

04 March 2002
In reply refer to:
I-02/000505-P2

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR
DEFENSE EXPORTS AND COOPERATION
DEPARTMENT OF THE ARMY

DIRECTOR, NAVY INTERNATIONAL PROGRAMS OFFICE
DEPARTMENT OF THE NAVY

DEPUTY UNDER SECRETARY OF THE AIR FORCE
(INTERNATIONAL AFFAIRS)
DEPARTMENT OF THE AIR FORCE

DIRECTOR, DEFENSE LOGISTICS AGENCY

SUBJECT: Joint Visual Inspections (JVI) of Excess Defense Articles (EDA) (DSCA 02-12)

REFERENCE: DoD Directive 2100.3, United States Policy Relative to Commitments to
Foreign Governments Under Foreign Assistance Programs

DSCA is in the process of revising the Security Assistance Management Manual (SAMM), which will contain a section specifically addressing the EDA program. The draft EDA section, with comments incorporated, is currently being reviewed by DSCA for both format and policy. Pending the release of the new guidance contained in the SAMM, this memorandum provides an overview of the current policy for the JVI of EDA material.

Under the EDA program, JVIs of material cannot occur prior to transfer approval from DSCA unless DSCA/P³-P² has granted an exception. Transfer approval is granted by DSCA upon a determination by the Director, DSCA to transfer the EDA material, or upon completion of the congressional notification process. Recipient countries are then encouraged to perform a JVI of the EDA material condition before accepting it. A blanket exception is granted when the EDA is held by DRMS. In this case JVIs can be performed prior to approval due to the nature of the DRMS disposal procedures that allow for physical screening of the items.

DSCA prohibits JVIs of EDA material from occurring prior to transfer approval to prevent the false impression, on the part of the recipient country, that a transfer will take place once a JVI has been completed. The coordination process and notification period required under the EDA program allow concerns to be raised regarding proposed transfers. When legitimate concerns are raised, the proposed EDA transfer is cancelled, and no offer of EDA is made to the recipient country. If a JVI is performed and a proposed EDA transfer is cancelled, there is potential risk of embarrassment for the United States (U.S.).

DoD Directive 2100.3 sets out rules to avoid such embarrassment. The objective of the directive is to ensure that the United States, or an individual representing the United States, does

not make commitments, expressed or implied, to furnish funds, including long-term credit arrangements, goods or services to foreign governments without:

- (a) Appropriate governmental clearances;
- (b) Satisfactory assurance that such commitments (1) can and will be met, and (2) do take into account the best interests of the U.S. in the use of its resources;
- (c) A clear understanding with the recipient as to the nature, scope and time-span of the commitment.

Per this directive, DSCA is delegated the responsibility to ensure discussions with foreign officials do not constitute or imply a commitment until the above requirements are met.

DSCA recognizes the transfer of EDA is unique on a case-by-case basis. Some EDA items are more susceptible to rapid deterioration and some transfers require more forward planning. DSCA/P³-P² will grant an exception to allow a JVI of EDA material to take place prior to transfer approval only if it is advantageous to U.S. interests and every effort is made on the part of the implementing agency to prevent false impressions. To request a waiver to existing policy on the JVI of EDA material, implementing agencies shall use the attached worksheet.

If you have any questions or need additional information regarding this issue, please contact Dawn Burke, DSCA/P3-P2, (703) 601-3864, e-mail: burke@osd.pentagon.mil or Oz Sanborn, DSCA/P3-P2, (703) 601-3718, e-mail: oz.sanborn@osd.pentagon.mil.

Keith B. Webster
Director
Policy, Plans and Programs

Attachments:
As Stated

cc: DoS (PM/RSAT)
DoC (BXA/SEIS)
JS/J-5 WTC
OUSD/P-ISA
OUSD/P-ISP
USCG/G-CI

Command Letterhead

From: Director, **(insert Command)**

To: Director, Defense Security Cooperation Agency, ATTN: P³-P²

Subj: REQUEST FOR WAIVER TO PERFORM JOINT VISUAL INSPECTION (JVI) OF EXCESS DEFENSE ARTICLES (EDA) PRIOR TO TRANSFER APPROVAL.

Encl: JVI Waiver Worksheet – **(insert proposed item and country)**

This memorandum requests that a waiver be granted by DSCA/P³-P² allowing a JVI to be performed on **(insert item description)** in support of the proposed EDA transfer to **(insert country name)**. Transfer approval has not yet been granted by DSCA for this proposed transfer. The enclosed is forwarded for your consideration.

If a waiver is approved, **(insert Command)** will make every effort to prevent the false impression, on the part of the recipient country, that a transfer will take place once a JVI has been completed. **(Insert Command)** will ensure that the U.S. **(insert Service)**, to include any individual representing the U.S. **(insert Service)**, will not make commitments, expressed or implied, to furnish funds, goods or services in relation to this proposed EDA transfer to **(insert country name)** until transfer approval has been granted.

The point of contact for this action is **(insert name, telephone number, and e-mail address)**.

/s/
NAME
TITLE

JOINT VISUAL INSPECTION WAIVER WORKSHEET

Proposed Recipient: **(insert country name and armed forces branch)**

Equipment/Material: **(insert name and nomenclature)**

Excess Quantity: **(insert quantity)**

Date EDA Request was submitted to DSCA: **(insert month, date and year)**

Proposed Transfer Date of EDA: **(insert month, date and year)**

Proposed Date of JVI: **(insert month, date and year)**

Detailed Justification for the JVI **(include special circumstances why this JVI must be performed prior to transfer approval being granted; ex., why it is advantageous to U.S. interests to perform JVI early, adverse consequences to material or schedule if JVI is not performed early, etc.):**

Cost of JVI **(insert dollar value)** **(Note that it must be explained to the customer that if transfer approval is not granted, they will still be responsible for these costs):**

Case Designator for the JVI **(include Letter of Offer and Acceptance [LOA] designator and Amendment or Modification number if applicable):**

Enclosure 1