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Testimony before the House Committee on Budget: National Security and International Affairs Task Force; by Harry S. Havens, Director, Program Analysis Div.

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Budget authority is a broad concept which should express fully the spending authority made available by law. Where feasible, budget authority should represent the maximum potential obligations which may be incurred under new authority. The Foreign Military Sales (FMS) budget authority for a given year is defined as the estimated fully funded cost of the goods and services which the Government has agreed during that year to deliver at some time and represents the total amount of obligations the Government estimates it will incur in purchasing and delivering the items. Prior to fiscal year 1977, budget authority for FMS was based on the dollar total of new acceptances, and there were annual recordings in the budget of billions of dollars of unobligated FMS budget authority which represented cumulative acceptances that had not yet resulted in implementing obligations. Since 1977, FMS budget authority for a given year has been defined as equal to the portion of old and new acceptance which will result in implementing obligations during the year. FMS budget authority since 1977 has not shown the full amount of new acceptances. The change in definition of FMS budget authority was inappropriate, contrary to the usual meaning of budget authority, and results in recordings that do not show the true authority conferred on the executive branch for obtaining the items specified in new acceptances. FMS budget authority should be based on the dollar total of new acceptances, representing the full cost of FMS items which the Government has agreed to obtain and deliver. (RRS)

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STATEMENT OF
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BEFORE THE
TASK FORCE ON NATIONAL SECURITY AND INTERNATIONAL AFFAIRS
HOUSE COMMITTEE ON THE BUDGET
CONCERNING
BUDGET AUTHORITY FOR FOREIGN MILITARY SALES

Mr. Chairman and Members of the Task Force:

I am pleased to appear before the Task Force to discuss our July '78 report, "Budget Authority for Foreign Military Sales is Substantially Understated". The report was part of the work we conducted at your request concerning Department of Defense (DOD) unexpended balances.

Our report went into two matters: first, the new criterion for establishing budget authority for foreign military sales; and second, the degree of control which we believe Congress should exercise over the volume of foreign military sales. I'll discuss in turn each of these matters.

WHAT SHOULD CONSTITUTE BUDGET AUTHORITY?

The Congressional Budget Act of 1974 defines budget authority as:

"* * * authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds * * *."

We're of the opinion that budget authority is a broad concept which should express fully the spending authority which is made available by law. We believe that where it is feasible to do so, budget authority should represent the maximum potential obligations which may be incurred under new authority. Such a concept of budget authority provides the best assurance that the budget totals fully disclose the obligational authority being requested by the President and considered by the Congress. The Congress can better exercise control over the budget if it has complete and accurate information on the new obligational authority being requested and made available.

This is especially important in activities such as FMS, where obligational authority is created with only passive congressional involvement, rather than through active authorization and appropriation action. Incomplete knowledge of new obligational authority for such programs can only diminish the opportunity for congressional budget control.

What should constitute budget authority
for foreign military sales?

We think, therefore, that FMS budget authority for a given year is properly defined as the estimated fully funded cost of the goods and services which the Government has agreed during that year to deliver at some time--i.e., the dollar total of FMS "new acceptances." This represents the total amount of obligations the Government estimates it will incur in purchasing and delivering the items which, during that year, it agreed to sell.

According to a provision of the Arms Export Control Act (sec. 36(b)), the Congress must be given prior notification of any pending FMS acceptance of \$25 million or more, or for the sale of major defense equipment for \$7 million or more. Such an acceptance cannot become final if the Congress, within 30 days of receiving such notification, adopts a concurrent resolution stating that it objects to the sale, unless the President states that an emergency exists which requires the sale.

The executive's revision

For fiscal year 1977 and subsequent years, the executive branch made an important change in the way it calculates FMS budget authority. Prior to fiscal year 1977, budget authority for FMS was based on the dollar total of FMS new acceptances. Also before the 1977 change, there were annual recordings in the budget of billions of dollars of unobligated FMS budget authority, representing cumulative acceptances which had not yet resulted in implementing obligations--i.e., U.S. Government orders to obtain the items specified in the acceptances.

Under the new procedure in effect since fiscal year 1977, FMS budget authority for a given year has been defined as equal to the

portion of old and new acceptances which will result in implementing obligations during the year. In other words, FMS budget authority since 1977 has not shown the full amount of new acceptances.

As a result of this new procedure, the executive branch administratively wrote off (or "lapsed"), several billions in unobligated FMS budget authority. In our January 1970 report to the Task Force, concerning Defense Department unobligated budget authority, we stated that the write-off of 1977 FMS balances could be as high as \$13 billion. We have since been informed that the actual write-off was about \$12 billion-- comprised of \$9.1 billion from the FMS trust fund and about \$3 billion from FMS authority contained in DOD's own accounts.

Conclusion and recommendation concerning FMS budget authority

We believe that the change in definition of FMS budget authority was inappropriate. The new definition used by the executive branch is contrary to the usual meaning of budget authority, and results in budget authority recordings that do not show the true authority conferred on the executive branch for obtaining the military items specified in the new acceptances. The figure shown in the budget for fiscal year 1977, for example, understated the amount of budget authority by \$2.6 billion.

The new method also eliminates standard reporting on FMS unobligated acceptances, an important indicator of program execution.

In our report, therefore, we recommended a return to the former method of basing FMS budget authority on the dollar total of new acceptances, which represents the full cost of the FMS items which the Government has agreed to obtain and deliver. Our report also

noted that the former method was consistent with the full funding basis used then and now in showing budget authority for DOD's own acquisitions.

A CONGRESSIONAL LIMIT ON FOREIGN MILITARY SALES

The other matter addressed in the report concerns the question of more systematic congressional control over the volume of foreign military sales. GAO has stated on other occasions that the public interest normally is best served when congressional control over executive activities is exercised through regular reviews and affirmative action in the authorization, budget, and appropriation processes.

The Congress has great latitude over the degree of control it chooses to exercise over a program. In the Arms Export Control Act, the Congress has provided a framework for arms control and reserved the right to veto individual sales that exceed a specified amount. Because foreign military sales are no longer incidental reimburseable transactions, but rather constitute a major factor in defense, international, and economic affairs, we recommended in our report that the Congress reconsider the degree of control it has exercised, and enact legislation to limit total new FMS acceptances for a fiscal year to the amounts specified in periodic authorizing and/or appropriation acts.

This concludes my summary of the report, Mr. Chairman. I should add that GAO has other work underway or completed on various FMS matters. Of particular relevance is our current work undertaken at the request of committees of both Houses to conduct a broad review of our Government's overall arms transfer policies and processes, including the role of the Congress. We expect to complete this work next spring at which time we would expect to elaborate on the need and form of

congressional control over foreign military sales. GAO also is conducting a review of procedures by which the Defense Security Assistance Agency computes the value of foreign military sales agreements and yearly aggregate FMS ceilings.

Thank you, Mr. Chairman. My colleagues and I would be pleased to attempt to answer any questions you or the other members of the Task Force may have.