

A photograph of a missile being launched from a ship's deck. The missile is ascending vertically, leaving a thick, white plume of smoke and a bright orange and yellow flame at its base. The ship's superstructure, including a radar mast with an American flag and various antennas, is visible in the foreground and middle ground. The sky is a clear, pale blue.

Foreign Military Sales: Strategic Interests and the Supply Chain

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THE SITREP: FOREIGN MILITARY SALES: STRATEGIC INTERESTS AND THE SUPPLY CHAIN

When Communist China complains to the U.S. about F-16 sales to Taiwan, they're talking about the Foreign Military Sales (FMS) program. When the U.S. suspends cooperation with Turkey on the F-35 program because it bought a Russian air defense system that may compromise access to the secrets of F-35 technology, it's an FMS issue. And when President Trump touts the amount of American-made defense goods that Saudi Arabia is buying, he's talking about FMS.

Since the mid-1970s, the FMS program has become arguably the nation's preeminent tool for building and solidifying relationships with foreign nations, facilitating training and interoperability with coalition partners, and promulgating America's strategic priorities while at the same time helping to shape and influence the actions of allied nation states.

"Security cooperation has been elevated to a tool of first resort globally and it is articulated in the number two line of effort in the National Defense Strategy, which is strengthen alliances and attract new partners," said Lieutenant General Charles Hooper, director of the Defense Security Cooperation Agency (DSCA), which share FMS responsibilities with the Department of State. "We understand and recognize the economic importance of (FMS) and economic security is national security. But ultimately, these are policy tools."

He cited arms sales to Egypt as an example of how FMS has strengthened that relationship and promoted U.S. strategic interests in the Middle East. For example, the U.S. was able to conduct approximately 2,100 military overflights of Egypt in 2016. In addition, about 100 U.S. warships transited the Suez Canal, typically having to give only 24 hours notification.

"That is extraordinary when you consider the amount of traffic that goes through the Suez Canal," observed Hooper, speaking recently at the Brookings Institution. "And the Egyptians provided that even after we reduced and suspended temporarily our aid (for human rights abuses). They were very generous in their flexibility."

Foreign Military Sales are a huge benefit for allied nations, as the U.S. government offers favorable terms, including financing, as well as access to some of the best military technology in the world. This is why many nations turn to the FMS program to supply much of their military hardware.

On a day-to-day basis, the State Department and DSCA manage about 14,000 open FMS cases with approximately 179 countries and international organizations—accounting for relationships with about 92 percent of all the world's countries. The majority of those sales are made through American companies, some of them well known like Boeing, Lockheed Martin, and Raytheon Technologies.

Many U.S. subsidiaries of foreign companies also sell their products and services through the FMS program. That means nations frequently have two purchasing options: a direct commercial sale from the foreign company, or a U.S. government endorsed and financed buy from the foreign company's American subsidiary.

- Barry Rosenberg
Contributing Editor, Breaking Defense

Buying American Under FMS

A two-part test under the Buy American Act (Defense Federal Acquisition Regulation 225.101) determines whether a manufactured end product can be considered a domestic end product: (1) the end product is manufactured in the United States; and (2) the cost of its U.S. and qualifying country components exceeds 50 percent of the cost of all its components. This test is applied to end products only and not to individual components.



U.S. Marines ram an satellite-guided Excalibur XM982 projectile during a fire mission in Afghanistan. The Netherlands has recently purchased 199 Excalibur Increment IB M982AI tactical projectiles from the U.S.

Some foreign countries that have extremely close relationships with the U.S. such as Israel can also be considered a “qualifying country” for purposes of DFARS 225.101, so that their products are considered “American” even if they don’t meet the 50-percent test. The U.S. subsidiaries of Israel’s Elbit Systems Ltd., the UK’s BAE Systems plc and Italy’s Leonardo are examples of those companies that can sell its goods and services in that fashion through the U.S. government to international partners.

“As a U.S. company, we comply with International Traffic in Arms Regulations,” explained Vince Logsdon, a retired U.S. Air Force colonel and the senior executive for international sales and strategy at Elbit Systems of America. “Our contribution to U.S. national security goes beyond our role as a supplier to the American armed forces. We also meet the needs of America’s allies and international partners through the FMS process.”

To use a commercial analogy, it’s just like vehicles built by BMW of North America in South Carolina and Mercedes-Benz U.S. International in Alabama being considered “made in America” products.

How FMS Works

Foreign Military Sales are one of two methods through which a country can purchase new military equipment from the United States, the other is Direct Commercial Sales (DCS). When foreign-owned companies with U.S. subsidiaries sell “American” it is usually under a DCS contract.

Here’s how they work.

Under FMS, the U.S. government manages the transfer of approximately \$43 billion per year of defense equipment purchased by foreign allies and partners. The purpose of doing so is five-fold: (1) supporting U.S. policy interests and objectives identified by the White House, Department of Defense, and Department of State; (2) helping partner nations develop and build specific capabilities; (3) promulgating alliances and partnerships; and (4) facilitating U.S. access to foreign bases, flyover rights, and prepositioning of materials.

There’s also a fifth purpose: supporting the U.S. defense-related supply chain.

“Properly regulated defense transfers support the U.S. defense industrial base and reduce the costs of procurement for our own military,” says the State Department, which is actually the lead organization for FMS, not the military. “The U.S. defense industry directly employs over 2.4 million people across our nation. These individuals and the companies they work for represent a key part of American entrepreneurship and innovation, as they help to maintain the United States as the world leader in the defense and aerospace sectors and ensure our armed forces sustain their military edge.”

Most government-to-government arms transfers and commercial export licensing of U.S.-origin defense equipment and technologies (to include a select number of U.S.-based subsidiaries of foreign companies, as previously described) are overseen by the State Department’s Bureau of Political-Military Affairs, Office of Regional Security and Arms Transfers (PM/RSAT). It manages the FMS process in partnership with the DSCA, which implements FMS cases by working through the military services to negotiate with U.S. defense contractors, and by providing the customer with training, sustainment, and contractor logistics support for the lifetime of the sale.

“DSCA’s mission is to advance U.S. national security and foreign policy interests by building the capacity of foreign security forces to respond to shared challenges,” states the agency. “DSCA leads the broader U.S. security cooperation

enterprise in its efforts to train, educate, advise, and equip foreign partners.”

DSCA specifically focuses on three areas: training and education of partner nations; identifying materiel solutions that fit the partner’s need; and developing security institutions by advising partners on doctrine, organization, personnel, and leadership.

“If you want to maximize the effectiveness of the military capability you’re providing a country you must work on their institutional capacity,” said Hooper. “That is the complement to Foreign Military Sales that ensures that our partners have the human resources and the defense institutional development to properly utilize the equipment we buy for them in the interest of national security.”

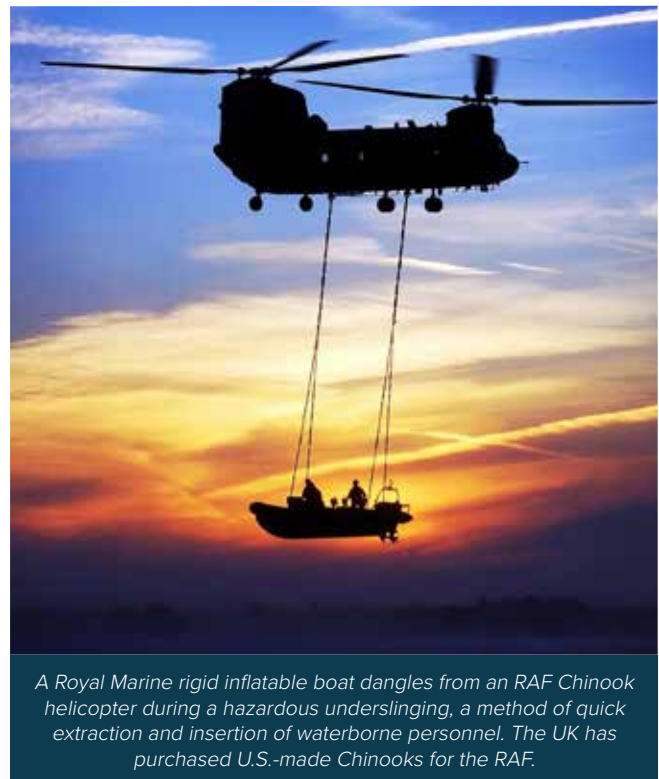
In Afghanistan, for example, U.S. advisors to the Ministry of Defense operate within its finance department. They work with their Afghan counterparts to teach them how efficient, effective administration and the minimization of corruption can create value and help to sustain Afghanistan’s defense institutions.

One of Hooper’s goals is to move partner nations away from just telling the U.S. what they want to buy and toward letting DSCA ask the question: what do you want to accomplish? “If you ask the question what do you want to do, we can lay out a full range of options for you,” he said “If we have a conversation on what you want to buy, that may not be the best fit for what you want to accomplish.”

Foreign customers can ask the U.S. for a particular company’s product(s) or they can request just a capability. If a country decides that they want a very specific item to be integrated on a specific aircraft, for example, they can submit their LOR for that product under a sole-source request. If they request just a capability, then it’s up to the U.S. government to try to figure out what the best product is that gives them the capability that they’re asking for while being interoperable with U.S. forces.

The FMS sales process begins when a country submits a formal Letter of Request (LOR) that specifies a desired military capability and a rough price. The LOR is reviewed by PM/RSAT for consistency with U.S. foreign policy and national security objectives. Many Foreign Military Sales also require Congressional notification after PM/RSAT approval.

The U.S. Arms Export Control Act requires Congressional notification when sales meet or exceed the following requirements.



A Royal Marine rigid inflatable boat dangles from an RAF Chinook helicopter during a hazardous underslinging, a method of quick extraction and insertion of waterborne personnel. The UK has purchased U.S.-made Chinooks for the RAF.

- For North Atlantic Treaty Organization member countries, South Korea, Australia, Japan, Israel, and New Zealand, congressional notification is required for major defense equipment (MDE) of \$25 million or more, any defense articles or services of \$100 million or more, or design and construction services of \$300 or more.
- For all other countries, notification is needed for MDE of \$14 million or more, any defense articles and services of \$50 million or more, or design and construction services of \$200 million or more.
- For North Atlantic Treaty Organization member countries and organizations, South Korea, Australia, Japan, Israel, and New Zealand there is a 15-day statutory notification period. For all other countries there is a 30-day statutory notification period.

Once an FMS sale is approved, the DSCA issues a Letter of Offer and Acceptance (LOA) that specifies the exact defense articles, training, and support to be delivered.

Processing time for FMS cases may vary, but they may take months to negotiate, especially for major defense articles that require modifications to standard U.S. systems. Due primarily to the time required to construct sophisticated defense systems such as fighter aircraft, countries often do not take delivery of the full package until years after the LOA is finalized.



A Republic of China Air Force F-16 fighter shadows a People's Liberation Army Air Force bomber near Taiwan. The island nation has defended itself with U.S.-made military hardware for decades.

The Role of Direct Commercial Sales

Under Direct Commercial Sales rules, U.S. companies and those deemed to be American obtain commercial export licenses from the State Department's Bureau of Political-Military Affairs' Directorate of Defense Trade Controls (PM/DDTC). That allows them to negotiate with and sell directly to U.S. partners.

PM/DDTC manages Direct Commercial Sales and provides regulatory approvals for more than \$136 billion per year in sales of defense equipment, services, and related manufacturing technologies controlled under the 21 categories of the U.S. Munitions List. These sales are negotiated privately between foreign end-users and U.S. companies.

As with FMS, export licenses approved under DCS are approved following an extensive U.S. government review and after Congressional notification if required. DCS is subject to applicable U.S. exports laws and regulations and export licenses are valid up to four years. Authorizations for defense services are also required and may be for longer time frames.

Direct Commercial Sales cases are considered to be proprietary agreements between the foreign governments or companies and the U.S. defense contractor. However, some details about deals that require congressional notification are published quarterly in the Federal Register as per requirements in the Arms Export Control Act.

Unless an item has been designated as FMS only, DoD says it is "generally" neutral as to whether countries purchase U.S. defense articles or services commercially through DCS or through FMS.

Some partner nations purchasing U.S. defense articles, services, and training through either FMS or DCS are also eligible for what's known as "Foreign Military Financing." FMF is a source of financing and may be provided to a foreign entity on either a grant (non-repayable) or direct loan basis, though much of the time FMF provides a straight-up 100-percent grant to the buyer.

FMS Sales Continued Strong in 2019

Sales of U.S. defense articles and services to allies and foreign partners remained strong in 2019. DSCA reported arms sales of \$55.4 billion for Fiscal Year 2019, though growth was flat against FY 2018 FMS sales of \$55.7 billion. However, the FY18 total was a 33 percent increase above total sales in FY17.

DSCA includes sales in its end-of-year total at the time a partner nation signs and makes the initial deposit on a Letter of Offer and Acceptance. Since it may only be a matter of days between a sale counting in FY18 and FY19. DSCA considers the three-year rolling average a more accurate way to measure trends in sales. The three-year rolling average was \$51 billion in FY19, which was up from about \$44 billion in FY18 and demonstrates continued strength in the FMS market.

DSCA-reported FY19 arms sales included: \$48.25 billion funded by partner nations; \$3.67 billion for cases funded by Department of State's Title 22 grant assistance programs such as Foreign Military Financing and the Global Peacekeeping Operations



Australia is one of the nations that have bought the AGM-158 JASSM (Joint Air-to-Surface Standoff Missile) from the U.S. under FMS.



Israel has long been one of America's closest FMS partners. Shown are F-35I Adir warplanes of IAF Southern Lions Squadron 116.

Initiative; as well as \$3.47 billion for cases funded under Department of Defense Title 10 grant assistance programs such as Section 333 to train and equip Afghan security forces.

Typically, a handful of large sales drive the overall total each year: Taiwan's F-16 request (\$8 billion); Poland's F-35 (\$6.5 billion); Morocco's F-16s (\$3.8 billion); U.K. Chinooks (\$3.5 billion); Turkey's Patriot (\$3.5 billion); Japan's largest SM-3 request (\$3.3 billion). However, a wide range of systems and capabilities large and small can be procured via FMS, such as radios, ammunition, or night vision goggles.

"As part of its ongoing security cooperation reform efforts, DSCA has continued to improve DOD efforts to focus U.S. taxpayer-funded assistance on the right partners, with the right activities, at the right time to address shared objectives and to enhance planning and synchronization between DOS and DOD grant assistance programs," said DSCA in a statement.

DSCA says it has developed a methodology that better aligns assistance resources with U.S. strategy and improves long-term assistance planning by more closely synchronizing State Department and DoD grant assistance activities.

To maintain America's position in the competitive, worldwide arms market, DSCA has also reduced the cost of doing business with the U.S. In mid-2018, DSCA lowered the FMS administrative surcharge from 3.5 percent to 3.2 percent. This is assessed on the total value of an FMS sale and covers the administrative costs of the FMS program. It is these administrative fees charged to foreign purchasers that permit the program to operate at no cost to taxpayers.

DSCA also reduced the FMS Transportation Rate, providing partner nations with more cost-effective options to transfer U.S. defense articles and services using the Defense Transportation System. In addition, the agency says it will

develop more competitive financing options so allies and partners can align FMS procurements with national budgetary and fiscal cycles. In 2020, DSCA will issue policy changes regarding the development of FMS payment schedules and calculation of termination liability.

"These policy changes advance U.S. national security and foreign policy because they make FMS more attractive in a very competitive market," said Hooper.

The year 2020 had already started strong with more than \$10 billion in sales through March, though future sales could possibly be delayed due to the coronavirus pandemic. The following 2020 sales illustrate the breadth of technologies that foreign entities are buying from the U.S.

- **The Netherlands:** 199 Excalibur Increment IB M982A1 tactical projectiles and related equipment for about \$41 million.
- **South Korea:** F-35 aircraft, engines, weapons and related equipment follow-on support for \$675 million.
- **South Korea:** 2 F-16 Identification Friend or Foe and Link 16 Upgrades for about \$194 million.
- **Poland:** 180 Javelin missiles and 79 Javelin Command Launch Units for an estimated \$100 million.
- **Morocco:** 25 M88A2 Heavy Equipment Recovery Combat Utility Lift and Evacuation System (HERCULES) vehicles and/or M88A1 long supply HERCULES refurbished vehicles for approximately \$239 million.
- **Israel:** 8 KC-46A Aerial Refueling Aircraft for \$2.4 billion.
- **Tunisia:** 4 AT-6C Wolverine Light Attack Aircraft and related equipment for \$326 million.
- **Netherlands:** 16 MK-48 Mod 7 Advanced Technology torpedo conversion kits for an estimated \$85 million.
- **Jordan:** 700 Advanced Field Artillery Tactical Data System (AFATDS) software license copies and related equipment for artillery command, control, and communications equipment at a cost of \$300 million.
- **India:** Integrated Air Defense Weapon System for approximately \$1.9 billion.
- **Australia:** 200 AGM-158C Long Range Anti-Ship Missiles for \$990 million.
- **Australia:** \$1.5 billion for the Australia Surface Combatant Program.
- **Singapore:** 21 F-35B Short Take-Off and Vertical Landing aircraft for \$2.75 billion.

ADDRESSING THE NEEDS OF U.S. DEFENSE PARTNERS WITH FIELDED AND PROVEN PRODUCTS, TECHNOLOGIES, AND SERVICES THAT CUT ACROSS MUCH OF THE SECURITY LANDSCAPE



Bob Edmonds reports to the president and CEO of Elbit Systems of America, a diversified, global aerospace and defense provider of high performance, innovative solutions for the defense, homeland security, commercial aviation, and medical instrumentation markets. As vice president for marketing, he established a Foreign Military Sales (FMS) initiative so Elbit America could capitalize on its strategic position as the U.S.-based subsidiary of a global company.

A retired U.S. Air Force brigadier general, Edmonds achieved the rating of command pilot with more than 2,500 flight hours and 300 combat hours leading 42 combat missions during Operation Desert Storm. He commanded at the F-15 flight, squadron, and wing level, and also served in multiple senior operations and policy positions in the Pentagon. He has also worked in the White House as a White House Fellow and on Capitol Hill as the deputy director for legislative liaison where he led Air Force congressional affairs for both the House and the Senate.

Breaking Defense: Over the last 2 years (FY18 and FY19), Foreign Military Sales accounted for over \$50 billion per year. In FY18, FMS saw a 33 percent increase from FY17, and the 3-year rolling average shows a clear and continuous FMS upward trend. What is industry in general, and Elbit Systems of America (Elbit America) in particular doing to take advantage of this trend?

Edmonds: The increasing demand for U.S. products and services through Foreign Military Sales has resulted in industry developing many products with an eye on export. Elbit America continues to have success with FMS as part of larger OEM international procurements and individually with specialized products sold to countries, such as night vision devices. Advancing a broader FMS initiative, we are now robustly presenting and qualifying more of our vast array of offerings. As demand for U.S. products and services increase from U.S. international partners, Elbit America is well-postured to provide quality products and services to include higher-end technologies. Our range of products covers capabilities highly desired by FMS end users.

BD: As a subsidiary of a foreign company, how does Elbit America qualify to operate under FMS guidelines that require a U.S. product from a U.S. company?

Edmonds: First and foremost, Elbit America is a U.S. company with the full capability to design, manufacture, and sustain our products. We employ more than 2,300 people in the U.S., including in Alabama, Florida, New

Hampshire, Mississippi, Texas, and Virginia. Our Merrimack, N.H., facility is our electro-optics and infrared (EO/IR) center of excellence, providing systems such as the F/A-18 night vision cueing and display system, precision location and targeting products such as the Common Laser Range Finder – Integrated Capability, and the helmet-mounted display (HMD) for the F-35 program.

With our acquisition of the night vision business in late 2019, this Roanoke, VA, facility is our night vision center of excellence, providing Enhanced Night Vision Goggle-Binoculars to the U.S. Army and Squad Binocular Night Vision Goggles to the U.S. Marine Corps, and we will continue to provide night-vision devices to numerous international countries. Our Fort Worth facility, which houses the company headquarters, produces precision guided munition seekers, situation awareness and targeting helmet systems for the U.S. Army AH-64 Apache, and border surveillance and security systems for U.S. and international customers. Across our Fort Worth, San Antonio, and Talladega sites, we conduct repair and refurbishment of aircraft electronics, avionics, and radars.

One of the growing markets internationally is the upgrade and modification of U.S. Excess Defense Articles, such as the AH-1 Cobra and the C-23 small military transport. Our San Antonio site modifies and upgrades these systems of interest for our foreign military customers. We have a long-standing Special Security Agreement with the U.S. Department of Defense that enables us to maintain facility

clearances and to work on classified contracts. All of this qualifies us to supply FMS content.

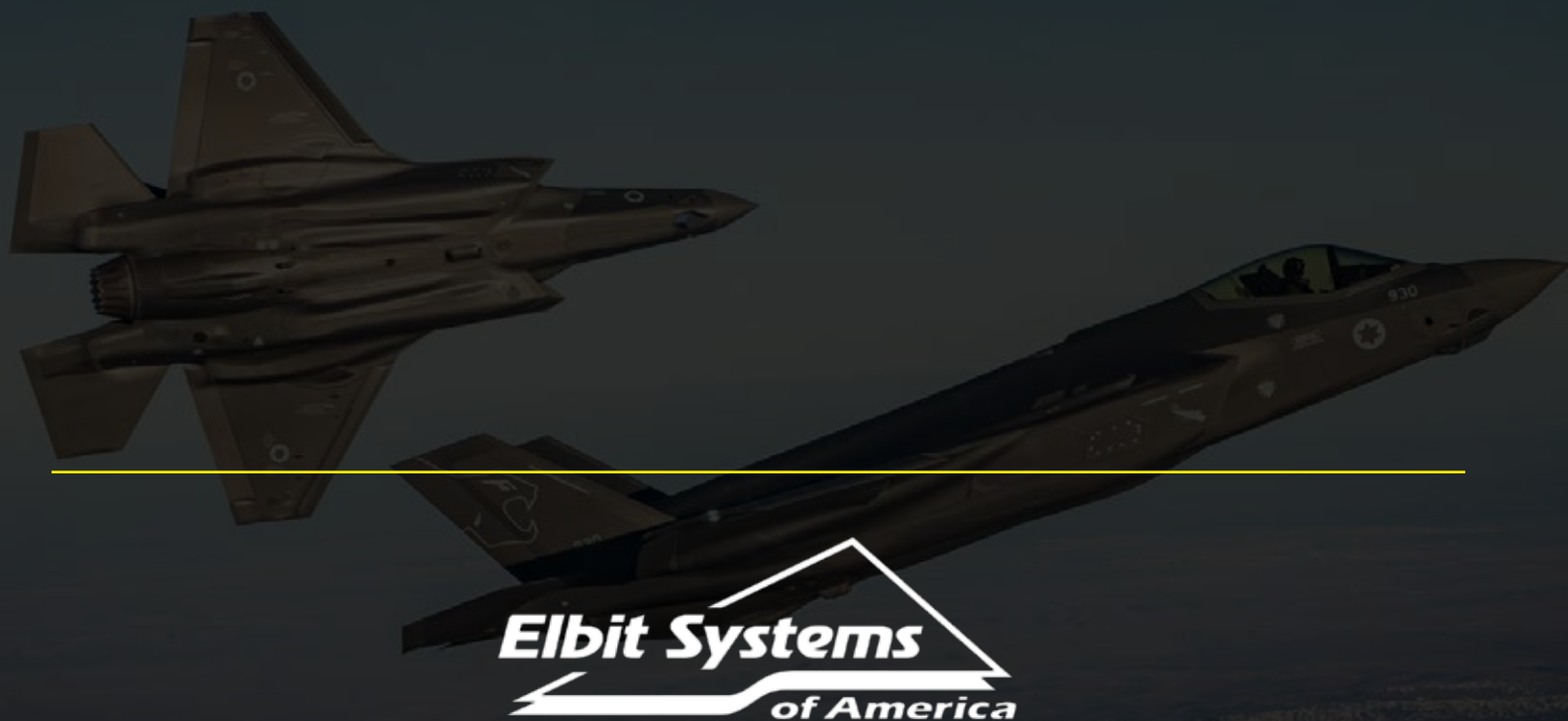
BD: As you expand your FMS footprint, where is Elbit America's focus?

Edmonds: As we continue to provide critical products and technologies for our U.S. government customers, Elbit America can become the global solution provider of choice for international partners. We have a wide variety of fielded and proven products, technologies, and services that cut across much of the security landscape—including intelligent pilot interface solutions, precision technology and autonomous operations, aviation advanced threat detection and aircraft survivability, ground combat vehicle modernization, force protection and border security, sustainment and support, and more.

I see our aviation-based technologies, as well as our force protection and border security offerings, as two key areas for continued FMS, now and in the near future. Elbit America is the lead supplier of HMDs to the USAF and USN for F-35, F-16, F-15, and FA-18, and we provide the same high-level capability to our international partners through FMS.

As defense budgets increase globally and international customers work with U.S. OEM's to fly the newest aircraft, we are introducing some of the latest upgrades and technologies in HMDs through our FMS partners to include the Joint Helmet Mounted Cueing System (JHMCS)-II on the F-16 Block 70 and V configurations, which is a major upgrade to the currently employed JHMCS. Our U.S. military leverages the development and funding provided through FMS channels to improve both existing and future fixed and rotary wing platforms.

We are also a leading provider of border-security solutions in the U.S. and worldwide. Our solutions consist of a variety of sensors mounted on towers, mobile vehicles, or in the ground to detect, track, identify, and classify activities of interest in ground, air, and subterranean domains. Inputs for all these sensors are correlated and fused into a common operating picture presented to agents in command and controls centers who then communicate with agents in the field to coordinate responses to border incidents. Based on our customers-first business approach, we will continue to look for opportunities to increase our FMS portfolio.



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