BY ORDER OF THE SECRETARY OF THE AIR FORCE

AIR FORCE POLICY DIRECTIVE 51-7
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Law

INTERNATIONAL LAW

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This directive specifies policies which govern how Air Force operations comply with international law. This directive establishes policy for implementing DoD Directive 2000.11, *Procedures for Handling Requests for Political Asylum and Temporary Refuge*, DoD Instruction 5100.64, *DoD Foreign Tax Relief Program*, DoD Directive 5525.1, *Status of Forces Policy and Information*, DoD Instruction 5525.03, *Criminal Jurisdiction of Service Courts of Friendly Foreign Forces and Sending States in the United States*, and DoD Directive 5530.3, *International Agreements*. This policy applies to Air Force Reserve Command (AFRC) units and the Air National Guard (ANG). Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the Air Force Form 847, *Recommendation for Change of Publication*; route AF Form 847s from the field through Major Command (MAJCOM) publications/forms managers. 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://afrims.amc.af.mil/**.

SUMMARY OF CHANGES

This policy directive has been revised to update citations to referenced material and remove discussion of security assistance, which is implemented by SAF/IA through AFPD 16-1, *International Affairs*.

Section 1A—Negotiating, Concluding, Reporting, and Maintaining International Agreements

1. Air Force operations often cross national boundaries and therefore must comply with international law while protecting and defending US Air Force interests and people.

2. Air Force personnel, or those serving with the Air Force, initiate, negotiate, and conclude international agreements in accordance with DoD Directive 5530.3, *International Agreements*, and AFI 51-701*, Negotiating, Concluding, Reporting and Maintaining International Agreements*. Additional guidance on international armament cooperation agreements is provided in AFI 16-110, *US Air Force Participation in International Armament Cooperation (IAC) Programs*.

3. Following are responsibilities and authorities:

3.1. Each Air Force organizational element that concludes an international agreement will submit copies to the Department of State (DoS), DoD General Counsel (DoD/GC), Secretary of the Air Force General Counsel (SAF/GC), and the Headquarters Air Force Judge Advocate (AF/JA). Original or certified copies of agreements must arrive at DOS within 20 calendar days after the date they are signed.

3.2. Air Force personnel will try informally to settle questions about a party's compliance with the terms of an international agreement. They will forward unresolved questions to the Deputy General Counsel for International Affairs (SAF/GCI) in the Secretariat of the Air Force, Office of the General Counsel, with a copy to the Air Force Operations and International Law Division (AF/JAO).

4. This section implements DoD Directive 5530.3 and the *Case-Zablocki Act*, Title 1 United States Code (U.S.C), Section 112b.

5. Related instructions are in AFI 51-701 and AFI 16-110.

Section 1B—Foreign Tax Relief

6. The Air Force will obtain, to the maximum extent practicable, effective relief from foreign taxes whenever the ultimate economic burden of those taxes will be paid with funds appropriated or allocated to the Air Force, or under the control of its nonappropriated fund activities.

7. The following responsibilities and authorities are established:

7.1. As the cognizant office for foreign tax matters, AF/JA will supervise and monitor the Air Force's program for foreign tax relief. AF/JA will submit foreign tax matters of major importance to SAF/GC for action.

7.2. Commanders of Combatant Commands designate a military commander to be responsible for tax matters for each foreign country. Designated Military Commanders are responsible for the DoD foreign tax relief programs within their respective countries and are the single point of contact for US contracting officers and foreign tax relief program activities.

7.3. In countries where the commander of an Air Force unit or organization is not the Designated Military Commander for tax matters, the appropriate Air Force overseas major command (MAJCOM) commander will appoint an Air Force Liaison Officer for tax matters.

8. This section implements DoD Instruction 5100.64, *DoD Foreign Tax Relief Program*.

9. Related instructions are in AFI 51-702, *Foreign Tax Relief*.

Section 1C—Pretrial Custody Overseas

10. The Air Force will seek the release from foreign custody of all Air Force personnel charged with criminal offenses under foreign law.

11. The following responsibilities and authorities are established:

11.1. Air Force commanders will have procedures to ensure that Air Force people subject to foreign court jurisdiction do not leave the country until final disposition of the charges. Commanders may allow departures only if the host country's approved practices and procedures allow it, or if the departure is approved by AF/JA and either the designated country officer or country representative.

11.2. Local staff judge advocates (SJA) will promptly notify Air Force members facing criminal charges in a foreign country of their right to a military legal advisor (MLA). The SJA will appoint a judge advocate as the MLA if a member asks for one.

12. This section implements DoD Directive 5525.1, *Status of Forces Policy and Information*.

13. Related instructions are in AFI 51-703, *Foreign Criminal Jurisdiction* and AFJI 51-706, *Status of Forces Policies, Procedures, and Information*.

Section 1D—Requests for Political Asylum or Temporary Refuge

14. Foreign nationals within US territorial jurisdiction or on the high seas who request political asylum will be given a full opportunity to have their request considered on its merits. Persons seeking political asylum will receive every reasonable care and protection available under the circumstances.

15. The following responsibilities and authorities are established:

15.1. Solely within US territorial jurisdiction: Air Force personnel will receive applicants for political asylum in a DoD facility or onboard a military vessel or aircraft. They will not turn applicants over against their will to foreign authorities until their request is properly considered and directions are received from the Secretary of the Air Force or the Director of the Defense agency concerned.

15.2. Within a foreign territorial jurisdiction: No Air Force personnel may grant an applicant political asylum in a DoD component's facilities or onboard any military aircraft or vessel within a foreign country's territorial jurisdiction. Anyone receiving this kind of request must immediately notify the US Embassy.

15.2.1. Air Force personnel in a foreign country may grant temporary refuge to nationals of that country, to nationals of a third state, or to anyone on the high seas, if a foreign national appears to need protection from imminent danger to life or safety. They may not grant refuge to persons fleeing pursuit by duly constituted law-enforcement authorities of the foreign country. Anyone receiving this kind of request must immediately notify the US Embassy.

15.2.2. The senior official at the DoD facility or onboard a military aircraft or vessel may grant temporary refuge upon request of the foreign national. That refuge will end only when directed by higher authority through the Secretary of the Air Force.

15.3. No one will release information concerning a request for political asylum or temporary refuge to the public or the media without approval by the Assistant Secretary of Defense for Public Affairs.

16. This section does not apply to prisoners of war or members of an enemy force during an armed conflict.

17. This section implements DoD Directive 2000.11, *Procedures for Handling Requests for Political Asylum and Temporary Refuge*.

18. Related instructions are in AFI 51-704, *Handling Requests for Political Asylum and Temporary Refuge*.

Section 1E—Assistance to Friendly Foreign Forces and the Forces of Sending States

19. The Air Force will provide assistance to friendly foreign forces in the United States who, based on a Presidential finding or declaration, are specifically granted the powers and privileges prescribed in Title 22 U.S.C., Sections 701 through 706. To date only Australia has been so designated (Presidential Proclamation No. 3681, October 10, 1965).

20. The Air Force will also provide assistance to the forces of sending states authorized to exercise service court jurisdiction in the United States pursuant to treaty or international agreement. Parties to the North Atlantic Treaty Organization (NATO) Status of Forces Agreement (SOFA) are authorized to exercise service court jurisdiction in the United States under the provisions of Article VII of that treaty.

21. The following responsibilities and authorities are established:

21.1. AF/JA oversees this policy through the Operations and International Law Division (AF/JAO). MAJCOM SJAs set up appropriate channels and procedures for receiving and forwarding requests and help friendly foreign forces and the forces of sending states contact authorities of the United States and its political subdivisions.

22. This section implements DoD Instruction 5525.03, *Criminal Jurisdiction of Service Courts of Friendly Foreign Forces and Sending States in the United States*.

23. Related instructions are in AFI 51-705, *Criminal Jurisdiction of Service Courts of Friendly Foreign Forces and Sending States in the United States*, and AFJI 51-707, *Consular Protection of Foreign Nationals Subject to the Uniform Code of Military Justice*.

Section 1F—Prescribed and Adopted Forms

24. Prescribed forms: None.

25. Adopted forms: AF Form 847, *Recommendation for Change of Publication*.

MICHAEL B. DONLEY
Secretary of the Air Force

Attachment 1
GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References

AFI 16-110, *US Air Force Participation in International Armament Cooperation (IAC) Programs*, 4 November 2003

AFI 51-701, *Negotiating, Concluding, Reporting and Maintaining International Agreements*, 6 May 1994

AFI 51-702, *Foreign Tax Relief*, 3 October 2007

AFI 51-703, *Foreign Criminal Jurisdiction*, 6 May 1994

AFI 51-704, *Handling Requests for Political Asylum and Temporary Refuge*, 19 July 1994

AFI 51-705, *Criminal Jurisdiction of Service Courts of Friendly Foreign Forces and Sending States in the United States*, 5 February 2009

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

AFJI 51-707, *Consular Protection of Foreign Nationals Subject to the Uniform Code of Military Justice*, 5 November 1968

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

DoD Directive 2000.11, *Procedures for Handling Requests for Political Asylum and Temporary Refuge*, 3 March 1972, incorporating Change 1, 17 May 1973

DoD Directive 5525.1, *Status of Forces Policy and Information*, 7 August 1979, incorporating through Change 2, 2 July 1997

DoD Directive 5530.3, *International Agreements*, 11 June 1987, incorporating Change 1, 18 February 1991

DoD Instruction 5100.64, *DoD Foreign Tax Relief Program*, 20 March 2006

DoD Instruction 5525.03, *Criminal Jurisdiction of Service Courts of Friendly Foreign Forces and Sending States in the United States*, 30 March 2006

Title 10, United States Code, Section 1037 (Counsel Before Foreign Judicial Bodies and Administrative Agencies; Court Costs and Bail)

Title 22, United States Code, Sections 701-706 (Service Courts of Friendly Foreign Forces)

Abbreviations and Acronyms

AFI—Air Force Instruction

AFJI—Air Force Joint Instruction

AFMAN—Air Force Manual

AFRC—Air Force Reserve Command

ANG—Air National Guard

DoD—Department of Defense

DOS—Department of State

GC—General Counsel

IAC—International Armaments Cooperation

MAJCOM—Major Command

MLA—Military Legal Advisor

NATO—North Atlantic Treaty Organization

OPR—Office of Primary Responsibility

RDS—Records Disposition Schedule

SAF—Secretariat of the Air Force

SOFA—Status of Forces Agreement

US—United States

U.S.C.—United States Code