



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

02 JUL 2002

In reply refer to:  
I-02-005823-P3

MEMORANDUM FOR SEE DISTRIBUTION

**SUBJECT:** Letter of Request (LOR) Advisories and Requests for Major Defense Equipment (MDE) Prior to Satisfactory Completion of Operational Test and Evaluation (OT&E) (DSCA 02-25)

Paragraph 70003.C and Table 700-2 of the Security Assistance Management Manual (SAMM), DoD 5105.38-M, provide general guidance for advising/notifying the Joint Staff and OUSD(AT&L) when foreign customers request specific types of items. Recently, there have been several questions raised about this process---specifically about the purpose of these notifications, historically known as Security Assistance Requests (SARs), and the requirements for pre-OT&E sales.

The purpose of this memorandum is to explain the intent of these notifications and to more clearly identify when such notifications should be prepared. This memorandum also clarifies the guidance related to requests for items that have not satisfactorily completed OT&E. To ensure there is no confusion with this new policy, the term "SAR" is replaced with "LOR Advisory." The new LOR Advisory process is described below:

a. The purpose of an LOR Advisory is to notify the Joint Staff and OUSD(AT&L) that DSCA has received an LOR for a specific type of item from a prospective purchaser. LORs may be for Price and Availability (P&A) data or for Letters of Offer and Acceptance (LOAs)---both types of requests should be notified using an LOR Advisory.

b. DSCA Country Program Directors are responsible for preparing the LOR Advisory and for determining whether or not one is required. Attachment 1 provides a sample LOR Advisory format to revise Table 700-2 of the SAMM. This revision modifies the wording to more accurately reflect the purpose of this document. DSCA Country Program Directors are encouraged to discuss requests informally with the Joint Staff and/or OUSD(AT&L) at any time during this process. Because the intent is to keep everyone in-the-loop, the LOR Advisory, if required, should be sent as early as possible in the process---ideally as soon as DSCA receives the request from the customer. The SAMM requires that DSCA receive a distribution copy of the purchaser's request. The LOR Advisory should include a copy of the customer's request as well as the Country Team Assessment (if available).

c. The following types of customer requests warrant notification via the LOR Advisory process. Requests for:

(1) First introduction of Major Defense Equipment (MDE) as defined in paragraph 70002.B.1.b;

(2) MDE that is expected to result in a notification to Congress under AECA Section 36(b);

(3) Co-production or licensing agreements for MDE;

(4) Items/services of a sensitive nature; or

(5) MDE that has not completed OT&E.\*

\* DSCA Country Program Directors may not be aware that the item(s) requested has not satisfactorily completed OT&E until the IA refers the LOR to DSCA in accordance with SAMM 70003.A.2.f.

d. To ensure consistency with existing Security Cooperation objectives and technology security policy, the Joint Staff and OUSD(AT&L) will have ten working days from the date of the LOR Advisory to provide comments to DSCA for consideration. As the purpose of the LOR Advisory is to notify the Joint Staff and OUSD(AT&L) that DSCA has received an LOR from a prospective purchaser, comments are not required.

The USD(A) memorandum dated 15 May 1992 (Attachment 2) provides the policy for the sale of MDE that has not satisfactorily completed OT&E required prior to approval for full rate U.S. production. OUSD(AT&L) approval, often referred to as a "Yockey Waiver," is required prior to issuance of P&A data or LOAs for MDE that has not satisfactorily completed OT&E. The LOR Advisory does not replace this process and is not the vehicle for obtaining OUSD(AT&L) approval for pre-OT&E sales. To obtain OUSD(AT&L) approval for pre-OT&E sales, the Military Department must submit a request to DSCA for OUSD(AT&L) concurrence. If OUSD(AT&L) approves a pre-OT&E sale and DSCA concurs with the sale, a note, discussed further in SAMM Section 70105.L.6., will be included in the P&A correspondence or in the LOA.

The SAMM change (Attachment 3), that describes these policies, is effective immediately and will be included in the automated version of the SAMM as E-Change #33. Paragraph 70003.C is deleted in its entirety and is replaced with Attachment 3. If you have any questions or need additional information regarding this matter, please contact Steve Harris, DSCA/P3-P2, (703) 604-6611, e-mail: [steve.harris@osd.pentagon.mil](mailto:steve.harris@osd.pentagon.mil).



TOME H. WALTERS, JR.  
LIEUTENANT GENERAL, USAF  
DIRECTOR

Attachments

- 1) SAMM Table 700-2 Revision
- 2) USD(A) Memorandum dated 15 May 1992
- 3) Revised SAMM 70003.C

## DISTRIBUTION LIST

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cc: ASD (ISA)  
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USD(P)-PS  
Department of State (PM/RSAT)  
AMSAC- MP  
JS/J-5 WTC  
OUSD(AT&L)

TABLE 700-2

MEMORANDUM FOR DIRECTOR, J-5, JOINT CHIEFS OF STAFF  
ATTN: WTC

DIRECTOR, INTERNATIONAL COOPERATION  
OFFICE OF THE UNDER SECRETARY OF DEFENSE  
ACQUISITION, TECHNOLOGY, AND LOGISTICS

SUBJECT: Letter of Request (LOR) Advisory - **[Insert Country or International Organization Name]**

DSCA has received a request from **[Insert Country or International Organization Name]** for **[Identify articles requested and whether they are: Major Defense Equipment (MDE) that is being introduced for the first time; MDE that is expected to result in a notification to Congress under AECA Section 36(b); Co-production or licensing agreements for MDE; Items/services of a sensitive nature; or MDE that has not completed operational testing and evaluation (OT&E).]** **[Additional information may be provided specific to this request if desired.]**

The purpose of this memorandum is to advise you of this request and provide you a copy for your use and information. If you have any questions or desire additional information regarding this potential sale, please contact **[Name, office symbol, phone number, and e-mail address of DSCA Country Program Director]**.

It should be noted that this notification does not take the place of the Exception to National Disclosure Policy (ENDP) process or releasability requirements that may need to be addressed by the Military Departments.

Attachment  
**[Purchaser Request Information]**

cc: **[Applicable ASD (ISA or ISP)]**  
USD(P)-PS  
DoS (PM/RSAT)  
**[Applicable SAO]**  
**[Applicable MILDEP]**  
**[Applicable Unified Command]**

\*NOTE: Memorandum will be classified if applicable

**Attachment 1**



ACQUISITION

THE UNDER SECRETARY OF DEFENSE  
WASHINGTON, DC 20301

15 MAY 1992

MEMORANDUM FOR THE UNDER SECRETARY OF DEFENSE (POLICY)

SUBJECT: Foreign Military Sales of Major Defense Systems Which  
Have NOT Completed Operational Test and Evaluation  
(OT&E) Satisfactorily

As you and I have previously agreed, the Defense Security Assistance Agency will obtain my concurrence before the foreign military sale or licensing of any major defense system which has not satisfactorily completed the OT&E required prior to approval for full rate US production. DSAA and my staff have agreed on procedures for obtaining my approval for any new issuances of price and availability data or letters of offer and acceptance for major defense equipment.

Recently, questions have been raised as to the effect of our agreement on DoD discussions with foreign governments for the purposes of developing cooperative opportunities and related business strategies for future inventory items as called for in Title 10 US Code and DoD Directive 5000.1 and DoD Instruction 5000.2. Our policy is not intended to interfere with this activity. I fully support all legitimate government sponsored discussions of appropriate potential cooperative opportunities for both development and production programs involving key allies, provided only that such discussion include a clear and unambiguous articulation of my policy that no agreements for sales or licensing will be permitted prior to successful completion of OT&E unless my concurrence has been obtained.

I also support reasonable advance business planning and marketing discussions with potential foreign customers by defense contractors provided that authorizing licenses for these discussions require the contractor to notify potential customers of these policies.

  
Don Yockey

Attachment 2

## SAMM Change E-33

Paragraph 70003.C is deleted in its entirety and is replaced as follows:

### **C. Coordination of Requests for P&A or an LOA.**

1. **LOR Advisories** - The Joint Staff and OUSD(AT&L) are advised by DSCA when an LOR, for either an LOA or P&A, is received from a prospective purchaser that meets the criteria below using an LOR Advisory. The DSCA Country Program Director is responsible for determining whether or not an LOR Advisory is required. Table 700-2 provides a sample LOR Advisory format. The LOR Advisory, if required, should be sent as early as possible in the process and should include a copy of the customer's request as well as the Country Team Assessment (if available). To ensure consistency with existing Security Cooperation objectives and technology security policy, the Joint Staff and OUSD(AT&L) will have ten working days from the date of the LOR Advisory to provide comments to DSCA for consideration. As the purpose of the LOR Advisory is to notify the Joint Staff and OUSD(AT&L) that DSCA has received an LOR from a prospective purchaser, comments are not required.

- a. First introduction of Major Defense Equipment (MDE) as defined in paragraph 70002.B.1.b;
- b. MDE that is expected to result in a notification to Congress under AECA Section 36(b);
- c. Co-production or licensing agreements for MDE;
- d. Items/services of a sensitive nature; or
- e. MDE that has not completed operational testing and evaluation (OT&E)\*

\* DSCA Country Program Directors may not be aware that the item(s) requested has not satisfactorily completed OT&E until the IA refers the LOR to DSCA in accordance with paragraph 70003.A.2.f.

2. **Pre-OT&E Sales Policy (Yockey Waivers)** – OUSD(AT&L) approval is required prior to issuance of P&A data or LOAs for MDE for that has not satisfactorily completed the OT&E required prior to approval for full rate U.S. production. The LOR Advisory does not serve as the vehicle for obtaining OUSD(AT&L) approval for pre-OT&E sales. To obtain OUSD(AT&L) approval for pre-OT&E sales, the Military Department must submit a request to DSCA for OUSD(AT&L) concurrence. If OUSD(AT&L) approves a pre-OT&E sale and DSCA concurs with the sale, a note, discussed further in paragraph 70105.L.6., will be included in the P&A correspondence or on the LOA.

3. The receipt of the information copy by DSCA of the P&A or LOA request required by paragraph 70003.A.2 is the basis for the above notifications.

[**Note:** All requests for information, no matter how informal the request, e.g., oral, letter, or message, are considered to be P&A requests and require the same channels of submission as outlined in paragraph 70003.A.2.]