MEMORANDUM FOR DISTRIBUTION

Subj: EXTENSION TO CLASS DEVIATION--CONTRACTING WITH NORTH ATLANTIC TREATY ORGANIZATION (NATO) AND NON-NATO COUNTRIES

Encl: (1) OUSD DP(DAR) memo of 31 Jan 96; same subject

Enclosure (1), which extends the subject class deviation, is forwarded for immediate implementation. It has been approved for a one-year period ending January 31, 1997, or until the DFARS is revised, whichever occurs first. Please ensure it gets widespread distribution.

Elliott B. Branch
Executive Director
Acquisition & Business Management

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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 : Extension to Class Deviation--Contracting with North Atlantic Treaty Organization, (NATO) and Non-NATO Countries

I extend the authority for all military departments and defense agencies to deviate from Federal Acquisition Regulation (FAR) and Defense FAR Supplement (DFARS) clauses, except those clauses based upon requirements of law, for contracts made by contracting activities outside the United States for the acquisition of support services and incidental supplies, and construction. This class deviation is limited to contracts:

(1) between the Government of the "United States and other NATO governments; or

(2) between the Government of the United States and any government not a member of NATO from which the Department of Defense can acquire logistical support, supplies, and services under section 2341 of title 10, United States Code. It includes countries that--

(a) have a defense alliance with the United States;

(b) permit the stationing of members of the armed forces in such country or the homeporting of naval vessels of the United States in such country;

(c) have agreed to preposition materiel of the United States in such country; or
(d) serve as the host country to military exercises which include elements of the armed forces. or permits other military operations by the armed forces in such country.

This deviation authority shall be exercised only if the NATO and non-NATO governments referred to above will not agree to the standard clauses.

This deviation applies only to contract clauses and does not extend to internal or administrative contracting procedures prescribed by the FAR or DFARS. In exercising this deviation authority, the contracting officer, in close coordination with legal counsel, shall incorporate clauses into the contract that protect the interests of the United States and are acceptable to both governments.

This class deviation is approved for a one-year period ending January 31, 1997, or until the DFARS is revised, whichever event occurs first.

Eleanor R. Spector
Director of Defense Procurement