



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

SECNAVINST 5510.31C
NIPO-01B
15 March 2000

SECNAV INSTRUCTION 5510.31C

From: Secretary of the Navy
To: All Ships and Stations

Subj: POLICY AND PROCEDURES FOR CONTROL OF FOREIGN DISCLOSURE
IN THE DEPARTMENT OF THE NAVY

Ref: (a) NDP-1, National Policy and Procedures for the
Disclosure of Classified Military Information to
Foreign Governments and International Organizations

Encl: (1) DOD Directive 5230.11 of June 16, 1992, Disclosure of
Classified Military Information to Foreign
Governments and International Organizations
(2) DOD Directive 5230.20 of August 12, 1998, Visits,
Assignments, and Exchanges of Foreign Nationals

1. Purpose. To designate authority and responsibility for control of foreign disclosure in the Department of the Navy. This instruction is a substantial revision and should be reviewed in its entirety.

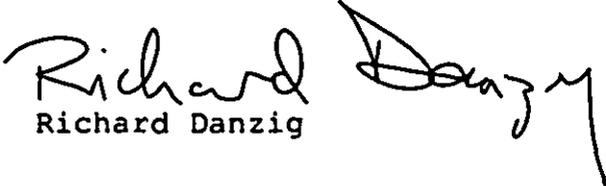
2. Cancellation. SECNAVINST 5510.31B.

3. Background. National Security Decision Memorandum (NSDM)-119 established National Disclosure Policy. Responsibility for implementation was delegated to the Secretary of Defense. Reference (a) issued national disclosure policy and procedures. Enclosure (1) delegated responsibility to the Secretary of the Navy (SECNAV) for national disclosure policy in the Department of the Navy (DON) and directed designation of a principal authority to control DON foreign disclosure and implement disclosure policies within DON. Enclosure (2) directs implementation of the DOD International Visitors Program (IVP), the Foreign Liaison Officers (FLOs) Program, the Defense Personnel Exchange Program (DPEP), and the policy for assignment of Cooperative Program Personnel within DON.

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4. Action. The Assistant Secretary of the Navy for Research, Development and Acquisition (ASN(RD&A)) is designated the principal disclosure authority within DON. Subject to overall responsibility and oversight of ASN(RDA), Director, Navy International Programs Office (Navy IPO) is delegated authority to disclose or deny DON classified military information within the limitations of reference (a), provide DON representation to the National Disclosure Policy Committee (NDPC), and further delegate foreign disclosure authority in accordance with enclosure (1). Director, Navy IPO, will ensure implementation of enclosures (1) and (2) within DON and issue internal guidance and procedural instructions necessary for uniform application of disclosure controls.

5. Reports. The reporting requirements contained in enclosures (1) and (2) are exempt from reports control by SECNAVINST 5214.2B.


Richard Danzig

Distribution:

SNDL Parts 1 and 2

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Department of Defense
DIRECTIVE

SECNAVINST 5510.31C

15 MAR 2000

NUMBER 5230.11

June 16, 1992

USD(P)

SUBJECT: Disclosure of Classified Military Information to Foreign Governments and International Organizations

- References:**
- (a) DoD Directive 5230.11, "Disclosure of Classified Military Information to Foreign Governments and International Organizations," December 31, 1984 (hereby canceled)
 - (b) DoD Instruction 5230.17, "Procedures for Disclosure of Classified Military Information to Foreign Governments and International Organizations," February 17, 1985 (hereby canceled)
 - (c) National Disclosure Policy-1, "National Policy and Procedures for the Disclosure of Classified Military Information to Foreign Governments and International Organizations," (short title: National Disclosure Policy (NDP-1)), October 1, 1988
 - (d) through (t), see enclosure 1

I. REISSUANCE AND PURPOSE

This Directive reissues reference (a), replaces reference (b), implements reference (c), and updates policy, responsibilities, and procedures governing proposed disclosures of classified military information to foreign governments and international organizations (hereafter referred to as "foreign governments").

¹ Provided to designated disclosure authorities on a need-to-know basis from the Office of the Director for International Security Programs, Office of the Deputy Under Secretary of Defense for Security Policy (ODUSD(SP)).

ENCLOSURE (1)

2. APPLICABILITY AND SCOPE

This Directive applies to:

2.1. The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

2.2. All disclosures of classified military information defined in enclosure 2. Disclosures of military intelligence information, however, also must be in compliance with DoD Directive C-5230.23 (reference (d)).

2.3. Classified information involved in munitions license applications processed under DoD Directive 2040.2 and the ITAR (references (e) and (f)).

3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2

4. POLICY

It is U.S. national and DoD policy under NDP-1 (reference (c)) that:

4.1. Classified military information is a national security asset that shall be protected and shall be shared with foreign governments only when there is a clearly defined benefit to the United States. Disclosures of such information shall be made only when authorized by officials designated under this Directive and then only when all requirements of this Directive are met.

4.2. An official who has been specifically delegated disclosure authority under section 5., below, may authorize disclosures of classified military information to foreign governments in support of a lawful and authorized U.S. Government purpose if the:

4.2.1. Official represents the DoD Component that originated the information.

4.2.2. Level of classified information to be disclosed does not exceed the classification level delegated by Annex A of reference (c).

4.2.3. Criteria and conditions in enclosure 3 are satisfied.

4.3. The Secretary of Defense and the Deputy Secretary of Defense are the only DoD officials who have original authority to grant exceptions to the policy contained in this Directive. The Secretary of Defense has delegated authority to the National Military Information Disclosure Policy Committee (NDPC) to consider and grant requests for exceptions to policy in compliance with reference (c).

4.4. Classified military information shall not be disclosed to foreign nationals until the appropriate designated disclosure authority receives a security assurance from the recipient foreign government on the individuals who are to receive the information.

4.5. In accordance with reference (c), it is U.S. policy to avoid creating false impressions of U.S. readiness to make available classified military information, materiel, or technology. Accordingly, designated disclosure authorities of the originating DoD Component, or, when an exception to policy is required, the Secretary of Defense, the Deputy Secretary of Defense or the NDPC must authorize, in advance, proposals to be made to foreign governments that could lead to the eventual disclosure of classified military materiel, technology, or information. Commitments shall not be expressed or implied, and no disclosures shall be made pending the required disclosure decision.

4.6. Disclosure planning shall include the following:

4.6.1. Planning for possible foreign involvement should start at the beginning of the weapon system acquisition process and other programs, to facilitate decisions on the disclosure of classified and controlled unclassified information in support of cooperative programs, foreign participation in the DoD procurement activities, and foreign sales. The planning shall include consideration of the requirements set forth in DoD Instruction 5000.2, Part 5, Section F (reference (g)).

4.6.2. The DoD Components shall use the Technology Assessment/Control Plan in DoD Directive 5530.3 (reference (h)) as the basis for making the stated disclosure decisions in paragraph 4.6.1., above, on weapon system programs.

4.6.3. A delegation of disclosure authority letter (DDL) similar to that in enclosure 4 shall be used to provide disclosure guidance to subordinate commands and Agencies and, when applicable, to the DoD contractors.

4.7. All disclosures and denials of classified military information shall be

reported in the Foreign Disclosure and Technical Information System (FORDTIS), in accordance with DoD Instruction 5230.18 (reference (i)). For denials, disclosure authorities must take special care to record a concise summary of the analysis that led to the denial.

4.8. Under conditions of actual or imminent hostilities, any Unified or Specified Commander may disclose classified military information through TOP SECRET to an actively participating allied force when support of combined combat operations requires the disclosure of that information. The appropriate U.S. Commander shall notify the Chairman of the Joint Chiefs of Staff of such disclosures. The Chairman of the Joint Chiefs of Staff, in turn, shall notify the Office of the Under Secretary of Defense for Policy, ATTN: Chairman, NDPC, who shall determine any limitations that should be imposed on continuing disclosure of the information. The U.S. Commander shall be informed of any limitations through the Chairman of the Joint Chiefs of Staff.

4.9. The classified military information that is approved for foreign disclosure shall be transmitted to the intended foreign recipient through government-to-government channels, in accordance with DoD 5200.1-R, chapter 8 (reference (j)).

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Ensure effective implementation of the National Disclosure Policy and operation of the NDPC under NDP-1 (reference (c)).

5.1.2. Designate the Chair of the NDPC, who shall represent the Secretary of Defense on the NDPC.

5.1.3. Advise the DoD Components and the NDPC about security matters on disclosures.

5.1.4. Draft and negotiate with foreign governments, in coordination with the other applicable DoD Components and Federal Departments and Agencies, security agreements governing the safeguarding of classified military information and equipment.

5.1.5. Coordinate on all international agreements negotiated under DoD

Directive 5530.3 (reference (h)) that involve the disclosure of classified military information.

5.1.6. Review and approve, when justified, requests for disclosure authority from heads of the OSD organizational elements and the DoD Components not covered in subsection 5.2., below.

5.1.7. Issue policy governing international visits, the assignment of liaison officers and exchange officers, and other assignments of foreign representatives to the DoD Components and defense contractors.

5.1.8. Maintain effective liaison with security officials of allied and friendly governments with which the U.S. Government has entered into security agreements.

5.1.9. Direct, manage, and control the FORDTIS, in accordance with DoD Instruction 5230.18 (reference (i)).

5.1.10. Issue necessary supplemental publications for the effective implementation of this Directive.

5.1.11. Publish an annual schedule to keep the DoD Components informed of security survey support requirements.

5.1.12. Record decisions rendered on requests for exception to reference (c) in the FORDTIS, in accordance with reference (i).

5.2. The Under Secretary of Defense for Policy, in addition to the responsibilities in subsection 5.1., above, and the Secretaries of the Military Departments, the Under Secretary of Defense (Acquisition), the Chairman of the Joint Chiefs of Staff, the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), the Director, Defense Intelligence Agency, and the Director, National Security Agency/Central Security Service, shall:

5.2.1. Authorize disclosures or denials of the U.S. classified military information for which they are the originating DoD Component in accordance with this Directive.

5.2.2. Designate a senior official to be the principal disclosure authority for their DoD Component. Such designations shall be in writing, with a copy provided to the Chair of the NDPC.

5.2.3. Provide disclosure authority, in writing, to the heads of commands and Agencies and major staff elements under their direction, control, or authority, as necessary, to ensure efficient operation of those commands, Agencies, and staff elements.

5.2.4. Require that the heads of commands, Agencies, and staff elements to whom disclosure authority has been provided appoint a designated disclosure authority.

5.2.5. Coordinate with the Chair of the NDPC all proposed disclosure decisions to be referred directly to the Secretary of Defense or the Deputy Secretary of Defense.

5.2.6. Provide the necessary support to the Chair of the NDPC to do security surveys of foreign government security programs. (See subparagraph 6.9.3.2., below.)

5.2.7. Forward any inquiries concerning this Directive to the Office of the Under Secretary of Defense for Policy, Attn: Deputy Under Secretary of Defense (Security Policy).

5.2.8. Ensure that the principal disclosure authorities shall:

5.2.8.1. Control disclosures for their respective DoD Component.

5.2.8.2. Ensure the competency of subordinate officials appointed as designated disclosure authorities.

5.2.8.3. Ensure that all proposed disclosure actions originating in their DoD Component are coordinated with the other DoD Components that have a joint or shared interest in the information involved.

5.2.8.4. Designate a member and an alternate to represent their DoD Component on the NDPC and ensure that the persons designated:

5.2.8.4.1. Are thoroughly familiar with the daily administration of disclosure activities in their respective DoD Component.

5.2.8.4.2. Are qualified to provide broad professional guidance on matters brought before the NDPC.

5.2.8.4.3. Have direct access to the DoD Component's principal

disclosure authority as well as to other members of the NDPC.

5.2.8.5. Ensure that their DoD Component's disclosure decisions are reported to the FORDTIS in accordance with DoD Instruction 5230.18 (reference (i)).

5.2.8.6. Coordinate requests for disclosures of classified military information involved in litigation with the General Counsel of the Department of Defense or the General Counsel of the DoD Component concerned, as appropriate, before determining whether to disclose the requested information.

5.2.8.7. Ensure that Component personnel traveling overseas are provided disclosure guidance and are informed of and comply with the policy for overseas travel described in DoD 5200.1-R, chapter 8 (reference (j)).

5.3. The Chairman of the Joint Chiefs of Staff shall represent the Commanders of the Unified and Specified Commands on the NDPC.

5.4. The General Counsel of the Department of Defense shall:

5.4.1. Ensure the legal adequacy of security agreements between the United States and foreign governments that establish procedures for the protection of the classified military information.

5.4.2. Advise the DoD Components and the NDPC on the legal aspects of applying the NDP-1 (reference (c)) to individual disclosure decisions.

5.5. The Assistant to the Secretary of Defense (Atomic Energy) shall inform the other NDPC members on the current implementation of international agreements made under the Atomic Energy Act (reference (k)). That includes any statutory determinations and requirements placed on recipient foreign governments and international organizations for safeguarding atomic information released to them.

5.6. The Secretary of the Air Force shall provide resources for the operation, maintenance, and administration of the FORDTIS, and comply with DoD 7110.1-M (reference (l)) on requests for funds to carry out that FORDTIS responsibility.

6. PROCEDURES

6.1. International Agreements

6.1.1. Early Disclosure Determination. Before any discussions with foreign representatives on the negotiation of an international agreement that is governed by DoD Directive 5530.3 (reference (h)), the DoD Components shall determine the extent to which classified military information will be required for release, and obtain disclosure authorization for the information. (See subsection 4.6., above.)

6.1.2. Security Requirements. International agreements that involve the disclosure of classified military information shall contain, at a minimum, the security requirements in section E3.1.2. of enclosure 3. If a general security agreement exists with the foreign government concerned, this requirement may be satisfied by referencing that agreement. Such agreements shall be coordinated with the Office of the Under Secretary of Defense for Policy, ATTN: Deputy Under Secretary of Defense (Security Policy), who may specify other requirements during coordination.

6.1.3. Cooperative Programs. Disclosure authorities shall review carefully any request for classified military information made in accordance with a cooperative agreement with both the goals of the program and the interests of national security in mind.

6.2. Meetings, Symposia, and Conferences. The conduct and organization of meetings, symposia, and conferences where classified military information is to be disclosed shall be in accordance with DoD Directive 5200.12 and DoD 5200.1-R (references (m) and (j)).

6.2.1. Foreign Participation. Foreign nationals may participate in such gatherings when their participation is in accordance with this Directive and U.S. export control policies, the appropriate designated disclosure authorities have approved any classified or controlled unclassified information for disclosure to the proposed foreign attendees, the foreign attendees actively participate in the proceedings, and there is reciprocity for the U.S. Government and industry representatives.

6.2.2. Disclosure Levels. The classification levels and categories of information authorized for disclosure vary among nations. The DoD Components shall limit the level of classified information to be disclosed at meetings attended by foreign representatives to the lowest level that is common to all nations represented.

6.3. Foreign Visitors, Liaison Officers, and Exchange Personnel. Procedures on such individuals shall be in accordance with DoD Directive 5230.20 (reference (n)). Disclosures of classified information shall be in accordance with this Directive.

6.4. Sales, Leases, Loans, or Grants of Classified Items. In implementing the policy in subsection 4.5., above, the DoD Components shall comply with the following standards when authorizing the disclosure or commercial export of any information, classified or unclassified, relating to sales, leases, loans, or grants of military equipment:

6.4.1. Release Authorization. Before approval of initiatives that could lead to a sale, lease, loan, or grant of military equipment, obtain authorization from the appropriate designated disclosure authority for disclosure of all necessary classified equipment and information required for system operation, employment, maintenance, and training, including system software.

6.4.2. Initial Disclosures. Limit initial disclosures to general information, usually no higher than CONFIDENTIAL, on system characteristics, capabilities, and price and availability until a sale, lease, loan, or grant is consummated.

6.4.3. System Countermeasures. Withhold specific information on system countermeasures susceptibilities or vulnerabilities and counter-countermeasures capabilities, until the sale, lease, loan, or grant is consummated.

6.4.4. Operation, Employment, Maintenance, and Training. After consummation of a sale, lease, loan, or grant, classified military information may be disclosed up to the level necessary for operation, employment, maintenance, and training.

6.4.5. Data Packages. Edit or rewrite data packages to exclude information that is beyond that which has been authorized for disclosure.

6.4.5.1. The disclosure of technical data for production purposes shall be limited to data that is necessary to produce a specific item that is approved for release to the country that is to receive the data.

6.4.5.2. The disclosure of technical data for maintenance purposes shall be limited to data that is necessary to perform the level of maintenance that has been authorized for the country that is to receive the data.

6.5. Foreign Test and Evaluation

6.5.1. Foreign test and evaluation of the U.S. classified equipment may be authorized when the tests:

6.5.1.1. Are on an item approved for foreign disclosure by the appropriate disclosure authority.

6.5.1.2. Can be performed at a U.S. installation or under other strict U.S. control that guarantees appropriate safeguards for classified information and classified or unclassified critical technology.

6.5.2. Exceptions to subparagraph 6.5.1.2., above, such as the transfer of a single classified military item for test and evaluation under foreign security control, may be authorized only when all of the following conditions are fulfilled:

6.5.2.1. There is no transfer of, and the test will not reveal, technology that the United States would not license for manufacture in the foreign country.

6.5.2.2. There is no release of equipment that would not be approved for foreign sale or export to the foreign country, if requested.

6.5.2.3. The release will result in a clearly defined advantage to the United States; for example:

6.5.2.3.1. Specifically defined avoidance of significant costs or acceleration of programs in development efforts by the United States and its allies.

6.5.2.3.2. Advance the objectives of standardization with and among U.S. allies by promoting cooperation in research and development.

6.5.2.3.3. Exchange technical and scientific information of common interest on a mutually beneficial basis.

6.5.2.4. The Secretary of the Military Department concerned, in coordination with the Office of the Under Secretary of Defense (Acquisition), approves the exception as meeting the described conditions in paragraph 6.5.2., above. The Chair of the NDPC shall be informed of each exception; the Chair shall notify the NDPC members.

6.5.2.5. The test is performed under a test and evaluation agreement negotiated under DoD Directive 5530.3 (reference (h)), or a lease arrangement or sales contract containing requisite security controls.

6.5.2.6. The releases are reported to the FORDTIS.

6.6. Foreign Participation in DoD Component Classified Training Activities

6.6.1. Receiving Training on U.S. Equipment. A foreign national may receive training on U.S. equipment that is classified or involves classified information, if the equipment is in the inventory of or is to be acquired by the trainee's government after the following:

6.6.1.1. The prospective trainee's government has concluded an international agreement or signed a purchase agreement with the United States to acquire the equipment and training; or

6.6.1.2. The Defense Security Assistance Agency has issued an International Military Education and Training (IMET) order for the training.

6.6.2. Conducting Training on U.S. Equipment. A foreign national may conduct training on U.S. equipment that is classified or involves classified information, if the item has been sold or otherwise provided to the foreign national's government and the U.S. Government has specifically approved the provisions of such training to any third party that is involved.

6.6.3. Third-Country Equipment. Foreign nationals may receive or conduct training on equipment provided by a third-country that is classified or involves third-country classified information only with the prior written consent of the government that provided the equipment.

6.7. Requests for Classified Documents

6.7.1. Disclosure Review. Requests for classified documents by a foreign representative shall be forwarded to the applicable designated disclosure authority of the originating DoD Component for review and approval or denial. The requests shall be processed using the FORDTIS, when practicable.

6.7.2. Report to the FORDTIS. The designated disclosure authority that renders the decision shall report it to the FORDTIS under DoD Instruction 5230.18 (reference (i)).

6.7.3. Reference Lists and Bibliographic Material. To avoid false impressions and to avoid proliferation of requests for classified military information that is not releasable to the requestor, the DoD Components shall:

6.7.3.1. When practical, excise references to nonreleasable documents and information from material that may be otherwise released.

6.7.3.2. Discourage release of documents that are reference lists or are bibliographic. To react favorably to justified foreign requests for information, identify the requestor's specific requirements and provide only the U.S. information that satisfies that requirement and is determined to be releasable.

6.8. Foreign Access to Information When Participating in U.S. Procurement Programs. Participation consistent with applicable U.S. laws, regulations, and security requirements in DoD procurement initiatives by contractors from countries with which the Department of Defense has agreements that encourage reciprocal participation in defense procurement may include access to classified information consistent with this Directive as follows:

6.8.1. Access to Technical Data. Qualified government and industry representatives from those countries shall be given appropriate access to technical data, consistent with this Directive and the ITAR (reference (f)), necessary to bid on the DoD contracts.

6.8.2. Disclosure Decisions. Disclosure decisions involving those countries shall be made before the announcement of the procurement (see subsection 4.6., above), and the announcement shall describe any restrictions on foreign participation.

6.8.3. Participation as Subcontractor. When it is determined that foreign contractors are not authorized to participate in the classified or other sensitive aspects of a potential contract, consideration should be given to their requests for participation in unclassified or less sensitive aspects of the contract as a subcontractor.

6.8.4. Requests for Documentation. Requests by foreign entities for classified or controlled unclassified documentation must be submitted through government channels.

6.9. NDPC Operations. The following procedures apply to the activities below:

6.9.1. Exceptions to NDP-1

6.9.1.1. Exceptions to NDP-1 (reference (c)), other than those granted by the Secretary of Defense or the Deputy Secretary of Defense, shall be granted only by the NDPC.

6.9.1.2. All proposed disclosure actions that require decisions by the Secretary of Defense or the Deputy Secretary of Defense shall contain the views of the originating DoD Component or Agency and shall be coordinated with the Chair of the NDPC.

6.9.1.3. When the Secretary of Defense or the Deputy Secretary of Defense grants an exception to policy, the DoD Component originating or participating in the determination shall notify the Chair of the NDPC so that the exception may be recorded properly and reported promptly to the NDPC members and the National Security Council and recorded in the FORDTIS.

6.9.1.4. All other requests for exception to policy shall:

6.9.1.4.1. Be forwarded through channels to the designated disclosure authority who represents the requestor's organization on the NDPC.

6.9.1.4.2. At a minimum, include the information in enclosure 5.

6.9.2. Reporting to the NDPC of Compromises of U.S. Classified Military Information Furnished to Foreign Governments. The DoD Components having knowledge of compromises of U.S. classified information by foreign governments promptly shall inform the originating DoD Component. The originating DoD Component shall conduct a damage assessment and shall provide copies of the completed case report and damage assessment to the Chair of the NDPC. If the originating DoD Component is not known, the Chair of the NDPC shall conduct the damage assessment and prepare the case report. In either situation, the Chair of the NDPC shall provide the NDPC with an evaluation to serve as a basis for determining whether the nature of the compromise requires a change in reference (c).

6.9.3. Operation of the NDPC

6.9.3.1. NDP-1, NDPC Record of Action 001.7/70 (references (c) and (o)), and this Directive govern the DoD Component participation in the NDPC operations.

6.9.3.2. The DoD Components shall provide qualified personnel to participate on the NDPC security survey teams, when requested. The parent DoD Component shall bear travel and per diem expenses for participants.

6.9.3.3. The DoD members of NDPC security survey teams shall

participate in pre-departure briefings, all scheduled team activities, and the preparation of all reports and briefings resulting from the security survey.

6.9.4. Cooperation with the NDPC. Under the NDP-1 (reference (c)), the Chair of the NDPC acts for and in the name of the Secretary of Defense in carrying out the decisions of the NDPC. All of the DoD Components shall support the Chair's requests for assistance in disclosure matters.

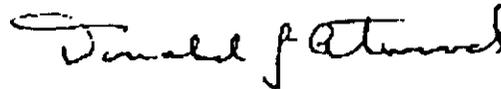
6.10. Classification Requirements. DoD 5200.1-R (reference (j)) governs classification and safeguarding of classified information. The DoD Components also shall follow the security classification guide for NDP matters in enclosure 6.

7. INFORMATION REQUIREMENTS

The reports referenced in this Directive are exempt from licensing in accordance with paragraph 5.4.2. of DoD 7750.5-M (reference (p)).

8. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward one copy of implementing documents to the Under Secretary of Defense for Policy within 120 days.



Donald J. Atwood
Deputy Secretary of Defense

Enclosures - 6

1. References, continued
2. Definitions
3. NDP-1 Disclosure Criteria, Conditions, and Limitations
4. The DDL
5. Requests for Exception to Policy
6. Security Classification Guide for NDP

E1. ENCLOSURE 1

REFERENCES, continued

- (d) DoD Directive C-5230.23, "Intelligence Disclosure Policy (U)," November 18, 1983
- (e) DoD Directive 2040.2, "International Transfers of Technology, Goods, Services, and Munitions," January 17, 1984
- (f) Title 22, Code of Federal Regulations, Parts 120-130, "International Traffic in Arms Regulations (ITAR)"
- (g) DoD Instruction 5000.2, "Defense Acquisition Management Policies and Procedures," February 23, 1991
- (h) DoD Directive 5530.3, "International Agreements," June 11, 1987
- (i) DoD Instruction 5230.18, "The DoD Foreign Disclosure and Technical Information System (FORDTIS)," November 6, 1984
- (j) DoD 5200.1-R, "Information Security Program Regulation," June 1986, authorized by DoD Directive 5200.1, June 7, 1982
- (k) Public Law 83-703, "Atomic Energy Act of 1954," August 30, 1954, as amended (Sections 2121, 2153, and 2164 of title 42, United States Code)
- (l) DoD 7110.1-M, "Department of Defense Budget Guidance Manual," May 1990, authorized by DoD Instruction 7110.1, October 30, 1980
- (m) DoD Directive 5200.12, "Conduct of Classified Meetings," May 16, 1988
- (n) DoD Directive 5230.20, "Control of Foreign Representatives," June 25, 1984
- (o) National Military Information Disclosure Policy Committee Record of Action 001.7/70, "NDPC Detailed Operating Procedures," September 15, 1981
- (p) DoD 7750.5-M, "DoD Procedures for Management of Information Requirements," November 1986, authorized by DoD Directive 7750.5, August 7, 1986
- (q) Executive Order 12356, "National Security Information," April 2, 1982
- (r) DoD Directive 5230.25, "Withholding of Unclassified Technical Data from Public Disclosure," November 6, 1984
- (s) DoD Directive 5400.7, "DoD Freedom of Information Act Program," May 13, 1988
- (t) Title 15, Code of Federal Regulations, Parts 730-799, "Export Administration Regulations (EAR)"

E2. ENCLOSURE 2

DEFINITIONS

E2.1.1. Classified Military Equipment. Military equipment that is itself classified; contains classified information that may be derived from or revealed by its operation or testing; or will require the disclosure of classified information for operation, employment, maintenance, or training.

E2.1.2. Classified Military Information. Information originated by or for the Department of Defense or its Agencies or is under their jurisdiction or control and that requires protection in the interests of national security. It is designated TOP SECRET, SECRET, and CONFIDENTIAL, as described in E.O. 12356 (reference (q)). Classified military information may be in oral, visual, or material form and has been subdivided further into the eight categories described below:

E2.1.2.1. Category 1 - Organization, Training, and Employment of Military Forces. Information of a general nature pertaining to tactics, techniques, tactical doctrine, and intelligence and counterintelligence doctrine and techniques. Excluded is information necessary for the operation, training, and maintenance on specific equipment covered under Categories 2 and 3, below.

E2.1.2.2. Category 2 - Military Materiel and Munitions. Information on specific items of equipment already in production, or in service, and the information necessary for the operation, maintenance, and training. Items on the U.S. Munitions List fall within this category. This category does not pertain to equipment that is in research and development.

E2.1.2.3. Category 3 - Applied Research and Development Information and Materiel. Information related to fundamental theories, design, and experimental investigation into possible military applications; it includes engineering data, operational requirements, concepts, and military characteristics required to adopt the item for production. Development ceases when the equipment has completed suitability testing and has been adopted for use or production.

E2.1.2.4. Category 4 - Production Information. Information related to designs, specifications, manufacturing techniques, and such related information necessary to manufacture materiel and munitions.

E2.1.2.5. Category 5 - Combined Military Operations, Planning, and Readiness. Information necessary to plan, ensure readiness for, and provide support to the achievement of mutual force development goals or participation in specific combined tactical operations and exercises. It does not include strategic plans and guidance or North American defense information.

E2.1.2.6. Category 6 - U.S. Order of Battle. Information pertaining to U.S. forces in a specific area. In general, disclosures of this information are limited to those countries in which U.S. forces are stationed or are in adjacent geographical areas.

E2.1.2.7. Category 7 - North American Defense. Information related to plans, operations, programs, and projects, to include data and equipment, directly related to North American defense.

E2.1.2.8. Category 8 - Military Intelligence. Information of a military character pertaining to foreign nations. This category of information does not include national intelligence or sensitive compartmented information under the purview of the Director of Central Intelligence (DCI).

E2.1.3. Controlled Unclassified Information. Unclassified information to which access or distribution limitations have been applied in accordance with national laws, policies, and regulations of the originating country. It includes U.S. information that is determined to be exempt from public disclosure in accordance with DoD Directives 5230.25 and 5400.7 (references (r) and (s)) or that is subject to export controls in accordance with the ITAR (reference (f)) or the EAR (reference (t)).

E2.1.4. Delegation of Disclosure Authority Letter (DDL). A letter issued by the appropriate designated disclosure authority explaining classification levels, categories, scope, and limitations of information under a DoD Component's disclosure jurisdiction that may be disclosed to a foreign recipient. It is used to delegate disclosure authority to subordinate disclosure authorities.

E2.1.5. Designated Disclosure Authority. An official, at subordinate component level, designated by the Head of a DoD Component or the Component's Principal Disclosure Authority to control disclosures of classified military information by his or her organization.

E2.1.6. Disclosure. Conveying classified information, in any manner, to an authorized representative of a foreign government.

E2.1.7. Foreign Disclosure and Technical Information System (FORDTIS). An automated system to assist decision makers and analysts in reviewing, coordinating, and reaching decisions concerning proposals to release classified military information, materiel, and technology to foreign governments.

E2.1.8. Government-to-Government Channels. The principle that classified information and materiel will be transferred by government officials through official channels or through other channels expressly agreed upon by the governments involved. In either case, the information or materiel may be transferred only to a person specifically designated in writing by the foreign government as its representative for that purpose.

E2.1.9. Intelligence. The product resulting from the collection, processing, integration, analysis, evaluation, and interpretation of available information concerning foreign countries or areas.

E2.1.10. International Organization. An entity established by recognized governments pursuant to an international agreement which, by charter or otherwise, is able to acquire and transfer property, make contracts and agreements, obligate its members, and pursue legal remedies.

E2.1.11. Joint Information. Military information over which two or more DoD Components, or two or more Federal Departments or Agencies, exercise control, jurisdiction, or security awareness.

E2.1.12. Meeting. A conference, seminar, symposium, exhibit, convention, training course, or other gathering during which classified or controlled unclassified information is disclosed.

E2.1.13. Originating DoD Component. The DoD Agency that exercises original classification jurisdiction for classified information.

E2.1.14. Security Assurance. The written confirmation, requested by and exchanged between governments, of the security clearance level or eligibility for clearance, of their employees, contractors, and citizens. It includes a statement by a responsible official of a foreign government that the original recipient of U.S. classified military information possesses the requisite security clearance and is approved by his or her government for access to information of the security classification involved on behalf of the foreign government and that the recipient will comply with any security requirements specified by the United States. In the case of

industrial facilities, the security assurance should include a statement concerning the level of storage capability.

E2.1.15. Sensitive Compartmented Information. Information and material that requires special controls for restricted handling within compartmented intelligence systems and for which compartmentation is established.

E2.1.16. Strategic War Plan. A plan for the overall conduct of a war.

E3. ENCLOSURE 3

NDP-1 DISCLOSURE CRITERIA, CONDITIONS, AND LIMITATIONS

E3.1.1. Disclosure Criteria. Disclosures of classified military information in Categories 1 through 8 defined in item E2.1.2. of enclosure 2 may be made only when all of the criteria listed in subsections E3.1.1.1. through E3.1.1.5., below, are satisfied. Disclosures in Category 8 also must be in compliance with DoD Directive C-5230.23 (reference (d)).

E3.1.1.1. Disclosure is consistent with U.S. foreign policy and national security objectives concerning the proposed recipient foreign government. For example:

E3.1.1.1.1. The recipient government cooperates with the United States in pursuance of military and political objectives that are compatible with those of the United States.

E3.1.1.1.2. A specific U.S. national purpose, diplomatic or military, will be served.

E3.1.1.1.3. The information will be used in support of mutual defense and security objectives.

E3.1.1.2. Disclosure is consistent with U.S. military and security objectives. For example:

E3.1.1.2.1. Disclosures of advanced technology, if compromised, will not constitute an unreasonable risk to the U.S. position in military technology and operational capabilities, regardless of the intended recipient.

E3.1.1.2.2. The proposed disclosure reflects the need for striking a proper balance between pursuit of our mutual defense and foreign policy objectives on the one hand and the preservation of the security of our military secrets on the other.

E3.1.1.3. The foreign recipient of the information will afford it substantially the same degree of security protection given to it by the United States. (The intent of a foreign government to protect U.S. classified military information is established in part by the negotiation of a General Security of Information Agreement or other similar security arrangement. A foreign government's capability to protect U.S. classified

military information normally is determined by the evaluation of embassy security assessments, Central Intelligence Agency risk assessments, National Military Information Disclosure Policy Committee (NDPC) Security Survey Reports, and/or historical precedence.)

E3.1.1.4. Disclosures will result in benefits to the United States at least equivalent to the value of the information disclosed. For example:

E3.1.1.4.1. The United States obtains information from the recipient nation on a quid pro quo basis.

E3.1.1.4.2. The exchange of military information or participation in a cooperative project will be advantageous to the United States from a technical or other military viewpoint.

E3.1.1.4.3. The development or maintenance of a high level of military strength and effectiveness on the part of the government receiving the information will be advantageous to the United States.

E3.1.1.5. The disclosure is limited to information necessary to the purpose for which disclosure is made. For example, if the purpose of the disclosure is the sale of military equipment, information on operation, maintenance, and training would be released. Research and development data, or production know-how, must be withheld.

E3.1.2. Disclosure Conditions. After a decision is made to disclose classified military information to a foreign government or international organization, based on the criteria listed in subsections E3.1.1.1. through E3.1.1.5. of this enclosure, above, or an exception to policy, release of the classified military information will be contingent upon agreement by the recipient foreign government that the listed minimal conditions in subsections E3.1.2.1. through E3.1.2.8., below, will be met. The conditions normally are satisfied by the provisions of existing General Security of Information Agreements. When a General Security of Information Agreement does not exist, the conditions may be included in a program-specific agreement, government contract, or similar arrangement.

E3.1.2.1. The information or acknowledgment of its possession will not be revealed to a third-country government, organization, or person, except with the prior written permission of the originating U.S. Department Agency.

E3.1.2.2. The information will be afforded substantially the same degree of security protection afforded to it by the United States.

E3.1.2.3. The information will be used only for designated military purposes, or other specified purposes.

E3.1.2.4. The recipient will report promptly and fully to U.S. authorities any known or suspected compromise of U.S. classified military information released to it.

E3.1.2.5. All individuals and facilities that will have access to the classified military information and materiel will have security clearances granted by their government at a level equal to that of the classified information involved and an official need-to-know.

E3.1.2.6. The information will be transferred through government-to-government channels.

E3.1.2.7. Security experts of each government will be permitted to visit the other government, when mutually convenient, to review and discuss each other's policies and practices for protecting classified information.

E3.1.2.8. The recipient of the information agrees to abide by or meet U.S.-specified special terms and conditions for the release of U.S. information or materiel.

E3.1.3. Disclosure Limitations

E3.1.3.1. General Limitations. Nothing in this Directive shall be construed so as to allow the disclosure of the following types of information:

E3.1.3.1.1. Prohibited by Law or Agreement. Classified information, the disclosure of which is prohibited by Federal law or by any international agreement to which the United States is a party.

E3.1.3.1.2. Naval Nuclear Information. Any naval nuclear propulsion information, classified or unclassified, except under an agreement negotiated pursuant to the Atomic Energy Act of 1954, as amended (reference (k)).

E3.1.3.1.3. Proprietary Information. Classified or unclassified proprietary information, the rights to which are owned by private firms or citizens (i.e., patents, copyrights, or trade secrets) without the owner's consent, unless such disclosure is authorized by relevant legislation, and then release will be subject to such legislation.

E3.1.3.1.4. National Intelligence. National Intelligence or interdepartmental intelligence produced within the National Foreign Intelligence Board (NFIB) structure. Such intelligence cannot be disclosed without authorization of the DCI in accordance with applicable policies.

E3.1.3.1.5. National Security Telecommunications and Information Systems Security Information. The National Security Telecommunications and Information Systems Security Committee is authorized by its terms of reference to make disclosures of classified military telecommunications and information systems security equipment and information without reference to the NDPC.

E3.1.3.1.6. Counterintelligence. Operational information related to counterintelligence activities and disclosures related thereto.

E3.1.3.1.7. Atomic Information. Such disclosures are made in accordance with the Atomic Energy Act of 1954, as amended (reference (k)).

E3.1.3.1.8. Strategic Planning and Guidance. Only the Secretary of Defense or the Deputy Secretary of Defense may authorize the disclosure of plans, concepts, or other information about strategic war plans. Requests for such disclosure shall be submitted through the Chairman of the Joint Chiefs of Staff.

E3.1.3.2. Specifically Prohibited Disclosures. The following types of classified information are specifically prohibited from disclosure:

E3.1.3.2.1. Classified information officially obtained from a foreign government, except when the information has been conveyed by the government with express written consent to its further disclosure.

E3.1.3.2.2. Combined information without prior agreement of all parties.

E3.1.3.2.3. Joint information without prior agreement of all Departments or Agencies having control or jurisdiction.

E3.1.3.2.4. Information originated by or for another Department or Agency, unless that Department or Agency consents to the disclosure.

E3.1.3.2.5. Intelligence information described in section I, subparagraph 5.c.(2) and section II, subparagraph 5.b.(7) of NDP-1 (reference (c)).

E4. ENCLOSURE 4

THE DDL

The following DDL format should be used by the DoD Components: (While all elements identified should be provided in the general order shown, information should be presented in the clearest and easiest-to-use manner. For example, the usefulness of the DDL for complex systems will be enhanced if items 5 and 6 are broken out by major subsystems and software and disclosures are discussed separately.)

TITLE:

DATE:

1. CLASSIFICATION: Identify highest classification of information to be disclosed.
2. DISCLOSURE METHODS: E.g., oral, visual, or documentary.
3. CATEGORIES PERMITTED: Specify National Disclosure Policy categories to be disclosed.
4. SCOPE: Specify who is authorized to release material or information, and to whom disclosure is authorized.
5. AUTHORIZED FOR RELEASE AND/OR DISCLOSURE: Describe materiel and/or information that can be released or disclosed.
6. NOT AUTHORIZED FOR RELEASE AND/OR DISCLOSURE: Describe materiel and/or information that cannot be released or disclosed. (In addition to providing specific descriptions of releasable and restricted materiel and information, items 5 and 6 will also specify any conditions or limitations to be imposed; e.g., time-phasing of release, allowable forms for software, identification of items releasable only as finished, tested assemblies, etc.)
7. PROCEDURES: Specify review and release procedures, special security procedures, or protective measures to be imposed.
8. REDELEGATION: Specify the extent of redelegation of authority (if any) permitted to subordinate activities.

E5. ENCLOSURE 5
REQUESTS FOR EXCEPTION TO POLICY

Requests for an exception to policy shall contain the following elements of information:

E5.1.1. A concise statement of the action proposed. Include security classification and categories of U.S. classified military information to be disclosed. (For example: "The OUSD(A) member, National Disclosure Policy Committee (NDPC), requests an exception to the National Disclosure Policy to permit the disclosure of SECRET Category 3 (Applied Research and Development Information and Materiel) information to the Government of _____ in support of the negotiation of a Data Exchange Agreement pertaining to surface-to-air missiles.")

E5.1.2. A precise statement of why an exception to policy is required. (For example: An exception is required because (a) the level of classified information involved exceeds the classification level delegated in Annex A of NDP-1; or (b) the proposed action is not in consonance with policy currently established in Annex B or C of NDP-1; or (c) certain (identify which) of the disclosure criteria or conditions listed in section II. of NDP-1 are not fully met; or (d) any or all of the above in combination.)

E5.1.3. An assessment of how each of the disclosure criteria and conditions in section II. of NDP-1 shall be met:

E5.1.3.1. "Disclosure is consistent with the foreign policy of the United States toward the Government of _____." (A further detailed discussion shall be included to substantiate this statement. Reference shall be made to Presidential, National Security Council, or other high-level policy decisions to support the justification provided. A simple statement such as "the recipient cooperates with the United States in pursuance of military and political objectives" is not sufficient.)

E5.1.3.2. "The military security of the United States permits disclosure." (If equipment or technology is involved, there must be a discussion on the result of a compromise on U.S. operational capability or the U.S. position in military technology. This discussion shall include an analysis of the state of the art regarding the technology involved, the susceptibility of the item to reverse engineering, the capability of the foreign recipient to reverse engineer the item, the foreign availability

of the technology or equipment involved, and other governments to whom similar equipment or technology has been released.)

E5.1.3.3. "The foreign recipient will afford the information substantially the same degree of security protection given to it by the United States." (If there has been an NDPC Security Survey for the proposed recipient, the conclusion reached therein shall be discussed. In the absence of an NDPC Security Survey, efforts shall be made to obtain, through intelligence channels, a counterintelligence risk assessment or security analysis of the foreign government's security capabilities. The mere statement that "classified information has been released previously to this government and there is no indication that such information has been compromised" is not sufficient.)

E5.1.3.4. "Disclosures will result in benefits to the United States at least equivalent to the value of the information disclosed." (For example: (1) if the United States obtains information from the proposed recipient on a quid-pro-quo basis, describe the information and the value to the United States; (2) explain how the exchange of military information for participation in a cooperative project will be advantageous to the United States from a technical or military capability viewpoint; (3) if the development or maintenance of a high degree of military strength and effectiveness on the part of the recipient government will be advantageous to the United States, explain how.)

E5.1.3.5. "The disclosure is limited to information necessary to the purpose for which disclosure is made." (For example, if the purpose of the request is for the sale of equipment only, it shall be indicated clearly that research and development data or production know-how is not to be divulged or that documentation will be sanitized.)

E5.1.4. Any limitations placed on the proposed disclosure in terms of information to be disclosed, disclosure schedules, or other pertinent caveats that may affect NDPC approval or denial of the request. (If disclosures are to be phased or if certain information is not to be released, the phasing or nonreleasable information shall be specified.)

E5.1.5. A statement that the requested exception is to be either a continuing exception, subject to annual review, or a one-time exception. (A continuing exception usually is associated with a long-term project, such as a coproduction program or military sale when the United States will be obligated to provide life-cycle support. A one-time exception typically is used for a briefing or demonstration or short-term training.)

E5.1.6. The names and titles of U.S. officials accredited to the requesting foreign government or international organization with whom the proposed exception has been coordinated, as well as the views of the Theater Commander. (Sufficient time shall be allowed to obtain an opinion from U.S. Embassy personnel in-country and the responsible Theater Commander before submitting the request for approval. Many cases are delayed because a U.S. Embassy or Theater Commander opinion has not been obtained.)

E5.1.7. The opinion of other interested Departments or Agencies if joint Service or shared information is involved. (If the information or item of equipment is of shared or joint interest, such as an air-to-air missile used by two Services or containing technology of concern to another Service, the views of the other party will be included.)

E5.1.8. Any information not mentioned above that would assist the NDPC members, the Secretary of Defense, or the Deputy Secretary of Defense in evaluating the proposal.

E5.1.9. The name and telephone number of a knowledgeable individual within the requesting organization who can provide additional technical detail or clarification concerning the case at issue.

E5.1.10. The date a response is desired on the case. Ten full working days for NDPC case deliberations should be allowed. The suspense date (10 full working days) is computed starting from the first full working day after the date of the request.

E6. ENCLOSURE 6SECURITY CLASSIFICATION GUIDE FOR NATIONAL DISCLOSURE POLICY

<u>SUBJECT MATTER</u>	<u>CLASSIFICATION</u>	<u>REMARKS</u>
A. The Charts in Annex A of NDP-1 (reference (c)).	SECRET	
1. The association of a foreign country or international organization with one or more disclosure category entries quoted from the chart in Annex A of reference (c).	CONFIDENTIAL	
2. The association of one or more disclosure category entries in the charts in Annex A of reference (c) pertaining to two or more foreign countries or international organizations (that is, any comparison of the disclosure levels of two or more countries or international organizations).	SECRET	
B. The fact that a specific foreign country or international organization has agreed to afford U.S. classified military information the same degree of protection as afforded by the U.S. Government.	UNCLASSIFIED	Unless the mere existence of the governing security agreement is classified, in which case the same classification applies. This can be determined by reviewing Part B of the charts in Annex A of reference (c).
C. Disclosure authority as set forth in section II.4. of reference (c).	UNCLASSIFIED	
D. Disclosure criteria (and examples) set forth in section II.5.a. of reference (c) without reference to a specific case or country.	UNCLASSIFIED	
E. Disclosure criteria for military intelligence as set forth in section II.5.b. of NDP-1 (reference (c)) and DoD Directive C-5230.23 (reference (d)).	CONFIDENTIAL	Unless otherwise specified by the paragraph markings in section II.5.b.
F. Disclosure conditions for classified military information as set forth in section II.6. of reference (c).	UNCLASSIFIED	
G. NDPC organization and membership in section III. of reference (c).	UNCLASSIFIED	
H. NDPC procedures enumerated in section IV. of reference (c).	UNCLASSIFIED	Except for section IV.2.b. which is CONFIDENTIAL
I. Specific disclosure policy, in addition to that in the chart in Annex A of reference (c), relative to a specific country or international organization.	CONFIDENTIAL	Other classification levels will be recommended to the Chair of the NDPC when circumstances warrant.
J. Specific disclosure policy for selected weapon systems, equipment, and technologies.	CONFIDENTIAL	Other classification levels will be recommended to the Chair of the NDPC when circumstances warrant.
K. Information revealing the security policies, procedures, methods, or practices of a foreign country or international organization for protecting classified military information compiled by a NDPC Security Survey Team.	CONFIDENTIAL	Other classification levels will be recommended to the Chair of the NDPC when circumstances warrant.

SUBJECT MATTER

L. Assessments, including deficiencies or recommendations, compiled by an NDPC Security Survey Team that would not result in adverse effects of foreign relations if disclosed but that could result in damage to the national defense if disclosed but that could result in damage to the national defense if disclosed. For example, the deficiency concerns an exploitable vulnerability that, if revealed, could cause direct or immediate jeopardy to the security of U.S. classified information.

M. Deficiencies or recommendations compiled by the NDPC Security Team that could result in adverse effects on foreign relations if disclosed.

N. The above items shall be declassified on "ODAR."

CLASSIFICATION

CONFIDENTIAL

CONFIDENTIAL

REMARKS

Other classification levels will be recommended to the Chair of the NDPC when circumstances warrant.

Other classification levels will be recommended to the Chairman of the NDPC when circumstances warrant.



Department of Defense
DIRECTIVE

NUMBER 5230.20
August 12, 1998

USD(P)

SUBJECT: Visits, Assignments, and Exchanges of Foreign Nationals

- References:
- (a) DoD Directive 5230.20, "Visits and Assignments of Foreign Representatives," April 24, 1992 (hereby canceled)
 - (b) Section 1082 of Public Law 104-201, "National Defense Authorization Act for Fiscal Year 1997," September 23, 1996
 - (c) DoD 5025.1-M, "DoD Directives System Procedures," August 1994, authorized by DoD Directive 5025.1, June 24, 1994
 - (d) Title 22, Code of Federal Regulations, Parts 120-130, "International Traffic in Arms Regulations (ITAR)"
 - (e) through (w), see enclosure E1.

1. REISSUANCE AND PURPOSE

This Directive:

- 1.1. Reissues reference (a), incorporates the requirements of reference (b), and updates policy and responsibilities governing visits and assignments, including exchanges, of foreign nationals to the DoD Components and certain contractor facilities.**
- 1.2. Establishes the International Visits Program (IVP), the Foreign Liaison Officers (FLOs) Program, the Defense Personnel Exchange Program (DPEP), and the policy for the assignment of Cooperative Program Personnel.**
- 1.3. Designates the Under Secretary of Defense for Acquisition and Technology as the DoD Executive Agent for the Engineer and Scientist Exchange Program (ESEP).**
- 1.4. Designates the Deputy Under Secretary of Defense (Policy Support) (DUSD**

(PS)) as the DoD Executive Agent for Administration and Professional Exchange Program assignments in the Office of the Secretary of Defense (OSD) and the Defense Agencies.

1.5. Designates the Director, Defense Intelligence Agency (DIA), as the DoD Executive Agent for the Defense Intelligence Personnel Exchange Program.

1.6. Authorizes the publication of a DoD Manual, "Joint Service Foreign Attaché Manual," in accordance with reference (c).

2. APPLICABILITY AND SCOPE

This Directive:

2.1. Applies to OSD, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

2.2. Applies to all arrangements whereby foreign nationals visit or are assigned to the DoD Components or to contractor facilities over which the DoD Components have security responsibility, except as described in subsection 2.3., below.

2.3. This Directive does not apply to:

2.3.1. Visits conducted at DoD contractor facilities that involve access only to unclassified information, provided such information is authorized for release pursuant to the Department of State's International Traffic in Arms Regulations (ITAR) (reference (d)) or the Department of Commerce's Export Administration Regulations (EAR) (reference (e)), a pertinent government contract does not require a government-approved visit authorization, and the visit will have no direct impact on DoD activities or responsibilities at the facility.

2.3.2. Visits to the DoD Components or DoD contractor facilities by foreign national employees of U.S. contractors owned by foreign interests. Such visits will be processed in accordance with reference (d), the National Industrial Security Program Operating Manual (NISPOM) (reference (f)), and subsection E3.2.5 of enclosure E3.

2.3.3. Visits by foreign nationals who are not representing their government in an official capacity (e.g., students or researchers in the United States for private purposes). Access to DoD and cleared defense contractor facilities by such persons

will be handled on the same basis as public visits.

2.3.4. Visits by foreign students who are visiting to participate in security assistance training on Invitational Travel Orders pursuant to DoD 5105.38-M (reference (g)).

2.3.5. Visits by foreign nationals participating in United States Information Agency tours.

2.3.6. Unclassified visits by Canadian government officials and certified Canadian contractors under the U.S.-Canada Joint Certification Program in accordance with reference (d).

2.3.7. Visits for activities that are open to the public.

2.3.8. Visits that do not involve access to classified information or programs or to controlled unclassified information and that are sponsored, controlled, administered, and recorded by the U.S. European Command under its Joint Contact Team Program, established in accordance with 10 U.S.C. 168 (reference (h)), provided that the visitors are traveling on Invitational Travel Orders.

3. DEFINITIONS

Terms used in this Directive are defined in enclosure E2. Only these terms will be used in connection with foreign visits, the FLO program, the DPEP, and assignments of Cooperative Program Personnel.

4. POLICY

It is DoD policy that:

4.1. Except as described in subsection 2.3., above, all visits and assignments of foreign nationals to DoD facilities and organizations shall be conducted under the IVP, the FLO Program, the DPEP, or a Cooperative Program as defined in enclosure E2., and in accordance with this Directive.

4.2. Visits by, and assignments of, foreign nationals to the DoD Components shall be arranged under the procedures for a one-time visit, a recurring visit, or an extended visit as described in enclosure E3.

4.2.1. DoD visit authorizations shall not be used to circumvent export licensing requirements. (See subsection E3.2.9. of enclosure E3.)

4.2.2. Visits and assignments subject to this Directive shall be sponsored by the visitor's government. Requests for visits within the United States shall be submitted through the requesting government's Embassy in Washington, DC. The procedures for the routing of requests for visits by foreign nationals at overseas DoD Components shall be established by the responsible Military Department or the Office of the Chairman of the Joint Chiefs of Staff, as applicable, and shall be in compliance with the policies set forth herein.

4.2.3. The assignment of foreign nationals to DoD Component organizations or DoD contractor facilities will be processed through the Foreign Visits System (FVS).

4.3. The assignment of foreign nationals to DoD Component organizations to perform functions for the host DoD organization under the supervision of a DoD official shall be arranged only under a DPEP agreement concluded pursuant to DoD Directive 5530.3 (reference (i)) and enclosure E5.

4.4. The assignment of foreign Cooperative Program Personnel, and Operational FLOs to a DoD Component also shall be under a specific agreement or annex to an umbrella agreement that has been concluded pursuant to reference (i), since administrative support, liability, obligations and responsibility factors similar to those related to the exchange personnel may apply. The assignment of foreign nationals to a DoD Component to perform multinational program or project functions under the supervision of a DoD or multinational program office official shall be arranged in accordance with the applicable Cooperative Program International Agreement and enclosure E6. The assignment of Security Assistance FLOs may be under the terms of an agreement negotiated pursuant to DoD Directive 5530.3 (reference (i)), with a Letter of Offer and Acceptance (LOA) covering provision of support, or an LOA alone containing equivalent provisions as such an agreement. Upon conclusion of the agreement or LOA, the extended visit request shall be used to provide information necessary to effect a specific FLO or Cooperative Program assignment. FLOs, Cooperative Program Personnel assignments, and DPEP will not be covered in the same agreement.

4.5. The Executive Agents for DPEP and those DoD Components authorized to negotiate FLO or Cooperative Program International Agreements shall:

4.5.1. Ensure that proposed agreements are developed and coordinated in compliance with reference (i), DoD 5105.38-M (reference (g)), if applicable, and this Directive.

4.5.2. Review the agreements to ensure conformity with current law and regulations.

4.5.3. Notify the Department of State of any proposed agreements in compliance with reference (i).

4.5.4. Coordinate with their respective DoD Component's Office of General Counsel or Staff Judge Advocate regarding any proposed agreement in compliance with reference (i).

4.5.5. Maintain a DoD record of Managing Agents, and of FLO, DPEP, and Cooperative Program Personnel positions. The Executive Agent may delegate, in writing, to a Managing Agent any of the responsibilities in this section for a program or country. Notwithstanding any such appointment, the Executive Agent retains overall responsibility for the program management and administration.

4.5.6. Ensure that DoD organizations are designated to provide administrative support for and provide disciplinary authority over DoD personnel assigned overseas in DPEP positions.

4.6. Requests to negotiate DPEP or FLO agreements shall include a position description and either a delegation of disclosure authority letter (DDL) or equivalent written disclosure guidance containing the information listed in the sample DDL at enclosure E7. The DoD Components shall issue DDLs, or equivalent written disclosure guidance containing the information listed in enclosure E7., for all currently assigned DPEP, Cooperative Program or FLO personnel within 90 days of publication of this Directive, and for all new Cooperative Program Personnel assignments in advance of those personnel beginning their tour of duty.

4.7. Access by foreign nationals to classified information shall be in accordance with DoD Directive 5230.11 and DoD 5200.1-R (references (j) and (k)). They shall have access only to information that does not exceed that which is authorized under NDP-1 (reference (l)) for release to their governments. Exceptions to NDP-1 (reference (l)) shall not be granted to accommodate the assignment of FLOs, Cooperative Program Personnel, and foreign exchange personnel.

4.8. Access by foreign nationals to controlled unclassified information shall be in accordance with the ITAR, the EAR, and DoD Directives 5230.25 and 5400.7 (references (d), (e), (m) and (n)).

4.9. A contact officer, as defined at enclosure E2., shall be designated to control the activities of foreign visitors, Cooperative Program Personnel, FLOs, and exchange personnel. The designated official shall be familiar with DoD Directive 5230.11 (reference (j)), the applicable DoD Component guidelines governing the release of classified and controlled unclassified information, and the specific disclosure guidelines established in the pertinent DDL, and shall ensure that:

4.9.1. Foreign nationals that visit or are assigned to a DoD Component understand the terms of the applicable certification, agreement, or visit authorization, including responsibilities and limitations.

4.9.2. Foreign nationals are provided access only to that classified and controlled unclassified information that has been authorized for release to their government and that is necessary to fulfill the terms of their certification.

4.9.3. Co-workers are informed of the limitations on access to information by the foreign nationals and their responsibilities in dealing with them.

4.10. A DDL, or equivalent written disclosure guidance containing the information listed in enclosure E7., approved by the appropriate Designated Disclosure Authority (DDA), shall be provided to the contact officer for foreign nationals who are assigned at a DoD Component under a Cooperative Program, FLO, or DPEP arrangement. The DDL, or equivalent written disclosure guidance, shall not be provided to foreign nationals. Information approved for disclosure to foreign nationals who visit a DoD Component under a visit authorization shall be described in the applicable visit authorization or certification. Further, access to classified or controlled unclassified information shall not be permitted until a security assurance has been received from the foreign national's government and it has been verified that the appropriate licensing approval or other authorization has been obtained.

4.11. The training of foreign nationals shall be in compliance with reference (j), Section 1082 of Public Law 104-201 (reference (b)), and DoD 5105.38-M (reference (g)).

4.12. All foreign nationals who are authorized unescorted access to DoD facilities shall be issued badges or passes that clearly identify them as foreign nationals.

Decisions on the issuance of badges and passes shall be made in accordance with subsection 4.13., below.

4.13. Foreign nationals may not have unescorted access to DoD facilities or areas of DoD facilities where access is controlled unless all of the following conditions are met:

4.13.1. The foreign national's government extends commensurate reciprocal privileges to U.S. DoD personnel.

4.13.2. The foreign national is sponsored by his or her government, the need for frequent access is justified, and the required security assurance is provided.

4.13.3. Security measures are in place to control access to information and operations within the DoD facility or area.

4.13.4. Access is required for official purposes on a frequent basis (i.e., more than once per week).

4.13.5. A badge or pass is issued that clearly identifies the bearer as a foreign national and that is valid for a specific facility during normal duty hours.

4.13.6. The badge or pass is displayed on the outer clothing so that it is clearly visible.

4.13.7. The DoD sponsor shall submit the request for issuance of the badge or pass in writing and describe how paragraphs 4.13.1. through 4.13.6., above, will be met.

4.14. Foreign nationals shall not be permitted access to automated information systems unless the systems have been sanitized or configured to ensure that the foreign national's access to classified and controlled unclassified information is limited to that which has been authorized for release to his or her government.

4.15. Foreign nationals shall be identified as such when dealing with others through oral, written and electronic communications.

4.16. The DoD Components shall not agree to the assignment of a FLO or an extended visitor pursuant to an LOA or a Cooperative Program International Agreement at a DoD-cleared contractor facility performing on a classified contract, except under the following conditions:

4.16.1. The facility agrees to the assignment in advance of any commitment and is able to obtain the appropriate export license.

4.16.2. The Defense Security Service (DSS) and the involved DoD Components have agreed that the placement of the individual at the facility will not jeopardize DoD classified information at the facility.

4.16.3. DSS and the involved DoD Components have determined that appropriate controls can be put into place to ensure access is limited only to that which is authorized.

4.16.4. DSS and the involved DoD Components agree on any security controls necessary to monitor and control access and on responsibility for the cost of such controls.

4.16.5. The agreed controls are incorporated into the DDL, or equivalent written disclosure guidance containing the information listed in enclosure E7., and provided to DSS for continuing oversight purposes.

4.17. Foreign Counterpart Visit Program (FCVP). FCVP visits are not required to be processed in the FVS. The Defense Intelligence Agency (DIA) shall make the arrangements, in writing, directly with the office of the DoD counterpart official of the DoD Component to be visited and shall enter the clearances of the visitors into the FVS. The DoD Components shall use existing disclosure guidance in the form of a DDL, or prepare other written guidance approved by a DDA. Disclosures of classified information shall be reported to the Security Policy Automation Network (SPAN).

4.18. U.S. Personnel Assigned Overseas. The DoD Components shall ensure that DoD organizations are designated to provide administrative support for and provide disciplinary authority over DoD personnel assigned overseas as Cooperative Program Personnel and in personnel exchange or FLO positions.

4.19. U.S. Personnel Assigned Outside the Department of Defense. In addition to the requirements of this Directive, details of DoD personnel to duty outside the Department of Defense are subject to the requirements of DoD Directive 1000.17 (reference (o)).

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Establish DoD policy for the IVP, the FLO Program, the DPEP, and assignment of Cooperative Program Personnel.

5.1.2. Manage automation support to the IVP, the FLO Program, the DPEP, and in support of the assignment of Cooperative Program Personnel through the SPAN.

5.1.3. Consider and, when suitable, grant requests for authority to negotiate and conclude international agreements submitted in accordance with DoD Directive 5530.3 (reference (i)) that involve visits or assignments of foreign nationals to the DoD Components.

5.1.4. Prescribe the format for and prepare the annual report to Congress on the DPEP.

5.1.5. Act as the Executive Agent for Administrative and Professional Exchange Program (APEP) assignments in OSD and the Defense Agencies, and promulgate procedures consistent with reference (i) and this Directive governing the negotiation and conclusion of agreements for such assignments.

5.1.6. Promulgate additional procedures, as necessary, to ensure effective implementation of this Directive.

5.2. The Heads of the DoD Components shall:

5.2.1. Designate, in writing, a senior official to ensure effective implementation of this Directive within their Component.

5.2.2. Establish written procedures and a process at appropriate levels to approve or deny requests for visits by or assignments of foreign nationals covered by this Directive to their Components.

5.2.3. Process and record in the FVS decisions on visits by foreign nationals involving access to classified and controlled unclassified information.

5.2.4. Forward any inquiries on the application of this Directive to the Office of the Deputy Under Secretary of Defense (Policy Support) (ODUSD(PS)).

5.2.5. Ensure that agreements proposed by the Components for the

assignment of exchange personnel and FLOs to overseas locations are coordinated with the appropriate Combatant Commands.

5.2.6. Ensure that any disclosures to be made during visits conducted under the Defense Intelligence Agency-managed FCVP, as defined in enclosure E2., are in accordance with applicable DDLs, or other written guidance approved by a Delegated Disclosure Authority.

5.3. The Secretary of the Navy shall maintain standardized, automated FLO and DPEP Agreement formats.

5.4. The Under Secretary of Defense (Comptroller) shall ensure that proper financial procedures that affect the FLO Program, the DPEP, and the Cooperative Program Personnel assignments are utilized.

5.5. The Under Secretary of Defense for Acquisition and Technology, as the Executive Agent for the ESEP, shall promulgate procedures consistent with DoD Directive 5530.3 (reference (i)) and this Directive governing the negotiation and conclusion of agreements for assignments of qualified foreign exchange engineers and scientists to scientific and technical positions with the DoD Components.

5.6. The Chairman of the Joint Chiefs of Staff shall promulgate procedures consistent with reference (i) and this Directive, when appropriate, governing visits by foreign nationals and assignments of FLOs or foreign exchange personnel to the Combatant Commands.

5.7. The Assistant Secretary of Defense for Command, Control, Communications and Intelligence shall:

5.7.1. Designate the Director, DIA, as the Executive Agent for the FCVP, defined in enclosure E2., and for the Defense Intelligence Personnel Exchange Program (DIPEP).

5.7.2. Direct the Director, DIA, to:

5.7.2.1. Promulgate procedures consistent with DoD Directive 5530.3 (reference (i)) and this Directive governing the negotiation and conclusion of agreements for the assignment of foreign intelligence personnel to the DoD Components under the DIPEP. This responsibility shall be carried out in coordination with the Office of the Assistant Secretary of Defense for Command, Control, Communications and Intelligence;

5.7.2.2. Coordinate and process requests for visits by foreign nationals to OSD, the Offices of the Chairman of the Joint Chiefs of Staff, the Defense Agencies, and the DoD Field Activities, and their contractors, except for those visits approved by the National Security Agency/Central Security Service (NSA/CSS) and/or the immediate offices of the Secretary of Defense and the Deputy Secretary of Defense;

5.7.2.3. Administer, under prescribed agreements by the responsible DoD Component, and in coordination with ODUSD(PS), visit requests and certifications for the assignment of DPEP personnel, Cooperative Program personnel, and FLO personnel to OSD, the Offices of the Chairman of the Joint Chiefs of Staff, the Defense Agencies, and the DoD Field Activities;

5.7.2.4. Promulgate a single DoD Manual to provide the DoD Components and foreign Defense Attachés with standard instructions and formats governing visit requests, document requests, and the processing of FLO, DPEP, and Cooperative Program personnel. The Manual shall be coordinated with the Military Departments, the ODUSD(PS), and the Office of the Chairman of the Joint Chiefs of Staff before publication.

5.7.3. Direct the Director, DSS, to:

5.7.3.1. Establish and oversee security arrangements for visits by and assignment of foreign nationals to cleared contractor facilities when access to classified information is involved;

5.7.3.2. Provide security assessments at the request of the DoD Components on the assignment of Cooperative Program Personnel and FLOs at cleared contractor facilities.

5.8. The Director, National Security Agency/Central Security Service, shall establish, control, and manage a system for administering visits by, and assignments of, foreign nationals to NSA/CSS that adheres to the policies and procedures of this Directive. Visits by and assignments of foreign nationals to NSA/CSS are not required to be processed through DIA nor in the automated FVS described in enclosure E3.

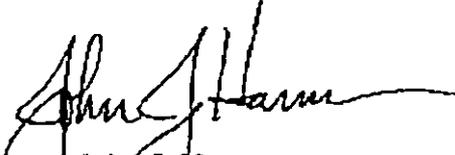
6. INFORMATION REQUIREMENTS

In support of Section 1082 of Public Law 104-201 (reference (b)), the Secretary of

Defense submits annually to Congress a report that includes the costs of the DPEP to the United States, and identifies the appropriation that funded the costs and the agencies and positions that are involved in the exchange program, both within the United States and in the foreign countries. The DoD Components shall submit the required information on their DPEPs for the prior fiscal year to DUSD(PS), using the format at enclosure E8., and any approved revisions thereto, not later than 1 December each year. The information shall be forwarded by the official designated pursuant to paragraph 5.2.1., above, who shall certify that all assignments are in compliance with reference (b) and this Directive.

7. EFFECTIVE DATE

This Directive is effective immediately.


John J. Hamre
Deputy Secretary of Defense

Enclosures - 8

1. References, continued
2. Definitions
3. International Visits Program
4. Foreign Liaison Officer Program
5. Defense Personnel Exchange Program
6. Cooperative Program Personnel
7. Sample Delegation of Disclosure Authority Letter (DDL)
8. Format for Annual Report on Agreements for the Exchange of Defense Personnel Between the United States and Foreign Countries Fiscal Year 19XX

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Title 15, Code of Federal Regulations, Parts 768 et seq., "Export Administration Regulations (EAR)"
- (f) "National Industrial Security Program Operating Manual (NISPOM)," January 1995, authorized by E.O. 12829, National Industrial Security Program, January 6, 1993
- (g) DoD 5105.38-M, "Security Assistance Management Manual," October 1988, authorized by DoD Directive 5105.38, August 10, 1978
- (h) Section 168 of title 10, United States Code, "Military-to-Military Contacts and Comparable Activities"
- (i) DoD Directive 5530.3, "International Agreements," June 11, 1987
- (j) DoD Directive 5230.11, "Disclosure of Classified Military Information to Foreign Governments and International Organizations," June 16, 1992
- (k) DoD 5200.1-R, "Information Security Program Regulation," January 1997, authorized by DoD Directive 5200.1, December 13, 1996
- (l) National Disclosure Policy-1, "National Policy and Procedures for the Disclosure of Classified Military Information to Foreign Governments and International Organizations" (short title: National Disclosure Policy (NDP-1)), October 1, 1988, as amended
- (m) DoD Directive 5230.25, "Withholding of Unclassified Technical Data from Public Disclosure," November 6, 1984
- (n) DoD Directive 5400.7, "DoD Freedom of Information Act (FOIA) Program," September 29, 1997
- (o) DoD Directive 1000.17, "Detail of DoD Personnel to Duty Outside the Department of Defense," February 24, 1997
- (p) Executive Order 12958, "National Security Information," April 20, 1995
- (q) DoD Directive 5100.55, "United States Security Authority for North Atlantic Treaty Organization Affairs," April 21, 1982
- (r) DoD Instruction C-5220.29, "Implementation of the North Atlantic Treaty Organization Industrial Security Procedures (U)," December 15, 1982
- (s) DoD Directive 5200.12, "Conduct of Classified Meetings," July 27, 1992
- (t) The Atomic Energy Act of 1954, as amended
- (u) DoD Directive 1330.9, "Armed Services Exchange Regulations," December 15, 1986
- (v) DoD Directive 1330.17, "Military Commissaries," March 13, 1987

(w) Joint Travel Regulations, Volume 2, "Department of Defense Civilian Personnel,"
current edition

† Provided to Designated Disclosure Authorities on a need-to-know basis by the Director, International Security Programs, ODUSD(PS).

E2. ENCLOSURE 2

DEFINITIONS

E2.1. TERMS

Following are the definitions:

E2.1.1. Attaché. A diplomatic official or military officer attached to an embassy or legation, especially in a technical capacity.

E2.1.2. Certification. Formal recognition by a DoD Component of a working relationship with a representative of a foreign government (e.g., a FLO) for specified purposes and on a recurring basis over an agreed period of time.

E2.1.3. Classified Military Information. Information originated by or for the Department of Defense or its Agencies or under their jurisdiction or control, which requires protection in the interest of national security. It is designated TOP SECRET, SECRET, or CONFIDENTIAL as described in E.O. 12958 (reference (p)) or subsequent order. Classified military information may be in oral, visual, or material form. DoD Directive 5230.11 (reference (j)) further defines the eight categories into which classified military information has been subdivided.

E2.1.4. Contact Officer. A DoD official designated in writing to oversee and control all contacts, requests for information, consultations, access, and other activities of foreign nationals who are assigned to, or are visiting, a DoD Component or subordinate organization. In the case of DPEPs, the host supervisor may be the contact officer.

E2.1.5. Controlled Unclassified Information. Unclassified information to which access or distribution limitations have been applied in accordance with national laws, policies, and regulations of the originating country. It includes U.S. information that is determined to be exempt from public disclosure in accordance with DoD Directives 5230.25 and 5400.7 (references (m) and (n)) or that is subject to export controls in accordance with the ITAR (reference (d)) or the EAR (reference (e)).

E2.1.6. Cooperative Program. A program for research, development, test, evaluation, and/or production that is not implemented under the Security Assistance Program.

E2.1.7. Cooperative Program Personnel. Foreign government personnel, assigned to a multinational program office that is hosted by a DoD Component pursuant to the terms of a Cooperative Program International Agreement, who report to and take direction from a DoD-appointed Program Manager (or Program Manager equivalent) for the purpose of carrying out the multinational project or program. Foreign government representatives described in such agreements as liaison officers or observers are not considered Cooperative Program Personnel and shall be treated as FLOs in accordance with this Directive.

E2.1.8. Defense Personnel Exchange Program (DPEP). A program under which military and civilian personnel of the Department of Defense and military and civilian personnel of the defense ministries and/or military services of foreign governments, pursuant to the terms of an international agreement, occupy positions with and perform functions for a host organization to promote greater understanding, standardization, and interoperability.

E2.1.9. Delegation of Disclosure Authority Letter (DDL). A letter issued by the appropriate Designated Disclosure Authority describing classification levels, categories, scope, and limitations related to information under a DoD Component's disclosure jurisdiction that may be disclosed to specific foreign governments or their nationals for a specified purpose.

E2.1.10. Designated Disclosure Authority (DDA). An official, designated by the Head of a DoD Component or by that DoD Component's Principal Disclosure Authority, who has been delegated disclosure authority in accordance with DoD Directive 5230.11 (reference (j)), to control disclosures by subordinate commands or staff elements of classified military information to foreign governments and their nationals and to international organizations.

E2.1.11. Executive Agent. The DoD Component office or organization that has overall responsibility and oversight for a foreign exchange agreement.

E2.1.12. Foreign Exchange Personnel. Military or civilian officials of a foreign defense establishment (i.e., a DoD equivalent) who are assigned to a DoD Component in accordance with the terms of an exchange agreement and who perform duties, prescribed by a position description, for the DoD Component.

E2.1.13. Foreign Counterpart Visit Program (FCVP). A program managed by Director, DIA, for coordinating all hosted visits by foreign government counterparts to

the Secretary of Defense, Deputy Secretary of Defense, Chairman of the Joint Chiefs of Staff, and Vice Chairman of the Joint Chiefs of Staff.

E2.1.14. Foreign Interest. Any foreign government, agency of a foreign government, or representative of a foreign government; any form of business enterprise or legal entity organized, chartered or incorporated under the laws of any country other than the United States or its possessions and trust territories; and any person who is not a citizen or national of the United States.

E2.1.15. Foreign Representative. Any foreign interest or representative of a foreign interest.

E2.1.16. Foreign Liaison Officer (FLO). A foreign government military member or civilian employee who is authorized by his or her government, and is certified by a DoD Component, to act as an official representative of that government in its dealings with a DoD Component in connection with programs, projects or agreements of interest to the governments. There are three types of FLOs:

E2.1.16.1. Security Assistance. A foreign government representative who is assigned to a DoD Component or contractor facility pursuant to a requirement that is described in a Foreign Military Sales Letter of Offer and Acceptance.

E2.1.16.2. Operational. A foreign government representative who is assigned to a DoD Component pursuant to a documented requirement to coordinate operational matters, such as combined planning or training and education.

E2.1.16.3. National Representative. A foreign government representative who is assigned to his or her national embassy or legation in Washington, DC (e.g., an attaché), to conduct liaison activities with the Department of Defense and the DoD Components.

E2.1.17. Foreign National. A person who is not a citizen or national of the United States.

E2.1.18. Foreign Visits System (FVS). The automated system, operated by the Office of the Under Secretary of Defense (Policy) (OUSD(P)), that provides staffing and data base support for processing requests for visits by foreign nationals to DoD activities and defense contractors. FVS consists of an unclassified segment that allows the on-line submission of visit requests from Embassies in Washington, DC, and, in some cases, directly from foreign governments overseas. FVS also has a classified segment that provides staffing, decision-making support, and data base

capabilities to the Military Departments and DIA.

E2.1.19. Hosted Visit. A visit by official nationals of a foreign government under the auspices of an invitation that is extended by a DoD official.

E2.1.20. International Visits Program (IVP). The program that is established to process visits by and assignments of foreign nationals to the DoD Components and DoD contractor facilities. It is designed to ensure that classified and controlled unclassified information to be disclosed to them has been properly authorized for disclosure to their governments, to ensure that the requesting foreign government provides a security assurance on the individuals when classified information is involved in the visit or assignment, and to facilitate administrative arrangements (e.g., date, time, and place) for the visit or assignment.

E2.1.21. Managing Agent. The DoD Component to which foreign exchange personnel will be assigned. The Managing Agent negotiates specific personnel exchanges and places the individual foreign exchange personnel in the designated positions; ensures that foreign exchange activities are conducted in accordance with the applicable foreign exchange agreement, the applicable position description, and applicable laws and regulations; obtains disclosure authorization from the appropriate DDA; maintains the record for each foreign exchange position, to include a copy of the position description; approves amendments to position descriptions; and reports the status of their Component's foreign exchanges to the Executive Agent. For the Military Personnel Exchange Program (MPEP), the Executive Agent executes the duties of both the Executive Agent and the Managing Agent.

E2.1.22. Meeting. Any conference, seminar, symposium, exhibit, convention, training course, or other gathering during which classified or controlled unclassified information is disclosed.

E2.1.23. Security Assurance. The written confirmation, requested by and exchanged between governments, of the security clearance level or eligibility for clearance of their national contractors and citizens. It also includes a statement by a responsible official of a foreign government or international organization that the recipient of U.S. classified military information possesses the requisite security clearance. It also indicates that the original recipient is approved by his or her government for access to information of the security classification involved and that the recipient government will comply with security requirements specified by the United States.

E2.1.24. Security Policy Automation Network (SPAN). A wide area computer network sponsored by the OUSD(P) consisting of a DoD-wide SECRET-high classified network and a separately supported unclassified network that supports communications and coordination among DoD activities on foreign disclosure, export control, and international arms control and cooperation subjects.

E2.1.25. Training. Formal or informal instruction of foreign nationals in the United States or overseas by:

E2.1.25.1. Officers or employees of the United States, contract technicians, or contractors (including instruction at civilian institutions); or

E2.1.25.2. Correspondence courses; technical, educational, or information publications and media of all kinds; training aids; orientation; training exercise; and military advice to foreign military units and forces (including their military and civilian personnel).

E2.1.26. Visit Authorization. There are three types of visit authorizations:

E2.1.26.1. A ONE-TIME VISIT AUTHORIZATION permits contact by a foreign national with a DoD Component or DoD contractor facility for a single, short-term occasion (normally less than 30 days) for a specified purpose.

E2.1.26.2. A RECURRING VISIT AUTHORIZATION permits intermittent visits by a foreign national to a DoD Component or DoD contractor facility over a specified period of time for a Government-approved license, contract or agreement, or other program when the information to be released has been defined and approved for release in advance by the U.S. Government.

E2.1.26.3. An EXTENDED VISIT AUTHORIZATION permits a single visit by a foreign national for an extended period of time. Extended visit authorizations are to be used when a foreign national is required to be in continuous contact with a DoD Component or a DoD contractor facility beyond 30 days for one of the following situations:

E2.1.26.3.1. A foreign government contract or joint program (e.g., joint venture, representative to a joint or multinational program);

E2.1.26.3.2. FLOs assigned or certified to a DoD Component(s) subject to compliance with enclosure E4. of this Directive;

E2.1.26.3.3. Participation in an exchange program under the DPEP, subject to compliance with enclosure E5. of this Directive;

E2.1.26.3.4. Cooperative Program Personnel assigned to a DoD Component subject to compliance with enclosure E6. of this Directive;

E2.1.26.3.5. Training, except those individuals on Invitational Travel Orders.

E3. ENCLOSURE 3
INTERNATIONAL VISITS PROGRAM

E3.1. GENERAL

E3.1.1. Control of Visitors. Visits by foreign nationals to the DoD Components and DoD contractor facilities shall be controlled to ensure that the visitors receive access to only that classified and controlled unclassified information authorized for disclosure to their government by a disclosure official designated in accordance with DoD Directive 5230.11 (reference (j)). Classified information shall not be disclosed to a foreign national unless the appropriate Delegation of Disclosure Authority has received a security assurance from that person's government.

E3.1.2. Documentary Transfers. Classified documentary information may not be transferred to any foreign national unless the related security assurance specifically states that the individual may assume custody on behalf of the foreign government. A receipt must be obtained for classified material provided to foreign nationals, regardless of its classification level.

E3.1.3. FVS. Requests for visits submitted by foreign governments shall be submitted and processed using the FVS. Requests for visits by governments that do not participate in the FVS shall be submitted directly to the applicable Military Department or the DIA, which shall enter and process the request in the FVS.

E3.2. PROCEDURES

E3.2.1. One-Time Visit Authorizations. Requests for one-time visits shall be used to document visits to the DoD Components or DoD contractor facilities for a specified purpose, which are normally accomplished in fewer than 30 days. Authorizations expire on the end of visit date unless extended by an amendment. Upon approval of the request, visitors may arrange visit details directly with the facility to be visited.

E3.2.2. Recurring Visit Authorizations. Recurring visit authorizations shall be established to support intermittent, recurring visits associated with approved programs, such as agreements, contracts, or licenses. Authorizations may be valid for the duration of the program, subject to annual review and revalidation. Upon approval of the initial request, individual visits may be arranged directly with the facility to be

visited. The lists of visiting personnel and facilities to be visited shall be reviewed and updated annually.

E3.2.3. Extended Visit Authorizations. Extended visit authorizations shall be used in circumstances described in subparagraph E2.1.26.3. of enclosure E2. They also may be used for the assignment of a foreign contractor's employees if the foreign contractor is under contract to the DoD Component, and performance on the contract requires assignment of the employees to the DoD Component or DoD contractor facility. The authorization may be valid for the duration of the program, assignment, or certification, subject to annual review and revalidation.

E3.2.4. Hosted Visit. Before issuing an invitation, DoD officials shall ensure that the DDA approves any classified information that is to be disclosed. To facilitate arrangements for these visits, DoD officials who extend such invitations shall notify their designated visitor control office of the invitation. They also should advise the invitees that security assurances must be submitted through their embassy before the visit, using the type of visit request prescribed in paragraph E2.1.26. of enclosure E2.

E3.2.5. Visits by Foreign National Employees of U.S. Defense Contractors. Visits by such employees to the DoD Components or to other DoD contractor facilities on official business do not require the submission of a visit request through foreign government channels. The visit will be processed in compliance with the NISPOM (reference (f)). Access to export-controlled technical data by foreign national employees of U.S. contractors is authorized in accordance with an export license or by other written U.S. Government authorization that is obtained by the employing contractor. When these employees visit another contractor facility or a DoD Component, the employing facility should provide a copy of the export license or other written authorization to the security office or DDA, as applicable, at the facility to be visited.

E3.2.6. Visits by Representatives of the North Atlantic Treaty Organization (NATO)

E3.2.6.1. One-time or recurring visits by representatives of NATO Commands or Agencies, or the NATO International Staff, that involve access to NATO classified information, shall be processed under United States Security Authority for North Atlantic Treaty Organization Affairs (USSAN) Instruction 1-69 (enclosure E2. of DoD Directive 5100.55 (reference (q))). Recurring visits related to NATO Production and Logistics Organization or NATO Industrial Advisory Group activities shall be processed under USSAN Instruction 1-70 (enclosure to DoD

Instruction C-5220.29 (reference (r))).

E3.2.6.2. Visits by representatives of a NATO Command or Agency or the NATO International Staff, including U.S. citizens assigned to NATO positions that involve access to U.S. classified information, shall be processed in accordance with the requirements of this Directive.

E3.2.7. Visits for Foreign Participation in U.S. Procurement-Related Meetings. Potential foreign attendance must be assumed when planning for meetings that may lead to contract opportunities for nations with which the United States has reciprocal procurement agreements. Security requirements for classified meetings shall be in accordance with DoD 5200.1-R and DoD Directive 5200.12 (references (k) and (s)). The following procedures also apply:

E3.2.7.1. The DoD Components should determine the extent to which classified information may be involved throughout the life cycle of a program before the announcement of a procurement action. Decisions on disclosures of classified information shall be in accordance with DoD Directive 5230.11 (reference (j)). The extent of foreign attendance at meetings related to the announced procurement action will be contingent upon the disclosure decision. If attendance by foreign nationals is permitted, any classified information to be disclosed must be at a level authorized for release to the governments of all foreign nationals that are present.

E3.2.7.2. The Head of the DoD Component conducting the meeting, or a senior designee, shall approve any denials of a specific appeal for attendance at such meeting by a government with which the Department of Defense has a reciprocal procurement agreement.

E3.2.8. The DoD Components Supported by the DIA shall:

E3.2.8.1. Obtain a disclosure authorization from the originating department or agency for the release of any classified or controlled unclassified information that is not under the DoD Component's disclosure jurisdiction. This shall be done before notifying the DIA of the acceptance of a visit by foreign nationals that will involve access to such information.

E3.2.8.2. Notify the DIA Foreign Liaison Office, when they extend invitations to foreign nationals for a hosted visit to their organization, so that DIA can obtain the necessary security assurances in advance of the visit.

E3.2.9. DoD-Approved Visits to DoD Contractor Facilities. DoD-approved

visits (i.e., DoD-sponsored visits) by foreign nationals to DoD contractor facilities may or may not constitute an exemption to the licensing requirements of the ITAR and the EAR (references (d) and (e)). DoD-sponsored visits shall not be used to circumvent the licensing requirements of the ITAR. Therefore, the DoD Components shall:

E3.2.9.1. Approve the request for a visit and provide disclosure guidance if it is in support of an actual or planned U.S. Government program (this approval turns the visit into a sponsored visit); or,

E3.2.9.2. If the proposed visit is not in support of a U.S. Government program, the DoD Component shall deny the request and notify the requester and applicable DoD contractor that arrangements for the visit may be made directly between the requester and the DoD contractor, provided the DoD contractor has or obtains an export license, if required by references (d) or (e), for any export-controlled technical data that may be disclosed and the necessary security assurance has been provided; or,

E3.2.9.3. Deny the request for the visit if it is determined that the information associated with the proposed visit cannot be authorized for disclosure, and notify the requester and the applicable DoD contractor of the decision. The denial of the request does not prevent the contractor from accepting the visit provided the contractor has an export license for other controlled U.S. information to be disclosed.

E4. ENCLOSURE 4
FOREIGN LIAISON OFFICER PROGRAM

E4.1. GENERAL

E4.1.1. Certification of a FLO does not bestow diplomatic or other special privileges, even though certified FLOs who also have attaché status may have diplomatic accreditation by the Department of State. Reciprocity is not required for liaison officer assignments.

E4.1.2. FLOs may assume custody of releasable documentary information to act as couriers only when they are authorized in writing by their government to assume responsibility as an agent of their government. They may have access only to that information that is authorized for release to their government.

E4.1.3. When FLOs are physically assigned to U.S. installations in a Security Assistance or Operational capacity, an agreement containing provisions concerning such matters as responsibilities and obligations of the parties, authorized activities, security requirements, financial arrangements and claims, must be executed. The requirement may be satisfied by a specific program agreement or an umbrella-type agreement for a single country containing annexes for various assignments that are negotiated pursuant to DoD Directive 5530.3 (reference (i)), or, in the case of Security Assistance FLOs, an LOA that contains the equivalent provisions. The program agreement or LOA shall use as a basis the model agreement or model provisions approved by the DUSD(PS).

E4.1.4. FLOs' activities shall be limited to representational responsibilities for their government as described in the certification; they may not perform activities that are a responsibility of an employee of the organization to which assigned or represent the organization in any capacity, nor shall they perform activities or duties performed by DPEP personnel.

E4.1.5. When the assignment of Security Assistance FLOs is accomplished pursuant to an LOA, the U.S. Government contract that implements the LOA shall require the contractor to place appropriate controls on the activities of the FLO to limit access only to information that is related to the contract and that has been authorized for release to the FLO's government by an appropriate DoD authority.

E4.1.6. If foreign nationals are to be assigned to a U.S. defense contractor facility under a commercial contract, the contractor must obtain an export license for such assignment, if required by the ITAR (reference (d)), and comply with the NISPOM (reference (f)).

E4.2. PROCEDURES

E4.2.1. Certification Requirements. The following information shall be provided by foreign governments with their requests for DoD certification of FLOs:

E4.2.1.1. A statement by the sponsoring government that the proposed FLO is an officially sponsored representative of that government.

E4.2.1.2. Documentation describing the legal status of the proposed FLO (including any privileges and immunities to which the FLO is entitled) and sponsoring government responsibilities.

E4.2.1.3. A statement by the sponsoring government that the proposed FLO is authorized by the sponsoring government to conduct business with the Department of Defense for purposes that must be described, citing related agreements, contracts, or other arrangements that establish the need for the assignment.

E4.2.1.4. An assurance by the sponsoring government that the proposed FLO holds a specified level of security clearance.

E4.2.1.5. A statement by the sponsoring government on whether the proposed FLO may assume custody of documentary information to act as a courier on behalf of the sponsoring government.

E4.2.1.6. An assurance that the sponsoring government will be responsible for any U.S. classified or controlled unclassified information provided to the proposed FLO.

E4.2.2. Dress and Identification. FLOs shall wear their uniforms, if they are military personnel, or, if civilian, wear appropriate civilian attire. They also must wear, in clear view, a DoD building or installation pass or badge that clearly identifies them as foreign nationals. Because FLOs represent their government, they may not be provided name tags, e-mail addresses, codes or titles that could be interpreted to infer or imply that they are U.S. Government personnel.

E4.2.3. Compliance. While assigned to a DoD installation, the FLOs will be required to comply with all DoD, Service, command, and local installation rules and regulations.

E4.2.4. Costs. All costs associated with the placement of a FLO at a DoD installation are the responsibility of the FLO's parent organization, including travel, office space, clerical support, quarters, rations, and medical and dental services, unless specifically stated otherwise in an applicable international agreement.

E5. ENCLOSURE 5
DEFENSE PERSONNEL EXCHANGE PROGRAM

E5.1. GENERAL

E5.1.1. Background. The DPEPs are designed to foster mutual understanding between the defense establishments of each party by providing exchange personnel familiarity with the organization, administration, and operations of the other defense establishments. All such personnel exchange programs established by the DoD Components constitute the DPEP.

E5.1.2. Scope. The DPEP encompasses all programs that involve the assignment of foreign nationals to positions with the DoD Components in exchange for the assignment of DoD personnel to positions with foreign government defense establishments, and includes the following:

E5.1.2.1. MPEP involving the assignment of military personnel to authorized positions with the Military Departments.

E5.1.2.2. APEP involving the assignment of civilian and military specialist personnel to administrative, logistics, finance, health, legal, and planning positions within OSD and Defense Agencies.

E5.1.2.3. ESEP involving the assignment of civilian and military engineers and scientists to DoD research, development, test, and evaluation facilities to conduct research, development, test and evaluation work.

E5.1.2.4. DIPEP involving the assignment of military intelligence analysts within the DoD intelligence community.

E5.2. PROCEDURES

E5.2.1. Personnel. Personnel assigned to DPEP positions shall be military members or civilian employees of the participating DoD Component and the counterpart foreign government defense organization.

E5.2.2. Purpose. The DPEP agreements may be negotiated to foster better understanding on the part of the parties regarding the organization and management of

defense programs and operations, while using the specified expertise of the participating exchange personnel. The criteria in subsection E5.2.8., below, shall be considered before making commitments for the negotiation of a DPEP agreement.

E5.2.3. Reciprocity. The DPEP agreements shall provide for the reciprocal assignment of DoD personnel to substantially equivalent positions within the defense establishment of the other participating government. Requests for an assignment on a non-reciprocal basis shall be forwarded to the DUSD(PS) for approval.

E5.2.4. Limitations. The assignment of foreign exchange personnel shall not be used for training foreign personnel in violation of DoD 5105.38-M (reference (g)) or instead of, or in combination with, FLO certification. Pursuant to Section 1082 of Public Law 104-201 (reference (b)), training may not be conducted under the DPEP except as necessary to familiarize, orient, or certify DPEP personnel regarding unique aspects of the positions to which they are assigned. The DPEP shall not be used for the purpose of augmenting DoD staff positions or as a means to obtain personnel resources beyond authorized manning levels. The DPEP may not be used as a mechanism for exchanging technical data or other controlled information between the governments. Information exchanges shall be governed by an agreement designed for that purpose (e.g., cooperative research and development, or data exchange agreements).

E5.2.5. Executive Agents and Managing Agents. The DoD officials who are designated as Executive Agents may appoint Managing Agents to conduct negotiations and to administer a program for a specific country or group of countries. In such case, the Managing Agents shall approve specific exchanges conducted under an agreement or an annex to an agreement and perform the responsibilities described at paragraph E2.1.21. of enclosure E2. Notwithstanding any such appointment, the Executive Agent retains overall responsibility for the program management and administration.

E5.2.6. Restrictions on Exchange Personnel

E5.2.6.1. Foreign exchange personnel shall not act in the dual capacity as a DPEP participant and as a representative of their government (e.g., a FLO) while assigned to a DoD Component.

E5.2.6.2. Foreign exchange personnel shall not serve as conduits between the Department of Defense and their government for requests and transmissions of classified and controlled unclassified information.

E5.2.6.3. Foreign exchange personnel shall not be assigned to command or other positions that would require them to exercise responsibilities that are reserved by law or regulation to an officer or employee of the U.S. Government. They shall not, for example, perform responsibilities of a contracting officer's technical representative (COTR), component duty officer, classified document custodian or security officer, escort for foreign nationals, or perform other official acts as a representative of the DoD Component.

E5.2.6.4. Foreign exchange personnel shall not be permitted to commence duty in positions that could result in their access to classified or controlled unclassified information that has not been authorized for release to their government.

E5.2.6.5. Foreign exchange personnel shall not be assigned to DoD contractor facilities.

E5.2.7. Information Access

E5.2.7.1. Foreign exchange personnel shall not have uncontrolled access to restricted areas or to the following types of information:

E5.2.7.1.1. RESTRICTED DATA and FORMERLY RESTRICTED DATA as defined by the Atomic Energy Act of 1954, as amended (reference (t)).

E5.2.7.1.2. Information systems security information.

E5.2.7.1.3. Classified or controlled unclassified information provided by another government, or an international organization, unless access is approved in writing by the originating government or organization.

E5.2.7.1.4. Compartmented information, unless specifically authorized by a separate government-to-government agreement.

E5.2.7.1.5. Information bearing a special handling notice that restricts access, except when authorized by the originator.

E5.2.7.1.6. Any other classified information that has not been authorized for release to the exchange person's government by the responsible DDA of the originating Department or Agency.

E5.2.7.2. Disclosure guidance, in the form of a DDL or an equivalent

document containing the information listed in enclosure E7., shall be established for each exchange position. The DDL shall be prepared by the host supervisor, in collaboration with the DoD Component DDA, and shall accompany the request to establish a DPEP position. DUSD(PS) will approve the DDL for OSD, the Chairman of the Joint Chiefs of Staff, and the Defense Agency positions. The DDL for the Military Department positions shall be approved by the DDA of the appropriate Military Department. Commitments shall not be made on a specific exchange position until the DDL is approved for that position.

E5.2.7.3. Foreign exchange personnel shall not have personal custody of classified or controlled unclassified information. They may have access to the information during normal duty hours at the place of assignment when access is necessary to perform the functions in their position descriptions, if the information is authorized for disclosure pursuant to the DDL or other disclosure guidance. They may not have unsupervised access to classified libraries or operations centers, or to document catalogues unless the information therein is releasable to the public.

E5.2.8. DPEP Criteria. The DoD Components shall consider the following criteria before establishing a DPEP position and shall discuss them in their requests for authority to negotiate an exchange agreement:

E5.2.8.1. Likely political or military advantage to be gained.

E5.2.8.2. Ability to adequately use a foreign exchange person in the organization considering the policy and access limitations and security requirements described in this enclosure.

E5.2.8.3. Financial costs to the U.S. Government.

E5.2.8.4. Other military arrangements with the country and the results of those arrangements.

E5.2.8.5. Reciprocity, particularly the ability of the DoD Component to assign a U.S. person in a similar capacity within the defense establishment of the other country.

E5.2.9. Authorized Billets. Foreign exchange personnel normally shall serve in authorized personnel billets. Exceptions to this policy (e.g., use of authorized over-strength positions) may be authorized by the Head of the concerned DoD Component if the assignment will result in significant military or political benefits to the Department of Defense.

E5.2.10. Position Description. A position description shall be prepared for each exchange position. The position description shall contain as a minimum:

- E5.2.10.1. The title of the position.
- E5.2.10.2. The position location.
- E5.2.10.3. Qualification and skills required.
- E5.2.10.4. Description of specific duties of the position.
- E5.2.10.5. Security clearance level required.

E5.2.11. Content of DPEP Agreement. DPEP agreements shall use as a basis the "model DPEP agreements" approved by DUSD(PS) and shall cover the following issues:

- E5.2.11.1. Type of exchange positions to be established (e.g., engineer and scientist, administrative and professional).
- E5.2.11.2. Length of tour.
- E5.2.11.3. Financial responsibilities (e.g., travel, salary, etc.) and use of government facilities and equipment.
- E5.2.11.4. Entitlements (e.g., commissary and exchange privileges for authorized persons in accordance with DoD Directives 1330.9 and 1330.17 (references (u) and (v)), medical care, etc.) and use of government facilities and equipment.
- E5.2.11.5. Status of assigned personnel, to include privileges and exemptions, liabilities and claims.
- E5.2.11.6. Security.
- E5.2.11.7. Disciplinary matters.
- E5.2.11.8. Administrative matters and oversight responsibilities (e.g., leave, dress, reviews, and performance reports).

E5.2.12. Administrative and Operational Control. Foreign exchange personnel shall remain under the administrative control (e.g., pay, performance appraisals,

disciplinary actions) of their parent governments. They shall be under the operational control of the host DoD Component to which they are assigned. They may participate in the functions of the host DoD Component consistent with security considerations and the limitations described in this enclosure.

E5.2.13. Financial Responsibilities

E5.2.13.1. The costs of participation in the DPEP shall be borne, in accordance with applicable laws and regulations, by either the participant's parent organization or by the participant, except that travel and per diem costs for travel performed in connection with assigned duties within the host country shall be paid by the organization requesting or directing such travel.

E5.2.13.2. Costs to be borne by the Department of Defense for its exchange personnel assigned abroad shall only include salary, and, in accordance with the DoD JTR, volume 2 (reference (w)), either permanent change of station (PCS) entitlements (for the employees and their dependents) or long-term temporary duty entitlements. DoD civilian personnel who perform a PCS move shall agree in writing to complete the entire period of the assignment or one year, whichever is shorter, unless separated or reassigned at the request of the Department of Defense.

E5.2.14. Supervisor Responsibilities. The DoD officials designated to supervise foreign exchange personnel shall:

E5.2.14.1. Ensure that the foreign exchange personnel understand the duties to be performed in the position to which they are assigned.

E5.2.14.2. Ensure that the foreign exchange personnel are provided access only to that classified and controlled unclassified information that has been authorized for release to their government in the DDL that is required to perform the duties of the position.

E5.2.14.3. Ensure that coworkers are informed of the limitations on access to information by the exchange personnel and their responsibilities in dealing with them.

E5.2.14.4. Inform the foreign exchange personnel of their obligations, rights, and responsibilities.

E5.2.15. Identification

E5.2.15.1. Dress. Foreign exchange personnel shall wear their uniforms if

they are military members, or, if civilian, appropriate civilian attire. They shall wear, in clear view, a DoD building or installation pass or badge that clearly identifies them as foreign nationals.

E5.2.15.2. Status. Any other identification (including organizational code, title, signature block, office nameplate, or e-mail address) used by or issued to foreign exchange personnel by the host DoD Component shall clearly identify the person's status as a foreign national.

E5.2.16. Certification of Conditions and Responsibilities

E5.2.16.1. Foreign exchange personnel must sign a certification similar to the sample in attachment E5.A1. before being assigned to the host DoD Component.

E5.2.16.2. Foreign exchange personnel assigned to positions that might provide access to technical data also must sign a certification similar to the sample in attachment E5.A2. governing the rights of the individuals and the Department of Defense on inventions and rights in property.

Attachments - 2

1. Certification of Conditions and Responsibilities for DPEP Personnel
2. Commitment Regarding Inventions Made and Technical Information Developed by Visiting Engineers and Scientists

E5.A1. ATTACHMENT I TO ENCLOSURE 5

**CERTIFICATION OF CONDITIONS AND RESPONSIBILITIES
FOR DPEP PERSONNEL**

I understand and acknowledge that I have been accepted for assignment to (insert name and location of organization to which assigned) pursuant to an agreement between the (insert applicable military service or organization) of the United States and the (insert applicable foreign military organization) of (insert country name). In connection with this assignment, I further understand, acknowledge, and certify that I shall comply with the following conditions and responsibilities:

1. The purpose of the assignment is to gain knowledge of the organization and management of Host Party (cite applicable area for DPEP assignment) defense activities. There shall be no access to information except as required to perform the duties described in the position description of the position to which I am assigned, as determined by my designated supervisor.

2. I shall perform only functions which are properly assigned to me as described in the position description (PD) for my assignment and shall not act in any other capacity on behalf of my government or my Parent Party or Parent Organization.

3. All information to which I may have access during this assignment shall be treated as information provided to my government in confidence and shall not be further released or disclosed by me to any other person, firm, organization or government without the prior written authorization of the Host Party.

4. When dealing with individuals outside of my immediate office of assignment on official matters, I shall inform such individuals that I am a foreign exchange person.

5. I have been briefed on, understand, and shall comply with all applicable security regulations of the Host Party and the Host Organization.

6. I will immediately report to my designated supervisor all attempts to obtain classified, proprietary or controlled unclassified information to which I may have access as a result of this assignment.

(Typed Name)

(Signature)

(Rank/Title)

(Date)

ES.A2. ATTACHMENT 2 TO ENCLOSURE 5

COMMITMENT REGARDING INVENTIONS MADE AND TECHNICAL INFORMATION DEVELOPED BY VISITING ENGINEERS AND SCIENTISTS

COMMITMENT TO HOST PARTY

In consideration for being selected to participate in the U.S.-(insert country name) Defense Personnel Exchange Program, I hereby grant to the Host Party a worldwide, non-transferable, irrevocable, non-exclusive, royalty-free license to practice (make, use, or sell) inventions (whether patentable or not patentable) and unlimited use and reproduction rights in technical information, which inventions are made (either conceived or reduced to practice) by me or which technical information is developed by me during the period of and as a result of my participation in this Program.

Additionally, to secure the rights granted above, I hereby grant to the Host Party the right to prosecute or to have prosecuted patent applications on the above mentioned inventions in any country for which the Parent Party or I choose not to prosecute a patent application.

Signature of DPEP Officer

E6. ENCLOSURE 6
COOPERATIVE PROGRAM PERSONNEL

E6.1. GENERAL

E6.1.1. Background. Foreign nationals may be assigned to multinational program offices that are hosted by the DoD Components as part of an international management team responsible for the implementation of a multinational project or program.

E6.1.2. Scope. Only foreign government personnel assigned to an international program office, hosted by a DoD Component pursuant to the terms of a Cooperative Program International Agreement, who report to and take direction from a DoD-appointed U.S. Program Manager (or Program Manager equivalent) shall be accorded the treatment described in this enclosure. Foreign government representatives described in such Agreements as liaison officers or observers are not considered Cooperative Program Personnel and shall be treated as FLOs in accordance with enclosure E4. of this Directive.

E6.2. PROCEDURES

E6.2.1. Personnel. Foreign nationals assigned to Cooperative Program Personnel positions shall be military members or civilian employees of the counterpart foreign government defense organization.

E6.2.2. Restrictions on Cooperative Program Personnel

E6.2.2.1. Cooperative Program Personnel shall not act in the dual capacity as an official or employee in the multinational project office and as a liaison officer for their government (e.g., FLO) while assigned to a DoD Component.

E6.2.2.2. Cooperative Program Personnel shall not serve as conduits between the Department of Defense and their government for requests and transmissions of classified and controlled unclassified information. Any such transmissions shall be carried out in accordance with the Program Security Instruction.

E6.2.2.3. Cooperative Program Personnel shall not be assigned to command or other positions that would require them to exercise responsibilities that are reserved

by law or regulation to an officer or employee of the U.S. Government. They shall not, for example, perform responsibilities of a COTR, component duty officer, classified document custodian or security officer, escort for foreign nationals, or perform other official acts as a representative of the DoD Component.

E6.2.2.4. Cooperative Program Personnel shall not be assigned to positions that could result in their access to classified or controlled unclassified information that has not been authorized for release to their government.

E6.2.3. Information Access

E6.2.3.1. Cooperative Program Personnel shall not have uncontrolled access to restricted areas or to the following types of information:

E6.2.3.1.1. RESTRICTED DATA and FORMERLY RESTRICTED DATA as defined by the Atomic Energy Act of 1954, as amended (reference (t)).

E6.2.3.1.2. Information systems security information.

E6.2.3.1.3. Classified or controlled unclassified information provided by a non-participating government, or international organization, unless access is approved in writing by the originating government or organization.

E6.2.3.1.4. Compartmented information, unless specifically authorized by a separate government-to-government agreement.

E6.2.3.1.5. Information bearing a special handling notice that restricts access, except when authorized by the originator.

E6.2.3.1.6. Any other classified information that has not been authorized for release to the Cooperative Program Personnel's government by the responsible DDA of the originating Department or Agency.

E6.2.3.2. Disclosure guidance in the form of a DDL, or equivalent document that contains the information listed in enclosure E7., shall be established for each Cooperative Program position. DUSD(PS) will approve the DDL Disclosure Guidance for OSD, the Chairman of the Joint Chiefs of Staff and the Defense Agency positions. The DDL or other approved Disclosure Guidance for the Military Department positions shall be approved by the DDA of the appropriate Military Department. Cooperative Program Personnel shall not assume any positions until the DDL or equivalent document is approved for that position.

E6.2.3.3. Cooperative Program Personnel shall not have personal custody of classified or controlled unclassified information. They may have access to the information during normal duty hours at the place of assignment when access is necessary to perform their multinational program or project functions under the applicable Cooperative Program International Agreement, if the information is authorized for disclosure pursuant to the DDL, or other disclosure guidance containing the information listed in enclosure E7. They may not have unsupervised access to classified libraries or operations centers, or to document catalogues, unless the information therein is releasable to the public.

E6.2.4. Administrative and Operational Control. Cooperative Program Personnel shall remain under the administrative control (e.g., pay, disciplinary actions) of their government. They shall be under the operational control of the host DoD Component through the Program Manager (or Program Manager equivalent) for the multinational project or program to which they are assigned. They may participate in the functions of the host DoD Component consistent with security considerations and the limitations described in this enclosure.

E6.2.5. Supervisor Responsibilities. The DoD Program Manager (or Program Manager equivalent) designated to supervise Cooperative Program Personnel shall:

E6.2.5.1. Ensure that the Cooperative Program Personnel understand the duties to be performed in the position to which they are assigned.

E6.2.5.2. Ensure that the Cooperative Program Personnel are provided access only to that classified and controlled unclassified information that has been authorized for release to their government by the DDL, or other disclosure guidance containing the information listed in enclosure E7.

E6.2.5.3. Ensure that coworkers are informed of the limitations on access to information by the Cooperative Program Personnel and their responsibilities in dealing with them.

E6.2.5.4. Inform the Cooperative Program Personnel of their obligations, rights and responsibilities and ensure they sign the certifications in attachments E6.A1. and E6.A2.

E6.2.6. Position Description. A position description shall be prepared for each Cooperative Program position. The position description shall contain as a minimum:

E6.2.6.1. The title of the position.

E6.2.6.2. The position location.

E6.2.6.3. Qualification and skills required.

E6.2.6.4. Description of specific duties of the position.

E6.2.6.5. Security clearance level required.

E6.2.7. Content of Cooperative Program International Agreement. The Cooperative Program International Agreement, or an annex or implementing arrangement thereto, shall cover the following issues:

E6.2.7.1. Type of positions to be established.

E6.2.7.2. Length of tour.

E6.2.7.3. Financial responsibilities (e.g., travel, salary, etc.) and use of government facilities and equipment.

E6.2.7.4. Entitlements (e.g., commissary privileges, medical care, etc.).

E6.2.7.5. Status of assigned personnel, to include privileges and exemptions, liabilities and claims.

E6.2.7.6. Security.

E6.2.7.7. Disciplinary matters.

E6.2.7.8. Administrative matters and oversight responsibilities (e.g., leave, dress, reviews, and performance reports).

E6.2.8. Identification

E6.2.8.1. Dress. Cooperative Program Personnel shall wear their uniforms, if they are military personnel, or, if civilian, appropriate civilian attire. They shall wear, in clear view, a DoD building or installation pass or badge that clearly identifies them as foreign nationals.

E6.2.8.2. Status. Any other identification (including organizational code

and title, block, office nameplate, or e-mail address) used by or issued to Cooperative Program personnel by the host DoD Component shall clearly identify the person's status as a foreign national.

Attachments - 2

- 1. Certification of Conditions and Responsibilities for Cooperative Program Personnel**
- 2. Commitment Regarding Inventions Made and Technical Information Developed by Visiting Engineers and Scientists**

E6.A1. ATTACHMENT 1 TO ENCLOSURE 6

**CERTIFICATION OF CONDITIONS AND RESPONSIBILITIES
FOR COOPERATIVE PROGRAM PERSONNEL**

I understand and acknowledge that I have been accepted for assignment to (insert name and location of Cooperative Program to which assigned) pursuant to an agreement between the (insert applicable military service or organization) of the United States and the (insert applicable foreign military organization) of (insert country name). In connection with this assignment, I further understand, acknowledge, and certify that I shall comply with the following conditions and responsibilities:

1. The purpose of the assignment is to provide my expertise to the Cooperative Program. There shall be no access to information except as required to perform the duties described in the position description (PD) of the position to which I am assigned, as determined by my designated supervisor.
2. I shall perform only functions which are properly assigned to me as described in the PD for my assignment and shall not act in any other capacity on behalf of my government or my Parent Party or Parent Organization.
3. All information to which I may have access during this assignment shall be treated as information provided to my government in confidence and shall not be further released or disclosed by me to any other person, firm, organization or government without the prior written authorization of the Cooperative Program.
4. When dealing with individuals outside of my immediate office of assignment on official matters, I shall inform such individuals that I am a foreign Cooperative Program person.
5. I have been briefed on, understand, and shall comply with all applicable security regulations of the Cooperative Program.

6. I will immediately report to my designated supervisor all attempts to obtain classified, proprietary or controlled unclassified information to which I may have access as a result of this assignment.

(Typed Name)

(Signature)

(Rank/Title)

(Date)

E6.A2. ATTACHMENT 2 TO ENCLOSURE 6

COMMITMENT REGARDING INVENTIONS MADE AND TECHNICAL INFORMATION DEVELOPED BY VISITING ENGINEERS AND SCIENTISTS

COMMITMENT TO COOPERATIVE PROGRAM

In consideration for being selected to participate in the U.S.-(insert country name) (insert name of Cooperative Program), I hereby grant to the Cooperative Program a worldwide, non-transferable, irrevocable, non-exclusive, royalty-free license to practice (make, use, or sell) inventions (whether patentable or not patentable) and unlimited use and reproduction rights in technical information, which inventions are made (either conceived or reduced to practice) by me or which technical information is developed by me during the period of and as a result of my participation in this Program.

Additionally, to secure the rights granted above, I hereby grant to the Cooperative Program the right to prosecute or to have prosecuted patent applications on the above mentioned inventions in any county for which my government or I choose not to prosecute a patent application.

Signature of Cooperative Program Officer

E7. ENCLOSURE 7

SAMPLE
DELEGATION OF DISCLOSURE AUTHORITY LETTER (DLL)

The following DDL format should be used by the DoD Components. (While all elements identified should be provided in the general order shown, information should be presented in the clearest and easiest-to-use manner.)

TITLE:

DATE:

E7.1. CLASSIFICATION: Identify highest classification of information to be disclosed.

E7.2. DISCLOSURE METHODS: E.g., oral, visual, or documentary. If documentary access is permitted, control procedures must be described in section E7.7., below.

E7.3. CATEGORIES PERMITTED: Specify National Disclosure Policy categories of information to be disclosed.

E7.4. SCOPE: Specify who is authorized to release material or information, and to whom disclosure is authorized.

E7.5. AUTHORIZED FOR RELEASE AND/OR DISCLOSURE: Describe material, information, and documents to which access can be permitted. This section shall state clearly that the individual may have access only to that information in the stated categories that is authorized for release to the parent government. If access to information described in subsection E5.2.7. of enclosure E5. is permitted, cite the specific agreement or other written authorization on which access is based.

E7.6. NOT AUTHORIZED FOR RELEASE AND/OR DISCLOSURE: Describe material, information, and documents, or portions thereof, to which access is not permitted.

E7.7. PROCEDURES: Specify review and release procedures for information that is not covered by the DDL, and describe controls and special security procedures (e.g., badges, briefings) established to limit access to information and controlled areas. If the releases described herein will be used for approving releases to foreign nationals at cleared contractor facilities working on a classified contract, the agreed security control procedures (see subsection 4.16. of the main body of this Directive) will be incorporated herein and a copy of the DDL provided to Defense Security Service (DSS) in advance of placing the foreign national on site at a cleared contractor facility.

E7.8. CONTACT OFFICER: Identify primary and alternate contact officers, including position and telephone and telefax numbers, and their duties and responsibilities. If a foreign national is to be placed at a cleared contractor facility and working on a classified contract, include the name, and telephone and telefax numbers of the responsible DSS Industrial Security Representative.

E7.9. REDELEGATION: Specify the extent of redelegation of disclosure authority (if any) permitted to subordinate activities.

E8. ENCLOSURE 8

Format
ANNUAL REPORT ON AGREEMENTS
FOR THE EXCHANGE OF DEFENSE PERSONNEL
BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES
FISCAL YEAR 19XX

Format (Cite DoD Component) (Times New Roman 14 pt)			
Type Exchange Program: (Cite MPEP, ESEP, etc.) Cost: (Cite total cost for type of program) Appropriation Number: (####)			
U.S. POSITION	U.S. LOCATION	FOREIGN POSITION	FOREIGN LOCATION
-----1 inch-----	-----3 inch-----	-----1 inch-----	-----3 inch-----
(Country)			
(Title of U.S. Position occupied by foreign personnel)	(Cite organization & location)	(Title of foreign position occupied by U.S. personnel)	(Cite organization and location)
(Country)			
1. Page layout is to be "landscape" with 1 inch margins. 2. Except for the title, the front will be Times New Roman 12 pt. 3. Do not use tabs between columns. Use a Table of 4 columns. 4. Do not abbreviate position titles. 5. Submit a separate report by type of Agreement, e.g., MPEP, DIPEP, ESEP, APEP 6. Organize positions by country alphabetically. 7. Provide report in this format via e-mail or disk to the ODUSD(PS).			

Example Department of the Army			
Type Exchange Program: MPEP		Cost: \$305,000	Appropriation Number: 2020
U.S. POSITION	U.S. LOCATION	FOREIGN POSITION	FOREIGN LOCATION
Australia			
Transportation Instructor	USA Transportation School, Ft. Eustis VA	Transportation Instructor	School of Transport, Albury-Wodonga VIC
Engineer Instructor	USA Engineer School, Ft. Leonard Wood MO	Instructor	School of Military Engineer, Casula NSW
Airborne Instructor	USA Quartermaster School (Airborne Department), Ft. Lee VA	Airborne Instructor	Air Movement Training and Development, RAAF, Richmond NSW
Medical Staff	AMEDD & School, Ft. Sam Houston TX	Medical Staff	Dir. Gen Army Health Svcs, Canberra ACT