

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE INSTRUCTION 51-701

16 AUGUST 2011



Law

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

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RELEASABILITY: There are no releasability restrictions on this publication.

OPR: AF/JAO

Certified by: AF/JAO (Col Craig Miller)

Pages: 17

Supersedes: AFI 51-701, 6 May 1994

This Instruction implements Air Force Policy Directive (AFPD) 51-7, *International Law*. It delegates the authority to negotiate and conclude certain categories of international agreements and sets guidelines for processing these agreements. It also explains how to gain the approval to negotiate and conclude international agreements that are beyond the listed delegations. It details reporting and record-keeping requirements and is consistent with Department of Defense Directive (DODD) 5530.3, *International Agreements* and Title 1 United States Code (USC) Section 112b (Case-Zablocki Act). This publication applies to all United States Air Force (USAF), Air Force Reserve (USAFR), and Air National Guard (ANG) military and civilian personnel.

Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route AF Form 847 from the field through appropriate functional chain of command. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with AFMAN 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Disposition Schedule (RDS) located at <https://www.my.af.mil/afirms/afirms/afirms/rims.cfm>. This publication may be supplemented at any level, but all direct Supplements must be routed to the OPR of this publication for coordination prior to certification and approval. No waivers may be granted for any part of this publication.

SUMMARY OF CHANGES

This document has been substantially revised and must be completely reviewed. It provides a current listing of offices requiring reports, and it describes the process for appropriate notifications when negotiating, concluding and terminating international agreements.

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1. Scope of Authority. This Instruction is procedural only. Substantive legal authority for each obligation the United States will assume must reside in constitutional, statutory, or other legal authority applicable to the subject matter of the proposed agreement.

1.1. Authority. Air Force personnel, or those serving with the Air Force, must obtain written approval from one of the following authorities before they may initiate, negotiate, or conclude international agreements:

1.1.1. The Secretary of the Air Force or an authorized representative.

1.1.2. The head of an organizational element of the Air Force, or designee, who has proper delegated authority.

1.1.3. The head of another organizational element of the Department of Defense (DoD), or an authorized representative, with delegated authority with respect to the particular type of international agreement involved under AFPD 51-7 and DODD 5530.3.

1.2. Delegation of Authority. This paragraph reflects long-standing Secretary of the Air Force delegations of authority. Subject to paragraph 1.5, commanders of major commands

(MAJCOM), field operating agencies (FOA), and the heads of Headquarters Air Force (HAF) organizations are delegated the authority to negotiate and conclude international agreements, or to approve the negotiation and conclusion of such agreements, involving predominantly Air Force matters that are within the authority and responsibility of such commanders and heads, in the following categories:

1.2.1. Technical, operational, working, or similar agreements or arrangements concluded pursuant to a treaty or executive agreement that entails implementing arrangements.

1.2.1.1. **Note:** Do not assume that if an agreement merely implements an existing agreement it is not a new international agreement and that the requirements of AFPD 51-7 and DODD 5530. 3 do not apply. Also, do not assume previously delegated authority remains valid for implementing agreements. Narrowly interpret the delegation of authority for this category of agreements.

1.2.1.2. In particular, authority is not delegated for implementing agreements which in any way expand or deviate from the basic agreement, or which address Status of Force Agreement (SOFA) rights or place restrictions on operating rights for military forces outside of the US. If there is any question as to proper procedures or any question whether properly delegated authority to negotiate an agreement exists, obtain advice from Deputy General Counsel, International Affairs (SAF/GCI) or the responsible staff judge advocate.

1.2.2. Cooperative or reciprocal operational, logistical, training or other military support including the shared use or licensing of military equipment, facilities, services, or nonphysical resources.

1.2.3. Combined military planning, command relationships, military exercises and operations, minor and emergency force deployments, or exchange programs. (For USAF officer exchanges with air forces of other governments, see AFI 16-107, *Military Personnel Exchange Program (MPEP)*). The Office of the Under Secretary of Defense (Policy) (USD(P)) must approve the negotiation and conclusion of personnel exchange agreements.

1.2.4. Collection and exchange of military information or data, other than military intelligence.

1.2.5. Health and medical matters, including cooperative research, development, testing, evaluation, technical data exchange, and related standardization agreements concerning health and medical matters, provided that such agreements are not implemented through the security assistance program.

1.2.6. Sharing or exchange of DoD communications equipment, facilities, support, services, or other communications resources with a foreign country or alliance organization such as North Atlantic Treaty Organization (NATO) (including agreements pursuant to 10 USC §2350f, *Procurement of Communications Support and Related Supplies and Services*), the use of US military frequencies or frequency bands, and the use of US communications facilities and systems by foreign organizations, whether overseas or in the United States. Obtain approval in advance from the Under Secretary of Defense for Intelligence (USD(I)) if such an agreement does not consist mainly of Air Force matters.

1.2.7. EXCEPTION: Agreements about operational command of joint forces require prior approval from the Chairman of the Joint Chief of Staff (CJCS).

1.3. Exercise of Delegated Authority. Appropriate individuals must exercise this authority in compliance with laws and regulations that apply to the particular subject matter of the international agreement involved and are authorized to communicate through command channels with the DoD entity responsible for approving such agreements. Also, when authority has been delegated to a DoD element to negotiate an agreement, either specifically or by category, it does not relieve the DoD element of the requirement to fully coordinate the agreement.

1.3.1. Exercise this authority in full consultation with other Air Force and DoD organizations that have an interest in the subject matter of the agreement. In particular, an Air Force command or organization assigned to or located within the geographic area of a unified command must advise that command of any international negotiations which affect the unified command's plans and programs. The Air Force negotiators must give a copy of each agreement they conclude to the affected unified command. See Attachment 3 for other organizations which must receive copies of the agreement.

1.3.2. Coordinate with the Joint Chiefs of Staff (JCS) or its designee any agreement in paragraph 1.1.2. that involves significant changes in logistics support for US Armed Forces and that affects joint plans and programs (including base adjustments).

1.4. Redelegation of Authority. The authority delegated in paragraph 1.2. may be redelegated to subordinate commanders. However, redelegation does not relieve the delegating commander of the final responsibility for compliance with this Instruction and AFD 51-7, Section 1A. Delegating commanders must send copies of all directives, messages, or correspondence redelegating authority or otherwise implementing this Instruction to the Operations and International Law Directorate, Office of The Judge Advocate General, HQ USAF/JAO. Staff actions "for the commander" are not redelegations.

1.5. Specific Limits on Delegated Authority. The authority delegated in paragraph 1.2. does not apply to the negotiation or conclusion of the following international agreements. See paragraph 1.1. for handling proposals for the negotiation or conclusion of such agreements, even though they may otherwise fall within the scope of a category of agreements listed in paragraph 1.3.

1.5.1. International Agreements That Have Policy Significance. Prior approval from the Office of the Under Secretary of Defense (Policy) (USD(P)) is required before negotiating or concluding these agreements. The term "policy significance" is to be broadly interpreted. Any subject which has reached the Assistant Secretary of Defense level in either government should be considered to have policy significance. If there is any doubt about the policy significance of a proposed agreement, it should be sent informally through command channels to AF/JAO and SAF/GCI for determination. Agreements that have "policy significance" include, but are not limited to, those identified in Attachment 4, International Agreements and Agreements with Policy Significance.

1.5.1.1. International Agreements That Would Rely on The Authority of 10 USC §2304, *Contracts: Competition Requirements*, paragraph (c)(4) For Use of Other

Than Competitive Contracting Procedures. Obtain the prior approval of the Under Secretary of Defense (Acquisition, Technology & Logistics) (USD(AT&L)) before negotiating or concluding such agreements.

1.5.1.2. International Agreements Requiring New Legislative Authority For Implementation. Obtain the prior approval of the General Counsel of the Department of Defense (DoD/GC) before negotiating or concluding such agreements.

1.5.1.3. International Agreements That Obtain Foreign Operating or Military Rights, As Defined in Attachment 1, "Foreign Operating Rights" and "Foreign Military Rights." The negotiation and conclusion of such agreements requires the approval of USD(P).

1.5.1.4. International Agreements That Involve or Are Likely To Involve The Release of Classified Military Information, Classified Technology, or Classified Materiel. Coordinate the security provisions of such agreements with the USD(P) and the USD(I) before making any commitment to representatives of a foreign government or international organization.

1.5.1.5. International Agreements Involving Security Assistance Programs. Obtain the prior approval of the Defense Security Cooperation Agency (DSCA) before negotiating and concluding such agreements.

1.5.1.6. International Agreements Concerning Intelligence and Related Matters. Obtain the prior agreement of the Director, Defense Intelligence Agency, with the concurrence of USD(I), before negotiating and concluding agreements involving the collection and exchange of intelligence information (except signals intelligence agreements). Consult Defense Intelligence Agency Instruction 2000.01, *International Military Intelligence Relationships*, for additional guidance. The negotiation and conclusion of signals intelligence agreements also requires the prior approval of the Director, National Security Agency (NSA).

1.5.1.7. International Agreements Involving Coproduction, Licensed Production, or Related Standardization Matters. DSCA must approve negotiating and concluding agreements implemented through the security assistance program (e.g., under a provision of the Arms Export Control Act). USD(AT&L) must give prior approval of all other such agreements.

1.5.1.8. International Military or Industrial Security Agreements Under The Provisions of DoD Directive 5230.11, *Disclosure of Classified Military Information to Foreign Governments and International Organizations*, paragraph E.1.d. USD(AT&L) must give prior approval of such agreements.

1.5.1.9. International Agreements Relating to On-Base Financial Institutions (E.G., Military Banking Facilities And Credit Unions) and International Financial Agreements Requiring Coordination With the Treasury Department Under DoD 7000.14-R Volume 5. The Under Secretary of Defense (Comptroller) (USD(C)) must give prior approval of such agreements. For approval, forward copies through command channels to SAF/ FMP (Deputy Assistant Secretary for Financial Operations). Send information copies to SAF/GCI and AF/JAO.

1.5.1.10. International Agreements Related to Communications Security Technology, Services, Support, Research, or Equipment Development and Production. Such agreements require the prior approval of the NSA.

1.5.1.11. International Agreements Related To Mapping, Charting, Or Geodesy. Such agreements require the prior approval of the Director, National Geospatial-Intelligence Agency (NGA), with USD(I) and USD(P) concurrence

1.5.1.12. Agreements Related to Cooperative Research and Development and Acquisition (Except For Those Relating to Health and Medical Matters of the Air Force). The Deputy Under Secretary of the Air Force (SAF/IA) is the office of primary responsibility for proposals relating to cooperative research, development, testing, evaluation, technical data exchange, and related standardization matters. Forward all proposals for the negotiation of such agreements through command channels to SAF/IA.

1.5.1.13. Agreements (including those agreements for which authority is delegated under paragraph 1.2. above) for which HAF has directed additional or special coordination/approval requirements.

2. Procedures. Air Force personnel will not make any unilateral commitment to any foreign government or international organization (either orally or in writing), tender to a prospective party thereto any draft of a proposed international agreement, nor initial or sign an international agreement, before obtaining the concurrence of either SAF/GCI or the responsible staff judge advocate as set forth below.

2.1. Submit for SAF/GCI concurrence all proposals for the negotiation or conclusion of international agreements originating or received in the Secretariat of the Air Force, or the Air Staff, including:

2.1.1. Requests for authority to negotiate or conclude agreements.

2.1.2. Proposed international agreements referred to the Secretariat of the Air Force or Air Staff for coordination by any Air Force command or agency, the Office of the Secretary of Defense, JCS, another DoD component, the Department of State, or another US Government agency.

2.2. Submit all proposals for the negotiation or conclusion of international agreements which are within the authority of major commanders or field operating agencies (or their subordinate commands if properly redelegated) to the staff judge advocate of that command or agency for concurrence. Coordinate determinations that an agreement solely defines administrative procedures with the staff judge advocate of the command or agency involved prior to entering into any negotiation.

2.3. Submit to the Office of the Assistant Secretary of the Air Force (Financial Management and Comptroller (SAF/FM)) for concurrence all proposals for the negotiation or conclusion of international agreements that include US financial obligations or have any other cost or fiscal implication, and that require SAF/GCI concurrence. Submit to the comptroller of a MAJCOM, FOA, or subordinate command for concurrence all such proposals that require the concurrence of the staff judge advocate of such command or agency.

2.4. Request for Authority To Negotiate or Conclude. When a proposed agreement is beyond the delegated authority, or approval by HAF is required under paragraph 1.5.1.14, submit a request for authority to negotiate or conclude the agreement to the appropriate HAF functional element (Attachment 2). HAF organizations will ensure that SAF/GCI and AF/JAO receive copies of any proposals. In instances when no HAF functional office is apparent, send the proposal directly to AF/JAO for dissemination to the appropriate HAF offices. These offices will coordinate within the Air Staff, with SAF/GCI, and, as appropriate, with other elements of the SAF. Before approving any request to negotiate or conclude an international agreement, these offices will obtain any required coordination or approval from appropriate DoD offices.

3. Amendments. The negotiation and conclusion of an amendment to an international agreement must be approved in accordance with the requirements of this Instruction by the same US headquarters or office (or its successor) that approved the original agreement, or by another US official who has been expressly delegated authority to approve amendments to the agreement.

4. Oral Agreements. Any oral agreement that meets the international agreement criteria in Attachment 4 is an international agreement that is fully subject to the requirements of this Instruction and DoD Directive 5530.3. The DoD representative who enters into an oral agreement must reduce that agreement to writing. A memorandum for the record may fulfill this requirement. After reducing the agreement to writing, immediately report the agreement in accordance with paragraph 7. Oral agreements, however, should be the exception and not the rule. Upon conclusion of an oral agreement, enter the reasons for employing the oral rather than written form into the negotiating history under paragraph 8 and also summarize those reasons in the transmittal letter (see Attachment 3, A3.2.).

5. Agreements in Foreign Languages. Air Force personnel will not conclude any international agreement in a foreign language text unless the agreement meets one of the following criteria:

5.1. The agreement expressly provides that the English language text is the governing text in the event of conflict between the different language texts; or

5.2. The agreement expressly provides that the English language text and the foreign language text are equally authentic, and each foreign language text of the agreement is the subject of a certification, executed before conclusion of the agreement in any language, stating that the foreign language text and the English language text are in conformity with each other and have the same meaning in all substantive respects. A civilian, military, or local national translator, designated as qualified, consistent with local practices, by the Air Force official authorized to negotiate and conclude the agreement or by an appropriate Department of State official, shall sign and date the certification. Transmit the certification, along with the agreement, to the addressees in Attachment 3, A3.1.

6. International Agreements Containing Advance Payment Terms. Only 10 USC §§2396, *Advances for payment for compliance with foreign laws, etc.* or 10 USC §2307, *Contract financing* authorize advance payments to foreign governments and international organizations. Advance payments are the least desirable method of financing; therefore, use advance payments only when necessary to comply with the foreign country's laws and ministerial directives. When advance payments are appropriate, the negotiator must negotiate terms and conditions that are consistent with prudent cash management. The advance payment procedures should minimize

the amount of cash outlays and the duration of the prepayment time period. Coordinate advance payment requests through command comptroller channels to SAF/ FMP, Washington DC 20330. SAF/FMP will obtain the concurrence of SAF/GCI. The advance payment request should contain, as a minimum, the following information (**Note:** Because circumstances vary, SAF/FMP may require additional information):

- 6.1. The foreign law or ministerial directive that requires payment in advance.
- 6.2. Location and description of project being financed.
- 6.3. Cost of the project and amount of advance needed.
- 6.4. Name and location of the organization designated as recipient of the advance.
- 6.5. Scheduled dates for the advance payments and the start of the project.
- 6.6. Detailed description of the payment and recoupment/reconciliation procedures.
- 6.7. Provisions for interest, if any, to be accrued from the funds advanced.
- 6.8. Name and address of the organization negotiating the advance.
- 6.9. Appropriation funding the project.
- 6.10. Statement indicating project funding status (that is, fully, partially, or not funded).

7. Reporting Agreements. 1 USC §112b(a), (Case-Zablocki Act), requires the Secretary of State to report to the Congress all international agreements other than treaties within 60 calendar days after their entry into force with respect to the United States. According to Title 22, Code of Federal Regulations (CFR), Part 181.5, *Twenty-day rule for concluded agreements*, each organizational element of the Air Force that concludes an international agreement must send the original or certified copies (or both) of the international agreement, in time to arrive at the Office of the Assistant Legal Adviser for Treaty Affairs, Department of State, not later than 20 calendar days after signature of the agreement. (EXCEPTION: Submit international intelligence agreements in time to arrive at Defense Intelligence Agency (DIA) or NSA, as appropriate, not later than 15 calendar days after signature of the agreements.) Use the format in Attachment 3.

- 7.1. Provide a copy of any annual list of terminated international agreements prepared by or for the air component of a unified command to AF/JAO.

8. Negotiating History of Agreements. The organization that actually negotiates an international agreement is responsible for compiling, keeping, and being able to retrieve a complete negotiating history file on it. Maintain this historical file at least for the duration of the agreement, or until it no longer has legal significance.

9. Office of Record. AF/JAO is the single office of record for the Air Force by maintaining copies of each agreement covered by this Instruction. Each Air Force organization that exercises delegated authority under this Instruction must name a single office to carry out the required recordkeeping, and provide AF/JAO with one copy of its implementing directive.

10. Compliance. According to DODD 5530.3, the Air Force must oversee compliance with those international agreements for which it is responsible. The Air Force must keep the DoD/GC up to date and fully informed on compliance with such international agreements.

10.1. Resolving Compliance Issues. When a question arises concerning compliance by a party with the terms of an international agreement that cannot be resolved by informal discussion between responsible working level authorities of the parties, send a report of the full particulars of the circumstances relevant to such question to SAF/GCI, with a copy to AF/JAO (except for such questions governed by the procedures set forth in AFJI 51-706, *Status of Forces Policies, Procedures, and Information*).

10.2. Resolving Policy Issues. Unless previously authorized by the Secretary of Defense, Air Force personnel shall not take any action to resolve or otherwise deal with such questions having policy significance before obtaining the written concurrence of both USD(P) and DoD/GC. Submit any request for the concurrence of USD(P) and DoD/GC concerning such a question through command channels and HAF to SAF/GCI, who shall consult with SAF/IA and other appropriate HAF offices regarding appropriate action.

RICHARD C. HARDING
Lieutenant General, USAF
The Judge Advocate General

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFPD 51-7, *International Law*, 5 February 2009

AFJI 51-706, *Status of Forces Policies, Procedures, and Information*, 14 January 1990

AFI 16-107, *Military Personnel Exchange Program (MPEP)*, 2 February 2006

Title 1 United States Code Section 112b (a), *Case-Zablocki Act*

Title 10 United States Code Section 2304, *Contracts: competition requirements*

Title 10 United States Code Section 2307, *Contract financing*

Title 10 United States Code Section 2341, *Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States*

Title 10 United States Code Section 2350f, *Procurement of communications support and related supplies and services*

Title 10 United States Code Section 2396, *Advances for payment for compliance with foreign laws, rent in foreign countries, tuition, public utility services, and pay and supplies of armed forces of friendly foreign countries*

Title 10 United States Code Section 2667, *Leases: non-excess property of military departments and Defense Agencies*

Title 10 United States Code Section 2675, *Leases: foreign countries*

Title 22 United States Code Section 2796, *Leasing Authority*

Title 22, Code of Federal Regulations, Part 181.5, *Twenty-day rule for concluded agreements*, current edition

DoD Directive 2010.9, *Acquisition and Cross-Servicing Agreements*, November 24, 2003

DoD Directive 5230.11, *Disclosure of Classified Military Information to Foreign Governments and International Organizations*, June 16, 1992

DoD Directive 5530.3, *International Agreements*, June 11, 1987

DoD Financial Management Regulation 7000.14-R, Volume 5, current edition

Defense Intelligence Agency Instruction 2000.001, *International Military Intelligence Relationships*, December 2, 2004

Adopted Forms

AF Form 847, *Recommendation for Change of Publication*.

Abbreviations and Acronyms

ASCC—Air Standardization Coordination Committee

ANG—Air National Guard

CJCS—Chairman Joint Chief of Staff
DIA—Defense Intelligence Agency
DoD—Department of Defense
DoDD—Department of Defense Directive
DSCA—Defense Security Cooperation Agency
FAR—Federal Acquisition Regulation
FOA—Field Operating Agency
HAF—Headquarters Air Force
JCS—Joint Chief of Staff
MAJCOM—Major Command
NATO—North Atlantic Treaty Organization
NAVSTAGS—Naval Standardization Agreements
NGA—National Geospatial-Intelligence Agency
NSA—National Security Agency
OPR—Office of Primary Responsibility
OSD—Office of the Secretary of Defense
QSTAG—Quadripartite Standardization Agreements
RDS—Records Disposition Schedule
SOFA—Status of Forces Agreement
STANAG—Standardization Agreements
USAF—United States Air Force
USAFR—United States Air Force Reserve
USC—United States Code

Terms

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

Foreign Military Rights—These rights are a foreign government's approval to conduct US operations or activities of a longer duration and of a more permanent nature in its territory. These rights are the subject of government-to-government negotiations. They permit operating US bases overseas, stationing US units overseas, establishing lines of communication, etc. Requirements for these rights are set up as part of US-worldwide programs and requirements.

Foreign Operating Rights—These rights are a foreign government's approval to conduct US operations or activities of short duration in or over its territory. Such rights permit (subject to restrictions imposed by the foreign government) surveys, temporary support facilities, entry of personnel, etc. In some situations, a foreign operating right may permit entry into a foreign

territory without a subsequent foreign clearance. In others, foreign operating rights may only pertain to proposed activities in general, and one or more foreign clearances may be needed to enter, transit, or exit the foreign territory.

Negotiation—Communication by any means of a position or an offer, on behalf of the United States, the Department of Defense, or on behalf of any officer or an organizational element thereof, to an agent or representative of a foreign government, including an agency, instrumentality, or political subdivision thereof, or of 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 if it is conditioned on later approval by higher 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 any US or foreign government or international organization draft document whether or not titled "agreement." 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.

Attachment 2

PROCEDURES FOR REQUESTING TO NEGOTIATE OR CONCLUDE AN INTERNATIONAL AGREEMENT

A2.1. Procedures. When a proposed international agreement goes beyond the delegated authority, written authority to negotiate or conclude the agreement is required. A request to negotiate may be by letter or message and must include:

A2.1.1. A draft text, outline, or complete description of the proposed international agreement.

A2.1.2. A legal memorandum stating the Constitutional, statutory, or other legal authority for each proposed obligation that the United States would assume in the agreement and an explanation of other relevant legal considerations.

A2.1.3. A fiscal memorandum stating the estimated cost of each proposed obligation that the DoD would assume in the agreement, the source of funds to be obligated, and reference to foreign currency payment provisions, if applicable.

A2.1.4. A Technology Assessment and Control Plan per DoD Directive 5530.3.

A2.1.5. A quid pro quo analysis that fully addresses the benefit to be derived by each signatory to all proposed agreements involving cooperative research, development, testing, evaluation, technical data exchange, and related standardization matters.

A2.2. Procedures Unique to International Intelligence Agreements. All proposals for collection and exchange of intelligence information (except signals intelligence) must be approved by the Director, DIA before the Air Force intelligence organization makes any commitments to a foreign organization. Refer to DIA Instruction 2000.001, for guidance on how to contact a foreign organization about the possibility of starting intelligence relationship; how to establish, change or terminate an intelligence relationship; how to meet semi-annual reporting requirements on the status of these relationships; and how to acknowledge any electronic communications systems supporting these relationships. DIA International Engagement (IE), is the DoD office of primary responsibility for international intelligence exchange agreements for general military intelligence agreements (except signals intelligence agreements). The DIA Defense Counterintelligence and HUMINT Center (DX) is the DoD Office of primary responsibility for operational defense human intelligence (HUMINT) collection agreements with foreign partners. [*Note: Other types of collection agreements (i.e. for non-HUMINT collection programs) will be coordinated and processed through DIA/IE as if they were traditional intelligence exchange agreements*].

Attachment 3**REPORTING INTERNATIONAL AGREEMENTS**

A3.1. Addressees. Each organizational element of the Air Force that concludes an international agreement must submit reproducible copies of the agreements to the following addressees:

A3.1.1. Department of State, Attn Assistant Legal Adviser, Treaty Affairs, Washington DC, USA, 20520. (The original and one certified copy, or two certified copies)

A3.1.2. DoD General Counsel, 1600 DEFENSE PENTAGON, WASHINGTON DC, 20301-1600. (Two certified copies)

A3.1.3. Office of the Deputy General Counsel, International Affairs (SAF/GCI), 1740 AIR FORCE PENTAGON, WASHINGTON DC, 20330-1740. (One certified copy)

A3.1.4. Operations and International Law Division, Office of The Judge Advocate General (HQ USAF/JAO, 1420 AIR FORCE PENTAGON, WASHINGTON DC 20330-1420. (One certified copy)

A3.1.5. Any other offices required by unified or specified command directives or deemed appropriate by the component Air Force commands or their designee.

A3.2. Letter of Transmittal. Include a letter of transmittal with each international agreement, that:

A3.2.1. Identifies type of agreement: bilateral or multilateral.

A3.2.2. Specifies the countries or international organization(s) that are party to the agreement.

A3.2.3. Lists all US and foreign governmental agencies or units or international organizations responsible for carrying out the agreement.

A3.2.4. Specifies the full title and security classification of the agreement.

A3.2.5. Specifies the subject of the agreement and summarizes the agreement.

A3.2.6. Explains why the agreement was concluded now and what the effect of the agreement is likely to be, including benefits to each party.

A3.2.7. Indicates geographic location where the agreement was signed.

A3.2.8. Specifies the legal authority that authorized the DoD to enter into and carry out the agreement (specifying both the procedural authority under this Instruction and the substantive legal authority for each obligation undertaken on behalf of the United States under the agreement).

A3.2.9. States the date of entry into force.

A3.2.10. States the date of termination.

A3.2.11. Contains the names of all signing officials, their titles and the offices they represent, and their countries or international organization.

A3.2.12. States the full titles and dates of any agreements, if any, upon which the agreement is based or amends.

A3.2.13. States the date of signature of the agreement.

A3.2.14. States any conditions for entry into force.

A3.2.15. Specifies the organizational element responsible for maintaining the negotiating history (see paragraph 1.9).

A3.2.16. **Note:** If the transmitted text is a copy of the original, certify the copy to be a true copy of the original. If transmitting the text of the agreement more than 20 calendar days after its signature, the transmittal document shall fully and completely describe the reasons for the late transmittal.

Attachment 4

INTERNATIONAL AGREEMENTS AND AGREEMENTS WITH POLICY SIGNIFICANCE

A4.1. International Agreement—As used in this Instruction, an international agreement is any agreement concluded with one or more foreign governments (including their agencies, instrumentalities, or political subdivisions) or with an international organization, that:

A4.1.1. Is signed or agreed to (including oral commitments) by personnel of any DoD component, or by representatives of the Department of State or any other department or agency of the US Government.

A4.1.2. Signifies the intention of its parties to be bound in international law.

A4.1.3. Is denominated as an international agreement or as a memorandum of understanding, memorandum of agreement, memorandum of arrangements, exchange of notes, exchange of letters, technical arrangement, protocol, note verbale, aide-memoire, agreed minute, plan, contract, arrangement, statement of intent, letter of intent, statement of understanding, standard operating procedure, CONPLAN, or any other name connoting a similar legal consequence.

A4.1.4. Is **not** among the following categories of agreements which, for the purposes of this Instruction, are not considered international agreements:

A4.1.4.1. Contracts made under the Federal Acquisition Regulation (FAR).

A4.1.4.2. Foreign Military Sales Credit Agreements.

A4.1.4.3. Foreign Military Sales Letters of Offer and Acceptance (LOAs).

A4.1.4.4. Standardization Agreements, NATO Standardization Agreements (STANAG), Quadripartite Standardization Agreements (QSTAG), Air Standardization Coordination Committee Air Standards (ASCC Air Standards), 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. (EXCEPTION: A STANAG which provides for mutual support or cross-servicing of military equipment, ammunition, supplies and stores or for mutual rendering of defense services, including training, does constitute an international agreement).

A4.1.4.5. Leases under 10 USC §2667, *Non-excess Property*; 10 USC §2675, *Leases: foreign countries*; and 22 USC §2796, *Leasing Authority*

A4.1.4.6. Agreements concluded solely to establish administrative procedures. Coordinate the determination that an agreement solely establishes administrative procedures with the staff judge advocate of the command or agency involved prior to entering into any negotiation.

A4.1.4.7. Acquisitions or orders pursuant to cross-servicing agreements made under the authority of the NATO Mutual Support Act (10 USC §2341 et seq.) and DoD Directive 2010.9, *Acquisition and Cross-Servicing Agreements*. Umbrella agreements, implementing arrangements and cross-servicing agreements under these authorities are international agreements.

A4.2. Agreements That Have "Policy Significance"—Include, but are not limited to agreements that:

A4.2.1. Specify national disclosure, technology-sharing or work-sharing arrangements, coproduction of military equipment, or offset commitments as part of an agreement for international cooperation in the research, development, testing, evaluation, or production of defense articles, services, or technology;

A4.2.2. Would directly and significantly affect foreign or defense relations between the United States and another government because of their intrinsic importance or sensitivity;

A4.2.3. Would by their nature, require approval, negotiation, or signature at the OSD or diplomatic level; or

A4.2.4. Would create security commitments not currently assumed by the United States in existing mutual security or other defense agreements and arrangements, or which would increase US obligations with respect to the defense of a foreign government or area.