



ACQUISITION

THE UNDER SECRETARY OF DEFENSE
WASHINGTON, DC 20301

15 MAY 1992

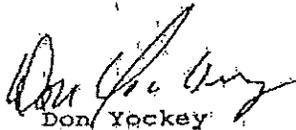
MEMORANDUM FOR THE UNDER SECRETARY OF DEFENSE (POLICY)

SUBJECT: Foreign Military Sales of Major Defense Systems Which
Have NOT Completed Operational Test and Evaluation
(OT&E) Satisfactorily

As you and I have previously agreed, the Defense Security Assistance Agency will obtain my concurrence before the foreign military sale or licensing of any major defense system which has not satisfactorily completed the OT&E required prior to approval for full rate US production. DSAA and my staff have agreed on procedures for obtaining my approval for any new issuances of price and availability data or letters of offer and acceptance for major defense equipment.

Recently, questions have been raised as to the effect of our agreement on DoD discussions with foreign governments for the purposes of developing cooperative opportunities and related business strategies for future inventory items as called for in Title 10 US Code and DoD Directive 5000.1 and DoD Instruction 5000.2. Our policy is not intended to interfere with this activity. I fully support all legitimate government sponsored discussions of appropriate potential cooperative opportunities for both development and production programs involving key allies, provided only that such discussion include a clear and unambiguous articulation of my policy that no agreements for sales or licensing will be permitted prior to successful completion of OT&E unless my concurrence has been obtained.

I also support reasonable advance business planning and marketing discussions with potential foreign customers by defense contractors provided that authorizing licenses for these discussions require the contractor to notify potential customers of these policies.


Don Yockey

Student Note: This policy was incorporated into the Department of Defense (DoD) Directive 5105.38-M, "Security Assistance Management Manual," dated Oct 2003. On 30 April 2012, that version was "canceled and reissued as DSCA Manual 5105.38-M with the same name." (Yes – that's a direct quote from the document itself)

5105.38-M, C5.1.8.3 reads as follows:

Pre-Operational Test and Evaluation (OT&E) Sales Policy (Yockey Waiver). Before responding to LORs for MDE items that have not completed OT&E, the IA submits a request to DSCA (Programs Directorate, Weapons Division) for the concurrence of the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)). This request may be for multiple countries. LOA or P&A data for such items is not released prior to DSCA and USD(AT&L) approval. If approved for release, a note is included in the P&A data correspondence or on the LOA. See Appendix 6.

Appendix 6: Operational Test and Evaluation (OT&E) Incomplete (Yockey Waiver)

Note Usage: Mandatory for FMS LOAs and P&A Data that include developmental systems that have not yet been approved for U.S. production (i.e., Defense Acquisition Board full rate production has not been approved).

Mandatory for Amendments and Modifications that add developmental systems that have not yet been approved for U.S. production.

Note Text

"Line Item [Insert item name and program description] has not completed U.S. Government (U.S. Government) testing and is not yet in full production. There is a risk that if problems arise in testing, the U.S. Government may decide not to acquire this system. In this eventuality, the procurement cost of the item will likely increase and there could be future interoperability problems with U.S. forces."

Add other text as required to explain the specific case.

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