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Report to the Chairman, Committee on International Relations, House of Representatives

August 2000

FOREIGN MILITARY SALES

Changes Needed to Correct Weaknesses in End-Use Monitoring Program

GAO/NSIAD-00-208

Contents

Abbreviations

AMRAAM	Advanced Medium Range Air-to-Air Missile
DOD	Department of Defense
DSCA	Defense Security Cooperation Agency
FMS	Foreign Military Sales

GAO
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

B-285781

August 24, 2000

The Honorable Benjamin A. Gilman
Chairman, Committee on
International Relations
House of Representatives

Dear Mr. Chairman:

In July 1996, the Arms Export Control Act was amended to require an end-use monitoring[1] program for defense articles and services transferred through the U.S. government's Foreign Military Sales program.[2] The amendment also requires an annual report from the Department of Defense to Congress on the program's implementation. In response, in December 1996 the Department expanded its monitoring program by requiring field personnel to initiate end-use checks of U.S. defense articles and services sold to foreign governments when specific circumstances develop, such as unusual political or military upheaval in the recipient country. At the time, the monitoring program included requirements that field personnel observe and report on foreign governments' use of U.S. defense items and perform periodic physical inspections of selected weapon systems. These requirements are still in effect today.

This is the second in a series of reports that respond to your request that we review the Foreign Military Sales program. Our first report addressed the process for approving technology and arms transfers.[3] This report focuses on the Department of Defense's implementation of end-use monitoring requirements. Specifically, we assessed (1) the implementation

[1] End-use monitoring refers to the procedures used to verify that foreign governments are using and controlling U.S. defense articles and services in accordance with U.S. terms and conditions of the transfer. Verification measures, referred to as end-use checks, range from contacting the appropriate foreign government representative for information to physical inspection by U.S. personnel.

[2] A security assistance program to transfer U.S. defense articles or services to foreign governments and international organizations from Department of Defense stocks or through Defense-managed contracts.

[3] *Foreign Military Sales: Review Process for Controlled Missile Technology Needs Improvement* (GAO/NSIAD-99-231, Sept. 29, 1999).

of the Department of Defense's requirement to observe and report on defense articles and services transferred under the Foreign Military Sales program, (2) the Department's implementation of requirements to perform end-use checks, and (3) the extent to which the Department has satisfied the reporting requirements of the end-use monitoring amendment to the Arms Export Control Act.

Results in Brief

The Department of Defense has not effectively implemented the requirement that its field personnel observe and report on foreign governments' use of U.S. defense articles and services transferred through the Foreign Military Sales program. Because the extent of observation needed to verify that defense articles and services are being used appropriately will vary from country to country, the Department has not issued guidance specifying what monitoring is required. As a result, field personnel interpret the requirements and the activities that they should perform differently. Field personnel in 40 of the 68 countries we surveyed reported that they did not carry out this requirement.[4] Several field personnel told us that they are unsure when to perform this function and do not have sufficient resources to perform it.

The Department has not effectively implemented requirements for its field personnel to perform end-use checks in response to specific standards or for selected weapon systems. For example, while the Department identified five circumstances, referred to as standards, under which field personnel should initiate end-use checks of defense articles and services, it did not establish procedures to ensure field personnel received the information needed to initiate end-use checks or provide guidance on how to apply the standards. Department officials assumed that the information needed to initiate end-use checks on the basis of the standards would be available to field personnel through State Department officials located at overseas embassies. However, field personnel responsible for performing such checks are not receiving the needed information from Defense or State Department officials. As a result, we identified 16 countries where end-use checks were not performed in fiscal years 1997-99, even though

[4] Using an Internet survey, we obtained end-use monitoring information from military field personnel assigned to 68 countries. These countries represented all of the countries that had purchased sensitive or significant defense equipment through the Foreign Military Sales program, according to Defense and State Department officials and our evaluation of program data.

one of the standards was met. In addition, specific requirements have been established to conduct end-use checks for selected weapon systems such as Stinger missiles. For some other weapon systems, such as Advanced Medium Range Air-to-Air Missiles, sales agreements allow U.S. personnel to conduct end-use checks. For both of these weapon systems, the U.S. relies on host country records to maintain accountability. However, the reliability of such records varies from country to country. For example, after performing a worldwide inventory of Stinger missiles, the Department of Defense identified discrepancies in some countries' records, which left some missiles unaccounted for. Further, according to our survey and field visits, no end-use checks of Advanced Medium Range Air-to-Air Missiles have ever been performed by U.S. personnel.

The Department of Defense has not complied with the reporting requirements of the end-use monitoring amendment to the Arms Export Control Act because it does not collect the information needed to do so. The amendment requires the Department to report annually to Congress on actions taken to implement the end-use monitoring program. This report is to include a detailed accounting of the cost and number of personnel associated with its program. However, field personnel are currently not required to track the resources they use in performing end-use monitoring activities and only routinely report on the number of Stinger missile inspections conducted. In its 1997 report to Congress, the President reported only on the steps that the Department was taking to implement the end-use monitoring program and did not report on the cost and number of personnel associated with the program. Until the Department of Defense tracks resources used, it will not be able to provide Congress with specific end-use monitoring cost and personnel information.

We have included recommendations in this report to correct weaknesses in the implementation and reporting of end-use monitoring activities under the Foreign Military Sales program. In written comments on a draft of this report, the Department of Defense generally agreed with the findings and recommendations and stated that it will take steps to improve the implementation of the Foreign Military Sales end-use monitoring program. The State Department, in its written comments, expressed concern that the report may suggest that it is responsible for the lack of an effective end-use monitoring program for Foreign Military Sales, because it has not shared end-use violation reports with the Department of Defense. Although we agree that the State Department is not responsible for the lack of an effective program, we believe that a mechanism to provide the information contained in the violation reports to field personnel is needed for the

Department of Defense to efficiently implement its end-use check standards.

Background

In 1996, the Arms Export Control Act[5] was amended to require the establishment of an end-use monitoring program for defense articles sold, leased, or exported under the act and the Foreign Assistance Act of 1961, including articles transferred through the Foreign Military Sales (FMS) program. The amendment requires that, to the extent practicable, the end-use monitoring program provide reasonable assurance that the recipient is complying with U.S. government requirements on the use, transfer, and security of defense articles and services. The act prescribes specific purposes for which U.S. defense articles and services may be used, such as for internal security or legitimate self-defense, and also requires the recipient to obtain U.S. consent before transferring U.S. defense articles and services to other parties.[6]

The amendment also requires that, to the extent practicable, the monitoring program provide for the end-use monitoring of defense articles and services in accordance with the State Department's "Blue Lantern" standards. The State Department developed and published these standards to identify high-risk defense articles and services exported directly by U.S. defense companies for regular end-use monitoring.[7] In addition, the amendment requires an annual report to Congress on the actions taken to implement the end-use monitoring program. The report is to include detailed accounting of costs and number of personnel associated with the program.

The Secretary of Defense is responsible for implementing end-use monitoring under the FMS program. Within the Department of Defense (DOD), the Defense Security Cooperation Agency (DSCA) is the principal

[5] 22 U.S.C. 2785.

[6] 22 U.S.C. 2753-2754.

[7] The State Department uses the Blue Lantern standards to conduct checks of selected export license applications prior to approval to determine the legitimacy of the transaction and the end-user. The State Department also conducts checks after defense articles or services have been shipped to determine whether they have been received by the authorized foreign entity and, in some instances, whether they are being used in accordance with the terms and conditions of the license.

agency for carrying out DOD's security assistance responsibilities, including FMS end-use monitoring. In 1996, in response to the amendment, DSCA reviewed its policies and procedures for the accountability of defense articles and services transferred through the FMS program. At the time, the end-use monitoring program included—and still includes today—a requirement that field personnel overseas observe and report, while performing other duties, on the foreign country's use of U.S. defense articles, defense services, and training. In addition, DSCA still requires field personnel to physically inspect and account for Stinger missiles transferred to foreign governments and includes, on a case-by-case basis, other monitoring provisions in FMS agreements[8] when certain sensitive weapon systems are sold.

DSCA also developed a new requirement for field personnel to initiate end-use checks of U.S. defense articles and services transferred through the FMS program when one of five specific circumstances occurs. In December 1996, DSCA incorporated these circumstances, which it refers to as standards, into a pamphlet on the end-use monitoring program. Beginning in 1997, a 30-minute presentation on new and existing end-use monitoring requirements was included in training provided by the Defense Institute of Security Assistance Management to security assistance personnel.

In most cases, U.S. military personnel assigned to overseas security assistance offices are responsible for managing and implementing the FMS program in their country of responsibility. They report through two chains of command, the ambassador and the Unified Combatant Command.[9] The ambassador is responsible for directing, coordinating, and supervising all U.S. government personnel within the overseas diplomatic mission. The Unified Combatant Commands evaluate the performance of security assistance personnel and approve staffing levels for all overseas security assistance offices. The number of U.S. military field personnel assigned to overseas offices varies considerably among countries. The law limits most overseas offices to six or fewer military personnel with security assistance

[8] FMS agreements are signed by the U.S. government and a recipient foreign government or international organization and are used by DOD to sell U.S. defense articles and services through the FMS program.

[9] A Unified Combatant Command has operational control of U.S. combat forces from two or more military departments and is normally organized on a geographical basis.

management responsibilities. However, Congress authorized, and DOD assigned, more than six military personnel to offices in nine countries.

DSCA Has Not Developed Procedures for the Requirement to Observe and Report

The Security Assistance Management Manual requires that field personnel observe and report, during the course of their other duties, on foreign governments' use of U.S. defense articles and services transferred through the FMS program. The manual does not prescribe standard end-use monitoring procedures because the extent of observation will vary considerably from country to country. As a result, the level of observation of U.S.-supplied defense equipment varies greatly. Because DSCA has not issued specific guidance on when to perform the function, field personnel interpret the requirement to observe and report differently and have different interpretations of the activities they should perform. Field personnel in 40 of the 68 countries we surveyed told us that they did not carry out day-to-day observation and reporting on host country use of U.S. defense articles and services, while field personnel in 28 countries said they did. For example, field personnel in one country we visited, where nine military personnel are assigned to security assistance, told us that they had many opportunities to visit foreign military facilities where U.S.-supplied weapons were stored and to observe the use of such equipment. However, field personnel in another country, where only four military personnel are assigned to security assistance, told us that they spend most of their time in their office or meeting foreign military officials, only occasionally visiting military facilities, so they do not observe the use of U.S.-supplied weapons. Both countries purchased substantial amounts of U.S. defense articles and services through the FMS program.

In 1991, we reported that U.S. military officials in seven countries we visited interpreted the requirement to observe and report on host country utilization of U.S. defense articles and services differently and told us that they did not have structured programs to perform this function.[10] At the time, we recommended that DSCA develop accountability standards for the types and amount of control that a recipient country should apply to U.S. defense items. We also recommended that DSCA revise the Security Assistance Management Manual to specify the monitoring required to provide reasonable assurance that recipient countries are meeting conditions pertaining to use, security, and transfer of U.S. defense articles

[10] *Military Aid: Stronger Oversight Can Improve Accountability* (GAO/NSIAD-92-41, Dec.16, 1991).

and services. As a result of our recommendations, DSCA sent a message to field security assistance offices in October 1991 reiterating monitoring guidance in the Security Assistance Management Manual. However, it did not develop accountability standards or specify the extent of monitoring needed.

According to several of them, field personnel are limited in carrying out day-to-day observations because DSCA has not issued specific guidance on when to perform this function or provided sufficient resources to perform the function on a regular basis. Field personnel contrasted the lack of guidance for end-use monitoring under the FMS program with the specific guidance they are provided on how to monitor equipment granted to foreign countries under the Military Assistance Program,[11] which requires field personnel to track equipment transferred under the program through detailed inventories. Unified Command officials told us that they do not hold field personnel accountable for not performing the observation function for equipment transferred though the FMS program because of the lack of guidance from DSCA. The officials also told us that they want field personnel to spend their time on their primary duty, which is to work with foreign governments on planning the acquisition of defense equipment.

DSCA Has Not Effectively Implemented End-Use Check Requirements

DSCA has not effectively implemented requirements for its field personnel to conduct checks that verify the end-use of U.S. defense articles and services transferred under the FMS program. While DSCA identified five standards for when field personnel should conduct end-use checks, it has not established procedures to notify field staff of events that should trigger checks or provided the guidance needed on when action is required. In addition, certain weapon systems have specific requirements or provisions for end-use checks that rely on host country records to maintain accountability.

[11] Since the 1950s, the United States has provided military equipment to foreign countries on a grant basis under the Military Assistance Program. Beginning in 1982, funds from that program were merged into the FMS program for recipients to purchase defense items through FMS credits. Equipment transferred under the prior program is still subject to monitoring requirements.

DSCA Has Not Established Procedures or Guidance for End-Use Check Standards

DSCA identified five circumstances that it refers to as standards, under which field personnel are to perform end-use checks of defense articles and services transferred through the FMS program. Field personnel are to perform end-use checks when

- there is any indication that an Arms Export Control Act violation has occurred,
- substantial problems or weaknesses are found when DOD reviews a foreign government's adherence to U.S. requirements for protecting classified military information,[12]
- significant and unusual political or military upheaval in the host country is impending or has occurred,
- substantial defense interaction or other ties are developing between the end user and another country whose interests are not compatible with those of the United States, or
- countries unfriendly to the United States in the region are illicitly seeking U.S. equipment of types held by the end user.

On the basis of information we obtained from the State Department and from our survey of 68 overseas posts, we identified 20 countries where end-use checks were required under one or more of these five standards in fiscal years 1997-99. However, field personnel in only four of these countries reported performing end-use checks during that time.[13] In some of these cases, field personnel did not receive information that one of the end-use check standards applied. In other cases, field staff did not have sufficient guidance to know when specific circumstances required end-use checks under the standards.

For example, under the first standard, field personnel are required to conduct an end-use check within 60 days of the State Department's notification to Congress that an end-use violation has occurred. The main purpose of these checks is to verify that the host country is committed to proper control and use of U.S.-origin items. The State Department reported 12 countries to Congress for end-use violations in fiscal years 1997-99. Field personnel in only one of these countries, however, responded in our survey

[12] These reviews are conducted by DOD's Office of International Security Programs in accordance with General Security of Military Information Agreements in which the United States and another country agree to mutually protect classified military information.

[13] We did not ask field personnel to indicate which of the five standards had been met.

that they had carried out an end-use check. A DSCA official told us that because the State Department is responsible for reporting end-use violations to Congress, DSCA assumed that State Department personnel at the embassy were notifying military field personnel of violations in their country. However, DSCA officials did not actually determine whether a mechanism was in place to notify field personnel. Field personnel in the countries we visited told us that they sometimes learn about alleged violations through their embassy but do not know whether the violations have been reported to Congress, thereby requiring an end-use check.

From the establishment of the standard in 1996 through March 2000, the State Department did not provide any information on end-use violations to DSCA. State Department officials told us that due to the political sensitivity of the violation reports, they only provide the reports to select Members of Congress and are not required to provide them to DSCA.[14] According to these officials, the information contained in these violation reports could seriously harm U.S. relations with the country involved if it was inadvertently released. In March 2000, DSCA and State officials developed a procedure for State to provide DSCA with a summary of the information contained in the violation reports. However, the State Department does not plan to provide DSCA with the reports themselves. DSCA advised that without the violation reports, field personnel would not have sufficient information to determine when to conduct end-use checks on the basis of a specific violation. Field personnel could benefit from such information by using it to determine which countries have weaknesses in their ability or willingness to protect U.S. technology. Field personnel could then more carefully monitor sensitive or vulnerable defense equipment transferred to these countries through the FMS program. In addition, information on a country's ability or willingness to protect U.S. technology is one of the factors used in the process of approving the transfer of U.S. defense equipment.

End-use checks are also required when weaknesses are identified as a result of a DOD security survey. DOD's Office of International Security Programs has a goal of performing these security surveys every 5 years to determine a foreign government's adherence to U.S. requirements for protecting classified military information. An interagency forum comprised

[14] The Arms Export Control Act requires that violations be reported to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate (22 U.S.C. 2753 (c), (e)).

of State, DOD, and other agency officials uses the results of these surveys to evaluate current export policies. While DSCA has access to summaries that discuss these surveys, it does not get the detailed results of the surveys, and it has not established a procedure to ensure that field personnel receive them. Furthermore, DSCA has not provided guidance to field personnel on when negative information in a security survey report should be considered a weakness that requires an end-use check to be performed. Field personnel in the countries we visited told us that there is no process in place to provide them with results of the security surveys. They may learn of the results through contacts with other personnel at the embassy, or if they happen to be involved in coordinating the visit of the security survey team, but they still do not have a consistent basis for initiating an end-use check. Further, field personnel told us that because of the lack of guidance, they are not sure when negative information in a security survey would be considered a weakness requiring an end-use check.

The other three standards that require end-use checks are based on the political or military environments of individual countries. While field personnel may be aware of adverse conditions in their countries, DSCA has not established guidance or procedures for field personnel to use in determining when such conditions require an end-use check. For example, significant military upheaval occurred in both Indonesia and Pakistan within the last several years. As a result, the State Department determined that both countries are no longer eligible to purchase U.S. defense articles and services. However, end-use checks of U.S. defense items already provided were not performed in either country in response to the standard. DSCA officials believed that the State Department was responsible for notifying field personnel that the criteria had been met for an end-use check to be conducted. However, DSCA and State have never established a procedure for providing notification to field personnel.

Currently, the end-use monitoring training that DSCA provides to field personnel consists of a 30-minute presentation during the security assistance management course at the Defense Institute of Security Assistance Management. This training is intended to familiarize students with end-use monitoring requirements. However, this training does not provide any guidance or procedures on how to execute an end-use monitoring program at overseas posts or when to initiate end-use checks in response to one of the five standards.

Weaknesses Exist in Implementation of Weapon-Specific End-Use Checks

DSCA relies primarily on host country records to maintain accountability of weapon systems, such as the Stinger missile, that have specific end-use check requirements. However, reliability of host country records varies. Other weapon systems, such as the Advanced Medium Range Air-to-Air Missile (AMRAAM), may have special monitoring provisions included in the terms of the sale, but these provisions are not being implemented.

The Security Assistance Management Manual requires mandatory physical inventory checks by U.S. personnel of Stinger man-portable air defense missiles after delivery to foreign governments. These requirements are included in FMS agreements for the missiles as a special condition of sale. In 1998, DSCA revised the manual and reduced the scope of annual physical checks by U.S. personnel. Prior to the change, U.S. personnel were required to perform a 100-percent physical inventory of Stinger missiles each year. U.S. personnel are now only required to physically inspect 5 percent of missile inventories each year, but the purchasing country is required to perform 100-percent inventories and allow U.S. personnel to review its accountability records. DSCA eliminated the 100-percent annual inventories after determining that having U.S. personnel perform inventories duplicated the efforts of foreign government personnel. DSCA determined that these duplicative efforts did not improve accountability to a degree that justified the resource expenditures and were detracting from the overall functions of field personnel. Field officials from the 13 countries in our survey required to perform annual Stinger missile inventories reported that they did so.

Because U.S. personnel physically inspect only 5 percent of Stinger missiles each year, DSCA relies on foreign governments to account for the missiles in their possession. According to one official with Stinger missile inventory experience, the revised procedure relies on the foreign government to perform an all-inclusive annual inventory, including an accounting of expended items, and to provide this information to U.S. personnel. However, relying on the foreign government's records may pose a risk to achieving 100-percent accounting of the missiles because the reliability of accountability systems varies from country to country. For example, in one country, the government prohibits U.S. field personnel from gaining access to Stinger missiles located in certain parts of the country, limiting their ability to check the adequacy of the host country's inventory. DOD has discovered problems in the past with this country's accountability procedures. Furthermore, DSCA completed a worldwide baseline inventory in December 1999 that accounted for most, but not all, Stinger missiles and identified security concerns in some countries. DSCA

is investigating these discrepancies by asking for more information from these foreign governments on the disposition of the missiles.

While FMS agreements for the AMRAAM include provisions permitting U.S. personnel to verify that purchasing countries have met security requirements, including the verification of inventory numbers, end-use checks have not been performed on the basis of these provisions. Although this policy was formalized in 1999, the provisions were included in FMS agreements for AMRAAM as early as 1994. According to Air Force officials, 11 AMRAAM agreements with 9 countries, out of a total of 29 agreements with 18 countries, contain provisions permitting end-use checks. However, none of the field personnel in the nine countries that have these provisions responded in our survey that they conducted any end-use checks on the basis of these provisions. Field personnel that we visited told us that they would need specific direction from DSCA or the military departments before they would initiate end-use checks of AMRAAMs, and no specific direction has been provided. Senior State Department and Air Force officials told us that the purpose of these provisions is to provide authority for U.S. government personnel to perform end-use checks if problems are suspected or identified with the host country's accountability for the missiles. Because end-use checks have not been performed under these provisions, information is not available to evaluate the adequacy of the host countries' accountability for these missiles.

According to information obtained from the 68 posts we surveyed, end-use checks were required for only 1 other weapon system besides Stinger missiles in fiscal years 1997-99. In one country, U.S. personnel annually audit the effectiveness of the security measures taken to safeguard the classified components and technology of the M1A1 tank, and particularly its armor. Another country reported that the U.S. government is asking for special end-use monitoring of the Patriot Advanced Capability-3 missile. The monitoring may include unannounced inspections of sensitive missile components.

DSCA Is Not Meeting End-Use Monitoring Reporting Requirements

The end-use monitoring amendment requires an annual report to Congress on the actions taken to implement the end-use monitoring program that is to include detailed accounting of costs and number of personnel associated with the program. However, DSCA does not collect information on the activities and resources expended for end-use monitoring and has not reported annually to Congress as required.

DSCA does not require field personnel to track the allocation of time they spend on specific FMS responsibilities, so it cannot track the personnel costs of end-use monitoring activities. We previously reported that DSCA does not have sufficient information to determine the actual costs of administering the FMS program.[15] Furthermore, officials at both Unified Commands we visited do not use hours spent by field personnel on end-use monitoring to justify manning requirements. The total authorized number of military field personnel that may perform FMS responsibilities was 378 in fiscal year 1999.

While field personnel submit periodic activity reports to security assistance managers in the Unified Commands, officials told us that the reports do not include end-use monitoring activities because they are not being performed. The reports we reviewed did not include information on end-use monitoring activities, except for Stinger missile inspections. Field personnel advised us that they would report end-use monitoring information only if they observed evidence of misuse of U.S. equipment.

In 1997, the President reported to Congress on end-use monitoring activities performed under the Arms Export Control Act and the Foreign Assistance Act. This report contained information on DOD's implementation of end-use monitoring under the FMS program. In 1998, DOD reported to Congress through the annual congressional presentation document[16] on the level of end-use monitoring training it provided to field personnel in fiscal year 1997. The report did not include any information on DOD's end-use monitoring activities or the resources that it expended on these activities. In 1999, DSCA did not provide input to the congressional presentation document on end-use monitoring during fiscal year 1998. DSCA officials attributed this omission to staff changes. Although the most recent congressional presentation document, issued in May 2000, contained supporting information justifying the State Department's end-use monitoring program, it did not contain any information about DSCA's end-use monitoring of government-to-government transfers. A DSCA official advised us that he prepared input on the agency's end-use monitoring program and did not know why the State Department omitted it.

[15] *Foreign Military Sales: Efforts to Improve Administration Hampered by Insufficient Information* (GAO/NSIAD-00-37, Nov. 22, 1999).

[16] This document supports the State Department's request for resources to carry out foreign operations, including DOD's security assistance programs.

Conclusions

In response to the 1996 end-use monitoring amendment to the Arms Export Control Act, DOD issued standards for end-use checks and established training for overseas field personnel, but it did not issue implementing guidance or procedures. Without them, DOD's end-use monitoring program cannot provide assurances that foreign governments are adhering to conditions placed on U.S. arms transfers. Because adherence to such conditions is one of the components in the decision-making process of approving arms transfers, information obtained from the end-use monitoring program could also be used in the approval process. Further, because DOD has not collected required information, Congress may be limited in its ability to evaluate the implementation of the end-use monitoring program or to determine if additional resources are needed.

Recommendations

To improve the implementation of the end-use monitoring program, we recommend that the Secretary of Defense, with concurrence from the Secretary of State,

- issue specific guidance to field personnel on what activities need to be performed for the routine observation of U.S. defense equipment and additional guidance for the monitoring of specific weapon systems;
- develop procedures to provide field personnel with the information necessary to apply the five end-use check standards, including the information contained in Arms Export Control Act violation reports, and provide guidance on when to apply the standards;
- reconcile discrepancies in foreign governments' Stinger missile inventories, where discrepancies exist; and
- comply with the 1996 end-use monitoring amendment by reporting required information to Congress.

Agency Comments

In written comments on a draft of this report, DOD generally agreed with our findings and recommendations and stated that it plans to take steps to improve the implementation of the Foreign Military Sales end-use monitoring program. In response to our first recommendation on routine observation and specific weapon monitoring, DOD stated that it has drafted an enhanced end-use monitoring program that it will coordinate with the State Department. The program would specifically target high-risk defense articles for random annual end-use checks. In response to our other three recommendations, DOD plans to (1) develop standardized information necessary for field personnel to apply the five end-use check

standards and provide them with guidance on when to apply the standards, (2) task field personnel to ensure that an action plan is in place to rectify any discrepancies in Stinger missile inventories, and (3) require field personnel to report work-years and dollars associated with Foreign Military Sales end-use monitoring activities in order to comply with the Arms Export Control Act reporting requirements. DOD's comments are reprinted in appendix II.

In written comments on a draft of this report, the State Department expressed concern that the report may suggest that it is responsible for the lack of an effective end-use monitoring program for Foreign Military Sales because it has not shared end-use violation reports with DOD. State said that the violation reports it prepares for Congress are based on information that is frequently available to both State and DOD simultaneously and that the violation reports are not an effective driver for initiating end-use checks.

We agree that the State Department is not responsible for the lack of an effective end-use monitoring program for Foreign Military Sales, but as we state in our report, DOD needs the information contained in the end-use violation reports to implement its end-use check standards. According to DOD, the purpose of conducting end-use checks under this specific standard is to verify, after the identification of a violation, that the foreign government is committed to the proper control and use of U.S.-origin items. In 1996, when DOD proposed this end-use check standard, it coordinated with the State Department. On the basis of our discussions with both Defense and State officials, there is no indication that the State Department raised objections to the standards at that time. While the initial intelligence may be available to both agencies, the State Department investigates allegations to confirm the existence of a violation before it reports to Congress. A separate investigation by DOD officials of the same allegations would duplicate the State Department's efforts. In order to allow flexibility, we did not recommend that the State Department provide the end-use violation reports to DOD. We have modified our recommendation that the Secretary of Defense develop procedures to provide field personnel with the actual violation reports, and instead recommend that the Secretary provide the information contained in the violation reports. We continue to believe that sharing the information contained in the State Department's violation reports is the most efficient means for field personnel to implement DOD's current end-use check standards. The State Department's comments are reprinted in appendix III.

Scope and Methodology

To assess implementation of DOD's end-use monitoring requirements for defense articles and services transferred under the FMS program, we interviewed DOD and State officials at headquarters and field locations. We obtained documentation on roles and responsibilities of organizations involved in end-use monitoring. We obtained and reviewed laws, regulations, policies, and procedures for end-use monitoring of defense articles and services transferred through the FMS program in government-to-government transfers and directly, under export licenses, by U.S. defense contractors to foreign purchasers. To become familiar with the roles and responsibilities of field personnel, we attended a training course for security assistance officials assigned to overseas posts at the Defense Institute of Security Assistance Management.

We also used the Internet to survey personnel assigned to 68 overseas posts to determine the extent of end-use monitoring activities conducted in fiscal years 1997-99. We visited two Unified Command headquarters offices and field offices responsible for security assistance programs in five countries. Most of the survey countries had purchased sensitive or significant defense equipment. We selected countries by (1) reviewing a cumulative list of FMS equipment purchased, as of August 1999, for all participating FMS entities and (2) consulting with officials at DOD and State to obtain their input for additions or deletions. Countries included in our survey are listed in appendix I. After reviewing initial responses to our survey, we obtained clarifications and additional information from 34 posts through e-mail exchanges, telephone contacts, and field visits to five countries. To evaluate end-use monitoring activities, procedures, resources, and limitations, we visited the U.S. European Command, the U.S. Pacific Command, and five countries in the areas of responsibility of these two commands: Germany, Greece, Korea, Spain, and Thailand.

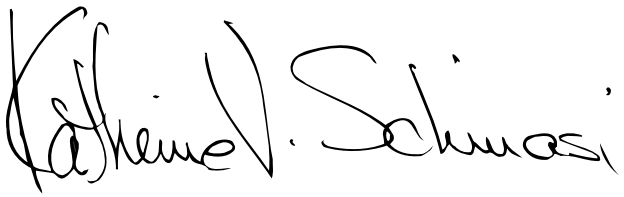
To determine the extent to which DOD has satisfied the reporting requirements of the end-use monitoring amendment to the Arms Export Control Act, we obtained copies of the initial report on the implementation status sent by the President to Congress in August 1997 and of the annual congressional presentation documents for fiscal years 1998-2001. We discussed reporting requirements and the Department's compliance with the requirements with officials responsible for input on end-use monitoring of government-to-government transfers.

We performed our review from November 1999 through August 2000 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the Honorable Sam Gejdenson, Ranking Minority Member, Committee on International Relations, U.S. House of Representatives, and the Honorable Jesse Helms and the Honorable Joseph Biden in their capacities as Chairman and Ranking Minority Member, Committee on Foreign Relations, U.S. Senate. We are also sending copies to the Honorable Madeleine K. Albright, Secretary of State; the Honorable William S. Cohen, Secretary of Defense; and the Honorable Jacob J. Lew, Director, Office of Management and Budget. We will also make copies available to others on request.

Please contact me at (202) 512-4841 if you have any questions concerning this report. Contacts and key contributors to this assignment are listed in appendix IV.

Sincerely yours,



Katherine V. Schinasi
Associate Director
Defense Acquisitions Issues

List of Countries Included in Our Survey of End-Use Monitoring

Argentina	Korea
Australia	Kuwait
Austria	Latvia
Bahrain	Lebanon
Belgium	Lithuania
Bolivia	Luxembourg
Botswana	Malaysia
Brazil	Mexico
Cameroon	Morocco
Canada	New Zealand
Chad	Nicaragua
Chile	Norway
Colombia	Oman
Costa Rica	Panama
Czech Republic	Paraguay
Denmark	Peru
Dominican Republic	Philippines
Ecuador	Portugal
Egypt	Saudi Arabia
El Salvador	Singapore
Estonia	South Africa
Ethiopia	Spain
Finland	Sweden
France	Switzerland
Germany	Taiwan
Greece	Thailand
Guatemala	The Netherlands
Honduras	Tunisia
Indonesia	Turkey
Israel	United Arab Emirates
Italy	United Kingdom
Japan	Uruguay
Jordan	Venezuela
Kenya	Yemen

Comments From the Department of Defense

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

04 AUG 2000

In reply refer to:
I-00/009279

Ms. Katherine V. Schinasi
Associate Director
Defense Acquisitions Issues
National Security and International Affairs Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Ms. Schinasi:

This is the Department of Defense (DoD) response to the GAO Draft report, "FOREIGN MILITARY SALES: Changes Needed to Correct Weaknesses in End-Use Monitoring Program," dated 25 July 2000 (GAO Code 707450/OSD Case 2058).

The Department reviewed the draft report and generally concurs with the recommendations that the Secretary of Defense, with concurrence from the Secretary of State, take specific steps to improve the implementation of the end-use monitoring program for Foreign Military Sales (FMS). DSCA will continue to intensify efforts to encourage Department of State counterparts to work towards a comprehensive end-use monitoring program which covers all high-risk defense articles and services transferred through FMS and on a Direct Commercial Sales (DCS) basis. High-risk defense articles are those items which incorporate sensitive technology, are particularly vulnerable to diversion or misuse, or whose diversion through reverse engineering or other means could have significant consequences for our country's armed forces. Comments addressing each of the four GAO draft report recommendations follows at the attachment.

The Department appreciates the opportunity to comment on the draft report. My point of contact on this matter is Mr. Brion Midland. He may be contacted by email: brion.midland@osd.pentagon.mil or by telephone at (703) 601-3864.

Sincerely,

A.R. KELTZ
ACTING DIRECTOR

Attachment
As stated

GAO DRAFT REPORT DATED JULY 25, 2000
(GAO CODE 707450) OSD CASE 2058

"FOREIGN MILITARY SALES: CHANGES NEEDED TO CORRECT WEAKNESSES IN END-USE MONITORING PROGRAM"

DEPARTMENT OF DEFENSE COMMENTS TO GAO RECOMMENDATIONS

GAO RECOMMENDATION 1

- Issue specific guidance to field personnel on what activities need to be performed for the routine observation of U.S. defense equipment and additional guidance for the monitoring of specific weapon systems

DoD RESPONSE

- Concur

- Session convened 13 July 2000 by DSCA with Unified Command Security Assistance representatives to discuss specific guidance necessary for Security Assistance Office (SAO) personnel to be adequately prepared to carry out routine observation of U.S. defense equipment as well as monitoring associated with specific weapon systems. Defense Institute for Security Assistance Management (DISAM) and selected SAO representatives, also at this meeting, will work together with Unified Command and DSCA personnel to develop specific guidance to recommend to the Director, DSCA for implementation from CY 2001.

- DSCA, at the same time, has drafted an enhanced end-use monitoring program for consideration by the Departments of Defense and State which would specifically target high-risk defense articles and services transferred through Foreign Military Sales (FMS). High-risk defense articles are those items which incorporate sensitive technology, are particularly vulnerable to diversion or misuse, or whose diversion through reverse engineering or other means could have significant consequences for our country's armed forces. This end-use monitoring program would utilize teams resourced by FMS admin funds, and composed of personnel with the required technical expertise on the particular system being checked, to conduct random annual in country end-use checks. The key to the success or failure of this possible approach to end-use monitoring is that it would be imperative for Department of State to implement a comparable random end-use check on "high-risk" defense articles and services transferred on a Direct Commercial Sales (DCS) basis.

GAO RECOMMENDATION 2

- Develop procedures to provide field personnel with the information necessary to meet the five end-use check standards, including Arms Export Control Act violation reports, and provide guidance on when to apply the standards

DoD RESPONSE

- Concur

- Session convened 13 July 2000 by DSCA with Unified Command Security Assistance representatives to discuss procedures to provide the information necessary to meet the five end-use check standards, including Arms Export Control Act violation reports, and guidance on when to apply the standards. Inputs received during that session will help DSCA in the development of detailed end-use standards implementing procedures.

- DSCA will henceforth provide individual country portions of the quarterly State Section 3 reports to Unified Command Security Assistance offices with recommendations, when warranted, for a "special" end-use check in accordance with the five Security Assistance Management Manual end-use check standards.

- DSCA will work to develop, in close coordination with Unified Command Security Assistance office leadership, standardized information necessary for field personnel to meet the five end-use check standards, including Arms Export Control violation reports, and guidance to follow on when to apply the five end-use checks.

GAO RECOMMENDATION 3

- Reconcile discrepancies in foreign governments' Stinger missile inventories where they exist

DoD RESPONSE

- Concur

- More detailed review of annual (CY 2000) inventory reports is being conducted by DSCA. DSCA will send taskings back to Security Assistance Offices through the Unified Command, where appropriate, to ensure that an action plan is in place to rectify any identified security or storage discrepancies in country Stinger programs.

GAO RECOMMENDATION 4

- Comply with the 1996 end-use monitoring amendment by reporting required information to Congress

DoD RESPONSE

- Concur

- Security Assistance Offices and Unified Commands will be required, from the next budget cycle, to report work years and dollars associated with carrying out Foreign Military Sales (FMS) and Direct Commercial Sales (DCS) end-use monitoring activities. In conjunction with this requirement, DSCA will undertake efforts to spell out in sufficient detail which activities constitute reportable end-use monitoring activities.

Comments From the Department of State

United States Department of State

Chief Financial Officer

Washington, D.C. 20520-7427

August 2, 2000

Dear Mr. Hinton:

We appreciate the opportunity to review your draft report, "FOREIGN MILITARY SALES: Changes Needed to Correct Weaknesses in End-Use Monitoring Program," GAO/NSIAD-00-208, GAO Job Code 707450.

The Department of State is concerned that the report may suggest to some readers that constraints on sharing the text of reports to Congress made in accordance with Section 3 of the Arms Export Control Act (AECA) are responsible for the lack of development in the Foreign Military Sales end-use monitoring program. The Department remains prepared, as it has been for some time, to assist the Department of Defense in designing an effective end-use verification program. Such a program, however, is not dependent upon sharing of information in Section 3 reports about diversions or misuse of arms transfers that have already taken place. These reports, in fact, are based on intelligence that is frequently reported by the Defense Intelligence Agency and that is made available to both Departments virtually simultaneously. Section 3 reporting is not effective as a driver for the initiation of end-use checks.

If you have any questions concerning this response, please contact Mr. Michael Dixon, Office of Defense Trade Controls, Bureau of Political-Military Affairs, at (202) 663-2798.

Sincerely,

Bert T. Edwards

cc:
GAO/NSIAD – Mr. Denomme
State/PM/RSAT – Col. Quinn
/PM/DTC – Mr. Dixon

Mr. Henry L. Hinton, Jr.,
Assistant Comptroller General,
National Security and International Affairs,
U.S. General Accounting Office.

GAO Contacts and Staff Acknowledgments

GAO Contacts

Katherine V. Schinasi (202) 512-4841
Thomas J. Denomme (202) 512-4287

Staff Acknowledgments

In addition to those named above, John Neumann, Anne W. Howe, Paula J. Haurilesko, Jack E. Edwards, David J. Henry, and Eric E. Petersen made key contributions to this report.

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