



DEFENSE SECURITY COOPERATION AGENCY

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

24 APR 2024

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

SUBJECT: Defense Security Cooperation Agency Policy Memorandum 24-29, 36(b)
Congressional Notification Update [Security Assistance Management Manual
E-Change 483]

Reference: (a) Defense Security Cooperation Agency Security Assistance Management Manual

This memorandum updates Chapter 5 of the Defense Security Cooperation Agency (DSCA) Security Assistance Management Manual (SAMM) regarding 36(b) congressional notifications (CNs) for major arms sales to reflect current policies and procedures and to provide revised templates. This update further modifies other SAMM paragraphs in Chapter 4, Chapter 8, Chapter 9, and Appendix 5 to align with the updates to Chapter 5.

This memorandum is effective immediately. The policy in the attachment is incorporated into the SAMM at <https://samm.dsca.mil> as SAMM E-Change 483. If you have any questions concerning this guidance, please contact Mr. Neil Hedlund at neil.g.hedlund.civ@mail.mil or 703-697-9214. For questions relating to the SAMM, please contact Mr. Jason Evans at jason.l.evans8.civ@mail.mil or 703-697-2661.

A handwritten signature in black ink, reading "James A. Hursch", is positioned above the printed name and title.

James A. Hursch
Director

Attachment:

- SAMM E-Change 483 - Updates to C5.5. Congressional Notification

Security Assistance Management Manual E-Change 483 - Updates to C5.5. Congressional Notification

1. Replace the existing SAMM Section “C5.5. Congressional Notification” with the following:

C5.5. Congressional Notification – Arms Export Control Act 36(b) for Security Assistance Programs.

C5.5.1. Definition and Purpose. The Arms Export Control Act (AECA), Section 36(b) ([22 U.S.C. 2776\(b\)](#)), requires a numbered certification be submitted to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives (HFAC), and the chairman of the Committee on Foreign Relations of the Senate (SFRC) before Letter of Offer and Acceptance (LOA) documents that meet specific criteria may be offered to foreign purchasers. Congress reviews each such proposed sale and may prohibit the transfer by enacting a joint resolution before the end of the prescribed review period. If Congress does not enact a joint resolution, the LOA document may be offered when the review period expires.

The SAMM, Chapter 5, uses “36(b) congressional notifications” to refer to all three types of numbered certifications described in the AECA, Section 36(b). When differences exist in the handling of Section 36(b)(1), 36(b)(5)(A), and 36(b)(5)(C) congressional notifications (CNs), these differences are specifically identified below.

C5.5.2. Legal References. Table C5.T12. summarizes the 36(b) CN legal references.

Table C5.T12. 36(b) Congressional Notification Legislation

Legislation	Subject
AECA, Section 36(b)(1) (22 U.S.C. 2776(b)(1))	Notification Criteria, Content, Classification, Offset Arrangements, and Emergency Notification
AECA, Section 36(b)(2) (22 U.S.C. 2776(b)(2)) - AECA, Section 36(b)(3) (22 U.S.C. 2776(b)(3))	Joint Resolutions of Disapproval
AECA, Section 36(b)(5)(A) (22 U.S.C. 2776(b)(5)(A))	Sensitivity of Technology Enhancement/Upgrade – Report
AECA, Section 36(b)(5)(C) (22 U.S.C. 2776(b)(5)(C))	Sensitivity of Technology Enhancement/Upgrade – New Notification
AECA, Section 36(b)(6) (22 U.S.C. 2776(b)(6))	Notification Thresholds for North Atlantic Treaty Organization (NATO) Countries, Australia, Israel, Japan, Republic of Korea, and New Zealand
AECA, Section 36(f) (22 U.S.C. 2776(f))	Federal Register Publication

Legislation	Subject
AECA, Section 36(h) (22 U.S.C. 2776(h))	Qualitative Military Edge (QME) Determination
AECA, Section 36(i) (22 U.S.C. 2776(i))	Request for Notification of Shipment of Arms
Foreign Assistance Act (FAA), Section 620C(d) (22 U.S.C. 2373)	Sales to Greece or Republic of Türkiye

C5.5.3. 36(b) Congressional Notification Requirements. An LOA, including Amendments and Modifications, may not be offered to a purchaser until all required CNs have been made and the formal notification periods have expired (if applicable).

C5.5.3.1. 36(b)(1) Congressional Notifications. By law, a 36(b)(1) CN is required when an LOA meets or exceeds one of the thresholds identified in Table C5.T13. These thresholds vary by purchaser. A 36(b)(1) CN is also required if an LOA Amendment or Modification would increase the Major Defense Equipment (MDE) value or the total case value such that it would meet or exceed the thresholds in Table C5.T13. and Congress has not been notified of the sale previously. See Section C5.5.3.2. for LOA Amendments and Modifications to cases that have already been notified to Congress.

Table C5.T13. Thresholds for 36(b) Congressional Notification

	North Atlantic Treaty Organization Countries, Australia, Israel, Japan, Republic of Korea, New Zealand	All Other Countries, North Atlantic Treaty Organization Organizations, All Other International Organizations
Major Defense Equipment	\$25M	\$14M
Any Articles, Services, or Both (Total Case Value)	\$100M	\$50M
Design and Construction Services	\$300M	\$200M

C5.5.3.2. Amendments to 36(b)(1) Congressional Notifications – Sensitivity of Technology or Capability Enhancements or Upgrades. 36(b)(5)(A) and 36(b)(5)(C) CNs modify existing 36(b)(1) CNs. A 36(b)(5)(A) or 36(b)(5)(C) CN is required when an LOA Amendment or Modification will enhance or upgrade the sensitivity of technology or the capability of the article, equipment, or service from the level of sensitivity or capability described in the previous CN. Increases of capability, addition of MDE items, increases in MDE quantity, and any other changes that would cause the previously notified total value to be exceeded are considered enhancements or upgrades. The total value of the enhancement or upgrade determines whether a 36(b)(5)(A) or 36(b)(5)(C) CN is required.

C5.5.3.2.1. 36(b)(5)(A) Congressional Notifications. A 36(b)(5)(A) CN (described as a “report” in the AECA, Section 36(b)(5)(A)) is required when the total value of the enhancement or upgrade is less than the thresholds identified in Table C5.T13.

C5.5.3.2.2. 36(b)(5)(C) Congressional Notifications. A 36(b)(5)(C) CN is required when the total value of the enhancement or upgrade is equal to or greater than the thresholds identified in Table C5.T13.

C5.5.3.3. Congressional Notifications and Letters of Offer and Acceptance. Multiple LOAs can reference a single CN, provided they do not in total exceed the MDE quantities and dollar value remaining on the CN. Each LOA, Amendment, and Modification may only reference one Section 36(b)(1) CN, in addition to any 36(b)(5)(A) and 36(b)(5)(C) amendments to that same 36(b)(1), if applicable.

C5.5.4. Responsibilities for 36(b) Congressional Notification. Under Executive Order (E.O.) 13637, the President has delegated the responsibility of implementing AECA Section 36(b) to the Secretary of Defense in consultation with the Secretary of State. CN responsibilities are summarized in Table C5.T14.

Table C5.T14. 36(b) Congressional Notification Responsibilities

Organization	Responsibilities
Implementing Agencies (IAs)	<ul style="list-style-type: none"> • Prepare initial notification package and provide necessary supporting information to DSCA. • Concurrently process any required Technology Security and Foreign Disclosure (TSFD) approvals.
DSCA	<ul style="list-style-type: none"> • Reviews and performs quality control/quality assurance on CN packages. • Coordinates CN packages within the DoD and submits to the Department of State (State) for approval. • Submits formal CN to Congress after State authorization.
Department of State, Bureau of Political-Military Affairs (PM)	<ul style="list-style-type: none"> • Consults with the DoD on CNs. • Prepares <u>FAA, Section 620C</u> certifications on Greece and the Republic of Türkiye, if required. • Prepares QME determination, if required. • Coordinates with the National Security Council (NSC), if required. • State PM evaluates proposed sale with regard to the President’s Conventional Arms Transfer (CAT) Policy, including with reference to support for foreign policy goals, regional stability, consistency with international agreements, and arms control initiatives. • Conducts informal coordination with the committees of jurisdiction via the State Tiered Review process. • Authorizes DSCA to provide formal notifications to Congress pursuant to AECA 36(b).
Congress	<ul style="list-style-type: none"> • Reviews CNs. • May prohibit the offering of articles, services, or both to a purchaser by passing, over Presidential veto if necessary, a joint resolution of disapproval in response to a CN.

Organization	Responsibilities
	<ul style="list-style-type: none"> • May request additional information.

C5.5.5. 36(b) Congressional Notification Packages. The IA is responsible for preparing the initial notification package for submission to DSCA. This section describes the information the IA must include in the initial notification package submission.

C5.5.5.1. General Requirements. Classification and cost estimate requirements apply to all 36(b) CNs.

C5.5.5.1.1. Unclassified Congressional Notifications. To the greatest extent possible, CNs should be unclassified. All documents and correspondence related to a CN that has not been formally notified must be marked in accordance with Section C5.5.5.1.1.1. Unclassified CNs should be submitted to the DSCA CN team via the Non-classified Internet Protocol Router Network (NIPRNET).

C5.5.5.1.1.1. Handling Prior to Notification. All CN documentation should be marked with and handled as Controlled Unclassified Information (CUI) and “PRE-DECISIONAL” until the CN is formally notified to Congress, unless specifically directed otherwise by DSCA or State PM. See Sections C5.5.5.1.1.3., C5.5.5.1.1.4., and C5.5.5.1.2. for notification documentation that requires classified handling.

Note: The previous SAMM process requiring Confidential handling of all unclassified Congressional Notifications prior to State providing its approval to handle at the For Official Use Only (FOUO) level no longer applies, except in rare circumstances (see Section C5.5.5.1.1.4.). Country masking codes are no longer required for initial LOA processing, except in the situations described in Section C5.5.5.1.1.4.

C5.5.5.1.1.2. Public Information. Following formal notification, the full text of the unclassified CN is published in the Congressional Record, which is available to the public online. With the exception of classified notifications and classified annexes, the full texts of 36(b)(1) and 36(b)(5)(C) CNs are also posted for the public in the Federal Register after notification and the details of 36(b)(1) notifications are published in News Releases on the [DSCA website](#). Therefore, unclassified CN documents may not contain any CUI, FOUO, unclassified information not authorized for public release, or classified information.

C5.5.5.1.1.3. Classified Attachments. If classified data or attachments (e.g., Country Team Assessments (CTAs), Combatant Command (CCMD) endorsements, QME determinations, Offset Certificates) are necessary to support a notification, those portions should be kept on pages separate from the rest of the draft unclassified notification. Classified attachments should be marked with the required level of classification, each paragraph should be portion marked with the required classification level, and the derivative authority “classified by” and “declassify on” data must be shown in the document footer. Classified attachments should be submitted via Secret Internet Protocol Router Network (SIPRNET) to the DSCA CN team concurrently with the unclassified package.

C5.5.5.1.1.4. Sensitive Congressional Notifications. In rare instances, DSCA (Office of International Operations (IOPS), DSCA Office of International Operations, Global Execution

Directorate (IOPS/GEX)) or State may identify a draft response to an unclassified Letter of Request (LOR) as politically sensitive and request that it be handled as Confidential until State grants CUI handling approval. If it is determined that an unclassified case requires Confidential handling, any draft USG response document (specifically, the LOA, 36(b) notification, and nonrecurring cost (NC) recoupment waiver) that relates the country to the case details is handled as Confidential until DSCA notifies the IA that State has authorized either CUI handling or unclassified formal notification to Congress. IAs must maintain internal procedures to ensure these documents are handled appropriately. It is the sum of the parts (in particular one or more of the purchaser, system, quantity, and value) that, in the context of their inclusion in a formal USG response document, is handled as Confidential. The individual parts, if unclassified in the LOR, remain unclassified and can be discussed in an unclassified environment provided they are not associated with a USG response that has not yet been formally notified. The following procedures must be used:

C5.5.5.1.1.4.1. Initial Entry into Defense Security Assistance Management System. LOA documents for unclassified cases requiring Confidential handling will be entered into Defense Security Assistance Management System (DSAMS) with a case identifier using a “masked” country code (e.g., “XX”) to ensure the prospective purchaser is not identified. This identifier is used to enter unclassified case information, including item descriptions, into DSAMS. Using the masked case identifier allows most of the case information to be entered and helps case developers continue their work prior to the notification. The purchaser cannot be named in the notes or other supporting data to ensure the information remains unclassified. The user must use caution when entering data under a masked country code. Many pricing waivers and restrictions are programmed in DSAMS under each specific country. When a masked country code is used, these waivers are not applied automatically, and the user must apply them individually as appropriate. The application of specific pricing within DSAMS could reveal the purchaser (e.g., entering a specific waiver percentage for Contract Administrative Services (CAS) could identify a list of potential purchasers). In these instances, the pricing is done separately and only a total price for the line should be entered.

C5.5.5.1.1.4.2. Congressional Notification Package Submittal to the Defense Security Cooperation Agency. If Confidential handling is required and none of the data or attachments is classified for other reasons, all CN documents should be marked “CONFIDENTIAL” with all paragraphs preceded by the portion marking “(U)” and submitted to DSCA on SIPRNET, using the procedures identified in Section C5.5.5.1.2. The bottom of the first page of each submittal should state: “Declassify On Statutory Notification To Congress Unless Required Otherwise By Competent Authority.”

Note: A statement at the bottom of the first page should include a reason for classification (e.g., Pre-decisional pending State downgrade or declassification) and its authorization for declassification, as well as compliance with other marking requirements, including DoD component, office, and date of origin.

C5.5.5.1.1.4.3. Handling Determination and Procedures. If State approves CUI handling, DSCA (IOPS/GEX) will enter the FOUO milestone into DSAMS, allowing DSAMS to be updated with the actual country code and prompting the inclusion of an FOUO header and footer on LOA documents until the formal notification is made. If CUI handling is not approved, the milestone will not permit the actual country code to be entered prior to the unclassified formal

notification to Congress. In either event, upon entry of the actual country code, the remaining case information may be entered. Pricing that was not entered into the system to protect the classification is entered into DSAMS at this time.

Note: DSCA (IOPS/GEX) is working with DSCA (Office of Business Operations, Information Management and Technology Directorate (OBO/IMT)) on DSAMS changes to use CUI markings for the DSAMS milestone and other documents instead of FOUO. Once updated, the SAMM will be amended to remove the FOUO reference for this section.

C5.5.5.1.2. Classified Congressional Notifications. The AECA, in Section 36(b)(1), 36(f), and 36(i), allows for classified CNs if the public disclosure of the CN would be detrimental to the security of the United States. All classified CNs must be accompanied by a description of the damage to U.S. national security that could be expected to result from public disclosure of the information. Decisions to classify CNs will only be granted on exceptionally rare occasions. A purchaser’s request or claim of potential damage to the purchaser’s national security does not meet the legal standard to justify a classified CN. Classified CNs should be submitted to the DSCA CN team, which will solicit State approval.

C5.5.5.1.3. Cost Estimates. Rough Order of Magnitude (ROM) cost estimates and generic descriptions of the non-MDE elements of proposed sales are acceptable for processing CNs. For notification purposes, proposed sales should be developed for the maximum reasonable program scope and value to prevent the need to re-notify if the final offer should exceed the initial notification.

C5.5.5.1.4. Program Issues Impacting Sales. Prior to CN, the IA must advise DSCA ((IOPS/GEX), (IOPS), Office of International Operations, Regional Execution Directorate (IOPS/REX)), and the Country Portfolio Director (CPD)) of any program difficulties or changes that may impact or constrain the potential sale. For example, domestic program budget cuts, projected termination of domestic production contracts, unfavorable test and evaluation results, or program cost increases could have a detrimental effect on a potential sale and affect the CN process.

C5.5.5.2. Implementing Agency Cover Memorandum. The IA must submit an IA cover memorandum with each CN package. This memorandum should be signed at the general officer/flag officer/Senior Executive Service (SES) level or higher. This memorandum is for DSCA processing and is not included in the transmittal to Congress. The IA cover memorandum should contain the information listed below. Figure C5.F7. provides a template detailing all required information, the proper format, and suggested language and tips.

Figure C5.F7. Template for Implementing Agency Cover Memorandum

TEMPLATE NOTES:

1. Update all bracketed text and delete brackets.
 - a. If bracketed text begins with “SELECT,” choose only one of the provided options and delete the others.

- b. Suggested language is provided throughout the document. Confirm statements are true prior to submitting the document to DSCA. If a statement is not true, do not use it.
2. The Implementing Agency (IA) cover memo should be marked as Controlled Unclassified Information (CUI) (using the Operations Security (OPSEC) category) unless a higher classification applies. Do not mark the IA cover memo “PRE-DECISIONAL,” since this is a signed document from the IA to DSCA. If any information in this document is CUI or classified independent of the pre-notification handling process, update the header, footer, and portion markings, and submit to DSCA on the appropriate system.
3. Delete this section (including line break) before submitting.

[Date]

(U) MEMORANDUM FOR DEFENSE SECURITY COOPERATION AGENCY

ATTN: DSCA (Office of International Operations, Global Execution Directorate (IOPS/GEX))

FROM: (U) [Sending Office and Address]

SUBJECT: (U) Arms Export Control Act (AECA), [SELECT: Section 36(b)(1) Notification OR Section 36(b)(5)(A) Report OR Section 36(b)(5)(C) Notification], for case [insert case ID]

1. (U) The following supporting data is provided in accordance with the SAMM Chapter 5:
 - a. (U) Prospective Purchaser: [Country OR International Organization]
 - b. (U) Purchaser’s Reference(s), Letter of Request (LOR) Date(s), and LOR Receipt Date(s): [LOR number(s), LOR date(s), and service receipt date(s)].
 - c. (U) Foreign Military Sales (FMS) Case Designator(s): [XX-X-XXX | Note: Provide the country specific case designator; do *not* use a BPC case designator unless submitting a classified or DSCA/State designated sensitive congressional notification (CN) package].
 - d. (U) AECA, Section 36(b)(1) Transmittal Number: [XX-XX | Note: This bullet only applies to 36(b)(5)(A) and 36(b)(5)(C) packages - provide the transmittal number from the original Section 36(b)(1) notification being amended and any other previous Section 36(b)(5)(A) and 36(b)(5)(C) notifications to the original Section 36(b)(1) notification. If this cover memo is for a Section 36(b)(1) notification, delete this bullet].
 - e. (U) Delivery Timeframe: [## - ## months post-case implementation OR Fiscal Year (FY)## - FY## | Note: Provide an estimated delivery timeline for

major end items/services associated with this notification. Include quarter and calendar or fiscal year, when possible].

- f. (U) Technology Disclosure Approvals: All defense articles and/or services listed in this transmittal have been authorized for release and export to [purchaser]. [Note: Confirm this statement is true, including required Technology Security/Foreign Disclosure (TSFD), Communication Security (COMSEC), and/or Missile Technology Control Regime (MTCR) approvals].
 - g. (U) Priority Processing Request: [Note: Only include this bullet if requesting expedited processing. See Section C5.5.6.1.2. for further information on required information].
2. (U) Point(s) of contact (POCs): [Note: Include name, title, email address, and phone number. Recommend including at least one alternate].

[Signatory and signature block]

Note: Should be signed at the general officer/flag officer/Senior Executive Service level

(U) Attachments: [Note: If an attachment is not required, delete it from the list. If an attachment is classified, provide the attachment on Secret Internet Protocol Router Network (SIPRNET) concurrent with the unclassified package submission to DSCA. Note the classification of the attachments in the list].

1. (U) Transmittal document [Note: All CN packages must include a transmittal document].
2. (U) Policy Justification [Note: A Policy Justification document is only required for Section 36(b)(1) CNs. The Policy Justification may be submitted in the same Word document as the transmittal document].
3. (U) Sensitivity of Technology [Note: A Sensitivity of Technology annex is only required for Section 36(b)(1) CNs for all Major Defense Equipment (MDE) and any non-MDE article or service that is sensitive or classified. The Sensitivity of Technology annex may be submitted in the same Word document as the transmittal document].
4. (U) Original Section 36(b)(1) transmittal and any related Section 36(b)(5) (A or C) amendments. This only applies to Section 36(b)(5) (A or C) amendments.
5. (U) Country Team Assessment (CTA) [Note: See Section C5.1.4. to determine if a CTA is required].
6. (U) Combatant command (CCMD) Endorsement [Note: If the CCMD endorsement is embedded within the CTA, a separate attachment is not required. See Section C5.1.4. and Section C5.5.5.4. to determine if a CCMD endorsement is required].
7. (U) Letter(s) of Request (LOR) [Note: All CN packages must include an LOR. For Section 36(b)(5)(A) and 36(b)(5)(C) packages, attach the LOR with the request

requiring amendment or re-notification, not the LOR associated with the original Section 36(b)(1) notification].

C5.5.5.3. Country Team Assessment. The IA must include a CTA when required in accordance with Section C5.1.4. In general, CTAs must be dated within two years of the notification package submittal, unless DSCA requests a newer CTA. See Section C5.1.4. for additional information regarding CTAs. The CTA is used for processing and is not included in the transmittal to Congress.

C5.5.5.4. Combatant Command Endorsement. The IA should include a CCMD endorsement with the CTA if the sale includes the first introduction of a technology or capability to a country or region. This endorsement is used for processing and is not included in the transmittal to Congress.

C5.5.5.5. Congressional Notification Transmittal Document. The IA must submit a draft transmittal document for all 36(b) notifications. This document, along with the Policy Justification and Sensitivity of Technology (if applicable), will be delivered to Congress as the formal CN package. The transmittal format for 36(b)(1) packages differs from 36(b)(5)(A) and 36(b)(5)(C) packages. Figure C5.F8. and Figure C5.F9. provide templates detailing all required information, the proper format, and suggested language and tips.

NOTE: The AECA, Section 36(b) requires that MDE be separately identified and quantified in the transmittal document. MDE cannot be offered on an LOA or LOA Amendment if the MDE has not been identified and quantified in the associated CN. This applies to all cases requiring CN, even those for which the MDE values are below the thresholds identified in Table C5.F13. (e.g., if a notification is required due to the total case value, the IA still must provide the MDE description and identify quantities).

Figure C5.F8. Template for 36(b)(1) Transmittal Documents

TEMPLATE NOTES:

1. Update all bracketed text and delete brackets. Delete quotation marks around recommended language.
 - a. If bracketed text begins with “SELECT,” choose only one of the provided options and delete the others.
 - b. Suggested language is provided throughout the document. Confirm statements are true prior to submitting the document to DSCA. If a statement is not true, do not use it.
2. All congressional notification (CN) documentation should be marked as Controlled Unclassified Information (CUI) and “PRE-DECISIONAL” prior to notification unless a higher classification applies, in which case the documentation should be developed and transmitted over Secret Internet Protocol Router Network (SIPRNET). If any information in this document is CUI or classified independent of the pre-notification handling process, update the classification markings and include portion markings throughout the document.

3. A CUI designation indicator should be placed on the bottom right side of the first page of the transmittal document prior to the footer. The below template contains the approved CUI designation indicator for Section 36(b) CNs.
4. Formatting: Times New Roman, 12 point font, 1-inch margins, two spaces between sentences.
5. Writing guidelines: Write out all acronyms upon first usage if they will be repeated in the document, even if they are commonly abbreviated without writing them out in full (e.g., “global positioning system (GPS)”), and then subsequently use the acronym instead of writing out in full each time. Use lower case for all terms that are not proper nouns or part of official names and use serial (“Oxford”) commas if listing more than two items within each section of the list separated by a semicolon. Ensure all names and terms are used consistently across sections and documents].
6. Delete this section (including line break) before submitting.

Transmittal No. [XX-XX]

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) (U) Prospective Purchaser: Government of [Purchaser]

(ii) (U) Total Estimated Value:

Major Defense Equipment (MDE)*:	[\$##.# m/billion Note: Total MDE value]
Other:	[\$##.# m/billion Note: Total non-MDE value]
TOTAL:	[\$##.# m/billion Note: Total program value]
Funding Source:	[National Funds, Foreign Military Financing (FMF) Grant, FMF Repayable, or Unknown]

(iii) (U) Description and Quantity or Quantities of Articles and/or Services under Consideration for Purchase: [If an amendment to an existing case will bring the MDE or total case value above notification thresholds for the first time, indicate so here].

Major Defense Equipment:

[Note: List all MDE, including quantity, name, and Military Articles and Service List (MASLs). Spell out the number and provide the numeral in parenthesis. Put each MDE item on a new line. E.g.,

Quantity (##) MDE Article Name (MASL#)

Quantity (##) MDE Article Name (MASL#)

Quantity (##) MDE Article Name (MASL#]

Non- Major Defense Equipment:

The following non-MDE items will also be included: [Note: List all Significant Military Equipment (SME) items, followed by general descriptions of non-SME services and articles associated with the sale. Optional non-SME general descriptors (delete all that don't apply and add additional ones, as appropriate)]: containers; munitions; support and test equipment; aircraft and munitions; integration and test support; spare and repair parts; communications equipment; software delivery and support; Identification Friend or Foe (IFF) Equipment; facilities and construction support; publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; studies and surveys; and other related elements of logistical and program support].

(iv) (U) Military Department: [Service (Foreign Military Sales (FMS) Case Designator) | Note: Provide the country specific designator. Do not use a Building Partner Capacity (BPC) case designator unless submitting a classified or DSCA/State designated sensitive CN package].

(v) (U) Prior Related Cases, if any: [XX-X-XXX | Note: If there are prior cases, list them separated by semicolons. If there are no prior cases, state "None."]

(vi) (U) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None known [Note: If a payment, contribution, gift, commission or fee was paid, offered, or agreed to be paid, provide: the name of person who made such payment, contribution, gift, commission, or fee; the name of any sales agent or other person to whom such payment, contribution, gift, commission, or fee was paid; the date and amount of such payment, contribution, gift, commission, or fee; and a description of the sale in connection with which such payment, contribution, gift, commission, or fee was paid].

(vii) (U) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Attached Annex [Note: In the event there is NO transfer of sensitive or classified technology/information, state, "None."]

(viii) (U) Date Report Delivered to Congress: [Note: Leave blank. DSCA will insert the date prior to delivery].

*As defined in Section 47(6) of the Arms Export Control Act.

Controlled by: DSCA
Controlled by: IOPS/GEX
CUI Category: OPSEC, LMI

LDC: FEDCON
LDC: Publicly Releasable Upon Congressional
Notification
POC: DSCA/IOPS/GEX
dscn.ncr.dsa.mbx.cns@mail.mil

[Include the following language in the footer, along with classification markings: “This document contains information exempt from mandatory disclosure under the Freedom of Information Act (FOIA).”]

Figure C5.F9. Template for 36(b)(5)(A) and 36(b)(5)(C) Transmittal Documents

TEMPLATE NOTES:

1. Update all bracketed text and delete brackets. Delete quotation marks around recommended language.
 - a. If bracketed text begins with “SELECT,” choose only one of the provided options and delete the others.
 - b. Suggested language is provided throughout the document. Confirm statements are true prior to submitting the document to DSCA. If a statement is not true, do not use it.
2. All congressional notification (CN) documentation should be marked as Controlled Unclassified Information (CUI) and “PRE-DECISIONAL” prior to notification unless a higher classification applies, in which case the documentation should be developed and transmitted over Secret Internet Protocol Router Network (SIPRNET). If any information in this document is CUI or classified independent of the pre-notification handling process, update the classification markings and include portion markings throughout the document.
3. A CUI designation indicator should be placed on the bottom right side of the first page of the transmittal document prior to the footer. The below template contains the approved CUI designation indicator for Section 36(b) CNs.
4. Formatting: Times New Roman, 12-point font, 1-inch margins, two spaces between sentences.
5. Writing guidelines: Write out all acronyms upon first usage if they will be repeated in the document, even if they are commonly abbreviated without writing them out in full (e.g., “global positioning system (GPS)”), and then subsequently use the acronym instead of writing out in full each time. Use lower case for all terms that are not proper nouns or part of official names, and use serial (“Oxford”) commas if listing more than two items within each section of the list separated by a semicolon. Ensure all names and terms are used consistently across sections and documents].
6. Delete this section (including line break) before submitting.

Transmittal No. [XX-XX]

REPORT OF ENHANCEMENT OR UPGRADE OF
SENSITIVITY OF TECHNOLOGY OR
CAPABILITY (SEC. [SELECT: 36(B)(5)(A) OR 36(B)(5)(C)], AECA)

(i) (U) Purchaser: [Purchaser]

(ii) (U) Sec. 36(b)(1), Arms Export Control Act (AECA) Transmittal No.: [XX-XX |
Note: This is the transmittal number of the original Section 36(b)(1) notification].

Date: [Month DD, YYYY | Note: This is the date
the original Section 36(b)(1) CN was formally
notified to Congress].

Implementing Agency (IA): [Implementing Agency]

(iii) (U) Description: On [Month DD, YYYY], Congress was notified by congressional certification transmittal number [XX-XX] of the possible sale, under Section 36(b)(1) of the AECA, of [Note: Copy/paste the entirety of the first paragraph of the Policy Justification from the original Section 36(b)(1) notification. The text must match exactly, with two exceptions: delete the first part of the first sentence so that it is grammatically correct, and change verbs to past tense]. The total estimated value was \$##.# m/billion. Major Defense Equipment (MDE) constituted \$##.# m/billion of this total. | Note: These numbers can be found on the first page of the original Section 36(b)(1) notification under “Total Estimated Value: Major Defense Equipment.” If there was no MDE, delete the second sentence and state, “There was no Major Defense Equipment (MDE) associated with this sale.”

[Note: If there are previous Section 36(b)(5)(A) reports or 36(b)(5)(C) notifications to the original Section 36(b)(1) notification, list them here. Include all amendments to the original notification, in chronological order, creating a new paragraph for each amendment. If there are no amendments, delete this paragraph]. On [Month DD, YYYY], Congress was notified by Congressional certification transmittal number [XX-XX], under Section [36(b)___] of the Arms Export Control Act of the inclusion of [Note: Copy/paste the entirety of the paragraph(s) beginning “This transmittal reports the inclusion...” to the sentence ending, “The total case value will increase \$##.# m/billion” from the 36(b)(5)(A) or 36(b)(5)(C) amendment. The text must match exactly, with two exceptions: delete the first part of the first sentence so that it is grammatically correct, and change verbs to past tense].

This transmittal reports the addition of [Note: List all of the new MDE, including quantity, article name, and Military Articles and Service Lists (MASLs). Spell out the

number and provide the numeral in parenthesis. Separate all MDE with semicolons. E.g., Number (##) Article Name (MASL); Quantity (##) Article Name (MASL); and Quantity (##) Article Name (MASL)]. The following non-MDE items will also be included: [Note: List all new non-MDE that enhances or upgrades the capability and/or sensitivity of technology or increases the overall notification value from what was previously notified. Start with new Significant Military Equipment (SME) items, followed by general descriptions of new non-SME services and articles associated with the sale. If there are no MDE additions, change the first sentence of this paragraph to state, “This transmittal reports the addition of the following non-MDE items:” and then list the new SME and non-SME descriptors]. The total cost of the new MDE articles is \$##.# m/billion. This [SELECT: results in a net increase in cost of MDE of \$##.# m/billion, and a revised total cost for MDE of \$##.# m/billion OR does not result in a net increase in total cost of MDE. The total MDE remains \$##.# m/billion]. [Note: If there is no MDE, state, “There is no additional MDE being reported with this notification, and as such the total MDE value remains \$##.# m/billion]. The total cost of the new non-MDE articles is \$##.# m/billion. This [SELECT: results in a net increase in cost of non-MDE of \$##.# m/billion, and a revised total cost for non-MDE of \$##.# m/billion OR does not result in a net increase in total cost of non-MDE. The total non-MDE remains \$##.# m/billion]. The total case value [SELECT: increases by \$##.# m/billion, resulting in a total case value of \$##.# m/billion OR does not increase and remains \$##.# m/billion].

- (iv) (U) Significance: [Note: If this amendment includes MDE, state, “This notification is being provided because the additional MDE items were not enumerated in the original notification.”] [If this amendment includes MDE that has not been previously notified, add, “This MDE was not included in the previous notification.”] The proposed articles and/or services will support [purchaser’s] [rationale for sale].
- (v) (U) Justification: [Note: Copy/paste the second paragraph of the Policy Justification from the original Section 36(b)(1) notification that begins with, “This proposed sale...”]
- (vi) (U) Sensitivity of Technology: [Note: If this package adds items already notified in the original Section 36(b)(1) notification, then state, “The Sensitivity of Technology Statement contained in the original notification applies to items reported here.” If this package is for new items not included in the original Section 36(b)(1) notification, then provide a Sensitivity of Technology statement here. This statement should address all new MDE and any other new non-MDE article or service that is sensitive or classified. Describe the capabilities of the new items, how they are used, and the overall highest level of classification for the new defense articles, components, and services being included. Add additional paragraphs for each major end item].
- (vii) (U) Date Report Delivered to Congress: [Note: Leave this blank, DSCA will provide the date once the CN is notified].

Controlled by: DSCA
Controlled by: IOPS/GEX

CUI Category: OPSEC, LMI
LDC: FEDCON
LDC: Publicly Releasable Upon Congressional
Notification
POC: DSCA/IOPS/GEX
dscn.ncr.dsa.mbx.cns@mail.mil

[Include the following language in the footer, along with classification markings: “This document contains information exempt from mandatory disclosure under the Freedom of Information Act (FOIA).”]

C5.5.5.6. Policy Justification. The IA must submit a separate Policy Justification attachment for 36(b)(1) notifications. The Policy Justification will be delivered to Congress as part of the formal notification package. Figure C5.F10. provides a template detailing all required information, the proper format, and suggested language and tips. A separate Policy Justification document is not required for Section 36(b)(5)(A) and 36(b)(5)(C) CNs. Instead, a brief summary of the justification should be included in the transmittal document justifying what is being included in the CN amendment (see Figure C5.F9.).

Figure C5.F10. Template for Policy Justification

TEMPLATE NOTES:

1. Update all bracketed text and delete brackets. Delete quotation marks around recommended language.
 - a. If bracketed text begins with “SELECT,” choose only one of the provided options and delete the others.
 - b. Suggested language is provided throughout the document. Confirm statements are true prior to submitting the document to DSCA. If a statement is not true, do not use it.
2. All congressional notification (CN) documentation should be marked as Controlled Unclassified Information (CUI) and “PRE-DECISIONAL” prior to notification unless a higher classification applies, in which case the documentation should be developed and transmitted over Secret Internet Protocol Router Network (SIPRNET). If any information in this document is CUI or classified independent of the pre-notification handling process, update the classification markings and include portion markings throughout the document.
3. Formatting: Times New Roman, 12 point font, 1-inch margins, two spaces between sentences.
4. Writing guidelines: Write out all acronyms upon first usage if they will be repeated in the document, even if they are commonly abbreviated without writing them out in full (e.g., “global positioning system (GPS)”), and then subsequently use the acronym instead of writing out in full each time. Use lower case for all terms that are not proper nouns or part of official names, and use serial (“Oxford”) commas if listing more than

two items within each section of the list separated by a semicolon. Ensure all names and terms are used consistently across sections and documents].

5. Delete this section (including line break) before submitting.

POLICY JUSTIFICATION

(U) [Purchaser] – [Description of Sale] (underlined)

(U) The Government of [purchaser] has requested to buy [Note: Copy/paste the Major Defense Equipment (MDE) text (including quantities) from the transmittal document. Remove the line breaks and separate MDE items with semi-colons. If this is an Excess Defense Articles (EDA) sale, replace “to buy” with “the sale of Excess Defense Articles consisting of”]. The following non-MDE items will also be included: [Note: Copy/paste the non-MDE items list from the transmittal document, including Significant Military Equipment (SME). If there is no MDE, begin this section directly after, “requested to buy,” and delete, “The following non-MDE items will also be included:”]. The estimated total cost is \$##.# m/billion [Note: This should be a value identical to the total case value on the transmittal page].

(U) [Note: This paragraph is intended to show how the sale benefits the United States. Add additional sentences, if necessary]. This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a [SELECT: North Atlantic Treaty Organization (NATO) Ally; major ally; major non-NATO ally; partner country] that is a force for political stability and economic progress in [identify the region].

(U) [Note: This paragraph is intended to show how the purchaser will benefit from the sale]. The proposed sale will improve [purchaser]’s capability to meet current and future threats by [Note: Describe how the purchaser will use the defense articles and/or services associated with the CN. Add an additional sentence further describing how the purchaser will use the articles and/or services]. [Purchaser] will have no difficulty absorbing these [articles and/or services] into its armed forces.

(U) The proposed sale of this equipment and support will not alter the basic military balance in the region.

(U) The principal contractor(s) will be [Full Company Name, located in City, State Abbreviation. | Note: Identify all principal contractors. Use the city and state where the work will occur, not the corporate headquarters. If the proposed equipment for sale or transfer is from U.S. Government inventory, replace the words “The principal contractor(s) will be” with “The [item name] will be transferred from [descriptor] stock.”]. [If there are known offset requirements, state, “There are known offset requirements associated with this sale. See attached annex for further details” and provide a CONFIDENTIAL Offset Certification attachment. If there are no known offsets, SELECT (based on whether or not any offset

requirements were identified in the Letter of Request (LOR) or are known to exist): “There is no known offset agreement proposed in connection with this potential sale” OR “The purchaser typically requests offsets. Any offset agreement will be defined in negotiations between the purchaser and the contractor.”]

(U) [SELECT: Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to [purchaser]. OR Implementation of this proposed sale will require the assignment of [number (##)] additional U.S. Government and [number (##)] U.S. contractor representatives to [purchaser] for a duration of [duration in months or years] to support [what the representatives will be doing (e.g., equipment familiarization, training, etc.)]].

(U) There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

C5.5.5.7. Sensitivity of Technology. The IA must submit a Sensitivity of Technology annex for Section 36(b)(1) CNs for all MDE and any non-MDE articles, services, or both that are sensitive or classified. The Sensitivity of Technology statement will be delivered to Congress as part of the formal notification package. The Sensitivity of Technology annex describes the capability of the sensitive technology, the overall highest level of classification associated with all articles, services, or both included in a potential sale, the potential impact if an adversary were to obtain knowledge of the sensitive technology, the degree of protection the purchaser can offer, and whether or not the sale is necessary from a policy perspective, given the sensitivity of the technology. The Sensitivity of Technology annex should not address National Disclosure Policy (NDP) procedures or the foreign policy implications of unauthorized use by the proposed recipient. [Figure C5.F11](#) provides a template detailing all required information, the proper format, and suggested language and tips. A separate Sensitivity of Technology annex is not required for 36(b)(5)(A)s and 36(b)(5)(C)s. Instead, a brief summary of any changes to the Sensitivity of Technology caused by the enhancement or upgrade requiring notification should be included in the transmittal document (see [Figure C5.F9](#)).

NOTE: Per Section C5.5.5.1.1., to the greatest extent possible, all CN documents, including the Sensitivity of Technology statement, should be unclassified unless a higher classification applies. The full texts of unclassified CNs are published to the Congressional Record and the full text of unclassified 36(b)(1) and 36(b)(5)(C) CNs are published to the Federal Register per Section 36(f). Therefore, Sensitivity of Technology statements cannot contain CUI or classified information. Sensitivity of Technology statements containing classified information should be appropriately classified for separate handling.

Figure C5.F11. Template for Sensitivity of Technology

TEMPLATE NOTES:

1. Update all bracketed text and delete brackets. Delete quotation marks around recommended language.

- a. Suggested language is provided throughout the document. Confirm statements are true prior to submitting the document to DSCA. If a statement is not true, do not use it.
2. All congressional notification (CN) documentation should be marked as Controlled Unclassified Information (CUI) and “PRE-DECISIONAL” prior to notification unless a higher classification applies, in which case the documentation should be developed and transmitted over Secret Internet Protocol Router Network (SIPRNET). If any information in this document is CUI or classified independent of the pre-notification handling process, update the classification markings throughout the document. CUI information should not be included in unclassified submissions to Congress.
3. Formatting: Times New Roman, 12 point font, 1-inch margins, two spaces between sentences.
4. Writing guidelines: Write out all acronyms upon first usage if they will be repeated in the document, even if they are commonly abbreviated without writing them out in full (e.g., “global positioning system (GPS)”), and then subsequently use the acronym instead of writing out in full each time. Use lower case for all terms that are not proper nouns or part of official names, and use serial (“Oxford”) commas if listing more than two items within each section of the list separated by a semicolon. Ensure all names and terms are used consistently across sections and documents].
5. Delete this section (including line break) before submitting.

Transmittal No. [XX-XX]

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. (U) The [name of the defense article or service] is a [brief description of the item]. The [name of the defense article or service] provides [briefly describe how the item is used]. [Note: Create a new paragraph with the same information for all Major Defense Equipment (MDE) and any non-MDE article or service that is sensitive or classified].
2. (U) The highest level of classification of defense articles, components, and services included in this potential sale is [CLASSIFICATION].
3. (U) If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop

countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. (U) A determination has been made that [purchaser] can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.
5. (U) All defense articles and/or services listed in this transmittal have been authorized for release and export to the Government of [purchaser] or Foreign Military Sales (FMS) eligible organization.

[Include the following language in the footer, along with classification markings: “This document contains information exempt from mandatory disclosure under the Freedom of Information Act (FOIA).”]

C5.5.5.8. Offsets. In the Policy Justification, the IA must identify, if known, whether an offset agreement is proposed in connection with the sale. If the details of a proposed offset agreement are known, then the IA should submit an Offset Certificate. An Offset Certificate is treated as classified confidential information, pursuant to AECA, Section 36(g), ([22 U.S.C. 2776](#)). This is consistent with Section 723(c) of the Defense Production Act ([50 U.S.C. 4568\(c\)](#)) and [15 CFR 701.5](#), which provide for confidentiality of information relating to offset agreements exceeding \$5 million, and preclude the disclosure of specific information received from U.S. companies, unless the firm furnishing the information subsequently and specifically authorizes public disclosure. The Offset Certificate should be marked “CONFIDENTIAL” and remain classified even after the statutory notification is made. Figure C5.F12. provides a sample format for this information.

Figure C5.F12. Template for Offset Certificate

TEMPLATE NOTES:

1. Update all bracketed text and delete brackets.
 - a. Suggested language is provided throughout the document. Confirm statements are true prior to submitting the document to DSCA. If a statement is not true, do not use it.
2. By law, Offset Certificates must be treated as CONFIDENTIAL. If an Offset Certificate is required, build this document on Secret Internet Protocol Router Network (SIPRNET). Add “CONFIDENTIAL” header and footer classification markings and update the (*) portion markings to reflect the true classification level. Submit the certificate on SIPRNET concurrent with the initial notification package submission to DSCA on Non-classified Internet Protocol Router Network (NIPRNET).
3. Formatting: Times New Roman, 12 point font, 1-inch margins, two spaces between periods.
4. Writing guidelines: Write out all acronyms upon first usage if they will be repeated in the document, even if they are commonly abbreviated without writing them out in full (e.g., “global positioning system (GPS)”), and then subsequently use the acronym

instead of writing out in full each time. Use lower case for all terms that are not proper nouns or part of official names, and use serial (“Oxford”) commas if listing more than two items within each section of the list separated by a semicolon. Ensure all names and terms are used consistently across sections and documents].

5. Delete this section (including line break) before submitting.

OFFSET CERTIFICATE ANNEX

(U) Reporting of offset agreements in accordance with Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, requires a description of any offset agreement with respect to this proposed sale. Section 36(g) of the AECA, as amended, provides that reported information related to offset agreements be treated as confidential information. This is consistent with Section 723(c) of the Defense Production Act ([50 U.S.C. 4568\(c\)](#)) and [15 CFR 701.5](#), which provide for confidentiality of information relating to offset agreements exceeding \$5 million and preclude the disclosure of specific information received from U.S. companies, unless the firm furnishing the information subsequently and specifically authorizes public disclosure. Information about offsets for this proposed sale is provided below:

(*) [Note: Provide a general description of the proposed offset agreement with respect to the sale. Include Confidential portion marking].

(U) Section 36(g) of the AECA ([22 U.S.C. 2776](#)) requires this information to be treated as “CONFIDENTIAL INFORMATION.” This is consistent with Section 723(c) of the Defense Production Act ([50 U.S.C. 4568\(c\)](#)) and [15 CFR 701.5](#), which provide for confidentiality of information relating to certain offset agreements and preclude the disclosure of specific information received from U.S. companies, unless the firm furnishing the information subsequently specifically authorizes public disclosure. This information is exempt from disclosure under [5 U.S.C. 552](#), and shall not be published or disclosed without a determination that withholding is contrary to the national interest.

[Include the following language in the footer, along with classification markings: “This document contains information exempt from mandatory disclosure under the Freedom of Information Act (FOIA).”]

C5.5.5.9. Other Required Information (Implementing Agency Responsibility). In addition to the information required above, Congress may from time to time request further information, as described in AECA, Section 36(b). Although this information may not be required in the initial notification package, the IA should be prepared to address these areas or provide more detailed information if requested:

Table C5.T15. Other Required Information

Area	Description
1	An evaluation, prepared by the Secretary of State in consultation with the Secretary of Defense and the Director of Central Intelligence Agency (CIA), of the manner, if any, in which the proposed sale would: Contribute to an arms race, support international terrorism, increase the possibility of an outbreak or escalation of conflict, prejudice the negotiation of any arms controls, or adversely affect the arms control policy of the United States;
2	An analysis by the President of the impact of the sale on the military stocks and the military preparedness of the United States;
3	An analysis by the President of the impact of the sale on the military capabilities of the foreign country or international organization;
4	An analysis by the President of how the sale would affect the relative military strengths of countries in the region and whether other countries in the region have comparable kinds and amounts of defense articles or services, or design and construction services;
5	An estimate of the levels of trained personnel and maintenance facilities of the foreign country or international organization which are needed and available to effectively utilize the defense articles or services, or design and construction services;
6	An analysis of the extent to which comparable kinds and amounts of defense articles or services, or design and construction services are available from other countries;
7	An analysis of the impact of the sale on U.S. relations with other countries in the same region;
8	For any agreement proposed to be entered into by the United States for the purchase by the United States of equipment or services of the foreign country or international organization in connection with, or as consideration for, such LOA, a detailed description of the agreement including an analysis of the impact upon U.S. business concerns which might otherwise have provided such equipment to the United States, an estimate of the costs to be incurred by the United States compared with costs which would otherwise have been incurred, an estimate of the economic impact and unemployment which would result, and an analysis of whether such costs and domestic economic impact justify entering into the agreement;
9	A detailed description of weapons and levels of munitions that may be required as support for the sale; and

Area	Description
10	An analysis of the relationship of the proposed sale to projected procurements of the same item.

C5.5.5.10. Other Required Information (State Responsibility). In addition to the information required by the IA, some Section 36(b) CNs require additional documentation that is prepared by State.

C5.5.5.10.1. Qualitative Military Edge Determination. AECA Section 36(h) requires that the sale of defense articles, services, or both “to any country in the Middle East other than Israel shall include a determination that the sale or export of the defense articles or defense services will not adversely affect Israel’s qualitative military edge over military threats to Israel.” This requirement applies to all FMS-eligible countries participating in the Middle East Peace Initiative (MEPI): Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Tunisia, United Arab Emirates, and Yemen. State is responsible for preparing the QME determinations.

C5.5.5.10.2. Foreign Assistance Act, Section 620C Determination. The FAA, Section 620C(d) requires the President certify that security assistance to Greece and Republic of Türkiye (including arms sales) is consistent with U.S. policy regarding Cyprus, Greece, and Republic of Türkiye as articulated in Section 620C(b). State is responsible for preparing this determination.

C5.5.6. 36(b) Congressional Notification Process. This section describes the process for all Section 36(b) CNs. When differences exist between Section 36(b)(1), 36(b)(5)(A), and 36(b)(5)(C) CNs, these differences are noted in the text.

C5.5.6.1. Implementing Agencies Prepare and Submit Initial 36(b) Congressional Notification Package to the Defense Security Cooperation Agency. The IA prepares and submits the data required for a CN to DSCA (IOPS/GEX). See Section C5.5.5. for required information and templates. The IA should concurrently process required TSFD approvals while preparing the initial Section 36(b) CN package.

C5.5.6.1.1. Timelines. CNs can be a lengthy process due to the informal and statutory review times, as well as the coordination required between the IA, DSCA, other DoD offices, State, the NSC, and other non-DoD organizations. The total processing time varies by the type of CN, the purchaser involved, and the articles, services, or both being offered. DSCA recommends CNs be submitted well in advance of the anticipated offer date to ensure LOA offer is not delayed. Even when submitted well in advance of the offer date, delays can occur if appropriate technology releases are not complete, and/or if extensive interagency coordination is required.

C5.5.6.1.2. Priority Processing. If priority processing of a notification is required (e.g., because of a need to exercise contract options by a specific date, termination of a current production program), the IA must provide justification in the IA cover memorandum to DSCA (see Section C5.5.5.2. for information on IA cover memos). If DSCA determines a priority situation exists, DSCA will work with State and Congress to attempt to expedite review. Note: The Formal Notification period can be waived only if an emergency declaration is made (see Section C5.5.6.4.5.).

C5.5.6.2. The Defense Security Cooperation Agency Reviews, Coordinates, and Submits the Draft Notification to State. Upon receipt of the data, DSCA (IOPS/GEX) reviews the notification package and coordinates the package within DoD. Once DoD coordination is complete, DSCA (IOPS/GEX) officially submits the notification package to State for review and approval.

C5.5.6.3. State Informal Notification Process (“Tiered Review”). State reviews and coordinates the package with the NSC (if applicable). State then submits the package to Congress for the informal Tiered Review period. During the Tiered Review period, Congress has the opportunity to review CNs prior to formal submittal and to request further information. Although State and Congress have agreed to notional timelines for Tiered Review (See Table C5.T16.), these timelines are not binding and Tiered Review is complete only when State has completed its consultations with Congress, which is normally, but not always, defined as clearances from HFAC and SFRC Chairpersons and Ranking Members (four clearances total from State committees of jurisdiction). If all clearances are received, State may authorize DSCA to submit formal notification to Congress before the Tiered Review period is complete.

Table C5.T16. Tiered Review Periods

Tiers	Applicability	Days
Tier 1 - NATO +5	Applies to NATO Countries and Australia, Israel, Japan, the Republic of Korea, and New Zealand (unless Tier 3 circumstances apply)	20 Days
Tier 2 - Other	Applies to all other countries, NATO Organizations, and all other international organizations (unless Tier 3 circumstances apply)	30 Days
Tier 3 - Sensitive	Applies to notifications including Missile Technology Control Regime (MTCR) Category I articles or requiring a QME determination (see Section C5.5.5.10.1.). May also include, at the discretion of State PM or Congress, notifications containing other sensitive technology or notifications for the first introduction of a technology to a country or region (which may include Tier 1 countries on a case-by-case basis).	40 Days

C5.5.6.4. Formal Notification. Once Tiered Review is complete (all four clearances received), State Bureau of Political Military Affairs, Office of Regional Security and Arms Transfers (PM/RSAT) provides authorization and DSCA (IOPS/GEX) submits the formal notification to Congress. Congress has a prescribed period (Table C5.T17.) to formally review the notification and object or not object to the proposed sale.

Table C5.T17. Formal Review Periods

Purchaser	Days
NATO Countries and Organizations, Australia, Israel, Japan, the Republic of Korea, and New Zealand	15 Days
All Other Countries and International Organizations	30 Days

C5.5.6.4.1. Rules for Offering Letters of Offer and Acceptance Following Notification. For Section 36(b)(1) and 36(b)(5)(C) notifications, the final LOA cannot be offered until the congressional statutory review period elapses; however, the IA can provide a draft LOA to the purchaser once DSCA confirms the CN has been formally notified. Section 36(b)(5)(A)s may be offered immediately upon formal notification, as no statutory review period exists; however, items may not be delivered until 45 days after notification.

C5.5.6.4.2. If Congress Does Not Adopt a Joint Resolution of Disapproval During Formal Review. If Congress does not adopt a joint resolution of disapproval, the LOA document may be offered to the purchaser upon expiration of the statutory 15- or 30-day review period (for Section 36(b)(1) and 36(b)(5)(C) CNs).

C5.5.6.4.3. If Congress Adopts a Joint Resolution of Disapproval During Formal Review. If Congress adopts a joint resolution of disapproval objecting to a proposed sale (for Section 36(b)(1) and 36(b)(5)(C) CNs), the President will accept the joint resolution or veto it and allow the Senate the opportunity to override the veto. The LOA cannot be offered to the prospective purchaser until this process is complete. If the President does not veto the joint resolution of disapproval, or if Congress overrides the veto, the LOA may not be offered. DSCA (IOPS/GEX) is responsible for notifying the IA of any objections.

C5.5.6.4.4. Transmittal Numbers. DSCA assigns a transmittal number to each CN, which identifies the fiscal year and sequential number of the transmittal (e.g., 24-30). When the notification is submitted to Congress, DSCA provides the transmittal number and a copy of the CN to the IA. The transmittal number must be referenced on the LOA and in all subsequent Amendments and Modifications.

C5.5.6.4.5. Emergency Circumstances. If the President states in the CN that an emergency exists that requires the proposed sale in support of U.S. national security interests, the formal review period is waived, and the LOA may be offered immediately upon notification. The Secretary of State (under authority delegated from the President) must provide a detailed justification for his or her determination, a description of the emergency circumstances that necessitate the immediate issuance of the LOA, and the national security interests involved.

C5.5.6.5. Federal Register. Following notification, DSCA submits the full text of unclassified Section 36(b)(1) and 36(b)(5)(C) notifications to the Federal Register for publication, as required by AECA, Section 36(f). A Federal Register submittal is not required for Section 36(b)(5)(A) CNs.

C5.5.6.6. News Releases. Following notification, DSCA posts a news release for each unclassified Section 36(b)(1) CN on the [DSCA Website](#). The news release is developed primarily from the Policy Justification section of the CN.

C5.5.6.7. Period of Validity. A CN that has not resulted in any accepted LOA(s) by a foreign government remains a valid notification against which LOAs may be accepted and implemented for a period of time not to exceed five years. Once a case has been implemented against a CN, the five-year validity period does not apply. In this case, the CN remains a valid notification that can be drawn against, provided there are sufficient notified articles and dollar value remaining.

C5.5.7. Programs with Long Lead-time Items.

C5.5.7.1. An LOA can be used for long lead-time items of a program without CN of the initial LOA, provided the value of the initial LOA for long lead-time items falls below CN thresholds.

C5.5.7.2. If the remainder of the program meets the threshold for notification, a CN should be submitted prior to amending the long lead-time item LOA for the remainder of the program. The notification must include a reference to the long lead-time item LOA under “Prior Related Programs.” If the notification is disapproved, the Amendment will not be offered and the existing long lead-time item LOA will cover only costs already incurred. See Appendix 6, LOA Notes, for the applicable note that must be included in the LOA.

2. In paragraph C5.1.4., revise to include as a required element note:
 - “*Please note that Combatant Commander’s concurrence is required if this is the first introduction of this system/capability to the recipient/region. If provided separately, cite reference if available.”
3. In paragraph C5.4.10., revise the third sentence to read:
 - “Preparation of cases classified on a temporary basis in advance of a sensitive Congressional Notification is described at Section C5.5.5.1.1.4.”
4. In paragraph C5.4.10.1., revise the first sentence to read:
 - “The country must ensure LORs are marked in accordance with classification guidelines and must specify the classified data.”
5. In paragraph C8.7.5.1., revise the reference to Section C5.5 to read: “See Tables C5.T13. and C5.T16.”
6. In paragraph C9.6.3.2.4., revise the reference to Section C5.5.4. to read: “C5.5.5.1.1.4.”
7. Delete paragraph “C4.4.5.1. Classification of DoD Directive 5530.3 Coproduction Agreements” and renumber accordingly.
8. Set DSCA Policy Memo 09-37 as inactive.

9. In Table AP5.T1. report numbers 20-22 revised to read:

#	Report	Authorizing Legislation	Recipient*	Trigger	Responsible DoD Component
20	<p>Reports of proposed FMS:</p> <ul style="list-style-type: none"> a. For defense articles or services valued at \$50M or more (\$100M or more for NATO countries, Australia, Israel, Japan, the Republic of Korea, New Zealand (NATO +5), or b. For design and construction services valued at \$200M or more (\$300M or more for NATO+5 countries), or c. MDE valued at \$14M or more for NATO as an organization or any country or international organization not a member of NATO+5 (\$25M or more for NATO+5 countries). 	Sec. 36(b)(1), AECA (22 U.S.C. 2776)	SHR, SFRC, HFAC, [HAC SAC if recipient has received grant assistance in past 10 years]	15 days before issuance of an LOA to NATO organizations and NATO+5 countries, or 30 days before issuance of an LOA to other purchasers	DSCA (IOPS/GEX)
21	Report of enhancement or upgrade of capability or sensitivity of technology of items previously notified under Sec. 36(b)(1), AECA, when the value of the new requirement(s) falls below CN value thresholds	Sec. 36(b)(5)(A), AECA (22 U.S.C. 2776)	SFRC, HFAC, [HAC SAC if recipient has received grant assistance in past 10 years]	45 days before delivery of previously notified item(s)	DSCA (IOPS/GEX)
22	Notification of enhancement or upgrade of capability or sensitivity of technology of items	Sec. 36(b)(5)(C), AECA (22 U.S.C. 2776)	SHR, SFRC, HFAC, [HAC SAC if recipient has	15/30 days prior to a proposed enhancement	DSCA (IOPS/GEX)

#	Report	Authorizing Legislation	Recipient*	Trigger	Responsible DoD Component
	previously notified under Sec. 36(b)(1), AECA, when the value of the new requirement(s) meet or exceed CN value thresholds		received grant assistance in past 10 years]	or upgrade that meets 36(b)(1) thresholds	