



ARMS SALES TOPIC BACKGROUND

National Federation of State
High School Associations



Take Part. Get Set For Life.™

Resolved: The United States federal government should substantially reduce Direct Commercial Sales and/or Foreign Military Sales of arms from the United States. Arms sales topic background provided by Rich Edwards, Baylor University



MECHANISMS FOR TRANSFERRING ARMS TO OTHER COUNTRIES

While Foreign Military Sales (FMS) and Direct Commercial Sales (DCS) are the main ways that arms are transferred to other countries, they are not the only ways, as is shown by this evidence:

Arms Sales Monitoring Project (Subdivision of the Federation of American Scientists), ARMS SALES HANDBOOK, Dec. 1, 2018. Retrieved Feb. 21, 2019 from <https://fas.org/asmp/library/handbook/WaysandMeans.html>.

The five principle (legal) means by which America exports weapons and military services abroad are foreign military sales (FMS), direct commercial sales (DCS), leases of equipment, transfers of excess defense articles (EDA) and emergency drawdowns of weaponry. To get the most accurate picture possible of US weapons exports in a given year – to the whole world or to a particular destination – you must compile transfers made through all of these channels.



MAJOR U.S. SECURITY ASSISTANCE PROGRAMS



Department of Defense Programs

- Foreign Military Sales (FMS)
- Foreign Military Financing (FMF)
- International Military Education and Training (IMET)
- Emergency Drawdown
- Leases of Equipment
- Excess Defense Articles Transfer (EDA)



Department of State Programs

- Direct Commercial Sales (DCS)
- Economic Support Fund (ESF)
- Peace Keeping Operations (PKO)
- International Narcotics Control and Law Enforcement (INCLE)
- Nonproliferation, Anti-Terrorism, Demining, and Related Programs (NADR)

Source: U.S. Department of Defense Security Assistance Management Manual, Section C1.T1, Aug. 31, 2016



DIRECT COMMERCIAL SALES (DCS) EXPLAINED

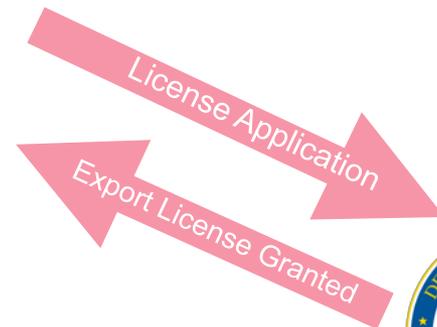
- Sale of defense articles, services, or training provided by a U.S. defense industry to a foreign entity.
- U.S. government control is accomplished through a licensing requirement administered by the U.S. State Department



Foreign Entity



U.S. Defense Contractor



U.S. Department of State

FOREIGN MILITARY SALES (FMS) EXPLAINED

- Sale of defense articles, services, or training provided by the U.S. government serving as a negotiating agent with a foreign government; the defense materials provided may come either from a contract with a U.S. defense contractor or the sale of equipment from the U.S. defense arsenal.



Foreign Government

Letter of Request (LOR)

Letter of Acceptance



U.S. Department of
Defense

Requisition

OR

Contract



Sale from U.S. Defense
Arsenal



U.S. Defense Contractor





HOW LARGE ARE THE DCS AND FMS PROGRAMS?

- In the period from 2016-2018, DCS sales authorizations were \$101.4 billion with actual deliveries \$7.9 billion.
- DCS Sales in the period 2016-2018 were to 163 different countries
- In the period from 2016-2018, FMS sales authorizations were \$40.4 billion with actual deliveries \$46.9 billion.
- FMS Sales in the period 2016-2018 were to 157 different countries

Source: *Security Assistance Monitor: A Citizen's Guide to U.S. Security and Defense Assistance*, Available at

<http://securityassistance.org/content/arms-sales-downloads>





ARMS SALES ARE GOVERNED BY THE ARMS EXPORT CONTROL ACT (AECA)

- Section 202(a): “It shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak of regional conflict and the burdens of armaments”
- Section 301(a): “Except under circumstances specified in this section, no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights”

Available at:

<https://legcounsel.house.gov/Comps/Arms%20Export%20Control%20Act.pdf>





OTHER PROVISIONS OF THE ARMS EXPORT CONTROL ACT (AECA)

- AECA created the International Traffic in Arms Regulations (ITAR) – A listing of 21 categories of defense equipment from small arms to fighter jets on the U.S. Munitions List (USML)
- AECA also created less stringent controls known as the Export Administration Regulations (EAR) for items with some military value but not rising to the level of importance of the items on the USML. Such items are listed in the Commerce Control List (CCL), maintained by the US Department of Commerce.

Available at:

<https://legcounsel.house.gov/Comps/Arms%20Export%20Control%20Act.pdf>





TRUMP ADMINISTRATION CHANGES

Conventional Arms Transfer Policy (CAT), also known as National Security Presidential Memorandum (NSPM-10, issued April 19, 2018); while every president issues a CAT with very similar language, two key changes here:

1. “Buy America:” One of the key changes made in this Presidential declaration is to give higher priority to the arms transfer’s “financial or economic effect on United States industry and its effect on the defense industrial base, including contributions to United States manufacturing and innovation.”
2. A little wording change from the traditional policy used by past presidents to the “human rights” portion of the Conventional Arms Transfer policy that make a huge difference: The addition of the word “intentionally” in the phrase, “attacks intentionally directed against civilian objects or civilians.”





MORE TRUMP ADMINISTRATION CHANGES

- A new rule, first published in the Federal Register on May 24, 2018, then in a slightly revised version on February 4, 2019, proposing that the sale of firearms, including military-style assault weapons, be moved from the US Munitions List (USML) to the Commerce Control List (CCL), allowing their sale without manufacturer registration or Congressional approval.
- Efforts, led by New Jersey Congressman, Bob Menendez, are currently trying to prevent this change from becoming U.S. regulatory policy. See <https://www.menendez.senate.gov/news-and-events/press/menendez-announces-hold-on-trump-admins-proposed-move-to-weaken-regulatory-control-over-us-guns-sales-abroad>

