

PROPOSED SALE OF F-16 AIRCRAFT AND WEAPONS SYSTEMS TO PAKISTAN

HEARING BEFORE THE COMMITTEE ON INTERNATIONAL RELATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED NINTH CONGRESS

SECOND SESSION

JULY 20, 2006

Serial No. 109-220

Printed for the use of the Committee on International Relations



Available via the World Wide Web: http://www.house.gov/international_relations

U.S. GOVERNMENT PRINTING OFFICE
28-787PDF

WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
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THURSDAY, JULY 20, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Committee met, pursuant to notice, at 1:53, p.m., in room 2172, Rayburn House Office Building, Hon. Henry J. Hyde (Chairman of the Committee) presiding.

Chairman HYDE. The Committee will come to order. The purpose of today's hearing is to review the Administration's proposal for a \$5 billion sale of F-16 fighter aircraft and weapons to Pakistan. The Administration provided official notice of this sale under section 36(b) of the Arms Export Control Act on June 28, 2006.

Typically, the Committee does not hold hearings on arms sales. That is because, until now, every Administration and every Congress since the enactment of the Arms Export Control Act in 1976 has respected the protocols governing the notification of arms sales. For more than 30 years, these protocols have provided a process by which national security and foreign policy questions could be addressed informally before a notification is submitted.

They permit the Legislative and Executive Branches to present a common position to other nations in this very sensitive area. They also provide an important means by which Congress is kept informed of sensitive matters and provided adequate notice before the commencement of the 30-day period provided in statute for deciding whether to prohibit a sale by enacting a resolution of disapproval.

The original basis for these protocols is a 1976 exchange of letters between Senator Hubert Humphrey and the head of the Defense Security Assistance Agency at that time. This exchange provided an important underpinning for H.R. 13680, the bill which then-House International Relations Committee Chairman, Thomas E. Morgan, introduced a few months later in May 1976, which became the Arms Export Control Act, when signed into law in June 1976.

For the 30-year period since then, these protocols have constituted a significant understanding between the Executive and Legislative Branches as well as an important premise for the congressional review requirements that currently exist in law. Given this history, and the sensitivity of arms sales generally, any departure from these protocols might be expected to be approached with an abundance of caution. However, this was not the case with the

sale of the F-16 aircraft to Pakistan. Instead, the notification was made precipitously and without explanation.

Yet, this is more than a controversy over protocol and procedures, or a mere act of bad faith. It represents a deliberate and, we believe, wholly inappropriate maneuver by the State Department to diminish the Congress' lawful oversight of arms sales. In this respect, we can easily dispense with the rhetoric coming out of State about how diligently it consulted Congress. The consultation State refers to is more accurately described as a few highly rehearsed briefings by State during a 2-week period in June.

Just about the only conclusion to emerge from these briefings was the realization that nothing had been done to strengthen the security measures which the Committee found woefully inadequate when they were first broached to us by the Administration last fall before the earthquake delayed the sale.

As a result, long-standing congressional concerns about the potential for technology diversion remain, and some new concerns have emerged, including a concern that State itself may not be compliant with important obligations it has under the Arms Export Control Act. We met with senior officials from State in a classified briefing on July 11 and will continue to pursue these matters in closed session and through other appropriate channels. What we can say for the public record is that a sequence of actions and inactions by the State Department resulted in a host of serious national security and compliance issues. The State Department cannot persuasively justify its position even now with the statutory period in which Congress must act about to expire next week.

This Committee is determined to take all appropriate action in order to ensure that there will not be a recurrence of this flouting of Congress' role. This could include amending the Arms Export Control Act, which Mr. Lantos and I have been discussing.

I now turn to my friend, Mr. Lantos, the Ranking Democratic Member for his opening remarks.

Mr. LANTOS. Thank you, very much, Mr. Chairman, and before proceeding with my statement, let me commend you on yours and let me identify myself with your statement.

Mr. Chairman, the proposed sale of sophisticated F-16 aircraft and associated weaponry to Pakistan is an historic turning point in our relationship with that country. I accept the Administration's arguments that these aircraft and munitions are necessary to allow Pakistan to meet its legitimate national security interests. I also accept the judgment that these additional aircraft and munitions will not significantly affect the balance of conventional forces on the Indian subcontinent. I, therefore, support the substance of the sale to Pakistan.

But the good news ends there for the Administration. I have two extremely serious concerns about how the Administration, especially the Department of State, has handled this proposed sale to Pakistan.

First, I am extremely concerned about the details of the security arrangements to be put in place to safeguard these aircraft, their associated technologies and munitions, all of which will be of great interest to third parties, especially China. It is also an unfortunate fact that Pakistani export controls are so lax as to have allowed

A.Q. Khan to provide the crown jewels of Pakistan's nuclear weapons development program to states such as North Korea and Iran. The Administration's plan is inadequate to safeguard United States technology properly and to protect United States national security against espionage and compromise in Pakistan.

The Committee was first briefed on the proposed security plan in the summer of 2005. At that time, Pakistan wanted to purchase a more extensive package of aircraft and munitions. But Pakistan canceled the sale over financial issues following the earthquake. We found the security plan to be inadequate on several counts. Nevertheless, the Department of State ignored our repeated entreaties to reengage on the security plan in anticipation of this current sale.

The draft security plan for the sale now under consideration was not sent to us until June, with the first briefing proposed by State on June the 8th. Four subsequent meetings in the next 2 weeks were required because State Department officials were unable to answer even basic questions about the sale or the security plan.

My second concern is how this Committee was formally notified about this sale. Since 1976, for a period of the last 30 years, there has been a procedure for arms sales that has been followed with regard to congressional notifications. The purpose of the consultative process is to work out problems before formal notification, as it is in no one's interest for public controversy and confrontation on sales of significant foreign policy importance.

However, the Department unilaterally decided to ignore this procedure, especially the long-standing 20-day review period before formal notification of such a sale to this Committee and the Congress. This was a calculated attempt to change the working relationship between Congress and the Administration, to the detriment of this Committee's proper oversight prerogatives over U.S. arms sales. I also believe that it was a calculated attempt to prevent this Committee from insisting on additional changes to the security plan for these aircraft and technology to protect U.S. national security.

The decision by mid-level State Department officials to send the formal congressional notifications on these Pakistani arms sales before problems with the security plan were resolved is extremely serious.

Let me make this clear: This outrage will not stand. Our oversight of the arms sales process will not be compromised. Both the Chairman and I continue to have very serious concerns about the security plan to safeguard the aircraft armament and technology that we plan to transfer.

For my part, two things must happen: If the Department of State wishes to have a productive working relationship with this Committee, first we must return to the previous consultation and notification procedures that we have used successfully prior to this sale. On that, there is no compromise. On that, there is no negotiation.

Second, the Department of State will make additional changes to satisfy the Committee's concerns with the Pakistan F-16 security plan. I intend to provide my requirements for the security plan to Under Secretary Nick Burns in a private meeting later this afternoon.

If we can proceed on this basis, then I am sure that the Committee and the Administration can move forward both on these sales and to resume our good working relationship on arms export issues.

Thank you, Mr. Chairman.

Chairman HYDE. The Chair will entertain opening statements of 2 minutes from the Members, and their full statement may be made a part of the record, without objection.

Mr. Leach of Iowa.

Mr. LEACH. I request unanimous consent to place the statement in the record.

[The prepared statement of Mr. Leach follows:]

PREPARED STATEMENT OF THE HONORABLE JAMES A. LEACH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Thank you, Mr. Chairman, for calling this timely hearing. I will be brief. I am inclined to be supportive of the substantive case for providing this particular aircraft and related weapons systems to our close friends and allies in Pakistan.

Obviously, in an ideal world we wouldn't need to contemplate such a sale. Indeed, arguably the first order of business for United States assistance in Pakistan should be to assist the strengthening of civil society and address issues relating to education, ongoing sectarian violence, the political system, and so forth.

Having said that, given our desire to forge a stable, long-term relationship with Pakistan, as well as, of course, Islamabad's extensive cooperation in the campaign on terrorism, I believe Washington must be sensitive to Pakistan's assessment that its air force needs significant upgrading and modernization. While I do not view this proposed sale as integral to ongoing operations against Al Qaeda or pro-Taliban elements along the Afghan border, I also do not believe this proposed agreement would materially impact the overall balance of power in South Asia. Indeed, given growing power disparities on the Subcontinent, it is possible that it may well have a stabilizing effect.

It goes without saying, of course, that the Congress looks forward to the continuing cooperation of Pakistan in apprehending the Taliban leadership and militia that continue to be engaged in hostile operations against the Karzai government and coalition forces in Afghanistan. Likewise, we continue to hope and expect that Islamabad will maintain its commitment to the peace process with India, including—as President Musharraf has promised—full cooperation with the authorities in Delhi as the investigation into the horrific Mumbai bombings continue.

Having said all that, Mr. Chairman, I am fully supportive of the position you have taken with respect to the prerogatives of this Committee and look forward to the testimony of our witness.

Chairman HYDE. Without objection, so ordered.

Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I want to commend you, Mr. Chairman. This is an historical day, in my humble opinion, in the fact that it is the first time in years that I have served as a Member of the Committee that we have had two hearings on the same region of the world, the Asia-Pacific region. So I think the more attention we pay to this important region of the world, the better.

I also thank you, Mr. Chairman, for holding this hearing concerning the sale of some 77 F-16 aircraft and weaponry systems worth \$5 billion. As I have said before, President Bush stated in his 2004 inaugural address that it is the policy of the United States to seek and support the growth of Democratic movements and institutions in every nation and culture, with the ultimate goal of ending tyranny in our world.

I trust, Mr. Chairman, that this great mission of American diplomacy includes restoring a full functioning democracy in Pakistan in

which General Musharraf has promised and is supposed to resign his presidency and military commission as army chief of staff in which free, fair, and transparent elections are held to reverse Pakistan's historic trend toward unstable governance and military interference in democratic institutions. Neither of these things have been done, though both have been promised.

I am also hopeful, Mr. Chairman, that the Administration will reconsider its decision to sell this \$5 billion worth of military hardware to Pakistan. F-16s are capable of carrying nuclear weapons. And while Pakistan is an important partner in our campaign against international terrorism, Pakistan has a history of using United States weapons platforms against India, as in the case in 1965 when Pakistan launched a war against India using F-104s it had purchased from the United States in 1960.

I remember years ago, Mr. Chairman, in fairness to Pakistan, that there was a proposal of wanting to purchase some \$600 million worth of military aircraft. And what happened in that period is that we reneged not only in delivering these aircraft, but we didn't even give them back the money.

Chairman HYDE. The gentleman's time has expired.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

Chairman HYDE. The gentleman from New Jersey, Mr. Smith.

Mr. SMITH OF NEW JERSEY. Thank you very much, Mr. Chairman. Unfortunately, I will be chairing a hearing on Angola at 2:30 that had been scheduled before this Full Committee hearing was rescheduled today, so I will not be able to hear the testimony. I would like, however, to make a short statement and ask a question that I hope our distinguished Secretary will answer.

In its *Country Reports on Human Rights Practices* in 2005, the U.S. State Department again describes the Pakistani Government's record on human rights as poor, and admits that despite improvements in some areas, serious problems remained. Those serious problems include not only widely reported anti-democratic practices, but also extra-judicial killings, torture, and rape, rampant police corruption, lack of judicial independence, political violence, terrorism, and extremely poor prison conditions.

The State Department's *International Religious Freedom Report* for 2005 also noted serious problems with respect to religious freedom in Pakistan. The U.S. Commission on International Religious Freedom's 2006 report states, "Sectarian and religiously motivated violence persists in Pakistan, and the government's response to this problem, though improved, continues to be insufficient and not fully effective."

Are these human rights issues and concerns being factored into decisions to sell military aircraft and other technology to Pakistan? Is it even considered in the discussion?

And I would hope that question can be answered during the question and answer period, or in your opening comments. Thank you.

Chairman HYDE. The gentleman from California, Mr. Sherman.

Mr. SHERMAN. Mr. Chairman, this breach of protocol cannot be addressed just by getting promises that the State Department won't do it to us again. I would hope that you, the Ranking Member, and other colleagues would join with me in a resolution of dis-

approval. This disapproval would not have to be permanent, it could be reversed, after we get some answers and after we get some changes.

I join the Ranking Member in a concern that we improve the security plan, but we also have to look very carefully at each item of electronics and avionics that are on these planes. We have to look very carefully at the avionics and the electronics on these planes because you know that operatives from the People's Republic of China will be looking very carefully at the avionics and the electronics on each of the planes that are delivered.

Even with the best security plan, and I think we should have the best security plan, hundreds of Pakistani engineers and pilots will become intimately aware of every aspect of these planes, and every one of them can take themselves, their drawings, and their pictures into meetings with Chinese operatives.

It is up to this Committee to make sure that we are not including avionics and electronics on those individual planes. That should not be included, in light of China's likely discovery.

Finally, I think there is an additional outrage, in addition to the protocol outrage. It is outrageous for us to let this deal go through without putting it on hold until we know whether Pakistan will fully cooperate in bringing to justice those who murdered hundreds in Mumbai. For us to approve this deal by letting it go forward with just some angry rhetoric directed at the State Department, but to let it go forward—in a week when this outrage has occurred, and when some indications point to Kashmir and Pakistan—is to dishonor those who were victims.

I think we need to put a hold on this agreement and work it out in the weeks and months to come.

Chairman HYDE. Mr. Burton of Indiana.

Mr. BURTON. Thank you, Mr. Chairman. Let me just say I believe the Pakistani Government, under President Musharraf, is going to do everything that he can to make sure that those people are brought to justice, if the attack did originate in Pakistan. I am not so sure that it did. But I am convinced he wants to work out his differences with India so that they can solve the problem of Kashmir, which has been going on so long.

I don't disagree with anything that has been said regarding the problems with the State Department. I think the State Department realizes it made a mistake, but they are trying their best to make sure that the security of this equipment is realized and that there is not going to be any problem with it being stolen or given to China or anybody else.

One of the things I think that needs to be said very clearly is that Pakistan is a friend of the United States. They have been a leader in the war against terrorism. They have 80,000 troops on their western border with Afghanistan. Four hundred of their troops have been killed, more than all of the troops from the United States and NATO combined. They have 700 troops that are critically wounded. They have stepped up to the plate. They have been with us since day one, and I believe that that friendship should be realized and we should show some support for Pakistan with this sale.

The security of the aircraft has to be guaranteed, and I agree with our leadership in that regard. But I hope this sale is not slowed down, because it is going to cost a lot more if it is. We need to get on with it and let the Pakistanis know that they are our friends and we value their friendship and we value their assistance in the war against terror.

Chairman HYDE. The gentlewoman from California, Ms. Watson.

Ms. WATSON. Thank you, Mr. Chairman. I support the opposition to the sale of F-16s to Pakistan, and I believe anyone who has taken a long-term view of America's interest should do so as well.

This deal rewards Pakistan's dictator but does nothing for Pakistan's people. This is yet another example of President Bush's lack of strategic vision, just more geostrategic bobbing and weaving by a President who lacks a clear strategy for winning the War on Terror or for protecting America.

Now, the President's argument is essentially that Pakistan's military rulers deserve these F-16s because they have cooperated in the effort to fight both the Taliban and al-Qaeda. But this is only half the story. Yes, the Government of Pakistan has helped us to hunt down individual Taliban and al-Qaeda leaders. But Pakistan has not made any effort to stop their moral, if not material support for like-minded extremist groups, nor has Pakistan made any real effort to combat the poverty, misery, corruption, and lack of democracy that fuels such extremist groups.

President Bush's second argument is that President Musharraf needs our support to beat back his internal opponents, who would turn Pakistan away from the United States on fighting terror and turn Pakistan into a terrorist state, like Iran or Afghanistan under the Taliban. But by propping up Pakistan's military leaders at the expense of its own people, we reinforce the inequities that push so many otherwise neutral Pakistanis into the arms of extremist leaders.

Chairman HYDE. Mr. Rohrabacher of California.

Mr. ROHRABACHER. Thank you, Mr. Chairman. First and foremost, we do need to express that we appreciate the role that the Government of Pakistan is playing in the role against radical Islam and helping us fight the fight against the Taliban. With that said, there is some self-interest in those people in the Pakistani Government who have made that stand. Let us note they would be swept away by the forces of history if they were not making that stand, and others would replace them.

Let us not forget, Mr. Chairman, that Mr. Musharraf was the one, and you may correct me if I am wrong, who said in terms of Pakistan developing its nuclear weapon system at the expense of the well-being of the Pakistani people, our people will eat grass in order to accomplish their mission in this life. Let me note that that is not the type of attitude that is going to build a better world.

I don't believe that spending \$5 billion for a sophisticated weapon system, and selling \$5 billion worth of weaponry to a relatively poor country makes good sense to me. I mean, the fact is that the F-16 is an offensive weapon system. It can drop nuclear weapons. And it is designed to make war on countries that have sophisticated air forces, not the Taliban and not radical Islam.

We should be helping them, yes, find defensive weapon systems that are appropriate and will not bog down their people for generations of debt so that their people will have to eat grass rather than live as decent human beings.

Finally, Mr. Chairman, let me note that I am concerned about what appears to be an arrogant disregard for Congress that seems to be flowing down from the very top of this Administration. We need to be very concerned about this. We have a role to play. People elected us to watch out and help make decisions as well. We deserve to have our prerogatives honored, just as the President deserves his.

Thank you very much.

Chairman HYDE. Ms. Berkley of Nevada.

Ms. BERKLEY. Mr. Chairman, in the interest of time, I ask unanimous consent to submit my opening statement.

Chairman HYDE. Without objection.

Ms. BERKLEY. Thank you.

Chairman HYDE. Mr. Royce of California.

Mr. ROYCE. Mr. Chairman, thank you for calling this important hearing. I chair the Subcommittee on International Terrorism and Nonproliferation, so when it comes to Pakistan, with the radical jihadist elements in its society, and especially with regard to its record of nonproliferation, there is no other country of more importance. To my mind, our Pakistan policy has to be viewed through the lens of lessening radicalism in that society.

Chairman HYDE. Mr. Royce, if I may interrupt.

Mr. ROYCE. Certainly, Mr. Chairman.

Chairman HYDE. We have two votes that have just been called. I think it best to recess until after the vote, so we will do that. But I would express the hope that all the Members will return right after the vote because this is such an important hearing.

So the Committee will stand in recess until after the vote.

Mr. ACKERMAN. Mr. Chairman, I will unfortunately not be able to come back after the vote, and would like to submit my statement strongly objecting to the sale in the record at this time, along with a resolution of disapproval for the sale.

Chairman HYDE. Without objection, it is so ordered.

[The prepared statement of Mr. Ackerman follows:]

PREPARED STATEMENT OF THE HONORABLE GARY L. ACKERMAN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, thank you and Mr. Lantos for scheduling today's hearing on the sale of F-16's to Pakistan. It will come as no surprise to anyone here that I am opposed to this sale. I am opposed on substantive grounds and I object strenuously to the way the Administration handled the notification of the sale to the Committee.

First, the substance: I do not believe that Pakistan needs F-16's to assist us in the war on terror. In particular, I do not believe that these planes will help us or Pakistan in the war against al Qaeda along the Pakistan/Afghan border, unless al Qaeda has suddenly deployed fighter jets of their own. I continue to believe that what Pakistan needs are the capabilities to move effectively and more quickly to move troops across difficult and dangerous terrain, thereby extending the government's control over areas that are currently controlled by local tribes. I don't think F-16's help with this fundamental problem.

Second, it is well-known that A.Q. Khan and his nuclear Walmart transferred sensitive nuclear technologies to terrorist states. *Allegedly* he miraculously did this without the knowledge of the government of Pakistan. This technology was Pakistan's most closely held state secret, yet, somehow, equipment and designs found their way out of Pakistan to Iran, North Korea and Libya, for a price. Now we are

on the verge of transferring some sensitive technology of our own to Pakistan. Certainly not the most sensitive we have, but sensitive enough that we don't want it to wind up in the hands of third parties—nations or terrorists. In particular, I think we should be very concerned about the closeness of Pakistan's relationship with China. In fact, Pakistan and China are jointly developing a fighter plane. It strikes me, layman that I am in these matters, that China would love to get an extended look at an F-16 and all the related weapons systems that go with them. I have a hard time believing that whatever security arrangements Pakistan has agreed to won't be violated by someone with an interest in earning a little ready cash. After all, that has been Pakistan's experience with its *own* technology, why would they be more careful with ours?

Lastly, I'd like to address the manner in which this sale was notified to the committee. The Administration's decision to ignore 30 years of precedent and send the formal notification to the Committee last month on a sale of this magnitude and sensitivity is nothing short of *arrogant*. If the Administration is going to unilaterally re-write the rules for arms sales, then I think it is incumbent on us to review and perhaps change the rules for exactly how Congress approves such sales.

Instead of the current process, which has the Congress as a passive actor in these decisions, I propose that we take a more active role. On arms sales to particular countries and of a particular size, I believe that the Congress should vote affirmatively to approve such sales. We could establish an expedited procedure to ensure that once a sale is notified, that Congress would act, one way or another, but as it stands now, most members who do not sit on this committee have no idea what we sell to whom. Just as often such questions go wholly unexamined. And even if members did object, the current process leaves them with virtually no opportunity to affect the sale one way or another.

I think the fact that Congress hasn't seriously challenged an arms sale since 1987 is not evidence that the process works, but evidence that the Congress has ceded too much authority to the executive.

Mr. Chairman, this circumstance does a disservice to our role as overseers of U.S. foreign policy and is a disservice to our constituents. As a result, I am today introducing a joint resolution disapproving the sale.

Thank you and I look forward to hearing from today's witness.

Chairman HYDE. The Committee stands in recess until after the vote.

[Recess.]

Chairman HYDE. The Committee will come to order.

The Chair recognizes Ms. McCollum for purposes of an opening statement.

Ms. MCCOLLUM. Thank you, Mr. Chair. I will make my remarks brief, and I also support what we have heard Members on both sides of this aisle speak to.

In 1976, the Humphrey-Fish agreement, which the Chairman mentioned, or the Arms Export Control Act, was enacted. This is a 30-year-old agreement. Senator Humphrey was my Senator at the time, and I think he had a good idea. He had an idea about Congress being consulted and involved in these agreements.

This Administration far too often, if it does even choose to come to Congress, comes to Congress after the fact. We are a coequal branch of government. We have a responsibility that comes along with our election certificate of doing oversight and asking questions and being active participants in this Government.

We just took a vote on the House Floor. It is a very tragic time in the Middle East. It is a tragedy what is happening to the people in Lebanon and to the people in Israel. We, our Government, has said that there is linkage between Hezbollah and Lebanon and that we need to do something to root Hezbollah out of Lebanon. The Israel Government has said that they are holding Lebanon responsible for the acts of terrorism that have been committed.

An act of terrorism was just committed in India, and it is very likely that the terrorists crossed over from Pakistan. India is to be commended in working with Pakistan to resolve this issue. But we need to be mindful of the precedent we set on the Floor today and the precedent that was set in the past. We need, as a Congress, to put forth our congressional oversight.

Mr. Chairman, my words sound a little frustrated because I am frustrated here that at the eleventh hour we are being asked to rubber stamp an agreement.

Thank you, Mr. Chair.

Chairman HYDE. Thank you. We, at long last, welcome Dr. John Hillen, Assistant Secretary of State for Political and Military Affairs to the Committee this afternoon. This bureau is the principal link between the Departments of State and Defense.

We thank you very much for joining us, Dr. Hillen, and please proceed with your testimony.

STATEMENT OF THE HONORABLE JOHN HILLEN, ASSISTANT SECRETARY, BUREAU OF POLITICAL MILITARY AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. HILLEN. Thank you, Mr. Chairman, Mr. Lantos, and Members of the Committee. I, of course, will ask that my remarks be entered for the record.

Chairman HYDE. Without objection, so ordered.

Mr. HILLEN. Also, if there is no objection, Mr. Chairman, I would like to ask the indulgence of the Committee and ask that a statement by Richard Boucher, our Assistant Secretary For South and Central Asia, be included in the record. He is here today with us and also happy to answer any questions that have come up about the greater geopolitical context of this, some of which we have heard some concerns about.

Chairman HYDE. Without objection, his remarks will be made a part of the full record.

Mr. HILLEN. Thank you, Mr. Chairman.

As you know, Mr. Chairman, this sale is a Presidential priority and a key element of the Administration's South Asia strategy which was unveiled first in March 2005 and aimed at broadening the strategic relationships with our key strategic partners; India, Afghanistan, and Pakistan.

A major pillar of the United States national security strategy, as laid out in the Quadrennial Defense Review, is to shape the choices of countries at strategic crossroads, and Pakistan is one of those countries. Our military-to-military relationship is a key vehicle for shaping Islamabad's choices.

The proposed sale will send a very clear signal of our commitment to a long-term relationship with Pakistan, a major non-NATO ally since June 2004, and strengthen the hand of President Musharraf and his government in supporting us in the War on Terror, and continuing to make other difficult and strategic choices. A confident and secure Pakistan will be a more reliable partner for the United States.

Pakistan's outstanding support in the War on Terror has not come without a cost to President Musharraf and the Pakistani people, as Representative Burton referred to. And despite that cost,

Pakistani counterterrorism efforts have resulted in the death or capture of over 800 members of al-Qaeda, including many senior leaders. In another example of Pakistani support, the Pakistani navy has been commanding the naval combined task force 150 under Operation Enduring Freedom since April.

We have been asking Pakistan to make tough choices and to show concern for our strategic interest in keeping America safe. The sale of the F-16s not only shows our support for Pakistan's tough choices, it bolsters Pakistan's capabilities in the War on Terror, helps the Pakistan air force better support coalition operations in the region, enhances interoperability between the United States and the Pakistan air forces, and supports Pakistan's legitimate self-defense needs. This sale will also demonstrate that we are serious about a strategic relationship based equally on a concern for Pakistan's national security interests and security needs.

With regard to this proposed sale, we take our obligation to consult with Congress on this and other arms sales seriously, and we began that consultation process with congressional staff over 16 months ago. Over that course of time, we have provided congressional staff with two JAVITS briefings, 11 briefings on various aspects of the proposed sale to Pakistan, four intelligence briefings, and responded to multiple written questions. We went to great lengths to be responsive to the concerns of staffers prior to submitting the formal notification on June 28th.

Mr. Chairman, I do not think, with respect, that we can so easily dispense this interaction as being not meaningful consultation with Congress. In the annals of the State Department, the Defense Security and Cooperation Agency, in our records, we consider this unprecedented in a number of ways, and I myself have added on several new layers to the process in order to move forward, including for the first time ever the review of very highly sensitive and classified Executive Branch documents that I have shared with your staff to make sure they understand our decision-making process. Unprecedented. Inviting staff with me on other trips to visit Pakistan and the sites, so they could see that. Unprecedented.

There is still work to be done, when this was notified, and we knew that, and our staffs are working together very well, and I appreciate the support you and Mr. Lantos have given for that process, because we consider this entire period, including the 30 days of formal notification, to be a time to continue to get your concerns into the record and on the table; and continue to do things that are unprecedented, like the U.S. Air Force security brief that we delivered to your staff last November that you referred to; and then taking on board your concerns and interests and continuing to integrate them into what is a living document; and a security plan that I will talk a little more about in the future.

By moving forward with the formal notification of this proposed sale in June, the Government of Pakistan will be able to sign a contract this calendar year which reinforces United States support for a key ally in the War on Terror, and underscores the value we attach to Pakistan as a strategic partner, and helps Pakistan avoid significant price increases.

I would also like to take a chance to respond to the concerns that both you and Mr. Lantos raised. This is not a calculated attempt

to change a procedure. This is not precedent setting at the State Department. We consider this an extraordinary sale. We ourselves think the pattern, as outlined in the 1976 letter, to which many Members have referred, is an acceptable general pattern. We know that we need to work with you and your staff to make sure that there is transparency and a conclusion to that deliberative process laid out in there, and also accountability within that.

So we look forward to working with you to make sure that process has a conclusion within it, and yet gives the proper oversight that you think you need. So this is not intended, the way in which this sale was notified, is not intended to be a pattern going forward by any means. I want to assure you and Mr. Lantos of that.

Also, any additional changes in the security plan will still be considered. We look forward to discussions with Mr. Lantos, we have been working with his staff and will meet with him later this afternoon about some other ideas that he has.

And I would like to say a further word on that. The Administration very carefully considered the potential risk of diversion of United States technology and equipment, and we are taking appropriate steps to minimize those risks. Furthermore, the Government of Pakistan, including the Pakistan Air Force, has been extremely cooperative in responding to our concerns on the security of aircraft and technology.

I think we will discuss this in detail in the closed session further, but I would like to note a few things. First of all, the security plan greatly exceeds United States Air Force standards for our own security of these weapon systems. I know all the Members have great respect for the way in which our Air Force protects its security, but I would also like to highlight nearly a dozen new and unprecedented elements of the security plan for Pakistan.

We, of course, have had a U.S. Government security site survey of their bases and facilities. We have put into the deal that they must comply with the approved security plans for their F-16 related bases and facilities before we will release any systems in the sale. We will have a U.S. presence to monitor compliance with the security plan requirements. A very enhanced end-use monitoring program. Semiannual inventories of all F-16 aircraft equipment and munitions, including related technical data. More frequent inventories for other systems. There are separate and distinct and restricted areas for the F-16 aircraft equipment and munitions. And no mixing with third-country origin aircraft equipment and munitions, and all of this will be monitored. Routine access to F-16 aircraft and munitions is in restricted areas and limited to Pakistan Air Force personnel that are preapproved for such. There is a two-man rule, so to speak, for access to this equipment and restricted areas. And F-16 flights outside of Pakistan and participation in exercises and operations with third nations must be approved in advance by the United States Government. The maintenance is limited to remove and replace line replaceable units and shop replaceable units. And Pakistani Air Force personnel must perform the maintenance. No Pakistan contractors, industry, or third-country nationals. We have also mandated that the F-16 maintenance and parts storage must be in dedicated facilities. Also part of the overall surveillance plan.

There, of course, will be, Mr. Chairman and Mr. Lantos, no delivery of F-16 aircraft equipment and munitions until Pakistan is fully compliant with the security plan requirements, and we will continue to seek and solicit, as we have aggressively, from your staff, any additional ideas. And the ones that have been shared to date are good, and I think have made the plan stronger.

So thank you for allowing me to testify before you this afternoon about the proposed sale, and I would be more than happy to answer any questions.

[The prepared statement of John Hillen follows:]

PREPARED STATEMENT OF THE HONORABLE JOHN HILLEN, ASSISTANT SECRETARY,
BUREAU OF POLITICAL MILITARY AFFAIRS, U.S. DEPARTMENT OF STATE

Good afternoon Chairman Hyde, Representative Lantos, and other distinguished members of this Committee. Thank you for this opportunity to appear before you today to discuss the proposed sale of F-16 aircraft to Pakistan.

This sale is a Presidential priority and a key element of the Administration's South Asia strategy, unveiled in March 2005, aimed at broadening our strategic relationships with our key regional partners—India, Afghanistan, and Pakistan.

A major pillar of U.S. strategy, as laid out in the QDR, is to shape the choices of countries at the strategic crossroads. Pakistan is one of those countries, and our military-to-military relationship is a key vehicle for shaping Islamabad's choices.

The sale will send a very clear signal of our commitment to a long-term relationship with Pakistan, a Major Non-NATO Ally since June 2004, and it will strengthen the hand of President Musharraf and his government in supporting us in the war on terror and in continuing to make other, politically difficult, yet strategic choices.

The consultation process with Congress on this F-16 sale has been unprecedented. Never before have such extensive arms sales consultations taken place, in the history of Congressional notifications.

During the past 16 months, we have consulted with Hill staffers on numerous occasions (including two JAVITS briefings), briefed staffers in detail 11 separate times, not including four intelligence briefings, and responded to multiple written questions. We went to extraordinary lengths to respond to the concerns of staffers before submitting the formal notification on June 28, 2006. A larger version of this proposed sale was first included in the March 2005 Javits Report.

By moving forward with the formal notification of this proposed sale in June, the Government of Pakistan (GOP) will be able to complete the sale this calendar year, which reinforces U.S. support for a key ally in the war on terror, quells concerns in Pakistan about U.S. intentions and reliability as a strategic partner, and helps Pakistan avoid significant price increases.

The Administration has carefully considered the potential risks, and we are taking appropriate steps to minimize those risks. Furthermore, the GOP and the Pakistan Air Force have been very cooperative in responding to our concerns on security of the aircraft and technology. In order to discuss this in further detail, we should move into a closed session.

Thank you for allowing me to testify before this Honorable Committee and its Distinguished Membership this afternoon about the proposed sale of F-16 aircraft to Pakistan. I look forward to working with the Congress on this sale, and I am happy to answer any questions.

Chairman HYDE. Thank you, Dr. Hillen.

Mr. Lantos.

Mr. LANTOS. Well, Secretary Hillen, I read your testimony, and while I was struck by the contention that State has gone to extraordinary and unprecedented lengths to consult with our Committee on this sale, I am concerned that the centrifugal force of this spin threatens to fling the facts right out the window.

The consultations on this unique sale, the sale you notified on June 28th, began only on June 8th. The consultations on a security plan began last summer with answers to a few, but certainly not all, of the Committee questions in September. There was nothing from then until June 8th, despite repeated Committee requests.

You claim that State answered multiple questions, but State, nevertheless, refused to answer critical questions posed by this Committee, and vital information was not provided to us until as recently as last month, despite our repeated requests for such information.

I want to come back to a fundamental question that I asked you in a closed session. And there was nothing secret about it, so I will ask it again.

Are you aware of the fact that for some 30 years, there was a 20-day prenotification period on such sales that had to be submitted to this Committee?

Mr. HILLEN. Yes, Mr. Lantos.

Mr. LANTOS. Was such a 20-day prenotification provided us this time?

Mr. HILLEN. We asked three times, Mr. Lantos, for that period to be waived. One of the things—

Mr. LANTOS. May I ask you: Was there such a 20-day prenotification provided the Committee this time?

Mr. HILLEN. There was not, Mr. Lantos.

Mr. LANTOS. Did Mr. Hyde or I authorize the waiver of that period?

Mr. HILLEN. You did not, Mr. Lantos.

Mr. LANTOS. And the Chairman?

Mr. HILLEN. Did not.

Mr. LANTOS. Did not. So you took it upon yourself, you arrogated to yourself the responsibility of the Chairman and the Ranking Member to waive a 20-day prenotification period; is that correct?

Mr. HILLEN. Mr. Lantos, the 1976 letter to which you referred—

Mr. LANTOS. I asked a very simple question. Since the Chairman did not waive the 20-day prenotification period and I did not waive it, did you arrogate it to yourself to make that decision?

Mr. HILLEN. We decided, for the reasons I stated in my testimony, Mr. Lantos, and the amount of work that went into the consultations prior to that, to notify the deal.

Mr. LANTOS. I will ask the question the third time and hope I get a straight answer.

Since the Chairman and I did not waive this to 20-day prenotification period, did you arrogate it to yourself to waive this requirement?

Mr. HILLEN. We notified the deal on June 28th without the 20-day prenotification.

Mr. LANTOS. What authority did you have for doing that?

Mr. HILLEN. Well, Mr. Lantos, we recognized the traditions and protocols in the letter. We also recognized that over the course of years, things not referred to in the letter, which simply adds 20 days, such as a preagreement to even get to the 20-day period, had been creeping into the process. And under the strategic urgency that we thought we needed, and the many, many months of consultations and our commitment to continue having ongoing substantive consultations, we decided to go ahead and notify in accordance with the enumerated system.

And after not getting permission to waive the protocols and the traditions, we decided to move forward with notifying the deal and

redouble our efforts to make sure we satisfied the concerns of the Committee within that 30-daytime period.

Mr. LANTOS. You are incapable of admitting that this was a colossal mistake that makes both the Chairman and me infuriated at this arrogation of congressional authority by an Executive Branch official.

Mr. HILLEN. Mr. Lantos, we are very interested, as I said, in honoring those protocols in that system. And as you have heard from other seniors officials in the Department, we want to work very closely to make sure that that system actually has transparency and conclusion, and that it does not turn into an ongoing and unaccountable system in which Presidential priorities can be held forever without a system to work through it.

So by no means—

Mr. LANTOS. Mr. Hillen, there is no Committee on Capitol Hill that works on as bipartisan and cooperative a basis as this Committee, under the chairmanship of Mr. Hyde. You created a degree of opposition and monumental problems that were not there; that did not need to become problems. And you still are incapable of saying *mea culpa, mea maxima culpa*.

You still believe that what you did was the correct thing to do. You still think that your taking upon yourself waiving a 30-year procedure that both the Chairman and I respect and expect the Department of State to follow, you take it upon yourself to waive that and you still cannot say that that was a colossal mistake.

There are people on this Committee who don't like the sale. There are some, like myself, who approved, in principle, the sale; who wanted to go ahead with the sale. But this arrogant usurpation of congressional authority sours the whole procedure, which should be obvious to a 6-year-old child. But you still don't seem to be capable of absorbing what the Chairman, in his opening statement, and what I, in my opening statement, said.

I have no further questions, Mr. Chairman.

Chairman HYDE. Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I want to certainly associate myself with you, Mr. Chairman, and our Ranking Senior Member of the Committee regarding the concerns that you have expressed earlier concerning this ongoing relationship that we now have with the Administration referencing this proposed sale of some 77 F-16s and other military equipment worth \$5 billion total.

Mr. Chairman, I want to complete the rest of my statement, now that I have a little more time, and I will then raise another couple of questions to Secretary Hillen.

Pakistan also has a history of nuclear proliferation. Mr. A.Q. Khan, the popular father of Pakistan's nuclear weapons program, confessed to selling nuclear technology abroad to North Korea, Libya, and Iran, and President Musharraf then pardoned him for doing so, a big, big world-wide scale. You couldn't have asked for a better breach to talk about the dangers that it has wrought, especially from countries like Korea, that now, I suspect, have nuclear technology, thanks to Mr. Khan.

Given last week's terror attacks against India, in which it is alleged that a Pakistani-based group, LET, designated a terrorist organization by our own country, may be to blame, I am deeply con-

cerned at the Administration's decision to sell these F-16s and other military hardware to Pakistan at a time when our country has no assurances that these weapons will not be used to strengthen non-democratic forces in Pakistan.

My question to Secretary Hillen is, just as it was possible for Mr. Khan, the father of Pakistan's nuclear weapons system, who sold this nuclear technology to North Korea, to Libya and to Iran, for which he was later, pardoned in this huge breach, what assurances do we have that we may not have another Mr. Khan in Pakistan who may also breach this very sensitive military equipment and which then may be used, and it may not necessarily be, but just the fact that it may be used outside the parameters of what we agreed upon in principle? I just wanted to ask Secretary Hillen that.

Mr. HILLEN. Thank you, Congressman. And as we go into closed session, I will get into more detail on the security plan, but I would note here that we have, precisely to combat unauthorized proliferation, we have this extraordinary security plan put into place.

I would also note that the Pakistani Air Force has a very solid record with our security. They have had F-16s since the 1980s, and certainly have not had issues anywhere related to or associated with the A.Q. Khan network.

I would also note, on the terrorist incidents in Mumbai, that President Musharraf came out very strongly with a statement condemning that, and has himself been fighting terrorism in his own country. And I think our support and our building of a strategic relationship, and the F-16s are an iconic symbol of the strategic and military-to-military relationship between United States and Pakistan, will allow our access and influence in that country to be even more influential in helping them win the War on Terror that they face in their own challenges.

Mr. FALEOMAVAEGA. I note with interest my colleague, Mr. Rohrabacher from California, made a comment to the fact that this is a \$5 billion package that Pakistan is willing to buy, this military equipment, from our country. I guess our military industry here is laughing all the way to the bank, with \$5 billion worth of military hardware for Pakistan.

My question is: What percentage of that is the budget that Pakistan spends for its defense purposes? You know, in the recent earthquake, the whole world was burdened with the idea that we had to come and save the lives of thousands of people. And I mean, we don't want an earthquake in any country, but economically does Pakistan have the capability in using \$5 billion for defense purposes that could be used maybe for things to help sustain the lives of its 150 million people living in that country?

Mr. HILLEN. Congressman, this is a national decision about national defense funds and legitimate self-defense needs made by the Government of Pakistan. In fact, as we noted, because of the earthquake, the scale of their request has come down dramatically because of their need to spend funds on the earthquake.

But because it is a national decision about their defense funds and their defense spending, I don't think it is so much in their minds a difference of F-16s versus other national priorities; it is

their modernizing their air forces, and it is F-16s versus modern aircraft from other nations that would otherwise be bought.

But it is a national decision for how they have decided to spend their funds, and we think it definitely goes toward legitimate self-defense needs.

Mr. FALEOMAVAEGA. I notice my time is up, Mr. Chairman. I will wait for the second round.

Chairman HYDE. Thank you. Before we get to Mr. Rohrabacher, I wonder if I might ask a question.

Hezbollah has started what they would like to think is World War III, and, of course, we are surprised by the sophistication of some of their weapons. So we must think about who is arming Hezbollah, and you can go through the food chain and you end up with China.

I don't want to have to go up to an executive session, but suffice it to say, I think we agree that China has access to Pakistan's military development. They are an ally, and they have a presence in Pakistan. So if this sale goes through, I am wondering how much China will be advantaged by this sale to Pakistan and, through China, Hezbollah?

In other words, in a roundabout way, are we not arming our enemy? And I don't speak of Pakistan in these terms at all, but I am talking about the interrelationships in that part of the world and China's close relationship to Iran and Pakistan. And so I am troubled by that aspect of it. I wasn't early on, until Hezbollah began its assault. But now I am concerned that Hezbollah will continue to be armed by China and some of this very sophisticated weaponry will be in unfriendly hands.

Have you a comment on that?

Mr. HILLEN. I do, Mr. Chairman, and thank you for the thought you put into that.

We don't think China would be advantaged by this sale at all. In fact, the best thing that could happen for the Chinese military is for a sale like this not to go through, because then it is they who will have access and influence with the Pakistan military as opposed to the United States, and Pakistan wants very much for the United States to be its preeminent and closest strategic and military-to-military partner.

China won't be advantaged because of the extraordinary security plan that I outlined some elements of before, and we can go into deeper in closed session. But I do think that one of the reasons why we want to have access and influence into Pakistan, and other nations like Pakistan, through this building of this strategic and military-to-military relationship, is precisely to prevent China from having that kind of relationship.

Because of your strong support, and others, we have the gold standard for arms export control use. We place all sorts of conditionality onto getting arms sales from the United States, and that protects American Security interests and protects exactly this sort of proliferation problem you alluded to.

So I think this sale works exactly the opposite. I think it will give us access and influence in a country, and we will be able to see if there are any dynamics of that sort and be able to be in-

volved in a leadership position rather than just standing by if this happens.

Chairman HYDE. Well, that is a cheery interpretation and I hope you are right, and I don't say that you are not. I think it is entirely possible, but I just am concerned about the access to this advanced technology finding its way to people like Hezbollah, and it all depends on the security, as you say, of the aircraft in Pakistan and other aspects of security.

All right. Thank you.

Dr. Rohrabacher. I have just promoted you to a Ph.D.

Mr. ROHRABACHER. Thank you very much, Mr. Chairman.

Does an F-16 have the capability of carrying a nuclear weapon?

Mr. HILLEN. Mr. Rohrabacher, these F-16s specifically will not be sold to Pakistan to be capable of carrying a nuclear weapon.

Mr. ROHRABACHER. The ones that will, of course with mechanics or engineers they won't be able to alter that at all?

Mr. HILLEN. The F-16s we are giving them, Mr. Rohrabacher, will not be nuclear capable.

Mr. ROHRABACHER. There is no little tweaking that could be done to the underside that could permit them to carry that type of weapon?

Mr. HILLEN. That of course is certainly possible. One of the things that we gain from doing this deal, Mr. Rohrabacher, is exactly that access and influence I have talked about. So if Pakistan wanted to make a move like that, which we would think imprudent, we have this extraordinary security plan with United States personnel, we have monitoring, we have leverage to convince them not to do this. They have given no indications that they want to do this.

Mr. ROHRABACHER. Tell me, when we sold all the modern aircraft to the Shah of Iran, we had that same kind of leverage on him, didn't we?

Mr. HILLEN. We did, Mr. Rohrabacher, and precisely because Iran has those aircraft as opposed to the French aircraft, others with whom they have a vigorous relationship, Iran is not capable of using those American aircraft; spare parts necessity; no relationship with us for upkeep and all that. It allows us even in this period without Iranian relations since 1978—

Mr. ROHRABACHER. That was a good thing that we sold the Shah those modern—the cutting edge American avionics technology just before the Shah was overthrown by the mullah regime that currently controls Iran.

Do you think that was a good thing? Is that what you are saying?

Mr. HILLEN. That was the policy of the Administration at the time, Mr. Rohrabacher.

Mr. ROHRABACHER. We all know what that answer means.

How much debt does Pakistan have right now, how much debt is it carrying?

Mr. HILLEN. I will get you that answer, Mr. Rohrabacher.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE JOHN HILLEN TO QUESTION
ASKED DURING THE HEARING BY THE HONORABLE DANA ROHRABACHER

Pakistan's bilateral debt with the United States currently stands at approximately \$2 billion. The latest U.S. Treasury report on debt levels dated December 31, 2004, listed \$2.492 billion for Pakistan (details below in millions), but does not include the \$490 million of fiscal year 2004 debt relief.

Guaranteed private loans (AID, EXIM)	\$ 368
Concessional credits (AID, USDA)	\$1.384
Undisbursed concessional credits	\$ 11
Non-concessional credits (AID, USDA, DoD, EXIM)	\$ 729
	\$2.492 billion

Mr. ROHRABACHER. Do you think that the F-16 is the appropriate weapon system needed in the fight against global terrorism and the Taliban, et cetera, or is the F-16 a weapon system that is designed for some other fight?

Mr. HILLEN. Mr. Rohrabacher, when I was out in Pakistan and all other United States officials that have been out there, we talked at length with the Pakistanis about our desire for them to continue to play a greater role in the War on Terror. They have moved up to 80,000 troops into their own areas where they have terrorist problems. They are using F-16s and close air support in that, hundreds of missions in the Global War on Terror, and they know it is our intent to give them capabilities to continue—

Mr. ROHRABACHER. Military experts don't suggest there might be other weapons that would be much more suitable for that type of fight rather than what the F-16 provides?

Mr. HILLEN. We are working on all those fronts, Mr. Rohrabacher. In fact, we are talking about everything from the small to the large and so the F-16 is just a piece of a comprehensive security package to let Pakistan get even more and more involved in the Global War on Terror, especially in their own country.

Mr. ROHRABACHER. Especially in their own country the F-16 would be better than perhaps an airplane that costs half as much and had the ability perhaps not to fly as far but would cost half as much and deliver the same package.

Mr. HILLEN. That was a question for the Pakistan—the modernization air forces. I would note, Mr. Rohrabacher, that in our structure, the sale, I referred to before a set of documents never before shared in an arms notification process between the Executive Branch and Congress, and I made the decision to share and it enumerated the technologies were not, that would usually go with an F-16, are not part of this deal and they include ones that would allow the F-16 to be used in an offensive way to penetrate air space of another country that was highly defended.

Mr. ROHRABACHER. I sure hope the Chinese that gave the nuclear weapons technology to the Pakistanis don't go and try to alter those F-16s. They might have some technical capabilities that might put us at a disadvantage.

When you say what they are doing here in this F-16 here, this \$5 billion in debt for a very poor country, was a decision made by the Pakistani people, can you tell me if Mr. Musharraf was elected or not?

Mr. HILLEN. I think we know the answer to that.

Mr. ROHRABACHER. I think we do. So what we are doing is piling on debt onto a very poor country that is being—but the debt, the decision for that debt is being made by an unelected leader.

Mr. HILLEN. Mr. Rohrabacher, we are framing a relationship with Pakistan, and the Secretary has been very clear, including when she was out there last month, to continue to work with Mr. Musharraf and let him know the United States' desire and to also liberalize the political and economic situation.

Mr. ROHRABACHER. One last thought, Mr. Chairman, then I know my time is up.

When you are really a friend to somebody and he is doing something self-destructive, you don't just go along with it. You try to convince him to do something else. This decision and this insistence, this arrogance about having to have the F-16s has symbolic—is so extraordinarily self-destructive for such a poor country, I think that the United States of America as a friend should have tried to give them some guidance in the opposite direction.

Thank you very much, Mr. Chairman.

Chairman HYDE. Mr. Leach.

Mr. LEACH. Thank you, Mr. Chairman. I don't know if I have questions. I do have a couple of observations. First, I think on the whole, as awkward as it is in world affairs, I think this particular sale is probably a compelling sale. On the whole I think the Chairman is exactly correct in objecting to certain of the procedures that have taken place.

If I were in the Administration's shoes what I would be thinking about right now in a very serious way is the symbolism of the Indian subcontinent, the two attitudinal national approaches of profound dimensions. One relates to this concept of American exceptionalism under international law. And we have taken a decision to allow India to breach the NPT, and there is a case for that and it is a case that has been well-presented to this Congress. And this Congress is going to buy it.

But vis-a-vis India is one thing. Once you take a position of an American exceptionalism in international law, all of a sudden you have to look at all the other countries that are going to be making a case for exceptionalism, too. And when you break from law, you cause precedents that become very awkward.

In the Indian case the President makes a decision, it takes months for Congress to think about it, but instantaneously Putin has already adopted the American position and certain sales have been committed.

Now you take this issue of Pakistan and a sale of aircraft. Again, the issue is exceptionalism. This Administration has a very difficult time not wanting to be Executive authority-oriented. And so it breaks precedent. With the NPT you have a situation now for the future it is going to be very hard to put international law back in the box.

Here, the Administration is holding a hearing that needn't have been held. This is an embarrassing hearing. And it is being held because of Executive arrogance. And you ought to think that through. That is what this Administration has to think through. You break the law on one hand, now you break congressional precedence on another because you don't want shared accountability.

This Committee was willing on a traditional basis to work very carefully with you. There was no efforts of the Chairman of this Committee to be untidy, anti-America's interest, and yet you moved in a direction that might call into question law itself. You have the distinguished Ranking Member suggesting he might change the law to make it tougher on you guys.

And so all I am suggesting is there are some lessons in this and they ought to really be taken back and thought through.

I have no question for you, but just to think. I want to be as supportive as I can of the Chairman in his efforts. I also think the case of the Executive Branch is probably compelling in this instance.

But you have put all of this in a process that has created a degree of chaos and a degree of uncertainty for the future that you needn't have done. And that is all I would like to contribute at this time.

Thank you, Mr. Chairman.

Chairman HYDE. Mr. Royce of California.

Mr. ROYCE. Yes. Thank you, Chairman.

Earlier this year the International Terrorism and Nonproliferation Subcommittee that I chair held a hearing looking at the A.Q. Khan network, and all the witnesses that we had testify agreed on one point and that was access to A.Q. Khan in Pakistan was essential in terms of a full understanding of exactly all that was done with his network on WMD.

I wondered if the United States ever made an attempt to connect access to A.Q. Khan with this deal. In other words, I am wondering what does the United States get here. Do we get some kind of ability to really find out what was done on the proliferation front by Pakistan or are we able to get access to Dr. Khan and find out exactly what were the arrangements with these countries?

Mr. HILLEN. Mr. Royce, in a broad sense, and certainly our intent in this deal is to grow this relationship I was talking about and gain access and influence with a strong relationship with the Government of Pakistan, which will allow us to do a lot of things. I would note that in the period in which we did not have a strategic relationship with Pakistan, among the things that happened during that period in the 1990s were the growth of their relationship with China, the events to which you referred to and the network you referred to, and we were out, we were out. We want to be in precisely to have that kind of influence, to answer those kind of questions, to influence the direction of this country at a strategic crossroads to get to the points about democracy and human rights and political liberalization that have been brought up by other Members.

So I can only add at this point in a broad sense that we hope exactly that this sale and our other multi-faceted efforts, we are doing a lot on the social and economic and educational from with Pakistan as well, give us that relationship.

Mr. ROYCE. Let me ask that, because the point you just made was a point the 9/11 Commission made with regard to Pakistan but I am not sure they intended F-16s. They singled out three countries as key in our struggle against Islamist terrorism. They said Saudi Arabia, Afghanistan and Pakistan.

The Commission said it is hard to overstate the importance of Pakistan in the struggle against Islamist terrorism, and they recommended that the United States support Pakistan's Government with what they called a "comprehensive effort that extends from military aid to support for better education so long as Pakistan's leaders remain willing to make difficult choices on their own."

I guess the question is, has that support been comprehensive? Do you believe in your mind that an F-16 sale is what the commission had in mind when it was talking about military sales to stabilize Pakistan?

Mr. HILLEN. Mr. Royce, the President absolutely believes—as you know, this sale was a Presidential priority—that it would serve exactly that purpose, I do believe. That is why I am here. We have already seen in simply working the beginning pieces of the deal in this relationship with the Government of Pakistan an extraordinary thing that we briefed Members in closed session in some of these intelligence briefings to which I referred earlier, the change in the way in which Pakistan is being aggressively involved on the Global War on Terror.

Mr. ROYCE. Let me finish with one other question I had. The notice says that the aircraft, the F-16s, will be used for close air support in ongoing operations contributing to the Global War on Terror. I would like to ask when United States forces are operating in Afghanistan and they need close air support, is it the F-16, the most advanced version, including advanced weapons and avionics, or is it something more like the A-10 or AC-130 in these kinds of operations that are most helpful for that type of support for the troops in the field?

Mr. HILLEN. Well, in close air support we use a lot of different aircraft. I, myself in battle, have called in fire from F-16s and A-10s and all sorts of other aircraft. So there is a whole range in the U.S. inventory.

In Afghanistan of course we will continue to rely on the ISAF and United States and coalition forces for air support, and certainly not what is being done with Pakistan, but I would note that Pakistan has used their F-16s in the Global War on Terror and we want to continue to build this relationship with them. We want their students to go to our close air support schools so their army and air force can learn to work closely together as ours have to use these sorts of capabilities in close air support and support of the 80,000 troops they have fighting in the Federally Administered Tribal Areas in the Pashtun tribal belt.

Mr. ROYCE. Thank you, Mr. Chairman.

Chairman HYDE. Mr. Faleomavaega for the final question.

Mr. FALEOMAVAEGA. Mr. Chairman, we have Mr. Sherman here.

Chairman HYDE. Oh, Mr. Sherman is back again.

Mr. SHERMAN. Yes. I am usually so innocuous and soft-spoken.

Chairman HYDE. We have certainly missed you.

Mr. Faleomavaega.

We will get to you, Mr. Sherman.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

I just wanted to make a correction for the record and not to give any misrepresentation of my views.

Mr. Chairman, one is that I am absolutely in support of the good people of Pakistan. It is just that some of the policies that emanate from the Government of Pakistan that I have problems with.

Mr. Secretary, India's recent allegations made that the Pakistan-based terrorist groups were responsible for the barbaric Mumbai bombings were most disturbing. Will the Administration agree not to deliver any aircraft or weaponry system until the President certifies to this Committee that Pakistan has halted all support by any governmental elements for terrorist groups and has taken all possible actions to eliminate such groups?

Mr. HILLEN. Congressman, I think President Musharraf has been quite clear on that in condemning the action and by no means supports any terrorist groups in Pakistan, in our opinion, and we want to build this relationship precisely to help him get better at combating terrorism.

Mr. FALEOMAVAEGA. I realize all the technicalities and all that has been made in terms of putting together this \$5 billion package. The train is moving and it is for us to make this decision whether or not to conduct the sale.

I take my President's statements very seriously, Secretary Hillen, and I want to restate again my President's statement that he made at his inaugural address, and I quote: "It is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture with the ultimate goal of ending tyranny in our world."

You realize in the height of the Cold War, our national policy, we didn't care if that country had a military dictator that murdered and tortured thousands, even millions of its citizens, so long as they were in our camp, them and us, the Russians and us.

And as I understand it, Pakistan did elect a President, his name was Sharif, I believe, then there was a military coup. I met President Musharraf. He is a good man, I am sure, with all intents and purposes, but the fact of the matter, Mr. Secretary, is I have a very serious problem. Pakistan is not a democracy. Don't we have a Federal law somewhere that says when a country commits a military coup that our country is supposed to place sanctions against the country?

Chairman HYDE. Will the gentleman yield?

Mr. FALEOMAVAEGA. Yes, Mr. Chairman.

Chairman HYDE. I don't think it is quite that simple. The President of Iran has been elected. They had an election in Algeria and the bad guys won and the army had to throw him out. Hamas just won an election in the Palestine Authority region.

So being elected is desirable but sometimes democracy doesn't produce the best office holder. I just simply say it is not quite that simple that Mr. Musharraf wasn't elected. He is in office and he is an ally of ours and we ought to express some gratitude and hope some day that they can have a nice democracy like we have, but in the interim we have to struggle for freedom.

Mr. FALEOMAVAEGA. I thank the Chairman for his statement, and I just want to say that I commend the Chairman for his observation on this issue, but I still have to say, yes, maybe we can say democracy can also be dictatorial in that sense. We have discovered that we advocated very strongly for the people of Palestine to con-

duct an election knowing possibly a group like Hamas is now elected into office, which has totally contradictory policies against what is in our national interest.

With that, Mr. Chairman, I thank you for your comment and your observation on this issue but I still have to believe that the good people of Pakistan should have a democracy, and I think on that basis we should do everything we can to assure that President Musharraf makes a serious commitment in conducting free elections and making sure the people of Pakistan have a duly elected President to work with.

I thank you, Mr. Chairman.

Chairman HYDE. I just want to suggest one more idea. I don't know if you were serving in Congress when the Shah was near the end of his reign in Iran. I was here and I remember the beating he took on the Floor because of the hated SAVAK, his secret police, and he was a bad guy, little realizing that his successor would be the Ayatollah Khomeini, who was far worse in terms of a relationship with the United States.

So the process by which someone gets elected is very important but the quality of the person who is elected and their attitude and their background and their vision and their expectations are all very important, too.

So, anyway, if you and I ran the world, Mr. Faleomavaega, everybody would be a democrat.

Mr. FALEOMAVAEGA. Mr. Chairman, I would guarantee you that the world would be in tremendous peace.

Chairman HYDE. That's a small D.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. Thank you, Mr. Secretary.

Chairman HYDE. Mr. Sherman, the finale, the grand finale.

Mr. SHERMAN. Mr. Hillen, I want to congratulate you. It took 230 years to create a country with different branches of government and you have succeeded in making sure Congress will have no role in conditioning the sale or limiting the sale or even perhaps stopping the sale. You have demonstrated clearly how irrelevant those of us up here are, although we put on a good show.

Correct me if I am wrong, if Congress fails to act next week then we have no legal right to disapprove, stop, limit or condition these sales in any way, correct?

Mr. HILLEN. I believe that is the law, yes, Mr. Sherman.

Mr. SHERMAN. Okay. I know you are not going to invite me to the celebratory party and I know you have got to deny that you are actually going to have it. But you have just shown how easy it is to ignore us as long as you go through the charade of showing up at these hearings and letting us vent. You have eviscerated us and now you have allowed us to vent.

I know that Mr. Ackerman has introduced a resolution of disapproval. Mr. Chairman, I would hope that instead of a resolution of disapproval that could hurt our relationship with Pakistan, that we could consider on an extremely expedited basis a bill that would just make ineffective the notification that we have received from the Department of State on this sale so that we can go back and do it right.

But first let me ask whether the State Department has any intention of doing that themselves. Are you going to withdraw the official notification and start the pre-notification process, or are you going to continue the charade?

Mr. HILLEN. Mr. Sherman, as I outlined in my comments and my outline of some of the consultative process, and I would like to say on the record that we in the Administration profoundly disagree with the characterization of these consultations.

Mr. SHERMAN. Well, you are doing your job; the celebration will follow. So you are not going to withdraw. You are not going to go through the pre-notification process.

Mr. HILLEN. We did a pre-notification process.

Mr. SHERMAN. Sir, I am asking a simple question. Are you going to withdraw or not going to withdraw?

Mr. HILLEN. We are going to continue to move forward with the—

Mr. SHERMAN. And you are going to contain your laughter about Congress until you at least leave our building, and I thank you for that.

Mr. HILLEN. Mr. Sherman, I have taken this process quite seriously as a custodian—

Mr. SHERMAN. Your job is to disenfranchise our constituents and to make sure that nothing that comes from Congress affects this deal in any way, and you have done it spectacularly well. Now the second part of your job is to hide that you are actually trying to do the first part of your job, and you are doing that very well, as well. You deserve our commendation. If someone was trying to make sure that Congress would play no role in the conditions, limitations, approval or disapproval of this agreement, this is exactly how they would do it, and you did it very well.

You are doing your job. We are not doing our job. Our job is to make you go back and do it right. Our job is to make sure that this deal reflects the best thinking in Congress, not only on whether it should go forward but, as Mr. Lantos said, what kind of security requirements are imposed.

I commented upon looking not just at how many planes but what avionics, what electronics. We are not going to do our job. We are going to vent. I guess this is the final part of the venting, is Sherman's comments, and I vent with the best of them.

So we are going to vent, you are going to pretend that you have involved Congress. You have not, in fact, given us a chance to affect this deal in any significant way. And you are doing your job, we are not doing our job. Instead, we will not disapprove, and even if we do, that is not the best outcome from our country because I know that will get bad press for us in Pakistan.

And it seems unlikely that we are going to pass emergency legislation to vitiate your phony—well, your inappropriate notification of us. So you are doing your job, and when people look back and ask why Congress ceased to play a role in foreign policy, they will take note of how we failed to do our job today.

I yield back.

Chairman HYDE. Well, I guess we all go to the woodshed.

Thank you, Dr. Hillen, for this ordeal, but it has been constructive and we appreciate it and we appreciate your work. Thank you.

The Committee stands adjourned.
[Whereupon, at 4:05 p.m., the Committee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD



United States Department of State
Washington, D.C. 20520

APR 10 2006

Dear Mr. Chairman:

The Conference Report (H. Rpt. 109-272) accompanying the Science, State, Justice, Commerce and Related Agencies Appropriations Act, 2006 (P.L. 109-108), incorporates by reference a provision from the House Report (H. Rpt. 109-118) that directs the Department of State, in consultation with the Department of Commerce, to provide a plan to help effectuate a more timely and accurate export licensing process.

Enclosed is a report addressing this issue, entitled, "Report to Congress on Defense Trade Licensing." It is accompanied by a background paper, "Defense Trade Controls Overview." Both documents have been coordinated with the Departments of Commerce and Defense.

We hope this information is useful to you. Please do not hesitate to contact us should you require additional information on this or any other matter.

Sincerely,

A handwritten signature in black ink that reads "Jeffrey T. Bergner".

Jeffrey T. Bergner
Assistant Secretary
Legislative Affairs

Enclosures:

1. Report to Congress on Defense Trade Licensing
2. Defense Trade Controls Overview

The Honorable

Henry J. Hyde, Chairman,
Committee on International Relations,
House of Representatives.

In addition, Sec. 36 of the AECA requires the notification of all firearms transfers over \$1 million and all overseas manufacturing agreements for Significant Military Equipment (SME), regardless of value. It would be reasonable to adjust or establish these notification requirements to the applicable threshold for other arms transfer approvals.

3. Eliminate At Least Some Pre-Notification Clearances: While not required by law, the Executive Branch engages in pre-notification consultations with Congressional staff prior to formal notification of arms transfers. With rare exceptions, arms transfers are not notified until Congressional staff from both political parties in both chambers have given their clearance. Unlike the formal notifications required by Sec. 36, there is no time limit on the pre-clearance process, which can last several months. In some cases, this provides an opportunity to address Congressional concerns on foreign policy issues associated with the proposed transfer, but in many cases no substantive issues are raised by Congressional staff. In 2005, 57 days (on average) were spent in pre-consultations on Sec. 36 cases, about twice the maximum time required under the formal notification process. The longest was 245 days. Congress could greatly contribute to the timeliness of arms transfers (both licensed and government-to-government) if this non-mandatory pre-notification process could be eliminated (allowing the Executive Branch to proceed directly to formal notifications) in some or all cases.
4. Remove Restrictions on Use of Retained Registration Fees: As noted above, the State Department is currently restricted from using registration fees for any defense trade activities other than those directly related to licensing, compliance and IT modernization. Removing these restrictions would allow the funds to be used to purchase FTE and to hire contractors to assist the State Department in the preparation of commodity jurisdiction determinations.
5. Electronic Submission of Congressional Notifications: Congressional agreement to accept Sec. 36 notifications electronically instead of in paper form would expedite the process. The technology exists to ensure electronic signature authenticity.

STATEMENT OF THE HONORABLE RICHARD A. BOUCHER, ASSISTANT SECRETARY OF STATE FOR SOUTH AND CENTRAL ASIAN AFFAIRS, SUBMITTED FOR THE RECORD

Mr. Chairman and Members of the Committee: Thank you for inviting me to speak to you today. It is an honor to address this Committee on an issue of great significance to our nation.

Pakistan is a key country and a strategic partner in South Asia—a region of critical importance to the United States. As you know, the South Asian region is one of our highest priorities in the War on Terror. It is equally important to the struggle against the spread of weapons of mass destruction. And it is enjoying rapid economic growth. If peace and stability prevail and the region's economic expansion continues, we believe this region will become an international economic powerhouse.

We want to support Pakistan's success as a moderate Muslim democratic nation. This is the course President Musharraf has set. Achieving this goal would stabilize the nation and the region against terrorism and give the people of Pakistan new opportunity in the modern world. Its economic potential is as great as its neighbors. Its ports and transportation links could play a major role in the prosperity of the region as a whole. We see Pakistan as one end of a land bridge extending across Afghanistan and into Central Asia.

Pakistan's role in the struggle against al-Qaida is well known but bears repeating. Almost every senior al-Qaida leader now in custody was captured by Pakistan. Pakistan has put almost 80,000 troops on its border with Afghanistan and has conducted large-scale military operations aimed at flushing al-Qaida and its allies out of the remote border country. These operations have been costly. Pakistan has lost several hundred soldiers while conducting them.

The political cost has been high, too. Al-Qaida and its extremist allies assail the Pakistani Government regularly for allegedly doing America's bidding with no benefit to Pakistan. These same extremists have also sought to foment rebellion in the tribal regions along the border.

The personal price paid by Pakistan's leaders has also been great. President Musharraf has survived two assassination attempts by al-Qaida and its allies. Prime Minister Aziz has survived one such attempt, and senior army officers have been targeted as well. The leaders of Pakistan have demonstrated great personal courage while supporting our common struggle against terrorism.

The 9/11 Commission suggested that "if President Musharraf is prepared to support us at the risk of his life," we should make the difficult decisions needed to establish a long-term commitment to the future of Pakistan. We are following the Commission's advice, and the F-16s are an important part of that effort.

The United States is working with Pakistan to establish the basis for a stable, broad-based relationship. During President Bush's recent visit we agreed to high-level dialogues on everything from energy to education to economics to science and technology. We are using our assistance money to improve education and health in Pakistan. We are also assisting Pakistan to recover and rebuild from the catastrophic earthquake which destroyed large areas in northern Pakistan last October. This was the most popular and welcome program we have provided Pakistan since we resumed providing assistance in 2001.

We cannot focus exclusively on Pakistan's economic and development needs, however, and ignore its basic national security concerns. We are asking Pakistan to do difficult things to protect Americans, and we must show concern in return for Pakistan's security. The F-16 sale provides a clear and concrete signal to all Pakistanis that Pakistan's security is important to the United States. A confident Pakistan that feels secure is more likely to pursue peace and cooperation with its neighbors. Conversely, a Pakistan that feels vulnerable is more likely to rely on nuclear weapons and non-conventional tactics to ensure its security. I am sure we all agree that this is not the direction in which we want Pakistan to go. I believe it is in our national interest to proceed with this sale. I hope you will approve this transfer.

With that let me conclude and take your questions. Thank you.

WRITTEN RESPONSES FROM THE HONORABLE JOHN HILLEN, ASSISTANT SECRETARY, BUREAU OF POLITICAL MILITARY AFFAIRS, U.S. DEPARTMENT OF STATE, TO QUESTIONS SUBMITTED FOR THE RECORD BY THE HONORABLE HENRY J. HYDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS, AND CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS

ARMS EXPORT CONTROL ACT COMPLIANCE

Question:

The Committee is very troubled by the Department of State's failure to make any report to Congress on certain information, which you have been aware for some time, having a bearing on this sale, a report which State was legally bound to make under the Arms Export Control Act. Please provide for the record a detailed explanation of why this report was not made. Please detail any such reports relating to Pakistan that have been made in the last 10 years.

Response:

Assistant Secretary Hillen has provided classified answers to the Committee.

Question:

With less than one week remaining in the 30 day period for Congress to act under law on this arm sale, why has the Department of State failed even now to make this legally required report?

Response:

Assistant Secretary Hillen has provided classified answers to the Committee.

PAKISTAN-CHINA MILITARY TIES

Question:

You stated during your July 20 testimony in response to questions about technology transfer to China that "We don't think China will be advantaged by this sale at all . . . In fact, the best thing that could happen for the Chinese military is for a sale like this not to go through because then it is they who will have access to influence the Pakistan military as opposed to the United States."

- Given (1) information you are aware of which could not be discussed in public session; and (2) the Committee's understanding that the Pakistan Cabinet already decided coincident with the F-16 purchase to order an unspecified number of additional Chinese fighters to complement those currently in production with Chinese technical assistance in Pakistan, do you believe in retrospect that this answer was accurate?

Response:

Yes. A strategic, long-term military and diplomatic partnership between the United States and Pakistan balances the potential for Pakistan to become too reliant on China. The sale of F-16 aircraft to Pakistan (1) enhances our strategic relationship with Pakistan by proving our reliability through appreciation of Pakistan's legitimate self-defense needs, and (2) balances out the access and influence of China. Furthermore, without this sale, we would undermine those Pakistani officials who support a strong U.S.-Pakistan relationship, and bolster Pakistan's reliance on China.

NUCLEAR WEAPONS DELIVERY

Question:

Please provide a copy of any document for the Committee where Pakistan has agreed that the new and upgraded F-16 aircraft will never be used for the delivery of nuclear weapons. Please also advise if the State Department has obtained Pakistan's specific agreement to this same prohibition with respect to older F-16 aircraft already in service?

Response:

Assistant Secretary Hillen has provided classified answers to the Committee.

IRAN POLICY

Question:

Please advise whether the State Department has communicated to Pakistan the view that any transfer of defense articles or services to Iran could result in a cut-off of U.S. Government assistance?

Response:

Assistant Secretary Hillen has provided classified answers to the Committee.

ESTIMATE OF U.S. PERSONNEL

Question:

In accordance with section 36(b)(1)(B) of the Arms Export Control Act, what is the estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel expected to be needed in Pakistan to carry out the proposed sale?

Response:

During the site surveys after the Letter of Offer and Acceptance (LOA) is signed, the U.S. survey teams will assess the requirement at each proposed Pakistan Air Force F-16 base. Based on the findings of the site survey teams, the proposed number of officers and employees of the USG and U.S. civilian contract personnel, as well as their assigned duties, will be discussed with Embassy Islamabad and presented to the Pakistan Air Force. The security plan for the Pakistan F-16 program is unprecedented. There is no previous case on which to base an estimate of the manpower required to implement enhanced end-use and security monitoring. The U.S. Air Force will provide a reasonably accurate estimate after the required site security surveys are conducted.

SCOPE OF USG "PRESENCE" IN SECURITY MEASURES

Question:

What is the nature and scope of the "USG presence" on Pakistan installations referred to in the draft letters of offer and acceptance ("LOA") provided to the Committee on or about July 18?

Response:

Once the LOAs are signed, we will ensure the appropriate teams of subject matter experts are assembled to conduct the required site surveys. Experts from the USAF Security Forces will develop a site survey plan to assess all aspects of security delineated in the LOA security plan. The site surveys will determine the nature and scope of USG presence required on Pakistan installations to safeguard U.S. technology and technical data.

Question:

Why are so many fundamental security matters left up in the air, such as—

- a. Who will be "solely" responsible for in country transfers of aircraft for purposes of repair, as provided in paragraph 7a?*
- b. Who will develop the site survey plan referred to in paragraph 4a?*
- c. Who will implement the two-man security rule referred to in paragraph 9c?, and*
- d. Whether Pakistan industry will be permitted to perform AMRAAM maintenance functions, as implied in paragraph 10b?*

Response:

a. USAF personnel will assist the Pakistan Air Force in developing the transportation plans for the transfers of F-16 aircraft, armaments, related equipment and technical data within Pakistan for the purposes of repair and return or distribution of equipment in base-to-base transfers. The USG holds the Pakistan Air Force solely responsible as the executive agent for the Government of Pakistan for the protection of these assets during transportation, as well as in restricted parking areas, sensitive equipment storage areas, and maintenance areas for the F-16 aircraft, armaments and related equipment when work is being performed.

b. Once the LOAs are signed, we will ensure the appropriate teams of subject matter experts are assembled to conduct the required site surveys. Experts from the USAF Security Forces will develop a site survey plan to assess all aspects of security delineated in the LOA security plan.

c. The two-man rule is a requirement to be imposed on and implemented by the Pakistan Air Force. The intent is to mitigate the possibility that a single Pakistan Air Force individual would knowingly or intentionally compromise U.S. information to an unauthorized recipient. U.S. monitors will periodically and randomly check to ensure the Pakistan Air Force complies with the requirement.

d. AMRAAM maintenance will be performed by military or civilian employees of the Pakistan Air Force at Pakistan Air Force facilities that comply with the security requirements in the LOA and other applicable guidance provided by the USAF. The

security plan does allow for case-by-case consideration of proposals for outsourcing AMRAAM maintenance to providers that are acceptable to the USG, offer a more cost effective alternative, and do not present an increased risk.

RESTRICTIONS ON ACCESS AND USE

Question:

Why do the draft letters of offer and acceptance (at paragraph 9) merely prohibit F-16 related “transfers . . . to foreign countries, or to industry (domestic or foreign)” when section 3(a)(2) of the Arms Export Control Act requires that the foreign country:

“ . . . shall have agreed not to transfer title to, or possession of, any defense article or related training or other defense service . . . to anyone not an officer, employee, or agent of that country. . . .”

Response:

Earlier versions of the Letters of Offer and Acceptance (LOAs) had included the language “transfers . . . to foreign countries, or to industry (domestic or foreign)”. However, the current and final version relating to these transactions contains the standard terms and conditions language consistent with the Arms Export Control Act (AECA). The standards terms and conditions language is as follows:

“The Purchaser will not transfer title to, or possession of, the defense articles, components and associated support materiel, related training or other defense services (including plans, specifications, or information), or technology furnished under this LOA to anyone who is not an officer, employee, or agent of the Purchaser (excluding transportation agencies), and shall not use or permit their use for purposes other than those authorized, unless the written consent of the USG has first been obtained. The Purchaser will ensure, by all means available to it, respect for proprietary rights in any items and any plans, specifications, or information furnished, whether patented or not. The Purchaser also agrees that the defense articles offered will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus, and recognizes that the U.S. Congress is required to be notified of any substantial evidence that the defense articles sold in this LOA have been used in a manner that is inconsistent with this provision.”

Question:

Similarly, please explain how the letters of offer and acceptance are compliant with the requirement in section 3(a)(2) that the foreign country shall have agreed “not to use or permit the use of (a United States defense) article or related training or other defense service for purposes other than those authorized”?

Response:

As indicated in the answer to QFR #9, the current and final version relating to these transactions contains the standard terms and conditions language consistent with the Arms Export Control Act. The standards terms and conditions language is as follows:

“The Purchaser will not transfer title to, or possession of, the defense articles, components and associated support materiel, related training or other defense services (including plans, specifications, or information), or technology furnished under this LOA to anyone who is not an officer, employee, or agent of the Purchaser (excluding transportation agencies), and shall not use or permit their use for purposes other than those authorized, unless the written consent of the USG has first been obtained. The Purchaser will ensure, by all means available to it, respect for proprietary rights in any items and any plans, specifications, or information furnished, whether patented or not. The Purchaser also agrees that the defense articles offered will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus, and recognizes that the U.S. Congress is required to be notified of any substantial evidence that the defense articles sold in this LOA have been used in a manner that is inconsistent with this provision.”

INFORMATION SECURITY

Question:

Given the interagency briefing team’s response to Committee staff concerns about the lack of information security measures in the draft security plan provided on June 8—to the effect that such measures were not needed since Pakistan’s installations

where the F-16 aircraft would be located did not have computer systems—please explain:

- a. Why the draft LOAs now provide for a wide assortment of electronic processing, storage and transmission of F-16 and weapons design information? and*
- b. Whether NSA or an NSA expert firm will be employed (and when) to conduct a site survey of any Pakistan work stations, servers, networks and routers that may be utilized for U.S. furnished technical data in electronic media and to assess the Pakistan Air Force's "procedures for electronic processing, storage and transmission of F-16" related information?*

Response:

a. The Pakistan Air Force does not currently use classified networks for F-16 support and has only limited unclassified electronic connectivity for the same. Processing of classified electronic information is accomplished on stand alone systems. The new F-16 Block 52 aircraft requires increased use of electronic processing, storage, and transmission. For example, pilots create their mission profile and program the aircraft weapon load and the electronic warfare order of battle via a mission planning data system. Similarly, maintenance information and actions are tracked through an automated logistics information management system (ALMS). All the U.S.-supplied electronic systems required to support the new F-16 Block 52 aircraft are proven and certified systems. It should be noted that although the new F-16s require increased use of electronic processing, storage, and transmission, there is no intention to make the information available over computer networks. All the F-16 information will be contained within specific data systems.

b. Completion of the site surveys will determine the infrastructure and security requirements the Pakistan Air Force will need to put in place to support the new data systems. As for NSA certification, information obtained as a result of the site security surveys will be used to determine the appropriate course of action.

