
SYSTEMS ACQUISITION AND INTERNATIONAL ARMAMENTS COOPERATION

INTRODUCTION

This chapter introduces another term in the lexicon of international defense interactions – international armaments cooperation (IAC). As discussed earlier in this text, the term security assistance primarily represents a group of six programs - foreign military sales (FMS), foreign military financing program (FMFP) and international military education and training (IMET), direct commercial sales (DCS), economic support fund and peacekeeping operations. Security assistance itself is a portion of a broader area of interaction referred to as security cooperation. IAC is not a security assistance program but is a parallel area of international defense relationships under the security cooperation umbrella.

Like security assistance, IAC seeks to enhance U.S. national security but does so through different methods. It is important that security assistance personnel have some familiarity with IAC because IAC activities often are underway with foreign customers concurrent with security assistance activities. From the foreign purchaser's perspective, both areas involve a defense relationship with the U.S. and the foreign customer may not recognize the different management structure the U.S. applies for IAC versus the management structure for security assistance.

The purpose of this chapter is to introduce IAC to the security assistance professional in order to promote awareness and to enable individuals to be conversant in IAC fundamentals if the customer raises IAC related issues within the security assistance arena. This chapter will describe the different types of IAC programs and the key IAC organizations within the Department of Defense (DoD).

Due to IAC's intertwined relationship to the U.S. systems acquisition process, this chapter will first briefly discuss the system acquisition process and foreign partner's potential involvement. The FMS program predominately involves the sale of various defense systems the DoD has already developed and deployed to its own forces. FMS includes the total package approach (TPA) to provide the foreign purchaser with all the necessary elements to operate and sustain the system over its life cycle. IAC, on the other hand, predominately focuses on interfacing with international partners in various ways during the research, development, testing and evaluation (RDT&E) phases of the U.S. systems acquisition process.

U.S. SYSTEMS ACQUISITION PROCESS

Before looking at how DoD conducts IAC, one must briefly review how the DoD creates military systems for itself. An additional reason to look at the system development process is to recognize that factors relating to potential future foreign sales of the system are considered concurrent with system development. The DoD does not wait until a FMS letter of request (LOR) is submitted to begin evaluating the various technology and releaseability issues. DoD system acquisition policy requires these issues to be examined concurrent with new system development.

System Acquisition Policy

The DoD has a standard management framework to develop, produce, and sustain weapon systems. The key system acquisition policy documents are DoD Directive 5000.1, *The Defense Acquisition System* and DoD Instruction 5000.2, *Operation of the Defense Acquisition System*, and the *Defense Acquisition Guidebook*. All military departments (MILDEPs) are required to use the processes specified in these documents to develop new weapon systems. If, under FMS, the DoD approves developing a unique system or a major modification to an existing system for an FMS customer, these same acquisition policies and processes would apply to the FMS customer's development or modification work.

Defense Acquisition Oversight Structure

If an FMS unique development or major system acquisition project is undertaken, the FMS customer and the security cooperation workforce should be familiar with the acquisition oversight structure that will be applied. The acquisition oversight structure depends primarily on the scope and costs of the program. Each acquisition program will be designated into an acquisition category (ACAT). The ACAT specifies the level for program review and decision that must be accomplished for the program to progress through the various acquisition milestones and decision points. The ACAT categories are described in DoD Instruction 5000.2.

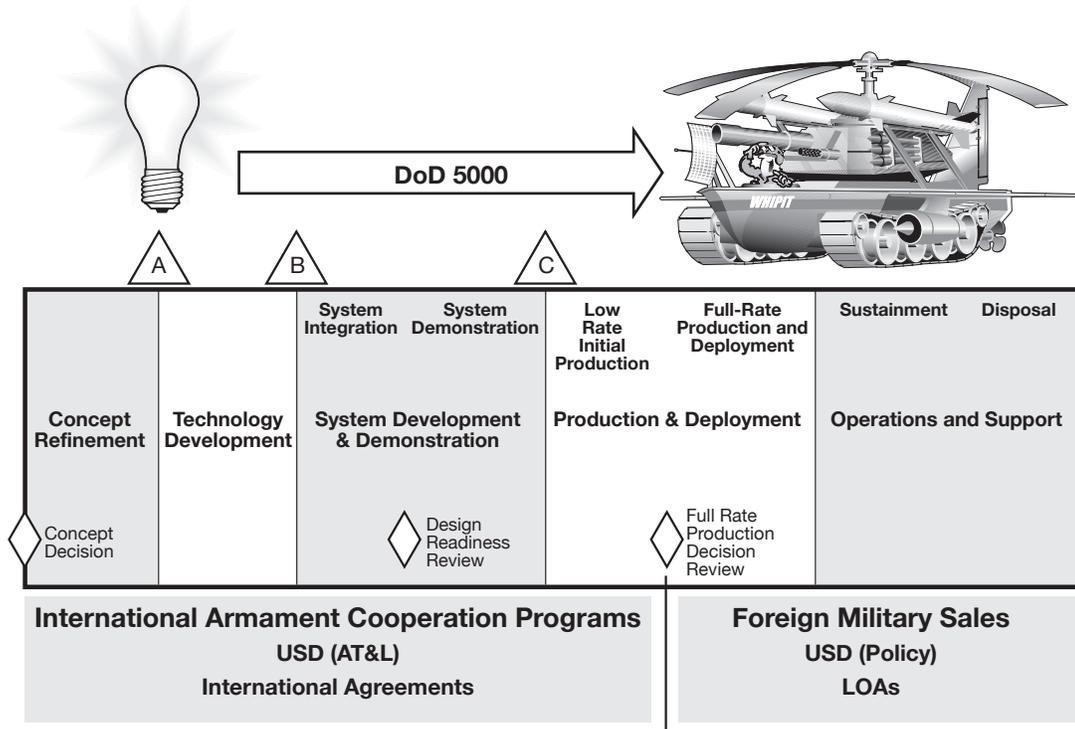
The most complex and expensive acquisition programs must be reviewed and have decisions rendered by the defense acquisition executive (DAE). The DAE is the under secretary of defense for acquisition technology and logistics [USD (AT&L)]. The next tier of programs is reviewed by the component acquisition executive (CAE) which is the senior acquisition individual within each military service. Next, in the acquisition management structure, are the program executive officers (PEOs). PEOs are individuals that have responsibility for overseeing several acquisition programs and report to the CAE. An acquisition program manager is responsible for managing all aspects of an individual acquisition program and for guiding the program towards meeting all cost, schedule and system performance goals. Individual program managers report up through the acquisition management structure applicable to the program's ACAT. This may include reporting to the PEO, CAE and DAE.

Defense Acquisition Management Framework

The DoD defense acquisition management framework is depicted in Figure 13-1. The life cycle process consists of five phases:

- Concept refinement
- Technology development
- System development and demonstration
- Production and deployment
- Operations and support

**Figure 13-1
Defense Acquisition System Life Cycle**



FMS are typically generated during the last two phases of the system acquisition life cycle. In fact, DoD policy states that the USG will only agree to sell systems through FMS that have been approved for full rate production for U.S. forces. Therefore, the key acquisition decision point, from an FMS perspective, is the full rate production review. If a foreign customer requests a letter of offer and acceptance (LOA) for a system that has not yet been approved for full rate production, a policy waiver is required. In this situation, Defense Security Cooperation Agency (DSCA) will coordinate with USD (AT&L) before offering an LOA for the system.

The reason for this policy concerns future supportability and interoperability issues. Prior to the full rate production decision, there is the risk that the U.S. may decide not to produce the system. This would present a undesirable situation if the U.S. has committed under an LOA to deliver a system to an FMS customer but decided not to deliver this same system to U.S. forces. The FMS customer would be faced with nonstandard support to sustain the system and might lack interoperability with U.S. forces. If the waiver is approved, the LOA for the FMS sale must include a special note identifying the risk that the U.S. government (USG) may not place this system into production. This waiver policy is often referred to as the Yockey waiver named after a former Under Secretary of Defense for Acquisition.

From an FMS perspective, another point of interest in the acquisition management framework is the milestone B decision. The weapon system program management office is established following the milestone B decision. The program office team will typically consist of a weapon system program manager supported by personnel from several functional disciplines such as engineering, testing, contracting, logistics, and financial management. The system program management office is responsible for overseeing the balance of the development and acquisition process. In addition, the program management office will remain in place to manage all the technical aspects of the system after it is delivered to U.S. forces. The program management office will also be responsible for acquiring any additional quantities for DoD and to develop improved or modified configurations.

If the U.S. agrees to sell the system through FMS, the acquisition will be accomplished by the same program management office. The system program management office may acquire the FMS quantities either as individual procurements or by merging the FMS requirements with DoD's on the same U.S. contract.

The end of the acquisition life cycle concerns disposal. An integral part of the system development effort is to plan for eventual demilitarization and disposal. For the FMS customer, the DoD decision to curtail or end operations of a given system can impact support. The components of the system may transition from being standard to nonstandard items. Many examples exist where DoD currently supports systems operated by FMS customers that the DoD no longer actively retains in its inventory such as the F-5 and the F-4 aircraft.

SYSTEM ACQUISITION DOCUMENTS ASSOCIATED WITH FOREIGN MILITARY SALES

History shows that very few U.S. defense systems will not eventually be sold or shared with other friendly nations sometime during the system's life cycle. There are many political, military and economic advantages resulting from the use of the same military equipment by the U.S. and its friends. Whether the situation is just a loan of communications gear to enable a joint operation or a decision to sell advanced military aircraft, the U.S. must evaluate the benefits and risks of sharing military technology and capabilities. As DoD develops new weapon systems, the potential for future international involvement, perhaps to include FMS, is to be considered.

Several documents are generated during the system acquisition process that support evaluating and planning for possible foreign involvement with the system. This section summarizes some of these key documents developed in the system acquisition process that relate to potential FMS system sales.

Cooperative Opportunities Document

Rather than the U.S. independently funding and managing a new system development, Congress requires the DoD to evaluate potential opportunities to cooperatively develop new systems by partnering with one or more other countries. The document that compares the positive and negative impacts of a potential cooperative development is the cooperative opportunities document (COD). The COD answers the four questions listed below. Based on the responses to these questions, the COD draws a conclusion regarding whether cooperative development should or should not be pursued.

- Are there any similar projects in development or production by one or more major allies of the U.S.?
- Could any of these projects satisfy, or be modified in scope, so as to satisfy the U.S. military requirements?
- What are the advantages and disadvantages of trying to structure a cooperative development program? Things such as program timing, cost sharing, technology sharing and standardization should be addressed.
- What are the opportunities for alternative forms of cooperation such as FMS, coproduction, licensed production, component/sub-component co-development or incorporation of subsystems from allied sources and what are the advantages and disadvantages?

In the evaluation process to prepare the COD, the relative benefits and risks, particularly in the areas of technology sharing and standardization, regarding foreign participation are identified. Many of these same issues will resurface in the future when FMS customers submit LORs to purchase the system. The COD, which is developed early in a new system development process, starts to form a U.S. position regarding foreign access to the technologies and capabilities contained within the weapon system. The COD position on foreign access will influence future FMS decisions.

A current example of an international cooperative development is the Joint Strike Fighter (JSF) program. In this program, the U.S. Air Force, Navy, Marines and several other countries are working together to cooperatively develop the JSF. In regard to future JSF sales through FMS, many of the technology transfer and releasability issues are already being identified and resolved during the cooperative development effort.

Program Protection Plan

The weapon systems created via the acquisition process provide the DoD the capabilities necessary to protect U.S. national security. Critical program information (CPI) consists of the critical elements of the system that make it unique and valuable to U.S. defense forces. CPI includes information that, if compromised, would degrade combat effectiveness, decrease the combat-effective lifetime, or allow a foreign activity to clone, kill, or neutralize the U.S. system.

The objective of the program protection plan (PPP) is to identify CPI and to protect it from hostile collection efforts and unauthorized disclosure during the acquisition process. The official definition of a PPP is:

A comprehensive protection and technology control management plan established for each defense acquisition program to identify and protect classified and other sensitive information from foreign intelligence collection or unauthorized disclosure. The PPP for an acquisition program should serve as the single source document used to coordinate and integrate all of the protection efforts designed to deny foreign collection activities and prevent inadvertent disclosure.

The relevance of the PPP to the FMS process is that it begins to identify which elements of the system represent security and technology release concerns. If an FMS customer desires to purchase the system, the PPP created during system development will have already identified the system CPI that needs to be evaluated relative to potential release under an FMS.

Technology Assessment and Control Plan

Acquisition policy encourages program managers to pursue foreign participation in programs. If international participation is anticipated, either through cooperative development or by FMS, the PPP should include a technology assessment/control plan (TA/CP).

DoD Directive 5530.3 requires a TA/CP to assess the feasibility of foreign participation in a program from a foreign disclosure and technical security perspective, to identify security arrangements for international programs and to make decisions on FMS, commercial sales, foreign production or other international use of U.S. technology or processes. The TA/CP consists of four sections.

- Program concept section concisely describes the purpose of the program and the threat or military or technical requirement that created the need for the program.

- Nature and scope of the effort section describes how the technical and/or military operational objectives will be satisfied, how the program will be organized or phased, and how the program will benefit the U.S.
- Technology assessment is the most important part of the TA/CP. It analyzes the technology involved in the program, its value from both a military and commercial perspective, and the consequences of compromise. The assessment should discuss any known foreign availability of the information or technology involved, and any previous release of the same or similar information or technology to other countries. This assessment should provide a conclusion regarding whether foreign involvement will result in clear benefits to the U.S. that outweigh any damage that might occur.
- The control plan identifies measures to minimize the potential risks and damage to the U.S. through loss, diversion or compromise. It describes how the security requirements will be satisfied. This may include:
 - Use of modified or FMS-only versions of critical components
 - Application of anti-tamper technology in system design
 - Phasing the release of information over the course of the program
 - Special security procedures to control access to program information

Delegation of Disclosure Authority Letter

The authorization to release classified information to any foreign participants in the program will be in the form of a delegation of disclosure authority letter (DDL). A DDL provides detailed guidance regarding releasability of all elements of a system or technology.

The DDL is generated using the guidelines and restrictions identified by the technology assessment and control plan. The DDL's purpose is to provide disclosure guidance to foreign disclosure personnel to carry out their functions. Delegated disclosure authorities are responsible for reporting all disclosures made under their delegation in the foreign disclosure system (FDS).

DoD Directive 5230.11, Disclosure of Classified Military Information to Foreign Governments and International Organizations provides the format for a DDL. A DDL will address the following areas:

- Highest level of classification of the U.S. information involved in the program.
- Approved methods of disclosure, e.g., oral, visual or documentary.
- Categories of information may be disclosed or released.
- Who is authorized to release material or information, and to whom disclosure is authorized.
- Material or information that can be released or disclosed.
- Conditions or limitations including material or information that cannot be released or disclosed.
- Review and transfer procedures, special security procedures or protective measures to be imposed.

- Extent of redelegation of authority, if any, permitted to subordinate activities.

Program Security Instruction

Many international agreements for cooperative programs contain a requirement for the preparation of a program security instruction (PSI). The PSI is used to reconcile differences in the security requirements of the various participating governments into a single set of standard security procedures for the program. The PSI deals with classified and controlled unclassified information furnished by the participants or generated in the program.

Anti-Tamper Technology

This is a concept rather than a formal acquisition document. In order to protect critical system information and technologies, components of a system may be specifically designed to prevent unauthorized access. This approach facilitates providing advanced capability to foreign users while reducing disclosure risk. All FMS sales of materiel require a LOA note regarding anti-tamper measures. The note states that the USG may incorporate anti-tamper (AT) protection into weapon systems and components. The AT protection will not impact operations, maintenance, or logistics provided that all terms delineated in the system technical documentation are followed.

INTERNATIONAL ARMAMENTS COOPERATION

The term IAC covers a multi-faceted area in which the U.S. cooperates with other countries and international organizations to research, develop, acquire and sustain military systems. The U.S. may work with friends and allies across the entire system acquisition life cycle. Figure 13-1 illustrates FMS occurs later in the life cycle after the system has already been fully developed and placed into production. IAC represents opportunities to cooperatively work with other countries in the earlier developmental phases of a system's life cycle.

IAC is generally conducted with nations that have solid political and economic ties with the U.S., similar military requirements, and a reasonably robust defense science and technology base. Although some countries may be quite important from a political, economic, or military standpoint, if they have different military requirements or lack a substantial defense industrial base, there may be little potential for successful IAC activity.

International Armaments Cooperation Objectives

The core objectives of armaments cooperation are:

- Operational - increase military effectiveness through interoperability with allies and coalition partners
- Economic - reduce weapons acquisition cost by sharing costs or avoiding duplication of development efforts with our allies and friends
- Technical - access the best defense technology and help minimize the capabilities gap with allies and coalition partners
- Political - strengthen alliances and relationships with other friendly countries
- Industrial - bolster domestic and allied defense industrial bases

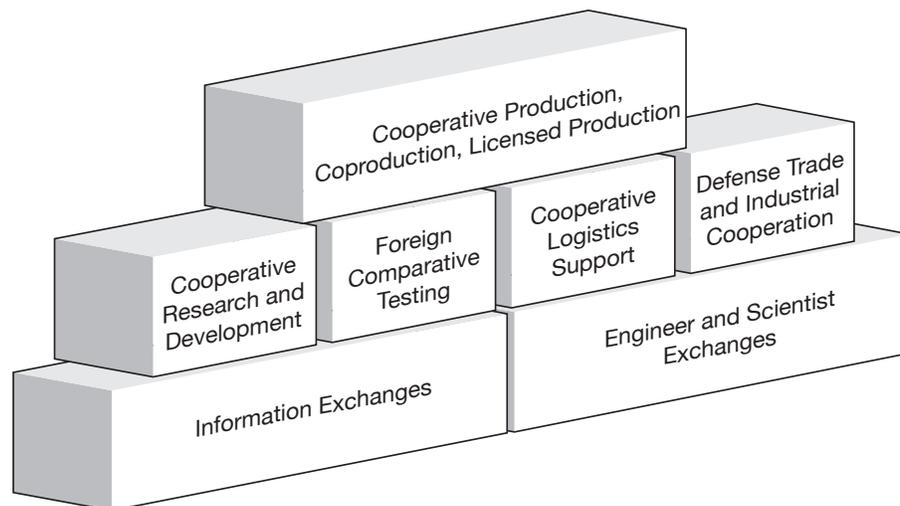
International Armaments Cooperation Programs

The individual programs that comprise the term IAC are listed below. Each of these IAC programs will be presented in more detail later in this chapter.

- Information exchange program (IEP)
- Engineer and scientist exchange program (ESEP)
- Cooperative research, development and acquisition (RD&A)
- Foreign comparative testing program (FCT)
- Defense trade
- Cooperative logistics

Although these are separate IAC programs, there may be an evolutionary relationship between the programs. For example, one of the more basic cooperative programs may lead to a future more advanced level of cooperation. This building block relationship between IAC programs is illustrated in Figure 13-2.

Figure 13-2
Building Blocks of International Armaments Cooperation



International Armaments Cooperation Legislative Authority

Over the years, Congress has enacted a number of laws encouraging and enabling IAC with U.S. allies in the acquisition of defense equipment. Most are codified in Title 10 United States Code (U.S.C.) – Armed Forces, and Title 22 – Foreign Relations and Intercourse. The laws, regulations, and policies that apply to armaments cooperation activities are complex. These IAC laws, regulations and policies in most instances apply in addition to, not instead of, applicable domestic DoD acquisition laws and policies. Given this complexity, assistance in interpreting and applying IAC laws, regulations and policies should be obtained from one of DoD’s IAC organizations.

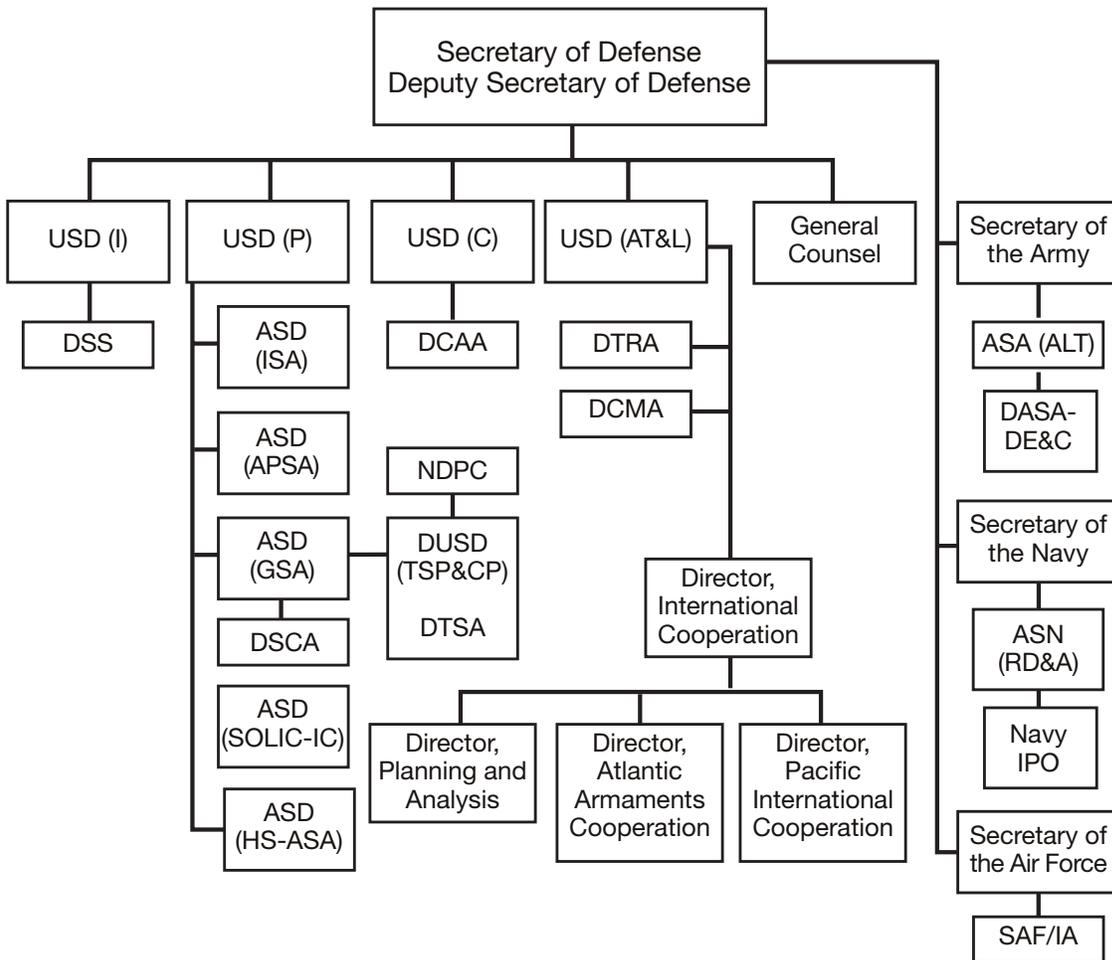
International Armaments Cooperation Oversight

The DoD's oversight for the military components of security assistance (FMS, FMFP and IMET) is the responsibility of the under secretary of defense for policy [USD (P)]. IAC, on the other hand, has a different chain of command. The USD (AT&L) is responsible for all IAC activities. In this role, the USD (AT&L) serves as the U.S. national armaments director. The USD (AT&L) established the Office of International Cooperation to focus on overseeing IAC activities. The USD (P) has a supporting role in IAC by reviewing international agreements for foreign policy considerations.

International Armaments Cooperation within Military Departments

Each of the MILDEPs has established an infrastructure to support the armaments cooperation program. Figure 13-3 illustrates these organizations.

Figure 13-3
Department of Defense International Programs Organization



The deputy assistant secretary of the Army for defense exports and cooperation is responsible for Army IAC programs. The office with day-to-day responsibility is the director of armaments cooperation. The Army has overseas IAC offices in Argentina, Australia, Canada, Chile, France, Germany, Japan, Singapore and the United Kingdom.

The assistant secretary of the navy for research, development and acquisition (ASN (RD&A)) has delegated responsibility for IAC programs to the Navy International Programs Office (Navy IPO). Within the Navy IPO, the Directorate of Technology Security and Cooperative Programs is responsible for all IAC activities. The Navy has overseas IAC offices in Chile, Japan and the United Kingdom.

The deputy under secretary of the Air Force for international affairs (SAF/IA) has assigned oversight of Air Force IAC programs the Air Force Armaments Cooperation Division (SAF/IAPQ). The Air Force has overseas IAC offices in France, Germany, Japan, and the United Kingdom.

In addition to the military department sponsored overseas offices, U.S. embassies include offices of the defense cooperation/security assistance offices (ODCs/SAOs). The ODC/SAO is generally responsible for in-country FMS activities. The ODC/SAO also has IAC responsibilities. In countries with significant IAC activity, DoD has placed dedicated IAC personnel within the ODC/SAO. Currently, DoD has approximately 40 dedicated armaments cooperation personnel assigned to ODCs/SAOs worldwide. Table 13-1 lists the countries with dedicated IAC personnel. In countries where there is no ODC/SAO, the armaments cooperation point of contact is usually the defense attaché.

**Table 13-1
Countries with Armaments Cooperation Personnel Assigned**

Australia	France	Italy	Singapore
BELLUX	Germany	Japan	South Korea
Canada	Greece	Netherlands	Spain
Chile	Hungary	Norway	Sweden
Czech Republic	India	Poland	Turkey
Denmark	Israel	Romania	Ukraine
			United Kingdom

Armaments cooperation personnel assigned to the ODCs are the in-country liaison for the U.S. national armaments director [USD (AT&L)]. The ODC assists the host government to obtain information on U.S. equipment and programs as well as assisting DoD acquisition organizations to obtain information on host nation equipment, requirements and programs in support of IAC. This function extends to assisting industry, both U.S. and host nation, in gaining access to the other nation's defense market and in developing cooperative programs. The *Security Assistance Management Manual* (SAMM) identifies the role of the ODC/SAO relative to IAC. Table 13-2 summarizes the IAC functions performed by the ODC/SAO.

**Table 13-2
ODC/SAO Functions for Armaments Cooperation**

Activity	Specific Function
General program support	a. Liaison for national armaments director (NAD) to host country counterparts in the ministry of defense (MOD), services and industry for: <ul style="list-style-type: none"> • Representation • Information exchange • Coordination of contacts • Advice on technical capabilities and military developments

Table 13-2 (continued)

Office of Defense Cooperation/Security Assistance Office Functions for Armaments Cooperation

Activity	Specific Function
Support of specific activities	<p>b. NAD advisor and liaison for cooperation in R&D, production, and support of military systems for:</p> <ul style="list-style-type: none"> • Identification of possibilities and contacts • Transmittal of proposals and liaison with contacts • Exchange of data, information, and questions on DoD and NATO cooperative initiatives and programs • Stimulation of host country participation in cooperative initiatives (e.g., emerging technologies, Nunn Amendment concerning cooperative projects) • Participation in negotiations for initiation and continuation of cooperative programs and monitor ongoing programs • Identification of problem areas and potential solutions <p>Liaison for DoD planning and advisory activities intended to develop defense industrial capabilities in nations with whom we have formal agreements for:</p> <ul style="list-style-type: none"> • Identification of host country defense industry needs and capabilities • Data exchange • Project monitoring and assessment
Support of specific reciprocal reciprocal defense procurement MOUs and MOAs	<p>a. Substantive and administrative participation and support for:</p> <ul style="list-style-type: none"> • Bilateral meetings • Renegotiation and negotiations of annexes • Seminars (government and industry) to explain acquisition practices <p>b. Point of contact for MOD and foreign firms on DoD acquisition and logistics practices and contacts for:</p> <ul style="list-style-type: none"> • Explanation of DoD practices • Identification of DoD contacts • Interface with host country organizations with existing implementing annex
Other activities	<p>c. Point of contact for the OSD and foreign governments to support initiatives that establish new reciprocal procurement MOUs and MOAs.</p> <p>a. Oversight of participating arrangements for protection of U.S. and technologies and military systems to ensure continued cooperative activities.</p> <p>b. Coordination of host country cooperative activities (e.g., hosting meetings with U.S. theater forces, U.S. mission NATO activities, and representatives of CONUS organizations located in host country involved with defense cooperation in armaments (DCA).</p> <p>c. Liaison and advisory support for MILDEP activities in support of cooperative programs.</p> <p>d. Administrative support for visits.</p> <p>e. Provide assistance to the NDPC in evaluating host country security programs and negotiating security agreements.</p> <p>f. Point of contact for U.S. defense industry visits.</p>

International Armaments Cooperation Government-to-Government International Agreement

The area of IAC uses international agreements as the official government-to-government document rather than letters of offer and acceptance. International agreements may also be referred to as memoranda of understanding (MOUs) or memoranda of agreement (MOAs). Unlike LOAs, international agreements constitute a binding commitment subject to international law. DoD Directive 5530.3, *International Agreements*, governs the international agreements process and specifically states that the FMS LOA is not an international agreement.

Also, unlike LOAs, international agreements are developed through a process of negotiation. To assist in developing armaments cooperation international agreements, DoD has created the international agreements generator that permits draft agreements to be quickly developed while ensuring that they conform to relevant U.S. law, regulations and policies as well as the generally accepted international agreement formats and norms used by foreign nations.

The Case Act requires consultation with the secretary of state before signing an international agreement. The DoD is also required to consider the effects of any agreement on the U.S. industrial base, and to consult with the Department of Commerce about the commercial implications and potential effects on the international competitive position of U.S. industry.

Armaments Cooperation Policy

DoD strongly encourages IAC as a key aspect of the DoD acquisition process. DoDD 5000.1, which provides management principles and mandatory policies and procedures for managing all acquisition programs, states:

Program managers shall pursue IAC to the maximum extent feasible, consistent with sound business practice and with the overall political, economic, technological, and national security goals of the U.S.

When the DoD has a requirement for a new or improved capability, DoDD 5000.1 prescribes an order of preference to be considered in acquisition. Figure 13-4 lists this hierarchy. It is important to note that potential foreign sources are to be considered within the first three alternatives. While FMS offers a method for foreign customers to purchase U.S. systems, by policy, DoD examines the potential for purchasing foreign commercial and military items or to work cooperatively with other countries to develop new systems.

Figure 13-4
Acquisition Order of Preference DoD 5000.1

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| <ol style="list-style-type: none">1. Procurement or modification of commercial products, services, and technologies or dual-use technologies from domestic or international sources.2. Production or modification of previously-developed U.S. or allied systems.3. Cooperative new development program with one or more allied nations.4. New DoD joint service development program.5. New DoD single service-unique development program. |
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INTERNATIONAL ARMAMENTS COOPERATION PROGRAMS

At present, there are six primary programs that comprise the overall area of IAC. These six programs are listed below.

- Information exchange program
- Engineer and scientist exchange program
- Foreign comparative testing program
- International cooperative research and development and acquisition program
- Defense trade
- Cooperative logistics

Information Exchange Program

Since the 1950s, DoD components have collaborated with the defense components of allied and friendly nations to exchange scientific and technical (S&T) information in areas of mutual interest. The information exchange program is the least complex of formal IAC activities.

S&T information can be exchanged between the U.S. and a foreign nation using a case-by-case release; however, such exchanges are cumbersome and may lack adequate legal protection for the information exchanged, particularly in the area of intellectual property rights. These releases of information must undergo a case-by-case review and approval by the cognizant foreign disclosure and international programs organizations.

Under the IEP, the U.S. and other nations conduct RDT&E information exchanges under the authority of formal information exchange agreements. The term “information” under the IEP includes knowledge obtained in any manner by observation, investigation, or study and the ideas inferred such as that of a scientific, technical, business, financial or programmatic nature. The term “information” also includes photographs, reports, manuals, threat data, experimental data, test data, designs, specifications, processes, techniques, drawings, technical writings, sound recordings, magnetic media, pictorial representations and other graphical presentations. The IEP is conducted under the provisions of DoD Instruction 2015.4, *Defense Research, Development, Test and Evaluation Information Exchange Program*.

The objectives of the IEP are to:

- View different ways of approaching similar technical challenges
- Avoid duplication of R&D
- Access technological advances
- Identify areas for further collaboration
- Promote interoperability

Information Exchange Program Master Agreements

A master IEP agreement is the international agreement between the DoD and the foreign government that establishes a framework for the exchange of RDT&E information. It does not establish information exchange details; instead, it authorizes creation of separate annexes for specific

information exchange projects. The master IEP agreement establishes the basic terms and conditions for subsequent IEP annexes.

For example, the master IEP agreement will specify security procedures, the highest classification allowed for the information exchanges, IEP management structure, information use rights including third party transfer, the process for clearance of visitors, and methods for resolving disputes. As a result, DoD components do not include such terms and conditions in individual IEP annexes

Information Exchange Program Annexes

IEP annexes establish defined information exchange relationships in specific RDT&E subject areas. Annexes are the best information exchange mechanism because they provide adequate legal protection for the information while facilitating the exchange of the information.

The annex will identify the installations, agencies, and laboratories that will provide the information, Field-level scientists and engineers will be authorized to serve as technical project officers (TPO). TPOs have the authority to manage information exchanges within the scope of the annex.

There is no limit to the number of IEP annexes that may be originated under the authority of a master IEP agreement. Annexes are considered DoD resources and their cross coordination and potential use by other DoD components is encouraged.

IEPs may not be used to transfer material, equipment, technical data packages, production information, manufacturing information, price and availability information on U.S. production and/or operational systems, and funding.

Engineer and Scientist Exchange Program

The ESEP is a career enhancement program that assigns foreign civilian and military engineers and scientists to DoD government RDT&E facilities and U.S. civilian and military engineers and scientists to foreign defense government and contractor RDT&E facilities. ESEP itself is a component of the broader defense personnel exchange program.

The primary goals of ESEP are:

- Broaden perspectives in research and development techniques and methods
- To form a cadre of internationally experienced professionals to enhance research and development programs
- Gain insight into foreign research and development methods, organizational structures, procedures, production, logistics, testing, and management systems
- Cultivate future international cooperative endeavors
- To avoid duplication of research efforts among allied nations

ESEP participants become an integral part of their host organizations, fully contributing to the project to which they are assigned. They are not sent to the host party or organization for training but contribute to and learn from host country counterparts as they work together in mutual defense efforts. Because allied and friendly foreign countries use the ESEP experience as a career-enhancing program, foreign participants often rise to positions of influence and importance in their own defense organization.

ESEP international agreements specify that participants must have at least a bachelors degree, preferably a masters, in a scientific or engineering discipline. Additionally, a corresponding DoD host organization must be willing to accept the proposed candidate. When a U.S. host center, laboratory, institute, or program office agrees to accept a foreign participant, the facility prepares a position description that describes the project the candidate would work and outlines the candidate's responsibilities and duties. The facility is also responsible for obtaining foreign disclosure guidance regarding the candidate's assignment from the cognizant foreign disclosure organization.

The foreign parent organization must also agree to pay the participant's salary, housing and travel expenses for the assignment. The U.S. will generally only be responsible for direct costs associated with hosting the individual at the U.S. host organization.

Currently, DoD has ESEP agreements with Australia, Canada, Egypt, France, Germany, Greece, Israel, Japan, Norway, Portugal, Republic of Korea, Singapore, Sweden, Spain, the Netherlands, and the United Kingdom. Historically, the number of foreign participants in ESEP greatly exceeds the number of U.S. participants.

U.S. participants ESEP are usually selected competitively from volunteers who meet the selection criteria. Military participants are typically Army/Air Force captains or Navy lieutenants; civilian participants are typically GS-12s or GS-13s, or equivalent. Selection is not necessarily based on specialty. DoD personnel interested in ESEP exchange opportunities are encouraged to discuss potential assignments with their DoD Component international programs organization.

Selected U.S. candidates may be required to attend a DoD language course before being allowed to go overseas. U.S. participants are expected to take their families to the host nation and live on the local civilian economy, even if there are opportunities to live in U.S. military housing. All ESEP participants are expected to be an integral part of the host organization, but they cannot serve in any other official capacity.

International Cooperative Research, Development and Acquisition Programs

Cooperative RD&A refers to a range of international programs in which DoD and a foreign nation jointly manage efforts to satisfy a common requirement by sharing work, technology, and costs under the provisions of an international agreement. These programs range in scope from small bilateral S&T agreements to multi-billion dollar, multi-national programs such as the JSF program. There are a number of types of agreements the U.S. and its partners use, and a variety of statutes that provide the legal basis for cooperating in defense acquisition. Table 13-3 summarizes cooperative RD&A characteristics.

**Table 13-3
Cooperative RD&A Program Characteristics**

Are	Are Not
Shared cost	Contracts
Shared risk	FMS buyer-seller relationships
Shared benefits	One way transfers or grants
Jointly managed	Foreign aid
Government-to-government	Industry only relationships

DoD negotiates and concludes various types of acquisition-related international agreements with foreign nations. Some require case-by-case OSD-level approval while the authority to negotiate and conclude others is delegated to the MILDEP secretaries.

International Agreements - Cooperative Research, Development, and Acquisition

A cooperative RD&A international agreement is normally pursued when one or more prospective foreign participants desire to form a partnership with the U.S. to equitably share the cost and effort cooperative of research, development, test and evaluation (T&E) or cooperative production of a defense article.

The advantage of using cooperative RD&A international agreement rather than a project agreement (described below) is that the scope of work permitted under such a RD&A agreement is very flexible and broad. The potential disadvantage lies in the complexity of negotiating a RD&A agreement. RD&A agreements require OSD-level approval. The detailed coordination and review process for these agreements can be lengthy.

Project Agreements - Research, Development, Test and Evaluation

International RDT&E project agreements are intended to facilitate the establishment of collaborative efforts involving basic, exploratory, and advanced technologies. DoD has granted most DoD components authority to initiate negotiations for specific project agreements.

An umbrella RDT&E agreement sets forth the general terms, conditions and formats for implementing individual projects related to technology base R&D activities. Under the provisions of the umbrella agreement, individual RDT&E project agreements are developed concerning the objectives, scope of work, management structure, and financial arrangements for a particular project. RDT&E agreements address cooperative efforts that, by their nature, are beyond the scope of an IEP agreements, yet are not on the scale of a separate, stand alone cooperative international agreement.

Loan Agreements

Under the Arms Export Control Act (AECA) Section 65, MILDEPs may loan without charge, U.S. defense materials, supplies, or equipment to, and to accept loans or gifts of defense materials, supplies, or equipment from the North Atlantic Treaty Organization (NATO) and major non-NATO allies.

Each loan must specify, the purpose of the loan, articles to be loaned, loan duration, management responsibilities, return of the loaned item if applicable and financial arrangements. A test report is provided at no-cost in exchange for the temporary loan of a defense article. No loan agreement may require a party to provide materiel that would impair its own priorities, requirements, or commitments, or would otherwise be inconsistent with its national laws or regulations, or other international agreements.

United States Funding to Promote Cooperation

Due to DoD's interest in promoting interoperability with international partners, funding mechanisms have been created to facilitate the initiation of cooperative efforts within the DoD acquisition process.

Because the U.S. is not likely to fight without partners in the foreseeable future, DoD must address coalition interoperability. Coalition operations require coordination in logistics, intelligence, surveillance, reconnaissance, command, control, and communications. The coalition warfare initiative is a development program started in fiscal year 2001 to provide seed money for cooperative research

and development programs which will improve the interoperability with likely U.S. coalition partners. It is administered by the USD (AT&L)'s Office of International Cooperation. The coalition warfare program assists program managers by providing short-term funding to pursue enhanced interoperability capabilities within key programs that USD (AT&L) and the Joint Staff have identified as priority capability areas.

Another funding program is the international cooperative research and development program. This program is often referred to as the Nunn program, after Senator Sam Nunn who sponsored of the original legislation. This program also provides seed money to capitalize on cooperative opportunities until the military departments can program their own funds through the normal budgeting process.

Foreign Comparative Testing

The FCT program funds U.S. T&E of defense items developed by allied and other friendly foreign countries to determine whether these items can satisfy DoD requirements. Congress authorized the FCT program in 1989 by consolidating two earlier programs: the foreign weapons evaluation program and NATO comparative test program. The law states:

It is the sense of Congress that the Secretary of Defense should test conventional defense equipment, munitions, and technologies manufactured and developed by countries to determine the ability of such equipment, munitions, and technologies to satisfy U.S. military requirements or to correct operational deficiencies; and that while the testing of non-developmental items and items in the late state of the development process are preferred, the testing of equipment, munitions, and technologies may be conducted to determine procurement alternatives.

The FCT program supports the U.S. national policy by insuring that the U.S. military has the best equipment available in the world. The FCT program avoids redundant development, ensures standardization of equipment, and reduces acquisition lead times and costs. In the private sector, it also serves as a catalyst for industry teaming arrangements.

Annual authorization and appropriations acts establish the level of DoD-wide FCT funding available in a given year. Funding is provided under program element 0605130D in the defense-wide research, development, test and evaluation budget.

Each March, the military services and the Special Operations Command propose projects to OSD for FCT funding consideration. The proposal is a comprehensive explanation of an FCT project that clearly describes the candidate item for which funding is requested, cost and schedule data for the T&E, and additional information needed by OSD to evaluate the merit of the project. The OSD evaluates proposals to ensure submitting components have:

- Strong user advocacy for the proposed item
- Addressed valid requirements
- Completed thorough market investigations
- Developed viable, funded acquisition strategies

The highest priority for FCT funding is for T&E of equipment in production or in the late stages of development which demonstrates good potential to satisfy component requirements with little or no modification and which the sponsor intends to procure after successful tests. The FCT program is not allowed to fund T&E of U.S. equipment nor purchase U.S. equipment for testing. Current FCT

policy guidance, specific procedures and points of contact may be obtained from the FCT web site at: <http://www.acq.osd.mil/cto/>.

Defense Trade

Although most DoD equipment is from domestic sources, DoD makes use of a worldwide supplier base. DoD is somewhat constrained by laws and regulations that discriminate against acquisition of non-U.S. products such as the Buy American Act and annual DoD appropriations act provisions that may restrict certain procurements to U.S. sources.

To overcome some of these limitations, the DoD has agreements with many allies to facilitate defense trade. These agreements establish reciprocity in the treatment of each other's vendors and enable the Secretary of Defense to waive the discriminatory provisions of the Buy American Act.

Foreign-developed products acquired by the DoD are often produced in the U.S. under license. Examples of such products are the Rhinemetall 120mm tank gun used on the M1A1 Main Battle Tank, the Beretta 9mm pistol and the AV-8B Harrier aircraft.

Buy American Act

The Buy American Act discriminates against foreign suppliers by requiring a price differential to be applied to foreign goods in the evaluation process of competitive source selections. The Secretary of Defense is authorized to waive the provisions of the Buy American Act on the basis of reciprocity if the partner country reciprocally waives its similar buy national legislation for procurements from U.S. sources. The DoD has entered into defense reciprocal procurement agreements with many allied and friendly foreign nations. A list of 21 countries that the DoD has established reciprocal procurement arrangements is contained in the Defense Federal Acquisition Regulation Supplement (DFARS) 225.872-1.

Foreign Production of United States Defense Articles

Foreign governments often seek to domestically produce part or all U.S. defense equipment in order to satisfy their own domestic defense industry development goals. There are three distinct methods of authorizing foreign production of defense articles.

Cooperative production is conducted with a partner nation under a cooperative international agreement, and features a division of labor. Each partner produces parts of a system and acquires other parts from partners. Final assembly can be conducted by one or more of the partners. Most cooperative production programs naturally evolve from system development and demonstration phase partnerships. The JSF program will utilize cooperative production.

FMS coproduction involves the use of FMS procedures and commercial licenses to provide a foreign nation the ability to produce U.S.-origin defense articles. Coproduction capabilities may be transferred solely through FMS LOAs, may involve a combination of FMS LOAs and associated munitions export licenses, or may require development of an coproduction international agreement. FMS coproduction agreements are governed by the SAMM, Chapter 11.

Licensed coproduction involves use of commercial munitions export licenses issued by the DoS. Licensed production enables U.S. companies to transfer to foreign governments or foreign companies the ability to produce U.S. origin defense articles. It should be noted that the U.S. defense articles proposed for licensed coproduction may not even be in DoD use, or may be a significantly modified version of DoD equipment. Defense Technology Security Administration (DTSA), in concert with

the other DoD components, agencies, and the OSD staff, plays a leading role in formulating DoD's position with regard to U.S. industry-licensed coproduction proposals.

Cooperative Logistics

Cooperative logistics refers to cooperation between the U.S. and allied or friendly nations or international organizations in the logistical support of defense systems and equipment. Cooperative logistics is part of the acquisition life cycle process. However, because logistics is also a substantial part of military operations, much of the implementation for cooperative logistics involves U.S. combatant commands (COCOMS).

Acquisition-Only Cooperative Logistics

Title 10 U.S.C. 2341 authorizes DoD to acquire logistic support, supplies, and services directly from NATO governments, subsidiary NATO bodies, the United Nations (U.N.) organization or any other regional international organization of which the U.S. is a member, and other eligible countries for U.S. forces deployed in the supporting country's military region. It allows payment by either cash payment or replacement-in-kind of identical or substantially identical items. A non-NATO country must meet one or more of the following criteria:

- Have a defense alliance with the U.S.
- Permit stationing of members of the U.S. armed forces or the home porting of naval vessels of the U.S.
- Agreed to preposition U.S. materiel
- Serve as host country for U.S. armed forces during exercise
- Permit other U.S. military operations in-country

Cross-Servicing Cooperative Logistics

Title 10 U.S.C. 2342 authorizes DoD to both receive and provide logistics support, supplies, and services to a NATO nation, a NATO subsidiary body, the U.N. organization or any other regional international organization of which the U. S. is a member. This authority cannot be used to procure any goods or services reasonably available from domestic commercial sources. The secretary of defense may designate non-NATO nations as eligible to participate in cross-servicing agreements after:

- Determining such action is in the interest of U.S. national security
- Consultation with the DoS
- Expiration of a 30-day waiting period after notifying Congress

DoDD 2010.9, *Acquisition and Cross-Servicing Agreements*, provides complete details on responsibilities and procedures for acquiring and transferring logistics support, supplies, and services.

Acquisition and Cross-Servicing Agreements. Acquisition and cross-servicing agreements (ACSAs), can be used to transfer logistics support during wartime, combined exercises, training, deployments, contingency operations, humanitarian or foreign disaster relief operations, certain peace operations under the U.N. Charter, or for unforeseen or exigent circumstances. ACSA authority is almost always exercised by the COCOM. The U.S. has ACSAs with many countries, including most NATO nations.

ACSAs may not be used to increase inventories, nor can DoD use them when the desired materiel or service is reasonably available from U.S. commercial sources. ACSAs are not used as a routine source of supply for a foreign country. Routine foreign requests for desired U.S. defense articles and services should be addressed through FMS procedures in accordance with the SAMM. Traditionally, ACSAs could not be used to provide items designated as significant military equipment (SME) on the U.S. Munitions List (USML). However, in fiscal year 2007, Congress approved legislation to permit SME to be provided on a temporary basis under an ACSA to countries that are coalition partners with the U.S. in Iraq and Afghanistan operation. Compensation for transfers under ACSAs may be either on a cost reimbursement basis or by exchange of supplies or services of equal value.

Host Nation Support. Host nation support (HNS) is civil and military assistance rendered in peace or war by a host nation to allied or friendly forces and organizations located on or in transit through its territory. HNS agreements are normally pursued by combatant commands. HNS assistance is provided in accordance with commitments made under alliances or bilateral or multilateral agreements, usually in the context of a broader cooperative logistics program.

Areas normally addressed in HNS agreements include, logistics lines of communication, terminal transfer services, collocated operating bases, supplies, en route and transient support, troop support services, over flight rights, facilities, weapons systems cross-servicing, materiel handling, port reception, departure, and clearance services, equipment decontamination services, naval vessels' support, medical services and equipment, intra-theater transportation, labor, and communication services and equipment.

Cooperative Military Airlift Agreements. 10 U.S.C. 2350c authorizes the secretary of defense to enter into cooperative military airlift agreements with allied countries. These agreements cover transporting NATO and other allied nations' military personnel and cargo on aircraft operated by or for the U.S. armed forces, in return for reciprocal transportation of U.S. military personnel and cargo. The secretary of defense may also enter into non-reciprocal agreements with NATO subsidiary bodies for transportation of their personnel and cargoes on U.S. armed forces aircraft.

War Reserve Stocks for Allies. The Foreign Assistance Act (FAA) of 1961 established the war reserve stocks for allies (WRSA) program. WRSA allows the pre positioning of host-nation intended, but U.S.-owned, war reserve material in authorized countries during peacetime. U.S. policy requires allies provide for their own sustainability to the maximum extent possible; any action to supplement established allied war reserve requirements will be considered only on a case-by-case basis. The host nation through a bilateral agreement will normally fund storage, maintenance, in-country transit, and other WRSA-related costs.

Congress limits the value of assets transferred into WRSA stockpiles located in foreign countries in any fiscal year through authorizing legislation. The U.S. retains title to the stocks; title must be transferred before the foreign country may use them.

Acceptance and Use of Real Property. 10 U.S.C. 2350g authorizes DoD Components to accept real property, services, and supplies from a foreign country for support of any element of the U.S. armed forces in an area of that country. This includes real property or the use of real property and related services and supplies for use by the U.S. in accordance with a mutual defense agreement or an occupational arrangement; and services furnished as reciprocal international courtesies customarily made available without charge.

SUMMARY

The DoD has established a standard management framework to develop, produce, acquire and sustain weapon systems. The policy for systems acquisition is contained in DoD's 5000 series documents. All MILDEPs are required to use the 5000 series acquisition management framework in developing and acquiring new weapon systems for DoD. Some key information that supports USG decisions regarding which weapon systems and what configurations to sell to FMS customers is derived from documents including the COD, PP, TA/CP, DDL, and PSI, which are developed during the system acquisition process. If an FMS customer requests and DoD approves the development of a unique system or a major modification to an existing system under FMS, DoD's 5000 series systems acquisition process will be applied to that FMS development and acquisition project.

This chapter also provided an introduction to another form in security cooperation referred to as IAC. Like security assistance, IAC seeks to enhance U.S. national security but does so through different methods. The area of IAC uses international agreements as the official government-to-government document rather than letters of offer and acceptance. International agreements may also be referred to as memoranda of understanding or memoranda of agreement. Unlike LOAs, international agreements constitute a binding commitment subject to international law.

While FMS offers a method for foreign customers to purchase U.S. systems, IAC examines the potential for purchasing foreign commercial and military items or to work cooperatively with other countries to develop new systems. IAC is generally conducted with nations that have solid political and economic ties with the U.S., similar military requirements, and a reasonably robust defense science and technology base.

DoD encourages IAC as a key aspect of the DoD acquisition process. The under secretary of defense for acquisition, technology and logistics is responsible for all IAC activities. This chapter provided an overview of the six primary IAC programs:

- Information exchange program
- Engineer and scientist exchange program
- Cooperative research, development and acquisition
- Foreign comparative testing program
- Defense trade
- Cooperative logistics

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