



February 2020

MILITARY EQUIPMENT

Observations on the Transfer of Excess Humvees to Foreign Governments

Why GAO Did This Study

DOD can declare defense equipment as excess to U.S. military needs and make it available for transfer as a grant or sale to foreign governments. The Foreign Assistance Act of 1961 authorizes these transfers as grants provided that they do not adversely affect the U.S. national technology and industrial base, among other things. In this regard, transfers pursuant to the Act must not limit U.S. companies' ability to sell new or used defense equipment to countries requesting the transfer.

The 2018 NDAA generally requires that Humvee transfers be modernized with a new powertrain and armor prior to being transferred. The Act also generally requires GAO to report on proposed and completed Humvee transfers and the process to determine if transfers will adversely affect the industrial base.

This report provides information on (1) excess Humvees requested and approved during fiscal years 2012 through 2018 and (2) how the Humvee manufacturer's perspectives on the proposed transfers have been addressed by DOD as part of the determination of any adverse industrial base effects.

GAO analyzed the latest DOD data on EDA Humvee transfers from fiscal years 2012 through 2018; reviewed DOD policies, guidance, and documents to gain insight into the process for determining industrial base effects of proposed transfers; and interviewed agency officials and Humvee manufacturer representatives.

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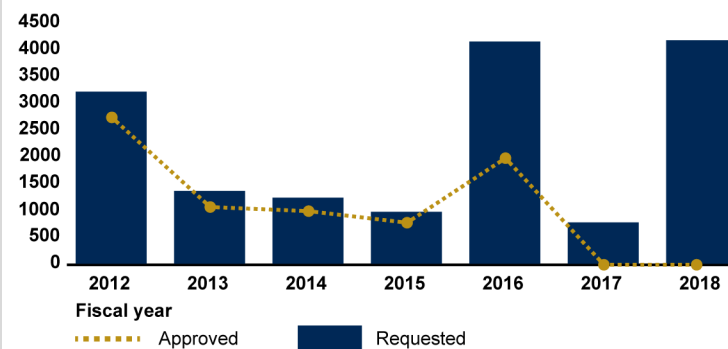
What GAO Found

Excess High Mobility Multipurpose Wheeled Vehicles (HMMWV)—commonly pronounced Humvees—are among thousands of items that the Department of Defense (DOD) can transfer to foreign governments at their request through the Excess Defense Articles (EDA) program. Twenty-three countries, primarily from the Middle East and Africa, requested 16,005 Humvees for the 7-year period GAO reviewed. DOD approves such requests if it determines:

- excess U.S. inventory is available at the time of the request,
- the request aligns with U.S. foreign policy objectives, such as using the vehicles to help combat terrorism, and
- the U.S. industrial base will not be adversely affected by the transfer.

For example, DOD approved a country's request for excess Humvees for border security, counter-smuggling, and counter-terrorism efforts. DOD approved nearly half of the total Humvees requested for fiscal years 2012 through 2018 (see figure). However, DOD has halted further approvals since the start of fiscal year 2017 due to concerns expressed by the Humvee manufacturer and language in the FY 2018 National Defense Authorization Act (2018 NDAA) and conference report that generally says Humvees must be modernized at no cost to DOD.

Humvees Approved as Grants through the Foreign Assistance Act, Compared to Total Requested (by fiscal year transfer was requested)
Number of Humvees



Source: GAO analysis of Department of Defense data. | GAO-20-189

Note: The Fiscal Year 2018 National Defense Authorization Act generally requires Humvees be modernized prior to transfer.

GAO found that DOD considered the Humvee manufacturer's perspectives on proposed transfers and generally took steps to mitigate concerns about transfers that could siphon potential business from the manufacturer or compete with its sales efforts. Further, GAO found that generally, when the manufacturer objected to a transfer, the manufacturer withdrew its objection after receiving business opportunities to repair or upgrade vehicles for DOD or a requesting government's fleet. DOD officials also noted that most of the countries requesting Humvees through the EDA program find it cost-prohibitive to purchase new Humvees directly from the manufacturer. As a result, these countries rely on EDA Humvees to sustain their military fleets.

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Abbreviations

BIS	Bureau of Industry and Security
DLA	Defense Logistics Agency
DOD	Department of Defense
DSCA	Defense Security Cooperation Agency
EDA	Excess Defense Articles
FMS	Foreign Military Sales
HMMWV/Humvee	High Mobility Multipurpose Wheeled Vehicle
JLTV	Joint Light Tactical Vehicle
NATO	North Atlantic Treaty Organization
NDA	National Defense Authorization Act

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February 28, 2020

Congressional Committees

The U.S. government engages in various efforts to build the capacity of foreign partners to address security-related threats and further U.S. national security and foreign policy objectives. One such effort, the Excess Defense Articles (EDA) program, allows for the transfer of defense articles no longer needed by the military departments. Under the EDA program, defense items can be transferred to foreign governments or international organizations; at fundamentally no cost to the recipient (via a grant) or at a percentage of the original acquisition value of the item (via sale). High Mobility Multipurpose Wheeled Vehicles (HMMWV)—commonly pronounced Humvees—are one of thousands of such items that can be transferred through the EDA program.

The Foreign Assistance Act of 1961 authorized the transfer of excess defense items to foreign countries provided that, among other things, such transfers do not adversely affect the U.S. national technology and industrial base. The Defense Security Cooperation Agency (DSCA) within the Department of Defense (DOD) has responsibility for determining whether proposed transfers could adversely affect U.S. industries. In recent years, the Humvee manufacturer, has expressed concerns that transfers of excess Humvees to foreign governments have the potential to limit the manufacturer's ability to directly sell new or used vehicles to requesting countries. The Fiscal Year 2018 National Defense Authorization Act (NDAA) included certain requirements pertaining to the transfer of excess Humvees. Among other things, the NDAA required that any Humvees transferred to a foreign country must be modernized in a manner consistent with vehicles that would be used for operational purposes by the U.S. military. The corresponding conference report stated an expectation that the vehicles are to be upgraded—with a modernized armored or armor-capable crew compartment and a new modernized powertrain—at no cost to DOD, but at the foreign governments' own expense, unless a waiver is granted.¹

¹National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, §1276(a)(1) (Dec. 12, 2017) See also H. Rept. 115-404, at 980-81 (2017).

In light of concerns about how any adverse effect of proposed Humvee transfers is being determined, the 2018 NDAA included a provision for GAO to report on proposed and completed transfers of excess Humvees that are provided via a grant pursuant to the Foreign Assistance Act.²

This report provides information about (1) DOD's approval of grant transfers of excess Humvees requested by foreign governments from fiscal years 2012 through 2018 and (2) how the Humvee manufacturer's perspectives on the proposed transfers have been addressed by DOD as part of the determination of any adverse industrial base effects.

Pursuant to the 2018 NDAA, this report addresses transfers of excess Humvees that are provided via a grant under the Foreign Assistance Act and does not address excess defense items that can be offered for transfer to other entities such as U.S. state and local governments. Transfers of EDA items to foreign governments under the Foreign Assistance Act are generally referred to as grants. Transfers of EDA items to foreign governments under the authority of the Arms Export Control Act are referred to as sales. For purposes of this report, unless otherwise indicated, transfers refer to grants.

To provide information about DOD's approval of transfers of excess Humvees, we analyzed data for fiscal years 2012 through 2018 (the latest and most complete data at the time of our review) from the Army, DSCA, and the Defense Logistics Agency (DLA). These data provided insight about the countries that have requested EDA Humvees, the condition and types of vehicles delivered to those countries, and delivery time frames. We also reviewed documentation provided by countries requesting the vehicles to identify the intended purpose of the request. We interviewed agency officials responsible for the data to identify the quality controls in place to help ensure the data are accurate and reliable. Furthermore, we reviewed the data for issues such as missing data elements and duplicates, among other steps. Based on these steps, we determined the data were sufficiently reliable for the purposes of reporting information about EDA Humvee transfer requests over our 7-year timeframe.

To provide information about how the Humvee manufacturer's perspectives on the proposed transfers have been addressed by DOD as part of the determination of any adverse industrial base effects, we

²Pub. L. No. 115-91, § 1276(d). See also Foreign Assistance Act of 1961, Pub. L. No. 87-195, § 516 (Sept. 1, 1961), amended and restated by Pub. L. No. 104-164, § 104(a) (July 21, 1996); 22 U.S.C. § 2321j(b)(1)(E).

reviewed documents and data, and interviewed officials from DSCA and the Bureau of Industry and Security (BIS) within the Commerce Department, which advises DSCA on industry effects of proposed EDA transfers. We reviewed BIS policies and procedures related to the EDA program to identify the factors BIS considers in making a recommendation about the adverse effect of a proposed transfer. We also reviewed data generated by BIS to identify the extent to which the Humvee manufacturer objected to proposed transfers for the 7-year period included in our review. We also reviewed data provided by the Army on the number of Humvees procured for its use and for sale to foreign governments through the Foreign Military Sales (FMS) program from fiscal years 2012 through 2018. To gain insight about DSCA and BIS's approach to assess industrial base effects of proposed transfers, we selected two transfer requests as illustrative case studies: a 2016 transfer for Afghanistan, which was the single largest proposed transfer, and a 2016 transfer for Albania, which was the only proposed transfer for which BIS did not sustain the Humvee manufacturer's objection. We also spoke with representatives from AM General to obtain their perspectives on the EDA program and the effect of EDA transfers on their business.

We conducted this performance audit from February 2019 to February 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Overview of the EDA Program

The EDA program is one of several programs designed to build partner capacity through the provision of excess defense equipment and services to foreign governments or international organizations such as the North Atlantic Treaty Organization (NATO). These excess items are provided as part of U.S. security assistance efforts and help to support U.S. foreign policy and national security objectives. The Foreign Assistance Act permits the transfer of excess defense articles provided that such transfers will not adversely affect the industrial base.³ In particular, under the Act, transfers must not reduce the opportunity for U.S. contractors to

³22 U.S.C. § 2321j(b)(1)(E).

sell new or used defense equipment to countries requesting the transfer.⁴ Excess defense items can include aircraft, ammunition, clothing, radios, trucks, and spare parts.⁵ According to DOD officials, the vast majority of EDA items are low- to medium-level technologies that, if not transferred, would either be stored at cost to DOD or destroyed. Excess defense items can be transferred as grants—as permitted by the Foreign Assistance Act—or sold to eligible foreign governments at a reduced cost in “as is, where is” condition pursuant to the Arms Export Control Act.⁶ This means that the requesting foreign government is generally required to pay all repair or refurbishment costs, as well as all costs associated with transporting the EDA item—which can be located in the United States or outside the continental United States. As previously mentioned, for purposes of this report, transfers refer to grants of EDA items unless otherwise indicated.⁷

DSCA has overall responsibility for administering the EDA program. The Director of DSCA has been delegated authority to make the determination on whether a proposed transfer could adversely affect the industrial base.⁸ The military departments determine when defense items are no longer needed and can designate them as excess and, upon approval, can offer them as EDAs. Multiple federal entities play a role in the EDA program, as illustrated in figure 1.

⁴22 U.S.C. § 2321j(b)(1)(E).

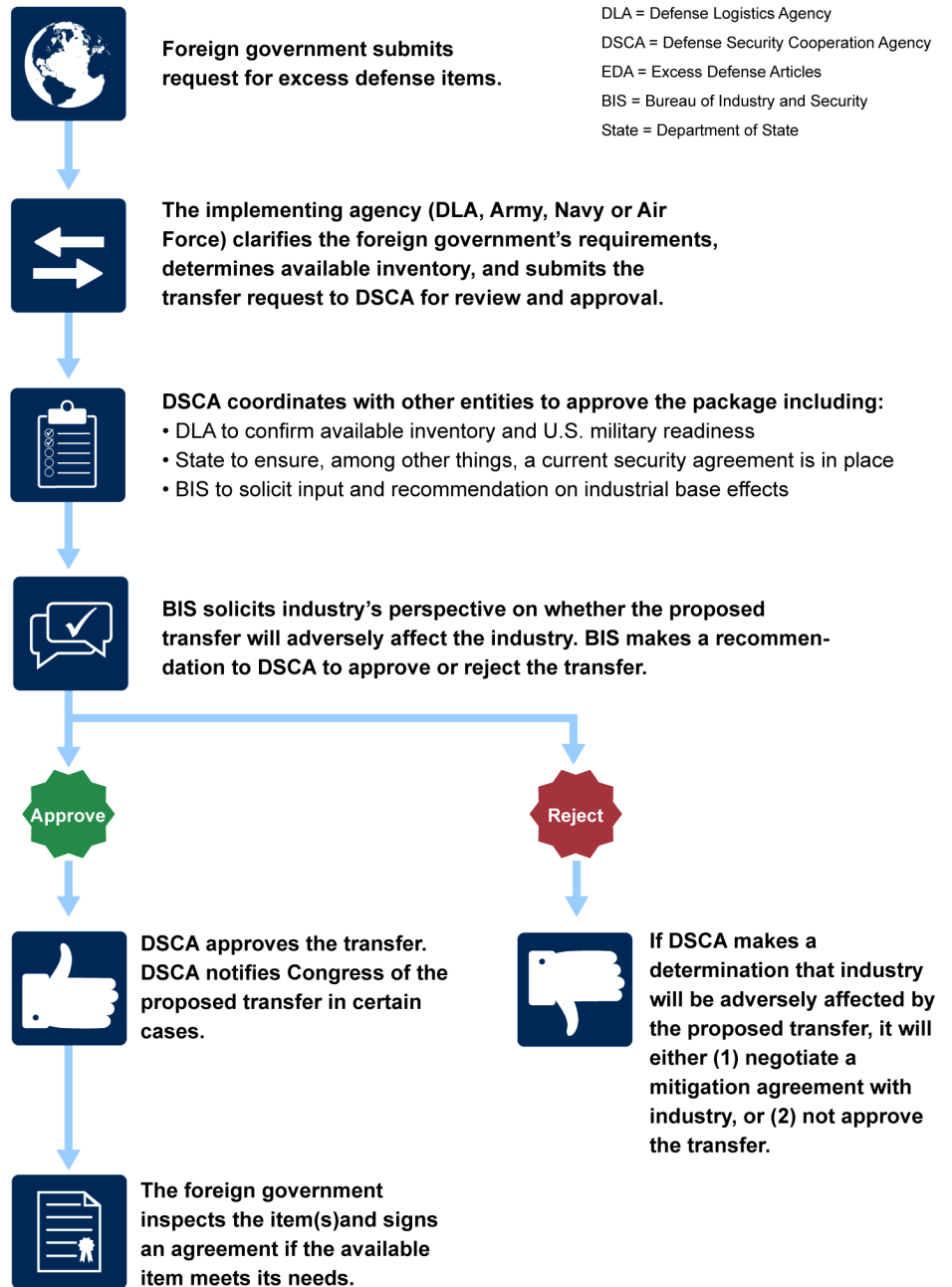
⁵See 22 U.S.C. § 2321c(1); 22 U.S.C. § 2403.

⁶See 22 U.S.C. § 2761. The Arms Export Control Act (AECA) authorizes the sale of defense articles and services to eligible foreign customers under the FMS program, which is one of multiple security cooperation programs that provide for the transfer of U.S. defense articles and services to foreign governments. See International Security Assistance and Arms Export Control Act of 1976, Pub. L. No. 94-329 (June 30, 1976). Similar to the Foreign Assistance Act, the AECA requires a determination that the transfer of excess defense articles (through a sale, not a grant) will not have an adverse effect on the national technology and industrial base, among other things. 22 U.S.C. § 2761(k).

⁷An excess article is not defined as an EDA until the article has been authorized by DSCA for transfer and accepted by a foreign government.

⁸Exec. Order No. 12163, 44 Fed. Reg. 56673 (Sept. 29, 1979); Department of Defense Directive 5105.65, Defense Security Cooperation Agency (DSCA) (Oct. 26, 2012). See also 22 U.S.C. § 2321j.

Figure 1: Illustration of Excess Defense Articles (EDA) Process for Proposed Transfers of Military Equipment to Foreign Governments



Source: GAO analysis of Department of Defense and Bureau of Industry and Security documents. | GAO-20-189

Following the interagency coordination, if DSCA determines the proposed transfer will not adversely affect industry and thus can proceed, DSCA notifies Congress about proposed transfers that are valued at over \$7 million or that contain significant military equipment.⁹ As part of the congressional notification, DSCA provides information on (1) the purpose for which the item is being provided to the country, (2) whether the item has been previously provided to the country, (3) the current value and original acquisition value of the item, and (4) its findings regarding how industry will be affected by the proposed transfer. After a 30-day congressional notification period, DSCA authorizes the proposed transfer in consultation with State, provided that Congress does not object and all agencies concur with the transfer.¹⁰

DSCA follows the same process to review and approve all proposed EDA transfers—including for excess Humvees. One unique difference for Humvee transfers is a 2018 legislative requirement that Humvees be modernized with an armored or armor-capable crew compartment and a new modernized powertrain prior to a transfer, unless a waiver is granted.

DOD Humvee Procurement and Sustainment

Humvees, which are four-wheel drive military light trucks, have been part of DOD's light tactical wheeled vehicle fleet since the 1980s. While the Army is the program office for Humvees, the vehicles have been used by other military departments in support of their own combat operations. Humvees were initially fielded to serve as a light, highly mobile and unarmored vehicle and are commonly used for combat operations; however, the Army National Guard also procures these vehicles for use in homeland defense and natural disaster relief operations. In efforts to adapt the Humvee to modern requirements for combat operations, the Army has increased the performance and protection of the vehicle over time.

Over the past 30 years, AM General has produced three models—the M900, M1000, and M1100 series. The company no longer produces the M900 and M1000 series for combat operations and certain parts and components that are unique to these vehicles are obsolete or otherwise

⁹Section 516 of the Foreign Assistance Act requires an advance congressional notification if the original acquisition value of the EDA is equal to or exceeds \$7 million. 22 U.S.C. § 2321j(f)(1).

¹⁰See 22 U.S.C. § 2321j.

not readily available.¹¹ The M1100 series, which is still in production and supports combat operations and many non-combat related operational and support missions, offers newer capabilities such as increased weight capacity. With the additional weight capacity, the 1100 series is the only model that can support the added armor requirements under the new legislative requirement without a substantial overhaul. Figure 2 highlights some of the capabilities of the different Humvee models.

Figure 2: Humvee Vehicle Model and Capabilities



Source: AM General. | GAO-20-189

DOD's light tactical wheeled vehicle strategy has changed since 2010, following lessons learned from military operations in Iraq and Afghanistan. DOD plans to shift from procuring new Humvees to sustaining existing vehicles in its fleet. In its 2014 Tactical Wheeled Vehicle Strategy, the Army stated plans to buy fewer new Humvees because the vehicle no longer fully meets its evolving mobility or protection requirements. While DOD decreased its procurement of Humvees for military operations, it has plans to upgrade and refurbish existing vehicles. There are nearly 300,000 Humvees or vehicles with the Humvee chassis operating globally by the U.S. military and other foreign governments. These vehicles are

¹¹There is ongoing production of one variant of the M900 series that is used as ambulances for the Army National Guard in homeland defense and natural disaster operations. According to AM General, this variant uses the chassis from the M1100 series.

expected to require ongoing maintenance and upgrades for the next 20 to 30 years.

Industrial Base Risk Assessments

DOD routinely conducts industrial base risk assessments to gain insight on the viability of current suppliers to meet its current and future requirements. The assessment takes into account a range of considerations including (1) factors that could cause a current supplier to go out of business or exit the market and (2) the extent to which an existing supplier relies on DOD, foreign military sales, or commercial sales. While these assessments are not routinely conducted as part of the excess defense article (EDA) transfer process, they may be undertaken to provide input on EDA transfers, as needed.

Source: Adapted from Department of Defense (DOD) information| GAO-20-189

The Army has efforts underway to acquire a new vehicle—the Joint Light Tactical Vehicle (JLTV)—to meet its future requirements. Although a different manufacturer was awarded the JLTV contract, in its industrial base risk assessment for this requirement, the Army stated it intends to maintain two manufacturers—including AM General—to meet its ongoing needs for light tactical wheeled vehicles. In a 2018 congressional briefing, the Army’s Acquisition, Logistics, and Technology Command estimated maintaining a relatively even mix of both vehicles—54,810 Humvees from existing inventory and 49,099 new JLTVs—to sustain operations for the foreseeable future. However, the Army is conducting a more comprehensive review of its light tactical vehicle requirements and plans to release its findings in an updated acquisition strategy expected in 2022.

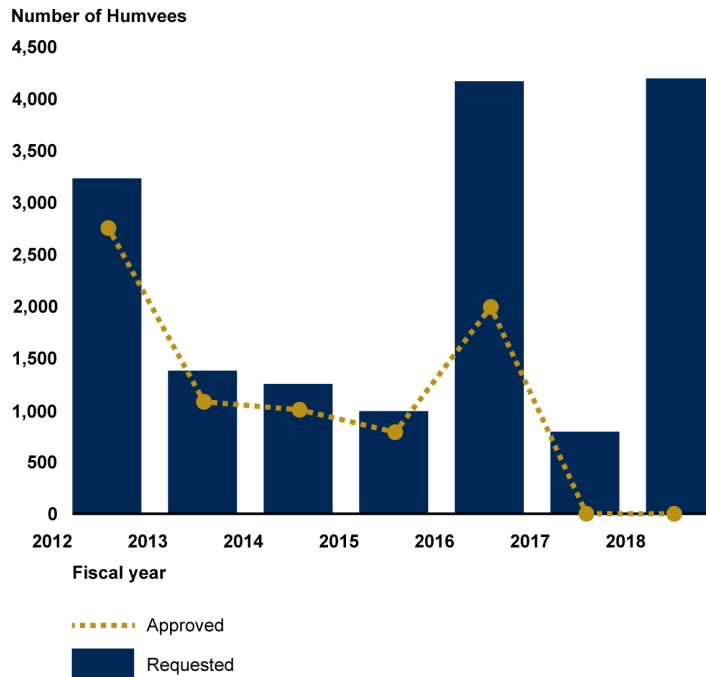
DSCA Approved Almost Half of Humvee Requests to Aid Foreign Governments’ Security Needs, but Approvals Have Halted Since 2017

DOD approved nearly half of the total Humvees requested by foreign governments for fiscal years 2012 through 2018. The requests were in support of foreign governments’ security efforts, such as counterterrorism. However, the number that was actually delivered was less than those approved because DOD decreased the number or foreign governments canceled their requests for various reasons. DSCA halted approvals of EDA Humvee requests since the start of fiscal year 2017 and raised concerns about the new statutory requirement to modernize Humvees prior to transfer.

Nearly Half of EDA Humvee Transfer Requests Were Approved but Number Delivered Was Reduced for Various Reasons

DOD approved nearly half of the total Humvees requested by foreign governments for fiscal years 2012 through 2018—7,612 vehicles of the 16,005 excess Humvees requested—but has not approved Humvee requests made since the start of fiscal year 2017. Figure 3 shows the number of Humvees requested and approved for transfer each fiscal year.

Figure 3: Number of Humvees Requested and Approved under the Excess Defense Articles Program, Fiscal Years 2012 through 2018



Source: GAO analysis of Department of Defense data. | GAO-20-189

Note: In fiscal year 2018, 4,103 High Mobility Multipurpose Wheeled Vehicles (Humvees) were requested but have not been approved subsequent to the enactment of the Fiscal Year 2018 National Defense Authorization Act, which generally requires Humvees be modernized prior to transfer. The number of Humvees vehicles approved is based on the number requested; approvals did not necessarily occur in the same fiscal year that a vehicle was requested. This figure represents transfers of Humvees as grants through the Foreign Assistance Act.

While thousands of EDA Humvees have been requested and approved in the 7-year period we reviewed, the number of vehicles delivered to requesting governments has been substantially lower due to various factors. From fiscal years 2012 through 2018, 3,831 vehicles have been delivered to foreign governments.¹² In our analysis of DOD information relating to transfer requests, we identified various reasons that led to foreign governments canceling or DOD reducing the number of vehicles delivered including:

¹² We were unable to verify delivery time frames for 690 Humvees, as they may have originated in transfer requests prior to fiscal year 2012.

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- Limited number of vehicles were available to meet the foreign government's needs
 - Foreign governments desired newer Humvee models rather than older models that were being offered or did not want to incur expenses to repair the EDA Humvees to an operational state
 - DSCA determined with State's review and concurrence that a foreign government requesting Humvees did not have a current security agreement to be eligible for a grant as required by the Foreign Assistance Act¹³

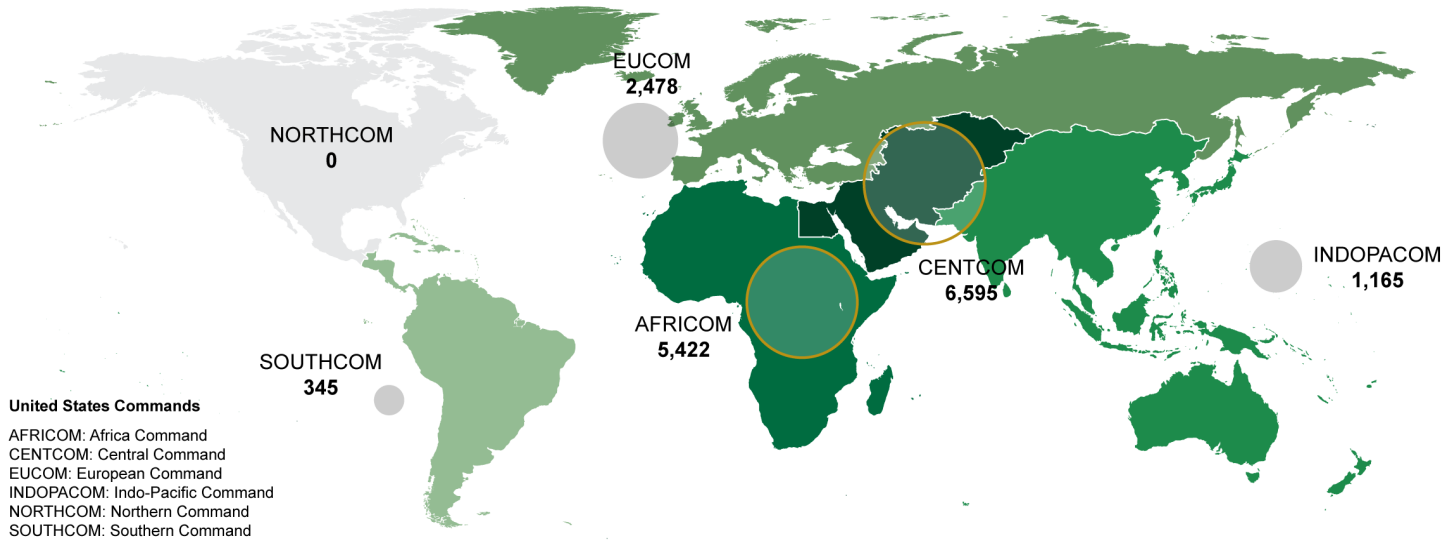
The Majority of Humvee Requests Came from the Middle East and Africa Regions

In our analysis of data provided by the Army and DSCA, we found from fiscal years 2012 through 2018, that 23 countries submitted requests for Humvees, including some requests in fiscal year 2018. The delivery of EDA items under the Foreign Assistance Act to certain countries is given priority to the maximum extent feasible. These countries include certain NATO countries, major non-NATO allies in the Middle East and Africa regions, and the Philippines.¹⁴ We found that the Middle East and Africa regions accounted for 75 percent of the vehicles requested over this period. Figure 4 shows the regional distribution of requests.

¹³22 U.S.C. § 2314. The Act requires that all grant recipients have a security agreement in place with the U.S. government. The agreement includes end-use restrictions and requires that recipients give the U.S. government the right to any proceeds resulting from any sale of U.S. defense items granted to the country, among other things.

¹⁴See 22 U.S.C. § 2321j.

Figure 4: Number of Humvees Requested by Region, Fiscal Years 2012 through 2018



Source: GAO analysis of Department of Defense data. | GAO-20-189

Note: Not all countries in each region requested EDA Humvees.

The majority of requests for Humvees from countries in the Middle East and Africa regions were primarily to support various security-related missions. For example, one country requested excess Humvees for border security, counter smuggling, and counterterrorism operations. Such security-related efforts by foreign countries align with the U.S. 2018 National Defense Strategy, which states DOD’s objective to prevent terrorism globally and aid U.S. foreign partners in their counter-terrorism efforts. Additionally, the strategy aims to strengthen alliances and attract new partners by increasing interoperability to work together and effectively achieve military objectives.

DSCA is required to state the comparative foreign policy benefits that the United States would gain from a grant transfer rather than a sale when it notifies Congress about a proposed transfer. In the documents we reviewed, DSCA cited foreign policy benefits such as increasing the capability of countries to take on a greater share of military operations, supporting joint operations with NATO, or counterterrorism and counter-narcotics operations. For example, for one request, DSCA determined that a requested transfer was in the U.S. national interest, as equipping the foreign country’s armed forces with Humvees would allow them to have an increased role in military operations in the Africa region. In turn,

this would reduce the country's reliance on U.S. forces for NATO operations.

In addition to requesting vehicles for security-related operations, some countries planned to use vehicles for spare parts or had plans to refurbish the vehicles on their own. We found that about two-thirds of the Humvees delivered through the EDA program from fiscal years 2012 through 2018 were older models—either M900 or M1000 series—rather than the newer M1100 series. Most countries receiving deliveries of older models were seeking to replace existing vehicles in their fleet or to use EDA Humvees for spare parts.

DSCA Halted Approvals and Cited Challenges Regarding New Statutory Requirements

As previously mentioned in this report, DSCA has not approved any EDA Humvee requests since the start of fiscal year 2017. One reason, according to our analysis of DSCA data, is the manufacturer's objections to proposed transfers. Another is because of the legislative provision in the Fiscal Year 2018 NDAA that requires Humvees to be modernized with an armored or armor-capable crew compartment and new, modernized powertrain prior to transferring. The corresponding conference report stated the conferees' expectation that any modernization and refurbishment work must generally be done at no cost to DOD. According to DOD, the cost to modernize would be incurred by the requesting foreign government. Since the provision's enactment, DOD has not exercised the authority to waive this legislative requirement for any Humvee request. Foreign governments have not been willing to pay for the modernization, so approvals have halted.

Since the enactment of the modernization requirement in December 2017, DSCA has received requests for 4,103 Humvees. According to DSCA officials, when a foreign government submits a letter of request for EDA Humvees, DSCA notifies the country of the modernization requirement and its responsibility to pay for the cost to refurbish the vehicles in accordance with the law. In DOD documents we reviewed, foreign governments cited having limited budgets and being financially unable to purchase defense equipment such as Humvees. As such, they rely on the EDA program to acquire defense items. DSCA officials told us that the modernization work is to be done at no cost to the U.S. government; however, they added that paying the cost to modernize Humvees can be cost-prohibitive for foreign governments.

Foreign governments can request, through DSCA, that the modernization requirement be waived. Since December 2017, according to DSCA officials, DSCA has received waiver requests from three foreign

governments but has not exercised the waiver authority. According to DSCA officials, these requests likely will remain unapproved for the foreseeable future; however, the provision requiring the refurbishment of excess Humvees prior to transfer is set to expire in December 2020. According to DSCA officials, DSCA plans to resume its normal EDA approval process thereafter. Currently, according to DSCA officials, they are encouraging foreign governments to look at other options to meet their fleet requirements, including purchasing new Humvees. However, DSCA officials acknowledge that, if a foreign government cannot afford to buy new vehicles, DOD does not have any low-cost vehicles to offer as an alternative solution.

However, DOD officials and Army documents we reviewed noted that even if foreign governments were able to independently fund the modernization costs, there are not sufficient quantities of the newer model Humvees—M1100 series—in inventory that can support the additional weight of the added armored capabilities for the modernized crew compartment. According to DSCA documentation, the EDA program has a little over a hundred vehicles that could be refurbished to the modernization requirements. Additionally, most of the Humvees in DOD’s inventory are older models that would first require a new expanded vehicle chassis to withstand the weight of adding armor. The officials likened the modernization process for the older model Humvees to essentially building a whole new vehicle.

Determinations of Adverse Industrial Base Effects Are Driven by Increasing Objections from the Manufacturer, but Mitigation Actions Have Been Taken

DSCA’s determinations of whether there is an adverse industrial base effect to approve Humvee transfers are largely based on objections from the manufacturer about the proposed transfers. Since 2015, the Humvee manufacturer has objected more frequently to the transfer of vehicles to foreign governments.¹⁵ In all but one instance when the manufacturer objected to a transfer, we found that DSCA and BIS took steps to address concerns of the Humvee manufacturer and reach a resolution, such as providing the manufacturer Humvee refurbishment work.

¹⁵In total, the manufacturer objected to 13 of 42 transfer requests, with all but two occurring since 2015.

Manufacturer's Objection Is the Primary Factor in DSCA's Determination

DSCA's decision on whether there is an adverse industrial base effect to approve a transfer of Humvees is largely based on the manufacturer's perspective on a proposed transfer. DSCA has considerable latitude for such decisions as the Foreign Assistance Act, as delegated, does not specify how determinations should be made on whether proposed transfers could adversely affect U.S. industries. Historically, DSCA has sought input from BIS to aid its determination about potential industrial base effects of proposed transfers. According to DSCA officials, all proposed EDA Humvee transfers have undergone an assessment of adverse industrial base effect by BIS. We found that BIS actively engages the Humvee manufacturer on proposed transfer requests and supported all but one objection from fiscal years 2012 through 2018. BIS's standard practice is to collect information from the prime contractor and other suppliers to inform its recommendation to DSCA about possible industrial base effects.

As part of its efforts regarding proposed Humvee transfers, BIS notified AM General and provided information on all the transfer requests including the requesting country; number of vehicles requested; the vehicle model; and the country's plans, if known, to repair or upgrade EDA vehicles, including who the country intends to select for such work. BIS officials told us that they request a response within 7 calendar days on whether the manufacturer supports or objects to the proposed transfer.

In instances where the Humvee manufacturer objected to a transfer, BIS required that the manufacturer provide an explanation of its objection. In documents we reviewed, the manufacturer objected for various reasons, including that a transfer would: (1) directly interfere with ongoing marketing or planned sales to the requesting country, or (2) adversely affect its business and that of its suppliers.

BIS's standard procedure is to request proof of ongoing sales efforts if a company states that a proposed transfer will interfere with potential sales. In the cases where the Humvee manufacturer cited ongoing or planned business development with a requesting country, BIS required that the manufacturer provide information of its ongoing efforts to sell its vehicles to the requesting country, including:

- documentation of recent or planned meetings with foreign government officials and a timeline of the meetings;
- export licenses; and
- business plans.

If a manufacturer submits an objection, BIS will also check if they have registered business activity with Commerce's Advocacy Center, which provides assistance to defense companies pursuing contracts with overseas governments and government agencies. If BIS concludes the Humvee manufacturer has a basis for its objection due to ongoing business with the requesting country, it will recommend that DSCA not authorize the transfer. According to DSCA officials, this is largely because it considers the possibility that the transfer could dissuade requesting foreign governments from purchasing new or used vehicles. Thus, providing vehicles through the EDA program at no cost or a discounted price to a foreign government could siphon potential business from the manufacturer or could compete with the manufacturer's sales efforts. Under the Foreign Assistance Act, a transfer request cannot be fulfilled if doing so will interfere with the manufacturer's ability to sell equipment to the requesting country.¹⁶ During fiscal years 2012 through 2018, we found only one instance where DSCA, based on BIS's recommendation, did not support AM General's objection. In that case—a request for Humvees from Albania—DSCA moved forward and approved a Humvee transfer because the manufacturer could not demonstrate ongoing business with the requesting country.

Humvee Manufacturer Has Increasingly Objected to Transfers, Leading to Delays in Providing Vehicles to Requesting Countries

AM General has objected more frequently to the transfer of vehicles to foreign governments since March 2015. In 2015, the JLTV production contract was awarded to another contractor and the Humvee manufacturer sold its commercial automotive plant, both of which occurred in the wake of decreasing or nonrecurring DOD Humvee procurements in comparison to past years. In total, the Humvee manufacturer has challenged 11 transfer requests for over 4,000 vehicles between fiscal years 2015 and 2018. The manufacturer told us that the increasing number of proposed transfers is concerning because the transfers amount to nearly 3 years' worth of new vehicles it could produce to sustain its production lines.

AM General representatives told us they will continue to object to the transfer of older Humvee vehicles (M900 and M1000 models). For these models, the representatives cited concerns that parts for these vehicles are no longer in production, and thus the manufacturer cannot ensure qualified parts are available for maintenance and repairs. They are also concerned that older vehicles have the propensity to break down, which could damage the Humvee brand internationally—particularly, if

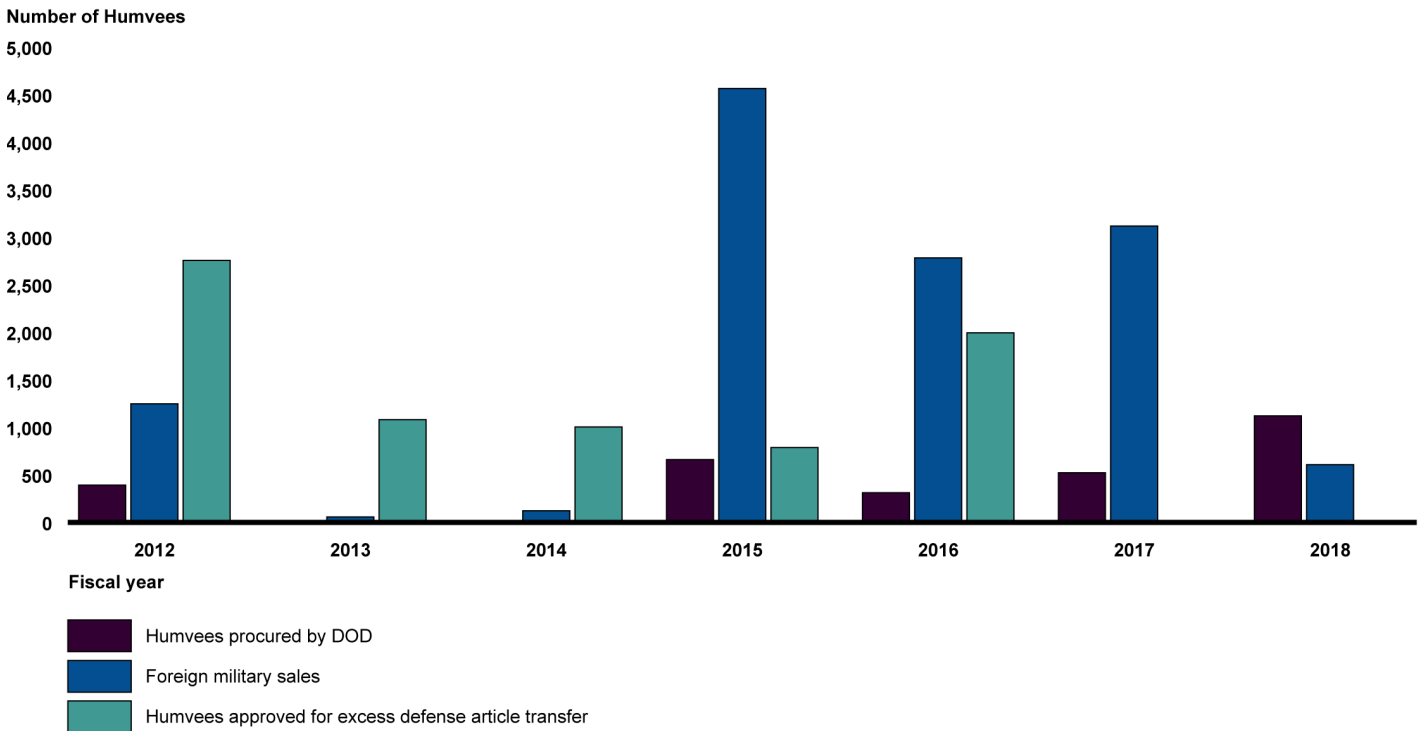
¹⁶22 U.S.C. § 2321j(b)(1)(E)

counterfeit parts are used. In our review of documents describing requesting countries' use of vehicles, we found that older model vehicles are, at times, accepted by foreign governments to use as spare parts to maintain an existing fleet and to develop their workforce's capability to repair vehicles. However, we found that since 2015, the majority of vehicles to which the manufacturer objected were the newer M1100 models—stemming largely from a single 2016 request for Afghanistan. To support its objections to this transfer, AM General has stated that its own international sales are an important source of revenue, particularly because DOD has reduced its procurement of Humvees.¹⁷

AM General representatives explained that proposed transfers through the EDA program can threaten their company's potential future sales to foreign governments that may be less likely to purchase new Humvees if DSCA approves transfers of used vehicles. According to the manufacturer, each transfer is a potential one-for-one reduction of a possible sale of a new vehicle to the requesting country, which can affect its bottom line as well as the suppliers that provide parts and materials to produce the Humvees. In our review of Army procurement data, we found that many countries that requested excess Humvees have not purchased them through the FMS program from fiscal years 2012 through 2018. DSCA officials told us that most of the countries requesting Humvees through the EDA program find it cost-prohibitive to purchase new Humvee vehicles directly from the manufacturer. A new Humvee can cost between \$115,000 and \$190,000 depending on the model and capabilities included. As a result, these countries rely on EDA Humvees provided through grants to sustain their military fleets. Figure 5 shows the number of Humvees procured by DOD relative to the number of vehicles foreign governments bought through the FMS program and those they were granted via the EDA program.

¹⁷Foreign governments can purchase Humvees through the FMS program or directly from the manufacturer via Direct Commercial Sales. Direct Commercial Sales are sales in which U.S. companies are licensed to export directly to foreign customers with no involvement from the U.S. government in the procurement process. We are not able to report on sales of Humvees through Direct Commercial Sales as these data are confidential between the contractor and customer.

Figure 5: Humvees Acquired by DOD and Foreign Governments, Fiscal Years 2012 through 2018



Source: GAO analysis of Department of Defense (DOD) procurement data. | GAO-20-189

Note: High Mobility Multipurpose Wheeled Vehicles (Humvees) acquired by foreign governments through the Foreign Military Financing program are not reflected. Data on Humvees acquired through Direct Commercial Sales are not included as this information is not publicly available. "Excess defense article transfer" means transfers as grants through the Foreign Assistance Act.

We found that from fiscal years 2012 to 2018 AM General's objections to proposed EDA Humvee transfers have increased the time that it takes for DSCA and BIS to review and make their determinations. If the manufacturer did not object to a transfer, which was largely the case prior to March 2015, BIS provided its recommendation to DSCA, on average, within 21 days. However, our analysis showed that an objection to a Humvee transfer on average added approximately 152 days to address industry objections. DSCA officials acknowledged that the approval process can be prolonged when the manufacturer objects to a proposed transfer, potentially contributing to longer waiting periods for requesting countries to receive the Humvees. In addition, the longer that vehicles remain in storage, the more likely it is that they will require more repairs to make them operational, resulting in increased costs to the requesting foreign governments to refurbish them, according to a DSCA official.

Manufacturer representatives also told us they want to be involved earlier in the process to provide input on the potential effects of proposed transfers. We found that, on average, DSCA notifies BIS about 4 months after a country submits its Humvee request and BIS reaches out to the manufacturer a day or two later. A DSCA official explained that it can be a challenge to involve the manufacturer earlier because the request is not fully stable and could be revised for a number of reasons, including countries canceling the request or changing requirements to obtain different capabilities, and DOD internal policy considerations need to be vetted before reaching out to the manufacturer.

Agencies Took Steps to Address Manufacturer's Concerns

2017 Industrial Base Assessment Following the Proposed Transfer of Excess Humvees to Afghanistan

The proposed transfer of 2,461 Humvees to support operations in Afghanistan represented the single largest transfer of Humvees under the Excess Defense Articles (EDA) program in recent years. Amid concerns from the Humvee manufacturer and others about the proposed transfer, Defense Security Cooperation Agency (DSCA) consulted DOD's Industrial Policy office to conduct a comprehensive industrial base risk assessment for light tactical wheeled vehicles. These assessments are not a routine part of the EDA transfer process, but they can be used to provide additional input as needed.

The assessment considered the manufacturer's reliance on DOD and foreign military sales (FMS) procurements. In its final 2017 report, the Industrial Policy office concluded that AM General's combination of sales through FMS, continued upgrade and repair work on the existing DOD Humvee fleet, and its commercial business were sufficient to maintain the manufacturer's operations. DSCA approved the transfer after also considering the operational requirements of the Afghanistan National Security Force and the cost savings benefits that could be achieved through the use of EDAs.

Source: GAO analysis of Department of Defense (DOD) information. | GAO-20-189

In recent years, DSCA and BIS have taken steps to address AM General's increasing objections to proposed transfers. In 2018, BIS modified its approach to assess adverse effects of Humvee transfers to consider an additional factor. Now, BIS considers the cumulative effect and totality of previous EDA Humvee requests, in addition to assessing each request on a case-by-case basis. According to BIS officials, this was in response to the pattern of consistent objections that they were receiving from the Humvee manufacturer. AM General acknowledged that communication with DSCA and BIS about Humvee EDA transfers has improved. For example, DSCA notified AM General about its decision to sustain the company's objection and, thus, not move forward on a transfer request made in July 2019 for 2,000 vehicles. AM General told us that in the past, DSCA did not notify AM General about whether it had sustained or overruled the company's objection to a proposed transfer.

AM General's objections to EDA Humvee transfers have at times led to additional business channels for the Humvee manufacturer. For example, we found that the manufacturer received business opportunities from EDA Humvee transfers to Afghanistan, Iraq, Jordan, and Thailand that included, providing long-term sustainment and refurbishment of Humvees, among other things. In response, the contractor withdrew over a third of its objections between fiscal years 2012 and 2018 based on receiving this type of work or reaching agreements with foreign governments to provide fully operational Humvees. The remaining transfers were cancelled; put on hold pending resolution with the Humvee manufacturer; or in one case, moved forward with an objection in place.

The agreements to provide additional support can be financially beneficial to the manufacturer and help sustain its production capabilities. For example, we found that in 2012, the Humvee manufacturer objected to a country's transfer request of 250 vehicles, but withdrew their objection after reaching an agreement with the foreign government to perform much of the refurbishment work for those vehicles. In another case, we found that for the 2016 proposed transfer of 2,461 vehicles to support the Afghanistan National Security Force, the Humvee manufacturer objected, citing concerns about the large number of vehicles requested, among

other concerns (see sidebar).¹⁸ The proposed transfer of EDA Humvees to Afghanistan was requested by DOD after a 2016 Senate report expressed concerns about a lack of insight into the cost-benefit analysis of procuring new equipment instead of refurbishing excess equipment.¹⁹ In response to the proposed transfer, the manufacturer sent a letter to BIS outlining their anticipated role in the Afghanistan transfer, including obtaining Army contracts to add armor kits to EDA vehicles, providing new powered chassis, and if required, new Humvees.²⁰ The letter also noted the Humvee manufacturer's withdrawal of its objection to the transfer. DSCA subsequently notified the manufacturer that it did not agree with the terms AM General outlined in the letter to BIS and specified that the proposed transfer would create business opportunities for U.S. industry, including AM General, to refurbish EDA Humvees. DSCA also added that it would continue to ensure that industry is notified of all proposed Humvee EDA transfer requests so that industry can provide input or express concerns.

According to DOD officials, the number of Humvees available for transfer to Afghanistan was reduced as DOD decided to split the number of available EDA Humvees in inventory at the time to meet requirements in Afghanistan and Iraq. In total, 1,644 vehicles were identified for transfer to Afghanistan. As part of this effort, according to information we received from the Army, AM General, and the Office of the Undersecretary of Defense for Policy, the Humvee manufacturer was awarded a contract to provide armor kits for the 1,644 EDA Humvees being refurbished by the Army's Red River Depot. The manufacturer also provided other vehicle parts as part of the EDA transfer request for Afghanistan. According to DOD officials, it currently does not have plans to transfer additional vehicles to Afghanistan to fulfill the remaining EDA vehicles requested as part of the 2016 transfer request and will reevaluate future Afghanistan requirements, as needed.

¹⁸The Afghanistan transfer request is funded through the Afghanistan Security Forces Fund, which was originally established to use fiscal year 2005 funds to build, equip, train, and sustain the Afghanistan National Security Force. See Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, § 1202 (Oct. 28, 2004).

¹⁹S. Rept. 114-263, at 229 (2016).

²⁰The requested 2016 Humvee transfer for Afghanistan predates the Fiscal Year 2018 NDAA modernization requirement.

Agency Comments

We provided a draft of this report to the Departments of Commerce and Defense for review and comment. Both agencies provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees and the Secretaries of the Departments of Commerce and Defense. In addition, this report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-4841 or makm@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix II.



Marie A. Mak
Director, Contracting and National Security Acquisitions

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Appendix I: Objectives, Scope, and Methodology

This report provides information about (1) DOD’s approval of grant transfers of excess High Mobility Multipurpose Wheeled Vehicles (HMMWV)—commonly pronounced Humvees— requested by foreign governments from fiscal years 2012 through 2018 and (2) how the Humvee manufacturer’s perspectives on the proposed transfers have been addressed by DOD as part of the determination of any adverse industrial base effects. To provide information about DOD’s approval of transfers of excess Humvees, we analyzed data for fiscal years 2012 through 2018 (the most recent available fiscal year at the time of our review) from the U.S. Army Security Assistance Command, Defense Security Cooperation Agency (DSCA), and the Defense Logistics Agency (DLA). These data provided insight about the countries and geographic regions that have requested excess defense article (EDA) Humvees as well as the condition and types of vehicles delivered to foreign governments. We also reviewed documentation provided by requesting countries to identify the intended purpose of the request. We interviewed agency officials responsible for the data to identify the quality controls in place to help ensure the data are accurate and reliable.

To assess the reliability of each data source, we compared the data in each DOD component’s data sets to ensure that the information was complete and consistent. We did this by identifying common identifiers used for the Humvee EDA transfers that occurred within the designated 7-year period. According to DSCA officials, the DSCA EDA database is a consolidation of data provided annually by the military departments, and DLA, and is manually entered into the database by DSCA officials. Furthermore, we reviewed the data for issues such as missing data elements and duplicates, among other steps. Based on these steps taken, we determined the data were sufficiently reliable for the purposes of reporting information about EDA Humvee transfer requests. See table 1 of DOD data sources used to track information on excess defense articles.

Table 1: DOD Data Sources on Excess Defense Articles

DOD component	Database	Description
U.S. Army Security Assistance Command	EDA Letter of Request Summary and Staffing Status Tracker	Used internally to track information on EDAs administered by the Army including: date of request; requesting country; item and quantity.
Defense Security Cooperation Agency (DSCA)	EDA Database	Public database that is owned and maintained by DSCA to track the number and type of EDAs that are requested, approved and delivered since 2008.

Appendix I: Objectives, Scope, and Methodology

DOD component	Database	Description
Defense Logistics Agency (DLA)	Enterprise Business System database	Used internally to track, among other data points, the number of EDA items delivered to requesting countries, transportation method; and delivery dates for EDA transfers executed by DLA.

Source: GAO analysis of Department of Defense (DOD) information. | GAO-20-189

To provide information about how the Humvee manufacturer's perspectives on the proposed transfers have been addressed by DOD as part of the determination of any adverse industrial base effects, we reviewed documents, data, and interviewed officials from DSCA and the Bureau of Industry and Security (BIS) within the Commerce Department, that advises DSCA on industry effects of proposed EDA transfers. For purposes of this report, unless otherwise indicated, transfers refers to grants of EDA under the Foreign Assistance Act. We reviewed BIS policies and procedures related to the EDA program to identify the factors BIS considers in making adverse effect determinations. We also reviewed data generated by BIS to identify the extent to which the Humvee manufacturer objected to proposed transfers for the 7-year period included in our review. We also reviewed data provided by the Army on the number of Humvees procured for the Army's use and for vehicles sold to foreign governments through the Foreign Military Sales program from fiscal years 2012 through 2018. To gain insight about DSCA and BIS's approach to assess industrial base effects of proposed transfers, we selected two transfer requests as illustrative case studies: a 2016 transfer for Afghanistan which was the single largest proposed transfer and a 2016 transfer for Albania as it was the only proposed transfer that BIS did not sustain the manufacturer's objection. We also spoke with representatives from AM General to obtain their perspectives on the EDA program and gain insight about the effect of EDA transfers on their business.

We conducted this performance audit from February 2019 to February 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: GAO Contact and Staff Acknowledgments

GAO Contact

Marie A. Mak, (202)-512-4841 or makm@gao.gov

Staff Acknowledgments

In addition to the contact name above, Candice Wright (Assistant Director) and Sameena Ismailjee (Analyst-in-Charge) managed this review. James McCully, Lorraine Ettaro, Phillip Farah, Stephanie Gustafson, Miranda Riemer, and Roxanna Sun made significant contributions to this report.

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