INTERNATIONAL TRANSFER OF US DEFENSE-RELATED TECHNOLOGY AND MUNITIONS

References:
   b. DOD Directive 5120.49, 14 March 1990, “DOD International Technology Transfer Coordinating Committee”
   c. DOD 5105.38M 1 April 1998 “Security Assistance Management Manual”

1. Purpose. This instruction implements the references and establishes Joint Staff procedures for reviewing the international transfer of US defense-related technology.

2. Cancellation. CJCSI 2110.01A, 1 March 2000, is canceled.

3. Applicability. This instruction applies to the Joint Staff and the combatant commands.

4. Policy. DOD policy is to treat defense-related technology as a valuable, limited national security resource, to be husbanded and invested in pursuit of national security objectives. Consistent with this policy and in recognition of the importance of international trade to a strong US defense industrial base, the Department of Defense will apply export controls in a way that minimally interferes with the conduct of legitimate trade and scientific endeavor. Within the DOD review process, the Joint Staff, in coordination with the combatant commanders, represents the operational interest and perspective of the warfighter. Issues in technology transfer and specific proposals for the transfer of defense-related technology, goods or services are evaluated at the Joint Staff and unified command level from the perspective of providing the best military advice possible to the President and/or Secretary of Defense;
and from the viewpoint of the potential impact on operations and warfighting.

5. Definitions. None.

6. Responsibilities

   a. The Director for Strategic Plans and Policy (J-5) is the designated Joint Staff principal for all technology, data, services, material and munitions issues that pertain to development, defense cooperation and other politico-military factors influenced by technology. Specific responsibilities within the Directorate for Strategic Plans and Policy (J-5) are as follows:

      (1) The Deputy Director for War on Terrorism (DDWOT). DDWOT will represent the Joint Staff on the DOD International Technology Transfer Coordinating Committee (IT2C2) established by reference a.

      (2) IT2C2 Subcommittees or Working Groups. The Chief, Weapons of Mass Destruction (WMD) Division, DDWOT, and the appropriate Chiefs of Politico-Military Affairs (DDIN and/or DDPMA-E) regional divisions will represent the Joint Staff on any IT2C2 subcommittees or working groups established under reference b.

      (3) Arms Transfer Policy Review Group (ATPRG). The ATPRG develops DOD positions on contentious arms transfer issues. The Chief, WMD Division, or his representative will represent the Joint Staff on this committee at the working group level. Generally, the Director, J-5, represents the Joint Staff at the principal level. All issues will be coordinated through the appropriate combatant commands and Joint Staff elements.

      (4) Wassenaar Arrangement (WA) on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. The United States and 32 other governments in July 1996 formally implemented WA. The purpose of the WA is to:

         (a) Promote transparency and greater responsibility with regard to the transfers of conventional arms and dual-use goods/technologies.

         (b) Encourage restraint where threats to international peace and stability are judged greatest.

         (c) Harmonize national export policies to guard against destabilizing accumulations of military might.
WA issues will be referred to the Joint Staff from the Deputy Under Secretary of Defense, Technology Security Policy (DUSD(TSP)), for comment or concurrence. J-5/WMD Division will coordinate any such actions with the Services and the Joint Staff. For those issues that are primarily associated with Conventional Arms Control (CAC) policy, J-5/CAC Division will respond in coordination with WMD Division. The coordinated comments or concurrence will then be forwarded to DUSD(TSP) through DDWOT.

(5) Letters of Request (LORs). LORs are prepared by the Director, Defense Security and Cooperation Agency (DSCA), in accordance with reference c and forwarded to the Director, Joint Staff. The LOR will be referred to the J-5/WMD Division, who will coordinate with the Service(s), appropriate combatant command and Joint Staff directorates.

(6) Munitions Export License Requests. License requests are forwarded to the Joint Staff from the Defense Technology Security Administration (DTSA), the lead DOD agency for these actions. All requests will be assigned to J-5/WMD Division, who will coordinate the Joint Staff input with appropriate combatant command(s), Service(s), regional division(s) and other Joint Staff elements.

(7) National Disclosure Policy Issues. In recognition that it may be in our national interest to share classified military information (CMI) with foreign nations, the National Security Council, with approval of the President, established a national disclosure policy (NDP-1) governing disclosure of CMI to foreign governments. NDP-1 authorizes delegated disclosure decisions up to a specified level of classification for most countries. In cases where disclosure cannot be delegated, an Exception to National Disclosure Policy (ENDP) is required. ENDPs must be sponsored and supported by the agency with cognizance over the CMI. ENDPs require consensus support from the Interagency members of the National Disclosure Policy Committee (NDPC). The Chairman of the NDPC refers cases requesting an ENDP directly to the Joint Staff NDPC member, J-5 WMD Division. Cases received will be staffed through the appropriate combatant commands (planner level coordination required, normally O-6 or above), DDPMA regional divisions, and cognizant Joint Staff elements for comment or concurrence within 10 days. After staffing and approval, the Joint Staff NDPC member will forward the Joint Staff vote to the NDPC.

(8) Excess Defense Article (EDA) Coordination Committee. The Departments of Defense and State have established an EDA Coordination Committee to review projected excess and allocate excess defense assets to potential recipients. The Chief, WMD Division, or his representative
will represent the Joint Staff on this committee. Decision issues will be coordinated with all appropriate Joint Staff elements and combatant commanders.

b. The Director for Command, Control, Communications and Computer Systems (C4S) (J-6) is the designated Joint Staff principal for technology transfer issues affecting C4S.

c. The Director for Operational Plans and Joint Force Development (J-7) is the designated Joint Staff principal for issues and factors concerning US efforts to standardize, or to make interoperable, procedures and equipment with allies and other friendly nations through cooperative armaments projects that enhance US rationalization, standardization and interoperability procedures.

d. Combatant command assessments that respond to Security Assistance, Export License or ENDP requests should incorporate a review of the following general criteria to ensure transfers are consistent with US Government Conventional Arms Transfer Policy, support Combatant Command Theater Security Cooperation objectives and contribute to force interoperability:

(1) How introduction supports execution of AOR war plans.

(2) Mutual defense and AOR security objectives.

(3) Interoperability (engagement of the country’s military in combined operations with US forces and other AOR allies) Note: Interoperability requirements should address the requirement for release of COMSEC if applicable.

(4) The ability of a country’s military forces to perform important or useful mission(s) that otherwise would be performed by US forces.

(5) The offensive and defensive nature of the weapon system.

(6) The ability of the country to absorb and support the system.

(7) The amount and sensitivity of the technology proposed for transfer.

(8) The status of US foreign security relationships.

(9) Military-to-Military contacts with other AOR nations.

(10) Qualitative Military Edge of US forces in the region.
(a) These criteria are intended to assist in providing the combatant commander’s assessment. It is not necessary to address each criteria in every case, and there may be additional considerations you deem appropriate. These simply serve as a guide to link potential arms transfers to specific Theater Security Cooperation strategies.

(b) In those cases where a proposed weapon system sale or cooperative program includes or is dependent on the release of COMSEC to ensure full interoperability, the combatant command assessment should indicate whether they will support the required release. Additionally, combatant command concurrence on a proposed arms sale that includes COMSEC should serve as a stimulus for the combatant commander to initiate the COMSEC release request process. This is not intended to imply that a proposed arms sale/cooperative program is the sole justification in and of itself for release. It is intended to ensure that for those cases where there is a clear affirmative concurrence for the sale/cooperative program the COMSEC release process is initiated as soon as possible so as not to unduly delay the overall arms sales/cooperative program process.

7. Summary of Changes. This instruction incorporates changes codifying procedures for the analysis of conventional arms transfers by combatant commands, and the relationship between an arms sales contribution to combatant command interoperability and the COMSEC release process. It states the perspective from which the Joint Staff assesses prospective transfers of defense technology, equipment and services. It also provides realignment responsibilities reflecting current Joint Staff organization procedures.

8. Releasability. This instruction is approved for public release; distribution is unlimited. DOD components (to include the combatant commands), other Federal agencies, and the public may obtain copies of this instruction through the Internet from the CJCS Directives Home Page--http://www.dtic.mil/doctrine. Copies are also available through the Government Printing Office on the Joint Electronic Library CD-ROM.

9. Effective Date. This instruction is effective upon receipt.

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