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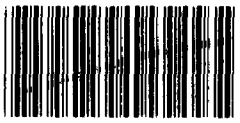
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Statement of

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Director, International Division

before the

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Senate Committee on Foreign Relations

on

~~The~~ U.S. Conventional Arms Transfer Policy

Mr. Chairman and Members of the Committee:

We are pleased to be here to provide the Committee with our evaluation of (a) the implementation of the current policy of restraint with respect to conventional arms exports, (b) the decisionmaking process for individual sales cases and (c) the congressional oversight role in the process.

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Our evaluation is being made jointly for this Committee and the Subcommittees on Europe and the Middle East, and on International Security and Scientific Affairs of the House Foreign Affairs Committee. We presented testimony on our evaluation to the House Subcommittee on International Security and Scientific Affairs last Friday. We expect to issue a comprehensive report on our evaluation in the near

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future. As arranged with these committees, our examination focused on and included case studies of transfers to non-industrialized countries. Also, we were asked to 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 the oversight and control functions of the Congress might be improved.

Serious restrictions were placed on our examination by the executive branch due to the belief that the arms sales decisionmaking process cannot work in practice if it has to take place in public, or if those involved must expect that their advice will be scrutinized and criticized after the fact. 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 hampered our attempts to analyze the roles of and relationships between executive agencies and divisions within agencies. We nonetheless believe that we obtained sufficient documentary and oral evidence to support our observations and conclusions.

Importance of Arms Trade

The international trade in arms has become one of the fastest growing and most competitive global businesses. The extent of this growth is indicated by the fact that available estimates suggest that in the past 5 years, the value of such trade equaled all arms trade in the world during the preceding quarter century. This growth occurred despite the United Nations Secretary General's designating the 1970s as the disarmament decade.

Each year the weapons sold are more numerous, more sophisticated and more lethal. The U.S. is a leading supplier. According to the President the U.S. accounts for almost as much of the arms trade as all other nations combined. Most U.S. arms exports are on a government-to-government basis.

Arms transfers in this decade have assumed extraordinary importance for suppliers and recipients alike. Developments responsible for this increased importance include:

--Customers are now demanding and getting highly sophisticated and lethal weapons.

Prior to the 1970s, transfers were, to a large degree, surplus obsolete weapons. Now, 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.

The developing world--recipients of most U.S. arms--is spending more for military purposes

than for health and education together. Advanced weapons systems are costly. The price of a modern fighting ship comes close to the gross national product of a number of nations.

--Recent and rapid growth in arms production capability of industrialized countries.

Industrialized countries such as, France, West Germany, United Kingdom and USSR all had marked increases in sales since 1977.

--The greater number of countries producing arms.

The number of non-industrialized nations producing at least some modern arms has grown also significantly. This is due in large part to the transfer of knowhow 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.

Origins of Restraint Policy

For several years the Congress encouraged restraint in exporting America's more sophisticated conventional weaponry. The President also concluded that this virtually unrestrained spread of conventional weaponry threatened the stability of every region of the globe and was a threat to world peace. Various observers noted that of the dozens of conflicts and wars occurring since World War II, all were fought on Third World territory. Primarily, and at times exclusively, they were fought with weapons imported from the industrialized nations.

The President decided that the U.S. had to take the first step toward controlling arms exports because of the special responsibilities the U.S. bears as the largest arms seller.

In May 1977, he announced a national policy of restraint in arms sales. The policy included quantitative and qualitative controls, a requirement that policy level authorization be secured from the State Department by agents or private manufacturers prior to instituting actions which might promote the sale of arms, and a restriction that embassies and military representatives abroad not promote such sales.

The restraint policy applied to all countries except those with which the U.S. has major defense treaties (i.e. - 14 NATO countries, Japan, Australia, and New Zealand.) Annual ceilings were subsequently placed on government-to-government arms sales for 1978 and 1979 to countries falling under the policy. The Department of State has primary responsibility for directing and monitoring implementation of the policy.

What Success Has Restraint Achieved to Date?

A fundamental aim of the restraint policy is to set an example of unilateral restraint for other nations to follow. This aim has received worldwide attention. Its declaratory value cannot be underestimated. Thus, the real test of the policy, in terms of setting an example for others to follow, may hinge on the degree to which unilateral restraint is achieved and can be demonstrated in the future. In this respect, we do not believe that credible accomplishments have yet been achieved.

A basic problem in establishing such credibility is the absence of a clear cut definition by the executive branch as to precisely what it hoped to accomplish.

In terms of reducing overall U.S. arms transfers, arms sales requests, or global transfers, all available evidence suggests that achievements under the restraint policy have been limited. Total U.S. arms sales increased to the highest level in history in 1978. Similarly, U.S. hopes for a decline in arms sales requests were not realized. With respect to global transfers, the U.S. does not have a satisfactory data base to measure such transfers. The U.S. is alone among the arms suppliers to openly publish its arms transfers. The limited available evidence points to the fact that other nations to date have been ready and willing to sell if the U.S. refuses to sell.

One goal of the restraint policy is a limited overall reduction in the value of U.S. arms sales agreements for all countries covered by the policy. The formal ceiling for 1978 was ultimately achieved by "mortgaging the future" or breaking up approved sales cases to fit parts of the case under future year ceilings. For example, the controversial F-15 aircraft case for Saudi Arabia was approved by Congress with an estimated value of $2.5 billion, but only $1.5 billion was included in the FY 1978 ceiling. The remainder was pushed forward to be included under future ceilings. To our knowledge, this practice is now an often used procedure.

One method employed by the executive branch to measure and demonstrate achievements of the restraint policy is reporting turndowns and turnoffs of arms sales requests. Our examination of the evidence led us to conclude that claims of turndowns are questionable primarily because there is no systematic record kept of such turndowns and there is no consistent criteria established. We found that a potential $2 billion sale of ships had been turned off but was not reported for fear of creating a U.S. domestic controversy over the economic impact. On the other hand, we found one item on the list furnished to the Congress was not turned down until 9 months after the list was submitted. Several other items on the list were turned down prior to the current "restraint" program. In two cases, items were sold or released even though they had previously been reported as turndowns. On balance, if criteria were established and records were systematically kept, turndowns and turnoffs might be one credible method for the executive branch to show the impact of restraint over time.

Available evidence suggests that the attempt to control arms promotion by private manufacturers has not diminished the level of promotion. A basic problem, in this regard, is that the Department of State has not formulated or established a workable system for identifying violators or administering established penalties for violations. Finally, GAO

noted that U.S. diplomatic and military officials abroad were unclear as to their role under the restraint policy. Three things were of particular concern: the conflict between restrictions on advice under the restraint policy and other mandates to provide advice; distinguishing when authorized advice becomes promotion of arms; and the fact that current guidance emphasizes what cannot be done without adequate clarification of what can be done.

Observations on the Arms Transfer Decisionmaking Process

Our basic observations on the decisionmaking process are that:

1. The Defense Department dominates decisionmaking when policy guidance is lacking from the Department of State: When there is a specific and overriding policy objective for a given country, 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 Peoples Republic of China.

In the absence of clear, well-considered policy guidance, however, Defense's military or technical judgements often have a tendency to drive decisions. For example, in one case we noted that a non-exempt countries' request for sophisticated electronic countermeasures equipment was disapproved by the State Department because it was not yet deployed with U.S. forces. Less sophisticated equipment was offered to and formally 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 Department officials, we learned, were completely unaware that provision had been made in the contract to permit future accommodation of the advanced equipment. Further complicating the matter is the fact that Defense, on its own, had ordered that the less sophisticated equipment be deleted from the purchase. This action was taken because it was known that the country, in fact, would not accept the equipment being placed on its aircraft.

In another case, a country requested DOD to conduct a study of the trade-offs of two competing but complementary defensive capabilities. State

Department officials became very much 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 Department personnel was dismissed quickly by officials because they recognized that the Department 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, which resulted in the sale of the more sensitive system, confirmed State officials' suspicions.

2. The review process tends to build a momentum for positive approval. From the moment of first interest through the step-by-step process of informal discussions, briefings, surveys,

studies, official visits, test rides or firings 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 become lost, if ever considered seriously, in the momentum that builds with each successive step taken on a major case. For example, a U.S. military briefing team was sent by the Department of Defense 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 in-country U.S. military personnel to assist

in preparing a report on the system for his superiors.

In response, in-country U.S. military personnel drafted the terms of reference for a study that would form the basis for the report. The study which was 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 system. 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.

3. Decisionmaking is reactive: The reactive nature of the process is perhaps best illustrated by the reluctance on the part of the U.S. to turn down a formal request. We were told by many officials that if it appears that an item is not releasable, it is best to persuade the foreign country not to make a formal request. If this is not possible,

one U.S. Embassy we visited told us, it will delay or over-validate a request to insure that it is considered in Washington under the best possible conditions.

If a turndown is unavoidable, we were told that the Embassy prefers a deferral rather than a flat no. Embassy officials provided the following example to illustrate the point. Foreign military officials expressed interest in a specific item in 1976. The Embassy and in-country military officials told the requestor that the item was releasable only to NATO but because of the requestor's persistence the request was forwarded to Washington. Although the answer was predictably no, the Embassy persuaded State to say that the item was not currently releasable but that it may become available at some later date. Subsequently the foreign country formally re-requested the item.

Although the State Department is nominally in charge of the sales program and final recommendations are made by the Secretary of State, the State Department is not a czar. Decisions on 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 National Security Council (NSC) or Presidential level.

All participants, realizing that the goal is consensus, test the thinking of the other participants in the process. A number of officials said 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. ACDA officials pointed out, however, that if they "cried wolf" on every sales request they received, their credibility and effectiveness would be severely reduced. Consequently, ACDA carefully picks and chooses the requests on which it will voice strong opposition.

Another key characteristic of the arms review process is compromise. Compromise is exhibited by U.S. officials who feel a need to be responsive to allies' perceived defense needs. For example, State Department regional bureau and Embassy officials tend to take predictable positions on cases. They see turndowns as complicating U.S. relations with the prospective buyer and therefore, tend to support a country's request or to find an alternative.

The foreign requestor is also sometimes willing to settle for an acceptable alternative. One country which had been turned down on a number of jet aircraft requests, finally accepted a U.S. counter proposal for a purely defensive capability.

On the other hand, another country adamantly refused to accept what it perceived to be a lesser capability. The U.S. 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.

GAO Methodology for Review

In order to understand how the current arms sales decisionmaking process works, we undertook a detailed examination of 50 requests--approved and disapproved--since the announcement of the arms restraint policy. Starting from the point that expressions of interest were first noticed by U.S. officials, we traced cases to the point a definite yes or no decision was made.

Our case study approach, while it formed an important part of our work, was complemented by separate analysis of

the review processes in State, Defense and other involved agencies.

The case studies did permit us to gain direct knowledge of how the process really works. More importantly, the cases provided a check against which to measure the changes in the process as related to us by the numerous executive branch officials we interviewed. Thus, we believe our analysis represents a careful synthesis of first hand observations and agency officials perceptions which were compared and tested against one another.

It is important to note that while most of the cases examined had histories preceding the current restraint program, all the cases examined were either approved or rejected after implementation of the current restraint program. Further, we found that the existing process is not materially different from that prior to the "restraint" program. The change that has taken place is in large part just a codification of prior practices.

For our needs, we selected some cases which represented additional purchases of equipment or services previously sold to see how such cases were processed. We found that some major sales tend to be viewed as follow on simply because we have sold the country similar equipment in the past. For example, in the early 1970s, the United States sold several ships to a certain country. U.S. officials viewed this sale

as a precedent setting policy when considering a recent request to sell equipment for a large number of smaller ships. Interagency memos justifying the sale emphasized that the new ships were replacements for older ships whose mission was supportive of those sold several years ago. Some officials even suggested that the U.S. might have to buy back the ships sold earlier if we turned down the current request. However, the fact that the new ships represented a 10-fold increase in capability over the older ships was never given much consideration in the review because of the dependence on past precedent.

Unilateral Restraint Can Be Made More Effective

The May 1977 restraint policy announcement was a bold departure from the past. A comprehensive study served as a foundation for the policy and identified several weaknesses in the then existing system of arms sales decisionmaking. The Arms Export Control Board was created to help correct those weaknesses. This was a step in the right direction. However, the policy has caused little change except for the establishment of an overall ceiling and the formalization of existing practices. If unilateral restraint is to be effective in setting an example for others to follow, much more needs to be done.

The restraint policy was intended as the barest outline of how to achieve restraint. To date the executive has not

focused sufficient attention on the difficult task of systematically fitting a worldwide restraint policy to the needs and realities of U.S. relations with specific purchasing countries. Nor has the executive developed fully its policy aims, a comprehensive plan for realizing these aims, or a system for measuring and evaluating the accomplishments of the policy. Stronger leadership on the part of the State Department in the completion of these unfinished tasks is needed.

Policy Issues

There is little evidence to date to suggest that other supplier countries are willing to join with the U.S. in its restraint effort. If the U.S. takes the actions necessary to achieve effective unilateral arms restraint, a basic policy question arises for the executive as well as the Congress. How long can and should the U.S. suffer the political and economic costs of restraint if other nations not only refuse to cooperate but also move in to make the sales the U.S. refrains from making?

Improving Congressional Oversight

For many years most U.S. arms were given away as military assistance. Because the taxpayer was footing the bill there was a built-in control through the authorization and appropriation process. As the industrialized and developing nations achieved an increased ability to

purchase arms, U.S. arms grant programs shifted to sales. In effect, this change transferred authority over arms transfers from Congress to the executive.

The feeling of being somewhat left in the dark on matters of such importance gave rise to demands for more congressional involvement and for a clearer understanding of what policy criteria this Government applied in judging the merits of individual requests. We believe the information flow on arms sales to Congress continues to be less than adequate to permit the Congress to fully and effectively exercise its policy formulation and oversight responsibilities.

It is also our opinion that the basic legislation relating to arms transfers--evolved in different acts over the years--has become complicated, occasionally inconsistent and in part, outdated. We are carefully analyzing the involved legislation and we are prepared to work with your staff in an effort to propose some legislative refinement for your consideration.

This completes my statement, Mr. Chairman. We will be pleased to answer questions.