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MEMORANDUM FOR DEPUTY UNDER SECRETARY OF THE AIR FORCE FOR
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EXPORTS AND COOPERATION
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ADMINISTRATION

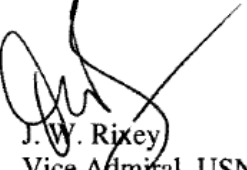
SUBJECT: Revision of Security Assistance Management Manual Chapter 4 Regarding Foreign Military Sales-Only Designations, DSCA Policy 16-51 [SAMM E-Change 325]

The Department of State, working closely with the Defense Security Cooperation Agency (DSCA), Defense Technology Security Administration (DTSA), and U.S. Military Services, has developed a formalized list of U.S. defense articles which must be generally sold via the Foreign Military Sales (FMS) system. The objective is to provide greater clarity and consistency on such determinations for the U.S. Government, U.S. industry, and foreign partner stakeholders. While the detailed FMS-Only List itself is classified, relevant unclassified information identifying categories of defense articles that are most likely to be on the FMS-Only List are being added to Security Assistance Management Manual (SAMM) Chapter 4, Section 3.5 as indicated in the attached revision.

The FMS-Only list is not designed to limit transfers of defense articles and services executed under Direct Commercial Sales contracts. Renewed rigor is being placed on the process of authenticating defense articles being considered as available FMS-Only. This will provide more opportunities for our partners to purchase items as Direct Commercial Sales, but does not prohibit them from pursuing a sale via FMS if it meets their overall capability

requirements. The FMS-Only list appropriately balances the need to protect our most sensitive defense technology with remaining responsive to our partners' needs. The U.S. Military Services, DSCA, DTSA, and the Department of State all have roles in establishing, maintaining, and reviewing the list. DSCA will maintain the list and update it as required with Department of State approval. Formally establishing the FMS-Only list and being more transparent about its development and maintenance will inform critical conversations that may otherwise take significant time.

For any questions regarding SAMM policy, please contact Mr. Mike Slack DSCA/STR/SPI, at (703) 697-9058 or micheal.d.slack.civ@mail.mil.



J. W. Rixey
Vice Admiral, USN
Director

Attachments:
As stated

cc:

USAFRICOM
USCENTCOM
USEUCOM
USNORTHCOM
USSOUTHCOM
USPACOM
USTRANSCOM
USSOCOM
STATE/PM-RSAT
USASAC
SATFA
TRADOC
NAVSUPWSS
NETSAFA
AFSAC
AFSAT
DISCS
MARCORIP
SCETC
USCG International Affairs (G-CI)

Update of Security Assistance Management Manual (SAMM) Chapter 4 Regarding FMS-Only Determinations, E-Change 325

1. Replace current Section C4.3.5. with the following revised text:

C4.3.5. FMS-Only Determinations. The AECA gives the President discretion to designate which military end-items must be sold exclusively through FMS channels. This discretion is delegated under statutory authority to the Secretary of State. Generally, as a matter of policy, this discretion is exercised upon the recommendation of DoD.

C4.3.5.1. DoS approves or disapproves all arms sales and is responsible for the continuous supervision and general direction of all sales. Each MILDEP or DoD Component develops recommendations for FMS-Only designations on specific weapons systems and military technologies considering the criteria in [Sections C4.3.5.3. and C4.3.5.4.](#) The MILDEP or DoD Component forwards related recommendations and rationales for adding or removing such FMS-Only systems designations to DSCA (Strategy Directorate, Weapons Division) and DTSA. DSCA will provide such recommendations to DoS for its review and approval/disapproval. Through the export licensing process for Direct Commercial Sales (DCS), overseen by the Directorate of Defense Trade Controls at DoS, DTSA will review licensing requests to ensure license requests are consistent with FMS-only designations. Requests for further assistance with FMS-Only designations should be directed to DSCA (Strategy Directorate, Weapons Division) for reconciliation or referral to the appropriate DoD element for resolution.

C4.3.5.2. FMS Only List: The key purpose of this list and related USG processes is the codification and more consistent application of the USG requirement that certain military items be sold only on a government-to-government basis. The following is a listing of military capabilities and systems by general category that the USG broadly considers to be available for export solely on an FMS-Only basis. Inclusion of items on the below list should not be construed as a change to policy as it exists as of September 2016.

- Select Radars: such as but not limited to AESA, Ballistic Missile Defense, and High-Frequency Phased Array Microwave
- Air-to-Air Missiles
- Attack Helicopters
- Autonomous Weapons Systems
- Ballistic Missile Defense Items: Effectors; Firing Units; Software
- Special Purpose Aircraft Items
- Counter Improvised Explosive Device Items
- Cross Domain Solutions (involving critical U.S. systems)
- Directed Energy Weapons
- Fighter Aircraft
- Ground Based Air Defense Items

- Infrared Countermeasures
- Intelligence Libraries/Threat Data
- LADAR/LIDAR
- Man-Portable Air Defense Items
- Military Aerosol Delivery Systems
- Missiles
- Mission Equipment/Systems
- Mission Planning Systems
- Missile Technology Control Regime CAT I Items
- GPS/PPS (Allowances made for certain DCS transfers remain in effect)
- Nuclear Weapons/Nuclear Propulsion
- Select Electronic Warfare Items
- Select Sensor Fusion Man-Portable Night Vision Devices
- Sensor Fused Weapons
- Stand Off Weapons
- Sonar
- COMSEC
- Select Torpedoes
- Torpedo Countermeasures
- Anti-Ship Cruise Missile Countermeasures
- Unmanned Aerial Systems and related components

C4.3.5.3. DoS uses four general criteria to determine whether a sale should be required to proceed through the FMS process: Legislative/Presidential restrictions; DoD/MILDEP policy, directive, or regulatory requirement, e.g., the National Disclosure Policy; government-to-government agreement requirements; and interoperability/safety requirements for U.S. Forces.

C4.3.5.4. These DoS criteria, also outlined under DoD/MILDEP policy, can be further understood by considering four possible elements:

C4.3.5.4.1. U.S. Political-Military Relationship with the End-User. The geopolitical situation and security relationships are taken into account when considering the appropriateness of recommending FMS-Only. The inherent strengths of FMS or DCS licensing methods are also considered in selecting the method that best suits the interests of the United States and the foreign purchaser within the context of existing global security circumstances.

C4.3.5.4.2.1. To maximize the purchaser's ability to assimilate the technologies and manage its acquisition/logistics.

C4.3.5.4.2.2. For enhanced interoperability and cooperation between U.S. and purchaser's military forces.

C4.3.5.4.2.3. For end-items or services that require complex systems integration with other combat systems.

C4.3.5.4.2.4. For end-items or services that require access to sensitive U.S. government databases, libraries, or software-source code.

C4.3.5.4.2.5. For end-items or services that require EEUM or on-site accountability.

C4.3.5.4.2. Diversion and Exploitation of Defense Systems Technologies. Security of sensitive technologies requires greater scrutiny in the transfer process. Defense systems and munitions that are not particularly complex or sensitive but still require enhanced control to prevent proliferation to rogue states or terrorist organizations represent another area where FMS may be more appropriate than DCS.

C4.3.5.4.3. Feasibility of Separating Weapon System Components into FMS/DCS Elements. At times, purchasers may desire all or a portion of a sale to be DCS. In instances where possible, FMS-Only aspects of a purchase may potentially be separated from the portion that can be sold DCS.