

Marine Transportation Waiver Procedures

1. The following procedures and conditions shall be adhered to concerning marine transportation of defense articles, the purchase of which is to be financed under this agreement. All defense articles, which are transported by ocean vessel, shall be transported in privately owned vessels of United States registry unless a waiver of this requirement is obtained from the Director, Defense Security Cooperation Agency, Department of Defense. Requests for waiver are categorized as general, non-availability or security as outlined below.

a. General Waivers

- i. Consideration will be given to a waiver application to authorize vessels flying the flag of the country to whom this agreement applies to participate in the transportation of cargo generated under this agreement provided the recipient country does not discriminate against United States flag vessels in the carriage of the exports or imports of the recipient nation. Approval may be granted for recipient country's vessels to carry up to, but not in excess of 50 percent of the cargo under this agreement. Ocean freight revenue is the main criterion for determining flag participation but cargo valuation shall also be taken into consideration. Accordingly, throughout the life of this agreement, U.S. flag vessels shall not receive less than 50 percent of the cargo valuation and ocean freight revenue insofar as practicable.
- ii. Applications for general waiver should be submitted as soon as practicable after determination has been made to use recipient country flag vessels but at least twenty-one (21) days in advance of intended shipping dates to enable verification of the treatment accorded vessels of U.S. registry and to process the application.
- iii. Subsequent to the granting of a general waiver, if it occurs that neither United States flag vessels nor recipient country flag vessels are available, consideration will be given to specific waiver applications to authorize, on a shipment-by-shipment basis, the use of third flag vessels. Applications for the use of a third flag vessel under an approved general waiver should be submitted at least 21 days prior to the intended shipping date to allow time to process the application. If a waiver is granted to allow the use of a third flag vessel for a particular shipment under an existing general waiver, the cargo carried by the third flag vessel shall be recorded against the recipient country flag vessels' portion of the cargo available under the general waiver.
- iv. The application for a general waiver and subsequent waivers for the use of third flag vessels should be submitted by the recipient country directing the shipment (or the recipient's freight forwarder) to:

Director, Defense Security Cooperation Agency
201 12th St South, Suite 203
Arlington VA 22203-5408

Figure AP3.F13. FMF Grant Agreement - Exhibit C

With a copy to:

Director, Office of Market Development
Maritime Administration, U.S. Department of Transportation
Washington, D.C. 20590

b. Non-Availability Waivers

- i. Consideration will be given to waiver applications to authorize use of foreign flag vessels in those cases of non-availability of United States flag vessels or in instances of non-availability of United States flag vessels at reasonable rates.
- ii. Applications for non-availability waivers to permit use of recipient country flag vessels need not be submitted if a general waiver has been approved and the recipient country will use U.S. flag vessels to carry over 50 percent of the cargo under this agreement. Applications are required where a general waiver :
 1. has not been applied for,
 2. has not been approved, or
 3. has been approved but, on a shipment-by-shipment basis, U.S. flag vessels are not available or not available at reasonable rates and shipments on non-U.S. flag vessels will exceed 50 percent of the cargo under this agreement.

If a general waiver has been approved, every effort should be made to ship defense articles and equipment, where U.S. flag vessels are not available or not available at reasonable rates, under the recipient country's portion of the cargo available under the general waiver. Therefore, applications for non-availability waivers, where a general waiver has been approved, should be submitted only under unusual circumstances.

- iii. Applications on the basis of non-availability of vessels of United States registry must establish and document that the recipient country has made a reasonable, timely, and bona fide effort to arrange shipment on vessels of United States registry and that such vessels are not available. Such applications must be submitted at least 21 days in advance of the intended shipping date to enable verification of non-availability of vessels of United States registry and to process the application.
- iv. Applications on the basis of non-availability of vessels of United States registry at reasonable rates must establish and document all applicable comparative rates and should be submitted at least 21 days in advance of the intended shipping date to enable verification of non-availability of vessels of United States registry at reasonable rates and to process the application.
- v. Applications for non-availability waivers must be submitted on a shipment-by-shipment basis. Applications should be submitted to :

Director, Defense Security Cooperation Agency,
201 12th St South, Suite 203
Arlington VA 22203-5408

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With a copy to:

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Maritime Administration, U.S. Department of Transportation
Washington, D.C. 20590

- vi. Each application for a non-availability waiver should contain the following information:
1. Identification and address of the applicant
 2. Recipient country
 3. Date of grant
 4. Manufacturer and/or exporter
 5. List and description of commodities to be shipped
 6. FAS value of commodities
 7. Shipping date
 8. Loading port
 9. Discharge port
 10. Estimated ocean freight cost
 11. Proposed vessel(s) to be used
 12. Weight of shipment
 13. Cube measurement of shipment
 14. Original point of production
- c. Security Waivers
- i. Consideration will be given to waiver applications to authorize vessels flying the flag of the country to whom the agreement applies on the basis of reasonable security needs in regards to the cargo and the arrival of such cargo at its destination. A security waiver may be requested for a specific shipment or series of shipments under this agreement where sabotage may reasonably be expected or a state of emergency exists.
 - ii. Application for security waivers need not be submitted if a general waiver has been approved and the recipient country will use U.S. flag vessels to carry over 50 percent of the cargo under this agreement. Applications are required where a general waiver:
 1. has not been applied for,
 2. has not been approved, or
 3. has been approved but, on a shipment-by-shipment basis, use of recipient country flag vessels will exceed 50 percent of the cargo under this agreement.

If a general waiver has been approved, every effort should be made to ship those defense articles and equipment involving special security or safety requirements under the recipient country's portion of the cargo available under the general waiver. Therefore, waiver applications for security or safety reasons where a

Figure AP3.F13. FMF Grant Agreement - Exhibit C

general waiver has been approved should be submitted only under unusual circumstances.

- iii. Applications on the basis of security must provide the specific security or safety requirements and information involved in the shipment(s) to be made at least 21 days in advance of the intended shipment(s) dates to enable verification of the security or safety requirements and to process the application.
- iv. The application should be provided by the recipient country to:

Director, Defense Security Cooperation Agency
201 12th St South, Suite 203
Arlington VA 22203-5408

With a copy to:

Director, Office of Market Development
Maritime Administration, U.S. Department of Transportation
Washington, D.C. 20590

- 2. In order to monitor the use of marine transportation under this agreement, pertinent information should be forwarded as early as possible, but not later than 90 days after shipment to:

Director, Office of Market Development
Maritime Administration, U.S. Department of Transportation
Washington, D.C. 20590

for all shipments of goods financed in whole or in part with grant funds. The following information must be reported:

- a. Date of Grant
- b. FAS Value of Cargo
- c. Manufacturer
- d. Freight Forwarder
- e. Ocean Freight Cost
- f. Name of Vessel
- g. Vessel Flag of Registry
- h. Date of Loading
- i. Port of Loading
- j. Port of Final Discharge
- k. Cargo Description
- l. Gross Weight of Cargo
- m. Cubic Measurement of Cargo

A properly rated and legible copy of the ocean bill of lading in English will suffice so long as all the above information is contained thereon.