

DSCA 01-11
Implementation of Changes to the Security Assistance Management
Manual (SAMM), Sec 50004
4 May 2001

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In reply refer to
I-00/011614-WP

MEMORANDUM FOR DEPUTY UNDER SECRETARY OF THE ARMY
(INTERNATIONAL AFFAIRS)
ATTN: SAUS-IA-DSZ
DEPARTMENT OF THE ARMY
DIRECTOR,
NAVY INTERNATIONAL PROGRAMS OFFICE
DEPARTMENT OF THE NAVY
DEPUTY UNDER SECRETARY OF THE AIR FORCE
(INTERNATIONAL AFFAIRS)
DEPARTMENT OF THE AIR FORCE
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, NATIONAL IMAGERY AND MAPPING
AGENCY
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, DEFENSE REUTILIZATION AND
MARKETING SERVICE
DIRECTOR, DEFENSE INFORMATION SYSTEMS
AGENCY
DIRECTOR, DEFENSE LOGISTICS INFORMATION
SERVICE
DEPUTY DIRECTOR FOR SECURITY ASSISTANCE,
DEFENSE FINANCE AND ACCOUNTING SERVICE --
DENVER CENTER

SUBJECT: Implementation of Changes to the Security Assistance Management
Manual (SAMM), Sec 50004 (DSCA 01-11).

The attached change to the Security Assistance Management Manual (SAMM) is in response to the United States General Accounting Office report (GAO/NSIAA-99-231, September 1999) which found problems with inadvertent FMS transfers of Missile Technology Control Regime (MTCR) controlled items. The report was critical of the FMS LOA review process with respect to controlling the transfer of items, manufacturing processes and technologies identified under the Missile Technology Control Regime (MTCR) Annex. The GAO report identified instances in which the USG sold MTCR controlled items to a non-MTCR adherent nation without regard to the MTCR guidelines. Although membership in the regime imposes political commitments rather than international legal obligations, the US Congress legislated USG compliance.

The audit prompted DSCA to take steps to prevent a recurrence. The first step was to develop and implement new policy to prevent future occurrences. DSCA representatives met with the State Department and MILDEP action officers and determined procedures to ensure that LOAs containing MTCR controlled items are identified and critical information is forwarded to State for vetting prior to LOA countersignature. This change to the SAMM implements these procedures, requiring the MILDEP personnel, trained in the MTCR guidelines, to screen LOAs for MTCR items. The second step was to develop an MTCR course to train MILDEP reviewers and raise the awareness level of MTCR guidelines throughout the security assistance community. We have trained 124 personnel in the MTCR guidelines to date.

This change shall be incorporated in the automated version of the SAMM found in the Defense Acquisition Deskbook as SAMM E-Change 24. The DSCA point of contact for MTCR issues is Col John Gross, (703) 604-6625. Our point of contact for the SAMM is Beth Baker, (703) 604-6612.

/Signed/
Tome H. Walters, JR.
Lieutenant General, USAF
Director

Attachment:
As stated

Attachment

SAMM Change

To Incorporate Missile Technology Control Regime Screening of Letters of Offer and Acceptance

Paragraph 50004 is added as follows:

50004 MISSILE TECHNOLOGY CONTROL REGIME

A. The Missile Technology Control Regime (MTCR) is an informal international political arrangement designed to control the proliferation of rocket and unmanned air vehicle systems (and their associated equipment and technology) capable of delivering weapons of mass destruction. It was formed in 1987 and has since been expanded to include 33 member countries. The regime controls are applicable to such rocket and unmanned air vehicles as ballistic missiles, space launch vehicles, sounding rockets, unmanned air vehicles, cruise missiles, drones and remotely piloted vehicles capable of delivering a 500 kilogram (1102 lb) payload at least 300 kilometers (186 miles).

B. Although the regime is a political commitment rather than an international legal obligation, various countries, such as the United States, have passed laws restricting the export of MTCR controlled items (See Chapter 7 AECA -- 22 U.S.C.2797-2797(b)(2)). In this regard, both the Department of State and the Department of Commerce have a role in regulating the export of MTCR controlled items. The Department of Defense assists these agencies by identifying MTCR controlled items that foreign customers have requested to purchase via Foreign Military Sales (FMS).

C. The Department of Defense through the Defense Security Cooperation Agency is responsible for reviewing Letters of Offer and Acceptance (LOA) for possible MTCR controlled items. It is imperative that these established review procedures serve to expedite LOA processing times, while ensuring compliance with the MTCR Guidelines and U.S. legislation.

D. Military Departments (MILDEPs) shall establish review procedures to screen all LOAs for MTCR controlled items.

1. The System Program Office (SPO), Program Manager (PM), or equivalent level office shall perform a technical review of each LOA, as early in the LOA development process as practical. This review will identify any possible MTCR controlled items contained in the LOA or envisioned to be part of the associated program. In order to ensure a standard quality technical review, MTCR reviews must be accomplished either by personnel who have completed a DSCA approved Missile Technology Proliferation Course, or who have equivalent experience in the area of the MTCR and Ballistic Missile Proliferation. MILDEPs shall maintain a roster of personnel trained and/or knowledgeable in the MTCR.

(a) If no possible MTCR controlled items are found, the LOA shall be processed as normal and IAW MILDEP procedures.

(b) If possible MTCR controlled items are found, the reviewer shall transmit a list of those items to the MILDEP MTCR POC. The reviewer shall forward the possible MTCR controlled items at the earliest opportunity so that these items can be vetted, while the LOA continues to be processed. This list shall include:

- Complete Case Identifier.
- A general case description identifying major associated systems.
- MASL Number of each MTCR controlled item.
- Nomenclature of each item.
- Full and detailed description of each item to include manufacturer (if known).

(1) Once the MILDEP MTCR POC receives the list of possible MTCR controlled items he/she shall forward the list of possible MTCR controlled items in Memorandum format to the Director, Weapons Division, Defense Security Cooperation Agency. At a minimum the following details shall be included:

- Complete Case Identifier.
- A general case description identifying major associated systems.
- MASL Number of each MTCR controlled item.
- Nomenclature of each item.
- Full and detailed description of each item to include manufacturer (if known).
- Name, telephone number, fax number and E-mail address of the MILDEP POC.

(2) Upon receipt of a memo from the Military Department identifying possible MTCR items on an LOA, DSCA shall forward the memo to the Deputy Director, Regional Security and Arms Transfer Directorate, Bureau of Political/Military Affairs, Department of State for vetting of the LOA by Department of State. This should allow for more expeditious State approvals for congressional notification and DSCA countersignature.

(3) Upon receipt of a memo from the DSCA identifying possible MTCR items on an LOA, the Deputy Director, Regional Security and Arms Transfer Directorate, Bureau of Political/Military Affairs, Department of State shall expeditiously vet the transfer of these items. The intent is that the State Department vetting process not delay the authorization for DSCA to countersign the final LOA, since the information concerning possible MTCR controlled items was forwarded to State well in advance of the request to countersign.

2. As part of the MILDEP standard LOA review procedure, the MILDEPs shall also review each LOA to ensure that a technical review was conducted by personnel trained and/or knowledgeable in the MTCR. The LOA transmittal memorandum to DSCA must contain a statement that a qualified individual accomplished an MTCR review. If no MTCR items were identified, the transmittal memorandum should state so. If possible MTCR controlled items were identified in the LOA, the transmitting agency shall confirm that the list of possible MTCR controlled items was sent to DSCA and the MTCR memorandum listing the items be attached to the transmittal memorandum.

Paragraph 70105.L is amended to include the following new paragraph:

15. Missile Technology Control. The following note should be included in all LOAs:

Missile Technology Control. Paragraph 2.3 of the Standard Terms and Conditions of this LOA discusses use and transfer restrictions on articles and services provided under this LOA and emphasizes that the Purchaser “shall not use or permit their use for purposes other than those authorized, unless the written consent of the USG has first been obtained.” The customer agrees not to divert articles and services received under this LOA for purposes or uses other than those for which furnished to include, but not limited to, use as MTCR equipment or technology as discussed in section 74 of the AECA (22 USC 2797b-2). The USG also reserves the right to take action under section 73(a)(2) of the AECA (22 USC 2797b(a)(2)) in the case of any export or transfer of any MTCR equipment or technology that contributes to the acquisition, design, development or production of missiles in a country that is not an MTCR adherent.”