



DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

SECNAVINST 5710.25B

Navy IPO-01

23 December 2005

SECNAV INSTRUCTION 5710.25B

From: Secretary of the Navy

Subj: INTERNATIONAL AGREEMENTS

Ref: (a) DOD Directive 5530.3 of 11 Jun 87 w/CH-1 of 18 Feb 91  
(b) DOD Instruction 5000.2 of 12 May 03  
(c) SECNAVINST 5510.34A  
(d) DOD Directive 5230.11 of 16 Jun 92  
(e) National Disclosure Policy (NDP 1) (NOTAL)  
(f) Defense Acquisition Guidebook of 17 Oct 04  
(g) DEPSECDEF Memorandum of 27 Nov 90, "Loans and Gifts for Cooperative Research and Development - Section 65, Arms Export Control Act" (NOTAL)  
(h) SECNAV Memorandum of 23 May 95, "Loans and Gifts for Cooperative Research and Development - Section 65, Arms Export Control Act" (NOTAL)  
(i) OUSD(AT&L) Memorandum of 16 Jan 04, "Delegation of Authority to ASN(RD&A) and DASN(IP) by Director, International Cooperation Under the International Agreement Streamlining II Process" (NOTAL)  
(j) SECNAVINST 5000.2C

Encl: (1) Procedures for International Acquisition Agreements

1. Purpose. To establish Department of the Navy (DON) policy, responsibilities, and procedures for international agreements with foreign governments or international organizations based on the Department of Defense (DOD) policy contained in references (a) and (b).

2. Cancellation. SECNAV Instruction 5710.25A.

3. Scope. This instruction establishes revised policy applicable to all DON organizations and personnel involved in the development, negotiation, and implementation of international agreements. This instruction does not apply to international agreements concerning operational command of joint forces or other non-uni-Service matters under the cognizance of the Chairman, Joint Chiefs of Staff and the Combatant Commanders.

4. Policy

a. It is DON policy to ensure DON's international agreement efforts comply with DOD policy contained in reference (a) and, for the international acquisition agreements described in paragraph 5.b of this instruction, the policy contained in enclosure (9) of reference (b). Accordingly, DON organizations and personnel must avoid taking any actions that our allies may interpret as a negotiation of or commitment to any international agreement without the prior written approval of the Chief of Naval Operations (CNO) or the Commandant of the Marine Corps (CMC) (or officers to whom they have delegated their authority), the Assistant Secretary of the Navy (Research, Development and Acquisition) (ASN(RD&A)), or the Deputy Assistant Secretary of the Navy (International Programs) (DASN(IP)), as appropriate. In the context of international agreements, "negotiation" is defined as communicating a position on behalf of any office, officer or employee of DON to a representative of a foreign government or international organization in such detail that the acceptance in substance of that position could be interpreted as resulting in an agreement. The provision of a draft agreement, even though conditioned upon later approval by higher authority, also constitutes an impermissible "negotiation" of an international agreement when furnished without receiving the prior written concurrence of CNO, CMC, ASN(RD&A), or DASN(IP), as appropriate, in accordance with this instruction.

b. It is the responsibility of CNO, CMC and ASN(RD&A) to ensure that all international agreements made on behalf of the DON are consistent with DOD and DON policy. It is therefore of paramount importance that when negotiating and concluding international agreements, all DON organizations and personnel strictly adhere to the procedures of this instruction and reference (a), and, for the international acquisition agreements described in paragraph 5.b of this instruction, enclosure (1) of this instruction and the policy contained in enclosure (9) of reference (b). ("Conclusion" is the act of signing, initialing, responding, or otherwise indicating the acceptance of an international agreement by the U.S.) Unless delegated authority to negotiate and conclude a specific or class of international agreements, all DON organizations and personnel must obtain the appropriate written authority at the very outset of any discussion that could lead to an international agreement with foreign countries or international organizations.

c. DON organizations and personnel must, absent specific delegated authority, also receive prior written authorization to

negotiate and conclude amendments, modifications, and extensions of international agreements.

d. International agreements that involve issues of "policy significance" must be approved by the Office of the Under Secretary of Defense (Policy) (OUSDP) per paragraph 8.4 of reference (a) prior to negotiation and conclusion. Precedent setting or significant issues concerning technology transfer, disclosure, security assistance, and international programs require the prior approval of the DON in accordance with reference (c). If a DON decision on specific policy or precedent setting issues is required, it should be obtained prior to submission to the CNO, CMC, ASN(RD&A), DASN(IP), or higher authority of an international agreement request for authority to negotiate.

e. Proposed international agreements that involve classified information or controlled unclassified information with a military or space application require the review and approval by the organization's Designated Disclosure Authority as defined by reference (d). If the international agreement involves the disclosure of information that exceeds the sponsoring organization's delegated disclosure authority, then the Navy International Programs Office (IPO) must provide the disclosure authorization. If the proposed international agreement involves disclosure of classified information or material which requires an exception to the National Disclosure Policy (NDP) per reference (e), Navy IPO will submit a request for exception to the NDP (ENDP).

f. DON organizations and personnel must immediately notify CNO, CMC or ASN(RD&A) through the chain of command if they become aware of any proposed termination (other than by expiration) or non-compliance with an international agreement concluded by DON or DoD.

g. All DON organizations, including Navy IPO on behalf of DON acquisition organizations per enclosure (1), shall forward four reproducible copies of each agreement directly to the Office of the Judge Advocate General (OJAG), Attn: Code 10, 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, DC 20374-5066 within 10 days after the date of last signature. Per reference (a), a background statement and translator's certificate (if required) shall accompany the certified copies of the agreement.

## 5. Responsibility and Delegation of Authority

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a. CNO and CMC. Authority to negotiate, conclude and implement international agreements, delegated to the Secretary of the Navy (SECNAV) by reference (a), is hereby delegated to the CNO and CMC for matters under their respective cognizance for agreements of an operational nature (generally referred to as "operational agreements") in the areas enumerated below. The CNO and CMC are granted authority to use summary procedures, as appropriate, in accordance with reference (a). This authority may be redelegated. Responsibilities concerning this authority are as follows:

(1) Approve, or forward to the appropriate approval authority all Requests for Authority to Negotiate (RAN) and Requests for Authority to Conclude (RAC), for the following types of DON operational, predominantly uni-service agreements in accordance with the policy and procedures set forth in reference (a):

(a) Approve Implementing Agreements: technical, operational, working, or similar operational agreements or arrangements concluded pursuant to a treaty or executive agreement that entails implementing arrangements;

(b) Approve Cooperative or Reciprocal Support Agreements: cooperative or reciprocal operational, logistical, training, or other military support, including logistic support arrangements under 10 U.S.C. 7227, and arrangements for shared use or licensing of military equipment, facilities, services and nonphysical resources;

(c) Approve Plans, Exercises, Operations, Exchanges Agreements: combined military planning, command relationships, military exercises and operations, minor and emergency force deployments, exchange programs (excluding the Engineer and Scientist Exchange Program), including those effected pursuant to 10 U.S.C. 2114 (agreements with foreign military medical schools for reciprocal education programs) and 10 U.S.C. 6957a (agreements for exchanges with foreign military academies), and liaison programs;

(d) Forward Military Intelligence Agreements: collection and exchange of military intelligence information (except signals intelligence (SIGINT) agreements) shall be forwarded to Director, Defense Intelligence Agency for approval, via Under Secretary of the Navy;

(e) Approve Military Information Exchange Agreements: collection or exchange of military information and data other than military intelligence (excluding acquisition-related Data/Information Exchange Agreements (DEAs/IEAs));

(f) Approve Health and Medical Agreements: health and medical cooperative research, development, test, evaluation, technical data exchange, and related standardization agreements;

(g) Approve Communications Agreements: sharing or exchange of DOD communications equipment, facilities, support, services or other communication resources with a foreign country or alliance organization, the use of U.S. military frequencies or frequency bands, and the use of U.S. communications facilities and/or systems by foreign organizations, whether overseas or in the continental U.S.;

(h) Forward to OUSD(P) for approval any other (not delegated above) operational agreements.

(2) Ensure proposed operational agreements are coordinated with ASN(RD&A), Navy IPO, other interested DON and Defense organizations, and within the U.S. Government (U.S.G.), as required.

b. ASN(RD&A). For agreements concerning the research, development, and acquisition process (generally referred to as "international acquisition agreements") in the areas enumerated below, ASN(RD&A) will exercise the authority to negotiate, conclude, and implement such agreements as delegated by the Office of the Under Secretary of Defense (Acquisition, Technology and Logistics) (OUSD(AT&L)) or OUSD(P) to SECNAV or to ASN(RD&A) pursuant to references (a), (b) and (f). ASN(RD&A) is granted authority to use summary procedures, as appropriate, in accordance with references (a), (b), and (f). This authority may be redelegated. Responsibilities concerning this authority are as follows:

(1) Review and approve or forward to the appropriate approval authority Requests for Authority to Develop and Negotiate (RADs) and Requests for Final Authority to Conclude (RFAs) for the following types of acquisition agreements in accordance with policy and procedures set forth in enclosure (1) and references (a), (b) and (f), as applicable:

(a) Cooperative research, development, production, or follow-on support;

(b) Cooperative research and development information exchanges (including acquisition-related DEAs/IEAs);

(c) Engineering and Scientist Exchange Program agreements;

(d) Cooperative research and development loans and gifts under Section 65 of the Arms Export Control Act (AECA) (22 U.S.C. 2796d);

(e) Cooperative test and evaluation;

(f) Cooperative agreements for reciprocal use of test facilities;

(g) Security assistance agreements (which term does not include Foreign Military Sales Letters of Offer and Acceptance and Letters of Intent);

(h) Security of technology and classified information;

(i) Acquisition agreements under 10 U.S.C. 2341 and cooperative logistics supply support agreements under 10 U.S.C. 2350d; and

(j) All acquisition-related agreements.

(2) Conclude the types of acquisition agreements cited in paragraph 5b(1) on behalf of DOD when authority to conclude such agreements has been granted by higher authority. Any such authority to conclude an international agreement may be redelegated.

(3) Ensure proposed acquisition international agreements are coordinated with the Office of the CNO, Navy IPO, other interested DON and Defense organizations, and within the U.S.G., as required.

c. DASN(IP). DASN(IP), acting as Director, Navy IPO, will have the following responsibilities:

(1) Exercise the authority to negotiate, conclude, and implement international acquisition agreements as delegated by the OUSD(AT&L) to DASN(IP) pursuant to references (a) and (f).

(2) Exercise the authority to make, accept, and administer cooperative research and development loan and gift agreements as delegated by the Deputy Secretary of Defense (DEPSECDEF) to SECNAV in reference (g) and re-delegated by SECNAV to the Director, Navy IPO in reference (h).

(3) Upon appropriate redelegation of authority from ASN(RD&A), negotiate, conclude, and implement international acquisition agreements in addition to those agreements addressed in paragraph 5c(1).

(4) Develop policy for the review, coordination, negotiation, and implementation of the acquisition agreements cited in paragraph 5b(1) in accordance with references (a), (b) and (f), as applicable, as well as with other applicable U.S.G. regulations, directives, and policies, and with U.S. law.

(5) Ensure proposed RAD/RFAs for acquisition agreements are reviewed and approved in accordance with enclosure (1).

(6) In conjunction with the Systems Commands (SYSCOMs), Program Executive Officers (PEOs), Direct Reporting Program Managers (DRPMs) and Office of Naval Research (ONR), develop and coordinate RADs/RFAs for the international acquisition agreements cited in paragraph 5b(1), and review and approve, or forward to the appropriate approval authority, in accordance with the policies and procedures set forth in enclosure (1), and references (a), (b) and (f), as applicable.

(7) Review and approve disclosure guidance, as appropriate, for any DON operational or acquisition agreement that involves technology transfer and foreign disclosure issues.

(8) Provide OJAG all concluded international agreements requiring Case Act notification within 10 days after the agreement is signed.

d. Office of the General Counsel. Provide required legal support to ASN(RD&A), Navy IPO, CMC acquisition activities, and all other DON activities for all efforts associated with the agreements cited in paragraph 5b(1) above, based on the policy and procedures outlined in enclosure (1), and references (a), (b) and (f).

e. Navy Comptroller. Review and provide appropriate guidance to ASN(RD&A), Navy IPO, CNO, and CMC concerning

financial matters for all types of international agreements, as per enclosure (1), and references (a), (b) and (f).

f. OJAG

(1) On behalf of the DON, act as the Central Office of Record for all agreements (Navy IPO, however, will maintain the records for the staffing actions taken to negotiate and conclude acquisition agreements).

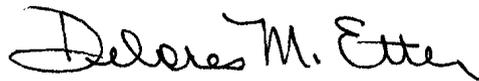
(2) Conduct Case Act notifications and coordination for all DON international agreements, in accordance with reference (a) and enclosure (1).

(3) Provide required legal support to CNO, CMC, and all other DON activities for all efforts associated with the types of agreements cited in paragraph 5a(1), based on the policy and procedures outlined in reference (a).

g. CMC(JA): Provide required legal support to CMC for all efforts associated with the types of agreements cited in paragraph 5a(1), based on the policy and procedures outlined in reference (a).

h. SYSCOMs, PEOs, DRPMs, Naval Component Commanders, and ONR: As directed by ASN(RD&A), Navy IPO, CNO, and CMC, participate in developing RANs/RACs/RADs/RFAs, and negotiating and implementing international agreements for programs under their cognizance.

6. Categorization. If a proposed international agreement cannot be categorized as either an operational or acquisition agreement in accordance with subparagraphs 5a(1) and 5b(1), Navy IPO, OJAG, CMC(JA), and/or CNO (N3/N5) shall, following coordination through the appropriate chain of command, consult and determine the appropriate disposition of the agreement.



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PROCEDURES FOR INTERNATIONAL ACQUISITION AGREEMENTSINTRODUCTION:

An International Agreement (IA) may be required to document substantive agreements between the U.S. and foreign governments involving acquisition. For a specific determination concerning whether any of the acquisition IA types listed in paragraph 5b(1) of this instruction are required to pursue a particular program effort, DON acquisition organizations should consult Navy IPO. Do not proceed with development of any type of international acquisition agreement without obtaining a Navy IPO determination that an IA is required.

DELEGATION OF AUTHORITY

Under its International Agreement Streamlining II process, as permitted by reference (b) and the interim predecessor to reference (f), OUSD(AT&L)(International Cooperation (IC)) issued reference (i), which delegated to ASN(RD&A) approving authority for development, negotiation, and conclusion of Research, Development, Test and Evaluation (RDT&E) IAs for ACAT II and ACAT III programs, as well as pre-ACAT Technology Projects having a total program cost of less than \$25 million. Reference (i) also delegated to DASN(IP) approving authority for development, negotiation, and conclusion of IAs for pre-ACAT Technology Projects having a total program cost of less than \$10 million.

In reference (g), DEPSECDEF delegated to SECNAV the authority to make, accept, and administer agreements for no-cost, cooperative research and development loans of materials, supplies, or equipment from the Department of Defense to countries that are North Atlantic Treaty Organization (NATO) allies or major non-NATO allies, as well as no-cost loans or gifts of material, supplies or equipment from such countries to the Department of Defense, in accordance with Section 65 of the AECA. Under reference (h), SECNAV re-delegated this authority to the Director, Navy IPO.

RELATIONSHIP BETWEEN INTERNATIONAL AGREEMENT PROCESS AND DOD ACQUISITION MANAGEMENT POLICIES, PROCEDURES, DOCUMENTATION, AND REPORTS:

DON acquisition organizations are required to consult Navy IPO to obtain guidance regarding the relationship between the international agreement process and DOD/DON acquisition

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management policies and procedures per Part 3, paragraph 3.3.5.2 of reference (j). The detailed integration of the international agreement approval process under reference (b) and this instruction, and the acquisition milestone decision process under reference (j), must be jointly determined by Navy IPO and the cognizant SYSCOM/PEO/DRPM/ONR activity project originator for proposed international projects on a case-by-case basis.

PROCEDURES FOR COOPERATIVE PROJECT INITIATION:

**Project Formulation:** The first step in developing a new cooperative project is to consult with Navy IPO. The purpose of consultation is to focus primarily on the potential project's identified objectives, envisioned scope of work, project schedule requirements, and the availability of DOD/DON funding. Navy IPO will provide an estimated timeline for the development of the international agreement, and will assist in identifying potential technology transfer or legal issues, and in determining the net impact of the project on the U.S. industrial base.

In general, one or more rounds of technical discussions between DON program personnel and foreign representatives may be necessary for exploring the potential for a cooperative project, to include ascertaining the existence of common project objectives, shared operational or technology-based requirements, the ability to harmonize acquisition program and budgeting requirements, and mutual interest and commitment to a prospective project. Depending on the nature of the proposed project, Navy IPO personnel may attend technical discussions to assist the project originators with formulating the basic concepts for the cooperative project, including, but not limited to, the scope of work, management structure, and cost-sharing.

**Guidance for Project Technical Discussions:** During any technical discussions with foreign representatives that take place prior to receipt of written authority to negotiate, Navy personnel will observe the following guidance:

a. Inform foreign representatives that participation in such discussions in no way implies an obligation on the part of DOD/DON to enter into an IA.

b. Do not discuss any IA draft or any document that contains text that may become part of an IA.

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c. Avoid implying Navy RDT&E or Nunn Cooperative RDT&E funding are available prior to formal written approval of their use in the proposed project.

d. Unless specifically delegated, ensure that no classified information is disclosed to foreign nationals without prior approval by Navy IPO. If the classification of information to be disclosed exceeds the country classification levels established by Annex A of the National Disclosure Policy, reference (e), an exception to policy must be approved by the National Disclosure Policy Committee prior to transfer. Requests for exceptions must be sent to Navy IPO.

**Summary Statement of Intent (SSOI) Development:** Upon completion of technical discussions, the project originator will prepare an SSOI, which will contain a clear, concise project summary that provides sufficient justification to obtain Request for Authority to Develop and Negotiate (RAD) approval from DASN(IP), ASN(RD&A), or OUSD(AT&L), as applicable. Navy IPO will provide the format for the SSOI and will assist the project originator in the preparation of the SSOI. When Navy IPO determines that the SSOI is sufficient for RAD staffing purposes, Navy IPO will advise the project originator to submit the SSOI for project endorsement.

**Project Endorsement:** Upon completion of the SSOI, the project originator must obtain written flag/Senior Executive Service/Commanding Officer level project endorsement from the cognizant organization (SYSCOM, PEO, DRPM, or ONR). A memorandum from the cognizant organization that forwards the SSOI to Navy IPO for DON RAD staffing will constitute the project endorsement.

REQUESTING AUTHORITY TO DEVELOP THE IA:

**Requesting Authority to Develop (RAD) Staffing and Review:** Upon receipt of the SSOI forwarded by the cognizant organization for the project for DON RAD staffing, Navy IPO will staff the SSOI to the project originator, the acquisition/resource sponsor(s), the appropriate DASN (if applicable), CNO offices, ASN(FM&C), and any other cognizant DON offices for concurrence. If substantive issues are identified during the staffing process, the project originator and Navy IPO will coordinate their efforts to resolve those issues. After resolution of any issues, Navy IPO will submit the request to proceed to the approving authority.

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**Drafting the IA:** At the outset of the RAD staffing process, Navy IPO will also request that the project originator assist Navy IPO in preparing the draft IA. Such assistance by the project originator will include, but not be limited to, provision of a detailed description of the project's objectives, scope of work, and financial structure.

**RAD Approval:** Navy IPO will obtain RAD approval from OUSD(AT&L)(IC), ASN(RD&A), or DASN(IP) in accordance with references (f) and (i). For RAD packages approved below the OUSD(AT&L) approval level, Navy IPO will forward a Notification of Intent to Negotiate (NIN) to OUSD(AT&L)(IC) for any necessary DOD and interagency coordination.

NEGOTIATIONS:

After RAD authority is received, Navy IPO will transmit the draft IA to the foreign participant(s) for review. Navy IPO will also schedule an initial negotiation session with the foreign participant(s). The U.S. negotiation team (normally composed of a chief negotiator and legal counsel from Navy IPO and project originator programmatic and/or technical representatives) will hold at least one pre-negotiation strategy meeting before initiating formal negotiations with foreign participant(s). The purposes of this meeting are to ensure that team members know their proper roles and responsibilities, to convey the policies and procedures for conducting a formal negotiation, and to resolve any project issues.

STAFFING REQUEST FOR FINAL AUTHORITY TO CONCLUDE (RFA) THE IA:

Upon successful completion of negotiations, Navy IPO will prepare the necessary documents to request final authority to conclude the IA. The RFA package will include a draft cover memorandum to the approving authority, the SSOI updated to include any changes that resulted from negotiation of the IA, and the negotiated IA. The RFA package will be distributed for DON coordination. If issues are identified during this staffing process, Navy IPO and the project originator will coordinate efforts to resolve those issues. Upon receipt of DON concurrences, Navy IPO will submit the request to the appropriate approving authority (OUSD(AT&L)(IC), ASN(RD&A), or DASN(IP)), in accordance with references (f) and (g), for authority to conclude (sign) the IA.

For RFA packages approved below OUSD(AT&L) level, Navy IPO will forward a Notification of Intent to Conclude (NIC) to

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OUSD(AT&L)(IC), which will conduct any necessary DOD and interagency coordination. For IAs negotiated under the authority of Section 27 of the Arms Export Control Act, (22 U.S.C. 2767), Navy IPO will prepare and forward to OUSD(AT&L)(IC) a Section 27 Project Certification, which will be transmitted to Congress. Signature of Section 27 IA's on behalf of the Department of Defense is contingent upon the expiration of the 30-day period following the transmittal of the certification to Congress.

Within 10 days of concluding an acquisition IA, Navy IPO will forward to OJAG four reproducible, certified copies of the agreement. Any officer or U.S. civilian employee authorized by U.S. law to administer oaths or to make acknowledgements may certify the copies to be true copies. The certification will be in the following format and affixed on the title page:

Certified to be a true copy

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Name	Rank	Service
Custodian of the original		

IMPLEMENTATION AND MONITORING OF CONCLUDED ACQUISITION IAs:

In general, responsibility for implementation of concluded acquisition IAs rests with the cognizant DON acquisition organization (PEO, SYSCOM, DRPM, or ONR) cited in the agreement. ASN(RD&A) and Navy IPO remain responsible, however, for monitoring DON compliance with all acquisition IAs which remain in force, including DOD and Congressional reporting requirements. In the event an issue arises concerning IA compliance that cannot be resolved by the DON implementing organization cited in the agreement, ASN(RD&A) and Navy IPO should be immediately provided with the full particulars of the circumstances relevant to the issue per reference (a) guidance.