

## Överenskommelse mellan Försvarets materielverk och Säkerhets- och försvarsföretagen

Sverige har ingått ett bilateralt avtal med USA (SÖ 2006:32). Inom ramen för detta avtal har överenskommelse nåtts mellan länderna om visst ömsesidigt stöd avseende leveranssäkerhet i enlighet med en tillämpningsöverenskommelse.

Försvarets materielverk och Säkerhets- och försvarsföretagen överenskommer härmed bilagda uppförandekod (Code of conduct) med tillhörande annex. Företag i Sverige har möjlighet att ansluta sig till systemet genom en skriftlig anmälan till Försvarets materielverk under förutsättning att de uppfyller kraven enligt annexet.

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## **CODE OF CONDUCT**

**AS AGREED BETWEEN FÖRSVARETS MATERIELVERK – FMV  
(THE SWEDISH DEFENCE MATERIEL ADMINISTRATION)**

**AND**

**SÄKERHETS- OCH FÖRSVARSFÖRETAGEN (SOFF)  
(SWEDISH SECURITY AND DEFENCE INDUSTRY ASSOCIATION)**

**ON PARTICIPATION IN A SWEDISH DEFENSE PRIORITIES AND  
ALLOCATIONS SYSTEM SUPPORTING U.S. DEPARTMENT OF  
DEFENSE PROGRAMS  
REGARDING SECURITY OF SUPPLY**

1. This Code of Conduct is established pursuant to:
  - a) the Memorandum of Understanding between the Government of the United States of America and the Government of the Kingdom of Sweden relating to the Principles Governing Mutual Cooperation in the Defense Procurement Area (the "Memorandum of Understanding").
  - b) Amendment Number 2 to the Memorandum of Understanding between the Government of the United States of America and the Government of the Kingdom of Sweden relating to the Principles Governing Mutual Cooperation in the Defense Procurement Area adding Annex III to the Memorandum of Understanding.
  - c) Annex III: Implementing Arrangement for Meeting National Defense Requirements – Security of Supply (the "Implementing Arrangement").
2. The overall obligations and responsibilities of the respective Government are set out in the Memorandum of Understanding and the Implementing Arrangement.
3. The purpose of this Code of Conduct is to establish a Swedish Defense Priorities and Allocations System (hereinafter the "Swedish DPAS") that enables it to provide for preferential treatment of contracts that supports U.S. Department of Defense programs needed to meet urgent and critical defense requirements.

This Code of Conduct relates furthermore to supply of defense products, material and services, including emerging technologies that may be used for defense purposes, to discharge the United States military commitments and does not include commercial end items commonly available in the country of the supplier.

The participation of Swedish company to this Code of Conduct is voluntary. A Swedish company who decide not to subscribe to this Code of Conduct shall not be precluded from receiving defense contracts by this reason from Swedish authorities.

A Swedish company that accepts the commitments in this Code of Conduct and fulfills the criteria set forth in Annex 1 shall, in this context, be considered as a member of the Swedish DPAS and an "Accredited Swedish Company".

4. Accredited Swedish Companies will be notified by FMV to the US Defense procurement community. It is recognized that, in accordance with the Implementing Arrangement, in those US source selection evaluations where security of supply is an important issue, membership in the system will be a positive consideration during the source selection deliberative process. If a request of a contract, supporting US Department of Defense programs, for priority performance of supply of defense products, material or services needed to meet urgent and critical defense requirement is submitted to an Accredited Swedish Company (hereinafter "the Request"), then the Accredited Swedish Company will use its reasonable endeavor to agree on terms and conditions related to the Request, including;
  - a) accepting that a contract with the US Department of Defense or with a US company, related to the Request, will, after approval by FMV, be treated as a contract falling under the Swedish DPAS,
  - b) use its best commercial efforts to insert into subcontract provisions designed to ensure due performance of a contract related to the Request,
  - c) responding in a timely manner to requests of the US Department of Defense for amendments to the timing of deliveries provided that the customer undertakes to pay and provide the Accredited Swedish Company full compensation for the consequences of any such amendment, and
  - d) bringing to the attention of FMV conflicts between contracts related to the Request and other contracts.

In the event that an Accredited Swedish Company and its US counterparty cannot agree on the terms and conditions related to the Request due to the fact that the parties cannot agree on the Accredited Swedish Company's compensation in this connection, the Accredited Swedish Company may reasonably decline the Request.

In the event that a Swedish company cannot satisfy a request to amend a Swedish DPAS contract without incurring a financial loss, and the relevant customer is unwilling to reimburse it, the company may reasonably decline the Request. This will be without prejudice to their continued membership of the Code and the benefits received under the Code. Under no circumstances shall a Swedish company be required to suffer a loss without full compensation in order to fulfill the obligations detailed in this Code of Conduct.

5. If a Request would seriously imperil future client customer relations and/or endanger future business, the Accredited Swedish Company shall be entitled to notify FMV about the situation and ask for assistance to have the issue surrounding the case investigated.

If an Accredited Swedish Company is unable to fulfill a Request as requested, the Company immediately shall inform FMV and provide FMV with alternative proposals for meeting the Request in terms which the customer is reasonably able to accept including the costs of fulfilling any such proposals. FMV shall use its good offices to resolve any such difficulties with all interested parties. If the Accredited Swedish Company and the customer could not agree on a reasonable alternative solution, the Accredited Swedish Company shall notify FMV thereof without undue delay together with the reasons to why an alternative solution could not be met.

6. Nothing in this Code of Conduct shall prejudice any Accredited Swedish Company from entering into any similar undertakings or cooperation regarding security of supply with other parties.
7. This Code of Conduct shall be open to all companies in Sweden who are prepared to comply with its provisions. FMV will notify the US Government of which Swedish companies that participates in the Swedish DPAS.
8. Failure to comply with the provisions of this Code of Conduct may lead to a review of the Accredited Swedish Company's participation conducted by FMV.

If an Accredited Swedish Company has failed to comply with this Code of Conduct FMV may either lodge a caution (telling what the company has done is not in line with this Code of Conduct and should not be repeated) or suspend the said company from the Code of Conduct. Besides from the said FMV is not entitled to issue any other sanctions or to submit any other claims whatsoever towards the Swedish Accredited Company.

## APPROVAL OF SWEDISH COMPANIES PARTICIPATING IN THE SWEDISH DPAS

The criteria for approval of the companies situated in Sweden accepting participation in the Swedish DPAS system should be minimalistic. They are close to the Swedish system for approval of suppliers to the Swedish Armed forces.

### Application

The application should include the following information about the Swedish company:

(if not already known to FMV)

- Company name, address, and web-site (web reference).
- The company's board members
- Owners of the company and, if so, listed on the stock exchange
- Registration certificate
- Reference to a quality assurance system used (i.e. ISO9000 etc)
- Reference to a production control/ system used at the company
- Last years annual report from the company

It is supposed that the company's relevant defense products are to be found at their web-site, or otherwise by asking the company.

### Information to FMV

Company/Supplier is expected to inform FMV about significant changes in:

1. The production capacity and/or the supply is changed substantially
2. The majority owner/s/ is changed significantly.
3. The quality assurance system is changed significantly
4. The production control system is changed significantly
5. It is filing a petition on bankruptcy
6. It has problems with their sub-contractors that may interfere with the company's possibilities to fulfil its commitments in the Swedish DPAS
7. Other relevant changes in the information given at the time of the application

### FMV information about the companies

FMV might on a regular basis check if the companies:

1. Have not been under compulsory administration, been declared bankrupt, made a composition etc.
2. Have fulfilled their commitments to the Swedish government concerning taxes (all relevant types), social insurance charges etc.
3. (Ev. security between FMV and the Company is up-dated)