MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF DEFENSE AND
THE DEPARTMENT OF HOMELAND SECURITY
FOR DEPARTMENT OF DEFENSE SUPPORT TO
THE UNITED STATES COAST GUARD FOR
MARITIME HOMELAND SECURITY

PURPOSE

1. To identify and document appropriate capabilities, roles, missions and functions for the Department of Defense (DoD) in support of the U.S. Coast Guard when conducting Maritime Homeland Security (MHS) operations, and to facilitate the rapid transfer of DoD forces to the U.S. Coast Guard for support of MHS operations.

2. The DoD is responsible for conducting operations to deter war and protect the security of the United States. DoD maintains and employs armed forces to ensure, by timely and effective military action, the security of the United States, its possessions, and areas vital to its interests. DoD may provide assistance to Federal agencies in accordance with U.S. law and applicable DoD Directives, as directed by the Secretary of Defense.

3. The Secretary of Homeland Security is responsible for coordinating Federal activities to prepare for, respond to, and recover from terrorist attacks (Homeland Security Presidential Directive (HSPD)-5, “Management of Domestic Incidents,” February 28, 2003). One of the primary missions of the Department of Homeland Security is to carry out the functions of entities transferred to the Department (6 USC 111). The Secretary of Homeland Security has the authority to enter into agreements with other executive agencies, as may be necessary and proper to carry out the Secretary’s responsibilities provided by law (6 USC 112).

4. The Coast Guard is at all times a military service and branch of the armed forces with broad law enforcement authority. Accordingly, the Coast Guard may, with the consent of the agency concerned, exercise tactical control over the capabilities or forces of agencies, including the DoD, assisting with law enforcement missions. The Coast Guard resides within the Department of Homeland Security (DHS), except that upon declaration of war or when the President so directs, the Coast Guard shall operate as a service in the Department of the Navy (6 USC 113 and 468; 10 USC 101; 14 USC 1, 2, and 89; 33 USC 1226; 46 USC 70106 and 70118; 50 USC 191-194; 33 CFR Part 6).
5. The Coast Guard may, with the approval of the Secretary of Defense, use personnel, advice, information, and facilities of the DoD as may be helpful in the performance of its duties (14 USC 141 (b)).

6. DoD forces and assets under Coast Guard tactical control may not participate directly in a search, seizure, arrest, or other similar activity unless the law otherwise authorizes participation in such activity and such activity is authorized by the Secretary of Defense. DoD personnel may, however, operate and maintain equipment to support Federal law enforcement agencies in accordance with U.S. law and applicable DoD directives. Examples of such assistance include support to law enforcement agencies enforcing counter-drug, immigration, customs laws, and foreign and domestic counter-terrorism operations.

7. The Coast Guard continues to have the predominant role in MHS, exercising its law enforcement authorities on waters subject to the jurisdiction of the United States and on, under, and over the high seas, and it is charged with providing an armed deterrent and response to acts of terrorism in the maritime environment.

8. For the purposes of this MOA, the term “tactical control” or “TACON” means authority to provide detailed direction and control of movements or maneuvers within the operational area necessary to accomplish missions or tasks assigned. It is not a type of command authority. DoD forces operating under Coast Guard TACON remain under DoD command.

BACKGROUND

9. The terrorist attacks of September 11, 2001, directed against the U.S. mainland led to a restructuring of the Federal Government to address most effectively the full range of current and future threats. The protection of U.S. territory, sovereignty, domestic population, and critical infrastructure is of paramount concern to the U.S. Government.

10. Following the events of September 11, 2001, the U.S. Coast Guard was designated as the Lead Federal Agency (LFA) for maritime homeland security. The DHS was established by the Homeland Security Act of 2002 (P.L. 107-296). Since March 1, 2003, the Coast Guard has operated within the DHS in support of the National Security Strategy, while maintaining its identity as a military service and branch of the armed forces.

11. The Unified Command Plan assigns combatant commanders’ responsibilities for deterring and defending against attacks on the United States.

DISCUSSION

12. Generally speaking, with the exception of forces responsible for the missions of organizing, training, and equipping, all forces under the jurisdiction of the Secretaries of the Military Departments are assigned to combatant commanders, by the Secretary of Defense, to perform missions assigned to those commanders.

13. MHS missions require flexibility, time-critical response, and immediate access to a broad spectrum of capabilities and associated forces to ensure the protection of the United States. This MOA establishes a standing DoD/DHS working relationship and operational construct.
for DoD support of MHS missions that are under the authority and control of DHS, exercised through the Coast Guard.

ACTION

14. The Secretary of Defense and the Secretary of Homeland Security agree to the following:

a. This MOA constitutes inter-departmental recognition that the Department of Defense has an essential role in supporting the overall maritime security of the United States. It does not, however, impose programming or budgeting obligations on either department.

b. This MOA establishes supporting – supported relationships among Commander, U.S. Northern Command (CDRUSNORTHCOM); Commander, U.S. Pacific Command (CDRUSPACOM); Commander, U.S. Southern Command (CDRUSSOUTHCOM); and Commander, U.S. Joint Forces Command (CDRUSJFCOM) (as supporting commanders/force providers) and Commandant, U.S. Coast Guard (COMDT USCG), Commander, U.S. Coast Guard Atlantic Area (CG LANTAREA), and Commander, U.S. Coast Guard Pacific Area (CG PACAREA) (as the supported commanders) so as to ensure MHS operations are conducted effectively in the USNORTHCOM, USPACOM, and USSOUTHCOM Areas of Responsibility (AORs).

c. This MOA recognizes that the Secretary of Defense has authorized CDRUSNORTHCOM, CDRUSPACOM, CDRUSSOUTHCOM, and CDRUSJFCOM to transfer forces to operate under the tactical control (TACON) of COMDT USCG, CG LANTAREA and CG PACAREA for MHS operations in the USNORTHCOM, USPACOM, and USSOUTHCOM AORs, as described in the annexes attached to this MOA. This authority may be further delegated to appropriate Flag Officer / General Officer Commanders subordinate to CDRUSNORTHCOM, CDRUSPACOM, CDRUSSOUTHCOM, and CDRUSJFCOM.

d. The Chairman of the Joint Chiefs of Staff and the Commandant of the Coast Guard will jointly review Department of Defense capabilities necessary to supplement Coast Guard MHS mission requirements, and identify and document appropriate DoD roles embodied in the Universal Joint Task List and other joint doctrine in support of Coast Guard MHS missions. DoD roles, missions and functions may be documented and updated as necessary in the annexes of this MOA and approved by the Secretary of Defense and the Secretary of Homeland Security.

e. As otherwise authorized, CDRUSNORTHCOM, CDRUSPACOM, CDRUSSOUTHCOM, and USCG Area Commanders, with support from other appropriate combatant commanders, shall periodically plan, train, and exercise appropriate MHS missions.
f. Reimbursement for USCG requests for DoD forces will be considered on a case-by-case basis. DoD support to conduct MHS missions generally will be provided on a non-reimbursable basis when such support is provided under Chapter 18 of Title 10, U.S.C., and is in the normal course of military training or operations, or results in a substantially equivalent training or operational benefit to the Department of Defense, as determined by the Secretary of Defense, in accordance with 10 USC 377(b).

g. Subject to this MOA, the USCG will supervise and control the duties assigned to all DoD personnel operating under the TACON of USCG personnel. The USCG will ensure that any duties assigned are consistent with this MOA and U.S. law.

h. The DHS/USCG will promptly process claims that involve DoD personnel performing actions essential to missions pursuant to this MOA. Administrative and litigation costs associated with processing and defense of such claims are not subject to reimbursement by DoD under this MOA.

EFFECTIVE DATE

15. This MOA is effective upon signature. It may be amended by mutual written agreement between the Secretary of Defense and the Secretary of Homeland Security. It terminates upon notification by any signatory of the intent to terminate the MOA.

[Signatures]
Secretary of Defense
Secretary of Homeland Security

MAR 2 1 2006
Date

4/5/02
Date
ANNEX A TO MEMORANDUM OF AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF HOMELAND SECURITY FOR DEPARTMENT OF DEFENSE SUPPORT TO THE UNITED STATES COAST GUARD FOR MARITIME HOMELAND SECURITY

IDENTIFICATION OF DEPARTMENT OF DEFENSE CAPABILITIES, ROLES, MISSIONS AND FUNCTIONS THAT CAN CONTRIBUTE TO COAST GUARD MARITIME HOMELAND SECURITY (MHS) OPERATIONS

DISCUSSION

1. Identification of Department of Defense (DoD) capabilities, roles, missions and functions that can support the Coast Guard when conducting MHS operations is necessary to ensure effective planning for, and subsequent execution of, detection, deterrence, prevention, protection, response, and recovery activities during MHS contingencies. The DoD maintains many proficiencies and capabilities applicable to MHS. The Universal Joint Task List and other joint doctrine provide the common language and common reference system to identify required capabilities for MHS mission success.

2. DoD and the Department of Homeland Security (DHS) agree that the following DoD capabilities are appropriate and desirable for use under certain circumstances in support of the Coast Guard when conducting MHS operations:

a. DoD capabilities to ensure U.S. Maritime Transportation System security. Examples of these capabilities include:

i. Disposal of Improvised Explosive Devices (IED) in or near U.S. ports and approaches; and

ii. Conducting mine countermeasures to facilitate maritime commerce in or near U.S. ports and approaches.

b. DoD capabilities to conduct Intelligence, Surveillance, and Reconnaissance activities in order to gather and share operational and tactical maritime information, including maritime threat forces operating within the U.S. maritime domain. Examples of these capabilities include:

i. Identifying, assessing, and sharing information on terrorist maritime movements and methods of attack; and

ii. Moving or deploying DoD air, surface, and/or subsurface forces for surveillance, detection, and identification of maritime contacts.

c. DoD capabilities to intercept maritime threats to allow the Coast Guard to conduct boarding and inspection operations. An example of these capabilities is DoD forces interdicting a maritime threat by using force, up to and including warning shots and disabling fire from DoD assets. DoD forces engaged in MHS missions under Coast Guard TACON will follow the Rules for the Use of Force policy for warning shots and
disabling fire as issued by the Commandant, U.S. Coast Guard. DoD Forces under Coast Guard TACON retain the right of self-defense.

d. DoD capabilities to provide operational logistics and personnel support for DoD and USCG forces conducting MHS operations. Examples of these capabilities include:

i. Sustaining DoD and USCG personnel and platforms conducting offshore MHS operations for extended periods; and

ii. Transporting personnel, equipment, and cargo for response and recovery operations.

e. DoD capabilities to counter Chemical, Biological, Radiological, Nuclear and High-Yield Explosive (CBRNE) threats. The Use of Force and Rules of Engagement guidance provided in paragraph 2.c. above apply. Examples of these capabilities include:

i. Coordinating active and passive CBRNE defense activities to counter and defeat maritime delivery of CBRNE weapons by maritime threat forces; and

ii. Supporting Coast Guard-led consequence management activities following a CBRNE weapon or Toxic Industrial Chemical / Toxic Industrial Material release.

3. To this end, both Departments fully support the planning, exercising, and, when directed, deployment of DoD personnel and platforms for appropriate MHS operations.

[Signatures]

Secretary of Defense

Secretary of Homeland Security

MAR 21 2006

Date

4/5/06

Date
ANNEX B TO MEMORANDUM OF AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF HOMELAND SECURITY FOR DEPARTMENT OF DEFENSE SUPPORT TO THE UNITED STATES COAST GUARD FOR MARITIME HOMELAND SECURITY

PROCESS FOR COMMITMENT OF DEPARTMENT OF DEFENSE FORCES TO UNITED STATES COAST GUARD FOR CONDUCTING MARITIME HOMELAND SECURITY OPERATIONS

DISCUSSIONS

1. DoD has developed a process for committing its forces to support the Coast Guard when conducting Maritime Homeland Security (MHS) operations. This process shall be exercised periodically to facilitate timely commitment of forces for these purposes when they are required. The process is delineated in paragraphs 2-4 below.

ACTION

2. A time-critical, short-duration (less than 48 hours) request by COMDT USCG, CG LANTAREA, or CG PACAREA for DoD support in countering an immediate maritime security threat may be made orally/voice (followed by record message traffic) to CDRUSNORTHCOM, CDRUSPACOM, CDRUSSOUTHCOM, CDRUSJFCOM, or their designees. The components or commands that receive oral/voice requests for support in an exigent situation are authorized to respond immediately and may transfer forces to operate under the TACON of COMDT USCG, CG LANTAREA, or CG PACAREA via Voice Orders of the Commanding Officer (VOCO) followed by record message traffic. DoD assets will remain under the operational control (OPCON) of the combatant commander. DoD commanders will notify the Secretary of Defense, via the CJCS National Military Command Center (NMCC) when operationally feasible, of any such support.

3. For non-time-critical, short-duration requirements in support of MHS operations, COMDT USCG, CG LANTAREA, or CG PACAREA may make oral/voice requests (followed by record message traffic) for support from CDRUSNORTHCOM, CDRUSPACOM, CDRUSSOUTHCOM, or CDRUSJFCOM. Transfer of DoD forces to operate under the TACON of the Coast Guard will be coordinated between COMDT USCG, CG LANTAREA, or CG PACAREA and the appropriate force provider, on a case-by-case basis. CDRUSNORTHCOM, CDRUSPACOM, CDRUSSOUTHCOM, and CDRUSJFCOM, may delegate to subordinate Flag Officer/General Officer Commanders authority to transfer their
forces to operate under the TACON of COMDT USCG, CG LANTAREA, or CG PACAREA. All transfers of forces to operate under the TACON of Coast Guard officers may be VOVO followed by record message traffic. DoD assets will remain under the OPCON of the combatant commander. DoD commanders will notify the Secretary of Defense, via the CJCS NMCC of any such support.

4. All other DoD force commitment requests will be arranged through the Request For Forces (RFF) process. Requests for Forces will be initiated by the COMDT USCG, and submitted to the CJCS for Secretary of Defense decision.

Secretary of Defense

MARCH 21, 2006
Date

Secretary of Homeland Security

Date