

**VOLUME 16, CHAPTER 6: “DEBT OWED TO THE DEPARTMENT OF DEFENSE  
BY FOREIGN ENTITIES”**

**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an \* symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

This is the initial publication.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
All	Moved policy on identifying, billing, collecting, and managing Foreign Military Sales (FMS) arrearages and indebtedness previously found in Volume 6A, Chapter 12 and Volume 15, Chapter 5.	New
060804	Changed Flash Report to Preliminary Case Analysis Report, and specified that the report will be submitted via email.	Revision

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## CHAPTER 6

**\*DEBT OWED TO THE DEPARTMENT OF DEFENSE (DoD) BY FOREIGN ENTITIES**

## 0601 GENERAL

## 060101. Purpose

This chapter establishes policy for the Department of Defense Components for identifying, billing, collecting, and managing Foreign Military Sales (FMS) arrearages and indebtedness.

## 060102. Scope

A. This chapter contains guidance for identifying FMS arrearages and indebtedness, applying interest charges for the arrearages, and collecting and reporting FMS arrearages and indebtedness. For specific information on which appropriations to use for recording and reporting FMS receivables, refer to Volume 4, Chapter 3.

B. This chapter does not currently apply to non-FMS foreign debt. Non-FMS foreign debt is covered in Volume 6A, Chapter 12.

## 0602 RESPONSIBILITIES

## 060201. The Department of Defense (DoD) Components

A. The DoD Components are responsible for initiating timely and appropriate actions to update payment schedules for FMS transactions to ensure cash is available to support outlay requirements, including disbursements to DoD accounts for earned reimbursements and disbursements to contractors for contract payments, contract holdbacks, and estimated termination liability costs.

B. Payment schedules must be updated annually on the anniversary of the implementation of each major case (refer to Volume 15, Definitions for the definition of a major case), in preparation for an annual FMS review, or when the value of a case increases by 10 percent or more, whichever occurs first. Payment schedules also must be reviewed when changes are made to individual cases or case lines (e.g., to reflect a slip in delivery schedule), as discussed in the Security Assistance Management Manual (SAMM), Chapter 9, section 9. Payment schedules are covered in Volume 15, Chapter 4.

## 060202. Defense Security Cooperation Agency (DSCA)

DSCA is the principal DoD Component responsible for:

A. Completing actions concerning FMS arrearages and indebtedness. For purchasers who have delinquent payments due, or which have accrued costs that exceed

available cash, DSCA will evaluate the purchaser's entire program to determine whether or not a letter to the purchaser requesting payment is justified. If so, then DSCA will issue a written notification to the purchaser within 30 days of the end of the preceding quarter. If no response is received, then additional written follow-up will be made at succeeding 30-day intervals;

B. Approving FMS feeder arrearage reports prepared by the Defense Finance and Accounting Service, Security Cooperation Accounting (DFAS SCA) Division in accordance with this chapter and the *Treasury Financial Manual (TFM)*, Volume 1, supplements, Treasury Report on Receivables (TROR);

C. Working with the purchaser, the responsible DoD Component, and DFAS SCA to identify the specific issue and remedy, e.g., adjustments to ordered values, delivery timeframes, ordered quantity, collection of additional funds, or other alternative financial arrangements, when insufficient funds are available for DoD to meet the collective cash requirements for an FMS purchaser;

D. Administering and managing FMS long-term loans and credits programs authorized under the *Arms Export Control Act (AECA)* or other authorities and identifying delinquent amounts associated with these programs; and

E. Completing other actions as may be necessary, to include required reporting to the Department of State and others.

060203. Defense Finance and Accounting Service (DFAS) Security Cooperation Accounting (SCA)

DFAS SCA is responsible for:

A. Preparing FMS feeder arrearage reports in accordance with this chapter and the TFM and submitting the reports to the Department of the Treasury (Treasury) after coordination and approval by DSCA;

B. Utilizing updated payment schedules and other financial performance criteria to bill foreign governments and international organizations on the quarterly DoD (DD) Form 645, FMS Billing Statement, and/or special billing statements approved by DSCA;

C. Coordinating with DSCA to identify, report, and collect FMS arrearages and other delinquent amounts; and

D. Providing quarterly reports to DSCA to identify those purchasers who are delinquent in payment from the previous quarter, and daily reports to identify purchasers' average disbursement rates and estimated number of months of cash on hand.

## 0603 BILLING AND FOLLOW-UP ACTIONS

## 060301. Legal Requirements

A. For sales from stock, AECA, Section 21(b), codified as Title 22, United States Code, Section 2761 ([22 U.S.C. 2761](#)) requires DoD to collect payments from foreign purchasers in advance or, if the President determines it to be in the national interest, upon the delivery of a defense article or the rendering of a defense service. After a determination by the President that it is in the national interest to bill upon the delivery of a defense article or the rendering of a defense service, interest will be charged in accordance with AECA, Section 21(d), 22 U.S.C 2761(d), on any net amount due and payable which is not paid within 60 days after the date of such billing.

B. The President delegated the authority to determine if billing upon delivery is in the national interest in [Executive Order 13637](#); the Secretary of Defense delegated the authority to the Director, DSCA, in [DoD Directive 5105.65](#). The President may extend the period to 120 days if he determines that emergency requirements of the purchaser exceed the ready availability of purchaser funds to the United States Government (USG) within the 60 days. In this case, the President submits a determination with a special emergency request for authorization and appropriation of additional funds to finance such purchases under the AECA.

C. For sales from procurements (items sent directly from the source, not from DoD inventories), when the country is authorized for a dependable undertaking, AECA, Section 22(a), [22 U.S.C. 2762\(a\)](#), requires DoD to collect payments from foreign purchasers in time to meet contractual payments, including any damages and costs that may accrue from the cancellation of such contracts. The AECA, Section 22(a), requires that interest is to be charged on any net amount by which a foreign purchaser is in arrears under all of its outstanding unliquidated dependable undertakings, collectively considered.

## 060302. Due Date

Refer to Volume 15, Chapter 8 for policy regarding FMS billing due dates.

## 060303. Initial Billing

DFAS SCA is responsible for issuing FMS billing documents. Billings for financial requirements will be initiated by using the DD 645, or the special billing statement approved by DSCA. These billings must, at a minimum, identify the financial requirements, amount paid, and amount due. Specific policy on FMS billings is in Volume 15, Chapter 8.

## 060304. Foreign Military Sales (FMS) Arrearage

A. When the amount due per the DoD billing statement is not paid by the due date, that amount is considered delinquent, but that does not necessarily constitute an arrearage.

B. For FMS cases authorized to include a term of sale of “Payment on Delivery,” the billings may be dated and issued upon delivery of the defense article or performance of the defense service. An arrearage occurs when the billed amount is not received by the payment due date (60 days from the date of the bill or 120 days if authorized by the President).

C. For FMS purchasers authorized “dependable undertaking” terms of sale, an arrearage occurs when the FMS purchaser’s total cash resources on deposit with the USG are insufficient to cover all its outstanding unliquidated dependable undertakings, considered collectively.

#### 060305. Follow-up Actions

FMS purchasers are required to pay in advance of performance unless the President determines it to be in the national interest to collect upon delivery of the defense article or the rendering of the defense service. Refer to 22 U.S.C. 2761. Therefore, in the FMS program, an arrearage is an unusual event. If required, written notification to the purchaser will normally be sent within 30 days of the end of the preceding quarter. If no response is received, then additional written follow-up must be made at succeeding 30-day intervals. Delinquent FMS arrearages must not be referred to the Treasury for cross-servicing or participation in the Treasury Offset Program.

### 0604 INTEREST, ADMINISTRATIVE CHARGES, AND PENALTIES

#### 060401. General

In accordance with 22 U.S.C. 2761(d) and 22 U.S.C. 2762(a), interest will be charged on FMS arrearages. The rate of interest to be charged will be at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding short-term obligations of the USG as of the last day of the month preceding the billing or the net arrearage, respectively. For the interest rate due on FMS delinquent payments, see [http://www.treasurydirect.gov/govt/rates/tcir/tcir\\_index\\_opdirmnt.htm](http://www.treasurydirect.gov/govt/rates/tcir/tcir_index_opdirmnt.htm); once there, select the applicable month and “Table 5 - Department of Defense Arms Export Control.”

#### 060402. Term of Sale of “Payment on Delivery”

Interest assessed on arrearages resulting from FMS cases with a term of sale of “Payment on Delivery,” must be computed from the date of the billing. Figure 6-1 provides an illustration of the applicability of interest in these cases.

#### 060403. Insufficient Case Resources

Interest assessed on arrearages resulting from a purchaser’s total cash resources on deposit being insufficient to cover its outstanding unliquidated dependable undertakings is computed from the date on which the net arrearage occurs. Net arrearage is the date that DFAS SCA determines that the accrued costs exceed available cash.

## 0605 REFERRAL OF FOREIGN MILITARY SALES (FMS) INDEBTEDNESS

## 060501. Authority to Refer Foreign Military Sales (FMS) Indebtedness

DSCA will determine if an FMS arrearage will be forwarded to Department of Justice (DOJ) for litigation.

## 060502. Preservation of Evidence

The Foreign Debt Management Office (FDMO) within the DFAS SCA Office, the DoD Component, and DSCA must retain all files and records that may be needed by the DOJ to prove the case in court.

## 0606 COMPROMISE, SUSPENSION, OR TERMINATION OF COLLECTION ACTIONS

## 060601. General

Refer to Chapter 2 for policy on compromise, suspension, or termination of collection actions.

## 060602. Coordination

DFAS SCA, in cooperation with the DoD Component, must coordinate proposals to compromise, suspend, or terminate collection actions on FMS arrearages with DSCA.

## 0607 WRITE-OFF AND CLOSE-OUT

DSCA is responsible for initiating and coordinating all actions necessary to close out FMS arrearages.

## 0608 REPORTING FOREIGN INDEBTEDNESS

## 060801. Reporting

Foreign indebtedness must be uniformly and accurately reported through appropriate reporting channels to the Treasury and Department of Commerce.

## 060802. Required Reports

A. Grants, Loans, Credits, and Contingent Liabilities Involving Foreigners. The *TFM, Volume I, Part 2, Chapter 4500* requires the electronic submission of several reports pertaining to foreign obligors to the Treasury by the 45th day following the end of the reporting quarter, if applicable. These reports are prepared and submitted by DFAS SCA. The data for these reports is extracted from the DSCA FMS Credit System. The TFM, Volume I, Part 2, Chapter 4500 provides detailed guidance, formats for the reports, and instructions for completing and submitting the reports.

B. Data Editing. DFAS SCA must complete the quarterly data editing and approval process using Treasury's Foreign Credit Reporting System (FCRS) within 2 weeks after receiving notification that the reporting period data is available for editing. The "FCRS Web Site Overview and Data Editing Guide for Agency Users," which is available only to authorized users on the FCRS Web site, contains these instructions. The required reports are:

1. Direct Long-Term Credits History,
2. Guarantees and Insurance of Long-Term Credits History,
3. Direct Long-Term Credits Status,
4. Guarantees and Insurance of Long-Term Credits Status,
5. Direct Long-Term Credits Scheduled Payments, and
6. Guarantees and Insurance of Long-Term Credits Scheduled Payments.

C. Report of Current Status Accounts Receivable (Original Maturity of Less Than 90 Days) From Foreign Obligors. DFAS SCA is responsible for preparing and submitting this report to the Department of Commerce, Economics and Statistics Administration, and Bureau of Economic Analysis. Refer to paragraph 060803 for instructions on how to complete the report.

D. TROR. DFAS and DoD Component accounting offices must ensure that the TROR includes foreign indebtedness as required by Volume 4, Chapter 3.

060803. Instructions for Preparing the Report of Current Status of Accounts Receivable (Original Maturity of Less Than 90 Days From Foreign Obligors)

All foreign accounts receivable not collected within 90 days from the due date must be included in this report. Amounts reported for FMS in columns 3 through 6 of Figure 6-2 will be determined by analyzing unpaid bills using the following steps:

A. Report an amount in column 3 for a purchaser, if the amount recorded in column 10 of the DD 645 exceeds either the total in column 13 of the DD 645 on a net purchaser basis (adjusted for over-collected cases) plus the purchaser's cash resources (including holding accounts, interest-bearing accounts, and undisbursed foreign military financing (FMF)) or the total of the amount paid on the DSCA supplementary bill (e.g., special bill, additional request for funding, or "Do Not Pay" letters) plus the country's cash resources (including holding accounts, interest-bearing accounts, and undisbursed FMF).

B. Do not report the purchaser as having delinquent accounts receivable if the amount in column 13 of the DD 645 exceeds the amount in column 10 of the DD 645 and/or the cash resources exceed a 6-month supply.

C. DSCA will review the reports to determine the values to report in column 3 of Figure 6-2.

D. Report in column 5 of Figure 6-2 the amounts reported for the previous quarter less collections received during the current period.

E. Use the following instructions to complete Figure 6-2:

1. Reporting Agency. Enter the name of the reporting agency and the applicable agency codes. Agency codes are as follows:

- a. 9700 – DSCA,
- b. 9710 – Air Force,
- c. 9720 – Army, and
- d. 9730 – Navy.

2. Current Status As Of. Enter the ending date of the calendar quarter for which the report is prepared. For example, the first and second quarter of calendar year 2013 will be identified as 131 and 132, respectively. Enter in the open space the actual ending date of the quarter.

3. Country/Program (Column 1)

a. Enter on the first line the name of the first country from the alphabetical list of country names and codes provided in the TFM, Volume I, Part 2, Chapter 4500, Appendix 2. Enter in column 7 the identification code assigned to the country.

b. Enter on the line following the country designation each program applicable to the outstanding accounts receivable. Enter in column 8 the identification code assigned to the program.

4. Currency Indicator (Column 2). Foreign currency obligations will be reported in dollar equivalents (FC\$) computed at the appropriate reporting rate. Enter the following codes:

- a. \$ – Repayable in U.S. dollars,
- b. MO\$ – U.S. dollar equivalents of obligations to pay foreign currency amounts calculated at the reporting rate existing for that country at the time of payment (with maintenance of dollar value), and

c. FC\$ – U.S. dollar equivalents of obligations, the liquidation of which requires the repayment of a stated amount of foreign currency units (without maintenance of dollar value).

5. Total Amount Outstanding – Official (Column 3). Enter the total amount of outstanding accounts receivable from foreign official obligors as of the end of the reporting period. Include foreign private obligations guaranteed by official foreigners.

6. Total Amount Outstanding – Private (Column 4). Enter the total amount of outstanding accounts receivable from foreign private obligors as of the end of the reporting period. Exclude foreign private obligations guaranteed by official foreigners.

7. Amount Due and Unpaid 90 Days or More – Official (Column 5). Enter the portion of the amount recorded in column 3 which is due and unpaid 90 days or more.

8. Amount Due and Unpaid 90 Days or More – Private (Column 6). Enter the portion of the amount recorded in column 4 which is due and unpaid 90 days or more.

9. Country Totals. In column 1, enter the words “Country Totals” on the line following the data for the last program reported. Leave column 2 blank. Enter in columns 3 through 6 the totals of the amount (U.S. dollars plus dollar equivalents of transactions computed in foreign currency) reported for the programs within that country. A separate entry for country totals will not be necessary where only one program has been reported. Repeat this for each country.

10. Program Totals. In column 1, enter the words “Program Totals” on the line following the last country totals. On subsequent lines, enter in columns 1 and 8 the name and identification code, respectively, for each program. Leave column 2 blank. Enter in columns 3 through 6 the totals of the amounts (U.S. dollars plus dollar equivalents of transactions computed in foreign currency) reported by country for each program. Separate entries for program totals will not be necessary where only one country has been listed.

11. Agency Totals. In column 1, enter on the line following the last program totals the words “Agency Totals.” Leave column 2 blank. Enter in columns 3 through 6 the totals of all agency programs. A separate entry for agency totals will not be necessary where only one program total has been reported.

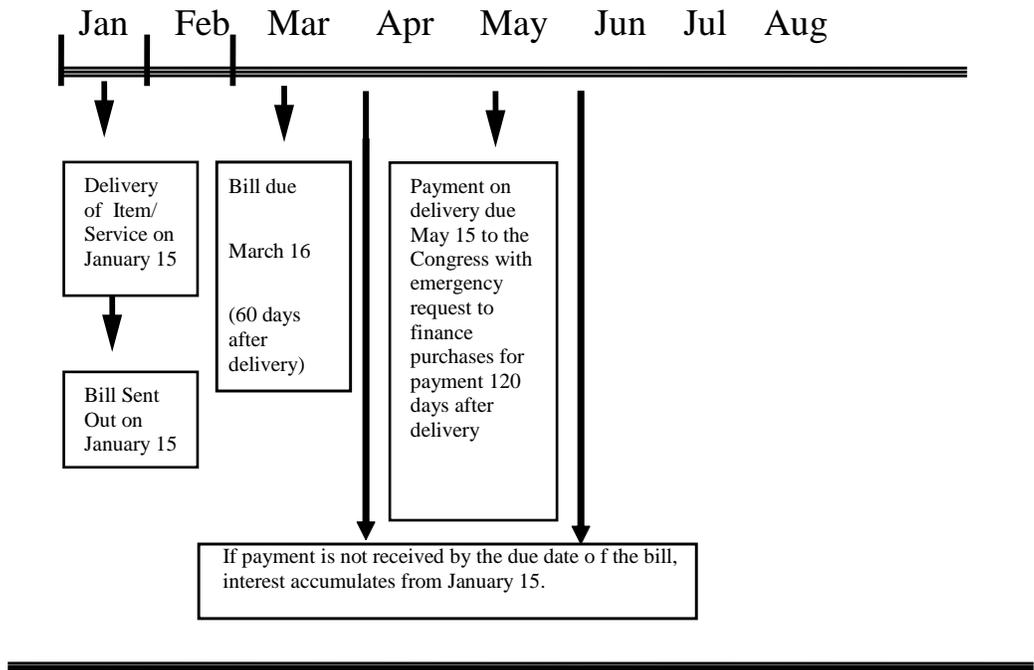
\*060804. Preliminary Case Analysis Report of Foreign Arrearages

The National Advisory Council (NAC) monitors major foreign arrearages. For this purpose, a major foreign arrearage is any country program arrearage that involves the sum of \$250,000 or more. Periodically, DSCA will request a Preliminary Case Analysis Report (PCAR) from DFAS to satisfy NAC requirements. The PCAR will be submitted directly to DSCA by DFAS in email message form. The report will reflect any foreign arrearages so that a determination can be made on whether interest should be charged.

060805. Collecting and Reporting Foreign Debts Under Long-Term Loans and Debts

DSCA is responsible for administering FMS long-term loans and credit programs authorized by Section 23 of the AECA as amended, and determining foreign arrearages against these programs.

Figure 6-1. Illustration of the Applicability of Interest (Pertains To AECA Section 21(D) Only)



Refer to Table 8-24 in Volume 15, Chapter 8 for delivery transactions pertaining to recoupment of interest penalties and interest on arrearages.

