

**BY ORDER OF THE COMMANDER,
PACIFIC AIR FORCES**



AIR FORCE INSTRUCTION 51-701

**PACIFIC AIR FORCES COMMAND
Supplement 1**

4 MAY 1998

Law

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

NOTICE: This publication is available digitally on the PACAF WWW site at: <http://www2.hickam.af.mil/publications>. If you lack access, contact the Theater Distribution Center (TDC).

OPR: HQ PACAF/LGXP
(Randy A. Stewart)
Supersedes AFI 51-701/PACAF1,
20 January 1995

Certified by: HQ PACAF/LGX
(Maj Dean C. Jackson)
Pages: 14
Distribution: F

This publication applies to Headquarters Pacific Air Forces and all subordinate units. It does not apply to the Air National Guard or the US Air Force Reserve units and members. It delegates the authority to enter, negotiate, and conclude certain types of international agreements to Numbered Air Force (NAF) Commanders. It explains how to obtain approval for entering, negotiating, and concluding those agreements for which authority is not delegated and how to terminate agreements.

SUMMARY OF REVISIONS

This supplement implements AFI 51-701 and establishes PACAF procedures. It delegates authority to enter into, negotiate and conclude international agreements to NAF commanders with limited authority to redelegate negotiation and conclusion authority. Clarification of when an arrangement qualifies as an international agreement, adds a requirement to notify unified commands before negotiations, clarifies when to coordinate the agreement with the installation support agreement manager, requires termination of agreements to be in writing, and clarifies agreement review requirements. It also updates sample formats for uniformity and accuracy.

AFI 51-701, 6 May 1994, is supplemented as follows:

1.1. Authority. HQ PACAF/LGXP is the OPR for administering all HQ PACAF agreements. International agreement actions undertaken by any HQ PACAF functional office should not be undertaken prior to coordination with HQ PACAF/LGXP. Installation and NAF support agreement managers (SAM) are the OPR for administering wing and NAF international agreements. International agreement actions involving wing and NAF units should not be undertaken prior to their coordination. Support agreement managers at all levels will provide training for functional managers at least annually (or sooner upon request) that includes training on agreement processing, estimating costs, billing submissions, manpower estimates, and functional manager responsibilities. Installation Comptroller (FM), Staff Judge Advocate

(SJA), and Manpower Office (XPM) staffs will assist. PACAF's acronym for international agreements is MOUI for "Memorandum of Understanding International."

1.1.1.1. (Added) Authority to enter into, negotiate, conclude and perform all functions, subject to provisions of basic regulation, which are not excluded by limitations contained in paragraph 1.1.4, and for which PACAF/CC has authority, is delegated to NAF commanders. NAF commanders may redelegate the authority to negotiate on an agreement-by-agreement basis following NAF/CC (or designated staff representative) review of the proposed draft agreement. NAF commanders may delegate the authority to conclude on an agreement-by-agreement basis, following NAF/CC (or designated staff representative) review and approval of a proposed agreement in final form. Individual requests for authority delegation must be submitted in writing to the NAF/LGX for both negotiation and approval authority. Full negotiation and conclusion authority may be redelegated (within regulatory limits) for mutual aid and fire protection support agreements to wing commanders, provided the format in AFI 32-2001, Attachments 4 and 5, 15 May 94, is used. Minor deviations (i.e. format, administrative wording) to this format may be approved by the local USAF Fire Chief. Major deviations (i.e. content, provisions) must be approved by HQ PACAF/CEO in writing and coordinated through Logistics Plans at wing and HQ PACAF level.

1.1.1.2. (Added) To ensure time limits for notification of agreement consummation to Congress are met, US parties to MOUIs will sign the agreement last if possible.

2.1.1. (Added) Coordination with appropriate functional managers at all levels, including MAJCOM and other Air Force and DoD agencies having an interest in the agreement subject matter, must be accomplished. It is the responsibility of the installation support agreement manager (SAM) participating in the agreement to ensure proper coordination is accomplished. Advise appropriate subordinate unified command and USCINCPAC/J06/J41 of all negotiations which have a significant impact on plans and programs as defined in USCINCPACINST 5711.6C, para 10.

2.2.1. (Added) PACAF units shall coordinate any international agreement requirements (from any level of foreign government or military) with the installation SAM as soon as they are known. The SAM, in conjunction with the functional point of contact, will coordinate the proposed international agreement with the installation SJA to determine if international agreement laws apply, if authority to negotiate and conclude exists, the proposed agreement is consistent with US law, regulations, and policies, the text of the agreement is legally sufficient to accomplish the desired objective, and who has authority to enter into the agreement and obtain approval to proceed.

2.2.2. (Added) International agreements (except Mutual Aid and Fire Protection international agreements which comply with AFI 32-2001) as a minimum will contain the following elements: I. Authority; II. Purpose; III. Mutual Responsibilities of Parties; IV. USAF Responsibilities; V. (Other Party) Responsibilities; VI. Property (if any); VII. Claims; VIII. Resolution of Conflicts; IX. Revision/Review/Termination; X. Effective Date and Duration. Attachments should include a legal memorandum, fiscal memorandum, language certification (if needed), and technical assessment (if needed). (See Attachment 2, 3, 4, and 5 for samples.)

2.2.3. (Added) Duration, Review, Revision, Termination. International agreements may be negotiated for any length of time or may have an indefinite termination date. As a minimum, unilateral agreement reviews within PACAF units are required at least every three years from the signature date. Reviews will document coordination with SJA, FM, and all affected functional areas. Reviews must be completed prior to the next scheduled review date or the termination date as appropriate. If there are no changes required after unilateral review, the FM and SJA may endorse the MOUI indicating they have reviewed it

and no changes are required. Bilateral reviews are not required but are recommended. Use written correspondence to document an attempt to conduct a bilateral review with the non-US party. Revisions to MOUIs will be accomplished by addendum (see Attachment 6) and attached to the MOUI. Addenda should be numbered in sequence and processed the same as the primary MOUI. Revisions can be initiated upon request of either party. If a revision is accomplished, the date of the revision can be counted as an agreement review provided all functional managers involved with the agreement have coordinated. MOUIs shall be terminated by addendum at the time determined by the terms of the agreement. MOUIs shall require a reasonable amount of time (90-180 days) for notification of the intent to unilaterally terminate the MOUI. However, if mutual consent is obtained, the MOUI can be terminated sooner. Ensure distribution of the addendum terminating the MOUI is provided to the same addressees as the original MOUI.

2.2.4. (Added) Distribution. Following signing of the agreement, forward the transmittal letter (see Attachment 3, para A3.2 of AFI 51-701), required attachments and copies to addressees as indicated in Attachment 3, para A3.1 of AFI 51-701; one certified true copy of the transmittal letter and agreement complete with all attachments to USCINCPAC/J06 and J412, Camp H. M. Smith, HI 96861-5025; two complete copies to HQ PACAF/LGX, 25 E. Street, Suite H-310, Hickam AFB HI 96853-5427; and one copy each to appropriate subordinate units, subordinate unified commands (USFJ/USFK/USCINCPAC REP), functional managers, FM, and the SJA.

2.3.1. (Added) Legal Memorandum. The installation SJA will advise on legal propriety and sufficiency of international agreements; assure their conformity with international law obligations of the United States and with US laws and applicable regulations and directives; assist in drafting agreements; and participate as required in negotiations as the legal representative. The legal memorandum (Attachment 3) will be signed and dated by the SJA. To assist in determining legal authority, functional organizations responsible for subject matter will provide copies of and specific references to paragraphs of policy directives, instructions, agreements, or other authority which authorize the provisions of the proposed agreement.

2.3.2. (Added) Fiscal Memorandum. The Installation Comptroller will approve and sign a Fiscal Memorandum prepared using the format contained herein (Attachment 4). The Comptroller will ensure review of past reimbursement data, determine method and frequency of billing, coordinate with the appropriate staff for support provided, and prepare the memorandum. Functional organizations responsible for the subject matter of the proposed agreement shall provide inclusive reimbursement data to the Comptroller. If historical reimbursement or other cost data is not available, then costs will be estimated and provided to the Comptroller for inclusion in the fiscal memorandum.

2.4.1. (Added) When requesting negotiation and conclusion authority above PACAF, concurrently forward two copies of the proposed agreement and transmittal letter to HQ PACAF/LGXP, 25 E. Street, Suite H310, Hickam AFB HI 96853-5427 for staff coordination. Requests originating at the wing will be submitted through the NAF/LGX office.

3.1. (Added) Amendments to international agreements will be accomplished via an addendum in the format shown in Attachment 6. It will be coordinated and approved through the same approval authorities and functional managers, and distributed to the same recipients as the original agreement (see para 2.2.6 above).

4.1. (Added) Oral international agreements are not authorized within PACAF.

7.2. (Added) If the NAF/CC signs the MOUI, the NAF/LGX will forward the transmittal letter and copies in accordance with Attachment 3, paras A3.1 and A3.2 of AFI 51-701. If the Wing Commander signs the MOUI, the Wing/LGX will forward the transmittal letter as per above. In both cases, the participating activity logistics plans shop will prepare the transmittal letter and attachments in advance to avoid delays in reporting the newly consummated MOUI. To ensure the maximum amount of time is available for congressional notification, require the US signature be obtained last on the MOUI.

8.1. (Added) Individual six-part file folders will be maintained for each MOUI to ensure a complete record is maintained in support of the USAF position throughout the life of the MOUI. Part One will contain the current agreement (include disk if available) and attachments. Part Two will contain correspondence and coordination applicable to the current agreement. Part Three will contain the latest review. Part Four will contain all historical data necessary relative to negotiations. Part Five will contain contact lists and milestones. Part Six will contain at least one extra copy of the current agreement.

9.1. (Added) HQ PACAF/LGXP is the office of record for HQ PACAF international agreements. The office of record for NAF and wing level international agreements is the applicable logistics plans office.

Attachment 1

TRANSMITTAL LETTER FORMAT

MEMORANDUM FOR

FROM: LGX

(Address)

SUBJECT: International Agreement (MOUI Number)

1. In accordance with DoD Directive 5530.3, Section D and E, and AFI 51-701, paragraph 7, the following is submitted:

- a. Title: Memorandum of Understanding International (MOUI) (Number)
- b. Security Classification: (As applicable)
- c. Subject:
- d. Country Involved:
- e. Summary: (One line summary of MOUI provisions)
- f. Signature Date: (Day, Month, Year)
- g. Date in Force: (Day, Month, Year)
- h. Duration: (of MOUI terms)
- i. Legal Authority: See Attachment 3
- j. Responsible Office for Maintaining the Negotiating History: (Local LGX office)
- k. Background Information: (Include statement as to why the agreement is required and why it was concluded at this time)
- l. Effect of the Agreement: (Explain benefits to be gained by both parties)
- m. Geographic Location: (Where the agreement was signed)
- n. Name and Title of All Individuals Signing the Agreement:

2. This letter and the following attachments are certified to be true and complete copies of the originals.

6 Attachments:

1. Distribution List
2. MOUI (Number)
3. Statement of Legal Authority
4. Fiscal Memorandum
5. Foreign Language Certificate
6. Addendum (If applicable)

Attachment 2

INTERNATIONAL AGREEMENT FORMAT

FB52XX-94001-001

MEMORANDUM OF UNDERSTANDING INTERNATIONAL

BETWEEN

(USAF COMPONENT AND LOCATION)

AND

(FOREIGN COMPONENT AND LOCATION)

CONCERNING

(SHORT SUBJECT)

I. AUTHORITY TO ENTER INTO AGREEMENT. (Specific section of SOFA, Treaty, MBA, etc.) (If MOUI supersedes prior agreement, identify agreement)

II. GENERAL PURPOSE OF AGREEMENT. (What, Why, Where, When)

III. MUTUAL RESPONSIBILITIES OF THE PARTIES. (Coordinating/liaison committees, groups, functions, meetings, etc.)

IV. SPECIFIC RESPONSIBILITIES OF USAF.

V. SPECIFIC RESPONSIBILITIES OF THE OTHER PARTY.

VI. PROPERTY INVOLVED - IF ANY. (Ownership, maintenance, replacement, removal, accounting, etc.)

VII. CLAIMS. (General, SOFA specific, how registered, how settled, who has jurisdiction, etc.)

VIII. RESOLUTION OF CONFLICTS UNDER THE AGREEMENT.

IX. REVISION, REVIEW AND MODIFICATION OF THE AGREEMENT.

X. EFFECTIVE DATE AND DURATION. (Who approves, terminates - mutual, unilateral - effective date and term (may be indefinite).)

Attachment 3

LEGAL MEMORANDUM FORMAT

FB52XX-94001-001

MEMORANDUM OF UNDERSTANDING INTERNATIONAL (MOUI)

BETWEEN

(USAF COMPONENT AND LOCATION)

AND

(FOREIGN COMPONENT AND LOCATION)

1. Background/Introduction: (Should answer the following questions as applicable)

- a. Why is this MOUI needed? How will it assist in mission performance?
- b. Were there any prior arrangements between the parties? Who suggested the MOUI?
- c. What are the significant points of agreement/disagreement or compromise between the parties?

2. Procedural Authority: (The following items should be discussed as applicable)

- a. Set forth the legal authority that permits the proposed Air Force Signatory to sign this MOUI?
- b. What local regulations apply?

3. Substantive Authority:

a. Set forth substantive legal authority that permits the Air Force to perform the activities agreed to in the MOUI.

b. Does the agreement comply with the Security Assistance Manual DoD 51-5.38-M and relevant Security Assistance legislation?

4. Opinion: (Should state that there is procedural or substantive legal authority for carrying out each obligation to be assumed by the Air Force.)

5. Signature: (Servicing Installation Staff Judge Advocate.)

Attachment 4

FISCAL MEMORANDUM FORMAT

FB52XX-94001-001

Agreement Title/Number Date:

Memorandum of Understanding International between (Air Force Component/Location) and (Foreign Component/Location)

1. Providing Organization (s) _____

a. Support to be provided involving:

APPROPRIATION(S)	ESTIMATED ANNUAL COST	REIMBURSABLE (OR REPLACEMENT-IN-KIND) (Yes/No)
------------------	--------------------------	--

b. Support will be provided and billed on an as required basis.

2. Recipient will finance the program as follows:

<u>Financing Appropriation(s)</u>	<u>Dollar Amount(s)</u>
-----------------------------------	-------------------------

3. Reimbursement:

a. Billing Method: SF Form 1080

b. Billing Frequency: As required

c. Billing Address: DFAS-PC/AOFB
 Bldg 77, Box 1392
 Pearl Harbor HI 96860

4. Remarks:

Comptroller Signature

Note: Enter information and cost estimates as appropriate; add additional entries as required. All dollar amounts, whether reimbursable or not will be identified and entered. If any item does not apply, so state. Costs to be identified in the fiscal memorandum should include, but not limited to, transportation, supplies, engineering services (facility maintenance, utilities, etc.), communications, and personnel costs (military and civilian). Host nation cost sharing should also be considered when determining costs.

Attachment 5**SAMPLE OF FOREIGN LANGUAGE CERTIFICATION**

FB52XX-94001-001

Subject: Certification of Foreign Language Text Concerning International Agreement
(FBXXXX-XXXXX-XXXX)

I have personally reviewed the English and (foreign country) language texts of International Agreement (FBXXXX-XXXXX-XXXX) between (USAF Component) and (Foreign Component). As the designated translator, I certify that the English and (foreign country) texts thereof are in conformity with each other and that both texts have the same meaning in all substantive respects.

(Designated translator signature)

Date:

Attachment 6

ADDENDUM FORMAT

FB52XX-94001-001

ADDENDUM NUMBER: _____

To Memorandum of Understanding International

(FBXXXX-XXXX-XXXX)

BETWEEN

(USAF COMPONENT AND LOCATION

AND

(FOREIGN COMPONENT AND LOCATION)

CONCERNING

(SUBJECT MATTER)

This addendum (terminates/revises) international agreement identified above, originally dated _____, and is hereby agreed to by both parties.

The changes are.(as appropriate)

OR FOR UNILATERAL TERMINATION

This addendum is the notice required by para _____ of this MOUI which establishes a termination date of _____.

(USAF REPRESENTATIVE SIGNATURE)

(FOREIGN REPRESENTATIVE SIGNATURE)

DATE:

DATE:

Note: If the number of addendums exceed three, reaccomplish the agreement at the review date or earlier if appropriate.

RICHARD E. BROWN III, Major General, USAF
Director of Logistics