



DEFENSE SECURITY COOPERATION AGENCY

2800 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-2800

14 JUL 2009

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: LOA Note – Retention of Title for FMS Shipment (DSCA Policy 09-33)
[SAMM E-Change 138]

This memorandum issues a Letter of Offer and Acceptance (LOA) note for use on Defense Transportation System (DTS) shipments when specific operational circumstances require the USG to retain the title of FMS materiel after the initial point of shipment. Title retention by the US Government is not a standard practice for DTS movement of FMS materiel, but it will provide an option to allow FMS/FMS-origin materiel to transit through nations with restrictive customs requirement while the U.S. Transportation Command explores alternative shipment options.

This policy memorandum is effective 30 days from signature. The attached LOA note will be added to the electronic version of the Security Assistance Management Manual (SAMM), Chapter 5, Table C5.T5. For questions relating to this memorandum, please contact Mr. Brion Midland, DSCA STR/POL, brion.midland@dca.mil, (703) 601-3672.

A handwritten signature in black ink that reads "Scott Schless".

Scott Schless
Principal Director
Strategy

Attachment:
As stated

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**Security Assistance Management Manual (SAMM), E-Change 138
Addition to Table C5.T5.**

Title Transfer – FMS Materiel

Note Usage

Mandatory for LOAs that include Defense Transportation System (DTS) Delivery Term Code (DTC) 7 for FMS materiel moving through transit point(s) with restrictive national customs requirements where USG retention of title will facilitate movement. Requests for use of this note shall be directed by the applicable Implementing Agency to DSCA (Strategy Directorate) for approval in advance of LOA development.

Mandatory for LOA Amendments that add DTS DTC 7 for FMS materiel moving through transit point(s) with restrictive nation customs requirements where USG retention of title will facilitate movement. Requests for use of this note shall be directed by the applicable Implementing Agency to DSCA (Strategy Directorate) for approval in advance.

Note Text

- a. In addition to the terms of this LOA and the note titled “Transportation and Services,” the USG agrees to pass title to the purchaser at an inland delivery point in the purchaser country as specified in this LOA. As permitted by Condition 5.1 of the LOA Standard Terms and Conditions, the Department of Defense (DoD) may arrange through the Defense Transportation System (DTS) the movement of the applicable defense articles to the authorized delivery point as a reimbursable service and will pass title at the delivery destination in the Purchaser country.
- b. Clause 3 of the Standard Terms and Conditions of this LOA governs indemnification and assumption of risks and liability during retention of title by the USG regardless of the mode of transportation.
- c. Any incurred transportation-related costs that are not covered by rates for Delivery Term Code 7 (i.e., below-the-line transportation costs), will be charged as a service line on the LOA document (i.e., above-the-line costs), and billed to the Purchaser. These costs may include, but are not limited to, charges for movement of the FMS materiel to/from a secure temporary storage location at a transit point, special documentation requirements for cargo clearance, special clearance requirements associated with a movement of hazardous materiel, security personnel required to accompany the shipment, packing, crating, or otherwise preparing the defense articles for shipment or other unanticipated charges.