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United States Coast Guard

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COMDTINST 5710.4
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COMMANDANT INSTRUCTION 5710.4

Subj: END USE CERTIFICATES (EUCs) AND DECLARATIONS BY END USER (DEUs)

Ref: (a) DoD Directive 2040.3 dtd November 14, 1991

1. PURPOSE. This Instruction establishes a United States Coast Guard (USCG) policy regarding End Use Certificates (EUCs) and Declarations by End User (DEUs) associated with acquisition of articles from foreign sources and mirrors Department of Defense (DoD) processes prescribed in reference (a). This Instruction establishes policies, assigns responsibilities, and prescribes procedures for signature of EUCs/DEUs.
2. ACTION. Area and district commanders, commanders of maintenance and logistics commands, commanding officers of integrated support commands, commanding officers of headquarters units, assistant commandants for directorates, Judge Advocate General and special staff elements at Headquarters shall ensure compliance with the provisions of this Instruction. Internet release is authorized.
3. DIRECTIVES AFFECTED. None.
4. DEFINITIONS.
 - a. End Use Certificate (EUC). For the purposes of this Instruction, a written agreement in connection with the transfer of military equipment or technical data to the United States that restricts the use or transfer of that item by the United States. One type of EUC is a Declaration by End User (DEU), which is a formal, serialized document executed between governments allowing the shipment of contracted goods from a foreign nation to the United States.

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NON-STANDARD DISTRIBUTION:

- b. Use for Defense Purposes. Includes direct use by or for the U.S. Government in any part of the world and transfer by means of grant aid, International Military Education and Training (IMET) programs, Foreign Military Sales (FMS), and other security assistance and armaments cooperation authorities.

5. BACKGROUND AND POLICY. This Instruction is intended to authorize the execution of EUCs and DEUs when such certificates are necessary to facilitate purchases of foreign products when the purchase of such products is in the best interest of the United States.

- a. The USCG purchases products produced by allies and friendly countries and may participate in cooperative development programs to promote interoperability, standardization, and an expanded procurement base, and to obtain products that best meet U.S. needs at the lowest cost.
- b. U.S. worldwide security responsibilities are extensive and recognition of these special circumstances has resulted in long-time acceptance in international agreements, by allies and friends, of the need for flexibility in the authorized uses or transfer of purchased or co-developed articles and data. In various circumstances, international agreements have recognized that permissible use of an item or data for U.S. "defense purposes" is as defined in paragraph 4.b., above.
- c. Consistent with paragraphs 5.a. and 5.b., above, the USCG may sign EUCs and DEUs, in accordance with the policy and procedures outlined below. While most EUCs/DEUs requested by foreign governments use general language, their effects may be divided into three categories, as described below. Authority to approve their execution is limited as follows:

(1) Category I. The USCG Agency Acquisition Executive (AAE) may authorize EUCs/DEUs:

- (a) That permit the item to be "used for defense purposes" as defined in paragraph 4.b., above, by the United States;
- (b) For acquisition of items classified for security purposes by a foreign government; or
- (c) For the acquisition of items covered by the nonproliferation agreements to which the United States is a party, such as missile technology.

(2) Category II. EUCs/DEUs that are not Category I or III are Category II. The USCG AAE may authorize Category II EUCs only after a determination is made through the coordination procedures set forth in subparagraph 7.a.(2), below, that, notwithstanding the use or transfer limitations, the purchase is in the U.S. national interest. The least restrictive provisions possible should be negotiated.

(3) Category III. The USCG AAE may not authorize the signature of EUCs/DEUs that limit the right for use by or for the U.S. Government in any part of the world or the right to provide the item to allies engaged together with the United States in armed conflict with a common enemy. Waivers to these prohibitions may be granted by the Commandant, U.S. Coast Guard. Procedures for requesting such waivers are at subparagraph 7.a.(3), below.

6. RESPONSIBILITIES.

a. The Commandant shall:

- (1) Monitor compliance with this Instruction.
- (2) Upon consulting with the Director, International Affairs (CG-00I) waive the restrictions in subparagraph 5.c.(3) of this Instruction when purchase of the item is in the national interest.
- (3) When requested, and in coordination with CG-00I, negotiate the elimination or amelioration of an EUC's or DEU's restrictive language.

b. Director, International Affairs (CG-00I) shall:

- (1) Consult with the Commandant on waivers authorized by this Instruction and, if appropriate, coordinate with the Department of State.
- (2) When requested, assist the Commandant in negotiating the elimination or amelioration of the EUC's/DEU's restrictive language.
- (3) Develop procedures for coordination and review of EUCs/DEUs internally and with the Department of State.

c. The USCG AAE shall:

- (1) Authorize the execution of Category I and II EUCs/DEUs in accordance with the procedures outlined in section 7., below.
- (2) Establish procedures to ensure compliance with this Instruction. These procedures should ensure compliance, for the life of the purchased item, with the transfer or use restrictions agreed to in signing an EUC/DEU.

7. PROCEDURES.

a. Procedures for the three categories of EUCs/DEUs established in paragraph 5.c., above, are:

- (1) Category I. The USCG AAE may authorize Category I EUCs/DEUs.
- (2) Category II. Before authorizing the execution of a Category II EUC or DEU, the USCG AAE shall request concurrence from the Commandant. The request will contain a description of the item and the limitations to be imposed by the exporting government. The Commandant shall consult with CG-00I. If appropriate, CG-00I shall coordinate with the Department of State. The Commandant shall provide concurrence to the USCG AAE to authorize the EUC/DEU or identify any further action required before final authorization of the EUC/DEU.
- (3) Category III. To acquire an item requiring a Category III EUC or DEU, the USCG AAE must request a waiver from the Commandant. The Commandant shall consult with CG-00I

who, if appropriate, shall then coordinate with the Department of State. The Commandant shall notify the USCG AAE of the results. Requests for waivers should specify:

- (a) Why it is in the interest of the U.S. Government to procure the item.
- (b) The limitations to be imposed by the exporting government and a justification for acceptance of those limitations by the U.S. Government.
- (c) A statement that no satisfactory alternative to the item, considering cost, schedule, or operational requirements, is available from domestic or foreign sources without equivalent limitations.

- b. Copies of signed EUCs/DEUs of all three categories shall be provided promptly to the USCG AAE and Director, International Affairs (CG-00I).
- c. A record of any waivers or modifications of this policy shall be maintained by the USCG AAE and Director, International Affairs (CG-00I).

8. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations were examined in the development of this Instruction and have been determined to be not applicable.

9. EFFECTIVE DATE AND IMPLEMENTATION. This Instruction is effective immediately. Only the requirements of Sections 7.c. and 7.d. are retroactive for EUCs and DEUs authorized prior to implementation of this Instruction.

10. FORMS/REPORTS. None.

R. J. PAPP, Jr. /s/
Vice Admiral, U.S. Coast Guard

NON-STANDARD DISTRIBUTION: Ba: COMDT (CG-00 (2), CG-09 (2), CG-00I (20), G-CJ (2), G-I (2), CG-01 (3), CG-6 (1), CG-61 (1), CG-612 (2), G-A (2), G-A-1 (2), G-A-2 (2), G-ACS (5), G-L (2), G-LMI (5), G-LPL (5), G-R (2), G-RCD (2), G-X/Xd (2), G-XPP (2), CG-4 (2), CG-4b (2)); Bb: Atlantic Area (1), Pacific Area (1); Bc: First District (1), Fifth District (1), Seventh District (1), Eighth District (1), Ninth District (1), Thirteenth District (1), Fourteenth District (1), Seventeenth District (1), MLC Atlantic (1), MLC Pacific (1)