DEFENSE SECURITY COOPERATION AGENCY
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JAN 31 2019

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 INTERNATIONAL PROGRAMS
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY
DIRECTOR FOR SECURITY ASSISTANCE, DEFENSE FINANCE AND ACCOUNTING SERVICE-INDIANAPOLIS OPERATIONS
DIRECTOR, DEFENSE INFORMATION SYSTEMS AGENCY
DIRECTOR, DEFENSE LOGISTICS AGENCY
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DIRECTOR, DEFENSE LOGISTICS AGENCY DISPOSITION SERVICES
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, MISSILE DEFENSE AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY
DEPUTY DIRECTOR FOR INFORMATION ASSURANCE, NATIONAL SECURITY AGENCY

SUBJECT: Electronic Transfer of Foreign Military Sales Case Data to U.S. Customs and Border Protection, DSCA Policy 18-62, [SAMM E-Change 411]

REFERENCE: DSCA Policy 04-34, Security Assistance Export Guidance, August 20, 2004.

In an effort to gain efficiencies and improve the export process for defense articles purchased through Foreign Military (Sales), the Defense Security Cooperation Agency (DSCA), in coordination with U.S. Customs and Border Patrol (CBP), has automated the transfer of Foreign Military Sales (FMS) case data to CBP for export purposes. The Security Cooperation Information Portal will now automatically transmit required data to CBP. As a result, CBP no longer requires physical copies of the FMS basic Letter of Offer and Acceptance, Amendment, and/or Modification or the Department of State Form DSP-94 prior to the export or temporary import of FMS articles. Physical copies of FMS case documents may be used in exceptional circumstances, as approved or requested by CBP.

Exporters must continue to report to CBP the Electronic Export Information (EEI) for defense articles purchased through Foreign Military Sales (FMS) in the Automated Export System (AES) prior to export. Transportation Plans for classified materiel will continue to be provided to CBP in accordance with § 126.6 of the International Traffic in Arms Regulations (ITAR).

CBP will retain all information regarding any import or export, including decrementations against the exportable value. Shipments for cases not properly decremented will be held until the EEI submission in AES is corrected, consistent with existing processes. The FMS country and its designated freight forwarder, or the Implementing Agency, will remain responsible for all FMS case import and export recordkeeping in accordance with ITAR § 123.26. If there are questions regarding the exportable value of a specific case, please contact CBP officers at the port prior to shipment. DSCA will work with CBP to ensure the remaining exportable value is made available at the Security Cooperation Information Portal in the future.

This policy memorandum supersedes DSCA Policy Memo 04-34, Security Assistance Export Guidance.

Attached is updated policy guidance and additional information on the changes which will be incorporated to the SAMM as SAMM E-Change 411. U.S. Transportation Command will amend the Defense Transportation Regulations (DTR 4500.9-R) to align with this policy change. The point of contact for this guidance is Mr. Todd Hughes, DSCA/SPP/SPI, todd.w.hughes4.civ@mail.mil, (703) 697-9068.

Charles W. Hooper
Lieutenant General, USA
Director

Attachment:
As stated.

cc:
STATE/PM-RSAT
AFRICOM
CENTCOM
EUCOM
NORTHCOM
PACOM
SOCOM
SOUTHCOM
TRANSCOM
USASAC
USASAC-NC
TRADOC SATFA
NAVSUP WSS

NAVICP
NETSAFA
AFSAC
AFSAT
DISCS
DCMA
MARCOR IP
SCETC
USCG International Affairs (G-CI)
US Customs and Border Protection

Security Assistance Management Manual (SAMM), E-Change 411

1. Replace Section C7.17. with the following:

C7.17. Export Requirements. The export of defense articles must comply with the International Traffic in Arms Regulations (ITAR). Materiel transferred to foreign partners through Foreign Military Sales (FMS) is generally exempt from specific licensing requirements. Consistent with 15 CFR 734.3(b)(vi), items that are sold, leased, or loaned by the Department of Defense to a foreign country or international organization under FMS pursuant to a Letter of Offer and Acceptance (LOA) are not subject to the Export Administration Regulations, but rather the Arms Export Control Act and the ITAR.

C7.17.1. ITAR Exemptions for FMS. FMS shipments do not require a license when all conditions of ITAR Section 126.6(a) or Section 126.6(c) can be met. Table C7.T8. provides individual shipment-level requirements when using the ITAR 126.6(a) and 126.6(c) exemptions.

C7.17.1.1. ITAR Section 126.6(a) applies to Defense Transportation System shipments using USG-owned (organic) assets, DoD-contracted commercial resources, or shipments exported on military aircraft or naval vessel of the recipient foreign government or international organization.

C7.17.1.2. ITAR Section 126.6(c) applies to shipments arranged by FMS freight forwarders. Any freight forwarder using the ITAR exemption in Section 126.6(c) must meet the requirements identified in Section C7.5.

C7.17.2. Transportation Plans. Any exports of classified hardware and/or related technical data must have a detailed Transportation Plan in accordance with Section C7.13. The exporter shall provide an electronic copy of the Transportation Plan to CBP, generally by email, at the port where the FMS materiel is being loaded on the conveyance. If electronic reporting of such information is unavailable, contact CBP at the port where the classified materiel will be exported for specific instructions.

2. Replace Table C7.T8. with the following:

Table C7.T8. Individual Shipment-Level Requirements for Export

#	Requirements
1	Electronic Export Information (EEI) on each shipment of hardware, whether classified or unclassified, must be reported to Customs and Border Protection (CBP) using the Automated Export System (AES). Shipments of technical data or services must comply with ITAR Section 123.22(b)(3) and cite the FMS case identifier. a. For DTS shipments, the DoD entity that is arranging DTS transportation is the exporter and must file the EEI in AES. b. For freight forwarder arranged shipments, the freight forwarder is the exporter and responsible for filing the EEI in AES. Foreign purchasers acting as their own

#	Requirements
	freight forwarder are responsible for filing the EEI in AES.
2	If items from multiple FMS cases are included in the same shipment, the exporter must file a separate AES entry for each individual FMS case being decremented.
3	Invoices and shipping documentation (see Section C7.6.5 for examples) must be annotated to include the following: a. For DTS shipments, "This shipment is authorized for export pursuant to 22 CFR 126.6(a), under FMS case [insert case identifier]. The U.S. Government point of contact is _____, telephone _____." b. For Freight Forwarder shipments or shipments exported directly by the recipient foreign government, "This shipment is authorized for export pursuant to 22 CFR 126.6(c), under FMS case [insert case identifier]. The U.S. Government point of contact is _____, telephone _____."
4	CBP will decrement a shipment only after export information has been filed correctly using AES. As part of the AES filing, the exporter must provide the Internal Transaction Number (ITN) to CBP. The ITN is generated by AES as the system acceptance of the data submitted. The ITN data has successfully passed a series of basic edits and must be included on shipment documentation.
5	Export information for all shipments must be filed electronically in AES in accordance with the timelines established in 22 CFR 123.22(b). a. By air and truck, at least 8 hours prior to departure from the United States. b. By sea and rail, at least 24 hours prior to loading aboard ship at the port of exit.
6	The exportable value is based on the net value of all hardware and software provided on specific lines in the case. The exportable value of the case does not include accessorials or services. If there are questions about the exportable value on a case, please contact CBP officers at the port prior to shipment.
7	The EEI submission will decrement the case in CBP's systems. If the case is not decremented by the EEI, the shipment will be held until the EEI is corrected and the issue is resolved. Shipments in excess of the net case value are in violation of the export authorization and will be stopped and/or seized.

3. Delete Tables C7.T9. and C7.T10.
4. Renumber Figures in Chapters 7 accordingly.
5. Replace Section C7.6.3.3.1. with the following:

   C7.6.3.3.1. An additional statement must be placed with the shipping documentation that will accompany the shipment to the port. Information must be presented to the Customs and Border Protection officers by the transportation provider as follows: "This shipment is

authorized for export pursuant to 22 CFR 126.6.(c), under FMS Case [insert case identification]. The USG point of contact is ____, telephone number ____." The USG point of contact must be someone who has knowledge of the materiel included in the shipment, such as the Case Manager at the Implementing Agency.

6. Delete "DSP-94" in Table C2.T1. Line #3.

7. Replace Section C3.3.3.1. with the following:

   C3.3.3.1. Export Requirements for DoD-Sponsored Shipments. Exports are conducted pursuant to ITAR, Part 126. When classified materiel is involved, a Transportation Plan is required in accordance with ITAR, Part 126.6(c)(6). See Chapter 7 for procedures. Exports of FMS materiel through the Defense Transportation System (DTS) require entry of the electronic export information (EEI) into the Automated Export System (AES). If a continental United States (CONUS)-located shipping activity offers shipments directly to commercial air carriers for lift to a purchaser's country, it may be necessary for the shipper to prepare the EEI to enable the materiel to depart CONUS. Item 16 in the EEI must contain "M"s to identify the materiel as FMS exports. The Census Bureau maintains a web page and customer assistance phone number to assist shippers with EEI preparation.

8. Replace Section C3.3.3.4.1. with the following:

   C3.3.3.4.1. Export License Requirements for Purchaser-Sponsored Shipments. An export license is not required when FMS materiel is transferred to the purchaser within the United States; however, Customs and Border Protection (CBP) must have currently implemented data for Letters of Offer and Acceptance (LOA), including all Amendments or Modifications, prior to export of these shipments. This information is provided electronically by DSCA's Security Cooperation Information Portal (SCIP) to CBP. A license is not required, but the purchaser must file Electronic Export Information (EEI) at the time of export in the Automated Export System (AES). Table C7.T1. outlines responsibilities for FMS purchasers and FMS freight forwarders. To export materiel, a freight forwarder must meet the requirements identified in Section C7.5. If a foreign purchaser acts as its own freight forwarder, it must register with DDTC and file a statement that it will comply with the ITAR. If the materiel involves classified articles or data, a Transportation Plan is required. See 22 CFR 126.6 and Chapter 7 for requirements.

9. Replace Section C3.3.3.4.4. with the following:

   C3.3.3.4.4. Purchaser-Sponsored Shipments of Classified FMS Materiel. If a purchasing country proposes to take possession of classified defense articles purchased under the FMS program within the United States, it may still use the export exemptions in 22 CFR 126.6.

10. Replace Section C3.3.4.2. with the following:

    C3.3.4.2. Temporary Import of Classified Defense Articles. Unless otherwise exempted by 22 CFR 126.6, classified defense articles being temporarily imported and subsequently re-exported from the United States must be accompanied by ITAR Form DSP-85.

11. Delete ESAMM Form Listing for DoS DSP-94.

12. Delete ESAMM Glossary for DSP-94.

13. Delete ESAMM Reference for Form DoS DSP-94.