



DEFENSE INFORMATION SYSTEMS AGENCY

P. O. BOX 549
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DISA INSTRUCTION 100-50-5*

POLICIES

International Agreements

1. **Purpose.** This Instruction prescribes policy and assigns responsibilities and duties for international agreements. It advises of the point of contact for guidance on the negotiation and conclusion of international agreements. It also advises of the location of the international agreements repository.
2. **Applicability.** This Instruction applies to DISA activities.
3. **Authority.** This Instruction is published in accordance with the authority contained in Department of Defense Directive (DoDD) 5530.3, International Agreements, 11 June 1987, and Chairman of Joint Chiefs of Staff Instruction (CJCSI) 6740.01C, Military Telecommunications Agreements and Arrangements Between the United States and Regional Defense Organizations or Friendly Foreign Nations, 18 January 2013.
4. **Definitions.** Definitions are provided in the enclosure.
5. **General.** Communications service, support, and supplies can be provided by DISA to a foreign country or organization or can be received by DISA from a foreign country or organization pursuant to specific statutory authority; such as, 22 United States Code (U.S.C.) § 2751 et. Seq. Arms Export Control Act; 10 U.S.C. § 2350f Procurement of Communications Support and Related Supplies and Services; or 10 U.S.C. § 2341, et. Seq. Acquisition and Cross Servicing Agreements (ACSA).
6. **Policy.**
 - 6.1 DISA will comply with the provisions of DoDD 5530.3 and CJCSI 6740.01C (authority documents), as applicable, when negotiating and concluding an international agreement with a foreign government or an international organization.
 - 6.2 The negotiation or conclusion of an international agreement must have the written consent of the Secretary of Defense or a designee with approval authority.
7. **Responsibilities.**
 - 7.1 **Director, Development and Business Center (DBC).** The Director, DBC, has overall responsibility for strategic engagement, development, design, delivery, and disclosure of the international portfolio for DISA.

7.2 Directors, Executives, Commanders, and Chiefs of Major Organizational Elements.

These individuals will:

7.2.1 Ensure adequate resources are available to support coordination, negotiation, and conclusion of international agreements, as well as management and execution of subsequent efforts.

7.2.2 Consult with the Office of General Counsel (OGC) and notify the International Relations and Engagements Branch (BDM3), located in the DBC Mission Partner Engagement Office (BDM), prior to any discussion with a foreign government or organization regarding a new international agreement or an amendment or modification to an existing agreement.

7.2.3 Notify BDM3, as guided by OGC, to assist in obtaining proper authority to negotiate and conclude an international agreement.

7.2.4 Compile, retain, and provide a historical file of negotiations for each international agreement to OGC and BDM3.

7.2.5 Request a review by OGC of each proposed international agreement, amendment, or modification before the agreement is provided to a foreign country or international organization for negotiation.

7.2.6 Comply with OGC instructions for concluding any international agreement, including disposition of signed agreement.

7.2.7 Obtain release or disclosure determination from the Foreign Disclosure Office (FDO) in BDM3 for DISA-owned products, services, and/or information supporting international agreements with foreign governments, international organizations, and foreign nationals.

7.2.8 Complete a Delegation of Authority Disclosure Letter (DDL) for each international agreement and submit to the FDO in BDM3.

7.2.9 Upload signed copies of unclassified DISA international agreements into the international agreements repository. (Refer to paragraph 10 for location of the repository.)

7.3 General Counsel (GC). The GC will:

7.3.1 Provide legal guidance to DISA personnel on all proposed or existing international agreements and amendments.

7.3.2 Assist BDM3 with compliance with statutory and regulation-reporting requirements including notification to the Department of State under 1 U.S.C. Case Act.

8. Duties of Chief, International Relations and Engagements Branch (BDM3). The Chief, BDM3, located in the Development and Business Center (DBC) Mission Partner Engagement Office (BDM), will:

8.1 Maintain the central repository for copies of all international agreements and amendments entered into by DISA personnel.

8.2 Assist in identifying current international agreements that support a mission partner's request or operational requirement.

8.3 Process the required release or disclosure of an information request for DISA entities involved in the coordination, negotiation, conclusion, management, and execution of international agreements.

8.4 Provide consultations to DISA offices prior to any discussion with a foreign government or organization to conduct strategic engagements or initiate the development, design, delivery, and disclosure of DISA's products and services that support the Agency's international partnerships.

8.5 Complete a review of each international agreement's corresponding DDL, in accordance with DoDD 5230.11, Disclosure of Classified Military Information to Foreign Governments and International Organizations, 16 June 1992. (FDO-approved DDLs are uploaded to the Secret Internet Protocol Router Network [SIPRNet].)

9. Point of Contact for Guidance on Negotiation and Conclusion of International Agreements. Guidance on the negotiation and conclusion of each individual international agreement is provided by the Office of General Counsel (OGC) to ensure compliance with DoDD 5530.3 and CJCSI 6740.01C.

10. International Agreements Repository. The international agreements repository is the Sharepoint site where DISA unclassified agreements are posted. The site is located on the Defense Enterprise Portal System (DEPS) and is accessible by clicking on the "Resources" tab and "International Agreements Repository." The site can also be accessed from the BDM public Website at <https://disa.deps.mil/ext/resource/BDM/International/SitePages/Home.aspx>. For information regarding classified agreements contact BDM3.

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Enclosure a/s

BRADLEY W. BARNHART
Colonel, USAF
Chief of Staff

*This Instruction replaces DISAI 100-50-5, 30 January 2014.

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DISTRIBUTION: Intended for public release.

Enclosure

DEFINITIONS

International Agreement. Any document regardless of the title, concluded with one or more foreign governments including their agencies, instrumentalities, or political subdivisions. A document established with an international organization that is (1) signed or agreed to by DISA personnel, (2) signifies the intention of its parties to be bound in international law, and (3) is delineated as an international agreement. A memorandum of understanding, memorandum of agreement, memorandum of arrangement, exchange of notes, exchange of letters, technical arrangement, protocol, note verbal, aide memoire, agreed minute, contract, arrangement, statement of intent, letter of intent, statement of understanding or any other name connoting a similar legal, policy, or mission consequence comprise an international agreement. Oral agreement that meets the criteria listed above are international agreements. A Foreign Military Sales (FMS) Agreement (documented in a Letter of Offer and Acceptance [LOA]), in accordance with the Defense Security Cooperation Agency (DSCA) Security Assistance Management Manual (DSCA 5105.38-M). Pursuant to 10 U.S.C. § 2321 et seq. North Atlantic Treaty Organization (NATO) Mutual Support Act, NATO international agreements include umbrella agreements, implementing arrangements, and cross-servicing agreements. For purposes of this Instruction, the following **does not** constitute an international agreement:

- Contractual agreements made under the Federal Acquisition Regulations (FAR) Number 2005-99, Federal Acquisition Circular (FAC).
- Standardization Agreements (STANAGs), Quadripartite Standardization Agreements (QSTAGs), Air Standardization Coordinating Committee (ASCC), and Naval Standardization Agreements (NAVSTAGs) that record the adoption of like or similar military equipment, ammunition, supplies, and stores or operational, logistic, and administrative procedures. However, a STANAG that provides for mutual support or cross servicing of military equipment, ammunition, supplies and stores, or for mutual rendering of defense services including training, constitutes an international agreement.
- Leases under 10 U.S.C. §2667 and §2675 and 22 U.S.C. § 2796.
- Administrative Agreements (AAs) solely to establish administrative procedures.
- Acquisitions or orders pursuant to cross-servicing agreements, in accordance with the authority of the 10 U.S.C. §2321 and DoD Directive 2010.9, Acquisition and Cross-Servicing Agreements.

Negotiation. Communication by any means of a position or an offer, officially or unofficially, on behalf of DISA, DoD, or the United States or on behalf of any officer or organizational element thereof, to an agent or representative of a foreign government, including an agency, or an international organization, in such detail that the acceptance in substance of such position or offer would result in an international agreement. The term "negotiation" includes any such communication, even though conditioned on later approval by the responsible authority.

The term "negotiation" also includes provision of a draft agreement or other document, the acceptance of which would constitute an agreement, as well as discussions concerning many U.S. or foreign government or internal organizations draft document whether or not titled "agreement." For purposes of this Instruction, the term "negotiation" does not include preliminary or exploratory discussions or routine meetings where no draft documents are discussed, so long as such discussions or meetings are conducted with the understanding that the views communicated do not and shall not bind or commit any side, legally or otherwise.

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

Security Assistance. A group of programs authorized by the Foreign Assistance Act (FAA) of September 1961, as amended, and the Arms Export Control Act (AECA) of June 1976, as amended, or other related statutes where the United States establishes agreements to provide defense articles, military training, and other defense-related services, by grant, loan, cash sale, or lease, in furtherance of national policies and objectives.