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CHAIRMAN OF THE JOINT CHIEFS OF STAFF INSTRUCTION



J-5
DISTRIBUTION: A, B, C

CJCSI 2110.01F
18 December 2023

INTERNATIONAL TRANSFER OF U.S. DEFENSE-RELATED TECHNOLOGY AND MUNITIONS

References:

- a. Department of Defense Instruction (DoDI) 2010.06, "Materiel Interoperability and Standardization with Allies and Coalition Partners, 29 July 2009 (incorporating Change 1, 31 August 2018)
- b. Department of Defense (DoD) 5105.38-M, "Security Assistance Management Manual," 19 September 2023

1. Purpose. This instruction establishes Joint Staff procedures for reviewing the international transfer of U.S. defense-related technology, articles, and services.
2. Superseded/Cancellation. Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 2110.01E, "International Transfer of U.S. Defense-Related Technology and Munitions," 10 December 2010, is hereby superseded.
3. Applicability. This instruction applies to the Joint Staff and the Combatant Commands.
4. Policy. Dual-use and defense-related technology, articles, and services will be treated as valuable national security resources to be protected and transferred only in accordance with export control laws and regulations, and national security and foreign policy objectives.
 - a. In applying export control and technology security policies, emphasis will be placed on preserving the U.S. military's technological superiority, establishing and maintaining interoperability with allies and coalition partners, and managing direct and indirect impacts on the defense industrial base in accordance with DoDI 2010.06 (reference a).

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b. Consistent with reference a, and in recognition of the importance of international trade and scientific and technological cooperation, DoD must apply export control and other technology security policies and procedures in a way that considers support of the defense industrial base while maintaining U.S. nonproliferation imperatives.

c. In determining DoD interests in technology and the means by which those interests are protected, DoD will consider such factors as the impact on the U.S. defense industrial base to support defense technologies, scientific and technological acceleration of change, and significant means by which scientific research and technological development are implemented in production.

d. DoD will use available resources to achieve DoD and U.S. Government (USG) goals and objectives in transfers of technology, articles, and services, while recognizing that constant and rapid changes in technology pose difficult challenges in performing assessments, formulating policy options, and implementing policies.

5. Definitions. None.

6. Responsibilities. See Enclosure A.

7. Summary of Changes. This instruction has been updated to reflect policy changes and current coordination procedures.

8. Releasability. UNRESTRICTED. This directive is approved for public release; distribution is unlimited on NIPRNET. DoD Components (including the Combatant Commands), other Federal agencies, and the public may obtain copies of this directive through the internet from the CJCS Directives Electronic Library at: <<http://www.jcs.mil/library>>. Joint Staff activities may also obtain access via the SIPRNET Directives Electronic Library websites.

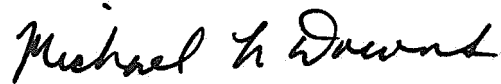
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9. Effective Date. This INSTRUCTION is effective upon signature.

For the Chairman of the Joint Chiefs of Staff:



MICHAEL L. DOWNS, Maj Gen, USAF
Vice Director, Joint Staff

Enclosure:

A - Responsibilities

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ENCLOSURE A

RESPONSIBILITIES

1. Introduction. The following section describes Joint Staff and Combatant Command responsibilities for reviewing the international transfer of U.S. defense-related technology, articles, and services.

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

(1) Wassenaar Arrangement (WA) on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. The United States and 32 other governments formally implemented the WA in July 1996. The WA currently includes 42 participating states.

(a) The WA has the following purposes:

1. Promote transparency and greater responsibility regarding the transfers of conventional arms and dual-use goods and/or technologies.

2. Encourage restraint where threats to international peace and stability are judged greatest.

3. Harmonize national export policies to guard against destabilizing accumulations of military capability.

(b) The Defense Technology Security Administration (DTSA) will refer WA issues to the Joint Staff for comment or concurrence. The J-5 Security Cooperation Strategy Division (SCSD) will coordinate these actions with the Combatant Commands and within the Joint Staff before providing a response.

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(2) Letters of Request (LOR) Advisories. Criteria for requiring LOR advisories are included in reference b, Chapter 5, C5.1.8.

(a) The Defense Security Cooperation Agency (DSCA) or the appropriate implementing agency will prepare LOR advisories and forward them to the Directorate for Intelligence, Joint Staff (J-2) and J-5 when Joint Staff coordination is required. The LOR advisory will be coordinated with the appropriate Combatant Commands and Joint Staff Directorates. The LOR advisory will include a copy of the purchaser's LOR as well as the country team assessment prepared by the U.S. Embassy or security assistance organization, as required.

(b) DSCA or the implementing agency will forward LOR advisories for defense articles or services that require intelligence mission data owned by intelligence agencies or foreign partner/coalition targeting policy, training, and capability development to the Director, J-2 for evaluation of data protection and release to ensure combat capability of exported weapons systems while protecting Intelligence Community equities.

(3) Pre-Letter of Request Assessment Requests (PARs) for Classified and Advanced Technology Release Decisions in Support of Security Cooperation Initiatives and Competitions. Criteria for requiring PARs are included in reference b, Chapter 3, C3.1.2. PARs are prepared by security cooperation offices and forwarded to Combatant Commands for endorsement. Once endorsed, Combatant Commands provide PARs to the Joint Staff, the applicable implementing agency, and DSCA. J-5 SCSD will coordinate PARs within Joint Staff regional divisions and other Joint Staff offices, when required.

(4) Export License Requests. License requests are forwarded to the Joint Staff from DTSA, the lead DoD agency for these actions. All requests will be assigned to J-5 SCSD, which will coordinate Joint Staff input with the appropriate Combatant Commands.

(5) Advocacy Requests. DSCA will forward advocacy requests to the Joint Staff. J-5 SCSD will coordinate the Joint Staff input with the appropriate Combatant Commands, regional divisions, and other Joint Staff offices.

(6) Night Vision Device Requests. DSCA generates night vision device requests and sends them to J-5 SCSD to coordinate with the appropriate Combatant Command for endorsement, when required.

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(7) National Disclosure Policy Issues. Recognizing that it may be in the national interest to share classified military information (CMI) with foreign nations, the National Security Council, with the 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 individual countries. In cases where disclosure authority has not been 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, Directorate of Management/Joint Staff Security Office. Cases received will be staffed through the appropriate Combatant Commands (planner-level coordination is required, usually O-6 or above), J-5 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. Changes to policy will be sent to J-5 SCSD for Joint Staff coordination.

(8) Excess Defense Articles (EDA) Coordination Committee. EDA are DoD and U.S. Coast Guard-owned defense articles no longer needed and declared excess by the U.S. Armed Forces. This excess equipment is offered at reduced or no cost to eligible foreign recipients on an “as is, where is” basis. The EDA program works best in assisting friends and allies to augment current inventories of like items with a support structure already in place. The Departments of Defense and State have established an EDA Coordination Committee that convenes when requirements exceed assets to develop a coordinated plan to allocate EDA assets to potential recipients. The committee is co-chaired by DSCA and the Department of State. DSCA consolidates and represents the input of each of the regional offices within the Office of the Secretary of Defense. When Joint Staff participation is required, the SCSD Division Chief or appropriate J-5 regional Division Chief will provide Joint Staff representation.

(9) Combatant Command assessments and endorsements that respond to security assistance, export license, or ENDP requests shall incorporate a review of the following general criteria to ensure transfers are consistent with USG conventional arms transfer policy, support Combatant Command theater security cooperation objectives, and contribute to force interoperability:

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(a) How introduction of U.S. defense-related technology, articles, and services supports execution of area of responsibility (AOR) war plans and theater campaign plans.

(b) Mutual defense and AOR security objectives.

(c) Interoperability (engagement of the country's military in combined or coordinated exercises and operations with U.S. Forces and other AOR allies). Note: Interoperability requirements should address the requirement for release of communications security, if applicable.

(d) The ability of a country's military forces to perform important or useful missions that otherwise would be performed by U.S. Forces.

(e) The offensive and defensive nature of the weapons system.

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

(g) The amount and sensitivity of the technology proposed for transfer, and the country's ability to protect the technology.

(h) The status of U.S. foreign security relationships.

(i) Military-to-military contacts with other AOR nations.

(j) Qualitative military edge of U.S. Forces in the region.

(k) For foreign military sales cases subject to the targeting infrastructure policy, Joint Staff J-2 shall coordinate a Combatant Command endorsement with DSCA or the appropriate implementing agency.

(10) These criteria are intended to assist the Combatant Commander's assessment. It is not necessary to address each criterion in every case, and additional considerations may be deemed appropriate. These criteria serve as a guide to link potential arms transfers to specific theater security cooperation strategies.

(11) Regardless of the transfer mechanism, transfers of advanced technology, including special operations peculiar (SO-p) technology, defense articles, or services (tactics, techniques, and procedures), require thorough review to obtain export consideration. Disclosure approval of SO-p articles and

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services must be obtained from U.S. Special Operations Command (USSOCOM) prior to disclosure or release to foreign nationals. Defense services include military training to foreign units and forces, both regular and irregular (including formal and informal instruction of foreign persons inside the United States or abroad, via correspondence, training aid, orientation, training exercises, and military advice by, with, or through USG personnel or contracting civilian personnel as trainers). Transfers of SO-p capability, defense articles, and services require coordination with the Headquarters, USSOCOM J2 Foreign Disclosure Office to ensure disclosures and transfers are consistent with the operational interest of the global special operations synchronization effort.

(12) For transfer of systems with intelligence data, parametrics, and/or other controlled information needed for system operation, system release will only occur when appropriate data, parametrics, and/or other controlled information are available to the partner. These companion items might be subject to additional agreements and interagency approvals. Without all approvals, the system should not be released.

b. The Joint Staff, DoD Component heads, and Combatant Commands have the responsibility to report to the appropriate DoD criminal investigative organization suspected instances of fraud, abuse, bribery, and other violations of law related to title 22 and implementing regulations; other laws governing exports or illicit diversion of U.S. export-controlled technology, articles, or services; and other violations of law or regulations pertaining to DoD programs and operations for investigation in accordance with title 15.

c. The Director for Command, Control, Communications, and Computers/Cyber (C4/Cyber), Joint Staff (DJ-6) is the designated Joint Staff principal for technology transfer issues affecting C4/cyber. DJ-6 is also the designated Joint Staff principal for technology transfer requiring communications security, as outlined in CJCSI 6510.06D, "Communications Security Releases to Foreign Partners."

d. The Director for Joint Force Development, Joint Staff is the designated Joint Staff principal for issues and factors concerning U.S. efforts to standardize, or to make interoperable, procedures with allies and other friendly nations through projects that enhance U.S. rationalization, standardization, and interoperability procedures.

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