



March 26, 2018

Director Charles Hooper
Defense Security Cooperation Agency
2800 Defense Pentagon
Washington, DC 20301-2800

Dear General Hooper:

Last week during your speech at the Center for Strategic and International Studies event “Strengthening Alliances and Partnerships through Defense Cooperation,” you identified transparency as a primary value of the Defense Security Cooperation Agency (DSCA).¹ The Project On Government Oversight (POGO) agrees that, given the impacts of the agency’s work on national security, openness should be a top priority for DSCA and is of critical importance to good stewardship of taxpayer dollars. The DSCA has an opportunity to demonstrate its stated commitment to transparency by reforming the process of granting loss of sale waivers.

As you know, when a foreign government purchases military equipment from the United States, it is required to reimburse the Department of Defense for some of that equipment’s research and development costs. However, waivers to this requirement are available in certain cases. For example, the Arms Export Control Act specifies that if the “imposition of the charge or charges likely would result in the loss of the sale,” the reimbursement charges can be waived.²

As POGO has reported,³ loss of sale waivers provide a discount to foreign governments but at a cost to the American taxpayer. In January this year, the Government Accountability Office reported that 99 percent of the over 300 loss of sale waiver requests from fiscal years 2012 to 2017 reviewed by the Department of Defense were approved.⁴ This cost taxpayers approximately \$9.2 billion in reimbursement payments.

Justifications for these waivers should be made publicly proactively. These waiver requests are supposed to detail competing offers or spending limits to demonstrate the risk of loss of sale, but of the 18 requests reviewed by GAO, none included this information. Additional reporting by *Bloomberg* shows that many of these waivers actually went to wealthy countries, with Saudi

¹ “Remarks of Charles Hooper, Director, Defense Security Cooperation Agency, for the Center for Strategic and International Studies Panel on ‘Strengthening Alliances and Partnerships through Defense Cooperation,’” March 16, 2018. <https://www.csis.org/events/strengthening-alliances-and-partnerships-through-defense-cooperation> (Downloaded March 22, 2018)

² 22 U.S.C. § 2761 (2)(B)(i)

³ Project On Government Oversight, “Audit Finds Pentagon Waived Requirement to Repay Taxpayers \$16 Billion to Advance Foreign Military Sales,” February 28, 2018. <http://www.pogo.org/straus/issues/defense-budget/2018/audit-finds-pentagon-waived-requirement-to-repay-taxpayers-16-billion.html>

⁴ United States Government Accountability Office, *Foreign Military Sales* (GAO-18-242), January 31, 2018. <https://www.gao.gov/assets/690/689759.pdf> (Downloaded March 19, 2018)

Arabia winning waivers worth \$4.82 billion, Qatar winning waivers worth \$2.6 billion, the United Arab Emirates winning waivers worth \$767 million, and Kuwait winning waivers worth \$328 million.⁵

In your speech you highlighted that at DSCA “the books are always open.” In the spirit of that statement, POGO urges you to provide a list of information about loss of sale waivers with basic information such as which countries received waivers, how many waivers, and for how much money. Additionally, DSCA should make documentation of both the due-diligence process on loss of sale waiver requests and the criteria for waiver decisions publicly available. The release of this information will increase accountability for decisions on loss of sale waiver requests and ensure that waivers are only granted in cases where a sale is truly at risk.

For more information please contact the Director of the CDI Straus Military Reform Project, Mandy Smithberger, at msmithberger@pogo.org or (202) 347-1122.

Sincerely,

A handwritten signature in black ink that reads "Danielle Brian". The signature is written in a cursive, flowing style.

Danielle Brian
Executive Director

⁵ Tony Capaccio, “Saudi Arms Buyers Won a \$3.5 Billion Discount from the Pentagon,” *Bloomberg*, March 21, 2018. <https://www.bloomberg.com/news/articles/2018-03-21/saudis-praised-by-trump-as-arms-buyers-won-a-big-u-s-discount>