

## CHAPTER 6

# INTERNATIONAL TRANSFERS OF CLASSIFIED AND SENSITIVE MATERIAL OR INFORMATION

### A. INTRODUCTION

1. After a decision is made to authorize the release or export of classified information or material to a foreign government or international organization, the transfer must be through government-to-government channels (e.g., Military Postal Service, Defense Courier Service, Defense Transportation System) or other channels agreed upon by the sending and receiving governments (collectively, "government-to-government transfers") as described in subsections B.2 and B.3 below.
2. The Department of Defense (DoD) Components that implement Foreign Military Sales (FMS) cases or are involved in other programs that will result in the transfer to foreign governments and international organizations of classified information or material or sensitive arms, ammunition and explosives (AA&E) must contact their transportation and security officials during preparation of the FMS case or other program to determine appropriate transfer options and prepare the necessary transfer instructions. An information copy of the instructions must be provided to the responsible Defense Security Service (DSS) office, along with the Letter of Offer and Acceptance (LOA) or other program instructions, when cleared contractors or freight forwarders are involved.
3. Contractors should contact the DSS at the earliest possible stage in negotiations that will lead to the international transfer of classified information or material in order that the transfer arrangements can be made in a timely manner. The DSS will advise the contractor on the necessary transfer arrangements and assist in identifying the recipient government's Designated Government Representative (DGR). The DSS or a Defense Contract Management Agency (DCMA) representative will perform DGR responsibilities, or DSS may request an on-site DoD employee to assume part of the DGR responsibility. The proposed arrangements will be coordinated by the DSS with the security authorities of the recipient foreign government. The DSS will not permit the release of the classified material until both governments have approved the security arrangements.

### B. POLICY

1. Government control and accountability of classified material must be maintained

until it is officially transferred to the intended recipient government through its DGR. This applies whether the material is to be transferred by the DoD or by a defense contractor. The DoD DGR is responsible for assuring that the proper export authorization and transfer instructions are in place, and oversees compliance with the transfer arrangements, until such time that the recipient government's DGR assumes security responsibility. To ensure control is maintained, planning for international transfers should consider government channels as a first priority. Government channels are the Military Postal Service registered mail, the Defense Courier Service (DCS), Department of State (DoS) Diplomatic Pouch Service (DPS), or other official government courier systems, including those of the recipient government, Government approved secure information technology (IT) and communications systems, and the Defense Transportation System (DTS). These channels are discussed in subsequent sections of the chapter.

2. To ensure government accountability and control, written instructions must be prepared for all transfers of classified material. The instructions must be in the form of a transportation plan, a hand carry plan, or a secure communications plan. Receipts are required for the international transfer of all classified and sensitive AA&E material. Some governments may waive this requirement for their RESTRICTED information and unclassified "in confidence" information. Escorts, cleared to the classification level of the material being shipped, must be provided by the FMS case implementing agency for FMS sales and by the United States (U.S.) contractor for direct commercial sales (DCS) shipments, except when: (i) the material is shipped via the DTS or other DoD military carrier which assigns cleared escorts, (ii) the material is shipped via a commercial carrier that has a facility security clearance and the carrier provides cleared escorts, or (iii) the purchasing government provides cleared escorts.

3. For transfers of classified material that originate at a contractor facility, the responsible DSS office or another U.S. DGR must verify the material to be transferred is that which has been authorized for export by a DSP-85 or authorization letter from the licensing authority, or other U.S. Government authorization in compliance with the International Traffic in Arms Regulations (ITAR) (*reference c*). When requested by the DSS or the DGR, the contractor must provide documentation that certifies the contents of the shipment. Contractor preparation for international transfers should comply with the below section entitled "Contractor Preparations for International Transfers Pursuant to Commercial and FMS Sales."

4. It is important to remember that in an FMS sale, while title to the material may transfer to the purchasing government at origin or elsewhere in the transportation chain, the responsibility for *security* of the classified shipment remains with the U.S. Government until the material is accepted by the DGR of the purchasing government. In this connection, freight forwarders and other transportation agents may not perform the foreign government DGR function. A few foreign governments maintain transportation facilities in the United States and a DGR is often located at those facilities (e.g., the German Military Representative at Dulles Airport in Northern Virginia). In some cases, a representative from the purchasing government's embassy may perform the DGR

function. With these exceptions, the DGR for the recipient government normally is located at the final destination.

## **C. GOVERNMENT-TO-GOVERNMENT TRANSFER**

TOP SECRET material must be transferred internationally only by an official U.S. Government courier service, a U.S. Government agency employee designated as a courier, or, electronically over approved COMSEC circuits in compliance with the National Industrial Security Program Operating Manual (NISPOM) or DoD Regulation 5200.1-R (*references z and j*). Other classified material may be transferred internationally as described below:

a. **Transfers within the United States, its Territories or Possessions.**

Transfers of classified material to a foreign government within the United States, its territories or possessions normally will occur as described below:

(1) The material may be delivered to an embassy, consulate or other government agency of the recipient government. This method normally will be used for material of such weight and size that it can subsequently be transferred by the recipient government to the ultimate destination by courier or diplomatic pouch. The material must be transmitted to foreign governments as prescribed in the NISPOM or DoD Regulation 5200.1-R. As noted in paragraph B.5 above, a few foreign governments maintain freight capabilities in the United States.

(2) Material that can be handcarried may be transferred to a designated foreign government courier at a contractor facility or government depot using procedures that have been approved by the recipient government and by the responsible DSS office, for transfers at a contractor facility, or by the responsible DoD security office, for transfers at government depots under an FMS sale. These procedures will include appropriate accountability procedures and will be commensurate with those described for U.S. personnel in section H below.

(3) When the classified material is of such a size and weight that it must be shipped as freight and a commercial carrier is to be used, transfer may take place at a recognized U.S. military or commercial port of embarkation (POE) for loading on a ship or aircraft in accordance with subsection E.4 below. A transportation plan is required. This transportation plan must provide for U.S. controlled secure shipment to the POE and provide for secure movement to the ultimate destination. Arrangements must be made for secure storage at a U.S. Government or cleared commercial facility at or near the POE pending transfer. A designated U.S. citizen employee of the contractor or FMS case implementing agency with the requisite clearance must observe the loading of the material on to the ship or aircraft. Transfer of custody to the foreign government's DGR or freight forwarder must not occur until the material is loaded and the foreign government's DGR or freight forwarder signs a receipt for the material. In the event the

loading and transfer cannot be accomplished promptly, the designated U.S. citizen employee must ensure that the material is either returned to the cleared storage facility of the U.S. shipper, or segregated and placed under constant surveillance of a cleared U.S. security force at the POE, or held in the cleared storage facility designated in the transportation plan. A foreign government designated U.S. freight forwarder is a transfer agent only and cannot be the recipient government's DGR. Therefore, if a foreign government DGR does not sign for and assume security control of the material at the transfer point, the U.S. contractor or FMS implementing agency, as applicable, must provide a cleared escort, except as provided in paragraph B.5 above.

(4) **Transfers within the Recipient Country.** Classified material to be transferred to a foreign government within the recipient country will be addressed to a U.S. Government official who will arrange for its transfer to a DGR of the recipient government. The outer wrapping or cover of the package must be addressed to the designated in-country U.S. Government official; the inner wrapping must be addressed to the foreign government DGR. If a courier or escort is used who is not a United States Government official (i.e., a cleared contractor employee), the material must be delivered to a pre-arranged U.S. Government official who will complete the transfer. If the courier or escort is a United States Government official authorized to accomplish the transfer directly, he or she may deliver the material directly to the recipient government's DGR upon arrival. Transfer of classified material as freight will be performed as described in Section E., below.

3. **Delivery within a Third Country.** Classified material to be transferred to a foreign government's DGR within a third country must be sent through official U.S. Government channels or be delivered by a designated courier or escort to an agency or installation of the United States or the recipient government that has extraterritorial status or otherwise is exempt from the jurisdiction of the third country. The material will be addressed as described in subsection 2, above. If the material is not accompanied by a U.S. Government official authorized to accomplish the transfer of custody, a U.S. Government official must receive the shipment and be vested with authority to deliver it to the intended recipient government's DGR. Transfers of classified freight normally will not be permitted in a third country.

## **D. U.S. GOVERNMENT TRANSPORTATION SYSTEMS**

1. **Defense Courier Service (DCS).** The DCS is the principal means of providing for the secure transportation and control of qualified material requiring handling by courier. The DCS will transport qualified material to or via those locations outside the United States where a Status of Forces Agreement (SOFA) or similar agreement exists that provides protection from search and seizure by customs or other unauthorized officials. The DCS transfers material to the DoS for delivery via diplomatic pouch in foreign countries not having a SOFA or similar agreement. Transportation is by bulk shipments on Air Mobility Command (AMC) flights, military contract flights, commercial (U.S.

Flag) aircraft or common surface carrier. DoD Instruction 5200.33 (*reference fff*) provides a listing of qualified and prohibited material. Normally, no item can weigh over 300 pounds, except for those items for which the physical structure prohibits breakdown into lesser weight units. Requests for exceptions can be submitted for consideration. DoD Regulation 5200.33-R (*reference ggg*) describes the procedures for DoD Components, Federal Agencies and their authorized contractors to establish an account and schedule service.

## 2. Defense Transportation System (DTS).

a. DTS consists of the U.S. Army's Surface Deployment and Distribution Command (SDDC) (formerly known as Military Traffic Management Command (MTMC)), the U.S. Navy's Military Sealift Command (MSC), and the U.S. Air Force's Air Mobility Command (AMC) all of which are components of the U.S. Transportation Command (U.S. TRANSCOM) located at Scott Air Force Base, IL. The components are the "single manager" agency for their respective areas of responsibility. For example

(1) SDDC is the single manager for military traffic, land transportation, and common-user ocean terminals within the United States and selected overseas locations.

(2) MSC is the single manager for sea transportation.

(3) AMC is the single manager for air transportation between points in the United States and overseas areas, and between and within overseas areas.

b. Shipments of classified FMS material as freight generally are made within the DTS in compliance with the Security Assistance Management Manual (SAMM) (*reference d*) to provide the required security and enable the U.S. Government to maintain control and custody of the material until physical turnover is accomplished. DoD Regulation 4500.9-R (*reference hhh*) provides additional information and procedures for obtaining DTS services. DoD 5100.76-M (*reference zzz*) provides information and procedures for moving classified and unclassified sensitive AA&E through the DTS.

3. **Department of State Diplomatic Pouch Service (DPS).** DoD Components may use the DPS to send unclassified For Official Use Only material and classified material to U.S. diplomatic posts in countries that do not have a Status of Forces Agreement (SOFA) or similar agreement with the United States that would protect the material from search and seizure by customs or other foreign officials. As in the case of the DCS, certain items are prohibited from entering the DPS. See DoD 4525.8-M (*reference iii*) for a list of prohibited material. Classified material should not exceed 40 pounds or exceed 62 inches in length and girth combined, with the longest dimension not greater than 24 inches. The DoS Classified Pouch Branch can provide special preparation and delivery instructions for larger packages. Mark classified items with the appropriate classification level (TOP SECRET, SECRET, CONFIDENTIAL) and any other markings required by DoD Regulation 5200.1-R. These are the only DoD classification indicators recognized by the

DoS. It will assume items not bearing one of those indicators are unclassified. Items marked in a way that only implies they might be classified or administratively controlled (i.e., "By Courier," "NOFORN," etc.) will be rejected. Mark SECRET and CONFIDENTIAL material with a register number and address it in accordance with DoD 4525.8-M. TOP SECRET material shall be sent via the DCS for further delivery to the Department of State. Refer to both DoD 4525.8-M and DoD Regulation 5200.33-R for proper procedures for TOP SECRET. Package classified material in accordance with DoD Regulation 5200.1-R and the NISPOM.

4. **Military Postal Service (MPS).** The MPS also may be used to transfer classified material to a foreign government or international organization. Registered mail must be used. DoD contractors also may use the MPS, if the pertinent contract so specifies. Prior planning is required to ensure that proper procedures are used, including the identification of persons to receive and receipt for the classified material. A U.S. Government official must be designated in country, in advance, to receive/receipt for the package containing the classified material and transfer the classified material, under receipt, to the intended recipient government's or organization's DGR, or other person designated by the recipient government or organization and agreed to by the sending and receiving governments, in advance. The designated U.S. Government official must return the receipt signed by the DGR or other designated person to the U.S. DGR or other DoD or cleared company official approved by the DGR. The intended recipient will inventory and verify the contents of the package, determine and return the internal receipt to the sender. There are limitations on the use of the MPO. The size the package is limited to 70 pounds, and may be no larger than 108 inches, length plus girth. Not all MPS offices have the capability to handle classified material; this capability must be verified in advance with the MPS or any major U.S. Post Office.

## **E. TRANSFERS BY COMMERCIAL FREIGHT**

1. **Foreign Military Sales (FMS).** The DoD implementing agencies that execute an FMS contract involving classified material must, at the outset of negotiations, consult with their transportation and security officials to determine the appropriate method of secure transfer. Classified material to be furnished to a foreign government or international organization under FMS transactions normally will be shipped via the DTS and be transferred to the foreign government's DGR within the recipient government's territory. The DoD FMS case implementing agency that executes the sale may permit transfer to a foreign government's DGR at a U.S. military or commercial POE when it is determined the recipient has its own secure means of shipment (see subsection E.4 below) from the POE to the ultimate destination. However, the security office that supports the FMS case implementing agency must ensure that the transportation plan is prepared and is adequate. The security office may hold any shipment if an adequate transportation plan is not prepared. Therefore, in any FMS case, the DoD component having security cognizance over the classified material involved is responsible, in coordination with the recipient foreign government, for ensuring preparation of a

transportation plan as described in subsection E.3 below. When the point of origin is a U.S. contractor facility, the DoD component must provide the contractor and its supporting DSS office a copy of the transportation plan. If a freight forwarder is to be used in processing the shipment, the freight forwarder and its supporting DSS office also must be provided copies of the transportation plan.

2. **Commercial Contracts.** The contractor must prepare a transportation plan for all U.S. and foreign classified DCS contracts. The plan must be prepared in collaboration with the purchasing government. This requirement applies whether the material is to be moved by land, sea or air. The contractor's supporting DSS office will approve the plan. The DSS headquarters will forward it for final coordination and approval by the recipient government. The requirement for the transportation plan, as well as other security arrangements and export control requirements, must be identified early in contract negotiations, and be included in the contract.

### 3. **Transportation Plan.**

a. A transportation plan must be incorporated in, or appended to, as a contractual requirement, each DCS contract and FMS contract involving the international transfer of classified material as freight. A transportation plan is also required for any DCS or FMS contract for sensitive AA&E, regardless of classification. The transportation plan will describe step-by-step arrangements for the secure shipment of the material from the point of origin to the ultimate destination. The U.S. and recipient government's transfer agents, DGRs, and escorts must be identified in the plan or, for recurring shipments, in a Notice of Classified Consignment. The plan must provide for security arrangements in the event of emergencies and when the transfer cannot be made promptly. The shipment must be accompanied by an appropriately cleared escort. The captain of a ship or aircraft (see subsection 4 below) who is appropriately designated, cleared to the level of the material to be shipped, and briefed on his or her responsibilities, and who is a citizen of the United States or the recipient country, may perform this function. The format and requirements for a transportation plan are at Appendix S. A transportation plan for FMS sales also may be located in Chapter 7 of the SAMM); it also may be used for DCS.

b. When repetitive shipments of classified material are necessary, a Notice of Classified Consignment will be used to notify the security officer of the receiving government or industrial facility that a classified shipment is about to take place. A format for this notice also is at Appendix S, and in the SAMM.

4. **International Carriers.** The international transfer of classified material must be made using only ships, aircraft or other carriers that:

- a. Are owned or chartered by the U.S. Government or under U.S. registry;
- b. Are owned or chartered by, or under the registry of the recipient foreign government; or

c. Is a carrier other than a., or b., above, when expressly authorized by the Designated Security Authorities (DSA) of the sending and receiving governments. This authority will not be delegated and the exception may be authorized only when a carrier described in a or b above is not available and/or an urgent operational requirement dictates use of the exception. A request forwarded to the DSA must justify the need and explain how control and accountability will be maintained.

## **F. MOVEMENT OF CLASSIFIED OR UNCLASSIFIED SENSITIVE ARMS, AMMUNITION AND EXPLOSIVES**

1. Transportation security of AA&E, whether classified or unclassified, is at least as stringent as transportation security of general classified material.

2. AA&E is assigned into four security risk categories (SRC), I through IV, based on sensitivity. Sensitivity in this context refers to the lethality, desirability and portability of weapons and explosives by terrorists and criminals.

a. SRC I items consist of primarily man-portable missiles (MANPADs), rockets and their ammunition in a ready-to-fire configuration, and their associated components. These are highly portable, lethal and may contain classified and unclassified sensitive technology. These items will only be exported through the FMS process. SRC I items must be moved via the DTS to at least the FMS customer's overseas port of debarkation on board a U.S.-owned vessel or aircraft. The carrier will use the most direct route without intermediate stops or transfers. The carrier is required to have satellite surveillance and an armed escort at all times. Foreign purchasers may not take custody of SRC I AA&E in the United States unless a waiver is requested by the foreign purchaser through the Defense Security Cooperation Agency (DSCA) and approved by the Under Secretary of Defense for Intelligence (USD(I)).

b. SRC II through SRC IV items collectively include everything from light automatic weapons and their ammunition through non-automatic weapons and their ammunition. These items must be exported and moved via the DTS system to at least a CONUS-based DoD-controlled POE. This requirement cannot be waived. SRC II – IV items may be exported via DCS or FMS. If exported via FMS, all sensitive AA&E must transit via a DoD-controlled POE to a secured purchaser-owned port (such as a military air base or naval port, or a government-secured section of a commercial port) in the purchaser's country, on board a U.S. registered carrier, or one registered to the recipient foreign government. Freight forwarders may arrange for transportation via a DoD-controlled port, but may not physically store or handle sensitive AA&E, regardless of classification.

c. The SRC for a specific item is identified in the DoD's National Stock Number (NSN) and part number database known as the Federal Logistics Information System (FLIS). A single character Controlled Inventory Item Code (CIIC), is assigned to every

product in the DoD catalog. The CIIC identifies the item's hazardous classification, its physical security classification, and its potential for pilferage. The Defense Transportation Regulation (DTR) prescribes proper transportation security procedures for those articles with CIICs that indicate a need for special security. DoD personnel and supporting contractors may access this information through a public web site at [http://www.dlis.dla.mil/WebFlis/pub/pub\\_search.aspx](http://www.dlis.dla.mil/WebFlis/pub/pub_search.aspx).

3. In addition to requiring appropriate export authorization documents, AA&E may not be transported in or out of the United States without a competent authority approval (CAA) from the Department of Transportation (DoT). A competent authority approval is a written consent (document) required under an international standard (i.e., International Maritime Dangerous Goods (IMDG) code or International Civil Aviation Organization (ICAO)) and is issued by the DoT Administrator for Hazardous Materials Safety. The DoT assigns Competent Authority Classification of Explosives, known as EX-numbers, to all sensitive AA&E. This EX-number is referenced in the application for the CAA. The CAA must be obtained by the exporter from DoT before the AA&E can be physically moved through military or commercial modes of transportation. For AA&E shipments made via government programs, copies of existing EX approval letters are held by the SDDC. Requests for CAAs typically require between 60 and 120 days processing time, so exporters should plan accordingly.

## **G. RETURN OF MATERIAL FOR REPAIR, MODIFICATION OR MAINTENANCE**

1. Foreign governments or their contractors may return classified or sensitive material to the United States for repair, modification or maintenance. The approved methods of return must be specified in either the LOA for FMS, the security requirements section of a DCS contract, or, in the case of material transferred as freight, in the original transportation plan. For DCS, a contractor, upon receipt of notification that classified material is to be received, must notify its supporting DSS office. For FMS, the contractor, upon receipt of notification that classified material is to be received, must notify the responsible FMS Implementing Agency DGR. The DSS will arrange contact with the applicable foreign government security officials and arrange for secure transportation in the United States for DCS return shipments, if it has not been prearranged. DSS also must ensure that the supporting DSS office has the original of the export authorization, e.g., DSP-85

2. When foreign governments propose to return classified or unclassified sensitive AA&E to the United States for repair, modification or maintenance, the foreign government must request a country-specific CAA issued in its name by the U.S. DoT. The original U.S.-issued CAA is not valid for foreign government use. The foreign government must apply for a U.S.-CAA from the DoT, identifying its national competent authority (CA), and citing its national CAA. The DoT will then issue a U.S. CAA/EX-number to the foreign government for the movement to and within the United States of

foreign-owned AA&E.

3. All material returns of classified or sensitive AA&E must be documented in an approved transportation plan and have a valid temporary import/re-export authorization. For classified AA&E under FMS or DCS this authorization is a DSP-85. For unclassified sensitive AA&E returned under FMS, a valid FMS LOA must identify the material to be returned for repair, testing, calibration, or overhaul. A DSP-61, *Temporary Import of Unclassified Defense Articles*, is not required for FMS returns per ITAR section 123.4(a)(5).

## H. USE AND CLEARANCE OF FREIGHT FORWARDERS

1. A commercial freight forwarder that is cleared in compliance with the NISPOM may be used to arrange for the international transfer of classified material as freight. The freight forwarder may be under contract to a DoD component or a U.S. contractor or the recipient foreign government. However, the responsibility for security and control of the classified material remains with the U.S. Government until the transfer occurs to a DGR of the recipient government. A freight forwarder is a transfer agent and cannot be a DGR. A freight forwarder may arrange for the transportation of SRC II-IV AA&E, but may not possess or store AA&E. The freight forwarder may not arrange for SRC I AA&E.

2. Only freight forwarders that are registered with the U.S. Department of State and have a valid facility security clearance and storage capability at the appropriate level are eligible to receive, process, store and arrange for the delivery of classified material as freight to foreign recipients. However, freight forwarders that do not take custody of classified material do not require and are not eligible for a clearance solely to perform administrative functions.

## I. HAND CARRYING CLASSIFIED MATERIAL

**1. Hand Carry by Contractor Employees.** Under the NISPOM, a contractor employee may be authorized to hand carry classified material required in support of a U.S. Government or foreign government requirement in order to meet an urgent need (see subsection B.3 above). The procedures to obtain the authorization are described in this section. The highest level of classified material to be transferred in this manner will not exceed the SECRET level; the material must have been authorized for export in as described in Chapter 3 of this handbook; and it must be of such size and weight that the hand carrier can retain it in his or her personal possession at all times until it is delivered to the foreign government's DGR. The supporting DSS office will ensure necessary arrangements have been made with U.S. airport security and customs officials. The DSS also must ensure security authorities of the receiving government have made similar

arrangements in their country. If the transfer is pursuant to a DoD component contract or a bilateral or multinational program involving a DoD component, the request must be coordinated in writing with the DoD component. The DSS must be notified by the contractor of a hand carry requirement at least five work days in advance of the transfer.

a. The hand carrier must be a full-time employee of the dispatching contractor. Shipping agents or their employees or independent couriers must not be used. The hand carrier must have a security clearance to at least the level of the classified material.

b. The hand carrier shall be provided a courier certificate. The courier certificate will be signed by the U.S. DGR and the facility security officer (FSO) of the dispatching contractor. Courier certificates must be consecutively numbered and bear the date of the beginning of the journey and be valid for one journey only. The journey may include more than one stop if approved by the DSS and secure government storage has been arranged at each stop. The courier certificate must be returned to the dispatching security officer immediately upon completion of the journey. Examples of courier certificates are found at Appendices J and K.

c. Before commencement of each journey, the hand carrier must read and initial the "notes to the courier" attached to the courier certificate and sign the courier declaration. The signed declaration must be maintained for a minimum of 12 months after completion of the trip. A sample of notes to the courier is at Appendix K

d. The dispatching security office is responsible for making sure the hand carrier has his or her personal travel documentation (e.g., passport and visa) and the necessary export authorization and shipping documents are complete, valid and current. The DSS or other DGR will verify the export authorization.

e. The security office of the dispatching contractor must instruct the hand carrier in all of his or her duties and ensure he or she understands them and completes the declaration described in subparagraph c above.

f. The material must be inventoried and be wrapped and sealed in compliance with the NISPOM in the presence of the U.S. DGR. The address of the receiving security office and the return address of the dispatching security office shall be shown on the inner envelope or wrapping. The official address of the receiving government's DGR will be shown on the outer envelope or wrapping along with the return address of the dispatching office.

g. The dispatching security office must prepare three copies of a receipt based on the inventory, listing the classified material involved. One copy of the receipt must be retained by the dispatching security office, and the other two copies must be packed with the classified material. The security office must obtain from the hand carrier a receipt for the sealed package.

h. The dispatching security office must provide the receiving security office with

advanced notification of the anticipated date and time of the hand carrier's arrival and ask the receiving security office to notify the dispatching security office if the hand carrier does not arrive within eight hours of the expected time of arrival. The dispatching security office must notify its DGR of any delay, unless officially notified otherwise of a change to the hand carrier's itinerary. The DSS will ensure that recipient government security officials are notified as described above.

i. The receiving security office or DGR must sign the receipts enclosed in the consignment. One copy will be returned to the hand carrier. Upon return, the hand carrier will provide the completed receipt to the dispatching security office.

j. Throughout the journey the classified material must remain under the direct personal control of the hand carrier. It will not be left unattended at any time during the journey, in the transport being used, in hotel rooms, in cloakrooms, or any other such locations. Classified material may not be deposited in hotel safes, luggage lockers, or in luggage offices. In addition, envelopes and packages containing classified material must not be opened in route, unless required by customs or other government officials as described below.

k. When inspection by government authorities is unavoidable, care will be taken to only show sufficient parts of the contents of the consignment to enable officials to determine the consignment does not contain any items other than those declared. In cases where the consignment is opened to comply with a request by customs or other government officials, the hand carrier must notify his or her security office as soon as possible. The contractor's security office must notify the U.S. DGR who will notify the DSS. If the inspecting officials were not of the same country as the dispatching office, the security authority in the country whose officials inspected the consignment must also be notified. Under no circumstances must the classified consignment be handed over to customs or other officials for their custody.

l. The hand carrier must not travel by surface routes through third countries, except as authorized by the DSS. The hand carrier will travel only on carriers described in subsection E.4., above, traveling by direct routes between the United States and the destination.

m. Before each used courier certificate is returned to the issuing DGR, the hand carrier must sign the declaration at the bottom of the courier certificate certifying that no situation occurred that might have compromised the security of the consignment during the journey. The signing must be witnessed by the FSO.

## **2. Hand Carry by Department of Defense Employees.**

a. In compliance with DoD Regulation 5200.1-R, the head of the DoD component or a single designee at the headquarters or major command level, must authorize the hand carrying of classified material outside the United States, its territories and Canada upon certification by the requester that:

- (1) The material is not present at the destination;
  - (2) The material is needed urgently for a specified official purpose; and
  - (3) There is a specified reason why the material could not be transmitted by other approved means to the destination in sufficient time.
- b. Commercial travel must be aboard a U.S. flag carrier.
- c. The material must be inventoried and properly wrapped prior to departure. A copy of the inventory must be retained by the approving security office; the courier shall be provided a copy.
- d. The material must remain in the personal possession of the hand carrier at all times during transit. Arrangements must be made for temporary storage at a U.S. Government facility during overnight stops. It must not be stored in hotel safes, airport lockers or other such locations.
- e. A Principal Disclosure Authority (PDA) or Designated Disclosure Authority (DDA) must have authorized the disclosure of all classified information to be transferred to a foreign national.
- f. If the material is to be delivered to a U.S. or foreign national recipient, a receipt must be obtained.
- g. The hand carrier must be provided courier orders and be briefed on his or her responsibilities as described in section II.
- h. Classified material must not be read, studied, displayed or used in any manner in public conveyances or places.

## **J. USE OF SECURE COMMUNICATIONS.**

DoD approved secure information technology (IT) and communications systems may be used by the DoD components and cleared DoD contractors in support of government programs and commercial programs with another government or international organization. Systems to be used shall be accredited pursuant to DoD Directive 8500.01. Use of secure IT and communications systems must be approved by the National Security Agency/Central Security Service (NSA/CSS), and the NSA/CSS equivalent authorities in the other country or countries. Extensive prior planning is required, to include the preparation of a secure communications plan, which must be approved by both governments. Multinational Industrial Security Working Group document # 13 identifies issues that must be considered in using secure communications.

## **K. CLASSIFIED MATERIAL RECEIPTS**

1. Classified material transferred internationally requires a continuous chain of receipts that record each individual who has custody, unless this requirement is waived by a foreign government for its RESTRICTED and unclassified "in confidence" information. Separate external receipts are to be used to record international transfers of all packages containing classified material from the originator to the ultimate foreign recipient. This receipt must be unclassified and contain only such information necessary to identify the package being transferred. A short title or abbreviation may be substituted for a classified title. A receipt that itemizes the contents of the package will be enclosed in the package. These receipts must be in compliance with DoD Regulation 5200.1-R.

2. A copy of the external receipt that records the passing of custody of the package will be retained by the originator and each intermediate consignee in a suspense file until the receipt enclosed in the package is signed and returned. The suspense date for the return of the signed receipt packed with the material must be mutually agreed to by the sending and receiving designated government representatives based on the method of transportation used. Follow-up action must be initiated if the receipt is not returned by the established suspense date. Contractors must retain signed receipts and copies of associated export control documents for five years after expiration of the export authorization in compliance with the ITAR. DoD components must maintain receipts for at least two years.

## **L. CONTRACTOR PREPARATIONS FOR INTERNATIONAL TRANSFERS PURSUANT TO COMMERCIAL AND FMS SALES**

The contractor should make the following preparations to facilitate international transfers, in addition to those requirements described elsewhere in this section:

a. Ensure each party involved in the transfer is identified in the applicable contract or agreement or related transportation plan or instructions, and in the request for export authorization.

b. Notify the appropriate supporting DSS office or other U.S. DGR when the material is ready for shipment.

c. Provide documentation or written certification by an empowered official (as defined in the ITAR) to the U.S. DGR that the classified shipment is within the limitations of the pertinent export authorization or an authorized exemption to the export authorization requirements, or is within the limitations of the pertinent FMS contract.

d. Make available to the DSS or other designated U.S. DGR any supporting

documentation required by export control regulations (e.g., the license or LOA, license conditions and provisos, Non-transfer and Use Certificates).

e. Make available to the DSS or other designated DGR supporting documentation to justify shipments to be made under an exemption to the licensing requirements of the ITAR.

f. Have the classified shipment ready for visual review and verification by the DSS or other U.S. DGR. At a minimum this will include:

(1) Preparing the packaging material and address labels for review;

(2) Marking the contents with appropriate U.S. classification or equivalent foreign government classification and downgrading and declassification markings, as applicable;

(3) Preparing receipts as specified in section H., above; and

(4) Ensuring all shipping documents (including, as appropriate, the Shippers Export Declaration) include the name and telephone number of the DSS or DGR that validates the license or letter authorization and the contractor FSO.

g. Have sent advance notification of the shipment to the intended recipient government and to the freight forwarder, if applicable. The notification will require the recipient confirm receipt of the shipment or provide notice to the contractor if the shipment is not received in accordance with the prescribed shipping schedule. Confirmation of receipt of advance notification is required prior to releasing the shipment.

## **M. TRANSFERS OF TECHNICAL DATA PURSUANT TO AN ITAR EXEMPTION**

1. Contractors must provide to the supporting DSS office or other DGR valid documentation (e.g., license, LOA, or agreement) to verify the export authorization for classified technical data to be transferred pursuant to an ITAR exemption.

2. Classified technical data to be exported pursuant to ITAR exemptions that require authorization or certification by a DoD official must be supported by a written authorization signed by an official identified paragraph A.1 of Chapter 2. A copy of the authorization must be provided by the contractor to the DoS, Directorate Defense Trade Controls (DDTC).

3. The DSS will not permit the transfer of classified technical data under an exemption in the absence of the documentation described above.