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Army Regulation 12–16

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Security Assistance and International Logistics

Mutual Logistics Support Between the United States Army and Governments of Eligible Countries

FEB 26

Headquarters
Department of the Army
Washington, DC
6 January 1992

SUMMARY of CHANGE

AR 12-16
Mutual Logistics Support Between the United States Army and Governments of Eligible Countries

This revision --

- Incorporates various U.S. law changes as result of revision of Title 10 USC, and revises responsibilities, policy, and procedures for acquiring and transferring logistics support between U.S. Army, North Atlantic Treaty Organization (NATO) countries, NATO subsidiary bodies, and other governments of eligible countries.

- Changes the AR title to more accurately reflect its scope.

- Moderates European focus to reflect its expanded world-wide applicability.

- Removes financial guidance and accountability requirements and refers user to AR 37-1 (para 1-5b).

- Changes HQDA proponent for reporting transactions to the Office of the Secretary of Defense from DALO-PLO to DALO-SMP (para 1-7).

- Removes geographical restriction for transfer of logisitics support. Geographical limitations remain in effect for acquisition of logistics support (para 2-1a).

- Replaces replacement-in-kind compensation for provided logistics support with concept of equal value payment (para 2-1b).

Headquarters
Department of the Army
Washington, DC
6 January 1992

*Army Regulation 12–16

Effective 6 February 1992

Security Assistance and International Logistics

Mutual Logistics Support Between the United States Army and Governments of Eligible Countries

By Order of the Secretary of the Army:

GORDAN R. SULLIVAN
General, United States Army
Chief of Staff

Official:

MILTON H. HAMILTON
Administrative Assistant to the Secretary of the Army

History. This UPDATE printing publishes a revision of this publication. Because the publication has been extensively revised, the changed portions have not been highlighted.

Summary. This regulation implements DOD Directives 2010.8 and 2010.9. This regulation implements the authority to negotiate and conclude cross-servicing agreements, and corresponding implementing agreements and acquisition arrangements, that are necessary to obtain and provide required support, supplies, and services. This regulation does not provide finance and accounting requirements that are required when implementing cross-servicing and related agreements. Finance and accounting guidance is contained in AR 37–1.

Applicability. This regulation applies to the Active Army, the Army National Guard, and the Army Reserve. It applies to all personnel engaged in acquiring or transferring logistics support between Army elements and NATO allies, NATO subsidiary bodies or other eligible countries according to title 10, United States Code (USC), Section 2341 to 2350g. Title 10, sections 2207, 2304(a), 2306(a), 2306(b), 2306(e), 2306a and 2313; and section 719 of the Defense Production Act (50 USC App. 2168) do not apply to acquisitions or transfers under this authority. Additionally, the U.S. Army FAR Supplement and the Arms Export Control Act (22 USC 2751 et seq.) do not apply to such acquisitions or transfers except where specifically applicable.

Supplementation. Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from HQDA (DALO-PLO), WASH DC 20310-0523.

Internal Control System. This regulation is subject to AR 11–2. It contains internal control provisions, but does not contain checklists for conducting internal control reviews. These checklists are contained in DA Circular 11–87–5.

Interim Changes. Interim changes to this regulation are not official unless they are authenticated by the Administrative Assistant to the Secretary of the Army. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

Suggested improvements. The proponent agency of this regulation is the Office of the Deputy Chief of Staff for Logistics. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQDA (DALO-PLO), WASH DC 20310-0523.

Distribution. Distribution of this publication is made in accordance with DA Form 12-09-E, block number 2030, intended for command level C for the Active Army, The Army National Guard, and U.S. Army Reserve.

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*This regulation supersedes AR 12–16, 7 June 1985.

Chapter 1
Introduction

Section I
General

1–1. Purpose
This regulation implements policy and procedures for the acquisition and transfer of logistics support, supplies, and services between the U.S. Army and NATO countries, NATO subsidiary bodies or other eligible countries.

1–2. References
Required and related publications listed in appendix A.

1–3. Explanation of Abbreviations and Terms
Abbreviations and special terms used in this regulation are explained in the glossary.

1–4. Policy, proponency, and exceptions
a. The policy of DOD and the DA is to maximize the use of mutual logistics support, combined logistics support, and standard-ization among NATO nations, NATO subsidiary bodies, and eligible countries. Mutual logistics support is normally provided through the establishment of various bilateral cross-servicing agreement channels, such as cooperative logistics and host nation support (HNS) agreements. Combined logistics focuses more on multilateral agreements, including the NATO alliance other collective defense agreements with nationally managed logistics activities.

b. The proponent of this regulation is the Deputy Chief of Staff for Logistics (DCSLOG). The DCSLOG has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation. The DCSLOG may delegate this authority in writing to a division chief within the ODCSLOG who holds the grade of 0–6 or the civilian equivalent. The approval authority will coordinate all questions regarding scope of authority and exceptions with HQDA, OTJAG, ATTN: DAJA, WASH DC 20310–2200.

Section II
Responsibilities

1–5. The Secretary of the Army
The Secretary of the Army will—

a. After consultation with the relevant Unified/Specified Command, negotiate and conclude implementing arrangements applicable to only an Army component or major command operating in the military region (or North Atlantic Treaty Organization (NATO) operational area) of a Unified/Specified Command.

b. Negotiate and conclude, in special instances and in consultation with the applicable Unified/Specified Command, cross-servicing and combined agreements when authorized by the Chairman, Joint Chiefs of Staff (CJCS).

c. Acquire logistics support, supplies, or services under cross-servicing agreements or separately.

d. Transfer logistics support, supplies, or services under cross-servicing agreements.

1–6. Commanders of Unified/Specified Commands and U.S. Army component commands
a. DOD specifies Unified/Specified Commands will:

(1) Negotiate and conclude cross-servicing and combined agreements as an executive agent when authorized by the CJCS. This authority may be delegated to a sub-Unified Command or to a service component.

(2) Negotiate and conclude any required multi-service implementing arrangements with authority to appoint a sub-Unified Command or a service component as an executive agent.

(3) On request from a DOD tenant organization (a component element not subordinate to the Unified/Specified Command, but in its area of operations), may negotiate implementing arrangements. This authority may be delegated to a sub-Unified Command or to a service component.

(4) Allocate among the DOD components the limitations of the credits and liabilities ceiling as outlined in DOD 7220.9M. This authority may be delegated to a sub-Unified Command. Unified/Specified Commands assume this responsibility for agreements negotiated by non-subordinate, tenant commands within their area of operation.

(5) Determine eligibility of non-NATO countries for U.S. acquisitions as authorized by CJCS and receive multi-service requests to designate new countries as eligible for cross-servicing agreements.

1–7. DCSLOG
The DCSLOG will establish policies and procedures to—

a. Implement DOD Directives 2010.8 and 2010.9 (DALO-PLO).

b. Review reported transactions for compliance with regulatory guidance and for reporting to the Office of the Secretary of Defense (DALO-SMP).

c. Ensure that international logistics support activities are coordinated in accordance with AR 11–31.

d. Receive and process Army-only requests to designate new countries as eligible for cross-servicing agreements. Multi-service requests are processed through Unified/Specified Command channels (DALO-PLO).

1–8. Limitations
Logistics support, in the form of supplies or services, under the jurisdiction and control of the U.S. Army, may be acquired or transferred to qualifying countries or NATO subsidiary bodies with a cross-servicing agreement, a combined agreement, or a similar bilateral arrangement. All agreements are established within the authority discussed above and are subject to the specific limitations listed below.

a. U.S. laws and regulations (e.g., Arms Export Control Act, FAR, etc.) pertinent to foreign acquisitions and transfers apply unless exempted by other controlling U.S. law as incorporated into this regulation or other referenced directives. Specific prohibited transactions are as follows:

(1) Routine acquisition of goods and services that are reasonably available from U.S. commercial sources.

(2) Acquisition or transfer of the following items:

(*a*) Weapon systems and major items of organizational equipment.

(*b*) Guided missiles.

(*c*) Naval mines and torpedoes.

(*d*) Chemical (other than riot control) and nuclear munitions (to include: warheads, warheads sections, projectiles, demolition munitions, by products and material, and training munitions).

(*e*) Cartridge and propellant-actuated devices.

(*f*) Chaff and chaff dispensers.

(*g*) Guidance kits for bombs or other ammunition.

(*h*) Formal courses of instruction.

(*i*) Distinctive military uniforms and insignia.

(*j*) Major facility construction.

(3) Requesting or obtaining logistics support without obligation authority. The acquiring command must have a pre-existing authority to use the appropriation category before acquisition can be considered under the NATO Mutual Support Act (NMSA).

(4) Reimbursable or non-reimbursable acquisition or transfer of initial quantities of replacement parts for major items of organizational equipment (i.e., initial provisioning stocks) covered in tables of distribution and allowances (TDA), tables of organization and equipment (TOE), or like documents.

b. Foreign countries are eligible for consideration as a source for *acquisitions* under the NMSA if they meet one or more of the following criteria (see para 1-6*a* (5)):

(1) Have a defense alliance with the United States.

(2) Permit stationing of U.S. forces or homeporting of U.S. Naval vessels.

(3) Have agreed to prepositioning of U.S. materiel in their country.

(4) Serve as host for U.S. forces in exercises or permit other military operations by U.S. forces in their country.

c. Non-NATO countries are designated eligible to participate in cross-servicing agreements by the Secretary of Defense after consultation with the Secretary of State. A minimum 30-day notification to the Committees on Armed Services and Foreign Relations of the U.S. Senate and the Committee on Armed Services and Foreign Affairs of the House of Representatives prior to such designation.

d. Army owned inventory levels will not be increased to fulfill support agreements concluded under the provisions of this regulation. Inventories will be maintained at levels necessary to meet U.S. national security requirements and obligations undertaken in accordance with AR 12-1. Once an agreement is concluded and supplies are transferred, replacement stocks, up to authorized levels, may be requested.

e. When acquiring supplies according to the provisions of this regulation, the Army will not agree to or enter into any agreement that accepts end-use or end-user restrictions. Exceptions require prior approval from the Office of the Assistant Secretary of the Army (Research, Development, and Acquisition).

f. Transfers of logistics support, supplies, and services under this regulation will be documented. The basic transfer agreement will stipulate that the logistics support, supplies, or services may not be retransferred by the recipient to any entity without prior written consent of the U.S. Government, obtained through appropriate Army and DOD channels (Army-only requests through command channels to HQDA, ODCSLOG; joint requests from Unified Commands to Joint Staff). For NATO countries and NATO subsidiary bodies, the transfer agreement will state that the logistics support, supplies, or services may not be retransferred by the recipient or any other transferee to any entity other than a NATO country or NATO subsidiary body without prior written consent of the U.S. Government. If the transfer is made using forms and formats prescribed by a NATO Standardization Agreement (STANAG) or other similar agreement, but is based on the authority contained in NMSA, this stipulation will be added to the STANAG (or other agreement) documents during the transfer; or, reference will be made to the agreement referencing this stipulation.

g. Agreements, implementing arrangements, and requisitions that obligate funds shall not obligate such funds in excess of their statutory availability. The authority of 10 USC 2306(g) may be exercised in obligation of such funds. Acquisitions restrictions in annual DOD authorization and appropriation acts and other laws apply to acquisitions under this regulation.

h. This regulation does not apply to logistics support acquired by U.S. Army commands from U.S. and foreign commercial sources. Such logistics support is obtained according to existing DOD policies and procedures.

i. Peacetime cross-servicing and combined agreements that may require continuation during war, crises, or emergency will include, to the maximum extent possible, applicable provisions that ensure their continued use during such time.

j. Restrictions in DOD authorizations and appropriation acts apply to acquisitions made under this regulation.

k. Reimbursable acquisitions and transfers will not be made unless the below-listed conditions apply. When acquiring or transferring services, cost-sharing arrangements may be used.

(1) Appropriations or funds are available for such transactions.

(2) Adequate reimbursable acquisition or transfer authority is available for this purpose.

Chapter 2
Authorities

2–1. Types of authority

a. The NMSA provides the legal basis for the interchange of logistics support, supplies, and services between NATO countries, NATO subsidiary bodies, qualifying non-NATO countries and the U.S. Armed Forces. This regulation implements the NMSA for the U.S. Army. Two separate types of authority, as discussed below, are designated.

(1) Authority to *acquire* logistics support, supplies, and services from governments of NATO countries and NATO subsidiary bodies for U.S. Armed Forces deployed in Europe and adjacent waters, and from eligible non-NATO countries for U.S. Armed Forces deployed (or scheduled to be deployed) in such country or in the military region where such country is located (10 USC 2342). This *acquisition authority* allows liquidation by cash payment or providing items or services of equal value. It does not require a cross-servicing agreement or similar implementing arrangement as a prerequisite for such acquisitions.

(2) Authority to *transfer* logistics support, supplies, and services to governments of NATO countries, NATO subsidiary bodies, and eligible non-NATO countries (10 USC 2341). The Army is delegated such authority by the responsible Unified/Specified Command or the CJCS, as appropriate. Transfer of this logistics support is not limited to transactions within the territorial boundaries of the United States or the other party to an agreement. This *transfer authority* is only authorized by a cross-servicing agreement, approved by the Secretary of Defense.

b. Compensation for the acquisition or transfer under NMSA may be accomplished either by reimbursement or by providing items or services of *equal value.* When a cross-servicing agreement is being established for both acquisition and transfer, acquisition or logistics support, supplies, and services can be initiated, under paragraph *a*(1) above, pending approval of the cross-servicing agreement.

c. When possible, established NATO STANAG forms, formats and procedures will be used to execute qualifying transactions under this regulation. The STANAGs may not be used to implement the agreement if they are inconsistent with the provisions of the NMSA, or this regulation (for example, inconsistent pricing or repayment policies). Minor procedural differences alone do not preclude using STANAGs to implement these laws and regulations.

2–2. Delegation of Authority

a. Authority has been delegated to the CJCS to negotiate and conclude cross-servicing agreements with power of redelegation to the Commanders of the Unified/Specified Commands. The Unified/Specified Commands may re-delegate this authority to sub-Unified Commands or service components.

b. The U.S. Army component Commander, or a designee, may delegate authority to specifically designated personnel to implement cross-servicing agreements and implementing arrangements, to include issuing or accepting requisitions or orders required by such agreements and arrangements. The authority to issue and accept requisitions or orders may include the authority to negotiate and conclude terms and conditions of acquisition, transfer, or replacement by providing an item or service of equal value. All designees are subject to the terms and conditions of this regulation and applicable agreements and arrangements. Personnel delegated such authority will be selected so as to have the necessary knowledge and experience to carry out authorized transactions in accordance with applicable laws and regulations.

c. Agreements established under this regulation to effect U.S. acquisition of logistics support, supplies, and services will be negotiated and concluded in accordance with AR 550–51.

d. Before negotiating implementing arrangements, the U.S. Army component Commander will coordinate with the Unified/Specified Command to ensure that no pertinent multiservice implementing arrangements exist or are under development.

Appendix A
References

Section I
Required Publications

AR 12–1
Security Assistance—Policy, Objective, and Responsibilities. (Cited in para 1–8*d*.)

AR 37–1
Finance and Accounting Support. (Cited in para 1–6*b*.)

AR 550–51
Authority and Responsibility for Negotiating, Concluding, Forwarding, and Depositing of International Agreements. (Cited in para 2–2*c*.)

Section II
Related Publications

A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

AR 11–31
Army International Activities Policy.

AR 37–60
Pricing for Materiel and Services.

DOD Directive 2010.8
DOD Policy for NATO Logistics.

DOD Directive 2010.9
Mutual Logistics Support Between the United States and Governments of Eligible Countries and NATO

DOD 7220.9–M
Department of Defense Accounting Manual, with Change No. 17

DOD 7290.3–M
Foreign Military Sales Financial Management Manual

Federal Acquisition Regulations (FAR)
As implemented by DOD and DA.

10 USC. Sections 2341–2350 (1991)

Glossary

Section I
Abbreviations

AR
Army Regulation

ARNG
Army National Guard

CJCS
Chairman, Joint Chiefs of Staff

DA
Department of the Army

DCSLOG
Deputy Chief of Staff for Logistics

DOD
Department of Defense

FAR
Federal Acquisition Regulation

NATO
North Atlantic Treaty Organization

NMSA
NATO Mutual Support Act

STANAG
Standardization Agreement

USAR
U.S. Army Reserve

Section II
Terms

Acquisition
Obtaining logistics support, supplies, or services under either an acquisition arrangement without a cross-servicing agreement or under cross-servicing agreement, whether for payment in currency, exchanging items of equal value, or exchanging materiel of identical or substantially identical value for logistics support, supplies, or services.

Combined agreement
Any agreement concluded with the government of a country or an agency which the United States agrees to acquire or provide logistics support, supplies, or services.

Cooperative logistics agreement
Bilateral or multilateral agreement between countries to provide Department of Defense specified logistical services or material in exchange for payment or for other specified logistical services or material. A cooperative logistics arrangement is considered a type of cross-servicing agreement.

Cross-servicing agreement
Any agreement concluded with the government of another NATO country, NATO subsidiary body, or other eligible country under which the United States agrees to provide logistics support, supplies, and services to the armed forces of such government or subsidiary body or other eligible country, in return for the reciprocal provision of logistics support, supplies, and by such country or subsidiary body to the U.S. Armed Forces. Such cross-servicing agreements establish principles and provisions for effecting required support, but do not bind either party to any particular number of monetary value of transactions.

End-use or end-user restriction
Any provision of an agreement that prevents or otherwise limits the signatories ability to transfer or dispose of supplies.

Equal value
Reasonable, equivalent worth for reimbursement of logistics support, in the form of supplies or services, acquired or transferred to countries or bodies qualifying for same under the NMSA. Reimbursement value of supplies or services is determined at the time of transaction is approved, not when payment is affected.

Europe and adjacent waters
The territories of those NATO countries and subsidiary bodies and those waters within the "North Atlantic Treaty Area" as defined in the North Atlantic Treaty (amended by the protocols on the Accession of Spain, Greece, Turkey, and the Federal Republic of Germany, excluding North America. The NATO European countries include Belgium, Denmark, France, Germany, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, the United Kingdom, and Canada when her forces are operating in Europe and adjacent waters.

Government of NATO countries
The military or civilian governmental organizations, departments, and ministries, or any subdivision thereof, of a NATO country.

Implementing arrangement
A supplementary arrangement related to specific logistics support, supplies, services, or events that prescribes details, terms, and conditions that further define and carry out cross-servicing or combined agreement. Implementing arrangements may have more precisely defined levels of performance than do cross-servicing agreements; however, implementing arrangements shall be consistent with cross-servicing agreements and this regulation in all respects.

Logistics support, supplies, and services
Food, billeting, transportation (except aircraft), petroleum, oils, lubricants, clothing, communication services, medical services, ammunition, base operations support (and construction incident to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, and air and sea port services. See exclusions listed at paragraph 1–8*a*.

Military region
The geographical area of operations assigned to the commander of a Unified/Specified command or Army major command (except Europe and adjacent waters, which retains its separate identification as NATO).

Mutual logistics support
A reciprocal logistical support arrangement entered into by two or more countries.

NATO subsidiary bodies
a. Any organization that is within the meaning of the term "subsidiary bodies" in Article I of the multilateral "Agreement on the States of the North Atlantic Treaty Organization, National Representatives and International Staff," signed at Ottawa on September 20, 1951 (TIAS 2992; 5 UST 1087).

b. Any international military headquarters or organization to which the "Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty," signed at Paris on August 28, 1952 (TIAS 2978; 5 UST 870) applies.

Order or requisition
An offer or acceptance for specific logistics support, supplies, or services based on a cross-servicing agreement and any applicable implementing arrangements or on acquisition pursuant to 10 USC 2341.

Transfer
Selling (whether for payment in currency, replacement-in-kind, or exchange of items of equal value) of logistics support, supplies, or services under a cross-servicing or similar agreement.

* U.S. G.P.O.:1992:281-483:40111

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