

CHAPTER 9**INTERNATIONAL AGREEMENTS**0901 OVERVIEW

090101. Purpose. This chapter establishes the financial procedures that shall be followed when DoD Components initiate, develop, and request formal review of international agreements and any annexes, appendices, amendments, or modifications thereto.

0902 GENERAL

090201. DoD Directive 5530.3, "International Agreements," provides the DoD policies for the approval of international agreements and establishes various categories of international agreements. The term "international agreement" includes any agreement with one or more foreign governments (including their agencies, instrumentalities, or political subdivisions) or with an international organization. It includes any document identified as an international agreement, memorandum of understanding, memorandum of agreement (MOA), memorandum of arrangements, exchange of notes, exchange of letters, technical arrangement, etc. It does not include Foreign Military Sales (FMS) transactions and contracts entered into under the provisions of the Federal Acquisition Regulation or agreements financed with security assistance funds. The latter agreements are implemented under provisions identified in Volume 15 of this Regulation.

090202. Pending a revision to DoD Directive 5503.3, the DEPSECDEF signed a memorandum, on September 14, 1994, implementing streamlined procedures for the development of International Cooperative Research and Development Agreements. In that memorandum, the DEPSECDEF designated the Principal Deputy Assistant Secretary of Defense for Dual Use Technology Policy and International Programs (PDASD(DUTP&IP)) as the DoD manager for the development of International Research and Development Agreements. Accordingly, the PDASD(DUTP&IP) issued procedures for streamlining the development and coordination of international agreements. Those procedures include instructions for the preparation of a Summary Statement of Intent (SSOI). The SSOI provides to international agreement reviewers basic information pertaining to proposed agreements. Instructions for the preparation of a SSOI are contained in Appendix A at the end of this chapter.

090203. There are various types of international agreements with different financial implications. Regardless, such international agreements must be consistent with established DoD issuances, unless approval to deviate from such guidance is obtained from the proponent of that applicable guidance.

090204. Each international agreement package submitted for coordination must contain information including legal authority, fiscal information, and either an overview of the

proposed agreement, a Summary Statement of Intent (SSOI), or the proposed agreement. The fiscal information should identify all financial implications of the agreement and provide all information required for a complete understanding and analysis of those implications. The legal information should identify the statutory authority for any obligation or expenditure of U.S. appropriated or nonappropriated funds involved in the agreement, as well as the legal basis for any use of U.S. Government property by or on behalf of a foreign government or international organization contemplated by the agreement.

090205. DoD Directive 5530.3 stipulates that no international agreement shall be negotiated or entered into without the concurrence of the Office of the Under Secretary of Defense (Comptroller). In the case of a proposed international agreement within the approval authority of a DoD Component outside the Office of the Secretary of Defense, concurrence shall be obtained from the DoD Component senior financial manager. A checklist has been developed and shall be used to ensure that all financial and pricing requirements have been taken into consideration. The checklist is illustrated at the end of this chapter in Appendix B.

0903 LEGAL CONSIDERATIONS

090301. General. Legal authority information is critical to the preparation of an agreement and is the basis for determining the legal authority for entering into the agreement and subsequent financial requirements. The legal information is used by financial management officials to review applicable international agreements and determine the existence of any special pricing or funding requirements. The legal information normally provides the following information:

A. Special Legal Pricing Requirements. The legislative authority to enter into an agreement also may mandate special pricing requirements on the United States. Thus, the legal authority information should identify any peculiar pricing that must be reflected in the agreement. In the absence of specific legal authority to price on other than a full cost basis, DoD services and materials shall be priced on a full cost basis.

B. Legal Requirement for the Disposition of Monies Collected by the Department of Defense. This is especially important because amounts collected as reimbursements for DoD material or services or new procurements must be deposited into the miscellaneous receipts of the U.S. Treasury, unless there is specific legal authority to credit collections to a DoD appropriation or fund. The legal citation for the disposition of monies clearly should be stated. Special care must be taken with respect to the cooperative development or production agreements described in paragraphs 090510.B. and 090510.C. Options available for deposit of collections include deposit to an appropriation account, a commercial bank account approved by the Treasury Department, or a U.S. Treasury deposit account.

C. Legal Requirement for Recognition of Obligational Authority in DoD Appropriations. Obligational authority can be created only to the extent that cash is collected and

deposited into the U.S. Treasury, unless there is legal authority to create obligational authority on a dependable undertaking (contract authority) basis.

D. Special Prohibitions or Requirements on the Use of Appropriated Funds.

The legal information section should identify any special prohibitions or requirements on the use of appropriated funds in support of the agreement. These special prohibitions are in addition to the standing prohibitions discussed in paragraph. An example of a special requirement is when FMS credit funds are to be used to finance co-production or licensed production in a foreign country. The approval of such use requires the Secretary of State first to advise the Congress. (See Section 42(b) of the Arms Export Control Act (AECA).)

0904 FISCAL CONSIDERATIONS

The fiscal information section documents the various financial considerations involved in implementing an international agreement. Specific considerations to be included in the fiscal information section are as follows:

090401. Financing Sources for U.S. Costs

A. The fiscal information section shall include a schedule of proposed financing sources to be used by the sponsoring DoD Component to implement the agreement. Financing sources may be current appropriations or funds, provision for inclusion in the Future Years Defense Program (FYDP), or a statement of an intent to include in future program and/or budget requests or FYDPs. This information may be either in narrative or schedule form. A schedule form is preferred and is illustrated in Table 9-1. When current appropriations or funds are to be used as a financing source, the fiscal information section should identify the specific appropriation(s) or fund(s), the FYDP Program Element, the amount(s) available therein, and the respective amounts to be used. If the source of financing in current appropriations is in two accounts, the applicable sources of financing should be supported by details showing the specific financing appropriation account symbols.

B. If the proposed international agreement is, in fact, a firm order for goods or services, a formal certification of fund availability shall be included. Applicable funds shall be committed in accordance with Volume 3 of this Regulation.

TABLE 9-1 EXAMPLE INTERNATIONAL AGREEMENT FINANCING SCHEDULE
(\$ in Millions)

Financing Sources	FY 1996	FY 1997	FY 1998	Totals
U.S./PE 0603456	1.5	1.0	0.0	2.5
U.S./PE 0603567	0.0	0.5	1.0	1.5
France	1.5	1.5	1.0	4.0
Germany	1.5	1.5	1.0	4.0
Totals	4.5	4.5	3.0	12.0

090402. Provisions for the Disposition of Funds Collected. The fiscal information section should describe the planned disposition of any funds collected from the foreign country or international organization. The four possible alternatives for disposition of amounts collected are as follows:

A. Reimbursement to Financing DoD Appropriations or Funds. If reimbursements are to be returned to the financing DoD appropriation accounts, the fiscal memorandum or SSOI should identify the accounts to be reimbursed. This identification need not specify the fiscal year of the appropriations. Normal reimbursable accounting procedures shall apply.

B. Deposit in the U.S. Treasury as Miscellaneous Receipts. Without statutory authority to reimburse DoD appropriations or funds or to make other disposition, collections shall be deposited into the U.S. Treasury as miscellaneous receipts. The miscellaneous receipt account to be credited with such collections shall be specified by the depositor. DoD accounting systems should accumulate costs incurred on behalf of the other participant(s), establish an accounts receivable identified to the applicable miscellaneous receipts account and bill such amounts.

C. Deposit in a U.S. Treasury Deposit Account. If a Treasury deposit account has been established for the agreement, the fiscal memorandum shall identify the appropriate U.S. Treasury account symbol.

D. Deposit in a Commercial Bank Account.

1. If execution of a proposed agreement contemplates use of a commercial bank account for a foreign country's funds, such a provision shall be included in the fiscal memorandum or SSOI with a description of intended bank account operation. Preference shall be given to commercial banks which are designated depositories of the U.S. Treasury Department. When approved, such accounts may be used for the deposit of monies from participating nations or international organizations and for payments made in accordance with direction from an authorized official. To determine whether a proposed institution is a Treasury

designated depository, contact the International Funds Branch, Department of Treasury, 3700 East West Highway, Room 6005, Hyattsville, Maryland 20782. The telephone number is (202) 874-8915.

2. For contracts administered by the Department of Defense, two funding accounts must be cited: the DoD appropriation account for the U.S. share and the commercial bank account for the share of the other participant(s). The fund citation on the contract shall indicate the commercial bank account rather than the normal accounting classification code. In this case, only the Department can draw down on the commercial bank account.

090403. Use of Amounts Credited. Foreign contributions collected by a DoD Component under terms of a cooperative project on a cost sharing basis from a foreign country or North Atlantic Treaty Organization (NATO) may be credited to a financing DoD appropriation or fund. Such contributions, however, are available only for the payment of the share of project expenses allocated to the foreign country or NATO making the contribution. The fiscal memorandum or SSOI should certify that such collections are to be used for purposes as prescribed herein. Payments for which such amounts are available include the following:

- A. Payments to contractors and other suppliers (including the Department of Defense) and other participants acting as suppliers) for necessary articles and services.
- B. Payments for any damages and costs resulting from the performance or cancellation of any contract or other obligation.
- C. Payments or reimbursements of other program expenses, including program office overhead and administrative costs.
- D. Refunds to other participants.

090404. Availability of Financing Sources. There are two general prohibitions on the use of appropriated funds for international agreements. In addition, the legal section may identify other prohibitions. It is implicit in the identification of the financing sources set forth in paragraph 090401, that funds are available. It is desirable, however, to include in the fiscal information section a certification that all legal and policy prohibitions on the use of funds have been complied with. The general prohibitions are as follows:

- A. No funds designated by the Congress for NATO or major non-NATO cooperative research and development under 10 U.S.C. 2350a may be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity (including NATO participants) to the agreement.

B. U.S. Government military assistance funds (i.e. Military Assistance Program (MAP), FMS loans, or FMS credits) are not available to finance a foreign participant's share of the cost of a cooperative project authorized by section 27 of the Arms Export Control Act or a cooperative development project with a major non-NATO ally under 10 U.S.C. 2350a.

090405. Foreign Currency, Services, and Materials Provided. A contribution to an international agreement may be in the form of currency, material, or services. In the event that a foreign country or international organization is to provide services or material as part of its equitable share, a price analysis must be made to ensure the valuation assigned to such services and materials is fair and reasonable. The fiscal information section shall summarize the results of such an analysis. The price analysis shall be based on prior cost experience for the item or service to be provided, a comparison with DoD cost for the item or services for similar services; and shall consider all applicable circumstances in the price analysis. When a foreign contribution is in the form of foreign currency or the awarding of a contract in a foreign country, the foreign currency contribution generally shall be valued at the exchange rate current at the time that the agreement is prepared. There shall be no subsequent modification of the valuation because of changes in the currency exchange rate. Exceptions to this general rule require advance consultation with the Treasury Department working through the OUSD(C). The fiscal memorandum or SSOI shall display the value of the currency in terms of U.S. dollars. Also, the use of foreign currency requires approval by the Department of the Treasury. Such approval should be documented in the fiscal information section. Chapter 12, Volume 5, of this Regulation, provides guidance for the use of foreign currency.

090406. Valuation of DoD Services and Material. The value of all non-financial (articles, materiel, background data/information, software, or services) contributions to an agreement by the Department of Defense is to be determined and considered for the evaluation of equitableness of the proposed project. The fiscal memorandum or financial section of the SSOI shall describe the non-financial contributions, indicate their value, and state the method used in determining the valuation. The alternatives for determining the value of non-financial contributions are as follows:

A. Full Costs. It is important not to confuse the act of accumulating full costs with the necessity to bill cost. Chapter 1 of Volume 11A of this Regulation provides guidance on the specific cost elements and identification methods for pricing sales to private parties. These same methods shall be followed in valuing non-financial contributions to an international agreement.

B. Other Than Full Costs. An agreement that requires the identification or use of less than full cost is normally authorized only when a reciprocal pricing agreement has been entered into by the Department and the other party (parties) to the agreement. The agreement should demonstrate that costs to be excluded mutually have not been considered by the other party in a determination of equitableness.

C. Cost Recoupment Waivers. In the event that less than full cost is being identified on the basis of a cost waiver, the date of the waiver and its approving authority must be provided in the SSOI. Copies of such waivers shall be made available on request.

090407. Reasonable and Necessary Expense. Any obligation of DoD appropriations under an international agreement must be supported by a showing that it is a reasonable and necessary expense required for the accomplishment of DoD missions, unless the use of DoD funds for other than a DoD mission specifically is authorized by statute.

0905 PROPOSED AGREEMENT

090501. An agreement must contain language that implements the requirements established by U.S. law or regulation. This section discusses the financial policies that must be followed and provides appropriate cross references to other parts of this Regulation that provide more specific guidance.

090502. Fund Availability Qualification

A. As a general rule, there is no intent to create a DoD financial obligation upon signature of an agreement. The major exception to this rule occurs when an agreement is entered into in lieu of a contract awarded under the provisions of the Federal Acquisition Regulation. However, if the agreement does not contain an appropriate qualification statement, it may be deemed an “obligating document.” In this event, the dollar value of the DoD contribution shall be recorded immediately as an obligation of currently available appropriation or fund accounts. If the recording of such an obligation results in exceeding the fund availability in an appropriation or fund account or in an administrative subdivision thereof, an apparent violation of the Antideficiency Act (31 U.S.C. 1341 or 1517(a)) shall have occurred. Guidance on the investigation and reporting of such violations is contained in Volume 14 of this Regulation. Normally, the signatory of a contract or agreement is named as the individual responsible for such a violation. The major exception would be when finance and accounting officials improperly have certified the availability of funds.

B. Examples of typical fund availability qualification clauses inserted in an international agreement follow:

1. “All undertakings of the U.S. Government under this MOA and any annexes, appendices, amendments, or modifications thereto, are expressly subject to the availability of U.S. funds for such purpose.”

2. “The obligations of each participant under this MOA are subject to the availability of funds for those purposes.”

090503. Reconciliation of Agreement Dollar Value to Financing Sources. An international agreement must set forth the dollar value of the agreement and portions of the dollar value that must be borne by each participant. This cost sharing may be in the form of monies, services, or material. A preliminary requirement is to ensure that any obligations that the Department may be required to incur in implementation of the agreement have been identified in the fiscal information section.

090504. Adherence to Prescribed Pricing Rules.

A. In the event that an international agreement provides for DoD services or material to be rendered, there must be assurance that proper pricing procedures have been followed. Paragraphs 090405 and 090406 discuss special requirements that may be applicable to certain agreements. The text of an agreement must be reviewed carefully to ensure compliance with these paragraphs. An area of special pricing attention is charges for existing DoD technical data and computer software, or such data developed outside the agreement.

B. When the Department provides pre-existing technical data and computer software or such data developed outside the scope of an agreement, it normally is referred to as background data. Generally, when Department developed background data is a non-financial contribution, its value for determining equitability is its full (total) cost of development, adjusted for any special modifications, shipping, installation, etc.

C. Background data may be provided for use in furtherance of the purpose of an international agreement as long as it is used solely in connection with the purpose of the agreement. However, an agreement must specify that if the background information is used for any other purpose, approval of the originating participant must be obtained. The following specifics apply:

1. If the data are to be used for cooperative production purposes, the Department must receive appropriate financial credit as part of the DoD share of project cost, unless a cost recoupment waiver has been approved. Any provision for waiver should be identified in the fiscal information section.

2. If the data is to be used for development and production purposes, a technology transfer fee may be applicable for the development phase. This fee may be offset by a nonrecurring cost recoupment charge when production occurs.

3. All background information exchanged shall be used only for the purposes of the agreement, and is not to be transferred to any third party without the approval of the originating participant.

090505. Determination of Program Equitableness.

A. DoD policy requires all international agreements to be equitable to the United States. The Summary Statement of Intent (SSOI) or accompanying documentation to a proposed international agreement must clearly explain why the agreement is considered equitable to the United States. Prior to approval of all proposed international agreements, a determination of agreement equitability must be made by the approving DoD officials. It is critical that sufficient detail and information be provided to clearly demonstrate to those DoD officials that the proposed international agreement is equitable to the United States.

B. Every proposed international agreement that requires the United States to provide more than an equal share of the resources, or results in the United States receiving less than an equal share of the benefits, must be explicitly explained and justified in the SSOI or supporting documentation accompanying the proposed agreement. For these purposes, an equal share means a contribution or benefit of exactly the same value as the shares of all other participating nations. Equal share of the resource requirements contributed to an international agreement includes nonfinancial contributions (i.e., background information, manpower, facilities, equipment, hardware, software, etc.), as well as funds. Nonfinancial contributions shall be valued at the DoD's full cost. Section 090406 provides information on the valuation of DoD services and material.

C. Calculation of Expected U.S. Funding Share. In support of an equitability determination by DoD approving officials, the expected U.S. funding share should be calculated and presented in the SSOI or supporting documentation using one of the methods below:

1. Number of Participants Method. This is the preferred method of calculating the expected U.S. funding share for cooperative feasibility studies, research and development (R&D) efforts, and test and evaluation (T&E) programs and for agreements that establish management or oversight program offices. It is the method that should be employed when estimated unit production quantities are not known. Under the number of participants method, the expected U.S. funding share is determined by dividing the agreement costs by the number of participating nations. A favorable U.S. funding share is where all participating nations equally share the total cost and the benefits. Equal funding of an international agreement by all participating nations, when the benefits are shared equally, does not require an equitability justification. An example of this method is provided in Table 9-2.

2. Estimated Unit Production Method. This is the preferred method of calculating the U.S. funding share for an agreement that cooperatively establishes a program for the production of defense articles or weapon systems. It is used when specific unit production quantities are known or can be estimated. Under the unit production method, the U.S. funding share is considered to be equitable when the DoD funding is proportionately equal to the share of the program production to be received by the United States. An example of this method is provided in Table 9-3. An equitability statement is required in the SSOI or accompanying documentation, and it must clearly present the calculation showing production estimates in relation to the total cost of the international agreement or production program.

3. Other Methods of Calculation. There may be situations when neither of the above two methods apply, and another calculation is possible. For example, an agreement under the auspices of NATO, between the United States and other NATO nations, may require the United States to contribute an amount equal to the usual percentage of U.S. contributions to NATO. An equitability statement is required in the SSOI or accompanying documentation. The calculation and justification for use of that calculation must be clearly presented.

D. U.S. Funding Share Determined by Negotiation. Occasionally, contributions to an agreement, by participating nations, may be determined by negotiation and are not based on one of the above methods. For example, an agreement may call for participating nations to unequally share the benefits or rights to the benefits, and share the cost of the agreement in the same proportions as they share the benefits, or an agreement may require equal sharing of the benefits, but require the United States to contribute more than other participating nations. In such agreements, an equitability statement is required in the SSOI or accompanying documentation and must provide a compelling explanation that justifies the proposed sharing of costs and benefits. Detail and very explicit information must be provided. Without a compelling justification, the agreement will not be approved. Negotiation that results in the United States paying more than an equal share for serving as the contracting nation, serving as the program manager, using a U.S. prime contractor, or receiving other similar privileges do not make an agreement equitable and, generally, will not be approved.

**CALCULATION OF EXPECTED U.S. FUNDING SHARE USING THE
NUMBER OF PARTICIPANTS METHOD
(Dollars in Millions)**

Step 1: Determine the total program cost to the U.S. and other participants.

U.S. Share	\$150
Other Participants	<u>200</u>
Total Cost	\$350

Step 2: Determine the percentage of the U.S. share of the total costs under the agreement.

U.S. Share	\$150 = 43% share
Total Cost	350

Step 3: Determine the total number of participants and calculate the U.S. share on a percentage basis.

Total Participants	3
U.S.	1 = 33 1/3% U.S. as a percentage of Participants

Step 4: Compare the results of step two to step three. If the result of step two is equal to or less than the result of step three, the U.S. appears to be paying a favorable expected funding share.

Step 5: If the result of step two is greater than the result of step three, the U.S. appears to be paying more than its mathematically expected funding share. This situation should be specifically explained and justified in the SSOI or other accompanying justification.

TABLE 9-2

**CALCULATION OF EXPECTED U.S. FUNDING SHARE USING THE
ESTIMATED UNIT PRODUCTION METHOD
(Dollars in Millions)**

Step 1: Determine the total program cost to the U.S. and other participants.

U.S. Share	\$150
Other Participants	<u>200</u>
Total Cost	\$350

Step 2: Determine the percentage of the U.S. share of the total costs under the agreement.

U.S. Share	\$150
Total Cost	350 = 43% share

Step 3: Determine the total number of production units to be produced under the agreement.

U.S. Units	20,000
Other Participants	<u>40,000</u>
Total Production	60,000

Step 4: Determine the percentage of the U.S. share of the total number of units to be produced under the agreement.

U.S. Units	20,000
Total Units	60,000 = 33% share

Step 5: Compare the results of step two to step four. If the result of step two is equal to or less than that of step four, the U.S. appears to be paying a favorable funding share.

Step 6: If the result of step two is greater than the result of step four, the U.S. appears to be paying more than its mathematically expected funding share. This situation should be specifically explained in the narrative determination of program equitableness.

TABLE 9-3

090506. Sales and Transfers of Technical Data Developed Under an Agreement.

An agreement should provide that, in the event technical data developed under the agreement is sold or transferred to third parties, a charge may be made to recoup a pro-rata share of each participant's investment. The agreement also must provide that background information and data developed outside the program not be retransferred without the prior approval of the owner of the information or data, and contain provisions for any applicable charges. For third party sales and transfers, or the addition of new participants, any recoupment charge for the information or data developed under the program must be shared on the basis of the participants' financial contribution to the development of the item or technology. The amount of the charge and the procedures for assessing and distributing it shall be determined mutually by the participants prior to the approval of any such third party sale consistent with the policies and laws of each participant. The agreement also should provide that any participant may reduce or waive the assessment of its share of the levy in accordance with its laws and policies. Furthermore, the agreement should provide for rights of use of information developed under the agreement for defense purposes of a participant without payment to the other participant(s).

090507. Taxes, Duties, and Similar Charges. Agreements may provide that, insofar as existing laws and regulations permit, the participants shall use their best efforts to ensure that readily identifiable taxes, customs duties, and similar charges on the program components and services shall not be levied in connection with the project. If an agreement obligates the U.S. Government to bear the cost of any U.S. taxes, duties, or similar charges levied in connection with the program, the legal memorandum or SSOI must identify the legal authority for such U.S. obligation.

090508. Advance of DoD Funds

A. An advance constitutes a disbursement of DoD funds before an authorized DoD official has certified that materials have been delivered or ordered services performed. An agreement shall not provide for DoD advance payments, unless the conditions for such advances, as set forth in Chapter 5, Volume 4, of this Regulation are met. Basically, advances to foreign countries are authorized when required for compliance with the laws and ministerial regulations of the foreign country and is further required by the agreement.

B. When possible, advances shall be made for no more than the amount necessary to fulfill the DoD share of project expenses for one month. Advances and prepayments shall not exceed the amount necessary to fulfill the DoD share of project expenses for a current fiscal quarter. If monies are paid in advance and deposited into commercial banks, provision must be made to ensure that the agreement requires:

1. payment of interest at competitive rates,
2. timely identification of interest earned by each party, and

3. interest disposition in accordance with the participants' instructions.

C. The DoD share of funding required to support an international project shall be obtained in full by appropriation, and no part of such funding shall be derived from interest earnings on U.S. contributions. In view of this policy, the U.S. Government share of interest earned on U.S. advance payments must be returned to the U.S. Treasury Miscellaneous Receipts Account 3210, "General Fund Proprietary Receipts, Defense Military, Not Otherwise Classified." The interest shall not be used to reduce a future call for funds, nor used for any project cost that would result in funding derived outside the appropriation process.

D. Advances of DoD funds in excess of 90 days or \$5 million require consultation with the Department of the Treasury. Contact with the Department of the Treasury shall be through the Office of the Under Secretary of Defense (Comptroller) (OUSD(C)).

090509. Billing Requirements. When payments are to be made, the agreement or subsequent financial arrangements must include the following information:

A. Billing Cycle. Bills for incurred costs are to be rendered on a 30-day cycle. This is a U.S. Treasury requirement and must be adhered to by the Department of Defense. However, in the negotiation process and at the initiation of other participants, agreement may be reached on up to a 90-day billing cycle.

B. Collecting Office. The agreement or subsequent financial arrangements shall provide the name and address of the organization to which payments shall be made. It also is desirable to set forth a position title and a telephone number to which questions may be addressed.

C. Paying Office or Offices. The agreement or subsequent financial arrangements shall provide the name and address of the organization that is responsible for making payments under the agreement. It also is desirable to set forth a telephone number and a position title to which questions may be addressed.

D. Payment Terms. The payment due date shall not be more than 30 days from the date of the invoice, unless otherwise specified in the agreement.

E. Documentation in Support of Billings. The agreement or subsequent financial arrangements must identify the form of the bill and the specific supporting details.

F. Currency of Payment. Normally, payment shall be in the currency of the supplying nation or the lead country if joint financing is provided for in the agreement. The invoice shall identify the amount paid in foreign currency at the current exchange rate and the equivalent conversion rate in U.S. dollars.

090510. Special Types of Agreements

A. Agreements for Reciprocal Exchange of Materials or Services. These agreements must set forth the time period allowed for exchange of materials and services. They also must set forth financial settlements that must be made if the exchange does not take place. DoD services or materials provided are priced in accordance with chapter 1 of Volume 11A of this Regulation,

B. Cooperative Research, Development, Test and Evaluation, Technical Data Exchange, Co-production, Licensed Production, and Related Standardization Agreements That Are Not Implemented through the Security Assistance Program. Full costs must be identified and shared equitably. Cost sharing may be accomplished through the following:

1. Pooling of monies and designation of a lead country to manage the program, collect cash, and award contracts. Specific shares of program cost are set forth in the agreement.

2. No pooling of monies or designation of a lead country. Specific efforts to be accomplished by each participating country and estimated costs of such efforts are set forth in the agreement.

APPENDIX A
GUIDELINES FOR THE PREPARATION OF
SUMMARY STATEMENT OF INTENT (SSOI)

Header Information:

- Short Title of Proposed Project
- DoD Proponent
- Country/ies Involved

1. Overview of International Agreement

- Briefly describe the project. Be specific as to what the project will deliver. Is this a new or existing U.S. project? Is there currently a Memorandum of Understanding or other international agreement in effect that is applicable to this effort?
- Is this proposed for Nunn funding? If so, what technological development is to be pursued which is necessary to develop new defense equipment or munitions, or what existing military equipment would be modified to meet U.S. requirements?

2. Operational Requirement

- What U.S. operational requirement would this project satisfy and/or what critical deficiency or shortfall would this project address? If known, cite applicable documents.
- Briefly describe the project's objectives.
- Provide an estimated schedule for the project, and Initial Operational Capability (IOC), if applicable.

3. Partner Nation(s)

- Which nations are proposed partners? Which nations have agreed to be partners? What is the assessment (and your basis for it) of foreign interest/commitment?
- Briefly describe the proposed negotiation strategy and negotiation schedule.

- Describe any planned variations from the policy guidance contained in the latest approved version of the International Agreements Generator (“IA Generator”), and any resulting variations to the required International Agreement text that are known.
4. Legal Authority
 - State the statutory legal authority for the proposed agreement. If section 27 of the AECA is not being used, explain why not.
 5. Project Management
 - Briefly describe how the project will be structured and managed.
 6. Benefits/Risks to the United States
 - List the advantages and disadvantages of this cooperative project. Address project timing, developmental and life cycle costs, technology to be shared and obtained, impact on U.S. and foreign military capability, and rationalization, standardization and interoperability (RSI) considerations. Indicate whether there are any risks associated with conducting this project as an international cooperative program, and briefly describe how these risks are to be managed. Is a similar project currently in development or production in the U.S. or an allied nation? If so, could that project satisfy or be modified in scope to satisfy the U.S. requirement?
 7. Potential Industrial Base Impact
 - Briefly describe the potential industrial base impact. Do you anticipate workshare arrangements, requests for offsets, or offshore production of items restricted to procurement in the United States? Are you aware of any key parts or components with single source of production? What U.S. Government facilities and/or contractors would be likely to participate in this cooperative effort? Will there be any significant effects (pro or con) on any U.S. companies or U.S. industrial sector(s)?
 8. Funding Availability and Requirements
 - List the total estimated cost (in U.S. dollars) of the International Agreement. The total cost should include all U.S. and foreign government financial and non-financial costs.
 - List the cost shares (in U.S. dollars) of each participant. Also list any non-financial contributions, their value (in U.S. dollars), and describe how the value was determined.

- If not equitable financially, justify on a program basis (show the relative benefit to the DoD). An equitable agreement is defined as one which a participant's share is commensurate with that participant's share of the anticipated benefits from the agreement.
- List the Department's estimated costs (in U.S. dollars) by fiscal year, appropriation, and program element. Indicate if the funds required to pay these costs have been, or will be, approved in the budget and are available for use.
- List other participant's estimated costs (in U.S. dollars) by fiscal year. If applicable, outline the likelihood of follow-on research or acquisition and the proponent's commitment to fund such follow-on action.

9. Procurement

- Will the Department of Defense participation in the project involve contracting? If so, what agency will perform the contracting, and for what part of the project work?
- Will a participant other than DoD perform contracting? If so, which participants and for what part of the work?
- Will contracting be done on a competitive basis? If not, what justification will be used?

10. Information Security and Technology Transfer Issues

- Briefly identify the products and/or technologies involved in the program and their NDPC category and classification. The Militarily Critical Technologies List (MCTL) may be used as a guide.
- Is an exception required to the National Disclosure Policy? If so, provide date of approval or date that a request will be submitted to the National Disclosure Policy Committee (NDPC).
- If known, describe the foreign availability of comparable systems and technologies and whether the U.S. technology has been shared through other programs, e.g., FMS, DEA, etc.
- Briefly describe the risk of compromise of classified and export controlled technology and/or products and the technology advantages in the event of such compromise (e.g., negating primary U.S. technological advantage(s), revealing U.S. system weaknesses, development of countermeasures, susceptibility to reverse engineering).

- Identify any measures proposed to minimize the potential risks and/or minimize any damage that might occur due to loss, diversions, or compromise of sensitive classified or unclassified controlled data or hardware. Specify NDPC categories involved, where applicable. Include any phased release of information designed to ensure that information is disseminated only when and to the extent required to conduct the program; restrictions on release of specific information (including classification, description, and disclosure methods); release of components, software or information in modified form (e.g., export versions, exclusion of design rationale and deletion of data on weapons not sold to the participant); and special security procedures (both government and industrial) to control access to restricted material and information.

11. Proponent's Points of Contact

- Include organization, name, telephone, fax, and Internet address. Assure that this POC or an alternate is available to answer any questions from reviewing offices during the RAD review period.

APPENDIX B
CHECKLIST FOR INTERNATIONAL AGREEMENTS

- 1. OSD/JCS Sponsor:
2. Implementing DoD Component:
3. Subject:

A. LEGAL AUTHORITY:

Table with 2 columns: Requirement, Remarks. Rows include: 4. Legal Basis for Agreement, 5. Special Pricing Requirements, 6. Instructions for Disposition of Monies Collected by DoD, 7. Special Instructions for Recognition of Budget Authority in DoD Appropriations or Funds, 8. Special Prohibitions on the Use of Appropriated Funds.

B. FISCAL INFORMATION:

Table with 2 columns: Requirement, Acceptable (No/Yes). Rows include: 9. Financing Sources Identified for DoD Share, 10. Proper Disposition of Funds Collected, 11. Certification that Restrictions on the Use of Appropriated Funds Have Been Adhered to.

- 12. Proper Valuation of Foreign Services and Material:
- 13. Proper Valuation of DoD Services and Material:
- 14. If commercial bank is used, it is a Treasury-designated depository:

<u>Requirement</u>	<u>Acceptable</u>	
	<u>Yes</u>	<u>No</u>

C. PROPOSED AGREEMENT:

- 15. Agreement Provision on Fund Availability:
- 16. Total Dollar Value of Agreement Identified:
- 17. DoD share of Agreement Reconciled to Financing Sources:
- 18. Agreement Reflects Prescribed Pricing Rules:
 - (a) For DoD Provided Services or Material:
 - (b) For DoD Developed Technical Data:
- 19. Agreement Reflects Equitableness:
- 20. Agreement Provision for Third Party Sales:
- 21. Taxes, Duties and Similar Charges Excluded:
- 22. Agreement Provisions for Advance of DoD Funds:
- 23. (a) Agreement Provisions for Disposition of Interest Earned:
- 23. (b) Advance exceeds paragraph 090508.C. thresholds:
- 24. Billing Instructions in Agreement:

APPENDIX B
INSTRUCTIONS FOR COMPLETION OF CHECKLIST FOR INTERNATIONAL
AGREEMENTS

Item Number Description of Effort Performed

GENERAL INFORMATION

1. Identify OSD/JCS sponsor.
2. Identify the DoD Component that is responsible for implementing the international agreement if signed, e.g., Department of the Navy.
3. Set forth full subject of agreement.

LEGAL AUTHORITY

4. Determine if the legal basis for entering into the agreement is clearly set forth in the legal authority section.
5. Identify if the legal authority section sets forth any special pricing requirements. Summarize any special pricing requirements in the “remarks” section.
6. Identify if the legal authority section sets forth any special instructions for the disposition of amounts collected by the Department of Defense. Summarize requirements in the “remarks” section.
7. Identify if the legal authority section sets forth special rules for recognition of budget authority. Summarize any special rules in the “remarks” section.
8. Identify if the legal authority section identifies any prohibitions on the use of appropriated funds. Summarize requirements in the “remarks” section.

FISCAL INFORMATION

9. Identify paragraph OR SCHEDULE that identifies financing sources to be used to implement the international agreement. Check acceptable if financial sources have been identified.
10. Identify paragraph that provides instructions for disposition of any funds collected.

11. If the legal authority cites restrictions on the use of appropriated funds, identify paragraph that certifies that these restrictions are adhered to, otherwise annotate with “N/A.”
12. To validate equitable financing when the foreign contribution is in other than currency, identify paragraph that summarizes the results of a price analysis of the foreign contribution, otherwise annotate with “N/A.”
13. To validate equitable financing, identify paragraph that describes the valuation method for DoD provided services and material, otherwise annotate with “N/A.” If full costing is used, check “yes” in the acceptable column if all chapter 1 of Volume 11A of this Regulation pricing elements were considered. If other than full cost pricing is used, cite the legal authority.
14. If a commercial bank is used, the bank should be a U.S. Treasury-designated depository. Identify if there is a description of how the bank account is to operate.

PROPOSED AGREEMENT

15. Identify the paragraph of the proposed agreement that contains the fund availability qualification clause.
16. Identify the paragraph of the proposed agreement that sets forth the total dollar value of the agreement. Check acceptable if this amount reconciles to the value identified in the fiscal information section.
17. Identify the paragraph of the proposed agreement that sets forth the dollar value of the DoD share of the agreement. Check acceptable if this amount reconciles to the financing sources identified in the fiscal information section.
- 18.a. Identify the paragraph that provides for the provision of services, materials, or financial contribution.
- 18.b. Identify the paragraph that provides for the provision of DoD technical data developed prior to implementation of the agreement. Check acceptable if priced in accordance with this chapter.
- 19.a. If the agreement is equitable basis from a financial viewpoint, identify the agreement paragraph and attach the worksheet prepared in accordance with this chapter. Indicate in the acceptable column if the worksheet reflects equitability.
- 19.b. If the agreement is not financially equitable and is justified on a program basis, attach a copy of the program or equitability justification.

20. Identify the paragraph that sets forth procedures for third party sales and transfers of technical data developed under the agreement. Check acceptable if there is compliance with this chapter.
21. If applicable, identify the paragraph that excludes taxes, duties, and similar charges. Check acceptable if there is compliance with this chapter.
22. If applicable, identify agreement paragraph that provides for advance of DoD funds. Assure that advances meet requirements of this chapter.
- 23.a. If advances are made, ensure the agreement contains necessary provisions on the disposition of interest earned.
- 23.b. If advance exceeds thresholds, Department of the Treasury concurrence must be obtained. Check acceptable if the Directorate for Accounting Policy, Office of the Under Secretary of Defense (Comptroller) has obtained coordination.
24. If billing is applicable, identify agreement provisions for billing. Check acceptable if there is compliance with this chapter.