back into the actual U.S. arsenal. In doing so, it's the foreign partner that is actually paying for those upgrades, in a sense, that the U.S. warfighter is going to benefit from.

There's also just the point of revenue. You know, these foreign sales that are increasingly upwards of 25 to 30 percent of what our companies' revenue comes from, ultimately end up coming back into the company used for research and development purposes.

And then finally, I think there's a sustainment point here. In order to keep production lines open, oftentimes in cases where the U.S. military is making buys, having a pause, making another buy, you need foreign military sales in order to help plug those gaps. Because alternatively, you have a shutdown of the entire supply chain process, which ends up hurting, of course, our industrial base.

My final point I would say is, these benefits on an R&D perspective do not just accrue to the larger companies. Any number of small- and medium-sized companies in the supply chain have an ability and often do offer innovations that they ultimately get funded through the foreign military sale process, which they can then offer to the U.S. warfighter at a much cheaper cost.

Mr. DAVIS. Can I add one thing to that, Congresswoman? We're actually at kind of an interesting point right now. In days gone by, there's always been a bit of reluctance in the Defense Department to get involved too heavily in international development programs because they are, by nature, very complex and try to satisfy different needs. Back in an earlier life, I was involved with MLRS, the Army's Multiple Launch Rocket System, which was an international program, and it took a long time to get all the things together that were going to satisfy all the customers.

At the moment, though, we have a lot of international customers, partners, who are coming to us wanting to team up on research and development for things going forward. There was recently our president at NDIA, Craig McKinley, was at a conference over in Sweden, and the Swedes were quite open and quite energetic about teaming with us and providing some R&D assistance, some R&D funding, and some of their own R&D investments they'd made into a couple of programs, the T-X trainer and a few other things.



So there's technology out there, and I think that many of the people, major countries overseas are seeing the possibility and the potential for synergy if they join in with us, which would save some of that. And then, of course, eventually if you can keep production lines going, make more of a product, then you get the drop in the unit cost, which of course benefits the taxpayers as well.

Ms. SPEIER. Thank you. I just have one comment that I'd like to make. I also serve on the Intelligence Committee. And I think while this is a very valuable conversation that we're having—and, you know, streamlining a process and making sure that we act in a timely fashion has relevance—I think it's very important to appreciate the fact that countries that we believe are our friends, that we then sell equipment to, who subsequently—and are told that they're not supposed to share the technology with persons, other countries that we are not friends with, and then subsequently, that is violated, there isn't a whole lot we do about it.

And I don't want to see our technology transfer to foreign countries in a manner that makes it easy for them to benefit from all of the money we spend on R&D, where they do nothing more than reverse engineer a product that we have given to a friend that is now in the hands of a foe. And we have plenty of examples of hacking into many of the defense subcontractors. And we scratch our heads when we're spending, you know, three times as much money on military defense as China is and, yet, they're keeping up with us in terms of equipment.

So this is a very delicate situation. And we have got to be very prudent in the commitments we make. And I understand that the defense contractors are interested in selling this equipment to foreign countries, but we have our national security to put first and foremost in all of these decisions.

With that, I yield back.

Mrs. HARTZLER. Thank you.

Representative McSally.

Ms. MCSALLY. Thank you, Madam Chair, and thank you gentlemen.

In my time in the military I was an operator, so thank goodness I didn't have any experience in the acquisition and FMS process. So, you know, I'm trying to make sure I fully understand the complexities of the whole system. But I will say that I do believe, as part of our soft power, part of our engagement, our security cooperation doesn't just include mil-to-mil engagements and training some of our partner nations, but this is also an element of it. It should be part of a broader strategy.

And we in Tucson, Arizona, we trained dozens of countries in the F-16, as an example, at our Air National Guard base there. And the benefits that we have in those relationships that we build, we've sold the F-16 to them and then we train them and then we build relationships. I mean, some of this stuff is very difficult to measure strategically the outcome, but I do believe that it all needs to be considered as part of our strategy of engagement and soft power and coordinating with our friends and ensuring that they have the ability, you know, as we build their capacity, so that they can deal with issues in their regions so that we don't have to deal

with it. And so I believe that's just the philosophy that I come into looking at this issue.

Last week I went to Afghanistan. On my way back, I had a stop-over in New Delhi and visited with an official from the Indian Government there. And they highlighted the issue that they, right now, are in discussions of a potential direct commercial sales of either F-16s or F-18s. This is an open, you know, open source here so I can address it just from the—what's in the media. But we're being potentially put against one of our European partners related to the negotiation.

So I guess the first question would be, direct commercial sales versus foreign military sales. They definitely want the direct because they want it all produced in India. What's industry's perspective on either of those processes and which one is just preferred, even from an engagement point of view?

Mr. DAVIS. I think, Congresswoman, this is a very unsatisfying answer, but one would have to say it very much depends upon several things, the principal one being the customer preference. In some cases, the customer definitely wants to have a direct commercial sale which avoids the FMS dimension. In other cases, they prefer it because there's a desire to have a closer relationship with agencies of the United States Government for other reasons.

So it can really depend very much on the customer, on the product, on what their own estimation is of the timeframe that may or may not be involved, and going in one direction or another. So it's very hard to say how the customer feels about it. The provider will go whatever way the customer basically wants to go and whatever the preference of the U.S. Government may be.

Going back to Congresswoman Speier's comments, I think industry, at least the people I have ever been familiar with in it, are very much of the view that, you know, we are part of the U.S. national security process and national security establishment. I think the former chairman of Lockheed Martin, Mr. Augustine, used to always refer to the defense industry as the sixth military service. Secretary Carter always says it has to be looked at and managed as part of the national force structure. And we basically see ourselves in that capacity. I can assure you of that.

So industry will go whichever way it makes more sense and whichever way the customer prefers and the government prefers. In general, commercial—

Ms. MCSALLY. Great. I want to ask another quick question before I run out of time.

So, you know, this process starts supposedly with a letter of request, right. But I guess going back to my comment of this should be part of our strategy, what's going on prior to the letter of request and what can we be doing better as far as building a whole-of-government strategy, the engagement with our partner nations, making suggestions to them of capabilities that we should be partnering on?

I mean, there's got to be a whole lot of front end as opposed to sitting back waiting for a fax to come in with a letter of request. So what can we be doing better on that front end?

Mr. NATHAN. That is an excellent observation. I think within the government and certainly within industry, there's a recognition

that we can and should be doing better in being more anticipatory to help shape what our allies and partners feel like they need to ensure that they are best in alignment with what we are comfortable with them having and what advances our security and foreign policy objectives. There's a lot of work that still needs to be done.

In the absence of that activity, which has kind of been the historical problem, you do end up with a lot of churn because you have industry unable to understand where, in essence, the U.S. Government wants us to fish. If we have better alignment on those decisions, on those priorities—and I emphasize that word—it makes our companies better able to make the right business capture decisions, the right investment decisions to be responsive in the way that you're talking about.

So it's certainly top of mind for we in industry. I believe it's top in mind in the government as well.

Ms. MCSALLY. Great. Thank you.

I'm out of time. I appreciate it and yield back.

Mrs. HARTZLER. Thank you. Representative Graham.

Ms. GRAHAM. I am up next. No worries. Thank you so much, and thank you for coming. Thank you, Madam Chairwoman, I appreciate it. And thank you for being here today.

This is a process that I'm just learning about. I can see the challenges that this presents and I'm concerned with what Congresswoman Speier said. So I want to—can you please just kind of—what are the comparisons between this process and the normal Department of Defense procurement process?

Mr. DAVIS. I tell you, you just need to kind of look at this as a parallel, separate process. I mean, the Department of Defense has, of course, a well-established acquisition system, which itself takes a long time for a piece of equipment to get from conception all the way to in the field. Once that's happened, then you've got a parallel process over here that goes into the foreign military sales.

One of the things that I think we're implying in our testimony is that when you get to the foreign military sales side, you bring in a whole set of other players that normally you do not have to deal with on the acquisition side itself, the State Department, the Commerce Department, the executive branch in a different side. So you've got an additional complexity that begins to set in involving issues of policy as well as issues of just operational capability.

Mr. NATHAN. So if I may add to that.

Ms. GRAHAM. Of course, of course.

Mr. NATHAN. Two other differences, I suppose. You know, you have the added complexity of trying to navigate what the foreign partner actually wants, what are their priorities, what is their timeframe. And you also have foreign competitors much more so in a way that you have in the normal domestic process.

The other difference I'd point out to, and I think it's something that was highlighted earlier by Chairwoman Hartzler, we're slowly, slowly getting to a level of seriousness and focus on the security cooperation enterprise that historically has not really been there. We're no longer in a position anymore with the security environment that we have to take security cooperation for granted. It has to be more top of mind. And I think that's why this hearing is hap-

pening. I think that's why there's more effort to make sure that that system is more responsive in its parallel nature. So—

Ms. GRAHAM. And thank you for that.

So in terms of the challenges that you see, are the delays at the same points and for the same reasons that you would see in the normal DOD process?

Mr. NATHAN. In some ways, yes. Certainly, on the acquisition side of things, you know, it's all flowing through that acquisition process. So all of the activities of this committee in considering acquisition reform have some relevance to the FMS process. But beyond that, because it's such a multifaceted process where you have really multiple gateways that have to turn to green in order for you to get to success, you can get gummed up pretty much anywhere. And then you have that aggregation of time that ends up being problematic.

The good news is, the system has survived as long as it has because in crisis mode, it responds really well. For operational urgency, it operates really well. But we need to get to the point, which I believe Representative McSally was making, that we need to be more strategic, anticipatory; not just deal with the crisis when it happens, but rather plan for it and have the answers in place earlier.

Mr. DAVIS. I guess I would add one thing to that is, as Mr. Nathan said, the process works well in times of crisis, but it works well because we basically waive a lot of the requirements that are embedded in it and that can make it go faster.

I would—I think, just to generally answer your question, developing a piece of equipment through the acquisition process has its own risks with technology, maturity, and all of that. So you have that, but then on the other side, when it gets to foreign military sales, you come face-to-face with a lot of the issues that Congresswoman Speier brought up. Do you want to provide the piece of equipment to this particular person and do you believe it's going to be secure for some time?

I was a little major sitting in the room when we had the discussion with a former Member of the House named Charles Wilson about Stingers going to Afghanistan years ago. And there was a much different view about whether or not that was a good thing when the system got developed and it was coming along nicely. And the whole issues that Congresswoman Speier brought up were just really out there and prominent. So you've got that complexity it sits in.

Ms. GRAHAM. I was with Congresswoman McSally. She actually was leading the CODEL [congressional delegation]. We recently just came back from Afghanistan. We still face a lot of challenges there, I think we can both agree.

Totally unrelated topic. Switching gears for a second. Which foreign government do we sell the most to? Is that classified or is that—I don't know what's classified in this—

Mr. DAVIS. Well, I haven't looked at the data lately, but my—in days gone by, it's basically been Saudi Arabia has been a major market. And as the defense companies look around for where potential international sales are, I mean, you have to look at places where, one, there's a strategic concern and a strategic or tactical

threat; and secondly, where there are resources available to procure the equipment. And more or less, that takes you to the Middle Eastern region.

Mr. NATHAN. The answer also varies by system, and there's various historical trends. If we could take that for the record, we could come back with some more detailed responses for you.

[The information referred to can be found in the Appendix on page 55.]

Ms. GRAHAM. That would be terrific. I'm actually meeting a general in my office 3 minutes ago. So I appreciate the chance to ask the question. Thank you all for being here.

Thank you. I yield back my 4 seconds.

Mrs. HARTZLER. Thank you, Representative Graham.

Representative O'Rourke.

Mr. O'ROURKE. Thank you, Madam Chair and Ranking Member, for allowing me to join you today.

And I would like to thank the witnesses for their testimony and the answers to the questions so far.

I want to make sure that I understand the answers that you gave to the ranking member's question about specific sales that have been lost. And you may have—you may have mentioned some, but you talked about potential lost sales. There were some anecdotes that you couldn't disclose the details of. Are there specific sales that you can point to that defense manufacturers from this country have lost—

Mr. NATHAN. Well, besides the one I mentioned earlier, you know, one of the bigger ones was the Indian Medium Multi-Role Combat Aircraft sale, and that went to the French.

Mr. O'ROURKE [continuing]. And lost specifically because of delays connected to this process? I guess to ask the full question.

Mr. NATHAN. So there's any number of reasons why a partner may choose someone else versus the United States. You know, I guess the point that we're both trying to emphasize here is that we're not guaranteed preeminence the way that we used to be for many of our allies and partners. And increasingly, that question of timeliness, responsiveness, you know, ability to predict when and where and how our customers are going to be able to get their technology, whether or not they can have the contract type that makes the most sense for them, these are things that are weighing heavily on their mind as their operational requirements are increasing to a level that is pretty much unheard of for them.

So as I'd said earlier, they have the short time horizon. They need the response, they need the capability. We need to have a system that is capable of matching them and meeting them where they need to be at that point in time.

Mr. O'ROURKE. Yeah. And as my colleague said, this is a topic that is relatively new to me, so I have a lot more to learn. But what would help me if you're trying to create urgency around changes to the process are very specific instances and examples where this has hurt this country, the people that we represent, our national security or that of our allies. And so far, beyond potentially improving, you know, the efficiencies and effectiveness of the process, I don't clearly understand the cost of doing business the way that we're doing it currently.

And then my only other question would be, again, as somebody who's new to this, I'd love to understand how your member companies are able to influence the process within DSCA, within State, within the embassies, those who vetted. Once the sale has been proposed, are your member companies out of the loop completely or are you still able to answer questions or intervene or influence the decision?

Mr. DAVIS. That's a great question, Congressman, because it does bring up an issue that is kind of germane to this whole discussion. The companies do have the opportunity to go in and ask questions, participate, to provide information, to answer queries, and so forth. But it tends to be very much a push as opposed to a pull function.

One of the problems that I think we have in this process and in the acquisition process at large right now is something of a lower tendency on the part of the government to want to solicit information and to protect information that it has. There has just been an, over the course of time for a lot of reasons, a distance that's sort of settled in between our government and the providers. I think that's something we really do need to get over.

Secondly, a lot of the companies, during my time in the industry when I first started, a lot of companies had overseas offices that were out there talking to local governments, getting a sensing from local militaries, getting a sense from local defense ministries and so forth. Over the course of time, those have become fewer and fewer and fewer, which means that the companies are relying more on targeted efforts to put somebody out there and they're relying on information coming from the government.

So this need for dialogue and cooperation going back and forth, I think, needs to be improved and it needs to be more casual, continuous, and comfortable than I think it is right now.

Mr. O'ROURKE. Go ahead.

Mr. NATHAN. If I may simply add.

Mr. O'ROURKE. Yeah.

Mr. NATHAN. Given the multiplicity of decision points that exist within the system, our companies do end up having a multiplicity of opportunities that they need to take advantage of to provide whatever information is necessary for that decision to take place, whether it's DOD, State Department, Commerce Department for advocacy, so on and so forth. As was discussed earlier, there's no one place that we go to try to make our case for, you know, why this sale makes sense. Ultimately, that decision is completely in the hands of the State Department. So—

Mr. O'ROURKE. But your member companies are able to provide information, influence the decision. Can you point to an instance, so that I understand this better, where through the vetting process, you know, State or the ambassador recommends no, or DSCA recommends no, and then a member company's been able to shed additional light or provide additional information that has helped to reverse a decision, or maybe gone to a Member of Congress, or a committee, or a committee staffer, to help influence that decision?

Again, from the member company's perspective, it would be to add information, make sure the decisionmakers have all the information that they need. But, in other words, I want to understand how industry works with the decisionmakers.

Mr. DAVIS. Let me just offer one. I'll be kind of general about it as opposed to being specific. But there have been several instances such as this one. There was a ground combat system that was being marketed to a Middle Eastern country. There was competitors available from Europe and other places. The system that the American provider had had many advantages over the one that was provided that they were not comfortable were being fully articulated, you know, by the government to the potential customer.

So in that case, yes, they went in, made an explanation that this system here has enough commonality with a similar system that the customer already had, that there would be some synergies that would be allowed through the supply chain. So that was useful information, I think, eventually changed the focus that the country had from this country back to our domestic product.

Mr. NATHAN. If I could offer another quick example.

Mr. O'ROURKE. I've got about 7 seconds, so—

Mr. NATHAN. When it comes to tech transfer, the decision by this Congress to reverse its decision about placing commercial satellites on the U.S. Munitions List was very much a joint effort, industry, government, and Congress, to try to provide the information necessary to make that decision and say the risk management could be better done in other ways.

Mr. O'ROURKE. Thank you very much.

Mr. NATHAN. Thank you.

Mr. O'ROURKE. Thank you.

Mrs. HARTZLER. Sure. Thank you. Glad you could be with us today. I appreciate your questions and your input.

Mr. Davis, your written testimony makes reference to a Department of Defense pilot program called the Defense Exportability Features Pilot Program, which has been applied to 15 different Department of Defense programs. Can you explain, for the record, what this pilot program entails and what issues the program is trying to address and whether or not you believe the program has had a positive impact on FMS case processing?

Mr. DAVIS. Well, the program was initiated through the NDAA [National Defense Authorization Act] back, I believe, in 2011. One of the things that I also do is I'm the industry chair providing just an industry perspective at DAU, and I know—the Defense Acquisition University—and they're looking very closely at ways to try to get this into their curriculum.

One of the major things that this effort attempts to do is to try to think about the potential for exportability from the very beginning of the system. If we're going to provide it and we're going to export it to also meet the concerns that people would have about getting key technology out to other places, you know, how do we actually do that up front as opposed to later on go back and try to make some changes to the system so that we can take things out and put different things in.

This has been expanded to 15 programs. Currently, it is a pilot program. I don't think we've got the jury fully in yet on exactly how beneficial it's been. But I think it's been a useful thing to get people thinking ahead that we need to take a look at our systems and how we're going to actually provide them so that where there is a

necessity to have a slightly different capability for the foreign variant, we thought about that in advance.

Mrs. HARTZLER. Just sounds like commonsense to me, something that should be done anyway. But I'm glad we're looking at that.

For both of you, you both mentioned in your written testimony that the Department of Defense needs to update its technology release and disclosure processes.

And, Mr. Davis, you specifically described the process as "obtuse, stovepiped, and prone to delays."

And, Mr. Nathan, you state that industry is continuing to engage with DOD in making the technology security and foreign disclosure process quote, "more predictable, efficient, and transparent," end quote.

So can you describe for the subcommittee what problems industry sees with the technology disclosure process and what might be done to make the process more efficient and effective?

Mr. DAVIS. This gets back to the very issue that we've been talking about up front, is there's many different agencies that one has to deal with as you go through this process. And the opinion of one of the stakeholders in this, one of the oversight agencies that this particular technology is okay to go, it's available widely, so there's no need to have restrictions on it, may not be the opinion of another agency over here.

Mrs. HARTZLER. Excuse me, if I may interrupt. Just for the record, I don't think it's been stated here yet today that there is the Department of State involved and intelligence communities involved, as well as Department of Defense. So are there any other major players that we need to make sure the public is aware of that's involved in this process?

Mr. DAVIS. No, Madam Chairwoman, I think that pretty much covers the waterfront on all the various stakeholders. But as you might imagine, I mean, this is certainly no mystery, it happens here in the U.S. Congress. You know, different people have different perspectives on different things. And it's very difficult, as Mr. Nathan has stated, to try to make sure you're talking to the right stakeholder, the right review agency at the right moment.

So this is an effort to try to get a view more quickly established and more widely accepted so that we know exactly what we're doing and we don't think we've got something that's moving forward when it turns out that there's going to be a need for delay which is recommended by another agency.

Mr. NATHAN. So in talking about predictability, efficiency, and transparency, just to define terms a little bit, predictability, we're looking for having repeatable outcomes when we're selling like technologies to like countries and the like out of this review process. And also the duration of time it takes for those decisions to be made.

When it comes to efficiency, by no means are we trying to shortcut this process. Rather, we're calling for a sense of urgency to run these processes as much as possible concurrently as opposed to consecutively, and ensure that there is good cross talk, which doesn't always occur among them, to be sure that the answers that are put forward are reconciled among the review processes, as opposed to having five different opinions of what a rock should look like that



the company should then go back and bring another rock to take another shot at going through the review process.

And then transparency, I think this is an important issue, and it relates, I think, to what Congressman O'Rourke was talking about as well. To the extent that there's greater consultation—and we're heading in that direction, more can be done. If industry knows the parameters, the right and the left of what this review process, other review processes are comfortable with, we will constrain and measure our bids and our proposals to that.

In the absence of that information, that's when we often struggle. Because we go in and we're told, well, you know, bring me another rock. And we have to try to figure out what makes the most sense pass muster. If it's more collaborative, we get to that answer that meets the U.S. national security and foreign policy objectives, gives the company an ability to sell overseas, and meets the partner's objective. We have alignment in a way that, you know, I think it takes a little bit longer now than it needs to.

Mrs. HARTZLER. Very good. I want to go to your written testimony again. Just a few other things here.

So, Mr. Davis, you talk about that, "The governance regime for foreign sales needs to adapt to the challenges of the 21st century international security environment." Can you expound on that a little bit?

Mr. DAVIS. Yes, Madam Chairwoman. What that really is referring to, what I'm referring to in my comment right there is that we're in an environment right now that is really much different than what we've seen before. I mean, I watch it every night when I see my wife sit down and order clothes for our granddaughter on Amazon and it gets delivered to the house and, you know, we never even see it. I like that because I don't like going to the mall.

But we're in an environment right now that I have mentioned has its own—in this particular domain of foreign military sales, we're in an environment that has got its own version of Moore's Law here. Things are speeding up. People are—information moves more quickly. Needs and strategic circumstances change rapidly. No mystery to anybody, we've got a situation right now which is much different than the one that I grew up in during the Cold War era and—but we've still got processes in the government, as was mentioned by Congressman O'Rourke, both internal to the Defense Department with its acquisition process, its budgeting process, and so forth, and in this domain of foreign military sales, that are a very sequential step-by-step review process, that basically means we're continuing a process that has length and sometimes increasing length during an environment that requires speed and quick agility.

So trying to reconcile this is, I think, a major challenge that we all have. We've got to try to do things that are going to increase timeliness and agility and speed, because that's what the environment is basically demanding right now.

Mrs. HARTZLER. Very good. You also—we've talked about this a little bit, about the need to be more strategic in the planning. But in your testimony, Mr. Davis, you talk about we tend to operate transactionally rather than strategically. Then you go on and say, "Our allies and partners need a complete package, including train-

ing, integration with existing capabilities, and configuration management throughout the lifecycle.” And they want, the FMS customers want capabilities the U.S. Government hasn’t already procured yet.

And—but you say, “without a domestic program office to stand up an FMS program or a MILDEP [military department] to champion the sale, sales take far longer and run a higher risk of languishing.” So could you expound on that a little bit about what changes you would recommend to make all of this happen?

Mr. DAVIS. Let me try this, at the risk of looking like I’m stealing thunder from the late great Milton Friedman, the economics professor at the University of Chicago. Essentially what I’m saying is, from a strategic as opposed to transactional dimension and perspective, you know, Milton Friedman used to always hold up a pencil. I’ll just hold up a pen since I got it right here. And this has many components to it. I mean, we’ve got this cap on this side. We’ve got the ink cartridge here, we’ve got the case at the bottom.

The issue is getting the pen into the market and getting it sold out there. But that gets slowed down because we spend a lot of time talking about the suitability and the transferability for military purposes, or other purposes, to the components and the parts.

Everything involves a certain degree of analysis regarding risk. From the strategic perspective, if we have a partner out there, a potential customer, who has a need that he needs to be filled—and as I said, most of these are near-term things. We’re about the only country in the world that bothers to put together a 5-year, even in some cases, a 30-year defense plan. Most people don’t do that. They need the item and they’re talking about getting the item.

So my comment there was, let’s try to look at the item from a holistic point of view and perhaps spend less time on the various components. And what we’re seeing right now is great efforts have been made over the last several years to reduce the number of items on the munitions list. But as that list has reduced on the commercial control list over at Commerce, components have moved over there in at least as much, if not greater quantity.

So I think we have to think about it in terms of getting things that are thought of in a larger perspective as opposed to a components perspective.

Mrs. HARTZLER. And for the record, can you share, when we make a foreign military sale, does it involve a package, as you referenced, as well, training and future service and things—can you expound on what one of these sales might look like, besides just the airplanes?

Mr. DAVIS. Generally speaking, when we make a foreign military sale, one of the things that we want to make sure happens is that there is a package involved that would include training, would include a supply chain, would include some other, not necessarily equipment training, but let’s say tactical training, so that we all agree on how we’re actually going to use the item, how it will fit in. Just sending an item over there so that it’s there and present, but there’s none of the other things I just mentioned that are in evidence or are part of the package, you eventually wind up with a piece of equipment that’s just sitting in a corner of the airfield and doesn’t operate or can’t operate as intended.

Secretary Gates had this experience several times and he always talked about it, that he thought it was necessary to have the complete package.

Mrs. HARTZLER. And the last question—thank you—is for Mr. Nathan. In your written testimony, you talk about, “We must consider the question of whether or not the security cooperation enterprise is able to manage on a sustainable basis, FMS, direct commercial sales, and hybrid cases that are growing in complexity.” And you say, “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.”

So what recommendations would you have for resources and training and focus that would help address these concerns?

Mr. NATHAN. Thank you for the question. I think that there needs to be more of an emphasis, more of a focus, even as the government is looking at its own reforms and as this committee is considering ways of being supportive, more focus on making sure that the security cooperation enterprise has its own dedicated resources, has the specialized training that’s required in order to understand the nuances of foreign sales that are oftentimes lost on people that are steeped in domestic acquisition processes.

I’ll tell you quite candidly, when it comes to that complexity of all of the different gateways you have to go through, it’s a challenge to find anybody that’s able to figure out where they fit in relative to every other part.

What we have right now is a system where people are optimizing their own responsibility. They’re not looking at how they fit into a broader whole and how they can help support a timely movement from start to finish to get out to the other side.

Very specifically, when you talk about the resources piece of it, it is a concern that you have an acquisition core that’s under a lot of stress with budget cuts, with manpower reductions, and so on. So if you already have a deficit of expertise within that group and then you’re overall shrinking that acquisition workforce, it exacerbates the problem that I and Mr. Davis were talking about earlier.

Mrs. HARTZLER. I really appreciate you all being here and ask you that, if you have anything else you wanted to share, but in that, in your—any closing statements you might have, I am curious, as you, from your experience, look at the entire process and you work with and see Department of State, you see the Intelligence Community, you see the Department of Defense. Now, we are here today specifically focused, since we’re the Armed Services Committee, secondly, on the Department of Defense. But which aspect do you tend to see holdups in more? Which step along the way? Is it the Department of Defense, is it the State Department, or intel, or just a combination?

So I’ll open it up to you for any closing remarks you want to make and if you have any comments regarding that.

Mr. DAVIS. Well, let me preface what I’m about to say, Madam Chairwoman, with the direct observation that I don’t have any data that I’m going to offer you here, but this is just intuition from experience that I’ve had in days gone by. It’s always seemed to me that the major holdup on a lot of these tends to occur outside of the De-

partment of Defense. And that gets into issues that have to do with broader policy considerations that are going on.

Let me just go back to my example I was using that I was sitting there talking about, which was, you know, the Stinger issue going to Afghanistan back in 1987, 1988. You know, the particular variant we were talking about wasn't really there yet, but it was very close. It was going to happen soon. So, you know, there was no issue about providing the equipment. The issue was, as Congresswoman Speier pointed out, you know, should you do that? We're concerned about who's accountable for them, who's going to keep track of them. And the last thing in the world that anybody wants is some incident at an American airport created by a missile that we provided to some group of people on the other side of the world.

So but I think by and large, my experience has always been that the holdups tend to not be as much in the Defense Department as they tend to be in some of the larger, broader policy debates that are going on elsewhere. And, of course, as all of you have made—commented on in your own statements, none of these are illegitimate concerns, but they are ones that need to be more quickly addressed and more quickly reconciled, if the objective is to get something out there quickly before a potential customer turns to somebody else.

Mr. NATHAN. So I was smiling because I was actually going to disagree with Mr. Davis about where the problems actually are because I've heard quite a lot about how the problems oftentimes manifest themselves within the Department of Defense. And that's not because he's right or I'm right. It's because there's so many different ways that you can go off the rails as you're trying to go through this process. It really is snakes and ladders, and you never know on any given sale, any given transaction, any given day, when you have to go back to the drawing board and try to figure out how to get to a "yes" answer.

This is hard, okay. It's not an easy process. And we're having to recognize that now because getting to the right answer at the right time has become more important than ever.

I guess a final point I'll make here is that traditionally when you look at security cooperation, I think the biggest risk that we end up talking about is making sure that we don't let technology get into the hands of the bad guys. Well, since 9/11, you know, we're finding ourselves in a situation where there's a national security cost of not getting the technology into the hands of the good guys as quickly as possible. We want to get to the right answer, the right answer for our country in a timely fashion that best advances our country's national security and foreign policy objectives.

Mrs. HARTZLER. Very good. Thank you so much for your comments today, your insights, and your service to our Nation.

This hearing is now adjourned.

[Whereupon, at 11:17 a.m., the subcommittee was adjourned.]

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**A P P E N D I X**

MAY 11, 2016

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**PREPARED STATEMENTS SUBMITTED FOR THE RECORD**

MAY 11, 2016

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**Opening Remarks for Chairwoman Hartzler  
for the Hearing on  
“U.S. Industry Perspectives on the Department of Defense’s Policies, Roles and  
Responsibilities for Foreign Military Sales”  
May 11, 2016**

Welcome.

I am delighted to convene this hearing.

This is the second of three events for the subcommittee’s oversight of the Department of Defense’s role in our nation’s foreign military sales program, or “FMS” program.

But before I continue, I would also like to note that the gentleman from Texas, Mr. O’Rourke, is attending the hearing with us today. Therefore, I ask unanimous consent that Mr. O’Rourke and any other committee members not assigned to this subcommittee be permitted to participate in this hearing with the understanding that all subcommittee members will be recognized for questions prior to those not sitting on the subcommittee. Without objection, so ordered.

The goal of our FMS oversight series is to take an in-depth look at the Department of Defense’s role in the FMS process. We seek to determine whether DOD’s involvement is efficient, effective, and timely in aiding the State Department’s administration of the larger FMS program.

While FMS is only one way in which the Departments of Defense and State foster security cooperation, it is probably the most visible. It is vital to provide the opportunity for our allies to acquire military equipment and services to bolster their security needs. It’s also important to note the benefits the United States realizes from our allies’ collective safety, especially as threats to democracy and freedom expand.

But, some believe the Department of Defense’s FMS process is too cumbersome and bureaucratic. Others offer that the process is designed to be deliberately slow and methodical in order to achieve the correct outcome in determining whether or not the U.S. supplies military capabilities that appropriately further U.S. national security interests.

Recently the subcommittee was briefed about the intricacies of the FMS program and processes by representatives of the Department of Defense, Department of State, and the Congressional Research Service. It seems that FMS is likely one of our government’s more complex interagency programs, making our examination here even more significant.

Over recent years the defense budget has declined, our military capacity has been reduced, and a corresponding contraction of the defense industrial base has occurred. At the same time, the world has become more dangerous and complex, military technologies

and capabilities more prolific and globalized, operational tempo has remained high, and our military's readiness has reached critically low levels. In short, we are asking our troops to do much more with much less.

So while we strive to rebuild the capacity and capability of our own military, many of our foreign partners and allies look to do the same. To that effect, they seek to procure military equipment and services from the U.S. But if this takes too long, or if bureaucratic red tape proves too debilitating, our foreign partners and allies may seek help elsewhere. This potentially weakens our security, reduces military-to-military cooperation, and represents missed opportunities for our defense industrial base to keep workers with valuable and needed skills sufficiently employed.

Industry and its representatives are critical stakeholders in a robust and thriving FMS program. As such, we're here today seeking valuable input from defense industrial base associations as to how they see Congress working with the Department of Defense to improve the execution of Foreign Military Sales.

But before I introduce the witnesses, I turn to the Oversight and Investigations Subcommittee Ranking Member for any opening remarks she wishes to make.

**Opening Statement of Ranking Member Jackie Speier**  
**Hearing on**  
**“U.S. Industry Perspectives on the Department of Defense’s Policies, Roles**  
**and Responsibilities for Foreign Military Sales”**  
**May 11, 2016**

Good morning, thank you to our witnesses for being here today. The purpose of today’s hearing is to provide Members of the subcommittee an industry perspective on the U.S. Foreign Military Sales’ policies and practices. I understand we will receive the government perspective on this topic in a future hearing.

The goal is to ensure that this Committee and its members are fully informed as we oversee the role of the Department of Defense in the FMS process and determine whether the FMS process is suitably efficient, effective, and timely. We’ve heard many complaints about the slowness of the FMS program. Yet, we must not forget that it is an instrument of U.S. Foreign Policy. That means we must ensure the weapons systems and services we sell to foreign countries are used appropriately, responsibly, and are in our best interests. Although that may delay the process, it’s a policy we can’t lose sight of. At the same time, it’s critical that we identify areas where we can make improvements to the process.

We have representatives from two different associations with us today and I’m interested in hearing from them what improvements can be made in the process and whether there are ways to reduce uncertainty and delays in the process. According to Defense News article from last week, through the first six months of fiscal year 2016, foreign military sales are on track to meet or surpass last year’s total of \$43 billion. The Defense Security Cooperation Agency (DSCA) has announced about \$29 billion in FMS cases through the end of April. We are also aware of reports of pending U.S. aircraft orders that could increase that number if they were approved. Foreign military sales are clearly an important part of the health of the defense manufacturing base and the growing rate of sales underscores why it is important that we look for ways to improve the process.

Further, as we rely more on coalitions and our allies and partners around the world to address our global security challenges we should be thinking strategically about FMS. Given the current global instability, it seems clear that FMS will remain strong based on demand from the Gulf, Europe, and the Asia Pacific.

As our allies and partners work with us to promote global stability, we should ensure our FMS process enables them to face our shared security challenges in those regions and encourages them to select the United States as their partner of choice to meet their defense capability needs. As demand for FMS grows, it is

imperative that we are ensuring that the process is timely while consistent with our national security and foreign policy interests. As this hearing focuses on just one aspect of the FMS process, I look forward to examining this issue further in future hearings.

**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**

**M. Thomas Davis  
Senior Fellow  
National Defense Industrial Association**

**Wednesday, May 11, 2016**

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.

**M. Thomas Davis**  
**Vice President, Strategic Planning (Ret.)**  
**General Dynamics Corporation**  
**Senior Fellow in Residence, National Defense Industrial Association**  
**Industry Chair, Defense Acquisition University**

A native of Cadiz, Kentucky, Mr. M. Thomas Davis was commissioned a Lieutenant in the Field Artillery upon graduation from the United States Military Academy in 1972. After numerous troop assignments in Germany and Korea, he earned a Master's Degree in International Relations and Economics at Harvard University, and joined the faculty of the Military Academy teaching International Relations, Economics, and Government in the Department of Social Sciences. In 1985, Mr. Davis graduated from the Marine Command and Staff College where he won the prestigious Clifton B. Cates Award for individual research, then joined the Office of the Army Chief of Staff as the Fire Support and Classified Program Analyst. He subsequently served as Military Assistant to the Secretary of the Army before moving to the Joint Staff where he was the Chief, Non-Strategic Nuclear Forces Branch, in J-8. In this position, he headed the study that served as the basis for the 1991 decision withdrawing American short-range nuclear forces from Europe.

In July 1990, Lieutenant Colonel Davis assumed command of the 4th Battalion, 82d Field Artillery, in Hanau, Germany. He commanded this battalion throughout its deployment with the U.S. VII Corps for Operations Desert Shield and Desert Storm, and led it during the main attack against Iraqi Republican Guard forces during the four-day ground campaign. In August 1992, Mr. Davis was named as the Army Senior Fellow at the Atlantic Council of the United States, and subsequently assigned as Chief of the Army Program Development Division in the Office of the Army Chief of Staff. After a tour as the Army Executive Fellow at the Brookings Institution, Colonel Davis retired from the Army in June 1997.

In April 1997, Mr. Davis joined the Northrop Grumman Corporation as Senior Defense Analyst advising the corporate leadership on emerging strategic, technological and budgetary trends in the American defense program. He was a frequent author of articles and editorials on defense strategy and management issues. Having written an assessment on Homeland Security (HLS) in the Spring of 2001, and a subsequent monograph on the subject, he was asked to coordinate corporate HLS programs following the attacks of September 11, 2001. He is a life member of the Council on Foreign Relations.

In September 2002, Mr. Davis joined the corporate staff at General Dynamics Corporation and was named Director of Strategic Planning. In July 2005 he was promoted to Staff Vice President, and in March 2008 to Corporate Vice President for Strategic Planning and Business Development. In these capacities, Mr. Davis evaluated trends in the national security, federal civil sector, and international markets to identify emerging business opportunities. He retired from GD in April 2013, and is currently Senior Fellow in Residence at the National Defense Industrial Association and was recently named the Forrestal-Richardson Industry Chair at Defense Acquisition University.

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**DISCLOSURE FORM FOR WITNESSES  
COMMITTEE ON ARMED SERVICES  
U.S. HOUSE OF REPRESENTATIVES**

**INSTRUCTION TO WITNESSES:** Rule 11, clause 2(g)(5), of the Rules of the U.S. House of Representatives for the 114<sup>th</sup> Congress requires nongovernmental witnesses appearing before House committees to include in their written statements a curriculum vitae and a disclosure of the amount and source of any federal contracts or grants (including subcontracts and subgrants), or contracts or payments originating with a foreign government, received during the current and two previous calendar years either by the witness or by an entity represented by the witness and related to the subject matter of the hearing. This form is intended to assist witnesses appearing before the House Committee on Armed Services in complying with the House rule. Please note that a copy of these statements, with appropriate redactions to protect the witness's personal privacy (including home address and phone number) will be made publicly available in electronic form not later than one day after the witness's appearance before the committee. Witnesses may list additional grants, contracts, or payments on additional sheets, if necessary.

**Witness name:** Marion Thomas Davis

**Capacity in which appearing:** (check one)

Individual

Representative

**If appearing in a representative capacity, name of the company, association or other entity being represented:** National Defense Industrial Association (NDIA)

**Federal Contract or Grant Information:** If you or the entity you represent before the Committee on Armed Services has contracts (including subcontracts) or grants (including subgrants) with the federal government, please provide the following information:

2015

Federal grant/ contract	Federal agency	Dollar value	Subject of contract or grant

2014

Federal grant/ contract	Federal agency	Dollar value	Subject of contract or grant

2013

Federal grant/ contract	Federal agency	Dollar value	Subject of contract or grant

**Foreign Government Contract or Payment Information:** If you or the entity you represent before the Committee on Armed Services has contracts or payments originating from a foreign government, please provide the following information:

2015

Foreign contract/ payment	Foreign government	Dollar value	Subject of contract or payment

2014

Foreign contract/ payment	Foreign government	Dollar value	Subject of contract or payment

2013

Foreign contract/ payment	Foreign government	Dollar value	Subject of contract or payment



Testimony of Mr. Remy Nathan  
Vice President, International Affairs  
Aerospace Industries Association

***“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

May 11, 2016

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.

**Remy Nathan**  
**Vice President, International Affairs**  
**Aerospace Industries Association**

Remy Nathan, Vice President for International Affairs is responsible for monitoring, analyzing and recommending actions on issues as they affect international commercial and military aerospace markets.

Nathan oversees international trade and market access, export financing, international negotiations, export controls, foreign military sales, and international cooperative programs.

Prior to joining AIA in 2003, Nathan was responsible for supporting US companies active in Malaysia, as well as the Defense Working Group of the US-ASEAN Business Council. He holds a B.A. in Government and Foreign Affairs and China Studies from the University of Virginia and an M.A. in International Economics and Southeast Asian Studies from The Johns Hopkins University School of Advanced International Studies (SAIS).

**DISCLOSURE FORM FOR WITNESSES  
COMMITTEE ON ARMED SERVICES  
U.S. HOUSE OF REPRESENTATIVES**

**INSTRUCTION TO WITNESSES:** Rule 11, clause 2(g)(5), of the Rules of the U.S. House of Representatives for the 114<sup>th</sup> Congress requires nongovernmental witnesses appearing before House committees to include in their written statements a curriculum vitae and a disclosure of the amount and source of any federal contracts or grants (including subcontracts and subgrants), or contracts or payments originating with a foreign government, received during the current and two previous calendar years either by the witness or by an entity represented by the witness and related to the subject matter of the hearing. This form is intended to assist witnesses appearing before the House Committee on Armed Services in complying with the House rule. Please note that a copy of these statements, with appropriate redactions to protect the witness's personal privacy (including home address and phone number) will be made publicly available in electronic form not later than one day after the witness's appearance before the committee. Witnesses may list additional grants, contracts, or payments on additional sheets, if necessary.

**Witness name:** Saravanan "Remy Nathan" Shanmuganathan

**Capacity in which appearing:** (check one)

Individual

Representative

**If appearing in a representative capacity, name of the company, association or other entity being represented:** Aerospace Industries Association of America

**Federal Contract or Grant Information:** If you or the entity you represent before the Committee on Armed Services has contracts (including subcontracts) or grants (including subgrants) with the federal government, please provide the following information:

2015

Federal grant/ contract	Federal agency	Dollar value	Subject of contract or grant

2014

Federal grant/ contract	Federal agency	Dollar value	Subject of contract or grant

2013

Federal grant/ contract	Federal agency	Dollar value	Subject of contract or grant

**Foreign Government Contract or Payment Information:** If you or the entity you represent before the Committee on Armed Services has contracts or payments originating from a foreign government, please provide the following information:

2015

Foreign contract/ payment	Foreign government	Dollar value	Subject of contract or payment

2014

Foreign contract/ payment	Foreign government	Dollar value	Subject of contract or payment

2013

Foreign contract/ payment	Foreign government	Dollar value	Subject of contract or payment



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**WITNESS RESPONSES TO QUESTIONS ASKED DURING  
THE HEARING**

MAY 11, 2016

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#### **RESPONSE TO QUESTION SUBMITTED BY MS. SPEIER**

Mr. NATHAN. AIA has found that the U.S. share of global aerospace and defense trade struggled to maintain pace in the face of foreign competition, and has gained less than 2% since 2010. This trend is due in no small part to aggressive foreign competition supported by foreign governments. A good illustration of the concerns from industry can be found in the Avascent White Paper on Dynamics of International Military Modernization 2016. Excerpts from the Executive Summary are as follows:

- “Over the next 10 years, Western defense suppliers will face increased competition in international markets historically considered to be the near exclusive preserve of American and European firms. Specifically, Western firms will see rising pressure from three vectors:
  - The increasing number of countries seeking to satisfy requirements “internally”, from domestic defense industries, rather than importing from abroad;
  - The growing role of emerging non-Western suppliers that are capable of competing against more established defense suppliers; and
  - The encroachment of Chinese and Russian suppliers in markets formerly aligned with Western sources.”
- “While U.S. and European companies retain a number of critical advantages, they increasingly compete in a marketplace that requires new business strategies and penalizes the status quo.”
- “Emerging non-Western suppliers have been steadily expanding their presence in many markets, as defined by both geography and technical categories. Bolstered by an accumulation of technical expertise and intellectual property, more and more countries have the ability to not only serve their own defense requirements, but also to compete for global export opportunities.”
- “China and Russia increasingly serve markets that Western nations regarded as fenced off by Cold War-era U.S. or European political relationships. This dynamic is influenced by many factors, including the increasing political influence that China brings to bear, the increasing capability of Chinese and Russian products relative to Western counterparts, and a perceived loss of international influence by the United States.”
- “Moving forward, the effect of these dynamics will vary by product sector and geography. But on the whole, U.S. and European defense companies can expect a more crowded marketplace.”

AIA does not have program-specific anecdotes to amplify these points, but we will continue to work with the Subcommittee to provide those examples should they become available in the future. [See page 11.]

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#### **RESPONSE TO QUESTION SUBMITTED BY MS. GRAHAM**

Mr. NATHAN. Attached to this letter is a list of the top five destinations for U.S. military exports during calendar years 2010–2015, based on data from the U.S. Department of Commerce. [See list on next page.] [See page 17.]

**TOP FIVE DESTINATIONS FOR  
U.S. MILITARY EXPORTS**

Calendar Years 2010-2015  
(In Millions of Dollars)



Year	Rank	Country	Export Value
2015	1	Saudi Arabia	\$ 2,294
	2	Taiwan	\$ 1,982
	3	Australia	\$ 1,790
	4	United Kingdom	\$ 1,396
	5	Japan	\$ 1,316
2014	1	Saudi Arabia	\$ 2,210
	2	Taiwan	\$ 1,619
	3	India	\$ 1,606
	4	South Korea	\$ 1,482
	5	Japan	\$ 1,410
2013	1	United Arab Emirates	\$ 1,595
	2	Japan	\$ 1,495
	3	Taiwan	\$ 1,461
	4	India	\$ 1,439
	5	South Korea	\$ 1,283
2012	1	Japan	\$ 1,713
	2	United Arab Emirates	\$ 1,681
	3	South Korea	\$ 1,348
	4	United Kingdom	\$ 1,031
	5	Singapore	\$ 906
2011	1	Japan	\$ 1,431
	2	South Korea	\$ 1,330
	3	United Kingdom	\$ 1,157
	4	Canada	\$ 1,009
	5	Turkey	\$ 865
2010	1	South Korea	\$ 1,809
	2	Japan	\$ 1,684
	3	United Kingdom	\$ 1,187
	4	Canada	\$ 931
	5	United Arab Emirates	\$ 829

Source: Aerospace Industries Association (AIA), based on data from the U.S. Dept. of Commerce, 2016.  
Note: Trade classifications based on the U.S. Harmonized Tariff Schedule.