



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

17 JUN 2015

MEMORANDUM FOR DEPUTY UNDER SECRETARY OF THE AIR FORCE FOR
INTERNATIONAL AFFAIRS
DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR
DEFENSE EXPORTS AND COOPERATION
DEPUTY ASSISTANT SECRETARY OF THE NAVY FOR
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AND ACCOUNTING SERVICE-INDIANAPOLIS OPERATIONS
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DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, MISSILE DEFENSE AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE
AGENCY
DEPUTY DIRECTOR FOR INFORMATION ASSURANCE,
NATIONAL SECURITY AGENCY

SUBJECT: Foreign Military Sales (FMS) Advisory for European Union (EU) Regulation (EC) No. 1907/2006, as amended, on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), DSCA Policy 15-19

This memorandum serves as an advisory to the Security Cooperation community on how to respond to EU FMS purchaser requests for REACH compliance information regarding defense articles being sold on FMS cases or requests for REACH compliant defense articles.

REACH is a 2006 EU Regulation that restricts the import of chemical substances into the EU that may cause very serious effects on human health and the environment as identified on the EU "Candidate List of Substances of Very High Concern." The REACH regulation also contains a list of restricted items that may limit or ban the use of a chemical for a particular purpose.

EU member purchasers import FMS defense articles into the EU. The U.S. Government is not the importer and is not responsible for demonstrating the compliance of FMS defense articles with REACH. It is possible that FMS purchaser failure to comply with REACH requirements may result in frustrated cargo. The U.S. Government will not provide assurance or certification of REACH compliance as this may implicate the U.S. Government in any instance of the purchaser's non-compliance.


Implementing Agencies should understand that the importer will have obligations under REACH and therefore should seek to accommodate EU purchaser requirements for data

identified in the Letter of Request (LOR) that will support the importers' requirement to meet their obligations under REACH. Providing such information is not within the Standard Level of Service.

Requests for specific information related to REACH about defense articles being sold through FMS must be submitted in an LOR so that the appropriate requirement can be included in customer-funded FMS contracts between the U.S. Government and the defense article manufacturer. When the LOR is for a sale from U.S. Government stock and includes a REACH information request, the sales price needs to reflect costs of developing REACH data.

Any LOR requesting REACH related information must, at a minimum, specify chemical substance information and data control requirements, to include instructions for protecting country-specific data.

Implementing Agencies are to advise DSCA/STR/SPI of instances in which REACH compliant defense articles or REACH related information is requested in conjunction with an FMS purchase, as well as any indication that FMS cargo may be or has been frustrated over questions relating to REACH compliance. For questions regarding this advisory, contact Ms. Michelle Davis, DSCA/STR/SPI, (703) 601-3843, email: michelle.davis@dscamil.



J. W. Rixey
Vice Admiral, USN
Director

cc:

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