

**BY ORDER OF THE  
SECRETARY OF THE AIR FORCE**

**AIR FORCE INSTRUCTION 51-701**

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**AIR FORCE SPACE COMMAND  
Supplement 1**

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**Law**

**NEGOTIATING, CONCLUDING, REPORTING,  
AND MAINTAINING INTERNATIONAL  
AGREEMENTS**

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

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This instruction implements AFPD 51-7, *International Law, Section A, Negotiating, Concluding, Reporting, and Maintaining International Agreements*. It delegates the authority to negotiate and conclude certain categories of international agreements and sets guidelines for processing these agreements. It also explains how to gain the approval to negotiate and conclude international agreements that are beyond the listed delegations. It details reporting and record-keeping requirements and implements Department of Defense (DoD) Directive 5530.3, *International Agreements*, With Change 1, June 11, 1987, and 1 U.S.C. 112b(a), *Case-Zablocki Act*.

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**(AFSPC) This supplement implements and extends the guidance of Air Force Instruction (AFI) 51-701, *Negotiating, Concluding, Reporting and Maintaining International Agreements*. The AFI is published word-for-word without editorial review. Air Force Space Command (AFSPC) supplemental material is indicated in bold face. This supplement describes AFSPC's procedures for use in conjunction with the basic AFI. It applies to Air Force Space Command (AFSPC) and all subordinate units with a mission involving active duty Air Force personnel. It applies to Headquarters Air Force Space Command (AFSPC), its subordinate units and to all organizations who receive support from HQ AFSPC/JA offices. It does not apply to Air Force Reserve Command nor Air National Guard units. Upon receipt of this integrated supplement discard the Air Force basic publication.**

**SUMMARY OF REVISIONS**

This instruction aligns with AFPD 51-7, superseding AFR 11-21, 26 May 1989; and states that determinations that an agreement solely defines administrative procedures will be coordinated with the staff judge advocate of the command or agency involved prior to entering into any negotiation.

**(AFSPC) The revision of this publication is to meet the format standards required by Air Force. No content material has changed. Some required format changes have been made to allow for the conversion process.**

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**1. Scope of Authority.** This instruction is procedural only. Substantive legal authority for each obligation which is proposed to be assumed by the United States must be found in constitutional, statutory, or other legal authority applicable to the subject matter of the proposed agreement.

**1.1. Authority.** Air Force personnel, or those serving with the Air Force, must get written approval from one of the following authorities before they may initiate, negotiate, or conclude international agreements:

- The Secretary of the Air Force or an authorized representative.
- The head of an organizational element of the Air Force, or designee, who has proper delegated authority.

- The head of another organizational element of the DoD, or an authorized representative, who has been delegated authority with respect to the particular type of international agreement involved under DoD Directive 5530.3, Section M.

**1.1.1. Delegation of Authority.** Subject to paragraph 1.1.4., commanders of major commands (MAJCOM), field operating agencies (FOA), and the heads of major Air Staff organizations are delegated the authority to negotiate and conclude international agreements, or to approve the negotiation and conclusion of such agreements, involving predominantly Air Force matters that are within the authority and responsibility of such commanders and heads, in the following categories:

- Technical, operational, working, or similar agreements or arrangements, to be concluded pursuant to a treaty or executive agreement that entails implementing arrangements. *Note: It is incorrect to assume that if an agreement merely implements an existing agreement it is not a new international agreement and the requirements of DoD Directive 5530.3 do not apply, or that authority to negotiate has already been delegated. The delegation of authority for this category of agreements is to be very narrowly interpreted. In particular, authority is not delegated for implementing agreements which in any way expand or deviate from the basic agreement, or which address SOFA rights or place restrictions on operating rights. If there is any question as to procedures to be followed or whether authority must be obtained to negotiate an agreement, obtain advice from SAF/GCI or the responsible staff judge advocate.*
- Cooperative or reciprocal operational, logistical, training or other military support including the shared use or licensing of military equipment, facilities, services, or nonphysical resources.
- Combined military planning, command relationships, military exercises and operations, minor and emergency force deployments, or exchange programs. (For US Air Force officer exchanges with air forces of other governments, see AFI 16-107, *International Personnel Exchange Program (PEP)*). The Office of the Under Secretary of Defense (Policy)(USD(P)) must approve the negotiation and conclusion of personnel exchange agreements.
- Collection and exchange of military information or data, other than military intelligence.
- Health and medical matters, including cooperative research, development, testing, evaluation, technical data exchange, and related standardization agreements concerning health and medical matters, provided that such agreements are not to be implemented through the *Security Assistance Program*.
- Sharing or exchange of DoD communications equipment, facilities, support, services, or other communications resources with a foreign country or alliance organization such as North Atlantic Treaty Organization (NATO) (including agreements pursuant to 10 U.S.C. 2401a), the use of US military frequencies or frequency bands, and the use of US communications facilities and systems by foreign organizations, whether overseas or in the United States. You must obtain approval in advance from the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) (ASD [C<sup>3</sup>I]) if such an agreement does not consist mainly of Air Force matters.

*EXCEPTION:* Agreements about operational command of joint forces require prior approval from the Chairman of the Joint Chief of Staff (CJCS).

**1.1.2. Exercise of Delegated Authority.** You must exercise this authority in compliance with laws and regulations that apply to the particular subject matter of the international agreement involved. Also, when authority has been delegated to a DoD element to negotiate an agreement, either specifically or by category, it does not relieve the DoD element of the requirement to fully coordinate the agreement.

1.1.2.1. Exercise this authority in full consultation with other Air Force and DoD organizations that have an interest in the subject matter of the agreement. In particular, an Air Force command or organization assigned to or located within the geographic area of a unified command must advise that command of any international negotiations which affect the unified command's plans and programs. The Air Force negotiators must give a copy of each agreement they conclude to the affected unified command. See [Attachment 3](#) for other organizations to which you must give copies of the agreement.

1.1.2.2. Coordinate with the Joint Chief of Staff (JCS) or its designee any agreement in paragraph [1.1.2.](#) that involves significant changes in logistic support for US Armed Forces and affects joint plans and programs (including base adjustments).

**1.1.3. Redlegation of Authority.** The authority delegated in paragraph [1.1.1.](#) may be redelegated to subordinate commanders. However, redelegation does not relieve the delegating commander of the final responsibility for compliance with this instruction and AFD 51-7, Section A. Delegating commanders must send copies of all directives, messages, or correspondence redelegating authority or otherwise implementing this instruction to International and Operations Law Division, Office of The Judge Advocate General, HQ USAF/JAI. Staff actions "for the commander" are not redelegations.

**1.1.3. (AFSPC) The commander, AFSPC/CC, designates the Director of Plans, HQ AFSPC/XP, to negotiate and, upon approval by the commander, conclude international agreements involving predominantly AFSPC matters that are within the authority and responsibility of this command. When signing any agreement on behalf of the commander, the signature element will include "FOR THE COMMANDER."**

**1.1.4. Specific Limits on Delegated Authority.** The authority delegated in paragraph [1.1.1.](#) does not apply to the negotiation or conclusion of the following international agreements. See paragraph 1.2 for handling proposals for the negotiation or conclusion of such agreements, even though they may otherwise fall within the scope of a category of agreements listed in paragraph [1.1.1.](#)

**1.1.4.1. International Agreements That Have Policy Significance.** You must get approval from the Office of the Under Secretary of Defense (Policy) (USD(P)) (per DoD Directive 5530.3) before you negotiate or conclude these agreements. The term "**policy significance**" is to be broadly interpreted. Any subject which has reached the Assistant Secretary of Defense level in either government should be considered to have policy significance. If there is any doubt about the policy significance of a proposed agreement, it should be sent informally through command channels to HQ USAF/JAI and SAF/GCI for determination. Agreements that have "policy significance" include, but are not limited to, those identified in [Attachment 1](#), "**Agreements That Have Policy Significance.**"

**1.1.4.2. International Agreements That Would Rely on The Authority of 10 U.S.C. 2304(c)(4) For Use of Other Than Competitive Contracting Procedures.** You must get the prior approval of the Under Secretary of Defense (Acquisition) (USD(A)) before negotiation or concluding such agreements.

**1.1.4.3. International Agreements Requiring New Legislative Authority For Implementation.** You must get the prior approval of the DoD General Counsel before negotiating or concluding such agreements.

**1.1.4.4. International Agreements That Obtain Foreign Operating or Military Rights, As Defined in Attachment 1, "Foreign Operating Rights" and "Foreign Military Rights".** The negotiation and conclusion of such agreements requires the approval of USD(P).

**1.1.4.5. International Agreements That Involve or Are Likely To Involve The Release of Classified Military Information, Classified Technology, or Classified Materiel.** You must coordinate the security provisions of such agreements with the Deputy Under Secretary of Defense (Policy) (DUSD(P)) before you make any commitment to representatives of a foreign government or international organization.

**1.1.4.6. International Agreements Involving Security Assistance Programs.** You must get the prior approval of the Defense Security Assistance Agency (DSAA) before negotiating and concluding such agreements.

**1.1.4.7. International Agreements Concerning Intelligence And Related Matters.** You must get the prior agreement of the ASD/C<sup>3</sup>I and the prior approval of the Director, Defense Intelligence Agency (DR, DIA), before negotiating and concluding agreements involving the collection and exchange of intelligence information (except signals intelligence agreements). The negotiation and conclusion of signals intelligence agreements require the prior approval of the Director, National Security Agency (DIRNSA).

**1.1.4.8. International Agreements Involving Coproduction, Licensed Production, or Related Standardization Matters.** DoD Directive 5530.3 requires that DSAA must approve agreements of this kind that will be implemented through the security assistance program (e.g., under a provision of the *Arms Export Control Act*) before negotiation or conclusion. USD(A) must give prior approval of all other such agreements.

**1.1.4.9. International Military or Industrial Security Agreements Under The Provisions of DoD Directive 5230.11, Disclosure of Classified Military Information to Foreign Governments and International Organizations, Paragraph E.1.d, June 16, 1992.** DUSD(P) must give prior approval of such agreements.

**1.1.4.10. International Agreements Relating to On-Base Financial Institutions (E.G., Military Banking Facilities And Credit Unions) and International Financial Agreements Requiring Coordination With the Treasury Department Under DoD Instruction 7360.9, Procedures for Use of Foreign Currencies and Depositories, With Change 1, June 29, 1988.** The Assistant Secretary of Defense (Comptroller) (ASD(C)) must give prior approval of such agreements. To obtain this approval, forward copies through command channels to SAF/FMPB (Director for Accounting and Banking, Financial Management). Send information copies to SAF/GCI and HQ USAF/JAI.

**1.1.4.11. International Agreements Related to Communications Security Technology,**

**Services, Support, Research, or Equipment Development and Production.** Such agreements require the prior approval of the National Security Agency (NSA).

**1.1.4.12. International Agreements Related To Mapping, Charting, Or Geodesy.** Such agreements require the prior approval of the Defense Mapping Agency (DMA).

**1.1.4.13. Agreements Related to Cooperative Research and Development (Except For Those Relating to Health and Medical Matters of the Air Force).** SAF/IA is the office of primary responsibility for proposals relating to cooperative research, development, testing, evaluation, technical data exchange, and related standardization matters. Forward all proposals for the negotiation of such agreements through command channels to SAF/IA.

**2. Procedures.** Air Force personnel will not make any unilateral commitment to any foreign government or international organization (either orally or in writing), tender to a prospective party thereto any draft of a proposed international agreement, nor initial or sign an international agreement, before obtaining the concurrence of either the Assistant General Counsel, International Matters and Civil Aviation (SAF/GCI), or the responsible staff judge advocate as set forth below.

2.1. Submit for SAF/GCI concurrence all proposals for the negotiation or conclusion of international agreements originating or received in the Office of the Secretary of the Air Force (OSAF), or the Air Staff, including:

- Requests for authority to negotiate or conclude agreements.
- Proposed international agreements referred to the OSAF or Air Staff for coordination by any Air Force command or agency, the Office of the Secretary of Defense, JCS, another DoD component, the Department of State, or another US Government agency.

2.2. Submit all proposals for the negotiation or conclusion of international agreements which are within the authority of major commanders or field operating agencies (or their subordinate commands if properly redelegated) to the staff judge advocate of that command or agency for concurrence. Coordinate determinations that an agreement solely defines administrative procedures with the staff judge advocate of the command or agency involved prior to entering into any negotiation.

**2.2.1. (Added-AFSPC) All international agreements, proposals for the negotiation and conclusion of international agreements, or requests to negotiate or conclude an international agreement shall be forwarded in writing to the HQ AFSPC Plans Directorate, International Affairs Division (HQ AFSPC/XPI). All written requests will contain:**

**2.2.1.1. (AFSPC) A background paper on the proposed agreement/negotiation. This paper will be updated at least every 6 months and all updates will be sent to HQ AFSPC/XPI. Background papers will explain, at a minimum, the purpose of the agreement, the impact which concluding the agreement or failing to conclude the agreement will have on AFSPC operations, progress that has been made in negotiating to a final text, and unresolved significant issues. A final background paper will accompany a final text of the agreement when authority to conclude is requested.**

**2.2.1.2. (AFSPC) A draft agreement. Before drafting an agreement, the responsible AFSPC agency will consult with HQ AFSPC/XPI and HQ AFSPC/JAI.**

**2.2.1.3. (AFSPC) The identification of any US military information (classified or unclassified) to be released to international political organization or foreign governments.**

**2.2.1.4. (AFSPC) A financial review for all agreements and a preliminary fiscal memorandum for those proposed international agreements that go beyond the negotiating and concluding authority of AFSPC.**

**2.2.1.5. (AFSPC) A preliminary legal memorandum. This memorandum will contain references to the international and domestic legal authorities which permit AFSPC to enter and carry out the obligations assumed, and a discussion of other relevant legal considerations.**

2.3. Submit to the Office of the Assistant Secretary of the Air Force (Financial Management and Comptroller (SAF/FM)) for concurrence all proposals for the negotiation or conclusion of international agreements that include US financial obligations or have any other cost or fiscal implication, and that under paragraphs 1.2 and 1.2.1 require SAF/GCI concurrence. Submit to the comptroller of a MAJCOM, FOA, or subordinate command for concurrence all such proposals that under paragraph 1.2.2 require the concurrence of the staff judge advocate of such command or agency.

**2.4. Request for Authority To Negotiate or Conclude.** When a proposed agreement is beyond the authority delegated to MAJCOMs and FOAs, submit a request for authority to negotiate or conclude the agreement to the appropriate OSAF or Air Staff functional element ([Attachment 2](#)). OSAF and Air Staff organizations will ensure that SAF/GCI and HQ USAF/JAI get copies of any proposals received. In instances when no OSAF or Air Staff functional office is apparent, send the proposal directly to HQ USAF/JAI for dissemination to the appropriate OSAF or Air Staff offices. These offices will coordinate within the Air Staff, with SAF/GCI, and, as appropriate, with other elements of the OSAF. Before approving any request to negotiate or conclude an international agreement, these offices will obtain any required coordination or approval from appropriate DoD offices.

**3. Amendments.** The negotiation and conclusion of an amendment to an international agreement must be approved in accordance with the requirements of this instruction by the same US headquarters or office (or its successor) that approved the original agreement, or by another US official who has been expressly delegated authority to approve amendments to the agreement.

**4. Oral Agreements.** Any oral agreement that meets the criteria in [Attachment 1](#), "International Agreement" is an international agreement that is fully subject to the requirements of this instruction and DoD Directive 5530.3. The DoD representative who enters into an oral agreement must reduce that agreement to writing. A memorandum for the record may fulfill this requirement. After reducing the agreement to writing, immediately report the agreement in accordance with paragraph [7](#). Oral agreements, however, should be the exception and not the rule. Upon conclusion of an oral agreement, enter the reasons for employing the oral rather than written form into the negotiating history under paragraph [8](#). and also summarize those reasons in the transmittal letter (see [Attachment 3, A3.2](#)).

**4. (AFSPC) AFSPC personnel will neither negotiate nor conclude oral international agreements.**

**5. Agreement in Foreign Language.** Air Force personnel will not conclude any international agreement in a foreign language text unless the agreement meets one of the following criteria:

5.1. The agreement expressly provides that the English language text is the governing text in the event of conflict between the different language texts; or

5.2. The agreement expressly provides that the English language text and the foreign language text are equally authentic, and each foreign language text of the agreement is the subject of a certification, executed before conclusion of the agreement in any language, stating that the foreign language text and the English language text are in conformity with each other and have the same meaning in all substantive respects. A civilian, military, or local national translator, designated as qualified, consistent with local practices, by the Air Force official authorized to negotiate and conclude the agreement or by an appropriate Department of State official, shall sign and date the certification. Transmit the certification, along with the agreement, to the addressees in **Attachment 3, A3.1.**

**6. International Agreements Containing Advance Payment Terms.** Only 10 U.S.C. 2396 (advances for payment for compliance with foreign laws, etc.), or 10 U.S.C. 2307 (advance payments) authorize advance payments to foreign governments and international organizations. Advance payments are the least desirable method of financing; therefore, use advance payments only when necessary to comply with the foreign country's laws and ministerial directives. When advance payments are appropriate, the negotiator must negotiate terms and conditions that are consistent with prudent cash management. The advance payment procedures should minimize the amount of cash outlays and the duration of the prepayment time period. Coordinate advance payment requests through command comptroller channels to SAF/FMPB, Washington DC 20330. SAF/FMPB will obtain the concurrence of SAF/GCI. The advance payment request should contain, as a minimum, the following information ( *Note: Because circumstances vary, SAF/FMPB may require additional information*):

- The foreign law or ministerial directive that requires payment in advance.
- Location and description of project being financed.
- Cost of the project and amount of advance needed.
- Name and location of the organization designated as recipient of the advance.
- Scheduled dates for the advance payments and the start of the project.
- Detailed description of the payment and recoupment/reconciliation procedures.
- Provisions for interest, if any, to be accrued from the funds advanced.
- Name and address of the organization negotiating the advance.
- Appropriation funding the project.
- Statement indicating project funding status (that is, fully, partially, or not funded).

**7. Reporting Agreements.** Title 1 U.S.C. 112b(a), *Case-Zablocki Act*, requires the Secretary of State to report to the Congress all international agreements other than treaties within 60 calendar days after their entry into force with respect to the United States. According to 22 Code of Federal Regulations (CFR) 181.5, each organizational element of the Air Force that concludes an international agreement must send the original or certified copies (or both) of the international agreement, in time to arrive at the Office of the Assistant Legal Adviser for Treaty Affairs, Department of State, not later than 20 calendar days after signature of the agreement. ( *EXCEPTION*: Submit international intelligence agreements in time to arrive at Defense Intelligence Agency (DIA) or National Security Agency (NSA), as appropriate, not later than 15 calendar days after signature of the agreements.) Use the format in **Attachment 3.**

7.1. Provide a copy of any annual list of terminated international agreements prepared by or for the air component of a unified command to HQ USAF/JAI.

**8. Negotiating History of Agreements.** The organization that actually negotiates an international agreement is responsible for compiling, keeping, and being able to retrieve a complete negotiating history file on it. Maintain this historical file at least for the duration of the agreement, or until it no longer has legal significance.

**9. Office of Record.** HQ USAF/JAI is the single office of record for the Air Force. It maintains copies of each agreement covered by this instruction. Each Air Force organization that exercises delegated authority under this instruction must name a single office to carry out the required recordkeeping, and provide HQ USAF/JAI with one copy of its implementing directive.

**9. (AFSPC) HQ AFSPC/JA is designated the single office of record for international agreements within the authority and responsibilities of AFSPC.**

**10. Compliance.** According to DoD Directive 5530.3, Section K, the Air Force must oversee compliance with those international agreements for which it is responsible. The Air Force must keep the DoD General Counsel up to date and fully informed on compliance with such international agreements.

**10.1. Resolving Compliance Issues.** When a question arises concerning compliance by a party with the terms of an international agreement that cannot be resolved by informal discussion between responsible working level authorities of the parties, send a report of the full particulars of the circumstances relevant to such question to SAF/GCI, with a copy to HQ USAF/JAI (except for such questions governed by the procedures set forth in AFJI 51-706, *Status of Forces Policies, Procedures, and Information* (formerly AFR 110-12)).

**10.2. Resolving Policy Issues.** Unless previously authorized by the Secretary of Defense, Air Force personnel shall not take any action to resolve or otherwise deal with such questions having policy significance (see [Attachment 1](#), "Foreign Military Rights") before obtaining the written concurrence of both USD(P) and DoD/GC. Submit any request for the concurrence of USD(P) and DoD/GC concerning such a question through command channels and HQ USAF to SAF/GCI, who shall consult with the Deputy Under Secretary of the Air Force for International Affairs (SAF/IA) and other appropriate OSAF and Air Staff offices regarding appropriate action.

## **11. (Added-AFSPC) Duties:**

**11.1. (AFSPC) A request for authority to negotiate and conclude international agreements must be submitted through HQ AFSPC/XPI which is the office of primary responsibility (OPR) for monitoring and/or conducting international negotiations for the command. HQ AFSPC/XPI will:**

**11.1.1. (AFSPC) Assist In preparing draft agreements and negotiating positions; and provide command representation to lead negotiating teams, as appropriate.**

**11.1.2. (AFSPC) Provide advice and assistance on international affairs; clarify, or forward for higher headquarters' attention, questions or problems which cannot be resolved at HQ AFSPC level.**

**11.1.3. (AFSPC) Issue clearances to negotiate and or conclude agreements when such activities are to be performed by other AFSPC agencies.**

**11.1.4. (AFSPC) When appropriate, ensure that proper authorization to negotiate and/or authorization to conclude international agreements is obtained from either Commander in**

**Chief, United States Space Command (USCINCSpace) or Headquarters United States Air Force (HQ USAF).**

**11.1.5. (AFSPC) Ensure that HQ AFSPC/JA is kept fully apprised of the status of each pending or planned international agreement.**

**11.1.6. (AFSPC) Annually inventory and validate all in-force international agreements relevant to Command operations.**

**11.1.7. (AFSPC) Ensure that AFSPC units maintain copies of all current international agreements directly applicable to their operations and that copies of new agreements concluded by such units are promptly forwarded to HQ AFSPC/XPI, which promptly forwards them to HQ AFSPC/JA.**

**11.1.8. (AFSPC) Ensure that procedures are in place to receive signed agreements in sufficient time to fulfill the reporting requirements of paragraph 7.**

**11.2. (AFSPC) HQ AFSPC/JA, in addition to other responsibilities specified in this supplement and basic instruction will:**

**11.2.1. (AFSPC) Review requests for delegation of approval authority and request for authorization to negotiate and or conclude international agreements.**

**11.2.2. (AFSPC) Assist in drafting agreements, and participate as required in negotiations.**

**11.2.3. (AFSPC) Obtain necessary coordination and approval from DoD agencies on international agreements.**

**11.2.4. (AFSPC) Ensure the compilation, retention, and retrievability of a complete negotiating history file for each international agreement for which AFSPC has primary responsibility. The negotiating team retains all correspondence, internal working papers, and minutes of meeting in order to preserve the negotiating history. The negotiation file is submitted to HQ AFSPC/JA with the completed agreement.**

**11.2.5. (AFSPC) Maintain a central repository and inventory of all agreements negotiated or concluded by the command and its organizational elements, and all international agreements negotiated or concluded by US Government agencies having a significant effect on the plans and programs of the command.**

**11.2.6. (AFSPC) Review all agreements negotiated by Command agencies to ensure compliance with international and US laws and regulations.**

**11.2.7. (AFSPC) Report all international agreements, as required, in accordance with paragraph 7.**

NOLAN SKLUTE, Maj General, USAF  
The Judge Advocate General

## Attachment 1

### GLOSSARY OF REFERENCES, ABBREVIATIONS, ACRONYMS, AND TERMS

#### *Section A--References*

Title 1 U.S.C. 112b(a), *Case-Zablocki Act*,

Title 10 U.S.C. 2396, *Advances For Payment For Compliance With Foreign Laws, Rent in Foreign Countries, Tuition, and Pay and Supplies of Armed Forces of Friendly Foreign Countries*

Title 10 U.S.C. 2307, *Advance Payments*

Title 22, Code of Federal Regulations (CFR) 181.5

DoD Directive 2010.9, *Mutual Logistic Support Between the United States and Governments of Eligible Countries and NATO Subsidiary Bodies*

DoD Directive 5530.3, *International Agreements*, With Change 1, 11 June 1987

DoD Instruction 7360.9, *Procedures for Use of Foreign Currencies and Depositories*, With Change 1, June 29, 1988

AFI 16-107, *International Personnel Exchange Program (PEP)*

AFJI 51-706, *Status of Forces Policies, Procedures, and Information* (formerly AFR 110-12)

AFPD 51-7, *International Law*.

#### **Section B--Abbreviations and Acronyms**

**DoD**—Department of Defense

**CJCS**—Chairman Joint Chief of Staff

**FAR**—Federal Acquisition Regulation

**FOA**—Field Operating Agency

**DIA**—Defense Intelligence Agency

**DIRNSA**—Director, National Security Agency

**DMA**—Defense Mapping Agency

**JCS**—Joint Chief of Staff

**MAJCOM**—Major Command

**NSA**—National Security Agency

**OSAF**—Office of the Secretary of the Air Force

**OSD**—Office of the Secretary of Defense

**QSTAG**—Quadripartite Standardization Agreements

**ASCC**—Air Standardization Coordination Committee

**NAVSTAGS**—Naval Standardization Agreements

## STANAG—Standardization Agreements

### *Section C--Terms*

**Agreements That Have "Policy Significance"**—Include, but are not limited to agreements that:

- Specify national disclosure, technology-sharing or work-sharing arrangements, coproduction of military equipment, or offset commitments as part of an agreement for international cooperation in the research, development, testing, evaluation, or production of defense articles, services, or technology;
- Would directly and significantly affect foreign or defense relations between the United States and another government because of their intrinsic importance or sensitivity;
- Would by their nature, require approval, negotiation, or signature at the OSD or diplomatic level; or
- Would create security commitments not currently assumed by the United States in existing mutual security or other defense agreements and arrangements, or which would increase US obligations with respect to the defense of a foreign government or area.

**Conclusion**—The act of signing, initialing, responding, or otherwise indicating the acceptance of an international agreement by the United States.

**Foreign Operating Rights**—These rights are a foreign government's approval to conduct US operations or activities of short duration in or over its territory. Such rights permit (subject to restrictions imposed by the foreign government) surveys, temporary support facilities, entry of personnel, etc. In some situations, a foreign operating right may permit entry into a foreign territory without a subsequent foreign clearance. In others, foreign operating rights may only pertain to proposed activities in general, and one or more foreign clearances may be needed to enter, transit, or exit the foreign territory.

**Foreign Military Rights**—These rights are a foreign government's approval to conduct US operations or activities of a longer duration and of a more permanent nature in its territory. These rights are the subject of government-to-government negotiations. They permit operating US bases overseas, stationing US units overseas, establishing lines of communication, etc. Requirements for these rights are set up as part of US-worldwide programs and requirements.

**International Agreement**—As used in this instruction, an international agreement is any agreement concluded with one or more foreign governments (including their agencies, instrumentalities, or political subdivisions) or with an international organization, that:

- Is signed or agreed to (including oral commitments) by personnel of any DoD component, or by representatives of the Department of State or any other department or agency of the US Government.
- Signifies the intention of its parties to be bound in international law.
- Is denominated as an international agreement or as a memorandum of understanding, memorandum of agreement, memorandum of arrangements, exchange of notes, exchange of letters, technical arrangement, protocol, note verbale, aide-memoire, agreed minute, plan, contract, arrangement, statement of intent, letter of intent, statement of understanding, standard operating procedure, CONPLAN, or any other name connoting a similar legal consequence.
- Is **not** among the following categories of agreements which, for the purposes of this instruction, are not considered international agreements:

- a. Contracts made under the Federal Acquisition Regulation (FAR).
- b. Foreign Military Sales Credit Agreements.
- c. Foreign Military Sales Letters (i.e. "DoD Letter of Offer and Acceptance" and "US Department of Defense Letter of Intent") or any authorized substitute document.
- d. Standardization Agreements, NATO Standardization Agreements (STANAG), Quadripartite Standardization Agreements (QSTAG), Air Standardization Coordination Committee Air Standards (ASCC Air Standards), and Naval Standardization Agreements (NAVSTAGS) that record the adoption of like or similar military equipment, ammunition, supplies and stores or operational, logistic, and administrative procedures. (*EXCEPTION*: A STANAG which provides for mutual support or cross-servicing of military equipment, ammunition, supplies and stores or for mutual rendering of defense services, including training, does constitute an international agreement).
- e. Leases under 10 U.S.C. 2667 (Non-excess Property), 10 U.S.C. 2675 (Real Property in Foreign Countries), and 22 U.S.C. 2796 (Defense Articles to Foreign Governments)
- f. Agreements concluded solely to establish administrative procedures. Coordinate the determination that an agreement solely establishes administrative procedures with the staff judge advocate of the command or agency involved prior to entering into any negotiation.
- g. Acquisitions or orders pursuant to cross-servicing agreements made under the authority of the *NATO Mutual Support Act* (10 U.S.C. 2321 et seq.) and DoD Directive 2010.9, *Mutual Logistic Support Between the United States and Governments of Eligible Countries and NATO Subsidiary Bodies*. Umbrella agreements, implementing arrangements and cross-servicing agreements under these authorities are international agreements.

**Negotiation**—Communication by any means of a position or an offer, on behalf of the United States, the Department of Defense, or on behalf of any officer or an organizational element thereof, to an agent or representative of a foreign government, including an agency, instrumentality, or political subdivision thereof, or of an international organization, in such detail that the acceptance in substance of such position or offer would result in an international agreement. The term "negotiation" includes any such communication even if it is conditioned on later approval by higher authority. The term "negotiation" also includes provision of a draft agreement or other document, the acceptance of which would constitute an agreement, as well as discussions concerning any US or foreign government or international organization draft document whether or not titled "agreement." The term "negotiation" does not include preliminary or exploratory discussions or routine meetings where no draft documents are discussed, so long as such discussions or meetings are conducted with the understanding that the views communicated do not and shall not bind or commit any side legally or otherwise.

## **Attachment 2**

### **PROCEDURES FOR REQUESTING TO NEGOTIATE OR CONCLUDE AN INTERNATIONAL AGREEMENT**

**A2.1.** When a proposed international agreement goes beyond the authority of MAJCOMs and FOAs, you must have written authority to negotiate or conclude the agreement. A request to negotiate may be by letter or message and must include:

- A draft text, outline, or complete description of the proposed international agreement.
- A legal memorandum stating the Constitutional, statutory, or other legal authority for each proposed obligation that the United States would assume in the agreement and an explanation of other relevant legal considerations.
- A fiscal memorandum stating the estimated cost of each proposed obligation that the DoD would assume in the agreement, the source of funds to be obligated, and reference to foreign currency payment provisions, if applicable.
- A Technology Assessment and Control Plan per DoD Directive 5530.3, Section I, paragraph 3d.
- A quid pro quo analysis that fully addresses the benefit to be derived by each signatory to all proposed agreements involving cooperative research, development, testing, evaluation, technical data exchange, and related standardization matters.

## **Attachment 3**

### **REPORTING INTERNATIONAL AGREEMENTS**

**A3.1. Addressees.** Each organizational element of the Air Force that concludes an international agreement must submit reproducible copies of the agreements to the following addressees:

- Department of State, Attn Assistant Legal Adviser, Treaty Affairs, Washington DC, USA, 20520. (The original and one certified copy, or two certified copies)
- DoD General Counsel, 1600 DEFENSE PENTAGON, WASHINGTON DC, 20301-1600. (Two certified copies)
- Office of the General Counsel, Secretary of the Air Force (SAF/GCI), 1740 AIR FORCE PENTAGON, WASHINGTON DC, 20330-1740 (One certified copy)
- International and Operations Law Division, Office of The Judge Advocate General (HQ USAF/JAI), 1420 AIR FORCE PENTAGON, WASHINGTON DC 20330-1420. (One certified copy)
- Any other offices required by unified or specified command directives or deemed appropriate by the component Air Force commands or their designee.

**A3.2. Letter of Transmittal.** Include a letter of transmittal with each international agreement, that:

- Identifies type of agreement: bilateral or multilateral.
- Specifies the countries or international organization(s) that are party to the agreement.
- Lists all US and foreign governmental agencies or units or international organizations responsible for carrying out the agreement.
- Specifies the full title and security classification of the agreement.
- Specifies the subject of the agreement and summarize the agreement.
- Explains why the agreement was concluded now and what the effect of the agreement is likely to be, including benefits to each party.
- Indicates geographic location where the agreement was signed.
- Specifies the legal authority that authorized the DoD to enter into and carry out the agreement (specifying both the procedural authority under this regulation and the substantive legal authority for each obligation undertaken on behalf of the United States under the agreement).
- States the date of entry into force.
- States the date of termination.
- Prints the names of all signing officials, their titles and the offices they represent, and their countries or international organization.
- States the full titles and dates of any agreements, if any, upon which this agreement is based or amends.
- States the date of signature of this agreement.
- States any conditions for entry into force.
- Specifies the organizational element responsible for maintaining the negotiating history (see paragraph 1.9).

***NOTE:***

If the transmitted text is a copy of the original, certify the copy to be a true copy of the original. If you transmit the text of the agreement more than 20 calendar days after its signature, the transmittal document shall fully and completely describe the reasons for the late transmittal.