



## DEFENSE INFORMATION SYSTEMS AGENCY

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DISA INSTRUCTION 100-50-5\*

JAN 30 2014

### POLICIES

#### International Agreements

1. **Purpose.** This Instruction prescribes policy and assigns responsibility for international agreements. It also advises of the point of contact to provide guidance on negotiation and conclusion of international agreements.
2. **Applicability.** This Instruction applies to DISA activities.
3. **Authority.** This Instruction is published in accordance with the authority contained in DoD Directive (DoDD) 5530.3, International Agreements, 11 June 1987, and Chairman of the 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.**
  - 4.1 **International Agreement.** Any document, regardless of title, which signifies an accord, agreement, understanding, acknowledgement, or arrangement between DISA and a foreign entity. It may be referred to as a memorandum of understanding, memorandum of agreement, memorandum of cooperation, memorandum of arrangement, exchange of notes, exchange of letters, technical arrangement, protocol, agreed minute, contract, arrangement, statement of intent, letter of intent, statement of understanding, or any other name connoting a legal, policy, or mission consequence.
  - 4.2 **Negotiation.** Communication by any means of a position or an offer, officially or unofficially, on behalf of DISA, DoD, or the United States to an agent or representative of a foreign government, including an agency thereof, or an international organization. The term "negotiation" includes any such communication even though conditioned on later approval by the responsible authority. It includes provision of a draft agreement or other document, the acceptance of which would constitute an agreement. It also includes discussions concerning any U.S. or foreign government or international organization document whether or not titled "agreement."
  - 4.3 **Conclusion.** The act of signing, initialing, responding to, or otherwise indicating the acceptance of an international agreement by the United States.

## **5. Policy.**

5.1 DISA will comply with the provisions of DoDD 5530.3 and CJCSI 6740.01C, as applicable, when negotiating or concluding an international agreement with a foreign government or an international organization. Funds authorized and appropriated to DISA may only be used to carry out DoD missions and may not be used for foreign assistance. DISA can provide or receive communications service, support, and supplies to a foreign country or organization only pursuant to specific statutory authority; such as, the Arms Export Control Act (22 U.S.C. § 2751, et. seq.), 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).

5.2 An international agreement will not be negotiated or concluded without the prior written approval of the Secretary of Defense or designees to whom such approval authority has been delegated.

## **6. Responsibilities.**

6.1 **General Counsel (GC).** The GC will:

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

6.1.2 Comply with all statutory and regulation reporting requirements, including notification to the Department of State under the Case Act (1 U.S.C. 112b).

6.1.3 Be the central repository for copies of all international agreements, and any changes thereto, entered into by DISA personnel, including negotiating history.

6.1.4 Assist DISA personnel with requests for copies of international agreements executed by other DoD components.

6.2 **Principal Directors, Directors, Commanders, and Chiefs of Major Organizational Elements.** These individuals will:

6.2.1 Ensure adequate resources are available to support the negotiation, conclusion, and management of international agreements.

6.2.2 Consult with the Office of General Counsel (OGC) prior to any discussion with a foreign government or organization regarding a new international agreement or an amendment or modification to an existing agreement.

6.2.3 As guided by OGC, obtain proper authority to negotiate and conclude an international agreement.

6.2.4 Compile, retain, and provide to OGC a complete negotiating historical file for each international agreement.


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

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

**7. Foreign Military Sales (FMS) Cases.** FMS management is the responsibility of the Defense Security Cooperation Agency (DSCA), as delineated in the Security Assistance Management Manual, DoD 5105.38-M. Agency FMS cases are managed by the Foreign Affairs Office within the office of the Chief of Staff.

**8. Foreign Disclosure Issues.** Release of information to foreign governments, international organizations, and foreign nationals requires release determination from the Foreign Disclosure Officer (FDO) in the Foreign Affairs Office.

**9. Point of Contract for Guidance for Negotiation and Conclusion of International Agreements.** Guidance on the negotiation and conclusion of each individual international agreement will be provided by OGC, ensuring compliance with DoDD 5530.3 and CJCSI 6740.01C.

  
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Chief of Staff

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\*This Instruction replaces DISAI 100-50-5, 10 January 2006, and must be reissued, canceled, or certified current within 5 years of its publication. If not, it will expire 10 years from its publication date and be removed from the DISA issuances postings.

OPR: GC - disa.meade.gc.mbx.disa-gen-counsel

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