

The Honorable Franklin D. Burgess

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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10 CYNTHIA CORRIE AND CRAIG CORRIE,)
ON THEIR OWN BEHALF AND AS)
11 PERSONAL REPRESENTATIVES OF THE)
ESTATE OF RACHEL CORRIE AND HER)
12 NEXT OF KIN, INCLUDING HER)
SIBLINGS, MAHMOUD OMAR AL)
13 SHO'BI, ON HIS OWN BEHALF, ON)
BEHALF OF HIS SURVIVING SIBLINGS)
14 MUHAMMAD AL SHO'BI AND SAMIRA)
AL SHO'BI, AND ON BEHALF OF HIS)
15 DECEASED FAMILY MEMBERS, UMAR)
AL SHO'BI, FATIMA AL SHO'BI, ABIR AL)
16 SHO'BI, SAMIR AL SHO'BI, ANAS AL)
SHO'BI, AZZAM AL SHO'BI AND)
17 ABDALLAH AL SHO'BI; FATHIYA)
MUHAMMAD SULAYMAN FAYED, ON)
18 HER OWN BEHALF AND ON BEHALF OF)
HER DECEASED SON, JAMAL FAYED)
19 AND HIS NEXT OF KIN; FAYEZ ALI)
MOHAMMED ABU HUSSEIN ON HIS)
20 OWN BEHALF AND ON BEHALF OF HIS)
SONS, BAHJAT FAYEZ ABU HUSSEIN,)
21 AHMED FAYEZ ABU HUSSEIN, NOUR)
FAYEZ ABU HUSSEIN AND SABAH)
22 FAYEZ ABU HUSSEIN; MAJEDA)
RADWAN ABU HUSSEIN ON HER OWN)
23 BEHALF AND ON BEHALF OF HER)
DAUGHTERS, HANAN FAYEZ ABU)
24 HUSSEIN, MANAL FAYEZ ABU)
HUSSEIN, INSHERAH FAYEZ ABU)
25 HUSSEIN, AND FADWA FAYEZ ABU)
HUSSEIN; EIDA IBRAHIM SULEIMAN)
26 KHALAFALLAH ON HER OWN BEHALF)

No. C05-5192-FDB

DECLARATION OF FRANK WEINBERG IN SUPPORT OF DEFENDANT'S MOTION REQUESTING THAT THE COURT SOLICIT THE VIEWS OF THE UNITED STATES DEPARTMENT OF STATE REGARDING POTENTIAL FOREIGN POLICY IMPLICATIONS RAISED BY THIS ACTION

ORAL ARGUMENT REQUESTED

NOTE ON MOTION CALENDAR: OCTOBER 21, 2005

**DECLARATION OF FRANK WEINBERG-IN
SUPPORT OF MOTION TO REQUEST
STATEMENT OF INTEREST-1
Case No. C05-5192-FDB – Corrie v. Caterpillar, Inc.**

Howrey LLP
550 South Hope Street, Suite 1100
Los Angeles, California 90071
Telephone: (213) 892-1800
Facsimile: (213) 892-2300

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AND ON BEHALF OF HER DECEASED)
HUSBAND, IBRAHIM MAHMOUD)
MOHAMMED KHALAFALLAH AND)
NEXT OF KIN,)
)
Plaintiffs,)
)
vs.)
)
CATERPILLAR, INC., a foreign corporation,)
)
Defendant.)

DECLARATION OF FRANK WEINBERG-IN
SUPPORT OF MOTION TO REQUEST
STATEMENT OF INTEREST-2
Case No. C05-5192-FDB – Corrie v. Caterpillar, Inc.

Howrey LLP
550 South Hope Street, Suite 1100
Los Angeles, California 90071
Telephone: (213) 892-1800
Facsimile: (213) 892-2300

DECLARATION OF FRANK WEINBERG

I, Frank Weinberg, state:

1. I am employed by Defendant Caterpillar Inc. (“Caterpillar”) as the General Manager, Defense & Federal Products. I make this declaration in connection with Caterpillar’s motion for the Court to request a statement of interest from the United States Department of State. I have personal knowledge of the facts stated herein, and if called as a witness in this action, I would testify to those facts.

2. I have been in my current position of General Manager, Defense & Federal Products, since 1994. In that capacity, I have signed all the purchase and sale agreements between Caterpillar and the State of Israel relating to D9 bulldozers (often referred to as “track type tractors”) that were entered into during that time. In addition, I have been involved in the management of the Defense & Federal Products group at Caterpillar since 1986.

3. For each of those contracts, the Defense Security Cooperation Agency (“DSCA”) gave approval for funding by the United States government under the foreign military financing (“FMF”) program and found that the proposed procurement by the State of Israel was consistent with the Arms Export Control Act (“AECA”) and the applicable FMF grant agreements. Attached hereto as Exhibit A is a copy of a letter dated September 10, 2001 from the DSCA to the Director, Mission to the U.S. of the Government of Israel, confirming the DSCA’s approval of one such contract for the financing for the procurement of D9R Track Type Tractors, among other things. Exhibit A reflects that the DSCA sent a copy of that letter to Caterpillar, and Exhibit A is a photocopy of Caterpillar’s copy.

4. In addition to receiving approval for FMF funding from the DSCA, the Israeli government arranges for export licenses under the AECA prior to

Caterpillar delivering any of the D9 bulldozers to the government of Israel. I understand that those export licenses also required U.S. government review and approval in accordance with the procedures specified by the AECA and the applicable regulations.

5. Based on my experience in Caterpillar's Defense & Federal Products group, I believe that all sales of D9 bulldozers (including any replacement parts) since at least 1990 received the same or similar U.S. governmental approvals pursuant to the programs in effect at the time of the sale.

6. Caterpillar Defense & Federal Products does not sell products to the government of Israel in sales that are not approved by the U.S. Government. Caterpillar does not lease D9 bulldozers to Israel.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 30, 2005, at Peoria, Illinois.

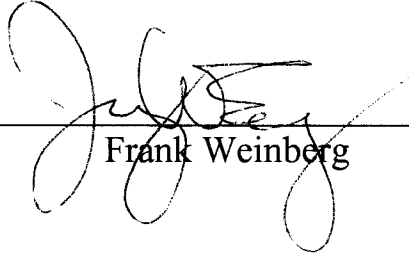
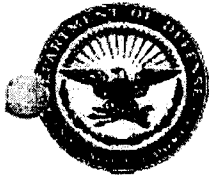

Frank Weinberg

EXHIBIT A

9/26



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

SEP 10 2001

In reply refer to:
01-1404

Mr. Chaim Adar
Director, Mission to the U.S.
Government of Israel
800 Second Avenue, 11th Floor
New York, NY 10017

Dear Mr. Adar:

Reference your letter dated August 18, 2001 (Ref: Mashan 10-5654/(221)) which requested use of foreign military financing (FMF) funds for the following procurement by the Government of Israel from the private supplier.

Item: 50 D9R Track Type Tractors, 12 966G Wheel Loaders w/Spares
(PO # 630/11118-01)

Supplier: Caterpillar, Incorporated

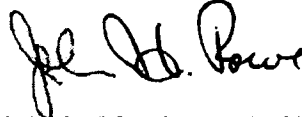
Dollar Amount: \$32,659,400

Funding approval in the amount of \$32,659,400, which includes non-U.S. content in the amount of \$3,794,348, is hereby granted. Approval is granted based on our understanding that offset costs are not included in the price of the purchase order. If at a later date it is discovered offset prices were included, the FMF amount will be adjusted accordingly. We find the proposed procurement to be consistent with the purposes of the Arms Export Control Act and the applicable FMF grant agreements. Funds will be disbursed in accordance with the disbursement procedures set forth in the applicable loan/grant agreements and their corresponding side letters. The processing of requests for disbursement of FMF funds is subject to the availability of such financing at the time actual funds are required. Any changes to the items being purchased or increase in dollar value of the items must be notified to DSCA.

It is noted that this contract requires contract administration services be performed at the purchaser's expense as stated in paragraph 23 of the DSCA "Guidelines for Foreign Military Financing of Direct Commercial Contracts" dated May 2000. Please initiate this action by submitting DLA Form 929, requesting this service to the Defense Logistics Agency International Logistics Office in Virginia.

This approval does not constitute an approval for export; the supplier identified above is responsible for obtaining export licenses as required. Also, DSCA's approval of FMF for the purchase of defense articles and services directly from private suppliers, rather than through U.S. military procurement channels, does not commit the U.S. Government to issue a munitions control export license at some later date.

Sincerely,



for

John B. Moseley, COL, USA
Deputy Director, Middle East,
South Asia, and North Africa

cc:

DFAS DE/AWADD

International and Federal Business Team
Defense Contract Management Agency
Attn: DCMA-FBFR
6350 Walker Lane, Suite 300
Alexandria, Va. 22310

J. C. May, Manager, Business Services
Caterpillar, Incorporated