
Department of Commerce Overseas Support for U.S. Defense Industry Sales Support

[To increase the awareness of DOD personnel regarding the role of overseas Department of Commerce personnel in support of Direct Commercial Sales and Foreign Military Sales, the following 1987 Department of Commerce message (05225Z Aug 87) is reprinted herein.]

1. Summary: In response to requests from the field and conversations at recent SCO [Senior Commercial Officer] conferences, this message (1) clarifies the nature and scope of support which USFCS [U.S. and Foreign Commercial Service] officers can provide to U.S. companies in connection with commercial military sales overseas, and it provides guidance on the role officers can play in supporting DOD Foreign Military Sales (FMS) assistance in-country teams; and (2) it encourages USFCS officers to support U.S. defense industry sales effort where appropriate to their mission. In short, USFCS officers may support commercial (as opposed to FMS-Funded) sales of military equipment subject to State Department guidelines listed below. In the case of FMS sales or where another agency would have the lead, USFCS posts should provide counsel and information on a time available basis, as long as this support does not negatively impact on higher priority work.

2. USFCS support for U.S. companies' overseas commercial military sales activities was a frequent topic at the recent series of SCO conferences. The purpose of this message is twofold (1) To clarify the current USFCS position on defense industry sales and provide some basic guidance on support you can offer; and (2) to encourage your efforts in this areas, if it is appropriate for your mission. A number of you are already doing a great deal in assisting U.S. companies' defense sales activities as part of Post management or DOD/FMS initiatives. I encourage you to do so. It is not the intent of this message to make you less aggressive or to circumscribe your efforts, but to encourage you to do as much as you can to support U.S. companies' defense industry sales activities. These activities do not show up in the trade statistics, but do translate into more U.S. jobs and a stronger U.S. defense industry.

3. Export of U.S. defense products is regulated by the Foreign Assistance Act and the Arms Export Control Act. Dual use items which have both military and civilian applications are controlled by the Export Administration Act (EAA) and amendments. The EAA does not apply to arms sales.

4. USFCS personnel cannot promote defense industry products or services unless specifically instructed to conduct such activities by an appropriate official in the Executive Branch. Under the Arms Export Control Act, State has supervisory responsibility in coordinating arms exports. Unclassified U.S. State Department message 022248, offers guidelines on the specific services posts can provide to U.S. firms selling arms and cautions that questionable items should first be called to the State Department for a ruling.

5. Following is a brief description of support USFCS staff can offer:

a. For any U.S. defense industry product exporter: USFCS can offer basic business information and services such as access to commercial library, names and addresses, information about local customs regulations and commercial law; and non-sensitive background information on the organizational structure of the host government and defense forces, its defense budget, funding limitations, and whatever U.S. financial assistance is available.

b. For U.S. firms which have a license to release technical data in support of sales promotions or other marketing efforts in the host country (subject to local conditions): USFCS can provide additional assistance to company representatives, including advice on which host government officials to contact, general advice on sale tactics, and informing the host government of issuances of licenses. However, you should inform the appropriate State/DOD country team member and get their approval before proceeding.

c. You cannot take any action without State/Post management approval on any other request by U.S. firms or their representatives for special support of any kind beyond the activities outlined above which would directly encourage, promote, or influence a US. defense industry purchase by a foreign government.

6. Officers are directed to review U.S. State Department Message 022248, paragraphs 9 through 13 for detailed guidance on acceptable activity. If at any point in your support of a defense industry sale or defense contractor you have questions regarding appropriate licensing processes or policy, you should consult with your defense attaché or security assistance officer as appropriate. If you cannot get a definitive reading, you are encouraged to contact State, attention PM/SAS.

7. In the case of foreign military sales assistance efforts conducted by DOD, you are encouraged to advise or consult DOD/FMS country team members at their request, provided that you can do so without impacting on your primary mission or priority activities. Given our limited resources, we do not feel that USFCS can or should assume a leadership role in FMS efforts. However, you can support DOD or State efforts in areas where your knowledge of commercial activities or contacts can be useful, as for example, in suggesting areas for co-production agreements and/or bi/multilateral industrial worksharing, assistance in identifying and selecting agents and/or consultants, etc.

8. Some of you may already have good information to assist in responding to inquiries per paragraph 5 a. and b. above. If not, you may wish to start developing this general information, as resources permit, and assuming that there is sufficient on-going demand to make the effort worthwhile.

9. We are currently revamping our Trade Opportunities Program. We have been approached by DOD to explore ways that USFCS can work with DOD to improve U.S. companies' access to foreign government military procurement opportunities. We have proposed using the new TOPS program for this purpose.

10. [Not generally applicable.]

11. You are encouraged to work with DOD and Post management on these issues, and you have our assurance of strong support for your efforts in this important area.