

## C4. CHAPTER 4

### FOREIGN MILITARY SALES PROGRAM GENERAL INFORMATION

#### C4.1. DEFINITION AND PURPOSE

C4.1.1. The Foreign Military Sales (FMS) Program is that part of Security Assistance authorized by the Arms Export Control Act (AECA) and conducted using formal contracts or agreements between the United States Government (USG) and an authorized foreign purchaser. These contracts, called Letters of Offer and Acceptance (LOAs), are signed by both the USG and the purchasing Government or international organization; and provide for the sale of defense articles and/or defense services (to include training) usually from Department of Defense (DoD) stocks or through purchase under DoD-managed contracts. As with all Security Assistance, the FMS program supports United States (U.S.) foreign policy and national security objectives.

#### C4.2. WHO MAY PURCHASE USING THE FMS PROGRAM

C4.2.1. Presidential Determination. Defense articles and/or services may be sold or leased to a country or international organization only if the President, in accordance with AECA, section 3 (reference (c)), makes a determination that the prospective purchaser is eligible. Table C4.T1. summarizes the AECA criteria for this determination.

Table C4.T1. Presidential Determination Criteria for FMS Eligibility

| <b>FMS Eligibility Criteria</b> |   |
|---------------------------------|---|
| 1                               | The furnishing of defense articles and defense services to such country or international organization strengthens the security of the United States and promote world peace;  |
| 2                               | The country or international organization shall have agreed not to transfer title to, or possession of, any defense article or related training or other defense service so furnished to it or produced in a cooperative project, to anyone not an officer, employee, or agent of that country or international organization, and not to use or permit the use of such an article or related training or other defense service for purposes other than those for which furnished unless the consent of the President has first been obtained; |
| 3                               | The country or international organization shall have agreed that it shall maintain the security of such article or service and provide substantially the same degree of security protection afforded to such article by the United States; and  |
| 4                               | The country or international organization is otherwise eligible to purchase or lease defense articles or defense services.  |

#### C4.2.2. Other Factors Determining Eligibility

C4.2.2.1. Defense articles and/or services are not sold to foreign purchasers under the AECA unless they are part of the national defense establishment, under the direction and control of the ministry responsible for defense matters. Requests for training for foreign personnel (or units) that are not part of the Defense Ministry must be directed to the Department of State (DoS) and to the Agency for International Development (AID) through U.S. Embassy channels. The Defense Security Cooperation Agency (DSCA) and relevant Implementing Agencies should be informed of the request.

C4.2.2.2. Prior DSCA and DoS approval must be obtained for the sale or lease of defense articles, defense services, or training to foreign organizations or personnel if they are engaged in on-going civilian police functions under the direction and control of the ministry responsible for defense matters.

C4.2.2.3. Assistance may be provided to Communist countries only if the President exercises the waiver authority under the Foreign Assistance Act (FAA), section 614(a) (reference (b)), and reports to Congress that such assistance is vital to the security of the United States and promotes the independence of the recipient country from international communism. (FAA, section 620(f) reference (b))

C4.2.3. Purchasers Currently Eligible. Questions regarding eligibility should be referred to DSCA. Table C4.T2. lists the country and international organization codes. (Organizations are listed at the end of the table.)

C4.2.3.1. The table identifies the short names and two position country and organization codes assigned for FMS purposes (e.g., for assignment of LOA identifiers or Security Assistance communications). For territories, the host country code is listed in parenthesis to the right of the territory name. The responsible Combatant Commands and Region Groupings are also given.

C4.2.3.2. The country codes are generally consistent with National Institute of Standards and Technology (NIST) codes in NIST Publication 10-4, Federal Information Processing Standards (reference (aj)), maintained by National Geospatial-Intelligence Agency (NGA). If FMS and NIST codes differ, NIST codes are listed in parenthesis to the right of the FMS code.

C4.2.3.3. The FMS AECA Eligible (Yes/No) column indicates those countries and organizations determined by the President under AECA, section 3(a)(1) (reference (c)) to be eligible to purchase defense articles and defense services under authority of the AECA. The Presidential Determination date can be found in the Congressional Budget Justification for Foreign Operations. An eligibility determination by itself does not signify that sales will be made since sales may be suspended (indicated by note \3) for legal or policy reasons and certain items may not be releasable to the requesting country.

C4.2.3.4. The “Accelerated Case Closure Eligible” column indicates if the country participates in the Accelerated Case Closure (ACC) program. (See Chapter 6, section C6.8.)

Table C4.T2. Country, International Organization, and Regional Codes and FMS Eligibility

| Country/ Territory(Host Country)    | FMS Country Code | Combatant Command \1 | Region Grouping \2 | FMS AECA Eligible \3 | Accel. Case Closure Eligible |
|-------------------------------------|------------------|----------------------|--------------------|----------------------|------------------------------|
| Afghanistan                         | AF               | CE                   | NESA               | Yes                  | Yes                          |
| Albania                             | AL               | EU                   | EUR                | Yes                  | Yes                          |
| Algeria                             | AG               | AF                   | AFR                | Yes                  | Yes                          |
| Andorra                             | AN               | EU                   | EUR                | No                   | N/A                          |
| Angola                              | AO               | AF                   | AFR                | Yes                  | Yes                          |
| Anguilla (UK)                       | AV               | SO                   | AR                 | No                   | N/A                          |
| Antigua and Barbuda                 | AC               | SO                   | AR                 | Yes                  | Yes                          |
| Argentina                           | AR               | SO                   | AR                 | Yes                  | Yes                          |
| Armenia                             | AM               | EU                   | EUR                | Yes                  | Yes                          |
| Aruba                               | AA               | SO                   | AR                 | No                   | N/A                          |
| Australia                           | AT (AS)          | PA                   | EAP                | Yes                  | Yes                          |
| Austria                             | AU               | EU                   | EUR                | Yes                  | Yes                          |
| Azerbaijan                          | AJ               | EU                   | EUR                | Yes                  | Yes                          |
| Bahamas                             | BF               | NO \6                | AR                 | Yes                  | Yes                          |
| Bahrain                             | BA               | CE                   | NESA               | Yes                  | Yes                          |
| Bahrain National Guard              | BZ               | CE                   | NESA               | Yes                  | Yes                          |
| Bangladesh                          | BG               | PA                   | NESA               | Yes                  | Yes                          |
| Barbados                            | BB               | SO                   | AR                 | Yes                  | Yes                          |
| Belarus                             | BO               | EU                   | EUR                | No                   | N/A                          |
| Belgium                             | BE               | EU                   | EUR                | Yes                  | Yes                          |
| Belize                              | BH               | SO                   | AR                 | Yes                  | Yes                          |
| Benin                               | DA (BN)          | AF                   | AFR                | Yes                  | Yes                          |
| Bermuda (UK)                        | BD               | NO                   | AR                 | No                   | N/A                          |
| Bhutan                              | BT               | PA                   | NESA               | No                   | Yes                          |
| Bolivia                             | BL               | SO                   | AR                 | Yes                  | Yes                          |
| Bolivia INC                         | D1               | SO                   | AR                 | Yes                  | Yes                          |
| Bosnia-Herzegovina                  | BK               | EU                   | EUR                | Yes                  | Yes                          |
| Botswana                            | BC               | AF                   | AFR                | Yes                  | Yes                          |
| Brazil                              | BR               | SO                   | AR                 | Yes                  | No                           |
| British Indian Ocean Territory (UK) | IO               | PA                   | NESA               | No                   | N/A                          |
| British Virgin Islands (UK)         | VI               | NO \7                | AR                 | No                   | N/A                          |
| Brunei                              | BX               | PA                   | EAP                | Yes                  | Yes                          |
| Bulgaria                            | BU               | EU                   | EUR                | Yes                  | Yes                          |
| Burkina Faso                        | UV               | AF                   | AFR                | Yes                  | Yes                          |
| Burma                               | BM               | PA                   | EAP                | Yes                  | Yes                          |
| Burundi                             | BY               | AF                   | AFR                | Yes                  | Yes                          |
| Cambodia                            | CB               | PA                   | EAP                | Yes                  | Yes                          |
| Cameroon                            | CM               | AF                   | AFR                | Yes                  | Yes                          |
| Canada                              | CN (CA)          | NO                   | EUR                | Yes                  | Yes                          |
| Cape Verde, Republic of             | CV               | AF                   | AFR                | Yes                  | Yes                          |

| Country/ Territory(Host Country)         | FMS Country Code | Combatant Command \1 | Region Grouping \2 | FMS AECA Eligible \3 | Accel. Case Closure Eligible |
|--|------------------|----------------------|--------------------|----------------------|------------------------------|
| Cayman Islands (UK)                      | CJ               | SO                   | AR                 | No                   | N/A                          |
| Central African Republic                 | CT               | AF                   | AFR                | Yes                  | Yes                          |
| Chad                                     | CD               | AF                   | AFR                | Yes                  | Yes                          |
| Chile                                    | CI               | SO                   | AR                 | Yes                  | Yes                          |
| China                                    | CH               | PA                   | EAP                | Yes                  | Yes                          |
| Colombia                                 | CO               | SO                   | AR                 | Yes                  | Yes                          |
| Colombia INC                             | D5               | SO                   | AR                 | Yes                  | Yes                          |
| Comoros                                  | CR (CN)          | AF                   | AFR                | Yes                  | Yes                          |
| Congo, Republic of (Brazzaville)         | CF               | AF                   | AFR                | Yes                  | Yes                          |
| Congo, Democratic Republic of (Kinshasa) | CX (CG)          | AF                   | AFR                | Yes                  | Yes                          |
| Cook Islands (NZ)                        | CW               | PA                   | EAP                | Yes                  | Yes                          |
| Costa Rica                               | CS               | SO                   | AR                 | Yes                  | Yes                          |
| Croatia                                  | HR               | EU                   | EUR                | Yes                  | Yes                          |
| Cuba                                     | CU               | NO                   | AR                 | No                   | N/A                          |
| Cyprus                                   | CY               | EU                   | EUR                | No                   | N/A                          |
| Czechoslovakia \5                        | CZ               | EU                   | EUR                | No                   | N/A                          |
| Czech Republic                           | EZ               | EU                   | EUR                | Yes                  | Yes                          |
| Denmark                                  | DE (DA)          | EU                   | EUR                | Yes                  | Yes                          |
| Djibouti                                 | DJ               | AF                   | AFR                | Yes                  | Yes                          |
| Dominica                                 | DO               | SO                   | AR                 | Yes                  | Yes                          |
| Dominican Republic                       | DR               | SO                   | AR                 | Yes                  | Yes                          |
| East Timor                               | TT               | PA                   | EAP                | Yes                  | Yes                          |
| Ecuador                                  | EC               | SO                   | AR                 | Yes                  | Yes                          |
| Ecuador INC                              | D6               | SO                   | AR                 | Yes                  | Yes                          |
| Egypt                                    | EG               | CE                   | NESA               | Yes                  | Yes                          |
| El Salvador                              | ES               | SO                   | AR                 | Yes                  | Yes                          |
| Equatorial Guinea                        | EK               | AF                   | AFR                | Yes                  | Yes                          |
| Eritrea                                  | ER               | AF                   | AFR                | Yes                  | Yes                          |
| Estonia                                  | EN               | EU                   | EUR                | Yes                  | Yes                          |
| Ethiopia                                 | ET               | AF                   | AFR                | Yes                  | Yes                          |
| Faeroe Islands (DE)                      | FO               | EU                   | EUR                | No                   | N/A                          |
| Falkland Islands (UK)                    | FA               | SO                   | AR                 | No                   | N/A                          |
| Fiji                                     | FJ               | PA                   | EAP                | Yes                  | Yes                          |
| Finland                                  | FI               | EU                   | EUR                | Yes                  | Yes                          |
| France                                   | FR               | EU                   | EUR                | Yes                  | No                           |
| French Guiana (FR)                       | FG               | SO                   | AR                 | No                   | N/A                          |
| French Polynesia (FR)                    | FP               | PA                   | EAP                | No                   | N/A                          |
| Gabon                                    | GB               | AF                   | AFR                | Yes                  | Yes                          |
| Gambia                                   | GA               | AF                   | AFR                | Yes                  | Yes                          |
| Georgia                                  | GG               | EU                   | EUR                | Yes                  | Yes                          |
| Germany                                  | GY(GM)           | EU                   | EUR                | Yes                  | Yes                          |

| Country/ Territory(Host Country) | FMS Country Code | Combatant Command \1 | Region Grouping \2 | FMS AECA Eligible \3 | Accel. Case Closure Eligible |
|----------------------------------|------------------|----------------------|--------------------|----------------------|------------------------------|
| Ghana                            | GH               | AF                   | AFR                | Yes                  | Yes                          |
| Gibraltar (UK)                   | GI               | EU                   | EUR                | No                   | N/A                          |
| Greece                           | GR               | EU                   | EUR                | Yes                  | Yes                          |
| Greenland (DE)                   | GL               | EU                   | AR                 | No                   | N/A                          |
| Grenada                          | GJ               | SO                   | AR                 | Yes                  | Yes                          |
| Guadeloupe (FR)                  | GP               | SO                   | AR                 | No                   | N/A                          |
| Guatemala                        | GT               | SO                   | AR                 | Yes                  | Yes                          |
| Guinea                           | GV               | AF                   | AFR                | Yes                  | Yes                          |
| Guinea-Bissau                    | PU               | AF                   | AFR                | Yes                  | Yes                          |
| Guyana                           | GU               | SO                   | AR                 | Yes                  | Yes                          |
| Haiti                            | HA               | SO                   | AR                 | Yes                  | Yes                          |
| Honduras                         | HO               | SO                   | AR                 | Yes                  | Yes                          |
| Hong Kong (CH)                   | HK               | PA                   | EAP                | No                   | N/A                          |
| Hungary                          | HU               | EU                   | EUR                | Yes                  | Yes                          |
| Iceland                          | IL (IC)          | EU                   | EUR                | Yes                  | Yes                          |
| India                            | IN               | PA                   | NESA               | Yes                  | Yes                          |
| Indochina                        | IC               | PA                   | EAP                | No                   | N/A                          |
| Indonesia                        | ID               | PA                   | EAP                | Yes                  | Yes                          |
| Iran                             | IR               | CE                   | NESA               | No                   | No                           |
| Iraq                             | IQ               | CE                   | NESA               | Yes                  | N/A                          |
| Ireland                          | EI               | EU                   | EUR                | Yes                  | Yes                          |
| Israel                           | IS               | EU                   | NESA               | Yes                  | Yes                          |
| Italy                            | IT               | EU                   | EUR                | Yes                  | Yes                          |
| Ivory Coast (Cote d'Ivoire)      | IV               | AF                   | AFR                | Yes                  | Yes                          |
| Jamaica                          | JM               | SO                   | AR                 | Yes                  | Yes                          |
| Japan                            | JA               | PA                   | EAP                | Yes                  | Yes                          |
| Jordan                           | JO               | CE                   | NESA               | Yes                  | Yes                          |
| Kazakhstan                       | KZ               | CE                   | EUR                | Yes                  | Yes                          |
| Kenya                            | KE               | AF                   | AFR                | Yes                  | Yes                          |
| Kiribati                         | KR               | PA                   | EAP                | Yes                  | Yes                          |
| Korea (North)                    | KN               | PA                   | EAP                | No                   | N/A                          |
| Korea (Seoul)                    | KS               | PA                   | EAP                | Yes                  | Yes                          |
| Kosovo                           | KV               | EU                   | EU                 | Yes                  | No                           |
| Kuwait                           | KU               | CE                   | NESA               | Yes                  | Yes                          |
| Kyrgyzstan                       | KG               | CE                   | EUR                | Yes                  | Yes                          |
| Laos                             | LA               | PA                   | EAP                | Yes                  | Yes                          |
| Latvia                           | LG               | EU                   | EUR                | Yes                  | Yes                          |
| Lebanon                          | LE               | CE                   | NESA               | Yes                  | Yes                          |
| Lesotho                          | LT               | AF                   | AFR                | Yes                  | Yes                          |
| Liberia                          | LI               | AF                   | AFR                | Yes                  | Yes                          |
| Libya                            | LY               | AF                   | AFR                | Yes                  | No                           |
| Liechtenstein                    | LS               | EU                   | EUR                | No                   | N/A                          |

| Country/ Territory(Host Country) | FMS Country Code | Combatant Command \1 | Region Grouping \2 | FMS AECA Eligible \3 | Accel. Case Closure Eligible |
|----------------------------------|------------------|----------------------|--------------------|----------------------|------------------------------|
| Lithuania                        | LH               | EU                   | EUR                | Yes                  | Yes                          |
| Luxembourg                       | LX (LU)          | EU                   | EUR                | Yes                  | Yes                          |
| Macau (CH)                       | MC               | PA                   | EAP                | No                   | N/A                          |
| Macedonia                        | MK               | EU                   | EUR                | Yes                  | Yes                          |
| Madagascar                       | MA               | AF                   | AFR                | Yes                  | Yes                          |
| Malawi                           | MI               | AF                   | AFR                | Yes                  | Yes                          |
| Malaysia                         | MF(MY)           | PA                   | EAP                | Yes                  | Yes                          |
| Maldives                         | MV               | PA                   | NESA               | No                   | N/A                          |
| Mali                             | RM(ML)           | AF                   | AFR                | Yes                  | Yes                          |
| Malta                            | MT               | EU                   | EUR                | Yes                  | Yes                          |
| Marshall Islands                 | R1 (RM)          | PA                   | EAP                | Yes                  | Yes                          |
| Martinique (FR)                  | MB               | SO                   | AR                 | No                   | N/A                          |
| Mauritania                       | MR               | AF                   | AFR                | Yes                  | Yes                          |
| Mauritius                        | MP               | AF                   | AFR                | Yes                  | Yes                          |
| Mexico                           | MX               | NO                   | AR                 | Yes                  | Yes                          |
| Micronesia                       | FM               | PA                   | EAP                | Yes                  | Yes                          |
| Moldova                          | MD               | EU                   | EUR                | Yes                  | Yes                          |
| Monaco                           | MN               | EU                   | EUR                | No                   | N/A                          |
| Mongolia                         | MG               | PA                   | EAP                | Yes                  | Yes                          |
| Morocco                          | MO               | AF                   | AFR                | Yes                  | Yes                          |
| Mozambique                       | MZ               | AF                   | AFR                | Yes                  | Yes                          |
| Myanmar (see Burma)              |                  |                      |                    |                      |                              |
| Namibia                          | WA               | AF                   | AFR                | Yes                  | Yes                          |
| Nauru                            | NR               | PA                   | EAP                | No                   | N/A                          |
| Nepal                            | NP               | PA                   | NESA               | Yes                  | Yes                          |
| Netherlands                      | NE (NL)          | EU                   | EUR                | Yes                  | Yes                          |
| Netherlands Antilles (NE)        | NA (NT)          | SO                   | AR                 | No                   | N/A                          |
| New Caledonia (FR)               | NC               | PA                   | EAP                | No                   | N/A                          |
| New Zealand                      | NZ               | PA                   | EAP                | Yes                  | Yes                          |
| Nicaragua                        | NU               | SO                   | AR                 | Yes                  | Yes                          |
| Niger                            | NK (NG)          | AF                   | AFR                | Yes                  | Yes                          |
| Nigeria                          | NI               | AF                   | AFR                | Yes                  | Yes                          |
| Niue (NZ)                        | NQ               | PA                   | EAP                | No                   | N/A                          |
| Norfolk Island (AT)              | NF               | PA                   | EAP                | No                   | N/A                          |
| Norway                           | NO               | EU                   | EUR                | Yes                  | Yes                          |
| Oman                             | MU               | CE                   | NESA               | Yes                  | Yes                          |
| Pakistan                         | PK               | CE                   | NESA               | Yes                  | Yes                          |
| Palau                            | PS               | PA                   | EAP                | Yes                  | Yes                          |
| Palestinian Authority            | PW               | CE                   | NESA               | No                   | No                           |
| Panama                           | PN (PM)          | SO                   | AR                 | Yes                  | Yes                          |
| Papua-New Guinea                 | PP               | PA                   | EAP                | Yes                  | Yes                          |
| Paraguay                         | PA               | SO                   | AR                 | Yes                  | Yes                          |

| Country/ Territory(Host Country)      | FMS Country Code | Combatant Command \1 | Region Grouping \2 | FMS AECA Eligible \3 | Accel. Case Closure Eligible |
|---------------------------------------|------------------|----------------------|--------------------|----------------------|------------------------------|
| Peru                                  | PE               | SO                   | AR                 | Yes                  | Yes                          |
| Peru INC                              | D3               | SO                   | AR                 | Yes                  | Yes                          |
| Philippines                           | PI (RP)          | PA                   | EAP                | Yes                  | Yes                          |
| Pitcairn (UK)                         | PC               | PA                   | EAP                | No                   | N/A                          |
| Poland                                | PL               | EU                   | EUR                | Yes                  | Yes                          |
| Portugal                              | PT (PO)          | EU                   | EUR                | Yes                  | Yes                          |
| Qatar                                 | QA               | CE                   | NESA               | Yes                  | Yes                          |
| Republic of Montenegro                | MJ               | EU                   | EUR                | Yes                  | No                           |
| Republic of Serbia                    | RB               | EU                   | EUR                | Yes                  | No                           |
| Reunion (FR)                          | RE               | AF                   | AFR                | No                   | N/A                          |
| Romania                               | RO               | EU                   | EUR                | Yes                  | Yes                          |
| Russia                                | RS               | EU                   | EUR                | Yes                  | Yes                          |
| Rwanda                                | RW               | AF                   | AFR                | Yes                  | Yes                          |
| Saint Helena (UK)                     | SH               | AF                   | AFR                | No                   | N/A                          |
| Saint Kitts and Nevis                 | SC               | SO                   | AR                 | Yes                  | Yes                          |
| Saint Lucia                           | ST               | SO                   | AR                 | Yes                  | Yes                          |
| Saint Pierre and Miquelon (FR)        | SB               | SO                   | AR                 | No                   | N/A                          |
| Saint Vincent and Grenadines          | VC               | SO                   | AR                 | Yes                  | Yes                          |
| Samoa                                 | WS               | PA                   | EAP                | Yes                  | Yes                          |
| San Marino                            | SM               | EU                   | EUR                | No                   | No                           |
| Sao Tome and Principe                 | TP               | AF                   | AFR                | Yes                  | Yes                          |
| Saudi Arabia                          | SR (SA)          | CE                   | NESA               | Yes                  | Yes                          |
| Saudi Arabia Ministry of the Interior | SD               | CE                   | NESA               | Yes                  | Yes                          |
| Saudi Arabia National Guard           | SI               | CE                   | NESA               | Yes                  | Yes                          |
| Senegal                               | SK (SG)          | AF                   | AFR                | Yes                  | Yes                          |
| Serbia (Refer to Republic of Serbia)  | S2 (SR)          | EU                   | EUR                | No                   | No                           |
| Serbia and Montenegro                 | YI               | EU                   | EUR                | No                   | No                           |
| Seychelles                            | SE               | AF                   | AFR                | Yes                  | Yes                          |
| Sierra Leone                          | SL               | AF                   | AFR                | Yes                  | Yes                          |
| Singapore                             | SN               | PA                   | EAP                | Yes                  | Yes                          |
| Slovak Republic                       | LO               | EU                   | EUR                | Yes                  | Yes                          |
| Slovenia                              | S3 (SI)          | EU                   | EUR                | Yes                  | Yes                          |
| Solomon Islands                       | BP               | PA                   | EAP                | Yes                  | Yes                          |
| Somalia                               | SO               | AF                   | AFR                | Yes                  | Yes                          |
| South Africa                          | UA (SF)          | AF                   | AFR                | Yes                  | Yes                          |
| Spain                                 | SP               | EU                   | EUR                | Yes                  | Yes                          |
| Sri Lanka                             | CE               | PA                   | NESA               | Yes                  | Yes                          |
| Sudan                                 | SU               | AF                   | AFR                | Yes                  | Yes                          |
| Government of Southern Sudan          | SX               | AF                   | AFR                | No                   | N/A                          |
| Suriname                              | NS               | SO                   | AR                 | Yes                  | Yes                          |
| Swaziland                             | WZ               | AF                   | AFR                | Yes                  | No                           |

| Country/ Territory(Host Country)         | FMS Country Code | Combatant Command \1 | Region Grouping \2 | FMS AECA Eligible \3 | Accel. Case Closure Eligible |
|--|------------------|----------------------|--------------------|----------------------|------------------------------|
| Sweden                                   | SW               | EU                   | EUR                | Yes                  | No                           |
| Switzerland                              | SZ               | EU                   | EUR                | Yes                  | Yes                          |
| Syria                                    | SY               | CE                   | NESA               | No                   | No                           |
| Taiwan                                   | TW               | PA                   | EAP                | Yes                  | Yes                          |
| Tajikistan                               | TI               | CE                   | EUR                | Yes                  | Yes                          |
| Tanzania                                 | TZ               | AF                   | AFR                | Yes                  | Yes                          |
| Thailand                                 | TH               | PA                   | EAP                | Yes                  | Yes                          |
| Togo                                     | TO               | AF                   | AFR                | Yes                  | Yes                          |
| Tokelau (NZ)                             | TL               | PA                   | EAP                | No                   | No                           |
| Tonga                                    | TN               | PA                   | EAP                | Yes                  | Yes                          |
| Trinidad-Tobago                          | TD               | SO                   | AR                 | Yes                  | Yes                          |
| Tunisia                                  | TU (TS)          | AF                   | AFR                | Yes                  | Yes                          |
| Turkey                                   | TK (TU)          | EU                   | EUR                | Yes                  | Yes                          |
| Turkmenistan                             | TX               | CE                   | EUR                | Yes                  | Yes                          |
| Turks and Caicos (UK)                    | TS               | NO                   | AR                 | No                   | No                           |
| Tuvalu                                   | TV               | PA                   | EAP                | Yes                  | Yes                          |
| Uganda                                   | UG               | AF                   | AFR                | Yes                  | Yes                          |
| Ukraine                                  | UP               | EU                   | EUR                | Yes                  | Yes                          |
| United Arab Emirates (previous code TC)  | AE               | CE                   | NESA               | Yes                  | Yes                          |
| United Kingdom                           | UK               | EU                   | EUR                | Yes                  | Yes                          |
| United Kingdom Polaris Project           | UZ               | EU                   | EUR                | Yes                  | No                           |
| United Nations Interim Mission in Kosovo | T2               | EU                   | EU                 | No                   | N/A                          |
| Uruguay                                  | UY               | SO                   | AR                 | Yes                  | Yes                          |
| Uzbekistan                               | U2               | CE                   | EUR                | Yes                  | Yes                          |
| Vanuatu                                  | NH               | PA                   | EAP                | Yes                  | Yes                          |
| Venezuela                                | VE               | SO                   | AR                 | Yes                  | Yes                          |
| Vietnam (previous code VS)               | VM               | PA                   | EAP                | Yes                  | Yes                          |
| Western Sahara                           | WI               | AF                   | AFR                | No                   | N/A                          |
| Yemen                                    | YE (YM)          | CE                   | NESA               | Yes                  | Yes                          |
| Yemen, Aden                              | YS (YM)          | CE                   | NESA               | No                   | N/A                          |
| Zaire (see Congo, Kinshasa)              |                  |                      |                    |                      |                              |
| Zambia                                   | ZA               | AF                   | AFR                | Yes                  | Yes                          |
| Zimbabwe                                 | ZI               | AF                   | AFR                | Yes                  | Yes                          |

Table C4.T2. Country, International Organization, and Regional Codes and FMS Eligibility (DSCA/DFAS Reserved)

| Organization   | FMS Code | Combatant Command /1 | Regional Grouping /2 | FMS Eligible /3 AECA Eligible /8 | Accel. Case Closure Eligible |
|--|----------|----------------------|----------------------|----------------------------------|------------------------------|
| Afghanistan Security Forces Fund - FY05 Emergency Supplemental Appropriations Act (Public Law 109-13)  | Y8       | CE                   | NR                   | AECA Only                        | N/A                          |
| Airborne Warning and Control System  | W1       | NR                   | NR \4                | No                               | N/A                          |
| Case Closure Suspense Account (post 1995)  | 55       | NR                   | NR                   | No                               | N/A                          |
| Central Treaty Organization (CENTO) (ceased 1979)  | T3       | NR                   | NR                   | No                               | N/A                          |
| Consolidated Appropriations Act, 2008 (Public Law 110-161) Afghanistan Security Forces Fund  | E3       | CE                   | NR                   | AECA Only                        | N/A                          |
| Consolidated Appropriations Act, 2008 (Public Law 110-161) Iraq Security Forces Fund   | E4       | CE                   | NR                   | AECA Only                        | N/A                          |
| Counterterrorism DSAMS   | 44       | NR                   | NR                   | No                               | N/A                          |
| Counterterrorism Program/Contractor Support  | 33       | NR                   | NR                   | No                               | N/A                          |
| Dept. of Defense   | 00       | NR                   | NR                   | No                               | N/A                          |
| Emergency Supplemental Appropriations (Public Law 109-234) (Jun 15, 2006) Afghanistan Security Forces Fund                                   | B2       | CE                   | NR                   | AECA Only                        | N/A                          |
| Emergency Supplemental Appropriations (Public Law 109-234) (Jun 15, 2006) Iraq Security Forces Fund  | B3       | CE                   | NR                   | AECA Only                        | N/A                          |
| Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108-106) for Iraq | Y7       | CE                   | NR                   | AECA Only                        | N/A                          |
| European Participating Group F-16 follow on  | PG       | NR                   | NR                   | No                               | N/A                          |
| Extraordinary Expenses – IMET and Counterterrorism   | 22       | NR                   | NR                   | No                               | N/A                          |
| F-16, Belgium  | F1       | NR                   | NR                   | No                               | Yes                          |
| F-16, Denmark  | F2       | NR                   | NR                   | No                               | Yes                          |
| F-16, Netherlands  | F3       | NR                   | NR                   | No                               | Yes                          |
| F-16, Norway   | F4       | NR                   | NR                   | No                               | Yes                          |
| FAA Sec 607 Sales, Payment in Advance  | S6       | NR                   | NR                   | AECA Only                        | N/A                          |
| FAA Sec 607 Sales, Reimbursable (Delayed Payment)  | S5       | NR                   | NR                   | AECA Only                        | N/A                          |
| FAA Sec 632 Transactions   | S4       | NR                   | NR                   | AECA Only                        | N/A                          |
| Fiscal Year 2007 DoD Appropriations Act (Public Law  | B6       | CE                   | NR                   | AECA Only                        | N/A                          |

| <b>Organization</b>  | <b>FMS Code</b> | <b>Combatant Command /1</b> | <b>Regional Grouping /2</b> | <b>FMS Eligible /3 AECA Eligible /8</b> | <b>Acccel. Case Closure Eligible</b> |
|--|-----------------|-----------------------------|-----------------------------|---|--------------------------------------|
| 109-289) (Sep 29, 2006)) as supplemented by PL 110-28 (May 25, 2007) Afghanistan Security Forces Fund  |                 |                             |                             |   |                                      |
| Fiscal Year 2007 DoD Appropriations Act (Public Law 109-289) (Sep 29, 2006)) as supplemented by PL 110-28 (May 25, 2007) Iraq Security Forces Fund   | B7              | CE                          | NR                          | AECA Only                               | N/A                                  |
| FMF Administration (DFAS use through FY95)   | 55              | NR                          | NR                          | No                                      | N/A                                  |
| FMS Agreements (FACTS Data, DSCA)  | C2              | NR                          | NR                          | No                                      | N/A                                  |
| General Costs - IMET and Counterterrorism  | 66              | NR                          | NR                          | No                                      | N/A                                  |
| IMET Infrastructure Cost   | 77              | NR                          | NR                          | No                                      | N/A                                  |
| Internal DSAMS Training  | AA              | NR                          | NR                          | No                                      | N/A                                  |
| Internal DSAMS Training  | NN              | NR                          | NR                          | No                                      | N/A                                  |
| Intl Civil Def Organization (ICDO)   | T8              | NR                          | NR                          | No                                      | N/A                                  |
| Iraq Security Forces Fund - FY05 Emergency Supplemental Appropriations Act (Public Law 109-13)   | Y9              | CE                          | NR                          | AECA Only                               | N/A                                  |
| MAP Owned Materiel (DSCA Records)  | M3              | NR                          | NR                          | No                                      | N/A                                  |
| MAP Property Sales and Disposal (MAPSAD)   | M2              | NR                          | NR                          | No                                      | N/A                                  |
| National Defense Authorization Act (NDAA), Section 1033 Transactions   | S7              | NR                          | NR                          | AECA Only                               | N/A                                  |
| National Defense Authorization Act for Fiscal Year 2006 (PL 109-163), Section 1206   | B4              | NR                          | NR                          | AECA Only                               | N/A                                  |
| National Defense Authorization Act for Fiscal Year 2007 (PL 109-364), Section 1206   | B5              | NR                          | NR                          | AECA Only                               | N/A                                  |
| National Defense Authorization Act for Fiscal Year 2007 PL 109-364, Section 1206; and National Defense Authorization Act for Fiscal Year 2008 PL 110-181, Section 1206 for the Pakistan Frontier Corps | B8              | NR                          | NR                          | AECA Only                               | N/A                                  |
| National Defense Authorization Act for Fiscal Year 2009 (P.L. 110-417), all Section 1206 for foreign military forces and Section 1201 for the Pakistan Frontier Corps                                  | B9              | NR                          | NR                          | No                                      | N/A                                  |
| NDAA, Section 1004 Transactions  | S8              | NR                          | NR                          | AECA Only                               | N/A                                  |
| Panama Canal Area Military Schools (PACAMS)  | 11              | SO                          | AR                          | No                                      | N/A                                  |
| Presidential Drawdowns (DSCA authorized use only)  | S9              | NR                          | NR                          | AECA Only                               | N/A                                  |
| Seasparrow (Sec 1004, P.L. 98-   | N3              | NR                          | NR \4                       | No                                      | N/A                                  |

| <b>Organization</b>   | <b>FMS Code</b> | <b>Combatant Command /1</b> | <b>Regional Grouping /2</b> | <b>FMS Eligible /3 AECA Eligible /8</b> | <b>Acccel. Case Closure Eligible</b> |
|---|-----------------|-----------------------------|-----------------------------|---|--------------------------------------|
| 525)  |                 |                             |                             |   |                                      |
| Section 1107 of FY04 Supplemental (Train and Equip Authority) for the Afghanistan National Army   | Y2              | CE                          | NR                          | AECA Only                               | N/A                                  |
| Section 1107 of FY04 Supplemental (Train and Equip Authority) for the New Iraqi Army  | Y3              | CE                          | NR                          | AECA Only                               | N/A                                  |
| Section 9006 of FY05 Defense Appropriations Act (Public Law 108-287) for Afghanistan  | Y5              | CE                          | NR                          | AECA Only                               | N/A                                  |
| Section 9006 of FY05 Defense Appropriations Act (Public Law 108-287) for Iraq   | Y6              | CE                          | NR                          | AECA Only                               | N/A                                  |
| Security Assistance Automated Resource Management Suite (SAARMS) database   | E1              | NR                          | NR                          | No                                      | N/A                                  |
| Special Defense Acquisition Fund (SDAF)   | D2              | NR                          | NR                          | No                                      | N/A                                  |
| Supplemental Appropriations Act for Fiscal Year 2008 (P.L. 110-252, 122 Stat. 2398) for Coalition Readiness Support Program (CRSP) cases  | E7              | NR                          | NR                          | No                                      | N/A                                  |
| Supplemental Appropriations Act, 2008 (Public Law 110-252) Afghanistan Security Forces Fund (FY2009 Bridge Funds)   | E5              | CE                          | NR                          | No                                      | N/A                                  |
| Supplemental Appropriations Act, 2009 (Public Law 111-32) Afghanistan Security Forces Fund (FY2009 Supplemental Funds)  | E6              | CE                          | NR                          | AECA Only                               | N/A                                  |
| Supplemental Appropriations Act, 2009 (Public Law 111-32) Pakistan Counterinsurgency Fund (FY2009 Supplemental Funds)   | G2              | CE                          | NA                          | AECA Only                               | N/A                                  |
| Supplemental Appropriations Act, 2009 (Public Law 111-32) Iraq Security Forces Fund (FY2009 Supplemental Funds)   | G3              | CE                          | NR                          | AECA Only                               | N/A                                  |
| Supplemental Appropriations Act, 2009 (Public Law 111-32) Pakistan Counterinsurgency Capability Fund (PCCF) (FY2009 Supplemental Funds), as transferred into Pakistan Counterinsurgency Funds (PCF) | G4              | CE                          | NR                          | AECA Only                               | N/A                                  |
| National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84) and Department of Defense Appropriations Act, 2010 (Public Law 111-118), Afghanistan Security Forces Fund (ASFF)        | G5              | CE                          | NR                          | AECA Only                               | N/A                                  |
| National Defense Authorization Act  | G7              | NR                          | NR                          | AECA Only                               | N/A                                  |

| <b>Organization</b>   | <b>FMS Code</b> | <b>Combatant Command /1</b> | <b>Regional Grouping /2</b> | <b>FMS Eligible /3 AECA Eligible /8</b> | <b>Accel. Case Closure Eligible</b> |
|---|-----------------|-----------------------------|-----------------------------|---|-------------------------------------|
| for Fiscal Year 2010 (Public Law 111-84) and Department of Defense Appropriations Act, 2010 (Public Law 111-118), for section 1206 programs |                 |                             |                             |   |                                     |
| USG Transition Support (Iraq)   | IZ              | CE                          | NR                          | No                                      | N/A                                 |
| Uzbekistan - Emergency Wartime Supplemental Appropriations Act 2003 (Public Law 108-11)   | Y4              | CE                          | NR                          | AECA Only                               | N/A                                 |

Table C4.T2. Country, International Organization, and Regional Codes and FMS Eligibility (NATO)

| Organization   | FMS Code | Combatant Command /1 | Regional Grouping /2 | FMS Eligible /3 AECA Eligible /8 | Accel. Case Closure Eligible |
|--|----------|----------------------|----------------------|----------------------------------|------------------------------|
| Airborne Early Warning & Control Operations & Support (O&S) Budget | K7       | EU                   | EUR                  | Both                             | No                           |
| C3 Agency (NC3A)   | K4       | EU                   | EUR                  | Both                             | Yes                          |
| EF2000 and Tornado Dev, Prod, & Log Mgt Agency (NETMA)             | K3       | EU                   | EUR                  | Both                             | No                           |
| HAWK Prod & Log Org (NHPL0)  | M6       | EU                   | EUR                  | Both                             | Yes                          |
| Headquarters   | N6       | EU                   | EUR                  | Both                             | No                           |
| Missile Firing Installation (NAMFI)                                | N9       | EU                   | EUR                  | Both                             | No                           |
| Mutual Weapons Dev Prog (MWDP)                                     | N8       | EU                   | EUR                  | Both                             | No                           |
| NAMSA General + Nike   | N4       | EU                   | EUR                  | Both                             | No                           |
| NAMSA-F104 + C-130   | K2       | EU                   | EUR                  | Both                             | No                           |
| NAMSA-HAWK   | N7       | EU                   | EUR                  | Both                             | No                           |
| NAMSA-Weapons  | M5       | EU                   | EUR                  | Both                             | No                           |
| NATO   | N2       | EU                   | EUR                  | Both                             | No                           |
| NATO Air Command and Control Management (NACMA)                    | A6       | EU                   | EUR                  | Both                             | No                           |
| NATO Airlift Management Organization (NAMO)                        | K8       | EU                   | EUR                  | Both                             | No                           |
| NEFMA \5   | M1       | EU                   | EUR                  | Both                             | No                           |
| Prog Mgt Ofc (NAPMO)   | N1       | EU                   | EUR                  | Both                             | No                           |
| Southern Region Signal/ Communications                             | M7       | EU                   | EUR                  | Both                             | No                           |
| Supreme Allied Commander, Atlantic (SACLANT)                       | K5       | EU                   | EUR                  | Both                             | No                           |
| Supreme HQ, Allied Powers, Europe (SHAPE)                          | A2       | EU                   | EUR                  | Both                             | No                           |

Table C4.T2. Country, International Organization, and Regional Codes and FMS Eligibility (Regions)

| Organization  | FMS Code | Combatant Command /1 | Regional Grouping /2 | FMS Eligible /3 AECA Eligible /8 | Accel. Case Closure Eligible |
|---|----------|----------------------|----------------------|----------------------------------|------------------------------|
| Africa  | R6       | AF                   | AFR                  | No                               | Yes                          |
| African Union (AU)  | A3       | AF                   | AFR                  | Both                             | Yes                          |
| American Republic   | R5       | SO                   | AR                   | No                               | Yes                          |
| Dept of Humanitarian Affairs (UNDHA)  | A5       | NR                   | NR                   | Both                             | Yes                          |
| East Asia/Pacific   | R4       | PA                   | EAP                  | No                               | Yes                          |
| Economic Community of West African States (ECOWAS)  | A7       | AF                   | AFR                  | Both                             | Yes                          |
| European  | R2       | EU                   | EUR                  | No                               | Yes                          |
| International Civil Aviation Organization (ICAO)  | T7       | NR                   | NR                   | Both                             | Yes                          |
| Near East/South Asia  | R3       | CE                   | NESA                 | No                               | Yes                          |
| Organization of American States (OAS)   | A1       | NR                   | NR                   | Both                             | Yes                          |
| Organization of Security and Cooperation in Europe (OSCE)                                     | A8       | EU                   | EUR                  | Both                             | Yes                          |
| Regional Security System  | SS       | SO                   | AR                   | Both                             | No                           |
| SE Asia Treaty Organization (ceased 24 Sep 75)  | T4       | NR                   | NR                   | No                               | Yes                          |
| Southern African Development Community (SADC)   | A9       | AF                   | AFR                  | Both                             | Yes                          |
| United Nations  | T9       | NR                   | NR                   | Both                             | Yes                          |
| United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA) | A4       | NR                   | NR                   | Both                             | Yes                          |
| United Nations Transitional Authority in East Timor (UNTAET)                                  | E2       | PA                   | EAP                  | Both                             | Yes                          |

## Notes

## 1 Combatant Command

NR Non-Regional                      PA Pacific CMD  
 AF Africa CMD                        SO Southern CMD  
 CE Central CMD                        NO Northern CMD  
 EU European CMD

## 2 Regional Grouping

NR Non-Regional                      EUR European  
 AFR Africa Region                    EAP East Asia/Pacific  
 AR American Republic                NESA Near East/South Asia

3 Purchaser's eligibility may change. See paragraph C4.2.4.

4 Affiliated with but not eligible for FMS as part of NATO.

5 Included for historical purposes.

6 Responsibility for Security Cooperation transitioned from U.S. Southern Command to the U.S. Northern Command on October 1, 2008.

7 Responsibility for Security Cooperation transitioned from U.S. Southern Command to the U.S. Northern Command on October 1, 2003.

8 Authorized under program-specific legislation.

C4.2.4. Changes in Eligibility Status. Sales to purchasers may be suspended or terminated for legal and/or policy reasons. If the DoS determines that it is necessary to suspend Security Assistance to a particular country, the Director, DSCA, issues instructions to the Security Assistance program Implementing Agencies. Details about this process can be found in Chapter 6. Questions relative to eligibility should be referred to DSCA (Operations Directorate). The following are some of the reasons why purchasers may not be eligible for support.

C4.2.4.1. Termination Due to Unnecessary Military Expenditures. Further sales, credits, and guaranties shall be terminated to any country that diverts economic aid, or its own resources to unnecessary military expenditures, to a degree that materially interferes with its development (AECA, section 35 (reference (c))). Existing sales, credits, and guaranties need not be terminated.

C4.2.4.2. Prohibition Against Discrimination, Intimidation, or Harassment. No sales are made and no credits or guaranties extended to, or for, any country whose laws, regulations, official policies, or governmental practices prevent any person from participating in the furnishing of defense articles or defense services on the basis of race, religion, national origin, or sex. Sales, credits or guaranties shall NOT be made or extended to countries engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States. (AECA, sections 5 and 6 (reference (c)))

C4.2.4.3. Terrorism. Unless the President finds that the national security requires otherwise, the President shall terminate all assistance, sales, credits, and guaranties to any Government that aids or abets (by granting sanctuary from prosecution) any individual or group that has committed an act of international terrorism. (FAA, section 620A (reference (b)))

C4.2.4.4. Nationalization of U.S. Property. Assistance shall be suspended for countries that have nationalized, expropriated, or seized U.S. property, or have imposed discriminatory taxes. Assistance shall also be suspended if a country has initiated steps to repudiate or nullify existing agreements with U.S. citizens or entities without taking proper compensatory action. (FAA, section 620(e) (reference (b)))

C4.2.4.5. Compensation for Nationalized Property. FAA, section 620(g) (reference (b)) states that no monetary assistance shall be made available under this act to any Government or political subdivision or agency of such Government that compensates owners for expropriated or nationalized property.

C4.2.4.6. Narcotics. Economic and military assistance and sales to a country shall be suspended if the President determines the Government of that country has failed to take adequate steps to prevent either the sale of illegal drugs or other controlled substances to USG personnel or their dependents or the smuggling of such narcotics into the United States. (FAA, section 490 (reference (b)))

C4.2.4.7. Violation of Agreements. Any Government using equipment and/or services in substantial violation of an agreement between the United States and that Government shall be ineligible for future U.S. assistance until the President determines that such violations have ceased and is assured they shall not recur. (FAA, section 505(d) and AECA, section 3(c) (references (b) and (c)))

### C4.3. WHAT MAY BE PURCHASED USING THE FMS PROGRAM

The FMS program transfers defense articles and services to eligible foreign purchasers. AECA, section 47 (reference (c)) defines the terms “defense article” and “defense service.” The U.S. Munitions List designates specific items that fall into these categories and includes an asterisk (\*) by Significant Military Equipment (SME). The U.S. Munitions List (22 CFR part 121 of (reference (n))) can be found at the website [http://pmddtc.state.gov/docs/itar/2007/itar\\_part\\_121.doc](http://pmddtc.state.gov/docs/itar/2007/itar_part_121.doc). Any item of SME that has a nonrecurring research and development cost of more than \$50 million or a total production cost of more than \$200 million is considered Major Defense Equipment (MDE). See Appendix 1 for the Nonrecurring Cost Recoupment Charges for MDE.

C4.3.1. Source of Supply. Defense articles or services may be sold from DoD stocks, or the Department of Defense may enter into contracts to procure defense articles or services on behalf of eligible foreign countries or international organizations (AECA, sections 21 and 22 (reference (c))). DoD procurements for FMS use standard Federal Acquisition Regulation (FAR) (reference (ak)) contract clauses and contract administration practices except where deviations for FMS are authorized in the Defense Federal Acquisition Regulation Supplement (DFARS) (reference (al)).

C4.3.2. Materiel Standards. It is DoD policy that defense articles sold under FMS programs should reflect favorably upon the United States. Defense articles offered and sold under FMS are new or unused or, as a result of refurbishment, possess original appearance insofar as possible and, as a minimum, have serviceability standards prescribed for issue to U.S. Forces. If the purchaser desires exclusively new equipment, this requirement is stated in the LOA. If the purchaser wishes to purchase “as is” (no assurance of serviceability), this is also stated in the LOA. In addition to full disclosure of item condition, the purchaser is informed of unusual safety or environmental risks known at the time of sale. This information is included in the LOA with reference to separate publications or correspondence as appropriate.

C4.3.3. Logistics Support. The Department of Defense considers the support of U.S. origin defense articles critical to the success of the Security Assistance program. Systems in use with U.S. Forces are supported through the DoD procurement system. Support items that are stocked, stored, and issued due to common application with end items in use, should be provided even though the end items may have been acquired commercially or system support buyout is complete. (See Chapter 6.)

C4.3.3.1. When a system is to be phased out of the DoD inventory, countries that have acquired the system under FMS are given the opportunity to determine item requirements and to place final orders designed to maintain system capability through its service life. These orders are consolidated to ensure economic buys. (See Chapter 6.)

C4.3.3.2. The Department of Defense shall take reasonable steps to support systems that are not used by U.S. Forces including items that were never adopted by U.S. Forces. Support is provided for these items when mutually satisfactory arrangements are made with the country involved and supply sources are available. Effort is made to support non-standard items, whether acquired commercially or through FMS, when this effort serves U.S. interests.

C4.3.4. Communications Security (COMSEC) Equipment. Combatant Commanders’ requirements to communicate with foreign governments via secure transmissions will necessitate

a requirement for release and delivery of U.S. COMSEC. Transfer of U.S. COMSEC must be done in conjunction with a Combatant Command's interoperability requirement or otherwise support a U.S. policy objective. See Chapter 3, C3.3.1. and C3.3.2. for information on the technology transfer process. See Chapter 3, C3.3.6. for information on INFOSEC case processing.

C4.3.5. Design and Construction Services. AECA, section 29 (reference (c)) authorizes the sale of design and construction services to eligible foreign countries and international organizations provided that full costs are paid to the United States.

C4.3.5.1. Design and construction services are offered under normal FMS procedures. When part of a larger program, the services are included in the total package LOA under the cognizance of the managing Implementing Agency. When required, the Implementing Agency and construction agent may conclude an internal agreement to show program management relationships.

C4.3.5.2. When these services are stand-alone, the construction agent is normally the Implementing Agency.

C4.3.6. Police Training or Related Programs. Although the FAA, section 660 (reference (b)) expressly forbids it (see paragraph C4.4.3.), the AECA does not prohibit police training or related programs. DSCA (Strategy Directorate) and DoS approval must be obtained before offering this type of defense article or service through FMS procedures.

C4.3.6.1. If foreign students are authorized to attend military police training, foreign Governments must certify that the students are not involved in any civilian law enforcement functions for at least 2 years after receiving the training. Law enforcement includes apprehension and control of political offenders and opponents of the Government in power (other than prisoners of war), as well as persons suspected of common crimes.

C4.3.6.2. Counterterrorism training may be requested through the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (SO/LIC) under the Regional Defense Counterterrorism Fellowship Program. DSCA should be informed of any request for antiterrorism or counterterrorism training. Foreign officers nominated to receive such training are vetted using the same DoD and/or DoS procedures in place for all International Military Education and Training (IMET) and FMS training.

C4.3.6.3. Limited military intelligence training is available. The scope of this type training shall be limited to training that is directly related to combat or operational intelligence or intelligence management of combat or operational intelligence at the joint military staff level. In case of doubt about whether or not a particular course or type of training falls into one of these two categories, obtain a clarification from DSCA.

C4.3.7. White Phosphorous Munitions. Requests for white phosphorus munitions should be submitted in accordance with the procedures established for SME. Requests should indicate, by type of ammunition, the quantity, and intended use. Requests should be accompanied by the U.S. Mission's opinion as to whether the amount requested is reasonable in relation to the intended use, current on-hand inventories, and predictable usage rates of such items; and requests must also contain assurance from the host Government that white phosphorus munitions are used

only for purposes such as signaling and smoke screening. The DSCA (Operations Directorate) shall coordinate the request. Upon approval, the DSCA (Operations Directorate) advises the DoD Component and provides the special conditions that must be included in the LOA.

C4.3.8. M-833 and Comparable Depleted Uranium Rounds. FAA, section 620G (reference (b)) allows the sale of M-833 depleted uranium ammunition and comparable anti-tank rounds containing a depleted uranium-penetrating component to NATO member countries, major non-NATO allies, Taiwan, and countries for which a Presidential national security interest determination has been completed. Such a determination has been completed for the M-833 round for Bahrain and Saudi Arabia and the M-829 round for Saudi Arabia and Kuwait.

C4.3.9. Ship Transfers. Vessels 20 years old or more and no more than 3,000 tons (light load displacement) or less may be transferred after 30 continuous days of the date that the U.S. Navy (USN) notifies Congress of its intent to make the transfer. Naval vessels that are less than 20 years old or more than 3,000 tons may be transferred only after enactment of legislation authorizing the transfer. 10 U.S.C. 7307 (reference (aq)) prescribes these criteria and Congressional oversight provisions. See Chapter 11 for information on Excess Defense Articles (EDA) Congressional notification requirements.

C4.3.10. Technical Data Packages (TDPs) for Defense Articles Manufactured by Watervliet Arsenal. TDPs from a Government-owned and operated defense plant manufacturing large caliber cannons (e.g., Watervliet Arsenal) to a foreign Government, or assistance to a foreign Government in producing defense items currently manufactured or developed in a Government-owned and operated defense plant manufacturing large caliber cannons, may be transferred if the statutory exceptions in 10 U.S.C. 4542 (reference (z)) are met. The Secretary of the Army must determine if these requirements can be met before committing to such transfers; notify the Congress of every transfer agreement; and submit a semiannual report to Congress on the operation of this law and all agreements entered into under it.

C4.3.11. Stinger/Man-Portable Air Defense System (MANPADS). All security cooperation organizations and personnel to include Military Departments (MILDEPs) and Security Cooperation Organizations (SCOs) must get specific approval from DSCA (Programs and Strategy Directorates) prior to any discussions on MANPADS with any potential purchaser. This includes discussion of sales for replacement batteries, parts, components, or expendables for MANPADS. This requirement stands even for countries previously sold MANPADS or approved for MANPADS sales. See Chapter 8 for more information on Stinger/MANPADS.

C4.3.12. Landmines. All security cooperation organizations and personnel to include MILDEPs and SCOs must get specific approval from DSCA (Strategy Directorate) prior to any discussions on landmines with any potential purchaser.

C4.3.13. Foreign Liaison Officer Support. Countries may locate a representative in the United States to assist with their programs. LOAs may be written to cover administrative costs (e.g., office space, secretarial support) for these personnel. See paragraph C4.4.2. for the types of foreign representative services and/or expenses that may NOT be included on an LOA.

C4.3.14. Night Vision Devices (NVDs). NVDs are man-portable devices, which incorporate image intensification, infrared, thermal, or sensor-fused technologies. NVDs fall under Category XII(c) of the U.S. Munitions List (22 CFR part 121 of reference (n)) and are designated as

sensitive, unclassified SME. The Deputy Under Secretary of Defense for Technology Security Policy and National Disclosure Policy (DUSD(TSP&NDP)) is responsible for NVD export policy and requires the case-by-case review of all requests for the international transfer of such items through FMS or direct export licensing. Each review considers input from the MILDEPs, the acquisition community, and the Chairman of the Joint Chiefs of Staff. Image intensifier tubes ordered as spare parts or replacements for destroyed, lost, stolen, or missing devices also require a case-by-case review except when replacing defective or damaged tubes that are returned to the USG on a direct exchange or repair and return basis. The technical capabilities of replacement tubes will not exceed the export restrictions set forth in the original authorization. NVDs taken from DoD stock may not be sold or transferred without an accompanying data sheet verifying that the technical capabilities of the image intensifier tubes do not exceed export restrictions. See Chapter 5 for more information on processing requests for NVDs and Chapter 8 for End-Use Monitoring (EUM) responsibilities.

C4.3.15. Medical Countermeasures. Purchases of medical countermeasures such as drugs, vaccines, and other medical interventions against biological and chemical agents require the approval of the Office of the Secretary of Defense. It is essential that Letters of Request (LORs) for these items be submitted to DSCA as soon as the requirement is known to allow sufficient staffing time. See paragraph C5.1.4.3.4 for additional information on LOR submission.

C4.3.16. Geospatial Intelligence (GEOINT). GEOINT provides the capability to visually depict physical features and geographically referenced activities on the Earth. It consists of imagery, imagery intelligence, and geospatial information (topographic, aeronautical and hydrographic maps, and charts data). GEOINT is essential to the guidance systems in many weapons. National Geospatial-Intelligence Agency (NGA) GEOINT data are either shared with the international community through agreements and arrangements under the authority of the Director of the NGA and/or the Director of National Intelligence, or can be purchased from NGA. Implementing Agencies are responsible for coordinating the release of the GEOINT data with NGA in advance. See paragraph C5.1.4.3.5. for additional information.

C4.3.17. Command, Control, Communications, Computer, Intelligence, Surveillance and Reconnaissance (C4ISR). Transfers of U.S. C4ISR to eligible countries and international organizations must support a U.S. Combatant Commander's (COCOM) interoperability requirements. A purchaser's desire to be interoperable with the United States is insufficient justification for release. DoD encourages the use of a Three-Phased Approach to plan C4ISR programs. Before a C4ISR Letter of Request (LOR) is submitted, pre-coordination with DSCA, the respective Combatant Command, Implementing Agencies, the SCO, and the foreign purchaser is required. See Chapter 3 for more information on C4ISR and Chapter 5 for more information on processing LORs for C4ISR.

#### C4.4. WHAT MAY NOT BE PURCHASED USING THE FMS PROGRAM

Certain items may not be transferred using FMS procedures. Questions concerning what may or may not be authorized for a particular country should be directed to the DSCA (Operations Directorate). The following categories of items MAY NOT be included in LOAs.

C4.4.1. Items Procured from Foreign Countries. The Department of Defense shall not enter into sales arrangements that entail commitments for DoD procurement in foreign countries unless DSCA (Strategy Directorate) and DSCA (Office of the General Counsel) have approved an exception.

C4.4.2. Administrative Expenses for Foreign Government Representatives. The USG does not serve as the disbursing agent for funds received under LOAs unless those funds are required for materiel or services provided by the Department of Defense, another Federal agency, or through a DoD procurement contract. LOAs shall not include transportation, lodging, per diem, or other administrative expenses of foreign Government representatives, even though such expenses may relate to the procured materiel and/or services. In exceptional situations, DSCA may specifically authorize an LOA to include the payment of travel and living allowances for International Students. See Chapter 10 for information on international training. Foreign purchasers may not use LOAs to lease commercial or General Services Administration (GSA) vehicles. Foreign purchasers are responsible for making and paying for these arrangements outside the FMS process.

C4.4.3. Police, Counterterrorism, and Military Intelligence Programs.

C4.4.3.1. The FAA prohibits using funds authorized under that Act to conduct any police training or related programs either in a foreign country or in the United States. All military assistance under the FAA, not just training, is subject to this prohibition with certain statutory exceptions as found in FAA, section 660 (reference (b)).

C4.4.3.2. Police training in the context of the FAA prohibition includes military police as well as civilian police if the military police perform on-going civilian law enforcement functions. Neither the name given to a unit nor the ministerial authority under which it operates is sufficient to determine whether a particular unit is a "police unit." The determining factor is the nature of the functions performed by the unit. Assistance in foreign countries for any civilian law enforcement function (except maritime law enforcement or international narcotics control) is prohibited.

C4.4.3.3. The prohibitions discussed above do not apply to units with the sole function of internal security that involves combat operations against insurgents, or legitimate self-defense of national territory against foreign invasion, whether or not the unit is called police.

C4.4.3.4. If some personnel from a smaller unit within a larger unit that is eligible for assistance are detailed to on-going civilian law enforcement functions, then just the smaller unit is prohibited from receiving grant support under the FAA. However, no grant funds may be used in any program of internal intelligence or surveillance on behalf of any foreign Government either within the United States or abroad.

C4.4.3.5. The AECA does not prohibit police training or related programs or funding such training with Foreign Military Financing (FMF) funds. DSCA and DoS approval shall be obtained before offering this type of defense article or service through FMS procedures. See paragraph C4.3.6.

C4.4.4. Napalm. Napalm, including napalm thickener, dispensers, and fuses shall not be provided through FMS or commercial contracts.

C4.4.5. Riot Control Agents. Riot control agents shall not be provided via FMS, but certain types are available on a commercial basis. Such proposed commercial sales require that an export license be obtained from the DoS, Directorate of Defense Trade Controls.

#### C4.5. GENERAL FMS POLICIES

Detailed procedures for FMS programs including writing LOAs and managing cases are found in Chapters 5 and 6. The following broad policies apply and should be noted early in the FMS process.

C4.5.1. Sales Determinations. Once the eligibility criteria in section C4.2. have been met, the Secretary of State determines whether there shall be a sale to a country and the amount thereof, whether there shall be a lease to a country, and whether there shall be delivery or other performance under any sale or lease. (See Chapter 11 for information on leases.) Arms control consequences must be taken into consideration when evaluating any FMS sale (FAA, section 511 (reference (b))); AECA, section 38(a)(2) and 42(a)(c) (reference (c))). Decisions to issue licenses or approve sales under the AECA or to furnish military assistance under the FAA shall take into account the extent to which such exports, sales, or assistance contribute to an arms race, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.

C4.5.2. International Weapons Competitions. Foreign nations often compete weapon system procurements. The foreign Government's defense or economic ministry solicits bids or proposals from defense industries in the international market. Depending on the nation's acquisition process, the solicitation may be a formal request for information, a tender or proposal, an invitation to bid, or a similar document that states the review criteria for proposal submissions. Given the size of the U.S. industrial base, the U.S. response may consist of more than one offering. In the international competition, the foreign nation evaluates proposals submitted by both the U.S. and non-U.S. competitors against the solicitation criteria.

C4.5.2.1. Foreign Solicitation. In an international competition, the foreign nation releases its solicitation in the international market. When submitted through appropriate channels (see Chapter 5, paragraph C5.1.3.) the solicitation is a Letter of Request (LOR) and initiates USG processes (e.g., NDP-1, technology transfer, and other reviews) to determine if it is in the U.S. best interest to participate in the competition. The U.S. response in an international competition may include FMS, Direct Commercial Sale (DCS), international cooperative agreement, or a combination of these programs (see Chapter 5, paragraph C5.2.2. for more information on LOR responses). Most foreign solicitations are released to international defense industries rather than to Governments; however, the FMS process should not be excluded from the response solely on the basis of how the foreign solicitation was released or conditioned.

C4.5.2.2. Lead Agency for Advocacy. DSCA is the DoD focal point for policy regarding U.S. participation in international competitions. The Department of Commerce (DoC) is the lead USG agency for policy regarding advocacy of U.S. offerings to foreign Governments. The MILDEPs and defense contractor team develop the proposal. Table C4.T3. identifies the lead agency and advocacy for the USG responses.

C4.5.2.3. Responsibilities of the DoD Lead Managing the USG Response. The DoD lead facilitates the USG's deliberative processes such that the policy decisions that affect the

proposals are developed as early as possible. The DoD lead obtains the views of the key USG stakeholders: DoS, DoC, Office of the Under Secretary of Defense (Policy), Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics), Defense Technology Security Administration, DSCA, and the MILDEPs. The DoD lead ensures MILDEP and/or contractor teams submit proposals that are consistent with internal U.S. decisions, are as responsive as possible to the requirements of the foreign solicitation, and meet the solicitation's schedule. In cases of multiple U.S. offerings, the DoD lead must facilitate all U.S. proposals through the USG reviews on a level playing field basis. The DoD lead must act impartially such that there is no perception that one offering is preferred over another and there is no biased interpretation of policy. The DoD lead must bring together all competing MILDEP and/or contractor teams to highlight issues, perform joint problem solving, establish plans and agreements, ensure that the U.S. entrants are being held to the same standards, address cross-cutting issues, and coordinate responses with the foreign purchaser.

Table C4.T3. Lead Agency and/or Advocacy in International Competitions

| Number of U.S. Responses | Number of Services Involved | Lead DoD Agency   | USG Advocacy   |
|--------------------------|-----------------------------|---|--|
| One                      | One                         | MILDEP responsible for the weapon system or technology offered    | The one U.S. system offered is articulated as the formal U.S. position.  |
| More than one            | One                         | MILDEP responsible for the weapon systems or technologies offered | USG personnel may not favor the merits of one U.S. proposal over another. U.S. advocacy must be generic - the U.S. proposals are combat proven, interoperable with many nations, technologically superior, worldwide supportable, etc. This neutral stance extends to USG presence in meetings with foreign officials. If USG personnel are present for one U.S. contractor presentation, every effort must be made to be present for all briefings on other U.S. offerings. Only when one U.S. MILDEP and/or contractor team remains in the competition can the United States advocate one U.S. offering. This occurs if all other MILDEP and/or contractor teams self-eliminate or the foreign nation formally states these proposals are no longer under consideration. |
|                          | More than one               | DSCA  |  |

C4.5.3. Total Package Approach (TPA). A TPA ensures that FMS purchasers can obtain support articles and services required to introduce and sustain equipment. The complete sustainability package must be offered to the purchaser when preparing Price and Availability (P&A) data or LOAs. In addition to the system itself, other items to consider in a total package include: training, technical assistance, initial support, ammunition, follow-on support, etc.

C4.5.4. Marketing. In accordance with FAA, section 515 (reference (b)), “The President shall continue to instruct United States diplomatic and military personnel in the United States missions abroad that they should not encourage, promote, or influence the purchase by any foreign country of United States-made military equipment, unless they are specifically instructed to do so by an appropriate official of the executive branch.” Chapter 2 provides general instructions to SCOs, and the DoS has furnished similar guidance to country teams as a whole. Additional instructions may be provided for specific programs. For questions, contact DSCA (Strategy Directorate).

C4.5.5. False Impressions. Problems can occur when foreign purchasers expect to obtain certain articles and services from the USG but conditions prevent these sales. USG personnel must consider releasability, disclosure, and all required coordination before indicating to a potential purchaser that a sale from the USG is possible. See Chapter 3, paragraph C3.5.4.

C4.5.6. Re-Transfer Restrictions. All purchasers or grant recipients must agree they shall not transfer title or possession of any defense article or related training or other defense services to any other country without prior U.S. consent, authority for which has been delegated to the DoS (AECA, section 3(a)(2) (reference (c)) and FAA, section 505(a) (reference (b))). Special care must be taken to ensure that minor repair parts, fuel, or other defense articles that lose identity when co-mingled, are controlled by the recipient Government using procedures that assure there are no non-approved transfers. See Chapter 8 for information on re-transfers.

C4.5.7. Proper Use of Materiel and End Use Monitoring (EUM). Sales and assistance may be made to countries only for purposes of internal security, legitimate self-defense for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons, civic action, or regional or collective arrangements consistent with the United Nations (UN) Charter, or requested by the UN (AECA, section 4 (reference (c)); and FAA, section 502 (reference (b))). Proper use of U.S.-origin items is a joint responsibility of the recipient and U.S. personnel. U.S. representatives have primary responsibility until items are physically transferred to the recipient. The recipient then assumes this responsibility, based on agreements under which transfers are made, including transfer to a third party or other disposal or change in end-use. See Chapter 8 for information on EUM.

C4.5.8. Neutrality. The Department of Defense prefers that countries friendly to the United States fill defense requirements with U.S. origin items. Unless an item has been designated as “FMS only,” the Department of Defense is generally neutral as to whether a country purchases U.S.-origin defense articles or services commercially or through FMS channels. In some instances, such as for certain Government Furnished Equipment (GFE) and Government Furnished Materiel (GFM), AECA, section 38(a)(3) (reference (c)) controls apply and items are sold only via FMS.

C4.5.9. FMS-Only Determinations. The AECA (reference (c)) gives the President discretion to designate which military end-items must be sold through FMS channels exclusively. This discretion is delegated to the Secretary of Defense and executed by DSCA in close coordination with the Defense Technology Security Administration (DTSA) and the MILDEP or DoD Component responsible for the end-item. The DoS approves or disapproves all sales and is responsible for the continuous supervision and general direction of all sales.

C4.5.9.1. In general, the Department of Defense is neutral as to whether a sale is accomplished via Direct Commercial Sale (DCS) or FMS. However, there are times when the Department of Defense requires that a transaction be accomplished via FMS. Four general criteria are used to determine if a sale is required to proceed through the FMS process. The criteria are: Legislative/Presidential restrictions; DoD/MILDEP policy, directive or regulatory requirement, e.g., the National Disclosure Policy; government-to-government agreement requirements; and interoperability/safety requirements for U.S. Forces.

C4.5.9.2. These criteria, particularly DoD/MILDEP policy, can be further understood by considering four possible elements:

C4.5.9.2.1. U.S. Political/Military Relationship with the End-User. The geopolitical situation and security relationships are taken into account when considering the appropriateness of FMS-Only. The inherent strengths of FMS or DCS licensing methods are also considered in selecting the method that best suits the interests of U.S. and the foreign purchaser within the context of existing world security circumstances.

C4.5.9.2.2. Sale of a New or Complex System or Service. FMS-Only may be recommended:

C4.5.9.2.2.1. To maximize the purchaser's ability to assimilate the technologies and manage its acquisition/logistics.

C4.5.9.2.2.2. For enhanced interoperability and cooperation between U.S. and purchaser's military forces.

C4.5.9.2.2.3. For end-items or services that require complex systems integration with other combat systems.

C4.5.9.2.2.4. For end-items or services that require access to sensitive U.S. government databases, libraries, or software-source code.

C4.5.9.2.2.5. For end-items or services that require EUM or on-site accountability.

C4.5.9.2.3. Diversion and Exploitation of Defense Systems Technologies. Security of sensitive technologies is an area of particular concern that requires greater scrutiny in the transfer process. Defense systems and munitions that are not particularly complex or sensitive, but still require enhanced control to prevent proliferation to rogue states or terrorist organizations, represent another area where FMS may be more appropriate than DCS.

C4.5.9.2.4. Feasibility of Separating Weapon System Components into FMS/DCS Elements. At times, purchasers may desire all or a portion of a sale to be DCS. It is possible to separate the FMS-Only aspects of a purchase from the portion that can be DCS.

C4.5.9.3. Each MILDEP or DoD Component develops the FMS-Only designation considering the criteria in subparagraphs C4.5.9.1. and C4.5.9.2. The MILDEP or DoD Component forwards FMS-Only systems designations with rationale to DSCA (Programs Directorate/Weapons Division) and DTSA. DTSA enforces the FMS-Only designations within the Department of Defense through the export licensing process. Questions regarding FMS-Only designations should be directed to the MILDEP or DoD Component. Requests for further assistance with FMS-Only designations may be directed to DSCA (Programs Directorate/Weapons Division) for reconciliation or referral to the appropriate DoD element for resolution in accordance with NDP-1, DoD Directive 2040.2 (reference (u)), or DoD Directive 5120.49 (reference (ar)).

C4.5.10. Direct Commercial Sales (DCS) Preference. Companies may prefer that a sale be made commercially vice using FMS procedures. When a company receives a request for proposal from a country and prefers commercial means, the company may request that DSCA (Strategy Directorate) issue a DCS preference for that particular sale. The company's request must include a copy of the purchaser's solicitation for a price quotation. Approved DCS preferences should be held within SCOs and at the item manager level to allow proper screening of LORs. The process outlined in this section is a best efforts commitment by the Department of Defense. Failure on the part of the DoD Component to comply with these procedures shall not invalidate any resultant FMS transaction. Before approving DCS preference for a specific transaction, the following are considered.

C4.5.10.1. Article or Service Exclusions. Items provided on blanket order lines and those required in conjunction with a system sale do not normally qualify for DCS preference.

C4.5.10.2. Specific Sale Exclusions. For certain countries and for sales financed with Military Assistance Program (MAP) or FMF funds, articles or services that may otherwise qualify for DCS preference must be sold through FMS procedures. The Director, DSCA, may also mandate FMS for a specific sale.

C4.5.10.3. P&A or LOA Requests. DCS preferences are valid for 1 year. If during this time period, the applicable Implementing Agency receives a request from the purchaser for the same item they shall notify the purchaser of the DCS preference, using the following text:

[Company] has advised us that it is actively negotiating with you a program under which [article or service] is to be provided commercially.

Although we have no preference as to whether this item is procured through FMS or on a commercial basis, we do not normally provide price and availability information that could conflict with information formally requested from commercial firms. If a commercial transaction is undertaken, the U.S. Government shall not be a party to the contract; therefore, all aspects of contract performance must be between your Government and the company.

Before we can provide FMS data, you must confirm that all commercial efforts have ceased and advise us of the reason for this decision.

The Implementing Agency must determine if commercial activity has ceased, determine if guidance in paragraph C4.5.11. applies, or seek further guidance from DSCA (Strategy Directorate).

C4.5.11. Concurrent FMS and Commercial Negotiations. Implementing Agencies shall not engage in FMS-commercial comparison studies unless the Director, DSCA, grants an exception for a specific circumstance. Purchasers should submit a request for exception to DSCA (Strategy Directorate). Purchasers should avoid concurrent FMS and commercial requests. However, the purchaser's national policy or specific circumstances may require that both FMS and commercial data be obtained.

C4.5.11.1. FMS Data Obtained First. If the purchaser obtains FMS data and later determines they should request a commercial price quote, the purchaser should cancel the LOR prior to requesting commercial data. If an LOA has been offered and the purchaser then solicits formal bids from private industry for the same item, the Implementing Agency should query the country as to its intentions and indicate that the LOA may be withdrawn.

C4.5.11.2. Commercial Data Obtained First. If the purchaser requests FMS data after soliciting bids from contractors, the purchaser must supply information to the Implementing Agency showing that commercial acquisition efforts have ceased before any FMS data is provided.

C4.5.12. Travel in Support of Security Assistance Programs. U.S. military and DoD civilian employees who travel to and from a foreign country on Security Assistance business, whether the travel is financed by FMS administrative or case funds, must use the same commercial air carrier, class of service, and routing that the transportation officer requires of other DoD travelers. Waivers from the normal travel procedures shall be granted to Security Assistance travelers on the same basis and in the same manner as provided for DoD personnel traveling on regular defense business. (See Joint Federal Travel Regulations (JFTR), Volume 1, Military Members; and Joint Travel Regulations (JTR), Volume 2, DoD Civilians (references (as) and (at)).)

C4.5.13. Use of Federal Acquisition Regulation (FAR) and DoD FAR Supplement (DFARS). When procuring for a foreign Government, the Department of Defense shall apply the same contract clauses and contract administration as it would use in procuring for itself, except where deviations are authorized in the DFARS (reference (al)). If a sole source procurement requested by a foreign Government appears to be motivated by objectives in conflict with this requirement or with any U.S. legislation, the MILDEP's proposed sole source denial memorandum must be forwarded to DSCA (Operations and Strategy Directorates) for coordination.

C4.5.14. Diversion of Materiel. DoD policy requires a determination that the sale of a defense item shall not degrade U.S. defense efforts by taking needed equipment from U.S. stocks (withdrawals) or disrupting deliveries of critical items from production for U.S. Forces (diversions), unless the sale of the item is in the overall U.S. national interest. See Chapter 6, paragraph C6.4.6. for information regarding diversions.

C4.5.15. Insurance. Purchasers shall self-insure FMS shipments or obtain commercial insurance without any right of claim against the United States. When requested by the purchaser, the Implementing Agency may obtain insurance and include it as a separate LOA line item. For FMS cases already implemented, an Amendment can add authorized insurance coverage. Whenever an Implementing Agency provides these services to a purchasing country or organization, it should obtain insurance from a U.S. insurance firm if possible. Providing insurance is an exceptional arrangement and the purchaser should be encouraged to make arrangements for insurance on subsequent cases.

C4.5.16. Classification of Security Assistance Information. All Security Assistance information shall be unclassified unless the DoS, the Assistant Secretary of Defense for International Security Affairs (ASD(ISA)), the Assistant Secretary of Defense for International Security Policy (ASD(ISP)), or the Director, DSCA, directs classification in a particular situation, or unless the national security classification criteria of Executive Order (E.O.) 12958 (reference (au)), DoD 5200.1-R (reference (x)), and corresponding MILDEP regulations warrant classification for national defense purposes.

C4.5.16.1. Purchaser Requests to Classify Security Assistance Information. Under exceptional circumstances and when approved by any of the organizational elements above in paragraph C4.5.16. and DSCA, Security Assistance information may be classified at the request of the purchaser. See Chapter 5 for information the purchaser must provide when making such a request. FMS purchasers should be discouraged from requesting classification of FMS cases and related information. 10 U.S.C. 130c (reference (ag)) protects purchaser's sensitive FMS information from public dissemination. (See Section 1073 of Public Law 106-398 (2001) (reference (av)).) Congress has set a high standard for classification of FMS cases and requires a description of the damage to national security of the United States that could be expected to result from public disclosure of the information as justification.

C4.5.16.2. Factors Determining Classification. The primary factors considered by the DoS, ASD(ISA), ASD(ISP), and the Director, DSCA, in requiring classification of FMS information are: the extent to which disclosure of the information would reveal the purchaser's order of battle, taking into consideration the nature and quantity of defense articles sold and the degree to which the purchaser relies on the United States as a source of military supply; the extent to which disclosure of the information could be expected to stimulate demands by third countries upon the United States or upon other supplying nations for defense articles, thus encouraging global or regional instability or fostering an arms race; and to prevent unauthorized disclosure of the fact that a specific defense article (e.g., F-16 aircraft) is or may be sold to a particular foreign Government.

C4.5.16.3. Levels of Classification. All Security Assistance information that is classified is CONFIDENTIAL unless the DoS, ASD(ISA), ASD(ISP), or the Director, DSCA, directs a higher level of classification in a particular instance, or unless the national security classification criteria of E.O. 12958 (reference (au)), DoD 5200.1-R (reference (x)), and corresponding MILDEP regulations warrant a higher level of classification for national defense purposes.

C4.5.16.4. Declassification. All classified Security Assistance information shall be declassified when the originating agency so determines unless a longer period of classification is either directed in a particular situation by the DoS, ASD/ISA, ASD/ISP, or the Director, DSCA, or is warranted by the national security classification criteria of E.O. 12958 (reference (au)), DoD 5200.1-R (reference (x)), and corresponding MILDEP regulations for national defense purposes.

C4.5.17. Department of Defense (DoD) Support to Direct Commercial Sales (DCS). U.S. industry may request defense articles and services from the DoD to support a DCS to a foreign country or international organization. Defense articles and/or services provided to U.S. industry must be accomplished pursuant to applicable statutory authority including Section 30 of the AECA (reference (c)). Section 30 of the AECA (reference (c)) authorizes the sale of defense articles or defense services to U.S. companies at not less than their estimated replacement cost (or actual cost in the case of services) for incorporation into end items to be sold by such company on a direct commercial basis to a friendly foreign country or international organization pursuant to Section 38, AECA (reference (c)). SAMP Chapter 11, section C11.8. further clarifies authorized DoD support (articles or services) under this section. In addition, it is important that defense industry representatives identify early in the DCS planning process if support from the DoD will be required. If DoD support is deemed necessary, then meetings with DoD representatives should be arranged to discuss the level of support required and the method for funding the associated costs.

#### C4.6. GENERAL FMS FINANCIAL POLICIES

See Chapter 9 for detailed financial policy information. Some broad financial policies that should be noted early in the FMS process include the following.

C4.6.10. Recovery of Cost. The FMS program must be managed at no cost to the USG (with certain exceptions specifically identified in the AECA). The LOA mandates that the purchaser pay the full program value regardless of terms of sale specified for the individual case or the estimated values provided. Modifications and Amendments are used to update case values as necessary when changes to the program occur. See Chapter 6, section C6.7. for more information on when these documents should be used.

C4.6.11. Payment in U.S. Dollars. Sales may be made under FMS only if the eligible purchaser agrees to pay in U.S. dollars (AECA, sections 21 and 22 (reference (c))). AECA, section 21(h) (reference (c)) authorizes reciprocal arrangements under limited circumstances.

C4.6.12. Use of FMS Credit Funds for Procurement Outside the United States. FMS credit funds may be used for procurement outside the United States only if the President determines that such procurement does not result in adverse effects upon the U.S. economy or the industrial mobilization base (AECA, section 42(c) (reference (c))). Prior consultations with the DSCA (Operations Directorate) and the Departments of State and Treasury are required. See Chapter 9 for more information on credit funds.

C4.6.13. Foreign Military Financing (FMF) and/or Credits

C4.6.13.1. Use of FMF and/or Credit for Essential Items. FMF and/or credit and guaranties under the AECA shall be used only to assist countries in acquiring essential items that cannot reasonably be financed by other means and normally shall be used only to finance investment requirements.

C4.6.13.2. Use of Concessionary FMF and/or Credit Terms. Concessionary FMF and/or credit terms (i.e., interest rates less than the cost of money to the USG) shall be granted only when determined by the President (AECA, section 23 (reference (c))).

C4.6.13.3. Repayment of FMF and/or Credit. FMS credits must be repaid in U.S. dollars. Repayment terms are not longer than 12 years after the loan agreement has been signed on behalf of the USG unless otherwise provided for by U.S. law (AECA, section 23 (reference (c))). Individual credit installments must be repaid in a timely manner to avoid Brooke Sanctions (a provision within the annual Foreign Operations Appropriations Act).

C4.6.13.4. Use of FMF and/or Credit Payments. Cash received from FMS and from repayments of FMF and/or credits shall not be used for financing new FMF and/or credits or guaranties (AECA, section 37 (reference (c))).

C4.6.13.5. U.S. Guaranties. The USG may guarantee financing by any individual, corporation, partnership, or other judicial entity doing business in the United States (excluding USG agencies other than the Federal Financing Bank) if such financing is in connection with FMS or direct commercial sales of defense items. Fees shall be charged for such guaranties (AECA, section 24 (reference (c))). As of publication of this document no active guaranties exist.

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