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COMDTINST 5710.3
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COMMANDANT INSTRUCTION 5710.3

Subj: PROCEDURES FOR NEGOTIATING AND CONCLUDING INTERNATIONAL AGREEMENTS

- Ref:
- (a) Case-Zablocki Act, 1 U.S.C. § 112b
 - (b) 22 U.S.C. § 2656b
 - (c) 22 C.F.R. Part 181
 - (d) U.S. Department of State, Foreign Affairs Manual, Chapter 700: The Handbook on Treaties and Other International Agreements (February 25, 1985)
 - (e) U.S. Department of State, Supplementary Handbook on the C-175 Process for Routine International Science and Technology Agreements (January 2001)
 - (f) Memoranda of Understanding/Agreement, COMDTINST 5216.18
 - (g) Executive Order 12114 of January 4, 1979

1. PURPOSE. This Instruction sets forth the policy and procedures for all commands to follow in proposing, preparing, negotiating, and concluding international agreements.
2. ACTION. Area and district commanders, commanders of maintenance and logistics commands, commanding officers of headquarters units, assistant commandants for directorates, Chief Counsel, and special staff offices at Headquarters shall ensure compliance with the provisions of this directive.
3. DIRECTIVES AFFECTED. None.

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4. BACKGROUND.

- (a) References (a) and (b) provide that an international agreement may not be signed or concluded on behalf of the United States Government (USG) without prior consultation with the Secretary of State, notwithstanding any other provision of law. Reference (c), which provides the implementing regulations for reference (a), extends the consultation requirement to agreements entered into in the name of the USG or in the name of any USG agency.
- (b) As the lead Executive agency for foreign affairs, the Department of State (DoS) has established procedures for negotiating and concluding international agreements. This process, in place since 1955 and known as the Circular 175 (C-175) process, prescribes the method to implement the laws and regulations governing agreements between the United States and foreign countries, international organizations, or commissions. The C-175 process involves interagency review and clearance of proposed international agreements, culminating in a decision by the Secretary of State or the Secretary's designee to approve or deny their negotiation, conclusion, modification, or termination.
- (c) Complying with the C-175 process is an integral part of the Coast Guard's continually expanding international engagement objectives. Accordingly, this Instruction provides an overview of the C-175 process and contains attachments that define an international agreement, identify the components of the C-175 request, and provide points on drafting international agreements.

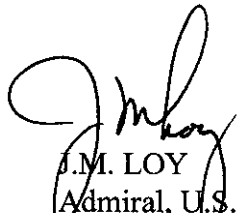
5. SUMMARY OF PROCESS.

- (a) The process of entering into an international agreement involves four distinct phases: preliminary discussions, negotiations, concluding, and ratification. This Instruction only addresses the first three. Coast Guard commands or headquarters offices contemplating agreements or arrangements with foreign governments or foreign government agencies shall consult with their servicing legal office and Commandant (G-CI) via their chain of command and *before* undertaking formal negotiations or formal discussions with foreign entities.
- (b) Commandant (G-CI) and the appropriate command or headquarters office will coordinate the engagement of the relevant Coast Guard and interagency stakeholders in order to determine whether the cooperative activity envisioned by an international agreement or arrangement with a foreign government entity is desirable or necessary for the performance of authorized Coast Guard missions, and is consistent with the Coast Guard's overall international engagement strategy. Commandant (G-CI) shall refer suitable proposals to Commandant (G-LMI) for action.
- (c) Commandant (G-LMI) will advise and assist the drafter and manage the formal interagency clearance process for all proposed agreements or arrangements approved by Commandant (G-

Commandant (G-CI). Commandant (G-LMI) will review the legal bases for such agreements and arrangements, seeking input from other Commandant (G-L) offices where appropriate. The servicing legal office shall provide Commandant (G-LMI) with an initial assessment of whether domestic law provides authority for the Coast Guard to engage in the activity contemplated by the proposed agreement or arrangement. The originating command or office should prepare a draft agreement and supporting documents. Commandant (G-LMI) will use this information to assist in clearing through the interagency. Commandant (G-CI) will authorize negotiations once Commandant (G-LMI) receives appropriate interagency clearances.

(d) Coast Guard commands or headquarters offices shall submit proposed final texts of all binding international agreements to the Department of State (DoS) via Commandant (G-LMI) for clearance prior to signature. Once signed, responsible commands shall forward copies of concluded agreements via the chain of command to DoS.

6. CONCLUSION. Agreements and arrangements between the Coast Guard and international entities implicate a wide range of legal and policy issues. Accordingly, successful negotiation of international instruments in support of Coast Guard missions requires early and continuous coordination between directorates and with the Chief Counsel's office. Compliance with this Instruction will help ensure that the Coast Guard's international engagements comply with domestic and international law and remain consistent with U.S. government policies.


J.M. LOY
Admiral, U.S. Coast Guard
Commandant

- Encl: (1) Definition of an International Agreement
(2) Overview of the C-175 Process
(3) Drafting Guidance for International Agreements
(4) Sample C-175 Action Memorandum
(5) Sample C-175 Memorandum of Law

DEFINING AN INTERNATIONAL AGREEMENT

1. **Binding vs. Non-binding.** There are two types of international undertakings: formal international agreements and informal non-binding international arrangements. DoS must approve all formal international agreements through the C-175 process; although informal arrangements do not require C-175 review, they do require review and clearance through Commandant (G-LMI). The purpose of the C-175 process is to achieve interagency consensus that a proposed international undertaking is consistent with U.S. policies and objectives *before commencing formal negotiations*. Consequently, a grant of C-175 authority to negotiate an agreement is a precondition to opening formal discussions with a foreign country.¹ Coast Guard commands and headquarters offices must seek guidance, therefore, from Commandant (G-LMI) before opening formal discussions on agreements with any foreign government. This guidance must be concluded well enough in advance of negotiations so that Commandant (G-LMI) can confirm with DoS whether the undertaking requires C-175 authority, and so that there will be sufficient time for the C-175 process to occur.
 - (a) An international agreement may be any undertaking, including an oral agreement, document, set of documents, an exchange of notes or of correspondence. Reference (c) provides that “whether any undertaking, document, or set of documents constitutes or would constitute an international agreement within the meaning of [the law] shall be determined by the Legal Adviser of the Department of State, a Deputy Legal Adviser, or in most cases the Assistant Legal Adviser for Treaty Affairs. Such determinations shall be made either on a case-by-case basis, or on periodic consultation, as appropriate.” For any undertaking to qualify as an international agreement, it must meet the following five criteria.
 - i. **Identity and intention of the parties.** Only a state (i.e. the U.S. or a foreign government), state agency, or international governmental organization may be a party to an international agreement. The parties must intend their undertaking to be legally binding and governed by international law. In the absence of any provision in the agreement with respect to governing law, it will be presumed to be governed by international law.
 - ii. **Significance of the undertaking.** The determination of whether a particular undertaking is an international agreement resides by law with the DoS Assistant Legal Adviser for Treaty Affairs (L/T), not with the Coast Guard. DoS will take the entire context of the transaction and the expectations and intentions of the parties into account in determining if it rises to the level of an international agreement. Factors in gauging significance include: (a) its political significance; (b) the amount of funding, loans or credit payable to the United States; (c) whether the funding arrangement extends beyond the fiscal year or would be the basis for requesting new appropriations; (d) continued and/or substantial cooperation in the conduct of a particular program or activity, such as scientific, technical, or other cooperation, including

¹ C-175 authority is not a precondition to informal discussions. Rather, C-175 authority is needed when discussions or negotiations will bind the United States.

the exchange or receipt of information and its treatment, or the pooling of data. However, individual research grants and contracts do not ordinarily constitute international agreements. Likewise, regular exchanges of correspondence and agreements to conduct single activities, such as a workshop, likely would not meet the significance test.

- iii. **Specificity, including objective criteria for determining enforceability.** International agreements require precision and specificity in the language setting forth the undertakings of the parties. Accordingly, DoS does not normally consider undertakings couched in vague or very general terms that lack criteria for determining enforceability or performance to be international agreements
 - iv. **Necessity for two or more parties.** While unilateral commitments on occasion may be legally binding, they do not constitute international agreements.
 - v. **Form.** Unlike the preceding four criteria, form by itself is not determinative of whether a particular text constitutes an international agreement. For example, the title alone will not determine whether a particular text constitutes an international agreement. On the other hand, failure to use the customary format throughout a document may constitute evidence of a lack of legally binding intent.
- (b) **Intent of the Parties.** Legally binding intent is an essential criterion of international agreements. A proposed international agreement must contain language evincing the intention of the parties to be legally bound under international law. This is a criterion not found in political statements or undertakings (where there is no intention to create legal obligations) or contracts (where the intent may be to create legal obligations, but not ones subject to international law). Although there is no single word or “magic phrase” that automatically determines the existence of legally binding intent, the use of binding language anywhere in a text may be considered as evidence that an international agreement is intended, for which C-175 authority would be required. Enclosure (3) lists some examples of terms that the DoS generally views as indicative of legally binding versus non-binding intent.

Overview of the C-175 Process

1. Determine Whether Agreement is Desirable, Necessary, and Legally Authorized. Coast Guard commands or headquarters offices interested in pursuing an agreement or arrangement with a foreign entity shall consult via their chain of command with Commandant (G-CI) and Commandant (G-LMI) before opening discussions with a foreign government, government agency, or other foreign entity regarding any prospective agreements or arrangements.
 - (a) Consult with Commandant (G-CI). Consultation with Commandant (G-CI), before pursuing the C-175 process, ensures that the Coast Guard has engaged the relevant U.S. government stakeholders and determined whether a cooperative activity envisioned by an international agreement with a foreign government entity is desirable, or necessary for the performance of authorized Coast Guard missions, and is consistent with the Coast Guard's overall international engagement strategy. Once a proposed agreement or arrangement is deemed desirable or necessary, Commandant (G-CI) shall refer the matter to Commandant (G-LMI) for drafting assistance and interagency clearance.
 - (b) Commandant (G-LMI) Initiates Formal Interagency Clearance. Commandant (G-LMI), in consultation with G-CI, shall manage the formal interagency clearance process for all proposed international agreements.² Accordingly, Commandant (G-LMI) shall receive from the servicing legal office a determination of whether the Coast Guard possesses the requisite legal authority to conduct the activities envisioned by the agreement or arrangement. Commandant (G-LMI) will review the legal bases for undertaking the proposed agreement/arrangement, determine whether DoS has previously authorized the Coast Guard to negotiate and/or conclude the type of agreement contemplated,³ and provide assistance to the drafter.
2. Prepare and Evaluate a Draft Agreement. Following the initial consultation process described above, Commandant (G-LMI) shall assist Coast Guard commands (in consultation with their servicing legal offices) or headquarters offices in preparing a draft of the proposed agreement or

² The formal interagency clearance process occurs once the entire C-175 package has been compiled. Commandant G-LMI does not initiate nor discourage informal interagency discussions or coordination to aid in the development of a C-175 package.

³ If the Coast Guard is contemplating a series of agreements of the same general type (to carry out or give effect to provisions of law or policy decisions), then it may be appropriate to seek a blanket authorization, rather than separate authorizations for each agreement. Even if the Coast Guard possesses a blanket C-175 authorization, DoS (L/T) and other interested bureaus must clear the text of any particular agreement before signature. Nevertheless, agreements that fall within the scope of a pre-existing blanket C-175 authorization typically have reduced processing clearance periods. DoS generally considers extensions of and substantive amendments to existing international agreements the equivalent of new international agreements; therefore, they require a separate C-175 authorization. This requirement applies unless the original C-175 explicitly contemplated and approved such subsequent extensions or revisions.

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arrangement. Draft agreements shall comply with references (c) - (f) and enclosure (3).⁴ Commandant (G-CI) shall ensure review of the draft agreement by appropriate headquarters program offices. Commandant (G-LMI) shall coordinate the evaluation of the proposed undertaking to determine whether the initiation of the C-175 process will be necessary. Part of the headquarters legal review shall include a determination of whether the Coast Guard desires the text to be legally binding under international law. Commandant (G-LMI) shall consult with the Office of the Assistant Legal Adviser for Treaty Affairs at DoS (L/T) to ascertain whether a proposed undertaking is legally binding or constitutes an international agreement. Likewise, Commandant (G-LMI) may request assistance from L/T in drafting or revising a draft agreement.

- (a) Undertaking is Not an International Agreement. If Commandant (G-LMI), in consultation with DoS (L/T) determines that the undertaking is not an international agreement, i.e., it is an informal, non-binding arrangement, Commandant (G-CI) may provide final clearance for the requesting command or office to proceed with the undertaking and conclude the arrangement without obtaining C-175 authorization. Commandant (G-CI) may decide, however, to consult with the DoS country and regional affairs desks of the appropriate regional bureau(s), and other policy offices, bureaus, or federal agencies before providing final clearance.
 - (b) International Agreements. If Commandant (G-LMI), in consultation with DoS (L/T) determines that the undertaking is an international agreement, Commandant (G-LMI) will manage the interagency clearance process, coordinate the preparation of the required C-175 package, and deliver it to the appropriate DoS Coast Guard Liaison Officer (CGLO) for clearance.
 - i. Pre-existing C-175 Authorization. If the Coast Guard holds a pre-existing C-175 authorization for the proposed agreement, Commandant (G-LMI) will coordinate submission of an abbreviated clearance package to DoS.
 - ii. Need for New C-175 Authorization. If the proposed agreement requires new C-175 authorization, Commandant (G-LMI) will assist in and coordinate the preparation of a C-175 authorization package.
3. Prepare a C-175 Package. For an international agreement, i.e., one intended to be legally binding, the Coast Guard must submit a package to DoS or DoS CGLO comprising three components:

⁴ Paragraph 8.b of reference (f) states “the legal authority for the agreement must be cited.” Because DoS does not permit the inclusion of a statement of authority within an international agreement and the legal authority will be included in a separate memorandum of law, this requirement does not have to be complied with.

Action Memorandum, Memorandum of Law, and Draft Text.⁵ All required documents should be submitted electronically to DoS. If the proposed agreement fits within a pre-existing blanket C-175 authorization, then the original Memorandum of Law (submitted to obtain blanket clearance) and an abbreviated Action Memorandum may be submitted with the draft text.

- (a) Action Memorandum. DoS relies on the Coast Guard to provide background information that will assist in its review of the proposed agreement and to help discern the Coast Guard's intentions. Coast Guard program staff officers compose the Action Memorandum, and the DoS CGLO transfers the text electronically to DoS Action Memorandum letterhead (and titles it: Decision Memorandum). The Action Memorandum should include the following sections, which may be abbreviated when submitted pursuant to an existing blanket C-175 authorization:
- i. **Background and History:** Describe briefly the steps that have led to proposing the agreement, and provide a statement of the Coast Guard's goals and objectives that explains the rationale for undertaking the agreement.
 - ii. **Scope of Authorization:** The Action Memorandum may request a) authority to negotiate, b) authority to sign, or 3) authority to negotiate and sign. The Action Memorandum must state that the Coast Guard will clear any substantive changes in the draft text and future modifications or amendments to the agreement with DoS L/T and other specified regional and/or functional DoS bureaus before definitive agreement is reached.
 - iii. **Benefits to the United States:** Identify the range of policy, operational, technical, informational, and other advantages to the United States under the proposed agreement.
 - iv. **Funding:** Indicate how the activities under the proposed agreement will be funded. If the proposed agreement is not subject to the availability of appropriated funds, a statement must be given describing the existing funding sources to carry out U.S. obligations under the proposed agreement, including any proposed activities. If there is an implicit or explicit commitment of current or future agency resources for which there is no existing appropriation, the Coast Guard must clear the agreement with the appropriate Resource Management Office in the Office of Management and Budget (through OMB's State Department Branch) to determine whether such a commitment can be made. Commandant (G-LMI) will seek Commandant's (G-LGL) review of all funding issues.

⁵ The Action Memorandum and the Memorandum of Law are addressed *to* the Under Secretary of State for Global Affairs and are addressed *from* the Assistant Secretary of State having authority over the subject matter. For further information contact Commandant (G-LMI) or the DoS CGLO through Commandant (G-CI).

- v. **Environmental Impact:** Reference (g) directs all USG agencies to consider environmental implications of activities that they plan to implement outside the territory of the U.S. If conclusion of the agreement would cause significant adverse environmental impacts on a third country not participating in the negotiation, then the Coast Guard must provide documentation under reference (g). Otherwise, the following language must appear in the background document: “*Environmental documentation is not required under E.O. 12114 of January 4, 1979.*” The Action Memorandum must also state whether an agreement would have an environmental impact in the United States.

- vi. **Congressional and Public Consultations:** This section should address whether the agreement and its related activities are likely to be controversial or involve political sensitivities. The Coast Guard should note whether it has already engaged in, or intends to engage in, any consultations with Congress. Likewise, this section should note whether there has been, or will be, any opportunity for public comment on the proposed agreement. This information will assist DoS in determining the need for congressional consultations and to incorporate appropriate language into the C-175 decision memorandum.

- vii. **Intellectual Property Rights:** A description must be included of the type(s) of intellectual property rights (IPR) that could be created in the course of implementing the agreement, including rights to and management of data and information products. There should be a statement describing the manner in which IPR are to be protected. If IPR are not implicated by the proposed agreement, then the Action Memorandum should so indicate.

- viii. **Recommendation:** Recommendation that the appropriate Assistant Secretary authorize the negotiation and conclusion of the requested agreement or grant the requested authority.

- (a) Memorandum of Law. The Memorandum of Law must identify and describe in sufficient detail the statutory authority or authorities to enter into international agreements as well as for engaging in the activities specified in the agreement. Additionally, the Memorandum of Law must review the customary and conventional international law relevant to the agreement. Commandant (G-LMI) will usually draft all such Memoranda after having received an initial assessment of whether domestic law provides authority for the Coast Guard to engage in the activity contemplated by the proposed agreement or arrangement from the servicing legal office.

- (b) Draft Negotiating Text.

- i. The command or headquarters office must attach the entire draft negotiating text of the proposed agreement to any request for C-175 authority. In those exceptional cases in which a command or office seeks C-175 authorization before a draft text is available, the proposed agreement must be described in sufficient detail to allow appropriate review. In such cases, only C-175 authority to negotiate, but not to conclude (i.e., to sign), the proposed agreement would be available. The Coast Guard would need to seek separate C-175 authority to conclude the agreement once a text was agreed. Enclosure (3) highlights the important areas that drafters should consider when drafting a proposed international agreement.
- ii. As a practical matter, some informal discussion with prospective foreign partners may be necessary in order to produce a meaningful draft negotiating text or proposal. Coast Guard personnel engaged in such informal communications must make clear that such discussions are preliminary and in no way binding on the United States or the Coast Guard. In all cases, Coast Guard commands and offices shall *not* engage in any formal discussions related to a possible international agreement without approval of Commandant (G-CI/G-LMI) and shall not exchange any draft negotiating texts with representatives of foreign governments without first obtaining the C-175 authority as provided herein.

4. Processing the C-175 Request.

- (a) The DoS CGLO (or Commandant (G-LMI)) delivers the draft agreement and supporting documents to DoS L/T.
- (b) Determination by DoS (L/T):
 - i. DoS (L/T) may determine that a proposed text does not constitute an international agreement and therefore does not require C-175 authorization. Accordingly, DoS (L/T) will notify the DoS CGLO (or Commandant (G-LMI)) that the Coast Guard may proceed to conclude the arrangement with the foreign counterpart. DoS (L/T) may recommend or require certain edits. In rare instances, DoS may object on policy grounds to a proposed agreement that does not require C-175 authorization. In that case, a DoS action officer will convey the rationale for the objection to the CGLO (or Commandant (G-LMI)).
 - ii. If DoS (L/T) determines that the proposed undertaking should be an international agreement, contrary to the intention of the Coast Guard, DoS (L/T) will provide a rationale for its conclusion and return the document to the CGLO (or Commandant (G-LMI)), who will then forward it to the originating command or headquarters office via

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the chain of command for additional supporting documentation and resubmission to the State Department for C-175 authorization.

- iii. If the Coast Guard has indicated its intent that an arrangement not be considered an international agreement and requests help in redrafting it, DoS (L/T) may assist in suggesting language to achieve that end.
- (c) Commandant (G-LMI) will assist the appropriate Coast Guard headquarters program office to draft an Action Memorandum requesting a signature by the Assistant Secretary, who has been delegated authority to grant C-175 authorizations for the type of agreement requested. The DoS CGLO will transfer the Action Memorandum to DoS letterhead.
 - (d) The DoS CGLO then initiates the DoS clearance process. The Action Memorandum and draft agreement with background attachments are circulated to the Assistant Legal Adviser for Treaty Affairs (L/T), the Assistant Legal Adviser for Oceans and International Environmental and Scientific Affairs (L/OES), and, if needed, to the Assistant Legal Adviser for the geographic region. The CGLO also circulates the package to the country and regional affairs desks of the appropriate regional bureau(s); other policy offices in OES and other bureaus, as needed; and to appropriate staff in the overseas embassy or consulate.
 - (e) The Coast Guard may also circulate some agreements to other U.S. Government departments and agencies that may have an interest in the matter (e.g., Department of Defense, NOAA, MARAD, etc.). Commandant (G-LMI) shall coordinate external clearances with the DoS CGLO, cognizant agency/service CGLO (if one is assigned), and Commandant (G-CI).
 - (f) When the Coast Guard has received all clearances and made any changes, the DoS CGLO modifies the Action Memorandum as necessary and submits the agreement for C-175 authorization, including the Office Director's recommendation to grant C-175 authority. After the appropriate Assistant Secretary has granted C-175 authorization, the CGLO notifies Commandant (G-CI), who shall advise Commandant (G-LMI) and the originating command and headquarters program office.

5. Post-C-175 Action.

- (a) After DoS grants C-175 approval, the Coast Guard is authorized to negotiate and to sign the agreement (assuming authority has been granted for both). However, if either side subsequent to C-175 approval proposes any substantive changes to the agreement, the Coast Guard must resubmit the changed text to DoS to clear with relevant internal and

external offices and agencies before the final signature. Ordinarily, the changes, once approved, will not require a new grant of C-175 authority.

- (b) If needed, the CGLO must obtain foreign language translations through DoS Language Services.
- (c) After the agreement is signed, the original or a certified true copy in all its languages must be provided to Commandant (G-LMI). Commandant (G-LMI) shall forward copies to G-CI, the cognizant headquarters program office, and DoS (L/T) so that it can forward the agreement to Congress, as required under the Case-Zablocki Act, as well as for appropriate archiving.

Drafting Guidance for International Agreements

Drafters of international agreements should observe certain conventions regarding their form and structure:

1. **Parity of Parties:** Ensure that the foreign entity with which the proposed agreement is expected to be signed is legally competent to sign for its government and is:
 - (a) A foreign government, department, or agency;
 - (b) Equivalent to the proposed U.S. party, i.e., government-to-government or agency-to-agency;
 - (c) Not a foreign university or foreign government corporation; and
 - (d) Not a sub-agency level entity that has no independent authority to sign or negotiate international agreements.
2. **Number of Signatories:** Although there may be multiple entities that are party to the agreement, there must be only one signatory for the U.S. Government if the agreement is government-to-government. However, if the agreement is agency-to-agency, multiple signatories are permitted but are limited to one per Department.
3. **Scope of Activities:** Verify that the activities listed in the proposed agreement are:
 - (a) Within the scope of any existing agreement, if applicable;
 - (b) Within the scope of the agency's legal and programmatic competence; and
 - (c) Desirable in light of the status of general bilateral relations with the country, on-going operational and military activities, political implications, and the national interests of the U.S.
4. **Funding:** If the activities under the proposed agreement are subject to the availability of appropriated funds, the agreement should make that explicit. For instance: *"All activities under this agreement are subject to availability of appropriated funds and resources."*
5. **Joint Committees and Councils:** If provision is made in the proposed agreement for a joint committee or a council, its authority should be specifically defined in the agreement to include authority to make decisions necessary for implementation, but *not* the authority to bind parties to new terms or to modify the existing terms of the agreement itself.

6. **Third Tier Issue:** If the proposed agreement is being concluded to implement an existing agreement (i.e., an agreement to implement an existing operational agreement), parties should avoid language that would require yet a third agreement for additional implementation.
7. **Customs Clearances/Arrangements:** Many agencies and their foreign counterparts seek reciprocal exemptions from customs fees or tariffs on equipment and materials transported into and from the other Party's territory that are used in cooperative activities through a special section in the agreement. This section can generally be expanded to include coverage of personal effects of personnel involved, but should not be extended to cover sales, VAT, income, or property tax exemptions.
8. **Status of Forces or Visiting Force Agreements:** In certain undertakings, such as personnel exchange agreements and international maritime interdiction support agreements, it may be necessary to reference by incorporation existing status of forces or visiting force agreements. If the United States does not have such agreements with the partner nation (or if an existing agreement does not include the Coast Guard), then it may be necessary to negotiate language formalizing the diplomatic status of persons covered by the proposed agreement.
9. **Security Obligations:** Some agreements, particularly science and technology agreements, contain an annex on security obligations. The annex typically contains two parts: The first is designed to protect against the provision or disclosure of information or equipment that is classified or protected due to national defense or foreign policy reasons. Typically, there will be a provision to notify and consult the other Party when one Party becomes aware that such classified or protected information or equipment has been provided to it. The second part concerns technology transfer, and aims to ensure that export-controlled information or equipment is transferred lawfully and not re-transferred without authorization.
10. **Duration of the Agreement:** If the proposed agreement is to implement an existing umbrella agreement, the duration of the two agreements should be co-terminus, i.e., the duration of the proposed agreement should not exceed the current duration of the umbrella agreement.
11. **Final Clause:** The following text represents the recommended language for the closing section of a proposed agreement:

DONE at [insert city name] in duplicate in the English language, this [insert date spelled out] day of [insert month spelled out] [insert year].

Or if in two languages:

DONE at [insert city name or names] in duplicate in the English and [insert other language] languages this [insert date] day of [insert month] [insert year], both texts being equally authentic.

12. **Language:** If the proposed agreement will be in one or more foreign languages, the Department of State's Office of Language Services must certify that the English and foreign language text are equally authentic.

13. **Signature Headings:** The signature headings must be single-spaced in capital letters and followed by a colon. Titles are not included and the names of the individuals signing are not typed on the agreement. Individuals should sign below the signature block. Examples are given below:

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE REPUBLIC OF HONDURAS:

Or if the agreement is between agencies or departments:

FOR THE UNITED STATES
COAST GUARD

FOR THE BARBADOS DEFENSE
FORCE

13) Table of examples of binding and non-binding language:

Language that May Indicate an Intention to be Legally Bound	Language that May Indicate an Intention Not to be Legally Bound
Shall, will, agree, commit	Plan to, intend, expect, anticipate should, may
Commitment, agreement	Understanding, statement, declaration
Parties, party	Participants, countries, institutions, sides
Agreement, treaty, convention, protocol	Statement, arrangement, mechanism
Entry into force	Date activities commence, today's date