



DEFENSE SECURITY COOPERATION AGENCY
2800 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-2800

17 JUL 2009

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Dependable Undertaking Policy (DSCA 09-07), [SAMM E-Change 127]

REFERENCE: Security Assistance Management Manual (SAMM), Chapter 9)

Sections 22 and 29 of the Arms Export Control Act (22 U.S.C. §§2762 and 2769) authorize the United States Government (USG) to enter into contracts for the procurement of defense articles and services for sale to any foreign country or international organization based on that country's or organization's ability to pay the full amount of the contract and to make funds available in advance to meet contract payments, known as Dependable Undertaking. This includes any costs that may result from contract cancellation. Chapter 4 of the SAMM, Table C4.T2., currently indicates if this specific term of sale is authorized for use on a purchaser's Foreign Military Sales (FMS) case. The purpose of this memorandum is to provide updated guidance on the Dependable Undertaking term of sale ensuring that an appropriate review of a country's or an international organization's financial capabilities takes place before use of this term of sale is considered.

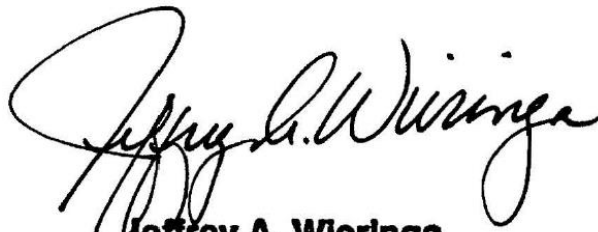
Effective the date of this memorandum, Chapter 4 of the SAMM is modified to delete the column titled "Term of Sale - Dependable Undertaking Authorized" from Table C4.T2. DSCA will provide separate guidance to Implementing Agencies on a tri-annual basis to indicate each country's or international organization's current eligibility for use of the Dependable Undertaking term of sale. Prior to release of the tri-annual list to the Implementing Agencies, DSCA will notify the Department of State of any changes being contemplated to a country's or international organization's eligibility. The tri-annual list, which will be marked as For Official Use Only, is the definitive listing of all purchasers eligible for a Dependable Undertaking term of sale.

DSCA will determine eligibility for the Dependable Undertaking term of sale based on a country's Interagency Country Risk Assessment System (ICRAS) rating. Countries with an ICRAS rating of "C" or higher, a positive indication of the country's creditworthiness, will be considered eligible for the Dependable Undertaking term of sale unless other factors override that determination. While a country or international organization may be eligible for a Dependable Undertaking term of sale in general, circumstances may warrant that specific cases be written with other terms of sale, such as "Cash with Acceptance." Implementing Agencies or other U.S. Government stakeholders are encouraged to communicate to DSCA any facts that could affect a

country's or an international organization's Dependable Undertaking eligibility, some of which may surface during Letter of Request evaluation as described in SAMM C5.1.4.2.2. Implementing Agencies may use the process outlined in the Dependable Undertaking Guidelines, which will be provided separately, to seek approval to offer specific cases with the Dependable Undertaking term of sale to countries or international organizations not otherwise eligible. DSCA will notify the Department of State prior to publishing changes to the Dependable Undertaking list or authorizing a Dependable Undertaking for any country not otherwise eligible under the standard criteria.

These changes are detailed in the attached SAMM guidance and are effective the date of signature on this memorandum. As per the new SAMM policy, additional detailed guidance relating to the authorization and exceptions will be provided under separate cover.

The points of contact for this policy are Ms. Candace Sampere, DSCA/DBO/FPIO, (703) 601-3750, e-mail: Candace.Sampere@dsc.mil, and Ms. Pam Berg, DSCA/DBO/CFM, (703) 601-3735, e-mail: Pam.Berg@dsc.mil.



Jeffrey A. Wieringa
Vice Admiral, USN
Director

Attachment:
SAMM Updates

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SAMM E-Change 127

1. **Delete paragraph C4.2.3.4. in its entirety and renumber subsequent paragraphs accordingly.**

2. **Update Table C4.T2 as follows:**

Delete Column 6 titled “Term of Sale- Dependable Undertaking Authorized” from Table C4.T2.

3. **Delete paragraph C5.1.4.2. and substitute the following:**

C5.1.4.2. LOR Evaluation. Upon receipt, LORs must be evaluated as follows:

C5.1.4.2.1. U.S. Embassies, SCOs, and the DoD components use Table C5.T3. to evaluate LORs. If an LOR does not meet the requirements of Table C5.T3., the DoD Component initially receiving the request notifies the requestor of the deficiency and, after entering the request in DSAMS, holds any further action until all required information is received.

C5.1.4.2.2. Implementing Agencies will also evaluate the LOR to determine potential terms of sale. Validation of the LOR includes a determination of whether or not a country or international organization is authorized Dependable Undertaking. The Implementing Agency will notify the purchaser as soon as possible of the payment terms available for procurement items. This is necessary to ensure customers have maximum time to make financial arrangements.

4. **Update paragraph C5.4.13. – Delete:** the period (.) after “program/delivery plan.” and **Add:** “, and Dependable Undertaking term of sale if applicable.”

5. **Update Table C9.T8. as follows:**

Row 1 “Cash with Acceptance” – **Add:** Used for the procurement of articles and services if the purchaser is not authorized Dependable Undertaking.

Delete the parenthetical statement “(see Chapter 4, Table C4.T2.)”.

Row 3 “Dependable Undertaking” – **Delete** the statement “Chapter 4, Table C4.T2. indicates the countries authorized to make direct arrangements with the cognizant DoD Component for purchases under a Dependable Undertaking transaction.”

6. **Add paragraph C9.8.3. to read as follows:**

C9.8.3. Dependable Undertaking Status.

7. **Add paragraphs below:**

C9.8.3.1. In accordance with AECA Sections 22(a) and 29, Dependable Undertaking is used as a term of sale. Dependable Undertaking represents a firm commitment by the purchaser to pay the full amount of the contract which assures the USG against any loss on the contract. The purchaser agrees to make funds available in advance to meet payments required by the contract as well as any damages and costs that may accrue from cancellation. The determination to authorize Dependable Undertaking terms of sale for a country is based on the country’s Interagency Country Risk Assessment System (ICRAS)

rating. For countries and international organizations without an ICRAS rating, DSCA will determine eligibility using the DSCA Dependable Undertaking Assessment Tool. A country with an ICRAS rating of “C” or better at the time of receipt of the Letter of Request (LOR) is presumed to be eligible to use the Dependable Undertaking term of sale unless other factors override that eligibility determination. ICRAS ratings themselves are sensitive and are not releasable.

C9.8.3.2. DSCA (Business Operations Directorate) will provide a list of countries and international organization with their eligibility for Dependable Undertaking to the Implementing Agencies on a tri-annual basis (January/February, May/June, August/September). DSCA will include countries and international organizations on the eligibility list based on DSCA’s analysis of ICRAS ratings and other factors. (See paragraph C9.8.3.4. for additional information applicable when Dependable Undertaking cases for eligible countries might not be appropriate.) Prior to publication of the tri-annual list, DSCA will notify the Department of State of any changes being contemplated to a country’s Dependable Undertaking status.

C9.8.3.2.1. Countries and international organizations included on table C4.T2. who were listed as eligible for Dependable Undertaking prior to this policy memorandum, will be included on the new listing as follows:

C9.8.3.2.1.1. Countries and international organizations that were eligible and executed cases using the Dependable Undertaking term of sale as of the date of DSCA 09-07 will be marked on the new list as still eligible regardless of their current ICRAS rating for a period not to exceed 7 years from the implementation date of policy memo (DSCA 09-07) unless other factors undermine creditworthiness. Those countries whose ICRAS rating is below “C” will be marked with a “hash” (#) on the tri-annual list. After the 7-year “grace period,” these countries will be included as eligible only if their ICRAS rating is “C” or better. Should these countries have problems making payments before the 7-year period has expired or other factors undermine creditworthiness, their status may be changed to ineligible and their inclusion under the “grace period” may end.

C9.8.3.2.1.2. Countries and international organizations that were eligible and have not used the Dependable Undertaking term of sale will be included on the new list as eligible only if their ICRAS rating is “C” or better.

C9.8.3.2.2. Countries and international organizations that were not eligible for Dependable Undertaking on Table C4.T2. will be marked as eligible/not eligible in the new list based on their ICRAS rating. If their ICRAS rating is “C” or better they will be marked eligible. If their ICRAS rating is “C-“ or below they will be marked as ineligible until such time they attain a “C” rating.

C9.8.3.2.3. Countries and international organizations that are not currently listed in Table C4.T2. will be added to the Dependable Undertaking list when paperwork is approved to add them to Table C4.T2.. Their current ICRAS rating will be used to determine their eligibility for Dependable Undertaking.

C9.8.3.2.4. Countries and international organizations currently listed as eligible and are executing cases that do not have an ICRAS rating will remain eligible for a period not to exceed 7 years from the implementation date of policy memo (DSCA 09-07) unless other

factors undermine creditworthiness. After the 7-year “grace period” these countries and international organizations will have eligibility determined by DSCA based on an assessment using the DSCA Dependable Undertaking Tool.

C9.8.3.3. The Implementing Agency may request in writing an exception to offer a particular case (or Amendment) with the Dependable Undertaking term of sale to a country or international organization not otherwise eligible for Dependable Undertaking. DSCA approval of an exception will be based on the results of a second-tier structured analysis which includes factors such as previous FMS experience, Country Information Paper recommendations, Country Team Assessments, and supporting documentation provided by the requesting organization. The DSCA Director will make the decision upon IA request, but this determination will not be reflected in the next issuance of the tri-annual list. Exceptions granted apply only to the specific case or Amendment scope being developed and do not give the country or international organization blanket eligibility for Dependable Undertaking status. DSCA will notify the Department of State prior to authorizing a Dependable Undertaking for any country or international organization not otherwise eligible under the standard criteria.

C9.8.3.4. A country or international organization may not be offered the Dependable Undertaking term of sale even if a country or international organization is presumed to be eligible if other factors and circumstances indicate that another term of sale is advisable for a particular case. Information that may affect a country’s or international organization’s eligibility for the Dependable Undertaking term of sale should be communicated to DSCA as soon as possible so that the eligibility determination may be reviewed.



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SUBJECT: Supplemental Guidance to the Dependable Undertaking Policy

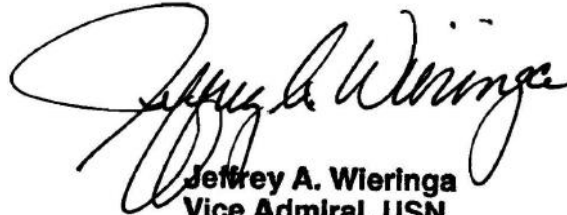
Reference: Security Assistance Management Manual (SAMM Chapter 9) and
DSCA 09-07

Referenced memorandum updated the policy regarding the use of the Dependable Undertaking term of sale on Foreign Military Sales (FMS) cases. The memorandum advised that additional guidance will be provided to assist Implementing Agencies in determining whether the Dependable Undertaking term of sale is authorized for use on individual FMS cases. This memorandum provides that supplemental guidance.

The Dependable Undertaking status listing is no longer published as a separate column in the SAMM Table C4.T2. Instead, a list will be provided tri-annually (usually January/February, May/June, and August/September) to the Implementing Agencies via a separate For Official Use Only (FOUO) memorandum. Prior to publishing the list, DSCA will notify the Department of State of any changes being contemplated to a country's eligibility. Attachment 1 contains the current list. Attachment 2 provides an explanation of the ICRAS rating and guidelines to be used in conjunction with the Dependable Undertaking policy in the SAMM Chapter 9, Section C9.8.3. The DSCA Dependable Undertaking Assessment Rating Tool is provided as Attachment 3.

As a reminder, per the SAMM guidance, countries with an ICRAS rating of "C" or higher are presumed to be eligible for Dependable Undertaking unless other factors override that eligibility. FMS cases may be written using Dependable Undertaking by relying on the latest DSCA tri-annual eligibility list. If the Implementing Agency or other U.S. Government stakeholders become aware of any factors or considerations that could negatively impact a country's or an international organization's eligibility for Dependable Undertaking, they should communicate that information to DSCA as soon as possible with a recommendation as to whether the eligibility determination should be reviewed. When a country or an international organization is not listed as eligible on the DSCA listing, DSCA will only approve a Dependable Undertaking on a case-specific basis if (1) the Implementing Agency, recommends in writing that an exception should be made, (2) the country or international organization is assessed to be credit worthy using the DSCA Dependable Undertaking Assessment Rating Tool, and (3) the DSCA Director approves the specific case for Dependable Undertaking.

The points of contact for this policy are Ms. Candace Sampere, DSCA/DBO/FPIO, (703) 601-3750, e-mail: Candace.Sampere@dscamil, and Ms. Pam Berg, DSCA/DBO/CFM, (703) 601-3735, e-mail: Pam.Berg@dscamil.



Jeffrey A. Wieringa
Vice Admiral, USN
Director

Attachments:

1. Dependable Undertaking List
2. Dependable Undertaking Guidelines
3. DSCA Dependable Undertaking Assessment Tool

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DEPENDABLE UNDERTAKING ELIGIBILITY LIST
AS OF JULY 17, 2009

THE DEPENDABLE UNDERTAKING ELIGIBILITY LIST IS MARKED **FOR OFFICIAL USE ONLY** AND CONTAINS **SENSITIVE BUT UNCLASSIFIED** INFORMATION. DUE TO THE SENSITIVE NATURE OF THE INFORMATION CONTAINED ON THE LIST, IT IS NOT BEING PUBLISHED ELECTRONICALLY. THE LIST WILL BE SENT VIA 1ST CLASS MAIL IN ACCORDANCE WITH DOD REGULATIONS 5400.7R AND 5200.1-R ALONG WITH THE SIGNED POLICY MEMO AND SUPPLEMENTAL GUIDANCE.

FOR FURTHER INFORMATION PLEASE CONTACT:
CANDACE SAMPERE/DSCA/FPIO/703-601-3750

DEPENDABLE UNDERTAKING GUIDELINES

1. General:

DSCA uses the Interagency Country Risk Assessment System (ICRAS) rating provided by the Office of Management and Budget (OMB) to determine a country's eligibility for Dependable Undertaking status. The ICRAS creates a common standard for country risk assessments for all U.S. Agencies. The ICRAS rating scale includes eleven rating categories with scores ranging from "A" through "F- -."

DSCA has established an acceptable country risk level authorization threshold at an ICRAS rating of "C" for Dependable Undertaking eligibility. The ICRAS rating of "C" (and above) marks the point where there is reasonable assurance that the country will be able to resolve payment problems without resorting to debt rescheduling. If a country has an ICRAS rating below a "C," debt rescheduling becomes a risk. This rating threshold is consistent with the threshold used to analyze Foreign Military Financing (FMF) loan actions. For those countries and international organizations who do not have an ICRAS rating, DSCA will determine eligibility using the DSCA Dependable Undertaking Assessment Tool.

2. Procedures:

Step 1. Determining Eligibility. DSCA will provide a list reflecting the countries and international organizations eligible for Dependable Undertaking. This list will not reflect the ICRAS ratings because the ratings themselves are sensitive and are not releasable. The DSCA Dependable Undertaking eligibility list will be marked "For Official Use Only" and must be handled accordingly. The list will be provided to Implementing Agencies on a tri-annual basis (Jan/Feb, May/Jun, and Aug/Sep) and will contain the entire list of Dependable Undertaking-eligible countries and international organizations annotated with an "asterisk" (*) to show changes in eligibility from the prior list (a country or an international organization eligible in a prior period might not be eligible in the current period). The eligibility list must be consulted before a case/Amendment is written using Dependable Undertaking.

Step 2. Case Development. Depending on the eligibility of the country or international organization, the development of a Dependable Undertaking case will proceed in one of the following manners.

1. See SAMM paragraph C5.1.4.2.2. for requirements to notify the purchaser when validation of a Letter of Request (LOR) indicates (1) a Dependable Undertaking is authorized or (2) cannot be used because the purchaser is not eligible.

2. Countries or international organizations listed on the tri-annual eligibility list or with DSCA approved case-specific exceptions, will be considered eligible to be offered basic cases or Amendments using the term of sale Dependable Undertaking unless other factors override the determination.
3. A country or an international organization that is not eligible for a Dependable Undertaking may be offered cases or Amendments with other terms of sale as appropriate.
4. A change in a country's or an international organization's Dependable Undertaking eligibility will not affect already implemented case value, but must be considered for any scope increases.
5. Implementing Agencies wishing to use the term of sale Dependable Undertaking on a case for a country or international organization not shown as eligible on the DSCA tri-annual list may request an exception from DSCA on a case-by-case basis (to include Amendments that increase scope). The Implementing Agency must provide a **written recommendation to DSCA for consideration**. DSCA will assess the case using the DSCA Dependable Undertaking Assessment Rating Tool. If the country or international organization is assessed to be credit worthy for the case, the DSCA Director may approve the request. Only after DSCA approval can the case or Amendment be written using Dependable Undertaking for that country or international organization. The approval applies only to the specific case/Amendment scope being developed and is not a blanket approval for all cases being written for that country or international organization. Step 3 provides further information for requesting an exception. If DSCA has approved a case-specific exception, the case or Amendments to the case must identify that exception (cite the approval memorandum) in a note on the LOA document.

Step 3. Requesting an Exception. To request a case-specific exception for a country or international organization not currently eligible for Dependable Undertaking, the Implementing Agency must provide supporting justification along with the recommendation to DSCA. DSCA has developed a Dependable Undertaking Assessment Tool (Attachment 3) to assist with the financial assessment. The Implementing Agency should complete the indicated sections of the tool to the extent information is available. The ICRAS rating Section 1 will be completed by DSCA. Some useful resources are listed below to assist in completing various sections of the tool. Once the justification and recommendation are completed, the IA must submit the signed package electronically to DSCA/DBO/CFM. Once DSCA receives all information, we will evaluate using the Tool. The DSCA Director will make the final decision and the outcome will be provided via memorandum to the Implementing Agency. Case-specific exceptions will not be shown on the DSCA tri-annual list. DSCA will notify the

Department of State prior to authorizing Dependable Undertaking for any country or international organization not otherwise eligible under the standard criteria.

6. Useful Resources. The websites listed below provide a sampling of the resources available which may be used not only to complete the DSCA Dependable Undertaking Assessment tool but also to provide insight into the country and its financial condition at a given point in time. This is by no means an all inclusive list.

Moody's Investors Services – This site requires free registration for basic information.

<http://www.moody.com/cust/default.asp>

Standard and Poors – This site gives ratings by area and country under “Sovereigns”

http://www2.standardandpoors.com/portal/site/sp/en/eu/page.topic/ratings_sov/2,1,8,0,0,0,0,0,0,0,3,0,0,0,0,0.html

Fitch Ratings – This site gives some ratings on sovereigns foreign currency issuers.

http://www.fitchratings.com/corporate/sectors/issuers_list_corp.cfm?sector_flag=5&marketsector=1&detail=&body_content=issr_list

(This page contains SENSITIVE BUT UNCLASSIFIED information WHEN COMPLETED)

Dependable Undertaking – Assessment Template

Country:

Date of Assessment:

Factor	Weight	Remarks	Score 1 = negative; 9 = positive	Weight x Score
(1) Interagency Credit Risk Assessment System (ICRAS)	28%	Date of Assessment: Sovereign Risk Rating: Non-sovereign Risk Rating:		
Repayment History			ICRAS to be completed by DSCA	
Foreign Debt Service Burden				
Balance of Payments Adjustments Capacity				
Macroeconomic Environment				
Political/Social Constraints				
(2) International Monetary Fund or other Reports	14%			
Ex: External Stability Risk Assessment			IA's should complete as much of sections 2-3 as possible. Websites are included in the Guidelines memo to assist.	
Ex: Fiscal Indicators in European Union Countries				
Ex: Budget Indicators				
Ex: Additional Reports				
(3) Moody's Investors Service Ratings	14%	Date of Opinion:		
(4) Ex-Import Bank Supplemental Information	14%	Date of Analysis:	Section 4 to be completed by DSCA	
(5) Previous FMS programs and payment experience Data Source: DIFS Date Pulled:	12%			
Oldest Case Year			IA should complete as much of sections 5- 8 as they have available.	
Newest Case Year				
Number of Cases		<ul style="list-style-type: none"> • Army • Air Force: • Navy: 		
Total Dollar Value of all Cases		<ul style="list-style-type: none"> • Army \$ • Air Force: \$ 		

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Dependable Undertaking – Assessment Template

Country:

Date of Assessment:

Factor		Weight	Remarks	Score 1 = negative; 9 = positive	Weight x Score
			• Navy: \$		
	Total Dollar Value Delivered to-date		Stock: Procurement:		
	Highest Dollar Value Case to-date		[Case ID and Description]		
	Case Value Funded with National Funds				
	Case Value Funded with Credit Funds				
	Foreign Military Financing Recipient?				
	Sanction Information				
	Case Payment History				
	(6) Debt Relief History (to include HIPC status)	6%			
	(7) Country Information Paper (CIP) recommendations	6%			
	(8) Country Team Assessment (CTA) [SAMM Table C5.T1. – mandatory for all LORs for Significant/Major Defense Equipment]	6%			
	Total	100%			

Other significant information not listed above should be provided in support of the request along with the source of the data.

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