

19 JANUARY 2001



Law

INTERNATIONAL LAW

NOTICE: This publication is available digitally on the AFDPO WWW site at: <http://afpubs.hq.af.mil>.

OPR: HQ USAF/JAI (Mr. Richard J. Erickson)

Certified by: HQ USAF/JA
(Col. Thomas S. M. Tudor)

Supersedes AFD 51-7, 1 October 1995.

Pages: 7
Distribution: F

This directive specifies policies which govern how Air Force operations comply with international law. This directive establishes policy for implementing DoD Directive 2000.11, *Procedures for Handling Requests for Political Asylum and Temporary Refuge*, DoD Directive 5100.64, *DoD Foreign Tax Relief Program*, DoD Directive 5132.3, *DoD Policies and Responsibilities Relating to Security Assistance*, DoD Directive 5525.1, *Status of Forces Policies and Information*, DoD Directive 5525.3, *Jurisdiction of Service Courts of Friendly Foreign Forces in the United States*, and DoD Directive 5530.3, *International Agreements*. This directive applies to all activities in the Department of the Air Force.

SUMMARY OF REVISIONS

This policy directive revises the publication of AFD 51-7, 1 October 1995, by clarifying Section A, adding Section F, Security Assistance, and by updating citations to referenced material.

Section A—Negotiating, Concluding, Reporting, and Maintaining International Agreements

- 1.** Air Force operations often cross national boundaries and therefore must comply with international law while protecting and defending US Air Force interests and people. See [attachment 2](#) for compliance measure for this policy.
- 2.** Air Force personnel, or those serving with the Air Force, may initiate, negotiate, and conclude international agreements only in accordance with DoD Directive 5530.3, *International Agreements*, June 11, 1987, incorporating Change 1, February 18, 1991, and AFI 51-701, *Negotiating, Concluding, Reporting and Maintaining International Agreements*, 6 May 1994.
- 3.** Following are responsibilities and authorities:
 - 3.1.** Each Air Force organizational element that concludes an international agreement will submit copies to the Department of State (DOS), DoD General Counsel (DoD/GC), SAF/GC, and HQ USAF/

JA. Original or certified copies of agreements must arrive at DOS within 20 calendar days after the date they are signed.

3.2. Air Force personnel will try informally to settle questions about a party's compliance with the terms of an international agreement. They will forward unresolved questions to SAF/GCI, with a copy to HQ USAF/JAI.

4. This section implements DoD Directive 5530.3 and the *Case-Zablocki Act*, Title 1, United States Code (USC), Section 112b.

5. Related instructions are in AFI 51-701.

Section B—Foreign Tax Relief

6. The Air Force will obtain, to the maximum extent practicable, effective relief from foreign taxes whenever the ultimate economic burden of those taxes will be paid with funds appropriated or available to the Air Force. Such funds may include appropriations for military assistance or money controlled by non-appropriated fund activities.

7. The following responsibilities and authorities are established:

7.1. As the cognizant office for foreign tax matters, HQ USAF/JA will supervise and monitor the Air Force's program for foreign tax relief. HQ USAF/JA will submit foreign tax matters of major importance to SAF/GC for action.

7.2. Designated Commanding Officers (DCO) will handle tax matters in each foreign country where the Air Force spends money for the common defense of that country.

7.3. In countries where the commander of an Air Force unit or organization is not the DCO for tax matters, the appropriate Air Force overseas major command (MAJCOM) commander will appoint an Air Force Liaison Officer for Tax Matters.

8. This section implements DoD Directive 5100.64, *DoD Foreign Tax Relief Program*, June 12, 1979.

9. Related instructions are in AFI 51-702, *Foreign Tax Relief*, 28 April 1994.

Section C—Pretrial Custody Overseas

10. The Air Force will seek the release from foreign custody of all Air Force personnel charged with criminal offenses under foreign law.

11. The following responsibilities and authorities are established:

11.1. Air Force commanders will have procedures to ensure that Air Force people subject to foreign court jurisdiction do not leave the country until final disposition of the charges. Commanders may allow departures only if the host country's approved practices and procedures allow it, or if the departure is approved by HQ USAF/JA and either the designated country officer or country representative.

11.2. Local staff judge advocates (SJA) will promptly notify Air Force members facing criminal charges in a foreign country of their right to a military legal advisor (MLA). The SJA will appoint a judge advocate as the MLA if a member asks for one.

12. This section implements DoD Directive 5525.1, *Status of Forces Policies and Information*, August 7, 1979, incorporating through Change 2, July 2, 1997.

13. Related instructions are in AFI 51-703, *Foreign Criminal Jurisdiction* (formerly AFR 110-25 and AFR 110-28), 6 May 1994, and AFJI 51-706, *Status of Forces Policies, Procedures, and Information* (formerly AFR 110-12), January 14, 1990.

Section D—Requests for Political Asylum or Temporary Refuge

14. Foreign nationals within US territorial jurisdiction or on the high seas who request political asylum will be given a full opportunity to have their request considered on its merits. Persons seeking political asylum will receive every reasonable care and protection available under the circumstances.

15. The following responsibilities and authorities are established:

15.1. Solely within US territorial jurisdiction: Air Force personnel will receive applicants for political asylum in a DoD facility or onboard a military vessel or aircraft. They will not turn applicants over against their will to foreign authorities until their request is properly considered and directions are received from the Secretary of the Air Force or the Director of the Defense agency concerned.

15.2. Within a foreign territorial jurisdiction: No Air Force personnel may grant an applicant political asylum in a DoD component's facilities or onboard any military aircraft or vessel within a foreign country's territorial jurisdiction. Anyone receiving this kind of request must immediately notify the US Embassy.

15.2.1. Air Force personnel in a foreign country may grant temporary refuge to nationals of that country, to nationals of a third state, or to anyone on the high seas, if a foreign national appears to need protection from imminent danger to life or safety. They may not grant refuge to persons fleeing pursuit by duly constituted law-enforcement authorities of the foreign country. Anyone receiving this kind of request must immediately notify the US Embassy.

15.2.2. The senior official at the DoD facility or onboard a military aircraft or vessel may grant temporary refuge upon request of the foreign national. That refuge will end only when directed by higher authority through the Secretary of the Air Force.

15.3. No one will release information concerning a request for political asylum or temporary refuge to the public or the media without approval by the Assistant Secretary of Defense for Public Affairs.

16. This section does not apply to prisoners of war or members of an enemy force during an armed conflict.

17. This section implements DoD Directive 2000.11, *Procedures for Handling Requests for Political Asylum and Temporary Refuge*, March 3, 1972, incorporating Change 1, May 17, 1973.

18. Related instructions are in AFI 51-704, *Handling Requests for Political Asylum and Temporary Refuge*, 19 July 1994.

Section E—Assistance to Friendly Foreign Forces

19. The Air Force will provide assistance to friendly foreign forces (FFF) in the United States who, based on a Presidential finding or declaration, are specifically granted the powers and privileges prescribed in Title 22, USC, Sections 701 through 706. To date only one nation, Australia, has been so designated (Presidential Proclamation No. 3681, October 10, 1965).

20. Parties to the North Atlantic Treaty Organization (NATO) Status of Forces Agreement are authorized to exercise service court jurisdiction in the United States under the provisions of Article VII of that treaty.

21. The following responsibilities and authorities are established:

21.1. HQ USAF/JA oversees this policy. MAJCOM SJAs set up appropriate channels and procedures for receiving and forwarding requests and help FFF contact authorities of the United States. They also ensure policies and procedures are uniform among installations of their respective commands.

22. This section implements DoD Directive 5525.3, *Jurisdiction of Service Courts of Friendly Foreign Forces in the United States*, August 18, 1966.

23. Related instructions are in AFI 51-705, *Jurisdiction of Service Courts of Friendly Foreign Forces in the United States*, 31 March 1994, and AFI (Interservice) 51-707, *Consular Protection of Foreign Nationals Subject to the Uniform Code of Military Justice* (formerly AFR 110-13), 5 November 1968.

Section F—Security Assistance

24. International relationships are an important part of the United States commitment to global peace. Security assistance programs, such as transactions under the Arms Export Control Act (AECA), Title 22, USC beginning at Section 2751, and the Foreign Assistance Act (FAA) of 1961, as amended, are a means of pursuing US national security goals and objectives.

25. The following responsibilities and authorities are established:

25.1. The Secretary of the Air Force, Office of the General Counsel, Deputy General Counsel for International Affairs (SAF/GCI), through HQ USAF/JAI, provides policy guidance to MAJCOM and base SJAs on security assistance programs, as well as related issues such as export regulations, disclosure guidance, and protection and use of information. With regard to specific transactions, SAF/GCI may communicate directly with MAJCOM, Numbered Air Force and Base SJAs, while keeping HQ USAF/JAI informed.

25.2. MAJCOM SJAs set up appropriate channels for consulting with command personnel engaged in security assistance and providing legal support as needed. MAJCOM SJAs shall ensure base level SJAs on bases with active security assistance programs are staffed and trained to provide counsel and advice on security assistance legal issues. MAJCOM, Numbered Air Force and Base SJAs may com-

municate directly with SAF/GCI, while keeping HQ USAF/JAI and intermediate headquarters informed, concerning security assistance issues.

25.2.1. HQ AFMC/JA shall provide legal support to the Air Force Security Assistance Center (AFSAC), Wright-Patterson AFB, OH.

25.2.2. HQ AETC/JA shall provide legal support to the Air Force Security Assistance Training (AFSAT), Randolph AFB, TX.

26. This section implements DoD Directive 5132.3, *DoD Policies and Responsibilities Relating to Security Assistance*, March 10, 1981, incorporating Change 1, November 16, 1994.

27. Related instructions are DoD 5105.38-M, *Security Assistance Management Manual (SAMM)*, September 1, 2000, and AFMAN 16-101, *International Affairs and Security Assistance Management*.

F. WHITTEN PETERS
Secretary of the Air Force

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

Title 1, United States Code, Section 112b (Case-Zablocki Act)

Title 10, United States Code, Section 1037 (Counsel Before Foreign Judicial Bodies and Administrative Agencies; Court Costs and Bail)

Title 22, United States Code, Section 701-706 (Service Courts of Friendly Foreign Forces)

Title 22, United States Code, Section 2751 et seq. (Arms Export Control Act)

Foreign Assistance Act of 1961, as amended

DoD Directive 2000.11, *Procedures for Handling Requests for Political Asylum and Temporary Refuge*, March 3, 1972, incorporating Change 1, May 17, 1973

DoD Directive 5100.64, *DoD Foreign Tax Relief Program*, June 12, 1979

DoD Directive 5132.3, *DoD Policies and Responsibilities Relating to Security Assistance*, March 10, 1981, incorporating Change 1, November 16, 1994

DoD Directive 5525.1, *Status of Forces Policies and Information*, August 7, 1979, incorporating through Change 2, July 2, 1997

DoD Directive 5525.3, *Jurisdiction of Service Courts of Friendly Foreign Forces in the United States*, August 19, 1966

DoD Directive 5530.3, *International Agreements*, June 11, 1987, incorporating Change 1, February 18, 1991

DoD 5105.38, *Security Assistance Management Manual (SAMM)*, September 1, 2000

AFI 51-701, *Negotiating, Concluding, Reporting and Maintaining International Agreements*, 6 May 1994

AFI 51-702, *Foreign Tax Relief*, 28 April 1994

AFI 51-703, *Foreign Criminal Jurisdiction* (formerly AFR 110-25 and AFR 110-26), 6 May 1994

AFI 51-704, *Handling Requests for Political Asylum and Temporary Refuge*, 19 July 1994

AFI 51-705, *Jurisdiction of Service Courts of Friendly Foreign Forces in the United States*, 31 March 1994

AFJI 51-706, *Status of Forces Policies, Procedures, and Information* (formerly AFR 110-12), January 14, 1990

AFI (Interservice) 51-707, *Consular Protection of Foreign Nationals Subject to the Uniform Code of Military Justice* (formerly AFR 110-13), 5 November 1968

AFMAN 16-101, *International Affairs and Security Assistance Management*

Attachment 2

MEASURING COMPLIANCE WITH POLICY

A2.1. Once each calendar year, HQ USAF/JA will measure the success of the policy to send copies of all Air Force international agreements so they arrive at DOS, DoD/GC, and HQ USAF/JA within 20 calendar days after signature.

A2.2. HQ USAF/JA will count from the signature date to the date of receipt in their office in order to determine if the agreement arrived within 20 calendar days.

A2.3. HQ USAF/JA will chart the percentage of Air Force agreements received not later than 20 calendar days after signature, with 1995 serving as the baseline year (figure a2.1). The goal is a trend toward 100 percent.

Figure A2.1. Sample Metric of Agreements Received on Time.

