



DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, D.C. 20301

1 May 1985

In reply refer to:
Transmittal No. 4
DoD 5105.38-M

MEMORANDUM FOR RECIPIENTS OF DOD 5105.38-M, SECURITY ASSISTANCE
MANAGEMENT MANUAL (SAMM)

SUBJECT: SAMM Change 4 Transmittal

The attached revised material updates the basic publication.

Make the applicable change to the SAMM in accordance with the
attached list of changes by inserting new pages.

This change is effective 1 May 1985.

A handwritten signature in cursive script, reading "Glenn A. Rudd", is positioned above the typed name.

GLENN A. RUDD
ACTING DIRECTOR

Attachments

- (1) List of Changes
- (2) List of Effective Pages
- (3) List of material incorporated
within Change 4
- (4) SAMM Update pages

① DUB

E R R A T A S H E E T

to the

SECURITY ASSISTANCE MANAGEMENT MANUAL (SAMM), DOD 5105.38-M
Change No. 4 (1 May 1985)

INSTRUCTIONS. PRIOR TO ENTERING CHANGE NO. 4, PLEASE TAKE THE FOLLOWING ACTIONS:

1. DISPOSE OF PAGES 7-21, 7-22, 7-25, 7-26, 7-27, AND 7-28. THESE PAGES CONTAIN ADMINISTRATIVE DISCREPANCIES AND SHOULD NOT BE ENTERED.
2. MAKE PEN-AND-INK CORRECTIONS TO THE "LIST OF CHANGES" PAGE TO ACCOMPLISH THE FOLLOWING ACTIONS RELATIVE TO ENTRIES IN THE "REMOVE" AND "INSERT" COLUMNS.

<u>REMOVE</u>	<u>INSERT</u>	<u>ACTION REQUIRED:</u>
7-21 through 7-22	7-21 through 7-22	<u>Delete</u> this entry.
7-25 through 7-30	7-25 through 7-30	<u>Delete</u> this entry.
7-29 through 7-30	7-29 through 7-30	<u>Add</u> this entry.

3. MAKE PEN-AND-INK CHANGES TO THE "LIST OF EFFECTIVE PAGES" SHEET TO REFLECT THE FOLLOWING:

<u>Page Numbers</u>	<u>Date of Latest Revision</u>
7-21 through 7-22	2 Jan 1985
7-25 through 7-28	2 Jan 1985
7-29 through 7-30	1 May 1985

FUTURE CORRECTIONS. ANY REQUIRED CHANGES/UPDATES TO TABLE 7-I-1, "MAJOR DEFENSE EQUIPMENT LIST," WILL BE INCORPORATED INTO CHANGE NO. 5.

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SECURITY ASSISTANCE MANAGEMENT MANUAL (SAMM)

FORMAL CHANGE NO. 4 INCLUDES THE FOLLOWING INFORMATION:

INTERIM CHANGES INCORPORATED:

[*See "Notes" on next page for information on past interim changes.]

<u>Number</u>	<u>Subject</u>
85-8	"Foreign Countries and International Organizations Eligible to Purchase Defense Articles and Defense Services under the Authority of the AECA" (Table 6-I-1) [DSAA Msg. 222113Z Apr 85]
85-7	"Financial Annex, Supplementary Financial Terms and Conditions" (Figure 7-III-3) [DSAA Msg. 102325Z Apr 85]
85-6	Section 506, "Special Authority" [DSAA Msg. 040005Z Apr 85]
85-5	Pen-and-Ink Changes to DD Forms 1513 and 1513-1 [DSAA Msg. 061959Z Mar 85]
85-4	NATO Cooperative Project [DSAA Msg. 080019Z Feb 85]
84-4	Djibouti eligible for excess articles [DSAA Msg. 151939Z Jun 84]
84-2	Invitational Travel Order (ITO) Instructions [DSAA Msg. 022317Z May 84]

ADDITIONAL DSAA GUIDANCE INCORPORATED:

- DSAA Memo I-03434/83, "FMS Administrative Charges," 23 Aug 83
- DSAA Memo I-18029/84, "Notes in LOA Documents Referring to Transfers of FMS Customer Funds," 28 Dec 84
- DSAA Memo I-19625/84, "Revised Format for Termination Liability Worksheets," 7 Jan 85
- DSAA Memo, "Notes re Transfer of Funds," 14 Jan 85
- DSAA Memo I-00854/85, "Leases of Defense Articles," 7 Mar 85

MISCELLANEOUS INFORMATION INCORPORATED:

- Change of the term "significant combat equipment (SCE)," wherever incorporated, to "significant military equipment (SME)" to conform to the recently reissued International Traffic in Arms Regulations (ITAR).
- Chapter 2: Change in wording of paragraph A.1.d., "Designation of Defense Articles and Services" (Section III). Incorporation of the United States Munitions List (Table 2-III-1) contained in the recently reissued ITAR.
- Chapter 3: Expansion of guidance concerning Security Assistance Organization (SAO) functions in Section I, paragraph B, subparagraph 2.k.
- Chapter 5:
 - Incorporation of revised definitions in Section I, paragraph B, subparagraphs 10 through 13 to conform to the recently reissued ITAR.

- Addition of new subparagraph 1 to Section II, paragraph E, "Disclosure Decisions."
- Modification of wording of subparagraph 3, Section III, paragraph C, "Release of Information."
- Addition of guidance concerning use of Department of State Form DSP 85 for the export or import of classified defense articles and services in Section IV.
- Chapter 6: Added Sierre Leone, Togo, and Mozambique to Table 6-I-1, "Foreign Countries and International Organizations Eligible to Purchase Defense Articles and Defense Services under the Authority of the AECA."
- Chapter 7: Correction to transmittal letter in Table 7-IV-6.
- Chapter 11: New sentence added to Section I, Paragraph A.1.e., "MAP Restrictions."
- Chapter 12: Sentence added to paragraph E.3., "Use of DD Form 1513." Change to wording of paragraph 2, Figure 12-I-3.

*NOTES:

- Interim Change No. 84-1 (DSAA Msg. 271939Z Apr 84) was included in Formal Change No. 2, dated 2 Jan 85. [Ref: Chapter 7, Section III, Figure 7-III-3, "Financial Annex".]
- Interim Change No. 84-3 (DSAA Msg. 252130Z May 84) was included in Formal Change No. 3, dated 10 Jan 85. [Ref: Chapter 6, Section I, paragraph C.8, "Guidance on FMS of COMSEC Equipment".]
- Interim Change No. 84-5 (DSAA Msg. 052303Z Jul 84) was included in Formal Change No. 2, dated 2 Jan 85. [Ref: Chapter 6, Section I, Table 6-I-1, "Foreign Countries and International Organizations Eligible to Purchase Defense Articles and Defense Services under the Authority of the AECA".] The extent of this change was: Under East Asia and Pacific, China was added; under Western Hemisphere, Grenada and St. Kitts-Nevis was added.
- Interim Change No. 84-6 (DSAA Memo I-04936/84, 13 Aug 84) was included in Formal Change No. 2, dated 2 Jan 85. [Ref: Chapter 8, Section V, "Amendments and Modifications".] This was a new section on the use of amendments (DD Form 1513-1) versus new LOAs.
- Interim Change No. 85-1 (DSAA Memo I-14520/84, 6 Nov 84) was included in Formal Change No. 2, dated 2 Jan 85. [Ref: Chapter 6, Section II, paragraph E.1.o. was added; and paragraphs F.2.g. and G.2.a. were revised.]
- Interim Change No. 85-2,3 (DSAA Msgs. 090047Z Jan 85 and 180131Z Jan 85) were included in Formal Change No. 3, dated 10 Jan 85. [Ref: Chapter 7, Section III, paragraph D.4.d.(8)(a); and Chapter 8, Section II, paragraph B -- Competition in Contracting Act (CICA) (Sole Source).]
- Interim Change No. 85-2 (DSAA Memo I--17916/84, 2 Jan 85) was included in Formal Change No. 3, dated 10 Jan 85. [Ref: Chapter 8, Section II, paragraph B.]

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defense service for purposes other than those for which furnished unless the consent of the President has first been obtained.

(3) The country or international organization shall have agreed that it will maintain the security of such article and will provide substantially the same degree of security protection afforded to such article by the U.S.; and

(4) The country or international organization is otherwise eligible to purchase or lease defense articles or defense services. The countries or international organizations found eligible to purchase or lease defense articles or defense services under the Presidential finding are also subject to other provisions of the AECA.

b. List of Eligible Countries. The current list of eligible countries and international organizations determined by the President is provided in Chapter 6 of this Manual.

c. Presidential Determination. The President must determine the eligibility of the prospective purchaser on the basis that sales will strengthen U.S. security and promote world peace [AECA, Sec. 3(a)(1)].

d. Designation of Defense Articles and Services. The terms "defense article" and "defense service" are defined by AECA, Sec. 47, for purposes generally of the AECA, including FMS and leases. However, for the purposes of direct commercial exports, the President is authorized to designate those items [AECA, Sec. 47(7)] which shall be considered defense articles and defense services, and to promulgate regulations for control of the export and import of such articles and services. The items so designated shall constitute the United States Munitions List [AECA, Sec. 38(a)]. Items in categories which are asterisked on this list are considered Significant Military Equipment (SME). A copy of the U.S. munitions list is enclosed at Table 2-III-1. **

e. Secretary of State Approval Authority. The Secretary of State shall be responsible for determining whether there shall be a sale to a country and the amount thereof, whether there shall be a lease to a country, and whether there shall be delivery or other performance under such sale or lease of export to the end that sales, leases, and exports are integrated with other U.S. activities and that the foreign policy of the U.S. is best served thereby [AECA, Sec. 2(b)].

f. Arms Control. Arms control consequences must be taken into consideration when evaluating any FMS sale [AECA, Sec. 42(a)(3)].

g. Atomic Energy Act and Major Ship Transfers. Provisions of the Atomic Energy Act of 1954, as amended, and title 10 USC 7307 requiring separate legislation for major ship transfers are unaffected by the AECA, Sec. 44. (See Section IV, paragraph B. of this chapter for further discussion.)

h. Sources of Sales Materiel. Defense articles or services may be sold from the stocks of the DoD or the DoD may enter into contracts for procurement of defense articles or defense services for sale to eligible foreign countries or international organizations (AECA, Secs. 21 and 22).

i. Use of FMS Credit Funds for Procurement Outside United States. FMS credit funds may be used for procurement outside the U.S. only if the President determines that such procurement will not result in adverse effects upon the U.S. economy or the industrial mobilization base [AECA Sec. 42(c)].

Prior consultations within the Department of Defense (DSAA) and with the Departments of State and Treasury are required.

j. Termination Due to Unnecessary Military Expenditures. Further sales, credits, and guaranties shall be terminated to any economically less developed country which diverts economic aid, or its own resources to unnecessary military expenditures, to a degree which materially interferes with its development (AECA, Sec. 35). Existing sales, credits, and guaranties need not be terminated.

k. Prohibition Against Discrimination, Intimidation or Harassment. No sales will be made and no credits or guaranties extended to, or for any country whose laws, regulations, official policies or governmental practices prevent any person from participating in the furnishing of defense articles or defense services on the basis of race, religion, national origin, or sex. No sales will be made and no credits or guaranties extended to any country determined to be engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the U.S. (AECA, Secs. 5 and 6).

B. POLICIES.

1. General.

a. Basic Sales Policy. In Chapter 1, Section 1 of the AECA, the Congress:

(1) Recognized the increasing cost and complexity of defense equipment and the continued need for international defense cooperation to maintain peace and security.

(2) Established the policy that sales will facilitate the common defense by entering into international arrangements with friendly countries on projects of cooperative exchange of data, research, development, production, procurement, and logistics support to achieve national defense requirements and objectives of mutual concern;

(3) Declared that the AECA authorizes sales that further U.S. security objectives to friendly countries to equip their forces with due regard to impact of sales on social and economic development and on arms races; and

(4) Declared the sense of the Congress that all such sales be approved only when they are consistent with U.S. foreign policy interests.

2. Materiel Transfer Policy.

a. Use of Federal Acquisition Regulation (FAR) and DoD FAR Supplement. When procuring for a foreign government, DoD will apply the same contract clauses and contract administration as it would use in procuring for itself, except where deviations are authorized in the DoD FAR Supplement. If a sole source procurement requested by a foreign government appears to be motivated by objectives in conflict with this requirement or with any U.S. legislation, the request must be forwarded to the DSAA, which may forward the request to the Department of State for consideration. No LOA in such cases will be issued without approval of the Director, DSAA.

or FMCS or direct commercial sales of defense items. Fees shall be charged for such guaranties. (Sec. 24, AECA)

(2) Export-Import Bank. Export-Import Bank financing of sales of defense items to economically less developed countries is prohibited. (Sec. 32, AECA).

TABLE 2-III-1
PART 121 -- THE UNITED STATES MUNITIONS LIST

**

[Extracted from the International Traffic in Arms Regulations (ITAR), printed in the Federal Register, Vol. 49, No. 236, December 6, 1984, Rules and Regulations, pages 47686 through 47690.]

**PART 121—THE UNITED STATES
MUNITIONS LIST**

Enumeration of Articles

- Sec.
- 121.1 General. The United States Munitions List.
- 121.2 Interpretations of the United States Munitions List.
- 121.3 Aircraft and related articles.
- 121.4 Amphibious vehicles.
- 121.5 Apparatus and devices under Category IV(c).
- 121.6 Cartridge and shell casings.
- 121.7 Chemical agents.
- 121.8 End-items, components, accessories, attachments, parts, firmware, software and systems.
- 121.9 Firearms.
- 121.10 Forgings, castings and machined bodies.
- 121.11 Military demolition blocks and blasting caps.
- 121.12 Military explosives.
- 121.13 Military fuel thickeners.
- 121.14 Propellants.
- 121.15 Vessels of war and special naval equipment.

Authority: Section 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

Enumeration of Articles

§ 121.1 General. The United States Munitions List.

(a) The following articles, services and related technical data are designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act (22 U.S.C. 2778 and 2794(7)).

Changes in designations will be published in the **Federal Register**. Information and clarifications on whether specific items are defense articles and services under this subchapter may appear periodically in the Munitions Control Newsletter published by the Office of Munitions Control.

(b) *Significant Military Equipment.* An asterisk precedes certain defense articles in the following list. The asterisk means that the article is deemed to be "significant military equipment" to the extent specified in § 120.19. The asterisk is placed as a convenience to help identify such articles.

Category I—Firearms

* (a) Nonautomatic, semi-automatic and fully automatic firearms to caliber .50 inclusive, and all components and parts for such firearms. (See §§ 121.9 and 123.16-123.19.)

(b) Riflescopes manufactured to military specifications, and specifically designed or modified components therefor; firearm silencers and suppressors, including flash suppressors.

* (c) Insurgency-counterinsurgency type firearms or other weapons having a special military application (e.g. close assault weapons systems) regardless of caliber and all components and parts therefor.

Category II—Artillery Projectors

* (a) Guns over caliber .50, howitzers, mortars, and recoilless rifles.

(b) Military flamethrowers and projectors.

(c) Components, parts, accessories and attachments for the articles in paragraphs (a) and (b) of this category, including but not limited to mounts and carriages for these articles.

[NOTE: "Significant military equipment" means articles for which special export controls are warranted because of their capacity for substantial military utility or capacity. Section 47(6), AECA, provides a definition of "major defense equipment" and refers to "significant combat equipment" on the U.S. Munitions List. The terms "significant military equipment" and "significant combat equipment" are considered to be equivalent. (Source: ITAR, paragraph 120.19.)]

TABLE 2-III-1. The United States Munitions List.

Category III—Ammunition

* (a) Ammunition for the arms in Categories I and II of this section. (See § 211.6.)

(b) Components, parts, accessories, and attachments for articles in paragraph (a) of this category, including but not limited to cartridge cases, power bags, bullets, jackets, cores, shells (excluding shotgun shells), projectiles, boosters, fuzes and components therefor, primers, and other detonating devices for such ammunition. (See § 121.8.)

(c) Ammunition belting and linking machines.

* (d) Ammunition manufacturing machines and ammunition loading machines (except handloading ones).

Category IV—Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines

* (a) Rockets (including but not limited to meteorological and other sounding rockets), bombs, grenades, torpedoes, depth charges, land and naval mines, as well as launchers for such defense articles, and demolition blocks and blasting caps. (See § 121.11.)

* (b) Launch vehicles and missile and anti-missile systems including but not limited to guided, tactical and strategic missiles, launchers, and systems.

(c) Apparatus, devices, and materials for the handling, control, activation, monitoring detection, protection, discharge, or detonation of the articles in paragraphs (a) and (b) of this category. (See § 121.5.)

* (d) Missile and space vehicle powerplants.

* (e) Military explosive excavating devices

* (f) Ablative materials fabricated or semi-fabricated from advanced composites (e.g., silica, graphite, carbon, carbon/carbon, and boron filaments) for the articles in this category that are derived directly from or specifically developed or modified for defense articles.

* (g) Non/nuclear warheads for rockets and guided missiles.

(h) All specifically designed or modified components, parts, accessories, attachments, and associated equipment for the articles in this category.

Category V—Explosives, Propellants, and Incendiary Agents

* (a) Military explosives. (See § 121.12.)

* (b) Military fuel thickeners. (See § 121.13.)

(c) Propellants for the articles in Categories III and IV of this section. (See § 121.14.)

(d) Military pyrotechnics, except pyrotechnic materials having dual military and commercial use.

(e) All compounds specifically formulated for the articles in this category.

Category VI—Vessels of War and Special Naval Equipment

* (a) Warships, amphibious warfare vessels, landing craft, mine warfare vessels, patrol vessels, auxiliary vessels and service craft, experimental types of naval ships and any vessels specifically designed or modified for military purposes. (See § 121.15.)

* (b) Turrets and gun mounts, arresting gear, special weapons systems, protective systems, submarine storage batteries, catapults and other components, parts, attachments, and accessories specifically designed or modified for combatant vessels.

(c) Mine sweeping equipment, components, parts, attachments and accessories specifically designed or modified therefor.

(d) Harbor entrance detection devices, (magnetic, pressure, and acoustic ones) and controls and components therefor.

* (e) Naval nuclear propulsion plants, their land prototypes, and special facilities for their construction support, and maintenance. This includes any machinery, device, component, or equipment specifically developed, designed or modified for use in such plants or facilities. (See § 123.21.)

Category VII—Tanks and Military Vehicles

* (a) Military type armed or armored vehicles, military railway trains, and vehicles specifically designed or modified to accommodate mountings for arms or other specialized military equipment or fitted with such items.

* (b) Military tanks, combat engineer vehicles, bridge launching vehicles, half-tracks and gun carriers.

* (c) Self-propelled guns and howitzers.

(d) Military trucks, trailers, hoists, and skids specifically designed, modified, or equipped to mount or carry weapons of Categories I, II and IV or for carrying and handling the articles in paragraphs (a) of Categories III and IV.

* (e) Military recovery vehicles.

* (f) Amphibious vehicles. (See § 121.4.)

* (g) Engines specifically designed or modified for the vehicles in paragraphs (a), (b), (c), and (f) of this category.

(h) All specifically designed or modified components and parts, accessories, attachments, and associated equipment for the articles in this category, including but not limited to military bridging and deep water fording kits.

TABLE 2-III-1 (Continued)

Category VIII—Aircraft, Spacecraft, and Associated Equipment

* (a) Aircraft, including but not limited to helicopters, non-expansive balloons, drones, and lighter-than-air aircraft, which are specifically designed, modified, or equipped for military purposes. This includes but is not limited to the following military purposes: gunnery, bombing, rocket or missile launching, electronic and other surveillance, reconnaissance, refueling, aerial mapping, military liaison, cargo carrying or dropping, personnel dropping, airborne warning and control, and military training. (See § 121.3.)

(b)* (1) Spacecraft, including manned and unmanned, active and passive satellites (except those listed in Category VIII(b)(2).

(2) Non-military communication satellites (excluding ground stations and associated equipment not enumerated elsewhere in § 121.1).

* (c) Military aircraft engines, except reciprocating engines, and spacecraft engines specifically designed or modified for the aircraft and spacecraft in paragraphs (a) and (b) of this category.

* (d) Cartridge-actuated devices utilized in emergency escape of personnel and airborne equipment (including but not limited to airborne refueling equipment) specifically designed or modified for use with the aircraft, spacecraft, and engines of the types in paragraphs (a), (b), and (c) of this category.

(e) Launching and recovery equipment for the articles in paragraphs (a) and (b) of this category, if the equipment is specifically designed or modified for military use or for use with spacecraft. Fixed land-based arresting gear is not included in this category.

(f) Power supplies and energy sources specifically designed or modified for spacecraft.

(g) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for the articles in paragraphs (a) through (f) of this category, excluding aircraft tires and propellers used with reciprocating engines.

(h) Developmental aircraft components which have a significant military application, excluding aircraft components concerning which Federal Aviation Agency certification has been granted.

* (i) Ground effect machines (GEMS) specifically designed or modified for military use, including but not limited to surface effect machines and other air cushion vehicles, and all components, parts, and accessories, attachments, and associated equipment specifically designed or modified for use with such machines.

* (j) Inertial navigation systems and components designed specifically for such systems. Systems or components which are standard equipment in civil aircraft, including spare parts and spare units to be used exclusively for the maintenance of inertial navigation equipment incorporated in civil aircraft, and which are certified by the Federal Aviation Administration as being an integral part of such aircraft are subject to export regulation by the Office of Munitions Control only if the export is intended for a controlled country described in section 620(f) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2370(f)) (except Yugoslavia). The Export Administration Act of 1979, as amended (50 U.S.C. App. section 2416(c)) deals with the export of such items to non-controlled countries. All exports of technical data (regardless of destination) relating to the design, development, production or manufacture of inertial navigation equipment (regardless of accuracies) or its related parts, components, or subsystems are subject to the requirements of the regulations contained in this subchapter. The export of technical data relating to the repair of parts, components, or subsystems of inertial navigation systems (including accelerometers and gyroscopes) which are not certified by the FAA as being an integral part of civil aircraft are subject to the requirements of this subchapter. The provisions of XI(e) and XII(c) are not applicable to such exports of technical data.

Category IX—Military Training Equipment

(a) Military training equipment including but not limited to attack trainers, radar target trainers, radar target generators, gunnery training devices, antisubmarine warfare trainers, target equipment, armament training units, operational flight trainers, air combat training systems, radar trainers, navigation trainers, and simulation devices related to defense articles.

(b) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for the articles in paragraph (a) of this category.

Category X—Protective Personnel Equipment

(a) Body armor specifically designed, modified or equipped for military use; articles, including but not limited to clothing, designed, modified or equipped to protect against or reduce detection by radar, infrared (IR) or other sensors; military helmets equipped with communications hardware, optical sights, slewing devices or mechanisms to protect against thermal flash or lasers, excluding standard military helmets.

(b) Partial pressure suits and liquid oxygen converters used in aircraft in Category VIII(a).

TABLE 2-III-1 (Continued)

(c) Protective apparel and equipment specifically designed or modified for use with the articles in paragraphs (a) through (d) in Category XIV.

(d) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for use with the articles in paragraphs (a), (b), and (c) of this category.

Category XI—Military and Space Electronics

(a) Electronic equipment not included in Category XII of the Munitions List which is assigned a military designation or is specifically designed, modified or configured for military application. This includes but is not limited to the following:

* (1) Underwater sound equipment, including but not limited to towed arrays, electronic beam forming sonar, target classification equipment, and spectrographic displays; search, acquisition, tracking, moving target indication and imaging radar systems; active and passive countermeasures and counter-countermeasures equipment; electronic fuses; identification systems; command, control and communications systems; and, regardless of designation, any experimental or developmental electronic equipment specifically designed or modified for military application, or for use with a military system and

(2) Sonic depth finders; underwater telephones; electro-mechanical beam forming sonars and elementary sonobuoys; radios (including transceivers); weather, navigation, and air traffic control radar systems; navigation, guidance, object-locating equipment; displays; and telemetering equipment.

(3) Armored coaxial cable capable of RF, optical, or high voltage power transmission.

(b) Space electronics:

* (1) Electronic equipment specifically designed or modified for spacecraft and spaceflight, and

(2) Electronic equipment specifically designed or modified for use with non-military communications satellites.

* (c) Electronic systems or equipment specifically designed, modified, configured, used or intended for use in search, reconnaissance, collection, monitoring, direction-finding, display, analysis and production of information from the electromagnetic spectrum for intelligence or security purposes and electronic systems or equipment designed or modified to counteract such surveillance and monitoring.

(d) Very High Speed Integrated Circuit (VHSIC) semiconductor devices that are specifically designed for military applications and which have a high-speed signal and image processing capability with an operational parameter (gate-time-clock-frequency) or greater than 10^{11} gates X hertz for an individual semiconductor device.

(e) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for use or currently used with the equipment in paragraphs (a) through (c) of this category, except for such items as are in normal commercial use.

Category XII—Fire Control, Range Finder, Optical and Guidance and Control Equipment

* (a) Fire control systems; gun and missile tracking and guidance systems; military infrared, image intensifier and other night sighting and night viewing equipment; military masers and military lasers; gun laying equipments; range, position and height finders and spotting instruments; aiming devices (electronic, gyroscopic, optic, and acoustic); bomb sights, bombing computers, military television sighting and viewing units, inertial platforms, and periscopes for the articles of this section.

* (b) Inertial and other weapons or space vehicle guidance and control systems; spacecraft guidance, control and stabilization systems; astro compasses; and star trackers.

(c) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for the articles in paragraphs (a) and (b) of this category, except for such items as are in normal commercial use.

Category XIII—Auxiliary Military Equipment

(a) Aerial cameras, space cameras, special purpose military cameras, and specialized processing equipment therefor; military photointerpretation, stereoscopic plotting, and photogrammetry equipment, and components specifically designed or modified therefore.

(b) Speech scramblers, privacy devices, cryptographic devices and software (encoding and decoding), and components specifically designed or modified therefore, ancillary equipment, and protective apparatus specifically designed or modified for such devices, components, and equipment.

(c) Self-contained diving and underwater breathing apparatus specifically designed or modified for a military purpose and components specifically designed or modified therefore.

(d) Armor plate and structural materials (including but not limited to plate, rolled and extruded shapes, bars and forgings, castings, welding consumables, carbon/carbon and metal matrix composites) specifically designed or modified for defense articles.

(e) Concealment and deception equipment, including but not limited to special paints, decoys, and simulators and components, parts and accessories specifically designed or modified therefor.

(f) Energy conversion devices for producing electrical energy from nuclear, thermal, or solar energy, or from chemical reaction which are specifically designed or modified for military application.

TABLE 2-III-1 (Continued)

(g) Chemiluminescent compounds and solid state devices specifically designed or modified for military application.

(h) Devices embodying particle beam and electromagnetic pulse technology.

(i) Metal embrittling agents.

Category XIV—Toxicological Agents and Equipment and Radiological Equipment

* (a) Chemical agents, including but not limited to lung irritants, vesicants, lachrymators, tear gases (except tear gas formulations containing 1% or less CN or CS), sternutators and irritant smoke, and nerve gases and incapacitating agents. (See § 121.7.)

* (b) Biological agents.

* (c) Equipment for dissemination, detection, and identification of, and defense against, the articles in paragraphs (a) and (b) of this category.

* (d) Nuclear radiation detection and measuring devices, manufactured to military specification.

(e) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for the articles in paragraphs (c) and (d) of this category.

Category XV—[Reserved]

Category XVI—Nuclear Weapons Design and Test Equipment

* (a) Any article, material, equipment, or device which is specifically designed or modified for use in the design, development, or fabrication of nuclear weapons or nuclear explosive devices. (See § 123.21 and Department of Commerce Export Regulations, 15 CFR Part 378).

* (b) Any article, material, equipment, or device which is specifically designed or modified for use in the devising, carrying out, or evaluating of nuclear weapons tests or any other nuclear explosions, except such items as are in normal commercial use for other purposes.

Category XVII—Classified Articles Not Otherwise Enumerated

* All articles and technical data (as defined in § 120.21) relating thereto which are classified in the interests of national security and which are not otherwise enumerated in the U.S. Munitions List.

Category XVIII—Technical Data

Technical data (as defined in § 120.21) relating to the defense articles listed in the other categories of the United States Munitions List. (See § 125.4 for exemptions; see also § 123.21.)

Category XIX—Defense Services

Defense services (as defined in § 120.8) related to the defense articles listed in the other categories of the United States Munitions List.

Category XX—Submersible Vessels, Oceanographic and Associated Equipment

* (a) Submersible vessels, manned and unmanned, designed or modified for military purposes or having independent capability to maneuver vertically or horizontally at depths below 1,000 feet or powered by nuclear propulsion plants.

* (b) Submersible vessels, manned or unmanned, designed or modified in whole or in part from technology developed by or for the U.S. Armed Forces.

(c) Any of the articles in Categories VI, IX, XI, XIII, and elsewhere in this subchapter specifically designed or modified for use with submersible vessels, and oceanographic or associated equipment assigned a military designation.

(d) Equipment, components, parts, accessories, and attachments specifically designed or modified for any of the articles in paragraphs (a) and (b) of this category.

Category XXI—Miscellaneous Articles

Any article not specifically enumerated in the other categories of the U.S. Munitions List which has substantial military applicability and which has been specifically designed or modified for military purposes. The decision on whether any article may be included in this category shall be made by the Director of the Office of Munitions Control.

§ 121.2 Interpretations of the United States Munitions List.

The following interpretations (listed alphabetically) explain and amplify the terms used in § 121.1. These interpretations have the same force as if they were a part of the United States Munitions List category to which they refer.

§ 121.3 Aircraft and related articles.

In Category VIII, "aircraft" means aircraft designed, modified, or equipped for a military purpose, including aircraft described as "demilitarized." All aircraft bearing an original military designation are included in Category VIII. However, the following aircraft are not included so long as they have not been specifically equipped, re-equipped, or modified for military operations:

(a) Cargo aircraft bearing "C" designations and numbered C-45 through C-118 inclusive, C-121 through

TABLE 2-III-1 (Continued)

24

C-125 inclusive, and C-131, using reciprocating engines only.

(b) Trainer aircraft bearing "T" designations and using reciprocating engines or turboprop engines with less than 600 horsepower (s.h.p.).

(c) Utility aircraft bearing "U" designations and using reciprocating engines only.

(d) All liaison aircraft bearing an "L" designation.

(e) All observation aircraft bearing "O" designations and using reciprocating engines.

§ 121.4 Amphibious vehicles.

An "amphibious vehicle" in Category VII(f) is an automotive vehicle or chassis which embodies all-wheel drive, is equipped to meet special military requirements, and which has sealed electrical systems or adaptation features for deep water fording.

§ 121.5 Apparatus and devices under Category IV(c).

Category IV includes but is not limited to the following: Fuzes and components for the items listed in that category, bomb racks and shackles, bomb shackle release units, bomb ejectors, torpedo tubes, torpedo and guided missile boosters, guidance system equipment and parts, launching racks and projectors, pistols (exploders), igniters, fuze arming devices, intervalometers, guided missile launchers and specialized handling equipment, and hardened missile-launching facilities.

§ 121.6 Cartridges and shell casings.

Cartridge and shell casings are included in Category III unless, prior to export, they have been rendered useless beyond the possibility of restoration for use as a cartridge or shell casing by means of heating, flame treatment, mangling, crushing, cutting, or popping.

§ 121.7 Chemical agents.

A chemical agent in Category XIV(a) is a substance having military application which by its ordinary and direct chemical action produces a powerful physiological effect. The term "chemical agent" includes, but is not limited to, the following chemical compounds:

- (a) Lung irritants:
 - (1) Diphenylcyanoarsine (DC).
 - (2) Fluorine (but not fluorene).
 - (3) Trichloronitro methane (chloropicrin PS).
- (b) Vesicants:
 - (1) B-Chlorovinyldichloroarsine (Lewisite, L).
 - (2) Bis(dichloroethyl)sulphide (Mustard Gas, HD or H).
 - (3) Ethyldichloroarsine (ED).
 - (4) Methylchloroarsine (MD).
- (c) Lachrymators and tear gases:
 - (1) A-Bromobenzyl cyanide (BBC).
 - (2) Chloroacetophenone (CN).
 - (3) Dibromodimethyl ether.
 - (4) Dichlorodimethyl ether (ClCi).
 - (5) Ethyldibromoarsine.
 - (6) Phenylcarbylamine chloride.
 - (7) Tear gas solutions (CNB and CNS).
 - (8) Tear gas orthochlorobenzalmalononitrile (CS).
- (d) Sternutators and irritant smokes:
 - (1) Diphenylamine chloroarsine (Adamsite, DM).
 - (2) Diphenylchloroarsine (BA).
 - (3) Liquid pepper.
- (e) Nerve agents, gases and aerosols. These are toxic compounds which affect the nervous system, such as:
 - (1) Dimethylaminoethoxycyanophosphine oxide (GA).
 - (2) Methylisopropoxyfluorophosphine oxide (GB).
 - (3) Methylpinacolyloxyfluorophosphine oxide (GD).
- (f) Antiplant chemicals, such as: Butyl 2-chloro-4-fluorophenoxyacetate (LNF).

§ 121.8 End-items, components, accessories, attachments, parts, firmware, software and systems.

- (a) An "end-item" is an assembled article ready for its intended use. Only ammunition, fuel or another energy source is required to place it in an operating state.
- (b) A "component" is an item which is useful only when used in conjunction with an end-item. A major component includes any assembled element which forms a portion of an end-item without which the end-item is inoperable. (Example: airframes, tail sections, transmissions, tank treads, hulls, etc.) A minor component includes any assembled element of a major component.

TABLE 2-III-1 (Continued)

(c) "Accessories" and "attachments" are associated equipment for any component, end-item or system, and which are not necessary for their operation, but which enhance their usefulness or effectiveness. (Examples: riflescopes, special paints, etc.)

(d) A "part" is any single unassembled element of a major or a minor component, accessory, or attachment which is not normally subject to disassembly without the destruction or the impairment of design use. (Examples: rivets, wire, bolts, etc.)

(e) Firmware and any related unique support tools (such as computers, linkers, editors, test case generators, diagnostic checkers, library of functions and system test diagnostics) specifically designed for equipment or systems covered under any category of the United States Munitions List are considered as part of the end-item or component. "Firmware" includes but is not limited to circuits into which software has been programmed.

(f) "Software" includes but is not limited to the system functional design, logic flow, algorithms, application programs, operating systems and support software for design, implementation, test, operation, diagnosis and repair. A person who intends to export software only should, unless it is specifically enumerated in § 121.1, apply for a technical data license pursuant to Part 125 of this subchapter.

(g) A "system" is a combination of end-items, components, parts, accessories, attachments, firmware or software, specifically designed, modified or adapted to operate together to perform a specialized military function.

§ 121.9 Firearms.

(a) Category I includes revolvers, pistols, rifles, carbines, fully automatic rifles, submachine guns, machine pistols and machine guns to caliber .50, inclusive. It includes combat shotguns. It excludes other shotguns with barrels 18" or longer, BB, pellet, and muzzle loading (black powder) firearms.

(b) A "firearm" is a weapon not over .50 caliber which is designed to expel a projectile by the action of an explosive or which may be readily converted to do so.

(c) A "rifle" is a shoulder firearm which can discharge a bullet through a rifled barrel 16 inches or longer.

(d) A "carbine" is a lightweight shoulder firearm with a barrel under 16 inches in length.

(e) A "pistol" is a hand-operated firearm having a chamber integral with or permanently aligned with the bore.

(f) A "revolver" is a hand-operated firearm with a revolving cylinder containing chambers for individual cartridges.

(g) A "submachine gun", "machine pistol" or "machine gun" is a firearm originally designed to fire, or capable of being fired, fully automatically by a single pull of the trigger.

§ 121.10 Forgings, castings and machined bodies.

Articles on the United States Munitions List include articles in a partially completed state (such as forgings, castings, extrusions and machined bodies) which have reached a stage in manufacture where they are clearly identifiable as defense articles. If the end-item is an article on the United States Munitions List (including components, accessories, attachments and parts as defined in § 121.8), then the particular forging, casting, extrusion, machined body, etc., is considered a defense article subject to the controls of this subchapter, except for such items as are in normal commercial use.

§ 121.11 Military demolition blocks and blasting caps.

Military demolition blocks and blasting caps referred to in Category IV(a) do not include the following articles:

(a) Electric squibs.

(b) No. 6 and No. 8 blasting caps, including electric ones.

(c) Delay electric blasting caps (including No. 6 and No. 8 millisecond ones).

(d) Seismograph electric blasting caps (including SSS, Static-Master, Vibrocap SR, and SEISMO SR).

(e) Oil well perforating devices.

TABLE 2-III-1 (Continued)

§ 121.12 Military explosives.

Military explosives in Category V include, but are not limited to, the following:

- (a) Ammonium picrate.
- (b) Black powder made with potassium nitrate or sodium nitrate.
- (c) Cyclotetramethylenetetranitramine (HMX).
- (d) Cyclotrimethylenetrinitramine (RDX, Cyclonite, Hexogen or T4).
- (e) Dinitronaphthalene.
- (f) Ethylenedinitramine.
- (g) Hexanitrodiphenylamine.
- (h) Nitroglycerin.
- (i) Nitrostarch.
- (j) Pentaerythritol tetranitrate (penthrite, pentrite or PETN).
- (k) Tetranitronaphthalene.
- (l) Trinitroanisole.
- (m) Trinitronaphthalene.
- (n) Trinitrophenol (picric acid).
- (o) Trinitrophenylmethylnitramine (Tetryl).
- (p) Trinitrotoluene (TNT).
- (q) Trinitroxylyene.
- (r) Ammonium perchlorate nitrocellulose (military grade).
- (s) Aluminum powder (spherical) with an average particle size of 100 micrometer diameter or less and a purity of 97% or greater.
- (t) Any combinations of the above.

§ 121.13. Military fuel thickeners.

Military fuel thickeners in Category V include compounds (e.g., octal) or mixtures of such compounds (e.g., napalm) specifically formulated for the purpose of producing materials which, when added to petroleum products, provide a gel-type incendiary material for use in bombs, projectiles, flame throwers, or other defense articles.

§ 121.14 Propellants.

Propellants in Category V include, but are not limited to, the following:

- (a) Propellant powders, including smokeless shotgun powder.
- (b) Hydrazine (including Monomethyl hydrazine and symmetrical dimethyl hydrazine, but excluding hydrazine hydrate).
- (c) Unsymmetrical dimethyl hydrazine.

(d) Hydrogen peroxide of over 85 percent concentration.

- (e) Nitroguanidine or picrite.
- (f) Nitrocellulose with nitrogen content of over 12.20 percent.
- (g) Nitrogen tetroxide (nitrogen dioxide, dinitrogen tetroxide).
- (h) Other solid propellant compositions, including but not limited to, the following:

- (1) Single base (nitrocellulose).
- (2) Double base (nitrocellulose, nitroglycerin).
- (3) Triple base (nitrocellulose, nitroglycerin, nitroguanidine).
- (4) Composite of nitroglycerin, ammonium perchlorate, potassium perchlorate, nitronium perchlorate, guanidine (guanidinium) perchlorate, nitrogen tetroxide, ammonium nitrite or nitrocellulose with plastics, metal fuels, or rubbers added; and compounds composed only of fluorine and halogens, oxygen, or nitrogen.
- (5) Special purpose high energy solid military fuels with a chemical base.

(i) Other liquid propellant compositions, including but not limited to, the following:

- (1) Monopropellants (hydrazine, hydrazine nitrate, and water).
- (2) Bipropellants (hydrazine, fuming nitric acid HNO₃).
- (3) Special purpose chemical base high energy liquid military fuels and oxidizers.

§ 121.15 Vessels of war and special naval equipment.

Vessels of war in Category VI include, but are not limited, to, the following:

- (a) Combatant vessels:
 - (1) Warships (including nuclear-powered versions):
 - (i) Aircraft carriers (CV, CVN)
 - (ii) Battleships (BB)
 - (iii) Cruisers (CA, CG, CGN)
 - (iv) Destroyers (DD, DDG)
 - (v) Frigates (FF, FFG)
 - (iv) Submarines (SS, SSN, SSBN, SSG, SSAG)
 - (2) Other Combatant Classifications:
 - (i) Patrol Combatants (PG, PHM)
 - (ii) Amphibious Helicopter/Landing Craft Carriers (LHA, LPD, LPH)
 - (iii) Amphibious Landing Craft Carriers (LKA, LPA, LSD, LST)

TABLE 2-III-1 (Continued)

- (iv) Amphibious Command Ships (LCC)
- (v) Mine Warfare Ships (MSO)
- (b) Auxiliaries:
 - (1) Mobile Logistics Support:
 - (i) Under way Replenishment (AD, AF, AFS, AO, AOE, AOR)
 - (ii) Material Support (AD, AR, AS)
 - (2) Support Ships:
 - (i) Fleet Support Ships (ARS, SSR, ATA, ATF, ATS)
 - (ii) Other Auxiliaries (AG, AGDS, AGF, AGM, AGOR, AGOS, AGS, AH, AK, AKR, AOG, AOT, AP, APB, ARC, ARL, AVM, AVT)
 - (c) Combatant Craft:
 - (1) Patrol Craft:
 - (i) Coastal Patrol Combatants (PB, PCF, PCH, PTF)
 - (ii) River, Roadstead Craft (ATC, PBR)
 - (2) Amphibious Warfare Craft:
 - (i) Landing Craft (AALC, LCAC, LCM, LCPL, LCPR, LCU, LWT, SLWT)
 - (ii) Special Warfare Craft (LSSC, MSSC, SDV, SWCL, SWCM)
 - (3) Mine Warfare Craft:
 - (i) Mine Countermeasures Craft (MSB, MSD, MSI, MSM, MSR)
 - (d) Support and Service Craft:
 - (1) Tugs (YTB, YTL, YTM)
 - (2) Tankers (YO, YOG, YW)
 - (3) Lighters (YC, YCF, YCV, YF, YFN, YFNB, YFNX, YFR, YFRN, YFU, YG, YGN, YOGN, YON, YOS, YSR, YWN)
 - (4) Floating Dry Docks (AFDB, AFDL, AFDM, ARD, ARDM, YFD)
 - (5) Miscellaneous (APL, DSRV, DSV, IX, NR, YAG, YD, YDT, YFB, YFND, YEP, YFRT, YHLC, YM, YNG, YP, YPD, YR, YRB, YRBN, YRDH, YRDM, YRR, YRST, YSD)
 - (e) Coast Guard Patrol and Service Vessels and Craft:
 - (1) Coast Guard Cutters (CGC, WHEC, WMEC)
 - (2) Patrol Craft (WPB)
 - (3) Icebreakers (WAGB)
 - (4) Oceanography Vessels (WAGO)
 - (5) Special Vessels (WIX)
 - (6) Buoy Tenders (WLB, WLM, WLI, WLR, WLIC)
 - (7) Tugs (WYTM, WYTL)
 - (8) Light Ships (WLV)

TABLE 2-III-1 (Continued)

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SECTION IV - SPECIAL PROVISIONS

A. CONSTRAINTS ON ELIGIBILITY.

1. Terrorism. Unless the President finds that the national security requires otherwise, he shall terminate all assistance, sales, credits and guaranties to any government which aids or abets (by granting sanctuary from prosecution) any individual or group which has committed an act of international terrorism. [Sec. 620A, FAA, and Sec. 3(f), AECA]

2. Nationalization of U.S. Property. Assistance will be suspended for countries which have nationalized, expropriated, or seized U.S. property, or have imposed discriminatory taxes. Assistance is also to be suspended if a country has initiated steps to repudiate or nullify existing agreements with U.S. citizens or entitles without taking proper compensatory action.

3. Transfer. The purchaser or grant recipient must agree not to transfer title or possession of any defense article or related training or other defense services to any other country without prior U.S. consent; the President must report to the Congress before such consent is given. [Sec. 3(a)(2), AECA, and Sec. 505(a), FAA].

4. Proper Use of Materiel. Sales and assistance may be made to countries only for purposes of internal security, legitimate self-defense, civic action, or regional or collective arrangements consistent with the United Nations (U.N.) Charter, or requested by the U.N. (Sec. 4, AECA, and Sec. 502, FAA).

5. Communist-Controlled Countries. Assistance may be provided to Communist countries only if the President exercises his waiver authority under section 614(a), FAA and concomitantly finds and reports to Congress that such assistance is vital to the security of the United States and promotes the independence of the recipient country from international communism. [Sec. 620(f), FAA].

6. Narcotics. Economic and military assistance and sales to a country will be suspended if the President determines the government of that country has failed to take adequate steps to prevent either the sale of illegal drugs or other controlled substances to U.S. government personnel or their dependents or the smuggling of such narcotics into the United States. [Sec. 481(a), FAA].

7. Violations. Any government using American equipment and/or services in substantial violation of an applicable agreement entered into under U.S. law with that government shall be made ineligible for future U.S. assistance until such time when the President determines that such violations have ceased and has been assured that they will not recur. [Sec. 505(d), FAA, and Sec. 3(c), AECA].

8. Police, Counterterrorism, and Military Intelligence Programs.

the security assistance organizations (SAOs) and contribute to the budget development process.

k. Security Assistance Organizations (SAO).

**

(1) The generic term SAO encompasses all DOD elements, regardless of actual title, located in a foreign country with assigned responsibilities for carrying out security assistance management functions under Section 515 of the Foreign Assistance Act (FAA). This section of the law authorizes members of the U.S. Armed Forces to be assigned in foreign countries to manage security assistance programs administered by the Department of Defense by performing one or more of the following functions:

- (a) Equipment and services case management;
- (b) Training management;
- (c) Program monitoring;
- (d) Evaluation and planning of the host government's military capabilities and requirements;
- (e) Administrative support;
- (f) Promoting rationalization, standardization, interoperability (RSI), and other defense cooperation measures among members of the North Atlantic Treaty Organization (NATO) and with the Armed Forces of Japan, Australia, and New Zealand; and
- (g) Liaison functions exclusive of advisory and training assistance.

(2) The purpose, under U.S. law, for establishing and assigning personnel to an SAO is for in-country management of international security assistance programs conducted under Chapter 2 and Chapter 5 of the FAA and under the Arms Export Control Act (AECA). The programs include grant military assistance (including those grant programs provided under the authority of Peacekeeping Operations, Section 551, Chapter 6, FAA), International Military Education and Training, and Foreign Military Sales. The SAO is the in-country mechanism, as authorized under DOD Directive 5132.3, under the direction and supervision of the Chief of the U.S. Diplomatic Mission, for ensuring that DOD security assistance management responsibilities, prescribed by U.S. law and Executive direction, are properly executed.

(3) The functions which should normally be performed by security assistance personnel assigned to the SAO under the authority of Section 515 of the FAA are as follows:

(a) Program Management and Oversight. These functions are described as providing the in-country management oversight of all security assistance activities; to ensure they are conducted in a proper and legal manner and to provide the interface for the exchange of information and advice between the host nation's military establishment, the Chief of the U.S. Diplomatic Mission, and DOD components responsible for the security assistance

programs. This includes promotion of rationalization, standardization, interoperability, and other defense cooperation measures among members of the North Atlantic Treaty organization and with the Armed Forces of Japan, Australia, and New Zealand in connection with security assistance programs.

(b) Advisory and Training. Personnel assigned to SAOs may provide advisory and training assistance to the host country military establishment; however, this assistance must be kept to an absolute minimum and cannot impact on the ability of the SAO to fully perform its security assistance management responsibilities.

(c) The Chief of the SAO, when designated the United States Defense Representative (USDR), will comply with DOD Instruction 5105.47, "U.S. Defense Representatives in Foreign Countries," on all matters relating to USDR. In general terms, the Chief will provide oversight and in-country supervision of personnel assigned to non-security assistance functions in addition to his security assistance functions and will serve as a channel of communications between non-security assistance personnel and the appropriate interested agencies, the Unified Command, JCS, and DSAA, as well as facilitating interface with the host government and the Chief of the U.S. Diplomatic Mission.

(4) Those functions which are more properly performed by other than security assistance personnel assigned and funded under the authority of Section 515 of the FAA are broken into the following categories:

(a) Advisory and Training. If direct advisory and training assistance is required for a specific purpose (particularly such assistance related directly to an FMS case), it must be provided by Technical Assistance Field Teams (TAFTs), Technical Assistance Teams (TATs), Mobile Training Teams (MTTs), or similar teams authorized by the FAA or the AECA and paid for by the host country through a case.

(b) Collateral Duties. Assignment of collateral duties must have the approval of the Chief of Mission. These collateral duties most often relate to functions performed on behalf of U.S. forces under the direction of the CINC. If these duties are to be conducted on a permanent basis, a review and classification prior to assignment to determine appropriate funding category should be conducted and provided to the Unified Command and the Director, DSAA. These duties may be performed by SAO personnel if they do not detract from the SAO's ability to efficiently perform the security assistance mission.

(5) Following are the general criteria for reviewing, requesting, and approving SAO manning authorizations:

(a) The functions of the SAO as a whole and of each of its members must be related primarily to security assistance management. SAO manning must be justified based on the security assistance duties to be performed. If it is a security assistance management requirement, manning should be requested and funded through security assistance channels. If the requirement involves training and advising, it should be funded by the country. If the requirement is non-security assistance, manning requests should

be justified and processed with the Unified Command Special Activities JMP and funded by other appropriation (e.g., O&M, MPA, or R&D).

(b) When a major U.S. policy initiative with a country results in the need for personnel to support exercises, prepositioning, ship visits, etc., it is fairly clear that these personnel should be provided under other appropriations. When these functions gradually accrue in the SAO, it is more difficult to determine the threshold at which personnel should be shifted to other appropriations or new personnel added. As a general rule, an individual should be on the security assistance JMP if he spends 50 percent or more of his time performing security assistance functions. Conversely, personnel spending 50 percent or more of their time performing non-security assistance functions should be carried as, or transferred to, an alternatively funded position.

(c) Problems can arise when a number of individuals in an SAO each accrue non-security assistance functions while performing mostly security assistance functions. During manpower reviews and upon the occasion of a request for increased manning, these functions should be sorted out, and if one man-year or more of the SAO's effort is devoted to O&M, MPA, R&D, etc., functions, those functions should be combined into a single position, if possible, and funded accordingly.

(d) Many security assistance functions can be satisfied either by personnel who are permanently assigned to an SAO or by temporary personnel paid by the country on a case, i.e., TAFTs, TATs, MIT, etc. In this case, the degree of involvement, the extent of dedicated effort required to perform the function will be the determinant. In general, temporary personnel from outside the SAO should be used to accomplish security assistance functions if those functions would detract from permanently assigned security assistance personnel performing their primary management and oversight duties or if it involves dedicated training and advising functions performed in the field or at least outside the local Ministry of Defense central office. Permanently assigned security assistance personnel should not be dedicated to a single project when its primary purpose is to assist the host government in a function in which the host government should be ultimately self-sufficient. Dedicated planning, training, advising and management of logistic centers are a few examples of security assistance functions that should be paid for by the host government.

(e) The determination of which positions, if any, will be added or changed to another funding source will be based on Unified Command, JCS, and DSAA assessment of the extent of the degradation of the security assistance mission performance by non-security assistance duties. Any revised manpower costs as a result of such changes will be processed under the regular procedures of the JCS and applicable directives and will be coordinated with appropriate DOD offices.

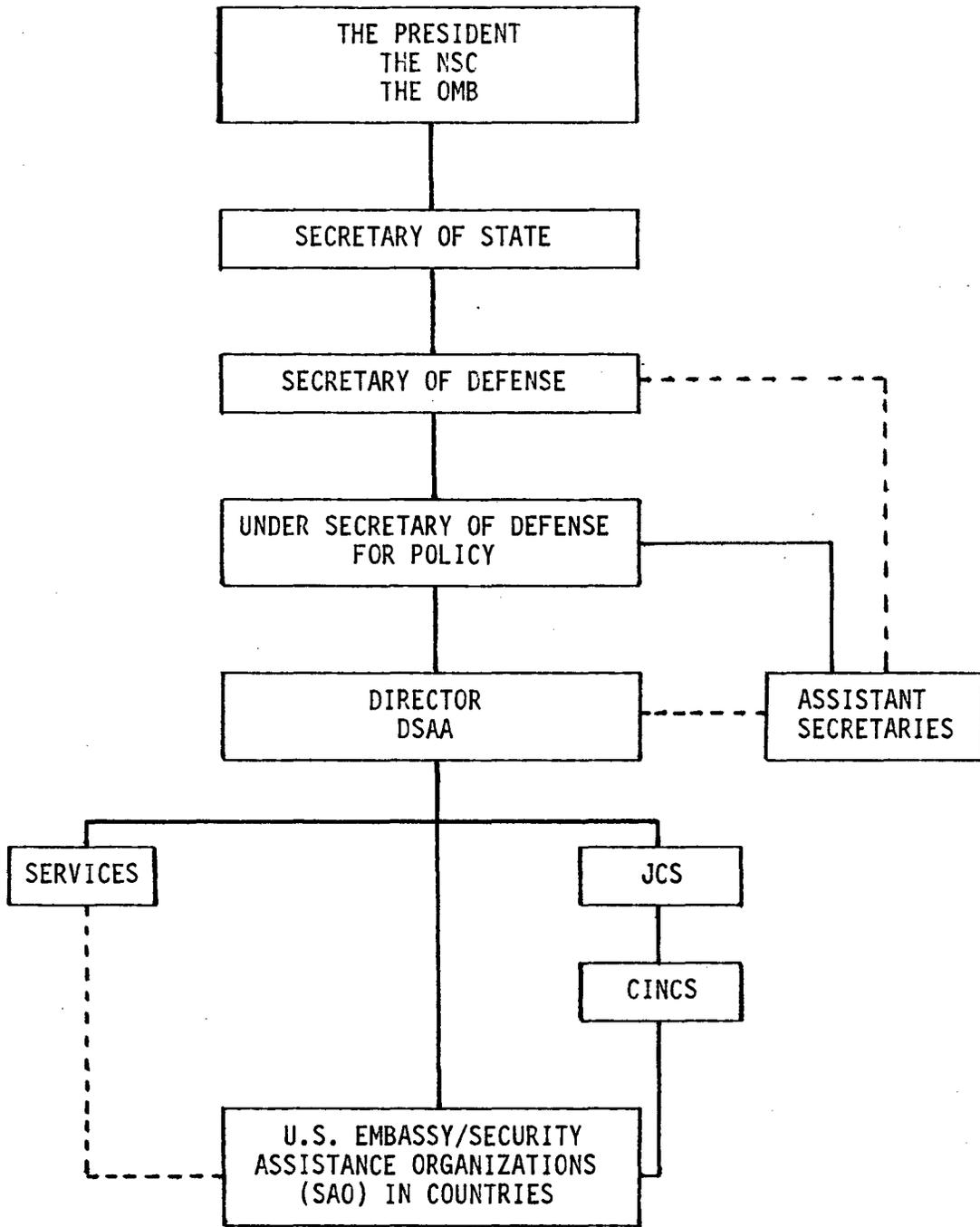
(f) The SAO can provide normal administrative support for personnel assigned in-country to perform non-security assistance functions so long as such support does not reach a level that would require additional administrative personnel. If the support for non-security assistance personnel requires additional administrative personnel, O&M, MPA, R&D, etc., funded billets should be provided.

(g) Positions that are approved by authority other than an SAO JMP to perform non-security assistance functions under the oversight and supervision of the Chief of the SAO (or in his capacity as the U.S. Defense Representative) should be clearly identified as such on the SAO JMP but not as an SAO personnel authorization.

(6) A listing of appropriate SAO program management and oversight functions follows at Table 3-I-2.

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FIGURE 3-I-1
DECISION CHANNELS FOR SECURITY ASSISTANCE



LEGEND: — = Direction
 - - - = Coordination

FIGURE 3-I-1. Decision Channels for Security Assistance.

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TABLE 3-I-2

SAO PROGRAM MANAGEMENT AND OVERSIGHT FUNCTIONS

**

Maintain liaison between DOD components, the appropriate elements of the U.S. Diplomatic Mission, and the foreign defense organization in order to:

1. Enable the foreign government to acquire information needed to make decisions concerning the acquisition, use, and required training involved in obtaining defense articles and services from the United States through security assistance programs (keeping in mind that the host countries are to be encouraged to establish and depend, to the extent possible, upon their own procurement missions in the United States).
2. Obtain information needed to evaluate host military capability to employ and maintain equipment being requested and to assist, as required, in the processing of the foreign government's security assistance proposals.
3. Enable the United States to request the foreign government to take action in order to facilitate the timely, efficient, and responsible implementation of approved security assistance programs.
4. Assist U.S. Military Departments and their subordinate elements in arranging for the receipt, transfer, and acceptance of security assistance materiel, training, and other services for recipient countries.
5. Monitor the progress of DOD security assistance programs and transactions, initiating appropriate remedial action or advising appropriate DOD components on problems and issues encountered.
6. Perform required in-country programming, planning, management, and implementation functions relating to FMS and International Military Education and Training programs.
7. Keep host country military officials informed on appropriate U.S. security assistance laws, policies, and procedures.
8. Monitor FMS billing statements and payments and keep the appropriate host military informed, as necessary, on financial requirements and procedures.
9. Engage the host military, to the extent practicable, in cooperative planning for total military acquisitions in an orderly fashion over a 3- to 5-year planning period.
10. Enable the United States to acquire information concerning potential future defense acquisitions by the foreign government and anticipate demands on U.S. resources.

TABLE 3-I-1. SAO Program Management and Oversight Functions.

11. Observe and report on the utilization by the host country of defense articles, defense services, and training of U.S. origin. This function should be carried out as a secondary duty. How and to what extent such observation and reporting should and can be done will vary considerably from country to country, and thus no standard procedures are prescribed. The process for accumulation of information should use all available resources (e.g., country reporting or documentation, TDY personnel assigned in-country performing other duties, other elements of the U.S. Diplomatic Mission, and spot checks during the normal course of SAO duties and travel). Reporting should be done on an exception basis through established security assistance channels. Records, as accumulated, should be kept on file at the SAO.
12. Assist the host government in the identification, administration, and proper disposition of security assistance materiel that is in excess of current needs.
13. Provide input to the Chief of the U.S. Diplomatic Mission for preparation of the Annual Integrated Assessment of Security Assistance and the Consolidated Data Report.
14. Coordinate and supervise the activities of all personnel, other than those assigned to the SAO under the authority of Section 515 of the FAA, who are in-country under DOD sponsorship (excluding DIA) or other security assistance authority.
15. When authorized, coordinate and facilitate the interface between U.S. defense industry representatives and the host nation defense establishment, and provide oversight for in-country RSI and DIC agreements and initiatives.
16. Manage the C-12 aircraft activities when assigned to the SAO.
17. Perform SAO administrative functions to include preparing and administering the SAO budget and continuously reviewing SAO organizational and manning requirements consistent with U.S. law and DOD manning criteria.

TABLE 3-I-1 (Continued)

SECTION II - RELATIONSHIPS

A. CHANNELS OF COMMUNICATIONS.

1. Personnel assigned to SAOs serve under the direction and supervision of the Chief of the United States Diplomatic Mission to the extent provided by law and in accordance with the President's letter to Chiefs of Missions (COM). Unified Command security assistance responsibilities include the provision of necessary technical assistance and administrative support. The chief, SAO, shall ensure that all activities and those of his organization are fully coordinated with the COM.

2. The primary channel of communication is direct between the in-country SAO, the DSAA, and the MILDEP security assistance elements as appropriate. Information copies of communications of record are provided to the Unified Command for evaluation and comment as specified by the Unified Commander.

B. DIRECTIVES AND RECORD COMMUNICATIONS. Security assistance directives and record communications to the Unified Commands, SAOs, and MILDEPs that have military operational or policy implications require coordination with the OJCS. All JCS security assistance directives and record communications to the Unified Commands (e.g., new fighter aircraft sales policy recommendations), SAOs, and MILDEPs require coordination with the Director, DSAA. If appropriate, the Director, DSAA will coordinate further within the Office of the Secretary of Defense and the Executive Branch.

CHAPTER FIVE

TECHNOLOGY TRANSFER AND CONTROLS

SECTION I - TRANSFER OF TECHNOLOGY

A. PURPOSE. The purpose of this section is to provide specific instructions and guidance for responding to requests for transfer of technology to an approved foreign country or international organization.

B. DEFINITIONS.

1. Technology. The technical information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including technical data and computer software, but not the goods themselves.

2. Critical Technology. Technologies which consist of (a) arrays of design and manufacturing know-how (including technical data); (b) keystone manufacturing, inspection and test equipment; (c) keystone materials; and (d) goods accompanied by sophisticated operation, application, or maintenance know-how that could make a significant contribution to the military potential of any country or combination of countries that may prove detrimental to the security of the United States (also referred to as Militarily Critical Technology).

3. Goods. Any articles, materials, supplies, or manufactured products, including inspection and test equipment and excluding technical data.

4. Items of Intrinsic Military Utility. End items other than those identified in the Military Critical Technologies List (MCTL) whose transfer to potential adversaries must be controlled for the following reasons:

a. The end product in question could significantly enhance the recipient's military or war-making capability either by virtue of its technology content or because of the quantity to be sold, or

b. The product could be so analyzed as to reveal U.S. system characteristics and thereby contribute to the development of countermeasures to equivalent U.S. equipment.

5. Keystone Equipment. Includes manufacturing, inspection, or test equipment and is the required equipment for the effective application of technical information and know-how. Keystone materials have the same significance of application.

6. Know-How. Includes the know-how of both design and manufacturing and is the know-how and related technical information that is needed to achieve a significant development, production or utilization purpose. This know-how includes services, processes, procedures, specifications, design data and criteria, and testing techniques.

7. Munitions. Includes:
- a. Arms, ammunition and implements of war.
 - b. Any property, installation, commodity, material, equipment, supply, or goods used for the purposes of making military sales.
 - c. Any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation or use of any article listed in this paragraph.
 - d. Technical data related to State Department Munitions List items.

8. Services. Includes any service, test, inspection, repair, training, publication, technical or other assistance, or defense information used for the purpose of furnishing military assistance, but does not include military education and training activities.

9. Strategic Trade Cases. These are cases involving technology and goods that are dual-use in nature; i.e., which could be used either for legitimate civilian purposes, or which could be applied or diverted to aid in increasing a nation's military potential.

10. Technical Data:
- a. Classified information relating to defense articles and defense services;
 - b. Information covered by an invention secrecy order;
 - c. Information which is directly related to the design, engineering, development, production, processing, manufacture, use, operation, overhaul, repair, maintenance, modification, or reconstruction of defense articles. This includes, for example, information in the form of blueprints, drawings, photographs, plans, instructions, computer software and documentation. This also includes information which advances the state of the art of articles on the Munitions List. This does not include information concerning general scientific, mathematical or engineering principles.

11. Technical Assistance Agreement. An agreement for the performance of defense services or the disclosure of technical data, as opposed to an agreement granting a right or license to manufacture defense articles.

12. Significant Military Equipment (SME). Defense articles on the Munitions List that are marked with an asterisk for which special export controls are warranted because of their capacity for substantial military utility or capability.

13. Public Domain. Public domain means information which is published and which is generally accessible or available to the public:
- a. through sales at newsstands and/or bookstores;
 - b. through subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information;
 - c. through second class mailing privileges granted by the U.S. government; or,
 - d. at libraries open to the public.

C. POLICY.

1. DoDD 2040.2, "International Transfers of Technology, Goods, Services and Munitions," establishes the following policy:

a. Treat defense related technology as a valuable, limited national security resource, to be hushanded and invested prudently in pursuit of national security objectives.

b. Restrict the export of technology, goods, services, and munitions which could make a contribution to the military potential of any other country or combination of countries which could prove detrimental to our national security interests.

c. Manage transfers of technology, goods, services, and munitions consistent with United States foreign policy and national security objectives.

d. Limit the transfer to any country or international organization of advanced design and manufacturing know-how regarding technology, goods, services and munitions subject to control under the AECA to those transfers which support specific national security objectives.

e. Support the National Disclosure Policy objectives in those cases where a proposed transfer involves the release of classified military information.

2. Implementation. These policies will be implemented through the strategic trade licensing, munitions licensing and the foreign military sales processes.

3. Procedures. For munitions licensing and foreign military sales cases, applicable MILDEPs will:

a. Give favorable consideration to transfers of services and munitions to allied and friendly countries which are intended to achieve specific U.S. national defense objectives.

b. Ensure that transfers of munitions and services involving technology receive special scrutiny, taking into account the importance of arms cooperation with NATO and other close friends and allies, potential third party transfers, and the protection of military capabilities and technology.

4. Release of Technical Data. [See Chapter Fourteen, Section II.]

<p>SECTION II - DISCLOSURE OF CLASSIFIED MILITARY INFORMATION TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS</p>
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A. PURPOSE. The purpose of this section is to describe the policy and procedures to be followed in the authorization for the disclosure of classified military information to foreign governments and international organizations in support of security assistance programs.

B. POLICY. DoD Directive 5230.11 prescribes that:

1. All classified military information will be treated as a national security asset which must be conserved and protected and which may be shared with foreign entities only when there is a clearly defined advantage.

2. Disclosures and denials of such information to foreign governments and international organizations will be made only when authorized by those officials specifically granted disclosure or denial authority in writing, after determining that all of the requirements of the National Policy and Procedures for the Disclosure of Classified Military Information to Foreign Governments and International Organizations (NDP-1) have been met.

3. Decisions to disclose or deny classified military information will be based on a common standard (DoD Instruction 5230.17) within the DoD. Such decisions will be expedited.

4. To ensure consistency of disclosure decisions, the DoD component having responsibility for taking the action outlined in paragraph 3., above, shall notify other DoD components of significant negotiations and disclosure decisions concerning subject matter in which they have a direct or related interest.

C. DISCLOSURE AUTHORITIES. Under the terms of NDP-1, the National Disclosure Policy Committee (NDPC) has been designated as the central authority for the formulation, promulgation, administration, and monitoring of the national disclosure policy. The Secretary of Defense or the Deputy Secretary of Defense, personally, and the NDPC are authorized to grant exceptions to established national disclosure policies. Pursuant to DoDD 5230.11, the Secretary of Defense has delegated disclosure authority to the Secretaries of the MILDEPs and other DoD officials whose decisions must be in compliance with NDP-1.

D. RESPONSIBILITIES. The Deputy Under Secretary of Defense (Policy) has been designated by the Secretary of Defense to assume DoD responsibility for the oversight and effective implementation of the national disclosure policy and operation of the NDPC under the provisions of NDP-1.

E. DISCLOSURE DECISIONS.

**

1. All requests for the disclosure of classified information pertaining to or contained in defense articles and defense services will be evaluated on a case-by-case basis in accordance with DOD Directive 5230.11 and appropriate U.S. military department regulations. A disclosure determination will be provided to the appropriate implementing agency for guidance in implementing approved transfers of classified information.

2. To record disclosure decisions, the Foreign Disclosure and Technical Information System (FORDTIS) has been established as a central repository for such decisions. Four types of information are recorded in FORDTIS:

a. All decisions made by disclosure officials regarding release of classified documentary information or materiel. These are normally made within the guidelines of the national disclosure policy.

- b. All decisions on requests for exceptions to policy.
- c. All disclosures involving top secret information.
- d. All DoD decisions on munitions license applications.

3. This information is used on a routine basis to provide a background of previous, similar cases by weapon or country. It is also used to make damage assessments if a sudden change occurs in a foreign government which brings into question its capability to protect U.S. classified information.

4. FORDTIS provides an interactive, real-time terminal at each disclosure office. This system includes decisions on foreign military sales, munitions cases and commerce licenses.

5. All MILDEPs will follow the instructions in DoDI 5230.18 in reporting disclosure decisions.

F. FALSE IMPRESSIONS. It is the policy of the U.S. to avoid creating false impressions of its readiness to make available classified military materiel, technology, or information. Lack of strict adherence to this policy may create problems. Much military hardware is unclassified. However, this same unclassified hardware, if sold, may require the release of sensitive classified information for its operation or maintenance, or for the foreign recipient to receive training on it. Therefore, the disclosure decision must be made based on the classification level of all information which may be required for release if the system were to be acquired. If the proposed foreign recipient is not authorized to receive the highest level of classified information required, no information, not even unclassified may be released or discussed until the required authority is obtained. This means that there can be no weapon specific information, and no release of price or availability data, until authority is obtained to release the highest level of classified information ultimately required for disclosure.

G. CONTROL OF FOREIGN REPRESENTATIVES. DoD Instruction 5230.20, entitled "Policy and Procedures for the Control of Foreign Representatives," sets forth standard procedures concerning requests for visits, accreditations and attendance at classified meetings by foreign representatives. Accreditation, as used in DoDI 5230.20, pertains only to foreign representatives, military or civilian, to include U.S. citizens, who are officially employed by a particular foreign government. As implemented by the MILDEPs and the Defense Intelligence Agency (DIA), "accreditations" are extended only to the foreign government-sponsored officials who have a frequent need for contacts with DoD departments and agencies, such as liaison officers and procurement officials. Normally, those individuals are assigned to the foreign embassy or mission in the United States. Those foreign officials who do not have a frequent need, such as foreign government officials stationed outside the United States and foreign industry representatives, must apply for either a one-time visit authorization or an extended visit authorization.

H. INDUSTRIAL SECURITY. The security of the U.S depends in part upon the proper safeguarding of classified information released to industry. The objective of the Industrial Security Program is to assure the safeguarding of

classified information in the hand of U.S. industrial organizations, educational institutions, and all organizations and facilities used by prime and subcontractors. The Industrial Security Regulation (ISR), DoD 5220.22-R, sets forth policies, practices, and procedures of the Industrial Security Program used internally by the DoD to insure maximum uniformity and effectiveness in its application throughout industry. The Industrial Security Manual (ISM), DoD 5220.22-M, a companion document to the ISR, is a DoD publication which contains detailed security requirements to be followed by U.S. contractors for safeguarding classified information. The ISM is made applicable to industry by management's execution of the Department of Defense Security Agreement (DD Form 441), and by direct reference in the "Military Security Requirements" clause in the contract.

I. DEFENSE INDUSTRIAL SECURITY CLEARANCE OFFICE (DISCO). The Defense Industrial Security Program (DISP) establishes procedures for safeguarding classified defense information which is entrusted to contractors. Included in these procedures is a system for determining the eligibility of industrial personnel for access to classified defense information. This function is performed centrally by DISCO.

J. USER AGENCY CONTRACTS REQUIRING OVERSEAS DELIVERIES. When a U.S. Government agency (User Agency) places a contract with a cleared U.S. contractor which calls for delivery of classified information or materiel to a foreign government (principally FMS contracts), the responsibility for delivery rests with the User Agency.

K. TRANSMISSION OF CLASSIFIED MATERIEL. Transmission of classified materiel to foreign addressees located in the U.S. or outside the U.S. must be on a government-to-government basis and in accordance with Chapter VIII of DoD Regulation 5200.1-R.

L. U.S. CONTRACT TO FOREIGN FIRMS. A user agency may initiate action to award or permit one of its contractors to award a classified contract to a foreign contractor provided the classified information involved has been approved for release (or is determined to be releasable) to the government of that country under the National Disclosure Policy. In addition, the foreign government concerned must have entered into a security agreement or other security arrangement with the U.S. under which it agrees to protect U.S. classified information released to it. User agency responsibilities are contained in DoD Regulation 5220.22-R.

SECTION III - SECURITY CLASSIFICATION AND RELEASE OF INFORMATION
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A. PURPOSE. The only basis for classifying selected security assistance information is to protect the national security, that is, the national defense and foreign relations of the U.S. This section contains specific criteria, based on Executive Order 12356 (National Security Information), and that provided by the Department of State, for classification and release of security assistance information for the purpose of protecting the conduct of U.S. foreign policy. Security assistance information will be classified for national security purposes in accordance with the criteria of this section and

of DoD 5200.1-R, Information Security Program Regulation, and corresponding MILDEP regulations. The Department of State, the Assistant Secretary of Defense for International Security Affairs (ASD/ISA), the Assistant Secretary of Defense for International Security Policy (ASD/ISP), and the Director, Defense Security Assistance Agency (DSAA) may issue special instructions which modify or supplement this section in particular situations.

B. SECURITY CLASSIFICATION GUIDELINES.

1. General Guidelines.

a. Basis for Classification. All security assistance information not specifically designated as classified under paragraph 2., below is unclassified unless the Department of State, ASD/ISA, ASD/ISP, or the Director, DSAA directs classification in a particular situation, or unless the national security classification criteria of DoD 5200.1-R and corresponding MILDEP regulations warrant classification for national defense purposes.

b. Levels of Classification. All security assistance information designated as classified under paragraph 2., below is CONFIDENTIAL unless the Department of State, ASD/ISA, ASD/ISP, or the Director, DSAA directs a higher level of classification in a particular instance, or unless the national security classification criteria of DoD 5200.1-R and corresponding MILDEP regulations warrant a higher level of classification for national defense purposes.

c. Declassification. All classified security assistance information will be declassified in accordance with the guidelines in paragraph 2., below unless a longer period of classification is either directed in a particular situation by the Department of State, ASD/ISA, ASD/ISP, or the Director, DSAA or is warranted by the national security classification criteria of DoD 5200.1-R and corresponding MILDEP regulations for national defense purposes.

2. Specific Guidelines.

a. Military Assistance Program (MAP) and International Military Education and Training Program (IMETP). The dollar levels and content of a program for the budget or a subsequent fiscal year are considered "FOR OFFICIAL USE ONLY" (FOUO) for each individual country and international organization. The budget year program no longer need be marked FOUO after delivery of the Congressional Presentation Document to the Congress.

b. Foreign Military Sales (FMS).

(1) The primary factors considered by the Department of State, ASD/ISA, ASD/ISP, and the Director, DSAA in requiring classification of FMS information under paragraphs (2) and (3), below are: the extent to which disclosure of the information would reveal the purchaser's order of battle, taking into consideration the nature and quantity of defense articles being sold and the degree to which the purchaser relies on the United States as a source of military supply; and, the extent to which disclosure of the information could be expected to stimulate demands by third countries upon the United States or upon other supplying nations for defense articles, thus encouraging global or regional instability or fostering an arms race. Classification of

FMS information under paragraphs (2) and (3), below in the interest of U.S. foreign relations, is to prevent unauthorized disclosure of the fact that a specific defense article (e.g., F-16 aircraft) is or may be sold to a particular foreign government.

(2) Planning and Review (P&R) Data; Price and Availability (P&A) Data; and Letters of Request (LOR). P&R and P&A data are classified where these data (1) identify a requesting foreign government and specific items of major defense equipment (MDE) (e.g., M-60 tanks) in which that government has expressed an interest, and (2) qualify for reporting under the AECA, Section 36(b), or (3) classification is authorized under paragraph B.1.a., above. Unless otherwise authorized by paragraph B.1.a., above, such classified data may be declassified when Congressional notification is completed or a subsequent Letter of Offer for these items is unclassified. In accordance with paragraph 11-100 of DoD 5200.1-R, DoD elements will respect the security classification of documents originated by foreign governments, including LORs. LOAs, however, will not be classified unless authorized under paragraph B.1.a., above or paragraph (3), below.

(3) Letters of Offer. Letters of Offer (LOAs) will be unclassified unless:

(a) Classification is directed by any of the organizational elements listed in paragraph B.1.a., above, or

(b) The foreign purchaser requests classification of the sale and any of the organizational elements in paragraph B.1.a., above approves the classification.

(4) Declassification. Classified information in an LOA and related documents will be declassified when the originating agency so determines. The LOA and related documents will be marked:

"CLASSIFIED BY SAMM (DOD 5105.38-M),
DECLASSIFY ON OADR"

[NOTE: Originating Agency's Determination Required.]

(5) FMS implementation records, such as case directives, production or repair schedules, international logistics supply delivery plans, requisitions, shipping documents, bills of lading, work orders, contract documents, billing and accounting documents, work sheets, and related feeder information are unclassified.

(6) Projections of dollar levels or content of FMS agreements, and of dollar levels of FMS credit extensions for the budget year or a subsequent fiscal year are classified for each individual country and international organization. Such projections will be declassified upon delivery to the Congress of the Congressional Presentation Document for the fiscal year to which the projections apply. Such projections will be marked:

"CLASSIFIED BY SAMM (DOD 5105.38-M), DECLASSIFY ON DELIVERY TO
CONGRESS OF CONGRESSIONAL PRESENTATION DOCUMENT
FOR FISCAL YEAR (insert fiscal year)."

(7) Reports from the RCS: DSAA (AR) 1200 FMS reporting system which contain classified information will be marked:

"CLASSIFIED BY SAMM (DOD 5105.38-M),
DECLASSIFY UPON NOTIFICATION BY THE ORIGINATOR."

c. Coproduction. For all countries and international organizations, information which indicates by specific type any item of Major Defense Equipment (MDE) (e.g., F-16 aircraft) is classified in coproduction proposals only. Such information will be declassified upon termination of negotiations. Such information will be marked:

"CLASSIFIED BY SAMM (DOD 5105.38-M), DECLASSIFY ON
TERMINATION OF NEGOTIATIONS."

d. Nonrecurring Cost Recoupment Charges. Worksheets showing calculations which contain projections of dollar levels of future U.S. investment in the development of a defense item and projections of future multiple foreign requirements will be classified (see Chapter Seven of this Manual). Worksheets will be declassified when the defense item becomes obsolete to U.S. requirements. Worksheets will be marked:

"CLASSIFIED BY SAMM (DOD 5105.38-M), DECLASSIFY UPON
NOTIFICATION BY THE ORIGINATOR."

e. Section 36(b) Notifications and Section 133b Reports. Specific classification directions and guidelines for Section 36(b) notifications, Section 133b reports, and input data elements for these documents are specified in Chapter Seven of this Manual.

C. RELEASE OF INFORMATION.

1. Unclassified.

a. Public. In accordance with the AECA, Section 21(f), it is the policy of the DoD to maximize to the fullest extent consistent with national security the amount of information available to the public. Further, it is the policy of the DoD to comply fully with both the specified provisions and the general intent of the Freedom of Information Act, as amended. Release of information will be in accordance with procedures established by DoD Directive 5400.7 and DoD Instruction 5400.10.

(1) The DSAA 1200 FMS information system is a frequent source for providing information to the public. The DSAA maintains a consolidated data base which contains information about each FMS case by collecting essential data from a variety of sources over the life of each case. The 1200 system is the exclusive source for such consolidated data and contains records from the inception of the FMS program.

(2) A large percentage of individual records in the case are unclassified. They may, however, when grouped, produce a complete or virtually complete compilation of data. These kinds of groupings include but are not limited to: all current LORs, current undelivered balances of MDE, or groupings of generic classes of items such as "all surface to air missile sales". Such groupings may then reveal concepts about a country's order of battle

plans or current or planned defense posture of a country, region, or geographical area and result in a CONFIDENTIAL classified compilation of individually unclassified data. Such a compilation then, by DoD 5200.1-R, paragraph 2-211, would be denied public release.

(3) Classification and denial of release to the public on this basis shall be fully supported by a documentary explanation that will identify with the specific criteria which resulted in such a judgment.

b. Foreign Governments and International Organizations. Unclassified information may be released to the concerned country or international organization as appropriate for purposes related to security assistance. Price data may be released to MAP and IMET recipient countries and international organizations, subject to recipients' understanding that prices are provided for procurement planning and related purposes only, and that prices quoted are estimates and are not necessarily those which have been or will be applied to articles delivered or services rendered or training furnished to the country or organization as Grant Aid.

2. Classified.

a. Tentative Security Assistance Plans and Programs. Classified information as to tentative plans and programs for the budget and future years may be released to an involved foreign government or international organization to the extent necessary for its effective participation in the security assistance planning process or its effective development of related defense plans, and to the extent that it can be relied upon to maintain adequate security precautions and to use the information only for the purposes for which provided. Classified dollar levels of tentative country or organization programs may be released only with the specific permission of the Director, DSAA, with the concurrence of the Department of State. U.S. officials who release information under this paragraph will ensure that the recipient government or international organization clearly understands that such release does not constitute a commitment by the United States.

b. FMS Agreements. Classified information as to the quantity and projected delivery schedules for articles and services in FMS agreements may be released to the concerned country or international organization to facilitate appropriate planning by the recipient, subject to assurance by the recipient that it will maintain adequate security precautions and will use the information only for the purposes for which provided.

c. Procedures for Release. Release of classified information under paragraphs a. and b. above is subject to the provisions of DoD Directive 5230.11 (Disclosure of Classified Military Information to Foreign Governments and International Organizations), and DoD 5200.1-R, paragraph 8-104. Release will be made only to officials of the country or international organization involved who require the information in their official capacity.

3. Approval of Chief of Diplomatic Mission. In-country release of all security assistance information to a foreign government or international organization will be made through or with the approval of the Chief of the U.S. Diplomatic Mission to the government or organization involved after a disclosure decision has been made by the appropriate authority in accordance with paragraph 2c above. *

D. RCS: DSAA (AR) 1200 FMS REPORT SUBMISSIONS.

1. Entry of Data. Each entry into the DSAA 1200 system of data pertaining to a new FMS case will indicate whether that data is classified under the criteria of paragraph B.1.a. or B.2.b.(3), above. The security classification, for foreign relations purposes, of an FMS case in the 1200 system is based on the identification in that system of the fact that a specific defense article (e.g., Hawk missile) is or may be sold to particular foreign government. The existence of classified technical data concerning defense articles which are or may be sold under an FMS case does not warrant classification of that FMS case in the 1200 system, since such technical data are not entered into the 1200 system.

2. Declassification. The implementing agency must notify in writing the Director, DSAA of any FMS agreement which is declassified under the national defense classification criteria of DoD 5200.1-R and corresponding MILDEP regulations. This notification will identify the case designator and the date of declassification. The Director, DSAA will also ensure that declassification of any data in the 1200 system is reflected in that system within 15 working days after it occurs.

3. Codes; Card Columns. Machine readable code "U" will designate unclassified FMS cases; code "C" will designate CONFIDENTIAL cases. The proper code for classification or declassification as appropriate, will be entered in column 78 of the "1" Card. See Chapter 15 of this manual for DSAA(AR) 1200 report entry details.

<p>SECTION IV - EXPORT LICENSE AND CUSTOMS CLEARANCE GUIDANCE FOR FOREIGN MILITARY SALES CUSTOMERS</p>
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A. PURPOSE. This section provides guidance and instructions for processing export licenses and customs clearances for FMS purchased items.

B. EXPORT LICENSES.

1. Requirement. Prior to the export from the U.S. of any FMS purchased materiel included on the U.S. munitions list, FMS customers must obtain an export license from the Office of Munitions Control, Department of State, whenever a third party, such as a freight forwarder, is involved in the transaction. Application procedures are prescribed below. No license would be required in those cases where the FMS materiel is shipped on a Government Bill of Lading (GBL) or exported on a government-to-government basis using foreign government transportation out of a U.S. Government controlled facility.

2. Application. Application for export license to export unclassified defense articles and services must be made on Department of State Form DSP-5 which is obtainable from the Office of Munitions Control (see Figure 5-IV-1). The application must be forwarded to the following address:

Office of Munitions Control
PM/MC, Bldg. SA-6
Department of State
Washington, D.C. 20520

a. Applications must be supported by three (3) copies of DD Form 1513. Licenses for export of FMS materiel are valid for two years from the date of issuance. They are not transferable and extensions are not granted. If shipment cannot be completed during the period of validity of the license, a new application must be submitted for the license to cover the unshipped balance and/or renewal. Applications for license should show the proposed port or ports of exit in the U.S. If, after a license is issued, shipping arrangements necessitate a change in port, the Department of State must be notified by letter of the change in port. Further details on export licenses may be found in the Department of State, International Traffic in Arms Regulations (Title 22, Code of Federal Regulations, Parts 121-128 and 130).

C. FMS CUSTOMER RESPONSIBILITY.

1. Export License. Upon execution of an LOA, the FMS customer or authorized representative must obtain an export license from the Department of State to permit the legal export movement by the country freight forwarder of purchased FMS materiel from the U.S. since U.S. munitions list items shipped under FMS programs require export licenses.

2. Export Customs Clearance. It is the foreign country's responsibility to effect export customs clearance for all FMS materiel moved from the U.S. under other than U.S. Government or government-to-government auspices. Movement of materiel which remains in custody of the U.S./DoD is handled by a separate procedure.

a. Export declaration (U.S. Department of Commerce Form 725-V or 7525-V Shipper's Export Declaration) must be prepared by the country representative/freight forwarder for all FMS materiel moved through its auspices. Declarations must be filed and authenticated by a District Director of Customs. Provisions of law and regulations concerning export declarations are found on the reverse side of Commerce Form 725-V or 7525-V.

b. After declarations have been prepared and authenticated, shipments must be cleared through U.S. Customs by submission of documents to the District Director of Customs or export control officers (22 CFR 123.53).

3. Movements Requiring Export Customs Clearance. Export Licenses, Shipper's Export Declarations, and appropriate U.S. Customs export clearances for FMS shipments, for which the customer country has transportation responsibility, are required for the following categories of country-arranged movement:

a. All movements of materiel through or by the FMS customer freight forwarder or designated agent.

b. Pilot pick-up of materiel by FMS country-owned or chartered aircraft, or by FMS customer-procured space on commercial aircraft.

c. Movement by FMS customer-owned or chartered ocean vessel, or by FMS country-procured space aboard commercial vessels.

4. Overseas Customs Clearance. The FMS customer will be responsible for effecting overseas customs clearance of all FMS materiel through its customs agencies upon receipt at the country port of discharge.

5. Reporting of Export Traffic. All export of FMS materiel from the U.S. will be reported to the U.S. Department of Commerce as required by current federal statutes.

D. U.S./DOD RESPONSIBILITY.

1. U.S./DoD Exemption from Export Clearance. The U.S. Departments of State and Commerce have extended a joint waiver to the DoD, under which certain exemptions are granted in compliance with requirements for U.S. Customs clearance of DoD-sponsored cargo. Under this waiver, when U.S./DoD-sponsored FMS materiel is shipped through the Defense Transportation System (DTS) on Government Bills of Lading or other transportation documents or by DoD-owned, controlled, or arranged transportation, and the U.S./DoD retains custody of the materiel until arrival at the overseas port of discharge of the destination country, the U.S./DoD is exempt from the requirements of an Export License and the filling of Shipper's Export Declaration. Under no circumstances will these exemptions be extended to any foreign government.

2. Annotation of Transportation Documents. When the U.S./DoD retains custody of the shipments and transportation responsibility until its arrival at the overseas port of discharge of the destination country overseas, under the conditions defined above, and when movement is effected under Delivery Term Codes "6", "7", and "9", all Government Bills of Lading and other Transportation documents issued to cover movement of such shipments will be annotated "(APPLICABLE MILITARY DEPARTMENT) SPONSORED FOREIGN MILITARY SALES SHIPMENT -- NO EXPORT DECLARATION OR LICENSE REQUIRED." The signature of the issuing officer on the bill of lading/document will serve as a certification of this statement. NOTE: Under no circumstances will this annotation be made on GBL or other transportation documents for FMS shipments, through, or by a forwarding agent or any representative of a foreign country.

3. Reporting of FMS Export Shipments. All U.S./DoD sponsored shipments of FMS export materiel moving overseas within the DTS or under U.S./DoD auspices and control, identified by Delivery Term Codes "6", "7", and "9" will be reported monthly by Military Traffic Command (MTMC) to the Foreign Trade Division, Bureau of Census, Department of Commerce, in the Foreign Trade Report to comply with the conditions under which the above-mentioned waiver was granted and to satisfy the export data requirements of the U.S. Department of Commerce.

E. PROCEDURES FOR RETURN AND REPAIR. In addition to the above procedures, for the re-export of items previously sold to a foreign government or international organization that have been returned to the U.S. for repair and return, the foreign government is responsible for obtaining the In Transit Import License (DSP-61, see Figure 5-IV-2) and the appropriate customs clearance, in accordance with paragraph 123.3 of the ITAR.

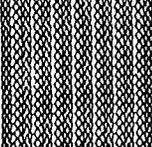
F. PROCEDURES FOR THE EXPORT OF CLASSIFIED DEFENSE ARTICLES AND SERVICES. **
Application for export license for the export or import of classified defense articles and services must be made on Department of State Form DSP-85 (See Figure 5-IV-3). Application must be made by a U.S. national in accordance with the provisions of Part 125 of the ITAR.

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FIGURE 5-IV-1

Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data (Form DSP-5)

(DEPARTMENT OF STATE, USE ONLY)

SEAL License hereby granted to applicant for described commodity to be permanently exported from the United States. This license may be revoked, suspended or amended by the Secretary of State without prior notice whenever the Secretary deems such action advisable. (DO NOT REPRODUCE THIS LICENSE (121 201c))		Signature 		LICENSE NO. _____ LICENSE VALID FOR 24 MONTHS FROM ABOVE DATE	
UNITED STATES OF AMERICA			DEPARTMENT OF STATE		
APPLICATION/LICENSE FOR PERMANENT EXPORT OF UNCLASSIFIED DEFENSE ARTICLES AND RELATED UNCLASSIFIED TECHNICAL DATA					
1. Date Prepared		2. PM/MC Applicant Code		3. Country of Ultimate Destination	
4. Probable Port of Exit from U.S.		5. Applicant's Name, Address, ZIP Code, Tel. No.			
6. Names and telephone numbers of U.S. Government personnel (not PM/MC) familiar with the commodity		TELEPHONE NUMBER: _____			
7. Name, State and telephone number of applicant contact if U.S. Government needs additional information.					
8. QUANTITY	9. COMMODITY (Follow instructions carefully)			10. MUNITIONS LIST CATEGORY	11. VALUE
	<input type="checkbox"/> Hardware <input type="checkbox"/> Technical Data				
				12. TOTAL VALUE: \$ _____	
13. Source or Manufacturer of Commodity			14. Specific purpose for which the material is required, including specific program/end item		
15. Name and address of seller in United States			16. Name and Address of Consignor in United States		
17. Name and Address of Foreign Consignee			18. Name and Address of Foreign end-user		
19. Name and Address of Foreign Intermediate Consignee			20. This application represents: <input type="checkbox"/> ONLY completely new shipment; <input type="checkbox"/> ONLY the unshipped balance of license no. _____ NOTE: APPLICATION CAN NOT INCLUDE BOTH		
22. If commodity is being provided under a Foreign Military Sales (FMS) or Grant Aid (GAD) program, state which _____ and give the case no. _____			21. The IDENTICAL commodity <input type="checkbox"/> was licensed to the country in block 3 under license no. _____; <input type="checkbox"/> was licensed to other countries under license no. _____; <input type="checkbox"/> was denied to the country in block 3 under voided license no. _____; <input type="checkbox"/> never licensed for this applicant		
24. LICENSE TO BE SENT TO: Name, Address, ZIP Code			23. In this transaction, applicant is: <input type="checkbox"/> government <input type="checkbox"/> agent/manufacturer <input type="checkbox"/> freight forwarder		
			25. APPLICANT'S STATEMENT (See Instructions) I, _____, hereby apply for a license to complete the transaction described above; warrant the truth of all statements made herein, and acknowledge, understand and will comply with the provisions of Title 22 CFR 121-128 and 130 and any conditions and limitations imposed. Signature _____		

FORM DSP-5 8/82 (DISCARD PREVIOUS EDITIONS)

1—APPLICATION/LICENSE

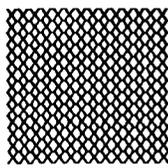
FORM APPROVED OMB NO. 5710-0040

FIGURE 5-IV-1. Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data (Form DSP-5).

FIGURE 5-IV-3

**

Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Related Classified Technical Data

(DEPARTMENT OF STATE USE ONLY)				
<p>SEAL</p> <p>License is hereby granted to the applicant for the described commodity to be permanently exported from the U.S., to be temporarily exported from and returned to the U.S., or to be temporarily imported into the U.S. and returned to the foreign owner, provided shipment is made in accordance with the Department of Defense Industrial Security Manual. This license may be revoked, suspended or amended by the Secretary of State without prior notice whenever the Secretary deems such action advisable. (DO NOT REPRODUCE THIS LICENSE (121.20(c)))</p>	<p>Signature</p>	<p>C</p>		<p>LICENSE VALID FOR 24 MONTHS FROM ABOVE DATE</p>
<p>UNITED STATES OF AMERICA DEPARTMENT OF STATE APPLICATION/LICENSE FOR PERMANENT/TEMPORARY EXPORT OR TEMPORARY IMPORT OF CLASSIFIED DEFENSE ARTICLES AND RELATED CLASSIFIED TECHNICAL DATA</p>				
1. Date prepared	2. PM/MC applicant code	3. Check one: <input type="checkbox"/> Permanent export <input type="checkbox"/> Temporary export <input type="checkbox"/> Temporary import	4. Country of ultimate destination or sojourn	5. Country from which shipped (temporary imports only)
6. Applicant's name, address, ZIP code, tel. no.		7. Names and telephone numbers of U.S. Government personnel (not PM/MC) familiar with the commodity		
TELEPHONE NUMBER:		8. Name, State and telephone number of applicant contact if U.S. Government needs additional information		
9. QUANTITY	10. COMMODITY (Follow instructions carefully) <input type="checkbox"/> Hardware <input type="checkbox"/> Technical Data	11. CLASSIFICATION	12. MUNITIONS LIST CATEGORY	13. VALUE
		14. TOTAL VALUE: \$		
15. Source or manufacturer of commodity		16. Specific purpose for which the material is required, including specific program/end item		
17. Name and address of seller in United States		18. Name and address of consignor in United States		
19. Name and address of cognizant DIS security office		20. Name and address of foreign consignee		
21. Name and address of foreign end-user		22. Date and level (TS, S or C) of security clearance of facility in item 5 Date: _____ Level: _____		
24. If commodity is being provided under a Foreign Military Sales (FMS) or Grant Aid (GAD) program, state which _____ and give the case no. _____		23. This application represents: <input type="checkbox"/> ONLY completely new shipment; <input type="checkbox"/> ONLY the unshipped balance of license no. _____ NOTE: APPLICATION CAN NOT INCLUDE BOTH		
26. Would approval of this application result in an application to export more highly classified commodities? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, explain in a cover letter (6 copies).		25. The IDENTICAL commodity <input type="checkbox"/> was licensed to the country in block 3 under license no. _____; <input type="checkbox"/> was licensed to other countries under license no. _____ <input type="checkbox"/> was denied to the country in block 3 under voided license no. _____; <input type="checkbox"/> was never licensed for this applicant		
28. LICENSE COPY TO BE SENT TO: Name, address, ZIP code		27. APPLICANT'S STATEMENT (See Instructions) I, _____ (Typed name), hereby apply for a license to complete the transaction described above; warrant the truth of all statements made herein; and acknowledge, understand and will comply with the provisions of Title 22 CFR 121-128 and 130, any conditions and limitations imposed, and the DOD Industrial Security Manual. Signature _____		

FORM DSP-85
11/82 (DISCARD PREVIOUS EDITIONS)

1-APPLICATION/LICENSE

FORM APPROVED
OMB NO. 1405-0022

FIGURE 5-IV-3. Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Related Classified Technical Data (Form DSP-85).

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Relationships with industry will be forthright, factual, and avoid all connotation of favoritism.

(2) The Department of State has advised commercial firms who plan to discuss the sale of defense articles overseas to:

(a) Consult with the Department of State regarding obtaining an advisory opinion or export license;

(b) Advise the local Security Assistance Organization (SAO) or American Embassy representative upon arrival in-country; and

(c) Inform the SAO or Embassy representative whether or not they have a license to discuss technical information regarding the project planned to be discussed with host nations; and if not, how the commercial firm expects to handle the matter. There is no requirement for a commercial firm to contact the SAO or local Embassy representative, but it is in the best interests of all concerned if commercial firms do so.

(3) U.S. diplomatic posts have been advised by the Department of State that they should treat representatives of U.S. firms selling defense equipment and services with the same courtesies as other U.S. businessmen.

(a) Diplomatic posts may supply basic business information and services to U.S. business representatives (e.g., access to commercial library, names and addresses, information about local customs regulations and commercial law).

(b) Diplomatic posts may also provide nonsensitive background information on the organizational structure of the host government and defense forces, its defense budget, funding limitations, and whatever U.S. financial assistance is available.

(4) If a U.S. firm has been granted a license to release technical data in support of sales promotions or other marketing efforts in the host country, and subject to local conditions, the following additional services may be provided to representatives of U.S. firms upon request:

(a) Assistance in arranging appointments with host government officials and guidance on which officials to contact;

(b) General advice on tactics for securing sales in the host country; and

(c) Informing the host government that the USG has approved in principle the marketing effort as evidenced by the issuance of a license.

(5) U.S. manufacturers and exporters may make general marketing efforts abroad to advertise their products and services without first obtaining a license or prior approval from the Department of State, provided that:

(a) The technical data disclosed to prospective customers is in the public domain and therefore exempt from licensing requirements; and

(b) No specific proposal is made for the sale of significant military equipment (SME) valued at \$14 million or more for end-use by foreign armed forces, or for manufacturing license or technical assistance agreements for the production or assembly of SME, regardless of the value of the contract. Conversely, any marketing activity that involves disclosure of technical data not in the public domain, unless otherwise specifically exempt from licensing requirements, must be licensed by the Department of State. Likewise, any specific proposal for the sale of SME valued at \$14 million or more for end-use by foreign armed forces, or for a manufacturing license or technical assistance agreement for the production or assembly of SME, regardless of the value of the contract, must receive prior approval by the Department of State, whether or not export of technical data is involved. An approved license for the export of technical data (DSP-5), or the temporary export of equipment for demonstration purposes (DSP-73), or an advisory opinion (a "GC" case) satisfy the prior approval requirement for SME proposals. However, if technical data is to be disclosed, a license is required since an advisory opinion is not an authorization to export technical data or equipment.

(6) It is Department of Defense policy to be even-handed when dealing with commercial firms engaged in overseas marketing activities. When U.S. industry representatives approach the SAO for assistance in conducting normal marketing efforts abroad, SAO personnel should, within policy guidelines, use their own best judgement in determining whether a commercial firm should be referred to foreign country officials for the purpose of discussing a possible sale or whether any other assistance should be given.

d. Soliciting Consultation with Foreign Countries. The U.S. Government welcomes consultation with our friends and allies regarding planning to meet their defense needs, research, development, production, and logistic support programs of mutual interest. Information obtained through consultation is important in the planning process described in Chapter Four.

e. Overseas Security Assistance Organization (SAO) Responsibilities. Direct contact between SAOs, DAOs, and DoD Components is authorized to provide information to host countries concerning technical advice, data on item configuration, explanation of availability and cost factors provided by DoD components, and other essential technical and supply data. The required channels for submission of a letter of request (LOR) are in Chapter Seven, paragraph C.

5. Criteria Regarding Sale of Military Equipment. In general the U.S. Government is willing to sell equipment to eligible countries and international organizations after a case-by-case review of each prospective purchaser's request. Factors considered in this review include:

a. Type of Equipment. It is easier to approve the sale of less, rather than more, sophisticated equipment; easier to approve the sale of less, rather than more, expensive equipment; easier to approve the sale of equipment adopted by the U.S. forces and promising to the buyer the benefits of logistics standardization.

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b. Country and Region. The willingness of the U.S. Government to sell military equipment varies country by country in accordance with the military requirements, ability to maintain and use, compatibility with existing inventory, and impact on the perceptions and the actions of the buyer's neighbors.

c. Foreign Policy. The willingness of the U.S. Government to sell military equipment varies with the time and the situation; thus changes in terms of foreign policy, diplomacy, economy, finances and security, reflecting the changing world-wide situation, can cause changes in such willingness from time to time.

d. National Disclosure Policy. The National Disclosure Policy Manual (NDP-1) records the levels of classification which the U.S. Government is willing in general to release to cited countries. Requests for exceptions to policy established by this document are handled by the National Disclosure Policy Board which is chaired by the Department of Defense, at the Under Secretary level.

e. Military Threat. The degree to which the transfer responds appropriately to the military threats confronting the recipient.

f. Collective Security Capabilities. Whether the transfer will enhance the recipient's capability to participate in collective security efforts with the United States.

g. Countering of External Aggression. Whether the transfer will promote mutual interests in countering externally supported aggression.

h. Stability within Regions. Whether the transfer is consistent with United States interests in maintaining stability within regions where friends of the United States may have differing objectives.

i. Counterbalancing of Positive and Negative Factors. Whether any detrimental effects of the transfer are more than counterbalanced by positive contributions to United States interests and objectives.

j. Legislative Restraints. The principal legislative restraints on Foreign Military Sales are reviewed in Chapter 7, this Manual. These reflect the guidelines and constraints that must be followed prior to the approval of Military Export Sales.

C. POLICIES.

1. List of Eligible Countries to Purchase or Lease Defense Articles or Defense Services. The current list of eligible countries and international organizations determined by the President is provided as Table 6-I-1. It should be noted that sales to certain countries or international organizations may be suspended for legal or policy reasons. Any questions relative to the eligibility of a foreign country or international organization should be referred to DSAA Operations.

2. Designation of Defense Articles and Services. A copy of the U.S. Munitions List is included in Chapter 2. Items in categories which are asterisked (*) on this list are considered Significant Military Equipment (SME). *

3. Foreign Military Design and Construction Sales.

a. Authority. The AECA, Section 29 authorizes the sale of design and construction services to eligible foreign countries and international organizations provided the full costs are paid to the U.S. by the purchasing country or international organization. If such services are to be procured by the USG for sale under Section 29, the purchaser must make funds available in such amounts and at such time as they may be needed to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due.

b. Congressional Reporting. Congressional reporting requirements in the AECA, Section 36(b), apply to any design and construction program valued at \$200 million or more.

c. Use of FMS Procedures. The LOA and standard sales procedures will be utilized for all design and construction programs. Normally, design and construction services will be offered as follows:

(1) When the design and construction services are a part of a total program, the services will be included in the total system case under the cognizance of the managing DoD component. A special note will be added to the case indicating that the services are offered under the authority of the AECA, Section 29 and also identifying the construction agent for this portion of the program, e.g. U.S. Army Corps of Engineers. In certain cases, the DoD component program manager and the construction agent may wish to conclude an internal agreement to summarize management relationships for a program.

(2) When the design and construction services are not part of a total program, the DoD component responsible for providing the design and construction services will be assigned management responsibility for the case.

(3) When the design and construction services are a follow-on requirement to a previous major system sale, the DoD component responsible for providing the design and construction services will prepare the LOA. However, where special circumstances such as unique funding requirements are experienced, the requirement for preparation of the follow-on LOA will be coordinated with the DSAA Operations Directorate to determine the appropriate management responsibility.

4. Proper Use of Materiel. Consistent with its resources and the situation prevailing in-country, the designated U.S. overseas military SAO will assist DoD components in observing and reporting on the utilization by the foreign country of defense articles and services acquired through FMS or leased to the recipient by the DoD.

5. Diversions of Materiel. The following policies govern the allocation of defense materiel between U.S. forces and international security requirements in the event there are competing demands:

TABLE 6-I-1
 FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS ELIGIBLE TO PURCHASE
 DEFENSE ARTICLES AND DEFENSE SERVICES UNDER THE AUTHORITY OF THE AECA

<u>AFRICA</u>		<u>NEAR EAST AND SOUTH ASIA</u>	
Botswana	Mauritius	Algeria	Nepal *
Cameroon	Mozambique	Bahrain	Oman *
Dahomey	Niger	Bangladesh	Pakistan
Djibouti	Nigeria	Egypt	Qatar
Equatorial Guinea	Rwanda	India	Saudi Arabia
Gabon	Senegal	Israel	Sri Lanka
Ghana	Sierra Leone	Jordan	Tunisia *
Guinea	Somalia	Kuwait	United Arab
Ivory Coast	Sudan	Lebanon	Emirates
Kenya	Togo	Morocco	Yemen Arab *
Liberia	Upper Volta		Republic
Madagascar	Zaire		
Malawi	Zimbabwe		
<u>EUROPE</u>		<u>WESTERN HEMISPHERE</u>	
Austria	Malta	Antigua and	Grenada and
Belgium	Netherlands	Barbuda	St Kitts-Nevis
Denmark	Norway	Argentina	Guatemala
Finland	Portugal	Bahamas	Haiti
France	Spain	Barbados	Honduras
Germany	Sweden	Belize	Jamaica
(Fed Rep of)	Switzerland	Bolivia	Mexico
Greece	Turkey	Brazil	Panama
Iceland	United Kingdom	Canada	Paraguay
Ireland	(Incl Crown	Chile	Peru
Italy	Agents)	Colombia	St Lucia
Luxembourg	Yugoslavia	Costa Rica	St Vincent &
		Dominica	the Grenadines
		Dominican	Surinam
		Republic	Trinidad and
		Ecuador	Tobago
		El Salvador	Uruguay
			Venezuela
<u>EAST ASIA AND PACIFIC</u>		<u>INTERNATIONAL TREATY ORGANIZATIONS</u>	
Australia	Malaysia	North Atlantic Treaty Organization	
Brunei	New Zealand	(NATO) and its Agencies	
Burma	Papau -	Organization of American States (OAS)	
China	New Guinea	International Commission of Control	
Fiji	Philippines	and Supervision in Vietnam	
Indonesia	Singapore	International Commission of Control	
Japan	Taiwan	and Supervision in Laos	
Korea	Thailand	United Nations (UN) and its agencies	
		including the International Civil	
		Aviation Organization	

NOTE: Sales to certain countries may have been suspended for legal or policy reasons. Any questions relative to the eligibility of a foreign country for FMS, FMCS, or leases should be referred to DSAA Operations.

TABLE 6-I-1. Foreign Countries and International Organizations Eligible to Purchase Defense Articles and Defense Services under the Authority of the AECA.

TABLE 6-I-2

GENERAL TERMS OF REFERENCE
(FOR DEFENSE REQUIREMENT SURVEY TEAMS)

- A. Teams will report to the U.S. Ambassador, or in his absence, the charge d'affaires, upon arrival in country, and will serve under the overall supervision of the Ambassador. All formal consultations with the host country will be conducted subject to the concurrence of the U.S. Ambassador, with the participation of such Embassy staff as he may direct. Prior to departure the team will brief the Ambassador on its preliminary conclusions.
- B. The team recommendations should reflect the "total package" concept: end-item, ancillary equipment, training and logistics. Recommendations should not mirror-image U.S. force solutions. At least three levels of funding alternatives should be presented in the report.
- C. The team should evaluate the military manpower base, its absorptive capacity, the existing logistics and maintenance support capability, the capability of the country to prevent compromise of sensitive data and equipment, training requirements, and compatibility of recommended equipment with that currently in the host country inventory.
- D. The team will make no comment to host governments concerning possible availability of U.S. Government resources in any form.
- E. The team will not give host government any price and availability data, DoD lead times on equipment, or indicate any prospects for accelerated deliveries. The team, however, may provide general orders of magnitude information concerning cost and availability for illustrative purposes. Firm estimates can be provided only through normal channels and only in response to specific requests conveyed through the U.S. Embassy, not through the survey team.
- F. The team will not oblige the U.S. Government to the sale of any specific defense article or service.
- G. The team will not provide any kind of independent assessment or confirmation of the external threat as perceived by the host country. Release of classified information will be in accordance with the U.S. National Disclosure Policy.
- H. The team will not provide military advice concerning tactics, doctrine, basing, combat planning, or operations.
- I. The team will avoid any possible indication that USG would assist in construction of airfields, camps, or other military facilities.
- J. The team will make no commitment to follow-on technical discussions or further surveys.

TABLE 6-I-2. General Terms of Reference for Defense Requirement Survey Teams.

the same or similar article or service could be one form of evidence of this capability. A subjective assessment may be required for this evaluation.

b. Whether there is a specific government-to-government agreement approved by the Director, DSAA, or higher authority, covering such a sale or a special exemption to the direct sale preference approved by the Director, DSAA.

4. Exceptions. Both the Governments of Thailand and the Federal Republic of Germany (FRG) have requested and been granted an exception to purchase, via FMS, articles and services designated for direct sales preference.

F. PROCEDURES FOR PROCESSING INDUSTRY REQUESTS FOR DIRECT SALE PREFERENCE DESIGNATION.

1. Commercial Source Responsibility. It is the responsibility of the U.S. manufacturer to inform the DSAA Operations Directorate (DSAA-OPS), that it prefers to sell significant military equipment (SME) items it manufactures or services it provides on a direct commercial basis; that it is the sole U.S. manufacturer or supplier of the articles or services; and that it prefers that these articles or services not be sold via FMS. Such notification should include sufficient information to enable the DSAA to evaluate the request and, at a minimum, provide the following: specific article designation/nomenclature, military model number and national stock number (NSN) (if applicable), most recent contract with DoD (including date and number), and the cognizant MILDEP/DoD component for that contract. *

2. DoD Component Responsibility. Upon receipt of a notification of direct sale preference, DSAA will query the DoD components for comments on the request. The DoD components will be asked to advise within 30 days whether the firm is the only known or possible U.S. source for the article or service and to consider other factors pertinent to the DSAA evaluation of the commercial source notification. Such factors could include:

- a. Previous contract history with that firm;
- b. Advice as to whether the firm is considered to be the sole source for the article;
- c. Information regarding other qualified commercial sources currently capable of producing the article or service;
- d. Information as to whether the article or service has previously been approved for direct sale preference;
- e. Information as to whether stocks of the article in question are in long supply;
- f. Confirmation that the item in question is in fact considered to be significant military equipment (SME) on the United States Munitions List; * and
- g. Confirmation that the item in question is in fact solely manufactured without government furnished equipment (GFE) (and if applicable the firm's qualifications to purchase GFE under the provisions of DODD 4175.1).

3. DSAA Determination. Based on the request of the U.S. manufacturer and the information provided by the cognizant DoD component, a determination will be made by DSAA regarding whether the article or service is to be designated for direct sale preference. The DoD component will be provided an information copy of the response to the U.S. manufacturer and appropriate instructions regarding processing of requests for articles or services which have been approved for direct sale preference.

4. Semi-Annual Summary. DSAA will provide to each DoD component a semi-annual summary listing of contractor direct sale preference notifications processed. This summary listing will identify articles which DSAA considers to be eligible for direct sale preference and the applicable commercial firms. DoD components will maintain this listing on file to assist in evaluating foreign country and international organization requests for the article or service. Direct sale preference designations will normally be valid for a period not to exceed three years. Reconfirmation that the article still qualifies for this designation based on the criteria in this chapter will be accomplished prior to reinstating any previously designated article or service. Normally, the responsibility to request such a review and continued direct sale preference designation rests with either the U.S. manufacturer of the article or the U.S. contractor providing the service.

G. PROCEDURES FOR PROCESSING REQUESTS FOR DIRECT SALE PREFERENCE.

1. DoD Component Responsibility. The DoD component concerned, upon receipt of a request for FMS P&R, P&A, or a Letter of Offer and Acceptance (LOA), will screen the request against the summary listing of articles or services eligible for direct sales preference and the criteria in paragraph E above to determine if the article or service requested is considered for direct sale preference. If it is so determined, the DoD component will promptly inform the foreign purchaser of such direct sale preference and of DoD policy regarding the sale by DoD of such article or service. Such notification will normally be provided to the foreign purchaser within three weeks of receipt of the request to preclude any inference that the U.S. Government is prepared to sell the articles or services via FMS. (Text of letter or message to purchaser is at paragraph G.2.a. below.) The letter or message will be coordinated with DSAA-OPS. In the event the DoD component considers that there are important factors justifying an exception to policy in a specific case, the matter shall be referred to the DSAA-OPS for decision, together with the component's recommendation and reasons therefor. Referral to DSAA of matters requiring a decision will normally be made within three weeks of receipt of the request from the foreign purchaser.

2. Response to Requests.

a. Format. When it has been determined that a purchaser should be notified that the article or service requested is eligible for direct sale preference, a letter or message to the foreign purchaser will be prepared. The letter content will be determined based on the DOD components capability to determine the status of production by the commercial firm. Four letter formats to cover the various alternative situations are identified below. The appropriate letter will be selected by the DOD component and utilized to notify the foreign purchaser of commercial sales preference. All commercial

CHAPTER SEVEN

PREPARATION AND PROCESSING OF FOREIGN MILITARY SALES CASES

SECTION I - GENERAL INFORMATION, FOREIGN MILITARY SALES AGREEMENTS
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A. PURPOSE. The purpose of this section is to provide background, definitions and policy which apply to Foreign Military Sales Agreements.

B. BACKGROUND/DEFINITIONS.

1. Types of Requests. Depending upon the nature of the requirement, foreign countries or international organizations may request preliminary data or an FMS agreement for the purchase of defense articles or services.

a. Planning and Review (P&R) Data. Planning and Review (P&R) data is rough order of magnitude price and availability data to be used by a foreign country or international organization solely for preliminary review and planning purposes for evaluation of the possible purchase of a defense article or service. P&R data should not be considered to be valid for use in either programming budget requests or preparation of a Letter of Offer and Acceptance (LOA - DD Form 1513). DoD components should ensure that the P&R information provided is sufficiently accurate to serve the planning purposes of a foreign country or international organization. Contract expiration dates should be verified and the foreign country or international organization then advised of data limitations. The DoD components provide P&R data to the requesting foreign country or international organization normally within 45 days after receipt of an approved request. The release of major defense equipment (MDE) or significant military equipment (SME) items must be approved by DSAA (approval is required prior to providing P&R data for MDE/SME items). P&R data will not be provided on a DD Form 1513. *

b. Price and Availability (P&A) Data. Price and Availability (P&A) is data which should be detailed to the degree that the information could be transferred without further modification to an LOA. In the event that the P&A information is being provided separately from an LOA, coordination with DSAA is required under the same guidelines as apply for the submission of actual LOA. An information copy of P&A data provided to all foreign countries and international organizations will be furnished the DSAA, Operations Directorate. The DoD components will provide P&A data to the requesting foreign country or international organization within 60 days after receipt of an approved request. P&A data will not be provided on an LOA unless the requestor desires an FMS LOA.

c. Letter of Offer and Acceptance (LOA). The DD 1513 LOA is the document authorized to be used by the U.S. Government to offer to sell defense articles and defense services to a foreign country or international organization. The LOA lists the items and/or services, estimated costs, the terms and conditions of the sale, and requires the signature of the representative of the foreign country or international organization to indicate acceptance.

d. Letter of Intent (LOI). There are two types of LOIs. The DD Form 2012 is used to finance procurement of long lead time items prior to the issuance of an LOA. The DD Form 2012-1 is used to finance procurement of long lead time items during the period between issuance of an LOA and acceptance by the purchasing country.

2. Categories of Items and Services.

a. Defense Articles and Defense Services. Categories of defense articles and services are identified in the International Traffic In Arms Regulations (ITAR), Part 121, "Arms, Ammunition and Implements of War." Items thus identified constitute the United States Munitions List (Reference Chapter 2, Table 2-III-1, this manual). The import and export of such items is under the control of the Office of Munitions Control, Bureau of Politico-Military Affairs of the Department of State. The munitions list is not all inclusive nor are FMS limited solely to those items.

(1) Significant Military Equipment. Articles in those defense articles and services on the U.S. Munitions List which are preceded by an asterisk are referred to as "Significant Military Equipment (SME)." *

(2) Major Defense Equipment (MDE). A U.S. defense article is considered to be an item of major defense equipment when it is identified as Significant Military Equipment on the U.S. Munitions List and when the U.S. Government has incurred either a nonrecurring research and development cost for the item of more than \$50 million or the item has had a total production cost of more than \$200 million. These dollar thresholds encompass all expenditures to date, including both U.S. military services and security assistance requirements. Each DoD component is responsible for identification of MDE items under its cognizance, and for notification of MDE items to the DSAA. DoD components will notify the DSAA of applicable MDE items by providing information cited in Figure 7-I-1. Once identified as Major Defense Equipment, the item is then recorded on the Major Defense Equipment List (MDEL), which designates equipment for special scrutiny when considered for sale to foreign governments either through foreign military sales or commercial sales channels. See Table 7-I-1 for the current MDEL.

3. Standard Foreign Military Sales (FMS) Cases. Standard FMS cases are divided into Defined Order Cases, Blanket Order Cases, and Cooperative Logistics Supply Support Arrangements (CLSSAs). These cases are used to provide major weapon systems, training, design and construction services, and related defense articles and services on a government-to-government basis from the U.S. Government.

a. Defined Order Cases. A Defined Order case is one in which the items, services or training to be provided are stated explicitly on the Letter of Offer and Acceptance (DD Form 1513).

(1) A defined order case normally requires a complete price and availability study.

(2) The following types of materiel and services are normally provided through Defined Order cases:

(d) Major Defense Equipment (MDE) (see Table 7-I-1) and initial logistics support which is normally ordered for concurrent delivery with such items.

(e) Significant Military Equipment (SME). *

(f) Lumber and other type commercial materiel.

(g) Nonstandard items except for medical supplies/drugs (Army only).

(h) Obsolete items (except Air Force).

(i) Technical Data Packages (TDPs).

(j) Non-MDE excess defense articles (except DLA).

c. Cooperative Logistics Supply Support Arrangements (CLSSAs).

CLSSAs are peacetime military logistics support arrangements designed to provide responsive and continuous supply support at the depot level for U.S.-made military materiel possessed by foreign countries and international organizations. The CLSSA is normally the most effective means for providing common repair parts and secondary item support for equipment of U.S. origin which is in allied and friendly country inventories. The CLSSA provides for the execution of Foreign Military Sales Orders (FMSOs) covering stockage, storage, and consumption as follows:

(1) FMSO I. The FMSO I consists of an LOA covering the estimated dollar value and total initial agreed list of items and quantities to be stocked and maintained on order from procurement for support of the purchaser's U.S.-furnished equipment.

(2) FMSO II. The FMSO II consists of an LOA covering the purchaser's estimated withdrawals of materiel from the supply system for an agreed period (normally one year). This CLSSA requisition case is undefined as to items and quantities and reflects in a dollar amount, the estimated consumption for the agreed period.

NOTE: DoD Instruction 2000.8 prescribes the policies and criteria for establishing CLSSAs. Further details regarding CLSSAs may be found in Chapter 8, this manual.

C. PROCEDURES.

1. Letter of Request. An eligible foreign country or international organization which desires P&R data, P&A data or an LOA from the U.S. Government conveys that desire to the U.S. Government in a Letter of Request (LOR). Although no specific format is required for an LOR, the requestor must assure that the request is complete as indicated below:

(1) The LOR must specify what is desired -- P&R data, P&A data or an LOA.

(2) The LOR must contain the name and address of the originator and a traceable reference number (e.g., letter serial number).

(3) The articles and services requested in an LOR must be sufficiently detailed to be understood clearly and provide a firm basis for estimates by the DoD component.

(4) When LORs are received which do not meet the requirements of paragraphs (1) through (3) above, the DoD component initially receiving the request shall notify the requestor of the deficiency and hold action on the request until the information is received.

b. Channels of Submission of LOR. The Department of State has statutory responsibility for approving all requests for Foreign Military Sales to eligible countries and international organizations. To aid in the approval process, all requests for P&R, P&A, or an LOA are divided into one of two categories: "Significant Military Equipment" (SME) as defined in the ITAR and "All Other Foreign Military Sales." The Department of State has established the following procedures for the submission of requests in each category.

(1) Significant Military Equipment. Requests to purchase SME, i.e., any item in an asterisked category on the U.S. Munitions List which originate in country should be transmitted by the U.S. Embassy (rather than by the SAO or similar military element of the Embassy) and should be addressed for joint action to Bureau of Politico-Military Affairs, Department of State and SECDEF/DSAA with information copies to the appropriate DoD component, Unified Command. Requests to purchase SME which originate with purchaser country representatives in the United States should also be jointly addressed to the Bureau of Politico-Military Affairs (PM), Department of State and the SECDEF/DSAA. The following must be addressed in transmission of the request:

(a) The reason the nation desires the articles or services.

(b) How the item would affect the recipient's force structure and how it would affect the recipient's capability to contribute to mutual defense or security goals.

(c) The anticipated reactions of neighboring nations.

(d) The ability of the purchaser to operate, maintain, and support the article. Training required either in-country or in the U.S. and the possible impact of any in-country U.S. presence that might be required as a result of providing the article.

(e) The source of financing and the economic impact of the proposed acquisition.

(f) Relevant human rights considerations that might bear on the proposed transfer.

(g) Whether the U.S. Government should approve transfer of the article and reasons therefor.

(2) All Other Foreign Military Sales (non-SME). Requests for Foreign Military Sales, other than SME which originate in-country should be transmitted either through the customer country's representative in the U.S., by the Embassy, or the DoD element of the U.S. country team directly to the cognizant DoD component, with an information copy to SecState-PM and SECDEF/DSAA. Requests originated by foreign representatives in the U.S. should be

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sent directly to the cognizant DoD component with an information copy to the Bureau of Politico-Military Affairs, Department of State and the DSAA.

(3) Out-of-Channel Requests. Should a DoD component receive a request from a foreign country or international organization to purchase SME, the request should be retransmitted to SecState-PM and SECDEF/DSAA for action. Should a DoD component receive a request for a Foreign Military Sale other than SME with no indication that an information copy was provided to SecState-PM or SECDEF/DSAA, the DoD component should take immediate action to retransmit the request to SecState-PM and SECDEF/DSAA for information. Should a DoD component receive a request for other than SME for which it is not the cognizant DoD component, the receiving component will redirect the request to the cognizant DoD component with an information copy to SecState-PM and the DSAA. *

2. Responses to Letters of Request.

a. General. Depending upon the nature of the foreign country or international organization's requirements, there are two categories of preliminary data which may be requested: planning and review (P&R) data or price and availability (P&A) data. See paragraph B.1. above for a description of P&R and P&A and paragraph C.1.b. above for the channels of submission of requirements for data.

b. Discussions with Foreign Governments and International Organizations. Economic, production, and budget uncertainties all contribute to DoD component difficulties in making accurate price and availability estimates. The large volume of P&R and P&A estimates which are processed also increases the likelihood of human error. In any event the utmost discretion must be exercised by members of the country team or other U.S. officials in discussion with foreign government or international organization officials of P&R or P&A data. Only specific data provided by the DoD component or the DSAA should be used.

c. Format for P&R Data. Contract expiration dates should be verified and the foreign country or international organization advised of data limitations and such contract expiration dates. The DoD components should provide P&R data to the requesting foreign country or international organization within 45 days after receipt of an approved request. Unless the release of Major Defense Equipment (MDE) or Significant Military Equipment (SME) items has been approved by the DSAA previously, such release approval is required prior to providing P&R data for MDE/SME items. P&R data will not be used to develop an LOA. The following format must be used in responding to a request for Planning and Review (P&R) data, e.g., list the: *

(1) Quantity, major item/service and estimated cost. (Cost must include adjustments for inflation. In the absence of the availability of clear inflation trends on a given system, the OSD/C standard inflation factors should be used.)

(2) Ancillary support equipment which is necessary for the operation and maintenance of the system requested and include the estimated cost.

- (3) Estimated dollar value of training, publications, etc.
- (4) Estimated accessorial charges.
- (5) Source of the data (e.g., last contract award, stock price, contractor quote).
- (6) Estimated availability of the articles/services.
- (7) Key assumptions used in developing the data. For example:
 - (a) Standard DoD Component factors were used in developing the ancillary equipment necessary to support the quantity of items requested.
 - (b) Training and publications cost estimates are based on criteria used by the DoD Component.
- (8) Key factors which will effect the above planning data. For example:
 - (a) Current contract for this item expires on (indicate date) and an LOA must be accepted by (indicate date) so that options can be added to the current contract. If an LOA is not accepted by the indicated date, the price will rise substantially and new data should be requested.
 - (b) Production line is due to phase out by (indicate date). Start-up costs would have to be applied if an LOA is not accepted by (indicate date).
 - (c) Materiel has a shelf-life of (indicate date).
- (9) Expiration date: _____ After this date, if the article/service is still under review, revised data should be requested.
- (10) Validity: The above information is not valid for purposes of preparing an LOA nor should it be used for budget submissions. It is planning information for review purposes only, to assist in your government's determination of the feasibility of requesting an LOA.
- (11) The DD Form 1513 will not be used to provide P&R data.

d. Format for P&A Data. P&A data will be prepared along the same guidelines as an LOA. In the event that the P&A information is being provided separately from an LOA, coordination with DSAA is required under the same guidelines as apply for the submission of actual LOA. An information copy of P&A data provided to all foreign countries and international organizations will be furnished the DSAA, Operations Directorate. The DoD components will provide P&A data to the requesting foreign country or international organization within 60 days after receipt of an approved request. P&A data will not be provided on an LOA unless the requestor desires an FMS LOA. P&A data should include the following statement:

	DSAA Approved Pro.Rata Nonrecurring Cost (NRC) Recoupment Charge \$	Date NRC Charge Approved
Projectile, 8", HE, ICM (M509) (A)	11.20	21 May 79
Projectile, 8", HE (M650) (A)	83.04	21 May 79

CATEGORY IV - LAUNCH VEHICLES, GUIDED MISSILES,
BALLISTIC MISSILES, ROCKETS,
TORPEDOES, BOMBS AND MINES

ASROC, Antisubmarine Rocket (N)	(a)	
Bomb, Anti-Armor Cluster Munition CBU-90 (AF)	3,351.00	
Bomb, Combined Effects Bomblet, CBU 87 (AF, N)	(a)	
Bomb, Cluster, TMD/Gator Mines, CBU 89 (N, AF)	(a)	
Bomb, MK-20, Cluster Bomb, Rockeye (N)	117.39	25 Mar 83
Bomb, MK-82, 500#, General Purpose (N)	3.29	25 Mar 83
Bomb, MK-83, 1,000#, General Purpose (N)	10.40	25 Mar 83
Bomb, MK-84, 2,000#, General Purpose (N)	12.80	25 Mar 83
Bomb, M-117, 750#, General Purpose (AF)	(a)	
Bomb, Guided Walleye (N)	(a)	
Fuel Air Explosive Weapon, FAE II (N)	(a)	
Gun Mount, 5", 54 MK-45 (N)	(a)	
Gun Mount, 76mm, Gun, MK-75 (N)	(a)	
Launcher, Harpoon (N)	80,562.00	
Launcher, TOW (A)	3,029.00	16 Sep 77
Launcher, MK-13 (N)	78,125.00	17 Nov 78
Launcher, PATRIOT (A)	271,268.00	18 Nov 78
Launcher, Roland (A)	324,828.00	24 Sep 80
Launcher, MLRS (A)	132,400.00	
Light, Antitank Weapon, 66mm, LAW M72 Series (A)	1.32	
Missile, Advanced Medium Range, Air-to-Air (AF, N)	(a)	
Missile, AIM-4, A-G Falcon (AF)	3,321.00	12 Mar 82
Missile, AIM-7 (Skyflash portion) (N)	820.30	7 May 81
Missile, AIM-7, Sparrow C/D/E (N)	2,733.00	
Missile, AIM-7F/M, Sparrow (N, AF)	7,646.00	2 Jun 82
Missile, AIM-9/J/P/N (AF) (Motor - 200.00)	333.00	12 Mar 82
Missile, AIM-9L (N, AF)	2,604.00	18 May 78
Missile, AIM-9H (N)	3,457.00	
Missile, AIM-9M (N)	6,368.00	25 Mar 83
Missile, AIM-54 PHOENIX (N)	71,296.00	
(Front End - 35,019)	(Aft End - 36,276)	
Missile, AGM-45, Shrike (N, AF)	4,890.00	11 Aug 78
Missile, AGM-65A/B, Maverick (AF)	3,722.00	3 Feb 81
Missile, AGM-65D (AF)	3,811.00	

TABLE 7-1-1. (Continued)

	DSAA Approved Pro Rata Nonrecurring Cost (NRC) Recoupment Charge \$	Date NRC Charge Approved
Missile, AGM-65E (N)	(a)	
Missile, AGM-88 Harm (N)	21,248.00	20 Apr 82
Missile, Chaparral Series (A)	5,445.00	10 Nov 79
Missile, Dragon, HEAT and Practice Missiles (A)	378.00	24 Mar 80
Missile, Harpoon RGM-84 (N)	44,083.00	
Missile, I-Hawk Series (A)	7,053.00	12 Nov 80
Missile, Lance (A)	76,205.00	21 May 82
Missile, Nike Hercules (A)	(a)	
Missile, Patriot MIM-104 (A)	82,836.00	18 Nov 82
Missile, Pershing Series (A)	128,378.00	
Missile, Redeye (A)	(a)	
Missile, Roland (A)	4,422.00	24 Sep 80
Missile, RIM-7M SEASPARROW (N)	4,894.00	
Missile, Standard ARM (N)	(a)	
Missile, Standard ER RIM-67A (N)	(a)	
Missile, Standard MR RIM-66A (N)	(a)	
Missile, Stinger (A)	5,400.00	28 Jul 79
Missile, Tomahawk (N)	(a)	
Missile, TOW HEAT and Practice Missiles (A)	293.00	16 Sep 77
Missile, I-TOW (A)	487.00	3 Nov 81
Missile, M-65 Subsystem, Airborne TOW (A)	13,162.00	28 Sep 79
Rocket, 2.75" Series (A, N, AF)	.87	26 May 80
Rocket, MLRS (A)	667.00	
Torpedo, MK-46 MOD 2 (N)	8,993.00	
Torpedo, MK-46, NEARTIP Kit	3,795.00	26 Jun 80
Torpedo, MK-46 MOD 5 NEARTIP Configured	9,308.00	
Torpedo, MK-48 (N)	86,255.00	21 Jul 77
Torpedo, MK-48 ADCAP Kit (N)	103,322.00	25 Nov 80

CATEGORY V - PROPELLANTS, EXPLOSIVES AND INCENDIARY AGENTS

Items in this category which meet the dollar criteria for major defense equipment are not significant military equipment as defined in the U.S. Munitions List. *

CATEGORY VI - VESSELS OF WAR AND SPECIAL NAVAL EQUIPMENT

CC - Guided Missile Cruiser (N)	(a)
DD-963 (N)	(a)

TABLE 7-1-1. (Continued)

	DSAA Approved Pro Rata Nonrecurring Cost (NRC) Recoupment Charge \$	Date NRC Charge Approved
F-14 (N)	1,600,000.00	29 Nov 76
F-15 (AF)	1,600,000.00	29 Nov 76
F-16 (AF) (less EPG pro rata NRC \$85,000.00)	640,000.00	4 Jun 80
F-16/79 (U.S. Charge) (AF)	456,934.00	1 May 81
F-18 (N) (includes 2 engines each aircraft)	877,690.00	5 Aug 79
F-100 (AF)	(a)	
F-101B/F (AF)	(a)	
F-102 (AF)	(a)	
F-104A/B (AF)	(a)	
F-104C/D (AF)	(a)	
F-105B/D/F (AF)	(a)	
F-106A/B (AF)	(a)	
F-111A/C/D/E/F (AF)	(a)	
H-3E (N)	(a)	
H-46 (N)	(a)	
H-53 (S-65) (N)	166,029.00	27 Feb 79
KC-10 (AF)	1,176,667.00	12 May 82
KC-135A (AF)	217,034.00	12 Mar 82
OV-1 (A)	199,590.00	
OV-10 (N, AF)	41,930.00	9 Jun 78
P-3A/B (N)	382,750.00	
P-3C (N)	592,219.00	3 Jan 78
RF-4B (N)	104,566.00	20 Oct 83
RF-4C (AF)	(a)	
S-2 (N)	85,449.00	27 Aug 81
S-3 (N)	3,502,643.00	26 Jun 81
SH-2D/F (LAMPS, MARK I) (N)	(a)	
SH-60B (LAMPS, MARK III) Airframe w/o engine (see GE-401 engines for additional charges) (N)	859,636.00	15 Oct 82
SH-60B Minimum Avionics Suite (N)	366,236.00	15 Oct 82
SH-60B Mission Avionics Suite (N)	1,063,400.00	15 Oct 82
SH-60B Ship Electronics (N)	1,131,227.00	15 Oct 82
T-2 (N)	39,968.00	10 Jun 78
TA-4F (N)	28,110.00	20 Oct 83
T-33 (AF)	2,857.00	12 Mar 82
T-37 (AF)	19,651.00	
T-38A (AF)	80,972.00	12 Mar 82
UH-1H (A)	4,501.00	1 May 81
UH-1N (N, AF)	(a)	
UH-60A (A) (including 2 T-700 Engines) (Airframe only - \$169,692.00)	187,272.00	3 Oct 81

TABLE 7-I-1. (Continued)

DSAA Approved Pro Rata Nonrecurring Cost (NRC) Recoupment Charge \$	Date NRC Charge Approved
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Engines

GE-401 (N) (for SH-60B) (\$78,039.00 & \$8,790.00)	86,829.00	15 Oct 82
F-100 (AF)	221,705.00	12 Mar 82
(if sold with other than F-15/16 aircraft)		
PW 1120 (70% of F-100) (AF)	155,194.00	20 Oct 83
F-101 (A)	(a)	
F-101X (AF)	(a)	
F-107 (N)	(a)	
F-401 (N)	(a)	
F-404 (N)	53,654.00	
J-47 (AF)	2,168.00	12 Mar 82
J-52P-6A-66 (AF)	7,270.00	2 Sep 83
J-52P-8A (AF)	30,658.00	2 Sep 83
J-52P-408 (AF)	33,106.00	2 Sep 83
J-57P-6B (AF)	4,600.00	2 Sep 83
J-57P-10 (AF)	4,120.00	2 Sep 83
J-60P-3/3A (AF)	2,520.00	2 Sep 83
J-75 (AF)	28,999.00	12 Mar 82
J-79-6E-8/10 (AF)	6,400.00	8 Sep 83
J-85 (AF)	17,901.00	23 Mar 83
T-33-P-100 (AF)	(a)	
T-53 (N)	1,542.00	
T-55 (A)	6,400.00	
T-56 (N)	13,313.00	12 May 83
T-58 (N)	(a)	
T-64 (N,AF)	38,578.00	12 May 83
T-700 (A, N) (GE-700-2 each per UH-60A)	19,647.00	12 Oct 83
T-700-GE-401 (N) (additive to basic T-700 Charge)	78,039.00	15 Oct 83
TF-30 (N, AF)	43,866.00	20 Jun 79
TF-34 (N, AF)	20,705.00	12 May 82
TF-39 (AF)	441,707.00	12 Mar 82
TF-41 (N, AF)	(a)	

CATEGORY IX - MILITARY TRAINING EQUIPMENT

No items in this category are defined in the U.S. Munitions List as significant military equipment. *

TABLE 7-I-1. (Continued)

DSAA Approved Pro Rata Nonrecurring Cost (NRC) Recoupment Charge \$	Date NRC Charge Approved
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CATEGORY X - PROTECTIVE PERSONNEL EQUIPMENT

No items in this category are defined in the U.S. Munitions List as significant military equipment. *

CATEGORY XI - MILITARY AND SPACE ELECTRONICS

AN/SQR-18A (N)	267,069.00	
AN/SQR-19 (N)	1,349,593.00	29 Mar 82
AN/SQS-56 (N)	(a)	
AN/TCC-39 (A)	(a)	
ECM, ALQ-119 (AF)	6,138.00	9 Dec 75
ECM, ALQ-131 (AF) w/receiver \$26.970 w/o receiver	24,108.00	28 Sep 79
Engagement Control System (ECS), PATRIOT, AN/MSQ-104 (A)	548,311.00	15 Nov 82
Joint Tactical Information Distribution System, JTIDS (AF)	50,828.00	30 Oct 82
NAVSTAR Global Positioning System (GPS) (AF) (this is the User Charge which includes approximately \$1,000 NRC charge) (In FY 79 dollars to be adjusted annually)	3,800.00	
Radio, AN/ARA-54 (A)	(a)	
Radio, AN/VRC-12 Series (12, 43 through 49) (A)	70.00	
Versatile Avionics Shop Test (VAST), AN/USM-247(V) (N)	(a)	

CATEGORY XII - FIRE CONTROL, RANGE FINDER, OPTICAL
AND GUIDANCE AND CONTROL EQUIPMENT

Computer, Fire Control, MK1A (N)	(a)	
Close in Weapon Systems, CIWS, PHALANX (N) (per gun mount)	287,842.00	28 Oct 78
Director, Fire Control, MK51-2 (N)	(a)	
Fire Control System, MK-74, SM-1 MR Missile (N)	(a)	

TABLE 7-I-1. (Continued)

SECTION II - PREPARATION AND PROCESSING OF FOREIGN MILITARY SALES AGREEMENTS
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A. PURPOSE. The purpose of this section is to provide specific instructions for responding to approved foreign country or international organization requests for a firm FMS offer from the DoD. It also prescribes normal processing times and allowable timeframes between release and expiration of the offers.

B. POLICY.

1. DD Form 1513 - Letter of Offer and Acceptance (LOA).

a. The DD Form 1513, LOA, will be used for all foreign military sales of defense articles and services (including training) by the Military Departments and Defense Agencies. (See Figure 7-II-1.)

b. The offer will itemize the defense articles and services offered and when executed becomes an official tender by the Government of the United States.

c. The acceptance constitutes the agreement of the foreign government to the offer and with applicable funding completes the contract.

d. Annex A of the DD 1513 contains "General Conditions" which is an official part of every offer issued. (See Figure 7-II-2.)

e. In all FMS cases involving major systems/end items, the LOA will include all complementing/supporting materiel and services as opposed to negotiating separate cases for each of these items/services. Exceptions to this requirement must have the prior approval of DSAA/Operations.

f. If all line items cannot be listed on the first page of an offer and acceptance, show only the program total and list the remaining line items on DD Form 1513c continuation sheets. (See Figure 7-II-3.)

g. Such additional terms and conditions as may be appropriate for a particular sales case shall be set forth in one or more attachments or continuation sheets to the DD Form 1513. All attachments (including DD 1513-C continuation sheet with notes) are an integral part thereof. Each page should indicate the case identifier at the top of the page and be numbered consecutively from the first page of the LOA to the end of all information provided with this LOA. Thus the number on the DD Form 1513 would reflect the total number of pages in the LOA.

h. The percentage rate used for determining packing, crating and handling costs, general administrative costs, and supply support arrangement costs should not be indicated in the applicable blocks. (This guidance also pertains to Other Estimated Costs (Block 25) should a percentage rate be applicable.)

i. See Table 7-II-1 for detailed instructions on the filling in of the blocks on the DD Form 1513 - Offer and Acceptance.

C. PROCEDURES.

1. The DoD Component should proceed with the development of the LOA when tasked by DSAA in the case of a request for the purchase of Significant Military Equipment (SME) or upon receipt of a LOR from a FMS customer or Security Assistance Organization (SAO) for other defense articles or services (non-SME). *

2. The letter of request must be validated to insure the potential customer is an eligible FMS recipient, that the article or service sought may be sold and that the request was received through proper channels. Approval channels for LORs are included in Chapter 7, Section I, paragraph C.1.b.

3. DoD components must formally acknowledge receipt of approved LORs within five days.

4. Data cards for valid LORs must be submitted to DSAA for input into the 1200 system within ten calendar days of receipt of the request. Further information concerning the DSAA 1200 system requirements can be found in Chapter 15, this Manual.

5. The DoD component is responsible for inserting the appropriate Military Articles and Services List (MASL) line data for each line item on each LOA. Should there not be any applicable line in the MASL, it is the responsibility of the DoD component preparing the LOA to establish a line in accordance with the procedures outlined in Chapter 15, Section IV, this Manual. The LOA will not be processed and will be returned to the preparing component if line items are not in the MASL or if they contain incorrect MASL data.

a. Identification of End Items. The LOA will contain a separate line item for each generic item that is measured in quantities; e.g., AH-1 Helicopters, F-15 Aircraft, 155mm Ammunition, Harpoon Missiles.

b. Identification of Dollar Items. The LOA will group generically into a single line item dollar-denominated lines such as spare parts and training, to the extent that common generic codes apply. For example, a series of tool kits with identical National Stock Number and generic codes should be aggregated under a single line in the LOA.

c. Use of Sub-Case Identifier Systems. Sub-cases may be used as separate line items to the extent that they are compatible with the MASL breakout and reporting by generic code identification. End items which are identified by separate generic codes shall not be commingled with dollar-denominated items with a different generic code.

6. DoD components will process LOAs which meet the thresholds for reporting to the Congress in accordance with Section IV of this chapter.

7. Maximum processing time between the receipt of a request for a LOA and its submission or Amendment thereto to DSAA for coordination and/or countersignature is sixty (60) days. Earlier response will be made whenever possible.

8. DD Form 1513 - Information Conveyed.

a. General. The LOA, when signed, is an official agreement between the United States and the purchasing country or international organization regarding terms and conditions pertaining to furnishing certain goods or services. As such, the DD Form 1513 and its enclosures must provide sufficient detailed information so as to make clear the obligations of the United States and the Purchaser. The type and amount of information which must be conveyed will vary depending on the nature of the sale. However, at least some information which is supplemental to the preprinted "General Conditions" of Annex A of the DD Form 1513 must be provided for each sale. The normal method of accomplishing this is in the form of explanatory "Notes" which are cross-referenced to the line item information included on the face of the DD Form 1513. Inclusion of this information as a complete package within the LOA, rather than orally or by separate correspondence, reduces misunderstandings regarding FMS Case commitments.

b. Supplemental Information and Coordination for LOAs.

(1) Checklist. Table 7-II-7 provides a summary of supplementary information which must either be addressed or considered when the LOA is developed. The chart indicates that information must be provided to purchasers in the form of Notes or Supplemental Terms and Conditions, depending upon the nature of the articles and/or services being sold. Items indicated by "X" must be addressed in Notes or Supplemental Terms and Conditions to the DD Form 1513; those indicated as being on an "as-required basis (A/R)" should be addressed if the nature of the transaction so warrants. The following subparagraphs include instructions and discussion regarding the nature of this supplemental information. The subparagraphs are aligned to the column "Supplementary Information for Letters of Offer". In addition, the Checklist shown in Table 7-II-8 may be used for the coordination of selected LOAs.

(2) Transportation Instructions.

(a) Related Chapters. Refer to Chapter 8, Section III, this Manual, for detailed transportation information and Chapter 5 for export licensing and customs clearance requirements.

(b) Understanding Between the U.S. Government and the Purchaser of Method of Shipment. There must be clear understanding between the U.S. Government and the purchaser as to where and how the materiel purchased will be shipped. Blocks (19), (20), (33) and (34) of the DD Form 1513 are designed to fulfill this purpose under the normal Foreign Military Sales (FMS) method of shipment (i.e., by collect commercial bill of lading to freight forwarders, or by the use of codes prescribed in DoD 4140.17-M). However, supplementary instructions are required to enable purchasers to fill out Blocks (33) and (34) properly. DoD 5105.38-D (MAPAD) identifies transaction instructions furnished by the Defense Logistics Agency (DLA) to meet this need; it should be used by all DoD components as a guide.

(c) Method of Transportation. It is DoD policy that to the extent possible, FMS recipients should be self-sufficient in transportation of their materiel. The normal method of movement of FMS materiel is by commercial carrier to the freight forwarder designated by the purchaser.

b. Inclusion of nonrecurring RDT&E and production cost recoupment in accordance with DoD Directive 2140.2.

c. Inclusion of adjustments for estimated inflation or other risk factors.

d. Replacement cost in accordance with the provisions of DoD 7290.3-M.

e. Asset use charge as described in DoD 7290.3-M.

f. First destination transportation costs.

g. Recurring support costs.

h. Unfunded costs.

i. Application of factors for estimating "dollar line items" such as concurrent spare parts.

j. Adjustments based on anticipation of the receipt of other orders or Defense Department procurement of the item involved which would likely result in shared overhead costs and a reduced price for the item.

5. Sources of data used to make any of the above adjustments and their application to the case.

6. A comparison of LOA prices with budgeted or on-going DoD component procurement prices, e.g., the Selected Acquisition Report (SAR).

7. Source for Schedule of Payments.

8. A comparison of LOA prices with all other LOAs prices for the same item within the previous twelve months. This comparison should not be limited to sales within the same region.

(e) Format. Figure 7-II-4 is a suggested format for use in presenting required Financial Analysis data. The format may be modified to meet the needs of the individual DoD components. The financial analysis must, however, identify methods used in developing costs and provide the information outlined above for each line item in sufficient detail to enable the reviewer to judge the accuracy, completeness, and firmness of the estimated prices.

(2) Termination Liability T/L Worksheets to be Included with Selected Letters of Offer. The purpose of this worksheet is to provide the Director, DSAA with information concerning the implementing agency's determination of and plan for the collection of an appropriate amount of funds to cover the liability that would accrue to the U.S. Government should the sales agreement be terminated prior to normal completion. This worksheet is for internal management purposes and normally will not be furnished to the purchaser of the defense article or service.

(a) Offers of \$7 Million or More. LOAs (DD Form 1513) with a total case value of seven million dollars or more will be accompanied by a termination liability worksheet as part of the required financial analysis when the LOA is submitted to the DSAA for countersignature. Any modifications or amendments to these cases that contain a revised payment schedule will also contain a revised termination liability worksheet.

(b) Information to be Included. The following information will be included on the worksheet:

1. Deposit Date. Normally quarterly, in accordance with the schedule of payments.

2. Total Payment. Amount required to be deposited for both disbursements and reserves.

3. Estimated Disbursements. Anticipated payments to contractors or suppliers during the period covered by the scheduled payment (i.e., the next 3 months after payment date).

4. Reserve Requirements. Amounts required to be collected in advance and held in reserve during the period covered by the scheduled payment (i.e., the next 3 months after payment date). Reserve requirements consist of:

a. Contractor Holdback. Amount earned by contractors or suppliers during the period. **

b. Termination Liability. Amount required to cover the financial liability of the USG should the contract be terminated during the period. **

(c) Format for Use. Figure 7-II-5 presents a format for use in presenting this termination liability reserve information. Entries for each date should show both the quarterly transactions and the cumulative totals.

(d) Exclusions. T/L worksheet are not required for cases in the following categories:

1. Cooperative Logistics (FMSO I and II).

2. Blanket order spare parts requisitions.

3. Other equipment or services, including training to be provided from Department of Defense inventories (i.e., Source of Supply "S").

4. FMS cases for which prepayment termination liability has been waived. (NOTE: Such waivers to date have been extremely rare and no additional waivers are currently anticipated).

5. Cases with payment terms of "Cash with Acceptance."

(e) Distribution. Implementing Agencies will provide two copies of the Termination Liability Worksheet with each applicable DD Form 1513, 1513-1, or 1513-2 presented to DSAA/COMPT (FMSCD) for countersignature. The two copies will be attached to the cover letter forwarding the

1513-series document. DSAA/COMPT (FMSCD) will provide one copy of the T/L worksheet to DSAA/COMPT (FMD) and forward the other to SAAC/FSRC with the advance copy of the LOA. Upon receipt of the LOA and T/L worksheet, SAAC should ensure that the T/L worksheet is separated from the advance LOA copy and retained after the purchaser-signed copy is received. The T/L worksheet must be loaded into DIFS prior to implementation of the case, amendment, or modification.

(f) Quality Control. Implementing Agencies must ensure that adequate quality controls exist to assure the mathematical integrity of Termination Liability Worksheets. Termination liability/contractor holdback reserve requirements must be projected to liquidate by the last scheduled payment. *

(3) Nonrecurring Cost (NRC) Recoupment Summary. A data sheet in the format of Figure 7-II-6 will be included with all LOAs to identify whether NRC Recoupment Charges are included in the LOA. DSAA will review this information and forward a copy to SAAC for info and retention.

9. Review and Coordination of LOAs.

a. DoD Component Coordination. All LOAs should indicate a coordination by the comptroller and legal counsel of the appropriate DoD component.

b. DSAA Operations Directorate Coordination Function. The Operations Directorate (DSAA/OPS) is the point of entry in the OSD for coordination of FMS actions (P&R, P&A, LOAs, Amendments, Notices, and Letters of Intent), when DSAA coordination is required before countersignature. The Operations Directorate is also responsible for obtaining coordination of appropriate OSD staff elements, as well as obtaining coordination from the DSAA Comptroller. This coordination is separate from the countersignatures required for all LOAs, amendments and applicable notifications. Countersignature does not constitute DSAA/Operations coordination.

(1) Significant Military Equipment (SME), and Articles or Services of a Critical or Special Nature. DoD components will submit Letters of Offer for SME and for those articles or services of a critical or special nature, to the Operations Directorate, DSAA, for approval prior to submission to the Comptroller, DSAA, for countersignature and onward processing to the purchaser. *

(2) Additional DD 1513's Which Require DSAA Approval. Additional LOAs which require Operations Directorate, DSAA, coordination are those:

(a) for \$10 million or more, and all amendments which increase the value of a case by \$50,000 or more.

(b) for which the terms of payment are FMS credit or MAP funds.

(c) for items containing a nonrecurring cost surcharge as an element of cost of the items when the surcharge requires the approval of the DSAA as prescribed in DoD Directive 2140.2.

(d) for items or services which are not standard in the DoD inventory or for which new development effort is included as an element to be procured.

(e) involving the sale of Technical Data Packages or similar technical data.

(f) including agent's fees.

(g) quoting firm prices for articles being supplied from DoD stocks.

(h) for initial introduction of MDE/SME items into a country or region. *

(i) any LOA, amendment or modification which provides for the sale of SDAF assets.

10. Countersignature.

a. Processing. After any required Operations Directorate, DSAA, approval of the LOA has been obtained, (and, in the case of Section 36(b) actions, the Congressional review period is completed), DoD components should forward to the DSAA-Comptroller, FMS Control Division, the original plus two copies (three copies if it is a credit or MAP funded case) of the signed LOA for countersignature prior to release to the purchasing country. The DSAA-Comptroller and the SAAC will take action to process and record appropriate extracts of data from the DD Form 1513 into the DSAA FMS Data Base. Countersignature and DSAA Operations Directorate coordination are separate and distinct requirements. Countersignature does not constitute DSAA coordination or DSAA concurrence with all aspects of the LOA.

b. Return to Preparing DoD Component. Subsequent to processing, the DSAA Comptroller will: countersign the LOA and return the original copy of the LOA to the preparing DoD component for further processing to the prospective purchaser; forward a copy to the SAAC with the termination liability worksheet and financial analysis, if applicable; and retain a copy in order to enter the appropriate information into the automated data processing system.

11. Incomplete Documentation. FMS transactions submitted for DSAA Operations Directorate coordination or countersignature which do not include the proper documentation will be returned to the appropriate DoD component without coordination. If the urgency of the situation requires processing without waiting for the required documents, the matter should be referred to the Director or Deputy Director, Operations Directorate, DSAA.

12. DD Form 1513 - Duration of Offer.

a. Expiration Date on Offer - Standard. Each Letter of Offer (DD Form 1513) will include the date upon which the offer expires. DoD policy is to allow the purchaser no more than sixty (60) days between the date of issue of the Offer or Amendment and its expiration date. When the Letter of Offer is forwarded to the DSAA, for coordination and/or countersignature, the date of the Offer (Block 7) should be completed along with the signature and typed the name and title of the DoD component authorized representative. Additionally, Block 8 of the Offer should contain an expiration date of 85 days after the date placed in Block 7 of the Offer. This 85 day period permits a 60 day review period for the country and a 25 day period for the administrative

processing required for countersignature and for DoD component issuance of the LOA or Amendment to the purchaser.

b. Expiration Date on Offer - Exception. If a shorter expiration period is required because of (1) the validity of contractor quotes comprising the P&A information included on the Offer or Amendment, or (2) the time sensitivity of any information included in the Offer, then the shorter expiration period should appear on the LOA, and a note placed on the Letter of Offer which explains why the expiration period is less than 60 days. Offer expiration dates in excess of 85 days require the DSAA approval.

13. Acceptance of Offer. The purchaser should complete the acceptance portion of the DD Form 1513. The form should be signed, dated, and the copies forwarded to the MILDEP and one copy to the Security Assistance Accounting Center (SAAC) along with any required initial deposit before the expiration date listed on the offer.

a. Requests for Extension. Requests by the purchasers for extensions to expiration dates will be honored only after a full review by the preparing agency to insure that all data included in the Offer remains valid. The foreign country or international organization should be advised of the new expiration date via message from the preparing DoD component along with authorization to make a pen and ink change to the expiration date listed on the LOA or amendment. The SAAC and the DSAA should be provided an information copy of the message. All concerned should be advised of the consequence of extensions. Normally, the greater the period of time between offer and acceptance the greater the likelihood of decreased accuracy of the P&A data contained in the LOA.

b. Implementing Agency (IA) Notification of Acceptance. Upon the receipt of each accepted LOA, the initiating MILDEP will provide a copy to the DSAA FMS Control Division.

c. SAO Notification of Acceptance or Rejection. Each Security Assistance Organization (SAO) will immediately advise the DSAA-Comptroller, the SAAC, and the MILDEP issuing the LOA by priority message when each LOA has been accepted or rejected by the foreign country or international organization. In those instances when the LOAs are processed by the foreign country or international organization not served by SAOs, the LOA will have an annotation requiring the signature authority to immediately notify the DSAA-Comptroller, the SAAC, and the appropriate issuing organization by message when the LOA is accepted by an authorized representative of the purchaser. Each message must contain the date of acceptance. Within five calendar days of acceptance or rejection of the offer, the DSAA, the SAAC, and the issuing organization must be notified. If such notice is not received within ten calendar days after the expiration date, the LOA, even though accepted, will be automatically cancelled.

d. Requests for Revisions of LOAs. All requests for revisions (prior to acceptance) to the LOA which result in increases to the FMS case value or increases in scope must be submitted to the DSAA-Comptroller (ATTN: FMS Control Division) for approval.

e. Pen and Ink Changes - DD Forms 1513 and 1513-1. "Pen and Ink" changes are modifications to a DD Form 1513 or DD Form 1513-1 authorized by the issuing DoD components prior to acceptance of the document. "Pen and Ink" changes should be avoided to the maximum extent possible. The change may be at the request of the purchaser or initiative of the issuing DoD component. If the change authorizes any revision of the total costs or terms of sale, DSAA-Comptroller, FMS Control Division must concur prior to authorization. The issuing agency must authorize the pen and ink change by message or letter to the purchaser with a copy to SAAC and DSAA-Comptroller, FMS Control Division. Extensive changes must be made by issuance of a new or restated DD Form 1513 or a DD Form 1513-1 (after acceptance of the basic case) rather than by a pen and ink change. All authorized pen and ink changes (except changes to expiration date--Block 8 on DD Forms 1513 or Block 9 on DD Forms 1513-1) should be confirmed by issuance of a DD Form 1513-2 after case acceptance. **

f. Receipt and Recording of Acceptance. When the LOA is accepted, distribution will be made in accordance with the instructions contained in the LOA. In addition, the applicable MILDEP is responsible for furnishing a signed copy to DSAA/Comptroller (ATTN: Data Management Division).

14. Addresses of Military Department Central Activities Responsible for FMS Transactions.

- a. Army: Department of the Army
U.S. Army Security Assistance Center
5001 Eisenhower Avenue
Alexandria VA 22333
- b. Navy: Department of the Navy
Chief of Naval Operations (OP-63)
Washington DC 20350
- c. Air Force: Department of the Air Force
Director of Military Assistance
and Sales (AF/PRI)
Headquarters, U.S. Air Force
Washington DC 20330

FIGURE 7-II-5

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TERMINATION LIABILITY WORKSHEET

Case Identification: _____ Date: _____
 (Agency, Country, Case Designator)

PAYMENT DATE	(a)	(b)	(c)	(d)	(e)	(f)
	TOTAL PAYMENT		ESTIMATED DISBURSEMENTS		TERMINATION LIABILITY/ CONTRACTOR HOLDBACK	
	QTR	CUM	QTR	CUM	QTR	CUM
Initial Deposit	88,000	88,000	88,000	88,000	0	0
15Jun85	216,000	304,000	124,800	212,800	91,200	91,200
15Sep85	344,000	648,000	208,400	421,200	135,600	226,800
15Dec85	528,000	1,176,000	343,200	764,400	184,800	411,600
15Mar86	752,000	1,928,000	488,800	1,253,200	263,200	674,800
15Jun86	1,000,000	2,928,000	737,840	1,991,040	262,160	936,960
15Sep86	1,192,000	4,120,000	1,016,560	3,007,600	175,440	1,112,400
15Dec86	1,256,000	5,376,000	1,400,720	4,408,320	(144,720)	967,680
15Mar87	1,128,000	6,504,000	1,640,400	6,048,720	(512,400)	455,280
15Jun87	816,000	7,320,000	1,124,880	7,173,600	(308,880)	146,400
15Sep87	472,000	7,792,000	618,400	7,792,000	(146,400)	0
15Dec87	208,000	8,000,000	208,000	8,000,000	0	0

- Notes:
- (a) Columns a and b must be identical to payment schedule in LOA financial annex.
 - (b) Column a = c + e.
 - (c) Column b = d + f.
 - (d) At end of worksheet, column b = column d; column f must be zero (0).
 - (e) In initial deposit, columns e and f are zero (0) unless contract will be let before first scheduled payment.

FIGURE 7-II-5. Termination Liability Worksheet.

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FIGURE 7-II-6

NONRECURRING COST RECOUPMENT CHARGES SUMMARY

FMS CASE _____

NRC CHARGES INCLUDED: YES _____ NO _____

IF NO,

REASON CHARGES NOT INCLUDED (CHECK APPLICABLE BLOCK):

- 1. NOT APPLICABLE TO ANY LINE ITEM..... _____
- 2. CHARGES WAIVER (OR REDUCED) BY DSAA
(IDENTIFY SOURCE OF WAIVER NOTIFICATION)..... _____

IF YES, NRC CHARGES BY LINE/SUB-LINE ITEM:

<u>LINE/SUB-LINE NOMENCLATURE</u>	<u>IDENTIFY MDE/NON-MDE</u>	<u>PRO RATA CHARGE</u>	<u>QUANTITY</u>	<u>TOTAL INCLUDED</u>
---------------------------------------	---------------------------------	----------------------------	-----------------	---------------------------

*

SIGNATURE OF MILDEP
CASE MANAGER
(OFFICE/TELEPHONE/DATE)

FIGURE 7-II-6. NONRECURRING COST RECOUPMENT CHARGES SUMMARY.

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W. BLOCK (27) TERMS. Enter appropriate terms of sale in accordance with the guidance contained in Chapter 7, Section III, paragraph K. If an initial deposit is required, this fact should be so stated and the amount of the initial deposit entered in Block 28. In all cases where DoD direct or guaranteed FMS credit or MAP funding is used, insert the Fiscal Year of the FMS credit or MAP program followed by the words FMS Credit or MAP as appropriate. If the sales agreement is financed by a combination of sources, each term of sale and the applicable amount will be cited. *

X. BLOCK (28) AMOUNT OF INITIAL DEPOSIT. If by the terms of this LOA an initial deposit is required and has been stated in Block (27), the dollar amount in whole dollars of this initial deposit should be entered. *

Y. BLOCKS (29) THROUGH (37). Leave blank. These blocks should be filled in by the authorized representative of the purchasing government. *

NOTE THE FOLLOWING INFORMATION
BEFORE SUBMISSION OF THIS NOTICE FOR COUNTERSIGNATURE

1. The DSAA-OPS is the point of entry in OSD for the MILDEPs and Defense Agencies to use in coordinating FMS cases. The DSAA/OPS is also responsible for obtaining the coordination of appropriate OSD staff elements. (See Chapter 7, Section II, paragraph C.9., for those LOAs and amendments which require DSAA coordination.)

2. Submit for countersignature to the FMS Control Division, DSAA/Compt all DD Forms 1513 in original and 2 copies (one extra copy for credit cases).

3. Attach a Financial Annex to all DD Forms 1513 except FMSO I cases.

4. Before notifying the customer of a change to cost or scope prior to acceptance, obtain approval from DSAA/OPS.

5. Attach a termination liability worksheet for each case of \$7 million or more and those which meet any other of the criterion in Chapter 7, Section II, paragraph C.8.c.(2).

6. Attach a financial analysis worksheet for each line item in accordance with Chapter 7, Section II, paragraph C.8.c.(1).

7. All DD Forms 1513 must be listed in the Letter of Request (LOR) system for at least seven (7) days prior to countersignature.

8. Letters of Offer reported under the Arms Export Control Act (AECA), Section 36(b) will include below Block 11 the identifying DSAA Transmittal Number used in the Statutory Congressional Notification (e.g., 83-15).

9. The name and telephone number of the MILDEP action officer responsible for the preparation of the DD Form 1513 should appear at the bottom of all copies submitted to the DSAA for countersignature, excluding the original.

TABLE 7-II-1. (Continued)

TABLE 7-II-2

TRANSPORTATION INSTRUCTIONS, DD FORM 1513

A. SALE OF MATERIEL

1. When all items on the Offer and Acceptance document (DD Form 1513) require a single code in Blocks 19, 20, 33, and 34, the appropriate code as determined below will be entered in the respective blocks of the DD Form 1513:

a. Block (19) Offer Release Code. Enter one of the following codes opposite each materiel line item, as applicable:

<u>Code</u>	<u>Explanation</u>
A	Freight and parcel post shipments will be released automatically by the shipping activity without advance notice (Notice of Availability).
Y	Advance notice is required before release of shipment, but shipment can be released automatically if release instructions are not received by shipping activity within 15 calendar days. Parcel post shipments will be automatically released.
Z	Advance notice is required, before release of shipment. Shipping activity will follow-up on the notice of availability until release instructions are furnished. Parcel post shipments will be automatically released.
X	The U.S. Service and country representative have agreed that the: <ul style="list-style-type: none"> - U.S. Service will sponsor the shipment to a country address. Under this agreement Block (34) (Freight Forwarder Code) must contain "X" and a customer-within-country (CC) Code must be entered in Block (33) (MARK FOR Code). The Military Assistance Program Address Directory (MAPAD) must contain the CC Code and addresses for each type of address required, i.e., parcel post, freight, documentation. - Shipments are to be made to an assembly point or staging area as indicated by clear test instructions on exception requisitions. Under this agreement Block (34) must contain Code "W". A MARK FOR Code may be entered in Block (33) and the MAPAD must contain the MARK FOR Code if the MARK FOR Address is to be used on the shipment to the assembly point or staging area.

TABLE 7-II-2. Transportation Instructions, DD Form 1513.

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requirements associated with the case, whichever is greater. The quarterly forecast will include accrued expenditures through the billing cutoff plus estimates of the costs to be incurred on behalf of the FMS customer through the calendar quarter following the quarter in which the bill will be mailed; i.e., a statement prepared in January (December cutoff with payment due March 15) will project financial requirements through June (see Figure 7-III-1). Accumulation of large unexpended balances in customer trust accounts for substantial periods must be avoided, except where related to contract hold-backs and other accrued or potential liabilities.

d. Excess Payments. Cash payments received for an individual FMS case may be in excess of the final charges. With customer approval, these funds can be retained in the customer's account and applied against other FMS cases. Upon customer demand, however, these overpayments will be refunded at the time the FMS case is closed provided there are no collection delinquencies for other FMS cases for that customer. Implementing agencies should not enter any remarks on FMS documents in regard to transferring Purchaser funds from one case to another. Such remarks can be misleading, contradictory to instructions given to SAAC by the Purchaser, and not effective if crosslevelling is required. Any excess funds on a case are processed to the Purchaser's Trust Fund and can only be applied to another case at the Purchaser's request. *

D. PRICING OF FMS TRANSACTIONS.

1. General. Defense policy outlined in DoD 7290.3-M, June 1981, establishes the pricing criteria for FMS of defense articles and defense services furnished to eligible foreign countries and international organizations. In compliance with the AECA, DoD pricing and financial procedures will provide for the charging of all DoD direct and indirect costs, including applicable surcharges. The P&R, P&A, or LOA will provide estimated price and availability data, and/or firm data, as indicated below.

2. Articles from Defense Stocks.

a. Authority. Section 21 of the AECA authorizes the sale of defense articles from stock to eligible foreign countries or international organizations. Pricing of defense articles from DoD stocks will be handled according to DoD 7290.3-M, Section 702.

b. Pricing Principles. Standard prices will be used when nonexcess materiel is to be sold, and no inventory replacement is required. For the sale of principal or major items a test is required to determine if a requirement for inventory replacement is created as a result of the sale. When an article is supplied from inventory with replacement required, the FMS selling price will be the best estimate available at the time of drop from inventory. When no replacement is required, the price will be based on the most recent actual procurement cost of the "series" and "model" being sold, and will consider any modifications or improvements, as well as desirability or utility due to age or condition.

c. Quotation of Firm Prices. DoD components will quote firm prices when offering principal or major items from DoD stocks as provided in DoD 7290.3-M, Section 702. All LOAs offering principal or major items from DoD stocks will be coordinated with the DSAA Operations Directorate. In the

exceptional instances where a MILDEP recommends that firm prices not be quoted, the rationale will be identified during the coordination process.

3. Articles from Procurement.

a. Authority. Section 22 of the AECA authorizes the sale of defense articles from procurement to eligible foreign governments and international organizations. Pricing of defense articles from procurement will be in accordance with DoD 7290.3-M, Section 703 and will include full DoD contract costs and authorized surcharges.

b. Purchaser Obligations and Contracting Principles. The purchaser is obligated to pay all costs incurred by the U.S. Government as well as any damages or costs that may accrue from the purchaser's cancellation of the contract. In general, defense articles shall be priced on the same basis as the cost principles used in pricing defense contracts for items for DoD use. However, recognition shall be given to reasonable and allocable contractor costs which are justified in connection with a particular sale (see DoD Federal Acquisition Regulation Supplement, 25.7304(c)).

c. Use of Estimated Prices. To assure that all costs are covered in the DoD pricing, quotations on defense articles and defense services will be cited as estimated prices, with final adjustments to be established after delivery of items from production or the rendering of services. The DD Form 1513 will indicate that prices for articles and services from procurement are estimated prices.

4. Authorized Surcharges. Prices of defense articles and services sold to eligible foreign countries and international organizations will include the following surcharges when applicable:

a. Accessorial Charges. These charges represent certain expenses incident to issues, sales, and transfers of materiel which are not included in the standard price or contract cost of materiel, such as:

(1) Packing, Crating and Handling. Packing, crating, and handling (PC&H) costs are costs incurred for labor, materiel, or services in preparing the materiel for shipment from the storage or distribution point.

(2) Transportation. Transportation charges include inland (second destination) and ocean transportation costs representing shipments by land, sea, air, inland and coastal waterways, vessel or air, and including parcel post via surface or air. (NOTE: There are exceptions to charging second destination transportation costs, i.e., CLSSA.)

(3) Port Loading and Unloading. These are costs for labor, materiel or services at ports of embarkation or debarkation.

(4) Prepositioning. Supply distribution costs incurred by locations outside the United States in anticipation of support to other authorized customers. These costs are applicable when shipments are made from overseas storage and distribution points, except that no positioning costs shall be assessed on "long supply" stocks.

(5) Staging. These costs are for aggregation or prepositioning of materiel in U.S. facilities within the CONUS.

b. Administrative Charges.

(1) Scope. An administrative charge shall be added to all FMS cases to recover DoD expenses related to the administration of the FMS transactions in accordance with Section 21(e)(1)(A) of the AECA. (Normally, the charge will be three percent, however, in certain instances a five percent charge will apply.) See DoD 7290.3-M, Section 705, for the appropriate administrative charges which must be included in FMS cases. If the LOA contains both standard and non-standard items, they must be cited as separate line items on the LOA.

(2) Cancellations. In the event that the FMS purchaser cancels an entire FMS case (LOA or Amendment) at any time prior to the delivery of all articles and services involved, the following guidance applies:

(a) Guidance Regarding Cancellation of FMS LOAs.

-- Standard Defined Order Cases. On standard defined order FMS cases the administrative charge will be three percent of the actual value at case closure or one percent of the implemented program value, whichever is greater. For offers on or after 1 October 1983, the administrative charge shall not be applied to case management lines. *

-- Non-Standard Defined Order Cases. On FMS cases which provide for non-standard procurement, the administrative charge will be five percent of the actual value at closure or one percent of the implemented program value, whichever is greater. *

-- Blanket Order and CLSSAs. On Blanket Order FMS cases or FMSO II cases, the administrative charge will be three percent of the delivered value at case closure. For FMSO I transactions the applicable charge is five percent.

(b) LOA Notes Regarding Cancellation Charges. A note should be placed on LOAs and amendments which indicates to the FMS purchaser the appropriate administrative charge which would be assessed should the entire LOA or amendment be cancelled.

(c) Approval to Assess a Cancellation Charge. The DSAA Comptroller and the Director of Operations must approve the assessment of the one percent cancellation charge on applicable FMS cases. DSAA countersignature of a DD Form 1513-2 decreasing the dollar value of a cancelled FMS case does not constitute this approval. When case closure certificates are submitted to the DSAA for review, the following information is required: *

-- A copy of the FMS case, including all amendments or modifications.

-- Either a copy of correspondence pertaining to the cancellation or a written explanation as to the reason why the case was cancelled. The explanation should identify whether the items on the LOA were placed on contract by the MILDEP and whether the DoD incurred any "out-of-pocket" costs in implementing or cancelling the LOA.

-- The name and telephone number contact of an individual cognizant of the case to whom inquiries could be directed.

[Note: Administrative cancellation charge does not apply to cases closed with zero deliveries/expenditures. SAAC is authorized to automatically close these cases without applying an administrative fee.]

(3) Annual Administrative Budgets. DoD components incurring costs in support of FMS programs will prepare annual budgets for related administrative expenses in accordance with Chapter 13, Section I, this Manual.

c. Review of Accessorial and Administrative Rates. Rates for accessorial and administrative costs are subject to review at least every two years. Requests for exceptions to the pricing policies prescribed herein, in the case of unresolved disputes, or deviations from any price or service charge when it can be shown that such deviation is in the best interests of the U.S. Government shall be submitted through the Director, DSAA, to the Assistant Secretary of Defense (Comptroller) for resolution or approval. Such requests will contain the basis or justification and supporting data for the exceptions. See additional guidance in DoD 7290.3-M, paragraph 71801.

d. Nonrecurring Cost (NRC) Recoupment Charges.

(1) Background. Section 21 of the AECA requires that, in selling defense articles to foreign governments and international organizations, an appropriate charge be made for a proportionate amount of any nonrecurring cost of research, development, test and evaluation (RDT&E), and production of major defense equipment (MDE).

(2) DoD Component Responsibility. As a matter of DoD policy the military components are responsible for determining recoupment charges for all items of defense equipment having a total nonrecurring development and production cost of \$5 million or more. DoD components must use actual, not program, cost data and may use estimates where the development of more precise data is not possible; however, in the latter case, it must be demonstrated that a reasonable approach was used and prior approval of alternative costing methods must be obtained from the OSD Comptroller (Accounting Policy), with DSAA concurrence. The costs to be applied against the foregoing threshold levels shall normally be determined based upon the system roll-away, sail-away or fly-away cost of the end item, and assessments for product sales shall be made on the basis of end item sales. In the event an end-item contains one or more components which individually meet these thresholds, recoupment will be made on both end item and component sales. Nonrecurring RDT&E costs are those costs funded by an RDT&E appropriation to develop or improve the product or technology. This includes costs of any engineering change proposal (ECP) initiated prior to the date of the contract with the customer, as well as projections of such costs, to the extent additional effort applicable to the sale model or technology is necessary or planned. It does not include costs funded by either procurement or operations and maintenance appropriations to improve the product or for costs of publications. The costs of such improvements are recurring costs and will be recovered in accordance with DoD 7290.3-M. Nonrecurring production costs are those one-time costs incurred in support of previous production of the model specified and those costs specifically incurred in support of the total projected production run from which delivery is to be made which would normally be expenses against a production run. These nonrecurring costs include such costs as preproduction, special tooling, special test equipment, production engineering, product improvement, destructive testing, and pilot model production, testing, and evaluation. They do

b. Payment of Initial Deposits. To accept an LOA, the purchaser may be required to make an initial deposit equal to a portion or all of the estimated value of the FMS agreement. The amount of the initial deposit will be as specified on the LOA and computed in accordance with paragraph c. below, except for FMSO I Agreements. DoD 7290.3-M provides special guidance for computing initial deposits for FMSO I. Where an initial deposit is required, the purchaser is responsible for forwarding payment to SAAC by check or wire transfer at the time of and as an integral part of accepting the DD Form 1513. In the absence of such payment, there is no binding agreement that can be implemented. If the purchaser has excess funds in his FMS Trust Fund Holding Account, he may request use of these funds to pay initial deposit requirements. For that portion of the value of the FMS agreement for which the purchaser need not make an initial deposit, the SAAC will bill the purchaser as required. For those purchasers not authorized direct arrangements for dependable undertaking (see Table 7-III-2), terms of sale on a cash sale from procurement will be "Cash with Acceptance," unless DSAA has provided approval for other financing terms.

c. Computation of Initial Deposit. Except for FMSO I, the implementing agency will compute the initial deposit as follows: The initial deposit must be sufficient to cover the potential charges to be incurred (e.g., contractor progress payments, contractor holdbacks, potential termination charges, deliveries from DoD inventories, etc.) from the expiration date of the offer set forth in the LOA through the day immediately preceding the calendar quarter to which the first bill applies. New FMS agreements can enter the billing system at the SAAC during a particular calendar quarter through the tenth day of the last month of that quarter. A bill is issued as of the close of business of that quarter with payment due 75 days later. The bill covers all costs incurred as of the date of the bill plus anticipated costs through the quarter following the payment due date. Therefore, if the agency anticipates that an LOA will be accepted by the purchaser and will be received by SAAC before the tenth day of the last month of the quarter, the implementing agency should require an initial deposit to cover only the estimated payments due through the end of the first full calendar quarter following the acceptance of the agreement. To illustrate, a new agreement with an expiration date of between 11 September through 10 December would first appear on the billing statement as of 31 December. The 31 December statement would request payment on 15 March for costs estimated to be incurred during the period 1 April through 30 June. Therefore, the initial deposit should cover only the estimated payments due from date of acceptance through 31 March. However, if the SAAC does not receive a new agreement until 11 December, the agreement would first appear on the billing statement as of 31 March. This 31 March statement would request payment on 15 June for costs estimated to be incurred during the period 1 July - 30 September. In this case, the initial deposit should cover all estimated payments due from date of acceptance through 30 June. The payment schedule set forth in a Financial Annex will be based on the foregoing and reflect the date that payment is due. Other than initial deposits, payment due dates are 15 March, 15 June, 15 September, and 15 December. An example is as follows:

Offer Expiration Date: 15 December
Initial Deposit: Costs to be incurred
 from date of acceptance through 30 June
First Forecast Quarter in Payment Schedule:
 1 July thru 30 September
"As of Date" of Billing: 31 March
Approximate Mailing of Billing: 15 April
Payment Due: 15 June

(1) Detail guidance for determining initial deposits and preparation of payment schedules is given in DoD 7290.3-M, Chapter 4. Figure 7-III-1 summarizes the above dates as viewed by the SAAC as the responsible authority for assuring the adequacy of cash deposits from FMS purchasers.

3. Terms of Sale. Terms of Sale and related statements to be used on LOAs are as follows:

a. Terms.

(1) "Cash with Acceptance." This term applies when the initial cash deposit equals the amount in the "Estimated total Costs" block of the LOA. Paragraph B.3.a. of Annex A of the LOA defines this term. This term will also be used for FMSO I even though the initial deposit is less than "Estimated Total Costs."

(2) "Cash Prior to Delivery." Under this term, the U.S. Government collects cash in advance of delivery of defense articles and rendering of defense services and design and construction services from DoD resources. Section 21(b) and Section 29 of the AECA apply. Paragraph B.3.b. of Annex A of the LOA defines this term.

(3) "Dependable Undertaking." Under this term, the U.S. Government collects cash in advance of procurement contract payment requirements. Section 22 and Section 29 of the AECA apply. Paragraph B.3.c. of Annex A of the LOA defines this term. If Section 22(b) is applicable based on Presidential action (i.e., payment due 120 days after delivery), add "with 120 days payment after delivery." The countries identified in Table 7-III-2 are authorized to make direct arrangements with the cognizant DoD component for purchases under a dependable undertaking transaction.

(4) "Payment on Delivery." Under this term, the U.S. Government issues bills to the purchaser at the time of delivery of defense articles or rendering of defense services from DoD resources. The first sentence of Section 21(d) of the AECA applies. Paragraph B.3.d. of Annex A of the LOA defines this term. The implementing agency may use this term only pursuant to a written statutory determination by the Director, DSAA, who must find it in the national interest to do so. If the last sentence of Section 21(d), of the AECA is applicable, based on Presidential action, modify to read "Payment 120 days after Delivery."

(5) "FY (insert two digit fiscal year of FMS Credit program) FMS Credit." This term applies to payment for a Foreign Military Sale in whole or in part with FMS loan funds, extended or guaranteed by DOD under Sections 23 and 24 of the AECA or under other legislation. Paragraph B.3e of

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Annex A of the LOA defines this term. The implementing agency will determine initial deposit requirements in the same manner as in Paragraph 3.a(3), above. The purchaser may then request the drawdown of FMS loan funds in payment of the initial deposit and subsequent payments (if any) in accordance with the Financial Annex. If the sales agreement is to be financed only in part with FMS credit funds, the implementing agency will also cite in the "Terms" block (27) of the LOA the appropriate other Terms of Sale and the amounts applicable to each type of financing.

(6) "FY (insert two digit fiscal year of MAP program) MAP Merger." This term applies to payment for a Foreign Military Sale in whole or in part with Military Assistance Program (MAP) funds, authorized for transfer to the FMS trust fund for merger with country trust fund deposits. If the sales agreement is to be financed only in part with MAP funds, the implementing agency will also cite the appropriate other terms and the amounts applicable to each in the LOA.

b. Related Information.

(1) If more than one of the above Terms of Sale apply to a particular LOA, the implementing agency will cite all of the appropriate Terms of Sale on the LOA. No attempt should be made to break out the estimated costs of each or some line items, except where FMS Credit or MAP funds are cited in which case a dollar breakout will be shown. Applicable line items for credit will be coded "TAZ." Mixed line items will show "TAZ" and other appropriate "TA" code. (See Paragraph 4 below.) **

(2) In addition to the applicable Terms of Sale, the implementing agency will enter the following statement in the "Terms" block of the LOA: "Payment will be in accordance with the provisions of the Financial Annex subject to paragraph B.3.f. of Annex A." However, this statement does not apply to Cash with Acceptance and FMSO I cases. If the purchaser is not authorized a Dependable Undertaking for Section 22 or Section 29 sales, the Term of Sale will be "Cash with Acceptance," unless specific DSAA approval is obtained. A Financial Annex is required for all LOAs except FMSO I agreements. Paragraph M.1.d., this section sets forth instructions for Financial Annexes.

4. Type of Assistance (TA) Codes.

a. Codes Identified.

- Code 3: Sec 21 (b), AECA; Source of Supply "S", "R", "E".
- Code 4: Mixed Sec 21(b), 22(a), or Sec 29 AECA or source undetermined; Source of Supply "X".
- Code 5: Sec 22(a), AECA; Source of Supply "P".
- Code 6: Sec 21(d), AECA; Payment on Delivery; Source of Supply "S", "R", "E".
- Code 7: Sec 22(b), AECA; Dependable Undertaking with 120 days payment after delivery; Source of Supply "P".
- Code 8: Sec 21(d), AECA; Stock sales with 120 day payment Source of Supply "S", "R", "E".
- Code M: Sec 503(a)(3) Foreign Assistance Act, MAP Merger.
- Code U: FMSO I, Source of Supply "P".
- Code V: FMSO II, Source of Supply "P".
- Code Z: Sec 23 or 24, AECA; FMS Credit.

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b. Use with Source of Supply Codes. The type of assistance code may be interchanged when used in the "Availability and Remarks" block of the LOA. Example: TA3, TAZ. The Source of Supply codes shown in paragraph 3, Explanatory Notes, Annex A, to the LOA, must be determined and indicated independently of TA codes. For example, the source of supply coding for FMSO II should be "P(*)" and the TA code for FMSO II should be "TAV" with both designations being shown in the "Availability and Remarks" block of the LOA.

L. MULTIPLE SOURCES OF FINANCING.

1. Reasons for Use.

a. Inadequate Credit/MAP Funds. A purchasing nation may find, when procuring high-dollar-value, long-lead-time items, that the amount of credit/MAP funds currently available for such procurement is inadequate to finance the entire purchase. Therefore, since credit/MAP funds which are not yet available to the purchaser may not be cited on the LOA, that portion not covered by credit/MAP financing must be reflected as "cash" on the LOA. As additional credit/MAP funds become available to the purchaser, it may then request the military department to amend the LOA to convert the cash portion to credit/MAP to the extent that such financing is available.

b. Inadequate Cash. A purchasing nation may accept an LOA which cites "cash" as the method of payment, only to find at some later date that its national funds are inadequate to pay subsequent billings from SAAC. In such an instance, the purchaser may request the military department to amend the LOA to cite credit/MAP funds, if available, to finance the remaining payments.

M. FINANCIAL CONTROL OF FMS AGREEMENTS.

1. Accuracy of Pricing and Payment Schedules.

a. Need for Accuracy. Historically, a major area of purchaser concern has been the rapid change in pricing and financial commitments after acceptance of FMS agreements. Purchasers are concerned that the amounts they are required to pay on the DD Form 645, FMS Billing Statements, often differ significantly from the amounts estimated in the LOAs and related payment schedules. Inaccurate payment schedules hamper financial planning on the part of purchasers and, as a result, they must obtain emergency funds from (or must return monies to) their parliamentary bodies.

b. Effect of Inaccuracies on Customers. Since purchasing governments typically have budgetary practices that are as involved as our own, emergency funding may not be available in time to avoid penalty interest assessments on delinquent FMS debts. Interest charges for late payments are especially difficult for DoD to explain when the cause for delinquency is attributable to inaccurate pricing and inflated payment schedules provided to the purchasers by DoD .

c. Policies for Pricing. The policies for pricing defense articles and services are set forth in DoD 7290.3-M. Each DoD component must strictly adhere to the policies prescribed. To assist in the pricing of FMS

agreements, Paragraph C.8.c.(1), Section II of this Manual, provides a systematic application of pricing policies to develop a "Financial Analysis." Use of this guidance should minimize subsequent revisions of price caused by erroneous cost elements or incomplete adherence to pricing policy.

d. Financial Annex to the DD Form 1513. To improve the quality of payment schedules attached to LOAs, Paragraph M.2, this section, provides criteria for payment schedule preparation. The financial annex payment schedule provides the purchaser with a reference to his financial commitment. A sample of the Financial Annex is shown at Figure 7-III-3.

(1) Payment Schedule. The payment schedule should project quarterly payments due as of the 15th day of the last month of each calendar quarter. Each deposit amount should be sufficient to cover all costs and contingencies anticipated to be incurred on the purchaser's behalf during the succeeding quarter, plus a reserve to cover termination liability (for sales from procurement). Specifically, the deposits should provide for incremental payment of materiel, services, administrative charges, accessorial charges, contractor holdback, termination liability, nonrecurring cost recoupment charges, asset use, and any other applicable contingency or add-on costs.

(2) Revisions to Payment Schedules. Implementing agencies will revise LOA payment schedules as necessary. A new payment schedule should be furnished whenever a substantive change in payment requirements is evident. Obviously, this condition varies by country and case. As a minimum, a DD Form 1513-2 providing a new payment schedule is required when costs are anticipated to vary (increase or decrease) from the existing payment schedule by more than \$500,000 or 10%, whichever is greater, during any 12 month period. This threshold should be reduced when the purchaser's FMS program is relatively small. Implementing agencies should establish procedures to insure that payment schedules on cases valued at \$7 million or more are reviewed against actual financial requirements at least once annually.

2. Preparation of Payment Schedules.

a. General. The preparation of payment schedules require budgetary estimates under conditions of inflationary uncertainty and uncertainty as to the specific dates when: purchasers will accept and return the LOA for implementation; requisitions for items will be initiated; contracts will be let; progress payments must be made to contractors; deliveries of items, particularly spare parts and support equipment, will occur; and personnel costs will be incurred.

b. Criteria. Actual outlays therefore, can be expected to vary from initial payment schedules. This does not negate, however, the requirement to develop a payment schedule for each case. In general, payment schedules will include estimates of outlays for sales from DoD stocks, sales from procurement, DoD services and training, administrative charges, accessorial and transportation charges. The paragraphs that follow provide criteria for developing payment schedules in anticipation of these costs:

(1) Timing and Amount of Payments. All payment dates on Financial Annexes other than initial deposits should be 15 days before the end of each calendar year quarter (e.g., 15 December, 15 March, 15 June, 15 September). Payment amounts should equal the anticipated outlays for the next

90 days after payment date. The timing and amounts of claims for payment will coincide with existing FMS billing procedures as described in DoD 7290.3-M. The payment schedule should specify the initial deposit required at the time of case acceptance. The amount of initial deposit must be sufficient to cover outlays/deliveries anticipated until the first follow-on payment is scheduled for receipt.

(2) Uncertain Date of Acceptance. When the exact date a purchaser will accept an LOA is uncertain, and a payment is needed a specific number of days after that acceptance, assume that the purchaser will accept the LOA 60 days after it is offered, and specify the first payment date accordingly.

(3) Materiel from Stock. The schedule for payments related to materiel to be sold from stock will be based on estimated deliveries during each 90 day period as cited above. The basis of forecasting anticipated delivery will be the use of historical delivery information of specific generic codes and other materiel categories and should be supported by an analysis showing the means of forecasting.

(4) Materiel from Procurement. Payment schedules for materiel obtained through procurement requiring progress payments to the contractors will be estimated based on historical cost curves. These curves should be systematically developed for all major DoD weapon systems and should be reviewed periodically for validity. Payment schedules should include both the estimated disbursements to contractors as well as appropriate contract hold-back percentage.

(5) Concurrent Spare Parts. For case lines involving concurrent spare parts, estimate dollar deliveries consistent with the delivery of the end items being supported.

(6) Purchaser-Initiated Requisitions. For cases involving purchaser-initiated requisitions (i.e., open-end or blanket order cases expressed in dollars) over a one-year period, phase payments quarterly for one-fourth of the estimated case value. The first payment should be scheduled 90 days after the estimated date of case acceptance and initial deposit.

(7) Personnel Services. For cases involving personal services, develop a monthly phasing based upon the scheduled dates and elements of cost of the services being provided.

(8) Training Cases. For training cases involving foreign student entry into courses, schedule the payment in consonance with known or estimated entry into the training courses involved. Open-end or blanket order training cases will require an initial deposit of 25% when the case exceeds \$25,000.

(9) Royalties or Pro-Rata Nonrecurring Cost Charges. For cases involving royalties or pro-rata nonrecurring costs or asset use charges, schedule the payment in consonance with production schedules of the end item for which the payment is being collected.

(10) Administrative and Accessorial Charges. Schedule administrative and accessorial costs in consonance with payment schedules for the primary items or services being provided under the case. However, one percent of the administrative fee will normally be required with acceptance of the LOA.

3. Budgetary Authority for FMS Orders. To protect the integrity of the FMS purchaser's financial commitment and to ensure proper accounting for fiscal resources of the DoD components, the DoD uses a series of uniform, DoD-wide budgetary controls for FMS agreements. Budgetary control of an FMS

agreement begins after acceptance of the sales offer by the purchaser. The purchaser forwards three signed copies of the accepted agreement to the SAAC together with any required initial deposit. If the terms of sale have been observed by the purchaser, the SAAC records acceptance of the LOA and releases to the appropriate DoD agency specific values of obligational authority. The DoD agency must then account for, control, and report all obligations incurred against the authority received. The essence of the budgetary control system is the "FMS Planning Directive" (DD Form 2061) and the "Request and Approval of FMS Obligational Authority" (DD Form 2060). Each of these documents form a building block of fiscal data in support of the "FMS Status of Budget Execution Report" (DD Form 1176). Specific detailed controls for use of these forms for FMS sales are prescribed in DoD 7290.3-M.

4. Collection of FMS Payments.

a. Trust Fund Accounts. The AECA requires FMS monies to be collected in advance of delivery, service performance, or contractual progress payments. The SAAC performs accounting operations for these monies from two parent FMS trust fund accounts: (1) 978242, (Deposits, Advances, Foreign Military Sales, Defense) and (2) 97-11X8242, (Advances, Foreign Military Sales, Executive, Defense). The 978242 account is used for "receipt" of payments from customers for FMS sales. Account 97-11X8242 is for "disbursements" made to suppliers on behalf of the FMS purchasers.

b. Integrity of Payment Identification. Cash collections into the FMS Trust Fund are the result of initial deposits at acceptance or are based on requests for funds (billings) prepared by the SAAC. Each deposit made is recorded to the appropriate FMS case accepted by the purchaser. If the deposit is not identifiable at time of payment it is recorded in the FMS customers' "Holding Account" pending identification. Throughout the life of the FMS case, the integrity of case-level accounting for deposits will be maintained by the SAAC.

c. Holding Accounts. Cash payments often are received cumulatively which are in excess of the final value of a particular case. With purchaser approval, these surplus funds can be transferred into a Trust Fund "Holding Account" similar to a pseudo-case. Monies on deposit in the holding account are available to the purchaser for application to other FMS cases. However, upon purchaser demand these overpayments will be refunded provided there are no collection delinquencies for other FMS cases for that purchaser.

d. Payment Office. All payments, whether cash or credit, must be made to the Security Assistance Accounting Center, Denver, Colorado, 80279, for deposit to the FMS Trust Fund account for the purchaser. All payments should identify the specific reason for the payment. SAAC is responsible for billing and follow-up collection action for indebtedness incurred by FMS customers on FMS cases. Implementing agencies will not make requests to FMS customers for payments on FMS cases, but will refer collection problems to the SAAC for appropriate action.

e. Movement of Customer Funds. SAAC takes action on requests for movement of funds to and from holding accounts or between cases only when such requests are properly channeled through the FMS customer's designated representative or as directed in a memorandum of agreement between SAAC and the FMS customer regarding the use of holding accounts and transfer of funds. The use of notes or other references in LOA documents (1513, 1513-1, or 1513-2) concerning transfers of FMS customer funds is not authorized.

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5. Disbursement Authority for FMS Agreements.

a. Case-Level Accounting. FMS monies collected in advance of delivery, service performance, or contractual progress payments are available for reimbursement to U.S. appropriations or direct-cite payment to U.S. producers. Although these disbursements are controlled on an FMS country basis, accounting for FMS transactions is on an individual case basis. In other words, country cash deposits may be disbursed for the financial requirements associated with any of that country's cases with its consent, expressed or implied, but the integrity of deposit and disbursement accounting for individual cases will be maintained.

b. Disbursement Authorities. The total DoD disbursement authority for each FMS purchaser is equal to the amount of undisbursed monies on deposit for the purchaser in the FMS Trust Fund. Any subdivision of this authority must be requested by the DoD components. Based on the amount of a request and of available monies, the SAAC will formally release advice of disbursement authority in a specified amount at FMS country level to the DoD component. The DoD component must exercise prudent control to ensure the disbursement limitation is not exceeded when paying contractors or reimbursing U.S. appropriations.

6. Accounting for Contractual Progress Payments.

a. Incremental Payments. Most of the materiel furnished on FMS orders is procured by the DoD on behalf of FMS purchasers. Associated with these procurement actions are incremental, contractual progress payments for work in process. It is to the benefit of DoD and of the FMS purchaser that contractors receive incremental payment as fabrication and assembly of new materiel progresses under an FMS case. Installment payments reduce the impact on customers budgets and reduce contractors' investment in work in process. Similarly, it reduces mutual exposure and risk of case cancellation. It provides also for continuing assessment of case requirements and pricing to update any elements of inaccurate price estimation that may have occurred at time of case offer.

b. Segregating and Accounting for FMS Costs. Sections 22 and 29 of the AECA necessitate accurate and prompt segregation and accounting for incremental costs to ensure that DoD appropriations are not adversely impacted by contractual payments on behalf of FMS orders. DoD policy is that contractors separately request progress payments when more than one country's requirements or U.S. requirements are included in the same contract. The DoD agency that makes the progress payment must promptly report these costs to the SAAC to insure that billings accurately reflect the rates at which disbursements are made. As stated previously, the SAAC is responsible for ensuring sufficient monies are collected in advance to cover forecasted costs by the DoD agencies. If the payment schedule appears to be inadequate, the DoD agency should modify it (DD Form 1513-2) with notification to both the FMS purchaser and the SAAC.

FIGURE 7-III-3

FINANCIAL ANNEX

SUPPLEMENTARY FINANCIAL TERMS AND CONDITIONS

1. This agreement is financed entirely with cash, FMS loan funds, MAP funds, or any combination thereof as indicated in Block 27 of DD Form 1513, Letter of Offer and Acceptance (LOA), or Block 28 of DD Form 1513-1, Amendment to Offer and Acceptance. The Purchaser agrees to make payments in such amounts and at such times as may be specified by the U.S. Government, including any initial deposit indicated on the LOA required to meet financial requirements arising from this case.

2. The Foreign Military Sales Billing Statement, DD Form 645, will serve as the statement of account and billing statement. An FMS Delivery Listing identifying items physically or constructively delivered, and services performed during the billing period, will be attached to the billing statement. The Security Assistance Accounting Center (SAAC) forwards billing statements to Purchasers no later than 45 days before payments are due, and Purchasers will forward payments in U.S. dollars (cash or request for advance of loan funds) to the U.S. Government in time to meet prescribed due dates. For cases financed with MAP funds, these funds are merged in the trust fund and applied to the cases. Such costs as may be in excess of the amount funded by MAP or credit agreement funds must be paid by the purchaser, if additional MAP/credit funds are not available. Questions concerning the content of DD Form 645 billing statements and requests for billing adjustments should be submitted to the Security Assistance Accounting Center (SAAC/FS), Lowry AFB, Colorado 80279-5000. *
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3. Cash payments in U.S. dollars for inditial deposits and amounts due and payable on Quarterly Billing Statements (DD Form 645) are to be forwarded to the SAAC or other formally-agreed-upon depository in time to meet prescribed payment due dates. The preferred method for forwarding cash payments is by bank wire transfer. The following addresses apply for cash payments:
 - a. Bank Wire Transfer to SAAC:
Federal Reserve Bank of Kansas City, Denver Branch
FRB/DVR (3801) Air Force AFAFC/SAAC

 - b. Bank Wide Transfer to Federal Reserve Bank of New York:
Federal Reserve Bank of New York
Foreign Accounts Control Staff
33 Liberty Street
New York, New York 10045

 - c. Check mailing address to SAAC:
AFAFC/SAAC
Lowry AFB
Denver, Colorado 80279

 FIGURE 7-III-3. Supplementary Financial Terms and Conditions

4. To authorize payments of initial deposits required on LOAs or amounts due and payable on FMS billing statements from funds available under loan agreements, the Borrower will submit a letter of request for each advance of loan funds addressed to the Secretary, Federal Financing Bank, c/o U.S. Department of the Treasury, Washington D.C. 20220. Each request to the Federal Financing Bank for an advance will be forwarded to the Defense Security Assistance Agency, DSAA-COMPT-FR&CPD, Pentagon, Room 4B659, Washington, D.C. 20301, with a letter requesting DSAA approval. Letter formats and specific instructions for processing loan advance request are included in applicable provisions of each loan agreement. Questions pertaining to status of loans and associated balances should be directed to the above DSAA address.

5. If full payment is not received by SAAC by the prescribed due date, interest shall be charged as outlined in General Conditions, Paragraph B.3.g. of Annex A to the LOA. The principal of the arrearage will be computed as the excess of cumulative financial requirements over cumulative collections (cash and loan) shown in the FMS Billing Statement after the payment due date.

6. The initial deposit of \$ _____ required to accompany this LOA is an integral part of the Purchaser's acceptance. If the advance payment is made from loan funds, the Credit Programs Division, DSAA, will submit payments to the SAAC in accordance with Borrower requests for loan advances described above.

7. The payment schedule provided below is for planning purposes. The SAAC shall request Purchaser payment in accord with the payment schedule, unless DoD costs (including 90-day foreecasted requirements) exceed the amounts required by the payment schedule. Should this occur, DoD would be unable to comply with the advance payment requirement of the Arms Export Control Act and the U.S. will use its best efforts to provide a revised payment schedule (DD Form 1513-2) at least 45 days prior to the next payment due date. The Purchaser is required to make payments in accordance with quarterly billings (DD Form 645) issued by the SAAC regardless of the existing payment schedule.

8. It is understood that the values on the LOA are estimates, and that the final amount to be charged for items or services furnished will be equal to the final total cost to the U.S. Government. When final deliveries are made and all known costs are billed and collected, the SAAC will provide a "Final Statement of Account" which will summarize total final costs of this agreement. Should the final total costs be less than the funds collected, such excess funds will be available for payment of unpaid billings for other agreements. If there are no such unpaid billings, excess funds will be disposed of as agreed upon between the Purchaser and the Comptroller, DSAA.

9. To assist the Purchaser in developing fiscal plans and annual budgets, the U.S. Government provides its best estimate of anticipated costs of this agreement in the following estimated payment schedule:

ESTIMATED PAYMENT SCHEDULE

<u>PAYMENT DATE</u>	<u>QUARTERLY</u>	<u>CUMULATIVE</u>
Initial Deposit:		

FIGURE 7-III-3. (Continued)

TYPE OF SALE	TYPE OF ASSISTANCE CODE	SOURCE OF SUPPLY CODE	AVAILABILITY	TERM(S) OF SALE	INITIAL DEPOSIT
12. Article(s) and/or service(s) sold from stock, final sentence of Sec. 21(d)***	8	As Required	Anytime	Payment 120 Days After Delivery	None
13. FMSO I, DoDI 2000.8	U	P	N/A	Cash with Acceptance, \$ _____, balance as billed.	5/17th of estimated cost plus 100% of Administrative charges
14. FMSO II, DoDI 2000.8	V	P	N/A	Cash Prior to Delivery Dependable Undertaking	As shown in the Financial Annex
15. Any, Sec. 23 or 24	Z	As required	N/A	Loan agreement with _____, NR. _____, Dated _____, (_____ line items)	As shown in the Financial Annex
16. Sec. 503(A)(3), FAA	M	As Required	Anytime	FY _____ MAP Merger.	As shown in the Financial Annex. **
17. Combination of above resulting in more than one term of sale				(Show two or more terms as appropriate)	As shown in the Financial Annex *
18. Federal Republic of Germany				The DoD will draw required payments from the FRG's US Treasury Deposit Account as specified in the monthly statement of fund requirements in accordance with DoDI 2110.32	*

*** Requires approval of the President.

TABLE 7-111-1. (Continued)

7-103

Change No. 4, 1 May 1985

103

TABLE 7-III-2

FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS AUTHORIZED
DIRECT ARRANGEMENTS FOR DEPENDABLE UNDERTAKING

COUNTRIES

<u>Africa</u>		<u>Near East and South Asia</u>	
Botswana	Morocco	Bahrain	Pakistan
Cameroon	Nigeria	Bangladesh	Oman
Kenya	Sudan	Egypt	Qatar
Liberia	Tunisia	India	Saudi Arabia
		Israel	The United Arab Emirates
		Jordan	Yemen Arab Republic
		Kuwait	
		Lebanon	
		Nepal	
<u>Europe</u>		<u>Western Hemisphere</u>	
Austria	Malta	Argentina	Haiti
Belgium	Netherlands	Behamas	Honduras
Denmark	Norway	Barbados	Jamaica
France	Portugal	Brazil	Mexico
Germany (Fed. Rep. of)	Spain	Canada	Panama
Greece	Sweden	Colombia	Peru
Iceland	Switzerland	Costa Rica	St. Lucia
Ireland	Turkey	Dominica	St. Vincent
Italy	United Kingdom	Dominican Republic	Surinam
Luxembourg	Yugoslavia	Ecuador	Trinidad and Tobago
		El Salvador	Uruguay
		Guatemala	Venezuela
<u>Far East</u>			
Australia	New Zealand		
Brunei	Philippines		
Indonesia	Singapore		
Japan	Taiwan		
Korea	Thailand		
Malaysia			

International Organizations

NATO (North Atlantic Treaty Organization and its agencies)

TABLE 7-III-2. Foreign Countries and International Organizations Authorized Direct Arrangements for Dependable Undertaking.

b. Representatives of the State and Defense Departments have agreed that State policy deliberations, intra-agency coordination, and submission for Presidential approval (if required) and Defense preparation of the Section 36(b) notice, Section 133b report, and the LOA all aim toward the common objective of completing these actions within 60 days after receipt of the prospective purchaser's complete request. The procedures established in this section are designed to meet these objectives.

c. Under normal circumstances the milestones indicated in Figures 7-IV-1 and 7-IV-2 should be met by all functional areas involved in the processing of Section 36(b) notifications and LOAs.

3. Submission of Supporting Data.

a. Concurrent with LOA or LOI preparation the cognizant DoD component must submit the supporting data required for Congressional notification to the DSAA/Comptroller-Foreign Military Sales Division (DSAA/Compt-FMSCD). A Letter of Request (LOR) card (one card) will be attached to each initial submission of supporting data. If the LOR case information has not been previously entered into the 1200 system, DSAA will make the entry. Supporting data are to be submitted, using the prescribed formats, within ten days of notification by the DSAA (either written or oral) for significant military equipment or within ten days of the receipt for nonsignificant military equipment request from the purchaser. This submission is to include a statement as to whether or not a Section 133b report will be required to be sent to the Congress. *

b. Appropriate steps will be taken by the DoD components to obtain field inputs as necessary to meet the ten day objective. Additionally, cost estimates will include separate identification of the estimated dollar value and specific items of the MDE portion of the proposed sale. Should it be impractical to meet the ten day deadline, approval for extension must be sought from Chief, FMS Control Division, DSAA.

c. Requests from exempted prospective purchasers require the submission of supporting data for statutory Congressional notification specified in Table 7-IV-2 (Military Justification), Table 7-IV-3 (Statutory Notification), one copy of the unsigned LOA (without financial analysis or termination liability worksheets), DSAA 1200 system LOR and ("card one"), and, as required, Table 7-IV-4 (Sensitivity of Technology) and Table 7-IV-5 (Impact on Current Readiness Report).

d. Requests from non-exempted prospective purchasers require the submission of supporting data for advance Congressional notification specified in Table 7-IV-1 (Advance Notification), Table 7-IV-2 (Military Justification), DSAA 1200 system LOR and ("card one"), and, as required, Table 7-IV-4 (Sensitivity of Technology).

e. To the extent possible for non-exempted prospective purchaser requests, the submission should also include the supporting data required to meet the statutory notification requirement as specified in Table 7-IV-3 and one copy of the unsigned LOA (without financial analysis or termination liability worksheets). If these data can be provided during the initial submission, and no Section 133b report is required, no further data are needed.

in order for personnel of the FMS Control Division to process the advance and statutory Section 36(b) notifications.

f. To the extent that it is not possible for the DoD component to provide statutory notification Table 7-IV-3 data with the initial submission, these data along with data in support of Section 133b reporting requirement (Table 7-IV-5), if appropriate, and one copy of the unsigned LOA (without financial analysis or termination liability worksheets) will be forwarded to DSAA/Compt-FMSCD as early as possible but no later than ten days after the start of the 20 day advance notification period so that the follow-on statutory notification will not be delayed. Should it be impractical to meet the ten day deadline, approval for extension must be sought from Chief, FMS Control Division, DSAA.

g. As the process evolves, the cognizant DoD component will be informed via message of each Congressional notification and provided with a copy of the letters which transmit the advance and statutory Section 36(b) notifications to the Congress.

h. Following completion of the 20 day advance notification period and after State clearance, the Director, DSAA, will provide the statutory Section 36(b) notification of the proposed sale to the Congress. At this time, and after receiving express authority from the Comptroller, DSAA, and coordination with DSAA Operations, the cognizant DoD component will furnish a copy of the unsigned LOA to the purchaser as an enclosure to a transmittal letter in the format of Table 7-IV-6 (Transmittal Letter for the Unsigned LOA). If Congress adopts a concurrent resolution objecting to a proposed sale, the Director, DSAA will promptly notify the applicable DoD component of that fact, seek the guidance of the President as to the course of action which should be taken, and advise the cognizant DoD component of the action to be taken.

i. DoD components will submit signed LOAs to the DSAA/Compt-FMSCD, Countersignature Branch no later than five working days prior to completion of the statutory 15 or 30 day Congressional review period. Unless there are appropriate reasons to do otherwise, the expiration date assigned by the DoD components will allow for normal country review periods beyond the final date of the Congressional review. When the signed LOA is submitted to the DSAA it will include in Block 11 under "DSAA Accounting Activity" the identifying DSAA Transmittal Number used for the statutory Congressional notification (e.g., 80-15). This number will be shown on the message sent to the DoD component advising of the dispatch of the statutory notification.

j. Cases for \$7 million or more must be submitted to the Countersignature Branch with a termination liability worksheet -- except for FMSO I and II cases, spare parts requisition cases, training cases, equipment and services cases where the source is DoD inventories, or programs for which termination liability requirements have been waived pursuant to DoD 7290.3-M.

k. Upon the expiration of the statutory 15 or 30 day waiting period the Comptroller, DSAA, will, if Congress has not adopted a concurrent resolution objecting to the proposed sale, countersign the LOA and return the original to the cognizant DoD component and forward a copy to SAAC. Upon receipt of the DSAA countersigned LOA, the cognizant DoD component may forward the original signed LOA to the prospective purchaser.

E. CLASSIFICATION.

1. Advance Section 36(b) Notifications. All data, information, and advance Congressional notifications of proposed sales to all prospective purchasers will be treated as, and marked "SECRET" or "CONFIDENTIAL" until the statutory notification is provided to the Congress. The following classification guidelines apply to all inputs of supporting data required for advance notifications by the Foreign Military Sales Control Division:

a. If none of the data presented is classified, the documents will be stamped "SECRET" or "CONFIDENTIAL" on the top and bottom of each page, all paragraphs will be preceded by "(U)," and the following marking will be shown on the bottom of the first page of each submittal:

"CLASSIFIED BY SAMM (DOD 5105.38-M) (CHAPTER 7, SECTION IV)
DECLASSIFY ON STATUTORY NOTIFICATION TO
CONGRESS UNLESS REQUIRED OTHERWISE
BY COMPETENT AUTHORITY."

b. If any of the data presented is classified, the documents will be stamped with the required level of classification on the top and bottom of each page, each classified paragraph will be marked with the required classification, and the appropriate "classified by" and "declassify on" data are to be entered on the bottom of the first page of each submittal. The marking indicated in paragraph 1.a. above will not be used on these submittals.

2. Statutory Section 36(b) Notifications. As specified in the AECA, Section 36(b), each statutory notification provided to the Congress is to be unclassified except that the dollar amount and quantity of the offer and details of the description of the defense articles or services offered may be classified. Furthermore, the justification may also be classified. However, if any of the items are to be classified, the rationale must be provided, fully justified, and the justification attached to the statutory notification data submission (Table 7-IV-3). Supporting data inputs pertaining to statutory notifications will be submitted to DSAA/Compt-FMSCD in accordance with the following classification guidelines:

a. If none of the data presented is classified, the procedures indicated in paragraph 1.a. above are to be followed.

b. If any of the data presented is classified, the procedures indicated in paragraph 1.b. above are to be followed.

3. Sensitivity of Technology Statements. Classification guidance indicated in paragraph 1.a. or 1.b. above is to be followed in submitting Sensitivity of Technology statement supporting data to the DSAA/Compt-FMSCD.

4. Impact on Current Readiness Section 133b Reports. Classification guidance indicated in paragraph 1.a. or 1.b. above is to be followed in submitting the USC, title 10, Section 133b, supporting data to the DSAA/Compt-FMSCD.

FIGURE 7-IV-1

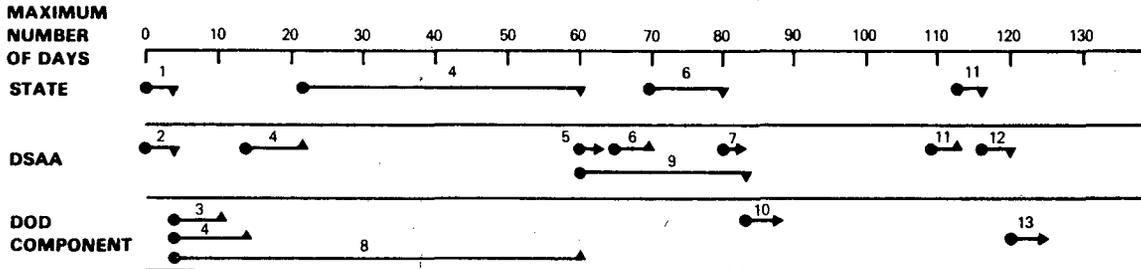
MILESTONES FOR LOA REQUESTS FOR SIGNIFICANT MILITARY EQUIPMENT

MILESTONES FOR LOA REQUESTS FROM NON-EXEMPTED PURCHASERS
FOR SIGNIFICANT MILITARY EQUIPMENT WHICH REQUIRE 36(b) NOTIFICATION

ACTION FROM PURCHASER: Message request from in-country via U.S. Embassy jointly addressed to Sec State/PM and Sec Def/DSAA. Info copy to appropriate DOD Component (Mil Dep), Unified Command, and Arms Control and Disarmament Agency (ACDA).

or

Letter request from Purchasing Mission, Embassies, or Military Attaches in U.S. jointly addressed to Sec State/PM and Sec Def/DSAA.

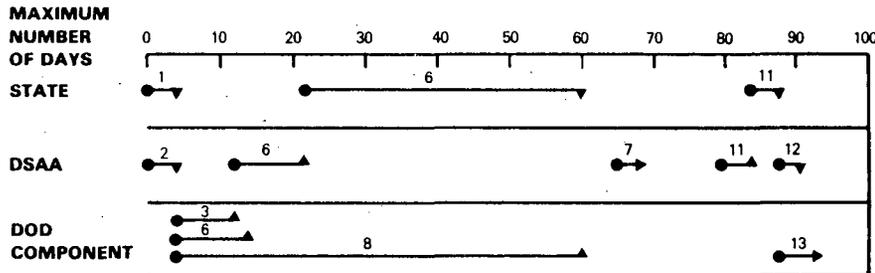


MILESTONES FOR LOA REQUESTS FROM EXEMPTED PURCHASERS
FOR SIGNIFICANT MILITARY EQUIPMENT WHICH REQUIRE 36(b) NOTIFICATION

ACTION FROM PURCHASER: Message request from in-country via U.S. Embassy jointly addressed to Sec State/PM and Sec Def/DSAA. Info copy to appropriate Unified Command and ACDA.

or

Letter request from Purchasing Mission, Embassies, Military Attaches in U.S. jointly addressed to Sec State/PM and Sec Def/DSAA.



PROCESSING FOREIGN MILITARY SALES LETTERS OF OFFER

1. Preliminary review and approval.
2. Tasking of the preparation of the Letter of Offer and Acceptance and 36(b) information, as appropriate.
3. Input of 36(b) data to DSAA/FMSCD and case identifier information into the DSAA 1200 system.
4. Preparation, review, and approval of the advance 36(b) notification to the Congress, including interagency and Executive Office staffing, as necessary.
5. Transmittal of the advance 36(b) notification to Congress.
6. Preparation, review, and approval of the statutory 36(b) notification to the Congress, including interagency and Executive Office staffing, as necessary.
7. Transmittal of the statutory 36(b) notification to Congress.
8. Letter of Offer and Acceptance preparation.
9. Review and approval of unsigned Letter of Offer and Acceptance.
10. Dispatch of unsigned Letter of Offer and Acceptance to the customer.
11. Final review and approval.
12. Countersignature.
13. Dispatch of the signed Letter of Offer and Acceptance to the customer.
14. DoD component to notify Sec State/PM and Sec Def/DSAA, which will initiate the appropriate procedures.

MILESTONES FOR LOA REQUESTS FOR SIGNIFICANT MILITARY EQUIPMENT WHICH DO NOT REQUIRE 36(b) ACTION

ACTION FROM PURCHASER: Message request from in-country via U.S. Embassy jointly addressed to Sec State/PM and SEC Def/DSAA. Info copy to appropriate Unified Command and ACDA.

or

Letter request from Purchasing Mission, Embassies, Military Attaches in U.S. jointly addressed to Sec State/PM and Sec Def/DSAA.

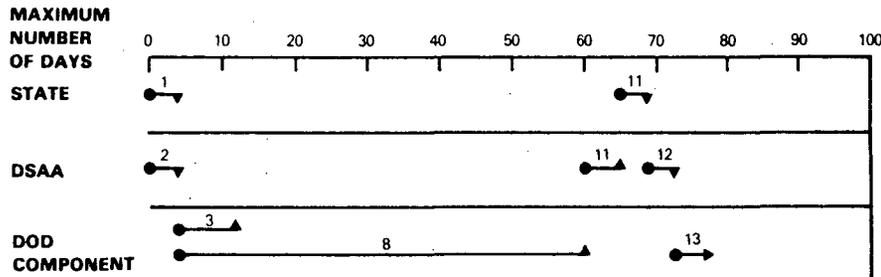


FIGURE 7-IV-1. Milestones for LOA Requests for Significant Military Equipment Which Require 36(b) Notifications.

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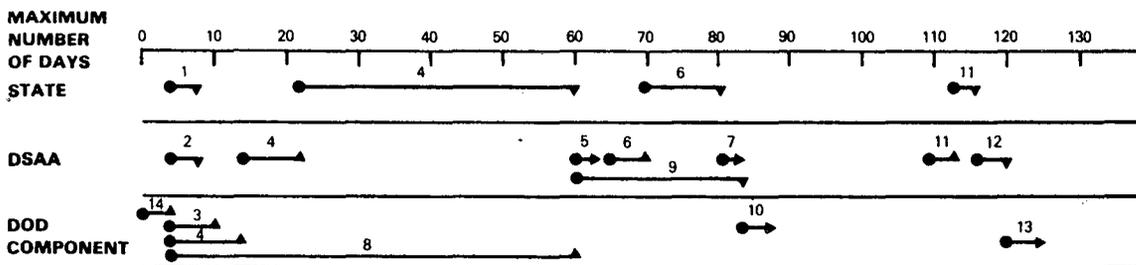
FIGURE 7-IV-2

MILESTONES FOR LOA REQUESTS FOR NON-SIGNIFICANT MILITARY EQUIPMENT

MILESTONES FOR LOA REQUESTS FROM NON-EXEMPTED PURCHASERS
FOR NON-SIGNIFICANT MILITARY EQUIPMENT WHICH REQUIRE 36(b) NOTIFICATION

ACTION FROM PURCHASER: Message request from in-country through country's representatives in the U.S. or through U.S. country team directly to the cognizant DoD Component. Info copy to Sec State/PM and Sec Def/DSAA.

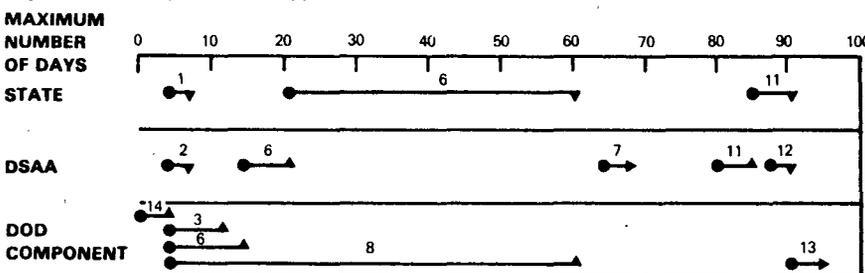
or
Requests originating from foreign country representatives in the U.S. should be sent directly to the cognizant DoD Component. Info copy to Sec State/PM and Sec Def/DSAA.



MILESTONES FOR LOA REQUESTS FROM EXEMPTED PURCHASERS
FOR NON-SIGNIFICANT MILITARY EQUIPMENT WHICH REQUIRE 36(b) NOTIFICATION

ACTION FROM PURCHASER: Message request from in-country through country's representatives in the U.S. or through U.S. country team directly to the cognizant DoD Component. Info copy to Sec State/PM and Sec Def/DSAA.

or
Requests originating from foreign country representatives in the U.S. should be sent directly to the cognizant DoD Component. Info copy to Sec State/PM and Sec Def/DSAA.



PROCESSING FOREIGN MILITARY SALES LETTERS OF OFFER

1. Preliminary review and approval.
2. Tasking of the preparation of the Letter of Offer and Acceptance and 36(b) information, as appropriate.
3. Input of 36(b) data to DSAA/FMSCD and case identifier information into the DSAA 1200 system.
4. Preparation, review, and approval of the advance 36(b) notification to the Congress, including interagency and Executive Office staffing, as necessary.
5. Transmittal of the advance 36(b) notification to Congress.
6. Preparation, review, and approval of the statutory 36(b) notification to the Congress, including interagency and Executive Office staffing, as necessary.
7. Transmittal of the statutory 36(b) notification to Congress.
8. Letter of Offer and Acceptance preparation.
9. Review and approval of unsigned Letter of Offer and Acceptance.
10. Dispatch of unsigned Letter of Offer and Acceptance to the customer.
11. Final review and approval.
12. Countersignature.
13. Dispatch of the signed Letter of Offer and Acceptance to the customer.
14. DoD component to notify Sec State/PM and Sec Def/DSAA, which will initiate the appropriate procedures.

MILESTONES FOR LOA REQUESTS FOR ALL OTHER FOREIGN MILITARY SALES WHICH DO NOT REQUIRE 36(b) ACTION

ACTION FROM PURCHASER: Message request from in-country through country's representatives in the U.S. or through U.S. country team directly to the cognizant DoD Component. Info copy to Sec State/PM and Sec Def/DSAA.

or
Requests originating from foreign country representatives in the U.S. should be sent directly to the cognizant DoD Component. Info copy to Sec State/PM and Sec Def/DSAA.

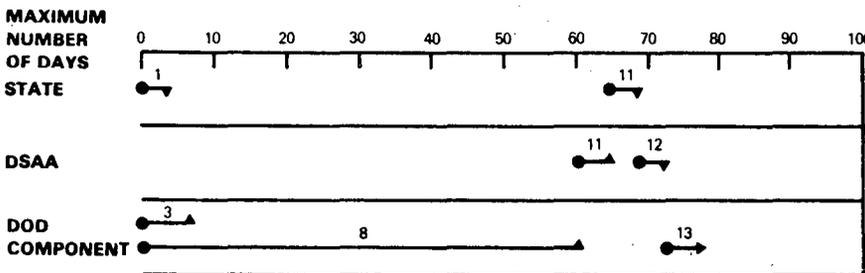


FIGURE 7-IV-2. Milestones for LOA Requests for Non-Significant Military Equipment Which Require 36(b) Notifications.

TABLE 7-IV-1
ADVANCE NOTIFICATION DATA
(CLASSIFICATION)

MEMORANDUM FOR (or LETTER TO) THE COMPTROLLER, DSAA (ATTENTION: FMSCD)

SUBJECT: Data for a Possible Advance Section 36(b) Notification (U)

1. (U) The following supporting data are provided in accordance with Chapter 7, Security Assistance Management Manual:

- a. (*) Prospective purchaser:
- b. (*) Description and quantity or quantities of all articles and/or services under consideration for purchase (to include all MDE and non-MDE items, segregating the MDE items and indicating the MDE value):
- c. (*) Estimated dollar value of this case (to include all costs associated with this proposed sale e.g., packing, crating, handling, transportation, administrative changes, etc.):
- d. (*) Description of total program of which this case is a part (including any associated weapons, training, construction, logistical support, or other direct supply implications not included in the case itself):
- e. (*) Estimated value of total program of which this case is a part (including the estimated number and dollar value of any increments and the duration of the total program, if it is a multi-year project):
- f. (*) Prior related cases, if any (including case designators, descriptions, values, acceptance dates, etc.):
- g. (*) DoD component:
- h. (*) Estimated date LOA will be ready for statutory notification to Congress:
- i. (*) Case designator:
- j. (*) A description of each payment, contribution gift, commission or fee paid or offered or agreed to be paid in order to solicit, promote or otherwise to secure such LOA. Description should include:

CLASSIFIED BY: (See DoD 5105.38-M, Chapter 7, Section IV.)

(CLASSIFICATION)

TABLE 7-IV-1. Advance Notification Data.

TABLE 7-IV-6

TRANSMITTAL LETTER FOR THE UNSIGNED LOA

Dear

Enclosed for consideration and analysis by your Government is an unsigned advance copy of the "United States Department of Defense Offer and Acceptance," DD Form 1513, for FMS case (case designator).

Section 36(b) of the Arms Export Control Act requires that notification be given to the Congress of the United States before the Department of Defense issues any offer to: (1) sell defense articles and services, the estimated total costs of which are \$50,000,000 or more, or (2) sell major defense equipment, the estimated total costs of which are \$14,000,000 or more. Section 36(b) further provides that the offer to sell not be issued if the Congress, within (*) calendar days after receiving such notification, adopts a concurrent resolution stating in effect that it objects to the proposed sale. Under the Constitution of the United States, a concurrent resolution of the Congress does not require Presidential approval and is not subject to veto by the President.

The Department of Defense has transmitted the required notification of the enclosed proposed FMS case (case designator) to the Congress on (date). Assuming that the Congress does not object to this proposed FMS case, enclosed DD Form 1513 will be signed and issued to your Government by the authorized Department of Defense representative on or about (date). In the event that the Congress should object to this proposed sale, you will be notified promptly of that fact.

Should your Government wish to accept this proposed FMS case, wait until receipt of the signed DD Form 1513 (forwarded after the Congressional notification period is completed) and complete Blocks 29 through 37 on the original and top three copies of the signed DD Form 1513 only. Completion by your Government of Blocks 29 through 37 on the enclosed unsigned advance copy of the DD Form 1513 will not be deemed to be valid. *

Sincerely yours,

- * For non-exempted purchasers enter: thirty (30)
For exempted purchasers enter: fifteen (15)

TABLE 7-IV-6. Transmittal Letter for the Unsigned LOA.

SECTION V - CASE MANAGEMENT

A. THE SCOPE OF CASE MANAGEMENT.

1. The Military Departments and Agencies will, according to Paragraph 70002H, DOD 7290.3-M, "assign a case manager to each active FMS case." The FMS case manager is to be designated by the DoD Component responsible for implementing sales agreements (DD Form 1513) and leases. The case manager is defined as that individual who is designated to accomplish the task of integrating functional and inter- and intra-organizational efforts directed toward the successful performance of a Foreign Military Sales case.

2. Cases will vary in dollar magnitude and complexity. For example, a \$2 billion sale of a major weapon system is extremely complex. A \$100 million case for off-the-shelf replacement spares is less complex. While the two are different in complexity and dollar value, they both require emphasis and special management attention (even a very low value case may involve many different functional activities), and both are managed in accordance with well-defined guidelines.

3. The case manager is the focal point for management activity on a case. The task of the case manager is to ensure the objectives of the assigned case are achieved while adhering to applicable laws and regulations.

4. These objectives are threefold: (1) to accomplish the case (performance) on schedule, (2) to accomplish the case within the case value, and (3) to close the case as planned. Successful performance is realized when the objectives of the case are met.

5. The case manager acts as the focal point for case activities by coordinating and integrating organizational actions and resources assigned to Security Assistance functions. Critical decisions involving managerial prerogatives must be coordinated with the case manager.

6. The case manager has a role in each of the major elements of the case: acquisition, programming, logistics and finance, and shall be involved in every aspect of planning and executing assigned cases.

7. The case manager functions as an integrator and a generalist. There are no definite ground rules for determining where the case manager is placed in the organization. This must be decided by the DoD Component responsible for the management of the case. Case management begins during P&A and LOA preparation and should include total package concept/total package approach. Each FMS case must be assigned a case manager no later than case implementation.

B. CASE MANAGEMENT AUTHORITY, RESPONSIBILITY, ACCOUNTABILITY, AND CONTROL.

1. The case manager should be guided by existing policies and management directives, and case activities should be governed by these regulatory documents. Direct communications with participating organizations

TABLE 8-III-1

FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS AUTHORIZED
RECEIPT OF DLA EXCESS PROPERTY LISTINGS

COUNTRIES

<u>Africa</u>		<u>Near East and South Asia</u>	
Botswana	Liberia	Bahrain	Pakistan
Djibouti	Sudan	Bangladesh	Qatar *
Kenya	Zaire	Egypt	Saudi Arabia
		India	Sri Lanka
		Israel	(Ceylon)
		Jordan	Tunisia
		Kuwait	United Arab
		Lebanon	Emirates, The
		Morocco	Yemen Arab Rep.
		Nepal	
		Oman	
<u>Europe</u>		<u>Western Hemisphere</u>	
Austria	Malta	Bahamas	Honduras
Belgium	Netherlands	Barbados	Jamaica
Denmark	Norway	Brazil	Mexico
France	Portugal	Canada	Panama
Germany (Federal Republic of)	Spain	Colombia	Paraguay
Greece	Sweden	Costa Rica	Peru
Iceland	Switzerland	Dominica	St Lucia
Ireland	Turkey	Dominican Rep.	St Vincent
Italy	United Kingdom	Ecudaor	Trinidad and
Luxembourg	Yugoslavia	Guatemala	Tobago
		Haiti	Uruguay
			Venezuela

Far East

Australia	Malaysia
Burma	New Zealand
Brunei	Philippines
Indonesia	Singapore
Japan	Taiwan
Korea	Thailand

International Organizations

NATO (North Atlantic Treaty Organization and its agencies)

TABLE 8-III-1. Foreign Countries and International Organizations Authorized
Receipt of DLA Excess Property Listings.

TABLE 8-III-2

POTENTIAL SOURCES FOR LISTING OF FREIGHT FORWARDERS

American Import & Export Bulletin
North American Publishing Company
41 East 42nd Street
New York, New York 10017

Shipping Digest, Inc.
25 Broadway
New York, New York 10004

Department of Transportation
400 Seventh Street SW
Washington, DC 20590

National Customs Brokers & Forwarders
of America, Inc.
One World Trade Center, Suite 1109
New York, New York 10048

Civil Aeronautics Board
1825 Connecticut Avenue NW
Washington, DC 20428

TABLE 8-III-2. Potential Sources for Listings of Freight Forwarders.

Nature of Discrepancy	FMS Administrative Funds	U.S. Government Appropriations/Funds
4. Overage*	<p>materiel. These procedures make it possible to identify responsibility for any loss of materiel in transport. FMS administrative funds may be used only when it is specifically substantiated that the U.S. Government failed to meet its responsibility relative to the shipment of the materiel (except as indicated under "U.S. Government Appropriations/Funds" heading).</p>	<p>such transaction. Misdirected shipments not returned to stock will be absorbed as an inventory loss against the applicable U.S. Government materiel account.</p> <p>If U.S. Government owned, government furnished equipment (GFE) which is to be incorporated into an end-item is lost or damaged during shipment to the contractor (i.e., prior to incorporation into the end item) then the customer's funds will be used to absorb the applicable cost. Recognition should be given to the possibility that a "lost" GFE shipment may be lost only on the accounting records but still physically in the U.S. Government's possession. In instances where this is probable, no charge should be made to the purchaser for "lost" GFE.</p>
a. From Procurement**	<p>Not applicable unless the U.S. Government is responsible for the overage.</p>	<p>Not applicable</p>
b. From Stock	<p>Costs to transport excess items back to stock or to disposal. If claimed by the customer, costs to transport excess items issued to the</p>	<p>If billed and customer does not want the items, amounts for excess items charged will be refunded to the FMS customer account and the appro-</p>

TABLE 8-III-3. (Continued)

Nature of Discrepancy	FMS Administrative Funds	U.S. Government Appropriations/Funds
	country. Note: Out-of-pocket costs of packing, crating and handling, (PCH), if claimed, will be paid from PCH funds.	appropriate U.S. Government appropriation/fund will be charged. Overage items not returned to stock will be absorbed against the applicable U.S. Government materiel property account as an inventory loss. *
5. Improper Identification (incorrect item, i.e., nonsubstitutable item)		
a. From Procurement**	Not applicable unless the U.S. Government is responsible for the problem.	Not applicable
b. From Stock	When the incorrect item is not returned, the cost of issuing the correct item or providing a customer refund will be absorbed by the FMS Administrative Fund. On the other hand if the incorrect item is returned, then the appropriate adjustments within the U.S. Government accounts should be effected and only the next additive costs should be absorbed by the FMS Administrative Fund. Note: Out-of-pocket costs of PCH, if claimed, will be paid from PCH funds.	Applicable U.S. Government appropriation/fund is responsible for issue of correct items without additional charge to the FMS customer. If the correct item is not available for issue, the refund to the customer account will be charged against the appropriate U.S. Government appropriation/fund which was initially credited as a result of such transaction. Incorrect items issued and not returned to stock will be absorbed against the applicable U.S. Government materiel property account as an inventory loss.
6. Improper Documentation		
a. From Procurement**	Not applicable unless the U.S. Government is responsible for improper documentation.	Not applicable

TABLE 8-III-3. (Continued)

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applies to "Other Estimated Costs" (Block 26) should a percentage rate be applicable.

6. Processing DD Form 1513-1 with Cost Increase in Excess of \$1.0 million or 10 percent of Case Value, Whichever is Less. All DD Forms 1513-1 which reflects an increase in excess of \$1.0 million or 10 percent of the case value, whichever is less, must be coordinated with DSAA Operations Directorate. Complete rationale for the amendment and copies of the basic LOA and previous amendments and modifications must be provided to DSAA. No commitments for such amendments in advance of DSAA staffing is authorized. The cognizant DOD Component will determine the use of amendments up to the above thresholds, subject to the criteria outlined in the above paragraphs. Normal DSAA staffing and countersignature is required for all such amendments.

7. DSAA Recording of DD Form 1513-1s with Cost Increases in Excess of \$50,000. The DSAA data base will record amendments of more than \$50,000 in the fiscal year the DD Form 1513-1 is accepted. DD Forms 1513-1 which reflect an increase of \$50,000 or less shall be recorded in the year of the basic FMS case.

8. Detailed Instructions for Format. See detailed instructions on preparing the DD Form 1513-1 contained in Figure 8-V-1.

9. Initial Deposits. When an amendment is prepared to add additional defense articles or services, the existing LOA payment schedule may not include sufficient amounts to cover costs of the added articles/services from the expiration date of the DD Form 1513-1 until the next billing cycle. When this occurs, the DD Form 1513-1 should require an initial deposit. Use the methodology in Chapter 7, Section III, paragraph K.2. to determine the period the initial deposit should cover. Show the initial deposit requirement in the right hand corner of block (28) by typing "(28a) Initial Deposit (this Amendment): \$XXX,XXX.00." Also include the initial deposit in the financial annex payment schedule.

10. Undercollected Cases. New requirements will not be added to any case that has expenditures in excess of payments received, unless prior approval is obtained from DSAA. Implementing agencies will inform the purchaser that the amendment will be deferred until sufficient payments have been received to cover current financial requirements (including termination liability).

11. General Conditions. For overall purposes, all DD Forms 1513-1 will have appended to them a copy of Annex A, "General Conditions," which are part of the original case. Alternatively, at the discretion of the originating office, the DD Form 1513-1 may contain the following note:

Except as expressly amended hereby, all terms and conditions of the subject case (including without limitation the General Conditions) continue in full force and effect.

B. PEN AND INK CHANGES - DD FORMS 1513 AND 1513-1. "Pen & Ink" changes are modifications to a DD Form 1513 or DD Form 1513-1 authorized by the issuing DoD component prior to acceptance of the document. "Pen & Ink" changes should

**

be avoided to the maximum extent possible. The change may be at the request of the purchaser or an initiative of the issuing DOD component. If the change authorizes any revision of the total costs or terms of sale, the DSAA-Comptroller, FMS Control Division must concur prior to authorization. The issuing agency must authorize the pen and ink change by message or letter to the purchaser with a copy to SAAC and DSAA-Comptroller, FMS Control Division. Extensive changes must be made by issuance of a new or restated DD Form 1513 or a DD Form 1513-1 (after acceptance of the basic case) rather than by a pen and ink change. All authorized pen and ink changes (except changes to expiration date--Block 8 on DD Forms 1513 or Block 9 on DD Forms 1513-1) should be confirmed by issuance of a DD Form 1513-2 after case acceptance.

C. DD FORM 1513-2 - NOTICE OF MODIFICATION OF OFFER AND ACCEPTANCE.

1. Purpose. This form is utilized to record modifications to an existing LOA, which do not constitute a change in scope, except for decreases due to a deletion of an item. Modifications which do affect the scope of the LOA (other than decreases) require either a new DD Form 1513 or a formal Amendment (DD Form 1513-1, see Figure 8-V-2).

2. Acceptance of Foreign Country or International Organization. When the DD Form 1513-2 is used, acceptance by the foreign country or international organization is not required. Acknowledgement of receipt ensures that the Notice of Modification has been received by an authorized official. The DD Form 1513-2 should be used for changes in data which may be made unilaterally under an offer and acceptance (non-scope change).

3. DD FORM 1513-2's Requiring DSAA Coordination and Countersignature. The following modifications to an LOA or Amendment must be accomplished by use of a DD Form 1513-2. Such modifications require DSAA coordination and countersignature prior to dispatch to the foreign country or international organization.

a. Price increases and related changes in payment schedules to a previous DD Form 1513 or Amendment thereto. DoD components issuing Letters of Offer will promptly and officially notify purchasers whenever the estimated total costs (Block 26 of the DD Form 1513) increase by ten percent. For such price increase notifications, to ensure that the country is fully aware of its options with respect to the cancellation or reduction of the case, the following information, if applicable, should be included in Block 11:

- (1) The detailed reasons for the increase.
- (2) Status of contracting for this purchase -- e.g., contract completed, contract still being negotiated, etc.
- (3) The options that the country has, if any, with respect to avoiding the price increase (e.g., contract termination or reduction of quantities).
- (4) The estimated financial consequences of selecting such options.
- (5) Any time limits for notifying the U.S. Government of purchaser desire to cancel or reduce quantities.

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b. Deletions of items, decreases in the quantities of articles to be sold, or decrease in value of a blanket order case. Notices to the purchaser of such changes should be issued if the result is a decrease in the "total estimated costs" of over 10 percent. *

c. Changes initiated by the foreign country or international organization of terms (Block 27, DD Form 1513 and Block 28, DD Form 1513-1) from a type of assistance code (other than M or Z) to a MAP case (code M) or an FMS Credit Case (Code Z) must cite all types, sources, and amounts of financing. **

4. DD Form 1513-2's Requiring No DSAA Coordination or Countersignature. **
The following additional modifications to a Letter of Offer or Amendment must be made on a DD Form 1513-2, but such modifications do not require DSAA coordination or countersignature prior to dispatch to the foreign country (provided there is no change in the "Total Estimated Costs" or "Terms of Sale").

a. Changes or extensions exceeding 90 days of the delivery commitment date.

b. Extensions of the ordering period for a blanket order type case.

c. Changes to transportation codes due to the requirement to use the DTS (e.g., shipment of hazardous and sensitive cargo).

d. Clarifying notes.

e. Changes in payment schedules to LOAs or Amendments.

f. Changes in Generic Codes and/or MASL Coding.

5. Price Changes During Case Closure. Price increases or decreases discovered during case closure will be assessed the country during final billing. Issuance of a DD Form 1513-2 is not required in addition to the final billing, unless specifically requested by the purchaser. However, such requests will normally be honored only where the total price increase or decrease amounts to 10% or more of the case value.

6. General Terms and Conditions. For record purposes, all DD Forms 1513-2 will have appended to them a copy of Annex A, General Conditions, which are part of the original case. Alternatively, at the discretion of the originating office, the DD Form 1513-2 may contain the following note:

"Except as expressly amended hereby, all terms and conditions of the subject case (including without limitations the General Conditions) continue in full force and effect."

7. Identification of Percentage Rate for Certain Costs. The percentage rates used for determining packing, crating and handling costs, general administrative costs, and supply support arrangement costs and other accessorial costs should not be indicated in the applicable blocks of the DD 1513-2. This guidance also pertains to "Other Estimated Costs" (Block 20) should a percentage rate be applicable.

8. Use of DD Form 1513-2 vs DD Form 1513-1. If there is any doubt as to whether to use the DD Form 1513, DD Form 1513-1 or the DD Form 1513-2 in a particular case, that case should be promptly referred to DSAA Operations for determination. [Note: When a DD Form 1513-2 is signed for dispatch, appropriate change card(s) should be submitted to the SAAC by the DSAA for inclusion in the 1200 System.]

9. Report of Increases of 10 Percent or More. A DSAA RCS(Q) 1123 report will be submitted by the MILDEPs to DSAA on a quarterly basis 45 days after the end of each quarter of the fiscal year, and will include a listing of all cases for which the value of the DD Form 1513 has increased in value in excess of ten percent or more, together with an explanation of the reason for the change. (A copy of the DD Form 1513-2 which informed the country of this increase, as required per paragraph 3.a.(1) above, will be provided with this report.) This report will be submitted with the report on delivery schedule changes required by Section III of this chapter.

10. Detailed Instructions and Format. See detailed instructions on the filling in of the blocks on the DD Form 1513-2 at Figure 8-V-2.

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L. BLOCK (12) PURPOSE OF THE AMENDMENT. Describe the purpose of the amendment (e.g., to add a new line and adjust costs accordingly). Enter the acceptance date of the basic LOA being amended. Do not rely on this block for any required amendment action. Details must be entered in Blocks (13) through (21).

M. BLOCK (13) ITEM OR REFERENCE NO. Enter reference to a specific part of the basic case or previous amendment (e.g., Item 1, Atch 2, basic; Item 1, Block (19), Amendment 2).

N. BLOCKS (14) THROUGH (19). Enter complete description of amended items. Describe whether the action is an addition, modification, or deletion. If there is a cost change, also enter the amount of increase or decrease. If a previous offer to amend has expired, explain and indicate that an affect on cost does not apply to the amendment being processed. Do not make such entries for unaccepted (and unexpired) offers to amend.

O. BLOCKS (20) AND (21) OFFER AND RELEASE CODE AND DELIVERY TERM CODE. Fill in as appropriate in accordance with the instructions contained in Chapter 7, Section II, Table 7-II-2.

P. BLOCKS (22) THROUGH (27).

1. In column (a), enter complete information from the previous accepted document (DD Form 1513 or DD Form 1513-1). In column (b) enter new costs.

2. Care should be taken when computing entries in Blocks 23 through 26 that administrative and accessorial charges are applied only to the appropriate items. If the administrative or accessorial charges are revised, do not show the percentage rate used in determining the cost contained in the applicable block.

Q. BLOCK (28) TERMS. Enter the original terms of sale or any changes thereto. In all cases where DoD direct or guaranteed FMS credit or MAP funding is used, insert the Fiscal Year of the FMS credit or MAP program followed by the words FMS Credit or MAP Merger as appropriate. If the sales agreement is to be financed by a combination of sources, each term of sale and applicable amount will be cited. **

R. BLOCKS (29) THROUGH (32). These blocks should be filled in by the purchaser. Signed copies of the DD Form 1513-1 must be returned in order to complete acceptance. If terms remain, or are changed to "Cash with Acceptance" an appropriate payment must be received with the completed documents.

NOTE THE FOLLOWING INFORMATION
BEFORE SUBMISSION OF THIS AMENDMENT FOR COUNTERSIGNATURE

1. The Operations Directorate (DSAA-OPS) is the point of entry in OSD for the Military Departments and Defense Agencies to use in coordinating FMS cases. The Operations Directorate is also responsible for obtaining the coordination of appropriate OSD staff elements.

FIGURE 8-V-1. (Continued)

2. Submit for countersignature to the FMS Control Division, DSAA Comptroller (DSAA-COMPT) all DD Forms 1513-1 in original and 2 copies (one extra copy for credit or MAP funded cases).
3. Attach a Financial Annex to all DD Forms 1513-1 except FMSO I cases, which result in changes to the payment schedule.
4. Indicate the date of acceptance of the basic case. (The acceptance date is the date the DD Form 1513 is signed by the customer representative). The acceptance date should be conspicuously annotated in the upper right hand corner of Block 12, Description and Reason(s) for Amendment. (Example: "Basic Case accepted 25 Aug 1980").
5. Before notifying the customer of a change to cost or increase in scope prior to acceptance, obtain approval from DSAA/Operations.
6. Whenever a DD Form 1513-1 increases the original case value by more than \$50,000, the DD Form 1513-1 will be treated as a new case. Therefore, the DD Form 1513-1 information must be entered in the Letter of Request (LOR) system (in the same way the information was entered for the original DD Form 1513).
7. Attach a termination liability worksheet for each case of \$7 million or more that meets the criteria in Chapter 7, Section II, para C.8.c.(2).
8. Attach a financial analysis worksheet for each line item (end-items or services) with a total case value of \$14 million or more, or as required. (Reference Chapter 7, Section II, Para C.8.c.(1)(b)).
9. Letters of Offer reported under the AECA, Section 36(b) will include below Block 11 the identifying DSAA Transmittal Number used in the Statutory Congressional Notification (e.g., 81-15).
10. The name and telephone number of the action officer responsible for the preparation of the DD Form 1513-1 should appear at the bottom of all copies submitted to the DSAA for countersignature, excluding the original.

FIGURE 8-V-1. (Continued)

INSTRUCTIONS FOR PREPARING THE UNITED STATES DEPARTMENT OF DEFENSE
NOTICE OF MODIFICATION OF OFFER AND ACCEPTANCE (DD FORM 1513-2)

A. BLOCK (1) PURCHASER

1. For a country, enter "Government of (name of country)" and show the office and address of the purchaser's activity designated to receive the Note of Modification of Offer and Acceptance (e.g., Defense Attache, 1111 24th Street, N.W., Washington, D.C. 20301).

2. For an international organization, enter the title of the organization along with the appropriate office and address.

B. BLOCK (2) PURCHASER'S REFERENCE. A reference will be shown when appropriate. A reference may be a letter, telegram, conference, meeting, oral request, etc. The reference will always include a date and any other pertinent data.

C. BLOCK (3) NOTICE NO. Use numbers in consecutive sequence. Do not mix Notice Numbers with Amendment Numbers. Number of Amendments (DD Form 1513-1) and Notices (DD Form 1513-2) are independent, thus a possible sequence of events might be: (1) Letter of Offer, (2) Notice 1, (3) Amendment 1, (4) Notice 2, (5) Amendment 2.

D. BLOCK (4) CASE IDENTIFIER. Enter the appropriate country or international organization code, implementing agency code and case designator (e.g., UK-P-DLG).

E. BLOCK (5) SIGNATURE. Type or stamp name and title of the U.S. representative. Authorized representative should also sign this block.

F. BLOCK (6) TYPED NAME AND TITLE. Type or stamp the name and title of the U.S. representative who signed Block (5).

G. BLOCK (7) ADDRESS. Enter the name of the issuing organization along with the address (e.g., DA, DCAS-SA, Pentagon, Washington, D.C. 20150).

H. BLOCK (8) DATE. Enter day, month and year.

I. BLOCK (9) COUNTERSIGNATURE. The authorized representative with the DSAA Comptroller for countersignature of the modification should sign in this block. Signature will not occur unless all the necessary information is contained on the DD Form 1513-2.

J. BLOCK (10) TYPED NAME AND TITLE. Type the name and title of the DSAA Comptroller authorized representative for countersignature who signed Block (9).

FIGURE 8-V-2. (Continued)

K. BLOCK (11) DESCRIPTION OF AND REASONS FOR MODIFICATION. Describe briefly the modification(s) and the reason(s) requiring that such modification(s) be made. Such information should be sufficiently clear, complete and specific that it could reasonably be anticipated to satisfy the customer without recourse to further correspondence. (These remarks may be continued on the reverse of the DD Form 1513-2, under Box 26, Continuation). Enter the acceptance date of LOA or amendment being revised. In all cases where DoD direct or guaranteed FMS credit or MAP funding is being used, insert the Fiscal Year of the FMS credit or MAP program followed by the words FMS Credit or MAP Merger as appropriate. If the sales agreement is financed by a combination of sources, each term of sale and applicable amount will be cited. *

L. BLOCK (12) ITEM OR REFERENCE NUMBER. Enter reference to a specific part of the basic case or previous amendment.

M. BLOCKS (13) THROUGH (18). List only the items modified. Show dollar amounts in whole dollars only. For all notifications of price changes enter the previous cost along with the revised cost.

N. BLOCKS (19) THROUGH (24). Enter in Column "a" the previous applicable costs from the original offer and acceptance or prior amendments and/or notices of modifications thereto for the applicable cost lines. The best estimate of the revised costs should then be entered in Column "b". If the administrative or accessorial costs change, do not indicate the percentage rate used to determine the costs conditioned in the applicable block.

O. BLOCKS (25) THROUGH (28) ACKNOWLEDGEMENT OF RECEIPT. An authorized official of the foreign purchaser should sign and forward the document to the Military Department or Defense Agency concerned to ensure that the Notice of Modification has been received.

NOTE THE FOLLOWING INFORMATION
BEFORE SUBMISSION OF LOA FOR COUNTERSIGNATURE
(See paragraph C.4. of this section for those 1513-2 actions
exempt from countersignature requirement)

1. The Operations Directorate (DSAA-OPS) is the point of entry in OSD for the Military Departments and Defense Agencies to use in coordinating FMS cases. The Operations Directorate is also responsible for obtaining the coordination of appropriate OSD staff elements. (See paragraph C.3. of this section for those notices requiring DSAA coordination and countersignature.)

2. Submit for countersignature to the FMS Control Division, DSAA Comptroller (DSAA-COMPT) all DD Forms 1513-2 in original and 2 copies (one extra copy for credit and MAP cases).

3. Attach a Financial Annex to all DD Forms 1513-2 except FMSO I cases, which result in changes to the payment schedule.

4. Indicate the date of acceptance of the basic case. (The acceptance date is the date the DD Form 1513 is signed by the customer representative.) The acceptance date should be conspicuously annotated in the upper right hand corner of Block 8, Description of and Reason(s) for Modification. Example:

FIGURE 8-V-2. (Continued)

L. IMPLEMENTATION. Program implementation and the movement of trainees to training facilities and activities is authorized only after IMET orders, program directives, or other specific approvals are issued by DSAA. Such orders, directives, or approvals are required prior to the issuance of ITOs or the obligation of funds for programmed training. When necessary in cases of emergency, requests for approval to issue ITOs prior to receipt of IMET Orders will be submitted directly to DSAA, and authorized via message or telephone by DSAA Comptroller.

1. IMET Orders.

a. Purpose.

(1) Definition. The term "IMET Order" is used to describe the document issued by DSAA which authorizes and directs the furnishing of military training to designated IMET recipients. It also identifies the fund source for each program line. For example, FY 1984 funding is indicated by a "4" in column 71 to indicate funding from the 1984 appropriation.

(2) Purpose. IMET Orders show additions, changes, and or deletions to funded lines. Additions will be reflected as a program line in 4 card format, including the record control number (RCN). A deletion of a previously funded line will be shown as a single entry and identified by a "program year" and previous IMET Order number at the right of the program data under the heading "IO-AJ." A change to a previously funded line will be identified by a two-line entry, the first entry reflects the funding that was authorized in a prior order and will also reflect the order number and year it was issued under the "IO-AJ" heading. The second entry reflects the revised line and may be identified by a blank in the "IO-AJ" column.

b. Procedure.

(1) Country. A separate IMET Order will be issued for each country or activity, and the IMET Order number will include the appropriate country/activity code.

(2) Number. The number assigned to IMET Orders and amendments thereto will be composed of the Program Year, Implementing Agency, Country/Activity code, and a two-digit sequential number.

(3) Identification. The initial IMET Order issued for each country or activity for a given program (fiscal) year will be identified by sequential number 00. Subsequent IMET Orders for the program year will be issued as amendments to the initial IMET Order and will be numbered 01 through 99, followed by alpha-numeric characters, as necessary.

2. Implementation Instructions for the Invitational Travel Order (ITO) ** for Foreign Military Trainees (FMTS), DD Form 2285.

a. The Invitation Travel Order (ITO) (Figure 10-II-1) is the basic document for all training provided to foreign military trainees (FMTs) under Security Assistance Training Program (SATP) sponsorship in order to provide recognition of the status of the FMTs, and the applicable privileges therein.

b. DD Form 2285 is the only authorized document that will be used by SAOs for FMTs entering U.S. training under the Foreign Assistance Act of 1961, as amended, and the Arms Export Control Act. This form will not be altered nor shortened. If a country desires, a native language translation may be attached to the DD Form 2285.

c. The ITO is the controlling document for authorized training, terms, conditions, and privileges. It is also the basic document used for accounting purposes and provides guidance to the appropriate agencies for determining which support is payable and which is not. The SAO is responsible for preparation of the ITO, in accordance with the guidance in this chapter, the Military Department regulations and the instructions below. When all prerequisites have been met, the SAO will issue individual ITOs for each FMT.

d. General Instructions:

(1) Typewrite.

(2) Starting at the left-hand corner, enter the following data at the top of each of the four pages: FMT's surname, rank, country code, WCN and ITO Number.

(3) Select applicable statement by placing "X" in Block.

Example: /X/

(4) Enter all dates as follows: Two digits for the day of month, three alphas for month of year, and last two digits of calendar year.

Example: 30JAN84

(5) If an item requires additional information, but contains no block that refers to Item 16 (Special Conditions), type the following statement after the title of the item--"See Item 16."

e. Instructions relating to specific items. (Items not addressed below are considered self-explanatory).

(1) Item 1, ITO Number. Number consecutively within each fiscal year. Also indicate the fiscal year, and, if required, a one-alpha suffix program originator for internal SAO control purposes. In large country programs, this suffix would preclude duplication of ITO numbers.

Example: 121-84, 39-84-B

(2) Item 5, IMET Order. Include entire IMET Order Number and date.

Example: 84A/XX/01, 01JAN84

(3) Item 7, Language Prerequisites.

a. Block "A" will be checked and statement completed for those countries that have not been granted waiver from in-country screening or are not exempt from all ECL testing.

b. Block "B" will be checked and statement completed only for those countries that have been granted waiver from in-country screening ECL testing. This waiver is granted on an annual basis by DSAA message, DTG of which will be cited as documentation.

Example: SECDEF Msg DTG 131329 OCT 83

c. Block "C" will only be checked by the five countries exempt from all ECL testing: Australia, Canada, Ireland, New Zealand, and United Kingdom. Cite annual DSAA message as documentation.

(4) Item 10A, US MILDEP Document. Indicate, as appropriate, MILDEP CPL, STATIS, and message, letter or other documentation authorizing implementation of training. If authority is granted by DSAA to issue an ITO prior to receipt of the IMET order, cite that document as authority.

(5) Item 14A-F(1), Authorized Training. RCN applies to IMET only. For FMS enter "N/A."

(6) Item 15A(3), Dependents. Block "(3)" will be checked only for those IMET FMTs, with authorized accompany dependents, that are attending ACSC, SOS, AWC, CGSC, NCC, NSC, AFIT graduate programs, MCC&SC, AWS, or PGS.

(7) Item 15B(2), Medical Services, Dependents. If Block 15A(1) has been checked, do not check any blocks under 15B(2). Enter "N/A" after the word "Dependents".

(8) Item 15C, Living Allowances. Block (1) will be checked for FMS countries and only those IMET countries participating in full cost-sharing of living allowances. Block (6) will be checked only for those countries for which Blocks 15C(1) through (5) do not apply in whole. Specific living allowance conditions will be outlined in detail in Item 16, Special Conditions.

(9) Item 15D, Travel. Block (1) will be checked for FMS countries and only those IMET countries participating in full cost-sharing of travel. Block (5) will be checked only for those countries for which Blocks 15D(1) through (4) do not apply in whole. Specific travel allowance conditions will be outlined in detail in Item 16, Special Conditions.

(10) Item 15E(1), Baggage. Block (1) will only be checked and statement completed for FMS countries and only those IMET countries participating in full cost-sharing of travel.

(11) Item 16, Special Conditions. If required, use this space to clarify or amplify information in Items 1 thru 14; to list any special conditions not covered in Item 15; or to list variations in conditions as listed in Item 15. Indicate the item numbers to which the information applies. Other desired information that is not applicable to any specific item (e.g., Embassy address and telephone number in Washington DC) will be entered last under the title of "Additional Information".

Examples of types of entries suitable under Item 16:

7A--Three-point waiver granted for direct entry by SATFA-TRADOC msg, ATFA-R, DTGXXXXXXA OCT 83.

15B(1)(C)(3) and (2)(A)2--Bills for medical care/hospitalization will be forwarded to Embassy in Washington, DC for payment.

15D(2)--FMT has been issued only one-way ticket from home country to Harrisburg, PA. Return transportation will be arranged by last training installation.

15(G)--Request for leave upon completion of training will be submitted directly by the FMT to his Embassy in Washington, DC. Written approval in English from the Embassy to the FMT will constitute approval for leave.

(12) Item 17, Distribution. New distribution lists will be provided separately by MILDEPS.

f. Amendments and Continuation Sheets. Amendments and continuation sheets should be prepared on plain bond paper, and must include the following information from the original ITO: Item 1 (the original ITO number), Items 2 through 6A, Items 10, 11, and the WCN. The Item Number and description of the information being continued or amended should also be included. Copies should be provided to applicable original ITO recipients, and other addressees required as a result of the change.

g. MILDEP-specific instructions will be provided in the MILDEP regulations and the Joint Security Assistance Training Regulation, when published. In the interim, consult the individual MILDEP HQ for further guidance on preparation of ITO, if any questions arise.

3. IMET Order Recipients. The recipients of an IMET Order and associated fund allocation are responsible for implementation of the order, including accounting and fiscal reporting, as prescribed by DoD Instruction 7290.1. The implementing agency will be identified in the IMET Order number. IMET Orders for training program lines will be issued to the MILDEP providing the training, except in the case of cross-service training. IMET Orders for entire Worksheet Control Number (WCN) sequences containing cross-service

training will be issued to the MILDEP providing the majority of the training or designated as the cognizant MILDEP.

M. ANNUAL INTEGRATED ASSESSMENT OF SECURITY ASSISTANCE (AIASA) REPORTS. IMET program resources requirements will be included in the AIASA submitted for all security assistance recipients to the State Department to facilitate decisions as to the allocation of security assistance resources. Information copies of these reports are required by DSAA as part of the planning process.

SECTION II - FOREIGN MILITARY SALES TRAINING
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A. PURPOSE.

1. This section provides guidance and instructions for providing military training to eligible foreign countries and international organizations as authorized under the Arms Export Control Act (AECA).

2. Basic guidelines for FMS training are similar to those for IMET (see Section I). This section addresses training matters which are unique to FMS training or which require some change from IMET procedures. Detailed FMS training programming instructions are provided by each MILDEP.

B. BASIC GUIDELINES.

1. AECA Provisions.

a. Nature of Training. Training includes both formal and informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, or contractors (including instruction at civilian institutions), or by correspondence courses; technical, educational, or information publications and media of all kinds; training aids, orientation, training exercises; and military advice to foreign military units and forces.

b. Prohibitions. Personnel providing defense services (including training) are prohibited from performing duties of a combatant nature by the AECA, Section 21(c). This precludes activity related to training and advising which may engage U.S. personnel in combat activities, outside the U.S., in connection with the performance of defense services. This prohibition is applicable only during hostilities involving the country where the training is taking place.

c. Reimbursement. The additional cost to the USG in furnishing FMS training must be paid by the foreign purchaser. Payment must be cash on acceptance, unless a determination is made in the national interest that payment be made prior to "performance" of the training. For billing purposes, formal training is considered "performed" on the date that the student enters the course or, in the case of Mobile Training Teams (MTTs) or Field Training Services (FTS), when a team member leaves his home station. At all times,

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CHAPTER ELEVEN

MILITARY ASSISTANCE PROGRAM (MAP)

SECTION I - USE OF MAP FUNDS TO FINANCE FOREIGN MILITARY SALES

A. GRANT AID (MAP) FUNDING. This chapter provides implementing procedures for the utilization of MAP funds to finance FMS.

1. Legislation. Effective with the FY 1982 MAP appropriation, the FAA, Section 503(a)(3) authorizes the transfer of MAP funds to the FMS Trust Fund (Account 8242) for merger with country trust fund deposits. The law also stipulates that these MAP funds are to be used solely for payment on obligations of the recipient country for purchases from the U.S. Government made under the AECA. FY 1982 and subsequent MAP appropriations, except to the extent utilized for prior year supply operations, administrative expenses, and the FAA, Section 506(a) reimbursements, will be implemented under Section 503(a)(3) procedures. These MAP funds may not legally be used for either (1) funding direct commercial purchases, or (2) financing interest or repayments of principal or guaranty fees with respect to Federal Financing Bank loans. Funds must be obligated within the period of availability prescribed in the annual appropriation act or the Continuing Resolution Authority (CRA).

a. Allocation. The State Department determines which country shall receive a MAP fund allocation and the amount, through inter-agency coordination on a country-by-country basis. When the allocation is determined, State prepares a program justification for each country that is to receive MAP funds, and submits these to the Office of Management and Budget (OMB), requesting apportionment. OMB reviews requests and submits the approved apportionment to the DSAA, Comptroller.

b. Transfer of Funds. Upon receipt of an approved apportionment of MAP funds from OMB, the DSAA Budget Division will:

- (1) Allocate funds from the MAP parent account to the transfer account, where they become available for transfer to the FMS Trust Fund.
- (2) Prepare a SF 1081 (Voucher and Schedule of Withdrawals and Credits), charging the MAP appropriation and crediting the FMS Trust Fund Receipt account. This document will serve to obligate and expend MAP funds; however, no check will be issued. SF 1081 will contain breakout by country as specified in apportionment document.

c. Application of Formerly MAP Funds. The SAAC, after receipt of the SF 1081, will deposit the funds into unique country trust fund MAP clearing accounts identified on the SF 1081 and will transfer merged MAP funds from clearing accounts into country trust fund accounts to:

- (1) Finance LOAs which specify MAP type of assistance funding. (Total case value will be transferred from clearing account.)
- (2) Satisfy required initial deposits on specific LOAs. (MAP portion of financing will be identified in Block 27 of LOA.)

(3) Liquidate arrearages of 90 days or more on customer DD Form 645 FMS Billing Statements issued quarterly (at specific direction of DSAA Comptroller only).

(4) Offset current amounts due and payable on DD Form 645 FMS Billing Statements (at specific direction of DSAA Comptroller only).

SAAC must ensure that adequate procedures and controls are available to preclude refunds of merged MAP funds to the foreign purchaser.

d. MAP Fund Accounting and Reporting. The DSAA FR&CPD will maintain records of obligations and transfers of funds made on the basis of SF 1081s and report to the Treasury (at the appropriate level) in compliance with Treasury Fiscal Requirements Manual.

e. MAP Restrictions. Procurements financed by merged MAP funds will not be governed by the delivery procedures and reversionary rights requirements applicable to the FY 1981 and prior year MAP. Delivery deadlines will not be established for purchases financed with FY 1982 and subsequent year merger funds. Procurement and delivery will be carried out in accordance with FMS procedures. Offshore procurement (OSP) under FMS cases funded with merged MAP funds is restricted by AECA, Sec. 42(c) (see Chapter 9, Section III, paragraph J). Reversionary title rights will not accrue to the U.S. on any defense article sold under FMS procedures even when merger funds may have been used to finance the purchase in whole or in part. Accordingly, the recipient countries will not be required, as they are under FY 1981 and prior year MAP, to return the article to the U.S. when the article is no longer needed. Restrictions on transfers to a third party, however, will continue to apply, as they do to all defense articles and services sold under FMS.

f. Excess Defense Articles (EDA). Recipients of merged MAP funds are not eligible for the grant of EDA. They may, however, purchase EDA under FMS procedures.

2. Exceptions. The guidance provided above does not apply to FY 1981 and prior MAP programs, to those general costs funds programmed in FY 1982 and subsequent years which are intended for the close-out of those programs, or to emergency drawdowns authorized under Section 506(a) of the Foreign Assistance Act of 1961 (FAA), as amended. For those program years and funds, management and close out are discussed by separate guidance, which will be forwarded to applicable addressees. Section 506 special authority implementing procedures are provided in Section III of this chapter.

SECTION II - UTILIZATION, REDISTRIBUTION AND DISPOSAL OF MAP MATERIEL

A. PURPOSE. This section provides utilization, redistribution, and disposal procedures for materiel furnished to foreign countries by the U.S. as grant aid, under a "MAP Order" prior to FY 1982 or as a result of Section 506(a), FAA, emergency drawdown authority. It does not apply to materiel purchased as a result of transfer of MAP funds to the FMS trust fund (see Section I of this chapter).

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payable in the currency of that country, including all costs relating to the financing of international, educational, and cultural exchange activities in which the country participates under the programs authorized by the Mutual Education Cultural Exchange Act of 1961."

b. The FAA, Section 505(f) does not legally affect paragraph F.2.a. method of disposal or alter the requirements of the FAA, Section 605(d) with regard to deposit of sale proceeds exclusively in the parent MAP account.

c. The FAA, Section 505(f) extends to disposals by the recipient countries of MAP origin defense articles if such countries were the recipient of grant aid materiel after 1 July 1974 whenever the articles were originally granted to any such country, even if granted prior to date of agreement required under Section 505(f). "Net proceeds" means the balance of the gross proceeds of sale to be paid to the U.S. Government after reasonable administrative costs of the sale of MAP origin equipment are deducted by the foreign government.

d. The FAA, Section 505(f) constitutes a condition of eligibility for recipients of grant defense articles programmed in FY 1975 and subsequently. A mandatory agreement pursuant to Section 505(f), was concluded with the countries which were programmed to receive grant aid defense articles after 30 June 1974, even though disposals may be made by DPDS in most, if not all instances.

e. For countries other than those in d. above no agreement pursuant to the FAA, Section 505(f) is legally required so long as no grant defense articles were programmed for them after 30 June 1974. Nevertheless, defense policy with regards to such other countries is to require (unless an agreement with a particular country in force on 30 June 1974 provides to the contrary) a recipient country commitment to return to U.S. Government (for deposit in Treasury miscellaneous receipts, along with funds received by U.S. Government under the FAA, Section 505(f)) the net proceeds of sale whenever such country requests release of disposable MAP property to it.

2. Methods of Disposal. Assuming an item has survived screening for further utilization and has been determined to be disposable MAP property, it may be disposed of in one of two following methods:

a. Disposal Through Defense Property Disposal Office (DPDO). This method is in accordance with the provisions of the Defense Disposal Manual (DoD 4160.21M) through the DPDOs, in which case net funds generated thereby are deposited in the parent MAP account. The FAA, Section 605(d) provides: "Funds realized by the U.S. Government from the sale, transfer, or disposal of defense articles returned to the U.S. Government by a recipient country or international organization as no longer needed for the purpose for which furnished shall be credited to the respective appropriation, fund or account used to procure such defense articles or to the appropriation, fund, or account currently available for the same general purposes."

b. Country-to-Country Special Arrangements. This method is in accordance with the provisions of special country-to-country disposal arrangements under which the MAP recipient country disposes of disposable MAP property.

c. Preferred Method of Disposal. It is preferable from the DoD standpoint to use the Defense Property Disposal Service for disposal of disposable MAP property. However, in many cases it is not practical to exercise this option, either because there is no DPDO in-country or for practical reasons it may be more desirable to have the country dispose of the item. In some cases, agreements with the country require disposal by the country if no U.S. Government utilization is found.

3. Demilitarization of Disposable MAP Property. Where munitions list materiel is involved, regardless of its economical recoverability, if the SAO is unable to ensure by physical inspection that appropriate demilitarization has been accomplished in accordance with the criteria specified in DoD Manual 4160.21, the materiel will be recovered by the U.S. and disposed of through the U.S. DPDS.

SECTION III - SECTION 506 SPECIAL AUTHORITY

**

A. PURPOSE: This section provides procedures for emergency drawdowns authorized under Section 506 of the Foreign Assistance Act of 1961, as amended.

B. SECTION 506(A).

1. Law: If the President determines and reports to Congress in accordance with Section 652 of the FAA that:

a. An unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization; and

b. The emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except this section; he may direct, for the purposes of this part, the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value not to exceed \$75,000,000 in any fiscal year.

2. Interpretation: Section 506(a) provides neither funds nor contract authority. It does not authorize new procurement for contracting in order to provide or replace the material, services or training directed. It only authorizes the drawdown of material from Department of Defense stocks and the provisions of non-contractual services and training from Department of Defense resources for grant as military assistance under Part II, FAA. The non-contractual services and training costs include TDY costs incidental to provisions of such services or training. Reimbursement will be dependent upon subsequent appropriation action. Assistance furnished under Section 506, FAA,

is furnished subject to all other laws and regulations applicable to assistance furnished pursuant to Section 503(a)(1), FAA.

3. Implementation:

a. After an emergency is identified, the Department of State will write a presidential determination which, after being signed by the President, authorizes DOD to furnish up to a specified dollar value, military assistance to the country specified in the determination.

b. DSAA (Operations Directorate), with country, ambassador, SAO, CINC, State Department and ISA input, will provide implementing instructions to the appropriate military department identifying requirements and providing dollar ceiling levels. Pricing will be in accordance with IMET/MAP (not FMS rates).

c. Military Departments will:

1. Drawdown articles, services and/or training from DOD assets in accordance with DSAA instructions.

2. Submit programming data to the DSAA 1000 system in accordance with guidance provided in Chapter 15, Section III, para. D of this manual for defense articles and services, and Chapter 10, para. J for training.

3. Report deliveries to DSAA in accordance with guidance provided in Chapter 15, Section III of this manual.

4. Provide guidance to implementing activities as to organizational responsibilities in future drawdowns and regarding which DOD appropriations, funds or accounts are to hold accounts receivable for drawdowns already complete or in progress.

d. DSAA will issue an unfunded MAP order to the military department citing .004 limitation. The MAP order provides a detailed accounting of articles, services and training and is the basis for reimbursement to the military departments if funded by Congress.

e. DSAA will monitor the dollar ceiling levels to insure that funding authorizations are not exceeded. There is no legal authority either to exceed the dollar value specified in the presidential determination or to reimburse implementing agencies for any such excess.

C. SECTION 506(B):

1. Law.

a. The authority contained in this section shall be effective for any such emergency only upon prior notification to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Appropriations of each House of Congress.

b. The President shall keep the Congress fully and currently informed of all defense articles, defense services, and military education and training provided under this section.

D. SECTION 506(C):

1. Law: There are authorized to be appropriated to the President sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense services and military education and training provided under this section.

2. Implementation:

a. DSAA will request funds for reimbursement of Section 506, FAA, drawdowns via the MAP appropriation budget submission.

b. If military assistance program funds are appropriated by Congress and apportioned by OMB to reimburse 506(a) authorizations:

1. DSAA will determine share to be provided each military department.

2. DSAA will provide transfer authorization of funds via SF 1151.

3. Military departments are responsible to reimburse the appropriate fund, account or appropriation.

4. Reimbursable orders are not authorized in anticipation of Congressional approval. DOD components will only maintain memo entries on accounting reports until the appropriation expires for obligation. Section 632(d), FAA, provides that the amount of reimbursement "shall" be credited to the "current" available appropriations, funds or accounts of the agency that furnished the military assistance.

5. Industrial fund and stock fund accounts must absorb the costs until appropriation is enacted.

6. If any commercial transportation costs are involved, U.S. dollars cannot be used. Use of DTS, MAC or SAMM is authorized.

year period to be reached or exceeded must be reported to the Congress 30 days before being entered into or renewed. Renewals of a lease subsequent to a Congressional notification do not require new notifications, unless such renewals singly or cumulatively result in an extension of one year or more beyond the lease period previously reported (including renewal periods notified as possible options).

2. Certification Procedures.

a. Submission. Section 62(a), AECA requires certification to the Speaker of the House of Representatives, the Chairman of the Committee on Foreign Relations of the Senate, and the Chairman of the Committee on Armed Services of the Senate. Such certification must occur not less than 30 days before the lease agreement is entered into or renewed. To ensure submission of a timely certification, the cognizant DoD component will forward to the DSAA Operations Directorate the information in the format at Figure 12-I-4 at least 60 days prior to the projected date for providing the lease, lease renewal, or amendment to the foreign country or international organization for acceptance. When possible a copy of the draft lease will be included as an attachment to the memorandum. The DSAA Operations Directorate will assure the adequacy of the data provided, to include the justification, and the approval of the lease prior to passing on the data to the FMS Control Division of the Office of the DSAA Comptroller for the development of the Congressional notification and its coordination within the OSD, including DSAA Operations (which will obtain Department of State concurrence), DSAA Plans (as required), and the DSAA General Counsel. The DSAA Comptroller will then prepare the Section 62(a), AECA report to Congress using the format in Figure 12-I-5 for signature of the DSAA Director and the cover letters in Figures 12-I-6 through 12-I-8.

b. Approval. The original lease agreement in final form and determination must be provided to DSAA Operations not later than five days before completion of the Congressional notification period. The DoD component, with coordination from the DSAA Operations Directorate, may furnish the prospective lessee an unsigned copy of the lease under a cover letter in the format at Figure 12-I-9 for leases which do not meet the Section 63, AECA criteria, and Figure 12-I-10 for leases which meet the criteria when the lease is reported to the Congress. Thirty days after the Congressional notification, DSAA Operations will authorize the DoD Component to enter into the lease. Immediately on signature of the lease by the parties, the DoD Component will assure that appropriate copies of the lease agreement have been distributed by the country and that any required initial deposit has been received by the SAAC before the lease is executed.

3. Emergency Waiver of Congressional Notification Requirement. The AECA, Section 62(b), authorizes waiver of the Congressional certification requirement described above, if the President determines and immediately reports to Congress that an emergency exists which requires that the lease be entered into immediately in the national security interests of the United States. This authority has been reserved to the President for his exercise only. In the event of such an emergency, the DSAA will provide instructions to the cognizant DoD component as appropriate to the particular circumstances.

E. FINANCIAL ARRANGEMENTS.

1. Payment Schedules. The lease designator will be used to track the lease in existing automated systems. Schedule A of each lease will identify the replacement costs of the item(s) being leased and will identify the schedule for rental payment due to the USG. The payment schedule will be established on a quarterly billing cycle, compatible with the FMS billing cycle. If the quarterly cycle does not provide for payment prior to the effective date of the lease, an initial deposit will be required to assure that payment is received in advance of the month in which rental is incurred. Billings to the foreign lessee will be based on this schedule of payments and will be included on a separate DD Form 645 with the country's quarterly FMS billing statement. The DoD Component will assure that payment schedules are updated for any extensions, delivery schedule changes, or other amendments which may result in a change to the lease value or schedule of payments. Receipts from lease rental payments under paragraph B.5., above will be deposited in the Miscellaneous Receipts Accounts by the Security Assistance Accounting Center (SAAC).

2. Use of FMS Credits or MAP Merger Funds. Use of FMS credits or MAP funds is not authorized for payments of lease rental payments specified in paragraph B.5. When authorized by the DSAA, FMS credit funds or MAP funds may be authorized for FMS cases prepared in support of a lease. (See paragraph E.3. below.)

3. Use of DD Form 1513. All costs incurred by the USG incident to the leasing arrangement, including the costs referred to in paragraph B.4., must be reimbursed to the USG using a DD Form 1513. Such costs may cover but are not limited to: packaging, crating, handling, transportation, and refurbishment of the leased articles prior to and/or upon termination of the lease. Schedule A of the lease will identify the case designator for the related FMS case, when known. Also, the DD Form 1513 will identify the lease designator in a special note within the LOA. The implementing agency, responsible for the administration of the DD Form 1513 lease associated FMS case, is responsible for reporting costs incurred on the case via the DD Form 1517 performance reporting system. *

F. LEASE CLOSURE. Confirmation that a Chapter 6 AECA, or 10 USC 2667 lease, under its cognizance can be closed must be provided to SAAC by the responsible DoD component. SAAC will use the format at Figure 12-I-13 to query the responsible DoD component to determine whether lease closure is possible.

G. REPORTING.

1. Quarterly Report. A report in the format at Figure 12-I-11 will be submitted, not later than 30 days after the end of each quarter, to the DSAA Operations Directorate Management Division by each DoD component which has unexpired leases under its cognizance. This report will identify leases entered into previously under the authority of title 10, USC 2667 and the AECA, Chapter 6; the report will identify statutory authority for the lease.

2. Financial Report. On a quarterly basis the SAAC will provide to DSAA Operations Directorate the financial status of each lease to include the following data: country, lessee, defense article(s) leased, identified replacement cost of the leased property, funds collected and deposited or to be deposited to miscellaneous receipts, and amounts due.

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2. The Lessor Government shall deliver the Defense Articles to the Lessee Government at such time and place as may be mutually agreed upon. Such delivery may be evidenced by a certificate of delivery. *

IN WITNESS WHEREOF, Each of the parties has executed this lease as of the day and year first above written.

THE UNITED STATES GOVERNMENT

COUNTRY OR INTERNATIONAL ORGANIZATION

BY _____

(Typed Name)

(Title)

(Date)

By _____

(Typed Name)

(Title)

(Date)

COUNTERSIGNATURE:

BY _____

(Typed Name)

Director, Defense Security Assistance Agency

(Title)

(Date)

FIGURE 12-1-3. (Continued)

GENERAL PROVISIONS

1. OPERATIONS AND USE.

a. Except as may be otherwise authorized by the Lessor Government and except for the purposes of transfer from and return to the Lessor Government, the Lessee Government shall keep the Defense Articles in its own possession, custody, and control. The Lessee Government shall not transfer title to or possession of the Defense Articles to anyone not an officer, employee, or agent of the Lessee Government and shall not permit any encumbrance or other third party interest in the defense articles.

b. The Lessee Government shall, except as may be otherwise mutually agreed in writing, use the items leased hereunder only:

(1) For the purposes specified in the Mutual Defense Assistance Agreement, if any, between the Lessor Government and the Lessee Government;

(2) For the purposes specified in any bilateral or regional defense treaty to which the Lessor Government and Lessee Government are both parties, if subparagraph (1) of this paragraph is inapplicable.

(3) For internal security, individual self-defense, and/or civic action, if subparagraphs (1) and (2) of this paragraph are inapplicable.

c. To the extent that any Defense Articles may be classified by the Lessor Government for security purposes, the Lessee Government shall maintain a similar classification and employ all measures necessary to preserve such security, equivalent to those employed by the Lessor Government, throughout the period during which the Lessor Government may maintain such classification. The Lessor Government will use its best efforts to notify the Lessee Government if the classification is changed.

2. Initial Condition. The Defense Articles are leased to the Lessee Government on an "as is, where is" basis without warranty or representation concerning the condition or state of repair of the Defense Articles or any part thereof or concerning other matters and without any agreement by the Lessor Government to alter, improve, adapt, or repair the Defense Articles or any part thereof.

FIGURE 12-I-3. (Continued)

c. Implications of the proposed technology transfer endorsed by the DoD component;

d. Any exceptions to the National Disclosure Policy (NDP) which are required or have been approved, together with the scope and limitations of the exceptions;

e. Impact of such coproduction on U.S. industry, including both the prime and subcontractors involved in the manufacture of the items being considered;

f. The views of these prime and subcontractors with respect to the proposal;

g. The impact of the program on the U.S. mobilization base for the item; and

h. The impact of the program on any other authorized foreign production of the same item.

4. Coproduction Programs Financed by FMS Credits. The AECA, Section 42(b) requires the Secretary of State to provide advice to the Congress prior to the approval of the use of any credit or guaranteed loan proceeds involving coproduction or licensed production abroad. Such advice must include a description of the particular defense article or articles which would be produced under license or coproduction and the probable impact of the proposed transaction on employment and production within the U.S.

5. Status Report of Coproduction Programs. The MILDEPs will provide a quarterly update of the status of coproduction programs approved under security assistance procedures to the DSAA. The DSAA reports control symbol, DSAA(Q)1226 is established for this report. The following information is required on a quarterly basis, due fifteen days following each calendar quarter:

a. Country producing the item;

b. Item and quantity involved;

c. Estimated total dollar value of items being produced;

d. Name and location of principal U.S. production facilities involved, and whether they are U.S. Government owned, or privately owned;

e. Third country sales authorized, if any, specifying country and quantity involved;

f. The identity of any Congressional committees which have been informed of these programs according to MILDEP records;

g. Copies of any LOAs or MOUs in MILDEP files covering these programs; and

h. Date agreement was signed, LOA was accepted, or MAP order was approved.

E. NATO COOPERATIVE PROJECTS UNDER THE AECA, SECTION 27.

1. Definition. The term "NATO Cooperative Project" means, for AECA, Section 27 purposes, a project described in an agreement entered into after October 29, 1979, under which:

a. NATO or one or more member countries agrees to share with the U.S. the costs of the research on and development, testing, and evaluation of certain defense articles and the costs of any agreed joint production of those articles in order to further standardization and interoperability of NATO forces; or

b. NATO or one or more member countries other than the U.S. agrees to bear the costs of research on and development, testing, and evaluation of certain defense articles and to have such articles produced for sale to and licensed for production within other participant member countries including the U.S., and the U.S. agrees to bear the costs of research on and development, testing, and evaluation of other defense articles and to have such articles produced for sale to and licensed for production within other participant member countries in order to further rationalization of the industrial and technological resources within NATO.

2. Types of Agreements. In order to ensure that all NATO "Cooperative Projects" are properly certified to the Congress pursuant to Section 27(c) of the AECA, any DOD component proposing to sign, on behalf of the United States, any international agreement with NATO or member country thereof involving either the sharing of research, development, testing or evaluation costs, i.e., RDT&E costs of any defense articles, and if there is to be any joint production ensuing therefrom, the costs of such production (see Section 27(a)(1), AECA) or "Family of Weapons" programs (see Section 27(a)(2), AECA) will, not later than sixty days prior to the planned signature of the proposed agreement, forward to the FMS Control Division, DSAA Comptroller, a copy of the proposed agreement and the information for a certification required by Section 27(c)(1), AECA. The information which is required is contained in paragraph 5 below. This does not apply to data or information exchange agreements; to feasibility studies that involve no waivers of or reductions in charges under the AECA and no ongoing research, development, testing, or evaluation commitments; or to any cooperative research and development agreement which does not provide for the sharing of costs which are funded wholly or partly with DOD RDT&E appropriations. **

3. Waiver or Reduction of Charges. Authorization to waive or reduce certain charges associated with NATO cooperative projects is provided for in the AECA, Section 27(b). Waiver or reduction of appropriate charges must be approved by the Director, DSAA, prior to the conclusion of the cooperative project agreement. Pursuant to Executive Order 11958, the DSAA will consult with the Department of State in implementing AECA, Section 27, including waiver or reduction of charges. *

4. Prepayment of Termination Liability. The requirement to collect an advance termination liability reserve need not be applied to LOAs written to implement approved NATO cooperative projects under the AECA, Section 27. *

5. Certification to Congress. In accordance with the AECA, Section 27(c) all NATO cooperative projects must be certified to the Congress 30 days prior to signature of the agreement. The certification will be accomplished by the DSAA. It will include: *

a. A detailed description of the cooperative project with respect to which the certification is made;

b. An estimate of the amount of sales and exports expected to be made or approved under the AECA in furtherance of such cooperative project;

c. Identification of, and an estimate of the dollar value of any charges expected to be reduced or waived under the AECA, Section 27 in connection with such cooperative project, such dollar value to consist of expenses that will be charged against Department of Defense funds without reimbursement, and amounts not to be recovered;

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