

CHAPTER 05

COLLECTING AND REPORTING FMS INDEBTEDNESS AND ARREARAGES**0501** INTRODUCTION

050101. Objective. The objective of this chapter is to establish procedures to be used for the collecting and reporting of FMS foreign indebtedness. It incorporates pertinent portions of Volume 6, Chapter 12, [see reference (k)], relating to foreign military sales indebtedness. If there is a conflict between this Chapter and Volume 6, the latter will be used as the source of authority.

050102. Responsibilities

A. The Defense Finance and Accounting Service is the DoD point of contact for matters concerning foreign indebtedness (non-FMS) requirements imposed on DoD from outside the Department, such as by the Congress, the Treasury Department, or the National Advisory Council (NAC) on International Monetary and Financial Policies.

B. DSAA is responsible for coordinating FMS feeder arrearage reports submitted by the SAAC. These FMS reports will be incorporated into the single consolidated DoD arrearage report submitted to the Treasury Department in accordance with reference (k). DSAA shall also monitor FMS collection actions and follow up when initial collection actions have been unsuccessful.

C. The SAAC is responsible for taking initial collection action, accounting for indebtedness, preparation of feeder arrearage reports, and providing copies of the arrearage reports to the DSAA.

0502 COLLECTION PROCEDURES

050201. Initial and Follow-Up Actions. SAAC is responsible for taking timely and aggressive

billing and follow-up collection action to obtain advances required from FMS customers pursuant to authorized programs as follows:

A. Initial Billing. Billings for advances required under the FMS program shall be initiated by using the DD Form 645 (Foreign Military Sales Billing Statement) or Defense Security Assistance Agency supplementary billing statements in accordance with Chapter 8 of this Volume. Since the amounts not paid on individual cases may ultimately result in a country-level arrearage, follow-up actions shall be taken for non-payment of amounts due at case-level by the due date in accordance with procedures in paragraph B below. Country-level follow-up actions, described in subparagraph C, shall be taken for non-payment of total amounts due at country-level by the due date on a net basis (considering all sources of available funds). Arrearages and interest penalties are determined at country level. See Table 503-1 for the timing of these actions.

B. Case-Level Follow-Up Actions. Based on the payment due date in the applicable billing statement, SAAC shall take initial written follow-up action in the following circumstances:

1. For cases when the payment due is \$1 million or more or where the case closure is pending receipt of customer funds, written follow-up action should be taken 30 days after the payment due date to notify the country that payment has not been received. If no response is received, additional written follow-up action shall be made 60 and 90 days after the payment due date. SAAC will refer case-level late payments more than 120 days after payment due date to DSAA for further action. A sample format for the three follow-up actions is contained in Table 502-2.

2. Where the full or partial non-payment of the amounts due would place the

FMS customer's Trust Fund balance in an arrearage position (per paragraph 050302), follow-up action should be taken on an individual case 30 days after the payment due date. If no response is received, additional written follow-up action shall be made 60, 90, and 120 days after the payment due date. A sample format for the three follow-up actions is contained in Table 502-2.

3. For cases where the payment due is less than \$1 million, and the lack of payment would have no significant impact on the FMS customer's Trust Fund balance, written follow-up action will be taken 60 days after payment due date. A sample format for this follow-up action is contained in Table 502-2.

4. If payments on loan-financed cases have not been received 30 days after the payment due date, SAAC should determine the status of any loan drawdown letters that may be in preparation or have not as yet been executed. For any amounts still not covered, SAAC should immediately initiate written follow-up action to the customer, citing the unpaid amount by case, and requesting the customer to prepare a loan drawdown letter or to make cash payments to cover the amounts due. These letters should be coordinated with DSAA/COMPT-FMD prior to dispatch. If the payments due remain unpaid 60 days after the payment due date, refer the matter to DSAA Comptroller for further action.

C. Country Level Follow-Up Actions. Based on conditions 3 and 4 shown in Table 502-1, SAAC shall take initial written follow-up action using the following procedures:

1. All country-level unpaid accounts receivable and arrearages (see paragraph 050302) require written follow-up action by SAAC should payment for billings not be received by the required date. The initial written follow-up actions will be taken 30 days after the payment due date.

2. If no response is received, additional written follow-up action will be made 60, 90, and 120 days after the payment due date.

3. The fourth follow-up letter is prepared by DSAA.

4. A copy of all follow-up actions will be maintained by SAAC until final disposition of the bill. Copies of follow-up letters prepared by SAAC will be sent to DSAA. A sample format for the follow-up actions is contained in Table 502-3.

050202. Referral of Unpaid Bills. All country-level foreign indebtedness (arrearages) not collected within 90 days after the due date will be reported to the Treasury (see Section 1203 of Volume 6). When reporting arrearages for the first time, SAAC will include copies of the previous follow-up letters along with any responses received. SAAC will assure that DSAA is immediately notified of any payment received after referral. This is essential to preclude unnecessary and possibly embarrassing diplomatic collection actions being continued after payment has been received. Detailed directions for reporting these arrearages are prescribed in Sections 1203 and 1204 of Volume 6.

050203. Collection of Unpaid Bills

A. DSAA will prepare a fourth follow-up letter on arrearages and will use all available means to effect collection of the foreign arrearages within 60 days of initial referral of the reported arrearages. A copy of this follow-up letter will be provided to SAAC.

B. After the 60 days have elapsed, all arrearages from foreign countries and international organizations which cannot be collected through DoD efforts and are not compromised, terminated, or suspended in accordance with paragraph 120207 of Volume 6, shall be referred to the Department of State via the Assistant Secretary of Defense (International Security Affairs)(ASD(ISA)), with a request for diplomatic assistance to effect settlement. Data provided to the State Department will include a listing of delinquent billings to country. The State Department will provide appropriate listings to the American Embassies, whose personnel will contact the appropriate officials in their respective countries to assist in any follow-up action.

050204. Identification of Arrearages. An arrearage represents a past due amount for materiel which have been delivered, services which have

been performed, and for progress payments to contractors on behalf of a customer. Cash in advance of such performance is required for FMS customers unless a written determination has been made pursuant to legal authority; see paragraph 070104.D., "Payment Terms." There

fore, in the FMS program, an arrearage is an exceptional event. If an arrearage does occur, it is on a net country basis (considering all sources of funds) and followed up in accordance with procedures set forth in Volume 6, Chapter 12 of this Volume.

TABLE 502-1 ANALYZING THE STATUS OF COUNTRY DEPOSITS

CONDITIONS	CASH POSITION (ALL SOURCES)	BILLING DUE/ PAYMENT STATUS	ACCRUED EXPENDITURES	DEBT OR ARREARAGE STATUS
1*	6 Months or more cash available	Billed per schedule Unpaid after due date	Less than cash available from all sources	No Debt
2*	6 Months or less cash available	Billed per schedule Paid on due date	Less than cash available from all sources	No Debt
3**	Less than 6 months cash available	Billed per schedule Unpaid after due date	Less than cash available from all sources	Debt
4***	Less than 6 months cash available	Billed per schedule Unpaid after due date	More than cash available from all sources	Arrearage

*No country-level follow-up required - no current accounts receivable.

**Country-level follow-up is required. This accounts receivable will be aged (see paragraph 050302 of Volume 15 of this Regulation. Termination liability is a component of debt but not arrearage.

***Country-level follow-up is required. This accounts receivable will be aged and the country will be reported to the Treasury on TFS Form 4503.

TABLE 502-2 CASE-LEVEL FOLLOW-UP EXAMPLE LETTER

[Country/Organization Address]

Dear [Mr/Ms Addressee]:

Records of this activity reflect that payment has not been received to date for statement _____ covering (services/support/ material) furnished in accordance with the contractual agreement between the U.S. (Military Service) and the Government of _____ (for Foreign Military Sales Case _____) dated _____.

A copy of the original bill (or a list of cases) is attached.

If you have any questions concerning the statement of this letter, please contact (name/symbol/phone) for assistance.

An early response will be appreciated.

Sincerely,

Signature

Attachment - 1
Cy Original Billing

cc: DSAA/COMPT/FMD

TABLE 502-3 COUNTRY-LEVEL FOLLOW-UP EXAMPLE LETTER

[Country/Organization Address]

Dear [Mr/Ms Addressee]:

Records of this activity reflect that payment has not been received to date for statement _____ covering purchases furnished in accordance with the contractual agreements between the U.S. Military Services and the Government of _____. Interest will be charged for all disbursements not covered by cash deposits. In addition, we are required to report to the Department of Treasury indicating an arrearage position for your [country/organization] in the FMS Trust Fund account.

A copy of the original bill (or a list of cases) is attached.

It is requested that an immediate response be made in order to preclude alternative actions which might result from further delay in payment.

Sincerely,

Signature

Attachment - 1
Cy Original Billing

cc: DSAA/COMPT/FMD

0503 REPORTING OF FMS ACCOUNTS RECEIVABLE

050301. General. According to the AECA the DoD may enter into contracts for the procurement of defense articles or services for sale to any foreign country if such country agrees (1) to pay the full amount of such contract which will assure the USG against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract (termination liability), in advance of the time such payments, damages, or costs are due. Accordingly, amounts payable to SAAC for sales of defense articles and services under these terms which require payment in advance of delivery/performance, or within 60 days thereof, will be classified as accounts receivable when the aggregate amount of available cash is less than required to support six months of average disbursements (see paragraph 030205). The six months rule may be revised based on evaluation by DSAA or official agreements executed with the country. Unpaid amounts on bills rendered when available cash exceeds the six months rule are for the convenience of the FMS customer, thus follow-up and aging of accounts receivable are not required. SAAC, with DSAA coordination, shall submit reports of foreign indebtedness related to FMS sales to the Treasury on TFS Form 4503 when conditions cited in paragraph 050302 occur.

050302. Basis for Reporting Arrearages on Accounts Receivable. A delinquent receivable is defined as a receivable that remains unpaid after its due date (see condition 3 in Table 502-1). A country-level arrearage on a delinquent accounts receivable occurs when total accrued costs exceed total available cash (see condition 4 in Table 502-1). Amounts to be reported shall be determined by analyzing unpaid bills using the criteria and definitions contained in Volume 6, Chapter 12 [see reference (k)] and the following supplementary guidance. The "total amount outstanding" and the "amount due and unpaid 90 days or more" will be determined as follows:

A. Countries will be reported as having a "total amount outstanding" (arrearage) in column 3 of the TFS Form 4503 based upon DSAA review of reports submitted by DFAS-DE. DFAS-DE will report using the following criteria:

1. The accrued expenditures recorded in Column 10 exceeds (a) the total in column 13 of the DD Form 645 on a net country basis (adjusted for over-collected cases) plus the country's cash resources (including holding accounts, interest-bearing accounts, and undisbursed FMF) or, (b) the total of the amount paid on the DSAA supplementary bill plus the country's cash resources (including holding accounts, interest-bearing accounts, and undisbursed FMF).

2. When column 13 exceeds the accrued expenditures in column 10 and/or the cash resources exceed a six months' supply, no accounts receivable exists; therefore, the DFAS-DE will not report the country.

3. DSAA will review the DFAS-DE reports in the context of paragraph 050204 of this Volume to determine the values to be reported in column 3 of the TFS Form 4503.

B. Entries to column 5 of the TFS Form 4503 will be the amounts reported for the previous quarter less collections received during the current period.

050303. Reports Required

A. Report Preparation. Instructions for the preparation of TFS Form 4503 is contained in paragraph 120307 of Volume 6 of this Regulation [also see reference (k)]. To facilitate preparation of the consolidated Department of Defense report by DFAS, data for the military sales portion of the TFS Form 4503 shall be determined by DSAA. Instructions are provided in Sections 1205 and 1206 of Volume 6 of this Regulation. Country codes currently published in the Security Assistance Management Manual [reference (e)] shall be cited on the TFS Form 4503. Conversion of the data to the Treasury Country Codes as contained in Appendix 8 of the Treasury Fiscal Requirements Manual [reference (l)] shall be made by DFAS.

B. Submission. The Treasury Department requires the submission of FMS and non-FMS indebtedness reports within 30 days after the end of the quarter. DFAS-DE shall provide the report to DSAA within 20 days after the end of the quarter. DSAA will respond to DFAS-DE within five working days. One copy of the report shall also be provided to the Comptroller, DoD and ASD(ISA). Copies of the reports may be distributed within the Military Departments as desired

C. Flash Report of Major Foreign Debt Arrearages. Major foreign debt arrearages are monitored by the NAC. Therefore, periodically DSAA will request flash reports from SAAC to satisfy NAC requirements for information on major FMS debt arrearages. For this purpose, a "major" FMS debt arrearage is any program arrearage which involves the sum of \$250,000 or more. Flash reports will be submitted directly to DSAA in message form. The report shall reflect any significant changes in major FMS debt arrearages from the quarterly FMS indebtedness report submitted in accordance with Section 502. Collections, information on increased indebtedness, problems encountered in unsuccessful collection attempts, or country circumstances which may adversely affect collection are examples of the information which should be included in the flash reports.

050304. Interest Charges on FMS Accounts Receivable Arrearages. SAAC shall analyze arrearages to determine if the interest charges set forth in paragraph 070104.B.5. must be assessed. Amounts subject to interest shall be determined by following the procedures set forth in paragraph 050302.A. Interest shall accumulate from the due date of the billing statement for the period during which accrued expenditures exceeded customer deposits. For example, a billing statement with a due date of March 15, is for funds to be disbursed during April, May, and June. Interest shall accumulate from the 1st of April if expenditures exceed customer deposits during the April/June quarter. Interest will be assessed based on the average arrearage during the month. See Table 503-1.

050305. Information Requirements. The requirements prescribed by Volume 6, Chapter 12 of this Regulation have been assigned the following reporting control numbers:

A. TFS Form 4503, "Current Status Accounts Receivable (Original Maturity of Less than 90 Days) from Foreign Obligors, "Interagency Report Control Number 0105-TD-QU.

B. Flash Report of Major Foreign Debt Arrearages, RCS: DSAA (AR) 1122.

TABLE 503-1 ILLUSTRATION OF THE TIMING OF FOLLOW-UP ACTIONS

