Lesson Summary
International Acquisition and Exportability

Learning Objectives
The following learning objectives are covered in this lesson:

- Identify roles and responsibilities in international acquisition programs including key DoD Component organizations.
- Identify technology security, foreign disclosure, and export control key policies and organizational responsibilities.
- Identify key characteristics and benefits of International Cooperative Programs (ICPs).
- Identify key characteristics and benefits of Foreign Military Sales (FMS) programs and the FMS process.
- Identify key characteristics and benefits of Building Partner Capacity (BPC) programs.
- Identify the similarities and differences between DCS and FMS programs.
- Identify key characteristics and benefits of Direct Commercial Sales (DCS) and hybrid DCS/FMS programs.
- Identify how international acquisitions programs can be used within the Defense acquisition System including the process used for international agreements.
- Identify the legal and policy requirements for considering international cooperation and defense sales in developing a program’s acquisition strategy.

Key DoD Organizations in International Acquisition

The Under Secretary of Defense for Policy (USD (P)) is responsible for:

- Providing responsive, forward-thinking, and insightful policy advice, and
- Ensuring the alignment of DoD plans with national security objectives

The two USD(P) organizations that have direct roles in international acquisition are

- Defense Security Cooperation Agency (DSCA)
- Defense Technology Security Administration (DTSA)

The Under Secretary of Defense for Acquisition Technology and Logistics (USD (AT&L)) is responsible for supervising DoD acquisition, establishing policies for DoD acquisition, and maintaining the U.S. defense industrial base.
Given the increasing global nature of defense acquisition, most USD (AT&L) organizations have international responsibilities. However, the four USD (AT&L) organizations that control major international acquisition policies, processes, and programs are:

- Director of International Cooperation
- Director of Defense Procurement and Acquisition Policy
- Assistant Secretary of Defense for Research and Engineering
- Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy

**International Cooperative Programs (ICPs)**

An International Cooperative Program is any acquisition program or technology project that includes participation by the United States and one or more foreign nations, through an international agreement, during any phase of a system’s life cycle.

The Arms Export Control Act (AECA) provides the Department of Defense with specific legal authority for International Cooperative Programs (ICPs). AECA requirements include the need for:

- Written agreements to implement an ICP
- Confirmation that an ICP will improve the conventional defense capabilities of participants by promoting rationalization, standardization, and interoperability
- Equitable sharing of costs and benefits for AECA Section 27 ICPs

**Foreign Military Sales (FMS)**

Foreign Military Sales (FMS) is the largest and among the most well-known of all Security Assistance programs.

FMS are legally authorized under three sections of the Arms Export Control Act (AECA):

- AECA Section 21 – Sales from Stock
- AECA Section 22 – Procurement from Cash Sale
- AECA 23 – Credit Sales

FMS is a non-appropriated program administered by the DoD through which eligible foreign governments can purchase from the U.S. Government:

- Defense articles
- Services
- Training

The purchasing government pays all costs associated with a sale. The defense articles and services maybe provided from DoD stocks or from new procurement.

FMS is frequently a part of an ongoing acquisition program. Planning for these sales, including consideration of Technology Security and Foreign Disclosure (TS&FD) limitations should begin early in the acquisition process.
The FMS process summarized:

- The purchasing government makes a formal request for defense article or service using a Letter of Request (LOR)
- A Government-to-Government agreement known as a Letter of Offer and Acceptance (LOA) establishes an offer from the U.S. Government to sell defense articles and services to a foreign country or international organization. The purchasing government pays all costs associated with an FMS sale.
- Military Departments (MILDEPs) and other DoD organizations that are assigned to manage FMS activities are collectively referred to as Implementing Agencies.

Building Partner Capacity (BPC)

As one of the Security Cooperation activities that involves international acquisition, Building Partner Capacity (BPC) programs are funded with U.S. Government appropriations and administered as cases within the FMS infrastructure.

They may provide defense articles and/or services to other U.S. Government departments and agencies under the authority of the Economy Act or other transfer authorities.

The purpose of the BPC is to build the capacity of partner nations' security forces and to enhance their capability to:

- Conduct counter-terrorism operations
- Counter drug-related activity
- Conduct counterinsurgency operations
- Support U.S. military and stability operations
- Support multilateral peace operations, and other programs

Building Partner Capacity (BPC) programs were established because specialized programs were needed to promote internal security and counter-terrorism for contingency operations in Iraq, Afghanistan and other countries.

Direct Commercial Sales (DCS)

Direct Commercial Sales (DCS) are exports of defense articles, services, and training licensed under the Arms Export Control Act (AECA). These sales are made by U.S. defense companies directly to a foreign government.

Direct Commercial Sales transactions are not administered by DoD and do not normally include a government-to-government agreement. The required U.S. Government controls are implemented through licensing by the Department of State.
Differences between FMS and DCS

The DoD prefers that allies and friendly nations choose to purchase U.S. systems rather than foreign systems due to political, military, and economic advantages derived from the U.S. and its friends using the same military equipment. However, the DoD is generally neutral regarding the customer’s choice to purchase by means of FMS from the USG or through DCS from U.S. industry.

Although most defense items or services can be purchased through either FMS or DCS, in limited instances, technology or security concerns may require that sales of specific items be restricted to FMS only.

Some factors that are considered in requiring a system to be sold “FMS only” include the political and military relationship with the purchaser; the degree of difficulty to integrate the new system with existing purchaser capabilities and infrastructure; the need for interoperability; the sensitivity of the technology; and the feasibility of separating system components into a DCS portion and a FMS portion.

Hybrid Programs

ICPs, FMS, and DCS can be used in combined forms in a single program or during a specific program phase. The most frequent occurrence is a hybrid DCS and FMS program. These efforts require close coordination between the DoD, U.S. industry, and the foreign customer.

The foreign purchaser, for business case or acquisition strategy reasons, may desire to divide a system acquisition effort into DCS and FMS portions. Also the DoD may restrict purchase of specific components or software to FMS only for technology security and foreign disclosure (TS&FD) reasons.

Foreign purchasers frequently receive technical training from the MILDEPs for equipment purchased through DCS under the terms of an FMS training case. Systems acquired by DCS are eligible to obtain FMS sustainment support for common items. Hybrid international cooperative and FMS/DCS programs are also possible.