DEPARTMENT OF THE AIR FORCE
WASHINGTON DC 20330-1080

OFFICE OF THE UNDER SECRETARY

11 December 2002

MEMORANDUM FOR SEE DISTRIBUTION

FROM: SAF/IAPX
1080 Air Force Pentagon
Washington, DC 20330-1080

SUBJECT: Increase of Thresholds in the Arms Export Control Act **(SAF/IAPX- 02043)**
(DSCA Policy 02-34, 19 Nov 2002, same subject)

This policy memorandum increases dollar thresholds in the Arms Export and Control Act. On 30 September 2002, the President amended Section 1405 of the Foreign Relation Authorization Act, FY 2003, P.L. 107-228 of the Arms Export and Control Act (AECA). The amendment adjusts the threshold amounts for member countries of the North Atlantic Treaty Organization (NATO), Australia, Japan, and New Zealand. Thresholds are changed from $14 million or more to $25 million or more for Major Defense Equipment (MDE) and from $50 million or more to $100 million or more for non-MDE defense articles or defense services, from $200 million or more to $300 million or more for the enhancement or upgrade of design and construction services.

For all other countries the thresholds remain the same. Congressional notification is required IAW section 36(b)(1) of the AECA for any LOA to sell major defense equipment valued at $14 million or more, any defense articles or services with a total value of $50 million or more, or any design and construction services for $200 million or more.

This change is effective immediately and will be included in the automated version of the SAMM as E-Change #36 (attached). The Defense Security Assistance Management System (DSAMS) will also be updated as soon as possible to reflect these changes. Until DSAMS is updated appropriately, documents in development will require a review to ensure the proper criteria is met.

If you have questions or require additional information please contact Sandy Harding, SAF/IAPX, (703) 588-8974, DSN: 425-8974, email: sandy.harding@pentagon.af.mil.

//signed11 December 2002//
TERRY L. BATES
Chief, Security Assistance Policy Division
Deputy Under Sec, Int'l Affairs

Attachment:DSCA Policy 02-34, 19 Nov 02
w/SAMM E-Change #36

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

19 NOV 2002

In reply refer to:
I-02/014727

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Increase of Thresholds in the Arms Export Control Act (DSCA Policy 02-34)

Section 1405 of the Foreign Relation Authorization Act, FY 2003, P.L. 107-228, signed by the President on 30 September 2002, has amended the Arms Export Control Act (AECA) by adjusting the threshold amounts for member countries of North Atlantic Treaty Organization (NATO), Australia, Japan, and New Zealand from $14 million or more to $25 million or more for Major Defense Equipment (MDE), from $50 million or more to $100 million or more for non-MDE defense articles or defense services, and from $200 million or more to $300 million or more for the enhancement or upgrade of design and construction services. Accordingly, the Security Assistance Management Manual (SAMM) is being revised as shown in Attachment 1.

The Defense Security Assistance Management System (DSAMS) will be updated to reflect the changes in Attachment 1 as soon as possible. Until such time, DSAMS may indicate that documents for member countries of NATO, Australia, Japan and New Zealand meet the reporting threshold when in actuality they do not. These documents will require close scrutiny by the developer and possible manual processing within DSAMS.

This SAMM change is effective immediately and will be included in the automated version of the SAMM as E-Change #36. If you have any questions or need additional information please contact Janet M. Hurd, DSCA/COMPT-RM, (703) 604-6575, e-mail: janet.hurd@osd.pentagon.mil regarding AECA, Section 36 notifications and Dawn Burke, DSCA/P3-P2, (703) 601-3864, e-mail: dawn.burke@osd.pentagon.mil regarding AECA, Section 62 lease notifications.

Richard J. Millies
Acting Director

Attachment 1 – SAMM E-Change #36

DISTRIBUTION LIST

DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR
DEFENSE EXPORTS AND COOPERATION
DEPARTMENT OF THE ARMY

DIRECTOR, NAVY INTERNATIONAL PROGRAMS OFFICE
DEPARTMENT OF THE NAVY

DEPUTY UNDER SECRETARY OF THE AIR FORCE
(INTERNATIONAL AFFAIRS)
DEPARTMENT OF THE AIR FORCE

DEPARTMENT OF THE ARMY
U.S. ARMY SECURITY ASSISTANCE COMMAND

DIRECTOR, DEFENSE LOGISTICS AGENCY

DIRECTOR, DEFENSE THREAT REDUCTION AGENCY

DIRECTOR, DEFENSE REUTILIZATION AND MARKETING SERIVCE

DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY

DIRECTOR, DEFENSE INFORMATION SYSTEMS AGENCY

ASSOCIATE DIRECTOR, INTERNATIONAL CO-PRODUCTION DIVISION

DIRECTOR, DEFENSE LOGISTICS INFORMATION SERVICE

DEPUTY DIRECTOR FOR INFORMATION ASSURANCE,
NATIONAL SECURITY AGENCY

DEPUTY DIRECTOR FOR SECURITY ASSISTANCE,
DEFENSE FINANCE AND ACCOUNTING SERVICE –
DENVER CENTER

U.S. ARMY MATERIAL COMMAND
PM SAUDI ARABIA NATIONAL GUARD

HQ, U.S. ARMY CORPS OF ENGINEERS

DEFENSE SECURITY COOPERATION AGENCY
DENVER LIAISON OFFICE

DEFENSE INSTITUTE OF SECURITY ASSISTANCE MANAGEMENT

ATTACHMENT 1 - SAMM E-CHANGE #36

The Security Assistance Management Manual (SAMM) is revised as follows:

- 60005.A – This paragraph is deleted in its entirety and replaced as follows:

  "AECA, Section 29 authorizes the sale of design and construction services to eligible foreign countries and international organizations provided that full costs are paid to the US. If such services are to be procured by the USG, the Purchaser must make funds available in such amounts and at such times as they may be needed to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time funds are required. Congressional reporting required in AECA, Section 36(b) applies to design and construction programs valued at $200 million or more ($300 million or more for member countries of NATO, Australia, Japan, and New Zealand)."

- 70302.A.1 – In the first sentence, the phrase, "Section 36(b)(1)....or more" is deleted in its entirety and replaced as follows:

  "Section 36(b)(1) of the AECA requires that, in the case of any LOA to sell any defense articles or services under the Act, the Congress be given 30 days written notification of the intent to sell major defense equipment valued at $14 million or more, any defense articles or services with a total value of $50 million or more, or any design and construction services for $200 million or more. As an exception, notifications for sales to NATO, its members, Australia, Japan, and New Zealand require a 15-day notification of the intent to sell major defense equipment at certain thresholds. Those thresholds for NATO are the same as above. For member countries of NATO, Australia, Japan, and New Zealand (that do not authorize a new sales territory that includes any country other than such countries), the thresholds are major defense equipment valued at $25 million or more; any defense articles or services with a total value of $100 million or more; or any design and construction services of $300 million or more. Before such LOA is issued, a numbered certification ..."

- 70302.B.3.c – This table is deleted in its entirety and replaced as follows:

Equipment/Services To be Enhanced	Net Cost of Enhancement (Millions)
Major Defense Equipment	$ 14 ($ 25*)
Other Defense Equipment/Services	$ 50 ($100*)
Design and Construction Services	$200 ($300*)

* Member countries of NATO, Australia, Japan, and New Zealand (that do not authorize a new sales territory that includes any country other than such countries)

- 70303.A.1. – The first sentence is deleted in its entirety and replaced as follows:

  "In compliance with AECA Sec 36(b)(1), Congress must be provided with notification of all "Letters of Offer" to sell any defense articles or services $50 million or more ($100 million or more for member countries of NATO, Australia, Japan, and New Zealand), any MDE of $14 million or more ($25 million or more for member countries of NATO, Australia, Japan, and New Zealand), or for design and construction services for $200 million or more ($300 million or more for member countries of NATO, Australia, Japan, and New Zealand), before such LOA is issued."

- 70303.A.4.c. – This paragraph is deleted in its entirety and replaced as follows:

  "An LOA amendment is prepared adding $50 million or more ($100 million or more for member countries of NATO, Australia, Japan, and New Zealand) to an existing FMS case unless such amendment results solely from identifiable inflationary cost increases, and to any amendment adding MDE valued at $14 million or more ($25 million or more for member countries of NATO, Australia, Japan, and New Zealand). These provisions also apply to any amendment which would increase the value of an existing case from under $50 million ($100 million for member countries of NATO, Australia, Japan, and New Zealand) to a value of $50 million or more ($100 million or more for member countries of NATO, Australia, Japan, and New Zealand), and any amendment which would increase the value of MDE in an existing case from under $14 million ($25 million or more for member countries of NATO, Australia, Japan, and New Zealand) to a value of $14 million or more ($25 million or more for member countries of NATO, Australia, Japan, and New Zealand). New LOAs will be processed to cover the new requirements unless such amendments are absolutely necessary and justified, in writing, to the Director, DSCA."

- 70303.A.5.a. – This paragraph is deleted in its entirety and replaced as follows:

  "An FMS case for a single line item of MDE totaling $14 million or more ($25 million or more for member countries of NATO, Australia, Japan, and New Zealand)."

- 70303.A.5.b. – This paragraph is deleted in its entirety and replaced as follows:

  "An FMS case for two or more line items of MDE totaling $14 million or more ($25 million or more for member countries of NATO, Australia, Japan, and New Zealand)."

- 70303.A.5.c. – This paragraph is deleted in its entirety and replaced as follows:

  "An amendment to an FMS case for additional units of MDE if that portion of the amendment totals $14 million or more ($25 million or more for member countries of NATO, Australia, Japan, and New Zealand)."

- 70303.A.6.a. – This paragraph is deleted in its entirety and replaced as follows:

  "An FMS case for one line item of MDE totaling less than $14 million ($25 million for member countries of NATO, Australia, Japan, and New Zealand). The case does not contain any other MDE; however, other defense items are included which bring the total case value to more that $14 million ($25 million for member countries of NATO, Australia, Japan, and New Zealand) but less than $50 million ($100 million for member countries of NATO, Australia, Japan, and New Zealand)."

- 70303.A.6.b. – This paragraph is deleted in its entirety and replaced as follows:

  "An FMS case for one line item of MDE totaling less than $14 million ($25 million for member countries of NATO, Australia, Japan, and New Zealand). The case does not contain any other MDE; however, spare parts, publications, and training associated with the MDE are included which bring the total case value to more than $14 million ($25 million for member countries of NATO, Australia, Japan, and New Zealand) but less than $50 million ($100 million for member countries of NATO, Australia, Japan, and New Zealand).

  70303.A.7.a. – This paragraph is deleted in its entirety and replaced as follows:

  "An amendment to an LOA for a FMSO I transaction, the result of which brings the total case value of that LOA and related amendments to $50 million or more ($100 million or more for member countries of NATO, Australia, Japan, and New Zealand), does not require prior Section 36(b) notification to Congress.

- 70303.A.7.b. – This paragraph is deleted in its entirety and replaced as follows:

  "A FMSO I transaction for $50 million or more ($100 million or more for member countries of NATO, Australia, Japan, and New Zealand), or an amendment to a FMSO I transaction which adds $50 million or more ($100 million or more for member countries of NATO, Australia, Japan, and New Zealand) to the previous case total, or a LOA for FMSO II transaction for $50 million or more ($100 million or more for member countries of NATO, Australia, Japan, and New Zealand) does require prior Section 36(b)(1) notification to Congress."

  70304.C.9. – The first sentence is deleted in its entirety and replaced as follows:

  "IAs will e-mail the PDF package to DSCA/COMPT-RM (e-mail address loa-dsca@osd.pentagon.mil), no later than the day after the completion of the statutory 15 or 30 day Congressional review period."

  Table 703-3, paragraph m. – This is no longer required. Delete this paragraph in the table without a replacement.

- Table 703-6C, paragraph K. – This is no longer required. Delete this paragraph in the table without a replacement.

- Table 703-7 – The first sentence of the second paragraph is deleted in its entirety and replaced as follows:

  "Section 36(b) of the Arms Export Control Act requires that notification be given to the Congress of the United States before the Department of Defense issues any offer to: (1) sell defense articles and services, the estimated total costs of which are $50 million or more ($100 million or more for member countries of NATO, Australia, Japan, and New Zealand), or (2) sell major defense equipment, the estimated total costs of which are $14 million or more ($25 million or more for member countries of NATO, Australia, Japan, and New Zealand)."

- 120004.A.1 – This paragraph is deleted in its entirety and replaced as follows:

  "1. Leases of One Year or Longer. Under AECA, Section 62(a), Congress must be notified before entering into or renewing an agreement with a foreign country or international organization to lease defense articles for a period of one year or longer. AECA Section 62(c) requires a 15 day congressional notification for leases to be entered into with NATO, any member country of NATO, Australia, Japan and New Zealand or a 30 day congressional notification period for leases to be entered into with any other organization or country. AECA, Section 63(a) provides that leases of MDE valued at $14 million or more ($25 million or more for member countries of NATO, Australia, Japan and New Zealand), or defense articles valued at $50 million or more ($100 million or more for member countries of NATO, Australia, Japan and New Zealand), may not be entered into or renewed if the Congress within the 15 day or 30 day period specified in section 62(c), adopts a joint resolution stating it objects to the proposed lease. Valuation for purposes of Sec 63(a) compliance is in terms of replacement cost as specified in Paragraph 120002.D. above."

- Table 1200-10 – The second paragraph is deleted in its entirety and replaced as follows:

  "Section 62 of the Arms Export Control Act requires certification be given to the Congress of the United States at least 30 days prior to entering into a lease of one year or longer. As an exception, certifications for member countries of NATO, Australia, Japan, and New Zealand (that do not authorize a new sales territory that includes any country other than such countries) require at least 15 days prior to entering into a lease of one year or longer. Section 63 further provides that a lease of one year or longer of major defense equipment valued at $14 million or more ($25 million or more for member countries of NATO, Australia, Japan, and New Zealand) or defense articles valued at $50 million or more ($100 million or more for member countries of NATO, Australia, Japan, and New Zealand) may not be entered into if the Congress within 30 calendar days after receiving the certification adopts a joint resolution stating that it objects to the proposed lease."

DISTRIBUTION LIST
SAF/IA POLICY LETTERS

AFSAT/CC
315 J Street West
Randolph AFB TX 78150-4354
Email: thomas.moe@randolph.af.mil

HQ AFSAC/IA
4225 Logistics Ave
WPAFB, OH 45433-5006
Email: afsac.ccx@wpafb.af.mil

DFAS-DE/IF/AY/DE
6760 East Irvington Place
Denver CO 80279-5000

SAF/FMBIS
Pentagon, Room 4D223
Email: patricia.vestal@pentagon.af.mil

SAF/GCI
Pentagon, Room 4C941
Email: ileene.berfield@pentagon.af.mil

SAF/IARE
Email: RSS - SAF/IARE

SAF/IARP
Email: RSS - SAF/IARP

Please review this distribution list to ensure organizational names, mailing and email address are current. If your office no longer requires information concerning security assistance policies and procedures, please contact Ms Sandy Harding, SAF/IAPX, email sandy.harding@pentagon.af.mil to update your information.