Chapter

18 End-Use Monitoring and Third-Party Transfers

Introduction

Sources for the policies and procedures for the end-use monitoring (EUM) and third-party transfer of US-origin defense articles, technical data, services, and training are the Arms Export Control Act (AECA), the Foreign Assistance Act of 1961 (FAA), as amended, various specific legislative initiatives, and the applicable regulations of the Department of State (DOS) and the Department of Defense (DOD). Restrictions and procedures for transfer or disposal under these individual security cooperation (SC) programs may vary significantly due the source of funding, specific legislation and other unique aspects of the various programs. This chapter is designed to augment chapter 8 of the *Security Assistance Management Manual* (SAMM) and serve as a guide to assist the defense community and the recipient foreign governments in fulfilling the obligations for EUM and third party transfer of US origin defense articles and services primarily provided through various DOD and DOS programs.

Section 40A of the AECA enacted in 1996 (Public Law 104-164) states, "The President shall establish a program that provides for End-Use Monitoring in order to improve accountability with respect to defense articles sold, leased, or exported under the AECA or FAA."

The DOD has made a determination that this requires, to the extent practicable, monitoring of US arms transfers by providing "reasonable assurance" that recipients comply with US government (USG) export control requirements regarding the use, transfer, and security of defense articles and services. It was also determined that this requirement applies to all US origin defense articles and services transferred under any government program.

The US policy goal for the EUM programs is to preserve the technological advantages enjoyed by US military forces over potential adversaries by impeding access to militarily significant items and technologies. As defined in the SAMM, EUM is a program designed to verify that defense articles or services transferred by the USG to foreign recipients are being used in accordance with the terms and conditions of the transfer agreement or other applicable agreement. A country receiving weapon systems and weapons systems technology from the US must agree to a variety of controls. The release of defense articles or data to a non-USG entity must be properly cleared within the DOS and DOD coordination processes. The recipient country or organization must provide substantially the same degree of security protection the USG would provide for the same article or information received. The recipient agrees that it will use the articles or information for the intended purpose and will not transfer or change the end-use (including disposal of the articles without prior consent of the USG). In addition, the recipient must permit verification of the security measures and end-use by representatives of the US.

These requirements are specified in the SAMM, chapters 5 and 8, and will be included in any of the documents authorizing the transfer of US-origin defense articles and services. For items transferred under the Foreign Military Sales (FMS) system, this normally is the letter of offer and acceptance (LOA) with the standard terms and conditions and any specific notes related to protection and verification. For direct commercial sales, the purchasing nation must sign either a Non-transfer Use Certificate (DSP-83) or a Statement by Ultimate Consignee and Purchaser (BIS-711 or BXA-711), and a security

assurance agreement. Transfers of materiel and services through other grant programs (which are not documented on an LOA) are normally executed after the recipient has signed a bilateral agreement subject to the terms of the FAA, section 505 (i.e., sometimes referred to as a Section 505 Agreement).

DOD End-Use Monitoring

The Department of Defense's Golden Sentry Program

The AECA requires a comprehensive end-use monitoring program for arms sales and transfers authorized by the AECA and the FAA to verify with reasonable assurance that a recipient is in compliance with USG export controls. The DOS actively monitors, reports, and addresses unauthorized arms transfers and diversions in accordance with section 3 of the AECA through its Blue Lantern EUM program. Some of the procedures and considerations used in the DOS Blue Lantern program are incorporated into the framework of the DOD Golden Sentry EUM program. The Defense Security Cooperation Agency (DSCA) is responsible for reviewing requests for government-to-government exports of defense articles, defense services, and related technical data. DSCA provides significant details for the EUM program in chapter 8 of the SAMM. Titles to articles that are leased or loaned remain with the USG as detailed in the terms of the lease; however, EUM requirements still apply. All potential end-use violations must be reported to the Bureau of Political Military Affairs' Regional Security and Arms Transfers (PM/RSAT) Division at the DOS. Information regarding any potential violations should also be forwarded to the Golden Sentry program team, Weapons Division, Directorate for Programs at the DSCA. DOS PM/RSAT will determine if an investigation and a report to Congress is required in accordance with section 3 of the AECA.

Responsibilities for the Golden Sentry End-Use Monitoring Programs

The responsibilities for the conduct of the Golden Sentry EUM program are found in the SAMM, chapter 8, paragraph C8.2.3 and table C8.T2. The security cooperation office (SCO) is normally assigned the responsibility for in-country EUM requirements of the Golden Sentry program. There are two levels of EUM to be conducted by the SCO and the recipient nation: routine and enhanced.

Routine EUM

The SCO is required to conduct routine EUM visits with host nations in conjunction with other assigned duties. SCOs should perform EUM of defense articles and services exported via the Foreign Military Sales (FMS) and other building partner capacity (BPC) programs (such as 1206, 1208 and 1033 authorities) during visits to the host nation's installations, through interaction with other assigned embassy personnel and USG individuals working with the host nation's military and security forces, embassy and interagency reports and news media information. These EUM visits should be documented in a memorandum for record (MFR) to support DSCA compliance assessment visits (CAV). An MFR template is included in attachment 18-1. DSCA has developed a Routine EUM Summary Report in the EUM-Security Cooperation Information Portal (SCIP) database which provides a "watch list" of specific categories defense articles exported via the FMS system (or other DOD transfer programs). This report appears under the Queries/Reports menu on the EUM-SCIP home page. More information regarding SCIP is available in appendix 1 of this textbook. The routine EUM "watch list" of specific categories of defense items includes:

- Battle tanks
- Armored Combat Vehicles
- Artillery systems
- Fixed wing aircraft & Helicopters
- Unmanned Aerial Systems

- Warships & Military Vessels
- Missiles & Missile Systems
- Military vehicles
- Bombs
- Crew Served and Individual Weapons
- Platform Mounted Night Vision Devices

Enhanced EUM

Enhanced EUM (EEUM) are those actions required by the SAMM and other directives as specified in the appropriate transfer documents for sensitive items which require increased monitoring, physical security and accountability. EEUM articles require actual inventories (by item serial numbers) to be conducted by the purchasing country and SCO, and under certain circumstances, these articles may also require a compliance assessment visit by a DSCA-led team. The following defense articles are EEUM items:

- Communication Security (COMSEC) Equipment
- STINGER Missiles and Gripstocks
- Night Vision Devices
- JAVELIN Missiles and Command Launch Units
- TOW-2B Missiles
- Advanced Medium Range Air-to-Air Missiles AMRAAM (AIM-120)
- AIM-9X Advanced Sidewinder Air-to-Air Missiles
- Standoff Land Attack Missile Expanded Response Missiles (SLAM-ER)
- Harpoon Block II Missiles
- Joint Air-to-Surface Standoff Missiles (JASSM)
- Joint Standoff Weapon (JSOW)
- Standard Missile-3 (SM-3)
- Tomahawk Missile
- Large Aircraft Infrared Countermeasures (LAIRCM)
- Unmanned Aircraft System (UAS)
- Theater High Altitude Area Defense (THAAD)
- Other sensitive items specifically identified by Congress, DOS, or DOD

Standard Operating Procedures (SOPs) and Compliance (Control) Plans

SCOs are required by SAMM chapter 8, C8.T2, to develop EUM SOPs and/or EUM Compliance (Control) Plans to promulgate country-specific EUM policy and implement procedures to conduct routine and enhanced EUM. Copies of the SOPs and/or compliance (control) plans must be provided to DSCA. Written SOPs should contain as a minimum the information below and should be approved by the SCO Chief:

- EUM reference documents including laws, regulations & policy documents
- EUM POCs for all pertinent USG agencies & host nation organizations
- Procedures for conducting routine EUM including the use of FMS Routine EUM Summary Reports provided in the EUM-SCIP database & records of visits
- Procedures for conducting EEUM, including use of EEUM Reconciliation Reports provided in the EUM-SCIP database, use of EEUM checklists, maintaining records of physical security checks & inventories, logging inventories & annotating when items are lost, expended or destroyed in the EUM-SCIP database
- Procedures for assisting the host nation with requests for transfers of defense articles (third party transfers), changes of end use (destruction/disposal), and reporting equipment losses
- Procedures for reporting potential end-use violations, including theft and unauthorized access
- Procedures for recording all expenses for performing EEUM and submitting annual costs and projections under code 210EM through the Security Assistance Automated Resource Management Suite (SAARMS)
- Procedures for supporting attendance to regional EUM forums and coordinating DSCA Compliance Assessment Visits (CAVs) including taking corrective when required

Country Team Assessment (CTA)

If a host nation has a request for Missile Technology Control Regime (MTCR) Category I Intelligence, Surveillance, & Reconnaissance (ISR) Unmanned Aerial Vehicle (UAV)/Unmanned Combat Aerial Vehicle (UCAV), or NVDs, a plan for end-use monitoring for sensitive and advanced war fighting technology and the SCO's plan for compliance verification will need to be addressed in the CTA as referenced in SAMM C5.T1b.

Country Specific EUM

There are some countries that have unique EUM requirements mandated by Congress. The National Defense Authorization Act of 2008 provides the legal basis for the requirement to implement a control program in Iraq. According to law, the President shall implement a policy to control the export and transfer of defense articles delivered to Iraq. This includes all defense article registration and monitoring of all small arms provided to the Iraqi Government, as well as any Iraqi groups or individuals. Additionally, the law requires the USG to maintain detailed records of origin, shipping, and distribution for defense articles transferred under the Iraq Security Forces Fund authorization. This law was implemented by DOD Instruction 4140.66 *Registration and Monitoring of Defense Articles* (dated October 15, 2009).

The National Defense Authorization Act of 2010 provides the legal basis for the requirement to implement control programs in Afghanistan and Pakistan. This law was implemented by the reissuance of DOD Instruction 4140.66 *Registration and End-Use Monitoring of Defense Articles and/or Defense Services* (dated September 7, 2010). This instruction directs the establishment of a registration and monitoring system for DOD government-to-government transfer or export of defense articles and/or defense services transferred to Iraq, Afghanistan, and Pakistan using funds made available to the DOD including, but not limited to, funds made available pursuant to the Iraq Security Forces Fund, Afghanistan Security Forces Fund, Pakistan Counterinsurgency Fund or any other security assistance program.

Specifically, DOD Instruction 4140.66 directs the applicable SCO to develop the necessary compliance plans and procedures to administer and maintain a comprehensive system of registration and monitoring of defense articles and/or defense services provided to Iraq, Afghanistan, and/or Pakistan, including maintaining auditable records sufficient to certify that the system complies with this instruction. These plans and procedures include the necessary steps to ensure the registration of the serial numbers of all small arms to be provided to the governments of Iraq, Afghanistan, and/or Pakistan and/or to other groups, organizations, citizens, or residents of Iraq, Afghanistan, and/or Pakistan. It directs for an EUM program of all lethal defense articles to be provided to the governments of Iraq, Afghanistan, and/or Pakistan and/or to other groups; and it mandates that the SCOs maintain auditable records to certify compliance of maintaining detailed records of the origin, shipping, and distribution of all defense articles provided to the governments of Iraq, Afghanistan, and/or Pakistan, and/or to other groups, organizations, citizens, or residents of Iraq, Afghanistan, and/or Pakistan.

Security Cooperation Office and the Partner Nation End-Use Monitoring Plan

The SCO and the partner nation should develop either a combined EUM compliance (control) plan or individual plans that spell out the procedures that will be followed to ensure the requirements for both routine and enhanced EUM as specified in the appropriate transfer documents are met. The plan should include the following provisions:

- Procedures to be followed for EUM visits
- Partner nation internal accountability procedures
- Procedures for reporting required inventories and inspections
- Procedures for record keeping on the part of the host nation and the SCO. As a minimum, the records maintained by the host country should include:
    - ◊ Procedures for reporting possible violations and corrective action required
    - ◊ Procedures for use of the SCIP

Visits to assess EUM compliance programs are an important part of the Golden Sentry program. There are three types of visits that the SCO and host nation will be involved with (See SAMM chapter 8, paragraph C8.5). The purpose of the EUM familiarization assessment visit (FAV) is to assist the host nation, the SCO, and the combatant command (CCMD) with the development of EUM compliance plans. The EUM compliance assessment visit (CAV) is to review and evaluate the overall EUM program of the SCO and the host nation and to assess host nation's compliance with the security and accountability provisos contained within the LOAs for EEUM items. FAV and CAV time lines and requirements are detailed in SAMM tables C8.T5 an C8.T6. An EUM investigation visit must be conducted if a possible violation of the AECA, section 3, and/or the FAA, section 505 is suspected. Because of the unique nature and political sensitivity associated with these visits, they are handled on a case-by-case basis in concert with DOS.

The SCIP EUM Community contains detailed information on items that have been transferred to a partner nation. It is to be used to report all inspections and other information concerning EUM and third party transfers. It also provides the capability to generate reports concerning the status of selected items transferred to a partner nation, as well as other information. To enroll or access the SCIP EUM Community, visit the SCIP website: http://www.scportal.us/home/.

Funding for EUM Requirements

Direct costs for EUM are itemized in the budget and include total estimated expenses that will require distribution of funding authority to the SCO. For management purposes, there will be a special exhibit for End-Use Monitoring (EUM) requirements. Enhanced EUM requirements that have just been received in country and were not included within the budget target ceiling level will be submitted as an unfunded requirement (UFR).

The CCMD reviews and modifies the budgets submitted by each SCO. When the CCMDs are satisfied with their budgets, DSCA reviews the overall budget and prepares it for submission to DOD and Congress.

SCOs should start the request for funds as a budget requirement as soon as the country starts the Letter of Request process (LOR) for an EEUM item. This allows time to include the EEUM monitoring requirements in the budget process and thus should have the additional EUM funds when needed. For a more detailed discussion of the overall budgeting process, refer to chapter 17 of this textbook, "Resource Management for the Security Cooperation Organization."

Compliance Assessment Visits

To comply with AECA section 40A, DSCA developed policy guidance in the SAMM to establish the Golden Sentry EUM program. In-country Compliance Assessment Visits (CAV) are required to verify that SCOs and host nations have appropriate EUM control measures in place.

The purpose of a CAV is to review and evaluate the SCO's (or equivalent organization/office) compliance with Golden Sentry EUM policy and the host nation's compliance with the terms and conditions for the transfer of defense articles and services including specific physical security and accountability provisos pertaining to sensitive technologies. Activities during a CAV include facility visits, record reviews, review of routine and enhanced EUM policies and procedures, and inventories of US-origin defense articles and/or services. EUM CAVs are coordinated well in advance with the CCMDs and the SCOs to ensure timely coordination with the host nation.

The EUM Community (i.e. Support/EUM resource tab) in SCIP has defense article checklists to assist the SCO in conducting self-assessments, to help prepare the host nation to receive EEUM defense articles, or to prepare for an upcoming CAV.

Security Cooperation Office CAV Criteria

Compliance with the policies and procedures of the Golden Sentry program and the SCO's responsibilities stated in the SAMM, C8.T2, to include:

- Implementation of written Standard Operating Procedures (EUM Compliance Plan) to perform routine and EEUM;
- Implementation of physical security and accountability plan(s) (NVD Compliance Plan) for the protection, storage, use and accountability of NVDs or other sensitive and advanced war fighting technology;
- Maintenance of records verifying routine and EEUM;

- Accuracy of the EEUM-designated items baseline as per the EEUM Reconciliation Report provided in the SCIP-EUM database;
- Timely performance of physical security and accountability checks of all EEUM-designated defense articles and services in accordance with Golden Sentry checklists;
- Use of the SCIP-EUM database to track inventories and to maintain an accurate disposition of EEUM-designated items;
- Verification and proper coordination with the DOS's Bureau of Political-Military Affairs / Office of Regional Security and Arms Transfers (DOS PM/RSAT) for the demilitarization, disposal, or destruction of EEUM-designated items and sensitive defense articles;
- Accuracy and timeliness of reporting losses, expenditures and destruction of EEUM-designated equipment;
- Proper coordination with DOS PM/RSAT regarding third-party transfer requests and approvals.

Host Nation CAV Criteria

Compliance with the conditions of the transfer agreements for US-provided defense articles and services to include:

- Cooperation and coordination with US officials to implement and maintain a viable EUM program which provides for routine and EEUM, including the CAVs conducted by DSCA;
- Potential end-use violations found during the assessment or previously reported by the SCO;
- Implementation of NVD physical security and accountability plan(s) (NVD Compliance Plan) as required;
- Implementation of physical security and accountability measures at storage sites/facilities maintaining EEUM-designated items in accordance with the special provisions stated in the LOA or other transfer agreement EEUM-designated equipment losses, action taken to prevent future losses (as appropriate) and reporting history;
- Accurate and timely notifications of demilitarization, disposal, destruction, loss, expenditure, or other change of end-use of EEUM-designated equipment and sensitive defense articles.

DSCA sends an annual message to all CCMDs and SCOs listing the countries that are subject to a CAV in the next two years. The two-year CAV plan is validated annually as necessary through coordination between DSCA and SCOs.

Department of State's Blue Lantern Program

The DOS program to conduct pre-license, pre-shipment/post-license, and a post-shipment check of defense articles and services transferred through direct commercial sales (DCS) is called the Blue Lantern Program. Blue Lantern end-use checks are conducted by US mission personnel abroad or personnel from the DOS.

The purpose of the Directorate of Defense Trade Controls (DDTC) is to verify the destination and specific end-use and end-users of US commercial defense exports and transfers. Blue Lantern cases are targeted based on potential risk, and are not randomly selected. These end-use checks encourage compliance with legal and regulatory requirements and have proven effective in addressing the growing

problem of gray arms trade—the use of fraudulent export documentation or other techniques to acquire defense articles through legitimate channels for unauthorized end-users. The US Chief of Mission can request assistance from the SCO to conduct Blue Lantern checks in country. If there are expected temporary duty (TDY) costs, the SCO should request funding from the Embassy.

Department of Commerce's Extrancheck Program

Extrancheck is the Department of Commerce (DOC) program that focuses on monitoring dual-use items transferred by US industry to a foreign nation via the *Export Administration Regulation* (EAR). DOC approves the export license and primarily focuses on "pre-delivery" controls (licensing checks) and post-delivery inspections. Post-delivery inspections are performed by Bureau of Industry and Security (BIS) Attachés, "Sentinel Teams" from DOC BIS, and US Foreign and Commercial Service Officers.

Third-party Transfer and Changes in End-Use

A third-party transfer is any retransfer of title, physical possession or control of defense articles, training or technical data acquired under authorized USG transfer programs from the authorized recipient to any person or organization which is not an employee, officer or agent of that recipient country. A change in end-use is considered a third party transfer.

Examples of possible third-party transfers include retransfer of possession or title of defense articles or related data to:

- Any other foreign government
- Any private companies
- Bona fide museums within the receiving country
- Private education organizations within the original receiving country

Change of end-use is defined as any change in the usage of defense articles and services that deviates from the original purposes for which the items were sold. Disposal also constitutes a change in end-use for which prior consent from DOS is required for non-consumable items. Cannibalization is viewed as disposal only if the parts being removed will no longer be under the control of the ministry or agency that owns them, or will be used for purposes other than for national defense. Examples of possible changes of end-use could be:

- Withdrawal of military end items from the operational inventory for display at a government run museum
- Use of unserviceable/non-repairable vehicles as targets on a firing range
- Transfer of demilitarized military end items or machinery from the armed forces to civil government or educational institutions
- Transfer of a US-origin military vehicle from an operational military unit to be used as a police vehicle assigned to a police department or other law enforcement agency
- Demilitarization and redistribution of defense articles re-cycled among host government agencies
- Demilitarization and complete disposal of defense articles such that the materiel is no longer considered a defense article

Requirement for Prior Approval

The DOS, on behalf of the President, must consent to the retransfer of defense articles or services originally provided under the provisions of the FAA or the AECA to anyone not an officer, employee, or agent of that recipient country.

In considering a request for approval to retransfer any implement of war to another country, DOS will not agree to the transfer unless the USG itself would transfer the defense article under consideration to that country. In addition, DOS will not consent to the retransfer of any significant defense article on the *United States Munitions List* (USML) unless the item is demilitarized prior to transfer, or the proposed recipient foreign country commits in writing to provide appropriate security and third party transfer assurances.

The transferring government must send a written request either directly or through the SCO by letter, fax, or e-mail to the DOS, Directorate of Regional Security and Arms Transfer if the items were originally provided through a government-to-government program (See attachment 18-2 of this chapter for more details). For previously exported DCS USML articles and technical data, per section 123.9(c) of the *International Traffic in Arms Regulations* (ITAR), the original exporter or recipient may apply directly to the DOS, Directorate of Defense Trade Controls. Some Commerce Department *Commerce Control List* (CCL)-licensed items require a license for initial export, but they may be retransferred within the receiving country, and in selected cases, re-exported without further USG coordination.

The request for retransfer must be supported by end-use and retransfer assurances from the proposed recipient. If the initial recipient is not the final end-user, the final end-user must be identified and appropriate end-use and retransfer assurances must be provided by both the intermediate and final recipients. If proposed recipients are unable or unwilling to identify the final end-user and end-use of the articles, the transfer will not be approved. In addition, if brokers are involved as intermediaries in the transfer, they must be clearly identified in the transfer request, and they must be registered with the DOS PM/DDTC as brokers.

If the receiving country has a blanket end-use and retransfer assurance agreement with the USG, end-use and retransfer assurances specific to individual transfers may not be required. Blanket assurance members under the Defense Trade Security Initiative (DTSI) program have the added benefit of limited advanced consent (see SAMM C8.7.3.2).

The DOS must notify Congress of proposed transfers that meet AECA section 32, "Congressional reporting" thresholds, as described in chapter 2 of this textbook, "Security Cooperation Legislation and Policy."

Disposal

When the recipient government no longer requires an item and there is no other agency that wants it, disposal may be in order. Thus, disposal is the final change of end-use. Normally, title to equipment acquired through a grant program such as Military Assistance Program (MAP) or excess defense articles (EDA) passes to the recipient country. However, the US retains reversionary rights to the equipment so the recipient must agree to return the equipment to the USG when it is no longer required for its intended purpose.

If the Defense Logistics Agency (DLA) Disposition Services determines that the materiel can neither be redistributed nor employed any longer, the recipient is obligated to take responsibility for its proper disposal and seek consent of DOS prior to doing so.

Net proceeds of any such disposal or sale of MAP and grant EDA equipment will be paid to the USG unless another cost sharing arrangement has been previously approved. For guidance on MAP equipment disposal see SAMM, chapter 11 section C11. HR.1.9.3.

For items acquired through FMS with a country's own funds, or through Foreign Military Financing or grant programs other than MAP or EDA, the USG has no reversionary right. All proceeds of approved sales/transfers go to the host nation.

Title to DCS acquired US-origin defense articles passes to the recipient country upon shipment. USG approval is required for third-party transfer and change of end-use only for those DCS purchased defense articles that are subject to export license control, i.e., those items on either the USML or the CCL. Regardless of whether or not the export application was accompanied by a duly executed form DSP-83, all DCS USML exports must have retransfer authorization from the DOS PM/DDTC. All proceeds of approved sales/transfers go to the host nation.

If the partner nation has been granted the right to dispose of materiel, its disposal procedures should follow in form and content those used by DLA Disposition Services in disposing of US excess defense articles, though local forms and channels may be used as appropriate. The following functional areas are those deemed most important in complying with security trade control requirements:

- Determination of demilitarization requirements
- Conduct of sale
- Bidder screening, end-use and retransfer assurance
- Import certificate/delivery verification as required

In some instances, materiel can only be disposed of as scrap, but this does not negate the requirement to follow appropriate security procedures. Details, which must be followed in the conduct of local sales, are found in DOD 4160.21-M. *Defense Materiel Disposition Manual*, and DOD 4160.28-M vol 1-3, *Defense Demilitarization Manual*.

Summary

To preserve American technological advantage, countries receiving weapons and weapons technology must agree to provide the same level of protection for the articles and information as would the US itself. This requirement applies whether a country receives material through commercial channels or through a government-to-government mechanism.

The DOD's EUM program is the Golden Sentry program, which applies to all defense articles, services, and training transferred by DOD. The DOS's EUM program is the Blue Lantern program, which applies to all defense articles, services, and training transferred through commercial channels (e.g. Direct Commercial Sales). The Department of Commerce has an EUM program, Extrancheck, which focuses on the monitoring of dual-use items transferred by commercial channels.

Under Golden Sentry, two levels of EUM are possible (routine and enhanced), depending on the sensitivity of the technology involved. The SCO and the partner nation must jointly develop an EUM control (compliance) plan that will ensure the procedures are taken to protect defense articles, services, and training transferred by the DOD.

Transfers of defense articles, services, and training to a third-party and changes of end-use always require prior approval from USG. These transfers and changes in end-use terms are covered in the standard terms and conditions of the LOA, which are discussed in chapter 8 of this textbook. Disposal of the equipment is the final stage of EUM and must conform to USG demilitarization requirements to safeguard the technology from possible misuse.

References

Arms Export Control Act of 1976 (AECA), as amended.

Foreign Assistance Act of 1961 (FAA), as amended.

Export Administration Act of 2001.

DOD Instruction 4140.66, *Registration and Monitoring of Defense Articles and/or Defense Services*, September 7, 2010.

DOD Instruction 4160.28, *DOD Demilitarization (DEMIL) Program*, April 7, 2011

DOD Instruction 4140.01, *DOD Supply Chain Materiel Management Policy*, December 22, 2011

DOD 4160.21-M, *Defense Materiel Disposition Manual*, August 18, 1997.

DOD 4160.28-M, vol 1-3, *Defense Demilitarization*, June 7, 2011.

DOD Directive 4165.06, *Real Property*, November 18, 2008.

DSCA Manual 5105.38-M, S*ecurity Assistance Management Manual* (SAMM). http://www.dsca.mil/samm/.

DSP-83, *Non-transfer and Use Certificate* (Office of Defense Trade Control).

Export Administration Regulations (EAR) (title 15 CFR parts 730–774).

International Traffic in Arms Regulations (ITAR) (title 22, parts 120–130).

GAO/NSIAD-00-208, *Changes Needed to Correct Weaknesses in End-Use-Monitoring Program,* August 2000.

Attachment 18-1
Routine End-Use-Monitoring (EUM) Report Template

Routine EUM is conducted to provide reasonable assurance that recipients of defense articles and services provided via government-to-government programs are complying with requirements imposed by the USG with respect to use, transfer and security. All Routine EUM observations will be recorded (at least quarterly) and records will be maintained for five years. This template or a Memorandum for Record (MFR) containing similar information will be filed electronically or physically within the EUM record folders whenever Routine EUM is performed. Potential violations will be reported immediately to the CCMD, DSCA and DOS PM/RSAT through appropriate channels.

1. Reporting Official:
2. Office:
3. Duty Position:
4. Date: CY/QTR:
5. Routine EUM performed through the following (Check all that apply):
   - ☐ Inspection/Observation by Reporting Officer
   - ☐ Inventory by Reporting Officer
   - ☐ Report by US Government Employee/Military Member
   - ☐ Report by US Contractor
   - ☐ Review of the Host Nation's Records
   - ☐ Open Source Media (TV, Newspaper, Magazine, etc.)
   - ☐ Other
6. Describe as indicated below the Routine EUM performed.
   a. Defense articles/service(s) monitored:
   b. Circumstances of monitoring (site visit in conjunction with official business, etc.):
   c. Location:
   d. Monitoring performed with respect to proper use, transfer and security. If applicable, annotate the quantity or serials #s observed:
   e. Any issues or problems requiring corrective action:
   f. If there were any potential end-use violations observed and whether the potential violation(s) were reported immediately to the CCMD, DSCA and DOS PM/RSAT through appropriate channels:
   g. Any other pertinent remarks as appropriate:

Attachment 18-2
Department of State Third-Party Transfer Request Form

What does the foreign government include in the request?

The following questions should be addressed in a written request by governments proposing to transfer of US-origin defense articles/data to another country or private entity on a permanent or temporary basis prior to US State Department taking action.

Standard questions for requests to US for authority to retransfer government-origin defense articles:

1. Who is the divesting government?

2. What commodity/equipment/service/technical data is to be transferred? (Please provide NSNs.) What are the serial numbers? (These must be provided for significant military equipment.)

3. How did the divesting country originally acquire the defense article(s)?
   - Foreign military sale? (Please provide case identifier or explanation as to why it is unavailable)
   - Military assistance program?
   - Excess defense article grant or sale?
   - Drawdown?
   - Cooperative development program?
   - Memorandum of understanding?
   - Direct commercial sale? If DCS, contact Office of Defense Trade Controls
   - Was this equipment acquired with national funds or with grant funding such as foreign military financing?
   - Other?

4. When was/were the article(s) acquired by the divesting country?

5. What was the original acquisition value (necessary for Congressional approval/reporting)?

6. What is the current value, if applicable?

7. Why does that government wish to divest itself of the equipment?

8. Who is the proposed recipient?

9. Is this a temporary or permanent transfer to the proposed recipient?

10. What is the proposed recipient's planned end-use for the articles (Please provide as much detail as possible)?

11. Does the proposed recipient currently possess this model of equipment?

12. Are there any intermediaries? If so, who? What is their role? Where are they located and what are the points of contact?

13. Will any net proceeds be realized from this sale, transfer, or disposal? If so, what are the estimated net proceeds?

14. Is there a certain date requested for approval? If so, please indicate the date and provide the relevant details.

15. Please provide point of contact details for the divesting government, the proposed recipient, and any intermediaries.