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AMCCC

INFORMATION PAPER

19 July 2002

SUBJECT: Proposed Change to FMS Legislation

PURPOSE: To provide recent information on Proposed FMS Statute Change

BACKGROUND:

- AMC currently has some stocks in long-supply, such as 155 mm self-propelled cannon. Long-supply is when you have more than enough of an item (otherwise you might be in short-supply), but not yet so many that you have excess.
- Items in excess are normally given to friendly countries as Excess Defense Articles and the US Army gets little benefit from the transfer.
- Currently, items which are in long-supply and not expected to be replaced may be sold at “actual value” and the funds deposited into the miscellaneous receipts account of the US Treasury, and the US Army gets little benefit from the transfer.
- The price that must be charged for items intended to be replaced must be the cost of replacement less depreciation. Items, which are in long-supply and are expected to be replaced, can be sold and the funds returned to the procurement account to replace the items. Normally, there is not much difference between “actual value” and “replacement cost less depreciation.” If however, the intended replacement has significant up-grades over the item being sold, the price can be distorted.

**Current Legislation**

22 U.S.C. § 2761. Sales from stocks

(a) Eligible countries or international organizations; basis of payment valuation of certain defense articles.

(1) The President may sell defense articles and defense services from the stocks of the Department of Defense and the Coast Guard to any eligible country or international organization if such country or international organization agrees to pay in United States dollars--

(A) in the case of a defense article not intended to be replaced at the time such agreement is entered into, the price charged shall not be less than the actual value thereof;

(B) in the case of a defense article intended to be replaced at the time such agreement is entered into, the estimated cost of replacement of such article, including the contract or production costs less any depreciation in the value of such article; or

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### **Proposed Revision of Legislation**

22 U.S.C. § 2761. Sales from stocks

(a) Eligible countries or international organizations; basis of payment valuation of certain defense articles.

(1) The President may sell defense articles and defense services from the stocks of the Department of Defense and the Coast Guard to any eligible country or international organization if such country or international organization agrees to pay in United States dollars--

(A) in the case of a defense article the price charged shall not be less than the actual value thereof. The proceeds of the sale may be deposited into the procurement account from which the article may be replaced, and used to purchase any authorized article with a similar function, including articles that have been modernized or upgraded, or used to upgrade or modernize current stock to any authorized configuration; or

(B) in the case of the sale of a defense service.....

- In the proposed legislation items are sold for “actual value,” whether they are intended to be replaced or not;
  - the funds may be placed into the account from which the item may be replaced; and
  - the funds may be used to buy any authorized item with a similar function or used to upgrade current stock.
  
- The intent of the proposed legislation is to reduce the number of items in long-supply, by selling them at “actual value” and to capture the proceeds for modernization by the US Army.

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