



Department of Defense INSTRUCTION

NUMBER 4140.66
September 7, 2010

USD(P)

SUBJECT: Registration and End-Use Monitoring of Defense Articles and/or Defense Services

References: See Enclosure 1

1. PURPOSE. In accordance with the authority in DoD Directive 5111.1 (Reference (a)) and Deputy Secretary of Defense Memorandum (Reference (b)), this Instruction:

a. Reissues DoD Instruction 4140.66 (Reference (c)) to update policies, responsibilities, and procedures, in accordance with section 1228 of Public Law 110-181 and section 1225 of Public Law 111-84 (References (d) and (e), respectively), to certify the establishment of a registration and monitoring system for controlling the export and/or transfer of defense articles and/or defense services.

b. Designates the Director, Defense Security Cooperation Agency (DSCA), as the DoD lead agent responsible for:

(1) Managing and implementing the Department of Defense's Golden Sentry end-use monitoring (EUM) program.

(2) Developing, implementing, and providing oversight of the registration and monitoring policy, through EUM inspection and other means, pursuant to this Instruction.

2. APPLICABILITY. This Instruction applies to:

a. OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").

b. All DoD government-to-government transfers or exports of defense articles and/or defense services including those to the governments of Iraq, Afghanistan, and/or Pakistan and, in accordance with References (d); (e); section 644 of The Foreign Assistance Act of 1961, as

amended, (Reference (f)); and The Arms Export Control Act of 1976, as amended (Reference (g)).

3. DEFINITIONS. See Glossary.

4. POLICY. It is DoD policy that:

a. Defense articles and defense services are provided to Iraq, Afghanistan, and/or Pakistan through DoD government-to-government transfers when it is in the national security interests of the United States to do so, including in support of the conduct of effective overseas contingency operations. DoD government-to-government transfers or exports of defense articles and/or defense services to the governments of Iraq, Afghanistan, and/or Pakistan and, in accordance with References (d) and (e), to other groups, organizations, citizens, or residents of Iraq, Afghanistan, and/or Pakistan shall be subject to regulation and monitoring, as provided in References (d) and (e). References herein to Iraq, Afghanistan, and/or Pakistan are deemed to include other groups, organizations, citizens, or residents of those countries.

b. A registration and monitoring system to control transfers of defense articles and/or defense services described in References (d) and (e) shall be implemented pursuant to those references.


5. RESPONSIBILITIES. See Enclosure 2.

6. PROCEDURES. See Enclosure 3.

7. INFORMATION REQUIREMENTS. The quarterly report referred to in paragraph 3.e. of Enclosure 2 has been assigned report control symbol RCS DD-POL(Q)2334 in accordance with DoD Manual 8910.1-M (Reference (h)).

8. RELEASABILITY. UNLIMITED. This Instruction is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

9. EFFECTIVE DATE. This Instruction is effective immediately.


Michèle A. Flournoy
Under Secretary of Defense for Policy

Enclosures

1. References
2. Responsibilities
3. Procedures for Certification of Registration and Monitoring Systems for Defense Articles and Defense Services Provided to Iraq, Afghanistan, and/or Pakistan

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5111.1, "Under Secretary of Defense for Policy (USD(P)),
December 8, 1999
- (b) Deputy Secretary of Defense Memorandum, "Delegation of Authority," November 30,
2006
- (c) DoD Instruction 4140.66, "Registration and Monitoring of Defense Articles," October 15,
2009 (hereby cancelled)
- (d) Section 1228 of Public Law 110-181, "National Defense Authorization Act for Fiscal Year
2008," January 28, 2008
- (e) Section 1225 of Public Law 111-84, "National Defense Authorization Act for Fiscal Year
2010," October 28, 2009
- (f) Section 644 of the Foreign Assistance Act of 1961, as amended, (Section 2403 of title 22,
United States Code)
- (g) The Arms Export Control Act of 1976, as amended, including Sections 3 and 40A of the
Act (Chapter 39 of title 22, United States Code, including Section 2753 and 2785)
- (h) DoD Manual 8910.1-M, "Department of Defense Procedures for Management of
Information Requirements," June 30, 1998
- (i) The Atomic Energy Act of 1954, as amended, (Section 2011 et seq, title 42, United States
Code)
- (j) Part 121 of title 22, Code of Federal Regulations (also known as the "United States
Munitions List")

ENCLOSURE 2

RESPONSIBILITIES

1. DIRECTOR, DSCA. The Director, DSCA, under the authority, direction, and control of the Under Secretary of Defense for Policy, shall:

a. Manage and implement the DoD Golden Sentry EUM Program and establish EUM policy in accordance with section 2785 of title 22, United States Code (Reference (g)) and other authorities listed in this Instruction.

b. Ensure that DSCA, as the DoD lead agency, develops, implements, and enforces the defense articles and defense services registration and monitoring system, and prepares DoD submissions for the Secretary of Defense and/or the President certifying that DoD systems are compliant with this Instruction.

c. Develop guidance in collaboration with the DoD Components to ensure compliance with this Instruction.

d. Conduct a review of appropriate DoD Components to ensure consistent and proper implementation of the guidance and procedures prescribed in this Instruction.

e. Maintain liaison with the DoD Components that authorize the export or transfer of defense articles and/or defense services subject to the requirements of this Instruction.

f. Ensure that the Heads of the DoD Components who manage or administer programs that transfer or export defense articles and/or defense services subject to the requirements of this Instruction develop and implement the necessary procedures to comply with this Instruction. Component managers or administrators may include the Commander, United States Forces-Iraq (USF-I); the Commander, Combined Security Transition Command-Afghanistan (CSTC-A); the Commander, Office of Defense Representative, Pakistan (ODR-P); and follow-on commands under the authority, direction, and control of the Commander, United States Central Command (USCENTCOM) and through the Chairman of the Joint Chiefs of Staff.

g. Prepare and coordinate materials for the President or Secretary of Defense for certification to specified congressional committees of the establishment of programs as required by References (d) and (e).

h. Request and receive support from intelligence or counterintelligence agencies as necessary with respect to defense articles and defense services to be transferred to mitigate risk of illicit transfers or proliferation of military systems with sensitive technologies.

i. Ensure that any DoD Component that transfers defense articles and/or defense services to a foreign government, international organization, or any foreign entity or person pursuant to an authority other than References (d), (e), (f), and (g), either complies with end-use monitoring

guidance issued by the DoD Golden Sentry EUM Program, or annually provides information to the DoD Golden Sentry EUM Program documenting an equivalent level of post-transfer EUM programmatic oversight.

2. COMMANDER, USCENTCOM. The Commander, USCENTCOM, through the Chairman of the Joint Chiefs of Staff, and in addition to the responsibilities in section 3 of this enclosure, shall identify and commit the appropriate resources to ensure compliance with this Instruction.

3. COMMANDER, USF-I; COMMANDER, CSTC-A; COMMANDER, ODR-P; COMMANDERS OF USCENTCOM FOLLOW-ON SUBORDINATE COMMANDS; AND THE HEADS OF THE DoD COMPONENTS. The Commander, USF-I; the Commander, CSTC-A; the Commander, ODR-P; the commanders of follow-on commands under the authority, direction, and control of Commander, USCENTCOM; and the Heads of the DoD Components who manage or administer programs that transfer or export defense articles and/or defense services to Iraq, Afghanistan, and/or Pakistan shall:

a. Collaborate with the Director, DSCA, to develop and recommend updates to the policy in this Instruction.

b. Establish a registration and monitoring system for DoD government-to-government transfer or export of defense articles and/or defense services pursuant to the following transfer authorities:

(1) Iraq. Reference (d) for the transfer of all defense articles under the Iraq Security Forces Fund or any other security assistance program.

(2) Afghanistan and Pakistan. Reference (e) for the transfer of all defense articles and services pursuant to authorities other than the Arms Export Control Act or Foreign Assistance Act of 1961 and using funds made available to the Department of Defense including, but not limited to, funds made available pursuant to the Afghan Security Forces Fund and the Pakistan Counterinsurgency Fund.

c. Develop the necessary compliance plans and procedures to administer and maintain a comprehensive system of registration and monitoring of defense articles and/or defense services provided to Iraq, Afghanistan, and/or Pakistan, including maintaining auditable records sufficient to certify that the system complies with this Instruction. These plans and procedures shall include the necessary steps to ensure certain requirements are completed:

(1) The registration of the serial numbers of all small arms (as defined in the Glossary) to be provided to the governments of Iraq, Afghanistan, and/or Pakistan and/or to other groups, organizations, citizens, or residents of Iraq, Afghanistan, and/or Pakistan.

(2) An EUM program of all lethal defense articles (as defined in the Glossary) to be provided to the governments of Iraq, Afghanistan, and/or Pakistan and/or to other groups,

organizations, citizens, or residents of Iraq, Afghanistan, and/or Pakistan. Monitoring will include at a minimum formal and informal site visits (at least one facility per quarter) to evaluate the security of weapons storage facilities and procedures for issuing and securing lethal defense articles. Records of these visits shall be maintained and made available during DSCA evaluations.

(3) A detailed record of the origin, shipping, and distribution of all defense articles provided to the governments of Iraq, Afghanistan, and/or Pakistan, and/or to other groups, organizations, citizens, or residents of Iraq, Afghanistan, and/or Pakistan.

d. Provide the Director, DSCA, formal documentation through respective headquarters specifying the procedures that shall be implemented to ensure compliance with this Instruction.

e. Provide to DSCA and the Army Materiel Command's Logistics Support Activity a quarterly report (Small Arms/Lethal Items Transfer Report) with the quantities and types of all small arms and lethal items transferred to Iraq, Afghanistan, and/or Pakistan; submit these quarterly reports electronically on the last day of each quarter of the fiscal year.

(1) Programs that do not allow transfer or export of small arms or lethal defense articles are exempt from subparagraphs 2.a.(1) and 2.a.(2) of Enclosure 3 of this Instruction.

(2) In cases where no shipment is involved or the recipients within the governments of Iraq, Afghanistan, and/or Pakistan are responsible for removal and transportation of general defense articles, only a description of the origin and distribution must be captured in records.

f. Identify a point of contact to DSCA who shall be responsible to ensure compliance with this Instruction.

ENCLOSURE 3

PROCEDURES FOR CERTIFICATION OF REGISTRATION AND MONITORING
SYSTEMS FOR DEFENSE ARTICLES AND DEFENSE SERVICES PROVIDED TO IRAQ,
AFGHANISTAN, AND/OR PAKISTAN

1. NOTIFICATION

a. DSCA. DSCA shall ensure that all responsible DoD Components have established procedures that meet the requirements of the registration and monitoring system prescribed by this Instruction.

b. DoD Components. Each DoD Component point of contact shall identify to the Director, DSCA, all DoD government-to-government transfers or exports of defense articles and/or defense services to Iraq, Afghanistan, and/or Pakistan.

2. INFORMATION SUBMISSION. Each DoD Component identified by DSCA shall assemble and provide on a quarterly basis to the Director, DSCA, a complete submission with the following mandatory elements:

a. Transfer Authority. A detailed description of its transfer authority and certification that a registration and monitoring system in accordance with this Instruction has been implemented, including:

(1) The registration of the serial numbers of all small arms transferred in accordance with References (d) and (e).

(2) EUM of lethal defense articles transferred in accordance with References (d) and (e).

(3) Its process for keeping records of the origin, shipping, and distribution of all defense articles and defense services in accordance with References (d) and (e).

b. Validation Procedure. A detailed description of the validation procedure used by the DoD Component to assess system compliance with this Instruction, including preparatory steps and conditions, actual validation steps, expected results, and criteria and protocols for recording actual results.

c. Compliance Assessment. A thorough assessment of compliance as to each part of this Instruction.

d. Process Deficiencies. For any system not fully compliant with this Instruction:

(1) A detailed description of system and process deficiencies and a plan whereby the DoD Component will ensure compliance on a schedule as directed by DSCA.

(2) If compliance cannot be ensured within the schedule established by DSCA, the impact on mission performance and national security if the DoD Component cannot provide defense articles and defense services to Iraq, Afghanistan, and/or Pakistan pursuant to this Instruction.

e. General Monitoring. An assessment of compliance with sections 2753 and 2785 of Reference (g) as to general EUM.

f. Background Material. Supporting background material, system test results, and any documentation deemed relevant by the DoD Component or DSCA.

3. CONTENT. The content, format, and detail of system submissions shall be prescribed by DSCA.

GLOSSARY

DEFINITIONS

Unless otherwise noted, the following terms and their definitions are for the purpose of this Instruction.

defense article. Defense article:

Includes:

Any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war;

Any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance;

Any machinery, facility, tool, material supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in Reference (f);

Any component or part of any article listed in Reference (f);

Shall not include merchant vessels or, as defined by The Atomic Energy Act of 1954, as amended (Reference (i)), source material (except uranium depleted in the isotope 235 that is incorporated in defense articles solely to take advantage of high-density or pyrophoric characteristics unrelated to radioactivity), by-product material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving RD.

defense service. Includes any service, test, inspection repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance. Does not include military education and training activities.

lethal defense article. Any defense articles provided to Iraq, Afghanistan, and/or Pakistan that are: Munitions in Categories I and II of part 121 of title 22, Code of Federal Regulations (Reference (j)) (also known and referred to as the “United States Munitions List” (USML)), capable of firing or launching any ammunition, ordnance, or munitions in USML Categories III or IV. Vessels, vehicles, or aircraft fitted with, or designed or modified to accommodate, any defense article described in this term. Munitions in USML Category IV.

small arms. Defined in section 1228(e)(2) of Reference (d) and section 1225(d)(3) of Reference (e).