

appellate lawyer and her own personal advocacy as a Jewish woman on so many civil rights issues. Ms. Berner successfully won a long-running case involving her own family at the Israeli Supreme Court—a landmark ruling that required the government to recognize two mothers as the parents of one child.

Fifth, she has received strong endorsements, and Senator VAN HOLLEN pointed out the list of endorsements from very diverse groups, from civil rights to law enforcement.

Let me highlight one of those letters—we received numerous letters—one of those letters that came from former assistants to the Solicitors General of two different administrations—the Reagan administration and the Clinton administration. The letter is authored by David Frederick and Andrew Pincus.

We have worked with, litigated against, and collaborated on cases with Ms. Berner in the Supreme Court of the United States and federal courts of appeal over more than a decade. Based on that professional experience, we are united in the firm conviction that Ms. Berner is highly qualified to serve on the Fourth Circuit and will be an excellent appellate judge.

Ms. Berner has demonstrated superb skills as a writer, legal analyst, and advocate in the appellate cases in which we have seen her work up close. . . . Her legal training is extensive, including as a law clerk to a distinguished court of appeals judge, an associate in a well-respected law firm, a lawyer in a public interest organization, and general counsel of one of the largest labor unions in the country. Ms. Berner's experience with a wide range of the legal issues that arise in the federal courts, her diverse roles as a lawyer, and her professional expertise, which we have observed firsthand, demonstrate that she will be a first-rate appellate judge.

Just as impressive as Ms. Berner's legal skills are her personal qualities. She is unfailingly polite and measured in her interactions with others, even on highly contentious issues. She listens carefully and thoughtfully with an open mind to new ideas—even those that may not comport with her personal experience—so that she can offer the soundest position in a case. These qualities make us certain that she will transition seamlessly from the role of advocate to the work of a circuit judge. She will understand that serving as a judge requires her to act as a neutral arbiter based on faithful application of the relevant constitutional or statutory text, precedent, and record facts.

I would note that Ms. Berner is a longtime resident of Montgomery County, MD. She has been an active member of her synagogue and community and lives with her wife in Takoma Park, MD. I appreciated the opportunity to meet with Ms. Berner and talk to her about her priorities and her commitment to fully integrate into the vibrant Maryland legal community, including Baltimore.

I also want to join Senator VAN HOLLEN in thanking her family because this truly is a joint sacrifice in public service.

I urge my colleagues to ratify her nomination and vote in favor of her nomination.

I yield the floor.

VOTE ON BERNER NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Berner nomination?

Mr. CARDIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Oklahoma (Mr. MULLIN), and the Senator from Idaho (Mr. RUSCH).

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 94 Ex.]

YEAS—50

Baldwin	Heinrich	Rosen
Bennet	Hickenlooper	Sanders
Blumenthal	Hirono	Schatz
Booker	Kaine	Schumer
Brown	Kelly	Shaheen
Butler	King	Sinema
Cantwell	Klobuchar	Smith
Cardin	Lujan	Stabenow
Carper	Markley	Tester
Casey	Menendez	Van Hollen
Coons	Merkley	Warner
Cortez Masto	Murphy	Warnock
Duckworth	Murray	Warren
Durbin	Ossoff	Welch
Fetterman	Padilla	Whitehouse
Gillibrand	Peters	Wyden
Hassan	Reed	

NAYS—47

Barrasso	Fischer	Paul
Blackburn	Grassley	Ricketts
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeben	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Manchin	Tuberville
Crapo	Marshall	Vance
Cruz	McConnell	Wicker
Daines	Moran	Young
Ernst	Murkowski	

NOT VOTING—3

Graham	Mullin	Risch
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The nomination was confirmed.

The PRESIDING OFFICER (Mr. WARNOCK). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

The majority leader.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMS SALES NOTIFICATION

Mr. CARDIN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of certain proposed arms sales as defined by that statute. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Senate Foreign Relations Committee.

In keeping with the committee's intention to see that relevant information is available to the full Senate, I ask unanimous consent to have printed in the RECORD the notifications that have been received. If the cover letter references a classified annex, then such an annex is available to all Senators in the office of the Foreign Relations Committee, room SD-423.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY COOPERATION AGENCY, Washington, DC.

Hon. BENJAMIN L. CARDIN,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-26, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Poland for defense articles and services estimated to cost \$219.1 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

JAMES A. HURSCH,
Director.

Enclosures.

TRANSMITTAL NO. 24-26

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Government of Poland.

(ii) Total Estimated Value:

Major Defense Equipment * \$181.3 million.

Other \$37.8 million.

Total \$219.1 million.

Funding Source: Foreign Military Financing and National Funds

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:

Major Defense Equipment (MDE):

Two hundred thirty-two (232) AIM-9X Sidewinder Block II Tactical Missiles.

Sixteen (16) AIM-9X Sidewinder Block II Tactical Missile Guidance Units.

Non-MDE: Also included are missile containers; training aids; active optical target detectors; spares; support equipment; missile support; U.S. Government and contractor technical assistance; and other related elements of logistics and program support.

(iv) Military Department: Navy (PL-P-ABH).

(v) Prior Related Cases, if any: PL-P-AAV.

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None known at this time.

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Attached Annex.

(viii) Date Report Delivered to Congress: March 12, 2024.

*As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Poland—AIM-9X Block II Sidewinder Missiles

The Government of Poland has requested to buy two hundred thirty-two (232) AIM-9X Sidewinder Block II Tactical Missiles and sixteen (16) AIM-9X Sidewinder Block II Tactical Missile Guidance Units. Also included are missile containers; training aids; active optical target detectors; spares; support equipment; missile support; U.S. Government and contractor technical assistance; and other related elements of logistics and program support. The estimated total cost is \$219.1 million.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a NATO Ally that is a force for political stability and economic progress in Europe.

The proposed sale will improve Poland's capability to meet current and future operational needs. The additional missiles will allow Poland to bolster its defenses while increasing NATO interoperability. Poland already has these missiles in its inventory and will have no difficulty absorbing the additional weapons into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be RTX Corporation, Tucson, AZ. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Poland. However, periodic travel on a temporary basis will be required in conjunction with program, technical, and management oversight and support requirements.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

TRANSMITTAL NO. 24-26

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex Item No. vii

(vii) Sensitivity of Technology:

1. The AIM-9X Block II Sidewinder Missile represents a substantial increase in performance over the AIM-9M and replaces the AIM-9X Block I Missile configuration. The missile includes a high off-boresight seeker, enhanced countermeasure rejection capability, low drag and high angle of attack airframe, and the ability to integrate the Helmet Mounted Cueing System. The most current AIM-9X Block II Operational Flight Software developed for all International Partner countries, which is authorized by U.S. Government export policy, provides fifth-generation infrared missile capabilities such as Lock-On-After-Launch, Weapons Data Link, Surface Attack, and Surface Launch. No software source code or algorithms will be released.

2. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Poland can provide substantially the same de-

gree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to Poland.

POLICY JUSTIFICATION

Poland—AIM-120C-8 Advanced Medium-Range Air-to-Air Missiles

The Government of Poland has requested to buy up to seven hundred forty-five (745) AIM-120C-8 Advanced Medium Range Air-to-Air Missiles (AMRAAM), up to sixteen (16) AIM-120C-8 AMRAAM guidance sections, and fifty (50) LAU-129 Guided Missile Launchers. Also included are AIM-120 Captive Air Training Missiles, missile containers, and control section spares; Common Munitions Built-in-Test Reprogramming Equipment; ADU-891 Adapter Group Test Sets; munitions support and support equipment; spare and repair parts, consumables, accessories, and repair and return support; contract logistics support; classified software delivery and support; classified and unclassified publications and technical documentation; personnel training and training support; transportation support; studies and surveys; U.S. Government and contractor engineering, technical, and logistical support services; and other related elements of logistics and program support. The estimated total cost is \$1.69 billion.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a NATO Ally that is a force for political stability and economic progress in Europe.

The proposed sale will improve Poland's capability to meet current and future threats by ensuring it has modern, capable air-to-air munitions. This sale will further advance the already high level of Polish Air Force interoperability with U.S. Joint Forces and other regional and NATO forces. The Government of Poland already has AMRAAMs in its inventory and will have no difficulty absorbing these articles and services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be RTX Corporation, Tucson, AZ. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the Government of Poland.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

TRANSMITTAL NO. 24-29

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex Item No. vii

(vii) Sensitivity of Technology:

1. The AIM-120C-8 Advanced Medium Range Air-to-Air Missile (AMRAAM) is a supersonic, air-launched, aerial intercept guided missile featuring digital technology and micro-miniature, solid-state electronics. AMRAAM capabilities include look-down and shoot-down, multiple launches against multiple targets, resistance to electronic countermeasures, and interception of high and low-flying and maneuvering targets. This potential sale will include Captive Air Training Missiles, AMRAAM guidance section spares and control section spares, and LAU-129 guided missile launchers.

2. The Common Munitions Built-In-Test (BIT)/Reprogramming Equipment (CMBRE) is support equipment used to interface with weapon systems to initiate and report BIT results and to upload and download flight software. CMBRE supports multiple munitions platforms with a range of applications that perform preflight checks, periodic maintenance checks, loading of Operational Flight Program data, loading of munitions mission planning data, loading of Global Positioning System (GPS) cryptographic keys, and declassification of munitions memory.

3. The ADU-891 Adapter Group Test Set provides the physical and electrical interface between the CMBRE and the missile.

4. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

5. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

6. A determination has been made that Poland can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

7. All defense articles and services listed in this transmittal have been authorized for release and export to Poland.

ARMS SALES NOTIFICATION

Mr. CARDIN, Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of certain proposed arms sales as defined by that statute. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Senate Foreign Relations Committee.

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There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY
COOPERATION AGENCY,
Washington, DC.

Hon. BENJAMIN L. CARDIN,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-29, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Poland for defense articles and services estimated to cost \$1.69 billion. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

JAMES A. HURSCH,
Director.