

UNCLASSIFIED

ACTION MEMO

FOR: PRINCIPAL DEPUTY ASSISTANT SECRETARY OF DEFENSE (GSA)

FROM: VADM Jeffrey A. Wieringa, Director, Defense Security Cooperation Agency

SUBJECT: Compliance with Section 1228 of the National Defense Authorization Act for Fiscal Year 2008 (FY08 NDAA)

- The FY08 NDAA, P.L. 110-181, Section 1228, requires that the President implement a registration and monitoring system regarding exports and transfers to Iraq to track by serial number all "small arms" as defined in that section, provide end-use monitoring of all lethal defense articles, and record the origin, shipping, and distribution of all defense articles transferred to Iraq under the Iraq Security Forces Fund or any other security assistance program. Section 1228 takes effect on July 26, 2008 (180 days after enactment).
- After July 26, 2008, no defense articles may be provided to Iraq until the President certifies that such a registration and monitoring system is in place. The President may delay the effective date up to 90 days by certifying in writing to the specified congressional committees that for such additional period it is in the vital interest of the United States to do so, and the certification includes a description of such vital interest.
- DoD and DoS have concluded that additional time is needed to perform a thorough review of all transfer authorities for Iraq and develop solutions to achieve compliance with the registration and monitoring requirements. Therefore, the recommended course of action is to request that the President make the required certification to delay the effective date of section 1228 for an additional 90 days as provided in the law.

RECOMMENDATION: That you approve and sign the memorandum at Tab 1.

Approve: _____ Disapprove: _____ Other: _____

COORDINATION: TAB C

Prepared by: _____



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ACTION MEMO

DSD
USD(P) JUL 18 2008

FOR: SECRETARY OF DEFENSE

FROM: Joseph A. Benkert, Principal Deputy Assistant Secretary of Defense (GSA)

JUL 17 2008

SUBJECT: Compliance with Section 1228 of the National Defense Authorization Act for Fiscal Year 2008 (FY08 NDAA)

- The FY08 NDAA, P.L. 110-181, Section 1228, requires that the President implement a registration and monitoring system regarding exports and transfers to Iraq to track by serial number all "small arms" as defined in that section, provide end-use monitoring of all lethal defense articles, and record the origin, shipping, and distribution of all defense articles transferred to Iraq under the Iraq Security Forces Fund or any other security assistance program. Section 1228 takes effect on July 26, 2008 (180 days after enactment).
- After July 26, 2008, no defense articles may be provided to Iraq until the President certifies that such a registration and monitoring system is in place. The President may delay the effective date up to 90 days by certifying in writing to the specified congressional committees that for such additional period it is in the vital interest of the United States to do so, and the certification includes a description of such vital interest. (Tab B).
- DoD and DoS have concluded that additional time is needed to perform a thorough review of all transfer authorities for Iraq and develop solutions to achieve compliance with the registration and monitoring requirements.
- We judge that the Foreign Military Sales (FMS) program is compliant now, given that it has End Use Monitoring (EUM). However, there are other authorities managed within DOD – including transfers using Iraq Security Force Funds (ISFF) – and other departments of the Executive Branch for which we have not been able to verify an applicable EUM program that is

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compliant with Section 1228. DSCA is establishing a full accounting of these other authorities.

- For those Departments and Agencies overseeing authorities that are not now compliant, they will need to develop procedures and allocate resources to comply with the law or move such transfers to a compliant authority.
- This request is coming to you late in the process because a late determination by the interagency on ownership for implementation of Section 1228 resulted in it being assigned to DSCA on only June 12. The requirement to coordinate with myriad stakeholders resulted in this package being delivered now.
- Therefore I recommended that you request that the President make the required certification to delay the effective date of section 1228 for an additional 90 days as provided in the law.

RECOMMENDATION: That you approve and sign the memorandum at Tab A.

Approve: _____ Disapprove: _____ Other: _____

COORDINATION: TAB C

Attachments: As stated