



**DEFENSE LOGISTICS AGENCY
HEADQUARTERS
8725 JOHN J. KINGMAN ROAD, SUITE 2533
FT. BELVOIR, VIRGINIA 22060-8221**

IN REPLY
REFER TO

MMPPP
PROCLTR 97-06

FEB 10 1997

MEMORANDUM FOR PROCLTR DISTRIBUTION LIST

SUBJECT: Authority to Waive Foreign Purchase Restrictions

The attached memorandum from the Director, Defense Procurement, provides amended DFARS coverage to add new authority to waive restrictions on foreign purchases at 10 U.S.C. 2534.

This PROCLTR is effective immediately and expires upon publication of the change in a Defense Acquisition Circular or one year from date of issue, whichever is sooner. Hal Hermann (MMPPP), DSN 427-1354, is POC for this PROCLTR.

MARGARET J. JANES
Acting Executive Director
(Procurement)

Attachment



ACQUISITION AND
TECHNOLOGY

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000

January 17, 1997

DP (DAR)

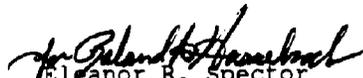
In reply refer to
DFARS Case: 96-D319
D. L. 97-006

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,
ASN (RD&A) / ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTOR, PROCUREMENT POLICY, ASA (RD&A) / SARD-PP
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS
AGENCY

SUBJECT: Authority to Waive Foreign Purchase Restrictions

We have amended the Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 225.70, to implement Section 810 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104-201). Section 810 adds new authority to waive the restrictions on foreign purchases at 10 U.S.C. 2534.

The attached interim DFARS rule is effective immediately and will be included in a future Defense Acquisition Circular.


Eleanor R. Spector
Director, Defense Procurement

Attachment

cc: DSMC, Ft. Belvoir



JAN 23 1997

**DFARS Case 96-D319
Authority to Waive Foreign Purchase Restrictions
Interim Rule**

PART 225—FOREIGN ACQUISITION

**SUBPART 225.70—AUTHORIZATION ACTS, APPROPRIATIONS ACTS, AND OTHER
STATUTORY RESTRICTIONS ON FOREIGN PURCHASES [ACQUISITION]**

225.7005 Waiver of certain restrictions.

Where provided for elsewhere in this subpart, the restrictions on certain foreign purchases under 10 U.S.C. 2534 may be waived as follows:

- (a) The head of the contracting activity may waive the restriction on a case-by-case basis upon execution of a determination and findings that any of the following applies:
 - (1) The restriction would cause unreasonable delays.
 - (2) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.
 - (3) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country [or would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items under 225.872], and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.
 - (4) Satisfactory quality items manufactured in the United States or Canada are not available.
 - (5) Application of the restriction would result in the existence of only one source for the item in the United States or Canada.
 - (6) Application of the restriction is not in the national security interests of the United States.
 - (7) Application of the restriction would adversely affect a U.S. company.
- (b) The restriction is waived when it would cause unreasonable costs. The cost of the item of U.S. or Canadian origin is unreasonable if it exceeds 150 percent of the offered price, inclusive of duty, of items which are not of U.S. or Canadian origin.

225.7019 Restrictions on ball and roller bearings.

225.7019-3 Waiver.

(a)(1)(iv) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country [or would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items under 225.872], and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country;
