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FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The BAA requires the Government to purchase for public use only domestic end products.

For a manufactured end product, this means a product that has been manufactured in the United States substantially all from articles, materials, or supplies in mind, produced, or manufactured in the United States. DoD considers a product to be "substantially all from articles, materials, or supplies mined, produced, manufactured in the United States" if the cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Under the TAA, the BAA is waived for eligible products from certain designated countries. The country of origin for eligible products is the country in which the articles/components (wherever the origin) have been substantially transformed into an article of commerce with a name, character, or use distinct from that of the articles from which it was transformed. Since the TAA applies only to products of foreign countries, the BAA is not waived for products substantially transformed in the United States from mostly foreign components, *i.e.*, U.S.-made end products that do not qualify as domestic end products. This results in treating such U.S.-made end

products less favorably than designated country end products, which might encourage companies to manufacture products or locate manufacturing facilities in a designated foreign country rather than in the United States.

Because of the different rules of origin, U.S.-made end products that do not qualify as domestic end products are at a competitive disadvantage against designated foreign countries when competing for DoD procurements (because of the application of the 50 percent evaluation factor to U.S.-made end products that do not qualify as domestic end products). Additionally, the different rules of origin result in a disproportionately burdensome record-keeping requirement on firms offering both domestic and U.S.-made end products. Because of the component content requirement of the BAA, vendors must determine, control, and track the source of components. In today's global economy, this has become an extremely difficult, if not impossible, task and create a disincentive for commercial companies to sell to DoD. On the other hand, this burden does not apply to vendors from designated countries, because the TAA substantial transformation rule of origin does not require tracking the origin of components. This is especially true for commercial items. Given the impact of the different rules of origin, it seems appropriate to determine that application of the BAA to commercial U.S.-made end products is inconsistent with the public interest in procurements subject to the TAA. The proposed exception will eliminate the burdensome record-keeping requirements for U.S. companies, allow DoD to procure U.S.-made commercial

items if they are lower in cost, allow DoD access to state-of-the-art commercial technology, and reduce the incentive to move end product manufacturing facilities to a designated foreign country.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

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DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 01-19]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 01-19 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: August 1, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-01-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

18 JUL 2001

In reply refer to:

I-01/006287

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 01-19, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office for defense articles and services estimated to cost \$725 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in black ink that reads "A.R. Keltz".

A.R. KELTZ
ACTING DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 01-19**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act**

- (i) **Prospective Purchaser:** Taipei Economic and Cultural Representative Office in the United States pursuant to P.L. 96-8
- (ii) **Total Estimated Value:**

Major Defense Equipment*	\$140 million
Other	<u>\$585 million</u>
TOTAL	\$725 million
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** Fifty Joint Tactical Information Distribution Systems terminals including hardware, spare and repair parts, support and test equipment, software support, publications and technical documents, U.S. Government and contractor technical assistance, and other related elements of logistics support.
- (iv) **Military Department:** Navy (GMK)
- (v) **Prior Related Cases, if any:** none
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached
- (viii) **Date Report Delivered to Congress:** 18 JUL 2001

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**Taipei Economic and Cultural Representative Office in the United States - Joint Tactical Information Distribution System Terminals**

The Taipei Economic and Cultural Representative Office in the United States has requested a possible sale of 50 Joint Tactical Information Distribution Systems (JTIDS) terminals including hardware, spare and repair parts, support and test equipment, software support, publications and technical documents, U.S. Government and contractor technical assistance, and other related elements of logistics support. The estimated cost is \$725 million.

This sale is consistent with United States law and policy as expressed in Public Law 96-8.

The proposed sale of the JTIDS terminals will form part of the advance tactical data link system will improve and integrate the recipient's information flow between tactical aircraft, surface ships and ground stations. The recipient can absorb this system as it replaces existing independent systems and provides for more efficient and costly management of defensive forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime integration contractor will be selected through a competitive procurement. There are no offset agreements proposed in connection with this potential sale.

It is estimated that during implementation of this sale a number of U.S. Government and contractor representatives will be assigned to the recipient or travel there intermittently during the program. As the program is defined through consultations between U.S. Government/contractor and recipient program representatives, specific numbers and types of qualified personnel for the many areas of this program will be identified.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 01-19**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act****Annex
Item No. vi****(vi) Sensitivity of Technology:**

1. The advanced tactical data link system contains sensitive state-of-the-art technology. Some of the hardware (Joint Tactical Information Distribution System and other "Link-16 Like" terminals), publications, performance specifications, operational capability, parameters, vulnerabilities to countermeasures, and software documentation are classified Confidential. The classified information to be provided consist of that which is necessary for the operation, maintenance, and repair (through intermediate level) of the data link terminals, installed systems and related software.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that recipient can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.