

PRESIDENTIAL MEMORANDA

# National Security Presidential Memorandum Regarding U.S. Conventional Arms Transfer Policy

Issued on: April 19, 2018

MEMORANDUM FOR THE VICE PRESIDENT

THE SECRETARY OF STATE

THE SECRETARY OF THE TREASURY

THE SECRETARY OF DEFENSE

THE ATTORNEY GENERAL

THE SECRETARY OF COMMERCE

THE SECRETARY OF ENERGY

THE SECRETARY OF HOMELAND SECURITY

THE ASSISTANT TO THE PRESIDENT AND CHIEF OF STAFF

THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS

THE DIRECTOR OF NATIONAL INTELLIGENCE

THE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

THE ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS

THE ASSISTANT TO THE PRESIDENT AND COUNSEL TO THE PRESIDENT

THE ASSISTANT TO THE PRESIDENT FOR ECONOMIC POLICY AND DIRECTOR OF THE NATIONAL ECONOMIC COUNCIL

THE ASSISTANT TO THE PRESIDENT FOR HOMELAND SECURITY AND COUNTERTERRORISM

THE ASSISTANT TO THE PRESIDENT FOR TRADE AND INDUSTRIAL POLICY AND  
DIRECTOR OF THE OFFICE OF TRADE AND MANUFACTURING POLICY

THE ASSISTANT TO THE PRESIDENT FOR SCIENCE AND TECHNOLOGY AND  
DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY

THE DIRECTOR OF NATIONAL DRUG CONTROL POLICY

THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF

THE ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE  
ADMINISTRATION

THE DIRECTOR OF THE NATIONAL SECURITY AGENCY

THE DIRECTOR OF THE DEFENSE INTELLIGENCE AGENCY

THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

SUBJECT: United States Conventional Arms Transfer Policy

Section 1. Purpose. The security of the United States and the defense of our interests require a strong military, capable allies and partners, and a dynamic defense industrial base, which currently employs more than 1.7 million people. Strategic conventional arms transfers lie at the intersection of these interests and play a critical role in achieving our national, economic security, and foreign policy objectives.

This policy will be implemented consistent with requirements of the Arms Export Control Act of 1976, as amended (22 U.S.C. 2751 et seq.).

By better aligning our policy regarding conventional arms transfers with our national and economic security interests, the approach outlined in this memorandum will serve several functions. It will help us maintain a technological edge over potential adversaries; strengthen partnerships that preserve and extend our global influence; bolster our economy; spur research and development; enhance the ability of the defense industrial base to create jobs; increase our competitiveness in key markets; protect our ability to constrain global trade in arms that is destabilizing or that threatens our military, allies, or partners; and better equip our allies and partners to contribute to shared security objectives and to enhance global deterrence. These

security objectives include countering terrorism, countering narcotics, promoting regional stability, and improving maritime and border security.

When a proposed transfer is in the national security interest, which includes our economic security, and in our foreign policy interest, the executive branch will advocate strongly on behalf of United States companies. The executive branch will also streamline procedures, clarify regulations, increase contracting predictability and flexibility, and maximize the ability of the United States industry to grow and support allies and partners.

Sec. 2. Policy. With respect to arms transfers, it shall be the policy of the executive branch to:

(a) bolster the security of the United States and our allies and partners, including by defending against external coercion, countering terrorism, and providing capabilities in support of shared security objectives;

(b) maintain technological advantages of the United States military, including by ensuring that there are appropriate protections on the transfer of United States military technologies;

(c) increase trade opportunities for United States companies, including by supporting United States industry with appropriate advocacy and trade promotion activities and by simplifying the United States regulatory environment;

(d) strengthen the manufacturing and defense industrial base and lower unit costs for the United States and our allies and partners, including by improving financing options and increasing contract flexibility;

(e) facilitate ally and partner efforts, through United States sales and security cooperation efforts, to reduce the risk of national or coalition operations causing civilian harm;

(f) strengthen relationships and enhance military interoperability where doing so serves national security and foreign policy interests of the United States;

(g) prevent proliferation by:

(i) exercising restraint in transfers that may be destabilizing, be dangerous to international peace and security, involve materials that may be used as delivery systems for weapons of mass destruction, or result in potential adversaries obtaining capabilities that could threaten the superiority of the United States military or our allies and partners;

(ii) continuing United States participation in and support for multilateral arrangements that contribute to the objectives and interests outlined in this memorandum, including the United Nations Register of Conventional Arms, the United Nations Standardized Instrument for Reporting Military Expenditures, regional initiatives that enhance transparency in conventional arms transactions, the Missile Technology Control Regime (MTCR), and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies;

(iii) continuing to use multilateral arrangements to promote shared national policies of restraint against the acquisition of armaments and sensitive dual-use goods and technologies for military end uses by states whose behavior is cause for serious concern; and

(iv) working bilaterally and multilaterally to assist other state suppliers of conventional arms in developing effective export control mechanisms in support of responsible export policies that align with those of the United States; and

(h) continue to meet the requirements of all applicable statutes, including the Arms Export Control Act, the Foreign Assistance Act, the International Emergency Economic Powers Act, and the annual National Defense Authorization Acts. Arms transfer decisions will be consistent with the requirements of all applicable export control regulations and international commitments and obligations of the United States. These laws and regulations will apply, as appropriate, regardless of whether transfers are accomplished through direct commercial sales, government-to-government transfers, United States assistance programs, approvals for the retransfer of arms, changes of end use, or upgrades.

Sec. 3. Arms Transfer Decisions. In making arms transfer decisions, the executive branch shall account for the following considerations:

(a) The National Security of the United States.

(i) The appropriateness of the transfer in responding to United States security interests.

(ii) The degree to which the transfer contributes to ally and partner burden-sharing and interoperability in support of strategic, foreign policy, and defense interests of the United States.

(iii) The transfer's consistency with United States interests in regional stability, especially when considering transfers that involve power projection, anti-access or area denial capability, or the introduction of a capability that may increase regional tensions or contribute to an arms race.

(iv) The transfer's effect on the technological advantage of the United States, including the recipient's ability to protect sensitive technology; the risk of compromise to United States systems and operational capabilities; and the recipient's ability to prevent the diversion of sensitive technology to unauthorized end users.

(v) The recipient's nonproliferation and counterproliferation record.

(vi) The transfer's contribution to efforts to counter terrorism, narcotics trafficking, transnational organized crime, or similar threats to national security.

(b) The Economic Security of the United States and Innovation.

(i) The transfer's financial or economic effect on United States industry and its effect on the defense industrial base, including contributions to United States manufacturing and innovation.

(ii) The recipient's ability to obtain comparable systems from competing foreign suppliers.

(c) Relationships with Allies and Partners.

(i) The degree to which the transfer meets the objectives of bolstering the security and counterterrorism capabilities of our allies and partners and contributes to international peace and security.

(ii) The degree to which the transfer increases access and influence in ways that support our strategic, foreign policy, and defense interests.

(iii) The recipient's ability to field, support, and employ the requested system effectively and appropriately in accordance with its intended end use.

(iv) The likelihood of the transfer reducing ally and partner dependence on United States adversaries.

(v) The risk that the transfer will have adverse economic, political, or social effects within the recipient country.

(d) Human Rights and International Humanitarian Law.

(i) The risk that the transfer may be used to undermine international peace and security or contribute to abuses of human rights, including acts of gender-based violence and acts of violence against children, violations of international humanitarian law, terrorism, mass atrocities, or transnational organized crime.

(ii) Whether the United States has actual knowledge at the time of authorization that the transferred arms will be used to commit: genocide; crimes against humanity; grave breaches of the Geneva Conventions of 1949; serious violations of Common Article 3 of the Geneva Conventions of 1949; attacks intentionally directed against civilian objects or civilians who are legally protected from attack; or other war crimes as defined in section 2441 of title 18, United States Code. If the United States has such knowledge, the transfer shall not be authorized.

(e) Nonproliferation.

The risk that the transfer could undermine the integrity of international nonproliferation agreements and arrangements that prevent proliferators, programs, and entities of concern from acquiring missile technologies or other technologies that could substantially advance their ability to deliver weapons of mass destruction, or otherwise lead to a transfer to potential adversaries of a capability that could threaten the superiority of the United States military or our allies and partners.

Sec. 4. Implementation. (a) Within 60 days of the date of this memorandum, the Secretary of State, in coordination with the Secretaries of Defense, Commerce, and Energy, shall submit to the President, through the Assistant to the President for National Security Affairs (APNSA), a proposed action plan to implement the policy set forth in sections 2 and 3 of this memorandum.

(b) The proposed action plan shall include actions that the United States Government should take in the short term and long term to improve its ability to identify, communicate, pursue, and support arms transfers in the manner most beneficial to the national security interests of the United States, including economic security, the broader economy, and United States foreign policy interests. The proposed action plan should account for the competitive environment in which the United States must operate and the need to protect and expand our technological advantages and our defense industrial base. The proposed action plan should include an outline of the financial and personnel resources necessary to implement the roadmap with minimal increase in the total of otherwise budgeted funds, with offsets identified if necessary.

(c) Within 60 days of the date of this memorandum, the Secretary of State, in coordination with the Secretaries of Defense, Commerce, and Energy, shall submit to the President, through the

APNSA, a proposed initiative to align our unmanned aerial systems (UAS) export policy more closely with our national and economic security interests. The initiative should address the status of, and recommend next steps for, MTCR adoption of revised controls for MTCR Category I UAS, consistent with the UAS export policy.

Sec. 5. Earlier Presidential Actions. This memorandum supersedes and replaces Presidential Policy Directive-27 of January 15, 2014 (United States Conventional Arms Transfer Policy).

Sec. 6. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP