The Management of Security Cooperation

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Chapter

1 Introduction to Security Cooperation

Introduction

The term security cooperation was first introduced in 1997 by the Defense Reform Initiative (DRI). The DRI proposed that certain Department of Defense (DoD) funded international programs along with their personnel and associated resources be managed by what was then the Defense Security Assistance Agency (DSAA) which already had the day-to-day management responsibility of many security assistance programs authorized by the Foreign Assistance Act (FAA) and the Arms Export Control Act (AECA). To better reflect its enlarged mission and diverse functions beyond security assistance to other agencies, the private sector, and foreign governments; DSAA was then designated as the Defense Security Cooperation Agency (DSCA), effective 1 October 1998.

Management responsibilities for many DoD international programs have been transferred to DSCA in recent years. Many security cooperation programs continue to be managed by other Offices of the Secretary of Defense (OSD) agencies, the combatant commands (CCMDs) or the military departments (MILDEPs). What further complicated the management of security cooperation was that the in-country point of contact between the U.S. government (USG) and the host nation generally is either the Defense Intelligence Agency (DIA)-sponsored defense attaché office (DAO) or the DSCA-sponsored security cooperation office (SCO). These two spigots for security cooperation with a country required a broad knowledge and skill baseline of the very different international programs that are initiated, funded, and managed throughout the DoD and its agencies and the MILDEPs. Most disconnects regarding SCO-DAO coordination of in-country security cooperation were generally resolved with the establishment of the Senior Defense Official-Defense Attaché (SDO/DATT) having oversight over both the SCO and DAO organizations.

It was not until 9 June 2004 that a formal, yet still very broad, definition of security cooperation was published in Joint Pub 1-02:

> All DoD interactions with foreign defense establishments to build defense relationships that promote specific U.S. security interests, develop allied and friendly military capabilities for self-defense and multinational operations, and provide U.S. forces with peacetime and contingency access to a host nation.

DODD 5132.03, *DoD Policy and Responsibilities Relating to Security Cooperation*, 24 October 2008, further defines security cooperation with assigned responsibilities:

> Activities undertaken by the Department of Defense to encourage and enable international partners to work with the United States to achieve strategic objectives. It includes all DoD interactions with foreign defense and security establishments, including all DoD-administered security assistance programs, that: build defense and security relationships that promote specific U.S. security interests, including all international armaments cooperation activities and security assistance activities; develop allied and friendly military capabilities for self-defense and multinational operations; and provide U.S. forces with peacetime and contingency access to host nations.

Other DoD policy statements identify DoD-managed or administered security assistance programs as components of security cooperation.

The purpose of this first chapter is to provide definitions of the various programs within security assistance and the broader area of security cooperation. After addressing security assistance and its relationship with security cooperation, the concept of security force assistance (SFA) will be finally discussed in this chapter. SFA is essentially a subset of DoD security cooperation with security assistance providing critical tools for the funding and enabling of SFA.

Security Assistance

Over the years, security assistance has included twelve major programs authorized by the FAA or AECA. While seven of these programs are administered by DoD, specifically by DSCA, they remain under the general control of the Department of State (DoS) as components of U.S. foreign assistance. These twelve security assistance programs include the following.

Foreign Military Sales

The foreign military sales (FMS) program is a non-appropriated program administered by DSCA through which eligible foreign governments purchase defense articles, services, and training from the USG. The purchasing government pays all costs associated with a sale. There is a signed government-to-government agreement, normally documented on a Letter of Offer and Acceptance (LOA) between the USG and a foreign government. Each LOA is commonly referred to as a "case" and is assigned a unique case identifier for accounting purposes. Under FMS, military articles and services, including training, may be provided from DoD stocks (section 21, AECA) or from new procurement (section 22, AECA). If the source of supply is new procurement, on the basis of having an LOA which has been accepted by the foreign government, the USG agency or MILDEP assigned for this case is authorized to enter into a subsequent contractual arrangement with U.S. industry in order to provide the article or service requested.

The final FMS total for FY 2012 was $69.1 billion to include $5.2 billion in pseudo LOA agreements. The final FMS sales total for FY 2013 was $27.9 billion. Final FMS sales for FY 2014 was $31.2 billion, with $3.0 being pseudo LOA agreements. Final FMS sales for FY 2015 was $47.0 billion, with $6.1 being pseudo LOA agreements.

Foreign Military Construction Services

Foreign military construction services (FMCS) is a non-appropriated program administered by DSCA and authorized by section 29, AECA, to include the sale of design and construction services by the USG to eligible purchasers. The construction sales agreement and sales procedures generally parallel those of FMS and are usually implemented by the MILDEP civil engineering agencies.

The annual DoS Congressional Budget Justification (CBJ) projection for FMCS and actual FMCS sales are included in the FMS projections stated above.

Foreign Military Financing Program

The Foreign Military Financing Program (FMFP) is an appropriated program administered by DSCA that has undergone a variety of substantive and terminological changes over the years. At present, the program consists of congressionally appropriated grants and loans which enable eligible foreign governments to purchase U.S. defense articles, services, and training through either FMS or direct commercial sales (DCS). Foreign military sales credit (FMSCR) is authorized under the provisions of sections 23 and 24, AECA, and originally served to provide credit (loans) as an effective means for

easing the transition of foreign governments from grant aid, e.g., Military Assistance Program (MAP) and International Military Education and Training (IMET), to cash purchases.

Prior to FY 1989, this financing program was variously identified as the Foreign Military Sales Credit Program or the Foreign Military Sales Financing Program. In the FY 1989 Foreign Operations Appropriations Act (FOAA), Congress introduced a new title, the FMFP, and the forgiven loan/forgiven credit component of the program was identified as FMFP grants to distinguish them from repayable direct FMFP loans. Also, the terms non-repayable loans or non-repayable credits are often used by various security assistance organizations (including DSCA) in place of the term "FMFP grants."

Beginning in FY 1992, the Federal Credit Reform Act of 1992 (P.L. 101-508) changed the method of accounting and budgeting for all government loans, including FMFP loans issued under the AECA. This legislation provides a more accurate portrayal of the true cost of loans by providing new budget authority only for the subsidy element of the loan program and is the basis for the establishment of two new financial accounts:

- The first contains only the FMFP grant portion of the program administrative costs
- The second account provides the budget authority needed to fund the subsidy element of the proposed loan programs

While there are previously authorized FMFP loans still being repaid to the USG, this loan element is seldom used; the FMFP grant element (no repayment) is the norm.

Over the past couple of years, per the Presidential Policy Directive 23 of April 2013 (PPD 23), a couple of new Foreign Military Financing (FMF) pilot programs have been established under the authority of section 23 of the AECA—the Foreign Military Financing Challenge Fund (FMFCF) and Foreign Military Financing Regional Funds (FMFRF). The FMFCF is intended to provide one-time investments for special projects for a partner nation that has demonstrated political will to purse reform efforts, contribute to common goals, and build lasting, self-sustaining capabilities. The FMFRF provides flexibility and responsiveness in implementing portions of the FMF program based upon geographic region. For example, in FY 2016, $5 million was provided for the FMF European Security Assistance Fund (ESAF). Through a competitive proposal system these FY 2016 ESAF funds are available for countries in Europe and Eurasia that have received bilateral FMF with the five fiscal years prior to submission.

FMFP funding for FY 2014 was $5.915 billion. Appropriated FMFP funds for FY 2015 was $5.88 billion and $6.025 billion was appropriated for FY 2016. All FMFP appropriations are grants.

Leases

Chapter 6, AECA, authorizes the President to lease defense articles to friendly governments or international organizations for up to five years (renewable). This non-appropriated program is administered by DSCA. The law allows the lease of defense articles only for compelling foreign policy or national security reasons, and stipulates that the full cost of the lease, with some exceptions, must be borne by the recipient. Furthermore, leased articles must not be needed for U.S. public use during the lease period, and the U.S. retains the right to terminate the lease at any time. For the recipient country, leases may be cheaper than purchasing the article outright, and they provide a convenient vehicle for obtaining defense articles for temporary use. Leases are executed through a lease agreement, with an associated FMS case to cover repair, training, supply support and/or transportation, if required.

Military Assistance Program

In FY 1990 the Military Assistance Program (MAP) was formally merged with the FMFP as Congress adopted an administration proposal for integrating all MAP grant funding into the appropriations

account for the FMFP. This appropriated program was administered by DSCA. No MAP funds have been appropriated for subsequent fiscal years, and there is no interest in seeking any such funds for the future. This legislative change, therefore, had the dual effect of causing existing MAP-funded programs to lose their former identity and become FMFP-funded programs and establishing the FMFP as the major U.S. financing program for the acquisition of U.S. defense articles and services by foreign governments.

MAP continues to be identified as a current security assistance program because the MAP-provided articles remain throughout the world with the continued requirements for end-use monitoring (EUM), return to the USG when no longer needed, and any proceeds from a sale to a third country or scrapping being returned to the USG.

International Military Education and Training

The International Military Education and Training (IMET) program provides grant financial assistance for training in the U.S. and, in some cases, in overseas facilities to selected foreign military and civilian personnel. In earlier years, grant aid training of foreign military personnel was funded as part of the MAP appropriation. Starting with FY 1976, a separate authorization for IMET was established in section 541, FAA. This appropriated program is administered by DSCA. Although historically a relatively modest program in terms of cost, both the President and Congress attach significant importance to this program. The recipient countries, likewise, are heavily reliant on this grant program and, in many cases; this program serves as the only method to receive training from the U.S. military.

At a time of declining defense and foreign aid budgets, IMET advances U.S. objectives on a global scale at a relatively small cost. In many countries, having a core group of well-trained, professional leaders with firsthand knowledge of America will make a difference in winning access and influence for our diplomatic and military representatives. Thus, a relatively small amount of IMET funding will provide a return for U.S. policy goals, over the years, far greater than the original investment.

In 1980, section 644(m)(5), FAA, was amended to authorize IMET tuition costing in terms of the additional costs that are incurred by the USG in furnishing such assistance. Section 21(a)(1)(C), AECA, was also amended to allow IMET recipients to purchase FMS training on an additional cost basis. The practical effects of these changes were to substantially reduce tuition costs for IMET-funded students, and thereby increase the amount of training an eligible country can obtain with its IMET grant funds and through FMS purchases.

Expanded IMET

An IMET initiative was introduced in the FY 1991 Foreign Operations Appropriation Act (FOAA) when Congress adopted a Senate-proposed IMET earmark of $1 million to be used exclusively for expanding courses for foreign officers as well as later for civilian managers and administrators of defense establishments. The focus of such training is on developing professional level management skills, with emphasis on military justice systems, codes of conduct, and the protection of human rights. Section 541, FAA, was amended to permit non-Ministry of Defense civilian government personnel to be eligible for this program, if such military education and training would:

- Contribute to responsible defense resource management
- Foster greater respect for and understanding of the principle of civilian control of the military
- Contribute to cooperation between military and law enforcement personnel with respect to counter-narcotics law enforcement efforts

- Improve military justice systems and procedures in accordance with internationally recognized human rights

This expanded IMET (E-IMET) program was further extended in FY 1993 to also include participation by national legislators who are responsible for oversight and management of the military. The E-IMET program authority was again amended in 1996 by P.L.104-164 to also include non-governmental organization personnel.

The IMET funding for FY 2014 was $105.573 million. The IMET funding appropriated for FY 2015 was increased slightly to $106.074 million. IMET funding for FY 2016 saw an additional increase to $108.0 million.

Drawdowns

During a crisis, section 506, FAA, authorizes the President to provide USG articles, services, and training to friendly countries and international organizations at no cost, to include transportation, spares, and training. There is a $100 million ceiling per fiscal year on articles, services, and training provided for military purposes and another fiscal year ceiling of $200 million for articles, services and training required for non-military purposes such as disaster relief, nonproliferation, anti-terrorism, counter-narcotics, refugee assistance, and Vietnam War-era missing in action/prisoners of war (MIA/POW) location and repatriation. When emergency support for peacekeeping operations is required, section 552(c)(2), FAA, separately authorizes the President to drawdown up to $25 million per fiscal year in USG articles and services from any agency. Special drawdown authorities have been annually legislated in the State Department and Foreign Operations Appropriation Acts (S/FOAA) to include $30 million in support for the Yugoslav International Criminal Court. These are non-appropriated authorities are administered by DSCA when defense articles, services, or training from DoD are to be drawn down.

Economic Support Fund

The Economic Support Fund (ESF) is authorized by chapter 4 of part II of the FAA. ESF is an appropriated program administered by the U.S. Agency for International Development (USAID). This fund was established to promote economic and political stability in areas where the U.S. has special political and security interests and where the U.S. has determined that economic assistance can be useful in helping to secure peace or to avert major economic or political crises. ESF is a flexible economic instrument available on a grant basis for a variety of economic purposes, including balance of payments support, infrastructure, and other capital and technical assistance development projects. In earlier years, the ESF program included concessional (i.e., low interest rate) loan as well as grants; recently all ESF funds have been allocated as grant assistance. While a substantial amount of these ESF grants are used to provide balance of payments, the ESF also provides for programs aimed at primary needs in health, education, agriculture, and family planning. Where long-term political and economic stability is the primary concern, ESF finances projects that meet the basic needs of the poor.

The ESF funds provided for FY 2014 totaled $4.589 billion. The ESF appropriation for FY 2015 was $4.746 billion. The ESF for FY 2016 is $4.319 billion. All ESF appropriations are grants.

Peacekeeping Operations

Peacekeeping Operations (PKO) is an appropriated program authorized by chapter 6 of part II of the FAA. For several years, PKO provided funds for the Multinational Force and Observers (MFO), which implemented the 1979 Egyptian-Israeli peace treaty, and the U.S. contribution to the United Nations Force in Cyprus (UNFICYP). Subsequent funding has been provided to support peacekeeping efforts in the Balkans, East Timor, sub-Saharan Africa, and lately in the Darfur region of the Sudan, South Sudan, and Somalia.

Global Peace Operations Initiative

Global Peace Operations Initiative (GPOI), which has become the principal PKO program, was originally a Presidential initiative in coordination with other G-8 countries to increase the capacity of selected countries to deploy in support of international peacekeeping operations. It was envisioned as a five-year program (FYs 2005-2009) to train seventy-five thousand troops worldwide, with emphasis in the Africa region and building an African command headquarters capability. GPOI is to support the deployment of peacekeepers by providing equipment, transportation, training, and sustainment in the field. Remaining a DoS program requiring DoD support, GPOI subsumed the previous SA-funded PKO Africa Contingency Operations Training and Assistance (ACOTA) program and the FMFP-funded Enhanced International Peacekeeping Capabilities (EIPC) program. The ACOTA term is still used when referring to the Africa training component of GPOI. In October 2008, an U.S. National Security Council (NSC) deputies committee approved a five-year extension of the GPOI program with added emphasis on sustainment and continued force equipping and training.

The FY 2014 PKO fund was $435.6 million. In FY 2015, $473.691 million was appropriated. The PKO appropriation for FY 2016 was $600 million. All PKO appropriations are grants managed by the DoS with significant support from DoD in implementation.

International Narcotics Control and Law Enforcement

The International Narcotics Control and Law Enforcement (INCLE) program is an appropriated grant program administered by the DoS authorized by section 481, FAA, to suppress the worldwide illicit manufacture and trafficking of narcotic and psychotropic drugs, money laundering, and precursor chemical diversion, and the progressive elimination of the illicit cultivation of the applicable crops. Recently, the elimination of related narco-terrorism has been included. This program can include the purchase of defense articles, services, and training. This is similar to the authorized and funded programs within DoD and the Departments of Justice and Homeland Security.

INCLE was $1.35 billion in FY 2014. In FY 2015, $1.296 billion was appropriated for INCLE. The FY 2016 appropriation is $1.266 billion.

Nonproliferation, Antiterrorism, Demining, and Related Programs

Nonproliferation, Antiterrorism, Demining, and Related (NADR) programs are an appropriated series of grant programs administered by DoS. It is authorized by part II, chapters 8 and 9 of the FAA, and section 504 of the FREEDOM Support Act, moreover, section 23, AECA, for NADR focuses on demining activities, the clearance of unexploded ordnance, the destruction of small arms, border security, and related activities. Related defense articles, services, and training can be provided through this program. U.S. funding support for the International Atomic Energy Agency and the Comprehensive Nuclear Test Ban Treaty Preparatory Commission is provided through this program.

In FY 2014, NADR funding was $700 million. A total of $685.5 million was appropriated for NADR in FY 2015. The FY 2016 NADR request was for $885 million.

Direct Commercial Sales

Direct Commercial Sales (DCS) are commercial exports of defense articles, services, and training licensed under the authority of section 38, AECA, made by U.S. defense industry directly to a foreign government. Unlike the procedures employed for FMS, DCS transactions are not administered by DoD and do not normally include a government-to-government agreement. Rather, the required USG controls are implemented through licensing by the Directorate of Defense Trade Controls (PM/DDTC) in the DoS. The day-to-day rules and procedures for these types of sales are contained in the *International Traffic in Arms Regulations* (ITAR) [22 CFR 120-130].

Of note, not all license approvals will result in signed contracts and later actual deliveries. Like FMS, DCS deliveries are likely to take place years after the commercial contract is signed and the export license is obtained by U.S. industry from PM/DDTC.

Other Security Assistance Programs

While these two programs are not identified by DSCA in the SAMM as one of the twelve security assistance programs, they are very much related to the duties of the security assistance community, both in the U.S. and recipient foreign governments.

Excess Defense Articles

Excess defense articles (EDA) identified by the MILDEP or DoD agency are authorized for sale using the FMS authority in section 21, AECA, and FMS processes identified within the SAMM for property belonging to the USG. Prices range from five to fifty percent of original acquisition value, depending on the condition of the article.

Additionally, section 516, FAA, authorizes the President to transfer EDA on a grant basis to eligible countries (annually identified within a joint DoD/DoS letter to Congress). While EDA can be transferred at no-cost, the recipient must typically pay for any transportation or repair charges. Under certain circumstances, transportation charges may be waived, with the cost absorbed by DoD appropriated funds.

Third-Country Transfers

Section 3(d), AECA, authorizes the President to manage and approve the transfer of U.S.-origin defense articles from the original recipient country to a third country. Requests for third-country transfers are normally approved if the USG is willing to conduct a direct transfer to the third country. Third-country transfer authority to countries must be obtained in writing from the DoS in advance of the proposed transfer. This applies to all U.S.-origin defense articles regardless of the method of original transfer from the USG or U.S. industry.

Security Cooperation

The following is a categorized list of DoD-authorized security cooperation programs, with a brief description and references for each program. It should be noted that the previously described FAA and AECA-authorized security assistance programs administered by DoD in accordance with the SAMM also fall under the broad definition of security cooperation. The 11 categories of security cooperation programs are as follows:

- Train-and-Equip/Security Assistance: DoS Administered Title 22
- Train-and-Equip/Security Assistance: DoD Administered Title 22
- Train-and-Equip/Security Assistance: Title 10 Programs
- Operational Support
- Defense Institution Building
- International armaments cooperation
- Humanitarian assistance
- Education
- Exercises

- Contacts
- Exchanges

The above categories are based upon a partial list presented in the 2016 DoD Guidance for Security Cooperation. Another method of identifying the difference between security assistance and security cooperation is the source of authority within the United States Code (U.S.C.) for the program. The U.S.C. is the codification of the general and permanent U.S. laws divided into over fifty titles by subject matter. U.S. foreign relations, to include FAA and AECA security assistance, are addressed in 22 U.S.C., or Title 22. The U.S. armed forces, to include DoD security cooperation, are addressed in 10 U.S.C., or Title However, it should be noted that certain DoD security cooperation program authorities are also with 22 U.S.C. as security assistance.

Train-and Equip/Security Assistance: DoS Administered Title 22

This category includes security assistance programs previously identified and described. These programs are authorized by either the Foreign Assistance Act (FAA) (22 U.S.C. 2151, et. seq.) or the Arms Export Control Act (AECA) (22 U.S.C. 2751, et. seq.).

- Direct Commercial Sales (DCS)
- Drawdowns
- Economic Support Fund (ESF)
- Global Peace Operations Initiative (GPOI)
- International Narcotics Control and Law Enforcement (INCLE)
- Nonproliferation, Antiterrorism, Demining, and Related Programs (NADR)
- Peacekeeping Operation (PKO)
- Third-Country Transfers

Train-and Equip/Security Assistance: DoD Administered Title 22

This category includes security assistance programs previously identified and described. These programs are also authorized by either the Foreign Assistance Act (FAA) (22 U.S.C. 2151, et. seq.) or the Arms Export Control Act (AECA) (22 U.S.C. 2751, et. seq.).

- Excess defense articles (EDA)
- Foreign military financing challenge fund (FMFCF)
- Foreign military financing program (FMFP)
- Foreign military financial regional funds (FMFRF)
- Foreign military sales (FMS)
- Foreign military construction services (FMCS)
- International military education and training (IMET)
- Leases
- Military assistance program (MAP)

Train-and Equip/Security Assistance: Title 10 Programs

"1004" DoD Support for Counter-Drug Activities and Activities to Counter Transnational Organized Crime

Section 1004, NDAA, FY 1991, P.L. 101-510, 5 November 1990, as amended, authorizes counter-narcotics support to U.S. and foreign counterdrug agencies, to include providing defense services and training in support of DoD-loaned equipment. Pseudo LOA procedures can be used by DoD agencies to provide support as required to the ASD (SOLIC). This "1004" authority is currently extended through FY 2017.

"1022" Joint Task Force to Provide Support to Law Enforcement Agencies Conducting Counterterrorism Activities or Counter-Transnational Organized Crime Activities

Section 1022, NDAA, FY 2004, P.L.108-136, 24 November 2003, as amended, authorizes a DoD joint task force to support counterterrorism law enforcement agencies through FY 2020.

"1203" Enhance the Capacity of the National Security Forces of Djibouti, Ethiopia, Kenya and Forces Participating in the African Union Mission in Somalia to Conduct Counterterrorism Operations

Provides an authority for general purpose forces to train with the military forces or other security forces of a friendly foreign country if the Secretary of Defense determines that it is in the National Security interests of the United States to do so, and that training may be conducted under this section only with prior approval of the Secretary of Defense. No new assistance may be provided after 30 September 2017 and this support is limited to $10 million, annually, as amended from section 1203, NDAA, FY 2013, P.L. 112-239, 2 January 2013.

"1207" Support to National Military Forces of Allied Countries for Counterterrorism Operations in Africa

This is a new program for FY 2016 that provides assistance to the national military forces of an allied country conducting counterterrorism operations in Africa. This assistance can be in the form of logistics, supply, and services. This assistance can be provided if the Secretary of Defense determines that it is in the national security interest and critical to the timely and effective participation of such forces, to do so. The Secretary of Defense, in coordination with the Secretary of State, can provide this assistance and support to eligible allied countries conducting counterterrorism operations in Africa. Eligible allied countries can be African or non-African. No later than 15 days after providing such support the Secretary of Defense shall notify Congress on the type of support provided. Various post assessment reports are also required. This assistance may not be provided after 30 Sep 2018 and $100M in DoD O$M is authorized, as per section 1207, FY 2016, NDAA, P.L. 114-92, 25 November 2015.

"1208" Support of Foreign Forces Participating in Operations to Disarm the Lord's Resistance Army

Section 1206, NDAA, FY 2012, P.L.112-81, 31 December 2011, originally authorized SecDef, with SecState concurrence, to provide logistics support, supplies, and services for foreign forces, to include the national military forces of Uganda, and other countries determined by SecDef, with concurrence of SecState, participating in operations to mitigate and eliminate the threat posed by the Lord's Resistance Army (LRA). The amount of such support was not to exceed $35 million annually during FYs 2012 and 2013. This same LRA authority is now in section 1208, NDAA, FY 2014, P.L.113-66, 26 Dec 2013, set to expire at the end of FY 2017 and the level of support has been raised to $50 million. Congress is to be notified of determined eligible countries for such support and fifteen days prior to obligation of any funds for such support. Except in self-defense or for rescue operations,

no U.S. military, civilian, or contractor personnel are to engage in combat operations in the conduct of this support program.

"1209" Authority to Provide Assistance to the Vetted Syrian Opposition

Section 1209, NDAA, FY 2015, P.L. 113-291, 19 December 2014, authorized assistance by DoD to appropriately vetted elements of the Syrian opposition and other appropriately vetted Syrian groups and individuals. The purpose of this program is to provide equipment, supplies, training, stipends, facilities, and sustainment for defending the Syrian people from the Islamic State of Iraq and the Levant. Along with being a unique program in such that it is designed to provide security assistance to organizations that are not a sovereign nation or an recognized international organization, such as NATO, this program also allows the SecDef to receive contributions from other countries for assistance authorized by this same authority. Funding for this program mainly comes from the $406M Syrian Train and Equip Fund (STEF).

"1226" Support to the Government of Jordan and Lebanon for Border Security Operations

This is a new program for FY 2016; which provides assistance for the Government of Jordan and the Government of Lebanon for Border Security operations and support; the support under this program may be provided on a quarterly basis. Not later than 15 days before providing support the Secretary of Defense shall submit to Congress a report setting forth a full description of the what is to be provided, including the amount, timeline, and to whom; $150M from the CTFP may be used for this program and this assistance may not be provided after 31 Dec 2018 as per section 1226, NDAA, FY 2016, P.L. 144-92, 25 November 2015.

"1533" Joint Improvised Explosive Device Defeat Fund for Training of Foreign Security Forces to Defeat Improvised Explosive Devices

This new program for FY 2016, under specific situations and to a limited amount, allows the foreign security forces of our partner nations to access the Joint Improvised Explosive Device Fund (JIEDF). This will be for use in locations where DoD is conducting a named operation or in geographic areas where the Secretary of Defense has determined that a foreign force is facing a significant threat from improvised explosive devices. As per section 1533, NDAA, FY 2016, P.L. 114-92, 25 November 2015, the value of this program is set at $30 million and this assistance may not be provided after 31 Sep 2018.

"2282" Building Partner Capacity of Foreign Militaries (formerly known as 1206)

Section 1205, NDAA, FY 2015, P.L. 113-291, 19 December 2015, repealed the previous temporary section 1206, of the FY 2006 NDAA, P.L. 109-163, 6 January 2006, and replaced it with the new permanent authority, 10 U.S. Code 2282. This codification gives the DoD permanent, but limited, authority to build the capacity of a country's national military force to conduct counterterrorism operations (with an emphasis on maritime or border security) and to participate in on-going coalition stability operations. During FY 2016, up to $350 million in DoD O&M funding, of which not more than $150 million may be used for a country's military force to participate in on-going coalition stability operations, is allowed to be used to equip, supply, and train foreign military forces to conduct counter-terrorism operations. Funding levels are likely to be determined on an annual basis provided in the respective Appropriations Acts.

Any country prohibited by law from receiving such assistance may not receive such assistance. Once approved by the SecDef with concurrence of the SecState, programs must be notified to Congress fifteen days prior to implementation, with the funds to be obligated prior to the end of the subject fiscal year. This short time requirement places significant pressure on the MILDEP acquisition agencies for execution. Recipient countries are to provide follow-on sustainment for any 2282-provided systems.

This program is managed by DSCA and the MILDEPs in support of Assistant SecDef for Special Operations and Low Intensity Conflict [ASD (SOLIC)] and the applicable CCMDs; with requests often initiated by the SCO. Psuedo LOA case procedures are used for the implementation and management of this program.

"1021" Unified Counter-Drug and Counter Terrorism Campaign in Colombia

Section 1021, NDAA, FY 2005, P.L.108-375, 28 October 2004, as amended, authorizes DoD to fund assistance to Colombia in support of unified counternarcotics and counterterrorism. This authority currently is through FY 2017. This "1021" authority also prohibits combat activities by U.S. military or civilian personnel or U.S. citizen contractors, except for self-defense or during rescue operations.

"1033" DoD Assistance for Counternarcotics Activities by Certain Countries

Section 1033, NDAA, FY 1998, P.L.105-85, 18 November 1997, as amended, authorizes DoD to provide counterdrug patrol boats, non-lethal protective and specialized equipment, non-lethal components and parts, and maintenance, repairs, and upgrade services of equipment used for counternarcotics. Pseudo LOA case procedures can likewise be used in this additional support of ASD (SOLIC) directed activities (SAMM, C11.3). This "1033" authority is currently extended through FY 2017 with $125 million in total DoD annual funding authorized for now 41 specified countries. Countries authorized such assistance include:

Afghanistan	Ghana	Mexico
Armenia	Guatemala	Nicaragua
Azerbaijan	Guinea	Niger
Belize	Honduras	Panama
Benin	Ivory Coast	Pakistan
Bolivia	Jamaica	Peru
Cape Verde	Kazakhstan	Senegal
Chad	Kenya	Sierra Leone
Colombia	Kyrgyzstan	Tajikistan
Dominican Republic	Liberia	Tanzania
Ecuador	Libya	Togo
El Salvador	Mauritania	Turkmenistan
The Gambia	Mali	Uzbekistan
Guinea-Bissau	Nigeria	

"1207" Global Security Contingency Fund

Where the previous section 1207 refers to section 1207 of the FY 2016 NDAA, this section 1207 refers to section 1207, NDAA, FY 2012, P.L.112-81, 31 December 2011, that authorizes the establishment and funding of the Global Security Contingency Fund (GSCF) for either DoD or DoS to provide assistance to countries designated by SecState, with the concurrence of SecDef, for the following purposes.

- For a country's national military and other national security forces, as well as the government agencies responsible for such forces, to enhance the capabilities to conduct border and maritime security, internal defense, and counterterrorism operations, and to participate in or support military, stability, or peace support operations consistent with U.S. foreign policy and national security interests.

- For the justice sector (including law enforcement and prisons), rule of law programs, and stabilization efforts in a country. In cases in which SecState, in consultation with SecDef, determines that conflict or instability in a country or region challenges the existing capability of civilian providers to deliver such assistance.

Any such assistance programs are to be jointly formulated by DoD and DoS with the approval of SecState and the concurrence of SecDef. Any provided assistance may include equipment, supplies, and training.

Not more than $200 million in DoD O&M may be transferred to the GSCF in any one fiscal year. Section 8071 of the DoD Appropriations Act of FY 2015, Div. C, P.L. 113-235, 16 December 2014, authorizes the transfer of up to $200 million from DoD O&M to the GSCF. Likewise, section 8003 of the S/FOAA of FY 2015, Div. J, P.L. 113-235, 16 December 2014, authorizes the transfer of up to $25 million in funding from INCLE, FMFP, or Peacekeeping Operations to the GSCF. Congress is to be notified prior to any such authorized transfer of funds by DoD or DoS to the GSCF.

Not less than fifteen days prior to initiating any GSCF activity, SecState, with SecDef concurrence, shall notify Congress and provide subsequent annual status reports of the activities. Any activity is to be not less than 20 percent funded by DoS with not more than 80 percent to be funded by DoD. This authority is currently to expire at the end of FY 2017.

"1208" Support of Special Operations to Combat Terrorism

Section 1208, NDAA, FY 2005, P.L. 108-375, 28 October 2004, as amended, originally authorized the SecDef to expend up to $25 million in DoD funding annually to support foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating ongoing operations by U.S. special operations forces in combating terrorism. This authority is not to be delegated below the SecDef and requires the concurrence of the relevant U.S. chief of mission. This "1208" authority is now $85 million annually through FY 2017 as per section 1274, NDAA FY 2016, P.L. 114-92, 25 November 2015.

Train and Equip Afghanistan Security Forces

Title IX, Overseas Contingency Operations, DoD Appropriations Act, 2012, P.L. 112-74, 23 December 2011, appropriated $11.2 billion in DoD funds for the Afghanistan Security Forces Fund (ASFF). The FY 2013 appropriation was $5.124 billion. In FY 2014, it was $4.7726 billion. The FY 2015 ASFF appropriation was $4.109 billion. The FY 2016 ASFF appropriation was $3.652 billion. This program is intended to provide defense articles and services to the Afghanistan security forces. These transfers are often, but not always, implemented using pseudo LOA case procedures requiring advance DoS concurrence and congressional notification. The Iraq Security Forces Fund (ISFF) stopped being funded in FY 2012. Iraq is also using country cash for both FMS and DCS.

African Peacekeeping Rapid Response Partnership (APRRP)

The focus for this program is creating the ability for eligible African countries to support peace operations and to enhance their capability to respond to various humanitarian and disaster crises. The type of assistance usually provided is logistics, lift, medical, engineering, interoperability, and training/deployment centers. There are also several Congressional notification requirements. The eligible countries are Senegal, Ghana, Ethiopia, Rwanda, Tanzania, and Uganda. This assistance may not be provided after 30 Sep 2019 and is set at $110M, annually. Authority for this program comes from FAA section 551 and P.L. 113-235, 16 December 2014.

Train and Equip Foreign Personnel to Assist in Accounting for Missing U.S. Government Personnel

Section 1207, NDAA, FY 2008, P.L.110-181, 28 January 2008, provided a new 10 U.S.C. 408 authorizing up to $1 million in DoD funding annually to provide training and equipment, with the specific approval of the SecState, to any country willing to assist DoD with accounting for and recovery of missing USG personnel.

"1207" Assistance to the Government of Jordan for Border Security Operations

Section 1207, NDAA, FY 2014, P.L.113-66, 26 December 2013, as amended, authorizes the DoD use of $600 million in FY 2016 CTPF for assistance to Jordan for the purposes of supporting and maintaining efforts of Jordan armed forces to increase security and sustain increased security along the border between Jordan and Syria. No assistance is to be provided after 31 December 2016. The concurrence of SecState and a fifteen-day advance congressional notification are required.

Counterterrorism Partnership Fund

Section 1534, NDAA, FY 2015, P.L. 113-291, 19 December 2014, authorizes support and assistance to foreign security forces or other groups or individuals for counterterrorism and crisis response activities in the USCENTCOM and USAFRICOM AORs (less Iraq). The support provided in the Counterterrorism Partnership Fund (CTPF) may also be used to fund activities conducted by contract, including contractor operated capabilities. The DoD Appropriations Act for FY 2015, Div. C, 113-235, 16 December 2014, provided $1.3 billion for CTPF. The FY 2016 CTPF appropriation was $1.100 billion.

European Reassurance Initiative

The European Reassurance Initiative (ERI), per section 1535 of the NDAA of FY 2015, P.L. 113-291, signed on 19 December 2014, provides for programs, activities, and assistance in support of the governments of Ukraine, Estonia, Lithuania, and Latvia. With ERI, the SecDef has been given the authority to increase the presence of U.S. armed forces in Europe through military exercises, enhanced prepositioning of U.S. armed forces equipment, and the building of partner nation defense capacity. The FY 2015 DoD Appropriations Act, Div. C, P.L. 113-235, 16 December 2014, provided $175 million for ERI.

Iraq Security Forces Fund & Iraq Train and Equip Fund

The Iraq Security Forces Fund (ISFF) did not receive DoD funding assistance during FY 2012. Instead, funding assistance was provided from DoS S/FOAA FY 2012 FMFP, ESF, INCLE, and IMET security assistance funds. The ISFF program has expired but some deliveries remain in progress. section 1236, NDAA, FY 2015, P.L. 113-291, 19 December 2014, authorized the Iraq Train and Equip Fund (ITEF). ITEF is similar to ISFF in that it may provide training, equipment, logistics support and services to the government of Iraq. However, ITEF differs from ISFF by specifically mentioning the threat posed by the Islamic State of Iraq and the Levant. The DoD Appropriations Act for FY 2015, Div. C, P.L. 113-235, 16 December 2014, provided $1.618 billion for ITEF and is available through FY 2016. The FY 2016 ITEF appropriation was $715 million. Finally, Iraq is also using country cash for both FMS and DCS.

Maritime Security Initiative (Previously the South China Sea Initiative)

This new program for FY 2016 provides authorization to support various countries in the South China Sea region with equipment, supplies, training, and small-scale military construction in order to increase maritime security and freedom of movement in the South China Sea. Priority in training and assistance will be given to countries; which, whose enhancement will most contribute to greater stability and security in the region. Not later than 15 days before exercising this authority, the Secretary

of Defense shall provide notification to the appropriate congressional committees. This notification shall include the recipient country, detailed justification of said country, a description of the proposed action, its budget, and statement of the action's objectives. Assistance includes equipment, supplies, training, and small scale construction. $50M in DoD O&M is authorized for the eligible countries of Malaysia, Philippines, Thailand, Vietnam, Brunei, Singapore, and Taiwan. This assistance may not be provided after 30 Sep 2020 as per section 1263, NDAA, FY 2016, P.L. 114-92, 25 November 2015. Brunei, Singapore, and Taiwan are only authorized for incremental training expenses.

Non-Conventional Assisted Recovery Capabilities (NCARC)

Section 943, NDAA, FY 2009, P.L.110-417, 14 October 2008, as amended, authorized the use of DoD operations and maintenance (O&M) funding not to exceed $20 million annually through FY 2016 by a CCMD to establish, develop, and maintain a capability to recover DoD or U.S. Coast Guard (USCG) military or civilian personnel or other individuals who, become separated or isolated and cannot rejoin their units during U.S. military operations. Procedures for establishing this capability are to be developed by the SecDef. Concurrence of the relevant chief of mission and a thirty-day Congressional notification prior to implementation are required. The authority may, in limited and special circumstances, include providing support to foreign forces, irregular forces, groups, or individuals. NCARC has now been raised to $25 million and authority extended through FY 2018 as per section 1271, NDAA, FY 2016, P.L. 114-92, 25 November 2015.

No-Cost Transfer of Defense Articles to Afghanistan

Section 1222, NDAA, FY 2013, P.L.112-239, 2 January 2013, as amended, authorized the transfer of defense articles to Afghanistan before 31 December 2015. The value of the total transfer is not to exceed $250 million in replacement value per fiscal year. The articles must have been present in Afghanistan on 2 January 2013, have been in use in support of operations in Afghanistan, and are no longer required by U.S. forces in Afghanistan. Any transfer requires the concurrence of the SecState and a fifteen day advance notification to Congress. This authority is in addition to the section 516, FAA, grant EDA authority. This authority has also been extended through 31 December 2015 as per section 1215, NDAA, FY 2016, P.L. 114-92, 25 November 2015.

Pakistan Security Cooperation

Title VIII, S/FOAA for FY 2012 , Overseas Contingency Operations, P.L.112-74, 23 December 2011, authorized and appropriated $850 million for the Pakistan Counterinsurgency Capability Fund (PCCF) with the funds to remain available to the SecState through FY 2013. The SecState, with the concurrence of the SecDef, is to use the PCCF for the purpose of providing FAA/AECA assistance for Pakistan to build and maintain the counterinsurgency capability of Pakistan security forces to include the Frontier Corps. These funds may be transferred to other USG agencies for such authorized purposes. Beginning in FY2013, no new funding has been appropriated for PCCF.

Title III, Supplemental Appropriations Act, 2009, P.L. 111-32, 24 June 2009, earlier authorized and appropriated $400 million for the Pakistan Counterinsurgency Fund (PCF) with the funds to remain available to the Secretary of Defense (SecDef) through FY 2012. SecDef, with the concurrence of SecState, is to use the PCF for the purpose of providing assistance to the Pakistan security forces. Division A, Title IX, DoD Appropriations Act for FY 2011, P.L. 112-10, 15 April 2011, appropriated an additional $800 million for the DoD PCF to remain available through FY 2012. DoD/DSCA uses the pseudo FMS LOA process to implement and manage the PCF assistance program, which would also include any DoS PCCF funding transferred to the DoD PCF program.

The Enhanced Partnership with Pakistan Act (EPPA) of 2009, P.L.111-73, 15 October 2009, authorized the appropriation of $1.50 billion annually during FY 2010–FY 2014 for FAA-authorized assistance for Pakistan. P.L.111-73 likewise authorized unspecified amounts of FMFP and IMET

annually during FY 2010–FY 2014 for Pakistan assistance to include defense articles, services, and training for activities relating to counterinsurgency and counterterrorism operations. This program is no longer being funded.

Ukraine Security Assistance Initiative (USAI)

The USAI is a new program for FY 2016 where the Secretary of Defense, in coordination with the Secretary of State, can provide appropriate assistance, intelligence, and support [including lethal weapons of a defensive nature] to Ukraine and Partnership for Peace (PfP) nations to preserve their sovereignty and territorial integrity. Assistance also includes training, equipment, supplies, services, and supplies. Up to 20% of the amount available may be used for training. Lethal weapons of a defensive nature include: mortars, crew-served weapons, grenade launchers, small arms, anti- armor systems, and supporting ammunition. As per section 1250, NDAA, FY 2016, P.L. 114-92, 25 November; various reports are required.

Operational Support

Operational support is assistance designed to enable partner countries to participate in coalition operations by developing specific capabilities needed for said operations and by enhancing interoperability among partner countries; and by sustaining partner operations in cases where partner countries cannot sustain operations on their own.

"1234" Logistical Support for Coalition Forces Supporting U.S. Military Operations in Afghanistan

Section 1234, NDAA, FY 2008, P.L.110-181, 28 January 2008, as amended, authorizes SecDef to provide up to $450 million in O&M funding for the provision of supplies, services, transportation (to include airlift and sealift), and other logistical support to coalition forces supporting the U.S. military operations in Afghanistan and Iraq through FY 2015. Export control laws are to apply. It must also be determined by SecDef that the supported coalition forces are essential to the success of a U.S. military or stabilization operation and the coalition forces would not be able to participate without the provision of such support. Section 1201, NDAA, FY 2016, P.L. 114-92, 25 November 2015, extended this authority until 31 December 2016.

"1233" Coalition Support Fund (CSF)

Section 1233, NDAA, FY 2008, P.L.110-181, 28 January 2008, as amended, authorizes the use of DoD funding through FY 2016 to reimburse key allies in support of overseas contingency operations. DoD O&M funding of $1.2 billion is authorized for this program but no more than $1 billion of this total can be used for reimbursement of Pakistan, provided that Pakistan takes demonstrable steps in restricting the movements of militants such as the Haqqani Network along the Afghan-Pakistan border, section 1212, NDAA, FY 2016, P.L. 114-92, 25 November 2015.

The portion of this CSF that authorizes the transfer of defense equipment, training, and supplies as reimbursement is entitled the Coalition Readiness Support Program (CRSP) and is implemented DoD/DSCA using pseudo LOA case procedures requiring a fifteen-day advance notification to Congress.

"1207" Cross Servicing Agreements for Loan of Personnel Protection and Personnel Survivability Equipment in Coalition Operations

This program provides certain equipment to coalition forces operating with the U.S. The equipment is limited to the following categories: I - small arms (.50 caliber or less); II - Guns greater than .50 caliber; III - Ammunition for Cat I & II; VII - Ground vehicles (less tanks); & X - Protective Personnel Equipment and Shelters.

Acquisition and Cross-Servicing Agreements

Acquisition and cross-servicing agreements (ACSA) are initiated and negotiated by a CCMD to allow U.S. logistics support of a military unit of another country. Lethal significant military equipment (SME), or support reasonably available from U.S. commercial sources are not be provided under an ACSA. The Joint Staff (OJCS), OSD, and DoS, to include a thirty day advance notification to Congress, must approve the proposal before the agreement is negotiated and concluded by the CCMD. The authority for an ACSA is 10 U.S.C. 2341-2350, with procedures provided in DODD 2010.9.

Using the ACSA process, section 1207, NDAA, FY 2015, P.L.113-291, 19 December 2014, authorizes the loan of certain categories of SME defense articles to countries participating in coalition operations, or for peacekeeping operations. This "1207" authority is limited to U.S. Munitions List (USML) Categories I, II, III, VII (less tanks), and X defense articles. This authorization has been extended through FY 2019. It must be determined by the Secretaries of State and Defense that it is in the U.S. national security interest to provide this loan and there are no unfilled U.S. in-theater requirements for the loaned articles.

Air Transportation and Air Refueling Services (ATARES) Program

Section 1276, NDAA, FY2013, P.L.112-239, 2 January 2013, authorizes DoD participation by international agreement with the Movement Coordination Centre Europe ATARES program amounting to the reciprocal exchange of air transportation and refueling services. This is to be conducted on a reimbursable or replacement-in-kind basis to be reconciled not less than every five years. This authority is to expire at five years from the date of the implementing agreement. U.S. flight hours are not to exceed 500 hours and refueling flight hours are not to exceed 200 hours.

Support of Coalition Forces in Combined Operations

Section 1201, NDAA, FY 2008, P.L.109-364, 17 October 2006, provided for a new 10 U.S.C. 127(d), authorizing up to $100 million annually in DoD logistics, supply, and services to allied forces to support their participation in combined operations.

Defense Institution Building (DIB)

DIB, as per the 27 January, 2016 DoD Directive 5205.82, is the development and capacity building of partner nation defense institutions is support of U.S. foreign policy and security cooperation goals. According to this directive, DIB attempts to promote principles vital to the establishment of defense institutions that are effective, accountable, transparent, and responsive to national political systems, especially regarding good governance, oversight of security forces, respect for human rights, and the rule of law.

Assignment of DoD Civilian Employees as Advisors to Ministries of Defense (MODA)

Section 1081, NDAA, FY 2012, P.L.112-81, 31 December 2011, as amended, authorizes SecDef, with the concurrence of SecState, to assign DoD civilian employees as advisors to ministries of Defense (or security agencies serving in a similar defense function) of other countries with the authority to expire at the end of FY 2017. Any assignment of such personnel after FY 2017 may continue but only with the use of funds available for FYs 2012–2014. The functions of such advisors are to include:

- Provide institutional, ministerial-level advice, and other training to personnel of the ministry to which assigned to support of stabilization or post-conflict activities, or
- Assist such ministry in building core institutional capacity, competencies, and capabilities to manage defense-related processes in support of Defense Institution Building (DIB).

Defense Institution Reform Initiative (DIRI) for DIB

DIRI is a complement program to MODA supporting DIB. Where MODA is mostly long term, using only USG civilians, and designed for daily interaction with their host nation counterparts; DIRI is short term, has a mix of contractors and USG civilians, and is designed for periodic interaction. Authority for this program expires at the end of FY 2017.

International Armaments Cooperation

The following provides an overview of International Armaments Cooperation programs with more in depth discussion to be provided in chapter 13, "Systems Acquisition and International Armaments Cooperation." The Office of International Cooperation within the Under SecDef for Acquisition, Technology, and Logistics [USD (AT&L)] organization provides DoD coordination with the various military department and applicable defense agencies in the funding and management of international armaments cooperation. The CCMDs and applicable SDO/DATTs will provide any representation and coordination required in-country for armaments cooperation programs.

Cooperative Research, Development, Test, Evaluation and Production

Section 27, AECA, authorizes the DoD acquisition community to enter into international agreements with countries for the mutually beneficial development and possible production of weapons systems. USD (AT&L) provides the general oversight for this complex program with other countries. The Nunn Amendment provided the initial authority and funding for this cooperative program with NATO allies. The Quayle Amendment later expanded the Nunn Amendment to include Australia, Japan, and South Korea, referring to them as major non-NATO allies. P.L.99-661 later further expanded eligibility for this program beyond the NATO and major non-NATO allies to include other friendly countries.

Cooperative Threat Reduction (CTR) Program

Sometimes referred to as the Nunn-Lugar program, its goals are elimination and the safe and secure transportation and storage of nuclear, chemical, and other weapons of mass-destruction in the republics of the former Soviet Union. This program was first authorized by NDAA, FY 1991, P.L.101-510, 5 November 1990, and has continued each fiscal year since. The program has expanded to selected countries outside of the former Soviet Union region and includes the control of conventional weapons. USD (AT&L) management overseas is performed by Defense Threat Reduction Agency (DTRA) assigned personnel.

Title II, DoD Appropriations Act, FY 2015, P.L. 113-291, 19 December 2014, appropriated $365.108 million in DoD funding for this purpose during FY 2015 to remain available through FY 2017. Title II, DoD Appropriations Act, FY 2016, P.L. 114-113, 18 December 2015, appropriated $343.496 million in DoD funding for this purpose during FY 2016 to remain available through FY 2018.

Foreign Comparative Testing

10 U.S.C. 2350a(g) authorizes the DoD acquisition community to enter into international agreements for the test and evaluation of operational weapons systems from other countries to determine if the foreign weapon system is a candidate for U.S. acquisition. Again, the USD (AT&L) provides oversight to this program, with the MILDEPs and DoD agencies being the implementers.

Information Exchange Program

10 U.S.C. 2358 authorizes the DoD acquisition community to enter into international agreements for the reciprocal exchange of research and development (R&D) data with a country, with the goal of saving both DoD R&D funding and time in the U.S. research-development, test, and evaluation

(RDT&E) process. The OSD administrator for this program is USD (AT&L), with the MILDEP and DoD agency acquisition communities being the implementers.

International Air and Trade Shows

Section 1082, NDAA, FY 1993, P.L.102-484, 6 October 1992, authorized DoD support of air and trade shows with the requirement for DODI 7230.08, Leases and Demonstration of DoD Equipment, 2 January 2009, governing DoD support of shows. USD (P) must approve with recommendations from the applicable CCMD and chief of mission (COM). A forty-five-day advance congressional notification is also required. U.S. industry may lease equipment from DoD but compensate for any costs.

Israeli Cooperative Programs

For several years, DoD has been given annual authority and funding for the development, production, and co-production of various Israeli missile defense systems both in the U.S. and in Israel. Section 8071, DoD Appropriations Act, FY 2016, Div. C, P.L. 114-113, 18 December 2015, provides $487.595 million in research, development, test, and evaluation and procurement funding for continued support of the Arrow missile defense program and for the short range ballistic missile defense (SRBMD) program, the upper-tier component to the Israeli missile defense architecture, Iron Dome, and the Arrow system improvement program. The Missile Defense Agency is the USG agency responsible for the coproduction arrangement.

No-Cost Equipment Loans

Section 65, AECA, authorizes the loan of a U.S. defense article by international agreement at no-cost to a country for the expressed purpose of furthering a cooperative RDT&E program. Again, this program is managed within the DoD acquisition community by USD (AT&L).

United States-Israel Anti-Tunnel Cooperation

Section 1279, FY 2016, NDAA, P.L. 114-92, 25 Nov 2015, authorizes a new program for FY 2016 that allows the Secretary of Defense to provide maintenance and sustainment support to Israel for anti-tunnel capabilities research, development, test, and evaluation. This authorization includes the ability to install necessary research equipment. Before implementing this authority, the Secretary of Defense shall provide a report to the appropriate congressional committees. This report shall include a memorandum of agreement between the United States and Israel regarding the sharing of research and development costs under this authority. $25M per fiscal year is authorized for this program; however, assistance may not be provided after 31 Dec 2018.

Humanitarian Assistance

These programs were the first DoD-funded programs to be administered by DSCA under the conception of security cooperation. It should be noted that the DoS has parallel programs generally managed by USAID in response to any requests by the affected U.S. embassy responding to country requirements. Much of this assistance is provided in coordination with the U.S. embassy, the CCMD, DoS, USAID, and U.S. Transportation Command (USTRANSCOM). Title II, DoD Appropriations Act, FY 2016, P.L.114-113, 18 December 2015, appropriated $103.266 million to remain available through FY 2017 for expenses related to DoD Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs. Requests for OHDACA funds for any of these programs generally begin in country with the SCO and are consolidated and prioritized at the CCMD, and then forwarded to DSCA for any required coordination with DoS/USAID and the military departments. DoS and USAID annually receive even more funding for overseas humanitarian, disaster, and migration assistance programs.

"1204" Authority to Conduct Activities to Enhance the Capability of Foreign Countries to Respond to Incidents Involving Weapons of Mass Destruction

Section 1204, NDAA, FY 2014, P.L. 113-66, 26 December 2013, as amended, authorizes SecDef with the concurrence of SecState to provide assistance to the military and civilian first responder organizations of countries that share a border with Syria in order to enhance the capability of such countries to respond effectively to potential incidents involving weapons of mass destruction in Syria and the surrounding region. The assistance may include training, equipment, and supplies.

Funding for such assistance is to be derived from O&M funding authorized for appropriation to the Defense Threat Reduction Agency (DTRA). Congress is to be notified if assistance is anticipated to exceed $4 million in a fiscal year. This authority for assistance is not to be exercised after 30 September 2019.

"1216" Reintegration Activities in Afghanistan

Section 1216, NDAA, FY 2011, P.L. 111-383, as amended, authorizes SecDef, with SecState concurrence, develop and support the reintegration of former terrorists into the Afghanistan society. Up to $5 million in annual DoD O&M funding is authorized for such use with no funds to be used after 31 December 2015.

"1217" Afghanistan Infrastructure Fund

Section 1217, NDAA, FY 2011, P.L. 111-383, as amended, authorizes the DoD and DoS joint development of an infrastructure projects program in support of the counterinsurgency strategy in Afghanistan to be undertaken by SecState, unless both secretaries jointly decide a project will be undertaken by DoD. Such projects may include, but are not limited to, water, power, and transportation projects, and related maintenance and sustainment costs. Any funds transferred by DoD to DoS for any project shall be considered to be FAA-authorized economic assistance. A fifteen-day notification to Congress is required prior to any funds transfer or any obligation. Title IX, DoD Appropriations Act, FY 2014, Div. C, P.L. 113-76, 17 January 2014, provided $199 million for this fund, to be available through FY 2015.

Commander's Emergency Response Program

The purpose of the Commander's Emergency Response Program (CERP) is to enable field commanders in Afghanistan to respond to urgent humanitarian relief and reconstruction requirements. Section 1211, NDAA, FY 2016, P.L. 114-92, 25 November 2015, authorizes $5M in Army O&M for use in CERP activities in Afghanistan during FY 2016.

Center for Excellence in Disaster Management & Humanitarian Assistance (CFE-DMHA)

This center provides and facilitates the education, training, and research in civil-military operations, particularly operations that require international disaster management and humanitarian assistance and operations that require coordination between DoD and other agencies.

Excess Property Humanitarian Assistance

10 U.S.C. 2557 authorizes DoD to provide excess non-lethal supplies to foreign governments and civilian organizations for humanitarian relief purposes when requested by the U.S. embassy. DoD processes, refurbishes, stores, and transports the property to the country for distribution by the U.S. embassy. SAMM, C12.6, provides guidance.

Foreign Disaster Relief

10 U.S.C. 404 authorizes DoD to assist countries responding to man-made or natural disaster when necessary to prevent the loss of life. This program enables the CCMDs to respond quickly and effectively to disasters in their area of operations and to manage the humanitarian dimensions of security crises. The CCMDs engage in foreign disaster relief and emergency response (FDR/ER) activities only when directed by the President, with the concurrence of the SecState, and in emergency situations to save lives. DoD is routinely in support of USAID and the COM during the conduct of FDR operations. Activities may include services and supplies, logistical support, search and rescue, medical evacuation, and refugee assistance. The FDR/ER program allows for the delivery of humanitarian daily rations (HDR) for use in foreign countries to alleviate hunger after man-made or natural disasters. SAMM, C12.9 provides guidance.

Humanitarian Assistance Transportation

10 U.S.C. 2561 authorizes DoD to fund transportation of humanitarian relief worldwide for non-profit, non-government (NGOs), and private volunteer organizations. SAMM, C12.7, provides guidance.

10 U.S.C. 402 authorizes DoD to transport on a space-available basis, humanitarian relief supplies furnished by a non-government organization. SAMM, C12.7.4.2, provides guidance. This program is often referred to as the Denton Program.

Humanitarian and Civic Action during Military Operations

10 U.S.C. 401 authorizes military forces to carry out humanitarian and civic action (HCA) projects and activities in conjunction with military operations. The CCMD nominates such action for OSD staffing primarily within USD (P) and DSCA for approval and funding. DODD 2205.2 and SAMM, C12, provide policy guidance and DoD component responsibilities for the DoD HCA program.

Humanitarian Daily Rations

10 U.S.C. 2561 authorizes DoD funding and provision of low cost, nutritional, easily deliverable, daily rations for alleviating hunger in countries after a man-made or natural disaster. SAMM, C12, provides guidance.

Humanitarian Mine Action

10 U.S.C. 407 authorizes DoD in conjunction with military operations to assist countries in the detection of land mines, and to train partner nations in the procedures of land mine clearance, mine risk education, and victim assistance. Section 1092, P.L.112-81, 31 December 2011, NDAA, FY 2012, amended 10 U.S.C. 407 to include training and support in the disposal, demilitarization, physical security, and stockpile management of potentially dangerous conventional munitions. Section 1041, P.L. 113-291, 19 December 2014, NDAA, FY 2015 further amended 10 U.S.C. 407 by including training and support in demilitarization and security of small arms, and light weapons, including man-portable air defense systems. The Humanitarian Mine Action program also develops indigenous leadership and organizational skills to sustain the effort after the departure of U.S. trainers. Except for the concurrent purpose of supporting U.S. military operations, no DoD personnel may engage in the physical detection, lifting, or destruction of land mines.

10 U.S.C. 407 authorizes the annual use of $10 million by DoD for humanitarian mine action activities. SAMM, C12.8, provides guidance regarding this Humanitarian Mine Action (HMA) program. DSCA manages the U.S. training program through the U.S. Army's Humanitarian Demining Training Center at Fort Leonard Wood, Missouri. Additionally, the Center for Excellence in Disaster

Management & Humanitarian Assistance (CFE-DMHA) at Camp Smith, Hawaii, also provides expertise in Humanitarian Assistance and Disaster Relief (HADR).

Education

"1206" Training of Security Forces and Associated Security Ministries of Foreign Countries to Promote Respect for the Rule of Law and Human Rights

Section 1206, NDAA, FY 2015, P.L. 113-291, 19 December 2014, authorized the SecDef to conduct human rights training of security forces and associated security ministries of foreign countries prohibited from receiving training because of gross violation of human rights. This training may only be conducted with the concurrence of the SecState and is to be conducted in the country of origin of the security forces in question. Such training may be considered a corrective step but is not sufficient for meeting the accountability requirement under the exception established in sub section (b) of section 2249e of Title 10 USC. This authority expires at the end of FY 2020.

Military Academies

The military department (MILDEP) secretaries each may provide up to sixty quotas at any one time to foreign military students to attend the three military academies. Unless otherwise approved, not more than three students from any one country may be enrolled at a single academy. In addition to determining eligible countries at the end of June prior to the school year, the USD (P) may waive all or any part of the requirement to reimburse any cost for attendance. These programs are not considered security assistance. Once approved, invitations to submit applications to attend the academies are extended at the end of August prior to the upcoming school year by the applicable superintendents through the USDAOs. DODD 1322.22, Service Academies, 20 September 2011, applies. The authorities for attending the military academies are:

- 10 U.S.C. 4344(a)(1) for the U.S. Military Academy
- 10 U.S.C. 6957(a)(1) for the U.S. Naval Academy
- 10 U.S.C. 9344(a)(1) for the U.S. Air Force Academy

U.S. Coast Guard Academy

14 U.S.C. 195 authorizes not more thirty-six internationals may receive instruction at the U.S. Coast Guard Academy and, unless waived, the applicable country must reimburse all costs for the attendance for education.

Aviation Leadership Program

10 U.S.C. 9381-9383 authorizes the Secretary of the Air Force (SAF) to provide undergraduate pilot training and any necessary related training to include language training to students from friendly, less-developed countries. Though aviation leadership program (ALP) students are to be managed and priced as if in the IMET program, IMET funds are not to be used. Any training costs to include actual cost of the training and subsistence are to be incurred by the USAF. DODI 2010.12 provides guidance to SAF, DSCA, and the CCMDs for ALP eligibility and implementation.

Latin America Training Waiver

10 U.S.C. 1050 authorizes the waiving of training and education costs for a Latin American student to attend a U.S. military training institution. The applicable MILDEP will absorb the waived costs.

Electronic Distribution of Training Material

Section 1205, NDAA, FY 2009, P.L.110-417, 14 October 2008, provided a new 10 U.S.C. 2249c authorizing DoD, with the concurrence of DoS, to provide electronically distributed learning content for the education and training for the development and enhancement of allied and friendly military and civilian capabilities for multinational operations and exercises.

This is to include computer-based training, advanced distributed training, and computer-assisted training. Participation is limited to personnel only with the permission of the applicable government.

Inter-European Air Forces Academy

Section 1268, NDAA, FY 2015, P.L. 113-291, 19 December 2014, authorizes the Secretary of the Air Force (SecAF), with concurrence of the SecState, to provide military training and education to military personnel of countries that are members of NATO or signatories to the Partnership for Peace (PfP) framework documents. The SecAF is to provide an annual report to Congress on the progress of this Academy. Air Force O&M funds are to be used to fund this Academy and may pay for transportation, supplies, billeting, food, equipment, and health services. To attend, military personnel of each country must be otherwise eligible by law to receive education and training. This authority expires at the end of FY 2019.

Flight and Leadership Training in Southwest Asia

Section 544(c), FAA, authorizes the participation of foreign and U.S. military and civilian defense personnel at no-charge in post-undergraduate flying and tactical leadership training, and integrated air and missile defense programs at locations in Southwest Asia. Any U.S. costs are to be absorbed by the participating USG agency.

Regional Defense Combating Terrorism Fellowship Program

The regional defense Combating Terrorism Fellowship Program (CTFP) was established in 2002 first with DoD funding, later with DoD authorizations, and now codified as 10 U.S.C. 2249c. The purpose of the program is to help key partner nations cooperate with the U.S. in the fight against international terrorism by providing education and training on a grant basis to foreign military and civilian personnel. The objective is to bolster the capacity of friends and allies to detect, monitor, interdict, and disrupt the activities of terrorist networks, ranging from weapons trafficking and terrorist-related financing to actual operational planning by terrorist groups. ASD (SOLIC) is the OSD manager of CTFP, in coordination with the CCMDs. The day-to-day administration of the program is performed by DSCA. Originally, $20 million was appropriated to DoD for CTFP. The management of quotas by the SCO, CCMD, and military departments is very similar to that of IMET. Section 1204, NDAA, FY 2007, P.L.109-364, 17 October 2006, amended the annual funding authority to $25 million. Later, section 1214, NDAA, FY 2009, P.L. 110-417, 14 October 2008, amended the authorized annual funding level to the current level of $35 million.

DoD Regional Centers for Security Studies

Title 10 authorities and DoD appropriations funded the development of five regional centers for security studies (RCSS). The centers serve as a mechanism for communicating U.S. foreign and defense policies to international students, a means for countries to provide feedback to the U.S. concerning these policies and communicating country policies to the U.S.. The regional centers' activities include education, research, and outreach. They conduct multi-lateral courses in residence, seminars within their region, and conferences that address global and regional security challenges, such as terrorism and proliferation. Participants are drawn from the civilian and military leadership of allied and partner nations. Security assistance funding is not used to pay for the centers or the students attending them. However, under certain circumstances, DoD funds may be used to fund foreign attendance at the

centers. The USD (P) in coordination with the relevant CCMD provides oversight for the five centers. DODD 5200.41 provides policy and management guidance. Beginning in FY 2006, DSCA began administering the DoD centers under the direction of the USD (P). The five centers are:

- Africa Center for Strategic Studies (ACSS), located at the National Defense University in Fort McNair, Washington, DC was established in 1999
- Daniel K. Inouye Asia-Pacific Center for Security Studies (APCSS), located in Honolulu, Hawaii, was established in 1995
- William J. Perry Center for Hemispheric Defense Studies (CHDS), located at the National Defense University in Fort McNair, Washington, DC was established in 1997
- George C. Marshall European Center for Security Studies (MC), located in Garmisch, Germany, was established in 1993
- Near-East South Asia Center for Strategic Studies (NESA Center), located at the National Defense University in Fort McNair, Washington, DC was established in 2000

Section 904, NDAA, FY 2007, P.L.109-364, 17 October 2006, finally codified the authority for these regional centers with a new 10 U.S.C. 184.

Exercises

Combined exercises are exercises between the forces of the U.S. and those of one or more other countries. While doctrinally incorrect, these exercises are sometimes referred to as multinational, coalition, or joint operations. It should be noted that the term "joint" refers to two or more services, e.g., army and air force. Exercises can be both joint and combined, while most combined exercises are single-service combined exercises. The primary purpose of combined exercises is the training of U.S. forces, emphasizing interoperability and capability building, though the host nation also benefits from the training as well. The authorities for these programs are either Title 10 U.S.C. or the annual national defense authorization act (NDAA) with funding provided within the annual DoD appropriations acts.

There are three types of exercises that may fall under this title:

- Field Training Exercises (FTX): These are the most realistic of exercises, taking the form of actual forces in the field, thus allowing all the moving parts to be tested. These are also the most resource intensive in money, manpower, material, and preparation time
- Command Post Exercises (CPX): An exercise in which the forces are simulated, involving the commander, the staff, and communications/coordination among the participating headquarters
- Table Top Exercises (TTX): Tabletop exercises are the least resource intensive of these three types, ranging from a formal, detailed planning process to a simple discussion. TTXs are excellent when senior leaders want to explore a number for possible scenarios or possible futures

"1251" Training for Eastern European National Military Forces During Multilateral Exercises

As per section 1251, NDAA, FY 2016, P.L. 114-92, 25 November 2015, this new FY 2016 program provides authority to cover the incremental expenses of certain Eastern European nations due to participation in multilateral training exercises. In general, the multilateral exercise training provided to such countries under this authority will be comparable or complimentary to the types of training that the United States Armed Forces receive in the course of such multilateral exercises. Incremental expenses covered under this authority are rations, fuel, training ammunition, and transportation. The value of this program is $28M per fiscal year and the eligible countries are Signatory ones to the PfP

Framework (but not a member of NATO) & Countries that became a member of NATO after 1 Jan 1999. This assistance may not be provided after 30 Sep 2017.

Defense Health Program

Title VI, DoD Appropriations Act, FY 2016, Div. C, P.L. 114-113, 18 December 2015, earmarks $8 million for human immunodeficiency virus (HIV) prevention educational activities undertaken in connection with U.S. training, exercises, and humanitarian assistance activities conducted in African countries. This has been a recurring annual requirement.

Developing Country Combined Exercise Program

The developing country combined exercise program (DCCEP) is authorized by 10 U.S.C. 2010 to use DoD funds to pay for incremental expenses for a developing country to participate in a combined exercise with U.S. forces. It must be determined that the country's participation is necessary to achieve the fundamental objective(s) of the exercise, and that they qualify as a developing country. Such expenses normally include rations, fuel, training ammunition, and transportation. It does not authorize the payment of pay or allowances.

Exercise-Related Construction

The exercise-related construction (ERC) program is authorized by 10 U.S.C. 2805 with policy guidance provided within CJSCI 4600.02A to allow overseas construction by the U.S. military in locations where there is no permanent U.S. presence. The construction is to enhance exercise effectiveness, enhance troop quality of life, and increase operational readiness. The construction is typically used by U.S. forces during an exercise but remains intact for host nation use after departure. Projects may include new construction, conversion of existing facilities (e.g., warehouses into exercise operations centers), and restoration of deteriorating facilities. U.S. and/or host nation engineers units and construction contracts may be used to accomplish projects. When construction is accomplished with partner nation engineers, interoperability benefits are also obtained. The Joint Staff logistics engineering division (J4/ED) manages the program through the engineer divisions of the area CCMDs. Project limits are (1) $2 million, ($3 million for life/health/safety threat) of Unspecified Minor Military Construction, or (2) $750,000 ($1.5 million for life/health/safety threat) of O&M funds.

ERC cannot be used for any project that: (1) could be funded under another program, (2) could be funded by other means, (3) represents foreign assistance, (4) supports counter drug efforts, or (5) supports a continuous U.S. presence.

Joint Combined Exchange Training

Joint-Combined Exchange Training (JCET) overseas is used primarily to provide overseas training for U.S. Special Operations Forces (SOF). At the same time, host nation counterparts derive a secondary benefit from the exchange of skills with U.S. SOF. 10 U.S.C. 2011 provides the authority for the use of DoD funding for JCET. This funding can be used for the training of the foreign counterparts, expenses for the U.S. deployment, and incremental expenses incurred by developing countries.

Joint Exercise Program

Also known as CJCS Exercise or Joint Staff-Sponsored Exercises are held at the overall direction of the Joint Staff. Title 10 U.S.C. 153 authorizes periodic or one-time combined CPXs and FTXs to be conducted by the CCMDs and their component commands with the military forces of other countries. Typically, these exercises are established and held at regular intervals to promote interoperability, evaluate readiness, and promote influence. The conduct of these exercises will require in-country advance planning, coordination, and Leahy human rights vetting by the country team, especially those U.S. military organizations responsible to the SDO/DATT.

Section 1203, NDAA, FY 2014, P.L.113-66, 26 December 2013, temporarily authorizes U.S. general purposes forces (GPF) to train with foreign security forces through FY 2017. However, this is not to include foreign civilian police forces.

Contacts

There can be some confusion about the definition of Military-to-Military (M2M) contact programs. While 10 U.S.C. 168 authorizes "The Secretary of Defense may conduct military-to-military contacts and comparable activities that are designed to encourage a democratic orientation of defense establishments and military forces of other countries," it is not a clearly defined program and, more importantly, not specifically funded on an annual basis. 10 U.S.C. 168 is often referred to as the Traditional Combatant Commander Activities (TCCA), to include the following:

- Traveling contact teams
- Familiarization visits
- Military liaison teams
- Seminars and conferences held primarily in a theater of operations
- Distribution of publications primarily in a theater of operations
- Personnel expenses of DoD personnel as they relate to above activities
- Reimbursement of pay and allowances paid to reserve personnel

TCCA activities are to be approved by SecState and not to fund the transfer of defense articles, services, or training. Participating countries must be eligible for the IMET program.

10 U.S.C. 168 defines M2M contacts as "contacts between members of the armed forces and members of foreign forces" through the above described activities.

African Cooperation

Section 1204, NDAA, FY 2011, P.L.111-383, 7 January 2011, provided a new 10 U.S.C. 1051a for the payment of personnel expenses in support of U.S. Africa Command. DoD or the MILDEPs may pay the travel, subsistence, and special compensation of officers and students of African countries plus any other expenses DoD considers necessary for African cooperation.

Asia Pacific Regional Initiative Program

Section 8087, DoD Appropriations Act, FY 2015, Div. C, P.L. 113-235, 16 December 2014, as amended, earmarks the use of up to $15 million in FY 2016 Navy O&M funding to support the Asia Pacific Regional Initiative (APRI) program for the purpose of enabling the U.S. Pacific Command to execute theater security cooperation activities. This may include humanitarian assistance, payment of incremental and personnel costs of training and exercising with foreign security forces. None of this funding may be used to provide assistance to a country not otherwise eligible by law for such assistance. APRI has been regularly funded each fiscal year.

Center for Complex Operations

Section 1031, P.L. 110-417, 14 October 2008, NDAA, FY 2009, provided for a new 10 U.S.C. 409 authorizing the establishment of a center for complex operations. The purpose of the center is:

- Effective coordination in the preparation of DoD and other USG personnel for complex operations

- Foster unity of effort among USG organizations, foreign government personnel international NGOs, and U.S. NGOs during complex operations
- Conduct research, collect, analyze, and distribute lessons learned and compile best practices
- Identify gaps in the education and training of USG personnel and facilitate efforts to fill any such gaps

Prior concurrence from DoS is required before including other countries or international NGOs. Complex operations include stability operations, security operations, transition and reconstruction operations, counterinsurgency operations, and irregular warfare. The center is annually funded using DoD O&M funds.

The Center for Complex Operations (CCO) has been established and located at the National Defense University (NDU) on Fort Leslie McNair in Washington DC since early 2009.

Combatant Commander Initiative Fund (CCIF)

10 U.S.C. 166a authorizes $25 million annually to fund certain CCMD programs nominated to the SecDef for management by the Joint Staff in accordance with CJCI 7401.01F, 30 November 2012. Authorized CCIF funded programs include the following:

- Training of partner nation military personnel
- Contingencies
- Combined exercises
- Selected operations
- Force protection
- Force training

Though authorized for $25 million annually, recent appropriations acts have provided different levels of funding. For example, $30 million was appropriated for the FY 2013 CCIF while $15 million was appropriated for FY 2015.

Distinguished Visitor Orientation Tours

Section 636(g)(2), FAA, authorizes reimbursement from the annual S/FOAA of actual expenses of military officers detailed as tour directors during distinguished visitor orientation tours (DVOT) by foreign military and related civilian personnel.

Multinational Military Centers of Excellence

Section 1232, NDAA, FY 2009, P.L.110-417, 14 October 2008, provided for a new 10 U.S.C. 2350m authorizing DoD, in coordination with DoS, to participate by memorandum of understanding (MOU) in any multilateral military center of excellence (COE) for the following purposes:

- Enhancing other countries' military and civilian personnel to engage in joint exercises or coalition of international military operations
- Improve interoperability between U.S. forces and other countries' forces

DoD O&M funds may be used to pay the U.S. share of operating any such center and to pay expenses to attend such centers

Payment of Expenses to Attend Bilateral or Regional Conferences

10 U.S.C. 1051 authorizes DoD to pay travel and personal expenses for developing country personnel to attend bilateral or regional conferences, usually sponsored by a CCMD, if it is determined that it is in the U.S. national interest to do so. This authority may also be used to fund attendees at Partnership for Peace (PfP) conferences. "Developing countries" are defined within DepSecDef memo of 25 March 2013.

Payment of Foreign Nation Liaison Officer Expenses

The U.S. payment of certain expenses related Joint Staff foreign liaison officers of a developing country involved in a military operation with the U.S. while that officer is temporarily assigned to a CCMD, CCMD component, or subordinate operational command is authorized by 10 U.S.C. 1051a. The SecDef may pay for travel, subsistence, mission-related travel, some administrative services, and some medical expenses. Requests for this support are made by the CCMD to the SecDef, in coordination with the SecState and funded with DoD O&M.

State Partnership Program

National Guard State Partnership Program (SPP) affiliates the National Guard of a U.S. state with the military of a partner nation in a long-term relationship. SPP produces mil-to-mil like events, visits of subject matter experts between the host nation and home state. In some countries, the SPP produces the vast majority of events with the subject country. Likewise, in many of these same countries, there will be a Bilateral Affairs Officer (BAO) assigned, under the SDO/DATT, from the partnered state National Guard to lead and manage the effort. In such cases where a BAO is assigned, that officer will also manage other mil-to-mil events.

The National Guard's involvement reflects an evolving international affairs strategy using the unique civil-military nature of the National Guard to interact with both civil and defense personnel of foreign countries. The state partners actively participate in a host of engagement activities, e.g., bilateral familiarization and training events, emergency management, environmental remediation exercises, fellowship-style internships, educational exchanges, and civic leader visits. All activities are coordinated through the CCMD and the U.S. Ambassador's country team, and other agencies as appropriate, to ensure that National Guard support is tailored to meet both U.S. and country objectives. Table 1-1 illustrates the partnerships.

Table 1-1

State Partnership Partners
50 states, 3 territories, and District of Columbia linked to 70 countries

Alabama / Romania
Alaska / Mongolia
Arizona / Kazakhstan
Arkansas / Guatemala
California / Nigeria and Ukraine
Colorado / Jordan and Slovenia
Connecticut / Uruguay
Delaware / Trinidad-Tobago
District of Columbia / Jamaica
Florida / Eastern Caribbean Islands, Guyana, and Venezuela
Georgia / Georgia
Guam / Philippines
Hawaii / Philippines and Indonesia
Idaho / Cambodia
Illinois / Poland
Indiana / Slovakia
Iowa / Kosovo
Kansas / Armenia
Kentucky / Ecuador / Djibouti
Louisiana / Belize, and Haiti
Maine / Montenegro
Maryland / Bosnia and Estonia
Massachusetts / Paraguay / Kenya
Michigan / Latvia and Liberia
Minnesota / Croatia
Mississippi / Bolivia and Uzbekistan
Missouri / Panama
Montana / Kyrgyzstan
Nebraska / Czech Republic
Nevada / Tonga
New Hampshire / El Salvador
New Jersey / Albania
New Mexico / Costa Rica
New York / South Africa
North Carolina / Botswana and Moldova
North Dakota / Ghana / Togo / Benin
Ohio / Hungary and Serbia
Oklahoma / Azerbaijan
Oregon / Bangladesh and Vietnam
Pennsylvania / Lithuania
Puerto Rico / Honduras and Dominican Republic
Rhode Island / Bahamas
South Carolina / Morocco and Colombia
South Dakota / Suriname
Tennessee / Bulgaria
Texas / Czech Republic and Chile
Utah / Morocco
Vermont / Macedonia and Senegal
Virgin Islands / Eastern Caribbean Islands
Virginia / Tajikistan
Washington / Thailand
West Virginia / Peru
Wisconsin / Nicaragua
Wyoming / Tunisia

All state National Guards have an SPP coordinator who manages the program from the state National Guard headquarters. The web address of the National Guard Bureau, Office of International Affairs (J5-IA), where further details may be located, is included in the list of references at the end of this chapter. Section 1203, NDAA, FY 2016, P.L. 114-92, November 2015, extended the authority for this program till 30 Sep 2021.

Section 1210, NDAA, FY 2010, P.L. 111-84, 28 October 2009, authorized the funding of SPP and directed DoD, in consultation with DoS, to provide a directive to regulate the use of DoD funds. It was further directed that such funds are not to be made available for SPP activities in a country unless jointly approved by the applicable CCMD and COM. The National Guard must be on active duty to use these funds. On 19 August 2011, USD (P) provided directive-type memorandum (DTM) 11-010 identifying authorities and funding to be used by the SPP, to include the following activities:

- Reciprocal/non-reciprocal personnel exchanges
- "1206" capacity building [now "2282"]

- Combatant commander initiative fund (CCIF)
- Regional centers for security studies (RCSS)
- Civic action/humanitarian relief
- LATAM/AFRICOM security cooperation
- Joint exercises
- Reimbursable military-civilian interagency activities authorized by 31 U.S.C. 1535

Section 1205, NDAA, FY 2014, P.L.113-66, 26 December 2013, authorizes a National Guard exchange program with partner nation military or security forces whose primary functions include disaster response or emergency response, this program was covered earlier in this chapter. Section 1203, NDAA, FY 2016, P.L. 114-92, November 2015, extended the authority for this program until 30 September 2021.

U.S. Participation in Headquarters Eurocorps

Section 1275, NDAA, FY 2013, P.L. 112-239, 2 January 2013, authorized U.S. military participation as staff members of Headquarters Eurocorps. Not more than ten U.S. military members may participate and no U.S. funds are authorized to fund the pay or salaries of other military members who participate as headquarters staff members. DoD O&M funds are used to support this program, to include the U.S. paying a share of headquarters operating expenses and the cost associated with U.S. military personnel participation.

Wales Pact Initiative

In 1994, the North Atlantic Treaty Organization (NATO) initiated the PfP program for countries seeking cooperative military and peacekeeping relations with NATO. In the U.S. support of PfP, DoD and DoS combined to establish the Warsaw Initiative Fund (WIF). In 2014, WIF was renamed the Wales Initiative Fund. DoS authorizes the use of IMET and FMFP while DoD uses its own Title 10 appropriations, all administered by DSCA, to support WIF. The authorities used by DoD/DSCA and DoS are:

- 10 U.S.C. 168 (TCA) for the military-to-military contact program
- 10 U.S.C. 1051 to provide funding assistance in attending bilateral or regional meetings or seminars
- 10 U.S.C. 2010 Developing Country Combined Exercise Program (DCCEP) to fund participation in combined exercises
- 10 U.S.C. 184 to fund attendance at the Marshall Center
- 22 U.S.C. 2763 (FMFP)
- 22 U.S.C. 2347 (IMET)

SAMM, C11.15, provides DSCA policy guidance in executing the DoD portion of WIF. WIF cannot be the primary source of exercise funding, used to fund course attendance, or fund activities normally defined as military assistance.

Exchanges

Often thought of as a subgroup under contact programs exchanges often refers to military contacts that specifically deal with the exchange of personnel for various reasons. There can be exchanges of civilian or military personnel between DoD and ministries of defense. There can be exchanges of military personnel between units of U.S. armed forces and foreign armed forces. Also there can be exchange of personnel on a nonreciprocal basis.

Defense Personnel Exchange Program

Section 1082, NDAA, FY 1997, P.L. 104-201, 23 September 1996, authorizes DoD to enter into reciprocal personnel exchange agreements with a country for personnel to be assigned to each other's organizations. Though not codified into 10 U.S.C., this authority has no expiration date. Each country is to pay any associated costs with the exchange. Exceptions to this requirement are temporary duty costs and training directed by the host country. Types of exchanges may include: professional exchanges (PEP), administrative professional exchanges (APEP), intelligence professional exchanges, and engineer and scientist exchanges (ESEP). Foreign liaison officers (FLO) are included but they are to only represent their country.

Exchange of Engineers and Scientists

Section 1082, NDAA, FY 1997, P.L. 104-201, 23 September 1996, authorizes the DoD acquisition community, among others, to enter into international agreements for the reciprocal exchange of engineers and scientists (ESEP) for cooperative research and training. It is not to be an information collection program. USD (AT&L) provides oversight to this program with the MILDEP and DoD agency acquisition communities being the implementers.

Military Academy Student Exchanges

By international agreement, the MILDEP secretaries each may authorize up to one hundred students annually to participate in the reciprocal exchange of cadets to attend the appropriate military academies. The sixty-student enrollment restriction imposed by DODD 1322.22 does not apply to students participating in exchange programs of up to two semesters in duration. The authorities for this exchange program are:

- 10 U.S.C. 4345 for the U.S. Military Academy
- 10 U.S.C. 6957a for the U.S. Naval Academy
- 10 U.S.C. 9345 for the U.S. Air Force Academy

International travel costs are to be funded by the participating countries while other costs may be funded by the U.S. to the extent comparable to the support normally provided by the academy to U.S. cadets. Expenditures for this exchange provide may not exceed $1 million annually for each academy.

National Guard State Partnership Exchange Program

Section 1205, NDAA, FY 2014, P.L. 113-66, 26 December 2013, authorized National Guard personnel exchanges with military forces, security forces or other government organizations of a country whose primary functions include disaster or emergency response. This authority expires on 30 September 2016. Any allied or friendly country, as determined by the SecDef with SecState concurrence, is eligible for this program. Partner nation expenses for participation may be paid not to exceed $10 million each fiscal year to include rations, fuel, training ammunition, transportation, and other goods and services to be consumed during the exchange. This does not include pay, allowances or other personnel costs. This program is supported with DoD O&M and appropriated Air and Army National Guard funds.

Non-Reciprocal Exchange of Defense Personnel

Section 1207, NDAA, FY 2010, P.L.111-84, 28 October 2009, as amended, authorizes DoD to enter into non-reciprocal exchange of personnel. This authority is set to expire on 31 December 2021.

Reciprocal Flight Student Exchanges

Section 544(b), FAA, authorizes by international agreement no-cost, reciprocal flight training, to include test pilot schools, training student exchanges. This may include military or civilian defense personnel. Again, the U.S. students in a country may be administratively managed by either the DAO or SCO.

Reciprocal Professional Military Education Student Exchanges

Section 544(a), FAA, authorizes by international agreement no-cost, reciprocal professional military education (PME) student exchanges. PME usually includes attendance at the MILDEP leadership and management education institutions but not to include the service academies. The U.S. participant in this program will attend the equivalent institution in the foreign country and be administratively supported by either the local DAO or SCO.

Reciprocal Unit Exchange Training

Section 30A, AECA, authorizes the no-cost, reciprocal exchange of military units for mutual training. If the exchange does not mutually take place within one year, then the training costs must be reimbursed.

Security Force Assistance & Security Sector Assistance

Resulting from lessons learned from the combat activities and subsequent foreign government reconstitution efforts in Southwest Asia, the Department of the Army (HQDA) and U.S. Special Operations Command (USSOCOM) developed and entitled a new concept of operations—Security Force Assistance (SFA). HQDA FM 3-07.1, Security Force Assistance, May 2009, is the first document to define SFA as the unified action to generate, employ, and sustain local, host-nation or regional security forces in support of a legitimate authority. SFA is the supporting military instrument of the larger concept of foreign internal defense (FID). These foreign security forces (FSF) are defined to include military, paramilitary, police, intelligence forces, border police, coast guard, customs officials, prison guards and correctional personnel that provide security for a host nation and its relevant population or support a regional security organization's mission. SFA is to be provided by both U.S. conventional and special operations forces. SFA is further defined as a subset of DoD security cooperation with security assistance providing resources. FM 3-07.1 also states that (1) the mere provision of defense articles without related training is not SFA, (2) military exchange programs are not SFA, (3) humanitarian assistance and civic action are not SFA, and (4) joint exercises are not SFA. Combined operations must include U.S. forces as advisors, mentors, partners, or augmenters within FSF units to be SFA, and not U.S. units conducting independent operations alongside FSF.

Later DODI 5000.68, Security Force Assistance, 27 October 2010, establishes DoD policy for SFA and assigns responsibilities. The directive restates the definition of SFA to be DoD activities that contribute to the unified action by the USG to support the development of the capacity and capability of FSF and their supporting institutions. FSF is defined as those duly constituted military, paramilitary, police, and constabulary forces of a government. It reinforces the FM 3-07.1 statements that SFA is a subset of DoD security cooperation and security assistance provides critical tools to fund and enable SFA activities. The directive expands upon those USG units for carrying out SFA to also include the civilian expeditionary workforce (CEW) alongside general purpose forces (GPF) and special operations forces (SOF). SFA works with other Security Cooperation Initiatives such DIB and Security

Sector Assistance (SSA) to improve United States security and the security of our partner nations while helping the U.S. Department of State and Department of Defense gain greater access the various security establishment levels of our partner nations.

SSA, as per April 2013 Presidential Policy Directive 23 (PPD 23), is aimed at strengthening the ability of the U.S. to help allies and partner nations build their own security consistent with the principles of good governance and the rule of law. In this respect, SSA works towards helping countries fight along U.S. forces countering terrorist and international criminal networks, participate in international peacekeeping operations, and maintain law and order in their respective countries. The term Security Sector includes military forces, state security forces, law enforcement, justice management, civil society, and institutions responsible for border management, customs, and civil emergencies. SSA is a whole of government approach.

SFA and SSA are two different approaches to working towards our national security goals and security cooperation end states with our partner nations. These two approaches focus on two different levels of action with our partner nations: operational/tactical (SFA) and whole of government (SSA). Even though these two approaches focus on two different levels of interaction with our partner nations they all work towards the same national security goals and all two use various (often the same) Security Cooperation and Security Assistance programs previously discussed in this chapter.

Summary

Security assistance has been part of our nation's history ever since the Revolutionary War. Since World War II, security assistance has become an institutionalized and continuing program used to advance U.S. interests in a global environment.

The term security assistance itself is subject to differing interpretations. The SAMM lists twelve programs within security assistance of which seven are administered by DSCA. Within the annual CBJ, there are seven major security assistance programs requiring appropriated funds as well as several others which are discussed in some detail. The relatively recent development and use of the term security cooperation, which incorporates DoD-managed security assistance programs, has become the standard to describe all DoD international activities.

If the past is any predictor of the future, security cooperation is not just a short-range program; rather, it will be in existence for many years to come. In this regard, the words of former Deputy SecDef, William P. Clements, Jr., are as appropriate today as when they were spoken years ago:

> Many contend that such a program [as security assistance] has outlived its usefulness and is an anachronism in these days of a trend towards détente. To do so is not only to misread the history of the past twenty-five years but to misinterpret the signs of the times. The record is open to all who care to consult it. That record fully substantiates the conclusion that the world situation in which we currently find new hope for the future would not exist if the people of the United States had earlier refused to concern themselves with the common defense of the Free World. Had we not become involved and, for more than two decades, supported and encouraged the efforts of allied and friendly countries to protect themselves against threats to their territorial integrity and internal security, the complexion of the globe might be dangerously different today, and the international climate far more hostile. [Commander's Digest, July 12, 1973]

The broad definition of security cooperation to include all DoD international programs and those FAA/AECA-authorized programs administered by DSCA has significantly increased the playing field within DoD. Now it reaches far beyond the SecDef to the CCMD, and finally to the in-country SDO/

DATT, DAO and SCO. Every community within DoD has a role to play in security cooperation and its use in achieving U.S. foreign policy and national security objectives.

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Chapter

2 Security Cooperation Legislation and Policy

Introduction

The U.S. security assistance (SA) program, as a major component of security cooperation (SC), has its foundation in public law, which provides SA authorizations and appropriations. The purpose of this chapter is to examine and highlight some of the key provisions of these SA-related statutes.

Certain SA programs must be authorized and appropriated. Six such programs include the:

- International Military Education and Training (IMET) Program
- Foreign Military Financing Programs (FMFPs)
- Economic Support Fund (ESF)
- Peacekeeping Operations (PKO)
- International Narcotics Control and Law Enforcement (INCLE)
- Nonproliferation, Anti-Terrorism, Demining, and Related Programs (NADR)

Foreign military sales (FMS), commercial exports or direct commercial sales (DCS), drawdowns, and leasing are also addressed in SA legislation, though not from a funding standpoint since U.S.-appropriated dollars are not normally required. Instead, these programs are addressed from a reporting, control, and oversight perspective.

Authorization Acts

With respect to the current U.S. SA program, two basic laws are involved. They are:

- Foreign Assistance Act (FAA), as amended [22 U.S.C. 2151, et. seq.]
- Arms Export Control Act (AECA), as amended [22 U.S.C. 2751, et. seq.]

Both the FAA and AECA follow a succession of earlier acts which served as the basis for many of the current provisions in the FAA and AECA.

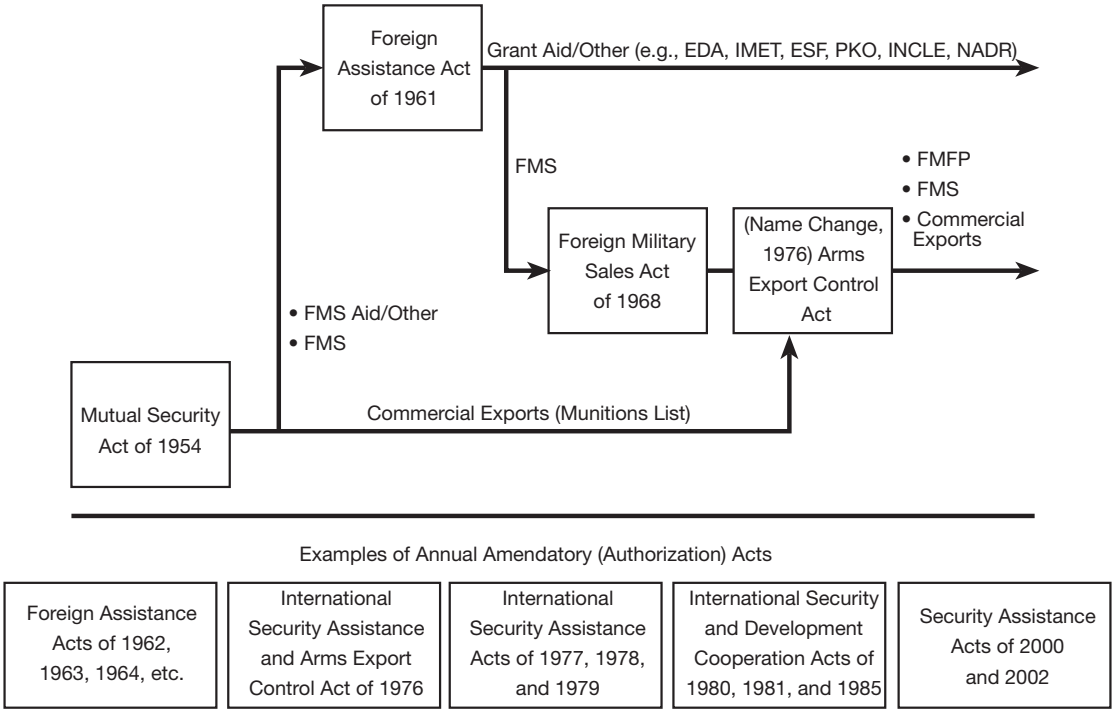
The FAA, originally enacted on 4 September 1961, contains many provisions that were formerly in the Mutual Security Act of 1954, as amended. Today, the FAA is the authorizing legislation for IMET, ESF, PKO, INCLE, NADR, overseas SA program management, grant transfer of excess defense articles (EDA), emergency drawdowns, and a wide variety of other foreign assistance programs. It should be noted that the FAA contains well over 700 sections; much of the act refers to programs outside the purview of SA for example:

- Development assistance
- Famine prevention
- International organizations

- Support for East European Democracy (SEED) Act of 1989
- Freedom for Russia and Emerging Eurasian Democracies and Open Markets (FREEDOM) Support Act

The AECA came into being under a different title, the Foreign Military Sales Act of 1968 (FMSA). Before 1968, the basic authority for FMS was the FAA. The FMSA served to incorporate the FMS program under a new and separate act. The International Security Assistance and Arms Export Control Act of 1976 changed the title of the FMSA to the current AECA. This 1976 Act also repealed section 414 of the Mutual Security Act of 1954 which provided authority for commercial licensing through the International Traffic in Arms Regulations (ITAR). The commercial licensing DCS authority was placed in a new section 38, AECA, "Control of Arms Exports and Imports," which governs the licensing and sale of items through direct commercial channels. The AECA is the statutory basis for the conduct of FMS, funding for FMFP, and the control of commercial sales of defense articles and services. Figure 2-1 addresses the various acts discussed above in the context of their relationships to one another.

Figure 2-1
Major Security Assistance Authorization Acts Since 1954



The FAA and the AECA may be amended by annual or biennial security assistance or foreign assistance authorization acts. However, Congress has used annual Department of Defense (DoD) and other Department of State (DoS) legislation along with any stand-alone legislation such as P.L. 104-164, 21 July 1996, and various functional laws such as the International Narcotics Control Act (INCA) or the Afghanistan Freedom Support Act (AFSA) of 2002 to amend the FAA or AECA. Congress was marginally successful in the authorization process by legislating the Security Assistance Act of 2000, Public Law (P.L.) 106-280, 6 October 2000, and the Security Assistance Act of 2002, P.L. 107-228, 30 September 2002, for fiscal years (FYs) 2000 through 2003. No SA authorizations were specifically enacted for FYs 2004 and later. In the absence of an authorization act, the appropriations committee has included program authorization language to the affected annual appropriations act.

The Senate Foreign Relations Committee (SFRC) and the House Foreign Affairs Committee (HFAC) are responsible for foreign assistance and SA program authorization legislation. The Senate Armed Services Committee (SASC) and the House Armed Services Committee (HASC) are responsible for defense programs authorization legislation which has included DoD authorities related to SA and authorities for the broadly defined security cooperation programs. The latest DoD authorization act is National Defense Authorization Act (NDAA) for Fiscal Year 2016, P.L. 114-92, 25 November 2015. Both SA and SC authorized programs were addressed earlier in chapter 1, "Introduction to Security Cooperation."

The NDAA for Fiscal Year 2017 was signed on 23 December 2016 and is now P.L. 114.328. In this NDAA, there is significant reform, consolidation, and codification of existing SC programs, along with other major changes to SC business. In fact, Section 1241 establishes a new Chapter 16 in Title 10 called "Security Cooperation." This new chapter of Title 10 requires the Secretary of Defense to designate an individual and office at the Under Secretary of Defense-level below with responsibility for oversight of strategic policy and guidance and responsibility for overall resource allocation for SC programs and activities of the Department. Also, in this new Chapter 16, there are sections that encompass the main aspects of previous SC programs that have been repealed, re-codified, and/or codified; and sometimes consolidated into a new program/section. About 21 existing SC programs will be consolidated into eight new programs (sections). These eight new sections (along with others) will then be permanent U.S. law and no longer need periodic reauthorization. This major reorganization of Title 10, the creation of the new Chapter 16 on SC, and consolidation and codification of older programs will take some time to go into effect; until that time SC business will go on under the currently existing programs.

Appropriations Acts

SA appropriations are included in the annual Department of State/Foreign Operations, and Related Programs Appropriations Act (S/FOAA) for (fiscal year). As its title suggests, this act is the appropriation authority for several foreign relations programs, including many SA programs. This act is one of twelve appropriations acts required every fiscal year. Should a new fiscal year begin before an appropriation act has been approved, Continuing Resolution Authority (CRA) is essential to keep the funded foreign assistance programs from coming to a standstill. The CRA is the authority to obligate funds against the FMFP, IMET, ESF, PKO, or other related SA appropriations for the new fiscal year under a CRA legislated by Congress in a joint resolution making temporary appropriations prior to passage of the regular appropriations act, or in lieu of such an act. Normally, the CRA is for a designated period less than a fiscal year, and such a CRA does not usually allow funding for the start of any new programs.

The FY 2009 appropriations process saw a different but not unprecedented use of a CRA. The Consolidated Security, Disaster, and Continuing Appropriations, 2009, P.L. 110-329, 30 September 2008, included the FY 2009 appropriations for DoD and Homeland Security and the Veteran's Administration, plus a continuing resolution for the remaining nine required FY 2009 appropriations lasting until 6 March 2009. One more continuing resolution was required until the Omnibus Appropriations Act, 2009, P.L. 111-8, 11 March 2009, was enacted. Division H of P.L. 111-8 was the S/FOAA, 2009, necessary for funding FY 2009 SA. Similarly, Division F of P.L. 111-117 was the S/FOAA for 2010. This same consolidated appropriation provided for five other required FY 2010 appropriations as Divisions A through E. No stand-alone S/FOAA was enacted for FY 2011, thus requiring a CRA based on the S/FOAA for FY 2010. This CRA for FY 2011 was Division B, Title XI, P.L. 112-10, 15 April 2011.

The appropriations process for FY 2012 witnessed the use of five different CRAs until the passage and enactment of the Consolidated Appropriations Act, 2012, P.L. 112-71, 23 December 2012. This law included nine divisions for the nine remaining appropriations for FY 2012 to include Department of Defense Appropriations Act, 2012, Division A, P.L.112-74, and S/FOAA, 2012, Division I, P.L.112-74. The S/FOAA for FY 2013 was essentially a continuing resolution of FY 2012 legislation for the entire FY 2013 within Title VII, Division F, P.L. 113-6, 26 March 2013.

The S/FOAA for FY 2014 was enacted as Division K, Consolidated Appropriations Act, P.L. 113-76, 17 January 2014, along with the other required eleven appropriations for FY 2014. The FY 2015 appropriations process witnessed the creation of a new term, the CROminbus. CROminbus is short for the Consolidated and Further Continuing Appropriations Act, for Fiscal Year 2015, P.L. 113-235, 16 December 2014. In this legislation, the Department of Homeland Security was funded only through 27 February 2015 (remaining FY15 funding provided on 5 March 2015 with P.L. 114-4), while the remaining eleven appropriations were funded for the rest of FY 2015. Division C of P.L. 113-235 provided the FY 2015 DoD Appropriations. Division J of P.L. 113-235 provided the FY 2015 S/FOAA. FY 2016 had three CRs, the last one being enacted on 16 December 2015. All 12 FY 2016 federal budgets were finally enacted on 18 December with the signing of the 2016 Consolidated Appropriations Act, P.L. 114-113. Division K of P.L. 114-113 provided the FY 2016 S/FOAA. Division C of P.L. 114-113 provided the FY 2016 DoD Appropriations.

The House Appropriations Committee (HAC) and the Senate Appropriations Committee (SAC) are the committees responsible for the timely legislating of all twelve annual bills. The 11 September 2001 terrorist attack at the end of FY 2001 and military operations in Afghanistan and Iraq, coupled with domestic and world-wide natural disasters requiring vast amounts of humanitarian and reconstruction assistance, further complicated the legislative appropriations process with the requirement for annual and emergency supplemental appropriations. These often included SA funding in addition to the standard appropriations.

Federal Statutes, Regulations, and *Federal Register* on the Internet

The publication of U.S. law and regulations (as well as announcement of official determinations, certifications, or notifications) is readily available to the public using a variety of open U.S. government (USG) web sites.

Slip Laws

The first official publication of a law is often referred to as a "slip law" because of how it was once printed and bound for distribution. Because of wide internet access and the printing expense, slip laws are rarely used today. The best source for these now electronic slip laws is the Library of Congress (LOC) "Thomas" web site: http://thomas.loc.gov/. This site provides public access to the legislative process ranging from the first introduction of a bill, to committee and conference reports, to passage by both houses, to enactment by the President, and finally to the assignment of a P.L. number by the archivist of the U.S. within the office of the Federal Register (FR) before paper printing by the U.S. government printing office (GPO).

Public law numbers are assigned based on the convening Congress; e.g., P.L. 109-145 is the 145th law of the 109th Congress. An extension of this example is the 109th Congress had two sessions: the first being calendar year (CY) 2005 and the second being CY 2006. The session numbering and time period of the Congress coincide with the term of the just elected House of Representatives. The enacted laws for the first session CY 2005 of the 109th Congress included P.L. 109-1 through P.L. 109-318. The second session CY 2006 laws of the 109th Congress included P.L. 109-319 through P.L. 109-482.

All laws, including the annual appropriations and authorization acts, are initially slip laws that are compiled for each session of Congress into bound volumes, in order of enactment, referred as "statutes

at large." Every six years, the statutes at large are incorporated into the United States Code (U.S.C.) in a process referred to as codification. However, a supplement is published during each interim year until the next comprehensive U.S.C. volume publication.

United States Code

The United States Code (U.S.C.) is the codification of the general and permanent laws of the U.S. by the Office of the Law Revision Counsel of the House of Representatives. The Office of the Law Revision Counsel divides the U.S.C. laws into 54 general subject areas and publishes them. Maintaining an up-to-date paper copy of the lengthy U.S.C. is very costly and difficult to administer; however, the same data can be accessed within the GPO database at http://www.gpoaccess.gov/uscode/index.html. The general subject areas are referred to as "titles." Most SA-codified laws can be viewed under Title 22, "Foreign Relations and Intercourse." Certain SA-related and SC-codified law can be viewed under Title 10, "Armed Forces." These titles are often referred to when differentiating between authorities and appropriations for the DoS and its responsibility for foreign affairs, and the DoD and its responsibility for national defense.

Legislation on Foreign Relations Through (year)

As a more timely reference, the SFRC and HFAC regularly publish a multi-volume set of documents to reflect new and amending legislation enacted from the previous calendar year to also include any related executive orders. Volume 1-A provides an up-to-date printing of the FAA and the AECA as well as any relevant still-in-effect portions of prior year appropriations and authorizations acts. As with the slip law, a printed copy of this publication is no longer available. The January 2008 edition can be viewed online: http://hcfa.house.gov/111/51120.pdf. The section footnotes of this document provide the tools for determining the slip law and U.S.C. section cross-referencing relationship. Both the Defense Security Cooperation Agency (DSCA) and Defense Institute of Security Cooperation Studies (DISCS) web pages provide links to this useful document.

Slip Law and U.S. Code Relationship

Once the slip law is codified into the appropriate general subject title, it can be referred to as its original enactment title, P.L. number, original section numbers, and date of passage with any subsequent amendments. Or it can be referred to as its U.S.C. title number with U.S.C.-specific section numbers. An SA law example of this relationship is section 21, Sales from Stocks, AECA, P.L. 90-629, 22 October 1968, as amended, is codified as 22 U.S.C. 2761 with the same section title.

A DoD security cooperation law example of this relationship is the initial funding, authority, and later codification of the Combating Terrorism Fellowship Program (CTFP). Funding for this program was first provided in 2002 by DoD appropriations and annually thereafter. Subsequent DoD authorizations also provided for this program with section 1221 of the NDAA for Fiscal Year 2004, P.L.108-136, 24 November 2003, finally amending 10 U.S.C. with a new section 2249c authorizing CTFP on a permanent basis.

Code of Federal Regulations

The Code of Federal Regulations (CFR) is the codification of general and permanent rules published in the Federal Register (FR) by the executive branch and its agencies. Using the same U.S.C. organization-by-subject procedure, the CFR is arranged into fifty general subject areas. Using administrative law authority and procedures, the CFR generally has the same authority as the law authorizing the regulation. An SA example of this procedure is the ITAR, 22 CFR parts 120-130, which by delegation of authority is maintained by the Deputy Assistant Secretary of State for Defense Trade Controls (PM/DDTC). The authorizing authority for the ITAR is section 38(a)(1), AECA [22 U.S.C. 2778]. The officially published ITAR can be viewed at the GPO site: http://www.gpoaccess.

gov/cfr/index.html published on an annual basis or, in a more timely manner, at the Bureau of Political-Military Affairs, Directorate of Defense Trade Control (PM/DDTC) web site: http://www.pmddtc.state.gov/consolidated_itar.htm. Both the DSCA and DISCS web sites provide convenient links to these sites.

Using administrative law procedures, any proposed changes to the CFR are generally available for public comment along with notice of final changes in the daily FR also maintained by GPO.

Federal Register

The Federal Register (FR) is a daily publication of rules, proposed rules, notices by federal agencies, executive orders, and other Presidential documents. Though it is only paper printed twice each year, the most current FR can be accessed through the GPO web site: http://www.gpoaccess.gov/fr/index.html. Both the printed document and the web site have the announcements arranged on a daily basis for each agency (in alphabetical order) with a calendar year making a volume; e.g., CY 2007 is volume 72. There are no entries or announcements on weekends or federal holidays. An SA example in the use of the FR can be found at http://edocket.access.gpo.gov/2007/pdf/07-2637.pdf. This is the 30 May 2007 public notice on the FR, volume 72, number 103, by DoD/DSCA of a proposed 36(b)(1) FMS sale to Iraq. Section 36(b)(1), AECA [22 U.S.C. 2776(b)(1)] requires this advance notification to Congress. Section 155, P.L.104-164, 21 July 1996, amended the U.S.C. with a new section 36(f), AECA [22 U.S.C. 2776(f)] requiring the full unclassified text of any advance notification of a sale to Congress be published in the FR. It should be noted that DSCA provided a routine and prompt public announcement of this proposed 36(b)(1) FMS notification on 18 May 2007 on its web site specifically: http://www.dsca.mil/PressReleases/36-b/2007/Iraq_07-30.pdf.

DISCS Web Page

Selected SA legislation and other related policy documents listed below can be located and viewed via the DISCS web site: http://www.discs.dsca.mil/pubs/other.aspx.

- Congressional Budget Justifications (CBJ) for Foreign Operations (FY XX)
- Current and recent past Department of State and Foreign Operations Appropriations Acts (S/FOAAs)
- Current and recent past Department of Defense Appropriations Acts
- Current and recent past National Defense Authorization Acts (NDAAs)
- Current and recent past related Supplemental Appropriations Acts
- Current and recent past SA/SC legislation articles from *The DISCS Journal*
- Foreign Assistance Act (FAA) and the Arms Export Control Act (AECA) through January 2008
- DoS and United States Agency for International Development (USAID) Strategic Plan Addendum for FY 2014 – FY 2017
- Conventional Arms Transfer Policy (PPD-27) of 15 January 2014
- Previous Conventional Arms Transfer Policy (PDD-34) of 17 February 1995
- Defense Trade Security Initiative (DTSI) of 26 May 2000
- International Traffic in Arms Regulations (ITAR)

- DoD/DSCA 36(b), AECA, Congressional notifications for FMS letters of offer and acceptance (LOAs)
- International Program Security (IPS) Handbook
- International Armaments Cooperation (IAC) Handbook
- Government Printing Office U.S. Code (U.S.C.) search engine
- DoD search engine for published Joint Staff instructions
- DoD search engine for published DoD directives, instructions, and manuals
- Library of Congress "Thomas" web site to view status of proposed legislation and previously enacted laws

Legislated Management of Security Assistance Funding

Funding Obligations and Reprogramming

Section 653(a), FAA, requires a Presidential notification, delegated to the Secretary of State, to Congress to allocate any funds appropriated by the annual S/FOAA. This funding allocation report must be made no later than thirty days after the enactment of a law appropriating funds to carry out any provision of the FAA or the AECA. Identified in the report is each foreign country and international organization to which the USG intends to provide any portion of the appropriated funds, and the amount of funds, by category of assistance, that the USG intends to provide to each. It should be noted that this report does not always become available within the thirty days after enactment. The current example of this late reporting is FY 2011 when the appropriation was enacted on 15 April 2011 but the report was not provided to Congress until 3 August 2011. The annual allocation reports after FY 2011 continued to be outside of the thirty day window or not at all.

Section 634(a), FAA, is the principal authority covering funding obligations and reprogramming actions. In general, special notification to Congress is required fifteen days in advance of any obligation of funds appropriated to carry out the purposes of the AECA or the FAA for any activities, programs, projects, types of material assistance, countries, or other operations which have not been justified to Congress or which are in excess of the amount justified to Congress. This notification must be provided to the Congressional foreign relations and appropriations committees.

Additionally, the notification must be made whenever a proposed reprogramming of funds exceeds $1,000,000 and the total amount proposed for obligation for a country under the AECA in a FY exceeds the amount specified for that country in the section 653(a), FAA, report to Congress by more than $5,000,000. The notification to Congress of such proposed reprogramming must specify the nature and purpose of the proposed obligation and to the extent possible, the country for which such funds would otherwise have been obligated.

Further statutory provisions regarding funding commitments for FMFP, IMET, ESF, NADR, INCLE, and PKO are found in the annual S/FOAA. Under these provisions, special notification to the two appropriations committees is required fifteen days prior to the commitment of these SA funds when such funds are to be expended for the acquisition of specific types of defense articles which have not been previously justified to Congress, or which exceed by twenty percent the quantities previously justified to Congress. This provision applies to the specified defense articles of major defense equipment (MDE) other than conventional ammunition, aircraft, ships, missiles, or combat vehicles [section 7015, P.L. 113-235].

Availability of Funds

IMET, FMFP, and ESF are the only SA programs identified specifically in law for which appropriated funds may be made available after the expiration of the fiscal year for which they were appropriated [section 7011, P.L. 113-76]. These funds shall remain available for an additional four years from the date when the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability.

The IMET program has two important exceptions. The first exception involves what is termed an IMET fifth quarter. This procedure permits uncommitted appropriated dollars to be committed no later than 30 September of a given fiscal year, but to be spent in the subsequent three-month period (i.e., the fifth quarter), through 31 December. The second exception began in FY 1999 when $1M of the total funding appropriated for IMET is to remain available until expended. This figure was changed to $3M for each fiscal year beginning with FY 2002. Beginning in FY 2009, it is now $4M. Beginning with FY 2012 IMET, this $4M special availability authority was changed to the end of the next fiscal year vice until expended. This authority is to allow for the expenditure of all IMET funding without the loss of it at the end of the fiscal year [latest being title IV, P.L. 113-235 for FY 2015].

Non-Funded Security Assistance Programs

The FMS and DCS components of SA are normally funded by direct cash outlays of the purchasing countries. These two programs can also be funded using appropriated FMFP funds or, in the case of Building Partner Capacity (BPC) programs, DoD SC funds. Consequently, these SA activities do not require Congressional budget authorizations or appropriations. Nevertheless, the financial activity generated by FMS cash purchases has a substantial impact on USG financial programs. Special accounting procedures have been instituted for the management of these funds, and FMS cash activities are documented in the annual U.S. budget in terms of the FMS Trust Fund. This trust fund will be furthered addressed later in chapter 12 of this text, "Financial Management."

Basic Policies

The remainder of this chapter discusses a broad variety of statutory provisions which govern the management of SA. These provisions have been selected from the FAA, the AECA, or other sources, as identified, and are representative of the wide range of legislative rules which enable Congress to exercise its regulatory and oversight responsibilities. For ease of reference, applicable legislative references are cited either at the conclusion of the discussion of specific provisions or at the beginning of the discussion of a set of related provisions.

Reaffirmation of United States Security Assistance Policy

The Congress reaffirms the policy of the U.S. to achieve international peace and security through the United Nations (UN) so that armed forces shall not be used except for individual or collective self-defense. The Congress hereby finds that the efforts of the U.S. and other friendly countries to promote peace and security continue to require measures of support based upon the principle of effective self-help and mutual aid [section 501, FAA].

Ultimate Goal

The ultimate goal of the U.S. continues to be a world that is free from the scourge of war and the dangers and burdens of armaments; in which the use of force has been subordinated to the rule of law; and in which international adjustments are achieved peacefully. It remains the policy of the U.S. to achieve that goal, to encourage regional arms control and disarmament agreements, and to discourage arms races. It is the policy of the U.S. to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war [section 1, AECA].

Purpose of Arms Sales

Congress recognizes that U.S. and other free and independent countries have valid defense requirements. Because of the growing cost and complexity of defense equipment, it is increasingly difficult and uneconomical for any country to fill all of its legitimate defense requirements from its own design and production base. It is the policy of the U.S. to facilitate the common defense by entering into international arrangements that further the cooperative exchange of data, research, development, production, procurement, and logistics support. To this end, the AECA authorizes sales by the USG to friendly countries in furtherance of the security objectives of the U.S. and in consonance with the principles of the Charter of the UN [section 1, AECA].

Defense articles and services shall be furnished or sold solely for:

- Internal security
- Legitimate self-defense
- Preventing or hindering the proliferation of weapons of mass destruction and the means of delivering such weapons
- Permitting the recipient country to participate in regional or collective arrangements consistent with the Charter of the United Nations
- Supporting economic and social development activities by foreign military forces in less developed countries [section 502, FAA, and section 4, AECA]

Arms Sales and United States Foreign Policy

It is the sense of the Congress that arms sales shall be approved only when they are consistent with U.S. foreign policy interests [section 1, AECA]. The 2011-2016 Strategic Plan Addendum for DoS and USAID include seven overall strategic goals:

- Counter threats to the U.S. and the international order, and advance civilian security around the world
- Effectively manage transitions in the frontline states
- Expand and sustain the ranks of prosperous, stable and democratic states by promoting effective, accountable, and democratic governance; respect for human rights; sustainable, broad-based economic growth; and well-being
- Provide humanitarian assistance and support disaster mitigation
- Support American prosperity through economic diplomacy
- Advance U.S. interests and universal values through public diplomacy and programs that connect the U.S. and Americans to the world
- Build a 21st century workforce; and achieve U.S. government operational and consular efficiency and effectiveness, transparency and accountability; and a secure U.S. government presence internationally.

The 2011–2016 Strategic Plan Addendum for DoS and USAID can be found online: http://www.state.gov/s/dmr/qddr/185613.htm.

The FAA and AECA provide various conventional arms transfer authorities to the President. The current decision-making criteria used by the administration for determining FAA and AECA-

authorized arms transfers was promulgated by the White House on 15 January 2014 as Presidential Policy Directive (PPD) 27, U.S. Conventional Arms Transfer Policy (CATP) which can be viewed both in the attachment to this chapter and on the internet at: http://www.whitehouse.gov/the-press-office/2014/01/15/presidential-policy-directive-united-states-conventional-arms-transfer-policy.pdf.

Effect on United States Readiness

FMS sales which would have an adverse effect on U.S. combat readiness shall be kept to an absolute minimum. For such sales, special Congressional reporting is required [section 21(i), AECA].

Conventional Arms Restraint

Congress encourages the President to continue discussions with other arms suppliers in order to restrain the flow of conventional arms to less developed countries. It is the sense of the Congress that the aggregate value of FMS in any FY shall not exceed current levels [section 1, AECA]. This provision was added to the AECA in June 1976. Accordingly, the base year for "current levels" was FY 1975, which had a combined total of FMS and foreign military construction sales of [then-year] $15.8 billion.

Security Assistance Surveys

Security assistance surveys include any survey or study conducted in a foreign country by USG personnel for the purpose of assessing the needs of that country for SA. Defense requirement surveys, site surveys, general surveys or studies, and engineering assessment surveys all represent various types of SA surveys. It is the policy of the U.S. that the results of SA surveys do not imply a commitment by the U.S. to provide any military equipment to any foreign country. Recommendations in such surveys should be consistent with the arms export control policy provided in the AECA. As part of the quarterly report required by section 36(a), AECA, the President shall include information on all such surveys authorized during the preceding calendar quarter [section 26(b), AECA].

A similar but not a replacement program titled Expeditionary Requirements Generation Team (ERGT) was established by DSCA policy 11-18, 31 March 2011. ERGTs respond to combatant command (CCMD) requests for support and augmentation in assisting security cooperation organizations (SCO) with expertise in support of planning and execution of capability-building efforts. Initial teams were funded by DSCA with subsequent teams to be funded by the applicable agencies.

Civilian Contract Personnel

The President shall, to the maximum extent possible and consistent with the purposes of the AECA, use civilian contract personnel in any foreign country to perform defense services sold through FMS [section 42(f), AECA].

Prohibition on Performance of Combatant Activities

Personnel performing defense services sold through FMS may not perform any duties of a combatant nature. This prohibition includes any duties related to training and advising that may engage U.S. personnel in combat activities. Within forty-eight hours of the existence of (or a change in the status of) significant hostilities or terrorist acts which may endanger American lives or property involving a country in which U.S. personnel are performing defense services, the President shall submit a report (in the format specified) to the Congress [section 21(c), AECA].

Limitation on Assistance to Security Forces

No assistance (includes both articles and training) authorized by the FAA or the AECA will be made available to any unit of the security forces of a country if the Secretary of State has credible information that such unit has committed a gross violation of human rights. Funding may be provided once the secretary determines and reports to Congress that the affected country is taking effective measures

to bring the responsible members of the security forces unit to justice [section 620M, FAA]. This is commonly referred to as the Leahy Amendment with the process entitled Leahy vetting. DoD funding for U.S. exercises or training with foreign security force or police units are likewise restricted. Section 1204, NDAA, FY 2015, P.L. 113-291, states and codified the following: DoD training, equipment, or other assistance may not be provided to a unit of a foreign security force if the Secretary of Defense has credible information that the unit has committed a gross violation of human rights [10 U.S.C., Section 2249e]. Proposed students and/or units are to be vetted using all available USG resources prior to any training or combined exercises.

Advisory and Training Assistance

Advisory and training assistance conducted by military personnel assigned to overseas SA management duties shall be kept to an absolute minimum. Such advisory and training assistance shall be provided primarily by other U.S. military personnel not assigned under section 515, FAA, and who are detailed for limited periods to perform special tasks [section 515(b), FAA].

Prohibitions Regarding Police Training

None of the funds appropriated under the authority of the FAA shall be used to provide training or advice, or to provide financial support, for police, prisons, or other law enforcement forces of any foreign government. This prohibition does not apply to assistance and training in maritime law enforcement and other maritime skills nor shall apply to a country with long-standing democratic tradition, standing armed forces, and no consistent pattern of gross violations of internationally recognized human rights [section 660, FAA]. This prohibition is not provided for AECA-authorized programs; however, prior coordinated approval from Department of State and DoD/DSCA is required [SAMM, C4.5.6.3].

Personnel End-Strengths

Military and civilian personnel performing SA under the FAA or AECA must be within the personnel levels authorized for the DoD. No additional personnel are authorized for SA [10 U.S.C. 2751, and section 605(a), P.L. 94-329].

Eligibility for Grant Aid

No defense articles or defense services (including training) shall be furnished to any country on a grant basis unless it shall have agreed that:

- It will not, without the consent of the President, permit any use of such articles or services by anyone not an officer, employee, or agent of that country
- It will not, without the consent of the President, transfer (to another country) such articles or services by gift, sale, or other method
- It will not, without the consent of the President, use or permit the use of such articles or services for purposes other than those for which furnished
- It will provide substantially the same degree of security protection afforded to such articles or services by the USG
- It will permit continuous USG observation and review with regard to the use of such articles or services
- It will return to the USG, for such use or disposition as the USG may determine, any articles or services no longer needed [section 505(a), FAA]

This is often referred to as the 505 Agreement. It is normally entered into via diplomatic channels prior to a grant transfer. The 505 agreement procedures are also used for grant transfers authorized or funded by DoD security cooperation.

Eligibility for Sales

Similar to the 505 agreement conditions for grant transfers, no defense article or service shall be sold by the USG to any country or international organization unless:

- The President finds that it strengthens the security of the U.S. and promotes world peace
- The country (or international organization) has agreed not to transfer title to, or possession of, any articles or services (including training) furnished to it by the U.S., unless the consent of the President has first been obtained
- The country (or international organization) has agreed to not use or permit the use of such articles or related training or other defense service for purposes other than those for which furnished, unless the consent of the President has first been obtained
- The country (or international organization) has agreed to provide substantially the same degree of security protection afforded to such article or service by the USG
- The country (or international organization) is otherwise eligible to purchase defense articles or services [section 3(a), AECA]

Beginning 29 November 1999, all sales and lease agreements entered into by the USG shall state that the U.S. retains the right to verify credible reports that such article has been used for a purpose not authorized under section 4, AECA, or if such agreement provides that such article may only be used for purposes more limited than those authorized under section 4, AECA, for a purpose not authorized under such agreement [section 3(g), AECA].

Presidential Determination

In order for any SA to be provided to any country, it is required that such country first be deemed eligible to participate in U.S. SA programs. Such eligibility must be established by the President, and is confirmed in a written Presidential determination (PD). This requirement is established in section 503, FAA, and section 3, AECA. The relevant provisions of these two laws require that grant military assistance or a sales program for any country may be authorized only when, "The President finds that the furnishing of defense articles and defense services to such country or international organization will strengthen the security of the U.S. and promote world peace."

Consequently, annual budgetary planning and programming for SA is generally limited to those countries and international organizations for which such PDs of eligibility have been issued.

All such written determinations which authorize the purchase of defense articles and services are signed by the President and take the form of a memorandum for the Secretary of State. Each determination is normally published in the FR at the time of approval. A list of all such determinations approved to date can be found in the annual Congressional Budget Justification (CBJ) for Foreign Operations, Fiscal Year 20XX. This budget justification document was once referred to as the Congressional Presentation Document (CPD).

Such a determination is only a preliminary finding of eligibility and does not guarantee the approval of any specific requests for arms transfers or other assistance. A determination for a specific country needs to be made only once, and subsequent determinations for any country for which a determination was previously made are treated as amendments. Although budgetary planning considerations may

include certain countries which are awaiting a favorable determination, no budgetary implementation for SA for such countries may occur until such determinations have been made.

Other Restrictions

Except where the President (often delegated to the Secretary of State) finds national security or U.S. interests require otherwise, no assistance shall be provided to countries that:

- Repeatedly provide support to international terrorists [section 620(a), FAA]
- Are communist, to include, but not limited to: Democratic People's Republic of Korea, People's Republic of China, Republic of Cuba, Socialist Republic of Vietnam, and Tibet [section 620(f), FAA]
- Are indebted to any U.S. citizen for goods or services (where legal remedies are exhausted, the debt is not denied or contested, etc.) [section 620(c), FAA] U.S. citizens, corporations, etc. [section 620(e), FAA]
- Are in default on any FAA-authorized loan to the USG in excess of six months [section 620(q), FAA]
- Are engaged in illicit drug production or drug transiting and have failed to take adequate steps to include preventing such drugs from being produced or transported, sold to USG personnel or their dependents, or from being smuggled into the U.S. (50 percent of assistance is suspended) [section 490(a), FAA]
- Are in default to the USG for a period of more than one calendar year on any foreign assistance or SA loan (e.g., a development assistance, FMFP, or ESF loan) [section 7012, P.L. 113-235]. This prohibition is renewed in the annual S/FOAA, and is generally referred to as the Brooke-Alexander Amendment.
- Prohibit or otherwise restricts, directly or indirectly, the transport or delivery of U.S. humanitarian assistance [section 620I, FAA]
- Grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism or otherwise supports international terrorism [section 7021, P.L. 113-235]
- Fail to comply, or make significant efforts for compliance, with minimum standards for combating the trafficking of people (TIP) [section 110, P.L. 106-386]
- Tax U.S. goods and services being imported as U.S.-funded assistance [section 7013, P.L. 113-235]
- Do not pay any accumulated automobile parking fines or property taxes in New York City or the District of Columbia [section 7053, P.L. 113-235]
- Knowingly transfers Man-Portable Air Defense Systems (MANPADs) to a government or organization that supports terrorism [section 12, P.L. 109-472]
- Recruit or use child soldiers in the regular armed forces, paramilitaries, militias, or civil defense forces [section 404(a), P.L. 110-457]

Additional Restrictions

The following restrictions, unlike those noted above, do not provide specific statutory authority for a Presidential waiver. They require suspension/termination of assistance to any government:

- That is engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the U.S. [section 6, AECA]
- That severs diplomatic relations with the U.S. or with which the U.S. severs such relations [section 620(t), FAA]
- That delivers or receives nuclear enrichment or reprocessing equipment, material, or technology (and have not entered into an agreement with the International Atomic Energy Agency (IAEA) to place all such equipment under an IAEA safeguards system), or transfers a nuclear device to a non-nuclear-weapon state [sections 101-103, AECA]. This is often referred to as the Symington-Glenn Amendment
- That prevents any U.S. person from participating in the provision of defense articles/services on the basis of race, religion, national origin, or sex [section 505(g), FAA]. A similar provision prohibits military sales, sales credits, or guarantees [section 5, AECA]
- Whose duly elected head of government is deposed by military coup d'etat or decree in which the military plays a decisive role [section 7008, P.L. 113-235]

Human Rights

The U.S. shall, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the U.S., promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of U.S. foreign policy shall be to promote the increased observance of internationally recognized human rights by all countries. Furthermore, in the absence of a Presidential certification to the Congress that extraordinary circumstances exist warranting the provision of such assistance, no SA may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights [section 502B, FAA].

The Secretary of State shall transmit to the Congress, as part of the presentation materials for SA programs proposed for each, a full and complete report, prepared with the assistance of the Assistant Secretary of State for Human Rights and Humanitarian Affairs, with respect to practices regarding the observance of and respect for internationally recognized human rights in each country proposed as a recipient of SA [section 502B, FAA].

Security Cooperation Organizations Overseas

The following is an overview of legislated authorities and limitations regarding the overseas security cooperation organization (SCO), e.g., Office of Defense Cooperation (ODC), U.S. Military Assistance Group (MAG), Office of Security Cooperation (OSC), etc. A more in-depth description of the duties of a SCO is provided in this text by Chapter 4, "Security Cooperation Organizations Overseas," and chapter 17, "Resource Management for the Security Cooperation Organization."

Security Cooperation Organization Functions

The President may establish and assign members of the U.S. armed forces to a SCO to perform one or more of the following seven functions:

- Equipment and services case management
- Training management
- Program monitoring
- Evaluation and planning of the host government's military capabilities and requirements

- Administrative support
- Promoting rationalization, standardization, interoperability, and other defense cooperation measures
- Liaison functions exclusive of advisory and training assistance [section 515(a), FAA]

Advisory and training assistance conducted by SCO personnel shall be kept to an absolute minimum [section 515(b), FAA]. Such assistance, rather, shall be by other personnel detailed for limited periods to perform specific tasks.

Security Cooperation Organization Size

The number of members of the armed forces assigned to a SCO in a foreign country may not exceed six unless specifically authorized by the Congress. The President may waive this limitation if he determines and reports to the Congressional foreign relations committees, thirty days before the introduction of the additional military personnel, that U.S. national interests require that more than six members of the armed forces be assigned to a particular country not designated in the statute to exceed six. Countries designated to have more than six U.S. military personnel are identified in section 515(c)(1), FAA.

The total number of U.S. military personnel assigned to a foreign country in a fiscal year may not exceed the number justified to the Congress in the annual CBJ material, unless the Congressional foreign relations committees are notified thirty days in advance.

Sales Promotion by the Security Cooperation Organization

The President shall continue to instruct U.S. diplomatic and military personnel in U.S. missions abroad that they should not encourage, promote, or influence the purchase by any foreign country of U.S.-made military equipment, unless they are specifically instructed to do so by an appropriate official of the executive branch [section 515(f), FAA].

Chief of United States Diplomatic Mission

The President shall prescribe appropriate procedures to assure coordination among representatives of the USG in each country, under the leadership of the chief of the U.S. diplomatic mission (the U.S. Ambassador) [section 622, FAA, and section 2, AECA].

U.S. military personnel assigned to SA organizations shall serve under the direction and supervision of the chief of the U.S. diplomatic mission in that country [section 515(e), FAA].

Military Sales

In general, the AECA authorizes two ways a country or international organization can purchase U.S. defense articles, services, or training. The first method is FMS through a government-to-government contract or the FMS LOA case. This FMS case can be filled by sale from U.S. stock, a USG purchase from industry, or by providing credit to fill the requirement either by sale from stock or by purchase from industry. The FMS process, procedures, and policies will be addressed in detail later in this text beginning in chapter 5, "Foreign Military Sales Process."

The second purchasing method is DCS by allowing, with an export license issued by the DoS, the country or international organization to purchase directly from U.S. industry. The DCS process and policies will be further addressed in later chapter 15, "A Comparison of Foreign Military Sales and Direct Commercial Sales."

Sales from Stock

The country agrees to pay the USG for defense articles and defense services sold from DoD and U.S. Coast Guard stocks as follows:

- The actual (stock-list) value for defense articles not intended to be replaced at the time of agreement to sell
- The replacement cost for defense articles intended to be replaced, including contract or production costs less any depreciation in value
- The full cost to the USG for defense services; in the case of a country which is concurrently receiving IMET assistance, only those additional costs that are incurred by the USG in furnishing such assistance will be charged
- The sales price shall also include appropriate charges for:
  - ◊ Administrative services (surcharge)
  - ◊ A proportionate amount of any nonrecurring costs of research, development, and production of MDE (does not apply to FMS cases which are wholly financed with U.S. provided grant funds)
  - ◊ The recovery of ordinary inventory losses associated with the sale from stock of defense articles that are being stored at the expense of the purchaser
  - ◊ Unless the President determines it to be in the national interest, payment shall be made in advance of delivery or performance [section 21, AECA]

There are situations where certain costs may be waived or reduced. Many of these are addressed later in this chapter under the heading, Additional Provisions Relating to North Atlantic Treaty Organization (NATO), NATO Members, Japan, Australia, Republic of Korea, New Zealand, Israel, and Other Eligible Countries.

Procurement Sales

The USG may procure defense articles and services for sale to an FMS purchaser if the purchaser provides the USG with a dependable undertaking by which it agrees to pay the full amount of such contract which will assure the USG against any loss; to make funds available in such amounts and at such times as may be required by the contract (and to cover any damages/termination costs). Such foreign purchaser payments shall be received in advance of the time any payments are due by the USG. Interest shall be charged on the net amount by which such foreign purchaser (country or international organization) is in arrears under all of its outstanding unliquidated dependable undertakings, considered collectively [section 22, AECA].

Credit Sales

The USG is authorized to finance procurements of defense articles, defense services, and design and construction services by friendly foreign countries and international organizations [section 23, AECA]. This financial assistance is FMFP either as a grant or loan. With a couple of exceptions, recent FMFP has been all grant requiring no repayment.

Repayment of loans in U.S. dollars is required within twelve years, unless a longer period is authorized by statute [section 23(b), AECA]. The FMFP loans authorized under section 23, AECA, shall be provided at rates of interest that are not less than the current average market yield on outstanding marketable obligations of the U.S. of comparable maturities [section 31(c), AECA].

Foreign Military Construction Sales

The President may sell design and construction services using the FMS process to any eligible foreign country or international organization if such country or international organization agrees to pay in U.S. dollars the full cost to the USG of furnishing such services. Payment shall be made to the USG in advance of the performance of such services [section 29, AECA].

Sales to United States Companies

The President may sell defense articles e.g., government-furnished equipment (GFE) or material (GFM) to a U.S. company for incorporation into end items (and for concurrent or follow-on support) that are, in turn, to be sold commercially DCS to a foreign country or international organization under section 38, AECA, and to sell defense services in support of such sales of defense articles, provided that such services may be performed only if:

- The end item to which the articles apply is procured for the armed forces of a foreign country or international organization
- The articles would be supplied to the prime contractor as GFE or GFM if the article was being procured for the use of the U.S. armed forces
- The articles and services are available only from USG sources or are not available to the prime contractor directly from U.S. commercial sources at such times as may be required to meet the prime contractor's delivery schedule [section 30, AECA]

Direct Commercial Sales

The President, delegated to the Secretary of State, is authorized to control the DCS of U.S. defense articles and services by U.S. industry [section 38(a)(1), AECA]. Procedures for U.S. industry to obtain export licenses for DCS are codified by the DoS within the ITAR, 22 C.F.R. 120-130. Section 121.1, ITAR, is the U.S. Munitions List (USML), which defines by category what constitutes a defense article, service, and related technical data. This arms control authority by the President is similarly extended to include the import defense articles and services and has been delegated to the attorney-general. Chapter 7 of this text, "Technology Transfer, Export Controls, and International Programs Security," provides further discussion on the export licensing of DCS.

Drawdown Authorities

Special Emergency Drawdown Authority

If the President determines and reports to Congress that an unforeseen military emergency exists and that such emergency requirement cannot be met under the AECA or any other authority, the President may direct the drawdown of defense articles, services, or training from DoD of an aggregate value not to exceed $100 million in any fiscal year [section 506(a)(1), FAA].

A second special drawdown authority of $200M in defense articles, services, and training for each fiscal year also has been established [section 506(a)(2), FAA]. The authorized purposes for the latter drawdown authority include counternarcotics, antiterrorism, nonproliferation, disaster relief, migration and refugee assistance, and support of Vietnam War era missing-in-action/prisoners-of-war (MIA/POW) location and repatriation efforts. Restrictions in the annual section 506(a)(2) drawdown include not more than $75M may come from DoD resources, not more than $75M may be provided in support of counter-narcotics, and not more than $15M may be provided in support of Vietnam War era MIA/POW location and repatriation. While all section 506 drawdown actions require notification to Congress, drawdowns in support of counternarcotics or antiterrorism assistance require at least fifteen days advance notification before taking place.

Section 576, P.L. 105-118, amended the FAA to provide the authority for the use of commercial transportation and related services acquired by contract for the drawdown if the contracted services cost less than the cost of using USG resources to complete the drawdown [section 506(c), FAA]. The use of commercial rather than USG transportation assets to complete the drawdown is to be reported to Congress to include any cost savings realized [section 506(b)(2), FAA].

Section 506(c), FAA, provides authority for appropriations to reimburse DoD and the military departments (MILDEPs) for costs in providing emergency drawdown defense articles, services, and training; however, this authority is rarely provided. Likewise, because of the negative impact of this type of drawdown on the MILDEPs, it has become a tool of last resort and reluctantly directed.

Peacekeeping Emergencies

The drawdown of commodities and services is authorized from the inventory and resources of any agency of the USG of an aggregate value not to exceed $25M in any fiscal year to meet an unforeseen emergency requirement for peacekeeping operations. The authority for reimbursement is rarely provided [section 552(c)(2), FAA].

War Crimes Tribunals Drawdown

The annual appropriations act authorizes the drawdown of up to $30M in commodities and services to support the United Nations War Crimes Tribunal, established with regard to the former Yugoslavia for the just resolution of charges of genocide or other violations of international humanitarian law. After completing a Congressional notification, similar UN Security Council-established or authorized tribunals or commissions are also eligible for this drawdown authority [section 7047, P.L. 113-235].

Drawdown Policy and Procedures

The following general guidelines and policies have evolved for execution of drawdowns:

- Equipment to be provided must be physically on hand (excess or non-excess)
- No new contracting is authorized to support drawdowns (may use commercial contracts for transportation services only if scope of existing contracts encompass drawdown requirement)
- Services must reimburse the Defense Logistics Agency (DLA) for any working capital fund material or services provided in support of drawdowns
- Service tasked with providing specific equipment will fund transportation to final destination
- Airlift and sealift can only be provided using military air or sealift military aircraft (MILAIR/MILSEA) or appropriate time-charter contracts if the scope of existing contracts cover the proposed use
- Where possible, complete support packages are normally provided for any major end items

In general, equipment and spare parts now being provided under drawdown are increasingly coming from units, prepositioned equipment storage, or operational logistics stocks. Residual equipment that is excess and can be released without adverse operational impact is increasingly in very poor condition requiring significant repair or refurbishment. Where such repair can be legally performed under drawdown authority, it only adds to the DoD operational and maintenance (O&M) funding impact on the services in supporting the drawdown effort.

Drawdowns do not provide additional budget authority to DoD. The military services (MILSVCs) are required to use currently allocated O&M funds to provide training services, packing, crating, and

handling (PC&H) services, transportation services, repair/refurbishment services, and the provision of spare parts or support services from the working capital fund-operated DLA activities.

Special Presidential Waiver Authority

In accordance with section 614, FAA, the President may authorize the furnishing of limited assistance and sales, without regard to any other laws, when determined and reported to Congress that to do so is important to U.S. national security interests. In addition, the President may make sales, extend credit, and issue guarantees under the AECA without regard to any other laws when determined and reported to Congress that to do so is vital to U.S. national security interests. The following limitations apply in a given fiscal year:

- The use of up to $250 million of funds made available under the FAA (grants) or the AECA (grants or loans), or $100 million of foreign currencies accruing under the FAA or any other law. However, not more than $50 million of the $250 million limitation may be allocated to any one country, unless such country is a victim of active aggression
- Not more than $750 million in sales under the AECA
- Not more than $500 million of the aggregate limitation of $1 billion (i.e., $250 million assistance and $750 million sales) may be allocated to any one country

Congressional Review of Proposed Transfers

Foreign Military Sales

The President (delegated to the Secretary of Defense) shall submit a numbered certification (with justification, impact, etc.) to the Congress before issuing a foreign military sale (FMS) letter of offer and acceptance (LOA) to sell defense articles or services for $50 million or more, or any design and construction services for $200 million or more, or major defense equipment (MDE) for $14 million or more. The higher dollar thresholds for notification for NATO countries, Japan, Australia, Republic of Korea, Israel, and New Zealand are $100 million, $300 million, and $25 million respectively. Approval for FMS must be provided by the DoS to DoD prior to any Congressional notification. Once a potential FMS is approved by DoS, the Defense Security Cooperation Agency (DSCA) provides the official notification to Congress. The DSCA FMS notifications are generally announced and published almost immediately on the DSCA web site and later in the Federal Register.

MDE includes any item of significant military equipment (SME) on the USML having a nonrecurring research and development cost of more than $50 million or a total production cost of more than $200 million. SME is defined in section 47(9), AECA, as a defense article identified on the USML for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability. The USML is required by section 38, AECA, and is maintained by the DoS within section 121.1 of the ITAR, which can be viewed at: http://www.pmddtc.state.gov/regulations_laws/itar.html.

The LOA shall not be issued if the Congress, within thirty calendar days after receiving such certification, adopts a joint resolution stating it objects to the proposed sale. However, such action by Congress does not apply if the President states in his certification that an emergency exists which requires such sale in the national security interests of the U.S. [section 36(b)(1), AECA].

An exception to the above thirty-day procedure exists for NATO, NATO member countries, Australia, Japan, Republic of Korea, Israel, and New Zealand. For these exempted countries, the formal statutory notification period is only fifteen days.

Direct Commercial Sales

Thirty days before the issuance of any export license for MDE in excess of $14 million or other defense articles or services in excess of $50 million, the President (delegated to the Secretary of State) shall submit a numbered certification to the Congress. Although DCS is managed day-to-day by PM/DDTC, the Assistant Secretary of State for Legislative Affairs provides the Congressional notifications required for DCS. These notifications are to be published in the Federal Register. Dollar thresholds for notification for NATO countries, Japan, Australia, Republic of Korea, Israel, and New Zealand are $25 million and $100 million, respectively. Unless the certification states that an emergency exists, an export license for the items shall not be issued within a thirty-calendar day Congressional review period. Further, such license shall not be issued if the Congress, within such thirty-day period, adopts a joint resolution objecting to the export. The Congressional review period for NATO, NATO members, Australia, Japan, Republic of Korea, Israel, and New Zealand is fifteen days as in the FMS process [section 36(c), AECA].

The licensing of any USML category I small arms (weapons of .50 caliber or less) valued at $1 million or more for any country must be also be notified to Congress and is subject to the fifteen or thirty-day joint resolution objection process [section 36(c), AECA]. It should be noted that this small threshold for arms notification does not apply to the FMS process.

Normally, it is the country's decision to purchase FMS or DCS. However, the President (delegated to the Secretary of Defense) may require that any defense article or service be sold under FMS in lieu of commercial export (DCS) channels [SAMM, C4.3.5]. The President may also require that persons engaged in commercial negotiation for the export defense articles and services keep the President fully and currently informed of the progress and future prospects of such negotiations [section 38(a)(3), AECA].

Third Country Transfers

The recipient country, as a condition of sale, must agree not to transfer title or possession of defense articles or services (including training) to another country, unless the consent of the President has first been obtained. This authority to transfer is normally provided in writing from the DoS.

Furthermore, the Congress has a thirty-calendar-day review period (fifteen days for NATO, NATO members, Japan, Australia, Republic of Korea, Israel, and New Zealand) for proposed third country transfers of defense articles or services valued (in terms of its original acquisition cost) at $14 million or more for MDE, or $50 million or more for other defense articles, services, or training. The dollar thresholds for notification for NATO countries, Japan, Australia, Republic of Korea, Israel, and New Zealand are $25 million and $100 million respectively [section 3(d), AECA].

The following are exceptions to this Congressional review process for third-country transfers:

- The President states in the certification submitted that an emergency exists which requires that consent to the proposed transfer becomes effective immediately
- Transfers of maintenance, repairs, or overhaul defense services or repair parts if such transfers will not result in any increase in military capabilities
- Temporary transfers of defense articles for the sole purpose of receiving maintenance, repair, or overhaul
- Cooperative cross-servicing arrangements or lead-nation procurement among NATO members. Note, however, that section 36(b) notifications must identify the transferees on whose behalf the lead-nation procurement is proposed

The Congress can adopt a joint resolution of disapproval of the proposed transfer during the fifteen or thirty-day review period. Presidential approval is not required for third country transfers or change in end-use if all the following conditions are satisfied:

- The U.S. article is being incorporated as a component within a foreign defense article
- The recipient is the government of a NATO country, Japan, Australia, Republic of Korea, or New Zealand
- The recipient is not a section 620A, FAA-designated country (supports international terrorism)
- The U.S.-origin component is not SME, an article requiring section 36(b), AECA notification, and identified by regulation as an Missile Technology Control Regime (MTCR) item
- The country or organization provides notification to the USG within thirty days after the transfer [section 3(b), AECA]

Leases of Defense Articles

The President may lease defense articles in the stocks of the DoD to an eligible foreign country or international organization if:

- He determines there are compelling foreign policy and national security reasons for providing such articles on a lease basis rather than on a sales basis under the AECA
- He determines that the articles are not for the time needed for public use
- The country or international organization has agreed to pay in U.S. dollars all costs incurred by the USG in leasing such articles, including reimbursement for depreciation of such articles while leased, and the replacement cost if the articles are lost or destroyed while leased [sections 61-64, AECA]

The above cost reimbursement requirements do not apply to leases entered into for purposes of cooperative research or development, military exercises, communications or electronics interface projects.

With a Presidential national security interest determination, the requirement for reimbursement of depreciation of any leased article which has passed three-quarters of its normal service life can also be waived. This waiver authority cannot be delegated below the Secretary of Defense and is to be used sparingly [section 61(a), AECA].

Replacement cost of any leased item lost or destroyed would be either:

- In the event the USG intends to replace the item, the replacement cost of the item
- In the event the USG does not intend to replace the item, the actual value (less any depreciation in the value) specified in the lease agreement [section 61(a)(4), AECA]

Each lease agreement shall be for a fixed duration, not to exceed five years, and shall provide that, at any time during the duration of the lease, the President may terminate the lease and require the immediate return of the leased articles. The maximum five-year period for a lease would begin at the time of delivery to the country if the item being leased requires an extended modification or overhaul period exceeding six months before delivery. An extension of a lease is permitted but must be reported to Congress as described below.

Defense articles in the stocks of the DoD may be leased or loaned to a foreign country or international organization under the authority of chapter 6, AECA, or part II, chapter 2, FAA, but may not be leased to a foreign country or international organization under the authority of 10 U.S.C. 2667 for excess defense property.

For any lease for a period of one year or longer, the Congress must be given a thirty-day advance notification. Like FMS, the Presidential decision authority to lease has been delegated to DoS, with subsequent Congressional notifications provided by DSCA. Further, if the lease is for one year or longer, and is valued at $14 million or more for MDE, or $50 million or more for other defense articles, the Congress may adopt a joint resolution during the thirty-day notification/review period prohibiting the proposed lease. The notification thresholds for NATO countries, Japan, Australia, Republic of Korea, Israel, and New Zealand are higher: $25 million for MDE and $100 million for other defense articles.

The Congressional advance notification period for leases to NATO, NATO members, Japan, Australia, Republic of Korea, Israel, and New Zealand is fifteen days. Both the fifteen- and thirty-day periods can be waived by the President in the event of an emergency.

Congressional Joint Resolutions

As just described, the AECA contains provisions for the Congressional rejection of proposals for FMS and DCS, as well as for third country transfers and leases of U.S. defense articles. The mechanism for such Congressional action is a joint resolution. This is a statement of disapproval of a proposed sale, transfer, or lease, which is passed by simple majority votes in both the Senate and the House of Representatives. This joint resolution must be then sent to the President for review and approval by enactment. Since the President is unlikely to approve the rejection of an action which his administration originally proposed to Congress, the President will likely veto such a joint resolution, returning it to Congress. Unless Congress is able to override the President's veto by obtaining a two-thirds majority vote in each house in support of the original resolution of rejection, the sale, transfer, or lease will be permitted. Should Congress, however, muster sufficient votes to override the President's veto, the proposed sale, transfer, or lease would not be authorized.

Other Reports to Congress

There are numerous other reports provided to Congress concerning SA programs. The following list, which is by no means all-inclusive, is representative of such reports. A comprehensive listing of SA reports submitted to Congress by DoD elements can be found in DSCA 5105.38-M, SAMM, appendix 5, "Congressional Reports and DSCA Reports Control System."

Quarterly Reports to Congress

- A listing of all unaccepted or not canceled LOAs by country for MDE valued at $1 million or more [section 36(a)(1), AECA]
- A listing of all LOAs accepted during the fiscal year [section 36(a)(2), AECA]
- The cumulative dollar value of sales credit agreements during the fiscal year [section 36(a)(3), AECA]
- A listing of all commercial export licenses issued during the fiscal year for MDE valued at $1 million or more to also include USML category I small arms [section 36(a)(4), AECA]
- A listing of all SA surveys authorized during the preceding quarter; Congress shall be authorized access to such survey reports upon request [section 26, AECA]

Annual Reports to Congress

Arms Sales Proposal

On or before 1 February of each year, the President shall transmit to the Congress the annual "Arms Sales Proposal" covering all sales, including FMS and DCS of major weapons or weapons-related defense equipment for $7 million or more, or of any other weapons or weapons-related defense equipment for $25 million or more, which are considered eligible for approval during the current calendar year. This generally classified report is required by section 25(a), AECA, and is routinely referred to as the Javits Report, named for its principal sponsor, former Senator Jacob Javits (D-NY). By policy, no sales or licensing notifications will take place until the Javits Report is received by and briefed to Congress, which must be in session to receive the report.

End-Use Monitoring

With the annual Congressional Budget Justification for Foreign Operations, FY 20XX, submitted not later than 1 February to the Congress [section 634, FAA], a report regarding the implementation of end-use monitoring (EUM) to include costs and numbers of personnel associated with the program shall be included.

Possible Excess Defense Articles

Beginning with FY 2003, like the Javits Report for sales, the President shall transmit to the Congress not later than 1 February annually a report listing weapons systems that are SME, and numbers thereof, that are believed likely to become available for transfer as EDA during the next twelve months [section 25(a)(13), AECA].

Agent Fees

The Secretary of State shall require reporting on political contributions, gifts, commissions, and fees paid, offered, or agreed to be paid in connection with FMS or DCS; such information shall be made available to Congress upon request [section 39, AECA].

Foreign Training Report

A joint Secretary of State and Secretary of Defense report is to be submitted to Congress not later than 31 January each year to include training provided the previous and current fiscal years. For each training activity, it is to include foreign policy justification and purpose plus number of foreign personnel trained, their units, and the location. For each country, it is to include aggregate number of students and costs. With respect to U.S. personnel, it is to include operational benefits derived and what units were involved. Beginning 30 September 2002, unless notified in writing ninety calendar days in advance for a specified country, this report is not to include any training provided to NATO countries, Australia, Japan, or New Zealand [section 656, FAA].

Anti-Boycott Determination

The Anti-Economic Discrimination Act of 1994 [sections 561-565, P.L. 102-236] states that, effective 30 April 1995, the sale or lease of any defense article or service is prohibited to any country or international organization that maintains a policy or practice of, "sending letters to U.S. firms requesting compliance with, or soliciting information regarding the secondary or tertiary Arab economic boycott of Israel."

The President can annually waive this transfer prohibition for one year on the basis of national interest and promotion of U.S. objectives to eliminate the Arab boycott, or on the basis of national security interest. On 24 April 1997, the President delegated the annual report and waiver authority to the Secretary of State.

Additional Provisions Relating to NATO, NATO Members, Japan, Australia, New Zealand, Republic of Korea, Israel, and Other Eligible Countries

Reduction or Waiver of Nonrecurring Cost Charges

The President may reduce or waive nonrecurring cost (NRC) charges required by section 2l(e)(1)(B), AECA, (e.g., a proportionate amount of any NRC of research, development, and production of MDE) for particular sales that, if made, would significantly advance USG interests in NATO standardization; standardization with Japan, Australia, or New Zealand in furtherance of the mutual defense treaties between the U.S. and those countries; or foreign procurement in the U.S. under coproduction arrangements [section 21(e)(2)(A), AECA].

Beginning in FY 1997, NRC for research and development (R&D) may also be waived for an FMS sale to any eligible country if:

- Applying the cost would result in the loss of a sale
- The waived costs would be substantially offset in lower realized unit cost to the USG through increased production resulting from the FMS [section 21(e)(2)(B), AECA]

Further, the President may waive the charges for administrative services under section 21(e)(1)(A), AECA, in connection with any sale to the NATO Maintenance and Supply Agency (NAMSA) in support of a weapon system partnership agreement or NATO/SHAPE project [section 21(e)(3), AECA].

Cooperative Furnishing of Training

The President may enter into NATO standardization agreements and may enter into similar agreements with Japan, Australia, New Zealand, and major non-NATO allies for the cooperative furnishing of training on a bilateral or multilateral basis, if such agreement is based on reciprocity. Such agreements shall include reimbursement for all direct costs but may exclude reimbursement for indirect costs, administrative surcharges, and costs of billeting of trainees [section 21(g), AECA].

Major Non-North Atlantic Treaty Organization Allies

For many years, 10 U.S.C. 2350a(i)(3) identified Australia, Egypt, Israel, Japan, and Republic of Korea as major non-NATO allies (MNNA) as a DoD authority for cooperative R&D. In 1996, P.L. 104-164 amended the FAA to add New Zealand and, perhaps more importantly, provided the President with authority to designate a country as a MNNA for the purposes of the FAA and the AECA, or terminate such a designation, with a thirty-day advance notification to Congress [section 517, FAA]. Subsequently, Argentina, Jordan, Bahrain, Kuwait, Morocco, Pakistan, Philippines, Thailand, and Afghanistan have been added using the notification procedure. The country of Taiwan is also to be treated as though it is a MNNA [section 1206, P.L. 107-228]. The statutory benefits in the FAA and the AECA of being designated a MNNA include eligibility for:

- Priority delivery of EDA, but only to include Egypt, Jordan, and Israel, [section 516 (c)(2), FAA]
- Stockpiling of U.S. defense articles [section 514 (c)(2), FAA]
- Purchase of depleted uranium anti-tank rounds [section 620G, FAA]
- With a reciprocity agreement, be exempted of indirect costs, administrative charges, and billeting costs for training [section 21(g), AECA]

- Use of any allocated FMFP funding for commercial leasing of defense articles [section 7068, P.L. 112-235]

Incremental Tuition Pricing for International Military Education and Training—Designated Countries

The President is authorized to charge only those additional costs incurred by the USG in furnishing training assistance to countries concurrently receiving IMET. While section 546(a), FAA, prohibits the high income countries of Austria, Finland, Republic of Korea, Singapore, and Spain from receiving IMET assistance, they remain eligible for FMS-incremental tuition prices [section 21(a)(1)(c), AECA].

Effective 14 November 2005, though not an IMET recipient and only receiving FMFP assistance, Israel is authorized the IMET tuition price for training when using FMFP [section 541(b), FAA].

Contract Administration Services and Catalog Data and Services

The President is authorized to provide (without charge) quality assurance, inspection, contract administration services (CAS), and contract audit defense services in connection with procurements by, or on behalf of, a NATO member or the NATO infrastructure program, if such government provides such services in accordance with an agreement on a reciprocal basis (without charge) to the USG. A similar provision applies with respect to cataloging data and cataloging services [section 21(h), AECA]. Effective 14 November 2005, these authorities were extended to Australia, Japan, Republic of Korea, New Zealand, and Israel [section 534(l)(1), P.L. 109-102].

Section 27, Arms Export Control Act, Cooperative Projects

Under a cooperative project pursuant to section 27, AECA, the President may enter into a written agreement with NATO, NATO members, and other eligible countries for a jointly managed program of cooperative research, development, test and evaluation (RDT&E) and joint production including follow-on support or concurrent production. Congress must receive a certification not less than thirty days prior to USG signature of a proposed cooperative project agreement [section 27, AECA]. For additional information on international armaments cooperation, see chapter 13 of this text, "Systems Acquisition and International Armaments Cooperation."

Special Defense Acquisition Fund

The Special Defense Acquisition Fund (SDAF) was authorized by section 108(a), International Security and Development Cooperation Act of 1981, P.L. 97-113, 29 December 1981, to provide DoD the authority to procure and stock defense articles and services in anticipation of future foreign government military requirements. By permitting such advance procurements, the SDAF enabled DoD to reduce customer waiting times for selected items and to improve its responses to emergency foreign requirements, as well as to reduce the need for meeting normal FMS requirements through drawdowns or diversions of defense equipment from U.S. stocks or new production.

The SDAF was established as a revolving fund which was initially capitalized through three sources:

- Collections from FMS sales of DoD stocks not intended to be replaced
- Asset use collections and contractor payments for the use of U.S.-owned facilities equipment
- Recouped non-recurring research, development, and production charges from both FMS and DCS

By 1987, the SDAF reached its maximum authorized capitalization level of $1.07 billion [10 U.S.C. 114(c)] which represented a total of the value of articles on hand and on order, as well as all

unobligated funds. Although appropriated funds were authorized, no appropriations were necessary as the fund was maintained on a self-supporting basis, with Congress annually providing an obligational authority (OA) for SDAF expenditures. The Defense Security Cooperation Agency (DSCA) served as the overall DoD manager of the SDAF, while the MILDEPs retained custody of those articles awaiting sale.

The SDAF provided a very viable method for effecting advance procurements to reduce customer waiting time as well as a source of urgently needed articles. Operation Desert Storm forces were able to use over $130 million of articles from the SDAF stocks, to include AIM-9, STINGER, and TOW missiles, plus various types of vehicles, ammunition, night vision devices, and communications equipment.

Although the SDAF was widely viewed as an important SA program, a major DoD budget tightening effort in 1991 led to the decision in March 1993 to close down the program. For FY 1994, no new budget authority was sought for the SDAF, although Congress agreed to extend $160 million in OA into FY 1994 from the $225 million FY 1993 budget authority. For FY 1995, $140 million in OA was carried over from FY 1994, plus an added OA of $20 million extending through FY 1998 for the purpose of closing the SDAF. Section 536, P.L. 105-118, extended the OA to FY 2000. Collections in FY 1994 and thereafter from SDAF sales in excess of the OA provided in prior year appropriations acts must be deposited in the miscellaneous receipts account of the U.S. Treasury. With SDAF drawing to a close, section 145, P.L. 104-164, repealed a variety of recurring status reports required by Congress under sections 51 and 53, AECA. See DSCA 5105.38-M, SAMM, C11.9, for further information.

At the Administration's repeated request during the years after 9/11, SDAF was reactivated in FY 2012 authorizing the use of $100M existing FMS administrative funding to recapitalize the existing AECA SDAF authority. This $100M will remain available for obligation through FY 2015 [section 7080, P.L.112-74]. Section 7077, P.L. 113-76, further authorized the obligation of $100M through FY 2016. Title VIII, Section 7072, Div. K, S/FOAA, P.L. 114-113 increased the SDAF to $900 million and extended its authority until 30 September 2018.

Excess Defense Articles

The term excess defense articles (EDA) is applied collectively to U.S. defense articles which are no longer needed by the U.S. armed forces. Such defense articles may be made available for sale under the FMS program [section 21, AECA] or as grant (no cost) transfers to eligible foreign countries under the provisions of section 516, FAA, which are described below.

The following formal definition of EDA is provided in section 644(g), FAA, and it establishes the guidelines for determining which defense articles may be treated as excess equipment.

> EDA means the quantity of defense articles other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors, owned by the USG, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all DoD Components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act [section 9(b), P.L. 102-583].

The National Defense Authorization Act for FY 1993 (NDAA) amended 10 U.S.C. by adding a new section 2552 that restricts the sale or transfer of excess construction or fire equipment. Such transfers or military sales in the future may only occur if either of the following conditions apply:

- No department or agency of the USG (excluding DoD), and no state, and no other person or entity eligible to receive excess or surplus property submits a request for such equipment to the DLA Disposition Services (formerly known as the Defense Reutilization and Marketing Service [DRMS]) during the period for which such a request may be accepted by this agency
- The President determines that such a transfer is necessary in order to respond to an emergency for which the equipment is especially suited [section 4304(a), P.L. 102-484]

For the purpose of this new provision, the term "construction" or "fire equipment" includes the following:

> Tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, pumpers, fuel and water tankers, crash trucks, utility vans, rescue trucks, ambulances, hook and ladder units, compressors, and miscellaneous fire fighting equipment [section 4304(c), P.L. 102-484]

The intent of this change is to permit other federal agencies and states the opportunity to request and receive such items before they are made available for sale or grant transfer to foreign countries or international organizations. Although this provision applies to construction equipment as well as fire equipment, the earlier exclusion above of construction equipment from the definition of excess defense equipment essentially limits the defense authorization act's restrictions to fire equipment.

As defense articles actually become excess, they are screened to determine whether they may be sold to eligible countries through FMS procedures or transferred as grant-provided items under the various provisions of the FAA, as discussed below. The ultimate responsibility for determining if an item should be identified as excess rests with the MILDEP having cognizance over the item. MILDEP recommendations for the allocation of EDA to specific countries are reviewed and staffed by an EDA coordinating committee, chaired by DSCA, and comprised of representatives from the DoS, OSD, Joint Staff, commerce department, and MILDEPs. Once a decision is made to furnish EDA to a particular country, DSCA prepares any required Congressional notification.

Sales of Excess Defense Articles

EDA sold through FMS procedures are priced on the basis of their condition as described in DoD 7000.14-R, Financial Management Regulation (FMR), Volume 15. Prices range from a high of 50 percent of the original acquisition value for new equipment, to a low of 5 percent for equipment in need of repairs. Before allowing the FMS sale of EDA, the President shall determine that the sale will not have an adverse impact on the U.S. technology and industrial base and, particularly, will not reduce the opportunities of the U.S. technology and industrial base to sell new or used equipment to the recipient country [section 21(k), AECA]. Charges must be levied on such sales as well as on grant transfers (with certain exceptions) for the costs of Packing, Crating, Handling and Transportation (PCH&T). Charges for any requested spares support, training, repair work, or any upgrades will also be levied.

Grant Transfer of Excess Defense Articles

P.L. 104-164, 21 July 96, rationalized the then existing cumbersome grant EDA program by combining the five different EDA authorities into one. The new authority, a revised section 516, FAA, authorizes the President to transfer EDA on a grant basis to countries for which receipt of such articles was justified pursuant to the annual Congressional Budget Justification for Foreign Operations, FY 20XX, for counternarcotics programs submitted under section 634, FAA, or for which receipt of such articles was separately justified to Congress, for the fiscal year in which the transfer is authorized. Beginning with FY 2008, the eligible countries are annually identified to Congress within a limited distribution letter provided by DSCA after coordination with State Department Bureau of Political-

Military Affairs, Office of Regional Security and Arms Transfers (PM/RSAT). It must be noted that because a country might be eligible for EDA does not mean any EDA is available for transfer or that any available EDA can be transferred.

Grant EDA transfer limitations include:

- Item must be drawn from existing DoD stocks
- No DoD procurement funds are to be used during the transfer
- Transfer is to have no adverse impact on U.S. military readiness
- Transfer is preferable to a transfer on a sales basis, after taking into account the potential proceeds from, and likelihood of, such sales and comparative foreign policy benefits that may accrue to the U.S. as the result of a transfer on either a grant or sales basis
- Transfer has no adverse impact on U.S. technology and industrial base, and particularly, will not reduce the opportunity for the sale of a new or used article
- Transfer is consistent U.S. policy for the eastern Mediterranean (Turkey, Greece, and Cyprus) established under section 620C, FAA [section 516(b), FAA]

DoD funds may not be used for PCH&T during a grant EDA transfer, except when:

- Transfer is determined to be in the national interest,
- Recipient is a developing country receiving less than $10M in IMET and FMFP during the fiscal year of the transfer,
- Total transfer does not exceed 50,000 pounds, and
- Transfer is accomplished on a space-available basis [section 516(c)(2), FAA]

Congressional notification of thirty days prior to the transfer of EDA, whether by sale or grant, is required if the item is categorized as SME or valued (original acquisition cost) at $7M or more [section 516(f)(1), FAA]. Additionally, beginning in FY 2015 Section 516(g)(1) of the FAA was amended so that not more than $500M (current value) in defense articles may be transferred in one FY as grant EDA, P.L. 113-276, 18 December 2014. Any authorization for the grant EDA transfer of ships generally exempts the value of the transfer from this annual ceiling.

Grant Excess Defense Articles for NATO, Major Non-NATO Allies, and Others

A priority in delivery of grant EDA will be given to NATO member countries on the southern and southeastern flank (Portugal, Greece, and Turkey) and to major non-NATO allies (Israel, Egypt, and Jordan) on the southern and southeastern flanks of NATO [section 516(c)(2), FAA]. The Philippines was legislatively included in this priority group [section 1234, P.L. 107-228].

After priority in delivery of grant EDA to NATO countries and major non-NATO allies on the southern and southeastern flanks, priority in delivery of grant EDA will be afforded next to countries eligible for assistance authorized by the NATO Participation Act (NPA) of 1994 [section 609, P.L. 104-208]. Initially, the latter group of eligible countries included Poland, Hungary, the Czech Republic, and Slovenia [section 606, P.L. 104-208]. In July 1997, an invitation for NATO membership was extended to Poland, Hungary, and the Czech Republic. FY 1999 legislation added Romania, Estonia, Latvia, Lithuania, and Bulgaria to the NPA eligible country list [section 2703, P.L. 105-277]. Section 4 of the Gerald B.H. Solomon Freedom Consolidation Act of 2002, P.L. 107-187, 10 June 2002, amended the NPA to also include the country of Slovakia. This same act also endorsed the admission of the seven countries into the NATO Alliance. An invitation was extended in November 2002 to these same

countries for entry into NATO in May 2004. The Senate promptly ratified the April 2003 Presidential proposal for these countries.

The NATO Freedom Consolidation Act of 2007, P.L. 110-17, 9 April 2007, section 4(b)(1), added the non-NATO countries of Albania, Croatia, Georgia, Macedonia [Former Yugoslav Republic of Macedonia (FYROM)], and the Ukraine to the NPA EDA priority delivery list. This same legislation stated the sense of Congress that these countries be admitted to NATO as they become willing and able with a clear national intent to meet the responsibilities of membership.

War Reserve Stockpiles for Allies

Section 514(b) of the FAA sets an annual ceiling on the value of additions to stockpiles of U.S. defense articles located abroad that may be set aside, earmarked, reserved, or otherwise intended for use as war reserve stocks for allied or other foreign countries (other than those for NATO purposes or in the implementation of agreements with Israel). From 1979 until 1988, the Republic of Korea was the only country outside of NATO where such war reserves stockpiles for allies (WRSA) were authorized to be maintained. For FY 1988, Congress approved an Administration request to establish a new stockpile in Thailand, and $10 million in defense articles was authorized to be transferred for this purpose. Then, for FY 1990, at the initiative of Congress, $100 million in defense articles was authorized to establish a stockpile in Israel. For FY 1991, Congress authorized stockpiles in the major non-NATO allies' countries, and $378 million in stockpile additions, of which not less than $300 million was designated for stockpiles in Israel, with the remainder divided between the Republic of Korea ($68M) and Thailand ($10M). For FY 1993, Congress authorized a total of $389 million worth of U.S. defense equipment to be transferred to the WRSA in FY 1993; not less than $200 million was designated for stockpiles in Israel, and up to $189 million was available for stockpiles in the Republic of Korea [section 569, P.L. 102-391].

Beginning in FY 1996, the President can also designate any country for such stockpiling [section 541(c)(2), FAA] with a fifteen-day notification to Congress. However, the value of the stocks to be set aside each year for any country (other than NATO or Israel) must be approved by annual SA authorizing legislation [section 541(b)(1), FAA].

It should be understood that no new procurements are involved in establishing and maintaining these stockpiles. Rather, the defense articles used to establish a stockpile and the annual authorized additions represent defense articles that are already within the stocks of the U.S. armed forces. The stockpile authorizing legislation simply identifies a level of value for which a stockpile may be established or increased. Moreover, the defense articles that have been placed in these stockpiles remain U.S. military service-owned and controlled stocks. As the term "war reserve" implies, these stocks are intended only for use in emergencies. Any future transfer of title/control of any of these stocks to an allied or friendly country would require full reimbursement by the purchaser under FMS procedures, or from military assistance funds made available for that purpose under SA legislation prevailing at the time the transfer was made. An example of the requirements to transfer WRSA material is illustrated in section 509(a)(1) of the Foreign Relations Authorization Act, FY 1994 and FY 1995 [P.L. 103-236] with respect to the Republic of Korea. The Secretary of Defense in coordination with the Secretary of State was permitted to transfer to the Republic of Korea obsolete or surplus items in the DoD inventory which are in the WRSA for the Republic of Korea in return for concessions by the Republic of Korea. The authority expired on 29 April 1996 and required Congressional notification thirty days prior to the transfer which identifies the items transferred and the concessions to be given.

Section 112, P.L. 106-280, provided a similar transfer authority with the government of Israel that expired 6 October 2003. Section 13(a)(1) of the Department of State Authorities Act of 2006, P.L. 109-472, 11 January 2007, extended this transfer of WRSA for concessions authority to expire 5 August 2008. Section 13(a)(2) of P.L. 109-472 also amended section 514(b)(2), FAA, authorizing up to $200 million annually in WRSA stocks for Israel during FY 2007 and FY 2008, retroactive to 5

August 2006. This later authority period was extended into FYs 2011 and 2012 by section 302(b) of P.L. 111-266. The Israel Strategic Partnership Act of 2014, P.L. 113-296, 19 December 2014 amends Section 514(b)(2)(a), FAA, extending the annual WRSA transfer with Israel through FY 2015. Section 7034, Title VII, Div. K, S/FOAA, P.L. 114-113 extended War Reserve Stockpile Authority until 30 September 2017.

Country-Specific Legislation

Numerous legislative provisions are enacted annually which apply only to one specific country, or which may apply, on occasion, to a specified group of countries. Such statutes may range from a total prohibition on the provision of any form of U.S. assistance to a particular country, to a limited ban on furnishing certain types of assistance (e.g., a provision which prohibits military assistance but permits economic assistance). Thus, the S/FOAA for FY 2016 [Section 7007, P.L. 114-113] prohibits any direct assistance to Cuba, Iran, North Korea, or Syria. Fifteen percent of the FMF earmarked for Egypt is withheld until effective steps are made to improve various democratic and human rights issues [Section 7041(a), P.L. 114-113]. Of the funds provided by S/FOAA, at least 1.275 billion shall be made available for Jordan [Section 7041(d), P.L. 114-113]. No ESF funds are available for the Palestinian Authority [Section 7041(j), P.L. 114-113]. No S/FOAA funds may be used by Ethiopia for any activity that supports forced evictions [Section 7042(d), P.L. 114-113]. No S/FOAA funds may be made available for assistance of the Government of Sudan [Section 7042(j), P.L. 114-113]. Outside of continued DoS human rights and disaster response consultations with its armed forces no IMET or FMFP funds may be available for Burma [Section 7043(b), P.L. 114-113]. FMFP shall only be made available for humanitarian and disaster relief and reconstructions in Nepal, and in support of related international peacekeeping operations [Section 7044(c), P.L. 114-113]. For Sri Lanka, FMFP funds may only be made available for programs to redeploy, restructure, and reduce the size to the Sri Lankan armed forces and IMET funds may only be used for training related to international peacekeeping operations and E-IMET [Section 7044(e), P.L. 114-113]. The government of Haiti shall be eligible to purchase defense articles and services under the AECA (22 U.S.C. 2751 et seq.) for the Coast Guard [Section 7045(c), P.L. 114-113]. Several other countries are limited during FY 2016 in receiving funding assistance until certain legislated conditions are achieved and notified to Congress.

The statutory provisions which set forth such a prohibition regularly include the required conditions under which a specific ban may be removed. The statutory language usually calls for a determination by the President, and a Presidential report to Congress, that the subject country has taken appropriate action (as required by Congress) to resolve the issue which led to the original prohibition (e.g., improved its human rights practices, eliminated corruption involving the management of U.S. grant funds, crack down on illicit drug trafficking, etc.).

Weapons-Specific Legislation

A related regulatory provision involves what may be termed weapons-specific legislation. Such statutory provisions serve to restrict the sale of specific types of weapons to particular countries.

Depleted Uranium Anti-Tank Shells

The first such weapons-specific provision was introduced in FY 1987 when Congress placed a ban on the sale of depleted uranium (DU) anti-tank shells to any country other than the NATO member countries and the major non-NATO allies. This prohibition has been renewed annually through FY 1995 by Congress and in FY 1992, Taiwan was added to the list of exempted countries. FY 1996 legislation did not renew DU round restriction. However, P.L. 104-164 amended the FAA to reflect the DU round sales restriction and permanently exempting the NATO countries, MNNAs, Taiwan, and any country the President determines that such a sale is in the U.S. national security to do so [section 620G, FAA].

STINGER Missiles

A second weapons-specific statute was introduced in FY 1988 when Congress prohibited the U.S. from selling or otherwise making available STINGER man-portable, air defense missiles to any country in the Persian Gulf region, other than Bahrain. This provision had also been renewed annually by Congress through FY 1999 [section 530, P.L. 106-113]. However, effective with enactment on 6 October 2000, section 705, P.L. 106-280, provides an exception to the prohibition. A one-for-one transfer of STINGERs is authorized to any Persian Gulf country if the missile to be replaced is nearing the scheduled expiration of its shelf life.

Missile Technology Control Regime

Another type of armaments regulation was introduced in the National Defense Authorization Act, Fiscal Year 1991, P.L. 101-510, section 1703, which added to the AECA a new chapter 7, entitled, "Control of Missiles and Missile Equipment or Technology." This legislation reflects the provisions of a 16 April 1987 international statement, referred to as the Missile Technology Control Regime (MTCR), in which seven countries—United States, United Kingdom, Germany, France, Italy, Canada, and Japan—agreed to restrict the international transfer of sensitive missile equipment and technology. Under the provisions of chapter 7, sanctions may be applied against persons, defined to include individuals, corporations, and countries, which unlawfully transfer such equipment or technology. The sanctions range from the denial of USG contracts relating to missile equipment or technology, to the denial of all USG contracts, to the denial of all U.S. export licenses and agreements involving items on the USML. A waiver of these sanctions may be granted if the President determines and notifies Congress that such a waiver is either:

- Essential to the national security of the U.S.
- The offender is a sole source supplier of the product or service, and the product or service is not available from any alternative reliable producer, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments [sections 73(e) and (f), AECA]

Chemical and Biological Weapons

A similar regulatory program involving the transfer of chemical and biological (C/B) weapons was introduced in 1991 with the passage of the Foreign Relations Authorization Act for Fiscal Years 1992 and 1993. This legislation added a new chapter 8 to the AECA, entitled, "Chemical or Biological Weapons Proliferation," and it mandates a variety of sanctions that the U.S. may take against persons, companies, and countries that unlawfully aid in the transfer of C/B weapons or the illegal use of such weapons. The sanctions range from the denial of USG procurement contracts for a company that knowingly and materially contributed to the unlawful transfer of C/B weapons/technology to the termination of all U.S. foreign assistance to a government that has used such weapons. A Presidential waiver of such sanctions is authorized when such a waiver is either essential to U.S. national security interests or there has been a fundamental change in the leadership and policies of the foreign government [section 505(b), P.L. 102-138].

Anti-Personnel Land Mines

In a unique action, the National Defense Authorization Act, Fiscal Year 1993 established a one year moratorium on the transfer of anti-personnel land mines [section 1365, P.L. 102-484]. This legislation was proposed to serve as an interim step in obtaining an international agreement for prohibiting the sale, transfer, or export of these weapons and for limiting their use, production, possession, and deployment. This legislation specifically prohibits sales, the financing of sales, commercial exports, the issuing of licenses for the export of such land mines, or the furnishing of any foreign assistance

related to the transfer of such land mines during the period 23 October 1992 through 22 October 1993 [section 1365(d), P.L. 102-484].

Subsequent annual legislation extended the moratorium to 23 October 2014 [section 646, P.L. 110-161], and provided the permanent authority for the grant transfer of demining equipment available from USAID or DoS [section 7054(a), P.L.112-74]. The command-activated claymore mine has been legislatively defined as not an antipersonnel land mine [section 580(b)(2), P.L. 104-107]. Of interest are some of the statistics cited in the statute regarding anti-personnel land mines: over thirty-five countries are known to manufacture these weapons, and during the ten years from 1983 through 1992, the DoD approved the sale of 108,852 anti-personnel land mines and the DoS approved ten licenses for the commercial export of such land mines valued at a total of $980,000 [section 1423(a)4, P.L. 103-160]. This unilateral U.S. moratorium is seen by Congress to serve as a model for adoption by other countries, and diplomatic efforts are well underway, both through the UN and other multilateral means, to achieve an international use or transfer ban similar to the C/B weapons prohibition.

Cluster Munitions

Beginning in FY 2008, the transfer of cluster munitions or its technology shall not take place unless the sub-munitions, after arming, do not result in more than one percent unexploded ordnance across the range of intended operational environments. The transfer agreement must also specify that the munitions will only be used against clearly defined military targets and will not be used where civilians are known to be present or in areas normally inhabited by civilians [section 7054(b), P.L. 113-76].

Summary

Security assistance, like other USG programs, is governed by U.S. statute. The primary or basic laws are the FAA and the AECA. Funds are appropriated for SA in the annual S/FOAA, FY 20XX, and can be limited in its allocation until specified U.S. national interests are met. Even though certain SA sales programs, (such as foreign military cash sales and commercial sales) do not involve funding authorizations or appropriations, the Congress still has an interest in these programs and has incorporated certain control and reporting measures over the years into the law affecting these as well as the appropriated programs. Given the wide variety and complex details of these country-specific and weapons specific provisions, for additional information the reader is encouraged to consult the various legislative sources cited below.

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Attachment 2-1
U.S. Conventional Arms Transfer Policy (CATP)
Presidential Policy Directive (PPD-27)

The White House
January 15, 2014

Presidential Policy Directive—United States Conventional Arms Transfer Policy

PRESIDENTIAL POLICY DIRECTIVE/PPD-27

SUBJECT: United States Conventional Arms Transfer Policy

Conventional weapons have continued to play a decisive role in armed conflict in the early 21st century and will remain legitimate instruments for the defense and security policy of responsible nations for the foreseeable future. In the hands of hostile or irresponsible state and non-state actors, however, these weapons can exacerbate international tensions, foster instability, inflict substantial damage, enable transnational organized crime, and be used to violate universal human rights. Therefore, global conventional arms transfer patterns have significant implications for U.S. national security and foreign policy interests, and the U.S. policy for conventional arms transfer has an important role in shaping the international security environment.

United States conventional arms transfer policy supports transfers that meet legitimate security requirements of our allies and partners in support of our national security and foreign policy interests. At the same time, the policy promotes restraint, both by the United States and other suppliers, in transfers of weapons systems that may be destabilizing or dangerous to international peace and security.

Goals of U.S. Conventional Arms Transfer Policy

United States conventional arms transfer policy serves the following U.S. national security and foreign policy goals:

1. Ensuring U.S. military forces, and those of allies and partners, continue to enjoy technological superiority over potential adversaries.
2. Promoting the acquisition of U.S. systems to increase interoperability with allies and partners, lower the unit costs for all, and strengthen the industrial base.
3. Enhancing the ability of allies and partners to deter or defend themselves against aggression.
4. Encouraging the maintenance and expansion of U.S. security partnerships with those who share our interests, and regional access in areas critical to U.S. interests.
5. Promoting regional stability, peaceful conflict resolution, and arms control.
6. Preventing the proliferation of conventional weapons that could be used as delivery systems for weapons of mass destruction.
7. Promoting cooperative counterterrorism, critical infrastructure protection, and other homeland security priorities.
8. Combating transnational organized crime and related threats to national security.
9. Supporting democratic governance and other related U.S. foreign policy objectives.
10. Ensuring that arms transfers do not contribute to human rights violations or violations of international humanitarian law.

Process and Criteria Guiding U.S. Arms Transfer Decisions

Arms transfer decisions will continue to meet the requirements of applicable statutes such as the Arms Export Control Act, the Foreign Assistance Act, the International Emergency Economic Powers Act, and the annual National Defense Authorization Act, as well as the requirements of all applicable export control regulations and of U.S. international commitments.

All arms transfer decisions will be guided by a set of criteria that maintains the appropriate balance between legitimate arms transfers to support U.S. national security and that of our allies and partners, and the need for restraint against the transfer of arms that would enhance the military capabilities of hostile states, serve to facilitate human rights abuses or violations of international humanitarian law, or otherwise undermine international security. This includes decisions involving the transfer of defense articles, related technical data, and defense services through direct commercial sales, government-to-government transfers, transfers of arms pursuant to U.S. assistance programs, approvals for the retransfer of arms, changes of end-use, and upgrades. More specifically, all arms transfer decisions will be consistent with relevant domestic law and international commitments and obligations, and will take into account the following criteria:

- Appropriateness of the transfer in responding to legitimate U.S. and recipient security needs.
- Consistency with U.S. regional stability interests, especially when considering transfers involving power projection capability, anti-access and area denial capability, or introduction of a system that may foster increased tension or contribute to an arms race.
- The impact of the proposed transfer on U.S. capabilities and technological advantage, particularly in protecting sensitive software and hardware design, development, manufacturing, and integration knowledge.
- The degree of protection afforded by the recipient country to sensitive technology and potential for unauthorized third-party transfer, as well as in-country diversion to unauthorized uses.
- The risk of revealing system vulnerabilities and adversely affecting U.S. operational capabilities in the event of compromise.
- The risk that significant change in the political or security situation of the recipient country could lead to inappropriate end-use or transfer of defense articles.
- The degree to which the transfer supports U.S. strategic, foreign policy, and defense interests through increased access and influence, allied burden sharing, and interoperability.
- The human rights, democratization, counterterrorism, counterproliferation, and nonproliferation record of the recipient, and the potential for misuse of the export in question.
- The likelihood that the recipient would use the arms to commit human rights abuses or serious violations of international humanitarian law, retransfer the arms to those who would commit human rights abuses or serious violations of international humanitarian law, or identify the United States with human rights abuses or serious violations of international humanitarian law.
- The impact on U.S. industry and the defense industrial base, whether or not the transfer is approved.
- The availability of comparable systems from foreign suppliers.
- The ability of the recipient to field effectively, support, and appropriately employ the requested system in accordance with its intended end-use.
- The risk of adverse economic, political, or social impact within the recipient nation and the degree to which security needs can be addressed by other means.

Supporting Arms Control and Arms Transfer Restraint

A critical element of U.S. conventional arms transfer policy is to promote control, restraint, and transparency of arms transfers. The United States will continue its participation in the U.N. Register of Conventional Arms and the U.N. Standardized Instrument for Reporting Military Spending, in the absence of an international legally binding treaty that requires such transparency measures. The United States will continue to urge universal participation in the U.N. Register and encourage states reporting to the Register to include military holdings, procurement through national production, and model or type information for transfers, thereby providing a more complete picture of change in a nation's military capabilities each year. The United States will also continue to examine the scope of items covered under the Register to ensure it meets current U.S. national security concerns. Additionally, the United States will support regional initiatives to enhance transparency in conventional arms.

The United States will continue its participation in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, which began operations in 1996 and is designed to prevent destabilizing accumulations of conventional arms and related dual-use goods and technologies. By encouraging transparency, consultation, and, where appropriate, national policies of restraint, the Arrangement fosters greater responsibility and accountability in transfers of arms and dual-use goods and technologies. We will continue to use the Wassenaar Arrangement to promote shared national policies of restraint against the acquisition of armaments and sensitive dual-use goods and technologies for military end-uses by states whose behavior is a cause for serious concern.

The United States will also continue vigorous support for current arms control and confidence-building efforts to constrain the demand for destabilizing weapons and related technology. The United States recognizes that such efforts bolster stability in a variety of ways, ultimately decreasing the demand for arms.

The United States will not authorize any transfer if it has actual knowledge at the time of authorization that the transferred arms will be used to commit: genocide; crimes against humanity; grave breaches of the Geneva Conventions of 1949; serious violations of Common Article 3 of the Geneva Conventions of 1949; attacks directed against civilian objects or civilians who are legally protected from attack or other war crimes as defined in 18 U.S.C. 2441.

Also, the United States will exercise unilateral restraint in the export of arms in cases where such restraint will be effective or is necessitated by overriding national interests. Such restraint will be considered on a case-by-case basis in transfers involving states whose behavior is a cause for serious concern, where the United States has a substantial lead in weapon technology, where the United States restricts exports to preserve its military edge or regional stability, where the United States has no fielded countermeasures, or where the transfer of weapons raises concerns about undermining international peace and security, serious violations of human rights law, including serious acts of gender-based violence and serious acts of violence against women and children, serious violations of international humanitarian law, terrorism, transnational organized crime, or indiscriminate use.

Finally, the United States will work bilaterally and multilaterally to assist other suppliers in developing effective export control mechanisms to support responsible export control policies.

Supporting Responsible U.S. Transfers

The United States Government will provide support for proposed U.S. exports that are consistent with this policy. This support will include, as appropriate, such steps as: tasking our overseas mission personnel to support overseas marketing efforts of U.S. companies bidding on defense contracts; actively involving senior government officials in promoting transfers that are of particular importance to the United States; and supporting official Department of Defense participation in international air and trade exhibitions when the Secretary of Defense, in accordance with existing law, determines such participation to be in the national interest and notifies the Congress. The United States will also continue to pursue efforts to streamline security cooperation with our allies and partners, and in the conduct of conventional arms transfer policy and security cooperation policy, the United States Government will take all available steps to hasten the ultimate provision of conventional arms and security assistance.

This Directive supersedes Presidential Decision Directive/ NSC-34, dated February 10, 1995.

Chapter

3 United States Government Organizations

Introduction

U.S. security assistance (SA) and security cooperation (SC) programs have their roots in public law, which contains authorizations, appropriations, restrictions, and reporting requirements. To understand how this legislation is welded into a coherent, operational foreign policy program, it is appropriate to briefly discuss the roles of the three branches of the U.S. federal government with respect to international programs.

Legislative Branch: The Congress

Role of Congress

The Congress of the U.S., as provided by article I, section 1 of the U.S. Constitution, is vested with all legislative powers. In terms of SA/SC, Congressional power and influence are exercised in several ways:

- Development, consideration, and action on legislation to establish or amend basic SA/SC authorization acts
- Enactment of appropriation acts
- Passage of joint continuing resolutions to permit the incurrence of obligations to carry on essential SA/SC program activities until appropriation action is complete
- Conduct hearings and investigations into special areas of interest, to include instructions to the Government Accountability Office (GAO), the Congressional Budget Office (CBO), and Congressional Research Service (CRS) to accomplish special reviews
- Review of proposed arms transfers by foreign military sales (FMS), direct commercial sales (DCS), third country transfers, and leases
- Ratification of treaties which may have SA implications

A major dimension of the U.S. SA/SC framework is conventional arms transfers and sales. The ultimate authority for such sales resides in article I, section 8, of the Constitution, which assigns Congress the power to regulate commerce with foreign nations. Article IV, section 3, grants Congress the power to dispose of and make all necessary rules and regulations regarding the transfer of property belonging to the U.S. government (USG).

Committee Structure

The work of receiving and preparing legislation is performed largely by committees in both houses of Congress. The primary committees of Congress with SA responsibility for authorizations are the House of Representatives Committee on Foreign Affairs (HFAC) and the Senate Committee on Foreign Relations (SFRC). SA appropriations legislation, or the annual Department of State/Foreign Operations Appropriations Acts (S/FOAAs), are handled by the House of Representatives Committee

on Appropriations (HAC) Subcommittee on Foreign Operations (HACFO) and the Senate Committee on Appropriations (SAC) Subcommittee on Foreign Operations (SACFO).

At times, special topics in SA will be addressed by other committees such as the Armed Services, Banking, and Finance Committees. Most SC authorities have been generated by the Senate Armed Services Committee (SASC) and the House Armed Services Committee (HASC) with the annual national defense authorization act (NDAA).

Special Congressional Offices

Within the legislative branch, three offices have a significant impact on the conduct and management of the U.S. SA/SC program. The most prominent activities of the GAO are its audits and evaluations of USG programs and activities, conducted in response to requests from Congress, its committees, members, and staff. The GAO is under the control and direction of the Comptroller General of the U.S. The audit authority of the GAO extends to all departments and other agencies of the federal government. Among other functions, the GAO also has statutory authority to prescribe accounting principles and standards, and settle claims by and against the U.S. The CBO is tasked with the collection of data and with the analyses of alternative fiscal, budgetary, and programmatic policy issues. The Congressional Research Service (CRS) within the Library of Congress accomplishes special studies for the Congress. Often, these studies are concerned with SA/SC issues and policies.

Judicial Branch: The Courts

Article III, section 1 of the U.S. Constitution provides for the federal court system. Federal courts are responsible for interpreting federal laws and determining the constitutionality of U.S. law. Historically, the courts have had limited involvement in the day-to-day activities of SA. Judicial involvement is also possible should a contractor, who is providing materials or services under a Department of Defense (DoD) contract, decide to pursue legal remedy in the event of a dispute through an appropriate federal court.

Executive Branch: The President

Article II, section 1 of the United States Constitution establishes the President as the nation's chief executive and, by implication, the chief arbiter in matters of foreign policy. Furthermore, section 2 of this same article empowers the President, by and with the consent of the Senate, to make treaties and appoint ambassadors and other public ministers. Section 3 of article II authorizes the President to receive ambassadors and other public ministers—all essential facets of carrying out U.S. foreign policy. It is the President who presents the recommended annual U.S. SA/SC program and budget to the Congress for its consideration, and executes this program once it becomes law.

As the chief executive, the President is responsible for all of the activities of the executive branch. The President has numerous assistants, cabinet officers, and other subordinate officials to oversee the conduct of U.S. SA/SC programs (Figure 3-1).

Office of the President

The National Security Council (NSC) and the Office of Management and Budget (OMB) are two organizations within the Executive Office of the President that impact SA/SC.

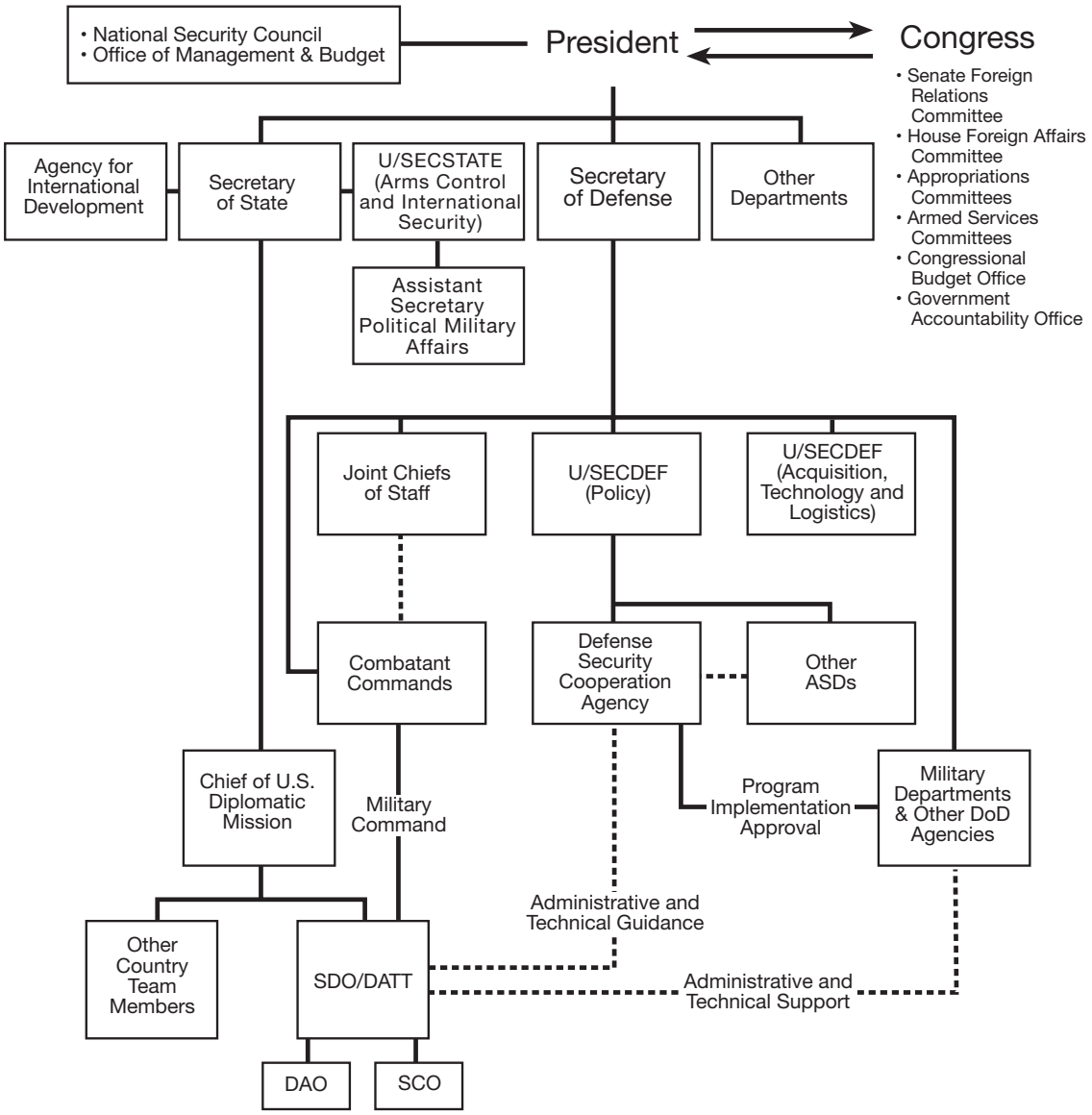
The NSC is chaired by the President. The function of the NSC is to advise the President with respect to the integration of domestic, foreign, and military policies relating to national security. As such the NSC is the organization that oversees the interagency process. The National Security Advisor (NSA) is charged with overseeing the effective integration of the interagency process. It is important to note that the Secretary of Defense and Chairman of the Joint Chiefs of Staff are both members of the NSC. During deliberations OSD Policy and Joint Staff J-5 do most of the work for DoD, and the Joint Staff

is the organization that represents the Geographic Combatant Commanders. The NSC is also involved in the review of the annual SA/SC budget proposal, as well as many proposed major arms transfers.

The OMB assists the President in the preparation of the annual USG budget and the formulation of the nation's fiscal program. Since SA/SC programs are part of the U.S. budget, OMB is interested in the impact the SA/SC programs have on DoD military and civilian manpower, facilities, and performing accounts, as well as the amounts of the appropriations themselves. The OMB also controls the apportionment of appropriated funds for obligation and expenditure in support of SA/SC activities.

Figure 3-1

U.S. Government Organization for Security Assistance and Security Cooperation



Department of State

The statutory role of the Secretary of State regarding SA is contained in section 622, of the Foreign Assistance Act (FAA), and section 2, Arms Export Control Act (AECA). Under the direction of the President, the Secretary of State shall be responsible for:

- The continuous supervision and general direction of economic assistance, military assistance, military education and training, and sales and export programs
- Determining whether there shall be a SA program, and whether there should be a sale, lease, or financing for a country and the value thereof
- Determining whether there will be a cooperative project and the scope thereof
- Determining whether there will be a delivery or other performance under the sale, lease, cooperative project, or export
- Ensuring such programs are effectively integrated with other U.S. activities, both at home and abroad, and that the foreign policy of the U.S. is best served thereby

The Under Secretary of State for Arms Control and International Security (T) is the senior adviser to the President and Secretary of State for arms control and is the focal point within Department of State (DoS) for SA matters. Approval of routine defense articles, services, and technology transfers has been delegated to the Under Secretary. Coordination of recommendations for significant defense transfers is prepared within this office. Figure 3-2 provides an overall organizational view of the Department of State and Figure 3-3 provides a more security assistance-focused view of the Department ranging from the Secretary to the applicable offices within the Bureau of Political-Military Affairs (PM) to the country team.

Responsibilities include active participation in the SA review process. In accordance with section 36(b)(1), AECA, for those proposed FMS agreements meeting the dollar threshold for advance notification of Congress, the preparation of an elevation to Congress (in consultation with the Secretary of Defense) of the manner in which the proposed sale might contribute to an arms race, increase the possibility of conflict, prejudice the negotiation of any arms control agreements, must be completed. A similar review is required for commercial arms exports licensed under section 38, AECA.

The Bureau of Political-Military Affairs (PM), headed by the Assistant Secretary of State for Political-Military Affairs (State/PM), has four principal SA functions:

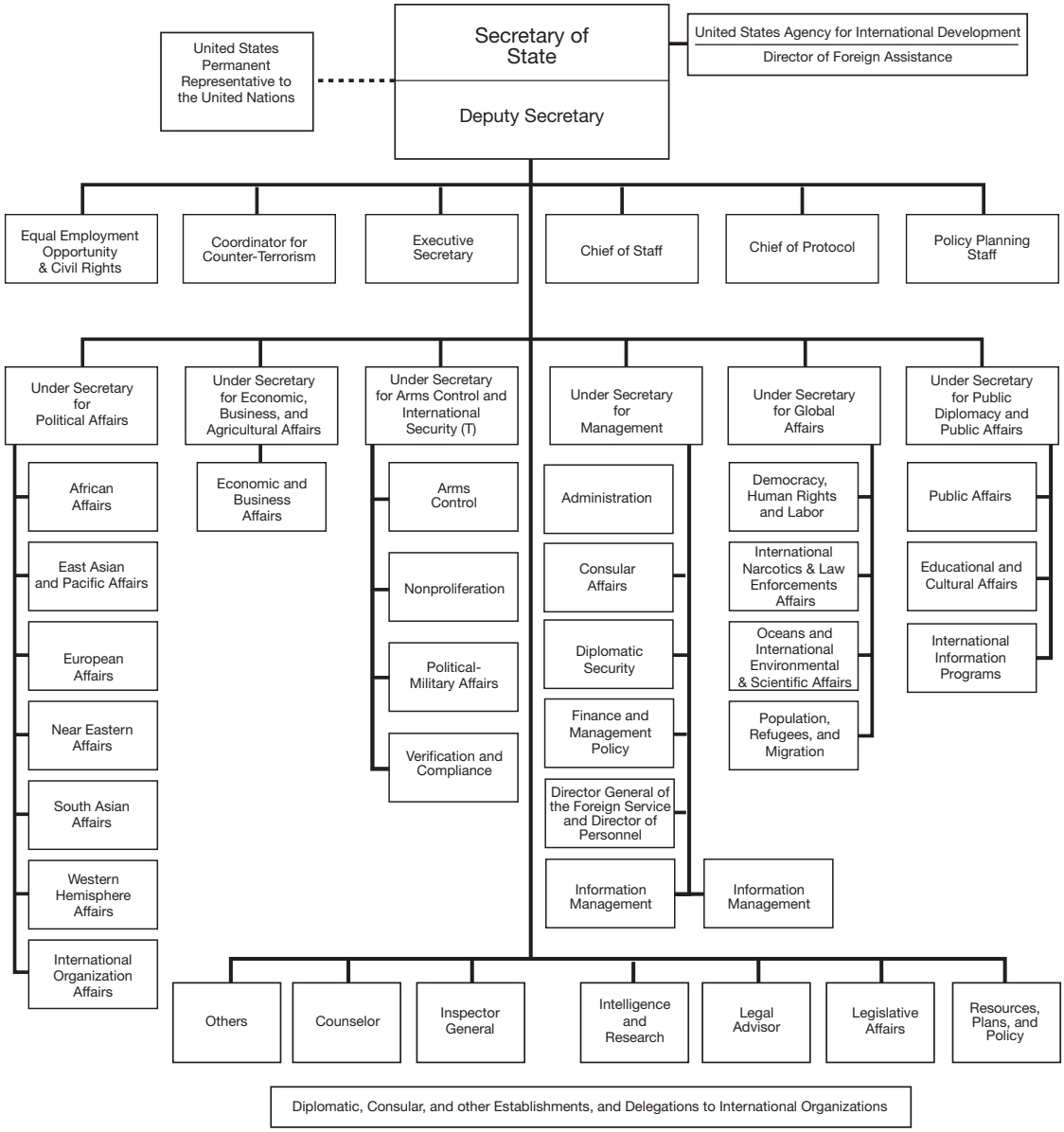
- Advise the Secretary on issues and policy problems arising in the areas where foreign policy and defense policy of the U.S. impinge on one another
- Serve as the principal liaison and contact between the DoS and DoD
- Take the lead in developing the positions of the DoS on political-military questions, including those under consideration within the NSC
- Assist the Secretary in carrying out responsibilities for supervision of the military assistance and sales programs and for licensing the commercial export of military equipment

Various offices within the bureau (refer to Figure 3-3) are concerned with general military strategic planning, policy development for the foreign policy aspects of nuclear energy and weapons, and matters concerning arms control and disarmament. Four offices within the bureau are specifically concerned with SA.

The Directorate of Defense Trade Controls (PM/DDTC) is responsible to the State/PM for the licensing of commercial exports of arms and materiel on the U.S. Munitions List (USML). The PM/DDTC maintains the International Traffic in Arms Regulations (ITAR) and the commercial sales reports which are required by Congress.

The Office of Regional Security and Arms Transfer Policy (PM/RSAT), responsible to State/PM, promulgates and oversees export control policy and coordinates government-to-government arms transfer authorization and denial decisions within DoS for the Secretary of State. PM/RSAT also receives and staffs all change of end-use and third party transfer requests from countries regarding defense articles, services, and training originally transferred by government-to-government agreements. It works closely with the DoD offices as described later in this chapter.

Figure 3-2
U.S. Department of State

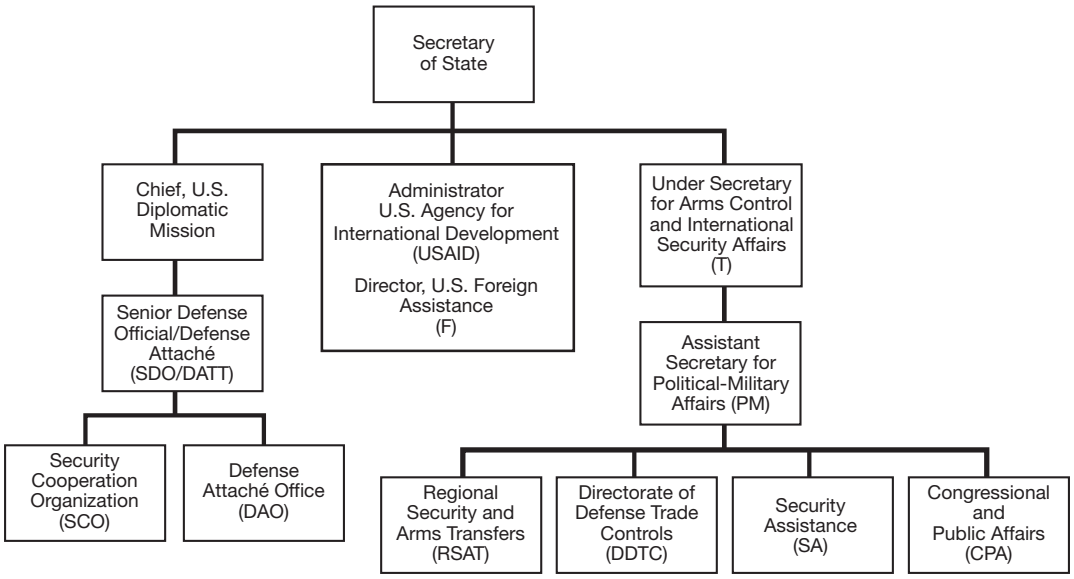


The Office of Security Assistance (PM/SA) is responsible to State/PM in providing cross-cutting political-military issues and programs, political-military planning, security sector assistance, and global peacekeeping (PKO). PM/SA coordinates within DoS the direction of U.S. military grant assistance (FMFP and IMET) through policy development, budget formulation, and program oversight.

The Office of Congressional and Public Affairs (PM/CPA) provides the information link between Congress and State/PM especially regarding any requests for additional information or justifications for proposed foreign military sales approved by State Department for notification by DSCA.

The Assistant Secretary of State for Democracy, Human Rights, and Labor is responsible for reviewing proposed SA programs and sales requests with respect to their impact on human rights in the country concerned. Additionally, in accordance with sections 116(d) and 502(B) of the FAA, the Secretary of State is required to submit to Congress by 25 February of each year a detailed analysis entitled *Country Reports on Human Rights Practices for 20XX*. The reference list for this chapter includes a link to this document. This compilation of reports describes the status of internationally recognized human rights in countries that receive U.S. assistance and in all other countries that are members of the United Nations (UN). The report is to be submitted as part of the presentation materials for SA programs proposed each fiscal year (FY). With direct input starting with the country teams, the Democracy, Human Rights, and Labor Bureau puts this required report together for the Secretary of State. During August and September, the Secretary promulgates formal human rights reporting instructions to the country teams for submissions no later than 1 October, with subsequent updating of significant events as they occur.

Figure 3-3
Security Assistance Offices within the Department of State



Within thirty days after submitting the annual human rights report, the Secretary of State must submit a listing of countries that engage in a consistent pattern of gross violations of internationally recognized human rights. Also, in a separate but related annual report, the Secretary must describe how the Foreign Military Finance Program (FMFP) budget proposal will be used to promote and advance human rights and how the U.S. will avoid identification with activities that are contrary to internationally recognized standards of human rights.

The Under Secretary of State for Political Affairs directs the activities of the geographic bureaus, which are responsible for U.S. foreign affairs activities in the major regions of the world. These seven bureaus are shown in Figure 3-2. They have a direct role in the SA budget formulation process and other day-to-day SA matters.

U.S. Agency for International Development

The U.S. Agency for International Development (USAID) carries out a variety of economic assistance programs designed to help the people of certain less developed countries develop their human and economic resources, increase productive capacities, and improve the quality of human life as well as to promote economic and political stability in friendly countries.

USAID performs its functions under the direction and foreign policy guidance of the Secretary of State. The agency is charged with central direction and responsibility for the U.S. foreign economic assistance program. The agency consists of a central headquarters staff in Washington, DC, and missions and offices overseas. The FAA authorizes the agency to administer three kinds of foreign economic assistance:

- Development assistance focuses on assistance programs in critical problem areas that affect the majority of the people in the developing countries, like providing food and agricultural development
- International humanitarian assistance
- Economic Support Fund (ESF), which is described in chapter 1 of this textbook

Beginning in 2006, the administrator for USAID was also appointed by the Secretary of State as the Director for Foreign Assistance (DFA) to include the appropriated SA programs. DFA is responsible to the Secretary of State for the development of U.S. foreign assistance program strategy and objectives and the preparation of the annual funding request to Congress to achieve these objectives. Once the Congressional appropriation process is completed, DFA is also responsible for the allocation of funding, by programs and countries, which is communicated to Congress via the section 653(a) FAA report.

U.S. Diplomatic Missions

Diplomatic missions located overseas have important roles in SA. The ambassador (or chief of the U.S. diplomatic mission) is either a career member of the Foreign Service Officer (FSO) Corps or a non-career political appointee, depending upon the desires of the President, and is the personal representative of the President. The ambassador reports to the President through the Secretary of State. The ambassador heads the country team, which may include the senior defense official/defense attaché officer (SDO/DATT), defense attaché officer (DAO), the chief of the U.S. Security Cooperation Organization (SCO), the political and economic officers, and any other embassy personnel desired by the ambassador. The U.S. diplomatic mission, the SDO/DATT, the SCO, and the DAO will be further addressed in chapter 4 of this textbook, "Security Cooperation Organizations Overseas."

Department of Treasury

The Department of Treasury is involved in SA through its role as financial agent for the USG and as a member of the NSC. The FMS trust fund account is a U.S. Treasury account; therefore, Treasury is most interested in the overall cash flow of this account. If a country's FMS account goes into a deficit or delinquent cash position, this is of special interest to the Treasury. The Treasury has a fiduciary interest in the appropriated or credit programs of SA as well.

Department of Justice

Although the thrust of this text is toward the export of defense articles and services in support of the U.S. SA program, the AECA also confers upon the President the function of controlling the import of arms, ammunition, and implements of war, including technical data, into the U.S. This function has been delegated by the President to the Attorney General and the Department of Justice (DOJ). The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) is the law enforcement agency controlling the import of defense articles. Designation by the Attorney-General of items as defense articles or services subject to import control must have the concurrence of the Secretaries of State and Defense [Executive Order No. 11958].

Department of Homeland Security

Duties of the former U.S. Customs Service within the Department of Treasury were transferred to the Department of Homeland Security (DHS) by the Homeland Security Act of 2002. DHS customs enforcement is divided between two agencies:

- U.S. Customs and Border Protection (CBP)
- U.S. Immigration Customs Enforcement (ICE)

CBP is responsible for reviewing DoS-issued munitions control export licenses at the U.S. port of departure and for the reporting of any irregularities. This agency also collects and compiles international trade statistics, some of which are SA related, and forwards them to the Bureau of the Census for compilation.

The Homeland Security Act of 2002 also transferred the U.S. Coast Guard (USCG) from the Department of Transportation (DOT) to the DHS. The USCG is a significant SA partner especially in the areas of maritime security, law enforcement, navigation, and safety. In keeping with its long tradition with the U.S. Navy, the USCG works closely with the Navy International Program Office (Navy IPO) in providing SA overseas.

Department of Commerce

The Department of Commerce (DOC) is involved with the U.S. SA program in several ways. One way is through its interface with the DoS and DoD with respect to civil items with the potential for military application (i.e., dual-use items). These items are on the Department's Commerce Control List (CCL) and a DOC license issued by the Bureau of Industry and Security (BIS) is required for their export. In other instances, technology transfer implications are an issue. Commerce also manages export administration and related activities, including advice and assistance on regulating exports through the licensing of U.S. goods and technology for purposes of national security and foreign policy. Chapter 7 of this textbook, "Technology Transfer, Export Controls, and International Programs Security," will provide further information.

Department of Transportation

The U.S. Maritime Administration (MARAD), which is part of the DOT, is also involved in SA. It has a responsibility to determine if foreign countries, through their freight forwarder agents, are properly using U.S. flag shipping for U.S.-funded SA programs. Chapter 11 of this textbook, "Foreign Military Sales Transportation Policy" provides additional information on U.S. flag shipping.

Department of Defense

The Department of Defense (DoD), from the standpoint of overall effort, has the greatest involvement in SA of any department within the executive branch. The addition of security cooperation responsibilities further increases DoD's involvement in international activities.

As prescribed by section 623, FAA, and section 42(d), AECA, the Secretary of Defense is charged with primary responsibility for carrying out the following SA functions:

- The determination of military end-item requirements
- The procurement of military equipment in a manner that permits its integration with service programs
- The supervision of end-item use by recipient countries
- The supervision of the training of foreign military and related civilian personnel
- The movement and delivery of military end-items
- The establishment of priorities in the procurement, delivery, and allocation of military equipment
- Within the DoD, the performance of any other functions with respect to the furnishing of military assistance, education, training, sales, and guarantees

Office of the Secretary of Defense

The Under Secretary of Defense for Policy [USD (P)] serves as the principal adviser and assistant to the Secretary for all matters concerned with the integration of departmental plans and policies with overall national security objectives, and exercises overall direction, authority, and control over SA matters through the various assistant secretaries of defense.

Relating to SA, the Director for Defense Technology Security Administration (DTSA) is responsible to the USD (P) for the coordination of technical data transfer decisions within DoD by using procedures established by the National Disclosure Policy (NDP-1). This is performed by the National Disclosure Policy Committee (NDPC), which also includes DoS, Joint Staff, and military department (MILDEP) representatives in its general membership along with representatives from other DoD agencies when applicable. DTSA/NDPC also manages the International Program Security (IPS) education and oversight programs within DoD.

DTSA is responsible for the DoD coordination of the proposed export of defense technology items through DCS to be licensed by the DoS, and dual-use technology commercial sales to be licensed by the DOC. Chapter 7 of this textbook, "Technology Transfer, Export Controls, and International Program Security," will discuss NDP, IPS, and DTSA processes and programs.

The Office of the USD(P) also includes five assistant secretaries:

- The Assistant Secretary for International Security Affairs [ASD(ISA)] responsible for DoD policy and oversight of security cooperation programs within Europe, the Middle East, Africa, and Western Hemisphere
- The Assistant Secretary for Asian and Pacific Security Affairs [ASD(APSA)] responsible for DoD policy and oversight of security cooperation programs within the Asian Pacific, South Asia, and Central Asia
- The Assistant Secretary for Homeland Defense and Global Security [ASD(HD&ASA)] responsible for DoD policy regarding homeland defense, civil support, crisis management, in addition to cyber, space, and countering weapons of mass destruction
- The Assistant Secretary for Strategy, Plans, and Forces [ASD (SPC)] responsible for nuclear and missile defense policy

- The Assistant Secretary for Special Operations/Low Intensity Conflict [ASD (SO/LIC)] responsible for DoD policy regarding special operations, strategic capabilities, stability operations, and forces transformation to include many DoD counter-narcotics, building partnership capacity (BPC), and humanitarian and disaster relief programs, and recently, security force assistance (SFA)

The Office of the Deputy Assistant Secretary of Defense for Security Cooperation [DASD (SC)] was established in 2014 and is responsible for prioritizing DoD bilateral and multilateral security cooperation activities and aligning security cooperation resources to defense strategy.

The Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics [USD (AT&L)] is responsible for the coordination of all international defense cooperative issues, to include cooperative research, development, production, acquisition, and logistics support programs. USD(AT&L) promulgates policies and procedures on a variety of SA functional areas, to include international coproduction agreements. USD(AT&L) also provides oversight to the Defense Contract Management Agency (DCMA) described later in this chapter.

Within USD(AT&L) is the Office of the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs [ASD (NCB)]. The Defense Threat Reduction Agency (DTRA) serves as the Combat Support Agency combined as the Director of the United States Strategic Command Center for Combating Weapons of Mass Destruction (SCC-WMD), over which the Commander, USSTRATCOM, has direct tasking authority. And, it provides technical and operational support to the Commander, Standing Joint Force Headquarters for Elimination; Agency is co-located at Ft. Belvior, Virginia, and together these three integrated elements form the "One Team" tasked with supporting the Department of Defense countering WMD strategic goals. One Team has a unique role in DoD efforts regarding countering weapons of mass destruction (CWMD), and supports a broad range of activities across the CWMD mission. As such, DTRA supports CWMD activities of the U.S. Government and its allies at the nexus between WMD and terrorism.

The Director for International Cooperation is responsible to USD (AT&L) for establishing policies for industrial base, dual-use technology, and international armament cooperation programs. Refer to Chapter 13 of this textbook, "Systems Acquisition and International Armaments Cooperation Programs," for further information regarding these programs.

The Director for Defense Research and Engineering (DDRE) assures considerations of rationalization, standardization, and interoperability in SA programs with North Atlantic Treaty Organization (NATO) allies, provides analysis of the risks of compromise of U.S. weapons systems, and participates in the technology transfer review process.

The Under Secretary of Defense (Comptroller) [USD(C)] is the DoD Chief Financial Officer (CFO) responsible for establishing policy and procedures involving financial management, fiscal matters, accounting, pricing, auditing, and international balance of payments as these matters relate to SA. The Director of the Defense Finance and Accounting Service (DFAS) is the focal point for SA matters within the office of the comptroller. The Defense Contract Audit Agency (DCAA) is the organization within the USD(C) responsible for the financial audit of DoD contracts to include those awarded in support of the FMS community.

The Directorate for Security Cooperation Accounting of the Defense Finance and Accounting Service (DFAS–IN) located in Indianapolis, Indiana, serves as the central bank for FMS. Its responsibilities include the operation of the DoD centralized FMS billing, collecting, and trust fund accounting system. The Indianapolis center is a component of DFAS, Washington, DC, which is responsible to the USD(C). Refer to chapter 12 of this textbook, "Foreign Military Sales Financial Management," for further information regarding the tasks performed by DFAS–IN.

The Under Secretary of Defense for Intelligence [USD(I)] is responsible for the management of intelligence processes within the DoD to include participation in the technology disclosure process and supervision of the Defense Security Service (DSS). DSS is responsible to the USD(I) for security issues within the U.S. defense industry. This also includes validating transportation plans in support of export licenses to be issued by the DoS for DCS. DSS also assists the NDPC when validating and assisting foreign defense industries' participation regarding international armaments cooperation. Refer to chapter 7 of this textbook, "Technology Transfer, Export Controls, and International Programs Security," for further information regarding the DSS role in SA.

Joint Chiefs of Staff

The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President. The Joint Staff constitutes the immediate military staff of the Secretary of Defense, serving as a coordinating agency in the chain of command that extends from the President through the Secretary of Defense to the commanders of geographic combatant commands (GCCs). The Joint Staff communicates instructions from the Secretary of Defense to the GCC, and furnishes the Secretary with information from the GCC.

The Joint Staff organization is a key participant in the SA program development and review process. The Joint Staff coordinates SC with U.S. military plans and programs, and provides the Secretary of Defense with military advice concerning SA/SC programs, actions, and activities to include:

- Recommending the selection, introduction, or redistribution of weapons systems in and among recipient countries, considering rationalization, standardization, and interoperability
- Recommending military force objectives, requirements, and priorities for actual or potential SA/SC recipients
- Determining the impact of SA/SC programs on U.S. programs and defense readiness
- Recommending SA/SC organizational and manpower requirements for SCOs and SA/SC personnel augmentations to defense attaché offices
- Recommending the designation of military services responsible for furnishing chiefs of SCOs, other than defense attachés, assigned SA/SC responsibilities
- For other than defense attachés assigned SA/SC responsibilities, recommending the nominations of individuals to serve as chiefs of SCOs and recommending tour extensions or curtailment for such individuals
- Assigning force activity designators to determine priorities in the allocation of defense articles among recipient nations and between recipient nations and the U.S. armed forces within guidelines established by the Office of the Secretary of Defense

The Joint Staff reviews certain proposed FMS cases for their impact on national security and ensures that SA/SC factors are included in the joint planning process. The focal point for SA/SC matters within the Joint Staff is the Weapons Technology Control Division, Politico-Military Affairs, with the Director for Strategic Plans and Policy (J-5/DDPMA-A/WTC). This office also represents the Joint Staff and the GCCs on the NDPC.

Geographic Combatant Commands

Six of the geographic combatant commands (GCCs) have responsibilities for the conduct of the U.S. SA/SC programs within their respective geographical regions. The following is a list of the GCCs:

- U.S. European Command (EUCOM)
- U.S. African Command (AFRICOM)
- U.S. Southern Command (SOUTHCOM)
- U.S. Pacific Command (PACOM)
- U.S. Northern Command (NORTHCOM)
- U.S. Central Command (CENTCOM)

With regard to SA/SC, the functions of the GCCs include the following:

- Make recommendations to the Joint Staff and the Secretary of Defense on any aspect of SA programs, projections, or activities
- Keep informed on all SA/SC matters, to include programs, projections, and activities
- Command, supervise, and support the SCOs in matters that are not functions or responsibilities of the chiefs of the U.S. diplomatic missions, including the provision of necessary technical assistance and administrative support to SCOs
- Coordinate and assist DoD components in the conduct of regional SA/SC programs and activities when required and practical
- Develop and submit, as directed by the Joint Staff, recommendations regarding organization, staffing, and administrative support of SCOs
- Keep the Secretary of Defense, Joint Staff, and MILDEPs informed on matters that could have an impact on SA/SC programs, or actions that could impact other DoD programs under their cognizance
- Ensure coordination of regional SA/SC matters with U.S. diplomatic missions and DoD components, as appropriate
- Conduct activities as directed, and when required, to ensure the efficient and effective administration of SA activities
- Provide evaluation, as required, of the efficiency and effectiveness of DoD overseas SA/SC organizations

Security Cooperation Organizations

The security cooperation organization (SCO) is the generic name for the DoD organization overseas with the primary responsibility for interfacing with the host nation on SA and SC programs. The SCO is normally co-located with the U.S. embassy in the country and is a part of the ambassador's country team. The SCO may be known by a variety of locally-specific titles such as Office of Defense Cooperation (ODC), Military Assistance Advisory Group (MAAG), Office of Security Cooperation (OSC), etc. The chief of the SCO is responsible to four authorities:

- Ambassador
- Senior defense official/defense attaché (SDO/DATT)
- Commander of the GCC
- Director, Defense Security Cooperation Agency (DSCA)

A detailed discussion of the duties and functions of the SCO and the SDO/DATT is presented in chapter 4 of this textbook, "Security Cooperation Organizations Overseas."

Department of Defense Agencies

Defense Security Cooperation Agency

As noted in DODD 5105.65, DODD 5132.3 and DSCA 5105.38-M, Security Assistance Management Manual (SAMM), Defense Security Cooperation Agency (DSCA) is established as a separate agency of the DoD under the direction, authority, and control of the USD(P). The principal SA functions of DSCA include:

- Administering and supervising SA planning and programs
- Coordinating the formulation and execution of SA programs with other governmental agencies
- Conducting international logistics and sales negotiations with foreign countries
- Serving as the DoD focal point for liaison with U.S. industry with regard to SA activities
- Managing the credit-financing program
- Developing and promulgating SA procedures, such as the SAMM
- Developing and operating the data processing system and maintaining the macro database for the SA program
- Making determinations with respect to the allocation of FMS administrative funds
- Administer assigned security cooperation programs
- Administer the implementation of any assigned security force assistance (SFA) activities

In 1998, DSCA assumed the responsibility for administering the USD(P) security cooperation programs of Humanitarian Mine Actions, Humanitarian Assistance, and Wales Initiatives. DSCA also has administrative management responsibilities for the DoD Combating Terrorism Fellowship Program (CTFP), DoD-funded/authorized security cooperation programs implemented using the pseudo-LOA process, and the five regional centers for security studies.

In accordance with DoD Directive 2140.5, the Defense Institute of Security Cooperation Studies (DISCS) has the following responsibilities:

- The conduct of courses of study that will prepare military (U.S. and foreign) and civilian (USG, foreign, and U.S. contractor) personnel for assignments in SA management positions
- Conduct research in defense SA concepts and methods
- Assemble and disseminate information concerning new policies, methods, and practices
- Provide consulting services to the Office of Secretary of Defense (OSD) and the MILDEPs

DISCS is organized as a directorate within DSCA but located at Wright-Patterson Air Force Base, Ohio. The U.S. Air Force, as the executive agent, provides logistics and administrative support to DISCS with reimbursement from DSCA.

The Defense Security Assistance Development Center (DSADC) was established in October 1997 to develop the Defense Security Assistance Management System (DSAMS). DSADC is located in Mechanicsburg, Pennsylvania. Like DISCS, DSADC is organized as a directorate within DSCA.

The Defense Institute of International Legal Studies (DIILS) provides expertise through resident courses and mobile education teams on over 250 legal topics, with an emphasis on disciplined military operations. DIILS, located in Newport, Rhode Island, is likewise organized as a directorate within DSCA.

The DoD Humanitarian Demining Training Center (HDTC) prepares U.S. forces to conduct humanitarian mine action missions in land mine-affected countries. The center directly supports U.S. engagement policy in humanitarian mine action through a "train-the-trainer" approach to land mine mitigation and indigenous capacity development. HDTC is located at Fort Leonard Wood, Missouri, and is a directorate within DSCA.

Defense Logistics Agency

The Defense Logistics Agency (DLA) is a DoD agency within the USD(AT&L) organization, headquartered at Ft. Belvoir, Virginia, under the control of the Deputy Under Secretary of Defense for Logistics and Materiel Readiness. The mission of DLA is to provide support to the military services, other DoD components, federal civil agencies, and foreign governments. Such support includes providing assigned materiel commodities and items of supply, logistics services, and other support services. To accomplish this mission, DLA has the following organizations:

- The DLA logistics operation directorate was established from the resources of materiel management directorate of Headquarters, DLA, located at Ft. Belvoir, Virginia. It assumed all of the former materiel management missions, functions, and organizations, to include the following organizations that support U.S. SA programs:
  - ◊ DLA Logistics Information Service, Battle Creek, Michigan, operates the federal catalog system for the entire USG. It also provides cataloging services to NATO and other foreign countries
  - ◊ DLA Disposition Services, also located at Battle Creek, Michigan, is responsible for the conduct of FMS sales of DoD and other USG agency-generated excess property
- The inventory control points (ICP), which include the various defense supply and support centers, provide supply management for items that are common among the U.S. services, and provide items to foreign purchasers based upon requests transmitted by the various U.S. services

DLA is also responsible for what is referred to as the military standard logistics systems. These include the following:

- The DLA Transaction Services (formerly the Defense Automatic Addressing System [DAAS])
- The *Military Assistance Program Address Directory* (MAPAD)
- The *Military Standard Requisitioning and Issue Procedures* (MILSTRIP)

Defense Contract Management Agency

The Defense Contract Management Agency (DCMA) and its area offices, administer, on behalf of defense and MILDEP acquisition offices, FMS contracts at numerous contractor facilities throughout the world. It can also provide quality assurance for DCS, if such service is requested and purchase by the foreign government from the Defense Contract Management District-International (DCMDI). Other services include pre-award surveys, price reviews, and production surveillance. DCMA is located within the USD(AT&L) organization.

Defense Contract Audit Agency

The Defense Contract Audit Agency (DCAA) is a separate agency under the control of the [USD(C)] to audit DoD contracts. Through its field audit offices, it provides audit services for many FMS-related contracts.

Defense Language Institute English Language Center

The Defense Language Institute English Language Center (DLIELC), located at Lackland Air Force Base, Texas, operates under the command and control of the Air Force's Air Education and Training Command (AETC). The center is tasked by the Army, Navy, and Air Force, under provisions of a joint regulation. It is responsible for the conduct, supervision, and technical control of English language training programs for non-English speaking foreign and U.S. service personnel.

National Geospatial-Intelligence Agency

The National Geospatial-Intelligence Agency (NGA) offers support on matters of mapping and charting to foreign countries under the U.S. SA program. NGA components include:

- NGA Headquarters, Fairfax, Virginia
- NGA Aerospace Center, St. Louis, Missouri
- NGA Hydrographic/Topographic Center, Bethesda, Maryland
- Defense Mapping School, Fort Belvoir, Virginia
- NGA Systems Center, Reston, Virginia

Other DoD Agencies

The following additional DoD agencies are authorized to receive letters of request and prepare USG offers to sell defense articles or services.

- Defense Information Systems Agency (DISA), Fort Meade, MD
- Defense Threat Reduction Agency (DTRA), Fort Belvoir, VA
- Missile Defense Agency (MDA), Washington, DC
- National Security Agency (NSA), Fort Meade, MD

Military Departments

The Secretaries of the MILDEPs serve as advisers to the Secretary of Defense on all SA and SC matters impacting on, or related to, their departments and shall act for the Secretary of Defense where responsibility for actions is delegated. In carrying out their responsibilities, the Secretaries:

- Provide the Secretary of Defense recommendations considered appropriate and necessary to ensure the successful conduct of SA, including its interface with and support of MILDEP policies, objectives, plans, and programs
- Provide data, upon request, pertaining to price, source, availability, and lead time for use in developing and reviewing SA programs, including FMS cases
- Provide to elements of the OSD, Joint Staff, GCCs, and SCOs, as appropriate, technical information as to weapons systems, tactics and doctrine, training, and pertinent logistic support

- Conduct training, and acquire and deliver defense articles and services included in approved programs
- Coordinate and establish delivery schedules and necessary internal procedures for follow-up, expediting, and related actions during the implementation of approved programs
- Provide such other technical assistance and facilities to elements of OSD as necessary to promote efficiency and economy in SA/SC matters
- Within policies and criteria established by the USD(P), and under direction of the Director, DSCA, make sales of defense articles and services to eligible countries and international organizations
- Integrate acquisition for SA/SC with military service acquisition programs in accordance with policy guidance provided by the Director, Defense Research and Engineering (DDR&E)
- Maintain appropriate records and furnish prescribed reports within the scope of their responsibilities
- Obtain from the GCCs and SCOs such data as may be needed to carry out assigned responsibilities
- With respect to the area or areas assigned, provide administrative support needed to carry out SA functions, subject to the direction and policy guidance of USD(P)
- In accordance with approved tables of distribution and other authorizations, directives, and requests, recommend and provide qualified military personnel to carry out SA/SC assignments
- Assist the USD(P) and the Director, DSCA, as requested, in government-to-government or interdepartmental discussion involving SA policies, plans, and programs
- Assist the USD(P) and the Director, DSCA, as requested, in government-to-government negotiations involving SA and the Director for International Cooperation, or designee in government-to-government negotiations involving international armaments cooperation arrangements

Department of the Army

Subject to the authority, direction, and control of the Assistant Secretary of the Army (Acquisition, Logistics and Technology (ASA(ALT)), the Deputy Assistant Secretary of the Army (Defense Exports & Cooperation) (DASA(DE&C)) leads, manages, resources, and directs policy and strategy for the conduct of select elements of the U.S. Army's global SC activities, including: Foreign Military Sales (FMS); foreign military/national training and education; Armaments Cooperation; non-Special Access Program technology transfer; and export policy. The DASA(DE&C) ensures that all ASA(ALT)-managed SC programs are conducted according to law and policy and has direct tasking authority for execution of delegated SC responsibilities to the U.S. Army Security Assistance Command (USASAC), the U.S. Army Security Assistance Training Field Activity (SATFA), the U.S. Army Corps of Engineers (USACE), and the U.S. Army Medical Command (MEDCOM).

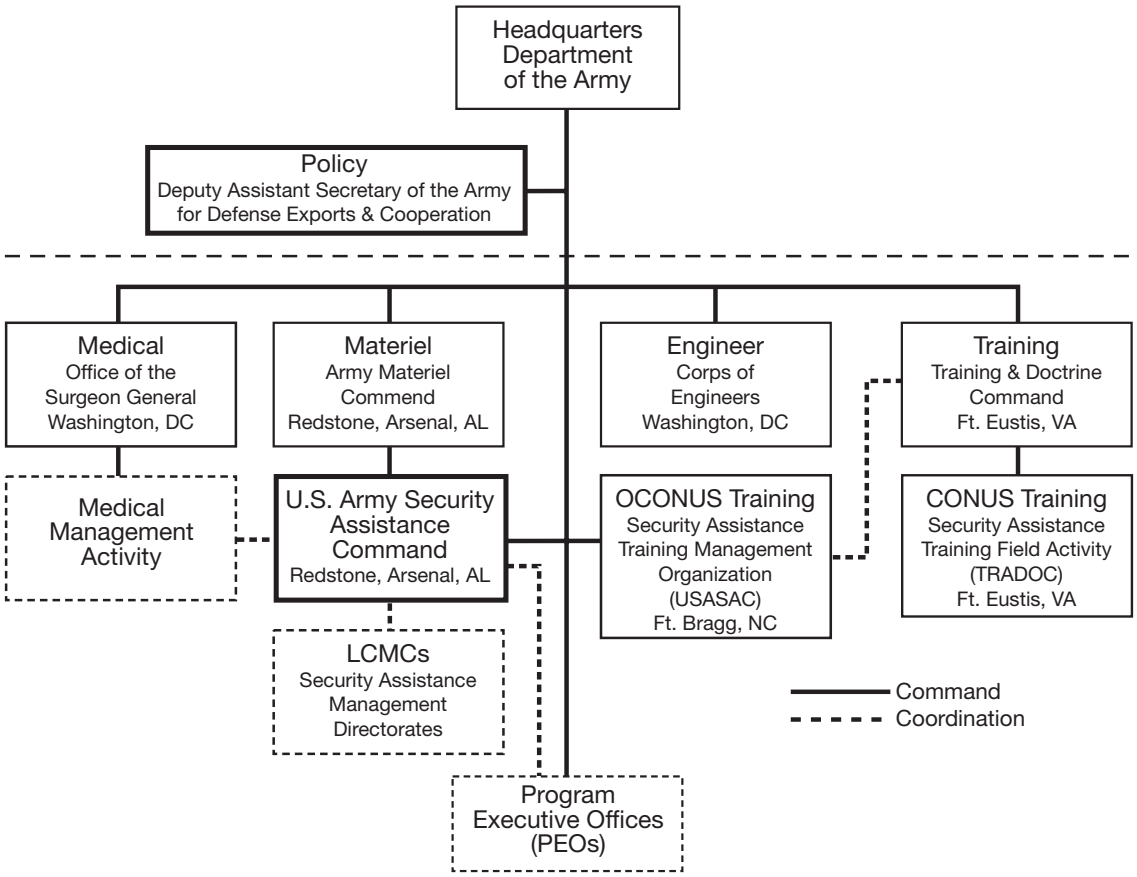
The commander, U.S. Army Material Command (AMC), is the Department of the Army Executive Agent for provision of defense articles and services, to include total life-cycle management of those SC and SA activities for which it is responsible. AMC delegates AMC SA Enterprise responsibilities to USASAC, which is separated into distinct operations. USASAC Headquarters – which houses the Commander, Command and Special Staff Support, and Regional Operations Directorates – is located in Redstone Arsenal, AL. The USASAC International Logistics Control Office operations are located in New Cumberland, PA. USASAC also possesses a Washington Field Office, which

maintains liaison with partner nations and DoD organizations in the D.C. area. Finally, overseas training team management and organization is the responsibility of USASAC's Security Assistance Training Management Organization (SATMO), located at Fort Bragg, NC.

The Commander, U.S. Army Training and Doctrine Command, is the Department of the Army Executive Agent for SC and SA institutional training with those functions delegated to SATFA. SATFA, located at Fort Eustis, VA, manages U.S. Army training solutions for international military students (IMS). SATFA manages FMS training cases, SA/SC grant program funds, course listings/prices, coordinates SC Training/Professional Military Education requirements in the Structure Manning Decision Review/Training Resource Arbitration Panel, and provides assistance to IMS Student Officers.

USACE, headquartered in Washington, D.C., is responsible for Letter of Request (LOR) receipt, Letter of Offer and Acceptance (LOA) development/implementation, and execution of facility infrastructure design and construction for SA, BPC, and Foreign Assistance Act Section 607 programs using the FMS mechanism. USACE provides services using in-house USACE personnel and contracted services. USACE provides services that include, but are not limited to, planning, design, construction, design/construction management, and technical assistance in the areas of infrastructure, water resource management, environment and sustainability, programs/project management, geospatial/engineering, and sustainment.

Figure 3-4
Department of the Army Functional Organization for SA/SC



The Commander, MEDCOM, exercises Command and Control of the U.S. Army's medical, dental, and veterinary treatment capabilities with SC and SA functions delegated to MEDCOM's major subordinate commands. U.S. Army Medical Material Agency (USAMMA), headquartered in Fort Detrick, MD, serves as the U.S. Army's Life-Cycle Management Command (LCMC) for strategic medical acquisition, project management and logistics programs. Under the technical control of USASAC, USAMMA manages medical foreign military sales from pricing availability through case closure. In addition, the U.S. Army Medical Research and Materiel Command in coordination with ASA(ALT), operates as the lead agency for cooperative medical research and development with international partners. Finally, the U.S. Army Medical Department Center and School is a leading provider of international military medical education and training services.

The Army is decentralized in the preparation and management of LOAs. LOAs involving AMC-provided materiel and services are managed over their life cycle by Country Program Managers at USASAC. The applicable LCMC Security Assistance Management Directorate is responsible for developing the LOA prior to being offered and implemented by USASAC. USAMMA manages medical LOAs after USASAC implementation. SATFA and USACE independently develop, implement, and manage LOAs for their respective capabilities.

Department of the Navy

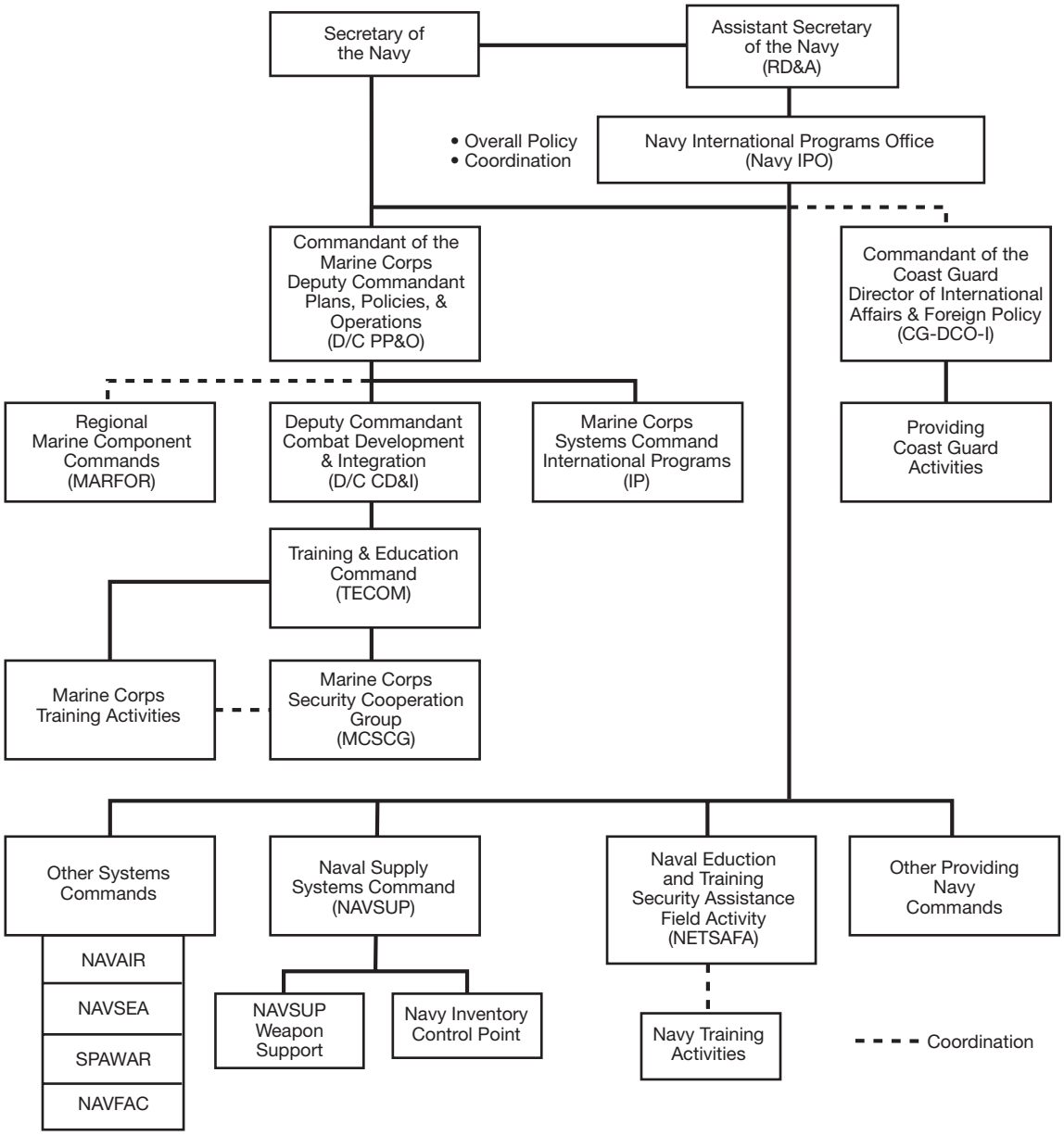
The principal Navy organization for handling SC matters is the U.S. Navy International Programs Office (Navy IPO), located in the Washington Navy Yard in Washington, DC. Under the direction of the Assistant Secretary of the Navy for Research, Development, and Acquisition (ASN-RD&A), Navy IPO formulates and implements Navy SA/SC policy, and interfaces with other government agencies. Sales negotiations for all types of Navy service FMS requirements are carried out by Navy IPO (Figure 3-5).

Detailed management of the Department of the Navy SA/SC programs occurs at the systems commands and at the Naval Education and Training Security Assistance Field Activity (NETSAFA), which is located in Pensacola, Florida. Within each system's command and in NETSAFA, an SA/SC coordination office oversees and monitors the command's SA/SC business. However, the program management office or training activity that manages the U.S. Navy acquisition or school will be tasked with the execution of the FMS requirement for its product. Follow-on support FMS cases are managed at Navy Supply Command Weapon Systems Support–OF located both in Mechanicsburg, Pennsylvania, and Philadelphia, PA.

Although the U.S. Marine Corps (USMC) is a separate service within the Department of the Navy, Navy IPO is the entry point for all requests for USMC SA/SC. The U.S. Marine Corps Systems Command (International Programs), located at Quantico, Virginia, executes all FMS for systems and logistics, international procurement matters, international armaments programs, and the facilitation of all exercises involving international forces operating with the USMC or utilizing USMC facilities. The U.S. Marine Corps Security Cooperation Group (MCSCG), located at the Joint Expeditionary Base, Little Creek–Fort Story, Virginia, coordinates, manages, and implements all SA/SC education and training for the USMC. Deployment of USMC training teams is through the appropriate regional USMC component command and USMC forces command.

Although a component of the DHS and not the DoD, the USCG participates in certain SA programs. The Headquarters, USCG, Director of International Affairs and Foreign Policy (CG-DCO-I), located in Washington DC, coordinates USCG SA/SC policy and directs the performance of SA programs on behalf of the Commandant of the USCG. USCG operating units, training centers, and inventory control points may provide U.S. defense articles and services to foreign customers through the SA/SC program.

Figure 3-5
Department of the Navy Functional Organization for SA/SC



Department of the Air Force

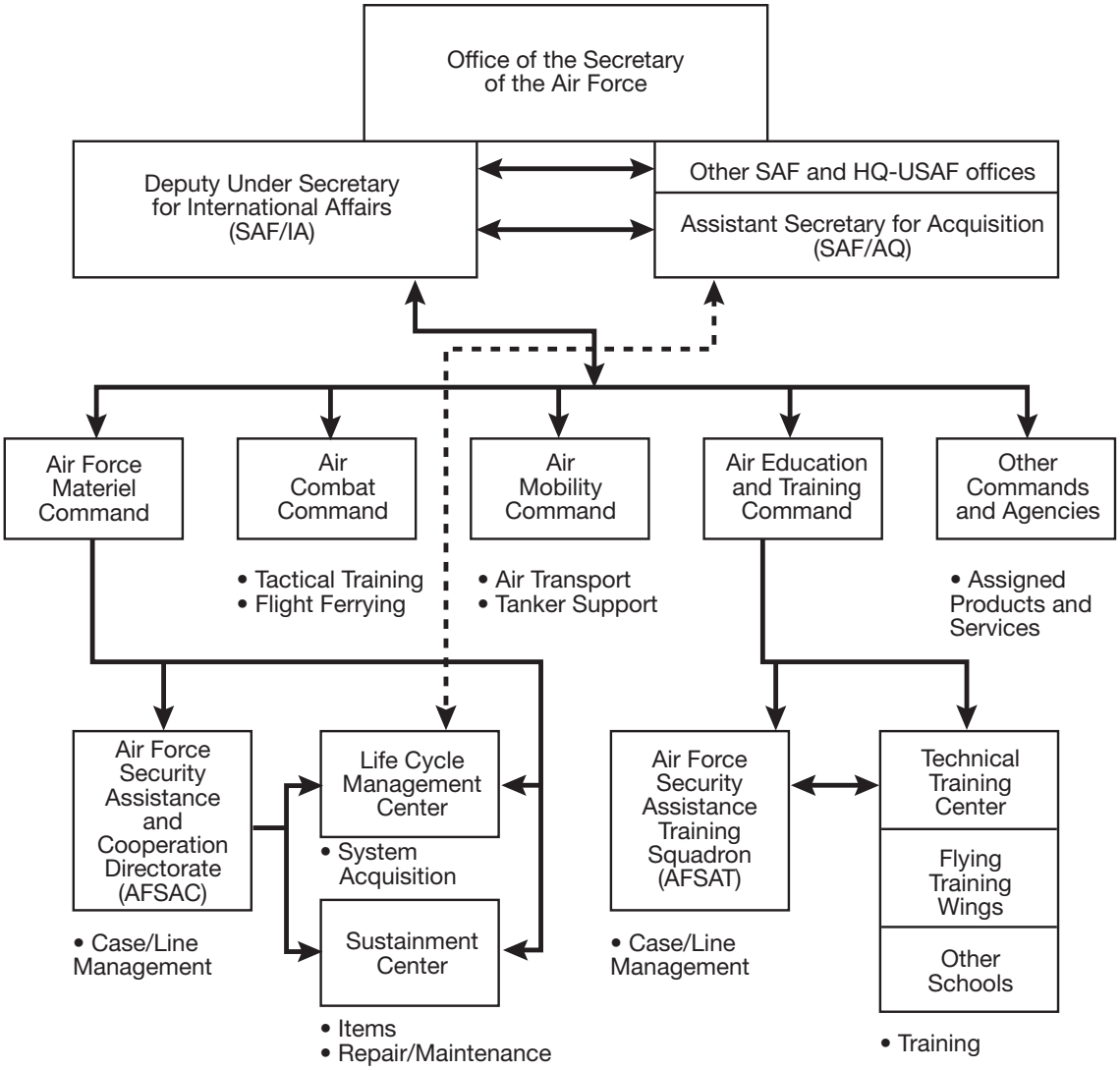
The office of the Secretary of the Air Force, Deputy Under Secretary for International Affairs (SAF/IA) develops, implements, and oversees SA/SC activities assigned to the U.S. Air Force by OSD. It is the office of primary responsibility for the central management, direction, guidance and supervision of the Air Force portion of SA/SC programs for foreign nations and international activities. The Assistant Secretary of the Air Force for Acquisition (SAF/AQ), by virtue of having responsibility for Air Force acquisition, has a coordinating role in the development of LOAs for major acquisition cases and an oversight role in their execution. Both SAF/IA and SAF/AQ are located in Washington, DC.

For follow-on support that will be provided from Air Force Materiel Command (AFMC) assets, the Air Force Security Assistance and Cooperation (AFSAC) Directorate at Wright-Patterson Air Force Base, Ohio, prepares, processes, and oversees the performance of the applicable FMS cases. AFSAC has also assumed from SAF/IA the writing of system sales cases.

Within an FMS case, Air Force directs the management of its FMS business on a line-by-line basis. SAF/IA or AFSAC, as applicable, assigns line management responsibility to the major command having cognizance over the article or service being provided and a Security Assistance Program Manager (SAPM) to oversee the development and execution of major FMS system acquisition LOAs (See Figure 3-6).

Detailed management of USAF SA/SC training cases is conducted by the Air Force Security Assistance Training (AFSAT) Squadron, a component of the Air Education and Training Command (AETC). Both AFSAT and AETC are located at Randolph Air Force Base, Texas.

Figure 3-6
Department of the Air Force Functional Organization for SA/SC



Summary

The development and management of the U.S. SA/SC program requires the active participation and cooperation of all branches of the USG. Within the executive branch, there are several departments that have a particularly active role. By law, the Secretary of State is responsible for the continuous supervision and general direction of the SA program. Other departments and offices, e.g., DoD, DOT, DOC, and OMB have a supportive role as well. The DoD has perhaps the largest supportive role from a level-of-effort standpoint.

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Chapter

4 Security Cooperation Organizations Overseas

Introduction

As indicated in chapter 3 of this textbook, "U.S. Government Organizations," the security cooperation organization (SCO) is only one of numerous organizations within the United States government (USG) and the Department of Defense (DoD) that contribute to the security cooperation (SC) and security assistance (SA) mission. However, the role of the SCO is unique in that it acts as the primary interface with the host nation on all SA/SC issues. Equally important, the SCO is generally the lead organization within each Combatant Command (CCMD) for facilitating most of DoD's SC programs in the country assigned.

As defined in DODD 5132.03, SC should be as simple as the ABCs—Access, Building Relationships, and Capability/Capacity building of the host nation security forces. However, the complexities of these "simple" mission areas keep the SCO intensely engaged, both with USG elements and the host nation. It is vital the SCO has access to host nation counterparts to ensure USG objectives can be met. Central to this access are the SCO's relationships with the host nation; in some cases, personal relationships are required before professional interactions will be entertained. Developing these crucial relationships takes time and patience—the security cooperation business is not a flash-in-the-pan enterprise. Finally, the SCO's fundamental task is to effect USG foreign policy—in many cases, to build host nation capabilities and capacity to meet future USG and host nation challenges. This chapter outlines the roles, responsibilities, interfaces, and work environment of the SCO.

Definition and Purpose of the Security Cooperation Organization

Joint Publication 1-02 defines the generic term "SCO" as all DoD elements located in a foreign country with assigned responsibilities for carrying out security assistance/cooperation management functions. It includes military assistance advisory groups, military missions and groups, offices of defense and military cooperation, liaison groups, and defense attaché personnel designated to perform security assistance/cooperation functions. The SCO performs its security assistance/cooperation management functions under the Foreign Assistance Act (FAA), the Arms Export Control Act (AECA), as well as other authorities.

From this point forward, note that the leader of the SCO in the embassy is the Senior Defense Official/Defense Attaché (SDO/DATT). There is much more information to follow on the SDO/DATT, but be advised that the terms are being used interchangeably as they refer to the security cooperation office. The SDO/DATT has many other roles and responsibilities, but this text will reference that person as the SCO leader.

Throughout this textbook, the term "SCO" refers not only to the organization, but to each of its assigned personnel (i.e., security cooperation officers). Although SCO is used as a generic name, each specific SCO has its own formal title or designation. Attachment 4-8 contains a list of the current SCO designations around the world. In many instances, these organizational titles were established through joint diplomatic agreement between the USG and the host nation.

Security Cooperation Office Functions and Responsibilities

The references for SCO functions and responsibilities originate from the four primary sources (legislative, DoD, DSCA, and administrative/logistical).

Legislative Guidance

The U.S. Congress has maintained a keen interest in the activities of USG personnel assigned overseas to perform SA functions. As noted in chapter 2 of this textbook, section 515(a) of the FAA outlines the seven legislated SCO SA functions as follows:

- Equipment and services case management (i.e., FMS case management)
- Training management
- Program monitoring
- Evaluation and planning of the host government's military capabilities and requirements
- Administrative support
- Promoting rationalization, standardization, interoperability (RSI), and other defense cooperation measures
- Liaison functions exclusive of advisory and training assistance

Also noted in chapter 1 and 2, Congress has been amenable to requests from the Department of State (DoS) and the DoD to modify annual and statutory authorizations and appropriations to meet SC needs. To that end, over 100 "programs" exist that could be used to potentially engage our partners. Each program has legislative restrictions (e.g., start and stop dates, availability/quantity/source of funds, specificity of partners, etc.) of which the SCO must be aware before applying SC solutions to in-country problem sets.

Department of Defense Guidance

In addition to legislative direction, DoD guidance is found in a variety of documents, many of which are listed as references at the end of this chapter. However, four primary DoD documents directing SC are DODD 5132.03, *DoD Policy and Responsibilities Relating to Security Cooperation;* DODD 5205.75*, Department of Defense Operations at U.S. Embassies*; DODI 5132.13*, Staffing of Security Cooperation Organizations (SCOs) and the Selection and Training of Security Cooperation Personnel*, and *DoD Guidance for Security Cooperation, August 29, 2016*. These directives provide guidance to entities within DoD for the policy oversight and resourcing of SC personnel and activities.

Defense Security Cooperation Agency Guidance

To implement the FAA and DoD guidance, the DSCA publishes the electronic DSCA Manual 5105.38-M, *Security Assistance Management Manual (SAMM)*. It provides DoD-wide guidance to the Office of the Secretary of Defense (OSD), the Military Departments (MILDEPs), the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Defense Agencies, the DoD Field Activities, the SCOs, and all other organizational entities within the DoD engaged in the management or implementation of DoD SA/SC programs over which DSCA has responsibility, in accordance with the Foreign Assistance Act (FAA), the Arms Export Control Act (AECA), U.S.C. Title 10, and DoD Directive 5132.03, and related statutes and directives. SAMM chapter 2 lists the fundamental responsibilities for SCOs, with detailed instructions in the subsequent 14 chapters.

Military Service Guidance

Tri-service administrative and logistical guidance for SCOs is found in *Administrative and Logistical Support of Overseas Security Assistance Organizations*, AR 1-75, SECNAVINST 4900.49, and AFI 16-104 (inter-service). This regulation assigns responsibilities and provides guidance for assignment of personnel to security assistance organizations; morale, welfare, and recreational activities of security

assistance organization personnel; development of the security assistance organization budget and fiscal procedures; preparation of Joint Tables of Allowances; and settlement of Foreign Military Sales claims of foreign governments against security assistance organization personnel.

Building Key Relationships

The SCO is responsible for the development and maintenance of professional working relationships that advance U.S. strategic objectives. Key relationships include the Ambassador's country team and the partner nation. Additional actors include the DoS; CCMD country desk officers and supporting staff, as well as the military service component commands; Office of the Secretary of Defense (i.e., Undersecretaries for Policy; Acquisition, Technology, and Logistics; and Comptroller); and U.S. defense industry.

SCO Interaction and Relationships

To be effective, SCO personnel must cultivate relationships with, and respond to, a variety of organizations, and agencies. Many organizations and individuals lay claim to SCO resources in furthering their own missions and agendas, occasionally giving rise to conflicts in priorities and competing interests. However, the President's Letter to the Ambassador reflects the FAA section 515, and unambiguously states, in part, that the Ambassador has full authority over all executive branch elements (including the SCO) on his staff. As diplomat-warriors, it is not unreasonable to say "the SCO works for the ambassador, but does the work of the Combatant Commander" (insofar as it does not conflict with the Ambassador's direction). It is important to note that the DoS title of Ambassador is equivalent to the military rank of O-10 (four-star general).

Ambassador as Team Chief

The Ambassador, as personal representative of the President, is sole head of the country team. The Ambassador uses the team as a tool for assembling the best information, ideas, and judgments of all USG officials in country and to produce effective action to reach USG objectives. The entire staff must be molded into a cohesive unit, with a common sense of purpose and direction. The Ambassador must keep in perspective all U.S. interests and activities in the country; he/she ensures that recommendations of the country team are balanced and that the enthusiasm or partiality of employees for their own programs does not carry them astray. The Ambassador must balance all the implications of proposed courses of action and decide what is best for American interests as a whole. Among a wide variety of tasks, the Ambassador is responsible for ensuring the post's Emergency Action Committee (EAC) maintains a comprehensive and current Emergency Action Plan (EAP) for responding to threats, emergencies, and other crises at the post or against U.S. interests in country.

Chief of Mission (COM) Authority

The Ambassador is the personal representative of both the President and the Secretary of State. The Ambassador is the principal officer in the embassy overseeing all USG programs and interactions with and in the host nation. The Ambassador derives authority and responsibilities from the Foreign Service Act of 1980 [P.L. 96-465], section 207, which is summarized below:

- Ambassador (or other COM in the Ambassador's absence) has full responsibility for the direction, coordination, and supervision of all USG executive branch employees in country, except for employees under the command of a U.S. area military commander (i.e., normally a CCMD or a subordinate commander).
- Ambassador must remain fully informed concerning all activities and operations of the USG within country and must ensure that all USG executive branch employees in country, except for employees under the command of a U.S. area military commander, comply fully with all applicable directives of the Ambassador.

In addition, the FAA, section 515(e), states that members of the armed forces assigned to a foreign country for the conduct of SA (i.e., SCO personnel) shall serve under the direction and supervision of the Ambassador or COM to that country. Because SA programs by law are under the supervision and direction of the DoS, the SDO/DATT must seek guidance for their implementation from the Ambassador.

The President typically refers to these legal authorities and responsibilities in his letter of instruction to each Ambassador. A sample letter of instruction to the ambassadors is in attachment 4-1. Note that the President refers to the responsibility of the Ambassador and the CCMD to "keep each other currently and fully informed and cooperate on all matters of mutual interest." This is accomplished primarily through the continuous liaison of the SDO/DATT.

The Ambassador may be a political appointee of the President, or a career foreign service officer, i.e., having risen through the ranks at the DoS. In either case, the ambassador's authority under the law and under Presidential directive is the same.

Deputy Chief of Mission

The Deputy Chief of Mission (DCM) serves as the chief of staff of the embassy and manages the daily operations of the embassy staff. In matters that cross agency lines within the country team, the DCM normally coordinates and facilitates decisions or recommendations to the Ambassador. In the temporary absence of the Ambassador, or during an interim period between ambassadors, the DCM assumes the temporary title of Chargé d'affaires, leading the U.S. mission until the return of the Ambassador. In some situations, such as awaiting Senate confirmation for a new ambassador, the DCM may be in charge for many months. While the Ambassador normally focuses his attention outward toward the host nation, the DCM's focus is primarily internal, ensuring that the country team is working smoothly in support of the Ambassador's objectives. The DCM is always a career foreign service officer, with an equivalent military rank of a two or three-star general.

Country Team

The country team is the principal means by which a diplomatic mission comes together as a cooperative, coordinated, and well-informed staff. In its broadest sense, the team is all elements and all USG employees of the American mission in a foreign country. More narrowly, it is a management tool, a council of senior officers, heads of the various sections of the mission, working together under the Ambassador's direction, to pool their skills, resources, and viewpoints in the national interest. The country team has no legal standing and its composition and functions are not specifically delineated in any formal document. The Ambassador determines the type of team that best suits the needs of the moment.

In practice, the make-up of the embassy country team varies widely, depending not only on the Ambassador's management style, but also on the country situation, the number of American programs, and the backgrounds of the senior officers of the different agencies attached to the diplomatic mission. In some posts, there may be no defined membership; the team changes its composition according to the kind of problem being considered. However, at most posts the following will typically be members: the Ambassador, the DCM, the chiefs of the political, economic, and management sections of the embassy, the SDO/DATT, the regional security officer, and the consul general. The country team may also include representatives from other embassy agencies as the Ambassador desires.

The country team coordinates with and advises the Ambassador on the full range of issues and events facing the U.S. mission at any given time. Informal consultation among country team members occurs frequently and continually on issues and problems as they arise. Weekly collective meetings of the team, chaired by the Ambassador, are the norm.

The country team is also an executive body that, under the Ambassador's leadership, divides the tasks to be done, and supervises their accomplishment. It typically sees that jobs are assigned to those agency representatives that can best execute them, based on resources and expertise. Finally, the country team is the planning body which analyzes the situation in country, formulates plans and strategies for executing U.S. foreign policy in country, e.g., through the Integrated Country Strategy (ICS), and recommends policy to Washington, DC. Close teamwork is critical, especially when time-sensitive issues are at stake. Officials of all agencies must work together at all levels, to speak with one voice and to accomplish the task at hand. The formal country team is thus an advisory body, a forum for consultation, and a means of promoting a coordinated effort.

Quite often SCOs will be called to participate in "modified country team" meetings. These are generally held for visiting officials, e.g., Congressional Delegations (CODEL), or senior military leaders. This is an opportunity for the SCO to succinctly relate the current talking points from the U.S. to the partner nation, and enumerate some of the recent successes and on-going projects in country, ranging from Foreign Military Sales in progress (or desired) to security cooperation events.

Other U.S. Embassy Relationships

At this point, it is useful to know that embassy section chiefs, known as "Counselors," have their DoS "rank or grade," which is essentially equivalent to the military O-7. SCO personnel deal with all country team members from time to time, but are particularly concerned with the following members:

Political Counselor and Political-Military Officer

The Political Counselor leads the Political Section analyzing host country political events and negotiates and communicates with all levels of foreign government officials. They observe host nation foreign policy actions, observe reactions to USG foreign policies, and advise the Ambassador and Washington on opportunities and challenges in country. The political section is sometimes tasked with delivering "demarches," official communiques from the USG to the host nation; sometimes asking for the host nation to support U.S. actions or ideas, sometimes admonishing actions the USG finds displeasing. Someone in the Political Section should be assigned as the political-military (POL/MIL) officer. The POL/MIL position may be either full-time or an additional duty. The SCO coordinates with the POL/MIL officer on a range of issues to include potential major weapons sales requiring a formal country team assessment, or a proposed third-party transfer of U.S.-origin equipment. In many countries, the POL/MIL officer will engage the SCO to assist in developing the annual report to DoS and Congress, especially in justifying the Ambassador's request for Foreign Military Financing funds, and International Military Education and Training funds. Additionally, the POL/MIL officer may be responsible for engaging the RSO and the host nation regarding human rights vetting for potential international military training provided by the U.S.

Economic Counselor

The economic counselor can provide valuable information on the host country's economy, budget, and its ability to support arms purchases, among numerous other activities. Economic officers focus on developing relationships with important economic figures, including those in the business community, the government and opposition, non-governmental organizations, academia and multilateral organizations. They promote U.S. economic and commercial interests. Their reporting and analysis on economic conditions and trends in the host country can and will influence U.S. policy formulation and implementation. In many embassies, the on-going transition (combining the Political and Economics sections) to a single POL-ECON unit has occurred, but the SCO coordination with the office should not change.

Consular Counselor or Consul General

As noted above, the DoS staff who head the sections for the Ambassador are titled as Counselors. Based on that characterization, in the header for this paragraph the Consular Section Chief could be the Consular Counselor, but since that is a tongue-twister, the person is normally called the Consul General. The Consul General is in charge of the consular section that, among many tasks, deals with American citizen services, and also issues U.S. visas to host nation citizens. This may be an immigrant visa or non-immigrant visa (NIV). The SCO works closely with the NIV consular section on the issuance of visas for international military students [Note: In larger countries, DoS maintains stand-alone consulates in cities other than the national capital; the chiefs of these functions are also titled Consul Generals].

Management Officer

The embassy management officer oversees a wide variety of functions dealing with the day-to-day "real-life support" issues of the embassy. Management officers supervise all management operations including community liaison, facilities, financial and information management, general services, human resources, and medical functions; serve as the principal management advisor to the Ambassador and Deputy Chief of Mission or Principal Officer at a Consulate; manage and coordinate International Cooperative Administrative Support Services (ICASS) policies and support all DoS activities, as well as those of other USG agencies. Management officers serve as the Single Real Property Manager with authority over all real property program issues and act as liaison with the DoS on all real property issues; and also may serve as a Financial Management, General Services, or Human Resources Officer at overseas posts.

Public Diplomacy Officer

The public diplomacy officer, often referred as the public affairs officer (PAO), can provide background data and information on sensitivities of the host nation government and citizens, which can facilitate the SCO's relationships with host nation counterparts. Additionally, through the embassy's web site, press releases, and other interactions, the PAO can disseminate information on the benefits to the host nation of SA/SC and other USG programs. The SCO should coordinate all significant events, such as the visit of senior DoD officials and conduct of combined military exercises, through the embassy PAO. The SCO should embrace the opportunity to write summations of the events in country. The PAO can assist as needed and help shape the messages, and/or ensure that the CCMD's messages are aligned with the Ambassador's talking points.

Regional Security Officer

The regional security officer (RSO) has overall responsibility for security, anti-terrorism and force protection for all personnel under the authority of the Ambassador and is responsible for the embassy's Emergency Action Plan (EAP). The EAP is a post-specific, comprehensive plan that provides procedures for responding to foreseeable contingencies. The RSO is the focal point for the SCO in all matters pertaining to force protection, to include security requirements and country clearance and protection for official and distinguished visitors. The RSO also supervises the Marine Security Guard (MSG) detachment, where assigned.

All newly assigned embassy people will be required to visit the RSO for their introductory briefings. This should be one of the very first stops in-country. The RSO should discuss the local security situation, emergency actions, communications in-country, off-limits locations, embassy security and entry procedures, embassy classified accountability checks, and a variety of other security-related material.

Director of the USAID Office

The USAID office, where assigned, administers DoS humanitarian assistance and other non-military foreign assistance programs for developing countries on behalf of the Ambassador. USAID,

via the Office of Foreign Disaster Assistance (OFDA), also has the lead responsibility for disaster relief actions within the country team. As budgets are reduced throughout the executive branch, be aware that USAID may only have a regional presence, and not necessarily a representative at the embassy.

Note that USAID Title-22 programs titled 'humanitarian assistance' (HA) are focused on development and/or disaster relief. They are different in scope and substance than the 'humanitarian assistance' as defined by DoD. DoD uses Title-10 funding to perform the HA programs. Therefore, it is required that any DoD HA activity that may impact the development plans of USAID be coordinated with USAID and the Ambassador.

Senior Defense Official/Defense Attaché (SDO/DATT)

The SDO/DATT represents all of DoD within the country team, including the CCMD, DSCA, and the Defense Intelligence Agency (DIA). Working for the SDO/DATT, it is critical that good communication and routine cooperation exist between the Defense Attaché Office (DAO) and the SCO. The unique role and authority of the SDO/DATT, in charge of both organizations, should ensure that DoD's interests and objectives are smoothly integrated under the COM and coordinated with the host nation.

The SDO/DATT acts as a key player within the embassy and the CCMD because of influence, advice, and expertise, not necessarily because of authority. A key challenge for the SDO/DATT is to respond to the direction of the Ambassador while at the same time satisfying requirements levied by the CCMD. The successful SDO/DATT knows how and when to leverage available influence with other players—the Ambassador, the CCMD, the host nation, and others—to maximize the advancement of USG foreign policy and national security goals.

In DODD 5205.75, *Department of Defense Operations at U.S. Embassies*, DoD defines the position of SDO/DATT as the principal DoD official in U.S. embassies. It establishes the SDO/DATT as the diplomatically accredited defense attaché and chief of the SCO. This directive is amplified by the DoD Instruction C-5105.81 *Implementing Instructions for DoD Operations at U.S. Embassies (U)*, issued in 2008.

DODD 5205.75 affirms the President's letter, the FAA section 515, and DoD's long-standing policy that DoD personnel in a foreign country who are not under the command of a U.S. area military commander shall be under the authority of the Chief of Mission (COM) in that country. By law, this includes SCO personnel, even though they are administratively (militarily) assigned under a CCMD. The directive creates one formally designated military officer in each embassy to be responsible for all DoD actions and DoD personnel in that country. To this end, the directive gives each SDO/DATT coordinating authority over all DoD elements under the direction and supervision of the COM, with the exception of the Marine Security Guard (MSG) detachment at the embassy. For the purpose of the directive, coordinating authority is defined as "a commander or individual assigned responsibility for coordinating specific functions or activities involving forces of two or more MILDEPs, two or more joint force components, or two or more forces of the same service. The commander or individual has the authority to require consultation between the agencies involved, but does not have the authority to compel agreement. In the event that essential agreement cannot be obtained, the matter shall be referred to the next senior in the reporting chain." According to DODD 5205.75, the SDO/DATT in each embassy shall:

- Serve as DATT and Chief of Security Assistance (i.e., SCO Chief) under the joint oversight and administrative management of the USD(P) and USD(I) through the Directors of the DSCA and the Defense Intelligence Agency (DIA), in coordination with the respective CCMD.
- Act as the in-country focal point for planning, coordinating, supporting, and/or executing U.S. defense issues and activities in the host nation, including the theater SC programs under the oversight of the CCMD.

- Serve as the principal embassy liaison with host-nation defense establishments and actively participate in national security and operational policy development and coordination.
- Represent the SECDEF and the DoD components to host nation counterparts and foreign diplomats accredited to the host nation, and act as the principal in-country DoD diplomatic representative of the SECDEF.
- Present coordinated DoD views on all defense matters to the COM and act as the single DoD point of contact to the COM to assist in carrying out the COM's responsibilities.
- Represent the SECDEF and the appropriate commanders of the CCMDs for coordination of administrative and security matters for all DoD personnel not under the command of a U.S. area military commander.
- Carry out the duties and instructions as set forth in the *CJCS Instruction* C-5205.01C.
- Exercise coordinating authority (definition above) over DoD elements under the direction and supervision of the COM. This shall not preempt the authority exercised over these elements by the COM, the mission authority exercised by the parent DoD components, or the command authority exercised by the CCMD under the Unified Command Plan. Additionally, this authority does not include authority to impose punishment under the Uniform Code of Military Justice.
- As required, provide information to USG officials on the general scope of in-country activities for all DoD component command elements assigned to the mission. This includes the missions, locations, organizations, and unique security requirements.

The SDO/DATT is also the link which ensures compatibility of DoS and DoD policies and promotes synergy of their resources. On SC and other issues, the SDO/DATT acts as an advocate for host nation concerns and interests to DoD and the USG. This requires the ability to work routinely and smoothly with host nation counterparts and to interpret or explain USG policies and procedures for a variety of programs. Finally, in the performance of these duties, the SDO/DATT must often bridge the "culture gap" between the U.S. and the host nation.

Each SDO/DATT, upon completion of training, receives a formal appointment letter from the SECDEF. The SECDEF and the Chairman of the Joint Chiefs of Staff also provide a total of three other letters of introduction, identifying the new SDO/DATT by name. Generic copies of these four letters are found at attachments 4-4 through 4-7 of this chapter.

It is important to note that there is never a "Deputy SDO/DATT." The Secretary of Defense appoints only one officer to fill the SDO/DATT billet. To that point, the SDO/DATT should not begin duties in that capacity until the letter is signed by the Secretary.

SDO/DATT management styles and individual competencies vary widely but few officers can effectively manage day-to-day operations of both the DAO and the SCO. Therefore, in almost every case, there should be a Deputy for Attaché Operations and a Deputy for Security Cooperation Operations. As the SDO/DATT title and concept is somewhat new, many of the Deputies for SCO Operations retain the title of SCO Chief, to lessen host nation confusion. One successful technique is to hold periodic staff meetings or consultations with both sections to keep the SDO/DATT ready to respond to Ambassador or country team questions, as well as allowing the SDO/DATT to focus on the highest priority items.

Finally, note that before the SDO/DATT departs the country for any reason, a note to the Ambassador is generally desired detailing which DoD officer will be the primary contact during the absence. In that light, Ambassadors have their own widely varying leadership and management styles. Many ambassadors prefer a "flat" organization versus the hierarchical model seen in the military. SCOs

should be prepared for tasks to flow directly from the Ambassador, and the need to back brief the SDO/DATT is paramount.

Embassy Staff

The SCO also interacts daily with the embassy staff on numerous requirements necessary for its administrative support. Although the SCO may perceive the embassy as a Geographically Separated Unit, the Department of State (DoS) has organizations in each embassy that will mirror most functions found on any military facility. Such support includes housing, communications, commissary support, medical support, local manpower, financial support, and customs clearance of personal and official property, as well as dependent schooling, and numerous other areas.

CCMD Relationships

Relationships between the SCO and the CCMD can generally be categorized as both operational and administrative. The operational relationships are primarily related to the SCO's execution of the CCMD's theater campaign plan. Concerning the administrative relationships, the CCMD is required to perform the following functions, among others:

- Rate/endorse SCO personnel on their evaluation reports. For the SDO/DATT, U.S. ambassadors may provide letter input, and their evaluation reports are completed by the DIA and the CCMD
- Control and coordinate the SCO joint manpower program requirements (details in chapter 17, "Resource Management for the Security Cooperation Organization")
- Coordinate the administration of SCO financial and personnel records
- Administer SCO direct hire programs
- Fund and administer quality of life programs for the SCO
- Serve as the focal points for reviewing and consolidating SCO operational budgets and forwarding to DSCA

The CCMD and the Ambassador should strive to ensure that the SDO/DATT does not receive conflicting guidance, instructions, or priorities. If this occurs, the SDO/DATT must seek clarification or resolution. While the SDO/DATT is in the occasionally difficult position of responding to two masters, he is also uniquely able to understand both the CCMD and the Ambassador, balance their respective priorities, and leverage their resources. In particular, the SDO/DATT must be alert to take advantage of the wide range of support and expertise available from the CCMD, despite the distances separating the two activities. It is imperative for the SDO/DATT to maintain routine and timely communications with the CCMD on behalf of both the Ambassador and the host nation.

DoD Headquarters SC Relationships

Under Secretary of Defense for Policy (USD(P))

The USD(P) serves as the principal staff assistant and advisor to the Secretary of Defense on all SC matters across the Department. In that capacity, USD(P) disseminates DoD-wide strategies, policies, and guidance, and serves as the Department's representative to the Secretary, the interagency, the media, and Congress to ensure the Department's SC priorities are met. USD(P)'s responsibilities include (but are not limited to): representing DoD in all interagency, Congressional, and media queries on SC matters; disseminating the Secretary's strategies, policies, and guidance on all SC programs and activities across the Department; ensuring that Comptroller's release of funds to implement approved programs occurs once Congress/Secretary approve; reviewing regional and functional campaign plans

and assessments to ensure continuity with Department-and national-level interests; overseeing and advising DoD Components on the development of campaign plans and campaign support plans and resource allocation priorities; and providing annual reports and assessments to Congress as required by law.

Defense Security Cooperation Agency (DSCA)

The Director, DSCA works directly for the USD(P). DSCA directs, administers, and provides guidance to the DoD Components and DoD representatives to U.S. missions, for the execution of DoD SC programs for which DSCA has responsibility. DSCA ensures Secretary of Defense and USD(P) interests in SC matters are represented; identifies requirements, criteria, and procedures for the selection and training of personnel engaged in SC activities in DoD SC programs over which DSCA has responsibility; communicates directly with the Heads of the DoD Components on SC matters over which DSCA has responsibility to ensure program execution; leads periodic program management reviews (PMRs) for SC activities over which DSCA has responsibility; and collects information for the USD(P) on status of SC programs implemented for reporting purposes.

Host Country Relationships

For the SCO, this is the *raison d'etre*. If relationships were unimportant, there would be little need for the SCO. Building relationships will require careful consideration by the SCO, in planning the time and events necessary to build them. It is not at all feasible to think one can build relationships by sitting at the computer in the SCO. The SCO must be diligent about getting out of the office, meeting the chiefs of the military and security forces, trying to understand their perspectives on their capabilities and their gaps, informing them about our FMS process (sometimes about their own processes), informing them about other BPC programs, and analyzing how the partner is or isn't (can or cannot) fit into USG strategy. This is one of the Congressionally-legislated functions in the FAA.

If the USG has made a considerable commitment to a partner nation, shares kindred interests, and is on excellent diplomatic terms, it is probable that the SCO's relationship, accessibility, and credibility with the host nation's military establishment will be equally solid. However, if the diplomatic climate between the U.S. and the host nation is less amicable, the SDO/DATT's job will be more challenging as it works to cultivate an improved relationship with the host nation security forces.

Establishing a good working relationship begins with a sharing of interests and ideas. The SDO/DATT should recognize that there is a common foundation upon which to build rapport with host nation military counterparts, namely the universal brotherhood of arms. The problems of military doctrine, force structure, training, equipping, and logistical support are common to the armed forces of all nations. The successful SDO/DATT and SCO will take a sincere personal interest in the host nation's culture, history, customs, and religion, and likewise will cultivate both personal and professional relationships with local counterparts, which often forms the basis of life-long contacts and friendships.

Most importantly, the SCO must retain its integrity and identity as an official arm of the USG. Its close relationship with host nation counterparts must not cloud its professional judgements and recommendations, or compromise official U.S. policy.

SCO Security Assistance Duties

Official functions and responsibilities of the SCO are delineated in the four sources referenced above. In the realm of Security Assistance, the seven legislated functions in the FAA should drive the majority of SCO operations.

Equipment and Services Case Management

The SCO serves as the intermediary between the FMS case manager and the host nation to ensure that each case is both prepared and executed in accordance with USG objectives and host nation desires. The SCO may assist the host nation military with obtaining information on defense articles and services from DoD organizations, public sources, and U.S. vendors. The SCO may assist the host nation in documenting its requirements and articulating its requests in terms that DoD organizations can translate into an FMS case. The SCO ensures that the concept of a total package approach (TPA) is used as appropriate. Chapter 5 of this textbook, "Foreign Military Sales Process," presents a detailed discussion on the FMS process and TPA. There are specific program management and oversight responsibilities of the SCO that are described in Chapter 2 of the SAMM.

One of the primary tools for SCO FMS Case Management is the Security Cooperation Information Portal (SCIP). This password-protected and common access card enabled website allows both U.S. and host nation personnel to review and input data on FMS cases. The SCO is required to identify and maintain contact with the primary and alternate host nation administrators for SCIP tokens. Information and guidance for the SCO concerning SCIP access by the host nation is found in DSCA Policy Memorandum 03-11, "Enrollment Process for the Security Cooperation Information Portal," and DSCA Policy Memorandum 14-11, "Security Cooperation Information Portal (SCIP) Electronic Token Distribution and Replacement Policy" available on the DSCA web site. Appendix 1, "Security Cooperation Automation," of this textbook, provides more information.

Additionally, SAMM chapter 15 discusses the SCO requirements regarding Building Partner Capacity (BPC) cases. In BPC cases, the SCO becomes a major focal point from initiation of the case through the receipt and inventory of the defense articles before turning over to the host nation. BPC materiel will be transported by USG means, and the SCO will be involved throughout the process.

Training Management

The SCO coordinates and facilitates all military training conducted or contracted by DoD for the host nation. The SCO advises and assists the host nation in identifying, forecasting, and programming training requirements of all kinds, e.g., professional military education, tactical training, technical skills, etc. The SCO helps ensure that properly qualified and vetted candidates are chosen for training, which includes the SCO administering English language testing for prospective students. The SCO is responsible for management of training purchased under the FMS program, USG-appropriated IMET funding, DoD-funded Combating Terrorism Fellowship Program (CTFP), and many other sources. In addition to individual event training such as professional military education, the SCO must be aware of the relationship of FMS purchases and associated required training. The two functions should be smoothly integrated to ensure that training needs associated with the acquisition of equipment, whether by FMS or Direct Commercial Sales (DCS), are identified early and appropriately addressed.

Besides routine coordination between host nation counterparts and DoD agencies, this function requires specialized user training in a software program called the Training Management System (TMS) (available at DISCS). A detailed discussion of international training and the roles of the SCO are found in chapter 10 of the SAMM and in chapter 14 of this textbook, "International Training."

Program Monitoring

Program monitoring includes several things. The SCO must monitor the integration of U.S.-origin equipment, training, and services into the host nation force structure, monitor the use and protection of U.S.-origin equipment, training, and services and advise the host nation on potential third party transfers to include disposal.

By monitoring the integration of U.S.-origin equipment, training, and services into the host nation force structure the SCO can help the host nation to make informed decisions on achieving full spectrum capability development. A piece of equipment does not necessarily provide a country with a capability or capacity. If the country does not have a budget system to provide funds to acquire spare parts or the logistics system to maintain that piece of equipment it will soon fall into disrepair. If they do not have a human resources system to attract, train and retain qualified personnel they will not be able to use the piece of equipment. If they do not have the doctrine, military strategy or intelligence systems necessary to collect information, interpret that information, turn it into intelligence then disseminate that intelligence and act upon it that piece of equipment may be useless. Also, do they have the political will to employ the system?

By monitoring the transfer, use and protection (TUP) of U.S.-origin equipment, training, and services the SCO is essentially determining the answers to four questions:

- Is there an effective equipment accountability program/procedure in place?
- Is the equipment adequately secured and safeguarded?
- Is it being used only for purposes for which it was transferred to the host?
- Is the eventual transfer or disposal of the equipment in accordance with U.S. guidelines?

Where possible, the SCO should integrate program monitoring into other routine duties, such as visits to military bases and depots, observation during combined exercises, etc. In some cases, however, program monitoring generates its own workload, such as with the requirement for a periodic serial number inventory of specified items or the need to observe the destruction of materiel. As part of the End-Use-Monitoring (EUM) program, the SCO is required to maintain EUM records in the Security Cooperation Information Portal (SCIP).

The SCO should recognize possible host nation sensitivity about this function, which may be incorrectly viewed as a lack of trust on the part of the USG, rather than a legislated requirement by Congress and an arrangement to which they agreed upon signing of the LOA. A key challenge for the SCO is to cultivate a cooperative, rather than confrontational, atmosphere over this function and making sure that the partner nation understands that we require the same type of inventories from our own military.

For articles transferred through government channels (e.g., FMS, excess defense articles, etc.) the DoD requirements for EUM are formalized by DSCA in the "Golden Sentry" program. The SCO will periodically be called upon to coordinate and host a DSCA-sponsored visit under the Golden Sentry program, during which compliance by the host nation with EUM guidelines is assessed.

For defense articles transferred through DCS, the EUM guidelines are established by the DoS in its "Blue Lantern" program. The Department of Commerce has its own EUM program to monitor commercial and duel use items. It is not unusual for the SCO to assist the embassy in both of these programs, but since the SCO does not normally budget for these the SCO needs to keep track of costs associated with this assistance in order to report those costs. An in-depth discussion of EUM is found in chapter 8 and Chapter 2.1.5.6 of the SAMM and chapter 18 of this textbook, "End-Use Monitoring and Third-Party Transfers."

Evaluation and Planning of the Host Government's Military Capabilities and Requirements

The SCO's responsibility for evaluating partner nation capabilities and conducting necessary planning to meet requirements is central to the planning and budget cycles of both DoD and DoS. The SCO plays a central role in strategy development and program planning and a very important role in the development of all other DoS and DoD activities to ensure these activities are supportive of U.S.

regional and country-specific military strategies; are appropriate to partner nation needs and political and cultural sensitivities; and promote rationalization, standardization, and interoperability within the partner nation forces and with the U.S.

The SCO has the responsibilities to ensure that the Country Security Cooperation Section (CSCS) of the Theater Campaign Plan (TCP) is aligned with higher level guidance, in concert with the Ambassador's Integrated Country Strategy (ICS) and meets the goals and objectives of the partner nation. SCOs, working with the CCMD and Components, focus on using Security Cooperation Programs to execute events and activities that will help to achieve Intermediate Military Objectives (IMOs) and long term Theater Strategic Objectives. SCOs shape development of the CSCS through regular contact with their CCMD Policy, Programs and Plans country desk officers, normally found in the J4 or J5, and through the CCMD sponsored regional and country-focused working groups. A firm understanding of the TCP is essential to the SCO in advocating DoD and CCMD priorities and strategies to the embassy country team and partner nation, and in planning and budgeting resources to support TCP country-specific objectives.

Whenever possible, the SCO assists the partner nation in strategic planning and informs partner nation decision-making with regard to procurement of U.S. defense articles and services. SCOs encourage pursuit of U.S. military equipment and training appropriate to the partner nation's strategic environment, technical capability, and ability to reasonably afford and maintain this equipment. Discussions and correspondence between DoD representatives and foreign officials on the development of plans, programs, and related data are conducted with the mutual understanding that the discussions do not constitute nor imply any commitment on the part of the U.S.

More detail on the planning requirements of the SCO can be found in the SAMM paragraphs C2.1.3, C2.3 and in Chapter 19 of this textbook.

Administrative Support

Just like any other military organization, SCOs must manage a host of administrative and logistical issues for SCO personnel. The big difference is that the SCOs are normally geographically separated from their CCMD. Thus as a largely stand-alone office, the SCO is responsible for numerous administrative functions. Depending on the issue, the SCO may rely on the CCMD or the embassy, or both, for policy guidance and support in accomplishing these tasks.

These responsibilities become especially challenging in smaller SCOs with few personnel assigned. As members of the embassy staff, SCO personnel may also be called upon to perform duties in support of the embassy community. Examples of these duties include serving as a member of various committees such as housing boards, LE Staff personnel boards, ICASS council, embassy employees club, and organizing committees for community events.

In some places SCO personnel are in the embassy housing pool and in other places the SCOs find their own housing and receive overseas housing allowance. SCOs coordinate with the embassy's RSO, and the AT/FP points-of-contact at the CCMD to ensure all SCO personnel and dependents understand AT/FP procedures. The SCO may rely on the embassy for medical services, may us Tricare or a combination of the two. All this depends upon which embassy the SCO is assigned to and the support relationship they have with the embassy. But it is up to the SCO to make sure everyone working in the SCO understands these issues and where to turn for assistance.

In general the SCOs must exercise supervision of all SCO personnel. They must ensure timely submission of required reports, evaluations and awards, oversee PCS and TDY travel arrangements, conduct supply, property and file management, formulate and manage budgets as well as conduct command inspections and self-assessments. They must also coordinate and conduct required professional development and physical fitness training. In short a SCO must make sure all the normal

administrative and logistical support is available to its personnel, a lot of which needs to be coordinated with the CCMD. Additional information on the SCO administrative and logistical duties are described in SAMM C2.1.10.

Some things, such as transportation for service required medical and physical examinations, travel expenses for service required testing or schools, not related to SCO activities, and foreign language proficiency pay, will need to be coordinate with the service of that SCO member.

In addition, SCOs may need to provide administrative support to TDY personnel. They may need to approve country clearance report requests, arrange lodging and transportation, or set up and attend meetings. This will be covered in more detail later. SCOs may also be required to assist with embassy protocol functions and perform representation duties for the U.S. ambassador as tasked.

More on SCO administrative and logistical support can be found in the tri-service regulation, Administrative and Logistical Support of Overseas Security Assistance Organizations, AR 1-75, SECNAVINST 4900.49, and AFI 16-104. In part, this regulation provides the following guidance to SCOs:

- Submit administrative and logistical support requirements to the CCMD in accordance with this regulation and guidance issued by the CCMD, MILDEPs, and DSCA
- Represent all DoD activities assigned to the SCO for administrative support on the international cooperative administrative support services (ICASS) council, request required administrative support, and where required by the CCMD, negotiate ICASS agreements for non-SA DoD activities assigned to the SCO for administrative support and coordinate billing/reimbursement requirements between the DoS and DoD activities and parent commands
- Ensure that ICASS financial charges to SCOs are prepared accurately
- Provide the MILDEPs with current information on desired or required routing for travel and training for SCO and SA teams' personnel and their dependents, as well as movement of household goods, personal baggage, and privately owned vehicles

Chapter 17 of this textbook, "Resource Management for the Security Cooperation Organization," provides additional details on these functions.

Promoting Rationalization, Standardization, Interoperability (RSI) and Other Defense Cooperation Measures

As mentioned above, RSI is a key component of evaluation and planning. One of the biggest issues we have faced in recent coalition operations is the lack of RSI. In fact, many of our coalition partners do not have RSI within their own military or security forces. RSI is not limited to standardization of equipment and ammunition and interchangeability of repair parts. Rather, it covers the full spectrum of operations and logistics, including, for example, military doctrine, communications, medical, and mapping functions. DoD's policy is governed by CJCSI 2700.01E, International Military Agreements for Rationalization, Standardization, and Interoperability (RSI) between the United States, Its Allies, and Other Friendly Nations. The policy can be summarized as follows:

- U.S. interoperability with its allies, coalition partners, multinational organizations, and other friendly nations is in the best interests of the U.S.
- The degree of RSI with any given partner is subject to financial, technical, and policy considerations

- Worldwide standardization with friends and allies is a goal, but should not impede efforts at the regional or bilateral level
- Enhancing multinational military operations and warfighting capability is the key objective

Opportunities abound for the SCO to interact with host nation military, security, and civilian leaders during which concepts of RSI can be discussed and debated. Ultimately, if the host nation is obtaining defense articles, services, and training from the U.S., RSI is occurring at some level and this will make it easier for us to integrate our forces for joint and combined operations.

Liaison Functions Exclusive of Advisor and Training Assistance

SCO personnel have the responsibility to perform all DoD representational and liaison activities with the host nation defense and security establishments, attend host nation ceremonies and observe host nation exercises. As mentioned previously they may also be required to assist with embassy protocol functions and perform representation duties for the U.S. ambassador as tasked.

SCO personnel may provide limited advisory and training assistance to the host nation, but this assistance must be kept to an absolute minimum and cannot interfere with the primary SCO mission. It is the sense of Congress that advising and training assistance in countries where military personnel are assigned under the provisions of the FAA shall be provided primarily by other personnel, not assigned under the FAA, who are assigned for a limited period to perform a specific task. Actual military training must not be performed.

Section 515(a) of the FAA and the SAMM chapter C2.1.7.4.2 are very clear on this.

SCO Security Cooperation Duties

In addition to the traditional SA functions just described, the SCO also typically manages a variety of SC programs, many of which are addressed in chapter 1 of this text, "Introduction to Security Cooperation." Combined exercises, military-to-military activities, humanitarian assistance programs (with many developing countries), and armaments cooperation (with selected developed countries) are prime examples. No two countries will have the same combination of, or emphasis on, SC activities. Where possible, the SCO should integrate SC activities with traditional SA to advance the U.S. goals and objectives for the host nation. The SAMM chapter 2.1.7 lists the following as SC activities for SCOs.

Building Partner Capacity Programs

Some Title 10 SC programs will be executed using the FMS infrastructure as the administrative foundation. These programs are referred to as Building Partner Capacity (BPC) programs.

Congress has authorized DoD to use Title 10 funds to acquire articles and services for our partners. Those BPC programs can be a benefit to the partner nation because timelines for BPC funding require quick actions and reactions. It is important for SCOs to realize how much greater their involvement will be with BPC cases. The process begins and essentially ends with the SCO, as opposed to the normal FMS process in which the host nation has the greater activity. Despite the fact that many of the BPC programs have short funding life-spans, some SCOs will spend significant time in preparing the documents, interacting with the benefitting country, receiving the materiel or facilitating the services/training, and associated activities. It is essential that pursuit of BPC program funds is coordinated extensively with the CCMD, DSCA, the IAs, and DoS as the process moves forward. Further details of BPC programs and the BPC process are discussed in the SAMM chapter 15, and chapter 6 of this textbook. Specific SCO responsibilities regarding BPC programs can be found at C15.T1.

International Armaments Cooperation (IAC)

SCOs with IAC responsibilities should maintain and review the OSD (AT&L) International Cooperation in Acquisition, Technology, and Logistics Handbook. Chapter 10 of the handbook addresses the role of the SCO in IAC. The term IAC covers a multi-faceted area in which the U.S. cooperates with other countries and international organizations to research, develop, acquire and sustain military systems. IAC encompasses a variety of individual programs, including the Information Exchange Program (IEP), the Engineer and Scientist Exchange Program (ESEP), Foreign Comparative Testing, Cooperative Research, Development and Acquisition, Test and Evaluation, Defense Trade, and Cooperative Logistics. The in-country personnel overseeing IAC programs usually fall under the supervision and oversight of the SCO Chief (or SDO/DATT in the absence of a SCO). Be aware that the individuals executing the actual programs in and with the host nation may be in some type of formal exchange program and therefore not assigned to the SCO or under its supervision. If there are no Armaments Cooperation personnel assigned to the SCO, the SCO chief is responsible for IAC support functions to the degree that resources permit.

Humanitarian Assistance (HA) Programs

As another method with which to engage the partner nation, the SCO could integrate HA activities into CCMD security cooperation planning. DoD humanitarian-focused programs and activities include HA events and projects, Humanitarian Assistance Program–Excess Property (HAP-EP), Humanitarian Mine Action (HMA), Denton (Space Available) and Funded Transportation, and Foreign Disaster Relief (FDR). SAMM chapter 12 provides a detailed description of HA programs and processes. A related program not funded like the others listed above is Humanitarian and Civic Assistance (HCA), a Joint Staff approved engagement in which the primary training is for U.S. forces, with the final product remaining with the partner nation.

The CCMD J4 is generally the focal point for processing requests throughout the command. The requests start in the SCO, gain concurrence from the Ambassador and the USAID representative and then to the CCMD and higher via a database known as Overseas Humanitarian Assistance Shared Information System (OHASIS). Once the SCO has worked with the host nation to identify possible HA projects, the request is entered into OHASIS to flow through the system. The funding process, like most activities in the SCO, is usually designed for the year after the fiscal year in which it is submitted, e.g., submitted by the SCO in October 2016 for projects to occur after October 2017. The annual flow is indicated in the SAMM figure C12.F1.

Other Non-SA Functions

The SCO may also perform other non-SA military functions (SC functions, by definition) required by the CCMD and JCS, such as exercise planning and coordination, port visits, coordination of bilateral meetings, coordination of the DoD State Partnership Program (SPP), and coordination of Acquisition and Cross-Servicing Agreements (ACSA). CCMDs exercise oversight responsibility for in-theater execution of these activities and provide information and direction to SCOs as necessary. If such duties are to be executed on a continuous basis, the CCMD should conduct a review to determine appropriate funding categories and ensure that the SCO is adequately staffed and funded to perform the added functions. The SCO should be cognizant of the balance between SA and SC activities. The SCO billets that are SA-funded should have the majority of their time spent on SA activities, as SA dollars are funding those positions. The SCO should work closely with the CCMD to determine whether additional Title-10 billets (permanent or temporary) are a viable option to meet mission requirements (e.g., liaison officers from the combatant commands for exercises or deployments to country).

As will be discussed shortly, other non-SA functions may involve requests from the U.S. Ambassador and the embassy staff for support for U.S. mission activities in the partner nation. Given the "diplomat-

warrior" nature of the SCO, these requests must be weighted appropriately and resources assigned as available to put USG priorities into effect in the partner nation.

Administrative Support to Non-SA Missions and Personnel

The SA-funded members of the SCO may provide standard administrative support for non-SA personnel assigned/attached/TDY to the SCO performing SC and DoD functions until such support detracts from the primary SA mission. The SDO/DATT determines when additional administrative support is required and should coordinate with the respective CCMD to request temporary augmentation or the addition of a non-SA funded billet for longer arrangements. For some activities, the SDO/DATT may request that the executive agent for a planned or ongoing activity provide temporary augmentation.

Security Cooperation Education and Training (SCET) Teams

SCO personnel have a mandate from Congress to act in a management, coordination, and liaison capacity for SC programs. They are generally not to provide training or technical assistance. These functions are defense services and should be specifically authorized and priced. Training and technical assistance are paid for by the host nation normally through the FMS process. When these functions are performed in-country, they are normally done by SCET teams. These teams act as an extension of the SCO; their presence, administrative support, and force protection must be coordinated in advance with the embassy country team.

According to section 515(b), FAA, "advisory and training assistance" conducted by SCO personnel shall be kept to an absolute minimum: "It is the sense of Congress that advising and training assistance in countries to which military personnel (i.e., SCOs) are assigned under this section shall be provided primarily by other personnel."

SCET teams are detailed for limited periods to perform specific tasks. Likewise, advisory assistance by SCOs must not extend to combat operations. SCOs must refer any such requests to the Ambassador and the CCMD.

There are a variety of SCET teams that may be dispatched to a country for training or other missions. Teams may be deployed on either a permanent or temporary basis. Some teams have an official existence of ten years or longer. A source of funding is required to establish and maintain a team. Typically this source of funding is an FMS case or the country's current year IMET program. The term "team" is used loosely as it can in fact consist of a single individual. The following is a listing of the common types of SCET teams. The terminology sometimes varies according to the U.S. military service providing the team.

- Extended training service specialist (ETSS)
- Contract field services (CFS)
- Technical assistance field teams (TAFT)
- Mobile education teams (MET)
- Mobile training teams (MTT)
- Technical assistance teams (TAT)
- Language training detachments (LTD)
- Weapon system logistics officers (WSLO)
- Quality assurance teams (QAT)

- Site survey teams (SSTs)
- Expeditionary requirements generation teams (ERGT)

SCO Oversight and Support of Security Cooperation Education and Training (SCET) Teams

Guidance on SCETs, including the requirement for SCO oversight and support, is found at SAMM, section C11.8.11, including table C11.T17. The SCO Chief exercises operational and administrative control/oversight for, and provides administrative support to in-country SCETs. Specific duties vary based on the duration of the SCET activity.

Support to U.S. Defense Industry

The SCO is the principal point of contact in U.S. missions for most U.S. defense industry representatives marketing defense equipment. SCOs support the marketing efforts of U.S. companies while maintaining strict neutrality between U.S. competitors. The SCO facilitates the flow of U.S. systems information, subject to releasability and export licensing considerations, while avoiding advocacy of a program with a specific U.S. producer, if multiple U.S. entities are involved. SCOs should be well informed about, and responsive to, U.S. defense industry interests in the host country. The SCO should draw on resident Embassy experts (e.g., Commercial Attaché, or the Economic and Political Counselors) to inform industry representatives of the country's financial position, any International Monetary Fund controls and restrictions on credit, and the relationship between the Ministry of Defense and other government branches. Further details on support to U.S. defense industry are covered in SAMM C2.1.8.

Rules Of Engagement with United States Industry

While SA is principally a foreign policy tool for the USG, it also provides benefits to U.S. industry in the form of sales, jobs, and profits. Nearly all FMS cases involve procurement of goods and services, directly or indirectly, from U.S. industry. For reasons of foreign policy, standardization and interoperability with U.S. forces, and economic self-interest, it is to the advantage of the U.S. that other countries buy American when they identify a military requirement. In this regard, the relationship between SCO personnel and representatives of U.S. industry, although unofficial, is important. Note the following extracts of applicable documents:

- This support will include, as appropriate, such steps as: tasking our overseas mission personnel to support overseas marketing efforts of U.S. companies bidding on defense contracts; actively involving senior government officials in promoting transfers that are of particular importance to the U.S.; and supporting official DoD participation in international air and trade exhibitions when the Secretary of Defense, in accordance with existing law, determines such participation to be in the national interest and notifies the Congress [Presidential Policy Directive (PPD)–27, U.S. Conventional Arms Transfer Policy, dated 15 Jan 2014].
- The DoD is committed to greater cooperation with U.S. industry to facilitate sales of U.S. defense articles and services when in support of U.S. national security and foreign policy objectives. DoD is prepared to assist and cooperate with U.S. industry regardless of the type of sale, e.g., DCS, FMS, or a combination of the two [OSD Memorandum, 05 May 1999, Subject: Department of Defense Policy for Relations with U.S. Industry in Sales of Defense Articles and Services to Foreign Governments]. See attachment 4-2, "SCO-Industry Relations," for the complete memorandum.

Promotion of U.S. Defense Industry

The SCO is normally the primary point of contact in a U.S. embassy for American defense industry representatives. The SCO can play a key role in facilitating the exchange of information between host nation officials and U.S. vendors. The SCO must, however, maintain strict neutrality between U.S. firms competing for the same potential sale and should not endorse one specific American product or vendor over another to the host nation unless specifically directed by higher DoD or USG authority. In cases where it is clear that there is only one U.S. source of production for a certain product, the SCO may endorse that American product to the host nation. While supporting U.S. industry, the SCO must also be an honest broker, considering both U.S. and host nation defense and policy interests. Should the SCO judge that the marketing and/or sale of a product is not consistent with U.S. interests, or is inappropriate for the host nation's best interests, or could adversely impact U.S. credibility or bilateral relations, the SCO should relay these concerns to the Ambassador, DSCA, and the CCMD.

Security Cooperation Organization Support to U.S. Defense Industry

The SAMM, section C2.1.8, is the primary source for policy guidance on the interface between SCOs and U.S. industry. Attachment 4-3 is a briefing checklist for SCO personnel for use in meetings with representatives of U.S. defense vendors. Upon request, the SCO can provide the vendor with a wide range of unclassified information pertaining to the host nation. This typically includes defense organization charts, names of key decision makers, budget process and spending limits, current and proposed requirements, information on any foreign competitors, and capabilities of the host nation defense industry, as applicable. Additionally, the SCO can:

- Provide advice on sales tactics to include unique cultural aspects of conducting business in that country
- Assist with appointments with host nation officials
- Provide specific information on the host nation acquisition and decision-making process
- Offer realistic estimates of what the country will probably buy

If possible, the SCO should attend vendor meetings with the host nation to prepare for host nation officials seeking follow-up information. The SCO must ensure a level playing field in country among U.S. vendors competing for the same potential sale unless directed to do otherwise. Assistance rendered to one must be offered to a competitor. Likewise, the SCO must not disclose information about a U.S. vendor that may provide an unfair advantage to its American competitor. The SCO should encourage industry representatives to debrief the SCO on the results of their in-country marketing efforts and their future plans.

It is appropriate here to bring to mind a section of the FAA reviewed in chapter 2 of this text book: The President shall continue to instruct U.S. diplomatic and military personnel in U.S. missions abroad that they should not encourage, promote, or influence the purchase by any foreign country of U.S.-made military equipment, unless they are specifically instructed to do so by an appropriate official of the executive branch [section 515(f), FAA]. The SCO, of course, is not a representative of the defense industry partner and must carefully balance the interaction with the host nation regarding industry issues. The SAMM gives straightforward guidance on interactions.

Role of the Department of Commerce and the Commercial Attaché

From a security cooperation perspective, the primary interactions with the Department of Commerce will be on trade promotion and regulation enforcement. The two primary points of contact for security cooperation are the Advocacy Center/Foreign Commercial Service and the Bureau of Industry and Security.

Advocacy Center

The Advocacy Center (AC), in close cooperation with the Foreign Commercial Service (FCS), provides executive branch support, both military and civilian, to U.S. exporters seeking foreign government contracts. These efforts can often support security cooperation objectives. Generally, the point of contact for the AC is often a member of the FCS section at the U.S. embassy. Most U.S. embassies have a FCS section or are supported by a FCS section from a partner U.S. embassy in the region. A FCS officer usually staffs the senior commercial position on the country team.

Companies seeking to obtain USG advocacy support on foreign public procurement opportunities would apply to the AC via an advocacy questionnaire. The AC will then vet the company, product, and procurement through the U.S. embassy Commercial Section and the SCO. If the SCO supports the request, the AC then channels the advocacy request through security cooperation offices at the DoD and DoS to ensure that commercial offerings align with national policy and security cooperation goals both in-country and through the relevant CCMD. An advocacy request is approved only after all stakeholders agree to support the company and project. The AC makes a National Interest Determination finding that a company's offering is in the national interest thereby becoming an AC case which enables the AC to request resources throughout the Executive Branch, up to and including President and Cabinet-level officials, in order to promote the sale on behalf of the company/companies. All AC advocacy actions are coordinated with the company, U.S. embassy, and offices in DC beforehand. Requests for advocacy from companies are approved on a case-by-case basis and for a specific procurement. The AC supports both FMS and DCS sales as well as purely commercial product sales (which are not described here). Competition is usually present in AC cases where advocacy efforts not only encourage adoption of the U.S. offering from a security cooperation perspective but also work to counter influences from foreign governments on behalf of their own exporters' products. For U.S. embassies without a FCS section, questions regarding trade promotion and USG advocacy support can be directed to the AC. Current information about the AC and its services is located at http://export.gov/advocacy.

Bureau of Industry and Security

The Bureau of Industry and Security (BIS) is responsible for the enforcement of the Commerce Control List and the licensing of included items, often described as "dual-use" items, which may have both civilian and military purposes or uses. End use monitoring and pre-license checks are managed by BIS and may be encountered at post.

Miscellaneous Functions

In addition to their primary duties, SCOs perform a wide variety of collateral functions, both operational and administrative in nature. The more common functions are described below.

SCO Personnel Selection

Personnel are nominated to SCO positions in accordance with the criteria established in DODI 5132.13, *Staffing of Security Cooperation Organizations (SCOs) and the Selection and Training of Security Cooperation Personnel*. Military and civilian personnel selected to serve in a SCO shall possess the demonstrated personal and professional qualifications necessary to effectively carry out the functions to which they are assigned. Prior to consideration, it is essential that personnel are screened carefully to ensure that the selectee has the appropriate qualifications, experience, and suitability for the assignment.

Prior to selection, all prospective candidates for SCO assignment will receive detailed information specific to the foreign area for which they are being considered. It is critical that prospective SCOs understand that life in the embassy is significantly different than living at or near a regular military base. Experience living and working at a Geographically Separated Unit (GSU) will be beneficial. The embassy life is usually hundreds to thousands of miles from headquarters or regular military facilities.

The military staffs are usually very small and of a "joint" nature; conditions for which many military members and spouses are rarely prepared. This apparent "isolation" from the military can be mentally challenging. The community normally available to the military member then becomes the host nation, the expatriate community, and the U.S. embassy staff and families. Very few of these new contacts will have military backgrounds or experience so adjusting attitudes becomes a two-way street and can be a growth experience for both the military family and the new contacts. Additionally, if the prospective SCO is most comfortable staying in the office and sending emails, a different path should be chosen, as building relationships with most partner nations requires getting out of the office and engaging the partners frequently. Information provided to the prospective SCO must include the type of facilities and services available to the member and his/her family, the nature of the mission to be performed, the conditions of their employment, and their conduct and responsibilities as official representatives of the U.S.

Most SCO positions are nominative, joint duty billets. Requirements for nomination may entail slightly different criteria from the norm with respect to civilian education, training, language qualifications, military schooling, experience, area familiarity, health, and family considerations. Chapter 17 of this textbook, "Resource Management for the Security Cooperation Organization," contains a deeper discussion of the human resources of the SCO, including personnel billets and manpower issues.

Anti-Terrorism/Force Protection Responsibilities

The SDO/DATT has additional responsibilities for anti-terrorism and force protection (AT/FP), as indicated in DODD 5205.75, *Department of Defense Operations at U.S. Embassies*. For most U.S. missions, a Memorandum of Agreement (MOA) on AT/FP responsibilities is in effect between the Ambassador and the CCMD. The MOA delineates whether the Ambassador or the CCMD has AT/FP responsibility for DoD personnel and dependents in country. The SDO/DATT must work closely with the embassy's regional security officer (RSO) and the AT/FP points-of-contact at the CCMD.

It is a responsibility of all members of the embassy team, to include the SCO, to identify potential weaknesses in the AT/FP posture. For issues identified by SCO members, inform the SDO/DATT who can pass them to the embassy's RSO for resolution. In the event of limited funding by the RSO, the SDO/DATT should engage the CCMD for resolution.

Security

SCOs are responsible for safeguarding U.S. SC-related classified information located in foreign countries. Except for classified information authorized for release to a foreign government or international organization pursuant to DoD Directive 5230.11, and under the security control of that government or organization, the retention of U.S. classified material is authorized only if it is necessary to satisfy USG mission requirements. Further details regarding SCO responsibilities with regard to security are addressed in SAMM C2.1.9.

U.S. Embassy Crisis Management

During a crisis, the Chief of Mission (COM) is responsible for making all decisions with regards to the safety and well-being of American citizens in the country. The COM makes these decisions by relying on the advice of the Emergency Action Committee (EAC). The EAC is led by the Deputy Chief of Mission (DCM) and is composed of members of the embassy country team. The EAC is responsible for devising courses of action to deal with any potential crisis that could occur in country and/or within the region. These courses of action to deal with emergency situations are post- specific and known officially as the *Emergency Action Plan* (EAP). DoS *Foreign Affairs Handbook* volume 12 (12 FAH-1) [aka *Emergency Planning Handbook* (EPH)] is the overarching doctrine that provides the framework for the EAP.

In response to a crisis, i.e., natural disaster, civil disorder, hijacking, hostage taking, bomb attack, etc., the EAC is activated and all members evaluate the situation and decide on a course of action. The EAC makes their recommendation to the COM, who may request a reduction in the number of American personnel in country through either an Authorized or Ordered Departure. During an Authorized Departure, non-emergency personnel and eligible family members may leave the post. During an Ordered departure, non-emergency personnel and eligible family members must leave the post. For both types of departures, the usual method is via commercial air. If the COM determines that an Authorized or Ordered Departure is needed, the request is submitted to the DoS Under Secretary for Management for approval. The Under Secretary for Management coordinates with the Secretary of State and informs the Ambassador. The message is then disseminated throughout the mission community. In Authorized or Ordered Departure status, individuals who depart the post must stay outside the country for 30 days. If the post remains in an evacuation status for six months, the post becomes an unaccompanied post.

More serious crises could lead to the Secretary of State formally requesting from the President that DoD assets be used to execute a Noncombatant Evacuation Operation (NEO). A NEO is usually a response to a more immediate and urgent situation and involves military resources being used to evacuate noncombatants, nonessential military personnel, selected host-nation citizens, and third country nationals who are in danger to an appropriate safe haven. DoD assets or military resources used for more serious crises include Marine Expeditionary Units (MEU), which actually conduct NEOs; Survey and Assessment Teams (SAT), which are deployed by the regional commander to provide advice to the Ambassador and facilitate possible follow-on military assistance; and/or Fleet Antiterrorism Security Teams (FAST), which are teams of Marines sent to the post as security reinforcements.

Security Cooperation Organization Travel and Transportation

Air Travel

SCO personnel must adhere to the standard DoD requirements for travel and transportation, as found in the *Joint Travel Regulations* (JTR). This includes the requirement to use economy-class (coach) accommodations for all travel on common air carriers unless an exception for premium-class is authorized by a designated official. Additionally, it includes the requirement to use a contract commercial travel office, normally available in the local U.S. embassy, for all official travel requirements.

Military air transportation is rarely available or convenient for SCO personnel, so most of their travel is conducted via commercial air. However, there may be unusual circumstances involving personal security or cost efficiencies that warrant military air. SCO personnel are expected to be alert to opportunities to use military air where appropriate, both for themselves and their DoD visitors in country. However, this must be balanced with host nation entry/exit requirements. For example, if a visitor arrives via commercial air and plans to depart via opportune military airlift, the SDO/DATT and U.S. embassy must clear the visitor with host nation immigration officials. SCOs in a few countries have DSCA-managed C-12 aircraft that are useful for mission-oriented in-country and regional travel. In other countries, DIA operates C-12 aircraft that may be available for SCO official use. SAMM C11.1 contains policies and procedures for SCO use of C-12 aircraft.

Regardless of the source of funds for official travel, the SCO is expected to be a good steward of USG resources. If official travel is manipulated in order to acquire frequent flyer miles or other promotional items and results in an increased cost to the government, it is a violation of the Joint Ethics Regulation and potentially a violation of criminal law as well. If the SDO/DATT cannot resolve a SCO travel issue by reference to the JTR, the matter should be referred to the CCMD for guidance or resolution.

Vehicle Transportation

Most SCOs have an authorization for USG motor vehicles to support their official duties. DoD guidance stems from DoD 4500.36-R, *Management, Acquisition, and Use of Motor Vehicles*, which

is supplemented by regulations at the CCMD or other levels. The use of all motor vehicles, including those leased from commercial sources, is restricted to official purposes only. Whether a use is for an official purpose is a matter of administrative discretion by the SDO/DATT. If a question arises about the scope of the discretion, it should be resolved in favor of strict compliance with DoD policy. Factors to consider include whether the transportation is essential to a DoD function, activity, or operation, and whether the use of the vehicle is consistent with the purposes for which it was acquired.

Both U.S. law and DoD policy prescribe penalties for unauthorized or willful misuse of a government-owned or government-leased vehicle. As with air travel, an issue involving SCO vehicle transportation should be referred to the CCMD for resolution.

The rules for the use of employee-leased vehicles (rental cars) are the same as for government motor vehicles. When on official travel, one may use that vehicle only for official purposes. The traveler does not have the option of using the vehicle for both official and unofficial purposes and claiming reimbursement solely for the official use.

Domicile to Duty Transportation

Under long-standing U.S. law, commuting by government employees between their residence and place of duty is treated as a personal obligation and expense. The law currently authorizes only fifteen senior DoD officials by duty position to receive domicile to duty transportation (DTDT). However, 10 U.S.C. 2637 allows the SECDEF to delegate to CCMDs the authority for approving DTDT for selected personnel (including SCO personnel) stationed overseas in their area of responsibility. This authorization is made by the CCMD based on a determination that "public or private transportation in such area is unsafe or unavailable." Such authorizations must be made in writing and may not exceed one year in duration, although they may be renewed; CCMDs review the DTDT authorizations every six months. SDO/DATTs may request DTDT authorization for their SCO from their CCMD if they believe local conditions warrant it. DTDT is treated as an employer-provided fringe benefit that is taxable under current law. However, it must be stressed that, where authorized, DTDT exists for the safety and security of DoD personnel, not as a benefit. DoD 4500.36-R, chapter 4, provides DoD-level guidance on DTDT.

Dealing with the Press

If interaction with members of press is required, such as an interview or a press release, it is strongly recommended (should be considered mandatory) the SCO consults with embassy Public Affairs office. The embassy Public Affairs office can provide the Ambassador's perspectives and talking points as well as background on the sensitivities and issues of the host nation government and its citizens. The SCO should also coordinate with the respective CCMD Public Affairs Office to obtain the CCMD's position on the issue(s). Additionally, the CCMD Public Affairs Office may determine that a higher level of clearance is needed; the request will then be passed up the chain of command to appropriate offices, most likely OSD/PA. Be aware that the timing required to get clearance from higher headquarters is not instantaneous, in fact, may take several days to weeks. The SDO/DATT and the Defense Attaché Officers have their own very tight restrictions for speaking with the press from the Defense Intelligence Agency. This means the SCO may be called upon by the SDO/DATT and ambassador to speak to the press regarding bilateral or multinational events taking place in country. Beyond the embassy PAO and the CCMD, the SCO should also keep DSCA/PA informed during the entire process.

Once the media event has been cleared, work closely with the embassy Public Affairs Office to prepare for the event. There are three parts to a successful media event: (1) know the issues and the audience; (2) develop a message; (3) practice and stay on your message. It is strongly recommended that a knowledgeable member of the embassy's PAO accompany the SCO to the interview. Remember, the media is always looking for a story and will fill in the gaps in the most sensational way possible.

By carefully crafting a clear message and communicating it well, the SCO has the opportunity to make sure the story is presented to the public correctly and in the proper context.

SCOs also shoulder the burden of writing summaries of SC events. Expect embassy PAOs to have limited knowledge of "military speak," so it is important for the SCO to work closely with them, for their education, for the SCO's education, and to present a coherent "public speak" message. Based on after-action reports and first-hand knowledge, it is important for SCOs to practice writing skills in order to present all the great things happening in the bilateral relationship on the embassy, and perhaps CCMD, webpages.

Handling Official Visitors While Overseas

The Ambassador is generally delegated the authority from the Host Nation Ministry of Foreign Affairs for clearing U.S. personnel into the country. For DoD personnel, the Ambassador then generally delegates this task to the SDO/DATT, who retains overall responsibility for all DoD visitors to the host country. The SCO will be responsible for visitors it sponsors and for other support that may be required for larger visits. Note that for host nation visitors to the U.S., responsibility will be determined by the organization sponsoring the trip to the U.S.; more info on this activity can be found in chapter 7.

The Foreign Clearance Guide (FCG)

The FCG is the authoritative reference for DoD-sponsored travel overseas. It applies to all DoD service members, civilian employees, and sponsored contractors. The authoritative version of the FCG is strictly the online version, which is continually updated. It is located at: https://www.fcg. pentagon. mil/fcg.cfm. All DoD travelers must check the FCG instruction on traveling to the subject country and for requirements for requesting country clearance from the DoD and/or the DoS. Normally, the DAO drafts the input/updates to the FCG entry for the host nation and likewise provides the formal country clearance upon receipt of request in the automated country clearance system.

Automated Country Clearance Requests

Both DoD and DoS use automated, web-based systems to request and approve/disapprove country clearances. The DoD system is called the Aircraft and Personnel Automated Clearance System (APACS). The first step in accessing APACS is to request an APACS account at the APACS homepage, address shown here: https://apacs.dtic.mil. Once you have an account, tutorial and full user manual is available online. Approvals within APACS fall under the authority of the SDO/DATT.

The DoS system is called the Electronic Country Clearance (eCC) system, aka "e" Country Clearance. The FCG will indicate if you must submit a country clearance request via this system in addition to or in lieu of APACS. The eCC is separate and distinct from APACS, so be aware of the need to do two entries, if required. To request an account go to https://ecc.state.gov/security/EccLogin.aspx. Once you submit the request, it goes to the approver at the U.S. embassy.

Diplomatic Aircraft Clearances

While there are many types of flights, the aircraft clearance itself will generally be handled in the same way. As with personnel clearances, the FCG lays out the requirements for in-bound aircraft to request diplomatic clearance. Similarly, APACS is used to process an aircraft clearances requests. Normally, the DAO will process these requests and provide a diplomatic note requesting host nation approval. Once approved by the host nation government, the DAO communicates this clearance back to the aircraft mission planners via APACS. In addition to the support requested in the country clearance request, it's generally a good idea for the party meeting the aircraft to contact the flying unit to discuss specific requirements and local conditions.

Ship Visits

A ship visit is significantly more complicated than an aircraft clearance due to the increased logistical requirements. Moreover, ship visits may also integrate a number of individual events—reception aboard and ashore, DV visits, official office calls, community events—events that require a good deal of planning and coordination. The SCO should expect the Defense Attaché Office naval officer (ALUSNA) to take the lead in ship visits, but the size and complexity of the visit may warrant a request to the SCO to assist.

During the arrival, the SCO can assist the ship in coordinating ship services. An extra interpreter and an experienced naval officer can be of great use at this time. During the visit, the SDO/DATT will need to stay focused on the official calls and the social calendar. This phase can have all the complexities of a DV visit (our next topic) and the routine logistical challenges of a ship visit.

At the end of a ship visit, the most common problems are linked to billing for the ship. Typical issues include: vendors unable to provide bills in a timely manner or billing disputes; future visits may depend on previous trip bills being paid. During your planning, the SCO should encourage Naval Regional Contracting Center involvement to help prevent any potential problems.

Distinguished Visitor (DV)

DV visits are important and a necessary part of the SCO's duties. DVs visit specific countries to further USG policy in relation to the partner nation and region. As with all matters in country, the Ambassador is the approval authority for the visit and will determine which embassy agency will be responsible for the DV visit. Generally, the SDO/DATT will be the lead agency for all DoD visitors. The SDO/DATT will designate a control officer to be in charge of coordinating the many details required to conduct a successful DV visit. A non-exhaustive list of steps and ideas in planning for a DV:

1. Initial coordination (dates, times, purpose, availability of participants)
2. Detailed coordination (meetings, office calls, event plans)
   a. Information needed in-country (by the Control officer and the Host nation)
   b. Information needed by DV (agenda, talking points)
3. Planning considerations (billeting, transportation, comm, weapons)
4. Other issues (spouse agenda, weather plans, gift exchanges)
5. Post-visit cleanup

While the formal visit notification will come via APACS, informal notification by the visiting command's desk officer or executive assistant will likely come much earlier. The SDO/DATT will notify the SCO of the visit and designate a control officer. The control officer should build a coordination team to address specific portions of the visit: motorcade, hotel, airport, security, transportation, meeting attendees, receptions, etc. Once a tentative itinerary is developed, it may be advisable to informally coordinate with the DV's staff to gain an understanding of any "must see" or "will not do" portions of the plan. The control officer will then want to meet with the SDO/DATT and Ambassador to obtain an initial plan approval. Following the Ambassador's approval, the control officer will begin working the detailed itinerary with the DV's staff, the in-country team, and the partner nation. Here are a few key areas for consideration when planning and executing a DV visit:

- Coordinate early and often with the DV's staff point of contact
- Coordinate Media/Press plan (Embassy Public Affairs office must coordinate closely with DV staff)

- Ensure DV is briefed on local protocol, customs (kiss on the cheek, handshake, etc.)
- Uniform and civilian clothing requirements (Formal and Informal attire)
- Biographies of key host nation officials (provide phonetic pronunciation guide if required)
- Interpreter (speaks) / Translator (writes) requirements
- DV security requirements or limitations
- Identify core family and delegation members (will likely need separate itineraries for key members)
- Communication is vital throughout planning and execution (make sure you have a mobile cell phone charger, backup battery, etc.)

Contingency Planning (bad weather, vehicle malfunction, medical emergency, etc.)--Contingency planning for a DV visit is critical. One minor change can have a ripple effect throughout the whole itinerary. The control officer should think through the visit beforehand and "what if" the plan—bad weather, vehicle breakdown, lost bags, travel delays, traffic, and medical problems—and develop backup plans for each scenario. The control officer should know what parts of the itinerary can be modified or dropped and remain alert for partner nation surprises, remembering flexibility and access remain central to the visit.

Following the visit, it is important to ensure all financial obligations are resolved in a timely fashion. It is also a good idea to send "Thank You" letters to specific partner nation personnel that proved vital to the visit. Moreover, this will provide an opportunity to follow-up on any issues that arose during the visit. Lastly, ensure that a detailed after action report is completed, to include the important lessons learned section for use during the next DV visit.

Legal Status Overseas

The legal status of SCO personnel who are performing their duties in foreign countries may be affected by the provisions of one or more treaties, international agreements, or laws. In most cases, the immunities afforded by these agreements are specific to the country and to the status of the individual involved. This section discusses the various immunities that may be afforded to DoD personnel stationed abroad.

Jurisdiction

A primary element of national sovereignty is the exercise of jurisdiction by a government over persons within its territory. The USG strives to obtain legally binding international agreements that provide protections and immunities for DoD personnel overseas. DoD personnel not accredited or otherwise protected under an existing agreement are entirely subject to the host nation's laws and jurisdiction while in that country. Jurisdiction applies not only to criminal issues, but also to routine civil matters such as taxation or issuance of driver's licenses.

Vienna Convention on Diplomatic Relations of 1961

The Vienna Convention on Diplomatic Relations (1961) is the primary international agreement which describes the conduct, status, and privileges of diplomatic missions; the U.S. has signed the Convention. It recognizes several categories of personnel with respect to immunity.

The most comprehensive status category is that of "diplomatic agent"; the "protection" afforded that status is often referred to as "full diplomatic immunity." The Vienna Convention provides three principal protections:

- Inviolability of Premises
- Inviolability of Person
- Immunity from Criminal Prosecution

Inviolability of Premises prevents the receiving State from entering the grounds or building of a diplomatic mission. It also puts the burden on the receiving State to protect those grounds and buildings from violation by others. Articles 29 and 30 extend this inviolability to the person, home, and property of the diplomatic agent and his/her family. Article 31 grants diplomats immunity from criminal prosecution or civil and administrative jurisdiction of the receiving State. In addition, a diplomat is not obliged to give evidence as a witness in the courts of the receiving State. This immunity cannot be waived by the diplomat, but solely by the sending government, and must be specifically waived each time.

Diplomatic status does NOT grant to the diplomat:

- Immunity from the jurisdiction of the sending State
- Immunity from civil and administrative jurisdiction over private business activities not done on behalf of the sending State

Diplomatic agents hold diplomatic rank on the host government's diplomatic list and normally include the Ambassador, deputy COM, and attachés, including military attachés. It is a rare occurrence to see someone in the SCO (besides the SDO/DATT) listed on the diplomatic list.

The second recognized status category of personnel is that of "Administrative and Technical" (A&T) staff. Persons in this category and their families receive the full criminal immunity afforded diplomatic agents, but are immune from the country's administrative and civil jurisdiction only in conjunction with their official duties. Most SCO personnel and their sponsored dependents fall into this category. Inbound SCOs should ascertain their exact diplomatic status from the U.S. embassy.

Figure 4-1
Protections under the Vienna Convention of 1961

	Jurisdiction			
	Criminal		Civil and Administrative	
	Acts Performed within Duties	Acts Performed outside Duties	Acts Performed within Duties	Acts Performed outside Duties
Diplomatic Agent	Yes	Yes	Yes	Yes
Administrative and Technical Staff	Yes	Yes	Yes	No

Diplomatic Documentation

Personnel having diplomatic rank will generally carry diplomatic passports and have full diplomatic protections. A&T Staff will carry either diplomatic or official passports, depending on agency, but still only have A&T Status. The type passport is not the critical issue, the formal Diplomatic List held by Ministry of Foreign Affairs (MFA) of the receiving State is the only authoritative document indicating everyone's diplomatic rank and status. Diplomatic cards, sometimes called "carnets," (known in country by various names) are issued by the MFA of the receiving State to members of the diplomatic mission indicating the recognized status. The embassy's Human Resources department working for the General Services Officer (GSO) will be the liaison with the host nation to resolve SCO members' issues.

Status of Forces Agreements (SOFA)

In addition to the Vienna Convention, the USG has entered into more than one hundred multilateral and bilateral agreements addressing the presence and activities of U.S. forces (military and civilian) in a foreign country. While there are no formal requirements concerning form, content, length, or title of a SOFA, a SOFA typically addresses, but is not limited to, criminal and civil jurisdiction, the wearing of uniforms, taxes and fees, carrying of weapons, use of radio frequencies, license requirements, and customs regulations. The USG has concluded SOFAs as short as one page (e.g., Botswana) and in excess of 200 pages (e.g., Germany). A SOFA may be written for a specific event or provide general, long-term coverage. The DoS negotiates these agreements in cooperation with the DoD.

It is important to remember that a single person can only fall into one of these four categories (Diplomatic, A&T staff, SOFA, host nation laws) at a time. It is not uncommon for different agreements to be in effect simultaneously in any given country. Thus, DoD military and civilian personnel in the same country may, and probably will, enjoy varying degrees of rights and privileges, depending on whether they are serving as a military attaché, a member of a SCO, on a security assistance team, or as part of a deployed operational military force.

DoD Security Cooperation Personnel Visiting Foreign Countries

Personnel based in the continental U.S. who travel overseas on temporary duty are not considered part of the local U.S. embassy's administrative and technical staff and are not afforded immunity under the Vienna Convention. However, they may be protected under a SOFA or similar agreement. As part of the planning process for in-country teams, SCOs should know or verify the jurisdictional status of those personnel (and advise the travelers). The staff judge advocate (SJA) of the appropriate CCMD maintains this information and can determine if an existing agreement covers the proposed teams.

Ethics and Standards of Conduct

SCO personnel are expected to maintain the highest standards of ethics in both their professional and personal conduct. In all instances, SCO personnel are required to maintain strict standards of integrity and ethics, and avoid even the perception of impropriety. USG employment is a matter of public trust and requires that DoD personnel place loyalty to country, ethical principles, and the law above private gain and other interests (Executive Order 12674, April 12, 1989, as amended).

Conflicts of Interest

Congress has provided a structure of laws that give guidelines as to what constitutes a breach of fiduciary duty by a federal official. Most of these laws have been codified under Title 18 U.S.C., titled "Crimes and Criminal Procedure." 18 U.S.C. § 201(b) (c) defines both bribery and graft and prescribes criminal penalties for each. Bribery is the corrupt giving or offering of anything of value to a public official with the intent to:

- Influence official acts
- Have the official perpetrate fraud or set up the opportunity for fraud
- Have that official do anything contrary to his public duty (18 U.S.C. 201)

The reciprocal of bribery is graft—the seeking by a public official of something of value in order to assure that his public acts will conform to those desired by the prospective donor. This is also prohibited by 18 U.S.C. 201(c).

In addition to establishing penalties for bribery and graft, Congress has legislated 18 U.S.C. 207, which restricts the business activities of former USG employees. section 207 provides that any former employee of the USG who, after his employment has ceased, acts for another in seeking a determination in regard to a claim or contract in connection with which he personally and substantially participated while a USG official shall be vulnerable to a $50,000 fine and up to five years confinement for willful violation. SCO personnel, who anticipate leaving government service to join the workforce of a U.S. defense vendor, or to officially represent a foreign government, must be aware of these constraints and others. DODD 5500.7-R, *Joint Ethics Regulation* (JER), provides guidance on conflicts of interest, as well as for DoD members seeking outside (i.e., post-retirement) employment and their employment following government service.

Gifts and Gratuities

SCO personnel, along with all other DoD personnel, are subject to the provisions of DODD 5500.7-R, *Joint Ethics Regulation* (JER). In this regard, DoD personnel shall avoid any action, or even the appearance of any action, of:

- Using public office for private gain
- Giving preferential treatment to any person or entity
- Impeding government efficiency or economy
- Losing complete independence or impartiality
- Making a government decision outside official channels
- Affecting adversely the confidence of the public in the integrity of the government

Among other limitations, DoD personnel are prohibited from accepting gratuities from those who have or seek business with DoD, e.g., defense contractors, commonly referred to as a prohibited source in the context of ethics discussions.

Certain USG employees, such as procurement officials (41 U.S.C. 2101 et seq), are subject to additional restrictions. However, by law, so-called "micro-purchasers" (those making purchases of less than $3,000, not to exceed $50,000 in a twelve-month period for [1] contingency operations and [2] outside CONUS are not considered procurement officials.

According to DODD 5500.7-R, all DoD employees, regardless of assignment, are prohibited from soliciting or accepting, with limited exceptions, any gift from a prohibited source. A gift is defined in DODD 5500.7-R as any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodging and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. The acceptance of a gift by DoD personnel or their families, no matter how innocently tendered, may prove to be a source of embarrassment to the DoD, may affect the objective judgment of the DoD personnel involved, and may impair public confidence

in the integrity of the government. Title 5 Code of Federal Regulations, section 2635 (5 CFR 2635) provides several exceptions to the general prohibition of accepting gifts.

Unsolicited Gifts

Government employees, subject to more restrictive standards set by their agency, may accept unsolicited gifts having an aggregate value of no more than $20 per occasion and subject to a $50 limitation per donor per calendar year. Gifts of cash, stocks, bonds, or certificates of deposit are not covered by this exception and may not be accepted. This limitation applies to gifts from both contractors and state-owned industry.

Personal Relationships

A USG employee may accept a gift based on a personal relationship if it is clear that acceptance of the gift is restricted to a family relationship or personal friendship and not by the official capacity of the employee. Relevant factors include the history of the relationship and who actually paid for the gift.

Gift Exclusions

Additionally, the definition of gift does not include any of the following items:

- Modest items of food and refreshments, such as soft drinks, coffee, and donuts, offered other than as part of a meal
- Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation
- Opportunities and benefits available to the general public or to a specific class of government employees, e.g., uniformed military members
- Anything for which fair market value is paid by the employee

Gifts from Foreign Governments

DODD 1005.13, *Gifts and Decorations from Foreign Governments*, governs the acceptance and retention of gifts from foreign governments. This directive and the individual service regulations that implement it provide guidance for individuals to follow for reporting and determining whether gifts can be retained or must be turned over to the appropriate custodian. The primary governing principle is that no DoD employee may request or otherwise encourage the offer of a gift from a foreign government. Whenever possible, individuals should politely refuse gifts of anything larger than minimal or token value (e.g., plaques, photographs, calendars, pens, etc.). Only if the refusal would cause embarrassment to the USG or the presenting government should gifts be accepted by a USG representative. The maximum value of a gift that an employee may retain is $390.00 (Standards of Conduct Office, Advisory #11-02). Gifts exceeding the maximum value are the property of the USG and should be deposited with the employing DoD component for disposition in accordance with DODD 1005.13. The burden of proof of the gift's value rests with the employee who received the gift.

DoD Directive 5500.7-R permits attendance or participation of DoD personnel in gatherings, including social functions, that are hosted by foreign governments or international organizations when:

- Acceptance of the invitation is approved by the DoD component
- Attendance or participation is for authorized purposes
- The social event involves a routine or customary social exchange with officials of foreign governments in pursuit of official duties

- The event is not in the context of the foreign government's commercial activities, i.e., attempting to make a sale to DoD

Disposition of Gifts

Should an employee accept a gift that is not allowable under the preceding guidelines, one of the following actions must be taken:

- The employee may request an exception to policy, in writing, to retain the gift.
- The employee may request to purchase the gift, also known as the right of first refusal. Per DoD 1005.13, the request is made to the General Services Administration (GSA) and must be accompanied by a commercial appraisal. If the purchase is approved, the price to be paid is the appraised value and cost of the appraisal.
- The item may be displayed in the office. If it is a tangible item, this would entail putting the item on the organization's property control records.
- If none of the above options is pursued, the item must be turned in to the organization's legal office for disposition.

Security Cooperation Organization Environment

The vast majority of SCOs are small offices that are tasked with administering a wide range of programs. As most of the SCO billets are considered "joint," SCOs need to remain flexible, congenial, not tied to parochial methodologies, and with the confidence to reach back to the CCMD or USG resources with more information or experience. It is common for one member, without regard to parent military service, to be tasked to manage an FMS case or other program sponsored by another military service, with its associated requirements involving logistics, training, and other areas. A common example is the U.S. Air Force officer assigned to a SCO who assumes the in-country responsibility for a U.S. Army helicopter purchase by the host nation air force. Likewise, the common administrative tasks and extra duties incumbent in every SCO—personnel issues, budget, property, vehicles, etc.—may be accomplished by a field grade officer, a non-commissioned officer, a U.S. civilian employee, or LE Staff, depending on a variety of local circumstances. Due to the relative scarcity of manpower, SCOs must recognize the need for effective and flexible management. Key tools include:

- Developing and maintaining a comprehensive point of contact list for both host nation personnel and relevant DoD organizations
- Using e-mail with multiple addressees in all organizations working an issue
- Accessing official publications and other guidance (DoD directives and instructions, service regulations, etc.) on the Internet wherever possible
- Leveraging personnel and other resources, within the embassy country team, the CCMD, and elsewhere, for information or support as necessary

There is normally a direct correlation between the size of a SCO and the magnitude of a country's SA program. Those countries with large FMS programs and those in which the U.S. has key strategic interests generally have larger SCOs. In developing countries where SA programs are small, SC programs often take on a more prominent role. In developed countries, on the other hand, the host nation may be largely self-sufficient in both its financing and management of SA, so the role and responsibilities of the SCO will take on a different tone. However, the importance of a program vis-a-vis its size may be

relative; in some countries, a small program can be as meaningful and as politically influential as larger programs in other countries. In summary, the size of the SCO, the relationship with the host nation military, and the scope and volume of current programs, both in SA and SC, all combine to produce a unique working environment in each SCO.

Summary

This chapter tried to address the primary responsibilities, considerations, challenges, and issues which impact the SCO's environment. The SCO encompasses all DoD organizations, regardless of actual title or size, located in foreign countries to carry out SC and SA management functions under the FAA, the AECA, and other authorities.

SCOs and the personnel assigned to the SCO have a level of responsibility and breadth of experience seldom seen in other military assignments. SCO functions and responsibilities are driven by legislative, DoD, DSCA, and other administrative/logistics provisions. Some of the major SC/SA responsibilities include key relationship building, SC planning, FMS case development/management, training management, end-use monitoring, Rationalization, Standardization & Interoperability (RSI), Humanitarian Assistance, exercise planning, visitor management and involvement in a variety of other SC programs.

SCOs are typically led by the Senior Defense Official/Defense Attaché (SDO/DATT), normally a member of an Ambassador/Chief of Mission's (COM) country team. The SCO is under the authority of the COM. The SDO/DATT's interaction with other members of the embassy country team is vital to ensure the DoD's interests in a host nation are synchronized with the COM. As a member of the country team, and with PPD-23 and interagency cooperation becoming even more important, the SCO has a first-hand look at USG interagency activities and foreign policy in action. Additionally, SCO personnel will interact and support U.S. defense industry, while remaining impartial between competing U.S. companies.

The legal status of SDO/DATTs and SCO personnel varies from country to country. In general, SCO personnel and their sponsored dependents fall into the diplomatic category of "Administrative and Technical" staff. Persons in this category and their families receive the full criminal immunity afforded diplomatic agents, but are exempt from the country's administrative and civil jurisdiction only in conjunction with their official duties.

SCO personnel are expected to maintain the highest standards of ethics in both their professional and personal conduct. This is particularly important when they interact with partner nation officials and with marketing agents of U.S. vendors. SCO personnel should be familiar with DODD 5500.7-R, *Joint Ethics Regulation*, as it pertains to conflicts of interest, gifts and gratuities, and must adhere to the standard DoD requirements for travel and transportation, as found in the *Joint Travel Regulations* (JTR).

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Attachment 4-1
Sample Letter of Instruction From The President

(Selected text placed in bold by DISCS)

The Honorable (Name)
American Ambassador

Dear Mr./Madam Ambassador:

Thank you for your willingness to serve our country as my personal representative to [country].

Together we have a great task before us. We must renew America's security and standing in the world through a new era of American leadership. The United States will advance its interests through a core pragmatism rooted in America's enduring values. We must rebuild our traditional alliances and pursue new partnerships based on mutual interests and respect, so that together we can confront key common challenges of the 21st century, including weapons of mass destruction, terrorism, poverty, pandemic disease, dependence on fossil fuels and global climate change. America is strongest when we act alongside other nations and peoples. Our security also is enhanced through principled and sustained engagement with those who think differently. As my personal representative, you will be the front line of our efforts.

Our security and prosperity are inextricably linked with those of other countries and people around the world. To strengthen both our national and global economies, we must expand trade as well as financial and scientific cooperation, and we will advance mutual understanding through educational and cultural diplomacy. We must work in concert with others to prevent, resolve, and mitigate conflict, combat transnational threats, strengthen law enforcement cooperation, and promote democratic values and human rights.

I will need your support for our efforts to provide forward-thinking, sustained diplomacy in every part of the world. We will apply pressure where it may be needed, and look for opportunities to advance U.S. interests. As appropriate, you should reach out to other government agencies, nongovernmental organizations, the private sector, international organizations, and our military to leverage your own initiatives. I also urge you to pursue diplomacy and public outreach with 21st century tools and technology.

As Chief of the U.S. Mission, one of your most important jobs will be to take care of our diplomatic personnel and to ensure that they have the tools they need to support your efforts. The Mission should be seen as a welcoming and supportive place for American citizens and American businesses abroad. I have asked you to represent the United States in [country] because I am confident that you possess the skills, dedication, and experience necessary to meet the many challenges that we face in these extraordinary times.

This letter contains your detailed instructions as my personal representative and the U.S. Chief of Mission. These instructions have been shared with relevant departments and agencies, and I have directed that they give you their full cooperation. I expect you to carry out your mission to the best of your ability and in full conformance with the law and the highest ethical standards. I am counting on your advice and leadership as Chief of Mission to help protect America's interests and to promote America's values.

As Chief of Mission, you have full responsibility for the direction, coordination, and supervision of all U.S. Executive Branch employees in [country], regardless of their employment categories or location, except those under command of a U.S. area military commander or on the staff of an international organization. With these exceptions, you are in charge of all Executive Branch activities and operations in your Mission.

You will report to me through the Secretary of State. Under my direction, the Secretary of State is, to the fullest extent provided by the law, responsible for the overall coordination of all United States government activities and operations abroad. The only authorization channel for instruction to you is from the Secretary or me, unless the Secretary or I personally instruct you to use a different channel.

All Executive Branch agencies under your authority, and every element of your Mission, must keep you fully informed at all times of their current and planned activities. You have the right to see all communications to or from Mission elements, however transmitted, except those specifically exempted by law or Executive decision.

You have full responsibility for the direction, coordination, and supervision of all Department of Defense personnel on official duty in [country] except those under the command of a U.S. area military commander. You and the area military commander must keep each other currently and fully informed and cooperate on all matters of mutual interest. Any differences that cannot be resolved in the field will be reported to the Secretary of State and the Secretary of Defense.

I expect you to take direct and full responsibility for the security of your Mission and all the personnel for whom you are responsible, whether inside or outside the chancery gate. **Unless an interagency agreement provides otherwise, the Secretary of State and you as Chief of Mission must provide for the security of all United States government personnel on official duty abroad other than those under the protection of a U.S. area military commander or on the staff of an international organization and their accompanying dependents. You and the U.S. area military commander should consult and coordinate responses to common threats.**

I ask that you review programs, personnel, and funding levels regularly, and ensure that all agencies attached to your Mission do likewise. Rightsizing the United States government presence abroad is a continuing requirement. To better meet our foreign policy goals, I will be expanding the Foreign Service and strengthening civilian capacity to work alongside the military. At the same time, we need to eliminate unnecessary duplication in our foreign operations. Functions that can be performed effectively and efficiently by personnel based in the United States or at regional offices overseas should not be performed at post. We should make greater use of the expertise of host country citizens, and outsource functions when it is effective and efficient to do so. In your reviews, should you find staffing to be either excessive or inadequate to the performance of priority Mission goals and objectives, I urge you to initiate staffing changes in accordance with established procedures.

Every Executive Branch agency under your authority must obtain your approval before changing the size, composition, or mandate of its staff. If a Department head disagrees with you on staffing matters, that individual may appeal your decision to the Secretary of State. In the event the Secretary is unable to resolve the dispute, the Secretary and the respective Department head will present their differing views to me for decision.

All United States government personnel other than those under the command of a U.S. area military commander or on the staff of an international organization must obtain country clearance before entering [country] on official business. You may refuse country clearance or may place conditions or restrictions on visiting personnel as you determine necessary.

I expect you to discharge your responsibilities with professional excellence and in full conformance with the law and the highest standards of ethical conduct. You should ensure that there is equal opportunity at your Mission and no discrimination or harassment of any kind. Remember as you conduct your duties that you are representing not only me, but also the American people and America's values.

Sincerely,

ATTACHMENT 4-2
SECURITY COOPERATION ORGANIZATION–INDUSTRY RELATIONS

Office of the Secretary of Defense
Washington, DC, 20301-1000
05 May 1999

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

CHAIRMAN OF THE JOINT CHIEFS OF STAFF
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Department of Defense Policy for Relations with U.S. Industry in Sales of Defense Articles and Services to Foreign Governments

The DoD is committed to greater cooperation with U.S. industry to facilitate sales of U.S. defense articles and services when in support of U.S. national security and foreign policy objectives. DoD is prepared to assist and cooperate with U.S. Industry regardless of the type of sale, e.g., Direct Commercial Sale, Foreign Military Sale, or a combination of the two.

The purpose of this policy is to improve communication and teamwork between DoD and U.S. Industry in the Security Cooperation process. DoD and U.S. Industry participants must establish specific roles and responsibilities by developing DoD and U.S. Industry arrangements. In cases where only one U.S. contractor is involved, the military departments will be the DoD representatives for weapon systems under their cognizance. The Defense Security Cooperation Agency (DSCA) will be the DoD representative when more than one U.S. contractor is competing until down selection is complete. DoD representatives will not favor one U.S. contractor over another in competition process.

The level of cooperation and assistance will be determined on a case-by-case basis. While the mechanism(s) for a DoD/U.S. Industry cooperative effort of this nature are being developed as part of the Security Cooperation reinvention process, certain actions will be common to all situations. We expect industry to advise the DoD of cooperation and assistance it desires for a particular effort. Receipt of that information will prompt: (a) identifying DoD/U.S. Industry principal players, (b) establishing formal lines of communication, (c) defining roles, and (d) developing a joint approach. Conversely, DoD may request support from industry.

Your participation and cooperation are essential to improving the Defense Security Cooperation process.

//SIGNED//
Jacques S. Gansler
Under Secretary of Defense for Acquisition & Technology

//SIGNED//
Walter B. Slocombe
Under Secretary of Defense for Policy

Attachment 4-3
Checklist for Meeting Representatives of Defense Industry

(See SAMM C2.1.8 for detailed guidelines on interface with industry)

1. Exchange business cards
2. Inquire about the articles and/or services which the vendor is marketing
3. Ask to see the vendor's export license, or inquire about the status of license approval. Ask what provisos (limitations) are associated with the license.
4. Indicate that, in general, the USG has no preference as to whether a sale is made via FMS or DCS channels (SAMM C4.3.4). Inquire as to whether the vendor has a preference (some vendors have a preference for DCS on file with DSCA; see SAMM C4.3.6).
5. Inquire whether the vendor is marketing similar articles or services to other countries in the region
6. As appropriate, provide an overview of host nation military picture
   a. Organization
   b. Known requirements and priorities
   c. U.S. and DoD relations with host nation
   d. Host nation defense industry
7. As appropriate, review the host nation procurement strategy.
   a. Key decision-makers within MOD and the services
   b. Defense budget and expected availability of FMF, if any
   c. MOD procurement system (preferences for FMS vs. DCS)
   d. Host nation offset policy, if appropriate
   e. Foreign competition
8. Inquire if the vendor has an in-country agent
9. Inquire if the vendor would like marketing assistance from the Department of Commerce through the embassy's commercial attaché or local Foreign Commercial Service (FCS) representative
10. Inquire if the vendor wants assistance in appointments with host nation officials and/or other U.S. embassy offices
11. Request a back-brief from the vendor after meetings with host nation

Attachment 4-4
SDO/DATT Appointment Letter

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000
FEB 19, 2015

Colonel Robert X. Hanseman, USAF
U.S. Defense Attaché Office Bandaria
1000 Bandaria Place
Washington, DC 20521-1111

Dear Colonel Hanseman:

You hereby are appointed SDO/DATT in the Republic of Bandaria. As SDO/DATT, you are the principal Department of Defense official at the American Embassy in Bandaria and my representative to the Ambassador and the government of Bandaria. You will represent the geographic combatant command, the Defense Intelligence Agency (DIA), and the Defense Security Cooperation Agency (DSCA) to the U.S. embassy country team and the host nation. Congratulations on your selection to serve in this key position.

I charge you with the overall direction and management of the Defense Attaché Office and the Office of Security Cooperation (SCO), and the coordination of U.S. defense issues and activities in Bandaria in accordance with DoD Directive 5205.75 and DoD Instruction C-5105.81. I expect you to provide strong and ethical leadership and to set the standard for personal excellence.

You will receive guidance and instructions from DIA on your duties as the Defense Attaché and from the geographic combatant command and DSCA on your duties as Chief, SCO. The Office of the Secretary of Defense will provide additional policy guidance as required. You will communicate regularly with your geographic combatant command, DIA, and DSCA to address the multi-faceted equities of each.

As you prepare for your mission, remember you are representing an important and integral part of the U.S. foreign policy process. I wish you great personal and professional success as you embark on this challenging assignment.

Sincerely
//SIGNED//
Ashton B. Carter

Enclosures:

1. Letter of Introduction to U.S. Ambassador
2. Letter of Introduction to Bandarian Minister of Defense
3. CJCS Letter of Introduction to Bandarian Chief of Defense

Attachment 4-5
Letter of Introduction to U.S. Ambassador

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000
FEB 19, 2015

Honorable Jane J. Reynolds
American Embassy Bandaria
Department of State
1000 Bandaria Place
Washington, DC 20521-1111

Dear Madam Ambassador:

This letter introduces Colonel Robert X. Hanseman, United States Air Force, whom I appointed as the Senior Defense Official (SDO)/Defense Attaché (DATT) to your Embassy. As the SDO/DATT, Colonel Hanseman is my representative to you and, subject to your authority as Chief of Mission, the diplomatic representative of the Defense Department to the government of Bandaria. I urge you to take full advantage of Colonel Hanseman's expertise and resources as your principal military advisor.

Colonel Hanseman is an exceptionally experienced and qualified officer, in whom I place my full trust and confidence. He commanded United States Air Force organizations in combat and in peace with success and served with distinction as a member of the Air Staff. I commend Colonel Hanseman to you as an officer who will serve the interests of both the Department of Defense and the Department of State.

I urge you to communicate through him any matters affecting our mutual interests that you feel deserve my attention. Of course, you are welcome to communicate with me directly for those matters you feel are appropriate.

Sincerely
//SIGNED//
Ashton B. Carter

Attachment 4-6
Letter of Introduction to Bandarian Minister of Defense

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000
FEB 19, 2015

His Excellency Dr. Karl Alfonsas Vanderjager
Ministre des Achats de la Defence
Ministere de la Defence du Bandaria,
Republic of Bandaria

Dear Doctor Vanderjager,

This letter introduces Colonel Robert X. Hanseman, United States Air Force, as the Senior Defense Official and Defense Attaché at the United States Embassy in Bandaria. Colonel Hanseman serves as my personal representative and as the principal representative of the United States Department of Defense. He serves under the authority of our Ambassador.

Colonel Hanseman is an exceptionally experienced and qualified officer, in whom I place my full trust and confidence. He commanded United States Air Force organizations in combat and in peace with success and served with distinction as a member of the Air Staff. I commend Colonel Hanseman to you as an officer who will serve the interests of both of our countries, and I request that you afford him the status and recognition appropriate to his position.

I urge you to communicate through Colonel Hanseman any matters affecting our mutual interests that you feel deserve my attention. Of course, I also welcome you to communicate with me directly for those matters you feel are appropriate.

Sincerely,
//SIGNED//
Ashton B. Carter

Attachment 4-7
CJCS Letter of Introduction to Bandarian Chief of Defense

OFFICE OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF
9999 JOINT STAFF PENTAGON
WASHINGTON, DC 20319-9999
FEB 19, 2015

Lieutenant General Sami Anan
Chief of Defense Staff
Ministere de la Defence du Bandaria
Herat, Republic of Bandaria

Dear General Anan,

I am pleased to introduce Colonel Robert X. Hanseman, United States Air Force, to you as the Senior Defense Official and Defense Attaché at the United States Embassy in Herat. He serves under authority of the Ambassador as my personal representative and the principal representative of the United States Department of Defense. As an exceptionally experienced and qualified officer, he has my full trust and confidence.

Colonel Hanseman has successfully commanded United States Air Force organizations in combat and peace. I commend him to you as an officer who will serve the interests of both of our countries, and request that you afford him the status and recognition appropriate to his position.

I urge you to communicate through him any matters affecting our mutual interests that you feel deserve my attention. Of course, you are also welcome to contact me directly when you deem it necessary.

Sincerely,
//SIGNED//
MARTIN E. DEMPSEY
General, U.S. Army

Attachment 4-8

Security Cooperation Organizations

ACRONYM	LOCAL TITLE
JUSMAG	Joint U.S. Military Assistance Group (Philippines)
JUSMAG	Joint U.S. Military Advisory Group (Thailand)
JUSMAG-K	Joint U.S. Military Affairs Group—Korea
KUSLO	Kenya U.S. Liaison Office
MAP	Military Assistance Program (Jordan)
MDAO	Mutual Defense Assistance Office (Japan)
NLO	Navy Liaison Office (Bahamas)
ODC	Office of Defense Cooperation (approximately fifty European, East Asian Countries, and others)
ODC	Office of Defense Coordination (Mexico)
ODR	Office of Defense Representative (Costa Rica)
ODRP	Office of Defense Representative—Pakistan
OMC	Office of Military Cooperation (Kuwait, Bahrain, Egypt, Kazakhstan, Kyrgyzstan, Oman, Qatar, Turkmenistan, Uzbekistan, Yemen)
OSC	Office of Security Cooperation (all African countries except Kenya)
SAO-A*	Security Assistance Office–Afghanistan; this office is a staff element within the NATO Training Mission–Afghanistan/Combined Security Transition Command–Afghanistan (NTM-A/CSTC-A) *The organization in Afghanistan, under the control of the United States Forces–Afghanistan (USFOR–A) does not report directly to the U.S. Ambassador to Afghanistan. Additionally, NTM–A/CSTC–A's mission includes training and equipping the host nation interior forces (e.g., border police, national police, local police, etc.) which, while permitted by the Arms Export Control Act, is severely constrained under normal circumstances.
USLO	U.S. Liaison Office
USMAAG	U.S. Military Assistance Advisory Group (Dominican Republic, Peru)
USMILGP	U.S. Military Group (several South and Central American countries)
USMLO	U.S. Military Liaison Office (several South and Central American countries)
USMTM**	U.S. Military Training Mission (Saudi Arabia) **Within Saudi Arabia, in addition to USMTM, there are other DoD organizations that have an "advise, train, and equip" mission. Because they do not work with the Ministry of Defense and Aviation, and because their charters allow them to conduct training, they are not formally considered SCO's. They are:
OPM-SANG	Office of the Program Manager, Saudi Arabian National Guard
MIPF-TAG	Maritime Infrastructure Protection Forces-Training Advisor Group
MOI-MAG	Ministry of Interior- Military Advisory Group

Chapter

5 FOREIGN MILITARY SALES PROCESS

INTRODUCTION

The Foreign Military Sales (FMS) program is part of Security Assistance (SA) authorized by the Arms Export Control Act (AECA) and is a fundamental tool of United States (U.S.) foreign policy. Under section 3, AECA, the U.S. may sell defense articles and services to foreign countries and international organizations when the President makes a determination that a prospective purchaser is eligible. The Defense Security Cooperation Agency (DSCA) issues the *Security Assistance Management Manual* (SAMM), DSCA 5105.38-M. The SAMM provides policy and guidance for the administration and implementation of SA in compliance with the AECA, the Foreign Assistance Act (FAA), and other related statutes and directives. Table C4.T2 of the SAMM identifies partner nations and organizations designated as eligible to purchase defense articles and services through the FMS program. Questions regarding eligibility should be referred to DSCA. FMS programs are conducted through binding contractual agreements between the U.S. government (USG) and an authorized foreign purchaser. These government-to-government agreements to transfer defense articles and services are called Letters of Offer and Acceptance (LOAs). A signed LOA, along with its associated revisions, is called an FMS case, though the terms "LOA" and "FMS case" are often used interchangeably. Chapter 8 of this textbook will address LOA revisions, referred to as amendments or modifications.

While this textbook offers an overview of the FMS process, it is not intended to replace the SAMM or other official policy references. The SAMM and DSCA policy memoranda can be found on DSCA's web site: http://www.samm.dsca.mil/. In this dynamic national security environment, it is important to keep abreast of new or revised SA policies and procedures by periodically reviewing the SAMM and policy memoranda. There is also a convenient link to the SAMM and policy memoranda at the Defense Institute of Security Cooperation Studies (DISCS) web site: http://www.discs.dsca.mil. These references are essential reading to understanding the FMS process. Much of the information discussed in chapters 5 and 6 of this textbook correlates to chapters 1, 2, 4, 5, and 6 of the SAMM.

Before discussing the FMS process itself, it is important to understand that the USG infrastructure supporting FMS is not a stand-alone arrangement, but rather utilizes the existing domestic structure of the DoD. Therefore, policies, databases, and organizational elements that support FMS vary among DoD agencies that manage LOAs. Military departments (MILDEPs) and other DoD agencies involved in writing and managing FMS programs are collectively referred to as Implementing Agencies (IAs), and are listed in table 5-2 of this chapter. Table C5.T2 of the SAMM also provides a list of IAs, along with associated mailing and message addresses.

The FMS process is complex and, for a major weapon system sale, may last for many years. The stages of the FMS process are outlined in table 5-1 and are discussed throughout this chapter. The DoD acquisition, logistics, financial, and training elements of the FMS process are further addressed in subsequent chapters of this textbook. This chapter addresses the entire FMS process starting with the preliminary stages when the customer begins to define requirements and ending with a discussion of FMS program/case closure.

Table 5-1
Foreign Military Sales Process

Pre-Case Development	**Preliminary and Definition** *Indefinite Time Period*	Customer identifies defense capabilities Customer researches options/sources Customer refines requirements SCO prepares Pre-LOR Assessment Request (PAR) for classified and advanced technology release decisions, if applicable Customer and U.S. exchange technical information
	Request *Indefinite Time Period*	Customer prepares Letter of Request (LOR) Price and Availability (P&A) or LOA Country Team Assessment (CTA) LOR channels of submission Security Assistance survey teams
Case Development	**Offer** 45-150 days Anticipated Offer Date depends on type and complexity of case; Formal Congressional review is 15–30 days	IA and DSCA receive and evaluate LOR IA develops LOA data (LOAD) DSCA Case Writing Division finalizes LOA Congressional notification, if required, is concurrent with LOA development DSCA-CWD countersigns LOA IA issues LOA to customer
	Acceptance OED is generally 85 days from IA approval in DSAMS (includes 60 days for country review)	Customer signs LOA by Offer Expiration Date Customer sends signed LOA to the IA Customer sends signed LOA and Initial Deposit to Defense Finance and Accounting Service (DFAS-SCA), Indianapolis
Case Execution	**Implementation** 10–15 days average	DFAS issues Obligational Authority (OA) IA issues implementing directive IA activates FMS computer systems
	Execution Longest phase; depends on delivery schedule	Articles/services/training are ordered/contracted Articles shipped and services performed Training conducted IA reports performance to customer/DFAS–SCA
	Closure 2 years from supply/services complete (Accelerated Case Closure Procedures)	IA/DFAS/customer reconcile records IA sends closure certificate to DFAS–SCA DFAS–SCA issues final bill to customer

Pre-Case Development: Preliminary and Definition

The FMS process begins when the partner nation conducts a threat analysis based on its national security objectives. During this assessment, the customer typically looks at materiel and non-materiel solutions to address mission deficiencies. Non-materiel solutions may involve areas such as military doctrine, force structure, and training philosophy. For potential materiel solutions to defense requirements, the customer may explore options by seeking information from the USG about specific systems. An important element of this analysis is for the customer to quantify system life cycle costs to determine if the potential capability is a viable cost alternative. Normally, there should be ongoing

consultations between the purchaser and U.S. representatives, especially the in-country U.S. Security Cooperation Organization (SCO), to assist with defining and refining requirements. Chapter 4 of this textbook discusses SCO roles and responsibilities in detail.

When the SCO becomes aware of credible demand signals indicating the probable submission of a Letter of Request for Pricing and Availability (P&A) or a Letter of Offer and Acceptance (LOA), or a commercial Request for Information or Request for Proposal for such items, the SCO should develop a Pre-LOR Assessment Request (PAR), as directed in SAMM C3.1.2. The intent of the PAR is to inform the inter-agency community and the cognizant implementing agency to initiate the Technology Security and Foreign Disclosure (TSFD) process for the timely release of information.

As the partner nation continues to define requirements, follow-on discussions will often expand to include U.S. defense contractors as well as representatives from the IAs and other DoD organizations. These discussions may include such topics as required security agreements, acquisition alternatives, training plans, transportation plans, methods of financing, and concepts of operations and support. U.S. defense strategy plans, concerns for standardization, and interoperability should complement the purchaser's plans and budgets whenever feasible. Follow-on discussions for the more complex sales may even lead to an international agreement or a Memorandum of Understanding (MOU) between the partner nation and the U.S. to document the rights and obligations of each party with regard to weapon systems development, production, or transfer. Chapter 13 of this textbook, "Systems Acquisition and International Armaments Cooperation," discusses these types of agreements in detail.

Pre-Case Development: Request

Upon identifying U.S. systems and/or services to meet defense requirements, the customer may submit a Letter of Request (LOR) to the USG. An LOR can be communicated through formal correspondence (such as a letter or message), electronic mail, or a Request for Proposal (RFP). Less formal methods of communication such as minutes to a meeting or perhaps even oral discussions may be acceptable for transmission of an LOR, but USG representatives should ensure that the request is appropriately documented for future reference and accountability. SAMM C5.1 has a detailed discussion on LORs.

Letter of Request Response Documents

A customer's LOR can request an information-only Price and Availability (P&A) response or a formal sales offer response in the form of an LOA. The key differences between these two types of USG responses to LORs are outlined below.

Price and Availability

P&A data refers to a rough order of magnitude (ROM) estimate reflecting projected cost and availability for defense articles and services identified in an LOR. Generally the IA will use existing financial and logistics information to respond to a P&A request. P&A is intended for planning purposes only and should not be used by the potential purchaser for budgeting purposes. Normally, nonstandard subsystems will not be included in P&A responses unless approved by DSCA. These ROM estimates are not valid for use in preparation of an LOA, and therefore should not be construed as USG commitments to provide the requested materiel and/or services. In other words, a P&A response is not an official USG offer to sell. After reviewing P&A data, a separate LOR for LOA is required if a partner nation desires to pursue a purchase. It is not necessary for an LOR for P&A data to precede an LOR for an LOA. To avoid confusion, the term P&A should not be used when referring to data developed for an LOA—such data should be referred to as LOA data (LOAD). Refer to SAMM C5.3 for further discussion of P&A data.

Letter of Offer and Acceptance

The LOA, addressed in C5.4 of the SAMM, is the authorized document used by the USG as an offer to sell defense articles and services to a partner nation or international organization. For instructional purposes, DISCS' Bandarian Security Cooperation Program Sample Documents package includes a sample LOA, including many related FMS process documents. By policy, the IA must offer an LOA within 45 to 150 days after receipt of an LOR, depending on the type and complexity of the case. The specific time parameters and associated criteria will be addressed in more detail later in this chapter. The LOA represents a bona fide offer by the USG to sell the described items identified in the document. The LOA becomes an agreement when the purchaser accepts (signs) it and provides the initial deposit payment specified in the LOA. While P&A and LOA data are both estimates, an LOA is developed based on the partner nation's specific requirements and contains the most precise data available at the time the document is prepared. If logistical or financial requirements change after the FMS case is implemented, it may be necessary to amend or modify the case. LOA amendments and modifications are discussed later in chapter 8, "FMS Contractual Agreements." The LOA is subject to many conditions and restrictions referred to as the LOA Standard Terms and Conditions, also described in chapter 8 of this textbook.

Letter of Request Format

There is no standard or prescribed format for an LOR. The key to a good LOR is that it provides sufficient information to adequately communicate the partner nation's requirements to the USG. A complete and "actionable" LOR is essential so the IA can prepare a response that most accurately reflects those requirements. Figure 5-1 is a generic checklist depicting the categories of information that may need to be addressed in an LOR. While not all these categories are necessarily applicable to all LORs, the checklist provides good insight into the type of information the USG needs in order to be able to construct an LOA. These categories of information are described in detail in the LOR Writing Guide found in the "Online Learning" section of DISCS' web site. The U.S. Army and U.S. Air Force also have excellent tools available to assist in LOR preparation via generic and commodity-specific LOR checklists found on their web sites. See the list of references at the end of this chapter for the applicable links to these online resources.

Figure 5-1

Letter of Request Checklist

General Info / Special Considerations
- Purchaser
- Related purchases / MOU or MOA
- Commercial negotiations
- Transparency / special reports
- Interoperability
- Acceptance time frame
- International solicitation

Major Item Considerations
- Quantity
- Item identification / description
- Intended end use
- Model / configuration
- Desired delivery date

Acquisition Considerations
- Pre-negotiations
- Sole source
- Offsets

Financial Considerations
- Funding source / availability
- Payment Schedule/Initial Deposit
- Financial Waivers

Services Considerations
- Description / type of service
- Period of performance / location
- DoD or U.S. contractor
- Case/program reviews

Training Considerations
- Type / level of training
- Number / skill level of students
- Proposed location and dates
- DoD or U.S. contractor
- Training program concept

Support Considerations
- Operations Concept
- Maintenance Concept
- Supply Concept
- Initial Spares
- Support Equipment
- Facilities / Site Survey
- Publications
- Warranties
- Follow-on Support

Delivery Considerations
- Freight forwarder
- Pilot pickup
- DTS Port of Debarkation (POD)
- Air or surface movement

Total Package Approach

In addition to the checklists and online tools, partner nations and SCOs can contact the IA headquarters' offices to request assistance (if needed) with LOR preparation. The financial or logistical success of an FMS program can hinge on clear and comprehensive LOR information. To enhance communication and ensure a complete and accurate LOA, purchaser involvement in the pre-LOA and LOA development process is encouraged, especially on major system sales cases. See the SAMM C5.4.5.2 for more information.

Total Package Approach

Successful program and case management and customer satisfaction are generally the results of careful up-front planning and foresight. Effective planning for an FMS weapon system sale involves anticipating not only the requirements for the weapon system itself, but also the associated initial and follow-on support articles and services necessary for introduction and sustainment of the system. This philosophy is called the total package approach (TPA). Planning for what should be included in the system sale will of course vary according to the type of weapon system. The MILDEP commodity specific checklists mentioned earlier in this chapter can be a valuable tool in identifying the myriad of items or services to be considered for a proposed sale. This type of checklist can provide the customer, the SCO, and the case writer with the questions that need to be considered to ensure all requirements are identified in an LOR and are subsequently incorporated into the LOA to achieve TPA. See SAMM C4.3.2 for more discussion on TPA.

Security Assistance Survey Teams

Commodity-specific checklists may not always be sufficient for anticipating all the variables during LOA development for weapon system sales, especially in instances where the purchaser is a new FMS customer or when the LOA is introducing a new weapon system capability for the first time. When requested by a country, a team can be organized to conduct a survey to review/assess military capabilities in support of SC objectives and to help identify and/or clarify the purchaser's requirements. Surveys are conducted in-country and are generally funded by the partner nation. A survey team typically includes a combination of USG personnel, purchaser representatives, and commercial contractors. Though there are various types of survey teams, a site survey is often used to assess facilities and required levels of maintenance and support capabilities as they pertain to a specific program. Looking at in-country facilities early in the process is crucial to ensure the partner nation is prepared to receive, operate, and maintain the new capability. Normally the best time to conduct a site survey is prior to writing the LOA. This will help ensure the IA has vital insight and required information up front to develop the most accurate pricing and delivery schedules possible for the LOA. Information regarding survey teams is contained in SAMM C2.4 and C2.F1. A detailed site survey checklist is also contained in the Navy Product Support Manual which may be viewed in the online *DISCS LOR Writing Guide*.

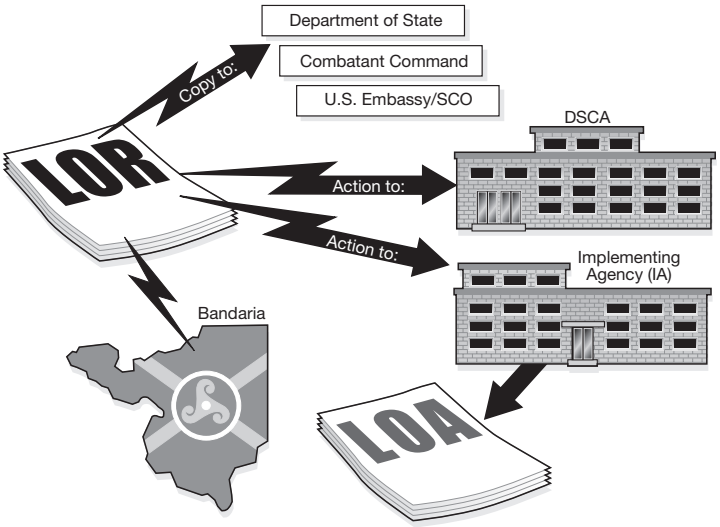
Though not considered a substitute for other types of SA survey teams, an Expeditionary Requirements Generation Team (ERGT) may be used to help augment combatant command (CCMD) staffs and SCOs with translating partner nation capability needs into high-quality LORs. An ERGT, which is organized and deployed by DSCA in response to a CCMD request, typically consists of representatives from DoD agencies, appropriate MILDEPs, and other interagency stakeholder organizations as needed to address the country's specific requirements. See the SAMM C2.4.2 for further information about ERGTs.

Letter of Request Channels of Submission

Before discussing LOR submission procedures, it is important to understand a few key terms. The *U.S. Munitions List* (USML) is included in part 121 of the *International Traffic in Arms Regulations* (ITAR). Items highlighted with an asterisk on the USML require increased export controls because of their capacity for special military utility or capability. These items are called significant military

equipment (SME). A link to the ITAR is provided in the list of references at the end of this chapter. Items of SME having a nonrecurring research and development cost of more than $50 million or a total production cost of more than $200 million are called major defense equipment (MDE). Appendix 1 of the SAMM identifies MDE items and provides an associated prorated nonrecurring cost for each. Chapter 12 of this textbook, "Financial Management," discusses nonrecurring costs for MDE in more detail. By policy, the action addressees for an LOR should be the IA and DSCA. The IA is the USG organization authorized to receive and process LORs. As mentioned earlier in this chapter, table 5-2 includes a listing of authorized IAs and Table C5.T2 in the SAMM provides addresses and routing information for each IA. An LOR can originate from in-country or from purchaser representatives in the U.S.. Regardless of where the LOR originates, there are key organizations that should receive a copy. In addition to the action addresses (IA and DSCA), the U.S. embassy/SCO and the applicable CCMD should receive a copy. If it is not clear which IA has cognizance for the system requested, or if the subject of the LOR is sensitive enough to require a higher-level review, then the U.S. embassy or customer may send the LOR directly to DoS/PM and/or DSCA. Figure 5-2 shows the typical channels of request for an LOR.

Figure 5-2
Channels of Request



Country Team Assessment

There may be times when an LOR must be accompanied by a Country Team Assessment (CTA). A CTA is prepared by senior U.S. Embassy leadership by evaluating an LOR and developing a coordinated position in support of the proposed sale. Normally the SCO prepares the CTA submission and staffs it with the various members of the country team.

In accordance with the SAMM C5.1.4, a CTA is required if any of the following circumstances apply:

- The LOR is likely to result in a Congressional notification pursuant to section 36(b) of the AECA. Congressional notification will be addressed in detail later in this chapter.
- Regardless of cost, the proposed sale would result in the introduction of a new capability in the country.
- The LOR requests defense articles or services of a sensitive nature (as identified in the SAMM C5.1.4.2).

- If DSCA (Operations Directorate) requests a CTA. For example, there could be a proposed sale that doesn't meet one of the above criteria, yet is controversial enough (perhaps politically sensitive) to warrant the level of review and analysis required for a CTA.

In accordance with Table C5.T1 of the SAMM, all CTAs must address certain factors pertaining to the proposed sale of defense articles/services. These factors include the planned end use, contribution to the defense/security goals of the U.S. and the recipient nation, impact on the recipient's military capabilities, source of financing and economic impact on the recipient nation, the recipient's ability to account for and safeguard sensitive technology, and the recipient's human rights record. In addition to these common CTA elements, DSCA requires additional information when the LOR is for any defense article or service of a sensitive nature as listed in the SAMM, Table C5.T1a. For each specific sensitive item listed in C5.T1a, there is a separate table identifying the supplemental information required in the CTA (see Tables C5.T1b through C5.T1g). Note that some of this additional information may require an input from the appropriate Combatant Commander.

Negative Responses to Letters of Request

If the IA believes that an LOR should be disapproved, the IA must first contact DSCA. DSCA will then coordinate with DoS/PM and other relevant agencies before formally notifying the customer of the disapproval. Refer to SAMM C5.2.2 for more details.

Case Development: Offer

The IA must process the LOR so case development can begin. The individual responsible for doing this is generally found at the headquarters element of the IA's security assistance organization. This person may be referred to as the country director, country program director (CPD), country program manager (CPM), command country manager (CCM), or country desk officer. For ease of discussion in this text, the term "country director" will be used. Normally, the country director will process all LORs the IA receives for a given country or region. However, for large and complex FMS programs, there may be more than one country director assigned. Attachment 5-1 of this chapter contains additional information about the IA organizations that process LORs.

Initial Processing of the Letter of Request by the Implementing Agency

Within five days of LOR receipt, the IA must validate the LOR to confirm that the purchaser is eligible for FMS and that there are no sanctions in place, ensure the item may be sold, ensure the request was received through proper channels, and confirm that the country is authorized Dependable Undertaking. Chapter 12 of this textbook, "Financial Management" addresses Dependable Undertaking and other terms of sale used on LOAs. The IA loads the LOR data into the Defense Security Assistance Management System (DSAMS), the DSCA-managed data system used for case development and implementation, and acknowledges receipt of the LOR to the purchaser. DSAMS is described in appendix 1 of this textbook, "Security Cooperation Automation." Within ten days of LOR receipt, the IA establishes the case in DSAMS and tasks organizations to compile the LOA data (LOAD) that will be used in preparing the LOA.

Country directors at the IAs often have a checklist of tasks or questions to answer in order to complete the processing of the LOR. Information for evaluating LORs can be found in SAMM C5.1.7 and table C5.T3. Typical country director checklist items can include, but are not limited to:

- Did copies of the LOR go to the proper USG organizations for action/review?
- Is the LOR complete and does it comply with TPA policy?
- Does the LOR contain an identifiable customer reference or serial number?
- Is the LOR a result of a foreign solicitation?

- Are there additional LOR references, such as an MOU or pre-negotiated conditions?
- Is the request for a valid military requirement?
- Was DSCA provided with Congressional notification data within ten days?
- Is this a sensitive technology request?
- Is the request for missile related technology or classified information?
- Will production be in-country?
- Will any production be used for third country sales?
- For standard U.S. materiel, was a valid national stock number (NSN) provided?
- If the request is for nonstandard materiel, has a military specification (MILSPEC) package or engineering data description been included?
- What initial spare parts are required to be delivered with the end items?
- Is sufficient information included to process a sole source request?
- Was the request screened to determine if there is a concurrent commercial bid?
- Does a quality inspection team need to inspect materiel upon delivery?
- Does the customer require any special USG or contractor services such as an in-country weapon system logistics officer?
- Does the customer require a not to exceed (NTE) or firm fixed price (FFP) response?
- Does the LOR contain unique customer budget or payment schedule requirements?
- Is a site survey required?
- Does the request indicate that FMF will be used as a method of financing?
- Has a negative response been coordinated with DSCA?

Letters of Request Requiring Special Processing

There may be many USG agencies not identified in this chapter that need to review an LOR and a proposed offer. The type and breadth of the USG reviews vary to a large extent depending on the items being requested. It is the responsibility of the IA to ensure that the correct USG organizations have the opportunity to review the LOR. To the extent possible, the required reviews should occur concurrently to minimize the response time to the FMS customer.

LOR Advisory and LORs Requiring Unique Review

In some instances, DSCA may need to prepare an LOR Advisory to notify the Under Secretary of Defense for Acquisition, Technology, and Logistics [USD (AT&L)] and the Chairman of the Joint Chiefs of Staff of certain proposed sales. The SAMM C5.1.8 describes LOR Advisories and how they are processed. Table C5.T4 of the SAMM identifies the types of defense articles requiring either an LOR Advisory or some other type of special review. Each entry in the table provides a hyperlink to either a specific form or to a specific section of the SAMM explaining the unique review process for that item. An LOR Advisory does not replace required disclosure or releasability actions being worked by the MILDEPs. Examples of the types of items requiring an LOR Advisory or unique review include:

- First introduction of MDE into the purchaser's country
- MDE that is expected to require Congressional notification
- Coproduction or licensing agreements for MDE
- MDE that has not yet completed Operational Test and Evaluation (OT&E)
- Night Vision Devices (NVDs)
- Ballistic Missile Defense capability
- Command, Control, Communications, Computer, Intelligence, Surveillance, and Reconnaissance (C4ISR)
- Communications Security (COMSEC) equipment
- Nonstandard Significant Military Equipment (SME)
- Integration of non-U.S. subsystems
- Other defense articles and services of a sensitive nature

Letters of Request Requiring Congressional Notification

If the IA estimates that an LOR will result in an LOA that meets or exceeds certain dollar thresholds (as specified in section 36(b) of the AECA), the IA must provide Congressional notification data to DSCA within ten days of LOR receipt. SAMM figures C5.F7 through C5.F10 are templates for the information to be provided by the IA. Upon receipt of the information, DSCA prepares the notification package and coordinates with DoS/PM and Congressional staff personnel to ensure potential concerns and sensitivities are resolved prior to providing the notification package to Congress. After this preliminary review period and upon DoS/PM concurrence, DSCA submits a numbered certification to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate. The financial reporting thresholds and Congressional review periods, which vary by country, are summarized in figure 5-3 of this textbook. A more detailed outline of Congressional notification requirements and criteria is provided in the SAMM Table C5.T13.

Figure 5-3
Foreign Military Sales Notification to Congress

Reporting Threshold

NATO countries, Japan, Australia, New Zealand, Israel, Jordan, and Republic of Korea

- $100M total case value
- $25M major defense equipment (MDE)
- $300M design and construction services

All other countries

- $50M total case value
- $14M major defense equipment (MDE)
- $200M design and construction services

Congressional Review Period

NATO, NATO countries, Japan, Australia, New Zealand, Israel, Jordan, and Republic of Korea

- 15 days statutory (formal) notification

All other countries

- 30 days statutory (formal) notification

Unless other prior arrangements are made, Congress must be in session at the start of the statutory notification period. Therefore, it is important for partner nations, SCOs, and IAs to consider the Congressional calendar when planning key milestones for FMS programs. Congressional notification data is considered classified until DoS specifically authorizes (through DSCA) "For Official Use Only (FOUO)" handling or until formal notification to Congress occurs. At the start of the statutory notification period, the notification data becomes public domain information and is posted in the Federal Register and on DSCA's web site. Also, when the statutory notification period begins, the IA may, with DSCA approval, give the purchaser an advance copy of the LOA. However, this advance copy must be unsigned and annotated as a draft, and is therefore not considered an official offer.

Congress can object to a proposed LOA by passing a joint resolution. In the absence of a joint resolution prior to expiration of the statutory notification period, DSCA may electronically countersign the LOA at the end of the notification period and then release it to the IA for official offer to the partner nation. The SAMM C5.5 provides details about the Congressional notification criteria, data handling, information to be provided by the IA (including sample formats), and the notification process itself. Chapter 2 of this textbook, "Security Cooperation Legislation and Policy," also addresses Congressional notification.

Compilation of the Letter of Offer and Acceptance Data by the Implementing Agency

In order for USG to be as responsive as possible to a partner nation's LOR, LOA development should run concurrently with the Congressional notification process. To initiate LOA development, the country director tasks preparation of the LOAD using DSAMS. Every LOA has an assigned case manager, and it is normally the case manager who has primary responsibility for the overall LOA content. Case management will be addressed in more depth later in this chapter.

For major system sales, the case manager must coordinate with weapon system program managers and item managers to determine the LOA line items to be included on the case to meet requirements identified in the partner nation's LOR. Cost and availability estimates are developed for all articles and services included in each LOA line. These estimates may be based on current DoD inventories or on information from U.S. defense contractors. IA personnel also prepare LOA notes that pertain specifically to the LOA lines and FMS case being developed. If the partner nation has requested any waivers, the IA will staff the waiver request(s) and ensure it is appropriately reflected in the LOA document.

As the data is being developed, the case manager and country director should both be alert for issues that may require further coordination, not only within the IA and other DoD organizations, but also with DoS and other non-DoD agencies. When outside coordination is required, the time required and the level at which it should occur will depend on a number of political, technical, and financial factors. For example, a routine follow-on support case will likely require little or no coordination with organizations outside the IA. Cases involving more than one proponent MILDEP (e.g., U.S. Navy helicopters with U.S. Army electronics) require coordination across service lines. More complex sales involving political issues, such as basing rights, may require participation by DSCA, the Office of the Deputy Under Secretary of Defense for Policy, the CCMD, or DoS. Unique or complex financial or other business arrangements may also require coordination with the Departments of Commerce and Treasury.

Correlating the Letter of Request with the Military Articles and Service List

During LOA development, the IA will construct a separate LOA line item for each generic category of materiel or services to be provided. The IA will assign the appropriate materiel *Military Articles and Services List* (MASL) number to each LOA line item. The complete materiel MASL, which is substantial, resides in DSAMS. Key elements of the MASL data include generic codes, MASL

numbers, and MASL descriptions. A table of generic codes can be found in the SAMM, appendix 4. A MASL handbook is also available on the DSCA web site.

It is important to note that there are two separate and distinct MASLs; one for materiel and services and another for training. They should not be confused. Each contains different kinds of information and has different uses. DSCA maintains the materiel MASL with input from the MILDEPs. The security assistance training activities of the MILDEPs maintain the training MASLs, which are accessed via the Security Cooperation Training Management System (SC-TMS).

Developing a Complete Offer with the Total Package Approach

When compiling LOAD, case managers should adhere to the policy of TPA mentioned earlier in this chapter and in the SAMM C4.3.2. TPA ensures that FMS purchasers are afforded the opportunity to acquire the full complement of articles and services necessary to field, maintain, and utilize major items of equipment efficiently and effectively. To a large degree, TPA depends on receiving a comprehensive LOR. In addition to the weapon system itself, an LOA that follows the TPA concept will address areas such as training, technical assistance, publications, initial support, and follow-on support.

As part of the TPA, IAs should ensure that LOAs for equipment include at least one year's supply of spare parts. See SAMM C5.4.7.10 for more information. These packages are referred to as concurrent spare parts (CSP) or initial spare parts (ISP). LOAs should include CSP or ISP for all support and ancillary equipment listed on the LOA, as well as for major weapon systems. IAs normally require that a significant portion of CSP and ISP be in country before they will release major end items for delivery. CSP and ISP are often identified by category and total value rather than itemized on the LOA.

Defense Security Cooperation Agency Review and Countersignature

In addition to the IA, the DSCA Case Writing Division (DSCA-CWD) plays a key role in case development. The IA notifies DSCA-CWD via DSAMS when LOAD development is complete. SAMM C5.4.14 and DSCA policy 16-03 describe the documents and information the IA must provide DSCA-CWD, along with the draft LOA for document writing. DSCA-CWD then completes the LOA writing process by accomplishing a quality review for policy compliance and by adding the payment schedule and the standard LOA notes. After finalizing the LOA document, DSCA-CWD staffs it for IA, headquarters DSCA, and legal reviews as appropriate. When this coordination process is complete, DSCA-CWD forwards the LOA document to DoS/PM for final review. Upon DoS concurrence, DSCA-CWD electronically countersigns the LOA, indicating that the IA can sign the case and officially offer it to the purchaser. A more complete description of the IA and DSCA-CWD roles in the case development process is shown in figure 5-4 and table C5.T8 of the SAMM.

The single digit alpha codes reflected in figure 5-4 are case status codes found in a database called the Security Cooperation Information Portal (SCIP). These status codes are defined in the *DISCS Practical Exercises and Handbook, Security Cooperation Information Portal Case Information Community*. Additional information about SCIP can be found in appendix 1 to this text book, "Security Cooperation Automation."

Figure 5-4
Case Development Responsibilities

Implementing Agency (IA)

Develop LOA

Development "D" Status

- Act as primary interface with stakeholders
- Review releasability/foreign disclosure
- Prepare Congressional notification input
- Develop LOA line item structure
- Obtain cost information
- Develop LOA line item pricing
- Prepare line item description notes
- Prepare case unique/non-standard notes
- Develop program delivery schedules
- Prepare payment schedule analysis
- Process/coordinate waivers
- Identify manpower requirements
- Conduct MTCR review
- Identify EUM requirements
- Approve LOA and send to DSCA-CWD

Review "R" Status

- Review/sign CWD LOA package ("R")

Offered "O" Status

- Offer LOA after DSCA countersigns ("O")

DSCA Case Writing Division (CWD)

Assemble the LOA

Write "W" Status

- LOA quality assurance review
- Policy review
- Case standard notes
- Payment Schedule preparation

Review "R" Status

- IA final review of LOA package
- DSCA HQ review
- Legal review

Proposed "P" Status

- State (RSAT) review

Offered "O" Status

DSCA countersignature

- "D," "P," "W", "R" and "O" status appear in SCIP
- "W" and "R" visible to USG only - rolled up as "D" for non-USG

Letter of Offer and Acceptance Response Time

The time required to respond to an LOR with an LOA depends on the type of case being prepared and the complexity of the program. The policy time frame for a USG response to an LOR is based on the Anticipated Offer Date (AOD). An AOD is assigned for every LOR based on the group categories identified in figure 5-5. Depending on the AOD group assigned, the IA has between 45 and 150 days from LOR receipt to prepare the LOA for offer. Receiving comprehensive LORs that accurately reflect partner nation requirements is crucial to successful accomplishment of these goals. Refer to chapter 6 of this textbook, "Types of LOAs," for more information about the different types of cases referenced in figure 5-5. More details regarding the LOA response time policy can be found in SAMM C5.4.2 and table C5.T6.

Figure 5-5
Letter of Request to Letter of Offer and Acceptance
Response Time Anticipated Offer Date Groups

Group	Description
A	45 days for Blanket Order LOAs, training LOAs, Cooperative Logistics Supply Support Arrangements (CLSSAs), and associated Amendments and Modifications. The IA can change the date to less than 45 calendar days if appropriate.
B	100 days for Defined Order LOAs and associated Amendments and Modifications. The IA can change the date to less than 100 calendar days if appropriate.
C	150 days for Defined Order LOAs and associated amendments that are considered "purchaser-unique" in nature. The IA can change the date to less than 150 calendar days if appropriate. Associated Modifications to this group will be placed in Group B. The IA must identify why the LOA document is "purchaser unique" by selecting one of the below 8 factors: 1. First-time purchase of a defense article or service by an FMS purchaser 2. First-time FMS purchase by a specific country or international organization with limited experience or knowledge of FMS processes/procedures 3. Case requires engineering, system integration, or special acquisition 4. Requested use of the system is different from its use by U.S. military forces (e.g., Navy ship missile to be fired from an Army or foreign country's helicopter) 5. Detailed release/disclosure coordination required 6. Complex pricing effort required 7. Extraordinary coordination required inside or outside the IAs 8. Other (must be explained by detailed milestone comments in DSAMS)
D	60 days for all Pseudo LOAs and associated Amendments and Modifications. The IA can change the date to less than 60 calendar days if appropriate.

Case Development: Acceptance

Once DSCA-CWD countersigns and releases the LOA, the IA prints a copy from DSAMS, signs it, and offers it to the purchaser for acceptance. Every LOA includes an offer expiration date (OED) on the cover page. Generally the OED is computed as eighty-five days from IA approval in DSAMS. This OED period is generally based on twenty-five days for U.S. administrative processing and sixty days for country review. SAMM figure C5.F6 identifies those countries with DSCA-approved OEDs longer than eighty-five days. To officially accept the LOA, the partner nation must fill in the "purchaser provided information" at the bottom of the LOA cover page, sign the case by the OED, and send signed copies to the IA and to the Defense Finance and Accounting Service in Indianapolis (DFAS–SCA). The purchaser must also send the initial deposit (as reflected on the LOA) to DFAS–SCA. Payment must be in U.S. dollars and may be paid via check or wire transfer. Distribution instructions are found in the LOA following the payment schedule.

Partner nations should strive to accept an LOA by the offer expiration date (OED). If this is not feasible, the purchaser may request an extension from the IA. If an extension is required, the purchaser should notify the IA as soon as possible, preferably in the LOR. Many considerations, such as contract deadlines for multi-country programs or policy concerns, may preclude granting an extension. Partner nations should note that even if an extension is granted, cost and delivery estimates are perishable and will tend to degrade over time. An extended time period between the LOA offer and LOA acceptance may result in less accurate cost and delivery estimates. Occasionally, the USG will give the purchaser

a shorter than authorized OED, generally in conjunction with contractual requirements. When this occurs, the USG should advise the partner nation in advance and must include a special note in the LOA explaining the reason for the short OED.

Case Execution

Implementation

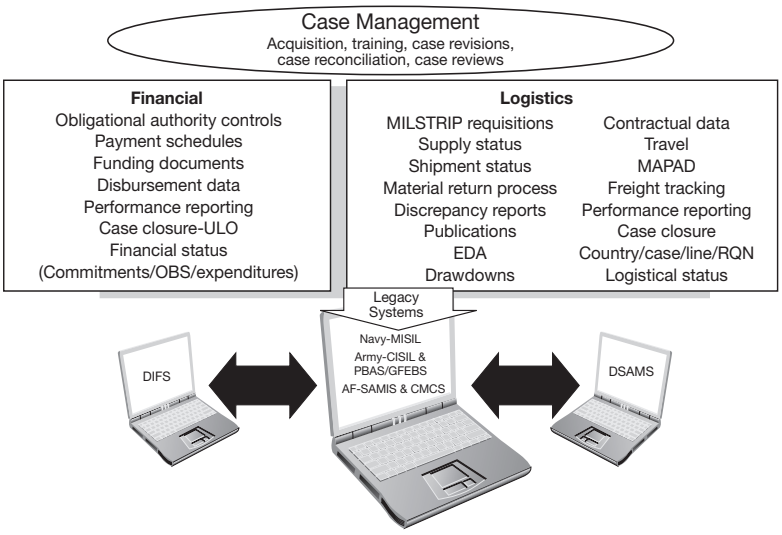
After receiving the initial deposit, DFAS–SCA releases obligation authority (OA) to the cognizant IA. OA is forwarded via DSAMS to the unique MILDEP FMS management financial computer systems. The OA is evidence of proper case acceptance, including receipt of initial deposit, and signals that the case may be implemented. OA is not money, but it provides financial authority allowing the IA case manager to implement the case. Upon receipt of OA, the IA may begin to incur obligations against the case (i.e., negotiate a contract, submit requisitions, schedule training, etc.). There is no standard metric or time frame for case implementation; however, it is generally accomplished within ten to fifteen days.

Although an LOA provides basic information and authority for an FMS case, it may have insufficient information for case implementation. A case manager may issue internal supplemental guidance (e.g., a case directive) in order to provide more detailed case logistical and financial implementation instructions to line managers and supporting organizations. The term "FMS case directive" has several definitions, depending on the variations of case directive documents. In the broadest context, a case directive is a document, or an assortment of documents, used to implement an accepted LOA. The case directive is also known as the project directive for the Navy and the international program directive for the Air Force. Case directives should be revised as appropriate whenever LOAs are modified or amended.

Execution

Implementation ends and Execution begins when orders for the LOA materiel and services are processed against the case. Execution is the longest phase in the life cycle of an FMS case. It can last many years for a major system sale case. During case execution, there are many actions that occur in the areas of acquisition, finance, logistics, and training. There are separate chapters in this textbook dedicated to each of these important functional areas. Figure 5-6 depicts many of the financial and logistics transactions that occur during the life of an FMS case.

Figure 5-6
Foreign Military Sales Case Execution



Military Department Security Assistance Computer Systems

The MILDEPs use DSAMS to develop, write, and implement LOAs. Once implemented, a single FMS case can generate thousands of logistical and financial transactions. With approximately 13,000 implemented cases for countries worldwide, effectively accounting for all the transactions during case execution can be a daunting task. Each MILDEP has dedicated FMS data systems to provide internal control and management of security assistance transactions. These systems are used to monitor the supply and financial performance of the implemented cases. They are also used to report case status to the purchasers and to DFAS–SCA. These systems interface with DSAMS and with the DFAS-managed Defense Integrated Financial System (DIFS). These MILDEP systems are often referred to as legacy systems and are scheduled to be replaced by a standardized database management system called the Security Cooperation Enterprise Solution (SCES). Phased implementation began in calendar year 2015, and is now being tested by the U.S. Navy. The case execution data systems currently used by the MILDEPs are as follows:

U.S. Army

- Centralized Integrated System for International Logistics (CISIL)
- Program, Budget, and Accounting System (PBAS)
- General Funds Enterprise Business System (GFEBS)

U.S. Navy

- Management Information System for International Logistics (MISIL)
- Security Cooperation Enterprise Solution (SCES)

U.S. Air Force

- Case Management Control System (CMCS)
- Security Assistance Management Information System (SAMIS)

Security Cooperation Information Portal (SCIP)

SCIP is a web-based portal that enables the security cooperation (SC) community to view logistical and financial case data from various SA data systems. SCIP was initially developed to provide the FMS purchaser with visibility into the MILDEP legacy systems mentioned above, but has become so popular that its scope, capabilities, and user base are continuously being expanded. SCIP is discussed in more detail in appendix 1, "Security Cooperation Automation," of this textbook. The DISCS practical exercises and handbook, *Security Cooperation Information Portal Practical Exercises and Handbook*, is another excellent resource containing valuable SCIP information and numerous practical exercises.

Foreign Military Sales Case Management Policy, Procedures, and Concepts

The management of FMS programs and their associated cases, like the concept of management itself, is often regarded by some as more of an art than a science. While it is beyond the scope of this chapter to assess that contention, an argument can be made that FMS program and case management follows the same universal management principles of other DoD and USG programs or even nongovernmental ventures for that matter (for example, the principles of planning, organizing, coordinating, communicating, and directing). Because of the large number of USG organizations involved in SA, communication is vital to effective program and case management. Some organizations play a role in the up-front policy decisions, some are involved in case development, and others actually execute the programs. It is therefore critical that managers of FMS programs understand the overall

process and be familiar with the key players involved. It is not an understatement to say that FMS has a language of its own and that learning and communicating with the numerous acronyms, special terms, and organizational symbols is very often half of the battle.

SAMM C6.3.1 dictates that acquisition in support of FMS cases will be conducted in the same manner as it is for U.S. requirements, thus affording the purchaser the same benefits and protection that apply to DoD procurement. This is one reason why partner nations often prefer to buy via FMS. Accordingly, procurement and supply actions for FMS cases are normally carried out in the same manner by the same DoD procurement and logistics activities that support U.S. forces, although IAs may establish offices or positions within these organizations, specifically to coordinate and monitor FMS support. A typical FMS case includes items from both U.S. supply stocks and from new procurement. FMS procurement requirements may be consolidated on a single contract with U.S. requirements or may be placed on a separate contract, whichever is most expedient and cost effective.

Case Manager

An FMS case is not generally under the sole domain of any one organization. Many organizations can touch or impact an FMS case during its life cycle. As such, many organizations and people can be involved in the management of an FMS case. However, as indicated earlier in this chapter, there should be one person assigned as the case manager for each LOA. Prior to case implementation, the IA assigns a case manager to integrate and manage all aspects of the case. The SAMM table C2.T1 identifies the following specific responsibilities of a case manager:

- Serves as the central point of contact for matters related to the case. Establishes and publishes initial and long-range goals, objectives and plans for case management and execution. Issues and maintains a program master plan with key program milestones as the case is implemented.
- Ensures program goals and objectives are in accordance with approved foreign disclosure and technology transfer requirements.
- Considers customer transportation preferences during LOA development. Ensures transportation documents are in place (e.g., transportation plan, DSP-94, CISMOA, etc.)
- Ensures contracting milestones are met.
- Ensures appropriate integration of requirements, such as supply requisitions, contracts, training, etc., are accomplished with internal and external organizations.
- Ensures funding is in place and financial requirements are met.
- Ensures material and services performance is met in relation to required performance specifications. Ensures that appropriate actions are taken to maintain accountability of training events, to include DSAMS-TM entry.
- Ensures that delivery and performance reports are timely and accurate. Checks that automated records and data sources, such as SCIP, reflect accurate information.
- Maintains a case file of significant events, documents, and decisions. Ensures that case records are retained for a period of 10 years after final closure in accordance with DoD 7000.14.-R volume 15, chapter 6.
- Reconciles the case throughout its lifecycle starting with implementation, and prepares the case for closure.

- Becomes familiar with policies, management information systems, internal and external organizational elements and the stages of the FMS process.

The case manager is accountable for all aspects of assigned FMS cases in compliance with applicable laws and regulations. This includes planning and execution functions as well as all financial, logistical, and acquisition matters associated with each program. The objective is to provide all articles and services within the cost and schedule estimated on the LOA. The case manager must stay on top of the assigned program and be aware of any problems that could impact the estimated cost or schedule. The case manager develops a program master plan that separates the case into management components, indicates significant activities in the execution of the case, and establishes an implementation schedule. Depending on the size or nature of the case, the plan covers: case description, key milestones (contract status, transportation plan, delivery schedule, training, contractor support, etc.); status, issues/risk; along with key points of contact and responsibilities. The case manager provides the master plan to higher authority and to the FMS customer to forecast events and track progress. The master plan will be updated and reissued after significant project milestones, prior to Program Management Reviews, and as part of the development of amendments to the FMS case. Master plans are discussed in SAMM C2.2.5.

The case manager cannot accomplish all these objectives alone. Effective case management requires frequent communication with the weapon system program manager, the contracting officer, and numerous other key personnel in other organizations. When potential cost overruns or delays are identified, the case manager is expected to consult with the program manager, the contractor, and the partner nation to ensure all potential options are explored and informed decisions can be made. LOA amendments and modifications should be processed promptly to ensure the case reflects up-to-date estimates and descriptions for the program. After all articles and services have been provided, the case manager ensures that cases are closed in a timely manner.

Case management organizations and procedures vary among the MILDEPs. The case manager for blanket order or Cooperative Logistics Supply Support Arrangement (CLSSA) cases normally resides at the applicable MILDEP International Logistics Control Organization (ILCO). The case manager for defined order cases may be in the ILCO or in the MILDEP weapon system program office. The case manager for training cases resides at the MILDEP security assistance training organization.

The case manager serves as the central point of contact, and acts as the U.S. representative to the FMS customer and to the SCO for questions and problem resolution.

Foreign Military Sales Reviews

DSCA requires that FMS case reviews be conducted at least annually. Case reviews can also involve reviewing all FMS cases associated with a particular country. Case reviews have various names (depending on the country and the MILDEP) and can be attended by USG, purchaser, and contractor personnel, depending on program, case size, and complexity.

In addition to case reviews, Program Management Reviews (PMRs) are effective tools for U.S. case managers and purchasers to assess the overall program status relative to its objectives. PMRs focus on a specific weapon system sale and may include several related FMS cases. These program reviews, which usually involve face-to-face discussions with the partner nation, identify problems as early as possible so that resolution can be accomplished before program milestones are impacted or compromised. PMRs also provide USG and purchaser representatives with updates and exchanges of information. The frequency and the location of PMRs should be indicated in the LOA notes.

SAMM C6.5 provides more comprehensive information on FMS reviews. Table C6.T5 of the SAMM identifies various types of reviews, as well as the typical USG representatives, frequency, and timing for each. The manpower funding matrix in chapter 9 of the SAMM helps identify the appropriate

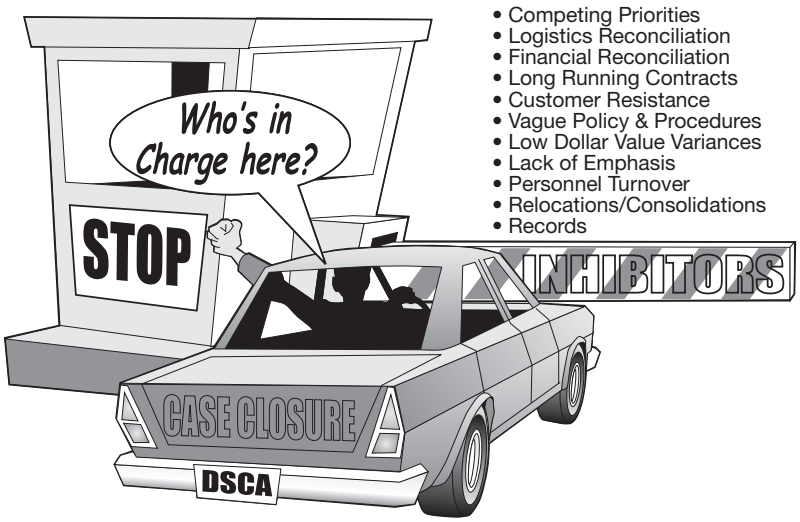
source of funding for each type of review. Depending on the type of review and the country/program involved, the following topics may be addressed during a case or program review as applicable:

- Major item contract status
- Major item delivery status
- Supply Discrepancy Reports (SDRs)
- Critical/urgent requirements and procedures
- Spares, supply, and shipment status
- Configuration issues
- Case financial status (commitments, obligations, and expenditures)
- Payment schedule adjustments
- Price increases and funding issues
- Transportation/shipping problems
- Training program
- Case closure

Case Closure

As the delivery of articles and services listed on an LOA nears completion, the case manager should begin making preparations to complete reconciliation and close the case. Figure 5-7 illustrates many of the potential inhibitors to case closure. The key players in FMS case closure are the IA, DFAS–SCA, and the partner nation. But ultimately the responsibility for successful case closure falls on the shoulders of the case manager at the IA.

Figure 5-7
Case Closure Inhibitors



Reconciliation

While closure is the final phase in the FMS life cycle, reconciliation should occur throughout the life of the case starting with implementation. As indicated earlier in this chapter, a single case can generate thousands of requisitions and procurement actions. Closing out all these transactions requires aggressive planning and continuous follow-up. Reconciliation can include the following:

- The financial and logistical actions that ensure proper accounting
- Accuracy and thoroughness of data
- Currency of schedules
- Timeliness and completeness of reporting

Case managers must reconcile cases at least annually. Case managers who defer reconciliation until the end of a case are setting themselves up for failure. Conversely, thorough and continuous reconciliation starting at implementation helps facilitate a successful case closure.

Supply and Services Complete

It is DSCA policy to close an FMS case as soon as it is feasible to do so. Timely closure reduces the administrative distraction of monitoring dormant cases that are logistically, but not financially, complete. This allows case managers to focus on executing and reconciling active cases. Additionally, closing cases promptly expedites the release of excess case funds back to the partner nation. An IA declares that a case is a candidate for closure when it is Supply and Services Complete (SSC) and meets the following criteria:

- All materiel has been delivered
- All services have been performed
- For a blanket order case, no orders placed against it for 180 days or more
- Purchaser has confirmed that there will be no new orders
- Purchaser has not submitted a request to keep the case open
- All supply discrepancy reports (SDRs) are resolved
- All warranty periods have elapsed

Chapter 16 of the SAMM is dedicated to policies and procedures applicable to case reconciliation and closure. SAMM C16.4.3 requires IAs to include a note in most LOAs identifying an estimated closure date. After a case is declared SSC, the IA will reconcile the case logistical and financial records and submit a case closure certification to DFAS–SCA within a specified time frame depending on the applicable case closure procedure used (types of case closure procedures are addressed in the next section). DFAS will then complete the case closure/reconciliation process and ultimately provide the customer with a final bill. An FMS case is considered closed when the purchaser receives the final bill or a final statement of account (DD Form 645).

Procedures for Case Closure

There are two methods of case closure: Accelerated Case Closure Procedures (ACCP) or non-ACCP. ACCP is the standard case closure method for FMS cases. ACCP is voluntary, except for those partner nations whose programs are financed with Foreign Military Financing (FMF). SAMM table C4.T2 identifies which countries participate in ACCP. If a purchaser participates in ACCP, then all of that country's FMS cases will be closed under that program, including those implemented

prior to the date the partner nation decided to participate in ACCP. Since most purchasers participate in ACCP, it is now considered the standard for case closure. ACCP requires cases be closed within twenty-four months after the case is SSC. The ACCP methodology allows a case to be closed even if there are outstanding unliquidated obligations against the case. Examples of an obligation include a work request for services, a procurement contract, or an inventory requisition. Under ACCP, the case manager, with assistance from contract and financial management personnel, estimates the unliquidated obligation (ULO) value. The ULO value is the difference between the estimated final-case obligations and the current cumulative case expenditures. The ULO amount is billed and collected from the purchaser and placed by DFAS–SCA into a customer-owned, country level Case Closure Suspense Account (CCSA). At this point, the case is considered "Interim Closed" and the partner nation receives a final bill (DD 645) indicating that the case is closed. Subsequent case disbursements for the ULOs will be processed against the CCSA, thus enabling cases closed by ACCP to remain closed. Purchasers receive regular CCSA statements as part of their quarterly DD Form 645 FMS Quarterly Billing Statement. If the CCSA balance exceeds anticipated ULOs, the partner nation may receive a refund. However, if the CCSA balance is in arrears $100,000 or more for longer than six months, DFAS–SCA may require payment of the entire balance owed. Even though the purchaser receives a "final bill" when a case is interim closed under ACCP, eventually the case has to be "Final Closed." An Interim Closed case is not moved into Final Closed status until all outstanding obligations equal the final disbursements. If there are excess ULO collections at final closure, the partner nation may receive a reimbursement from the CCSA.

Non-ACCP is used for partner nations that have elected not to participate in ACCP and whose programs are wholly financed with national funds. Normally, the estimated closure date for a non-ACCP LOA is thirty-six months after the completion of the longest underlying contract. Under non-ACCP, cases may be closed when there are no unliquidated obligations (ULOs) against the underlying open contracts. If no contracts apply, then the estimated closure date is normally thirty-six months from the last scheduled delivery or service. Since closing a case under non-ACCP can be cumbersome and time-consuming, most purchasers elect to participate in ACCP. Non-ACCP procedures are used to close all pseudo LOAs supporting Building Partner Capacity (BPC) programs, and many FMS cases for organizations, regions and NATO specific programs.

Processing Transactions After Case Closure

Although final closure marks the end of the life cycle of an FMS case from a practical and operational standpoint, cases never really close from a DoD accounting perspective. DoD policy requires that all charges or credits against a case be processed, regardless of when they arise. Thus, although very infrequent, it is possible for a case to be considered closed for many years, only to be reopened when a final audit finds a lost expenditure. If the partner nation participates in the ACCP, this newly discovered expenditure will be processed against the CCSA. If the purchaser is a non-ACCP participant, then the affected case could be reopened.

Reopening a case is undesirable for both the partner nation and the IA. For the partner nation, it may mean trying to justify a new expenditure for a case reported as delivered and complete years before. At a minimum, reopened cases distract all concerned from the important business of processing, implementing, managing, reconciling, and closing currently active cases.

Implementing Agency Organizations in Support of Foreign Military Sales

Implementing Agency (IA)

A partner nation may request a LOA for U.S. defense articles or services through Foreign Military Sales (FMS). A LOR for a LOA is forwarded through the channels described in this chapter. The action addressees should be the IA and the DSCA. An IA is a DoD organization authorized to receive and respond to LORs with an LOA.

Although most open FMS cases are managed by the three MILDEPs (Army, Navy, and Air Force), a number of other agencies also function as IAs.

Implementing Agency (IA) Codes

DSCA has assigned each of the IAs a one-letter code that identifies the cognizant organization for a given FMS case. This code is reflected in the middle position of the FMS case identifier. For example, the Bandaria case shown in attachment 6-1 (chapter 6) of this textbook is identified by the case identifier BN-B-ULY. The "B" in the middle position of the case identifier is called the IA Code. Below is a list of active IA codes. SAMM table C5.T2 includes a comprehensive list of IAs, along with applicable IA codes, e-mail and mailing addresses, currently authorized to receive LORs and prepare LOAs.

Table 5-2
Implementing Agency Codes

IA Code	Organization
B	Department of the Army
C	Defense Information Systems Agency (DISA)
D	Department of the Air Force
F	Defense Contract Management Agency (DCMA)
I	Missile Defense Agency (MDA)
M	National Security Agency (NSA)
P	Department of the Navy
Q	Defense Security Cooperation Agency (DSCA)
R	Defense Logistics Agency (DLA)
U	National Geospatial-Intelligence Agency (NGA)
Z	Defense Threat Reduction Agency (DTRA)

Military Departments

The three MILDEPs manage approximately 95% of FMS and Building Partner Capacity (BPC) pseudo cases. Accordingly, the offices that support Security Assistance for the most part overlay the existing domestic infrastructure. As one might expect from such an arrangement, the policies, databases, and organizational elements used to manage FMS vary among MILDEPs. Still, the MILDEP FMS organizations are similar in that each has:

- A dedicated FMS headquarters element
- An International Logistics Control Office (ILCO) that is responsible for support equipment, spare parts, and repair services.
- An FMS training activity that manages both stand-alone schoolhouse training, such as Professional Military Education (PME), and training in support of systems sales

Additionally, all MILDEPs and other IAs use DSAMS to task and prepare LOAs. Normally, the headquarters element is the point of entry for materiel LORs. DSAMS is then used to designate a lead organization for the preparation of the P&A or LOA data. The lead organization is responsible for obtaining data from other relevant organizations to prepare the P&A/LOA.

Read chapter 3, "U.S. Government Organizations for Security Cooperation," chapter 10, "Logistics Support of Security Cooperation Materiel Transfers," and chapter 14, "International Training," of this textbook for more discussion of the overall MILDEP FMS organizational structure, ILCOs, and training activities. See appendix 1 of this textbook and SAMM, chapter 13, for a discussion of DSAMS and other security cooperation information management systems.

United States Army (IA Code "B")

The U.S. Army is the largest implementing agency, both in terms of total cases written. In the last ten years, the U.S. Army has implemented nearly 8,000 cases, totaling over $190B, which includes nearly 3,000 BPC pseudo LOAs.

Two organizations share FMS headquarters responsibilities for the U.S. Army. The Office of the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation (DASA-DE&C) has management oversight for Army Security Assistance policy, as well as for international armaments cooperation, foreign disclosure, technology transfer, and munitions export licensing. Headquarters, U.S. Army Security Assistance Command (USASAC) located at Huntsville, Alabama (Redstone Arsenal), receives all Army LORs for materiel and OCONUS training, which it then tasks out via DSAMS. USASAC has a branch organization at New Cumberland, Pennsylvania (USASAC-NC) that acts as the Army ILCO and writes/manages cases for follow-on support. Central case managers for the Army are found at USASAC-NC.

The Security Assistance Training Field Activity (SATFA), located at Ft. Eustis, Virginia, is the Army organization that writes and manages cases for CONUS training. SATFA may receive tasks from USASAC-Huntsville or may receive LORs directly.

Another U.S. Army organization connected to FMS training is the Security Assistance Training Management Organization (SATMO) at Fort Bragg, North Carolina. SATMO is responsible for selecting, training, and supporting mobile training teams (MTTs) that deploy overseas to support security cooperation training requirements. There is no comparable organization in the other two MILDEPs. SATMO works closely with SATFA and with SCOs.

The U.S. Army Corps of Engineers (USACE) in Washington DC, is the organization responsible for receiving LORs and writing/managing FMS cases for Army design and construction services. The USACE may receive tasks from USASAC-Huntsville or may receive LORs directly. The USACE is the Army's principal organization for civil engineering, design and construction. USACE supports the combatant commands (CCMDs) in designing and executing engineering projects and water resource management in over one hundred countries and currently has offices in thirty countries. Some of the construction and public works projects USACE has provided under security cooperation programs in the last decade include construction of maintenance and storage facilities in support of major systems and stand-alone projects such as the construction of piers, seawalls, firing ranges, schools, barracks, water wells, health clinics, simulation and training facilities, munitions storage bunkers, dining facilities, prisons, roads, and runways.

United States Navy (IA Code "P")

The U.S. Navy has implemented over 4,000 cases in the last 10 years, totaling over $117B, which includes nearly 700 BPC pseudo LOAs.

The Navy International Programs Office (Navy IPO) is the Security Cooperation headquarters element in the U.S. Navy. Navy IPO handles not only FMS, but also other international programs such as international armaments cooperation and technology transfer. It also acts as the executive agent for security cooperation matters related to the U.S. Marine Corps and U.S. Coast Guard. Accordingly, Navy IPO is the action addressee/point of entry for all LORs related to U.S. maritime articles and

services. The Navy ILCO is the Naval Supply Systems Command Weapons Systems Support (NAVSUP WSS-N52), located in Philadelphia, Pennsylvania. Navy IPO tasks NAVSUP WSS-N52 to write cases for follow-on support.

The Naval Education and Training Security Assistance Field Activity (NETSAFA) in Pensacola, Florida, is the agency that has oversight for FMS maritime training. Almost every LOA for the sale of a major maritime system will include a training line prepared by NETSAFA. However, unlike its counterparts in the Army and Air Force, NETSAFA is not authorized to receive LORs directly. Instead, LORs for maritime training must go to Navy IPO who will in turn task them to NETSAFA via DSAMS.

Navy IPO, NAVSUP WSS-N52, and NETSAFA also work closely with counterpart offices in the U.S. Marine Corps and U.S. Coast Guard to access resources to meet FMS maritime requirements.

United States Air Force (IA Code "D")

The U.S. Air Force has implemented over 3,000 cases in the last ten years, totaling nearly $230B, which included over 300 BPC pseudo LOAs.

The Office of the Deputy Under Secretary of the Air Force for International Affairs (SAF/IA) is the Air Force headquarters element for security cooperation. In addition to headquarters functions performed by Army DASA DE&C and Navy IPO, SAF/IA also has extensive political and military responsibilities. SAF/IA receives LORs for major system programs but generally tasks the Air Force Security Assistance and Cooperation (AFSAC) Directorate at Wright-Patterson AFB, Ohio, to prepare the LOA. AFSAC is also the Air Force ILCO in that it receives LORs and writes, signs, and manages cases for follow-on support.

The Air Force Security Assistance Training Squadron (AFSAT) at Randolph Air Force Base, Texas, receives LORs and writes, signs, and manages cases for Air Force training. Air Force training via FMS may be included as a line on an LOA for a system sale or may be provided via a separate FMS case.

Independent Implementing Agencies

In addition to the three MILDEPs there are eight defense agencies that receive LORs and write/manage LOAs for their products and services. These independent IAs are responsible for approximately 5% of the total FMS and BPC pseudo LOAs executed by the DoD.

National Security Agency (IA Code "M")

The National Security Agency (NSA) is the largest of the independent IAs, both in terms of total cases written, and total case value. The NSA currently has over 200 active FMS cases, totaling over $220M. The NSA writes cases for special communications systems, communications security (COMSEC) devices and cryptographic equipment. This equipment may be provided to the MILDEPs for incorporation into major systems, or they may be provided as standalone systems to partner nations. The NSA is the national manager and the FMS authority for all encryption equipment. MILDEPs must coordinate with and obtain approval from NSA before committing to selling products containing encryption equipment.

Defense Logistics Agency (IA Code "R")

The Defense Logistics Agency (DLA) has inventory management responsibility for over 90% of consumable items and spare parts in the DoD supply system. These are provided to FMS customers through LOAs written and managed by the MILDEPs. However, DLA writes and manages LOAs for catalog data and excess property, managed by two of its service centers.

DLA manages the Federal Logistics Information System (FLIS), which is the repository of all national stock numbers and part numbers used by the DoD and other federal agencies. DLA provides catalog data and cataloging services to partner nations through the DLA Logistics Information Service, which serves as the national codification bureau for the U.S.

DLA also manages surplus property disposal of non-lethal equipment, which may be granted to or purchased by partner nations through the DLA Disposition Services.

Both the DLA Logistics Information Service and the DLA Disposition Services receive LORs and write and manage LOAs for their respective products. At the end of 2016, DLA had about 200 active LOAs, totaling just over $72M, including 14 BPC pseudo LOAs.

National Geospatial-Intelligence Agency (IA Code "U')

The National Geospatial-Intelligence Agency (NGA) provides geospatial intelligence (GEOINT), to include aeronautical, hydrographic, topographic, geodesy and enhanced targeting data products, for security and capacity-building capabilities. NGA is both an Implementing Agency (IA) that writes/manages LOAs for GEOINT products and services, and is frequently a line item manager for MILDEP-managed cases.

Many military articles, including fighter aircraft, helicopters, naval vessels, and border security monitoring systems, rely on NGA-produced GEOINT to function. For these systems to function effectively for foreign partners, NGA must authorize disclosure and/or release of GEOINT data. MILDEPs must coordinate with and obtain approval from NGA before committting to selling products containing GEOINT.

At the end of 2016, NGA had approximately 150 active standalone LOAs valued at over $525M. NGA participates in pre-LOR discussions and negotiations to determine the level of support that NGA is able to provide, and to coordinate the releasability of GEOINT data. NGA also conducts site surveys to determine a country's GEOINT production capabilities, as well as its ability to conduct precision point measurements for use in deploying precision-guided munitions.

Defense Information Systems Agency (IA Code "C")

The Defense Information Systems Agency (DISA) is a combat support agency that provides, operates, and assures command and control and information-sharing capabilities and a globally accessible enterprise information infrastructure in direct support to joint warfighters, national level leaders, and other mission and coalition partners across the full spectrum of military operations. DISA provides internet connection services, networking systems, command and control systems, software, and information assurance support services through FMS LOAs to coalition partners. DISA's nearly 70 active LOAs at the end of 2016 were valued at over $78M.

Defense Contract Management Agency (IA Code "F")

The Defense Contract Management Agency (DCMA) provides Contract Administration Services (CAS) to partner nations who elect to purchase their defense articles and/or services through Direct Commercial Sales (DCS). Foreign purchasers' government representatives may possess all the skills and abilities to negotiate a favorable contract with U.S. industry, but the subsequent process for DCS contract administration, quality control, inspection, acceptance, and audit functions may present both a logistical and financial barrier. The U.S. contractor may perform work at multiple geographically dispersed locations. As such, it may be difficult and expensive for partner nations to conduct these functions throughout the U.S. DCMA provides a cost-effective option to the partner nation by providing contract administration, oversight and quality inspection services. At the end of 2016, DCMA had over 30 active LOAs, providing CAS valued at over $31M to 17 partner nations' DCS.

Defense Threat Reduction Agency (IA Code "Z")

The Defense Threat Reduction Agency (DTRA)/U.S. Strategic Command Center for Combating Weapons of Mass Destruction (SCC-WMD) is the DoD's Combat Support Agency for countering weapons of mass destruction. For nearly two centuries, the U.S. has played a leading role in international agreements that restrict the development, production, stockpiling, distribution and usage of weapons, especially weapons of mass destruction. DTRA/SCC-WMD assists partner nations in the destruction of weapons, and verification of weapons destruction that countries do themselves. DTRA also conducts vulnerability assessments on weapon storage facilities. At the end of 2016, DTRA had written/managed over 30 active FMS LOAs valued at $77.2M for weapons destruction and related services.

Missile Defense Agency (IA Code "I")

The Missile Defense Agency (MDA) is the newest IA, having been established in 2011. Prior to 2011, MDA was a subordinate activity of the U.S. Army. The MDA is responsible for developing, testing, and fielding the U.S. Ballistic Missile Defense System (BMDS), and works with combatant commanders and partner nations to protect against hostile ballistic missile attacks. The MDA provides AN/TPY-2 Radar Systems and Terminal High Altitude Area Defense (THAAD) ballistic missile defense systems to partner nations through FMS LOAs. Since becoming an independent IA, MDA has written and managed two FMS LOAs valued at nearly $6M, and is attracting interest from several countries who are considering future FMS cases for MDA-managed products and services.

Defense Security Cooperation Agency (IA Code "Q")

The Defense Security Cooperation Agency (DSCA) reserves the right to write and manage FMS cases, but has not done so since 2002. At the time of this publication, DSCA has no implemented LOAs.

LOR Submission

Refer to SAMM table C5.T2 for a comprehensive list of IAs, e-mail, and mailing addresses, currently authorized to receive LORs and prepare LOAs.

Summary

The process of FMS management follows a logical sequence of steps over a prescribed timeline. A purchaser initiates the FMS process by identifying defense requirements and submitting an LOR for U.S. defense articles and/or services. As emphasized throughout this chapter, it is very important for the LOR to be complete, i.e., contain sufficient information for the USG response to accurately reflect the partner nation's requirements. Failure to provide a complete LOR can delay processing while requirements are being clarified, and can impact program cost and schedule. Both the LOR and the USG response should comply with the TPA philosophy that many partner nations view as an advantage of the FMS process.

Whether an LOR is initiated in country or by a country's representative in the U.S., the action addressees should be the IA and the DSCA. The U.S. embassy/SCO and the applicable CCMD should see information copies of LORs. DoS/PM should receive copies of LORs for SME. Further, a CTA may be required to accompany an LOR. It is the IA's responsibility to ensure that the appropriate USG agencies receive the LOR.

Depending on the nature of the partner nation's requirements, a purchaser may request either P&A data or an LOA. P&A is not an official USG offer, but may be needed by the foreign government for rough estimates on prices and delivery time frames. When a partner nation requests an LOA, the USG response time is based on an Anticipated Offer Date which is described in figure 5-5.

The LOA is an official offer for the USG to provide defense articles and services to a partner nation or international organization. The LOA is considered implemented when the customer accepts it and provides the required initial deposit to DFAS–SCA. The information in the accepted LOA, including associated amendments and modifications, provides the basis for the IA case manager to execute the FMS program. As the program is executed, the resulting financial and logistical documents and transactions are tracked by FMS unique computer systems. As the LOA requirements are delivered, they are reported to DFAS–SCA and the purchaser receives a quarterly billing statement. When all the materiel has been delivered and the services completed, the case becomes Supply and Services Complete (SSC). Under ACCP, the case should be Interim Closed within two years of becoming SSC. The case will remain Interim Closed until all the final expenditures have been processed. Eventually a case will move into "Final Closed" status.

Within the three stages of the foreign military sales process, the U.S. Government and the international purchaser have specific responsibilities, as shown in attachment 5-1. Some responsibilities are concurrent and some are done sequentially. The USG's FMS activities involve many different organizations. Many of the functions shown here are discussed in detail in the following chapters.

References

DSCA Manual 5105.38-M. *Security Assistance Management Manual* (SAMM). http://www.samm.dsca.mil/.

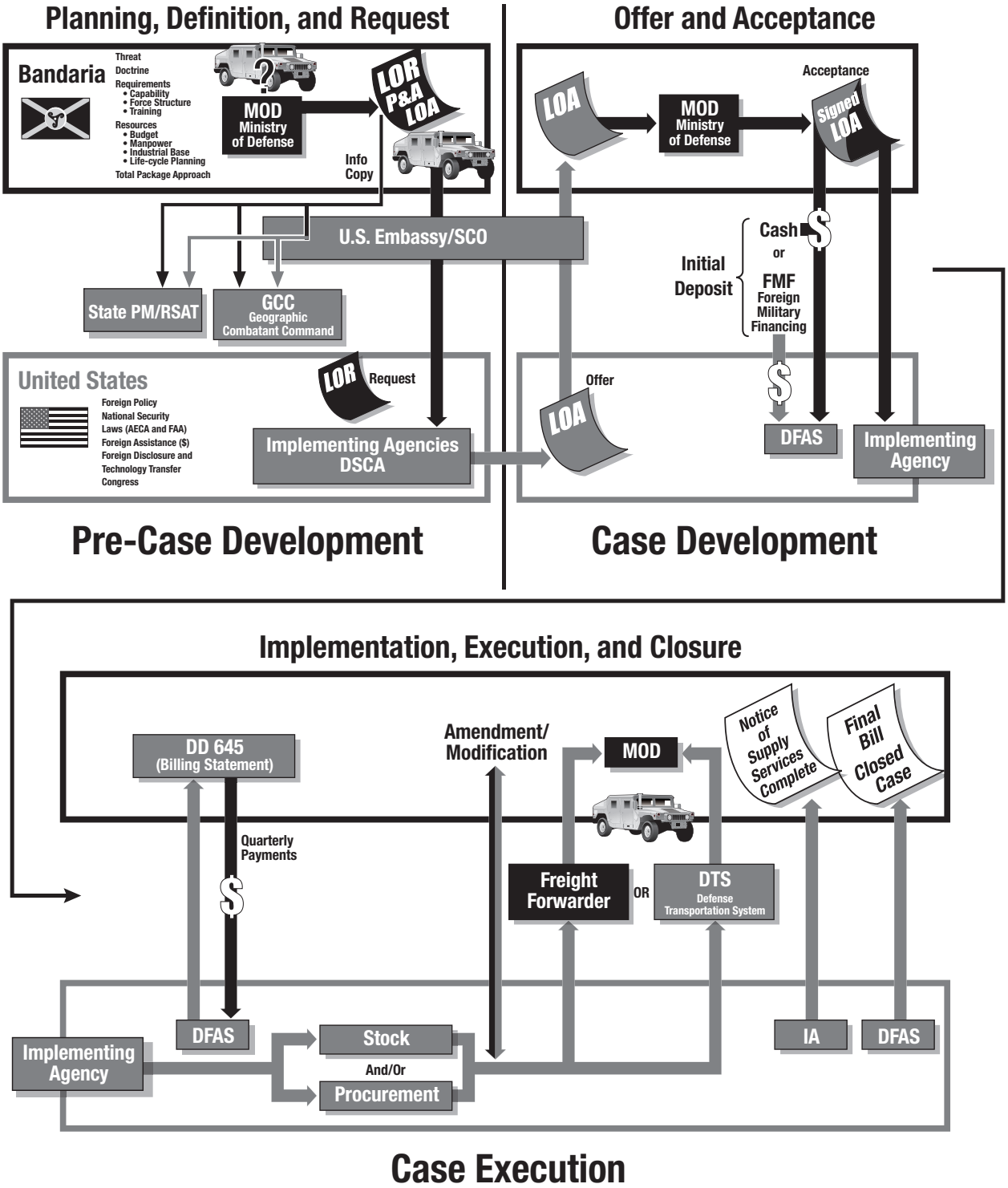
DoD 7000.14, *Financial Management Regulation* (FMR), volume 15. "Security Assistance Policy and Procedures."

U.S. Army generic LOR checklist and commodity specific checklists. http://www.usasac.army.mil/fmscustomerwschecklist.aspx.

U.S. Air Force commodity specific checklists and an LOR preparation tool. https://afsac.wpafb.af.mil/

International Traffic in Arms Regulations and *U.S. Munitions List*. http://www.pmddtc.state.gov/regulations_laws/itar_official.html

Attachment 5-1
Foreign Military Sales Process



Chapter

6 TYPES OF LOAs

INTRODUCTION

The foundation of any U.S. government (USG) sponsored sale of defense articles or services is the Letter of Offer and Acceptance (LOA). Except for Pseudo LOAs (explained later in this chapter), an LOA is a contractual sales agreement between the seller (USG) and the partner nation or international organization for defense articles or services such as special tools, test equipment, vehicles, construction equipment, materials handling equipment, etc., used in direct or indirect support and maintenance of weapon systems or end items. The LOA is written by a U.S. military department (MILDEP) or other USG Implementing Agency (IA), based on applicable laws/regulations and the requirements that have been set forth in the requesting document. As indicated in chapter 5 of this textbook, "Foreign Military Sales Process," the LOA, when combined with associated amendments or modifications, is commonly referred to as an FMS case. Each LOA has a unique case identifier (described later in this chapter), which enables both the USG and the partner nation to track it throughout its life cycle and to distinguish it from the thousands of FMS cases currently active.

CATEGORIES OF LOAs

In accordance with the SAMM C5.4.3 and C15, there are four categories of LOAs:

- Defined order LOAs
- Blanket order LOAs
- Cooperative Logistics Supply Support Arrangement (CLSSA) LOAs
- Pseudo LOAs

Defined Order Foreign Military Sales LOA

A defined order case is one in which the defense articles, services, or training desired by the partner nation or international organization are specified/quantified by the customer in the Letter of Request (LOR), and subsequently identified in the LOA document. A defined order LOA is most commonly used for sale of major end items, generally significant military equipment (SME), which require more rigorous export and trade security controls throughout the sales process. SME items and major defense equipment (MDE), must be separately reflected on the LOA and not embedded in other lines on the case. LOAs for major end items generally include related initial support items and services (generally one to three years), in accordance with the Total Package Approach (TPA) philosophy. Refer to chapter 5 of this textbook to review the definitions of SME, MDE, and TPA. The IA is responsible for preparing and submitting requisitions (orders) on defined order cases. Attachment 6-1 is a partial extract of a U.S. Army defined order FMS LOA.

A defined order case normally requires data analysis of separately deliverable line items in the case to give the purchaser the best available estimate of item costs and delivery schedules within an allowable processing time frame. This data study includes information on payment schedules, financial analysis for program milestones, delivery schedules, and projected payments to contractors. When appropriate and available, the IA may also use historical data when developing LOA pricing.

The types of defense articles and services normally sold via defined order cases include, but are not limited to, the following:

- SME and MDE—includes major end items and weapon systems (e.g., tanks, ships, airplanes, missiles, etc.), and related support requirements to activate and operate an item or system during an initial period of time
- Explosives, including munitions
- Classified/sensitive articles
- Specific services (transportation, aircraft ferrying, etc.)
- Technical data packages (TDP)

Blanket Order Foreign Military Sales LOA

A blanket order case is one in which in which the partner nation or international organization purchases a category of items or services (including training) at a set dollar value ceiling with no definitive listing of the exact items or quantities desired. Since the dollar ceiling is usually established by the customer, an LOA data analysis is generally not required to develop LOA pricing. On a blanket order case, purchasers can submit requisitions as long as the case has funds available. Attachment 6-2 is a partial extract of a U.S. Air Force blanket order LOA.

The types of defense articles and services normally sold via blanket order cases include, but are not limited to, the following:

- Spares and repair parts: consumable and reparable items that become part of a higher assembly during use (generally for follow-on support of a major item or weapon system)
- Support equipment: special tools, test equipment, vehicles, construction equipment, materials handling equipment, etc., used in direct or indirect support and maintenance of weapon systems or end items
- Publications: forms, catalogs, manuals, stock lists, technical orders, engineering drawing specifications, reports, books, charts, etc.
- Maintenance: repairs, repair services, and minor modifications/alterations as authorized by the cognizant IA
- Repairables: items of supply of a durable nature and design which, when unserviceable, normally can be economically restored to a serviceable condition through regular repair procedures (includes such major components as aircraft engines, communications equipment, radars, motor vehicle engines, and transmissions, or secondary items such as generators); may be repaired at the request of the customer and with the approval of the appropriate IA
- Technical assistance services: site/system survey teams, installation and testing of major items, systems evaluation, technical assistance teams, advice from specialists, feasibility studies, systems integration, study groups to develop engineering requirements plans, etc.
- Training: formal (classroom) or informal (on-the-job) instruction of international students by DoD components, contractors (including instruction at civilian institutions), or by correspondence course to include technical, educational, or informational publications, and instructional media of all kinds
- Training aids (items that supplement training programs such as videotapes, DVDs, slides, films, microfiche, transparencies, etc.)

A blanket order case is typically used for follow-on support and training for a major item or weapon system following the initial support period. Initial or concurrent support is usually included in the original system sale defined order case as part of the TPA. Depending on the IA, a blanket order follow-on support case may be established for each category of item/service to be provided, for each major item/weapon system, or perhaps for support of multiple systems.

Restrictions on Blanket Order Procedures

There are a number of instances where, by regulation, blanket order case procedures do not apply (see SAMM, C5.4.3.2). These items must be ordered on a defined order case. Items that are generally restricted from being ordered on a blanket order case include:

- SME, including MDE
- Initial logistics support that is normally ordered for concurrent delivery (e.g. TPA)
- Classified materiel (except classified publications, which must be on a stand-alone line)
- Lumber, sand, gravel, household goods and other commercial-type material
- Technical data packages (TDPs)
- Ozone depleting substances
- Explosives, including munitions

Defined versus Blanket Order Procedures

There are instances when either a defined order or blanket order case may be used, depending on the specific IA and country involved. IA policy, partner nation preference, and item application (i.e., support for a specific system or program, or general support to a customer service, unit, depot, etc.), will dictate which type of case is most appropriate. Partner nations may sometimes prefer a blanket order case because the Anticipated Offer Date (AOD) for the USG to offer the LOA is generally shorter than a more complex defined order case. This is due to the fact that the purchaser usually establishes the LOA dollar value, thereby eliminating the need for a more time-intensive LOA data analysis. Refer to chapter 5 of this textbook for a review of AODs. Blanket order cases can also provide more flexibility since items are not specifically identified and requisitions can be submitted as long as funds remain on the case. However, since the responsibility for preparing and submitting requisitions lies with the purchaser on blanket order cases, the partner nation or international organization must be familiar with U.S. requisitioning procedures and supply systems.

An important feature of both defined order and blanket order cases is that materiel requirements are normally filled from DoD stocks only if on-hand assets are above the control level, also known as the reorder point. The only time that FMS requisitions will normally be filled below this reorder point is through a mature (programmed) CLSSA.

Cooperative Logistics Supply Support Arrangement LOAs

A CLSSA is designed to provide more responsive follow-on spare parts support for U.S. produced military hardware owned by partner nations or international organizations. IAs may offer such arrangements with approval from the Defense Security Cooperation Agency (DSCA). A CLSSA consists of two LOAs. One LOA is established up front to buy "equity" in the DoD's supply system for DoD-stocked, non-SME items used by the purchaser on a recurring basis. This enables DoD to augment defense stocks in anticipation of FMS demands and increases the probability of spare and repair parts being available for issue from DoD stock. The second LOA is a blanket order CLSSA

case used by the purchaser to requisition those items. Many purchasers prefer CLSSAs for follow-on support. Chapter 10 of this textbook, "Logistics Support of International Military Sales," provides additional information on CLSSAs.

Pseudo LOA

The first traditional Title 22 Security Assistance-based FMS agreements started in the early 1950s. They were the result of the Cold War and represented a U.S. Department of State (DoS) tool of foreign policy. Pseudo LOAs were first introduced in 2005. Pseudo LOAs came about because the DoD perspectives on training and equipping foreign military forces slowly began to change after the September 11, 2001 terrorist attacks on the U.S.. Defense officials began to regard the defeat of terrorist groups in the countries where they train and prepare as essential to U.S. national security. There was a realization that these groups could not be disrupted and defeated solely with U.S. forces under existing arrangements.

Thus DoD, with DoS concurrence, petitioned Congress to provide additional authorities within U.S. law to allow use of U.S. appropriated funds (other than Foreign Military Financing [FMF] and International Military Education and Training [IMET] funds) to transfer defense articles and services to friends and allies. Typically, these additional authorities allow the DoD and DoS to focus on building capacities of partner nation security forces and enhancing their capabilities to conduct/support:

- Counterterrorism operations
- Counter drug operations
- Counterinsurgency operations
- U.S. military and stability operations
- Multilateral peace operations

These types of activities funded with U.S. government appropriations are called Building Partner Capacity (BPC) programs and are administratively managed using the FMS infrastructure. IAs develop pseudo LOAs for BPC programs using established security assistance automated systems. It is important to note that DSCA has dedicated Chapter 15 of the SAMM as the source for comprehensive policy for pseudo LOAs and BPC guidance. The terms "pseudo LOA" and "BPC case" can be used interchangeably. A partial extract of a pseudo LOA is shown in attachment 6-3.

Typical (though not all inclusive) BPC programs that may result in a pseudo LOA are described in SAMM C15.1.4. The most common are:

- Afghanistan Security Forces Fund (ASFF)
- Coalition Readiness Support Program (CRSP)
- Counterterrorism Partnerships Fund (CTPF)
- DoD Counternarcotics (CN) Programs (Section 1033 and 1004)
- Global Peacekeeping Operations Initiative (GPOI)
- Global Security Contingency Funds (GSCF (multiple))
- Global Train and Equip (Sections 1206 and 2282)
- International Narcotics Control and Law Enforcement (INCLE)

- Iraq Train and Equip Fund (ITEF)
- Pakistan Counterinsurgency Capability Fund (PCCF)
- Peacekeeping Overseas Contingency Operations (PKO/OCO) (FAA Section 551)

Each of these BPC programs will have its own unique authorization that will influence its execution guidelines and fiscal law constraints. For example, the Global Train and Equip Section 2282 program is limited to one fiscal year obligation authority and can only be used for emergent threats related to training and equipping a foreign country's national military forces (forces under the authority of the Ministry of Defense (MOD)) to conduct counterterrorism operations or participate in/support military and stability operations in which U.S. armed forces are participating. The 2282 authority can also be used to build the capacity of a foreign country's maritime security forces (including non-MOD elements) to conduct counterterrorism operations. Thus, it is important that any participant involved in the development or execution of a BPC program recognize that each program has its own unique program guidelines.

The pseudo LOA process starts with DoD (typically the security cooperation office [SCO] via the Combatant Command (CCMD) or other authorized agencies [DoS, UN, etc.]) submitting a pre-coordinated BPC request or proposal to the Implementing Agency (IA) and DSCA. The request, called a Memorandum of Request (MOR), is similar to a traditional FMS LOR and it will identify the required services, equipment, and the BPC legal authority for the program. The IA may conduct a feasibility assessment to ensure such areas as requirements definition, transportation plans, technology/disclosure, special contracting issues, etc., are addressed and compliant with the BPC program guidelines. The assessment will also verify that the requirements identified are actionable within the program budget constraints and obligation time lines. Some of the operating guidelines for pseudo LOAs (addressed in chapter 15 of the SAMM) include:

- Congressional notification is required for all pseudo LOAs.
- The pseudo LOA is not signed by the country or organization receiving the articles and/or services. Once implemented, pseudo LOA documentation may be shared with the recipient (benefitting) country on a case-by-case basis in accordance with DSCA guidance.
- Transportation is typically provided by the USG to an in-country destination and the SCO is responsible for conducting an inventory before transferring possession of the materiel to the customer.
- For programs where the title transfers, it transfers at the point of delivery vice the initial point of shipment. The SCO is responsible for documenting the transfer to the benefitting country.
- LOA standard terms and conditions do not apply to pseudo LOAs.
- DSCA will issue a policy memorandum each fiscal year to identify the funding authority, a unique two-position alpha-numeric program code, and specific pseudo LOA preparation procedures for each BPC program. Reviewing these policy memoranda on DSCA's web site can help provide a more thorough understanding of pseudo LOAs.
- The unique two-position alpha-numeric program code will become part of the pseudo LOA case identifier.
- The pseudo LOA will cite the program authority and will note the period of availability for the financial authority.

- One or more benefitting countries identified to receive the program materiel or services may be identified in the pseudo LOA.
- DoD and DoS "Leahy" human rights vetting must be completed for BPC services.

The SCO and the CCMD play a significant role in the pseudo LOA process. They must interface with the recipient country in order to translate the specific BPC program objectives into detailed package requests. BPC program requests should be linked to country and theater planning documents. Since some BPC cases have a short financial life cycle and are authorized only to counter immediate crisis situations, they generally do not contain sustainment support. Therefore, these sustainment support elements should be considered and funded through other SC programs such as FMS or IMET. The SCO and CCMD should include these sustainment elements in their planning documents.

LOA Case Identifier

To differentiate among the approximately 14,000 implemented FMS cases, each LOA is assigned a unique case identifier. This case identifier is assigned by the IA and should be provided to the customer as soon as possible after receipt of the LOR. However, if the proposed sale must be notified to Congress, the case identifier may not be available until the proposed sale is entered in the *U.S. Federal Register*. The case identifier is found on every page of every LOA. The case identifier has three major components:

- SC Customer Code: A two-position code representing the purchasing country or organization. A list of DoD country/activity codes is found in SAMM, table C4.T2. For Pseudo LOAs, the customer code is replaced by a Program Code that represents the U.S. Security Cooperation program authorizing the transfer. Program codes are listed in SAMM C4.T2 and C15.T2.
- Implementing Agency (or service) Code: A single alpha code that identifies the U.S. MILDEP or other IA that manages the item/system requested and is responsible for preparing the LOA on behalf of the USG. The most common codes are "B" for Army, "D" for Air Force, and "P" for Navy. Refer to chapter 5 or attachment 5-1 of this textbook, or SAMM table C5.T2 for a listing of IA codes.
- Case Designator: A three-position alpha code assigned by the IA to identify a specific offer to a country. The first position of the case designator generally identifies the category of item or service to be provided to the purchaser. The meaning of this first position code varies by MILDEP and is not dictated by DSCA policy. See table 6-1 of this chapter or figure C5.F6 of the SAMM for general guidelines used by the MILDEPs in determining the first position of a case designator. The second and third positions are assigned sequentially to distinguish among a country's separate FMS cases for that same category of item or service.

As an illustration, the case identifier on the LOA in attachment 6-2 is BN-D-EZY. For this example, "BN" is the SC Customer Code for the fictional country of Bandaria. The IA code is "D" for U.S. Air Force, and case designator "EZY" indicates that this is likely one of several cases that the U.S. Air Force has prepared for Bandaria in the "E" equipment category. The case identifier should be used on all documentation relating to its associated LOA, including amendments and modifications, as well as logistics and financial transactions. It is used to track the status of the LOA and is perpetuated in case directives, Military Standard Requisitioning and Issue Procedures (MILSTRIP) documents, FMS billing documents, and the DSCA 1200 computer system.

Table 6-1
First Position of Case Designator*

First Position of Case Designator	Implementing Agency	Purpose	Type of LOA
A	Army	Materiel and Services for BPC Programs	Pseudo
A	Navy	Ammunition and Explosives	Defined
A	Air Force	Munitions	Defined
A	DCMA	Contract Administration Services	Blanket
A	DLA	Services for BPC Programs	Pseudo
A	NSA	Communications Security Equipment	Defined
B	Army	Repair Parts	Blanket
B	Navy	Spares and Components	Defined or Blanket
C	Navy	Spares and Components	Defined or Blanket
C	Air Force	Cartridge Actuated Devices/Propellant Actuated Devices (CAD/PAD)	Defined or Blanket
D	Army	Training OCONUS (SATMO)	Defined/Blanket/Pseudo
D	Air Force	Communications/Electronic Systems Sale	Defined
D	Navy	Equipment Support Services	Defined
E	Air Force	Equipment	Blanket
E	NSA	Communications Security Equipment	Defined
F	NSA	Communications Security Equipment	Defined
F	DLA	Packing, Crating and Handling Services	Defined or Blanket
F	Navy	Technical Assistance	Defined or Blanket
F	Army	Local Purchase Equipment and Training for Afghanistan	Pseudo
G	DISA	Communications Systems/Networks	Defined
G	NSA	Communications Security Equipment	Defined
G	Navy	Technical and Engineering Services	Defined or Blanket
G	Air Force	Services	Defined or Blanket
G	Navy	Materiel and Services for BPC Programs	Pseudo
G	Navy	Technical Services and Support	Defined or Blanket
H	Army	Corps of Engineers Construction Services	Defined
H	Navy	Direct Requisition Procedures	Defined
H	Navy	Global Peace Operations Initiative Construction and Support	Pseudo
H	NSA	Communications Security Equipment	Defined
I	Army	Excess Defense Articles	Defined
J	Navy	Direct Requisition Procedures	Blanket
J	NGA	Geospatial and Flight Information Publications	Defined
K	Army	Foreign Military Sales Order I and II	CLSSA
K	Navy	Foreign Military Sales Order I and II	CLSSA
K	Air Force	Foreign Military Sales Order I and II	CLSSA
L	Navy	Major End Items, Components and Equipment	Defined
L	Air Force	Equipment	Defined
M	Army	Medical Equipment from the US Army Medical Materiel Agency	Defined
M	Navy	Repair and Return Maintenance	Blanket
M	Air Force	Repair and Return Maintenance	Blanket
M	DLA	Excess Defense Articles and Related Services	Defined or Blanket
N	Army	Coproduction	Defined
N	Air Force	Special Support	Defined
O	Army	Training CONUS (SATFA)	Blanket

First Position of Case Designator	Implementing Agency	Purpose	Type of LOA
O	Air Force	Communications Security Devices	Defined
P	Air Force	Publications	Defined or Blanket
P	Navy	Cartridge Actuated Devices/Propellant Actuated Devices (CAD/PAD)	Defined
Q	Army	Materiel/Services from US activities located in Europe	Defined
Q	Air Force	Systems Sustainment Support	Defined or Blanket
Q	NGA	Geointelligence Products and Services	Defined
R	Navy	Medical Equipment, Spares, Publications, Support Equipment	Blanket
R	Air Force	Spares and Components	Blanket
S	Navy	Weapon System Sale (Ship or Aircraft)	Defined
S	Air Force	Aircraft System Sale	Defined
T	Army	Publications	Blanket
T	Navy	Training	Defined or Blanket
T	Air Force	Training	Defined or Blanket
U	Army	Materiel/Services provided from various Life-Cycle Management Commands, including but not limited to system package sales, munitions, spare parts, equipment, technical services, maintenance, etc.	Defined or Pseudo
U	DLA	Packing, Crating, and Handling Services in Support of BPC Programs	Pseudo
U	DTRA	Vulnerability Assessment and Protection Services	Defined
U	Navy	Major Items in Support of BPC Programs	Pseudo
V	Army	Materiel/Services provided from various Life-Cycle Management Commands, including but not limited to system package sales, munitions, spare parts, equipment, technical services, maintenance, etc.	Defined
V	Air Force	Modifications and Upgrades	Defined or Blanket
W	Army	Materiel/Services provided from various Life-Cycle Management Commands, including but not limited to system package sales, munitions, spare parts, equipment, technical services, maintenance, etc.	Defined
W	Missile Defense Agency	Missile Defense Systems and Services	Defined
X	Army	Materiel/Services provided from various Life-Cycle Management Commands, including but not limited to system package sales, munitions, spare parts, equipment, technical services, maintenance, etc.	Defined
Y	Army	Materiel/Services provided from various Life-Cycle Management Commands, including but not limited to system package sales, munitions, spare parts, equipment, technical services, maintenance, etc.	Defined
Y	Air Force	Missile System Sale	Defined
Y	DLA	Catalog/Services/Logistical Data	Blanket
Z	Army	Materiel/Services provided from various Life-Cycle Management Commands, including but not limited to system package sales, munitions, spare parts, equipment, technical services, maintenance, etc.	Defined
Z	Air Force	Airborne Warning and Control Systems	Defined
Z	DLA	Catalog Services/Logistics Data	Blanket

*Table 6-1 shows the most common applications of the case designator first position. However, each IA may make exceptions to how the first position is assigned.

Summary

The FMS case concept is crucial to the understanding and management of the overall FMS program. FMS cases fall into one of three categories as defined by the SAMM: defined order, blanket order, and CLSSA. Some BPC programs are implemented through the existing FMS infrastructure using a fourth category of case called a pseudo LOA.

Each FMS case is assigned a unique case identifier, composed of a customer code, IA code, and case designator. The case identifier is used for all managerial tasks associated with the case, such as financial and logistics tracking. Pseudo LOA case identifiers contain a unique program code assigned by DSCA.

References

DSCA Manual 5105.38-M, *Security Assistance Management Manual* (SAMM). http://www.samm.dsca.mil/.

U.S. Air Force Manual, AFMAN 16-101, *International Affairs Security Assistance Management*.

U.S. Army Regulation, AR 12-1, *Security Assistance, Training, and Export Policy*.

U.S. Navy Naval Supply (NAVSUP) Systems Command Publication 526, *Foreign Military Sales Purchaser Supply Systems Guide*.

Attachment 6-1
Sample Defined Order Case

United States of America
Letter of Offer and Acceptance (LOA)

BN-B-ULY
BULLSEYE

Based on Government of Bandaria, Ministry of Defence Letter, Ref: (continued on page 2)

Pursuant to the Arms Export Control Act, the Government of the United States (USG) offers to sell to the Government of Bandaria, Office of the Military Attaché, 2468 16th Street NW, Washington DC 20009, the defense articles or defense services (which may include defense design and construction services) collectively referred to as "items," set forth herein, subject to the provisions, terms, and conditions in this LOA.

This LOA is for the procurement of BULLSEYE missiles and supporting equipment.

Estimated Cost: $454,691,120 Initial Deposit: $8,717,741

Terms of Sale:
Cash Prior to Delivery
Dependable Undertaking

Congressional Notification: 12-999

This offer expires on 21 February 2013. Unless a request for extension is made by the Purchaser and granted by the USG, the offer will terminate on the expiration date.

This LOA consists of page 1 through page 30.

The undersigned are authorized representatives of their Governments and hereby offer and accept, respectively, this LOA:

	06 Sep 2012		13 Feb 2013
U.S. Signature	Date	Purchaser Signature	Date

Robert Van Horn Director, EASTCOM Regional Operations	General Malaise Defense Chief of Staff
Typed Name and Title	Typed Name and Title
US Army Security Assistance Command, Redstone Arsenal, AL 35898	
Implementing Agency	Agency

DSCA Reviewed/Approved 12 Sep 2012 **IMPLEMENTATION DATE : 22 Feb 2013**

DSCA Date

Information to be provided by the Purchaser:
Mark For Code_C_, Freight Forwarder Code_2_, Purchaser Procuring Agency Code_B_, Name and Address of the Purchaser's Paying Office:_Office of the Military Attaché, 2468 16th Street NW, Washington DC 20009

Customer reference continued: BN2060, 01 March 2012, Office of the Military Attaché, 2468 16th Street NW, Washington DC 20009.

Items to be Supplied (costs and months for delivery are estimates):

(1) Itm Nbr	(2) Description/Condition	(3) Qty, Unit of Issue	(4) Costs (a) Unit	(4) Costs (b) Total	(5) SC/MOS/ TA	(6) Ofr Rel Cde	(7) Del Trm Cde
001 L 5	B1U 1324658790132 (Y)(M)(R)(IV) BULLSEYE MISSILE, Guided Missile (GM). Nomenclature is unclassified. Material is classified CONFIDENTIAL (Note(s) 1, 39)	95 EA	$3,053,628.63	$290,094,720	P(19-44) TA5 SP	Z	8
002 L	B6A 9B6A00MSLM0DS (N)(N)(R)(IV) MODIFICATION, MISSILE, TEST EQUIPMENT & SERVICES (Note(s) 39)			$103,124,001 (Line Total)			
	a. PN 14622036 Launcher Station Modification Kit (LMK) (Note(s) 2)	28 KT	$3,683,000.04	$103,124,001	P(38-43) TA5	A	2
003 L	B1U 9B1U00BULLSEYE (N)(N)(R)(XIII) SUPPORT EQUIPMENT, BULLSEYE (Note(s) 39)			$1,624,000 (Line Total)			
	a. Fire Solution Computer (FSC) Mod Kits (Note(s) 3)	24 EA	$67,666.66	$1,624,000	P(18-26) TA5 NR	X	2
004 L	B6A 9B6A00MSLM0DS (N)(N)(R)(IV) MODIFICATION, MISSILE, TEST EQUIPMENT & SERVICES (Note(s) 39)			$1,522,500 (Line Total)			

(1) Itm Nbr	(2) Description/Condition	(3) Qty, Unit of Issue	(4) Costs (a) Unit	(b) Total	(5) SC/MOS/ TA	(6) Ofr Rel Cde	(7) Del Trm Cde
	a. BULLSEYE Test Set (Note(s) 4)	3 EA	$507,500.00	$1,522,500	P(84) TA5	Z	4
005 L	B1U 9B1U00BULLSEYE (N)(N)(R)(XIII) SUPPORT EQUIPMENT, BULLSEYE			$1,249,266 (Line Total)			
	a. 9999-01-713-3333 Missile Trainer (Note(s) 5)	12 EA	$104,105.50	$1,249,266	P(12) TA5 SP	Z	4
006 L	B9A 9B9A00GMPARTS (N)(N)(R)(IV) COMPONENT PARTS/SUPPORT EQUIPMENT (Note(s) 39)			$6,800,500 (Line Total)			
	a. BULLSEYE Prescribed Load List (PLL), BULLSEYE Authorized Stockage List (ASL), Supplemental Items to Support Integration, BULLSEYE Sustainment Spares (Note(s) 6)	2 SE	$3,400,250.00	$6,800,500	P(19-55) TA5	Z	4
007 L	B9A 9B9A00GMPARTS (N)(N)(R)(IV) COMPONENT PARTS/SUPPORT EQUIPMENT (Note(s) 39)			$101,500 (Line Total)			
	a. BULLSEYE Missile Consumables OCONUS - Outside the Continental United States (Note(s) 7)	2 SE	$50,750.00	$101,500	X(44-80) TA4	A	5
008 L	B9A 9B9A00GMPARTS (N)(N)(R)(IV) COMPONENT PARTS/SUPPORT EQUIPMENT (Note(s) 39)			$5,785,500 (Line Total)			
	a. Unclassified BULLSEYE Spares - Continental United States (CONUS) (Note(s) 8)	2 SE	$2,892,750.00	$5,785,500	P(44-80) TA5	Z	4

(1) Itm Nbr	(2) Description/Condition	(3) Qty, Unit of Issue	(4) Costs (a) Unit	(b) Total	(5) SC/MOS/ TA	(6) Ofr Rel Cde	(7) Del Trm Cde
009 L	B9A 9B9A00GMPARTS (N)(N)(R)(IV) COMPONENT PARTS/SUPPORT EQUIPMENT (Note(s) 39)			$7,105,000 (Line Total)			
	a. CLASSIFIED BULLSEYE Spares - Continental United States (CONUS) (Note(s) 9)	2 SE	$3,552,500.00	$7,105,000	P(44-80) TA5	Z	4
010 L 3	M2K02280000RRMSL (N)(N)(R)(XXI) R-R MISSILES & SUPPORT EQUIPMENT Repair and Return of BULLSEYE Ground Support Equipment (BULLSEYE) (Note(s) 10, 39)	XX		$2,436,000	P(38-74) TA5	A	E
011 L 3	M2K02280000RRMSL (N)(N)(R)(XXI) R-R MISSILES & SUPPORT EQUIPMENT Repair and Return Missile and Support Equipment (BULLSEYE) Nomenclature is unclassified. Items for Repair and Return are classified CONFIDENTIAL (Note(s) 11, 39)	XX		$3,146,500	P(38-43) TA5	A	E
012 L 3	M1E 02050000L0GSV (N)(N)(R)(XXI) LOGISTICAL INTEGRATION SERVICES Contractor System Integration and Checkout (SICO) and System Integration Demonstration (SID) (Note(s) 12, 39)	XX		$507,500	P(38-43) TA5	-	4
013 L 3	M1E 0205000THERTA (N)(N)(R)(XXI) OTHER TECHNICAL ASSISTANCE CONTRACTOR PERSONNEL ONLY Contractor Technical Assistance in Support of BULLSEYE Missiles (Note(s) 13, 39)	XX		$913,500	P(3-87) TA5	-	4
014 L 3	R9A 079100SPCLACT (N)(N)(R)(XXI) SPECIAL ACTIVITIES Missile Field Surveillance - BULLSEYE (Note(s) 14)	XX		$2,933,162	X(1-84) TA4	-	4

(1) Itm Nbr	(2) Description/Condition	(3) Qty, Unit of Issue	(4) Costs (a) Unit	(b) Total	(5) SC/MOS/ TA	(6) Ofr Rel Cde	(7) Del Trm Cde
015 L	M1E 0205000TAUSGP (N)(N)(R)(XXI) OTHER TECHNICAL ASSISTANCE - US GOVERNMENT PERSONNEL (NOT TECHNICAL ASSISTANCE TEAMS)	XX		$3,888,685	X(13-73) TA4	-	-
3	U.S. Government Technical Assistance - Lower Tier Project Office (LTPO) (Note(s) 15)						
016 L	M1E 0205000TAUSGP (N)(N)(R)(XXI) OTHER TECHNICAL ASSISTANCE - US GOVERNMENT PERSONNEL (NOT TECHNICAL ASSISTANCE TEAMS)	XX		$1,486,283	S(13-73) TA3	-	-
3	U.S. Government Technical Assistance - Security Assistance Management Directorate (SAMD) (Note(s) 16)						

Estimated Cost Summary:

(8) Net Estimated Cost	$432,718,617
(9) Packing, Crating, and Handling	0
(10) Administrative Charge	16,443,308
(11) Transportation	5,529,195
(12) Other	0
(13) Total Estimated Cost	$454,691,120

To assist in fiscal planning, the USG provides the following anticipated costs of this LOA:

ESTIMATED PAYMENT SCHEDULE

Payment Date	Quarterly	Cumulative
Initial Deposit	$8,717,741	$8,717,741
15 Mar 2013	$613,737	$9,331,478
15 Jun 2013	$302,311	$9,633,789
15 Sep 2013	$98,040	$9,731,829
15 Dec 2013	$144,870	$9,876,699
15 Mar 2014	$6,887,272	$16,763,971
15 Jun 2014	$18,690,408	$35,454,379

Payment Date	Quarterly	Cumulative
15 Sep 2014	$31,754,467	$67,208,846
15 Dec 2014	$51,945,565	$119,154,411
15 Mar 2015	$67,795,628	$186,950,039
15 Jun 2015	$66,341,769	$253,291,808
15 Sep 2015	$82,242,009	$335,533,817
15 Dec 2015	$94,132,601	$429,666,418
15 Mar 2016	$2,030,561	$431,696,979
15 Jun 2016	$2,090,299	$433,787,278
15 Sep 2016	$2,100,033	$435,887,311
15 Dec 2016	$2,219,101	$438,106,412
15 Mar 2017	$2,398,171	$440,504,583
15 Jun 2017	$2,761,417	$443,266,000
15 Sep 2017	$2,915,286	$446,181,286
15 Dec 2017	$2,828,990	$449,010,276
15 Mar 2018	$2,392,496	$451,402,772
15 Jun 2018	$1,728,411	$453,131,183
15 Sep 2018	$939,935	$454,071,118
15 Dec 2018	$480,388	$454,551,506
15 Mar 2019	$78,655	$454,630,161
15 Jun 2019	$52,714	$454,682,875
15 Sep 2019	$8,245	$454,691,120

Explanation for acronyms and codes, and financial information, may be found in the "Letter of Offer and Acceptance Information."

Signed Copy Distribution:

1. Upon acceptance, the Purchaser should return one signed copy of this LOA to Defense Finance and Accounting Service - Indianapolis ATTN: Security Assistance Accounting, DFAS-JAX/IN 8899 E. 56th Street Indianapolis, IN 46249-0230. Simultaneously, wire transfer of the initial deposit or amount due with acceptance of this LOA document (if required) should be made to ABA #021030004,

Attachment 6-2
Sample Blanket Order Case

United States of America
Letter of Offer and Acceptance (LOA)
BN-D-EZY

Based on Government of Bandaria, Ministry of Defence Letter, Ref: (continued on page 2)

Pursuant to the Arms Export Control Act, the Government of the United States (USG) offers to sell to the Government of Bandaria, Office of the Military Attaché, 2468 16th Street NW, Washington DC 20009, the defense articles or defense services (which may include defense design and construction services) collectively referred to as "items," set forth herein, subject to the provisions, terms, and conditions in this LOA.

This LOA is for equipment in support of the C-130 aircraft.

Estimated Cost: $5,000,000 Initial Deposit: $280,894

Terms of Sale:
Cash Prior to Delivery
Dependable Undertaking

This offer expires on 5 March 2014. Unless a request for extension is made by the Purchaser and granted by the USG, the offer will terminate on the expiration date.

This LOA consists of page 1 through page 14.

The undersigned are authorized representatives of their Governments and hereby offer and accept, respectively, this LOA:

	16 Dec 2013		12 Feb 2014
U.S. Signature	Date	Purchaser Signature	Date
SUSAN L. McCLURE Director, EASTCOM Branch		General Malaise Defense Chief of Staff	
Typed Name and Title		Typed Name and Title	
AFSAC International Division			
Implementing Agency		Agency	

DSCA Reviewed/Approved 16 Dec 2013 **IMPLEMENTATION DATE : 08 Mar 2014**

DSCA Date

Information to be provided by the Purchaser:
Mark For Code_B_, Freight Forwarder Code_2_, Purchaser Procuring Agency Code_D_, Name and Address of the Purchaser's Paying Office: Office of the Military Attaché, 2468 16th Street NW, Washington DC 20009

Customer reference continued: Request, FAX #3302, 29 October 2013.

Items to be Supplied (costs and months for delivery are estimates):

(1) Itm Nbr	(2) Description/Condition	(3) Qty, Unit of Issue	(4) Costs (a) Unit	(b) Total	(5) SC/MOS/ TA	(6) Ofr Rel Cde	(7) Del Trm Cde
001	A7A 492000000FA7A (N)(N)(R)(VIII)	XX		$4,815,116	X(-)	Z	4
B4	GROUND HANDLING EQUIPMENT FOLLOW-ON				TA4		
47	Unclassified equipment in support of C-130 aircraft (Note(s) 1)						

Estimated Cost Summary:

(8) Net Estimated Cost	$4,815,116
(9) Packing, Crating, and Handling	16,355
(10) Administrative Charge	168,529
(11) Transportation	0
(12) Other	0
(13) Total Estimated Cost	$5,000,000

To assist in fiscal planning, the USG provides the following anticipated costs of this LOA:

ESTIMATED PAYMENT SCHEDULE

Payment Date	Quarterly	Cumulative
Initial Deposit	$280,894	$280,894
15 Jun 2014	$368,680	$649,574
15 Sep 2014	$653,793	$1,303,367
15 Dec 2014	$978,231	$2,281,598
15 Mar 2015	$1,140,451	$3,422,049
15 Jun 2015	$958,568	$4,380,617
15 Sep 2015	$496,490	$4,877,107
15 Dec 2015	$122,893	$5,000,000

Attachment 6-3
Sample Pseudo Letter of Offer and Acceptance (LOA)

United States of America
Letter of Offer and Acceptance (LOA)

J1-P-LAZ

Bandaria, Section 1206, P.L. 109-163, as amd, BPC

Based on funds provided and the written request from the (continued on page 2)

Pursuant to the Arms Export Control Act, the Government of the United States (USG) offers to sell to the Department of Defense, the defense articles or defense services (which may include defense design and construction services) collectively referred to as "items," set forth herein, subject to the provisions, terms, and conditions in this LOA.

This LOA provides Night Vision Devices, Supply Support, Parachute Equipment, Personal Communications Equipment and technical assistance.

Estimated Cost: $3,700,000 Initial Deposit: $3,700,000

Terms of Sale:

Cash with Acceptance 1206

This offer expires on 15 August 2014. Unless a request for extension is made by the Purchaser and granted by the USG, the offer will terminate on the expiration date.

This LOA consists of page 1 through page 14.

The undersigned are authorized representatives of their Governments and hereby offer and accept, respectively, this LOA:

	04 Aug 2014	No Purchaser Signature required	08 Aug 2014
U.S. Signature	Date	Purchaser Signature	Date

CDR Daniel A. Linquist, USN
Director, EASTCOM Branch

Typed Name and Title — Typed Name and Title

Navy International Programs Office

Implementing Agency — Agency

DSCA Reviewed/Approved 08 Aug 2014 **IMPLEMENTATION DATE : 22 Aug 2014**

DSCA — Date

Information to be provided by the Purchaser:
Mark For Code_2_, Freight Forwarder Code_-_, Purchaser Procuring Agency Code_P_, Name and Address of the Purchaser's Paying Office:_____

_____

Customer reference continued: Defense Security Cooperation Agency (DSCA) dated 7 March 2014.

Items to be Supplied (costs and months for delivery are estimates):

(1) Itm Nbr	(2) Description/Condition	(3) Qty, Unit of Issue	(4) Costs (a) Unit	(b) Total	(5) SC/MOS/ TA	(6) Ofr Rel Cde	(7) Del Trm Cde
001	H6P 5855000NVDPVS (S)(N)(E)(XII) PORTABLE VISION SYSTEM, NVD (GOGGLES, BINOCULAR, MONOCULAR, HANDHELD)	75 EA	$15,908.02	$1,193,102	X(2-24) TA4	X	7
G	AN/PVS-XX Night Vision Goggles (Note(s) 1)						
BN	Benefitting Country - Bandaria						
002	H6P 58550000NVDSP (N)(N)(R)(XII) SPARE PARTS, NVD	XX		$84,644	X(2-24) TA4	X	7
G	(Note(s) 2)						
BN	Benefitting Country - Bandaria						
003	J6A 16700000PRCHT (N)(N)(R)(XXI) PARACHUTES+AERIAL DEL EQUIPMENT	XX		$1,797,702	X(2-24) TA4	X	7
G	Parachute System (Note(s) 3)						
BN	Benefitting Country - Bandaria						
004	H6Z 589Z000THRC0M (N)(N)(R)(XI) COMMUNICATIONS EQUIPMENT, OTHER	XX		$75,102	X(2-24) TA4	X	7
G	(Note(s) 4)						
BN	Benefitting Country - Bandaria						

(1) Itm Nbr	(2) Description/Condition	(3) Qty, Unit of Issue	(4) Costs (a) Unit	(b) Total	(5) SC/MOS/ TA	(6) Ofr Rel Cde	(7) Del Trm Cde
005	M1E 0205000TTECHA (N)(N)(R)(XXI) OTHER TECHNICAL ASSISTANCE	XX		$105,182	X(-) TA4	-	-
G	(Note(s) 5)				Aug 2014 - Sep 2015		
BN	Benefitting Country - Bandaria						

Estimated Cost Summary:

(8) Net Estimated Cost	$3,255,732
(9) Packing, Crating, and Handling	0
(10) Administrative Charge	113,952
(11) Transportation	330,316
(12) Other	0
(13) Total Estimated Cost	$3,700,000

To assist in fiscal planning, the USG provides the following anticipated costs of this LOA:

ESTIMATED PAYMENT SCHEDULE

Payment Date	Quarterly	Cumulative
Initial Deposit	$3,700,000	$3,700,000

Explanation for acronyms and codes, and financial information, may be found in the "Letter of Offer and Acceptance Information."

Signed Copy Distribution:

1. Upon Acceptance, the LOA Implementing Agency shall sign one copy of this LOA document and retain the signed copy in case files.

2. Simultaneously, the LOA Implementing Agency will enter the Acceptance milestone into the Defense Security Assistance Management System (DSAMS), enabling the Defense Security Cooperation Agency (DSCA) to proceed with funds collection and case Implementation.

Note 1. AN/PVS-XX Night Vision Goggles.

Line item 001 provides seventy-five (75) AN/PVS-XX Night Vision Goggles.

Note 2. Night Vision Device (NVD) Supply Support.

Line item 002 provides for components, repair parts, assemblies and accessories required for the repair and support of NVDs.

Note 3. Parachute System.

Line item 003 provides the following parachute system and components, including sparing:

1. Multi-Mission Parachute system, quantity twenty-five (25)
2. Multi-Mission Parachute System, Spare, quantity four (4)

Note 4. Personal Communications Equipment.

Line item 004 provides the following personnel communications equipment, including sparing:

1. Headsets Single COMM kit, Coyote Brown NSN 9999-01-713-3254, quantity seventy (70)
2. Headsets Dual COMM kit, Coyote Brown NSN 9999-01-713-3255, quantity ten (10)

Note 5. Technical Services.

Line item 005 provides technical assistance in support of the acquisition, delivery and fielding of Night Vision Devices, parachute and communications equipment. Technical assistance efforts will include technical coordination and inspection, configuration management, logistics management support and Quality Assurance/Quality Control (QA/QC). Technical Assistance includes post-delivery support for equipment fielding, operator/maintainer equipment familiarization and establishment of Initial Operating Capability.

J1-P-LAZ
Page 4 of 7 Pages

Note 6. Shipment Consolidation.

a. The non-sensitive/non-hazardous material offered on Line Items 001-004 of this LOA will be shipped to the Navy Inventory Control Point at NAVSUP Weapon Systems Support, 5450 Carlisle Pike, Bldg 107 South End, Code N011, Mechanicsburg, PA 17055-0788 for consolidation. The consolidation point is responsible for the receiving, storage, control of inventory, repacking (if required), crating and containerization of material. Accessorial charges will be billed only to the extent that the U.S. Government incurs costs.

b. Vehicles, sensitive and/or hazardous materials will not be consolidated.

Note 7. NIGHT VISION DEVICES (NVDs) PHYSICAL SECURITY AND ACCOUNTABILITY - BPC.

1. The Benefitting Country will secure the Night Vision Devices (NVDs) transferred by the U.S. Government against loss, theft, or unauthorized access, and perform routine inventory checks. The Benefitting Country will provide the Security Cooperation Organization (SCO) and/or other appropriate U.S. Government representatives a written physical security and accountability control plan prior to receipt of the equipment. Inventory and accountability records maintained by the Benefitting Country will be retained for at least one year and made available for review upon U.S. Government request. Upon request, the U.S. Government will be permitted to conduct an inspection and inventory of the devices listed in this offer by serial number. In case of the destruction, loss, theft, or unauthorized access of any NVDs listed in this offer, the Benefitting Country will report the incident immediately to the U.S. Government (e.g. via the SCO to the Defense Technology Security Administration (DTSA)). The Benefitting Country will provide a written report with details of the incident within 30 calendar days to the U.S. Government. This report will include the steps being taken both to recover the equipment (if applicable) and to prevent recurrence.

2. The Benefitting Country should ensure that the following minimum physical security and accountability measures are included in the physical security and accountability control plan and met for all NVDs transferred on this LOA:

a. Physical Security: When not issued for use, the unit commander will provide NVD controlled-access, double barrier protection. Examples of double barrier protection include: a locked, built-in or free-standing steel container which is secured to a locked or guarded building, enclosed van, trailer or armored vehicle; a locked steel cage or vault secured in a locked or guarded structure. When in use, individuals issued NVDs will secure the devices and be responsible for maintaining control of the devices at all times. NVDs may be secured inside a locked, enclosed van, trailer, or armored vehicle if these vehicles remain under constant surveillance.

b. Accountability: While not issued for use, the unit commander or designated representatives will conduct monthly 100% physical count inventories and quarterly 100% inventories by serial number of the NVD. Records of these inventories will be kept for one year. While issued for use, the unit commander or designated representatives will perform a daily visual inventory of the NVDs.

3. The Director, DTSA authorized this transfer as delineated in the Defense Security Cooperation Agency (DSCA) Night Vision Implementation Memorandum(a) dated 30 June 2014

and/or previously by the DTSA waiver(s) dated not applicable.

Note 8. CASE CLOSURE- SECTION 1206 (FY14).

Closure activities will begin once all lines are supply service complete. Case closure will be completed not later than July 31, 2019.

Note 9. FUNDS SOURCE AND AVAILABILITY - SECTION 1206 (FY14).

Funds are provided in support of authority to build the capacity of foreign military forces to conduct counterterrorism or to support military, stability and maritime security operations.

1. The funds are subject to all the requirements and restrictions specified under Program Authority P.L. 109-163, as amended, and Appropriation Authority P.L. 113-76, FY14.

2. The funds carry the same time, purpose, and availability restrictions associated with fund source 97 4 0100.

3. Funds not obligated within the period of availability ending on September 30, 2014 will be rendered unavailable for new obligations unless a subsequent authority extends the period of availability. Funds will cancel at midnight on September 30, 2019.

4. This is the only source of funding for costs associated with this LOA and funds are limited to the total estimated cost of this LOA. Neither DSCA nor the IA has other funds legally available to them for this requirement or for any costs that exceed the value of this LOA.

Note 10. BUILDING PARTNER CAPACITY (BPC) MATERIEL TRANSFER.

1. Shipment and Delivery:

a. All shipments will be marked and labeled in accordance with DoD Standard Practice for Military Marking (MIL-STD 129).

b. The U.S. Government agrees to provide transportation services for the items identified in this LOA to the point of delivery in the Benefitting Country. The SCO (or U.S. Government representative) will confirm receipt of all materiel deliveries.

c. Any shipment discrepancies or damage will be reported by a U.S. Government representative through the existing DoD discrepancy reporting system (Transportation Discrepancy Report (TDR) or Supply Discrepancy Report (SDR)), according to procedures for processing U.S. Government-owned materiel transported through the Defense Transportation System (DTS)). The SDR (Standard Form 364) will be used by the SCO to promptly report any

overage, shortage, damage, item deficiency, improper identification, improper documentation, or non-shipment of defense articles. The SCO may submit SDRs for documentation purposes regardless of the dollar value of the discrepancy, but only claims valued at $200 or more (based on the value of the item plus any transportation and handling costs) will be reviewed for possible funding reimbursement. Discrepant articles will be returned to the U.S. Government's custody. Any claim, including a claim for shortage or nonperformance, received more than one year after delivery of the defense articles to the Benefitting Country (or after the end of the scheduled period of performance for services) will not be processed.

d. The Benefitting Country is responsible for clearance of materiel through its customs at the point of debarkation (POD). After the U.S. Government has delivered materiel to the specified point of delivery in the Benefitting Country, the Benefitting Country is responsible for any required onward movement.

2. Title and Custody Transfer:

a. The U.S. Government will retain title to and custody of the offered defense articles throughout transportation and delivery to the Benefitting Country, unless otherwise stated in this LOA.

b. The U.S. Government representative will confirm delivery of materiel title and custody to an authorized Benefitting Country representative or agent by jointly signing a Transfer and Receipt document. The U.S. Government representative will keep documentation showing when, where, and to whom delivery was made and will provide a copy of this documentation to the DSCA Program Director and the IA.

Note 11. NONRECURRING COSTS DO NOT APPLY - BPC.
Nonrecurring Costs (NC) do not apply to BPC programs.

Note 12. CONTRACT ADMINISTRATION SERVICES (CAS) SURCHARGE.
For any lines on this LOA document with a Source of Supply of 'X' or 'P', the Contract Administration Services (CAS) surcharge rate apply: for Contract Administration, .65%; for Quality Assurance and Inspection, .65%; and for Contract Audit, .20%. CAS has only been applied to the portion of "X" - coded line items expected to come from procurement.

Note 13. ACCESSORIAL CHARGES.
A transportation charge has been applied to the applicable portions of line item numbers 001, 002, 003 and 004.

Note 14. ADMINISTRATIVE SURCHARGE.
An administrative surcharge of 3.5% has been applied to lines 001, 002, 003, 004 and 005.

Chapter

7 Technology Transfer, Export Controls, and International Programs Security

Introduction

The U.S. Government (USG) transfers defense articles, services, and training to other governments and international organizations through both traditional Security Assistance (SA) programs and Security Cooperation (SC) programs. This chapter focuses on the technology and related controlled information associated with articles and services transferred under both SA and SC programs. This chapter will also address the broad spectrum of international programs security requirements.

As markets for military equipment continue to evolve, competition based on leading-edge technology has caused a significant increase in economic espionage aimed at U.S. technology. Although economic security is an important part of American foreign policy, military strength remains an essential instrument of foreign policy. It is Department of Defense (DoD) policy to treat defense-related technology as a valuable and limited national security resource. Determining which technologies should be controlled and to what extent necessitates an understanding of two seemingly conflicting elements of U.S. policy on international trade:

- Free trade—the importance of international trade to a strong U.S. defense industrial base
- National security—the need to restrict the export of technology, goods, services, and munitions that would otherwise contribute to the military strength of countries that affect U.S. national security

Keeping in mind the balance between free trade and national security, it is the responsibility of those who control access to defense technologies to understand the laws, regulations, and directives that govern their international transfer. Traditional SA programs are mechanisms through which technology transfer may occur. International armaments cooperation programs with allies and friends are another means of transferring technology, especially through co-development, coproduction, and commercially licensed production programs.

Once technology transfer is discussed, and the methods used to transfer and control such exports have been covered, one still needs to know how to transfer technology by approved and secured means. Controlling the level of technology transferred to U.S. friends and allies is a subset of the concept of international programs security (IPS). We should start off with a definition of an international program and the security within such programs:

- An international program is a lawful and authorized government or commercial effort in which there is a contributing or receiving foreign participant, and information or technology is transferred from one country to another
- International programs security is the total effort to safeguard information and technology identified as requiring control generated by, provided to, or transferred within an international program

This chapter will discuss ten main topics concerning technology transfer and export control policy and international programs security requirements (IPSR):

- Concept of technology transfer and export controls
- Executive Branch key players for exports
- Controlled Unclassified Information (CUI)
- Foreign Disclosure and the National Disclosure Policy (NDP) (for classified items/ information)
- Export Control Reform Initiative
- Export approval and license process
- International visits and assignments
- International transportation of classified military materiel
- Role of Defense Security Service (DSS) in international programs
- Foreign government and the North Atlantic Treaty Organization (NATO) information
- Committee on Foreign Investment in the U.S. (CFIUS) and Foreign Ownership, Control, or Influence (FOCI)

The Concept of Technology Transfer and Export Controls

Technology transfer is the process of transferring, from government or industry in one country to another country, technical information relating to the design, engineering, manufacture, production, and use of goods and/or services. To comply with U.S. policy, technology transfer is regulated by a myriad of U.S. government (USG) agencies, and is ultimately controlled by government-to-government agreements which can take the form of memoranda of understanding (MOUs), general security agreements (GSAs), letters of offer and acceptance (LOAs), export licenses, or other forms mutually agreed to by both governments. The *Security Assistance Management Manual* (SAMM), chapter 3, "Technology Transfer and Disclosure," is a key reference when working technology transfer aspects of SC programs.

It bears reiteration that the transfer policies addressed in this chapter apply primarily to defense technologies. The policy and controls discussed herein are not typically applied to common or "public domain" reference materials such as military standards, specifications, handbooks, or commercial counterparts to these documents. U.S. industry representatives may determine if their materiel is within public domain by submitting documents to the Office of the Assistant Secretary of Defense for Public Affairs, Director for Freedom of Information and Security Review.

Department of Defense Policy on Technology Transfer

The primary policy governing the process of technology transfer is contained in DODI 2040.02, *International Transfers of Technology, Articles, and Services*. This instruction establishes technology security responsibilities within DoD. It outlines working relationships among the Joint Staff, the Military Departments, and the various Defense Agencies. Selected U.S. technology laws and other appropriate DoD and military services directives are listed as references to this chapter.

DODI 2040.02 states:

- Dual-use and defense-related technology will be treated as a valuable national security resource, to be protected and transferred only in accordance with export control laws and regulations, and national security and foreign policy objectives
- In applying export control and technology security policies, emphasis will be given to preserving the U.S. military's technological superiority, establishing and maintaining interoperability with allies and coalition partners, and managing direct and indirect impacts on the defense industrial base...
- ...in recognition of the importance of international trade and scientific and technological cooperation, DoD must apply export control and other technology security policies and procedures in a way that takes into account support of the defense industrial base while maintaining U.S. nonproliferation imperatives
- In determining DoD interests in technology and the means by which those interests are protected, DoD will consider such factors as the impact on the U.S. defense industrial base to support defense technologies, scientific and technological acceleration of change, as well as significant means in which scientific research and technological development are implemented in production
- DoD will use available resources to achieve DoD and U.S. Government goals and objectives in transfers of technology, articles, and services, while recognizing that constant and rapid changes in technology pose difficult challenges in assessments, formulation of policy options, and implementation of policies

Before we can understand how to control the transfer of technology, we must define what a defense article actually is. Per the *International Traffic in Arms Regulations* (ITAR), section 120.6, a "defense article" is any item or technical data designated in section 121.1 of the ITAR, (i.e., the *U.S. Munitions List* (USML)). The USML identifies articles that have a primarily defense-related utility. So the USML addresses the "items," but what is "technical data?" Per the ITAR, section 120.10:

> Technical data means: (1) Information, other than software as defined in section 120.10(a)(4), which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions or documentation. (2) Classified information relating to defense articles and defense services on the USML and 600-series items controlled by the Commerce Control List.

The ITAR goes on to state at 120.10(b):

> This definition in paragraph (a) of this section does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities, or information in the public domain as defined in §120.11 of this subchapter or telemetry data as defined in note 3 to Category XV(f) of part 121 of this subchapter. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

Technology Transfer Mechanisms

Within the context of SC, foreign military sales (FMS) and direct commercial sales (DCS) are normally thought of as the primary means by which technology, goods, services, and munitions are

transferred. However, as the following list (which is not all inclusive) illustrates, there are many different means for effecting transfers:

- Commercial and government sales
- Scientist, engineer, student, and academic exchanges
- Licensing and other data exchange agreements
- Co-development and coproduction agreements
- Commercial proposals and associated business visitors
- Trade fairs, exhibits, and air shows
- Sales to third-party nations
- Multinational corporation transfers
- International programs (such as fusion, space, and high energy)
- International meetings and symposia on advanced technology
- Patents
- Clandestine or illegal acquisition of military or dual-use technology or equipment
- Dissemination of technical reports and technical data, whether published, oral, or via oral/visual release
- Dissemination of technical reports under DODD 5400.7, *DoD Freedom of Information Act Program*
- Dummy corporations
- Acquiring an interest in U.S. industry, business, and other organizations

Basics of International Programs Security

To protect technologies being transferred, one must understand the legal and national policy basis for DoD's international programs and the principal security considerations to be taken prior to pursuing an international program. Three primary laws/regulations form the framework for NDP:

- Arms Export Control Act (AECA)
- Executive Order (E.O.) 13526
- National Security Decision Memorandum (NSDM) 119

Each of these will be covered in more detail below as will the associated "government-to-government" principle. Information for the remainder of this section comes primarily from the International Programs Security Handbook authorized by the Office of the Deputy Under Secretary of Defense (ODUSD) for Policy, the Defense Technology Security Administration (DTSA), February 1995 (Revised April 2010). An electronic version of the handbook can be found at http://www.discs.dsca.mil/_pages/resources/default.aspx?section=publications&type=ips.

Access and Protection

U.S. law and policy requires that two fundamental considerations be addressed prior to sharing U.S. defense articles with another country or international organization within international programs:

1. U.S.'s Best Interest: Determining whether granting access to U.S. defense articles or information is in the best interest of the U.S.
2. Adequate Protection: Determining whether the prospective recipient can and will satisfactorily protect the technology, article, or information.

In order to best understand these two fundamental security considerations, it may be useful to think of them as part of a formula. That formula is:

Best Interest of U.S. + Adequate Protection = Potential Access

Once the potential for access has been validated, actual export authorization of defense articles will be determined through further evaluation. Keep in mind that the considerations shown in the formula are specified by the AECA and will underpin everything discussed below.

Legal and Policy Basis for International Program Security

As alluded to above, the three principal documents providing the legal and national policy basis for security in most DoD international programs are the:

1. AECA – Arms Export Control Act
2. E.O. 13526 – Executive Order 13526
3. NSDM 119 – National Security Decision Memorandum 119

AECA

The AECA governs the export of defense articles and defense services to foreign countries and international organizations and includes both commercial and government programs. It authorizes a list of controlled articles, the USML, which is contained in the ITAR published by the Department of State (DoS) and is available online: https://www.pmddtc.state.gov/regulations_laws/itar.html. The AECA forms the legal basis for the security requirements in most DoD international programs. The AECA states that foreign sales (i.e., access) should be consistent with U.S. foreign policy interests, strengthen the security of the U.S., and contribute to world peace. The AECA also requires the President to provide Congress assurances that proposed recipient foreign countries or international organizations have agreed to certain security conditions regarding the protection of the articles or information. The three security-related conditions which must be satisfied prior to the export of controlled defense articles and information to a foreign country or international organization are:

1. Transfer: The recipient country or organization agrees not to transfer title or possession of the articles or related technical data to anyone who is not an officer, employee or agent of the country or organization without prior USG consent
2. Use: The recipient country or organization agrees not to use the articles or related technical data or permit their use for other than the purpose for which they were furnished without prior USG consent
3. Protection: The recipient country or organization agrees to maintain security of the articles or related technical information, and provide substantially the same degree of security to it as does the USG

These security-related conditions are incorporated into the Foreign Military Sales (FMS) process via the standard terms and conditions of each Letter of Offer and Acceptance (LOA). Within any LOA, the standard terms and conditions will be listed at section 2 "General Purchaser Agreements." Transfer, use, and protection are specifically addressed in subsections 2.4-2.6 of any LOA. By stating these conditions of sale in the LOA, the purchaser agrees to these conditions when they sign to accept the LOA. The specific language of these conditions may be found in chapter 8 of this textbook.

Executive Order 13526

E.O. 13526 establishes the executive branch's classified National Security Information Program. Section 4 of this order states that access to classified information may be granted only when required in order to perform or assist in a lawful and authorized governmental function. This is the basis of the "need-to-know" principle. Further, persons authorized to disseminate classified information outside the executive branch shall assure the protection of the information in a manner equivalent to that provided within the executive branch. The executive order also states that classified information cannot be transferred to a third party without the consent of the originator. Additionally, it stipulates a requirement for the protection of any foreign government information (FGI) in the possession of the U.S. The executive order is implemented by *Classified National Security Information*, title 32 of the *Code of Federal Regulations* (CFR), part 2001 and 2003, effective 25 June 2010. The Information Security Oversight Office (ISOO), National Archives and Records Administration (NARA), publishes "Classified National Security Information Directive 1" as the final rule pursuant to E.O. 13526 relating to classified national security information. It is also covered by DoD Manual 5200.01, *DoD Information Security Program*.

NSDM 119

NSDM 119 provides the basic national policy governing decision-making on the disclosure of classified military information (CMI) to foreign governments and international organizations. NSDM 119 reiterates the basic requirements of the AECA and E.O. 13526, and emphasizes that CMI is a national asset, and that the USG will not share it with a foreign government or international organization (i.e., permit access) unless such a release will result in a clearly defined benefit to the U.S., and the recipient government or organization will provide substantially the same degree of protection.

Government-to-Government Principle

Classified information is shared with foreign governments and international organizations based on the government-to-government principle. This principle is defined by two activities relating to international programs. It applies to export and disclosure decisions, and to transfers of classified information and materiel:

1. Decision: In keeping with the AECA, E.O. 13526, and NSDM 119, the decision concerns whether the USG will release classified information to another government or international organization.

2. Transfer: If the decision above is in the affirmative, the actual transfer must be made either through official government-to-government channels (e.g., government courier) or through other channels approved by the responsible governments.

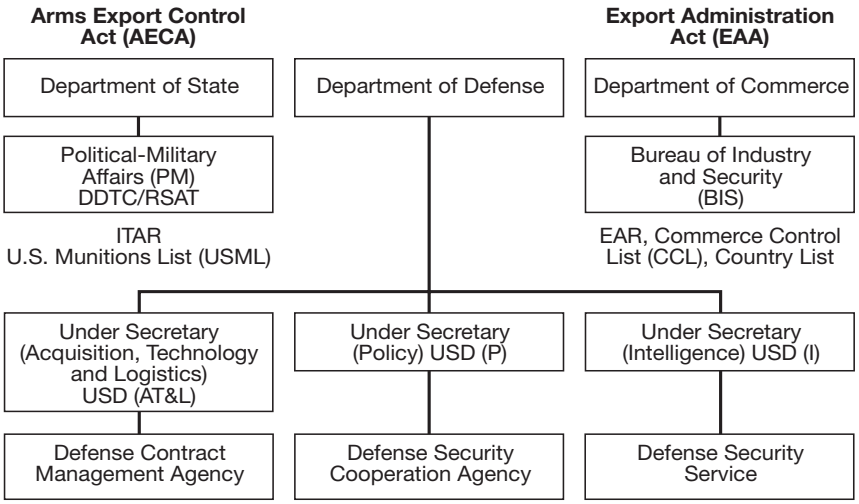
Transfer via government channels is necessary so that government accountability and control can be maintained from the point-of-origin to the ultimate destination. Transfers normally occur between designated government representatives (DGRs) when custody is officially transferred to a recipient government. This government then assumes responsibility for the protection of the article or information. A security assurance must be obtained prior to transferring classified material to a

representative of a foreign government or international organization. A receipt must be obtained for classified information transfers to document the transfer of security responsibility.

Executive Branch Key Players for Exports

As covered in chapter 2 of this textbook, Congress passes laws that govern how the USG functions. More specifically, certain laws or acts of Congress determine how the USG makes decisions for the export and import of military and dual-use items; dual-use meaning articles having both a military and civilian use. Two key laws, the AECA and the Export Administration Act (EAA), provide the legal authority for these type actions. As indicated in figure 7-1, the Department of State (DoS) and the Department of Commerce (DoC) have the authority to implement these laws. DoD itself does not have any legal authority to approve the commercial export defense items or information. The next sections in this chapter will discuss the authorities and organizational structures of the DoC, DoS, and DoD, and how these three departments work together to make decisions regarding export of military and dual-use items.

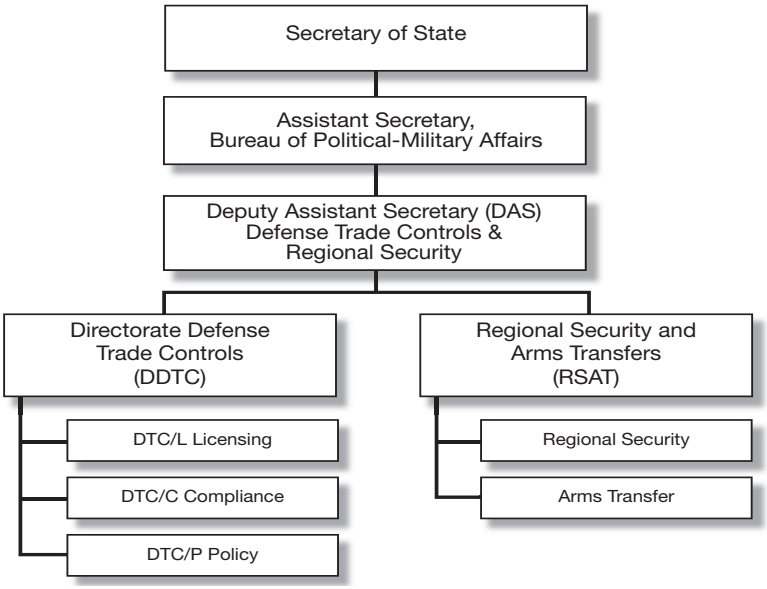
Figure 7-1
Key Players in Exports, Technology Transfer and International Programs Security



Department of State

Section 38, AECA, authorizes the President to control the import and export of defense articles and services, to designate such items as constituting the USML, and to promulgate implementing regulations. By E.O. 13637, the President has delegated his day-to-day responsibilities to the Secretary of State. The "implementing regulations" are the International Traffic in Arms Regulations (ITAR). The ITAR, 22 CFR parts 120-130, implements the AECA statutory authority to control the export of defense articles and services. By virtue of delegations of authority by the Secretary of State, these regulations are primarily administered by the Directorate of Defense Trade Controls (DDTC), which is under the Bureau of Political-Military Affairs, DoS. See figure 7-2.

Figure 7-2
Department of State Export Authorization Structure



DDTC is responsible for issuing export licenses for those items on the USML. The USML can be found in part 121 of the ITAR and is also discussed in SAMM, C3.3. While not a list of specific items (e.g., M-16, M-1A1, F-16, F-18, etc.), the USML generically designates articles, services, and related technical data as "defense articles" and "defense services" in accordance with section 38, AECA. Those defense articles preceded by an asterisk (*) on the USML are designated significant military equipment (SME) that section 120.7 of the ITAR defines as, "articles for which special export controls are warranted because of their capacity for substantial military utility or capability." Classified articles or information are always considered SME.

The USML is divided into twenty-one categories. An example is Category VII—Ground Vehicles. The categories are further divided into subtypes like Cat VII *(b) "Ground vehicles (not enumerated in the paragraph (a) of this category) and trailers that are armed or are specially designed to serve as a firing or launch platform..." (Note: the (*) before the (b) denotes everything listed in this subtype is SME.) Officials in foreign governments have stated for many years that such broad lists require export licenses for everything dealing with the major item on the list. Example, since "engineer vehicles" are listed, why must the tires for the vehicles be considered USML items? The requirements to have all military items listed in the ITAR and under the control of the DoS is a legacy of the Cold War.

The DDTC processes on the order of 43,000 defense-related license requests yearly from U.S. contractors. Approximately 50 percent of these license requests are forwarded to DoD's Defense Technology Security Administration (DTSA) and the military departments (MILDEPs) for further review. DTSA will be discussed in greater detail when we cover DoD's role in exports. The DoS regulates permanent exports, temporary exports, and temporary imports of defense articles into the U.S., and the Department of Justice regulates permanent imports of defense articles (22 CFR parts 47, 178, and 179).

Another important office (shown in figure 7-2) under DoS, Bureau of Political-Military Affairs, is Regional Security Arms Transfer (RSAT). While DDTC processes license requests from contractors, RSAT processes DoD requests for exports through the review and potential approval of the LOAs. This is one of the steps in the process of developing and approving the LOA before it is offered.

Working through the DoS to get a license for every item that may be part of a larger military article slows down the export process and is very frustrating for the U.S. company trying to sell and export and to the country waiting for the item. One of the "reforms" in the USG Export Control Reform Initiative is to move as many military items as possible from the DoS USML to the DoC CCL. This task started under the George W. Bush administration and has continued under subsequent administrations. By October 2013, many items once listed in the ITAR's USML had started to move to the CCL. Between Oct 2013 and Dec 2014, items listed in 15 of the 21 USML categories had items move to the CCL. The final items are scheduled to move by 2017. The goal is to eventually have just one list of military items with only truly "key" defense materiel listed as "controlled." A term used to describe this approach is "smaller but taller walls." This means the USG intends to eventually list fewer military items on the USML (i.e., smaller walls) while still listing on the USML the most important items and technologies which require the highest levels of protection (i.e., taller walls). The concept of a single export list is addressed later in this chapter under "Export Control Reform Initiative."

Department of Commerce

Under the Export Administration Act of 1979 (EAA), the DoC has licensing jurisdiction over all commodities and unclassified technical data except for certain specified items handled by other government agencies, such as USML items by the DoS, or atomic energy material by the U.S. Department of Energy. The EAA applies to the following:

- Exports of commodities and technical data from the U.S.
- Re-exports of U.S.-origin commodities and technical data from foreign destinations
- U.S.-origin parts and components used in a foreign country to manufacture a foreign end product for export and in some instances, a foreign product produced as a direct product of U.S.-origin technical data

The *Export Administration Regulations* (EAR) (15 CFR Parts 368 through 399) issued by the DoC, Bureau of Industry and Security (BIS), prescribe licensing procedures for items under its jurisdiction. Controls on granting export licenses are based on considerations of national security, the fostering of U.S. policy and international responsibilities, the necessity for protecting the domestic economy from an excessive drain of scarce materials, and the reduction of the serious inflationary impact of abnormal foreign demand. Items controlled by the DoC for export are listed on the *Commerce Control List* (CCL). The list is very detailed and identifies items that may be exported to a given country. The DoC and BIS home page is at http://www.bis.doc.gov.

Dual-use items are items that were primarily designed for a civil application but which may have a potential military application (i.e., computers, utility vehicles, trucks, light aircraft, and global positioning systems, etc.). The DoC is charged with coordinating export requests for such items that fall into this category of dual-use. There are times when there is a question of whether and item is dual-use or specifically a military item. The DoS, DoD and DoC resolve such questions using what the ITAR section 120.4 terms the "Commodity Jurisdiction (CJ)"process. A CJ determination form is sent to DoS. After consultation with DoD, DoC and other USG agencies, the DoS will make a determination if an item is primarily a military item or dual-use and thus who has jurisdiction, DoS or DoC.

The previous section covering the DoS introduced the ongoing Export Control Reform Initiative (ECRI), and recounted that many military items listed on the USML are now being administratively moved to the CCL. The CCL had already existed, but under the ECRI, the "600 Series" has been added to the CCL. The 600 Series is comprised of military items that were formerly listed in the DoS USML under the export authority of DDTC. These items are being moved to the CCL, under the Bureau of Industry and Security (BIS). The CCL's 600 Series differentiates those items that are, "critical to maintaining a military or intelligence advantage to the U.S.," from those that need less control like

sewing machines or lawn mowers. The BIS added ten new 600 Series Export Control Classification Numbers (ECCNs) to the CCL to define these newly transferred items. Even though the items are still controlled for export, the associated controls are much less stringent than those previously applied under the USML. More information about export reform is in the "Export Control Reform Initiative" section later in this chapter.

Department of Defense

Figure 7-1 provides an overview of the key players within the executive branch for technology transfer and international programs security. The Under Secretary of Defense for Policy (USD (P)) is responsible for international security matters. DTSA is responsible for day-to-day decisions on NDP. More specifically, DTSA is responsible for the security policy for international programs. This responsibility includes security policy and arrangements for international programs, international security agreements, the NDP, and NATO security policy. When the DoS or DoC requires DoD input to decide if a license for export should be approved, the request goes to DTSA. DTSA's responsibilities will be covered in further detail under the topic of "exports" later in this chapter.

The Under Secretary of Defense for Intelligence (USD(I)) is responsible for DoD counterintelligence, security, intelligence programs, staff supervision of the Defense Security Service (DSS), and for publication of the *National Industrial Security Program Operating Manual* (NISPOM). All of these responsibilities, including security support for program protection planning, have applications to DoD acquisition programs. With the DSS field offices, USD(I) ensures that companies that manufacture military items adhere to the same laws and regulations concerning technology transfer as do individuals working for the USG.

The Under Secretary of Defense for Acquisition, Technology and Logistics (USD (AT&L)) is responsible for defense procurement and international armaments cooperation programs. These functions are performed by the Director, Defense Procurement and the Director, International Cooperation. The Defense Contract Management Agency (DCMA) also reports to USD (AT&L). In addition to its normal management of DoD contracts, DCMA provides industrial security support at those defense contractor facilities where a DSS representative is not available. In 2013, the USD(AT&L) issued updated directives that require managers of major new acquisition programs to have program security documents in place by Milestone A where previously it was Milestone B. This forces the acquisition community to evaluate developing an exportable version of a new major defense article earlier in the acquisition process. By considering exports of major items earlier, the process of actually making a decision to export can proceed much faster, which supports yet another part of the USG export reform initiative. For more information on the documents required for acquisition system security, go to chapter 13 of this textbook under the section titled, "System Acquisition Documents Associated With Foreign Military Sales."

The Joint Staff provides support that includes conducting operational and military mission impact assessments on technology, goods, services, and munitions transfer issues, as requested.

The Defense Intelligence Agency (DIA) performs the following functions in the support of U.S. defense technology security:

- Provides assessments of the types and numbers of illegal transfers of technology, goods, services, and munitions, and the associated transfer mechanisms
- Designates a point of contact to represent DIA on technology transfer matters
- Conducts end user checks and intelligence review on technology, goods, services, and munitions transfer cases

- Assesses foreign availability of technology, goods, services, and munitions proposed for transfer
- Provides intelligence concerning the total effect of transfers of technology, goods, services, and munitions on U.S. security
- Provides intelligence expertise in interagency, national, and international fora on technology, goods, services, and munitions transfer matters
- Assists in identifying and assessing critical technologies

The DoD export control responsibilities and participating organizations are further depicted in table 7-1.

Table 7-1
Department of Defense Organizational Export Control Responsibilities

Organization	Responsibility
USD (P)	Policy oversight
USD (AT&L)	Technical oversight for national security and nonproliferation
Joint Staff	Strategic rationale and validation
Intelligence community	Threat assessments of foreign nations
Military departments	Provide experts from defense labs and commands
Institute for Defense Analysis	Federally-funded R&D center providing USD (AT&L) with technical support and economic security assessments
Industry and academia	Participate in technical working groups and multilateral negotiation

Controlled Unclassified Information

Controlled unclassified information (CUI) is a DoD term used to collectively describe all unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. A commonly seen marking for CUI in the U.S., is "For Official Use Only" (FOUO), FOUO information is unclassified official government information that has been determined by designated officials to be exempt from public disclosure under the Freedom of Information Act (FOIA). FOIA is designed to make government information available to the public and thus requires openness in government. It is not designed to protect information. It provides that the public is entitled to access to agency records, unless the record is exempt from disclosure. There is no executive order to implement FOIA. Government agencies apply their own unique markings to identify the information. Consequently DoD has several policy directives addressing the release of CUI. These documents are listed as references to this chapter:

- DODD 5230.09 contains policies and procedures for the release of information for publication or public release
- DODI 5200.21, DODD 5230.24, and DODD 5230.25 govern the release of DoD technical information
- DoD 5400.7-R contains the DoD policies and procedures governing FOIA requests
- DODD 5230.25 provides procedures for the dissemination and withholding of unclassified technical data

On 9 May 2008, President Bush signed a memorandum for the heads of executive departments and agencies on the subject of "Designation and Sharing of Controlled Unclassified Information (CUI)." The memorandum states the following:

> . . . adopts, defines, and institutes "Controlled Unclassified Information" (CUI) as the single, categorical designation henceforth throughout the executive branch for all information within the scope of that definition, which includes most information heretofore referred to as "Sensitive But Unclassified" (SBU) in the Information Sharing Environment (ISE), and establishes a corresponding new CUI Framework for designating, marking, safeguarding, and disseminating information designated as CUI.

Implementation of new CUI procedures is expected to take several years.

27 May 2009, President Obama signed a memorandum for the heads of executive departments and agencies with a subject of "Classified Information and Controlled Unclassified Information." In it, President Obama states:

> [M]y Administration is committed to operating with an unprecedented level of openness. While the Government must be able to prevent the public disclosure of information where such disclosure would compromise the privacy of American citizens, national security, or other legitimate interests, a democratic government accountable to the people must be as transparent as possible and must not withhold information for self-serving reasons or simply to avoid embarrassment.

This initiative may result in major changes as to how CUI is handled and disseminated. It will take years to implement all the changes, but U.S. officials dealing with foreign counterparts must be aware of the evolution of these policy changes.

Freedom of Information Act

Congress has stated the U.S. public generally has the right to know what its government is doing. The FOIA requires government information to be made available to the public unless the information falls within one of nine exemption categories described and the appropriate USG official determines the information should be withheld from disclosure. Only information falling into one of these categories may be marked FOUO:

- Exemption 1 is classified information. The FOIA permits the withholding of any information properly and lawfully classified under the provisions of E.O. 13526. The other eight exemption categories deal with unclassified but generally sensitive information
- Exemption 2 permits the withholding of information that pertains solely to the internal rules and practices of a government agency
- Exemption 3 permits the withholding of information that a statute specifically exempts from disclosure by terms that permit no discretion on the issue, or in accordance with criteria established by that statute for withholding or referring to particular types of matters to be withheld
- Exemption 4 permits withholding information such as trade secrets and commercial and financial information obtained from a company on a privileged or confidential basis, which, if released, would result in competitive harm to the company
- Exemption 5 protects inter- and intra-agency memoranda that are deliberative in nature

- Exemption 6 provides for the withholding of information, the release of which could reasonably be expected to constitute a clearly unwarranted invasion of personal privacy of individuals
- Exemption 7 permits withholding records or information compiled for law enforcement purposes that could reasonably be expected to interfere with law enforcement proceedings; would deprive a person of the right to a fair trial or impartial adjudication; could reasonably be expected to constitute an unwarranted invasion of personal privacy of others; disclose the identity of a confidential source; disclose investigative techniques; or could reasonably be expected to endanger the life or physical safety of any individual
- Exemption 8 permits withholding records or information contained in or relating to examination, operation or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions
- Exemption 9 permits withholding records or information containing geological and geophysical information and data (including maps) concerning wells

It is DoD policy to place distribution statements on documents containing unclassified scientific and technical information produced either within DoD or on its behalf by others. This policy was only marginally directed toward restricting the disclosure of such information to the public and thus to foreign persons. Although it was the policy to apply such distribution markings, the practice did not always conform to the policy. The result was that sensitive scientific and technical information occasionally found its way into the public domain, including the foreign public. This potential loophole was resolved by Public Law 98-94, enacted 24 September 1983, which provided the Secretary of Defense with the authority to withhold from the public critical technologies under Exemption 3 of the FOIA. For more specific information on FOIA as it relates to LOAs and FMS procurement contracts, refer to SAMM, section C3.5, "Release of Information."

Foreign Disclosure and the National Disclosure Policy

The NDP was established as framework for the approval or denial of the transfer of classified military information (CMI) to foreign governments and international organizations. CMI is defined as classified information that has been developed by or for the DoD, or is under the DoD's jurisdiction or control. Basic authority and policy for transferring classified information are contained in NSDM 119, which is implemented by the classified publication, *National Policy and Procedures for Disclosure of Classified Military Information to Foreign Governments and International Organizations*, short title NDP-1.

Effective implementation of NDP-1 is the responsibility of the USD (P). Disclosure officials are authorized, but not automatically obliged, to disclose information up to the classification levels indicated in the NDP-1 annex for each category of information. Most importantly, each disclosure decision is made on a case-by-case basis.

National Disclosure Policy Committee/Exceptions to National Disclosure Policy

The NSDM 119 and DODD 5230.11 *Disclosure of Classified Military Information to Foreign Governments and International Organizations* requires the establishment of an interagency National Disclosure Policy Committee (NDPC), to formulate, administer, and monitor NDP. General members of the NDPC include:

- Secretary of State
- Secretary of Defense (appoints Chairman)

- Secretary of the Army
- Secretary of the Navy
- Secretary of the Air Force
- Chairman, Joint Chiefs of Staff

On a day-to-day basis, these officials are represented in NDPC decisions by designated senior officials on their staff. NDPC general members have a broad interest in all committee activities and vote on all issues that come before the committee. Other members (such as the Director of National Intelligence, the Secretary of Energy, and many others) may vote on issues in which they have a direct interest (see attachment 7-2 for a list of all the members of the NDPC). When an exception to NDP (ENDP) is required, because disclosure criteria cannot be met within the existing authorized classification level, such exceptions may be granted only by the NDPC, the Secretary of Defense, or the Deputy Secretary of Defense. A request for an ENDP must be sponsored by a NDPC member, normally the cognizant MILDEP for the classified information proposed for transfer. For military weapon systems, this is normally the MILDEP that has developed and produced the system.

The NDP-1 Annex (classified) identifies the maximum classification level of information that can be released by country and by category of classified military information. NDP-1, by itself, does not authorize any disclosures. The Secretaries of the MILDEPs have generally been delegated authority by the NDP-1 to decide if CMI under their control may be released. The policy and guidance for implementing NDP-1 is contained in the DODD 5230.11. This directive states that the MILDEPs will release CMI in accordance with the NDP-1 Annex only if all of the following five conditions or criteria, originally outlined in NSDM 119, are met:

1. Disclosure is consistent with U.S. foreign policy and national security objectives
2. Disclosures, if compromised, will not constitute an unreasonable risk to the U.S. position in military technology or operational capabilities
3. The foreign recipient of the information will afford it substantially the same degree of security protection given to it by the U.S. The intent of a foreign government to protect U.S. CMI is established in part by the negotiation of a general security of military information agreement (GSOMIA) or other similar international agreement
4. Disclosure will result in benefits to the U.S. at least equivalent to the value of the information disclosed
5. The disclosure is limited to information necessary to accomplish the purpose for which disclosure was authorized

If the classification of the information proposed for disclosure exceeds the country's eligibility in the NDP-1 Annex, or if the policy criteria cannot be met, then the proposed disclosure must be denied or an ENDP must be approved by the NDPC. Moreover, even if the U.S. disclosure official has determined that eligibility in the NDP-1 Annex exists and that all policy criteria have been met, disclosures of CMI may not be made until the affected originator's approval has been obtained or appropriate authority to disclose has been received.

All disclosure authority rests in the first instance with the head of the department or agency which originates the information. In addition, all disclosure officials must be certain that they possess the required authority to disclose the information in question. The Secretary of Defense and the Deputy Secretary of Defense are the only officials who may grant unilateral exceptions to the NDP. Under DoD Directive 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. They are required to appoint a principal disclosure authority at component headquarters level to oversee the disclosure process and a designated disclosure authority at subordinate commands. SAMM, section C3.2, "Disclosure of Classified Military Information," provides additional information on the national disclosure process as it relates to SC.

Security Surveys

In addition to making determinations on the release of CMI, the NDPC also conducts security surveys (also called security visits) of partner nations. NDPC teams conduct periodic visits to foreign governments and their national industrial bases to assess capability and intent to protect U.S.-origin CMI. The teams are usually made up of members of the DoS and DoD. The primary areas reviewed by the teams are personnel security, information security, and physical security. The views of the local U.S. embassy are also sought. If the result of a survey is satisfactory, it may result in an international security agreement (see below) with the other government. A survey may also result in changes to the classified annex in NDP-1 concerning a country's classification and eligibility for CMI without engaging the ENDP process.

International Security Agreements

Before classified information is released outside the executive branch of the USG, E.O. 13526 requires that written assurances must be obtained that the information will be afforded proper protection. In situations where classified information is being made available to foreign governments, these assurances may be obtained in several ways. First, they are included in the standard terms and conditions of FMS LOA, section 2, "Conditions–General Purchaser Agreements." See chapter 8 of this textbook, "Foreign Military Sales Contractual Agreements," for further information. They may also be the subject of diplomatic notes, memoranda of understanding (MOUs) and similar correspondence. Separate international agreements known as General Security of Military Information Agreements (GSOMIAs) have been concluded with approximately 70 countries. Since these are reciprocal agreements, the other governments may also send teams to the U.S. to ensure compliance with the agreements. GSOMIAs typically include the following topics:

- Protection, third-party transfer, and intellectual property rights provisions
- Classified information transfer mechanism (government-to-government)
- Definition of classified information
- Reciprocal provision for security expert visits
- Requirements for investigations in case of compromise
- Industrial security procedures
- Visit request procedures
- Limitations on level of classification

Disclosure Planning

DoD Directive 5230.11 requires that planning for possible foreign involvement should start at the beginning of the weapon system acquisition process to facilitate decisions on disclosure in support of foreign sales or cooperative programs. Chapter 13 of this textbook, "Systems Acquisition and International Armaments Cooperation," contains additional information.

Similarly, DSCA Policy 16-26 observes that foreign partners' procurement laws sometimes forbid the submission of a Letter of Request (LOR) for U.S. defense systems prior to a competition among

several vendors. The lack of an LOR may impede timely initiation of U.S. Government technology release and foreign disclosure processes. In order to accelerate (when possible) the release reviews of U.S. technologies and to initiate foreign disclosure processes in the absence of an LOR, SCOs should be alert for potential sales of sensitive or classified defense articles which would require the release of CMI.

In those instances which would require inter-agency technology security and foreign disclosure (TSFD) release (i.e., when the SCO becomes aware of credible demand signals indicating the probable submission of an LOR for Price and Availability (P&A) or LOA, or a commercial Request for Information or Request for Proposal for such items) the SCO should develop a Pre-LOR Assessment Request (PAR), as directed in SAMM C3.1.2, which will serve in place of a Country Team Assessment (CTA) to inform the inter-agency community and prepare the cognizant Implementing Agency (IA) to initiate TSFD processes for the timely release of information.

When no formal LOR is available, a PAR serves in place of an LOR and CTA as grounds for the IA to initiate applicable foreign disclosure and technology security release processes. However, it should be noted that a PAR does not serve in place of an LOR, or for any purpose other than initiation of the foreign disclosure and technology security release process.

In the preparation of the PAR, the SCO should compile the information described at SAMM table C3.T2, and consult with the relevant IAs and CCMD for releasability and technical information. When complete, the SCO forwards the PAR to the CCMD. Because the PAR is an extraordinary process, a CCMD endorsement is required in each case to support initiation of the TSFD release processes. The CCMD provides comments on each of the elements addressed in the PAR in the endorsement, and forwards the PAR and endorsement to the Joint Staff, the applicable IA, and DSCA. This process forms the basis for a collaborative effort to analyze the recipient nation's military requirements, in order to identify a capability that fulfills those requirements and initiates DoD's TSFD processes to meet the partner's acquisition needs.

Export Control Reform Initiative

Previously in this chapter, the terms "export reform" and "Export Control Reform Initiative" were introduced. This initiative is a very large and dynamic shift in how the USG makes decisions and manages the export of military items. The changes under export reform are still being written and will take years, perhaps over a decade, to come to fruition. The purpose of this section is to provide familiarization with some aspects of the initiative.

The Four Singularities

On 13 August 2009, President Obama announced the review of the U.S. export control system. In April 2010, then Secretary of Defense Robert Gates described the structure of the current U.S. export control system as a "...byzantine amalgam of authorities, roles and missions scattered around different parts of the federal government." He went on to describe a new order based on four "Singularities:"

1. A single export control licensing agency
2. A unified control list
3. A single primary enforcement coordination agency
4. A single integrated information technology system

The Administration intends to create a single, independent licensing agency with members from the existing Departments of State, Commerce, and Treasury serving as a board of directors. Specific details of how and when the new agency will be created has yet to be announced.

The first step toward the goal of a unified control list is manifest in the mass movement of military items from the DoS USML to the DoC CCL under the new 600 series. Information on the current status of this action can be found under the DoS and DoC sections earlier in this chapter.

A "fusion center" has been developed to deconflict investigations, serve as a central contact point for coordinating export control enforcement and synchronize outreach programs. In November 2010, the President signed Executive Order 13558 establishing the "Homeland Security Investigations (HSI) Center," housed under the Department of Homeland Security with representation from the Departments of Commerce, Defense, Energy, Justice, State, Treasury, and the Office of the Director of National Intelligence. The HSI is now the primary forum for enforcement and intelligence agencies to coordinate export enforcement actions.

The fourth singularity is the creation of a single information technology system to be used to administer the export control system. The USXPORTS database, currently used by the DoD to track license applications, is being expanded to be used by both the DoS and DoC. When it is completed, it will become the platform for a proposed single export license application form to be used by State, Commerce, and the Treasury.

Technology Security and Foreign Disclosure (TS&FD) "Pipes"

At the core of TS&FD reform is the establishment of policy and responsibilties intended to minimize complexities while ensuring timeliness and efficient processing of disclosure requests.Within the DoD, one of the first export reform adjustments was a codification of those processes and procedures which bear on the approval to export military technology. Previously, it was difficult to discern whether all necessary reviews and decisions were accomplished due to lack of clarity regarding the multitude of processes and approvals potentially necessary for a given export. While different communities within DoD may have been cognizant of the review/approval processes necessary in certain specific areas, there had been no comprehensive documentation of all of potentially applicable procedures. With this in mind, the existing export/foreign disclosure decision-making process was more clearly mapped-out in what has come to be known as the "Thirteen Pipes of Technology Security and Foreign Disclosure," as seen in figure 7-3. While it is likely that no decision will need to undergo review/approval procedures in all these thirteen pipes, it is now much more likely that individual export/foreign disclosure cases will be more comprehensively planned out in advance, and more easily monitored, so that unexpected delays may be resolved, and faster comprehensive export decisions rendered.

Technology Security and Foreign Disclosure (TS&FD) Review Processes

In January 2010, the Export Control Reform Task Force (ECR TF) issued a report in response to Presidential Study Directive 8 (PSD 8). The report found that the existing DoD-led TS&FD review processes have many strengths and have served DoD well for many years. However, these processes need to be harmonized and streamlined to better serve DoD, our international partners, and national security strategy. The ECR TF ultimately recommended initiation of an effort "to streamline and harmonize" USG TS&FD processes.

The thirteen separate but related TS&FD processes, or "pipes" (see figure 7-3), support DoD TS&FD release decisions. Additionally, each MILDEP, and many DoD Agencies have internal review processes for approving the transfer of capabilities and technologies within their purview.

Figure 7-3
Thirteen Pipes of Technology Security and Foreign Disclosure

NDP	(National Disclosure Policy)	☆	Policy	Primary
LO/CLO	(Low-obseravable / Counter Low-Observable		AT&L	Primary
AT	(Anti-Tamper)		AT&L	Process
COMSEC	(Communication Security)	☆	NSA & DoD-CIO	Primary
SAP	(Special Access Program)		SAPCO	Specialized
DSC	(Defense Systems Committee)		AT&L + Policy	Specialized
MTCR	(Missile Technology Control Regime)	☆	Policy	Specialized
NVD	(Night Vision Devices)		DSTA	Specialized
Intel	(Intelligence)	☆	USD(I)	Specialized
WF	(Waveforms)		DoD-CIO	Specialized
PNT/GPS	(Positioning, Navigation & Timing / Global Positioning System)		DoD-CIO	Specialized
GEOINT	(Geospatial Intelligence)	☆	NGA	Specialized
EW	(Electric Warfare)	☆	None	No single process

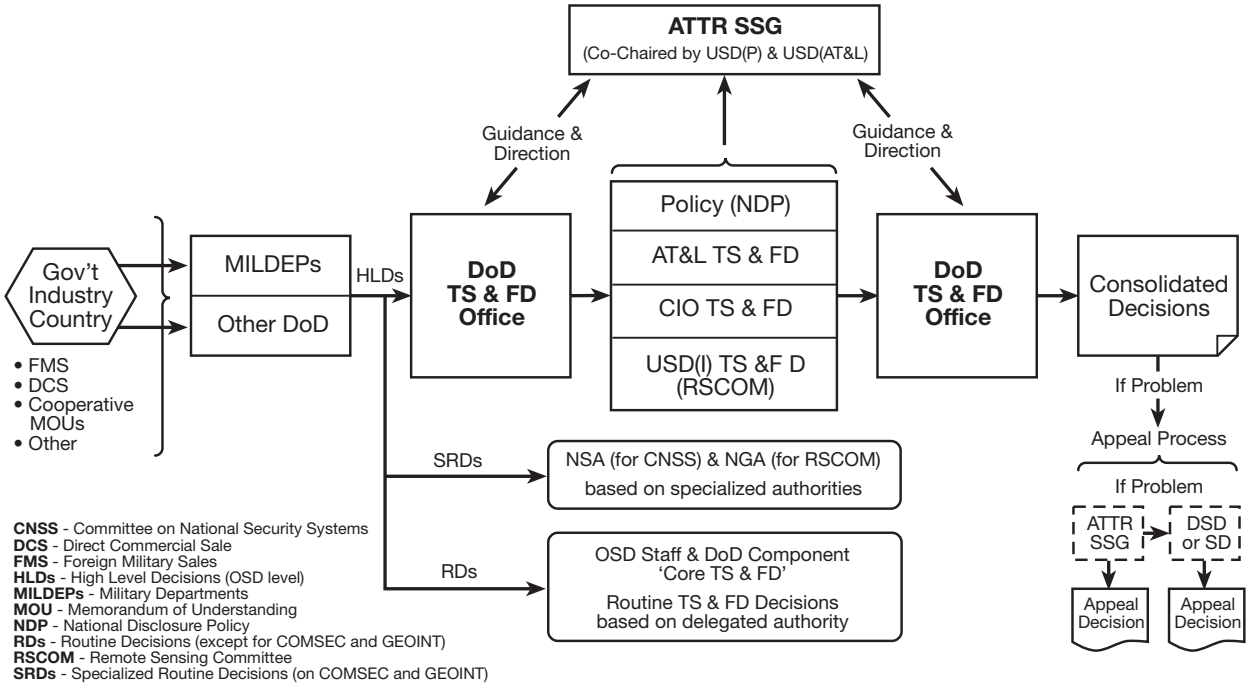
☆ Interagency process

In response to the recommendations outlined in PSD 8, the Deputy Secretary of Defense has further empowered the Arms Transfer and Technology Release Senior Steering Group (ATTR SSG) as the primary forum for review and adjudication of High Level Decision (HLD) TS&FD release requests. Also established was the Technology Security and Foreign Disclosure Office (TSFDO), which is designed to serve as the ATTR SSG's Executive Secretariat. The ATTR SSG has been charged with streamlining and harmonizing DoD TS&FD release processes. The ATTR SSG develops, guides, and directs (consistent with U.S. policy and national security objectives) DoD-wide reform, implementation, and subsequent management of the DoD TS&FD system, and ensures critical U.S. technologies are protected, and release considerations are balanced with building allied and partner nation capability objectives.

The TSFDO facilitates the coordination and synchronization of release requests through the TS&FD processes, with the goal of providing transparency, and timely/well-informed HLDs (See figure 7-4). Among its many functions, the TSFDO consults with various DoD TS&FD authorities in assessing and recommending changes to the existing TS&FD policies and processes; develops and implements procedures and checklists that provide guidance to the DoD TS&FD community on submission formats for TS&FD HLD requests; and conducts screening, triage, staffing and tracking functions for those HLDs being considered by the ATTR SSG.

Ultimately, all of the above-mentioned reforms are intended to foster the continued growth of a healthy defense industrial base, reduce stresses on U.S. forces, and facilitate efforts in training and equipping forces in countries where doing so advances U.S. national security interests.

Figure 7-4
DoD TS & FD System



False Impressions

It is the policy of the U.S. to avoid creating false impressions of its intention to provide classified military material, 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 classified information for its operation or maintenance, or for the foreign recipient training. Therefore, any 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 transferred. If the proposed foreign recipient is not authorized to receive the highest level of classified information required, no information, not even CUI, 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 FMS price and availability (P&A) data until authority is obtained to release the highest level of classified information ultimately required for disclosure.

In order to avoid false impressions, designated disclosure authorities must authorize in advance any proposals to be made to foreign governments that could lead to disclosure of classified military information, technology, or materiel.

Export Approval and License Process

Before discussing the approval and license process for the authorized export of military articles or services, the term "export" must first be defined. To paraphrase the ITAR section 120.17, an export is the sending or taking defense articles out of the U.S. in any way. This includes transferring registration, ownership, or control of an item on the USML to a foreign person. It also includes disclosing, orally or visually, any defense article information to a foreign person, whether in the U.S. or abroad. That means that if you discuss U.S. military technology anywhere with a foreign person and you do not have an authorization to do so, this may well constitute an illegal transfer. This subject is covered in

more detail under the "Department of Defense Policy on Technology Transfer" block covered earlier in this chapter.

Part 127 of the ITAR covers violations and penalties of unlawful export, re-export or retransfer or attempt to retransfer of any defense article or technical data for which a license or written approval is required from the DoS.

Licenses for the Export of Defense Articles

The ITAR, primarily Parts 123 and 125, provide the licensing requirements for the permanent and temporary export and import of defense articles and/or services of items on the USML. Any "person" who intends to permanently/temporarily export or import defense articles or services must obtain the approval of the State Department's Directorate of Defense Trade Controls (PM/DDTC) prior to the action unless there is a regulatory exemption. A "person" is defined in the ITAR as, "a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities." Export approval usually comes in the form of a license. The four kinds of licenses, Department of State Publication 5 (DSP-5), DSP-85, DSP-73, and DSP-61 (see table 7-2).

ITAR section 123.10 states that completed DoS Form DSP-83, provided to DDTC certifies the non-transfer and use assurance certificate required for the export of SME, classified articles, and technical data to a third party. DDTC may also require the completion of a DSP-83 for any other export of defense articles and technical data as it sees fit. A license will not be issued until a completed Form DSP-83 has been received by DDTC. The form is to be executed by the foreign consignee, the foreign end-user, and the applicant which is the U.S. industry vendor that will request the license. Application for export license for the permanent or temporary export or import of classified defense articles and services for DCS must be made on DoS Form DSP-85. This form is also used for the temporary import (i.e., for repair) of classified material originally exported via an LOA; see SAMM, C3.3.4.2. Application must be made by a U.S. national in accordance with the provisions of sections 125.3, 125.7, and 125.9 of the ITAR.

Table 7-2 provides a guide for which form is required for the export of munitions list items through either FMS or direct commercial sale.

Export License Applications Staffing within Department of Defense

As stated earlier in this chapter, the License Directorate of DTSA is DoD's entry point for export requests from the DoS and DoC. It is the technical responsibility of this directorate's staff to ensure that the MILDEPs, appropriate DoD agencies, and the technical staff of the USD (AT&L) review applicable export requests or munitions cases. To expedite the licensing process, the DoS delivers these cases for concurrent review by those MILDEPs and DoD agencies and components, which the DoS believes have an interest in the cases.

After receiving recommendations from the DoD review, the DTSA License Directorate develops the DoD position in concert with DTSA technical and policy staffs, and forwards the position to the DoS or DoC, respectively. Most differences within DoD are resolved at the working level. Those that cannot be resolved are referred to DTSA's International Technology Transfer Panel (ITTP) for resolution.

Table 7-2
Forms to be Used for Export/Import of United States Munitions List Items

Activity	Foreign Military Sales	Commercial Sales
Registration Statement	N/A for gov't shipment	DS-2032
Permanent export of unclassified defense articles and related unclassified technical data	LOA and DSP-94	DSP-5
Permanent/temporary export of classified defense articles and related classified technical data	LOA and DSP-94	DSP-85 (with DSP-83)
Temporary import of classified defense articles and related classified technical data	DSP-85	DSP-85
Temporary export of unclassified defense articles	N/A	DSP-73
Temporary import of unclassified defense articles	ITAR Exemption 123.4	DSP-61
Non-transfer and use assurances for export of defense articles and services	N/A (Already included in LOA)	DSP-83
Shipper's export declaration	Department of Commerce Form 7525-V	Department of Commerce Form 7525-V

Foreign Military Sales License Exemption

To paraphrase section 126.6(c) of the ITAR, when using the FMS program, a license from the DoS is not required if the defense article or technical data or a defense service to be transferred was sold, leased, or loaned by the DoD to a foreign country or international organization using the LOA as authorization. In other words, the entire FMS program of DoD operates under a licensing exemption authorized by the ITAR. The actual documents required to use this exemption are the DSP-94, "Authority to Export Defense Articles Sold Under the Foreign Military Sales Program," and a copy of the LOA. The ITAR section 126.6(c)(6)(ii) specifically states, "At the time of shipment, the Port Director of U.S. Customs and Border Protection is provided an original and properly executed DSP-94 accompanied by a copy of the LOA and any other documents required by U.S. Customs and Border Protection in carrying out its responsibilities." Both documents are lodged at the primary port of export for items being exported under the LOA. The LOA case identifier is listed on the DSP-94 to correlate it with the specific LOA that authorizes the export. The DSP-94 also lists the USML categories of items that will be exported and the total value of the military items to be exported under the case. Customs agents then decrement the value of items being exported on each individual export under the case from the original value listed on the DSP-94. In this way, the customs agent validates that there is still a remaining value of items on the LOA that may be exported. An example of a DSP-94 can be found in the Bandarian Security Cooperation Sample Case Documents handbook.

Commercial Agreements Requiring Approval by Department of State

Besides normal export licenses, when approved by DDTC, the ITAR provides for commercial agreements that give authorization to export certain types of technical information and services. These differ from normal export licenses in that they are typically broader in scope, more flexible, and may remain in effect for longer periods of time. These agreements are typically for ongoing projects rather than a one-time export. The ITAR recognizes three categories of such agreements:

- Technical assistance agreement (TAA). An agreement for the performance of defense services or the disclosure of technical data, as opposed to an agreement granting right of license to manufacture defense articles [22 CFR 120.22]
- Manufacturing licensing agreement (MLA). An agreement whereby a U.S. person grants a foreign person an authorization or a license to manufacture defense articles abroad and which involves or contemplates the export of technical data or defense articles or the performance of defense services or the use by the foreign person of technical data or defense articles previously exported by the U.S. person [22 CFR 120.21]
- Distribution agreement. A contract between a U.S. person and a foreign person to export unclassified defense articles to a warehouse or distribution point outside the U.S. for subsequent resale. These agreements contain conditions for special distribution, end-use and reporting [22 CFR 120.23]

As a review, there are three authorized methods to export USML items to a foreign government or international organizations.

1. An export license
2. An export agreement
3. An ITAR exemption (i.e., ITAR 126.6(c), FMS use of an LOA and DSP-94)

International Visits and Assignments

International Visits Program

DODD 5230.20, *Visits and Assignments of Foreign Nationals*, sets forth standard procedures concerning requests for visits, certification of liaison officers and personnel exchange programs. SAMM, section C3.4, "Visits, Assignments, and Exchanges of Foreign Nationals," provides further discussion relating to SC.

Foreign representatives (i.e., foreign nationals or U.S. citizens or nationals who are acting as representatives of a foreign government, firm, or person) may be authorized to visit DoD components or U.S. defense contractor facilities only when the proposed visit is in support of an actual or potential USG program (e.g., FMS, USG contract, or international agreement). The DoD and U.S. defense contractors receive over 230,000 foreign visitors annually on matters related to mutual security and cooperation. These visits play a vital part in the exchange of information and technology as a part of U.S. international commitments. These visits account for more transfer of CMI and CUI than all other transfer mechanisms combined.

The International Visits Program (IVP) establishes policy and procedures to control international visits, and the information to be transferred during those visits. DoD policies and procedures pertaining to foreign visits are designed to achieve three objectives.

- Facilitate planning, scheduling, and administration of a visit
- Provide a vehicle for consideration of proposed export/disclosure decisions related to the visit and record the decision(s)
- Obtain the required assurances regarding the security clearance, need-to-know, and sponsorship from the visitor's government if classified military information is involved

Types of Visits

Under the IVP, there are three types of visits that may be authorized:

- One-time—a visit normally less than thirty days
- Recurring—recurring visits over a period of time; normally not exceeding one year
- Extended—visit for an extended period of time, e.g., certifications of liaison officers; normally up to one year or term of contract or applicable export license

In an emergency, a one-time visit may be submitted for approval less than twenty-one working days before the visit start date. Emergency visits may only be authorized if failure to make the visit would jeopardize performance on a contract or program, or cause the loss of a contract opportunity. These authorities may not be used to employ foreign nationals.

A visit can be considered a "hosted visit" when a DoD official or entity extends an invitation to a foreign national or delegation. Whether DoD funds any portion of the visit is an entirely separate issue from the approval of the visit under the IVP. Before issuing an invitation, DoD officials must ensure that any classified information proposed for disclosure is approved by the delegated disclosure authority. DoD officials who wish to invite foreign representatives to visit a DoD component, or who wish to have a foreign national certified to the component, shall coordinate their actions with the Defense Intelligence Agency (DIA) or the MILDEP concerned, before extending an invitation. Amendments to visits may be used only to change dates (no earlier dates) and list of visitors. The information to be discussed during the visit cannot change.

Visit Procedures

The DIA coordinates the IVP for DoD. Visit requests to DoD organizations or facilities are submitted by the foreign embassy in Washington DC, usually by a military attaché of the partner nation. The requests normally are submitted electronically through the automated Foreign Visit System (FVS), which has been provided by DIA to foreign embassies. The FVS is a component of the Security Policy Automation Network (SPAN). Requests by foreign embassies shall normally be submitted at least thirty days in advance for visits and ninety days in advance for liaison officer certifications.

The FVS automatically routes each request for visit to the Defense Visit Office (DVO) in one of four designated organizations. These include the Department of the Army, Department of the Navy, and Department of the Air Force for all organizations, facilities, and other entities under their control. The fourth organization is DIA itself, which administers visit requests for the Office of the Secretary of Defense, the Joint Staff, defense agencies, and their contractors. The DVOs forward, as necessary, the visit requests to the appropriate foreign disclosure offices of the organizations to be visited, and seek their comment. Based on this input, the DVO renders a decision on the visit, which is returned over the same electronic path used for submission to the embassy of the country submitting the visit request. There are three possible responses to a visit request through IVP channels:

- Approved—The visit can occur and the specified information can be disclosed
- Denied—The visit can occur but the specified information cannot be disclosed
- Not sponsored—There is no apparent government program. The visit can occur and information can be disclosed if there is a license or other authorization

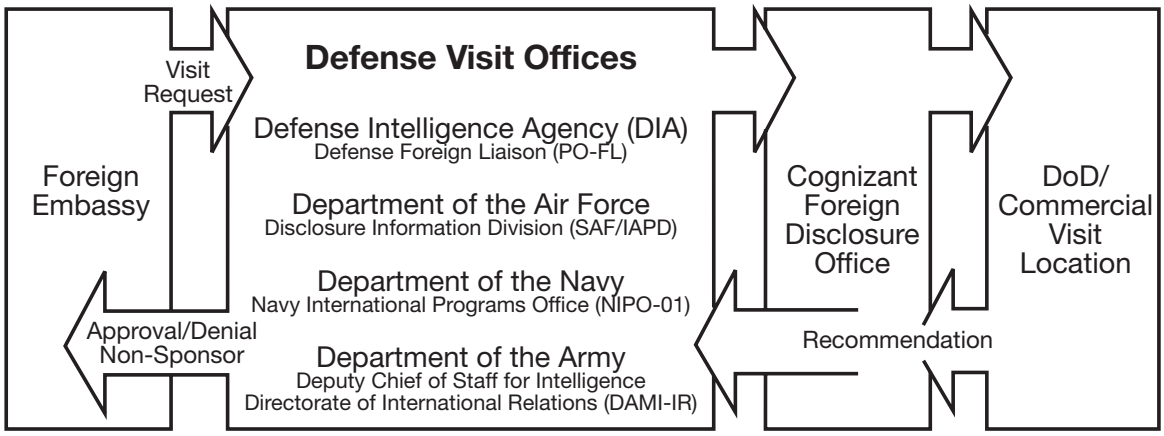
Notification of approval of a foreign request for a visit or certification to a DoD component shall be forwarded to the contact officer of the DoD component concerned, or where the representative will visit. This notification shall contain adequate guidance regarding the parameters of the subject visit

and the maximum permissible level of classified information that has been authorized for disclosure. Correspondence with DoD contractors relative to approved foreign visits shall be forwarded to the cognizant DSS regional office for transmittal to the contractor.

Disclosures of classified information to foreign visitors and certified foreign representatives shall be limited to releasable oral and visual information, unless the release of documentary information is specifically authorized in an approved visit request or letter of acceptance for certified officials, or when the U.S. contractor has secured an export license specific to the documentation intended for release. When documentary release is authorized, the visitor must have courier orders.

Figure 7-5 provides an overview of the IVP within DoD. At any time, participating activities have immediate access to all visit request status information.

Figure 7-5
International Visit Program



A request of visit authorization is not required at a contractor facility when the information to be disclosed is unclassified and (1) it is not subject to export controls, or (2) it is subject to export controls, but a contractor has an export license. A visit authorization is typically not required at a DoD facility when the facility is open to the public and the information is open for public release according to service regulations.

However, if classified information is to be disclosed, a visit request must be submitted even though the contractor has a valid export authorization or license. In this case, the visit request is used to pass the security assurance on the visitors. Requests for classified documentary information resulting from a foreign visit shall otherwise be processed through normal foreign disclosure channels. In either case, classified documentary information shall be transferred through government-to-government channels, unless the visitor is also acting as a courier and has courier orders.

Role of Security Cooperation Offices in International Visits

SCO personnel should be cognizant of the official travel of both host nation personnel to DoD organizations, as well as the travel of DoD personnel into country. SCOs frequently coordinate visits by host nation personnel to destinations such as a combatant command headquarters or a MILDEP installation for a program management review. However, the SCO cannot submit the visit request, which must originate in the host nation embassy in Washington DC through the FVS. SCOs remind their host nation counterparts of this requirement and note that their own assistance in scheduling a visit is dependent on formal approval through the FVS. A SCO cannot approve a visit to any DoD organization or facility, other than its own office.

For DoD visitors traveling into the host nation, the SCO should control these through the granting or denying of country clearance. In doing this, the SCO follows the procedures in DoD 4500.54, *DoD Foreign Clearance Guide*. The SCO may also support DoD visitors by passing assurances and other documentation to and from the host nation, and by using its office as necessary to appropriately store CMI or CUI.

Defense Personnel Exchange Program

The Defense Personnel Exchange Program (DPEP) authorizes the exchange of personnel between the U.S. military services and their counterparts of friendly governments for assignment to established positions within the military services. This exchange is implemented under an agreement conforming to DODD 5530.3, *International Agreements*. Assignments can be negotiated as a reciprocal exchange of military personnel. Also, civilian position assignments such as intelligence analysts, scientists and engineers, medical personnel, and administrative specialists may be negotiated. Exchange personnel perform the functions of the specific position within the organization to which they are assigned. Since they are not designated officials of their government, classified information may not be released into their permanent custody. They may only be given oral or visual access to specific classified information authorized in the applicable delegation of disclosure letter (DDL). Written procedures must be developed to prevent inadvertent disclosure of classified or CUI as described in DODD 5230.20. DPEP assignees may not act as a representative of their government.

Foreign Attendance at Classified Meetings Leading to Contract Opportunities

The USG has entered into cooperative agreements with allies and other friendly nations that allow the exchange of information in specific areas of mutual interest required for their participation in contractual opportunities (see chapter 13 of this textbook, "Systems Acquisition and International Armaments Cooperation," for a discussion of reciprocal procurement memoranda of understanding). Planning for meetings that may lead to contracts for foreign nationals shall be based on the assumption that there will be foreign attendance. DODD 5200.12, *Conduct of Classified Meetings*, contains policies and procedures for sponsoring and conducting meetings involving classified information attended by foreign nationals.

Visits Overseas by Department of Defense Personnel

The policy for overseas travel of DoD personnel is covered under DODD 4500.54E, *DoD Foreign Clearance Program* (FCP), the *DoD Foreign Clearance Manual* (FCM), and *Foreign Clearance Guide* (FCG). The FCM and FCG implement clearances and DoD personnel travel clearances through U.S. embassies for overseas travel. Normally, thirty days advance notice is needed before travel. Procedures also must be established to ensure disclosure authorization has been obtained if classified or export controlled unclassified information is to be divulged. A "theater clearance" is required for visits to a U.S. military facility overseas, as specified in the FCG. A "country clearance" is required for visits to a host government organization or contractor facility.

International Transportation of Classified Military Material

Transportation of Classified Military Articles

To ensure government accountability and control are maintained for classified material, all international transfers take place through official government-to-government channels or other channels mutually agreed upon in writing by the sending and receiving governments (i.e., collectively, a government-to-government transfer), consistent with the government-to-government principle. Transfers must take place between Designated Government Representatives (DGRs) who are appointed by their governments or international organizations. The U.S. DGR for Direct Commercial Sales (DCS) is a Defense Security Service (DSS) or a Defense Contract Management Agency (DCMA) representative. Another USG employee at a facility may be given this responsibility. The U.S. DGR

is responsible for performing the "foreign disclosure" verification (i.e., verifying the classified material to be transferred is covered by an export authorization); ensuring appropriate written security arrangements are in place; and decrementing and endorsing the license back to DDTC. In cases when a DSS, DCMA, or other USG official is not immediately available, DSS may delegate certain DGR functions to a company's Empowered Official or Facility Security Officer. However, DSS must ensure that the proper documentation is in place before delegating such authority, must maintain oversight responsibility, and must follow-up to ensure that proper procedures were followed. For FMS shipments, the U.S. DGR is appointed by the FMS case implementing agency.

The DGR of the recipient government or international organization receives or verifies receipt of the information or material (depending on the location of the transfer and the arrangements specified in the LOA and/or contract and the transfer plan) on behalf of the recipient government or organization.

The official transfer of security responsibility is not complete until the foreign government's DGR notifies the U.S. DGR that the recipient government or organization has taken final custody of the classified material and assumed full control for its safeguarding under bilateral security or program specific security agreements between the USG and the foreign government. A freight forwarder or commercial carrier is a transfer agent and cannot be a DGR. All transfers must be consistent with the NISPOM for commercial sales and DODM 5200.01 and the SAMM chapter 7 for FMS sales.

Defense Security Service Role in International Programs

A role of the Defense Security Service (DSS) is to provide government contracting agencies with an assurance that U.S. defense contractors are both eligible to access and properly safeguard any classified information. In fulfilling this obligation, DSS administers the National Industrial Security Program (NISP) operating on behalf of USD (I). DSS does not develop industrial security policy. DSS implements industrial security policy established by USD (I) for international programs executed by USD (P).

Facility Security Clearance

Prior to a defense contractor being granted access to classified information, the contractor must be sponsored for a facility security clearance (FSC). This sponsorship is based upon a *bona fide* procurement need, and is submitted to DSS by a U.S. or foreign government contracting activity or by another contractor already cleared under the NISP. DSS will conduct a facility clearance survey to determine the contractor's eligibility for access to classified information, and will review the contractor's organizational structure and key management personnel, and adjudicate any existing foreign ownership, control, or influence (FOCI). Once a favorable determination is made and a facility clearance is granted, the contractor will execute a security agreement with the USG. The security agreement is a legal contract to abide by the DoD 5220.22-M, *National Industrial Security Program Operating Manual* (NISPOM). The NISPOM is a contractually binding document and mandates industrial security practices for contractors. The NISPOM derives its authority from the ITAR and implements applicable statutes, executive orders, national directives, and international treaties toward the protection of classified information.

The DSS verifies the export of classified articles and technical data against the license or the U.S. company's empowered official's certification, assures that secure means of transfer have been arranged, and endorses the license back to the DoS. DSS oversees plant visits by foreign nationals and ensures that companies have adequate technology control plans in place for long-term foreign national visitors, foreign national employees, and for FOCI situations. DSS ensures appropriate transportation plans are in place for commercial overseas shipments of classified material and approves contractor international hand carriage arrangements. Additionally, DSS provides security assurances to other governments for U.S. contractor facilities and personnel, and obtains assurances on foreign facilities

and personnel. It advises cleared contractors concerning program protection plans, ensures compliance, and trains DoD and contractor personnel on program protection planning. The DSS provides support to cleared contractors operating overseas, and monitors their compliance with the NISPOM. Finally, DSS provides counterintelligence (CI) support to cleared contractors, including CI awareness briefings. More information about DSS can be found at its web site: http://www.dss.mil.

Technology Control Plan

The technology control plan (TCP) provides guidance for controlling access to classified and unclassified export controlled information by foreign employees and long-term foreign national visitors of a cleared U.S. contractor's facility. The TCP explains how the requirements of the ITAR, the EAR, and the NISPOM will be carried out. The TCP is developed by the U.S. contractor, based on the requirements of the ITAR, section 126.13c, and the NISPOM. The content regarding information access and restrictions may be derived from other documents provided by the USG (for example, the license provisos and the program security instructions or the form DD 254, *Contract Security Classification Specification*). The DSS will assist the contractor in developing the TCP and will approve it. A specific TCP may not be required if the company's internal security operating procedures, e.g., standard practice procedures (SPP) contain the necessary details. If security requirements are partially contained in a document such as an SPP and additional export control procedures are in a TCP, the latter must refer to the applicable portions of the other document.

DoD Central Adjudicative Facility (CAF)

The National Industrial Security Program (NISP) establishes procedures for safeguarding classified defense information that is entrusted to contractors. Included in these procedures is a system for determining the eligibility of industrial personnel for access to classified defense information. The Central Adjudication Facility (CAF) is responsible, on behalf of the Department of Defense (DoD) and twenty-three other departments and agencies, for:

- Determining the personnel clearance eligibility of employees for access to classified information, foreign or domestic
- Maintenance of personnel clearance records and furnishing information to authorized activities
- Processing security assurances, clearances and visits involving the United States and foreign countries
- Monitoring the contractor's continued eligibility in the NISP

Foreign Government and North Atlantic Treaty Organization Information

Foreign Government Information

Foreign government information (FGI) is information that has been provided by a foreign government or international organization, or jointly produced, with the expectation that the information will be treated "in confidence." The information may be classified or unclassified. In addition to TOP SECRET, SECRET, and CONFIDENTIAL, many foreign governments have a fourth level of security classification, RESTRICTED, as well as CUI that is provided in confidence.

As a result of numerous international security and program agreements, the NATO security agreements obligate member nations to adopt common standards of protection. U.S. national policy affords FGI a degree of protection equivalent to that provided to it by the originating government or international organization. Since foreign government accountability and control measures often exceed those of the U.S., the U.S. applies separate security procedures to protect FGI. Because most

exchanges are with NATO and its members, the NATO standards are used as the baseline for U.S. procedures for protecting FGI.

FGI, including RESTRICTED and foreign government CUI, must be controlled and managed under E.O. 13526 in order to receive protection equivalent to that provided by the originating government or organization, as stipulated in E.O. 13526 and international agreements. FGI that is classified by the originating government or organization will be marked with the equivalent U.S. classification, if it is not already marked in English, and the identity of the originating government or organization. Foreign government RESTRICTED and CUI are to be marked, "Handle as CONFIDENTIAL–Modified Handling Authorized." FGI cannot be provided to third country entities or used for a purpose other than that for which it was provided without the consent of the originating government or organization. It must receive protection commensurate with that provided by the originating government or organization. The procedures for handling FGI are contained in two national policy documents, E.O.13526, the Presidential directive on safeguarding classified national security information, and DoD-M 5200.01.

Basic handling procedures for FGI are as follows:

- Storage. The same as U.S. information of the same classification, but FGI is to be stored separately. FGI that is marked "Handle as CONFIDENTIAL–Modified Handling Authorized" is stored in the same manner as U.S. CUI, e.g., in a locked desk or file cabinet
- Access. Using the need-to-know principle, no access by third country persons without the prior consent of the originating country or organization
- Transmission. The same as U.S. classified information of the same classification level; however, express commercial carriers cannot be used. Receipts are required for international transfers wherever they occur, although exceptions are made for RESTRICTED information. There are no receipts for CUI
- Records. TOP SECRET–receipt, dispatch, internal distribution, annual inventory, and destruction (two persons); SECRET–receipt, dispatch, internal distribution, and destruction; CONFIDENTIAL–receipt and dispatch, and as required by originator

North Atlantic Treaty Organization Disclosure Security Procedures

Basic security requirements are necessary to comply with the procedures established by the U.S. Security Authority for the North Atlantic Treaty Organization Affairs (USSAN) for safeguarding NATO information involved in international programs. DODD 5100.55 *USSAN Affairs* contains the terms of reference designating the Secretary of Defense as the USSAN for the USG. These requirements are consistent with USSAN Instruction 1-70 and implemented by DODD 5100.55, and the NISPOM. These documents must be consulted for specific details.

Classification Levels

"NATO information" is information that is circulated within NATO. NATO security regulations prescribe four levels of security classification, COSMIC TOP SECRET (CTS), NATO SECRET (NS), NATO CONFIDENTIAL (NC), and NATO RESTRICTED (NR). The terms COSMIC and NATO indicate that the material is "NATO Information." Another marking, ATOMAL, is applied to U.S. RESTRICTED DATA or FORMERLY RESTRICTED DATA and United Kingdom atomic information released to NATO. Once disclosed to NATO, the classified information loses its country of origin identity and is marked as NATO information. Thereafter, access, dissemination, and safeguarding of the information is accomplished in accordance with NATO procedures. The information remains the property of the provider or originator. Once NATO no longer needs the information, the NATO markings are removed and the information is returned to the originator.

Access Requirements

DoD and contractor employees may have access to NATO classified information only when access is required in support of a U.S. or NATO program that requires such access (i.e., need-to-know).

Access to NATO classified information requires a final DoD personnel clearance (except for RESTRICTED) at the equivalent level and a NATO-specific security briefing discussed later in this chapter. A personnel security clearance is not required for access to NATO RESTRICTED information.

Foreign nationals from nations not members of NATO may have access to NATO classified information only with the consent of the originating NATO member nation or civil or military body. Requests with complete justification, as described in the NISPOM, will be submitted through the cognizant security office (CSO).

Disclosure Briefings

Prior to having access to NATO classified information, contractor and government personnel must be provided a NATO security briefing. The contractor's facilities security officer (FSO) will initially be briefed by the CSO. Annual refresher briefings will be conducted. When access to NATO classified information is no longer required, personnel will be debriefed, as applicable, and acknowledge their responsibility for safeguarding the NATO information.

Marking and Handling NATO Documents

Normally, NATO documents do not carry portion markings as are required for U.S. classified documents. Nevertheless, all classified documents created by U.S. contractors and DoD components will be portion-marked.

NATO classified documents, and NATO information in other documents, may not be declassified or downgraded without the prior written consent of the originating NATO member nation civil or military body. Recommendations concerning the declassification or downgrading of NATO classified information are to be forwarded to the central U.S. registry (CUSR) via the CSO by contractors and via command or organizational channels by government personnel.

NATO classified documents, except for NATO RESTRICTED, are to be stored as prescribed in DODD 5100.55 and the NISPOM for U.S. documents of an equivalent classification level. However, NATO documents must not be comingled with U.S. or other documents. NATO restricted documents may be stored in locking filing cabinets, book cases, desks, other similar locked containers that will deter unauthorized access, or in a locked room to which access is controlled.

International Transmission of Classified NATO Documents

NATO policy requires the establishment of a central registry for the control of the receipt and distribution of NATO documents within each NATO member country. The CUSR, located in Washington, DC, establishes sub-registries at USG organizations for further distribution and control of NATO documents. Sub-registries may establish control points and sub-control points, as needed, within their activities for distribution and control of NATO documents. COSMIC TOP SECRET, NATO SECRET and all ATOMAL documents must be transferred through the registry system.

Marking the Documents

When a document containing U.S. classified information is being specifically prepared for NATO, the appropriate NATO classification markings will be applied to the document only after the U.S. information contained in the document is authorized for release to NATO.

Multinational Industrial Security Working Group Documents

The multinational industrial security working group (MISWG) is composed of the NATO countries (minus Iceland) as well as Austria, Sweden, Switzerland and Finland. This ad hoc group was organized to rationalize different security practices and develop standard procedures for multinational programs. Although initially developed to standardize procedures among NATO member nations working jointly on a non-NATO project, the MISWG documents contain procedures that may be used in any bilateral or multilateral program or project, including NATO projects. NATO, NATO countries, and other countries have adopted the MISWG procedures. Therefore, they should be used as the baseline in preparing individual arrangements or when consolidated in a program security instruction (PSI), MISWG Document 5, for international programs.

Most of the MISWG documents provide procedural guidance for implementing security requirements for international programs. Other MISWG documents are used in preparing the content of international agreements and contracts involving access to classified information. The DSS may approve the use of the documents in individual commercial programs. However, the Designated Security Authority, part of DTSA, will approve the use of the documents when they are required by an international agreement such as in a PSI.

More information on the MISWG documents can be found in chapter 9 of the *International Programs Security Handbook*.

Committee on Foreign Investment in the United States and Foreign Ownership, Control or Influence

Committee on Foreign Investment in the United States (CFIUS)

The Exon-Florio Amendment to the Omnibus Trade and Competitiveness Act of 1988, as amended by the Defense Authorization Act for Fiscal Year 1993, empowers the President to suspend, prohibit or dissolve ("block") foreign acquisitions, mergers and takeovers of U.S. companies. The President has broad authority to block a transaction under the statute if he determines the foreign interest acquiring control might take action that threatens to impair the national security. To exercise his authority, the President must find that:

- There is credible evidence that leads him to believe that a foreign interest might take action to threaten or impair national security
- Provisions of law, other than Exon-Florio and the Emergency Economics Powers Act, are not adequate to protect the national security

There is no mandatory requirement for a company to report under the law. Nevertheless, the President or his designee may investigate a merger, acquisition, or takeover at any time, including after a transaction has been concluded. The President can reopen a case on the basis of material omissions or material misstatements in the original notice.

The President delegated responsibility for carrying out the requirements of Exon-Florio to the interagency CFIUS. The CFIUS is comprised of representatives of the Departments of Treasury (chair), Defense, State, Energy, Justice, Homeland Security, Commerce, the U.S. Trade Rep, and the Office of Science and Technology Policy. Membership may also include the heads of any other executive department, agency, or office as the President determines appropriate on a case-by-case basis.

Once CFIUS considers a possible transaction as the result of a notification by the investors, on its own initiative, or at the request of a third party, it has thirty days to decide whether to initiate an investigation. The investigation must be completed no later than forty-five days after its commencement,

at which time the committee must present a recommendation to the President. The President is required to render a decision within fifteen days after completion of the investigation. If the President decides to take action as the result of a CFIUS investigation, he must submit a written report to Congress on the actions that he intends to take, including detailed rationale for his findings. The Committee or a lead agency of the Committee may, on behalf of the Committee, negotiate, enter into or impose and enforce any agreement or condition with any party to the specified transaction in order to mitigate any threat to the national security of the U.S. that may arise as a result of the transaction.

Foreign Ownership, Control or Influence (FOCI)

It is not in the interest of the U.S. to permit foreign investment in the defense industrial base where it is inconsistent with U.S. national security interests. USG contracts requiring access to classified information may be awarded to companies under FOCI when adequate safeguards exist to protect national security interests. Within the context of the DoD, national security interests are represented by information and technical data inherent in the development and production of military systems, such as system capabilities and vulnerabilities. If this knowledge is lost or compromised, potential adversaries of the U.S. would have the capability to duplicate or neutralize those systems. As a result, the U.S. must take steps to ensure that foreign interests do not have the power to direct or decide matters for a company operating under a facility security clearance if such power may result in the unauthorized disclosure of classified and CUI, or may adversely affect the award or performance of classified contracts. FOCI encompasses the possible avenues from which unauthorized foreign power may be exerted. When competent authority determines foreign interests have the power to exert such power, measures must be established to negate the FOCI or mitigate the associated risk.

When a company performing classified work is to be acquired by or merged with a foreign interest, an industrial security review is undertaken. The purpose of the review is to determine whether existing industrial security measures require enhancement. The matter of FOCI is considered in the aggregate, and the fact that FOCI elements are present will not necessarily bar a company from receiving a facility security clearance. There are many components of foreign involvement requiring examination to determine whether a company is under FOCI and the extent of FOCI, such as those identified on Standard Form (SF) 328, *Certification Pertaining to Foreign Interest*. Documents other than the SF 328 are analyzed, to include filings with the Security and Exchange Commission for publicly traded companies, articles of incorporation, by-laws, loan and shareholder agreements, and other documents pertinent to potential foreign control or influence.

The FOCI is then examined within the context of risk factors such as the foreign intelligence threat, potential for unauthorized technology transfer, record of compliance with laws, regulations, and contracts, and the nature of applicable international agreements between the U.S. and foreign governments. If a company is determined to be under FOCI, and risks associated with FOCI are considered unacceptable, the company would be ineligible for a facility clearance or an existing clearance would be suspended or revoked, unless steps are taken to negate FOCI or mitigate associated risks to the satisfaction of the USG. The principal objective of each arrangement is to ensure there is no unauthorized access to classified and CUI by foreign owners, their agents or representatives, or by other non-ownership derived sources of foreign control or influence. For a detailed discussion of these arrangements and agreements, refer to chapter 12 of the *International Programs Security Handbook* and the NISPOM.

Summary

The DoD has identified the areas where U.S.-origin technology and other sensitive information should be rigidly protected. These include the critical military technology products, transfer mechanisms and information which DoD has determined should be subject to export and disclosure controls. The NDP provides guidance on the disclosure and release of U.S. classified military information. The

criteria for disclosure decisions in the NDP-1 and NSDM 119 do not categorically dictate whether classified military information will be released to a specific country. These decisions are made on a case-by-case basis, in accordance with satisfying all of the five policy objectives of NSDM 119, which are restated in DODD 5230.11.

Controlling the transfer of selected technologies is but one way to maintain the integrity of the U.S. defense-related industrial base. However, the extent of control is at issue. Many feel that controls should be tempered by the realities associated with worldwide competition and the impacts upon U.S. industry and the preservation of U.S. economic security as the prerequisite condition to maintaining national security. Technology transfer issues continue to play an important role in government-to-government sales programs, commercial sales programs, international armaments cooperation programs, and industrial base considerations.

Policies and supporting directives governing technology transfer emphasize the application of the U.S. policy and legal requirements in the AECA, E.O.13526, NSDM 119, NDP-1, and DODD 5230.11 to each case, and the analysis of a potential recipient's need, the intended use and protection measures for such information. The directives are explicit as to procedures and channels to be followed to preclude unwarranted release and disclosure of information.

References

Laws

Arms Export Control Act

Atomic Energy Act of 1954

Defense Authorization Act of 1986 (Nunn Amendment/NATO Cooperative R&D)

Defense Authorization Act of 1993, Defense Technology and Industrial Base Reinvestment and Concession

Energy Reorganization Act of 1974

Export Administration Act of 1979

Freedom of Information Act

Public Law (PL-110-49), 26 July 2007, Foreign Investment and National Security Act of 2007.

Stephenson-Wydler Technology Innovation Act of 1980

Department of State Documents

International Traffic and Arms Regulations (ITAR) (22 CFR 120-130).

DDTC Website: http://www.pmdtc.state.gov/regulations_laws/itar.htn

Department of Defense Documents

DSCA Manual 5105.38-M, *Security Assistance Management Manual* (SAMM), chapter 3. http://www.samm.dsca.mil/.

DODI 2040.02, *International Transfer of Technology, Articles, and Services*

DoD 5220.22-M, *National Industrial Security Programs Operating Manual* (NISPOM).

DoD 5220.22-R, *Industrial Security Regulation*.

DODD 5230.11, *National Policy and Procedures for Disclosure of Classified Military Information to Foreign Governments and International Organizations*.

DODD 5230.20, *Visits and Assignments of Foreign Nationals*.

DODD 5230.25, *Withholding of Unclassified Technical Data from Public Disclosure*.

DoD-M 5200.01 *Manual*, *DoD Information Security Program*.

DoD 4500.54E, *DoD Foreign Clearance Program*.

DODD 5200.12, *Conduct of Classified Meetings*.

DODI 5200.21, *Dissemination of DoD Technical Information*.

DODD 5230.24, *Distribution Statements on Technical Documents*.

DODD 5230.9, *Clearance of DoD Information for Public Release*.

DODD 5400.07, *Freedom of Information Program*.

U.S. Security Authority for the North Atlantic Treaty Organization, Instruction I-07.

DODD 5100.55, United States Security Authority for North Atlantic Treaty Organization Affairs.

Other U.S. Government Documents

Executive Order 13526.

National Security Decision Memorandum 119.

Defense Technical Information Centers (DTIC). www.dtic.mil

Other

International Programs Security Handbook. http://www.discs.dsca.mil/_pages/resources/default.aspx ?section=publications&type=ips

Bandarian Security Cooperation Sample Case Documents

Congressional Research Service, Report to Congress, "The U.S. Export Control System and the President's Reform Initiative," dated January 13, 2014.

Attachment 7-1
International Programs Security Training Memorandum

DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1010
22 OCTOBER 1999

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

CHAIRMAN, JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTORS OF DEFENSE AGENCIES

Subject: Training in International Security and Foreign Disclosure Support to International Programs

Strong allies, and well-equipped coalition partners, make America stronger. It is, therefore, in America's national security interest to promote cooperation with other nations, seek-international participation in our weapons acquisition process and support appropriate foreign military sales.

At the same time, we must ensure that sensitive and classified U.S. technology and military capabilities are protected. Classified information should be shared with other nations only when there is a clearly defined advantage to the U.S. Disclosures must be carefully designed to achieve their purpose, and recipients must protect the information. To make certain that we accomplish these goals, certain security arrangements must be in place prior to any foreign participation in DoD programs. It is therefore vital that every DoD employee involved in international programs understand these security arrangements, as well as the laws, policies, and procedures that govern foreign involvement in our programs.

To ensure that all relevant employees are fully trained in this area, the Office of the Deputy to the Under Secretary of Defense (Policy) for Policy Support DUSD(PS) has developed a course of instruction that covers the practical application of relevant law, executive orders, and DoD policies on this subject. All DoD personnel responsible for negotiating, overseeing, managing, executing or otherwise participating in international activities shall successfully complete either the International Security Requirements Course offered by DUSD(PS), the International Programs Security and Technology Transfer Course taught by the Defense Systems Management College, or an executive version of the course for mid-level and senior managers now being developed. This requirement applies to anyone who works in an office dealing exclusively with international matters, in international cooperation offices within broader functional offices, and those working on international issues with a DoD program. Examples of applicable activities include: security assistance, cooperative research, foreign disclosure, specific country relationships, and other international policy activities.

The law also requires that we consider systems of allied nations, or the codevelopment of systems with allied nations, before a U.S.-only program may be initiated. Therefore, the basic, intermediate, and advanced program manager courses at DSMC shall include at least four hours of training in international security requirements related to acquisition programs. Anyone working in program offices where any international activities occur, including exports, must also complete the full five-day course. DoD personnel who are newly assigned to international programs shall participate in one of the courses within six months of the assignment.

To ensure consistency, DoD components that offer specialized training in foreign disclosure and security requirements for international programs shall coordinate the contents of their courses with the DUSD(PS).

//SIGNED//

John J. Hamre

Attachment 7-2
National Disclosure Policy Committee Members

National Disclosure Policy Committee Members

General Members are representatives of:

Secretary of State

Secretary of Defense (appoints Chairman)

Secretary of the Army

Secretary of the Navy

Secretary of the Air Force

Chairman, Joint Chiefs of Staff

The Special Members are representatives of:

Secretary of Energy

Director of National Intelligence

Under Secretary of Defense for Policy

Under Secretary of Defense for Acquisition, Technology and Logistics

Under Secretary of Defense for Intelligence

Assistant Secretary of Defense for Networks and Information Integration

Assistant to the Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs

Director, Defense Intelligence Agency

Director, Missile Defense Agency

Director, National Geospatial-Intelligence Agency

Director, National Security Agency

Chapter

8 Foreign Military Sales Contractual Agreements

Introduction

Basic contract law concepts are evident in the government-to-government agreements for security assistance (SA). This chapter examines the foreign military sales (FMS) case standard terms and conditions that are an integral component of every FMS Letter of Offer and Acceptance (LOA). Additionally, this chapter discusses the purpose and application of other SA agreements such as LOA amendments, LOA modifications, leases, loans, and international agreements.

Contracts

A contract is an agreement between two or more parties that is enforceable by law. Section C5.4.16 of *The Security Assistance Management Manual* (SAMM) states that the FMS LOA is the government-to-government contract between the purchaser government and the U.S. LOAs, including associated amendments and modifications, are also commonly referred to as cases. In practice, the terms LOA and case are synonymous. Chapter 5 of this text, "Foreign Military Sales Process," discusses the procedures for requesting and developing an LOA.

Under traditional FMS, an LOA is a bilateral agreement between the U.S. government (USG) and an authorized foreign purchaser. In the LOA, the USG commits itself to provide certain defense items or services and the purchaser commits to abide by specific terms and conditions associated with the sale and to make specified financial payments.

It is important to note that the LOA document is also used to implement security cooperation (SC) programs. Under SC programs, the LOA and overall FMS processes and infrastructure are utilized to track and implement funds appropriated by Congress for designated SC activities. The terminology applied to an LOA used in this manner is to refer to these documents as either a pseudo LOA or a Building Partner Capacity (BPC) LOA. Pseudo LOAs are not signed by the benefitting country, and therefore the LOA standard terms and conditions are not applicable to these pseudo cases.

Elements of a Contract

Six basic elements must be present for an agreement to be enforceable by law as a contract. These six contractual elements are present in each LOA. This section highlights how these six contract elements relate to the LOA process.

Offer

The offer is a proposal by one party to enter into a contractual relationship with another party. In order for a statement or communication to be a valid offer, the respective statement or communication must be intended to be an offer. This element plays an important role in the SA process. A foreign customer may submit a request for price and availability (P&A) data. When P&A data is provided to a foreign purchaser, the SAMM requires that a statement be included with the P&A response to emphasize that providing P&A data does not constitute an offer to sell. A P&A response only provides information. If a foreign purchaser desires an LOA to purchase the material or services identified in the P&A data, the purchaser must submit a subsequent request for an LOA.

Under the FMS process, a formal USG offer to sell military articles or services is communicated by presenting an LOA, complete with the authorized USG signatures, to the prospective customer. LOAs are generally only offered in response to a specific customer's letter of request (LOR). The customer's LOR is referenced in each offered LOA. The LOA offer remains valid through the offer expiration date cited in the LOA. After the offer expiration date, the LOA is no longer an offer and cannot be accepted unless reinstated or reissued by the USG.

Acceptance

Acceptance is an expression of agreement to the contract offer. In order for the acceptance to be effective, it must be clear, timely and in the same terms as the offer. This contract principle is key to the LOA process. Even though a customer submitted an LOR for an LOA, the customer is under no obligation to accept the LOA offered by the USG. Acceptance of the LOA is accomplished by an authorized country representative signing the LOA prior to the offer expiration date, forwarding the specified initial deposit and returning the proper number of signed LOA copies. Payment of the initial deposit is a condition of acceptance. Implementation of the FMS case cannot take place without receipt of the initial deposit. Additionally, in the acceptance process, the customer informs the USG of the applicable mark for code, freight forwarder code, purchaser procuring agency code and the name/address of their paying office. This information is entered by the customer on the bottom of the first page of the LOA.

Consideration

Consideration exists when something of legal value or benefit is offered by one party to another. Consideration is the value of a promised action and is often stated in monetary terms. With respect to an LOA, consideration consists of the purchaser's financial payment(s) in return for defense articles and services provided by the USG.

Competent Parties

The term competent parties means that both parties to the contract possess the legal capacity to enter into the contract. Competent parties relative to the LOA are the authorized USG and purchaser representatives who sign the LOA. Each LOA will contain a written signature by a representative of the implementing agency (IA) that generated the LOA. Additionally, each LOA will contain an electronic countersignature signifying that DSCA has reviewed and approved the LOA.

Each customer establishes their own process for LOA review and acceptance. From a U.S. perspective, receipt of a signed LOA from the customer coupled with receipt of the initial deposit (which is typically substantial) indicates that the individual who signed to accept the LOA is an authorized representative of that respective government.

Lawful Purpose

As a general rule, a contract that violates a statute is unlawful and will not be enforced. Under the FMS process, it is incumbent upon the representatives of both governments to ensure that the LOA is in compliance with their respective laws and policies prior to offering or accepting a given LOA. The USG must comply with the Arms Export Control Act (AECA), the Foreign Assistance Act (FAA), and other associated statutes. Each FMS LOA includes the statement "Pursuant to the Arms Export Control Act" in the second paragraph. From the U.S. perspective, the Congressional notification process for certain high-value LOAs is an example of ensuring that LOAs offered to customers comply with U.S. statutory requirements. A DSCA Office of General Counsel attorney reviews each LOA to ensure legal sufficiency. DSCA countersignature signifies that each LOA complies with all applicable statutory and policy requirements. Foreign purchasers have the responsibility to ensure that their actions regarding the LOA are in compliance with their respective national laws.

Terms and Conditions

A contract must clearly delineate what actions each party has committed to perform. A contract that poorly defines who, what, when, where, how, at what cost, and under what conditions these actions will occur, could lead to confusion and may be unenforceable. In this regard, every FMS LOA contains a set of standard terms and conditions, which apply whether or not they are physically attached to a particular case. The standard terms and conditions must, however, be included in the original LOA sent to the purchaser for review and acceptance.

The same set of standard terms and conditions applies to all FMS LOAs and is exactly the same for all foreign purchasers; however, DSCA periodically updates the terms and conditions to reflect current policy and incorporate standard notes. The terms and conditions in effect at the time the LOA is prepared and signed are the conditions that apply throughout the life of the FMS case.

It is important to note that the LOA standard terms and conditions do not apply to pseudo LOAs used to implement BPC programs. The reason for this difference is that under pseudo LOAs, the USG is actually selling defense articles and services to another component of the USG rather than directly to a foreign purchaser.

Letter of Offer and Acceptance Standard Terms and Conditions

The standard terms and conditions to be used with all FMS LOAs are discussed below. The standard terms and conditions are categorized into seven sections. These LOA terms and conditions establish certain rights and responsibilities for each of the parties in the LOA. The terms and conditions also delineate certain limitations or constraints associated with the sale.

Section 1	Conditions—United States Government (USG) Obligations
Section 2	Conditions—General Purchaser Agreements
Section 3	Indemnification and Assumption of Risks
Section 4	Financial Terms and Conditions
Section 5	Transportation and Discrepancy Provisions
Section 6	Warranties
Section 7	Dispute Resolution

Section 1 Conditions—United States Government (USG) Obligations

1.1 Unless otherwise specified, items will be those which are standard to the U.S. Department of Defense (DoD), without regard to make or model.

1.2 The USG will furnish the items from its stocks and resources, or will procure them under terms and conditions consistent with DoD regulations and procedures. When procuring for the Purchaser, DoD will, in general, employ the same contract clauses, the same contract administration, and the same quality and audit inspection procedures as would be used in procuring for itself; except as otherwise requested by the Purchaser and as agreed to by DoD and set forth in this LOA. Unless the Purchaser has requested, in writing, that a sole source contractor be designated, and this LOA reflects acceptance of such designation by DoD, the Purchaser understands that selection of the contractor source to fill requirements is the responsibility of the USG, which will select the contractor on the same basis used to select contractors for USG requirements. Further, the Purchaser agrees that the U.S. DoD is solely responsible for negotiating the terms and conditions of contracts necessary to fulfill the requirements in this LOA.

1.3 The USG may incorporate anti-tamper (AT) protection into weapon systems and components that contain critical program information (CPI). The AT protection will not impact operations, maintenance, or logistics provided that all terms delineated in the system technical documentation are followed.

1.4 The USG will use its best efforts to provide the items for the dollar amount and within the availability cited.

1.5 Under unusual and compelling circumstances, when the national interest of the U.S. requires, the USG reserves the right to cancel or suspend all or part of this LOA at any time prior to the delivery of defense articles or performance of defense services. The USG shall be responsible for termination costs of its suppliers resulting from cancellation or suspension under this section. Termination by the USG of its contracts with its suppliers, other actions pertaining to such contracts, or cessation of deliveries or performance of defense services is not to be construed as cancellation or suspension of this LOA itself under this section.

1.6 U.S. personnel performing defense services under this LOA will not perform duties of a combatant nature, including duties relating to training and advising that may engage U.S. personnel in combat activities outside the U.S., in connection with the performance of these defense services.

1.7 The assignment or employment of U.S. personnel for the performance of this LOA by the USG will not take into account race, religion, national origin, or gender.

1.8 Unless otherwise specified, this LOA may be made available for public inspection consistent with the national security of the United States.

Section 1.1 Standard Items

This section notifies the purchaser that the items to be furnished under the LOA will typically be standard items. The term "standard" in this context means that the items provided will be the same as those currently in use by DoD. The ultimate purpose of SA is to enhance U.S. national security. When partner nations use standard U.S. systems and components, opportunities for interoperability and logistics cross-servicing are greatly increased which, in turn, enhances U.S. national security. This general commitment to supply standard items will be applied subject to U.S. releasability determinations and technology transfer decisions which are discussed in chapter 7, "Technology Transfer, Export Controls and International Programs Security."

This condition further highlights that items will be provided without regard to make or model. This provision is necessary because the DoD generally procures using a competitive process. In the competition, the potential exists for any given manufacturer's make or model product to be selected if the respective product meets the procurement specification requirements such as performance, form, fit, or function. Although the foreign customer may have received a certain make and model product in a prior procurement, the customer should not expect to automatically receive the exact same make and model product in future procurements. If the purchaser has certain unique requirements for specific makes or models, this condition places the responsibility on the purchaser to make those unique requirements known to the IA, otherwise the standard U.S. configuration will be supplied.

Section 1.2 Buyer-Seller Relationship

This section establishes the buyer-seller relationship between the international purchaser and the USG. By accepting the LOA, the purchaser authorizes the USG representatives to act on its behalf. When the DoD procures items to fulfill the purchaser's requirements, it will generally apply the same acquisition and contract procedures that it uses in procuring for itself. This affords the international purchaser the same benefits and protections that apply to DoD procurements, and is one of the principal reasons why nations choose to procure through FMS channels.

Sole source for the purposes of an LOA is a process whereby an FMS purchaser may request LOA items or services to be procured from one specific vendor. Sole source procedures are outlined in the

SAMM, section C6.3.4, *Requests for Other than Full and Open Competition,* and *Defense Federal Acquisition Regulation Supplement* (DFARS) 225.7304. More information on sole source procurement is contained in chapter 9, "Foreign Military Sales Acquisition Policy and Process."

Section 1.3 Anti-tamper Protection

The anti-tamper protection section alerts the FMS customer that the USG may incorporate anti-tamper protection in equipment sold under FMS to safeguard critical technology. In addition, it states that the use of anti-tamper protection will not impact operations, maintenance, or logistics provided that all terms delineated in the system technical documentation are followed.

Section 1.4 Best Efforts

The term "best efforts" is a legal term that implies a party's good faith or intent to achieve a stated future outcome; however, this term also recognizes the potential for other factors to subsequently arise that could preclude the offer from actually attaining the intended goal. Therefore, a party performing under a "best effort" condition will not be considered in default of the contract if the intended performance outcomes are not achieved.

In regard to the LOA, this section means that the USG will undertake the execution of each LOA with the intent to deliver within the estimated cost and delivery dates cited in the LOA but the USG cannot promise or guarantee these estimates will be achieved. As such, the purchaser understands and accepts the risk that the USG may fail to meet the LOA cost and delivery estimates.

Section 1.5 U.S. Government Right to Cancel or Suspend

The USG reserves the right to cancel an LOA, in whole or in part, when determined to be in the USG's best interest. The USG carefully reviews customer requests before extending an LOA offer. As indicated by section 1.5, an unusual, significant event must occur to cause the USG to change its position and decide to cancel or suspend the LOA sale. If the USG chooses to cancel an LOA, the USG is responsible for paying the costs associated with terminating the respective procurement contracts with its suppliers. This does not necessarily mean that the entire LOA amount will be refunded to the purchaser. Given the fact that there will be unusual and compelling circumstances surrounding the exercise of this LOA term, generally a politically negotiated agreement will be necessary to settle the financial obligations and disposition of material associated with cancelled or suspended LOAs. SAMM section C6.6 states that DSCA will provide the IA direction regarding the disposition of property and the liquidation of liabilities in regard to any cancelled or suspended LOA.

Section 1.6 & 1.7 U.S. Personnel Requirements

Sections 1.6 and 1.7 implement FAA and AECA statutory requirements which apply to U.S. personnel performing SA functions. Section 1.6 emphasizes that U.S. personnel in the purchaser's country will not conduct combat activities in connection with the performance of their security assistance duties. Additionally, section 1.7 specifies that the U.S. will use its own personnel management processes to select individuals to conduct SA functions on behalf of the purchaser.

Section 1.8 Freedom of Information Guidelines

Section 1.8 implements the provisions of the Freedom of Information Act (FOIA). However, under FOIA, information provided to the USG in confidence by a foreign government may be exempt from disclosure to the public. Conditions which may exempt the LOA from public release include determinations that the LOA contains information not normally released by the respective foreign government. Any decision to release or withhold information must be coordinated with DSCA and the appropriate legal counsel of the involved DoD component. The official policy for release is found

in SAMM, section C3.5. More information on FOIA is contained in chapter 7, "Technology Transfer, Export Controls, and International Programs Security."

Section 2 Conditions—General Purchaser Agreements

Section 2 outlines certain rights and obligations of the purchaser associated with the LOA sales contract.

Section 2.1 Purchaser Right to Cancel

2.1 The Purchaser may cancel this LOA or delete items at any time prior to delivery of defense articles or performance of defense services. The Purchaser is responsible for all costs resulting from cancellation under this section.

2.2 The Purchaser agrees, except as may otherwise be mutually agreed in writing by the Purchaser and the USG, to use the defense articles sold hereunder only:

2.2.1 for internal security;

2.2.2 for legitimate self-defense;

2.2.3 for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons;

2.2.4 to permit the Purchaser to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the Purchaser to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security; or

2.2.5 for the purpose of enabling foreign military forces in less developed countries to construct public works and to engage in other activities helpful to social and economic development.

2.2.6 for purposes specified in any Mutual Defense Assistance Agreement between the USG and the Purchaser; or,

2.2.7 for purposes specified in any other bilateral or regional defense agreement to which the USG and the Purchaser are both parties.

2.3 The Purchaser agrees that the USG retains the right to verify reports that defense articles and services have been used for purposes not authorized or for uses not consented to by the USG.

2.4 The Purchaser will not transfer title to, or possession of, the defense articles, components and associated support materiel, related training or other defense services (including plans, specifications, or information), or technology furnished under this LOA to anyone who is not an officer, employee, or agent of the Purchaser (excluding transportation agencies) or of the USG, and shall not use or permit their use for purposes other than those authorized, unless the written consent of the USG has first been obtained. The Purchaser will ensure, by all means available to it, respect for proprietary rights in any items and any plans, specifications, or information furnished, whether patented or not. The Purchaser also agrees that the defense articles offered will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus, and recognizes that the U.S. Congress is required to be notified of any substantial evidence that the defense articles sold in this LOA have been used in a manner that is inconsistent with this provision.

2.5 The Purchaser agrees not to divert articles and services received under this LOA for purposes or uses other than those for which it was furnished, including, but not limited to, any use that could contribute to the acquisition, design, development or production of a "missile," as defined in section 74 of the Arms Export Control Act (AECA) (22 U.S.C. 2797c). The items will be used only for the purposes stated and such use will not be modified nor the items modified or replicated without the prior consent of the USG; neither the items nor replicas nor derivatives thereof will be retransferred without the consent of the USG. The USG has the right to take action under section 73(a) of the AECA (22 U.S.C. 2797b(a)) in the case of any export or transfer of any Missile Technology Control Regime (MTCR) equipment or technology that contributes to the acquisition, design, development or production of missiles in a country that is not an MTCR adherent.

2.6 The Purchaser will maintain the security of such article or service and will provide substantially the same degree of security protection afforded to such article or service by the United States Government. To the extent that items, including plans, designs, specifications, technical data, or information, furnished in connection with this LOA may be classified by the USG for security purposes, the Purchaser certifies that it will maintain a similar classification and employ measures necessary to preserve such security, equivalent to those employed by the USG and commensurate with security agreements between the USG and the Purchaser. If such security agreements do not exist, the Purchaser certifies that classified items will be provided only to those individuals having an adequate security clearance and a specific need to know in order to carry out the LOA program and that it will promptly and fully inform the USG of any compromise, or possible compromise, of U.S. classified material or information furnished pursuant to this LOA. The Purchaser further certifies that if a U.S. classified item is to be furnished to its contractor pursuant to this LOA: (a) the item will be exchanged through official Government channels, (b) the specified contractor will have been granted a facility security clearance by the Purchaser at a level at least equal to the classification level of the U.S. information involved, (c) all contractor personnel requiring access to such items will have been cleared to the appropriate level by the Purchaser, and (d) the Purchaser is also responsible for administering security measures while the item is in the contractor's possession. If a commercial transportation agent is to be used for shipment, the Purchaser certifies that such agent has been cleared at the appropriate level for handling classified items. These measures will be maintained throughout the period during which the USG may maintain such classification. The USG will use its best efforts to notify the Purchaser if the classification is changed.

2.7 Pursuant to section 505 of the Foreign Assistance Act of 1961, as amended (FAA) (22 U.S.C. 2314), and section 40A of the AECA (22 U.S.C. 2785), the USG will be permitted, upon request, to conduct end-use monitoring (EUM) verification with respect to the use, transfer, and security of all defense articles and defense services transferred under this LOA. The Purchaser agrees to permit scheduled inspections or physical inventories upon USG request, except when other means of EUM verification shall have been mutually agreed. Upon request, inventory and accountability records maintained by the Purchaser will be made available to U.S. personnel conducting EUM verification.

2.8 The USG is not a party to any offset agreements/arrangements that may be required by the Purchaser in relation to the sales made in this LOA. The USG assumes no obligation to administer or satisfy any offset requirements or bear any of the associated costs. To the extent that the Purchaser requires offsets in conjunction with this sale, offset costs may be included in the price of contracts negotiated under this LOA. Such costs shall be determined or deemed reasonable in accordance with SUBPART 225.73 of the Defense Federal Acquisition Regulation Supplement (DFARS). If the Purchaser desires visibility into these costs, the Purchaser should raise this with the contractor during negotiation of offset arrangements.

In section 1.5, the USG retains the right to cancel or suspend part or all of the case. Similarly, this section provides the FMS customer the right to change their mind. Simply because the customer accepted the case at one point does not mean the customer is locked into that decision. The customer is a voluntary participant and can cancel the entire LOA or delete specific items prior to delivery.

If the customer chooses to exercise this right, the customer is financially liable for all the associated termination costs. Termination costs are incurred to cancel work that is already underway to execute the LOA. Most termination costs relate to payments to contractors arising from contract cancellations. Generally, contractors are entitled to certain payments when contracts are unilaterally cancelled prior to normal contract completion. Depending on how much work is already in progress, the termination cost to cancel or delete items may be substantial. Because this condition provides the right to cancel, termination liability is a factor calculated into the LOA payment schedule. The calculation of termination liability ensures that at any point in the LOA execution, the U.S. should have collected sufficient funds in advance from the customer to cover all outstanding liabilities in the event the customer elects to cancel part or all of the LOA. More information on termination liability is contained in chapter 12 of this textbook, "Financial Management."

Section 2.2 End-Use Purposes

This condition stipulates that the purchaser will only use the materiel or services purchased under the LOA for certain purposes, referred to as end-use. At first, it may appear unfair that the USG attaches end-use limitations to the sale but we must remember that the USG is selling defense articles and services rather than consumer products. Additionally, as discussed in section 1.1, this is often the same materiel used by U.S. military forces. As such, the USG has valid concerns over how these articles or services are used by the customer. More information on end-use is contained in chapter 18, "End-Use Monitoring and Third Party Transfers."

Section 2.3 Reports Verification

Section 2.3 establishes the right of the USG to verify any reports that defense articles or services are being used for purposes other than as specified in section 2.2. The incorporation of this language into the terms and conditions of the LOA establishes the USG the right to investigate any reports of violation to the use provisions of the LOA.

Section 2.4 Third Party Transfers

Section 2.4 restates the obligations imposed on the FMS purchaser under the AECA. Although the FMS customer actually becomes owner of the material, the USG requires, as a condition of the sale, that the purchaser agree to not resell or transfer possession of the purchased items without first obtaining written USG consent.

This condition does not mean that the customer can never sell the material or turn over possession for maintenance to a third country. It simply means that the USG is very concerned about who has access to and possession of this defense materiel. Before offering the LOA, the USG determined that it was in its best interest to permit the customer to possess this materiel. The USG wants to ensure that possession of this defense materiel by a prospective third party is also in the USG's best interest. More information on third party transfers is contained in chapter 18, "End-Use Monitoring and Third Party Transfers."

This condition also requires FMS purchaser to respect the proprietary rights of U.S. contractors. U.S. industry has often made significant investments in defense technologies that enable the firm to compete both commercially and in the defense sector. This condition protects the intellectual property of U.S. contractors from misuse.

This section also specifically identifies conditions related to Cyprus. It does appear unusual that provisions regarding Cyprus would be included in the standard terms and conditions used with all FMS LOAs. This is an example of the political influences that impact SA. The Congress was concerned about unauthorized transfers of defense articles to Cyprus. As a result, Congress specifically addressed this concern within the language of the AECA. Given these conditions relative to Cyprus are contained within the law, these same requirements are included in the standard terms and conditions used with all FMS LOAs.

Section 2.5 Missile Technology Control Regime

Section 2.5 alerts the customer not to divert articles and services provided under the LOA for purposes other than for which they were furnished. This specifically excludes any use that would support the acquisition, design, development or production of a missile as defined in the AECA.

Section 2.6 Security Requirements

The USG is very concerned about preserving the security of classified material transferred under FMS. This condition requires the FMS customer to maintain equivalent security measures. This does not mean the customer must use the same USG security procedures. It means that the end result of the customer's security process will achieve a level of security that is equivalent to the security level provided by the USG. Additionally, the customer is responsible for security not only when the item is in government possession, but also when it is provided to the FMS purchaser's domestic contractors or when it is in the transportation pipeline. More information on security controls is contained in chapter 7, "Technology Transfer, Export Controls, and International Programs Security."

Section 2.7 End-Use Monitoring

Section 2.7 states the USG retains the right to conduct end-use monitoring (EUM) verification of articles and services transferred under the LOA. The purchaser agrees to permit scheduled inspections or physical inventories upon request and make accountability records available to USG EUM personnel. A more detailed explanation of EUM is contained in chapter 18, "End-Use Monitoring and Third Party Transfers."

Section 2.8 Offset Arrangements

Section 2.8 notifies the customer that the USG is not a party to any offset arrangements and assumes no obligation to administer or satisfy any offset requirements. In addition, Section 2.8 notifies the customer that offset costs shall be determined or deemed reasonable in accordance with the DFARS Subpart 225.73. A more detailed explanation of offsets is contained in chapter 9, "Foreign Military Sales Acquisition Policy and Process."

Section 3 Indemnification and Assumption of Risks

Section 3 begins by reminding the customer that the USG's purpose in the FMS LOA is not for financial gain. Obviously, the USG believes the sale is in its best interest but financial profit is not the motivating factor. In recognition of this fact, this condition states that the purchaser indemnifies the USG. This means that the purchaser agrees to accept the risks of financial liabilities that may arise in the execution of the LOA.

3.1 The Purchaser recognizes that the USG will procure and furnish the items described in this LOA on a non-profit basis for the benefit of the Purchaser. The Purchaser therefore undertakes to indemnify and hold the USG, its agents, officers, and employees harmless from any and all loss or liability (whether in tort or in contract) which might arise in connection with this LOA because of:

3.1.1 Injury to or death of personnel of Purchaser or third parties,

3.1.2 Damage to or destruction of (a) property of DoD furnished to Purchaser or suppliers specifically to implement this LOA, (b) property of Purchaser (including the items ordered by Purchaser pursuant to this LOA, before or after passage of title to Purchaser), or (3) property of third parties, or

3.1.3 Infringement or other violations of intellectual property or technical data rights.

3.2 Subject to express, special contractual warranties obtained for the Purchaser, the Purchaser agrees to relieve the contractors and subcontractors of the USG from liability for, and will assume the risk of, loss or damage to:

3.2.1 Purchaser's property (including items procured pursuant to this LOA, before or after passage of title to Purchaser), and

3.2.2 Property of DoD furnished to suppliers to implement this LOA, to the same extent that the USG would assume for its property if it were procuring for itself the items being procured.

At first, the requirement for indemnification may seem unfair and appear that the USG is placing undue risk upon the FMS purchaser. However, we must remember that the USG is conducting business on behalf of the FMS customer in the same manner that the USG conducts business for itself. As a normal business practice, the USG exposes itself to a certain degree of risk. Given the broad range of risks the USG faces, it is less expensive to absorb the occasional loss than it is to purchase insurance to insulate against all these risks. In procurements, the USG may include limitation of liability clauses to relieve contractors from certain liabilities (like acts of God). The reason for limitation of liability contract clauses is to reduce overall procurement costs. If contractors were required to cover all potential risks, they would demand a higher contract price in compensation for being exposed to greater risk.

When it comes to executing FMS programs, the USG faces certain risks just like it does while conducting business for itself. Under the LOA, the USG is simply requiring the customer to absorb the risks that the USG would absorb if the actions were conducted in support of a USG requirement. So, in reality, the USG is not asking the customer to be exposed to an extraordinary degree of risk. The USG is only requiring the customer to stand in the USG's place to face the same level of risk that the USG normally faces in conducting business for itself.

Liability Illustration

Suppose, under an FMS case, a foreign purchaser wanted to purchase an excess aircraft and have that aircraft's avionics upgraded prior to delivery. Following LOA acceptance, the U.S. awarded a contract for the upgrade, removed the aircraft from storage, and transported it to a contractor for upgrade work. After the contractor completed the work, the contractor's test pilot flew the aircraft on a functional check flight. During the check flight, a catastrophic problem developed which caused the aircraft to crash and be destroyed, also causing significant property damage on the ground at the crash site.

In this hypothetical scenario, who is financially liable for the costs? The answer is that it depends. The USG would investigate the crash to determine the cause. In the investigation, the contractor's contractual responsibility would be examined to determine if contractor non-performance or negligence contributed to the accident. If the contractor would have held some financial responsibility in the case the work was being done for the benefit of the USG, then the contractor would also be held to the same degree of financial responsibility if the work being performed for an FMS customer.

If, at the conclusion of the investigation, it was found that the contractor had fulfilled all its contractual requirements and the accident cause was in an area where the USG normally accepts the liability risk, this LOA condition states that the FMS purchaser will assume this financial liability rather than the USG or the contractor. Again, this provision simply informs the FMS customer that they should be prepared to be exposed to the same degree of financial risk that the USG exposes itself to in the normal course of business.

Section 4 Financial Terms and Conditions

Section 4 states the purchaser's financial obligation and liability when purchasing items or services through FMS. Chapter 12 of this textbook, "Financial Management," provides greater detail regarding FMS financial processes.

4.1 The prices of items to be procured will be billed at their total cost to the USG. Unless otherwise specified, the cost of items to be procured, availability determination, payment schedule, and delivery projections quoted are estimates based on the best available data. The USG will use its best efforts to advise the Purchaser or its authorized representatives of:

4.1.1 Identifiable cost increases that might result in an overall increase in the estimated costs in excess of ten percent of the total value of this LOA,

4.1.2 Changes in the payment schedule, and

4.1.3 Delays which might significantly affect estimated delivery dates. USG failure to advise of the above will not change the Purchaser's obligation under all subsections of section 4.4.

4.2 The USG will refund any payments received for this LOA which prove to be in excess of the final total cost of delivery and performance and which are not required to cover arrearages on other LOAs of the Purchaser.

4.3 The Purchaser's failure to make timely payments in the amounts due may result in delays in contract performance by DoD contractors, claims by contractors for increased costs, claims by contractors for termination liability for breach of contract, claims by USG or DoD contractors for storage costs, or termination of contracts by the USG under this or other open Letters of Offer and Acceptance of the Purchaser at the Purchaser's expense.

4.4 The Purchaser agrees to the following:

4.4.1 To pay to the USG the total cost to the USG of the items even if costs exceed the amounts estimated in this LOA.

4.4.2 To make payment(s) by check or wire transfer payable in U.S. dollars to the Treasurer of the United States.

4.4.3 If Terms of Sale specify "Cash with acceptance," to forward with this LOA a check or wire transfer in the full amount shown as the estimated Total cost, and agrees to make additional payment(s) upon notification of cost increase(s) and request(s) for funds to cover such increase(s).

4.4.4 If Terms of Sale specify payment to be "Cash prior to delivery," to pay to the USG such amounts at such times as may be specified by the USG (including initial deposit) in order to meet payment requirements for items to be furnished from the resources of DoD. USG requests for funds may be based on estimated costs to cover forecasted deliveries of items. Payments are required 90 days in advance of the time DoD plans such deliveries or incurs such expenses on behalf of the Purchaser.

4.4.5 If Terms of Sale specify payment by "Dependable Undertaking," to pay to the USG such amounts at such times as may be specified by the USG (including initial deposit) in order to meet payments required by contracts under which items are being procured, and any damages and costs that may accrue from termination of contracts by the USG because of Purchaser's cancellation of this LOA. USG requests for funds may be based upon estimated requirements for advance and progress payments to suppliers, estimated termination liability, delivery forecasts, or evidence of constructive delivery, as the case may be. Payments are required 90 days in advance of the time USG makes payments on behalf of the Purchaser.

4.4.6 If the Terms of Sale specify Foreign Military Financing (FMF), the Purchaser will pay to the USG such costs as may be in excess of the approved FMF funding amount.

4.4.7 If Terms of Sale specify "Payment on delivery," that bills may be dated as of the date(s) of delivery of the items, or upon forecasts of the date(s) thereof.

4.4.8 That requests for funds or billing are due and payable in full on presentation or, if a payment date is specified in the request for funds or bill, on the payment date so specified, even if such payment date is not in accord with the estimated payment schedule, if any, contained in this LOA. Without affecting Purchaser's obligation to make such payment(s) when due, documentation concerning advance and progress payments, estimated termination liability, or evidence of constructive delivery or shipment in support of requests for funds or bills will be made available to the Purchaser by DoD upon request. When appropriate, the Purchaser may request adjustment of any questioned billed items by subsequent submission of a discrepancy report.

4.4.9 To pay interest on any net amount by which it is in arrears on payments, determined by considering collectively all of the Purchaser's open LOAs with DoD. Interest will be calculated on a daily basis. The principal amount of the arrearage will be computed as the excess of cumulative financial requirements of the Purchaser over total cumulative payments after quarterly billing payment due dates. The rate of interest paid will be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the USG as of the last day of the month preceding the net arrearage and shall be computed from the date of net arrearage.

4.4.10 To designate the Procuring Agency and responsible Paying Office and address thereof to which the USG will submit requests for funds and bills under this LOA.

4.4.11 Any articles, equipment, materials, supplies, goods, or other commodities purchased with USG assistance funds appropriated and allocated pursuant to foreign operations, export financing, and related programs appropriations acts in support of this LOA, whether provided directly by the USG or through procurement contracts or otherwise in support of this LOA, shall be exempt from all value added taxes and customs duties imposed by the recipient country or the full amount of the tax or customs duty must be reimbursed by the Purchaser. This exemption is in addition to any other tax exemption provided by the Purchaser through separate agreements or other means.

Section 4.1 Recovery of Cost

This section reiterates that the LOA data reflects a best estimate of costs and delivery dates. The LOA estimates may be subject to change. In accordance with the AECA, this section obligates the purchaser to pay the USG the total cost for the items or services. FMS is often characterized as a "no profit, no loss" financial agreement. This section reiterates the "no loss" aspect.

Section 4.2 Refunds

The USG will refund payments that are in excess of the total LOA cost unless there are other unpaid financial requirements on other LOAs with the same purchaser. In this situation, the excess payments from one LOA may be applied toward the delinquent amount due on another LOA. While section 4.1 serves as the "no loss" condition, this section reaffirms the "no profit" condition stated in section 3.1.

Section 4.3 Payment Delays

Any delay in making the LOA payments by the purchaser may result in the USG directing the contractor to stop work which, in turn, may lead to additional or increased costs, storage costs and delayed delivery. Failure to make payments could also result in contract terminations that may require the purchaser to pay for contract termination liability costs.

Section 4.4 Terms of Sale

The purchaser agrees to pay the total cost incurred under the LOA even if the final amount exceeds the estimated costs provided earlier. The purchaser agrees to make payments in accordance with the applicable terms of sale specified on the LOA. Chapter 12 of this textbook, "Financial Management," gives a more detailed explanation of the specific terms of sale.

Section 5 Transportation and Discrepancy Provisions

Section 5 delineates the transportation obligations and requirements of the purchaser, defines the role of the USG in arranging for transportation, and describes the process for submitting discrepancy claims to the USG.

5.1 The USG agrees to deliver and pass title to the Purchaser at the initial point of shipment unless otherwise specified in this LOA. With respect to items procured for sale to the Purchaser, this will normally be at the manufacturer's loading facility; with respect to items furnished from USG stocks, this will normally be at the U.S. depot. Articles will be packed, crated, or otherwise prepared for shipment prior to the time title passes. If "Point of Delivery" is specified other than the initial point of shipment, the supplying U.S. Department or Agency will arrange movement of the articles to the authorized delivery point as a reimbursable service but will pass title at the initial point of shipment. The USG disclaims any liability for damage or loss to the items incurred after passage of title irrespective of whether transportation is by common carrier or by the U.S. Defense Transportation System.

5.2 The Purchaser agrees to furnish shipping instructions which include Mark For and Freight Forwarder Codes based on the Offer Release Code.

5.3 The Purchaser is responsible for obtaining insurance coverage and customs clearances. Except for articles exported by the USG, the Purchaser is responsible for ensuring that export licenses are obtained prior to export of U.S. defense articles. The USG incurs no liability if export licenses are not granted or they are withdrawn before items are exported.

5.4 The Purchaser agrees to accept DD Forms 645 or other delivery documents as evidence that title has passed and items have been delivered. Title to defense articles transported by parcel post passes to the Purchaser at the time of parcel post shipment. Standard Form 364 (Supply Discrepancy Report (SDR)) will be used in submitting claims to the USG for overage, shortage, damage, duplicate billing, item deficiency, improper identification, improper documentation, or non-shipment of defense articles and non-performance of defense services. The Standard Form 364 will be submitted promptly by the Purchaser. The USG will disallow any claim, including a claim for shortage or nonperformance, received more than 1 year after delivery or more than 1 year after passage of title to the defense articles, whichever comes first, or received more than 1 year after the end of the scheduled period of performance for defense services, unless the USG determines that unusual and compelling circumstances involving latent defects justify consideration of the claim. Claims for non-shipment or non-receipt of an entire lot will be disallowed by the USG if such claims are received more than 1 year after the scheduled delivery date or initial billing, whichever is later. The Purchaser agrees to return discrepant articles to the USG's custody promptly in accordance with any direction provided by the USG. The Purchaser may submit SDRs for documentation purposes regardless of the dollar value, but only SDRs valued at $200 or more will be reviewed for possible compensation regardless of the type of discrepancy. This minimum value includes the value of the item plus any transportation and handling costs.

Section 5.1 Title Transfer and Delivery Point

Section 5.1 identifies where title transfers and where delivery occurs. Title represents ownership. This condition states that the purchaser becomes the owner of materiel at the initial shipping point. Delivery, in this context, does not mean the materiel has arrived at the final customer destination. Delivery refers to the point where transportation responsibility transfers from the USG to the purchaser. The delivery term code applied to each LOA line will indicate where the purchaser becomes responsible for transportation. Under certain delivery term codes, the USG may arrange for transportation in various increments up to and including movement to an in-land location within the purchaser's country. Regardless of when the purchaser assumes transportation responsibility, the title will still transfer at the initial shipping point. This means that the USG will not be financially liable for items damaged in transit even if USG arranges or provides the transportation.

This condition should not be interpreted to mean that the purchaser's financial liability does not begin until title transfer. Per section 3, the purchaser's liability begins with case acceptance. As the USG initiates actions towards fulfilling the LOA requirements, financial liabilities begin to accrue. In section 3, the purchaser agrees to indemnify the USG and its contractors. Additionally, in section 2, the purchaser agrees to be liable for termination costs if they elect to delete items or to cancel the LOA.

Section 5.2 Shipping Instructions

Section 5.2 describes the customer's obligation to provide the required transportation information so that items are shipped through the appropriate channels to arrive at the correct customer destination. The customer provides this information at the bottom of the first LOA page as part of the LOA acceptance process. The freight forwarder code identifies the commercial freight company employed by the purchaser to accomplish overseas transportation. The mark-for code identifies the ultimate in-country destination address. Chapter 11 of this textbook, "Security Cooperation Transportation Policy," provides a more detailed description of FMS transportation procedures.

Section 5.3 Insurance and Export Licenses

Given the fact that the customer bears the risk of any damage that may occur during shipment, the purchaser is responsible for obtaining any desired insurance coverage. Additionally, the purchaser is responsible for completing the necessary documents to clear customs. Most FMS customers delegate the task of coordinating customs paperwork to their freight forwarder. More information on export licensing is contained in chapter 7 of this textbook, "Technology Transfer, Export Controls, and International Programs Security."

Section 5.4 Delivery Documents and Claims

Section 5.4 delineates the purchaser's obligation to accept certain USG documentation as evidence that title transfer and delivery have occurred. Additionally, this section outlines the process and conditions under which the purchaser can submit claims for discrepancies. Although the USG would like the FMS process to operate error-free, in reality, things sometimes go wrong. The customer has an avenue of recourse to submit claims for shipping or billing discrepancies. This process is called the supply discrepancy reporting process. More information on the supply discrepancy process is contained in chapter 10 of this textbook, "Logistics Support of Security Cooperation Materiel Transfers."

Section 6 Warranties

Section 6 describes the warranty provisions of the LOA. Under FMS, the customer is purchasing from the USG, rather than from a commercial company. This section defines what warranties the USG provides on FMS material. Section 6.1 discusses warranty provisions for items obtained from procurement and section 6.2 concerns items delivered from DoD inventory.

6.1 The USG does not warrant or guarantee any of the items sold pursuant to this LOA except as provided in section 6.1.1. DoD contracts include warranty clauses only on an exception basis. If requested by the Purchaser, the USG will, with respect to items being procured, and upon timely notice, attempt to obtain contract provisions to provide the requested warranties. The USG further agrees to exercise, upon the Purchaser's request, rights (including those arising under any warranties) the USG may have under contracts connected with the procurement of these items. Additional costs resulting from obtaining special contract provisions or warranties, or the exercise of rights under such provisions or warranties, will be charged to the Purchaser.

6.1.1 The USG warrants the title of items sold to the Purchaser hereunder but makes no warranties other than those set forth herein. In particular, the USG disclaims liability resulting from infringement or other violation of intellectual property or technical data rights occasioned by the use or manufacture outside the U.S. by or for the Purchaser of items supplied hereunder.

6.1.2 The USG agrees to exercise warranties on behalf of the Purchaser to assure, to the extent provided by the warranty, replacement or correction of such items found to be defective, when such materiel is procured for the Purchaser.

6.2 Unless the condition of defense articles is identified to be other than serviceable (for example, "as-is"), DoD will repair or replace at no extra cost defense articles supplied from DoD stocks which are damaged or found to be defective in respect to materiel or workmanship when it is established that these deficiencies existed prior to passage of title, or found to be defective in design to such a degree that the items cannot be used for the purpose for which they were designed. Qualified representatives of the USG and of the Purchaser will agree on the liability hereunder and the corrective steps to be taken.

Section 6.1 Procurement Warranties

For items supplied from procurement, the USG does not provide any type of performance warranty. The USG only warrants clear title of the materiel to the purchaser. This simply means that there will be no financial claim or lien against the materiel delivered.

This does not mean that the FMS purchaser has no method of recourse if an item from procurement does not function properly. Customers with defective items from procurement should submit a Supply Discrepancy Report (SDR) to the USG. The USG may be able to rectify the problem by seeking resolution through the contractor under the provisions of the USG procurement contract.

This condition also provides the FMS purchaser the option of identifying specific warranty requirements when they request an item via the FMS process. Based on the foreign purchaser's specific warranty request, the USG will attempt to procure the desired warranty from the vendor in conjunction with the procurement of the materiel or service. The FMS customer will pay any additional costs necessary to acquire the desired warranty. The USG agrees to exercise the warranty rights on behalf of the FMS purchaser. Section C6.3.8 of the SAMM requires that special customer requested warranties be treated as a defense service on the LOA and be described in an LOA note. The LOA note outlines the process the customer should use in exercising the special warranty rights.

Section 6.2 Warranties from Stock

This condition states that the U.S. will repair or replace damaged or defective items delivered from DoD inventories when it can be determined that the defect or damage existed prior to shipment. This can be a difficult determination. The IAs have SDR offices that evaluate SDR claims and make

decisions regarding the appropriate corrective action. More information on the supply discrepancy process is contained in chapter 10 of this textbook, "Logistics Support of Security Cooperation Materiel Transfers."

Section 7 Dispute Resolution

This section explains the method by which disputes will be resolved.

> 7.1 This LOA is subject to U.S. law and regulation, including U.S. procurement law.
>
> 7.2 The USG and the Purchaser agree to resolve any disagreement regarding this LOA by consultations between the USG and the Purchaser and not to refer any such disagreement to any international tribunal or third party for settlement.

Section 7.1 explains that all activities the USG undertakes to execute the LOA, such as procurement contracts, are subject to U.S. federal procurement law.

Section 7.2 provides for the resolution of LOA disagreements by a bilateral consultative process. The purchaser agrees not to seek redress from any international tribunal such as the international court or a third party.

Changes to the Letter of Offer and Acceptance

An international purchaser's requirements and the conditions and circumstances of the accepted LOA may change during the course of implementation and execution. Examples of changes include:

- Increased or decreased costs of LOA items
- Revised delivery dates
- Additional items required
- Changes in system configuration

To authorize these changes and establish an audit trail, proper documentation must be prepared for accurate and complete case management. The decision to use a new LOA, an amendment, or a modification to implement a change will be shaped by the special conditions surrounding each change. FMS interests are best served through use of the document which best safeguards U.S. and customer interests while most efficiently accomplishing the needed program change. Selection of the appropriate document to implement the change revolves around the scope of change compared to the original LOA. Scope refers to the basic intention, goal, or purpose of the original LOA agreement.

Specific details for identifying the correct document to use and for complying with the necessary administrative requirements of review and/or countersignature by DSCA are found in SAMM, section C6.7. A case manager who has doubt as to which document is appropriate after reviewing the SAMM guidance should consult DSCA.

Major Changes in Scope—New Letter of Offer and Acceptance

Revisions that significantly change original requirements are normally considered to be major changes in scope. Examples are the addition or deletion of significant military equipment (SME), or a substantial expansion of a program. Major changes normally require the preparation of a new LOA. New LOAs for major changes to an ongoing program will cross reference the previous LOA. While new LOAs are preferred for major scope changes, under certain exceptional conditions, an amendment may be more advantageous. Use of an amendment for a major scope change requires approval by DSCA.

Minor Changes in Scope—Amendment

Changes to an on-going program that are not categorized as major change of scope make up this category. An amendment represents a bilateral change to the LOA. By virtue of being bilateral, an amendment will not become effective unless the purchaser accepts the change. The purchaser has a choice to either accept or reject an amendment offered by the USG.

Acceptance of the change is signified by the purchaser signing the amendment. Some amendments may require initial deposits, and these will not be implemented until sufficient payments have been received to cover the current financial requirements, including termination liability. Rejection of the change is signified by declining to sign the amendment. Examples of minor scope changes are:

- Redistributing funds among case lines
- Dollar value increases or decreases to blanket order cases
- Changes in quantity on defined order cases
- Adding or deleting case lines or requirements
- Revising line descriptions or notes to change scope
- Changes in MASL that impacts configuration
- Extending a lead time, period of performance, or availability of services
- Changes in transportation delivery term code(s)

A sample amendment may be viewed in the *Bandarian Security Cooperation Sample Case Documents*.

Changes Not Affecting Scope—Modification

Changes to existing LOAs that do not impact the scope of the LOA are accomplished via modifications. When the purchaser accepts the original LOA, they agree to accept the provisions of the standard terms and conditions. Section 4 of the standard terms and conditions permits the U.S. to make changes to the LOA under certain circumstances. A modification is the document the U.S. uses to inform the purchaser of these unilateral changes. Because the purchaser already agreed to such unilateral modifications by the USG in the standard terms and conditions of the LOA, the purchaser is not required to accept a modification. A modification becomes effective upon issuance by the USG. A modification does have a line for the purchaser to sign but, in this instance, the signature simply acknowledges receipt rather than conveying acceptance. Examples of changes implemented by a modification include:

- Price changes
- Delivery schedule changes
- Revising source, offer release, line management, or type assistance codes
- Changes in the payment schedule or terms of sale
- Changes to correct administrative errors

A sample modification may be viewed in the *Bandarian Security Cooperation Sample Case Documents*.

The modification also plays a critical role in financial management by the U.S. security assistance community. Per the LOA standard terms and conditions section 4.1, the U.S. is committed to apply its best efforts to provide the purchaser a modification when estimated total costs change, payment schedule changes or significant delivery delays occur. A modification should also be provided for cost reductions, even if relatively minor, when all items are on order and prices are reasonably firm. More information on financial management is contained in chapter 12 of this textbook, "Financial Management."

Pen and Ink Changes

A pen and ink change refers to minor change that is authorized after an LOA or amendment is offered to the customer but is made prior to customer acceptance. Pen and ink changes are generally used to correct minor administrative or arithmetic errors. The IA authorizes the purchaser to make any pen and ink changes by issuing a message or memorandum. Examples are a small arithmetic change which does not increase total value and administrative changes such as an address correction, initial deposit or payment schedule adjustment, or extension of the offer expiration date. Pen and ink changes made by the customer without prior authorization by the IA are considered a counteroffer and are not valid.

Pen and ink changes to modifications are not authorized. The reason for this is that a modification is a unilateral document and becomes effective upon issuance by the USG without requiring customer acceptance. Any required changes to a modification must be accomplished by issuing another modification.

Lease of Defense Articles

Normally, the USG makes defense articles available to foreign governments by FMS under the AECA. However, there are instances where a lease, rather than sale, to eligible foreign countries or international organizations is appropriate. Leases are authorized under the AECA section 61 when it is determined that there are compelling foreign policy and national security reasons for leasing rather than selling, and the articles are not needed for USG use during the proposed lease period. For example, a foreign government may desire to obtain a defense article for a short period under a lease for testing purposes to assist it in determining whether to procure the article in quantity. As another example, the USG may only be able to respond to an urgent foreign requirement for defense property by making it available from inventory, but for national defense reasons cannot sell the property and must require its return to the inventory after a specified term. Attachment 8-1 provides a sample lease. Section C11.6 of the SAMM provides lease policy.

Approval

DoD components must obtain DSCA concurrence before indicating to a foreign country or international organization that a lease is being favorably considered or is an available option. The DoD component will provide a determination and forward a memorandum written in the format specified in the SAMM, starting at figure C11.F5, along with the draft lease. A detailed rationale must be provided for any proposed lease outlining the reasons why the defense articles are being leased rather than sold.

Security Cooperation Organization Responsibility

The Security Cooperation Organization (SCO) or Defense Attaché Office (DAO) where no SCO is assigned in the partner country should receive a copy of each lease entered into with the respective government of the country where they serve. The SCO should assist DoD components in monitoring the use of USG-owned equipment in the country.

Lease Format

Leases are prepared using the Defense Security Assistance Management System (DSAMS). Attachment 8-1 illustrates the basic lease format. Additional provisions may be added with the concurrence of the appropriate legal office of the DoD component concerned and with DSCA approval. The lease will be signed by the appropriate IA and provided to DSCA for countersignature.

A separate LOA will be used for packing, crating, handling, and transportation (PCH&T), and the sale of associated articles and services, including any refurbishment of the defense article(s) required prior to, during, or after the lease period. The LOA will also be used to recover applicable costs if the article is lost, damaged, or destroyed during the lease period.

Lease Identification

Using DSAMS, the IA assigns a unique designator to each lease. The lease designator is composed of the country code, the IA code, and a three-position code assigned by the IA. The lease designator is included on each lease page, including schedules, appendices, and accompanying documents. FMS cases associated with leases must reference the lease designator.

Duration

Leases may be written for a maximum of five years with an additional specified period of time required to complete major refurbishment work prior to delivery. Leases may include multiple items with different lease duration periods. The shortest lease period is one month and the longest lease period is sixty months. Leases of one year or more require Congressional notification in accordance with the AECA section 62(a)(22 U.S.C. 2796(a). Leases shall provide that, at any time during the lease period, the USG may terminate the lease and require the immediate return of the defense article. Leases of less than five years may be extended via an amendment but the total period under a specific lease may not exceed five years plus the time needed for refurbishment.

Amendments

Lease amendments may be used to extend or change existing leases. Such changes include variations to payment schedules, Schedule A items, or periods of performance. Each amendment includes the original lease designator and undergoes the same staffing process as the original lease. If a lease for less than one year is amended so that the total period of the original lease and the amendment equals or exceeds one year, the amendment must be notified to the Congress before it can be offered.

Loss, Destruction, or Damage

The lessee must agree to pay the costs of restoration or replacement if the articles are lost, damaged, or destroyed while leased. In this case, the customer is charged the replacement cost (less any depreciation) if the U.S. intends to replace the articles or the actual article value (less any depreciation) if the U.S. does not intend to replace the articles. These charges are recouped under an FMS transaction via an LOA.

Lease Payment

The lessee must agree to pay in U.S. dollars all costs incurred by the USG in leasing articles, including reimbursement for depreciation (rent) of articles while leased. The rental payment is calculated in accordance with DoD 7000.14-R, volume 15, chapter 7. Rental payments do not include an administrative charge.

Schedule A of each lease identifies the replacement costs of the items being leased and the schedule for rental payment due to the USG. Billings to the foreign lessee are based on this schedule of payments and are included on a separate DD Form 645A with the country's quarterly FMS billing statement.

Defense Finance and Accounting Service (DFAS) deposits receipts from lease rental payments in the Miscellaneous Receipts Account 3041 (FMS Recoveries, DoD Lease Costs) in accordance with the *Treasury Financial Manual, Supplement to Volume 1*.

The use of Foreign Military Financing Program (FMFP) funds is not authorized for payments of lease rental charges except for leases of aircraft for counternarcotics purposes pursuant to FAA section 484 (22 U.S.C. 2291c). FMFP funds may be authorized by DSCA for FMS cases prepared in support of a lease.

Report on Equipment Usage

The overall responsibility for all aspects of lease administration, including monitoring equipment while leased, belongs to the DoD component having logistics responsibility for the leased equipment. IAs are required to update the status of each active lease not later than thirty days after the end of each quarter. This update is made in the DSAMS.

United States Naval Vessels

For leases of U.S. Naval vessels, the guidance in SAMM, section C11.6.3.1, applies. Naval vessel leases are authorized under separate, specific legislation as required by Title 10 *United States Code* 7307.

Loans

Under the AECA section 65 and the FAA, the DoD may lend materiel, supplies, and equipment to the North Atlantic Treaty Organization (NATO) and major non-NATO allies for research and development purposes. Loans can be made to support cooperative research, development, test, and evaluation (RDT&E) programs and to strengthen the security of the U.S. and its allies by promoting standardization, interchangeability, and interoperability of allied defense equipment. Each loan must be recorded in a written agreement between the Secretary of Defense and the country. Policy regarding loans is contained in the SAMM, section C11.7.

International Agreements

For most sales of defense articles and services, the LOA is sufficient to establish the rights and obligations of each party to the agreement. However, in exceptional instances, it may be in the USG interest to negotiate and conclude an international agreement before, concurrent with, or after conclusion of the LOA. The SAMM, section C4.4.5, provides guidance on the use of international agreements for SA programs involving commercial or government coproduction agreements.

An international agreement generator has been adopted by the Secretary of Defense and the IA legal advisors to establish a standard and uniform format for DoD-wide application. International agreements are further described in chapter 13 of this textbook, "Systems Acquisition and International Armaments Cooperation." The Defense Acquisition University offers a course (ACQ 340) in preparing international agreements.

Summary

The basic contractual instrument used in FMS transactions is the LOA. The LOA standard terms and conditions establish specific rights and obligations for both the USG and the foreign purchaser. These standard terms and conditions are used in all FMS LOAs regardless of the customer; however, the standard terms and conditions do not apply to pseudo LOAs. Major changes in LOA scope require a new LOA. Minor changes of scope within an LOA are accomplished through an amendment. Non-scope changes to the LOA are unilaterally notified to the purchaser through an LOA modification.

Leases and loans of defense articles may also be made to international purchasers. For complex FMS programs, an international agreement may be required to define how issues beyond the scope of the LOA will be handled.

References

DSCA Manual 5105.38-M. *Security Assistance Management Manual* (SAMM). Chapters C5, C6, and C11. http://www.samm.dsca.mil/.

DoD Directive 5530.3. *International Agreements*.

ATTACHMENT 8-1

Sample Lease Agreement

LEASE OF C-199 AIRCRAFT
BETWEEN
THE UNITED STATES GOVERNMENT
AND
THE GOVERNMENT OF BANDARIA
BN-D-ZZX

This LEASE, made as of 01 May 2011, between the United States Government (hereinafter called the "Lessor Government") represented by its Department of the Air Force and the Government of Bandaria, (hereinafter called the "Lessee Government") represented by its Republic of Bandaria, Deputy Chief.

WITNESSETH:

WHEREAS, The Lessor Government has determined that the twenty-four month lease of one (1) C-199 aircraft and, if applicable, all associated nonexpendable support equipment as listed in Schedule A of this lease (including but not limited to tools, ground support equipment, test equipment, and publications) (hereinafter referred to as the "Defense Articles") are not for the time needed for public use, and

WHEREAS, The Lessor Government has determined that there are compelling foreign policy and national security reasons for providing such Defense Articles on a lease basis rather than on a sales basis under the Arms Export Control Act, and

WHEREAS, The Lessor Government has considered the effects of the lease of the articles on the technology and industry base, particularly the extent, if any, to which the lease reduces the opportunity of entities in the national technology and industrial base to sell new equipment, and

WHEREAS, This lease is made under the authority of Chapter 6 of the Arms Export Control Act,

NOW THEREFORE, The parties do mutually agree as follows:

1. In consideration of a rental charge as indicated in Schedule A, and the maintenance and other obligations assumed by the Lessee Government, the Lessor Government hereby leases to the Lessee Government and the Lessee Government hereby leases from the Lessor Government the Defense Articles for the period of twenty-four (24) months commencing on the date first above written (unless otherwise agreed under terms of this lease) and under the terms and conditions set forth in the General Provisions hereto annexed.

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, unless otherwise agreed under terms of this lease.

THE GOVERNMENT OF BANDARIA

BY: _____

_____
Typed Name

_____
Title

_____
Date

THE UNITED STATES GOVERNMENT

BY: _____

_____
Typed Name

_____
Title

_____
Date

COUNTERSIGNATURE

_____ _____
DSCA Date

BN-D-ZZX B
Page 2 of 6 pages

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 Article 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.

3. Conditioning and Transfer Cost. The Lessee Government shall bear the cost of rendering the Defense Articles operable and transferable and of transferring the Defense Articles from the United States or other point of origin and back to the place of redelivery. In the event the Defense Articles are transported by vessel, only U.S. flag vessels may be used, unless waived by the Lessor Government.

4. Inspection and Inventory. Immediately prior to the delivery of the Defense Articles to the Lessee Government, an inspection of the physical condition of the Defense Articles and an inventory of all related items may be made by the Lessor Government and the Lessee Government. A report of the findings shall be made which shall be conclusive evidence as to the physical condition of said Defense Articles and as to such items as of the time of delivery. A similar inspection, inventory, and a report may be made by the Lessor Government upon the termination or expiration of this Lease. The findings of that report shall be conclusive evidence as to the physical condition of the Defense Articles and as to such items as of the date of termination or expiration of this Lease. At the election of the Lessor Government, the Lessee Government at its own cost shall either promptly correct any deficiency or

rebuild, replace, or repair any loss of or damage to the Defense Articles or compensate the Lessor Government for the restoration or replacement value (less any depreciation in the value as determined by the Lessor Government) of such correction, rebuilding, replacement, or repair. At the Lessor Government's choice, the Lessee Government at its own cost will remove any alterations or additions to the Defense Articles or pay the Lessor Government the cost of such removal, as determined by the Lessor Government. In the absence of removal by the Lessee Government, title to any such alterations or additions shall vest in the Lessor Government.

5. Maintenance. The Lessee Government shall maintain the Defense Articles in good order, repair, and operable condition and except as provided in paragraph four, shall upon expiration or termination of this Lease return the Defense Articles in operable condition and in as good condition as when received, normal wear and tear excepted.

6. Risk of Loss. All risk or loss of or damage to the Defense Articles during the term of this Lease and until their return to the place of redelivery shall be borne by the Lessee Government.

7. Indemnification. The Lessee Government renounces all claims against the Lessor Government, its officers, agents, and employees arising out of or incidental to transfer, possession, maintenance, use, or operation of the Defense Articles or facilities and will indemnify and hold harmless the Lessor Government, its officers, agents, and employees or any such claims of third parties and will pay for any loss or damage to Lessor Government property.

8. Alterations. The Lessee Government shall not make any alterations or additions to the Defense Articles without prior consent of the Lessor Government. All such alterations or additions shall become the property of the Lessor Government except items paid for by the Lessee Government, which can be readily removed without injury to the Defense Articles and are removed by the Lessee Government prior to redelivery of the Defense Articles. As a condition of its approval of any alteration or addition, the Lessor Government may require the Lessee Government to restore the Defense Articles to their prior condition.

9. Termination. This Lease may be terminated without cost to the Lessor Government:

   a. By mutual agreement of the parties;

   b. By the Lessee Government on 30-days written notice; or

   c. By the Lessor Government at any time.

   The Lessee Government shall immediately return the leased Defense Articles at the direction of the Lessor Government. Termination will be subject to the Lessee Government's residual responsibilities hereunder (such as, duty to return leased Defense Articles promptly, to pay costs required hereunder, and to indemnify and hold harmless the Lessor Government).

10. Place of Redelivery. Upon expiration or termination of this lease, the Defense Articles shall be returned to the Lessor Government at 309th, Aerospace Maintenance and Regeneration Group (AMARG), Davis-Monthan Air Force Base, Arizona, or as mutually agreed.

11. Title. Title to the Defense Articles shall remain in the Lessor Government. The Lessee Government may, however, place the Defense Articles under its Flag, or display its national insignia when appropriate.

12. Reimbursement for Support. The Lessee Government will pay the Lessor Government for any services, packing, crating, handling, transportation, spare parts, materiel, or other support furnished for the Defense Articles by the Lessor Government pursuant to a Letter of Offer and Acceptance under the Arms Export Control Act. (FMS Case BN-D-QZX applies).

13. Covenant Against Contingent Fees. The Lessee Government warrants that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.

14. Officials Not to Benefit. No members of or Delegate to Congress of the United States, or Resident Commissioner of the United States shall be admitted to any share or part of this Lease or to any benefit that may arise there from.

15. Proprietary Rights. The Lessee Government will ensure, by all means available to it, protection of proprietary rights in any Defense Article and any plans, specifications, or information furnished, whether patented or not.

16. Reports. Any testing of articles and/or services provided under this lease must be specifically authorized by the lease. Lessee testing is subject to limitations stated in the lease. Authority to test does not excuse the Lessee from compliance with all terms and conditions of the lease. When the Lessee Government performs tests and evaluations on the leased Defense Articles and prepares a formal report of the resulting data to be released to a third party, the Lessee Government will allow the Lessor Government to observe the test and evaluation and to review the report. The Lessee Government will obtain Lessor Government approval of any release to a third party.

17. Cost of Lessor Government. The Lessee Government agrees to pay in United States dollars all costs incurred by the Lessor Government in leasing the Defense Articles covered by this Lease including, without limitation, reimbursement for depreciation of such Defense Articles while leased. The Lessee Government also agrees to pay the costs of restoration or replacement, less any depreciation in the value during the term of the lease, to the Lessor Government under the Lessor Government's foreign military sales procedures. The rental charge shown in Schedule A is based on costs identified at the time of signature of this Lease and does not relieve the Lessee Government from liability for other costs in accordance with the provisions of this Lease.

SCHEDULE A
TO LEASE AGREEMENT BETWEEN
THE UNITED STATES GOVERNMENT, DEPARTMENT OF THE AIR FORCE (LESSOR)
AND THE GOVERNMENT OF BANDARIA (LESSEE)

I. This Lease Agreement authorizes the use of U.S. Government property identified herein:

Item Nbr	Description	Qty	Line Duration	Replacement Cost		Rental Charge (Including Depreciation) Per Month
				Unit Value	Total	
001	C-199 Aircraft	1	24	$1,239,094.00	$1,239,094.00	$9,469.70
	Total Value			$1,239,094.00	$1,239,094.00	$9,469.70

II. Rental Payment:

Payment Period	Date Due	Amount Due
Initial Payment	Due upon signature	$56,820
4th Qtr FY 2011	15 Jun 2011	$28,410
1st Qtr FY 2012	15 Sep 2011	$28,410
2nd Qtr FY 2012	15 Dec 2011	$28,410
3rd Qtr FY 2012	15 Mar 2012	$28,410
4th Qtr FY 2012	15 Jun 2012	$28,410
1st Qtr FY 2013	15 Sep 2012	$28,403
Total Rental		$227,273

Signed Copy Distribution:

1. Upon acceptance, the Lessee Government should return one signed copy of this lease to Defense Finance and Accounting Service - Indianapolis ATTN: Security Assistance Accounting, DFAS-JAX/IN 8899 E. 56th Street Indianapolis, IN 46249-0230. Simultaneously, wire transfer of the initial deposit or amount due with acceptance of this lease document (if required) should be made to ABA# 021030004, U.S. Treasury NYC, Agency Location Code: 00003801, Beneficiary: DFAS-JAX/IN Agency, showing "Payment from Bandaria for BN-D-ZZX", or check for the initial deposit, made payable to the US Treasury, mailed to DFAS, 3801 Center Collections DFAS-JAX/IN, P.O. Box 269490, Indianapolis, IN 46226-9490, showing "Payment from Bandaria for BN-D-ZZX. Wire transfer is preferred.
2. One signed copy should be returned to the Department of the Air Force, Air Force Security Assistance and Cooperation Directorate 1822 Van Patton Drive, Building 210, WPAFB OH 45433-5337.

III. Related FMS Case Designator: BN-D-QZX

Chapter

9 Foreign Military Sales Acquisition Policy and Process

Introduction

Fundamentally, the Foreign Military Sales (FMS) process is an acquisition process. Under FMS, a foreign government or international organization identifies a need for a military-related item or service and chooses to acquire it from the U.S. government (USG). The government-to-government sales agreement governing the acquisition is the Letter of Offer and Acceptance (LOA). To fulfill the LOA requirements, the USG may supply items or services from on-hand Department of Defense (DoD) resources or the USG may purchase from industry for subsequent delivery to the FMS customer.

This chapter primarily examines acquisition as it relates to the USG's process for purchasing materiel or services by means of entering into contracts with industry. The goal is to highlight where and how FMS procurements fit into the normal DoD procurement process. Additionally, this chapter will discuss the international business arrangement referred to as an offset. The offset concept is defined, the USG policy regarding offsets is presented, and the means to address offsets within the FMS process are explained.

Within DoD, the term "acquisition" may also refer to the entire life cycle process DoD uses to develop, test, evaluate, produce, and sustain weapon systems in order to satisfy formally identified DoD military capability requirements. This formalized acquisition process is referred to as the Defense Acquisition System (DAS). Chapter 13 of this textbook, "Systems Acquisition and International Armaments Cooperation," discusses how issues affecting future foreign sales of major systems are addressed within the DAS during the system development process.

DoD also uses the term "acquisition" to refer to multiple functional career field areas. In fact, the Defense Acquisition University (DAU) offers a number of courses for personnel within these various career fields that support the DAS. Acquisition career fields include: life cycle logistics, auditing, cost estimating, financial management, contracting, engineering, facilities engineering, industrial/contract property management, information technology, science and technology management, program management, purchasing, production/quality/manufacturing, and test and evaluation. All of these various functional acquisition disciplines are utilized in the DAS process. To review the courses offered by the DAU, visit their web site: www.dau.mil/Training/default.aspx.

Global Military Marketplace

When an international customer requires a military item or service, it must find a source to fulfill that requirement. From its national perspective, there are many economic and political factors that make acquisition from an indigenous source the preferred choice; however, in today's high technology military environment, a substantial financial investment is usually required to conduct the research, development, testing and evaluation (RDT&E) and build the manufacturing or production capability and capacity to field most major military systems. In addition to the financial investment, considerable time is required to accomplish this process. Given these considerations, many nations fulfill certain military needs by procuring systems from other governments, or from foreign commercial firms that have already developed and fielded a capable system, rather than developing a new, country-unique system.

United States Item Preference

The potential foreign customer must first determine whether or not to acquire a U.S. system rather than developing an indigenous system or purchasing another country's system. If the foreign customer selects a U.S. system, they must next decide whether to purchase through the government-to-government FMS process, or make the purchase through the government-to-industry Direct Commercial Sales (DCS) process.

DoD is generally neutral regarding whether a foreign customer chooses to purchase via FMS or DCS. Although officially neutral regarding the procurement method (FMS or DCS), DoD does prefer that friendly nations choose U.S. systems. The reason for the U.S. preference relates to the political, military, and economic benefits resulting from the U.S. and its allies using the same military equipment.

Foreign Military Sales Procurement Rationale

Chapter 15 of this textbook, "A Comparison of Foreign Military Sales and Direct Commercial Sales," compares some of the advantages and disadvantages of FMS and DCS procurements. This chapter will not review all the relative pros and cons; however, the Security Assistance Management Manual (SAMM) states that one primary reason why international customers choose the FMS option is that DoD arranges the purchase on the customer's behalf using the same USG regulations and procedures DoD utilizes for their own procurements. As a result, FMS customers receive the same benefits and protections as DoD. This can be a considerable benefit when the customer may be spending hundreds of millions or perhaps billions of dollars to acquire a military system. This chapter examines how DoD uses its existing acquisition policies and procedures to procure articles and services in fulfillment of LOA agreements.

Foreign Military Sales Content

Typically, FMS system sales consist of weapon systems DoD has already developed, produced, and fielded for its own use. DoD policy states that the USG will only agree to sell systems through FMS which have successfully completed operational test and evaluation. If a foreign customer requests an LOA for a system that has not yet successfully completed operational test and evaluation, a policy waiver is required. This waiver is often referred to as the "Yockey" waiver, named after a former Under Secretary of Defense. In this situation, the Defense Security Cooperation Agency (DSCA) will request concurrence from the Under Secretary of Defense for Acquisition, Technology, and Logistics [USD (AT&L)] before offering an LOA for a system that is still under development.

The reason for this policy concerns future supportability and interoperability issues. Prior to successfully completing operational test and evaluation, there is the risk that the U.S. may decide not to produce the system. This would present an undesirable situation if the U.S. has an LOA commitment to deliver a system to an FMS customer, but decides not to deliver this same system to U.S. forces. The FMS customer would then possess a nonstandard system and have only very limited sustainment options. In addition, the customer could potentially lack interoperability with U.S. forces and other allies. If the waiver is approved, the LOA for the FMS case must include a special note identifying the risk that the USG may not place this system into production.

Total Package Approach

Although some FMS customers may purchase specific items or services independent of a major DoD end item system, most SA programs are built around the sale of one or more major DoD weapon systems. Under FMS, major weapon system sales are accomplished using the Total Package Approach (TPA). TPA provides the FMS customer the weapon system as well as all the necessary support elements to operate and sustain the system for an initial period. Subsequent FMS follow-on support cases may additionally be implemented for continued sustainment of the system throughout its operational life.

Because the FMS process is accomplished using existing DoD procurement regulations and policies, the materiel and services provided under FMS will generally be U.S. origin products. SAMM C4.4.1 states that DoD will not enter into LOAs that commit to procurement in foreign countries unless the DSCA has approved an exception.

Contracting for Foreign Military Sales

It is important to recognize that the Arms Export Control Act (AECA) permits FMS from both DoD stocks and by means of DoD contracting to acquire materiel or services directly for the FMS customer. Generally, DoD inventory levels are established to support DoD's own operations and to provide a contingency reserve of materiel. When an FMS customer submits a requirement under the authority of an LOA, the DoD policy is to only use its current inventory for FMS demands if it can do so without negatively impacting U.S. military readiness. As a result, it may be necessary for DoD to procure the required FMS item by contracting with industry, rather than supplying the item from stock. There is an exception to this policy under a special program called the Cooperative Logistics Supply Support Arrangement (CLSSA). More information on the CLSSA program is contained in chapter 10 of this textbook, "Logistics Support of Security Cooperation Materiel Transfers." In addition, the Secretary of Defense may determine that a release of stock articles to foreign customers under certain circumstances is necessary to support overall national interests even when there is a resulting negative impact on the readiness of U.S. forces. If this decision is made, the President must furnish a report explaining the decision to Congress in accordance with C6.4.6 of the SAMM.

Buyer and Seller Relationship

When an FMS customer accepts an LOA, it enters a government-to-government agreement to purchase military items or services from the USG. In regard to the LOA, the FMS customer is the buyer and the USG is the seller. The USG may provide the articles or services from stock, but often must contract with industry to acquire items or services for delivery to the FMS customer. In the procurement contract, the USG becomes the buyer and the vendor from industry becomes the seller. The FMS customer is not a legal participant in the procurement contract with industry; instead, the USG acts on behalf of the FMS customer. The vendor is under contract and directly obligated to the USG, and has no direct contractual relationship with the FMS customer. The vendor entering into a procurement contract with the USG (to produce materiel or provide services) is not exporting their products. For all intents and purposes, the vendor is selling to the USG. The USG is exporting the products under the authority of the LOA.

Letter of Offer and Acceptance and Contract Relationship

The LOA documents the customer's requirements and provides both the authority and funding to initiate contracting actions. In preparing the LOA, the Case Manager (CM) must clearly understand the customer's requirements to ensure the LOA addresses all customer needs. Simultaneously, the CM must also ensure any special procurement issues from the Procuring Contracting Officer's (PCO) perspective are adequately addressed with the customer and appropriately documented within the LOA. The goal is to have an LOA that can be implemented by means of a procurement contract that both fulfills the customer's desires and is consistent with all USG contracting regulations. The key to success in this area is clear communication early in the LOA preparation process between the customer, the CM and the applicable DoD contracting organization.

Department of Defense Infrastructure for Foreign Military Sales Acquisition

Before discussing the contracting process, an introduction to the DoD's structure for FMS acquisition is necessary. The DoD does not maintain a separate acquisition infrastructure solely for FMS. Rather, the DoD supports FMS by exercising the same acquisition infrastructure already established to support its own requirements.

Major System Acquisition

For major weapon systems, the Military Departments (MILDEPs) establish Program Management (PM) offices responsible for:

- Developing and acquiring the initial system
- Managing all technical aspects of the systems delivered to U.S. forces
- Procuring any additional quantities for DoD
- Engineering improved or modified configurations

An Integrated Product Team (IPT) will typically consist of a weapon system program manager, supported by personnel from several functional disciplines (engineering, testing, contracting, logistics, and financial management).

When an FMS customer purchases a major weapon system, the same PM office overseeing the DoD acquisition of that system will also manage the FMS customer acquisition. The system PM office may acquire FMS quantities either as individual procurements or by consolidating FMS requirements with DoD's requirements on the same U.S. contract. The procuring contracting officer (PCO) within the overall PM office is the only individual granted the authority to enter into contracts on the behalf of the USG. In this role, the PCO will be supported by the functional expertise of the members of the PM office team in establishing source selection criteria, evaluating offers, and negotiating the terms and pricing of the contract.

In order to accomplish successful program execution, major FMS system sales may require program office services beyond those provided by the standard level of service discussed in the SAMM C9.4.2.2. Additional management services will be funded by a well-defined services line on the LOA. The SAMM requires each service line to include a LOA line item note to describe the details of the services provided, and to identify the performance period.

Follow-on Support Acquisition

In regard to standard follow-on support, FMS requirements from the LOA will be routed to the DoD Inventory Control Point (ICP) managing the item for the DoD. ICPs assign an Item Manager (IM) the responsibility for managing inventory levels for a range of specific standard items. The ICP IM responsible for the requisitioned item will decide whether the FMS order should be supported from on-hand stock, held on back order for support from materiel due into stock, or placed on a purchase request (PR) for procurement. If procurement is required, the IM will initiate a PR identifying items to be procured and the appropriate funding source to finance the procurement. The PR, containing a fund cite from the applicable FMS LOA, will be routed to the ICP's contracting activity. A PCO will follow normal DoD procurement processes to select a vendor, and award a contract to fulfill the FMS requirement. Based on the volume of FMS activity, the ICP's manpower may be augmented with additional positions funded by the overall FMS administrative fund. For standard follow-on support, the same DoD functional organizations that purchase the respective item for the DoD will also be responsible for FMS purchases.

Nonstandard Acquisition

DoD policy is to support all systems sold through FMS for as long as the FMS customer chooses to operate the system. For the FMS customer, the DoD decision to curtail or end operations of a given system may impact support. Many examples exist where DoD currently supports systems operated by FMS customers that the DoD no longer actively retains in its inventory, such as the F-5 and the F-4 aircraft. In these situations, components of the system may transition from being standard to nonstandard items. SAMM C6.4.7 states the MILDEPs should notify foreign users of weapon systems

soon to become obsolete to the USG. Foreign users should then have a minimum of two years to place a final order for secondary support items to sustain the system for the additional period the foreign purchaser plans to continue to operate the system.

Nonstandard requirements are, by definition, items not actively managed in the DoD supply system for U.S. forces. Nonstandard FMS requirements have historically been difficult to support, due to the fact that no supporting management or acquisition infrastructure exists within the DoD. Since no ICP activity manages or purchases these items for DoD, MILDEPs have contracted with commercial buying services (CBS) to procure most nonstandard items in lieu of DoD directly contracting for nonstandard items. More information on CBS is presented in chapter 10 of this textbook, "Logistics Support of International Military Sales."

Contracting Regulations

The *Federal Acquisition Regulation* (FAR) establishes a set of uniform acquisition policies and procedures to be used by all executive agencies of the USG. The FAR is the primary document governing contracting actions undertaken by the USG. Many of the FAR requirements originate in legislation created by Congress. One of the best known laws governing contracting is the Competition in Contracting Act (CICA) which requires full and open competition in procurements. Similar to other federal regulations, the FAR is considered to have the force and effect of law. The current version of the FAR is publicly available online. See the chapter references for the web address.

In the LOA, standard term and condition 1.2 states that the USG will follow the same regulations and policies when procuring for FMS as it does when procuring for itself. This condition in the LOA is referring to the FAR. The SAMM (which provides overall policy for the conduct of FMS) states FAR provisions applicable to DoD will apply to FMS procurements.

Given that DoD procures many unique items, the *Defense Federal Acquisition Regulation Supplement* (DFARS) was created to supplement the FAR. Each of the MILDEPs and their subordinate commands have, in turn, issued further supplements to the DFARS, to aid contracting personnel in implementing the FAR and DFARS. It is important to recognize the hierarchy in the contracting regulations. The FAR remains the overarching authority, while each subordinate supplement may amplify and expand on the principles of the FAR, but cannot contradict it. Accordingly, each supplement issued by the MILDEP can only amplify on the principles contained in the DFARS. It is interesting to note that DFARS, subpart 201.104, states the DFARS applies to contracts issued by the DoD in support of FMS. The current version of the DFARS is available online. See the chapter references for the web address.

Contract Source Selection

As stated previously, the CICA requires USG agencies to promote the use of full and open competition in procurements. This legislated requirement is detailed in part 6 of the FAR, which discusses contract competition. In a competitive procurement, the USG makes public notification of its intent to purchase. The USG electronically posts these notifications on its Federal Business Opportunities (FEDBIZOPPS) web site: http://www.fbo.gov. These public notifications are commonly referred to as solicitations. The FEDBIZOPPS web site provides interested vendors an opportunity to submit a bid or proposal to the USG in accordance with the solicitation instructions. Submitting a bid or proposal enables the vendor to be considered in the contract source selection process. Per the FAR, all federal agencies are required to use competitive procurement procedures as the normal method of acquisition.

As an exception under certain conditions, the FAR permits procurement on a noncompetitive basis. In a noncompetitive procurement, the USG negotiates with a single source to the exclusion of all other potential sources. In order to use this exception to normal procurement procedures, a justification must be prepared to document the reasons why a noncompetitive procurement is required rather than

conducting a competitive procurement. According to the FAR, noncompetitive procurements are permitted only when justification is provided based on one or more of the following seven conditions:

- The property or services required are available from only one responsible source and no other type of supply or services will satisfy agency requirements
- The need for the supply or services is of an unusual and compelling urgency
- Award of the contract to a particular source or sources is required in order to:
  - ◊ Maintain a facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization
  - ◊ Establish or maintain an essential engineering, research, or development capability to be provided by an education or other nonprofit institution or a federally funded research and development center
  - ◊ Procure the services of an expert for use in any litigation or dispute involving the federal government
- An international agreement or a treaty between the U.S. and a foreign government or international organization specifies a source
- A statute expressly authorizes or requires that the procurement be made from a specified source
- Disclosure of the agency's needs would compromise national security
- A head of the agency determines that it is necessary in the public interest to use procedures other than competitive procedures

Foreign Military Sales Competitive Source Selection

The LOA standard terms and conditions reflect the FAR preference for competition in contract awards as mandated by the CICA. LOA condition 1.2 states the USG is responsible for selecting the contractor to fulfill the LOA requirements. Additionally, condition 1.2 states the U.S. will select the contractor on the same basis utilized to make contractor selections to fulfill its own requirements. In other words, the norm for FMS contract awards is for the U.S. to use its competitive contract award process to select the contractor to fill the FMS customer's requirement. The SAMM C6.3.4 states that competitive source selection will be utilized to the maximum extent possible in support of FMS.

Foreign Military Sales Other Than Full and Open Competition by Customer Request

Section 1.2 of the LOA standard terms and conditions does permit the FMS customer to formally request a noncompetitive procurement be conducted on its behalf. Within the FMS community, a customer's request for procurement using other than full and open competition is commonly referred to as "sole source" when the contract to be awarded is expected to exceed the simplified acquisition threshold (FAR 2.101 and FAR part 6). Per the SAMM C6.3.4, an authorized official of the purchasing government may submit a written request, generally through the Security Cooperation Organization (SCO), that the Implementing Agency (IA) make the procurement from a specific organization or entity, or that competition be limited to specific organizations or entities. The Defense Attaché or comparable purchaser's representative in the United States may also submit these requests to the IA. A customer's other than full and open competition request should be submitted with the Letter of Request (LOR). FMS customers need not provide a rationale for the request.

Requests for other than full and open competition should be to meet the objective requirements of the purchaser and not for improper or unethical considerations. USG representatives must remain

objective in providing options or recommendations to the partner and may not solicit requests for other than full and open competition. In general, the USG does not investigate the circumstances behind a foreign purchaser's request to use other than full and open competition. DoD contracting agencies are encouraged to defer to a foreign purchaser's requests under the international agreement exception to the extent that they are not aware of any indication that such requests violate U.S. law or ethical business practices. The IA must consult with its counsel on cases where facts indicate that granting a request to use other than full and open competition may violate U.S. law or ethical business practices. If the IA determines that a request to use other than full and open competition should not be approved, the memorandum informing the purchaser must be coordinated with DSCA.

In addition to reviewing the customer's other than full and open competition request, the SAMM C6.3.4.6 also recommends the request be forwarded to the applicable PCO for information and advice. Typically, the PCO will have previous experience procuring the same or a similar item or service. DoD maintains data on past procurements and the performance of various vendors in fulfilling previously awarded DoD contracts. The USG may possess additional information indicating the customer's other than full and open competition selection may not be a practical procurement choice. In these instances, the PCO can inform the CM, who would provide this additional information to the FMS customer for further consideration.

Other than full and open competition requests typically specify a particular prime contractor. FMS customers may also request that specific subcontractors be utilized by the prime contractor. Requesting specific subcontractors limits the ability of DoD to hold prime contractors to performance and cost parameters. Normally, the prime contractor is responsible for selecting and overseeing subcontractor work to ensure all contract milestones are achieved. When an other than full and open competition subcontractor is specified, the prime contractor will be required to use certain subcontractors. This removes the prime contractor's ability to shift work away from under-performing subcontractors and could relieve the prime contractor from certain contract liabilities. If the FMS customer chooses to request specific subcontractors, the purchaser should be advised of the additional risk as they would bear the additional costs to correct any issues according to SAMM C6.3.4.4.

Per the SAMM, section C6.3.4.5, approved other than full and open competition requests must be documented in an LOA note. The rationale for documenting this approval in the LOA is to ensure compliance with the FAR. The fourth FAR exception for noncompetitive procurement permits noncompetitive procurement based on an international agreement. For FAR purposes, the LOA is considered to be an international agreement. An LOA containing an approved other than full and open competition note permits the USG PCO to initiate a noncompetitive procurement at the FMS customer's request while remaining in compliance with the FAR. A copy of the accepted LOA containing the other than full and open competition note should be forwarded to the applicable PCO to permit compliance with the FAR 6.3 requirements for noncompetitive procurements.

An other than full and open competition request may be considered after LOA acceptance. The same other than full and open competition review and decision process would occur. If approved, the accepted LOA would require an amendment to document the approval. If the other than full and open competition request is submitted by an official representative of the customer known to have equivalent or greater authority than the official who signed the LOA, then the other than full and open competition note can be added to the LOA via a modification. LOA modifications are unilateral documents that can be immediately implemented upon issuance.

Foreign Military Sales Other Than Full and Open Competition Without Customer Request

Although most FMS other than full and open competition procurements originate with the foreign customer, noncompetitive procurements can originate unilaterally with the USG. In this situation, although the FMS customer did not have any specific desires for a particular vendor, the USG managers conducting the procurement may determine that the FMS procurement needs to be conducted on a

noncompetitive basis. In this case, the USG managers must generate a written justification for the noncompetitive procurement based on one of the other FAR noncompetitive procurement exceptions (i.e., other than international agreement).

Competitive Source Selection

Unless the LOA reflects an approved customer request for procurement using other than full and open competition or the PCO has justified a noncompetitive award in accordance with another of the FAR exceptions, a competitive source selection process will be conducted. It is important for the FMS customer to recognize that the competitive process requires time to accomplish. Foreign customers often question why it may take so long to deliver an item under FMS. Part of the item lead-time involves the period necessary to plan and conduct the competitive source selection process.

Per the FAR, competitive source selection can be accomplished using one of three methods: Simplified Acquisition Procedures (SAP), sealed bids, or by negotiation. This represents a hierarchy of preferred use. For any given procurement, the first option should be to consider whether the procurement qualifies to be accomplished under SAP. If it does not meet the criteria for SAP, the next option is to evaluate whether sealed bidding criteria can be met. The final option, when the first two methods cannot be applied, is to use negotiation. This hierarchy reflects the degree of difficulty and cost invested by the USG in the procurement. SAP is the easiest and least costly type whereas negotiation requires the most government resources and incurs the highest cost.

Simplified Acquisition Procedures

SAP is aimed at streamlining government procurement. Price quotes are solicited from vendors, and the government then issues an order to the vendor providing the best value for the price. Given the reduced bureaucratic approach, dollar value limitations have been placed on the situations in which this method can be used. Purchases valued up to $150,000 involving noncommercial items are permitted, and because of the price regulating influences of the competitive commercial marketplace, this method can be used for purchases of commercial items valued up to $7 million. The FAR, part 13, describes this process.

Sealed Bids

Sealed bids are used if: time permits the solicitation, submission, and evaluation of bids; if the award can be made on the basis of price and other price-related factors; if it is not necessary to conduct discussions with the prospective vendors; and, if there is a reasonable expectation of receiving more than one sealed bid. Under sealed bidding, the government advertises its requirements and invites interested firms to submit bids. Vendors interested in competing submit their respective bids in accordance with the invitation for bid instructions. Generally, there will be a deadline date for bid submission and a date established when the government will open the bids. On the bid opening day, the USG will open and review all the bids submitted. The contract will most likely be awarded to the firm that submitted the lowest price bid that was responsive to the requirements. Responsive means that the bidder offered what the government requested and not something else. The FAR, part 14, describes this process.

Negotiation

Negotiation is used if any of the above conditions for SAP or sealed bidding cannot be met, and when it is necessary to conduct discussions with prospective contractors. The main steps in this process, as described in the FAR, part 15, are:

- ◊ The USG solicits competitive proposals
- ◊ Offerors prepare and submit proposals

- ◊ A competitive range determination is made by the USG to decide with which offerors to conduct written or oral discussions
- ◊ USG technical and price evaluation of proposals is conducted. In this process, the USG typically has two evaluation teams separately consider the merits of each proposal. One team will be comprised of specialists capable of distinguishing between the relative technical and qualitative benefits presented by each proposal; the other team, comprised primarily of financial and accounting experts, will review the price-related factors of each proposal.
- ◊ The USG selects and awards a contract to the vendor whose offer is most advantageous to the government. The most advantageous or best value offer is the one determined to provide the best combination of performance and price. It is not necessarily the lowest price offer or the best performing product or service.

Advertising for Competition

The federal government officially advertises all federal contracting opportunities valued over $25,000 from a single web site at: https://www.fbo.gov. FMS requirements are also advertised on this website for interested vendors.

Set-aside Procurements

As previously stated, all procurements for FMS will be conducted in compliance with FAR and DFARS policy and procedures. As such, the potential does exist for certain FMS procurements to be set-aside for special categories of businesses to exclusively compete. This is another example of the USG conducting FMS procurements in the same manner as it conducts procurements for itself. The FAR, part 19, describes this process.

Although procurements may be set-aside, the FAR also requires contract awards be made to responsible contractors. A responsible contractor is one the government believes to possess the ethics, resources, capability, and capacity to successfully deliver the contract requirements in a timely manner.

Contract Types

The decision concerning the type of contract to use in an FMS procurement is an internal USG decision. The USG will select the contract type for FMS in the same manner that it selects contract types for itself. Often, the USG will combine its own requirements with FMS requirements on a single contract. Although the USG will select the type of contract used to procure for FMS, the contract type may impact the customer when it comes to timely case closure. Under FMS, the financial policy is for the USG to recover the total cost of performance against the FMS case. The type of contract used in making FMS procurements can impact how long it will take to determine the total cost. More information on FMS case closure is contained in chapter 12 of this textbook, "Financial Management."

There are two fundamental categories of contracts used in DoD procurement: fixed-price and cost-reimbursement. Within these two broad categories, there is a wide variation of contract types.

Fixed-Price

Fixed-price contracts establish a price that is generally not subject to any adjustment, regardless of the costs the contractor subsequently accumulates in performing the contract. This type of contract makes the contractor responsible for managing costs or dealing with cost risks with little or no cost risk to the government. When a contractor delivers articles or services under a fixed-price contract and the USG accepts the product, no significant further action is required by either party. The government will pay the predetermined fixed price and the contract can be closed. The FAR standard for closing a fixed-price contract is within six months following final delivery.

Cost-Reimbursement

Cost-reimbursement contracts pay the contractor all incurred costs determined to be allowable per the provisions of the contract. These types of contracts are suitable only when the uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use a fixed-price contract. Under cost-reimbursement contracts, the contractor has less cost risk, whereas the cost risk to the government is higher. Under a cost-reimbursable contract, the contractor will submit contract performance cost data to the USG. The USG must then review this cost data to validate that the costs claimed by the contractor are allowable, allocable, and reasonable.

- ◊ Allowable means the cost category being claimed is considered to be a legitimate expense category by the FAR.
- ◊ Allocable means the cost is assignable or chargeable on the basis of relative benefits received or another equitable relationship.
- ◊ Reasonable means that the amount claimed by the contractor for an allowable and allocable share does not exceed that which would be incurred by a prudent person in the conduct of competitive business.

Due to the time necessary for the contractor to gather and report cost data and for the USG to perform any necessary review and audits of the cost data, it may take a lengthy amount of time to close out a cost-reimbursable contract. The FAR standard for closing cost contracts, following final delivery, is within twenty months for contracts without indirect rates and within thirty-six months for contracts with indirect rates.

Special Foreign Military Sales Contracting Considerations

Throughout this chapter, it has been emphasized that contracting for FMS will be in accordance with normal FAR and DFARS policies and procedures. As a result, contracting for FMS essentially mirrors the process DoD uses in contracting for itself. As may be expected, there are a few peculiarities associated with FMS contracts. The DFARS contains a special subpart that addresses these peculiarities. This subpart is DFARS 225.73, "Acquisitions for Foreign Military Sales."

Foreign Military Sales Solicitation and Contract Marking

DFARS states that all solicitations to industry for FMS requirements should separately identify the requirement as being for FMS and also indicate the specific FMS customer. It is important for industry to know this information because special rules concerning cost allowability for FMS may apply as discussed later in this chapter. Additionally, all awarded contracts containing FMS requirements are to be marked "FMS Requirement" and are to include the FMS case identifier code.

Contracting Officer Involvement in the Letter of Offer and Acceptance

The only person legally authorized to commit the USG in a procurement contract is a warranted PCO. A warrant is a specific certification provided to a federal employee or military officer that authorizes that person to commit the USG in contracts. The PCO along with other procurement professionals on the team will take the requirement identified on the LOA along with the LOA funding to ultimately award a contract with industry that is compliant with the FAR and DFARS requirements.

Potential future problems arising when the LOA is implemented for procurement can be identified and minimized through close coordination between the CM and the PCO. The DFARS states that the role of the PCO is to assist the FMS CM by:

- Assisting in preparing the LOA or price and availability (P&A) data
- Identifying and explaining all unusual contractual requirements or requests for deviations
- Reviewing sales commissions and other unique fees
- Communicating with potential contractors
- Identifying any logistics support necessary to perform the contract

Contract Pricing for Foreign Military Sales

The FAR and DFARS provisions are intended to ensure procurement at fair and reasonable prices. In addition to protecting the USG interests, the FAR and DFARS also attempt to treat contractors fairly. The provisions of DFARS subpart 225.7303-2 recognize that, in working to fulfill FMS contract requirements, contractors may incur legitimate additional business expenses they normally would not incur in DoD-only contracts. As a result, DFARS subpart 225.7303-2 permits certain types of costs to be allowable for FMS contracts. Although the same pricing principles are used, FMS contract prices are not always identical to the DoD contract prices. This situation is due to slightly different rules regarding cost allowability for FMS requirements than for DoD requirements. Examples of such allowable FMS contract costs include:

- Selling expenses
- Maintaining international sales and service organizations
- Sales commissions and fees in accordance with FAR, subpart 3.4
- Sales promotions, demonstrations, and related travel for sales to foreign governments
- Configuration studies and related technical services undertaken as a direct selling effort
- Product support and post-delivery service expenses
- Operations or maintenance training, or tactics films, manuals, or other related data
- Technical field services provided in a foreign country related to accident investigations, weapon system problems, operations/tactics enhancement, and related travel to foreign countries
- Offset costs, which are further defined later in this chapter

Although DFARS 225.7303-2 does permit certain costs for FMS to be allowable, the amount claimed by the contractors must also be determined to be both an amount appropriately allocable to the respective contract and reasonable in the rate charged. DFARS 225.7303-5 limits this special cost allowability provision to procurements originating from LOAs financed with either customer funds or repayable credits. If the LOA is financed by USG grant funds such as Foreign Military Financing Program (FMFP) funds or Military Assistance Program (MAP), then the cost allowability rules default back to the standard DoD criteria.

Sales Commissions

Sales commissions, referred to in the FAR as contingent fees, are generally allowable if the commission or fee is paid to an employee or a selling agency engaged by the prospective contractor for the purpose of legitimately securing business.

DFARS, 225.7303-4 permits contingent fees to exceed $50,000 only if the customer agrees to the fees in writing before contract award. In addition, by exception, the following countries must approve all contingent fees regardless of value before they can be considered allowable FMS contract costs:

Australia	Egypt	Greece	Israel
Japan	Jordan	Republic of Korea	Kuwait
Pakistan	Philippines	Saudi Arabia	Taiwan
Thailand	Turkey	Venezuela	

The SAMM, section C6.3.7.1, states that if sales commissions are part of a contract proposal, inclusion should be made known to the purchasing government prior to, or in conjunction with, the submission of the LOA to that government. The notification should include: the name and address of the agent; the estimated amount of the proposed fee, the percentage of the sales price; and a statement that appropriate officials of DoD consider the fee to be fair and reasonable or that the USG cannot determine the reasonableness of the proposed fee. This statement is normally included as an LOA note.

SAMM C6.3.7.4 states all LOAs which include contingent fees (regardless of value of the case) and all correspondence with a purchaser on the subject of contingent fees relative to Price and Availability (P&A) data or an LOA, as well as all post-LOA notifications about contingent fees, must be coordinated with DSCA.

Foreign Military Sales Customer Involvement in Contracting

The FMS process primarily involves the foreign customer in LOA related issues. After the LOA is accepted, internal USG processes are undertaken to fulfill the LOA requirements. Generally, these internal processes are accomplished without direct foreign purchaser involvement. The SAMM, section C6.3.5, states that sufficient details should be included in the LOA to allow the U.S. PCO to negotiate and award a contract without requiring foreign country representation or direct involvement in the formal negotiation process.

Although traditionally the norm has been no or very limited FMS customer involvement in the DoD contracting process, policy in both the SAMM and the DFARS does permit FMS customers to participate in certain elements of the contracting process. This policy supports the overarching intent for the FMS process to provide transparency to international customers. Unfortunately, there can be confusion on the part of employees within the DoD acquisition infrastructure (as well as by international purchasers) regarding the extent of FMS customer participation in the DoD contracting process. To highlight this issue, the DSCA Director issued policy memorandum 09-60 (see attachment 1) that elaborates on the DFARS provisions for customer participation. This memorandum states that many FMS customers with an interest in participation believe they are being summarily shut out of the contracting process, and as a remedy to this perception, it encourages the DoD acquisition community to follow the provisions of DFARS 225.7304 by actively seeking opportunities for customer participation. Additionally, the Director of Defense Procurement and Acquisition Policy (USD/AT&L/DPAP) issued a memorandum (see attachment 2) to the DoD acquisition community reiterating the importance of accommodating FMS customer involvement in acquisition programs. If an FMS customer has an interest in participating in the FMS acquisition process, these desires should be identified early in the LOA development process, preferably in the Letter of Request (LOR), in order that the LOA implementation plans can include customer participation.

The following outlines the areas, per the SAMM and the DFARS, that the customer may choose to have greater participation and other areas where customer participation is not permitted.

Source Selection

Competitive contract awards are the default procurement method for FMS. As discussed above, the FMS process does provide an option whereby the customer can request the USG contract on a non-competitive basis with a specific vendor in support of an LOA requirement. This process is referred to as an other than full and open competition request. Unless the customer submits an other than full and open competition request, the customer cannot provide direction regarding source selection decisions. LOA standard term and condition 1.2 states, "The Purchaser understands that selection of the contractor source to fill requirements is the responsibility of the USG, which will select the contractor on the same basis used to select contractors for USG requirements."

Additionally, the FMS purchaser is not permitted to interfere with a prime contractor's placement of subcontracts or to direct the USG to exclude certain vendors from participating in an FMS competitive source selection. Customers may suggest that certain additional firms be considered because this has the effect of increasing competition [see DFARS, 225.7304].

Contract Discussions

Although the USG should be able to accomplish contracting actions without FMS purchaser involvement, the SAMM C6.3.5.2 states that the PCO should consult with the FMS purchaser on any matter that could be perceived as inconsistent with or significantly different from the LOA. Per DFARS 225.7304, FMS purchasers may participate with USG acquisition personnel in discussions with industry to develop technical specifications, establish delivery schedules, and identify any special warranty provisions or other requirements unique to the FMS purchaser. Additionally, customers may participate in reviewing varying alternatives, quantities, and options needed to make price-performance trade-offs. The degree of participation of the FMS purchaser during contract negotiations is left to the discretion of the PCO after consultation with the contractor. USG personnel are not permitted to release any contractor proprietary data unless approved by the contractor. FMS customer participation may be limited in situations where the contract includes requirements for more than one FMS customer, the contract includes unique U.S. requirements, or negotiations involve contractor proprietary data.

Contract Negotiations

One area specifically excluded from customer participation is that of negotiations involving cost or price data unless a deviation from the Director of Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics) is granted [DFARS, 225.7304(e.3)]. Under FMS, the foreign purchaser has authorized the USG to solely negotiate the procurement contracts that originate from the LOA requirements. LOA standard term and condition 1.2 states, "The Purchaser agrees that the U.S. DoD is solely responsible for negotiating the terms and conditions of contracts necessary to fulfill the requirements of this LOA."

Contract Pricing

SAMM C6.3.6.1 states information concerning FMS contract prices can be provided to the FMS customer in order to demonstrate the reasonableness of the price and to respond to relevant questions concerning contract price. Pricing information may include top level pricing summaries, historical prices, or an explanation of any significant differences between the actual contract prices and the estimated contract price included in the initial LOA price. Other FMS unique contract pricing policies contained in DFARS 225.7303 were discussed above in the section titled "Contract Pricing for FMS."

Contract Release

The issue may arise as to whether copies of the USG procurement contract may be released to the foreign purchaser. As noted in the SAMM, section C6.3.6.2, all pertinent information and contractual obligations between the USG and the foreign purchaser are identified in the LOA. Consequently, there

should normally be no need to provide a copy of the contract to the foreign purchaser. However, if the contract is unclassified and provides only for the requirements of the requesting country without including USG or other country requirements, release can be considered by the PCO. Release of internal pricing or negotiation information is not permitted.

Contract Structure

Contracts for the procurement of FMS articles or services will be prepared according to FAR, DFARS, and any applicable agency subordinate supplements. The FAR, subpart 15.204-1, outlines a common format or structure to be used in federal contracts. This common contract structure is referred to as the uniform contract format. The ten core sections of a federal contract are differentiated by use of alphabetic section headings. As a result, federal contracts will be structured into ten sections under the headings of section A through section J.

Section A is titled "Solicitation/Contract Form." The reason for this dual title is that the federal government may develop a draft or proposed contract that is issued when seeking offers from vendors. When used in this type application, section A serves as a solicitation to vendors for contract offers. When the PCO is ready to accept a contract offer, section A further serves as a contract instrument that the PCO can also sign to award the contract. In summary, section A provides the cover page for the contract. It identifies, among other things, the contract number, the government procuring office, the contractor awarded the contract, and the government entity that will provide contract administration. Section A also bears the signatures of both the vendor's representative, or the party making the offer, and the official from the USG that awards the contract (i.e., the PCO).

Section B is titled "Supplies or Services and Prices/Costs." This section contains a brief description of the supplies or services that may include item numbers, National Stock Numbers (NSNs)/Part Numbers (PNs), article/service nomenclature, and quantities. Because a variety of different items or services can be purchased on the same contract, Contract Line Item Numbers (CLINs) are used to differentiate between various items or services being procured. If there are multiple requirements for the same item or service, a subordinate indenture structure can be used in the contract breaking down the overall CLIN requirements into sub-CLIN requirements. Use of CLINs and sub-CLINs enables PCOs to differentiate the individual requirements being procured within the same contract. Experience shows implementing separate CLINS or separately identified sub-line items helps to avoid billing errors and facilitates FMS case reconciliation and closure. Use of informational sub-CLINs for FMS requirements (rather than separately identified, scheduled, or priced sub-CLINs) should be avoided as these may increase the probability that payment errors could occur. Additionally, segregating each FMS requirement into its own CLIN or sub-CLIN may be necessary to reflect different FMS prices which may result from the provisions of DFARS, subpart 225.7303, "Pricing Acquisitions for FMS." More information on FMS contract pricing is contained in this chapter under the section title "Contract Pricing for FMS."

The SAMM C6.3.1 states that FMS requirements can be procured on the same contract with DoD requirements. However, the DFARS subpart 204.7104 states that separate contract sub-lines (i.e., sub-CLINs) should be used in contracts where individual contract requirements will be paid by more than one funding source or have different delivery dates/destinations. For FMS contract requirements, the DoD *Financial Management Regulation*, volume 15, paragraph 010302 states that new FMS procurements should directly cite the FMS trust fund account as the source of contract funding. This approach is known as direct cite funding. The fund cite code structure used in direct cite funding not only identifies the FMS trust fund, but also refers specifically to the purchasing FMS country, FMS case, and FMS line. As a result, when payments are made against the contract requirement, the fund source for those payments will be referenced directly back to the applicable LOA country, case and line that established the requirement. Contract payments for the applicable FMS CLIN or sub-CLIN will be billed to the respective FMS case and line. This payment information will be reported to

the FMS customer in the quarterly FMS billing statement. In order to facilitate proper FMS billing, financial reconciliation, and eventual FMS case closure, it is important that PCOs follow this process of breaking out each individual FMS contract requirement into its own respective CLIN or sub-CLIN. More information on the FMS trust fund and the quarterly FMS billing statement is contained in chapter 12 of this textbook.

Section C is titled "Description/Specifications/Statement of Work (SOW)." This is where the PCO can provide any description or specifications needed to elaborate on the section B information. This section is particularly important when services are being purchased because those services need to be adequately described. In some cases, this section may reference a separate SOW that is included in section J, which is a list of attachments. The SAMM C5.4.7.8 states that an LOA could potentially reference a separate SOW, memorandum of understanding (MOU), or performance work statement (PWS). Generally, the DoD procuring entity will develop a SOW or PWS based on the LOA requirements and then place the SOW or PWS on contract.

Section D is titled "Packaging and Marking." This section describes packaging, packing, preservation, and marking requirements. FMS shipments need to be packaged in accordance with SAMM C7.8, requiring not less than Military Level A/B standards as defined in MILSTD-129. FMS requirements will need to be marked according to MILSTD-129. See chapter 10 of this textbook for more information on FMS logistical considerations.

Section E is titled "Inspection and Acceptance." This section covers contract inspection, acceptance, quality assurance, and reliability requirements. LOA standard term and condition 1.2 states that DoD will apply the same quality, audit and inspection procedures for FMS procurements as it applies for internal DoD or U.S. military procurements. Also, LOA standard term and condition 5.1 states that the title to FMS materiel transfers at the initial shipping point. DoD will perform inspections according to the requirements in this section of the contract. If the materiel or service meets the contract requirements, a USG representative, usually from the Defense Contract Management Agency (DCMA) will accept contract performance.

Section F is titled "Deliveries or Performance." This section describes the time, place, and method of delivery or performance. Delivery schedules for hardware and services may be described in terms of calendar dates or specified periods of time from contract award date. The appropriate regulation clauses from the FAR, DFARS, and other agencies' supplements will be selected and inserted into section F. Any of the FMS customer's unique delivery requirements will apply. Delivery information for data is identified on the DD Form 1423 (Contract Data Requirements List—CDRL) and included in the contract.

Section G is titled "Contract Administration Data." This section will include accounting and appropriation data and contract administration information or instructions. This may include directions regarding use of Accounting Classification Reference Numbers (ACRNs) and invoicing instructions. ACRNs identify the source of funds to be used to pay for certain CLINS or sub-CLINs on the contract. As identified in the discussion concerning section B of the contract, the overall contract requirements should be broken down through the use of the CLIN or sub-CLIN structure based on the respective funding sources. As a result, each FMS requirement should be broken out on the contract as its own CLIN or sub-CLIN that references its own unique ACRN. For FMS, the ACRN will identify the source of funding to include the applicable country, case, and case line that will directly fund the contract requirement. Additionally, section G of the contract will include contract payment instructions. These are instructions selected by the PCO that will be followed by the contract payment office, Defense Finance and Accounting Service (DFAS), in making payments to contractors. In the FMS case reconciliation process, these instructions are used to validate how payments should have been made under the contract. Appropriate use of contract payment instructions, especially when multiple requirements with multiple funding sources (ACRNs) are present, will help preclude erroneous

payments and avoid the additional work of payment corrections. The PCO should select payment instructions from the standardized menu at DFARS 204.7108. The payment instructions should be assigned at either the contract line item level or at the entire contract level, but not at both levels.

Section H is titled "Special Contract Requirements." This section will include a clear statement of any special contract requirements that are not included in other sections of the uniform contract format.

Section I is titled "Contract Clauses." The PCO shall include in this section the clauses required by law or by the FAR. Most contract clauses are incorporated by reference. This means the full text of the clause is not included in the contract which prevents the cumulative length of this section from becoming too extensive. The entire text of the standard clauses may be found in FAR part 52 and DFARS part 252. As a result, only the clause reference and title normally appear in the contract.

Section J is the list of attachments. The applicable specifications identified in section C can typically be unwieldy and it is common for contract personnel to include such documents as attachments to the contract. Section J simply identifies a list of such attachments. The list of attachments will include a title, date, and number of pages for each. The content of section J may include the specification, statement of work, statement of objectives, and a list of addressees for CDRL exhibits.

Contract Administration Services

The contract administration function is an important part of the acquisition process. The scope of contract administration involves the monitoring of all facets of implemented contracts to ensure complete and effective performance by both the contractor and the USG. Specialists in contract administration, quality assurance, industrial security, financial management, and production management perform contract administration. The FAR, part 42.3, provides a detailed listing of seventy-one contract administration functions.

Normally, there will be a Procuring Contracting Officer (PCO) located at the MILDEP or defense agency. The PCO oversees the contract process through the contract award. Since the contractor may perform contract work at multiple geographic locations, it may be impractical for the PCO to perform day-to-day oversight in administering the awarded contract. As a result, the PCO generally delegates contract administration functions to an Administrative Contracting Officer (ACO) who is physically located near or at the contractor's facility.

Within DoD, the Defense Contract Management Agency (DCMA) is responsible for contract administration services. Before contract award, DCMA provides advice and services to help PCOs construct effective solicitations, identify potential risks, select the most capable contractors, and write contracts that meet customer needs. After contract award, DCMA monitors contractor performance and management to ensure that cost, product performance, and delivery schedules are in compliance with the terms and conditions of the contracts.

The DCMA regional commands (Eastern, Central, Western and International) contain geographically oriented Contract Management Offices (CMOs) that administer DoD contracts. More information on DCMA is available online at http://www.dcma.mil/.

The Defense Contract Audit Agency (DCAA) provides both pre-award and post-award contract audit and financial advisory services in support of DoD acquisitions for FMS. More information on DCAA is available on their web site: http://www.dcaa.mil/.

Foreign Military Sales Contract Administration

Contract administration is an integral part of the FMS process. The customer is entitled to this service as part of the FMS purchase. LOA standard term and condition 1.2 states, "When procuring for

the Purchaser, DoD will, in general, employ the same contract clauses, the same contract administration, and the same quality and audit inspection procedures as would be used in procuring for itself."

In the LOA, the customer is charged a Contract Administration Service (CAS) fee for FMS materiel and services delivered from procurement. The CAS fee has three primary cost components:

- Contract administration
- Quality assurance
- Contract audit

When contract administration is performed outside of the U.S., a fourth CAS fee component will be applied. More information on the CAS fee is contained in chapter 12 of this textbook, "Financial Management."

In accordance with the Arms Export Control Act (AECA), the cost of quality assurance, inspection, audit and other contract administration services may be waived for North Atlantic Treaty Organization (NATO) members and for NATO infrastructure programs if a reciprocal CAS agreement exists whereby these same services are provided to the U.S. without charge. The SAMM, tables C9.T5, C9.T6, and C9.T7 identify countries, programs, and organizations that have reciprocal CAS agreements with the U.S.. A brief description of the content for each CAS fee element is provided below.

- Contract administration includes financial services, contract management, review of contractor systems, price and cost analysis, negotiation of contract changes pursuant to the changes clause, final determination of cost allowability, termination settlements, plant clearance and disposal of contract inventories, and administration of government property.
- Quality assurance consists of inspection, testing, evaluation, and continuous verification of contractors' inspection systems or quality assurance programs. When unfavorable conditions are detected, requirements for corrective action are initiated by the contractor. All FMS requirements have the same quality assurance processes applied that DoD utilizes for its own contracts. The quality assurance function includes the USG inspecting and ultimately accepting or rejecting the contractor's performance under provisions of the contract. At the point of acceptance, the USG takes title to the materiel which subsequently transfers to the FMS purchaser at the manufacturer's loading facility prior to shipment per LOA standard term and condition 5.1. USG acceptance of performance is documented by either a DD Form 250, "Material Inspection and Receiving Report" (see Figure 9-1), or by generating a Receiving Report acceptance within the Wide Area Workflow system.
- Contract audit consists of financial services provided by DCAA in connection with the negotiation, administration, and settlement of contracts and subcontracts; these include evaluating the acceptability of costs claimed or proposed by contractors and reviewing contractor cost control systems.

Figure 9-1

DD Form 250 Material Inspection and Receiving Report

MATERIAL INSPECTION AND RECEIVING REPORT

Form Approved
OMB No. 0704-0248

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0248), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE ABOVE ADDRESS.
SEND THIS FORM IN ACCORDANCE WITH THE INSTRUCTIONS CONTAINED IN THE DFARS, APPENDIX F-401.

1. PROCUREMENT INSTRUMENT IDENTIFICATION (CONTRACT) NO.	ORDER NO.	6. INVOICE NO./DATE	7. PAGE	OF	8. ACCEPTANCE POINT

2. SHIPMENT NO.	3. DATE SHIPPED	4. B/L TCN	5. DISCOUNT TERMS

9. PRIME CONTRACTOR CODE	10. ADMINISTERED BY CODE

11. SHIPPED FROM *(If other than 9)* CODE	FOB:	12. PAYMENT WILL BE MADE BY CODE

13. SHIPPED TO CODE	14. MARKED FOR CODE

15. ITEM NO.	16. STOCK/PART NO. DESCRIPTION *(Indicate number of shipping containers - type of container - container number.)*	17. QUANTITY SHIP/REC'D*	18. UNIT	19. UNIT PRICE	20. AMOUNT

21. CONTRACT QUALITY ASSURANCE

a. ORIGIN

☐ CQA ☐ ACCEPTANCE of listed items has been made by me or under my supervision and they conform to contract, except as noted herein or on supporting documents.

DATE SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE

TYPED NAME:

TITLE:

MAILING ADDRESS:

COMMERCIAL TELEPHONE NUMBER:

b. DESTINATION

☐ CQA ☐ ACCEPTANCE of listed items has been made by me or under my supervision and they conform to contract, except as noted herein or on supporting documents.

DATE SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE

TYPED NAME:

TITLE:

MAILING ADDRESS:

COMMERCIAL TELEPHONE NUMBER:

22. RECEIVER'S USE

Quantities shown in column 17 were received in apparent good condition except as noted.

DATE RECEIVED SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE

TYPED NAME:

TITLE:

MAILING ADDRESS:

COMMERCIAL TELEPHONE NUMBER:

** If quantity received by the Government is the same as quantity shipped, indicate by (X) mark; if different, enter actual quantity received below quantity shipped and encircle.*

23. CONTRACTOR USE ONLY

DD FORM 250, AUG 2000 PREVIOUS EDITION IS OBSOLETE.

Contract Financial Management

DoD is responsible for making payments to contractors in accordance with the contract. It is common practice to make "progress payments" to contractors prior to delivery. These payments cover a percentage of costs incurred as work progresses. The customary progress payment rates on DoD contracts are 80 percent of the total estimated contract cost for large businesses and 90 percent for small businesses [DFARS 232.501-1]. This rate schedule also applies to contracts awarded for FMS requirements

Progress payments are often predicted in advance, using cost expenditure curves developed from typical DoD contract expenditure rates. Therefore, the anticipated progress payments, plus any hold back for termination costs, form the basis for the FMS customer's LOA payment schedule.

It is important that LOA data and the actual contract performance progress be kept in balance. The LOA documents the USG's best estimate of cost and delivery information. The FMS customer's expectations are based on the LOA. If deviations from the LOA estimates become apparent during contract performance, the customer should be notified and an LOA amendment or modification issued. Early notification to the customer is important to permit the customer to decide and exercise any alternate options or, to make arrangements to accommodate revised cost or delivery schedules.

Any change from the original LOA commitments may be significant to the FMS customer. In one case, a contractor offered the USG the opportunity for early delivery of a major FMS requirement. Historically, contract early delivery has generally been viewed as a positive situation, provided there is no increase in total contract cost. In this situation, the PM agreed to the early delivery because there was no increase in contract cost. However, accepting early delivery generated an accelerated financial demand by the U.S. for LOA payments from the FMS customer. Unfortunately, the customer's budget was already established to support the original estimate of payments, and this early delivery decision caused significant problems for the FMS customer.

Contract Administration of Direct Commercial Sales

Eligible governments purchasing U.S. goods and services via direct commercial sale (DCS) may request DCMA offices and the DCAA auditors to provide contract administration and contract audit functions. To do this, the foreign customer must submit an LOR for these services to DCMA.

These services for DCS purchases are normally authorized and reimbursed through a blanket order LOA arranged between the foreign purchaser and DCMA. Such an LOA would establish an estimated dollar value against which individual contract administration requests could be placed during a specified ordering period. DCMA may also prepare a defined order LOA to respond to a foreign customer's request for services that are applicable to a specific contract.

Offsets

An offset is a package of additional benefits that a contractor agrees to provide in addition to delivering the primary product or service. Offsets generally apply only to acquisitions of major systems. In the international marketplace, there are numerous armaments producers competing to sell their systems to prospective purchasers. When a country makes the decision to procure a major foreign system, significant amounts of national funds flow out of that country's economy. Given the cost of today's modern systems, the cash outflow may involve hundreds of millions or even billions of dollars; as a result, purchasing countries often desire to leverage this huge foreign expenditure to obtain additional benefits for their nation in addition to acquiring the weapon system itself. This package of additional benefits, which is intended to compensate for the huge financial outflow, is referred to as an offset.

Offsets are recognized as a legitimate, legal business arrangement found in international acquisitions. Offsets in defense trade began in the late 1950s. Today, offsets continue to be an important element in defense trade with the majority of offsets involving aerospace industry sales. Offset requirements may be established in conjunction with either FMS or DCS acquisitions.

Types of Offsets

Various terms are used to describe different types of offset arrangements, including "offsets," "coproduction," "buy-backs," "barter," "counter-purchase," "compensation," and "counter-trade." However, all offsets can fundamentally be categorized into two types: direct offsets and indirect offsets.

A direct offset is a form of compensation provided to a purchaser that involves goods directly related to the item being purchased. As an example, a U.S. contractor may agree to permit the purchaser to produce certain components or sub-assemblies of the weapon system in-country.

An indirect offset is a form of compensation provided to a purchaser that involves goods which are unrelated to the item being purchased. For example, a contractor may agree to purchase, usually for resale, certain manufactured products, agricultural commodities, raw materials, or services produced by the customer country.

Congressional Interest and Notification

As the number and variety of offset programs has increased, so has the concern of many government agencies, private industries, labor officials, and the media over the impact of offsets on U.S. domestic industries. These concerns include the impact of these trade practices on American jobs, the U.S. balance of payments, technology transfer, and the long term consequences for the U.S. and foreign economies. The President is required to submit to Congress an annual report on the impact of offsets on defense preparedness, industrial competitiveness, employment, and U.S. trade. The Secretary of Commerce prepares the report in consultation with the Secretaries of Defense, Treasury, and State, and the U.S. trade representative. A link to this annual offset report to Congress is included in the references section of this chapter.

The AECA, section 36(g), requires Congressional notification of proposed FMS and commercial export sales which include offset agreements. The information provided to Congress includes a general description of the performance required for the offset agreement. This description should indicate if a known offset requirement exists, whether the country has a standard offset requirement, if the offsets provided will be direct or indirect, and the estimated percentage of each. If there is no offset agreement at the time of the notification, that should be so stated. Offset reporting is treated as confidential information that remains classified even after the statutory Congressional notification is complete.

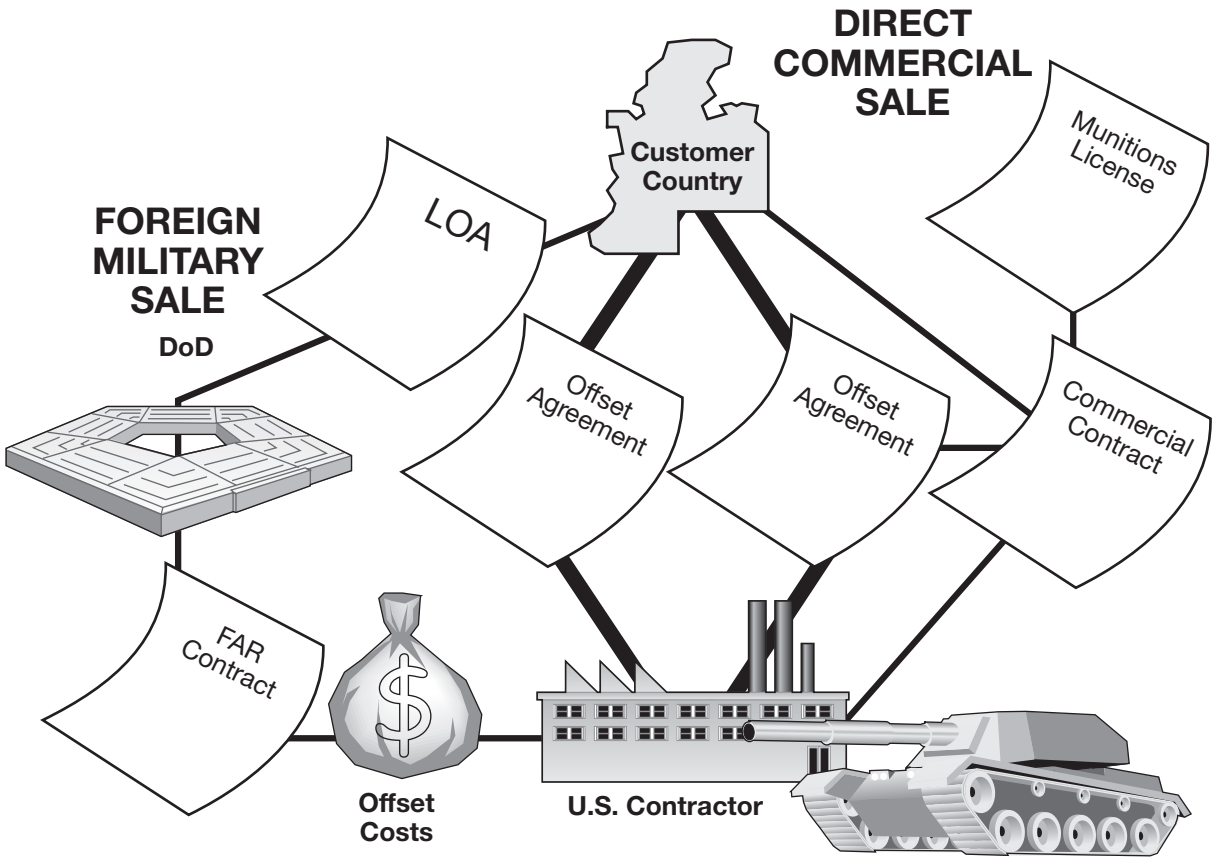
United States Government Offset Policy

Offsets are permissible under FMS. However, it must be emphasized that the offset agreement is between the purchasing country and the U.S. contractor. The USG is not a party to the agreement and does not retain any obligation to enforce the contractor's performance of the agreement. Figure 9-2 illustrates the offset relationship. This appears to be, and is in fact, an odd arrangement. In an ideal world, the USG would prefer that offset agreements did not exist; however, the reality of the marketplace is that other countries are competing for international business and are willing to provide offset packages to prospective purchasers. If the USG prohibited offsets under FMS, U.S. firms would be at a huge disadvantage in international competition.

The Presidential Policy on offsets in military exports was announced by President George H.W. Bush on 16 April 1990 and was subsequently codified into law by the Defense Production Act Amendments of 1992. The key provisions of the policy on offsets are:

- No USG agency shall encourage, enter directly into, or commit U.S. firms to any offset arrangement related to the sale of U.S. defense articles or services
- USG funds shall not be used to finance offsets
- Negotiations or decisions regarding offset commitments reside with the companies involved

Figure 9-2
Offset Relationships



Offset Costs

When a customer requires an offset in association with a major procurement, do they actually obtain the offset benefit at no cost? The fundamental principle of business dictates that any enduring enterprise cannot incur expenses that exceed revenue. This extends to defense sales involving offsets. Firms may agree to perform an offset to win an acquisition competition, but they must recover the cost to perform the offset through the price charged in the primary system contract. In a direct commercial contract, the contractor must build the anticipated cost for performing the offset into its contract prices.

Under FMS, the offset cost recovery process is awkward. The USG wants U.S. firms to successfully compete for international business and permits offset arrangements as a legal business activity. Likewise, the USG wants international customers to have the option to purchase military systems using either the FMS process or the DCS process. Under FMS, the contractor is actually working directly for DoD, but the USG permits this same contractor to concurrently enter into an offset agreement directly with the FMS purchaser. Although DoD is clearly not a party to the offset agreement, the DFARS,

subpart 225.7303-2 recognizes that contractors performing business in support of foreign governments or international organizations may incur certain additional legitimate business costs. Offset costs are one type of cost the DFARS considers as allowable. Contractors are permitted to build the cost of performing the offset into the contract price it charges the USG. Under FMS pricing policy, the USG must recover all the costs of conducting FMS; as a result, if offsets are required by the purchasing country, the LOA price will be incrementally higher in order to cover the cost of the offset. So, on the surface, it may appear that the customer is receiving the offset at no cost, but offset expenses are actually included as a part of the applicable line item unit cost in estimated prices quoted in the LOAs. It is the contractor's responsibility to inform the implementing agency when estimated offset costs have been included in FMS pricing.

The additional cost to perform the offset generally results in a higher contract cost which, in turn, results in a higher FMS cost under the LOA. Although not a party to the offset agreement, the USG serves as the banker for the offset. Although the DFARS states offset costs will be considered allowable, it does not mean the contractor does not have to exercise fiscal responsibility in offset performance. The DFARS requires the PCO to review and determine that the contract costs, to include direct offset costs claimed by the contractor, are both allocable and reasonable. A recent change to DFARS 225.7303-2 directs that all indirect offset costs are to be deemed reasonable with no further analysis necessary by the PCO if the contractor provides the PCO a signed offset agreement or other documentation showing that the FMS customer made the indirect offset of a certain dollar value a condition of the FMS acquisition. LOA standard term and condition 2.8 reflects this policy change by referring to the DFARS but does not make specific reference itself to indirect offsets.

It is important to note that the DFARS provision permits offset costs to be included in the costs billed to the USG under the procurement contract only if the LOA is funded with customer funds or repayable credits. If the LOA is funded with non-repayable FMFP funds, offset costs are not allowable.

It is inappropriate for USG personnel to discuss with the foreign government the nature or details of an offset arrangement with a U.S. contractor. However, the fact that offset costs have been included in the P&A or LOA price estimates will be confirmed, should the customer inquire. The customer should be directed to the U.S. contractor for answers to all questions regarding its offset arrangement, including the offset costs.

Offset LOA Standard Term and Condition

LOA standard term and condition 2.8 addresses offsets. This condition summarizes the USG policy regarding offsets in association with FMS.

> The USG is not a party to any offset agreements/arrangements that may be required by the Purchaser in relation to the sales made in this LOA. The USG assumes no obligation to administer or satisfy any offset requirements or bear any of the associated costs. To the extent that the Purchaser requires offsets in conjunction with this sale, offset costs may be included in the price of contracts negotiated under this LOA. Such costs shall be determined or deemed to be reasonable in accordance with SUBPART 225.73 of the Defense Federal Acquisition Regulation Supplement (DFARS). If the Purchaser desires visibility into these costs, the Purchaser should raise this with the contractor during negotiation of offset arrangements.

Summary

The fundamental principle regarding contracting for FMS requirements is that the USG essentially treats the FMS customer's requirements as if they were USG requirements. In contracting for FMS, the same contracting regulations, policies and procedures are applied. Per the SAMM, this is one of the principal reasons customers select the FMS system rather than contracting themselves using direct commercial processes.

The unique aspects of the procurement process that pertain to FMS are few in number, but they have a major impact on the FMS process. Competitive source selection is the norm; however, the FMS customer has the option to use other than full and open competition if they desire the USG to contract with a specific firm. Under other than full and open competition procedures, the FMS customers need not provide a rationale for the request.

The USG also has established a comprehensive contract administration infrastructure that will be used to oversee the execution of contracts awarded in support of FMS requirements. Again, the USG uses the same contract administration, quality assurance and contract audit processes for FMS that it uses for normal DoD business.

Offsets are an international market reality. Offsets are permitted in association with FMS when the LOA funding the procurement contract is financed by customer cash or repayable credit. If the LOA is funded by USG grant funds, offset costs claimed by the contractor will be considered unallowable.

References

DSCA Manual 5105.38-M, *Security Assistance Management Manual* (SAMM), chapters 3, 5, 6, and 9. http://www.samm.dsca.mil/.

Federal Acquisition Regulation (FAR), parts 6, 14, 15, 16, 25, and 31. https://www.acquisition.gov/far/.

Defense Federal Acquisition Regulation Supplement (DFARS), Subpart 225.73-Acquisitions for Foreign Military Sales, Foreign Acquisition. http://www.acq.osd.mil/dpap/dars/dfars/html/current/tochtml.htm.

Department of Commerce. *Offsets in Defense Trade*, Twentieth Report to Congress. https://www.bis.doc.gov/index.php/forms-documents/pdfs/1449-final-20th-offsets-in-defense-tradereport-public-report/file.

Attachment 9-1
DSCA Policy Memorandum 09-60, dated 22 December 2009

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

DEC 2 2 2009

MEMORANDUM FOR DEPUTY UNDER SECRETARY OF THE AIR FORCE INTERNATIONAL AFFAIRS
DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR DEFENSE EXPORTS AND COOPERATION
DEPUTY ASSISTANT SECRETARY OF THE NAVY FOR INTERNATIONAL PROGRAMS
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY
DIRECTOR FOR SECURITY ASSISTANCE, DEFENSE FINANCE AND ACCOUNTING SERVICE – INDIANAPOLIS OPERATIONS
DIRECTOR, DEFENSE INFORMATION SYSTEMS AGENCY
DIRECTOR, DEFENSE LOGISTIC AGENCY
DIRECTOR, DEFENSE INFORMATION SERVICE
DIRECTOR, DEFENSE REUTILIZATION AND MARKETING SERVICE
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY
DEPUTY DIRECTOR FOR INFORMATION ASSURANCE, NATIONAL SECURITY AGENCY

SUBJECT: Foreign Military Sales (FMS) Customer Participation in the DoD Contracting Process, DSCA Policy 09-60

In 2002, the Security Cooperation Community led the effort for customer participation and acquisition transparency in DoD contracts awarded on behalf of Foreign Military Sales (FMS) customers. We successfully sponsored the November 22, 2002, Defense Federal Acquisition Regulation Supplement (DFARS) amendment that provided authorization for FMS customers to participate in specifications development, delivery schedule development, identification of warranties, and other contractual requirements unique to the customer.

The DFARS change encourages customer participation in both the acquisition process and discussions with industry. Customers also are allowed to participate in the contract negotiation process within the limitations of the section, to the degree authorized

by the contracting officer (CO). The section specifically protects against unauthorized release of proprietary data and improper influence on the contracting process.

Transparency and cooperation build customer confidence and teamwork. Early dialog with customers on specifications, schedules, and unique requirements, strengthens acquisition planning and provides specificity for scope development. Frank discussion of alternatives and options increases customer confidence in the decision process. Responsible inclusion in negotiations invests our customers with a sense of ownership of the process.

The DFARS empowers the CO to determine the degree of customer participation in the acquisition process. Further it requires the CO to provide the customer an explanation if, and how, its participation will be limited.

We have customers who are interested in actively participating in FMS acquisitions, but believe they are being summarily shut out of the process. I request that you encourage each of your acquisition communities to take up the spirit of DFARS 225.7304 and actively seek opportunities for customer participation in DoD acquisitions for FMS.

Jeffrey A. Wieringa
Vice Admiral, USN
Director

cc:
STATE/PM-RSAT
AFRICOM
CENTCOM
EUCOM
JFCOM
NORTHCOM
PACOM
SOCOM
SOUTHCOM
TRANSCOM
USASAC
SATFA TRADOC
NAVICP
NETSAFA
AFSAC
AFSAT
DISAM

Attachment 9-2
OUSD AT&L/DPAP Memorandum, dated 21 July 2011

OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION, TECHNOLOGY AND LOGISTICS

JUL 21 2011

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY (PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION AND PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Customer Involvement in Foreign Military Sales (FMS) Acquisitions

The Foreign Military Sales (FMS) Program is authorized under the Foreign Assistance Act of 1961 and the Arms Export Control Act as an instrument of United States foreign policy to provide defense articles and defense services to friendly countries and international organizations in order to deter and defend against aggression, facilitate common defense, and strengthen the security of the United States.

In November 2002, the Defense Federal Acquisition Regulation Supplement (DFARS) was amended at Subpart 225.7304 to provide authorization for FMS customers to participate with U.S. Government acquisition personnel in discussions with industry to develop technical specifications, establish delivery schedules, identify any special warranty provisions or other requirements unique to the FMS customer, and review prices of varying alternatives, quantities, and options needed to make price-performance tradeoffs.

Many FMS customers have voiced interest in actively participating in FMS acquisitions. I ask that you seek opportunities to enhance FMS customer involvement in your acquisition programs in order to foster better understanding, strengthen alliances, provide transparency, and build customer confidence and teamwork.

Should you have additional questions on this policy, please contact Mr. Jeff Grover at 703-697-9352 or e-mail address jeffrey.grover@osd.mil.

Richard Ginman
Director, Defense Procurement
and Acquisition Policy

Chapter

10 Logistics Support of Security Cooperation Materiel Transfers

Introduction

For Foreign Military Sales (FMS) customers, the weapon system acquisition phase involves configuration identification of the weapon system and the ordering of all related logistics products and services needed to field the weapon system in-country. It includes the monitoring of procurement milestones and the tracking of deliveries in-country. This phase ends with the delivery of the weapon system to the foreign purchaser. Initial support is an extension of the weapon system acquisition phase. It is the establishment of initial maintenance capabilities and materiel support. Initial support is part of the total package provided to the international customer by the Department of Defense (DoD). Follow-on support, discussed later in this chapter, consists of sustainment programs selected by the customer to provide continuing support as the initial support package is depleted.

The DoD does not have a separate logistics system to support foreign military requirements resulting from security assistance (SA)/security cooperation (SC) efforts. Rather, these requirements are satisfied by using existing DoD logistics systems. Therefore, understanding how the basic DoD logistics system components fit together and function is a prerequisite to understanding the relatively minor logistics adaptations that have been made to accommodate SA/SC requirements. This chapter provides an overview of the DoD logistics system and highlights specific logistics issues and adaptations unique to SA/SC.

The Total Package Approach

The DoD policy (SAMM C4.3.2) is to offer the FMS purchaser a complete sustainability package when developing a Letter of Offer and Acceptance (LOA) for non-excess systems. This policy is referred to as the Total Package Approach (TPA). TPA ensures that FMS purchasers receive all support articles and services required to introduce and sustain equipment, and that items can be operated and maintained in the future. In addition to the system itself, other items to consider in a total package include initial spares, support equipment, training, publications, technical assistance, munitions, and follow-on support. The necessary planning for follow-on support, training, and other elements of continuity should occur simultaneously with the development of the initial total package.

Logistics

Before discussing the function of DoD logistics, it is appropriate to examine what is generally meant by the term logistics. The *DoD Dictionary of Military and Associated Terms* (Joint Pub 1-02) defines logistics as planning and executing the movement and support of forces. In its most comprehensive sense, it is those aspects of military operations which deal with design and development, acquisition, construction, storage, movement, distribution, maintenance, evacuation, and disposition of materiel, and the furnishing of services.

Logistics is a full system, an integrated whole, which involves four elements: acquisition, distribution, sustainment, and disposal. Thus, this chapter focuses on the elements of supply, transportation, and maintenance. A discussion of the acquisition element of the logistics process is provided in chapter 9 of this textbook.

Supply

Supply is a term that has a variety of meanings. Often, the term supply is used in a collective sense, much like logistics, to include acquiring, managing, receiving, storing, and issuing materiel to required forces. Logistics support to FMS cases potentially encompasses all of these functions. Within the military departments (MILDEPs) and the Defense Logistics Agency (DLA) are the organizations responsible for acquiring/managing supplies and for the materiel management functions of receiving, storing, and distributing items.

Item Classification

There are several ways to classify and manage items in the DoD supply system. Primary items, also called major items, are a final combination of end products, component parts, and/or materials which are ready for their intended use, e.g., aircraft, ships, tanks, and weapon systems. Each of the military services manages its own major items. Due to the high acquisition costs involved and the attendant absence of available stocks, major items acquired through FMS are usually a procurement lead-time away.

Secondary items are all items not defined as primary or major items. These include repairable components, sub-systems and assemblies, consumable repair parts, bulk items and materiel, subsistence, and expendable end items (including clothing and other personal gear). Secondary items generally fall into two categories. Repairable items are generally higher cost, non-expendable items, e.g., radios, generators, etc., that can be economically repaired when they fail. Consumable items are usually low-cost and expendable items, such as gears, bearings, and gaskets that cannot be economically repaired.

Integrated Materiel Management

One objective of integrated materiel management is to minimize or eliminate duplication of item management. The wholesale management of a given item for all of DoD is assigned to a single inventory control point (ICP).

Approximately 90 percent of the items in the DoD supply system have a single manager. The majority of these items are managed by DLA through its supply centers. However, the ICPs in the military departments (MILDEPs) also serve as single item managers. Most of the items which remain under MILDEP management are peculiar to the individual service or directly related to the operation of a particular weapon system, or are identified as high cost items worthy of MILDEP management.

Retail versus Wholesale Item Management

The term retail item refers to those stocks at the base or operational organization level that are available for local area support. Wholesale items are those stocks that are available for resale, e.g., for further distribution by an ICP to a base or unit. Purchasers are expected to establish their own retail supply system in-country and replenish their retail stocks from the in-country wholesale or ICP management level. An FMS blanket order case or a cooperative logistics supply support arrangement (CLSSA) can be used to replenish the in-country wholesale supply management level.

Transportation

Transportation involves the movement of equipment from point of origin to final destination. U.S. government (USG) policy states that FMS purchasers should be responsible for as much of the transportation process as possible beyond the continental U.S. (CONUS) port of embarkation (POE). The DoD becomes involved as an exception in certain complex FMS transportation actions. To help accomplish these tasks, the procedures prescribed in DoD 4500.9-R, *Defense Transportation Regulation*, Part II, Cargo Movement, are applied. These procedures standardize and automate document flow. The Surface Deployment and Distribution Command (SDDC) is responsible for the administration of

the procedures prescribed by DoD 4500.9-R, which uses Military Standard Requisitioning and Issue Procedures (MILSTRIP) to create and exchange standard shipping data for recording and reporting shipping status and to control materiel movements in the Defense Transportation System (DTS). Much more information on transportation is provided in chapter 11 of this textbook.

Maintenance

Each military service is delegated the responsibility for defining tasks to be performed at the various levels of the maintenance organization chain to ensure effective and economic support of weapons and equipment. An analytical system is used to identify the maintenance level at which an item will be replaced, repaired, or thrown away based on economic considerations and operational readiness requirements. This level of repair analysis is usually performed by a prime contractor or original equipment manufacturer (OEM) and is subsequently approved by the weapon system program manager.

There are two generic levels of maintenance in DoD: field maintenance and depot maintenance. The level of maintenance employed by each of the U.S. military services is dependent upon the weapon system being maintained. Not all FMS customers employ these levels for all their equipment. Each weapon system sale must take into consideration the purchaser's operating requirements, maintenance capabilities, and investment costs in developing a tailored maintenance plan for the specific purchaser.

Field Maintenance

Field maintenance consists of organizational and intermediate maintenance. Organizational maintenance is performed by individual operational organizations on their own equipment. Organizational maintenance duties include inspecting, servicing, lubricating, adjusting, and replacing parts, minor assemblies, and subassemblies.

Intermediate maintenance is performed by separate maintenance activities to support operational users. Intermediate maintenance is normally accomplished in fixed or mobile shops, tenders, shore-based repair facilities, or by mobile teams. Its phases include: calibration, repair or replacement of damaged or unserviceable parts, components, assemblies, manufacturing critical non-available parts, and providing technical assistance.

Depot Maintenance

This level of maintenance is performed by designated activities to support organizational and intermediate maintenance. It employs more extensive shop facilities, equipment, and personnel of higher technical skill than are available at the lower levels of maintenance. Its phases include inspection, test, repair, modification, alteration, modernization, conversion, overhaul, reclamation or rebuild of parts, assemblies, subassemblies, components, equipment end items, and weapon systems. It is normally accomplished in fixed shops, shipyards, and other shore-based facilities, or by depot field teams. It can be performed by DoD personnel or by commercial contractors.

Purchasing countries can establish FMS cases to get items repaired, most commonly at the depot level. Purchaser country repair requirements are integrated with the repair programs of the DoD military services and are accomplished by organic military repair facilities (i.e., Army maintenance depots, Aerospace Sustainment Directorates [formerly Air Logistics Centers], Navy aviation depots, Navy shipyards) or by civilian contractors.

Inventory Control Points

The primary players in the DoD wholesale system are the ICPs, i.e., Army Life Cycle Management Commands (LCMC), the Air Force Life Cycle Management Center and Air Force Sustainment Center, the Navy ICPs and systems commands, and the various DLA supply centers and depots. ICPs play a major role in satisfying both U.S. and foreign military requirements placed on the DoD logistics system.

Prior to discussing the role of ICPs and depots in satisfying these requirements, it is helpful to understand the functions of these activities. Each stock numbered item is controlled by an item manager (IM), usually located at the ICP. The IM's functions include determining requirements: establishing stock levels, initiating procurements, and providing distribution. For secondary items, IMs also manage overhauls and disposals. While the ICPs participate in the management of major end items/systems, i.e., tanks, aircraft, ships, and etc., they do not have primary responsibility for determining the MILDEP quantities for these items.

An ICP's role in SA/SC begins with the receipt of taskings from agencies that write FMS LOAs for those items managed by the ICP. ICPs help develop LOAs by providing pricing information for items sold on defined order cases/lines such as ammunition and support equipment.

Major item sales cases usually include the repair parts required to support the major item for a twelve to twenty-four month period. Those repair parts are considered "initial support" or "concurrent spare parts" (CSP). The ICPs are responsible for recommending the range and quantity of repair parts to be included for initial support, based upon operational use factors provided by the purchaser.

CLSSAs require a recommended list of repair parts to be stocked in support of the purchasing country. The MILDEPs' ICPs develop the list which includes recommended quantities and the cost for each item. CLSSA will be discussed in detail later in this chapter.

Upon acceptance and implementation of the LOA, the ICPs and the DLA supply centers are the supply activities responsible for satisfying the foreign purchaser's requisitions for items which they manage. Within guidelines established by DoD, they may either issue items directly from available stocks or, when necessary, procure the materiel.

Navy Inventory Control Points

Within the Department of the Navy (DON), there are five systems commands that serve as ICPs. They manage primary and secondary Navy or Marine Corps (USMC) assets.

- The Naval Supply Systems Command (NAVSUP) provides materiel support needs of the DON, such as supply management policies and methods. A subordinate activity of NAVSUP is the NAVSUP Weapon Systems Support, which serves as the inventory control point from two locations. The activity located at Mechanicsburg, Pennsylvania manages ship spares, and the activity located at Philadelphia, Pennsylvania manages aircraft spares.
- The Naval Air Systems Command (NAVAIR) headquartered in Patuxent River, Maryland, manages naval aircraft and air-to-air missiles, as well as their associated support equipment and repair depots.
- The Naval Sea Systems Command (NAVSEA) headquartered in Washington, DC manages Navy ships, boats and submarines, as well as surface-to-air missiles and their associated support equipment and repair depots.
- The Space and Naval Warfare Systems Command (SPAWAR) headquartered in San Diego, California, manages the Navy's communications and electronics systems.

- The Marine Corps Systems Command (MARCORSYSCOM) headquartered in Quantico, Virginia, manages all Marine Corps specific vehicles, weapons equipment. It also develops and manages Marine Corps FMS cases for the DON.

Army Inventory Control Points

Within the Army structure, there are four life cycle management commands, each with an SA management directorate (SAMD).

- The Tank Automotive and Armaments Command (TACOM), headquartered in Warren, Michigan, manages soldier and ground systems (tracked and wheeled vehicles, and associated support equipment).
- The Aviation and Missile Command (AMCOM), located in Huntsville, Alabama, manages missiles, helicopters, and associated equipment.
- The Communications-Electronics Command (CECOM), located at Aberdeen Proving Ground, Maryland, is responsible for the Army's communications and electronic equipment, as well as cryptography.
- The Joint Munitions Command (JMC), headquartered at Rock Island Arsenal, Illinois, is the single manager of munitions for the DoD.
- Although not a life cycle management command, the Program Executive Office for Simulation, Training and Instrumentation (PEO-STRI), located in Orlando, Florida, provides simulation, training and products and services to U.S. and foreign forces worldwide.

These ICPs all belong to the Army Materiel Command (AMC). The Army ICPs manage not only the primary (major) end-items, but also the secondary and support equipment and repair facilities for their respective major items.

Air Force Inventory Control Points

Within the Air Force, materiel management responsibility belongs to the Air Force Materiel Command (AFMC), which includes the Air Force Life Cycle Management Center (AFLCMC) and the Air Force Sustainment Center (AFSC). Primary items are managed by Program Executive Offices (PEOs), while depot repairables and secondary support items are managed by air logistics complexes.

Major Air Force weapon systems include:

- Aircraft systems and related equipment are managed through various PEOs at Wright-Patterson Air Force Base (AFB), Ohio. These systems include the B-2, F-117A, C-17, CV-22, AC-130, MC-130, T-6A, T-1A, and C-5, and C-130 upgrades. The PEOs at Wright-Patterson AFB also manage unmanned aircraft systems and provide resource support for F-22, F-35 and airborne laser programs.
- Armaments are managed at Eglin AFB. The armaments directorate develops, tests, and fields all air-delivered weapons. The armaments directorate plans, directs, and conducts tests and evaluations of U.S. and allied air armament, navigation/guidance systems, and command and control systems.
- The C3I/Network and Battle Management Directorates at Hanscom AFB, Massachusetts manages the development and acquisition of electronic command and control (C2) systems. One of their best known programs is the Airborne Warning and Control System (AWACS).

The Air Force Sustainment Center (AFSC) include:

- The Warner Robins Air Logistics Complex (ALC), Robins AFB, Georgia, supports several Air Force weapons systems, including the C-5, F-15, C-130, all Air Force helicopters, and all special operations aircraft.
- The Oklahoma City ALC, Tinker AFB, Oklahoma, performs depot maintenance on various aircraft and overhaul and repair on numerous jet engines. Additionally, the complex is responsible for the maintenance, repair and overhaul of a myriad of Air Force and Navy airborne accessory components, and development and sustainment of a diverse portfolio of operational flight programs, test program sets, automatic test equipment, and industrial automation software.
- The Ogden ALC, Hill AFB, Utah, performs depot level overhaul and repair for all types of landing gear, wheels, brakes and tires. The center supports the C-130, F-16, A-10, and it is responsible for program management of the KC-135.

Additionally, the Space and Missile Systems Center (SMC) in Los Angeles, California, a subordinate unit of the Air Force Space Command, is the center for researching, developing, and purchasing military space systems.

International Logistics Control Organizations

Annual SA/SC demands on the military supply systems exceed one million requisitions per service. In order to manage these requisitions, as well as to ensure a smooth interface with the normal service supply organizations, each of the providing services has established a central control point for SA/SC supply actions. Unlike other organizations in the logistics system that serve both U.S. and foreign requirements, these organizations are devoted completely to SA/SC. These organizations are generally called International Logistics Control Organizations (ILCOs).

The ILCO is the entry point into the DoD logistics system for both the FMS purchaser and the Security Cooperation Office in the purchaser's country. FMS purchasers and SCOs submit logistics requirements through the ILCO and work with ILCO case managers to resolve logistics concerns.

International Logistics Control Organizations Functions

The U.S. Army Security Assistance Command (USASAC) is located at both Redstone Arsenal, Alabama, and New Cumberland, Pennsylvania. Each location serves a different function. Army policy for SA/SC is managed from Redstone Arsenal. The operations directorate is the Army ILCO at New Cumberland. The USASAC commander also serves as the director of SA/SC on the Army Materiel Command headquarters staff.

The U.S. Navy International Programs Directorate (WSS-N52) of the NAVSUP Weapon Systems Support is the Navy's ILCO. With offices in both Philadelphia and Mechanicsburg, Pennsylvania, NAVSUP Weapon Systems Support is a subordinate organization of the U.S. Navy Supply Systems Command.

The Air Force Security Assistance and Cooperation (AFSAC) Directorate, the Air Force ILCO, is a major component of the AFLCMC within the Air Force Materiel Command. Both are located at Wright-Patterson AFB, Ohio.

Although each of the ILCOs has its individual responsibilities, operating techniques, and interfaces, there are many functions generally applicable to all three. They serve as the connecting link between the SA/SC customer and the DoD supply system. In this role, each ILCO employs a country desk officer (or country program manager, or country case manager), who is the primary contact point

for materiel support for assigned countries. The country desk officer monitors current FMS cases status and is the focal point for resolving logistics problems. The ILCO has logistics oversight of all materiel LOAs. They develop and manage follow-on support cases for maintenance, publications, nonstandard support, and excess materiel. The ILCO processes discrepancy reports, resolves FMS transportation problems and processes FMS customer materiel requisitions. The ILCO management team provides information for various types of management reviews, and serves as the focal point for case reconciliation and closure.

In order to manage their programs, the ILCOs each operate unique SA/SC computer data systems: the Army Centralized Integrated System for International Logistics (CISIL), the Navy Management Information System for International Logistics (MISIL), and the Air Force Security Assistance Management Information System (SAMIS). The ILCOs establish programs and cases, validate and pass requisitions, account for obligation/expenditure authority, record supply status, interface with service accounting and supply data systems, and produce program reports and statistics. These SA/SC data systems are discussed further in appendix 1, "Security Cooperation Automation," of this text.

Once the program data is available and obligation authority (OA) has been established, the ILCO may then start to process requisitions. All SA/SC requisitions must be prepared in accordance with chapter 6 of DLM 4000.25-1, *Military Standard Requisitioning and Issue Procedures* (MILSTRIP). Requisitions for defined order cases are prepared by the ILCOs, normally upon receipt of an implemented case. Requisitions for blanket order cases, to include CLSSAs, are prepared by the purchaser. Every requisition for SA/SC must be validated by the ILCO before it is passed to the DoD supply system. This is usually done automatically by the ILCO management information system, which checks the requisition against an authorized FMS case, ensures that the required funding is available, records the estimated cost of the requisitioned materiel against the appropriate account, and routes the requisition to the appropriate ICP. If all checks are not met, the requisition is routed for manual review by the country desk officer or case manager.

It is important to note that the ILCO is not a supply activity. No materiel is controlled by the ILCO and no decisions are made to issue materiel from stock or from procurement. After the validation of the requisition, the ILCO passes it to an ICP within the DoD supply system.

In accordance with the MILSTRIP procedures, supply and shipment status are provided to the purchaser to advise of the progress in filling any requisitions. This information is provided by the supply activity to the ILCO, which records this status in the computer data system and in turn provides the status to the purchaser.

By maintaining the status of all requisitions in process and the financial status of each case, the ILCO can produce a variety of management reports for use by the MILDEPs, the overseas security cooperation organization (SCO), and customer country managers. These reports are used for day-to-day monitoring of the program as well as periodic country or program reviews. The ILCOs also report FMS deliveries monthly to Defense Finance and Accounting Service–Security Cooperation Accounting (DFAS–SCA) for billing and record purposes. In some instances, the ICPs report their deliveries directly to DFAS–SCA, and provide the ILCOs with copies of the reports. The ILCOs use these reports to maintain current requisition, case, and financial records. In other situations, delivery information is provided first to the ILCO which, in turn, provides consolidated delivery status to DFAS–SCA.

Customer countries may maintain liaison officers to review program and requisition status with the ILCO desk officers. These liaison officers may, in some instances, initiate or modify requisitions on behalf of their government. Country purchasing office representatives or foreign embassy personnel from Washington, DC, often conduct the required liaison with the ILCO. However, for a growing

number of countries, a foreign liaison officer (FLO), security assistance foreign representative (SAFR), or security assistance liaison officer (SALO) is located at the ILCO.

Defense Logistics Agency

The DLA has inventory management responsibility for approximately 95 percent of consumable items and approximately 85 percent of all spare parts in the DoD supply system. DLA supplies more items and processes more requisitions than all of the services combined. It is therefore important for supply personnel in any of the services to understand the DLA system and how it supplies the items assigned to it.

The DLA maintains three ICPs. Each ICP is assigned responsibility for a portion of the approximately five million items used by the services but supplied by DLA. The three DLA ICPs and their responsibilities are as follows:

- DLA Land and Maritime, at Columbus, Ohio, is the lead ICP for land, maritime and product testing.
- DLA Aviation at Richmond, Virginia, is DLA's lead for aviation support and depot-level repairable procurement operations.
- DLA Troop Support at Philadelphia, Pennsylvania provides food, clothing, textiles, medicines, medical equipment, and construction supplies and equipment. It also supports the humanitarian and disaster relief efforts of DoD, other government agencies, and FMS purchasers.

These three DLA ICPs receive and process incoming requisitions from purchasers worldwide and direct shipment of goods from their depots back to their customers. For FMS customers, these requisitions are passed to DLA from the ILCOs.

The DLA is also assigned a number of additional DoD-wide responsibilities:

- DoD-wide cataloging of items is performed by the DLA Logistics Information Service Battle Creek, Michigan, as the national codification bureau for the U.S.
- DoD materiel utilization and surplus property disposal is performed by the DLA Disposition Services, headquartered in Battle Creek, Michigan.
- DLA Distribution, New Cumberland, Pennsylvania, operates twenty-five wholesale warehouse depots located around the world. It is responsible for receipt, storage, issue, packing, preservation, and transportation of over four million items.
- DLA Energy at Ft. Belvoir, Virginia supplies bulk petroleum products and alternative fuels, performs direct delivery, and manages terminal facilities and distribution.
- DLA Transaction Services is the official repository for selected DoD publications and databases. DLA Transaction Services receives, edits, and routes logistics transactions for the military services and federal agencies. All electronic security cooperation program MILSTRIP transactions are routed through DLA Transaction Services.
- DLA Document Services is located in Mechanicsburg, Pennsylvania and is responsible for automated document production, printing, digital conversion and document storage support.

Although the DLA manages the vast majority of items, the DLA supply management mission does not have a central ILCO for the management of SA/SC programs. Rather, foreign requisitions flow to

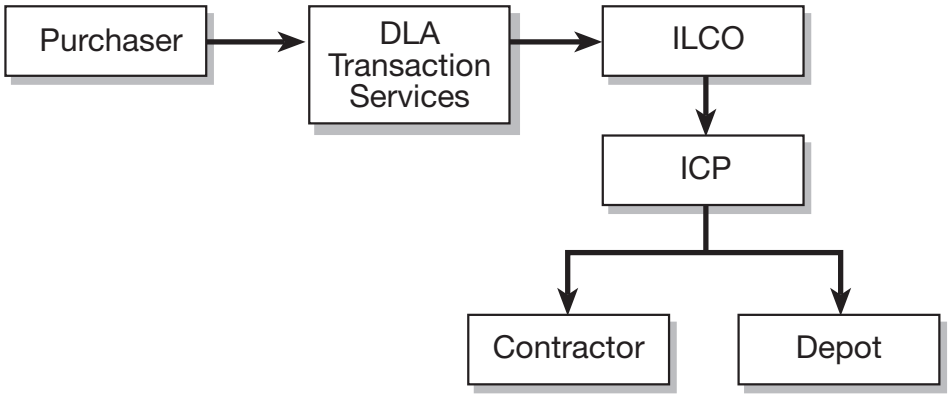
DLA through the MILDEP ILCOs. It is interesting to note that a majority of MILDEP-processed FMS requisitions are for DLA-managed consumable items supplied by the DLA inventory control points. In 2014, DLA had over 2 billion dollars of FMS sales with 110 countries.

Requisition Process Overview

The typical FMS requisition process starts when the U.S. implementing agency (IA) receives obligation authority (OA) from the DFAS upon acceptance of an LOA by an FMS customer. For defined order FMS cases, the ILCO establishes a block of requisition numbers for use by the weapon system/program managers when ordering various services and support materiel requirements, and passes obligation authority to the various logistics managers for ordering purposes. The logistics managers initiate requisitions for spare parts, support equipment and technical manuals, assigning a unique document number to each transaction. These document numbers are used to track materiel and services through the ordering and delivery process, and materiel is "pushed" to the FMS purchaser. The ILCO records all requisitions in a service-unique database, and forwards the requisitions to the appropriate item manager for issue from either DoD-owned stock or for procurement from a contractor.

When the FMS case is a blanket order or CLSSA, the purchaser initiates the requisition, assigns a unique document number, and passes the requirement to the ILCO. Upon determining that the FMS case is valid and OA exists, the ILCO records the requisition in its database and passes the requisition to the item manager, as illustrated in figure 10-1.

Figure 10-1
Logistics Communications



Military Standard Requisitioning and Issue Procedures

The MILSTRIP prescribes standard forms and codes adaptable to high-speed communications and automatic data processing. MILSTRIP is the backbone of all logistical and financial procedures used in executing an FMS case. Chapter 6 of DLM 4000.25-1, *Military Standard Requisitioning and Issue Procedures* (MILSTRIP), covers MILSTRIP procedures for FMS purchasers. The structure of an FMS document number is very different from a domestic requisition document, resulting in several unique MILSTRIP codes and procedures for FMS use. Figure 10-2 illustrates the unique MILSTRIP entries for FMS. An FMS-specific reference for using and interpreting MILSTRIP is available at http://www.discs.dsca.mil/documents/pubs/milstrip_for_fms_customers.pdf. This reference is designed to assist FMS customers, FMS case managers, logistics managers and other personnel involved in the FMS materiel issue and movement process with the unique FMS applications.

Figure 10-2
Foreign Military Sales Record Positions

Record Position	Definition
30	Implementing agency (IA) code
31–32	Foreign purchaser's country code
33	Mark-for code
34	Delivery term code
35	Type assistance code
36	Last digit of the year of the requisition
37–39	Julian date
40–43	Requisition serial number
44	Recurring or non-recurring demand
45	Foreign purchaser's service or agency
46	Offer/Release code
47	Freight forwarder code
48–50	FMS case designator

DOCUMENT IDENTIFIER			ROUTING IDENTIFIER			M&S	STOCK NUMBER															UNIT OF ISSUE		QUANTITY				
							CLASS				NIIN																	
											NCB CODE																	
1	2	3	4	5	6	7	8	9	10	1	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29

DOCUMENT NUMBER															DEM/SUF	SUPPL ADDRESS						SIGNAL CODE	FUNDING CODE		DIST			PROJ CODE		
						DATE				SERIAL NUMBER						SVC														
						YEAR	DAY																							
30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59

PRIORITY CODE		RAD/ RDD			ADV CODE		SUPPLY/SHIPMENT STATUS													
60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80

North Atlantic Treaty Organization Codification System

The North Atlantic Treaty Organization (NATO) Codification System (NCS) has been in place since the mid-1950s. It provides standards for the use of a common stock identification system throughout the NATO alliance. Subsequently, its use has spread to other countries around the world. The advantage of having international partners using the same supply identification standards for their defense products as is used by the U.S. is that it allows for the exchange of parts and support equipment between participating nations in a coalition. Participation in the NCS has extended beyond NATO to include over sixty countries.

The NCS is an integral part of supply operations throughout the world. It furnishes accurate information to all participating countries on the characteristics of millions of items. It simplifies the solution of supply data management problems by providing quick responses from a single, up-to-date source. The NCS offers many significant advantages to NATO and non-NATO countries, as well as to private sector participants outside the defense community.

Item Identification

To achieve the three NCS objectives of (1) increasing the efficiency and effectiveness of logistics operations, (2) facilitating data handling, and (3) minimizing costs to user nations, it is essential that each item of supply be assigned a unique name, classification, identification, and a NATO or National Stock Number (NSN). Countries that participate in the NCS follow common standards and techniques to assign NATO stock numbers to items of supply in their defense inventory. The national codification bureau within each country centrally assigns their national NSNs. The National Codification Bureau (NCB) for the U.S. is the DLA Logistics Information Service in Battle Creek, Michigan. The assignment of an NSN fixes the identity of each distinctive item of supply. All NSNs are uniform in composition, length, and structure. Each is represented by a thirteen digit number, which can be divided into three unique parts:

- The first four digits are the NCS code, which relates the item to the group and class of similar items. This is also often referred to as the Federal Supply Classification (FSC) code.
- The next two digits indicate the assigning NCB code (each country has its own two digit NCB code. The U.S. uses “00” and “01”).
- The final seven digits are assigned sequentially and have no inherent significance. However, when coupled with the NCB code this number relates to one and only one item of supply.

Within NATO, the NCS currently contains about seventeen million active NSNs. The items represented range from hand grenades to guided missiles, from propeller blades to space vehicles, and from soap dishes to washing machines.

Around 43 percent of the “active” U.S. NSNs have at least one allied user registered. There are currently ninety-seven separate foreign countries recorded as users on various NSNs in the U.S. catalog system. About thirty-three million part numbers are registered on these NSNs, as are about 1.7 million manufacturers. These NSNs, part numbers, their distinguishing characteristics, and usage rules make up the Federal Logistics Information System (FLIS). The FLIS is the central repository of all logistics identification data. Several supply catalogs available from DLA Logistics Information Service are produced from FLIS data.

Federal Supply Catalogs

DLA Logistics Information Service provides cataloging services in support of allied defense ministries. As the U.S. National Codification Bureau (NCB), DLA Logistics Information Service provides cataloging services on all matters related to international codification. It serves as the U.S. NCB representative to NATO codification panels and task groups. DLA Logistics Information Service provides codification and liaison services to U.S. activities for items produced by NATO member nations and to NATO countries and other allied nations on items produced in the U.S. DLA Logistics Information Service supports allied nations in their establishment of NCS-compliant cataloging systems. As the focal point for all international codification, this organization is dedicated to providing state-of-the-art logistics support to the entire international community. Certain products, such as the Federal Logistics Data (FED LOG) are available only to the NATO and NATO-sponsored countries because FED LOG contains proprietary data and characteristics data from countries other than the U.S. Sponsorship agreements contain language regarding the protection of restricted data. A complete list of countries participating in the NCS can be found at http://www.nato.int/structur/AC/135/main/links/ncs-country-codes.htm.

The FMS purchaser can obtain products directly from DLA Logistics Information Service or through cases with the MILDEP. Requests for information about DLA Logistics Information Service products or placing an order should be directed to Commander, DLA Logistics Information Service, Attn: DLIS-V, 74 North Washington Avenue, Battle Creek, MI 49037-3084, DSN 661-4310, commercial (269) 961-4310/7299 fax (269) 961-4715, or e-mail: DLISfms@dla.mil.

DLA Logistics Information Service also offers a wide range of training related to cataloging and the federal catalog system and the use of DLA Logistics Information Service's information products. Additional information is available from Commander, Defense Logistics Information Service, Attn: DLIS-VBB, 74 North Washington Avenue, Battle Creek, MI 49017-3084. The telephone number is (269) 961-4829, Fax: (269) 961-5035, or e-mail: dla.tng@dla.mil.

DLA Logistics Information Service has a home page that has a large amount of information about its products, services, prices, and contact points, as well as links to other USG home pages. The website is http://www.dla.mil/HQ/InformationOperations/LogisticsInformationServices.aspx.

The DLA Logistics Information Service provides catalog data on the Internet thorough WebFLIS at https://www.dlis.dla.mil/PublicHome/WebFLIS/default.asp. Access to WebFLIS is limited to DoD personnel and requires registration for an account. Basic catalog data is currently available to international customers and non-DoD users through a PUBLOGFLIS. PUBLOGFLIS is available through the Freedom of Information Act (FOIA) Reading Room along with instructions for access. http://www.dla.mil/HQ/InformationOperations.aspx.

North Atlantic Treaty Organization Codification System Sponsorship

More and more countries are seeking and receiving sponsorship within NCS. Sponsored countries sign an agreement to exchange codification data and to abide by the rules and procedures of the system. Among other things, the rules require countries to provide equivalent safeguards to protect sensitive and proprietary data. Information about NCS sponsorship is kept up-to-date at the following web site: http://www.mil/HQ/InformationOperations/Offers/Services/FIC/NATO.aspx.

Table 10-1 lists the twenty-eight members of NATO, and the nearly forty other nations and international organizations which have been accepted as sponsored members of the NCS.

Table 10-1
NATO Codification System Sponsorship

NATO Countries		Sponsored Countries		
Albania	Latvia	Afghanistan	Indonesia	Philippines
Belgium	Lithuania	Argentina	Israel	Saudi Arabia
Bulgaria	Luxembourg	Australia	Japan	Serbia
Canada	Netherlands	Austria	Jordan	Singapore
Croatia	Norway	Bosnia and Herzegovina	Korea	South Africa
Czech Republic	Poland	Brazil	Kuwait	Sweden
Denmark	Portugal	Brunei Darussalam	Macedonia (FYROM)	Thailand
Estonia	Romania	Chile	Malaysia	Tonga
France	Slovakia	Colombia	Montenegro	Ukraine
Germany	Slovenia	Egypt	Morocco	United Arab Emirates
Greece	Spain	Fiji	New Zealand	
Hungary	Turkey	Finland	Oman	
Iceland	United Kingdom	Georgia	Papua New Guinea	
Italy	United States	India	Peru	

Uniform Materiel Movement and Issue Priority System

The Uniform Materiel Movement and Issue Priority System (UMMIPS) helps identify the relative importance of competing demands for logistic systems resources. It guides the ranking of materiel requirements and time standards for requisition processing and materiel movement through the use of a two-digit priority designator. The priority designator is based on two factors that relate to the mission of the requisitioning activity and the urgency of need.

Force/Activity designators (FADs) are represented by Roman numerals I through V. The U.S. Joint Chiefs of Staff assign FADs to selected foreign country forces in their classified directive CJCSI 4110.01, Force/Activity Designators for Foreign Country Forces. The FAD is applicable to all requisitions for materiel destined for the country.

The customer's urgency of need for the materiel being requisitioned is indicated by an urgency of need designator (UND), either A, B, or C. The requisition originator determines the UND to be assigned using the criteria set forth in the UMMIPS directives. In broad terms, UND "A" equates to an extremely urgent requirement, UND "B" to a less urgent requirement, and UND "C" to a routine requirement, e.g., stock replenishment.

Table 10-2 is the UMMIPS matrix. The matrix is used to determine the priority number for a given requisition. For example, an FMS purchaser assigned a FAD "IV" with a UND "C" would assign a priority "14" to the requisition.

Table 10-2
UMMIPS Matrix

FAD	Urgency of Need		
	A	B	C
I	01	04	11
II	02	05	12
III	03	06	13
IV	07	09	14
V	08	10	15

Logistics Communications

As with all military operations, the success of DoD logistics operations depends to a large extent on the availability of fast, accurate, and reliable communication systems such as the Defense Data Network (DDN). However, since DDN is not available to the majority of FMS purchasers, other methods such as international mail, facsimile transmissions (fax), e-mail, and the International Logistics Communications System (ILCS) serve many countries as the primary logistics communications methods for FMS.

International Logistics Communication System

International mail is both slow and unreliable when compared to electronic means of transmitting MILSTRIP documents, cataloging data, and narrative traffic. Although fax and e-mail may be faster than international mail, they are still subject to manual processing at the ILCO. This manual intervention slows down the request and subjects the document to potential transcription errors.

The ILCS was developed to improve logistics communications service to SA/SC countries, freight forwarders, and contractors. Used since 1979, it has also been adopted for use by a large number of USG and commercial organizations.

The service provides a computer-to-computer telecommunications capability that allows a subscriber to exchange logistics related information with the DoD logistics community and with other ILCS subscribers. The ILCS operates at high speeds and is suited to purchasers with high volumes of traffic. Furthermore, the ILCS can be directly integrated into a purchaser's logistics data system and used to transmit narrative messages to offices in DoD.

The ILCS significantly increases the amount and timeliness of management information available to purchaser logisticians. This system, which has multi-service application, passes MILSTRIP requisitions to DLA Transaction Services. DLA Transaction Services automatically routes the documents to the appropriate ILCO for processing. After an ILCO verifies the requisitions' validity and funding, the requisitions are forwarded to the source of supply via DLA Transaction Services. For most requisitions, use of these systems eliminates manual processing between the requester and the source of supply. Additionally, status transactions return to the requester through this same system.

ILCS is normally installed based on an implemented FMS case after it has been determined that the existing methods of communication are not adequate to serve the subscriber's needs. The information processed in ILCS is contained in eighty record positions of data for each transaction.

ILCS can be provided to the subscriber through:

- A DLA Transaction Services-developed turn-key system, consisting of hardware, software, supplies, installation, and training for the system at the subscriber's location. This service is provided based on an FMS case established by the appropriate ILCO.
- An existing in-country personal computer system with the capability, hardware, and software to interface with the DLA Transaction Services network control system computer system. DLA Transaction Services will provide the interface requirements and the DLA Automatic Message Exchange System (DAMES) software package to the subscriber. The cost of a DAMES system for a subscriber cannot be determined exactly until a site survey is performed or a working group meeting is convened. However, first year costs can be as low as $10,000 depending on the configuration and location.

The investment and recurring costs of ILCS are provided from funds in an FMS case managed by the appropriate service ILCO. FMS countries with an interest in ILCS should notify their country office at the appropriate service ILCO, who will then interface with DLA Transaction Services to secure the required ILCS services through an FMS case.

Supply Tracking and Repairable Return

A further refinement of the ILCS is an optional system known as Supply Tracking and Repairable Return (STARR/PC). This is a personal computer-based system available from the U.S. Air Force, U.S. Army and U.S. Navy. STARR/PC provides the foreign purchaser much more logistics and financial information than ILCS alone. Typical costs include a system subscription fee based on a pro rata share of developing and operating the system, system hardware, software, supplies, U.S. support for system installation, and telephone charges. Hardware and software costs are one-time in nature, while the annual fee, optional technical assistance, and telephone charges are recurring. Telephone costs associated with the connection to DLA Transaction Services are on a time-used basis. The Air Force Security Assistance and Cooperation (AFSAC) Directorate is the program manager for STARR/PC.

Security Cooperation Information Portal

The Security Cooperation Information Portal (SCIP) is another medium available to the international purchaser for submitting and tracking requisitions, as well as monitoring case status. The SCIP gives the user access to data from the ILCO logistics databases (MISIL, CISIL and SAMIS), to data from the Defense Integrated Financial System (DIFS), and to case management information from the Defense Security Assistance Management System (DSAMS). The SCIP capabilities and features are discussed in appendix 1, "Security Cooperation Automation" of this text.

Life Cycle Logistics Support Planning Process

The DoD logistics system is designed to provide support throughout the life cycle of a weapon system to ensure maximum mission capability. The goal is to provide the greatest support for the least cost. Decisions regarding which repair parts to stock in order to maintain the highest operational readiness possible start with the initial planning phases of a new weapon system and continue during its entire operational life. For the purposes of FMS, the life cycle management of a weapon system can be divided into two phases: initial support and follow-on support.

When an international customer decides to acquire a sophisticated weapon system through the FMS program, formal logistics support planning begins when the international customer submits a comprehensive letter of request (LOR), which, in addition to identifying the desired weapon system configuration, identifies the country's operational requirements, and existing logistics support capabilities. However, before the LOR is submitted, there should be informal meetings and discussions between the FMS purchaser, the weapon system program office, the implementing agency, the

security cooperation office, and potentially also the contractor or manufacturer, to not only discuss the configuration of the product, but to address how the item is to be delivered and sustained. The LOR should include customer delivery preferences and limitations that will be used to determine the most appropriate delivery term code and mode of delivery. The planning process for follow-on support programs and sustainment requirements typically continues with the IA conducting a site survey in the FMS purchaser's country.

Site Survey

Site surveys are associated with weapon system sales. They are the foundation of logistics support provided to the FMS customer. Site surveys are typically held in the purchaser's country with representatives from the IA, representatives of the manufacturer, and the FMS customer. The structure of the site survey team may be a few people for several days for small, relatively simple weapon systems, to a large contingent of technical experts and logistics managers meeting with the purchaser in-country for several weeks.

The purpose of the site survey is to tailor the maintenance and supply support strategy for the weapon system to the unique requirements of the FMS customer. During the site survey, the purchaser should become acquainted with the implementing agency's acquisition and delivery process, the maintenance support plan, and the initial spare parts and support equipment allowances. The site survey team will confirm the FMS customer's operational and support plan, verify the purchaser's in-country logistics resources and requirements, prepare a plan for the delivery of materiel and services, and prepare a proposal for follow-on logistics support.

Planning for Initial Support

Initial support is the range and quantity of items such as tools, spares, and repair parts provided in a defined order case during an initial period of service. These items are provided to support and maintain the major item purchased in the defined order case. Initial support is provided to the purchaser before or at the same time the system or major item is delivered. This ensures the successful introduction and operation of the new system into the purchaser's inventory. Sufficient quantities of repair parts must be on hand until follow-on support is available.

The level of initial support can vary from weapon system to weapon system, but in general, initial support is provided for a twelve to twenty-four month period. In order to determine the level required for SC customers, information is needed by the U.S. implementing MILDEP, such as the average operations per month, number of repair locations, maintenance concept, etc. A driving force in determining the amount of initial support to be provided for a particular weapon system is often the amount of money that the country is willing to invest.

After returning from the site survey, the logistics program manager reviews the repairable and maintenance allowance recommendations. Part numbers, stock numbers, quantities and supply sources are validated for subsequent ordering. The amount of support is normally based on a mutually agreed upon rate of operation for the system. Determining the type and duration of initial support is normally accomplished with a program-specific definitization conference. The U.S. recommendation for the range and depth of initial support will be based on earlier U.S. provisioning data.

Provisioning

Provisioning is the process of determining the type of repair parts to stock (or "range") and quantity of each stocked item to have on hand (or "depth") to support and maintain a system through its initial period of service [Joint Pub 1-02]. A weapon system must be maintained in operating condition throughout its lifetime to be valuable. It is not enough to think only of the plane, ship, or tank, but all those things that will be necessary to use and maintain that weapon system. Provisioning is used to determine all the necessary repair parts, test equipment, and other accessories such as special tools

and ground support equipment. It is an extensive and expensive process that DoD does for each new weapon system it employs.

The provisioning conference is a working group consisting of contractor, engineering, maintenance, supply, and system operational personnel. This conference is held early enough in a weapon system acquisition program to permit an orderly production of the required items. Through the use of the maintenance concept, technical drawings, parts lists, estimated prices, recommended quantities, and agreed upon replacement factors, a decision is made regarding which items will be stocked in the DoD supply system and which will be procured only on demand. It is also during the provisioning conference that the necessary information is collected to begin cataloging new items for the DoD logistics system.

In provisioning, several decisions must be made to determine the precise level of support required. Normally, these decisions are made not only for the system as a whole but also on a component-by-component basis. The following concepts must be considered when selecting the optimum equipment support.

Reliability

Clearly, for a weapon system to be valuable, it must be combat-ready as much of the time as possible. As a measure of reliability, the failure rate of each constituent part is examined. A measure commonly used is the mean time between failure (MTBF). In simple terms, the providing implementing agency is concerned about how often an item breaks down and requires replacement or repair. This information influences the type and quantity of items placed on the initial provisioning list.

Maintainability

When an item fails, a determination must be made whether it can be restored to an operable condition according to predetermined specifications in the time allocated for its repair. Maintainability measures the ease of completing maintenance tasks. It is measured as the mean time to repair or restore (MTTR).

In practice, the longer a repairable item is out of circulation for maintenance, the greater the quantity needed on the supply shelf. This, in turn, impacts the inventory investment that the purchasing country must consider.

The capability to perform maintenance on a component presumes that the foreign nation has adequate resources, i.e., facilities, test equipment, skilled personnel, manuals, repair parts, and tools to do the job. If any one of the resources is deficient or missing, repairs to be done in country may prove impossible, thus rendering the weapon system incapable of performing its mission. On the other hand, the cost of the component, when compared to the maintenance labor costs to repair it and the cost to hold an inventory of parts, may dictate that if the component fails, it should be thrown away and replaced. Many small components such as valves, motors, and pumps are discarded rather than repaired since repair costs exceed item value.

A key factor in the final decision regarding how many parts to buy is the in-country repair capability. If such a capability exists, the quantity purchased will be lower; if not, and the items must be shipped to distant repair facilities, then a greater number of items will be required to compensate for the number of days the items are in the pipeline. This is a critical point because it helps determine the amount of investment needed for spares and repair parts. The selection of parts must be aimed at reducing downtime to ensure the weapon system can perform its designated mission in the most cost-effective manner.

Economy

In making support decisions, economy can be an overriding factor. The providing IA must consider not just the cost of the materiel, but also labor costs for making the repairs and the cost of not having the weapon system available while repairs are being made. The lowest cost of parts may not necessarily be the most economical cost. Standardization and interchangeability also enter into the economics equation. Selecting parts common to systems currently being used may avoid inventory costs and support difficulties.

Level of Repair

Once it is determined that an item of equipment or component can be repaired, the recipient country must determine at which level in its overall maintenance organization the repair will be made. Three different levels of repair are usually considered:

- Organizational repair that is done by the using organization, i.e., company, squadron, or shipboard levels
- Intermediate repair, usually at an echelon above and supporting the organizational level, but still operating in the field, such as base, battalion, station or division levels
- Depot level maintenance, usually performed in a military depot or a contractor's plant

The decision to repair at the organizational, intermediate, or depot level is made after considering the technical skills of the personnel at each level, the investment in special tools, test equipment, facilities or handling devices which may be required, and any problems in physical access to the equipment which may be encountered.

Military Essentiality

Since having unlimited funds to secure support items is not usually the case, it is necessary to allocate available resources on the basis of military essentiality. Military essentiality is the relative value of each part to the equipment and the equipment to the system as a whole. Parts become more essential when their individual performance directly affect the entire system. Obviously, the failure of some part or equipment will prevent a weapon system from performing its total mission. While failure in back-up or auxiliary equipment may not be so catastrophic, funds will usually be applied to those items whose failure will have the most significant impact on the ability of the equipment to accomplish its designated mission.

Definitization

Definitization is the process by which the provisioning requirements for the U.S. are adjusted to accommodate those of the foreign purchaser. The definitization process is essentially the same for FMS as is the provisioning process for new systems procured for U.S. forces. However, since most systems sold through FMS have already been provisioned for U.S. use, the U.S. operation, maintenance, and consumption data are the foundation for making adjustments for the FMS customer's projected requirements. During the operation of a weapon system, the database created during provisioning is updated continuously to reflect actual usage and to modify the theoretical decisions which were originally assumed. This updated database becomes the basis for determining what types of support should be included in the total package transferred to a foreign purchaser.

A concurrent spare parts list (CSP) accompanies each system sale to provide the basic in-country supply system. FMS customer's CSP lists are tailored from DoD provisioning data. The data is modified to reflect actual consumption of parts during operation, and purchaser's input addressing, at a

minimum, equipment operations, condition (i.e., hours, climate), and budget constraints. Alternatives for reducing the FMS customer's initial spares investment are discussed with the major system and subsystem vendors. Depending upon the weapon system being sold, the CSP list may be a simple extract from U.S. files, or it may represent a major modification to U.S. requirements.

The weapon system configuration being sold may differ from the standard U.S. model. In some cases, there are components which cannot be sold to other nations for security reasons or to protect vital technologies. In such instances, these must be replaced, most likely with components not used by U.S. forces. In other cases, a country's special needs or operational considerations require that some modification be made to the standard configuration. In either instance, the configuration changes must be identified in the definitization process, and the logistics support must be modified accordingly. The definitization process includes planning for follow-on support.

The support infrastructure of the purchaser often has a bearing on the support package. The number of operating bases and supply depots and their locations may require changes to U.S. recommendations. Especially important in this area are the location and use of repair facilities. Today, more sophisticated equipment is being provided under SA/SC programs. It is often the case with such equipment that many components are more economically repaired than purchased new. However, many purchasing countries do not have the capability to repair the items and must return them to the U.S. repair facilities. In such an instance, the in-country stocks of repairable items may have to be higher to accommodate this longer loop in the repair cycle while items are being returned to the U.S. The alternatives for reducing initial and life cycle support costs through increased self-sufficiency and a shorter supply and maintenance pipeline should be presented as options to the FMS customer.

The overall objective of definitization is to provide optimum logistics support, at a reasonable cost, using the best possible calculations of projected needs. It is rarely advisable for the FMS customer to use unreviewed U.S. data alone. The additional step of definitization is necessary to ensure adequate and tailored support for the system which is being purchased.

Follow-on Support Concept

Follow-on support is that collection of sustainment activities provided subsequent to the initial support period and prior to removal of the end item from inventory. Follow-on support negotiations are generally started during the weapon system acquisition phase to accommodate administrative and production lead times.

The follow-on support phase begins with the international customer planning follow-on support and ends when the international customer phases the weapon system out of its inventory. A newly purchased weapon system without follow-on logistics support rapidly takes on all of the characteristics of a museum piece—impressive, but inert and immobile. Obviously, this applies whether a U.S. MILDEP or a foreign country becomes the owner of the system. There is a commercial corollary to the concept of follow-on support termed "after-market" support. The same principles apply; however, in the military, this support takes on vastly greater dimensions. Segments of such support span the entire spectrum from spares through training to technical manuals. Each of the separate segments must be considered because if one is missing or is less than adequate, the system's mission capability is significantly degraded or terminated.

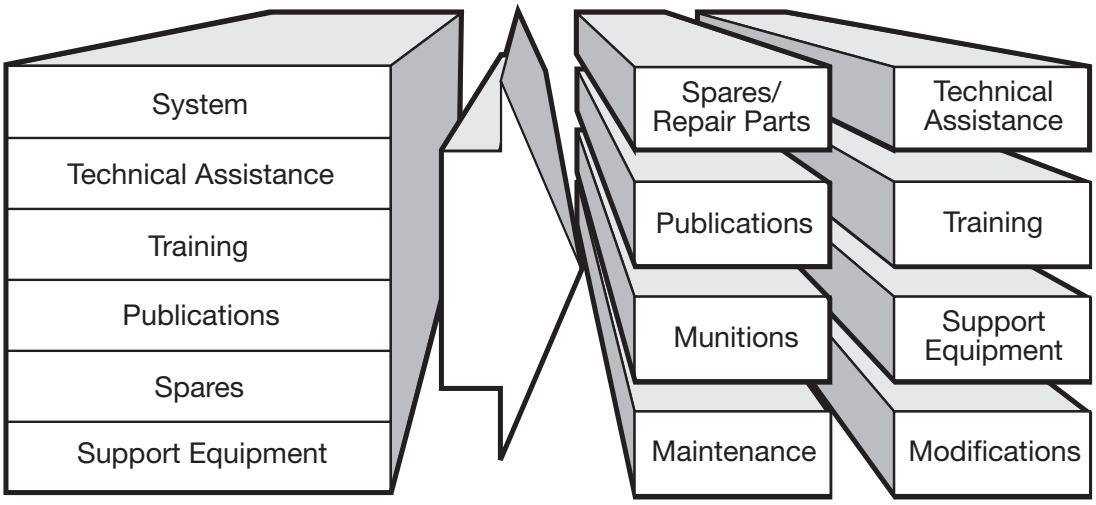
Follow-on support, unlike initial support, involves the USG being in a reactive role rather than a proactive role. That is, DoD responds to demands initiated by the international customer. Follow-on logistics support encompasses all the various services and materiel required to sustain a weapon system after its operations begin. Follow-on support includes replenishment of initial spares and repair parts, procurement of new support equipment not provided for in the initial allowance, procurement of repair and engineering services, replenishment of munitions, updates of technical publications, etc. Follow-on logistics support is designed to maintain defense systems/equipment in an operating condition or to

modify an original configuration after a weapon system or item of major equipment has been originally acquired.

The timely rendering of follow-on logistics support is vital to the success of the FMS program. Without it, the equipment, usually purchased at considerable cost, will become inoperable and of little value to the purchaser who might then very well question the value of major FMS purchases. Follow-on support should be considered at the same time as initial support. This is necessary because of the lead-time required to negotiate and implement the various types of follow-on support agreements, and in some instances, because of lengthy lead times to procure required items.

Supply support is often considered to be synonymous with follow-on support; however, spares and repair parts are only one important aspect of a complete follow-on support program. Spares and repair parts will be of no value to the purchaser if they cannot be identified or installed properly to maintain and operate applicable systems. The following is a sample of the areas that should be considered in addition to spares and repair parts:

Figure 10-3
Total Logistics Support



Options for Follow-on Support Other Than Foreign Military Sales

An FMS system sale, including all associated training, support equipment, and initial spares/repair parts, is normally processed as a single case, or as a series of related cases, with a program manager/lead command being assigned to coordinate the overall effort. However, management of the follow-on support program for the system is fragmented, and visibility of the overall program is difficult to obtain. This difficulty is compounded by the fact that there are usually several options, other than an FMS agreement with the USG, from which a customer country can choose to support the system. These other options involve in-country resources, third country support, and private contractor support.

In-Country Resources

The capability of a country to provide follow-on support from its own in-country resources should not be overlooked. While the use of this method varies from country to country and from system to system, as a general rule, both the USG and the recipient countries wish to maximize the use of this means of support. For various reasons, e.g., costs or self-sufficiency, a country may decide to establish in-country capabilities for follow-on support, particularly in areas such as training and maintenance.

Third Country Support

Third country support may be available. The Arms Export Control Act (AECA) imposes definite restrictions on third country transfers; however, this method may be available as a result of previous licensing arrangements, or coproduction agreements. For example, there are many instances where third country personnel have conducted training on U.S. equipment in a purchaser country. USG-approved maintenance facilities may be available in a third country that have been established under U.S. license, and are managed by U.S. personnel. These facilities, typically for aviation or tracked vehicle maintenance, are used by other FMS purchasing countries in the region to reduce the transportation time and the logistics tail associated with normally sending materiel back to the U.S. for depot level repair.

Commercial Contractor Support

The foreign purchaser may use commercial contractors for follow-on support in accordance with DSCA 5105.38-M, section C4.5, *Security Assistance Management Manual* (SAMM). The contractor may have a continuing support plan available to offer the country. If such a plan is not readily available, in many cases, the contractor may be willing to develop one for a price. Commercial contractor support, however, is not an option for customers using the Foreign Military Financing Program (FMFP), with certain exceptions. The SAMM, C9.7 provides guidance on the exclusions and limitations of using direct commercial contracts in support of FMS customers.

Purchaser Preference for Foreign Military Sales Support

While the above methods of support may be available and are often used in varying degrees, the overwhelming preference of the customer countries is for FMS follow-on support. Customer countries are aware that DoD normally sells FMS materiel only when there are plans to assure logistics support for the expected life of the equipment. FMS managers have developed options to provide a reasonable level of follow-on support through a combination of government and commercial resources. Many aspects of the DoD logistics system serve the FMS customers well. These include:

- Quality products delivered through a robust defense acquisition system
- Government shelf stock that can reduce pipeline costs
- Access to ongoing product updates on common items
- Ongoing supply chain management initiatives
- Program managers and item managers dedicated to reducing costs for their FMS customers and effective problem solving
- A surge capability in the event of a national emergency

The purchasing country has several options from which to choose in terms of the types of FMS cases available for follow-on support. Defined order cases, blanket order cases, and CLSSAs are all used in providing follow-on support. Each has distinct advantages and disadvantages as well as certain restrictions on the types of support that can be provided. For further discussion, especially of FMS defined order and blanket order cases, see chapter 6 of this textbook, "Types of LOAs."

Cooperative Logistics Supply Support Arrangement

The DoD offers the CLSSA as an effective means of replenishing the in-country stocks of spares and repair parts which were initially furnished with end items of equipment. The CLSSA is an FMS agreement for the furnishing of secondary items from the U.S. logistics system to a country in support of specific major end items/systems. The arrangement requires the country to make a financial

investment in the DoD logistics system to fund its anticipated support requirements. The country, with the recommendation of the system program managers, identifies (by stock number and quantity) those secondary and support items which the country anticipates it will require annually. This list is known as the equity list, because of the purchaser investment in the U.S. supply system. The investment permits the MILDEP to augment its stocks in anticipation of the country's actual demands. The CLSSA is used for replenishment of consumables or for replacement of repairable components. It may not be used to acquire munitions, major end items, classified items, commercial off-the-shelf materiel, bulk fuel, or anything that the DoD doesn't centrally stock or centrally manage. The CLSSA is not intended for initial support, but rather as a mechanism to resupply the initial support package.

The materiel purchased with the country's cash investment is comingled with DoD stocks and is not physically separated or otherwise identified in the inventory control point's inventory records. In return for this investment, the country is entitled to support from DoD stocks equal to that provided U.S. forces assigned the same force activity designator.

Once an investment has been used to augment DoD stocks and a country desires to withdraw materiel for use, the country's payment for those items provides funds for restoring USG stock levels. This allows for further support to that particular country in the future under the arrangement.

Due to the two-step nature of the arrangement, the CLSSA consists of two blanket order LOAs: one for DoD stock augmentation and another for materiel withdrawal. Each blanket order LOA in the arrangement is referred to as a Foreign Military Sales Order (FMSO) I and II respectively.

Foreign Military Sales Order I

The FMSO I (or stock level case) initiates the arrangement by establishing the country's investment for augmenting DoD stock. The FMSO I consists of an equity list of spares projected to be required over the next twelve months. No materiel is transferred to the purchaser as a direct result of the FMSO I. The FMSO I case remains in existence for the duration of the CLSSA. It will be renegotiated or adjusted as necessary whenever a change is required in the investment level necessary to support the country's actual withdrawal or usage rate.

The FMSO I case is subdivided into two parts: part A, an on-hand portion representing the value of materiel that must be in U.S. stock to fill CLSSA requisitions; and part B, which represents a dependable undertaking of the on-order portion. The FMSO I case provides obligation authority to increase stocks to meet the anticipated demands from the country. The standard FMSO I investment is 30 percent of the equity list value for part A and 70 percent for part B.

The country's total obligation includes the value of both part A and part B. However, upon acceptance, the country is only required to pay for part A (the on-hand portion) plus a 5 percent administrative charge based on the value of part A. This special administrative charge pays for the extraordinary costs incurred by DoD to set up the arrangement.

CLSSA procedures are outlined in DSCA 5105.38-M, C6.4.3.2 and C5.4.3.3, *Security Assistance Management Manual* (SAMM).

Foreign Military Sales Order II

The FMSO II (or requisition case) permits the country to requisition spares and repair parts to replenish in-country stocks as they are consumed. The purchaser's payments under the FMSO II case serve to replenish materiel withdrawn from DoD stocks and to maintain the country's level of equity investment in the U.S. DoD inventory.

The FMSO II case is a type of blanket order case. It has a dollar ceiling with undefined requirements and is valid as long as funds exist in the case. The country prepares its own requisitions and submits

them to the appropriate ILCO. Customer billings are for the value of actual materiel delivered plus the appropriate accessorial and administrative charges.

Cooperative Logistics Supply Support Arrangement Effectiveness

The CLSSA is a viable option for many FMS customers who own U.S.-origin weapon systems currently in use by U.S. operating forces. By participating in the CLSSA, the FMS customer has greater access to the DoD's inventory of spares, on the same level as does the American military customer. The result is faster FMS stock replenishment which keeps the FMS customer's equipment operating at full capability.

The effectiveness of a CLSSA can be influenced by a variety of factors. First and foremost, CLSSA is predicated on adequate inventories of stocked materiel in the purchasing country. In most instances, this requirement is accomplished through the initial support package/concurrent spares package provided with the purchase of the weapon system. CLSSA effectiveness depends on the orderly and timely replenishment of this in-country stock. The participating country should submit replenishment requisitions in a routine manner, as needed, and should avoid ordering large quantities infrequently. In addition, CLSSAs are not intended as the vehicle for large quantity augmentation of in-country stocks. Such augmentation may be required because of an increase in stock levels due to changes in mission, operational levels, maintenance philosophy, or the introduction of additional end items. These requirements should be satisfied through a defined order or blanket order case. The investment levels of the CLSSA should then be adjusted accordingly to support the replenishment of these increased levels of in-country stock.

Factors that normally preclude the use of a CLSSA for follow-on support or drastically reduce its utility are the purchaser's requirements for sole-source procurement, the purchaser's desire for single vendor integrity, or the need for nonstandard items.

Sole Source Procurement

A sole source procurement is defined as one where supplies or services may only be obtained from a specific person or firm. The CLSSA program relies on availability of depot stock, and there often are multiple suppliers of a single stocked item. Since DoD procedures do not provide for segregation or identification of stocked materiel by manufacturer, FMS customers insisting upon a sole source may not requisition the item against a CLSSA.

Single Vendor Integrity

A country's use of single vendor integrity (SVI) can also affect the follow-on support provided by DoD. If a country requires SVI, this precludes the use of a CLSSA since normal DoD procedures do not provide for segregation or identification of stocked materiel by manufacturer or by funding source. For the purpose of this discussion, SVI is defined as the purchaser's specification that all of the spares needed to support a particular weapon system be furnished by the original manufacturer. Spares are typically bought by agencies other than the agency that buys the weapon system itself. For example, DLA typically procures and stocks aviation spares that are used on aircraft managed by Army, Air Force, Navy, and Marine Corps. Thus, to ensure that the installed equipment and the spares come from the same manufacturer, an FMS customer invokes SVI in the LOA.

The purpose of SVI is to ensure that the spares match the installed equipment and will function within the weapon system when installed as replacement equipment and that configuration adaptation of intermediate and/or depot level support equipment and parts will not be required. The SVI concept is more restrictive than sole source in that it stipulates that the same subcontractor and suppliers for the initial purchase must also be used for subsequent procurements.

Single vendor integrity has many appealing features for the foreign purchaser. It simplifies their in-country repair and rebuild program because less inventory is required. Training and publications are also easier to maintain, and the requirements for test equipment are reduced.

Despite these benefits to the customer, SVI also requires extra effort for the U.S. implementing agency to manage follow-on support, beyond the standard level of service. Supply requisitions for single-vendor items must be processed manually by both the ILCO and ICP. The added expense of these manual processes will be passed along to the purchaser. Other disadvantages include certain inherent risks that are also associated with sole source procurement, e.g., the source may go out of business, may become nonresponsive to requests for changes, and prices may be higher.

Foreign Procurement

FMS purchasers may receive spare parts and support equipment that have been manufactured in foreign countries. This occurs when the implementing agency contracts with a U.S. company, who outsources or subcontracts work to a foreign company or foreign subsidiary. The U.S. company imports the items to the U.S., where they are accepted by the DoD, become part of the DoD inventory, and are used by U.S. forces. Despite the fact that the items are manufactured abroad, they are considered to be of U.S.-origin, and are exported to the FMS purchaser using the same procedures as if they had been manufactured in the U.S. FMS purchasers should be aware that they most likely will receive materiel from the same manufacturing sources that the DoD uses for itself.

Performance Based Logistics

The procurement agencies for U.S. military items have changed their acquisition strategy from acquiring stock for distribution on demand to a performance based logistics (PBL) strategy. PBL is the purchase of support as an integrated, affordable, performance package designed to optimize system readiness and meet performance goals for a weapon system through long-term support arrangements with clear lines of authority and responsibility between the USG and a contractor. Simply put, performance based strategies buy outcomes, not products or services.

The integration of FMS customers into this new strategy is ongoing. For defined and blanket order cases, this new arrangement has simply meant that the FMS customers indirectly get the benefits of the PBL relationships in the form of better availability of parts and shorter response times to requisitions. Because CLSSA agreements entitle FMS customers to the same priorities and treatment as is provided to DoD customers, if a PBL is in place for availability of items that are also provided to FMS customers, those with CLSSAs would participate in and benefit directly from the PBL support.

Obsolescence, Diminishing Manufacturing Sources and Material Shortages

Obsolescence is the lack of availability of items needed to support or maintain a system due to new design or process changes. While very closely related, obsolescence is not exactly the same as diminishing manufacturing sources and material shortages (DMSMS). DMSMS is the loss or impending loss of manufacturers of items, suppliers of items, or raw materials needed to support and maintain a system. In other words, it is the loss of support due to a lack of sources or materials.

Both obsolescence and DMSMS may cause situations that result in material shortages that endanger the life cycle support and capability of a defense system. In that regard, DoD and other IAs as well as the FMS customer, should proactively identify timely and effective actions to reduce or eliminate the impact of obsolescence and DMSMS on FMS acquisition and logistics support efforts. The four basic steps of a proactive DMSMS risk management process are:

- Identification and notification
- Verification
- Options analysis
- Resolution and implementation

A detailed study of DMSMS and associated risk management processes can be found in DoD SD-22, *Diminishing Manufacturing Sources and Material Shortages* (DMSMS) *Guidebook*, November 1, 2016.

Unfortunately, the reality for many FMS customers is that DMSMS and obsolescence will continue to affect the support of their system purchases due to the fact that many of their U.S. origin systems are either in the process of or already are phased out of the DoD inventory. A number of programs have been implemented to mitigate this issue by providing continued logistic support for international military sales long after the DoD no longer supports the items for itself. These programs include System Support Buyout, the Aerospace Maintenance and Regeneration Group (AMARG), the acquisition of property through DLA Disposition Services and the redistribution of FMS customer excess spares and equipment via the Worldwide Warehouse Redistribution Service (WWRS).

Commercial Buying Services

The use of aging weapon systems beyond their original life expectancies has placed unexpected demands on supply systems initially provisioned to support shorter life cycles. A combination of diminishing manufacturing support, failure of electronic components, fatigue and corrosion of non-electronic parts, and age, has created unanticipated demands for spares supporting older weapons systems. Exacerbating the problem, the original equipment manufacturer may not be capable of supplying spares, repair parts and engineering support for aging weapon systems. The original manufacturer may no longer exist.

Commercial buying services (CBS) involve the purchase of defense articles and services that cannot be effectively acquired through other means. This may include nonstandard items, commercial off-the-shelf items, standard articles that the IA determines to be unobtainable within a reasonable time, and certain repairs or other services.

The purchase of nonstandard items can have an impact on the follow-on support provided by DoD. Nonstandard items, as they relate to FMS, may be defined as any items or equipment not included in the DoD inventory or not purchased for regular use by DoD. DoD also considers as nonstandard those country-peculiar system configurations resulting from the installation of a nonstandard item on equipment or systems that make it dissimilar to like systems in the DoD inventory.

Nonstandard items are normally in FMS channels for the following reasons:

- The purchaser may change an item's design to improve the desired mission
- The U.S. may change the design for security reasons
- An item may become obsolete as a result of technological advancements and improvements

Follow-on support problems are encountered because there usually is no ICP or item manager assigned responsibility for managing nonstandard items. Therefore, instead of using a relatively standard requisition and distribution system, manual procedures must be used to satisfy purchaser demands. This not only proves more costly to the U.S., but also increases the replacement time and costs for the purchaser.

The following special programs provide contractor support for nonstandard items:

- The Simplified Nonstandard Acquisition Process (SNAP) is managed by the U.S. Army. The program purchases nonstandard item components, repair parts and supplies of primarily land systems and communications equipment and UH-1 helicopter spares.
- The Parts and Repair Ordering System (PROS) is a contractor-operated program that purchases nonstandard item components, repair parts and supplies, and arranges for maintenance of nonstandard items on a repair-and-return basis. Although the program is managed by the U.S. Air Force, the Army and Navy also use the PROS program for nonstandard spares, nonstandard maintenance, and nonstandard services.

Finding sources of supply of nonstandard items, particularly spare parts for end items no longer in DoD inventory, has been an ongoing challenge. System support buyouts and efforts to withhold items with FMS requirements from disposal are providing only a partial answer to this problem. CBS contracts, such as PROS, are filling an important need in this area. In addition to nonstandard item support, CBS processes are increasingly the source of last resort for defense articles and services that cannot be supplied by the standard DoD logistics system in a timely manner. As DoD emphasizes business-like practices, including less stock and more direct vendor delivery, CBS efforts are becoming even more important.

Another use of the term "nonstandard" applies when the FMS customer requests DoD support for an item that the customer purchased commercially, in a configuration not supported by the DoD. In this situation it may become necessary for the FMS customer to provide manufacturing design specifications from the prime vendor to the DoD in order to determine the level of supportability through DoD. This configuration study can be funded through an FMS LOA.

Repair of Repairables

Joint Pub 1-02 defines a repairable item as an item that can be reconditioned or economically repaired for reuse when it becomes unserviceable. Often it is less expensive to repair items than it is to discard them and order new items. The U.S. military services make extensive use of returns from repairs; in some cases, returns from repairs are the only source of supply. The FMS repairable program provides a country the means of obtaining repair services without the necessity of establishing an in-country capability, which can be a long term and normally uneconomical investment because of a relatively small number of weapon systems in use. When an in-country capability does exist, the FMS repairable program can supplement this capability when necessary.

Often, purchasers will opt to return repair items to U.S. facilities for repair or modification. The scope of work performed under the FMS repairable program is usually referred to as "depot level repairs." That is, the repair, overhaul, or rebuild of unserviceable assets, which require maintenance beyond the capability (equipment and/or skills) available in field or organization level activities. The repairs are accomplished by the service depots or by commercial firms under contract to the depots. The choice of this option is often based largely on economics. Rather than investing heavily in facilities, skills, tools, test equipment, etc., the purchaser may find that U.S., or other external depot repair service, is more advantageous. When a purchaser follows this course of action and uses FMS cases for the repair of items, close coordination with and among the servicing depot facilities is required. The maintenance facility can determine when the item should be returned and estimate the cost of repairs. The ILCO coordinates repair services and instructs the FMS customer to send the item to the appropriate depot repair facility. The ICP is responsible for procuring the needed repair parts, and for getting them to the depot assigned the overhaul/rebuilding task.

Purchaser Country Responsibilities

The country has certain basic responsibilities under the FMS repairable program. The country must establish an FMS case in order to get the items repaired. Procedures for establishing FMS cases and processing materiel returns to the U.S., including the documentation required to accompany the items, are contained in the appropriate service regulations referenced at the end of this chapter. The country should only return economically repairable items to the U.S. If the repair facility deems an item not economically repairable, it will not be repaired without specific authorization from the country.

The country is responsible for transportation to and from the designated repair facility, port handling fees, broker fees, and customs clearance. International customers must understand that materiel being returned to the U.S. for repair, regardless of the type of repair program, must clear U.S. customs. Customers or their designated freight forwarders must cite International Traffic in Arms Regulations (ITAR) exemption 123.4 (unclassified) with U.S. customs at the primary U.S. port of entry, along with a copy of the LOA which authorizes the materiel's repair. For more information on import/export requirements, see chapter 11, "Security Cooperation Transportation Policy," of this textbook, or the SAMM, chapter 7.

Concepts of Repair

Two concepts are used in obtaining repairs under the FMS repairable program: repair and return and repair and replace.

Repair and Return

To participate in the repair and return program, the FMS customer must establish an FMS case for repair services with the MILDEP. This may be a blanket order or a defined order case. Under the repair and return concept, the country enters its unserviceable item into the U.S. repair cycle, and upon completion of repairs, the same item is returned to the country. The U.S. Air Force and U.S. Army call this program "repair and return." The U.S. Navy calls this program "Repair of Repairables" (RoR).

The repair program is normally limited to items for which the MILDEP has established a depot level repair program. The FMS customer must request approval for repair through the ILCO from the inventory manager (IM) before shipping materiel to the U.S. for repair. After receiving approval and shipping instructions from the IM, the purchaser ships the materiel to the designated repair facility where it is entered into the repair queue. After repairs are completed, the item is shipped back to the FMS customer.

In the repair and return or RoR program, the cost to the country is the actual cost of the repair in accordance with DoD 7000.14-R, *Financial Management Regulation* (FMR), volume 15.

Repair and Replace

Under the repair and replace program, also known as direct exchange (DX), the unserviceable item is returned to the repair activity and, if it can be economically repaired or overhauled, a replacement item is issued from the U.S. military service's stocks. The country's unserviceable item is repaired or overhauled and returned to the U.S. military service's stocks. Under this program, countries are charged the estimated average cost of repairs (also referred to as net cost or exchange price). With the exception of the administrative and special requirements, i.e., packing, crating and handling, the same costs will be assessed to FMS customers as are charged to U.S. forces. The DX program is usually available through either a blanket order case or as a CLSSA.

For FMS, the Air Force and Navy currently offer the option to use both the repair and return and the direct exchange program. The Marine Corps and the Army only offer the repair and return program.

U.S. Navy. The U.S. Navy's repair and replace program is called the repairable item replacement option (RIRO). Under this program, FMS customers can draw directly from the U.S. Navy stock system (through a CLSSA) for specifically identified weapons replaceable assemblies, system replaceable assemblies, and other designated repairable spares that are managed and have been approved by NAVSUP Weapon Systems Support in conjunction with the U.S. Navy's hardware systems commands. If the requested materiel is available in the U.S. Navy's stock system, it is shipped immediately upon request. Then, the purchaser sends the failed item to a U.S. Navy designated receiving point for further transfer to a depot for repair. Upon completion of repairs to the returned item, it is returned to U.S. Navy stock. Purchasers are charged the difference between a condition "A" item and the value of the failed item carcass. If the carcass is determined to be non-repairable, then the purchaser is charged the full price for a condition "A" item.

U.S. Air Force. Under the U.S. Air Force's repair and replace program, FMS customers can draw directly from USAF sources of supply (through a CLSSA or blanket order case) for items listed on a preauthorized materiel repair requirements list (MRRL). Purchasers send their failed items to a designated USAF receiving depot. Upon receipt at the depot, a replacement requisition is generated and the purchaser is charged the average repair cost for that particular item (also known as the "exchange price"). If the carcass is determined to be non-repairable, then the purchaser is charged the full price for a condition "A" item.

Excess Property

General

Excess property procedures afford still another method for limited materiel support. Property that is excess to U.S. MILDEP requirements and cannot be used by other DoD components may be provided to eligible foreign governments through the FMS program as Excess Defense Articles (EDA). Providing excess materiel is accomplished either through the military departments or the DLA Disposition Services. EDA include lethal and non-lethal defense equipment owned by the MILDEPs, excluding construction equipment, which may be provided to selected countries on a grant or as an FMS sale. All sales of excess significant military equipment (SME) or materiel valued at $7M or higher in original acquisition value require a thirty-day advance Congressional notification prior to transfer. The DLA Disposition Services program, on the other hand, is the sale of non-lethal, non-SME excess government property, which may include major end items, support equipment and consumables that are no longer needed by the MILDEPs, and are transferred by DLA as a grant to eligible countries, or sold to non grant-eligible countries at a reduced cost based on the condition of the items.

Purchases of DoD excess equipment and supplies can provide a valuable source of supply and, through reduced prices, enable foreign governments to obtain a greater return for their procurement dollar.

Excess Defense Articles

Not all countries are eligible for all types of EDA transfers. For information on eligibility and program restrictions, see chapter 2, "Security Cooperation Legislation and Policy," of this textbook.

Under the EDA process, each MILDEP determines what items are excess. Additionally, the MILDEPs must ensure that the items must also be excess to other MILDEPs, defense agencies, reserve components, and the National Guard before being offered to a foreign government. There are two general ways in which countries can request EDA. Countries may respond to MILDEP surveys of interest for EDA by the requested deadline. Countries may submit short lists of requirements to the MILDEP. Upon receipt, the MILDEP will determine whether the item is available as EDA. If not, the MILDEP will keep the request on file.

The important factor in the acquisition of EDA from any source is the availability of both initial and follow-on support. Sales or transfers of excess defense articles do not follow the total package approach concept. Excess defense articles are transferred "as is, where is," meaning that EDA does not include spares, support, publications, training or any other aspect of support. Care should be taken to ensure a prospective customer has either an existing infrastructure or that one can be developed in order to support the introduction of EDA into the purchaser's inventory. Foreign governments interested in acquiring EDA should contact the U.S. SCO in their country. Since EDA is provided on an "as is, where is" basis, the associated costs for any refurbishment and subsequent packaging, crating, handling, and transportation of the defense article are generally the determining factor as to whether or not a country accepts the EDA, even if it is offered on a grant basis. These associated costs prove to be prohibitive to many countries wanting EDA equipment, resulting in a high percentage of EDA offers being declined. Most EDA articles are unserviceable and require major repair. Additionally, spare parts, tools and manuals, if available, must be purchased separately. In some cases, no follow-on support is available since the MILDEPs no longer field the items. These associated costs often outweigh the benefit of the materiel being offered for transfer.

Major EDA transferred by the MILDEPs are generally priced at the fair market value. Grant-eligible recipients may receive the major end item at no cost, but they are still required to pay all accessorial costs and the administrative charge prior to delivery. Major EDA transferred by the MILDEPs is often in poor condition and requires extensive overhaul or refurbishment if the customer intends to use it as a fully functioning item. The costs of such extensive repairs, if available, must be paid by the receiving customer through an FMS case.

DLA Disposition Services

There has been an increase in interest in the DLA Disposition Services and how countries can find and acquire DoD excess property. The objective of this DLA FMS program is to maximize the reuse of excess property when such sales favorably contribute to both the U.S. and host country's national security objectives. DLA Disposition Services provides an alternative low-cost method of acquiring non-lethal, demilitarized property through FMS.

DLA Disposition Services has performed disposal services for DoD for over thirty years as a primary field level activity of DLA. The mission of DLA Disposition Services is to maximize the return to the U.S. taxpayer by finding new homes for the property in other government agencies, non-profit organizations, the armed services, and foreign governments. Property remaining after this effort is cataloged and sold to the public. FMS is one of the many programs qualified to receive DLA Disposition Services property. To assist in this effort, DLA Disposition Services prepares and manages all of its own cases.

When property is no longer needed or DoD has too many items in stock, the property is deemed excess and scheduled for turn-in at one of the DLA Disposition Services facilities. Items that have a military offensive or defensive capability are first demilitarized. Once property enters the inventory, it begins a forty-two-day screening cycle during which time FMS customers and U.S. Federal agencies may view and select items for purchase. After the screening cycle is complete, items that have not been selected for transfer may be made available to the general public through a contracted liquidator, or the items may be destroyed and sold as scrap. Therefore, it is important for the purchaser to locate needed property as soon as possible. DLA Disposition Services has several methods to assist the purchaser in finding the property. Because DoD considers the property excess, the property is in a wide range of conditions. The owner turning in the item determines the condition of the property. The condition of the property ranges from new and in original packaging to items whose only value is as scrap. Realizing the inherent problem of identifying the usability of the property, DLA Disposition Services has taken extra measures to assist the purchaser in determining condition. The DLA Disposition Services may upload photos of actual items so that potential purchasers may have a better idea of the condition of

the item. Additionally, DLA Disposition Services personnel can check basic functioning of the item. However, since all EDAs are "as is, where is," purchasers are encouraged to visually inspect all major items to ensure each item is in an acceptable condition. The FMS purchaser cannot obtain overhauls and repairs from DLA of materiel available in the DLA Disposition Services inventory.

The pricing of property in the DLA Disposition Services inventory for FMS customers is based on the condition code of the item. The price ranges from 5 to 50 percent of original acquisition value with additional accessorial charges of packaging, crating, handling, and transportation and administrative charges. Grant eligible countries must also pay for packaging, crating, handling, and transportation (PCH&T). See chapter 12 of this textbook, "Foreign Military Sales Financial Management," for more information on depreciation values.

The DLA Disposition Services materiel can only be viewed through DLA's secure Enterprise Portal by registered account holders. Registration for access is at https://business.dla.mil/landing/ds.jsp. FMS purchasers may only obtain access to the site if they have an implemented LOA with DLA Disposition Services. Security Cooperation Officers (SCOs) may assist FMS purchasers in screening for available materiel by registering for access to the Enterprise Portal and viewing the DoD listings in the Reutilization/Transfer/Donation (RTD) section of the DLA Disposition Services website. The user can search the inventory by NSN, item name or federal supply class, location or condition code. Once the search is performed, a listing of all the available assets meeting the search criteria is visible. The list may also include photos of the items. User's may submit want lists to DLA Disposition Services for items that may become available in the future. When an item becomes available, the user is notified by e-mail.

The preferred method for an FMS customer to order from DLA Disposition Services is by using a blanket order case. When such a case is approved, the eligible country is issued a password and user ID that allows the purchaser to enter into the DLA Disposition Services web site and process its order online. Each order is processed overnight and received at the DLA Disposition Services sites worldwide the next business day. The item is then prepared for shipping. Countries are responsible for the cost of transporting the property to the final destination.

Other Logistics Support Programs

United States Air Force Technical Coordination Program

For more than twenty-five years, the U.S. Air Force has been supporting the FMS and SA/SC countries with what has become known as the technical coordination program (TCP) (formally known as the Technical Coordination Group (TCG)). The TCPs, international engine management programs (IEMPs), and the electronic combat international SA program (ECISAP) provide dedicated follow-on technical and engineering support to the FMS 10-31 customers. Purchasers sign an FMS case to become members of the TCP. The TCPs provide a single point of contact for countries on all their technical concerns regarding their respective systems once the system is procured. The TCPs provide technical assistance for weapon systems including: F-4, F-5, A/T-37, F-16, F-15, E-3, C-130, and KC-135 aircraft, plus AIM-9, AIM-7 and AGM-65 missiles. The IEMPs provide technical support for all aircraft engines to include: F100, F108, F110, J69, J79, J85, T56 and T30. ECISAP provides engineering software support and system hardware support. The TCPs, IEMPs, and ECISAP work exclusively for their international customers, and they are not responsible to provide any service to USAF units. The member countries fund the TCGs, IEMPs and ECISAP, and 100 percent of the TCP's time is dedicated to FMS support. The FMS customers pay for these services on a prorated basis.

United States Army Fair Share Sustainment Programs

The U.S. Army's Aviation and Missile Command (AMCOM) provides follow-on technical and engineering support to FMS purchasers of the HAWK and CHAPARRAL missile systems. These

programs, known as the HAWK and CHAPARRAL Fair Share Sustainment Programs (FSSP) respectively, provide hardware, software and technical support to these two systems which are obsolete to the U.S. Army, but are actively managed by AMCOM to support international users. Purchasers can participate in either or both FSSP programs through a separate FMS case, or through a support line on a larger system sale. The FMS customers pay on a prorated basis to receive these services. There are currently fifteen countries supported by the Army's FSSP programs; eleven are HAWK users and four are CHAPARRAL users.

United States Navy F/A-18 In-Service Support

The U.S. Navy has established the F/A-18 in-service support (ISS) program to ensure that post-production logistics and engineering support will be available for FMS customers that own out-of-production F/A-18s. The ISS program enables FMS customers to address their problems with the U.S. Navy and the prime contractor, Boeing, on a day-to-day basis. The ISS program assists FMS countries in the continuing operation and maintenance of their weapon systems by sharing U.S. Navy and FMS logistics and engineering data at minimum cost to all concerned. Without a common ISS program, it would be necessary for each FMS customer to establish individual contracts to obtain those sustaining services. The ISS program joins all F/A-18 users into a single cohesive team. It contains common requirements, those that are applicable to both USN and FMS customers' unique requirements, and those that specifically apply to one or more FMS customers.

United States Army Corps of Engineers

The U.S. Army Corps of Engineers (USACE) is the Army's principal engineering design, construction, research and development organization. It is responsible for delivering technical services and infrastructure solutions to a wide range of customers, including all of the geographic and functional combatant commands, the DoD, some seventy other U.S. federal agencies, and approximately ninety countries worldwide. USACE is an implementing agency for security assistance for part of the international and interagency mission and is responsible for accepting Letters of Request and developing them into Letters of Offer and Acceptance. USACE executes missions that support war fighting, disaster relief and other contingencies, as well as providing planning, technical support, acquisition, construction, and capacity development around the globe.

USACE supports the combatant commands (CCMDs) in designing and executing engineering projects and water resource management in over one hundred countries and currently has offices in thirty countries. Some of the construction and public works projects USACE has provided under security cooperation programs in the last decade include construction of maintenance and storage facilities in support of major systems and stand-alone projects in support of foreign military capacity improvements. Examples include the construction of piers, seawalls, firing ranges, schools, barracks, water wells, health clinics, simulation and training facilities, munitions storage bunkers, dining facilities, prisons, roads, and runways.

System Support Buyout

When a U.S. MILDEP is terminating support for a particular system, or in some instances components of a system, it is normal practice to offer those countries having the system an opportunity to participate in what is referred to as a life-of-type buy or system support buyout. If this is offered, the purchasing country must inform the MILDEP of the total remaining expected service life of the equipment and other supporting information. The MILDEP then recommends those spares and repair parts that will be required to support the system for its intended life. A list of these items is forwarded to the country for review and adjustment prior to the eventual request for an FMS case for the agreed upon items. The purchaser should have a minimum of two years to place a final order for secondary items to support the system for its remaining useful life. After the system support buyout is completed, no further CLSSA is maintained, nor are standard item FMS follow-on support cases rendered for that system/component.

Worldwide Warehouse Redistribution Services

WWRS is a program designed to redistribute excess spare parts and support equipment acquired by FMS customers. Items available through WWRS must be U.S.-origin items in operating condition. WWRS is designed to be self-funding through the collection of a redistribution service fee assessed on the sales price of the materiel sold. WWRS can be considered a virtual warehouse of assets used to fill FMS requisitions. WWRS may not include significant military equipment (SME). An approved LOA is the authority to purchase the WWRS listed materiel. FMS customers submit their list of excess items for sale through the WWRS program office at AFSAC. AFSAC posts the items to the WWRS web site. Prices are determined by the seller. Buyers purchase items listed on the WWRS by submitting a supply requisition against a blanket order case to AFSAC. Neither the buyer nor the seller is identified in the web site. Once a buyer requisitions the item, the seller is instructed by AFSAC to ship the materiel to a contractor near Dayton, Ohio. Title to the materiel transfers to the U.S. government upon passing inspection by the contractor. After inspection and sanitization, the item is shipped and title transfers to the buyer. Using this process ensures no third-country transfer violations. The WWRS listing of materiel, customer handbook, and program changes and enhancements can be found on the WWRS home page at: https://afsac4.wpafb.af.mil/WWRS.

Aerospace Maintenance and Regeneration Group

The Aerospace Maintenance and Regeneration Group (AMARG) is joint service storage, regeneration, reclamation, and disposal facility located at Davis-Monthan AFB. The AMARG maintains approximately 4,200 aircraft and 40 aerospace vehicles from the Air Force, Navy, Marine Corps, Army, Coast Guard, and several federal agencies including NASA. The AMARG provides critical aerospace maintenance and regeneration capabilities for joint, allied, and coalition war fighters in support of global operations for a wide range of military operations. The operation is unique in that authorized customers from all over the world may withdraw parts and aircraft. The group provides customer services including aircraft regeneration (restoring aircraft to flying status), limited depot-level maintenance, and parts reclamation, in addition to its historic storage and disposal functions.

The AMARG maintains aircraft in long term and short term storage. Long term storage aircraft may be contingency weapon systems, weapon systems designated for potential FMS, and weapon systems designated for reclamation. With an original purchase price of more than $33 billion, this aerospace fleet provides a unique savings account from which military units throughout the world (including our FMS customers) may withdraw parts and aircraft. The inventory consists of a wide range of reciprocating, turboprop, and jet engine powered fixed and rotary wing aircraft. International customers may withdraw entire aircraft from storage, or just those spare parts which are otherwise hard to obtain. Some notable FMS sales that included entire aircraft being supplied from AMARG resources include a sale of nine P-3B maritime aircraft and a sale of six C-130E cargo aircraft. Additionally, AMARG provided thirty-four refurbished F-16A/B fighter aircraft in support of an FMS lease.

Publications Support

The term "publication" can be defined as a wide range of printed material, or other media (such as digital download, CD/DVD, etc.), including technical orders/manuals, indexes, software, supply catalogs, training publications, administrative publications, engineering drawings and associated documents, equipment component lists, decals, forms, and audiovisual products.

In most cases, as with other aspects of the FMS program, no special system has been developed to requisition publications to support the FMS customer. The systems already used by each of the MILDEPs and other DoD organizations to meet internal requirements have all been adapted to include the FMS customer. Publications are provided in English. FMS customers who desire to have contractual, technical or administrative documents translated into the local language may contract for translating services using local resources after the publications have been delivered. By exception, DoD

may agree to translate selected publications as part of an FMS case. If so, the English language version takes precedence, and if there is a translating error, the DoD will not accept liability if equipment damage or personnel injury occurs. Translated documents should be marked "Informal and unofficial translation—English text governs," as prescribed by SAMM C4.2.4.

Numerous web sites provide access to MILDEP and DLA publications, but most can only be accessed through a .mil or .gov address. An up-to-date list of publications web sites can be accessed through the external links identified on the Defense Institute of Security Cooperation Studies (DISCS) home page at http://www.discs.dsca.mil/.

Initial Versus Follow-On Publications Support

Under the total logistics support concept (figure 10-3 shown earlier), publications are an integral part of the support package for major weapons systems. Each major system sale includes those publications required to maintain the system. Technical publications are crucial items in the FMS program since they often provide the only operating and maintenance instructions for the equipment purchased by FMS customers. Without the proper publications, equipment may be misused or improperly maintained.

Nevertheless, it is up to the purchaser to ensure that such publications are kept current. Lack of up-to-date publications can render a weapon system inoperative. Publications are just as important as training, spares, and support equipment to ensure that the system will perform as required. Follow-on cases for publications are required. To aid in this effort, each of the MILDEPs has developed procedures for automatic distribution. This is the easiest method to ensure that publications are kept up-to-date. The indexes of MILDEP publications are available on CD-ROM and at the respective MILDEP publishing agency web sites.

Types of Cases/Categories of Publications

The purchaser has a choice of two types of FMS cases for ordering publications, either a blanket order or a defined order case. The blanket order is the preferred type of case to use. It makes administration of the case much simpler and permits the more rapid filling of purchaser requests. If the purchaser desires to participate in the automatic distribution program, a blanket order case is mandatory. Certain categories of publications can only be ordered using a defined order case, including classified publications, Defense Language Institute (DLI) publications, and professional military education (PME) correspondence courses. Additionally, each MILDEP has placed restrictions on other publications. More specific guidance on the ordering of publications can be obtained from the respective ILCO.

Navy Publications

Each Navy publication or form, including changes, has been assigned a Navy item control number (NICN) allowing the use of the MILSTRIP format to order publications. The purchaser may submit a requisition via normal means however, the document identifier "A04" must be used in record positions 1-3. All requisitions for publications are forwarded electronically from the NAVSUP Weapon Systems Support-OF to the Navy Logistics Library (NLL) for minimal validation. The NLL forwards the requisition to the publication sponsor for release determination. If the sponsor disapproves the release of the publication, the requisition will be rejected with a cancellation status sent to the customer via the supply system. If the sponsor approves release of the publication to the FMS customer, the NLL refers the requisition to the supply point for fulfillment. Requests for classified publications must be approved by the Navy International Programs Office prior to the submission of a requisition to NAVSUP Weapon Systems Support-OF.

Army Publications

Publications requisitioning from the Army is accomplished under a combination of MILSTRIP and non-MILSTRIP requisition processes because the U.S. Army Publishing Directorate does not have an automated internal supply system capable of accepting MILSTRIP requisition actions. However, the U.S. Army Security Assistance Command records all publication orders electronically so that the purchaser always has visibility of the requests.

The Army uses two different methods for publications support: initial distribution, and resupply. Initial distribution is part of the initial sale or transfer of the system under the TPA concept. Customers are provided with a basic set of publications that are delivered during the same time-frame as the equipment. The resupply method includes both defined and blanket order cases, and the publications are requisitioned using the DA Form 4569-1-R, Security Assistance Publication Requisition Code Sheet. The instructions and a copy of this form are contained in DA Pamphlet 25-33, and the form can be locally reproduced.

If the country participates in the ILCS, it can use the ILCS to transmit publication requests in lieu of mailing in the hard copy DA Form 4569-1-R. MILSTRIP document identifier code "BMB" has been established to allow purchasers to transmit publication resupply requisitions to USASAC. FMS customers requiring advice and assistance with publications support should contact their case manager at USASAC-NC.

Air Force Publications

The Air Force has two distinct sources and methods of obtaining publications. Technical orders (TOs) are requested through Tinker AFB, Oklahoma and shipped from the managing Air Logistics Complex. All other publications are obtained through AFSAC at Wright-Patterson AFB, Ohio. Distribution of publications continues to be via paper copies.

Requests for standard publications, forms, engineering drawings, CD-ROM, and decals are sent to the AFSAC using DD Form 1149. Since each publication does not have a stock number assigned, the purchaser must use the current publication short title. The form must be mailed to AFSAC. Classified publications, other than technical orders (TO), are released only after approval by a delegated disclosure release authority. Technical orders are requisitioned from the security assistance technical order (SATOD) program office located at the Oklahoma City ALC on AFTO Form 187 or AFTO Form 276. Automatic distribution of changes can be requested by indicating the initial distribution quantity on the AFTO Form 187.

Publications from Department of Defense and Other Sources

Publications are normally ordered through FMS cases with the three MILDEPs; however, some publications can be ordered directly from the agency that acts as the single manager for a particular series. An example of this is catalog data managed by DLA's Logistics Information Services. The FMS purchaser can establish an FMS case directly with DLA to obtain catalog products. There are many DoD directives, instructions, and publications that may be of interest to FMS customers. Most can be viewed and downloaded from the proponent MILDEP publishing agency web site. However, many sites are restricted to users with Common Access Cards (CACs).

Equipment Disposal

The disposal phase begins when an FMS customer has a need to dispose of all or part of a weapon system. SAMM, chapter 8, states that the proper use of U.S. origin items is a joint responsibility of the recipient and U.S. personnel. Often an item must be demilitarized to eliminate its military capability. Classified features and those that pose physical or environmental hazards should be neutralized prior

to or during the disposal process. Demilitarization procedures are outlined in DoD 4160.28-M-V3. International customers are encouraged to use the DoD procedures for demilitarization if they have no equivalent demilitarization procedures of their own. Demilitarization guidance is available from weapon system managers or through DLA Disposition Services. The SAMM, section C8.8, provides further guidance on equipment demilitarization and disposal.

The Demilitarization Program Office (DDPO) manages the DoD DEMIL Program to ensure that policy, procedures, program implementation, and operational performance are consistent with U.S. Foreign Policy, National Security objectives and DoD interest.

International customers also may consider transferring their unwanted materiel to another country as a means of disposal. This is typically done with items which still have military capability. It is the responsibility of the transferring country to locate a buyer that meets the approval of the U.S. All third-country transfers must be approved by the Department of State (DoS).

Both the DoS and DoD have set up end-use monitoring (EUM) programs to ensure that defense articles are used according to agreements with the U.S. from receipt to final disposal. See chapter 18, "End-Use Monitoring and Third-Party Transfers," of this textbook.

Teams Used to Support Country Logistics Requirements

Often when the USG provides new equipment to a country there is a need for technical assistance and training. Whenever there is a new Presidential determination that a country is eligible for U.S. SA/SC, the country will often require help to interface with the U.S. logistics system. Various teams sent to the country from the U.S. often provide this technical assistance and training. To ensure that all aspects of the SA/SC mission are integrated into an overall effective program, all such teams are under the supervision of the overseas SCO while they are in the foreign country.

The use of these teams is an integral part of the TPA, providing both initial and follow-on support for the country. The following is a brief discussion of the general types of teams that may be provided.

Quality Assurance Teams

Quality assurance teams (QATs) are often provided whenever a new item of military equipment is transferred to a foreign purchaser. The mission of the QAT is to receive, inspect, and prepare the U.S. equipment for initial operation. They are not a training team. The QAT is assigned to make sure that the equipment has not been damaged during transit, and if it has, to repair the equipment and ensure that it is operational when provided to the purchasing country. QATs are usually very small teams temporarily assigned in country; they perform their mission and leave the country promptly, thereby minimizing the cost to the purchaser.

Technical Assistance Teams

Technical assistance teams (TATs) are U.S. DoD personnel temporarily assigned in-country to maintain or repair equipment provided under an FMS program. These teams can also be used to set up and place into operation such things as repair parts warehouses, personnel records systems, and technical libraries. TATs are often used when a country finds itself having problems in maintaining U.S. equipment or interfacing with U.S. management techniques. The primary purpose of a TAT does not normally include training, although some degree of training will be provided by virtue of the team performing their mission.

Extended Training Service Specialists

Extended training service specialists (ETSS) are DoD personnel (military or civilian) who are technically qualified to provide advice, instruction, and training in the installation, operation, and maintenance of weapons, equipment, and systems. Unless specifically approved by DSCA, an ETSS

will be provided for no longer than one year. These are the long-term training teams utilized for in-country training of foreign military personnel. English language instructors are an example of ETSS.

Contract Field Services

Contract field services (CFS) are furnished by DoD contract with U.S. industry to provide advice, instruction, and training in the installation, operation, and maintenance of weapons, equipment, and systems. CFS will be used only when DoD personnel with the required skills are not available, or it is not practical to use them. CFS can be programmed on a one-year basis, although the term may extend past the end of a fiscal year. The conditions of CFS must be approved by DSCA and may be funded under IMET. Both CFS and ETSS are considered to be a field training service.

Technical Assistance Field Teams

Technical assistance field teams (TAFTs) are U.S. DoD personnel permanently assigned in country who are used to provide in-country technical support to foreign personnel on specific equipment, technology, weapons, and supporting systems when MTTs and ETSS are not appropriate. TAFTs are often the bridge between purely technical assistance and pure training. TAFT members are technical experts in their fields and often provide formal and informal training to their counterparts as part of their primary mission of ensuring the continued operation of the equipment or support system. TAFTs are often used to set up operational maintenance and supply systems that will interface effectively with continental U.S. (CONUS) activities. In this sense, TAFT members are both doers and trainers. TAFTs set up and operate the systems, but they also train their counterparts to assume full operational control as quickly as possible.

As part of the TPA for support, it is essential that consideration be given to using the various teams available to assist in both initial and follow-on support. For additional information, see the SAMM, section C11.8, and chapter 14, "International Training," of this textbook.

Discrepancy Reporting

In a system as large and diverse as the DoD logistics system, errors are bound to happen. DoD, recognizing this fact, has set up a system to quickly validate the problem and respond to the purchaser, while documenting trends to preclude recurrence of the discrepancy.

A discrepancy is a difference or variance from a standard. If something does not meet the standard in either quantity or quality, a discrepancy exists. The USG's intention is to resolve the discrepancy and ensure that every effort is made to provide the correct defense article or service in the quantity and quality agreed to in the FMS LOA.

A deviation from a standard can be caused in any number of ways: shipment damage, wrong items, shortages, and many others. Considering the large number of shipments processed through the SC program, some discrepancies can be expected. Most discrepancies involve some human error or oversight. Anyone in the long line of people processing the transaction, its transfer, shipment, or receipt may have inadvertently contributed to the discrepancy.

The USG's goal is to efficiently resolve reported discrepancies as soon as possible. Where it is determined that the USG is responsible, the implementing agency will make a financial adjustment for the recipient country. Furthermore, per the LOA standard terms and conditions, section 5.1, the USG disclaims any liability for damage or loss to the items incurred after passage of title, irrespective of whether transportation is by common carrier or by the U.S. Defense Transportation System. An exception to this is a discrepancy in billing, which normally occurs after title has passed to the purchaser.

There are three categories of discrepancies. Each has unique reporting requirements for FMS.

- Supply discrepancies, which capture a wide range of issues
- Product quality deficiencies, caused by the manufacturer
- Financial discrepancies, caused by erroneous computation of administrative or accessorial charges

Supply Discrepancies

Supply discrepancies are those caused by the ILCO, item manager, shipping activity, or by the manufacturer. They are reported by the country or freight forwarder to the appropriate ILCO on an SF 364, Supply Discrepancy Report (SDR), or automated equivalent. The principal reference for supply discrepancies is DLM 4000.25, *Defense Logistics Management System (DLMS)*, volume 2, chapter 17. The military departments have published supplemental SDR guides which can be obtained from the ILCO.

Shipment Discrepancies

Shipment discrepancies may include shortages, overages, damage, insufficient remaining shelf-life, incorrect items, and misdirected shipments. Occasionally, unnecessary SDRs are submitted in these areas because the country does not completely understand the U.S. supply system or fails to coordinate with its freight forwarder prior to submission of the SDR.

Purchasers often believe there is a shortage or total non-receipt of an item when the reconciliation documents sent to the purchaser show that an item is shipped, but the freight forwarder has not yet sent the item to the country. When shipments are made through a freight forwarder, the purchaser submitting SDRs for non-receipt is required to provide documentation from the freight forwarder indicating that no materiel has been received on the applicable requisition and transportation control number. The ILCO will deny any non-receipt SDR that does not include this documentation.

Many times, SDRs are submitted for shortages because there was a partial shipment of the quantity requested. Such shortages are often identified by researching the supply status received prior to the shipment or by inspecting the shipping document to see if the items received are partial shipments. If a purchaser receives a partial shipment, further research is required to see if the remaining items were previously received or if they are still due-in to the country.

An SDR may be submitted when the value of a missing shipment unit is at least $200. A shipment unit is defined as one of multiple shipments with the same document number but with a unique suffix code. Each shipment unit will have its own Transportation Control Number (TCN). For example, if the customer requisitions 300 bolts at a cost of $1.00 each, the total requisition value is $300.00. If the requisition is filled in three increments of one hundred, and each increment is shipped individually, then each increment is a shipment unit. If one of the three shipment units is lost, the value of that shipment unit is only $100 and would not qualify for submitting an SDR.

Another problem is caused by the use of multi-pack shipments. This is a packaging method whereby many different items are, for economic reasons, packed and shipped in a single container. Often the documentation on the outside of the crate or box identifies only the document used to track the container. Inside, there may be numerous small items consolidated in the shipment that may be individually accounted for by the foreign customer.

Misdirected or Unordered Items

In the event that the purchaser receives unordered or misdirected shipments containing items that are identified as classified/sensitive materiel, and/or arms, arms parts, or explosives, the purchaser

should report the discrepancy within twenty-four hours of discovery, regardless of dollar value, for disposition instructions from the USG. The USG requests that the purchaser returns classified/sensitive materiel, and/or arms, arms parts, or explosives within thirty days of USG direction. For all other items, the purchaser is requested to ship discrepant articles within 180 days of receiving USG direction for such returns.

Quality Deficiencies

Product quality deficiencies are defects or nonconforming conditions, which limit or prohibit the item from fulfilling its intended purpose. These include deficiencies in materiel, manufacturing, and workmanship, e.g., failure to put a gasket in a carburetor. A latent defect is defined as a deficiency in an article which affects the operability and is not normally detected by examination or routine test, but which was present at time of manufacture.

Substitute Items

SDRs are often submitted for incorrect items because the shipping activity did not have a specific item in stock and, instead, shipped an authorized substitute. Although the item will often perform as well as the requested item, the purchaser submits an SDR because it is not the same stock number as the item ordered. Again, further research of previously received status documentation is needed. If the purchaser does not desire a substitute, the appropriate advice code should be placed on the original requisition. There are times, however, when human error is involved and an incorrect item is shipped. If an item has not been identified as a suitable substitute for, or interchangeable with, the original item ordered, then an SDR is appropriate.

Shelf Life Items

A shelf life item is an item of supply possessing deteriorative or unstable characteristics to the degree that a storage time period must be assigned to ensure that it will perform satisfactorily in service. All shelf life items are categorized as one of the following two types:

- TYPE I items are determined through an evaluation of technical test data and/or actual experience to have a non-extendable shelf-life. These items include fresh foods, vaccines, and drugs.
- TYPE II items have an assigned shelf life that may be extended after completion of visual inspection/certified laboratory test, and/or restorative action. These products include petroleum, oil and lubricants, canned or packaged foods, and certain rubber-based products.

DoD shelf life policy requires that materiel will be issued/shipped on a first in, first out (FIFO) basis and shall be the oldest within the condition code specified. However, DoD recognizes that some FMS shipments may require a longer transportation time and has provided the following exceptions for FMS customers.

FMS requisitions will be issued in accordance with last in, first out (LIFO) issue policy. LIFO issue of non-extendable Type I shelf life items will be accomplished by issuing materiel with the latest date of expiration; extendable Type II items will be issued by the latest date of manufacture, date of cure, date of assembly, or date of pack (subsistence only) regardless of the number of extensions.

Items with a shelf life code (SLC) of twenty-four months or greater, issued to satisfy FMS shall be in condition code A, with a minimum of twelve months shelf life remaining. Requesters have the option to waive the twelve-month minimum by submitting exception requisitions (A05).

Items with a SLC of less than twenty-four months are not subject to the twelve-month minimum. However, they must be issued from condition code A assets, unless the purchaser specifies that other than condition code A materiel is acceptable.

Shelf life extensions for items/materiel in the custody of the FMS customer can be found by contacting the USG security assistance or international program offices having responsibility over the FMS case. The office can access the DoD shelf life extension system for applicable data and extension test results. Shelf life policy for FMS is contained in DoD 4140.27-M, Materiel Management Policy, chapter 5.

Improper Packaging

SDRs may be submitted for materiel received in damaged condition if the damage is the result of improper preservation, packing, marking, loading, handling, or storage provided prior to title transfer. SDRs will not be accepted for damage caused by the carrier.

Billing Discrepancies

A billing discrepancy involves materiel which is received as ordered, and with proper accompanying documentation, but the charge is incorrectly reflected on the quarterly billing statement provided by DFAS. These are usually duplicate charges or omissions from the bill. The purchaser will usually identify these problems by using the FMS delivery listing provided as part of the quarterly billing statement.

Submission of Supply Discrepancy Reports

To determine if a suspected discrepancy should be reported, a step-by-step process is recommended, which involves the elements of time, value, and determination of the cause of the discrepancy.

Element of Time

SDRs must be submitted within one year of the date of the title transfer/date of shipment to the ILCO. Therefore, it is imperative that the purchaser inspect each delivery upon receipt to ensure that the correct item is received in the correct amount and in good condition. If there is a discrepancy with the shipment, the purchaser must submit the SDR within one year from the time the item left the depot/manufacturing facility. In the event that a purchaser fails to receive an entire shipment, but is billed for the original amount ordered, the purchaser has one year from the date on the DFAS quarterly billing statement (DD Form 645) on which it was billed for the shipment.

The element of time, twelve months from the date of initial shipment, is provided in the terms and conditions of the LOA, section 5.4, to allow the purchaser sufficient time to receive, inspect and, if necessary, test the materiel. It does not constitute a warranty, but rather allows the FMS customer to assemble the necessary documentation to support a claim for a discrepancy. The constraint of time is not applicable in the case of a latent defect, which is defined as a defect which exists at the time of acceptance, but which cannot be identified by a reasonable inspection.

Element of Value

Next, the purchaser should determine if the suspected discrepancy is, in fact, valid. The monetary minimum is $200 for any LOA implemented on or after 1 June 1992. SDRs will only be credited by the MILDEP when the estimated value is $200 or greater. This minimum value includes the value of the item plus any transportation and handling costs. Purchasers are encouraged to submit SDRs regardless of the dollar value so that problems can be documented, but only those over the minimum dollar value will be reviewed for possible compensation.

Cause of Discrepancy

It must be decided whether the resolution of a reported discrepancy is the responsibility of the shipper (U.S. government) or the carrier. If a carrier discrepancy is suspected, claims should

immediately be filed directly with the carrier, as a carrier's liability is terminated after nine months from the date of shipment. If the discrepancy is a shipper or billing responsibility, an SDR should be prepared and forwarded to the appropriate ILCO for initial processing. Table 10-3 provides a decision table to assist the purchaser in determining the appropriate action to be taken with respect to the gamut of discrepancies that might be encountered. Further SDR decision criteria can be found in the SAMM, table C6.T4.

Table 10-3
Decision Table for Supply Discrepancy Report Submissions

Discrepancy	Action
Transportation: Packages are missing or damaged when received.	Inspect shipping manifest to ensure that cargo is missing and/or was not damaged when picked up by carrier. If DTS is the carrier, contact U.S. military representative and have the SCO submit a DD 361 (TDR). If not a DTS shipment, immediately submit a claim with the carrier.
Financial: Accessorial or administrative charges are computed incorrectly.	Army/Navy: Submit a letter directly to DFAS–SCA explaining the deficiency and requesting correction. Air Force: Submit a letter to AFSAC explaining the deficiency and requesting correction.
Quality: Item does not perform properly due to workmanship, material, etc., and the item was purchased using FMS.	Submit an SF 364 (SDR) and all supporting documentation to the appropriate ILCO.
Billing: Item is billed erroneously on the quarterly statement (Duplication, etc.).	Submit an SF 364 (SDR) and all supporting documentation to the appropriate ILCO.
Shipping: When there is an incorrect item, a shipment misdirected to you but intended for someone else, or an item is damaged but the container is not, and the item was shipped via U.S. Postal Service or damage was caused by the way the item was packaged (improper bracing, marking, etc.).	Research status previously received to ensure there has not been a partial cancellation, substitution, or split shipment. If appropriate, submit an SF 364 (SDR) and all supporting documentation to appropriate ILCO.

The Discrepancy Report

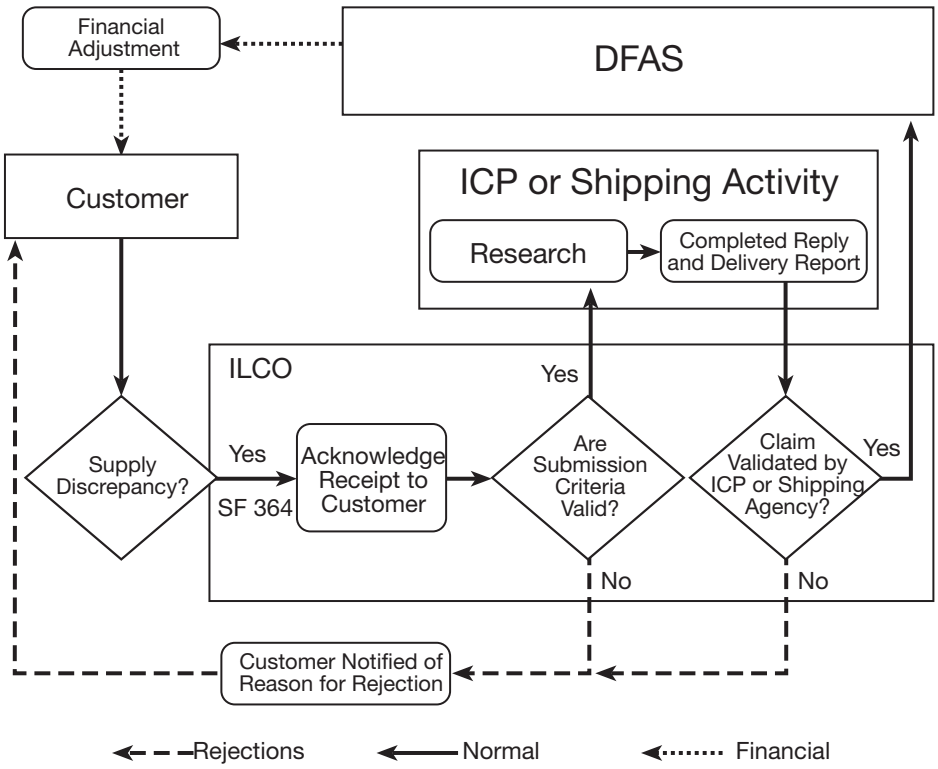
After completing the step-by-step review using the process just outlined, the next action involves preparation of the SDR. Refer to figure 10-4 for this process. The SF 364, Supply Discrepancy Report, or an electronic equivalent, is the document used in reporting selected discrepancies to the ILCO. See the *Bandarian Security Cooperation Program Sample Documents* for a sample SF 364. The requirement for the FMS customer to submit reports of discrepancy on an SF 364 is included in the conditions of each LOA negotiated with the country. FMS customers may use SCIP or AFSAC Online to submit SDRs electronically instead of using the SF 364.

The security cooperation office may assist the FMS customers in articulating the discrepancy so that it is understandable by the ILCO. However, the SCO has no role in accepting or adjudicating the SDR on behalf of the FMS customer or ILCO.

The supply discrepancy reporting process does not apply to materiel transferred to international partners under Building Partner Capacity (BPC) programs ("pseudo" LOAs). The SDR process also does not apply to EDAs, or materiel provided under a Presidential drawdown. In BPC LOAs, the standard terms and conditions do not apply. EDAs are sold in "as is, where is" condition, and Presidential

drawdowns are grants executed without an LOA. If discrepancies are identified with BPC materiel, the SCO is responsible for submitting the SDR to the ILCO prior to the material being transferred to the international partner. Once the materiel has been turned over to the international partner, SDRs for loss or damage will not be accepted.

Figure 10-4
Discrepancy Process



The original and six copies of the SF 364 along with a copy of all applicable documentation should be forwarded to the ILCO of the military service managing the FMS case. Electronic submission of the SDR via STARR-PC, AFSAC Online, SCIP, or some other electronic medium will speed up the investigation process. Photographs of materiel as received, which involve damaged or mislabeled materiel, should be attached to the SF 364 or uploaded along with the electronic SDR as evidence to substantiate the claim. If available, other documents that should accompany the SF 364 include copies of the DD Form 1348-1A, Issue Release/Receipt Document; DD Form 250 or WAWF electronic equivalent, *Material Inspection and Receiving Report*; any previously received status reports, bills of lading, drawings, and any other related documents that support the SDR. SDRs for other than transportation or financial discrepancies should be submitted to one of the following:

Navy
Commanding Officer
NAVSUP Weapon Systems Support
ATTN: Code P753112
700 Robbins Avenue
Philadelphia, Pennsylvania 19111-5098

Army
U.S. Army Security Assistance Command
54 M Avenue, Suite 1
New Cumberland, Pennsylvania 17070-5096

Air Force
AFLCMC/WFIUB SDR Section
5454 Buckner Road
Wright-Patterson Air Force Base, Ohio 45433

Initial Edit

When an SDR is received from an FMS customer, the ILCO acknowledges receipt to the customer. The receiving activity then makes an initial edit of the SDR for proper format, and a second edit against the FMS management information system, SAMIS, MISIL, or CISIL. The ILCO has fifteen days to accomplish this initial processing. If correct, the SDR is recorded, entered into the processing system, and forwarded to the appropriate inventory control point or shipping activity for further processing. The ICP/shipping activity has sixty days to research the SDR and provide evidence of shipment or delivery. If the initial edit by the ILCO reveals that the SDR was submitted in error, e.g., not in accordance with the conditions on the LOA or was submitted with insufficient information for processing, the SDR is rejected with the reason(s) indicated.

Resolution

Resolution of an accepted SDR normally requires a minimum of ninety days after receipt. Thus, the FMS customer will normally not receive any report of the final action taken until about three months after receipt of the SDR by the appropriate ILCO. If a purchaser's request for compensation under this procedure is denied by the MILDEP concerned, i.e., an unfavorable finding, the purchaser may request reconsideration by resubmitting the SDR within forty five calendar days of the denial. A copy of the original SDR, annotated to indicate that it is a resubmission along with all supporting documentation, is resubmitted to the ILCO. The FMS customer should include a cover letter explaining why the original finding is thought to be incorrect. If the customer remains dissatisfied with the second response, the SDR may be resubmitted a third time within forty-five days of the date of the second response. A third submission is normally accomplished only if there is additional documentation to support the claim.

Final Action

The appropriate MILDEP item manager or shipping activity of the source of supply is responsible for providing an SDR reply to the ILCO.

Compensation for an approved SDR may be in the form of a financial credit, a repair service, or a replacement item. If the discrepancy was for a lost, damaged, or incorrect item, the customer may request a replacement item. In that case, the ILCO will coordinate with the item manager to ship a replacement asset without having the customer reorder the item. If the discrepancy is financial, the ILCO will coordinate with DFAS to take appropriate financial action on the purchaser account. The billing statement furnished to the purchaser on a quarterly basis (DD Form 645) will reflect such financial adjustments. If the discrepancy involves a quality or performance defect, the MILDEP may determine that repair services are the most appropriate method to resolve the discrepancy.

Mandatory Defense Security Cooperation Agency Approval

DSCA approval of an SDR is required when the implementing agency determines that the USG is liable for correction of the discrepancy under the terms and conditions of the LOA and recommends that the use of FMS funds and the value of the SDR is in excess of $50,000. DSCA approval is also

required when the SDR involves a resolution which is not consistent with guidance provided in the SAMM or other appropriate directives.

Materiel Returns

Whenever discrepant materiel is to be returned to U.S. custody, the purchasing country will be directed to reship the materiel using the same document number under which the materiel was originally shipped. For routine materiel discrepancies, the country will be advised to return the materiel to USG custody within 180 days from date of approval, at USG expense, using either DTS or a commercial carrier under contract to the DoD. Upon evidence of materiel being returned, a credit adjustment will be processed for the return of the discrepant materiel if previously authorized. This evidence releases the FMS customer of liability for the materiel. In the case of unordered sensitive or classified materiel, the purchasing country will be directed to return the materiel to the USG within thirty days from the date of notification.

Warranties and Supply Discrepancy Reports

The SDR process is not a warranty. FMS customers may submit SDRs for discrepant materiel whether or not a warranty exists. If the purchaser desires a special performance warranty, the U.S. will purchase one and exercise these rights at an additional cost. If the FMS purchaser did not request and pay for a special performance warranty, then they have no warranty (except for clear title). If the U.S. happens to purchase a routine warranty, no special warranty actions are required by the purchaser. The purchaser may receive the benefit of any routine warranties through the SDR process. The presence of a warranty or lack thereof influences the potential range of remedies the DoD can pursue. The IA may accept the SDR for evaluation, however doing so does not automatically create an obligation to compensate the FMS customer. If a customer-requested written warranty exists and is documented in the LOA, an SDR submitted for warranty repairs or service is valid as long as the warranty is effective. An LOA note or other written direction will be provided to the FMS customer on how to exercise the warranty (SAMM C6.3.8).

SDR Transportation Reimbursement Policy

DSCA policy allows for reimbursement of transportation for discrepant materiel approved under an SDR. The policy covers SDR transportation reimbursement for the following:

- FMS items furnished in new or as-new condition.
- Packing, crating, and handling relating to FMS materiel
- Local disposal relating to FMS materiel
- Transporting items repaired under a warranty to the FMS customer

The SDR agency approving the transportation reimbursement must follow a checklist to ensure all reimbursement prerequisites are met. The policy allows for a reimbursement of between 3 and 5 percent of the billed amount. More information is available in DSCA policy letter dated 6 October 2003, subject: FMS SDR Transportation Reimbursement Policy (DSCA 03-15).

Product Quality Deficiency Reports

The Product Quality Deficiency Report (PQDR) program provides DoD users with a method of reporting deficiencies in new or as-new or repaired materiel to the item manager for preventing recurrence. DoD item managers use PQDRs to justify freezing assets, purging system assets, or returning materiel to the contractor for repair or replacement. FMS customers may submit the SDR in lieu of the PQDR to the ILCO to report product deficiencies at any time. The ILCO will provide information about the product deficiency to the item manager. However, submission of an SDR

to report a quality issue will not automatically give the purchaser any financial credit or provide a replacement item, unless the deficiency is reported within twelve months of initial shipment and the item has a value of at least $200. Defense Logistics Agency Manual 4000.25-M, C-17.1.7.3 provides further information on the submission criteria and use of the SDR to report a quality deficiency in lieu of a PQDR.

Financial Discrepancies

Financial discrepancies are very rare, but may occur when the incorrect accessorial charges are recorded by DFAS on the quarterly bill. An example of a financial discrepancy is an incorrect transportation charge due to a change in delivery terms. Such discrepancies should be identified by the purchaser and submitted to the FMS case manager in a letter format requesting correction. The SDR form, SF 364 is not used for reporting financial discrepancies.

Transportation Discrepancies

Transportation Discrepancy Reports (TDR) apply only to materiel that is lost or damaged while being transported in the Defense Transportation System (DTS). The TDR is not one of the categories of reporting discrepancies afforded to FMS customers. The TDR procedures are used to document carrier performance and are not intended as a reimbursement option for FMS customers. Transportation discrepancies are normally handled by a U.S. representative filing a claim with the shipper or Surface Deployment Distribution Command against the carrier on a Transportation Discrepancy Report (TDR), DD form 361. Transportation discrepancies are discussed in detail in chapter 11 of this textbook, "Security Cooperation Transportation Policy."

Security Cooperation Program Suspensions

Security cooperation programs may be suspended by the Department of State (DoS) for various reasons, as described in chapter 2 of this textbook and the SAMM C6.6. If the DoS determines that it is necessary to suspend security cooperation to a particular country, it issues guidance for execution. Upon receipt of this guidance, the Defense Security Cooperation Agency (DSCA) issues appropriate instructions to the implementing agency informing the Combatant Commander and the Security Cooperation Organization (SCO).

The DoS may direct that all deliveries of defense articles to the suspended country be stopped immediately. Materiel is not released to the country's freight forwarder or to the country. In the absence of such direction, materiel support cases implemented prior to the effective date of sanctions are allowed to continue regardless of term. New LOAs are not signed. If procurements have started but contracts have not been awarded, the IA provides details to DSCA and requests guidance. Contracts that have been awarded should continue. However, when items are ready for delivery, DSCA issues guidance on possible diversion of the materiel to another country, to the DoD itself, or to storage consistent with DoS guidance.

If the DoS so directs, shipments of defense articles, where the materiel is under USG control, are not loaded at the ports of embarkation. Materiel already in route to the country is not delivered; it is retained under USG control. These articles are stored by the appropriate DoD component until DSCA issues further direction.

Materiel ready for shipment from a contractor may be shipped to a DoD facility for segregated storage to await DSCA disposition instructions. If economical, the materiel may be stored at the contractor's facility. The purchaser is responsible for any storage fees if title has passed.

Any requisitions submitted against either a Cooperative Logistics Supply Support Agreement (CLSSA) or a blanket order FMS case may be required to be held by the IA and not be filled.

The DoS may extend a suspension to become a cancellation in accordance with AECA, sections 2(b) and 42(e). DSCA directs case cancellation and appropriate contract actions to include termination. DSCA provides guidance on the disposition of items, funding, etc., after a case-by-case review.

Summary

Logistics employs four processes to complete four tasks: acquisition, transportation, supply, and maintenance. Since there is no separate logistics system for FMS, the processes required for FMS support are furnished through the existing DoD infrastructure. The same wholesale (ICP or depot level) acquisition, supply, transportation, and maintenance systems used for the support of U.S. forces are also used for the support of FMS. By taking advantage of DoD resources through the FMS program, the foreign country avoids establishing its own separate offices to perform the same functions.

The primary interface between the foreign country and the U.S. logistics system are the ILCOs, i.e., USASAC, NAVSUP Weapon Systems Support-N52, and AFSAC. These organizations are dedicated to managing logistics programs that support the FMS purchaser and working with purchasers to resolve problems with materiel deliveries.

It is DoD policy to support FMS systems and equipment, and both initial support and follow-on support must be considered part of the total package approach (TPA). The TPA ensures that FMS customers plan for and obtain all necessary support items, training, and services required to introduce and operate major systems and equipment. In addition, both initial and follow on support must be considered at the time a major system is sold. The purchaser's unique requirements are often determined through a site survey. These unique requirements are integrated into the standard DoD configuration through the definitization of the purchaser's total package.

Follow-on support is available through several avenues within the FMS program. At times, the purchasing country itself may have some compatible resources that can be applied to the new system. Other sources are from third countries (with U.S. permission), or private U.S. contractor support.

Several follow-on support programs are in place for acquiring hard to obtain assets. The PROS and SNAP commercial buying services focus primarily on obtaining nonstandard spares for the FMS customer. Follow-on support can also be acquired through a variety of programs whereby materiel excess to the needs of the USG can be made available to purchasing countries under FMS.

Because of the number of FMS transactions and the worldwide distribution of the materiel involved, the potential for errors, differences, and discrepancies is ever present. To manage this, a formal reporting system has been established using the Supply Discrepancy Report.

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Chapter

11 Security Cooperation Transportation Policy

Introduction

The movement of and the accounting for foreign military sales (FMS) materiel, and materiel transferred under building partner capacity (BPC) programs, involves a number of transportation complexities as the materiel flows from the military department (MILDEP) or agency depots and contractor points of origin to the ultimate customer. This chapter examines those complexities, to include the Department of Defense (DoD) policy governing the process, organization, and responsibilities of those activities engaged in the movement and accounting of the materiel. Each topical area affords the reader an appreciation of the policy and the individual roles and responsibilities of the country representatives, freight forwarders, and DoD. Policy for the movement of materiel is the responsibility of the Deputy Assistant Secretary of Defense for Transportation Policy within the Office of the Secretary of Defense. The Defense Security Cooperation Agency (DSCA) publishes specific guidance for the movement of security cooperation materiel in the *Security Assistance Management Manual* (SAMM) chapter 7.

Basic Transportation Terminology

To better understand transportation policy as it applies to security cooperation materiel shipments, the following terms are defined.

Carrier: The carrier is a transport entity that moves materiel from the supply or repair depot, contractor's warehouse, or staging facility to another location. The carrier may be a commercial trucking company, a commercial rail line, a commercial or military surface ship or a commercial or military aircraft. The carrier may also be a government package handler such as the U.S. Postal Service (USPS), or a commercial package handler such as the United Parcel Service (UPS), and the Federal Express Corporation (FedEx) when contracted by DoD. The carrier may be under contract to the DoD and part of the Defense Transportation System, or the carrier may be under contract to the FMS customer.

Consignee: The person or organization to whom the shipment is to be delivered, whether by land, sea or air. This is usually the FMS customer.

Defense Transportation System (DTS): The collection of transportation activities and carriers belonging to or under contract to the DoD. The DTS includes commercial carriers, organic military carriers, U.S. military ports in the continental United States (CONUS) and outside the continental United States (OCONUS), the USPS and commercial package handlers such as UPS and FedEx when contracted by DoD.

Freight Forwarder: A commercial import/export company under contract to the FMS customer. The freight forwarder arranges transportation from CONUS to the final destination, and clears U.S. Customs for the FMS customer. The role and responsibilities of the freight forwarder are discussed later in this chapter.

Port of Debarkation (POD): The military or commercial airport or ocean port at which the materiel is offloaded. This is sometimes also referred to as the port of discharge. This port may not necessarily be in the consignee's country.

Port of Embarkation (POE): The military or commercial airport or ocean port from which an air or ocean carrier begins the journey to deliver materiel to the consignee. This is sometimes also referred to as the port of exit.

Shipper: In initial FMS or pseudo LOA exports, the term applies to defense organizations such as the Defense Logistics Agency (DLA), the Defense Contract Management Agency (DCMA), any military depots that repair FMS customers' materiel, and any commercial contractors or suppliers under contract to the DoD who ship materiel in support of security cooperation programs. Ultimately, the shipper is the DoD. The responsibilities of the shipper are discussed later in this chapter.

Basic Transportation Policy

Historically, FMS transportation policy has been a policy of purchaser self-sufficiency whereby each purchaser is normally responsible for the transportation and delivery of its own materiel. In the application of this policy, and within the framework of U.S. laws, regulations, and policies, the purchaser usually employs an agent, such as a freight forwarder, to manage transportation and delivery from the freight forwarder's facility in the U.S. to the purchaser's desired destination.

Title Transfer

Title to equipment and materiel will pass at the initial point of shipment (point of origin) unless otherwise specified in the letter of offer and acceptance (LOA). Title to DoD articles sold from stock will normally transfer at the U.S. depot. Items procured from contractors will normally pass title at the contractor's loading facility. Title to excess materiel will normally pass at the location at which the materiel is being offered for sale. Title to defense articles transported via parcel post passes to the purchaser on the date of parcel post shipment.

Point of Delivery

The point of delivery is that point in the transportation cycle where responsibility for physical movement of a FMS shipment passes from DoD to the purchaser. The point of delivery is identified on the LOA by the delivery term code (DTC). The CONUS point of delivery is normally a commercial airport or seaport, and it can also be the freight forwarder's facility. However, there are numerous situations when the point of delivery may be at a CONUS military POE on board the purchaser's carrier, or at an overseas POD or final destination.

The Defense Transportation System

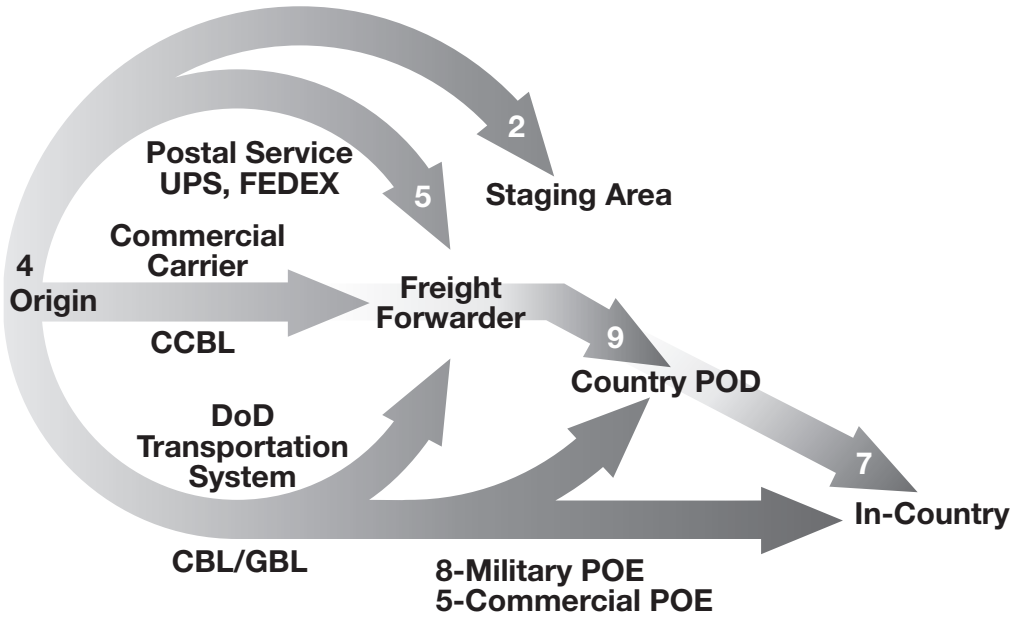
The DoD encourages FMS customers to make a best value movement decision in the shipment of their FMS materiel; that is, all transportation arrangements from the point of origin should be made by the FMS customer. However, the DoD recognizes that not all FMS customers have the resources to perform their own transportation or to hire their own freight forwarder. Additionally, not all categories of materiel are eligible to be transported through commercial channels. For these reasons, the DoD arranges transportation for the FMS customer using the DTS.

The prime movers within the DTS are the U.S. Air Force Air Mobility Command (AMC), the U.S. Navy Military Sealift Command (MSC), and the U.S. Army Surface Deployment and Distribution Command (SDDC). All three commands are under the central authority of the U.S. Transportation Command (USTRANSCOM). The AMC manages DoD air terminals and the onward movement of passengers booked on military airlift, and cargo. The MSC provides worldwide ocean transportation for the DoD. The SDDC is the single DoD manager for military traffic, land transportation, and common-user ocean terminals. The SDDC provides transportation planning and support for the surface movement of passengers and cargo within the DTS, including within CONUS.

When FMS materiel is shipped through the DTS, the customer is charged for the cost of transportation either in the price of the materiel or by having a transportation line on the LOA. The price of Working Capital Funded (WCF) materiel (e.g. most DLA-managed secondary and consumable items) includes the cost of transportation to the purchaser's freight forwarder or to the CONUS POE. The transportation document is a commercial or government bill of lading (CBL/GBL). Collect commercial bills of lading (CCBLs) are occasionally used for non-WCF items shipped to the freight forwarder. The DoD 7000.14-R, *Financial Management Regulation* (FMR) volume 15, chapter 7, states that when transportation of FMS materiel is accomplished through the use of CBLs/GBLs, normal commercial rates, not U.S. government (USG) rates, shall be used. The purchaser remains responsible for onward transportation.

Normally, firearms, explosives, lethal chemicals, other hazardous materiel, and occasionally, classified materiel, are moved within the DTS or other USG-arranged transportation on a CBL/GBL to the CONUS POE. The onward movement of these items will be by purchaser-owned or controlled aircraft or purchaser-owned, operated, or controlled surface vessels. FMS materiel which requires exceptional movement procedures, such as sensitive and certain hazardous materiel as defined in DoD 4500.9-R, *Defense Transportation Regulation* (DTR) volume 2, part II, "Cargo Movement," will be shipped through CONUS water or aerial port facilities controlled by DoD. Air cargo that exceeds commercial capability can also be delivered through DTS. Figure 11-1 illustrates the DTS and the various DTCs.

Figure 11-1
Foreign Military Sales Transportation Process



Note that when using the DTS, the USG normally maintains control and custody of the materiel (but not the title) until delivery to the purchaser. Since use of an FMS-funded bill of lading for an FMS shipment is considered a DTS shipment, the DoD is performing a reimbursable service for the FMS customer and custody must not be construed to mean retention of title or acceptance by DoD of any risk of loss or damage. If the DTS ships an item to an FMS recipient, including a recipient freight forwarder, and loss or damage occurs, the recipient must notify the shipper. The shipper may choose to file a claim with the carrier. The FMS customer may not file claims directly against the DTS carrier. The USG has responsibility for filing and processing claims with carriers when shipment is made on a prepaid basis to locations where DoD personnel or other USG representatives have primary responsibility for receipt inspection and acceptance. The FMS customer may submit a supply

discrepancy report (SDR) to request assistance in resolving the loss or damage discrepancy. If the USG accepts responsibility for the loss or damage, the FMS customer may be reimbursed some or all of the transportation cost as part of the SDR approval process.

Insurance

If the FMS purchaser does not want to self-insure a shipment, the purchaser should obtain commercial insurance for the FMS shipments. The FMS customer may contract with their freight forwarder to arrange for commercial insurance on their behalf.

Preservation, Packing and Marking

The LOA standard terms and conditions (section 5.1) state that defense articles will be packed and crated prior to the time that title passes. This packaging is done in accordance with Military Standard (MIL-STD) 2073-1E, *Department of Defense Standard Practice for Military Packaging*. This reference, and the *Security Assistance Management Manual* (SAMM) section C7.8, require packing for protection of materiel under anticipated favorable environmental conditions of worldwide shipment, handling and storage. This level of packaging is designed to protect materiel against physical damage and deterioration during favorable conditions of shipment, handling and storage in warehouse conditions for a minimum of eighteen months. Additional special packing is available as an additional FMS service for an additional fee.

Address markings shall be in accordance with MIL-STD-129P, *Department of Defense Standard Practice for Military Marking* and DTR chapter 208. DoD shippers and commercial contractors and vendors making shipments to overseas locations must use the DD Form 1387 shipping label with bar coded data. In addition to DoD prescribed markings, FMS shipments must be marked with freight forwarder and in-country clear-text addresses when applicable. Additionally, each package should indicate shipment priority in such a manner that the freight forwarder will know the onward shipment requirements. The case identifier, national stock number, and the item dollar value are also required for freight forwarder and customs export requirements.

Small Parcel Shipments

The U.S. Postal Service (USPS) defines a small parcel as an item that weighs up to seventy pounds and measures up to 130 inches in combined length and girth. Transportation officers are authorized to use either the USPS parcel post facilities or commercial package carrier equivalents, such as UPS or FedEx for small parcel shipments. Overseas movement via the military postal service (Army Post Office [APO]), or the Department of State's diplomatic post office (DPO) may only be used if the APO/DPO is specifically identified in the LOA and the APO/DPO has agreed in writing to accept responsibility for receiving security cooperation shipments. (A diplomatic post office is a postal facility that operates at one of the U.S. embassies abroad as a branch post office of the USPS.) Department of State's diplomatic pouch services (not the same as the DPO) cannot be used for materiel shipments. As a rule, the APO/DPO and diplomatic pouch modes are not to be used for FMS shipments. However, exceptions to this policy are authorized for classified shipments when the purchaser does not have approved facilities to receive classified items in the U.S., or where the LOA specifies delivery in-country through the security cooperation office (SCO) or mission. The SAMM, section C7.6.2.4, requires that such exceptions be kept to a minimum and all associated costs charged to the purchaser. When shipping via domestic parcel post or commercial carrier equivalents, the transportation service selected must provide a proof of entry into the transportation network and a proof of delivery to the consignee

Consolidation

FMS issues from a stock point to a given addressee will be consolidated for shipment purposes to the greatest extent possible consistent with customer requirements. Consolidation of line items

into containers or shipment units will be limited to the same U.S. sponsoring service, the same FMS case designator, the same "Mark-for" and "Ship-to/Freight Forwarder" locations, and the same priority designator (designators 01-08 may be mixed but not with lower priorities). When items are consolidated, the container should be marked to indicate a consolidated shipment.

Dangerous Goods Shipments

FMS customers frequently purchase materiel through the DoD deemed hazardous by *United States Code of Federal Regulations* (CFR). The U.S. Department of Transportation (USDOT) publishes U.S. Hazardous Material (HAZMAT) regulations under Title 49, sections 100–199 of the *Code of Federal Regulations* (49 CFR 100-199). The USDOT strictly regulates the movement of such materiel. The USDOT defines dangerous goods (hazardous materiel) as those materials that are capable of posing an unreasonable risk to health, safety, and property when transported in commerce. Such materiel includes petroleum products, aerosols, compressed gases, paints, and cleaning compounds. These materials are identified alphabetically, by proper shipping name, in the hazardous materials table, 49 CFR 172.101. This table covers the transportation of HAZMAT in all modes—highway, rail, water, and air. It makes no difference whether the shipment comes from a DoD or commercial shipper, or whether the carrier is a contracted commercial surface or air carrier or a military carrier. It also makes no difference if the movement of the HAZMAT is strictly domestic or international. All movement of dangerous goods in commerce must comply with 49 CFR, and all commercial and DoD shippers must be certified in accordance with 49 CFR before they can approve the movement of dangerous goods.

Often the DoD or contract shipper will not know the ultimate mode of transportation for export shipments, especially if onward transportation is arranged by a freight forwarder. When this possibility exists, the original shipper should attempt to contact down-line shippers and forwarders to determine what packaging and certification is required because this can generally be accomplished in a more cost effective manner if performed by the original shipper rather than by down-line shippers. It is the originating shipper's responsibility to prepare the shipment for transportation to the ultimate destination.

Failure to adequately package and label dangerous goods, and/or failure to properly provide accurate shipping documents results in frustrated cargo that cannot clear customs and leave the U.S. If a freight forwarder receives such a shipment, the DoD is still responsible for resolving the discrepancy. This can often be a time-consuming, costly process for both the DoD and the freight forwarder. The DoD is not exempt from paying costly fines imposed under 49 CFR for failing to comply with HAZMAT transportation regulations.

In addition to having to conform to the requirements of 49 CFR, hazardous materiel shipments must be certified to the International Maritime Dangerous Goods Code (IMDGC) if the materiel is being transported by ship. If it is being transported by either commercial cargo aircraft or passenger aircraft, it must be certified to the *International Air Transport Association* (IATA) *Dangerous Goods Regulations or International Civil Aviation Organization* (ICAO) *Technical Instructions for the Safe Transport of Dangerous Goods by Air*. If being transported by military aircraft, the shipment must be certified to the U.S. Air Force Joint Manual 24-204, *Preparing Hazardous Materials for Military Air Shipments*.

Classified Shipments

Classified shipments of FMS materiel are often made via the DTS, which provides the required security and enables DoD to maintain control and custody of the materiel until delivery to the purchaser. Classified materiel or data must be moved under security safeguards appropriate to the transportation mode employed, as established by DoD Manual 5200.01, volume 3, *DoD Information Security Program: Protection of Classified Information*.

Classified and sensitive materiel is identifiable through the Controlled Inventory Item Code (CIIC) listed in the catalog data for that item. Classified items should also be identified on the LOA. Commercial transportation may be used for the movement of classified or protected materiel provided the carrier has fulfilled the required criteria and has the proper authorization as delineated in DoD 4500.9-R, *Defense Transportation Regulation*, part II, "Cargo Movement," and DoD 5220.22-R, *Industrial Security Regulation*.

The DoD Manual 5200.01, volume 3, *DoD Information Security Program: Protection of Classified Information* specifically advises that classified materiel shall be transferred on a government-to-government basis by duly authorized representatives of each government. This means that classified materiel shall be sent only to an embassy or other official agency of the recipient government, or for loading on board a ship, aircraft, or other flag carrier designated by the recipient government at the point of departure from the U.S.

Some freight forwarders have been cleared to receive classified shipments. A foreign government, embassy, or country representative may request a freight forwarder security clearance by contacting the facility clearance branch of the Defense Security Service's (DSS) International Division at occ.facilities@dss.mil, or by calling 1-888-282-7682. The DSS web site at http://www.dss.mil/isp/ contains instructions for submitting a facility clearance request. The DSS will grant a facility clearance following an inspection of the facility. A copy of the facility clearance approval letter must be sent to the following address:

The DLA Logistics Management Standards Office
DLMSO-J627
8725 John J. Kingman Road
Fort Belvoir, VA 22060-6221

The DLA Logistics Management Standards Office will update the Military Assistance Program Address Directory (MAPAD) to identify that the freight forwarder is cleared to handle classified freight.

The release of a shipment to a freight forwarder does not constitute transfer of custody and security responsibility to the recipient foreign government; this occurs only when the receiving government's designated government representative (DGR) assumes custody of the consignment. The freight forwarder acts only as a transfer agent. The DGR must be a citizen of the receiving country, and must be appointed in writing by the international customer's government. For more information on the transfer of classified materiel, see chapter 7 of this textbook, "Technology Transfer, Export Controls, and International Programs Security."

Transportation Plans

Before classified FMS materiel can be shipped, the procedures for safeguarding it must be spelled out in a detailed transportation plan by the IA preparing the LOA, in cooperation with the FMS customer. The transportation plan must identify the individual responsible for safeguarding the classified materiel, the methods of transport, the locations of transfer and delivery, the location of storage or processing facilities, and the security clearances of all personnel and facilities involved in the transfer. The IA must ensure that its own security officials review and approve the transportation plan.

The transportation plan should be initiated upon LOA implementation. It must be finalized, reviewed, and approved by the selling command's security officials before any classified materiel can be shipped. The completed transportation plan must be maintained in the case file. It must also be made available to U.S. Customs and Border Protection and other security officials when classified materiel is exported. Transportation plan specifics are detailed in the SAMM section C7.13. See the DISCS publication *Bandarian Security Cooperation Program Sample Case Documents* at www.

discs.dsca.mil for an example of a transportation plan. Classified FMS shipments require a U.S. DoS export authorization DSP-94, *Authority to Export Defense Articles Sold Under the Foreign Military Sales Program* to be permanently exported. ITAR 126.6(c) provides the appropriate exemptions for temporary imports of unclassified and classified FMS materiel without a license. This effectively eliminates the requirement for a DSP-85, *Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data* for classified materiel to be temporarily or permanently re-imported by a commercial or foreign government representative. This includes classified materiel coming back into the U.S. for repair, overhaul, testing, calibration, training, or disposal. Additional information in regards to this policy can be found at http://pmddtc.state.gov/archives2015.html#feb. A transportation plan is also required before certain types of explosives can be moved, per DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition and Explosives (AA&E).

Sensitive Shipments

The term "sensitive" has two different meanings, but both definitions impact the movement of materiel deemed "sensitive." "Sensitive materiel" is a description usually associated with AA&E, but also includes non-explosive technologies in night vision devices (NVDs) and controlled cryptographic items (CCI).

Sensitive—Security

In the context of security, "sensitive" is a special term that describes conventional AA&E, CCI and NVDs requiring special protection and security to keep them out of the hands of criminals and terrorists.

Criminals and terrorists find conventional AA&E, NVDs, and CCI desirable because they are deadly, portable, and highly pilferable if unprotected. Conventional AA&E are munitions that are not nuclear, biological, or chemical (NBC) munitions. NBC items are covered by their own regulations. The DoD applies special security controls to sensitive items. Sensitive explosive materiel will always be moved via the DTS under DTCs 8, 9 or 7.

Sensitive—Hazardous

The second definition of the term "sensitive" applies in the context of hazardous materials, specifically explosives. "Sensitive" in this context indicates the ease of initiation of fire or explosion within the package and the extent of the damage it causes. Hazardous materiel regulations categorize explosives based on their volatility or ease of detonation.

A Controlled Inventory Item Code (CIIC) is assigned to every piece of materiel in the DoD inventory which has a national stock number. This CIIC is a combination of the security risk category and the hazardous classification of the materiel. The CIIC is used to determine the shipping procedures required to move the materiel to the FMS customer.

Not all AA&E items are sensitive. That means they do not require special security. Non-sensitive AA&E, if it contains explosives, is governed by HAZMAT regulations. Just because an item is hazardous does not make it sensitive AA&E, or vice-versa. Hazardous and non-sensitive items may be shipped through commercial channels under DTC 4 or 5.

Arms, Ammunition, and Explosives

The United Nations' (UN) hazard classification system for identifying explosive materials and explosive components is recognized internationally and is used universally by the DoD and the USDOT. The UN system consists of nine classes of dangerous materials, with explosives designated as Class 1. The explosives hazard class is further subdivided into six divisions, which are used for segregating

ammunition and explosives on the basis of similarity of characteristics, properties, and accident effects potential. Table 11-1 defines these explosive divisions and properties.

Ammunition and explosives are further assigned to compatibility groups which identify whether the explosives can be transported and stored together without significantly increasing either the probability of an incident or the magnitude of the effects of such an incident. The compatibility group determines the type of carrier that may be used to transport the materiel, such as a passenger aircraft, or a dedicated ammunition surface ship.

Table 11-1
Class 1 Explosives Hazard Division Definitions

Division 1.1	Substances and articles which have a mass explosion hazard. Includes Man-Portable (MANPAD) Missiles, launched missiles, blasting caps, and TNT.
Division 1.2	Substances and articles having a projection hazard but not a mass explosion hazard. Includes bombs, rockets, grenades, and large caliber ammunition.
Division 1.3	Substances and articles which have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard. Includes flares, smoke grenades, CAD/PADs, and professional fireworks.
Division 1.4	Substances and articles which present no significant hazard. In the event of ignition or initiation during transport, the effects are largely confined to the package and non-projection of fragments of appreciable size or range is to be expected. Includes CAD/PADs, small caliber ammunition, fuses, rocket motors, and household fireworks.
Division 1.5	Very insensitive substances which have a mass explosion hazard, but that have very little probability of initiation or of transition from burning to detonation under normal conditions of transport. Includes construction and demolition blasting agents.
Division 1.6	Extremely insensitive articles which do not have a mass explosion hazard and which demonstrate a negligible probability of accidental initiation or propagation. Includes pyrotechnics, flares, and gunpowder.

Class 1 divisions 1.1 through 1.3 are generally regarded as the most dangerous and most desirable by criminals and terrorists, and are therefore assigned within four Security Risk Categories (SRC) by the security community. The SRC is used to determine the transportation security requirements for movement of the sensitive AA&E, based on capability, portability and volatility of the explosive. These SRCs are discussed in detail in the SAMM chapter 7. SRC I materiel must be transported to at least a customer country's port of debarkation (POD) under DoD control, unless waived by the Defense Security Cooperation Agency (DSCA). The applicable DTC on the LOA will be 9 or 7. SRC II through IV items must be shipped at least to a DoD ocean or aerial port where DoD personnel load it into a customer country's ship or aircraft. The LOAs for these items must be written with a DTC of 8, 9 or 7.

Table 11-2 correlates the SRC with the appropriate Delivery Term Codes and movement protection requirements that should be used for the movement of explosives.

Table 11-2
Movement Requirements for Exports of Arms, Ammunition, and Explosives (AA&E)

	SRC I	SRC II	SRC III	SRC IV
Definition	Highest sensitivity, UNCLASSIFIED or CLASSIFIED	High sensitivity, UNCLASSIFIED or CLASSIFIED	Moderate sensitivity, UNCLASSIFIED or CLASSIFIED	Lowest sensitivity or pilferable, UNCLASSIFIED
Export Authorization	LOA & DSP-94 for classified and unclassified FMS exports; No commercial exports authorized	LOA & DSP-94 for FMS exports; DSP-5 for commercial unclassified exports; DSP-85 for commercial classified exports	LOA & DSP-94 for FMS exports; DSP-5 for commercial unclassified exports; DSP-85 for commercial classified exports	LOA & DSP-94 for FMS exports; DSP-5 for commercial unclassified exports
Controlled Item Inventory Code (CIIC)	1 – UNCLASSIFIED 5 – CLASSIFIED SECRET 6 – CLASSIFIED CONFIDENTIAL	2 – UNCLASSIFIED 8 – CLASSIFIED CONFIDENTIAL	3 – UNCLASSIFIED C –CLASSIFIED CONFIDENTIAL	4 – UNCLASSIFIED
Delivery Terms	OCONUS POD (DTC9) or final destination (DTC 7) via DTS	CONUS DoD POE (DTC 8) or OCONUS POD (DTC 9) or final destination (DTC 7) via DTS	CONUS DoD POE (DTC 8) or OCONUS POD (DTC 9) or final destination (DTC 7) via DTS	CONUS DoD POE (DTC 8) or OCONUS POD (DTC 9) or final destination (DTC 7) via DTS
Customer Pickup in CONUS	No * waiver per SAMM C7.15.1	Yes	Yes	Yes
Movement Protection	Armed escort at all times; satellite surveillance	Armed escort at all times; satellite surveillance	Dual Driver protection; constant surveillance	Dual driver protection; constant surveillance

Competent Authority Approval (CAA)

The Defense Transportation Regulation (DTR) chapter 205B2 prohibits freight forwarders from moving sensitive materiel in hazard class 1, divisions 1.1 through 1.3, leaving the DTS as the only transportation option for the FMS customer. Freight forwarders may coordinate customer pickup at a DoD-controlled port, and process export paperwork, but are precluded from accepting or storing explosive materiel in their facilities. Freight forwarders have routinely moved non-sensitive small caliber ammunition, Cartridge Actuated Devices (CADs), and Propellant Actuated Devices (PADs) in hazard class 1.4 through 1.6 through their facilities (provided local safety ordinances permitted such materiel to be in the freight forwarder's possession). This practice has proven to be both cost-effective and efficient for the FMS purchaser.

Regardless of whether the explosive materiel moves through the DTS or commercial channels, movement of AA&E designated as hazardous materiel requires approval from a national agency responsible under a country's national law for the regulation of hazardous materials transportation. For the U.S., the "competent authority" (CA) is the USDOT. A Competent Authority Approval (CAA) classification of explosives letter specifies international hazard classification, proper shipping name, packaging and other requirements for the item, and assigns an "explosive hazard" (EX) number. For AA&E controlled by the DoD, the DOT delegates this responsibility to specific DoD components. These organizations propose and submit Final Hazard Classifications (FHC) via the DoD Explosives Safety Board (DDESB) for approval, through the Surface Deployment and Distribution Command (SDDC) to USDOT for issuing a Classification of Explosives approval. An Interim Hazard Classification (IHC) is a mechanism used by DoD to allow for the transportation of class 1 materiel in the U.S. when the item's final hazard classification process has not been

completed. The IHC is a memorandum, signed by authorized personnel within the Army, Navy, and Air Force, describing the item and giving it a temporary hazard classification.

The Joint Hazard Classification System (JHCS) is the official DoD database of final hazard classification data for the military services' ammunition and explosives. It is maintained by the U.S. Army Technical Center for Explosives Safety (USATCES). Explosive items are evaluated and tri-service coordinated between hazard classifiers for the Army, Navy, and Air Force following procedures in TB 700-2/NAVSEAINST 8020.8B/TO 11A-1-47/DLAR 8220.1, *Department of Defense Ammunition and Explosives Hazard Classification System*. The DDESB publishes changes to hazard classification procedures. Approved items are added to the JHCS database after assignment of an EX-number by the DOT and are published for use by authorized customers on a need-to-know basis.

When explosives are moved under an FMS agreement, the DoD's EX-number or IHC can be used to move the explosives within and from CONUS, provided that the explosives are in the DoD's possession via the DTS. If the DoD moves the explosive materiel to an overseas POD (DTC 9) or to the final destination (DTC 7), the DoD EX-number/IHC is valid to transport the materiel to that location. When the FMS purchaser elects to pick up materiel at a CONUS DoD-controlled port (DTC 8) using their own carrier, the FMS purchaser may continue to use the DoD's EX-number to transport the materiel from CONUS to their own country. However, if the FMS purchaser elects to pick up materiel at the point of origin using their own arranged transportation, the FMS customer must have a country-specific EX-number issued by the USDOT to the FMS purchaser's CA to allow the explosive materiel to move within and from CONUS after the physical transfer of custody from the DoD to the purchaser. If the explosive materiel in the possession of the FMS customer must transit any third-country during the initial export, the FMS customer is responsible for obtaining CAAs from the CAs of the countries through which the explosive materiel must transit.

When an FMS customer needs to import AA&E into the U.S. (for repair and return, testing, training exercises at a U.S. installation, etc.), hazard classification documentation for the AA&E, regardless of origin, must come from the FMS customer's CA. If a DoD EX-number/IHC was originally used to export U.S. origin AA&E, it cannot be reused for any subsequent transportation. The purchaser's national CA must apply for a country-specific EX-number from the USDOT before the materiel can be moved back to, within or from the U.S. The purpose of the application from the FMS customer's national CA is to certify that the customer has not altered the content or packaging of the explosive materiel while it has been in its possession, and that it is compliant with U.N. safety standards.

FMS customers must initiate requests for country-specific EX-numbers directly with the USDOT within 60 days of implementation of the LOA authorizing the return of explosive materiel to the U.S., and allow at least 120 days for the USDOT to issue the CAA. FMS case managers should assist the FMS purchaser in obtaining this CAA by providing supporting documentation unavailable to the FMS customer, such as the existing EX-number, the JHCS record printout, and packaging documentation. FMS case managers may obtain assistance from:

Department of Defense
Department of Defense Explosives Safety Board (DDESB) 4800 Mark Center Drive Alexandria, VA 22350-3606
Surface Deployment and Distribution Command (SDDC)
SDDC Safety Office ATTN: AMSSD-SA 1 Soldier Way Scott AFB, IL 62225
FMS customers may submit their CAA application directly to the USDOT
U.S. Department of Transportation (DOT) Pipeline Hazardous Materials Safety Administration Office of Hazardous Materials Special Permits and Approvals 1200 New Jersey Avenue, SE East Building, 2nd Floor, PHH-32 Washington, DC 20590

The SAMM section C7.16 and DISCS publication *Shipping Explosives: An FMS Customer Guide* provide detailed guidance to FMS customers and case managers for preparing a CA application.

Movement of sensitive AA&E for FMS customers requires a transportation plan which should be coordinated with the customer as part of the FMS negotiation process. The transportation plan will be coordinated following the same procedure as for classified shipments, described earlier in this section. See DoD 5100.76-M, *Physical Security of Sensitive Conventional Arms, Ammunition and Explosives*, Enclosure 10 for more information.

Controlled Cryptographic Items

A Controlled Cryptographic Item (CCI) is a U.S. National Security Agency term for secure telecommunications or information handling equipment, associated cryptographic component, or other hardware item that performs a Critical Communications Security (COMSEC) function. Items so designated may be unclassified but are deemed sensitive, and thus are subject to special accounting controls and transportation security.

International partners who receive CCI through the NSA must establish COMSEC accounts and have an appointed COMSEC custodian in their country. The COMSEC custodian assumes accountability for the equipment or materiel upon receipt, then controls its dissemination to authorized individuals on job requirements and a need-to-know basis.

The procedures used to transport CCI from the U.S. to the foreign government's COMSEC custodian depends upon whether or not title transfers to the FMS customer. The USG retains title to all CCI equipment provided to non-NATO nations, excluding Australia and New Zealand. USG-titled equipment must be transported by the DTS following DTCs 8, 9 or 7 procedures. The primary DTS method of shipping CCI overseas is by the Defense Courier Service.

For NATO countries, Australia and New Zealand, title to the CCI does transfer from the USG to the FMS purchaser. These countries are permitted to use their freight forwarders to move the CCI since title has transferred.

Notice of Availability

Classified, sensitive and hazardous shipments require the shipper to notify the FMS customer representative or freight forwarder of the intent to ship the materiel. This notification is known as a Notice of Availability (NOA). The NOA may be submitted on a DD Form 1348-5, Notice of Availability, or the NOA can be sent using a commercial fax, e-mail, letter, or some other traceable document. These notices may be mailed or sent electronically by the shipper. The NOA alerts the freight forwarder or country representative that a shipment is ready for movement, that appropriate actions are to be taken to ensure the protection of the materiel and, for classified items, that proper government-to-government transfer must occur. The freight forwarder or country representative must respond to the NOA confirming readiness to receive the materiel. The NOA response should provide specific packaging and documentation instructions to enable the shipper to package the materiel for the appropriate mode of shipment. For classified shipments, the NOA must identify the name of the recipient government's DGR. The shipper is not permitted to ship the materiel unless the NOA response has been received. Shippers may charge materiel storage charges against the LOA when freight forwarders or customer representatives are unable or unwilling to accept materiel.

Notices of Availability are only applicable when the DTC is 4, 5, 8, B, C, E or H, and for all classified items regardless of DTC; sensitive, oversized shipments to the freight forwarder (10,000 lbs or greater); and sensitive, hazardous, dangerous cargo shipment on DTC 4, 5, or 8. The requirement for an NOA is indicated on the LOA by the offer/release code in column (6). An offer/release code of Y or Z requires the shipper to send an NOA to the freight forwarder or customer representative in the U.S. However, the characteristics of the materiel being shipped determine if an NOA is necessary, even if the offer/release code on the LOA is not Y or Z. NOAs will not normally be sent for unclassified DTC 9 or 7 shipments. Security cooperation officers are responsible for monitoring shipment status using the Enhanced Freight Tracking System (EFTS) in the Security Cooperation Information Portal (SCIP), and by staying in contact with the FMS case manager. NOAs for unclassified, sensitive, oversized and hazardous materiel are sent to the Type Address Code (TAC) 3 address identified in the MAPAD. NOAs for classified materiel, however, must be sent to the country representative identified in the country's special instructions in the MAPAD, not the TAC 3 address. This is normally the country's embassy in Washington, DC. The MAPAD will be discussed in detail later in this chapter.

United States Flag Shipping

In accordance with the Merchant Marine Act of 1936, as amended by the Cargo Preference Act of 1954, defense articles purchased through the Foreign Military Finance Program (FMFP), or which have been granted to a country under the Foreign Assistance Act of 1961 or the National Defense Authorization Acts, and which will be shipped by ocean vessel, are to be transported in vessels of U.S. registry. This requirement applies to new articles and excess defense articles. However, under certain circumstances, the law permits the granting of waivers, allowing not more than 50 percent of the cargo to be shipped in vessels flying flags of the country to which the credit/loan agreement applies.

Freight forwarders must take note of the term of sale on the LOA to determine if the Cargo Preference Act applies to their cargo. The terms of sale "Foreign Military Sales Credit (Non-Repayable)" and "Excess Defense Article (EDA) Grant" require transport by vessel to be made on a U.S.-registered carrier. Shippers can recognize the requirement for a U.S.-registered carrier by the Type Assistance code in the supply requisition, position 35 or in column 5 of the LOA. Type Assistance codes A, M, N or Z indicate credit funded or granted materiel that is subject to the Cargo Preference Act.

DSCA and the U.S. Maritime Administration (MARAD) of the USDOT closely monitor credit/loan shipments. DSCA has the responsibility for acting on waiver requests from the foreign countries, while the Maritime Administration monitors actual shipments. The waiver application is submitted to Director, DSCA, Attention: DSCA (Strategy Directorate) with a copy to MARAD (Administrator,

Maritime Administration, Attn: Office of Cargo Preference and Domestic Trade, 1200 New Jersey Avenue S.E., MAR 730 Mail Stop W23-444, Washington, DC 20590-0001). Waiver applications on the basis of non-availability of vessels of U.S. registry must show that the recipient nation has made a reasonable, timely, and bona fide effort to arrange shipment on vessels of U.S. registry and such vessels are not available. Applications on the basis of non-availability must show all comparative rates.

Additional information concerning credit agreements and waivers may be found in chapter 12 of this textbook, "Financial Management," and the SAMM, chapters 7 and 9.

Accessorial Services and Charges

The SAMM and DoD 7000.14-R, *Financial Management Regulation* (FMR) volume 15, chapter 7, define accessorial charges as 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 packing, crating, and handling, transportation, pre-positioning, staging of materiel in CONUS, and port loading and unloading.

Transportation costs for other than CCBL shipments are considered accessorial costs. Transportation rates are assessed when the DTS provides transportation for FMS materiel, when items are shipped on a GBL or CBL, and when packages are shipped prepaid through the USPS, FedEx, UPS, or through any commercial carrier. Consult the FMR, volume 15, chapter 7, for transportation rates, their application, and computation.

Above the Line Services and Charges

A Special Assignment Airlift Mission (SAAM) may be required to deliver sensitive or classified materiel to an overseas destination when the recipient country does not have the capability to pick up its materiel at a CONUS DoD POE, DTC 8. A SAAM involves the chartering of an AMC or commercial aircraft for a dedicated flight. The SAAM costs to the customer include the cost of round-trip flying hours, round-trip air crew support and port loading and handling fees. The costs for SAAMs vary widely depending upon the distance and type of aircraft used, but generally range from $600K to $1M per flight. It is not unusual that the cost of the SAAM exceeds the value of the cargo being delivered. Special Airlift Assignment Missions must be charged as "above-the-line" direct costs.

Detention is a charge made on a carrier held by or for a consignor or consignee beyond the allowable free time for loading or unloading, for forwarding directions, or for any other purpose authorized and documented by the consignor or consignee. Demurrage is a charge against a consignor or consignee for holding carrier equipment beyond the allowable free time for loading and unloading, for forwarding directions, or for any other purpose authorized and documented by the consignor or consignee. Transportation costs assessed for detention or demurrage in the delivery of FMS materiel are not considered accessorial costs and may be charged against the LOA line of the materiel being delivered.

Transportation Responsibilities

There are normally three parties involved in the movement of FMS materiel:

- The USG
- The purchaser
- The freight forwarder

Each has specific responsibilities that must be met in order to ensure the efficient movement of materiel. SAMM, chapter 7 provides additional information concerning the various responsibilities.

United States Government

The USG initiates shipments to purchasers or freight forwarders and provides transportation services for specific items identified in the LOA. As the shipment initiator, the USG can cause problems in the movement of FMS articles to the purchasing country. Any failure in the packing and shipping process can result in problems for the carrier, the freight forwarder, and the customer. Failures can also prevent prompt processing of claims, or prevent U.S. customs clearance.

Packing and shipping facilities must ensure that packing documentation, hazardous certification, and FMS case identification are properly affixed to the container. Shippers must pack and mark FMS materiel (to include certifying hazardous materiel) for transport through to its final destination. Additionally, it is essential that the online MAPAD system be used to create the clear-text address on the shipping label. If not, items could be shipped to the wrong ship-to or mark-for addressee.

A ship-to address is typically a destination in the U.S. through which materiel will transit, such as a freight forwarder facility, a staging location or consolidation point. It is the responsibility of the shipping activity to ensure that the information contained on the shipping label (or included on the accompanying documentation, i.e., a DD 1348-1, DoD Si*ngle Line Item Release/Receipt Document,* a DD 250, *Material Inspection and Receiving Report*, or a DD 1149, *Requisition and Invoice/Shipping Document*) include as a minimum the price or value of the shipment, the transportation priority, a description of the item, the FMS case identifier, and the *Military Standard Requisition and Issue Procedures* (MILSTRIP) document number, and supplementary address. Without this information, the freight forwarder cannot obtain customs clearance or identify the final destination for onward shipment. The item then becomes frustrated cargo and remains undeliverable until the applicable International Logistics Control Organization (ILCO) and shipping activity corrects the errors. The same problems arise with items being shipped directly from procurement as those being shipped from stock.

Shipping activities are also responsible for providing the freight forwarder with advance documentation of the impending shipment by sending out a Notice of Availability when the materiel is classified, sensitive, over 10,000 pounds, perishable, or hazardous materiel, regardless of the offer/release code on the LOA. The Defense Transportation Regulation - Part II Cargo Movement, appendix E, dated 4 June 2015 specifically states that "In order to facilitate FMS case reconciliation and to assist in resolving disputes during and after case closure, all FMS shipping documentation (includes CBLs, NOAs, Transportation Control and Movement Documents (TCMDs), Issue Release/Receipt Documents (DD Forms 1348-1A, 1149, 250, and WAWF Release Forms), Inspection and Receiving Reports, Air Bills, Supply Transactions, Transfer to Carrier Documents, Acceptance Data, and any similarly related materiel used to effect transfer of FMS shipments to carriers) must be retained for 10 years after FMS case closure. Electronic formats are strongly recommended provided such files are complete, secure, and readily retrievable. Delivery and inventory records for Enhanced EUM articles must be maintained by the IA and Security Cooperation Organizations (SCOs) indefinitely, or until the USG has verifiable information that the recipient country has properly disposed of the Enhanced EUM item(s)."

This normally means keeping the documentation for two years at the shipper locations and twenty-eight years in a national records archive. The SAMM, section C6.2.3 requires general FMS case files to be retained for ten years after final case closure. This documentation should be retained in hard copy, but cases with large volumes of transactions may be store electronically. USG agencies are required to provide necessary shipping information to enable the purchaser and/or freight forwarder to process claim actions against either the carrier or the USG. When applicable, the USG assists the purchaser in processing any claim that may arise for lost or damaged shipments in the same manner it processes claims for USG-owned materiel. In addition, the DoD components can provide technical assistance and guidance to purchaser representatives/freight forwarders, if requested.

When the DoD ships security cooperation materiel through the DTS, the shipment usually moves through a DoD port and there is no commercial freight forwarder involved. However, in recent years the DTS system has been expanded to include commercial airlift or surface shipments contracted by DoD shippers to move FMS purchases directly to overseas destinations. These shipments are usually made through commercial ports. Perhaps as a result of heightened security and an increased concern over technology transfer and export controls, the U.S. Customs and Border Protection (CBP) inspectors now require the DoD to certify the value of FMS export authorizations.

In accordance with SAMM C7.17, the DoD is required to prepare the DSP-94 export authority for shipments made entirely or partially through the DTS using either DoD or commercial ports. The freight forwarder or FMS customer prepares the DSP-94 for LOAs in which shipments are made entirely via a freight forwarder. In either situation, the IA's ILCO certifies the value of the materiel exports and lodges the DSP-94 with the primary CONUS POE, along with a complete copy of the LOA, amendments and modifications. The DSP-94 is valid for two years, as long as the value of materiel to be exported does not change.

Additionally, a shipper's export declaration is filed electronically at the U.S. port using the Automated Export System (AES), a Census Bureau tracking system for exports licensed by either the DoS or the Department of Commerce. An AES transaction is processed each time a shipment occurs, and the value of the shipment is decremented by CBP from the materiel export value on the DSP-94. The DoD shipper is responsible for reporting shipments via AES for service-owned materiel shipped entirely through DTS. For depot stock materiel, the shipper is the DLA. For FMS materiel coming from procurement and shipped entirely through DTS, the Defense Contract Management Agency is responsible for reporting via AES. When the shipment is made via a freight forwarder and not through DTS, the freight forwarder reports the shipment via AES. When documents, technical data packages, or digital media are mailed by the case manager or program office to the FMS purchaser, the IA is required to report the export via the AES. The AES transaction by the IA is required regardless of where the item is delivered. Delivery to an FMS customer's embassy still constitutes an export, which must be reported via AES. Whenever the value of materiel to be exported increases through an LOA amendment or modification, the DSP-94 must be amended and re-lodged with all supporting documentation at the POE. Specific export document preparation and filing instructions are provided in the SAMM, chapter 7.

When preparing the DSP-94, only the value of materiel, technical data packages, and maintenance services listed above the line (the net estimated cost) should be identified as the exportable value. This value excludes the administrative cost, transportation, technical services, training, and any other category for which a tangible item is not physically moved in or out of the U.S. When re-exporting materiel that has been returned for maintenance or overhaul, the value that should be decremented from the DSP-94 is the cost of the repair service, not the original acquisition value. Repair facilities and shippers should ensure that the repair cost is clearly stated on the invoice so that Customs decrements the cost of the repair from the DSP-94, as opposed to the original acquisition cost. If this is not done correctly, the DSP-94 export authorization value will be consumed too quickly, resulting in Customs stopping further exports after the DSP-94 export value reaches zero.

The MILDEP's FMS transportation coordinators at each ILCO are the points of contact for country representatives and may assist the country representative and freight forwarder in the determination of proper addresses and codes for entry in the MAPAD and subsequent use in requisitions. Additionally, the FMS transportation coordinators may assist freight forwarders in processing claims against DTS carriers for lost or damaged freight received at the freight forwarder's facility.

Combatant Command (CCMD) Responsibilities

The Air Mobility Command (AMC) operates regularly scheduled and contingency flights to various overseas destinations in support of U.S. forces. These channel flights are often used to

transport FMS materiel on a space available basis. The USTRANSCOM Deployment and Distribution Operations Center (DDOC) has a regional office at each CCMD headquarters. This regional DDOC CCMD coordinates transportation for personnel and equipment in and out of the theater. The DDOC is responsible for requesting airlift channels and providing personnel and cargo estimates to justify the channel and channel frequency. Unless the channel is supporting a hard lift location with little or no commercial business options, the minimum monthly volume required to source organic or commercial airlift support is 50,000 pounds. The regional DDOC coordinates with the AMC to review all channels annually and advise USTRANSCOM of those that have not had significant movement for six consecutive months. Guidance for requesting air channels is in DoD 4500.9-R, volume 2, appendix P.

CCMDs must certify all Special Assignment Airlift Missions (SAAM) terminating in their theater. This provides the CCMD commander visibility over total theater lift allocations and SAAM movement in their theater for onward movement planning and prioritization.

For FMS freight shipped surface via the DTS with door-to-door delivery terms (DTC 7), SDDC personnel assigned to the CCMD's DDOC are responsible for coordinating delivery to an inland point in the recipient country. The DoD is responsible for transportation, including trans-ocean and overseas inland movement from the point of origin to a specified inland location. The customer is responsible for unloading the shipment from the inland carrier at the specified location and for all subsequent onward movement. Any expenses the DoD incurs in the movement of FMS materiel must be charged to the FMS purchaser through the LOA.

The CCMD involvement in arranging or tracking transportation for FMS or pseudo LOA materiel will vary by CCMD. Security Cooperation country desk officers may need to become engaged with the DDOC to assist the SCO and FMS customer in determining appropriate transportation methods and routes on a case-by-case basis.

Security Cooperation Office Responsibilities

Most SCOs will not be routinely involved in transportation issues. Many FMS customers are self-sufficient in arranging for materiel movement and receiving materiel both at CONUS ports and in overseas ports of debarkation. However, when the DTS is used to deliver materiel in country, with LOA DTCs 9 or 7, an in-country U.S. Military Representative (USMILREP), such as the SCO, may get involved. For clarification, the USMILREP may be:

- The SCO
- The Defense Attaché
- A representative of the SDDC
- A DoD employee

The USMILREP is responsible for supervision of the discharge at destination of classified FMS materiel and equipment moving through the DTS. The SCO may be required to serve as the U.S. DGR, and ensure proper transfer of the classified materiel to the FMS customer's DGR. If the SCO is to serve as the U.S. DGR, the responsible individual must be identified in the transportation plan for the movement of classified materiel. The IA is responsible for preparing the transportation plan. The case manager should provide a copy of the transportation plan to the SCO, or other USMILREP acting as the U.S. DGR.

The extent of the SCOs responsibility in the discharge of unclassified materiel shipped through the DTS will depend upon the capabilities of the foreign purchaser. This responsibility may include making arrangements for receipt of the cargo, ensuring establishment by the purchaser of adequate procedures

for checking the equipment and materiel against manifests and shipping documents, providing technical advice regarding proper discharge of cargo, and responding to transportation correspondence and initiating various transportation receipt documents and discrepancy reports as outlined in the DoD 4500.9-R, *Defense Transportation Regulation* volume II, chapter 210, and *The Defense Logistics Management Standards* (DLMS) 4000.25-M, volume 2, chapter 17, *Supply Discrepancy Reporting*. This latter instruction explains how to report shipping or packaging discrepancies caused by the shipper (i.e., overages, damages, or non-receipt) via an SDR by the receiving activity.

Shipping Documentation

The following guidance is provided for shipments made through the DTS on DTCs 9 or 7. The SCO must monitor and coordinate transfer of DTS-routed shipments arriving at aerial or water PODs, by tracking shipments in the Security Cooperation Information Portal (SCIP) and the Enhanced Freight Tracking System (EFTS). Advance notice of incoming shipments plus copies of release documents, manifests, Reports of Shipment (REPSHIP), Cargo Traffic Messages, and Bills of Lading are needed to clear customs at PODs. Release documents can be any of the following: (1) Form 1348-1A, (2) DD Form 250, (3) DD Form 1149, or WAWF Forms (electronic version of DD Form 250). FMS purchasers often request certificates of origin to identify the source and exporter of the materiel. The DoD uses the release documents as proof that the USG is the exporter and the items are of U.S. origin. For further discussion, see the section on foreign procurement in chapter 10 of this textbook.

Release documents should be mailed by the shipper to the SCO at the TAC 5 or 6 address in the MAPAD. The SCO is responsible for providing the release documents to the purchaser to permit the purchaser to clear customs. An APO or DoS pouch service address may not move documentation quickly enough to be available for ship arrivals. The SCO should ensure that the U.S. SCO communication routing identifier (COMMRI) or message address is listed as the TAC 4 address in the MAPAD, or that a reliable office e-mail address for the U.S. SCO is listed in the MAPAD special instructions. This message or e-mail address will be used for electronic notification of REPSHIPS. The MAPAD TAC 5 and 6 addresses should reflect the mailing address of the U.S. SCO. SCOs should contact SDDC whenever DTS ocean delivery of cargo is anticipated. SDDC can be reached at the SDDC 24-Hour Operations Center at DSN 770-4262, Commercial 618-220-4262, or via e-mail at usarmy.scott.sddc.mbx.hqcoc@mail.mil. At a minimum, the following information should be provided: name, e-mail address, telephone number, Transportation Control Number (TCN), and any other information the SCO might have about the shipment.

Commercial invoices and certificates of origin may also be necessary to clear customs in the purchaser's country or customs in third countries through which the FMS purchaser's materiel is transiting. If a shipment is released from a depot, an *Issue Release/Receipt Document* (DD Form 1348-1A) identifies materiel as DoD-supplied and provides the details (document number, FMS case designator, national stock number, etc.) that link the materiel to an LOA. If the shipment is released from a vendor under a DoD contract, a *Materiel Inspection and Receiving Report* (DD Form 250) does the same thing. These documents should accompany the various shipment units. Prior to releasing sensitive items, controlled cryptographic items, or conventional AA&E, shippers are required by the DoD 4500.9-R, *Defense Transportation Regulation* volume II, chapter 205, to send a REPSHIP to the consignee. This will either be a message sent to the TAC 4 address or the SCO's e-mail address in the MAPAD or a copy of the *Ocean Bill of Lading* (OBL) sent to the TAC 5 or 6 address in the MAPAD. For REPSHIP purposes, the in-country USMILREP is the consignee addressee for security cooperation materiel deliveries. The USMILREP will use the REPSHIP to coordinate pickup by the purchaser at the POD.

Ocean/Surface Shipments

When transportation is by ocean carrier, the SDDC may send a cargo traffic message and an OBL to the SCO. The cargo traffic message is a non-detailed summation of cargo picked up at a CONUS ocean port of embarkation. It is normally addressed to any destination that is to receive any of the cargo that is picked up. Although it does not provide exhaustive detail, the cargo traffic message advises if the load includes hazardous materiel or if the ocean container with FMS shipment units destined for the purchaser's water port of debarkation will be transferred to another ship while en route. Original OBLs are the most important document of all for USMILREPs located in a recipient country. Foreign Customs officials will normally accept nothing else for releasing cargo from a surface POD. Without an original OBL, FMS deliveries may be delayed, either the country's own customs requirements, or those of a third country, if the water POD (WPOD) is outside of the purchasing country itself.

Air Shipments

Advance documentation is not available for AMC-lifted cargo or routine FMS cargo transported via commercial air. Shippers have discontinued sending advanced copies of release documents to USMILREPs and consignees for air shipments, primarily because the documents arrive much later than the actual shipments. Manifests and release documents normally travel with cargo, and these will be available for USMILREPs located in destination countries. SCOs and the FMS customers are encouraged to use the SCIP and EFTS to monitor shipments of DTC 7 and 9 materiel and plan for carrier arrival at Air POD (APODs).

Customs Clearance

Customs clearance in-country is the FMS purchaser's responsibility. At no time should the SCO or USMILREP get involved in clearing customs for the FMS purchaser. If shipments are made against a pseudo LOA for a Building Partner Capacity (BPC) program, the SCO should arrange for a representative of the benefitting country to accompany the SCO to clear local customs.

Discrepancies

The SCO or USMILREP may also be required to initiate *Transportation Discrepancy Reports* (TDR) using DD Form 361 when DTS shipments arriving in country are damaged or lost. The TDR process is discussed later in this chapter.

MAPAD Maintenance

The SCO should meet with the FMS purchaser at least annually to conduct a review of the Military Assistance Program Address Directory (MAPAD) addresses that apply to the purchaser. The SCO is also responsible for identifying the appropriate shipping destination codes for pseudo LOA shipments prior to case implementation. The MAPAD is discussed in detail later in this chapter.

Purchaser

Normally, the FMS purchaser is responsible for the transporting its own LOA-furnished materiel beyond the U.S. port of embarkation. The FMS purchaser may choose to hire a commercial freight forwarder to arrange for the receipt, processing, export, and import of security assistance materiel. The purchaser must clearly define his requirements in a contract with the freight forwarder. MILDEPs do not participate in contract negotiations between a country and a freight forwarder.

FMFP funds cannot be used to pay for freight forwarder services. These services must be procured with the purchaser's own national funds. The prohibition on the use of FMFP to finance a freight forwarder is inferred from the language of the Arms Export Control Act (AECA), section 23. The law citation is paraphrased in the SAMM, chapter 9. The USG (i.e., DoD) procures defense articles, defense

services and construction for FMFP customers in accordance with the *Federal Acquisition Regulation/ Defense Federal Acquisition Regulation* (FAR/DFARs). Under the law, the defense contractor works for the DoD and the funds are controlled by the DoD. Freight forwarders, on the other hand, are under contract to the foreign government, and DoD has no contractual authority over the freight forwarder. The DoD has no need to hire a freight forwarder because it has the U.S. Transportation Command which performs movement functions for DoD via the DTS. Consequently, services by a freight forwarder under contract to a foreign government do not constitute a defense service under the AECA and are not eligible for payment by the FMFP.

Addresses for the delivery of materiel, documents, and reports must be determined and coordinated with the individual services' MAPAD administrators. These addresses are published in the MAPAD and must be kept current. The purchasing country must also determine its financial arrangements with the freight forwarder, particularly in the payment of freight bills and the provision of funds for the freight forwarder to pay CONUS CCBLs. The purchaser should also determine the type and amount of insurance desired on freight shipments. When materiel is shipped through a freight forwarder, the foreign purchaser can delegate the responsibility for preparing all export documents, which include initiating and lodging the DSP-94 and reporting each shipment via the automated export system, but only if the purchaser provides the freight forwarder with a complete copy of the LOA.

When the purchaser ships unclassified materiel back to the U.S. for repair, overhaul, calibration, testing, or participation in an exercise, the *International Traffic in Arms Regulations*, section 123.4(a) exempts the import from further license applications, provided that a line exists on an open FMS LOA authorizing such return. If no FMS case exists clearly authorizing the import, U.S. CBP inspectors will require a DSP-61, *Temporary Import License*. As of this publication, there is discussion that when the purchaser ships classified materiel back to the U.S. for any reason, ITAR 126.6(c) provides the appropriate exemptions for temporary imports of unclassified and classified FMS materiel without a license. Until official policy is published, the purchaser is required to submit a DSP-85, *Temporary import of classified defense articles and related classified data*, when shipping classified materiel back to the U.S. for any reason.

Freight Forwarder

Purchasing countries are encouraged to hire a commercial freight forwarder because freight forwarders can provide transportation services for routine cargo that are faster and less expensive than the DTS. The freight forwarder is a private firm under contract to the FMS customer to receive, consolidate, and stage materiel within the U.S. and arrange for its onward movement. As such, the freight forwarder's responsibilities must be specified in the contract. Freight forwarders vary considerably in size, personnel manning, and capability to process materiel, documents, and data for the purchasing country. However, no matter the size of the freight forwarder or amount of materiel handled, all freight forwarders should attempt to accomplish the following basic functions.

Storage Facilities and Materiel Handling Equipment. The freight forwarder should have sufficient space and equipment to handle and store all expected shipments.

An In-transit Visibility System. The freight forwarder receives shipping documents and should always match them against actual materiel receipts. If shipping documents are received and no materiel is received, the freight forwarder should follow up with the indicated point of shipment. Some freight forwarders participate in the Enhanced Freight Tracking System (EFTS) which enables the freight forwarder to confirm receipt of materiel from shippers. An audit trail should be available to allow the country to track any missing or damaged shipments from the purchasing country back to the point of origin.

Payment of Collect Commercial Bills of Lading. The freight forwarder must have sufficient funds to pay CCBL or, when possible, to make credit arrangements with carriers or appropriate agencies to handle bills for deliveries, and to provide "bill to" addresses as necessary for inclusion in the MAPAD.

Notices of Availability. The freight forwarder should immediately respond to each NOA requesting shipping instructions. The DoD does not store materiel to accommodate freight forwarders.

Shipment Damage. Very few freight forwarders are permitted to open containers to check for possible damage of the contents. Claims must be filed against commercial carriers for shortages and visible damages. Because title to the materiel transfers to the FMS customer at the initial point of shipment, the freight forwarder should generally not refuse a shipment that is destined for the FMS customer. The DoD shipper has no authority to take the materiel back because the title is warranted to the FMS purchaser in the LOA. The freight forwarder should accept damaged articles, initiate claim action against the carrier, and resolve paperwork discrepancies with the shipper. Freight forwarders may refuse shipments such as munitions, or uncertified hazardous shipments, if they are in violation of local ordinances or federal transportation law, or they are not cleared to accept classified freight.

Repack, Recrate, and Reinforce. Most freight forwarders are not permitted to open containers they receive from the DoD or other sources. Instead, the freight forwarder must have the capability of repacking the inadequate original container into one that is more suitable for containerization and overseas shipment. If possible, small packages should be consolidated and loaded in sea land type containers to minimize loss, damage, or pilferage. However, this may not be possible since some countries do not have the capability to handle containerized shipments.

Marking, Labeling, Documentation. The freight forwarder should ensure that all required marking, labeling, and documentation is affixed to consolidated shipping containers and is legible for the onward processing of materiel. It is the USG's responsibility to ensure that the DoD shipper or the contracted manufacturer packs the materiel for overseas shipment, and that packing documentation, hazardous certification, and FMS case identification are properly affixed to the container.

Repairable Return. Purchasing countries return numerous items to organizations for repair and maintenance. The freight forwarder is responsible for clearing the incoming shipments through U.S. Customs, and arranging transportation to the repair facility. Returning classified items are provided the appropriate exemptions for temporary imports of unclassified and classified FMS materiel without a license under ITAR 126.6(c).

Many freight forwarders licensed by the U.S. Federal Maritime Commission are also licensed customs brokers. A customs broker facilitates the clearance of cargo imported into the U.S. Frequently, the purchaser's materiel will need to be returned to the U.S. for testing or repair. Therefore, the freight forwarder selected by the purchaser should also be a licensed customs broker and tasked to perform import duties and transportation arrangements to the testing or repair facility in the U.S.

The FMS customer must select the freight forwarder; DoD personnel are not authorized to recommend a freight forwarder or tell a freight forwarder how to conduct his or her operations. The National Customs Brokers and Forwarders Association of America (NCBFAA—www.ncbfaa.org) publishes an annual membership directory that lists licensed customs brokers and international freight forwarders throughout the U.S. and around the world. This directory explains the role of the customs brokers and freight forwarders and describes how to locate them within a particular area.

For more information on freight forwarder selection, see the DISCS publication *Foreign Purchaser Guide to Freight Forwarder Selection*, located at www.discs.dsca.mil.

Transportation Discrepancies

Transportation discrepancies occur when there is loss or damage to an item that can be attributed to the carrier (e.g., loss of a crate or package, or a hole put through a container by a forklift during loading). These types of discrepancies are usually easy to detect by a visual inspection of the containers or by ensuring the number of items received matches the carrier's bill of lading for the number of items shipped. If a container was damaged when the carrier picked it up from the shipping activity, the damage should also be reflected on the bill of lading.

Transportation discrepancies are normally filed by the shipper against the carrier. The freight forwarder will report these discrepancies to the DoD shipping activity with a letter or memorandum. The shipping activity will use these reports to initiate tracers or damage claims with the inland CONUS carrier using the DD Form 361, *Transportation Discrepancy Report* (TDR), process. If non-receipt is suspected, FMS customers should submit a supply discrepancy report (SDR) in accordance with the SAMM, chapter 6.

Transportation discrepancy reporting procedures apply to any security cooperation shipment made within the DTS. This includes FMS shipments to overseas destinations and ports of debarkation (DTCs 7, 9, G, and J), to DoD CONUS ports of embarkation (DTCs 8, B, and C), and to DoD/USG CONUS-located activities and contractors (DTC 2). For overseas shipments, when the carrier is DTS, the FMS purchaser should contact the SCO, the defense attaché or the closest U.S. representative. That individual then submits a TDR to the supporting SDDC. If there is no U.S. representative available in country at the time a DTS shipment is received, the FMS purchaser may submit an SDR using procedures described in chapter 10, "Logistics Support of International Military Sales," of this textbook. The TDR procedures also apply to FMS materiel shipped to non-DoD consignees within the CONUS (e.g., FMS freight forwarders, customer country embassies, or carrier facilities identified in notice of availability responses), and to pseudo LOA shipments when the USG arranges the prepaid transportation via the LOA.

When the shipment is prepaid to the freight forwarder (DTC 5 or H) different procedures apply. Prepaid shipments to these destinations, regardless of the funding source, involve a contractual relationship between a DoD/USG shipping activity and the inland CONUS carrier. The FMS customer (the consignee) is not a party to that contract; therefore, they cannot submit claims or tracing requests directly to the carrier. Also, as a non-DoD/USG entity, the FMS customer cannot submit TDRs. For these reasons, the freight forwarder or the country representative will report these discrepancies to the DoD shipping activity with a letter or memorandum. The shipping activity will use the TDR to initiate tracers or damage claims with the inland CONUS carrier. The proceeds from claims will be returned to the FMS transportation account. FMS customers must submit an SDR to the ILCO to obtain compensation for loss or damage of materiel and associated transportation costs.

All lost or damaged security cooperation shipments, regardless of value or classification of the materiel, should be reported by the shipper or overseas SDDC representative on a TDR when shipment is through the DTS. Damaged shipments made via ocean freight should be reported within one year of delivery. Damaged air freight shipments should be reported within fourteen days of delivery. Lost or missing air shipments should be reported within 120 days from the date of the airway bill.

Submission of a TDR only serves to initiate a tracer for missing shipments and/or to report mishandling by the carrier. It does not provide financial compensation to the FMS customer. The customer must still submit an SDR, SF 364, to request compensation for loss or damage of materiel shipped via DTS. Since section 5.1 of the LOA standard terms and conditions indemnifies the USG of any liability or risk during shipment after passage of title, the TDR in conjunction with the SDR serves only as a means for the USG to file claims against the commercial carrier and collect damages up to the value of the carrier's insurance coverage. The FMS customer will receive neither replacement materiel

nor credit for the full value of the loss. FMS customers who are unwilling to accept this risk should consider purchasing commercial insurance for their DTS shipments. Further guidance on TDRs can be found in the DoD 4500.9-R, *Defense Transportation Regulation* volume II, chapter 210.

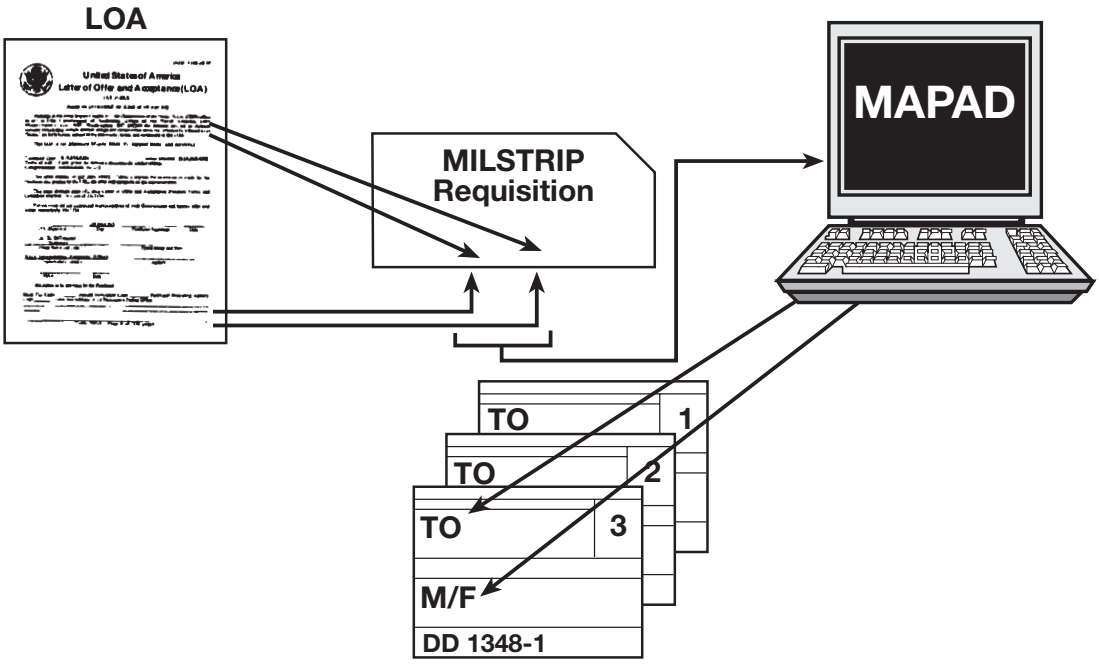
Transportation Pricing

There are several methods of computing the cost of transportation based on the source of the materiel. Transportation costs may be included on the LOA line price of the materiel being shipped, or it may be collected as a separate transportation line on the LOA, or it may be computed as a percentage based on the item value and the DTC. For major systems and components, transportation costs may be computed from estimated actual shipping costs identified in SAMM appendix 2, "Transportation Cost Lookup Table." For materiel returns and repairs, actual transportation costs may be assessed against the LOA. For a more detailed explanation of transportation pricing, see chapter 12, "Financial Management," of this text.

Three Major Delivery Elements

There are three major elements involved in the delivery of SC materiel to the proper purchasing country address, as illustrated in figure 11-2. These elements are the FMS LOA, the MILSTRIP requisition, and the MAPAD system.

Figure 11-2
Document Relationships



Letter of Offer and Acceptance

During the pre-LOR planning and processing of the LOA, various transportation blocks are completed which identify how items will be shipped, when shipments will be released, where responsibility for physical movement of an FMS shipment passes to the purchaser, and which accessorial charges are applicable. The LOA serves as the authority for the freight forwarder to initiate and lodge the U.S. Customs DSP-94 export document. It is necessary, therefore, that the freight forwarder has a copy of the LOA and all applicable amendments and modifications to the LOA, to facilitate shipments to the customer's country.

Delivery Term Code

The DTC indicates the point in the transportation cycle where responsibility for physical movement of an FMS shipment passes from the U.S. DoD to the purchaser. The LOA normally specifies a delivery location for every line included in the case. The DTC specifies to what point the U.S. will provide transportation, and from that point onward the purchaser provides the transportation. The most commonly used DTC on LOAs is DTC 5, which indicates that the USG will sponsor transportation to the CONUS port of embarkation. This is normally the freight forwarder. DTC 8 is commonly used for DTS shipments and indicates pick up of items by DTS at the point of origin and movement to a CONUS port. The DTC appears in column (7) of the LOA. Table 11-3 shows the numeric DTCs for outbound materiel, as illustrated by figure 11-3. Table 11-3 also shows alphabetic DTCs for returning materiel.

Figure 11-3
Delivery Term Codes for Shipments from the United States (Outbound)

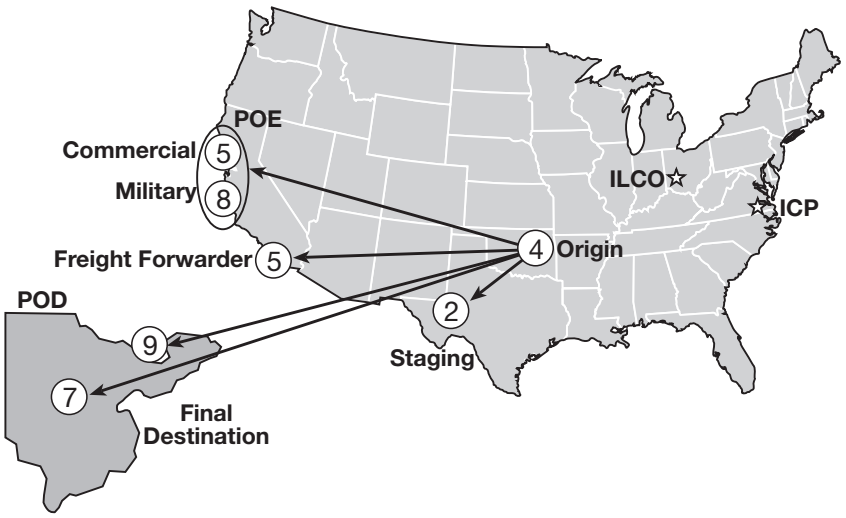


Figure 11-4
Delivery Term Codes for Repair and Return Shipments (Inbound)

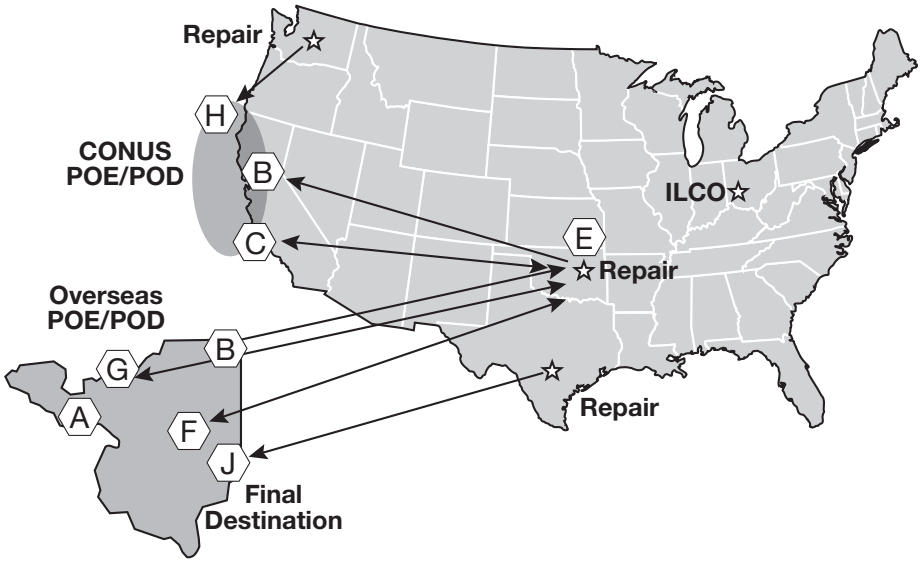


Table 11-3
Delivery Term Codes

Delivery Term Code	Definition
2	DoD/USG delivers to a CONUS inland point (or overseas inland point when a shipment's origin and destination are within the same geographic area).
3	This DTC is currently not being used.
4	Delivery at origin. Materiel is made available to the Customer Country at the point of origin (i.e., a depot's or vendor's loading dock) and that the customer is responsible for taking custody as well as title at that point.
5	Delivery to a CONUS-located freight forwarder, Customer Country facility or commercial port. DoD is responsible for movement to the POE. The customer is responsible for unloading the shipment from the inland carrier at the POE, delivery alongside the vessel/aircraft, and all subsequent onward movement.
6	This DTC is currently not being used.
7	Delivery to an inland point in the recipient country. The DoD is responsible for transportation, including over-ocean and inland overseas movement, from point of origin to a specified inland point overseas. The Customer Country is responsible for offloading the shipment from the overseas inland carrier's equipment to a subsequent onward movement
8	DoD delivery on board a customer country controlled ship or aircraft at a DoD-controlled POE. The DoD is responsible for transportation from the point of origin to a customer country controlled ship or aircraft at the DoD-controlled POE, including unloading materiel from the inland carrier, port handling and for stowage aboard a customer country-controlled ship or aircraft. The customer country is responsible for all subsequent onward movement.
9	DoD delivery to closest overseas air or ocean POD offloaded. This POD may or may not be in the customer's country. Movement may be effected either by DoD organic or commercial carrier. The Customer Country is responsible for all handling and onward movement of the materiel from the dock alongside the ship or from the air terminal.
0	The zero is not a DTC. It is used as filler for any Grant Aid procedure shipment (e.g., Presidential Drawdown shipment).
A	DoD is responsible for transportation from designated overseas POE to a CONUS destination and subsequent return to a designated overseas POD (DoD transportation responsibility is equal to DTC 9 in both directions). The FMS purchaser is responsible for overseas inland transportation of materiel to or from the overseas POE or POD and overseas port handling (FMS customer responsibility equal to DTC 4 in both directions).
B	The DoD is responsible for transportation from a designated overseas POE to a CONUS destination, return to a CONUS POE, and CONUS port handling. The customer is responsible for overseas inland transportation to the overseas POE, overseas port loading, and all return transportation from the CONUS POE to ultimate destination. (Transportation is the same as DTC 9 for inbound materiel, and DTC 8 for outbound materiel.)
C	The DoD is responsible for CONUS port unloading from the customer-arranged carrier, transportation to and from a designated CONUS destination, and CONUS port loading of a customer arranged carrier. The customer is responsible for movement of materiel to and from the CONUS POD/POE. (Transportation is the same as DTC 8 in both directions.)

D	This DTC is currently not being used.
E	The customer is responsible for all transportation from overseas point of origin to the CONUS destination and return to an overseas destination. (Transportation is the same as DTC 4 in both directions.)
F	The DoD is responsible for transportation from an overseas inland location to an overseas POE, overseas port handling, transportation to a CONUS POD, CONUS port handling, inland transportation to a designated CONUS destination, and return to an overseas destination. (Transportation is the same as DTC 7 in both directions.)
G	The DoD is responsible for overseas port handling through an overseas POE, transportation to a CONUS POD, CONUS port handling, inland transportation to a CONUS destination, return to an overseas POD and overseas port handling. Customer country is responsible for overseas inland transportation to and from the overseas POE/POD. (Transportation is the same as DTC 9 in both directions.)
H	Customer country is responsible for all transportation from overseas point of origin to the CONUS repair facility. DoD/USG is responsible for transportation from CONUS repair facility to CONUS POE. Customer country is responsible for CONUS POE port handling and all further movement to overseas destination. (Transportation is the same as DTC 4 for inbound materiel and DTC 5 for outbound materiel.)
J	Customer country is responsible for all transportation from overseas point of origin to CONUS repair facility. DoD/USG is responsible for all movement from CONUS repair facility to the overseas inland destination. (Transportation is the same as DTC 4 for inbound materiel and DTC 7 for outbound materiel.)

Mark-for code. The mark-for code normally indicates the final destination in the customer's country. The FMS customer enters this code in the mark-for code line at the bottom of page 1 of the LOA. Occasionally, an LOA will contain items which require multiple codes in a given block, such as numerous in-country (mark-for) destinations. These situations might arise for shipments of explosives, classified, and items with different priorities. If more than one code is applicable, appropriate explanatory notes must be included in the LOA as additional terms and conditions clearly identifying which items to ship to which locations.

Freight Forwarder Code. The freight forwarder code designates which freight forwarder will receive the shipment. This code is obtained from the MAPAD. The customer enters this information on the freight forwarder code line on page 1 of the LOA.

Offer/Release Code. The offer/release code indicates when a shipment will be released. Code A indicates the shipping activity will automatically ship without any advance notice. Code Y is entered when the customer (usually the freight forwarder) wants advance notice of the shipment. Under Code Y, the shipper will send out a DD Form 1348-5, NOA, advising that shipment is planned to occur in fifteen days. The shipment will be released automatically at the end of fifteen days whether or not a response to the NOA has been received. (Offer/release option Y is used infrequently.) Code Z is entered when advanced notice is required before release of shipment. If the shipping activity has not received instructions by the 15th day after the original NOA, it sends a follow-up NOA. If the second notice also fails to provide instructions, the shipper will take additional actions to obtain shipping instructions. Failure to respond to a Code Z NOA could result in the assessment of storage charges. NOAs are only applicable when the DTC is 4, 5, 8, B, C, E or H, and whenever the item being shipped is classified. An "X" is not an offer/release code. Rather it indicates that the NOA process is not applicable because the materiel is being moved overseas through the DTS.

Accessorial Costs. Estimated packaging costs for non Defense Working Capital Fund (DWCF) items are entered in the packing, crating, and handling cost line (9), and transportation costs for non-DWCF items are shown on the transportation charge line (11) of the LOA. A dollar amount is entered. Percentage rates used to compute the dollar amount are not shown on the LOA. Chapter 12, "Financial Management," provides information on how these costs are calculated.

Military Standard Requisitioning and Issue Procedures

The second major element in the delivery of FMS materiel and related documentation is the MILSTRIP requisition. Once an FMS case has been established and funded, applicable transportation/supply codes are copied from the LOA into supply requisitions. For example, the offer/release code, DTC, mark-for code and freight forwarder code are embedded in requisitions to describe shipping information. The MILSTRIP is described in chapter 10, "Logistics Support of International Military Sales," of this text.

Military Assistance Program Address Directory

The MAPAD web site contains the addresses required for shipment of materiel and distribution of related documentation under FMS and MAP/Grant Aid. It is considered one of the most important single elements in the security cooperation supply and transportation process. The MAPAD is available for use by DoD activities, the General Services Administration, commercial firms, foreign governments, and international organizations participating in FMS and MAP/Grant Aid Programs. The MAPAD is an Internet-accessible database. DoD personnel with Common Access Cards (CAC) may register and access the MAPAD at https://www2.transactionservices.dla.mil/portal/. FMS customers, SCOs, contractors, and freight forwarders may access a read-only version of the MAPAD at https://www.transactionservices.dla.mil/DAASINQ/default.asp.

The MAPAD contains addresses and corresponding address codes to identify where FMS materiel/documentation is to be shipped. It includes addresses of Security Cooperation Offices, freight forwarders, country representatives, and customer addresses within country. Generally, the information is coded to provide:

- A shipping address for parcel post, small package shipments, and freight
- An address to receive NOAs
- An address to receive supply and shipment status
- Mark-for addresses for in-country destinations

The following are specific MAPAD policies:

- Administration. The MAPAD is administered by the DLA Logistics Management Standards Office, which coordinates all MAPAD entries with the MILSTRIP and DoD 4500.9-R, *Defense Transportation Regulation*, part II, "Cargo Movement."
- Custodian. The DLA Transaction Services is responsible for hosting the MAPAD automated file and directory.
- Post Office Addresses. Military post office addresses (APO/DPO) will not be used for FMS shipments unless specified in the LOA. These addresses must also be approved by the applicable service prior to publication in the MAPAD.
- International Mail Addressees. International mail addresses and addresses of U.S. activities also require service approval and specification in the LOA.

- Classified Shipment Addresses. Some countries have freight forwarder and other addresses published in the MAPAD for the receipt of classified shipments. Once Defense Security Service (DSS) has cleared a facility/freight forwarder to handle classified materiel, DSS will send a letter of clearance to the Defense Logistics Management Standards Office that will enter the correct addresses into the MAPAD. Although the freight forwarder may be cleared to handle classified materiel, the NOA preceding the shipment must be sent to the foreign representative identified in the MAPAD special instructions, not the TAC 3 address. The foreign representative is typically at the customer's embassy in Washington, DC, or a foreign government office located in the U.S.

- Special Instructions. Clear text special instructions are listed at the beginning of each country section. This is a means by which customer countries place their unique requirements in the MAPAD regarding shipments/documentation.

- MAPAD Changes. Revisions, additions, and deletions to the MAPAD are made when such requests are received by the ILCO case managers from SCOs or purchasing country representatives. Freight forwarders must inform their country representatives immediately of an expected change of address, so that a request for change may be sent to the ILCO country manager.

Figure 11-5 on the following page is an example of the online MAPAD.

Figure 11-5
Military Assistance Program Address Directory

DEFENSE LOGISTICS AGENCY
Transaction Services

DAASC Inquiry System (DAASINQ)

Contact Us | Help | Home

What is DAASINQ?

DoDAAC

MAPAC

NIIN

RIC

MAPAC Query for

MAPAC: DBN002 2 / 7

MAPAC Information

TAC: 2	**TAC SEQ:**	**FFLC:** 0	**EFF DATE:** 01/17/2014
AFI: F	**SII:**	**CHG NO:** 4017	**DEL DATE:**
WPOD:	**APOD:**	**CONUS/OCONUS:** C	
Country Reps and/or Special Instructions			**Create Date:** 12/20/2013

Address Information

- BANDARIAN FREIGHT FORWARDING CORP.
- WAREHOUSE DOCKS
- 1205 68TH STREET
- BALTIMORE, MD 21224-2548

City: BALTIMORE	**ZIP:** 21224	**IPC ZIP:**
State Name: Maryland	**State A/N** MD/ 24	
Country Name: UNITED STATES		
Country Codes: ISO 2- US ISO 3 - USA FMS - MILS - FIPS - US		
MAPAC Country:		

MAPAC: DBN002 3 / 7

MAPAC Information

TAC: 3	**TAC SEQ:** 1	**FFLC:** 0	**EFF DATE:** 01/17/2014
AFI: F	**SII:**	**CHG NO:** 4018	**DEL DATE:**
WPOD:	**APOD:**	**CONUS/OCONUS:** C	
Country Reps and/or Special Instructions			**Create Date:** 12/20/2013

Address Information (FREE FORM SET)

- BANDARIAN FREIGHT FORWARDING CORP.
- INTERNATIONAL PROCESSING DIV.
- 1205 68TH STREET
- BALTIMORE, MD 21224-2548
- TEL 301-555-1234 FAX 301-555-4321

City: BALTIMORE	**ZIP:** 21224	**IPC ZIP:**
State Name: Maryland	**State A/N** MD/ 24	
Country Name: UNITED STATES		
Country Codes: ISO 2- US ISO 3 - USA FMS - MILS - FIPS - US		
MAPAC Country: ISO 2- ISO 3 - FMS - MILS - FIPS -		

MAPAC: DBNB00 5 / 7

MAPAC Information

TAC: M	**TAC SEQ:**	**FFLC:** 0	**EFF DATE:** 03/29/2013

The column titles stand for the following:

- MAPAC – Military Assistance Program Address Code. A MAPAC correlates to an individual address record in the MAPAD.

- TAC – Type of Address Code. The TAC is determined by the shipper, and identifies the action being taken by the shipper.
- TAC SEQ – TAC Sequence Code (TSC). When more than one MAPAC and TAC combination exists, the TSC is used to distinguish one location from another. Generally, shipments would be made to the nearest geographical location if more than one ship-to address and TAC exist.
- AFI – Address File Indicator. An F in this field indicates an FMS customer. A G in this field indicates security assistance provided through MAP or Grant Aid.
- SII – Special Instructions Indicator. An entry in the SII field reflects special instructions located on the country introduction page. Clicking on the weblink in the MAPAC information will open the special instructions page.
- WPOD – Water Port of Debarkation. A three-position code, located in DoD 4500.9-R, *Defense Transportation Regulation*, part II, "Cargo Movement," appendix MM, that a specific water port is designated as the overseas port of discharge.
- APOD – Aerial Port of Debarkation. A three-position identifier in DoD 4500.9-R, *Transportation Regulation*, part II, "Cargo Movement," appendix CC, that designates a specific air terminal as the overseas port of discharge.
- FFLC – Freight Forwarder Location Code. When a MAPAC designates multiple locations consigning shipments and mailing documentation, i.e., east, west, and gulf locations, an FFLC will be assigned as follows: code 1 for an east coast location, code 2 for a west coast location, code 3 for a gulf coast location, and a code zero to indicate that the address is the only freight forwarder for the MAPAC.
- CHGNO – The change number is a tracking number assigned by DLA Transaction Services.
- EFF DATE – Date that the address becomes effective.
- DEL DATE – Date on which the MAPAC TAC 9 will be deleted.

Military Assistance Program Address Code

The key to using the MAPAD is the Military Assistance Program Address Code (MAPAC). The MAPAC appears as a six position code in the MAPAD. It is constructed from selected codes located in various data fields of the MILSTRIP requisition. Specifically, MILSTRIP requisition record positions 31, 32, 33, 45, 46, and 47 provide all the information necessary to construct a MAPAC when shipment is made through a freight forwarder.

A MAPAC does not exist as a discrete entity without a defining TAC. The TAC is a suffix to the MAPAC which further defines the clear-text address to be used. TACs are discussed later in this section.

Figure 11-6 is an illustration of two FMS MAPACs constructed from applicable entries in a MILSTRIP requisition. This is necessary when a shipment is made through the FMS customer's freight forwarder. The freight forwarder's address is represented by the ship-to MAPAC and the final destination address is represented by the mark-for MAPAC. The numbers 30 through 50 indicate MILSTRIP record positions. The row of alphanumeric characters represents the applicable codes inserted in each record position by the originator of the requisition.

Figure 11-6
Relationship of the MAPAC to the MILSTRIP Requisition
(Except Canada and Grant Aid) when using a Freight Forwarder

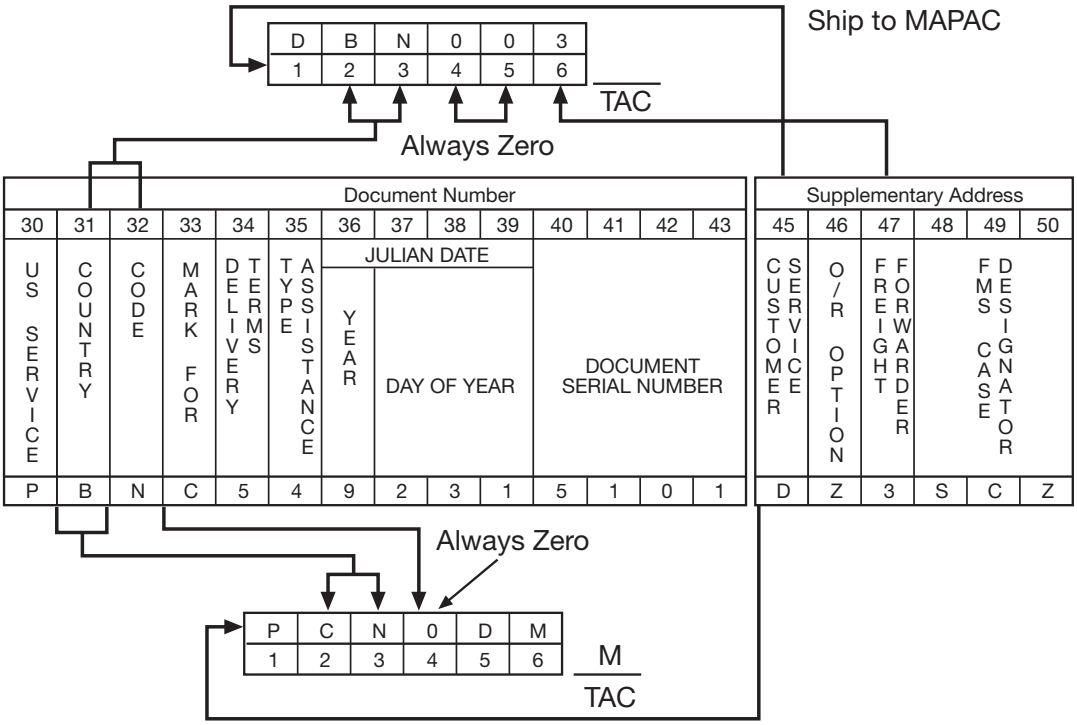
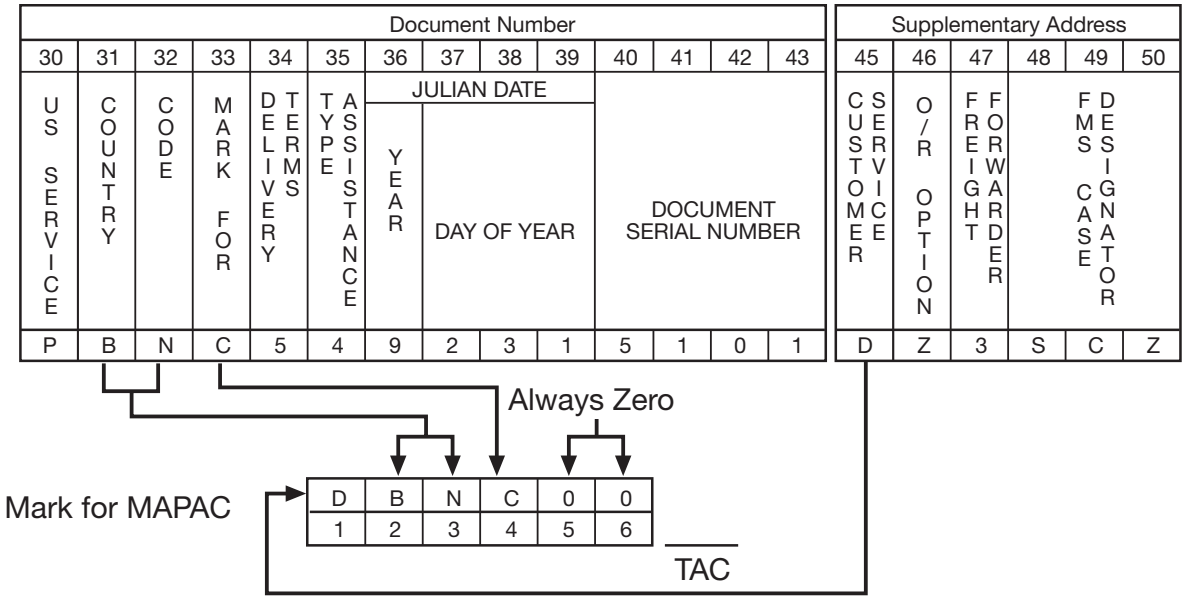


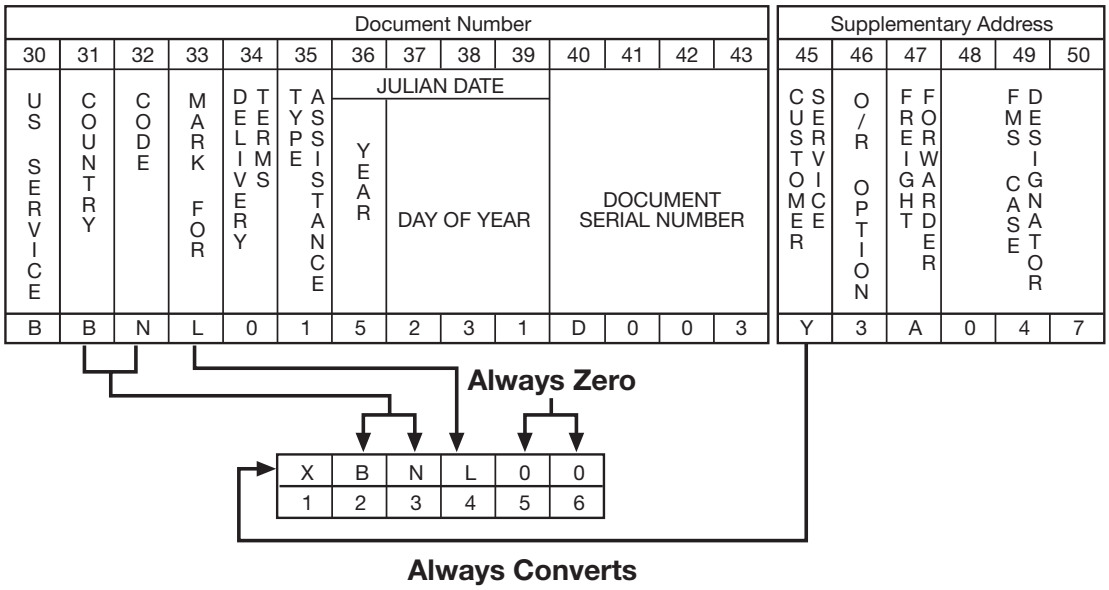
Figure 11-7 illustrates the MAPAC construction when shipment is made entirely through the DTS, so there is no NOA, and no freight forwarder. In this case, the offer/release option and freight forwarder code are replaced in the supplementary address fields by "XX." The mark-for address becomes the ship-to address.

Figure 11-7
Relationship of the MAPAC to the MILSTRIP Requisition for DTS Shipments



Grant aid shipments have different MAPAC construction rules from those shown in figures 11-6 and 11-7. Grant aid materiel is usually shipped through the DTS, but the materiel is not designated for any specific foreign military service, and there is no LOA. Consequently the data in the supplementary address fields of a grant aid requisition are quite different from the data in an FMS requisition, as shown in figure 11-8. In these shipments, the ship-to and mark-for MAPAC are usually the same.

Figure 11-8
Relationship of the MAPAC to the MILSTRIP Requisition for Grant Aid Shipments



Shipments to Canada do not follow the MAPAC construction rules described in figures 11-6, 11-7 or 11-8. In these shipments, there is no mark-for MAPAC. For information on how to construct MAPACs for Canadian shipments, see the DTR, part II, appendix E.

Military Assistance Program Address Code Construction. The first position of the MAPAC designates the country military service to which the address applies. Normally the code will be B (in-country Army), D (in-country Air Force), P (in-country Navy), K (in-country Marines) or T (in-country joint activity or nonspecific). This is illustrated in figures 11-6 and 11-7. Grant aid shipments are not made to military services, but rather to foreign governments in general. For this reason, the service identifier in position forty-five on the MILSTRIP document is Y. The Y is converted to X in the MAPAC as shown in figure 11-8 because DoD has designated the Y for other purposes in MILSTRIP coding for transportation.

The second and third positions of the MAPAC indicate the country or activity code. For example, BN indicates Bandaria. Country and program codes can be found in the SAMM, C4.T2.

For a ship-to MAPAC with shipment going to a freight forwarder, the fourth and fifth positions will usually contain zeros and the sixth position will indicate the freight forwarder code.

For a mark-for MAPAC (an entry in MILSTRIP record position thirty-three indicates that a requisitioner also wants an in-country destination mark-for address included in the documentation and on the shipping label), positions one, two and three remain the same, but position four will include the mark-for code and positions five and six will usually be zeros.

For a complete list of MAPACs from the MAPAD, one needs only to input the purchaser's service followed by the country or program code. This must be repeated for each military service applicable to the customer.

Type of Address Code

Individual MAPACs may indicate numerous addresses. The question then is which address should be selected. The key to the selection of the correct address is the TAC, which appears in the second column of the country address page. Table 11-4 is a list of TACs that has been extracted from the MAPAD. It briefly defines the types of addresses available in the MAPAD and explains their use. The TAC represents the action being taken by the shipping activity. For example, if a supply depot is shipping an unclassified small package, the appropriate TAC would be 1. If the same MAPAC has multiple addresses, the shipping activity would ship to the TAC 1 address.

Table 11-4
Type of Address Code

Type of Address Code (TAC)	Explanation
A	This address is used when materiel classified secret is moved by small parcel carrier. It must be shipped by a carrier that can provide evidence of shipment or proof of delivery in compliance with DoD 4500.9-R, Defense *Transportation Regulation* (DTR), Part II, Cargo Movement Procedures.
B	This address is used when materiel classified secret is moved by surface or air freight carrier. It must be shipped by a carrier that can provide evidence of shipment or proof of delivery in compliance with DTR procedures.
C	This address is used when materiel classified confidential is moved by small parcel carrier. It must be shipped by a carrier than can provide evidence of shipment or proof of delivery in compliance with DTR procedures.
D	This address is used when materiel classified confidential is moved by surface or air freight carrier. It must be shipped by a carrier that can provide evidence of shipment or proof of delivery in compliance with DTR procedures.
1	This address is used when surface or air parcel post is selected as the mode of transportation for shipment of unclassified materiel.
2	This address is used when surface or air freight is selected as the mode of transportation for shipment of unclassified materiel. More than one TAC 2 address may be reflected for the same MAPAC. In this case, the MAPAD will contain a special indicator which requires manual look-up in the introduction of the appropriate country address listing.
3	This address is used when the option code (Y or Z in record position 46 of the requisition) requires a notice of availability prior to shipment. For option code Z, follow-ups on notices of availability are also sent to this address.
4	This address is used for distribution of supply and shipment status documents. Distribution is accomplished by Communication Routing Identifier (COMMRI) electronic communications.
5	This address is used for mailing copies of release/receipt documents for parcel post shipments when the recipient has no electronic receipt capability. The TAC 5 address is only published when it is different from the TAC 1 address.

6	This address is used for mailing copies of release/receipt documents for automatic freight shipments when the recipient has no electronic receipt capability. The TAC 6 address is only published when it is different from the TAC 2 address.
7	This address identifies the activity responsible for payment of transportation charges for shipments made on collect commercial bills of lading or other types of collection delivery methods. This address is established only when TACs A, B, C, D, 1, and 2 addresses (ship-to) are not authorized to make such payments.
9	TAC 9 indicates that the addresses for this MAPAC have been deleted; however, the MAPAC will remain in the directory to provide a reference to another MAPAC, which will be used in processing documents that contain the deleted MAPAC, or provide a reference to special instructions for processing documents containing the deleted MAPAC. The deleted entry will remain in the MAPAD for a period of five years.
M	This address is used as a mark-for for freight shipments to freight forwarders and through the DTS. The fourth position of the MAPAC contains an alphanumeric code to designate an in-country destination. This code will be the same as the code in record position 33 of the MILSTRIP requisition.

The selection of the proper TAC is determined by the type of action being taken. For example, when a requisition is processed, the following sequence of events may take place:

- A need for an address to send supply status documents (TAC 4)
- Possibly a need for an address to send a notice of availability, indicating stock is on hand and ready for shipment (TAC 3)
- The need for an address to send parcel post, freight or classified materiel (TAC A-D, 1, 2)
- The need for an address to send materiel release documents (TAC 5, 6)
- The need for an address to send shipment status documents (TAC 4)

A clear-text mailing or shipping address may be obtained from the MAPAD by constructing a MAPAC from the requisition data and determining the type of shipping action to be accomplished. The MAPAC and its corresponding clear-text address must appear on the materiel release document (DD 1348-1A, *Issue Release/Receipt Document* or the DD 250, *Materiel Inspection and Receiving Report*), and the shipping label, DD 1387. The TAC, however, never appears on any documentation.

For more information on the MAPAD see the DISCS publication *FMS User's Guide to the Military Assistance Program Address Directory* (MAPAD), located at www.discs.dsca.mil.

Shipment of Building Partnership Capacity Letter of Offer and Acceptance Materiel

Materiel shipments made as part of pseudo LOAs, also known as Building Partner Capacity (BPC) LOAs, follow different rules than materiel shipments made under an FMS LOA. For pseudo LOAs, the standard terms and conditions do not apply because the purchaser on the LOA is a USG entity. The DoD retains title to the materiel until after it is received in country, and the USG representative transfers custody and responsibility to the recipient country. As a result, the DoD assumes all liability and responsibility for materiel movement until the title transfers. The designated USG representative will confirm and document delivery and receipt of the pseudo LOA materiel to an authorized recipient country representative or agent of the receiving country. The USG representative will keep

documentation showing when, where, and to whom delivery was made, and will provide a copy of this documentation to the implementing agency that issued the LOA.

All materiel transferred under a BPC LOA must move through the DTS. No freight forwarder is involved. DSCA publishes non-FMS program guidance annually as security cooperation programs receive Congressional approval and funding. Materiel transfer rules are subject to change and may vary for different security cooperation programs. Chapter 15 of the SAMM addresses BPC LOAs. It is recommended that country/case managers consult with the DSCA policy office to verify that the transfer procedures described in this chapter are still valid.

Pre-LOR Transportation Planning

Transportation of materiel to the customer is often the most difficult part of case execution. Because of the many rules, regulations, policies, and processes outlined in this chapter for moving materiel, planning for transportation must be done as early as possible. International purchasers and SCOs should address transportation capabilities and limitations in their letters of request or memorandums of request for FMS and BPC LOAs, respectively. The most difficult commodities to move are sensitive AA&E, classified items, COMSEC, cryptographic or other sensitive (nonexplosive) items, and oversized major items such as vehicles, aircraft, tanks, helicopters, boats, or heavy construction equipment. Some of these items can be moved by a commercial freight forwarder, but many must move through the DTS. FMS customers and SCOs should address the following concerns in pre-LOR discussions in order to plan for delivery of these commodities:

1. Does the FMS customer have the capability to pick up the materiel in CONUS and transport it to their country using their own carrier?

2. If the materiel will move by surface carrier overseas, does the FMS customer have the capability to accept the materiel at the POD and arrange for movement to the final destination? What if the POD is in a third country? The FMS customer will be responsible for clearing customs and arranging for transportation through any other country the materiel must transit.

3. Are there any unique documents, permits or handling requirements for the shipment to clear customs?

4. What military or commercial air or water ports are available for delivering FMS materiel? What is the carrier capacity of each port? Does the port have secured storage space? If the answers to these questions are unknown, it may be necessary for SDDC to conduct a port site survey to identify the size and type of carriers that the port can accommodate, and to assess the port's physical security.

5. Does the FMS customer have the ability to move the materiel securely from the POD to the final destination?

If the FMS customer is unable to arrange for onward movement from the POD to the final destination, the cost for having the USG move the materiel to the final destination can exceed the value of the shipment itself. This is especially true if the only option to move the materiel into country is to use a dedicated Special Assignment Airlift Mission (SAAM), or some other form of transportation that is not part of a regular schedule. To assist SCOs and case managers in evaluating transportation options, the USTRANSCOM has established the Enterprise Readiness Center (ERC) at Scott AFB, IL. The mission of the ERC is to provide pricing and routing options to enable implementing agencies to develop a course of action for the delivery of hard-to-move commodities to primarily low-volume or landlocked countries. SCOs and FMS case managers are encouraged to contact the ERC at USTC-

ERC-LOA@ustranscom.mil, to determine transportation options and limitations during the pre-LOR discussions.

Summary

This chapter has presented an overview of the DoD transportation policy for the movement of FMS materiel. The USG would like all purchasers to become self-sufficient in the delivery of their materiel. However, because of the nature of some articles and the lack of capability of some countries, there are occasions when the DTS must be utilized to deliver certain items. Title to all articles normally passes at the point of origin, and the purchaser pays all charges to its in-country destination. Some of these transportation costs are included in the stock fund price of the item, and others are charged by the freight forwarder or the USG. Offer release codes, DTCs, and other pertinent transportation data are negotiated during the preparation of the LOA, and resulting codes are included within a MILSTRIP requisition enabling shippers to move articles to the proper in-country address.

The MAPAD is a web site that contains addresses and corresponding address codes to identify where FMS materiel and documentation are to be sent. At first glance, the MAPAC, with its required construction of various codes for determination of proper addresses, appears complex. However, after some familiarization, the use of the MAPAD becomes quite simple. Purchasers are responsible for the accuracy of address information; if the addresses listed in the MAPAD are not current, shipments of materiel, documents, and reports will be delayed or misdirected.

Case developers, managers, and all applicable supply/shipping activities must be familiar with the MAPAD and comply with the marking and addressing of security cooperation shipments.

Certain categories of materiel require specific permits and coordination documents before movement can occur. FMS purchasers must obtain a CAA before moving explosive materiel. A transportation plan must document the transportation security procedures for classified and/or explosive materiel.

Export documents must be prepared for all types and modes of shipment. Each shipment must be reported through the Automated Export System by the freight forwarder when one is used by the FMS customer, or by the DoD shipper when movement is entirely through the DTS. Additionally, a DoS export authorization, DSP-94, must be filed at the primary commercial or DoD port of embarkation.

Transportation discrepancies occur when there is loss or damage to an item that can be attributed to the transporter. Transportation discrepancies are normally handled by filing a claim with the carrier. All lost or damaged security assistance shipments, regardless of value or classification of the materiel, should be reported on a TDR when shipment is through the DTS. TDR procedures do not apply to FMS materiel shipped to non-DoD consignees within the CONUS (e.g., FMS freight forwarders, customer country embassies etc.) or carrier facilities identified in notice of availability responses.

References

DLM 4000.25-M, volume 2, chapter 17, *Supply Discrepancy Reporting*.

DoD Regulation 4500.9-R. *Defense Transportation Regulation* (DTR), part II, "Cargo Movement."

DoD Manual 5100.76-M. *Physical Security of Sensitive Conventional Arms, Ammunition and Explosives*.

DoD Manual 5220.22-M. *National Industrial Security Program Operating Manual* (NISPOM).

DoD Manual 5200.01 *DoD Information Security Program*, volume 3.

DoD Regulation 7000.14-R. *Financial Management Regulation*, volume 15, "Security Assistance Policy and Procedures."

DSCA Manual 5105.38-M. *Security Assistance Management Manual* (SAMM). Chapters 7 and 15. http://www.samm.dsca.mil/.

DISCS Publication. *Freight Forwarder Selection Guide*.

DISCS Publication. *Shipping Explosives: An FMS Customer Guide*.

DISCS Publication. *FMS User's Guide to the Military Assistance Program Address Directory* (MAPAD).

MIL-STD-129P. *Department of Defense Standard Practice for Military Marking*.

MIL-STD 2073-1E. *Department of Defense Standard Practice for Military Packaging*.

USASAC Training/Orientation Booklet. *Transportation and Traffic Operations*.

NAVSUP Publication 526. *Customer Supply System Guide*.

U.S. Government. "Title 22, Code of Federal Regulations." Parts 120-130, I*nternational Traffic in Arms Regulations* (ITAR).U.S. Government. "Title 49, Code of Federal Regulations." Parts 170-179. *Hazardous Material Regulation*.

Useful Web Sites

Security Assistance Management Manual (SAMM): http://www.samm.dsca.mil/

United States Customs and Border Protection (CBP): www.dhs.gov

Defense Logistics Agency (DLA): www.dla.mil

U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA): http://phmsa.dot.gov/hazmat.

U.S. Transportation Command (USTRANSCOM): www.transcom.mil/Military Assistance Program Address Directory (MAPAD) System: https://www.transactionservices.dla.mil/DAASINQ (read-only) or https://www2.transactionservices.dla.mil/portal/ (with CAC)

Surface Deployment and Distribution Command (SDDC) Electronic Transportation Acquisition: https://eta.sddc.army.mil/ETASSOPortal/Contact.aspx

Air Mobility Command (AMC): www.amc.af.mil

Military Sealift Command (MSC): www.msc.navy.mil/

National Customs Brokers and Forwarders Association of America (NCBFA): http://www.ncbfaa.org

Defense Security Service (DSS): http://www.dss.mil

Chapter

12 Financial Management

Introduction

The execution of U.S. Government (USG) security cooperation (SC) programs involves the management of substantial amounts of funds. The fact that Foreign Military Sales (FMS) operates under a legislatively mandated "no-loss" concept and an administratively mandated "no-gain" policy enforces the requirement for effective financial planning and accountability and has caused the creation of data collecting and reporting systems peculiar to FMS. The Building Partner Capacity (BPC) programs also require attentive financial management and planning due to their expiring and cancelling funds legislative limitations. Financial management is far-reaching and must be considered by all functional disciplines in the SC community throughout the life-cycle of cases and programs. This chapter will discuss processes and procedures of USG organizations that are based on established Department of Defense (DoD) fiduciary requirements. Management at all levels of the DoD must ensure these processes and procedures are adhered to upon implementation and execution of SC cases and programs. The primary financial management references that are highlighted and discussed in this chapter include the *DoD Financial Management Regulation* (FMR) 7000.14-R volume 15 (Security Cooperation Policy), Defense Security Cooperation Agency (DSCA) *Security Assistance Management Manual* (SAMM) Manual 5105.38-M chapter 9 (Financial Policies and Procedures), chapter 16 (Case Reconciliation and Closure), and the SAMM appendix 7 (Case Reconciliation and Closure Guide (RCG)).

Financial Management Responsibilities

U.S. Congress and State Department (DoS)

The U.S. Congress and Department of State (DoS) are discussed in chapter 3 of this textbook, "United States Government Organizations." The U.S. Security Cooperation (SC) and Security Assistance (SA) financial management responsibilities include the Congressional enactment of the required SA/SC legislative authorization and appropriation acts. The DoS and DoD coordinate and provide input to Congress in the development and establishment of that legislation. There is extensive financial management involvement and oversight by DoS in fulfillment of that organization's responsibilities for continuous supervision and general direction of economic assistance, military assistance, military education and training, and sales and export programs.

Under Secretary of Defense (Comptroller)

The DoD Under Secretary of Defense (Comptroller) (OUSD[C]) is the principal advisor to the Secretary of Defense on all budgetary and fiscal matters, including the development and execution of the Defense Department's annual budget. As the DoD's Chief Financial Officer, OUSD(C) also oversees the Department's financial management systems, business modernization efforts, and financial policy. The DoD Financial Management Regulation (FMR) is issued by OUSD(C) under the authority of DoD Instruction 7000.14, "DoD Financial Management Policy and Procedures." The DoD FMR applies to the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the DoD, the Defense Agencies, the DoD Field Activities, and all other organizational entities

within the DoD (hereinafter referred to collectively as "DoD Components"). DoD FMR volume 15 (Security Cooperation Policy) directs statutory and regulatory financial management requirements, systems, and functions for all appropriated and non-appropriated, working capital, revolving, and trust fund activities.

Defense Finance and Accounting Service (DFAS)

Defense Finance and Accounting Service (DFAS) headquarters is located in Indianapolis, Indiana and is the organization responsible for the implementation of all accounting and finance activities within the DoD.

Defense Finance and Accounting Service, Security Cooperation Accounting (DFAS SCA)

Defense Finance and Accounting Service, Security Cooperation Accounting (DFAS SCA) is the DFAS organization that has the following financial responsibilities as they relate to the SC programs within DoD:

- Account for the daily operations and fund transfers to and from the FMS trust fund
- Provide obligation and expenditure authority to DoD components for the financial execution of security cooperation cases and programs
- Operate the Defense Integrated Financial System (DIFS) computer information system for centralized DoD-wide delivery reporting, collecting, forecasting, and billing for security cooperation cases and programs
- Perform continuing cash analysis to ensure sufficient customer cash is available to pay DoD, military departments (MILDEPs), and DoD procurement vendors
- Prepare, review, and dispatch all security cooperation billing and holding account statements
- Perform final accounting actions to close cases and render final accounting statements
- Provide assistance to, and interact with, DoD and MILDEPs regarding security cooperation logistical and financial systems, projects, policies, and procedures
- Participate with DoD and MILDEPs as required in security cooperation reviews within and outside the U.S.

Defense Security Cooperation Agency (DSCA)

The primary functions of the Defense Security Cooperation Agency (DSCA) are described in DoD Directive 5105.65 and are also discussed in chapter 3 of this textbook. The financial elements of those duties include the management of the FMS trust fund, Foreign Military Financing Program (FMFP), Security Cooperation Organization (SCO) program management, International Military Education and Training (IMET) program, FMS administrative fund, and numerous Building Partner Capacity (BPC) programs. In addition, DSCA schedules and chairs the Financial Management Reviews, supervises the financial implementation of FMS and BPC Letters of Offer and Acceptance (LOAs), and also has waiver authority for most of the FMS-related costs described in this chapter.

Financial Management Review (FMR) Program

The Financial Management Review (FMR) program constitutes a country-level review of an FMS customer's total program (i.e., all the country's FMS cases), taking into account current and projected requirements and anticipated resources, including FMFP grants, Military Assistance Program (MAP) grants, and budgeted purchaser funds. Each quarter, DSCA selects up to four FMS customer programs for review and requests selected financial data in the form of a case worksheet and tasking letter to

the applicable implementing agencies (IAs). Following consolidation and analysis of the data, DSCA meets or corresponds with IAs, as appropriate, to follow-up on recommended actions prior to the FMR commencement. The FMR will then be held as scheduled, with representation and participation from DSCA, IAs, the applicable SCOs, and foreign purchaser countries. [SAMM C9.14.1]

Case Writing Division

The mission of DSCA's Case Writing Division (CWD) is to review all LOAs for consistent policy application. When developing payment schedules, the responsibility for providing accurate data in developing line prices and payment schedules on an LOA document is the responsibility of the IAs. The CWD has the responsibility of reviewing the price and payment schedule data for correct application of policy, waivers, and cost recovery rates in regard to the FMR and SAMM. [SAMM C5.T8]

Implementing Agencies and Military Departments

A discussion of each IA and MILDEP organization for FMS is included in other chapters of this textbook. The following types of organizational components have a financial role in security cooperation programs and cases.

- Service headquarters: Review LOAs (when required by IA policy) and provide service-wide policy and oversight (including financial waiver recommendations, case unique payment schedules, etc.)
- Systems, logistics [including the IA's International Logistics Control Organizations (ILCOs)], and training commands: Prepare the Price and Availability (P&A) and LOA data, coordinate as required to acquire and deliver the material and/or services and training on the implemented LOA, maintain detailed case logistics and financial records for accounting and reconciliation, and certify case for closure to the Defense Finance and Accounting Service (DFAS) Security Cooperation Accounting (SCA).

The Defense Security Assistance Management System (DSAMS) is used by the MILDEP Implementing Agencies (IAs) and the DSCA Case Writing Division (CWD) to compute LOA prices and payment schedules. The financial execution and reconciliation, however, is conducted by the MILDEPs and DoD agencies utilizing a variety of computer information systems that are discussed in appendix 1 of this book, "Security Cooperation Automation."

Security Cooperation Organizations (SCOs)

The Security Cooperation Organizations (SCOs) are discussed in chapter 4, "*Security Cooperation Organizations Overseas*," in this textbook. The SCO financial management responsibilities include:

- Initial point of contact with FMS purchaser for issues and communications
- Support Reviews (i.e., financial, program, reconciliation)
- International Military Education and Training (IMET)—Budgeting and execution
- Foreign Military Financing (FMF)—Budgeting and execution
- Ensuring that the foreign government is aware of U.S. FMS credit financing policies. Any exceptions must be fully justified and submitted though the Chief of the U.S. Mission to DSCA for interagency coordination and approval or disapproval. [SAMM C9.7.2.7]

Foreign Purchaser

The foreign purchaser also has important SC financial management responsibilities including:

- Budget funds as required
- Timely payment of bills
- Requesting and coordinating with the USG on any required special financial plans (Interest Bearing Accounts (i.e., Commercial or Federal Reserve Bank), Standby Letter(s) of Credit (SBLC), Special Billing Arrangements (SBAs), unique case payment schedules, financial waivers, etc.)
- Support Reviews
- Financial Discrepancy Reporting

Industry

Companies that provide Security Cooperation articles and services per their contract(s) with the USG have multiple responsibilities including:

- Coordinate with USG on development of P&A and LOA price estimates
- Negotiate and sign contracts for procurement of LOA materials and services
- Coordinate with USG Implementing Agencies, contracting officers (i.e., DCMA) and auditors (i.e., DCAA) on delivery of contract materials and/or services in support of the LOAs
- Timely and accurate billing to the USG for work and services performed

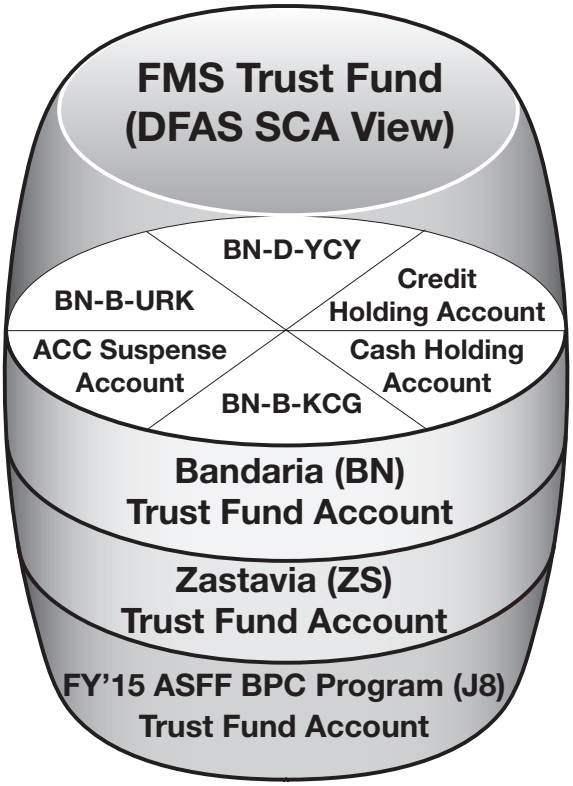
Funds Management

Foreign Military Sales Trust Fund

The FMS trust fund is a U.S. Treasury account [FMR volume 15, chapter 1, section 010201] credited with receipts, earmarked by law and held in a fiduciary capacity by the USG, to carry out specific SC purposes and programs. The complete fund cite, 97-11 X 8242, is required for consolidated financial statements and reports to the Department of the Treasury and the Office of Management and Budget. The FMS trust fund represents the aggregation of SC cash received from USG, purchaser countries, and international organizations. DSCA is responsible for management of the trust fund. DFAS SCA is responsible for trust fund accounting. See the figure 12-1 for a notional view of the FMS Trust Fund.

Customer cash deposits for defense articles and services sold under the Arms Export Control Act (AECA) sections 21 and 22, are made in advance of delivery of material or performance of services and for making progress payments to contractors. These cash deposits are identified and accounted for at the case and line levels. DFAS SCA exercises stringent controls over the FMS trust fund to ensure proper visibility and accountability are maintained for all payments made by a customer for every case. The integrity of customer country or USG program funds must be strictly observed and certain established principles guide the management of the trust fund. All cash disbursements for a country or international organization are identified by case and should not exceed the customer's total cash deposits. A specific case may temporarily be in a deficit cash position with the deficit being funded by the customer's cash advances on other cases. However, the cash deposited by one country will not be used to liquidate obligations incurred on behalf of another country. A reportable adverse financial condition exists when the country level cash summary accounts are in a deficit position. Ultimately, dollars placed in the FMS trust fund are subject to U.S. Treasury accounting system controls from the date of receipt to the date of expenditure or refund. [FMR chapter 4 (Accounting Policy and Procedures) and SAMM C9.3.9 and C9.11.1]

Figure 12-1
Notional View of FMS Trust Fund



Holding Accounts

DFAS SCA maintains purchaser's holding accounts in the FMS trust fund. The holding accounts are sub-accounts of funds that are not identified to a specific case. These funds could be a result of excess funds left when an FMS case is closed, a quarterly payment by an FMS customer that does not identify to which case the payment should be applied, or as part of case cross leveling transactions. Normally, funds on deposit in a purchaser's holding account are not removed without the consent of the purchaser, but the FMS customer may request DFAS SCA to "draw upon" its holding accounts for transfers to specific cases as needed. The holding account balances are not included in the totals of the FMS Billing Statement, DD Form 645. Separate statement(s) (as attachment(s) to the quarterly DD Form 645) are provided to the country showing deposits and withdrawals to each holding account for that country.

Purchasers have at least one, but may have numerous holding accounts for different purposes. The holding account identification information is documented in the Holding Account Statement section in the Billing portion of this chapter.

Flow of Funds

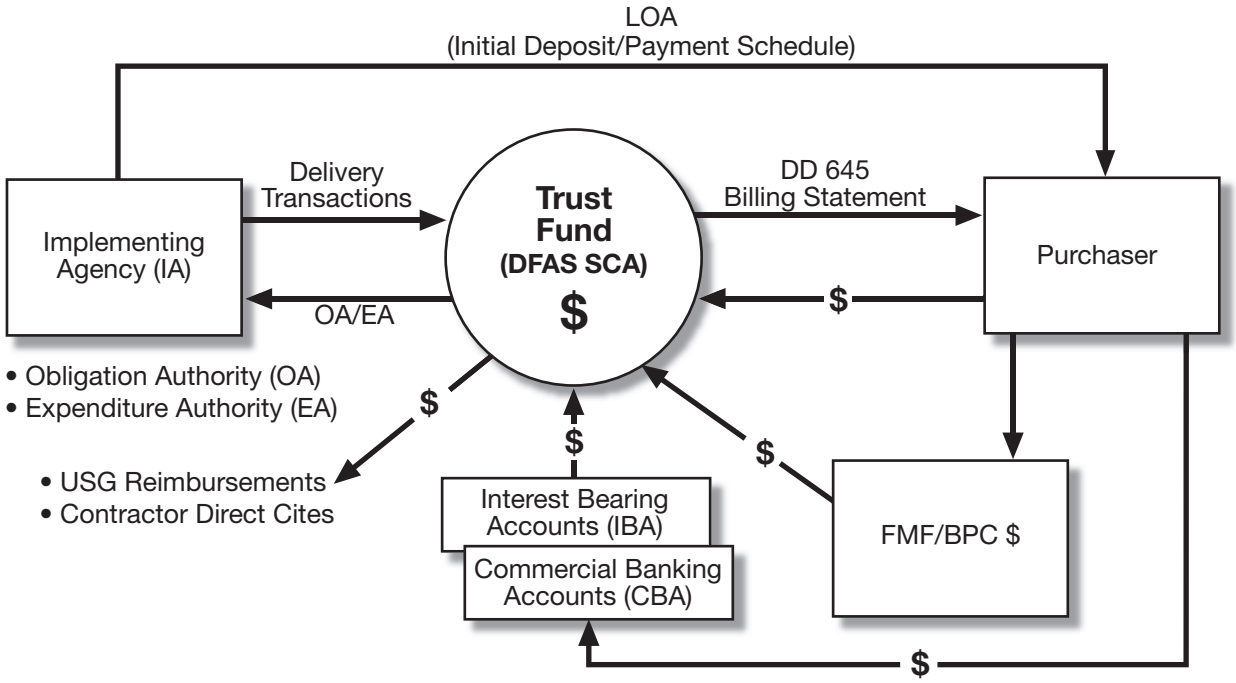
Figure 12-2 depicts a block diagram, providing the "big picture" relating to the flow of FMS funds in and out of the FMS Trust Fund. Details and interfaces are omitted to emphasize concepts. For BPC cases, there is a similar flow of funds with the "Purchaser" being the USG, and removal of the FMF and IBA/CBA from the diagram. The following is a brief explanation of how to interpret the flow diagram.

Financial Requirements

The funds flow process starts with the USG placing financial requirements on the purchaser. These requirements are generally of one of two forms including:

- The initial deposit requirement documented in the LOA
- Quarterly payment requirements, which are documented in the estimated payment schedule of the LOA and subsequently incorporated in the quarterly DD Form 645, issued by DFAS SCA

Figure 12-2
Flow of Funds



Purchaser Sources of Funds

Based on USG financial requirements, the purchaser must respond by providing the funds requested. The purchaser normally has two sources of financing: cash and USG credit (i.e., grants or loans). From a USG perspective, cash payments by the purchaser means the absence of USG grants or loans. [SAMM C9.7] Purchasers may pay DFAS SCA directly by wire transfer or by check. Direct cash payments are mailed or wire transferred to DFAS SCA in accordance with instructions provided in the LOA and the quarterly billing statement.

Interest Bearing Accounts (IBA)

In response to the initial deposit and quarterly billing requirements, a purchaser may also make payments (if authorized) to a separate interest bearing account (IBA). DFAS SCA is authorized to then withdraw funds from the IBA for transfer into the FMS trust fund. The IBA may be either a Federal Reserve Bank (FRB) account or Commercial Banking Account (CBA) as described below.

Federal Reserve Bank (FRB) Accounts

Some countries (if approved) may establish an account with the FRB New York for their FMS deposits. An agreement between the FMS purchaser's defense organization, the purchaser's central

bank, FRB New York, and DSCA identifies the terms, conditions, and mechanics of the account's operation. Except as authorized by law and/or DSCA policy, FRB accounts do not include FMFP funds. [FMR volume 15, chapter 4, section 040102E and SAMM C9.11.2]

Commercial Banking Account (CBA)

Some countries may establish an account with a commercial bank for FMS deposits. Commercial banking accounts do not include FMFP funds. Two agreements are required:

- An agreement between the FMS purchaser and the participating U.S. commercial bank
- An agreement between the FMS purchaser and DSCA

These accounts operate in a very similar fashion to the FRB New York interest bearing accounts. [FMR volume 15, chapter 4, section 040102F and SAMM C9.11.3] The DSCA Policy Memorandum 04-02 "FMS Transformation Deliverable: Implementation of Commercial Banking Account (CBA)" documents the guidelines and criteria for countries to participate in CBA arrangements for the purpose of depositing certain funds associated with FMS cases.

DoD Financial Controls

The following discussion concerns the creation of budget authority, methods of funding, and the flow of obligational authority (OA) and expenditure authority (EA) to the DoD components. The LOA does not in itself create Budget Authority (BA) in either the FMS Trust Fund or in a DoD appropriation or fund account; however, it is required for establishing BA. (FMR volume 15, chapter 2, section 020202]

Budget Authority

DoD's budget authority (i.e., USG legal financial authority) is provided by law and it allows the DoD to enter into obligations that will result in immediate or future outlays from federal government accounts. The most basic form of budget authority is appropriations. Security cooperation LOA budget authority is created through the IAs preparation and processing of five forms, as applicable:

- LOAs
- LOA modifications
- LOA amendments
- FMS Obligational Authority DD Form 2060 (or automated equivalent) [FMR volume 15, chapter 2, section 020202E]
- FMS Planning Directive DD Form 2061 (or automated equivalent) [FMR volume 15, chapter 2, section 020202D]

Budgetary control of an FMS agreement begins after acceptance of the sales offer by the purchaser. After the purchaser has forwarded a signed copy of the accepted LOA (with any required initial deposit), DFAS SCA records acceptance of the LOA and then releases to the IA specific values of Obligational Authority (OA) as requested by the IA. The IA must account for, control, and report all obligations and expenditures (disbursements) incurred against the authority received.

Methods of Funding

At the time the initial DD Forms 2060 and 2061 (or automated equivalents) are prepared, it is necessary to determine the planned funding source. The two funding authorities identified on DD Forms 2060 and 2061 (or automated equivalents) are direct cite and reimbursable.

Direct Cite

Direct cite method involves entering and maintaining an FMS trust fund accounting citation on documents relating to SC transactions. For example, the trust fund accounting data is shown on a DoD contract and is the direct funding source for a USG paying office to make payment to a contractor. In accordance with the FMR, new procurement actions should be accomplished to the maximum extent feasible and appropriate through direct citation of the FMS Trust Fund (97-11 X 8242) on applicable contractual documents. [FMR volume 15, chapter 1, section 010303]

Reimbursable

Reimbursable method is used when the MILDEP or DoD agency cites its own performing appropriation as the funding source (e.g., the U.S. Army's missiles procurement appropriation). The DoD component's performing appropriation is subsequently reimbursed by DFAS SCA from case funds held in the FMS trust fund. [FMR volume 15, chapter 1, section 010302]

Flow to Department of Defense Components

The DoD component having implementation responsibility for a given LOA case will request Obligational Authority (OA) and Expenditure Authority (EA) from DFAS SCA at the appropriate times in the life of a case.

Obligational Authority

Obligational Authority (OA) is a financial authority, which allows legally binding financial obligations to be incurred in an amount not to exceed the value of the materials and services requirements on a case. Once the purchaser has accepted an LOA and provided funds to DFAS SCA, and the IA has received OA issued by DFAS SCA, the case can then be implemented and obligations can be recorded. The term "obligation" relates to orders placed, contracts awarded, requisitions submitted, services performed, and similar transactions during a given period that will require payments.

Expenditure Authority

Expenditure Authority (EA) is unique to FMS accounting and was established in order to ensure compliance with the AECA requirement that DoD funds not be used to provide interim financing of FMS requirements. EA is an FMS country level authority, which allows expenditures to be incurred against obligations previously recorded against a country's trust fund account. As a result, before expenditures can be made, the dollars must first be on deposit in the trust fund. In the most basic sense, the term "expenditure" may be thought of as a cash disbursement, such as a payment to a contractor or a reimbursement to an IA. Thus, EA may be requested and accounted for by one of two methods:

- Reimbursement—Reimbursement transactions result in a disbursement for credit to the specific appropriation or fund account
- Direct Cite—Direct Cite transactions result in a disbursement to other than a DoD organization (i.e., a contractor, other federal agency, or employee)

Foreign Military Financing Program (FMFP)

FMFP facilitates the purchase of U.S. military equipment, spare parts, and training by many allies and friendly countries. The following discussion identifies the various terms used in financing programs and briefly discusses policies and procedures. [SAMM C9.7.2]

Department of State (DoS) Role

The Department of State (DoS) in accordance with AECA section 2 is responsible for the continuous supervision and general direction of sales and exports of defense articles and services. In fulfillment of

those responsibilities, the DoS determines which countries will receive grants/loans, unless Congress has enacted into law specific country/amount determinations (i.e., earmarks), prohibitions, or ceilings.

Defense Security Cooperation Agency Role

The President has delegated to the Secretary of Defense the authority to issue and guarantee loans to eligible recipients. The Secretary of Defense has delegated to the Director of DSCA the authority to administer the credit program while ensuring that such funds are used only to buy authorized materiel and services. As such, DoS must first approve the use of loans.

General Policies and Procedures

FMFP credit financing will normally be extended when it has been determined that purchases of defense items cannot be financed reasonably by other means, taking into account any U.S. military and economic assistance that such countries may be receiving, and indigenous private financing. In addition to being evaluated for consistency with U.S. foreign policy interests (including human rights), proposed arms purchases by the country and the suitability of items being purchased will be taken into account. Of particular attention are the level of weapons sophistication and the capability of the country to maintain, support, and employ the items effectively. FMFP credit assistance will not be extended solely to consummate a sale.

Expenditure of FMF funds is subject to legal and policy restrictions. [SAMM C9.7.2.7] Security Cooperation Organizations (SCOs) must ensure that the foreign government is aware of U.S. policies for the use of FMF. SCOs should generally discourage partner nations from using FMF funding for those items identified in SAMM table C9.T10. However, in certain circumstances these items may be permitted to be purchased with FMF funds if the State Department determines that providing such items are critical to the mission, the bilateral relationship, or the defense articles or services are in direct support of coalition operations where U.S. forces are present. SCOs should initiate early discussion regarding requests to use FMF funds (with DSCA (Operations Directorate) and DoS (PM)). To facilitate review of these requests, SCOs should submit a detailed justification and rationale for purchasing each item with FMF funds rather than host-nation funds and any other relevant facts in support of the request. This guidance applies to FMF used for standard FMS cases and Direct Commercial Contracts (DCCs).

All items purchased with FMS credit must be transported by U.S. flag vessels when ocean transportation is used. FMS credit agreements may contain provisions for certain waivers that, if approved, permit shipment of up to 50 percent of FMS credit funded cargo on vessels of the borrowing country, and in certain instances such cargo may be transported on vessels of a third country. Such waivers are discussed in SAMM C.9.7.2.7.4 (Transporting FMS Credit Funded Cargoes). FMS credit funds cannot be used to pay the cost of transportation provided by a vessel of non-U.S. registry. FMS credit may also only be used to pay air transportation costs only if U.S. flag aircraft are used. The Fly America Act (49 U.S.C. 40118) requires first preference for airlift or grant, credit, or guarantee-funded cargo be given to U.S. flag air carriers. Before using a foreign-flag carrier, a shipper or exporter must provide a written explanation to the IA as to why a U.S. carrier should not be used. If a U.S. carrier code-shares with a foreign carrier to deliver a shipment to an overseas airport, it is still considered carriage by a U.S. flagged carrier. [SAMM C7.9.2]

DSCA does not generally make approved loan or grant agreement funds directly available to the borrowing country. Rather, the country must submit invoice documentation (i.e., an LOA requiring an initial deposit or a DD Form 645 requesting payment, or a commercial invoice) to DFAS SCA, along with a request for advance of funds. Once DFAS SCA certifies/approves the request, funds are disbursed as appropriate. If a country is authorized to use FMFP for direct commercial sales (DCS), the borrowing country must submit to DSCA copies of contracts or purchase orders relating to the commercial purchase and a request for advance of funds.

Foreign Military Financing Program for Direct Commercial Contracts

Direct Commercial Contracts (DCCs) are contracts where the purchaser enters into a contract directly with a vendor and the USG is not a party to the contract although FMF is paying for some portion of that contract. The AECA allows ten countries to use their FMF allocation to finance DCCs. The ten countries eligible are: Israel, Egypt, Jordan, Morocco, Tunisia, Turkey, Portugal, Pakistan, Yemen, and Greece. [SAMM C9.7.3] DSCA approves DCCs to be financed with FMF on a contract-by-contract basis. To employ FMFP credit financing for purchases directly from U.S. commercial suppliers, the purchaser must make a formal request through DSCA. A copy of the proposed contract must accompany the request. Materiel and services purchased must be of U.S. origin and the contract must be between the purchaser and a U.S. firm incorporated and actively doing business in the U.S. Prior to disbursement of FMFP funds, the contractor must certify those items and/or services supplied are U.S. source products. DSCA policy precludes the use of FMFP funds for direct commercial purchases of less than $100,000.00. For further details on the DCC process, contractor eligibility, types of items, and certifications required, see "Guidelines for Foreign Military Financing of Direct Commercial Contracts" on the DSCA website.

Terms of Sale and Types of Assistance Codes

Terms of Sale [SAMM C9.8] indicate when payments are required and whether the sales agreement is financed with purchaser or USG funds (i.e., FMS Credit (repayable or non-repayable), MAP Merger, etc.) In addition to the Terms of Sale, the related LOA Types of Assistance (TA) codes (in field #5 of each LOA line), also documents the source of the line's funding source and indicates whether the sale of an article or service on an LOA is from DoD stock or new procurement and the applicable AECA statutory authority. TA codes are listed and defined in the LOA information page. [SAMM C5.F5] The Term of Sale is documented on the first page of the LOA. If an LOA involves more than one term of sale, the IA will cite on the LOA all of the applicable terms. SAMM C9.T11 provides a list and definitions of the Terms of Sale for use on LOAs. This information is duplicated in table 12-1 for reference.

Table 12-1
Terms of Sale

Term of Sale	Application
Cash with Acceptance	Used when the initial cash deposit equals the amount in the "Estimated Total Costs" line of the LOA. Used for FMSO I even though the initial deposit is less than "Estimated Total Costs" (it must equal the FMSO I Part A value). Used if the purchaser is not authorized Dependable Undertaking, unless specific DSCA approval is obtained.
Cash Prior to Delivery	Used if the purchaser is authorized Dependable Undertaking and the USG authorizes purchaser cash payment in advance of delivery of defense articles and rendering of defense services and design and construction services from DoD resources. AECA, sections 21(b) and 29 (22 U.S.C. 2761(b) and 2769) apply.

Dependable Undertaking	Used if the purchaser is authorized in accordance with AECA section 22.
Payment on Delivery	The USG 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 AECA, section 21(d) (22 U.S.C. 2761(d)) applies. The IA may use this term only pursuant to a written statutory determination by the Director, DSCA, who must find it in the national interest to do so. If AECA, section 21(d) is applicable based on Director or Deputy Director, DSCA action, modify to read "Payment 60 days after Delivery." If AECA, section 21(d) is applicable based on Presidential action, modify to read "Payment 120 days after Delivery."
FMS Credit	This term applies to an FMS case financed with repayable FMF funds, or partly repayable FMF funds, extended or guaranteed by the Department of Defense under AECA, sections 23 (22 U.S.C. 2763) and 24 (22 U.S.C. 2764), or under other legislation.
MAP Merger	Applies to FMS cases financed with Military Assistance Program (MAP) Merger funds (FAA, section 503 (22 U.S.C. 2311)).
FMS Credit (Non-Repayable)	Applies to FMS cases financed with non-repayable FMF funds. If the case is financed wholly with these non-repayable funds, the LOA qualifies for pricing benefits (i.e., exclusion of military salaries and NC of research, development, and production of MDE) as provided in FAA, section 503(a)(3) (22 U.S.C. 2311(a)(3)) and AECA, section 21(e) (22 U.S.C. 2761(e))
EDA Grant	Applies to Excess Defense Article—non-reimbursable grant transfers as provided in FAA section 516 (22 U.S.C. 2312j).

Financial Forecasting

LOA payment schedules (when applicable) provide forecasted financial requirements for an FMS case and project the timing and/or amounts of purchaser deposits needed to meet the requirements. Payment schedules for LOA documents are prepared by the DSCA Case Writing Division during the case development process based upon inputs (i.e., source of supply, lead-time, delivery schedules, period of performance, progress payment schedules) provided by the IA. A payment schedule is developed for each case unless the Term of Sale is "Cash With Acceptance" or the case is fully funded with FMS Credit (Non-Repayable) and/or MAP Merger, the total case value is less than $5M, and the country is not authorized cash flow financing. In these instances, the initial deposit covers the entire case value. Implementing DoD components are expected to continually monitor case level cash advances and validate the accuracy of payment schedules. The estimated payment schedule normally includes specific dates when each payment is due and consists of two financial categories:

- An initial deposit
- Estimated quarterly payments

Typically, the payment schedule projects quarterly payments due by the 15th day of March, June, September, and December. Exceptions to these dates must be approved by the DSCA (Business Operations Directorate) [SAMM C9.T12] as shown in table 12-2, documents how LOA initial deposit and payment schedule dates should be determined.

Table 12-2
Payment Schedule Dates

Offer Expiration/Acceptance Dates of LOAs	Earliest Payment Date on the Payment Schedule	For Period Covering
11 Sep--10 Dec	15 Mar	Apr-Jun
11 Dec--10 Mar	15 Jun	Jul-Sep
11 Mar--10 Jun	15 Sep	Oct-Dec
11 Jun--10 Sep	15 Dec	Jan-Mar

Payment Schedule Content

Payment schedules, to include initial deposits, are built upon IA assumptions and DSAMS inputs such as source of supply, lead-time, delivery schedules, period of performance, progress payment schedules, etc. Payment schedules are built, using DSAMS, at the line level (or sub-line or delivery set level) and rolled-up to a case-level schedule. Payment schedules are prepared using IA pricing estimates and estimated dates for: LOA acceptance, LOA implementation, requisition initiation, contract awards, contractor payments, physical deliveries, and incurrence of personnel costs. Other information required to prepare the payment schedule include contractor termination schedules (used in the termination liability worksheet), lead times and/or availability, periods of performance, and disbursement histories for like-item cases or lines already implemented. Each deposit amount covers all costs estimated to be incurred on the purchaser's behalf during the payment period, plus a reserve to cover Termination Liability (for sales from procurement). Costs may include such items as anticipated deliveries of services and stock items, and progress payments on contracts. This information is needed at the line-level and must be provided by the IA to the DSCA (Case Writing Division-CWD) for payment schedule preparation.

In the event an amendment or modification to the basic LOA, the previous payment schedule assumptions must be revalidated and customer collections to trust fund disbursements should be compared. If necessary, the payment schedule must then be adjusted as appropriate in the amendment or modification. Amendments use the term "Due with Amendment Acceptance" vice Initial Deposit. [SAMM C9.9.1.5.1]

Initial Deposit

The initial deposit is a financial requirement collected from the customer at the time they accept the LOA. The initial deposit relates to the costs anticipated to be incurred from case acceptance (assumed for LOA calculation estimation purposes to be the LOA offer expiration date-OED) through the initial deposit period that the USG will be delivering/performing materials and/or services per the applicable LOA. SAMM C9.T12 (also shown in figure 12-3) defines the initial deposit time frame based on offer expiration/acceptance dates of LOAs. Determining the initial deposit period and the earliest quarterly payment date is based on the LOA's offer expiration date (OED)/expected implementation date [SAMM C9.T12]. For example, if the LOA OED (e.g., the BN-D-YCY LOA) is within the 11 September through 10 December date range, the LOA initial deposit should cover the forecast of expenditures from the LOA OED through 31 March of the next year (as shown in the figure 12-3). Any quarterly payments thereafter (i.e., subsequent to the initial deposit) should be sufficient to cover all costs and contingencies anticipated to be incurred by the IA on the FMS purchaser's behalf during the quarter immediately following the payment due date. For example, a purchaser's payment due on 15

March should provide funds for costs expected to be incurred for the period 1 April through 30 June. [FMR volume 15, chapter 4, section 040203 and SAMM C9.9.1]

Figure 12-3
Determining Initial Deposit Period

For anticipated offer expiration/ implementation date:	Earliest payment date shown in payment schedule is:	For costs to be incurred in:
11 Sep - 10 Dec	15 Mar	Apr - Jun
11 Dec - 10 Mar	15 Jun	Jul - Sep
11 Mar - 10 Jun	15 Sep	Oct - Dec
11 Jun - 10 Sep	15 Dec	Jan - Mar

The list below describes types of costs that can make up the initial deposit and any subsequent estimated quarterly payments [FMR volume 15, chapter 4, section 040205]:

- Anticipated materiel deliveries/services from procurement
- Anticipated materiel deliveries/services from stock
- Progress payments to defense contractors
- Authorized surcharges including the administrative surcharge {Note that in cases where the calculated administrative surcharge is greater than $30,000, one half of the administrative surcharge is recouped as part of the initial deposit. The remaining half is recouped based on the dollar value of items or services delivered in each quarter. For cases where the calculated administrative surcharge is $30,000 or less, the entire administrative surcharge value, as well as any Small Case Management Line value (if applicable), is recouped as part of the initial deposit.}
- Termination liability (TL) reserve
- Contractor holdback

Some of the terms used above deserve special comment:

- Progress payments are made to contractors or DoD industrial fund activities as work progresses under a contract or work order, based on costs incurred or percentage of completion, or a particular stage of completion, accomplished prior to actual delivery and acceptance of contract items or services.
- Contractor hold back is the amount earned by contractors or suppliers during the period but held back by the USG to ensure future performance of the contractor.
- Termination liability (TL) is the potential cost that the USG would be liable for if a particular FMS case is terminated prior to completion. It applies to any FMS case that has procurement contracts. TL reserve is the amount collected from a purchaser and held in escrow in anticipation of any liability that would accrue to the USG should a purchaser terminate a particular case or program prior to the normal completion of the contract. The reserve is not a constant amount and must be adjusted regularly as contracts are awarded, work progresses, payments are received, and deliveries are made. When a standby letter of credit applies (as described in the next paragraph), the payment schedule will be developed without TL.

Standby Letter of Credit

A Standby Letter of Credit (SBLC) may be used instead of Termination Liability (TL) to guarantee termination payments. FMF programs are not eligible to participate. The purchaser may request participation in the SBLC program. The purchaser's request(s) must be sent to DSCA in writing, and signed by an official authorized to accept the SBLC documents on behalf of the purchaser's government and/or organization. The purchaser must specify the bank(s) it wishes to use. The purchaser is responsible for paying all fees associated with the SBLC to the issuing bank. No fees can be capitalized or included in the dollar amount specified in the SBLC documents. The purchaser must sign the agreement specifying the terms and conditions in order for the associated SBLC to be implemented. The purchaser must notify DSCA (Business Operations Directorate), in writing, if it wishes to terminate the agreement with the bank(s).

DSCA is the beneficiary stated on the SBLC. It is also the focal point for SBLC issues and engages the DSCA Office of the General Counsel, USD(C), DFAS SCA, and the IAs, as appropriate, to ensure effective SBLC execution.

DSCA notifies the IA and the DSCA (Case Writing Division) when and if a country's SBLC is implemented. The notification includes a list of cases (or indicates that it applies to all cases) governed by the SBLC. DSCA's Case Writing Division and the IA ensure the TL is not included in the payment schedules for any of those applicable cases. If an SBLC is terminated, the payment schedule is revised to include TL. DSCA also notifies DFAS SCA and the purchaser.

A drawdown (sight draft) from the SBLC is a demand for payment from the SBLC bank. A sight draft may be completed by DSCA (after coordination and approval by the Director or Deputy Director, DSCA), and sent to the appropriate bank for any of the following reasons:

- The FMS purchaser notifies the USG, in writing, that it is terminating all or a portion of an FMS case.
- The USG notifies the FMS purchaser, in writing, that it is terminating a FMS case(s) or contract(s) relating to an FMS case.
- The USG is aware the SBLC is being either terminated or not extended beyond its expiration date and there are applicable unpaid termination charges.
- A contractor presents a bill to the USG for termination charges associated with an FMS case(s).
- The issuing and/or confirming bank falls below DSCA's acceptable eligibility thresholds.

The payment is remitted to the account specified on the sight draft. Upon receipt, DFAS SCA ensures the payment is credited to the FMS case(s) as directed on the wire transfer. DFAS SCA notifies DSCA of the deposit date and the FMS case(s) is credited within three business days of demand payment receipt.

Annual Case Reviews

FMR volume 15, chapter 4, section 040103C3, SAMM C6.5.4, and SAMM C16.2.3.1 require that all FMS cases be reviewed at least once annually (i.e., once per calendar year) per the following:

- Anniversary of basic case implementation
- Preparation for a formal review with the FMS customer
- Case value adjusts by ten (10) percent or more

Case reviews can also be done more frequently if needed. SAMM Table C6.T5 shows the normal frequency and timing of each type of review. When scheduling a review, holidays (purchaser and USG), weekends, and personnel changes (e.g., SCO, purchaser leadership) should be considered. Because FMS reviews for a specific purchaser or program often involve many of the same people, reviews should be consolidated whenever practical.

DSCA's Case Reconciliation and Closure Guide (RCG-SAMM appendix 7) provides the minimum review items that are required of a case and identifies at which point in the case life cycle each item must be reviewed. RCG figure A7.C2.F5 provides the minimum review items that, taken together, constitute the required annual review of each case. The RCG matrix also identifies how long in the case life cycle each item must be reviewed. RCG figures A7.C2.F6 and A7.C2.F7 are the guidelines and checklist derived from the matrix that documents that the review was performed. The case manager must sign and date a checklist documenting that he/she performed the review and this checklist shall become an official document within the applicable case file. Automation, to the extent possible, and electronic filing is both allowable and preferred whenever practical. Automated replacement for the annual case review process and documentation requirements must be approved by DSCA (Business Operations Directorate, Financial Policy and Analysis Division).

Tri-annual Reviews

Tri-annual reviews are an internal DoD control practice used to assess whether commitments and obligations recorded are bona fide needs of the appropriations charged. Tri-annual reviews apply to all DoD funding sources to include, but not limited to, FMS case funds. Funds holders, with assistance from supporting accounting offices, shall review dormant commitments, unliquidated obligations (ULO), accounts payable, and accounts receivable transactions for timeliness, accuracy, and completeness during each of the four-month periods of each fiscal year. The tri-annual review process is a very effective tool in supporting the case manager's case management and reconciliation responsibilities. Refer to DoD FMR, volume 3, chapter 8, section 0804 and SAMM C16.2.3.2 for additional policy information on the tri-annual reviews.

Payment Schedule Reviews and Revisions

Payment schedule updates are necessary to reflect revisions to delivery schedules, scope changes, pricing updates, actual contract award dates, contractor payment milestone revisions, etc. To determine whether an update is needed, payment schedule reviews occur at least annually as part of the case review and reconciliation process. Payment schedules must be evaluated for possible changes when a modification or amendment is processed. If the contract award date slips, the payment schedule must be adjusted by a modification within thirty days of contract award. A new payment schedule should be furnished whenever there is a substantive change in payment requirements. [SAMM C9.9.3]

Anti-Deficiency Act Violations and Adverse Financial Conditions Reports

For purposes of the Anti-Deficiency Act, appropriated funds are not limited to those funds specifically appropriated by the Congress to federal agencies from the general fund of the U.S. Treasury. Funds available to agencies are considered appropriated, regardless of their source, if made available for collection and expenditure pursuant to specific statutory authority. In applying the Anti-Deficiency Act, the FMS Trust Fund is considered to be, and is to be treated as, appropriated funds. Therefore, the Anti-Deficiency Act applies to transactions involving the FMS Trust Fund. [FMR volume 15, chapter 3, section 0311]

Potential violations can occur under the FMS trust fund when:

- Issuing OA and/or awarding an FMS contract without a signed LOA
- Obligating or expending FMS case funds for an unauthorized purpose, including purposes not provided for by law

- Other violations may occur related to apportionments or indemnity clauses {Note: Additional information on potential violations of the Anti-Deficiency Act is in FMR volume 14, chapter 2}.

Identifying and Reporting Violations on the Anti-Deficiency Act

Detailed guidance for identifying and reporting violations under the Anti-Deficiency Act is contained in FMR volume 14 (Administrative Control of Funds and Anti-Deficiency Act Violations). Due to the complexities of provisions in the AECA, it is important to consult with appropriate legal counsel and comptroller officials on potential violations of the Anti-Deficiency Act for FMS.

Time Limits of Security Cooperation Funds

The three major legal provisions that concern funds execution are the: Anti-Deficiency Act, Misappropriation Act, and the Bona Fide Need Rule (also known as the "time statute"). Bona Fide Need rule (law) requires appropriated funds be used only for goods and services for which a need arises during the period of that appropriation's availability for obligation.

An unexpired (or current) account is one where the appropriation balance is available for incurring obligations. An expired account is one where the appropriation balance is no longer available to incur new obligations. A closed/canceled account is one, where by law, the appropriation balance is canceled and not available for obligation or expenditure for any purpose.

If the funds on a case are provided by the customer country or organization for purchase of LOA articles and/or services, there is typically no time limit on use of those funds unless stipulated by the purchaser. USG provided case funds, however, will typically have time limits on when they are authorized to be used. The balance of a fixed-term appropriation is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made and obligated within that period. [FMR volume 15, chapter 2, section 020102]. Foreign Military Financing (FMF) grant money for example has a nine year period to be deposited in the FMS Trust Fund account to be used on an implemented LOA. Once the FMF grant money is deposited into the FMS Trust Fund account (97-11X8242) those funds are considered expended. Other USG SC funds (i.e., 2282, ASFF, ITEF) typically have specific legal limits on when those funds can be obligated and expended. Refer to SAMM C15.T2 (BPC Programs and Authorities) for a complete listing of available BPC programs with their corresponding codes and authorities including obligation and expenditure requirements.

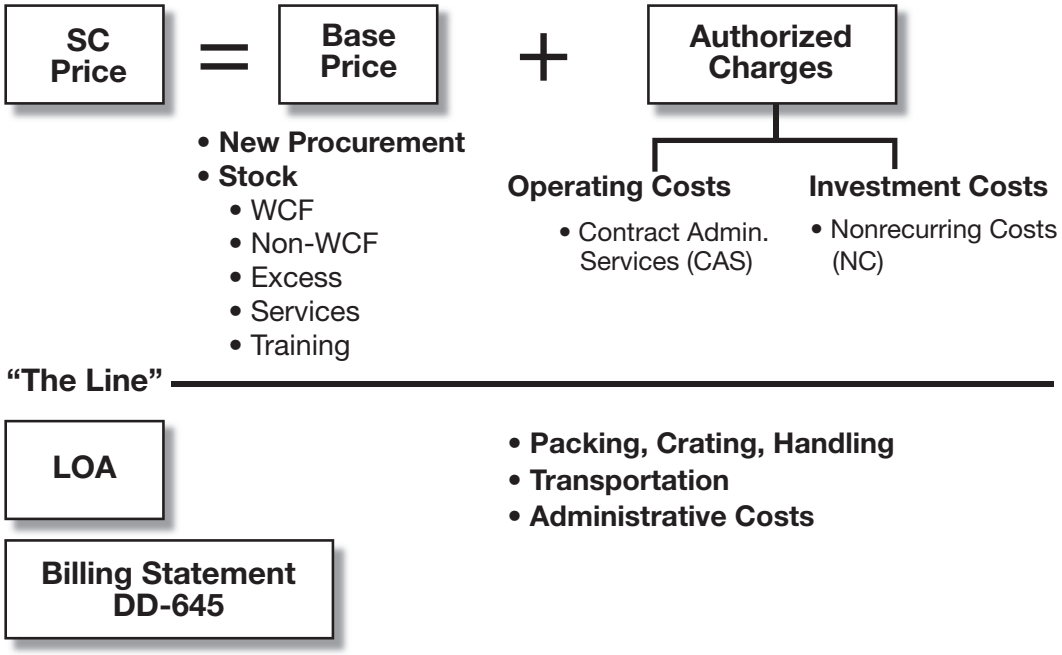
Pricing

The prices entered on a P&A document or LOA are estimates of the expected costs of articles and/or services to be delivered sometime in the future. The objective of these estimates, developed using cost analysis techniques, is to provide the purchaser with the USG's best effort prediction of a future cost. Prices entered into the billing system eventually document the prices of the article at the time it is delivered/performed from a contractor or DoD stock inventory. In the case of articles or services coming from new procurement, the initial prices reported will typically be those incurred for progress payments made to defense contractors on behalf of the purchaser. However, the exact final cost of major procurements may not be determined until all the contracts for all systems obtained under such procurements are complete. Consequently, estimates can be entered into the billing system to be replaced by the actual costs when they are determined. That is also often the case with DoD provided services due to the IA challenges in reconciling the applicable logistics and financial transactions in their computer execution systems. The important point is that the components and policies to determine an LOA material and/or service price should be the same whether entered on an LOA or entered into the billing system. The price on the LOA is an estimate of what the USG believes its cost will be. The price reported in the billing system will eventually document the actual cost incurred once that cost is known and documented.

Pricing Elements

Figure 12-4 illustrates the basic pricing concept used to structure and compute the price of an LOA material and/or service. The elements of the LOA material and/or service price can be combined into two major component categories: base price and authorized charges. The base price generally refers to the cost of the item or service (e.g., contract price, inventory price, services cost, training price). The authorized charges on the other hand, relate to the application of a cost (often on a percentage or pro rata basis that is dependent to some degree on the value of a base price(s) or other pricing combinations) that the USG charges to recover total costs for the applicable services performed. In the following discussion, both of these categories will be addressed.

Figure 12-4
Price Formula



Base Price Computation

New Procurement

Defense articles and/or services procured for cash sales to an eligible foreign government or international agency, pursuant to AECA, Section 22, for delivery must be priced to recover the full contract cost to DoD. Costs may be revised for increases in labor and materials, or for other changes in production and procurement costs. The purchaser is obligated to pay any damages or costs that may accrue from the purchaser's cancellation of the contract (termination liability). [FMR volume 15, chapter 7, section 0704 and figure 7-10]. The IA will price defense articles and services for "pseudo" LOA documents in accordance with the DoD Financial Management Regulation (FMR) and SAMM C15.3.3.

Stock Materiel Funded from the Defense Working Capital Fund (DWCF)

The DoD purchases most secondary items in DoD inventories through a revolving cost account categorized as a Defense Working Capital Fund (DWCF). Each MILDEP operates its own DWCF account, and the Defense Logistics Agency (DLA) operates a DoD-wide DWCF [FMR volume 11B, chapter 1, section 010101]. Continuing operations are funded by reimbursements received. The goal

for those DWCF accounts is to recoup the full retail costs of obtaining an item and maintaining it in the DoD inventory. The base selling price of DWCF articles to FMS purchasers must be determined at the time the article is dropped from inventory [FMR volume 15, chapter 7, section 070302.B]. Packing, Crating, and Handling (PC&H) costs and inland CONUS transportation costs (typically in FMS to the continental U.S. pickup points of the FMS customer's freight forwarder) are already included in the prices of DWCF item deliveries [FMR volume 15, chapter 7, section 0705].

A small percentage (typically MILDEP managed) of DoD-managed secondary items are not typically acquired from the DWCF accounts. Examples of those typically non-DWCF managed items include ammunition, CADs/PADs (cartridge/propellant activated devices), TRAP (tanks, racks, adapters, and pylons), classified items, COMSEC/crypto, publications, and maps/charts.

Non-DWCF DoD Stock Inventory

The base pricing and treatment of reimbursements for non-DWCF stock articles sold are dependent upon whether the item(s) being sold requires replacement. [FMR volume 15, chapter 7, section 070302C]

Not Replaced

When a determination is made that the item will not be replaced, the price of the item must be the most recent actual procurement cost of the series and model being sold, plus the cost of any modifications or improvements incorporated after production, and the applicable non-recurring (NC) recoupment charge. Reductions to the sale price may be made when there is an actual difference in utility or desirability among units of issue of an item due to age or condition. The cost of the last major overhaul or outfitting accomplished before the sale date is added to the calculated price and is not reduced for age or condition. The overhaul costs will be prorated over the interval between the last actual overhaul and the next scheduled overhaul. Examples for price computations are at FMR volume 15, chapter 7, figures 7-3 and 7-4 (overhaul).

Replaced

When an item is sold from the stocks of DoD and the item is intended to be replaced, the replacement may be either with an end item which is of identical type, model, and series designation (replacement-in-kind, e.g., sale of a C-130B and a purchase of a C-130B), a later series or modified version of the same basic model being sold (e.g., sale of C-130B and the purchase of a C-130E), or an acceptable substitute item that provides at least the same capability or readiness as the item being sold (e.g., sale of an M-48 tank and purchase of an M-60 tank). The price of the item to be replaced must be the best estimated cost of the replacement item available at the time the item is dropped from inventory, plus the nonrecurring recoupment charge of the item being sold, adjusted for the remaining service life of the item being sold. The final bill will utilize the best pricing information available if actual replacement procurement cost is not known. This must be the final cost to the purchaser regardless of the actual cost of final replacement procurement. [FMR volume 15, chapter 7, section 070302C.2]

Excess Defense Articles (EDA)

Excess defense articles (EDA) are items excess to the approved force acquisition level and approved force retention stock requirements of all DoD components. A determination of "excess" is made by DoD based on recommendation by the applicable DoD system or item manager. Any EDA transfers from DoD inventories are in an "as is, where is" condition which is defined in chapter 10 of this textbook. The cost of excess items is determined by computing and then using the highest of market, scrap, or fair value plus any applicable non-recurring (NC) and applicable overhaul charges. Military articles are not sold for less than scrap value. If the item is repaired, rehabilitated, or modified for transfer, this extra cost will be also applied to indicate the final price of the item. Fair value is based

on the applicable Federal Condition Code as shown in figure 12-5. The fair value is computed using the fair value rates associated with the Federal Condition Code of the asset multiplied by the established inventory price [FMR volume 15, chapter 7, section 070304]. If the IA proposes the price of materiel to be less than the 5 percent minimum threshold indicated in FMR table 7-2, or if they propose to waive the overhaul costs, a detailed justification must be sent to DSCA. If DSCA endorses the IA proposal, it will forward that package to OUSD(C) for final approval.

Figure 12-5
Federal Condition Codes for EDA

To calculate EDA fair value, determine the applicable percentage at the intersection of the EDA Supply Condition and Disposal Condition Codes and then multiply percentage by the established inventory price.				A	B	C	D	E	F	G	H	S
				SERVICEABLE				UNSERVICEABLE				
				Issuable without qualification	Issuable with qualification	Priority Issue	Test/ Modification	Limited Restoration	Repairable	Incomplete	Condemned	Scrap
Disposal Condition Codes	1	Unused	Good	50%	30%	30%	30%					
	2		Fair	30%	20%	20%	20%					
	3		Poor	10%	10%	10%	10%					
	4	Used	Good	40%	30%	30%	30%					
	5		Fair	30%	20%	20%	20%					
	6		Poor	10%	10%	10%						
	7	Repairs Required	Good				20%	20%	20%	20%	10%	
	8		Fair				5%		10%		5%	
	9		Poor				5%		5%		5%	
	X	Salvage							5%	5%	5%	
	S	Scrap										

Personnel Services

Many FMS and BPC LOAs contain personnel support costs such as engineering services, configuration data management services, technical services, training team members, etc. These services must be priced to recover all USG costs and will be included as separate, well-defined lines on the LOAs. This section excludes personnel performing DoD training services as that will be discussed in the next section (Training Pricing). DoD personnel services LOA lines must be priced to recover not only the appropriate wages, but also all appropriate applicable entitlements. The base pricing for both civilians and military personnel performing these services include wages, acceleration factors, temporary duty/permanent change of station costs, and personnel support costs. When determining the pricing for personnel services, every attempt should be made to use actual costs. If actual cost data is not available, estimated pricing is acceptable. The costs must be substantiated by a reliable audit trail [FMR volume 15, chapter 7, section 0702].

SAMM C9.T2 (Case-Related Manpower Functions and Funding Source Manpower Matrix) indicates which activities should be included as line items on the case (direct charges) and which activities are covered under the FMS Administrative Surcharge (indirect charges). For LOAs or case line items "accepted" after August 1, 2006, any program management services will be included on well-defined, services line items on the case.

Services performed by DoD civilian personnel must be priced at rates in effect at the time the services are performed. Civilian personnel salary tables are available at the Office of Personnel

Management (OPM) web site (http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/). There are several components to civilian personnel pricing—including base salary, leave and holidays acceleration, civilian personnel fringe benefit rate, and the unfunded civilian retirement (UCR) factor. Base salary rates must be accelerated as discussed in the FMR volume 15, chapter 7, section 070202. The applicable Civilian Personnel Fringe Benefits are posted at the OSD Comptroller (http://comptroller.defense.gov/) website, and can be accessed via the "DoD Reimbursable Rates" link on that page. The notes within that link's table identify which percentages should be used for Building Partner Capacity (BPC) and those that should be applied for FMS LOAs. The DSCA Policy Memo 13-29 was issued to clarify the appropriate pricing of civilian personnel costs applicable to both FMS and BPC cases as priced in DSAMS. The pricing principles apply regardless if the civilian pay is a stand-alone line or whether it is embedded into a unit cost.

Military personnel services must be priced using the composite standard pay rates current at the time services are performed. Current reimbursable rate tables are available at the OSD Comptroller web site (http://comptroller.defense.gov/) and can be accessed via the "DoD Reimbursable Rates" link on that page. Rates applicable to FMS are computed using the "Annual Rate Billable to Other Federal Agencies" plus the Medicare-Eligible Retiree Health Care (MERHC) accrual. Travel, per diem, living allowance payments, and other entitlements to DoD personnel working on FMS cases must be identical to the payments and entitlements of DoD personnel working on direct DoD mission assignments at similar locations [FMR volume 15, chapter 7, section 070205]. The FAA, Section 503(a)(3) permits the exclusion of salaries of members of the Armed Forces (other than Coast Guard) if the sales case for defense articles, services (including training), or for design and construction services is totally financed by MAP Merger or by non-repayable FMF. [FMR volume 15, chapter 7, section 070104.C.5]

Training Pricing

DoD tuition rates for training must be based on the costs of providing the training. There are several factors that impact the tuition rate for which an international student is eligible. The source of financing is one determinant (e.g., whether a country uses its national funds to purchase training or whether U.S. appropriated funds are used to purchase the training). Other factors include whether a country is a high-income country, whether it has signed a reciprocal training agreement with the U.S., and/or whether the country is concurrently in receipt of IMET. A general guide for pricing training is also addressed in FMR volume 15, chapter 7, table 7-3 and SAMM C10.14. Detailed instructions to be followed in developing the tuition rates are included in FMR volume 15, chapter 7, section 071002.

DoD tuition rates must be computed annually by the Military Departments and published in the Training Military Articles and Services List (T-MASL) which is accessible via the DoD Security Assistance Network (SAN). Approved rates typically remain constant for the year. Adjustments must be made only to correct significant errors in computation, change in syllabus, or major unanticipated increases or decreases in the cost of such items (e.g., fuel and salaries). The foreign country or purchaser must be billed for the actual time the student is in training. International students who audit a course must be charged the same price as enrolled students. Certain costs associated with support of international students and/or their dependents are considered to be a responsibility of the foreign government and are not included in the tuition rate for a training course(s). [FMR volume 15, chapter 7, section 071001.F]

The FAA and AECA prescribe a multi-tier tuition pricing structure for training provided under the USG SC programs. The present pricing structure for SC training provides for five separate tuition rates (A, B, C, D, and E) as noted in FMR volume 15, table 7-3, "Tuition Rate Pricing Structure" which is summarized in table 12-3.

Dedicated training programs (e.g., Euro-NATO Joint Jet Pilot Training Program, Euro-NATO Helicopter Pilot Training Program, PEACE CARVIN, PEACE FENGHUANG) must be priced in

accordance with the terms and conditions established via formal agreement between the IA and the recipient country/countries. While each program is different, generally accepted full cost pricing principles must be applied taking into consideration appropriate legislative authority and terms of the formal agreement. [FMR volume 15, chapter 7, section 071001.B.1]

When a special course is conducted by an Security Cooperation Team (SCT) or Security Assistance Team (SAT) away from the normal training institution, the services of the team must be treated as a service and priced in accordance with the FMR. All salary, travel, per diem, and allowances paid to members of the team established to conduct in-country training must be considered incremental costs. Exclude military pay and allowances as well as civilian unfunded retirement from the costs established for teams conducting in-country training fully financed by MAP Merger or FMF, or financed under the IMET program. [FMR volume 15, chapter 7, section 071001.B.2]

Table 12-3
Training Tuition Rates

RATES	RATE DESCRIPTION
A	Countries and organizations purchasing training via an FMS case and not eligible for one of the FMS pricing categories listed below are charged Rate A.
B	Countries with a ratified reciprocal pricing agreement with the USG that are purchasing training via an FMS case are charged Rate B. SAMM Table C10.T13 and C10.T14 lists the countries and effective dates of the reciprocal agreements. Note that some of these countries are also eligible for Rate C and/or Rate D.
C	Countries currently in receipt of IMET or designated as a high-income foreign country, in accordance with the FAA, Section 546(b) (Austria, Finland, the Republic of Korea, Singapore, and Spain) and purchasing training via an FMS case using their own national funds, are eligible for Rate C. DSCA (Business Operations Directorate) maintains the DSCA IMET Allocation Database System (DIADS) that identifies countries currently receiving IMET. Refer questions on a country's IMET status to DSCA (Business Operations Directorate).
D	Training on a case financed with U.S.-appropriated funds, receives Rate D. Training in this category is on cases financed with FMS Credit (non-repayable), or Building Partners Capacity programs. This rate is identical to Rate E except that the FMS administrative surcharge will be applied to it.
E	Training financed by the IMET appropriation is priced at Rate E.

Because of the shortage of available training quotas and the difficulty experienced by the MILDEPs in adjusting to changes in student input, DoD has instituted a penalty charge for no-shows and for late-notice cancellations. For certain dedicated (all international) and contract courses, a 100 percent penalty is charged for cancellation unless filled by another student. For all other courses, if the country requests cancellation or rescheduling less than sixty days prior to the course start date, the country's IMET program (or other grant program) or FMS case is charged 50 percent unless filled by another student. Policy exceptions to the preceding are documented in the SAMM reference. [FMR volume 15, chapter 7, section 071001.E and SAMM C10.15]

Authorized Charges

Nonrecurring Costs (NC)

Non-USG purchasers must pay for the value of DoD nonrecurring (NC) investment in the development and production of Major Defense Equipment (MDE), as required by law, unless an NC

recoupment charge waiver has been approved by the Director, DSCA who has been delegated the authority to waive NC costs on FMS sales. The decision on any waiver requires the concurrence of OUSD(C) and OUSD (AT&L). If an issue concerning the waiver request cannot be resolved, the Director, DSCA, must submit an official waiver request to the Deputy Secretary of Defense for final determination.

For FMS, an NC recoupment charge is applicable to all Major Defense Equipment (MDE). MDE is any item of Significant Military Equipment (SME) listed on the U.S. Munitions List having a DoD nonrecurring RDT&E cost accumulation of $50 million or a total DoD production cost of more than $200 million. The DoD approved listing of MDE with associated NC charges can be found in the SAMM, appendix 1 (Nonrecurring Cost Recoupment Charges for Major Defense Equipment). MILDEPS and defense agencies are required (per the FMR and the DODD 2140.02 (Recoupment of Nonrecurring Costs [NCs] on Sales of U.S. Items) to review approved NC recoupment charges on a biennial basis to determine if there has been a change in factors or assumptions used to compute an NC recoupment charge. When a recoupment charge is revised, the previous value is retained in the SAMM, appendix 1. Subsequent revisions to the pro rata charge must be applied to new LOAs and must not be retroactive. In instances where the initial rate has not yet been approved, DoD Components must provide for an estimated rate based on the most accurate information available to the DoD Component. The LOA must be modified to specify the subsequently approved rate and only that approved rate is to be billed.

When NC recoupment is applicable, the unit price on an LOA must include the specific recoupment charge. NC LOA charges may also include special recoupment costs incurred under FMS, paid by a foreign customer to develop a special feature or unique or joint requirement. Recoupment of these costs is required on all cash sales unless a specific waiver has been authorized. Per the AECA and Foreign Assistance Act (FAA), LOAs fully financed with Military Assistance Program (MAP) Merger or non-repayable FMF are not assessed a NC charge. The requirement for the USG to recover NC on direct commercial sales (DCS) was eliminated. NC does not apply to BPC cases [SAMM C9.T4, C9.6.3, and DoD FMR, volume 15, chapter 7, section 070305.A.

Contract Administration Services (CAS)

Contract administration services (CAS) charges are collected and charged by DoD to reimburse FMS and BPC costs incurred by DoD contracting organizations in accomplishing contract administration, quality control, and contract audit efforts on DoD procurement contracts. The CAS surcharge is added to the LOA blocks (4)(a) and (4)(b) unit and extended costs for all articles and services from procurement. DFAS SCA recovers the cost of CAS by applying a percentage surcharge to the delivery transactions reflecting disbursements to contractors for FMS and BPC procurements on which applicable CAS have not been waived. For pricing the LOA, the surcharge is based on the estimated contract cost; at billing, the surcharge will be applied to the actual contract cost. For the United States Army Corps of Engineers (USACE), quality assurance and inspections and some (e.g., post-contract award actions) of the contract administrative services costs are included in its supervision and administration costs charged to the case line, so separate additional CAS quality assurance and inspection and contract management do not apply to USACE cases or lines, but CAS contract audit still applies. PROS and U.S. Coast Guard (USCG) case procurement lines also have exceptions to normal CAS case and line charges. The contract administration surcharge is subject to waiver in whole or in part if reciprocal agreements exist. [SAMM C9.T4, C9.6.2, C9.T5, C9.T6, C9.T7 and FMR volume 15, chapter 7, section 070405] Some (e.g., pre-contract award by the IA) CAS is actually funded by the administrative funds as case standard level of service (SLS). SAMM C9.T2 documents those funding policies.

The CAS rate has changed and the rate that is applicable for a case depends upon when the basic LOA was implemented for that case. The CAS charges (unless waived) for cases where the basic LOA

was implemented on or after 01 December 2014 are listed in table 12-4. The complete listing of all applicable CAS rates (unless waived) are listed in SAMM C9.T4.

Table 12-4
Contract Administration Services (CAS) Charges

Contract Administration Services (CAS)	Applicable Percentage
Contract Administration/Management	0.50%
Quality Assurance and Inspection	0.50%
Contract Audit	0.20%
Overseas CAS	0.20%

Accessorial Costs

Accessorial costs represent potential applicable USG expenses incident to issues, sales, and transfers of materiel that are not included in the standard price or contract cost of materiel. Two primary accessorial costs are packing, crating and handling (PC&H) and transportation.

Packing, Crating, and Handling (PC&H)

PC&H costs are those DoD costs incurred for labor, materiel, or services in preparing non-Defense Working Capital Fund (DWCF) materiel for shipment from the storage or distribution point. PC&H costs do not apply to sales from procurement unless the item is processed through a DoD depot/distribution center. A PC&H rate of 3.5 percent of the unit price will be added to the selling price of materiel with a unit price of $50,000 or less. An additional charge will be added equal to 1 percent of that portion of the selling price of materiel over $50,000. For pricing blanket order lines on LOAs, PC&H (with exception of Excess items) is calculated as 3.5 percent on the line value. For excess items (i.e., EDA), PC&H is computed on the original acquisition value and not the reduced value of the excess materiel. The use of actual costs, when known, is highly encouraged. The LOA PC&H charges are typically (with EDA sometimes being the exception) shown on the LOA's block #9 in the Estimated Cost Summary. When provided as a unique service (e.g., EDA), these charges may be included as a separate line on the LOA. [SAMM C9.T4 and FMR volume 15, chapter 7, section 070502]

Transportation

The LOA transportation charges document the estimated cost to the USG of transporting FMS and BPC purchaser materiel using the Defense Transportation System (DTS) including Government Bill of Ladings (GBLs). Those LOA transportation costs include costs for labor, materiel, or services at ports of embarkation or debarkation). DWCF standard pricing includes transportation costs (for the first leg of transportation) within CONUS. If the first destination transportation is accomplished through GBLs, it must contain the DWCF funds cite. Shipping activities must clearly identify materiel as DWCF or non-DWCF to ensure the appropriate fund cite is issued for inland CONUS transportation. [SAMM C9.T4, SAMM appendix 2, and FMR volume 15, chapter 7, section 070503] Price transportation on LOAs as follows:

Above-the-Line Transportation Services:

- When LOA customers use the Defense Transportation System (DTS), an estimated amount is placed above-the-line to pay for transportation services that are not appropriate to be funded with below-the-line estimates. Examples of these transportation services include premium transportation such as Special Assignment Airlift Mission (SAAM) flights, securing a vessel for a one time only shipment, staging cost for consolidating shipments,

Radio-Frequency Identification tagging and tracking devices, special security (guards hired to escort the shipment), and other unique requirements.

- When a SAAM or some other form of dedicated premium transportation must be used to move the material purchased under an LOA, a separate transportation service line is included in the LOA. When expenditures are made for actual transportation, this line is adjusted to meet the full cost of this special transportation and a transportation account code needs to be supplied to the DoD service contract. [SAMM C7.12]
- Effective 01 June 2010 (per DSCA Policy Memorandum 10-32), all defense articles delivered by air transportation on or after this date for the Afghanistan program (FMS and FMS-like cases) will be charged as an "above-the-line" direct charge.
- If a LOA line item's vendor/contractor is providing transportation services per the contract, the transportation costs may be included in the applicable LOA line item's unit and total price.
- When shipments require containerization, storage in-transit, escorts, or have any other special transportation accessorial requirements; these special transportation accessorial costs are not included in the standard transportation percentages nor in the cost provided in the transportation cost look-up table. These charges are to be placed above-the-line and adjusted as needed to capture actual cost.

Below-the-Line Transportation Services:

- The Transportation Cost Look-Up Tables posted in the SAMM appendix 2 contain estimated actual transportation costs for items normally shipped via the Defense Transportation System (DTS). The data in the tables are applicable when customers use the DTS to transport item(s) that match the specific listed National/NATO Stock Numbers (NSN), and the plan is for the USG DTS to be responsible for transporting those item(s) to either Delivery Term Code 8 or 9. These "estimated actual" costs have been determined over time by the MILDEPS on based historical costs of shipping the identified items to DTC 8 and DTC 9 locations. Figure 12-6 provides a sample of the cost look-up table that is posted at the SAMM appendix 2.

Figure 12-6
Transportation Cost Look-Up Table Example

NSN	ITEM	CODE 8 ESTIMATED ACTUAL TOTAL	CODE 9 ESTIMATED ACTUAL TOTAL
APACHE			
1615-01-252-6376	TRANSMISSION	$1,018	$18,903
1615-01-306-6948	HEAD, ROTARY WING	$1,104	$27,955
1615-01-310-4978	BLADE, ROTARY WING	$1,027	$10,447
1615-01-273-7608	SERVOCYLINDER	$834	$1,731
2835-01-172-6200	ENGINE, GAS TURBINE	$970	$4,587
ATACMS			
1427-01-274-3904	GUIDED MSL AND LAUNCH POD ASSEMBLY, M39	$1,410	$48,567
1427-01-445-3758	GUIDED MSL AND LAUNCH POD ASSEMBLY	$1,417	$51,499
1427-01-494-1457	GUIDED MSL AND LAUNCH POD ASSEMBLY, M39A1	$1,410	$46,849

- When customers use the DTS and either an 'above-the-line' charge or the Transportation Cost Look-Up Tables are not applicable, a Delivery Term Code (DTC) percentage is applied to the line to compute an estimated amount for transportation costs on the LOA.

DTC percentages (refer to figure 12-7) are based on the mode of transportation provided (e.g., port-to-port, depot-to-in-country destination) and the rate area where articles are being delivered.

◊ For defined order lines, the applicable DTC percent is charged on the LOA for the first $10,000 in unit cost, and then 25 percent of the DTC percent for the portion of the unit cost that exceeds $10,000.

◊ For blanket order lines, the applicable DTC percent is charged on the LOA for the total line value.

Figure 12-7
DTS and TBC Percentage Rates

Rate Area	DTC 4 Point of Origin (TBC D)	DTC 2 Staging (TBC A, B, E)	DTC 5 CONUS Port of Embarkation (TBC A, B, E)	DTC 8 DoD CONUS Aboard Vessel/ACFT (TBC H, U)	DTC 9 Point of Debarkation Discharged (TBC C, V)	DTC 7 OCONUS Inland Destination (TBC G, Y)
1	0.00%	0.00%/3.75%	0.00%/3.75%	2.50%/6.25%	7.50%/11.25%	10.50%/14.25%
2	0.00%	0.00%/3.75%	0.00%/3.75%	2.50%/6.25%	15.50%/19.25%	18.50%/22.25%

Notes:

1. Rates documented in SAMM C9 table C9.T4a (Delivery Term Codes and Percentages) per FMR Volume 15, chapter 7, section 070503 (Transportation).
2. Rate Area 1 includes Europe, Hawaii, Latin America (Central America and Caribbean Basin, and Mediterranean Ports.
3. Rate Area 2 includes Newfoundland, Labrador, Thule, Iceland, South America (East and West coasts), Far East, African Ports (other than Mediterranean), and Near East.
4. For DTCs with multiple percentages, the first percentage listed applies to DWCF material while the second percentage applies to material other than DWCF.
5. Refer to DISCS 'Red' book appendix H-J and FMR Volume 15, chapter 8, for additional Transportation Bill Code (TBC) definitions and information.
6. Alphabetic Delivery Term Codes (DTCs) are "round-trip" and are used for material returns (e.g., material repairs). Those alphabetic DTCs are defined in the DISCS Green Book chapter 11 and Red book appendix F.
7. Delivery Term Codes 3 and 6 were eliminated in 2010 and should not be used when pricing LOAs.

- Delivery Term Codes (DTCs) for return of repaired materiel are documented in the FMR volume 15, chapter 8, table 8-38, and in chapter 11 of this textbook, "Security Cooperation Transportation Policy." Report the return of repaired materiel using Transportation Bill Code (TBC) "L" per FMR volume 15, chapter 8, section 080402.H.4.b.

- A Transportation Bill Code (TBC), if used, overrides the DTC for both blanket and defined order line entries. TBCs are used to bill FMS purchasers for "below-the-line" transportation costs and can be used for multiple purposes including, if the actual method of transportation is different than that identified by the DTC. The list of TBCs is documented in the FMR volume 15, chapter 8, section 080402Q, table 8-48, and in the DISCS *Security Cooperation Billing Handbook*, (often referred to as the 'Red' book), appendix H.

- The TBC pricing percentages to be used for "Transportation Charges Based on Transportation Bill Codes for Inventory Items Shipped by DWCF" are documented in the FMR volume 15, chapter 8, table 8-49, and the DISCS 'Red' (Billing) book Appendix I.

- The TBC pricing percentages to be used for "Transportation Charges Based on Transportation Bill Codes for Inventory Items Not Shipped by DWCF" are documented in the FMR volume 15, chapter 8, table 8-50, and the DISCS 'Red' (Billing) book Appendix J.

- For excess items, transportation costs are computed on the original acquisition value and not the excess materiel's reduced value. The use of actual costs, when known, is highly encouraged.
- The transportation below-the line costs are shown on the LOA's block eleven (11) in the Estimated Cost Summary section.

Administrative Charges

The Administrative surcharge is collected to cover the USG costs of administering (including the Standard Level of Service as defined in the SAMM C9.T2) FMS and "FMS-like" (i.e., BPC) programs. It is included as a percentage of applicable line items as a below-the-line charge on the LOA and the quarterly bill. It is applied to the selling price with the exception of program management lines, small case management lines (SCML), and approved waivers (as discussed in the Training section of this chapter and the following waiver paragraphs). The administrative surcharge percentage is subject to change without prior approval of the purchaser. The administrative surcharge applicable to each line on the LOA is to be specified as a note to each LOA document. For cost increases within the scope of the LOA, modifications retain the administrative rates associated with the lines modified. When an amendment adds a new line to an existing case, the administrative surcharge rate in effect at that time is applied. For any case that is closed, the USG will retain funds to pay for estimated administrative costs associated with the case, even if no articles or services have been delivered ($0 delivered value). The "Administrative Charge" below-the line costs are shown on the LOA's block ten in the Estimated Cost Summary.

Costs associated with administering the FMS program must always be paid and/or collected (AECA, section 21(e)(2)). If a waiver of the FMS Administrative Surcharge for the purchaser is approved in one of the circumstances described below, it must still be recouped from another funding source.

Waiver by the Implementing Agency

FMR volume 15, chapter 7, and AECA, Section 21(e)(2) allow the IA to waive or reduce FMS Administrative Surcharges that should be assessed to the purchaser on the LOA as long as the IA obligates its own operation and maintenance appropriations to pay the FMS Administrative Surcharge Account the waived and/or reduced amount. [FMR volume 15, chapter 7, section 070605]

Waiver of Administrative Surcharges for NATO Support Agency (NSPA) FMS Programs

AECA, section 21(e)(3), allows the waiver of FMS Administrative Surcharges for NSPA (formerly known as NAMSA) programs under very specific circumstances. Waiver of FMS Administrative Surcharges on these cases is not retroactive; only LOAs implemented after October 1, 1988 are eligible for consideration. The waiver value includes the calculated FMS Administrative Surcharge amount and any SCML value included on the LOA. Only NSPA LOAs in support of weapon system partnership agreements or NATO Supreme Headquarters Allied Powers, Europe (SHAPE) projects (i.e., common-funded projects supported by allocated credits from NATO bodies or by host nations with NATO infrastructure funds) qualify for FMS Administrative Surcharge waivers. FMS Administrative Surcharges waived under this program must be reimbursed to the FMS Administrative Surcharge Account from Major Force Program (MFP) 10 funds controlled by the U.S. mission to NATO. The specific procedures are documented in the SAMM. [SAMM C9.6.1.1]

Percentage Rates

The following is a list of the Administrative Surcharge rates that are included as a percentage of the applicable LOA line items as a below-the-line charge on the LOA [SAMM C9.T4].

- 3.5 percent for both standard and nonstandard articles/services for LOA lines accepted on or after November 1, 2012
- 3.8 percent for both standard and nonstandard articles/services for LOA lines accepted on or after August 1, 2006 and before November 1, 2012
- 2.5 percent for standard articles/services for LOA lines implemented on or after June 1, 1999 and before August 1, 2006
- 3.0 percent for standard articles/services for LOA lines implemented on or after October 1, 1977 and before June 1, 1999
- 2.0 percent for cases signed prior to October 1, 1977
- 5 percent for non-standard articles/services for LOA lines for non-standard items implemented before August 1, 2006
- 5 percent for Foreign Military Sales Order (FMSO) I cases

Other Cost Recovery Charges

In addition to the above Direct (i.e., Above-the-Line) and Indirect (i.e., Below-the-Line) charges, the following are other authorized charges that can be included on LOAs and bills to recover the full cost of the USG providing articles and/or services [SAMM C9.T4]:

Royalty

Incremental payments for the use of intellectual property that is subject to contractor proprietary rights restrictions and are included in the pricing of the item. Prior to January 1, 1998, charges for Technical Data Package (TDP) usage were included as a separate line item on the LOA but were discontinued for cases implemented on or after January 1, 1998 for U.S.-owned TDPs that are not subject to contractor proprietary rights restrictions. For BPC cases, apply only to the extent that the cost is included in the contract. [SAMM C9.T4]

Staging

Costs for the staging of materiel in CONUS DoD (non-DWCF owned/operated) facilities are additional to Defense Transportation System costs, and a three percent staging charge is applicable, if DSCA has authorized below-the-line recoupment of staging. DWCF activities must bill actual costs incurred as an above-the-line service. Normally, the actual costs of staging must be recovered as part of an above-the-line service charge. Such charges must not be duplicative of any other accessorial cost. When non-excess materiel is supplied from DoD storage points located OCONUS, the applicable rates must be charged as a prepositioning cost. [FMR volume 15, chapter 7, section 070504]

Prepositioning

Supply distribution costs incurred by locations outside the U.S. in anticipation of support to other authorized purchasers are included as a separate line item on the LOA. These costs are applicable when shipments are made from overseas storage and distribution points. No positioning costs shall be assessed on "long supply stocks." [SAMM C9.T4]

Foreign Military Sales Order Storage (FMSO)

Cost of storing on-hand Cooperative Logistics Supply Support Agreement (CLSSA) inventory, when applicable, is included in the line item value on the FMSO I LOA. The charged rate is 1.5 percent annually on value of stored assets, unless a separate fee is negotiated with the storage facility

or 0.125 percent monthly on value of stored assets, unless a separate fee is negotiated with the storage facility. There is no annual inventory maintenance and storage charge for DWCF items for CLSSAs, as the DWCF standard (stabilized) price recoups all costs. For non-DWCF items, storage fees must be charged based on the on-hand portion of the FMSO I. The annual storage fee is 1.5 percent. For cases not remaining open a full year, a fee of .125 percent a month must be charged. [FMR volume 15, chapter 7, section 070704, and SAMM C9.T4]

Storage (Other)

Costs applicable to storage of purchaser-owned articles include the functions of receiving, care and preservation, set assembly and related activities, and overhead operations (such as re-warehousing, maintenance of operating equipment, physical inventories, and cleaning areas.) Storage charges are applicable to the non-DWCF on-hand portion of FMSO I cases, to cases on which DoD is ready to deliver applicable items but has been requested by the purchaser to delay delivery, and to cases on which DoD cannot deliver due to legal or policy restrictions. Charges commence 15 days following the date of availability (there is no annual inventory maintenance and storage charge for DWCF items for CLSSAs, as the DWCF standard (stabilized) price recoups all costs). A uniform DoD annual rate of 1.5 percent or .125 percent monthly of the average monthly value of purchaser-owned materiel will be charged to applicable FMS cases to recover an activity's storage cost unless a separate charge is negotiated with the storage facility. A separate line on the LOA(s) should capture the storage-related costs. If this line did not previously exist, it can be added via an LOA modification. [FMR volume 15, chapter 7, section 070801, SAMM C9.T4]

Logistic Support Charge (LSC)

Effective 1 October 2007, the 3.1 percent logistic support charge (LSC) was eliminated. This includes both application to a new LOA and items delivery reported after that date even if they were originally priced to include the charge. [SAMM C9.T4]

Billing

Payments into the FMS Trust Fund, other than initial deposits, are based on bills (Billing Statement, DD Form 645, or Special Billing Arrangement (SBA)). DFAS SCA sends the DD Form 645 to the purchaser quarterly. Under DSCA's oversight, DFAS SCA ensures that sufficient cash is available from the purchaser to cover accrued expenditures, costs to be incurred during the remainder of the current quarter, and costs to be incurred during the next quarter (e.g., contractor progress payments, contractor holdbacks, potential termination charges, and deliveries from DoD inventories). DD Form 645-based billings are the amount shown on the current case payment schedule or the quarterly forecast of the financial requirements accompanying the DD Form 645, bill, whichever is greater. The billing, not the payment schedule, contains the required payment amount. IAs should refer billing problems and questions to DFAS SCA. If a purchaser has an SBA, total expenditures for the forthcoming billing period are subtracted from total available cash resources to determine the billing amount. SBAs override Column 14 (Amount Due and Payable) of the DD Form 645. SBAs are issued by either the DSCA or DFAS SCA, and are managed at the country level unless an exception has been granted by the DSCA. [SAMM C9.10.2]

The AECA sections 21 and 22 provide the legal basis for FMS billing policies and procedures. LOA case billing involves many actions, but can be viewed as one of two processes. First, the agency provides a commodity or service, from either DoD stock or contractual sources, and then bills the customer's or program's trust fund account managed by DFAS SCA via a delivery/performance report transaction. Second, DFAS SCA sends the purchaser the DD Form 645 Billing Statement.

Delivery / Performance Transaction Reports

The DoD components report deliveries of materiel and services, contractor progress payments, and other related costs to DFAS SCA to obtain reimbursement or to report performance under an allotment of FMS Trust Fund budget authority. IAs shall report accrued expenditures (work in process [WIP]) and physical deliveries to DFAS SCA within thirty days of occurrence (date of shipment or performance) through the billing and reporting procedures prescribed in the FMR via a delivery transaction [FMR volume 15, chapter 8, section 080401]. The delivery transaction prompts liquidation of customer funds collected in advance and maintained in the FMS Trust Fund. The complete listing of the delivery transaction positions and reporting codes is documented in the FMR volume 15, chapter 8, section 080402. Some of the significant delivery transaction information includes the following:

- Routing Identifier Codes (RICs)
- Price Code (e.g., "E" for estimated, "A" for actual costs, etc.)
- Stock or Part Number or Supply Discrepancy Report (SDR) Response
- Quantity Delivered
- Document Number (discussed in the DISCS logistics lessons and Green Book chapters)
- Case Designator
- Mode of Shipment
- Delivery Source Code (DSC)
- Reimbursement Code
- Transportation Bill Code (TBC)
- Date Shipped/Services Performed
- Amount Delivered / Extended Value
- LOA line item to which the report is applicable

The delivery transactions are submitted by the IAs and are received by DFAS SCA. Most of those reports are automatically provided to DFAS SCA by the applicable DoD and IA logistics and financial systems. Other transactions (especially services, major end items, and training) may require manual inputs by the IAs in their applicable execution computer information systems. The delivery transaction provides data enabling DFAS SCA, via the Defense Integrated Financial System (DIFS), to compute and bill customers for accrued expenditures including the application of various charges, such as administration, contract administration, PC&H, transportation, etc.

The delivery reporting transaction identifies accrued MILDEP/IA LOA expenditures for work in process and physical deliveries of inventory/new procurement articles and services. Based on the data contained in the delivery transaction, DFAS SCA will compute applicable surcharges and report the transactions to the purchaser through the delivery listing attachment to the DD Form 645 Billing Statement. There is a significant correlation between the codes and data that are entered in the Military Standard Requisition (per the MILSTRIP procedures) and the subsequent delivery reporting transaction. A Delivery Reporting Transaction example is shown in figure 12-8. FMR volume 15, chapter 8, section 080402 provides additional details on the delivery transaction delivery reporting codes. The following paragraphs highlight some of the significant delivery reporting codes.

Accurate and timely performance reporting is essential to LOA financial management. For example, the Transaction Code (record position #2) identifies the type of transaction (e.g. delivery of articles or services, work in progress). The Monitor Code (record position #3), Routing Identifier Code (record positions #4-6) and Reimbursement Code (record position #58) identifies the activity to which the case is assigned for action, shipping depot or activity performing the service and the activity which is to be reimbursed. An "E" in transaction Price Code (record position #7) advises the customer that delivery is at an estimated price and "A," actual costs, will be reported at a later date.

The delivery term code (DTC) (record position #34) indicates the responsibility, DoD or purchaser, for transportation of the articles. For example, DTC "8" advises the purchaser that the DoD planned to transport the article(s) to a continental U.S. (CONUS) port of embarkation (POE) and provide loading, handling, and storage aboard a vessel at the POE. Transaction position 35, type of assistance identifies the supply source, type of sale or type of assistance, such as sale of DoD inventory or services, a cash sale from procurement, or a shipment from a customer's supply support arrangement.

Figure 12-8
Delivery Reporting Transaction Example

CARD CODE	TRANSACTION CODE	MONITOR CODE	ROUTING IDENTIFIER CODES	PRICE C ODE	STOCK NUMBER / PART NUMBER or SDR RESPONSE	UNIT OF ISSUE	QUANTITY DELIVERED	DOCUMENT NUMBER: IA CODE	COUNTRY/PROGRAM CODE	MARK FOR CODE	DEL TERM CODE	TYPE OF ASSISTANCE	REQUISITION JULIAN DATE	SERIAL NUMBER
1	2	3	4 5 6	7	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	23 24	25 26 27 28 29	30	31 32	33	34	35	36 37 38 39	40 41
N	A	M	B 1 4	E	4 9 3 0 0 0 9 2 6 1 2 3 4 0 0	E A	0 0 0 1 0	B	B N	C	4	4	3 1 0 0	9 0

SERIAL NUMBER	SUFFIX CODE	SUPPLEMENTAL ADDRESS: COUNTRY SERVICE	OFFER RELEASE CODE	FREIGHT FORWARDER	LOA CASE DESIGNATOR	MODE OF SHIPMENT	ADJUSTMENT REPLY CODE	PROGRAM YEAR	DELIVERY SOURCE CODE	PORT OF EMBARKATION CODE	REIMBURSEMENT CODE	TRANSPORTATION BILL CODE	RESERVED FOR FUTURE USE	DATE SHIPPED / SERVICES PERFORMED	AMOUNT DELIVERED / EXTENDED VALUE	LOA LINE ITEM NUMBER	ROUNDED VALUE INDICATOR	RESERVED FOR FUTURE USE
42 43	44	45	46	47	48 49 50	51	52 53	54	55 56	57	58	59	60	61 62 63 64 65 66	67 68 69 70 71 72 73 74 75	76 77 78	79	80
0 1	N	B	Z	2	U R K	F		9	A B	A	R	G		1 4 0 1 2 9	0 1 2 0 5 5 0 0 0	0 0 2		

The Delivery Source Code (DSC) (record positions #55 and 56) provides an audit trail between performance and the pricing of the LOA. The DSC is also used by DFAS SCA to recognize DoD earnings for:

- Administration
- PC&H

- Contract administration services (CAS)
- Certain transportation charges

For example, a DSC beginning with the alpha "A" indicates delivery of materiel from DoD inventory, and a DSC beginning with the alpha "D" indicates work in process on FMS customer procurements and deliveries from procurement.

The complete listing and definitions of the authorized Delivery Source Codes are documented in the FMR volume 15, chapter 8, section 080402.N, in the DISCS *Security Cooperation Billing Handbook* ('Red' book) appendix Q and are reprinted in this book as attachment 12-1 to this chapter.

The financial actions that DFAS SCA will take is based on the IA reported Delivery Source Code (DSC) for each delivery transaction that is reported. The complete Surcharge Matrix for each the authorized Delivery Source Codes (DSCs) is documented in the FMR volume 15, chapter 8, table 8-40, the DISCS *Security Cooperation Billing Handbook* ('Red' book), appendix Q, and is reprinted in this book as attachment 12-2 to this chapter.

The transportation bill code (TBC) (record position #59), as discussed previously in the Transportation Pricing section of this book, is a very important code. It is used by DFAS SCA to recognize DoD earnings for transportation of materiel. If this position is left blank, DFAS SCA will compute transportation costs using the DTC previously discussed.

The transaction Amount Delivered /Extended Value (record positions #67-75) represents the total dollar value of the delivery transaction report. DFAS SCA will divide this value by the quantity shown in transaction positions 25-29 to determine the unit price as reported in the delivery listing to the purchaser.

Errors in the delivery reporting transactions codes can, and do occur. Those errors cause serious difficulties in the proper billing of purchasers and reimbursement of costs. Delays in submission of delivery transaction reports by the MILDEPs/IAs can also cause multiple issues including: late reporting of transactions to purchasers, the erroneous appearance of excessively large purchaser trust fund balances, and other related problems.

The delivery transaction reports are the source documents for the detailed entries which appear in the Delivery Listing that accompanies each DD Form 645 Billing Statement.

DFAS SCA Delivery / Performance Reporting Feedback to Implementing Agencies

As discussed in the previous Delivery Transactions section, IAs shall report the cost of DoD services, inventory items, and new procurement to DFAS SCA using delivery reports, or automated equivalents, through the FMS Integrated Control System (FICS) delivery transaction. DFAS SCA shall pay earned reimbursements included in such reports within twenty working days from the date of receipt. If a cash flow problem precludes payment, DFAS SCA shall issue immediate notification to the Director, DSCA, and to OUSD(C). The Director, DSCA, shall notify IAs to suspend further deliveries of DoD stocks or performance of DoD services unless a determination has been made that it is in the national interest for billings to be dated and issued upon delivery or performance, with payment due in sixty days. DFAS SCA provides several products to the IAs to assist in reconciling their accounts. The following is a list of selected DFAS SCA products and some of the data provided by each product. DFAS SCA normally provides these products on electronic media to the IAs. [FMR volume 15, chapter 8, section 080801]

FMS Command Pay List: DFAS SCA provides reporting activities with a monthly FMS Command Pay List that identifies the total amount of WIP or deliveries charged to FMS cases in the current reporting period, excluding accounts payable. The amount includes the delivery transactions submitted

by the reporting activity, less accounts payable and rejected items, and additional charges mechanically computed by DFAS SCA. The last line of the Command Pay List, "Total Reimbursable to This Payee," should equal the amount received by the payee.

FMS Detail Delivery Feedback List: The FMS Detail Delivery Feedback List is attached to the Command Pay List and identifies the delivery transactions submitted by reporting activities and processed by DFAS SCA for reimbursement or reporting to the FMS purchaser.

FMS Implementing Agency Performance Report Transaction Register: DFAS SCA provides this five (5) part report for IAs to use in reconciling their reported deliveries to the deliveries processed by DFAS SCA. The register also contains transactions submitted by the IA that could not be processed by DFAS SCA because of invalid data and/or suspected problem areas, information on transactions input by DFAS SCA on the IA's behalf, transactions modified by DFAS SCA, and transactions deleted by DFAS SCA.

Foreign Military Sales Accounts Payable List: This report indicates transactions delivery reported by the IAs, but not paid to the reporting activity because the purchaser's funds were frozen, or the purchaser did not have enough cash available, or the amount of credit deliveries outweighed the debits. The list also contains a total of all transactions that are reimbursable and non-reimbursable to the reporting activity.

Foreign Military Sales Billing Cycle

DFAS SCA issues a FMS Billing Statement, DD Form 645 (with applicable attachments) to customers for LOA costs related to defense articles, services, and training. After the customer accepts the offer and provides DFAS SCA with signed copies of the LOA and the applicable initial deposit, DFAS SCA updates DIFS with applicable LOA data. The case is implemented in DIFS and is then prepared to receive IA delivery transactions. The initial deposit accompanying most FMS cases provides sufficient cash to cover disbursements from the time the case is implemented until availability of funds from the first billing payment due date.

Billing statements are prepared and forwarded to the purchaser on a quarterly basis (i.e., for quarters ending 31 December, 31 March, 30 June, and 30 September) [SAMM C9.T16]. This FMS billing time line cycle (depicted in figure 12-9) must be taken into consideration during the computation of the initial deposit period and any quarterly payments thereafter.

Figure 12-9
FMS Billing Time Line

The payment dates shown on the payment schedules must be compatible with the billing cycle.

Completed Work Period/ Quarter	Projected Mailing Date	Payment Due to DFAS SCA	Planned Future Work Period/ Quarter
01 Oct - 31 Dec	15 January	15 March	01 Apr - 30 Jun
01 Jan - 31 Mar	15 April	15 June	01 Jul - 30 Sep
01 Apr - 30 Jun	15 July	15 September	01 Oct - 31 Dec
01 Jul - 30 Sep	15 October	15 December	01 Jan - 31 Mar

Foreign Military Sales Billing Statement

The FMS Billing Statement, DD Form 645 (see example in figure 12-10) is prepared by DFAS–SCA. In the absence of a special billing arrangement, the FMS Billing Statement represents the USG's official claim for payment to the purchaser for the articles and/or services agreed to on the LOA. It also furnishes an accounting to the purchaser for LOA costs incurred to-date. In addition to identifying deliveries or performance of services made on the purchaser's case, the DD Form 645 also reflects the forecasted costs which relate to the next quarter's financial requirements on that same case. These forecasted costs may include anticipated progress payments, contractor holdback, TL reserve, accrued and future deliveries, and associated costs (e.g. NC, CAS, administrative/accessorial, etc.). For example, the DD Form 645 for the period ending 31 December would contain delivery transaction data provided to DFAS SCA in October, November, and December and a forecasted financial requirement for April, May and June. The 15 March payment due date shown in the figure 12-10, DD Form 645 example would also be the same payment date as contained in the estimated payment schedule of the applicable implemented LOA version. [FMR volume 15, chapter 8, section 080204 and table 8-1, and the DISCS 'Red' book chapter 3]

DD Form 645 Supporting Documentation

In addition to the DD Form 645, the purchaser is provided certain attachments, as applicable, which contain more detailed information. The DD Form 645 supporting attachments include: (1) FMS Delivery Listing, (2) FMS Reply Listing to Customer Requests for Adjustments, (3) FMS financial forecast, (4) holding account statement, and the (5) accelerated case closure suspense account statement. Each of these documents is explained in greater detail in the following paragraphs.

Foreign Military Sales Delivery Listing

A delivery listing (see example in figure 12-11) is prepared in support of entries to the DD Form 645 column 9, "Current Period Delivery Costs." The delivery listing is an itemized listing of all items physically delivered and services performed during the reporting period. It is cross referenced to specific document numbers and allows purchasers to validate receipt of the materiel or services. The delivery listing is sorted by country case, line, Delivery Source Code (DSC), and then the accounting date. The meanings of the DD Form 645 entries are documented in the FMR volume 15, chapter 8, section 080204, table 8-2, and DISCS 'Red' book, *(Security Cooperation Billing Handbook)* chapter 4].

Figure 12-10
FMS Billing Statement, DD Form 645 Example

FOREIGN MILITARY SALES BILLING STATEMENT			UNITED STATES OF AMERICA DEPARTMENT OF DEFENSE/AIR FORCE		
1. TO: BANDARIA ARMY	2. THIS IS A BILLING STATEMENT BASED ON CASH REQUIREMENTS. PAYMENT IS DUE BY 15 SEP 15		3. STATEMENT NUMBER: 15-06DB	4. FOR PERIOD ENDED: 15 JUN 30	5. DATE PREPARED: 15 JUL 15

CASE IDENTIFICATION AND DELIVERY STATUS				FINANCIAL STATUS				
6. CASE & ITM NBR	7. TOTAL VALUE ORDERED	8. CUMULATIVE DELIVERY COSTS END PRIOR PERIOD	9. CURRENT PERIOD DELIVERY COSTS (ATTACHMENT 1)	10. CUMULATIVE DELIVERY COSTS & WORK IN PROCESS	11. FORECASTED REQUIREMENTS (NOTE A)	12. TOTAL FINANCIAL REQUIREMENTS	13. CUMULATIVE PAYMENTS RECEIVED	14. AMOUNT DUE AND PAYABLE
YCY								
001	78,683,170.00	0.00	0.00	0.00				
	HUMDINGER MISSILES							
002	619,300.00	0.00	0.00	0.00				
	LAUNCHERS							
003	2,017,000.00	0.00	0.00	0.00				
	SPARE PARTS							
004	488,840.00	0.00	0.00	0.00				
	TRAINING MISSILES							
005	181,800.00	181,800.00	0.00	181,800.00				
	TECHNICAL DATA PKG							
006	3,017,692.00	0.00	0.00	0.00				
	CONTAINERS							
007	1,563,480.00	143,319.00	78,173.00	221,492.00				
	SUPPORT EQUIPMENT							
008	2,163,402.00	198,311.85	108,170.10	306,481.95				
	CONTRACTOR SPT							
009	2,021,000.00	185,258.33	101,050.00	286,308.33				
	PARTS/SPT EQUIP							
010	12,372.00	1,790.68	976.74	2,767.42				
	AF TECH ORDERS							
011	1,636,316.00	0.00	0.00	0.00				
	AIRLIFT, AMC							
012	1,008,500.00	92,445.83	50,425.00	142,870.83				
	R+R OTHER							
013	631,250.00	57,864.58	31,562.50	89,427.08				
	R-R MISSLES							
014	2,694,188.00	0.00	0.00	0.00				
	WARRANTY							
700	657,000.00	54,750.00	32,850.00	87,600.00				
	TECH ASSISTANCE							
701	73,338.00	61,115.00	12,223.00	73,338.00				
	SITE SURVEYS							
702	2,514,403.00	209,533.58	125,720.15	335,253.73				
	OTHER SERVICES							
989	260,000.00	59,583.33	32,500.00	92,083.33				
	TRAINING							
L6A	3,508,507.00	43,602.03	20,077.77	63,679.79				
	ADMINISTRATIVE FEE							
L00	235,182.00	21,558.35	11,759.10	33,317.45				
	ACCESSORIAL COSTS							
WIP	WORK IN PROCESS			23,786,978.07				
CASE TOTAL	103,986,740.00	1,310,932.58	605,487.35	25,703,398.00	10,277,127.00	35,980,525.00	25,703,398.00	10,277,127.00

DD FORM 645 (NOV 87) PREVIOUS EDITIONS ARE OBSOLETE (Q)

Figure 12-11
FMS Delivery Listing Example

PCN: UH028A150 **FMS DELIVERY LISTING** PAGE: 1

FOR PERIOD ENDED: 15 JUN 30
DATE PREPARED: 15 JUL 15

COUNTRY: BANDARIA
SERVICE: ARMY

STATEMENT NUMBER: 15-06DB
CASE: YCY ITM NBR: 007

U.S. DEPT/AGENCY: AIR FORCE

ARTICLE/SERVICES TRANSACTIONS

DOC ID	RIC	PRC CD	STOCK NUMBER	UNIT ISSUE	QUAN SHIP	DOCUMENT NUMBER	DOC SFX	SUPL ADRS	M S	ARC	ACTG DATE	TBC	DSC	DATE SHIP	UNIT PRICE	EXTENDED VALUE
FKB	FGZ	A	530601455712300	EA	30	DBNA5442925003		BA2YCY	B	BZ	1504		AB	5011	66.77	2,003.18 CR
FKA	FGZ	A	6D00120DF075683	EA	17	DBNA5443205132		BA2YCY	B		1505	H	AB	5139	2,222.39	37,780.63
													ITM NBR/DSC SUBTOTAL:			35,777.45
FKA	FGZ	A	CONTRACT ADMIN	XX	1	DBN00000005127		YCY			1505		BD	5132	357.33	357.33
													ITM NBR/DSC SUBTOTAL:			357.33
FKA	FGZ	E	1377010542912ES	EA	114	DBNA5450295130		BA2YCY	B		1504	H	DC	5115	343.11	39,114.54
FKA	FGZ	E	1377010542911ES	EA	16	DBNA5451255128		BA2YCY	B		1505	H	DC	5132	182.73	2,923.68
													ITM NBR/DSC SUBTOTAL:		2,300.00	42,038.22

ADMINISTRATIVE/ACCESSORIAL TRANSACTIONS

DOC ID	GENERIC CODE	COST DESCRIPTION	DOCUMENT NUMBER	ARC	ACTG DATE	TYPE OF COST	PERCENT FACTOR	TOTAL VALUE APPLIED	ADMIN/ACSRL COST
FKD	L6A	ADMIN COSTS	DBN		1504	COMPUTED	3.50	2,003.18 CR	70.11 CR
FKC	L6A	ADMIN COSTS	DBN		1505	COMPUTED	3.50	37,780.63	1,322.32
FKC	L6A	ADMIN COSTS	DBN		1505	COMPUTED	3.50	357.33	12.51
FKC	L6A	ADMIN COSTS	DBN		1504	COMPUTED	3.50	39,114.54	1,369.01
FKC	L6A	ADMIN COSTS	DBN	CX	1505	COMPUTED	3.50	2,923.68	102.33
FKE	L2B	AIR TRANS	DBN		1505	COMPUTED	2.50	37,780.63	944.52
FKE	L2B	AIR TRANS	DBN		1504	COMPUTED	6.25	39,114.54	2,444.66
FKE	L2B	AIR TRANS	DBN		1505	COMPUTED	6.25	2,923.68	182.73

PCN: UH028A150 **FMS DELIVERY LISTING** PAGE: 2

FOR PERIOD: 15 JUN 30
DATE PREPARED: 15 JUL 15

COUNTRY: BANDARIA
SERVICE: ARMY

STATEMENT NUMBER: 15-06DB
CASE: YCY ITM NBR: 007

U.S. DEPT/AGENCY: AIR FORCE

SUMMARY OF DELIVERY COSTS

	ACTUAL COSTS	COMPUTED COSTS	TOTAL COSTS
FKA ARTICLES/SERVICE COSTS			80,176.18
FKB ARTICLES/SERVICE COSTS			2,003.18 CR
NET TOTAL OF ARTICLES/SERVICES COSTS			78,173.00
FKC ADMINISTRATIVE COSTS	0.00	2,806.17	2,806.17
FKD ADMINISTRATIVE COSTS	0.00	70.11 CR	70.11 CR
NET TOTAL OF ADMINISTRATIVE COSTS	0.00	2,736.06	2,736.06
FKE ACCESSORAL COSTS			
L2B CONUS PORT HANDLING	0.00	3571.90	3,571.90
NET TOTAL OF ACCESSORIAL COSTS			3,571.90
TOTAL DELIVERY COSTS			84,480.96

Foreign Military Sales (FMS) Reply Listing to Customer Requests for Adjustments

DFAS SCA provides a consolidated listing of the actions taken in response to Supply Discrepancy Reports (SDRs), entitled "FMS Reply Listing to Purchaser Requests for Adjustments" (see example in figure 12-12). All responses to SDRs shall be listed separately for each country and case. The Reply Listing is prepared in the same basic sequence as the billing statement and FMS delivery listing. The Adjustment Reply Code (ARC) documents the USG decision/action for the purchaser submitted SDR. The meaning of those codes is listed in the FMR volume 15, chapter 8, tables 8-10 through 8-14, and the DISCS 'Red' book appendix P.

Figure 12-12
FMS Reply Listing to Customer Requests for Adjustments Example

FMS REPLY LISTING TO PURCHASER REQUESTS FOR ADJUSTMENTS

FOR PERIOD ENDED: 10 DEC 31
DATE PREPARED: 11 JAN 05

COUNTRY: BANDARIA
SERVICE: ARMY — STATEMENT NUMBER: 10-12NA — U.S. DEPT/AGENCY: ARMY

DOC ID	RIC	PRC CD	ROID SERIAL NUMBER	UNIT ISSUE	QUAN SHIP	DOCUMENT NUMBER	DOC SFX	SUPL ADRS	M S	ARC	ACCT DATE	TBC	DSC	UNIT PRICE	EXTENDED VALUE
CASE: XIL RSN:001															
FKG	BY7	A	WZ001500Y616586	EA	4CR	BBDK443361A426		BZ2XIL		CB	1012	D	AB	70.43	281.72CR
CASE: XIU RSN:002															
FKG	591	A	534001016767100	EA	800CR	BBDK443361B158		BZ2XIU		CB	1010	D	AB	1.50	1200.00CR

Foreign Military Sales Financial Forecast

The financial forecast reflects forecast amounts of payments due, by quarter, for up to nineteen quarters of an FMS case. It essentially portrays the same information as the LOA estimated payment schedule [DISCS 'Red' book chapter 5].

Holding Account Statement

Discussed earlier in this chapter, DFAS SCA maintains holding account(s). The FMS customer may request DFAS SCA to draw upon its country holding account(s) for transfers to specific cases as a need arises. The holding account balances are not included in the totals of the DD Form 645. Separate holding account statements (see example in figure 12-13), are provided to the country showing deposits and withdrawals to the holding account(s) and is considered an off-line billing statement. The FMS customer must advise DFAS SCA of its desires relative to the controls over holding account transactions. For example, DFAS SCA needs to know if the customer desires automatic refunds, or if the customer wants to request refunds on a case-by-case basis [DISCS 'Red' book chapter 7].

Figure 12-13
Holding Account Statement Example

BANDARIA HOLDING ACCOUNT: BN-B-1BB FOR QUARTER ENDING: DECEMBER 31, 2008 CASH ACCOUNT FOR SALES TO BANDARIA ARMY				
DATE	DETAIL	DEPOSITS	WITHDRAWALS	BALANCE
30-Sep-08	BALANCE BROUGHT FORWARD			$3,000.00
25-Oct-08	Funds transferred to BN-B-1BD Holding Account		$200.00	
14-Nov-08	Excess funds from closed case P-JAC	$90.00		
29-Dec-08	Cross-leveling transactions per letter, Embassy of Bandaria, 15 SEP 06 from cases:			
	B-KAA	$50.00		
	D-KAB	$75.00		
29-Dec-08	Cross-leveling transactions per letter, Embassy of Bandaria, 15 SEP 06 to cases:			
	D-KBU		$100.00	
	D-KAW		$25.00	
31-Dec-08	ENDING BALANCE			$2,890.00

Holding account identification is a three digit alpha-numeric code. The first digit, a numeric code, describes the type of funds in the holding account as follows:

Table 12-5
Holding Account Codes

Numeric Code	Type of Funds
0	Interest bearing account
1	Regular FMS payments by purchaser
2	MAP funds (nonrefundable to FMS customer)
3	Third country recoupments
4	Buybacks
5	FMS credit funds (nonrefundable to FMS customer)
6	Worldwide Warehouse Redistribution Services (WWRS)
7	Unliquidated obligation (ULO) accelerated case closure procedures (ACCP) participants
8	Supply Discrepancy Report (SDR) transportation reimbursement

The second digit, an alpha code, identifies the U.S. implementing agency, and the third digit, also an alpha code, identifies the purchaser's in-country service. For example, a holding account for regular FMS payments for U.S. Army-managed cases with the Bandarian Army would be coded as 1BB. In some instances, the alpha codes could be labeled with the letter "Q" indicating that the customer has decided to consolidate all holding account funds at the country level.

Accelerated Case Closure Suspense Account Statement

For those countries participating in accelerated case closure procedures, DFAS SCA must record the case's estimated Unliquidated Obligation (ULO) value in a summary account entitled "Case Closure Suspense Account" (CCSA). A statement of the country's CCSA (see example in figure 12-14), will be provided with each quarterly bill. This account statement is similar to the holding account statement in that it summarizes activity, by case, for the current quarter. The statement also shows the previous and current quarter balances for the account. [FMR volume 15, chapter 3, section 030902 and the DISCS 'Red' book chapter 8]

FIGURE 12-14

Accelerated Case Closure Suspense Account Example

DEFENSE FINANCE & ACCOUNTING SERVICE - INDIANAPOLIS
DEPUTATE FOR SECURITY ASSISTANCE (DFAS-IN/JAX)

ACCELERATED CASE CLOSURE SUSPENSE ACCOUNT
FOR QUARTER ENDING DEC 2008

DATE: 01/15/2009
PAGE: 1

CLSR TYPE	CC	IA	CASE	STATUS CHG	DT-CLSR DT-FNLZ	ORIG ULO VALUE COL A	CUM PREV ACTIVITY COL B	CUR QTR ACTIVITY COL C	CUR QTR BAL COL A-B-C
CC - BN									
ICS - B									
2	BN	B	IAF		03142	75,241.84	2,567.45	0.00	72,674.39
2	BN	B	UWF		08016	61,733.24	-2,929.15	-4.64	64,667.03
2	BN	B	UWY		05171	23,970.18	0.00	0.00	23,970.18
SUBTOTAL BY TYPE						160,945.26	-361.70	-4.64	161,311.60
SUBTOTAL BY ICS						160,945.26	-361.70	-4.64	161,311.60
				** TOTAL RECORDS IN THE CATEGORY (ICS - B) = 3					
ICS - D									
2	BN	D	GZW		06219	137.12	0.00	0.00	137.12
2	BN	D	KBG		04257	80.00	0.00	0.00	80.00
2	BN	D	RBC		03323	38.09	-1.21	0.00	39.30
SUBTOTAL BY TYPE						255.21	-1.21	0.00	256.42
SUBTOTAL BY ICS						255.21	-1.21	0.00	256.42
				** TOTAL RECORDS IN THE CATEGORY (ICS - D) = 3					
ICS - P									
2	BN	P	GMS		04034	55,589.00	0.00	0.00	55,589.00
SUBTOTAL BY TYPE						55,589.00	0.00	0.00	55,589.00
SUBTOTAL BY ICS						55,589.00	0.00	0.00	55,589.00
SUBTOTAL BY CC						216,789.47			
				** TOTAL RECORDS IN THE CATEGORY (ICS - D) = 3					
				** TOTAL RECORDS IN THE CATEGORY (CC - BN) = 7					

NOTE: ASTERISK (*) IN STATUS CHANGE COLUMN MEANS THE CASE CLOSED THIS QUARTER OR CHANGED CLOSURE TYPE.
NOTE: FOR THE CURRENT QUARTER, POSITIVE AMOUNTS REPRESENT RESERVE FOR FUTURE DISBURSEMENTS; NEGATIVE AMOUNTS REPRESENT UNDERESTIMATED ULO FOR THIS CASE.

Cross-Leveling

Cross-leveling is an accounting technique by which DFAS SCA transfers funds from one FMS case to another for the same country. This transfer permits the FMS purchaser to minimize payments due on a billing by fully utilizing all funds previously paid on FMS cases. There are two methods through which cross leveling may be accomplished. In the first method, the customer conducts a cash analysis and, in a letter (usually with a payment), requests DFAS SCA make specific cash transfers among designated FMS cases. The second method authorizes automatic cross-leveling between cases based upon case needs. In this method, there must be detailed written agreement between DFAS SCA and the FMS customer to document the transaction authorization(s). In order to provide the FMS

customer with a complete record of cross-leveling transactions, the transfer of excess cash is processed to the country holding account and then withdrawn from the holding account to be applied to a case requiring payment. Examples of "Cross-Leveling" transactions can be seen in the previously presented holding account statement example (figure 12-13).

Special Billing

A Special Billing Arrangement (SBA) is an alternative to the FMS Billing Statement DD Form 645 that otherwise serves as an official USG claim for payment to the FMS purchaser. In much the same manner as cross-leveling, customers may be able to minimize cash flow using collections for all (or some as desired by the purchasing country) cases and average cash flows on a country (vice case) basis via a process known as special billing. Since requirements and procedures are unique to each country, they are normally established in an agreement between the customer country, DSCA, and the appropriate banking institutions in the U.S. and the purchaser's country. If a purchaser has an SBA, total expenditures for the forthcoming billing period are subtracted from total available cash resources to determine the billing amount. SBAs override Column 14 (Amount Due and Payable) of the DD Form 645. SBAs are issued by either DSCA or DFAS SCA and are managed at the country level unless an exception has been granted by DSCA. As noted in the SAMM, since each agreement is unique, DSCA should be contacted if additional information is desired. [FMR volume 15, chapter 3, section 030104.E and Definitions, and SAMM C9.10.2]

Case Reconciliation

Reconciliation refers to the financial and logistical actions that ensure proper accounting, accuracy and thoroughness of data, currency of schedules, and timeliness and completeness of reporting. In turn, successful reconciliation throughout the life of a case expedites case closure. Case reconciliation is not a single action. Rather, it is a series of actions (beginning with case implementation) identifying and resolving discrepancies among logistics and financial transactions throughout the life of a case. Reconciliation commences with the implementation of a case and does not end until the case is "final" closed. Reconciliation for closure involves extensive communication between various logistics, financial and contract organizations to ensure associated closure transactions are completed. It is imperative that case and line reconciliation be initiated upon implementation of the LOA to make the closure process described herein timely and easier. By reconciling during case execution, case closure becomes an event instead of a process. DSCA consolidated the case reconciliation and closure policies in SAMM chapter 16. The policies in that chapter apply to both FMS and BPC cases. Unique closure requirements for BPC cases are provided in SAMM chapter 15, section C15.6 (Case Closure). Information contained in SAMM chapter 16 complements the DoD FMR. SAMM chapter 16 also identifies all policies in order to facilitate actions and simplify efforts to research the associated business rules and processes provided in the DSCA Case Reconciliation and Closure Guide (RCG), which is provided in SAMM appendix 7.

Active Case Reconciliation

Active case review and reconciliation, extending from LOA implementation until the case is Supply/Service Complete (SSC), are critical components of effective case management. It is mandatory that each case manager performs an annual case and payment schedule review and/or reconciliation on each case, which includes comparing data between systems, comparing LOA data to performance, comparing LOAs to underlying contracts and comparing systemic data to hardcopy or electronic supporting documentation. Case managers are responsible for the timely reconciliation and closure certification of cases, regardless of how these activities are delegated within the responsible IA. Case managers should not wait until a case is ready to be closed to reconcile the case. Case managers should reconcile and close lines of accounting, requisitions, funding documents, and other program documents

as material is delivered and services are performed. Several important reconciliation actions facilitate case closure. These include:

- Continuous, periodic reconciliation of essential financial data to allow for error detection, correction, and future actions at the earliest possible point in the case life cycle.
- Establishing a comprehensive file of all transactions pertaining to the case. For some cases, this file could be quite large, filling several rooms if the files are maintained in their original form. However, large files may be reduced by the use of electronic media. The data files must also be filed and accessible to case managers and those responsible for final case reconciliation.
- Recording case data with objective evidence. This simply means that every financial transaction, every cost, must be recorded. The recording of financial data in source documents will provide an audit trail which can ensure the safeguarding of customer and USG funds.
- Ensuring case identifiers are recorded in all financial transactions. When the DoD accepts a case it also accepts a fiduciary responsibility which is completed once final reconciliation is affected. Those cases where reconciliation cannot be achieved should be referred to the DSCA case closure Executive Committee (EXCOM) [SAMM C16.3].

Supply/Service Complete (SSC)

Eventually, an active line or case transitions into Supply/Service Complete (SSC) status. A process exists (refer to SAMM appendix 7 RCG Figures A7.C2.F15 and A7.C2.F16) for deciding that a case or line is SSC. The reconciliation condition of data (other than that which is preventing item delivery or actual completion of services), the allocation of resources (funding and/or manpower), or the distribution/transfer of workload are not factors in determining when SSC occurs. The IA declares a case or line is SSC when the following events occur by updating the status in the IA system (to include SSC Date) and informing the purchaser: [SAMM C16.2.12.1]

- Verification that all items are delivered; title has transferred.
- Verification that all services have been performed.
  - ◊ Training: Verification that all courses, Mobile Training Teams (MTT) and Extended Training Service Specialist/Language Training Detachments are completed, all Temporary Duties (TDYs) are finished, and all case-funded salary positions have expired.
  - ◊ Period of performance for all other services has elapsed.
  - ◊ Program Management Line (PML): The end point may vary, but may be no later than 12 months after final delivery and/or performance of last non-PML service for the related case(s). Like any other service, the duration of PML must be linked to the period of performance.
- All warranty periods have elapsed.
- No items are in storage.
- If the country is under suspensions and/or sanctions, there are no deliveries pending, and no future deliveries shall occur once sanctions are lifted.

Post-SSC Reconciliation

Once the conditions for SSC are reached, lines and/or cases shall be coded by the IA with this status and the actual date of SSC within five business days in the appropriate security cooperation information management systems. This coding shall not be delayed under any circumstance. The management of blanket order case/line items is generally conducted based on their value. Therefore, the application of SSC status on blanket order cases and/or lines may be accomplished based on the amount of unused value, when appropriate, rather than the absence of open orders. The reconciliation condition of data (other than that which is preventing item delivery or actual completion of services), the allocation of resources (funding and/or manpower), or the distribution/transfer of workload has no application in determining when supply/services completion occurs. To the extent possible, the SSC status of lines and sub-lines should be coded in the Defense Security Assistance Management System (DSAMS) as either completed (CMPLTD) or shipped (SHPD). [SAMM C16.2.12.2]

If the purchaser indicates the intent is to execute the residual value of the FMS case, the IA will include it on the "To Be Kept Open" list upon written notification from the LOA signatory organization until requirements are identified to use the residual case value. At that time, the IA will remove the SSC status on the FMS case and remove it from the "To Be Kept Open" list. Until the case is removed from the "To Be Kept Open" list, the IA should follow-up every sixty days with the purchaser and provide DSCA the current status through the quarterly case closure reporting process. If disposition of the residual case value has not occurred after 180 days, the case should be removed from the "To Be Kept Open" list and a modification to the LOA prepared to return the residual case value. This policy is intended to allow the residual value to be used and is not a blanket endorsement for the addition of funds to the case that will extend the execution phase, which could prolong the reconciliation and closure of the case beyond set standards. [SAMM C16.2.13.2]

Case Closure

Once a case is SSC, and the requisite verification steps for SSC reconciliation are complete, the case is eligible to be submitted for closure. Case closure is the final phase of the LOA life cycle and is extremely important to the USG and purchaser. A case is submitted for closure once it is reconciled according to procedures for the appropriate closure method. Two broad categories of closure exist including: (1) Accelerated Case Closure Procedures (ACCP), and (2) Non-ACCP.

Accelerated Case Closure Procedures (ACCP)

This type of closure allows a FMS case to be closed after SSC, even if there are Unliquidated Obligations (ULOs) on the case. The required purchaser funds (to pay the ULOs) are placed in a Case Closure Suspense Account (CCSA) pending final resolution of the ULOs. This program is voluntary, except for those countries that have FMF-funded cases, which requires mandatory participation in ACCP for all FMS cases regardless of the funding source. Most countries/international organizations participate or are automatically included in the ACCP process. DSCA maintains the master list of countries and international organizations that participate in ACCP. A list of ACCP participants is provided in the RCG, chapter 3. A case shall be direct final closed (i.e., not interim closed) if the ULO equals zero, even if supporting contracts remain open. The USG and purchaser both prefer that direct final closures are utilized to the fullest extent possible without impacting case closure standards. [SAMM C16.4.1.1.2] For purchasers participating in ACCP, the USG goal is to close cases within twenty-four months of achieving SSC. [SAMM C16.4.1.1.3] The following additional policies [SAMM C16.4.1.1.1] apply for an FMS case to be eligible for ACCP closure:

- Cases are SSC for at least 12 months. The 12 months allows for final reconciliation actions and considers the purchaser's right to submit an SDR associated with the final delivery. This time period can be reduced, however, if the purchaser confirms in writing (e-mail or meeting minutes are acceptable) that the submission of SDRs is not anticipated. This

statement does not waive the FMS purchaser's right to submit an SDR as indicated in the LOA Standard Terms and Conditions 5.4.

- No outstanding SDRs exist when the case is submitted for closure.
- A case can close under ACCP for which a litigation judgment was issued, even if the settlement has not been paid.
- All accrued costs and the amount of estimated ULO to be expended after interim closure are determined.
- Unused Obligational Authority (OA) is reduced to zero in the IA accounting system and the correct OA/Obligations (R4/RE transactions) balances are reflected in DIFS, unless an exception is granted by DSCA.
- The case is paid in full, i.e., collections equal the expected case closure value. If the case is not yet paid in full, the IA shall continue processing the case for closure and shall forward the closure certificate (and associated 'C1' transaction) to DFAS SCA.
- Performance reports, submitted to DFAS SCA to report all delivered articles and services, have been processed. All estimated billings have been converted to actual billings.
- Costs of articles and services have been reimbursed from FMS Trust Funds to DoD appropriations or USG equity accounts.

Non-Accelerated Case Closure Procedures (Non-ACCP)

Non-ACCP procedures are used to accommodate those countries that have not elected to participate in the ACCP process and who's FMS programs are completely financed with national funds (vice with FMF). While ACCP case closure usually has a higher priority (unless case is designated as DSCA priority or is a BPC), non-ACCP cases with no supporting contracts should be closed as quickly as possible. BPC program cases are also closed under non-ACCP procedures. Non-ACCP closure eligibility requires [SAMM C16.4.1.2.1] the following:

- No outstanding SDRs exist when the case is submitted for closure.
- No ULOs exist on underlying contract ACRNs (Accounting Classification Reference Numbers).
- All costs are determined, final charged and collected.
- All applicable IA systems are fully reconciled with DIFS.
- Unused OA is reduced to zero in the IA accounting system and the correct OA/Obligations (R4/RE transactions) balances are reflected in DIFS, unless an exception is granted by DSCA.
- Performance reports, submitted to DFAS SCA to report all delivered articles and services, have been processed. All estimated billings have been converted to actual billings.
- Costs of articles and services have been reimbursed from FMS Trust Funds to DoD appropriations or USG equity accounts.

Other Closure Information

Case Closure Priorities

The order of priority for case reconciliation and closure is: (1) DSCA focus/priority cases (i.e., identified by DSCA Business Operations Directorate, Financial Policy and Analysis Division that requires priority reconciliation and closure action), (2) BPC cases, (3) ACCP closure candidates, (4) Non-ACCP closure candidates. Only DSCA (Business Operations Directorate, Financial Policy and Analysis Division) can authorize deviations to prioritizing closure for specific cases, countries or closure categories. [SAMM C16.4.2]

Estimated Case Closure Dates

On all LOAs except Foreign Military Sales Order (FMSO) I LOAs, IAs must include a note identifying an estimated case closure date. See SAMM appendix 6 for exact LOA note wording. Cases with long-running contracts may experience closure challenges, but for ACCP cases, the estimated closure date is twenty-four months after the date of projected final delivery or service performance. For non-ACC program cases, the estimated closure date is estimated to be at thirty-six months after closure of the longest underlying contract (if applicable). If no contracts apply, the closure date should be within thirty-six months after final delivery or service performance.

Closure Inhibitors

Multiple sets of closure inhibitors exist that identify conditions preventing the certification and closure of cases. DSCA prescribes a standard set of pre-certification inhibitors that are used to identify conditions that prevent the certification of cases for closure. These inhibitors are outlined in the SAMM RCG table A7.C3.T5. To varying degrees, the IAs' automated management systems have corresponding inhibitors. In addition, a set of post-certification inhibitors exists that are used to identify conditions that prevent the closure of the case. See SAMM C16.4.9.1 and the Closure Transactions section below for further information on this set of inhibitors.

Case Closure Certificates

The IA ensures the case closure certificate and any other necessary supporting documentation (e.g., ULO closure information for ACCP interim closures) are completed in accordance with established procedures. See SAMM RCG figure A7.C4.F5 for additional details. All case closure certificates are sent via e-mail by the designated IA POCs to DFAS SCA (dfas-in-sca-ccci@dfas.mil). [SAMM C16.4.8]

Closure Transactions

Simultaneously, with the submission of the closure certificate to DFAS SCA, the IA must process the 'C1' closure transaction for transmission to DIFS. The 'C1' transaction signifies IA completion of its actions necessary for DFAS SCA to close the case. This transaction is required for all closure submissions. Upon successful interface of the 'C1' transaction, closure data is loaded in the DIFS Case Closure Certificate Inventory (CCCI) and applicable closure status/inhibitor codes are assigned. DIFS closure status/inhibitor codes and their definitions are contained in the SAMM RCG table A7.C4.T5. Other related closure transactions include the 'C3', 'C4' and 'C5'. The 'C3' transaction indicates a case is closed. It is generated by DIFS and sent to the IA. The 'C4' transaction removes the case from the CCCI. The 'C5' transaction reopens a non-ACCP case or moves an ACCP case from Final to Interim closed status. Both the 'C4' and 'C5' transactions are initiated by the IA and sent to DIFS [SAMM C16.4.9].

Case Closure in DIFS

DFAS SCA reviews the case closure certificate and takes actions to close the case in DIFS. If DFAS SCA has questions about the closure certificate, DFAS SCA contacts the IA representative listed on the certificate. IAs check the DIFS case closure inventory as needed to determine which cases have been closed. DFAS SCA should close all cases that do not have any outstanding or unresolved issues within 30 days of closure certificate and acceptance of a 'C1' closure transaction. [SAMM C16.4.9.3]

Summary

Proper security cooperation funds management requires the FMS and BPC managers to acquire an understanding of a myriad of financial policies and procedures. Each LOA must document the financial requirements to deliver the requested materials and/or services. This is accomplished using multiple LOA data entries, including terms of sale, prices, payment schedule, notes, etc. For a case to be implemented, IAs must request OA, and the OA must be passed from DFAS SCA to the applicable IA. OA allows the IA to prepare and process funding documents on behalf of the purchaser. Expenditure authority must be requested by the IA from DFAS SCA in order to pay bills as a result of material delivered and services rendered.

The methodology employed in determining LOA prices depends on whether the price is to be developed before the fact as an estimate on the LOA, or after the fact as the reporting of a cost in the billing system. In either case, DoD personnel responsible for pricing and reporting costs must refer to current regulations and policies. The basic method involves the determination of a base cost (e.g., stock, inventory, procurement) plus other authorized applicable charges (e.g., administrative charge, accessorial charges) for the USG to recover total cost. Although the pricing methodology is relatively simple, estimating the cost elements for allocation to a security cooperation case price can be difficult.

FMS billing provides a mechanism for complying with the requirements of the AECA in that FMS is to be conducted in a "no loss" manner to the USG, and payments are to be made in advance of USG expenditures on the purchasers' behalf. IAs report the cost of DoD services, inventory, and new procurement sales to DFAS SCA using the "Delivery Transaction." The basic FMS billing document is the DD Form 645, which is prepared at the end of each calendar quarter. This form serves as both a billing document and a statement of account. Numerous attachments, as applicable, accompany the DD Form 645, to include the "FMS Delivery Listing," "FMS Reply Listing to Customer Request for Adjustments," "Holding Account Statement, "FMS Financial Forecast," and the "Accelerated Case Closure Suspense Account Statement."

References

DoD 7000.14R, *Financial Management Regulation (FMR), volume 15* (Security Cooperation Policy).

DSCA Manual 5105.38-M, *Security Assistance Management Manual (SAMM)*. Chapters 5, 6, 9, 10, 15, 16, and Appendices 1, 2 and 7.

Attachment 12-1

Delivery Source Codes (DSC)

This field is a two alpha code. Codes in the field provide an audit trail between performance and the pricing requirements. The code is used by DFAS SCA to recognize earnings for authorized performance charges; therefore, it is imperative that the correct codes be used. An incorrect code could result in the FMS purchaser being over or undercharged. The full list of all the current authorized (per the FMR) Delivery Source Codes (DSC) are listed on the following pages for reference.

Delivery Source Code: Sale of Articles Under AECA Section 21

DSC	Description
AA	DWCF, non-excess items, including technical data package (TDP) and publications, from inventory for a matured FMSO.
AB	DWCF, non-excess items, including TDP and publications, from inventory for other than a matured FMSO
AC	DWCF non-excess items diverted from procurement initiated to maintain stock inventory for a matured FMSO
AD	DWCF non-excess items diverted from procurement initiated to maintain stock inventory for other than a matured FMSO
AE	Procurement funded item, including TDP and publications from inventory, which requires replacement
AG	Procurement funded item, including TDPs and publications from inventory, which does not require replacement
AH	Excess DWCF for a matured FMSO
AJ	Excess DWCF for other than a matured FMSO
AK	Excess Procurement Funded Item from Inventory (applicable PC&H computed on original acquisition cost of item and included in price of item)
AL	Use of this code eliminated beginning FY 2001. Items (other than DWCF item) sold from inventory that are not subject to normal PC&H charge. This code must only be used when the case has a transportation line, a PC&H line, or a pricing exception granted by OUSD(C)

Delivery Source Code: Performance of DoD Services Under AECA Section 21 or 22

DSC	Description
BA	DoD provided training course
BB	Contractor provided training course
BC	Repair or replace FMS purchaser equipment. IAs must include actual PC&H and transportation for materiel consumed in overhaul in reported cost.
BD	Other DoD services. Does not include “above-the-line” transportation or “above-the-line” packing, crating, handling and transportation (PCH&T) associated with repair or modification of consumer owned equipment that is included in repair cost report using code “BC”.
BE	Storage charge (for other than FMSO cases)
BF	Depreciation associated with leases
BG	LOA sales of articles and services in connection with lease, prior to, during, or after lease period (includes transportation PC&H refurbishment)
BH	Actual PC&H charge. This report must accompany delivery transactions for items sold from inventory with DSC “AK” and “AL”

BK	DWCF activity services
BT	"Above-the-line" transportation to FMS purchasers that is included in the case. This code includes "high-flight" or special airlift. It does not include the "above-the-line" transportation cost that is included in the selling price of an item or service

Delivery Source Code: Unique FMSO Charges

DSC	Description
CA	FMSO I materiel used to support a system obsolete to DoD use (buy out of unique repair parts to support obsolete end items).
CB	Annual inventory maintenance and storage cost. Charge annually on current FMSO II cases. The FMSO I case manager must input the FMS detail delivery transaction. There is no annual charge for cooperative logistics supply support arrangements (CLSSAs) on DWCF items since the DWCF standard (stabilized) price recoups all costs.
CC	Normal inventory loss on procurement appropriation funded secondary items (physical inventory gain or loss, expiring shelf life, and damage of stored parts). Charge assessed annually on current FMSO II cases. The FMSO I case manager must input the delivery transactions. There is no annual charge for CLSSAs on DWCF items since the DWCF standard (stabilized) price recoups all costs.
CD	Cash advances for on-hand portion of FMSO I cases.

Delivery Source Code: Procurement for FMS Purchasers Under AECA Section 22

DSC	Description
DA	Contractor services (other than training).
DB	DWCF item, TDP, or publications from contractor.
DC	Procurement appropriation funded secondary item from contractor.
DD	Procurement funded principal or major item from contractor.
DE[1]	Progress payment to contractor.
DF[1]	DoD services in support of procurement. This code was previously applied to actual CAS hours prior to establishment of the charge. It now applies to other than CAS services.
DG[1]	Nonrecurring Cost (NC) Recoupment Charges (Research and Development and Production). Identifies amount of NC financed by the FMS purchaser and may be used in calculating the Special NC.
DJ[1]	GFM shipped from inventory.
DK[1]	GFM shipped from another contractor.
DL[1]	PCH&T applicable to procurement appropriation funded GFM.
DX	Contractor efforts in overseas locations that are supported by FMS management lines rather than through normal CAS effort.

NOTE:

[1]DSCs DE through DL represent WIP transactions. The breakdown of these charges assures audit trail visibility for pricing purposes. DFAS SCA must treat them as progress payments and report them as such to the FMS purchaser. These charges must be liquidated by one of the contract delivery codes "DA" through "DD" in combination with reimbursement code "N."

Delivery Source Code: Miscellaneous Charges

DSC	Description
EE	Royalty charge - USG TDP.
EF	Other Federal agency shipment from stock.
EG	Other Federal agency shipment from contractor.
EH	North Atlantic Treaty Organization Petroleum, Oil, and Lubricants.
EJ	Redistribute Military Assistance Program property.
EK	Collection of special nonrecurring production charge or license fee for a third country.
EL	Prepositioning costs.
EM	Interest on arrearage computed in accordance with volume 15, chapter 5. This code is restricted to use by DFAS SCA.
EN	NC recoupment charge for sales from procurement or inventory.

Delivery Source Code: Special Defense Acquisition Fund

DSC	Description
SA	SDAF sales of items originally purchased from DWCF inventories.
SB	SDAF sales of items originally purchased from DoD inventories other than DWCF.
SD	SDAF sales of items procured from contractors for the fund.

Attachment 12-2
DSC Surcharge Matrix

(DSC)	Contract Administration[1]	(PC&H)[2]	Admin[3]	Transportation[4,5,6] Parcel Post
AA	N	N	Y	A
AB	N	N	Y	A
AC	N	N	Y	A
AD	N	N	Y	A
AE	N	Y	Y	B
AG	N	Y	Y	B
AH	N	N	Y	A
AJ	N	N	Y	A
AK	N	N	Y	B
AL	N	N	Y	B
BA	N	N	Y	N
BB	Y	N	Y	N
BC	N	N[7]	Y	N[7]
BD	N	N	Y	N
BE	N	N	Y	N
BF	N	N	N	N
BG	N	N	Y	N
BH	N	N	Y	N
BK	N	N	Y	N
BT	N	N	Y	N
CA	N	N	N	N
CB	N	N	Y	N
CC	N	N	Y	N
CD	N	N	N	N
DA	N	N	Y	N
DB	N	N	Y	A
DC	N	N	Y	B
DD	N	N	Y	N
DE	Y	N	Y	N
DF	N	N	Y	N
DG	N	N	Y	N
DJ	N	N	Y	N
DK	Y	N	Y	N
DL	N	N	Y	N
DX	N	N	Y	N
EE	N	N	Y	N
EF	N	Y[8]	Y	B[9]
EG	N	N	Y	B[9]
EH	N	N	Y	N

EJ	N	Y	Y	Y
EK	N	N	Y	N
EL	N	N	N	N
EM	N	N	N	N
EN	N	N	Y	N
SA	N	N	Y	A
SB	N	Y	Y	B
SD	N	Y	Y	B
SE	N	N	Y	B

Notes:

1. DFAS SCA will compute CAS if price code is “N and reimbursement code is other than “N” unless statutory waiver of contract administration has been made. See paragraphs 080402.D and 080402.P of this chapter.
2. PC&H does not apply to DWCF items with ship dates after September 30, 1990.
3. Administrative costs will be computed unless administrative costs have been waived pursuant to statute.
4. The Inland CONUS transportation charge of 3.75 percent does not apply to DWCF shipments with shipping dates after September 30, 1990. Computation for generic codes L1D and L1E for DWCF items was discontinued on items with shipping dates after September 30, 1991.
5. In this column, A refers to items furnished from DWCF. B refers to inventory items that are not shipped from DWCF. Transportation for inventory items furnished from DWCF to freight forwarders or Canada (except Newfoundland and Labrador) is included in the price. Shipments beyond that point are computed according to table 8-49. Costs for items that are not furnished from DWCFs are also computed according to volume 15, chapter 7 and table 8-50.
6. Transportation costs are computed using the TBC of the transaction. However, if this position is blank, transportation costs are computed using the DTC. If a DTC is not on the DTC table, reject the transaction.
7. Included in actual or estimated actual repair cost.
8. Computed standard PC&H except if RIC begins with “G.” RIC that begins with “G” will not have PC&H computed.
9. For DSC “EF” and “EG” when transportation is by GSA (RIC begins with “G”) and the TBC is not blank or where the TBC is blank and the DTC is other than “4”, the CONUS transportation add-on (generic codes L1A, L1D, and L1E) is not computed. GSA includes CONUS transportation in the price of the item.

Chapter

13 Systems Acquisition and International Armaments Cooperation

Introduction

This chapter introduces another term in the lexicon of international defense interactions– International Armaments Cooperation (IAC). IAC is defined as: cooperative research, development, test, and evaluation of defense technologies, systems, or equipment; joint production and follow-on support of defense articles or equipment; and procurement of foreign technology, equipment, systems or logistics support. Over time, a variety of names have been applied to this area of cooperation to include: armaments cooperation; international armaments cooperation (IAC); international armaments cooperation programs (IACP); defense cooperation in armaments (DCA); and international cooperation in acquisition, technology and logistics (IC in AT&L). In general, all of these terms can be considered synonyms.

As discussed earlier in Chapter 1, the term security assistance (SA) refers primarily to a group of twelve major programs authorized by the Foreign Assistance Act (FAA) and the Arms Export Control Act (AECA). SA itself may be viewed as a portion of a broader area of Department of Defense (DoD) international interaction referred to as security cooperation (SC). IAC is not a SA program but is a parallel area of international defense engagement under the SC umbrella. While the FMS program predominately involves the sale of various defense systems that the DoD has already developed and deployed to its own forces, IAC predominantly focuses on interfacing with international partners during the research, development, testing and evaluation (RDT&E) and production phases of the U.S. systems acquisition process.

Like SA, IAC seeks to enhance U.S. national security but does so through different methods. It is important that SA personnel have some familiarity with IAC because IAC activities often are concurrently underway with foreign customers in addition to SA activities. From the foreign purchaser's perspective, both areas involve a defense relationship with the U.S. and the foreign customer may not recognize the different management structure the U.S. applies to IAC programs versus the management structure for SA programs.

The purpose of this chapter is to introduce IAC to the SC professional in order to promote awareness and enable individuals to be familiar with the fundamental principles of IAC in the event that an international customer raises IAC related issues within the SA arena. Due to IAC's intertwined relationship with the U.S. systems acquisition process, this chapter first discusses the DoD systems acquisition process and foreign partner's potential involvement. Several key documents developed during the systems acquisition process are described due to their role in international program security. The balance of this chapter summarizes the different types of IAC programs and the key IAC organizations within the DoD.

Please note that this chapter provides a very abbreviated overview of the systems acquisition process with a focus on the international aspects of the process. For more in-depth DoD systems acquisition information, visit the Defense Acquisition University web site (www.dau.mil) to review the many online and in-residence acquisition courses available.

United States Systems Acquisition Process

Before considering how DoD conducts IAC, one must briefly review the way DoD creates military systems for itself. An additional reason to look at DoD's system development process is to recognize that technology transfer and system security factors must be evaluated prior to engaging in any future foreign sales. These technology transfer and system security factors should be considered within the system development process itself. The DoD does not wait until an FMS letter of request (LOR) is submitted to begin evaluating the various technology transfer and releasability issues. DoD's system acquisition policy requires these issues to be examined concurrent with new system development.

Capability Requirements Determination

Prior to entering the systems acquisition process, DoD must determine what capabilities it requires to accomplish national security goals in the future. The DoD's process for identifying, assessing, validating, and prioritizing its future capability requirements is called the Joint Capabilities Integration and Development System (JCIDS). In fact, it is common to refer to JCIDS as the requirements process. JCIDS plays a key role in identifying the capabilities required to support the National Security Strategy, the National Defense Strategy, and the National Military Strategy. The JCIDS process supports the acquisition process by identifying and assessing capability needs and desired system performance criteria that will be used as the basis for the acquisition. In other words, JCIDS defines the capability requirement. The systems acquisition process then undertakes to identify or create the technology and then engineer this technology into an integrated system that delivers the required capabilities to the operational users. The JCIDS policy and process is described in CJCSI 3170.01I, *Joint Capabilities Integration and Development System*.

System Acquisition Policy

Validated capability requirements from the JCIDS process that require a materiel solution are managed to resolution through the Defense Acquisition System. The Defense Acquisition System is the management framework DoD uses to develop, produce, and sustain weapon systems. The key system acquisition policy documents are:

- DoD Directive 5000.01, *The Defense Acquisition System*
- DoD Instruction 5000.02, *Operation of the Defense Acquisition System*

Both of these policy documents are publicly accessible. All military departments (MILDEPs) and other DoD organizational entities are required to use the processes specified in these documents to develop new weapon systems. If, under FMS, the DoD approves developing a unique system or a major modification to an existing system for an FMS customer, these same system acquisition policies and processes would apply to the FMS system development or modification work.

Defense Acquisition Oversight Structure

If DoD undertakes an FMS-unique development or major system acquisition project, the FMS customer and the SC workforce should be familiar with the acquisition oversight structure that will be applied. The acquisition oversight structure depends primarily on the scope and costs of the program. Each acquisition program will be assigned an acquisition category (ACAT). The ACAT specifies the corresponding management level for program review and decision that must be accomplished for the program to progress through the various acquisition milestones and decision points. The ACAT categories are described in DoD Instruction 5000.02, Enclosure 1.

The most complex and expensive acquisition programs must be reviewed and have decisions rendered by the Defense Acquisition Executive (DAE). The DAE is the Under Secretary of Defense for Acquisition, Technology and Logistics [USD (AT&L)]. The next tier of programs (ACAT II) is

reviewed by the Component Acquisition Executive (CAE), which is the senior acquisition individual within each military service. The final tier of programs (ACAT III) will have decisions made by an individual designated by the CAE. This individual often is the Program Executive Officer (PEO). In the acquisition management structure, PEOs are individuals that typically have responsibility for overseeing one or more acquisition programs and report to the CAE.

An acquisition program manager (PM) is responsible for leading a multidisciplinary team to manage all aspects of an individual acquisition program and for guiding the program towards meeting all cost, schedule, and system performance goals. An acquisition program management team typically includes functional experts from program management, systems engineering, testing, finance, contracting, logistics, information technology, and manufacturing. Individual program managers report on program performance through the acquisition management structure applicable to the program's ACAT. This may include reporting to the PEO, CAE and DAE.

Defense Acquisition Management Framework

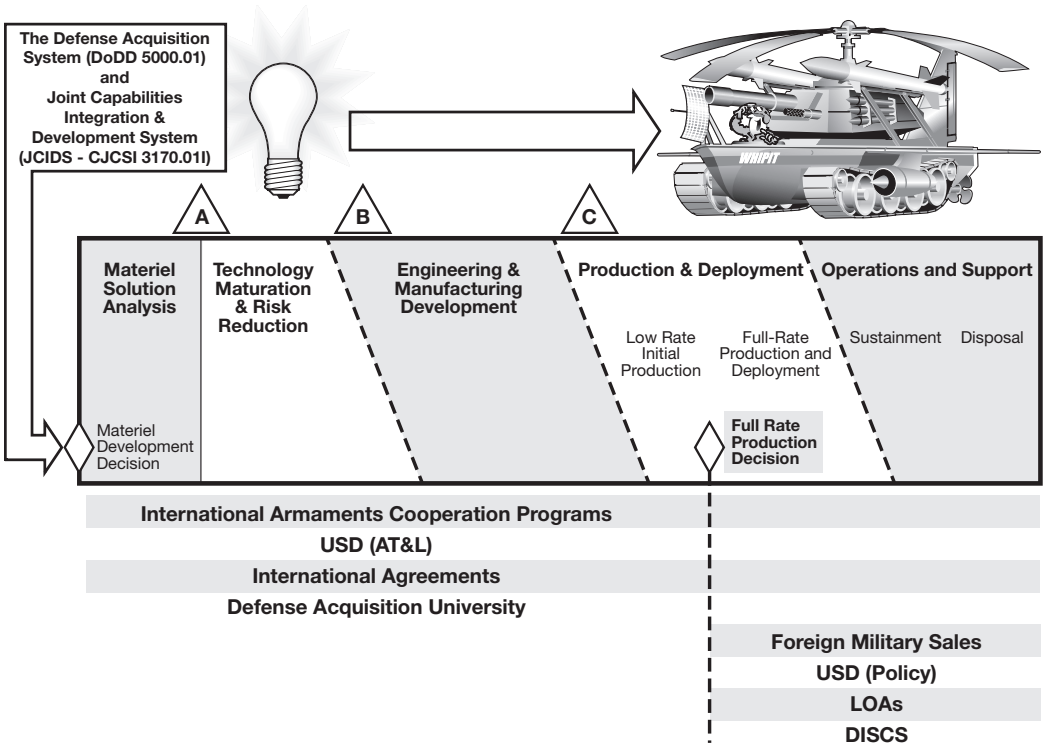
The DoD defense acquisition management framework is depicted in figure 13-1. This life cycle process consists of five phases:

- Materiel solution analysis
- Technology maturation and risk reduction
- Engineering and manufacturing development
- Production and deployment
- Operations and support

A Materiel Development Decision begins the system acquisition process. A Materiel Development Decision results when the JCIDS requirement analysis concludes that changes to existing doctrine, organization, training, materiel, leadership and education, personnel, facilities, or policy (DOTMLPF-P) will be unable to produce the new capability requirement. Consequently, a new materiel solution is required. The defense acquisition system is the process used by the DoD to create materiel solutions that produce the necessary capabilities as identified by JCIDS. The defense acquisition system's lifecycle processes includes a series of progressive activities. In order to progress through this series of activities, certain event-driven reviews and decisions are required to be successfully accomplished in order to proceed to the subsequent phases. Some of the key activities include analyzing various alternatives for achieving the desired capability, creating or identifying underlying technologies, engineering the applicable technologies into a system design, testing the designs to validate utility, developing the capacity to produce the selected design, and fielding the support infrastructure to sustain the system over its expected life.

FMS programs are typically generated during the last two phases of the system acquisition life cycle. Generally, the USG will only agree to sell systems through FMS that have completed operational test and evaluation (OT&E). Therefore, the key acquisition decision point from an FMS perspective is OT&E completion which precedes the full rate production decision. If a foreign customer requests a letter of offer and acceptance (LOA) for a system that has not yet completed OT&E, a policy waiver is required. In this situation, the Defense Security Cooperation Agency (DSCA) will coordinate with the USD (AT&L) before offering an LOA for the system (SAMM C5.1.8.3).

Figure 13-1
Defense Acquisition System Life Cycle



The reason for this policy concerns future supportability and interoperability issues. Prior to completion of OT&E and a full rate production decision, there is the risk that the U.S. may decide not to produce the system. This would present an undesirable situation if the U.S. has committed under an LOA to deliver a system to an FMS customer but decided not to deliver this same system to U.S. forces. The FMS customer would encounter a nonstandard support environment to sustain the system and might lack interoperability with U.S. forces. If the waiver is approved, the LOA for the FMS program must include a special note identifying the risk that the USG may not place this system into production. This waiver policy is often referred to as an operational test and evaluation incomplete waiver. It is also known within the acquisition community as a Yockey waiver, named after a former Under Secretary of Defense for Acquisition.

DODI 5000.02 directs the CAE to select a program manager to manage the program and establishes a program office during the first phase of the system acquisition process, Materiel Solution Analysis. The program manager is responsible for formulating the acquisition strategy and executing approved acquisition plans. The program manager typically performs these functions with the assistance of a multidisciplinary support team. Collectively, the program manager, with the respective support team, constitute the program office. Table 13-1 identifies some of the typical areas of functional expertise within a program office.

Table 13-1
Program Office Functional Areas

Program Management	Logistics
Engineering	Financial Management
Test and Evaluation	Production/Manufacturing
Contracting	Information Technology

With the support of the system program management office team, the program manager is responsible for leading the program through the remaining phases, decision reviews, and acquisition milestones of the defense acquisition system process. In addition, the program management office remains in place to manage all the technical and life cycle sustainment aspects of the system after it is delivered to U.S. forces. The program management office will also be responsible for acquiring any additional quantities for DoD and developing improved or modified configurations.

If the U.S. agrees to sell the system through FMS, the acquisition will be accomplished by the same program management office that is managing the system for the U.S. The system program management office may acquire the FMS requirements either as separate individual procurements or by consolidating the FMS requirements with DoD requirements on the same U.S. contract. More information on contracting for FMS is in chapter 9 of this textbook.

The end of the acquisition life cycle concerns disposal. An integral part of the system development effort is to plan for eventual demilitarization and disposal. For the FMS customer, the DoD decision to curtail or end operations of a given system can impact sustainment support. The components of the system may transition from being standard to nonstandard items. The DoD policy (SAMM C4.4.3) is to take reasonable steps to support all systems sold through FMS for as long as the FMS customer chooses to operate the system. Many examples exist where DoD currently supports systems operated by FMS customers that the DoD no longer actively retains in its inventory. More information on non-standard support is in chapter 10 of this textbook.

System Acquisition Documents Associated With Foreign Military Sales

History shows that most U.S. defense systems will eventually be sold or shared with other friendly nations sometime during the system's life cycle. There are many political, military, and economic advantages resulting from the use of the same military equipment by the U.S. and its allies. Whether the situation is just a loan of communications gear to enable a joint operation or a decision to sell advanced military aircraft, the U.S. must evaluate the benefits and risks of sharing military technology and capabilities. As DoD develops new weapon systems, the potential for future international involvement, perhaps to include cooperative development, FMS, or Direct Commercial Sales (DCS), must be considered. DoD Directive 5000.01, Enclosure 1 states that program managers are to pursue international armaments cooperation to the maximum extent feasible, consistent with sound business practice and with the overall political, economic, technological and national security goals of the U.S.

Several documents are generated during the system acquisition process that support evaluating and planning for possible foreign involvement with the system. This section summarizes six key documents developed in the system acquisition process that relate to potential FMS system sales.

Cooperative Opportunities

Rather than the U.S. independently funding and managing a new major system development, Congress requires the DoD to evaluate potential opportunities to cooperatively develop new systems through partnering with one or more other countries. The applicable section of law (10 U.S.C. 2350a(e)) refers to a cooperative opportunities document (COD) being used to accomplish this evaluation. DODI 5000.02 requires that the legal requirement to evaluate cooperative opportunities will now be incorporated into the international involvement section of the acquisition strategy.

The Defense Acquisition Guidebook describes the acquisition strategy as a comprehensive, integrated plan that identifies the acquisition approach, and describes the business, technical, and support strategies that management will follow to manage program risks and meet program objectives. The acquisition strategy should define the relationship between the acquisition phases and work efforts, and key program events such as decision points, reviews, contract awards, test activities, production

lot/delivery quantities, and operational deployment objectives. The acquisition strategy evolves over time and should continuously reflect the current status and desired end point of the program.

The cooperative opportunities evaluation process identifies the benefits and risks of foreign participation, particularly in the areas of technology sharing and standardization. This analysis begins to form a U.S. position regarding foreign access to the technologies and capabilities contained within the weapon system and influences future FMS and DCS decisions.

A current example of an international cooperative program is the Joint Strike Fighter (JSF) program. In this program, the U.S. Air Force, Navy, Marines, and several other countries are working together to cooperatively develop and produce the JSF. With regard to future JSF sales to other countries, many of the technology transfer and releasability issues have already been identified and resolved during the cooperative development effort.

Program Protection Plan

The weapon systems created via the acquisition process provide the DoD the capabilities necessary to protect U.S. national security. Critical Program Information (CPI) consists of the critical elements of the system that produce or enable a unique capability and make it valuable to U.S. defense forces. CPI includes information that, if compromised, could:

- Enable an adversary to defeat, counter, copy, or reverse engineer the technology or capability
- Significantly degrade mission effectiveness
- Shorten the system's expected combat-effective life
- Reduce technological advantage
- Significantly alter program direction

The objective of the program protection plan (PPP) is to identify CPI and to protect it from hostile collection efforts and unauthorized disclosure during the acquisition process. The process of preparing a PPP is intended to help program offices consciously think through what needs to be protected and to develop a plan to provide that protection. Once a PPP is in place, it should guide program office security measures and be updated as threats and vulnerabilities change or are better understood. Per DoD Instruction 5200.39, Critical Program Information (CPI) Identification and Protection Within Research, Development, Test, and Evaluation (RDT&E) defines a PPP as a risk-based, comprehensive, living plan to guide efforts for managing the risks to CPI and mission-critical functions and components.

The PPP considers system vulnerabilities, specific threats, and countermeasures to be employed to protect the item under development. Inputs from the counterintelligence (CI), security, and intelligence communities are required for this analysis as it applies to threats, vulnerabilities, and countermeasures. An initial PPP is prepared to support Milestone A and is updated to support subsequent milestone decisions. The program manager, with advice and assistance from supporting CI and security staffs, can design a cost-effective plan using a combination of security countermeasures. In addition to the elements within the system itself, consideration should be given to any engineering processes, fabrication techniques, diagnostic equipment, simulators, or other support equipment associated with the system as possible CPI that should be addressed within the PPP.

The relevance of the PPP to the FMS process is that it begins to identify which elements of the system represent security and technology release concerns. If an FMS customer desires to purchase the system, the PPP created during system development will have already identified the system CPI that needs to be evaluated relative to potential release under an FMS.

Security Classification Guide

The DoD information security program requires that security classification guidance be issued for each system or program that involves classified information. This security guidance is typically issued via a document called a Security Classification Guide (SCG). The SCG identifies the specific items of information and the levels of protection required, as well as the time periods for which protection must be provided. The SCG is referenced or included as an appendix to the PPP. System or program information is classified either originally or derivatively. Original classification occurs when information is developed that inherently meets the criteria for classification. An official with original classification authority (OCA) will determine whether an item of information could reasonably be expected to cause damage to the national security if subjected to unauthorized disclosure, and will assign the appropriate level of classification to the information. New systems or programs may incorporate information from other sources. Derivative classification occurs when information already known to be classified is incorporated in a new document or form, and the newly developed material is marked consistent with the classification markings that apply to the source information. The Defense Technical Information Center (DTIC) retains an index of existing SCGs to assist DoD officials in determining whether existing security classification guidance may be relevant to the new system or program. DODM 5200.45 provides instructions and recommended format for developing SCGs.

Technology Assessment and Control Plan

Acquisition policy encourages program managers to pursue foreign participation in programs. The directives and instruction listed below and the Defense Acquisition Guidebook require that a Technology Assessment/Control Plan (TA/CP) be developed when any form of international involvement, such as cooperative development, technology sharing agreements, coproduction agreements, foreign sales, or follow-on support by foreign sources is anticipated.

- DODD 5530.3, *International Agreements*
- DODD 5230.11, *Disclosure of Classified Military Information to Foreign Governments and International Organizations*
- DODI 5200.39, *Critical Program Information (CPI) Identification and Protection Within Research, Development, Test, and Evaluation (RDT&E)*

The TA/CP serves several purposes to include: (1) assessing the feasibility of foreign participation in cooperative programs from a foreign disclosure and technology security perspective; (2) assisting in the preparation of negotiating guidance on the transfer of classified information and critical technologies in the negotiation of international agreements; (3) identifying security arrangements for the program; (4) assisting in drafting the Delegation of Disclosure Authority Letter (DDL) (to be discussed in the next section); (5) supporting the acquisition decision review process; and (6) assisting in making decisions on Direct Commercial Sales (DCS), Foreign Military Sales (FMS), and coproduction or licensed production of the system.

The TA/CP format and content is defined by DODD 5530.3 enclosure 7 and consists of four sections:

- The Program Concept section concisely describes the purpose of the program and the threat or military or technical requirement that created the need for the program.
- The Nature and Scope of the Effort section describes how the technical and/or military operational objectives will be satisfied, how the program will be organized or phased, and how the program will benefit the U.S.
- The Technology Assessment section analyzes the technology involved in the program, its value from both a military and commercial perspective, and the consequences of compromise. The assessment should discuss any known foreign availability of the

information or technology involved, and any previous release of the same or similar information or technology to other countries. This assessment should provide a conclusion regarding whether foreign involvement will result in clear benefits to the U.S. that outweigh any damage that might occur.

- The control plan identifies measures to minimize the potential risks and damage to the U.S. through loss, diversion or compromise and ultimately will be implemented in the DDL. It describes how the security requirements will be satisfied. Control plan measures may include:
  - ◊ Restrictions on release of specific information
  - ◊ Use of modified or FMS-only versions of critical components
  - ◊ Application of anti-tamper technology in system design
  - ◊ Phasing the release of information over the course of the program
  - ◊ Special security procedures to control access to program information

System security engineering (SSE) and the use of anti-tamper technology can be part of this control process. SSE evaluates whether system vulnerabilities can be "engineered out" and whether security can be "built in" during system design. This approach facilitates providing advanced capability to foreign users while protecting the underlying technology. Each FMS letter of offer and acceptance contains a standard term and condition that addresses the use of anti-tamper technology. Standard term and condition 1.3 states: "The USG may incorporate anti-tamper (AT) protection into weapon systems and components that contain critical program information (CPI). The AT protection will not impact operations, maintenance, or logistics provided that all terms delineated in the system technical documentation are followed."

Delegation of Disclosure Authority Letter

The disclosure of classified military information (CMI) must be approved by an appropriate disclosure official. A designated disclosure authority is an official at a subordinate component level that has been designated by the DoD component's principal disclosure authority to control disclosures of classified military information by their respective organization. A Delegation of Disclosure Authority Letter (DDL) is used to delegate disclosure authority to subordinate disclosure authorities. The DDL explains classification levels, categories, scope, and limitations of information under a DoD component's disclosure jurisdiction that may be disclosed to a foreign recipient. A DDL provides detailed guidance regarding releasability of all elements of a system or technology.

The DDL is generated using the guidelines and restrictions identified by the technology assessment and control plan. The DDL's purpose is to provide disclosure guidance to foreign disclosure personnel so that they may carry out their releasability review functions. Delegated disclosure authorities are responsible for reporting all disclosures of classified information made under their delegation in the Foreign Disclosure System (FDS).

DoD Directive 5230.11, *Disclosure of Classified Military Information to Foreign Governments and International Organizations* states that DoD components are to use the TA/CP as the basis for making weapon system disclosure decisions in support of cooperative programs, foreign participation in the DoD procurement activities, and foreign sales. DODD 5230.11 enclosure 4 provides the format for a DDL and requires that the following eight elements be addressed within the DDL:

- Classification: Highest classification of information to be disclosed
- Disclosure Methods: Approved methods of disclosure, e.g., oral, visual or documentary

- Categories Permitted: National Disclosure Policy categories of information to be disclosed or released
- Scope: Who is authorized to release material or information, and to whom disclosure is authorized
- Authorized for Release/Disclosure: Material or information that can be released or disclosed
- Not Authorized for Release/Disclosure: Conditions or limitations including material or information that cannot be released disclosed
- Procedures: Review and release procedures, special security procedures or protective measures be imposed
- Redelegation: Extent of redelegation of authority, if any, permitted to subordinate activities

Program Security Instruction

Many international agreements for cooperative programs contain a requirement for the preparation of a program security instruction (PSI). The PSI is an extension of the program international agreement. As such, it must be approved by the national security authorities of the participating governments. The PSI is used to reconcile differences in the security requirements of the various participating governments into a single set of standard security procedures for the specific cooperative program. The PSI deals with classified and controlled unclassified information (CUI) furnished by the participants or generated in the program.

The content of the PSI is based on an analysis of the program structure, the number of governments and contractors participating in the program, the complexity of the program, and the range of security procedures that are anticipated for use during the program. The program manager, technical staff, and participating contractors must assist in identifying the security requirements, since they will be managing the program and using the procedures. The PSI will represent a rationalization of the security procedures of all participating governments. PSIs are typically prepared by a working group composed of security professionals from the participating countries.

The Multinational Industrial Security Working Group (MISWG) has developed twenty standardized documents containing policies and procedures to be applied to various security related functions arising from international cooperative projects. One of the MISWG documents (MISWG #5) is a standardized PSI.

International System Acquisition Initiatives

Defense Exportability Features

Historically, exportability features were often not considered until after a defense system had already been designed, tested, and put into production for U.S. forces. Failing to consider defense exportability features in the early phases of the defense systems acquisition process resulted in higher than necessary costs and significant time delays while DoD reengineered systems to incorporate the required program protection measures for export sales. To counter these issues and to enable the export of U.S. systems to a wide range of partner nations, Congress authorized the Defense Exportability Features (DEF) pilot program in FY 2011 under the authority of 10 USC 2358. In FY 2012, Congress added a requirement for 50 percent cost sharing with industry for DEF. In order to provide more time to evaluate the impact of the Pilot Program, the FY 2014 NDAA extended the DEF Pilot Program five years, to October 1, 2020. The DEF Pilot Program legislation was again amended in the FY 2015 NDAA, which changed the industry matching requirement from “at least half” to “half” of the cost of DEF activities and inserted “or such other portion as the Secretary [of Defense] considers appropriate upon showing good cause.”

The DEF pilot program encourages DoD acquisition programs that are nominated by their Component Acquisition Executives and selected by AT&L/IC, to assess, design, and incorporate defense exportability features in their systems. Once selected to the pilot program, DEF Pilot Program designated systems have the opportunity to request funding to perform initial feasibility studies and subsequent design activities associated with designing, developing, and implementing DEF. The DEF pilot programs support DoD's larger goals of enabling foreign sales in order to enhance coalition interoperability, decrease costs to DoD and international partners through production economies of scale, and improve international competitiveness of U.S. defense systems. More information on DEF is available at: www.acq.osd.mil/ic/DEF.html.

Coalition Warfare Program

Current U.S. military strategy and the global security environment make coalition warfare and multinational operations fundamental features of the U.S. national security strategy. Despite decades of conducting multinational operations, the U.S. and its partners continue to experience challenges in conducting coalition operations with shortcomings in areas such as information sharing; command, control, communications, computer, intelligence, surveillance, and reconnaissance (C4ISR); battlespace awareness; humanitarian assistance/disaster relief; and logistics.

The Coalition Warfare Program (CWP) program addresses these needs by providing seed funding to DoD organizations to conduct cooperative RDT&E projects with foreign government partners. CWP funded projects accelerate the delivery of high-quality solutions to warfighter problems, improve U.S. interoperability with its coalition partners, and strengthen global partnerships. The goals of the CWP program are to:

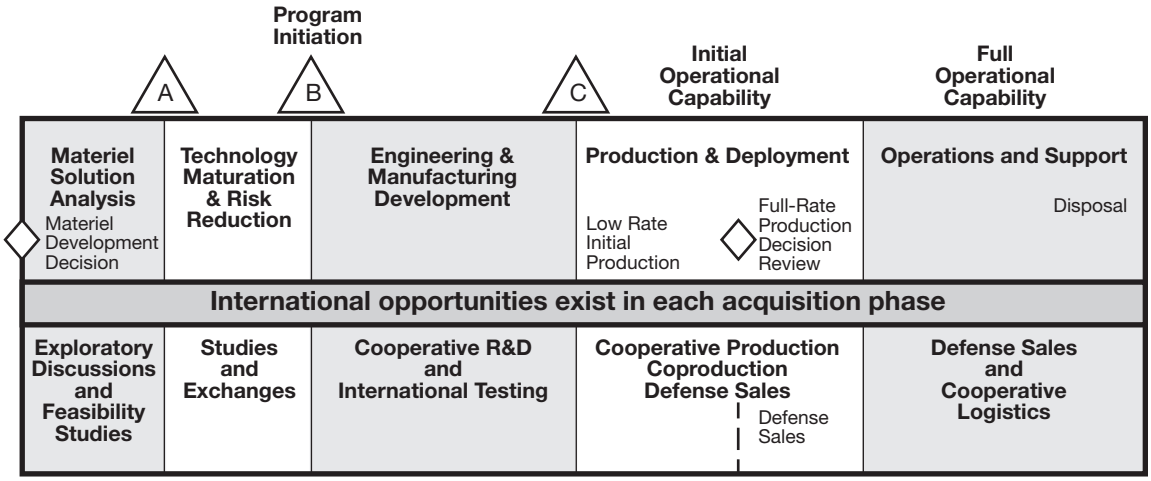
- Collaboratively address strategic technology gaps for current and future missions
- Develop interoperability solutions for coalition operations
- Strengthen current defense partnerships and develop new relationships

The CWP operates on an annual project nomination cycle. CWP proposals can be generated by DoD agencies, services, combatant commands, or the Office of Secretary of Defense staff. CWP nominations cannot be accepted from industry or foreign organizations. More information on CWP is available at: www.acq.osd.mil/ic/cwp.html.

International Armaments Cooperation

The term International Armaments Cooperation (IAC) covers a multi-faceted area in which the U.S. cooperates with other countries and international organizations to research, develop, acquire and sustain military systems. The U.S. may work with friends and allies across the entire system acquisition life cycle. Figure 13-1 illustrates that FMS occurs later in the life cycle after the system has already been fully developed and placed into production. IAC primarily represents opportunities to cooperatively work with other countries in the earlier developmental phases of a system's life cycle. Figure 13-2 illustrates the various types of IAC activities that may occur across the systems acquisition life cycle.

Figure 13-2
IAC In Systems Acquisition Life Cycle



IAC is generally conducted with nations that have solid political and economic ties with the U.S., similar military requirements, and a reasonably robust defense, science and technology base. Although some countries may be quite important from a political, economic, or military standpoint, if they have different military requirements or lack a substantial defense industrial base, there may be little potential for successful IAC activity.

International Armaments Cooperation Objectives

The International Cooperation in Acquisition, Technology, and Logistics Handbook lists the core objectives of armaments cooperation as:

- Operational—increase military effectiveness through interoperability and partnership with allies and coalition partners
- Economic—reduce weapons acquisition cost by sharing costs, economies of scale and avoiding duplication of development efforts with our allies and friends
- Technical—access the best defense technology worldwide and help minimize the capabilities gap with allies and coalition partners
- Political—strengthen alliances and relationships with other friendly countries
- Industrial—bolster domestic and allied defense industrial bases

International Armaments Cooperation Programs

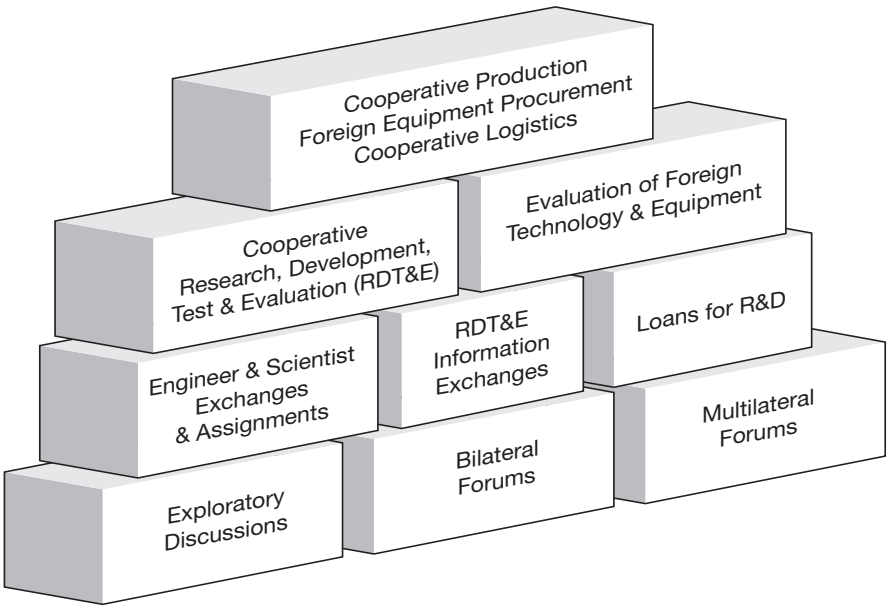
The major individual programs and cooperation areas that comprise the overarching term IAC are listed below. Each of these IAC programs will be presented in more detail later in this chapter.

- Information Exchange Program (IEP)
- Engineer and Scientist Exchange Program (ESEP)
- Test and Evaluation Program (TEP)
- Foreign Comparative Testing (FCT) Program

- Cooperative Research, Development, and Acquisition Programs
- Defense Trade
- Cooperative Logistics

Although these are separate IAC activities, there often is an evolutionary relationship between these activities. For example, basic discussions originating from one of the IAC meeting forums may lead to an initial basic cooperative program which may eventually, in turn, lead to a future, more advanced level of cooperation. This building block relationship between IAC programs is illustrated in figure 13-3.

Figure 13-3
Building Blocks of International Armaments Cooperation



International Armaments Cooperation Legislative Authority

Over the years, Congress has enacted a number of laws encouraging and enabling IAC with U.S. allies in the acquisition of defense equipment. Most are codified in Title 10 *United States Code* (U.S.C.) —Armed Forces, and Title 22 *Foreign Relations and Intercourse*. The laws, regulations, and policies that apply to armaments cooperation activities are complex. These IAC laws, regulations and policies in most instances apply in addition to, not instead of, applicable domestic DoD acquisition laws and policies. Given this complexity, assistance in interpreting and applying IAC laws, regulations, and policies should be obtained from one of DoD's IAC organizations.

International Armaments Cooperation Oversight

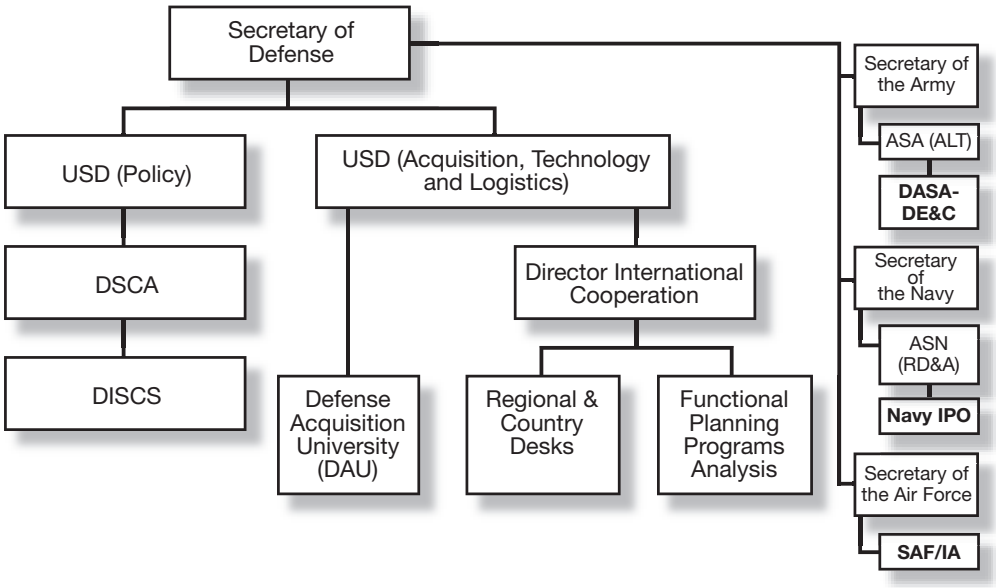
DoD oversight for the military components of SA (such as FMS, FMFP and IMET) is the responsibility of the Under Secretary of Defense for Policy [USD (P)]. IAC, on the other hand, has a different chain of command. The USD (AT&L) is responsible for all IAC activities. In this role, the USD (AT&L) serves as the U.S. National Armaments Director (NAD). The USD (AT&L) established the Office of International Cooperation (IC) to focus on overseeing IAC activities. The USD (P) has a supporting role in IAC by reviewing international agreements for foreign policy considerations. Figure 13-4 illustrates the relationship of IAC oversight to security assistance oversight.

International Armaments Cooperation within Military Departments

Each military department has established an infrastructure to support armaments cooperation programs. Figure 13-4 illustrates these organizations.

Figure 13-4

Department of Defense International Programs Organization



The Deputy Assistant Secretary of the Army for Defense Exports and Cooperation is responsible for Army IAC programs. The office with day-to-day responsibility is the Director of Armaments Cooperation. Within its Research and Development Command (RDECOM), the Army has overseas International Technology Centers (ITCs). The goal of the ITCs is to promote interoperability and standardization with allies and coalition partners. To achieve this goal, ITCs seek to identify and facilitate international cooperation in technology, acquisition and logistics activities. ITCs are located in Argentina, Australia, Canada, Chile, France, Germany, Japan, Singapore and the United Kingdom.

The Army Research Laboratory maintains two overseas offices to identify and leverage science and technology opportunities for collaboration. These are the European Research Office in London and the Asian Research Office in Tokyo.

The Assistant Secretary of the Navy (ASN) for Research, Development and Acquisition has delegated responsibility for IAC programs to the Navy International Programs Office (Navy IPO). Within the Navy IPO, the Directorate of Technology Security and Cooperative Programs is responsible for all IAC activities. Under the Office of Naval Research (ONR), the Navy has overseas research and development liaison offices in Australia, Chile, Japan, Singapore and the United Kingdom.

The Deputy Under Secretary of the Air Force for International Affairs (SAF/IA) has assigned oversight of Air Force IAC programs to the Director of Policy (SAF/IAP) who has established a liaison office in Canberra, Australia. In addition, under the Air Force Office of Scientific Research (AFOSR), the Air Force has three overseas IAC offices:

- The European Office of Aerospace Research and Development (EOARD) in London
- The Asian Office of Aerospace Research and Development (AOARD) in Tokyo
- The Southern Office of Aerospace Research and Development (SOARD) in Arlington, Virginia, which coordinates research activity in Central America and South America

In addition to the military department sponsored IAC overseas offices, DoD assigns dedicated IAC personnel within countries that conduct a significant volume of IAC activity with the U.S. These dedicated armaments cooperation personnel assigned overseas serve as the in-country liaison for the USD (AT&L). They assist the host government obtain information on U.S. equipment and programs as well as help DoD acquisition organizations obtain information on host nation equipment, requirements and programs in support of IAC. This function extends to assisting industry in gaining access to the other nation's defense markets and in developing cooperative programs.

In-country personnel dedicated to IAC usually fall under the supervision and oversight of the SCO Chief (or defense attaché in the absence of a SCO). Chapter 4 of this textbook describes SCO responsibilities. If there are no dedicated IAC personnel assigned to the country, the SCO Chief is responsible for IAC support functions to the degree that resources permit. SCOs with IAC responsibilities should maintain and review the OSD (AT&L) *International Cooperation in Acquisition, Technology, and Logistics Handbook* (http://www.acq.osd.mil/ic/Links/IChandbook.pdf). Chapter 10 of the handbook addresses the role of the SCO in IAC. In countries where there is not a SCO, the armaments cooperation point of contact is usually the defense attaché.

International Agreements

IAC programs use international agreements as the official government-to-government document rather than LOAs. Under one or more of the IAC authorities, the U.S. and one or more countries are agreeing to cooperate in research, development, acquisition or sustainment activity. The international agreement serves as the basis to define the extent and methods for the cooperative activity. Fundamentally, the participants must agree on how the work will be performed, how any costs will be shared and the extent of rights to utilize the results of the cooperative activities. International agreements may be referred to as Memorandums of Understanding (MOUs) or Memorandums of Agreement (MOAs). Unlike LOAs, international agreements constitute a binding commitment subject to international law. DoD Directive 5530.3, *International Agreements*, governs the international agreements process.

Unlike LOAs, international agreements are developed through a process of negotiation. To assist in developing armaments cooperation international agreements, DoD created the international agreements generator. This software permits draft agreements to be quickly developed while ensuring they conform to relevant U.S. law, regulations, and policies as well as the generally accepted international agreement formats and norms used by foreign nations. The Defense Acquisition University offers a resident course, ACQ-340 Advanced International Management Workshop, that covers the international agreement process.

The Case Act [1 U.S.C. 112b(a)] requires executive agencies to consult with the Secretary of State before signing an international agreement, as well as to provide copies of all IAs after they have been concluded. The DoD is also required to consider the effects of any agreement on the U.S. industrial base, and to consult with the Department of Commerce (DOC) about the commercial implications and potential effects on the international competitive position of U.S. industry. More information on the international agreements process is presented in chapter 12 of the *International Cooperation in Acquisition, Technology, and Logistics Handbook*.

International Armaments Cooperation Programs

As previously discussed, there are seven primary programs or areas of cooperation that comprise IAC:

Information Exchange Program

Since the 1950s, DoD components have collaborated with the defense components of allied and friendly nations to exchange scientific and technical (S&T) information in areas of mutual interest. The IEP is conducted under the provisions of DoD Instruction 2015.4, *Defense Research, Development,*

Test and Evaluation Information Exchange Program.

The objectives of the IEP are to:

- View different ways of approaching similar technical challenges
- Avoid duplication of research and development (R&D)
- Access technological advances
- Identify areas for further collaboration
- Promote interoperability

Through the IEP, the U.S. and other nations conduct RDT&E information exchanges under the authority of formal information exchange agreements. The term "information" under the IEP includes knowledge obtained in any manner by observation, investigation, or study and the ideas inferred such as that of a scientific, technical, business, financial or programmatic nature. The term "information" includes a variety of source elements as identified in table 13-2.

Table 13-2
IEP Information Sources

Photographs	Reports	Technical Writings
Manuals	Threat data	Sound recordings
Experimental data	Designs	Magnetic media
Specifications	Processes	Pictorial representations
Techniques	Drawings	Other graphical interpretations

Information Exchange Program Master Agreements

S&T information can be exchanged between the U.S. and a foreign nation using a situation-by-situation release process. However, such independent exchanges are cumbersome and may lack adequate legal protection for the information exchanged, particularly in the area of intellectual property rights. These releases of information must each undergo a separate review and approval by the cognizant foreign disclosure and international programs organizations.

The IEP replaces the situation-by-situation review process with an overarching master agreement structure with subsequent annexes. A master IEP agreement is the international agreement between the DoD and the foreign government that establishes a framework for the exchange of RDT&E information. It does not establish information exchange details, instead it authorizes creation of separate annexes for specific information exchange projects. The master IEP agreement establishes the basic terms and conditions for all subsequent IEP annexes.

For example, the master IEP agreement will specify security procedures, the highest classification allowed for the information exchanges, IEP management structure, information use rights including third party transfer, the process for clearance of visitors, and methods for resolving disputes. As a result, DoD components do not include such terms and conditions in subsequent individual IEP annexes.

Information Exchange Program Annexes

IEP annexes establish defined information exchange relationships in specific RDT&E subject areas. Annexes are the best information exchange mechanism because they provide adequate legal protection for the information while facilitating the exchange of the information.

The annex will identify the installations, agencies, and laboratories that will provide the information. Field-level scientists and engineers will be authorized to serve as Technical Project Officers (TPO). These TPOs are given the authority to manage information exchanges within the scope of the specific annex.

There is no limit to the number of IEP annexes that may be originated under the authority of a master IEP agreement. Annexes are considered DoD resources and their cross coordination and potential use by other DoD components is encouraged. IEPs may not be used to transfer material, equipment, technical data packages, production information, manufacturing information, price and availability information on U.S. production and/or operational systems, or funding.

More information on the IEP is presented in chapter 13 of the *International Cooperation in Acquisition, Technology, and Logistics Handbook*.

Engineer and Scientist Exchange Program

The Engineer and Scientist Exchange Program (ESEP) itself is a component of the broader Defense Personnel Exchange Program (DPEP). The other personnel exchange programs under the DPEP umbrella include the Administrative and Professional Personnel Exchange Program (APEP), the Military Personnel Exchange Program (MPEP), and the Defense Intelligence Personnel Exchange Program (DIPEP). Among these DPEP programs, ESEP, in particular, is considered an IAC tool.

ESEP is a career enhancement program that assigns foreign civilian and military engineers and scientists to DoD government RDT&E facilities and U.S. civilian and military engineers and scientists to foreign government and defense contractor RDT&E facilities.

The primary goals of ESEP are:

- Broaden perspectives in research and development techniques and methods
- Form a cadre of internationally experienced professionals to enhance research and development programs
- Gain insight into foreign R&D methods, organizational structures, procedures, production, logistics, testing, and management systems
- Cultivate future international cooperative endeavors
- Avoid duplication of research efforts among allied nations

ESEP participants become an integral part of their host organizations, fully contributing to the project to which they are assigned. They are not sent to the host party or organization for training. Participants are to be already educated and proficient in their respective field of expertise and are expected to be capable of contributing to the host country's RDT&E activities. Because allied and friendly foreign countries use the ESEP experience as a career-enhancing program, foreign participants often rise to positions of influence and importance in their own defense organization. In this way, ESEP fosters long term relationships between U.S. and foreign R&D communities.

ESEP international agreements specify that participants must have at least a bachelor's degree, preferably a master's, in a scientific or engineering discipline. Additionally, a corresponding DoD host organization must be willing to accept the proposed candidate. When a U.S. host center, laboratory, institute, or program office agrees to accept a foreign participant, the facility prepares a position description that describes the project the candidate will work and outlines the candidate's responsibilities and duties. The facility is also responsible for obtaining foreign disclosure guidance regarding the candidate's assignment from the cognizant foreign disclosure organization.

The foreign parent organization must also agree to pay their participant's salary, housing, and travel expenses for the assignment. The U.S. will generally be responsible for direct costs associated with hosting the individual at the U.S. host organization. Historically, the number of foreign participants in ESEP greatly exceeds the number of U.S. participants.

U.S. participants in ESEP are usually selected competitively from volunteers who meet the selection criteria. Military participants are typically Army or Air Force captains or Navy lieutenants. Civilian participants are typically GS-12s or GS-13s, or equivalent level. DoD personnel interested in ESEP exchange opportunities are encouraged to discuss potential assignments with their DoD component international programs organization.

Selected U.S. candidates may be required to attend a DoD language course before going overseas. U.S. participants are expected to take their families to the host nation and live on the local civilian economy, even if there are opportunities to live in U.S. military housing. All ESEP participants are expected to be an integral part of the host organization.

More information on the ESEP and the broader DPEP is presented in chapter 14 of the *International Cooperation in Acquisition, Technology, and Logistics Handbook*.

Test and Evaluation Program

The Test and Evaluation Program (TEP) is a DoD-managed program implemented through TEP international agreements. The TEP international agreements establish the broad terms and conditions for cooperative and reciprocal test and evaluation (T&E) activities. TEP activities are carried out under two types of subordinate project arrangements: Cooperative Test and Evaluation project arrangements, and Reciprocal Use of Test Facilities (RUTF) project agreements. TEP agreements may also enable information exchange, formation of working groups, project equipment transfers (loans), and familiarization visits.

In a cooperative TEP, the participants agree to equitably collaborate to improve and share results regarding efficient and effective methods for conducting T&E. The TEP agreement brings the partners together to:

- Assess materiel interoperability and determine solutions to identified problems
- Evaluate technical and operational concepts and to recommend improvements
- Increase coalition mission capability by using materiel quantitative data for analysis
- Validate developmental and/or operational testing methodologies
- Improve modeling and simulation validity and interoperability with field exercise data
- Provide feedback to the acquisition and coalition operations communities
- Improve coalition materiel tactics, techniques, and procedures

The TEP also enables U.S. and partner nations to exchange use of test facilities through Reciprocal Use of Test Facilities (RUTF) agreements. The RUTF agreements describe a fee-for-service relationship in which testing services are provided at preferred rates. Testing under a RUTF agreement may be conducted for the purposes of developmental, operational, and live-fire T&E.

More information on the TEP is presented in chapter 6 of the *International Cooperation in Acquisition, Technology, and Logistics Handbook*.

Foreign Comparative Testing

The Foreign Comparative Testing (FCT) program was established to consolidate the evaluation of foreign non-developmental items and technologies that demonstrate potential to satisfy U.S. military requirements. The FCT program funds U.S. test and evaluation (T&E) of defense items developed by allied and other friendly foreign countries to determine whether those items can satisfy DoD requirements.

The FCT program avoids redundant development, ensures standardization of equipment, and reduces acquisition lead times and costs. In the private sector, it also serves as a catalyst for industry teaming arrangements. Annual authorization and appropriations acts establish the level of DoD–wide FCT funding available in a given year. Each year, the military services and the Special Operations Command propose projects to the Office of the Secretary of Defense (OSD) for FCT funding consideration. The proposal is a comprehensive explanation of an FCT project that clearly describes the candidate item for which funding is requested, cost and schedule data for the T&E, and additional information needed by OSD to evaluate the merit of the project. The OSD evaluates proposals to ensure submitting components have:

- Strong user advocacy for the proposed non-developmental item
- Addressed valid military requirements
- Completed thorough market investigations
- Developed viable, funded acquisition strategies
- Clear intention to procure if testing is successful

The highest priority for FCT funding is for equipment in production or in the late stages of development which demonstrates good potential to satisfy U.S. requirements with little or no modification and which the sponsor intends to procure after successful tests. The FCT program is not permitted to fund T&E of U.S. equipment nor purchase U.S. equipment for testing.

More information on the FCT program is available online: http://www.acq.osd.mil/ecp/programs/cto.html.

Cooperative Research, Development and Acquisition Programs

Cooperative research, development, and acquisition (RD&A) refers to a range of international programs in which DoD and a foreign nation jointly manage efforts to satisfy a common requirement by sharing work, technology, and costs under the provisions of an international agreement. These programs range in scope from small bilateral S&T agreements to multi-billion dollar, multi-national programs such as the JSF program. There are a number of types of agreements the U.S. and its partners use, and a variety of statutes that provide the legal basis for cooperating in defense acquisition. Table 13-3 summarizes cooperative RD&A characteristics.

Table 13-3
Cooperative Program Characteristics

Are	Are Not
Shared cost	Contracts
Shared Risk	FMS buyer-seller relationships
Shared benefits	One-way transfers or grants
Jointly managed	Foreign aid
Government-to-government	Industry-only relationships

DoD strongly encourages IAC as a key aspect of the DoD acquisition process. DODD 5000.01, which provides management principles and mandatory policies and procedures for managing all acquisition programs, states: "Program managers shall pursue international armaments cooperation to the maximum extent feasible, consistent with sound business practice and with the overall political, economic, technological, and national security goals of the U.S."

When the DoD has a requirement for a new or improved capability, DODD 5000.01, Enclosure 1 prescribes an order of preference to be considered in acquisition. Table 13-4 lists this hierarchy. It is important to note that potential foreign sources are to be considered within the first three preferred alternatives. While FMS offers a method for foreign customers to purchase U.S. systems, by policy, DoD examines the potential for purchasing foreign commercial and military items or to work cooperatively with other countries to develop new systems.

As stated earlier in the section titled "System Acquisition Documents Associated With Foreign Military Sales," the U.S. defense acquisition system process requires program managers to document within Section 10—International Involvement of the respective program's acquisition strategy that the feasibility of cooperative acquisition alternatives has been evaluated.

Table 13-4
Acquisition Order of Preference DoD Directive 5000.01

International Participation Potential
1. Commercial products or dual-use technology from domestic or international sources
2. Additional production or modification of already developed U.S. or Allied military equipment
3. Cooperative development program with one or more Allied nations
DoD Only Participation
4. New joint Service development
5. New Service-unique development

Foreign Production

Foreign governments often seek to domestically produce part or all of a U.S. defense system to satisfy their own domestic defense industry development goals. There are three distinct methods of authorizing foreign production of defense articles.

First, cooperative production is conducted with partner nations under a cooperative international agreement and features an allocation of production responsibilities amongst the partner nations. Individual partner nations will be designated as the manufacturer of certain system components. The designated manufacturer will produce the respective components for the entire production quantity of the system. As such, the designated manufacturer will not only produce components for its own nation but also components for all partner nations. Final assembly can be conducted by one or more of the

partners. Most cooperative production programs naturally evolve from cooperative development phase partnerships. The JSF program is using cooperative production.

Second, FMS coproduction involves the use of FMS procedures and commercial licenses to provide a foreign nation the ability to produce U.S.-origin defense articles. Coproduction capabilities may be transferred solely through FMS LOAs, may involve a combination of FMS LOAs and associated munitions export licenses, or may require development of a coproduction international agreement. FMS coproduction agreements are discussed in SAMM C4.4.5.

Third, licensed coproduction involves use of commercial munitions export licenses issued by the Department of State (DoS). Licenses that authorize the export of manufacturing technical data are referred to as Manufacturing Licensing Agreements (MLAs). Licensed production enables U.S. companies to transfer to foreign governments or foreign companies the ability to produce U.S. origin defense articles. It should be noted that the U.S. defense articles proposed for licensed coproduction may not even be in DoD use, or may be a significantly modified version of DoD equipment. The Defense Technology Security Administration (DTSA), in concert with the other DoD components, agencies, and the OSD staff, plays a leading role in formulating DoD's position with regard to U.S. industry-licensed coproduction proposals.

More information on the RD&A programs is presented in chapter 4 of the *International Cooperation in Acquisition, Technology, and Logistics Handbook*.

Defense Trade

Defense Trade is a summary term that involves activities to facilitate acquisitions via a worldwide supplier base. Although most DoD equipment is acquired from domestic sources, DoD recognizes the potential competitive cost advantages and technology access opportunities presented by the global defense industrial base. However, DoD is somewhat constrained by laws and regulations that discriminate against the acquisition of non-U.S. products such as the Buy American Act and annual DoD appropriations act provisions that may restrict certain procurements to U.S. sources.

To overcome some of these limitations, the DoD has negotiated reciprocal procurement agreements with many allies to facilitate defense trade. These agreements establish reciprocity in the treatment of each other's vendors and enable the Secretary of Defense to waive the discriminatory provisions of the Buy American Act.

The Buy American Act discriminates against foreign suppliers by requiring a price differential to be applied to foreign goods in the evaluation process of competitive source selections. The Secretary of Defense is authorized to waive the provisions of the Buy American Act on the basis of reciprocity if the partner country reciprocally waives its similar buy national legislation for procurements from U.S. sources. The DoD has entered into defense reciprocal procurement agreements with many allied and friendly foreign nations. A list of the countries that the DoD has established reciprocal procurement arrangements is contained in the *Defense Federal Acquisition Regulation Supplement* (DFARS) 225.872-1.

Foreign-developed products acquired by the DoD are often produced in the U.S. under license. Examples of such products are the Rheinmetall 120mm tank gun used on the M1A1 main battle tank, the Beretta 9mm pistol, and the AV-8B Harrier aircraft.

In another aspect of defense trade, DoD has entered into arrangements with several nations to ensure the mutual supply of defense goods and services. These bilateral Security of Supply arrangements allow the DoD to request priority delivery for DoD contracts, subcontracts, or orders from companies in these countries. Similarly, the arrangements allow the signatory nations to request priority delivery for their contracts and orders with U.S. firms.

More information on defense trade is presented in chapter 8 of the *International Cooperation in Acquisition, Technology, and Logistics Handbook*.

Cooperative Logistics

Cooperative logistics refers to cooperation between the U.S. and allied or friendly nations or international organizations in the logistical support of defense systems and equipment. Cooperative logistics is part of the acquisition life cycle process. However, because logistics is also a substantial part of military operations, much of the implementation for cooperative logistics involves the U.S. combatant commands (CCMDs). Each CCMD has an Acquisition and Cross-Servicing Agreements (ACSA) manager. U.S. personnel, particularly Security Cooperation Office personnel, should consult the CCMD ACSA manager regarding issues relative to the development, negotiation, use, and applicability of an ACSA with a specific country or international organization.

Acquisition-Only Cooperative Logistics

10 U.S.C. 2341 authorizes DoD to acquire logistic support, supplies, and services directly from NATO countries' governments, subsidiary NATO bodies, the United Nations (UN) organization, or other regional international organizations and other eligible countries for U.S. forces deployed in the supporting country's military region. It allows payment by either cash or replacement-in-kind of identical or substantially identical items. A non-NATO country must meet one or more of the following criteria:

- Has a defense alliance with the U.S.
- Permits stationing of members of the U.S. armed forces or the home porting of U.S. naval vessels in its territory
- Agreed to preposition U.S. materiel
- Serves as host country for U.S. armed forces during exercise
- Permits other U.S. military operations in its territory

Cross-Servicing Cooperative Logistics

10 U.S.C. 2342 authorizes DoD to both acquire and provide logistics support, supplies, and services to a NATO nation, a NATO subsidiary body, a UN organization or any other regional international organization on a reciprocal basis. This authority cannot be used to procure any goods or services reasonably available from domestic commercial sources. The Secretary of Defense may designate non-NATO nations as eligible to participate in cross-servicing agreements after:

- Determining such action is in the interest of U.S. national security
- Consultation with the DoS
- Expiration of a thirty-day waiting period after notifying Congress

Acquisition and Cross-Servicing Agreements

Acquisition and Cross-Servicing Agreements (ACSAs) are used to transfer logistics support during wartime, combined exercises, training, deployments, contingency operations, humanitarian or foreign disaster relief operations, and certain peace operations under the UN Charter, or for unforeseen circumstances. ACSA authority is almost always exercised by the CCMD. Each CCMD has an ACSA manager that should be consulted regarding the creation, use, or applicability of an ACSA with a specific country or international organization.

The U.S. has ACSAs with many countries, including most NATO nations. DODD 2010.9, *Acquisition and Cross-Servicing Agreements*, provides complete details on responsibilities and procedures for acquiring and transferring logistics support, supplies, and services.

ACSAs may not be used to increase inventories, nor can DoD use them when the desired materiel or service is reasonably available from U.S. commercial sources. ACSAs are not used as a routine source of supply for a foreign country. Routine foreign requests for desired U.S. defense articles and services should be addressed through FMS procedures in accordance with the SAMM.

Traditionally, ACSAs could not be used to provide items designated as significant military equipment (SME) on the *U.S. Munitions List* (USML). However, Congress approved legislation (section 1202) to permit SME (and training) for personnel protection and survivability to be provided on a temporary basis (one year) under an ACSA to countries that have forces in Iraq or Afghanistan operations and for Peace Keeping Operations (PKOs).

Reimbursement for ACSA transactions will be by cash (within sixty days), Replacement-In-Kind (RIK) within one year, or Equal-Value-Exchange (EVE) within one year. RIK and EVE reimbursements not accomplished within the required time frame shall be converted to a reimbursable cash transaction, and the resulting accounts receivable or accounts payable shall be liquidated within thirty days.

Refer to CJCSI 2120.01D for detailed information on ACSA authorities. The Joint Staff, J4 also has a reference portal (requires a DoD common access card) with more information on ACSAs at: https://intellipedia.intelink.gov/wiki/Acquisition_and_Cross-Servicing_Agreements_%28ACSA%29. This website lists active, expiring, and expired ACSA agreements and lists ACSA managers and points of contact.

Other Logistics Support

Host Nation Support. Host nation support (HNS) is civil and military assistance rendered in peace or war by a host nation to allied or friendly forces and organizations located on or in transit through its territory. HNS agreements are normally pursued by CCMDs under overall direction of the Joint Chiefs of Staff and the Director for International Cooperation. HNS assistance is provided in accordance with commitments made under alliances or bilateral or multilateral agreements, usually in the context of a broader cooperative logistics program. Areas normally addressed in HNS agreements are illustrated in table 13-5.

Table 13-5
Types of Host Nation Support

Logistics lines of communication	Terminal transfer services
Collocated operating bases	Supplies
En route and transit support	Troop support services
Overflight rights	Facilities
Weapons systems cross-servicing	Materiel handling
Port services	Naval vessels' support
Equipment decontamination services	Intra-theater transportation
Medical services and equipment	Communication services and equipment
Labor	

Cooperative Military Airlift Agreements. 10 U.S.C. 2350c authorizes the Secretary of Defense to enter into cooperative military airlift agreements with allied countries. These agreements cover transporting NATO and other allied nations' military personnel and cargo on aircraft operated by or for the U.S. armed forces, in return for reciprocal transportation of U.S. military personnel and cargo. The Secretary of Defense may also enter into non-reciprocal agreements with NATO subsidiary bodies for transportation of their personnel and cargoes on U.S. armed forces aircraft.

War Reserve Stock for Allies. The Foreign Assistance Act of 1961 established the war reserve stocks for allies (WRSA) program. WRSA allows the prepositioning of host-nation intended, but U.S.-owned, war reserve material in authorized countries during peacetime. U.S. policy requires allies to provide for their own sustainability to the maximum extent possible. Any action to supplement established allied war reserve requirements will be considered only on a case-by-case basis. The host nation through a bilateral agreement will normally fund storage, maintenance, in-country transit, and other WRSA-related costs.

Congress limits the value of assets transferred into WRSA stockpiles located in foreign countries in any fiscal year through authorizing legislation. The U.S. retains title to the WRSA stocks, though title must be subsequently transferred before the foreign country may use them.

Acceptance and Use of Real Property. 10 U.S.C. 2350g authorizes DoD components to accept real property, services, and supplies from a foreign country for support of any element of the U.S. armed forces in an area of that country. This includes real property or the use of real property and related services and supplies for use by the U.S. in accordance with a mutual defense agreement or an occupational arrangement; and services furnished as reciprocal international courtesies customarily made available without charge.

More information on cooperative logistics programs is presented in chapter 5 of the *International Cooperation in Acquisition, Technology, and Logistics Handbook*.

International Acquisition Career Path

The International Acquisition Career Path (IACP) creates a construct to develop and train international competencies within the DoD acquisition workforce. The origins of the IACP can be traced to the Defense Acquisition Workforce Improvement Act (DAWIA) of 1990. DAWIA initially identified eleven acquisition functional areas as containing acquisition related positions. DAWIA recognized international acquisition by citing "joint development and production with other government agencies and foreign countries" as one of the eleven functional areas.

Creating a standalone international acquisition functional area proved problematic. In practice, international acquisition is not an autonomous career field. International acquisition is typically performed within the context of other core acquisition functional areas such as program management, systems development, contracting, logistics, manufacturing, and financial management.

As a result, the Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)) directed the development of an international acquisition career path within the existing acquisition-related career fields. The IACP was initially associated with only the program management career field. The long-term objective is to implement an IACP approach within other selected acquisition career fields such as Life Cycle Logistics, Contracting, and Systems Planning, Research Development & Engineering. The international competencies for other acquisition career fields will likely differ, in varying extents, from the international competencies for program management.

The DAU catalog contains the additional course training recommendations and requirements for the program management IACP at the corresponding DAWIA I, II, and III certification levels. It is important to note that the IACP mandatory courses are in addition to all existing mandatory training requirements for the program management career field.

Formalizing the IACP within the personnel systems enables two important actions. First, specific manpower billets can be subcoded as international acquisition positions requiring those individuals to meet unique position training standards, such as IACP, to fill the respective positions. Second, the existing personnel management infrastructure will record each acquisition workforce member's achievement toward IACP standards. This information will ultimately provide visibility to senior management enabling them to identify and select internationally qualified persons to lead international programs.

IACP International Program Definition

For purposes of the IACP, an international program is characterized by one or more of the following criteria:

- Designated an international program/project or high-potential future foreign sales program (FMS or DCS) by the USD(AT&L) or CAE, or as further delegated
- Associated with a Technology Development Strategy or Acquisition Strategy with an international system or cooperative opportunity identified
- Associated with an existing AT&L cooperative international agreement or upon submission or approval of a Summary Statement of Intent for a potential AT&L international agreement
- Associated with an approved FMS Letter of Offer and Acceptance for the purposes of international sale, lease, or logistics support of U.S. major defense equipment

IACP Relation to FMS

The IACP is an important development not only to the acquisition community but also to the security cooperation community. Successful execution of security cooperation programs, in particular FMS, relies heavily on DoD's acquisition manpower, processes, and infrastructure. The IACP will enable the acquisition workforce to become more knowledgeable of various international acquisition processes and international program considerations through improved education, training, and professional development.

More information on the IACP is presented in chapter 15 of the *International Cooperation in Acquisition, Technology, and Logistics Handbook*.

Summary

The DoD has established a standard management framework to develop, produce, acquire, and sustain weapon systems. The policy for systems acquisition is contained in DoD's 5000 series documents. All MILDEPs are required to use the 5000 series acquisition management framework in developing and acquiring new weapon systems for DoD. Some key information that supports USG decisions regarding which weapon systems and technologies are releasable to FMS customers is derived from documents (COD, PPP, TA/CP, DDL, PSI) developed during the system acquisition process. Also, if an FMS customer requests and DoD approves accomplishing the development of a unique system or a major modification to an existing system under FMS, DoD's 5000 series systems acquisition process will be applied to that FMS development and acquisition project.

This chapter also provided an introduction to another form of security cooperation referred to as IAC. Like SA, IAC seeks to enhance U.S. national security, but does so through different methods. The area of IAC uses international agreements as the official government-to-government document rather than an LOA. International agreements may also be referred to as MOUs or MOAs. Unlike LOAs, international agreements constitute a binding commitment subject to international law.

While FMS offers a method for foreign customers to purchase U.S. systems, IAC examines the potential to work cooperatively with other countries through the seven primary IAC programs:

- Information Exchange Program (IEP)
- Engineer and Scientist Exchange Program (ESEP)
- Test and Evaluation Program (TEP)
- Foreign Comparative Testing (FCT) Program
- Cooperative Research, Development, and Acquisition Programs
- Defense Trade
- Cooperative Logistics

IAC is generally conducted with nations that have solid political and economic ties with the U.S.; similar military requirements; and a reasonably robust defense, science and technology base. DoD encourages IAC as a key aspect of the DoD systems acquisition process. The USD (AT&L) is responsible for all IAC activities. While USD (AT&L) provides oversight, each of the military departments has established an infrastructure to execute their respective armaments cooperation activities.

References

CJCSI 2120.01D, *Acquisition and Cross-Servicing Agreements*.

CJCSI 3170.01I, *Joint Capabilities Integration and Development System*.

Defense Acquisition Guidebook.

DODD 5000.01, *The Defense Acquisition System*.

DODI 5000.02, *Operation of the Defense Acquisition System*.

DSCA Manual 5105.38-M, *Security Assistance Management Manual*. http://www.samm.dsca.mil/.

DODD 2010.9, *Acquisition and Cross-Servicing Agreements*.

DODD 5230.11, *Disclosure of Classified Military Information to Foreign Governments and International Organizations*.

DODD 5530.3, *International Agreements*.

DODI 2010.06, *Materiel Interoperability with Allies and Coalition Partners*.

DODI 2015.4, *Defense Research, Development, Test and Evaluation Information Exchange Program*.

DODI 5200.39, *Critical Program Information (CPI) Identification and Protection Within Research, Development, Test, and Evaluation (RDT&E)*.

DODM 5200.45, *Instructions for Developing Security Classification Guides*.

International Cooperation in Acquisition, Technology, and Logistics Handbook. 7th ed. May 2012. http://www.acq.osd.mil/ic/Links/IChandbook.pdf.

Chapter

14 International Training

Introduction

The U.S. international military training program may be one of the most important security cooperation (SC) engagements the U.S. has with another country. Long after a country purchases, utilizes, and disposes of U.S. military equipment, what remains are the experiences the international military student (IMS) had during training. Through exposure to the American way of life and direct observation of U.S. commitment to universal human rights concerns, the IMS comes to understand and appreciate American democratic ideals. The longest lasting and most valuable influence with a country is developed through the professional and personal relationships established by the IMS while training in the U.S.

There are many factors to consider in the U.S. international military training program. This chapter will examine several of them, including:

- Legal authorities and regulations
- Training management organizations
- Training program development and implementation
- Types and categories of training
- Financial considerations
- Student administration
- Training program automation

Legal Authorities and Regulations

Today, the U.S. international military training program consists of training under the security assistance (SA) program and an ever-increasing number of SC programs. All of this training must be authorized by federal law.

Security Assistance Training

SA training includes training of foreign personnel authorized under the Foreign Assistance Act (FAA) and the Arms Export Control Act (AECA). Thus, some of the components of the SA training program are as follows:

International Military Education and Training

International Military Education and Training (IMET) is the cornerstone of SA training and is how most developing U.S. partners begin their cooperative relationship with the U.S. The IMET program is authorized by the FAA, and the military departments (MILDEPs) are reimbursed from annual foreign operations appropriations. The IMET program aims to provide long-term strategic benefits to both the U.S. and partner nations, particularly when the partner's limited defense funding would otherwise preclude training with the U.S. military. For many different reasons, IMET receives a significant amount of oversight from the U.S. Congress, resulting in constraints and reports not required for other

training programs. Because of these factors, the IMET program deserves special consideration in any text of SA.

International Military Education and Training Objectives. The Defense Security Cooperation Agency (DSCA) Manual 5105.38-M, *Security Assistance Management Manual* (SAMM), chapter 10, explains that the IMET program is a key component of security cooperation (SC), promoting regional stability and defense capabilities through professional military and technical courses and specialized instruction. IMET courses are provided primarily at military schoolhouses in the U.S., exposing the IMS to the U.S. culture, military students, practices, standards, and professionalism.

Objectives of the IMET program include:

- Encourage effective and mutually beneficial relations
- Increased understanding between the U.S. and foreign countries in furtherance of the goals of international peace and security
- Development of rapport, understanding, and communication links
- Develop host nation training self-sufficiency
- Improve host nation ability to manage its defense establishment
- Develop skills to operate and maintain U.S.-origin equipment

On a broader scope, the dual objectives of supporting U.S. regional security interests and the overall SC goal of supporting U.S. foreign policy are always a consideration. All of the objectives stated above should be pursued simultaneously, with emphasis shifting progressively from operations and maintenance, to the independent management of in-country capabilities, and finally to preserving military rapport and understanding of the U.S. This ultimate state should be pursued as rapidly as possible, consistent with the achievement of overall objectives.

Expanded-International Military Education and Training Program. The Expanded-IMET (E-IMET) program was initiated in 1990. It is not a separate program from the IMET program, but a recognition that the IMET program needed to grow in response to a changing global political scene. Originally, the IMET program could only be used to train military/civilian personnel from a country's defense establishment. Through the E-IMET program, a broader eligibility of students is offered. Civilians who work in the country's non-defense ministries, legislators, and individuals who are not members of the government may be trained in E-IMET qualified courses, using IMET funds, if doing so would contribute to E-IMET objectives.

The objectives of E-IMET are to:

- Contribute to responsible defense resource management
- Foster respect for and understanding of democracy and civilian rule of law, including the principle of civilian control of the military
- Contribute to cooperation between military and law enforcement personnel with respect to counternarcotics law enforcement efforts
- Improve military justice systems and promote an awareness and understanding of internationally recognized human rights

Additionally, E-IMET training is authorized for:

- Training of defense civilians for the express purpose of teaching, developing, or managing in-country English language training programs
- Defense civilians in counternarcotics-related areas
- Maritime law enforcement and other maritime skills training for personnel in non-defense or agencies which perform a maritime law enforcement mission

All courses taught under the E-IMET program will be held in U.S. military schools or will be conducted by Mobile Education Teams (METs). Many DoD education and training activities such as the Defense Resource Management Institute, the Defense Institute of International Legal Studies, and the Center for Civil-Military Relations aggressively support the E-IMET program. Courses must be certified by DSCA for E-IMET status.

International Military Education and Training Constraints. The SAMM, section C10.6.3, provides information on the types of training that can be provided under the IMET program. The intent is to preserve the integrity of SA as a military program, realize the maximum return on IMET funds expended in terms of utility and retainability of students, and limit police and intelligence training to purely military applications consistent with human rights considerations. Some types of training require a waiver approved by both the combatant command (CCMD) and DSCA. Waiver requests must be formatted in accordance with the SAMM, C10.F1.

Certain types of training are prohibited under the IMET program such as sniper training and foreign language training. For a complete list of types of training not provided by IMET see SAMM C10. T3. In addition, the FAA, section 660 and SAMM C10.6.4.4 through C10.6.4.5 prohibit using IMET to provide police training to military or civilian police if they perform a civilian law enforcement function. Military police training may be provided to military police and to non-police personnel but this requires a certification by the country that the IMS will not be used in a civilian law enforcement role for a minimum of two years following completion of training. The security cooperation office (SCO) must retain this certification for a minimum of three years.

Foreign Military Sales

Training can also be purchased via a Foreign Military Sales (FMS) case, funded by either host nation funds or USG funds such as the Foreign Military Financing Program (FMFP).

Emergency Drawdown Authority

Training authorized by the FAA, section 506 applies when equipment is taken out of U.S. stock and given to a country. This training includes how to operate and maintain the respective equipment.

Exchange Training

Exchange training is authorized either by the AECA, section 30A or the FAA, section 544: "Security Cooperation Training Managed by Security Assistance Personnel." Under this authority, the President may provide for the attendance of foreign military personnel at professional military education (PME) institutions in the U.S. (other than Service academies) without charge, if such attendance is part of an international agreement. These international agreements provide for the exchange of students on a one-for-one reciprocal basis each fiscal year between the two military services participating in the exchange.

Security Cooperation Training Managed by Security Assistance Personnel

The U.S. military conducts a wide variety of other SC training programs which are managed by the existing SA infrastructure. These programs are discussed more thoroughly in chapter 1 of this text, titled "Introduction to Security Cooperation." Significant SC training consists of:

- International Narcotics Control and Law Enforcement (INCLE) training authorized by the FAA, section 4891 to be funded by the annual foreign operations appropriations acts
- Counternarcotics training originally authorized by Public Law (P.L.) 101-510, 5 November 1990, section 1004, to be funded by subsequent annual DoD appropriations acts
- Counternarcotics training originally authorized by P.L.105-85, 18 November 1997, section 1033, to be funded by subsequent annual DoD appropriations acts
- Combating Terrorism Fellowship Program (CTFP) training authorized by *10 United States Code* (U.S.C.) 1051b to be funded by subsequent annual DoD appropriations acts
- Aviation Leadership Program (ALP) training authorized by 10 U.S.C. 9381-9383 to be funded by the United States Air Force (USAF)
- Training authorized under various memoranda of understanding in effect with the United States Coast Guard (USCG)

Other Training Not Managed by Security Assistance Personnel

The U.S. military also conducts other types of international military training that are not managed by SCO personnel. The latter need to be aware of these other programs although the details of these programs are outside the scope of this text:

- U.S. service academy international students
- Special Operations forces training of international students primarily via Joint Combined Exchange Training (JCET)
- Various U.S. government (USG) humanitarian assistance programs
- Caribbean support tender training programs conducted by the USCG

Regulations

In carrying out training management, the SAMM, specifically chapter 10, is used for overall general guidance. Although references to international training management can be found throughout other chapters in the SAMM.

The Joint Security Cooperation Education and Training (JSCET) Regulation (AR 12-15; SECNAVINST 4950.4A; AFI 16-105), published jointly by the military services, provides further direction in carrying out policies identified in the SAMM. Each chapter of the JSCET begins with a DoD section followed by MILDEP-specific instructions.

Training Management Organizations

There are many organizations involved in the management of international training. These organizations are geographically distributed in a variety of locations from Washington, DC, to U.S. embassies around the world. Refer to figure 14-1 as the U.S. training management organizations are described.

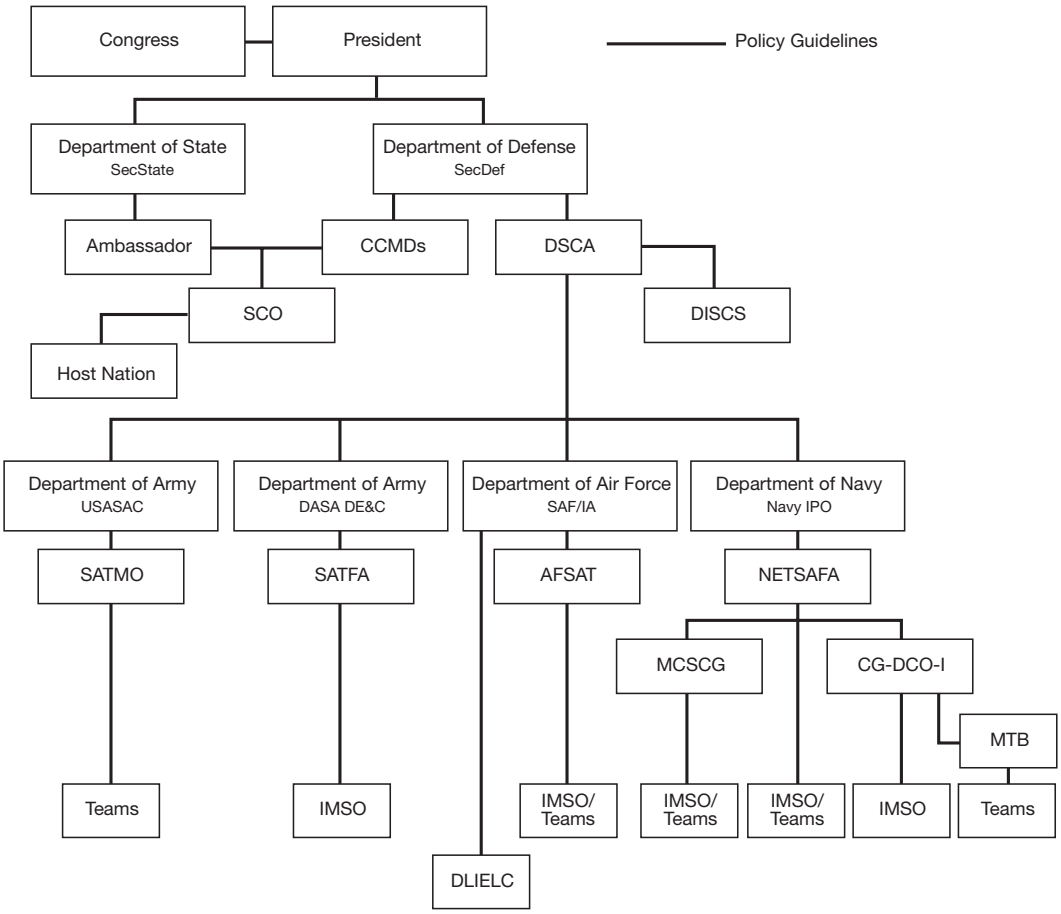
Training Policy

Training policy is guided by a small group of policy makers in the Washington, DC, area. This section describes the role and relationships among these policy makers.

Department of State

The role of the Department of State (DoS) in international training management is basically the same as for all other aspects of SA; they decide a specific country's eligibility for training and the size and type of program to be authorized. The decision reflects an analysis of the country's needs by DoS in terms of U.S. foreign policy and national security objectives. The concurrence of Congress is obtained by its approval in applicable legislation. After the analysis, decision, review, and legislative process is complete, the resulting SA program is given to DoD for implementation.

Figure 14-1
Training Management Organizations



Department of Defense

<u>Defense Security Cooperation Agency</u>. Within DoD, the principal agency for implementation of the various international training programs is DSCA, which provides direction to the CCMDs and the MILDEPs. Policy coordination and support is provided by the Training (TNG) division of the Strategy (STR) directorate in DSCA. This office formulates policy for the conduct of the SA and SC training program, issues IMET program guidance, and exercises oversight of the U.S. Field Studies Program (FSP). Matters involving conduct of the training program and approval authority for exceptions to policy rest with the office as well.

Military Departments

The MILDEPs, as designated Implementing Agencies (IAs), exercise execution oversight of international training and education solutions to country requirements to include fiscal management responsibilities across the various SC authorities. In most cases, the MILDEPs have delegated this responsibility to their respective training commands.

Department of the Air Force. Within the USAF, the Deputy Under Secretary of the Air Force for International Affairs (SAF/IA) is responsible for the policy direction, integration, guidance, management, and supervision of international programs and activities affiliated with the USAF.

As part of these general responsibilities for international training programs, SAF/IA functions include the following:

- Developing, coordinating, and issuing USAF-wide SA and SC training policy and procedures
- Acting as the USAF representative and focal point for training policy and procedural issues
- Preparing any memoranda of agreement/understanding required for international training
- Monitoring the execution of approved training programs
- Acting as executive agent and service program manager for the Defense Language Institute English Language Center (DLIELC)
- Acting as the USAF focal point for policy matters involving the Inter-American Air Force Academy (IAAFA)

Department of the Army. At the Department of the Army, the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation (DASA DE&C), within the Office of the Assistant Secretary of the Army for Acquisition, Logistics and Technology (ASA/ALT), exercises Army-wide oversight of all Army SA and SC requirements to include training. DASA DE&C performs SA and SC training policy and program guidance responsibilities through the Director, FMS Policy and Resources, to all Army agencies involved in the management and execution of Security Cooperation Education and Training Program (SCETP) requirements. DASA (DE&C)'s primary SCETP responsibilities include:

- AR 12-1, Security Assistance, Training, and Export Policy
- AR 12-15, Joint Security Cooperation Education and Training policy
- AR 12-7, Security Assistance Teams
- Coordinating with the HQDA G-3/5/7 and other HQDA offices as required on Chief of Staff, Army country/counterpart invitations for Army War College and Command and General Staff College attendance, Professional Military Education exchanges (PMEX) and country requests for SA/SC Teams.
- Specific SCETP policy and procedural actions related to the management of international military students (IMS)

Department of the Navy. The Navy International Programs Office (IPO) provides centralized management for the Secretary of the Navy (SECNAV) of technology transfer, disclosure, SA/SC, and international program policy. Navy IPO establishes policy, maintains oversight, deals with political issues, signs letters of offer and acceptance (LOAs), monitors and tasks subordinate commands in implementing the training program, and is the principal point of contact for foreign customers. With

respect to international training, policy and oversight responsibility resides at the SECNAV level, while program execution is directed to the field level. Navy IPO also issues specific guidance on how contractor-provided training is to be managed by the Navy.

Training Implementation

Approved training programs are implemented through SA/SC specialized organizations out to the core DoD training activities.

Military Services

The six Military Service training activities are:

- The Air Force Security Assistance Training (AFSAT) Squadron, Air Education and Training Command (AETC) at Randolph AFB, Texas
- The Army Security Assistance Training Field Activity (SATFA), U.S. Army Training and Doctrine Command (TRADOC) at Fort Eustis, VA
- The Security Assistance Training Management Organization (SATMO), U.S. Army Security Assistance Command (USASAC), at Fort Bragg, NC
- The Naval Education and Training Security Assistance Field Activity (NETSAFA), Naval Education and Training Command (NETC) at Pensacola Naval Air Station, FL
- The Marine Corps Security Cooperation Group (MCSCG) at Fort Story, VA
- The Coast Guard Director of International Affairs & Foreign Policy (CG-DCO-I) at Washington, DC

Each of the training activities listed above is charged with planning and executing the SA and SC programs for its service. They manage all aspects of international training. Specifically, they program requested training, consolidate training requirements, and obtain and confirm course quotas. In addition, AFSAT, SATFA, and NETSAFA have been delegated MILDEP responsibilities for financial processes in funding training functions under SA and SC. NETSAFA performs this function for all maritime services (Navy, Marine Corps, and Coast Guard).

United States Air Force, Air Force Security Assistance Training Squadron. AFSAT, as a component of the Air Education and Training Command (AETC), is the USAF's executive agent for all USAF-sponsored international training. AFSAT is charged with:

- Implementing all approved and funded USAF CONUS international training
- Monitoring the progress of training and the welfare of all USAF-sponsored IMS
- Supervising IMS administration and movement
- Sourcing and managing USAF Mobile Training Teams (MTTs) that provide OCONUS training as required by country needs/requests
- Administering and accounting for international training funds allocated for the training, administration, and support of IMS in CONUS and for Mobile Training Teams (MTTs) furnished from USAF CONUS resources
- Providing guidance for the implementation of the Field Studies Program (FSP) for all USAF IMS in CONUS, approving fund estimates, and providing funds to support all USAF FSP activities

United States Army, Security Assistance Training Field Activity. SATFA, in the Deputy Chief of Staff for Operations, Plans and Training, G-3/5/7, at HQ, U.S. Army Training and Doctrine Command (TRADOC), is responsible for brokering U.S. Army-managed institutional training and PME solutions for country SCETP requirements across the various SC programs. This includes the central financial management and distribution of SC program funds to those Army CONUS activities executing training and PME for Army-sponsored IMS. SATFA's primary SCETP responsibilities include:

- Serves, in coordination with the Army Senior SAT Specialist at DASA (DE&C), as the primary point of contact for all Army institutional training and Professional Military Education (PME) conducted under any SC authority
- Manages (programming through closure) valid country/program international training and PME requirements, by SC program, within U.S. Army CONUS institutional training requirements and resourcing processes
- Coordinates with U.S. Army training providers for the development of unique training to support the specific requirements of an FMS-purchased equipment/system that best meets the needs of the country
- Develops course costs annually for inclusion in the Army Training Military Articles and Services List (T-MASL)
- Provides guidance and direction to Army training activity International Military Student Offices (IMSO) and their leadership pertaining to any aspect of SCETP execution to include the U.S. Field Studies Program (FSP)
- Coordinates with DLIELC for validated language laboratory requirements funded by U.S. Grant Programs that will be executed by the U.S. Army Communications Electronics Command (CECOM)

SATFA coordinates training-related requirements with other Army major commands/activities to meet country specific needs. SATFA also coordinates the programming, scheduling, implementation, and funding of training provided by other major commands. Broad responsibilities for training within the U.S. Army are as follows:

- TRADOC—All formal individual training
- Health Services Command—All medical training
- Army Materiel Command (AMC)—Technical training within the functional areas of AMC major subordinate commands; OCONUS SA training
- U.S. Forces Command—Unit/collective training
- U.S. Army Acquisition Authority ASA/ALT—Program Executive Offices (PEO)/Project-Program Managers (PM)—New Equipment Training; some technical training

United States Army Security Assistance Training Management Organization (SATMO). SATMO, which falls under United States Army Security Assistance Command (USASAC), is the interface between the U.S. Army and the SCO for the conduct of overseas Army training supported by CONUS-based teams and the provision of training support and literature. SATMO's main functions include:

- Assisting SCOs in the development of in-country training programs
- Providing staff assistance to DASA DE&C, USASAC, and SATFA in developing FMS training packages

- Coordinating the planning and deploying of SA/SC teams to include:
  - ◊ MTTs
  - ◊ Technical assistance field teams (TAFTs)
  - ◊ Training assistance teams
  - ◊ Quality assurance teams. In conjunction with this, SATMO assists field agencies in structuring these teams to meet customer needs and follows up on team visits.
- Coordinating the formation of TAFTs and field training services (FTS) services in support of country requirements
- Processing requests from field agencies for training documents, literature, programs of instruction, and information on training aids
- Ensuring all selected team members receive antiterrorism training

United States Navy, Naval Education and Training Security Assistance Field Activity. NETSAFA implements three separate but interrelated functions as the principal support and coordination activity for Navy training.

First, NETSAFA is the single point of contact between SCOs and USN training. In this role, NETSAFA has the lead in programming all USN-related training. It identifies available USN training programs to meet foreign training requirements, including reviewing Navy training plans and maintaining an interface with the Deputy Chief of Naval Operations N1 (Manpower, Personnel, Training and Education) Community Managers to obtain training quotas. It oversees the submission of Navy course classified data to Navy IPO for release authority.

Second, NETSAFA is the chief agent for Naval Education and Training Command (NETC) for SA/SC. In this role, NETSAFA is responsible for managing international shore-based education and training conducted at Navy Education and Training Command activities.

Finally, NETSAFA is the principal support agent for the entire Department of the Navy (DON) international training program. In this role, NETSAFA prepares:

- Training "T" case LOAs
- Acts as "T" case manager or case administering officer for Navy, Marine Corps, and Coast Guard cases
- Coordinates pricing
- Computes travel and living allowance (TLA)
- Interfaces with DSCA for IMET, CTFP, 2282, and other Security Cooperation Training Programs
- Authorizes the issuance of Invitational Travel Orders (ITOs)
- Financially administers the training program
- Provides billing services (except for USCG and Navy fleet commands)

NETSAFA is responsible for providing information technology support in the form of management information systems for publishing training program related documents and for conducting the annual IMSO workshop.

United States Marine Corps Security Cooperation Group. On 2 Jun 2011 the Commandant of the Marine Corps announced the concurrent disestablishment of Security Cooperation Education and Training Center (SCETC), the reorganization and redesignation of the Marine Corps Training and Advisory Group (MCTAG), and the merging of both former organizations' functions into a new organization known as the Marine Corps Security Cooperation Group (MCSCG) effective 1 October 2011. The MCSCG reports to Commander, Marine Forces Command.

This, in effect, establishes a coordinated Marine Corps security cooperation command that has cognizance over all Marine Corps security cooperation, less the security assistance functions performed by Marine Corps Systems Command (FMS sales of equipment, material, and related services). MCSCG is tasked with the coordination, management, execution, and evaluation of USMC SC programs and activities to include assessments, planning, related education and training, and advisory support. This ensures unity of effort in building partner nation security force capacity and capability in to facilitate USMC and regional Marine Forces component command security cooperation objectives. USMC Training and Education Command (TECOM) will play a key coordinating role in all things involving TECOM entities.

United States Coast Guard, International Affairs and Foreign Policy. The USCG is also a major partner in the DON international training programs. Policy, administration, and implementation of USCG training is conducted by the Coast Guard Director of International Affairs and Foreign Policy (CG-DCO-I). CG-DCO-I is responsible for training and education conducted at all USCG activities, coordinating USCG MTTs and ETSSs through its Mobile Training Branch (MTB), granting ECL and ranking waivers for USCG training, and coordinating USCG matters with other USN training activities. USCG training requirements are to be addressed to CG-DCO-I, with NETSAFA as an information addressee.

Combatant Commands

The CCMDs maintain directorates dedicated to SC functions, including international training. A list of the responsibilities of these directorates for international training is as follows:

- Provide training policy guidance
- Monitor, coordinate, and evaluate approved country training programs
- Assist the SCO
- Assist the defense attaché
- Assist embassy personnel in establishing and implementing country IMET and FMS training programs
- Provide training data and other inputs to the Joint Staff and the secretary of defense on special actions and studies pertaining to international training programs
- Recommend allocations and monitor student quotas for those courses/schools which MILDEPs designate as having limited quotas requiring CCMD determination of priorities
- Coordinate use of CCMD and service component assets in support of country training requirements
- Conduct SA/SC briefings/orientations for SCO personnel
- Plan, coordinate, and conduct annual Security Cooperation Education and Training Working Groups (SCETWGs)
- Coordinate and approve exceptions to policy requiring a waiver

In addition to the training provided from CONUS-based resources, the service components of the CCMDs are able to meet some international training requirements within their respective theaters. Nearly all types of training discussed later in this chapter may be requested through the CCMD:

- Formal school training
- On-the-job (OJT)/observer (OBS) training
- Ship crew training

Country requests for MTTs are frequently filled from CCMD resources. Service components may be required to provide escorts for orientation tours (OTs). Student processing for training from this source may be complicated by the fact the student will be transiting or residing in a third country while undergoing training, (e.g., Germany in the European and Central Command areas). Procedures for meeting these additional theater-specific requirements are disseminated to the SCO.

Security Cooperation Office

Since the international training program (IMET, FMS, CTFP, etc.) is developed in country and IMS scheduled for training comes from the country, the SCO has an important role in managing international training for that country. The international training management functions are normally assigned to a training manager within the SCO. The SCO training manager is responsible for assisting the country in identifying, planning, and programming U.S. military training that will meet host country requirements and then conveying those requirements to the military service training activities. While in the planning phase, the SCO identifies the goals and objectives for the country, as far as training requirements are concerned, for the next two years in the Combined Education and Training Program Plan (CETPP). The CETPP is a very important document that is reviewed by CCMD, DoS, DSCA, Military Services, and other organizations. The SCO must also convey the specific course requests to the appropriate military service training activities, usually via e-mail. Upon relaying the training requests to the military service training activities, the SCO must then monitor the Standardized Training List (STL) to ensure that it accurately reflects the training requirements. The SCO training manager must then accomplish all of the administrative tasks required to prepare and send the IMS to the U.S. for training or to bring that training to the country via a training team. One of the most important administrative functions, although not the only one for which the SCO training manager is responsible, is the creation of Invitational Travel Orders (ITOs) for the international military student (IMS). In short, the SCO training manager must effectively manage a dynamic SC program that provides both professional military training and training in support of materiel acquired from the U.S.

Defense Language Institute English Language Center

DLIELC has a unique place in the overall scheme of international military training. DLIELC, although operating under the command and control of AETC, is responsible to all Military Service training activities for implementation of DoDD 5160.41E, Defense Language Program (DLP). This directive describes and defines the DLP, including all foreign language training plus English Language Training (ELT). Basically, DLIELC is responsible for the conduct, supervision, and control of all ELT for international and U.S. service personnel. DLIELC conducts General English Training (GET) and Specialized English Training (SET) and Advanced English Training (AET) to prepare IMS for follow-on-training (FOT) or to be English language instructors. In addition, DLIELC fields English language teams to meet in-country requirements.

DLIELC also manages the English Language Testing program, making available several types of English language tests which IMS may be required to take, depending on the course they will be attending and provided an English language waiver has not been granted by DSCA. These tests include: the English Comprehension Level (ECL) testing for listening and reading ability; the Oral

Proficiency Interview (OPI) testing for speaking ability; and the American Language Course Placement Test (ALCPT) which can be used by the U.S. or the host nation as a pre-screener for the ECL test (though it is not a replacement for the ECL test).

Defense Institute of Security Cooperation Studies

The Defense Institute of Security Cooperation Studies (DISCS) is responsible for providing SA/SC international training management instruction for individuals with training management responsibilities. U.S. personnel who attend DISCS perform international training management responsibilities in SCOs, military service training activities, DoD agencies, and at military training facilities and schools. International partner training managers are also trained by DISCS. Requests for DISCS course quotas, METs, etc., from the international customer must be directed through the in-country SCO training manager to AFSAT, with an information copy to DISCS.

Training Program Development and Implementation

Each CCMD annually hosts a Security Cooperation Education and Training Working Group (SCETWG), usually between the months of March and June, to project IMET requirements for the budget year (the next fiscal year) and the planning year (the fiscal year following the budget year). SCO training managers attending these reviews present all training program requirements on behalf of the host nation and must be prepared to justify all requests in accordance with the SAMM and DoS guidance. Representatives from agencies responsible for international training within Department of State (DoS), DSCA and the military service training activities attend the SCETWG to review and approve country training program requests and to initiate programming and allocation actions for approved training courses. Projected FMS training is addressed as needed during the SCETWG as well as CTFP and Regional Center events. In preparing for the SCETWG, the SCO puts together a Combined Education and Training Program Plan (CETPP) outlining the international military training goals, objectives, and justifications for requests for the next two years. The CETPP is reviewed initially by the CCMD and is reviewed again during the SCETWG.

Combined Education and Training Program Plan

After discussions with host nation personnel, but prior to the SCETWG, each SCO completes a Combined Education and Training Program Plan (CETPP) which must be approved by the CCMD. The CETPP contains the U.S. and host nation goals and objectives of the country's training program for the next two years. It also provides justifications for the training programs which are intended to be executed within the next two years. The online Security Cooperation–Training Management System (SC–TMS), discussed in the training automation section of this chapter, is used to complete the CETPP in accordance with the preparation guidance found in the SAMM, C10.F3. DoS and appropriate DoD activities can access the CETPP to review each country's training goals and plans. This document provides vital information to ensure that military service training activities have all the information needed to plan and execute country-specific training programs.

Standardized Training List

The Standardized Training List (STL) is a list of all training that a country has *requested* and the *status of that request*. It also contains information such as training dates, locations, and prices. Training requests are entered into the Defense Security Assistance Management System - Training Module (DSAMS-TM) by AFSAT, NETSAFA, SATFA, USASAC, MCSCG, and CG-DCO-I. Once the training has been entered into DSAMS-TM it will appear on the STL report in DSAMS and the Security Cooperation - Training Management System (SC-TMS) used by SCOs and IMSOs. Individual training tracks are identified on the STL by combining the two-character country code, one-character implementing agency code, three-character case ID, three-character case line, four-character worksheet control number (WCN), and possibly a one-character suffix to identify a specific line of training within

a training track that has multiple training lines (i.e. the training track identifier can be constructed as: CC-IA-CaseIDCase Line-WCN-Suffix. An example would be BN-B-18I001-2405). Sequential training programmed for the same IMS is indicated by adding an alphabetic suffix to the end of the WCN and is commonly referred to as a training line. Therefore, a training track can consist of one or more training lines. The consolidation of all requested training is identified on the Standardized Training List (STL). See attachment 14-1 for an example of an STL.

Each military service training activity then coordinates the training request to confirm quotas and schedule report start and end dates of the course(s). Training quotas are assumed to be accepted once they have been confirmed on the STL for thirty days. Once quotas are confirmed, the actions described in the student administration section of this chapter can commence.

International Military Education and Training

Each year's IMET program is identified on the STL by country code, implementing agency (IA) code, and FY followed by the letter "I" indicating the Program Type is IMET (i.e., BN-B-18I).

5th Quarter

Because the budget for the annually-funded IMET program is not normally signed until months after that fiscal year has started, a determination was made that as long as IMET funds are obligated prior to the end of the fiscal year, they can be used for an IMS to start training prior to the end of the calendar year. Hence, the IMET 5th quarter is training in the first quarter of a fiscal year (1 October–31 December) funded with money from the previous fiscal year's IMET appropriation.

End-of-Year IMET Reallocation

For many reasons, a country may not be able to utilize their entire IMET allocation and have IMET funds left over at the end of the fiscal year. On the other hand, other countries may have training needs for which they do not have enough IMET. Or, there still may be unpaid medical bills for which the IMET program is responsible for at the end of the fiscal year. An End of Year (EOY) IMET reallocation process has been developed to address these circumstances and reallocate IMET funds to countries that can use the leftover funds. The time line and steps are spelled out in the SAMM, C10.T4. The reallocation of EOY IMET funds will only be used for "must pays" like outstanding medical bills, invitational PME courses, E-IMET courses, and other PME courses. EOY IMET reallocation of funds will not be used to fund language labs, books/publications, English language instructor training, team training, or technical or operational training. Requests for IMET EOY allocations are programmed on the STL as Priority B and the training must start in the 5th quarter.

Priorities

Another unique programming aspect of the IMET program is the assignment of priority codes to training lines to quickly identify whether the training can be funded. A priority code of "A" is assigned to training lines in the STL when country IMET allocation is sufficient for covering the training. A priority code of "D" is assigned to other valid training lines in excess of the country allocation as a backup plan for which the country could provide an IMS if funds became available, such as the cancellation of training identified as Priority A. Since Priority D is a backup plan, the Military Service Training Activities will not obtain course quotas for Priority D training requests. In order to get a quota, the SCO must inform the Military Service to change a Priority D request to a Priority A. The total value of all priority "D" training should not exceed twenty percent of the country's IMET allocation for the fiscal year. A priority code of "B" is assigned to training lines in the current year for which IMET EOY funds are being requested.

IMET training lines are implemented once a quota is confirmed and funded by the MILDEPs. Once the MILDEP provides authorization for WCNs via SC–TMS (and only upon receipt of this authorization), the SCO may prepare the Invitational Travel Order (ITO). Travel and Living Allowance (TLA) may be paid from the country's IMET program or paid by the sponsoring country. IMET-recipient countries are encouraged to enter into cost-sharing agreements by paying IMS travel and/or living allowances. This allows IMET dollars to most efficiently be expended against training tuition costs only enabling more students to be trained. The cost of emergency medical care for an IMET IMS is funded by a medical line in the country's IMET program.

Foreign Military Sales, Host Nation-Funded Training

FMS training cases are developed between the MILDEPs and country representatives, with coordination by the SCO. If the training is in support of a materiel purchase, the materiel or systems command of the MILDEP providing the item may also be involved. No matter if the training on an FMS case is for training only or if it is in support of a materiel purchase, it is essential that the military service training activities be made aware of the training requirement so that it can be programmed into the Standardized Training List (STL) and accounted for.

Once defined, FMS-funded training requests are entered into the STL by the military service training activity. FMS training on the STL is identified by Country Code, FMS case identifier, case line number (i.e. BN-D-YCY989), and WCN. The FMS implementation procedures are similar to those for IMET. FMS cases normally do not include travel and living allowance (TLA) as those are the responsibility of the country and are provided to the IMS directly without U.S. involvement. FMS training cases may include a medical services line to cover medical costs incurred by the IMS. Alternatively, the country may decide to not include medical coverage in the FMS case and instead have the bills for such services sent to the country's embassy for payment, or the IMS may obtain health insurance. If the country wants the FMS case to pay for TLA or medical care, this must be annotated in the Letter of Request and subsequently written into the Letter of Offer and Acceptance with DSCA's approval. Arrangements must be made in advance to cover associated costs such as special clothing and personal equipment either by including such items in the FMS case or having the IMS or IMS's government pay for them upon issuance at the training installation.

Total Package Approach

Military training provided to countries through U.S. DoD resources is a vital element of SC programs. Countries that purchase or otherwise receive U.S. military equipment are encouraged to simultaneously consider the training requirements while planning for integrating the new equipment or weapons systems into their inventory. Failure to do so will result in needless delays in attaining and maintaining operational readiness once the new equipment arrives in-country. Thus, training should be viewed from the perspective of the total package approach (refer to figure 14-2) and given due consideration in every materiel purchase case.

Figure 14-2
Total Package Approach

Planning and programming follow-on training support is an extremely important part of a viable training program. Those personnel involved in managing FMS programs should re-evaluate training requirements any time the procurement plan changes and coordinate training requirements in advance.

FMS training is provided through the normal FMS process either through a blanket line on the FMS case in support of that system sale or through a separate blanket order training case. Training should not be requested as a defined line on an FMS case or as a defined order case because changes are inevitable and would require case amendments or modifications. Blanket order cases provide much more flexibility, making them better suited to support a major weapon system purchase or an annual training program. The LOA process for training may require a lead time of six months or more from request through case implementation. Additional information on the LOA process for training is found in the JSCET, chapter 3, and in this textbook, chapter 5, "Foreign Military Sales Process."

U.S. Army Life-Cycle Management Commands. More and more training is being included or embedded in USA FMS materiel cases managed by the various life-cycle management commands of AMC. However, the training lines are still developed, managed, and implemented by SATFA.

U.S. Navy Systems Commands. The USN's three major systems commands, NAVSEA, NAVAIR, and SPAWAR have organic training managers who are responsible for training associated with that command's system sales. The NAVSEA, NAVAIR, and SPAWAR FMS case managers are responsible for the development of price and availability data for training provided by the FMS material prime contractor. When training under an FMS case includes USN resident training or contractor training other than the FMS material prime contractor, the FMS case manager will coordinate cost and availability data with NETSAFA. FMS case managers will coordinate with NETSAFA to ensure all training associated with the FMS case is properly programmed into the STL to allow for Invitational Travel Order authorization.

U.S. Air Force Life Cycle Management and Sustainment Centers. The USAF also includes training in FMS materiel cases managed by their Air Force Life Cycle Management Center (AFLMC) and Air Force Sustainment Center (AFSC). These training lines are still developed, managed, and implemented by AFSAT.

Foreign Military Sales, Foreign Military Financing-Funded Training

Many SCO training managers and host nation personnel do not realize that a blanket order FMS training case can be funded with Foreign Military Financing (FMF) program funds. The value of this is that some of the constraints and restrictions placed on the IMET program do not apply under FMFP. For example, there would be no requirement to obtain a waiver for an MTT funded by FMFP. Most importantly, this additional source of funds can provide for training that exceeds the country's IMET allocation. SCOs should attempt to influence the use of FMF funds to provide for support items (training, repair parts, etc.) as opposed to simply the acquisition of a new end-item with no support. Implementation of an FMF-funded case mirrors that of host nation-funded FMS cases except that USG funds are paying for the training. Sometimes, DSCA will approve payment of IMS TLA from the FMF-funded case.

Combating Terrorism Fellowship Program

The CTFP is developed and implemented a little differently than other training programs. The Secretary of Defense has delegated policy oversight to OASD/SO-LIC with program oversight responsibility delegated to DSCA. Each year, the CTFP appropriation is divided into three "virtual" funding pots of money:

- Individual country allocations
- Central allocations for invitational training issued by the CTFP office
- CCMD allocations used to further CCMD interests through regional seminars and other activities

Each year's CTFP program is identified in the STL by country code, implementing agency code, and fiscal year followed by the Program Type letter "B" (i.e. BN-D-18B). SCOs are provided guidance by DSCA as to the amount of CTFP country funding they are receiving each year and what invitations the country may receive for additional training. Similar to IMET and FMS training programs, CTFP training is programmed and tracked in the STL.

Before sending a student to training funded by CTFP, the SCO must nominate a specific candidate by name for the training and justify how this candidate's attendance would benefit U.S. combating terrorism efforts. The nomination is submitted to the CCMD CTFP manager for approval and then forwarded on to DSCA for final approval. The entire nomination process is done online via SC–TMS. Once approval is received, the course may be funded and processing of the student can begin.

For additional guidance and policy regarding the CTFP, refer to DoD Instruction 2000.28, DoD Policy and Responsibilities Relating to the Regional Defense Combating Terrorism Fellowship Program (CTFP) and the Regional Defense Combating Terrorism Fellowship Program Annual Guidance issued by OASD/SO-LIC.

Priorities

The CTFP also utilizes priority codes within its training lines identified on the STL. Priority codes definitions associated with CTFP are a little differently than priority code definitions associated with an IMET program and are as described below.

- A CTFP priority code of "B" indicates the training was funded by CTFP and the training was provided by a Regional Center
- A CTFP priority code of "A" indicates all other training, not occurring at a Regional Center, which is funded by CTFP

Other Security Cooperation Training

The SC training community is also responsible for managing training programs based on other legal authorities previously mentioned. While these other programs may change from year to year, the resulting training requirements are handled much like IMET and FMS training requirements. The existing SC training infrastructure is used to document, fund, and implement these training requirements. A pseudo LOA may be established to accomplish funded training. Thus, training can be identified by the SCO, formalized via the CCMD SCETWG process, entered into the STL by the military service training activities, and then implemented when the training quotas become available and funding is authorized.

Sanctions and Training Program Restrictions

Chapter 2 of this text, "Security Cooperation Legislation and Policy," provides information on sanction authorities and restrictions to providing assistance to countries. Political sanctions and Brooke Amendment economic sanctions result in IMET and FMF program suspensions. If a country falls under these sanctions, no new IMET or FMF-funded IMS may travel to the U.S. or other locations to begin training. Normally, IMS who have already reported to training may continue their training for up to six months in order to complete the courses authorized on their ITO, but training may not be added or changed. However, Department of State reserves the right to shorten or lengthen this time period depending on the situation at hand. If a country is sanctioned for non-repayment of debt under Section 620q, FAA, only the IMET program is affected.

In addition to sanctions authorities, Congress has legislated that 110 percent of the amount of a country's unpaid parking fines or property taxes in Washington, DC and New York City be withheld from the country's IMET allocation until the bills are paid. [Section 643, P.L. 110-161] While not eliminating the ability of the country to send IMS to training, it does reduce the available funds.

The consequences of a country being under sanctions must be addressed by the SCO. A country whose IMET program has been suspended no longer qualifies for the FMS incremental rate (Rate C) for tuition. Thus, if they wish to purchase training using their own host nation funds via an FMS case, the price of the training will be at the FMS full rate (Rate A). (See Tuition Pricing section later in this chapter for a discussion on the different tuition rates.) Cancellation penalties could be assessed against training for which the country had confirmed quotas but are now unable to utilize those quotas due to sanctions.

DSCA maintains an informal list of sanctioned or suspended countries, but it cannot be distributed externally. DSCA country desk officers may release information concerning a country's status, but only to U.S. citizen employees of the USG upon request.

Annual Foreign Military Training Report

The Foreign Military Training Report (FMTR) is established by section 656, FAA, as an annual reporting requirement due to Congress by 31 January. The FMTR contains substantial detail on each training activity: foreign policy justification and purpose of the training, number of foreign military personnel provided the training and their unit of operation, location of the training, aggregate number of students trained for the country, the cost, the operational benefits to U.S. forces, and the U.S. military units involved in the training. Through ITO issuance and MTT after-action summaries in the Security

Cooperation–Training Management System (SC–TMS), SCOs provide input to the FMTR. When directed by their CCMD and DSCA, the SCO conducts a final review of the STL for completeness and accuracy. DSCA provides the data to DoS who finalizes the report and submits it to Congress. Timelines for the report can be found in SAMM C10.T17. The unclassified portions of the report can be found at: http://www.state.gov/t/pm/rls/rpt/fmtrpt. Timelines for the report are identified in the SAMM, C10.T17.

Types and Categories of Training

Given U.S. foreign policy, disclosure, technology transfer, and human rights considerations, international students are still allowed to participate in a wide range of courses available through the military services' training schoolhouses and DoD agencies. There are three broad categories of training that are offered to international countries and international organizations: English Language Training, Institutional Training, and Specialized Training. Each category is described below.

English Language Training

The language difficulties encountered by some IMS continue to be a significant problem that hinders the effectiveness of training. It is imperative to recognize the need for an IMS to adequately understand English as most of the training that the U.S. provides is conducted in English. The exceptions to this are the Western Hemisphere Institute for Security Cooperation, Inter-American Air Forces Academy, and the Navy Small Craft Instruction and Technical School, which conduct training in Spanish. Students who have difficulties with English may attend the Defense Language Institute English Language Center (DLIELC) located at Joint Base San Antonio to learn English before continuing to their follow-on course(s). Prior to attending DLIELC, the student must score at least a 55 on the English Comprehension Level (ECL) test unless a waiver has been granted by DSCA and DLIELC through the CCMD.

English Comprehension Level

The SCO training manager is responsible for ensuring that IMS meet all course prerequisites, including English Comprehension Level (ECL) requirements. ECL minimum requirements for all courses are identified in the Training-Military Articles and Services Listing (T-MASL). Students who cannot meet the minimum ECL requirement for a course would have great difficulty in successfully completing that course due to English competency.

Prior to attending a U.S. school, IMS must be tested both in-country by SCO personnel and at the first direct entry training location (by the IMSO) to determine their ECL rating. IMS from various native English-speaking nations are exempt from both in-country and CONUS English language testing. The requirement for in-country testing has also been waived for a number of other countries, although they will still be tested by the first CONUS training installation. IMS ECL test scores are documented on the ITO. Each year, the Defense Language Institute English Language Center (DLIELC), in coordination with DSCA, reviews the list of countries for which English language testing is waived and publishes an updated exemption message.

For in-country ECL testing, the SCO is responsible for appointing a Test Control Officer (TCO) to receive and safeguard the English language testing materials provided by DLIELC and to administer ECL tests to prospective IMS. The TCO must be a U.S. citizen. In certain circumstances, a waiver to the ECL score may be granted if the prospective IMS is within a few points of the required ECL score and there is sufficient justification that the student really can comprehend English. These waivers are submitted by the SCO to the military service training activities who will coordinate with the schoolhouse to determine if the waiver will be granted. Requests for waivers are discouraged, since some degradation of comprehension and retention is bound to occur, but given the circumstance may be the best alternative.

Oral Proficiency Interview

An additional English testing requirement has been established, primarily for flight training and public affairs courses, for an oral proficiency interview (OPI) to be conducted by DLIELC. This interview takes place via telephone in the SCO training office between the IMS and DLIELC to determine the English speaking and comprehension ability of the prospective IMS. If the IMS fails the OPI, a sixteen-week OPI prep course is available at DLIELC. If applicable, the T-MASL will indicate the minimum OPI score required. As in the case of ECL scores, OPI waivers can be requested but are discouraged.

General English Training

In those countries where little or no English language training is available, the SCO can program the IMS for General English Training (GET) at DLIELC prior to follow-on training. The duration of GET depends upon the current ECL score of the IMS and the minimum score required for the training. The primary purpose of GET is to raise the ECL of an IMS who has at least a minimum ECL of 55 to meet the minimum ECL requirement for the course they will be attending. Besides providing IMS with GET, DLIELC also has the capability to train language instructors and to assist in developing an in-country English language program. Assistance in support of English language training in-country may be obtained by requesting a DLIELC survey team or language training detachment to assist the country's English language training staff and faculty. A survey team from DLIELC can help the SCO determine the status of a country's English language training program and capabilities and assist in determining English language requirements needed.

Specialized English Training

Although many IMS achieve the ECL requirement specified in the T-MASL, they are unable to assimilate with sufficient speed the jargon or terminology that is so prevalent in certain subjects such as medical, electronics, aviation, and others. To overcome this, DLIELC conducts nine-week Specialized English Training (SET) courses to familiarize the IMS with key words, phrases, and terminology that they will encounter during their particular follow-on-training (FOT). DLIELC has developed SET for over forty subject areas in consultation with FOT locations. An IMS can be programmed for both GET and SET but will have to meet the minimum ECL prior to starting SET. If the IMS already meets the ECL requirement, SET may be programmed alone prior to FOT. Course requirements are expressed in the T-MASL to reflect the required ECL and whether SET training is required (R) or advised (A).

Sponsoring countries, SCO personnel, and DLIELC must continue to work together to eliminate the major problems associated with the English language program. These recurring problems include: inadequate language training in-country, lack of familiarization with technical terminology, and significant differences between the in-country ECL test score and the ECL test score at the first training location. It is also important to realize that acquiring an English language laboratory without providing for trained instructors, lab managers, and updated English language materials will not help the country reach its ECL goals. SCOs should contact DLIELC for advice when planning an English language lab acquisition.

Institutional Training

Simply put, institutional training is standardized training, normally in a classroom type setting. The training location has conducted careful assessments, determined training goals, established methods and materials designed to achieve these goals, implemented training, and carefully evaluated the course to ensure training is carried out effectively and training goals are attained. Institutional training is normally conducted at military educational and training facilities in the U.S. and overseas.

Professional Military Education

PME includes the war colleges and the command and staff level schools (which are by invitation only for IMS) and other career development courses. For these types of courses, the host country is asked to provide only career personnel who meet the required rank/grade criteria.

Technical Proficiency Training

This category covers a wide range of courses including maintenance training, technical courses, and courses oriented toward developing a specific level of skill required to operate and/or maintain weapons systems or to perform required functions within a military occupational specialty. The country must have or intend to buy a particular system before technical training on the operation, maintenance, and repair of that system will be provided.

Flight Training

Flight training represents the highest cost training for international training programs and accounts for a large portion of USN, USAF, and USA training purchased by other countries. Because of the high costs associated with aircrew training, these courses can no longer be programmed under the IMET program; the bulk of such training is usually provided through FMS.

Specialized Training

Specialized training is tailored for the unique needs of the country. It can be a formal course that is modified to meet country requirements or something newly developed. The training can be provided in the U.S., overseas, or in the host country. Because specialized training is developed to meet the specific needs of the country, it requires more thorough communication between the SCO and the training activity to determine whether and how the U.S. can meet those needs.

On-the-Job and Observer Training

Formal school training is sometimes followed by a period of on-the-job, or hands-on training, to allow the IMS to gain proficiency in newly-acquired skills. Observer training is provided when no formal course covering the desired training is available or when it is impractical or otherwise undesirable for IMS to perform the tasks being demonstrated. An obvious example is medical training, where doctors and medical technicians who are not licensed to practice medicine in the U.S. can benefit from observing U.S. techniques and procedures. The SCO training manager must provide an OJT/OBS request which furnishes detailed information on the duration of training desired and the objectives to be achieved. Before such training can be confirmed, the military service uses this information to ensure that the training matches the needs of the country and can be provided from U.S. resources. The availability of OJT/OBS training is limited due to the heavy commitments of today's active and reserve military components.

Orientation Tours

Orientation Tours (OTs) are provided to familiarize selected foreign officers with U.S. military doctrine, techniques, procedures, facilities, equipment, organization, management practices, and operations. In addition to the purely military objectives to be achieved through OTs, they are intended to enhance mutual understanding, cooperation, and friendship between U.S. forces and partner nations. This category of training includes distinguished visitor OTs for personnel of the rank of chief of staff of their respective military service. All OTs are conducted by the National Defense University (NDU) as short-term orientations not to exceed fourteen calendar days and require considerable detailed planning if they are to be effective.

An OT is programmed into the STL just like any other training, but there are requirements that must first be met. Prior to any proposal to country officials, which could be construed as an agreement to provide a tour, the SCO forwards the OT request to the CCMD, DSCA, NDU, and the MILDEPs with supporting rationale and justification for approval. An IMET-funded OT is programmed only after the SCO Chief attests to its importance to the country's efforts. OT requests are also included in the Combined Education and Training Program Plan (CETPP) for a country. Escort officers are provided from CONUS resources, although SCOs may fill this role in extenuating circumstances. Associated expenses are programmed and charged against the FMS case or the country's IMET program. These and other requirements are specified in the SAMM, C10.17.18.3.1 and the JSCET, chapter 12.

Exported Training

At times, it may be more expedient and cost effective to request that U.S. personnel conduct training in-country (via a "team" of instructors) rather than sending a large number of IMS to the U.S. or to a U.S. military installation overseas. This is especially true when the equipment is no longer in the U.S. inventory or when limited seats are available in the schoolhouse. SC training teams may be requested for a particular training task over a specific period of time. A few other advantages of exported training include the ability to tailor the training to fit the specific needs of a particular country as well as being able to train using the actual equipment that the country owns. Furthermore, it might be possible to use interpreters during training in-country, at the country's expense, if a large number of students cannot speak English and it is determined that it will take too long for them to learn English at the level needed. If country and U.S. personnel in country need help in identifying issues and developing training requirements and objectives, a survey team may be requested from the U.S. military service as the preliminary step in the process. However, with or without a survey team, a request must be submitted which specifies the training objective, the number of personnel to receive training, skill levels to be achieved in each specialty area, equipment required and/or available, and the desired length of training. To request a training team, the SCO, must submit a DD Form 2964, Security Cooperation Education and Training Team Request, to the CCMD who will attempt to fulfill the requirements via their component commands. If this is not possible, the CCMD will then forward the DD Form 2964 to the appropriate Military Service Training Activity for support. All IMET-funded teams require a waiver approval from the CCMD and DSCA prior to programming unless the training has been E-IMET certified.

However, there might be disadvantages with team training that should be taken into account as well when requesting this type of training. A few disadvantages could include: more distractions for the students while training near home or the office, students do not get the opportunity to experience the U.S. first hand, it might take longer for students to learn English if they revert back to their native language when not in class, and the equipment might not be available to train on in country.

SCO training managers must make every effort to identify all training team requirements at the SCETWG and in the CETPP.

Mobile Training Teams (MTTs) and Mobile Education Teams (METs). MTTs and METs consist of DoD military and civilian personnel on temporary duty to train international personnel in-country. The team members may be from CONUS or overseas units/organizations, and the training may be conducted in the CONUS or overseas using equipment owned by or allocated for delivery to the purchaser and recipient country. MTTs and METs are authorized for specific in-country training requirements, training associated with equipment transfer, or to conduct surveys and assessments of training requirements. They may normally be programmed for periods up to 179 days, including travel time. IMET-sponsored MTTs must be programmed to terminate on or before 30 September of the fiscal year in which they perform their duties. FMS-funded teams may span fiscal years, if necessary.

Provisions must also be made in advance for purchasing associated tool sets, training aids, and other support items needed from the CONUS and having them in place in the country when the team arrives. Once in-country, the team reports to and comes under supervision of the SCO chief.

Field Training Services. FTS is the generic term for Extended Training Service Specialists (ETSS) provided from DoD resources and for contract field services provided under MILDEP contract from U.S. industry sources. These teams provide advice, instruction, and training in the installation, operation, and maintenance of weapons, equipment, and other systems. FTS teams are normally programmed for a period of up to one year. Military members may be transferred on permanent change of station (PCS) orders without a permanent change of assignment when participating on an ETSS team. Requests for FTS under IMET and requests for FTS extensions must be justified by the SCO and submitted to the CCMD for approval on a case-by-case basis.

Technical Assistance Field Teams. TAFTs are DoD personnel deployed in a PCS status for the purpose of providing in-country technical or maintenance support to foreign personnel on specific equipment, technology, weapons, and supporting systems when MTTs and ETSSs are not appropriate for the purpose. Normally, TAFTs do not have training as a primary mission of the team. However, one must refer to the mission statement of the TAFT to see if the provision of training, formally or informally, is included. TAFTs may not be funded under the IMET program. SAMM C11.8 provides additional information regarding the various types of training teams that exist.

Classified Training

Attendance in classified courses or blocks of instruction is on a need-to-know basis. Each classified training request is subject to case-by-case approval, based on National Disclosure Policy (NDP-1), MILDEP implementing regulations, and existing security agreements between the U.S. and the country. Refer to chapter 7 of this textbook, "Technology Transfer, Export Controls, and International Programs Security," for discussion of national disclosure policy and transfer of technology.

Financial Considerations

Tuition Pricing

The FAA and the AECA prescribe a multi-tier tuition pricing structure for training. The separate tuition rates for the same course differ because various cost elements have been authorized by law to be excluded or charged at an incremental rate based on various tuition rate categories. DoD policy describing the various tuition rate categories and for developing tuition prices for international students is contained in DoD 7000.14-R, *Financial Management Regulation,* volume 15, chapter 7, section 0710. Additionally, SAMM chapter 10.14 explains the five tuition rate categories as well, which are:

Rate A (Formerly FMS Full Rate)

The tuition price charged countries not eligible for any of the other rate categories below. These are full cost cash customers. This cost is about equal to what it costs the USG to send a U.S. student to the same course.

Rate B (Formerly FMS NATO Rate)

Countries with a ratified reciprocal training pricing agreement with the USG that are purchasing training via an FMS case are charged Rate B. SAMM C10.T13 and C10.T14 lists the countries and effective dates of the reciprocal agreements. (Note that some of these countries are also eligible for Rate C.)

Rate C (Formerly FMS Incremental Rate)

The tuition price charged to countries that are (1) currently authorized to receive IMET funds and will be using country funds to purchase the training or (2) designated as a high income foreign country in accordance with the FAA (currently Austria, Finland, the Republic of Korea, Singapore, and Spain). If a country's IMET program has been suspended by political or economic sanction, it is no longer eligible for this rate. Rather, the Rate A (FMS Full) is charged.

Rate D

Training on a case financed with U.S.-appropriated funds receives Rate D. FMS cases funded by U.S.-appropriated funds include cases using Foreign Military Financing Program (FMFP) and Building Partner Capacity (BPC) program authorities. This tuition rate is identical to Rate E except that the FMS administrative surcharge will be applied to it.

Rate E (Formerly IMET Rate)

The tuition price charged to countries when IMET program funds or other grant training program funds such as CTFP are used.

Total Cost of Training

The total cost of training includes all associated costs to include the T-MASL tuition price, TLA paid to IMS, medical and dental costs, special clothing, and personal equipment items not included in the tuition, etc. Any of these articles and services to be furnished by the U.S. training facility, which are not included in the tuition price, must be identified and included as specific items to be funded in the FMS training case, or reimbursed in cash by the student or the participating government. Authorized IMET expenditures include tuition, overseas and CONUS travel and baggage allowances, IMS living allowances while in training, and IMS emergency medical care. When specifically authorized by DSCA, on a case-by-case basis, these TLA costs can be included as a cost element on an FMS case funded by FMF grant funds. TLA costs are normally funded by the other DoD and DoS grant programs.

Cancellation Penalties

Because of the shortage of training quotas and the difficulty experienced by the military service training activities in adjusting to quota changes, DoD has instituted a penalty charge for IMS no-shows and for late-notice cancellations. Normally, country training programs are subject to a penalty charge of 50 percent of the tuition price of canceled courses if notification is not received more than sixty days prior to confirmed course start dates. The penalty is applied based upon determination by the MILDEP that lack of timely cancellation was the fault of the country. A cancellation penalty of 100 percent of the tuition price may be assessed if the training is provided by a contractor, 5th quarter IMET training, or the course is dedicated to international students only. It is very important to review each of the military service's cancellation penalty policy messages that are updated each year. Some courses identified in the messages are accessed 100 percent penalties no matter when the course is cancelled once it has been on the STL in confirmed status for thirty days. The policy messages can be found on the International Training Management web site (http://www.discs.dsca.mil/pages/itm/pages/messages/).

Student Administration

Student administration is very important aspect to a training program, which when done appropriately, greatly enhances the student's overall training experience. This administrative process can be separated into three distinct phases: pre-training, during training, and post-training.

Pre-Training Phase

The pre-training phase is the responsibility of the overseas SCO training manager in conjunction with host country counterparts. It begins with the selection of a prospective IMS.

Student Selection Criteria

Synthesizing DoD guidance on the type of person to be given preference for training under SA/SC, one can construct a composite of student requirements:

- Leadership potential—Individuals who are in the future likely to occupy key positions of responsibility within the host nation's armed forces
- Retainability—Career personnel, in the case of professional level schools
- Utility—Persons who will be employed in the skill for which trained for a sufficient period of time to warrant the training expense

To broaden the capability of the foreign military establishment, consideration should also be given to training persons with instructor ability, either as the prime reason for training, or as follow-on training to technical instruction. Thus, the train-the-trainer concept.

SCO personnel are instructed to follow the above guidance and emphasize these criteria when projecting country IMET program requirements. Countries requesting FMS training apply the same criteria for the same reasons, i.e., proper and effective utilization of human and materiel resources.

Other aspects of the pre-training phase include: determining whether the IMS meets the physical and language prerequisites for the course, scheduling English language training if needed, ensuring medical and dental examinations are completed in accordance with policy, and verifying IMS has correct documentation to enter the U.S. Of particular importance is the screening of the candidate IMS for unfavorable criminal activities and possible Leahy vetting for human rights violations.

International Military Student Screening

For all U.S.-sponsored training programs (regardless of funding), thorough and effective screening must be conducted by the embassy country team on IMS candidates to ensure they have no history of involvement in human rights abuses, drug trafficking, corruption, criminal conduct, and/or other activities that are inconsistent with U.S. foreign policy goals. It is up to each country team to determine how that screening process will be conducted and then document the process in local standard operating procedures (SOPs) and the CETPP. Normally, the following U.S. organizations in the embassy country team assist in the screening process: Human Rights Officer, Regional Security Officer (RSO), Drug Enforcement Agency (DEA), Consular Section, Pol-Mil, Defense Attaché Office (DAO), and other offices as appropriate. If an individual's reputable character cannot be validated, the individual will not be approved for training.

Leahy Amendment and Vetting

In addition to IMS screening requirements by the country team, increased Congressional interest in human rights violations worldwide has resulted in more stringent statutory guidance and limitations on training, especially that which is funded with U.S.-appropriated dollars. The so-called Leahy Law or Leahy Amendment—after Senator Patrick Leahy of Vermont—was first enacted in 1997 as part of the annual appropriations act for State Department (Title 22) managed programs, such as IMET. It prohibited use of appropriated funds for foreign security force units implicated in human rights violations unless the Secretary of State determined that the host nation was taking effective measures to bring those responsible to justice. Over the years, the Leahy Amendment has taken different forms

and is now permanently in FAA section 620M which states that no assistance shall be furnished under the FAA or the AECA to any unit of the security forces of foreign country if the Secretary of State has credible information that such unit has committed a gross violation of human rights. Similar language occurs for DoD-funded training in U.S. Code Title 10 Section 2249e which states: In general, of the amounts made available to the DoD, none may be used for any training, equipment, or other assistance for a unit of a foreign security force if the Secretary of Defense has credible information that the unit has committed a gross violation of human rights. The Secretary of Defense shall, in consultation with the Secretary of State, ensure that prior to a decision to provide any training, equipment, or other assistance to a unit of a foreign security force full consideration is given to any credible information available to the Department of State relating to human rights violations by such unit. Exception: The prohibition in subsection (a)(1) shall not apply if the Secretary of Defense, after consultation with the Secretary of State, determines that the government of such country has taken all necessary corrective steps, or if the equipment or other assistance is necessary to assist in disaster relief operations or other humanitarian or national security emergencies. Waiver: The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition if the Secretary determines that the waiver is required by extraordinary circumstances.

The purpose of the DoS and DoD Leahy Laws are three-fold:

1. To ensure that FAA and AECA-funded assistance and DoD Annual Appropriations-funded training do not support units or individuals who have committed a gross violation of human rights.
2. Encourage accountability and professionalism in foreign security forces.
3. Protect the U.S. Government (USG) from accusations that the USG supports human rights abusers.

Once the country team has accomplished their local screening to validate a student's reputable character, depending on certain requirements such as if DoS or DoD funds are being used to pay for the training, the country team then submits the student's name and unit name via the International Vetting and Security Tracking (INVEST) system to Department of State (DoS) in Washington DC to be Leahy Vetted for gross violation of human rights. If all students are being trained in country by a "team" of U.S. instructors are from the same unit, the unit as a whole is Leahy vetted by submitting the unit name and unit commander's name via INVEST to DoS in Washington DC. DoS' vetting process usually takes a minimum of ten days, upon which DoS will reply to the country team approving or rejecting the individual or unit to attend training. Additional information regarding human rights can be found in chapter 16 of this textbook.

DoS has implemented two policies in order to reduce the burden of work on the embassy country team and the SCO in regards to Leahy Vetting. First, for certain "fast track" countries, only embassy-country team level screening is required for the SCO to continue processing the IMS. Second, the Leahy vetting performed by DoS is good for a one year period. So, an IMS returning to the U.S. for training within a year of vetting does not have to be vetted again. Detailed IMS screening and Leahy vetting guidance and information, including the fast track countries, can be found on the Security Assistance Network (SAN) under the training menu. Information on Leahy Vetting can also be found in the Security Cooperation Information Portal (SCIP) under SCO/COCOM > DISCS Presentations > SCM-O Course > Reference Materials > Leahy Vetting.

It is important for the embassy country team to document the process for local student screening and Leahy Vetting in local standard operating procedures (SOPs).

Medical Screening and Medical Coverage

The SCO must ensure that the student and any accompanying dependents are medically screened by a qualified physician and dentist to be sure they are physically fit to attend training and have no communicable diseases.

The SCO also must determine how medical coverage will be paid in the event the student and/or accompanying dependents get hurt or sick while in training. The five ways medical coverage can be paid are:

1. Foreign Government Indemnification
2. FMS Case
3. Grant Program (covers the student only)
4. Reciprocal Health Care Agreement (RHCA) or NATO/Partnership for Peace (PfP) Status of Forces Agreement (SOFA)
5. Commercial Healthcare Insurance

The SCO will identify on the student's Invitational Travel Order (ITO) the medical screening date as well as the means of medical coverage for the student and any accompanying dependents.

For detailed guidance on medical screening and medical coverage requirements, refer to DSCA's guidance in the SAMM, C10.8.5.1 and C10.9.

Student Pre-Departure Briefing

The JSCET requires the SCO to provide each IMS with a thorough pre-departure briefing that is appropriate to the needs of IMS from that country. To assist in this effort, DISCS has prepared an online pre-departure briefing that discusses many of the topics which should be included in the pre-departure briefing. It makes use of Internet-based materials and is available in English. The IMS pre-departure briefing is available via the International Training Management (ITM) web site.

Arrival Message

It is absolutely essential that the SCO provides timely notification to the IMSO at the first training location as to when and where the IMS will arrive. This will enable the IMSO to meet students at the airport and get them successfully checked into billeting thereby ensuring students begin their training with a positive experience. The JSCET requires that the training activity receives this notification at least two weeks before IMS arrival. If the IMS is to be accompanied by dependents, the notification must be received thirty days prior to IMS arrival. DSCA policy is that arrival messages will be provided via SC-TMS and appear on the SAN. Late or non-existent arrival messages continue to be a serious problem for the IMSO. If there are last minute changes, the SCO should make every effort to inform the IMSO of the change.

Invitational Travel Order

When authorized by the MILDEP, the SCO generates an Invitational Travel Order (ITO) using the Security Cooperation Training Management System (SC–TMS). The ITO identifies where and when the IMS is authorized to receive training, provides the accounting information to pay for TLA if needed, and provides guidance for determining the extent of funded support, student status, and privileges that the IMS is authorized while attending DoD training. An ITO is required for all IMS who are to receive U.S. training. As it is the student's official proof of authorization for training, it is one of the most important document the IMS possesses. Attachment 14-2 is a sample ITO. DSCA has

made ITOs mandatory for all IMS, even if the training is at a contractor training facility. Other student processing requirements are as specified in the JSCET Chapter 10.

During Training Phase

While in training, IMS should be treated the same as their U.S. military counterparts. In fact, although there are international-only courses, the majority of IMS are integrated directly into classes with U.S. students. Courses can be conducted in a formal classroom setting, at a functional job site through OJT/OBS, through self-paced computer-assisted training, and/or through OTs. IMS training can take place in almost any location where U.S. military personnel are based; nearly every DoD installation in the U.S. has hosted an IMS at one time or another.

Although IMS are integrated into the U.S. military education and training system as fully as possible, they still have some unique requirements. To assist the IMS while in training at a schoolhouse, the military services have directed that each installation or training activity involved in international military training designate an individual to serve as its International Military Student Officer (IMSO).

International Military Student Officer

IMSOs play a key role in international training. They serve as the training installation point-of-contact for all international training issues. Thus, the IMSO is responsible for ensuring that adequate billeting, messing, and all other IMS support requirements are satisfied. Most training activities with a large number of IMS have dedicated offices that handle IMS support issues. For training activities with smaller throughput, the IMSO function may be assigned to an individual as an additional duty. The IMSO is truly responsible for the complete care, feeding, and well-being of the IMS while at the training activity. Included in these responsibilities is the important task of conducting the U.S. Field Studies Program (FSP).

United States Field Studies Program. In accordance with DoDI 5410.17, *U.S. FSP for International Military and Civilian Students and Military-Sponsored Visitors*, commanders of DoD and military service training activities installations are responsible for establishing, operating, and administering a field studies program (FSP) for international students attending SC sponsored training at their installations. The intent of FSP is to provide students with a balanced understanding of U.S. institutions, goals, and ideals, and to increase their awareness of how these reflect the U.S. commitment to the basic principles of internationally recognized human rights. This is usually accomplished by taking international military students on field trips and other events that cover specific facets of the American democratic way of life identified in DoDI 5410.17. Costs associated with the implementation of the FSP shall be included in the course tuition.

Country Liaison Officers

Country Liaison Officers (CLOs) are assigned by the host country to be responsible for their IMS administration and discipline during training. CLOs are not normally in training themselves. They may accompany a particular group of students for a specified course of training, or they may be assigned on a more permanent basis with responsibility for all of their countrymen in training. If no CLO is assigned for a particular country, that country's senior student at each training installation is assumed to be in charge of his country's personnel in training for required administrative or disciplinary actions. The next level of command is assumed to be the country's defense, military, Army, Navy, or Air Force attaché or ambassador assigned to the U.S. If student disposition is in question, U.S. channels of communication go from the IMSO at the schoolhouse, through the military service training activity, and then to the SCO for resolution of problems and/or clarification of the sponsoring country's desires.

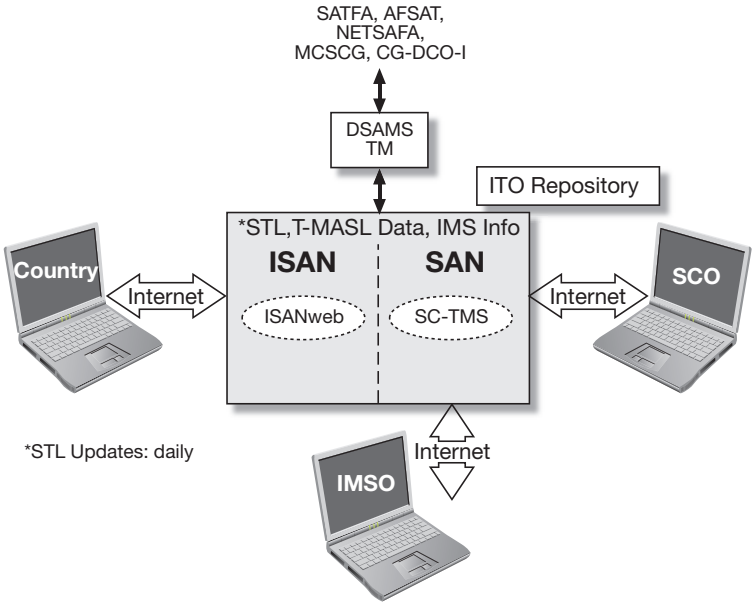
Post Training Phase

To close the loop, the SCO training manager or representative should debrief the IMS when they return from training, thus performing a quality assurance check on the IMS's training experience. The retainable instructional material (RIM) issued to the IMS will be shipped from the training activity to the SCO. SCOs are advised to keep a log of when RIM is turned over to the country to be provided in turn to the IMS. Likewise, the IMS academic report will be sent to the SCO to be forwarded to the country and student per local procedures. The SCO is responsible for monitoring the utilization of an IMS upon return to country, especially if the IMS was trained under the IMET program. Additionally, at select training locations, IMS who are completing their training and returning home are requested to complete a DoS IMET survey if their training was funded by the IMET program.

Training Program Automation

U.S. SC training managers use multiple automation systems for the successful management of training programs. These tools include: the International Training Management (ITM) website, the Security Assistance Network (SAN), and the Security Cooperation–Training Management System (SC-TMS). Additionally, international customers use the ITM website. International-Security Assistance Network (ISAN) and Partner SC-TMS (P SC-TMS) to manage their training program. Military Service Training Activity program managers primarily use the Defense Security Assistance Management System–Training Module (DSAMS-TM) but may have access to the SAN and SC-TMS as well. Figure 14-3 illustrates the automation tools available and who uses them.

Figure 14-3
Training Program Automation



International Training Management Website

The DISCS–hosted ITM website is available at http://www.discs.dsca.mil/pages/itm/. It is an invaluable tool for those involved in international training, providing one-stop access to a large collection of SA/SC training related materials: all current and relevant references, policies, messages, guides, and other helpful publications is available via the ITM website. The intended users are SCOs, IMSOs, DoD/MILDEP/military service training managers, IMS, and international training managers.

Security Assistance Network

The SAN is an internet-based, controlled access system used by SCOs, IMSOs, and other members of the DoD SC training community worldwide. The SAN is a portal used to access SC-TMS. Rosters for CCMD, military service training activities, DSCA, and DLIELC points-of-contact are available via the SAN training menu. SCO support on the SAN is provided by the CCMD user group administrator, but requests for assistance can also be directed to DISCS. See appendix 1 of this textbook, "Security Cooperation Automation," for further information on the SAN.

SC–TMS for IMSOs

IMSOs have access to certain functions within the Security Cooperation–Training Management System (SC–TMS) based on the IMSO role type. IMSOs are able to see and manage training as well as IMS at their schoolhouse. Functions available to the IMSO within SC–TMS include:

- Review course data and course descriptions contained in the MILDEP T-MASL database
- Input information about their schoolhouses (location information)
- Input specific information about their courses that are important for IMS (international notes)
- Input specific information on individual IMS including IMS travel and training status
- Submit IMS arrival/enrollment and completion/departure reports and other progress messages
- Maintain point-of-contact and detailed training location information

SC–TMS for SCOs

SC–TMS for SCOs provides the SCO a way to manage their country's SC training program. Functions available to the SCO through SC–TMS include:

- Access training data online (i.e., Standardized Training List [STL])
- View course information via the T-MASL
- View remarks entered by IMSOs and MILDEPs
- View current status of IMS
- Enter Student biological information
- Create Invitational Travel Orders (ITO) and ITO Amendments
- IMS arrival information
- SCO POC information
- Access IMSO point-of-contact (POC) and location information
- Access Military Service Training Activity Country Program Manager POC information
- Submit the CTFP IMS nomination form
- Prepare and submit the CETPP

I-SAN and Partner SC-TMS

The I-SAN and Partner SC-TMS (P SC-TMS) provides training program information to host nation training counterparts, giving them access to some of the same country training data to which the SCO has access (such as the STL and T-MASL). In order for the host nation to gain access to the I-SAN and PSC-TMS, the SCO training manager must submit a request through the SAN to DISCS providing justification on why the host nation needs access to the I-SAN and Partner SC-TMS.

Defense Security Assistance Management System Training Module

DSAMS-TM is the DoD joint SA/SC training management system for use by military service organizations. T-MASL information is loaded into DSAMS and made available on the SAN. Training requests by the SCO training manager are also programmed into DSAMS-TM and then passed to the SAN in the STL. Once course quotas are confirmed, ITO authorizations are passed via DSAMS to SC-TMS. The SCO training manager can then view and act upon the information in SC-TMS.

Summary

Training has been called the people side of SA/SC. People fly airplanes, drive tanks, and conn ships. People install, test, calibrate, and repair equipment. People manage information systems, fill requisitions, devise force postures, and implement operational plans and strategies. As long as people engage in all these activities, individual training will remain a long-lasting and indispensable part of U.S. SA and SC efforts.

References

Department of Defense

DSCA Manual 5105.38-M, *Security Assistance Management Manual* (SAMM). Chapters 10 and 11. http://www.samm.dsca.mil/.

AR 12-15; SECNAVINST 4950.4A; AFJI 16-105, *Joint Security Cooperation Education and Training Regulation*.

DoDI 5410.17, *United States Field Studies Program (FSP) for International Military and Civilian Students and Military-Sponsored Visitors*.

United States Air Force

AFSAT, *USAF International Military Student Officer Handbook*.

United States Navy

NETSAFA, *U.S. Navy International Training & Education Catalog*.

NETSAFA, *International Military Student Officer Guide*.

United States Marine Corps

MCSCG, U.*S. Marine International Military Student Officer Desktop Guide*.

MCSCG, Security Cooperation Office Desktop Guide.

United States Coast Guard

CG-DCO-I, *U.S Coast Guard International Training Handbook*.

Defense Language Institute English Language Center

DLIELC, *Catalog of Materials, Courses, and Support* (Published Annually).

DLIELC Instruction 1025.7, *Planning & Programming Security Cooperation English Language Training*.

DLIELC Instruction 1025.9, *Management of DLIELC Oral Proficiency Interview* (OPI).

DLIELC Instruction 1025.15, *English Comprehension Level (ECL) Test Guidelines*.

English Language Training Support for SCOs Handbook

DLIELC Student Handbook

Defense Institute of Security Cooperation Studies

How to Read an STL

SC-TMS User's Guide

ATTACHMENT 14-1
SAMPLE STANDARDIZED TRAINING LIST

Bandaria STL Report

Case Identifier Sfx	MASL	Trk MASL Title	Name	AN	ECL	Dur	Loc	SC Grade Report Dt	PO Start Dt	SCN End Dt	TLS	ECL Sec	ECL Pri	ECL Est	Stu Class FY	UPrice	T+LA	Other	Total Cost	FS
BN-B-15I001-0001		**MED**							**B**											
A	B365003	MEDICAL COST-CONUS-IMET		MF		0.0	B834				P	U	A	2015		$0	$0	$0	$525	U
B	B365003	MEDICAL COST-CONUS-IMET		MF		0.0	B834				P	U	B	2015		$0	$0	$0	$0	U
C	B365003	MEDICAL COST-CONUS-IMET		MF		0.0	B834				P	U	D	2015		$0	$0	$0	$0	U
BN-B-15I001-1100		**IMS**							**B**											
A	B171807	INTERNATIONAL FELLOWS ORIENTATION		AA	80	6.0	217	19-Jun-15	22-Jun-15	31-Jul-15	C	U	A	2015		$6,577	$6,579	$0	$13,156	U
B	B171800	ARMY WAR COLLEGE (RESIDENT COURSE)		AA	80	45.0	217	31-Jul-15	03-Aug-15	10-Jun-16	C	U	A	2015		$14,651	$48,195	$0	$62,846	U
BN-B-15I001-1101		**IMS**	**Vulke Hadin**					**OFF 04**	**B**	**BN003120**		**85**			**Secret**					
A	B171766	INTERNATIONAL OFFICER PREPARATORY		AA	80	2.8	701	19-Jun-15	30-Jun-15	17-Jul-15	C	U	A	2015		$1,859	$5,017	$0	$6,876	U
B	B171782	COMMAND AND GENERAL STAFF OFFICER'S COURSE PREP		AA	80	1.6	701	20-Jul-15	22-Jul-15	31-Jul-15	C	U	A	2015		$1,558	$2,422	$0	$3,980	U
C	B171768	COMMAND AND GENERAL STAFF OFFICER'S COURSE		AA	80	44.0	701	03-Aug-15	10-Aug-15	10-Jun-16	C	S	A	2015		$13,454	$54,495	$0	$67,949	U
BN-B-15I001-1103		**IMS**							**B**											
A	B171805	IF PREPARATORY COURSE		AA	80	6.2	703	19-Jun-15	22-Jun-15	03-Aug-15	C	U	A	2015		$39,327	$14,076	$0	$53,403	U
B	B171806	EISENHOWER SCHOOL		AA	80	46.0	705	03-Aug-15	03-Aug-15	17-Jun-16	C	U	A	2015		$36,378	$97,614	$0	$133,992	U
BN-B-15I001-1114		**IMS**	**Mohammed Alanezi**					**OFF 03**	**B**	**BN003125**		**80**			**Secret**					
A	B171699	MANEUVER CCC IMSO PREP		AB	75	6.2	809	23-Mar-15	30-Mar-15	27-Apr-15	C	U	A	2015		$1,279	$2,262	$0	$3,541	U
B	B171701	MANEUVER CAPTAINS CAREER		AB	75	23.4	809	21-Apr-15	28-Apr-15	08-Oct-15	C	U	A	2015		$5,929	$10,307	$0	$16,236	U
BN-B-15I001-2212		**IMS**							**D**											
A	B175283	MEDICAL STRATEGIC LEADERSHIP PROGRAM		BL	80	3.2	081	12-Mar-15	13-Mar-15	04-Apr-15	C	U	A	2015		$4,114	$2,624	$0	$6,738	U
BN-B-15I001-2213		**IMS**							**B**											
A	B151845	JOINT LOGISTICS		BE	80	2.0	907				P	U	A	2015		$662	$1,718	$0	$2,380	U
BN-B-15I001-6301		**IMS**							**B**											
A	B175482	PRE-HOSP TRAUMA LIFE SUPPORT		EM	80	0.6	767	20-Mar-15	27-Mar-15	29-Mar-15	C	U	A	2015		$292	$1,093	$0	$1,385	U
B	B175483	TRAUMA NURSING CORE COURSE		EM	80	0.6	767				S	U	A	2015		$292	$1,530	$0	$1,822	U
C	B175481	ADVANCED TRAUMA LIFE SUPPORT		EM	80	0.6	767				S	U	A	2015		$292	$1,530	$0	$1,822	U
D	B175281	COMBAT CASUALTY CARE		EM	80	0.8	767				S	U	A	2015		$390	$437	$0	$827	U
																Programmed Totals for SATFA :			$377,478	
BN-D-15I001-0001		**MED**							**D**											
A	D365003	MED IMET ESTIMATES - SVC		MF		0.0	D000				P	U	A	2015		$0	$0	$0	$490	U
B	D365003	MED IMET ESTIMATES - SVC		MF		0.0	D000				P	U	B	2015		$0	$0	$0	$0	U
C	D365003	MED IMET ESTIMATES - SVC		MF		0.0	D000				P	U	D	2015		$0	$0	$0	$0	U
D	D365998	MED CIV FACILITY - SVC		MF		0.0	D000				P	U	A	2015		$0	$0	$0	$0	U
E	D365995	MED MIL FACILITY - SVC		MF		0.0	D000				P	U	A	2015		$0	$0	$0	$0	U
F	D365997	MED IMS INS POLICY REVIEW - SVC		MF		0.0	D000				P	U	A	2015		$0	$0	$0	$0	U
G	D365996	MED FLT PHYSICAL - SVC		MF		0.0	D000				P	U	A	2015		$0	$0	$0	$0	U
BN-D-15I001-1431		**IMS**							**D**											
A	D171014	INTL OFF SCH (FOR ACSC)		AA	80	8.0	DMAX	01-Jun-15	08-Jun-15	30-Jul-15	C	U	A	2015		$5,980	$8,100	$0	$14,080	U
B	D171002	AIR COMD & STAFF COLLEGE (ACSC RESIDENT CRS)		AA	80	44.0	DMAX	03-Aug-15	05-Aug-15	06-Jun-16	C	U	A	2015		$3,790	$42,120	$0	$45,910	U
BN-D-15I001-1432		**IMS**							**D**											
A	D171011	INTL OFF SCH (FOR AWC)		AA	80	8.0	DMAX	18-May-15	26-May-15	14-Jul-15	C	U	A	2015		$6,120	$7,830	$0	$13,950	U
B	D171010	AIR WAR COLLEGE (AWC) RESIDENT PROGRAM		AA	80	44.0	DMAX	15-Jul-15	20-Jul-15	19-May-16	C	U	A	2015		$4,190	$41,850	$0	$46,040	U
BN-D-15I001-6001		**IMS**							**D**											
A	D177009	AMERICAN LANGUAGE COURSE GET AND SET		EQ		20.0	DLACDLI				P	U	A	2015		$17,363	$17,928	$0	$35,291	U
B	D122011	AIRFIELD OPERATIONS OFFCR		EA	80	16.0	DKEE				P	U	A	2016		$1,202	$11,409	$0	$12,611	U

12/9/2014 **STL Report Selection Criteria-> CC:All CaseID: 15i IA:All FY: ProgType:All** Page 1 of 3

Attachment 14-2

Sample Invitational Travel Order International Military Education and Training

SAMPLE ITO - NOT OFFICIAL - USE FOR TRAINING PURPOSES

Invitational Travel Order (ITO) for International Military Student (IMS)

1.ITO Number: BNB15I0011408 2.Country/Organization: Bandaria 3.Date: 5-Apr-15

The U.S. Government hereby issues this ITO for the IMS herein named to attend the course(s) of instruction herein listed, subject to the terms and conditions contained herein, and as may be amended by competent authority. This ITO is the only document that will be used and is valid only for the IMS entering U.S. training under the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act.

Definitions of acronyms and abbreviations contained in this document, and instructions for completing this form are provided in the Joint Security Cooperation Education and Training Regulation, JSCETR / Joint Security Assistance Training Regulation, JSATR (SECNAVINST 4950.4A/AR 12-15/AFI 16-105). This computer generated, letter format ITO is authorized in accordance with the Security Assistance Management Manual (SAMM), DoD 5105.38-M.

4. Issuing Security Cooperation Organization (SCO).
   a. Name of Organization: ODC Bandaria
   b. Mailing Address: Unit 8874, Box 3333
      DPO, AP 55555-6354
   c. E-mail Address: ddisamer@mail.mil

5.Program Type: IMET: 1-Year Intl. Military Education and Training BN-B-15I001

6. IMS Information:
   a. Surname: Torres
      First Name: Dante
   b. Sex: MALE
   c. Country Service Rank: LTC
   d. U.S. Equivalent Rank/Pay Grade: O5
   e. Country Service: Army
   f. Country Service Number: O-321456
   g. Date of Birth: 09-Dec-69
   h. Place of Birth: Harare, Bandaria
   i. Passport Number: 488885594
   j.Country of Citizenship: Bandaria
   k. Visa Number: F88850050
   l. Visa Type: A-2
   m. Miltitary Unit/Organization: 1st Division

7. Invitation.
   The Secretary of Department of the Army invites the IMS listed in Item 6 of this Order, to proceed from Bandaria to San Antonio, TX 78236, reporting on 08-Apr-15 for the purpose of commencing training listed in Item 8 of this order.

8. a. Authorized Training: No additional training to that specified in this order will be provided.

CASE: 15I001
a.WCN: 1408L MASL: D177014 Title: PROFESSIONAL MILITARY EDUC
Military Service Course No: DLIELC School: DLIELC, LACKLAND AFB TX
Location: San Antonio, TX 78236 Report Date: 08-Apr-15 End Date: 12-Jun-15
CASE: 15I001
b.WCN: 1408A MASL: B171766 Title: INTERNATIONAL OFFICER PREP
Military Service Course No: 2G-F67X School: COMMAND & GENERAL STAFF COLLEGE
Location: FORT LEAVENWORTH, KS 66027-1352 Report Date: 15-Jun-15 End Date: 17-Jul-15
CASE: 15I001
c.WCN: 1408B MASL: B171782 Title: COMMAND AND GENERAL STAFF OFFICER'S PREP
Military Service Course No: 2G-F68 School: COMMAND & GENERAL STAFF COLLEGE
Location: FORT LEAVENWORTH, KS 66027-1352 Report Date: 20-Jul-15 End Date: 31-Jul-15
CASE: 15I001
d.WCN: 1408C MASL: B171768 Title: COMMAND AND GENERAL STAF OFFICER'S COURSE
Military Service Course No: 1-250-ILE School: COMMAND & GENERAL STAFF COLLEGE
Location: FORT LEAVENWORTH, KS 66027-1352 Report Date: 03-Aug-15 End Date: 10-Jun-16
*****Last Line*****

9. Funding.
   Fund Cite: 5757574393300040405557738843840555 55

10. Language Prerequisites:
   a. Highest Required ECL: 80
   b. IMS completed in-country English language testing as follows:
      ECL Exam No: 95A Date Completed: 06-Mar-15 Score: 85

11. Security and Student Screening:
   a. Human Rights, Security and Medical Screening have been completed in accordance with the E-SAMM Paragraphs 10.8.1 and 10.8.5 and JSCET 10-39 for IMS listed in Item 6 of this Order.
   c. U.S. security requirements have been complied with. The home government has granted the IMS a security clearance. This of itself does not permit the disclosure of classified U.S. information. Such disclosure must be specifically authorized by an officially delegated authority and U.S. foreign disclosure regulations or directives.
      (1) The highest U.S. classification level required for training is Secret.
      (2) The U.S. equivalent classification level of the security classification granted by the home government is Secret.

SC-TMS generated ITO # BNB15I0011408 Page 1 of 3 Sample ITO - Not Official

For Illustration Purposes Only

12. Conditions:
    a. Dependents: Dependents are authorized by U.S. authority to accompany the IMS or join the IMS while in training. Dependents are not authorized to be transported or subsisted at U.S. Government expense. Only the following authorized dependents will be issued the U.S. DoD/Uniformed Services Identification and Privilege Card.
    Accompanying Dependents:

Name	Relation	DOB	Passport No.	Visa No.	VISA Type
Loralle Torres	Wife	16-Nov-71	77749959504	5775993449	A-2

    b. Medical Services.
    IMS:
    IMS under IMET.
    Charges for DoD and Military Treatment Facility-referred civilian medical and emergency dental care are chargeable to the IMET program and will be forwarded to the appropriate MILDEP for processing.
    MilDep Billing Address: Army:
    HQ MEDCOM ATTN:MCRM-F
    2748 WORTH RD STE 9
    JBSA Fort Sam Houston, TX 78234
    Or items may be scanned and emailed to: usarmy.jbsa.medcom.mbx.medcom-IMS
    DD Forms 7 and or 7A will be used for DOD reimbursements and SF 1034 for civilian reimbursements.

    (d) Medical Examinations (Before CONUS Arrival)
    Medical examination, to include HIV Test, was completed on 18-Feb-15.

    Dependents:
    Dependents.
    Non-NATO/PfP SOFA Authorized Dependents-Insurance. Dependent has acquired IMSO-verified qualifying health insurance for DoD and civilian medical care covering the entire period he/she will be present in the U.S. for scheduled training.

    Health Insurance:
    Company: United Health
    Policy Number: AV345678
    Address: 999 10th St.Tacoma, WA 55555
    Phone: 800-555-7634

    c. Participation in Hazardous Duty.
    IMS is authorized to participate in hazardous duty training.

    d. Physical Fitness Training.
    Participation in physical fitness training is required. Check SC-TMS Course Description, International Notes, and Prerequisites for prerequisite physical fitness requirements.

    e. Leave.
    Upon completion of training, IMS is authorized 5 days leave at no cost to the U.S. government. Upon completion of leave, IMS will proceed immediately to home country or as directed by competent authority.

    f. Living Allowances.
    Living allowance is authorized during period covered by this order, from day of departure from, to day of return arrival in home country, excluding period covered by leave, in accordance with SAMM Table C10.T3, and is chargeable to the fund cite in Item 9 of this Order.

    g. Travel.
    Travel covered by this order, overseas and CONUS, is chargeable to the fund cite in Item 9 of this Order.
    IMS has been issued one way ticket to San Antonio, TX.
    Cost of OCONUS travel chargeable to fund cite in Item 9 of this Order, is $1,500; Government transportation request is 4665755. Last training installation will arrange return transportation to home country.

    h. Travel by POV.
    IMS is not authorized to travel by POV.

    i. Baggage.
    Training 36 weeks or more in total duration: IMS authorized 5 pieces, not to exceed 50 pounds (22.7 kilograms) each.

13. Terms:
    a. Prior to departure from home country, the IMS and dependents listed herein are required to be medically examined and found physically acceptable in accordance with the health provisions of the Immigration and Nationality Act (8 USC 1182(A)(1)-(7); Public Health Service, Department of Health and Human Services, 42 CFR Part 34, Medical Examination of Aliens, and 42 CFR Part 71, Foreign Quarantine; applicable U.S. MILDEP regulations; and other U.S. laws or DoD directives and regulations which may be enacted from time to time.
    b. The home country will ensure that the IMS has sufficient funds in United States dollar instruments to meet all expenses while en route to and to include living allowance for not less than the first 2 weeks and not more than 30 days of training, pending receipt of applicable pay and allowances by the IMS.
    c. IMS will be responsible for custodial fees and personal debts incurred by self or family members. IMSs unable to meet these financial obligations may be withdrawn from training and returned to home country.
    d. The IMS will bring adequate uniforms and work clothing for field duty or technical work. U.S. fatigue uniforms and footwear will be purchased by the IMS in the event that the country work uniforms are inadequate. When flying training is involved, required special flight clothing and individual equipment will accompany the IMS, or provisions will be made by the home country or the IMS to obtain the use of all necessary equipment prior to start of training. The IMS will also possess adequate civilian clothing for off-duty wear.

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e. The Government of the United States is responsible for IMS travel which is part of the training program and for which costs are part of the course tuition.
f. The IMS will comply with all applicable U.S. Military Service regulations.
g. The United States may cancel training and return to country IMSs who violate U.S. law or Military Service regulation or who are found otherwise unsatisfactory. The IMS government will be alerted to such action in accordance with U.S. MILDEP regulations.
h. The Government of the United States disclaims any liability or financial responsibility for injuries received by the IMS listed herein while in transit to and from the training installation, while undergoing training or while in leave status, and any liability or financial responsibility for personal injury claims or property damage claims resulting from the IMS action.
i. The IMS will participate in flights of U.S. military aircraft as required for scheduled course(s) or as specified in U.S. MILDEP regulations.
j. The acceptance of this order by the host country constitutes agreement that an IMET funded student will be utilized, upon return to the host country, in the skills for which he was trained for a period of time sufficient to warrant the expense to the U.S. Government, in accordance with the SAMM, Chapter 10.

14. Implementing Authority:
a. MILDEP AUTHORIZATION: ARMY STL b. Date: 04-Dec-14

15. Special Remarks:
IMSO and SATFA authorized dependents to accompany the student.

16. Distribution:
COMMAND & GENERAL STAFF COLLEGE
FORT LEAVENWORTH, KS 66027-1352
DLIELC, LACKLAND AFB TX
San Antonio, TX 78236
1 - AMEXCO
1 - JPSC-TNG
1 - RP Emb, US
1 - PA/G8; PAF/A8; PN/N8
1 - SATFA-ATFA-RE
1 - US Emb, RP
1 - GHQ/J8
6 - IMS

17. ITO Authorization:

a. Signature of U.S. Authority Authenticating Orders: // SIGNED // Col. Max Precision
b. Title: ODC Chief

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Chapter

15

A Comparison of Foreign Military Sales and Direct Commercial sales

Introduction

In today's global economy, nations and international organizations have numerous choices among the various military systems produced throughout the world. The selection process must consider many factors such as: system cost, performance, delivery schedule, life cycle logistics support, interoperability, and industrial utilization as well as the political relationship with the selected source nation. International purchasers establish their own prioritized source selection criteria to evaluate the relative benefits and shortcomings of each system under review.

If the customer is an ally or friend of the United States (U.S.), often the prospective purchaser will consider one or more U.S. defense systems in their global source selection process. The Department of Defense's (DoD's) official position regarding the customer's selection is clear. The DoD prefers that allies and friendly nations choose to purchase U.S. systems rather than foreign systems (SAMM C4.3.4). The reason for the U.S. preference relates to the various political, military and economic advantages derived from the U.S. and its friends using the same military equipment.

Although USG officially prefers that allies and friends select U.S. systems, the USG is generally neutral regarding the customer's choice to purchase by means of foreign military sales (FMS) or direct commercial sales (DCS) (SAMM C4.3.4). As such, most U.S. military systems may be purchased through either the FMS process or through DCS. The preceding chapters in this text provided a thorough explanation of the FMS process. This chapter will compare the FMS process to the DCS process.

The purpose of this chapter is not to promote one procurement method over the other. In reality, which acquisition method is best for a particular customer depends on a number of considerations. The purpose of this chapter is to examine the various areas that should be considered in making the FMS or DCS decision. By understanding these factors and applying them to a customer's specific situation, a better decision can be made regarding which method offers the best approach for a particular acquisition.

Foreign Military Sales Only Items

Although most defense items or services can be purchased through either FMS or DCS, in limited instances, technology or security concerns may require that sales of specific items be restricted to FMS-Only. The *Security Assistance Management Manual* (SAMM) C4.3.5 outlines the process for designating a particular sale or military item as FMS-Only. Four general criteria are used to determine if a sale is required to proceed through the FMS process. The criteria are (1) legislative/Presidential restrictions; (2) DoD/military department (MILDEP) policy, directive or regulatory requirement, e.g., the National Disclosure Policy; (3) government-to-government agreement requirements; and (4) interoperability/safety requirements for U.S. forces. These criteria, particularly DoD/MILDEP policy, can be further understood by considering four possible elements:

1. U.S. political/military relationship with the end-user. The geopolitical situation and security relationships are taken into account when considering the appropriateness of FMS-Only. The inherent strengths of FMS or DCS licensing methods are also considered in selecting the method that best suits the interests of U.S. and the foreign purchaser within the context of existing world security circumstances.

2. Sale of a new or complex system or service. FMS-Only may be recommended:

   - To maximize the purchaser's ability to assimilate the technologies and manage its acquisition/logistics
   - For enhanced interoperability and cooperation between U.S. and purchaser's military forces
   - For end-items or services that require complex systems integration with other combat systems
   - For end-items or services that require access to sensitive U.S. government (USG) databases, libraries, or software-source code
   - For end-items or services that require enhanced end-use monitoring (EEUM) or on-site accountability

3. Diversion and exploitation of defense systems technologies. Security of sensitive technologies is an area of particular concern that requires greater scrutiny in the transfer process. Defense systems and munitions that are not particularly complex or sensitive, but still require enhanced control to prevent proliferation to rogue states or terrorist organizations, represent another area where FMS may be more appropriate than DCS.

4. Feasibility of separating weapon system components into FMS/DCS elements. At times, purchasers may desire all or a portion of a sale to be DCS. It is possible to separate the FMS-Only aspects of a purchase from the portion that can be DCS.

The Arms Export Control Act (AECA) gives the President discretion to designate which military end items must be sold exclusively through FMS channels. This authority is delegated to the Secretary of State. Generally, this discretion is exercised upon recommendation of DoD. The MILDEPs and DoD components forward recommendations and rationales for FMS-only designations to the Defense Security Cooperation Agency (DSCA) and the Defense Technology Security Administration (DTSA). DSCA provides FMS-Only recommendations to the DoS for review and approval/disapproval. DTSA monitors this process through its involvement with the DoS in reviewing commercial export license requests. The DoS will not issue a commercial export license for sales restricted to FMS-Only. In the absence of an export license, the only remaining method to procure U.S. defense articles or services is the FMS process.

SAMM C4.3.5.2 lists military capabilities and systems by general category that the USG broadly considers to be available for export solely on an FMS-Only basis. This list is reflected in table 15-1.

Table 15-1
General FMS-Only Categories

• Select Radars: such as but not limited to AESA, Ballistic Missile Defense, and High-Frequency Phased Array Microwave	• Air-to-Air Missiles
• Attack Helicopters	• Autonomous Weapons Systems
• Ballistic Missile Defense Items: Effectors; Firing Units; Software	• Special Purpose Aircraft Items
• Counter Improvised Explosive Device Items	• Cross Domain Solutions (involving critical U.S. systems)
• Directed Energy Weapons	• Fighter Aircraft
• Ground Based Air Defense Items	• Infrared Countermeasures
• Intelligence Libraries/Threat Data	• LADAR/LIDAR (Laser/Light Detection and Ranging)
• Man-Portable Air Defense Items	• Military Aerosol Delivery Systems
• Missiles	• Mission Equipment/Systems
• Mission Planning Systems	• Missile Technology Control Regime CAT I Items
• GPS/PPS (Allowances made for certain DCS transfers remain in effect)	• Nuclear/Nuclear Propulsion
• Select Electronic Warfare Items	• Select Sensor Fusion Man-Portable Night Vision Devices
• Sensor Fused Weapons	• Stand Off Weapons
• Sonar	• COMSEC
• Select Torpedoes	• Torpedo Countermeasures
• Anti-Ship Cruise Missile Countermeasures	• Unmanned Aerial Systems and related components

Direct Commercial Sales Preference

In instances where the USG is neutral regarding purchase by FMS or DCS, SAMM C4.3.6 permits U.S. defense firms to designate a preference that a sale of their products or services be on a DCS basis. When a company receives a request for proposal from a country and prefers a direct commercial sale, the company may request DSCA issue a DCS preference for that particular sale. Approved DCS preferences are valid for one year and are held within security cooperation offices (SCOs) and at the item manager level to allow screening of future letters of request. If the applicable implementing agency (IA) receives a request from the purchaser for a DCS preference item, the IA notifies the purchaser of the DCS preference and advises the purchaser to contact the applicable company directly.

Support of a DCS preference is a "best effort" commitment by the DoD. This means that any failure on the part of the IA to comply with the DCS preference will not invalidate any resultant FMS transaction. Items provided on blanket order lines and those required in conjunction with a system sale's total package approach (TPA) do not normally qualify for DCS preference. Customers that will be funding the purchase using Foreign Military Financing Program (FMFP) funds may be required to purchase by FMS. The Director, DSCA, may also recommend to the DoS that it mandate FMS for a specific sale.

Combination of Foreign Military Sales and Direct Commercial Sales

The comparison of FMS and DCS is generally intended to evaluate the circumstances of a particular procurement to determine which method offers the greatest advantages. However, SAMM C4.3.5.4.3 permits an overall sale to be separated into an FMS portion and a DCS portion. This means that an entire sale does not have to be FMS simply because there is an FMS-Only component to the sale. The FMS-Only portion can be sold through the FMS process while the remainder of the sale proceeds on a DCS basis. Close coordination is required to ensure that the FMS-Only portion and the DCS portion will interface seamlessly upon delivery to the customer.

In regard to FMS material or services support for DCS, the DSCA Director issued policy memorandum 09-32, "Responses to Industry Requests for FMS Support Relating to DCS." This memorandum (see attachment 15-4) states that advance planning and coordination are essential in any situation where industry anticipates requiring both DCS and FMS elements in order to fulfill the terms of a DCS contract. Industry is reminded they are not authorized to make commitments on behalf of the USG. Industry should inform the foreign purchaser of FMS articles or services required to support the DCS purchased equipment. Examples of types of FMS support for DCS include airworthiness certification, training in U.S. military schools, aircraft ferry or other transportation services, or the provision of FMS-Only articles or services. The foreign purchaser should then submit a Letter of Request (LOR) early in the DCS process to obtain the required FMS support.

Sustainment Support

Initial acquisition of a major system is just the beginning of what is required to support the system throughout its life-cycle. These systems will often be active in the customers' military inventory for more than a decade. Over this period of operational utility, a significant investment will also be made in the form of sustainment support. The method utilized to initially acquire a defense system does not obligate the purchaser to obtain sustainment support for that system through the same original acquisition method. Per SAMM C4.4.3, systems acquired by DCS are eligible to obtain FMS sustainment support for common support items. Likewise, systems acquired by FMS can be supported by DCS if the purchaser desires, with the exception of any FMS-only sustainment items.

United States Government Sales Supporting Direct Commercial Sales

The AECA, section 30, permits the USG to sell defense articles and services to U.S. companies in connection with a proposed direct commercial sale. Sales may be made to a company incorporated in the U.S. that has an approved export license. To be eligible, the U.S. company must intend to incorporate the item(s) or service(s) being purchased from the USG into end items being sold to a foreign country or international organization. Services may include transportation, installation, testing, or certification directly associated with the sale. Per SAMM C11.T9, the sales must meet the following criteria:

- The end item must be for the armed forces of a friendly country or international organization
- The articles would be supplied to the prime contractor as government-furnished equipment (GFE) or government-furnished materiel (GFM) if the end item were being procured for the use of the DoD
- Any services provided must be performed in the U.S.
- The articles and services are available only from USG sources or are not available to the prime contractor by other commercial methods at such times as may be required to meet the delivery schedule

A unique sales agreement is used by the USG for the sale of defense articles and/or services to U.S. companies. The SAMM table C11.T11 outlines the information included in the sales agreement. Payment is required upon signature of the sales agreement. If there is an increase in the cost, the company is required to make additional cash payments to fund the costs. To allow for planning and marketing, IAs are authorized to provide cost and delivery data to authorized potential companies in advance of execution of a sales agreement. Such data are identified as estimates that are not binding on the USG.

Concurrent Foreign Military Sales and Direct Commercial Sales Negotiations

For most defense articles or services, the customer has the choice to purchase by either FMS or DCS. However, it is the policy of the USG to not compete with U.S. industry for foreign defense sales. Per SAMM C4.3.7, the USG normally will not provide foreign governments with a Letter of Offer and Acceptance (LOA) to sell when it is known that a DCS contract has been requested or is already being negotiated.

If the purchaser obtains FMS data and later determines they should request a commercial price quote, the purchaser should cancel the LOR prior to requesting commercial data. If an LOA has been offered and the purchaser then solicits formal bids from private industry for the same item, the IA should query the country as to its intentions and indicate that the LOA may be withdrawn. If the purchaser requests FMS data after soliciting bids from contractors, the purchaser must supply information to the IA showing that commercial acquisition efforts have ceased before any FMS data is provided. Any exception to this policy must be approved by DSCA. For example, there are some instances where the purchasers national policy or a specific circumstance might require that both FMS and commercial data be obtained. This type of situation still requires an exception to policy that must be obtained and approved by the DSCA Director.

Foreign Military Financing Program Funding

Foreign Military Financing Program (FMFP) funding (if available), is generally required to be utilized through the FMS process. The reason for this requirement is that FMFP funds are grant funds provided by the USG in order for the recipient country to enhance their national military capabilities. In general, there is an expectation that the FMS process will achieve a greater level of expenditure efficiency and capability effectiveness than may be consistently obtained through customer negotiated DCS arrangements. However, per SAMM C9.7.3, FMFP funding can, in certain circumstances, be used to fund DCS contracts. Under law, only ten countries are eligible to use FMFP funding to finance DCS contracts. The ten countries are: Israel, Egypt, Jordan, Morocco, Tunisia, Turkey, Portugal, Pakistan, Yemen, and Greece.

Although ten countries are eligible to use FMFP funds in DCS contracts, all FMFP financed purchases must be approved by DSCA on a contract-by-contract basis using *Guidelines for Foreign Military Financing of Direct Commercial Contracts* and the contractor certification provided at http://www.dsca.mil. Commercial contracts financed with FMFP must be valued at $100,000 or more and are intended for the procurement of nonstandard items (items that do not have a national stock number and are not currently being used by DoD). Offset costs are prohibited from being included on an FMFP financed DCS. Additionally, the prime contractor must be incorporated or licensed to do business in the U.S. unless DSCA has approved an offshore procurement per the procedures in SAMM C9.7.2.7.3.

Comparison Considerations

Relationship Considerations

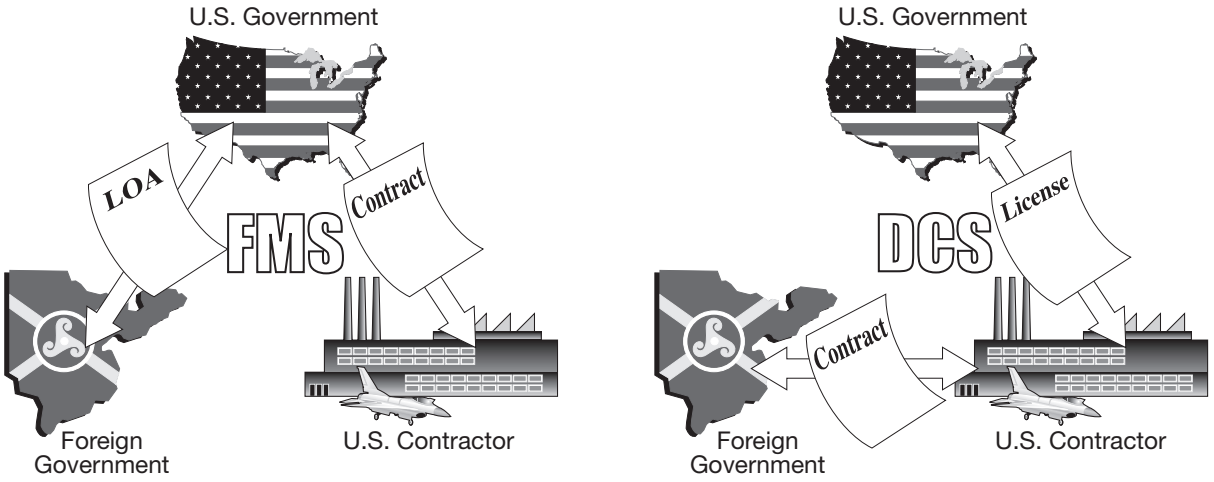
Under FMS, the customer is entering a direct government-to-government relationship with the USG. In fact, the customer is purchasing directly from the USG. Depending on the political climate, this

can be viewed as either an advantage or a disadvantage. Some nations and international organizations desire the association implied by the FMS interaction. Other governments, where the popular view of the U.S. is not as positive, may desire to distance themselves from the USG and enter into a DCS arrangement with a U.S. contractor. In this situation, public opinion may view a relationship with U.S. industry more favorably than the direct government-to-government relationship inherent in FMS.

The USG is involved in approving both FMS and DCS. For FMS, DSCA consults with the DoS for approval to develop new FMS cases. For DCS, the contractor must apply to the DoS to obtain an export license. In either method, the DoS makes the final decision to authorize military defense sales.

Under the AECA, both FMS and DCS must be notified to the U.S. Congress if the proposed sale meets or exceeds the statutory dollar thresholds. The statutory notification requirements are essentially the same for both FMS and DCS and can be found in chapter 2 of this textbook.

Figure 15-1
Foreign Military Sales and Direct Commercial Sales Relationships



All sales of defense articles or services, FMS or DCS, must promote U.S. strategic and foreign policy interests. This determination is made for DCS in the licensing process and for FMS in the internal coordination process of preparing an LOA. Although it rarely occurs, the USG always reserves the right to terminate a DCS export license or an FMS LOA and to halt the actual export deliveries of FMS items or DCS licensed items, when doing so is determined to be in the national interest of the U.S.

Other relationship considerations are decisions of technology transfer and disclosure of classified information, as discussed in chapter 7 of this text. Under a DCS arrangement, industry must apply for a license and then await the normal governmental technology transfer and disclosure process to render a decision. While industry representatives may advocate for a favorable decision with the various stakeholders, industry is external to the actual decision making process. Some industry representatives have stated that the FMS process may offer a more efficient method for technology transfer and disclosure advocacy for sensitive defense transfers. Under FMS, the DoD IA engages with the DoD technology transfer and disclosure infrastructure to advocate for the proposed sale. In this way, proposed FMS transfers garner an element of internal government sponsorship, whereas proposed DCS may have only external industry sponsorship.

Management Considerations

The FMS process is executed by U.S. DoD civilian employees and active duty U.S. military personnel. The direct involvement of DoD personnel in managing the procurement and delivery of a foreign purchaser's programs leads to robust communications throughout the LOA life as many day-to-day program issues are identified, evaluated, and resolved. Often, this level of communication and personal interaction is viewed as a catalyst to building stronger overall military-to-military relationships.

In DCS programs, contractor personnel can be expected to be very knowledgeable about their products. Defense contractors typically employ individuals that possess extensive experience with the DoD and often include individuals with prior active duty experience in the U.S. military. In spite of this, many customers value the direct interaction with DoD civilian and active duty U.S. military personnel offered through the FMS process.

Lead Times

Generally speaking, defense articles that are in production can be procured more quickly via commercial channels than through the FMS system. The FMS acquisition process involves the development, review, and acceptance of the LOA, plus the assembling of requirements for economic quantity or consolidated purchasing cycles, as well as contract negotiations, and production lead times. In the FMS process, an individual customer's priorities must be integrated into the overall DoD acquisition priority.

By contrast, after the company obtains the export license, the DCS system only involves contract negotiations and production lead times. In general, industry prepares its proposal more quickly than the USG prepares the LOA. Under DCS, the customer negotiates their own priority with industry. Industry may be capable of accelerating their processes for commensurate financial compensation. It is also possible that governments with a well-developed purchasing capability can negotiate sales contracts more quickly than DoD which is bound to the structured Federal Acquisition Regulation (FAR) process.

For secondary and support items, the DoD may maintain an inventory. In cases of an emergency for the purchaser, if the materiel is available in DoD inventories, it may be possible for the FMS purchaser to achieve faster delivery through shipment from DoD stocks or through the diversion of items that are under production for DoD. Contractors normally do not produce items in anticipation of sales and generally do not maintain an extensive inventory of defense articles.

Contract Issues

Whichever procurement method a foreign government decides is best for its situation, some basic form of legal agreement is required. The contract process has several areas that should be evaluated by prospective customers.

Under the FMS system, purchases for foreign governments are made by a well-established DoD contracting network. DoD is committed to procuring FMS defense articles and services under the same contractual provisions used for its own procurements. This system is designed to acquire the required quality items at the lowest price from qualified sources and to provide for contract administration. In fact, FMS and DoD orders are often consolidated to obtain economy-of-scale buys and therefore lower unit prices. Although DoD's procurement process offers these benefits, the foreign purchaser will be charged an appropriate fee in the LOA for the contracting and administrative services provided by DoD.

In DCS, the customer assumes contract negotiation and management responsibility. These activities represent overhead management costs to the customer in addition to the actual contract cost. Although it is not necessary for a purchaser to fully duplicate the DoD contracting network in order to make an efficient commercial purchase, the size and skill of the purchaser's contracting staff may be a limiting factor in the quantity and complexity of DCS procurements. Numerous contractors and subcontractors may be involved in supplying the entire package for a major weapon system. As a result, multiple DCS contracts may be necessary to make the total system procurement. The capability and capacity of the purchaser's indigenous procurement system must be evaluated.

Contract Negotiation

Governments with extensive business ties to the West, and which are knowledgeable of U.S. law and financing, may perceive additional flexibility in DCS. The greater degree of flexibility in contracting is possible because U.S. industry has no structured, regulatory guidance, such as the FAR, that must be followed. Customers may wish to participate actively in tailoring the procurement process by fixing delivery schedules, negotiating fixed prices, including special warranty provisions and ensuring that designated penalties are stipulated for contractor failure to comply with the contractual agreement. Other flexible arrangements that may be negotiated into a DCS might include a used equipment trade-in or a sale involving a barter arrangement as partial payment.

The USG assumes responsibility for the procurement of FMS items. It determines the contract type, selects the contract source, and negotiates prices and contract terms with individual contractors. These negotiations are conducted on the same basis as procurements for DoD purchasers. Under FMS, the foreign purchaser trusts the USG to negotiate a contract that will meet the customer's needs.

The USG generally purchases directly from as many original manufacturers as possible, thereby minimizing the purchase price. This approach avoids going through a single prime contractor to procure various items from subcontractors and therefore also avoids the associated prime contractor price mark-ups on subcontracted components. Unless a country's purchasing staff is sufficiently large and skilled, a comparable procurement approach of purchasing direct from subcontractors cannot be duplicated in DCS.

Contract Administration

Under FMS, contract quality assurance, inspection, and audit services are routinely provided and are included as standard components of the overall FMS price.

For commercial contracts, the purchasing government must consider the additional cost of resources needed to monitor production, evaluate modifications, provide for improvements, and ensure contract compliance. A large number of highly educated personnel well trained in international commerce, quality assurance, and audit processes may be required to perform such functions.

For DCS, rather than placing customer personnel throughout the U.S. to perform contract administration functions, it may be more cost effective to acquire this support from the USG. It is possible for the customer to purchase contract administrative services for a DCS under a separate FMS case with the Defense Contract Management Agency (DCMA).

Financial Considerations

The issue of the total FMS cost in comparison to the total DCS cost is frequently a factor considered by the purchasing government. It is difficult to predict whether it would be more or less expensive to employ the FMS system or direct commercial channels for any particular acquisition. The differing contractual pricing and financing approaches, as well as variations in the total package content, make cost comparisons between FMS and DCS quite difficult.

Estimated Price Versus Final Price

The FMS system provides for estimated prices and estimated payment schedules. The final price of an FMS item or service generally will not be known until after it is delivered. The final price is determined by actual USG contract cost and other authorized FMS charges that are applied under the provisions of U.S. laws and regulations.

The fact that the final LOA cost is generally lower than the initial LOA price estimate is a distinctive feature of the government-to-government FMS agreement. A multi-year DoD analysis of LOA prices revealed that final LOA costs generally fall below initial LOA estimates. While this is an interesting observation, the customer cannot count on their particular LOA overestimating the final cost.

DCS prices, on the other hand, typically provide a fixed price with a fixed payment schedule. Unlike FMS, DCS allows the customer to know the final price at the time of contract signature.

Support Package Differences

Under the FMS system, the USG includes all support equipment, spare parts, training and publications in the TPA. In DCS, the contractor may also develop a support package for the primary item. Depending on the factors used to develop these support packages, the actual content of the support packages may differ. As such, there may be significant cost differences in the FMS offer versus the DCS proposal even though both contain the same type and quantity of primary items.

In DCS, contractors may be able to achieve cost saving by offering other than DoD military standard configurations. It is important for the customer to understand that any deviations from typical DoD configurations could limit interoperability as well as cooperative logistics follow-on support from DoD. The cost savings achieved in the initial acquisition of a nonstandard DoD configuration may be quickly outweighed by the added cost of sustaining a nonstandard system.

Contract Price Factors

In situations where there are two or more manufacturers competing for the foreign business, DCS contract prices may be less than FMS prices. This may be possible because the manufacturers may be willing to agree to fixed prices which are below the normal profit margins allowable under DoD contracting regulations. Price advantages under DCS also may be possible during times of rapid inflation in the U.S., especially if the contractor has the ability to make quick deliveries from rapid new production.

The FMS process has the potential to offer lower contract prices primarily through larger quantity buys achieved by grouping DoD and multiple FMS requirements into a single procurement. Additionally, DoD may already have priced contracts in place for DoD that can also be used to support new FMS requirements. Typically, DoD has procured the same or similar items under other contracts. With this knowledge and experience, the DoD may be in a more informed position in the negotiation process. The FAR permits DoD, under certain contracting conditions, to require the contractor to substantiate their bid with supporting cost or pricing information. This is an important factor to ensure that a fair and reasonable price is being paid for the articles or services under contract.

Cash Flow Requirements

Direct commercial contracts generally require a relatively large down payment, payable at the time of contract signature. The size of such down payments varies with circumstances and the level of contractor risk. For FMS cases, the initial deposit required at the acceptance of an LOA is generally somewhat lower than commercial contract down payments. For items which have a substantial production period, the phased progress payment system used for FMS may distribute the payment

burden beyond the payment requirements of commercial contracts. These possible differences in payment terms should be evaluated as part of the purchaser's procurement decision.

One special feature of the FMS system involves the potential use of cross-leveling agreements. Cross-leveling agreements allow country funds which are on deposit in the FMS trust fund to be moved to and from special holding accounts, or moved between separate FMS cases, thereby maximizing the use of country funds. Cross-leveling can be accomplished by two methods. In the first method, customer financial personnel conduct their own analysis to provide cash transfer direction to the USG. In the second method, the customer authorizes the USG, by written agreement, to conduct automatic cross-leveling to balance funds requirements among all FMS cases. Cross-leveling is in contrast to direct commercial contracts, which stand alone and typically provide for fixed prices with fixed payment schedules, but with no provision for the movement of funds between individual contracts. In short, cross-leveling under FMS provides the advantage of flexibility to the purchaser to meet changing requirements, whereas commercial sales offer the advantage of providing a final price at the time of contract signature.

Non-recurring Cost Application

The AECA requires a charge for a proportionate amount of any non-recurring costs (NC) of research, development, and production of major defense equipment sold through FMS. By contrast, DCS is exempt from these NC costs, so in this regard, it appears that DCS has an advantage. However, for customers desiring to purchase via FMS, a provision exists to potentially waive the application of NC under FMS. The purchaser can request an NC waiver when:

- Standardization benefits result to the U.S. from the sale
- Cost saving benefits accrue to the U.S. as a result of economic quantity purchases
- Loss of sale would occur if waiver is not granted

Waiver requests must be made by the country on a case-by-case basis and must be submitted prior to acceptance of the FMS LOA. More information on the NC waiver process is in the SAMM, C9.6.3.

Other Costs

The issue of other costs in both commercial contracts and FMS agreements requires clarification. As stated in section 3 of the LOA standard terms and conditions, the USG conducts the FMS program on a non-profit basis. Except for specific statutory exemptions, all USG expenses for FMS program performance must be recovered from the purchaser. The FMS administrative surcharge and contract administration services costs that are added to the basic price of an FMS agreement recover the cost of:

- Sales negotiations
- Case implementation
- Case management
- Contract negotiation
- Contract management
- Financial management
- Processing reports of discrepancy
- Case reconciliation/closure

SAMM table C9.T2 outlines the types of activities the DoD may perform that are funded by the FMS administrative charge. Collectively, this set of activities funded by the FMS administrative charge is referred to as the standard level of service.

For FMS, the LOA price includes the base cost that the USG paid for the item or service plus the other authorized charges necessary to recover the full cost to the USG. Although the USG does not make a profit from FMS, the price paid to DoD contractors does include a fair and reasonable profit for the contractor. However, the amount of contractor profit is limited by the provisions of the FAR. The full contract cost, including contractor profit, is paid via the LOA.

Conversely, the profit ceiling for commercial contracts is established by the marketplace. The purchasing government will not normally have access to information which reveals how much general and administrative costs or overall contractor profit is included in a direct commercial contract. U.S. firms typically add administrative costs as part of their equipment unit prices, whereas FMS administrative costs are identified as a separate item on the FMS agreement. More information on FMS financial management is contained in chapter 12 of this text, "Financial Management."

Other Comparison Considerations

Evaluating the relative advantages or disadvantages of conducting a sale by FMS or DCS can be complex. In addition to the relationship, management, and financial issues, there are other factors that a purchaser must also examine.

Production Priority

There are many defense articles produced by U.S. industry using production equipment provided by DoD or in USG-owned facilities. Such production equipment and facilities are made available to the contractor to fulfill DoD requirements including FMS requirements. Contractors may use such facilities and equipment for DCS only with USG approval and only when there is no adverse impact on DoD requirements. Except in times of crisis, the prioritization of the use of such equipment or facilities generally is not a problem.

The USG has established an industrial priority system to resolve conflicts in production priorities. Each U.S. defense program is assigned a specific priority based on the program's relative importance to the USG. The USG uses its relative need for a system to settle production conflicts rather than leaving such resolution to the discretion of contractors. FMS equipment normally is purchased together with U.S. equipment, and thereby shares the U.S. industrial priority. DCS involves independent contracts that do not automatically receive the same production priorities as DoD procurements.

Another consideration involves government furnished equipment (GFE) or government furnished material (GFM). Such items are generally incorporated by the contractor into larger systems which are then delivered to either DoD or a foreign government. Contractor access to GFE or GFM in support of DCS could have a significant impact on the capability of a contractor to make a direct sale. By contrast, under the FMS system, DoD coordinates delivery of GFE or GFM directly to the prime contractor for both U.S. and FMS requirements. As identified earlier in this chapter, under certain conditions, U.S. companies may be eligible to procure items or services from the DoD to support a DCS program.

If GFE and GFM components are not available directly to a contractor, the foreign purchaser could acquire them under FMS procedures and provide them to the contractor for incorporation in the end item. This procedure, of course, would make a commercial acquisition more complex for the purchaser and would require careful coordination of both the commercial and the FMS transaction.

Follow-on Logistics Support

An important consideration in the purchase of U.S. defense articles involves the nature of the follow-on support that will be required from U.S. sources. If the items being purchased are also being used by the U.S. military, and are known to require substantial logistical, technical, and training support, an FMS purchase may offer support advantages. FMS permits the purchaser to capitalize on U.S. experience and existing USG logistics inventories and training facilities. Under a cooperative logistics supply support arrangement, the DoD spare parts inventory can be drawn upon in support of the purchaser's requirements, and this can be accomplished by customer submission of requisitions for individual parts. In effect, the DoD logistics structure serves as procurement staff for the purchaser by procuring required individual items from the current U.S. sources.

There are some U.S. contractors who also are capable of providing full logistics support for the items which they sell. Corporate reputations depend on good performance and, where contractors have the capability of furnishing such support, the results can be expected to be as stated in their contracts.

The DoD may provide follow-on support for end items acquired through DCS. However, DoD's ability to support DCS items may be limited when equipment configurations differ. Also, if the manufacturer only uses commercial part numbers to identify items without cross-referencing to DoD national stock numbers, USG support will be greatly complicated and support delays may result.

Logistics support is frequently facilitated by the FMS purchaser's ability to use DoD information and data transmission systems such as:

- International Logistics Communication System (ILCS)
- Supply Tracking and Reparable Return/Personal Computer (STARR/PC)
- Security Cooperation Information Portal (SCIP)

DoD also has dedicated security cooperation staffs and in-country SCOs to facilitate the administration of the FMS program. Per SAMM C2.1.8, the SCO can also provide limited support to industry. For DCS activities, the SCO's role is primarily a facilitator during industry's marketing phase rather than aiding in actual program execution (as the SCO does in support of FMS). More information on FMS logistics support is contained in chapter 10 of this text.

Nonstandard Items

Nonstandard items are those that the DoD has never used or no longer actively uses in its own operations. Standard items can become nonstandard items as DoD phases out certain items, models or configurations, and replaces them with other items, models or configurations. Historically, DoD has not performed well at providing nonstandard item support. This is because DoD does not retain the logistics infrastructure in place to support items which it does not use itself. DoD has improved in this area by implementing commercial buying service (CBS) support for nonstandard items, i.e. contracting out nonstandard support. CBS support for nonstandard systems or components is usually provided via an FMS case. In general, DCS has provided better support for nonstandard items.

Training

Training is a key element to successfully operating and maintaining today's high technology military equipment. The DoD has established training resources to support its own training needs. Under FMS, customers can access many of these training resources. Although the DoD does acquire contractor training in certain circumstances, some types of military training are simply not available through commercial sources such as access to DoD's unique training ranges. On the other hand, the customer may require some form of tailored training that is not available from DoD. As an example,

DoD training is normally conducted using only the English language. If the customer requires training in a language other than English, contractor training could be an alternative training source.

Classified Items

The FMS process ensures all security provisions are in place for sales of classified items, and it also provides for required purchaser agreements to protect U.S. concerns and to ensure the proper use of the article or service. In DCS arrangements, before an export license for classified material may be granted, security agreements establishing appropriate security measures must be executed between the purchasing government and the USG. The requirement for a security agreement is determined during the U.S. review of the license request.

Range of Choices

In comparing the FMS system to the DCS system, it is important to realize that the decision regarding a potential procurement actually has a range of possibilities rather than just choosing between two separate options, traditional FMS or traditional DCS. In reality, there are several options available for most acquisition scenarios. The range of options focuses on the degree of foreign purchaser participation in the overall procurement activities. In essence, the decision concerning procurement via FMS or DCS fundamentally involves a decision about the degree of procurement involvement the foreign purchaser desires to assume and what degree of procurement responsibility the foreign purchaser is willing to delegate to the DoD. Table 15-2 presents the range of options, each of which will be discussed further in the sections below.

Table 15-2
Customer Participation Options

Traditional FMS
FMS funded with FMFP
FMS with Sole Source designated
FMS with Customer Participation in Contracting
FMS with Industry Offsets
Hybrid FMS/DCS
DCS funded with FMFP
DCS with USG contract administration
DCS with Industry Offsets
Traditional DCS

Traditional Foreign Military Sales

Under traditional FMS, the foreign purchaser initiates the process by submitting an LOR to the USG. The IA will develop the necessary pricing and availability estimates to generate an LOA. Following any necessary technology transfer reviews, releasability reviews, and Congressional notifications, the IA will forward the LOA as an offer by the USG to sell the respective defense articles and/or services. If, upon review of the LOA, the foreign purchaser decides to accept the LOA, a foreign government representative will sign the LOA and forward the initial deposit to the Defense Finance and Accounting Service (DFAS) Security Cooperation Accounting (SCA). At this point, per the SAMM C5.4.16, the foreign purchaser and the USG have entered a formal sales agreement for the provision of defense articles and services.

The LOA standard terms and conditions define the nature of this sales relationship. Section 1.2 specifically defines the procurement responsibilities and states that the foreign purchaser has delegated the procurement process to the DoD. The DoD will conduct the procurement on behalf of the customer using the same regulations and procedures that DoD uses to procure for itself. Under traditional FMS, the foreign purchaser is not responsible for accomplishing any procurement actions following acceptance of the LOA. Under the provisions of the LOA, the DoD takes responsibility for:

- Conducting the entire procurement process to include contractor source selection and negotiating the contract terms and conditions
- Contract administration, quality control, inspection, acceptance, and audit functions

As a very broad generalization, the traditional FMS process can be characterized as a foreign purchaser, by means of the LOA, employing the DoD to conduct defense procurement on its behalf. As such, the foreign purchaser entrusts the DoD to make decisions and take actions on its behalf. The foreign purchaser relies on the good faith commitment that DoD makes to conduct FMS procurement business in essentially the same manner that it conducts procurement business for itself.

FMS Funded with Foreign Military Financing Program

Per SAMM C9.7.2.9.2 Foreign Military Financing Program (FMFP) funds are used to finance foreign military sales (FMS). The traditional FMS LOA process is used to establish the government-to-government sales agreement, however, the LOA will specify the fund source as either non-repayable grant or a repayable direct loan.

Sole Source Foreign Military Sales

Foreign purchasers often have an interest in reviewing various vendors' business proposals to fulfill a particular defense requirement. Depending on the country and type of purchase, there can be significant interest in source selection, i.e., deciding which vendor(s) will fulfill their contract. FMS procedures offer the foreign purchaser an important opportunity for direct involvement in that decision. Sole source procedures allow the foreign purchaser to request the DoD initiate a particular FMS procurement exclusively with a specific vendor of the foreign purchaser's choice. This process is referred to as sole source procurement. Details on the sole source process are presented in chapter 9 of this textbook.

Approved sole source requests are documented within the LOA notes and serve as the basis for the USG contracting officer to negotiate on a non-competitive basis with the specific company identified in the LOA. Under sole source, the foreign purchaser can be involved in source selection just as they would under DCS, while still benefiting from the FMS system's extensive expertise in contract negotiation, contract administration, quality control, inspection, acceptance, and audit functions.

FMS with Customer Participation in Contracting

SAMM C6.3.5 outlines the areas for potential customer participation in the DoD contracting process. Traditionally, the norm has been no or very limited FMS customer involvement in the DoD contracting process; however, policy in both the SAMM and the DFARS does permit FMS customers to participate in certain elements of the contracting process. This policy supports the overarching intent for the FMS process to provide transparency to international customers. Chapter 9 of this text discussed potential areas and limitations for customer participation.

Foreign Military Sales with Offsets

Offsets offer a mechanism for the foreign purchaser to leverage a major defense acquisition to obtain other domestic benefits for the foreign purchaser's nation. The concept of offsets is presented in detail in chapter 9 of this textbook. Many international customers have the misconception that

offsets are only compatible with DCS procurements, but this is not true. Offset agreements can occur in conjunction with customer-funded FMS cases, but FMS cases financed with FMFP funds or other non-repayable credits are not permitted to include any offset costs.

Combination of Foreign Military Sales and Direct Commercial Sales

Another procurement option is to divide an overall procurement into both an FMS portion and a DCS portion. The SAMM permits FMS cases to be prepared to support elements of a DCS procurement. This is particularly applicable to sales that may include certain FMS-only items in the total system package. Additionally, FMS policy permits foreign purchasers to obtain follow-on logistics support by means of FMS for systems that were originally procured via DCS or by DCS for systems originally procured via FMS.

Direct Commercial Sales with Foreign Military Financing Program

Typically, countries that receive FMFP funds must use those funds via the FMS process. However, under law, ten countries are authorized, on a contract-by-contract basis, to use their FMFP funds in DCS contracts. This alternative was discussed earlier in this chapter under the section titled "Foreign Military Financing Program Funding."

There are very strict procedures governing the process for funding a DCS with FMFP, but this remains an option to be considered by these ten countries.

Direct Commercial Sales with United States Government Contract Administration

Countries with extensive international procurement expertise may prefer to independently conduct their own defense procurements directly with U.S. industry. Typically, the only USG involvement in a DCS arrangement would relate to the export license approval decision. However, foreign purchasers should recognize they can purchase contract administration services (CAS) from the Defense Contract Management Agency (DCMA) to obtain CAS for their DCS.

While the foreign purchasers' government representatives may possess all the skills and abilities to negotiate a favorable contract with U.S. industry, the subsequent process for DCS contract administration, quality control, inspection, acceptance, and audit functions may present both a logistical and financial barrier. The U.S. contractor may perform work at multiple geographically dispersed locations. As such, it may be difficult and expensive for the foreign purchasers' representatives to conduct these functions throughout the U.S.

Acquiring CAS from DCMA for self-negotiated DCS may be a cost-effective option to support DCS. Under this approach, upon receipt of an LOR, DCMA would develop an LOA for the cost of its CAS in support of the particular DCS. Under the LOA, DCMA uses its existing contract administration infrastructure to perform CAS on behalf of the foreign purchaser.

Direct Commercial Sales with Offsets

Customers electing to conduct their defense procurement via DCS may also choose to require industry to provide an offset in association with the sale. The limitation is that DCS contracts funded by USG FMFP, or other nonrepayable funds, cannot include an offset agreement.

Traditional Direct Commercial Sales

Traditional DCS offers the foreign purchaser the greatest degree of direct involvement in their U.S.-sourced defense procurement. In DCS, the foreign purchaser directly interfaces with the contractor on all elements of the contract without DoD being an intermediary. Traditional DCS provides a range of opportunities. However, the foreign purchaser must be prepared to accept a significant level of responsibility.

Under traditional DCS, the USG essentially has no direct involvement in the procurement process except for one essential element–the export license. For a DCS of defense articles or services, the U.S. company that is preparing to enter a sales contract with the foreign purchaser must first obtain USG approval for the sale. This approval is indicated in the form of an approved export license. More detailed information on the export license process is contained in chapter 7.

Following export license approval, the USG does not participate in the DCS. This exclusion includes contract negotiation, contract administration, quality control, inspection, acceptance, and audit functions. In DCS, the old saying: "you get what you negotiate" applies. In general, U.S. defense contractors will work diligently to deliver quality items and services in accordance with all of the contract provisions. They are in business for the long term and are very interested in maintaining a positive relationship with each of their customers, as well as maintaining a solid reputation in the international marketplace.

In spite of all the positive intentions, the performance of major acquisition contracts will inevitably generate a variety of issues that must be resolved. In the DCS scenario, the foreign purchaser must be prepared to address the contractor directly to resolve any issues that arise. The promptness and acceptability of the resolution will depend solely upon the country and the defense contractor. Although the DoD may concurrently be procuring the same or similar items with the same contractor, DoD is not a participant in the DCS contract and therefore has no legal authority to direct the contractor in any aspect of DCS contract performance.

Summary

The FMS and DCS systems are simply different procurement methods that a foreign government may employ for the purchase of U.S. defense articles and services. In a commercial acquisition, a U.S. contractor and a foreign government enter into a direct contract in accordance with U.S. law and regulations and provisions of international commercial law. The USG is not a party to these commercial contractual transactions. The foreign government has the responsibility to select the source and manage the contract directly with the U.S. contractor.

Under the FMS system, the USG and the foreign purchaser enter into an agreement, the FMS LOA, which specifies the terms and conditions of the sale. Except for items supplied directly from DoD inventory, the USG purchases the desired items or services from the U.S. manufacturer on behalf of the foreign government. The DoD employs essentially the same procurement criteria as if the item/service was being purchased for U.S. needs. The USG, not the foreign government, selects the source and manages the contract, consistent with the provisions of the FAR, DFARS, and the LOA.

Unless the USG has determined that a specific item or service will only be offered via FMS, there are few absolutes which dictate that all countries should select exclusively either FMS or commercial channels for a given purchase requirement. Rather, there are many considerations, unique both to the individual purchaser and to the items being procured, that are involved in such a choice. In fact, in comparing the FMS system to the DCS system, it is important to realize that the decision regarding a potential procurement actually has a range of possibilities rather than just choosing between two separate options, traditional FMS or traditional DCS. The question of whether to procure via FMS or DCS ultimately involves a decision by the customer about how much procurement responsibility they are willing to assume and how much they are willing to delegate to the DoD.

The final decision on purchasing channels varies from country to country, and even from purchase to purchase. Given the variety of factors involved, it is important that the purchasing government's decision encompass as many factual considerations as possible.

References

DSCA Manual 5105.38-M. *Security Assistance Management Manual* (SAMM). Chaps. 2, 4, 6, 9, and 11. http://www.samm.dsca.mil/.

Guidelines for Foreign Military Financing of Direct Commercial Contracts and Contractor's Certification and Agreement. http://www.dsca.mil/programs/foreign-military-financing-direct-commercial-contracts-fmf-dcc.

Contractor's Certification and Agreement with DSCA August 2009. http://www.dsca.mil/sites/default/files/contractor_certificationv4_0.pdf

Attachment 15-1

Foreign Military Sales—Potential Advantages and Considerations

Potential Advantages	Considerations
Total package approach based on U.S. military experience	Purchaser must decide whether the total package approach may exceed its needs or financial capabilities
USG uses its own procurement procedures and acts as procurement agent for foreign countries	Sophisticated foreign purchasing staff may (or may not) be able to achieve better overall deal by negotiating directly with the contractor.
Proven and established logistics support for items common to DoD	Contractor may be able to offer a similar range of contractor logistics support.
Federal acquisition regulations, economic order quantity buys, use of GFE or GFM tends to reduce price	Compliance with DoD procedures may increase lead time
Facilitates establishment of design configuration and enhances potential for interoperability	Purchaser must decide on the degree of standardization required for a purchase.
Purchaser pays only the actual cost to DoD (including management expenses), with profits controlled by the FAR	While initial LOA estimates tend, in the aggregate, to be higher than final LOA costs, final costs fluctuate both up and down.
Cross-leveling in the FMS trust fund can maximize use of country funds	Firm fixed price contracts and fixed payment schedules can be obtained under direct commercial contracts.
Quality control to ensure item meets MILSPECs is done by USG personnel	This service can be purchased under FMS for certain commercial contracts.
Items may be available from DoD stocks in times of emergency	Availability is significantly dependent on DoD's own priorities and inventory positions
Government-to-government obligation, ensuring involvement of DoD personnel in total package planning and sustainment concepts	Due to the political climate, the purchaser may prefer procuring from the U.S. contractor rather than the USG.
Total package includes training at U.S. military schools	Purchaser can procure hardware under commercial contract and generally obtain associated training at U.S. military schools via FMS.
FMS customers can require offsets in FMS-related contracts	Dependent on the funding source. If non-repayable FMFP, offset cost cannot be included

Attachment 15-2
Direct Commercial Sales—Potential Advantages and Considerations

Potential Advantages	Considerations
Potential for fixed delivery or fixed price, with penalty if contractor fails	Requires considerable experience and sophistication by country negotiators.
Business-to-business relationship allows country to negotiate cost and contract terms.	If closer military-to-military relationships are a purchaser's objective, FMS provides an avenue to achieve this objective.
Direct negotiations with contractor can result in a quicker response.	Requires considerable experience and sophistication by country negotiators.
Generally better support for nonstandard items.	Purchaser must decide upon desired degree of standardization with U.S. forces.
More capability to tailor package to unique country needs.	Tailored package may detract from standardization desires.
Continuity of personal contacts with contractor technical personnel.	Value of continuity must be compared to the value of direct miltary-to-military contacts.
New equipment directly from production line.	Option exists to request only new and unused items via FMS.
Lower prices possible under certain circumstances.	Final price may be dependent on experience and sophistication of country contract negotiators.
Generally fixed payment schedule which eases budgeting problems.	Payment schedules may be more front-loaded than under FMS.
Purchaser can include offset provisions in one contract.	Purchaser can negotiate offsets (directly with contractor) and still procure under FMS.
FMS administrative surcharge and DoD management costs can be avoided.	Purchaser must consider entire cost of transaction, including its contracting staff costs and possibly increased contract administrative costs.
Commercial purchases of some types of items could help to create and develop a procurement capability.	Scarcity of resources and time may not allow for retaining procurement staff.

Attachment 15-3
Common Misperceptions of Foreign Military Sales or Commercial Sales

Misperceptions	Facts
FMS offers better assurance for approval of transfer of technology.	Technology release considerations are identical for FMS and commercial sales.
Commercial sales offer a better assurance for approval of transfer of technology.	Technology release considerations are identical for FMS and commercial sales.
FMS is unreliable during hostilities involving either the user or the USG.	Foreign policy or DoD military priority decisions affect the flow of supplies to a country and can be expected to relate to the resources involved. FMS orders may still be filled and may receive priority support depending on the nature of the hostilities.
FMS provides slow delivery with frequent slippages.	The numerous built-in FMS system safeguards do sometimes slow the procurement process, but there are seldom slippages once delivery schedules are established. However, in a contingency, a potential exists to divert items from stocks and expedite delivery.
Nonrecurring cost recoupment charges for major defense equipment is always assessed on FMS.	Nonrecurring cost recoupment waivers may be authorized for FMS on a case-by-case basis. Recent history indicates a high probability of waiver approval.
A country cannot have an offset arrangement when they have an FMS case.	A country may negotiate a separate arrangement with the contractor in addition to an FMS agreement, but the USG will not be the enforcer of offset arrangements between the country and the commercial contractor.
No purchaser control or participation is permitted in FMS.	Selection of configuration, range and depth of spares, support equipment, etc., remains in control of purchaser. Program management review conferences are held as necessary to ensure purchaser needs are met. Under certain circumstances, the purchaser may participate in selected contract discussions.
FMS system is characterized by a lack of continuity of personnel contact due to military personnel rotations.	While this may be true for some cases, there are many DoD civilians who do not rotate. Also, military tour is normally three to four years, about equal to commercial executive transfer patterns.
Only FMS requires USG approval and Congressional notifications [section 36(b), AECA], if necessary.	All items meeting AECA notification thresholds require notification under both sales systems. AECA, section 36(c), applies to commercial sale notifications to Congress.

Attachment 15-3 (continued)
Common Misperceptions of Foreign Military Sales or Commercial Sales

Misperceptions	Facts
USG reserves the right to terminate only FMS in the U.S. national interest but not DCS.	Applies equally to both FMS and commercial sale systems.
DCS lacks adequate quality control.	Contractor sales depend on product reputation. Also, USG quality control procedures may be purchased for standard items.
Contractor involvement stops once an end item is sold.	Contractor participation in follow-on support and maintenance programs is common under either commercial or FMS.
USG controls third country sales only for items sold under FMS	Criteria and policy are the same for items purchased through either commercial or FMS.

Attachment 15-4
DSCA Policy Memo 09-32

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

AUG 0 4 2009

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Responses to Industry Requests for Foreign Military Sales (FMS) Support Relating to Direct Commercial Sales (DCS), DSCA Policy 09-32 [SAMM E-Change 137]

Advance planning and coordination are essential in situations involving sales to foreign partners that combine both FMS and DCS elements, particularly when those sales originate through DCS channels. On occasion, industry has asked the United States Government (USG) to provide FMS support (e.g., airworthiness certification, training in U.S. military schools, ferrying aircraft, and the provision of equipment or components available only through FMS channels) to fulfill terms of DCS contracts.

Whether or not there is a DCS contract, industry is not authorized to make commitments on behalf of the USG and the USG cannot be held liable for industry's inability to provide support in conjunction with DCS - even if requested by the FMS purchaser. It is in industry's best interest to advise the foreign purchaser if FMS articles or services are required to support DCS purchased equipment. In this case, the purchaser must submit a Letter of Request (LOR) to obtain support and industry should inform DSCA and the relevant Implementing Agency of the possibility of a requirement for FMS support early in the process. Additionally, Security Cooperation Officers providing support to U.S. companies in-country must be alert to the need for the purchaser to submit a LOR and remind their foreign counterparts and industry representatives of this requirement.

Chapters 4 and 5 of the Security Assistance Management Manual (SAMM) have been updated to provide additional guidance on the importance of advance coordination in circumstances involving FMS support in conjunction with DCS.

If you have any questions concerning this policy or the SAMM, please contact Ms. Kathy Robinson, DSCA-STR/POL, at (703) 601-4368 or e-mail: kathy.robinson@dsca.mil.

Jeffrey A. Wieringa
Vice Admiral, USN
Director

Attachment:
As stated

Chapter

16 Human Rights and Related Concepts

Introduction

Human rights, which constitute a fundamental category of rights, may be defined as a relationship between individuals (citizens) and governments (states). The concept that legal systems should protect the rights of individuals from abuses by government is rooted in natural law. As reflected in his *Two Treatises of Government*, published in 1690, the English philosopher John Locke believed that human rights, not governments, came first in the natural order of things.

Civil and political rights are often referred to as fundamental or core human rights. Examples include the rights to life, liberty, security; freedom from enslavement, torture, and cruel, inhuman, or degrading punishment; freedom from arbitrary arrest, and presumption of innocence until found guilty by a competent and impartial tribunal. All citizens have the right to participate in their governments, either directly or through free elections of their representatives. Governments have also created economic, social, and cultural rights or perhaps more accurately, entitlements, such as a minimum living standard, including food, clothing, housing, medical care, education, and social security.

Human rights considerations have been a long-standing element of the U.S. foreign policy. Members of the security cooperation community, in particular, should understand and appreciate the importance accorded human rights and civilian control of the military in our relationships with other nations. This importance is reflected in a variety of ways. Countries suspected of gross human rights violations can be prohibited by Congress from receiving security assistance or have their programs suspended. Other DoD assistance may also be effected. International students attending U.S. military schools under the International Military Education and Training (IMET) and Foreign Military Sales (FMS) programs are purposely exposed to human rights policies and issues as part of their studies. Foreign military members are frequently invited to attend fully funded regional seminars focused on human rights and civilian control of the military.

U.S. personnel permanently assigned or temporarily deployed to foreign nations should be able to intelligently discuss the important human rights themes and policies of the U.S. government (USG). The purpose of this chapter is to introduce and familiarize the reader with these key concepts and ideas.

Human Rights Instruments and Authority

Many nations have constitutions; fundamental or organic laws that establish the framework of the government of a state, assign the powers and duties of governmental agencies, and establish the relationship between the people and their government. Constitutions may be written, e.g., the U.S. Constitution, or unwritten, as in the English model. Domestic guarantees concerning human rights may be embodied in such constitutions or in other statutes. In addition, international protection of recognized human rights is found in documents such as the Charter of the United Nations (UN Charter) and international conventions which have been accepted by the vast majority of the world's states. Regional declarations also recognize the existence of human rights.

United States Sources

The Constitution of the United States of America

Human rights have been an integral part of America as a nation from its inception. The Constitution of the United States specifically and deliberately embodies the principles of human rights. It does so generally by intoning the necessity of these principles in the opening Preamble. The basic Constitution outlines the plan of representative government and an electoral mechanism through which the people can express their will. It declares specific human rights principles in the text of the constitution's first ten amendments or, as they are more commonly referred to, the Bill of Rights. These amendments contain a listing of the rights that Americans enjoy that cannot be infringed upon by the government. Included are freedom of religion, freedom of speech, the right of the people to be secure in their persons and houses against unreasonable searches and seizures, and other rights commonly taken for granted by U.S. citizens.

Although these principles were not definitively articulated in the body of the original text of the U.S. Constitution, it is clear that a majority of the delegates present at the constitutional convention intended for a number of basic egalitarian principles or human rights to be incorporated within the constitutional scheme. The U.S. Congress, in one of its first sessions, debated the inclusion of these principles through amendments, ultimately approving them. The original thirteen states, for their part, ratified ten of the original twelve proposed. Collectively, in many ways, the ten amendments compiled in the Bill of Rights represent and have come to symbolize the embodiment of the American character. It also is a tangible reminder of what the United States and Americans often hold most dear, their identity as a people, and their realization as individuals.

Declaration of Independence

The Declaration of Independence, adopted by the Second Continental Congress on July 4, 1776, also makes reference to certain self-evident truths such as the equality of all men, natural rights, government by consent, and so forth. Unlike the Bill of Rights, which is part of the U.S. Constitution, the Declaration does not have any legal effect today. Nonetheless, it is recognized throughout the world as the basic statement of the American creed.

International Sources

Charter of the United Nations

The UN Charter, which entered into force in 1945, specifically addresses human rights in its preamble and in two of its articles. Article 55 reads as follows:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the UN shall promote:

- Higher standards of living, full employment, and conditions of economic and social progress and development
- Solutions of international economic, social, health, and related problems, and international cultural and educational cooperation
- Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion

Article 56 of the UN Charter states that all members pledge themselves to take joint and separate action in cooperation with the UN to achieve the purposes set forth in article 55.

United Nations Universal Declaration of Human Rights

Due to the general language of Article 55 of the UN Charter, member states quickly turned to efforts to specify its meaning. The first result was the often cited and widely heralded Universal Declaration of Human Rights (UDHR), which was adopted by the UN General Assembly in 1948. It is important to recognize that the Universal Declaration is not binding international law, but a UN recommendation to nations. Thus, the Declaration, in and of itself, offers no means of implementation other than through the good will of the member states.

Notwithstanding these technical deficiencies, the Declaration was, and still is, important because it is an attempt at authoritatively stating the meaning of Article 55, and parts of the Declaration reflect customary international law.

The Universal Declaration covers civil and political rights in articles 1 through 22 and social, economic and cultural rights in articles 23 through 28. Article 29, known as the derogation clause, permits limitations of rights when necessary for securing the rights of others or securing morality, order or general welfare in society. The text of the Universal Declaration is in attachment 16-1.

Human Rights Treaties

In addition to the UN Charter and Universal Declaration, there are a number of international human rights conventions (another term used for a treaty). (Go to http://www.humanrights.gov/references/key-international-human-rights-documents.html to see a list of human rights treaties ratified by the United States.) In addition, any nation that is a party to an agreement can attach specified reservations to such an agreement where permitted by the agreement.

The following international conventions are listed in the Country Reports appendix:

Geneva Conventions. These refer to agreements among nations, reached in Geneva, Switzerland, relative to wartime situations and sometimes referred to as part of international humanitarian law or the law of armed conflict. Included are the *Geneva Convention Relative to the Treatment of Prisoners of War*, and the *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, both dated 12 August 1949. The U.S. is listed as a party to both agreements. These are revisions of similar humanitarian conventions of 1906 and 1929. The rights protected by the Geneva Conventions may not be limited or abrogated. In an armed conflict situation, the Geneva Conventions and the customary law of armed conflict are the primary sources of law and human rights law applied when it does not conflict with either of these sources. These treaties are not part of international human rights law. Rather they are part of a separate and distinct category known as "international humanitarian law" that deals with the specific situation of armed conflict.

International Covenants. The U.S. is listed as a party to the International Covenant on Civil and Political Rights of 16 December 1966. The Covenant, which is regarded by many to be the single most important human rights treaty, codifies the essential freedoms people must enjoy in an effective democratic society, such as the right to vote and participate in government, freedom of peaceful assembly, equal protection under the law, the right to liberty and security, and freedom of opinion and expression. Temporary limitations or "derogations" on Civil and Political Covenant rights are permissible during "times of public emergency." However, "derogation" is never allowed when there is an obligation to protect the right to life, to preserve the freedom of conscience, or to protect against the prohibition against torture and slavery. Subject to a few essential reservations, e.g., to reflect the requirements of the First Amendment of the U.S. Constitution, the principles that the Covenant expresses are entirely consistent with the U.S. Bill of Rights. The U.S. is not a party to a second related covenant, the International Covenant on Economic, Social, and Cultural Rights of 16 December 1966,

which requires state parties to provide subsistence, education and medical care "to the maximum of its available resources."

Other Treaties. Additional agreements to which the U.S. is a party in the appendix to the Country Reports are:

- Convention to Suppress the Slave Trade and Slavery of 25 September 1926, as amended by the Protocol of 7 December 1953
- Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948
- Convention on the Political Rights of Women of 31 March 1953
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 7 September 1956
- Convention Concerning the Abolition of Forced Labor of 25 June 1957
- International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965
- Protocol Relating to the Status of Refugees of 31 January 1967
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984

The United States is also a party to the following human rights related treaties:

- Optional protocol to the convention on the rights of the child on the involvement of children in armed conflict
- Optional protocol to the convention on the rights of the child on the sale of children, child prostitution, and child pornography

Customary International Law

The most fundamental human rights, such as the right to be free from extra-judicial killings, torture, arbitrary arrests, detentions and disappearances, genocide and slavery, are generally thought to be customary international law. A distinction is made between conventional international law and customary international law. With conventional international law, nations that are parties to a treaty or convention explicitly agree to be bound by certain rules. With customary international law, consent is implicit and founded in international practice. This would make these principles legally binding internationally on all nations even if they have not signed the applicable human rights treaties. Customary international law arises when there exist long-standing and continuous practices by countries that are rooted in the belief that the practice is required by, or consistent with, international law. Customary international law also exists when there is a general acceptance, not only of the practice, but of the belief of the practice by other states. For more information on customary international human rights law, see chapter three of the latest version of the *U.S. Army Operational Law Handbook*.

Figure 16-1 provides excerpts from various international human rights sources, ranging from the UN Charter to regional agreements.

Figure 16-1
Illustrations of Human Rights Provisions

"We the peoples of the United Nations determined to reaffirm faith in fundamental human rights. . . ." Preamble to the Charter of the United Nations, composed in San Francisco, June 26, 1945.
"All human beings are born free and equal in dignity and rights . . . " Universal Declaration of Human Rights, adopted by the UN General Assembly, December 10, 1948.
"Everyone has the right to respect for private and family life, his home and his correspondence." Article 8.1 European Convention for the Protection of Human Rights and Fundamental Freedoms, done in Rome November 4, 1950.
"All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development." Article 1.1, International Convention on Civil and Political Rights, composed at New York, December 16, 1966.
"Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law. Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and international conventions." Article 8, African Charter on Human and Peoples' Rights, done at Banjul, composed in Banjul, June 26, 1981.
"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of people to peacefully assemble, and to petition the Government for a redress of grievances." First Amendment to the Constitution of the United States ratified December 15, 1791.

United States Foreign Policy Concerning Democracy and the Rule of Law

Several related themes and concepts are often introduced in USG policy statements and educational programs addressing human rights. Some of these concepts are democracy and the rule of law, civilian control of the military, and a legal system covering military personnel that equates to a country's legal protections for civilians, unless otherwise required by military necessity.

The Rule of Law

The DOS has offered the following meaning of rule of law:

> The rule of law is a fundamental component of democratic society and is defined broadly as the principle that all members of society—both citizens and rulers—are bound by a set of clearly defined and universally accepted laws. In a democracy, the rule of law is manifested in an independent judiciary, a free press and a system of checks and balances on leaders through free elections.

Civilian Control of the Military

Civilian control of the military is also seen as an important means of protecting human rights and democracy because of the belief that a military establishment, particularly a large standing army, potentially poses a threat to individual liberty and to popular control of the government. Civilian control generally requires that:

- The armed forces do not dominate government or impose their unique values upon civilian institutions and organizations
- The armed forces have no independent access to sources of military funding

- The armed forces' policies on the recruitment, pay, education, training, treatment, promotion, and use of personnel are not inconsistent with basic civil liberties and individual beliefs, with some compromises for military discipline and combat effectiveness
- The use of military force, either for or against military action, is not determined by the values of the military establishment itself

Military Justice

Military justice relates to legal systems within each nation which govern order and discipline of members of their armed forces. For example, U.S. armed forces members are subject to the *Uniform Code of Military Justice* (UCMJ). The following military justice-related topics are especially complementary to the overall framework of human rights:

- The rights and responsibilities of military personnel
- The role of the military commander in military justice
- Effective military justice systems and how they ensure accountability for and deterrence from human rights abuses by military personnel

Section 541 of the Foreign Assistance Act of 1961 (FAA) stresses the importance of the IMET program as a means to improve military justice systems and procedures in accordance with internationally recognized human rights.

Increased attention concerning human rights and related themes can be traced to the 1991 changes to the FAA which established expanded IMET (E-IMET). The principal objectives of E-IMET are:

- Fostering greater respect for, and understanding of, the principle of civilian control of the military
- Improving military justice systems and procedures in accordance with internationally accepted standards of human rights
- Increasing professionalism and responsibility in defense management and resource allocation
- Contributing to cooperation between military and law enforcement personnel with respect to counter-narcotics law enforcement efforts [section 541, FAA]

These objectives, combined with the traditional purposes of the IMET program (to expose international students to the U.S. professional military establishment and the American way of life, including U.S. regard for democratic values, respect for individual and human rights, and belief in the rule of law) make human rights and related concepts high priorities in the conduct of the U.S. security assistance program.

Human Rights and the Foreign Assistance Program

Foreign Policy Goal

Human rights are addressed in section 502B of the FAA (22 U.S.C. 2304):

> The U.S. shall, in accordance with its international obligations as set forth in the UN Charter and in keeping with the constitutional heritage and traditions of the U.S., promote and encourage increased respect for human rights and international freedoms throughout the world without distinction as to race, sex, language, or religion.

> Accordingly, a principal goal of U.S. foreign policy shall be to promote the increased observance of internationally recognized human rights by all countries.

This section provides that any nations receiving security assistance that engage in a consistent pattern of gross violations of internationally recognized human rights risk statutory based suspension or termination of U.S. military assistance. They also risk policy-based suspension or termination of U.S. military and economic assistance, including FMS and direct commercial sales transfers of defense articles and services. The term "gross violations of internationally recognized human rights" as defined in section 502B(d), includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, causing the disappearance of persons by the abduction and clandestine detention of those persons, or other flagrant denial of the right to life, liberty, and the security of the person. Any exception to this requires a Presidential certification to Congress that extraordinary circumstances warrant such assistance. The goal of any such sanctions is not to punish the offending country but to change its behavior, bringing it back into compliance with international norms for human rights.

Role of the Department of State

The Assistant Secretary of State for Democracy, Human Rights and Labor has overall policy responsibility for the creation of USG human rights policy. The assistant secretary is responsible for the following:

- Detailed information regarding humanitarian affairs and the observance of and respect for internationally recognized human rights
- Preparing the annual country reports, discussed below
- Making recommendations to the Secretary of State and the administrator of the U.S. Agency for International Development (USAID) regarding compliance with sections 116 and 502B, FAA
- Performing other responsibilities which serve to promote increased observance of internationally recognized human rights by all countries.

In accordance with sections 116(d) and 502B(b) of the FAA, and section 505(c) of the Trade Act of 1974, as amended, the DOS submits an annual document regarding country reports on human rights practices to the U.S. Congress. The reports cover the human rights practices of all nations that are members of the UN as well as a few that are not. They are submitted to assist members of Congress in the consideration of legislation, particularly foreign assistance legislation. Each country report follows a standard format, consisting of a brief introductory statement followed by a more detailed discussion of human rights practices and concerns under the headings listed in figure 16-2.

Figure 16-2
U.S. Department of State Country Report Format

Section 1 Respect for the integrity of the person, including freedom from:

a. Arbitrary or unlawful deprivation of life

b. Disappearance

c. Torture and other cruel, inhuman, or degrading treatment or punishment

d. Arbitrary arrest or detention and prison conditions

e. Denial of fair public trial

f. Arbitrary interference with privacy, family, home, or correspondence

g. Excessive use of force and other abuses in internal conflicts

Section 2 Respect for civil liberties, including:

a. Freedom of speech and press

b. Freedom of peaceful assembly and association

c. Freedom of religion

d. Freedom of movement, internally displaced persons, protection of refugees, and stateless persons

Section 3 Freedom to participate in the political process

Section 4 Official corruption and government transparency

Section 5 Governmental attitudes regarding international and nongovernmental investigation of alleged violations of human rights

Section 6 Discrimination, societal abuses, and trafficking in persons

Section 7 Worker rights

a. Freedom of association and right to collective bargaining

b. Prohibition of forced or compulsory labor

c. Prohibition of child labor and minimum age for employment

d. Discrimination with respect to employment or occupation

e. Acceptable conditions of work

The DOS and USAID strategic plan for FY14-17 on the DOS web site outlines the U.S. commitment to advance the growth of democracy and good governance, including civil society, the rule of law, respect for human rights, and religious freedom in other countries.

Attachment 16-2 provides a suggested action and reporting guideline known as the "Five Rs" for use by the security cooperation officer (SCO) in the event of discovering or witnessing a possible human rights violation.

Role of International and Non-governmental Organizations

Section 502B(b)(1), FAA, recognizes the contributions of international organizations and nongovernmental organizations within the area of human rights. Accordingly, this statutory section mandates that consideration shall be given to the relevant findings of appropriate international organizations, including such non-governmental organizations as the International Committee of the Red Cross, in the preparation of statements and reports concerning human rights conditions in other countries.

Some non-governmental organizations, e.g., Amnesty International and Human Rights Watch, publish their own human rights reports. The DOS customarily acknowledges the inputs provided by non-governmental organizations as well as other sources, e.g., private citizens and officials of foreign governments, in the development of its annual country reports on human rights practices. Amnesty International, for instance, lists country reports on its web site at http://www.amnesty.org.

Expanded-International Military Education and Training

The E-IMET initiative was started in 1990 to educate U.S. friends and allies in the proper management of their defense resources, to improve their systems of military justice in accordance with internationally recognized principles of human rights, and to foster a greater respect for, and understanding of, the principle of civilian control of the military. The program is based upon the premise that active promotion of democratic values is one of the most effective means available for achieving U.S. national security and foreign policy objectives and fostering peaceful relationships among the nations of the world.

In response to a 2011 GAO report entitled "International Military Education and Training: Agencies Should Emphasize Human Rights Training and Improve Evaluations" (GAO-12-123), the answers to the following questions are now called for in Combined Education and Training Program Plans (CETPP) submitted annually by SCOs: (1) Does the country generally receive poor marks on human rights from internationally recognized organizations like Freedom House? (2) If "yes" to question 1 above, to what degree is the military part of the rationale for the poor marks? (3) If the country receives poor marks, how does IMET-provided training planned for this country address human rights, civil-military relations, etc.?

Human Rights Vetting for U.S. Assistance (Including Leahy Amendment Compliance)

For purposes of the DoD Leahy law (described in chapter 14) none of the funding "made available to the Department of Defense, . . . may be used for any training, equipment, or other assistance for a unit of a foreign security force if the Secretary of Defense has credible information that the unit has committed a gross violation of human rights." 10 U.S.C. 2249e

The term "gross violations of internationally recognized human rights" includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention, without charges and trial, causing disappearance of persons by the abduction and clandestine detention of those persons and other flagrant denial of the right to life, liberty, or the security of person. section 502B(d)(1) of the Foreign Assistance Act of 1961, as amended.

Credible information does not need to meet the same standard used to determine admissibility in court. SCOs are advised to forward all information related to human rights violations along with reasons why the information may or may not be believable or credible.

Summary

A solid understanding of internationally recognized human rights policies is of key importance to members of the U.S. security cooperation community, particularly those who conduct education and training programs for international students as well as SCO personnel who interface on a day-to-day basis with partner country personnel. Human rights are not just a matter of U.S. emphasis; rather, human rights policies are grounded in multiple international conventions, including the UN Charter.

The human rights conditions within each country are documented in an annual report prepared by the DOS. SCO personnel and U.S. military personnel deployed to unified command theaters need to be aware of their responsibilities for reporting human rights violations. To provide further focus on the importance of human rights, military justice, and civilian control of the military, the DoD education and training establishment is tasked with providing appropriate instruction on these topics to international students.

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Attachment 16-1
Universal Declaration of Human Rights

Preamble: Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental and human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international; to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples and territories under their jurisdiction.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional, or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3. Everyone has the right to life, liberty, and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.

Article 6. Everyone has the right to recognition everywhere as a person before the law.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention, or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offense has the right to be presumed innocent until proven guilty according to law in a public trial at which he has had all the guarantees necessary for his defense. (2) No one shall be held guilty of any penal offense on account of any act or omission which did not constitute a penal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13. (1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14. (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15. (1) Everyone has the right to a nationality. (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage, and its dissolution. (2) Marriage shall be entered into only with the free and full consent of the intending spouses. (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17. (1) Everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his property.

Attachment 16-1 (continued)
Universal Declaration of Human Rights

Article 18. Everyone has the right of freedom of thought, conscience and religion, this right includes freedom to change his religion or belief, and freedom, either alone in community with others, and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and association. (2) No one may be compelled to belong to an association.

Article 21. (1) Everyone has the right to take part in the Government of his country, directly or indirectly or through freely chosen representatives. (2) Everyone has the right of equal access to public service in his country. (3) The will of the people shall be the basis of the authority of government, this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social, and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. (2) Everyone, without any discrimination, has the right to equal pay for equal work. (3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Attachment 16-1 (continued)
Universal Declaration of Human Rights

Article 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancements and its benefits. (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary, or artistic production of which he is the author.

Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29. (1) Everyone has duties to the community in which alone the free and full development of his personality is possible. (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order, and the general welfare in a democratic society. (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein

Attachment 16-2
The "Five Rs"

The responsibilities of U.S. military members, particularly those permanently assigned or temporarily deployed to a foreign country, with respect to human rights can be summarized by the "Five Rs," which are the following guidelines extracted from educational materials developed by the U.S. Army Judge Advocate School.

- Recognize human rights violations. This involves recognizing unlawful action by a government official, or someone acting under the color of government authority, and distinguishing gross violations of human rights from other violations. One must also be mindful that not all "bad" conduct constitutes a human rights violation.

- Refrain from committing human rights violations. Each military member is a government official, and government officials must not commit or aid in the commission of violations. Moreover, military members may be responsible for the acts of subordinates and possibly the acts of fellow soldiers. Upon encountering apparent violations in foreign countries, visiting military members should generally disengage from activity and leave the area, provided they can disengage without impairing their mission.

- React to human rights violations. If observed conduct of a government official involves a gross violation, intervention to protect a victim may be appropriate in certain limited cases:

  - ◊ The threat to life or limb is clear and compelling, e.g., without the soldier's intervention, a death, dismemberment, or rape will almost certainly occur.
  - ◊ No other government officials or military personnel are able to intervene.
  - ◊ Intervention is possible without serious threat to the U.S. soldier's safety, unit security, or mission.
  - ◊ Intervention involves no force or absolute minimum force to protect the victim, for example, shouting, not shooting at, the perpetrator. The objective is to restore the status quo, not to punish the perpetrator. If an official's conduct does not involve a gross violation, the soldier follows the report procedures outlined below and secures the consent of higher authority before intervening or notifying others of the apparent violation.

- Report human rights violations.

  - ◊ Report all instances of suspected human rights violations immediately to higher authority; use the most secure communications means available.

  - ◊ Indicate what official appears to be committing an offense, describe victim(s), and state whether any U.S. military or civilian personnel were involved in any way.

  - ◊ As appropriate, provide recommendations as to what the commander should do to protect the victim(s), restore the status quo, and preserve evidence of these events.

- Record human rights violations.

  - ◊ In line with personnel or unit safety and mission requirements, use available means to preserve evidence and record other details of any apparent violation of human rights. Such means may include photography and tape recordings as well as written notes and diagrams.

  - ◊ As the location may be later examined by professional investigators from the proper host nation authorities or by other international investigators from the United Nations, regional organizations or perhaps the U.S., be cautious about entering the area where events took place and collecting items of evidence without clearance from a higher authority.

Source: U.S. Southern Command - Human Rights Office

Chapter

17 Resource Management for the Security Cooperation Organization

Introduction

Security cooperation organization (SCO) personnel are responsible for managing all the resources that are made available to the SCO. The majority of military and Department of Defense (DoD) civilians are familiar with annually appropriated DoD Operations and Maintenance (O&M) funds as the source of funds for their activities; at the SCO, however, there may be a variety of programs, each with its own funding and requirements for implementation. These programs, combined with a certain level of autonomy at a SCO, make it relatively easy for the responsible personnel to lose accountability of resources. This chapter addresses the realities and requirements of resource management in the SCO, especially for the Senior Defense Official/Defense Attaché (SDO/DATT) position. The processes and procedures outlined within this chapter support the SCO's internal management controls program.

Internal Management Controls

All of the internal management controls described in this chapter support the Managers' Internal Control Program, as described in the Federal Managers' Financial Integrity Act of 1982, and they are designed to help SCO personnel protect their resources and prevent fraud, waste, abuse, and mismanagement. The SCO implementation of management controls should consist of the following four elements:

1. Documentation—The SCO should document the procedures of the internal control program.
2. Instruction—The SDO/DATT should instruct all SCO members about the program's requirements.
3. Review—The SCO should conduct periodic internal reviews, with one element/sub-element within the SCO performing independent checks of records and procedures on another. Records should be periodically reconciled to ensure accuracy. Periodic physical inventories should also be made of all SCO property.
4. Inspection—Periodic external audits, such as those from the Geographic Combatant Command (GCCMD) Inspector General, should be conducted approximately every 18 months.

These four elements should minimize loss of resources due to fraud, waste, and abuse.

Funding Sources

SCOs have several different sources of funds with which to perform their missions. These funds will usually come to them via their GCCMD, but can be sent from a Military Department (MILDEP) or from a DoD agency. In addition to the official funds sent to the SCOs for their operational use, some SCOs might receive funds via a Military Interdepartmental Purchase Request (MIPR) to support other organizations' operations in-country.

There are several types of funds and assets that a SCO may manage. Typical expenditures of funds would be for:

- Operational and overhead expenses
- Utilities (SCO office and residential)
- Rent (SCO office and residential)
- Temporary duty (TDY)
- Office equipment
- Civilian salaries, both General Service (GS) and Locally Employed (LE) Staff.
- Selected entitlements, such as dependent education

As mentioned above, the funds may come from MILDEPs or DoD agencies; the SCO will likely receive funds from the Defense Security Cooperation Agency (DSCA), categorized as Foreign Military Sales Administration (FMS Admin) or Foreign Military Financing Administration (FMF Admin) funds, as well as from the MILDEPs, referred to as Operations and Maintenance (O&M) funds. In this section, we will discuss these sources of funds, plus several others that are more likely to be used in any particular SCO.

Foreign Military Sales Administration (FMS Admin) Funds

The Security Assistance Administrative Trust Fund is sourced from the administrative surcharge applied to all FMS cases. These funds are then used to administer the FMS process around the world, including the manning of SCOs. These funds are then referred to as "FMS Admin" funds and they are used to support the security assistance activities performed by the SCO.

The Defense Security Cooperation Agency (DSCA) is responsible for these funds and allocates the funds to the GCCMDs, who in turn sub-allocate the funds to their respective SCOs. The Defense Finance and Accounting Service – Security Cooperation Accounting (DFAS-SCA) office in Indianapolis, Indiana, performs the official accounting function for these funds.

Foreign Military Financing Administration (FMF Admin) Funds

FMF Admin funds are appropriated by Congress, based on a budget submitted by the Department of State, under the Foreign Operations Authority U.S.C. Title 22. These funds are used to administer FMF activities around the world, including in the SCOs. These funds are referred to as "FMF Admin" and are used to support the FMF activities performed by the SCO, including International Military Education and Training (IMET) and End-Use Monitoring (EUM) activities.

The Defense Security Cooperation Agency (DSCA) is responsible for these funds and allocates the funds to the GCCMDs, who in turn sub-allocate the funds to their respective SCOs. DFAS-SCA in Indianapolis, Indiana, performs the official accounting function for these funds.

Operations and Maintenance (O&M) Funds

The GCCMD receives O&M funds for in-country support of the DoD and CCMD security cooperation programs that are not categorized as security assistance (SA). These funds are used for the same types of expenses as FMS Admin and FMF Admin funds, but in support of non-SA programs. They are known as:

- O&M funds in the Air Force
- O&M Army (OMA) funds in the Army
- O&M Navy (O&MN) funds in the Navy

Congress authorizes and appropriates O&M funds for the support of U.S. forces under U.S.C. Title 10, and distributes the funding to the MILDEPs and DoD agencies. The primary source of O&M funds come from the MILDEP that is designated as Executive Agent for the GCCMD. The Executive Agent allocates a portion of their O&M to the GCCMDs, who in turn sub-allocate the funds to their respective SCOs. The SCO then uses these O&M funds for security cooperation other than security assistance requirements of the SCO. The executive agents for the GCCMDs are as follows:

- The Air Force for Central Command and Northern Command
- The Army for European Command, Southern Command, and Africa Command
- The Navy for Pacific Command

Other O&M Programs

O&M is also used to fund many other special programs. These funds are managed by the GCCMDs, MILDEPs, DoD agencies and components, and are identified to support the specific programs that authorize the funds. Each of these O&M funding programs will have its own rules and procedures to be followed. The SCOs that have security cooperation billets on their Joint Manning Document (JMD) are required to prepare and execute a separate budget for each of the authorized programs. The next few sections provide additional information regarding the programs that are most often found in the SCOs.

Partnership for Peace

The Partnership for Peace (PfP) fund is annually appropriated by Congress for DoD use, in support of U.S. efforts in countries participating in the North Atlantic Treaty Organization's (NATO) PfP program. The program directly supports partner countries becoming more operationally-compatible with NATO forces. The funds are provided by the GCCMDs to component commands, the Defense Attaché Offices (DAOs), and SCOs for implementation of the program.

Traditional Combatant Commander Activities

The Traditional Combatant Commander Activities (TCA) funds are used to conduct military-to-military contact and comparable activities designed to encourage a more democratic orientation by defense establishments and military forces in other countries. The SCO submits proposed projects and their estimated cost to the GCCMD. The GCCMD approves appropriate projects and then, when funding is available, provides the funding to the SCO to execute the project.

Traditional Combatant Commander Initiative Fund

The Combatant Commander Initiative Fund (CCIF) is controlled by the Chairman of the Joint Chiefs of Staff, in accordance with DoD Directive 7280.4. A GCCMD may request this funding in support of a myriad of projects, to include:

- Force training
- Contingencies
- Selected operations
- Command and control
- Joint and combined exercises
- Military education and training to military and civilian personnel of foreign countries
- For personal expenses of defense personnel for bilateral and regional cooperation programs

These funds are used for a single project and are not a source of funding for a continuing project. Once the funding authority is granted, the funds are managed by the GCCMD in the same manner as other O&M funds.

Counternarcotics

Counternarcotics (CN) funds are appropriated to DoD for the support of U.S. and partner nations in fighting the war on drugs. This funding is managed by the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (ASD/SOLIC). These funds may be allocated for use in conjunction with the FMS process to fund a country's training, support, and equipment needs, or in support of U.S. forces/activities engaged in CN operations. Normally, however, these funds are allocated to the military service and managed like O&M funds. The International Narcotics Control Act (INCA) provides funds managed by the DoS which are used to pay for DoD-provided material, services, or training, which are delivered via the FMS process or direct commercial sales (DCS).

International Armaments Cooperation (IAC)

The IAC program provides O&M funds in support of the U.S. personnel authorized under the JMD of the GCCMD for IAC activities. The term Defense Cooperation in Armaments (DCA) is used in the law that originally authorized this program managed by the Under Secretary of Defense for Acquisition, Technology and Logistics (USD [AT&L]). These funds are allocated to the GCCMD and are managed like other O&M funds. The SCOs with IAC billets on their JMD are required to maintain a separate budget and separate budget execution procedures for these funds.

Demining

Demining funds are made available to aid a country in the removal of landmines and may be allocated for use in conjunction with the FMS process. The SCO will be involved in managing this program and overseeing the use of these funds. The SCO does not budget for these funds; rather, yearly targets are directed from higher headquarters.

Humanitarian Assistance

Humanitarian Assistance funds are allocated to assist partner nations in the construction of needed infrastructure, schools, and hospitals. The SCO will be involved in managing this program and overseeing the use of these funds. The SCO submits proposed projects and their estimated costs to the GCCMD. The GCCMD approves the projects and when funding is available, provides the funding to the SCO to execute the project.

United States Code Title 10 Programs

The GCCMD centrally manages a special category of funding known as the Title 10 programs, with which the SCO may be involved. These special programs get their name from the same authorizing legislation that Congress provides for Armed Forces activities, but they should not be confused with U.S.C. Title 10 O&M funds. Rather, Title 10 additionally provides funds to support cooperative engagement. It funds material support for the following:

- Humanitarian and civic assistance projects
- Participation in exercises
- Attendance at conferences, seminars or exchanges

The SCO does not budget for these funds; they are provided by the owning organization, as needed.

Assistance-in-Kind

Assistance-in-Kind (AIK) is generally non-monetary support of SCO operational requirements, typically including office space, transportation, utilities, or personnel. AIK support is provided for operational requirements that would normally be funded using FMS Admin, FMF Admin, FMS case, or O&M funds. The range of support to be provided under AIK is decided by a bilateral agreement signed between the U.S. and the partner nation.

Antiterrorism and Force Protection Funding

Antiterrorism/Force Protection (AT/FP) funding is an area of great concern and confusion. The DoS is responsible for funding AT/FP for most of the SA authorized billets, with the GCCMD, by agreement, being responsible for AT/FP at selected SCOs and all personnel assigned there, i.e., the DCA officer. DoS will, therefore, be the first place to look for funding of AT/FP requirements. If sufficient funds are not available in from the DoS, then the SCO should submit an unfunded requirement (UFR) to the GCCMD to pay for the deficiency. The embassy Regional Security Officer (RSO) should include a statement that the security requirement is valid and that DoS does not have funding.

Other Sources of Funding

Morale, welfare and recreation (MWR), overseas housing allowance (OHA), basic allowance for housing (BAH), and military pay are some of the other sources of funding.

MWR funds are available on a limited basis through the MILDEPs, in accordance with DoD Instruction 1015.10, to support U.S. military personnel at a SCO. These funds are often used for items such as weight-lifting and exercise equipment. The SCO does not budget for these funds; they request them on an as-needed basis.

Housing is typically provided or funded for members of the SCO in one of four ways. The first method is a private lease obtained by the SCO member. In this case, OHA in conjunction with BAH will be used to pay for housing costs for U.S. military personnel. This is the DSCA-preferred method for SCO members. The second method is a government lease, paid directly by the SCO, using FMS Admin, FMF Admin, or O&M funds, depending on which fund source is assigned to the member's billet on the JMD. The lease can be managed through the embassy housing pool or handled separately by the SCO. These SCO–funded leases are generally used only when adequate housing is in limited supply or for security reasons. The third method of providing housing is DoS housing. This is a residence either purchased or on a long-term lease by DoS. This type of housing is rarely available, but when it is, it is funded by DoS. The fourth method of housing, DoD military quarters, is more rare. These are quarters on a military installation funded by the applicable installation MILDEP.

Military pay is not budgeted by the SCO but paid directly by each member's military service. DSCA centrally funds for all U.S. Coast Guard (USCG) personnel working in the SCO and reimburses the USCG for their compensation.

Flow Of Funding Authority For The Security Cooperation Office

The flow of funding authority to the SCO is complicated, due to the number of funds, the types of activities, and the number of organizations involved. This process can, however, be broken down into some key basic concepts.

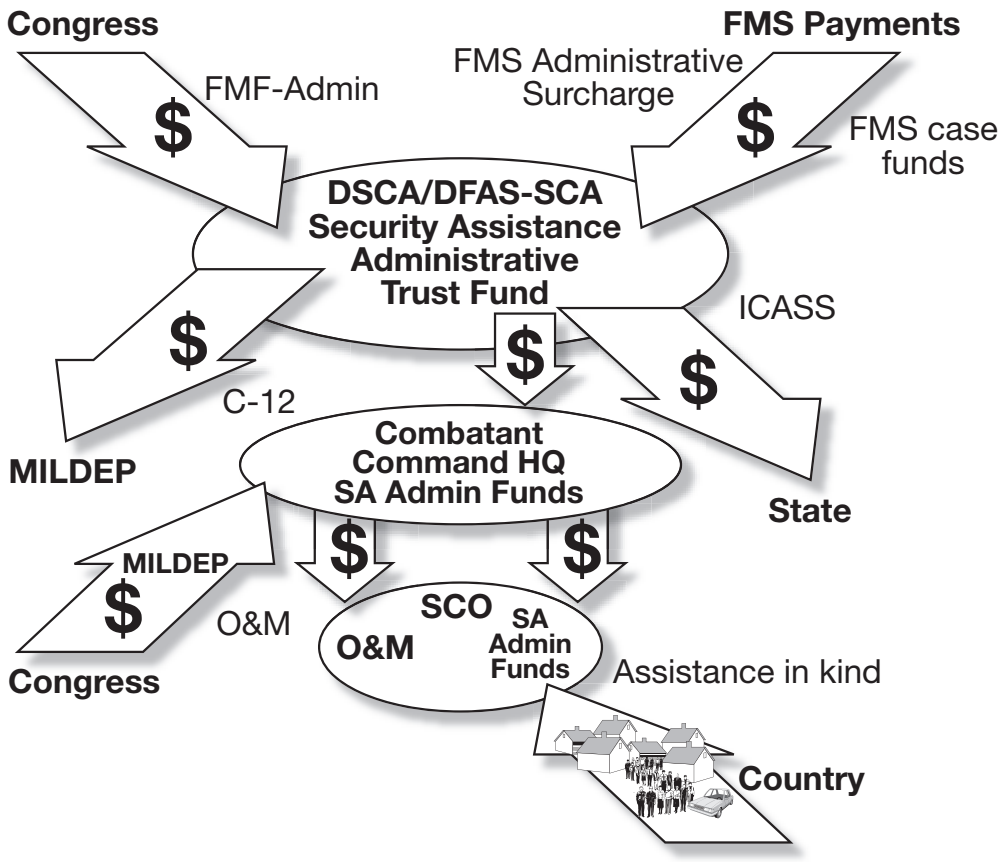
Figure 17-1 depicts the flow of funding authority from the sources of funding to the SCO. Starting at the top, the primary fund the SCO uses is the Security Assistance Administrative Trust Fund. The top left shows the flow of funding authority provided by Congress for Security Assistance administration–related requirements for grant programs. The top right shows the flow of funds from

the FMS administrative surcharge on FMS cases. DFAS-SCA accounts for both sources of funds in the Security Assistance Administrative Trust Fund account.

DSCA assigns funding authority for the SA administrative functions of the CCMD to the CCMD and referred to as HQ SA Admin funds. Funding authority for the SCO SA funding requirements is sent to the GCCMD for further distribution to the SCOs. From the Trust Fund, funds are sent to DoS to pay for indirect costs that are centrally-funded by DSCA, such as International Cooperative Administrative Support Services (ICASS).

The bottom left of the chart shows the flow of Congressionally-appropriated O&M funds to the CCMD and MILDEPs. The MILDEPs also distribute these O&M funds to the other SC organizations that require O&M funds. The CCMDs then provide the necessary O&M funds to the SCO.

Figure 17-1
Flow of Funds



Security Cooperation Office Budget Organizations

An understanding of the various players in the budget process is required before looking at the process itself. There are nine major players involved with the SCO budget process:

- Congress
- DoS
- DSCA
- MILDEPs

- GCCMDs
- SCOs
- Embassies
- Global Financial Service Centers (GFSC)
- DFAS–SCA

Congress legislates the appropriated funds portion of the SA FMFP funding and the O&M funding to be used by the SCO. Congress separately legislates an annual dollar ceiling authority for expenditure of SA administration funds out of the trust fund at DFAS–SCA.

The DoS submits the budget request to Congress for the appropriated funds portion of the SA fund requirement in the annual Congressional budget justification for foreign operations.

DSCA administers the Security Assistance Administrative Trust Fund and provides budget policy and guidance on the use of FMS Admin and FMF Admin funds. DSCA also provides budget target levels to the GCCMDs and reviews and approves their SA-related budgets. The budgets are approved based on the country submissions but the funding levels are issued to the GCCMDs as a lump-sum dollar value. This allows the GCCMDs to adjust country funding levels as changes in requirements occur. DSCA works with the DoS in preparing the budget request to Congress for the appropriated FMF Admin funds and disburses funds to the DoS for SCO ICASS costs. DSCA also centrally funds USCG salaries and the C-12 aircraft program.

The MILDEPs, as executive agents to the GCCMDs, provide budget policy and guidance on the use of O&M funds. They review and approve the O&M budgets for the GCCMDs. They also prepare the annual Program Objective Memorandum (POM) submission for the DoD to obtain the funds required.

The GCCMDs issue policies and procedures that expand and clarify those issued by DSCA and the executive agents. They issue funding targets for the SCOs to use as a starting point in developing their budgets. The GCCMDs review and modify the individual SCO budgets as required and then submit consolidated budgets to DSCA for SA requirements and to the executive agent for O&M requirements. The GCCMDs then issue the obligation authority/fund certification authorization (OA/FCA) to the SCO as funding becomes available. This gives the SCO authority to obligate the USG to expend dollars. At the same time the OA/FCA is issued to the SCO, the GCCMDs notify DFAS–SCA, so they can record the OA/FCA values in the official accounting system. This is the formal commitment of a portion of the trust fund to pay for the obligations generated by the SCO. The GCCMDs are also responsible for overseeing SCO funds management and implementation.

The SCOs prepare their proposed budgets and submit them to the GCCMDs. If the budget request exceeds the target level provided by the GCCMD, then the SCO will submit an unfunded requirement (UFR) for each item above the target level. The SCO, upon receipt of the OA/FCA, will execute the day-to-day budget requirements in accordance with the DFAS Memorandum, SAO Accounting Pamphlet, 28 September 2003. The SCO will enter all accounting records into the Defense Agencies Initiative (DAI) online application for all transactions. This information, plus payment information submitted through the DoS accounting system (Momentum) and received by DFAS–SCA, will be used for reconciliation with records in the DAI system.

The embassy will provide contracting support to most SCOs. Generally, DoS has the only bonded contracting officer available in-country, so they provide this service to the other organizations. It is the exception for a SCO to have its own contracting officer. The embassy also provides certain administrative support services specified in the ICASS agreement. These services generally include fund disbursement for the SCO by the embassy and the Global Financial Service Center (GFSC).

Again, a few SCOs perform this service in-house, but this is the exception. Financial reports are available to the SCO that show what financial functions the embassy performed for the SCO.

The GFSC is the DoS regional finance center for disbursing funds for the embassies assigned to it. The GFSC reports these disbursements to the embassy that requested them. The disbursements are also reported to DFAS–SCA for all SA disbursements. There are currently two GFSCs, located in Bangkok, Thailand, and Charleston, South Carolina.

DFAS–SCA is the financial and accounting activity for all FMS Admin and FMF Admin funds. DFAS issues general accounting policy and procedures. DFAS–SCA maintains the official accounting records. They post all obligations provided by the SCOs and disbursements provided by DoS and others. DFAS–SCA, in conjunction with the SCO, reconciles the records posted from DoS with those posted by the SCO. DFAS–SCA is also required to perform departmental reporting to the Office of Management and Budget (OMB).

Human Resources

One of the key resource areas in a SCO is human resources. Section 515 of the Foreign Assistance Act (FAA) contains a variety of provisions dealing with the organization and roles of SCOs. These provisions limit the number of members of the armed forces permanently assigned to a SCO for the management of the United States (U.S.) security assistance (SA) to six, unless specifically authorized by the Congress. This provision does not apply to civilian billets or to GCCMD SC billets within the SCO. This limitation for SA related staffing may be waived if the President determines that U.S. national interests require more than six such personnel. Changes to the SCO's authorized staffing must follow the procedures outlined in attachment 17-2, Guidelines to Implement National Security Decision Directive Number 38 (NSDD 38). Operational and overhead support for the SA billets comes from the Security Assistance Administrative Trust Fund. All SC billets are supported by O&M funds or funds from the program that authorizes their presence.

Security Cooperation Office Personnel Authorizations

SCO staffing varies according to the SA and SC program workload, as determined by joint Defense Security Cooperation Agency (DSCA) and GCCMD manpower surveys. The workload includes the volume of active Foreign Military Sales (FMS) cases, the number of students programmed for training, the volume of SC programs being managed, and other factors. As a general rule, more than 50 percent of an individual's workload must be performing SA functions in order to be funded from the Security Assistance Administrative Trust Fund. Billets primarily supporting SC programs not to include SA, are normally funded through the GCCMD O&M program objective memorandum (POM) process. Once the authorized staffing is approved by DSCA and the Joint Chiefs of Staff (JCS), it is published to the GCCMD's Joint Manpower Program (JMP). This document is maintained by the GCCMD. There are a finite number of billets available world-wide and, as new requirements arise for a SCO, the GCCMD and/or DSCA may require the billets be shifted from one SCO to another or from one GCCMD to another. The following categories of billets, authorized for the SA workload of the SCO, may be reflected on a JMP:

- U.S. military personnel. As indicated above, the number of those performing security assistance duties is reported annually to Congress and is subject to Congressional limitation.
- U.S. civilian direct-hires. These DoD civilians are hired through the civilian personnel agency associated with the GCCMD.
- Locally Employed Staff (LE Staff). A general term used for Foreign Service Nationals (FSNs) and resident U.S. citizens who are employed at a post by a USG agency that is under Chief of Mission (COM) authority. They are employed under a direct-hire appointment, a personal

services contract, or a personal services agreement. Typical jobs for LE Staff within a SCO include budget analyst, SA training manager, FMS case technician, administrative assistant, translator, and vehicle driver.

The following categories of billets may be present in a SCO but will not be reflected on the JMP:

- Personal Services Agreement (PSA). Personnel (local national personnel, third-country national personnel, USG employee family members, or local non-official U.S. personnel) hired under a limited-term (one year, extendable to ten years) contract to fill bona fide requirements in a SCO. PSAs can fill positions as noted above for LE Staff; however, PSA personnel cannot be contracted to perform duties that are required to be performed by a USG employee, such as certifying funds. The primary advantage in hiring a PSA is that it does not require NSDD 38 approval, whereas hiring LE Staff does.
- Assistance-in-Kind (AIK). The partner nation government may, by way of a bilateral agreement, assign local Ministry of Defense (MOD) personnel to the SCO. These personnel perform administrative or management functions on the country's SA programs and work under the direction of the SCO. The partner nation may also have liaison officers assigned in the SCO.
- Case-funded personnel. In a few countries, the SCO includes personnel (U.S. and non-U.S.) whose services are paid for under an FMS case. These billets are on a relatively permanent basis, but the individuals may change based on the length-of-tour rules included in the case.

U.S. military and civilian direct-hire personnel are compensated in accordance with relevant U.S. laws and regulations. Locally employed staff are compensated in accordance with the local compensation plan (LCP), the embassy's official system of compensation. LCPs are established in accordance with section 408 of the Foreign Service Act of 1980, as amended, and codified as United States Code 22 (22 U.S.C.), 3968. Each LCP consists of the salary schedule and rates, statements authorizing various types of benefit payments and premium pay rates, and other pertinent facets of local compensation.

Changes in Security Cooperation Organization Manpower

The SCOs and GCCMDs should review JMPs at least annually to ensure that SCO manning conforms to established policy for effectively managing SA and SC programs. When changes are required for SCO JMPs (or when JMPs are required for new SCOs), the requests, with detailed justification in accordance with DoD Instruction 5132.13, Staffing of Security Cooperation Organizations (SCOs) and the Selection and Training of Security Cooperation Personnel, must be submitted to the JCS and DSCA through the GCCMD.

Additionally, the COM must concur with any changes affecting the size, composition, or mission of the SCO. The NSDD 38 (See attachment 17-1), assigns primary responsibility for approval of changes in the size, composition, or mandate of any agency at a U.S. embassy to the applicable COM, in consultation with the DoS. In reviewing the JMP, the SDO/DATT has the ability to narrow or broaden the required or preferred background, skills, and prior training specified for any given billet. This often requires striking a balance between the needs of the SCO and the available pool of manpower. Making a requirement too specific may ensure an ideal candidate for any given position but at the cost of a gapped billet. Conversely, too general a requirement may help ensure timely personnel fills but with personnel who do not have the best qualifications for the job.

Security Cooperation Organization Selection

Personnel are nominated to SCO positions in accordance with DODI 5123.13. Requirements for nomination to a SCO may entail slightly different criteria from a stateside military or civilian position with respect to:

- Civilian education
- Training
- Language qualifications
- Military schooling
- Experience
- Area familiarity
- Health
- Family considerations

However, a nomination does not ensure the job, because the GCCMD, the ambassador, and the SDO/DATT retain final selection rights.

Practical Application of Different Fund Types

The following example, using the fictional country of Bandaria, shows the sometimes confusing use of various types of funds. This example only identifies a few of the funding sources that a SCO might have and should not be considered an all-inclusive list. Table 17-1 shows the makeup of SCO Bandaria by position.

Table 17-1
Security Cooperation Office Bandaria
Make Up and Funding Source

JMP Position	Name	Grade	Type Funds
ODC Chief	COL Dave Encharge, USA	06	SA Admin
Secretary (U.S. Civilian)	Ms. Mary Nositall	GS	SA Admin
Budget Analyst (LE Staff)	Ms. She Counts	LES	SA Admin
Training Assistant (LE Staff)	Mr. Kan Sendum	LES	SA Admin
Armaments Cooperation	Lt Col Terry Helper, USAF	05	O&M (DCA)
Logistics-Plans Coordination	MAJ Don Supli, USA	04	O&M (GCCMD)

This office has six people funded by four different types of funds. The following provides the funding background for each of the office members.

Colonel Dave Encharge is married, with two teenage children, for a total of three sponsored dependents. His house is rented, not provided through a government lease, so he uses service-provided BAH and OHA to pay the rent on his house in Bandaria. FMS Admin pays the cost of his children's private school; pays for the purchase of office supplies and equipment; and funds his SA-related travel. He and his dependents are also authorized funded environmental morale leave (FEML), since they are assigned to an austere location. Colonel Encharge can decide to go to the designated location or another location, but will receive funds up to the constructed cost of traveling to the designated location. The U.S. Army pays his salary.

Because Ms. Mary Nositall, the secretary, was hired locally, she does not receive any housing, dependent education, or transportation entitlements. There are a few GS civilians that receive these entitlements, but only if they have a transportation agreement. FMS Admin funds pay her salary, for her office supplies and equipment, and for any SA-related travel costs she may incur.

Ms. She Counts and Mr. Kan Sendum are local nationals, funded by FMS Admin and FMF Admin, respectively. As LE Staff, their housing and dependent education are not authorized to be paid using SCO funds. Their other support, including salary, office supplies, and equipment, are paid for using FMS Admin and FMF Admin, respectively.

Lieutenant Colonel Terry Helper has no dependents. The U.S. Air Force pays her salary and the BAH and OHA to rent her house in Bandaria. DCA funding pays for the purchase of her office supplies and equipment, and for any DCA–related travel. FMS Admin pays for any SA-related travel.

Major Don Supli has one sponsored dependent and the U.S. Army pays his salary. He uses BAH and OHA to pay the rent on his house in Bandaria. GCCMD O&M funds pay for the purchase of his office supplies and equipment, and funds GCCMD-related travel.

The Bandarians have decided to provide vehicles for SCO use under an FMS case. A case was written to lease four Jeep Grand Cherokees, including their maintenance. The SCO only pays for the fuel for these vehicles.

In all cases, there are two determining factors as to which source of funds to use for any given purchase. The first is the mission. If a member is going to travel, the purpose of the travel determines which funding source to use. Security assistance travel will generally use FMS Admin, unless it is for IMET or EUM missions, which use FMF Admin funds. Travel costs may be split across more than one fund source, if the mission of the travel involves different purposes.

The second determining factor is the position. For each member, support should come from the source of funds that is designated for the position, as noted in the vignettes above. In those cases where the mission is not clear and the expense serves more than one position, such as the office copier or cleaning supplies, some form of cost averaging is usually employed to correlate the source of funds to the composition of the office. In the above example, paying for the annual costs for cleaning supplies could be divided across the three funding sources as FMS Admin – 50%, FMF Admin – 17%, and O&M – 33%.

Representation Funds

Representation funds are used to maintain the standing and prestige of the U.S. by extending official courtesies to authorized host nation personnel. The SCO will receive these funds from both FMS Admin and O&M funding. The SCO representation fund budget is small, generally only a few hundred dollars, but it receives a great deal of management attention. Rules for SA representation funds will differ from those of GCCMD O&M and those for use by the DAO. To assist in the funding of representational activities during VIP visits (senior flag officers, DoD civilians and others), SCOs are encouraged to request funds from the person coordinating the VIP visit to offset the costs of the activities.

Representation Fund Uses and Limitations

Representation funds can be used to cover the cost of luncheons, dinners, and receptions for authorized personnel, to include gratuities up to 15 percent of the cost of the services. Mementos can be purchased at a cost not to exceed $350.00 per person for honored guests and their spouses. These mementos should only be presented to non-USG officials. Non-personal invitations, such as an invitation from SCO Bandaria, rather than from Colonel Encharge, can be bought with these funds. The SCO should refer to DODI 7250.13 for additional guidance, including a list of prohibited items.

Representation Fund Event Attendance Limitations

Invited guests should be limited to the minimum number required to meet the representational mission. However, the number of distinguished guests must be at least 20 percent of the attendees when the number of attendees is no more than thirty people and at least 50 percent when the number of attendees is more than thirty people. The SCO should refer to the GCCMD regulations for additional limitations.

Representation Fund Records

Detailed records of all expenditures of representation funds must be maintained. Guest lists indicating invitees and attendees will be recorded for each event. The distinguished guests and party will be indicated and the ratio of distinguished guests to U.S. personnel annotated. Financial records of all expenditures must be recorded as well as perpetual inventories of mementos and expendable items, to include documenting the date of presentation, the memento that was given, to whom it was given, and the reason for presentation.

International Cooperative Administrative Support Services

The International Cooperative Administrative Support Services (ICASS) program is a system for reimbursing the DoS for providing administrative services to the various organizations comprising the U.S. mission in a partner nation. Key elements of ICASS include customer participation, local empowerment, and transparency.

The customer is defined as any organization using the various services available in the embassy. Although customers are involved in the selection of service providers, they can select a provider other than the one selected through ICASS; however, this should be done only after careful consideration of the total impact on the USG and future availability of the alternate source. Although service providers can be either USG agencies or local vendors, the DoS or U.S. Agency for International Development (USAID) will provide the majority of the services.

The ICASS budget is locally generated and managed. Each embassy determines how much money will be required and how those funds will be spent. They identify what services will be provided, how they will be managed, and how much will be charged for those services.

Another element of ICASS is the total visibility of administrative services and cost elements. The customers help to establish performance standards for services provided. For example, it could be determined that vouchers should be processed within fifteen days. These standards would then be used to rate the effectiveness of the service providers.

ICASS is managed as a modified working capital fund. This fund is a no-year fund to allow for unobligated funds to be carried over from one year to the next. These unobligated funds could be returned to all the participating agencies, reprogrammed for other ICASS needs, or retained to reduce the bills of all agencies for the next fiscal year (FY).

Each agency representative signs an ICASS memorandum of understanding (MOU), which defines the services that will be provided and identifies the customers and service providers. The MOU spells out the objectives and service standards established by the ICASS council and details the program evaluation and review procedures. Each customer completes an ICASS agreement for those services to be provided by the ICASS service provider for each type of fund.

The ICASS Council is the formal body of each embassy that develops the charter and approves the MOUs for the embassy. It is authorized to adopt by-laws suitable for local conditions. The council is composed of one senior manager from each Cabinet-level agency and each service provider, with the SDO/DATT representing all DoD agencies on the ICASS Council. The council develops and approves the annual ICASS budget and has the authority to manage all services. The council decides what services are to be provided, which organization will provide those services, and how the services will be provided. It establishes performance standards with each service provider and then evaluates the performance and costs of each service provider. The council will also resolve most disputes among participating agencies.

The Deputy Chief of Mission (DCOM) is an ex-officio member of the ICASS council, providing policy perspective to aid in resourcing decisions but is not a voting member. The DCOM keeps the COM informed on ICASS issues.

The primary role of the COM is in resolving disputes between agencies. An agency can bring a dispute to the COM that could not be resolved in the ICASS Council or a dispute that was decided by the ICASS Council that a participating agency does not agree with.

The ICASS Executive Board in Washington, DC provides the highest level of ICASS policy and is chaired by the Assistant Secretary of State for Administration. Participating agency representatives are at the assistant secretary level. The Executive Board meets quarterly to review and make policy.

Disputes that could not be resolved to the satisfaction of the COM can be sent to the ICASS Executive Board for resolution. This avenue should be pursued only for major items and then only after all other avenues of grievance have been exhausted.

The ICASS Interagency Working Group provides policy on items delegated by the ICASS Executive Board. It is made up of working-level representatives from each agency involved with ICASS and meets twice a month. It communicates policy developed within and from the Executive Board to ICASS member agencies and the field. It reviews and approves non-post costs and factors and resolves issues raised by embassy councils.

The ICASS Service Center is a full-time service organization that serves as the secretariat for the ICASS Executive Board and the ICASS Interagency Working Group. It is a permanent office consisting of interagency staff. It provides budget and financial services to the various ICASS Councils. It provides implementation guidance on ICASS budgets and procedures. It manages a cost distribution computer system and coordinates training on all ICASS issues. It provides customer assistance for post operations.

Capital Security Cost Sharing

Capital Security Cost Sharing (CSCS) is the DoS program designed to fund the construction of 150 new embassies and consulates worldwide. It authorizes the Secretary of State to determine the allowable cost share for each tenant agency under COM authority and is designed to generate $17.5 billion over a fourteen-year period. It is authorized by Section 604 of the Secure Embassy Construction and Counterterrorism Act of 1999, as amended by the FY 2005 Consolidated Appropriations Act (P.L. 108-447). CSCS is also designed as an incentive for all tenant agencies to right-size their overseas staffs to the numbers essential for mission accomplishment.

The DoD is one of the largest tenant agencies; rightsizing is the mechanism by which DoD can minimize its footprint in the embassies and thereby reduce overall CSCS costs. For FY 2014 through FY 2016, DoS will be paid by its tenant agencies for billets at the following rates:

- Controlled Access Area (CAA) Office—$ 141,466
- Non-CAA Office—$ 19,607
- Non-Office (warehouse)—$ 5,373
- Non-embassy space—$0

Based on these rates, every effort must be taken to minimize the number of billets within the CAA. DoS may grant a waiver for some work spaces to be located apart from the embassy, if the host nation facility provides safety and security equal to or greater than that which would be afforded within the embassy.

Annually, DoS sends a report to the Office of the Secretary of Defense (Comptroller) requesting verification of DoD staffing levels at all embassies. A copy of this report and request for verification is sent to DSCA and forwarded through the respective GCCMDs to the SCOs for action. Each SDO/DATT or his/her designated representative must review this document with the SCO joint manning document provided by the GCCMD and verify that each entry in the DoS Post Administrative Support System (PASS), maintained by the Administration Section or Human Resources Office, is correct. SDO/DATTs should also check organization title, job titles, numbers of personnel, location within the embassy (CAA, non-CAA, etc.), or external non-embassy space. The accuracy of this review is critical, since DoD pays DoS based upon what tenant agency data is in PASS. Corrections in PASS can only be made at each respective embassy; they cannot be made at the GCCMDs or by DSCA.

For DSCA, the purpose of the review is to ensure that DoD pays DoS for the correct number of DoD personnel assigned to the SCO and that within the SCO, DoD is able to verify the correct numbers of personnel assigned to each represented fund source. Within each SCO, there are typically three types of funded positions, as noted above: FMS Admin, FMF Admin, and O&M. DSCA is responsible for the SA positions; the GCCMDs or military services are responsible for the O&M billets. Additionally, personnel assigned to a specialized training activity may be reflected in PASS as members of a SCO. In reality, they are not SA personnel but are funded by a military service, which would also be responsible for CSCS.

Upon completion of the review and verification by the SDO/DATT, the DSCA Comptroller is notified through the respective GCCMD. If any discrepancies arise that cannot be resolved at the embassies, the SDO/DATT should immediately forward them through the GCCMD to the DSCA Comptroller for resolution.

Although this CSCS review is done annually, it is in the best interest of the SCO to periodically review the SCO staffing in PASS to ensure that all corrections are made and that any changes in personnel (increases and decreases due to NSDD-38 and Personal Services Agreement actions) are properly reflected. Any questions should be addressed to DSCA, Directorate of Business Operations, Comptroller.

Security Cooperation Office Budget Processes

A SCO has to deal with funds coming from different sources, as described above. Depending on the geographic combatant command, the budget application that will be used by the SCO for tracking these funds will vary, as reflected in the following table.

Table 17-2
GCCMD Budget Applications

Geographic Combatant Commamd	FMS Admin FMF Admin	O & M
AFRICOM	DAI	GFEBS
CENTCOM	DAI	DEAMS
EUCOM	DAI	GFEBS
NORTHCOM	DAI	DEAMS
PACOM	DAI	SABRS
SOUTHCOM	DAI	GFEBS

Security Cooperation Office Budget Preparation

The budget preparation process starts with the annual budget call. DSCA provides a target ceiling level for each CCMD and notifies them of what information is required, when it is required, and with what details. The CCMDs then provide a target ceiling level for each SCO and notify them of what to provide to the CCMD and the due date. Typically, this process begins around May, with the publication of the DSCA budget call. However, many of the CCMDs will start their budget preparation process by early March.

The GCCMDs collect the data from the SCOs and input the data into the Budget, Programming, & Execution Submission Management and Reporting Tool (BeSmart). BeSmart is the authoritative database of record used to develop, submit, and analyze program, budget, and execution data for the Foreign Military Sales (FMS) and Foreign Military Financing (FMF) Administrative budgets. All FMS and FMF Admin account holders are responsible for the accuracy and completeness of the data submitted via BeSmart. The Security Assistance Program Budget Review (SAPBR) guidance documents, which are approved by DSCA Headquarters, are stored within the BeSmart application. Adherence to these guidance documents will be critical for the successful development and submission of your organization's budgetary and execution requirements to the Defense Security Cooperation Agency (DSCA).

Indirect costs (ICASS, local USCG, C-12 aircraft flying hours, and severance pay) are included in the budget, even though they are not obligated or paid by the SCO. DSCA has responsibility for budgeting for these items, but the SCO provides information on them and monitors them throughout the year.

Any mission requirement that cannot be included within the budget target ceiling may be submitted as an unfunded requirement. The CCMD reviews and modifies the budgets submitted by each SCO. When the CCMDs are satisfied with their budgets, DSCA reviews the overall budget and prepares it for submission to DoD and Congress.

The budget approval and execution process works in reverse of the budget submission process. Congress provides the funding appropriation and authority to DoS, which in turn provides the allocation of appropriated funding to DSCA. DSCA takes this allocated funding, along with the authorized funds from the administrative trust fund account, to provide the CCMDs with their approved allotment on a quarterly basis. CCMDs issue OA/FCA amounts to the SCOs, authorizing them to obligate the USG to expend funds.

Security Cooperation Office Budget Execution

Receipt of the OA/FCA begins the budget execution process. This phase consists of day-to-day operations, and the Defense Agencies Initiative (DAI) program is used to record the following transactions and to aid the SCO in managing its resources wisely:

- Committing funds for SCO requirements
- Obligating funds for those requirements
- Recording receipt of goods
- Reconciling records with DoS and DFAS

The SCOs can only procure those items that are authorized and required to perform their mission. These requirements will include everything from pens and pencils to dependent student education and TDY. For each requirement, the SCO will commit funds to reserve them in the budget for the planned payment. This is done in three forms, purchase request (PR) when DFAS will pay the vendor, MIPR when the funds are being transferred to another DoD organization for obligation, or an Interagency Agreement (IAA) for purchases where DoS will pay the vendor.

Once the SCO has established a commitment, the appropriate paperwork must be processed to create an obligating document. This is usually done through the Embassy and results in a purchase order (PO), contract, or a USG purchase card (GPC) purchase.

The vendor will usually be paid in one of five ways:

- The embassy Budget and Finance (B&F) office can pay the vendor by check or electronic funds transfer (EFT)
- The DoS GFSC can pay the vendor by check or EFT
- The embassy B&F office could provide the SCO with cash to pay the vendor
- The SCO can use a GPC to pay the vendor
- DFAS-SCA can pay the vendor by EFT

If DoS is making the payment, the paperwork will be processed through the Embassy. Otherwise, the paperwork will be processed through DFAS-SCA.

At the end of each fiscal year, the SCO reconciles its records of obligations and payments to ensure that recorded payments agree with actual expenditures, that the budget has sufficient funds to pay all the bills, and that excess funds have been freed up for other obligations.

Security Cooperation Office Budget Cautions and Problems

There are several items that have consistently caused problems for SCOs. Government-leased housing is a prime example, because GCCMD approval is required for any lease (plus annual utilities) over $50,000 of the FMS Admin or FMF Admin funds. The GCCMD can approve new and replacement leases for less than $50,000 or delegate this approval to the SDO/DATT; however, the SDO/DATT may not approve the lease for his or her own quarters.

DSCA approves the purchase of all foreign-made vehicles to ensure the Buy-American Act is adhered to; all other vehicles are approved by the GCCMDs. Vehicles may be armored only by sources approved by the General Services Administration (GSA).

Only the GCCMD can grant authority for domicile-to-duty transportation, the use of a government vehicle for transportation between home and the office. Domicile-to-duty use of government vehicles requires all members of the SCO to be aware of the limitations of domicile-to-duty. It is based on the threat in a country, is approved by the Secretary of Defense, and is reviewed every six months. It is also deemed a fringe benefit by the Internal Revenue Service and may be noted on a person's W-2 form each year it is authorized.

The SCO will be involved with supporting a host of individuals that are not assigned to the SCO. It is incumbent on the SCO to ensure that funding is provided by the individuals' parent organization to cover the additional expenditures required for these personnel.

Summary

The SCO is faced with a daunting task in managing its resources. Through prudent management and oversight, the SCO can avoid major pitfalls. The SCO is not alone; they are supported by many different organizations. They also must report to many different organizations, determined by the source of funding and services provided.

The SCO will generally receive SA administrative funds for most of their SA budget requirements but will also receive some O&M funds for their non-SA programs. The SCO might also use FMS case funding or have support provided to them by the partner nation through AIK. The SCO has several options available to them to fund AT/FP but will start by requesting funds from DoS, then the FMS Admin, FMF Admin, or O&M budget, and finally, the GCCMD.

The various types of funds do not flow directly to the SCO. The SCO has funding authority for these funds, sent by DSCA or the MILDEPs via the GCCMDs, depending on what service or item is being funded. The actual FMS Admin and FMF Admin funds will be accounted for and disbursed by DFAS–SCA.

There are many players in the SCO budget process. Congress appropriates some funds for the SCO. DoS will submit the appropriated portion of the SCO's budget to Congress annually. DSCA provides budget targets and fiscal oversight for FMS Admin and FMF Admin funds. The MILDEPs provide budget targets and fiscal oversight for O&M funds. The GCCMDs provide intermediary support and fiscal oversight for all types of funds. The embassy provides accounting and finance support as required to the SCO. The GFSC provides accounting support for DoS-processed transactions, and DFAS–SCA provides accounting support for all SA transactions. The SCO is responsible for developing its own budget and for effectively managing its funds. DAI is the online application that is used by the SCOs and GCCMDs to execute budgets.

The SCO will receive representation funds to maintain the standing and prestige of the U.S. by extending official courtesies to authorized personnel. There are many rules and regulations that govern the use, record keeping, and limitations of these funds, and they are likely to receive more attention than any other single category of funds.

ICASS is a system for providing administrative services to the various organizations in a U.S. embassy. ICASS can be an effective tool for the SCO, and other U.S. agencies within an embassy, to control costs and manage the quality of services. Participation of service providers and customers is essential to the effective implementation of the ICASS program. There are various levels of groups that oversee the ICASS program and provide for conflict resolution.

There are several areas that typically cause problems that the SCO must be vigilant in preventing. An internal management control program will help prevent difficulties from negatively affecting the mission of the SCO. The SCO is faced with a daunting task in managing its resources but, through

understanding, vigilance, and asking the right people the right questions, it can maintain a good resource management program.

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6 FAH-5, *ICASS Handbook*.

Attachment 17-1

National Security Decision Directive Number 38

The White House
Washington, DC
June 2, 1982
National Security Decision Directive Number 38

Subject: Staffing at Diplomatic Missions and Their Constituent Posts

This directive supersedes the directive of October 14, 1974 and subsequent directives governing the Monitoring Overseas Direct Employment (MODE) system.

In accordance with my letter to Chiefs of Mission, and the memorandum of September 22, 1981, conveying it to heads of Executive Departments and Agencies, all agencies with staffs operating under the authority of Chiefs of Mission will ensure that, in coordination with the DoS, the Chiefs of Mission's approval is sought on any proposed changes in the size, composition, or mandate of such staff elements. Departments and agencies wishing to initiate changes should transmit their proposals to Chiefs of Missions in consultation with the DoS. In the event the Secretary of State or his designee is unable promptly to resolve to the satisfaction of the parties concerned any disputes which may arise between Chiefs of Mission and Agency Heads or his designee, the Secretary of State and the other Agency Head concerned will present the differing views to me for decision through the Assistant to the President for National Security Affairs. Formal acknowledgement of changes approved by Chiefs of Mission or determined by me shall be transmitted to diplomatic missions by the DoS.

Overseas staffing of elements with U.S. diplomatic missions abroad shall conform to decisions reached in accordance with the above procedures and decisions made through the budgetary process.

Departments and agencies will keep the DoS informed as to current and projected overseas staffing authorizations for each diplomatic post, differentiating between the number of U.S. personnel and the number of foreign national personnel authorized for each post. The DoS shall maintain a current record of staffing authorizations for each overseas post. Agencies will cooperate with the DoS in providing data including any data needed to meet special reporting requirements.

The DoS, in consultation with concerned agencies, will develop guidelines by July 1, 1982 for my approval to implement this directive.

//SIGNED//

RONALD REAGAN

Attachment 17-2
Guidelines to Implement National Security Decision Directive (NSDD) Number 38
July 13, 1982

These guidelines are issued pursuant to the Presidential Directive of 2 June 1982 on Staffing at Diplomatic Missions and Constituent Posts. These guidelines replace all guidelines and other agreements previously in effect under the Monitoring Overseas Direct employment (MODE) system.

The purpose of the Directive and these guidelines is to allow the flexible, systematic and expeditious deployment and management of personnel of all USG agencies operating under the authority of Chiefs of Mission in support of U.S. foreign policy objectives.

These guidelines will ensure that the approval of Chiefs of Mission is sought by USG agencies on proposed staffing changes for activities operating under the authority of Chiefs of Mission. The Chiefs of Mission will transmit their views on overseas presence to the DoS, as department and agency representatives will communicate with their respective department/agency headquarters in this regard.

These guidelines also provide for the resolution of disagreements, should such arise between the Chiefs of Mission and department/agency representatives and between the DoS and department/agency heads.

A. Requests for Changes in Staffing

1. Preliminary or exploratory consultation by the requesting agency with the Chief of Mission regarding staffing changes is encouraged. Such informal proposals may be initiated in Washington or by agency overseas representatives.

2. Formal requests for approval of staffing changes as required by the Directive must be made by the cognizant agency to the Chief of Mission in consultation with the DoS. Copies of such requests will be provided to the DoS.

3. The Chief of Mission will convey his views on formal requests to the Department of State. The point of contact in the DoS for such matters is the Office of Management Operations (M/MO), Room 7427, (Since changed to the Office of Management Policy and Planning, M/P, Room 5214), Attention: Assistant for Overseas Positions. The Chief of Mission's response to the formal request should be addressed to that office for action. Copies of requests and responses will be given to the appropriate regional and functional bureaus in the DoS and the requesting agency.

B. Resolution of Disagreements

1. If there are disagreements over staffing levels between Chiefs of Mission and agency heads, the views of both parties will be forwarded to M/MO (M/P) for immediate presentation to the Secretary of State for decision within 15 working days of receipt from M/MO.

2. If the Secretary of State is unable to resolve the issue to the satisfaction of the parties concerned, the Secretary and the Agency head concerned will present their respective views to the President for decision through the Assistant to the President for National Security Affairs.

C. Formal Acknowledgement of Changes

1. Changes in staffing levels at individual posts reached in accordance with the above procedures will be provided by telegram from the DoS to the Chief of Mission, and the agencies concerned

D. Staffing Authorization Records

1. The DoS shall maintain a current record of staffing authorization for each overseas post. Staffing authorization is defined as all full-time, permanent, direct hire, United States government employees, including foreign nationals, and United States Military Personnel under the authority of a Mission Chief.

2. Departments and agencies will provide the current and projected overseas staffing authorization information, required by the directive, to the DoS, Office of Management Operations (M/MO), Room 7427, (Since changed to the office of Management Policy and Planning (M/P), Room 5214), Attention: Assistant for Overseas Positions. That official will solicit additional information from departments and agencies when necessary to meet special reporting requirements as established by statute or as levied by the NSC, OMB, or the Congress.

Chapter

18 End-Use Monitoring and Third Party Transfers

Introduction

Sources for the policies and procedures for the end-use monitoring (EUM) and third party transfer of U.S.-origin defense articles, technical data, services, and training are the Arms Export Control Act (AECA), the Foreign Assistance Act of 1961 (FAA), as amended, various specific legislative initiatives, and the applicable regulations of the Department of State (DoS) and the Department of Defense (DoD). Restrictions and procedures for transfer or disposal under these individual security cooperation (SC) programs may vary significantly due to the source of funding, specific legislation and other unique aspects of the various programs. This chapter is designed to augment chapter 8 of the Security Assistance Management Manual (SAMM), which is the authoritative source for information on the DoD EUM program, and serves as a guide to assist the defense community and the recipient foreign governments in fulfilling the obligations for EUM and third party transfer of U.S. origin defense articles and services primarily provided through various DoD and DoS programs.

Amending the AECA, Congress enacted section 40A in 1996 (Public Law 104-164) which states, "The President shall establish a program that provides for end-use monitoring in order to improve accountability with respect to defense articles sold, leased, or exported under the AECA or FAA." The Director, DSCA, has been delegated authority by the Secretary of Defense and USD (P) to administer DoD's EUM program, known as Golden Sentry, which will be covered shortly, to comply with Section 40A of the AECA.

The DoD has made a determination that this requires, to the extent practical, monitoring of U.S. arms transfers by providing "reasonable assurance" that recipients comply with U.S. government (USG) export control requirements regarding the use, transfer, and security of defense articles and services. DoD also determined that this requirement applies to all U.S.-origin defense articles and services transferred under any government program.

The U.S. policy goal for the EUM program is to preserve the technological advantages enjoyed by U.S. military forces over potential adversaries by impeding access to militarily significant items and technologies. As defined in the SAMM chapter 8, EUM is a program designed to verify that defense articles or services transferred by the USG to foreign recipients are being used in accordance with the terms and conditions of the transfer agreement or other applicable agreement. The foreign recipients of weapon systems and weapons systems technology from the U.S. must agree to a variety of controls as discussed in chapter 7 of this textbook. The release of defense articles or data to a non-USG entity must be properly cleared within the DoS and DoD coordination processes. The decision to transfer or not hinges in great part on the recipient's willingness to comply with three conditions:

- Transfer - No transfer of or change in the end-use (including disposal of the articles) without prior consent of the USG
- Use - Use the articles or information for the intended purpose
- Protection - Provide substantially the same degree of security protection the USG would provide for the same article or information received

In addition, the recipient must permit verification of the security measures and end-use by representatives of the U.S.

These requirements are specified in the SAMM, chapters 5 and 8, and will be included in any of the documents authorizing the transfer of U.S.-origin defense articles and services.

DoD End-Use Monitoring

Department of Defense's Golden Sentry Program

As previously mentioned, DoD implements the requirements of the AECA with an end-use monitoring program known as "Golden Sentry." The Defense Security Cooperation Agency (DSCA) is responsible for reviewing requests for government-to-government exports of defense articles, defense services, and related technical data. DSCA provides significant details for the EUM program in chapter 8 of the SAMM.

Responsibilities for Golden Sentry

Monitoring the use of U.S.-origin items is a joint responsibility of the partner nations and the USG. USG representatives have full responsibility for defense articles until title is transferred to the partner nation. The partner nation assumes this responsibility based on the terms under which the transfers are made, including restrictions on physical security and accountability. USG representatives retain a continuing responsibility under Golden Sentry to assist DSCA to verify the appropriate end-use and security of U.S.-origin defense articles and defense services sold or transferred on a government-to-government basis.

The responsibilities for the conduct of the Golden Sentry EUM program are found in the SAMM, chapter 8, paragraph C8.2.3 and table C8.T2. This paragraph and table lay out the organizational responsibilities listed for DSCA, the Military Departments and Implementing Agencies, the Combatant Commands (CCMDs), the Defense Threat Reduction Agency (DTRA), and the Security Cooperation Office (SCO) (which can include elements of the Defense Attaché Office or U.S. Embassy as determined by SCO manning) and DISCS. All organizations listed in C8.T2 are required to maintain Golden Sentry POCs and must ensure EUM policies and programs cover the "cradle-to-grave" lifespan of transferred defense articles.

As part of their responsibilities, CCMDs and SCOs are required to develop EUM Standard Operating Procedures (SOP) to implement country-specific EUM policy and procedures. They must also forward these SOPs to DSCA (DSCA.NCR.BPC.MBX.EUM-HELPDESK@mail.mil); C8.T3 outlines the SOP Minimum Information Requirements. The SCO is normally assigned the responsibility for in-country EUM requirements of the Golden Sentry program. Depending upon the scope of the responsibilities, the SCO can request TDY assistance to conduct inventories.

Additional Requirements for Country Team Assessment (CTA) for Sensitive Items

If a host nation has a request for Missile Technology Control Regime (MTCR) Category I Intelligence, Surveillance, & Reconnaissance (ISR) Unmanned Aerial Vehicle (UAV)/Unmanned Combat Aerial Vehicle (UCAV), C4ISR, GEOINT, STINGER, White Phosphorus, or NVDs, a plan for end-use monitoring for sensitive and advanced war fighting technology and the SCO's plan for compliance verification will need to be addressed in the CTA as referenced in SAMM C5.T1a.

There are two levels of EUM to be conducted by the SCO and the recipient nation: routine and enhanced.

Routine EUM

The SCO is required to conduct routine EUM visits with host nations, usually in conjunction with other assigned SC duties. SCOs should perform EUM of defense articles and services exported via the Foreign Military Sales (FMS) and other building partner capacity (BPC) programs during visits to the host nation's installations, through interaction with other assigned embassy personnel and USG individuals working with the host nation's military and security forces, embassy and interagency reports and news media information.

To assist SCOs in conducting routine EUM, DSCA has developed, in SCIP under the Routine EUM Options/Summary Report, a Routine EUM Report feature that allows the SCOs to identify all Routine EUM items in their country. They can print out this report, which contains controlled unclassified information, as an excel spread. DSCA has also developed a "watch list" of specific categories of defense articles exported via FMS that includes, but is not limited to: battle tanks, armored combat vehicles, artillery systems, fixed and rotary wing aircraft, unmanned aerial systems, warships and military vessels, missiles and missile systems, military vehicles, bombs, crew served and individual weapons, platform-mounted night vision systems, and man-portable NVDs monitored through Routine EUM. To further assist SCOs in documenting routine EUM that they have performed, DSCA developed in SCIP under the Routine EUM Options/Routine Checks a Routine EUM Check Template; see below. The SCOs can simply fill this out in SCIP and submit it. SCOs must document Routine EUM on at least a quarterly basis and maintain records for five years.

Figure 18-1
SCIP Routine EUM Report Template

Routine EUM Check

Basic Information

***Country:** Select an option
***Defense Article:** Select an option
***Generic Code:** Select an option
***Date of Routine EUM Check:**
Quantity:

***Official:**
***Office:**
***Duty Position:**

Routine EUM Performed through the following:

○ Inspection/Observation by Reporting Officer: ○ Inventory by Reporting Officer: ○ Report by U.S. Government Employee/Military Member: ○ Report by U.S. Contractor: ○ Review of the Host Nation's Records: ○ Open Source Media (TV, Newspaper, Magazine, etc.): ○ Other:

***Location:**

Circumstances of monitoring (Site visit in conjunction with official business, etc.):
(minimum 50 characters)

Optional | *** Required**

Cancel | Next

Of note, ownership "titles" to defense articles that are leased or loaned remain with the USG, as detailed in the terms of the lease; however, EUM requirements still apply. Additionally, there are instances in which particular items normally subject to routine EUM are transferred with notes restricting the conditions under which they may be transported, stored, or employed. SCOs should be aware of these restrictions and alert to indications or reports that suggest failure to comply. See SAMM C8.3.2 for further information.

Enhanced EUM

Enhanced EUM (EEUM), based on the principle of trust with verification, is required for defense articles and services or individual transfers specifically designated for EEUM by the MILDEP's export policy, the interagency release process, or by DoD policy as a result of consultation with Congress. All EEUM-designated defense articles are required to be sold on defined order lines using an EEUM-coded Military Articles and Services Listing (MASL) and are accompanied by specialized physical security and accountability (by item serial numbers) notes. The following items are currently EEUM-Designated Defense Articles and listed in Table C8.T4 of the SAMM:

- Advanced Medium Range Air-to-Air Missiles (AMRAAM)
- Air Intercept Missiles-9X (AIM-9X)
- Communication Security (COMSEC) Equipment
- Enhanced Targeting Data (ETD) Physical Security and Accountability Requirements
- Harpoon Block II Missiles
- Javelin Missiles and Command Launch Units (CLUs)
- Joint Air-to-Surface Standoff Missiles (JASSM)
- Joint Standoff Weapons (JSOW)
- Large Aircraft Infrared Countermeasures (LAIRCM)
- Night Vision Devices (NVDs)
- Standard Missiles-3 (SM-3)
- Standoff Land Attack Missiles Expanded Response (SLAM-ER)
- Stinger Missiles and Gripstocks
- Terminal High Altitude Area Defense (THAAD)
- Tomahawk Missiles
- Tube-Launched, Optically-Tracked, Wire-Guided Missiles (TOW-2B)
- Unmanned Aircraft Systems (UAS) designated as Category I by the Missile Technology Control Regime (MTCR)

Other defense articles may require EEUM on a case-by-case basis as a result of the transfer approval process.

SCOs are responsible for maintaining an accurate database of all EEUM-designated defense articles exported to the host nation by using the EUM application in the SCIP database for inventory monitoring and historical data. The SCIP-EUM database includes a Reconciliation Report of EEUM-designated defense articles by country that SCOs should use as the basis for establishing the baseline and all required inventories and reporting.

SCOs are required to conduct EEUM through planned/coordinated visits to the host nation's installations. SCOs must arrange with the partner nation to verify in-country receipt of EEUM defense articles by serial number within 90 days of delivery. Subsequent inventories require serial number verification and physical security checks of storage sites or other facilities where EEUM-designated

defense articles are kept and verification that recipients are complying with the terms and conditions stated in the transfer agreements. SCOs must physically inventory 100 percent of in-country EEUM defense articles annually except for EEUM defense articles not available for observation (deployed, returned to the United States for repair, etc.), or stipulated otherwise in the SCIP-EUM database or by separate policy memo. The inventory must include review of the recipient's records of verifications as required by the LOA or other arms transfer document note. Deployed equipment must be inventoried within 90 days after returning from operational use or deployment. SCOs will provide the host nation formal notification of all findings noted during EEUM checks and request the host nation to provide within 60 days the actions taken to correct the findings.

Country Specific EUM

Some countries have unique EUM requirements mandated by Congress. The National Defense Authorization Act of 2008 provides the legal basis for the requirement to implement a control program in Iraq. According to Section 1228 of NDAA 2008, the President shall implement a policy to control the export and transfer of defense articles delivered to Iraq. This includes all defense article registration and monitoring of all small arms provided to the Iraqi Government, as well as any Iraqi groups or individuals. Additionally, the law requires the USG to maintain detailed records of origin, shipping, and distribution for defense articles transferred under the Iraq Security Forces Fund authorization. This law was implemented by DoD Instruction 4140.66, Registration and Monitoring of Defense Articles (dated October 15, 2009).

The National Defense Authorization Act of 2010, section 1225, provides the legal basis for the requirement to implement control programs in Afghanistan and Pakistan. This law was implemented by the reissuance of DoD Instruction 4140.66 Registration and End-Use Monitoring of Defense Articles and/or Defense Services (dated September 7, 2010). This instruction directs the establishment of a registration and monitoring system for DoD government-to-government transfer or export of defense articles and/or defense services transferred to Iraq, Afghanistan, and Pakistan using funds made available to the DoD including, but not limited to, funds made available pursuant to the Iraq Security Forces Fund, Afghanistan Security Forces Fund, Pakistan Counterinsurgency Fund or any other security assistance program.

Specifically, DoD Instruction 4140.66 directs the applicable SCO to develop the necessary compliance plans and procedures to administer and maintain a comprehensive system of registration and monitoring of defense articles and/or defense services provided to Iraq, Afghanistan, and/or Pakistan, including maintaining auditable records sufficient to certify that the system complies with this instruction. These plans and procedures include the necessary steps to ensure the registration of the serial numbers of all small arms to be provided to the governments of Iraq, Afghanistan, and/or Pakistan and/or to other groups, organizations, citizens, or residents of Iraq, Afghanistan, and/or Pakistan. It directs an EUM program of all lethal defense articles to be provided to the governments of Iraq, Afghanistan, and/or Pakistan and/or to other groups; and it mandates that the SCOs maintain auditable records to certify compliance of maintaining detailed records of the origin, shipping, and distribution of all defense articles provided to the governments of Iraq, Afghanistan, and/or Pakistan, and/or to other groups, organizations, citizens, or residents of Iraq, Afghanistan, and/or Pakistan.

Funding for EUM Requirements

Direct costs for EEUM are itemized in the SCO's budget and include total estimated expenses that will require distribution of funding authority to the SCO. For management purposes, there will be a special exhibit for EEUM requirements. EEUM requirements for items received in country after budget submission and not included within the budget target ceiling level will be submitted as an unfunded requirement (UFR). As mentioned in Chapter 4, requests from the Ambassador for the SCO to assist with DoS and/or DoC EUM should also be submitted/predicted in the annual budget, and can also be submitted as UFR when accomplished (SAMM C8.T2).

The CCMD reviews and modifies the budgets submitted by each SCO. When the CCMDs are satisfied with their budgets, DSCA reviews the overall budget and prepares it for submission to DoD and Congress.

SCOs should start the request for funds as a budget requirement as soon as the country starts the Letter of Request process (LOR) for an EEUM item. This allows time to include the EEUM monitoring requirements in the budget process and thus provide the additional EUM funds when needed. For a more detailed discussion of the overall budgeting process, refer to chapter 17 of this textbook, "Resource Management for the Security Cooperation Organization."

Security Cooperation Office and the Partner Nation End-Use Monitoring Plan

The SCO and the partner nation should develop either a combined EUM compliance (control) plan or individual plans that spell out the procedures that will be followed to ensure the requirements for both routine and enhanced EUM as specified in the appropriate transfer documents, are met. The plan should include the following provisions:

- Procedures to be followed for EUM visits
- Partner nation internal accountability procedures
- Procedures for reporting required inventories and inspections
- Procedures for record keeping on the part of the host nation and the SCO. As a minimum, the records maintained by the host country should include:
    - Procedures for reporting possible violations and corrective action required
    - Procedures for use of SCIP

DSCA EUM Visit Program

Visits to assess EUM compliance programs are an important part of the Golden Sentry program. There are three types of visits that involve the SCO and host nation (See SAMM chapter 8, paragraph C8.5). These three types of EUM visits are the familiarization assessment visit (FAV), the compliance assessment visit (CAV) and the investigation visit.

- Familiarization Assessment Visit (FAV) - The purpose of the FAV is to assist the host nation, the SCO, and the CCMD to develop an effective EUM compliance program. The FAV can be requested by the SCO, the host nation, or the CCMD to validate EUM programs, as well as when the host nation receives specific equipment.
- Compliance Assessment Visit (CAV) - The purpose of the CAV is to review and evaluate the overall EUM program of the SCO and the host nation and to assess host nation's compliance with the security and accountability provisos contained within the LOAs for EEUM items. FAV and CAV time lines and requirements are detailed in SAMM tables C8.T5 and C8.T6.
- Investigation Visit - An EUM investigation visit must be conducted if a possible violation of the AECA, section 3, and/or the FAA, section 505 is suspected. Because of the unique nature and political sensitivity associated with these visits, they are handled on a case-by-case basis in concert with DoS.

The SCIP EUM Community contains detailed information on items that have been transferred to a partner nation. It is to be used to report all inspections and other information concerning EUM and transfers to third parties. It also provides the capability to generate reports concerning the status

of selected items transferred to a partner nation, as well as other useful and required information. To enroll or access the SCIP EUM Community, visit the SCIP website: http://www.scportal.U.S./home/.

Compliance Assessment Visits

The purpose of a CAV is to review and evaluate the SCO's (or equivalent organization/office) compliance with Golden Sentry EUM policy and the host nation's compliance with the terms and conditions for the transfer of defense articles and services including specific physical security and accountability provisos pertaining to sensitive technologies. Activities during a CAV include facility visits, record reviews, review of routine and enhanced EUM policies and procedures, and inventories of U.S.-origin defense articles and/or services. EUM CAVs are coordinated well in advance with the GCCs and the SCOs to ensure timely coordination with the host nation.

The EUM Community (i.e. EUM=>Support=>EUM Resources) in SCIP has defense article checklists to assist the SCO in conducting self-assessments, to help prepare the host nation to receive EEUM defense articles, or to prepare for an upcoming CAV.

Security Cooperation Office CAV Criteria

Compliance with the policies and procedures of the Golden Sentry program and the SCO's responsibilities stated in the SAMM, C8.T2 include:

- Implementation of written Standard Operating Procedures (EUM Compliance Plan) to perform routine and EEUM;
- Implementation of physical security and accountability plan(s) (NVD Compliance Plan) for the protection, storage, use and accountability of NVDs or other sensitive and advanced war fighting technology;
- Maintenance of records verifying routine and EEUM;
- Accuracy of the EEUM-designated items baseline as per the EEUM Reconciliation Report provided in the SCIP-EUM database;
- Timely performance of physical security and accountability checks of all EEUM-designated defense articles and services in accordance with Golden Sentry checklists;
- Use of the SCIP-EUM database to track inventories and to maintain an accurate disposition of EEUM-designated items;
- Verification and proper coordination with the DoS' Bureau of Political-Military Affairs / Office of Regional Security and Arms Transfers (DoS PM/RSAT) for the demilitarization, disposal, or destruction of EEUM-designated items and sensitive defense articles;
- Accuracy and timeliness of reporting losses, expenditures and destruction of EEUM-designated equipment;
- Proper coordination with DoS PM/RSAT regarding third party transfer requests and approvals.

Host Nation CAV Criteria

Compliance with the conditions of the transfer agreements for U.S.-provided defense articles and services include:

- Cooperation and coordination with U.S. officials to implement and maintain a viable EUM program which provides for routine and EEUM, including the CAVs conducted by DSCA;

- Potential end-use violations found during the assessment or previously reported by the SCO;
- Implementation of NVD physical security and accountability plan(s) (NVD Compliance Plan) as required;
- Implementation of physical security and accountability measures at storage sites/facilities maintaining EEUM-designated items in accordance with the special provisions stated in the LOA or other transfer agreement EEUM-designated equipment losses, action taken to prevent future losses (as appropriate) and reporting history;
- Accurate and timely notifications of demilitarization, disposal, destruction, loss, expenditure, or other change of end-use of EEUM-designated equipment and sensitive defense articles.

DSCA sends an annual message to all CCMDs and SCOs listing the countries that are subject to a CAV in the next two years. The two-year CAV plan is validated annually as necessary through coordination between DSCA and SCOs.

Department of State's Blue Lantern Program

The Blue Lantern program fulfills requirements stipulated in section 40A of the Arms Export Control Act (AECA) (22 U.S.C. 2785). The program monitors the end-use of defense articles, technical data, services, and brokering activities exported through commercial channels and subject to Department of State licenses or other approvals under section 38 of the AECA and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130), which implement section 38 of the AECA. The Blue Lantern program is managed by the Regional Affairs and Analysis Division (RAA), Office of Defense Trade Controls Policy (DTCP), Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs (PM).

Blue Lantern's mission is to help ensure the security and integrity of U.S. defense trade. Blue Lantern prevents diversion and unauthorized use of U.S. defense articles, combats gray arms trafficking, uncovers violations of the AECA, and builds confidence and cooperation among defense trade partners.

Blue Lantern end-use monitoring includes pre-license, post-license, and post-shipment checks to verify the bona fides of foreign consignees and end-users, confirm the legitimacy of proposed transactions, and provide reasonable assurance that:

- the recipient is complying with the requirements imposed by the United States Government with respect to use, transfers, and security of defense articles and defense services; and
- such articles and services are being used for the purposes for which they are provided.

The Chief of Mission can request assistance from the SCO to conduct Blue Lantern checks in country. If there are expected temporary duty (TDY) costs, the SCO should request funding as an Unfunded Requirement (UFR) from the CCMD. For more information on this program visit the PM DDTC website at: www.pmddtc.state.gov. For their latest EUM report visit their website at: http://pmddtc.state.gov/reports/enduse_reports.html.

Department of Commerce's EUM Program

The Department of Commerce (DoC) also has a program driven by End-Use Monitoring requirements. For DOC, the concern lies with articles listed on the Commerce Control List (CCL), and, more recently, items that have been moved off the U.S. Munitions List to the CCL. This includes so-called "dual-use" items (items that may have both a civilian use and a military use) transferred by U.S. industry to a foreign nation via the Export Administration Regulation (EAR). DoC approves export licenses and primarily focuses on "pre-delivery" controls (licensing checks), but also has established

a program for post-delivery inspections. Post-delivery inspections are performed by DoC's Bureau of Industry and Security (BIS) managed by the Office of Enforcement Analysis (OEA), BIS Attachés, "Sentinel Teams" from DoC BIS, and U.S. Foreign and Commercial Service Officers, SCOs should be aware of these visits and the "dual-use" items in the host nation. The Chief of Mission can request the SCO's assistance in the DoC EUM in-country program. If there are expected temporary duty (TDY) costs, the SCO should request funding as an Unfunded Requirement (UFR) from the CCMD. For more information on their End-use monitoring program visit their website at: https://www.bis.doc.gov/index.php.

Third Party Transfer and Changes in End-Use

As noted at the beginning of this chapter, any deviation from the "transfer, use and protection" requirements of USG arms transfer requires permission from the U.S. President (delegated to the DoS Political Military (PM) directorates: RSAT for FMS material; DDTC for DCS material). A Third Party Transfer (TPT) is any retransfer of title, physical possession or control of defense articles, training or technical data acquired under authorized USG transfer programs from the authorized recipient to any person or organization not an employee, officer or agent of that recipient country. Note that a change in end-use is considered a third party transfer. While it is the countries' responsibility to properly request a third party transfer, the SCOs routinely become involved.

The USG may consent to a third party transfer if the USG would directly transfer the articles to the proposed recipient. The divesting government submits a written third party Government transfer request to the USG for consideration. The request is sent to the SCO and/or Country Team, which in-turn sends the request to DoS (PM/RSAT) with information copies to DSCA and the SCO of the proposed third party recipient country. The divesting government may also send the request directly to DoS (PM/RSAT). All transfer requests must include a signed cover letter, a completed Standard Questionnaire, and end-use, retransfer, and security assurances from the proposed recipient unless a member of the Blanket End-Use Assurance Program. See the SAMM Sections C8.7.2.2. and C8.7.2.3. The information required for the Standard Questionnaire is provided in Table C8.T7 or the DoS website at: www.state.gov/t/pm/rsat/c14031.htm for step-by-step instructions and an example of a completed questionnaire.

Examples of possible third party transfers include retransfer of possession or title of defense articles or related data to:

- Any other foreign government
- Any private companies
- Bona fide museums within the receiving country
- Private education organizations within the original receiving country

Change of end-use is defined as any change in the usage of defense articles and services that deviates from the original purposes for which the items were sold. Since EUM is a "cradle-to-grave" activity, disposal also constitutes a change in end-use for which prior consent from DoS is required for non-consumable items. Cannibalization is viewed as disposal only if the parts being removed will no longer be under the control of the ministry or agency that owns them, or will be used for purposes other than for national defense. Examples of possible changes (not an exhaustive list) of end-use could be:

- Withdrawal of military end items from the operational inventory for display at a government run museum
- Use of unserviceable/non-repairable vehicles as targets on a firing range

- Transfer of demilitarized military end items or machinery from the armed forces to civil government or educational institutions
- Transfer of a U.S.-origin military vehicle from an operational military unit to be used as a police vehicle assigned to a police department or other law enforcement agency
- Demilitarization and redistribution of defense articles re-cycled among host government agencies
- Demilitarization and complete disposal of defense articles such that the materiel is no longer considered a defense article

Requirement for Prior Approval

In accordance with the FAA section 505e (22 U.S.C. 2314), in considering a request for approval to retransfer any implement of war to another country, DoS will not agree to the transfer unless the USG itself would transfer the defense article under consideration to that country. In addition, DoS will not consent to the retransfer of any significant defense article on the United States Munitions List (USML) unless the item is demilitarized prior to transfer, or the proposed recipient foreign country commits in writing to provide appropriate security and third party transfer assurances.

The transferring (divesting) government must send a written request either directly or through the SCO by letter, fax, or e-mail to the DoS, Directorate of Regional Security and Arms Transfer if the items were originally provided through a government-to-government program (See attachment 18-1 of this chapter for more details). For previously exported DCS USML articles and technical data, per section 123.9(c) of the International Traffic in Arms Regulations (ITAR), the original exporter or recipient may apply directly to the DoS, Directorate of Defense Trade Controls. Some Commerce Department Commerce Control List (CCL)-licensed items require a license for initial export, but they may be retransferred within the receiving country, and in selected cases, re-exported without further USG coordination. The Department of Commerce can advise in these cases.

The request for retransfer must be supported by end-use and retransfer assurances from the proposed recipient. If the initial recipient is not the final end user, the final end user must be identified and appropriate end-use and retransfer assurances must be provided by both the intermediate and final recipients. If proposed recipients are unable or unwilling to identify the final end user and end-use of the articles, the transfer will not be approved. In addition, if brokers are involved as intermediaries in the transfer, they must be clearly identified in the transfer request, and they must be registered with the DoS PM/DDTC as brokers.

If the receiving country has a "blanket" end-use and retransfer assurance agreement with the USG, end-use and retransfer assurances specific to individual transfers may not be required. Blanket assurance members under the Defense Trade Security Initiative (DTSI) program have the added benefit of limited advanced consent (see SAMM C8.7.3.2).

The DoS must notify Congress of proposed transfers that meet AECA section 32, "Congressional reporting" thresholds, as described in chapter 2 of this textbook, "Security Cooperation Legislation and Policy."

Potential Violations

While making end-use checks, SCOs should be alert for unauthorized use of defense articles, defense services, or technical data, including information provided during CONUS or in-country training. The check should provide information for both the recipient country and the United States to determine whether a country's generally sound processes failed due to unusual circumstances, because security and accountability procedures are not given sufficient priority, or because country interests are

diverging from those of the United States. Information gained during the checks that could be useful in correcting the immediate problem or improving future end-use controls should be shared with the DoS and DSCA (Programs Directorate).

SCOs must report all potential unauthorized end-use, including unauthorized access, unauthorized transfers, or security violations. It is particularly important that SCOs are alert to, and report on, any indication that United States-origin defense articles are being used against anything other than a legitimate military target, are otherwise being used for unauthorized purposes, are being tampered with or reverse engineered, or are accessible by persons who are not officers, employees, or agents of the recipient government. Information regarding any potential violations should be forwarded to the Combatant Command EUM Program Manager, as well as to the Golden Sentry program team, Weapons Division, Directorate of Programs at the DSCA. DSCA will then forward all potential end-use violations to the Bureau of Political Military Affairs' Regional Security and Arms Transfers (PM/RSAT) Division at the DoS. DoS PM/RSAT will determine if an investigation and a report to Congress is required in accordance with section 3 of the AECA. (See SAMM C8.6)

Disposal

When the recipient government no longer requires an item and there is no other agency that wants it, disposal may be in order. Thus, disposal is the final change of end-use. Normally, title to equipment acquired through a grant program such as Military Assistance Program (MAP) or excess defense articles (EDA) passes to the recipient country. However, the U.S. retains reversionary rights to the equipment so the recipient must agree to return the equipment to the USG when it is no longer required for its intended purpose.

If the Defense Logistics Agency (DLA) Disposition Services determines that the materiel can neither be redistributed nor employed any longer, the recipient is obligated to take responsibility for its proper disposal and seek consent of DoS prior to doing so.

Net proceeds of any such disposal or sale of MAP and grant EDA equipment will be paid to the USG unless another cost sharing arrangement has been previously approved by the DoS. For guidance on MAP equipment disposal see SAMM, chapter 11 section C11. HR.1.9.3. Note: the HR stands for "Historical Record" which can be found by moving your cursor to the right side of the chapter list when pointing at chapter 11 in the online SAMM chapter pulldown. The HR section has the entire chapter devoted to MAP processes.

For items acquired through FMS with a country's own funds, or through Foreign Military Financing or grant programs other than MAP or EDA, the USG has no reversionary right. All proceeds of approved sales/transfers go to the host nation.

Title to DCS acquired U.S.-origin defense articles passes to the recipient country upon shipment. USG approval is required for third party transfer and change of end-use only for those DCS purchased defense articles that are subject to export license control, i.e., those items on either the USML or the CCL. Regardless of whether or not the export application was accompanied by a duly executed form DSP-83, all DCS USML exports must have retransfer authorization from the DoS PM/DDTC. All proceeds of approved sales/transfers go to the host nation.

If the partner nation has been granted the right to dispose of materiel, its disposal procedures should follow in form and content those used by DLA Disposition Services in disposing of U.S. excess defense articles, though local forms and channels may be used as appropriate. The following functional areas are those deemed most important in complying with security trade control requirements:

- Determination of demilitarization requirements
- Conduct of sale

- Bidder screening, end-use and retransfer assurance
- Import certificate/delivery verification as required

In some instances, materiel can only be disposed of as scrap, but this does not negate the requirement to follow appropriate security procedures. Details, which must be followed in the conduct of local sales, are found in DoD 4160.21-M, Defense Materiel Disposition Manual, and DoD 4160.28-M volume 1-3, Defense Demilitarization Manual. For more on the EUM and the Disposal Process see the SAMM C8.8.2.

Summary

To preserve American technological advantage, countries receiving weapons and weapons technology must agree to provide the same level of protection for the articles and information as would the U.S. itself. This requirement applies whether a country receives material through commercial channels or through a government-to-government mechanism.

The DoD's EUM program is the Golden Sentry program, which applies to all defense articles, services, and training transferred by DoD. The DoS' EUM program is the Blue Lantern program, which applies to all defense articles, services, and training transferred through commercial channels (e.g. Direct Commercial Sales). The Department of Commerce has an EUM program which focuses on the monitoring of items transferred by commercial channels which may have "dual-use" applications.

Under Golden Sentry, two levels of EUM are possible (routine and enhanced), depending on the sensitivity of the technology involved. The SCO and the partner nation must jointly develop an EUM control (compliance) plan that will ensure the procedures are taken to protect defense articles, services, and training transferred by the DoD.

Transfers of defense articles, services, and training to a third party and changes of end-use always require prior approval from USG. These transfers and changes in end-use terms are covered in the standard terms and conditions of the LOA, which are discussed in chapter 8 of this textbook. Disposal of the equipment is the final stage of EUM and must conform to USG demilitarization requirements to safeguard the technology from possible misuse.

References

Arms Export Control Act of 1976 (AECA), as amended.

Foreign Assistance Act of 1961 (FAA), as amended.

Export Administration Act of 2001.

DoD 4160.21-M, Defense Materiel Disposition Manual, August 18, 1997.

DoD 4160.28-M, vol 1-3, Defense Demilitarization, June 7, 2011.

DoD Directive 4165.06, Real Property, November 18, 2008.

DSCA Manual 5105.38-M, Security Assistance Management Manual (SAMM). http://www.dsca.mil/samm/.

DSP-83, Non-transfer and Use Certificate (Office of Defense Trade Control).

Export Administration Regulations (EAR) (title 15 CFR parts 730–774).

International Traffic in Arms Regulations (I TAR) (title 22, parts 120–130).

GAO/NSIAD-00-208, Changes Needed to Correct Weaknesses in End-Use-Monitoring Program, August 2000.

Attachment 18-1

Department of State Third Party Transfer Request Form

DoD Instruction 4140.66, Registration and Monitoring of Defense Articles and/or Defense Services, September 7, 2010
DoD Instruction 4160.28, DoD Demilitarization (DEMIL) Program, April 7, 2011
DoD Instruction 4140.01, DoD Supply Chain Materiel Management Policy, December 22, 2011

What does the foreign government include in the request?
The following questions should be addressed in a written request by governments proposing to transfer U.S.-origin defense articles/data to another country or private entity on a permanent or temporary basis prior to U.S. State Department taking action.

Standard questions for requests to U.S. for authority to retransfer government-origin defense articles:

1. Who is the divesting government?
2. What commodity/equipment/service/technical data is to be transferred? (Please provide NSNs.) What are the serial numbers? (These must be provided for significant military equipment.)
3. How did the divesting country originally acquire the defense article(s)?
   - Foreign military sale? (Please provide case identifier or explanation as to why it is unavailable)
   - Military assistance program?
   - Excess defense article grant or sale?
   - Drawdown?
   - Cooperative development program?
   - Memorandum of understanding?
   - Direct commercial sale? If DCS, contact Office of Defense Trade Controls
   - Was this equipment acquired with national funds or with grant funding such as foreign military financing?
   - Other?
4. When was/were the article(s) acquired by the divesting country?
5. What was the original acquisition value (necessary for Congressional approval/reporting)?
6. What is the current value, if applicable?
7. Why does that government wish to divest itself of the equipment?
8. Who is the proposed recipient?
9. Is this a temporary or permanent transfer to the proposed recipient?
10. What is the proposed recipient's planned end-use for the articles (Please provide as much detail as possible)?
11. Does the proposed recipient currently possess this model of equipment?
12. Are there any intermediaries? If so, who? What is their role? Where are they located and what are the points of contact?
13. Will any net proceeds be realized from this sale, transfer, or disposal? If so, what are the estimated net proceeds?
14. Is there a certain date requested for approval? If so, please indicate the date and provide the relevant details.
15. Please provide point of contact details for the divesting government, the proposed recipient, and any intermediaries.

Attachment 18-2
SCO EUM Checklist/Responsibilities

SECURITY COOPERATION ORGANIZATION (SCO) EUM PROGRAM CHECKLIST
EUM TEAM MEMBER(S):
LOCATION:
SCO:
DATE:

SCO EUM RESPONSIBILITIES		
ASSESSMENT	Y/N	COMMENTS
Does the SCO have a primary Golden Sentry EUM POC designated in writing? (C8.T2.)		
Does the SCO have an updated and signed EUM SOP? (C8.2.4.)		
Has the SCO submitted a signed copy of the EUM SOP for uploading in the SCIP-EUM database? (C8.2.4.)		
Does the EUM SOP contain all the minimum information requirements? (C8.T3.) 1) Responsibilities and procedures for conducting EUM. 2) HN POCs and EUM visit scheduling requirements. 3) Procedures for recording Routine/Enhanced EUM checks. 4) Procedures for HN internal physical security/accountability. 5) Procedures for record keeping and reporting dispositions. 6) Procedures for capturing and submitting cost.		
Has the SCO obtained from the MoD a copy of the NVD Control Plan using the latest DSCA template available in the SCIP-EUM database? (C8.T4.)		
Does the SCO EUM POC have the necessary user access to the SCIP-EUM database to conduct all required EUM functions? (C8.2.4.)		
Has the SCO EUM POC reviewed all security and accountability provisos contained in LOAs or other transfer agreements for EEUM-designated items transferred to the Host Nation? (C8.T2.)		
Has the SCO ensured that the serial numbers of all EEUM-designated items transferred to the Host Nation are entered in the SCIP-EUM database? (C8.4.1.1.)		
Has the SCO ensured that all required inventories are timely annotated in the SCIP-EUM database? (C8.4.1.1., C8.4.1.2., and C8.4.1.4.)		
Is the SCO using Golden Sentry checklists to conduct EEUM checks and filing the checklists (or electronic records) for five years? (C8.4.1.3.)		
Is the SCO forwarding to the Host Nation the results of the EEUM checks for corrective action, if needed? (C8.4.1.3.)		
Is the SCO recording Routine EUM checks at least quarterly and filing electronic records or MFRs for five years? (C8.3.1.)		
Is the SCO assisting the Host Nation to submit third party transfers and change of end-use requests? (C8.7.3.)		

Has the SCO ensured that copies of disposal/destruction certificates and State Department (PM/RSAT) authorization letters have been uploaded to the SCIP-EUM database? (C8.8.2.)		
Is the SCO ensuring that all potential end-use violations are promptly reported to the State Department, the GCC and DSCA? (C8.6.1., C8.6.2., C8.6.3., and C8.1.1.)		
Has the SCO properly annotated in SCIP-EUM the disposition of all EEUM-designated items lost and obtained from the Host Nation supporting documentation which has been uploaded in the SCIP-EUM database? (C8.5.3.3.2.)		
Has the SCO obtained from the Host Nation all required documentation verifying the expenditure or destruction of EEUM-designated items and uploaded them to the SCIP-EUM database? (C8.5.3.3.2.)		
Is the SCO supporting Golden Sentry visits such as FAVs, CAVs, Investigation Visits, and Regional EUM Training Seminars? (C8.T3., C8.T4., C8.2.4.3)		
Is the SCO capturing the cost of conducting EEUM checks, attending EUM Training Seminars, and submitting future funding requirements via the Security Assistance Automated Resource Management System (SAARMS) using Expense Code 40901? (C8.4.3.1.)		
Has the SCO ensured that all costs related to conducting and supporting Blue Lantern Checks are captured in SAARMS? (C8.T2.)		

Procedures / Concerns / Additional Comments		

Chapter

19 Whole of Government Security Cooperation Planning

Introduction

Planning is an essential step in all military operations or activities, security cooperation (SC) included. At its simplest, planning is the process by which one understands where they are, where they want to be, and how best to get there. The plan is the product; how one intends to get from "A" to "B."

At the operational level, planning focuses on ends, ways, and means. Planning allows the military professional to clearly identify where the command wants to go—the ends. Through operational art and design, the planner pinpoints how best to get there—the ways. Finally, the means, i.e., resources, are identified and applied. While the plan directs action to achieve the ends, it also serves as the justification for resourcing; planning is how DoD rationalizes security cooperation (SC).

What is different between operational planning and SC planning? In security cooperation, the political and military realms are one, and the planner must be an expert in all aspects of the Partner Nation (PN) and on the USG policy towards it. Also, SC is not war fighting, and SCOs do not wield weapons. The metaphorical weapons in SC are the SC programs—each with highly specific engagement criteria (i.e., the law); hence, it is important to know the rest of this textbook.

This chapter does not represent doctrine (Joint Doctrine for Security Cooperation is currently under review), but it does use current Joint Doctrine and DoD Guidance and Instruction documents to put together a process that can be used to conduct planning for SC. If unfamiliar with the Joint Operational Planning Process (JOPP), operational art and design readers should review JP 5.0, Joint Operation Planning, 11 August 2011, prior to reading further. If unfamiliar with Theater Campaign Planning, readers should review The Theater Campaign, Planning, Planners Hand Book, February 2012. If new to SC you need to review the various Security Cooperation Guidance and Instruction Documents listed at the back of this chapter. The purpose of this chapter is to present the highlights of Whole of Government Security Cooperation Planning considerations and suggest a methodology.

Theater-level SC Planning

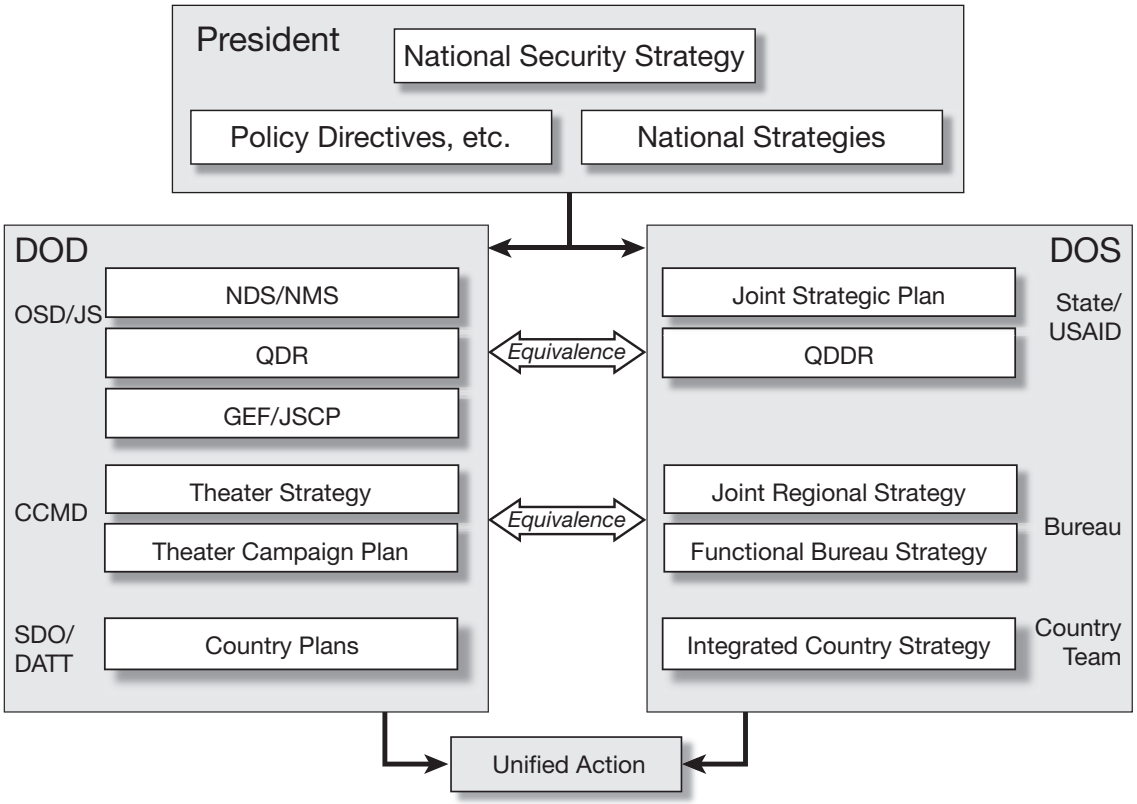
Introduction

Security cooperation planning, like all joint planning, is conducted using the Joint Operation Planning Process (JOPP) within the Adaptive Planning and Execution (APEX) system, as described in JP 5.0. For the Combatant Command (CCMD), strategic guidance is stipulated in national-level strategy and defense planning documents. Our intent, in this section, is to illustrate how national-level guidance from the President flows logically down the chain-of-command, though the various documents and plans, to direct security cooperation efforts with our partners. These guidance documents provide the "Ends". CCMD planners determine how the CCMD is going to achieve these "Ends". During development of the Theater Strategy and the Theater Campaign Plan (TCP) the "Ways" are identified. Finally, the "means", individual activities, events, operations, and investments are programmed by various planners and managers and laid out in the Country-specific Security Cooperation Section (CSCS) of the TCP.

Security Cooperation planning requires an understanding of the operational and security environment in the theater and the role the USG expects the different Partner Nations (PN) to play. If SC funds are being expended on a PN, SC planning is required for that PN. CCMDs and SCOs must prioritize requirements identified for SC activities and investments. The CCMD SC planners must justify the prioritization of SC activities for the collective group of PNs in the AOR. Some PNs may receive more SC assistance than others across the theater. The funding process is the more challenging aspect of long-term SC planning since most SC funding is short term by statute. Once SC activities are authorized and funded through coordination with OSD and Department of State (DoS), SC planning for each PN takes the form of mission planning among the geographic CCMD, DSCA, the applicable SCO and country team, the Service and special operations component(s), and the PN representatives. The figure below shows the flow of National Planning Guidance.

Figure 19-1

DoD/DoS Side-by-Side Comparison



Theater Campaign Planning

Analysis of Higher Level Guidance

Security cooperation planning begins at the national level with the National Security Strategy (NSS). The President periodically produces the NSS to inform Congress, the public, and foreign constituencies about the Administration's vision of how to deal with potential national security concerns. The NSS then drives a series of strategies and actions throughout the Executive branch, potentially working its way to the SCO as SC events with our partners. Supplementing the NSS, the April 2013 Presidential Policy Directive number 23 (PPD-23) on Security Sector Assistance (SSA), directs that executive branch agencies work together to maximize the effect of limited resources in achieving the NSS goals.

In its National Defense Strategy (NDS), the DoD explains, in broad terms, how it will align its strategy and actions with the NSS. A separate DoD document, the Quadrennial Defense Review (QDR), refines defense guidance and goals every four years. The National Military Strategy (NMS) is the Chairman of the Joint Chiefs of Staff's (CJCS) military advice on achieving the goals in the NDS (see Glossary for expanded descriptions of these strategies). These DoD documents are the foundation for the Guidance for Employment of the Force (GEF), the distillation of broader strategies into a more "operational" directive for the Geographic and Functional Combatant Commanders. While the GEF directs the CCMD to conduct operational planning and articulates strategic end states, the Joint Strategic Capabilities Plan (JSCP) actually tasks the Combatant Commanders and Service Chiefs to prepare operation, contingency, and theater campaign plans.

Executive Branch guidance also flows to the Department of State (DoS), where strategic planning takes place with the Joint Strategic Goals and refined by the Quadrennial Diplomacy and Development Review (QDDR). The DoS also has Regional Strategies, which then inform the Integrated Country Strategy (ICS) which are produced by the in-country Ambassadors. The ICS is also the critical DoS document for the SCO as it details the DoS direction for SC with our partners. As U.S. foreign policy is the domain of the DoS, the well-informed planner will have reviewed the relevant DoS Joint Regional Strategy and Functional Bureau Strategy as part of his/her analysis. A fuller discussion of DoS planning can be found later in the chapter.

Based upon the analysis of higher level guidance, the CCMD develops a Theater Strategy. The Theater Strategy is a broad statement of how the CCMD intends to achieve the GEF goals and objectives and thus serves as a link between the national guidance documents and the Theater Campaign Plan (TCP). It is only after they have developed the broad operational approach that the CCMD starts detailed planning for the TCP.

For SC purposes, the CCMD must integrate Phase 0 of any contingency plans (CONPLAN) into the Theater Campaign Plan (TCP). Said differently, theater steady-state activities, e.g., mil-to-mil events planned by the SCO, incorporate the Phase 0 actions of CONPLANs to be executed later. If the U.S. or PN has identified a 'capability gap', and we want or need that PN to develop a certain capability as part of a CONPLAN then development of that capability needs to be part of the respective CSCS. Ultimately, the plan to interact with our partners (derived from the TCP), known as the CSCS, should guide the SCO in its engagement with the PN.

Analysis of Operational and Security Environment

When seeking to understand the operational and security environment, the theater-level planner should focus on regional dynamics. What are the challenges to the Theater Strategic End-States and what are the roles of regional actors in the strategic balance of power? What are some of the AOR relevant factors that could serve as restraints or constraints on the CCMD's efforts? Detailed looks at these issues are important and country-level experts throughout the CCMD will be central to the planning team during this phase. Fitting these pieces together and figuring out the optimal strategy to influence the situation is the result of operational art and design. Some would call this a strategic estimate. There are many different ways to identify challenges and opportunities. Several of which are below:

- Strengths, Weaknesses, Opportunities & Threats (SWOT)
- Diplomatic, Informational, Military, Economic (DIME)
- PMESII-CTP (Political, Military, Economic, Social, Information, Infrastructure, Culture, Technological, and Physical Environment)

In addition to the overall operational and security environment, planners need to look to the PNs for their desired role. This will be covered in more detail later.

Planners should also consider how the national interests of countries both in and outside the AOR compete with or support US objectives in the AOR. Further, they should take into account challenges found outside the AOR that can affect the achievement of theater strategic end states, such as transnational threats (e.g., WMD proliferation, illicit trafficking, etc.). Real world issues do not respect CCMD AOR boundaries. Thus, for a genuine Whole of Government approach, planners also need to account for USG PN sensitivities outside respective AORs during the analysis of areas that fall on (and just beyond) their CCMD AOR boundary.

Identify Key Planning Assumptions

Planners will never have all the information they need, and planning relies heavily on assumptions. To ensure that planning can continue under these circumstances, planners will need to fill in their "knowledge gaps" with explicit assumptions. Assumptions should be both valid and necessary. Valid assumptions must by logical and realistic. A necessary assumption is one that is essential to continue the planning process. The planner must ask 'Is it impossible to continue planning without the assumption? Assumptions can span a wide range of topics, including the political conditions and military capabilities of countries in the region as well as timelines of events. Assumptions must be continually reviewed to ensure validity.

Identify Resources Available

Before detailed planning begins, planners should have an understanding of the resources available to the CCMD to support the implementation of the TCP. The theater campaign planning construct should provide a framework that allows commanders to identify and articulate resource requirements to execute the SC activities needed to implement the theater strategy. A thorough understanding of the types and quantities of resources available should inform, but not constrain, planning. Planners should proceed with developing a TCP that seeks to achieve the theater strategic end states and identify any discrepancies between current or projected resource availability and what is needed to implement the TCP. CCMDs should then communicate the demand signal for additional resources, and the risks associated with resource shortfalls, through the appropriate venues.

Identify Intermediate Objectives/Focus Areas that Support GEF End States

Conducting SC without connecting it to strategic objectives leads to uncoordinated programming and ineffective use of resources. The process of translating theater strategic end states into intermediate military objectives (IMO) and further dissecting those objectives into activities and events is complex. Decision-makers and planners at all levels must understand this process to ensure successful integration of a wide range of activities.

The GEF goals and objectives are the most specific description of the national strategic objectives presented to the CCMD, or in Operational Art parlance, the "Ends." Based on the GEF, the CCMDs develop IMO. IMOs must demonstrably move the CCMD toward strategic end states. It may only take one IMO to reach a strategic end state, but more commonly there will be multiple IMOs over the three- to five-year time frame of the TCP.

IMOs must be specific and achievable to ensure that the CCMD can measure progress. In preparing IMOs, the acronym "SMART" (Specific, Measurable, Achievable, Relevant and Results-oriented, Time-bound) should be observed:

- Specific—the reader knows what exactly must be done
- Measurable—empirically measurable so the CCMD knows when it has achieved the IMO

- Achievable—practicable within the time and resources provided
- Relevant—focused on an objective that moves the CCMD toward the end states
- Results-oriented—Focused on the results of actions, not on the process of doing them
- Time-bound—a clear deadline within the planning horizon

One method of aligning and synchronizing the IMOs in logical sequences in order to drive toward the end state are concepts this publication will refer to as Lines of Effort and Lines of Activity. Different organizations use slightly different terminology but the end result is the same.

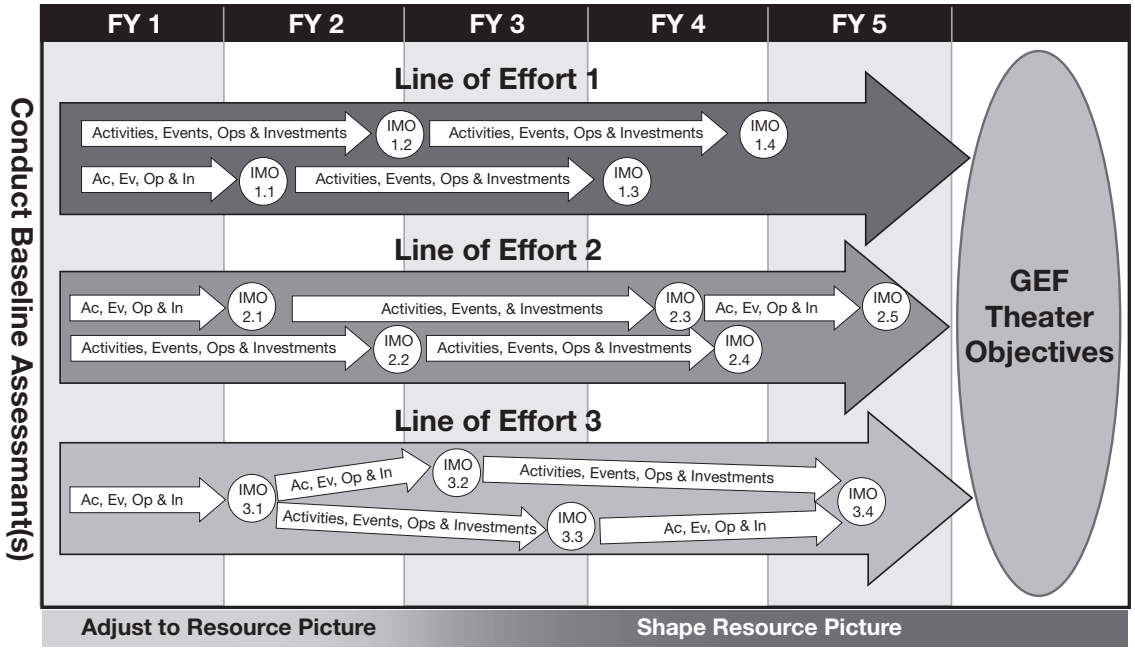
Lines of Effort

Lines of Effort (LOE) link related IMOs by purpose, in order to focus efforts toward a GEF End State(s). This approach allows planners to bundle by purpose various activities, events, operations, and investments, thereby logically linking more specific planning detail to strategic end states. Thus within an LOE, IMOs step forward in demonstrable ways toward the "Ends." LOEs are useful to group near-term and long-term IMOs that must be completed simultaneously or sequentially.

Lines of Activity

Lines of Activity (LOA) more clearly define the activities, events, operations, and/or investments supporting a particular IMO. LOAs become the "ways" to advance the strategy. LOAs thus allow the planner to dive down in increasing detail to answer the question, "What activities, events, operations, and/or investments are needed to achieve the IMO?" The individual activities are therefore the "means" by which we achieve the LOA. The figure below illustrates the relationship between LOEs and LOAs.

Figure 19-2
Line of Effort(s) Time Phasing



Ends—Ways—Means

End States are achieved by moving along LOEs, from IMO to IMO. IMOs are achieved by following LOAs (depicted as small white lines inside the larger LOEs in figure 19-2, defined by a sequence of specific activities, events, operations, and investments. Just as this process of increasing detail provides the planner a logical way to think through the problem, the plan will provide the program manager with justification as to why specific events must be resourced, i.e., how a particular three-day event fits into the overall plan to achieve the strategic end states. Hence, the TCP (and, by extension, the pertinent CSCS) provides justification for the "means" of the "ways" to achieve the "ends."

Assess Theater Strategic End States and Intermediate Objectives

At this stage, the planners need to go back and reassess the Theater Strategic End States and IMOs; they need to review their previous gap analysis. They need to assess what constitutes success in achieving the desired end state and determine the current "baseline". They then need to assess the IMOs, make sure they are properly sequences, and that the cumulative effect of the IMOs is that they will achieve or at least make progress toward the achievement of the desired end state.

Country-Level SC Planning

Introduction

It is important to note, that although in this chapter Theater-Level SC Planning and Country-Level SC Planning are broken apart, they are not conducted separately; they inform each other. Just like the JSCP and GEF are developed concurrently and in unison with each other, parts of the Theater-Level Planning and Country-Level Planning must be done in unison with each other. Without conducting an in-depth analysis of PN how can the CCMD develop IMOs and LOEs?

Country-level planning refers to the planning for SC with a particular nation-state or international organization. Tempering the focus on DoD processes, in support of PPD-23, country-level planning must coordinate with interagency counterparts in the DoS, U.S. Agency for International Development (USAID), and others agencies with equities in the country of interest. Country-level planning does not necessarily mean "in-country" planning. Country-level planning can be done at the CCMD headquarters or in-country by the SCO, and preferably a combination of both. Each CCMD differs slightly on this. This section will orient joint country-level planners, typically the J-5 country desk officers, to the overall process and to suggest a methodology that has been successful.

From Theater Campaign Plans to Country Plans

The TCP describes how the theater is going to achieve its Ends, but by definition, the TCP is too general to provide a starting point for scheduling specific SC events. With over fifty countries in some CCMDs, the CCMD will sometimes prepare Regional Campaign Plans (RCP) to provide increasing detail on how it will achieve the Ends in a sub-region of the CCMD AOR.

Below the RCP, the CSCS will start to manifest concrete action. Theater planners should work with service component and SCO personnel brainstorming and developing specific activities to achieve progress on lines of activity in a particular PN. The goal of country-level planning is not just the CSCS to the TCP, but the activities, events, operations and investments that can be programmed into budgets and scheduled on calendars (also see "Lines of Activity," earlier in the chapter).

Analyze Higher Level Guidance

For country-level planning, higher level guidance will come from the GEF, JSCP, CCMD theater campaign plan, and, where applicable, Contingency Plans (Phase 0). In addition to the GEF, planners should look at the DoS ICS and the USAID Country Development Cooperation Strategy (CDCS).

The ICS provides the Ambassador's goals, the relationships between Mission goals and broader USG regional goals, as well as a discussion of the current operating environment, and informs the DoS budget submission (FY+2). It is important to note that the ICS is an interagency document in that it contains goals and objectives from every agency that has an interest or equities in a particular PN. As mentioned previously, planners should closely examine the CCMD TCP, and the Phase 0 objectives and tasks contained in relevant contingency plans. These objectives may contain important implications and requirements for steady-state activities.

Assess the Operational and Security Environment of the Partner Nation

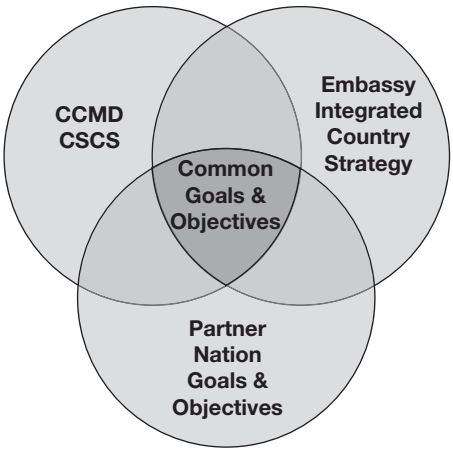
Planners should examine various aspects of the operational and security environment as it pertains to the PN for which they are developing a plan. They should study relevant geopolitical trends or conditions that influence key audiences in the partner nation. They should also assess significant internal and external threats to the partner and neighboring nations in the region. Another important consideration is the breadth and complexity of operational demands that these threats impose on partner nation national security capabilities. Planners should identify key security-related opportunities for cooperation, such as the partner nation's role in regional organizations. They should assess the capabilities and resources of the PN, including its force structure, defense budget, and expenditures on weapons system purchases from the international market. Finally, planners should consider the goals and activities of other USG agencies and other countries and DoD's role with respect to their efforts. Planners may want to use some of the tools previously mentioned (SWOT, DIME, PMESII-CTP).

Define the Desired Security Role(s) the USG Would Like the Partner Nation to Play

Based upon higher level guidance and assessment of the PN's environment the planners need to determine what the US wants and does NOT want the country to do. What is our desired End State? Do we want them to take (or not take) a certain political action? Do we need access to their territory, resources, information and/or intelligence, research and development? Do we want them to develop and use a certain capability or capacity? Do we need them to conduct peacekeeping, coalition, or expeditionary operations or do we need them to focus first on their own internal defense? Planners should determine and prioritize which of these (or other) roles a country needs to play to support CCMD TCP objectives. Planners should identify the risks to the CCMD TCP and U.S. strategy if the partner does not play the desired role(s). Fundamental to effective analysis is heavy consideration and nuanced understanding of the PN's desire to play the identified role; is it a goal or objective that we have in common?

Figure 19-3

Common Goals and Objectives



Not every country can or should play every role. Perhaps one country could play a role in its own internal stability, while another might be looked at as troop contributing country for the United Nations; it all depends on how the CCMD sees these various parts fitting together to achieve the ends. The country planner must also reach out to other country planners in the region to understand how strategies for one PN can affect another. Particularly, in light of current fiscal realities, careful consideration must be given to this question.

Determine Required Condition of Partner Nation to Perform Desired Role(s)

Planners must now look at the institutional and operational capacity and capability of the PN military to play the desired role. At this point, this does not require a detailed assessment, but a general military capabilities study: What is their operational history? Can the PN self-deploy? Can it even leave garrison? Does it have a joint planning staff? How robust is its logistics? Do they have a respect for rule of law and human rights? Can we work with this nation?

Planners need to assess the PN's political will and stability as well as capability required to perform the desired role(s). What is the necessary degree of consensus among the political leadership and, more broadly, among civil society for the country to contribute forces to coalition operations or to conduct operations to deter potential aggressors in the region? What operational capability and capacity does the PN require for it to perform these and/or other desired roles? Finally, what institutional capacity is needed to sustain the required operational capability and capacity? Specific institutional factors to consider include: degree of legitimacy and legal status; leadership and planning capability; decision making; resource management; human resources; equipment and logistics; and integrating mechanisms. Planners can use the DOTMLPF-P (Doctrine, Organization, Training, Materiel, Leadership (and Education), Personnel, Facilities & Policy) framework to identify specific operational capability and capacity requirements.

Assess Partner Desire to Play That Role

Planners need to assess a PN's overall strategic willingness to play the desired role. Do they have both the political and civil society consensus? Critical factors include positions of political leaders, public opinion vis-à-vis the role, national priorities, fiscal realities, security interests, military and political aspirations, and historic role in the region. Additionally, the degree of political accountability of the government and civilian control of the military will bear on the problem. In an often ironic manner, the less accountable the government or military, the more likely it is to act in the desired role. Conversely, if the desired role is counter to the national interests of the PN (as the PN sees them!), the plan must take this into account; wishing will not change nation-states. There is no need to expend limited USG resources on roles for which the PN has no desire.

Identify Resources Planned or Available

The final step is to identify existing or programmed resources. While country-level planning is not "resource constrained," it must be "resource informed" if it is to have any basis in reality. Remember, there is always something currently planned. What are the current program budgets and manpower directed by the USG at the PN forces? What other resources are available? When considering this, look not only at DoD programs but also at DoS Title 22-funded programs, and in light of PPD-23, examine with the help of the SDO/DATT the activities of other executive agencies. Equally, what actions are the PN or third parties already planning? If another country is already planning to address a capability, then this should limit the resources the USG plans to expend. Perhaps more importantly, assess whether the PN has the resources and will to maintain the capability for the desired security role over the long term.

In accordance with PPD-23, it is important to remember that DoS is the lead agency responsible for the policy, supervision, and general management of U.S. Government SSA to include integration of interagency efforts between related assistance activities. DoS leads the processes for conducting interagency assessments; synchronizes SSA and coordinates interagency planning at the country level. The Chief of Mission serves as the lead in-country integrator for SSA, overseeing the development of the ICS and leading in-country bilateral discussions on SSA. DoD, the Departments of Treasury, Justice, and Homeland Security, as well as USAID all participate in interagency SSA strategic planning, assessment, program design and implementation processes, and are required to coordinate the content of their SSA programs with DoS. As such, DoD is responsible for ensuring U.S. defense strategy and policy priorities are closely synchronized with SSA efforts, especially where a key objective is to strengthen the capacity and willingness of foreign security forces to operate alongside of, in lieu of, or in support of U.S. Forces. Law enforcement, border security, counterterrorism are just a few areas where the Departments of the Treasury, Justice, and Homeland Security are the presumptive implementers of SSA.

Keep in mind that in the National Capital Region, the NSC is the organization that oversees the interagency process, the Secretary of Defense and Chairman of the Joint Chiefs of Staff are both members of the NSC, and that during deliberations OSD Policy and Joint Staff J-5 do most of the work for DoD. Also, currently each CCMD has what equates to an interagency directorate. At the CCMD level this is a very good place to start exploring opportunities to coordinate SSA activities. The embassy country team is the best place to start at the Embassy level.

Capabilities-Based Analysis

Capabilities-Based Analysis (CBA), as presented here, is a modification of the doctrine used within the DoD, but significantly streamlined and re-focused on SC with foreign security forces, especially in light of new authorities granted by Congress. This is not by any means the only way planners could analyze the problem and recommend solutions, but this method has been successful. The eight steps are grouped into three phases, shown below. These phases are not so different from any problem-solving process.

For many SCOs, this may be (or seem to be) a daunting task. Indeed, many SCOs are manned with only one or two military service members. It is entirely possible that the partner nation needs assistance with one of their services for which the SCO is unmanned. The first stop, of course, is to reach out to the SDO/DATT and the military attachés in the DAO. Their role in life is to understand the partner nation's military and security forces. When that information source is exhausted, it is critical that the SCO reach out to the CCMD and its components to bring in experts to help with the analysis. It is not uncharacteristic for U.S. military officers to have just a cursory knowledge of the other services. Trying to determine strengths and weaknesses requires a more finely-tuned analysis.

Problem Analysis

Problem Analysis seeks to understand the situation in ever greater detail. It starts with clearly defining the "desired role," and asking what tasks are needed to achieve that role. Perhaps the CCMD wants the PN to focus on providing peacekeepers to UN missions in the region. One military task for such a role may be "Conduct Stability Operations." Next, capabilities needed to execute this task are listed out in priority order.

Needs Analysis

Needs Analysis takes the generic capabilities determined in Problem Analysis, and determines the actual needs of a particular PN in a specific situation. This process begins with Assessing Current Capabilities. By comparing the generic needs to the current capabilities, gaps can be identified.

Assess the Current Capabilities and Identify "Gaps"

While SCO and attaché personnel can provide general assessments, the service component commands should play a central role in assessing current capabilities. The Services have technical expertise and manpower to provide a detailed assessment of the PN's capability. During the planning process, a significant effort was made to understand the operational environment, to include PN forces, but this usually takes a more academic look focusing on open sources and intelligence information. During these assessments, however, service component commands apply detailed standards evolved for their own operations (while recognizing varying tactics, techniques, and procedures) to conduct a detailed on-the-ground evaluation of each capability. The delta between required capabilities and those present in the PN forces are the "gaps."

While assessments are often central to wise investment, the country-level planner needs to keep the scale of effort and priority of a particular country relative to the TCP in mind. First, it is common and understandable that U.S. forces will apply their U.S. standards (i.e., mirror-image) against the PN operations. Planners and SCOs must carefully determine the extent of the desired assistance in order to limit excessive resource expenditures. The needs, as determined in previous steps, should drive the assessments. All operations by U.S. forces are expensive, to include assessments, and these assessments will usually consume the same program funds as the eventual assistance. Additionally, if the program is small, the planner must be wary of raising expectations of the PN too high; as if the USG was promising to address all the gaps. Lastly, assessments can wear on the patience of those being assessed; who among us likes inspections? If the scale of the overall effort is modest, it may not be cost effective or wise to conduct detailed, service-specific assessments. Perhaps in these smaller cases, if the expertise exists in-country, the assessment could be left to the SCO and attachés resident in-country.

Assess the Risks

Once these gaps have been identified, a thorough assessment of risk must be performed. When looking at risk, the military planner must first assess the risk posed to the U.S. strategy, i.e., the planned role for the PN if the capability gap persists. If it presents little risk, then there is little point in providing the capability, and limited USG resources should be applied elsewhere. If this capability gap presents a major risk to the success of U.S. strategy for the proposed PN role, this would indicate a higher priority for resourcing.

In addition to this operational risk, the planner must also consider political risk. In the case of political risk, a planner must not only be concerned with the fallout from not providing a capability, but also the risk from providing one, e.g., future atrocities by "U.S.-trained" personnel. While the military planner might be reluctant to incorporate political concerns, rest assured the U.S. Ambassador to the PN will put these foremost when looking at how the CCMD's country plan fits into the DoS overall strategy for U.S. relations with the PN.

This provides yet another example of the importance of country-level planning. It is at this level where the military and diplomatic planning efforts come together and must be synchronized. The only other place these planning chains formally come together is in the NSS itself, and then only in the broadest terms.

Solutions Analysis

Identify Alternate Solutions

Solutions Analysis is the longest phase of planning. There are two primary methods for working through a capability to identify alternative solutions to filling the capability gaps. The first is DOTMLPF-P (Doctrine, Organization, Training, Material, Leadership and Education, Personnel, Facilities and Policy).

The second relates to the War Fighting Functions (mission command, movement and maneuver, intelligence, fires, sustainment, and protection). In either case, each serves as a paradigm by which to logically work one's way through each proposed capability. In each case, the results of this brainstorming effort will be a list of complementary or alternative activities, events, operations, and investments that improve PN capability and move them toward playing the role described during Step 1 of CBA. Both methods are outlined below.

DOTMLPF-P

Doctrine: The doctrine analysis examines the way the military fights its conflicts with emphasizes on maneuver warfare and combined air-ground campaigns to see if there is a better way that might solve a capability gap.

- Is there existing doctrine that addresses or relates to the business need? Is it Joint? Service? Agency?
- Are there operating procedures in place that are NOT being followed which contribute to the identified need?

Organization: The organization analysis examines how we are organize to fight; divisions, air wings, Marine-Air Ground Task Forces and other. It looks to see if there is a better organizational structure or capability that can be developed to solve a capability gap.

- Where is the problem occurring? What organizations is the problem occurring in?
- Is the organization properly staffed and funded to deal with the issue?

Training: The training analysis examines how we prepare our forces to fight tactically from basic training, advanced individual training, various types of unit training, joint exercises, and other ways to see if improvement can be made to offset capability gaps.

- Is the issue caused, at least in part, by a complete lack of or inadequate training?
- Does training exist which addresses the issue?

Materiel: The materiel analysis examines all the necessary equipment and systems that are needed by our forces to fight and operate effectively and if new systems are needed to fill a capability gap.

- Is the issue caused, at least in part, by inadequate systems or equipment?

Leadership and Education: The leadership and education analysis examines how we prepare our leaders to lead the fight from squad leader to 4-star general/admiral and their overall professional development.

- Does leadership understand the scope of the problem?
- Does leadership have resources at its disposal to correct the issue?

Personnel: The personnel analysis examines availability of qualified people for peacetime, wartime, and various contingency operations to support a capability gap by restructuring.

- Is the issue caused, at least in part, by inability or decreased ability to place qualified and trained personnel in the correct occupational specialties?
- Are the right personnel in the right positions (skill set match)?

Facilities: The facilities analysis examines military property, installations and industrial facilities (e.g. government owned ammunition production facilities) that support our forces to see if they can be used to fill in a capability gap.

- Is there a lack of operations and maintenance?
- Is the problem caused, at least in part, by inadequate infrastructure?

Policy: Any DoD, interagency, or international policy issues that may prevent effective implementation of changes in the other seven DOTMLPF-P elemental areas.

War Fighting Functions

Mission Command—develops and integrates those activities enabling a commander to balance the art of command and the science of control

Movement and Maneuver—tasks and systems that move and employ forces to achieve a position of relative advantage over the enemy

Intelligence—tasks and systems that facilitate understanding of the enemy, terrain, and civil considerations

Fires—tasks and systems that provide collective and coordinated use of Army indirect fires, air and missile defense, and joint fires through the targeting process

Sustainment—tasks and systems that provide support and services to ensure freedom of action, extend operational reach, and prolong endurance

Protection—tasks and systems that preserve the force so the commander can apply maximum combat power to accomplish the mission

DOTMLPF-P is our recommended approach. DISCS feels it provides the planner the most clear and concrete answers to providing a capability. To apply this paradigm, planners work their way through each part of DOTMLPF-P asking themselves what is needed within each domain. For example, to provide a reconnaissance capability; "What additional doctrine is needed? Do PN forces need to be re-organized? What training is needed? What equipment is needed?" One major benefit of methodically working through DOTMLPF-P is that lower cost solutions may be identified before resorting to sometimes costly and perhaps inappropriate hardware solutions. The U.S. military leverages Joint Capabilities Integration and Development System (JCIDS), for developing solutions to capability gaps, and it is also required by DSCA (chapter 15 of the SAMM) for all BPC programs.

Recommend Solutions

In analyzing alternative solutions, the planner must assess each solution to determine if it is affordable, feasible, and responsive. Thus, often in real-world application, this step becomes very iterative with the next step, resourcing, as possible solutions fail or succeed to secure funding or manpower.

In the end, the planner may find there is not an effective way to address the capability gap. In this case, two policy solutions may be available. First, change or drop the desired role of the PN in the CCMD TCP (i.e., change the TCP). Second, it might be necessary to change the rules for a program or create a new program to address the gaps over the long term (e.g., propose changes to legislation) which is how so many programs have now come to exist.

Resourcing

Resourcing is a highly iterative process where the country-level planners seek out resources to fill gaps, often over and over again. This can be due to competition from higher priority efforts, missed deadlines due to compressed submission timelines, legislative limitations on lifespan of resources, or because the program is simply a poor fit to the specified program. There are currently more than 100 SC programs which could be used to resource solutions to capability gaps. Each program is specifically designed to address a particular need. Each has its strengths and weaknesses, its authorities and prohibitions. It is critical that planners understand these programs and their timelines for submission if they want to apply them effectively. These programs are the "weapon systems" of SC; if planners do not understand them, they will never employ them effectively.

U.S. Investment Considerations

DoD wants to achieve the greatest overall improvement in the specified capabilities with the lowest possible investment. When looking at where to invest, the country planner must consider the factors listed below. Key among these factors is priority; priority based on risk and based on urgency. Risk represents the likelihood that a capability will not be achieved if resources are not provided, while urgency represents the importance of the resources based on time.

Deriving—What strategy and environment are the missions and capabilities designed to address?

Prioritizing—What shortfalls are most important and pressing? (based on risk and urgency)

Integrating—Have investments been made across all Services to be effective as a joint force?

Balancing—Are investments and attendant risk balanced across all the capabilities needed during the planning period?

Sequencing—What is needed now? What can wait until later? Is there a logical order in which investments should be made?

Resourcing—How much can the USG afford during the planning period?

Requirements Coordination and Integration

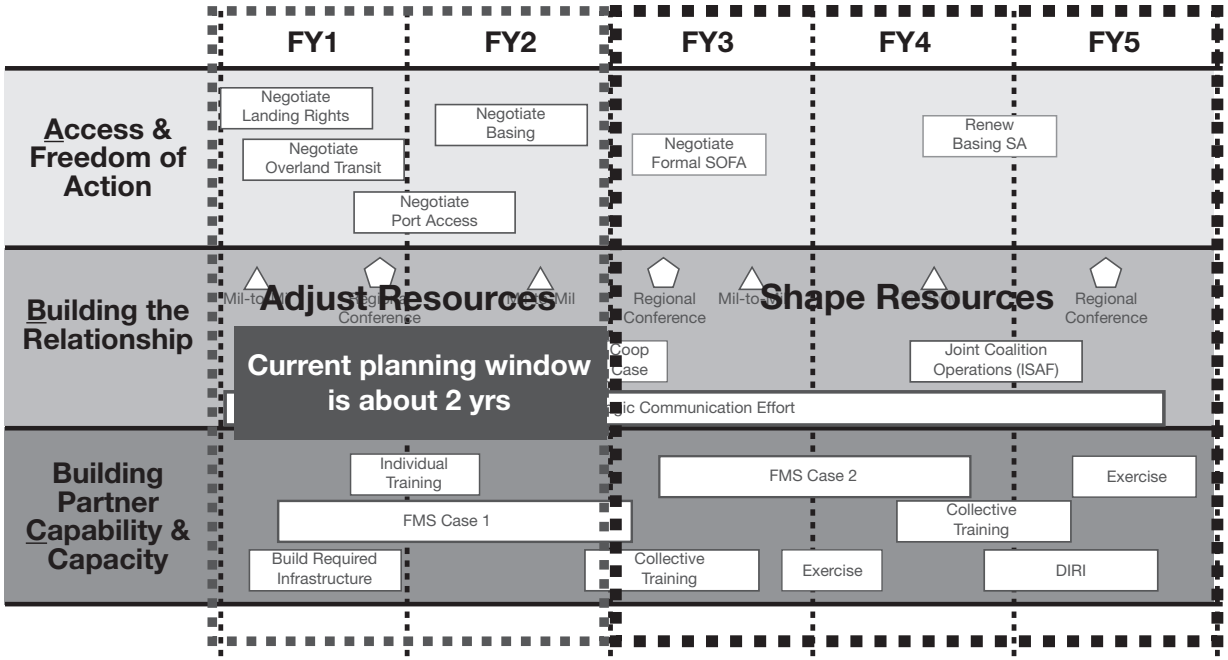
In the end, these capabilities will have to be consolidated and prioritized across the all of the PN's military services. The ability of PNs to conduct CBA and requirements integration varies widely across the globe. Many PNs will not present the SCO with a coherent plan and capability requirements. It will often be left to the country-level planner (CCMD or SCO) to integrate PN joint requirements and determine which best fulfills the strategic requirement.

As with competing PN requirements and priorities, there will frequently be competing priorities within the USG. This can be particularly important if the resources are not DoD resources. To avoid this, it is important for the country planner to remember the concept of the sweet spot—where the interests of DoD, State (or other agencies), and the PN overlap. Which investments would have the broadest payoff, and hence, the most support among the interested parties?

If the planning was done correctly and logically, it will also serve as solid justification for program requests as they move up the chain of command. The country planner should remember that this same prioritization takes place across the theater, and at the national level, across the globe. There are well over 100 SCOs all competing for scant resources.

At this point, proposed activities, events, operations, and investments need to be laid out (synchronized) over time, up to five years into the future. This serves many purposes. As a planner, it will help to determine sequencing and identify critical paths. For the program manager, it will help them request resources in the three- to five-year window, as illustrated in figure 19-4.

Figure 19-4
Resourcing



Ideally, the planning time lines will take Global Force Management time lines into account, but this is not always so. Often plans have to be made, and events scheduled, well after the point that forces need to be requested. Either the event will have to adapt to available forces or, ideally, planning time lines should be moved a year to allow for the Request for Forces (RFF) process.

Country-specific Security Cooperation Section (CSCS) Development

In many ways, CSCS development is relatively straightforward and not really that difficult. However, if corners were cut during the analysis phase, serious conflicts with stake-holders can develop, mostly from not addressing the actual problem or by doing so in an unacceptable manner. This is particularly true with countries of less military importance or of significant political controversy. These countries may lack rock-solid policy both from the USG and their own political dynamics, thus leaving an assessment of the plan open to more interpretation.

Plan development is, at its heart, the simple act of writing the plan. Currently, joint doctrine does not exist for the format of a CSCS. A notional CSCS format developed by the former Joint Forces Command may be found at attachment 1 to this chapter. Typically, CSCSs are found as an appendix to the TCP. While currently there is no set doctrine for a CSCS, the Deputy Under Secretary of Defense for Plans looks for the following issues to be addressed when reviewing CSCSs:

- Country Assessment
- Country Objectives

- Reference to the TCP and Integrated Country Strategy (ICS) directly
- Concept of Engagement
- Synchronization Matrix
- Coordinating Instructions

PPD-23 requires SC planning to be fully integrated with other DoD agencies, DoS, and the executive branch. The CSCS should make direct reference to the embassy's ICS, thus demonstrating this interagency integration. Likewise, the DoD country-planning process can form a significant input to the embassy's ICS and supporting Mission Resource Request (MRR), which feed Title 22 program requirements into the Foreign Operations budget. Plans must be assessed periodically for effectiveness and relevance. Updates should be produced as strategic conditions or funding changes.

Annual Planning Meetings

While the frequency of updates to formal, written CSCSs will generally be on an annual basis, country-level planning is continual. Of particular importance is the series of planning meetings that take place during the course of the year. While the particulars of each meeting will vary by CCMD and by country, each CCMD generally has a meeting to accomplish the function described.

Theater Strategy Conference

The Theater Strategy Conference is hosted by the CCMD to discuss policy direction and initiatives. It is attended by personnel from the embassies, typically the SDO/DATTs and the Deputy Chiefs of Mission, as well as policy makers from CCMD HQ, OSD, and from DoS, and finally the military services components in their role of implementers of the strategy.

Regional Working Group

Where the Theater Strategy Conference focuses on direction and policy, the Regional Working Group (RWG) focuses on SC activities. Attendees include personnel from the SCO, the service components, OSD, CCMD, and the services. Work should focus on detailed event planning and program by program reviews.

Security Cooperation Education and Training Working Group

The Security Cooperation Education and Training Working Group (SCETWG) is an annual meeting hosted by CCMD, usually between the months of March and June, to project training requirements one and two years out. Members of the SCO, DoS, and the services attend in order to coordinate and approve PN training requirements (See chapter 14, "International Training," for further details).

Annual Planning Conference

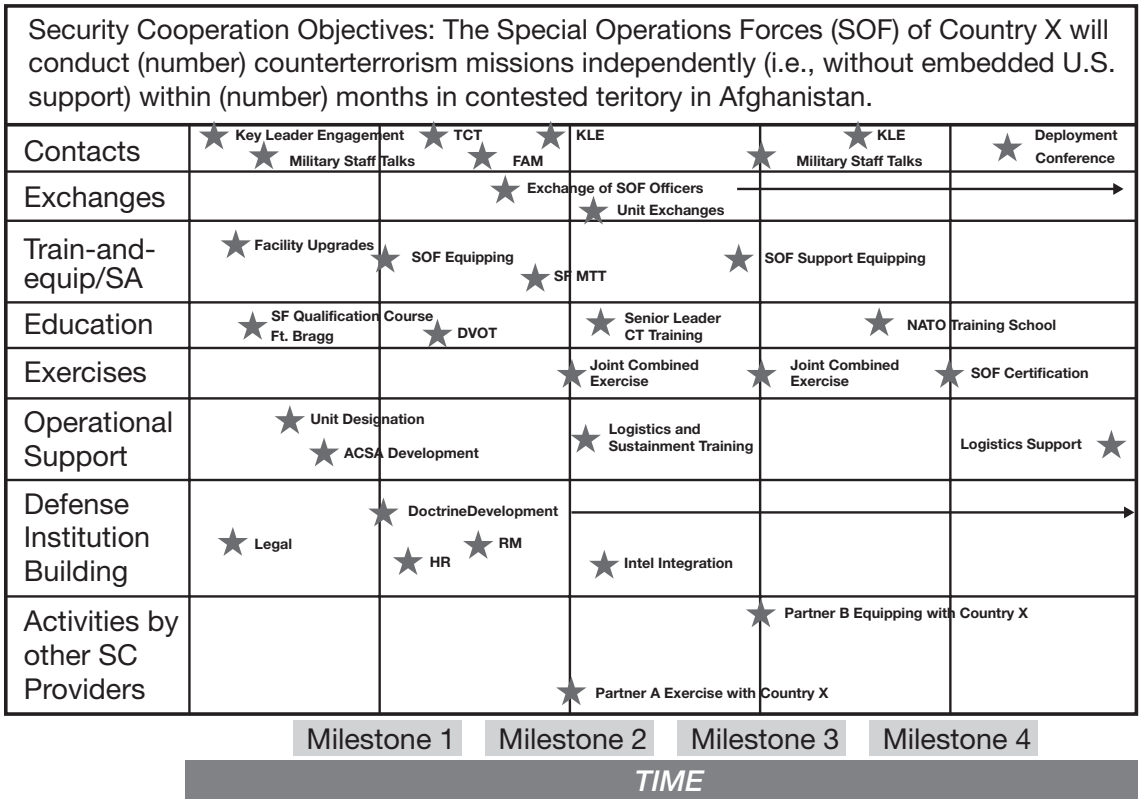
The exact nature of these conferences varies widely, but all are intended to coordinate activities directly with PN militaries. They can be hosted in-country or at the CCMD headquarters. They can be joint or single service. These conferences typically focus on coordinating military-to-military events, but could also cover training. During these meetings, the real work gets done on finalizing security cooperation plans and getting PN buy-in (See chapter 1, "Introduction to Security Cooperation," for further discussion).

Putting the Pieces Together in a CSCS

Before reading further, please review the figure 19-5.

This is an example of a Synchronization Matrix. Note the objective is written in the 'SMART' format. The figure provides a simplified example of how a country-level planner might pull together various SC programs into a synchronized plan to achieve a country level objective (CLO). In this example, the CLO is seeking to successfully build and deploy a SOF unit. The matrix focuses only on that one objective, which was an identified gap in our scenario.

Figure 19-5
Notional Synchronization Matrix of the
Application of Combinations of Security Cooperation Tools



In the example, initially the SCO or SDO/DATT needs to build support among the players to support and participate in the effort to build this capability. To do this, the SCO plans a Key Leader Engagement (KLE) to make sure both sides buy in and that we set realistic expectations. We may need Military Staff talks to get everyone on board and to gather more support or information, maybe conduct an assessment. Can the selected unit pass vetting requirements? The country may need to change some policies or even laws; can they deploy outside their own country? If they are going to deploy alongside or as part of a U.S. unit there may be treaties or agreements that need to be negotiated; they may even need to stand up new units or re-designate them. They may need to start sending personnel to the U.S. for training. Will they need facilities upgraded?

During the second phase, we continue with individual training and equipment acquisition begins in earnest; FMF, FMS, DCS, BPC or from other countries. We may need to conduct Distinguished Visitor Orientation Tours to get their senior civilian and military personnel to understand the program and get their buy in. They may need Human Resources help to set up a selection process, to attract, and retain quality personnel, and they may need to learn how to budget for this. In this phase we can start setting up exchanges and MTTs to train even more personnel while they are working with us to improve or

develop their SOF doctrine. This could culminate with them participating as observes are low level players in a Joint Exercise.

During the third phase may need to train their senior leaders on CT Integrations. How are they going to sustain their force, they may need logistics and sustainment training. Their support elements might need equipment and training. At this point we could set up unit exchanges. This phase could culminate with them participating, at a higher level in another Joint Exercise.

During the fourth and fifth phases addition KLE and Military Staff Talks are conducted to highlight the program and the progress, in order to maintain support within the PN and the U.S. militaries. All the while we continue working on our interoperability as they go through a certification process and conduct the detailed planning for their upcoming deployment.

In-Country Event Planning

A military career is excellent preparation for execution planning of in-country events. The key changes are translating the military infrastructure to that of the embassy and changing operational considerations from those of a soldier to those of a diplomat. Within an embassy and the country team, the organization, responsibilities, and capabilities are different than those of a military organization. For example, if one is trying to have some equipment moved, the General Services Officer (GSO), a logistics officer-equivalent, would be the person to see; for a funds transfer, the Management Officer. Despite the DoS capabilities in country, SCOs must work closely with the components and CCMD to understand the availability of DoD assistance. DoS is not generally manned overseas to deal with large DoD forces working with the PN, so keeping the balance of the workload on DoD is preferred. That said, it is challenging but imperative to remember that underpinning all that work, the engagement is one of foreign policy and DoS owns that lane.

As with operational considerations, detailed knowledge of the PN, its military, its bureaucracies, and USG policy considerations, will be critical. The first three points hone in on one of the central roles of the SCO in country—getting things done. To do this, the SCO must have a deep understanding of how the PN military operates in reality. For example, if PN battalions are to rotate through American training, the SCO knows to work with the PN and USG J-3 planners to ensure the deployment dates and third-country training all mesh seamlessly.

One of the other major duties in country will be ensuring political support continues within the PN and within the country team. The ambassador is the central personality in this issue. It is critical he/she supports the concept and the details of the proposed event, and continues to do so. Ambassadorial support can be garnered by successfully coordinating with the rest of the country team. The country team "buy-in" paves the way for the Ambassador's consent. Ambassador transitions can be especially challenging as the DoS organizational culture is different from a DoD unit Change of Command. New ambassadors will need to be briefed on proposed activities, and perhaps educated on DoD and CCMD goals and objectives. A lack of deference to the primacy of DoS in executing foreign policy has spelled trouble for many a DoD hard-charger. It is a test of military diplomacy and good communication skills on the part of DoD personnel on the country team to ensure all are comfortable that support of military activities is simply a means to an ambassador supported foreign policy end; not a military objective in a vacuum. See chapter 4 for related examples on personnel, aircraft, and ship visits.

Common Considerations

Size

One of the first questions a SCO must ask is "Can I, or should I, support this event internally within the office or do I need DAO or embassy assistance?" Also, What support will be needed from the CCMD, e.g., public affairs or contracting officers?

Itinerary

This is the very heart of any event planning. Itineraries have multiple lines of operation (LOO) and multiple phases. The itinerary must take into account LOO for separate, simultaneous elements of the event, logistics support, and preparation for future portions of the event. Plans must take into account overlapping phases: preparation, pre-advance party, advance party, main body, trail party, and cleanup.

Local customs

At every step, keep the local culture in mind; the SCO is the expert. The SCO may need to guide U.S. planning toward more locally acceptable implementation, e.g., avoiding local holidays or greeting the appropriate official.

Office calls

Even simple events will often require a certain amount of formalities and pleasantries. Talking points and notes on customs should be prepared for planned and ad hoc office calls.

Social events

As with office calls, social events are often planned even for tactical-level activities, e.g., an ice breaker social at the start of a course, or a cookout at the end of an exercise. Larger events may have a Distinguished Visitors day, which can add a higher level of complexity in arranging and managing DVs and their schedules.

Press

Have a proactive plan to deal with the press. Not only can unplanned press coverage create a problem, but lost press opportunities will cost the overall USG effort. Get the embassy Public Diplomacy Officer and the CCMD public affairs office involved. Talking points for planned and ad hoc press events should be prepared and cleared.

Clothing/uniform requirements

Be sure to determine uniform policies and requirements for each element of an itinerary. Consider when civilian attire is needed or required.

Medical

Keep local medical, hygiene, food concerns in mind. Is drinking water safe?

Interpreter support

Few Americans will speak the local language. The SCO personnel should not attempt to serve as an event interpreter. Not only is interpreting a particular skill that SCOs are not trained to do, but SCO personnel need to be focused on the event. Likewise, if the senior military officer will need to participate in discussions, he/she should bring an extra person along to serve as a note taker.

Logistics

Customs Clearance

Often equipment brought into country will have to clear customs. Smooth, no-cost clearance should be coordinated in advance. Particular care should be exercised when goods are shipped in advance. Arranging Customs Clearance is particularly critical when advance teams for DVs arrive with weapons (or any unit bringing weapons into the PN).

Contracting Support

Many in-country events will require the contracting of PN goods and services. For large military activities, a CCMD contracting officer should be sent into country well in advance of the event. For smaller events or TDYs, the embassy may be willing or able to provide contracting support.

Travel Services Support

If the need for travel services is limited to that of typical TDY personnel, e.g., a rental vehicle or a room, the embassy travel office will usually be willing to support such routine travel. If the scale of the visit or event grows to the point where one is essentially talking about contracted service, the above contracting support applies.

Funding

If the embassy is going to procure any goods and services for the event, fiscal data will be needed as early as possible. Keeping this business relationship between the embassy and the events' participants cordial will go a long way to ensuring embassy support for the next event. SCOs must ensure TDY teams bring their own ICASS accounting codes so that the embassy does not assume or subsume the TDY costs into the SCO's annual bill. It is also important to confirm exactly which type of money the SCO or SDO/DATT can or should use to fund their participation (see chapter 17, "Resource Management").

Security

Weapons Clearance

If weapons will be required, get the Regional Security Officer (RSO) involved early. Many countries will require permits for USG personnel to carry weapons in the country, particularly concealed weapons.

Local Law Enforcement

Discuss any law enforcement liaison requirements with the RSO. In addition to weapons, issues of traffic control, security, border control are often important depending on the PN.

Classified Information

If classified information will be handled, where is it to be stored? Do visiting U.S. DVs and participants need access to classified computers for communication back to their headquarters?

Contingencies

- Remain flexible
- Remain in communication. Charge your cellphone. Bring a two-way radio.
- Remain mobile. Have your own vehicle standing by.
- Delegate. For larger visits, create a team of action officers. The senior person needs to be free to escort, politic, respond to contingencies. If he/she is tied down in the mechanics of the visit, they won't be able to direct a contingency response.

Department of State (DoS) Planning

As mentioned earlier, DoS plans at the embassy level in two parts: the Integrated Country Strategy (ICS) and the Mission Resource Request (MRR). The Ambassador creates the ICS as a three-year strategy, and annually submits the MRR to request funding to meet the strategy. The SDO/DATT and SCO will, of course, be an integral part of the ICS and MRR, in both the development and execution

of the strategy. The following description of the DoS planning process is meant only as a cursory overview of the process as it might impact the DoD elements in the embassy, and in no way covers the full extent of the DoS activity.

The planning process starts with the National Security Strategy, from which the DoS/USAID Joint Strategic Plan (JSP) is derived and, not surprisingly, defines the national strategic priorities that guide global engagement jointly for DoS/USAID. It identifies the diplomatic and development capabilities needed to advance U.S. interests. The current version covers a four-year outlook, FY14-17, and can be found at the www.state.gov/s/d/rm website. It sets institutional priorities and provides strategic guidance as a framework for the most efficient allocation of resources, which includes directives for improving how embassies do business, from strengthening interagency collaboration to increasing State and USAID engagement with civil society, the private sector and others. DoD planners MUST be aware of the goals and objectives listed in the JSP, as many of the exigent objectives touch on areas in which DoD will be engaged (e.g., stability/conflict resolution, human rights, rebalancing, security cooperation, among others).

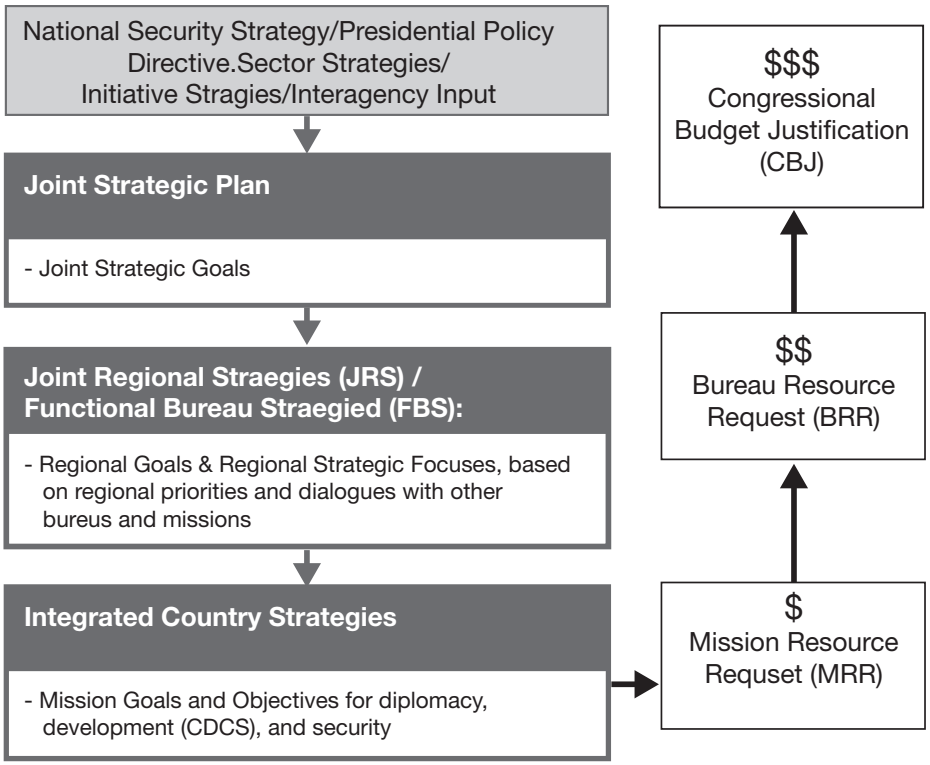
To supplement the multi-year strategy, DoS publishes an Annual Performance Plan, describing the diplomacy and development efforts of DoS and USAID to achieve the strategic objectives and performance goals set forth in the Joint Strategic Plan. In countries receiving Foreign Assistance from the U.S., the SCO will most certainly be involved in compiling data for the embassy's input to the Performance Plan, the annual December data call for performance information. In the Performance Plan, the Ambassador describes achievements of the previous fiscal year: anecdotes, training numbers, major deliveries, as well as activities that occurred during the reporting period, regardless of FY funding. This information is submitted to the President, the Congress, and the public. Additionally, halfway through the fiscal year, the SCOs will also be asked for data for the Operational Plan, which details the spend plan for newly-appropriated funds.

From JSP guidance, the regional and functional bureaus at DoS and USAID (e.g., the Africa Bureaus) prepare a Joint Regional Strategy laying out their plan to achieve their part of the national strategy. The redacted versions of the regional strategies can be found in the CAC enabled Intellipedia website. For the functional strategies you will need to contact the functional Bureau. Both could be obtained by working through the Embassy Political Officer.

Separately, USAID also prepares the USAID Policy Framework, to provide its staff and partners with USAID's core development priorities as well as operational principles. USAID also develops, for some countries, Country Development Cooperation Strategies. These documents can be found at the www.usaid.gov USAID website.

All of these documents guide the individual embassies and USAID missions in developing their ICS. At this point in the planning process, plans start to flow back up the "chain-of-command" as resource requests. Individual embassies and missions send consolidated MRRs to bureaus, who prioritize and prepare a Bureau Resource Request (BRR). At the department level, DoS consolidates priorities and submits their budget requests to the Office of Management and Budget.

Figure 19-6
Strategy to Resources



The DoS and DoD requests flow through the White House and become the President's proposed budget which is submitted to Congress for consideration. The document sent annually by the President is called the Congressional Budget Justification—Department of State, Foreign Operations, and Related Programs. The CBJ details the operating expenses of the DoS, and all of the foreign assistance accounts requested for the upcoming year. The SDO/DATT and SCO will most likely have a hand in drafting part of the embassy's submission to the CBJ.

While DoS plans are coordinated with DoD plans (and vice-versa), it is important to remember that the planning process is only hard-wired together at the National Security Strategy and the ICS. It is vital all planners along both planning chains keep their counterparts aware of institutional direction and planning intentions.

For the SCO or SDO/DATT, this system places a heavy burden of responsibility on their shoulders. It can be said that these two formal planning chains come together at only two people, the SCO and the President. As regards SC, SDO/DATTs and SCOs must be extremely adept at keeping all parties informed, facilitating cooperation, and deconflicting priorities of the various departments, agencies, and commands involved.

Planning Tools and Information Resources

Partnership Strategy Toolkit

The Partnership Strategy Toolkit (PST) is a web site that provides access to a searchable database of SC programs and partner building tools. An SC planner can use the database to find various SC programs intended to address a particular need. Searches can be sorted by multiple variables, such as: limited to certain countries, program objectives, or tasks, e.g., the SCO has a need for a mil-to-

mil event discussing counterterrorism in country X. The searches will produce a list of applicable programs and/or funding sources which, if properly justified and allocated, may enable execution of the event. Clicking on any of the hyperlinked solutions (program or funds) will lead you to program details and POCs. The site is hosted by OSD at https://policyapps.osd.mil/sites/sctools/Pages/default.aspx and requires Common Access Card credentials to access.

For the country-level planner, ideas for making progress toward an IMO or End State will never come to fruition without funding. The PST, in conjunction with the SC Programs Book put together by DISCS, can quickly enumerate multiple funding sources with a Boolean search, turning ideas into reality by discovering solutions perhaps previously unimagined.

Security Assistance Network and the Combined Education and Training Program Plan

The Security Assistance Network (SAN) is a multi-faceted database and resource. A portion of the SAN is used for managing international training; the Security Cooperation-Training Management System (SC-TMS) is discussed in appendix 1 of this book. In the SC-TMS, the SCO prepares the Combined Education and Training Program Plan (CETPP).

For the country-level planner, the majority of actions taken with the PN will consist of education and/or training events or activities. The annual CETPP clearly spells out the timing of U.S. training courses, the attendees, and a wide variety of PN-related training information. The SCO Training Officer will have access, as should the SCO Chief, and the CCMD SC training officer. Most of planning is simply the synchronization of multiple events; CETPP provides the information to create such a training synchronization matrix.

This CETPP focuses on the goals and objectives for DoD-sponsored education and training for the PN. Guidance for preparation is contained in the SAMM, paragraph C10.5 and figure C10.F3. The SCO uploads the draft plan electronically onto the SAN for review and approval by the CCMD. The approved plan is used each spring during the CCMD's Security Cooperation Education and Training Working Group (SCETWG). Further training program details are in chapter 14 of this textbook, "International Training." It is critical that the SCO develop a solid working relationship with the training departments of the PN military services early in the tour so PN desires can be incorporated into the CETPP.

Security Assistance Program & Budget Web Tool

The SAMM provides guidance on Security Assistance Planning in C2.1.3 to include discussions on FMF and IMET. If the PN receives, or is proposed to receive, appropriated funds through FMF or IMET, the SCO will also make an annual submission and justification for these funds. This request is submitted electronically through the Security Assistance Program & Budget Web Tool, managed by DSCA. This document is forwarded upward through channels for endorsement and comment, i.e., to the CCMDs staff, the Joint Staff, DSCA and Office of Secretary of Defense (OSD) policy offices, where a final DoD position is developed for each country. This position is then used by DoD representatives in round table discussions with DoS in the development of an eventual Congressional Budget Justification to be submitted by the Secretary of State to Congress.

With that in mind, the SDO/DATT and SCO need a solid relationship with the embassy Political Section. The DoD submissions occur in the September/October timeframe, but the Ambassador's MRR is submitted in the February/March timeframe (four months after the DoD submission). Obviously, there must be some discussion between the two embassy elements in the month leading up to the DoD submission. For the embassy to present a unified front to the "round table," DoD and DoS elements must coordinate their submissions (both the amounts of aid requested and the justification) with those in the MRR, because it is the MRR that will form the basis of DoS' proposed budgets. The SAMM C2.1.3.4 offers points on constrained and unconstrained requests. SCO FMF/IMET submissions for

DoD should be in concert with DoS submissions or risk possible exclusion from the final budget. However, SCO submissions can be unconstrained to the CCMD such that tracking of future need is possible.

Access to the SA Program & Budget Webtool is through the DSCA community in the Security Cooperation Information Portal (SCIP) and should be limited to the SCO Chief and those SCO-designees ready to assist in completing the database submission. The Documentation section of the Webtool is superb and not only offers help guides on how to use the Webtool, but also offers examples of "good" FMF and IMET submissions, and the annual associated guidance from DoS and DoD.

Chiefs must keep in mind that the Webtool will display all the Foreign Assistance funds received by the PN and indicate the amount of "uncommitted funds." Chiefs must indicate each year the PN's plan for using the uncommitted funds. As stated in the SAMM C2.1.3.4.3, "Funding provided under FMF grant-aid is obligated upon apportionment and the funds remain available in the country's FMF Trust account indefinitely. However, annual budget submissions must explain the accumulation of uncommitted funds in the trust account. Uncommitted funds can weaken SCO justification for future FMF. SCOs should monitor and manage SA programs to insure against the accumulation of uncommitted funds."

Overseas Humanitarian Assistance Shared Information System (OHASIS)

As noted in SAMM chapter 12, humanitarian assistance (HA), foreign disaster relief (FDR), and humanitarian mine action (HMA) are security cooperation (SC) programs designed to improve DoD access, visibility, and influence in a PN or region, and build the capacity of the PN government while addressing a humanitarian need. Overseas Humanitarian, Disaster and Civic Aid (OHDACA) funds are Title-10 funds administered by DSCA for these SC projects. OHDACA-funded activities are executed across the combatant commands, offering DoD the ability to promote regional stability and security to achieve Theater Campaign Plan (TCP) objectives to reach theater strategic end states, in accordance with the Guidance for Employment of the Force (GEF), and national security and foreign policy objectives.

The DSCA 'System of Record' for OHDACA-funded activities listed above, as well as the JCS-approved Humanitarian Civic Assistance (HCA) program, and other project types is the database known an Overseas Humanitarian Assistance Shared Information System (OHASIS). OHASIS is a cradle-to-grave tracking system that incorporates information flow from project initiators to approval authorities starting with the country team (e.g., the Ambassador and the USAID representative) and working its way through the CCMD to DSCA for funding approval. It offers a variety of exportable products for presentations. Planning and Execution cycles are found in the SAMM chapter C12.3.5.

Access to OHASIS is found at http://www.ohasis.org and requires user registration.

The savvy country-planner will realize that access to our partners is aided by building relationships. These OHASIS-tracked HA, FDR, HMA, and HCA projects are excellent methods of building a broad public appeal for U.S. action in country, which may lead to easier access for strategic goals and end states.

Global Theater Security Cooperation Management Information System

The Guidance for Employment of the Force (GEF) mandates the use of the Global Theater Security Cooperation Management Information System (G-TSCMIS) to track U.S. engagement with our partners.

G-TSCMIS brings together all Combatant Command, Service and Agency legacy TSCMIS systems into one enterprise system. With this "global view" the SC community has a comprehensive view of steady-state activities conducted by all DoD components. Beyond the tremendous benefit of reduced

IT infrastructure costs, G-TSCMIS provides DoD the capability to work across organizational lanes with a comprehensive global picture of SC activities. G-TSCMIS allows more effective planning and assessment of SC events through enterprise-wide situational awareness of past, current, and future activities.

Country-level SC planners will want access to G-TSCMIS to ensure no duplication of effort to minimize wasting resources, as well as noting other regional activities that may be available to accomplish IMO and end-state activities. Access to CAC-enabled G-TSCMIS is available through the CCMD G-TSCMIS point of contact. Initial training can be found at the Joint Knowledge On-line website. SCOs will need access to the system to initiate data input; OPRs in the components will need access to upload event data and after-action reports.

Security Cooperation Information Portal

An increasingly powerful database in the SCO's planning toolkit is the Security Cooperation Information Portal (SCIP). SCIP is a secure, controlled, unclassified DoD web-based computer information system that provides authorized users with access to Foreign Military Sales (FMS) cases and Building Partner Capacity (BPC) programs case-related data and reports to support management responsibilities for those cases. See appendix 1 for an in-depth discussion of the SCIP.

SCIP can be an asset to the country-level planner as it provides insights into the timing of the PN's FMS acquisitions, thereby allowing the planner to develop training requirements for the pre- and post-equipment delivery. All SCOs should have SCIP accounts and access the system at least once every 30 days or risk having their account suspended. Non-access for 180 days will result in account deletion. SCOs can find answers to many questions (not all) raised by the partner nation regarding FMS cases. As well, for SCOs in countries with FMS cases, the SCIP End-Use Monitoring Community needs to be accessed at least quarterly to upload routine EUM reports.

SCO Annual Forecasting Documents

SCOs are required to annually submit to DSCA, OSD, and DoS a forecast for possible future arms transfers to the partner nation. It is important to note the distinction between planning documents and forecasting documents. The planning documents listed earlier all reflect a goal which is intended to be achieved. Conversely, a forecasting document simply reflects the SCO's best estimate of what defense articles and services the PN may be considering for purchase from the U.S.

For the forecasting reports below, DSCA sends a tasking message to SCOs (and other organizations) each April with input due in June; submitted by the SCO to the CCMD en route to DSCA Strategy, then State, and ultimately, to the Congress. SCOs submit a single report covering the material necessary for both reports, but DSCA extracts (and analyzes) the Sales Forecast Report from the single submission. As the criteria varies for the two reports, it is important for SCOs to be as thorough and as accurate as possible in this submission. SCOs should consider historical FMS activity by the PN, current economic trends, and the availability of unexpended and anticipated FMF grant monies. It may well be appropriate to contact PN counterparts to obtain their estimates of essential and likely FMS sales, but it is important to avoid any "false impression" that the USG will approve (or has already approved) a future request.

Javits Report

Named after former U.S. Senator Jacob K. Javits, the report is required annually by the AECA. The classified Javits Report is the President's estimate to Congress of potential or proposed arms transfers during a given calendar year. The Javits Report is designed to identify potential sales by country, whether FMS or DCS. The two thresholds for reporting are $7M of major weapons or weapons-related equipment, or any proposed weapons or weapons-related sale of $25M or more. DSCA will also ask the military services to submit lists of equipment that is expected to be declared Excess Defense

Articles (EDA). The sum total of the Javits Report is the FMS, DCS, and EDA estimates. The DoS submits the Javits Report to Congress by February 1st each year. The Javits Report is not binding on PNs and is submitted to Congress as an advisory document. Congress uses the document to begin discussions on approval or denial of transfer requests. See chapter 2.1.3.5 and chapter 14 of the SAMM for more information on both those reports.

FMS Sales Forecast Report

A companion document to the Javits Report, the FMS Sales Forecast Report helps DSCA determine the resource requirements for FMS implementing agencies. The document when collated is also kept in a classified status, though individual country input is unclassified (unless requested for classification by the PN). Its reporting requirements are separate from, but largely overlap, those of the Javits Report. This report is a two-year projection by fiscal year (vice one calendar year for Javits) but only addresses potential FMS sales. Unlike Javits, it has no dollar thresholds, so all highly probable FMS sales (which DSCA defines as a 90 percent likelihood of occurring) should be listed. DSCA collates the data submitted by the SCOs, briefs the DSCA Director, and in January sends the FMS data to DoS for inclusion in the Javits Report to Congress in February.

Summary

Planning is an essential step in all military operations, including security cooperation. This chapter revealed how country-level SC planning flows from the National Security Strategy (NSS) through DoS and DoD. On the DoS side, strategic planning takes place with the Joint Strategic Goals and the Quadrennial Diplomacy and Development Review (QDDR). Correspondingly, DoD turns the NSS and other strategies into the NDS and the QDR and ultimately, the Guidance for Employment of the Force (GEF) and the Joint Strategic Capabilities Plan (JSCP). The SCO, working with the CCMD and Embassy staffs, collates those overarching goals and objectives and develops the SC portion of the Ambassador's ICS/MRR and the CCMD's country plan. The country plan then drives events, activities, operations, and investments in order to make progress for USG strategy.

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DoDD 5132.03, DoD Policy and Responsibilities Relating to Security Cooperation

DoD Guidance for Security Cooperation (FOUO)

CJCSI 3100.01C Joint Strategic planning

CJCSI 3170.01I Joint Capabilities Integration and Development System (JCIDS)

CJCSM 3130.01A Campaign Planning Procedures and Responsibilities

Security Cooperation Automation Appendix

Introduction

This appendix provides an overview of some of the more common automation systems used by the security cooperation (SC) community. The overview includes the system description and functionality, as well as the procedures for requesting a user identification and password, if applicable.

Security Assistance Network

System Description

The Security Assistance Network (SAN) is a portal through which the Security Cooperation – Training Management System (SC-TMS) and the International Affairs Certification Program (IACP) can be accessed. The SAN is for use by Security Cooperation Offices (SCOs), Combatant Commands (CCMDs), MILDEPs, DSCA, DFAS, DoD schoolhouses, Regional Centers (RCs), and other organizations involved in security cooperation.

The International-SAN (I-SAN) is a portal through which international host nation organizations can access the Partner Security Cooperation-Training Management System (P SC-TMS) discussed below.

Registration

Students attending the Defense Institute of Security Cooperation Studies (DISCS) Overseas Course (SCM-O) will automatically be registered as SAN users. Other requests for new SAN accounts can be accomplished by having an existing SAN user, acting as a sponsor, send a request electronically through the system. For detailed information on how to request a SAN account, please see the following web page: https://elnath.idss.ida.org/SANweb/disp_doc.aspx?item=How%20to%20Request%20a%20SAN%20Acct.doc.

Training Management on SAN

The training section on the SAN provides the user with access to the various international military training databases such as the Training Military Articles and Services List (T-MASL) and the Standardized Training List (STL) via the Security Cooperation-Training Management System. SCO users can access this data for their individual countries. MILDEP and CCMD users can access data for multiple countries. Data updates are performed on a daily basis for all of the military services.

Depending on the user's role, International Military Student Office (IMSO) or SCO, different functions will be available to the user when logging into SC-TMS via the SAN.

SC-TMS for the International Military Student Office

Based on the IMSO role type, various functions are available within SC-TMS for use by IMSOs to manage international military students (IMS) assigned to their schoolhouse.

SC-TMS for IMSOs provides a means for the IMSO to identify international student quotas assigned to their training activity, receive arrival information on those students and report the student's

progress as they advance through the training program. SC-TMS also enables the IMSO to document detailed information about their location, schoolhouse, and point of contact information which will then be available online for the training community.

SC-TMS for the Security Cooperation Office

Based on the SCO role type, various functions are available within SC-TMS for use by SCOs to manage their country's SC international military training program. In addition to allowing the SCO to view STL and T-MASL information online, the SC-TMS for SCOs has several other very important features. It is where the SCO enters IMS information and creates Invitational Travel Orders (ITO) for the students. The SCO is also able to look up schoolhouse and IMSO point of contact (POC) information. The SCO can also maintain SCO POC information within the SC-TMS so that it is available to the training community. SC-TMS is required to be used for submission of student nomination packages for the Combating Terrorism Fellowship Program (CTFP). The SC-TMS is also used by the SCO to submit the Combined Education and Training Program Plan (CETPP) to the CCMD for approval.

International Affairs Certification Program on the SAN

The SAN currently hosts and provides access to the DoD International Affairs Certification Program (IACP) database. The IACP database is used by program participants to track and to provide a record of certification status.

The IACP was initially instituted by the Defense Security Cooperation Agency in the form of a policy memo in December 2001. This began the long-term process for members of the security cooperation workforce to attain appropriate levels of training, education, and experience to accomplish current-day requirements, but to also better anticipate and prepare for the requirements of the future workforce. In May 2008, the guidance was more formally instituted within DSCA Directive 5012, "Department of Defense International Affairs Certification Program Guidelines." The Directive is available at http://www.discs.dsca.mil/documents/iacertification/DSCA_Memo_&_DSCA_Directive_5012-DoD_IACP_Guidelines.pdf.

The current IACP is a voluntary program available to all DoD civilian and military personnel (contractor personnel are not eligible). Personnel who desire to achieve and maintain certification within one of the three tiers of certification are required to complete specific training, education, and experience thresholds and meet basic core competencies associated with the particular tier. Those who attain Tier III certification must continue to earn Continuous Learning Points (CLPs) in order to maintain their Tier III certification.

International-Security Assistance Network and Partner SC-TMS

The International–Security Assistance Network (I–SAN) is a separate portal that is used by the host nation to access the Partner Security Cooperation-Training Management System (P SC-TMS). Using P SC-TMS, the host nation has access to much of the same data that the SCO sees, using SC-TMS. Thus, international users can view T-MASL data to identify desired courses of instruction. They can see course location information, and can have complete visibility of all country training that has been requested for their country and the status by viewing the STL. The I–SAN is a read only tool for the international customer. P SC-TMS users cannot enter or change any information in the system. International customers who would like access to the I–SAN and P SC-TMS should contact their SCO in-country for further guidance. The SCO can then initiate a request for I–SAN and P SC-TMS access for the international customer using the "Request New I-SAN User" function in the SAN. In addition, IMS taking the DISCS course, Security Cooperation Management International Purchaser Financial and Training Management Course (SCM-IFT) will automatically be given an I-SAN account with access to P SC-TMS during the course if they do not already have an account. The I–SAN can be accessed at: https://elnath.idss.ida.org/iSAN.

Financial and Logistics Databases

Prior to discussing the financial and logistics databases maintained by DFAS, Army, Navy, and Air Force security assistance agencies, several key points should be noted. First, all access to these databases is read-only, unless special permissions are granted. Although it is recognized that personnel in the SCO and other communities need access to the data, only those personnel responsible for actions have write or change capability. Second, use of the SAN does not require access to or a full understanding of the total database. Thus, SCOs do not see the same screens as the CONUS action offices. Those elements and screens that were deemed necessary were modified and simplified to give the SCO a clear, concise picture of foreign military sales (FMS) case/line/requisition data. Finally, the data viewed is just a snapshot of what is occurring. After viewing, it is considered a historical record because within days, or perhaps hours, the data can change.

Defense Integrated Financial System

System Description

The Defense Integrated Financial System (DIFS) managed by Defense Finance and Accounting Service Security Cooperation Accounting (DFAS SCA) in Indianapolis, Indiana, and supported by Defense Security Assistance Development Center (DSADC) in Mechanicsburg, Pennsylvania. DIFS is the integrated DoD financial system for Security Cooperation cases. DIFS is also the interfacing accounting system which links implementing Agency (IA) financial and logistic records with the FMS Billing Statement (DD 645) and supporting financial documents (e.g., FMS Delivery Listing, etc.) issued to purchasing countries and organizations for the articles and/or services that the country has purchased through the Security Cooperation case processes.

Functionality

Simplified screens have been developed for the U.S. Security Cooperation Organizations (SCOs) providing required data in an easily readable form. For in-country SCOs, data is available for that country only. For the U.S. Combatant Command (CCMD)/Geographic Combatant Commander (GCC) desk officers, data can be made available for all countries of responsibility. For standard DIFS system users the following data is available:

- Country implementing agency (IA) summary totals
- Financial status-country, and financial status-IA for country level data
- LOA detail summary and financial data
- Billing status data
- Payment schedules for LOA
- LOA line level data
- FMS case inventories
- Case controls
- Budget
- Case closure certificate inventory
- Performance/FMS Detail Delivery History Search Reports (FK)
- Cash

- Financial summary totals
- DIFS tables

Registration

To register for DIFS access the user must submit a completed DD Form 2875, System Authorization Access Request (SAAR), to DFAS. The basic form is available online: http://www.dtic.mil/whs/directives/forms/index.htm.

DFAS has developed a special continuation sheet that explains what is required in block 27 of the form. To request the continuation sheet and submit the completed form, email DFAS–IN-DIFS-ACCESS-REQUEST@DFAS.MIL or contact the administrator at:

DFAS-JAXDC/IN
8899 E. 56th St.
Indianapolis, IN 46249
Fax: (317) 212-1917 (No DSN)
Tel: (317) 212-0977/7396, DSN 699-0977

Management Information System for International Logistics

System Description

The Management Information System for International Logistics (MISIL) is the U.S. Navy's logistics and financial tracking system for security assistance. MISIL has standardized screens for SCO use.

Functionality

Some of the most useful screens and uses are as follows:

- The case management screen depicts material provided, summary case information, and the name and phone number of the case manager.
- The case/amendment/modification screen provides implementation dates of the latest amendments/modifications and the number of any pending case actions.
- The case line summary screen provides a description and dollar value for every line on an LOA and identifies lines supplying major defense equipment (MDE).
- The case line detail screen provides data such as material supplied, source of supply, disbursements, obligations, for a specific case and line.
- The case financial screen provides financial data for each line of a case as well as case totals.
- The case management history screen shows chronologically the impacts on a case by amendments and modifications.
- The requisition screen provides detailed information on the current supply, shipment, and delivery status of any requisition for a given case.
- The supply discrepancy report (SDR) or report of discrepancy screen gives general and specific information on all SDRs submitted against a case.
- The FMS case listing report area enables the user to generate a complete listing of all cases for a specific country.

In addition to these simplified screens, the SCO also has access to selected MISIL screens, which are used by CONUS FMS case managers.

Registration

To obtain access to MISIL, the user must submit a completed DD Form 2875, System Authorization Access Request (SAAR) along with a MISIL IT User Agreement and forward it to:

NAVSUP WSS-N5231
ATTN: NAVSUP.MISIL.ADMIN@NAVY.MIL
Philadelphia PA 19111 Fax: (215) 697-0333
Tel: (215) 697-2774, DSN 442-2774

Centralized Integrated System for International Logistics

System Description

The Centralized Integrated System for International Logistics (CISIL) is the Army's automated system used to support the management of security assistance programs. CISIL is the central repository for all Army security assistance and provides a series of databases, which offer users of the system information needed to manage their specific program. The system is comprised of modules of data which interact within the system and also interface with other external sites/activities for exchange of information. The SCO menu within CISIL provides access to various levels of information to assist the SCOs in managing the programs under their area of responsibility.

Functionality

The CISIL SCO menu provides the user access to logistical and financial information at case, line and requisition levels specific to their programs. It also provides useful case management reports, case history, requisition and supply discrepancy report (SDR) data. One of the areas currently provided under CISIL SCO data is the case requisition review report sometimes referred to as the mini-audit report or case audit report. Although designed for U.S. Army Security Assistance (USASAC) personnel, SCOs may find the open inhibitors option and the case requisition review option very helpful. Much of the same data in CISIL can be viewed in the user-friendly web-based Security Cooperation Information Portal (SCIP).

Registration

To obtain access to CISIL, the user must submit a completed DD Form 2875, System Authorization Access Request (SAAR) and a signed CISIL IT Users Agreement and forward them to:

USASAC-S ATTN: Security Manager
54 M Avenue, Suite 1
New Cumberland, PA 17070-5096
(717) 770-4735 DSN: 771-4735 (Fax)
(717) 770-7052/7845; (DSN) 771-7052/7845

Security Assistance Management Information System

System Description

The Air Force Security Assistance and Cooperation Directorate (AFSAC) is responsible for administration of the security assistance program within the Air Force Materiel Command (AFMC). Security assistance program activities start with the initial negotiation of agreements for AFMC-managed initial and follow-on support cases, continue with the delivery of logistics support and end with the completion of all financial aspects of the programs for which AFMC is responsible. The

Security Assistance Management Information System (SAMIS) is the Air Force's primary logistics information system for security assistance.

Functionality

The SAMIS maintains and reports comprehensive data on AFMC-managed security assistance programs. This information comes from many different sources; however, most data originates from various Air Force data systems. SAMIS serves as a repository for FMS case information, requisitions, supply status, shipments, and billing information required by AFSAC to effectively manage security assistance programs. SAMIS provides the security assistance community with accurate and timely information. To accomplish this, SAMIS provides online, real-time data updating as well as batch processing functions.

Registration

The SAMIS is a password protected system. A DD Form 2875, System Authorization Access Request (SAAR) is required for both U.S. government (USG) (including SCOs) and international customers. Access to SAMIS can be requested via the AFSAC Online website at https://afsac.wpafb.af.mil, "Register for an Account." Access to SAMIS and AFSAC Online is granted based on a person's "need to know." Users are assigned specific permissions and privileges according to their FMS task requirements. Once the SAAR is approved, a user identification and password will be issued. There are different application formats based upon the category of the user:

- USG–Civilian/Military/Contractor
  - AFSAC Users–This category includes all personnel directly assigned to AFSAC.
  - External Users–This category includes ALC employees, AF and DoD supply source employees, USG employees, and contractors which includes Security Assistance Officer (SAOs) and employees working in overseas locations such as the Logistics Support Group (LSG).
- Foreign National–Representative/Military/Contractor. This category includes Foreign Nationals, foreign representatives, and contractors employed directly by the country (i.e., Freight Forwarder employees, Foreign Liaison Office/Officer (FLO) employees, embassy personnel, and any U.S. citizen employed by a foreign country. Personnel located outside of the U.S. must forward their request for access through their embassy in Washington DC unless AFSAC FLO has a delegation letter.

Defense Security Assistance Management System

System Description

The Defense Security Assistance Management System (DSAMS) is a DoD standard system operating under a modern information technology infrastructure encompassing the migration and reuse of selected features of existing security assistance systems. Incorporating an extensive analysis of the security assistance business area and its processes, DSAMS provides a set of standardized, improved, streamlined, and optimized services. The major benefits of DSAMS are consolidated data, improved data quality, standard reports to the customer, faster building of cases, and a current implemented view when a case is opened in DSAMS.

Functionality

Case Development Module

The case development module (CDM) provides functionality from the entry of an initial request through the development of a FMS LOA and changes resulting in a modification or an amendment. The CDM also initializes centralized reference tables and workflow applications that are used in other modules. Enhancements over the past few years include additional functionality to enable electronic countersignature, and support for other security assistance programs such as leases.

Case Implementation Module

The case implementation module (CIM) covers the process from receipt of customer acceptance through issuance of implementing directions to the case manager and performing activity.

Training Module

The training module (TM) replaced the three MILDEP legacy training management systems, and includes automated interfaces with the SAN and TMS systems. This allows the automated upload of international student data into DSAMS, and automated the invitational travel order (ITO) funding process. DSAMS TM also allows the automated processing of cross-service training requirements across MILDEP channels.

Registration

DSAMS is a password protected system for use by USG personnel only. A DD Form 2875, System Authorization Access Request (SAAR) is required for access to DSAMS. Access to DSAMS applications is through the Citrix application only. Applicants for Citrix user accounts must email or fax a completed SAAR to the DSAMS help desk. The e-mail address is saar@dsadc.dsca.mil and the fax is DSN 430-9082. However, the user must have a valid DSAMS account, provided by a MILDEP, before a Citrix account is provided.

Once access is approved, a user identification and password for Citrix will be issued. The issuance of the DSAMS accounts is done through the appropriate MILDEP points of contact. Any additional questions should be directed to:

DSAMS Help Desk
helpdesk@dsadc.dsca.mil
717-605-9200; (DSN) 430-9200

DSAMS does not permit system access by international customers. There is a daily interface from DSAMS to the SCIP which provides FMS customers access to selected DSAMS data.

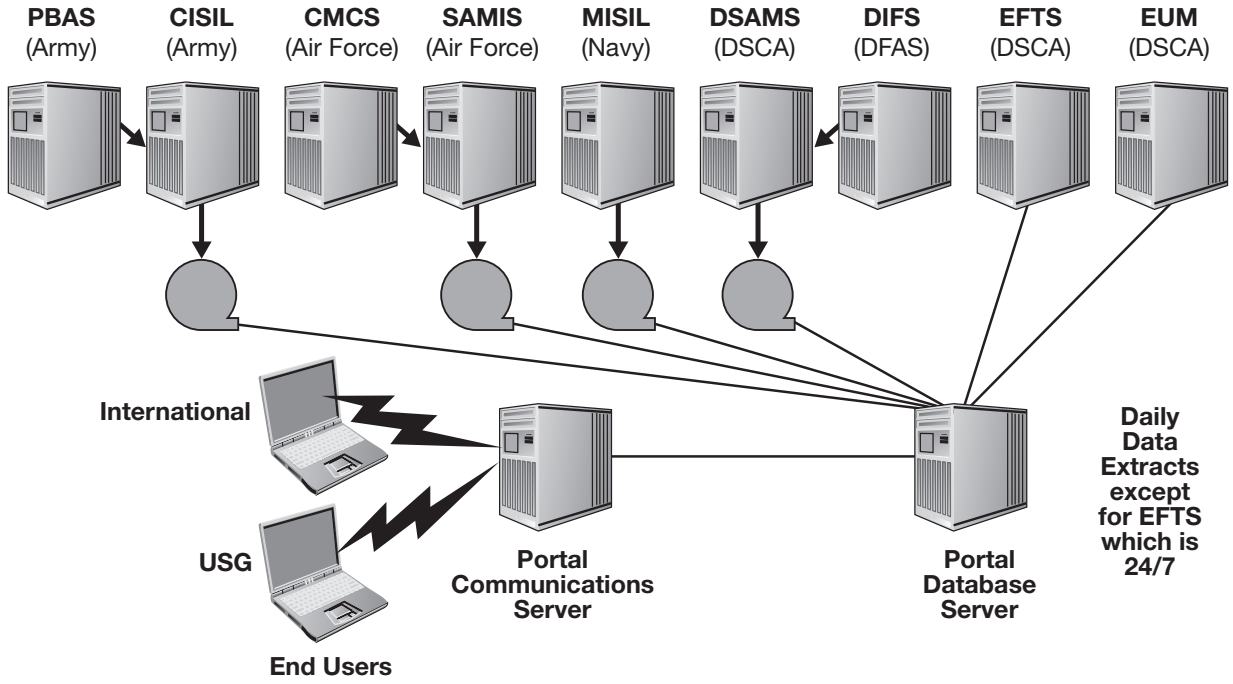
Security Cooperation Information Portal (SCIP)

System Description

SCIP (https://www.scportal.us/home/) is a secure, controlled, unclassified DoD web-based computer information system that provides authorized users with access to Foreign Military Sales (FMS) and Building Partner Capacity (BPC) programs' case-related data and reports to support management responsibilities for those cases. All USG personnel (including Locally Employed Staff—LES, and support contractors), and foreign purchasers (including their authorized freight forwarders) who have job responsibilities requiring access (i.e., need to know) to the SCIP system information are eligible to obtain SCIP accounts. DSCA's policy is that "USG personnel and SCOs are encouraged to become familiar with SCIP's full capabilities."

The SCIP data extracts are obtained (automatically for most of the data) from multiple authoritative DoD and U.S. military department (MILDEP) financial and logistics systems (figure A-1). The majority of data is updated daily via a batch process at 0700 U.S. Eastern Standard Time. Refresh status indicators and information are provided to users in the "Case Info Community" to document the date/time of the last data refresh from those systems. Depending on the data being sought and the user's permissions, having a single SCIP account can save time from having to obtain separate system accounts to access that data from each individual source system. SCIP became operational in 2003 and has been significantly expanded and improved upon over time. SCIP system access is available world-wide from any computer (i.e. does not have to be from a USG or DoD domain) as long as there is adequate internet access, and an active, authorized SCIP user account.

Figure A-1
SCIP Authoritative Data Sources



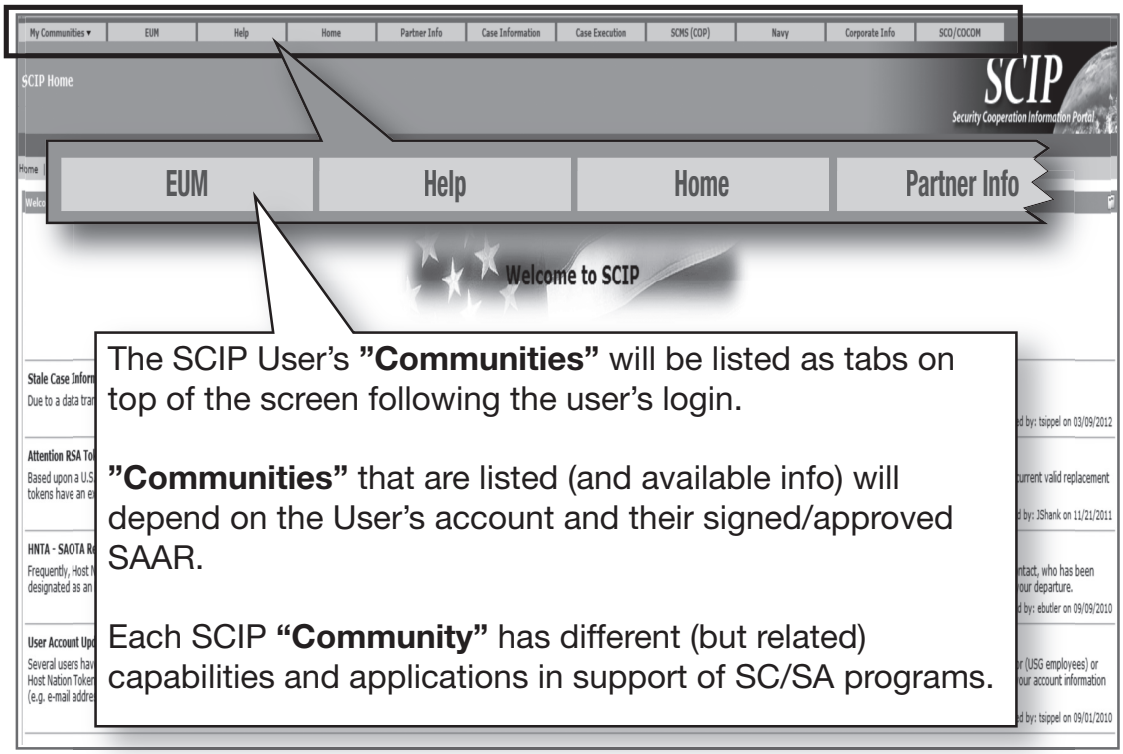
Functionality

SCIP capabilities, applications, and reports are separated by tabs into different "communities" (see figure A-2). Some of the SCIP communities are only authorized for USG users. A brief description of each community and the related capabilities and applications follows.

Home Community

This is the first page users see when they successfully logon to SCIP. Like all the SCIP communities, there are announcements to inform the user of all the recently completed and planned changes to that community. Users can use the community navigation bar (Figure A-2) at the top of the web page to navigate to any of their authorized communities.

Figure A-2
SCIP Community Menu Bar



Case Information Community

This community provides a query capability to view all FMS and BPC case information for which the user has been authorized to access. SCIP displays region, country, or case data of interest depending upon the user access, application, and filter options that the user chooses. The application is chosen by the user via the "Case Information" menu bar. Each community has a unique menu bar. This unique menu bar is located directly below the "Community" navigation menu bar and available once the desired community is selected. It provides the user with the capability to select their desired community application or report. In the "Case Information" community, some of the applications include real-time metrics (that can be quickly exported to a PowerPoint slide if desired), data inputs (requisitions, supply discrepancy reports [SDRs], freight transactions), Financial Management Reviews (FMRs), Ad Hoc reports, and a Case Status filter to enable the user to quickly find cases of interest. For all cases that the user is authorized to see, the user is presented with a "Pyramid of Choices" (figure A-3) for all the case's Letter of Offer and Acceptance (LOA) documents (Basic, Amendments, Modifications). Selecting any one of these pyramid levels will provide the user with specific case details (e.g., what is the LOA Anticipated Offer Date, when is the requisition material expected to be shipped, are there any unprogrammed case funds remaining, etc.) pertaining to that level. A summary report of all or a portion of that case data can be exported to a Microsoft Excel file.

Case Execution Community

This community provides links to several tri-service applications, including the Enhanced Freight Tracking System (EFTS), EMALL, Asset Visibility (AV), and the recently added WebRoR (formerly a Navy-only application that automates the repair of repairable process). EFTS is a secure, web-based application that serves as a consolidated source for SC material in-transit information. EFTS does not replace existing shipment systems, but rather, it provides a clearing house of all available shipment

information in a single supplemental tracking system to provide additional visibility of equipment and material shipments. EFTS receives data from Defense Logistics Agency (DLA), contractors, depots, Defense Transportation System, carriers, freight forwarders, consolidation points, and ports of embarkation and debarkation. This allows EFTS to provide visibility of the SC material distribution pipeline for all classes of supply and modes of transportation either outbound from the U.S. to the purchaser's country or materiel returning to the U.S. or U.S. facilities overseas.

Figure A-3
Case Status Menu Options—A "Pyramid of Choices"

EUM (End-Use Monitoring) Community

This community provides authorized users with specific information, reports, and capabilities applicable to the DoD EUM program. The EUM applications within SCIP provide inventory reports that will help inspectors plan for upcoming inventories and isolate items that are considered "delinquent."

Partner Info Community

This community is an information-sharing type of community vice a business process or business application community. It includes (among other items) documents, presentations, and files related to the Foreign Procurement Group (FPG), and International Customer User Group (ICUG).

National Geospatial-Intelligence Agency (NGA) Community

This community allows authorized SCIP users to access, review, and download navigation charts (e.g., aeronautical en route and approach charts, terminal procedures, etc. for international navigation and flight safety).

Security Cooperation Management Suite Community (SCMS)

Access to this community is authorized only for USG personnel to support case management responsibilities for Building Partner Capacity (BPC) and Foreign Military Sales (FMS) cases. SCMS

resides within the SCIP and is a joint-service, web-based capability that provides a common operating picture of the SC process. It shows the FMS, FMF, and BPC cases for a country in pie chart and Excel formats. SCMS has joint worldwide U.S. military and civilian users, which increases joint communication, resulting in enhanced decision making. SCMS provides USG personnel with key information used to track high-priority FMS and BPC programs and is especially useful during the oversight process for expiring funds on cases that are funded via U.S. appropriated sources. SCMS allows data input and customization through its multiple reports, showing information by appropriation and program, which allows for vital information sharing among multiple program participants. Although initially conceived to support the war effort in Iraq, the utility of SCMS was recognized by additional communities throughout the DoD. SCMS has been expanded for use with all the BPC programs. It benefits U.S. decision makers when planning how to best build partner nation capacity.

Corporate Info Community

This community provides information to USG personnel regarding the Security Cooperation Business Forum (SCBF) and Performance Measurement Senior Working Group (PMSWG) meeting, Lean Six Sigma/Continuous Process Improvement, organizational charts, Lessons Learned—Best Practices, etc.

SCO/COCOM Community

Access to this community is authorized only for USG personnel and provides an information sharing (e.g. General Information, Lessons Learned & Best Practices, etc.) for the USG SCO and GCC personnel.

Navy Community

This community provides numerous capabilities (e.g., Case Execution Performance Tool– CEPT, Case Reviews, Information Warehouse, Supply Discrepancy Reports, etc.) pertaining to U.S. Navy-managed cases. Case and line financial commitments, obligations, and expenditure details are also provided for those cases.

Air Force Community

This community provides information on the T-6 Texan II and a link to AFSAC and SAF/IA.

Security Cooperation Enterprise Solution (SCES) Community

This community provides a gateway to the SCES applications, which are being developed to perform Case Execution functions across the Security Cooperation enterprise.

Help Community

The help desk was developed to provide all SCIP users a common location and interface for submitting and reading SCIP help desk requests. Having the help desk embedded within SCIP provides users with more security and privacy and prevents unauthorized viewing of requests. There are also numerous online help guides (Help Desk User Guide, Case Information User Guide, SCIP Help Descriptions, Corporate Info User Guide, International Customer Token Access Guide, Logon Guide, SCIP Acronyms, SCIP Background, Token Administrators Guide, U.S. Government (USG)/SCO Token Access Guide, and the Partner Info User Guide) posted to assist SCIP users with understanding how to fully use the numerous SCIP capabilities. In addition to the guides and reference documents listed above, there are also other Community specific guides that are posted on SCIP that can be accessed via the Help links on the applicable community navigation menu.

Obtaining a SCIP Account

The online SCIP registration form for both U.S. and international users can be found by accessing the SCIP web site (https://www.scportal.us/home/) and clicking the "REGISTRATION INFO" link on that page. All USG SCO and GCC students that attend the DISCS Security Cooperation Management Overseas (SCM-O) course are registered for their individual SCIP accounts while in class per the DSCA Policy Memo 11-58 (*Policy Update Regarding Security Cooperation Information Portal (SCIP) Account Access for Security Cooperation Officers (SCOs)*). For all other SCIP account applicants, follow the instructions in the SCIP "REGISTRATION INFO" introduction to submit the registration for processing by the SCIP Program Office/Defense Security Assistance Development Center (DSADC). International (i.e., non USG) SCIP applicants must be issued a secure SCIP token by their country's Host Nation Token Administrator (HNTA) prior to completing the registration form. DSCA Policy Memoranda 03-11 (*Enrollment Process for the SCIP*), and 05-17 (*SCIP Electronic Token Issuance and Replacement Processes*) are the policy references for details regarding issuance and management of SCIP tokens. The SCIP International Customer Token Access Guide (posted on the SCIP "REGISTRATION INFO" web page), provides further details on SCIP token operations and processes. Additional SCIP DSCA policy memoranda are posted on the DSCA web site. For additional SCIP assistance, users (and prospective users) can contact the SCIP Help Desk at dsca.sciphelp@mail.mil.

Accessing the Security Cooperation Information Portal (SCIP) Web Site

To access the SCIP system once a user has obtained a SCIP account, type https://www.scportal.us/home/ in the Internet browser address line and click the "SCIP Logon" link on top of that page. Various browsers can be used to access SCIP. This system is supported by Internet Explorer (IE), Google Chrome, and Mozilla Firefox. The browser advanced security settings and DoD root certificates need to be correct to gain access. Also, ensure pop-ups are allowed. Contact the SCIP Help Desk regarding SCIP log-on issues.

If logging into SCIP with a USG Common Access Card (CAC) certificate, (which is the usual means for USG DoD users to log-on to SCIP if the account has been CAC enabled), select the non-e-mail certificate. Logging into the SCIP system with a token will be via the subsequent SCIP login screens requiring entry of the SCIP user ID and passcode.

To keep the SCIP account active, users need to periodically log-on. The current policy is to suspend user accounts for non-use at 30 days, requiring you to contact the SCIP Help Desk at dsca.sciphelp@mail.mil for account reactivation. At 180 days of non-use, your account will be terminated, requiring you to complete and submit a new registration form to obtain a new SCIP account.

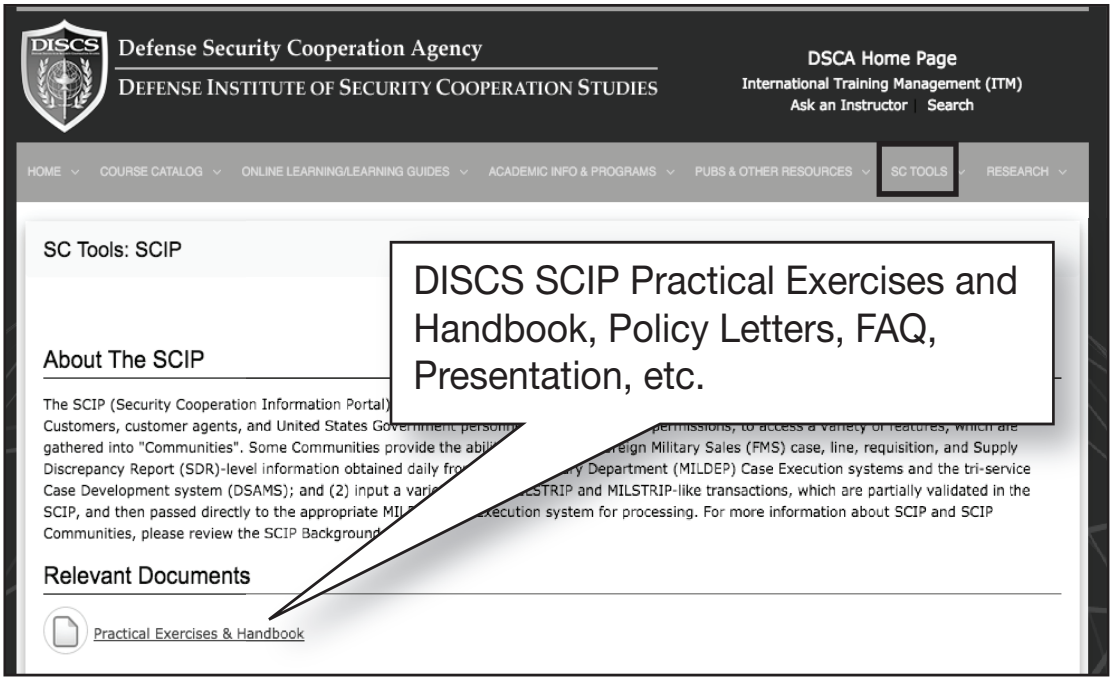
SCIP Training

DISCS provides SCIP basic through advanced topic training in the majority of the DISCS-offered classes. The DISCS SCIP classroom training, which includes in-residence and Mobile Education Teams—METs, has expanded significantly in the past few years due to the increasing importance of SCIP to the SC users. Electronic copies of current DISCS SCIP presentations are posted on the SCIP Corporate Info Community and are accessible via the "Training>DISCS Presentations>SCIP" links to authorized USG users. The DISCS SCIP training maximizes the online demonstration of the system capabilities by the instructors and the 'hands-on' practical exercises by the students.

Additional SCIP information and training may be accessed on the DISCS home page (http://www.discs.dsca.mil/) via the "SC Tools" link on that page. These DISCS SCIP training resources (figure A-4) include an overview presentation, a SCIP exercise handbook, DSCA SCIP policy letters, SCIP frequently asked questions (FAQs), and a link to access the SCIP system. The SCIP handbook is a familiarization tool and training guide for SCIP users to better understand the capabilities of the SCIP

system. It is intended for both initial system instruction, and also to provide users with future reference handbook when utilizing the SCIP system. All the exercise questions (Process, Logistics, Financial, Miscellaneous Advanced) in the handbook are based on information provided in the DISCS class lessons and can be completed even without a SCIP account using the case examples in the handbook. A basic understanding of the FMS process, logistics, and finance subjects is needed to understand and interpret the materials and complete the exercises in the SCIP exercise handbook. Other DISCS SCIP training includes online training module 'vignettes', which students can access and complete via the DISCS web page under "Online Learning."

Figure A-4
SCIP on DISCS Web Page



Additional Software Packages

International Training Management Web Site

The International Training Management (ITM) web site is an informational web site intended for all U.S. and foreign international training managers. It provides a full range of international training management information, including references, policy and procedural messages, links, and specific functional information.

The ITM web site is available to anyone at http://www.discs.dsca.mil/itm/ and does not require the use of a password.

DoD Acquisition Portal

System Description

The DoD Acquisition Portal (https://dap.dau.mil/Pages/Default.aspx) is designed to be a single point of access to DoD acquisition related resources and information. This web-based system easily links users to the myriad of acquisition source documents, references, and other related information. The acquisition portal replaces its two predecessors, the Acquisition Knowledge Sharing System (AKSS) and the previous Defense Acquisition Deskbook (DAD) system.

Functionality

Acquisition Process—Covers the three primary acquisition processes of the Joint Capabilities Integration and Development System (JCIDS), the Defense Acquisition System (DAS), and the Planning, Programming, Budgeting and Execution (PPBE) system. This includes links to DoD and MILDEP policies, guidance, tools and other resources.

Policy—Serves as an encyclopedic source of acquisition policy that follows a hierarchy of policy issuance that can also be filtered by organization, career field and special topics.

Communities of Practice—Offers links to the various acquisition communities of practice and special interest areas. An International Acquisition Management community of practice is available under this function.

Training and Continuous Learning—Outlines various training resources and continuous learning opportunities applicable to DoD acquisition professionals.

Industry—Functions as a one-stop source for information and links about industry partner support and participation in defense acquisition.

Applications—This function provides shortcuts to a collection of defense acquisition services, tools, and guides including a link to the DAU's "Ask a Professor" (AAP) program. AAP serves as a vehicle for practitioners within the DoD workforce to submit acquisition related questions that are routed to the appropriate subject matter expert for a response. AAP contains a user accessible Frequently Asked Question (FAQ) database that can be searched by key word or by category. FMS related questions are contained within the "International Foreign Military Sales" sub-category within the overall "Contracting" category.

Registration

The acquisition portal is hosted by the Defense Acquisition University (DAU) on behalf of the DoD acquisition community. You can access the acquisition portal at https://dap.dau.mil/Pages/Default.aspx. The portal structure consists of a home page with general acquisition information and links.

Summary

Security cooperation personnel have access to numerous automated systems, some that have been in existence since as early as 1976. Access has transformed from direct links for a few specific users to worldwide access via the Internet. Newer systems such as the SAN and SCIP have been specifically designed with the needs of the end-user in mind. SC users in the far-flung corners of the globe are freed from the constraints of time zone differences and slow mail delivery by virtue of Internet connectivity and interaction. Use of these systems has greatly enhanced communication between the SCO, GCCs, and CONUS-based logistics and training activities such as the MILDEPs and IMSOs and the international customers. The impact the increased access to the systems discussed in this annex has been profoundly beneficial, not only to security cooperation activities, but ultimately to the international customer as well.

References

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DSCA Policy 11-58. *Policy Update Regarding Security Cooperation Information Portal (SCIP) Account Access for Security Cooperation Officers (SCOs)*. November 15, 2011. http://www.dsca.mil/samm/PolicyMemos/2011/DSCA%2011-58.htmhttp://www.dsca.mil/samm/PolicyMemos/2003/DSCA%2003-11.htm

SCIP International Customer Token Access Guide. October 2012. https://www.scportal.us/home/docs/IntlCustAccessGuide.pdf

Annex

A Abbreviations and Acronyms

A

A&T	Administrative and Technical
AAC	Acquisition Advice Code
AAR	After Action Review
AA&E	Arms, Ammunition and Explosives
ACAT	Acquisition Category
ACCP	Accelerated Case Closure Procedures
ACO	Administrative Contracting Officer
ACOTA	Africa Contingency Operations Training and Assistance
ACRL	Accessorial Cost
ACRN	Accounting Classification Record Number
ACSA	Acquisition and Cross-Servicing Agreement
ACSS	Africa Center for Strategic Studies
ADM	Administrative Surcharge
AECA	Arms Export Control Act
AES	Automated Export System
AETC	Air Education and Training Command (USAF)
AFIT	Air Force Institute of Technology
AFLCMC	Air Force Life Cycle Management Center
AFMC	Air Force Materiel Command
AFRICOM	African Command
AFSA	Afghanistan Freedom Support Act
AFSAC	Air Force Security Assistance and Cooperation Directorate
AFSAT	Air Force Security Assistance Training Squadron
AFSC	Air Force Sustainment Center
AGATRS	ACSA Global Automated Tracking and Reporting System
AIA	Aerospace Industries Association
AIK	Assistance-in-Kind / Aid-in-Kind
ALC	Air Logistics Complex (USAF)
ALESA	American League for Exports and Security Assistance
ALP	Aviation Leadership Program

AMARG	309th Aerospace Maintenance and Regeneration Group
AMC	Army Materiel Command / Air Mobility Command (USAF)
AMCOM	Aviation and Missile Command (Army)
AMEMB	American Embassy
ANA	Afghanistan National Army
ANZUS	Security treaty between Australia, New Zealand, and the United States
AOD	Anticipated Offer Date
APACS	Aircraft and Personnel Automated Clearance System
APCSS	Asia-Pacific Center for Security Studies
APEX	Adaptive Planning and Execution System
APO	Air Force or Army Post Office
APOD	Aerial Port of Debarkation (Delivery)
APOE	Aerial Port of Embarkation
ARC	Adjustment Reply Code
ASA(ALT)	Assistant Secretary of the Army for Acquisition, Logistics and Technology
ASD	Assistant Secretary of Defense
ASDA	Automated State Department Approval
ASFF	Afghanistan Security Forces Fund (DoD)
ASIP	Aircraft Structural Integrity Program
ASN(RD&A)	Assistant Secretary of the Navy for Research, Development and Acquisition
AT	Anti-Tamper (Protection)
ATF	Bureau of Alcohol, Tobacco, Firearms, and Explosives
AT/FP	Antiterrorism/Force Protection
ATTRSSG	Arms Transfer and Technology Release Senior Steering Group
AWACS	Airborne Warning and Control System
AWC	Air War College / Army War College

B

BAC	Billing Advice Code
BAH	Basic Allowance for Housing
BAO	Bilateral Affairs Officer
B&F	Embassy Budget and Finance Office (DoS)
BIS	Bureau of Industry and Security (DOC)
B/L	Bill of Lading
BO	Back Order (Supply) / Blanket Order (FMS Case)
BOE	Blanket Open End (FMS Case)
BPC	Building Partner Capacity

C

C-SAN	Commercial Security Assistance Network
C3I	Command, Control, Communications, and Intelligence
C4I	Command, Control, Communications, Computers, and Intelligence
C4ISR	Command, Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance
CA	Contract Authority / Competent Authority
CAA	Competent Authority Approval / Controlled Access Area
CAC	Common Access Card/Cancellation Administrative Charges
CAD/PAD	Cartridge Actuated Device/Propellant Actuated Device
CAE	Component Acquisition Executive
CAS	Contract Administrative Services / Cost Accounting Standard
CASREP	Casualty Report (USN)
CATP	Conventional Arms Transfer Policy
CAV	Compliance Assessment Visit
CBA	Commercial Bank Account/Capabilities Based Analysis
CBJ	Congressional Budget Justification
CBL	Commercial Bill of Lading
CBO	Congressional Budget Office
CBP	U.S. Customs and Border Protection (DHS)
CBS	Commercial Buying Service
CBW	Chemical and Biological Weapons
CC	Country Code / Customer-Within-Country (Transportation Code)
CCBL	Collect Commercial Bill of Lading
CCDR	Combatant Commander
CCIF	Combatant Commander Initiative Fund
CCL	Commerce Control List
CCM	Central Case Manager (Army) / Command Country Manager
CCMD	Combatant Command
CCO	Center for Complex Operations
CCSA	Case Closure Suspense Account
CD	Case Designator / Counter Drug / Country Director (USAF)
CDM	Case Development Module (DSAMS)
CDRL	Contract Data Requirements List
CE	Communications and Electronic / Civil Engineering
CECOM	Communications - Electronics Command (Army)
CEMIS	Case Execution Management Information System (DoD)
CENTCOM	U.S. Central Command

CERP	Commander's Emergency Response Program
CERPS	Consolidated & Expenditure Reporting System (USN)
CETPP	Combined Education and Training Program Plan
CETS	Contractor Engineering Technical Services
CEW	Civilian Expeditionary Workforce
CFIUS	Committee on Foreign Investment in the United States
CFR	U.S. Code of Federal Regulations / Concept Funding Request
CFS	Contract Field Services
CFSP	Contractor Field Services Personnel
CGSC	Command and General Staff College (Army)
CHDS	Center for Hemispheric Defense Studies
CI	Case Identifier / Counterintelligence
CICA	Competition in Contracting Act
CIIC	Controlled Inventory Item Code
CIM	Corporate Information Management/Case Implementation Module (DSAMS)/Case Initiation Meeting (Army)
CIP	Component Improvement Program (Engines)
CISIL	Centralized Integrated System for International Logistics (Army)
CISMOA	Communication Interoperability and Security Memorandum of Agreement
CJ	Commodity Jurisdition
CJCS	Chairman, Joint Chiefs of Staff (Joint Staff)
CLIN	Contract Line Item Number
CLO	Country Liaison Officer (Foreign Country Representative) / Community
CLSSA	Cooperative Logistics Supply Support Arrangement
CM	Configuration Management / Case Manager / Country Manager
CMCS	Case Management Control System (USAF)
CMI	Classified Military Information
CMO	Contract Management Office
CN	Counter Narcotics
CNAD	Conference of National Armaments Directors (NATO)
CNET	Chief of Naval Education and Training
CNO	Chief of Naval Operations
CO	Contracting Officer / Change Order / Commanding Officer
COA	Courses of Action
COD	Cooperative Opportunities Document
COE	U.S. Army Corps of Engineers
COLA	Cost of Living Allowance
COM	Chief of Mission (U.S. Ambassador)

COMSEC	Communications Security
CONPLANS	Contingency Plans
CONUS	Continental United States
COR	Contracting Officer's Representative
COTS	Commercial Off-the-Shelf
CP	Country Plan / Control Plan
CPD	Congressional Presentation Document (obsolete, see CBJ)
CPI	Critical Program Information
CPM	Country Program Manager
CPX	Command Post Exercise
CR	Cost Reimbursement / Continuing Resolution
CRA	Continuing Resolution Authority
CRMIT	Congressional Report on Military International Training
CRS	Congressional Research Service
CRSP	Coalition Readiness Support Program
CSCS	Country-specific Security Cooperation Section / Capital Security Cost Sharing
CSF	Coalition Support Fund
CSO	Cognizant Security Office
CSP	Concurrent (or initial) Spare Parts
CSTO	Country Standard Technical Order
CTA	Country Team Assessment
CTFP	Combating Terrorism Fellowship Program (DoD)
CTR	Cooperative Threat Reduction
CUI	Controlled Unclassified Information
CUSR	Central U.S. Registry (NATO)
CWD	Case Writing Division (DSCA)
CWP	Coalition Warfare Program
CY	Calendar Year / Current Year

D

DAE	Defense Acquisition Executive
DAMES	DLA Automated Message Exchange System
DAO	Defense Attaché Office / Disbursing Accounting Officer
DAS	Defense Attaché System / Defense Acquisition System
DASA-DEC	Deputy Secretary of the Army for Defense Exports and Cooperation
DATT	Defense Attaché (see SDO/DATT)
DAU	Defense Acquisition University
DCA	Defense Cooperation in Armaments

DCAA	Defense Contract Audit Agency
DCC	Direct Commercial Contract (also DCS)
DCCEP	Developing Country Combined Exercise Program
DCM	Deputy Chief of Mission (U.S. Embassy)
DCMA	Defense Contract Management Agency
DCN	Document Control Number / Design Change Notice
DCS	Direct Commercial Sales (also DCC)
DD Form 250	Department of Defense Material Inspection and Receiving Report
DD Form 645	Department of Defense FMS Quarterly Billing Statement
DD Form 1513	Department of Defense Letter of Offer and Acceptance (obsolete)
DD Form 2285	Invitational Travel Order for International Military Student
DD Form 2875	System Authorization Access Request
DDRE	Director Defense Research and Engineering
DDL	Delegation of Disclosure Letter
DDN	Defense Data Network
DDTC	Directorate of Defense Trade Control (DoS)
DDESB	DoD Explosives Safety Board
DEA	Drug Enforcement Agency
DEF	Defense Exportability Features
DELP	Defense English Language Program
DEMIL	Demilitarize
DEPSECDEF	Deputy Secretary of Defense
DFARS	Defense Federal Acquisition Regulation Supplement
DFAS	Defense Finance and Accounting Service
DFAS-IN	Defense Finance and Accounting Service-Indianapolis Center
DGR	Designated Government Representative
DHS	Department of Homeland Security
DIA	Defense Intelligence Agency
DIB	Defense Institution Building
DIFS	Defense Integrated Financial System
DIILS	Defense Institute of International Legal Studies
DISA	Defense Information Systems Agency
DISAM	Defense Institute of Security Assistance Management
DISCO	Defense Industrial Security Clearance Office
DISCS	Defense Institute of Security Cooperation Studies
DLA	Defense Logistics Agency
DLI	Defense Language Institute
DLIELC	Defense Language Institute English Language Center (Lackland AFB, TX)

DLIFLC	Defense Language Institute Foreign Language Center (Presidio of Monterey, CA)
DLIS	Defense Logistics Information Service (DLA)
DLMS	Defense Logistics Management Standards
DLMSO	Defense Logistics Management Standards Office (DLA)
DLP	Defense Language Program
DMSMS	Diminishing Manufacturing Sources and Material Shortages (Navy)
DO	Defined Order (FMS Case)
DOC	Department of Commerce
DoD	Department of Defense
DODAAC	Department of Defense Activity Address Code
DODD	DoD Directive
DODESB	Department of Defense Explosives Safety Board
DODI	DoD Instruction
DODIG	DoD Inspector General
DOJ	Department of Justice
DON	Department of the Navy
DoS	Department of State
DOT	Department of Transportation
DOTMLPF	Doctrine, Organization, Training, Material, Leadership, Personnel, Facilities
DPAP	Defense Procurement and Acquisition Policy
DPEP	Defense Personnel Exchange Program
DRI	Diplomatic Readiness Initiative / Defense Reform Initiative
DRP	Direct Requisitioning Procedure (USN)
DSADC	Defense Security Assistance Development Center
DSAMS	Defense Security Assistance Management System
DSC	Delivery Source Code
DSCA	Defense Security Cooperation Agency
DSS	Defense Security Service
DTC	Delivery Term Code
DTDT	Domicile to Duty Transportation
DTIC	Defense Technical Information Center
DTM	Directive-Type Memorandum (DoD)
DTR	Defense Transportation Regulation, DoD 4500.9-R
DTRA	Defense Threat Reduction Agency
DTS	Defense Transportation System / Defense Travel System
DTSA	Defense Technology Security Administration
DTSI	Defense Trade Security Initiative
DU	Dependable Undertaking / Depleted Uranium Anti-Tank Shells

DV	Distinguished Visitor
DVO	Defense Visit Office
DVOT	Distinguished Visitor Orientation Tour
DWCF	Defense Working Capital Fund (see WCF)
DX	Direct Exchange (Army)

E

E-NDP	Exception to National Disclosure Policy
EA	Expenditure Authority / Each
EAA	Export Administration Act of 1979
EAC	Emergency Action Committee
EAP	Emergency Action Plan
EACC	Enhanced Accelerated Case Closure
EAR	Export Administration Regulations
ECL	English Comprehension Level
ECISAP	Electronic Combat International Security Assistance Program (USAF)
ECP	Engineering Change Proposal
EDA	Excess Defense Articles / European Defense Agency (E.U.)
EEUM	Enhanced End Use Monitoring
EFT	Electronic Funds Transfer
EFTS	Enhanced Freight Tracking System
E-IMET	Expanded International Military Education and Training Program
EIPC	Enhanced International Peacekeeping Capabilities
ELT	English Language Training
EML	Environmental and Morale Leave
EO	Executive Order
EOQ	Economic Order Quantity
EPPA	Enhanced Partnership with Pakistan Act
ERC	Exercise Related Construction / Enterprise Readiness Center
ERGT	Expeditionary Requirement Generation Team
ERP	European Recovery Plan
ESD	Estimated Shipment Date
ESEP	Engineer and Scientist Exchange Program
ESF	Economic Support Fund
ETSS	Extended Training Services Specialist
EUCOM	U.S. European Command
EUM	End-Use Monitoring

EW	Electronic Warfare
EX	Explosive Hazard (number)

F

FAA	Foreign Assistance Act of 1961
FAD	Force/Activity Designator
FAM	Familiarization Visit
FAO	Foreign Area Officer (Army)
FAV	Familiarization Assessment Visit
FAR	Federal Acquisition Regulation
FAST	Fleet Antiterrorism Security Team
FCC	Functional Combatant Commander
FCG	Foreign Clearance Guide
FCT	Foreign Comparative Test Program
FDPO	Foreign Disclosure Policy Office
FDR/ER	Foreign Disaster Relief/Emergency Response
FDS	Foreign Disclosure System
FED LOG	Federal Logistics Data
FEDEX	Federal Express Corporation (also FEC)
FEML	Funded Environmental and Morale Leave
FF	Freight Forwarder
FFP	Firm Fixed Price
FGI	Foreign Government Information
FHC	Final Hazard Classification
FICS	FMS Integrated Control System / Financial Integrated Control System
FID	Foreign Internal Defense
FIFO	First In, First Out
FLIS	Federal Logistics Information System
FLO	Foreign Liaison Office (or Officer) (located INCONUS)
FMCS	Foreign Military Construction Sales / Services
FMF	Foreign Military Financing (Program)
FMFP	Foreign Military Financing Program
FMR	Financial Management Review / Financial Management Regulation
FMS	Foreign Military Sales
FMSA	Foreign Military Sales Act of 1968 (now AECA)
FMSCR	Foreign Military Sales Credit (also FMFP)
FMSO I	Foreign Military Sales Order No. I (stock level case)
FMSO II	Foreign Military Sales Order No. II (requisition case)

FOAA	Foreign Operations, Export Financing, & Related Programs Appropriations Act
FOB	Free On Board
FOCI	Foreign Ownership Control or Influence
FOIA	Freedom of Information Act
FOT	Follow-On Training
FOUO	For Official Use Only
FPG	Foreign Placement Group
FPO	Fleet Post Office
FR	Federal Register and Federal Regulation
FRB	Federal Reserve Bank, New York
FREEDOM	Freedom for Russia and Emerging Eurasian Democracies and Open Markets
FSC	Federal Supply Class / Financial Service Center / Facility Security Clearance
FSF	Foreign Security Forces
FSN	Foreign Service National (local hire overseas)
FSO	Foreign Service Officer (DoS)
FSSP	Fair Share Sustainment Program (Army)
FSP	Field Studies Program
FTS	Field Training Service
FTX	Field Training Exercises
FVS	Foreign Visit System
FY	Fiscal Year
FYDP	Future Years Defense Program
FYROM	Former Yugoslav Republic of Macedonia

G

G&A	General and Administrative Expense (e.g., overhead)
GAO	Government Accountability Office
GBL	Government Bill of Lading
GC	Generic Code
GCC	Geographic Combatant Commander / Gulf Cooperation Council
GEF	Guidance for Employment of the Force / Global Environmental Fund
GEOINT	Geospatial-Intelligence
GET	General English Training
GFE	Government Furnished Equipment
GFEBS	General Funds Enterprise Business System (Army)
GFM	Government Furnished Materiel
GFSC	Global Financial Service Center
GPO	Government Printing Office

GPOI	Global Peace Operations Initiative
GPS/PPS	Global Positioning System / Precise Positioning System
GSA	General Services Administration / General Security Agreement
GSCF	Global Security Contingency Fund
GSOIA	General Security of Information Agreement
GSOMIA	General Security of Military Information Agreement
GWOT	Global War on Terrorism

H

HA	Humanitarian Assistance
HAC	House Appropriations Committee
HASC	House Armed Services Committee
HAZMAT	Hazardous Materiel
HC	Host Country
HCA	Humanitarian and Civic Action Projects
HDA	Humanitarian Demining Assistance
HDR	Humanitarian Daily Rations
HDTC	Humanitarian Demining Training Center
HFAC	House Foreign Affairs Committee
HMA	Humanitarian Mine Action
HNS	Host Nation Support
HNTA	Host Nation Token Administrator (SCIP)

I

IA	Implementing Agency
IAAFA	Inter-American Air Forces Academy
IAC	International Armaments Cooperation
IACP	International Acquisition Career Path
IAEA	International Atomic Energy Commission
IATA	International Air Transport Association
IBA	Interest Bearing Account
ICASS	International Cooperative Administrative Support Services
ICE	U.S. Immigration and Customs Enforcement (DHS)
ICP	Inventory Control Point / International Cooperative Programs (now IACP)
ICR&D	International Cooperative Research and Development
ICS	Integrated Country Strategy
ICUG	International Customer User Group
IDA	Institute for Defense Analysis
IDIQ	Indefinite Delivery, Indefinite Quantity

IEMG	International Engine Management Group (USAF)
IEP	Information Exchange Program
IFOR	Implementation Force (Kosovo)
IG	Inspector General
ILCO	International Logistics Control Office
ILCS	International Logistics Communication System
ILS	Integrated Logistics Support
IM	Item or Inventory Manager
IMDGC	International Maritime Dangerous Goods Code
IMET	International Military Education and Training
IMF	International Monetary Fund
IMO	Interim Military Objectives
IMS	International Military Student
IMSO	International Military Student Officer (or Office or Organization)
INCA	International Narcotics Control Act
INCLE	International Narcotics Control and Law Enforcement (DoS)
INFOSEC	Information Security
IPC	Indirect Pricing Components (DSAMS)
IPD	Issue Priority Designator / Implementing Project Directive
IPO	International Programs Office
IPR	In Process Review
IPS	International Programs Security
IPSR	International Programs Security Requirements
IRIS	Interrogation Requirements Information system (DRMS)
ISAF	International Security Assistance Force [in Afghanistan]
I-SAN	International Security Assistance Network
ISFF	Iraq Security Forces Fund (DoD)
ISOO	International Security Oversight Office
ISP	Initial Spare Parts
ISS	In-Service Support (Navy)
ITAR	International Traffic in Arms Regulations
ITM	International Training Management Website
ITO	Invitational Travel Order
IVP	International Visits Program

J

JCET	Joint Combined Exchange Training
JCIDS	Joint Capabilities Integration and Development System

JCS	Joint Chiefs of Staff (Joint Staff)
JER	Joint Ethics Regulation
JFTR	Joint Federal Travel Regulations
JHCS	Joint Hazard Classification System
JMC	Joint Munitions Command
JMP	Joint Manpower Program
JOPP	Joint Operational Planning Process
JSCP	Joint Strategic Capabilities Plan
JSF	Joint Strike Fighter
JTR	Joint Travel Regulations
JVI	Joint Visual Inspection (normally for EDA)

L

LCMC	Life Cycle Management Command (Army)
LE Staff	Locally Employed Staff
LES	Leave and Earning Statement
LIFO	Last In, First Out
LOA	Letter of Offer and Acceptance (DoD) / Letter of Assist (UN) / Lines of Activity
LOAD	Letter of Offer and Acceptance Data
LOC	Location Code / Library of Congress
LO/CLO	Low Observable / Counter Low Observable
LOE	Lines of Effort
LOO	Lines of Operation
LOR	Letter of Request
LRA	Lord's Resistance Army
LRIP	Low Rate Initial Production
LSC	Logistics Support Charge (obsolete term)
LTD	Language Training Detachment

M

M2M	Military-to-Military
MAAG	Military Assistance Advisory Group
MAG	Military Assistance Group
MANPADS	Man-Portable Air Defense System
MAP	Military Assistance Program / Membership Action Plan (NATO)
MAPAC	Military Assistance Program Address Code
MAPAD	Military Assistance Program Address Directory
MARAD	U.S. Maritime Administration (DOT)
MARCORSYSCOM	U.S. Marine Corps Systems Command

MASL	Military Articles and Services List(s) (for materiel and training)
MC	George C. Marshall European Center for Security Studies / U.S. Marine Corps
MCSCG	Marine Corps Security Cooperation Group
MCTL	Militarily Critical Technologies List
MDA	Milestone Delegation Authority / Missile Defense Agency
MDE	Major Defense Equipment
MET	Mobile Education Team
MEU	Marine Expeditionary Unit
MFA	Ministry of Foreign Affairs
MFO	Multinational Force and Observers (in the Sinai)
MIA/POW	Missing in Action/Prisoner of War
MILCON	Military Construction (Appropriation)
MILDEP	Military Department
MILGP	Military Group
MILPERS	Military Personnel
MILSBILLS	Military Standard Billing System
MILSPEC	Military Specification
MILSTRIP	Military Standard Requisitioning and Issue Procedures
MILSVC	Military Service
MIL-STD	Military Standard
MIPR	Military Interdepartmental Purchase Request
MIRR	Material Inspection and Receiving Report (DD Form 250)
MISIL	Management Information System for International Logistics (USN)
MISWG	Multinational Industrial Security Working Group
MLA	Manufacturing Licensing Agreement
MNNA	Major Non-NATO Allies
MOA	Memorandum of Agreement
MOD	Ministry of Defense (international equivalent of U.S. DoD)
MOI	Ministry of Interior
MOR	Memorandum of Request (Security Cooperation)
MOU	Memorandum of Understanding
MRAP	Mine Resistant Armor Protected vehicles
MRO	Materiel Release Order
MRR	Mission Resource Request
MRRL	Materiel Repair Requirements List (USAF)
MSC	Military Sealift Command (USN) / Medical Services Corps
MSG	Message / Marine Security Guard
MTBF	Mean Time between Failures

MTCR	Missile Technology Control Regime
MTDS	Manpower Travel Data Sheet
MTT	Mobile Training Team
MTTR	Mean Time to Repair, Return, or Restore
MWR	Morale, Welfare, and Recreation

N

NAD	National Armaments Director(s)
NADR	Nonproliferation, Anti-terrorism, Demining, and Related Programs (DoS)
NAF	Non-Appropriated Fund(s)
NAMSA	NATO Maintenance and Supply Agency
NAMSO	NATO Maintenance and Supply Organization
NATO	North Atlantic Treaty Organization
NAVAIR	Naval Air Systems Command
NAVSEA	Naval Sea Systems Command
NAVSUP	Naval Supply Systems Command
NAVSUP WSS	Naval Supply Systems Command Weapon Systems Support
NAVY IPO	Navy International Programs Office
NBC	Nuclear Biological Chemical
NC	Nonrecurring Cost (also NRC)
NCB	National Codification Bureau
NCBFAA	National Customs Brokers and Forwarders Association of America, Inc.
NCIS	Naval Criminal Investigative Service
NCS	NATO Codification System
NDAA	National Defense Authorization Act
NDI	Non-Developmental Items
NDP	National Disclosure Policy
NDP-1	National Disclosure Policy Publication
NDPC	National Disclosure Policy Committee
NDS	National Defense Strategy
NDU	National Defense University
NECTC	Naval Education and Training Command
NESA	Near East-South Asia Center for Strategic Studies
NETSAFA	Naval Education and Training Security Assistance Field Activity
NGA	National Geospatial-Intelligence Agency
NGO	Non-governmental organization
NICN	Navy Item Control Number
NIIN	National Item Identification Number

NISP	National Industrial Security Program
NISPOM	National Industrial Security Programs Operating Manual, DoD 5220.22-M
NLL	Navy Logistics Library
NMCS	Not Mission Capable Supply
NMS	National Military Strategy
NOA	Notice of Availability
NORTHCOM	U.S. Northern Command
NPA	NATO Participation Act of 1994
NPS	Naval Post Graduate School
NRC	Nonrecurring Cost (also NC) / Non-Repayable Credits
NSA	National Security Agency
NSC	National Security Council
NSDD	National Security Decision Directive
NSDM	National Security Decision Memorandum
NSN	National Stock Number / NATO Stock Number
NSS	National Security Strategy / National Supply System
NVD	Night Vision Device
NWC	National War College / Naval War College

O

O&M	Operations and Maintenance (DoD Funding)
OA/FCA	Obligation Authority / Fund Certification Authorization (SAARMS)
OAC	Operating Agency Code
OBL	Ocean Bill of Lading
OBS	Observer Training
OCONUS	Outside the Continental United States
ODC	Office of Defense Cooperation
OED	Offer Expiration Date (LOA)
OEF	Operation Enduring Freedom (Afghanistan)
OEM	Original Equipment Manufacturer
OGC	Office of General Counsel
OHA	Overseas Housing Allowance
OHDACA	Overseas Humanitarian, Disaster, and Civic Aid Program (DoD)
OIF	Operation Iraqi Freedom
OJT	On-the-Job Training
OMA	Operations and Maintenance (Army)
OMB	Office of Management and Budget
OPI	Oral Proficiency Interview
OSC	Office of Security Cooperation

OSCE	Organization for Security and Cooperation in Europe
OSD	Office of the Secretary of Defense
OSP	Offshore Procurement
OT	Orientation Tour / Observer Training
OT&E	Operational Test and Evaluation

P

P&A	Price and Availability Data
PACOM	U.S. Pacific Command
PAO	Public Affairs Officer
PASS	Post Administrative Support System
PBAS	Program, Budget, & Accounting System (Army)
PBL	Performance Based Logistics
PC&H	Packaging, Crating, and Handling
PCF	Pakistan Counterinsurgency Fund
PCCF	Pakistan Counterinsurgency Capability Fund
PCH&T	Packaging, Crating, Handling, and Transportation
PCO	Procurement Contracting Officer
PCS	Permanent Change of Station
PD	Presidential Determination
PDD	Presidential Decision Directive
PDM	Programmed Depot Maintenance
PEO	Program Executive Officer
PEO-STRI	Program Executive Office for Simulation, Training & Instrumentation (Army)
PEP	Personnel Exchange Program
PfP	Partnership for Peace (NATO)
PICA	Primary Inventory Control Activity
PKO	Peacekeeping Operations
PL	Public Law
PLT	Procurement Lead Time
PM	Bureau of Political-Military Affairs (DoS) / Program Manager
PM/DDTC	Bureau of Political-Military Affairs, Directorate of Defense Trade Controls
PM/RSAT	Bureau of Political-Military Affairs, Office of Regional Security and Arms Transfer
PME	Professional Military Education / Precision Measuring Equipment
PMESII	Political, military, economic, social, infrastructure, information systems
PML	Program Management Line
PMR	Program Management Review
PN	Part Number / Partner Nation

POD	Port of Debarkation
POE	Port of Embarkation / Port of Entry
POL	Petroleum, Oil, and Lubricants
POL/MIL	Political-Military
POM	Program Objective Memorandum
POTUS	President of the United States
PPBES	Planning, Programming, Budgeting, and Execution System
PPP	Program Protection Plan
PQDR	Product Quality Deficiency Report
PR	Purchase Request
PROS	Parts and Repair Ordering System
PSI	Program Security Instruction
PST	Partnership Strategy Toolkit
PSVR	Payment Schedule Variance Report
PVST	Port Visit
PWS	Performance Work Statement

Q

QA	Quality Assurance
QAT	Quality Assurance Team
QDDR	Quadrennial Diplomacy and Development Review
QDR	Quality Deficiency Report
QRR	Quarterly Requisition Report

R

R&D	Research & Development
R&R	Repair and Return / Repair and Replace
RAD	Required Availability Date / Request Authority to Develop
RCM	FMS Case Reconciliation and Closure Manual, DoD 5105.65-M
RCN	Record Control Number
RCP	Regional Campaign Plan
RCSS	Regional Centers for Security Studies
RD&A	Research, Development and Acquisition
RDD	Required Delivery Date
RDO	Redistribution Order
RDT&E	Research, Development, Test, and Evaluation
RFP	Request for Proposal
RFQ	Request for Quotation
RIC	Routing Identifier Code

RIK	Replacement in Kind
RIM	Retainable Instructional Material
RIRO	Repairable Item Replacement Option (USN)
ROM	Rough Order of Magnitude
ROR	Repair of Repairables or Reparables
RSI	Rationalization, Standardization, and Interoperability
RSN	Record Serial Number
RSAT	Office of Regional Security and Arms Transfer (DoS)
RSO	Regional Security Office (or Officer)

S

S/FOAA	State/Foreign Operations Appropriations Acts
S&T	Science and Technology
SA	Security Assistance
SAAF	Security Assistance Administrative Funds
SAAM	Special Assignment Airlift Mission
SAAR	System Authorization Access Request (DD Form 2875)
SAARMS	Security Assistance Automated Resource Management Suite
SAC	Senate Appropriations Committee
SAF/AQ	Assistant Secretary of the Air Force for Acquisition
SAF/IA	Deputy Under Secretary of the Air Force for International Affairs
SAFR	Security Assistance Foreign Representative [located within CONUS (USN)]
SALO	Security Assistance Liaison Officer (Army)
SAMD	Security Assistance Management Directorate (Army)
SAMIS	Security Assistance Management Information System (USAF)
SAMM	Security Assistance Management Manual (DSCA Manual 5105.38-M)
SAMR	Security Assistance Management Review
SAMRS	Security Assistance Manpower Requirements System (USAF)
SAN	Security Assistance Network
SAO	Security Assistance Organization (or Office or Officer)
SAP	Security Assistance Program / Simplified Acquisition Procedures
SAPM	Security Assistance Program Manager (USAF)
SASC	Senate Armed Services Committee
SAT	Security Assistance Team / Survey Assessment Team
SATP	Security Assistance Training Program
SATFA	Security Assistance Training Field Activity (Army)
SATMO	Security Assistance Training Management Organization (Army)
SATODS	Security Assistance Technical Order Program (USAF)

SATP	Security Assistance Training Program
SBLC	Stand By Letter of Credit
SBU	Sensitive But Unclassified
SC	Security Cooperation
SC-TMS	Security Cooperation-Training Management System
SCES	Security Cooperation Enterprise System
SCET	Security Cooperation Education and Training
SCETWG	Security Cooperation Education and Training Working Group (replaced TPMR)
SCIP	Security Cooperation Information Portal
SCML	Small Case Management Line
SCO	Security Cooperation Office / Officer
SDAF	Special Defense Acquisition Fund
SDDC	Surface Deployment and Distribution Command (Army)
SDO/DATT	Senior Defense Official/Defense Attache
SDR	Supply Discrepancy Report, SF 364
SECDEF	Secretary of Defense
SECNAV	Secretary of the Navy
SECSTATE	Secretary of State
SED	Shippers Export Declaration (SED Form 7525-V)
SEED	Support for East European Democracy (SEED) Act of 1989
SET	Specialized English Training
SF 361	Standard Form 361, Transportation Discrepancy Report (TDR)
SF 364	Standard Form 364, Report of Discrepancy [SDR (ROD)]
SFA	Security Force Assistance
SFRC	Senate Foreign Relations Committee
SIPRNET	Secure Internet Protocol Router Network
SLC	Shelf Life Code
SLS	Standard Level of Service
SMC	Space and Missile Systems Center (USAF)
SME	Significant Military Equipment
SNR	Senior National Representative
SNAP	Simplified Nonstandard Acquisition Process (Army)
SOF	Special Operations Forces
SOFA	Status of Forces Agreement
SOLIC	Special Operations/Low-Intensity Conflict
SOO	Statement of Objective
SOP	Standard Operating Procedure
SOUTHCOM	U.S. Southern Command

SOW	Statement of Work
SPAN	Security Policy Automation Network
SPAWAR	Space & Naval Warfare Systems Command (USN)
SPO	System Program Office (USAF)
SPP	State Partnership Program
SRBMD	Short Range Ballistic Missile Defense
SRC	Security Risk Category
SSA	Security Sector Assistance
SSC	Supply and Services Complete
SSE	System Security Engineering
STARR/PC	Supply Tracking and Repairable Return / Personal Computer
STL	Standardized Training List
SVI	Single Vendor Integrity
SYSCOM	Systems Command (Army/USN)

T

T&E	Test and Evaluation
T-MASL	Training Military Articles and Services List
TA	Type of Assistance (or Finance) / Technology Assessment
TAA	Technical Assistance Agreement / Trade Agreement Act
TAC	Type of Address Code / Type of Assistance (or Finance) Code
TACOM	Tank, Automotive, and Armaments Command (Army)
TA/CP	Technology Assessment/Control Plan
TAFT	Technical Assistance Field Team
TAT	Technical Assistance Team
TBC	Transportation Bill Code
TCA	Traditional CCMD Activities (also TCCA)
TCG	Technical Coordination Group (USAF)
TCN	Transportation Control Number / Third Country National
TCO	Test Control Officer / Termination Contracting Officer
TCP	Technical Coordination Program / Technology Control Plan
TCT	Traveling Contact Team
TCTO	Time Compliance Technical Order
TDP	Technical Data Package
TDR	Transportation Discrepancy Report, SF 361
TDS	Technology Development Strategy
TDY	Temporary Duty (Army and USAF)
TECOM	Training and Education Command (USMC)

TIP	Trafficking in People
TL	Termination Liability
TLA	Temporary Living Allowance / Travel and Living Allowance
TMS	Training Management System
TO	Technical Order (USAF) / Training Officer
TP	Transportation Plan
TPA	Total Package Approach (also TPC)
TRADOC	Training and Doctrine Command (Army)
TRANSCOM	U.S. Transportation Command
TS&FD	Technology Security and Foreign Disclosure
TSCMIS	Theater Security Cooperation Management Information System
TSCS	Theater Security Cooperation Strategy (DoD)
TSFDO	Technology Security and Foreign Disclosure Office
TTP	Tactics, Techniques, and Procedures

U

UAV	Unmanned Aerial Vehicle
UCA	Undefinitized Contractual Action (s)
UCMJ	U.S. Uniform Code of Military Justice
UDHR	Universal Declaration of Human Rights
UFR	Unfunded Requirement
ULO	Unliquidated Obligation
UMMIPS	Uniform Materiel Movement and Issue Priority System
UN	United Nations
UND	Urgency of Need Designator
UNFICYP	United Nations Forces in Cyprus
UPS	United Parcel Service
USA	U.S. Army
USAF	U.S. Air Force
USAID	U.S. Agency for International Development
USASAC	U.S. Army Security Assistance Command
USASATMO	U.S. Army Security Assistance Training Management Organization (also SATMO)
USC	U.S. Code (as in law)
USCENTCOM	U.S. Central Command
USCG	U.S. Coast Guard
USD (AT&L)	Under Secretary of Defense for Acquisition, Technology and Logistics
USD (C)	Under Secretary of Defense (Comptroller)
USD (I)	Under Secretary of Defense for Intelligence

USD (P)	Under Secretary of Defense for Policy
USDOT	U.S. Department of Transportation
USDR	U.S. Defense Representative (see SDO/DATT)
USEUCOM	U.S. European Command
USG	U.S. Government
USJFCOM	U.S. Joint Forces Command
USMC	U.S. Marine Corps
USML	U.S. Munitions List
USMTM	U.S. Military Training Mission (SAO in Saudi Arabia)
USN	U.S. Navy
USNORTHCOM	U.S. Northern Command
USPACOM	U.S. Pacific Command
USPS	U.S. Postal Service
USSOCOM	U.S. Special Operations Command
USSOUTHCOM	U.S. Southern Command
USTR	U.S. Trade Representative

V

VT	Voting Trust

W

WCN	Worksheet Control Number
WebFLIS	Federal Logistics Information System Web Search
WIF	Warsaw Initiative Fund
WIP	Work in Progress
WMD	Weapons of Mass Destruction
WPOD	Water Port of Discharge
WRSA	War Reserve Stockpiles for Allies
WSLO	Weapon System Logistics Office (or Officer)
WWRS	Worldwide Warehouse Redistribution Service (USAF)

Annex

B GLOSSARY OF SELECTED TERMS

A

Above-the-line-cost. Charges included within the materiel and/or services line may be referred to as "above-the-line" charges. This term is a holdover from the rescinded Letter of Offer and Acceptance (LOA) form (DD Form 1513) where a line divided the direct charges from the accessorial (surcharge) charges.

Acceptance. The act of an authorized representative of the government by which the government assumes for itself, or as agent of another, ownership of existing and identified supplies tendered, or approves specific services rendered, as partial or complete performance of the contract on the part of the contractor. See also letter of offer and acceptance.

Acceptance date. The date that appears on the acceptance portion of the LOA and indicates the calendar date on which a foreign buyer agrees to accept the items and conditions contained in the FMS offer portion.

Accessorial cost. The cost of packing, crating, and handling (PC&H), and transportation which are incidental to issues, sales, and transfers of materiel and are not included in the standard price or contract cost of materiel. An exception to this is working capital fund (WCF) items.

Accrued costs. The financial value of delivered articles and services and incurred costs reported to DFAS–IN via Delivery Transactions. Incurred costs represent disbursements for which no physical deliveries have yet occurred. Examples are: progress payments to contractors, GFM/GFE provided to contractors, and nonrecurring costs.

Act. The term for legislation once it has passed both houses of Congress and has been signed (enacted) by the president or passed over his veto, thus becoming law.

Actual cost. A cost sustained in fact, on the basis of costs incurred, as distinguished from forecasted or estimated costs.

Adjustment reply code (ARC). A code that identifies the type of action being taken in reply to the FMS customer supply discrepancy report [SDR (ROD)]. ARCs are transmitted to DFAS–IN by an FMS case Implementing Agency in FMS Delivery/Performance Reports.

Administrative contracting officer (ACO). The U.S. government contracting officer who is assigned the responsibility for the administration of U.S. government contracts.

Administrative cost. The value of costs associated with the administration of the FMS program. The prescribed administrative percentage cost for a case appears in the LOA. This percentage is applied against the case. Expenses charged directly to the FMS case (as prescribed by the LOA) are not included.

Administrative lead-time. The time interval between the initiation of procurement action and the letting of a contract or the placing of an order.

Aerospace Maintenance and Regeneration Group (AMARG). A joint service aircraft and aerospace vehicle storage, regeneration, reclamation, and disposal facility located at Davis-Monthan AFB.

Allocation. An authorization by a designated official of a DoD component making funds available within a prescribed amount to an operating agency for the purpose of making funding allotments (i.e., the first subdivision of an apportionment of funds).

Allotment. An authorization granted within and pursuant to an allocation for the purpose of incurring commitments, obligations, and expenditures in the accomplishment of an approved budget. Therefore, an allotment is a subdivision of an appropriation that provides the funding authority for an official to accomplish a specific function or mission.

Amendment. An amendment of an FMS case constitutes a scope change to an existing LOA.

Apportionment. A determination made by the Office of Management and Budget which limits the amount of obligations or expenditures which may be incurred during a specified time period. An apportionment may limit all obligations to be incurred during the specified period or it may limit obligations to be incurred for a specific activity, function, project, or a combination thereof.

Appropriation. A part of an Appropriation Act providing a specified amount of funds to be used for designated purposes. Each appropriation has a finite period of time for incurring obligations.

Appropriations act. Legislation initiated by the House and Senate Appropriations Committees, that provides authority for Federal agencies to incur obligations and to make payments out of the Treasury for specified purposes. An appropriation act is the most common means of providing budget authority. There are thirteen regular appropriation acts for each fiscal year.

Armaments. Weapons with a lethal capability (i.e., missiles, ammunition, etc.).

Armed Services Board of Contract Appeals. A board established to act as the authorized representative of the SECDEF or department Secretaries, in deciding appeals under the provisions of the disputes clause contained in USG contracts.

Arms Export Control Act (AECA). The basic U.S. law providing the authority and general rules for the conduct of foreign military sales and commercial sales of defense articles, defense services, and training. The AECA came into existence with the passage of the Foreign Military Sales Act (FMSA) of 1968. An amendment in the International Security Assistance and Arms Export Control Act of 1976 changed the name of FMSA to the AECA. Published as 22 USC Sec. 2751 et seq.

Attrition. The loss of a resource due to natural causes in the normal course of events, such as a turnover of employees or spoilage and obsolescence of material.

Attrition [international military training]. The total destruction of a DoD capital asset (e.g., a training aircraft) when a foreign student was in physical control of the asset or as a direct result of negligence, simple or gross.

Audit. The systematic examination of records and documents to determine:

a. The adequacy and effectiveness of budgeting, accounting, financial, and related policies and procedures

b. Compliance with applicable statutes, regulations, policies, and prescribed procedures

c. The reliability, accuracy, and completeness of financial and administrative records and reports

d. The extent to which funds and other resources are properly protected and effectively used

Auditor [procurement]. A term used to represent the cognizant audit office designated by the Defense Contract Audit Agency (DCAA) or military service audit activities for conducting audit reviews of the contractor's accounting system policies and procedures for compliance with the criteria.

Authorization act. Basic, substantive, legislation that establishes or continues the legal operation of a federal program or agency, either indefinitely or for a specific period of time, or which sanctions a particular type of obligation or expenditure.

B

Back order (BO). The quantity of an item requisitioned by ordering activities that is not immediately available for issue but is recorded as a stock commitment for future issue.

Bandaria. The imaginary country used by DISCS when making an example security assistance situation. This country is not located in any real region of the world nor is it modeled after any real country. For security assistance purposes, Bandaria's country code is BN.

Base year (BY). A reference period that determines a fixed price level for comparison in economic escalation calculations and cost estimates. The price level index for the base year is 1.000.

Below-the-line-costs. Accessorials and/or surcharges that are not included within a line item value may be referred to as "below-the-line" charges (e.g., transportation surcharge and packing, crating, and handling (PC&H)). This term is a holdover from the rescinded LOA form (DD Form 1513) where a line divided the direct charges from the accessorial (surcharge) charges.

Bill. A legislative proposal originating in either the House or Senate, which, if passed in identical form by both houses and signed by the president, becomes an enacted law. Bills are designated by "HR" in the House of Representatives or "S" in the Senate, according to the house in which they originate, plus a number assigned in the order in which they are introduced during the two-year period of a Congressional term. Appropriations bills always originate in the House.

Bill (or billing) code. This is a DFAS–IN country assigned code that divides FMS customer country billings into management levels lower than a U.S. Implementing Agency or in-country service. This code often correlates to an FMS customer paying office. It appears in Block 3 of the DD Form 645. Basic alpha codes are derived from the LOA. The FMS customer should ensure that the proper bill code is indicated upon acceptance of an LOA.

Billing statement. The DD Form 645 Billing Statement represents the official claim for payment by the U.S. government referred to in Letters of Offer and Acceptance. It also furnishes an accounting to the FMS purchaser for all costs incurred on his behalf under each agreement.

Blanket order case. An agreement between a foreign customer and the U.S. government for a specific category of items or services (including training) with no definitive listing of items or quantities. The case specifies a dollar ceiling against which orders may be placed.

Budget authority. The authority Congress gives to government agencies, permitting them to enter into obligations that will result in immediate or future outlays (expenditures). Such budget authority does not include the authority to ensure the repayment of loans held by another person or government.

Budget year. The fiscal year following the current fiscal year, and for which the new budget estimate is prepared.

C

Canceled case. An FMS case which was not accepted or funded within prescribed time limitations, or was accepted and subsequently canceled by the requesting country or the U.S. government. In the latter case, the U.S. government or purchaser electing to cancel all (or part) of a case prior to the delivery of defense articles or the performance of services shall be responsible for all (or associated) termination costs.

Carrier. A military or commercial ship, aircraft, barge, train or truck, or a commercial transport company that moves material from one location to another.

Case. An FMS contractual sales agreement between the U.S. and an eligible foreign country or international organization documented by a DD Form 1513 or an LOA. An FMS case identifier is assigned for the purpose of identification, accounting, and data processing for each offer.

Case description. A short title specifically prepared for each FMS case by the implementing agency.

Case designator. A unique designator assigned by the implementing agency to each FMS case. The designator originates with the offer of a sale, identifies the case through all subsequent transactions, and is generally a three-letter designation, comprising the last element of the Case Identifier.

Case identifier. A unique six-digit identifier assigned to an FMS case for the purpose of identification, accounting, and data processing of each LOA. The case identifier consists of the two-letter country code, a one-letter designator for the implementing agency, and a three-letter case designator.

Case modification. Modification of a case documented by an LOA modification, which constitutes an administrative or price change to an existing LOA, without revising the scope of the case.

Cash prior to delivery [FMS]. A term of sale in which the U.S. government collects cash in advance of the delivery of defense articles and/or the performance of defense services from DoD resources.

Cash with acceptance [FMS]. A term of sale in which U.S. dollar currency, check, or other negotiable instrument is submitted by the customer concurrent with acceptance of an FMS sales offer for the full amount shown as the estimated total cost on the LOA.

Closed case. An FMS case for which all materiel has been delivered, all services have been performed, all financial transactions, including all collections, have been completed, and the customer has received a final statement of account.

Co-development. A joint development project between the U.S. government and foreign government to satisfy a common requirement.

Collections. Receipts in U.S. dollars, checks, or other negotiable instruments from a purchasing country to pay for defense articles, services, or military training based on accepted FMS cases.

Combating Terrorism Fellowship Program (CTFP). Formerly known as Counterterrorism Fellowship Program, and also currently known as the Regional Defense Combating Terrorism Fellowship Program. It is a DoD security cooperation tool that provides education and training to international security personnel as part of the U.S. global effort to combat terrorism. CTFP is authorized by section 2249C of Title 10, *U.S. Code* which allows DoD to use up to $20 million per year to pay any costs associated with the attendance of foreign government personnel, including civilians, at selected DoD schools, conferences, centers, and other training programs.

Combined Education and Training Program Plan. Plan developed by SCO in coordination with the host country counterparts that consolidates the host country's training needs for the budget year and the planning year (i.e. Host Country Training Requirements for the next two years). Includes program objectives and justifications.

Commercial sale. A sale of defense articles or defense services made under a Department of State issued license by U.S. industry directly to a foreign buyer, and which is not administered by DoD through FMS procedures. Also referred to as a direct commercial sale.

Commercial-type items. Any items, including those expended or consumed in use, which, in addition to military use, are used and traded in normal civilian enterprise and may be imported/exported through normal international trade channels.

Commitment [financial]. A firm administrative reservation of funds based upon firm procurement directives, orders, requisitions, authorizations to issue travel orders, or requests which authorize the recipient to create obligations without further recourse to the official responsible for certifying the availability of funds. The act of entering into a commitment is usually the first step in the process of spending available funds.

Compatibility. The characteristics or ability of two or more operational items/systems to coexist and function as elements of a larger operational system or operational environment without mutual interference. Applies also to multi-service or multi-national use.

Competent Authority Approval (CAA). An approval from the national agency responsible under a country's national law for the regulation of hazardous materials transportation. For the U.S., the "competent authority" (CA) is the U.S. Department of Transportation.

Competitive proposals. A method for awarding a U.S. government contract on a basis other than low bid, whereby the best and final offer may be obtained after discussions are concluded.

Completed case. An FMS case for which all deliveries and collections have been completed, but for which a final accounting statement (DD Form 645) has not been furnished to the purchaser.

Concurrent resolution. A concurrent resolution must be adopted by both houses, but it is not sent to the president for his signature and therefore does not have the force of law. A concurrent resolution, for example, is used as the vehicle for expressing the sense of Congress on various foreign policy and domestic issues.

Concurrent resolution on the budget. A resolution passed by both Houses of Congress but not requiring the signature of the president, setting forth, reaffirming, or revising specified congressional budget totals for the federal government for a fiscal year.

Concurrent spare parts (CSP). These are spare parts programmed as an initial stockage related to the acquisition of a major item or system. CSPs are normally shipped in advance of the release of the major item or system.

Conference committee. A meeting between representatives of the House and the Senate to reconcile differences when each chamber passes dissimilar version of the same bill. Members of the conference committee are appointed formally by the Speaker of the House and the presiding officer of the Senate from the membership of the respective standing committees having cognizance over the subject legislation.

Congressional amendment. A proposal by a member of Congress to alter the language, provisions, or stipulations in a bill or in another amendment. An Amendment usually is printed, debated, and voted upon in the same manner as a bill.

Congressional Budget Justification for Foreign Operations. The document presented annually by the Executive Branch to Congress describing the proposed annual Military Assistance, Foreign Military Sales programs, and related security assistance programs along with other foreign assistance programs for the next fiscal year (i.e., the budget year) for which

Congressional authorizations and appropriations are requested. The document is jointly produced by DoD (DSCA) and DoS (PM) and serves as a supporting document and justification for the president's annual budget request for foreign assistance. In the past, referred to as the Congressional Presentation Document (CPD).

Congressional committee. A division of the House or Senate that prepares legislation for action by the parent chamber or makes investigations as directed by the parent chamber. Most standing committees are divided into subcommittees, which study specific types of legislation, hold hearings, and report bills, with or without amendments, to a full committee. Only a full committee can report legislation to the House or Senate.

Consignee. The person or organization to whom a shipment is to be delivered, whether by land, sea or air.

Constant year dollars. A method of relating dollar values for various years by removing the annual effects of inflation and showing all dollars at the value they would have had in a selected base year. See also current year dollars.

Constructive delivery [FMS]. Completion of delivery of materiel to a carrier for transportation to a consignee, or delivery to a U.S. post office for shipment to a consignee. Delivery is evidenced by completed shipping documents or listings of delivery at the U.S. post office. The delivery of materiel to the customer or the customer's designated freight forwarder at a point of production, testing, or storage at dockside, at staging areas, or at airports constitutes actual delivery. Also referred to as physical delivery.

Consumption rate. The average quantity of an item consumed or expended during a given time interval, expressed in quantities by the most appropriate unit of measurement.

Continental United States (CONUS). United States territory, including the adjacent territorial waters, located within the North American Continent between Canada and Mexico. Does not include Hawaii or Alaska.

Continuing resolution (CR). Appropriations legislation enacted by Congress to provide temporary budget authority for Federal agencies to keep them in operation when their regular appropriations bill has not been enacted by the start of the fiscal year.

Continuing resolution authority (CRA). The authority to obligate funds against the FMFP, IMET, ESF, or other related security assistance appropriation for the new fiscal year under a CR granted by Congress in a Joint Resolution making temporary appropriations prior to passage of the regular appropriations act, or in lieu of such an act. Normally, however, the CRA is for a designated period less than a fiscal year, and such a CRA does not usually allow funding for the start of any new programs.

Contract. An agreement between two or more persons who are legally capable of making a binding agreement, which involves: a promise (or set of promises); a consideration (i.e., something of value promised or given); a reasonable amount of understanding between the persons as to what the agreement means; and a legal means for resolving any breach of the agreement.

Contract administration. All the activities associated with the performance of a contract, from pre-award to closeout.

Contract administration services. All those actions accomplished in or near a contractor's plant for the benefit of the U.S. government which are necessary to the performance of a contract or in support of the buying offices, system/project managers, and other organizations, including quality assurance, engineering support, production surveillance, pre-award surveys, mobilization planning, contract administration, property administration, industrial security, and safety.

Contract administration services (CAS) charge. A surcharge applied to all FMS purchases from procurement to cover the cost of contract administration, quality assurance and inspection, and contract audit. The surcharge percentage depends upon any contract administrative reciprocal agreements with a particular purchasing country.

Contract authority. Budget authority contained in an authorization bill that permits an agency of the federal government to enter into contracts or other obligations for future payments from funds not yet appropriated by Congress. The assumption is that the necessary funds will be made available for payment in a subsequent appropriations act.

Contract award. This occurs when a contracting officer has signed and distributed a contract to a contractor.

Contract field services (CFS). These are services performed for the USG by commercial or industrial companies. These services provide instruction and training on the installation, operation, and maintenance of DoD weapons, equipment, and systems.

Contract requirements. In addition to specified performance requirements, contract requirements include those defined in the statement of work; specifications, standards, and related documents; the contract data requirements list; management systems; and contract terms and conditions.

Contract termination. Cessation or cancellation, in whole or in part, of work under a prime contract, or a subcontract there under, for the convenience of, or at the option of, the government, or a foreign purchaser (FMS), or due to failure of the contractor to perform in accordance with the terms of the contract.

Contracting officer (CO). A person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the CO acting within the limits of their authority as delegated by the CO.

Conventional arms transfers (CAT). The transfer of non-nuclear weapons, aircraft, equipment, and military services from supplier states to recipient states. The USG views arms transfers as a useful foreign policy instrument to strengthen collective defense arrangements, maintain regional military balances, secure U.S. bases, and compensate for the withdrawal of troops. U.S. arms may be transferred by grants, leases, loans, direct commercial sales, or government-to-government cash sales under FMS.

Cooperative logistics. The logistics support provided a foreign government/agency through its participation in a United States Department of Defense logistics system, with reimbursement paid to the USG for the support provided [Joint Pub 1-02].

Cooperative logistics supply support arrangements (CLSSA). 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 that is in allied and friendly country inventories.

Cooperative research and development. A method by which governments cooperate to make better use of their collective Research and Development resources, to include technical data exchanges and codevelopment of new weapons systems.

Coordinating Authority. A commander or individual assigned responsibility for coordinating specific functions or activities involving forces of two or more military departments, two or more joint force components, or two or more forces of the same service. The commander or individual has the authority to require consultation between the agencies involved, but does not have the authority to compel agreement. In the event that esential agreement cannot be obtained, the matter shall be referred to the next senior in the reporting chain. This authority is given to the Senior Defense Official or the Defense Attaché (SDO/DATT) by DODD 5105.75, Department of Defense Operations at U.S. Embassies, December 21, 2007.

Coproduction. A program implemented by a government-to-government or commercial licensing arrangement which enables a foreign government or firm to acquire the "know-how" to manufacture or assemble, repair, maintain and operate, in whole or in part, a defense item.

Cost contract. A contract that provides for payment to the contractor of allowable costs, to the extent prescribed in the contract, incurred in performance of the contract.

Country Liaison Officer (CLO). An officer or non-commissioned officer (NCO) of a foreign military establishment selected by his or her government and attached to a MILDEP or DoD agency for the primary purpose of helping administer IMS from his or her home country. For administrative purposes, the CLO is considered in a student status. In State Department terms, the CLO is the Community Liaison Officer, similar to an MWR officer in the military.

Country-specific Security Cooperation Section (CSCS). Part of the Theater Campaign Plan (TCP) that serves as the core organizing documents for articulating DoD country-level objectives for the application of security cooperation at the country level, and should inform and be informed by corresponding Integrated Country Strategies (ICS). Each country-specific security cooperation section will identify specific lines of effort that represent the significant security cooperation initiatives planned for the country, and articulate specific, measurable, attainable, relevant, and time-bound objectives in support of such initiatives.

Country team. Senior members of U.S. government agencies assigned to a U.S. diplomatic mission overseas, and subject to the direction and supervision of the Chief, U.S. Mission (Ambassador). Normally, such members meet regularly (i.e., weekly) to coordinate USG political, economic, and military activities and policies in the host country.

Credit case (FMS). The use of U.S. government appropriated funds from the FMFP account to finance a foreign country's FMS purchases of U.S. defense articles or services. Credit funds may be in the form of repayable loans or non-repayable grants.

Credit guaranty. A guaranty to any individual corporation, partnership, or other judicial entity doing business in the United States (excluding USG agencies other than the Federal Financing Bank) against political and credit risks of nonpayment arising out of their financing of credit sales of defense articles and defense services to eligible countries and international organizations.

Cross-servicing. That function performed by one military service in support of another military service for which reimbursement is required from the service receiving support.

Current fiscal year. The fiscal year in progress but not yet completed; e.g. between and including 1 October and 30 September.

Current year. The fiscal year in progress. See also budget year.

Current-year dollars. Dollar values of a given year that include the effects of inflation or escalation for that year, or which reflect the price levels expected to prevail during the year at issue. Also referred to as escalated dollars or then-year dollars.

D

Defense article. As defined in section 644(d), FAA and section 47(3), AECA, includes any weapon, weapons system, munitions, aircraft, vessel, boat, or other implement of war; any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance or making military sales; 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 other defense article or any component or part of any articles listed above, but shall not include merchant vessels, or as defined by the Atomic Energy Act of 1954, as amended (42 U.S. Code 2011), source material, byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data.

Defense attaché office (DAO). A DoD organization assigned to a U.S. diplomatic mission overseas for the purposes of overt gathering of military information, representing the U.S. Department of Defense in the conduct of military liaison activities, and performing as a component of the U.S. country team. Several DAO's have been designated by the president as being responsible for security assistance functions in a host country.

Defense Contract Management Agency (DCMA). An agency under the direction of the Under Secretary of Defense for Acquisition, Technology and Logistics [USD (AT&L)], which provides unified contract administration services to DoD components and NASA, for all contracts except those specifically exempted.

Defense industrial cooperation. U.S. activities performed in conjunction with selected foreign countries, which are intended to stimulate the development of foreign defense industrial capabilities, particularly in emerging technologies, for the mutual benefit of all participants.

Defense Logistics Agency. A DoD inventory management agency responsible for approximately 95 percent of consumable items and approximately 85 percent of all spare parts in the DoD supply system.

Defense Institute of Security Cooperation Studies (DISCS). The centralized DoD school for the consolidated professional education of personnel involved in security cooperation management. DISCS is located at Wright-Patterson Air Force Base, Ohio, and provides an array of resident and nonresident instruction for both USG and foreign government military and civilian personnel as well as for defense contractor and industry personnel.

Defense Institution Building (DIB). Helping partner nations develop more effective defense institutions, including organizations and processes that can ensure effective oversight, management, and execution of logistics, personnel, budgets, policy, strategy, doctrine for effective development, employment, and sustainment of defense capabilities.

DLA Disposition Services. An organization within DLA that provides redistribution and disposal services for DoD. FMS is one of the many programs qualified to receive DLA Disposition Services property.

DLA Logistics Information Service. An organization within DLA that serves as the U.S. National Codification Bureau (NCB) and also provides cataloging services in support of allied defense ministries.

Defense Security Cooperation Agency (DSCA). The agency that performs administrative management, program planning, and operations functions for U.S. military assistance programs at the DoD level under the policy direction of the Assistant Secretary of Defense (International Security Affairs).

Defense service. As defined in section 644(f), FAA and section 47(4), AECA, the term defense service includes any service, test, inspection, repair, training, publication, technical or other assistance, or defense information used for the purpose of furnishing military assistance or FMS, but does not include military education and training activities or design and construction services under section 29, AECA.

Defense stock. The term defense stock includes defense articles on hand which are available for prompt delivery. It also includes defense articles under contract and on order that would be available for delivery within a reasonable time from the date of order by an eligible foreign government or international organization without increasing outstanding contracts or entering into new contracts.

Defense Transportation System (DTS). The collection of transportation activities and carriers belonging to or under contract to the DoD. The DTS includes commercial and organic aircraft and ships, and commercial small package services under contract to the DoD, as well as the operation of U.S. military air and ocean terminals in and outside of the U.S.

Defined order case. These are FMS cases characterized by orders for specific defense articles and services that are separately identified line items on the LOA.

Definitization. The process of tailoring a standard DoD system to the international partner's operational requirements, by making adjustments to the item configuration, the type and quantity of spare parts, and the logistics support package.

Delivery. Includes constructive or actual delivery of defense articles; also, includes the performance of defense services for the customer or requisitioner, as well as accessorial services, when they are normally recorded in the billing and collection cycle immediately following performance.

Delivery forecasts. Periodic estimates of contract production deliveries used as a measure of the effectiveness of production and supply availability scheduling and as a guide to corrective actions to resolve procurement or production bottlenecks. These forecasts provide estimates of deliveries under obligation against procurement from appropriated or other funds.

Delivery Term Code (DTC). A single character code that represents how far the USG is responsible for arranging transportation of defense articles going to an international customer.

Dependable undertaking [FMS]. An excepted term and condition within the FMS case (or LOA). A firm commitment by a foreign government or international organization to pay the full amount of a contract for new production or for the performance of defense services which will assure the U.S. against any loss on such contract and to make funds available in such amounts and at such times as may be required by the contract, or for any damages and costs that may accrue from the cancellation of such a contract, provided that in the judgment of the DoD there is sufficient likelihood that the foreign government or international organization will have the economic resources to fulfill the commitment.

Depot level maintenance. Maintenance performed on material requiring a major overhaul or a complete rebuilding of parts, assemblies, subassemblies, and end items, including the manufacture of parts, modification, testing, and reclamation as required. Provides more extensive shop facilities and equipment and personnel of higher technical skill than are normally available at the lower levels of maintenance, i.e., organizational and intermediate level maintenance.

Designated government representative (DGR). A person or persons duly authorized by a foreign government to act on behalf of that government to negotiate, commit, sign contractual agreements, and/or accept delivery of materiel.

Diminishing Manufacturing Sources and Material Shortages (DMSMS). The loss or impending loss of manufacturers of items, suppliers of items, or raw materials needed to support and maintain a system.

Direct cite. Citation of the FMS Trust Fund [Account 97-11X8242] as the financing source on documents leaving the DoD system, as well as contracts with commercial firms, the General Services Administration, the Department of Transportation, etc. The term "direct cite" is not valid if any DoD organization establishes a reimbursable order to a DoD appropriation account, stock fund, or industrial fund.

Direct cost. Any cost that is specifically identified with a particular final cost objective. Such costs are not necessarily limited to items that are incorporated into the end product as labor or material.

Direct offset. A general type of industrial or commercial compensation practice required of a contractor by a purchasing government as a condition for the purchase of defense articles/services. The form of compensation, which generally offsets a specific percentage of the cost of the purchase, is directly associated with the items purchased, such as the production of components in the purchasing country for installation in the purchased end-item.

Disbursements [gross and net]. In budgetary usage, gross disbursements represent the amount of checks issued, cash, or other payments made, less refunds received. Net disbursements represent gross disbursements less income collected and credited to the appropriate fund account, such as amounts received for goods and services provided. See also outlays.

Disclosure authorization. An authorization by an appropriate U.S. military department authority which is required prior to the disclosure of classified information to foreign nationals who are cleared by their governments to have access to classified information.

Domicile to duty transportation. Transportation from one's domicile/residence to one's place of duty/employment.

DoD components. These include all of the following: the Office of the Secretary of Defense (OSD); the military departments; the Joint Chiefs of Staff (JCS or Joint Staff); the combatant commands; the Office of the Inspector General, Department of Defense (DODIG); the Defense agencies, to include the Missile Defense Agency (MDA); and DoD field activities.

DoD field studies program. The DoD program that affords an opportunity for the International Military Student (IMS) to become familiar with the United States, the social, cultural, and political institutions of the U.S., and its people and their ways of life. The informational program (IP) further increases the IMSs' awareness of the U.S. commitment to basic principles of internationally recognized human rights. Formerly the DoD informational program.

DSP-94. A DoS publication, Authority to Export Defense Articles Sold Under the Foreign Military Sales Program, which must be filed with the U.S. Customs along with a copy of the LOA in order for defense articles to be legally exported.

E

Earmarks [appropriations]. Minimum mandatory funding levels for countries/programs established by Congress in annual foreign assistance authorization and appropriations bills. Earmarks provide Congress a means for establishing its priorities in the allocation of U.S. foreign assistance resources.

Economic order quantity (EOQ). The most economical quantity of parts to order at one time to support a defined production rate, considering the applicable procurement and inventory costs.

Economic support fund (ESF). A USG security assistance program through which economic assistance is provided on a grant basis, to selected foreign governments with significant political or military interests for the U.S. The funds may be used to finance imports of commodities, capital, or technical assistance in accordance with the terms of a bilateral agreement.

Eligible recipient [security assistance]. Any friendly foreign country or international organization determined by the president to be eligible to purchase or receive (on a grant basis) U.S. defense articles and defense services, unless otherwise ineligible due to statutory restrictions.

End item (EI). A final combination of end products, component parts, and/or materials which is ready for its intended use, e.g., aircraft, ship, tank, mobile machine shop.

Engineering change proposal (ECP). A proposal to a responsible authority recommending that a change to an original item of equipment be considered, and the design or engineering change be incorporated into the article to modify, add to, delete, or supersede original parts.

English comprehension level (ECL) examination. A test of the overall proficiency of foreign military students in English language listening and reading. A minimum entry level for each DoD course of instruction is set by the military departments (MILDEPs) on the basis of course level difficulty and hazard factors.

Environmental and morale leave. A type of leave granted to DoD personnel stationed in remote locations.

Estimated actual charges. A systematic and documented estimate of actual costs. The procedure is used in the absence of an established cost accounting system and the procedure is sometimes referred to as a cost finding technique.

Excess defense articles (EDA). Defense articles owned by the United States government which are neither procured in anticipation of military assistance or sales requirements, nor procured pursuant to a military assistance or sales order. EDA

are items (except construction equipment) that are in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations.

Execution. The operation of carrying out a program as contained in the approved budget. Often referred to as budget execution.

Executive Order. A rule or regulation, issued by the president, a governor, or some other administrative authority, that has the effect of law. Executive orders are used to implement and give administrative effect to provisions of the Constitution, to treaties, and to statutes. They may be used to create or modify the organization or procedures of administrative agencies or may have general applicability as law. Under the Administrative Procedure Act (APA) of 1946, all executive orders must be published in the Federal Register.

Expanded IMET (E-IMET). Training funded under the IMET program to the following four objectives: proper management of defense resources, improving military justice systems in accordance with internationally recognized human rights, understanding the principle of civilian control of the military, and contributing to the cooperation between police and military forces for counternarcotics law enforcement [sec. 541, FAA]. Only courses found in the Expanded IMET Handbook qualify for consideration in the Expanded IMET portion of a country's training program.

Expendable supplies and material. Supplies which are consumed in use, such as ammunition, paint, fuel, cleaning and preserving materials, surgical dressings, drugs, medicines, etc., or which lose their identity, such as spare parts, etc. Sometimes referred to as consumable supplies and material.

Expenditure authority (EA, as used in FMS). A document or authority from DFAS–IN to an FMS case implementing DoD component that allows expenditures against obligations previously recorded against an FMS case. The disbursing activity must ensure that cash is available prior to processing the disbursement.

Expenditures. The actual spending of money as distinguished from the appropriation of funds. Expenditures are made by the executive branch; appropriations are made only by Congress. The two rarely are identical in any fiscal year. In addition to some current budget authority, expenditures may represent prior budget authority made available one, two, or more years earlier. See also disbursements.

Extended training service specialists (ETSS). ETSS are DoD military and civilian personnel technically qualified to provide advice, instruction, and training in the installation, operation, and maintenance of weapons, equipment, and systems. ETSS are attached to an overseas SCO rather than assigned, and they are carried on the Joint Table of Distribution (JTD), but are not provided as an augmentation to the SCO staff. ETSS may be provided for overseas assignments for periods of up to but not exceeding one year, unless specifically approved by DSCA.

EX-number. A classification of explosive hazard assigned by the U.S. Department of Transportation to commercial and military explosives, which determines how the explosive material may be stored and transported to comply with international safety regulations.

F

Fair Share Sustainment Programs (FSSP). U.S. Army programs to provide hardware, software and technical support to international users of the HAWK and CHAPARRAL programs which are obsolete to the U.S. Army.

Familiarization training. Practical experience and job-related training for specific systems, subsystems, functional areas, or other operations that require hands-on experience, to include maintenance training conducted at the depot level. This training does not provide for skill-level upgrading, which is provided under OJT when special procedures are required.

Federal Acquisition Regulation (FAR). The FAR is the primary regulation for use by federal executive agencies for the acquisition of supplies and services with appropriated funds. Besides the FAR, each agency has its supplement to describe its own particular way of doing business. The DoD supplement is called Defense FAR Supplement (DFARS).

Federal budget. The federal government's budget for a particular fiscal year transmitted in January (first Monday after January 3rd) to the Congress by the president in accordance with the Budget and Accounting Act of 1921. Includes funding requests for all agencies and activities of the executive, legislative, and judicial branches. Also termed president's budget.

Federal Logistics Information System. Central repository for all logistics identification data.

Fences. Explicit limitations (ceilings and floors) established by Congress on the use of funds provided in an appropriations act. See also earmarks.

Field Studies Program (FSP). The FSP shall provide international students and visitors the opportunity to obtain a balanced understanding of the U.S. and to increase their awareness of the basic issues involving internationally recognized human rights.

Fiscal year [FY]. Accounting period beginning 1 October and ending 30 September of the following year. The fiscal year is designated by the calendar year in which it ends. Fiscal Year 1995 begins on 1 October 1994 and ends 30 September 1995.

Fixed costs. Costs that do not vary with the volume of business, such as property taxes, insurance, depreciation, security, and minimum water and utility fees.

Fixed price type contract. A type of contract that generally provides for a firm price or, under appropriate circumstances, may provide for an adjustable price for the supplies or services being procured. Fixed price contracts are of several types, and are so designed as to facilitate proper pricing under varying circumstances.

Follow-on training. Sequential training following an initial course of training.

Force Activity Designator (FAD). An assignment of a Roman numeral designator between I and V to international partner countries, and to U.S. defense organizations, which determines the supply priorities that the requisitioner can use to order materiel from the DoD supply system.

Foreign Assistance Act (FAA) of 1961. The basic law providing the authority and the general rules for the conduct of foreign assistance grant activities/programs by the USG. Published as 22 USC Sec. 2151 et seq.

Foreign exchange. Foreign exchange refers to a system whereby the national currency of one country may be exchanged for the currency of another country, thereby facilitating trade between countries.

Foreign internal defense (FID). Participation by civilian and military agencies of one government in any of the programs conducted by another government to free and protect its society from subversion, lawlessness, and insurgency.

Foreign liaison officer (FLO). An official representative, either military or civilian, of a foreign government or international organization stationed in the United States normally for the purpose of managing or monitoring security assistance programs.

Foreign military sales (FMS). That portion of U.S. security assistance authorized by the AECA, and conducted on the basis of formal contracts or agreements between the United States government and an authorized recipient government or international organization. FMS includes government-to-government sales of defense articles or defense services, from DoD stocks or through new procurements under DoD-managed contracts, regardless of the source of financing.

Foreign military sales (FMS) case. A United States of America Letter of Offer and Acceptance (LOA) or a "United States Department of Defense Offer and Acceptance," which has been accepted by a foreign country.

Foreign service national (FSN). A local hire U.S. embassy employee, usually of the same nationality as the host country, but sometimes a third country national (TCN). The FSN fills a billet with a formal position description and is paid according to a local compensation plan developed by the embassy. FSNs are hired and employed by either State Department directly or any other embassy agency (e.g., SCO) with a validated need and billet. Typical jobs for FSNs within a SCO include budget analyst, SA training manager, administrative assistant, and vehicle driver.

Financial Management Regulation (FMR) [DoD 7000.14-R, volume 15, Security Assistance Policy and Procedures]. A manual published by the Defense Finance and Accounting Service under the authority of DODI 7000.14. It establishes basic financial procedures for security assistance activities involving management, fiscal matters, accounting, pricing, budgeting for reimbursements to DoD appropriations accounts and revolving funds, auditing, international balance of payments, and matters affecting the DoD budget.

Foreign Military Sales Forecast Report. A companion document to the Javits Report, this report provides a two-year projection by fiscal year (vice one calendar year for Javits) but only addresses potential FMS sales.

Foreign Military Sales Order (FMSO). A term used to describe DD Forms 1513 or LOAs that implement Cooperative Logistics Supply Support Arrangements. Two DD Forms 1513/LOAs are written: a FMSO I and a FMSO II.

Foreign Military Sales Order I (FMSO I). Provides for the pipeline capitalization of a cooperative logistics support arrangement, which consists of stocks on hand and replenishment of stocks on order in which the participating country buys equity in the U.S. supply system for the support of a specific weapons system. Even though stocks are not moved to a foreign country, delivery (equity) does in effect take place when the country pays for the case.

Foreign Military Sales Order II (FMSO II). Provides for the replenishment of withdrawals of consumption-type items (repair parts, primarily) from the DoD supply system to include charges for accessorial costs and a systems service charge.

Freight Forwarder. A commercial import/export company under contract to the FMS customer who arranges transportation of materiel from a point specified in the LOA to the final destination.

Formal training [military]. Training (including special training) in an officially designated course. It is conducted or administered according to an approved program of instruction. This training generally leads to a specific skill in a certain military occupational specialty.

Future years defense program (FYDP). The official program summarizing the Secretary of Defense approved plans and programs for the Department of Defense.

G

General English Training (GET). Defense Language Institute–English Language Center (DLIELC) courses designed to develop the English language capability of IMS so they can attend DoD schools.

Generic code (GC). A three-digit code identified in the Military Articles and Services List (MASL) and in appendix D of the SAMM, which represents the type of materiel or services to be furnished according to a specific budget activity/project account classification.

Government Accountability Office (GAO). An agency of the legislative branch, responsible solely to the Congress, which functions to audit all negotiated government contracts and investigate all matters relating to the receipt, disbursement, and application of public funds.

Government furnished equipment (GFE). Items in the possession of, or acquired by the USG, and delivered to or otherwise made available to a contractor.

Government furnished material (GFM). U.S. government property which may be incorporated into, or attached to an end item to be delivered under a contract or which may be consumed in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, small tools, and supplies.

Grant. A form of assistance involving a gift of funds, equipment, and/or services which is furnished by the U.S. government to selected recipient nations on a free, nonrepayable basis.

Grant aid (GA). Military assistance rendered under the authority of the FAA for which the United States receives no dollar reimbursement. Such assistance currently consists of the international military education and training program (IMET), and pre-1990 MAP funding.

Guidance for Employment of the Force. The GEF provides two-year direction to CCMDs for operational planning, force management, security cooperation, and posture planning. The GEF is the method through which OSD translates strategic priorities set in the NSS, NDS, and QDR into implementable direction for operational activities. It consolidates and integrates DoD planning guidance related to operations and other military activities into a single, overarching guidance document.

H

Harmonization. The process and/or results of adjusting differences or inconsistencies to bring significant features into agreement.

Holding account. An account established for each FMS country/international organization for the purpose of recording and safeguarding unidentified and certain earmarked funds for future use.

Host nation support. Civil and military assistance provided by host nations to allied forces and organizations in peace, transition to war, and wartime.

Human rights. The relationship between individuals (citizens) and governments (states) where the legal system should protect the rights of the individual from abuses by said government. Examples of fundamental human rights include the right to life, liberty, security; freedom from enslavement, torture, and cruel, inhuman, or degrading punishment; freedom from arbitrary arrest, and presumptiton of innocence until found guilty by a competent and impartial tribunal. Additionally, all citizens should have the right to participate in their governments, either directly or through free elections of their representatives.

I

Immunity from criminal prosecution. Diplomatic agents enjoy complete immunity (protection) from the criminal jurisdiction of the host State and thus cannot be prosecuted (put on trial) absent a waiver no matter how serious the offense.

Implementation date [FMS]. The date when supply action on an FMS case is initiated or directed by an implementing agency.

Implementing agency (IA). The military department or defense agency responsible for the execution of military assistance programs. With respect to FMS, the military department or defense agency assigned responsibility by the Defense Security Cooperation Agency to prepare an LOA and to implement an FMS case. The implementing agency is responsible for the overall management of the actions that will result in delivery of the materials or services set forth in the Letter of Offer and Acceptance that was accepted by a foreign country or international organization.

Impoundment. Any executive action to withhold or delay spending appropriated funds as intended by the Congress. There are two kinds of impoundments: deferrals and rescissions.

In-country training. Training offered within the geographic boundaries of a recipient purchaser country, and conducted by members of DoD, other USG organizations, or contractors.

Indirect cost. Costs which are incurred for common or joint objectives, and which are not as readily subject to treatment as direct costs. See also direct costs.

Indirect offset. A general type of industrial or commercial compensation practice required of a contractor by a purchasing government as a condition for the purchase of defense articles/services. The form of compensation, which generally offsets a specific percentage of the cost of the purchase, is unrelated to the items purchased, and may include contractor purchases of commodities and manufactured goods produced in the purchasing country.

Industrial base. The capability of U.S. industry to respond to the needs of and produce end items for the DoD. Also, that part of the total privately-owned and government-owned industrial production and maintenance capacity located in Canada expected to be available during emergencies to manufacture and repair items required by the U.S. military services.

Initial deposit [FMS]. Money transferred to the credit of the Treasurer of the United States or other authorized officer at the time of acceptance of an LOA as full or partial payment for defense articles, services, or training contracted for by an eligible foreign country.

Initial operational capability (IOC). The first attainment of the capability to employ effectively a weapon, item of equipment, or system of approved specific characteristics, and which is manned or operated by an adequately trained, equipped, and supported military unit or force.

Initial provisioning. The process of determining the range and quantity of items (i.e., spares and repair parts, special tools, test equipment, and support equipment) required to support and maintain an item for an initial period of service. Its phases include the identification of items of supply, the establishment of data for catalog, technical manual, and allowance list preparation, and the preparation of instructions to assure delivery of necessary support items with related end articles.

Initial spares. Spare parts procured for the logistics support of a system during its initial period of operation.

Integrated materiel management. The exercise of total DoD management responsibility for a federal supply group and class, commodity, or item by a single agency. Includes requirements, funding, budgeting, storage, issuing, cataloging, standardizing, and procurement.

Interchangeability. A condition that exists when two or more items possess such functional and physical characteristics as to be equivalent in performance, fit, and durability, and are capable of being exchanged one for the other without alteration of the items themselves or of adjoining items, except for adjustment.

Interfund billing system (IBS). Under IBS, a selling activity will credit the appropriation or fund which owns the materiel and/or finances the accessorial charges at the time of billing the ordering activity, and will charge the appropriations/funds of the ordering activity. IBS normally encompasses all supply system sales and purchases of materiel, including perishable substances, bulk petroleum, oil, lubricants, and aviation fuel. Reimbursable sales will be billed at the time items are dropped from inventory except that billings for sales under FMS and MAP will be based on constructive delivery [DODI 7420.12].

Internal defense. The full range of measures taken by a government to free and protect its society from subversion, lawlessness, and insurgency.

International armaments cooperation programs (IACP). Programs that promote rationalization, standardization and interoperability (RSI) and comprise one or more specific cooperative projects whose arrangements are defined in a written agreement between DoD and one or more countries.

International cooperative administrative support services (ICASS). The purpose of ICASS is to provide, on a reimbursable basis, needed administrative services to USG offices located overseas. The administrative support services are provided by ICASS personnel of the DoS stationed at overseas U.S. embassies, consulates, etc. Normally, such personnel perform a variety of services including: personnel, budget and fiscal, general services, communications, security and guard, and management services. The specific services required are the basis of an agreement between DoS and the requesting agency. Charges are based on the amount of services received, with each agency, including DoS, paying its share. The ICAAS system provides an equitable method of sharing the costs of providing "common type" administrative support to the SCO and other agencies at the post.

International logistics. The planning, negotiating, and implementation of supporting logistics arrangements between nations, their forces and agencies. It includes furnishing logistics support (major end items, materiel, and/or services) to, or receiving logistics support from, one or more friendly foreign governments, international organizations, or military forces, with or without reimbursement.

International Logistics Communication System. A fee-for-service telecommunications system established for international partners to communicate supply requirements directly to the DoD supply system through the Defense Data Network.

International Logistics Control Organization. An organization within each of the military departments that is dedicated to managing logistics support programs and logistics transactions in support of foreign military sales and security cooperation programs.

International military education and training (IMET) program. That component of the U.S. security assistance program which provides training to selected foreign military and defense associated civilian personnel on a grant basis. Training is provided at U.S. military facilities and with U.S. Armed Forces in the U.S. and overseas, and through the use of Mobile Training Teams. Training also may be provided by contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses. The IMET Program is authorized by the FAA.

International military student (IMS). A national of a foreign government, with military or civilian status of that government, who is receiving education or training or is touring USG activities under the sponsorship of the security assistance training program (SATP).

International military student office/manager (IMSO/IMSM). A U.S. military office that is designated to coordinate and monitor the local SA training program and provide required administrative support for international military students in training at that activity. Also responsible for the conduct of the DoD Informational Program.

International narcotics control and law enforcement (INCLE). Counter drug bureau/programs managed by DoS, but can have materiel, services, and training support provided and managed by DoD using SC assets and procedures.

International Traffic in Arms Regulation (ITAR). A document prepared by the Directorate of Defense Trade Control (DDTC), Bureau of Political-Military Affairs, Department of State, providing licensing and regulatory provisions for the import and export of defense articles, technical data, and services. The ITAR also includes the U.S. Munitions List. Published in the Federal Register as 22 CFR 120-130.

Interoperability. The ability of systems, units, or forces to provide services to and accept services from other systems, units or forces, and to use the services so exchanged to enable them to operate effectively together.

Inventory control point (ICP). The organizational element within a DoD system which is assigned responsibility for materiel management of a group of items including such management functions as the computation of requirements, the initiation of procurement or disposal actions, distribution management, and rebuild direction.

Inviolability of person or premises. Protections enjoyed by "diplomatic agents," which means: (1) they should not be arrested or detained; (2) they are owed a special measure of respect and protection; (3) and neither their property nor residences may be entered or searched.

Invitational travel order (ITO). A written authorization (DD Form 2285) for international military students to travel to, from, and between U.S. activities for the purpose of training under an approved and funded IMET or FMS program.

Item identification number. A seven-character identifier assigned to each line of training in the MASL. The first character is a letter that identifies the MILDEP offering the training (B Army, P-Navy, D-Air Force). The following six characters are numbers that identify the specific item of training. The identification number is used in all FMS and IMET training programs and implementation documents.

Item manager (IM). An individual within the organization of an inventory control point or other such organization assigned management responsibility for one or more specific items of materiel.

J

Javits report. The President's estimate to the Congress of potential or proposed arms transfers during a given calendar year.

Joint resolution. A legislative resolution, designated H J Res (House) or S J Res (Senate) which requires the approval of both houses and the signature of the president, just as a bill does, and which has the force of law if approved. There is no practical difference between a bill and a joint resolution. A joint resolution generally is used to deal with a limited matter such as a single appropriation. Congressional rejection of a proposed arms transfer, lease, third country transfer, or a proposed international cooperative project takes the form of a joint resolution of disapproval.

Joint Security Assistance Training (JSAT) Regulation. Obsolete, refer to the JSCET.

Joint Security Cooperation Education and Training Regulation (JSCET). Regulation that prescribes policies, responsibilities, procedures, and administration for the education and training of international military students by the Departments of the Army, Navy and Air Force as authorized by U.S. security assistance legislation. Regulation also is applicable to the Marine Corps and Coast Guard as well.

Joint Strategic Capabilities Plan. The JSCP is the primary vehicle through which the CJCS exercises responsibility for directing the preparation of joint plans. The JSCP provides military strategic and operational guidance to CCDRs, Service Chiefs, Combat Support Agencies, and applicable DoD agencies for preparation of campaign plans and contingency plans based on current military capabilities. It serves as the link between strategic guidance provided in the GEF and the joint operation planning activities and products that accomplish that guidance. In addition to communicating to the CCMDs specific planning guidance necessary for deliberate planning, the JSCP also translates strategic policy end states from the GEF into military campaign and contingency plan guidance for CCDRs and expands guidance to include global defense posture, security cooperation, and other steady-state activities. The JSCP is described in detail in CJCSI 3110.01G, *Joint Strategic Capabilities Plan* (classified).

L

Language training detachment (LTD). A group of personnel from the Defense Language Institute, English Language Center (DLIELC), Lackland Air Force Base, Texas, performing duty in a foreign country or in CONUS on a military installation away from DLIELC. They serve as consultants or instructors in English as a foreign language.

Lease (security assistance). An agreement for the temporary transfer of the right of possession and use of a non-excess defense article or articles to a foreign government or international organization, with the lessee agreeing to reimburse the USG in U.S. dollars for all costs incurred in leasing such articles, and to maintain, protect, repair, or restore the article(s), subject to and under the authority of section 61, AECA (Title 22 USC 2796).

Letter of offer and acceptance (LOA). U.S. Department of Defense letter by which the U.S. government offers to sell to a foreign government or international organization U.S. defense articles and defense services pursuant to the Arms Export

Control Act, as amended. The LOA lists the items and/or services, estimated costs, and the terms and conditions of sale; it also provides for the signature of an appropriate foreign government official to indicate acceptance.

Letter of request (LOR). The term used to identify a request from an eligible FMS participant country for the purchase of U.S. defense articles and services. The request may be in message or letter format.

Licensed production. Licensed production involves agreements made by U.S. commercial firms with international organizations, foreign governments, or foreign commercial firms to produce weapon systems.

Life cycle cost. The total costs to the government of acquisition and ownership of a system over its useful life. It includes the costs of development, acquisition, support, and, where applicable, disposal.

Line item number. A three-digit alpha/numeric code that identifies a detail line item on the LOA. This code is perpetuated on the customer's bill.

Living allowance. An authorized allowance paid to an international military student while in training under the IMET program.

Loan. An agreement for the temporary transfer of the right of possession and use of a defense article or articles not acquired with military assistance funds to a foreign government or international organization, at no rental charge to the transferee, with the transferring U.S. military department being reimbursed from MAP funds, subject to and under authority of section 503, FAA. Also, applies to loans to a NATO or major non-NATO ally of materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation subject to and under the authority of section 65, AECA.

Locally employed staff. The general term used for Foreign Service nationals, as well as some U.S. citizens, who ordinarily reside in the host country and are thus subject to its labor law. LE staff are employed at a U.S. mission, or at an office of the American Institute in Taiwan by the U.S. Government under the authority of the COM and are normally paid under the local compensation plan.

Logistics. The science of planning and carrying out the movement and maintenance of forces. In its most comprehensive sense, involves those aspects of military operations which deal with:

a. Design and development, acquisition storage, movement, distribution, maintenance, evacuation, and disposition of materials

b. Movement, evacuation, and hospitalization of personnel

c. Acquisition or construction, maintenance, operation, and disposition of facilities

d. Acquisitioning or furnishing of services

Long-lead items/long-lead time materials. Those components of a system or piece of equipment for which the times to design and fabricate are the longest, and therefore, to which an early commitment of funds may be desirable in order to meet the earliest possible date of system completion.

M

Maintenance. The upkeep of property, necessitated by wear and tear, which neither adds to the permanent value of the property nor appreciably prolongs its intended life, but keeps it in efficient operating condition. The term "preventive maintenance" involves deterring something from going wrong; the term "corrective maintenance" involves restoring something to its proper condition.

Maintenance concept/plan. A description of maintenance considerations and constraints for system/equipment under development. A preliminary maintenance concept is developed and submitted by the operating command as part of the preliminary system operational concept for each alternative solution candidate; the implementing and supporting commands provide inputs to the concept/plan.

Major defense equipment (MDE). Any item of significant military equipment on the United States Munitions List having a nonrecurring research and development cost of more than $50 million or a total production cost of more than $200 million. Also defined in section 47 (6), AECA.

Major line item. A program line for which the requirement is expressed quantitatively as well as in dollars. These lines are identified in the military articles and services list(s) (MASL) by a unit of issue (XX) other than dollars.

Major item material excess (MIMEX) offers. Involves major items of MAP equipment declared excess by the original recipient and which are offered to eligible MAP materiel recipients for application against funded current year and prior year undelivered MAP program balances.

Major non-NATO allies. Designated as Argentina, Australia, Bahrain, Egypt, Israel, Japan, Jordan, Kuwait, Morocco, New Zealand, Pakistan, Philippines, Republic of Korea, Taiwan, and Thailand [Sec. 517, FAA].

Materiel management. Direction and control of those aspects of logistics which deal with materiel, including the functions of identification, cataloging, standardization, requirements determination, procurement, inspection, quality control, packaging, storage, distribution, disposal, maintenance, mobilization planning, industrial readiness planning, and item management classification; encompasses materiel control, inventory control, inventory management, and supply management.

Memorandum of agreement (MOA) or memorandum of understanding (MOU). A written agreement between governments or a government and international organization signed by authorized representatives and signifying an intent to be legally bound.

Military articles and services list (MASL). A catalogue of materiel, services, and training used in the planning and programming of Military Assistance Program (MAP), International Military Education and Training (IMET), and Foreign Military Sales (FMS). Separate MASLs are maintained for IMET and FMS training that provides data on course identification, course availability, price, and duration of training.

Military Assistance Advisory Group (MAAG). A joint service group based overseas which primarily administers United States military assistance planning and programming in a host country. The term MAAG encompasses Joint U.S. Military Advisory Groups, Military Missions, Military Assistance Groups, U.S. Military Groups, and U.S. Military Representatives exercising responsibility within a U.S. Diplomatic Mission for security assistance and other related DoD matters. Defense Attachés are included only when specifically designated as having security assistance functions. See also security assistance organization.

Military assistance program (MAP). That portion of the United States security assistance program authorized by the Foreign Assistance Act of 1961, as amended, which provides defense articles and services to recipients on a nonreimbursable (grant) basis. Funding for MAP was consolidated under the Foreign Military Financing (FMF) Program beginning in fiscal year 1990.

Military Assistance Program Address Directory (MAPAD). The MAPAD provides clear text addresses of country representatives, freight forwarders, and customers-within-country required for releasing FMS and MAP shipments processed in accordance with military standard requisitioning and issuing procedures (MILSTRIP), and addresses required for the forwarding of related documentation.

Military civic action. The use of preponderantly indigenous military forces on projects useful to the local population at all levels in such fields as education, training, public works, agriculture, transportation, communications, health sanitation, and others contributing to economic and social development, which would also serve to improve the standing of the military forces with the population. (U.S. forces may at times advise or engage in military civic action in overseas areas.)

Military Department (MILDEP). One of the departments within the Department of Defense created by the National Security Act of 1947, as amended. The Military Departments are: the Department of the Air Force, the Department of the Army, and the Department of the Navy.

Military Service (MILSVC). A branch of the Armed Forces of the United States, established by act of Congress, in which persons are appointed, enlisted, or inducted for military service, and which operates and is administered within a military or executive department. The Military Services are: the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, and the United States Coast Guard.

Military standard billing system (MILSBILLS). This system provides data elements, codes, standard mechanized procedures, and formats for use by DoD components for billing, collecting and related accounting for sales from system stocks, including direct deliveries. The mechanized procedures apply to MAP and FMS as outlined in DODI 7420.12 (regarding Interfund Billing System).

Military standard requisitioning and issue procedures (MILSTRIP). A uniform procedure established by the Department of Defense to govern the requisition and issue of materiel within standardized priorities.

Mobile education team (MET). A team of U.S. DoD personnel on temporary duty in a foreign country for the purpose of educating foreign personnel in resource management. Such teams are normally funded from Expanded IMET Program funds.

Mobile training team (MTT). A team of U.S. DoD personnel on temporary duty in a foreign country for the purpose of training foreign personnel in the operation, maintenance, or other support of weapon systems and support equipment, as well as training for general military operations. MTTs may be funded from either FMS or IMET Programs.

Modification. Modification of a case constitutes and administrative or price change to an existing LOA, without revising the scope of the case.

Munitions List. The U.S. Munitions List is an enumeration of defense articles and defense services and is published in the Department of State's International Traffic in Arms Regulations.

N

National Defense Strategy. The NDS flows from the NSS, informs the NMS, and provides the foundation for building the legislatively mandated quadrennial defense review (QDR), which focuses the DoD's strategies, capabilities, and forces on operations of today and tomorrow. The NDS addresses how the Armed Forces of the United States will fight and win America's wars and describes how DoD will support the objectives outlined in the NSS. It also provides a framework for other DoD strategic guidance, specifically on deliberate planning, force development, and intelligence (JP 5-0).

National Military Strategy. The NMS, derived from the NSS and NDS, prioritizes and focuses the efforts of the Armed Forces of the United States while conveying the CJCS's advice with regard to the security environment and the necessary military actions to protect vital U.S. interests. The NMS defines the national military objectives, how to accomplish these objectives, and addresses the military capabilities required to execute the strategy (JP 5-0).

National Policy and Procedures for the Disclosure of Classified Military Information to Foreign Governments and International Organizations (U) [Short Title: National Disclosure Policy (NDP-1)]. Promulgates national policy and procedures in the form of specific disclosure criteria and limitations, definitions of terms, release arrangements, and other guidance required by U.S. departments and agencies having occasion to release classified U.S. military information to foreign governments and international organizations.

National Security Strategy. The NSS is a comprehensive report required annually by Title 50, U.S.C., section 404a. It is prepared by the executive branch of the government for Congress and outlines the major national security concerns of the U.S. and how the administration plans to address them using all instruments of national power. The document is purposely general in content, and its implementation relies on elaborating guidance provided in supporting documents (JP 5-0).

National stock number. A thirteen-digit stock number consisting of a four-digit federal supply classification and a nine-digit national item identification number.

NATO Codification System (NCS). A supply codification system developed by the U.S. and adopted by NATO and non-NATO partners. The NCS standardizes item identification processes to permit item interchangeability between international partners and contributes to systems interoperability.

Net case value. Total amount of the cost reflected on line 21 of the DD Form 1513 or line 8 of the LOA.

Nonexpendable supplies and materiel. Supplies which are not consumed in use and retain their original identity, such as weapons, machines, tools, and equipment.

Nonrecurring costs (NRC or NC). Those costs funded by an RDT&E appropriation to develop or improve a product or technology either through contract or in-house effort. Also, those one-time costs incurred in support of previous production of a specified model and those costs incurred in support of a total projected production run.

Nonrecurring demands. A one-time requisition from a customer that is not used to compute demand-based requirements.

Nonrepayable credits/loans. Grant funds appropriated by Congress for use in the Foreign Military Financing Program to selected countries for their use in financing FMS acquisitions of defense articles, defense services, and training under

the authority of section 23, AECA. Additionally, certain countries may be authorized these grant funds to finance direct commercial sales.

Nonstandard article. For FMS purposes, a nonstandard article is one that the DoD does not manage, either because an applicable end item has been retired or because it was never purchased for DoD components.

Nonstandard service. For FMS purposes a nonstandard service is a service that the DoD does not routinely provide for itself or for purchase.

Notice of Availability (NOA). A written notification that material requiring special handling is ready to be shipped. The NOA is sent by the shipper to the purchaser or freight forwarder for oversized, hazardous, explosive, classified or perishable material, and requires a response from the recipient with delivery instructions.

O

Obligation. A duty to make a future payment of money. The duty is incurred as soon as an order is placed, or a contract is awarded for the delivery of goods and the performance of services. An obligation legally encumbers a specified sum of money which will require an outlay or expenditure in the future.

Obligational authority (OA, as used in FMS). A document or authority passed from DFAS–IN to an implementing DoD component that allows obligations to be incurred against a given FMS case in an amount not to exceed the value specified in the obligational authority.

Observer training (OBT). Special training conducted to permit international military students to observe U.S. military techniques and procedures.

Offer date. The date which appears on the offer portion of an LOA and which indicates the date on which an FMS offer is made to a foreign buyer.

Offset agreement. An agreement, arrangement, or understanding between a U.S. supplier of defense articles or services and a foreign country under which the supplier agrees to purchase or acquire, to promote the purchase or acquisition by other U.S. persons, of goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the country of defense articles or services from the supplier [Sec. 39A(d)(1), AECA]. See also direct offset and indirect offset.

On-the-job training (OJT). A training program whereby international military students (IMSs) acquire knowledge and skills through the actual performance of duties under competent supervision in accordance with an approved, planned program.

Operation & maintenance (O&M) costs. Costs associated with equipment, supplies, and services required to train, operate, and maintain forces in a recipient country, including the cost of spare parts other than concurrent spares and initial stockages, ammunition and missiles used in training or replacements for such items expended in training or operations, rebuild and overhaul costs (excluding modernization) of equipment subsequent to initial issue, training and other services that do not constitute investment costs, and administrative costs associated with overall program management and administration.

Oral Proficiency Interview (OPI). English language test that rates English language speaking ability for international military students. Certain courses require an OPI test be taken and a specific OPI score to be met before an IMS can attend the course.

Ordering activity. An activity that originates a requisition or order for procurement, production, or performance of work or service by another activity.

Ordnance. Explosives, chemicals, pyrotechnic and similar stores, e.g., bombs, guns, ammunition, flares, smoke, and napalm.

Orientation tour (OT). A tour arranged for key foreign personnel that may be funded under FMS or IMET to acquaint them with U.S. organizations, equipment, facilities, or methods of operation at various locations.

Outlays. Actual expenditures. Checks issued, interest occurred on the public debt, or other payments. Total budget outlays consist of the sum of the outlays from appropriations and other funds in the budget, less receipts (i.e., refunds and reimbursements).

Outside CONUS. All geographic areas not within the territorial boundaries of the continental United States. OCONUS includes Hawaii and Alaska.

Overseas training. Training provided foreign nationals at training installations outside the U.S.

P

Packing, crating, handling, & transportation (PCH&T). The resources, processes, procedures, design considerations, and methods to ensure that all system, equipment, and support items are preserved, packaged, handled, and transported properly, including: environmental considerations, equipment preservation requirements for short-and-long-term storage, and transportability. One of the principal elements of integrated logistics support (ILS).

Paramilitary forces. Forces or groups which are distinct from the regular armed forces of any country, but resemble them in organization, equipment, training, or mission.

Payment on delivery [FMS]. An FMS term of sale in which the U.S. government issues a bill to the FMS purchaser at the time of delivery of defense articles or the rendering of defense services from DoD resources. This term may only be used pursuant to a written statutory determination by the Director, DSCA, who may find it in the national interest to authorize such payment. Based on presidential action, this term may also be modified to read "Payment 120 Days After Delivery."

Payment schedule. List of dollar amounts and when they are due from the foreign customer. The payment schedule supplements the Letter of Offer and Acceptance (LOA) presented to the customer. After acceptance of the LOA, the payment schedule generally serves as the basis for billing to the customer. Changes in the estimated costs of an FMS case may require changes in the accompanying payment schedule.

Performing activity. An activity which is responsible for performing work or service, including the production of material and/or the procurement of goods and services from other contractors and activities.

Performance-Based Logistics. The DoD strategy of purchasing support in terms of systems readiness and performance outcome, rather than simply acquiring and stocking material on demand. DoD contracts with a manufacturer who is responsible for ensuring optimum system performance by providing complete logistics support to the customer.

Planning, programming, and budgeting system (PPBS). An integrated system for the establishment, maintenance, and revision of the Future Years Defense Program (FYDP) and the DoD budget.

Port of Debarkation (POD). A military or commercial air or ocean port at which materiel is offloaded. Also referred to as the Port of Discharge.

Port of Embarkation (POE). A military or commercial air or ocean port at which a carrier begins the journey to deliver materiel to the consignee. This is also referred to as the Port of Exit.

Price and availability (P&A) data. Prepared by the MILDEPs, DSAA, and other DoD components in response to a foreign government's request for preliminary data for the possible purchase of a defense article or service. P&A data are not considered valid for the preparation of an LOA. Furnishing of this data does not constitute a commitment for the USG to offer for sale the articles and services for which the data are provided.

Procurement lead time. The interval in months between the initiation of procurement action and receipt into the supply system of the production model (excluding prototypes) purchased as the result of such actions; procurement lead time is composed of two elements, production lead time, and administrative lead time.

Procuring contracting officer (PCO). The individual authorized to enter into contracts for supplies and services on behalf of the government by detailed bids or negotiations and who is responsible for overall procurement under such contracts.

Production lead time. The time interval between the placement of a contract and receipt into the supply system of materiel purchased.

Professional military education (PME). Career training designed to provide or enhance leadership and the recipient force's capabilities to conduct military planning, programming, management, budgeting, and force development to the level of sophistication appropriate to that force.

Program management review (PMR). A management level review held by a Systems Program Office or Systems Program Manager for the purpose of determining the status of an assigned system. PMRs are designed as tools to identify problems, if any, and to develop appropriate follow-up actions as required.

Progress payments. Those payments made to contractors or DoD industrial fund activities as work progresses under a contract; payments are made on the basis of cost incurred or percentage of work completed, or of a particular stage of completion accomplished prior to actual delivery and acceptance of contract items.

Provisioning. See initial provisioning.

Q

Quadrennial Defense Review. Existing legislation requires the Secretary of Defense to conduct a QDR and to submit a report on the QDR to Congress every four years. The QDR articulates a national defense strategy consistent with the most recent NSS by defining force structure, modernization plans, and a budget plan allowing the military to successfully execute the full range of missions within that strategy (JP 5-0).

Quality assurance (QA). A planned and systematic pattern of all actions necessary to provide confidence that adequate technical requirements are established, that products and services conform to established technical requirements, and that satisfactory performance is achieved.

R

Ratification. The formal action of the president in giving effect to a treaty that has been approved by the Senate. The treaty then is officially proclaimed and becomes legally enforceable.

Rationalization, standardization and interoperability (RSI). Any action that increases the effectiveness of NATO Forces through more efficient or effective use of defense resources committed to the Alliance.

Reapportionment. A revision of an annual apportionment of funds either upwards or downwards, accomplished within the fiscal year for which the original apportionment applied.

Reappropriation. The congressional carrying over of funds unused in one year to the following year. For example, ESF or IMET funds which at the end of the fiscal year are not reserved or obligated, are customarily made available by the Congress for use in the subsequent fiscal year.

Reciprocal defense procurement. Procurement actions which are implemented under memoranda of understanding/ memoranda of agreement (MOU/MOA) between the U.S. and various participating nations whereby the participants agree to effect complementary acquisitions of defense articles from each other's country.

Recoverable item. An item that is normally not consumed in use and is subject to return for repair or disposal. See also reparable item.

Recoupments. Adjustments or cancellations of outstanding MAP orders in prior year program accounts that generate additional funds for the current year operations.

Reimbursable expenditure. An expenditure made for another agency, fund, appropriation, or for a private individual, firm or corporation, which subsequently will be recovered.

Reimbursements. Amounts received by an activity for the cost of material, work, or services furnished to others, for credit to an appropriation or their fund account.

Reliability. A fundamental characteristic of an item of material expressed as the probability that it will perform its intended function for a specified period of time under stated conditions.

Reorder point. The point at which time a stock replenishment requisition is submitted to maintain the predetermined stock age objective.

Repair and replace [FMS]. Programs by which eligible Cooperative Logistics Supply Support Arrangement (CLSSA) customers return repairable carcasses to the U.S. and receive a serviceable item without awaiting the normal repair cycle time frame.

Repair and return. Programs by which eligible foreign countries return unserviceable repairable items for entry into the U.S. military department repair cycle. Upon completion of repairs, the same item is returned to the country and the actual cost of the repair is billed to the country.

Reparable item. An item that can be reconditioned or economically repaired for reuse when it becomes unserviceable

Replenishment spare parts. Items and equipment, both repairable and consumable, purchased as spares by inventory control points and which are required to replenish stocks for use in the maintenance, overhaul, and repair of equipment, such as ships, tanks, guns, aircraft, engines, etc.

Reprogramming. The transfer of funds between program elements or line items within an appropriation.

Rescission of budget authority. The permanent cancellation of budget authority prior to the time when the authority officially terminates. The rescission process begins when the president proposes a Rescission to the Congress for fiscal or policy reasons. Unlike the deferral of budget authority, which occurs unless Congress acts to disapprove the deferral, rescission of budget authority occurs only if both Houses of Congress approve the rescission, by simple majority, within forty-five days of continuous session.

Research and development. Those program costs primarily associated with research and development efforts, including the development of a new or improved capability to the point where it is ready for operational use.

Resolution. A "simple" Congressional resolution, designated H. Res (House) or S. Res (Senate), deals with matters entirely within the prerogatives of one house or the other. It requires neither passage by the other chamber nor approval by the president, and it does not have the force of law. Most such resolutions deal with the rules or procedures of one house. They also are used to express the sentiments of a single house, such as condolence to the family of a deceased member, or to comment on foreign policy or executive business. A simple resolution is the vehicle for a "rule" from the House Rules Committee. See also Concurrent Resolution and Joint Resolution.

Retainable Instructional Material (RIM). Unclassified books, pamphlets, maps, charts, or other course material issued to and retained by the international military student and their U.S. classmates. It also includes official Field Studies Program materials.

Revolving fund. A fund established to finance a cycle of operations to which reimbursements and collections are returned for reuse in a manner that will maintain the principal of the fund; e.g., working capital funds and industrial funds.

Rule of Law. A fundamental component of a democratic society where all members of said society—both citizens and rulers—are bound by a set of clearly-defined and universally-accepted laws. In a democracy, this is manifested in an independent judiciary, a free press, and a system of checks and balances on leaders through free elections.

S

Safety level. The quantity of materiel, in addition to the operating level of supply required to be on hand to permit continuous operations.

Security assistance (SA). A group of programs authorized by the Foreign Assistance Act (FAA) of 1961, as amended, and the Arms Export Control Act (AECA) of 1976, as amended, or other related statutes by which the United States provides defense articles, military training, and other defense related services, by grant, loan, cash sale, or lease, in furtherance of national policies and objectives [Joint Pub 1-02, as amended through 14 April 2006]. Table C1.T1, SAMM, provides a listing of twelve major security assistance programs, of which seven are administered by DoD and five are administered by DoS. The seven programs managed by DoD are included in the DoD-defined security cooperation program.

Security Assistance Management Manual (SAMM) [DSCA 5105.38M]. A manual published by the Defense Security Cooperation Agency. It sets forth the responsibilities, policies, and procedures governing the administration of security assistance within the Department of Defense [available online: http://www.dsca.mil/samm/].

Security assistance management review (SAMR). A management review led by a security assistance organization, for the purpose of determining the status of one or more specific programs. Such reviews may include the entire range of a purchaser's security assistance program.

Security assistance network (SAN). An Internet-based network developed for the SA community to provide access to the world wide web, identification of web sites of interest to the SA community, an E-mail system (primarily for overseas users), a library function for the storage and conveyance of large data files, a bulletin board function for viewing SA documents, and the hosting of SA training and budgetary data.

Security cooperation. Activities undertaken by the DoD to encourage and enable international partners to work with the U.S. to achieve strategic objectives. It includes all DoD interactions with foreign defense and security establishments, including all DoD-administered security assistance programs, that: build defense and security relationships that promote

specific U.S. security interests, including all international armaments cooperation activities and security assistance activities; develop allied and friendly military capabilities for self-defense and multinational operations; and provide U.S. forces with peacetime and contingency access to host nations.

Security Cooperation Education and Training Working Group (SCETWG). An annual geographic combatant command conference conducted for the purpose of establishing the SA and SC training program for each country. Attendees are the SCO training manager and representatives from DSCA, the MILDEP, training agencies , and other key SC training management personnel. Actual IMET and FMS training programs are submitted, reviewed and determinations made as to training availability. The CTFP program is also a major focus of the SCETWG.

Security Cooperation Information Portal (SCIP). A DoD managed web-based system that provides access to FMS and security cooperation case-related data extracts as well as numerous other capabilities.

Security cooperation organization (SCO). Those DoD organizations permanently located in a foreign country and assigned responsibilities for carrying out of security cooperation management functions under section 515 of the Foreign Assistance Act and under Joint Publication 1-02, regardless of the actual name given to such DoD Component. The generic term SCO replaces the former term security assistance office (SAO).

Security Cooperation Officer Token Administrator. The individual designated, in writing, by the security cooperation office Chief to oversee and maintain the custody of each SCIP token within the security cooperation office.

Security force assistance (SFA). DoD activities that contribute to the unified action by the USG to support the development of the capacity and capability of foreign security forces (FSF) and their supporting institutions. (DODI 5000.68, Oct 2010)

Senior Defense Official (SDO) and Defense Attaché (DATT). Principal DoD official in a U.S. embassy, as designated by the Secretary of Defense. The SDO or DATT is the Chief of Mission's principal military advisor on defense and national security issues, the senior diplomatically accredited DoD military officer assigned to a diplomatic mission, and the single point of contact for all DoD matters involving the embassy or DoD elements assigned to or working from the embassy. The SDO or DATT is considered the dual-hatted chief of both the security cooperation organization (SCO) and defense attaché office (DAO) in the embassy. This position was established by DODD 5105.75, Department of Defense Operations at U.S. Embassies, December 21, 2007. The same document gives coordinating authority (see glossary definition) to the SDO or DATT for the purpose of ensuring that all DoD elements in a country are working in consonance with each other and under the guidance of the Chief of Mission. The SDO or DATT program replaces the now defunct U.S. Defense Representative (USDR) model.

Security Risk Categories (SRC). Categories designated by the security community that determine the transportation security requirements for movement of sensitive Arms, Ammunition, and Explosives (AA&E), based on capability, portability and volatility of the explosive.

Security Sector Assistance (SSA). The policies, programs, and activities the U.S. uses to: engage with foreign partners and help shape their policies and actions in the security sector help foreign partners build and sustain the capacity and effectiveness of legitimate institutions to provide security, safety, and justice for their people; and, enable foreign partners to contribute to efforts that address common security challenges.

Sensitive Materiel. Volatile and dangerous explosives which require special handling and transportation arrangements. The term sensitive also applies to highly desirable selected technologies which are not explosive, but which require special security procedures for transportation.

Sequestration. Refers to the issuance of a presidential order canceling budgetary spending in order to reduce the deficit by the required amount for that year.

Services. Includes any service, test, inspection, repair, training, publication, technical or other assistance, or defense information furnished as military assistance under the FAA, or furnished through FMS under the AECA.

Significant military equipment (SME). Defense articles for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability. These items are identified on the United States Munitions List in the *International Traffic in Arms Regulations* (ITAR) by an asterisk preceding the item category listing.

Shipper. The commercial or military manufacturer, vendor, supply depot, or repair facility that ships material in support of security cooperation programs on behalf of the DoD.

Single Vendor Integrity (SVI). The requirement that all replacement spares and support equipment for a specific weapon system are provided by the same manufacturer that provided the original equipment.

Site Survey. A team of U.S. personnel who assess the FMS customer's logistics capabilities and shortfalls to determine the optimum type and quantity of logistics support to be included in the Total Package Approach.

Sole source acquisition. A contract for the purchase of supplies or services that is entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source.

Solicitation. The formal document used in negotiating acquisitions to communicate government requirements to prospective contractors and to solicit proposals.

Source selection. The process wherein the requirements, facts, recommendations, and government policy relevant to an award decision in a competitive procurement of a system/project are examined and the decision made.

Spares/spare parts. An individual part, subassembly, or assembly supplied for the maintenance or repair of systems or equipment.

Special Assignment Airlift Mission (SAAM). A dedicated U.S. military aircraft, chartered to deliver sensitive, classified or explosive defense articles to a specific customer location, when no commercial delivery capability exists.

Specialized English training (SET). Nine weeks of Specialized English Training at DLIELC provides intensive practice in the functional English language skills and technical terminology identified by Military Service as essential for success in technical training courses and professional military education. Focuses on terminology the international military student will need to know in follow on courses.

Staging cost. The cost incurred by the Department of Defense in consolidation of materiel before shipment to an FMS customer. Includes costs incident to storage and control of inventory, consolidation of incoming articles into a single shipment, and a break in CONUS transportation.

Standardization. The process by which DoD achieves the closest practicable cooperation among the military services and defense agencies for the most efficient use of research, development, and production resources.

Standardization agreement [NATO]. The record of an agreement among several or all of the members nations of NATO to adopt like or similar military equipment, ammunition, supplies and stores; and operational, logistics, and administrative procedures. National acceptance of a NATO allied publication issued by the Military Agency for Standardization may be recorded as a Standardization agreement.

Standardized training list (STL). List of all the Security Cooperation training courses that a country has requested from DoD and the status of the courses.

Supplemental appropriations. An act appropriating funds in addition to those provided for in the annual appropriations acts. Supplemental appropriations provide additional budget authority beyond the original estimates for programs or activities (including new programs authorized after the date of the original appropriations act) in cases where the need for funds is too urgent to be postponed until enactment of the next regular appropriations bill.

Supply Discrepancy Report (SDR). A process for international customers to file a complaint with the DoD for product loss, quality deficiencies, damage, and various other problems associated with the delivery of material under the FMS program.

Surface Deployment and Distribution Command (SDDC). A U.S. Army organization serving as the single DoD manager for military traffic, land transportation, and common-user ocean terminals. The SDDC provides transportation planning and support for the surface movement of passengers and cargo within the Defense Transportation System, including within CONUS.

Systems acquisition process. The sequence of acquisition activities starting from an agency's reconciliation of its mission needs with its capabilities, priorities, and resources, and extending through the introduction of a system into operational use or the otherwise successful achievement of program objectives.

System Support Buyout. An opportunity for international partners to make a final purchase of major items and associated spares and support equipment of a major system that is being terminated in the DoD inventory, prior to the contracts or production being discontinued.

T

Technical assistance field team (TAFT). A team of U.S. DoD personnel deployed on PCS status, normally for one year or longer, to a foreign country to provide technical assistance and training to foreign military personnel in the operation, maintenance, and employment of specific equipment, technology, weapons, supporting systems, or in other special skills related to military functions.

Technical assistance team (TAT). A team of U.S. DoD personnel deployed to a foreign country on TDY status (i.e., up to 179 days) to place into operation, operate, maintain, and repair equipment provided under the FMS or MAP programs.

Technical Coordination Group (TCG). A U.S. Air Force aviation support program that provides technical assistance for specific aircraft and engines. The TCG provides dedicated technical and engineering support to international partners who have purchased the aircraft or engines through the FMS program.

Technical data (TD). Recorded information of a scientific or technical nature, regardless of form or characteristic. Examples of technical data packages include research and engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information and computer software documentation.

Technical data package (TDP). Normally includes technical design and manufacturing information sufficient to enable the construction or manufacture of a defense item component modification, or to enable the performance of certain maintenance or production processes. It may include blueprints, drawings, plans, or instructions that can be used or adapted for use in the design, production, manufacture, or maintenance of defense items or technology.

Technical manual. A publication containing instructions designed to meet the needs of personnel responsible for (or being trained in) the operation, maintenance, service, overhaul, installation, and inspection of specific items of equipment and materiel.

Test control officer (TCO). U.S. military or civilian personnel designated to administer, supervise, and control ECL testing and test materials. Must be a U.S. citizen, not a foreign national "local hire" civilian, or foreign military officer or NCO.

Theater Campaign Plans. Plans developed by geographic combatant commands that focus on the command's steady-state activities, which include operations, security cooperation, and other activities designed to achieve theater strategic end states. It is incumbent upon geographic combatant commanders to ensure any supporting campaign plans address objectives in the Global Environmental Fund global planning effort and their respective theater campaign plans. Contingency plans for responding to crisis scenarios are treated as branch plans to the campaign plan.

Theater Security Cooperation Strategy. The document of a geographic combatant commander which plans, prioritizes, and proposes allocation of DoD resources across the full spectrum of military engagement within an area of operations. Normally, the TSCS is augmented by individual plans for each country, routinely termed country campaign plans. The TSCS responds to the OSD-level Security Cooperation Guidance and, when approved, serves as the roadmap for the execution of security cooperation activities by the combatant command staff, the component commands, and the assigned SCOs.

Third country/party transfers. The transfer of U.S. defense articles, services, and training to a country (a third country) from a country that originally acquired such items from the United States. As a condition of the original sale or transfer, the recipient government must obtain the consent of the President of the United States for any proposed third country/party transfer.

Total obligational authority (TOA). TOA is the total amount of funds available for programming in a given year, regardless of the year the funds are appropriated, obligated, or expended. TOA includes new obligational authority, unprogrammed, or reprogrammed obligational authority from prior years, reimbursements not used for replacements of inventory in kind, advanced funding for programs to be financed in the future, and unobligated balances transferred from other appropriations.

Total package approach (TPA). A means of ensuring that FMS customers are aware of and are given the opportunity to plan for and obtain needed support items, training, and services from the U.S. government contractors, or from within the foreign country's resources which are required to introduce and operationally sustain major items of equipment or systems.

Training management system (TMS). A MS Access computer program developed by DISCS for use in the SCO to manage the SA training program. TMS uses STL and MASL data downloaded from the SA Network to produce IMET and FMS management reports, invitational travel orders, and other training management documents. Versions of TMS are also available for use by international military student offices at training activities and at the annual training program management review.

Training/training support. Formal or informal instruction of IMSs in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational or information publications and media of all kinds, training aids, orientations, training exercises, and military advice to foreign military units and forces. [Sec. 47(5), AECA]

Training program management review (TPMR). Obsolete term. See Security Cooperation Education and Training Working Group (SCETWG).

Tranche. A portion of an appropriation to be allocated to a foreign country. At times, Congress will direct that security assistance funds for a particular country or program be allocated in two or more portions (i.e., tranches), and will generally specify the timing of such allocations as well as the conditions which must be met before the sequential tranches may be allocated.

Transportation Plan. A document that details the transportation and security arrangements for moving classified or sensitive material, and identifies individuals responsible for providing security at various points during transportation.

Travel and living allowance (TLA). Those costs associated with transportation, excess baggage, and living allowances (per diem) of IMSs which are authorized for payment under the IMET Program.

Treaty. A formal agreement entered into between two or more countries. The treaty process includes negotiation, signing, ratification, exchange of ratifications, publishing and proclamation, and treaty execution. Treaties having only two signatory states are called bilateral, whereas those with more than two parties are multilateral.

Trust fund. A fund credited with receipts which are earmarked by law and held in trust, or in a fiduciary capacity, by the government for use in carrying out specific purposes and programs in accordance with an agreement.

Type of address code. One of several codes used in the MAPAD to identify a plain language address to which to ship a specific category of documents or material.

Type of assistance code. A code used to reflect the type of assistance (if any) and/or the planned source of supply for items/services identified on the Letter of Offer and Acceptance. Also known as a type of finance code.

U

Unaccepted case. An FMS letter of offer that was not accepted or funded within the prescribed time shown on the LOA.

Uniform Materiel Movement and Issue Priority System (UMMIPS). A DoD system of ranking materiel requirements and time standards for requisition processing and materiel movement through the use of a two-digit priority designator. It identifies the relative importance of competing demands for logistics resources.

Unified command (UCOM). A command with a broad continuing mission under a single commander and composed of significant assigned components of two or more U.S. services, and which is established and so designated by the president, through the secretary of defense with the advice and assistance of the Joint Chiefs of Staff, or, when so authorized by the Joint Chiefs of Staff, by a commander of an existing unified command established by the president. Now referred to as combatant commands.

U.S. Army Corps of Engineers (USACE). The U.S. Army's principal engineering design, construction, research and development organization. USACE is an implementing agency responsible for accepting Letters of Request and developing Letters of Offer and Acceptance.

United States Code (U.S.C.). A consolidation and codification of the general and permanent laws of the United States arranged according to subject matter under fifty title headings. The U.S.C. sets out the current status of the laws, as amended. It presents the laws in a concise and usable form without requiring recourse to the many volumes of the Statutes at Large containing the individual amendments.

V

Veto. Disapproval by the president of a bill or joint resolution (other than one proposing an amendment to the Constitution). When Congress is in session, the president must veto a bill within ten days (excluding Sundays) of receiving it; otherwise, the bill becomes law without the president's signature. When the president vetoes a bill, it must be returned to the house of origin with a message stating the president's objections.

W

War reserve stocks for allies. A DoD program whereby the services procure or retain in their inventories those minimum stockpiles of materiel such as munitions, equipment, and combat essential consumables to ensure support for selected allied forces in time of war, until future in-country production and external resupply can meet the estimated combat consumption.

Worldwide Warehouse Redistribution Service (WWRS). A tri-service program that redistributes excess spare parts and support equipment acquired by foreign military sales customers.

This is not an all-inclusive index. For more thorough results, use the search features found within the most current electronic edition.

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