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REPORT BY THE

Comptroller General

OF THE UNITED STATES



109422

Opportunities To Improve Decisionmaking And Oversight Of Arms Sales

American conventional arms exports¹ abroad have risen dramatically in the 1970s. Congress has urged restraint, and in May 1977 the President announced a policy of arms export restraint to non-industrialized nations.

This report analyzes the implementation of this policy, the decisionmaking process for individual sales, and the congressional oversight role.

Unilateral restraint can be implemented more effectively. The Department of State needs to develop country-by-country restraint criteria and plans for major arms purchasers. Such criteria and plans would help change decisionmaking from a reactive to a more anticipatory process. Submission to Congress of such annual country plans along with projections of purchases would also improve congressional oversight.

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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The Honorable Frank Church, Chairman
Committee on Foreign Relations
United States Senate

SEN01300

The Honorable Clement J. Zablocki
Chairman, Committee on Foreign Affairs
House of Representatives

HSE01113

The Honorable Lee H. Hamilton
Chairman, Subcommittee on Europe
and the Middle East
Committee on Foreign Affairs
House of Representatives

HSE01116

Dear Mr. Chairmen:

This report is in response to your Committees' concurrent requests that we examine various aspects of the executive branch policy and decisionmaking process for conventional arms transfers.

The report contains recommendations to the Congress for legislative changes and to the Secretary of State for improving the decisionmaking process. We were unable to address several aspects of the request because the executive branch denied us the necessary information.

We anticipate wide public interest in the matters discussed in the report. Therefore, as arranged with your office, we are distributing the report to other committees and Members of Congress; the Departments of State, Defense, Commerce and the Treasury; the Arms Control and Disarmament Agency, and other interested parties.

Comptroller General
of the United States

D I G E S T

The Congress has been concerned about the volume and sophistication of America's arms exports and, in May 1977, the President announced an arms transfer restraint policy. The President said that the United States was the leading supplier of arms to the world. The Arms trade is fast growing and very competitive.

The policy included quantitative and qualitative controls on government-to-government sales to all countries except our NATO allies, Japan, Australia, and New Zealand. The most visible element of the policy was the ceiling placed on the aggregate dollar value of sales to non-exempt countries in 1978 and 1979.

GAO's review was made at the request of the Senate Foreign Relations and House Foreign Affairs Committees and the latter's Subcommittee on Europe and the Middle East.

OVERVIEW OF RESTRAINT

7/c. The fundamental aim of the policy, to set a unilateral example for other countries to follow, has achieved world-wide attention and its declaratory value cannot be underestimated. The evidence that the executive branch has marshalled to demonstrate its restraint accomplishments, however, is not convincing. And, other countries simply have not yet agreed to restrain arms sales. This is not to repudiate executive branch efforts, but:

--In addition to certain countries being excluded from the annual ceilings, certain categories of sales were also excluded--the latter totalling over 25 percent of all sales in 1978.

--The 1978 ceiling was ultimately achieved by counting portions of sales agreed to that year against future year ceilings, a practice referred to as "mortgaging the future".

--Turndowns of requested sales reported to the Congress in 1978 included items that were not turned down. Actually, there is no standard for determining when a turn down occurs or a system for recording turndowns. Also, GAO found no evidence that turndowns had increased under the restraint policy.

--Contrary to a central tenet of the restraint policy, agreements signed since announcement of the policy have included some of the most advanced weapons in the U.S. inventory (F-15, F-16, AWACS, TOW).

Despite numerous meetings with other major arms suppliers, there have been no concrete achievements toward multilateral restraint. One of our principal allies increased its arms exports by 17 percent in the year following the President's announcement of his restraint policy.

GAO noted, in this regard, serious questions concerning the comparability of reported data on United States versus other countries' arms exports. In fact, the Central Intelligence Agency recently concluded that in certain regions, the Soviet Union, and not the United States, is the leading supplier of arms in terms of sophistication and capabilities. This could have important implications on the underpinnings of the President's restraint policy.

RESTRICTIONS ON U.S. PERSONNEL IN FOREIGN COUNTRIES

No / Restrictions were recently placed on the activities of U.S. personnel stationed in foreign countries and overt promotion of arms by such personnel to the extent it has existed, has been curtailed. More subtle forms of incountry promotion--provision of professional advice,

opinions, suggestions, and ideas--has been more difficult to control. / U.S. diplomatic and military officials have expressed uncertainty over their new roles, particularly (1) the conflict between the restriction and existing mandates to provide advice, (2) discerning when authorized advice became promotion of arms, and (3) the fact that current guidance is unclear on what can and cannot be done.

In addition, supervisory duties placed on the Ambassador have not taken into consideration program size, raising questions about the effectiveness of Embassy supervision.

ARMS TRANSFER DECISIONMAKING

The State Department is in charge of the sales program and final recommendations for sales are made by the Secretary of State. Other agencies though--particularly the Defense Department--have significant influence on decisions. Arms are usually contemplated for purchase, studied, surveyed, and related to U.S.-foreign country relations years before the official request for purchase. During this period, Defense is the most active U.S. Government entity associated with the proposed sale and frequently has set the course for ultimate approval of the sale.

By the time a formal request to purchase an item is made, a positive momentum for approval has generally been established and the formal review process tends to be reactive. It is during this formal process that the State Department, Arms Control and Disarmament Agency, National Security Council, and the White House bring their full weight to bear on decisions. All are variously involved before the formal review process begins.

A curious feature of the entire review process is the belief among participants that the President or other high-level officials make the decision. Although this is literally

true, many lower level officials individually and collectively influence final decisions.

CASE-BY-CASE DETERMINATIONS

A United States presence in a foreign country produces a great deal of information on a country's military plans and aspirations for arms. But, case-by-case decisionmaking on individual items is the dominant feature of the executive branch review process of a foreign government's request to purchase arms. This is, in part, because countries for the most part seek to purchase arms on an item or system basis. It is due more, though, to the absence of country-by-country restraint criteria and planning.

NEED FOR CRITERIA

✓ The President's restraint policy is stated in global terms and has not yet been translated into the needs and realities of U.S. relations with specific purchasing countries. Although State recognizes that more detailed criteria is essential to effectively implement the restraint policy, it sees criteria as detracting from foreign policy flexibility. ✓ Thus, meeting the dollar value ceiling has been given much more attention than preparing specific country-by-country guidance.

✓ Individual case determinations, influenced by the political or military concerns of the moment, bear heavily on the evolving U.S. arms supply relationship with an individual country or region. ✓ GAC believes that arms sales requests should be judged against pre-established country criteria. ✓ Guidelines in the form of clear statements about what the United States will and will not sell to each eligible purchaser are essential to counterbalance the momentum that normally develops behind a sales request.

NEED FOR ANNUAL PLANS

✓ Inadequate interagency planning for military sales has been a continuing problem. ✓ To

correct the problem, the executive branch told the Congress that planning and analysis would be improved by annual incountry assessments of security assistance needs.

GAO found these annual assessments to be valuable tool, but that they have been used simply as internal resource documents. The information in each assessment could be used as the basis for detailed review and development of approved courses of action for each key country for the following year. A country plan would permit and encourage firm responses to requests prior to their actual submission. Such plans could serve to change arms sales decisionmaking from the present reactive process to a more anticipatory process--something considered necessary by the State Department.

Development of country-by-country restraint plans would provide the Congress with an integrated plan and rationale and enhance congressional oversight capabilities.

RECOMMENDATION
TO THE CONGRESS

The Congress has two recurring concerns about its foreign military sales oversight responsibilities.

1. It becomes involved in the decisionmaking process too late to have a meaningful impact on the outcome.
2. The ad hoc, piecemeal nature of congressional review does not permit full consideration (country-by-country and region-by-region) of the total needs and extent of U.S. involvement.

Several unsuccessful attempts have been made to overcome these concerns. GAO believes an annual country-by-country plan setting forth in detail and justifying U.S. Government military sales for the coming year can be prepared and that it is necessary for effective congressional oversight.

Rec. to Cong. should
GAO recommends that the Congress require the President to submit, prior to the start of each fiscal year, a detailed plan for each nonexempt country purchasing significant quantities of military equipment from the U.S. Government.

The plan should define the U.S. military supply relationship with each country and identify the limits on that supply relationship by specific weapon or weapons category. The plan should include:

- an identification, with justification, of all major defense equipment which the President has approved or plans to approve for sale to each country during the year, and
- a list of major defense equipment which each country is or may be interested in purchasing in the following 2 years.

Significant changes to the plan during the year should also be submitted to the Congress. ~~Because of the sensitivity of such information, it should be transmitted with an appropriate security classification.~~

AGENCY COMMENTS

The executive branch:

- Believes that the ceiling serves as an important management device to insure that the totality of arms transfer decisions are looked at as the merits of individual proposed sales are assessed.
- Stated that case-by-case review means that each case is examined to determine if the merits of a particular request fall within already established policy, or if there are unique aspects to the case which would warrant exceptional handling.
- Disagreed with GAO's conclusion that the review process tends to build a momentum for positive approval, noting that the process requires a positive determination that the proposed sale contributes to the

promotion of U.S. security or to the security of our close friends.

--Did not agree that a detailed annual plan for each nonexempt country would serve U.S. interests. The executive branch said that pre-established country criteria might adversely affect U.S. arms restraint objectives in at least two ways.

1. The guidelines might stimulate interest in items which a country might not otherwise have sought.
2. Perceived discrimination in the country-by-country guidelines could heighten local rivalries and fuel regional arms races.

Each significant agency comment is addressed by the GAO in the pertinent chapter of the report.

C o n t e n t s

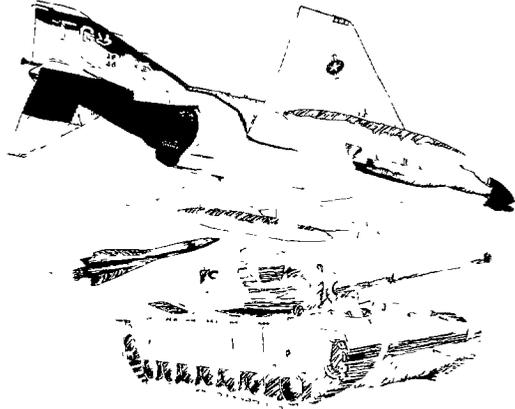
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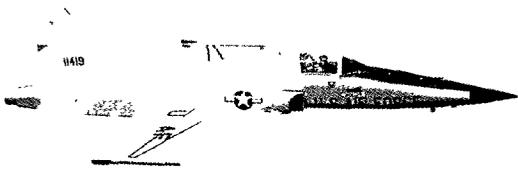
ABBREVIATIONS

ACPA	Arms Control and Disarmament Agency
AECB	Arms Export Control Board
CIA	Central Intelligence Agency
DOD	Department of Defense
FMS	Foreign Military Sales
MAP	Military Assistance Program
NSC	National Security Council

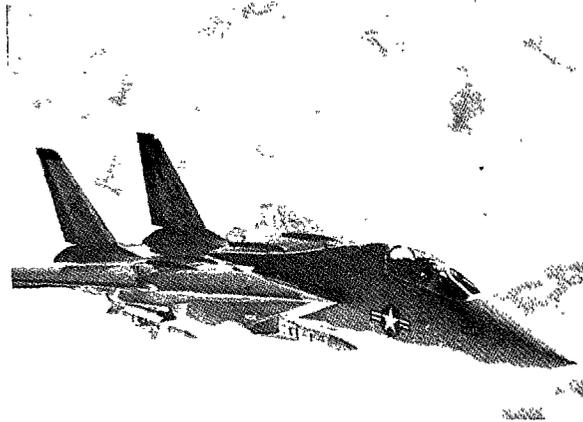
POPULAR U.S. WEAPONS SOLD ABROAD



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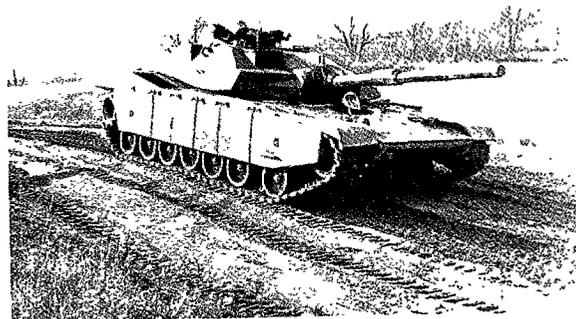
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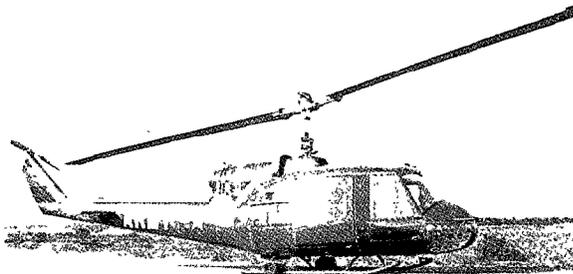
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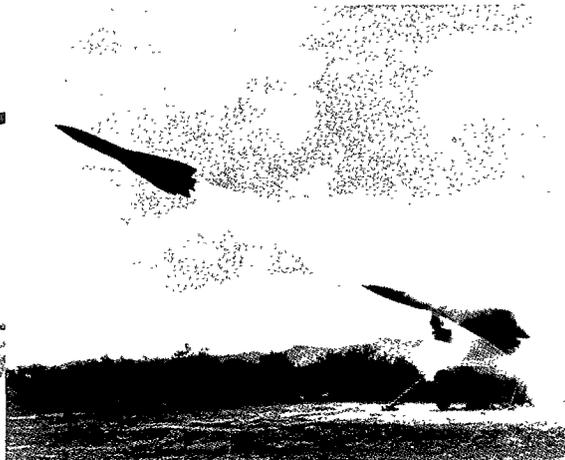
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**TANKS
NUMBERS SOLD: 7,734**



UH-1 (IROQUOIS)
NUMBERS SOLD: 466



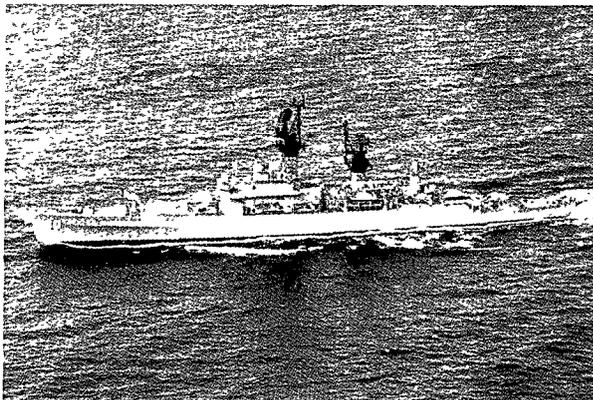
HAWK MISSILE
NUMBERS SOLD: 5,312



DRAGON MISSILE
NUMBERS SOLD: 91,173



TOW MISSILE
NUMBERS SOLD: 124,047



SHIPS (PATROL FRIGATES)
NUMBERS SOLD: 9

TOP TEN BUYERS-FY 1978 OF U.S. ARMS

ORDERS PLACED DURING
THE YEAR ENDING SEPTEMBER 30, 1978

Saudi Arabia	\$4.137 BILLION
Iran	2.586 BILLION
Israel	1.750 BILLION
Egypt	937 MILLION
United Kingdom	486 MILLION
Germany	430 MILLION
Korea	390 MILLION
China (Taiwan)	346 MILLION
Japan	339 MILLION
Australia	337 MILLION

CHAPTER 1

INTRODUCTION

International trade in arms has become one of the fastest growing and most competitive global businesses. The extent of this growth is shown by the fact that in the past 5 years the value of such trade equaled all worldwide arms trade during the preceding quarter century. This growth occurred despite the United Nations designation of the 1970s as the disarmament decade.

Of the dozens of conflicts and wars occurring since World War II, all were fought on Third World territory and primarily, and at times exclusively, with weapons imported from the industrialized nations.

The President has stated that the United States is the leading supplier of arms to the world, accounting for nearly as many arms exports as all other suppliers combined. Most U.S. transfers are made on a government-to-government basis, and a large number of Government officials are involved in managing arms sales.

The first large-scale transfer of American arms abroad was made pursuant to the Lend-Lease Act of 1941. Subsequently, the Truman Doctrine, announced in 1948, authorized arms transfers to foreign countries to reinforce security commitments and promote national security. From 1948 through the mid-1960s, most American arms were given free as military assistance. Because the taxpayer was footing the bill, there was a built-in control through the authorization and appropriation process.

Today more than 90 percent of American arms transfers are government-to-government sales. This change immeasurably increased the difficulty of establishing effective legislative control over such transfers. It also, in effect, transferred nearly all authority over such transfers from the Congress to the executive branch. In recent sessions, however, the Congress has taken a number of actions to increase its oversight and control of such sales.

Arms transfers in this decade have assumed increased importance for suppliers and recipients alike because of:

- The emphasis placed on the transfer of highly sophisticated and deadly weapons. Except for heavy bombers and nuclear warheads, the arms trade includes virtually the entire spectrum of arms.

--The rapid escalation of arms transfers to non-industrialized countries. Developing nations, which receive most U.S. arms, are spending more for military purposes than for health and education together. Advanced weapons systems are costly; the price of a modern fighting ship exceeds the gross national product of a number of nations. The President recently concluded that the unrestrained spread of conventional weapons threatens the stability of every region in the world.

--The number of non-industrialized nations producing at least some arms has grown significantly. This is due in large part to the transfer of know-how through coproduction and licensing agreements. The release of know-how is an irreversible decision; once released it can be neither taken back nor effectively controlled.

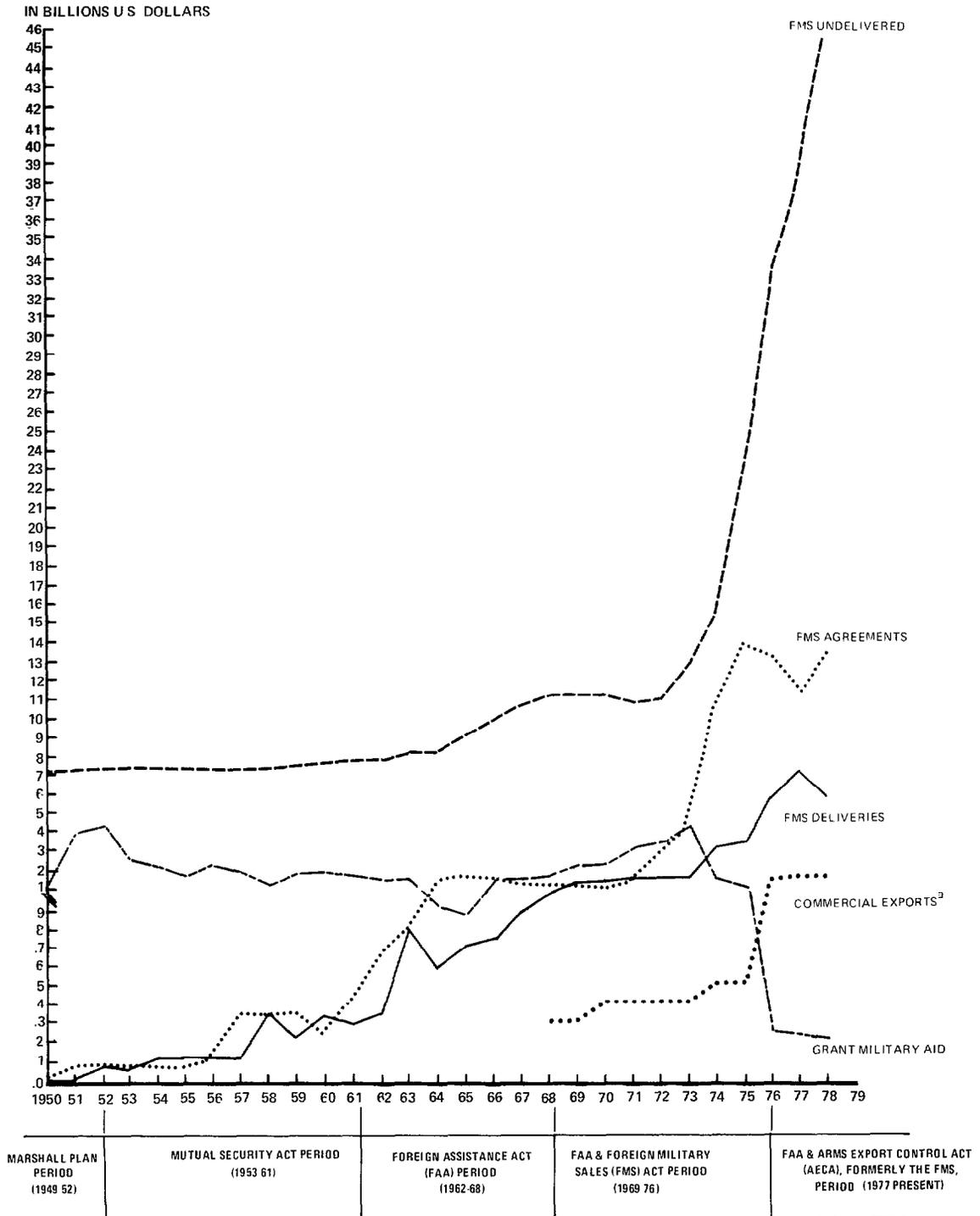
The United States provides defense articles, military training, and other services through grants, credit, or for cash under the security assistance program. The fiscal year 1979 program consists of the:

1. Military Assistance Program (MAP);
2. International Military Education and Training Program;
3. Foreign Military Sales Credit (FMS-credit) Program;
4. Economic Support Fund Program 1/; and
5. Foreign Military Sales Cash (FMS-cash) Program.

Appendix I shows the trends and directions of U.S. transfers in the post-World War II period. The chart on page 3 presents three FMS indicators, commercial arms sales, and grant military assistance from 1950 to 1978. The changing dimensions of FMS versus grant aid, shown in the aggregate here, are the basis for many issues addressed in this report.

1/Formerly the Security Supporting Assistance Program.

FMS, COMMERCIAL EXPORTS, GRANT MILITARY AID



^a The cumulative total for FY 1960-1967 equaled \$1.5 billion. No data was available for prior years.

WHY THE REVIEW WAS MADE

In mid-1978 two congressional committees and a congressional subcommittee independently requested that we identify and examine the executive branch decisionmaking process for government-to-government conventional arms transfers. It was suggested that our examination include case studies and that we give particular attention to:

- Roles of and relationships between executive agencies and divisions within agencies.
- Implementation of the executive branch's arms transfer policy, including its relationship to the security assistance program.
- Alternatives to current executive branch decisionmaking processes.
- Ways that congressional oversight and control might be improved.

SCOPE OF REVIEW

Serious restrictions were placed on our review by the executive branch. We were not permitted access to a large number of documents related to the decisionmaking process and variations in that process. Many of the officials involved in the process were not permitted to discuss the details of individual decisions with us. These restrictions severely hampered our attempts to analyze the roles of and relationships between executive agencies and divisions within agencies.

Notwithstanding these restrictions, we believe that we obtained sufficient documentary and oral evidence to support our conclusions and recommendations.

To understand how the decisionmaking process works, we undertook a detailed examination of requests approved and disapproved since the announcement of the President's arms restraint policy in May 1977. Starting from the point that expressions of interest were first noticed by U.S. officials, we traced cases to the point that definite yes or no decisions were made.

The case studies permitted us to gain a direct knowledge of how the process works. More importantly, they provided a check against which to measure the changes in the process as related to us by the executive branch officials we interviewed.

Thus, our report represents a careful synthesis of firsthand observations and agency officials' perceptions, which were compared and tested against one another at every opportunity.

We also studied the implementation of the executive branch arms transfer policy and its relationship to the security assistance program, the workings of the Arms Export Control Board, relevant legislation, and the information flow from the executive branch to the Congress.

In commenting on our draft report, the Department of State said:

"A brief comment is required on the methodology employed. First, we do not believe that the analysis of selected cases adequately addressed the complex set of foreign policy concerns that must be assessed in each case. Second, we believe the specific cases chosen are not representative samples. The choice of cases seemed to reflect more the degree of public visibility of the proposed sales and did not take sufficient account of the special circumstances that frequently prevailed. In any event, we believe it would have been preferable to produce a classified report to Congress in which the specific aspects of each case could be discussed, rather than one designed for public distribution. We greatly appreciate the efforts of the GAO to minimize any adverse foreign policy repercussions by not identifying specific items and countries. However, the report as it now stands is at such a level of abstraction that we frequently cannot identify the item proposed for sale or the country involved. This makes it difficult to verify the accuracy of the assertions or to comment on the analysis."

The cases selected for our review included both controversial sales requests and routine follow-on sales. At the suggestion of the Under Secretary for Security Assistance, we studied turndowns, as well as approvals. In addition, countries selected reflected the diversity of U.S. objectives in selling arms. They included: a country in the Far East with whom the United States had close defense ties; a Latin American country where the United States was concerned about a return to civilian government; a European country with whom arms sales and grants were promised in return for base

rights; an Asian country with important oil reserves; and two Middle-Eastern countries which are crucial petroleum exporters and purchase large volumes of arms.

Thus, our review of cases did reflect the complex set of foreign policy concerns inherent in arms sales requests. In addition, it reflected the President's policy initiative of unilateral arms restraint whereby arms sales are made for demonstrable national security objectives and not simply to promote good relations.

Agency officials should have been able to identify the examples used in the report since they assisted us in case selection; we are prepared to further discuss these examples with them. We continue to believe that the publication of an unclassified report best serves the interest of the Congress in understanding and improving the arms sales process.

CHAPTER 2

ORIGINS OF RESTRAINT POLICY

In recent years the Congress has increasingly participated with the executive agencies in determining the content, direction, level of funding, and eligibility of foreign governments in the security assistance program. It has continued to declare its intent to press for an arms transfer policy, especially the need to control the spread of conventional arms.

Since FMS cash sales are basically an unfunded Federal program, the Congress, in pursuing methods to achieve its oversight functions, has taken at least the following actions to control U.S. arms transfers:

1. Required the executive branch to provide information and/or consultation.
2. Prohibited arms transfers to specific countries.
3. From time to time set certain annual country and regional ceilings on the value of arms transfers.
4. Established eligibility restrictions for foreign governments requesting arms transfers.
5. Provided for a "legislative veto" of certain actions (that is, major arms sales agreements) as a method of last resort.

In 1976, the Congress expressed its desire that the executive branch establish a comprehensive arms transfer policy. The International Security Assistance and Arms Export Control Act of 1976 required the President to review and report on the policies and procedures covering FMS throughout the executive agencies by mid-1977.

MOVE TO A FORMAL ARMS TRANSFER POLICY

After a comprehensive, Government-wide review President Carter presented a broad arms transfer policy statement in May 1977, and transmitted the required report to the Congress on June 30, 1977. Since May 1977, two additional policy statements have clarified the most visible element of the policy--an almost worldwide fixed ceiling on U.S. arms transfers. (See app. II.)

In general terms, long-term objectives of the President's policy were to:

- reduce the level of international arms trade;
- restrain sophistication of U.S. arms transfers;
- abate the crisis of spiraling arms transfers;
- recognize the U.S. responsibility to restrain its arms transfers;
- stop U.S. arms transfers that do not contribute to national security; and
- shift the "burden of persuasion" from those who oppose a particular arms sale to those who favor it.

At the heart of the policy were a number of control mechanisms designed to restrain the transfer of sophisticated U.S. weapons to developing nations. Excluded from the controls were arms transfers to 14 NATO countries, Japan, Australia, and New Zealand. The controls state that:

- The President will set fiscal year ceilings, adjusted for inflation, on the dollar volume of certain U.S. arms transfers.
 1. For fiscal year 1978, \$8.551 billion, a reduction of 8 percent from 1977 (2.3 percent before adjusting for inflation).
 2. For fiscal year 1979, \$8.434 billion, a reduction of 8 percent from 1978 when adjusted for inflation.
- The United States will not be the first supplier to introduce a newly developed, advanced weapon system into a region.
- The United States will not make a commitment for sale or coproduction of a newly developed, advanced weapon system until it is operationally deployed with U.S. forces.
- The United States will not permit development or significant modification of advanced weapons solely for export.

--The United States will establish controls over coproduction of significant weapons, equipment, and major components.

--The United States may refuse recipient requests for retransfers for certain arms sales.

--The United States will set up controls on the promotion of arms sales.

1. State Department authorization is required to conduct promotion activities by private manufacturers.
2. Embassies and military representatives abroad will not promote the sale of arms.

The new policy besides excluding major U.S. allies, does not cover commercial arms sales, military construction, and items that are not "weapons and weapons-related." Total exclusions accounted for \$6.6 billion in sales in 1978.

ARMS REVIEW PROCESS

Foreign interest in purchasing U.S. military equipment may arise from: (1) a foreign country's evaluation of its defense requirements, (2) discussions with U.S. military officials concerning their assessment of security assistance plans and objectives for the country, (3) U.S. defense surveys or weapons suitability studies conducted to determine specific country needs and requirements, or (4) information gained on a particular item from various military equipment publications, advertising, or actual discussions with manufacturer representatives. Precisely pinpointing where initial interest is generated in a particular capability is however extremely difficult.

Inquiries relating to a new capability are normally first directed to U.S. military officials incountry. The host country often seeks to obtain preliminary planning data on system capabilities, performance characteristics, price and availability data, planning and budgetary data and support requirements. Permissions to release such information to the host country must however come from the executive branch. Formal requests for such data or for the actual purchase of a weapon system can also be given directly to: (1) U.S. Embassy officials, (2) the State Department by the country's embassy in Washington or possibly its purchasing mission in the United States, or high level U.S. officials, i.e., between Heads of State.

While some requests for preliminary data are politely turned down or never answered by the State Department, decisions to provide such data start a process which often involves extensive communication between both countries. Face-to-face discussions, detailed briefings, possible defense surveys and studies of requirements, contractor visits, weapons testing, competitive selection and negotiations, usually mark this stage of the sales process.

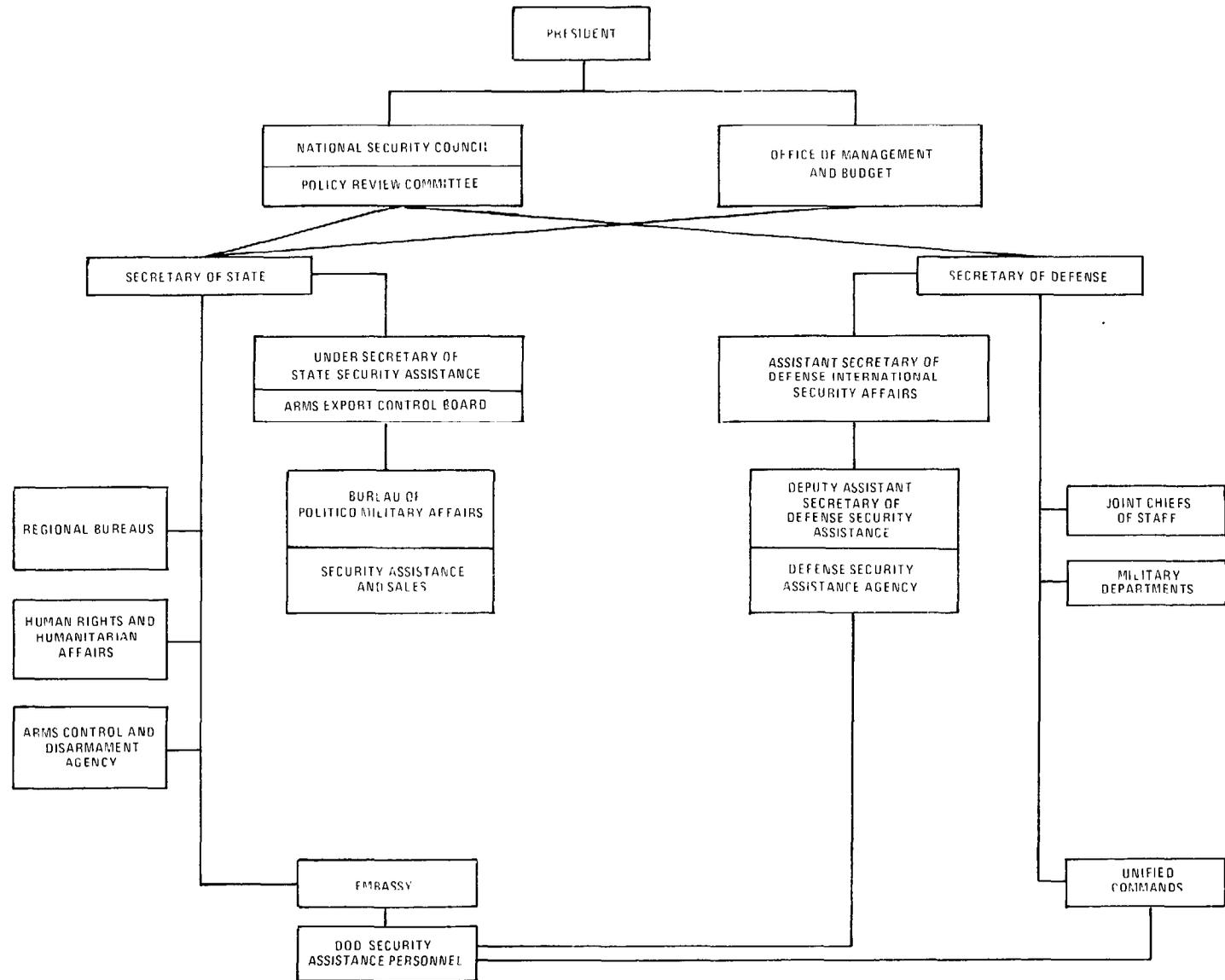
The final stage of the process involves submission of a formal government-to-government request for purchase of a particular weapon system. Within the U.S. Government, the State Department has primary responsibility for determining whether there shall be a sale and the amount of that sale. Other agencies though--particularly the Defense Department--have significant influence on decisions. The National Security Council (NSC), the Arms Control and Disarmament Agency (ACDA), the Office of Management and Budget and the Treasury Department play important roles in arms decisions. Smaller roles are played by the Central Intelligence Agency (CIA) and the Commerce Department.

Within the State Department the responsibility for advising on policy matters is delegated to the Government's coordinator for security assistance--the Under Secretary of State for Security Assistance, Science, and Technology--who not only coordinates internal State Department activities but also serves as chairman of the Arms Export Control Board, which was established in 1977 to centralize Government-wide security assistance inputs and actions.

Within the Department of Defense (DOD), the Assistant Secretary of Defense for International Security Affairs has responsibility parallel to that of the State Department Under Secretary. Most day-to-day interaction between State and Defense at the operating level, however, is found in the close relationship between State's Bureau of Politico-Military Affairs, particularly its Office of Security Assistance and Sales, and the International Security Affairs Office for Security Assistance, particularly its Defense Security Assistance Agency.

Analysis of the arms sale process and the relationships between many of the offices and individuals highlighted here are discussed in Chapter 5. The following chart simply identifies the principal executive agencies and offices involved in the arms transfer decisionmaking process.

PRINCIPAL EXECUTIVE BRANCH ORGANIZATIONS INVOLVED IN ARMS TRANSFER DECISIONMAKING



CHAPTER 3

OVERVIEW OF THE FIRST 2 YEARS OF RESTRAINT

A fundamental aim of the restraint policy is to set a unilateral example of arms restraint for other countries to follow. This aim has received worldwide attention and its declaratory value cannot be underestimated. To date, however, the evidence that the executive branch has marshalled to demonstrate arms restraint accomplishments is not convincing. The continuation of the current restraint policy may be contingent on other suppliers and recipients joining the United States. To date none have done so.

NO CREDIBLE REDUCTION IN SALES

The President's commitment to curb arms sales was reinforced by the imposition of a yearly fixed dollar ceiling. The ceiling, as the most visible element of the policy, has not gained general acceptance as a true measure of restraint. This difficulty stems from definitional concerns about what items are included in the ceiling and when.

As mentioned previously, certain countries were excluded from the ceiling. Sales to these countries have grown, and total military sales reached their highest level ever in 1978. Nevertheless, the executive branch has contended that restraint was achieved by staying within the prescribed ceiling.

Adding further confusion was the decision to discard the commonly understood definition of an arms sale. The change in definition, which involved the exclusion of certain categories of sales from the ceiling, was viewed by many in Congress as an attempt to convince others that the United States was selling less than it actually was. The two exclusions which raised the most questions, commercial sales and military construction, totaled \$3.4 billion in 1978.

Finally, the action which eliminated the ceiling as a convincing measure of restraint was the decision to count portions of sales agreed to in one year against future year ceilings. This practice--which some have dubbed "mortgaging the future" or "creative bookkeeping"--has become an often used procedure. For example, the controversial F-15 aircraft for Saudi Arabia as approved by Congress had an estimated value of \$2.5 billion, but only \$1.5 billion was included in the fiscal year 1978 ceiling, and the remainder was pushed forward to be included under future ceilings. We are aware of five other cases of such ceiling splitting. While we do not know the total value of splitting in fiscal

year 1978, the State Department has reported that \$4.8 billion in sales cases considered in fiscal year 1978 will have to be accounted for under future year ceilings. Although a measure of restraint was achieved by staying within the fiscal year 1978 ceiling, 1/ this was ultimately achieved by mortgaging the future.

TURNDOWNS COULD BE EFFECTIVE
EVIDENCE OF RESTRAINT

The executive branch gave little or no consideration to reporting on arms request disapprovals as a method to evidence restraint. It was not until February 1978, at the request of a congressional subcommittee, that the State Department developed such information. The document submitted was misleading, omitted some relevant data, and failed to demonstrate that turndowns had increased under the policy. The quality of the report suffered because of hasty preparation and vague definition of terms, no formal system of recording turndowns, and lack of a standard against which to judge turndowns. We found that a number of the items claimed as turndowns should not have been included.

- In one case the country never expressed interest in or discussed the possibility of purchasing the item.
- One item was not turned down until 9 months after the list was submitted to the Congress.
- Requests for two items are still pending, and no decision has been made to turn down the requests.
- In two cases commitments had been made to sell items once they became releasable.

We also noted that one major turndown was omitted, which by itself equaled more than twice the value of the billion dollars in turndowns claimed by the executive branch.

1/Our report, "The Defense Department's Systems of Accounting for the Value of Foreign Military Sales Need Improvement," Mar. 16, 1979 (FGMSD-79-21), concluded that the President based the fiscal 1978 arms sales ceiling on incorrect information. Had the correct sales figures for fiscal 1977 been known, the 1978 ceiling might have been set \$420 million lower.

In conclusion, the executive branch did not effectively marshal its potentially most convincing evidence that the United States was in fact exercising unilateral restraint. If records were kept of all valid turndowns according to established definitions and they were reported to Congress, this would be one effective method for the executive branch to show the impact of the policy over time.

SALE OF SOPHISTICATED WEAPONS CONTINUES

The increased transfer of sophisticated weapons overshadows any evidence of restraint provided by the ceiling or turndowns. The policy's broad, qualitative restraints have had little impact on reducing the transfer of sophisticated weaponry. Arms agreements signed since announcement of the policy have included many of the most advanced systems in the U.S. inventory (i.e., F-15, F-16, AWACS, TOW). Such sales clearly do not help to convince other suppliers of the U.S. resolve for restraint nor set the proper example for others to follow.

NO PROGRESS TOWARD MULTILATERAL RESTRAINT

When he announced the policy, the President emphasized that unilateral restraint is only a means of convincing others to join with the United States in reducing worldwide arms transfers; while the United States could and should take the first step, it could not go very far alone. The executive branch continues to emphasize that multilateral cooperation is essential to the achievement of meaningful restraint. Consequently, future U.S. arms transfer levels have been made contingent on the degree of international cooperation, as evidenced by specific achievements and concrete progress toward mutual restraint.

Despite numerous meetings with other major arms suppliers, there have been no concrete achievements during the past 2 years. Western European countries have told the United States that their cooperation hinged on evidence of Soviet restraint. Some military analysts have pointed out that European cooperation is unlikely because in comparison U.S. allies have a greater economic incentive to sell arms. U.S. officials were not very encouraged by the December 1978 round of talks with the Soviet Union on reducing arms transfers. Apparently, the only agreement reached was to meet again in 1979.

While noting the lack of progress in achieving multi-lateral cooperation, many U.S. officials have suggested that other suppliers would attempt to sell weapons systems comparable to the type the United States refuses to sell. The Arms Control and Disarmament Agency does not believe that enough time has elapsed to pick up definite trends. However, defense industry and other observers have noted increases in arms sales agreements by other suppliers during 1978. For example, from April 1977 to April 1978, Britain increased its arms exports by 17 percent.

To date no other principal suppliers have joined the United States in restraining arms transfers. If the goal of the policy is multilateral restraint, what does the executive branch intend to do if other suppliers or recipients have no interest in restraining arms transfers? Will the United States attempt to restrain its own sales without regard to the policies of others or will it take an entirely different approach?

NEED FOR MORE RELIABLE DATA
TO SUPPORT DECISIONMAKING

The President adopted a restraint policy for conventional arms transfers based partly on the assumption that the United States was the leading arms supplier. This assumption, indicating the level of U.S. involvement, has been based on dollar sales data, trends over time, and in comparison with other nations. Our examination of the data base on conventional arms transfers indicates that there are serious questions about the comparability of U.S. conventional arms transfers data with the data on other suppliers and that little attention has been given to the qualitative measurement of conventional arms transfers.

Comparability of U.S. data
with other suppliers

The United States is the only major arms supplier that publishes data on arms transfers. Because there is little data available on arms transfers of other nations, it has been necessary to estimate such transfers in order to make any comparisons. However, as stated in a report of the U.N. Secretary-General:

" * * * there are considerable difficulties in devising meaningful yet operative and internationally comparable definitions of military expenditures, in converting national currency figures into a common currency, and in deciding how to correct for price changes in the civilian and the military sectors of the economy, respectively."

The CIA has made major efforts to develop arms transfer data for the Soviet Union, a leading arms supplier. In attempting to develop comparable data, problems arise which cause inconsistencies in the data. CIA data for the United States includes all goods and services (i.e., advisory efforts, construction, support and logistic equipment) while its data on the Soviet Union only includes an estimate of the actual arms transferred. Hence, U.S. arms transfers as reported by the CIA are probably overstated in relation to those of the Soviet Union.

Little attention given to qualitative measurement

The President expressed concern over the increase in total dollar value of weapons transferred over the years and also indicated a concern that these weapons are more sophisticated and deadly. Recent analysis of equipment transfers, including a study prepared by the CIA, show that in certain regions, the United States is not the leader of arms transfers in terms of type of equipment, level of sophistication, and capability. Based on data developed by ACDA, it was concluded that during 1966-76, the Soviets exported 10 percent more artillery and 110 percent more supersonic aircraft and that although the United States still dominates overall arms transfers in South America, the Soviets lead in introducing supersonic jets and new types of tanks. These observations are supported by the CIA study covering arms transfers for 1974-77.

- The Soviet Union sold and delivered to less-developed countries more fighters, bombers, tanks, anti-aircraft guns and artillery than the United States.
- The United States provided countries with more training, transport planes, helicopters, armored personnel carriers, and self-propelled guns.
- U.S. programs included large construction projects, often with civilian as well as military uses; there is no similar Soviet program.

With the policy's basic aim to reduce global arms transfers, a well-developed data base is necessary to both formulate and evaluate an arms transfer policy.

CONCLUSION

The inability to present a credible image of unilateral restraint will only make it more difficult to convince other countries to join in curbing arms transfers. We believe that reporting on turndowns could be an effective way to demonstrate unilateral restraint, but only if the executive branch establishes standard definitions of turndowns and turnoffs, a system of records to facilitate periodic reporting to the Congress, and a standard against which to measure turndowns.

RECOMMENDATIONS

We recommend that the Secretary of State:

- Develop definitions of turndowns and turnoffs, a standard against which to measure turndowns, and a system of records to facilitate periodic reporting to the Congress on turndowns and turnoffs.
- Develop data on global arms transfers on a comparable basis for all countries. The data should not only include the value of arms transfers but also the type or categories of items transferred.

AGENCY COMMENTS AND OUR EVALUATION

In commenting on our draft report, the Department of State said:

"Although we are unable to identify the specific examples GAO cites as inaccurate, the GAO is correct that records of turndowns and turnoffs are not kept in an ideally comprehensive or systematic fashion. The lists we prepared were representative and dealt only with cases on which specific actions were taken. The lists do not cover, for example, informal turnoffs in the field or those associated with multiyear procurement plans of foreign governments. In the latter instance, we frequently took no formal action, but our comments were such that the requesting government readily perceived that if they pressed for a formal response it would be largely negative. The lists also do not contain a large number of cases that were refused on technical security grounds.

As to GAO's criticism of how turndowns are explained to foreign governments, we note that one of the Department's major responsibilities is the conduct of foreign relations. If we are able to deflect an ill-advised request for arms in a non-confrontational manner that preserves good bilateral relations, we believe the national interest is well served."

The inaccuracies we found in the State Department list of turndowns were items which clearly should not have been reported as turndowns. If the executive branch has other valid turndowns or turnoffs that have not been reported, we believe that the Congress should be so informed. More importantly, the executive branch should establish and apply standard definitions in such reporting.

As to the need to preserve good bilateral relations in turning down "ill-advised requests," we note that the inter-agency study which preceded the announcement of the restraint policy argued for more candor in discussing arms requests with foreign governments. It concluded that frank exchanges could discourage the purchase of sophisticated equipment and encourage the acceptance of U.S. unilateral restraint decisions, particularly if the United States hopes to dissuade countries from seeking alternative sources.

CHAPTER 4

IMPACT OF RESTRAINT POLICY ON

OPERATIONS OF U.S. OFFICIALS INCOUNTRY

As a result of restrictions recently placed on incountry security assistance personnel by the Congress and the executive branch, overt Government promotion, to the extent it existed, appears to have been effectively curtailed. The more subtle forms of incountry promotion relating to the provision of professional advice, opinions, suggestions, and ideas have been more difficult to control. U.S. diplomatic and military officials have expressed varying degrees of uncertainty over their new roles, particularly the

- conflict between restrictions and existing mandates to provide advice;
- ability to discern when authorized advice becomes promotion of arms; and
- fact that current guidance is unclear on what can and cannot be done.

In addition, supervisory duties placed on the Ambassador have not taken into consideration program size, raising questions about the effectiveness of Embassy supervision.

RESTRICTIONS ON INCOUNTRY PERSONNEL

The Congress in legislation has limited the number of security assistance groups, specified the number of personnel to be assigned, and emphasized that their primary function is to manage country programs, not to provide advisory or training assistance. Such advice is to be provided by other personnel detailed for limited periods to perform specific tasks. Advisory and training functions by such personnel, commonly known as Technical Assistance Field Teams are narrowly circumscribed. DOD directives define these functions as the provision of technical support/instruction to foreign personnel on specific equipment in a country's inventory. The net effect of congressional action was to more narrowly define permissible "advice" thus curtailing the type of advice by U.S. military personnel that might result in requests to purchase U.S. military equipment.

The executive branch provided restraint guidance to all Embassy and security assistance personnel abroad which emphasized that:

- Foreign interest in U.S. defense equipment was not to be encouraged in conversations or correspondence.
- Provision of information, including planning data, that might elicit or influence a foreign request to purchase significant combat equipment required approval by the executive branch.
- U.S. officials should not speculate about possible release of a particular system or take actions such as studies, briefings, or visits implying a positive decision without prior approval.
- All official or private foreign interest in significant combat equipment, including informal inquiries, were to be reported through Embassy communication channels.
- U.S. personnel should not facilitate sale of significant combat equipment by representatives of U.S. commercial firms overseas by giving advice on sales tactics, making appointments with the host government, or providing support indicative of U.S. Government endorsement.

Additionally, both Congress and the executive branch have reemphasized the responsibility of the Chief of Mission in each country to direct and supervise incountry security assistance personnel.

EXISTING AGREEMENTS TO PROVIDE
ADVICE

Some of the countries we visited have bilateral agreements for the United States to provide advice. These are inconsistent with the legislative and administrative restrictions on advice. For example, the 1977 exchange of notes with Saudi Arabia establishing the incountry security assistance group states that the group's basic functions will include (1) advice for planning, organization, training, logistics, and supply, (2) provision of studies and recommendations requested by Saudi armed force officials or initiated by the U.S. Military Training Mission, and (3) administration of the U.S. military cooperation program.

U.S. military officials in Saudi Arabia told us that advising on equipment was inherent in the above functions

and that Saudi officials expected such advice. The U.S.-Saudi agreement has never been amended to reflect either congressional or executive branch restrictions on the advisory role of security assistance personnel overseas.

The 1976 Treaty of Friendship and Cooperation between Spain and the United States generally calls for the provision of advice, counsel and planning. For example, the Treaty set up a combined military coordination and planning staff. The U.S. staff representative is the Chief of the Security Assistance Group in Spain. He told us that the staff mission of planning to achieve strategic, tactical, and logistical coordination was a broad mandate which gave Spain every reason to expect it could ask for and obtain U.S. advice on modernizing and developing its armed forces. Another provision of the Treaty calls for the United States to make "a maximum effort to facilitate acquisition" of a specific new advanced fighter or another with similar characteristics. Spain has requested and received advice and information on U.S. aircraft in production and development. Finally, the Treaty commits the United States to facilitate coproduction agreements by giving prompt consideration to proposals for the transfer of necessary technical data, equipment, and materials. The restraint policy discourages coproduction of significant items, but the in-country security assistance group is constantly reminded by Spanish Officials that the Treaty obligates the United States to be responsive to questions on coproduction.

The 1955 Mutual Defense Treaty between the United States and Taiwan called for U.S. assistance in maintaining and developing Taiwan's military forces, and over the years, the U.S. security assistance group played a central role in modernizing these armed forces. Group personnel told us that Taiwan relied heavily on U.S. assistance in military planning, but stressed the difficulty in providing planning assistance with the prohibitions on giving advice related to specific equipment.

Such anomalies have not been specifically addressed in executive branch guidance to field personnel. When one Ambassador pointed out the existing conflicts between bilateral agreements and the restraint guidelines, the State Department compounded the confusion by admitting that the country in question was a peculiar case not exempted from the policy. State told the Ambassador that, while the country was exempt from specific policy provisions conflicting with the existing commitments, it was not released from the general spirit of the policy. In restating this guidance to in-country personnel, the Ambassador concluded that judgements of the parties involved should determine how individual cases are handled.

ADVISORY ROLES NEED CLARIFICATION

U.S. security assistance personnel in the six countries we visited told us that the prohibition against actively promoting arms sales was clearly understood and that overt promotion--if it had taken place in the past--no longer occurs.

However, some military personnel overseas noted that the legislation did not prohibit advice by U.S. military personnel but merely said it was not their primary function. Many pointed out that an advisory role was implicit in their presence and was expected by the foreign military. Some U.S. personnel--notably Technical Assistance Field Teams--have recognized legitimate advisory roles. They stressed to us the difficulty of determining whether some types of advice stimulate foreign interest in U.S. equipment.

With host governments paying for the services of security assistance personnel, foreign officials expect that advice will be provided when needed. This relationship creates strong pressure on incountry personnel to meet the needs of the country--be it advisory or otherwise.

Many of the security assistance personnel we met with overseas were actually colocated with host-country foreign military. Being asked for advice on military equipment is a natural daily occurrence. For example, one military official told us that he met twice a week with the head of the host country's air force. When asked about a system the foreign country was considering purchasing, he responded that the one used by the U.S. Air Force was better. The U.S. official explained that he is frequently asked such questions and believes that it is his job to respond accurately with sound military advice. He did not believe his answer constituted arms sales promotion. This official and others stressed that it was difficult to determine when the answer to a host official's question might result in a request to purchase U.S. equipment.

There is also confusion for those with defined advisory roles. In one country, U.S. military personnel on Technical Assistance Field Team headquarters assignments described themselves to us as consultants in the pay of the host government and not as U.S. military advisors. Defense instructions to Field Team personnel emphasize that they develop close working relationships with their foreign military counterparts. Such relationships, they told us, were built by being responsive, answering questions, and looking at things from the host-country, rather than the U.S., perspective. In this country, U.S. military officials told us that congressional and executive branch restrictions on advice were seen as posing a

difficult problem for some Field Team personnel because of the above described nature of their advisory roles. In talking with Field Team personnel we noted the following activities that appear to conflict with the President's arms transfer guidelines.

- Drafting host-country requests for purchase of U.S. equipment.
- Performing equipment evaluations for the host country that were determined to be inappropriate for non-Field Team U.S. military in-country.
- Advising host military that proposed third-country equipment would be more expensive and less effective than what the United States is using.
- Attending U.S. contractor briefings with host military on nonreleasable equipment.
- Preparing written information for host military on nonreleasable U.S. systems.
- Participating in evaluations of U.S. contractor proposals and commenting on those proposals.

While Field Team and other security assistance personnel did not view these activities as promoting arms sales, they are clearly actions which could stimulate foreign interest in U.S. equipment.

EMBASSY SUPERVISORY
CAPABILITIES LIMITED

The countries we visited had only one or two Foreign Service Officers assigned to cover political/military affairs--including arms transfers--despite the fact that volume and sophistication of arms sales and number of military and civilian contractors ranged widely from country to country. In two high-volume purchasing countries of significant foreign policy interest to the United States, the single Embassy political/military officer assigned could hardly be expected to assure that the hundreds of temporary military and civilian personnel performing specific advisory tasks were adhering to the restrictions on promotional activities or to direct and supervise incountry security assistance activities. The Embassy in one country was a 2-hour flight from the headquarters of the security assistance group.

Most of the overseas personnel we met with believe that only additional staff will improve Embassy oversight capability.

NO SYSTEM FOR MONITORING
CONTRACTOR PROMOTIONAL ACTIVITIES

The Government, in an attempt to gain knowledge of, and some control over, foreign promotional activities of U.S. arms manufacturers, amended the International Traffic in Arms Regulations in 1977 to require that private manufacturers secure advance policy-level authorization to promote arms abroad. U.S. firms found in violation of the regulation face possible criminal, civil, and/or administrative penalties.

The State Department's Office of Munitions Control was designated as the point of contact for firms seeking such authorization. Under existing procedures, we found that

- the Office of Munitions Control does not keep a running record of promotion requests approved and rejected;
- the Office of Munitions Control does not notify U.S. Embassies and Missions when a firm is granted permission to promote a specific weapon system;
- although firms are encouraged to check in with the Embassy to discuss their planned activities, there is no legal requirement to do so; and
- no violations have been identified during the 16 months the promotion regulations have been in effect.

In summary, no system exists for monitoring contractor-related promotional activities. However, even if such a system did exist, enforcement is unlikely because of judicial reluctance to order harsh penalties for regulatory crimes.

AGENCY COMMENTS AND
OUR EVALUATION

In commenting on our draft report, the Department of State said:

"We agree with GAO that obligations to provide advice to foreign governments undertaken by treaty or agreement could sometimes raise questions regarding the sense of Congress

(Section 515 of the Foreign Assistance Act) and Executive Branch guidance against an advisory role for permanently assigned military personnel. Nevertheless, we have worked fairly well for two years within these constraints. To the extent that practical difficulties arise, we have been able to deal with them through common-sense guidance tailored to deal with the peculiar circumstances involved."

We recognize that distinguishing among arms promotion, fulfilling treaty obligations, and normal diplomatic activities represents a difficult task. However, in view of the almost universal concern and uncertainty among Embassy and other incountry personnel, we believe it is a matter deserving continuing attention and guidance. In this regard, the development of country-by-country criteria and plans, the need for which is discussed later in this report, may be helpful to overseas personnel.

CHAPTER 5

OBSERVATIONS ON THE ARMS

SALES DECISIONMAKING PROCESS

The process by which the executive branch reviews foreign government requests to purchase military equipment and services relies heavily on case-by-case decisionmaking. Although the general level of U.S. military involvement in some countries produces a great deal of information on the host countries' military plans and aspirations for equipment, case-by-case decisionmaking remains the dominant feature of the review process.

The State Department is in charge of the sales program and final recommendations are made by the Secretary of State; however, other agencies, and particularly the Department of Defense have significant influence on decisions. Decisions on major requests are made through the process of building a consensus, which is sought within organizational units, within agencies, and between departments. Dissenting views within agencies are filtered out but disagreements between agencies are carried forward in the form of options. Consequently, every attempt is made to reach agreement before asking a higher authority to settle the issue, which could occur at the NSC or Presidential level.

Participants, realizing that the goal is consensus, test the thinking of the other participants in the process. Their reading can influence the position they take or the vigor with which they pursue it. ACDA, for example, could view its role as the voice of arms restraint within the executive branch. Agency officials pointed out, however, that if they "cried wolf" on every sales request received, their credibility and effectiveness would be severely reduced. Consequently, ACDA carefully picks and chooses the requests on which it will voice strong opposition. In the period January-December 1978, ACDA raised objections to 15 percent of the 1,070 cases it reviewed.

Some participants in the process tend to take predictable positions on requests. For example, Embassy and regional bureau officials see turndowns as complicating U.S. relations with the prospective buyer and, therefore, tend to support a country's request. Embassies delay or overvalidate requests to insure that Washington considers them under the best possible conditions. If a turndown is unavoidable, Embassies prefer a deferral rather than a flat no.

While incountry officials are generally responsive to a requestor's perceived needs, other participants tend to be more skeptical. ACDA is seen by some as objecting to every request it reviews. Similarly we were told that the Bureau of Politico-Military Affairs sees itself as the "enforcer" of the arms restraint policy and, thus, tends to react negatively to requests. One State regional bureau, for example, noted that Politico-Military Affairs sat on a request submitted by a country's Washington embassy until the regional bureau learned that the embassy had submitted a request and inquired about it.

Compromise is another key characteristic of the arms transfer review process. It can be seen in the actions of U.S. officials who feel a need to be responsive to an ally's defense needs or in the willingness of a foreign requestor to settle for an acceptable alternative to an item originally requested. One country which had been turned down on a number of jet aircraft requests, finally agreed to consider a U.S. counterproposal for a purely defensive capability. Because most countries attach a high priority to their requests it can be difficult to change their minds about purchasing a certain system. Tenacity on the part of some requestors, however, sometimes obviates the need to settle for less. One country adamantly refused to accept what it perceived to be a lesser capability and the United States eventually agreed to sell the desired system. The perceived importance of compromise frequently results in less than clear-cut decisions. Even turndowns are couched in language such as: "Why don't you come back later?," "We are still considering the request," or "We are giving you something in between." In short, the review process strongly implies a positive response or at least that a request is turned aside positively with a deferral or counteroffer.

WHAT IS THE BASIS FOR DECISION?

In reviewing individual cases, we observed that defining and reaching agreement on the policy considerations raised by a request can be difficult. In the absence of well defined country-by-country policy objectives, decision-makers are continually confronted with matching arms requests with various individual perceptions of what the U.S. arms relationship should be with a given country. Under these conditions, it is quite understandable that great difficulty is encountered in defining and agreeing on a given set of policy issues.

On the proposed sale of equipment to one country, we found no interagency agreement as to what policy issues should be addressed. Some officials felt that the only

issue was the technical one of systems compatibility. Others felt that the major issue was the effect of a denial on U.S. relations with a third country which stood to benefit from the U.S. sale. Three of the principals involved in the decision, the Secretaries of State and Defense and the President's National Security Advisor defined the issue still differently--Did the United States want to support the country's efforts to obtain a certain military capability? In country security assistance officials said that they deliberately did not raise this issue because they realized it would slow down the completion of the country-team assessment. We asked officials at several agencies whether the large size of the request did not raise a policy issue. They pointed out that, although the sale was being looked on as a one for one replacement of obsolete equipment, it obviously represented a vastly upgraded capability. Nevertheless, State did not feel it was appropriate to raise the issue of selling only a portion of the requested equipment since whether a country needed, say, 5 or 10 of an item was a subjective judgment.

Another type of request situation--follow-on sales--is generally treated as if it raised no new policy issues, because the buyer's need for an item and U.S. willingness to support that need have already been demonstrated. By the term follow-on, we do not mean support for equipment already sold in the form of spare parts or munitions but rather either replacement of older items with more technologically advanced equipment or additional quantities of items sold previously. Several of the cases in our review fell into this category. In general, these cases did not receive close scrutiny because of the precedent set by the earlier sale; in some cases, the need for the follow-on purchase was recommended to the countries by U.S. officials or by Defense surveys.

While the general criteria within the arms transfer policy provides some direction, it by itself was never intended to identify all relevant policy considerations. The cases we reviewed were all tested in one fashion or another, against the general criteria of the President's policy. In those cases which violated one or more of the restraint criteria, we found that some were rejected, some approved, and some in effect deferred. The existence of the criteria therefore did not act as an insurmountable barrier to approval but, instead, was used to make it easier to argue against a request when one or more of the parties to the decision considered this necessary.

For example, in one of our cases the proposed sale conflicted with two of the criteria in the President's arms restraint guidelines. Rather than turn the request down, both State and Defense recommended an alternative which strongly

implied a future commitment to sell the item. One high-level official argued that the administration should declare an exception to the policy rather than make it appear that the executive branch was trying to get around the policy. The President turned down the State-Defense recommendation and told the country the request was still under consideration.

WHAT AGENCIES HAVE THE MOST INFLUENCE?

The Defense Department, by virtue of its orientation, mission, expertise, relationships with foreign military, and delegated responsibilities, remains the most active and involved Government entity in foreign military sales. Defense is involved in detailed force planning; considerations of pricing, availability, releasability, and absorbability; and training, delivery, payment, and continued support of arms sales. Defense thus has tremendous influence on ultimate arms transfer decisions.

Department of Defense influence is lessened, however, when there is a specific and overriding policy objective for a given country. In these cases, State clearly asserts its leadership role in decisionmaking. For example, State plays an active role in considering sales requests from Taiwan because of the potential impact on the normalization of relations with the People's Republic of China. In the absence of clear, well-considered policy guidance, however, Defense's military or technical judgments have a tendency to drive decisions.

While deferring to military judgments is less likely with the existence of restraint criteria, we found that a Defense judgment that a sale is militarily justified still presents a formidable argument in favor of approving a sale.

For example, the United States had long supported an ally's desire to obtain a certain capability. Although there were several different approaches to providing that capability, the Defense Department concluded that the solution which made the most sense for a country involved the sale of a sophisticated new technology. This presented a direct conflict with one of the new restraint guidelines. Since the Department of Defense had already told the country that the new technology best addressed its needs, it became difficult to argue against providing it. The sale thus became an exception to the policy.

In another case we reviewed, the Defense Department favored approval of the sale of an advanced capability model

aircraft, not as yet operational with U.S. forces, because it believed it met a legitimate military requirement of the requesting country. The need to keep certain production lines open for the basic aircraft reinforced this desire to sell. Defense, however, realized that the sale was unlikely because the State Department would object on the grounds that the sale violated two provisions of the arms transfer policy. Defense, therefore, developed a compromise strategy that it thought all parties would find acceptable. The plan, in effect, would have changed an obvious turndown of a request into a deferral by offering the country something in between what it already had and what it wanted until the new capability could be released. The plan, if accepted, would also keep the production line open as the military wanted.

Accordingly, Defense recommended that the sale as requested not be approved and suggested offering instead a lesser capability which had the potential to accept the advanced technology when it became releasable. State accepted the Defense plan and recommended the course of action to the President. The country was informed of and concurred in the strategy developed. After the NSC had approved the strategy, ACDA made a last minute appeal to the President, who decided against the plan. ACDA believed that the Defense plan looked like an obvious attempt to get around the restraint policy without making a formal exception.

One of the obvious reasons military judgments are difficult to counter is the general lack of military expertise within State and other concerned agencies. In one case, for example, a country requested DOD to conduct a study of the trade offs of two competing but complementary defensive capabilities. State officials became very concerned with the effort because of fear that Defense was strongly biased toward selection of the more sensitive of the two systems. Knowledge that the outcome of the study--with its suspected bias--would form the basic justification for a request from the country prompted State officials to consider conducting a parallel study of its own. The thought of performing such a study with State personnel was dismissed quickly by officials because they recognized that State lacked the technical expertise necessary for such an undertaking. The ability to conduct such a study thus became dependent on the willingness of State to hire an appropriate private contractor. This alternative, however, was eventually dismissed as being inappropriate, considering the ongoing Defense study. The outcome of the Defense study confirmed State officials' suspicions. The sale was made.

In another case a nonexempt country's request for sophisticated electronic countermeasures equipment was disapproved because the equipment was not yet deployed with U.S. forces. Less sophisticated equipment was offered to and accepted by the country as part of a major aircraft purchase. The contract for the aircraft, however, included the modification required to accept the more advanced electronics. State officials, we learned, were completely unaware that provisions had been made in the contract to permit further accommodation of the advanced equipment. Further complicating the matter is the fact that Defense, on its own, ordered that the less sophisticated equipment be deleted from the purchase. This action was taken because Defense knew that the country would not accept the equipment being placed on its aircraft.

In one case, Defense encouraged the requesting country's interest in the more sophisticated of two systems. To illustrate, a test flight and the transmission of technical data on the less sensitive system were denied by high level Defense officials. Although the request for the more sophisticated of the two systems had been pending for some time, State favored postponing a final decision. Defense forced the issue by going directly to the President and recommending immediate approval of the sale, using as its central argument the technical suitability of and military need for the item. The President asked for a State Department analysis of the memo from the Secretary of Defense, but approved the sale before the response could be drafted. With the decision made, the State Department was in a position only to voice concern over the number of systems to be sold. Some officials felt that, over the course of consideration of the request, the importance of technical and military judgments precluded State from playing a more important role in the sale.

WHEN ARE THE DECISIONS MADE?

From the moment of first interest through the step-by-step process of informal discussions, briefings, surveys, studies, official visits, test-rides, or firing, and negotiations, the process is geared toward seriously responding to a buyer's perceived needs. The incremental nature of the process also tends to continuously reinforce expectations that requests will be approved. Various verbal and written pronouncements to the effect that such actions do not constitute a U.S. commitment to sell appear to be lost, if ever considered seriously, in the momentum that builds with each successive step taken on a major case. It is the actions and judgments which normally precede considerations of the formal

request which strongly influence the outcome of the formal decision. As one ACDA official pointed out, "the ballgame is over by the time the formal request is considered", that is, for the most part the nature of the decision has been determined prior to the formal request, and subsequent input falls on deaf ears.

In the period before the formal consideration of a request, agency officials have their greatest impact, although the President or the Secretaries of Defense and State may also become involved at this stage. While the actions taken vary, depending on the perceived military sophistication of the buyer, strength of U.S. defense ties, specific item being requested, and other factors, the following examples provide insight as to what actions can and do take place.

In March 1975, a U.S. military briefing team was sent to country X to explore with foreign officials the merits of a particular U.S. weapon system. The briefing provided was in direct response to a request previously received from country officials. Shortly after these discussions, a high-level official accepted a U.S. invitation to observe a demonstration of the system. Defense then provided a special briefing for another high level official in order to answer his questions concerning the relationship of the system in question with other equipment. Sometime afterward, this same official asked incountry U.S. military personnel to assist in preparing a report on the system for his superiors. In response, personnel drafted the terms of reference for a study that would form the basis for the report. The study, conducted and written by U.S. military personnel, concluded that the system uniquely satisfied the foreign country's requirements. When the study was presented to high-level foreign officials, they expressed a firm interest in purchasing a specific number of the weapon systems. Formal U.S. consideration of this request occurred shortly thereafter. After a series of positive responses to the country's interest in the system over more than a 2-year period, was the U.S. Government in a position to turn down the request? The sale was approved.

In another case, a high level DOD official, during a visit to the country in October 1976, suggested the continuation and expansion of an earlier program. These discussions were followed up in November by a letter to an official of the country. The letter stated that a decision was required by September 1977 and that U.S. incountry officials were available to assist in planning and in analyzing factors to be considered in arriving at a decision. The letter also suggested the need to consider specific types of equipment.

In July 1977, DOD officials were still saying that a decision by September 1977 was necessary to finalize equipment requirements and preclude later program implementation delays. In November 1977, the Security Assistance Group incountry reported to the U.S. Embassy that the country had decided to formally request the program and that the group had prepared a draft letter for country officials to send to the American Ambassador. Prior to receipt of the formal request, a study emphasizing the military utility of the program prepared by the Security Assistance Group at the request of the Ambassador was given to the foreign country. In late February 1978, the formal request was finally received by the U.S. Embassy. A month later, when the country asked why its February request had not been answered, it was explained that State and DOD had to analyze and review the request under U.S. Government procedures and that the request required approval from the highest levels of the U.S. Government. The foreign official stressed that "non-approval would compare to giving his friend one shoe and telling him that it will protect both feet". The sale was approved.

In a different case, a foreign country in 1969 informally requested a new aircraft to replace its aging jet fleet. A 1971 study conducted incountry by National Security Council staff concluded that the country should purchase the aircraft. Each subsequent U.S. annual security assistance requirements document endorsed the need for a new jet. In 1976, the U.S. contractor and country officials discussed purchase cost figures for the aircraft, but the country indicated that a formal request would have to wait until money was available for the purchase. The U.S. military also discussed the possible purchase with country officials in 1976. The head of the U.S. Security Assistance Group incountry retired later in 1976 and became the U.S. contractor's agent. In a January 1977 meeting between a State Department official and the foreign country's ambassador, the U.S. official stressed that despite the tighter controls over arms transfers, the sale of the U.S. aircraft appeared sensible and the United States would have an open mind. In February 1977 the country submitted to DOD a proposal drafted by the U.S. contractor for the purchase of a specific number of aircraft. In May 1977 the country formally asked for the preparation of letters of offer for the jets. Shortly thereafter, the NSC advised agency officials reviewing the request that the request was in keeping with the President's desire to take "certain initiatives" toward the country. The sale was approved.

HOW TIMELY ARE DECISIONS?

The maturation of a transaction is itself time consuming. In the cases we examined in detail, the formal request for a

letter of offer frequently arrived months or even years after a country first expressed interest in the system. In some cases it was not possible to clearly identify the time or place that interest was first expressed, particularly where there is a close defense relationship with the requesting country and a continuous give and take dialog about defense needs and options. However, the point is that weapon systems are contemplated for purchase, studied, surveyed, and related to the nature of U.S.-host country relations well before any official request for purchase.

All the cases we reviewed were formally requested and approved during 1977 and 1978, but initial interest was expressed much earlier.

For example, in one case military to military discussions started in 1973. Program and budget data was prepared and transmitted informally. In 1976, the Security Assistance Group believed that interest was keen enough to initiate a new request for detailed planning and budgeting data. A formal request for the system was received in March 1978.

In a different country, a 1974 U.S. military survey endorsed the country's military need for the item. During 1974, 1975, and 1976, several high level U.S. officials confirmed American willingness to supply the item. In 1976, test flights were arranged by DOD, and in February 1977 an official request was received by the U.S. Embassy.

In one other case, the item had been initially requested and approved in 1973 but not purchased due to lack of funds. The country resubmitted a request for the equipment in May 1978.

WHY IS EVERY CASE A PRIORITY?

To increase the likelihood of U.S. approval, foreign governments are reluctant to prioritize items, since it would imply that some requests need not be given as serious attention as others. For example, one country submitted a long-term request list identifying possible purchases over the next 5 years. The equipment was simply listed by military service, implying that each item was of equal priority. The overall prioritization asked for by U.S. officials was not given. Rather than rank items, foreign countries tend to emphasize the importance of each item. For example, during a meeting between U.S. Defense officials and a high-ranking foreign military official, the discussion focused on ways to expedite action on a number of different requests, even though U.S. officials had attempted at the outset to focus the talks on the issue of priorities among a number of pending requests.

U.S. officials, however, do not always raise questions about priorities or the relationships among requests. In one case, a country was considering letters of offer and acceptance for a system and at the same time asking that offers be prepared for a complementary system which could have replaced or at least reduced the requirement for the first. The relationship between the two requests was not addressed until almost 2 years after the receipt of the request for the related system. Eventually the letters of offer and acceptance for the first system were canceled. In another case, questions asked by U.S. officials at the outset resulted in a reduction in the number of items requested. The questions were raised in trying to establish the relationship between two separate requests for substantial quantities of the same item.

Requests from some countries appear to receive high priorities automatically. The United States, in exchange for the use of military bases, signed a treaty with one country which guaranteed an annual dollar level of credit sales. Embassy officials told us that as a result of the treaty, every request from the country is seen as a high priority and every delay in responding as a failure by the United States to live up to its treaty commitment.

Two of the cases we examined were considered to be such high priorities that they were described as the "litmus test" of U.S. relations with these countries. Both requests had been under consideration for some time, received wide publicity prior to a Presidential decision to go ahead with the sales, involved high level decisionmakers in both countries, and raised serious questions about whether it was in U.S. national security interests to provide the systems. These cases are examples of how foreign policy and national security considerations can become inextricably entwined during consideration of requests, forcing the United States into basing its decisions more on political than security considerations.

WHO ARE THE KEY DECISIONMAKERS?

During our review, we were told by State and NSC officials that White House and NSC involvement in reviewing individual arms sales requests has increased greatly under the present administration. The President himself, we were told, has made it a continuing practice to review all major sales cases to nonexempt countries and has on occasion gone against the wishes of both State and Defense by rejecting certain requests.

While we were unable to confirm actual Presidential review of all nonexempt countries' requests, we did note that high-level attention, including the President and the NSC, was characteristic of many of the cases examined. Such involvement, however, is more likely to occur when the case is considered politically sensitive or when agency disagreement exists. The President, we found, may become involved in a specific case at any point in the process. In one major case, actions taken by the President prior to receipt of an actual request effectively reduced formal consideration of the request by others to a perfunctory exercise.

A similar outcome was noted in a second case where, shortly after receipt of the request, instructions were passed from NSC stating that approval of the program was in keeping with the President's desire to take "certain initiatives toward the country". In another case, the President served as the court of last resort by accepting a last minute ACDA appeal to reject the sale of certain equipment which had previously been strongly recommended by both State and Defense. In another case, the President on his own initiative rejected a request which had been recommended for approval by all parties.

In tracing our cases through the myriad of agency officials involved in the decision to sell, we noted that most recognized that their actions and judgments contributed to the development of an institutional position on each case. We found it interesting, however, that none of these officials perceived their role as that of a decisionmaker or that their activity significantly affected the final decision. The feeling that the President or other high-level officials make the decisions is prevalent throughout the system. Most, therefore, view themselves as being well insulated and not accountable for any ultimate decision that might be made.

The perception of simply being a small gear in a complicated watch is not borne out by our case review. We found that many of these officials play a key role in decision-making and that individually and collectively they do exercise strong influence over final decisions.

For example, in one case, State Department regional bureau staff and U.S. Embassy officials played a key role. The country was convinced it faced a serious threat from a neighboring country. U.S. authorities disagreed, and several requests for sophisticated systems were turned down. Both Embassy and State Department regional bureau officials

believed that some system acceptable to the foreign military, yet defensive in nature, should be offered as a gesture of political friendship. The Embassy was instrumental in persuading Washington to send a Defense survey team to the country. The President accepted the Embassy's suggestion--made on the basis of an internal Embassy study followed by discussions with the foreign military--that the team should address the suitability of a particular system which the United States should agree in principle to sell. Accordingly, in a personal meeting with a high level official from the foreign country the President offered to sell this system if a survey team found it appropriate. Shortly after this meeting, the country requested the Defense survey and, when the team found the system suitable, formally requested that the United States sell the equipment.

In a different case, Security Assistance Group officials incountry initiated and submitted a request for program and budget data for a major acquisition. In mid-1977 the data was informally shared with the country. Foreign military officials at a low level--in the service program, plans, and budget section--had expressed only a verbal interest in the item. Requests for systems of such magnitude normally originated from a much higher level central procurement office.

In another case, Defense Security Assistance Agency officials offered to take steps which would have circumvented congressional review procedures in order to guarantee a country the price and delivery date quoted. The Agency would have processed a request for an amount below that requiring congressional notification. The action became unnecessary when price negotiation deadlines were extended.

CONCLUSION

Continued case-by-case decisionmaking has resulted in little action being taken to predetermine the direction and limits of the U.S. arms supply relationship with individual countries or regions. The U.S. Government has recognized the need for preestablished policy criteria and is making the transition to a decisionmaking process where specific criteria or rules, spelled out in advance, are applied to arms requests. Although such criteria will probably never be specific enough or articulated clearly enough for some, their development and further refinement should help demonstrate that arms sales requests are considered in a rational manner.

AGENCY COMMENTS AND
OUR EVALUATION

In commenting on our draft report, the Department of State said:

"GAO's contention that the Department of Defense dominates decision-making in the arms sales process is incorrect. The Department of State has statutory authority to conduct the decision-making process on arms transfer cases and exercises that authority. The Department of State reviews all proposed arms transfer requests. Our review is conducted at the earliest opportunity in the process. For example, the Department approves all requests as early as the planning and budgetary stage. We also approve all DOD survey teams and, through the Munitions Control licensing process, control significant commercial promotional activities. Where major items or sensitive systems are involved, options papers are prepared for policy-level decision. These decision documents are normally the product of an interagency review process. The Department of Defense input is important as is that of other agencies such as ACDA and the NSC. Of course, where a policy decision has been taken to supply a system, the Department of Defense, under law, is responsible for the implementation of that decision."

We clearly recognize the Department of State's authority, indeed responsibility, to take charge of the decisionmaking process. Our point simply is that because of the Defense Department's assigned mission both as part of and outside the decisionmaking process, it has tremendous influence on the ultimate arms transfer decision. The relative influence of any agency other than State would be a moot point if country-by-country criteria and planning for arms sales were prepared and approved by the executive branch. This is discussed in Chapter 6.

The Department of State also said:

"We would also take issue with GAO's contention that the review process tends to build a momentum of positive approval for an arms sale. Requests by foreign governments are reviewed at an early stage on a case-by-case basis. If a policy issue is involved, the pros and cons of the proposed transfer are analyzed in detail and a wide range of options are presented to the policy maker. These options frequently include an option for a less

capable system and/or an option for outright refusal. The views and recommendations of all agencies concerned are included. This is not a process which can be characterized as building a momentum for approval. In fact, in contrast to the past where arms sales were sometimes approved in the absence of an objection, the present process requires a positive determination that the proposed sale contributes to the promotion of our security or to the security of our close friends."

Our review of case-by-case decisionmaking showed that by the time a formal request is received and options presented to U.S. policymakers, a number of events which add positive momentum to that request have already occurred. In addition, even when requests are reviewed at an early stage the result tends to be a deferral or less than a clear cut yes or no answer to the foreign country. This in turn adds momentum to the request.

CHAPTER 6

UNILATERAL RESTRAINT CAN BE

MADE MORE EFFECTIVE

To date, the executive branch has not systematically fitted the worldwide restraint policy to the needs and realities of U.S. relations with specific purchasing countries. We believe that this task will contribute to stronger program leadership and in the long-run to more effective and meaningful arms restraint. As noted earlier, in 1976 the Congress called on the executive branch to conduct a comprehensive study of U.S. arms sales policies and practices. The study, completed in the spring of 1977, identified five major weaknesses in the existing decisionmaking system.

1. Ad hoc and fragmented character of the process.
2. Multiplicity of decisionmaking channels.
3. Difficulty in controlling all significant decision points.
4. Lack of a single document or coherent series of documents on policy, planning, and procedures.
5. Inadequate interagency planning.

The study concluded that better organizational control in the form of a specific mechanism designed to centralize and formalize the process could help solve these problems. We believe the need still exists for strong program leadership, specific policy criteria, and purposeful planning.

NEED FOR ASSERTIVE STATE DEPARTMENT LEADERSHIP

The lack of centralized control and strong program leadership for foreign military sales has long been recognized. The numerous participants in the decisionmaking process and their frequently diverging views on the issues raised by a request, and the dependence of the State Department on Defense for military and technical opinions are just a few of the reasons centralized decisionmaking has remained an elusive goal.

Creation of Arms Export Control Board

In July 1977, the State Department announced formation of a single interagency organization for coordinating all security assistance activities. The new mechanism, designated as the Arms Export Control Board (AECB), was to give the same attention to foreign military cash sales as its predecessor, the Security Assistance Program Review Committee, had given to funded programs over the years.

The AECB is an advisory body to the Under Secretary of State, with policy, planning, and review functions, but no decisionmaking authority. It consists of members from 10 executive agencies and meets only when an issue is raised by one of the permanent working groups or when directed by the Under Secretary. Through the first 18 months of operation, the AECB has met about once a month. Initial meetings dealt with the development of written procedures describing the arms transfer review process; current meetings involve issues related to the ceiling on arms transfers.

Only two of the AECB working groups meet regularly. One group develops levels for funded security assistance programs. The other active group, called the Arms Transfer Policy Group, was to develop additional guidance for implementing the restraint policy. However, we were told that it has focused almost exclusively on the arms transfer ceiling and ceiling management.

AECB focus on ceiling

According to State Department officials, the singular mission of the AECB over its first 18 months of operation has been to implement the President's arms transfer policy. To date, this effort has focused almost exclusively on ceiling-related matters, developing strategy for negotiating multilateral arms transfer restraint agreements, and the codification of procedures discussed earlier.

Implementation of the policy, according to State officials, is of necessity a step-by-step process which requires learning to walk before learning to run. Quite simply, State views the distance between where the system is and where it should be as too great for any quick-fix solution. A cautious or "go slow" approach has therefore been taken. Ultimately, State wants a decisionmaking process that is anticipatory and permits the earliest possible refusal or acceptance for each major arms transfer request. Reaching this point, however, requires that major obstacles be overcome. The real barriers to policy implementation and establishment of an anticipatory

process are the lack of specific country-by-country criteria, detailed and purposeful country planning, and the need for sustained leadership.

The experimental nature of the arms transfer policy has had a demonstrated effect on management attitudes and actions. With the aim of setting an example of unilateral restraint for others to follow, the need for management to "put on a good show" became more important than finding solutions to long-identified systemic problems. The need to convince others of U.S. sincerity provided strong incentive to insure that the highly visible elements of the policy were implemented first and carried out successfully. The ceiling, representing the most visible outward sign of U.S. commitment to restraint, thus became the centerpiece of management's attention.

Emphasis on ceiling provides important side benefit

From an organizational perspective, the announcement of the policy and particularly the attention given to the ceiling and its management has satisfied a very important psychological need. By forcing the State Department to become much more actively involved in the process, its command-leadership role has been reinforced on other organizational elements, particularly the Defense Department.

The question arises as to whether the AECB, as intended, has provided a focal point for policy control in the foreign military sales decisionmaking process. We believe policy control requires the development of specific country-by-country policy criteria and ultimately the consideration of requests in a longer range, less reactive context.

Prior to establishment of the AECB, policy control was exercised through an "informal system of direct coordination." This system has not changed. Positions on sales requests are still developed through the flow of option papers, memos, and phone calls between and within agencies. The AECB has only formalized procedures--who should be consulted, when, in what form, with what response time.

The Under Secretary has defended the AECB, arguing that, although it is not a decisionmaking body, it drafted the procedures and definitions necessary to implement the restraint policy. The procedures, the Under Secretary continued, are the command and control system which will permit the exercise of continuous supervision and general direction over U.S. arms transfers.

We found that the "new procedures" were for the most part the codification of the ongoing process for internal and interagency review of arms transfer requests. Procedures by themselves, without active leadership and specific country-by-country policy criteria, will not assure program control.

Need for strengthening Office of
Under Secretary for Security Assistance

Numerous executive branch officials told us that organizational and staffing problems still impede effective State Department leadership in the arms transfer area. While the Under Secretary for Security Assistance is responsible for coordinating and overseeing implementation of the restraint policy, little substantive commitment in funding and staffing has been allocated to the office. The Under Secretary has only two full-time professionals assigned to this task. Most of the staff work on arms transfer requests is handled in the Office of Security Assistance and Sales of the Politico-Military Affairs Bureau. The Bureau itself reports both to the Under Secretary for Security Assistance and to the Under Secretary for Political Affairs.

A 1977 report by the Inspector General of the Foreign Service stated that there was justification for concern when a State official with the rank of an Under Secretary must depend in virtually all circumstances upon the staff of other State and Defense offices for all its resources. The report concluded that the Under Secretary's Office should be reinforced by an organizational structure adequate to meet its responsibilities; specifically it recommended a realistic increase in professional staff coupled with an evaluation of the utility of shifting the Office of Security Assistance and Sales from the Politico-Military Affairs Bureau in order to bring together those officials responsible for arms transfer policy and administration.

During our examination of specific arms transfer requests, we particularly noted the dependence of the Under Secretary on the staff of the Politico-Military Affairs Bureau. We believe there may be merit in a reconsideration of the above recommendation by the Inspector General. If State is to correct its overdependence on Defense and provide strong program leadership, greater emphasis will have to be placed on State's organizational structure in the arms transfer area.

NEED FOR POLICY CRITERIA TO BE
ON A COUNTRY-BY-COUNTRY BASIS

The restraint policy is stated in global terms and has not yet been translated into detailed country-by-country criteria. The considerable amount of time spent by the executive branch on ceiling-related matters, while beneficial in certain respects, has nonetheless seriously detracted from the more important task of developing the detailed country-by-country criteria necessary to implement the qualitative aspects of the President's policy. The State Department recognizes the need for such criteria but has chosen to approach the problem slowly. This approach, we understand, was fostered by recognition of the impact that the criteria would have on the backlog of prior commitments and the generally recognized difficulty of developing and gaining institutional acceptance for the criteria.

Such reasoning, we found, was more symptomatic of a deeply rooted problem than it was enlightening. Our discussion with State officials surfaced a definite ambivalence as to whether detailed criteria were an immediate need. We believe that the State Department is faced with a basic dilemma. Although it wants to fully implement the President's policy--which would require development of the detailed criteria--it does not want to box itself in by establishing such criteria. At this point, flexibility has been maintained by keeping attention focused on the ceiling. In short, the ceiling appears to have been used in lieu of developing specific country-by-country policy guidance.

State and DOD officials with whom we spoke during our review agreed with our conclusion that the development of specific country and equipment criteria is critical to the overall objective of restraining U.S. arms transfers. Our examination of recently approved and disapproved arms transfer requests demonstrates that roadblocks in the form of clear statements about what the United States will and will not sell to each eligible purchaser are essential to counterbalance the momentum that normally develops behind a sales request.

Another important reason to develop restraint criteria on a country-by-country basis is the special security relationship that exists between the United States and many non-exempt countries, such as Taiwan, South Korea, the Philippines, Spain, Saudi Arabia, and Israel. Many officials with whom we spoke emphasized the pressing need to balance the opposing goals of restraint against providing for the legitimate security needs of special friends. A restraint policy which is not tailored to the reality of U.S. relations with specific

countries runs two risks--denying the legitimate security interests of friends or being labeled as hypocritical because of the need to make frequent and poorly disguised deviations from the policy.

What of the argument that procedural as well as qualitative roadblocks have been established? The efforts to involve State as soon as a country expresses interest in a new weapons system and to limit U.S. officials' activities which appear to encourage foreign interest in U.S. arms, are laudable. However, we do not believe they are sufficient to curtail the forces, discussed in chapter 5, which encourage a positive response. While the reasons for saying yes to a request are usually obvious and beneficial to good relations, the benefits of saying no are neither. For a restraint policy to succeed, reasons for saying no have to be clearly spelled out.

The qualitative policy criteria that were announced in May 1977 are general rules, with qualifiers that leave a great deal of latitude for interpretation. For example, whether a system represents a new or higher combat capability is a difficult, judgmental question. A replacement for an older weapons system usually represents the latest technology and in that sense is a "higher" capability. Similarly it is a matter of opinion at which point an advanced new technology represents a new capability. Another potentially controversial area involves the definition of a region and whether a capability is new for a region. For the Middle East, particularly, there is a great deal of disagreement in the executive branch about which countries are in which region. Deciding whether the capability requested by a country is in fact the same capability possessed by another country in the region can also be difficult. In one case we examined, there were various viewpoints as to whether a certain country had a specific capability, had already bought but not installed it, or was only considering buying it.

We recognize that any criteria will require some interpretation and that most criteria would not cover all conceivable circumstances. But further refinement of the qualitative criteria contained in the policy is possible and necessary.

The question arises, then, as to the best vehicle for that task. We asked agency officials whether the determination of a country's eligibility to purchase U.S. military equipment might not be an appropriate time and form to define the nature of the U.S. security relationship and to place restrictive limits on weapon type, level of sophistication and technology that could be purchased. State and Defense

Department officials agreed, but pointed out that, currently, eligibility is established by a Presidential determination of open-ended duration. It would be necessary to place a time limit on the determination and/or require regularly scheduled reevaluation of eligibility. If the reevaluation took place on a yearly basis, it would serve the additional important function of providing clear guidance and parameters for planning.

State Department officials informed us that the matter of developing the criteria necessary for full implementation of the arms transfer policy has been under consideration for a number of months. We were unable to ascertain the progress that has been made, if any, or whether a definite timeframe had been established for accomplishment of the task. We believe that such an effort is of critical importance and that a timeframe is necessary to assure that the important task of developing criteria is completed in a timely manner.

NEED FOR PURPOSEFUL PLANNING

Detailed country-by-country planning has been characteristic of the security assistance program from inception. The need to develop, justify, and obtain appropriations for the large grant-aid programs of the past provided all the incentive necessary to elevate planning to a position of the utmost importance within the program. Moreover, there was an early and clearly understood purpose for planning.

As the security assistance program slowly changed from grant-aid to predominately cash sales, fundamental changes occurred which radically altered program attitudes and traditional ways of doing things. While detailed country planning continued for the ever-decreasing funded portion of the program, planning for cash sales was considered inappropriate, if not impossible. A reversal in the program managers' attitudes toward the recipient country triggered this thinking. The recipient was no longer viewed as a mere passenger, as had been the case in grant-aid, because it was believed the recipient had in fact become the driver under the cash sales program. How, it was asked, could one plan a course of action for another country's military requirements when that country was paying for what it received, determining what it wanted, and deciding when it would purchase? With the buyer in control of these critical decision points and with the U.S. Government in control of what would be sold and when, we were told that security assistance officials believed the cash sales program was inherently a reactive process where each request had to be considered separately and on its own merits. In other words, cash sales required case-by-case policymaking.

Another important factor contributing to the demise of comprehensive country-by-country planning was that a cash sales program eliminated the need to annually justify programs in order to obtain appropriations from the Congress.

The need for information keeps
planning mechanism in operation

Even though it was considered impractical to develop detailed plans for cash sales customers, the need for data on foreign government military requirements and expected yearly purchases from the United States was well recognized. Such projections were viewed by the military as critical to strategic planning and necessary in order to determine the collective effect of security assistance on future U.S. military operations and budgets. This information was also considered of interest to the Congress in carrying out its security assistance oversight responsibilities.

Determining what data was needed and when it would be reported, along with the actual task of collecting and developing the information, became a strictly military exercise from beginning to end. This, however, did not represent any real departure from prior practices, as the military had long had primary responsibility for developing annual grant-aid programs.

The mechanism established to collect, analyze, and summarize the data needed on requirements and potential cash sales was an outgrowth of that already in use for grant-aid countries. In-country military personnel remained the logical source for raw data, information, and preliminary analysis; as a result, additional responsibilities were placed on the country teams, including greatly expanded annual reporting requirements. With projections of up to 7 years required and with usually less than enthusiastic host-government participation, in-country military personnel were often faced with making questionable assumptions and guesses for a large part of the input being provided.

The Unified Commands, who were responsible for in-country military assistance personnel and for developing and submitting security assistance plans to the Secretary of Defense, received the information developed by the country teams under their jurisdictions. The Commands then analyzed the data from what we were told was a "bigger picture" or regional perspective. After making necessary revisions, the data was then sent to the Office of the Joint Chiefs of Staff for global analysis and incorporation into various planning efforts, including the Joint Strategic Objectives Plan.

From a military perspective, the Joint Plan served as a very powerful document in case-by-case decisionmaking on arms sales requests. Representing the best of military thinking, the annually revised plan set out country-by-country requirements and parameters by specific category of weapon system. Arms sales requests were therefore routinely tested against the Joint Plan by Defense reviewing officials. If a request fell outside Joint Plan boundaries, justification and approval of the sale became more time consuming and difficult with no guarantee that the military would support the request.

During our review, a number of program officials told us that the Joint Plan was an inappropriate standard to measure requests against. The Joint Plan, they pointed out was quite simply what our military wanted in each country. It was unconstrained by budget and therefore really represented a U.S. wish list for others. It gave a false sense of security to reviewing requests because you could justify practically anything to anyone.

The Defense Security Assistance Agency also received information on expected sales directly from incountry military personnel. The data was simply aggregated annually by agency officials and then published, after coordination with the Joint Chiefs, as part of the Military Security Assistance Projection. This document, which represented a 5-year, country-by-country projection of military exports, served as primary input to the yearly Congressional Presentation Document and as a critical resource document for military operational planning and budget preparation.

The reliability of projections made have been a matter of some concern to not only the Congress but also the Defense Department. The Military Security Assistance Projection, we were told, was never intended as a plan, but represented what Defense expected to happen during a given period, and thus remained a projection. While the executive branch controls what sales will be made to a given country, it has no control over actual requests that would be received during a given year. Projections that were contained in the yearly Congressional Presentation Document were somewhat confusing, we were told, because of the implicit assumption that the presentation document was some sort of Defense plan, which it was not.

In contrast to Defense's efforts, State Department activities and documents for country-by-country arms transfer expectations were practically nonexistent. While each Embassy was required to provide certain information and analysis to State on a fairly regular basis, these efforts normally did not address security assistance matters in any substantive way.

Over the years, demands on incountry military personnel for information, including the Joint Plan and the Military Security Assistance Projection, outstripped their ability to properly collect, analyze, and respond to requirements. The situation was a direct result of both duplicative requirements and congressionally mandated reductions of incountry security assistance personnel. State and DOD decided that in the future only information absolutely necessary for all purposes would be generated by incountry Embassy and military personnel. Both Departments considered a combined reporting approach essential. 1/

Planning needs to be decision-oriented

In a July 1977, report required by the Congress on arms transfer policy, the executive branch identified inadequate interagency planning for security assistance as a continuing problem and suggested that:

"Planning and analysis could be improved by requiring a comprehensive country assessment on arms transfers and security assistance, including their economic and political implications. This new country team effort could then serve as a basis for responding to the analyses now required by Congress to justify arms transfers by the U.S., and provide the basis for preliminary policy determinations prior to formal country requests."

After further study and development of guidance, the State Department instituted this new approach to annual security assistance planning. The approach was different from earlier planning because (1) the information to be developed was to serve all needs, (2) responsibility for the content of the report rested with each Ambassador, (3) it represented a joint State-Defense effort, (4) it reduced the planning period to 3 years, and (5) State had traditionally paid little if any attention to security assistance planning.

The first annual integrated assessment, which covered fiscal years 1980 to 1982, took place in July 1978. Each Embassy, as required, submitted its country report directly

1/The Joint Program Assessment Memorandum, a less detailed document, has taken the place of the Joint Plan. At the time of our review, the publication status of the Military Security Assistance Projection was uncertain.

to the State Department. Copies of each assessment were also forwarded to International Security Affairs, Defense Security Assistance Agency, Joint Chiefs and the responsible unified command.

During discussions with incountry military and Embassy personnel, we found that preparation of the integrated assessment was a separate but fully coordinated effort that reflected the collective wisdom of the mission. In other words, the military handled those portions of the report dealing with expected purchases, financing requirements, military objectives, and threat assessment; Embassy personnel developed the economic profile and political objectives sections. When these actions were completed, the Ambassador reviewed and signed the document.

In discussing the content of the report with incountry officials, we learned that host government's willingness to provide estimates of expected purchases has greatly increased in recent years. In some cases, listings of expected purchases have been provided prior to U.S. requests for such data. This greater responsiveness on the part of the host government was linked to the imposition of the arms sales ceiling and the desire of countries to assure that their needs are not excluded for "ceiling" reasons. Because of this increased participation, incountry officials speculated that the validity of the projections being made, at least for the first 2 years of the planning effort, should prove much more reliable than in the past.

Although incountry officials recognized that the ceiling had given some purpose and needed assistance to the planning effort, they told us that the missions are still unsure whether the planning process does what it is supposed to do and whether the ceiling is establishing policy. To many officials, planning remains just a yearly exercise which in no way reduces the time and effort required to gain approval for individual sales cases. In the words of one top-level program official, "the system is flawed with case-by-case decisionmaking because it results in a lot of meaningless motion and a lot of work for no purpose."

The basic assumption that you cannot develop intended courses of action country-by-country for cash sales is erroneous. We believe that such plans--setting forth an approved intended course of action for arms transfers in a context showing how they will promote U.S. foreign policy, national security, and arms restraint objectives--are not only possible but needed. Our view is supported by a number of important elements within the program. Embassy officials

generally agreed that the planning effort remains a pure exercise because the information provided is never reviewed, analyzed, and turned into an approved course of action by the executive branch. Most believed that it is not only feasible to develop a very useful plan by country but also preferable to the current process of gaining case-by-case approval for the myriad of cases that come up yearly.

Within the Defense establishment we observed and noted a strong inclination toward detailed planning. It was, therefore, not surprising to find key expressions of support for developing country-by-country security assistance plans in general and for cash sales in particular within the Defense Department.

Defense officials characterized the current approach of detailed consideration of cases as permitting only superficial review of security assistance. Rarely if ever, they said, are individual country programs addressed. Too much attention to case detail has severely limited any focus on program justification.

To reverse the current process of simply reacting to a given set of circumstances, Defense officials believed that State must provide the direction, including the development of detailed objectives for each country, to assure that all involved have the basis to examine and identify needs.

State officials have also acknowledged the need for planning. Various officials told us that State ultimately wants a decisionmaking process that permits the earliest possible refusal or acceptance for each major arms transfer request. To achieve this objective, they recognize, would require a decisionmaking process that anticipates and takes firm action on requests prior to formal submission. Planning is thus viewed as the critical element in changing arms decisionmaking from a reactive to an anticipatory process.

We believe the annual country-by-country integrated assessment is an extremely valuable tool that is currently being underused. The information in each assessment, particularly for expected yearly purchases, could be used as the basis for detailed review and development of an approved course of action for each key country for the following year.

From a military standpoint, the information provided by the assessments will be used, as in the past, in strategic planning and as input to military operational and budget planning. State Department officials told us that the integrated

country assessments are simply being used as resource documents. Accordingly, we found that each assessment was simply being turned over to the respective country desk for reference and retention. No aggregation of data was being contemplated by State officials and no preliminary policy decisions relating to future requests had been attempted.

The development of such plans is both possible and desirable. Recognizing that changes and adjustments to some country plans may be occasioned by changing circumstances during a year does not, in our opinion, preclude making such plans nor obviate their necessity. Development and approval of comprehensive country-by-country plans would greatly increase the opportunities for exercising restraint by focusing attention on program instead of item. Such plans would also prove helpful to the Congress in exercising its program oversight responsibilities.

ROLE OF UNIFIED COMMAND IN SECURITY ASSISTANCE PLANNING

According to incountry personnel, the Unified Commands played a dominant role in the preparation of the Joint Strategic Objectives Plan and the Military Security Assistance Plan prior to implementation of the integrated assessment. The Commands' involvement included (1) providing the detailed guidance for development of the information, (2) review and analysis of each submission, (3) bringing a regional perspective to the data provided, and (4) changing equipment priorities or input to reflect Command thinking.

Under the new reporting procedures for the integrated assessment, however, the Commands have been effectively eliminated from the security assistance planning process. They now only receive an informational copy of the report after it is provided to State and Defense. Command officials said that the steadily diminishing role of the security assistance group within each command has been a matter of great concern to them. They believe that the groups have an important role to play, particularly in bringing a regional perspective to planning efforts and being in a position to react to and resolve incountry management problems. Under current guidance, they said, the hands of the security assistance groups have been effectively tied; no longer do they have the key information needed to become meaningfully involved. In effect, the groups have been reduced to simply monitoring incountry planning activities and actual arms sales requests.

The importance of the Unified Commands in the planning process was perceived quite differently incountry. Incountry

military personnel told us that they had never viewed the Commands as having any real role in security assistance planning. Historically, they said, the Commands had not provided any meaningful assistance or input to the process and had just acted as another intermediate review level without decision authority. While there was strong military agreement that the Commands should remain in the security assistance area to provide operational support to those incountry, it was generally acknowledged that they should not be involved in security assistance planning or individual review of arms sales requests.

Embassy officials, including Ambassadors, fully supported this view. They also told us that any regional perspective the Commands had brought to bear on past planning efforts could be directly obtained in Washington.

The basic decision that the Commands not participate in security assistance planning was made by the executive branch. The new integrated assessment effectively eliminated the Commands from this effort. Further, under new procedures, the Commands' role in reviewing arms sales requests has been reduced to a monitoring status.

Based on what we observed and heard, we fully support the basic decisions that have been made. While we agree with the Commands that their security assistance groups have important functions to perform in support of incountry military personnel, we do not believe they have a proper role to fill in security assistance planning. Any regional military perspective needed in this area could as well be accomplished by desk officers within the offices of the Joint Chiefs in Washington.

With direct involvement in planning no longer a Command responsibility, we believe that the Defense Department should reexamine the authorized staff size of the Unified Commands' security assistance groups to determine if any staff reductions are possible.

CONCLUSIONS

The difficult task of systematically fitting the worldwide restraint policy to the needs and realities of U.S. relations with specific purchasing countries must be more effectively pursued. We believe this will require stronger program leadership by the Department of State and the development of policy criteria and plans on a country-by-country basis. A country plan would permit and encourage firm responses to anticipated requests prior to their actual submission. Such plans

could serve to change arms decisionmaking from the present reactive process to a more anticipatory process. Finally, the development of such country-by-country restraint plans would provide a basis for providing Congress, with the framework of an integrated plan and rationale under which to better exercise its oversight responsibilities.

RECOMMENDATIONS

We recommend that the Secretary of State:

- Reevaluate the adequacy of the structure and staffing of the Office of the Under Secretary for Security Assistance, Science and Technology, to assure that they are commensurate with the leadership role envisioned for this Office.
- Require and develop guidance for preparing country restraint plans, for countries receiving significant U.S. military items, to include policy criteria setting forth what the United States will and will not sell and why.

We recommend that the Secretary of Defense reevaluate the level of staffing for the security assistance groups in the Unified Commands.

AGENCY COMMENTS AND OUR EVALUATION

In commenting on our draft report, the Department of State said:

"The Department does not agree that the "ceiling" has been used in lieu of specific country guidance. The ceiling has served and continues to serve as an important management device to insure that the totality of our arms transfer decisions are looked at as the merits of individual proposed sales are assessed. As yearly ceiling plans are formulated, we do look at and plan for an overall country sales program, particularly for those countries with which we have a major military supply relationship. Because of the rapidly changing nature of arms requests and the need for in-depth policy review on a case-by-case basis, the concept of country or regional quotas would be unworkable."

We find it curious that State plans for an overall country-by-country sales program as part of ceiling management but does not believe that detailed country sales plans, as we recommend, serve U.S. interests. Quite possibly, it is the thought of sharing such information with the Congress and/or being finally tied to an approved course of action that the Department finds most objectionable. We, of course, are not advocating a once approved-no turnback situation for military sales planning. Uncertainty is a part of any planning effort and change is therefore to be expected. Certainly, the executive branch working with the Congress could work out an acceptable means of incorporating necessary changes into any approved yearly plan.

We do not suggest that separate country or regional quotas be applied to military sales planning. We agree such quotas would more than likely prove unworkable and thus counterproductive.

The Department of State also said:

"We do not believe the GAO has understood the role of policy-making officials such as the Under Secretary of State for Security Assistance, Science and Technology. The Under Secretary's office is not a working-level organization but a senior level office exercising specific functions pursuant to legislative mandate and executive order. It is true that a close working relationship exists with the Bureau of Politico-Military Affairs, which provides the staff work for the Under Secretary, but the Under Secretary also calls upon the resources of the entire Department in the exercise of her supervisory and policy-making functions. A greatly increased security assistance staff is not necessary in view of her oversight functions. Finally, the Under Secretary is responsible for coordinating security assistance on an interagency basis, not just within the Department of State, and has major responsibilities for presenting programs to the Congress."

Considering the responsibilities vested in the position of Under Secretary--program leadership oversight and supervision, policy formulation, planning, coordination and evaluation--direct staff support should be far better than depending almost exclusively on the staffs of other individuals for resources necessary to discharge the responsibilities of the office.

Finally, the Department of State said:

"The Administration never intended the ceiling to be the single major device for promoting restraint. The heart of the arms transfer policy is the qualitative controls. The GAO report virtually ignores these crucial substantive qualitative controls. In addition, GAO fails to take into consideration the equally-important regional and bilateral policies that affect arms transfer decisions. The totality of these inter-related policies largely determines individual case outcomes. Case-by-case review, simply stated, means that each case is examined to determine if the merits of a particular request fall within already-established policy, or if there are unique aspects to the case which would warrant exceptional handling. It clearly does not mean that the buyer controls the arms transfer process or that the United States simply reacts to foreign requests."

We agree that the heart of the policy is its qualitative controls. The executive branch, however, has given insufficient attention, over the past 2 years, to fully implementing them. As pointed out throughout the report, the restraint policy is stated in global terms and has not yet been translated into guidance reflecting the needs and realities of our relations with specific purchasing countries. The considerable attention given to ceiling related matters, while beneficial in certain respects has seriously detracted from the important task of implementing the policy's qualitative controls. And, we, of course, agree that the executive branch should not ignore regional policies that affect arms transfer decisions if and when it attempts to translate the policy's general qualitative controls into specific country guidance.

Finally, without more specific country-by-country policy guidelines, we believe that the arms transfer decisionmaking process will remain reactive with the purchaser in a strong position to bring about a positive response.

CHAPTER 7

NEED FOR IMPROVED CONGRESSIONAL

PRESENTATIONS

The Congress has two recurring concerns about its foreign military sales oversight responsibilities: (1) It becomes involved in the decisionmaking process too late to have a meaningful impact on the outcome and (2) The ad hoc, piecemeal nature of congressional review does not permit full consideration (country-by-country and region-by-region) of the total needs and extent of U.S. involvement. Members of Congress have made several attempts to overcome these weaknesses. However, the executive branch has remained adamantly opposed to any proposal calling for the submission of an annual country-by-country plan setting forth in detail and justifying U.S. military sales for the coming year. We believe such a plan can be prepared and that it is necessary for effective congressional oversight.

CONGRESSIONAL VETO OVER SALES

With passage of the "Nelson Amendment" in 1974, the Congress gained a legislative veto over major arms sales. The amendment, contained in Section 36(b) of the Arms Export Control Act, requires that Congress be notified of any proposed sale of \$25 million or more or any sale of major defense equipment of \$7 million or more. The Congress has 30 days in which to adopt a concurrent resolution disapproving a proposed sale.

Section 36(b) has established the principle of direct congressional involvement in FMS decisionmaking. However, whether it represents the most effective oversight mechanism has been debated for several years for two reasons.

First, congressional notification comes at the end of a long decisionmaking process. The purchasing country has decided it needs the item and the executive branch has endorsed this decision. In sending notifications to the Congress, the executive branch has argued that disapproval of the sale at this point could cause irreparable damage to U.S. relations with the purchasing country. In 1976 Senator Church, the current Chairman of the Foreign Relations Committee, said that:

"We [Congress] also wrote into the law a veto so that we would have some say in matters involving billions of dollars of arms sales. *** Yet we

discovered that this was awkward, too, for when we came around to considering a veto, it was too late. We were told that the exercise of the veto power would create a grievous embarrassment, a serious diplomatic crisis, because everything had been settled between the governments concerned by the time it got to the committee."

Many Members of Congress accept the validity of the executive branch concern over the actual use of the veto. Although over 100 resolutions have been introduced and many hearings held on these resolutions, the Congress has never disapproved a sale.

Second, Section 36(b) parallels and appears to endorse ad hoc case-by-case decisionmaking. The Congress is compelled to make its decisions in the same questionable manner as the executive branch; that is, it reviews individual parts with only a limited sense of the whole. The totality and reasonableness of the U.S. expected military relationship with a country over a given period is not considered.

NEW BASIS FOR CONGRESSIONAL REVIEW

In 1977 and 1978, Senator Javits introduced an amendment designed to overcome the above two weaknesses of the Section 36(b) procedures, which he characterized as ad hoc and negative. The basic objectives of the amendment were to get the Congress involved in the start as well as the finish of the FMS decisionmaking process, and to get both the Congress and the executive branch to consider individual sales within the context of overall sales during a given period of time.

Specifically, the amendment would have required the executive branch to submit an arms sales plan for each country for the coming fiscal year. Under current procedures, the Congress is given only an estimate of total sales for each country, with no indication of what individual items go into that total; in contrast, the plan would have required that each proposed sale and the total amount of sales be listed for a country. The Congress would then have had the opportunity to accept, refuse, or change the basic plan as part of the regular authorization process. Executive branch flexibility would be preserved and paperwork reduced by reserving Section 36(b) notification procedures for increases in the total value of sales to a country, or the sale of major equipment not justified in the country plan. Thus, the plan could be adjusted to reflect changes in U.S. policy or in decisions by the foreign country. Senator Javits

emphasized that he was flexible on how the Congress would review changes in the plan, since the most important point was for the Congress to have an advance plan containing the total package for each country.

OPPOSITION TO PLAN RESULTED
IN COMPROMISE

The executive branch opposed the Javits amendment during Senate hearings. Although the executive branch agreed that the Congress needed as much advance information as possible, it objected to developing annual country sales plans for the Congress to review and approve because

--it would be difficult for the executive branch to remove a country from the plan after congressional review in a private way and if removal became public knowledge it could cause diplomatic friction;

--the unpredictability of sales would necessitate frequent modification of the plan after submission.

Such criticisms were answered by noting that current Section 36(b) procedures had the inherent possibility of creating diplomatic friction on sensitive sales cases. One purpose of the plan was to avoid executive branch-congressional confrontation over sales proposals by involving the Congress earlier in the executive branch deliberations. As to the possibility of frequent modification of the plan, the executive branch itself noted that many of the sales proposals which survive the Section 36(b) mechanism are never consummated for various reasons. Finally, recognizing that modifications to the plan after its submission would be necessary, Senator Javits emphasized that Congress and the executive branch could jointly decide the best means to handle these changes. Despite executive branch opposition, the Senate approved the Javits amendment.

The conference committee modified the Senate proposal. Rather than a country-by-country sales plan for the next fiscal year to be reviewed and approved by the Congress, the conference committee adopted the following compromise: by November 15 of each year--one and one-half months after the start of the fiscal year--the executive branch should provide an authoritative projection of all sales eligible for approval during the current fiscal year. The requirement, known as the Arms Sales Proposal, is contained in Section 25(d).

The first Arms Sales Proposal was submitted by the executive branch in November 1978. It contained a country-by-country list of major defense equipment, described as "known potential programs which may result in 36(b) notifications" between October 1, 1978 and September 30, 1979. While the arms sales proposal has proved important in providing the Congress with more advanced information on expected sales during the year, it has not overcome the basic criticisms discussed earlier.

- The proposal simply lists the program being implemented rather than being an advance plan submitted prior to the start of the fiscal year.
- The Congress is given no opportunity to review, change, and approve executive branch sales plans.
- Sales are still presented and justified individually without consideration of overall sales to the country.

CONGRESSIONAL OVERSIGHT CAN BE
STREAMLINED AND MADE MORE
EFFECTIVE

The opportunity exists for the Congress to have a greater impact on the nature, size, and content of U.S. military sales and at the same time reduce the administrative burden associated with existing procedures. The presentation of a periodic sales plan by the executive branch for congressional review would fully overcome existing shortcomings. Such a requirement would permit the Congress to bring about changes early enough in the decisionmaking process to have an impact. It would also overcome the problem of ad hoc considerations of sales requests by focusing attention on an integrated plan.

Our review of the arms sale decisionmaking process revealed that Section 36(b) notifications are normally preceded by many months or even years of discussion and review. Further, the executive branch is engaged in frequent and detailed consultations with foreign governments about their military needs and future arms purchases. Many major purchasers, with some urging or on their own, have actually submitted detailed long-range purchase plans for executive department information and consideration. To date, however, the executive branch has remained reluctant to use such information as a basis for developing a well-reasoned plan of sales for the following year.

Based on the information available to the executive branch prior to the start of a new fiscal year, we believe that most of the 108 notifications forwarded to the Congress during fiscal year 1978 could have been presented in an integrated plan for congressional review. The executive branch has argued that only 75 percent of such a plan would have remained firm and, therefore, many changes to the plan would have been required. While the extent of such changes may be overstated, the fact that change would occur does not in any way tarnish the concept of developing such a plan. To the contrary, if only the changes in the plan were reviewed under Section 36(b) procedures, the administrative burden associated with the mechanism would be decreased significantly.

There are more important benefits to be gained by the submission of annual country-by-country sales plans. Such plans would be an ideal mechanism to spell out U.S. restraint policy toward individual recipients and to help understand the totality of U.S. commitments and resource requirements. We believe that the plan should also attempt to provide the Congress a sense of where the individual country programs are headed. That is, in addition to a plan for the next fiscal year, it should contain data on major defense equipment which a country may be interested in purchasing in the years ahead. Such data, based on discussions and proposals, is currently available. Sharing such information with the Congress would go a long way toward bringing the Congress into the decisionmaking process early on. Even more helpful would be preliminary executive branch positions on these potential requests, in light of the restraint guidelines established for individual recipients.

RECOMMENDATION TO THE CONGRESS

We recommend that the Congress require the President to submit annually, prior to the start of the fiscal year, a detailed plan for each nonexempt country requesting significant quantities of military equipment from the U.S. Government on a cash or credit basis. This could be accomplished by amending the Arms Export Control Act to require submission of an arms sales plan which defines the U.S. military supply relationship with each country and identifies the limits the United States has placed on that supply relationship by specific weapon or weapons category. The plan should include (1) an identification, with justification, of all major defense equipment which the President has approved for sale to each country and (2) a list of major defense equipment,

based on discussions with each country, which that country is or may be interested in purchasing in the two fiscal years succeeding the plan.

Significant changes to the plan during the year should also be submitted to the Congress. Because of the sensitivity of such information, it should be transmitted with an appropriate security classification.

Once the Congress becomes satisfied with the annual plans being submitted by the President, modifications to existing provisions of the Act (such as Sections 25 and 36) may be indicated.

AGENCY COMMENTS AND OUR EVALUATION

In commenting on our draft report, the Department of State said:

"Finally, we do not agree that a detailed annual plan for each non-exempt country would serve our interests. Many countries have not developed multi-year acquisition plans. Encouraging development of such plans could be counter to our restraint objectives.

A recurring theme in the study is that the Administration should develop clear guidelines concerning what the U.S. will or will not sell to each eligible purchaser. Such an approach would have more merit if the international political and military environment never changed. Reflection on the transformations in U.S. security assistance relationships with a number of key countries that have occurred just in the last year should lead one to recognize the importance of maintaining policy flexibility. Ironically, pre-established country criteria might well have adverse effects on U.S. arms restraint objectives in at least two ways:

- 1) The guidelines might stimulate interest in items which a country might not otherwise have sought;
- 2) Perceived discrimination in the country-by-country guidelines could heighten local rivalries and fuel regional arms races.

The basic problem of the country-by-country approach is that it removes arms transfer policy from the larger context of the pursuit of U.S. interests in bilateral and regional relationships.

As a practical matter the statutes as now written foreshadow for the Congress the kinds of specific cases that may come up in the future. For example, the Administration already provides the Congress a detailed Congressional Presentation Document dealing with our security assistance programs. In addition, Congress is informed of all "arms sales proposals considered eligible for approval," pursuant to Section 25 (d) of the Arms Export Control Act. And, of course, Congressional review of all significant arms transfers is provided for under Sections 36(b) and 36 (c) of the Arms Export Control Act."

We do not believe that the well recognized need to adapt to changing circumstances in the international political/military arena is a valid argument against developing country guidelines and sales plans. Flexibility should be preserved by updating such guidelines and plans whenever necessary.

As to the argument that country criteria will encourage requests for items that a country might not otherwise have sought, we see no reason why the U.S. Government determination of what it will and will not sell has to be shared with the foreign country. However, even if it were shared, it is difficult to understand how requests which violate our restraint objectives could be stimulated by a list of equipment which truly reflects U.S. restraint objectives. The restraint objective for each country should be drafted with the goal of encouraging regional stability. The development of criteria and plans for each country need not discourage the consideration of broader issues.

Finally, the objective of our recommendation for annual country sales plans and forecasts is to provide Congress important additional information as well as to provide a framework for organizing that information. Currently Congress receives only a list which does not distinguish between likely and potential sales. The list contains no overall rationale for country sales. Under our recommendation, Congress would receive a justified country plan for sales in the coming year as well as a separate listing of potential sales which major purchasers may be considering. Thus Congress would have earlier notification of potential sales as well as a more effective means to review formal sales requests.

TREND AND DIRECTION OF
U.S. CONVENTIONAL ARMS TRANSFERS

Throughout its history, arms export policy has served a variety of different purposes for the United States. From the Republic's beginning to about 1905, with but few exceptions, the United States did not regulate arms exports but insisted that its citizens were entitled to freely sell and export arms and war material at all times.

From 1905 through 1933, the United States restricted the shipment of arms to certain Latin American countries and to China (1919) during periods of civil strife. The basic purpose was to protect American interests by promoting the general stability of the areas.

Between 1934 and 1939, in response to mounting public pressure for the Government to curb and control the arms trade, the historic principle of laissez faire in arms exports was set aside. The United States for the first time brought all arms exports under Government licensing and provided for an automatic arms embargo against all belligerent countries as soon as the President found a state of war to exist. In November 1939, in recognition that the arms embargo was operating to forbid the export of arms to a belligerent group with which the American people were in sympathy, the arms embargo was repealed.

The current policy era had its beginnings in March 1941 when the Lend-Lease Act was passed. Starting with arms transferred pursuant to this act, the U.S. Government converted arms transfers from predominantly private to predominantly public channels. Since then, arms exports increasingly have served as a principal instrument of U.S. foreign and national security policy.

In the period 1950 through 1978, U.S. security assistance related grants and sales abroad had a value of about \$155 billion.^{1/} About \$44 billion in arms and related items remained undelivered at the end of 1978. Also, 78 naval vessels were on loan or lease to foreign nations. These transfers include, in addition to weapons, training, support equipment and spare parts, vehicles, and construction.

^{1/}These figures do not reflect any cancellation of sales due to events in Iran during 1978 and 1979.

Grant and Sale of Military Equipment
and Services, 1950-1978

(billions)

Given away: (note a)		\$ 61.8
	MAP grants (note b).....	\$53.5
	Excess defense articles.....	6.4
	Training.....	1.9
 Sold:		 \$ 92.8
	FMS Agreements (note c)	
	Cash.....	\$70.4
	Credit (note d).....	14.2
	Commercial deliveries (note e)..	8.2
	 Total.....	 <u>\$154.6</u>

a/Excludes loan and lease of naval vessels and cash grants under the Security Supporting Assistance Program.

b/Includes military assistance to countries involved in the Vietnam War that was funded through Defense Department appropriations.

c/Only \$41.0 billion of the \$84.6 billion in FMS cash and credit sales have been delivered.

d/Covers fiscal years 1955 to 1978.

e/Available data covers only fiscal years 1960-78.

Since World War II, the relationships between the United States and the recipients of American arms have undergone fundamental changes which have affected the objectives, volume, financing, content, and distribution of such arms exports.

OBJECTIVES

U.S. public arms transfers have been motivated by a mix of political, military, and economic factors, although the political-military factors have traditionally dominated export objectives.

The preponderance of U.S. arms transfers have been provided to friendly nations to increase collective security, limit Sino-Soviet-bloc military and political influence,

and secure base and operational rights for U.S. Forces. As new independent nations emerged during the 1960s and 1970s, the security needs of these new nations as perceived by these leaders changed. The objective of using arms assistance to induce the alliance or alignment of these states increased in importance.

From the late 1960s to the mid-1970s, a large portion of U.S. exports were provided to the Middle East and East Asia for the purpose of Communist containment and to promote regional stability, retain U.S. political influence, and counter Soviet aid. The change from arms grants to arms sales resulted in a diminished U.S. involvement in helping the recipients to plan their security needs.

From 1974 to 1978, about 65 percent of U.S. arms exports were aimed at promoting regional stability, good relations, and U.S. political influence in the Middle East. Another 20 percent of U.S. arms exports were made to promote collective security with NATO allies in Europe.

VOLUME

In monetary terms, U.S. arms transfer agreements have risen dramatically, particularly in the past decade. Part of the rise is a result of the declining value of the dollar. When expressed in constant terms, which correct for the effects of inflation, the increase is more moderate.

	<u>U.S. Arms Transfer Agreements</u>			
	Average annual volume			
	<u>1974-78</u>	<u>1970-73</u>	<u>1960s</u>	<u>1950s</u>
	----- (000 omitted) -----			
GRANTS:	\$ 686,529	\$3,159,863	\$1,080,855	\$2,213,877
Sales:				
FMS agreements	12,509,100	2,523,730	1,010,749	162,371
Commercial exports	<u>1,016,552</u>	<u>405,029</u>	<u>-</u>	<u>-</u>
Total current	\$14,121,181	\$6,088,622	\$2,091,604	\$2,376,248
Total 1978 constant dollars	<u>\$16,399,333</u>	<u>\$9,769,081</u>	<u>\$5,292,785</u>	<u>\$6,137,887</u>

FINANCING

In the late 1940s and the 1950s, U.S. public arms exports were financed with appropriated funds and almost exclusively furnished as grant military assistance (i.e., given away). In the mid-1960s, appropriations for such grants were significantly reduced. The executive branch offset, to a degree, the reduced grant programs by making increased arms available through the excess defense articles program for which prior legislative authorization was not required. Also, economically recovering allies, mostly in Europe, which were replacing the arms given them a decade earlier, were persuaded that they could afford to buy U.S. arms, especially as an offset against the U.S. cost of maintaining forces in their countries. In fiscal year 1964, for the first time, U.S. arms sales exceeded arms grants. Vigorous competition for sales among the world's arms suppliers began to emerge during the 1960s.

During this period the Department of Defense embarked on an intensified military assistance sales program. Foreign customer preference was generated by developing an appreciation of the technical superiority, price, and availability of U.S. equipment. Follow-on support for all items sold was offered through the Defense Department's logistics systems. Credit arrangements were made to facilitate sales. The Government-instituted loan program included both direct loans and loan guaranties. Through 1978, over \$14 billion in arms sales had been financed by the U.S. Government, about \$8 billion of which represented loans to Israel.

The 1970s ushered in an era of substantially increased ability of recipients to pay for modern weapons. The industrialized nations achieved economic recovery, and in the developing world the oil-producing nations received increased revenues from rising petroleum prices in 1974. Hence the transition occurred, and most U.S. arms transfers represented cash sales.

Despite congressional efforts to encourage the use of commercial channels rather than government-to-government sales, commercial sales remained at about the same level from 1969 to the mid-1970s while government-to-government sales increased significantly.

Commercial vs. Government-To-GovernmentArms Sales--1969-78

	<u>Government-to-Government Sales Agreements</u>	<u>Commercial deliveries (note a)</u>
	(millions)	
1969	\$ 1.2	.4
1970	1.2	.4
1971	1.4	.4
1972	3.1	.5
1973	4.5	.4
1974	10.7	.5
1975	13.9	.5
1976 (note b)	13.2	1.4
1977	11.3	1.5
1978	13.5	1.5 (note c)

a/Represents what is believed to have been exported. Our April 25, 1979 report, "U.S. Munitions Export Controls Need Improvement" (ID-78-62), concluded that State Department statistics on commercial exports are inaccurate. Discrepancies in the export value was found in 50 percent of all expired or returned 1976 and 1977 licenses. The licenses are used to prepare reports on commercial exports.

b/Includes transitional quarter.

c/Preliminary.

CONTENT

Several fundamental changes have taken place in the makeup of U.S. arms exports. For many years, the United States exported, to a large degree, only excess equipment. Gradually, arms transferred became more sophisticated, and presently exports include virtually the entire spectrum of U.S. weapons systems, except for heavy bombers and nuclear warheads.

Increased sophistication has contributed to increases in the monetary value of arms transfers. Technological changes in weaponry are due to several related phenomena. One in particular is the turnover rate of weapons generations--the timespan between development of new state-of-the-art weaponry--which has slowed since World War II. Thus, the

United States does not have extensive excess defense equipment to sell and arms sales are mainly of items currently used by U.S. Forces.

The export of sophisticated and complex weaponry has meant the United States must provide significant training and logistic support to recipient countries. This has required the furnishing of a greater number of technicians.

To provide adequate support for foreign governments to absorb and maintain major weapons systems, the United States enters into long-term commitments. In line with this, civilian defense contractor personnel have been used extensively, particularly in the Middle East. For example, prior to the political turmoil in Iran in early 1979 estimates were that as many as 60,000 U.S. contract personnel would be needed in Iran by 1980. The absorption of one major aircraft, the F-5, in Saudi Arabia requires over 1,600 personnel alone. The recent sale of F-15s to Saudi Arabia, a more sophisticated aircraft, will probably require many more.

In addition, during the 1957-1976 period, the United States, in response to requests for assistance in expanding recipients' military technical know-how and production capabilities, entered into a number of co-production agreements.

The United States has developed a reputation in international arms trade as providing more reliable support for its weapons systems than other suppliers. In addition, the U.S. military services include spare parts in their inventory management for all exported arms and equipment. With increased demand for sophisticated weapons and the lack of excess defense articles, the delivery leadtimes are lengthened and undelivered balances are ballooning. As of the end of 1978, some \$44 billion of arms exports--the equivalent of 64 percent of all arms sales agreements during the 1970s--were undelivered.

SHIFT IN RECIPIENTS

In the late 1940s and 1950s, the preponderance of U.S. arms exports were provided to European industrialized nations and to the forward defense nations of Turkey, Greece, Iran, Taiwan, and Korea. From 1950 to 1953, special aid was provided to allies participating in the Korean War. In the 1960s, most U.S. exports were directed to Vietnam, to allies participating in the Vietnam conflict, and to the forward defense nations. Since 1973, three countries--Iran, Israel, and Saudi

Arabia--have accounted for nearly 65.2 percent of all arms export agreements and 63 percent of actual arms deliveries. Transfers to Latin America and Africa have remained relatively stable over the entire period.

CONVENTIONAL ARMS TRANSFER POLICY STATEMENT BY THE
PRESIDENT

THE WHITE HOUSE,

May 19, 1977.

The virtually unrestrained spread of conventional weaponry threatens stability in every region of the world. Total arms sales in recent years have risen to over \$20 billion, and the United States accounts for more than one half of this amount. Each year, the weapons transferred are not only more numerous, but also more sophisticated and deadly. Because of the threat to world peace embodied in this spiralling arms traffic, and because of the special responsibilities we bear as the largest arms seller, I believe that the United States must take steps to restrain its arms transfers.

Therefore, shortly after my Inauguration, I directed a comprehensive review of U.S. conventional arms transfer policy, including all military, political, and economic factors. After reviewing the results of this study, and discussing those results with members of Congress and foreign leaders, I have concluded that the United States will henceforth view arms transfers as an exceptional foreign policy implement, to be used only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests. We will continue to utilize arms transfers to promote our security and the security of our close friends. But, in the future, the burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it.

To implement a policy of arms restraint, I am establishing the following set of controls, applicable to all transfers except those to countries with which we have major defense treaties (NATO, Japan, Australia, and New Zealand). We will remain faithful to our treaty obligations, and will honor our historic responsibilities to assure the security of the state of Israel. These controls will be binding *unless* extraordinary circumstances necessitate a Presidential exception, or where I determine that countries friendly to the United States must depend on advanced weaponry to offset quantitative and other disadvantages in order to maintain regional balance.

1. The dollar volume (in constant FY 1976 dollars) of new commitments under the Foreign Military Sales and Military Assistance Programs for weapons and weapons-related items in FY 1978 will be reduced from the FY 1977 total. Transfers which can clearly be classified as services are not covered, nor are commercial sales, which the U.S. Government monitors through the issuance of export licenses. Commercial sales are already significantly restricted by existing legislation and Executive Branch policy.

2. The United States will not be the first supplier to introduce into a region newly-developed, advanced weapons systems which would create a new or significantly higher combat capability. Also, any commitment for sale or coproduction of such weapons is prohibited until they are operationally deployed with U.S. forces, thus removing the incentive to promote foreign sales in an effort to lower unit costs for Defense Department procurement.

3. Development or significant modification of *advanced* weapons systems *solely for export* will not be permitted.

4. Coproduction agreements for significant weapons, equipment, and major components (beyond assembly of subcomponents and the fabrication of high-turnover spare parts) are prohibited. A limited class of items will be considered for coproduction arrangements, but with restrictions on third-country exports, since these arrangements are intended primarily for the coproducer's requirements.

5. In addition to existing requirements of the law, the United States, as a condition of sale for certain weapons, equipment, or major components, may stipulate that we will not entertain *any* requests for retransfers. By establishing

at the outset that the United States will not entertain such requests, we can avoid unnecessary bilateral friction caused by later denials.

6. An amendment to the International Traffic in Arms Regulations will be issued, requiring policy level authorization by the Department of State for actions by agents of the United States or private manufacturers which might promote the sale of arms abroad. In addition, embassies and military representatives abroad will not promote the sale of arms and the Secretary of Defense will continue his review of government procedures, particularly procurement regulations, which may provide incentives for foreign sales.

In formulating security assistance programs consistent with these controls, we will continue our efforts to promote and advance respect for human rights in recipient countries. Also, we will assess the economic impact of arms transfers to those less-developed countries receiving U.S. economic assistance.

I am initiating this policy of restraint in the full understanding that actual reductions in the worldwide traffic in arms will require multilateral cooperation. Because we dominate the world market to such a degree, I believe that the United States can, and should, take the first step. However, in the immediate future, the United States will meet with other arms suppliers, including the Soviet Union, to begin discussions of possible measures for multilateral action. In addition, we will do whatever we can to encourage regional agreements among purchasers to limit arms imports.

STATEMENT BY THE PRESIDENT, FEBRUARY 1, 1978

[Office of the White House Press Secretary]

The United States Government, the Executive Branch and the Congress, are pledged to bring about a reduction in the trade in conventional arms. Last year, I promised to begin reducing U. S. arms sales as a necessary first step. I will continue that policy this year.

In the last fiscal year, the previous Administration and my Administration made sales commitments totaling many billions of dollars. While high, however, the total was considerably less than it would have been in the absence of new restraints we introduced, particularly in sales commitments to the developing countries of the world. Between January 20 and the close of the fiscal year, I approved and sent to Congress arms sales totaling \$5.7 billion, which is less than half the total approved during the same period in 1976.

Today, I am announcing that arms transfer agreements covered by the ceiling which I have established will be reduced by \$740 million in Fiscal Year 1978. This means that for the fiscal year which began on October 1, 1977, and which will end on September 30, 1978, new commitments under the Foreign Military Sales and Military Assistant programs for weapons and weapons-related items to all countries except NATO, Japan, Australia and New Zealand will not exceed \$8.6 billion. The comparable figure for Fiscal Year 1977 was \$9.3 billion. This is a reduction of 8 percent, figured on constant Fiscal Year 1976 dollars.

A larger cut in the ceiling would violate commitments already made, including our historic interest in the security of the Middle East, and would ignore the continuing realities of world politics and risk the confidence and security of those nations with whom the United States has vital and shared foreign policy and security interests. A smaller reduction would neglect our responsibility to set an example of restraint that others might follow.

I intend to make further reductions in the next fiscal year. The extent of next year's reduction will depend upon the world political situation and upon the degree of cooperation and understanding of other nations.

I want to emphasize that the restraint policy I announced on May 19, 1977, was not aimed exclusively at the volume of arms transfers. Equally important is restraint in the sophistication of arms being transferred and on the spreading capability to produce armaments. Therefore, in addition to the ceiling, I established five specific controls applicable to all transfers except those to our NATO allies, Japan, Australia, and New Zealand. These controls included: (1) a control on the first introduction of certain advanced systems into an area; (2) a prohibition on advanced systems for export only; (3) a prohibition on various types of coproduction arrangements; (4) tighter controls on retransfer; and (5) special controls on sales promotions.

These guidelines are at the heart of my decisions to approve or disapprove an arms transfer.

As I stated in my October 4 speech to the United Nations, genuine progress in this area will require multilateral efforts. But, we are committed to taking the first steps alone to stop the spiral of increasing arms transfers. I call upon suppliers and recipients alike to join us in a determined effort to make the world a safer place in which to live.

November 29, 1978

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

Conventional arms transfer restraint is an important objective of this Administration and the Congress. To insure U.S. leadership and to supplement existing legislation, I established for the first time a set of quantitative and qualitative standards by which arms transfer requests considered by this Government would be judged. The principal consideration in the application of these standards is whether the transfer in question promotes our security and the security of our close friends.

I am pleased to announce that this Government has kept its pledge to take the leadership in restraining arms sales. Under the ceiling I established, U.S. Government transfers of weapons and related items to countries other than NATO, Japan, Australia, and New Zealand which totaled \$8.54 billion in FY 1978 were reduced by 8 percent (or approximately \$700 million measured in constant dollars) from the comparable FY 1977 level.

When I set this goal last year, I said that I would make further reductions in the next fiscal year. Today, I am announcing an additional cut of approximately \$733 million* or 8 percent for FY 1979 measured in constant dollars. This means that for the fiscal year that began on October 1, 1978, and which will end on September 30, 1979, new commitments under the foreign military sales (FMS) and military assistance (MAP) programs for weapons and weapons-related items to all countries except NATO, Japan, Australia, and New Zealand will not exceed \$8.43 billion. This cut is consistent with our national security interests, including our historic interest in the security of the Middle East.

When I addressed the United Nations General Assembly in October 1977, I emphasized that the U.S. had taken the first steps at conventional arms restraint, but that we could not go very far alone. Multilateral cooperation remains essential to the achievement of meaningful restraint measures. We continue to believe that all nations have an interest in restraining transfers of conventional weaponry which threaten the stability of various regions of the world and divert recipient resources from other worthy objectives without necessarily enhancing national security. We are making a maximum effort to achieve multilateral cooperation on the arms restraint issue.

My decision on U.S. arms transfer levels for FY 1980 will depend on the degree of cooperation we receive in the coming year from other nations, particularly in the area of specific achievements and evidence of concrete progress on arms transfer restraint.

*FY 1979 Ceiling on Conventional Arms Transfers

(In \$ Millions)

FY 1978 Ceiling	\$8551
Inflation (7.2%)	+616
	<hr/>
FY 1978 Ceiling in FY 1979 Dollars	\$9167
Policy Reduction	-733
	<hr/>
FY 1979 Ceiling	\$8434



DEPARTMENT OF STATE

Washington, D.C. 20520

April 25, 1979

Mr. J. Kenneth Fasick
Director
International Division
U. S. General Accounting Office
Washington, D. C.

Dear Mr. Fasick:

I am replying to your letter April 11, 1979, which forwarded copies of the draft report: "Conventional Arms Transfers Abroad: Study of a Program in Transition."

The enclosed comments on this report were prepared by the Acting Director for the Bureau of Politico-Military Affairs. The Department of State considers the draft report as unclassified.

We appreciate having had the opportunity to review and comment on the draft report. If I may be of further assistance, I trust you will let me know.

Sincerely,

A handwritten signature in cursive script that reads "Roger B. Feldman".

Roger B. Feldman
Deputy Assistant Secretary
for Budget and Finance

Enclosure:
As stated

GAO DRAFT REPORT: "CONVENTIONAL ARMS TRANSFERS ABROAD:
STUDY OF A PROGRAM IN TRANSITION."

The issue of conventional arms transfers restraint is of continuing concern to this Administration and we therefore welcome the opportunity to comment on the recent GAO report. Because of the complexity of the issues and the limited time allowed for comment, the Department's comments will be limited to the principal conclusions and recommendations of the study. Our comments focus on seven main areas: the ceiling, qualitative controls and regional policies, the handling of turndowns, "momentum for approval," the role of the Under Secretary for Security Assistance, Science and Technology, the role of military groups abroad, and country plans.

Before addressing these broader issues, a brief comment is required on the methodology employed. First, we do not believe that the analysis of selected cases adequately addressed the complex set of foreign policy concerns that must be assessed in each case. Second, we believe the specific cases chosen are not representative samples. The choice of cases seemed to reflect more the degree of public visibility of the proposed sales and did not take sufficient account of the special circumstances that frequently prevailed. In any event, we believe it would have been preferable to produce a classified report to Congress in which the specific aspects of each case could be discussed, rather than one designed for public distribution. We greatly appreciate the efforts of the GAO to minimize any adverse foreign policy repercussions by not identifying specific items and countries. However, the report as it now stands is at such a level of abstraction that we frequently cannot identify the item proposed for sale or the country involved. This makes it difficult to verify the accuracy of the assertions or to comment on the analysis.

Ceiling.

The Department does not agree that the "ceiling" has been used in lieu of specific country guidance. The ceiling has served and continues to serve as an important management device to insure that the totality of our arms transfer decisions are looked at as the merits of individual proposed sales are assessed. As yearly ceiling plans are formulated, we do look at and plan for an overall country sales program, particularly

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for those countries with which we have a major military supply relationship. Because of the rapidly changing nature of arms requests and the need for in-depth policy review on a case-by-case basis, the concept of country or regional quotas would be unworkable.

Qualitative Controls and Regional Policies.

The Administration never intended the ceiling to be the single major device for promoting restraint. The heart of the arms transfer policy is the qualitative controls. The GAO report virtually ignores these crucial substantive qualitative controls. In addition, GAO fails to take into consideration the equally-important regional and bilateral policies that affect arms transfer decisions. The totality of these inter-related policies largely determines individual case outcomes. Case-by-case review, simply stated, means that each case is examined to determine if the merits of a particular request fall within already-established policy, or if there are unique aspects to the case which would warrant exceptional handling. It clearly does not mean that the buyer controls the arms transfer process or that the United States simply reacts to foreign requests.

Handling of Turndowns.

Although we are unable to identify the specific examples GAO cites as inaccurate, the GAO is correct that records of turndowns and turnoffs are not kept in an ideally comprehensive or systematic fashion. The lists we prepared were representative and dealt only with cases on which specific actions were taken. The lists do not cover for example informal turnoffs in the field or those associated with multi-year procurement plans of foreign governments. In the latter instance, we frequently took no formal action, but our comments were such that the requesting government readily perceived that if they pressed for a formal response it would be largely negative. The lists also do not contain a large number of cases that were refused on technical security grounds.

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As to GAO's criticism of how turndowns are explained to foreign governments, we note that one of the Department's major responsibilities is the conduct of foreign relations. If we are able to deflect an ill-advised request for arms in a non-confrontational manner that preserves good bilateral relations, we believe the national interest is well served.

State Role.

GAO's contention that the Department of Defense dominates decision-making in the arms sales process is incorrect. The Department of State has statutory authority to conduct the decision-making process on arms transfer cases and exercises that authority. The Department of State reviews all proposed arms transfer requests. Our review is conducted at the earliest opportunity in the process. For example, the Department approves all requests as early as the planning and budgetary stage. We also approve all DOD survey teams and, through the Munitions Control licensing process, control significant commercial promotional activities. Where major items or sensitive systems are involved, options papers are prepared for policy-level decision. These decision documents are normally the product of an interagency review process. The Department of Defense input is important as is that of other agencies such as ACDA and the NSC. Of course, where a policy decision has been taken to supply a system, the Department of Defense, under law, is responsible for the implementation of that decision.

"Momentum for Approval".

We would also take issue with GAO's contention that the review process tends to build a momentum of positive approval for an arms sale. Requests by foreign governments are reviewed at an early stage on a case-by-case basis. If a policy issue is involved, the pros and cons of the proposed transfer are analyzed in detail and a wide range of options are presented to the policy maker. These options frequently include an option for a less capable system and/or an option for outright refusal. The views and recommendations of all agencies concerned are included. This is not a process which can be characterized as building a momentum for approval. In fact, in contrast to the past where arms sales were sometimes

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approved in the absence of an objection, the present process requires a positive determination that the proposed sale contributes to the promotion of our security or to the security of our close friends.

Role of Under Secretary for Security Assistance, Science and Technology.

We do not believe the GAO has understood the role of policy-making officials such as the Under Secretary of State for Security Assistance, Science and Technology. The Under Secretary's office is not a working-level organization but a senior level office exercising specific functions pursuant to legislative mandate and executive order. It is true that a close working relationship exists with the Bureau of Politico-Military Affairs, which provides the staff work for the Under Secretary, but the Under Secretary also calls upon the resources of the entire Department in the exercise of her supervisory and policy-making functions. A greatly increased security assistance staff is not necessary in view of her oversight functions. Finally, the Under Secretary is responsible for coordinating security assistance on an interagency basis, not just within the Department of State, and has major responsibilities for presenting programs to the Congress.

Role of Military Groups Abroad.

We agree with GAO that obligations to provide advice to foreign governments undertaken by treaty or agreement could sometimes raise questions regarding the sense of Congress (Section 515 of the Foreign Assistance Act) and Executive Branch guidance against an advisory role for permanently assigned military personnel. Nevertheless, we have worked fairly well for two years within these constraints. To the extent that practical difficulties arise, we have been able to deal with them through common-sense guidance tailored to deal with the peculiar circumstances involved.

Country Plans.

Finally, we do not agree that a detailed annual plan for each non-exempt country would serve our interests. Many countries have not developed multi-year acquisition plans. Encouraging development of such plans could be counter to our restraint objectives.

A recurring theme in the study is that the Administration should develop clear guidelines concerning what the U.S. will or will not sell to each eligible purchaser. Such an approach would have more merit if the international political and military environment never changed. Reflection on the transformations in U.S. security assistance relationships with a number of key countries that have occurred just in the last year should lead one to recognize the importance of maintaining policy flexibility. Ironically, pre-established country criteria might well have adverse effects on U.S. arms restraint objectives in at least two ways:

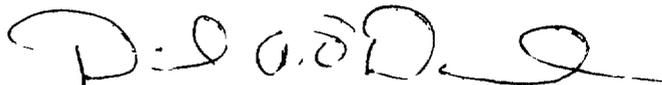
1) The guidelines might stimulate interest in items which a country might not otherwise have sought;

2) Perceived discrimination in the country-by-country guidelines could heighten local rivalries and fuel regional arms races.

The basic problem of the country-by-country approach is that it removes arms transfer policy from the larger context of the pursuit of U.S. interests in bilateral and regional relationships.

As a practical matter the statutes as now written foreshadow for the Congress the kinds of specific cases that may come up in the future. For example, the Administration already provides the Congress a detailed Congressional Presentation Document dealing with our security assistance programs. In addition, Congress is informed of all "arms sales proposals considered eligible for approval," pursuant to Section 25(d) of the Arms Export Control Act. And, of course, Congressional review of all significant arms transfers is provided for under Sections 36(b) and 36(c) of the Arms Export Control Act.

The Department of Defense concurs with these comments.



Daniel A. O'Donohue
Acting Director
Bureau of Politico-Military Affairs

GAO NOTE

ACDA concurred with these comments.

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