Army Regulation 12–1

Security Assistance and International Logistics

Security Assistance, Training, and Export Policy

Headquarters
Department of the Army
Washington, DC
22 February 2016

UNCLASSIFIED

SUMMARY of CHANGE

AR 12-1
Security Assistance, Training, and Export Policy

This expedite revision, dated 22 February 2016--

- Clarifies roles and responsibilities of the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (para 2-2).

- Clarifies roles and responsibilities of the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation (para 2-3).

Headquarters
Department of the Army
Washington, DC
22 February 2016

*Army Regulation 12–1

Effective 22 March 2016

Security Assistance and International Logistics

Security Assistance, Training, and Export Policy

By Order of the Secretary of the Army:

MARK A. MILLEY
General, United States Army
Chief of Staff

Official:

GERALD B. O'KEEFE
Administrative Assistant to the
Secretary of the Army

History. This publication is an expedite revision. The portions affected by the expedite revision are listed in the summary of change.

Summary. This regulation provides policy for the management and execution of Army security assistance and international logistics support programs. It covers organization, functions, and responsibilities of the Army Secretariat, the Army Staff, Army Commands, and other Army organizations involved in or in support of Army security assistance and international logistics support programs. It furnishes policy guidance on foreign military financing, international military education and training, and foreign military sales programs. It aligns policy with DOD 5105.38–M.

Applicability. This regulation applies to the Active Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve, unless otherwise stated. It also applies to Army civilian and contracted employees worldwide.

Proponent and exception authority. The proponent of this regulation is Assistant Secretary of the Army (Acquisition, Logistics, and Technology). The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations. The proponent may delegate this approval authority, in writing, to a division chief within the proponent agency or its direct reporting unit or field operating agency, in the grade of colonel or the civilian equivalent. Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity's senior legal officer. All waiver requests will be endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters to the policy proponent. Refer to AR 25–30 for specific guidance.

Army internal control process. This regulation contains internal control provisions in accordance with AR 11–2, but it does not identify key management controls that must be evaluated.

Supplementation. Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (SAAL–NP), 2530 Crystal Drive, Suite 1100, Arlington, VA 22202–3934.

Suggested improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation (SAAL–NP), 2530 Crystal Drive, Suite 1100, Arlington, VA 22202–3934.

Distribution. This regulation is available in electronic media only and is intended for command levels C, D, and E for the Active Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve.

Contents (Listed by paragraph and page number)

Chapter 1
Introduction, *page 1*
Purpose • 1–1, *page 1*
References • 1–2, *page 1*
Explanation of abbreviations and terms • 1–3, *page 1*
Responsibilities • 1–4, *page 1*
Authority • 1–5, *page 1*
Objectives of Army security assistance • 1–6, *page 1*
Scope • 1–7, *page 1*

*This regulation supersedes AR 12–1, dated 23 July 2010.

UNCLASSIFIED

Contents—Continued

Command and staff relationships, staffing, and coordination • 1–8, *page 2*
Program implementation • 1–9, *page 2*

Chapter 2
Responsibilities, *page 3*
Secretary of the Army • 2–1, *page 3*
Assistant Secretary of the Army (Acquisition, Logistics and Technology) • 2–2, *page 3*
Deputy Assistant Secretary of the Army for Defense Exports and Cooperation • 2–3, *page 4*
Assistant Secretary of the Army (Financial Management and Comptroller) • 2–4, *page 7*
Assistant Secretary of the Army (Civil Works) • 2–5, *page 7*
General Counsel • 2–6, *page 7*
Deputy Chief of Staff, G–1 • 2–7, *page 8*
Deputy Chief of Staff, G–2 • 2–8, *page 8*
Deputy Chief of Staff, G–3/5/7 • 2–9, *page 8*
Deputy Chief of Staff, G–4 • 2–10, *page 8*
Deputy Chief of Staff, G–8 • 2–11, *page 9*
The Surgeon General • 2–12, *page 9*
Security assistance implementing agencies • 2–13, *page 9*
Commanding General, U.S. Army Materiel Command • 2–14, *page 10*
Commanding General, U.S. Army Training and Doctrine Command • 2–15, *page 10*
Chief, U.S. Army Corps of Engineers • 2–16, *page 10*
Program executive officer and program manager • 2–17, *page 10*

Chapter 3
Foreign Military Sales, *page 11*

Section I
Foreign Military Sales Policy Considerations, page 11
False impressions • 3–1, *page 11*
Congressional notification requirements • 3–2, *page 11*
Authority to negotiate and sign international agreements • 3–3, *page 11*
Direct commercial sales • 3–4, *page 11*
Operational testing and evaluation • 3–5, *page 12*
Denial of requests • 3–6, *page 12*
Exceptions to policy • 3–7, *page 12*

Section II
Foreign Military Sales Planning Requirements, page 12
Distribution guidance • 3–8, *page 12*
Suspensions and cancellations • 3–9, *page 13*
Determination of eligibility • 3–10, *page 13*
Precase activities and/or initiatives • 3–11, *page 13*
Total package approach • 3–12, *page 13*

Chapter 4
Training, *page 13*

Section I
Training Management, page 13
Security Cooperation Education and Training Program • 4–1, *page 13*
Planning and programming • 4–2, *page 14*
Language requirements • 4–3, *page 14*
International military education and training • 4–4, *page 14*
Foreign military sales training • 4–5, *page 15*

Contents—Continued

Section II
Security Assistance Teams, page 15
Purpose • 4–6, *page 15*
Policy • 4–7, *page 15*
Mission requirements • 4–8, *page 15*
In-country support • 4–9, *page 15*

Chapter 5
Foreign Military Sales Acquisition, *page 16*

Section I
U.S. Army Materiel Requirements, page 16
Diversions and withdrawals • 5–1, *page 16*
Withdrawing security assistance assets for Army use • 5–2, *page 16*
Replenishing a diversion • 5–3, *page 16*
Recovery of stocks upon suspension or termination of a security assistance program • 5–4, *page 17*

Section II
Acquisitions in Support of Army Security Assistance, page 17
Normal allocation • 5–5, *page 17*
Reserving security assistance • 5–6, *page 17*
Designating sole source procurement • 5–7, *page 17*
Nonstandard procurement • 5–8, *page 17*
Army initiatives involving the offer of obsolescent or excess ammunition, missiles, equipment, and components • 5–9, *page 17*
Foreign weapon systems • 5–10, *page 17*
Warranties • 5–11, *page 18*
Research, development, test, and evaluation • 5–12, *page 18*

Chapter 6
Security Assistance Logistics, *page 18*

Section I
General Policy, page 18
Presale considerations • 6–1, *page 18*
Mutual logistics support • 6–2, *page 19*
Force activity designator • 6–3, *page 19*
Concurrent spare parts • 6–4, *page 19*
Types of support cases • 6–5, *page 19*
Supportability and support termination • 6–6, *page 20*
Actions upon cancellation or suspension of a country program or case • 6–7, *page 21*
Quality assurance in support of foreign military sales • 6–8, *page 21*

Section II
Transfer of Defense Articles, page 21
Policy • 6–9, *page 21*
Cooperative research, development, test, and evaluation loans • 6–10, *page 21*
Leases • 6–11, *page 21*
Third-party transfers • 6–12, *page 22*

Section III
Transportation Support, page 22
Foreign military sales shipments • 6–13, *page 22*
Military transportation • 6–14, *page 22*
Supply discrepancy reports • 6–15, *page 22*

Contents—Continued

Chapter 7
Foreign Military Financing Grants and Loans, *page 23*
Funding source • 7–1, *page 23*
Eligibility, use, and restrictions of foreign military financing funds • 7–2, *page 23*
Loan guaranties and foreign military financing • 7–3, *page 23*
U.S. Government rights to Military Assistance Program materiel • 7–4, *page 24*
Disposal of Military Assistance Program materiel • 7–5, *page 24*

Chapter 8
Foreign Military Sales Manpower and Personnel, *page 24*
Civilian resource guidance • 8–1, *page 24*
Contract personnel • 8–2, *page 24*
Manpower reporting • 8–3, *page 25*

Chapter 9
Financial Management, *page 25*

Section I
Letter of Offer and Acceptance, page 25
Foreign military sales financial programs • 9–1, *page 25*
Pricing policy • 9–2, *page 25*
Type of charges in letter of offer and acceptance • 9–3, *page 26*
Nonrecurring cost • 9–4, *page 27*
Offsets • 9–5, *page 27*
Early cancellation of foreign military sales cases • 9–6, *page 27*

Section II
Financial Assistance Programs and Funding, page 28
Foreign military sales direct credit and guaranteed loan financing • 9–7, *page 28*
Financial resources • 9–8, *page 28*
Administrative budget functional control and oversight • 9–9, *page 28*

Chapter 10
Export Management, *page 29*

Section I
Export Policy, page 29
Purpose • 10–1, *page 29*
Program protection plans • 10–2, *page 29*
Conditions for transfer • 10–3, *page 29*
Transfer of technical data packages • 10–4, *page 30*

Section II
Foreign Disclosure Controls, page 30
General information security policy • 10–5, *page 30*
Security classification and release of information • 10–6, *page 30*
Release of military information • 10–7, *page 30*
Foreign disclosure system • 10–8, *page 31*
General security classification guidelines • 10–9, *page 31*
Specific security classification • 10–10, *page 32*
Security markings and declassification • 10–11, *page 32*

Section III
Army Munitions Control Program, page 33
Army munitions control program • 10–12, *page 33*

Contents—Continued

International traffic in arms regulations exemptions • 10–13, *page 33*

Section IV
Program Restriction and Prohibitions, page 34
Program restrictions • 10–14, *page 34*
Program prohibitions • 10–15, *page 34*

Chapter 11
Special Programs and International Activities, *page 35*
Drawdowns • 11–1, *page 35*
Foreign manufacture of United States defense equipment (coproduction) • 11–2, *page 36*
Licensed production • 11–3, *page 37*
Cooperative projects and cooperative production • 11–4, *page 37*
Excess defense articles • 11–5, *page 37*

Chapter 12
Information Management, *page 39*
Information management in support of security assistance • 12–1, *page 39*
Army information management advocacy • 12–2, *page 39*
Control of information management budget • 12–3, *page 39*

Appendixes

A. References, *page 40*

B. Required Reports, *page 44*

Figure List

Figure 11–1: Excess defense articles process, *page 38*

Glossary

Chapter 1
Introduction

1–1. Purpose

This regulation establishes Army policy and prescribes responsibilities and procedures for the planning, integration, programming, budgeting, and execution of Army security assistance sales, financing, manpower, training, and logistics. It also establishes Army export policy. This regulation authorizes the publication of an Army pamphlet which, in conjunction with this regulation, ensures that the Army's security assistance efforts are integrated and support guidance from higher authorities.

1–2. References

See appendix A.

1–3. Explanation of abbreviations and terms

See the glossary.

1–4. Responsibilities

See chapter 2.

1–5. Authority

a. Security assistance is a subset of a larger, more general category called security cooperation and consists of a group of programs, authorized by law, which allow the transfer of defense articles and services, including training, to friendly foreign governments or international organizations. The statutory authority for security assistance is provided primarily under the Foreign Assistance Act (FAA) of 1961 as amended and the Arms Export Control Act (AECA) of 1976 as amended.

b. The legal authorities under these two acts have been delegated by the President through executive orders to the Department of State (DOS) and the DOD. The Secretary of Defense (SECDEF) has been specifically delegated the functions conferred upon the President by the AECA to perform most of the essential executory responsibilities of security assistance.

c. The Security Assistance Management Manual (SAMM) (also known as DOD 5105.38–M) provides additional information pertaining to authorities for security assistance.

1–6. Objectives of Army security assistance

The security assistance program is an important instrument of U.S. foreign and national security policy. The principal objectives of security assistance are to—

a. Support the political, economic, military, technological, and national security goals of the United States and to strengthen the military capability of selected friendly and allied countries by enabling them to—

(1) Deter and defend against possible aggression.

(2) Maintain regional military balance and defense posture.

(3) Enhance coalition interoperability.

b. Encourage friends, allies, and potential coalition partners to pursue national objectives compatible with U.S. foreign policy and military strategy.

c. Encourage other nations to develop and rely on their own defense, thus reducing the need to commit U.S. forces in local crisis situations.

d. Support and maintain the U.S. defense industrial base.

1–7. Scope

a. The Army will conduct security assistance programs and activities in compliance with law and higher level guidance. These programs include—

(1) Foreign military sales (FMS) programs which include the provision of materiel, training, medical, and construction services to a foreign country.

(2) Foreign military construction services (FMCS) that provide for the construction of requisite military installations and facilities in support of a foreign military activity.

(3) Leases of equipment for specified missions and for specific periods of time.

(4) International military education and training (IMET) for professional military education.

(5) Drawdowns which allow for the transfer of items from U.S. stockpiles to a foreign military.

b. Other special programs and services addressed in this regulation include security assistance logistics and production programs.

c. This regulation does not address the direct commercial sales of military or military-related end items sold by the U.S. defense industries to foreign customers except as noted in chapter 3 of this regulation.

1–8. Command and staff relationships, staffing, and coordination

a. Command and staff relationships.

(1) *Deputy Assistant Secretary of the Army for Defense Exports and Cooperation.* The DASA (DE&C) is the focal point for developing, staffing, and publishing Army security assistance policy and guidance and is responsible to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology (ASA (ALT)) for oversight of the Armywide security assistance program.

(2) *Army Commands, Army Service Component Commands, and Direct Reporting Units.* The ACOMs/ASCCs/DRUs are responsible to HQDA for compliance with applicable laws, DOD directives, Army regulations, and policy as they apply to the administration, implementation, and execution of assigned security assistance programs.

(3) *Official visits.* Army officials conducting security assistance business in-country with host country officials shall comply with the DOD Foreign Clearance Guide.

b. Coordination. Coordination between Army security assistance personnel at all levels and between Army and DOD personnel is encouraged when these contacts facilitate the mission. The coordinating organization should keep its chain of command and all concerned informed of changing situations. Official coordination shall be accomplished for all Army policy issues by authorized personnel through appropriate channels.

c. HQDA oversight and coordination. Actions that require HQDA oversight and coordination through DASA (DE&C) are—

(1) Development and/or submission of a military assessment (politico-military and national security) related to a specific security assistance requirement.

(2) Actions that affect coalition operations, such as standardization and interoperability of equipment, doctrine, and commitment.

(3) Letter of offer and acceptance (LOA) and related actions requiring Congressional notification or approval.

(4) Diversion or withdrawal of equipment from Army stocks or procurements and diversion of equipment from approved security assistance commitments.

(5) Actions that affect Army resources and assets, including production, training base, and personnel.

(6) Transfer of sensitive technologies to ensure compliance with Army export policies, and any applicable Army, DOD, and DOS guidance.

(7) All LOAs or actions for release of technical data packages.

(8) Initial introduction of major defense capability to a region.

(9) Leases of materiel to industry to support air and trade shows or foreign countries.

(10) Financial information pertaining to the planning, programming, budgeting, and execution (PPBE) for operations and maintenance, Army VFMS (Management Decision Package code), foreign military financing (FMF) and FMS funds. Financial data include, but are not limited to the program objective memorandum (POM), the President's Budget submission, year of execution reports, and manpower data.

d. Reporting requirements.

(1) *General.* Army organizations with security assistance responsibility for administering, implementing, and executing security assistance programs will submit reports as required. Some reports may not lend themselves to formal or structured reporting and will be furnished on an as-requested basis.

(2) *Reporting responsibility.* The U.S. Army Materiel Command (AMC) has designated the U.S. Army Security Assistance Command (USASAC) as responsible for reporting on materiel cases and the training included on a materiel case. The U.S. Army Training and Doctrine Command (TRADOC) has designated the Security Assistance Training Field Activity (SATFA) responsible for reporting on separate training cases and IMET.

(3) *Manpower reporting.* Each ACOM, ASCC, DRU, or separate agency will retain responsibility for manpower reporting. Army claimants that receive FMS and/or FMF administrative funding will also provide DASA (DE&C) with fiscal year (FY) end manpower reports for military and civilian FMS personnel according to AECA, section 25(a)(6) (Title 22, United States Code, section 2765 (22 USC 2765)).

e. Contacts with foreign representatives. Relationships should be developed and maintained between the U.S. Army, U.S. industries, and potential purchasers of defense articles and services. Every effort should be made to develop these relationships at the level most appropriate to the activities being conducted, while ensuring compliance with U.S. laws, DOD guidance, and Army regulations.

1–9. Program implementation

a. Materiel programs. The AMC shall prepare and officially promulgate a Department of the Army (DA) pamphlet that implements the policies in this regulation. This pamphlet will address all aspects of program initiation, administration, implementation, and execution and become the sole document covering the process and procedures for providing Army materiel and training to authorized governments and international organizations under the auspices of the

security assistance program. Coordination with TRADOC is essential to ensure that FMS training process and procedures are accurately reflected in the DA pamphlet.

b. Training programs. AR 12–7 and AR 12–15 address the processes and procedures for implementing FMS training, technical assistance, IMET, and other programs. As described in these regulations, TRADOC implements training and technical assistance programs in the continental United States (CONUS) and outside the continental United States (OCONUS) drawing from CONUS-based commands and activities.

Chapter 2
Responsibilities

Within the DOD, the Under Secretary of Defense for Policy (USD(P)) is the SECDEF's principal security assistance representative. With respect to security assistance, the USD(P) is assisted by the Assistant Secretary of Defense (International Security Affairs) (ASD (ISA)). The ASD (ISA) exercises authority, direction, and control over the Director, Defense Security Cooperation Agency (DSCA). The DSCA is the DOD's principal organization for security assistance and provides overall security assistance guidance to each military department (MILDEP). The DSCA is the proponent for SAMM.

2–1. Secretary of the Army

The SECARMY is the senior official of the Department of the Army and is responsible for the effective and efficient functioning of the Army. The SECARMY will—

a. Develop, direct, and foster policy, doctrine, and concepts mutually gainful to the Department of the Army, the United States, and friendly foreign nations.

b. Carry out approved and funded security assistance programs, acting under the policy guidance of the SECDEF.

c. In consultation with the relevant combatant command—

(1) Negotiate and conclude implementing arrangements according to DODD 5530.3, when authorized, applicable to Army components in an area of responsibility or North Atlantic Treaty Organization (NATO) operational area of the combatant command.

(2) Negotiate and conclude, in special instances, cross-servicing and combined agreements when authorized by the Chairman, Joint Chiefs of Staff.

(3) Acquire and transfer logistics support, supplies, or services under cross-servicing agreements or separately.

2–2. Assistant Secretary of the Army (Acquisition, Logistics and Technology)

The ASA (ALT) is the principal adviser to the SECARMY on all matters relating to acquisition, logistics, and technology. Pursuant to 10 USC 3016, the ASA (ALT) is responsible for the overall supervision of the acquisition, logistics, and technology matters of the DA and has sole responsibility for performing the acquisition function within HQDA. The ASA (ALT) is designated as the Army Acquisition Executive, Senior Procurement Executive, and Senior Official responsible for the management of acquisition of contract services, and senior research and development official for DA. The ASA (ALT) is responsible for setting the strategic direction for and ensuring that DA policies, plans, and programs related to acquisition, logistics, technology, procurement, the industrial base, security cooperation (including security assistance, armaments cooperation (AC), commercial sales and related technology transfer, foreign training and select exchange programs), are executed consistent with law, regulation, and policy. The ASA (ALT) is designated the single office for the acquisition function in HQDA and subject to the authority, direction, and control of the SECARMY. The ASA (ALT) will—

a. Formulate Armywide policy including strategy, guidance, and planning for—

(1) The Army's acquisition policy; including—

(a) Acquisitioning policy for International Cooperation, Research, Development and Acquisition programs, hereinafter referred to as AC programs.

(b) Evaluating and/or acquiring foreign technologies through the Foreign Technology (and Science) Assessment Support (FTAS) program.

(c) Informing all Army materiel developers of congressionally mandated or other restrictions on the acquisition of foreign defense materiel or technology.

(d) Ensuring PEOs, PMs, and direct reporting program managers are compliant with approved Army initiatives for fielding and maintaining interoperable systems, as well as other policies or directives that affect interoperability. Assess System of Systems or Family of Systems synchronization and interoperability at each milestone decision review and major program review.

(2) The Army's logistics policy; including life cycle logistics, performance based logistics, and related acquisition logistics policies, processes, and functions.

(3) Technology transfer; including—

(a) Providing export policy oversight and direction, including to the DCS, G–2 on technology transfer.

(b) Overseeing disclosure of technical controlled unclassified information (CUI) to foreign governments and international organizations and provide general guidance, advice, and assistance to Army officials in determining the suitability of technical CUI identified for sharing under established international programs for direct commercial sales, FMS, and AC.

(4) Broad strategies to leverage international Science and Technology (S&T); Research, Development, Test and Evaluation (RDT&E); acquisitions; and life cycle logistics for Army programs.

(5) Integration of international considerations and requirements in Armywide technology base strategy, policy, guidance, and planning.

b. In support of PPBE—

(1) Review and approve all RDT&E and procurement budget justification for international acquisition programs not reserved to other HQDA proponents.

(2) Provide seed money for the FTAS program in coordination with Commander, Research, Development and Engineering Command.

c. Lead/supervise:

(1) Co-chair the Army Science and Technology Advisory Group with the Vice Chief of Staff of the Army.

(2) Chair the Technology Transfer Security Assistance Review Panel, serving as the executive decision authority for Army export control.

(3) Serve as the Army's single executive for providing export policy oversight.

(4) Serve as the Army single point of contact for endorsing the delegation of disclosure authority for technical controlled unclassified information, required by AR 380–10, to proponents or originators of the technical controlled unclassified information. (See disclosure procedures in DA Pam 70–3.)

(5) Conclude (sign) international agreements as delegated signature authority on behalf of the U.S. Government, the DOD, and/or DA for S&T, RDT&E, acquisitions, and/or life cycle logistics cooperation.

(6) Appoint the Army representative to the NATO Army Armaments Group and Five Power Senior Cooperation Forum—Army.

(7) Provide overall supervision of DA acquisition, technology, and logistics matters.

(8) Provide overall supervision of research, development, engineering, and acquisition programs, including the Munitions Control Program (MCP), security assistance, and cooperative research and development programs.

(9) For Acquisition:

(a) Manage the Army industrial base and industrial preparedness programs.

(b) Oversee AC programs through the DASA (DE&C), including providing S&T guidance to include Army Technology Objectives and other mission priorities for the conduct of AC programs.

(c) Develop materiel and interoperability solutions for the Army.

(10) The Army Acquisition Corps and the Army Acquisition Workforce.

(11) For Logistics Life Cycle Management:

(a) Validate integrated logistics support requirements.

(b) Include validated requirements in the materiel acquisition process to support type classification, full materiel release, and total package fielding of systems and equipment.

2–3. Deputy Assistant Secretary of the Army for Defense Exports and Cooperation

Subject to the authority, direction, and control of the ASA (ALT), the DASA (DE&C) is delegated responsibility for select security cooperation activities. The DASA (DE&C) leads, manages, resources, and directs policy and strategy for the conduct of select elements of the Army's global security cooperation activities, including: FMS; foreign military and foreign national training and education; AC; non-Special Access Program (SAP) technology transfer; and export policy. The DASA (DE&C) is also the program manager for the Army Munitions Control Program (MCP). The DASA (DE&C) ensures that all ASA (ALT) managed security cooperation programs are conducted according to law and policy and has direct tasking authority over the Army's designated lead commands for the execution of their delegated security cooperation responsibilities. The DASA (DE&C) will—

a. Formulate Armywide policy including strategy, guidance, and planning for—

(1) FMS.

(2) AC programs and activities.

(3) Export policy, including munitions case review, Non-SAP technology transfer & related exceptions.

(4) Foreign military training including IMET, FMS, counter-narcotics (CN), counter-terrorism (CT), and the training of foreign nationals.

(5) Resourcing the Army Security Assistance Enterprise security assistance administrative funds.

(6) Resolving security assistance policy issues applicable to specific country programs.

b. In support of PPBE:

(1) Provide planning and programming guidance for security assistance to all Army stakeholder activities.

(2) Ensure that personnel requirements for Army security assistance compete in the programming and budgeting process.

(3) Review security assistance administrative fund budget submissions from Army claimants. Provide direction to the ASA (FM&C) regarding changes to the allocation and redistribution of security assistance administrative funds to accomplish functional requirements. Submit the consolidated, administrative fund budget and POM to DSCA.

(4) Monitor expenditures and conducts periodic reviews regarding the use of security assistance administrative funds and FMS case funding.

(5) Receive, staff, and formulate the Army position regarding above threshold supply discrepancy reports.

(6) Manage the security assistance related management decision execution packages for the Armywide Title 10 funding and manpower support to the Army security assistance mission.

(7) Distribute and manage centralized Army funding to support the placement of U.S. participants in the Engineer and Scientist Exchange Program (ESEP) and the Administrative Personnel Exchange Program (APEP).

(8) Support HQDA staff elements, ACOMs/ASCCs/DRUs and other agencies in the development and processing of PPBE and other funding submissions to support AC programs and activities.

(9) Develop and support PPBE submissions for the NATO Research and Development Program and Army Armaments Group support.

c. In support of security cooperation/security assistance (SC/SA) integration (for DCS, FMS, and AC):

(1) Coordinate with designated OSD and Army Staff on all required input for combatant command (COCOM) and Theater Campaign Plans as it relates to events and activities for foreign military training including international military education and training (IMET), FMS, CN, CT, and the training of foreign nationals; AC; DCS; technology transfer; draw-downs; and exports.

(2) Coordinate, in conjunction with the DCS, G-3/5/7, all required input and support for Army Campaign Support Plan events and activities in support of geographical combatant command requirements, including for foreign military training including international military education and training (IMET), FMS, CN, CT, and the training of foreign nationals; AC; DCS; technology transfer; draw-downs; and exports.

(3) Participate in OSD prioritization meetings related to DASA (DE&C)'s security assistance programs (such as the DSCA-led prioritizations with the COCOMs).

(4) Engage and liaise with USD(P), USD (AT&L), DSCA, and DTSA regarding DASA (DE&C) areas of responsibility that impact combatant commanders and their plans related to: foreign military training including international military education and training (IMET), FMS, CN, CT, and the training of foreign nationals; AC; DCS; technology transfer; draw-downs; and exports.

(5) Provide expert export guidance and advice to Army, OSD, and industry.

(6) Develop Armywide input to specific country SC/SA programs in support of HQDA missions.

(7) Analyze, in coordination with all applicable Army offices and agencies, specific requests from foreign countries for defense articles and defense services and ascertain whether the requests are in consonance with U.S. strategic plans, objectives, and law; such as Presidential Decision Directive-23 (PPD-23), Security Sector Assistance.

(8) Develop Army position on security assistance materiel allocations and/or diversions and distribution priorities for allied and friendly foreign countries.

(9) Lead Army participation in Capability Priorities for Partner Nations (CPPN) process by—

(a) Recommending to Geographic Combatant Commands proposed CPPN shortfall solutions to support COCOM Security Cooperation Plan development.

(b) Supporting the vetting of proposed CPPN shortfall solutions, particularly by validating capability requirements and proposing materiel or alternate solutions germane to satisfying specific requirements.

(c) Collaborating with DSCA and USD (AT&L) by conferring with industry to ascertain their capacity to support proposed CPPN shortfall solutions via FMS, DCS, or AC and/or facilitate the delivery of USD (P)-approved capabilities.

(d) Integrating USD (P)-approved CPPN into security cooperating planning.

(10) Recommend, as appropriate, the modification of force activity designator (FAD) assignment for specific FMS to the DA master priority list.

(11) Review proposed AC programs and projects and new materiel requirements of U.S. allies for compatibility with security assistance goals, policies, plans, and programs. Coordinate HQDA review and prioritization of AC activities and agreements, and establish procedures and criteria for assessing the effectiveness of Army AC programs and activities.

(12) Provide guidance on the development and conduct of AC programs and activities to address Army materiel requirements and to support the Army's contribution to the national security strategy.

(13) Recommend international considerations and requirements for inclusion in Armywide technology base strategy, policy, guidance, and planning processes. Provide AC-related input to and review of the Army Campaign Support Plan, in accordance with AR 11–31.

(14) Coordinate Army security assistance urgent operational requirements with appropriate officials within the

Office of the Secretary of Defense (OSD), combatant commands, HQDA, other MILDEPs, and U.S. Government (USG) agencies.

(15) Ensure that all significant security assistance and AC matters are provided to the Office of the General Counsel (OGC) for review and comment.

(16) Monitor security assistance legislation and related executive orders.

(17) Ensure compliance with the requirements of the Case Act (1 USC 112b), DODD 5530.3, and AR 550–51.

(18) Provide to USD (AT&L) the project information required as part of the Congressional certification for cooperative projects authorized under 22 USC 2767 and 10 USC 2350a.

(19) Supervise the development, coordination, and implementation of Army export policy.

(20) Manage the MCP in accordance with law and policy including guidance from Departments of State, Commerce, Defense, and Army, based upon International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR) and licensing precedence.

(21) Refer to the DCS, G–2 security assistance requests for Army-managed items and technologies that require exceptions to National Disclosure Policy (NDP).

(22) Ensure that security implications are considered for each AC program that potentially involves the international transfer of sensitive military technology.

(23) Establish Army procedures for requesting ITAR exemptions for which DASA (DE&C) has been delegated authority by the Defense Technology Security Agency (DTSA) in support of AC programs

(24) Review and approve requests for ITAR exemptions in support of AC and other programs.

(25) Review and coordinate summary statements of intent, technology assessment/control plans, delegation of disclosure authority letters, and other supporting documentation submitted in support of proposed international agreements for AC that require HQDA and OSD review and approval.

(26) Resolve any information exchange agreement (IEA) issues that cannot be resolved by the IEA annex proponent PEO or ACOM/ASCC/DRU center/ laboratory/institute director or equivalent.

(27) Define the responsibilities of IEA annex authorities, that is, technology project officers and assistant technology project officers, and establishments concerning the management of IEA annexes.

d. Lead/supervise with the following additional authorities:

(1) Serve as the U.S. DOD Head of Delegation for international fora related to research, development, and acquisition such as the NATO Army Armaments Group.

(2) Serve as Army's Head of Delegation and lead Army's participation in OSD-led international fora related to research, development, and acquisition.

(3) Lead as the Army Head of Delegation for U.S. Army bilateral and multilateral fora related to research, development, and acquisition.

(4) Serve as the Army designated entry point for weapons system information requests from USD (P), USD (AT&L), DTSA, and DSCA.

(5) Lead government-to-government and interagency interaction with the Departments of State, Commerce, Homeland Security, and the National Security Staff in support of DCS, AC, and FMS.

(6) Formulate strategy, decides and directs Army participation, and advise DSCA regarding Army participation in international air and trade shows.

(7) Resolve discrepancies, as final decision authority, that occur between U.S. Army Training and Doctrine Command (TRADOC) and Army Materiel Command (AMC) on letter of request (LOR), letter of offer and acceptance (LOA), and contractor issues.

(8) Exercise final HQDA decision authority for resourcing requests for Army Security Assistance Teams (SAT) from authorized command and agencies. DASA (DE&C) receives, reviews, coordinates and approves requests for Army SAT and provides approved requests to USASAC for implementation. DASA (DE&C) returns disapproved requests to the requesting command or agency.

(9) Exercise approval authority for requests for, and direct the participation of, Army members on joint survey teams to analyze foreign military objectives, threats, force requirements, doctrine, and tactics. Review team reports and recommendations.

(10) Develop, coordinate, negotiate and conclude Army (in consultation with OGC) AC agreements (MOU, project arrangement, or Section 65 Loans) in accordance with DODI 5000.02 (Enclosure 10), DODD 5530.3, AR 550–51, and the Defense Acquisition Guidebook.

(11) Negotiate and establish international agreements as signatory authority on behalf of the U.S. Government for AC programs, when delegated authority by the USD (AT&L).

(12) Designate and exercise direct tasking authority over the Army's designated lead commands for the execution of their delegated security cooperation responsibilities.

(13) Manage the United States-Canadian Defense Development Sharing Program.

(14) Maintain an office of record for IEA annexes.

(15) Task PEOs/PMs with providing supporting information on weapons systems, consolidate all PEO/PM data calls, and provide this information to USD (P), USD (AT&L), DTSA, and DSCA.

(16) Task AMC and TRADOC to develop Army training inputs to Defense Institute for Security Assistance Management curriculum.

(17) Gather and provide technical information and data to USD (P), USD (AT&L), DTSA, and DSCA for foreign military training including international military education and training (IMET), FMS, CN, CT, and the training of foreign nationals; AC; DCS; technology transfer; draw-downs; and exports; exports; and related policy guidance and law.

(18) Act as point of contact for information on all AC programs and activities of Army interest.

(19) Act as point of contact for Army security assistance matters including procedural and operational concerns with foreign attaches or embassies in the Washington, DC area.

(20) Act as point of contact for the Army's security assistance matters during military exercises and mobilization planning.

(21) Act as Army point of contact to the Defense Technology Security Administration for all export policy, Non-SAP technology transfer, and MCP/DCS matters.

(22) Act as Army representative to the Arms Transfer Technology Release-Senior Steering Group.

(23) Exercise nominating authority for the U.S. Army member to the DOD Departmental MOU Committee.

(24) Act as member of the Army Multinational Interoperability Board and subordinate working groups as required.

(25) Act as member of certain Working Groups and International Cooperative Opportunity Groups.

e. Support/enabler roles:

(1) Coordinate the efforts of all DA agencies and commands involved in AC activities.

(2) Coordinate with the Deputy Chief of Staff, G–3/5/7 (DCS, G–3/5/7) to task responsible Army agencies and commands for execution of approved Security Assistance Team (SAT) requests.

(3) Disseminate the results of international meetings that address potential AC opportunities to interested commands, agencies, program executive officers, and program/project managers.

(4) Coordinate and provide Army responses to the NATO Armaments Planning Questionnaire and other multinational reporting activities on AC programs.

(5) Review capabilities documents developed under the Joint Capabilities Integrated Development System and other DOD requirements processes for international considerations.

(6) Coordinate requests for third-party information transfers.

(7) Develop Army positions on Presidentially directed draw-downs and coordinate with DCS, G-3/5/7, DCS, G-4, DCS, G-8, and the Office of the Secretary of Defense (OSD).

(8) Issue warning orders to alert staff elements and ACOMs of impending requirements.

(9) Prepare and coordinate execute orders, for release by the DCS, G–3/5/7, directing the implementation of approved transfer plans.

(10) Review SAT reports and recommendations.

f. AC personnel role:

(1) Manage the Army's participation in the APEP and ESEP, which are part of the Army's Defense Personnel Exchange Program, and Cooperative Program/Project Personnel.

(2) Establish qualification requirements for Army acquisition workforce personnel and other Army AC program specialists involved in AC programs.

2–4. Assistant Secretary of the Army (Financial Management and Comptroller)

The ASA (FM&C) has the principal responsibility for exercising the Army's financial management functions to include financial oversight of security assistance programs. The ASA (FM&C) will—

a. Oversee the financial aspects of security assistance programs.

b. Develop annual FMS funding letters and obligation plans and monitor execution of the security assistance program budgets.

c. Serve as the single POC for Army security assistance program resources for appropriations 1082 (FMF) and 8242 (FMS).

d. Provide policy guidance on financial aspects of implementing and reporting on the acquisition or transfer of logistics supplies, support, or services under the acquisition and cross-servicing agreement (ACSA) authorities.

2–5. Assistant Secretary of the Army (Civil Works)

The Assistant Secretary of the Army (Civil Works) will direct the foreign activities of the U.S. Army Corps of Engineers (USACE), except those foreign activities that are exclusively in support of U.S. military forces overseas.

2–6. General Counsel

The General Counsel will determine the Army's position on any legal question with regard to security assistance,

armament cooperation (to include cooperative research and development), MCP (to include export controls), implementing statutes and regulations, or implementation issues arising from this regulation. The General Counsel will provide legal support for DASA (DE&C). The General Counsel will furnish or designate legal counsel for negotiation of Army coproduction agreements.

2–7. Deputy Chief of Staff, G–1

The DCS, G–1 will—

a. Develop personnel management legislation.

b. Manage doctrine, policy, and guidance on matters related to the Defense Language Program and the Defense Language Institute.

c. Provide guidance throughout the Army on the availability and provision of military (except Army Medical Department officers) and U.S. civilian personnel to support permanent change of station SATs.

d. Recommend policy to procure, distribute, manage, retain, and separate U.S. military and civilian personnel in support of Army security assistance.

e. Work and coordinate with DASA (DE&C) to validate manpower adjustments submitted by Army claimants in Management Decision Execution Packages.

2–8. Deputy Chief of Staff, G–2

The DCS, G–2 is responsible for executing responsibilities for the SECARMY as principal foreign disclosure authority for the Army and technology protection (that is, counterintelligence, intelligence, security, and foreign disclosure) support to the technology transfer program. The DCS, G–2 will—

a. For classified military information (CMI), develop policy, provide disclosure authority and guidance, and monitor disclosure of CMI to foreign governments and international organizations.

b. For technical controlled unclassified information (CUI), provide disclosure authority and monitor disclosure of technical CUI to foreign governments and international organizations. (The ASA (ALT) is the proponent for technical CUI. Guidance for technical CUI is found in DA Pam 70–3, chap 1, sec VIII.)

c. Certify all foreign representatives participating in international military student (IMS) training and authorize foreign representative visits to DA.

d. Serve as the Army member of the NDP Committee.

e. Provide guidance and assistance to TRADOC for all military intelligence type security assistance training programs, both CONUS and OCONUS, pertaining to disclosure of classified information.

f. Determine releasability of classified training information, documents, and materiel to foreign countries; process exceptions to the NDP.

g. Monitor unit exchanges and advise the Army Staff (ARSTAF) and ACOMs on security implications.

h. Serve as the DA proponent for the foreign liaison officer program.

i. Review Army export policies developed by DASA (DE&C).

2–9. Deputy Chief of Staff, G–3/5/7

The DCS, G–3/5/7 is responsible for Army operations and planning functions. The DCS, G–3/5/7 will—

a. Develop the Army security cooperation plan to implement national security objectives (see AR 11–31).

b. Serve as the principal advisor to the Chief of Staff, Army on politico-military aspects of international affairs.

c. Support the DASA (DE&C) in reconciling Army security assistance program issues and foreign requests for defense articles and services with U.S. strategic plan and policy objectives.

d. Assess the readiness impact of all diversions of assets managed by the Army.

e. Prioritize the distribution of materiel to foreign countries.

f. Include IMET and FMS CONUS training requirements in the Army Program for Individual Training and task Army trainers to accomplish the training.

g. Serve as the Army proponent for the professional military exchange program.

h. Allocate foreign training spaces to the U.S. Army Command and General Staff College course.

i. Coordinate and recommend to the Chief of Staff, Army the foreign attendees to the U.S. Army War College, International Fellows Program, and the Sergeants Major Academy.

j. Prioritize constrained training courses by either program or country.

k. Prioritize primary and alternate seats for Army senior professional military education (PME) by country.

l. Review Army export policies developed by DASA (DE&C).

2–10. Deputy Chief of Staff, G–4

The DCS, G–4 provides advice and assistance to the ASA (ALT) in addition to responsibilities and authorities as DCS, G–4 on the ARSTAF. The DCS, G–4 will—

a. Serve as the principal military advisor to the ASA (ALT) in the functional area of logistics.

b. Ensure that the sustainment functions of security assistance are fully integrated and properly balanced between acquisition and logistics.

c. Oversee logistics operations associated with the ASA (ALT) security cooperation staff to include DASA (DE&C).

d. Ensure that international logistics support activities are coordinated according to AR 11–31.

e. Receive and process Army-only requests to designate new countries as eligible for cross-servicing agreements. (Multiservice requests are processed through combatant command channels.)

f. Support the DASA (DE&C) in routing specific requests for support under the ACSA authorities that may be referred to the Army by a combatant command or ACOM to the appropriate Army materiel or logistics organization for execution.

g. Execute defense articles and service total package transfers.

2–11. Deputy Chief of Staff, G–8

The DCS, G–8 is responsible for the programming, analysis, and materiel integration to achieve Army transformation goals to field the future force. The DCS, G–8 will—

a. Develop the Army POM.

b. Review Army export policies developed by DASA (DE&C).

2–12. The Surgeon General

The Surgeon General is responsible for development, policy direction, organization, and overall management of an integrated Armywide health services system. The Surgeon General will—

a. Exercise overall ARSTAF supervision for providing medical materiel, training, related services, and health care to personnel of recipient countries.

b. Provide medical policy, program, budget, and executive guidance and/or oversight to the AMC, U.S. Army Medical Materiel Agency, Army Medical Department Center and School, and other medical units supporting approved security assistance programs.

c. Serve as the single Army POC for all medical materiel and related services for security assistance customers according to standard FMS, Presidential drawdowns, and EDA procedures. As such—

(1) Maintains a reporting structure that will provide periodic performance and status data on medical materiel and training cases.

(2) Directs, controls, and supervises individual medical training to foreign personnel to include development and staffing of medical training policy. Also validates, approves, synchronizes, and monitors training programs (formal courses, on-the-job training, and observer training in CONUS). This includes surveys and exportable training.

(3) Serves as the Army POC on security assistance training and related health care policies and issues.

(4) Serves as the medical program manager (PM) for TRADOC SATFA.

(5) Provides medical technology transfer and foreign disclosure review and support for security assistance.

(6) Provides medical personnel required to staff Army SATs (OCONUS).

(7) Processes all financial reimbursements for health care provided under security assistance programs.

2–13. Security assistance implementing agencies

a. Security assistance implementing agencies (IAs) are authorized to receive and respond to letters of request (LORs). The IAs will—

(1) Respond to HQDA guidance.

(2) Provide materiel and/or related services to approved foreign countries or international organizations.

(3) Coordinate with other ACOMs, MILDEPs, USG agencies, and private industry as necessary to support approved programs.

(4) Establish and maintain professional contacts with representatives of foreign governments and international organizations in the performance of approved programs.

(5) Obtain DASA (DE&C) approval on actions that affect the programs, funding, and budgeting of other commands, agencies, and activities prior to implementation.

(6) Refer requests for waivers and clarification of policy to DASA (DE&C) with appropriate background, discussion of alternatives, and recommendations for resolution.

(7) Keep DASA (DE&C) informed of sensitive actions that may be of concern to the senior Army leadership and pertinent to the mission and oversight responsibilities of HQDA.

(8) Provide essential articles and services using established FMS procedures when tasked to support peacekeeping and humanitarian assistance operations.

(9) Submit financial and manpower data required for the FMS POM, President's budget, and year of execution reporting according to DSCA PPBE processes and milestones.

b. In addition to DASA (DE&C), the following Army organizations are designated as IAs:

(1) The AMC for approved security assistance materiel (defense articles and technical services) programs. The AMC

also provides FMS administrative support for the development and processing of medical FMS cases in support of the U.S. Army Medical Materiel Agency.

(2) The TRADOC for approved security assistance (training) and technical assistance programs.

(3) The USACE for approved security assistance (construction and/or FMCS cases) programs.

2–14. Commanding General, U.S. Army Materiel Command

The CG, AMC, having designated the USASAC to do the following, will—

a. Receive, process, and execute requests for FMS materiel and technical assistance.

b. Provide financial management and distribution of FMS administrative funds to the life-cycle management commands (LCMCs).

c. Manage FMS case funds.

d. Establish and maintain a case and/or program management system that—

(1) Provides life-cycle management for all security assistance activities from pre-LOR to FMS case closure.

(2) Maintains the master records and/or files for all Army security assistance transactions.

(3) Satisfies FMS customer requests as prescribed in the SAMM and this regulation.

(4) Synchronizes activities with the LCMCs to develop requirements that meet the customer's needs and ensures delivery as specified in the LOA.

(5) Ensures LOAs are processed using a total package approach (TPA), including consideration of ancillary equipment, initial and sustaining support, maintenance support, facilities, and training support where appropriate.

(6) Ensures that a foreign disclosure review is accomplished and release approval is granted by a designated disclosure authority prior to providing P&A data or an LOA.

e. Conduct periodic reviews of security assistance programs.

f. Gain HQDA approval from DASA (DE&C) prior to initiating dialogue with a country on the potential introduction of a new weapon system into the country or region.

g. Publish management reports on FMS and FMF and/or grant activities as required by HQDA.

h. Manage the IT systems used for FMS case development and execution.

i. Review and validate all IT systems requirements.

j. Execute specific requests for logistics support under the ACSA authorities when directed by HQDA.

2–15. Commanding General, U.S. Army Training and Doctrine Command

The CG, TRADOC will—

a. Receive, process, and execute requests for FMS training and technical assistance.

b. Provide centralized financial management of all training related security assistance and security cooperation program funds.

c. Develop security assistance training options for CONUS execution both internal and external to TRADOC that best satisfy combatant command requirements.

d. Administer the Security Cooperation Education and Training Program (SCETP) as established in the SAMM, AR 12–7, AR 12–15, and this regulation.

e. Review foreign country requests for training to determine the appropriate Army-managed training activity and/or external provider and formulate costs of the training involved.

f. Develop training plans to support equipment purchases that ensure training is time-phased with equipment delivery dates and that unique career-skill requirements requested by the customer country are met as required for TPA.

g. Submit course and training costs for inclusion in the Training Military Articles and Services List (T–MASL) to DSCA for maintenance and update of the Army training section of the Military Articles and Services List (MASL).

h. Task HQDA subordinate commands, as required, to support the approved training programs.

i. Gain HQDA DCS, G–2 foreign disclosure approval for training literature, training aids, and training devices.

j. Represent HQDA at security assistance training conferences.

2–16. Chief, U.S. Army Corps of Engineers

The Chief, USACE will—

a. Receive, process, and execute requests for all engineering activities associated with, and in support of, assigned security assistance programs and projects.

b. Employ standard FMS procedures as outlined in the SAMM and this regulation.

2–17. Program executive officer and program manager

The program executive officer (PEO) and PM will—

a. Support the security assistance community in the development and execution of approved FMS cases. This assistance shall include—

(1) Making system presentations as requested by a foreign country and approved by DSCA and DASA (DE&C).

(2) Developing P&A data.

(3) Assisting the lead command in LOA development using the TPA.

(4) Monitoring system production and delivery; advising the lead command of progress, slippage, delay, or termination.

b. Provide input for PEO and/or PM managed technologies and systems to DASA (DE&C) regarding vendor requests to transfer items or technology regulated by the U.S. Munitions List (USML) or Commerce Control List (CCL).

c. Support the security assistance community in assessing foreign disclosure and export licensing requirements.

d. Execute specific requests for logistics support under the ACSA authorities when tasked by higher headquarters.

Chapter 3
Foreign Military Sales

Section I
Foreign Military Sales Policy Considerations

3–1. False impressions

The Army will avoid giving foreign countries or international organizations any false impressions about the willingness of the USG to provide defense articles and services for security assistance. In this respect, information will be provided only when the Army has received a positive policy determination from DSCA that the USG is willing to provide the specific items requested. The Army uses such authority or determination in responding to requests for P&A data, LOA, and similar contractual proposals.

3–2. Congressional notification requirements

a. Specific requirements for Congressional notification, pursuant to AECA, Section 36(b)(1), are addressed in the SAMM, paragraph C5.6.3 and table C5.T10.

b. Army IAs will prepare and forward supporting data required for congressional notification through DASA (DE&C) to DSCA.

c. The IAs may issue LOAs—

(1) To NATO, any NATO member country, Japan, Australia, Korea, or New Zealand unless the Congress adopts a Joint resolution stating that it objects to the proposed sale within 15 calendar days after receiving notification.

(2) To any other country or international organization, unless the Congress adopts a Joint resolution stating that it objects to the proposed sale within 30 calendar days after receiving notification,

(3) After the President states in his certification that an emergency exists which requires such sale in the national security interests of the United States.

3–3. Authority to negotiate and sign international agreements

Before entering into negotiations or signing an international agreement concerning coproduction or licensed production associated with security assistance programs, the requesting Army activity will submit a written request through DASA (DE&C) to DSCA. The DSCA may provide approval to negotiate and/or sign agreements, such as a memorandum of agreement (MOA) covering foreign manufacture of U.S. defense equipment (coproduction arrangements or licensed production agreements) and other special types of sales not shown on an LOA. Requests for such authority must include a project description, fiscal and/or legal memoranda, and other documents as required by AR 550–51.

3–4. Direct commercial sales

a. U.S. Army preference. The Army has no preference for the modality of transfer (FMS or direct commercial sales) for Army-managed items. If a foreign country desires to purchase an Army item or system commercially, the Army will consider such a request. Favorable consideration will be based on the following conditions:

(1) An approved export license exists.

(2) An existing Army export policy does not prohibit such a sale.

(3) There are no DOD or interagency prohibitions against direct commercial sales.

b. Contractor preference.

(1) *Procedures.* The procedures for considering and recognizing contractor preference for direct commercial sales are not required by law; rather, they constitute a process by which the DOD tries to accommodate U.S. industry preferences. These procedures are contained in the SAMM, paragraphs C2.5.7.1.5 and C4.5.10. To prevent the direct commercial sales of specific items, the DOD will normally make the appropriate recommendation on the contractors' requests for advisory opinions on munitions licenses.

(2) *Foreign military sales-only determination.* The AECA gives the President the discretion to designate those military end items that must be sold through FMS channels exclusively. This discretion is delegated to the SECDEF and executed by DSCA in coordination with the DTSA and the MILDEP or the DOD component responsible for the end item. The DOS approves or disapproves all sales and is responsible for continuous supervision and general direction of all sales. There are times when the DOD requires that a transaction be accomplished via FMS. Four general criteria are used to determine if a sale is required to proceed through the FMS process. The criteria are: Legislative and/or Presidential restrictions; DOD and/or MILDEP policy, directive, or regulatory requirement (for example, the NDP–1); government-to-government agreement requirements; and interoperability and/or safety requirements for U.S. forces. Each MILDEP or DOD component develops the FMS-only designation considering the criteria outlined in the SAMM, paragraphs C4.5.9.1 and C4.5.9.2. Army field activities forward FMS-only systems designations with rationale to DASA (DE&C) for review. The DASA (DE&C) will forward to DSCA (Programs Directorate/ Weapons Division). Specific exclusions for direct commercial sales preference are listed in SAMM, paragraph C4.5.10.

c. Commercial source responsibility. The U.S. manufacturer must inform DSCA that it prefers to sell significant military equipment (SME) it manufactures on a direct commercial basis; that it is the sole U.S. manufacturer or supplier of the articles; and that it prefers that these articles not be sold through FMS.

d. Processing industry requests for direct sale preference designation.

(1) Based on the request from the U.S. manufacturer and the information provided by AMC through DASA (DE&C), DSCA will determine whether the article or service is to be designated for direct sale preference. The DASA (DE&C) will provide AMC with an information copy of the response (containing the DSCA determination) to the U.S. manufacturer. The AMC will then notify the responsible command.

(2) Those items approved for direct commercial sales will normally not be sold through FMS.

e. Comparison studies. The Army will not, unless approved by DSCA, engage in comparison studies requested by FMS customers of an FMS offer versus direct commercial sales (see the SAMM, paragraph C4.5.11).

f. Army position. The Army will offer items for sale under FMS until it has been notified that the item has been approved for direct commercial sales preference. The Army will not solicit information on whether an article is available through direct commercial sales.

3–5. Operational testing and evaluation

Concurrence of the Under Secretary of Defense for Acquisition, Technology and Logistics (USD (AT&L)) is required before offering P&A data, issuing an LOA, or preparing an MOA for coproduction for any major defense equipment (MDE) item that has not successfully completed operational testing and evaluation (see the SAMM, paragraph C5.1.4. 3).

3–6. Denial of requests

Denial of requests. Any proposal to deny a potential FMS customer request must be sent to DASA (DE&C) for review. If DASA (DE&C) concurs with proposal to deny, DASA (DE&C) will forward the proposal to DSCA for final denial determination. Denial of FMS customer requests is sole responsibility of DSCA.

3–7. Exceptions to policy

Requests for exception to established policy are to be submitted to DASA (DE&C).

Section II
Foreign Military Sales Planning Requirements

3–8. Distribution guidance

a. Foreign military sales case approval. The Army forwards, through channels, all FMS cases requiring approval of the DOD, DOS, the Executive Office, or Congress.

b. Safeguarding shipments. The United States and/or the DOD must protect and control items the DOD identifies as sensitive arms, ammunition, and explosives sold to a foreign nation under the FMS program until possession is transferred to the recipient country at a point no farther than a DOD-controlled seaport of embarkation (SPOE) or aerial port of embarkation (APOE). After possession has passed to the recipient country, the country is expected to provide the same level of control and protection as the United States and/or the DOD. Transportation responsibilities and requirements are outlined in the SAMM, chapter 7.

(1) If the recipient country will move these items overseas by surface transportation, the items will be sold for delivery to the cognizant customer country identified escort officer aboard an authorized ocean carrier at the DOD-controlled SPOE.

(2) If the recipient country will move these items overseas by air transportation, the items will be sold for delivery to the cognizant customer country identified escort officer aboard an authorized aircraft at the DOD-controlled APOE.

c. Recipient transport. Foreign governments will transport and deliver their own FMS purchases to their respective countries. However, there are situations in which deviations apply:

(1) The DSCA can authorize DOD-sponsored transportation if a foreign government is incapable of undertaking shipment or providing mandatory physical security.

(2) Sensitive materiel controlled by DOD 5100.76–M and some classified shipments (if customer country does not have cleared facilities or freight forwarder with cleared facilities) must be moved under the DOD control at least through a DOD-controlled seaport or aerial port into an approved customer country controlled ship or aircraft with an onboard country representative and/or escort who will sign a receipt for the materiel. Whenever transportation is furnished by the United States and/or the DOD, it is performed as a reimbursable service and it does not affect title passage which remains at origin. Customer countries are therefore encouraged to obtain commercial insurance for possible loss or damage for in-transit materiel.

d. Commercial items not in U.S. inventory. Customer countries should be advised to obtain support from U.S. industry or from third-world countries for support of U.S.-developed or -manufactured major end items and systems used exclusively by foreign countries.

e. Support of commercial items. Normally, logistics support of commercial items will be arranged on a country-to-industry basis.

f. Overseas supply support. Supply support from Army overseas theater supply activities is not authorized unless specifically approved by the DCS, G–4.

3–9. Suspensions and cancellations

Procedures governing suspension or cancellation of security assistance to a country are provided in the SAMM, paragraph C6.6.

3–10. Determination of eligibility

The eligibility of a country or international organization to purchase defense articles and services is published by DSCA. The IA will review each LOR to ensure that the request is from an eligible FMS recipient, that the system may be sold to the customer, and that the request was received through proper channels.

3–11. Precase activities and/or initiatives

a. Policy. Army personnel will neither initiate discussions with a foreign country or organization on the potential sale of U.S. defense articles or services, nor participate in discussion between a foreign country and the U.S. defense contractor without approval from HQDA and DSCA. The HQDA may grant approval based on country eligibility and the willingness of the USG to support the sale.

b. Approval. Requests to initiate discussions with a foreign country or organization on the potential sale of U.S. defense articles or services will be submitted to DASA (DE&C) for review, staffing, and approval. Requests must contain full justification, specify funding requirements, and identify the source of the funds to be used.

3–12. Total package approach

a. Concept. Application of the TPA ensures that a customer has the opportunity to plan for and obtain all support items and services such as technical assistance, ammunition, and training necessary to operate, maintain, employ, and sustain a major end item or system (see the SAMM, para C4.5.3). Development of an offer requires a coordinated and tailored approach based on an in-depth assessment of the maintenance, supply, and training capabilities of the recipient, the adequacy of its logistical infrastructure, support base, trainable labor base, and experience with similar equipment. The information used in developing the assessment will be drawn from a variety of sources, such as checklists prepared by the in-country security cooperation office (SCO), in-country surveys, and security assistance reviews.

b. Guidelines.

(1) Responses to requests for P&A data and LOAs will include known requirements under the TPA concept. The response may consist of multiple LOAs that offer materiel, training, and sustainment separately.

(2) Customers must be made aware of the consequences of not accepting the total package. Army policy is to resist pressures to provide equipment that is likely to be inadequately supported or improperly used, either because of financial limitations or a desire to accelerate delivery.

Chapter 4
Training

Section I
Training Management

4–1. Security Cooperation Education and Training Program

a. Policy. Army policies concerning training of the IMS at Army schools and installations are described in detail in

AR 12–15. The Army trains the IMS in U.S. doctrine and tactics as well as in the operation, support, and maintenance of Army equipment purchased through FMS or transferred through grant programs.

b. Program responsibility. The CG, TRADOC develops, manages, and executes the SCETP through the Security Assistance Training Directorate, composed of the SATFA and Security Assistance Training Management Office. The two primary components of the SCETP are IMET and FMS training.

c. Program authority. The FAA of 1961 as amended (for IMET) and AECA as amended (for FMS training) provide the authority for the SCETP. Traditionally, IMET and FMS authority is limited to training military and civilian personnel of the defense establishment from foreign countries or international organizations, unless waivers are approved by DSCA. Legislation for expanded IMET provides authority to train defense and nondefense personnel with emphasis on civilians from other government agencies and legislators involved in defense matters.

d. References. Specific policies and procedures are found in the SAMM, AR 12–7, and AR 12–15. The DOD 7000. 14–R, volume 15, is the DOD financial management regulation that covers security assistance financial policies and procedures (chapter 7 covers tuition pricing policy). The DFAS–IN Regulation 37–1 provides the Defense Finance and Accounting Service (DFAS) Finance and Accounting Policy implementation concerning overall Army financial policy and procedures.

e. Program objectives. The objectives of the SCETP are to—

(1) Develop skills needed for effective operation and maintenance of equipment acquired from the United States.

(2) Assist the foreign country in developing expertise and systems needed for effective management and operation of its defense establishment.

(3) Foster the foreign country's development of its own professional and technical training capability.

(4) Promote U.S. military rapport with the armed forces of the foreign country.

(5) Provide positive alternatives to training offered by other countries.

(6) Promote better understanding of the United States, its people, political system, institutions, and way of life.

(7) Increase IMS awareness of the United States' commitment to the basic principles of internationally recognized human rights.

4–2. Planning and programming

Training assistance will be provided when an eligible recipient makes a request through appropriate channels. Training in support of FMS equipment purchases should be coordinated under the TPA, either with the equipment sales case or by a separate FMS case. Training should be developed and executed according to the terms and conditions agreed to in the LOA. Priority for operator and maintenance training will be accorded to countries that have acquired or are acquiring the platform via FMS.

a. The T–MASL published by DSCA is a list of courses from each of the U.S. MILDEPs available to eligible countries. Training listed in the T–MASL will normally be provided to eligible recipients. When desired training is not listed in the T–MASL, the SCO must submit the request with justification to SATFA who will coordinate with foreign disclosure authorities to obtain a releasability decision. No United States commitment will be made or implied until all requirements for attendance at a U.S. school or training activity have been satisfied.

b. Training IMS personnel in Army schools will not normally take precedence over the training of U.S. personnel unless specifically directed by the DOD.

4–3. Language requirements

The IMS must meet all requirements and prerequisites for their programmed training except for service retainability, U.S. security clearances, and other prerequisites from which they have been explicitly exempted. Since most IMS enrolled under the Army SCETP train alongside their U.S. counterparts, their ability to understand, read, speak, and write English is a prerequisite for training. Exception is granted for training conducted in Spanish at the Western Hemisphere Institute for Security Cooperation at Fort Benning, GA, and select flight and maintenance courses at Fort Rucker, AL, and Fort Eustis, VA. School personnel will determine the minimum English comprehension level required to enable participants to successfully complete a course. In addition, some courses such as flight training require a minimum oral proficiency interview score, and some require specialized English training at the Defense Language Institute, English Language Center at Lackland Air Force Base, TX.

4–4. International military education and training

The IMET (under the FAA) includes education and training provided to the defense establishment of an eligible foreign country or international organization. The Army is reimbursed for IMET from U.S. foreign assistance appropriations.

a. The DOS, in consultation with OSD, determines IMET dollar levels for each IMET-eligible country in the Congressional Budget Justification. The DSCA allocates IMET funds for Army-managed training to TRADOC through SATFA, who issues funds to other ACOMs, Army-managed school and/or training activities, and other training providers.

b. Each combatant command hosts an annual Security Cooperation Education and Training Work Group attended by

SCO training representatives and SATFA country PMs. The training program is reviewed and requirements finalized according to expected funds. Final current year changes must be at DSCA no later than 15 July.

c. Unprogrammed training requirements should be handled as exceptions. The TRADOC should review these requirements and send recommendations through DASA (DE&C) to DSCA for approval, when appropriate.

d. The DSCA authorizes IMET program implementation. When funding authorization has been received, TRADOC (through SATFA) issues funding and authorizes the country SCOs to prepare invitational travel authorizations to send students to training. The LOAs are not used for IMET.

4–5. Foreign military sales training

The FMS (under the AECA) cover the sale of defense articles, services, and training to eligible foreign governments and international organizations (FMS customers). These sales are either funded by the FMS customer or through an FMF arrangement, credit, or guaranteed loan. The Army is reimbursed as required by law.

a. Training associated with the sale of major equipment or a major weapons system must be considered and offered as part of the Army's TPA. Training may be offered as a separate line item on the materiel case or developed and offered as a separate training case, the latter being the preferred method of administering the TPA.

b. The TRADOC will develop P&A data and LOAs for all FMS training. This shall include training identified as a line item on a materiel case, as well as for separate training cases, unless specifically exempted.

Section II
Security Assistance Teams

4–6. Purpose

This section outlines general policies and responsibilities for the approval, processing, control, and deployment of SATs provided under the provisions of the FAA and the AECA.

4–7. Policy

a. Request for security assistance teams and technical assistance teams. Requests for SATs and technical assistance teams are made by submitting specific requests through appropriate channels according to AR 12–7. The SCO should advise the foreign country on the training and technical assistance that may be available from approved U.S. sources but must not imply any U.S. commitment. Foreign governments or international organizations may receive training and technical assistance listed in the MASL or required as part of an approved and implemented FMS case. The DASA (DE&C) and DSCA will address specific requests for approval on a case-by-case basis.

b. Team selection and/or case development. The DASA (DE&C) will assign team development to the TRADOC. The TRADOC may use internal assets or task other commands to provide team members with specific expertise.

c. Country and area clearance. The TRADOC will coordinate requests for appropriate clearances for SATs and ensure that team members are provided with appropriate passports and visas.

d. Administrative control. Teams deployed in country will normally fall under the administrative control of the U.S. Diplomatic Mission (country-team), preferably the SCO in those countries where SCOs are located. Team chiefs will report to the senior member of the SCO, the U.S. Defense Representative, or the senior military representative assigned to the country-team with security assistance responsibilities. While the intent is not to restrict communications between the deployed SAT and individual team member parent organization or inhibit the authority of the parent organization, it is necessary to establish a focal point in-country for all U.S. Army activities. This focal point should facilitate coordination, communications, personnel accountability, and reporting.

e. Outside the continental United States security assistance team duration. The OCONUS SAT duration in country will not exceed 3 years from date of deployment. Extensions beyond 3 years require a waiver through the TRADOC (SATFA) to DASA (DE&C).

4–8. Mission requirements

a. Team members will perform those tasks specifically identified in the LOA or the contractual agreement from which the team is deployed.

b. Team members will not perform SCO functions.

c. Team members will not advise or provide technical assistance to foreign forces in a combat situation nor will they perform operational duties except those required to conduct on-the-job training in the operation, sustainment, and employment of equipment, weapons, or supporting systems.

d. Team members will have no command or functional authority or responsibility over personnel of the host armed services.

4–9. In-country support

a. Administrative and logistical support will be provided as specified in the LOA or other appropriate formal agreement.

b. Local civilian labor requirements for the team will be met with the assistance of the host government. Where a direct-hire system is used, the team will ensure that any direct hire local national's employment conditions, including pay and benefits, conform to those established by the legislation of the host government.

c. The LOA will reference the applicable status of forces agreement (SOFA) or other appropriate international agreement granting legal status. Legal status is obtained under either a SOFA or an appropriate international agreement but not in an LOA. The SOFA or legal status questions should be referred to the supporting legal counsel for answer.

d. Teams will be deployed at no cost to the USG except as authorized by law. All costs specified in the AECA and DOD 7000.14–R, including support costs incurred by supporting activities, will be identified and included in the LOA or other appropriate financial documents.

Chapter 5
Foreign Military Sales Acquisition

Section I
U.S. Army Materiel Requirements

5–1. Diversions and withdrawals

a. Policy. The DOD policy calls for a determination to be made that the transfer or sale of a defense item will not degrade U.S. Army efforts by taking needed equipment from U.S. stocks (withdrawals) or by disrupting deliveries of critical items from production for U.S. forces (diversions), unless security or foreign policy requirements are such that transfer or sale of the item is in the overall U.S. national interest. The SECDEF will make the final determination as to whether the DOD will provide items on an expedited basis and whether the impact of doing so is significant within the meaning of the AECA, section 21(i)(1). The Army will provide an impact statement to the DSCA when such a diversion or withdrawal will degrade U.S. Army readiness.

b. Considerations.

(1) *United States forces.* High-priority security assistance needs may be met by diverting assets from production, or withdrawing equipment from U.S. forces, provided the operational readiness posture is not significantly lowered and payback can be accomplished within a reasonable time. The HQDA approval is required if the withdrawal of equipment will have a major impact on readiness.

(2) *Foreign military sales materiel.* Materiel being procured or stocked for FMS may be diverted to meet higher priority requirements with the prior concurrence of DSCA, who will, as appropriate, obtain policy guidance from the USD(P).

c. Approval. Diversion or withdrawal requests will be sent to DASA (DE&C) for approval. Decisions to support a diversion or withdrawal request will be made on a case-by-case basis after evaluating the impact on the Army. The HQDA approval is required for diversion or withdrawal of the following:

(1) Ammunition.

(2) Major end items and/or MDE.

(3) Withdrawals from war reserves, Active Army, National Guard, or Reserve Component (RC).

(4) Diversions from procurement for the National Guard or RC.

d. Requests. The cognizant IA will submit requests for diversions or withdrawal to DASA (DE&C). Each request will address why a diversion or withdrawal is proposed, where the items will come from (source of supply), and the impact of such a diversion or withdrawal on Army operational requirements. These requests will also include a complete analysis of the supply position (assets on hand) of the item to be diverted or withdrawn, a projected time frame for payback, and production and overhaul schedules.

e. Payback. The IAs will establish internal controls to ensure that the items diverted are paid back to the Army and that payment is received for the diverted items.

5–2. Withdrawing security assistance assets for Army use

The Army may meet its own urgent or emergency needs by withdrawing or diverting materiel being stocked or procured specifically for security assistance. Before recommending such action, the Army will consider the views of the intended recipient as expressed through the SCO of the country. Recommendations to divert or withdraw assets designated for security assistance will be forwarded to DASA (DE&C) for decision.

5–3. Replenishing a diversion

In the absence of other HQDA guidance, approval of diversions or withdrawals from U.S. assets to support a foreign country program will result in production for payback being scheduled at the end of the current production period. The system to track payback will be established and maintained by the applicable LCMC of the AMC.

5–4. Recovery of stocks upon suspension or termination of a security assistance program

In cases where a security assistance program (country program) has been suspended or terminated, Army-controlled stocks should be returned rapidly to Army inventories with the least loss and minimum handling, storage, and transportation expenses. The goals are to conserve resources and to make the recovered assets immediately available to support U.S. forces and other security assistance programs.

Section II
Acquisitions in Support of Army Security Assistance

5–5. Normal allocation

Under normal conditions, the Army will fill security assistance materiel requirements from DOD stocks, program rebuild, or new production using normal production lead times. To the extent possible, the Army will integrate security assistance requirements with other Army and DOD requirements and fulfill these requirements through the same Army and DOD systems, facilities, and procedures. The Army policy is to acquire items for an FMS customer using the same contract administration and acquisition practices that it uses to procure for itself. Exceptions to this policy are authorized in the Federal Acquisition Regulation (FAR).

5–6. Reserving security assistance

Materiel offered to security assistance recipient countries, either from Army inventories or projected acquisition, may be reserved to fulfill the security assistance commitment. Materiel or services offered or committed to security assistance programs will not be reallocated for U.S. troop use without specific approval of DASA (DE&C).

5–7. Designating sole source procurement

The DOD policy governing FMS sole source procurement is provided in the SAMM, paragraph C6.3.4. While full and open competition is the preferred method of procurement, sole source can be considered when a foreign country makes a specific written request and provides sufficient rationale for obviating the benefits of the competitive process. When the sole source request is approved, the applicable LOA, amendment, or modification must specifically identify the country sole source designation.

5–8. Nonstandard procurement

The Army policy is to satisfy FMS customer requirements for materiel requested under approved programs. This may entail procuring items that are not used by U.S. forces or that are not in the DOD inventory. In these instances, the most cost-effective and speedy acquisition process allowed under the FAR will be sought to procure the nonstandard item.

5–9. Army initiatives involving the offer of obsolescent or excess ammunition, missiles, equipment, and components

a. It is Army policy not to use security assistance resources (manpower, assets, or funding) directly or indirectly to develop, promote, or execute the reutilization or remanufacture of Army excess or obsolescent ammunition, missiles, equipment, and/or components into nonstandard, hybrid, or appliqué configurations for transfer, coproduction, or codevelopment to or with foreign governments or international organizations unless an exception has been granted by the DASA (DE&C). Requests for exception will be forwarded through channels to the DASA (DE&C). Such a request will provide—

(1) A detailed technical description of the project.
(2) Scope of effort.
(3) Projected security assistance resources required to ensure programmatic success over the life of the program.
(4) Availability of technical support.
(5) Operator and maintenance training.
(6) Logistics support.
(7) Projected customer base.

b. All requests will be considered for approval by the DASA (DE&C) after the AMC and the TRADOC assessment of life-cycle supportability and commitment of command resources to long-term success of project and/or program has been completed.

5–10. Foreign weapon systems

a. Requests for nonpersonnel technical services involving assembly, installation, maintenance, redesign or re-engineering, or the provisioning of parts to support other than U.S.-manufactured weapon systems should be processed through normal FMS procedures.

b. All LOAs for support of foreign weapon systems or other equipment must be coordinated with the DSCA prior to submission for countersignature.

c. Support of foreign weapon systems may require frequent use of sole source procurement.

d. Requests to provide integration or certification services, under FMS procedures, for installation of non-U.S. subsystems in U.S. or foreign weapon systems should be examined carefully to assess any potential negative effects upon the U.S. defense industrial base. Approval must provide a clear net benefit to U.S. public interest. Requests for integration or certification services to install foreign subsystems in U.S. or foreign weapon systems or platforms will be coordinated with the DSCA (Program Directorate/Weapons Division).

e. The USASAC will forward requests through DASA (DE&C) for coordination with DSCA.

5–11. Warranties

The USG will normally include a warranty provision in its contracts only when appropriate. With respect to any existing warranties included in a contract, the USG, upon request of the FMS purchaser, will exercise, in addition to warranties, any contractual rights that the USG may have under the contract for benefit of the FMS purchaser. Further, if the FMS purchaser requests a warranty, the USG will attempt to obtain contract provisions to provide the requested warranties. The FMS purchaser will be responsible for any additional costs resulting from the exercise of obtaining the contractual warranties.

5–12. Research, development, test, and evaluation

a. Research, development, test, and evaluation projects. The Army may undertake research, development, test, and evaluation (RDT&E) projects in support of security assistance requests. The Army does so when it is in the interests of the Army to do so. The RDT&E projects are undertaken only if the Army is to be fully reimbursed and the project will not interfere with Army programs.

b. Export models. The Army does not normally develop or significantly modify weapons systems solely for export. However, when requested by a customer, or when critical technologies must be protected, an export model may be developed.

c. Product improvements. Product improvements of MDE initiated, developed, and adopted by the Army are usually offered to foreign recipients of the equipment. This policy encourages continued standardization, interoperability, and use of U.S. support services.

Chapter 6
Security Assistance Logistics

Section I
General Policy

6–1. Presale considerations

a. Policy. The Army must be prepared to provide logistical support for those defense articles sold or transferred under Army security assistance to a foreign country or international organization. This support will normally be offered for as long as the major item remains standard in the Army inventory. Once the Army decides to phase out a major item from its inventory, potential recipients will be advised of this decision and of the time frame the equipment will remain supportable. The Army will also offer those countries that received the item before the decision was made to phase it out the opportunity to take part in a final purchase of repair parts, components, and related services. The projected support termination date will be provided, when possible, during the initial discussions with the potential recipient.

b. Planning. Logistical planning is crucial when offering defense articles to a foreign country. Care must be taken to ensure that the potential recipient is offered a total package as described in chapter 3 of this regulation and is aware of continued support requirements. This concept is intended to provide complete (initial and follow-on) support of U.S. defense articles. This entails identifying essential repair parts, tools, maintenance capabilities, facilities, training requirements, and ammunition support. Lead times must also be considered and built into the plan to ensure that deliveries of the major item coincides with the delivery of the ancillary equipment, ammunition, repair parts, tools, and training. Planners must not exclude or delay necessary support to accelerate deliveries. Exceptions to this policy will be sent to DASA (DE&C) for staffing and decision.

c. Support of foreign military sales. Support of items common to U.S. forces and foreign countries is normally provided through the U.S. Army logistics system. The following principles must be considered in planning for logistical support of allied and friendly nations:

(1) *Support to foreign forces.* The level and scope of support furnished to foreign forces should be like that provided to U.S. forces, unless otherwise agreed to between the USG and foreign governments.

(2) *Nonsupported items.* An item not supportable by the U.S. Army may be offered if the USG can obtain nonstandard support through a commercial vendor or if the country agrees to obtain support directly. In such cases, the

offer must clearly state that the recipient country provides support of the item and that no USG support other than advice on other sources of support will be expected.

6–2. Mutual logistics support

Mutual logistics support is normally provided by establishing bilateral cross-servicing agreements and falls outside the scope of security assistance and this regulation. Refer to DODI 2010.06 and DODD 2010.9 for transfer authority of supplies and services under these agreements.

6–3. Force activity designator

a. Authority. The SECDEF retains the authority to assign a FAD I to a foreign country force. Assignment of FAD II through FAD V are the responsibility of the Joint Chiefs of Staff. The Joint Materiel Priorities and Allocation Board acts on behalf of the Chairman, Joint Chiefs of Staff to establish, modify, or recommend priorities and allocation matters of foreign countries.

b. Specific authority. For specific LOAs, the Army may assign a temporary FAD that is higher than the assigned FAD, not to exceed FAD II, for a period not to exceed 1 year.

(1) Requests for temporary FAD adjustments will be sent to DASA (DE&C) for staffing and approval.

(2) Appropriate coordination will be made with other affected MILDEPs and the combatant command whose geographical area of responsibility encompasses the foreign country affected.

(3) The Joint Materiel Priorities and Allocation Board will be informed of all such assignments at least 10 working days before the temporary FAD increase goes into effect.

c. Factors for assigning force activity designator. Assignment of FADs to foreign countries is based on the following factors:

(1) Specified combat, combat-ready, and direct combat support forces of a foreign country which have comparable importance to U.S. forces.

(2) The U.S. foreign policy and the current and projected political and military situation in the foreign country.

(3) Current and projected political, military, and strategic factors.

(4) Security arrangements that commit the United States to the defense of a foreign country.

(5) Global and regional priorities for security assistance.

(6) Membership in global or regional military organizations or associations where the United States is a participating member.

(7) Current and projected logistical impact on U.S. Armed Forces.

d. Cooperative logistics supply support arrangements. The FAD assignments for countries participating in cooperative logistics supply support arrangements (CLSSAs) will be governed by the provisions of applicable FMS agreements. The FAD assigned to each CLSSA should not exceed the highest FAD authorized for the supported LOA. Temporary FADs assigned to CLSSAs should correspond to temporary FADs assigned for the specific FMS case supported.

6–4. Concurrent spare parts

Concurrent spare parts will be offered as part of the TPA when selling or transferring major end items to an FMS customer. For concurrent spare parts, when included in an FMS case, ensure initial support of major end items and components pending availability of replenishment stocks through the establishment of a blanket order (BO) case, a defined order (DO) case, or a CLSSA.

6–5. Types of support cases

Follow-on support should be requested using one of the following:

a. Blanket order case.

(1) Those types of items and services described in the SAMM, paragraph C5.4.3.2, lend themselves to BO LOAs. The FMS customer will submit requisitions for these items to AMC. Materiel requirements are normally filled from procurement, rather than from Army stocks. Orders that exceed the value of the LOA will not be processed.

(2) In addition to items listed in the SAMM, paragraph C5.4.3.2.b, tool sets and controlled cryptographic items may not be ordered on BO LOAs.

b. Defined order case. The DO LOA specifies the items, services, or training to be supplied. It is used for the materiel and services listed in the SAMM, paragraph C5.4.3.1.1.

(1) Major weapon systems or package sales, include related requirements.

(2) Munitions, ammunition, and other explosives.

(3) Transportation services.

(4) Cartridge and propellant activated devices.

(5) Technical data packages.

(6) Aircraft ferry.

(7) Test, measurement, and diagnostic equipment and requirements for calibration.

c. Cooperative logistics supply support arrangements. The AMC, through USASAC, is the Army manager for the CLSSA program and shall establish appropriate procedures for processing requests.

(1) A CLSSA is an agreement between the USG and a foreign government or international organization that provides for peacetime supply support through the U.S. logistics system. It represents the purchaser's investment in the DOD or Army logistics system and allows for the acquisition of additional stocks to support systems and equipment.

(2) Where a mature CLSSA is in effect, country requirements will be satisfied on the same basis as U.S. military units with the same priority under the Uniform Materiel Movement and Issue Priority System. For CLSSA non-programmed requirements, the inventory control point head may approve issue of stock below the secondary item reorder point when a determination is made that there will not be an unacceptable impact on U.S. forces.

(3) When a CLSSA has not been established, and the item is not a Defense Logistics Agency asset, the FMS purchaser is not entitled to the same access as U.S. forces. On an exception basis, the item manager may approve issue of stocks below the reorder point if it is determined that there is no adverse impact on U.S. forces.

d. Maintenance support arrangements.

(1) *Purpose.* The maintenance support arrangements (MSAs) provide U.S. maintenance support to augment internal maintenance capabilities of the participants in the arrangement. The MSAs may also be used to apply modifications or upgrades to FMS customer-owned equipment at U.S. depot-level facilities.

(2) *Concept of repair and return.* The MSA authorizes the customer to return unserviceable assets to a U.S. maintenance facility for repair and return to country. The MSA can be either a defined line item on an LOA or a BO LOA. The defined line MSA identifies the items to be returned by quantity and National Stock Number. The BO MSA is usually for specific dollar value and identifies the weapon system for which items may be returned for repair. These items are normally U.S. standard items that are common to both the United States and customer inventories and were obtained through Army security assistance.

(3) *Direct exchange.* For information, see the SAMM, paragraph C6.4.8.1.

6–6. Supportability and support termination

a. Supportability. The Army's goal is to provide materiel to FMS customers that will be supportable for at least 10 years from time of delivery. Supportability statements will be reviewed before offering equipment and will verify that adequate support is available from the DOD logistics system and training bases. If projected DOD support is less than 10 years, the country will be advised so that it may explore other support arrangements.

b. Annual review. At least annually, the major item manager will conduct a review to determine system supportability. The total system supportability must be reviewed, to include materiel composed of multiple subsystems and for systems using the resources of other services, Defense Logistics Agency, and General Services Administration (GSA). Subsystems include armaments, ammunition, communications, mobility equipment, generators, air conditioners, and training.

c. System support buy out.

(1) The AMC will notify those countries with U.S. manufactured and/or supported major end items or major weapons systems at least 2 years prior to the planned termination of support. This notification of a final buy for a specific repair part, component, or assembly normally occurs when a weapon system becomes obsolete to U.S. forces.

(a) The notification will request the customer to advise whether an existing BO or CLSSA LOA is to be used or a new BO LOA is to be prepared.

(b) The parts listing provided with the system support buy out (SSBO) will include all interchangeable common and peculiar items. Peculiar items are those that are being phased out of the logistics systems of the Army, other MILDEPs, Defense Logistics Agency, and GSA.

(2) When modifications or replacements of a component or assembly are planned, AMC will advise user countries and offer those countries the choice of modifying or replacing their major end item/weapon system or requesting a SSBO.

d. Materiel notices and surveys. Every effort will be made to inform customers of known items which will affect their ability to acquire or support an item through FMS. To accomplish this, it is necessary to gather data from the manufacturer on the anticipated termination date and determine customer support requirements for the programmed life and/or use of the major item or weapon system.

(1) Notices and surveys may be considered when—

(a) There is an indication that the DOD capability to support future foreign logistical requirements is being reduced or eliminated.

(b) The U.S. production for the item is scheduled to end in the near future.

(c) The United States makes periodic buys of items known to have foreign demand.

(d) A minimum procurement quantity is required for items known to have foreign demand.

(e) There is a need to exercise contract add-on options.

(f) There is an indication that items will not be available due to a change in the U.S. force structure.

(2) The proposed notice and survey message will be forwarded by AMC through DASA (DE&C) to DSCA for approval before being sent to those customers that have the item or system and/or have previously indicated an interest in acquiring the item planned for future termination. The message will include rationale for issuing the notice and survey, and will—

(a) Provide information on future DOD capabilities to meet purchaser requirements.

(b) Identify actions the customer must take to purchase the item.

(c) Provide P&A data. The message should mention that the P&A data included in the notice and survey does not constitute a commitment or an offer to sell on the part of the USG.

6–7. Actions upon cancellation or suspension of a country program or case

a. Army IAs must ensure timely, effective measures to cancel requisitions, stop procurement and supply actions, and return stocks in the security assistance pipeline to Army control when an FMS is terminated. Such measures should—

(1) Recover significant quantities of U.S. defense materiel.

(2) Prevent the U.S. materiel from coming under the control of unauthorized parties.

(3) Reduce costly program termination.

b. The Army policy and procedural guidance for terminations of defense articles is found in AR 725–50, chapter 11. For policy and procedural guidance on termination of training programs, see AR 12–15.

6–8. Quality assurance in support of foreign military sales

a. Normally materiel will be inspected by a QAT at the U.S. depot or contractor facility where title is passed to the purchaser. Requirements and costs of the QAT will be included as a line item on the LOA.

b. The QAT should be offered whenever a new system or major end item is provided to an FMS customer, whether through procurement, diversion, or overhaul. The QAT may also be offered for high dollar or sensitive items—at the customer's request or at the decision of AMC.

c. The determination as to whether or not to sell materiel without a QAT will be made by AMC according to the appropriate LCMC.

Section II
Transfer of Defense Articles

6–9. Policy

No defense article may be sold, leased, or loaned to any country or international organization under the AECA unless the President determines and finds, in accordance with AECA, section 3, as amended, that sales to the prospective purchaser will strengthen U.S. security and promote world peace.

6–10. Cooperative research, development, test, and evaluation loans

Authority to loan defense articles for cooperative RDT&E programs is contained in the AECA, section 65 (see AR 70–41).

6–11. Leases

a. The AECA, chapter 6, section 61, authorizes the leasing of defense articles for compelling foreign policy and national security reasons provided the articles are not needed at that time for public use. Procedures and formats for processing leases are contained in the SAMM, paragraph C11.10.8.

b. Title 10 USC 2667, as implemented by AR 700–131, paragraph 2–1, authorizes the lease of defense articles to defense contractors and industrial associations for sales demonstrations to foreign governments in the United States or outside the United States. Leases under 10 USC 2667 are not available for a foreign country or international organization.

c. All requests for leases of DOD equipment under 10 USC 2667, from U.S. industry, will be endorsed by the PM and then sent to DASA (DE&C) for processing and approval not less than 45 days before the commencement of the lease according to AR 700–131 and DODI 7230.08. The responsible logistics activity will prepare, coordinate, and execute the lease agreement with U.S. industry after DASA (DE&C) obtains ASA (ALT) approval as appropriate.

d. For leases under AECA, chapter 6, AMC will task the responsible logistics activity to prepare the lease agreement. Preparation should be completed within 40 days. An assessment of whether or not there will be an impact on the industrial base during the lease period will be included in the cover memorandum.

e. The AMC will forward the lease agreement along with the determination and certification through DASA (DE&C) to DSCA. The DASA (DE&C) will obtain the concurrence of the appropriate Army elements (DCS, G–2; DCS, G–3/5/7; DCS, G–4; DCS, G–8, ASA (ALT), and OGC) and forward the lease package to DSCA for approval and countersignature.

f. Upon countersignature of the lease by DSCA, AMC will forward the lease to the customer for acceptance. Leases will not be implemented until the customer signs and financial requirements have been met.

g. Requests for lease renewals will be submitted to DASA (DE&C) along with a revised lease agreement and determination. If the original lease period plus the new lease period exceeds 1 year, Congress must be notified. For renewals that meet the congressional reporting requirement, AMC will provide the required data to DASA (DE&C) at least 60 days before the projected date of renewal.

h. According to the SAMM, chapter 12, AMC will submit requirement control symbol (RCS) DSCA(Q)1146 lease report to DASA (DE&C) for review and forwarding to DSCA and DFAS–DE no later than 15 days after the end of each quarter. All open leases will be accounted for, to include United Nations leases and expired, but not closed, leases.

i. All costs associated with a lease must be captured on an LOA.

6–12. Third-party transfers

Security assistance recipients must agree not to transfer title, or possession of, any U.S.-supplied defense article or defense service without prior consent of the USG. The DOS is the approval authority for third-party transfers.

Section III
Transportation Support

6–13. Foreign military sales shipments

a. Policy. The FMS shipment policy and procedures relating to point of delivery and transfer of title are described in the SAMM, paragraph C7.5. Transportation of FMS materiel is normally based on delivery at origin. The DSCA may approve other delivery points, as circumstances warrant.

b. Shipment cost. The cost of CONUS inland transportation and onward movement to overseas destination is paid by the purchaser. When the DOD sponsors onward transportation through a government bill of lading, the standard transportation rates from DOD 7000.14–R, volume 15, apply. The command or purchaser may request a waiver to use estimated charges instead of percentages.

c. Consolidated shipments. Materiel may be shipped from multiple points of origin to a designated staging area for short-term storage, consolidation, and further shipment to the ultimate recipient. The practice of consolidating shipments will be at the customer's request based on the criteria provided in AR 725–50.

6–14. Military transportation

a. Policy. The SAMM, paragraph C7, explains the use of the Defense Transportation System (DTS). Unless DSCA provides specific guidance to the contrary, IAs will ensure that all LOAs specify delivery by DTS using the most economical means.

b. Discharge of materiel from military transportation. Functions and responsibilities are identified in the SAMM, paragraph C7.1.

c. Exceptions. Exceptions to delivery policy will be made on a case-by-case basis with approval of DSCA and concurrence of the USD (AT&L) and will be noted on the LOA.

6–15. Supply discrepancy reports

a. Policy.

(1) Defense Logistic Management System (DLMS) Manual, DLM 4000.25–M, volume 2, chapter 17 establishes procedures prescribing the methods and conditions under which discrepancies in shipments are processed. It provides the basic documents required to support adjustment of property and financial inventory accounting records, notification to shipper of the type of discrepancy, required corrective actions, disposition instructions, and information for management evaluations.

(2) Discrepancy report preparation and submission time by the FMS purchaser will be limited to the time frame cited in the LOA, and amendments thereto, as explained in the SAMM, paragraphs C6.4.10 and C7.21.

(3) Time limits for reporting deficiencies relating to contractor warranties are prescribed in individual warranty clauses and/or contracts. These time limits override time limits specified in the LOA.

(4) Reporting of transportation-type discrepancies for FMS shipments processed through DTS will be processed under transportation discrepancy reporting procedures in DTR 4500.9–R.

b. Dollar limitation. Discrepancy reports that are below the dollar limitation contained in the LOA controlling the case or any other sales agreements with an FMS customer will not be accepted for processing, unless a valid justification for the submission is also provided.

c. Adjustments. Conditions allowing automatic adjustments are specified in DLM 4000.25–M, volume 2, chapter 17, and are based on the estimated cost of researching and documenting the estimated value of the reported discrepancy. The authority to make automatic adjustments using the Military Standard Billing System will be used judiciously, and responsible activities will establish controls to prevent its abuse. If the situation warrants, however, AMC may request complete research, regardless of the dollar value of the supply discrepancy report (SDR), to obtain evidence of

shipment. The DOD inventory control point inventory manager, GSA, or shipping activity, as appropriate, will perform the research and provide the specific information needed.

d. Document retention. Shipping documentation will be retained for a period of 2 years following the shipping date or longer if an ongoing SDR request remains unresolved.

e. Accountability. Title to equipment and materiel transfers at the initial point of shipment, unless specified otherwise in the LOA. Discrepancies which occur during movement outside the DTS are not reportable in the transportation discrepancy reporting system. Only total nonreceipt of items by the customer may be reported for possible credit. This will be done via SDR procedures. If the USG can provide proof or evidence of shipment (constructive proof of delivery), the SDR will be disapproved.

f. Types. Discrepancies found in customer assets repaired in U.S. depots will be treated as sales from DOD stock. Discrepancies found in customer-owned assets repaired in commercial facilities will be treated as sales from procurement.

g. Responsibilities. The AMC has designated USASAC as the single office of primary responsibility. The USASAC is to—

(1) Provide technical assistance to Army and other USG and/or DOD activities processing U.S. Army-managed security assistance materiel.

(2) Coordinate inquiries/actions pertinent to this regulation.

(3) Develop, coordinate, and submit official changes to the established SDR process/procedures.

(4) Implement the procedures prescribed for processing SDRs and ensure that all operating activities comply with the procedures prescribed in regulations cited in paragraphs *a* and *c*, above.

h. Control. The USASAC will record and monitor all Army security assistance SDRs to completion except as shown in the following paragraph.

i. Headquarters, Department of the Army. The DASA (DE&C) will coordinate the payments of SDRs valued at more than $50,000. The SDRs meeting this criteria will be forwarded to DASA (DE&C) for coordination and review with DSCA prior to final action.

Chapter 7
Foreign Military Financing Grants and Loans

7–1. Funding source

a. The FMF program, formerly the Military Assistance Program (MAP), provides grants and loans. Appropriations for this program must be obtained from Congress to reimburse the DOD for the value of items and services furnished. The DOS is the overall proponent for FMF and works with DSCA and the combatant commands to build and obtain FMF.

b. Except for administrative costs and the closeout of country programs initiated prior to FY 1982, funded programs are implemented under the provision of FAA, section 503(a)(3), which permits the transfer of FMF funds to the countries' FMS trust accounts. Articles, services, and training acquired with such funds are indistinguishable from other FMS acquisitions and are treated identically.

7–2. Eligibility, use, and restrictions of foreign military financing funds

a. Foreign governments and international organizations eligible for FMS are eligible for FMF. The decision to extend credit financing takes into account the suitability of the items, the U.S. military and economic assistance that the country currently receives, indigenous private financing, U.S. foreign policy interests (to include human rights), and other proposed arms purchases by the country. The level of weapons sophistication and the country's ability to maintain and support the items are also considered. Implementing procedures for the use of FMF funds to finance FMS are found in the SAMM, chapter 9.

b. The FMF funding process is outlined in the SAMM, paragraph C9.7.2.8. Eligibility for use of FMF for direct commercial sales is found in paragraph C9.7.4.

c. Credit financing to countries and/or purchasers may be suspended or terminated for legal and/or policy reasons such as violation of agreements, terrorism, discrimination, foreign intimidation, and harassment of individuals in the United States, nationalization of U.S. property, compensation for nationalized property, or failure to make payments.

7–3. Loan guaranties and foreign military financing

a. Loan guaranties under the AECA will be used only to assist countries in acquiring essential items which cannot reasonably be financed by other means and normally will be used only to finance investment requirements. The FMS loans must be repaid in U.S. dollars within 12 years after the LOA agreement has been signed on behalf of the USG (AECA, section 23), unless otherwise provided by U.S. law.

b. Financing by any individual, corporation, partnership, or other judicial entity doing business in the United States

(excluding USG agencies other than the Federal Financing Bank) may be guaranteed by the USG if such financing is in connection with FMS, FMCS, or direct commercial sales of defense items. Fees shall be charged for such guaranties (AECA, section 24).

7–4. U.S. Government rights to Military Assistance Program materiel

The USG, under FAA, section 505(a), retains certain rights to the materiel provided to foreign governments under the MAP. Transfer of title for materiel transferred under grant aid constitutes transfer of custody; it does not constitute transfer of ownership of U.S. materiel to the recipient country. The USG retains reversionary rights to MAP materiel and exercises these rights. These rights are retained even if the recipient country modifies or significantly improves the equipment at its own expense (with prior USG approval). The country may buy the reversionary rights to MAP-furnished materiel. Requests to purchase should be referred to the Director, DSCA, with an information copy to DASA (DE&C).

7–5. Disposal of Military Assistance Program materiel

The SCO is required by the SAMM to encourage the country to declare MAP/FMF materiel excess, ascertain its condition, and report this to the Army item managers. The item manager shall evaluate the condition of the materiel and provide redistribution instructions. Unless an approved requirement exists at the time excess MAP/FMF items are reported, the items will be added to those available for transfer approval under EDA procedures and for sale under the AECA.

Chapter 8
Foreign Military Sales Manpower and Personnel

8–1. Civilian resource guidance

a. Exemption from reductions. Army civilian personnel who are fully funded by FMS administrative or FMS case funds are exempt from the civilian resource reductions imposed on the DOD and the Army.

b. Management of personnel to budget.

(1) The FMS civilian manpower should be managed to budget with the funding provided through the DSCA and the Army, or through case funding provided by the foreign purchasers. In managing to budget, in concert with good business practice, entrepreneurial government and the goals of the National Partnership for Reinventing Government, ACOMs should use the most effective mix of term, temporary, contract, and permanent personnel in appropriate numbers and grades to expand and contract with fluctuations in the FMS business.

(2) This guidance should not be misconstrued as license to expand the overall FMS program. The Army's goal is to manage FMS workers to match budget and workload, while ensuring adequate staffing to accomplish the mission. As new business develops, new hires may be necessary to achieve the right size workforce capable of expanding or contracting through the proper mix of permanent, term, temporary, and contract workers to meet the workload. Overhead spaces must be carefully managed with emphasis placed on management of programs directly related to customer specific requirements.

c. Implementation guidance. Implementation of this guidance can be described by the following example, assuming there are no workload reductions for the FMS element: An Army organization with 100 workers, including 10 FMS workers, which is to undergo a 10 percent reduction would proceed as follows: Subtract the 10 FMS workers from the 100 workers, providing a base of 90 workers. Apply the reduction of 10 percent to the base of 90 workers for a reduction of nine workers, resulting in a new base of 81 workers. The new total of workers for the organization would then be 91 workers because the FMS-funded workers were exempt from the 10 percent reduction.

d. Civilian personnel management. This exemption is consistent with and does not affect the manner in which FMS-funded personnel are managed pursuant to pertinent Army, DOD, and Office of Personnel Management policies and regulations applicable to Federal civilian employment. They will retain, or assume upon appointment, all benefits and rights associated with their position. The FMS manpower and personnel will continue to be fully managed and programmed through the Army PPBE process and reported in Army, DOD, and Office of Personnel Management civilian personnel reports.

e. Personnel accounting. The Defense Civilian Personnel Data System will be used as the official accounting system for civilians supporting the FMS program. Personnel will be counted based on assigned Army management structure codes.

8–2. Contract personnel

To the greatest extent possible, and consistent with the purposes of the AECA and other applicable laws and regulations, the Army shall use civilian contract personnel to meet FMS customer requirements for intensive case or short term program management. Contract personnel may perform program management functions, as well as administrative support functions such as LOA preparation and management, case financial management, materiel tracking, and

status reporting. Contract personnel may also be used to supplement the workforce during periods of greatly increased activity of relatively short duration.

8–3. Manpower reporting

a. Commands will report on all manpower associated with Army security assistance based on identification of data requirements by DASA (DE&C). Personnel spending less than 10 percent of their productive hours in security assistance work will not be reported as being involved with security assistance. Those who spend up to 90 percent of their productive hours involved with security assistance work will be reported as an end strength associated with this function. Work year costing and/or reporting will be based on actual productive hours excluding personnel who spend less than 10 percent of their time on security assistance work.

b. Manpower used in support of the security assistance and/or FMS mission will be reported to DASA (DE&C) based on the following guidance:

(1) Annual data will be provided on manpower usage.

(2) Annual (fourth quarter of the FY) reports on FMS are required to satisfy the AECA. The DSCA has established RCS DSCA(A)1121 for this report. Reports are due 60 days after the end of the FY. Include in the report the name and telephone number of the preparer.

Chapter 9
Financial Management

Section I
Letter of Offer and Acceptance

9–1. Foreign military sales financial programs

a. General. This chapter provides financial policy for Army security assistance and FMS. Detailed DOD policy guidance can be found in the SAMM, chapter 9, and DOD 7000.14–R, volume 15. The DFAS–IN Regulation 37–1 prescribes financial policy and procedures for accomplishing the security assistance mission of the Army.

b. Management of financial programs. Management of security assistance financial programs involves—

(1) Managing customer funds and financial logistics transactions that include all activities in which the customer trust fund is cited.

(2) Providing an integrated, standard (common) logistics and/or financial control system to cover security assistance agreements ensuring compliance with applicable statutes.

c. Terms of sale. Terms of sale to be used on LOAs, amendments, or modifications are listed in the SAMM, paragraph C9.8.

d. Multiple sources of financing. The purchaser may choose to supplement available FMF and/or credit with budgeted national funds. If additional FMF funds become available to the purchaser, it may then request DSCA approval to amend the LOA to convert the cash portion to credit and/or FMF to the extent that such financing is available. A purchasing nation may also accept an LOA which cites “cash” as the method of payment and find at a later date that available national funds are inadequate. In such an instance, the purchaser may request DSCA approval to use FMF funds, if available, to finance the remaining payments.

9–2. Pricing policy

a. Full recovery of costs. The FMS program must be managed at no cost to the USG (with certain exceptions specifically covered by law) while ensuring prompt and complete service to the customer. All costs, as specified in the AECA, section 21 and DOD 7000.14–R, volume 15, will be identified and included in Army pricing.

b. International Military Education and Training. The IMET is one exception to the full recovery of cost to the USG. It is considered a grant aid program, and is financed through annual congressional appropriations under the authority of FAA, section 541. Pricing for IMET is specified in DOD 7000.14–R, volume 15, section 0712. An IMET order must be issued by DSCA to TRADOC.

c. Tuition pricing.

(1) The TRADOC will maintain the current cost data on all courses offered to IMSs based on tuition cost analysis provided by the training installations. These cost data will be provided to DSCA annually for inclusion in the T–MASL.

(2) Tuition rates included in the T–MASL are in effect for 1 year and should be used for students entering the course or phase of a course during that period.

(3) For additional information on tuition pricing, see the SAMM and DOD 7000.14–R, volume 15, chapter 7.

d. Health care.

(1) The NATO IMSs on invitational travel authorizations, and their bona fide family members who are authorized to

accompany them, are eligible for outpatient care in DOD medical facilities (includes dental when available), on the same basis as U.S. military personnel and their Family members, when authorized by TRADOC. Inpatient medical care and emergency family member dental care must be reimbursed at rates established by the DOD.

(2) Personnel from other countries that have negotiated reciprocal medical arrangements authorized by U.S. law will be provided care according to those arrangements.

(3) Personnel from other countries without arrangements with the United States will be provided medical care on a space available, reimbursable basis at rates established by the DOD.

(4) Students under IMET are authorized medical treatment in USG facilities (see the SAMM, paragraph C10.6.12). Charges for medical care do not apply if the IMS is covered under a reciprocal health care agreement between the United States and the IMS's country (see the SAMM, paragraph C10.5.6.2).

9–3. Type of charges in letter of offer and acceptance

Army LOAs will be written and priced at an assumed standard level of service (SAMM, table C5.T6) unless above standard level of service is requested or inherent to the nature of the procurement. The LOA standard terms and conditions shall require the FMS purchaser to pay the full value of the items in U.S. dollars, regardless of the estimated costs, payment schedule, or terms of sale. This includes all direct and indirect costs. The following charges will be considered and included in LOA pricing when applicable:

a. Administrative surcharges. An administrative surcharge shall be added to all FMS cases to recover Army expenses related to the administration of FMS transactions. (Details are provided in the SAMM, paragraph C9.5.) The charge does not apply to program management lines or to noncontractor provided training lines for NATO countries if the training is provided in the CONUS (see DOD 7000.14–R, volume 15, chapter 7, for appropriate charges).

b. Accessorial charges. Charges related to issues, sales, and transfers of materiel not included in the standard price or contract cost are accessorial charges. These include—

(1) Packing, crating, and handling costs incurred for labor, materiel, or services used in preparing the materiel for shipment from the storage or distribution point. (Note: Defense Working Capital Fund items are not reimbursed for packing, crating, and handling as that charge is included in the standard price.)

(2) Transportation charges, including inland CONUS and/or inland overseas transportation and over ocean transportation costs regardless of mode (for example, surface or airlift). This charge also includes use of Air Post Office/Fleet Post Office or State Department Pouch Service, when used.

(3) Port loading and unloading costs for labor, materiel, or services at ports of embarkation or debarkation.

(4) Pre-positioning or repositioning costs for shipments of nonexcess materiel made from overseas storage and distribution points.

(5) Staging costs for assembling or pre-positioning materiel in facilities in CONUS.

(6) Storage costs incurred on EDAs or customer-owned articles.

c. Contract administration services surcharge. The contract administration services (CAS) surcharge percentages prescribed in DOD 7000.14–R, volume 15, chapter 7, are applied to all FMS cases as a percentage of reported progress payments to contractors. Exceptions (programs for which CAS have been waived) are listed in the SAMM, tables C9.T3, C9.T4, and C9.T5. The CAS surcharge is composed of contract administration and/or management, quality assurance and inspection, contract audit, and OCONUS CAS. The DFAS will calculate applicable charges (see the SAMM, paragraph C9.5).

d. Logistics support charge. The logistics support charge (LSC) is applicable to other than Defense Working Capital Fund materiel. The prescribed charge (recovered by DFAS) is to recover the earned logistics support expenses by applying a percent factor to delivery transactions on FMS case lines. It is added to FMS case lines for spare parts, supplies, and maintenance of customer-owned equipment to recoup an appropriate share of the cost incurred in the logistics support area. The LSC is part of the cost of the item supplied and is not shown as a separate add-on charge to the FMS customer. The functions performed in the logistics support area are production control, requisition processing, inventory maintenance, administration of SDRs, and logistics management. Deliveries made on or after 1 October 2007 will not be assessed LSC. Actual logistics support expenses will be according to DOD 7000.14–R, volume 15, section 030210.A and section 030210.G; section 072203; and section 080601.A.

e. Transportation costs. These costs will be charged per DOD 7000.14–R, volume 15, chapter 7, and will normally be included below the line on the LOA. The purchaser will be billed according to the standard rate or an approved cost look-up table (see the SAMM, paragraph A2.3). Transportation sold as an above-the-line service will be shown on the LOA as estimated actual costs and billed as actual costs.

f. Special Defense Acquisition Fund. As of 30 September 1995, the Special Defense Acquisition Fund no longer procures equipment. (See the SAMM, paragraph C11.14, for information on how these programs are finalized and closed.)

g. Publications pricing. All Army and DOD publications for FMS and IMET program customers will be priced as specified in DOD 7000.14–R, volume 15, chapter 7.

h. Termination liability reserves. All procurement sales are required to have a termination liability reserve built into the LOA payment schedule. The reserve is adjusted regularly as contracts are awarded, work progresses, payments are

received, deliveries are made, and liability decreases. Each Army component that implements FMS agreements will determine termination liability on each LOA based on the type of article being procured, the contractor's estimate of termination liability, and historical cost data on other similar sales. A termination liability worksheet is required for each FMS case containing a pricing element code of "CC" (see the SAMM, para C9.9.1.5.3). The requirement to set payment schedule on termination liability may be waived by DSCA. A standby letter of credit may be used in lieu of the termination liability to guarantee termination payments. (Note that FMF programs are not eligible to participate.)

i. Asset use, tooling rental, or facility rental charges.

(1) Fair pricing legislation has removed the requirement to apply asset use, tooling rental, or facilities rental charges for LOAs using USG property. Commercial sales of defense articles to any FMS customer shall include appropriate charges for any use of USG-owned facilities, plant, and production or research equipment in connection with the production of the defense articles.

(2) Commercial sales of defense articles which were produced in USG-owned facilities or with USG-owned industrial plant and production or research equipment, for which rental is assessed according to Defense FAR Supplement 245.4 and FAR 52.245–9, will be priced to include the appropriate rental charge. The rental charge in commercial contracts will be waived on a case-by-case basis according to the SAMM, paragraph C9.6.4.

9–4. Nonrecurring cost

a. Authority. The AECA, section 21 requires that an appropriate charge be made for a proportionate amount of any nonrecurring cost (NC) of RDT&E and production of MDE. Implementation guidance on establishment of charges, collections, and waivers is contained in DODD 2140.2, the SAMM, paragraph C9.4.5, and DOD 7000.14–R, volume 15, chapter 7. Recovery of NC applies to items sold from inventory or procured for an FMS customer, unless a waiver has been obtained.

b. Objectives. The objective of applying recoupment charges is to ensure that a purchasing customer pays a fair share of the DOD investment costs already incurred. The pro rata recoupment charge is to be included in the FMS price of the product or technology unless reduced or waived as outlined in the SAMM, paragraph C9.6.3.

c. Special nonrecurring research, development, test, and evaluation production costs. These costs are incurred at the request of, or for the benefit of, the customer in developing a special feature or unique requirement. These special costs must be paid by the customer as required.

d. Responsibility. The AMC will establish an operative system to ensure that NC recoupment charges for items being sold under FMS are collected. This system will ensure the development of a complete list of MDE items under Army cognizance which requires assessment of an NC recoupment charge according to DODD 2140.2.

e. Approval. The AMC will ensure that DSCA approval has been obtained prior to applying pro rata NC recoupment charges to sales of items on the major defense equipment list (MDEL). The NC charge will be included in the unit price of the item on the LOA. The AMC will submit candidate items through DASA (DE&C) to DSCA for approval and inclusion on the MDEL.

f. Waiver request. The requesting country or international organization must initiate waiver requests. Waiver requests submitted on behalf of a foreign country by the Army must be based on receipt of a specific request from the country. Waiver requests submitted by ACOMs or agencies should be sent to AMC, which will forward them with a recommendation, to DASA (DE&C) for submission to DSCA for approval. Requests should indicate if—

(1) The item is standard for U.S. forces.

(2) The item or an equal item is wholly or partially standard in NATO.

(3) The item is interoperable with a standard or like item.

(4) The item is covered in a standard NATO agreement or coproduction program.

(5) The sale of this item advances USG interests in achieving rationalization, standardization, and interoperability.

(6) Failure to approve the waiver will result in a loss of sale.

9–5. Offsets

a. Policy. It is DOD policy not to enter into government-to-government offset arrangements because of the inherent difficulties in negotiating and implementing such arrangements. The FMS customers requesting offsets should be informed that the responsibility for negotiating any offset arrangements resides with the U.S. contractor involved, not the USG. Additionally, the USG will not involve a U.S. contractor in an offset commitment without having prior concurrence of the contractor.

b. Costs. The Defense FAR Supplement permits defense contractors to recover allowable offset administrative costs from foreign governments under FMS contracts subject to the conditions listed in the SAMM, paragraph C6.3.9. The costs will be included as part of the unit price of the item.

9–6. Early cancellation of foreign military sales cases

If an FMS purchaser requests cancellation of an LOA after implementation, but before delivery of any or all articles and services, an administrative fee may be charged as cited in the SAMM, paragraph C6.9.

Section II
Financial Assistance Programs and Funding

9–7. Foreign military sales direct credit and guaranteed loan financing

a. Authority. The AECA, section 23, authorizes FMS direct credit and AECA, section 24, authorizes guaranteed loan financing. Title 10 USC 2540a through 2540d also authorizes the SECDEF to issue loan guarantees for the financing of a sale or long-term lease of defense articles, services, and design and construction services.

(1) *Foreign military sales direct credit loans.* These loans, as authorized by the President, are normally used to assist the FMS customer in economic development and can be used to procure defense articles and services, and for design and construction services. Congress appropriates funds in an amount equal to the principal loan values.

(2) *Guaranteed loan financing.* As authorized by the President, guaranteed loan financing guarantees any individual, corporation, partnership, or legal entity doing business in the United States against political or credit risks of nonpayment arising out of their financing of credit sales of defense articles and services, and design and construction services to friendly countries and international organizations. Fees are charged for the guaranties and all guaranties are backed by the full faith and credit of the USG.

b. Foreign military financing approval. Advance DSCA approval is required before preparing an LOA with articles and services financed under FMF, FMS direct credit, or guaranteed loan program.

9–8. Financial resources

Funding for the administrative implementation of Army security assistance comes from either the FMS administrative budget or the FMF administrative funds. Exceptions to this funding are those FMS related costs which are charged directly to FMS cases and the costs of military personnel at all organizations which are funded by the Military Personnel Appropriation.

a. Foreign military sales administrative budget. The FMS administrative budget is financed by collections from the FMS customer derived from the application of an administrative surcharge. Surcharge collections are made as they are earned and are then available for allocation to finance FMS administrative requirements. The collection of these funds is centralized in DSCA. The DSCA provides allocations to the Army based on the completion of the budget submission and/or justification process and ceilings imposed by Congress.

b. Foreign military financing administrative budget. The FMF and IMET program administrative and overhead support costs are financed from a combination of annual appropriations in the FMF account, and potentially, reimbursements from the sale of MAP-owned defense articles (MAP inventory of disposable property returned from recipient countries) which are credited to the current year FMF account as they occur. The FMF funds are appropriated to the President. The President, by executive order, allocates these funds and delegates the authority and responsibility for their administration to the SECDEF. The DSCA is the IA for these funds and makes allocations to Army activities on the basis of FMF and/or IMET orders. While FMF appropriation is not part of the DOD budget, the program and its budgeting, funding, and financial administration are generally subject to the same controls and regulations as other DOD and/or Army appropriations.

9–9. Administrative budget functional control and oversight

The Director, FMS Policy and Resources for DASA (DE&C) is the functional manager for Army security assistance and is an active participant throughout the PPBE processes. This entails—

a. Reviewing DSCA guidance which provides a 5–year projection of FMS activity and administrative fund budget planning levels.

b. Coordinating with the ASA (FM&C) to determine FMS administrative requirements, based on the DSCA POM guidance and other factors or initiatives peculiar to Army security assistance to include the funding allocation process.

c. Receiving and reviewing the FMS administrative budget call issued by DSCA, in conjunction with the ASA (FM&C) and submitting the Army's FMS administrative budget call.

d. Receiving budget submissions from all ACOMs that submit an FMS administrative budget to ensure that—

(1) Submitting commands followed POM/budget guidance.

(2) Justification adequately supports the requests.

(3) Priorities are consistent with Army guidance and known requirements.

(4) Competing priorities among ACOMs are evaluated, coordinated, and adjusted to meet total Army requirements.

(5) Army submission complies with DSCA guidance and requests adequate funds to accomplish the mission.

e. Working with the ASA (FM&C) on final preparation and consolidation of the Army FMS administrative budget before submitting to DSCA.

f. Reviewing the DSCA-approved budget to determine if adequate funds were made available to meet mission requirements for the budget year. In those instances where there are budget shortfalls, working with the ASA (FM&C) and the receiving ACOMs to adjust budget allocations, as necessary, to meet priority mission requirements. Approving budget allocations to commands.

g. Reviewing command execution rates, and monitoring commitments and obligations to ensure funds are used for the purpose intended and allocated.

Chapter 10
Export Management

Section I
Export Policy

10–1. Purpose

The decision to export Army weapon systems must balance the competing priorities to provide for the legitimate security needs of U.S. allies and coalition partners while protecting the technologies that preserve our qualitative military edge so that U.S. warfighters can maintain battlefield dominance. These twin goals are accomplished through the careful application of export control tools including the development of export policies for individual Army weapon systems and technologies. According to Department of the Army General Orders 2012–01, Army export policies are written by DASA (DE&C) and coordinated with ARSTAF stakeholders to ensure that policy guidance reflects the broad priorities of the acquisition, research, operations, cybersecurity, and security communities within the Army. By incorporating guidance from the Army's senior leadership, export policy documents become effective tools for harmonizing release determinations in support of the Army's broadest objectives, including the sale of weapon systems by either FMS or commercial export license as well as collaborative research carried out in support of government-to-government agreements. The export policy document functions as the basis for approving the release of sophisticated weaponry to support U.S. security objectives and for allowing cooperation with foreign parties who offer their own technologies to support Army programs in partnership with the U.S. defense industrial base. Developed in collaboration with the Army's technology and materiel development professionals, the export policy document contains guidance for protecting technologies that are deemed critical to the Army's combat overmatch and transformation goals. But to be relevant to the Army's current modernization strategy and objectives, our export policies must remain flexible enough to ensure that Army transformation is successful without jeopardizing the health of our industrial base. In order to foster the ability of the defense industrial base to transfer or market innovative and cutting edge technologies, each proposal must comply with established export policies to ensure that the release of critical program information is prevented or mitigated according to approved program protection planning documents.

10–2. Program protection plans

a. The Army has specific export policies approved by the Army senior leadership for selected systems and capabilities. Key to the timely development of these export policies is the supporting documentation developed by the PEO and the PM for the protection of systems under their purview.

b. The program protection plan gives the PEO and/or PM's assessment of the critical program information that is deemed necessary for maintaining superiority of that system on the battlefield. These plans normally include a Security Classification Guide, technology assessment and control plan, an antitamper plan, and foreign disclosure guidance in the form of a delegation of disclosure authority letter. These key documents are used to prepare export policies that give the Army a strong foundation upon which to assess the transfer of technologies, hardware, and defense support services related to FMS, international cooperation, or export license applications by defense vendors (see DA Pam 70–3, chap 1).

c. The emphasis that the Army places on comprehensive program protection plans for its increasingly sophisticated fielded and developmental weapon systems positions the Army to make the right decisions regarding the export of systems and system technologies.

10–3. Conditions for transfer

a. Transfers of technology to countries will be considered when such transfers—

(1) Contribute to collective security and deterrence, and promote regional stability.

(2) Contribute to weapon standardization and interoperability, thus lessening unilateral U.S. military requirements.

(3) Generally maximize the effective return on the collective NATO alliance or other allied investment in research and development.

(4) Enhance internal security.

(5) Result in an overall net benefit to the United States.

b. Recommendations for transfer may include sensitive or designated conventional weapons when the security benefits to the United States to be gained from the transfer outweigh the risks that—

(1) The technology might be compromised.

(2) The defense articles or defense services might fall into the hands of unauthorized persons.

10–4. Transfer of technical data packages

a. The SAMM, paragraph C.3.1, provides the guidance for technical data package transfers.

b. Organizations responding to customer requests for a technical data package shall submit the request with a supporting command position to the DASA (DE&C). The DASA (DE&C) will staff the command request and provide the Army's position to DSCA for consideration.

Section II
Foreign Disclosure Controls

10–5. General information security policy

a. The CMI provided under the auspices of an Army security assistance program is protected by a security agreement, normally a general security of military information agreement or equivalent security arrangement, between the United States and the recipient country. The CMI provided to the recipient country will be limited to that data which is necessary to operate and maintain the defense article being transferred.

b. The CUI may also be provided to a country during a transfer of defense articles and defense services. The CUI is governed by a specific set of guidelines that are detailed in paragraph 10–7 of this regulation.

10–6. Security classification and release of information

a. Policy. The requirements and procedures listed in this chapter will be followed when considering, approving, or implementing new programs. After DOD and DOS concurrences which indicate the USG's willingness to transfer a specific defense article or service to a foreign government or international organization, CMI may be disclosed to the foreign government or international organization provided the disclosure is in compliance with the NDP–1 and when approved for release by the delegated disclosure authority for the originator of the CMI. The CUI associated with a security assistance program or with the transfer of defense articles or services will be controlled according to the guidance contained in DA Pam 70–3, chapter 1. The Army usually discloses information on a specific defense article in response to an official foreign government or international organization request for P&A, LOA, or other contractual proposal.

b. Planning. Initial planning on security assistance programs must consider whether eventual disclosure of CMI to foreign governments and international organizations will be required. If it is determined that eventual disclosure of CMI is required, initial plans will not be executed until a U.S. commitment to furnish CMI or classified materiel is made. This caveat must be explicitly understood and acknowledged by the proposed recipient. Proposals to foreign governments or international organizations that will lead to the eventual disclosure of CMI must be authorized in advance. Participation in bilateral or multilateral agreements does not automatically authorize the disclosure of CMI to their participants. Officials authorized to grant such approval will do so according to AR 380–10.

c. Confirmation. All Army responses to requests for planning data (for example, P&A, LOA) will contain a statement that the release of the information does not constitute a commitment by the USG to provide the defense articles or services. By so stipulating, the Army avoids both false impressions and protests by the foreign government if a proposed transaction is aborted. The same general principles apply to the processing of munitions license requests from the DOS. The ITAR governs the following:

(1) Permanent export of unclassified and classified defense articles (including arms, ammunition, and implements of war) and defense services (including assistance, technical data, and military training).

(2) Manufacturing licenses and technical assistance agreements (TAAs).

d. Initial disclosure. Every proposed program must be evaluated in its entirety to determine if any aspect of the proposal or plan might result in disclosing CMI. Consideration of initial disclosure approval must not be limited solely to introductory or promotional materiel. The highest level of classification shown in the security classification guide for a system shall determine the overall classification of the system, regardless of end item classification.

e. Disclosure authority. The DCS, G–2 is the delegated disclosure authority for the Army. The DCS, G–2 executes the Army's foreign disclosure program on behalf of the DCS, G–2 and reviews the proposed initial disclosures for all security assistance programs to ensure compliance with NDP–1 requirements. If an exception to the NDP–1 (Exception to National Disclosure Policy (ENDP)) is required, DASA (DE&C) will assist the DCS, G–2 in developing the request for ENDP to include obtaining U.S. country team and combatant command positions.

10–7. Release of military information

a. Unclassified information.

(1) Except as specifically prohibited by other regulations, unclassified information may be released to support security assistance programs or the transfer of defense articles and defense services. Provisions regarding the transfer of CUI is contained in DA Pam 70–3, chapter 1. Unclassified information that is cleared as public domain information must be available to the public through either the USG Printing Office or the National Technical Information Service, or have been cleared for public release, to include posting on the Internet by the proponent's public affairs office.

(2) The command or agency proposing release of unclassified information is responsible for coordinating with and obtaining the concurrence of the proponent agency (see DA Pam 70–3, chap 1).

(3) According to AECA, section 21(f), DOD policy is to make information available to the public to the fullest extent consistent with national security policy. In addition, Army policy is to comply fully with both the specific provisions and the general intent of the Freedom of Information Act, as amended. Release of information will be according to procedures set forth in DOD 5400.07–R.

(4) Questions as to whether or not unclassified information is releasable should be addressed to the supporting information office or the proponent for the information (see AR 360–1).

b. Classified Information. The CMI will be released only on a government-to-government basis through established channels according to national and Army disclosure policy. Eligibility of a country or international organization to receive CMI under NDP–1 does not negate the requirement to obtain authorization for release of defense materiel and services under Army security assistance, nor does it negate the requirement for any export licensing that may be required by law.

(1) *Basis for release of classified military information.* Eligibility of a country or recipient to receive CMI under NDP criteria does not negate the requirement to obtain proper authorization for release of classified defense materiel, services, or CMI for export.

(2) *Tentative security assistance plans and programs.* Classified information on tentative defense article plans and programs (such as budgeting and future years requirements) may be released to a foreign government or an international organization, provided the item has already been transferred or is authorized for release to the foreign government or international organization. Such classified information may be released to the extent necessary for the security assistance planning process or the effective development of related defense plans. Classified dollar levels of tentative country or organization programs may be released only with the specific permission of the Office of the ASD (ISA) and with concurrence of the DOS. The U.S. officials who release information under this paragraph will ensure that the recipient government or international organization clearly understands that such release does not constitute any U.S. commitment.

(3) *Foreign military sales agreement.* Classified information on the quantity and projected delivery schedules for articles and services in FMS agreements with a given country may be released to that country or international organization to facilitate the recipient's planning.

(4) *Procedures for release.* Release of classified information under paragraphs (1), (2), and (3), above, is subject to AR 380–10 and DODD 5230.11.

c. Release in-country. Release of all security assistance information to a foreign government or international organization will be made only through government-to-government channels. Releases in the foreign country are made through the SCO or the Chief of the U.S. Diplomatic Mission.

10–8. Foreign disclosure system

All CMI authorized for disclosure as well as any denials of CMI are subject to the following:

a. Reporting. Army command and staff agency foreign disclosure officers must report disclosure of classified materiel or documents leading to issuance of an LOA or other security assistance action either online via the Foreign Disclosure System on the Secret Internet Protocol Router Network or offline using software provided by Policy Automation Services within the USD(P). Denials of CMI will be reported in the same manner. The report must be made according to prescribed procedures (see AR 380–10). Also, the report will be submitted for cases involving classified systems on major components requiring the eventual release of—

(1) Classified supporting information.

(2) Materiel required by the recipient country to operate and maintain the principal end items or components. The LOAs not accepted by the recipient country need not be reported.

b. Responsibility. The command responsible for disclosing CMI in support of a security assistance transaction will ensure that the Foreign Disclosure System Report is prepared and entered into the system.

10–9. General security classification guidelines

a. Foreign government information. This paragraph relates to Army security assistance only. It prescribes procedures to classify, downgrade, declassify, and safeguard classified information as it relates to FMS, FMF, and IMET. Information that is owned by, produced for or by, or under DOD and DA control is included. Also included are procedures for safeguarding and handling of foreign government information that according to AR 380–5 is—

(1) Provided to the United States by a foreign government or international organization. The expectation, expressed or implied, is that the information will be kept in confidence.

(2) Produced by the United States according to a written joint arrangement with a foreign government or international organization. The arrangement requires that either the information or the arrangement, or both, be kept in confidence. Such a written joint arrangement may be evidenced by an exchange of letters, an MOA, or other written record.

b. Basis of classification. Security classification guidance is contained in AR 380–5.

(1) Information not specifically designated as classified in AR 380–5 is unclassified unless—

(a) The DOS, DSCA, or HQDA directs classification.

(b) The national security classification criteria of AR 380–5 warrants classification for national security purposes.

(2) Information designated as classified in AR 380–5 is assigned the confidential security classification marking unless—

(a) The DOS, DSCA, or HQDA directs a higher level of classification.

(b) The national security classification criteria of AR 380–5 warrant a higher level of classification for national security purposes.

10–10. Specific security classification

a. Budget year data. The FMF and IMET program dollar levels and content of a program for the budget year or a later FY are classified for each country and international organization. Budget year data will be declassified upon delivery to Congress of the Congressional Presentation Document. Documents containing out-year dollar levels and content will be handled in the same manner. Also, the document must include a date for declassification purposes so that it may be declassified on completion of the event or date, whichever occurs first. The budget data document will be stamped as follows:

(1) Classified by: Enter title of original classification authority, security classification guide, or other classifying source document.

(2) Declassify on: Delivery to Congress of the Congressional Presentation Document or on (enter specific date), whichever occurs first.

b. Foreign military sales.

(1) *Classification.* Classification of FMS information under paragraphs (2) and (3) below, in the interest of U.S. foreign relations, is to prevent unauthorized disclosure of the fact that a specific defense article has been or may be sold to a certain foreign government. The primary factors considered by the DOS, DSCA, and HQDA in determining classification of FMS information are—

(a) The extent to which disclosure of the information would reveal the purchaser's order of battle. (The nature and quantity of defense articles being sold and the degree to which the purchaser relies on the United States as a source of military supply is considered.)

(b) The extent to which disclosure of the information could be expected to stimulate demands by other countries upon the United States or upon other supplying nations for defense articles (for example, demand might encourage global or regional instability or foster an arms race).

(2) *Planning data.* Data must be classified when either of the following criteria is met:

(a) The data identifies the requesting foreign government and specific items of MDE in which it has expressed interest and which qualify for congressional reporting under AECA, section 36(b)(1).

(b) Classification of the data is directed by higher headquarters or is warranted by the U.S. national defense interests.

(3) *Letter of offer and acceptance.* The DOS will determine the classification of each LOA for which Congress receives formal notification under AECA, section 36(b). The LOAs that are not formally notified to Congress under section 36(b) are unclassified unless the purchaser has specifically requested that the LOA be classified or higher headquarters has directed that the data be classified in interest of the U.S. national defense.

c. Coproduction. Information showing specific types of MDE for countries and international organizations will be classified during the negotiation stages. This applies to preliminary coproduction proposals and memoranda.

10–11. Security markings and declassification

a. National defense information. Classified information in an LOA and related documents will be declassified on the date or event derived from the original classifier of such information.

b. Planning data. Classification for planning data will be the same as for LOAs unless the potential exists for a sale requiring Congressional notification under AECA, section 36(b). Such data will be classified at least confidential for foreign relations purposes and will be declassified when Congressional notification is completed or a subsequent LOA for the items is unclassified.

c. Advance congressional notification and LOA. When advance notification is made to Congress under section 36(b), the applicable LOA will be classified at least confidential for foreign relations purposes. After the congressional review period, the DOS will decide the need to retain the classification. If a foreign country may have specifically requested that the FMS transaction be classified, then this information will be included with the advance notice and will be one of the factors considered by the DSCA and DOS in determining the classification of the transaction.

d. Classified letter of offer and acceptance. The LOAs determined by the DOS to be classified for foreign relations purposes will normally be declassified within 6 years or upon case closure (date of issuance of certificate of case closure).

e. Combination of national security and foreign relations information. The LOAs and related documents classified

for reasons of both national security and foreign relations will identify the multiple sources of the classification. These documents will be declassified on the latest classification date of the source documents.

f. Foreign military sales implementation records. The FMS implementation guidance will be written in an unclassified mode, even though the LOA to which it corresponds may be classified. These records include such items as case directives, production or repair schedules, Security Assistance Management Acquisition Program (if they contain no national security data), individual plans, requisitions, shipping documents, bills of lading, work orders, contract documents, billing and accounting documents, worksheets, and related feeder information.

g. Foreign military sales projections. Projections of dollar levels or content of FMS agreements and dollar levels of FMS credit extensions for the budget year or a later FY are classified for each country and international organization. Such projections will be declassified on delivery to Congress of the Congressional Presentation Document for the FY to which the projections apply. These projections will also include declassification instructions.

h. Coproduction documents and reports from the DSCA 1100 System. These will be classified where appropriate. When classification is shown, declassification instructions must be provided.

Section III
Army Munitions Control Program

10–12. Army munitions control program

a. General.

(1) The MCP provides policy governing Army reviews of export license applications for the temporary or permanent export of classified or unclassified technical data and hardware, manufacturing licensing agreements, and TAAs. It also provides Army advisory opinions on commodity jurisdiction determinations and strategic trade export requests. It does not include transfers of materiel, training, and services provided by the USG under the FMF, IMET, or the FMS program.

(2) The program involves the processing of export license applications and strategic trade cases referred to the Army by the DOS and the Director, DTSA. The term "munitions case" includes in its scope, defense articles and services and related technical data included on the USML which is a part of the ITAR published by the DOS. Changes to the USML are made by the Secretary of State with the concurrence of the SECDEF.

(3) Those items which shall be considered defense articles and constitute the USML can be found in the ITAR, Part 121. (An asterisk identifies items considered SME.) Any item of SME that has a nonrecurring research and development cost of more than $50 million or a total production cost of more than $200 million is considered MDE (see the SAMM, appendix 1 for the MDEL).

b. Authority.

(1) The AECA regulates the export of defense articles and services to foreign nations and international organizations. It is implemented by the DOS through the ITAR.

(2) The Export Administration Act regulates the permanent export of unclassified commercial and dual-use items and related assistance, software, and technology to foreign nationals. It is implemented by the Department of Commerce, Bureau of Industry and Security through the EAR and CCL.

(3) The export license application process is the primary means of regulating the exportation of technology, defense articles, and services under the ITAR and dual-use items under the EAR.

c. Program objectives. Army review of munitions and dual-use cases seeks to—

(1) Prevent and/or control the export of classified and/or critical technology.

(2) Provide the Army's position on the impact of proposed exports on national security.

(3) Protect the Army's warfighting equities.

(4) Prevent export sales from interfering with Army programs.

d. Nonconcurrence. If a reviewing activity recommends nonconcurrence in any munitions case, a general officer or senior executive service equivalent must sign the nonconcurrence and provide specific supporting justification. Exceptions may be requested on a case-by-case basis.

10–13. International traffic in arms regulations exemptions

a. The ITAR contains provisions that allow for the unlicensed export of U.S. weapons systems provided special criteria are met. While not licensed by the DOS, these exports must still be certified by key Army officials according to guidance issued by OSD. The certification of such exports takes the form of an ITAR exemption letter or memorandum. Only two Army officials have been identified by OSD to certify ITAR exemptions in support of the Army's mission. The authorized exemption official (AEO) is the DASA (DE&C), and the exemption certifying official (ECO) is the Director, Security Cooperation Integration and Exports, Office of the DASA (DE&C).

b. In general, ITAR exemptions may be considered for certification to support the following Army initiatives:

(1) Sales, loans, leases, or grants of defense articles, services, and technical data to foreign governments and international organizations.

(2) International cooperative armaments research, development, and acquisition agreements.

(3) Government-to-government military and civilian personnel exchange agreements.

(4) Combined military operations and training.

(5) Unilateral military operations abroad.

c. The Army's authority to certify ITAR exemptions is limited. Requests from Army elements and U.S. industry must be under one of the following five specific sections in the ITAR: 125.4(b)(1), 125.4(c), 125.5, 126.4(a), and 126.4(c). Each section contains criteria that must be met before an ITAR exemption can be certified. Certification will be granted when the proposed export matches the specific purpose codified within these respective ITAR sections. In general, ITAR exemptions can be certified by the Army to support exports to units overseas, classified plant visits, offshore bid proposals, and other conditions and/or criteria. Only the AEO and the ECO may provide guidance that satisfies the conditions of ITAR, section 125.4(b)(1). Requests outside the scope of the five ITAR sections listed above will not be certified.

d. In addition, the Army may not consider requests to certify ITAR exemptions under the following circumstances:

(1) The exemption is solely for the benefit of the exporter.

(2) The basis of the request is tied solely to urgency defined by the applicant.

(3) The foreign end user is prohibited or embargoed under ITAR, section 126.1.

(4) Congressional notification of the proposed export is required under ITAR, sections 123.15, 124.2(2), or 124.11.

(5) The defense item to be exported is controlled by the missile technology control regime according to ITAR, section 121.16.

(6) Exports to non-U.S. persons that are ineligible per ITAR, section 120.1(c).

e. All requests for ITAR exemptions must be sent to the DASA (DE&C) for action. Requests must be submitted in writing by the cognizant Army official and must include all pertinent information stipulated by the AEO or ECO. All requests for ITAR exemptions must be submitted 15 working days prior to the date of the intended export.

Section IV
Program Restriction and Prohibitions

10–14. Program restrictions

The following restrictions apply in furnishing defense articles and services under Army security assistance:

a. Blood derivatives. Human blood, plasma, and derivatives owned by the DOD may not be furnished unless coordinated through the Armed Services Blood Program, the Assistant Secretary of Defense for Health Affairs, the Joint Staff, and the combatant command.

b. Classified communications security equipment. The National Security Agency (NSA) is the central POC for the Army for security assistance actions related to communications security (COMSEC) equipment. The NSA must approve the release of COMSEC equipment and information. The Army may conduct the sale of COMSEC articles and services if NSA provides written authorization that the equipment is releasable and that a delegated sale is authorized.

c. Classified items or classified characteristics, documents, films, and publications. No offer of a classified item, or an item with which classified technical data or training is associated, may be made until it has been established that—

(1) The requesting country has a "need to know" and is authorized to receive the highest level of classification involved, or

(2) An ENDP has been granted, if so required.

d. Incendiary items, white phosphorus munitions, riot control agents, depleted uranium, Stinger surface-to-air missiles, and antipersonnel land mines. The USG policy and procedures regarding requests for these items are stated in the SAMM, paragraph C4.3.

e. Explosive ordnance disposal. The explosive ordnance disposal (EOD) tools, equipment, and procedures will not be furnished except when procured via FMS and—

(1) When the foreign country takes part in an EOD information exchange agreement under the Defense RDT&E Information Exchange Program, or

(2) When written assurance is provided that the equipment will be used only by graduates of the U.S. Naval EOD School.

f. Health care. Health care from DOD medical treatment facilities cannot be provided to foreign military, civilian, and family member personnel in the Unites States unless eligibility is established and full reimbursement is made to the providing facility or there is a reciprocal agreement. Outpatient care will be provided to NATO students and their dependents at no charge.

g. Logistics support. The U.S. Army will provide FMS logistics support to customers as stated in the SAMM, paragraph C6.4.

10–15. Program prohibitions

The following prohibitions apply in furnishing defense articles and services under Army security assistance:

a. Nuclear delivery systems. In principle, release of data on materiel in the delivery systems or dual-capable systems category requires approval by the President. The Army is not authorized to provide materiel declared by the Nuclear Regulatory Commission to be source materiel, by-product materiel, special nuclear materiel, production facilities, use facilities, atomic weapons, or articles involving restricted data. The depleted uranium is not included. The DSCA has established guidance on countries authorized to receive depleted uranium.

b. Chemical and biological warfare items. These items may not be provided unless they are defensive in nature.

c. Police training, services, and materiel. The AECA does not prohibit police training or related programs. However, the FAA prohibits using funds authorized under the FAA to conduct any police training or related programs either in a foreign country or in the United States. All military assistance, not just training, is subject to this prohibition. Prior DSCA approval shall be obtained before offering this type of defense article or service through FMS procedures.

d. Training. Training will not be furnished for the sole purpose of obtaining a degree or for accumulating credits toward a degree.

e. Prohibitions on sales from certain DOD stocks.

(1) 10 USC 2390 prohibits the sale of defense articles from DOD stocks identified as—

(a) Decrement stocks, meaning the stocks needed to bring the U.S. Armed Forces from a peacetime level to a combat level of readiness.

(b) Army war reserve stocks for U.S. forces.

(c) Pre-positioned materiel configured to unit sets.

(2) The President may authorize a sale outside DOD from stocks identified in paragraph (1), above if—

(a) An international crisis affecting the national security of the United States exists.

(b) The sale is in the best interests of the United States.

(c) Congress is notified not later than 60 days after the transfer with a plan for prompt replenishment of the stocks.

(3) 10 USC 2390 does not preclude sale of stocks that—

(a) Have been designated for replacement, substitution, or elimination.

(b) Have been designated for sale to provide funds to procure higher priority stocks.

(4) 10 USC 2390 does not preclude the transfer or sale of equipment to members of NATO.

Chapter 11
Special Programs and International Activities

11–1. Drawdowns

a. Presidential determinations. Emergency drawdown is authorized when the President determines and reports to Congress that—

(1) An unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization.

(2) The emergency requirement cannot be met under the authority of the AECA or any other law except FAA, section 506. Drawdown of defense articles from DOD stocks, defense services, and military education and training shall not exceed an aggregate value of $100 million in any FY.

b. Restrictions.

(1) Drawdown authorization provides neither funds nor contract authority to procure the required defense articles or services. It only authorizes the drawdown of on-hand stocks, the provision of services under an existing contract, and training provided by Army military and civilians under existing contractual services.

(2) Pricing will be according to IMET and/or FMF rates. Such pricing precludes contracting of goods and services. The RC Soldiers will not be used for SAT requirements unless RC man-day allocations of funds for temporary tours of active duty are available to underwrite military personnel appropriation costs of RC activations.

c. Responsibility.

(1) Upon receipt of the Presidential determination which authorizes the DOD to furnish (up to a specified dollar value) military assistance to the country or international organization specified, the DSCA will provide implementing instructions to the Army.

(2) The DASA (DE&C), in coordination with AMC, will work with the ARSTAF (DCS, G–3/5/7; DCS, G–4; and DCS, G–8) to identify the defense articles and services for emergency drawdown. The DCS, G–3/5/7 will task units to provide the defense articles and services, as required.

(3) The IA responsible for providing the article or service will follow procedures established in the SAMM, paragraph C11.4 and this regulation to ensure transfers are accomplished according to the FAA, section 506.

(4) The IA will maintain memorandum entries on accounting reports in anticipation of reimbursement for articles

and services. All costs associated with the drawdown shall be reported to AMC for inclusion into the DSCA 1000 System.

11–2. Foreign manufacture of United States defense equipment (coproduction)

a. Policy, general background, and scope.

(1) Policy regarding coproduction is found in DODI 2010.06 and the SAMM, paragraph C11.9.3.1.

(2) This paragraph addresses U.S. Army policy issues on coproduction and assigns implementation authority and responsibilities, as appropriate.

(3) Coproduction allows an eligible foreign government, international organization, or a designated foreign commercial producer to acquire the technical skills to assemble or manufacture, repair, maintain, and operate, in whole or in part, a weapon, communication, or support system. A coproduction project will be implemented through a government-to-government arrangement and may also include specific licensing arrangements as discussed in paragraph 11–3, below.

(4) The type of equipment considered for a project may range from a radio or rifle to a defense system. It could be limited to the assembly of a few end-items with a small input of local country parts, or it may extend to a major manufacturing effort requiring the buildup of capital industries. The United States and the collaborating country work-share will also vary depending on many different factors and considerations. The scope of each project will be determined on a country-to-country and equipment-specific basis and is usually defined in a memorandum of understanding (MOU) or MOA.

b. Key objectives. The objective of coproduction programs is better integration of the United States with those of the cooperating nations. Commonality of equipment among allies supports standardization, interoperability, and sustainability. Coproduction programs also help to improve the military readiness of the cooperating nation by expanding its technical and military support capability while expanding its industrial base. In most cases, Army approval of coproduction agreements must take into consideration their support of the U.S. industrial base.

c. Authority to negotiate. Written authorization must be obtained from the Director, DSCA, before releasing an MOU or MOA and prior to entering into negotiations, as defined in DODD 5530.3, for all agreements. Requests for authorization to negotiate and all actions related to coproduction will be submitted through DASA (DE&C) to DSCA.

d. Initiation of discussions. When approved by DSCA and DASA (DE&C), AMC may respond to requests for coproduction from the SCOs or authorized representatives of the foreign government or international organization. The initial discussion should be limited to fact finding and data gathering. The AMC representative will attempt to define or clarify the requirements and determine the potential scope of the project. These data will be essential in formulating an Army position on whether or not to support the project. The data are also essential to assigning specific actions in anticipation of developing an MOU or MOA.

e. Program management.

(1) The DASA (DE&C) is responsible for ARSTAF level actions, coordination, and oversight of Army coproduction programs. The DASA (DE&C), in coordination with DSCA, will determine who is to represent the Army in negotiations, either as lead negotiator or as team members.

(2) The AMC is responsible for planning and developing Army-approved coproduction programs. The AMC will also be responsible for executing projects according to U.S. law, DOD directives, and this regulation. The AMC may be asked to lead negotiations or assign team members.

f. Coordination. Program actions and recommendations must represent consolidated and fully coordinated Army views. The views and recommendations of the affected AMC LCMCs and PMs or project managers are considered essential and will be obtained and incorporated into the AMC proposal submitted to DASA (DE&C).

g. Combined working groups.

(1) The DASA (DE&C) may direct the AMC to assemble a combined working group, as necessary, at the beginning of a coproduction project to conduct exploratory discussions and formulate an approach to satisfy country requirements and mutual objectives. The working group will generally be composed of knowledgeable Army personnel, foreign government representatives, and U.S. and foreign industry representatives, as appropriate. The combined working group will be the focal point of all activities supporting—

(a) Feasibility studies.

(b) Industrial capability surveys.

(c) Technology assessments.

(d) Identification of work-sharing arrangements.

(e) Security considerations.

(f) Development of initial draft program requirements and responsibilities.

(2) When the initial phase is complete, the participating governments should have sufficient information on which to base a “make or buy” decision. At this point, the combined working group should have draft requirements and responsibilities prepared for review by DSCA and its foreign counterpart. Upon approval by the respective governments, DSCA may authorize the Army to develop an MOU or MOA.

11–3. Licensed production

Licensed production is an arrangement between a U.S. commercial firm and an eligible foreign government, international organization, or foreign commercial firm to produce a defense article (weapon system). The USG involvement is limited to monitoring the case licensing process. Such agreements generally establish quantitative limits on production and prohibit third-world country transfers of the manufactured items.

a. Policy. A U.S. commercial firm must obtain approval from the DOS before making a proposal to a foreign country or organization to enter into a manufacturing licensing agreement or TAA for the production or assembly of defense articles. When the request applies to significant military equipment, there are no exemptions to this requirement. Also, if marketing efforts will entail the disclosure of technical data or temporary export of defense articles, the appropriate export license must be obtained. The provisions addressed in the ITAR, sections 120.21, 120.22, 123.15, 124.1, and 126.8 are applicable.

b. Army requirements.

(1) The DASA (DE&C) is the Army POC for technology transfers and export licensing under the ITAR. The DASA (DE&C) will also formulate the Army's position for ARSTAF coordination before responding to the DTSA.

(2) The DASA (DE&C) will receive all export license applications referred to the Army by the Directorate of Defense Trade Control, DOS, and send copies of the selected applications with appropriate tasking to those Army field commands or agencies that manage the defense article. The DASA (DE&C) will review the assessments and recommendations provided by the Army field commands and develop the Army's position for submission to the DTSA.

11–4. Cooperative projects and cooperative production

See AR 70–41 for regulatory guidance.

11–5. Excess defense articles

a. General information on EDA management is provided in the SAMM, paragraph C11.5.

b. Army force structure changes and modernization are evaluated by the ARSTAF to identify excess materiel availability. Defense articles excess to the needs of the USG may be made available for sale under FMS or as a grant transfer (no cost) to eligible foreign countries.

c. The EDA process flow is shown at figure 11–1.

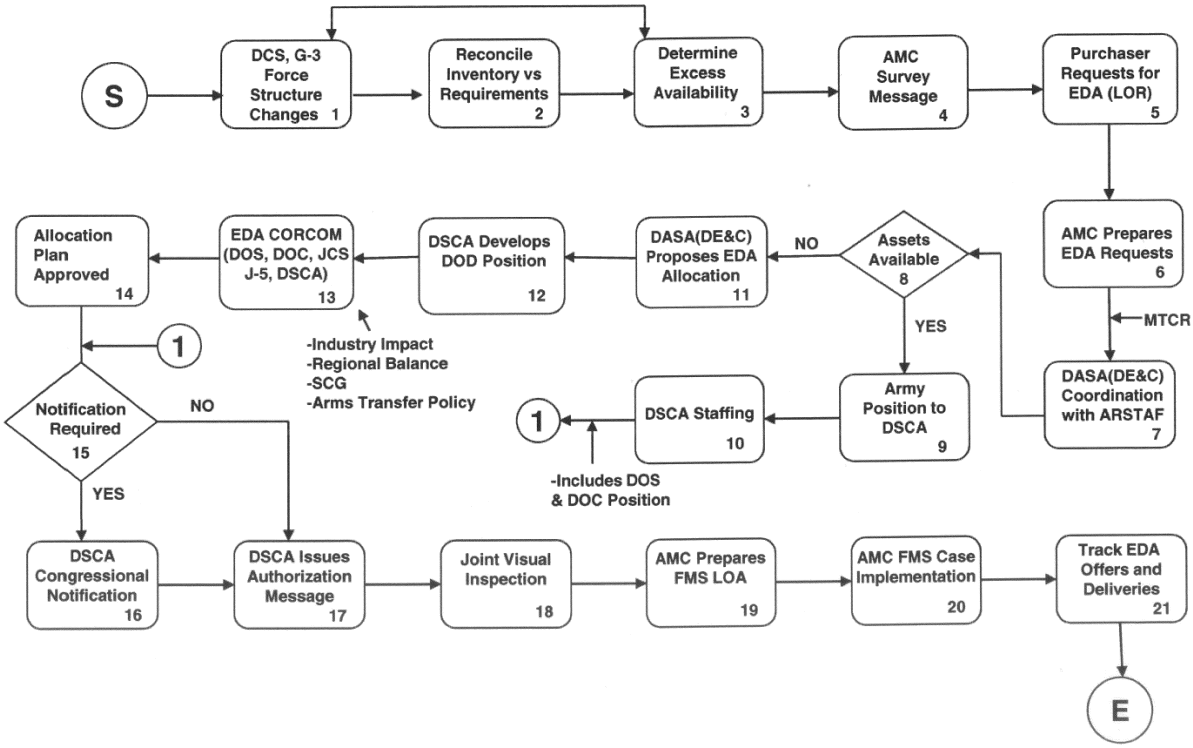

Figure 11–1. Excess defense articles process

(1) Survey messages, for other than SME, are drafted by AMC and sent to the SCO for action. For SME, AMC draft messages are forwarded to DASA (DE&C) for ARSTAF review and DSCA staffing to DOS and Department of Commerce before release to the SCO for action.

(2) Purchasers may identify requirements by—

(a) Responding to a survey message,

(b) Submitting an LOR, or

(c) Locating items available at the Defense Reutilization and Marketing Office.

(3) Once AMC receives a request, the EDA items requested must be screened for missile technology control regime. For items that are available, the AMC forwards the request through Army channels to DSCA for coordination, approval, and notification prior to responding with an offer.

(4) If requests exceed available assets, DSCA and DOS co-chair an EDA coordinating committee to develop an allocation plan to potential recipients. If the coordinating committee cannot finalize an allocation plan, its recommendation is forwarded to OSD Policy for resolution with DOS. Once resolved, DSCA issues an authorization message unless Congressional notification is required. The notification period is 30 days when required. Once completed, DSCA then issues the authorization message to offer and transfer to the proposed country.

(5) If the purchaser requests, a joint visual inspection is arranged. The AMC prepares the LOA for either FMS or associated services for a grant transfer. Grant EDA will be listed as LOA line items with unit and total costs shown as $0.00. Grant EDA LOA note requirements are provided in the SAMM, chapters 5 and 11.

d. Other considerations:

(1) The selling price of excess materiel shall be computed according to DOD 7000.14–R, volume 15, chapter 7.

(2) Storage charges apply to LOAs when the DOD is ready to deliver the applicable EDA but delays delivery at the purchaser's request (see DOD 7000.14–R, volume 15, paragraph 070801).

Chapter 12
Information Management

12–1. Information management in support of security assistance

a. Policy. The DASA (DE&C) is the single POC for oversight of information management (IM) systems in support of Armywide security assistance and will serve as the Army proponent for all IM systems that are funded by the FMS administrative fund.

b. Goal. The ultimate goal is a totally integrated IM system that will be able to perform all functions associated with the administration, management, and execution of Army security assistance, using hardware and software that will also interface with other Army and DOD systems, especially in the areas of logistics and financial management.

c. Applicable organizations. This policy is applicable to all ACOMs, activities, and offices receiving funds from the FMS administrative fund.

12–2. Army information management advocacy

The DASA (DE&C), as part of the IT Configuration Review Board and IT Governance Board, serves as the advocate for all IM systems that support Armywide security assistance. This includes the acquisition, management, and oversight for all hardware and software applications specifically used in support of Army security assistance programs, FMCS, and FMS to include FMS training.

12–3. Control of information management budget

a. The USASAC plans, identifies requirements, and prepares budget input to meet annual Army security assistance IM requirements. As part of the budget submission process, the USASAC is responsible for—

(1) Establishing guidelines for supporting and executing commands to follow when preparing and justifying information system requirements.

(2) Establishing procedures to review all IM budget requests (hardware and software applications), establishing priorities, and allocating administrative funds to support those approved requests.

b. The DASA (DE&C) will scrutinize all Army administrative budget submissions to ensure that submissions support the intent of this regulation and the USASAC IM integration plan. Budget requests that include IM requirements will be sent to the proponent for review, prioritization, and a recommendation for approval or disapproval.

Appendix A
References

Section I
Required Publications

AR 11–31
Army Security Cooperation Policy (Cited in para 2–9*a*.)

AR 12–7
Security Assistance Teams (Cited in para 1–9*b*.)

AR 12–15
Joint Security Cooperation Education and Training (Cited in para 1–9*b*.)

AR 70–41
International Cooperative Research, Development, and Acquisition (Cited in para 6–10.)

AR 360–1
The Army Public Affairs Program (Cited in para 10–7*a*(4).)

AR 380–5
Department of the Army Information Security Program (Cited in para 10–9*a*.)

AR 380–10
Foreign Disclosure and Contacts with Foreign Representatives (Cited in para 10–6*b*.)

AR 550–51
International Agreements (Cited in para 3–3.)

AR 700–131
Loan, Lease, and Donation of Army Materiel (Cited in para 6–11*b*.)

AR 725–50
Requisitioning, Receipt, and Issue System (Cited in para 6–7*b*.)

DAGO 2012–01
Assignment of Functions and Responsibilities Within Headquarters, Department of the Army (Cited in para 10–1.)

DA Pam 70–3
Army Acquisition Procedures (Cited in para 2–8*b*.)

DFAS–IN Regulation 37–1
Finance and Accounting (Cited in para 4–1*d*.) (Available at http://www.asafm.army.mil/offices/BU/Dfas371.aspx?OfficeCode=1200.)

DOD 4000.25–M
Military Standard Billing System (Cited in para 6–15*c*.) (Available at http://www2.dla.mil/j-6/dlmso/elibrary/Manuals/DLM/V2/v2c17.docx.)

DOD 5100.76–M
Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives (AA&E) (Cited in para 3–8*c*(2).) (Available at http://www.dtic.mil/whs/directives.)

DOD 5105.38–M
Security Assistance Management Manual (SAMM) (Cited in para 1–5*c*.) (Available at http://www.samm.dsca.mil/listing/chapters.)

DOD 5400.07–R
DOD Freedom of Information Act Program (Cited in para 10–7*a*(3).) (Available at http://www.dtic.mil/whs/directives.)

DOD 7000.14–R, Volume 15
Financial Management Regulation, Security Cooperation Policy (Cited in para 4–1*d*.) (Available at http://www.dtic.mil/whs/directives.)

DODD 2010.9
Acquisition and Cross-Servicing Agreements (Cited in para 6–2.) (Available at http://www.dtic.mil/whs/directives.)

DODD 2140.02
Recoupment of Nonrecurring Costs (NCs) on Sales of U.S. Items (Cited in para 9–4*a*.) (Available at http://www.dtic.mil/whs/directives.)

DODD 5230.11
Disclosure of Classified Military Information to Foreign Governments and International Organizations (Cited in para 10–7*b*(4).) (Available at http://www.dtic.mil/whs/directives.)

DODD 5530.03
International Agreements (Cited in para 2–1*c*(1).) (Available at http://www.dtic.mil/whs/directives.)

DODI 2010.06
Materiel Interoperability and Standardization with Allies and Coalition Partners (Cited in para 11–2*a*(1).) (Available at http://www.dtic.mil/whs/directives.)

DODI 7230.08
Leases and Demonstrations of DOD Equipment (Cited in para 6–11*c*.) (Available at http://www.dtic.mil/whs/directives.)

DTR 4500.9–R
Defense Transportation Regulation (Cited in para 6–15*a*(4).) (Available at http://www.dtic.mil/dtic/search/tr.)

PPD–23
Fact Sheet: U.S. Security Sector Assistance Policy (Cited in para 2–3*c*(7).) (Available at https://www.whitehouse.gov/the-press-office/2013/04/05/fact-sheet-us-security-sector-assistance-policy.)

10 USC 2350a
Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries (Cited in para 2–3*c*(18).) (Available at http://uscode.house.gov/browse.xhtml)

22 USC 2767
Authority of President to enter into cooperative projects with friendly foreign countries (Cited in para 2–3*c*(18).) (Available at http://uscode.house.gov/browse.xhtml)

Section II
Related Publications

A related publication is a source of additional information. The user does not have to read it to understand this regulation.

AR 1–75
Administrative and Logistical Support of Overseas Security Assistance Organizations (SAOs)

AR 11–1
Command Logistics Review Program

AR 70–1
Army Acquisition Policy

AR 70–57
Military–Civilian Technology Transfer

AR 380–40
Safeguarding and Controlling Communications Security Materiel

AR 700–142
Type Classification, Materiel Release, Fielding, and Transfer

AR 710–1
Centralized Inventory Management of the Army Supply System

DODD 5000.01
The Defense Acquisition System

DODD 5105.65
Defense Security Cooperation Agency (DSCA)

DODD 5230.20
Visits and Assignments of Foreign Nationals

DODI 2015.4
Defense Research, Development, Test and Evaluation (RDT&E) Information Exchange Program (IEP)

DODI 2040.02
International Transfers of Technology, Articles, and Services

DODI 5000.02
Operation of the Defense Acquisition System

DODI 5200.39
Critical Program Information (CPI) Identification and Protection Within Research, Development, Test, and Evaluation (RDT&E)

DODM 5200.01, Volume 1
DOD Information Security Program: Overview, Classification, and Declassification

DODM 5200.01, Volume 2
DOD Information Security Program: Marking of Classified Information

DODM 5200.01, Volume 3
DOD Information Security Program: Protection of Classified Information

DODM 5200.01, Volume 4
DOD Information Security Program: Controlled Unclassified Information

Arms Export Control Act of 1976
(Available at http://frwebgate.access.gpo.gov.)

DFARS 245.4
Use and Rental of Government Property

FAR 52.245–9
Use and Charges

Foreign Assistance Act of 1961
(Available at http://frwebgate.access.gpo.gov.)

House Report No. 96–70 on the International Security Assistance Act
(Available at http://www.dsca.osd.mil/samm.)

ITAR Part 120
Purpose and Definitions (Available at http://www.pmddtc.state.gov/regulations_laws/itar_consolidated.html.)

ITAR Part 121
The United States Munitions List (Available at http://www.pmddtc.state.gov/regulations_laws/itar_consolidated.html.)

ITAR Part 123
Licenses for the Export of Defense Articles (Available at http://www.pmddtc.state.gov/regulations_laws/itar_consolidated.html.)

ITAR Part 124
Agreements, Off-Shore Procurement and Other Defense Services (Available at http://www.pmddtc.state.gov/regulations_laws/itar_consolidated.html.)

ITAR Part 125
Licenses for the Export of Technical Data and Classified Defense Articles (Available at http://www.pmddtc.state.gov/regulations_laws/itar_consolidated.html.)

ITAR Part 126
General Policies and Provisions (Available at http://www.pmddtc.state.gov/regulations_laws/itar_consolidated.html.)

NDP–1
National Policy and Procedures for the Disclosure of Classified Military Information to Foreign Governments and International Organizations (Available at http://www.dtic.mil/whs/directives/corres/html/523011.htm.)

PL 104–201, Section 1045
Public Law: National Defense Authorization Act for fiscal Year 1997 (Available at http://www.gpoaccess.gov/plaws/104publ.html.)

Security Assistance Management Manual (SAMM)
See DOD 5105.38–M (Available at http://www.dsca.mil/samm.)

USD(I) Memorandum
Interim Information Security Guidance, dated 14 April 2004 (Available at http://www.dtic.mil/whs/directives/corres/pdf/int041605security.pdf.)

1 USC 112a
United States international agreements; transmission to Congress (Available at http://uscode.house.gov/browse.xhtml)

10 USC 2390
Prohibition on the sale of certain defense articles from the stocks of the Department of Defense (Available at http://www.gpoaccess.gov/uscode/browse.html.)

10 USC 2540
Establishment of loan guarantee program; a) Transferability; b) Limitations; c) Fees charged and collected; and d) Definitions (Available at http://www.gpoaccess.gov/uscode/browse.html.)

10 USC 2667
Leases: non–excess property of military departments and Defense Agencies (Available at http://www.gpoaccess.gov/uscode/browse.html.)

15 CFR 730–774
Export Administration Regulations (Available at http://www.ecfr.gpoaccess.gov.)

22 CFR 120–130
International Traffic in Arms Regulations (Available at http://www.ecfr.gpoaccess.gov.)

Section III
Prescribed Forms
This section contains no entries.

Section IV
Referenced Forms

DA Form 2028
Recommended Changes to Publications and Blank Forms

Appendix B
Required Reports

This appendix lists the statutory reports on security assistance submitted to DOD by the Army. It does not include security assistance reports submitted to Congress by the DOS.

B–1. Excess defense articles (RCS DSCA(Q)1118)

a. House Report No. 96–70 on the International Security Assistance Act of 1979 requires reporting of all outstanding LOAs and accepted LOAs to sell EDA through FMS procedures to foreign governments or international organizations. The EDA transfers in accordance with section 36(b) and section 516 are not included in the ceiling. The report will include spare parts supplied from defense stocks at inventory price if they are specifically identified as EDA in the LOA and exclude grants of sales of MAP redistributable and MAP-owned materiel property, ships, scraps, and demilitarized EDA.

b. The report will specify IA, purchaser, LOA identifier, acquisition cost to the USG, and sales value. The USASAC will ensure that the report is consolidated and forward it through DASA (DE&C) to DSCA (Business Operations Directorate), no later than 15 days after the end of the quarter. (See the SAMM, appendix 5, figure AP5.F2 for the sample report format.)

B–2. Security assistance surveys (RCS DSCA(Q) 1137)

a. The AECA, section 26(b) requires a listing of all security assistance surveys authorized during the preceding quarter as part of the section 36(a) quarterly report. The term "security assistance survey" means any survey or study conducted in a foreign country by USG personnel to assess the needs of the country or international organization for security assistance, and includes defense requirement surveys, general surveys or studies, and engineering assessment surveys. The surveys may be financed either by the United States or by the country through an FMS LOA.

b. The report will be submitted in the format shown in the SAMM, appendix 5, figure AP5.F1. The USASAC will ensure that a consolidated report is forwarded through DASA (DE&C) to DSCA no later than 30 days after the end of the quarter. Negative reports are required.

B–3. Unexpired leases of DOD property of any value (RCS DSCA(Q)1146)

a. This report will identify unexpired leases entered into previously under the authority of 10 USC 2667 and AECA, chapter 6 . The report will name the statutory guidance for the lease. Leases will be reported until the property is returned to U.S. custody or the lease is terminated as a result of another action.

b. The USASAC will forward the report no later than 15 days after the end of the quarter through DASA (DE&C) to DSCA.

c. See the SAMM, appendix 5 for additional information.

B–4. Quarterly report of security assistance coproduction agreements (RCS DSCA(Q)1226)

a. Public Law 104–201, section 1045, requires that a quarterly report be submitted to Congress regarding coproduction and licensed production. The report will reflect all concluded government-to-government agreements regarding foreign production of defense articles of United States origin and all other concluded agreements involving coproduction or licensed production outside the United States of defense articles of U.S. origin. This includes LOAs, such as those that include technical data packages transferred for production purposes, and MOAs and MOUs.

b. The report will include four primary categories of information:

(1) Identity of the foreign countries, international organizations, or foreign firms involved.

(2) Description and estimated value of the articles authorized to be produced and an estimate of the quantity of the articles authorized to be produced.

(3) Authorized third-party transfers and a description of any restrictions on such transfers of the foreign manufactured articles.

(4) If the agreement does not provide for United States access to and verification of quantities and disposition of articles produced overseas, a description of alternative measures and controls incorporated in the coproduction or licensing program to ensure compliance with production quantity and third-party restrictions in the agreement.

c. A list of inactive coproduction programs will be included in the input for each report, along with an explanation of why each program is inactive and not closed. An estimated closure date (termination by mutual consent) for each program will be provided. As programs are closed, they will be deleted from the list.

d. The USASAC will send the report through DASA (DE&C) to DSCA. The report will be sent no later than 30 days after the end of the quarter. A negative report is required.

B–5. Foreign military sales manpower report (RCS DSCA(A)1121)

a. Manpower used in support of the security assistance/FMS mission will be reported by all Army claimants annually to DASA (DE&C).

b. The DASA (DE&C) will consolidate and forward these reports to DSCA within 60 days after the end of each FY.

c. This report is required to meet AECA, section 25(a)(6) requirements.

Glossary

Section I
Abbreviations

AC
armaments cooperation

ACOM
Army command

ACSA
acquisition and cross-servicing agreement

AECA
Arms Export Control Act

AEO
authorized exemption official

AMC
U.S. Army Materiel Command

APEP
Administrative Personnel Exchange Program

AR
Army regulation

ARSTAF
Army Staff

ASA (ALT)
Assistant Secretary of the Army (Acquisition, Logistics, and Technology)

ASA (FM&C)
Assistant Secretary of the Army (Financial Management and Comptroller)

ASCC
Army service component command

ASD (ISA)
Assistant Secretary of Defense (International Security Affairs)

BO
blanket order

CAS
contract administration services

CCL
Commerce Control List

CLSSA
cooperative logistics supply support arrangement

CMI
classified military information

CN
counter-narcotics

COCOM
combatant command

COMSEC
communications security

CONUS
continental United States

CPPN
Capability Priorities for Partner Nations

CT
counter-terrorism

CUI
controlled unclassified information

DA
Department of the Army

DA Pam
Department of the Army pamphlet

DAGO
Department of the Army General Order

DASA (DE&C)
Deputy Assistant Secretary of the Army for Defense Exports and Cooperation

DCS, G–1
Deputy Chief of Staff, G–1

DCS, G–2
Deputy Chief of Staff, G–2

DCS, G–3/5/7
Deputy Chief of Staff, G–3/5/7

DCS, G–4
Deputy Chief of Staff, G–4

DCS, G–8
Deputy Chief of Staff, G–8

DFAS
Defense Finance and Accounting Service

DO
defined order

DOD
Department of Defense

DODD
Department of Defense directive

DODI
Department of Defense instruction

DOS
Department of State

DRU
direct reporting unit

DSCA
Defense Security Cooperation Agency

DTS
Defense Transportation System

DTSA
Defense Technology Security Administration

EAR
export administration regulation

ECO
exemption certifying official

EDA
excess defense article

ENDP
Exception to National Disclosure Policy

EOD
explosive ordnance disposal

ESEP
Engineer and Scientist Exchange Program

FAA
Foreign Assistance Act

FAD
force activity designator

FAR
Federal Acquisition Regulation

FMCS
foreign military construction services

FMF
foreign military financing

FMS
foreign military sales

FTAS
Foreign Technology (and Science) Assessment Support

FY
fiscal year

GSA
General Services Administration

HQDA
Headquarters, Department of the Army

IA
implementing agency

IEA
information exchange agreement

IM
information management

IMET
international military education and training

IMS
international military student

IT
information technology

ITAR
International Traffic in Arms Regulation

LCMC
life-cycle management command

LOA
letter of offer and acceptance

LOR
letter of request

LSC
logistics support charge

MAP
Military Assistance Program

MASL
Military Articles and Services List

MCP
Munitions Control Program

MDE
major defense equipment

MDEL
major defense equipment list

MILDEP
military department

MOA
memorandum of agreement

MOU
memorandum of understanding

MSA
maintenance support arrangement

NATO
North Atlantic Treaty Organization

NC
nonrecurring cost

NDP
National Disclosure Policy

NSA
National Security Agency

OCONUS
outside the Continental United States

OGC
Office of the General Counsel

OSD
Office of the Secretary of Defense

P&A
price and availability

PEO
program executive officer

PM
program manager

POC
point of contact

POM
program objective memorandum

PPBE
planning, programming, budgeting, and execution

PPD
Presidential Policy Directive

QAT
quality assurance team

RC
Reserve Component

RCS
requirement control symbol

RDT&E
research, development, test, and evaluation

SAMM
Security Assistance Management Manual (also known as DOD 5105.38–M)

S&T
science and technology

SAP
Special Access Program

SATFA
Security Assistance Training Field Activity

SCETP
Security Cooperation Education and Training Program

SCO
security cooperation office

SC/SA
security cooperation/security assistance

SDR
supply discrepancy report

SECARMY
Secretary of the Army

SECDEF
Secretary of Defense

SME
significant military equipment

SOFA
status of forces agreement

SSBO
system support buy out

TAA
technical assistance agreement

T–MASL
Training Military Articles and Services List

TPA
total package approach

TRADOC
U.S. Army Training and Doctrine Command

U.S.
United States

USACE
U.S. Army Corps of Engineers

USASAC
U.S. Army Security Assistance Command

USC
United States Code

USD (AT&L)
Under Secretary of Defense for Acquisition, Technology and Logistics

USD (P)
Under Secretary of Defense for Policy

USG
U.S. Government

USML
U.S. Munitions List

Section II
Terms

Accessorial cost
The cost of packing, crating, and handling and transportation which are incidental to issues, sales, and transfers of materiel and are not included in the standard price or contract cost of materiel. An exception to this is working capital fund (WCF) items.

Administrative cost
The value of costs associated with the administration of the FMS program. The prescribed administrative percentage cost for a case appears in the LOA. This percentage is applied against the case. Expenses charged directly to the FMS case (as prescribed by the LOA) are not included.

Administrative debarment
Action that can be taken based on a violation where the party in question cannot be relied upon to comply with the EAR or the ITAR.

Applicant
The person or entity who applies for or submits an export license or other request and who has the authority as a U.S. Principal Party in Interest to determine and control export or re-export of the item and related assistance, service(s), technology, or technical data.

Arms Export Control Act (AECA)
The basic U.S. law providing the authority and general rules for the conduct of foreign military sales and commercial sales of defense articles, defense services, and training. The AECA came into existence with the passage of the Foreign Military Sales Act (FMSA) of 1968. An amendment to the International Security Assistance and Arms Export Control Act of 1976 changed the name of FMSA to the AECA. The AECA provides the statutory authority for the ITAR and munitions items under jurisdiction of the USML.

Arms transfers
Involves the sale, lease, loan, or other transfer of defense articles and defense services such as arms, ammunition, and implements of war, including components thereof, and the training, manufacturing licenses, technical assistance, and technical data related thereto, provided by the USG under the authority of the FAA of 1961, as amended, or the AECA, as amended, or other statutory authority, or directly by commercial firms to foreign countries, foreign private firms, or to international organizations.

Army Export Control System
The Army's electronic database for processing dual-use and munitions export license applications and other cases throughout the Army. This system facilitates staffing and review of cases assigned to Army by the DOD, DTSA.

Blanket order (BO) case
An agreement between a foreign customer and the USG for a specific category of items or services (including training) with no definitive listing of items or quantities. The case specifies a dollar ceiling against which orders may be placed.

Brokering
Under the ITAR, activities by a broker who acts as an agent for others in negotiating or arranging contracts, purchases, sales, or transfers of defense articles or defense services in return for a fee, commission, or other consideration.

Brokering includes financing, transportation, freight-forwarding, or taking of any other action that facilitates manufacture, export, or import of a defense article or defense service, irrespective of its origin. Brokers are required to register with the DOS, Directorate of Defense Trade Controls.

Bureau of Industry and Security
An entity within the U.S. Department of Commerce that oversees administration of commercial and dual-use exports under jurisdiction of the EAR and Commerce Control List (CCL).

Case
An FMS contractual sales agreement between the USG and an eligible foreign country or international organization. Each case is assigned a specific identifier for the purpose of identification, accounting, and data processing for each offer.

Case closed
A FMS case for which all materiel has been delivered, all services have been performed, all financial transactions (including all collections) have been completed, and the customer has received a final statement of account.

Collections (FMS financial)
Receipts in U.S. dollars, checks, or other negotiable instruments from a purchaser to pay for defense articles, services, or military training based on accepted FMS cases.

Commerce Control List (CCL)
Under the EAR, a list of items under export control jurisdiction of the Bureau of Industry and Security, U.S. Department of Commerce.

Commercial sale
A sale of defense articles or defense services made under a DOS-issued license by U.S. industry directly to a foreign buyer and which is not administered by DOD through FMS procedures. Also referred to as direct commercial sales.

Commercial-type items
Any items (including those expended or consumed) that, besides military use, are used and traded in normal civilian enterprise and which are, or can be, imported or exported through normal international trade channels.

Commitment
Any communication between a responsible U.S. official and a representative foreign official (including officials of any international organization or supranational authority) which reasonably could be interpreted as being a promise that the United States will provide a foreign government (including international organizations or supranational authorities) with either funds (including long term credit assignments) goods, services, or information.

Commodity jurisdiction
A procedure used with the USG to determine whether an article or service is covered by the USML or CCL.

Concurrent spare parts
Spare parts programmed as an initial stockage related to the acquisition of a major item or system. The concurrent spare parts are normally shipped in advance of the release of the major item or system.

Controlled technology
Under the EAR, the technical information and know-how that can be used to design, produce, manufacture, use, or reconstruct goods, including technical data and computer software.

Cooperative logistics supply support arrangement (CLSSA)
Military logistics support arrangements designed to provide responsive and continuous supply support at the depot level for U.S.-made military materiel possessed by foreign countries and international organizations. The CLSSA is normally the most effective means for providing common repair parts and secondary item support for equipment of U.S. origin which is in allied and friendly country inventories.

Cooperative production
A joint or concurrent international production arrangement arising from an armaments cooperation cooperative development project. Examples of this type of production program are the Rolling Airframe Missile and the Multi-

Functional Information Distribution System. Cooperative production falls under the authority of the AECA, section 2751.

Coproduction
A program implemented by a government-to-government or commercial licensing arrangement which enables a foreign government or firm to acquire the "know-how" to manufacture or assemble, repair, maintain and operate (in whole or in part) a defense item.

Credit
Transactions approved on a case-by-case basis by the Departments of State, Treasury, and Defense, which allow repayment of military export sales for periods beyond 120 days after delivery of materiel or performance of service (AECA, sections 23 and 24).

Credit arrangement
An arrangement with a foreign government that the USG will advance a stipulated amount of credit to be used for the financing of a foreign military sale or a direct commercial sales to that government.

Debarment
Under the ITAR, a prohibition from participating directly or indirectly in the export of defense articles (including technical data) or in the furnishing of defense services for a period of generally 3 years.

Deemed export
Under the EAR, any release of technology or source code subject to the EAR to a foreign national. Such release is deemed to be an export to the home country or countries of the foreign national.

Defense article
As defined in FAA, section 644(d) and AECA, section 47(3), includes any weapon, weapons system, munitions, aircraft, vessel, boat, or other implement of war; any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance or making military sales; any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any other defense article or any component or part of any articles listed above, but shall not include merchant vessels, or as defined by the Atomic Energy Act of 1954, as amended, source material, by-product material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving restricted data.

Defense information
As defined in FAA, section 644(e), the term includes any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service, but not include restricted data as defined by the Atomic Energy Act of 1954, as amended, or data removed from the restricted data category under section 142(d) of that Act.

Defense Security Cooperation Agency (DSCA)
The agency that performs administrative management, program planning, and operations functions for Military Assistance Programs at the DOD level under the policy direction of the ASD (ISA).

Defense service
As defined in FAA, section 644(f) and AECA, section 47(4), the term includes any service, test, inspection, repair, training, publication, technical or other assistance, or defense information used for the purpose of furnishing military assistance or FMS but does not include military education and training activities or design and construction services under AECA, section 29.

Defined order (DO) case
A FMS case characterized by orders for specific defense articles and services which are separately identified line items on the LOA.

Delivery
Includes constructive or actual delivery of defense articles; also includes the performance of defense services for the customer, as well as accessorial services, when they are normally recorded in the billing and collection cycle immediately following performance.

Denial of export privileges
Under the EAR, an action that restricts the ability of the named person(s) to engage in export or re-export transactions involving items subject to the EAR, or that restricts access by named persons to items subject to the EAR.

Direct cite
Direct charge to the DFAS customer trust fund.

Directed disclosure
Directed by the USG as a result of information from some source indicating a possible or actual violation of export control regulations. A directed disclosure does not afford any of the protections of a voluntary disclosure.

Directorate of Defense Trade Controls
The office within the Bureau of Political-Military Affairs of the DOS responsible for reviewing export and re-export applications and other submissions on defense articles and defense services under jurisdiction of the USML.

Disclosure authorization
An authorization by an appropriate U.S. military department authority which is required prior to the disclosure of classified information to foreign nationals who are cleared by their governments to have access to classified information.

Diversion
Any deliberate action that causes materiel ordered to meet a foreign commitment or U.S. requirements to be delivered to other than the original intended recipient.

Dual-use
Under the EAR, items that have both commercial and military applications.

Eligible recipient (security assistance)
Any friendly foreign country or international organization determined by the president to be eligible to purchase or receive (on a grant basis) U.S. defense articles and defense services, unless otherwise ineligible due to statutory restrictions.

Empowered official
Under the ITAR, a U.S. person directly employed by an applicant, legally empowered in writing, in a position having independent authority to sign license applications or other requests for approval on behalf of the applicant. The empowered official must meet other specific requirements outlined in the ITAR.

End item
A final combination of end products, component parts, and/or materiel that is ready for its intended use; for example, ship, tank, mobile machine shop, and aircraft.

End-user
The entity that receives and ultimately uses the exported items. The end-user is NOT a forwarding agent or intermediary but may be the purchaser or ultimate consignee.

Excess defense articles
Defense articles owned by the USG which are neither procured in anticipation of military assistance or sales requirements, nor procured pursuant to a military assistance or sales order. Excess defense articles are items (except construction equipment) which are in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all DOD components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations.

Export Administration Act
The statutory authority for the EAR and commercial and dual-use items under jurisdiction of the CCL.

Export administration regulation (EAR)
Governs exports of all dual-use and commercial items under jurisdiction of the U.S. Department of Commerce, Bureau of Industry and Security.

Export control classification number
Under the EAR, a set of digits and a letter to identify systems, equipment and components; test, inspection and production equipment; materials; software and technology categories on the CCL.

Exporter
Under the EAR, the person in the United States who has the authority of a Principal Party In Interest to determine and control the sending of items out of the United States.

Field training service
A generic term that refers to either engineering and technical services, contract field services, or both.

Financing, type of
The method by which the USG is authorized to sell defense articles and services under the AECA (for example, cash with acceptance, dependable undertaking, and credit). The type of financing is shown by the proper term of sale on the LOA.

Foreign Disclosure and Technical Information System
An automated information storage and retrieval system containing all disclosures, releases, and denials of classified materiel to foreign governments. This system includes decisions on foreign military sales, munitions cases, commerce licenses, and visits.

Foreign military sales (FMS)
That portion of U.S. security assistance authorized by the AECA and conducted on the basis of formal contracts or agreements between the USG and an authorized recipient government or international organization. The FMS include government-to-government sales of defense articles or defense services, from DOD stocks, or through new procurements under DOD-managed contracts, regardless of the source of financing.

Grant aid
Military assistance rendered under the authority of the FAA for which the United States receives no dollar reimbursement. Such assistance currently consists of the IMET and pre-1990 MAP funding.

Implementing agency (IA)
The military department or defense agency responsible for the execution of Military Assistance Programs. With respect to FMS, the military department or defense agency assigned responsibility by the DSCA to prepare an LOA and to implement an FMS case. The IA is responsible for the overall management of the actions which will result in delivery of the materials or services set forth in the LOA which was accepted by a foreign country or international organization.

Import jurisdiction
The DOS regulates the temporary import of defense articles. Permanent imports of defense articles into the United States are regulated by the U.S. Department of the Treasury.

International military education and training (IMET) program
That component of the U.S. security assistance program which provides training to selected foreign military and defense associated civilian personnel on a grant basis. Training is provided at U.S. military facilities and with U.S. Armed Forces in the Unites States and overseas, and through the use of mobile training teams. Training also may be provided by contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses. The IMET Program is authorized by the FAA.

International traffic in arms regulation (ITAR)
A document prepared by the Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, DOS, providing licensing and regulatory provisions for the import and export of defense articles, technical data, and services. The ITAR also includes the USML.

Lease (security assistance)
An agreement for the temporary transfer of the right of possession and use of a nonexcess defense article or articles to a foreign government or international organization, with the lessee agreeing to reimburse the USG in U.S. dollars for all costs incurred in leasing such articles and to maintain, protect, repair, or restore the article(s), subject to and under the authority of AECA, section 61 (22 USC 2796).

Letter of offer and acceptance (LOA)
The document that the USG uses to sell defense articles and services to a foreign government or international

organization under the AECA as amended. The LOA lists the items and/or services, estimated costs, and terms and conditions of sale, and it provides for the foreign government's signature to indicate acceptance. When signed by the foreign government, and when financial arrangements have been completed, the LOA becomes an FMS agreement.

Letter of request (LOR)
The term used to identify a request from an eligible FMS participant country for the purchase of U.S. defense articles and services. The request may be in message or letter format.

Licensed production
Agreements made by U.S. commercial firms with international organizations, foreign governments, or foreign commercial firms to produce weapon systems. The USG's involvement is limited to the approval by DSCA of any applicable FMS case and approval of applicable type of export license. Such agreements generally establish quantitative limits on production and prohibit third-world country transfers of the manufactured items.

Logistics support charge (LSC)
A charge based on the AECA requirement for full cost recovery. The LSC recovers the cost of logistics support involved in providing the spares and other items needed to maintain a weapon system. These support costs are associated with production control, requisition processing.

Major defense equipment (MDE)
Any item of significant military equipment on the USML having a nonrecurring research and development cost of more than $50 million or a total production cost of more than $200 million.

Manufacturing license agreement
Under the ITAR, "An agreement (for example, contract) whereby a U.S. person grants a foreign person an authorization to manufacture defense articles abroad and which involves or contemplates: (a) The export of technical data or defense articles or the performance of a defense service; or (b) The use by the foreign person of technical data or defense articles previously exported by the U.S. person."

Military Articles and Services List (MASL)
Catalog of materiel, services, and training used in the planning and programming of MAP, IMET, and FMS.

Military Assistance Program (MAP)
That portion of the U.S. security assistance program authorized by the FAA which provides defense articles and services to recipients on a nonreimbursable (grant) basis. Funding for MAP was consolidated under the FMF program beginning in FY 1990.

Missile technology control regime
Multilateral international agreement for the control of missile-related technologies and components.

National Disclosure Policy (NDP–1)
Promulgates national policy and procedures in the form of specific disclosure criteria and limitations, definitions of terms, release arrangements, and other guidance required by U.S. departments and agencies having occasion to release classified U.S. military information to foreign governments and international organizations. In addition, it establishes and provides for the management of an interagency mechanism, and includes procedures that are required for the effective implementation of that policy.

Nonrecurring cost (NC)
Those costs funded by an RDT&E appropriation to develop or improve a product or technology either through contract or in-house effort. Also, those one-time costs incurred in support of previous production of a specified model and those costs incurred in support of a total projected production run.

Obligation
A duty to make a future payment of money. The duty is incurred as soon as an order is placed or a contract is awarded for the delivery of goods and the performance of services. It is not necessary that goods actually be delivered or services actually performed before the obligation is created; neither is it necessary that a bill or invoice be received first. The placement of an order is sufficient. An obligation legally encumbers a specified sum of money which will require an outlay or expenditure in the future.

Office of Foreign Assets Control
An organization in the U.S. Department of the Treasury that administers and enforces economic and trade sanctions

based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction.

Offset agreement
An agreement, arrangement, or understanding between a U.S. supplier of defense articles or defense services and a foreign country under which the supplier agrees to purchase or acquire, or to promote the purchase or acquisition by other U.S. persons of, goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the foreign country of defense articles or defense services from the supplier.

Price and availability (P&A)
Information prepared in response to a foreign government's request for preliminary data for the possible purchase of a defense article or service. The P&A data are not considered valid for the preparation of an LOA nor do they constitute a commitment by the USG to offer for sale the articles and services for which the data are provided.

Purchaser
Customer; the foreign government or the international organization with which the USG has entered into a sales agreement.

Repair and return
Procedure by which a purchaser returns unserviceable repairable items for entry into the U.S. repair cycle. Upon completion of repairs, the same item is returned to the purchaser and the actual cost of the repair is billed.

Security assistance
A program carried out under the authority of the AECA, the FAA, or related appropriation acts and statutory authorities by which the United States provides defense articles and services. This includes FMS, FMCS, MAP, and IMET.

Security assistance organization (SAO)
See security cooperation organization. The abbreviation SAO is also loosely used to mean security assistance office or officer.

Security assistance training field activity (SATFA)
The TRADOC activity that develops, executes, monitors, and manages the funding of all Armywide security assistance training programs under FMS and IMET.

Security assistance training management office
The TRADOC activity that coordinates, forms, deploys, and manages security assistance teams.

Security cooperation organization
The generic term for all DOD elements located in a foreign country with assigned responsibilities for carrying out security assistance management functions. It includes military assistance advisory groups, military missions and groups, offices of defense and military cooperation, liaison groups, and defense attaché personnel designated to perform security assistance functions. The abbreviation SCO is also loosely used to mean security cooperation office or officer.

Significant military equipment (SME)
Defense articles for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability. These items are identified on the USML in the ITAR by an asterisk preceding the item category listing.

Statutory debarment
Action that can be taken based on a violation where the party in question has been convicted of violating the EAR or ITAR for conspiracy to violate those regulations.

System support buy out (SSBO)
The total requirements of peculiar repair parts, components, assemblies, and ammunition that support the major end item or weapon systems. The SSBO is for the programmed life and time that a foreign recipient expects to use the major end item or weapon system.

Technical assistance agreement (TAA)
An agreement (for example, contract) for the performance of a defense service(s) or the disclosure of technical data, as

opposed to an agreement granting a right or license to manufacture defense articles. Assembly of defense articles is included under this type of agreement, provided production rights or manufacturing know-how are not conveyed.

Technical assistance field team
A U.S. team or individual deployed on a permanent change of station (PCS) assignment of more than 179 days (usually for 1 year or more) to a foreign country to provide assistance in the operation, maintenance, and tactical employment of weapons and supporting systems or in special skills related to military functions.

Technical assistance team
The DA military and civilian personnel, on temporary duty (TDY) status, who provide technical assistance to the purchasing country or international organization. A technical assistance team could include civilian personnel under contract to the DA.

Technical data
Under the ITAR, data means: (1) Information, other than software as defined in the ITAR which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions and documentation. (2) Classified information relating to defense articles and defense services. (3) Information covered by an invention secrecy order. (4) Software as defined in the ITAR directly related to defense articles. (5) This definition does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities or information in the public domain as defined in the ITAR. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

Technical data package
Normally includes technical design and manufacturing information sufficient to enable the construction or manufacture of a defense item component modification, or to enable the performance of certain maintenance or production processes. It may include blueprints, drawings, plans, or instructions that can be used or adapted for use in the design, production, manufacture, or maintenance of defense items or technology.

Technology
Under the EAR, specific information necessary for the development, production, or use of a product. The information takes the form of technical data or technical assistance. Technical assistance may take forms such as instruction, skill training, working knowledge, consulting services. Technical assistance may involve transfer of technical data.

Technology control plan (TCP)
Under the ITAR in cases when foreign nationals are employed at or assigned to security-cleared facilities, provision by the applicant of a TCP (available from the Defense Security Service) will facilitate processing. The TCPs are prepared in accordance with the National Industrial Security Procedures Operating Manual.

Termination liability
The amount collected from a purchaser and held in escrow in anticipation of any liability that would accrue to the USG if an LOA or program is terminated before the contract is completed.

Total package approach (TPA)
The preparation of an LOA in such a way as to recommend to the purchaser the need for obtaining all necessary support items, training, and services to efficiently introduce and operationally sustain major items of equipment or systems considered for purchase.

Training (FMS)
Formal or informal instruction of foreign students in the United States or overseas by USG personnel, contract technicians, or contractors (including instruction at civilian institutions). The term also includes correspondence courses; technical, educational, or informational media of all kinds; training aids; and, orientation training exercises.

U.S. Army Security Assistance Command (USASAC)
The agency delegated by the Commander, AMC, to perform operational aspects of approved security assistance programs.

U.S. territory or possession
Under the ITAR, when used in a geographical sense, includes the states, the Commonwealth of Puerto Rico, the insular possessions of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, any territory or possession of the United States, and any territory or possession over which the United States exercises any

powers of administration, legislation, and jurisdiction. Under the EAR, the 50 states, including offshore areas within their jurisdiction, the District of Columbia, Puerto Rico, and all the territories, dependencies, and possessions of the United States, including foreign trade zones, and also including the outer continental shelf.

USXPORTS
The DOD case processing database (replaced the Technology Protection System). A system that facilitates staffing of munitions and dual-use cases from the Departments of State and Commerce to reviewers in the DOD.

Violations and penalties
The administrative and criminal consequences of not complying with the EAR and ITAR.

Voluntary disclosure
Under the EAR and ITAR, a procedure whereby a person may voluntarily disclose an actual or possible violation of the EAR and/or ITAR to the appropriate enforcement agency in the U.S. Department of Commerce or DOS respectively. Such disclosures may be considered a mitigating factor in determining penalties. Failure to report such violation(s) may result in circumstances detrimental to U.S. national security and foreign policy interests.

Section III
Special Abbreviations and Terms
This section contains entries.

USAPD

ELECTRONIC PUBLISHING SYSTEM
OneCol FORMATTER WIN32 Version 279

PIN:	044894–000
DATE:	02-23-16
TIME:	15:29:28
PAGES SET:	64
DATA FILE:	C:\WinComp\r12-1.fil
DOCUMENT:	AR 12–1
SECURITY:	UNCLASSIFIED
DOC STATUS:	REVISION