



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

AUG 20 2004

In reply refer to:  
I-04/008714-P2

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Security Assistance Export Guidance (DSCA Policy Memo 04-34) (SAMM E-Change # 18)

In June 2003, the General Accounting Office (GAO) issued a report on "Foreign Military Sales: Actions Needed to Provide Better Controls Over Exported Defense Articles." This report highlighted various problems with existing export processes and outlined recommendations for action by the three primary agencies involved in these processes --- the Department of Defense (DoD), the Department of State (DoS), and the U.S. Customs Service, Bureau of Customs and Border Protection (CBP) under the Department of Homeland Security.

To address the issues raised in the GAO report, the Department of State established and chairs an Interagency Working Group (IAWG) with DoD and CBP to make recommendations and develop procedures that define agency responsibilities and information sharing requirements. DSCA and OSD Transportation Policy represent the Department of Defense on this group. The DoS team includes both Political-Military Bureau/Regional Security and Arms Transfers (PM/RSAT) and Political-Military Bureau/Directorate of Defense Trade Controls (PM/DDTC) to discuss regional and licensing requirements respectively. The CBP member is from Customs and Border Security, Outbound Programs. The IAWG has been focusing its efforts the past several months on defining specific documentation needed to successfully export security assistance-sponsored materiel. One of the primary causes of shipment seizures or detainments is lack of proper documentation, mostly relating to DDTC's International Traffic in Arms Regulations (ITAR) licensing requirements and exemptions. Our goal is to ensure each valid shipment is in compliance with these requirements and to provide even greater assurance that potentially invalid shipments can be identified and stopped.

The IAWG has been working on a matrix, which defines all of the possible security assistance shipping scenarios, and identifies all of the actions and documentation necessary to allow these shipments to take place without incident. The group has completed its review of the first 4 of the currently identified 34 scenarios on this matrix. These 4 scenarios cover unclassified Foreign Military Sales (FMS) shipments that use either Freight Forwarder or Defense Transportation System (DTS) methods of transportation.

Rather than delay distribution until all 34 scenarios have been completed, we will provide guidance to the community on an incremental basis. Information regarding the first 4 scenarios is attached to this memorandum for your use in processing these shipments. In addition, we recognize that guidance on the other shipment scenarios is also needed as soon as possible to ensure those types of shipments can be worked using the most up-to-date information.

a. Attachment 1 is the matrix itself. The matrix identifies the documentation and actions that must be taken at a Letter of Offer and Acceptance (LOA) level as well as those that must be accomplished with each individual shipment (SAMM Table C7.T8).

b. Attachment 2 provides a block-by-block summary of what must be included on the DSP-94 Form. This Form is currently designed/written for use by Freight Forwarders. However, it must also be used for shipments that are going through the DTS. The block-by-block summary indicates unique entries that should be used for these DTS shipments. After the IAWG has completed its work on all of the shipment scenarios, we will make an effort to have this form changed to more accurately reflect all users. Until that time, the information on this attachment can be used to determine how the form should be completed for shipments that do not use a Freight Forwarder (SAMM Table C7.T9).

c. Attachment 3 provides a copy of the preparation instructions that are currently on the DSP-94 Form. The table in this attachment shows the existing wording as well as an explanation for how the current wording should be interpreted for DTS shipments (SAMM Table C7.T10).

This guidance will be incorporated into the Security Assistance Management Manual (SAMM) in Chapter 7 as Tables C7.T8 through C7.T10. An explanatory paragraph will also added to the SAMM as follows:

“C7.20. SHIPMENT DOCUMENTATION REQUIREMENTS. The ITAR (reference (n)) provides guidance regarding what types of documentation are required for security assistance-related shipments. There are many security assistance-related shipment scenarios. Table C7.T8. provides information relating to 4 of these shipment scenarios and the documentation requirements for each. Table C7.T9. shows the unique DSP-94 Form completion requirements for these scenarios and Table C7.T10. provides an explanation for how this form’s instructions should be interpreted for security assistance-related shipments. These tables will be expanded as guidance is developed for additional scenarios. Questions regarding these tables should be direct to DSCA (Policy, Plans and Programs Directorate).”

We recognize that many of these requirements represent an additional workload from current practices. These actions are necessary, however, to ensure compliance with the ITAR and GAO audit recommendations. We are continuing to work with the IAWG to develop ways to transmit some of this information electronically. Each Military Department and DoD Agency will take the increased workload requirements for compliance with this policy into consideration when using workload indicators for the allocation of resources as a part of the budget and programming process.

The guidance contained in this memorandum has been coordinated with the DoS and CBP and is mandatory for all security assistance shipments effective immediately. The DSCA points of contact are Brion Midland, (703) 601-3672, DSN 329-3672, and Kathy Robinson, (703) 601-4368, DSN 329-4368.

  
JEFFREY B. KOHLER  
LIEUTENANT GENERAL, USAF  
DIRECTOR

**Attachments:**

1. Export Documentation Requirements (SAMM Table C7.T8)
2. DSP-94 Form Preparation Instructions for Security Assistance Shipments (SAMM Table C7.T9)
3. Instructions for DSP-94-Explanation for FMS-Related Shipments (SAMM Table C7.T10)

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**Table C7.T8. Export Documentation Requirements**

Scenario Number	Exporter	Type of Transfer	Classification of Items	Document that Authorizes the Transfer	Transportation Method	LOA/Case-Level Requirements for Export	Individual Shipment-Level Requirements for Export	ITAR Reference
1	USG	Foreign Military Sale (FMS)	Unclassified	LOA and subsequent LOA Amendments and LOA Modifications	Defense Transportation System (DTS) for all shipments under the LOA using USG-owned (organic) assets only	<p>1. Implementing Agency lodges the complete LOA at primary port. Customs cannot clear shipments if LOA is not furnished so the LOA should be lodged as soon as possible after implementation.</p> <p>2. Implementing Agency prepares a DSP-94 at the LOA level and sends it to the primary port (same place where it sent the LOA). This should be done at the same time as the LOA is lodged. See SAMM Table C7.T9 for instructions on completing this form.</p> <p>3. The DSP-94 is valid for 2 years or until the stated value is shipped, whichever comes first.</p> <p>3.a. Prior to expiration of the DSP-94, the Implementing Agency must determine if additional shipments will be made. If so, a new DSP-94 must be prepared and lodged to replace the expiring DSP-94. This should be done in advance of the DSP-94 expiration date to avoid export problems.</p> <p>3.b. If the estimated export values change prior to the DSP-94 expiration, even if the LOA has not been amended or modified, a new DSP-94 must be prepared and submitted to replace the outdated version at the primary port.</p> <p>4. Implementing Agency lodges a copy of any LOA Amendment or LOA Modification at the primary port (same place where it sent the basic LOA). This should be done as soon as possible after implementation of each document.</p>	<p>1. The DoD entity that is arranging DTS transportation must report export information on each shipment of hardware to Customs Bureau of Border Protection (CBP) using the Automated Export System (AES). After completing the AES entries, the DoD entity must send this data electronically to the U.S. port before the export can be made (in accordance with Section 123.22 of the ITAR). Shipments of technical data or services must comply with ITAR Section 123.22(b)(3).</p> <p><u>Note 1:</u> All shipments must use AES. These transactions take the place of the hardcopy Shipper’s Export Declaration (SED) form, which is no longer accepted.</p> <p><u>Note 2:</u> Section “g” of the “Instructions for DSP-94” form regarding copies of the SED no longer applies.</p> <p><u>Note 3:</u> If items from multiple FMS cases are included in the same shipment, the DoD entity must file a separate AES entry for each individual FMS case being used.</p> <p>2. The DoD entity prints out the AES “SED” page and annotates as follows. This annotated printout must accompany the shipment.</p> <p>2.a. “This shipment for Organic DTS is being exported pursuant to an LOA authorizing such transfer which meets the criteria of 22 CFR 126.6(a). It covers FMS Case [insert case identification]. The U.S. Government point of contact is [insert name], commercial telephone number [insert commercial telephone number].”</p>	<p><b>126.6(a)</b></p> <p>Note: FMS shipments by DTS Organic do not require a license when all conditions of 126.6(a) can be met.</p>

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						<p>5. Implementing Agency prepares a new (revised) DSP-94 for any LOA Amendment or LOA Modification that changes the value and/or quantity of defense articles (including technical data). This should be done at the same time the LOA Amendment or LOA Modification is lodged.</p> <p>6. Upon completion of all authorized shipments or upon expiration of the DSP-94, whichever occurs first, Customs authorities will contact the Case Manager identified in Block 4 of the DSP-94 form to confirm that there will be no more shipments against this case. Upon confirmation, Customs authorities will forward the LOA, any LOA Amendments and LOA Modifications, and the DSP-94 to DoS/DDTC for archival. If the Case Manager indicates additional shipments will be made, a new DSP-94 will be prepared and lodged as indicated in paragraph 3.</p>	<p>2.b. “The Letter of Offer and Acceptance (LOA) authorizing this transfer is lodged at [insert name of primary port where LOA was lodged].”</p> <p><u>Note:</u> If multiple AES “SED” pages accompany the shipment (because multiple FMS cases are being cited), these statements must appear on each AES “SED” page citing the applicable FMS case and port.</p> <p>3. Customs will only decrement a shipment after export information has been filed correctly using AES. As part of the AES filing the DoD entity must provide the XTN (external control number) to Customs.</p> <p>4. An export may be made through a port other than the primary port where the LOA was lodged. The AES “SED” page MUST clearly indicate the name of the primary port where the LOA was lodged.</p> <p>5. All shipments must meet established minimum timeframe requirements for these shipments in accordance with 22 CFR 123.22(b).</p> <p>5.a. By air and truck, at least 8 hours prior to departure from the U.S.</p> <p>5.b. By sea and rail, at least 24 hours prior to loading aboard ship at the port of exit.</p>	
2	USG	Foreign Military	Unclassified	LOA and subsequent LOA	Defense Transportation	1. Implementing Agency lodges the complete LOA at primary port. Customs cannot clear	1. The DoD entity that is arranging DTS transportation must report export information on	126.6(a)

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		Sale (FMS)		Amendments and LOA Modifications	System (DTS) for all shipments under the LOA using commercial resources only	<p>shipments if LOA is not furnished so the LOA should be lodged as soon as possible after implementation.</p> <p>2. Implementing Agency prepares a DSP-94 at the LOA level and sends it to the primary port (same place where it sent the LOA). This should be done at the same time as the LOA is lodged. See SAMM Table C7.T9 for instructions on completing this form.</p> <p>3. The DSP-94 is valid for 2 years or until the stated value is shipped, whichever comes first.</p> <p>3.a. Prior to expiration of the DSP-94, the Implementing Agency must determine if additional shipments will be made. If so, a new DSP-94 must be prepared and lodged to replace the expiring DSP-94. This should be done in advance of the DSP-94 expiration date to avoid export problems.</p> <p>3.b. If the estimated export values change prior to the DSP-94 expiration, even if the LOA has not been amended or modified, a new DSP-94 must be prepared and submitted to replace the outdated version at the primary port.</p> <p>4. Implementing Agency lodges a copy of any LOA Amendment or LOA Modification at the primary port (same place where it sent the basic LOA). This should be done as soon as possible after implementation of each document.</p> <p>5. Implementing Agency prepares a new</p>	<p>each shipment of hardware to Customs Bureau of Border Protection (CBP) using the Automated Export System (AES). After completing the AES entries, the DoD entity must send this data electronically to the U.S. port before the export can be made (in accordance with Section 123.22 of the ITAR). Shipments of technical data or services must comply with ITAR Section 123.22(b)(3).</p> <p><u>Note 1:</u> All shipments must use the AES transactions. These transactions take the place of the hardcopy Shipper’s Export Declaration (SED) form, which is no longer accepted.</p> <p><u>Note 2:</u> Section “g” of the “Instructions for DSP-94” form regarding copies of the SED no longer applies.</p> <p><u>Note 3:</u> If items from multiple FMS cases are included in the same shipment, the DoD entity must file a separate AES entry for each individual FMS case being used.</p> <p>2. The DoD entity prints out the AES “SED” page and annotates as follows. This annotated printout must accompany the shipment.</p> <p>2.a. “This shipment for Commercial DTS is being exported pursuant to an LOA authorizing such transfer which meets the criteria of 22 CFR 126.6(a). It covers FMS Case [insert case identification]. The U.S. Government point of contact is [insert name], commercial telephone number [insert commercial telephone number].”</p>	Note: FMS DTS commercial-contracted shipments do not require a license when all conditions of 126.6(a) can be met.



**Table C7.T8. Export Documentation Requirements**

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						<p>(revised) DSP-94 for any LOA Amendment or LOA Modification that changes the value and/or quantity of defense articles (including technical data). This should be done at the same time the LOA Amendment or LOA Modification is lodged.</p> <p>6. Upon completion of all authorized shipments or upon expiration of the DSP-94, whichever occurs first, Customs authorities will contact the Case Manager identified in Block 4 of the DSP-94 form to confirm that there will be no more shipments against this case. Upon confirmation, Customs authorities will forward the LOA, any LOA Amendments and LOA Modifications, and the DSP-94 to DoS/DDTC for archival. If the Case Manager indicates additional shipments will be made, a new DSP-94 will be prepared and lodged as indicated in paragraph 3.</p>	<p>2.b. “The Letter of Offer and Acceptance (LOA) authorizing this transfer is lodged at [insert name of primary port where LOA was lodged].”</p> <p><u>Note:</u> If multiple AES “SED” pages accompany the shipment (because multiple FMS cases are being cited), these statements must appear on each AES “SED” citing the applicable FMS case and port.</p> <p>3. Customs will only decrement a shipment after export information has been filed correctly using AES. As part of the AES filing the DoD entity must provide the XTN (external control number) to Customs.</p> <p>4. An export may be made through a port other than the primary port where the LOA was lodged. The AES “SED” page MUST clearly indicate the name of the primary port where the LOA was lodged.</p> <p>5. All shipments must meet established minimum timeframe requirements for these shipments in accordance with 22 CFR 123.22(b).</p> <p>5.a. By air and truck, at least 8 hours prior to departure from the U.S.</p> <p>5.b. By sea and rail, at least 24 hours prior to loading aboard ship at the port of exit.</p>	
3	Freight Forwarder	Foreign Military Sale (FMS)	Unclassified	LOA and subsequent LOA Amendments and LOA	Freight Forwarder*  *A Freight Forwarder	1. Implementing Agency lodges the complete LOA at primary port. Customs cannot clear shipments if the LOA is not furnished so the LOA should be lodged as soon as possible	1. The Freight Forwarder must report export information on each shipment of hardware to Customs Bureau of Border Protection (CBP) using the Automated Export System (AES).	126.6(c)  Note: FMS shipments do

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				Modifications	is an entity under contract / agreement with the foreign government to handle the movement of the foreign government’s USG-provided materiel. Freight Forwarders are generally contracted to handle receipt, consolidation, and staging within the United States and arrangement for onward movement from the United States to the foreign country. Freight Forwarders must be registered with the Department of State (Directorate of Defense Trade Controls) and are responsible for compliance with all International Traffic in Arms Regulation (ITAR) and Bureau of Customs and Border Protection (BCP) requirements. A foreign government’s embassy must send a letter to DoS/DDTC	<p>after implementation.</p> <p>2. Foreign customer provides a copy of the LOA to its designated Freight Forwarder(s).</p> <p>3. Freight Forwarder prepares a DSP-94 at the LOA level and submits it to the Implementing Agency (through the Purchasing country, as required) for review. This should be done as soon as possible after the Freight Forwarder receives a copy of the LOA. See SAMM Table C7.T9 for instructions on completing this form.</p> <p>4. The DSP-94 is valid for 2 years or until the stated value is shipped, whichever comes first.</p> <p>4.a. Prior to expiration of the DSP-94, the Freight Forwarder must determine if additional shipments will be made. If so, a new DSP-94 must be prepared by the Freight Forwarder, reviewed by the Implementing Agency, and lodged by the Freight Forwarder to replace the expiring DSP-94. This should be done in advance of the DSP-94 expiration to avoid export problems.</p> <p>4.b. If the estimated export values change prior to the DSP-94 expiration, even if the LOA has not been amended or modified, a new DSP-94 must be prepared by the Freight Forwarder, reviewed by the Implementing Agency, and lodged by the Freight Forwarder to replace the outdated version at the primary port.</p> <p>5. Implementing Agency reviews the DSP-94</p>	<p>After completing the AES entries, the Freight Forwarder must send this data electronically to the U.S. port before the export can be made (in accordance with Section 123.22 of the ITAR). Shipments of technical data or services must comply with ITAR Section 123.22(b)(3).</p> <p><u>Note 1:</u> All shipments must use the AES transactions. These transactions take the place of the hardcopy Shipper’s Export Declaration (SED) form, which is no longer accepted.</p> <p><u>Note 2:</u> Section “g” of the “Instructions for DSP-94” form regarding copies of the SED no longer applies.</p> <p><u>Note 3:</u> If items from multiple FMS cases are included in the same shipment, the Freight Forwarder must file a separate AES entry for each individual FMS case being used.</p> <p>2. Prior to AES filing and after the Freight Forwarder prints out the AES “SED” page, the Freight Forwarder must obtain an Implementing Agency certifying signature prior to submission to AES. Copies of all related documents must be presented to CBP at the time of shipment and maintained in the Freight Forwarder’s records in accordance with 22 CFR 123.26 and annotates it on, if authorized, the outbound manifest as follows.</p> <p>2.a. “This shipment is being exported pursuant to an LOA authorizing such transfer which meets the criteria of 22 CFR 126.6(c). It covers FMS Case [insert case identification]. The U.S.</p>	not require a license when all conditions of 126.6(c) can be met.

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					<p>designating a company as its Freight Forwarder before that company will be permitted to export security assistance-related materiel on that government's behalf.</p>	<p>and any subsequent revisions/updates/amendments to the DSP-94.</p> <p>5.a. If the DSP-94 appears accurate, the Implementing Agency sends the DSP-94 to the primary port (same place where it sent the LOA) and sends an information copy back to the Freight Forwarder.</p> <p>5.b. If the DSP-94 appears to contain errors, the Implementing Agency sends the DSP-94 back to the Freight Forwarder with necessary changes annotated and sends an information copy to the Department of State (DDTC).</p> <p>6. Implementing Agency lodges a copy of any LOA Amendment or Modification at the primary port (same place where it sent the basic LOA). This should be done as soon as possible after implementation of each document.</p> <p>7. Foreign customer provides a copy of implemented LOA Amendments and Modifications to its designated Freight Forwarder(s).</p> <p>8. Freight Forwarder prepares a new (revised) DSP-94 for any LOA Amendment or Modification that changes the value and/or quantity of defense articles (including technical data) and submits the new (revised) form to the Implementing Agency for review. This should be done as soon as possible after the Freight Forwarder receives a copy of the Amendment or Modification.</p>	<p>Government point of contact is [insert name], commercial telephone number [insert commercial telephone number].”</p> <p>2.b. “The Letter of Offer and Acceptance (LOA) authorizing this transfer is lodged at [insert name of primary port where LOA was lodged].”</p> <p><u>Note:</u> If multiple AES “SED” pages or outbound manifests accompany the shipment (because multiple FMS cases are being cited), these statements must appear on each AES “SED” or outbound manifest citing the applicable FMS case and port.</p> <p>3. Customs will only decrement a shipment after export information has been filed correctly using AES. As part of the AES filing the Freight Forwarder must provide the XTN (external control number) to Customs.</p> <p>4. An export may be made through a port other than the primary port where the LOA was lodged. The AES “SED” page MUST clearly indicate the name of the primary port where the LOA was lodged.</p> <p>5. All shipments must meet established minimum timeframe requirements for these shipments in accordance with 22 CFR 123.22(b).</p> <p>5.a. By air and truck, at least 8 hours prior to departure from the U.S.</p> <p>5.b. By sea and rail, at least 24 hours prior to</p>	

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						<p>9. The Implementing Agency reviews the revised DSP-94 forms in accordance with procedures in paragraph 5 above.</p> <p>10. Upon completion of all authorized shipments or upon expiration of the DSP-94, whichever occurs first, Customs authorities will contact the Freight Forwarder identified in Block 4 of the DSP-94 form to confirm that there will be no more shipments against this case. Upon confirmation, Customs authorities will forward the LOA, any LOA Amendments and LOA Modifications, and the DSP-94 to DoS/DDTC for archival. If the Freight Forwarder indicates additional shipments will be made, a new DSP-94 will be prepared, reviewed, and lodged as indicated in paragraph 5.</p>	loading aboard ship at the port of exit.	
4	<p>USG for some shipments</p> <p>Freight Forwarder for some shipments</p>	Foreign Military Sale (FMS)	Unclassified Items	LOA and subsequent LOA Amendments and LOA Modifications	<p>Defense Transportation System (DTS) for <b>some</b> shipments under the LOA using <b>USG-owned (organic) resources</b></p> <p>DTS for <b>some</b> shipments under the LOA using <b>commercial resources</b></p> <p><b>Freight Forwarder*</b> for some shipments</p>	<p>1. Implementing Agency lodges the complete LOA at primary port. Customs cannot clear shipments if LOA is not furnished so the LOA should be lodged as soon as possible after implementation.</p> <p>2. Foreign customer provides a copy of the LOA to its designated Freight Forwarder(s).</p> <p>3. Implementing Agency prepares a DSP-94 at the LOA level and sends it to the primary port (same place where it sent the LOA). This should be done at the same time as the LOA is lodged. The Implementing Agency will send a copy to the Purchaser to provide to the Freight Forwarder. See SAMM Table C7.T9 for instructions on completing this form.</p>	<p>1. For the DTS shipments using USG-owned (organic) resources follow procedures detailed in Scenario Number 1.</p> <p>2. For the DTS shipments using commercial resources follow procedures detailed in Scenario Number 2.</p> <p>3. For Freight Forwarder shipments, follow procedures detailed in Scenario Number 3.</p>	<p><b>126.6(a)</b> (DTS Organic)</p> <p><b>126.6(a)</b> DTS Commercial</p> <p><b>126.6(c)</b> Freight Forwarder</p>

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					<p>*See Scenario 3 for a definition of Freight Forwarder</p>	<p>4. The DSP-94 is valid for 2 years or until the stated value is shipped, whichever comes first.</p> <p>4.a. Prior to expiration of the DSP-94, the Implementing Agency must determine if additional shipments will be made. If so, a new DSP-94 must be prepared and lodged to replace the expiring DSP-94. The Implementing Agency will send a copy of the DSP-94 to the Purchaser to provide to the Freight Forwarder. This should be done in advance of the DSP-94 expiration date to avoid export problems.</p> <p>4.b. If the estimated export values change prior to the DSP-94 expiration, even if the LOA has not been amended or modified, a new DSP-94 must be prepared and submitted to replace the outdated version at the primary port.</p> <p>5. Implementing Agency lodges a copy of any LOA Amendment or LOA Modification at the primary port (same place where it sent the basic LOA). This should be done as soon as possible after implementation of each document.</p> <p>6. Foreign customer provides a copy of implemented LOA Amendments and LOA Modifications to its designated Freight Forwarder(s).</p> <p>7. Implementing Agency prepares a new (revised) DSP-94 for any LOA Amendment or LOA Modification that changes the value</p>		

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						<p>and/or quantity of defense articles (including technical data). The Implementing Agency will send a copy to the Purchaser to provide to the Freight Forwarder. This should be done at the same time the LOA Amendment or LOA Modification is lodged.</p> <p>8. Upon completion of all authorized shipments or upon expiration of the DSP-94, whichever occurs first, Customs authorities will contact the Case Manager identified in Block 4 of the DSP-94 form to confirm that there will be no more shipments against this case. Upon confirmation, Customs authorities will forward the LOA, any LOA Amendments and LOA Modifications, and the DSP-94 to DoS/DDTC for archival. If the Case Manager indicates additional shipments will be made, a new DSP-94 will be prepared and lodged as indicated in paragraph 4.</p>		

**C7.T9. DSP-94 Form Preparation Instructions**

Block Number	Block Description	Preparation Instructions			
		DTS USG-Owned (Organic) Shipments	DTS Commercial (non-organic) Shipments	Freight Forwarder Shipments	Multiple Shipment Methods*
1	PM/DDTC Applicant Code	State/DDTC has issued a registration to facilitate FMS DTS shipments. This constitutes registration with DDTC as an exporter (as required by Section 122 of the ITAR). <b>Enter G-7010 in this block</b> to indicate that shipments will be made under DTS using USG-owned (organic) resources.	State/DDTC has issued a registration to facilitate FMS DTS shipments. This constitutes registration with DDTC as an exporter (as required by Section 122 of the ITAR). <b>Enter G-7011 in this block</b> to indicate that shipments will be made under DTS using DOD contracted commercial resources.	<b>Enter DDTC registration code</b> provided by U.S. Department of State. Shipment by DSP-94 may only be made by a DDTC registered exporter <u>and</u> who has been designated by the foreign government to act as their agent for FMS exports (by letter from the foreign government on file at DDTC).	Enter <b>“Multiple Sources.”</b>
2	Country of Ultimate Destination/Purchaser	<b>Enter country name.</b>	<b>Enter country name.</b>	<b>Enter country name.</b>	<b>Enter country name.</b>
3	Port of Exit from U.S.	Enter the name of the port most-likely to be used for exports under this LOA. This should be the port where the LOA is lodged. You may enter more than one port name in this block if you know that multiple ports will be used to export items from this LOA.	Enter the name of the port most-likely to be used for exports under this LOA. This should be the port where the LOA is lodged. You may enter more than one port name in this block if you know that multiple ports will be used to export items from this LOA.	Enter the name of the port most-likely to be used for exports under this LOA. This should be the port where the LOA is lodged. You may enter more than one port name in this block if you know that multiple ports will be used to export items from this LOA.	Enter the name of the port most-likely to be used for exports under this LOA. This should be the port where the LOA is lodged. You may enter more than one port name in this block if you know that multiple ports will be used to export items from this LOA.
4	Applicant (Name, Address, Zip Code, Tel No.)	Enter the Implementing Agency’s name, address, zip code, and the commercial telephone number of the Case Manager.	Enter the Implementing Agency’s name, address, zip code, and the commercial telephone number of the Case Manager. Also enter the name, address, zip code, and telephone number of the DoD-contracted commercial resource, if known.	Enter the Freight Forwarder’s name, address, zip code, and commercial telephone number.	Enter the Implementing Agency’s name, address, zip code, and the commercial telephone number of the Case Manager.  Enter the Freight Forwarder’s name, address, zip code, and commercial telephone number.
5	Foreign Military Sales Case Identifier	Enter the Foreign Military Sales (FMS) case identifier (e.g., BN-D-ABC). Also enter the latest implemented document (e.g., LOA Amendment 1, LOA Modification 5, etc.)	Enter the Foreign Military Sales (FMS) case identifier (e.g., BN-D-ABC). Also enter the latest implemented document (e.g., Amendment 1, Modification 5, etc.)	Enter the Foreign Military Sales (FMS) case identifier (e.g., BN-D-ABC). Also enter the latest implemented document (e.g., Amendment 1, Modification 5, etc.)	Enter the Foreign Military Sales (FMS) case identifier (e.g., BN-D-ABC).
6	Date of FMS Case Implementation (MM-DD-YYYY)	Enter the date the basic FMS LOA listed in Block (5) was implemented. Implementation date from the Defense Security Assistance Management System (DSAMS) should be used.	Enter the date the basic FMS LOA listed in Block (5) was implemented. Implementation date from the Defense Security Assistance Management System (DSAMS) should be used.	Enter the date the basic FMS LOA listed in Block (5) was implemented. Implementation date from the Defense Security Assistance Management System (DSAMS) should be used.	Enter the date the basic FMS LOA listed in Block (5) was implemented. Implementation date from the Defense Security Assistance Management System (DSAMS) should be used.
7	Total Value of Defense Articles of Original FMS Case	Enter the total “exportable” value of defense articles. This is the value that Customs will decrement against as they clear each shipment. This may not be the total case value since not all of the FMS case value is for export. When preparing amended DSP-94s (either because the FMS case exportable value has changed or because the DSP-94 has expired and needs to be renewed for an additional 2 years), enter the current exportable value on the FMS case.	Enter the total “exportable” value of defense articles. This is the value that Customs will decrement against as they clear each shipment. This may not be the total case value since not all of the FMS case value is for export. When preparing amended DSP-94s (either because the FMS case exportable value has changed or because the DSP-94 has expired and needs to be renewed for an additional 2 years), enter the current exportable value on the FMS case.	Enter the total “exportable” value of defense articles. This is the value that Customs will decrement against as they clear each shipment. This may not be the total case value since not all of the FMS case value is for export. When preparing amended DSP-94s (either because the FMS case exportable value has changed or because the DSP-94 has expired and needs to be renewed for an additional 2 years), enter the current exportable value on the FMS case.	Enter the total “exportable” value of defense articles separated as follows: (a) DTS (using USG-owned [organic] resources); (b) DTS (using commercial resources); (c) Freight Forwarder: These values when added together must equal the total exportable value of the case. This is the value that Customs will decrement as they review/approve each shipment.

Block Number	Block Description	Preparation Instructions			
		DTS USG-Owned (Organic) Shipments	DTS Commercial (non-organic) Shipments	Freight Forwarder Shipments	Multiple Shipment Methods*
8	Only the unshipped balance, valued at _____, of this FMS case is covered by this DSP-94. Previous shipments of this FMS case were covered by a form DSP-94 dated _____ and/or U.S. Department of State License No. _____.	For initial DSP-94, enter "Not applicable." When amending the DSP-94, enter only the <u>remaining</u> "exportable" value per the latest implemented LOA document.	For initial DSP-94, enter "Not applicable." When amending the DSP-94, enter only the <u>remaining</u> "exportable" value per the latest implemented LOA document.	For initial DSP-94, enter "Not applicable." When amending the DSP-94 enter only the <u>remaining</u> "exportable" value per the latest implemented LOA document.	Enter remaining "exportable" values of defense articles separated as follows: (a) DTS (using USG-owned [organic] resources); (b) DTS (using commercial resources); (c) Freight Forwarder: These values when added together must equal the total exportable value of the case. This is the value that Customs will decrement as they review/approve each shipment.
9	Form DSP-94 constitutes an amendment to the value and/or quantity of defense articles authorized under this FMS case as shown in the attached amended Letter of Offer and Acceptance. <input type="checkbox"/> Yes <input type="checkbox"/> No	Enter "Yes" or "No" as appropriate. (Amended LOA need not be attached as CBP has been furnished a copy of the amended LOA already.)	Enter "Yes" or "No" as appropriate (Amended LOA need not be attached as CBP has been furnished a copy of the amended LOA already.)	Enter "Yes" or "No" as appropriate. (Amended LOA must be attached/furnished to CBP at time of export.)	Enter "Yes" or "No" as appropriate
10	If exporter is a Freight Forwarder acting on behalf of a foreign government or diplomatic mission, provide the name, address, and telephone number of the foreign official in the U.S. familiar with the FMS case.	Enter "Not applicable."	Enter "Not applicable."	Freight Forwarder fills in foreign government official knowledgeable about the details of the FMS transaction.	Enter US Military Department (Case Manager) & Service Transportation Office Points of Contact (Include Name, Title, Commercial Phone and Fax Number and unclassified email for each POC)  Fill in Freight Forwarder portion name as provided by the FMS customer.  Fill in foreign government official knowledgeable about the details of the FMS transaction (provided by the FMS customer).
11	U.S. Munitions List Categories (see Section 121.1 of the ITAR). Please check the appropriate categories to indicate the types of defense articles included on this FMS case.	Check one or more USML Categories to be shipped via the listed LOA.	Check one or more USML Categories to be shipped via the listed LOA.	Check one or more USML Categories to be shipped via the listed LOA.	Check one or more USML Categories to be shipped via the listed LOA.
12	Exporter's Statement: I, _____, hereby exercise the authority to effect the export described above; warrant the truth of all statements made herein; and acknowledge, understand, and will comply with the provisions of Title 22 CFR parts 120-130 and any conditions and limitations imposed. Signature _____ (Authority valid for 24 months from above date) Date (MM-DD-YYYY) _____	Includes name and signature of the empowered USG individual (occupying an Implementing Agency (IA) position which has been designated by the IA as authorized to sign FMS cases on behalf of the USG and date signed.)	Includes name and signature of the empowered USG individual (occupying an Implementing Agency (IA) position which has been designated by the IA as authorized to sign FMS cases on behalf of the USG and date signed.)	Enter name and signature of empowered Freight Forwarder official and date signed.  Implementing Agency review and sign DSP-94 in the comments section.	Enter the Implementing Agency's name, address, zip code, and the commercial telephone number of the Case Manager. Includes signature of listed USG individual and date signed (MM-DD-YYYY)  ALSO enter the Freight Forwarder's name and POC for this DSP-94.  The Implementing Agency and the Freight Forwarder must provide an original signed and dated DSP-94 to CBP prior to the first shipment.



\*For use when an LOA will use more than one transportation/shipment method

## **DEFINITIONS**

**Implementing Agency:** The Military Department or Defense Agency responsible for preparing and executing security assistance programs. The implementing agency is responsible for the overall management of the actions which will result in delivery of the materials or services set forth in the Letter of Offer and Acceptance which was accepted by a foreign country or international organization. The Implementing Agencies are: Army, Navy, Air Force, Defense Contract Management Agency (DCMA), Defense Information Service Agency (DISA) Defense Logistics Agency (DLA), Defense Security Cooperation Agency (DSCA), Defense Threat Reduction Agency (DTRA), National Geospatial-Intelligence Agency (NGA) and the National Security Agency (NSA)

**Exportable Value of Defense Articles:** Equals Net LOA case value (Block 8 of the current implemented version of the FMS case) minus any FMS case value that is not for export (e.g., training, services, etc.).

**FMS LOA Amendment:** A change to an FMS case documented by an LOA Amendment that constitutes a scope change to an existing FMS case. FMS case Amendments require customer acceptance. Requires revised DSP-94 to be lodged before items can be shipped.

**FMS LOA Modification:** A change to an FMS case documented by an LOA Modification that constitutes an administrative or minor change to an existing FMS case, without revising the scope or the FMS case. FMS case Modifications do not require customer acceptance. Requires revised DSP-94 to be lodged before items can be shipped.

**Defense Transportation System (DTS):** That portion of the Nation's transportation infrastructure that supports Department of Defense (DoD) common-user transportation needs across the range of military operations. It consists of those common-user military and commercial assets, services, and systems organic to, contracted for, or controlled by the DoD, except for those that are Service-unique or theater-assigned. DTS Organic includes not only USG-owned assets but also those instances where DoD charters the entire transportation asset. DTS Commercial-contracted covers those instances where DoD only has some of the cargo on the asset and has not chartered the entire transportation asset.

**Empowered USG Official:** Person within DoD authorized to sign Letters of Offer and Acceptance documents, DSP-94 and other related documents.

## C7.T10. Instructions for DSP-94 – Explanation for FMS-related Shipments

Instructions on the DSP-94 Form	Explanation for FMS-related Shipments
<b>LEGAL AUTHORITY AND USE OF THIS FORM</b>	
<p>a. Pursuant to 22 CFR 126.6(c), District Directors of Customs are authorized to permit the export of unclassified defense articles, and technical data without a license if they were sold by the Department of Defense directly to foreign governments or international organizations under the Foreign Military Sales (FMS) program of the Arms Export Control Act. This procedure may be used only if a proposed export is (1) pursuant to an executed Letter of Offer and Acceptance, and (2) accompanied by a properly executed DSP-94 and Shipper's Export Declaration (Form 7525-V).</p>	<p>Form 7525-V (SED) has been replaced by the Automated Export System (AES) Shipper's Export Declaration (SED). All shipments must use the AES to prepare the SED. These transactions take the place of the hardcopy SED form, which is no longer accepted by Customs.</p>
<p>b. Only foreign diplomatic missions or their authorized agents or freight forwarders who are registered with the Directorate of Defense Trade Controls, U.S. Department of State, may export FMS material under this authority.</p>	<p>For FMS-related shipments made through the Defense Transportation System (DTS), the Department of State, Directorate of Defense Trade Controls (DDTC) has issued two registration codes to facilitate FMS DTS shipments when using a DSP-94. This constitutes registration with DDTC as an exporter (as required by the International Traffic in Arms Regulation - ITAR - 22 CFR 122). See SAMM C7.T9 for instructions on using these codes.</p>
<p>c. Freight forwarders must for reasons of legal accountability:</p> <ol style="list-style-type: none"> <li>(1) Register with the Directorate of Defense Trade Controls pursuant to 22 CFR 122;</li> <li>(2) Have on file at the Directorate of Defense Trade Controls a letter from the foreign embassy or government appointing them as forwarding agent; and</li> <li>(3) Have on file at the Directorate of Defense Trade Controls a statement signed by a responsible representative of the firm, certifying that the articles shown on all Forms DSP-94 they submit are, from their personal knowledge, in fact the articles by quantity, type, and value to be exported, and assuming full responsibility for compliance with the International Traffic in Arms Regulation (22 CFR 120-130).</li> </ol>	<p>FMS-related shipments using the Defense Transportation System (DTS) will not have a Freight Forwarder. The DSP-94 form is used for DTS shipments. State/DDTC has issued registration codes for use on DTS shipments. See SAMM Table C7.T9 for instructions on using these codes.</p>
<b>GENERAL INSTRUCTIONS</b>	
<p>a. A separate Form DSP-94 must be completed for each FMS case for which defense articles are to be exported under this authority.</p> <p>b. Form DSP-94 should be typewritten. All copies must be legible. Complete all items. Sign and date all three copies.</p> <p>c. Form DSP-94 shall be valid for 2 years from the date on which it is executed (see item 12). The DSP-94 must be completed and filed with the District Director of Customs along with a copy of the Letter of Offer and Acceptance, and annotated Shipper's Export Declaration. Item 8 must be completed to reflect all FMS cases for which a DSP-94 has previously been filed with the District Director of Customs</p>	<p>Form 7525-V (SED) has been replaced by the Automated Export System (AES) Shipper's Export Declaration (SED). All shipments must use AES to prepare the SED. These transactions take the place of the hardcopy SED form, which is no longer accepted by Customs.</p> <p>Automated Export System (AES) printout of the SED page is prepared for each shipment made against the DSP-94.</p> <p>If all shipments have not been made during the 2 year validity period, a new DSP-94 form must be completed and filed with the District Director of Customs. See SAMM table C7.T8 for instructions on who completes the DSP-94 form, timeframes for completion, and submission channels.</p>

Instructions on the DSP-94 Form	Explanation for FMS-related Shipments
for shipments under the same FMS case (If Block 8 is not applicable, insert "N/A").	SAMM table C7.T9 provides block-by-block instructions for completing the DSP-94 form including information on how to compute the values in Block 8.
<p>d. Copy 1 of completed Form DSP-94, together with one copy of the corresponding authenticated Letter of Offer and Acceptance, and three copies of the annotated Form No.7525-V (Shipper's Export Declaration), must be filed with the District Director of Customs at the port of export prior to actual shipment.</p>	<p>Form 7525-V (SED) has been replaced by the Automated Export System (AES) Shipper's Export Declaration (SED). All shipments must use AES to prepare the SED. These transactions take the place of the hardcopy SED form, which is no longer accepted by Customs.</p> <p>The DSP-94 form is lodged at the LOA level and is not provided with each individual shipment. Instead, information on where the DSP-94 form is lodged must be annotated on the AES SED page printout submitted with each shipment. See SAMM table C7.T8 for complete instructions on what documents must be submitted at the LOA-level and what documents must be submitted with each individual shipment.</p>
<p>e. An authenticated Letter of Offer and Acceptance is one on which:</p> <p>(1) The offer is signed by an authorized Department of Defense representative and countersigned by the Comptroller, Defense Security Assistance Agency (DSAA); ;</p>	<p>Comptroller, Defense Security Assistance Agency (DSAA) is the old name for the Business Operations Directorate, Defense Security Cooperation Agency (DSCA).</p> <p>Not all LOAs and LOA Amendments require DSCA countersignature. Documents which do not require countersignature include a statement on the signature line indicating the SAMM exception.</p>
<p>(2) The acceptance is signed by an authorized representative of the foreign government.</p> <p>Only copies of the first page of the Letter of Offer and Acceptance and those pages listing defense articles to be exported need to be provided to Customs.</p>	<p>The LOA (and any subsequent LOA Amendments or LOA Modifications) are lodged at the primary port and are not provided with each individual shipment. The complete LOA must be lodged---not just those pages listing articles/services to be provided.</p> <p>Pseudo LOAs may not require the signature of a foreign government representative---so the signature block on the LOA document will be blank in those instances.</p>
<p>f. Form No. 7525-V (Shipper's Export Declaration) must be annotated by the exporter as follows:</p> <p>"This shipment is being exported under the authority of U.S. Department of State Form DSP-94. It covers FMS case (insert FMS case identification), 22 CFR 126.6 applicable."</p>	<p>Form 7525-V (SED) has been replaced by the Automated Export System (AES) Shipper's Export Declaration (SED). All shipments must use AES to prepare the SED. These transactions take the place of the hardcopy SED form, which is no longer accepted by Customs.</p> <p>See SAMM Table C7.T8 for instructions on what must be annotated on the AES SED page that is printed and included with each shipment.</p>
<p>g. Customs authorities will authenticate the Shipper's Export Declaration and forward it to the Directorate of Defense Trade Controls. Three copies of an annotated Shipper's Export Declaration must be filed for each subsequent shipment. Customs authorities will annotate the back of Copy 1 of DSP-94 to show the shipments made. Upon completion of all authorized shipments or upon expiration of the Form DSP-94, whichever occurs first, Custom (sic) authorities will forward it with the attached Letter of Offer and Acceptance to the Directorate of Defense Trade Controls.</p>	<p>Form 7525-V (SED) has been replaced by the Automated Export System (AES) Shipper's Export Declaration (SED). All shipments must use AES to prepare the SED. These transactions take the place of the hardcopy SED form, which is no longer accepted by Customs.</p> <p>Only one (1) copy of the annotated AES SED page is required to accompany the shipment.</p>

Instructions on the DSP-94 Form	Explanation for FMS-related Shipments
<p>h. Copy 2 of the completed DSP-94 should be removed by the exporter and sent at the time of the first shipment, together with a copy of the applicable authenticated Letter of Offer and Acceptance to: Directorate of Defense Trade Controls, PM/DDTC, Suite H1200, SA-1, U.S. Department of State, Washington, DC 20522-0112</p> <p>i. Copy 3 of DSP-94 is for the shipper's files and should be removed before submission. A copy of applicable Letter of Offer and Acceptance should also be retained by the shipper for reference and record keeping purposes (22 CFR 122.5).</p> <p>j. A new DSP-94 must be completed and filed with the District Director of Customs if the applicable FMS case is amended to increase the total estimated exportable value by more than 10 percent. (Note: 22 CFR 123.23 authorized District Directors of Customs to permit the shipment of defense articles when the total value of the export does not exceed the aggregate monetary value stated on a license by more than 10 percent). Amendments which decrease the quantity or value of an FMS case do not require a new Form DSP-94.</p>	<p>If the applicable FMS case is amended to increase (or decrease) either the quantity of defense articles sold or to increase (or decrease) the total estimated exportable value, a new DSP-94 must be completed and filed with the District Director of Customs at the same primary port where the initial DSP-94 was sent.</p> <p>If the estimated export values change, even if the LOA has not been amended or modified, a new DSP-94 must be prepared (by the appropriate party) and submitted to the District Director of Customs at same primary port where the initial DSP-94 was sent.</p> <p>See SAMM Table C7.T8 for guidance on DSP-94 revisions.</p>
<p>k. Additional copies of this form may be obtained by mail or telephone request to the Directorate of Defense Trade Controls.</p>	<p>The DSP-94 form is not available in electronic format. Implementing Agencies must contact State/DDTC to obtain hard copies for completion.</p> <p>DDTC General Information Office Hours: 8:15 AM - 5:00 PM Receptionist: (202) 663-2980 Response Team (for general inquiries about and guidance on licensing and compliance matters): (202) 663-1282 or e-mail us at <a href="mailto:DDTCResponseTeam@state.gov">DDTCResponseTeam@state.gov</a>. Case Status: (202) 663-2700</p> <p>Additional information may be found at: <a href="http://pmdtc.org/index.htm">http://pmdtc.org/index.htm</a></p>