
SECURITY ASSISTANCE LEGISLATION AND POLICY

New U.S. Conventional Arms Transfer Policy

[The following is a reprint of Secretary of State message 180317Z Feb 95, subject: Conventional Arms Transfer Policy. This message includes the following: paragraphs 1-3, Department of State comments; paragraph 4, White House Press Secretary Statement of 17 February; paragraph 5, White House Fact Sheet on Conventional Arms Transfer Policy, 17 February; and paragraph 6, White House Fact Sheet on Criteria for Decision-Making on U.S. Arms Exports, 17 February. The final item in this group of documents is a related 17 February press briefing by Eric Newsom, the Principal Deputy Assistant Secretary of State, Bureau of Political-Military Affairs. This is the first release of a formal policy statement on conventional arms transfers since the announcement by the Reagan Administration of its Conventional Arms Transfer Policy on 8 July 1981.]

1. The President recently approved a new policy on conventional arms transfers. This policy will affect future arms transfer issues involving many posts' host governments. Posts are requested to draw on the White House statement and fact sheets in paragraphs 4-6 and present this information to host governments as the Chief of Mission sees appropriate.

2. **Introduction**—On February 17, the Administration announced its **Presidential Decision Directive (PDD-34) on Conventional Arms Transfers**. It is the Administration's view as in previous administrations, that sales of conventional weapons are a legitimate instrument of U.S. foreign policy, enabling allies and friends to better defend themselves, as well as help support our defense industrial base. The Administration is determined to ensure a balanced approach, supporting legitimate transfers while restraining those which could threaten our foreign policy and national security interests.

3. At the same time, it is clear that defense exports have important foreign policy and national security implications that differ dramatically from strictly commercial exports.

- PDD-34 should be seen as a summation and codification of this administration's decision-making in the arms transfer arena, rather than a dramatic departure from previous practice. The policy—now in one document—has been reflected in the decisions we have made on arms transfers and efforts at restraint over the past two years.

- While the policy does not represent a radical departure from our historic approach to arms transfers issues, we are giving increased weight—in the changed environment of the post-cold war era—to specific conditions within each region. Just as in our broader defense and non-proliferation strategies, arms transfer policy must be conducted with a focus on the dynamics of regional power balances and the potential for destabilizing changes in those regions.

4. **Statement by the White House Press Secretary—Conventional Arms Transfer Policy, February 17, 1995:**

The President has approved a comprehensive policy to govern transfers of conventional arms. This policy, as detailed in the attached fact sheets, serves our nation's security in two important ways. First, it supports transfers that meet the continuing security needs of the United States, its friends,

and allies. Second, it restrains arms transfers that may be destabilizing or threatening to regional peace and security.

This policy reflects an approach towards arms transfers that has guided the Administration's decisions over the last two years. Specifically, the United States continues to view transfers of conventional arms as a legitimate instrument of U.S. foreign policy—deserving U. S. government support—when they enable us to help friends and allies deter aggression, promote regional security, and increase interoperability of U.S. forces and allied forces. Judging when a specific transfer will meet that test requires examination of the dynamics of regional power balances and the potential for destabilizing changes in those regions. The criteria guiding those case-by-case examinations are set forth in the attached guidelines for U.S. decisionmaking on conventional arms transfers.

The centerpiece of our efforts to promote multilateral restraint is our initiative to work with allies and friends to establish a successor regime to COCOM [Coordinating Committee for Multilateral Export Controls]. The new regime should establish effective international controls on arms sales and the transfer of sensitive technologies—particularly to regions of tension and to states that pose a threat to international peace and security. While pursuing multilateral restraint through this and other mechanisms such as the UN conventional arms register and regional initiatives, the United States will exercise unilateral restraint in cases where overriding national security or foreign policy interests require us to do so.

5. White House Fact Sheet on Conventional Arms Transfer Policy, February 17, 1995.

U. S. conventional arms transfer policy promotes restraint, both by the U.S. and other suppliers, in transfers of weapons systems that may be destabilizing or dangerous to international peace. At the same time, the policy supports transfers that meet legitimate defense requirements of our friends and allies, in support of our national security and foreign policy interests.

Our record reflects these considerations. U.S. arms sales during this period have been close to our historical average—approximately \$13 billion in government-to-government sales agreements in FY 1994. U.S. arms deliveries have also remained flat. These sales have been primarily to allies and major coalition partners such as NATO member states and Israel.

U.S. Goals

The policy issued by the President will serve the following goals:

- 1) To ensure that our military forces can continue to enjoy technological advantages over potential adversaries.
- 2) To help allies and friends deter or defend themselves against aggression, while promoting interoperability with U.S. forces when combined operations are required.
- 3) To promote regional stability in areas critical to U.S. interests, while preventing the proliferation of weapons of mass destruction and their missile delivery systems.
- 4) To promote peaceful conflict resolution and arms control, human rights, democratization, and other U.S. foreign policy objectives.
- 5) To enhance the ability of the U.S. defense industrial base to meet U. S. defense requirements and maintain long-term military technological superiority at lower costs.

Supporting Arms Control and Arms Transfer Restraint

A critical element of U.S. policy is to promote control, restraint, and transparency of arms transfers. To that end, the U.S. will push to increase participation in the UN Register of Conventional Arms. We will also take the lead to expand the Register to include military holdings and procurement through national production, thereby providing a more complete picture of change in a nation's military capabilities each year.

The U.S. will also support regional initiatives to enhance transparency in conventional arms such as those being examined by the OAS [Organization of American States] and ASEAN [Association of Southeast Asian Nations], and will continue to adhere to the London and OSCE [Organization for Security and Cooperation in Europe] guidelines, while promoting adherence to such principles by others.

The United States will continue its efforts to establish a successor export control regime to the Cold-War era COCOM. Our goals for this regime are to increase transparency of transfers of conventional arms and related technology, to establish effective international controls, and to promote restraint—particularly to regions of tension and to states that are likely to pose a threat to international peace and security.

The United States will also continue vigorous support for current arms control and confidence-building efforts to constrain the demand for destabilizing weapons and related technology. The United States recognizes that efforts such as those under way in the Middle East and Europe bolster stability in a variety of ways, ultimately decreasing the demand for arms in these vital regions.

The United States will act unilaterally to restrain the flow of arms in cases where unilateral action is effective or necessitated by overriding national interests. Such restraint would be considered on a case-by-case basis in transfers involving pariah states or where the U.S. has a very substantial lead on weapon technology, where the U.S. restricts exports to preserve its military edge or regional stability, where the U.S. has no fielded countermeasures, or where the transfer of weapons raises issues involving human rights or indiscriminate casualties, such as anti-personnel landmines.

Finally, the U.S. will assist other suppliers to develop effective export control mechanisms to support responsible export policies. The United States will also continue to provide defense conversion assistance to the states of the former Soviet Union and Central Europe as a way of countering growing pressures to export.

Supporting Responsible U.S. Transfers

Once an approval for a transfer is made, the U.S. Government will provide support for the proposed U.S. export. In those cases the United States will take such steps as tasking our overseas mission personnel to support overseas marketing efforts of American companies bidding on defense contracts, actively involving senior government officials in promoting sales of particular importance to the United States, and supporting official Department of Defense participation in international air and trade exhibitions when the Secretary of Defense, in accordance with existing law, determines such participation to be in the national interest and notifies Congress.

Decision-Making on U.S. Arms Exports: Criteria and Process

Given the complexities of arms transfer decisions and the multiple U.S. interests involved in each arms transfer decision, decisions will continue to be made on a case-by-case basis. These case-by-case reviews will be guided by a set of criteria that draw the appropriate balance between legitimate arms sales to support the national security of our friends and allies, and the need for multilateral

restraint against the transfer of arms that would enhance the military capabilities of hostile states or that would undermine stability.

6. White House Fact Sheet on Criteria for Decision-Making on U.S. Arms Exports, February 17, 1994.

Given the complexities of arms transfer decisions and the multiple U.S. interests involved in each arms transfer decision, the U.S. Government will continue to make arms transfer decisions on a case-by-case basis. These case-by-case reviews will be guided by the criteria below.

General Criteria

All arms transfer decisions will take into account the following criteria:

- Consistency with international agreements and arms control initiatives.
- Appropriateness of the transfer in responding to legitimate U.S. and recipient security needs.
- Consistency with U.S. regional stability interests, especially when considering transfers involving power projection capability or introduction of a system which may foster increased tension or contribute to an arms race.
- The degree to which the transfer supports U.S. strategic and foreign policy interests through increased access and influence, allied burdensharing, and interoperability.
- The impact of the proposed transfer on U.S. capabilities and technological advantage, particularly in protecting sensitive software and hardware design, development, manufacturing, and integration knowledge.
- The impact on U.S. industry and the defense industrial base whether the sale is approved or not.
- The degree of protection afforded sensitive technology and potential for unauthorized third-party transfer, as well as in-country diversion to unauthorized uses.
- The risk of revealing system vulnerabilities and adversely impacting U.S. operational capabilities in the event of compromise.
- The risk of adverse economic, political, or social impact within the recipient nation and the degree to which security needs can be addressed by other means.
- The human rights, terrorism, and proliferation record of the recipient, and the potential for misuse of the export in question.
- The availability of comparable systems from foreign suppliers.
- The ability of the recipient effectively to field, support, and appropriately employ the requested system in accordance with its intended end-use.

Upgrade Criteria

Upgrades of equipment—particularly that of former Soviet-bloc manufacture—is a growing segment of the market. The U.S. government should support U.S. firms' participation in that

market segment to the extent consistent with our own national security and foreign policy interests. In addition to the above general criteria, the following guidelines will govern U.S. treatment of upgrades :

- Upgrade programs must be well-defined to be considered for approval.
- Upgrades should be consistent with general conventional arms transfer criteria outlined above.
- There will be a presumption of denial of exports to upgrade programs that lead to a capability beyond that which the U.S. would be willing to export directly.
- Careful review of the total scope of proposed upgrade programs is necessary to ensure that U.S. licensing decisions are consistent with U.S. policy on transfers of equivalent new systems.
- U.S. contributions to upgrade programs initiated by foreign prime contractors should be evaluated against the same standard.
- Protection of U.S. technologies must be ensured because of the inherent risk of technology transfer in the integration efforts that typically accompany an upgrade project.
- Upgrades will be subject to standard USG written end use and retransfer assurances by both the integrator and final end user, with strong and specific sanctions in place for those who violate these conditions.
- Benchmarks should be established for upgrades of specific types of systems, to provide a policy baseline against which individual arms transfer proposals can be assessed and proposed departures from the policy must be justified.