

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The text is centered within the hourglass.

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*The Department of Defense Role in Foreign Assistance:  
Background, Major Issues, and Options for Congress*

Nina M. Serafino, Coordinator, Foreign Affairs, Defense, and Trade Division

December 9, 2008

**Abstract.** In the second session of the 110th Congress, Members have faced several choices regarding the DOD role in foreign assistance. The Bush Administration has proposed legislation to make permanent two controversial DOD authorities. It has also proposed legislation to enable U.S. government civilian personnel to perform some of the tasks currently carried out by the U.S. military, as well as to form a civilian reserve corps for that purpose. Congress may also consider options to improve DOD coordination with civilian agencies on foreign assistance activities.

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# The Department of Defense Role in Foreign Assistance: Background, Major Issues, and Options for Congress

Nina M. Serafino, Coordinator  
Specialist in International Security Affairs

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## Summary

The Department of Defense (DOD) has long played a role in U.S. efforts to assist foreign populations, militaries, and governments. The use of DOD to provide foreign assistance stems in general from the perception that DOD can contribute unique or vital capabilities and resources because it possesses the manpower, materiel, and organizational assets to respond to international needs. Over the years, Congress has helped shape the DOD role by providing DOD with its mandate for such activities through a wide variety of authorities.

The historical DOD role in foreign assistance can be regarded as serving three purposes: responding to humanitarian and basic needs, building foreign military capacity and capabilities, and strengthening foreign governments' ability to deal with internal and international threats through state-building measures. The United States and the U.S. military benefit from DOD foreign assistance activities in several ways. U.S. diplomacy benefits from the U.S. military's capacity to project itself rapidly into extreme situations, such as disasters and other humanitarian emergencies, enhancing the U.S. image as a humanitarian actor. Humanitarian assistance, military training, and other forms of assistance also provide opportunities to cultivate good relations with foreign populations, militaries, and governments. U.S. military personnel have long viewed such activities as opportunities to interact with foreign militaries as part of their professional development. Since the terrorist attacks on the United States of September 11, 2001, DOD training of military forces and provision of security assistance have been an important means to enable foreign militaries to conduct peacekeeping operations and to support coalition operations in Iraq and Afghanistan.

DOD's perception of the appropriate non-combat role for the U.S. military has evolved over time. Within the past few years, the perceptions of DOD officials, military officers, and defense analysts have coalesced around a post-9/11 strategy that calls for the use of the U.S. military in preventive, deterrent, and preemptive activities. This strategy involves DOD in the creation of extensive international and interagency "partnerships," as well as an expanded DOD role in foreign assistance activities. Critics point to a number of problems with an expanded DOD role in many activities. Indeed, a key DOD document acknowledges that state-building tasks may be "best performed by indigenous, foreign, or U.S. civilian professionals." Nevertheless, although reluctant to divert personnel from combat functions, DOD officials believe that the U.S. military must develop its own capacity to carry out such activities in the absence of appropriate civilian forces.

In the second session of the 110<sup>th</sup> Congress, Members have faced several choices regarding the DOD role in foreign assistance. The Bush Administration has proposed legislation to make permanent two controversial DOD authorities. It has also proposed legislation to enable U.S. government civilian personnel to perform some of the tasks currently carried out by the U.S. military, as well as to form a civilian reserve corps for that purpose. Congress may also consider options to improve DOD coordination with civilian agencies on foreign assistance activities.

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## Introduction<sup>1</sup>

Among the foreign policy questions that the 111<sup>th</sup> Congress will face is one that has surfaced repeatedly for over 60 years and has resurfaced during the previous Congress: what is the appropriate role for the Department of Defense (DOD) in foreign assistance? DOD has long played a role in U.S. efforts to assist foreign populations, militaries, and governments. The use of DOD to provide foreign assistance stems in general from the perception that DOD can contribute unique or vital capabilities and resources because it possesses the manpower, materiel, and organizational assets to respond to international needs. Over the years, Congress has shaped the DOD role through a wide variety of authorities contained in the Foreign Relations and Intercourse (Title 22 U.S. Code) and Armed Services (Title 10 U.S. Code) statutes, and through annual legislation. To some analysts, the DOD role has been in effect a product of Congress's willingness to fund defense rather than foreign affairs budgets. In some instances, the activities in which DOD participates serve an institutional purpose for the U.S. military, providing U.S. soldiers and sailors with opportunities for military training, for cultivating military-to-military contacts, and for gathering information on foreign countries where they may someday be called to operate.

The historical DOD role in foreign assistance can be regarded roughly as serving three purposes:

- **Responding to humanitarian and basic needs.** Since at least the 19<sup>th</sup> century, U.S. military forces have provided urgent assistance to foreign populations in time of disasters, such as earthquakes and floods. More recently, U.S. military forces have also provided aid in humanitarian crises such as famines and forced population movements. DOD aids foreign populations under authorities to conduct humanitarian assistance in a variety of other circumstances, including as an adjunct to military training and exercises with and as part of military operations.
- **Building foreign military capacity and capabilities.** DOD provides military equipment, weapons, training, and other assistance to build up the military capacity and capabilities of friendly foreign countries. Such support is provided to augment military capacity to perform counternarcotics, counterterrorism, internal defense, border defense, and other missions, and as part of post-conflict state-building. The origins of current programs date to the early years after World War II, when the United States sought to help rebuild Europe.
- **Strengthening foreign governments.** Besides building foreign military capacity, DOD plays a role in U.S. efforts to help foreign governments secure their territories against internal and international threats with a variety of non-military tools. These include state-building efforts, such as strengthening police forces, and bolstering the legitimacy of foreign governments by undertaking small-scale economic, health, and social projects (and in the case of conflict zones, political projects), generally in areas outside capital cities. Although such efforts were carried out sporadically as early as the 19<sup>th</sup> century, the post-World War II U.S. occupations in Germany and Japan are regarded as state-building models. More

<sup>1</sup> The introduction and overview were prepared by Nina M. Serafino, Specialist in International Security Affairs. These sections draw on the appendices at the end of the report by several CRS analysts from the Foreign Affairs, Defense, and Trade Division.

recently, DOD support for border protection and nuclear non-proliferation initiatives strengthens foreign governments by curbing international threats.

During the past few years, Congress has provided DOD with new, non-combat authorities to prosecute the wars in Afghanistan and Iraq and to conduct counterterrorism<sup>2</sup> activities elsewhere. Congress granted these authorities in response not only to the immediate needs of U.S. military operations in conflict zones, but also to the Bush Administration's efforts, in the wake of the terrorist attacks on the United States of September 11, 2001 (9/11), to redirect and reshape U.S. government capabilities in a new strategic environment. As a result, some analysts believe that DOD is playing too large a role in assisting foreign populations, militaries, and governments. Critics view this role as potentially detrimental to U.S. foreign policy, citing a perceived lack of strategic coordination between DOD and the State Department (and other agencies where applicable), a failure to ensure that DOD programs are sustainable, and a militarization of the United States' image abroad. These analysts call for greater clarity and reforms in defining DOD's foreign assistance role and responsibilities.<sup>3</sup> This report provides Congress with historical context and current information and perspectives regarding DOD's role and responsibilities in a range of foreign assistance activities.

In an overview and appendices, this report provides background information on and discusses issues related to the DOD's role in providing U.S. foreign assistance and undertaking foreign assistance-type activities. Topics include the types of assistance DOD provides, the authorities under which DOD conducts its programs, and coordination and cooperation mechanisms between DOD and other agencies. The report begins with a brief introduction to the three areas in which DOD plays a role in foreign assistance and to Congress's part in authorizing that role. Next, the report briefly discusses the general evolution of DOD's role and the Department of State's current perception of that role based on current national security needs. The report then provides an overview of the evolution of the DOD role and current activities in the three areas cited above, with a snapshot of the varying perspectives on the DOD roles in these areas. Finally, the report discusses issues that Congress may wish to consider. The appendices provide more detailed information on the current and most significant foreign assistance programs in which DOD plays a role.

This report refers to a *Department of Defense* role in foreign assistance rather than a *U.S. military* role because DOD may use either military troops or civilian contractors, or both, to implement

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<sup>2</sup> The term *counterterrorism* in this report refers to offensive measures taken to prevent, deter, and respond to terrorism.

<sup>3</sup> Several recent reports reflect these perceptions. Two of these are congressional reports: U.S. Congress, Senate, Committee on Foreign Relations, *Embassies as Command Posts in the Anti-Terror Campaign*. Washington, D.C., December 2006 (hereafter referred to as 2006 SFRC Report) and U.S. Congress, House, *Conference Report on the National Defense Authorization Act for FY2008* to accompany H.R. 1585, H.Rept. 110-447, Section 952, December 6, 2007. Two were produced by Washington, D.C.-based think tanks: Center for Strategic and International Studies (CSIS), *Integrating 21<sup>st</sup> Century Development and Security Assistance*, Final Report of the Task Force on Non-Traditional Security Assistance, CSIS Report, December 2007 (hereafter referred to as CSIS Task Force Final Report 2007); and Stewart Patrick and Kaysie Brown, *The Pentagon and Global Development: Making Sense of the DOD's Expanding Role*, Center for Global Development, Working Paper no. 131, November 2007 (hereafter referred to as *The Pentagon and Global Development*). Another was produced by an international organization: Organization for Economic Co-Operation and Development, *The United States: Development Assistance Committee (DAC) Peer Review*, 2006, p. 15. (hereafter referred to as the DAC Peer Review 2006). Another was produced by a group of non-governmental organizations: George Withers, Adam Isacson, Lisa Haugaard, Joy Olson, and Joel Fyke, *Ready, Aim, Foreign Policy*, a joint publication of the Center for International Policy, the Latin America Working Group Education Fund, and the Washington Office on Latin America, March 2008.

programs. The term *U.S. military* is used only for activities in which U.S. troops are used exclusively.

## Overview: DOD's Evolving Response to Perceived Needs

DOD's perception of the appropriate non-combat role for the U.S. military has evolved over time. During the years in which the United States' primary national security threats were posed by other States, there were differing perspectives within DOD on the use of the military in non-combat roles. With the fall of the Soviet Union, these differences sharpened. Within the past few years, the perceptions of DOD officials, military officers, and defense analysts have coalesced around a post-9/11 strategy that calls for the use of the U.S. military in preventive, deterrent, and preemptive activities. This strategy involves DOD in the creation of extensive international (and interagency) "partnerships," as well as an expanded DOD role in foreign assistance activities.

The February 2006 *Quadrennial Defense Review Report* (QDR) is the first key document that reflects the evolution of DOD thinking as it grapples with the implications of 9/11 for U.S. national security and U.S. defense policy.<sup>4</sup> The assertion of top U.S. defense officials and military leaders that DOD needs "new and more flexible" authorities to operate in the current strategic environment forms the rationale for DOD's request for new authorities,<sup>5</sup> especially to advance a new "Partnership Strategy."<sup>6</sup>

As outlined in the 2006 QDR, the Partnership Strategy is one of DOD's key tools for the United States' "long war" against a new threat—that is, the decentralized networks of "violent extremists who use terrorism as their weapon of choice," who "will likely attempt to use" weapons of mass destruction "in their conflict with free people everywhere."<sup>7</sup> Countering such networks, as well as the rogue powers that may sponsor them, will require "long-duration, complex operations involving the U.S. military, other government agencies and international partners," which are waged simultaneously in multiple countries.<sup>8</sup> To do so will also require that the United States

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<sup>4</sup> U.S. Department of Defense. *Quadrennial Defense Review Report*. February 6, 2006. (Hereafter referred to as 2006 QDR.) The QDR is a congressionally mandated report (Title 10 U.S.C. Section 118) produced every four years that delineates a national defense strategy consistent with the President's most recent National Security Strategy, based on the perceived threats to U.S. interests, and defines the necessary force structure, modernization plans, infrastructure, budget, and other elements to carry out that defense strategy. The 2002 National Security Strategy, the most recent before the 2006 QDR, sets forth eight tasks for the U.S. government, among them four which directly involve DOD: (1) "strengthen alliances to defeat global terrorism and work to prevent attacks against us and our friends"; (2) "work with others to defuse regional conflicts"; (3) "prevent our enemies from threatening us, our allies, and our friends, with weapons of mass destruction"; and (4) "transform America's national security institutions to meet the challenges and opportunities of the twenty-first century." pp. 1-2.

<sup>5</sup> *Ibid.*, p. 83. The full quote states: "The ability to wage irregular and unconventional warfare and the skills needed for counterinsurgency, stabilization and reconstruction, 'military diplomacy' and complex interagency coalition operations are essential—but in many cases require new and more flexible authorities from the Congress."

<sup>6</sup> 2006 QDR, *op. cit.* The previous QDR, although published in late September 2001, was written and cleared before the 9/11 attacks.

<sup>7</sup> *Ibid.*, p. v.

<sup>8</sup> *Ibid.*, p. 23.

“assist others in developing the wherewithal to protect their own populations and police their own territories, as well as to project and sustain forces to promote collective security.”<sup>9</sup>

In the 2006 QDR, as elsewhere, DOD maintains that developing the foreign “wherewithal” to enhance domestic and collective security requires a “whole of government” approach. Through the November 2005 DOD Directive 3000.05, entitled the *Directive on Military Support for Stability, Security, Transition, and Reconstruction (SSTR) Operations*, defense leaders mandated that DOD “be prepared to conduct and support” civilian agencies in conducting SSTR operations, but also indicated doubt that civilian agencies will create the needed capabilities to carry out state-building tasks. Thus, while DOD acknowledges that state-building tasks may be “best performed by indigenous, foreign, or U.S. civilian professionals,” it also sees a need to develop its own capability to perform “all tasks necessary to establish or maintain order when civilians cannot do so.”<sup>10</sup> As reflected in the 2006 QDR, DOD is placing a new emphasis on the utility of non-combat foreign assistance activities and expects to continue to play an important, if not a proportionately expanding, role in U.S. foreign assistance in the developing world.

DOD subsequently reiterated these points. In October 2007, Defense Secretary Robert Gates referred to this new perception of the DOD role: “And until our government decides to plus up our civilian agencies like the Agency for International Development [USAID], Army soldiers can expect to be tasked with reviving public services, rebuilding infrastructure, and promoting good governance. All these so-called ‘nontraditional’ capabilities have moved into the mainstream of military thinking, planning, and strategy—where they must stay.”<sup>11</sup> This theme was once again repeated in the June 2008 National Defense Strategy, which found that U.S. forces had “stepped up to the task of long-term reconstruction, development, and governance” and that the “U.S. Armed Forces will need to institutionalize and retain these capabilities,” while noting that “this is no replacement for civilian involvement and expertise.”<sup>12</sup>

In a report to Congress in mid-2007, the State Department had argued in favor of new permanent DOD authorities. It viewed such authorities, including several mentioned below, as a means “to provide a flexible, timely, and effective whole-of-government approach to today’s security environment that is well coordinated in the interagency [coordination process] both in Washington at the policy level and in the field at the operational level, and with appropriate, relevant oversight by Congress.”<sup>13</sup>

<sup>9</sup> Ibid., p. 20.

<sup>10</sup> The November 2005 DOD Directive 3000.05, the *Directive on Military Support for Stability, Security, Transition, and Reconstruction (SSTR) Operations*. (Hereafter referred to as DOD Directive 3000.05.) This directive discusses state-building tasks as part of stability operations. It is the first DOD document to designate stability operations as “a core U.S. military mission.” The state-building tasks it specifically lists are helping to rebuild indigenous institutions, including security forces, correctional facilities, and judicial systems; reviving or building the private sector, and developing representative governmental institutions. This directive may be accessed at <http://www.dtic.mil/whs/directives/corres/html/300005.htm>; last accessed July 22, 2008. For more on this topic, CRS Report RL33557, *Peacekeeping and Related Stability Operations: Issues of U.S. Military Involvement*, by Nina M. Serafino.

<sup>11</sup> U.S. Department of Defense. Speech by Secretary of Defense Robert M. Gates to the Association of the United States Army, Washington, D.C., October 10, 2007. Accessed through <http://www.defenselink.mil/speeches>; last accessed July 22, 2008.

<sup>12</sup> U.S. Department of Defense. *National Defense Strategy*, June 2008, p. 17. In the same paragraph, this document stated: “Greater civilian participation is necessary both to make military operations successful and to relieve stress on the men and women of the armed forces. Having permanent civilian capabilities available and using them early could also make it less likely that military forces will need to be deployed in the first place.”

<sup>13</sup> U.S. Department of State. *Report to Congress: Section 1206(f) of the 2006 National Defense Authorization Act*. (continued...)

The following sections discuss DOD's traditional and current responsibilities in disaster assistance and humanitarian activities, assistance to foreign militaries, and assistance in other state-building areas. They also discuss recent proposals for enhanced authorities as spelled out in the QDR and related legislation submitted to Congress.

## Responding to Humanitarian and Basic Needs

DOD engagement in U.S. government disaster relief and humanitarian assistance activities is longstanding, with U.S. military forces playing an important role in U.S. disaster assistance since at least the 19<sup>th</sup> century.<sup>14</sup> DOD also plays a role in other humanitarian emergency situations, such as providing aid and protection for relief workers in cases of famine or forced population movements. More routine humanitarian assistance activities and civic action programs abroad date back at least to the turn of the 20<sup>th</sup> century; these usually take place in the context of U.S. training exercises or military operations.

## Evolution of Humanitarian Programs, Authorities, and Funding Since the 1980s

Beginning in the mid-1980s, Congress provided specific DOD authorities for humanitarian aid as the Reagan Administration's civilian leadership sought means to support its allies in conflicts in Central America and Afghanistan. During that period, Congress provided specific authority to DOD to (1) provide nonlethal excess property and supplies from the DOD stocks when requested by the State Department and for distribution by the State Department; (2) provide space-available military transportation for private donors to send supplies and food to needy foreign populations; and (3) carry out civic assistance programs that involve small-scale construction, reconstruction, and maintenance projects, and provide limited medical attention to rural populations. (See **Appendix A** and **Appendix C**.)

Since then, Congress has somewhat modified and expanded DOD disaster response and humanitarian programs, incorporating aid to mitigate environmental disasters and demining training, and has introduced separate health programs. (See **Appendix A**, **Appendix B**, and **Appendix C**.) Thus, DOD disaster and humanitarian aid now encompasses a broader range of potential assistance than the basic humanitarian relief of food and emergency supplies provided by non-governmental organizations. In 1994, Congress established the Overseas Humanitarian, Disaster and Civic Aid (OHDACA) DOD budget account to fund many of these programs.<sup>15</sup>

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(...continued)

Released by the Bureau of Political-Military Affairs. July 3, 2007. Hereafter referred to as the *Section 1206(f) 2006 NDAA Report*. This report is available through the Department of State website: <http://www.state.gov/t/pm/rls/rpt/spec/90867.htm>; last accessed July 22, 2008.

<sup>14</sup> Carol Lancaster, *Foreign Aid: Diplomacy, Development, Domestic Politics* (Chicago: University of Chicago Press, 2007), p. 63.

<sup>15</sup> Section 1411, P.L. 103-337, the National Defense Authorization Act (NDAA) for Fiscal Year 1995. The account was first authorized at \$86 million. It was established to cover activities under 10 U.S.C. 401, 402, 404 (newly established by that bill), 2547, and 2551.

## **Disaster Relief and Related Humanitarian Assistance**

The DOD role in providing disaster relief to foreign populations when natural and manmade disasters strike serves both foreign affairs and military needs. The lead authority for disaster response is the U.S. Agency for International Development (USAID), and DOD participation is conducted on the direction of the President or at the request of the State Department, through the appropriate U.S. ambassador. Nevertheless, DOD is often the first U.S. agency to respond to foreign disasters and other humanitarian crises because of its readily deployable resources. DOD international emergency responses allow the United States to contribute effectively in alleviating suffering abroad and enhancing the country's international image, as well as the U.S. domestic and foreign image of the U.S. military. (See **Appendix A.**) Such activities are also undertaken for strategic or foreign policy reasons. A famous post-World War II example of such motivation was the 1948-1949 Berlin airlift, when U.S. Air Force and [British] Royal Air Force flights of relief supplies to Soviet-blockaded West Berlin demonstrated a U.S. and U.K. commitment to a strategically important area.

## **Humanitarian and Civic Assistance in the Context of Military Training and Operations**

Humanitarian and civic assistance programs, as currently conducted, usually take place in the context of training exercises and military operations. In that context, they are carried out as much for the U.S. military to gain situational awareness and the support of local populations as to alleviate suffering. When provided under Title 10 U.S. Code (10 U.S.C. 401), the primary purpose of the program must be to train U.S. armed forces. In addition, the assistance must not duplicate any other assistance, and it must meet the security interests of both the United States and the host country. Section 401 authority has been often used for training exercises for the National Guard, and for military reserve personnel and active duty personnel in certain specialties, especially medical personnel. U.S. Special Operations Forces also conduct humanitarian assistance activities as an adjunct to military training exercises with foreign militaries and as an integral part of stability and counterinsurgency operations. The Joint Combined Exchange Training (JCET) exercises with friendly foreign militaries are conducted under 10 U.S.C. 2011, primarily for the benefit of training the Special Operations Forces, but humanitarian assistance programs such as medical and veterinary visits may be added to cultivate goodwill among local populations and as part of the training for foreign troops.

U.S. humanitarian and civic assistance activities also can be an integral part of military operations. During the Korean and Vietnam conflict eras, military civic action programs that included medical assistance were an integral part of military efforts. Now, in counterterrorism and counterinsurgency operations, teams of U.S. Special Operations Forces work together with foreign militaries on small-scale humanitarian and civic action projects. The primary purposes of humanitarian and civic assistance in such operations are to extend the reach of the national government, enhance its legitimacy among local populations, and cultivate relationships and trust that may lead to information sharing on terrorists' locations and planned activities.<sup>16</sup>

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<sup>16</sup> Authors' interview with DOD officials, January 2008.

## New DOD Health Programs

Recently, Congress has added new health programs to the humanitarian assistance portfolio of the U.S. military. Beginning in FY2000, Congress has provided funds through the Defense Health Program to educate foreign military forces in HIV prevention activities in conjunction with U.S. military training exercises and humanitarian assistance activities in Africa. Subsequently, other DOD health programs have been added. (See Appendix B.)

## Provincial Reconstruction Teams and Commander's Emergency Response Program Funds in Afghanistan and Iraq

Congress provides special funding and authorities for programs with a humanitarian assistance component in the war zones of Afghanistan and Iraq. The DOD-lead Provincial Reconstruction Teams (PRTs) in Afghanistan and State Department-led units in Iraq, for which DOD provides security, are central to U.S. efforts to promote host government authority and stability to areas outside the capitals in those countries. These integrated civilian and military teams count humanitarian assistance among their tools to provide stability in difficult areas, extend the reach of the central government, strengthen local governments in Afghanistan and Iraq, and stimulate local economies. In addition, commanders on the ground in Afghanistan and Iraq use Commander's Emergency Response Program (CERP) funds, which Congress appropriates, to respond to urgent humanitarian relief and reconstruction needs.<sup>17</sup> (See Appendix K)

### Funding Accounts

For many years, prior to operations in Afghanistan and Iraq, funding for DOD disaster response and humanitarian assistance projects was appropriated annually in the Overseas Humanitarian, Disaster, and Civic Assistance (OHDACA) Account. This account covers disaster response and a variety of other humanitarian assistance programs codified under six Title 10 authorities.<sup>18</sup>

<sup>17</sup> CERP was created in 2003 by the Coalition Provisional Authority in Iraq. It initially used Iraqi funds for use in that country. Subsequently, Congress has provided CERP funding for use in Afghanistan and Iraq. Congress first provided up to \$180 million for the *Commander's* Emergency Response Program in the Emergency Supplemental Appropriations for Defense and the Reconstruction of Iraq and Afghanistan, 2004, P.L. 108-106, Section 1110, November 6, 2003. (Hereafter referred to as the FY2004 Emergency Supplemental Appropriations Act.) Congress subsequently provided additional funds: up to \$854 million in FY2005, up to \$500 million each for FY2006 and FY2007, and up to \$500 million thus far for FY2008. (See the Ronald W. Reagan NDAA for Fiscal Year 2005, P.L. 108-375, Section 1201, as amended by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror and Tsunami Relief, 2005, P.L. 109-12, Section 1006; the NDAA for Fiscal Year 2006, P.L. 109-163, Section 1202; and the Consolidated Appropriations Act, 2008, P.L. 110-161, Section 606(a)). The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (P.L. 110-417), Section 1214, reset the FY2008 authorization at \$1.7 billion and set the FY2009 authorization at \$1.5 billion. Note that the spelling for the first word in the name of this program is not consistent; it is sometimes spelled *Commanders'*. This report uses the spelling first used in legislation.

<sup>18</sup> These are 10 U.S.C. 401, 402, 404, 407, 2557, and 2561 (previously 2551). Section 401 authorizes DOD to carry out humanitarian and civic assistance activities in host nations in conjunction with military operations. Section 402, popularly referred to as the Denton Amendment, authorizes the Secretary of Defense to transport, without charge, humanitarian supplies (as well as supplies that respond to serious threats to the environment if other transport is not available) that have been provided by a non-governmental source to any country on a space available basis. Section 404 authorizes the President to direct the Secretary of Defense to provide international disaster assistance to prevent the loss of lives or serious harm to the environment. Section 407 provides authority for humanitarian demining assistance. Section 2557 authorizes providing nonlethal excess DOD supplies for humanitarian relief. Section 2561 provides additional authority for the transport of humanitarian relief and for other humanitarian purposes worldwide, as well as (continued...)

Congress gradually increased appropriations for OHDACA from \$49.7 million in FY2002 to \$63.204 million in FY2007.<sup>19</sup> These funds were available for one fiscal year. For FY2008, Congress appropriated \$40 million in that account specifically for disaster relief and response, to be available for two fiscal years (i.e., through FY2009), and an additional \$63.3 million to be available for those purposes for three fiscal years (i.e., through FY2010). For FY2009, Congress provided the Administration with the requested \$83.273 million in OHDACA funding.<sup>20</sup>

For FY2009, the Bush Administration sought monies for humanitarian purposes under a longstanding DOD account, the Combatant Commander Initiative Fund (CCIF), that provides funds to combatant commanders for a variety of purposes. In its FY2009 budget request, the Bush Administration asked for \$100 million for the CCIF specifically to meet unanticipated humanitarian relief and reconstruction needs. Over the past decade at least, Congress has appropriated \$25 million in annual DOD appropriation bills for the CCIF, and additional amounts in FY2005-FY2007 supplemental appropriations legislation, but, through FY2007 at least, the CCIF does not appear to have been used extensively for humanitarian projects.<sup>21</sup> For FY2009, Congress appropriated \$50 million for that account.<sup>22</sup>

## **Perspectives on Disaster and Humanitarian Assistance**

U.S. officials state that DOD has instructed military commanders to look more broadly than in the past at humanitarian assistance, employing it as a component of U.S. security cooperation with foreign nations.<sup>23</sup> Guidance to U.S. combatant commanders has stated that DOD regards humanitarian assistance as “foremost a tool for achieving U.S. security objectives,” which can also serve several “complementary security goals.”<sup>24</sup> The “complementary” goals cited are “improving DOD visibility, access, influence, interoperability, and coalition-building with military and civilian host nation counterparts; building/reinforcing security and stability in a host nation or region; generating positive public relations and goodwill for DOD that will enhance our ability to shape the regional security environment; bolstering host nation capacity to respond to

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(...continued)

authority to transport supplies to respond to or mitigate serious harm to the environment.

<sup>19</sup> The amounts in the intervening years were \$58.4 million for FY2003, \$59.0 million for each FY2004 and FY2005, and \$61.546 million for FY2006. Figures from annual DOD appropriations acts.

<sup>20</sup> Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, P.L. 110-417.

<sup>21</sup> U.S. Department of Defense, *Fiscal Year 2009 Budget Request Summary Justification*, February 4, 2008, p.103. When codified in 1991 (Title 10 U.S.C. Section 166a), the CCIF (then known as the CINC Initiative Fund), provided funds for exercises and military education and training of foreign personnel, and for “humanitarian and civil assistance.” A 2006 amendment changed “civil assistance” to “civic assistance, to include urgent and unanticipated humanitarian relief and reconstruction assistance,” and made the latter a priority category, “particularly in a foreign country where the armed forces are engaged in a contingency operation.” (John Warner NDAA for Fiscal Year 2007, P.L. 109-364, Section 902.) To this point, this fund may not have been used for extensively for humanitarian programs. In response to a Congressional Research Service request for information in 2007, DOD stated that just under \$1 million had been used for humanitarian purposes from FY2005 through FY2007. (Information provided by the Office of the Chairman of the Joint Chiefs of Staff, e-mail correspondence of November 7, 2007.)

<sup>22</sup> Consolidated Security, Disaster Assistance, and Continuing Appropriation Act, 2009, P.L. 110-329.

<sup>23</sup> Authors’ interview with DOD officials, December 2006.

<sup>24</sup> Joint message from the Office of the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict (SO/LIC) and the Defense Security Cooperation Agency (DSCA), providing policy and program management direction for FY2005 OHDACA planning and execution. Section 3 (General Guidance) A and B.

disasters ... and promoting specific operational readiness skills of US military personnel.”<sup>25</sup> The 2006 QDR places humanitarian assistance and disaster relief operations under the rubric of “humanitarian and early preventive measures” and claims that the use of such measures can “prevent disorder from spiraling into wider conflict or crisis.”<sup>26</sup>

State Department officials welcome the U.S. military’s ability to deliver disaster and humanitarian relief assistance in a timely fashion. They also tend to favor routine humanitarian assistance and civic action projects, albeit as a matter of necessity, because such projects allow the U.S. government to provide supplies and medical services to needy populations, and to construct schools and clinics in underserved areas, where funds are not otherwise available. These projects can create goodwill and personal contact for the United States, often in areas where U.S. diplomats would otherwise not venture.

DOD and U.S. military personnel attitudes toward disaster response and humanitarian relief vary. Attitudes tend to be favorable for immediate disaster response and for training exercises, particularly for National Guard and Reserve troops. Attitudes become ambivalent when U.S. military personnel are used for prolonged periods for humanitarian assistance in conventional operations.

Over the years, observers have raised a variety of concerns regarding humanitarian and civic assistance in non-emergency situations. Analysts have long faulted such assistance for sometimes being short-sighted and producing ill will when projects are not well selected.<sup>27</sup> In the 1990s, Congress scrutinized U.S. humanitarian and civic action activities in Central America.<sup>28</sup> Critics continue to view some projects as ill-conceived and at odds with sound development policy; for instance, schools built in areas where there are no teachers to staff them undermine the credibility of the United States and the host nation government, or assistance that, albeit inadvertently, benefits one ethnic group over another exacerbates ongoing conflicts.<sup>29</sup> (See **Appendix A.**) The Bush Administration has recently created new coordination mechanisms that may address such concerns. (See the section on DOD interaction with other agencies, below.)

## **Building Military Capacity and Capabilities**

Since the early years after World War II, U.S. military assistance programs to train and equip foreign military forces have been an important component of U.S. foreign assistance, and DOD has played a major role in those programs. Even though the major train and equip efforts are conducted under State Department programs, DOD has long been responsible for carrying out most of the work involved in building foreign military capacity and capabilities. Sizable military assistance programs put in place soon after World War II served the primary purpose of bolstering the defense capabilities of major allies against the Soviet Union, but in subsequent years, military

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<sup>25</sup> Ibid., Section 3B.

<sup>26</sup> 2006 QDR, *op. cit.*, p. 12.

<sup>27</sup> See especially John W. DePauw, “Understanding Civic Action,” in *Winning the Peace: The Strategic Implications of Military Civic Action*, Carlisle Barracks, PA: Strategic Studies Institute, U.S. Army War College, 1990, pp. 1-7. This book presents critical views of civic action from a sympathetic perspective.

<sup>28</sup> U.S. Congress, House Committee on Armed Services, Subcommittee on Oversight and Investigations, *Role of the DOD in Humanitarian Assistance*, hearing , 103<sup>rd</sup> Cong., 2<sup>nd</sup> sess., April 19, 1994, H.A.S.C. No. 103-49 (Washington: GPO, 1995).

<sup>29</sup> The Pentagon and Global Development, *op. cit.*

assistance programs also began increasingly to serve political and diplomatic, as well as military, ends. For the past several decades, military assistance—carried out through the State Department’s Foreign Military Sales (FMS) and International Military and Education Training (IMET) programs—has become an important tool of bilateral relations, intended to strengthen and cement relations with foreign governments, reward allies, and cultivate new partners. A recently added State Department program to train and equip foreign peacekeepers and a DOD program to train and equip foreign military forces for both counterterrorism missions and stability operations reflect the intention to develop capable international partners in quelling conflict and curbing terrorism. For many years, DOD training of foreign military forces was carried out by Special Operations Forces, but now DOD officials describe it as a key mission for the U.S. military as a whole.<sup>30</sup>

### Evolution of Military Assistance Authority

The Mutual Defense Assistance Act (MDAA) of 1949 was the legal forerunner to all major post-World War II military assistance programs. Congress passed the MDAA to provide weapons and military equipment to the newly established North Atlantic Treaty Organization (NATO) and to a number of other countries.<sup>31</sup> The MDAA’s successors, the Military Security Act (MSA) of 1951 and the MSA of 1954,<sup>32</sup> were the major vehicles for U.S. foreign assistance until the enactment of the Foreign Assistance Act of 1961, which stands today as current law. The MSA of 1951 created the Mutual Security Agency in the Executive Office of the President. The MSA Director was responsible for the “continuous supervision, general direction, and coordination of all foreign aid—military, economic, and technical assistance.”<sup>33</sup> Thus, during the early part of the 1950s, DOD administered the military assistance programs under the White House’s policy direction and guidance.<sup>34</sup> Congress subsequently moved responsibility for non-military aid to the State Department (P.L. 81-329, 63 Stat. 714), whose officials were charged with coordinating with DOD regarding military aid.<sup>35</sup> As described by the forerunner of the Congressional Research Service in 1959, the purpose of the State Department coordination of military aid (identified as “an important instrument of U.S. foreign policy”) with other forms of aid was “to help achieve the basic policy goals decided upon by the President with the advice of the National Security Council” (NSC).<sup>36</sup>

<sup>30</sup> Secretary of Defense Gates’ October 2007 speech, *op. cit.*

<sup>31</sup> The MDAA (P.L. 81-329, 63 Stat. 714) authorized military aid to the original NATO nations (Canada and 10 European nations) and to Turkey, Greece, Korea, Iran, the Philippines, and Taiwan. CRS Report 85-91 F, *An Overview of United States Military Assistance Programs*, by Richard F. Grimmett. This archived report is available from the author.

<sup>32</sup> P.L. 82-165 (65 Stat. 373) and P.L. 83-665 (68 Stat. 832).

<sup>33</sup> The Library of Congress Legislative Reference Service, *U.S. Foreign Aid: Its Purposes, Scope, Administration and Related Information*, February 27, 1959, pp. 139-140. Hereafter referred to as “U.S. Foreign Aid.”

<sup>34</sup> With the creation of a Foreign Operations Administration (FOA) in 1953 to administer economic aid and technical assistance, the Secretary of Defense was also subject to coordination with and supervision by the FOA Director, who reported directly to the President. Congress divested the FOA director of responsibility for supervising military aid in 1954. U.S. Foreign Aid, *ibid.*, pp. 141-142.

<sup>35</sup> In 1955, Congress established the International Cooperation Administration within the State Department, among whose functions was coordinating nonmilitary aid with DOD-administered military aid. Congress moved coordination responsibility to a higher level, the Under Secretary of State for Economic Affairs, when it created that post in 1958. U.S. Foreign Aid, *op. cit.*, p. 142.

<sup>36</sup> U.S. Foreign Aid, *op. cit.*, p. 130.

## *Origins of State Department Programs and Oversight*

As economic and development assistance became the U.S. government's preferred tool for countering Soviet influence in the developing world, Congress entrusted the State Department with the leadership role for foreign assistance, including military assistance, when it passed the Foreign Assistance Act (FAA) of 1961.<sup>37</sup> Since then, with the exception of the period inclusive of the Vietnam War in the mid-1960s to the mid-1970s, the major foreign military assistance programs—the Foreign Military Sales (FMS) and Foreign Military Financing (FMF) program, and the International Military Education Training (IMET) program—have been carried out under State Department oversight and guidance.<sup>38</sup> These programs are implemented, however, by a DOD agency: the Defense Security Cooperation Agency (DSCA) under the DOD Under Secretary for Policy, and its predecessor.<sup>39</sup> (See **Appendix D** and **Appendix E**.) In 2005, Congress created a third State Department train and equip program, the Global Peace Operations Initiative (GPOI), to provide training in peacekeeping skills and related equipment to foreign militaries. (See **Appendix I**.)

## *DOD Education and Training Programs*

In addition to the major programs to build foreign military capacity under State Department authority, Congress authorizes and funds DOD to conduct a wide variety of smaller military-to-military education and training programs. These offer foreign military personnel the opportunity to attend U.S. military education and training programs, in addition to those funded under IMET, as well as conferences and meetings. They also provide the U.S. military with important opportunities to cultivate relations with foreign military officers. Congress generally requires all such activities to be conducted with the approval of the Secretary of State.<sup>40</sup> Combatant

<sup>37</sup> As now stated in the FAA of 1961, as amended, Section 622(c) (22 U.S.C. 2382) states that the Secretary of State, under the direction of the President, “shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.” The original, 1961 language of Section 622(c) stated that the section applied to “assistance programs authorized by this Act....” A 1976 amendment deleted this limitation. (International Security Assistance and Arms Export Control Act, P.L. 94-329, Section 543(b)(2)(B)). The Arms Export Control Act, which as of 1968 authorizes the FMS/FMF program, similarly mandates that the Secretary of State, under the direction of the President, be responsible for “the continuous supervision and general direction of sales, leases, financing, cooperative projects, and exports under this chapter....” (P.L. 90-629, as amended, Chapter 1, Section 2(b), 22 U.S.C. 2752.)

<sup>38</sup> Foreign Military Financing, as well as Foreign Military Sales, are carried out under the Arms Export Control Act (AECA), as amended (P.L. 90-629). Section 2(a) of that Act (22 U.S.C. 2752) states that nothing contained in the Act “shall be construed to infringe upon the powers or functions of the Secretary of State.” Section 2(b) states that the Secretary of State, under the direction of the President, “shall be responsible for the continuous supervision and general direction of sales, leases, financing, cooperative projects, and exports under this Act....”

<sup>39</sup> The Defense Security Assistance Agency (DSAA) became the DSCA in 1999. In 2000, DOD Directive 5105.65 expanded the responsibilities originally carried out by the DSAA. Among other tasks, DSCA helps develop, coordinate, and implement security and cooperation assistance plans and programs, including FMS, FMF, IMET, humanitarian assistance, humanitarian civic action, mine action training, and other programs. More information is available on its website, at <http://www.dsc.osd.mil>; last accessed July 22, 2008.

<sup>40</sup> Numerous DOD educational institutions offer education and training to foreign students. The military service schools offer such opportunities, as do the DOD regional centers for security studies (i.e., the George C. Marshall European Center for Security Studies, the Asia-Pacific Center for Security Studies, the Center for Hemispheric Defense Studies, the Africa Center for Strategic Studies, and the Near East-South Asia Center for Strategic Studies [the last three of which are at the National Defense University]). The Political-Military Bureau at the State Department publishes an (continued...)

commanders may also use up to \$5 million from the CCIF in any fiscal year “to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries...”<sup>41</sup>

### ***DOD Counternarcotics Train and Equip Support***

Under Title 10 U.S. Code (10 U.S.C. 124), DOD is the lead U.S. government agency on the detection and monitoring of aerial and maritime transit of illegal narcotics into the United States, but it falls under the oversight of the Secretary of State, who is charged with coordinating counternarcotics assistance (22 U.S.C. 2291). Since the 1990s, DOD has provided training and related support to foreign militaries and law enforcement authorities for counternarcotics purposes under authorities that Congress extends regularly in annual defense authorization legislation. (See **Appendix F**.) Under “Section 1004” authority, first established in 1990 to enable DOD to support counterdrug agencies and currently extended through FY2011,<sup>42</sup> DOD may provide training and other support to improve foreign counternarcotics capabilities at the request of any U.S. federal department or agency, or of any U.S. state, local, or foreign law enforcement agency. Under “Section 1033” authority, first established in 1997 and currently extended through FY2009,<sup>43</sup> DOD may provide patrol, boats, vehicles, aircraft, and other equipment to designated foreign governments and maintain and repair those items. Originally provided for Colombia and Peru, this authority now covers 16 more countries. Human rights concerns have figured prominently in congressional consideration of the DOD role in counternarcotics programs. Largely in response to such concerns, in 1998, Congress placed a restriction in the DOD appropriations bill prohibiting U.S. training of foreign military units for which credible evidence exists of gross violations of human rights.<sup>44</sup> This restriction has been extended annually but is less restrictive than the provision in foreign operations appropriations, first enacted in 1997 and codified in 2007, which prohibits the use of State Department funds for any assistance to military units for which credible evidence is found of gross violations of human rights.<sup>45</sup>

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annual report entitled *Foreign Military Training and DOD Engagement Activities of Interest*, as required by the Foreign Assistance Act of 1961, as amended, Section 656 (22 U.S.C. 2416). The State Department publishes the unclassified portions of the report on its website.

<sup>41</sup> 10 U.S.C. 166a(e)(C).

<sup>42</sup> NDAA for Fiscal Year 1991, P.L. 101-510, Section 1004 (10 U.S.C. 374 note); last extended and amended by the Duncan Hunter NDAA for FY2009, P.L. 110-417, Section 1024.

<sup>43</sup> NDAA for Fiscal Year 1998, P.L. 105-85, Section 1033, last amended and extended through legislation including the FY2007 John Warner NDAA, P.L. 109-364, Section 1022.

<sup>44</sup> Department of Defense Appropriations, 1999, P.L. 105-262, Section 8130 and restated in annual defense appropriations acts thereafter, most recently in, DOD Appropriations, 2008 (P.L. 110-116, Section 8062). The latest version of the “Leahy Amendment” states that none of the funds made available by the Act “may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.” The Secretary of Defense may waive this provision if he determines that “such a waiver is required by extraordinary circumstances.” The earlier version forbid the use of funds “if a member of” a potential recipient unit had committed such a violation.

<sup>45</sup> The comprehensive version of the human rights provision popularly known as the Leahy Amendment (i.e., the ban on any foreign operations assistance to foreign security forces for which credible evidence was found of gross violations of human rights) was first enacted as Section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (P.L. 105-118), and in annual foreign operations appropriations thereafter. Earlier versions of this restriction had applied to specific countries, programs, or funding accounts; e.g., such a restriction was placed on counternarcotics assistance in the section on the Department of State’s International Narcotics Control (continued...)

## ***DOD “Section 1206” Military Capacity Building Authority for Counterterrorism and Stability Operations***

In 2005, Congress provided DOD with authority and funds for a major DOD-run train and equip program. Established by Section 1206 of the NDAA for Fiscal Year 2006 as a temporary “pilot program,” this “Foreign Military Capacity Building” authority allows DOD to transfer funds to train and equip foreign militaries to enable those forces to better conduct counterterrorism operations or to “participate in or support military and stability operations in which the United States Armed Forces” participate.<sup>46</sup> Currently in effect through FY2008, this “Section 1206” authority has provided up to \$200 million in FY2006, and up to \$300 million in FY2007 and FY2008 to meet needs that emerged after the planning cycle for the regular budget submission. In the Duncan Hunter NDAA for Fiscal Year 2009, Section 1206, Congress increased funding authority to \$350 million, extended the authority through FY2011, and broadened the scope of authority to include building the capacity of a foreign country’s maritime security forces to conduct counterterrorism operations. Section 1206 authority is subject to strict conditionality. The original FY2006 legislation required a presidential initiative to initiate a program; in FY2007, this was changed to permit the Secretary of Defense to authorize a program with the concurrence of the Secretary of State. Although the legislation does not require the Secretary of State’s “approval,” DOD and the State Department currently interpret “concurrence” to mean “approval.”<sup>47</sup> (See **Appendix H**.)

## ***DOD Desire for Permanent Foreign Military and Police Capacity Building Authority***

In 2007, Congress denied a DOD request to significantly expand Section 1206 authority to train and equip foreign military forces, substantially increase the funding, and make it permanent. In May 2007, DOD had proposed legislation for “Building the Partnership Capacity of Foreign Military and Other Security Forces” that would provide a new, permanent DOD authority to spend (or to transfer to the Department of State or other federal agency) up to \$750 million per year to train and equip foreign military and security forces to conduct counterterrorism operations or to participate in or support military and stability operations. There would be no requirement, as in Section 1206, that training for military and stability operations be tied to operations in which the U.S. military participated. The extension would permit DOD to train and equip gendarmerie, constabulary, internal defense, infrastructure protection, civil defense, homeland defense, coast guard, border protection, and counterterrorism forces. Rejecting the strict conditionality of

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account, P.L. 104-208, Omnibus Consolidated Appropriations for Fiscal Year 1997. Section 651 of Division J, P.L. 110-161, the Consolidated Appropriations Act, 2008, codifies this restriction at Section 620J (22 U.S.C. 2378d) of the Foreign Assistance Act of 1961, as amended. This provides that no assistance shall be furnished under the Foreign Assistance Act or the Arms Export Control Act “to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights.” An exception is made if the Secretary of State determines and certifies to Congress that the government of a country “is taking effective measures to bring the responsible members of the security forces unit to justice.”

<sup>46</sup> NDAA for Fiscal Year 2006, P.L. 109-163, Conference Report H.Rept. 109-360, p. 801, and the FY2007 John Warner NDAA Conference Report H.Rept. 109-702, p. 833.

<sup>47</sup> A DOD FY2009 budget document states that under the “dual-key” approval system developed for Section 1206 programs, U.S. embassies and the military combatant commands are encouraged to jointly formulate programs and the responsible embassy and command “must approve each program explicitly in writing.” U.S. Department of Defense, *Fiscal Year 2009 Budget Request Summary Justification*, February 4, 2008, p. 103.

Section 1206, DOD proposed that the Secretary of State be permitted to waive any restrictions that might apply. In 2007, the House Armed Services Committee (HASC) expressed skepticism regarding an extension of the program “in the absence of ... an established record of success.”<sup>48</sup>

In its FY2009 budget request, the Bush Administration asked Congress to codify an expanded version of Section 1206 that would increase the annual authorization to \$750 million and include a broad array of security forces in addition to military forces. The House version of the bill would extend current authority through FY2010 (Section 1206, H.R. 5658, the Duncan Hunter NDAA for FY2009). The Senate version of the NDAA for FY2009 (Section 1204, S. 3001) would extend Section 1206 authority through FY2011, increasing the annual authorization to \$400 million. It would also authorize the use of funds for security forces whose primary mission is counterterrorism, subject to the police training restrictions of 22 U.S.C. 2420. (See the section below on civilian capabilities for substantive objections to such authority.)

### Perspectives on Building Foreign Military and Other Security Force Capacity

DOD views training for foreign military and other security forces as an expanding area, and seeks expanded authorities for DOD programs. The 2006 QDR calls for DOD to “improve and increase IMET-like opportunities targeted at shaping relationships and developing future foreign leaders.”<sup>49</sup> More specifically, it recommends the expansion of DOD and State Department authorities “to train and equip foreign security forces best suited to internal counter-terrorism and counter-insurgency operations,” noting that these “may be non-military law enforcement or other security forces....”<sup>50</sup> In late 2007, Secretary of Defense Gates identified “the standing up and mentoring of indigenous army and police” as “a key mission for the military as a whole.”<sup>51</sup>

In the post-9/11 environment, some defense analysts have urged policy makers to develop more expeditious mechanisms for the United States to provide military training and military support. DOD officials argue that the routine planning processes through the traditional State Department “train and equip” authorities are too cumbersome and time-consuming, reflecting political rather than operational military needs, with the planning, budgeting, and implementation cycle taking two to three years. On the other hand, some Members of Congress have faulted Section 1206 for lacking enough added value to justify making permanent a major train and equip program outside the State Department’s authority. In a December 2006 report, the Senate Foreign Relations Committee stated its concern that the program was used largely to fund areas where the U.S.

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<sup>48</sup> In its report on the NDAA for FY2008, HASC stated that it had provided DOD with the limited Section 1206 authority over the past two years, despite the State Department’s historical responsibility for foreign military capacity building, because of DOD’s expression of “strong interest” in the program. Congress, however, according to HASC, “has clearly and strongly discouraged further legislative proposals to expand or make permanent DOD’s ‘train and equip’ authorities in the absence of this required report and an established track record of success.” U.S. Congress, House Committee on Armed Services, *National Defense Authorization Act for Fiscal Year 2008*, report of the Committee of Armed Services on H.R. 1585 together with additional views, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 110-146, part 1 (Washington: GPO, 2007), p. 401. Hereafter referred to as HASC.Report 110-146 on the FY2008 NDAA.

<sup>49</sup> 2006 QDR, *op. cit.*, p. 91.

<sup>50</sup> 2006 QDR, *op. cit.*, p. 90.

<sup>51</sup> He suggested that this is in contrast to the past, when only Special Operations Forces focused on training missions, but the inclusion of “police”—historically the province of other agencies—may be telling. See U.S. Department of Defense. Speech by Secretary of Defense Robert M. Gates, the “Landon Lecture” delivered at Kansas State University, Manhattan, Kansas, November 26, 2007. Accessed through <http://www.defenselink.mil/speeches>; last accessed July 22, 2008.

military sought to enhance military-to-military relations rather than to meet emerging needs.<sup>52</sup> The committee recommended that all security assistance, including that administered under Section 1206, be placed under State Department control.

Similarly, in line with a 2006 QDR recommendation<sup>53</sup> and the desire for more flexibility in providing assistance to allies and friendly states, DOD has also sought broader reimbursement authority for coalition support forces and expanded logistics support to other States “partnering” with the United States. Congress has been more responsive to these requests. (See **Appendix L.**)

## Strengthening Foreign Governments Against Internal and International Threats

DOD has supported foreign governments’ efforts to counter internal and international threats with assistance that goes beyond help to foreign military forces. In many situations, and currently in Afghanistan and Iraq, DOD has played a significant, if not a leading, role in tasks related to nation-building or state-building. Such tasks include helping establish or strengthen rule of law capabilities (police, judicial, and prison institutions and facilities), reinforcing the administrative capacity of central governments, strengthening local governments in rural areas, and bolstering national economies. Such state-building support is now widely perceived as a means to deter or control internal and international threats. Although U.S. military personnel carry out this role most often in combat situations, where the presence of untrained, unarmed civilians may be a liability, they may also carry out this role because of a shortage of trained civilian personnel. Because the circumstances have varied greatly, such assistance has usually been carried out under a mix of authorities and programs.

### Historical Precedents and Current Activities

The most notable example of U.S. military involvement in state-building occurred in the post-World War II military occupations of Germany and Japan, although there are earlier examples, such as the U.S. military occupation of the Philippines around the turn of the 20<sup>th</sup> century. In the 1990s, DOD personnel provided such assistance in peacekeeping and post-conflict operations as part of military operations in Somalia, Haiti, and Bosnia. Sometimes DOD provides such assistance to foreign governments as part of military counterterrorism, internal defense, and counterinsurgency efforts. Special operations forces teams carry out a variety of state-building activities, to strengthen local leaders and defuse ethnic and other rivalries, as part of their civic assistance projects. Congress also provides DOD with authority to train and otherwise assist foreign law enforcement officials to perform counternarcotics operations, although there is no standard source for determining the degree to which DOD provides such support.

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<sup>52</sup> 2006 SFRC Report, *op. cit.* “Section 1206 assistance, with the exception of Lebanon and Pakistan, is not addressing threats to the United States that are so immediate that ... [they] cannot be included in normal budget processes. The Secretary of State should insist that all security assistance, including Section 1206 funding, be included under his/her authority in the new process for rationalizing and prioritizing foreign assistance.” p. 3.

<sup>53</sup> 2006 QDR, *op. cit.* The recommendation is to expand DOD authority to provide logistics support, supplies and services to allies and coalition partners, without reimbursement if necessary, to enable them to participate in operations with U.S. armed forces. Two related recommendations are to “Establish a Defense Coalition Support Account to fund, and, as appropriate, stockpile routine defense articles such as helmets, body armor and night vision devices for use by coalition partners” and to “Expand Department authority to lease or lend equipment to allies and coalition partners for use in military operations in which they are participating with U.S. forces.” pp. 89-90.

## Activities in Iraq and Afghanistan

In Iraq and Afghanistan, Provincial Reconstruction Teams (PRTs) carry out state-building political and economic activities, in addition to civic assistance and humanitarian activities. Although no data are available on the extent to which state-building activities are directed or conducted by U.S. military personnel, soldiers are involved, particularly when there are not enough civilian members of a PRT.

U.S. military field commanders Iraq and Afghanistan carry out reconstruction projects with CERP funds, with each major subordinate commander authorized to approve grants up to \$500,000. Originally intended to help military commanders establish stability in hostile areas, CERP has now become a main source of funding for infrastructure development.<sup>54</sup> (See **Appendix K** on DOD in Iraq and Afghanistan Economic Reconstruction.) Congress has thus far denied Administration requests to extend CERP funding authority for DOD use on a worldwide basis.<sup>55</sup>

In Iraq, DOD's large role in infrastructure reconstruction has been unusual. While the State Department and USAID were tapped to manage early economic assistance programs in Iraq, DOD was called on in 2004 to carry out the largest infrastructure projects. Nevertheless, DOD's own Army Corps of Engineers (ACE) also was initially found insufficient to manage the task, and DOD contracted the job directly with private companies. ACE was subsequently tapped for a management role. Although the State Department assumed responsibility in 2005 for setting priorities for most aid programs, DOD developed, and Congress funded, a DOD program to rehabilitate some 200 Iraqi firms that had been state-owned under the Hussein regime, without either State Department or USAID input. (See **Appendix K**.)

## Perspectives on State-Building

Much of DOD's state-building activities have thus far been carried out within the context of military operations. For many years, DOD and U.S. military leaders rejected a nation-building role, arguing that it was not appropriate for U.S. military forces and detracted from combat readiness. As defense analysts and military personnel began to perceive state-building as essential to the success of peacekeeping and related operations, attitudes began to shift about the desirability of the U.S. military role in state-building. In 2005, DOD Directive 3000.05 identified state-building as key to the success of stability operations and stated that "U.S. military forces shall be prepared to perform all tasks necessary to establish or maintain order when civilians cannot do so."<sup>56</sup>

Critics find DOD state-building activities marred by a lack of both strategic planning and application of economic development "best practices," by the absence of civilian input and integration with civilian efforts, and by insufficient oversight. Some critics, however, recognize that the context in which some of these activities are undertaken can justify their ad hoc nature,

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<sup>54</sup> Special Inspector General For Iraq Reconstruction (SIGIR), *Review of the Effectiveness of the Provincial Reconstruction Team Program in Iraq*, 07-015, October 18, 2007, pp. 23-34. Hereafter referred to as SIGIR Review of PRT Effectiveness.

<sup>55</sup> The HASC, in its report on the FY2008 NDAA, stated that current DOD authority for humanitarian and reconstruction assistance under Title 10 U.S.C. Chapter 20 and 10 U.S.C. 2561 can be used by field commanders without bureaucratic obstacles. HASC Report 110-146 on the FY2008 NDAA, *op. cit.*, p. 399.

<sup>56</sup> DOD Directive 3000.05, *op. cit.*, p. 2.

short-term objectives, and lack of civilian expertise, and note that DOD has made efforts to improve soldiers' ability to carry out such tasks.<sup>57</sup> Concerns focus on the extension of state-building activities to non-conflict situations; for example, extending CERP authority worldwide, as requested by the Administration, without more State Department control, or activities of combatant commands, especially AFRICOM, might lead to perceptions that the United States is "militarizing" its foreign policy.

Defense experts implicitly acknowledged a factual basis for at least some criticisms of its state-building role by expressly stating in 2005 DOD Directive 3000.05 that civilians would be better suited to accomplish political, social, and economic tasks in many circumstances. Nevertheless, DOD officials regard the United States as faced with a strategic imperative to undertake such activities in the new global environment, and the U.S. military as charged with performing them where civilians cannot. DOD officials are currently grappling with the many issues and tradeoffs involved in better preparing military forces to carry out a wide variety of political, social, and economic tasks for stabilization and reconstruction, as well as other activities, alone or in conjunction with civilian personnel, in the absence of civilian personnel.<sup>58</sup> An important part of this task for DOD, the State Department, USAID, and other civilian agencies is to determine and prioritize an appropriate civil-military division of labor in non-combat areas.

With DOD's renewed request in 2008 to expand Section 1206 to allow training of foreign police and related security forces (including gendarmerie, constabulary, internal defense, and infrastructure) in addition to military forces, Congress is faced with a sensitive issue. Since at least the 1970s, Congress has been concerned with the possible human rights implications of U.S. assistance to foreign police forces in general, and DOD assistance in particular.<sup>59</sup> Nevertheless, many analysts argue that many more foreign police personnel are needed, especially gendarmes trained in both police and military skills, for post-conflict operations,<sup>60</sup> and some might prefer that DOD provide personnel to fill that training gap, especially in major post-conflict zones.

<sup>57</sup> For example, see 2006 CSIS Task Force Report, *op. cit.*, pp. 12-20.

<sup>58</sup> A May 2006 DOD memo on implementing the 2006 QDR strategy states that DOD "must be prepared to grow a new team of leaders and operators, who are comfortable working in remote regions of the world, dealing with local and tribal communities, adapting to foreign languages and cultures, working with local networks, operating alongside or within United Nations organizations, and working alongside non-governmental organizations to further US and partner interests through personal engagement, persuasion, and quiet influence—rather than through military force alone. To support this effort, new approaches to education assignments and career incentives, as well as new authorities are needed." Deputy Secretary of Defense, *Memorandum on Quadrennial Defense Review Building Partnership Capacity (BCP) Execution Roadmap (unclassified)*, May 22, 2006. p. 6.

<sup>59</sup> Congress has limited the assistance that U.S. government agencies can provide to foreign police forces since the 1970s, when such assistance was provided to police forces that were perceived of as violating human rights. Over the years, Congress has loosened restrictions by adding statutory exceptions to the codified prohibition on police training (Section 660 of the 1961 FAA, 22 U.S.C. 2420) for certain situations and providing exceptions for assistance to certain countries and situations elsewhere in law. Currently, the U.S. government provides assistance through the State Department and the Justice Department to foreign police forces in many countries. In addition, as mentioned above, since the 1990s, Congress has authorized DOD to provide training and other assistance to police forces and other law enforcement officials for counternarcotics purposes.

<sup>60</sup> The United States Institute of Peace (USIP) has published several works pointing to this gap. Recent publications include one on building U.S. police capacity to fill the gap, while another discusses the work of an Italian school to train constabulary police. See Robert M. Perito, "U.S. Police in Peace and Stability Operations," *USIP Special Report 191*, August 2007, and Michael Dziedzic and Colonel Christine Stark, "Bridging the Public Security Gap: The Role of the Center of Excellence for Stability Police Units (CoESPU) in Contemporary Peace Operations," *USIP Peace Briefing*, June 2006. Both last accessed through <http://www.usip.org>, July 22, 2008.

## Major Issues and Options for Congress

### What Are the Effects of DOD Activities on U.S. Foreign Relations and Foreign Policy Goals?

DOD is involved in a broad range of foreign assistance activities. U.S. military personnel deploy as first responders to foreign disasters and provide humanitarian relief and basic needs assistance in other urgent situations. U.S. military personnel also provide medical and veterinary assistance and civic support (such as the construction or repair of small educational and medical facilities) as a routine part of their training and as part of military operations. U.S. troops routinely train foreign military forces and are authorized to train police forces for counternarcotics missions. Recently, in the context of military operations in Iraq and Afghanistan, and elsewhere, they have provided humanitarian assistance and taken on state-building tasks related to political and economic development. For the past several years, DOD has worked to enhance its own capabilities to carry out state-building and to draw on civilian advice. It has also urged Congress to enhance the capabilities of civilian agencies to form partnerships with DOD in those activities.

DOD stresses a national security imperative for its activities in the foreign assistance area. Critics, however, most often judge DOD involvement in foreign assistance activities in terms of its effect on foreign relations and foreign policy goals. The following sections recapitulate the perceived benefits and liabilities of that involvement.

#### Summary of Benefits

The United States and the U.S. military benefit from DOD foreign assistance activities in several ways. U.S. diplomacy benefits from the U.S. military's capacity to project itself rapidly into extreme situations, such as disasters and other humanitarian emergencies, promoting the image of the United States as an humanitarian actor.<sup>61</sup> Especially in conflict situations, military forces can provide needed security, intelligence and aerial reconnaissance, command and control and communications capabilities, and maritime support.<sup>62</sup> Humanitarian assistance also provides a means to cultivate good relations with foreign populations, militaries, and governments. For U.S. diplomacy, military training and other security assistance can be a potent tool to cultivate or cement relations with foreign governments.

U.S. military personnel view humanitarian assistance and military training and education and other opportunities to interact with foreign militaries as part of their professional development. Such opportunities help soldiers enhance their skills to operate in a variety of foreign

<sup>61</sup> While the military can move quickly once authorized to deploy, one author points out that "The decision-making processes that activate them [i.e., military personnel] may reduce their respective advantage." Larry Minear and Philippe Guillot, *Soldiers to the Rescue: Humanitarian Lessons from Rwanda*, Paris: Organisation for Economic Co-operation and Development, 1966, p. 151. Hereafter referred to as *Humanitarian Lessons from Rwanda*.

<sup>62</sup> This list of benefits is taken from Organisation for Economic Co-operation and Development/Development Assistance Committee, (OECD/DAC) Task Force on Conflict, Peace and Development Co-operations, *Civilian and Military Means of Providing and Supporting Humanitarian Assistance During Conflict: Comparative Advantages and Costs*, Paris: OECD, 1998, pp. 12-15. (Hereafter cited as OECD/DAC Comparative Advantages and Costs.) This document also lists a military advantage providing a response to a possible future use of nuclear, biological or chemical weapons (p. 15).

environments and establish contacts with foreign military personnel that may serve them in future operations. Since 9/11, DOD training of military forces and provision of security assistance have been an important means to enable foreign militaries to conduct peacekeeping operations under the aegis of the United Nations and regional organizations and to participate with the United States in operations in Iraq and Afghanistan.

## Summary of Critiques

Observers have advanced several critiques of the DOD role. These deal with the effects on humanitarian activities of non-governmental organizations; the implications for foreign policy objectives, including counterterrorism, economic development, and state-building and democracy promotion; and the relative effectiveness of civilian versus military personnel.

Non-governmental organizations (NGOs) that carry out humanitarian missions hold mixed views on DOD humanitarian assistance activities. They generally do not criticize the use of the U.S. military in first response disaster relief operations. Some are critical, however, of the use of U.S. military forces in a broad range of “humanitarian and basic needs” activities in conflict areas. Although military forces can provide needed security in unstable environments, in some situations, military involvement in humanitarian assistance can be problematic. Especially when military personnel are directly involved in providing humanitarian assistance and other humanitarian acts, military assistance can be viewed as jeopardizing the lives and work of NGO personnel by stigmatizing them as participants in a military effort. These criticisms were provoked by the U.S. military’s humanitarian role in Afghanistan, where non-governmental humanitarian aid workers felt their neutrality was compromised by soldiers in civilian dress who distributed humanitarian aid as part of military operations. Since then, DOD has made an effort to engage non-governmental aid workers and to develop means to work together. While some humanitarian relief NGOs now welcome the security that military forces can provide in hostile areas, others still feel that their lives are endangered by the proximity of soldiers engaged in humanitarian activities. In areas without U.S. military involvement, local populations may also take the use of military personnel for such activities as a prelude to military action or intervention.<sup>63</sup>

The use of military forces may also impede the advancement of foreign policy goals. For instance, the December 2006 Senate Foreign Relations Committee report, *Embassies as Command Posts in the Anti-Terror Campaign*, viewed the use of DOD personnel for counterterrorism programs as an obstacle: “In Latin America, especially, military and intelligence efforts are viewed with suspicion, making it difficult to pursue meaningful cooperation on a counterterrorism agenda.”<sup>64</sup> As pointed out in **Appendix F** on counternarcotics cooperation, Mexico has resisted counternarcotics assistance that would involve the U.S. military. One analyst claims that “African publics and governments have already begun to complain that U.S. engagement is increasingly military.”<sup>65</sup>

<sup>63</sup> 2006 SFRC Report, *op. cit.*, states that there is evidence that some host country nationals question “the increasingly military component of America’s profile overseas. In Uganda, a military civil affairs team went to the northern part of the country to help local communities build wells, erect schools and carry out other small development projects to help mitigate the consequences of a long-running regional conflict. Local NGOs questioned whether the military was there to take sides in the conflict.” p. 12.

<sup>64</sup> 2006 SFRC Report, *op. cit.*, p. 12.

<sup>65</sup> Gerald Loftus, “Speaking Out: Expeditionary Sidekicks? The Military-Diplomatic Dynamic,” *Foreign Service* (continued...)

In the area of economic development, some analysts question whether the U.S. military objectives in carrying out small-scale infrastructure projects in conjunction with exercises and operations respond to short-term exigencies rather than abiding by development “best practices” to accomplish long-term structural reforms.<sup>66</sup> In the cases of Iraq and Afghanistan, some analysts point out that “some normal development practices will inevitably take a back seat to operational realities.”<sup>67</sup> In the case of humanitarian and civic action activities in non-conflict areas, however, a lack of integration with long-term development plans can raise expectations of economic growth and development that cannot be fulfilled with the limited resources available.

The use of U.S. military personnel in state-building activities may convey mixed signals in activities where the objective is to promote democracy and enhance civilian control. While the use of U.S. military forces is seen as appropriate in state-building efforts that involve the training of foreign militaries, some analysts believe that it may undermine that objective when used in other state-building activities by reinforcing stereotypes in underdeveloped nations—such as that military forces are more competent than civilians—or legitimize the use of military forces for civilian governmental responsibilities. Further, some analysts believe that DOD has failed to strengthen institutional mechanisms for civilian control in its dealings with foreign militaries.<sup>68</sup>

The lack of expertise within the military to carry out coherent plans for economic and political development in foreign nations is also considered problematic. While the placement of USAID officers within combatant commands may alleviate some of the worst problems, some analysts believe that their presence may not be sufficient to ensure that best practices are routinely applied.<sup>69</sup>

Civilians are cited as enjoying an overall advantage in many humanitarian and state-building tasks. Military forces are, however, recognized as possessing a decided advantage in some humanitarian mission tasks, such as providing security and air support, particularly in hostile situations. Despite that military advantage, however, one study judged civilian personnel more effective in carrying out a wide range of humanitarian tasks in conflict situations. These tasks are acquiring the supplies necessary for humanitarian assistance operations, assessing and utilizing local resources, interacting with the local population, providing the most suitable medical response, managing refugee camps, and providing water and sanitation.<sup>70</sup> Another study judged that although most multinational military personnel assisting with the Rwanda crisis in 1994 were “skilled in their own areas, [they] had no unique competence in such matters as refugee camp construction, community health and disease control, or shelter management. Moreover, their

(...continued)

*Journal*, December 2007, p. 16. (Hereafter referred to as “Expeditionary Sidekicks?”)

<sup>66</sup> The Pentagon and Global Development, *op. cit.*, p. 13.

<sup>67</sup> *Ibid.*

<sup>68</sup> The Pentagon and Global Development, *op. cit.* According to this report: “While the Pentagon conducts training programs to promote professionalism and civilian control of ... foreign militaries, it gives relatively less attention to broader security sector report (SSR)—including the effort to ensure that military, police, and intelligence services and ministries are accountable to democratically-elected governments.” pp. 14-15.

<sup>69</sup> Among the findings of the Senate Foreign Relations Committee staff delegation that compiled the 2006 SFRC report was “that country teams in embassies with USAID presence are far more capable of ensuring sufficient review of military humanitarian assistance projects than those that have no USAID office. Budgetary cutbacks at USAID, affecting both personnel and programs, are repeatedly cited as a deficiency in the U.S. campaign against extremism in susceptible regions of the world.” p. 9.

<sup>70</sup> OECD/DAC Comparative Advantages and Costs, *op. cit.*, pp. 11-12.

security preoccupations—for example, the prohibition against U.S. forces from leaving the Kigali airport, the reluctance of the Japanese to work in refugee camps—also circumscribed what the troops themselves were able to achieve.”<sup>71</sup>

## Relative Costs

There is a widespread presumption that using military forces for many humanitarian missions, military support, and state-building activities costs more than using civilian personnel for the same tasks, but analysts note the absence of reliable studies on relative costs. One 1998 study on the use of international military forces for humanitarian assistance in conflict situations judged that the use of the military is “generally more costly than civilian means” and “will far exceed the costs of providing the aid itself.” The study attributed the greater costs to the military emphasis on making its activities “fail-safe” rather than cost-effective, building into its procedures “safeguards, redundancies, and limitations that often do not exist with civilian means.... Civilian and commercial means are, in general, leaner and less redundant.”<sup>72</sup> The study cautioned, however, that its general conclusions were “presented as hypotheses.”<sup>73</sup>

Relative costs can vary according to the circumstances. For instance, according to the 1998 study cited above, when “military assets are already deployed (either for humanitarian assistance or for peacekeeping), the marginal cost of using these personnel and resources will be low. In these areas, then, the military can be a cost-effective means of delivering and supporting humanitarian assistance.”<sup>74</sup> A variety of other factors can influence relative costs. The military’s economies of scale and shared costs may reduce the price tag on the use of military forces; on the other hand, the degree of force protection in the field and the amount of equipment with which the military deploys can raise costs.

For some analysts, cost considerations are beside the point, as there are certain situations where military forces are indispensable and certain places where few civilians will go. Decisions on the most appropriate division of labor between military and civilian personnel are better made on the basis of comparative advantage in each situation.

## Can Current DOD and State Department Coordination Be Improved?

A key to ensuring that DOD plays an effective role in foreign assistance may be improving interagency coordination in planning and implementing such activities. DOD and the State Department recently have created new coordination mechanisms, but some analysts believe the imbalance between DOD and State Department resources may be a continuing problem, especially for activities that take place in the context of military operations.

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<sup>71</sup> Humanitarian Lessons from Rwanda, *op. cit.*, p. 150.

<sup>72</sup> OECD/DAC Comparative Advantages and Costs, *op. cit.*, p. 16.

<sup>73</sup> OECD/DAC Comparative Advantages and Costs, *op. cit.*, pp. 15-16.

<sup>74</sup> *Ibid.*

## **Congress's Role in Specifying Interagency Coordination**<sup>75</sup>

In approving legislation governing the DOD role in foreign assistance, Congress can mandate the type and degree of interaction between DOD and civilian agencies. It can maintain or strengthen the leadership role that the State Department has traditionally had in foreign assistance activities. Or it can respond to the concerns of some defense officials and analysts that DOD lacks appropriate authority and flexibility to carry out foreign assistance activities expeditiously, and enhance the DOD role.

Since at least the early 1960s, Congress has made the Secretary of State the lead U.S. government official regarding oversight of foreign assistance, including military assistance, and assigned U.S. Ambassadors or other officials carrying out the responsibilities of a chief of a United States diplomatic mission a lead role in coordinating military assistance with foreign policy. Section 622 of the 1961 FAA (22 U.S.C. 2382), entitled Coordination with Foreign Policy, contains these provisions.

Section 622(c) of the original version of the 1961 FAA provided that the Secretary of State “shall be responsible for the continuous supervision and general direction of the assistance programs authorized by this Act, including but not limited to determining whether there shall be a military assistance program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.” (Section 622(c).)

In 1976, Congress amended that provision,<sup>76</sup> deleting the limitation that made it applicable solely to programs in the 1961 FAA, as amended. Section 622(c) now charges the Secretary of State with responsibility for “the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs, including but not limited to determining whether there shall be military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.” The 1961 FAA, as amended, does not define military assistance or civic action. It does, however, define “military education and training.”<sup>77</sup>

The Chief of Mission's responsibility was contained in Section 622(b). Under that provision, the Ambassador (or other responsible official) exercises leadership, under procedures prescribed by the President, over ensuring coordination regarding foreign assistance programs among U.S. government representatives in each country. Section 622(b) specifically ties this role to military assistance. The original language reads: “The Chief of the diplomatic mission shall make sure that recommendations of such representatives pertaining to military assistance are coordinated with political and economic considerations, and that his comments shall accompany such

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<sup>75</sup> This section was prepared in conjunction with R. Chuck Mason, Legislative Attorney, American Law Division, CRS.

<sup>76</sup> This amendment was contained in the International Security Assistance and Arms Export Control Act, P.L. 94-329, Section 543(b)(2)(B).

<sup>77</sup> Section 644(n) defines military education and training to include “formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.”

recommendations if he so desires.” Congress later amended this language to specify that civic action and military education and training programs were covered by this section.<sup>78</sup>

Section 623 (22 U.S.C. 2383) charges the Secretary of Defense with several responsibilities regarding the provision of military equipment, as well as “the supervision of the training of foreign military and related civilian personnel.”

Through legislation, Congress often has required that the Department of State approve an activity. Some of the temporary authorities for Iraq and Afghanistan, for instance, require the concurrence (i.e., the approval) of the Secretary of State. Under pre-9/11 legislation, DOD needs to secure the concurrence of the Secretary of State for programs regarding the educational programs, capacity building, and logistic support for allies. Other Title 10 U.S. Code programs under DOD authority require the Secretary of Defense to secure the approval of the Secretary of State for military to military contacts and the approval of both the Secretary of State and the Attorney General for certain counternarcotics and counterterrorism activities (i.e., support for law enforcement officials outside the United States).

In other cases, however, Congress had mandated that DOD coordinate or consult with the State Department and other relevant agencies. DOD must develop certain counternarcotics and counterterrorism activities in consultation with the Secretary of State. DOD and State Department officials report that whatever the statutory language, these departments now develop a consensus about foreign assistance-type activities before proceeding.<sup>79</sup>

### **Interagency Coordination in Practice**

Despite these legislative mandates, the actual degree and type of interagency coordination and consultation appear to have varied greatly over time, and from program to program. There are established mechanisms for coordinating projects, but at least in the past there have been occasions when they appear to have broken down. Factors identified as causing interagency coordination to lull or lapse include individual personalities, a lack of State Department personnel to perform coordinating tasks, a blurred division of labor, and the routinization of tasks. (See **Appendix G**, **Appendix J**, and **Appendix K**.)

For many years, much of the formal coordination has been carried out by the DOD Defense Security Cooperation Agency for established programs. The DSCA receives project proposals from combatant commanders. In many cases, these proposals require the approval of the U.S. ambassador in the country in which programs will be conducted, although ambassadorial approval is not required for regional programs or in war zones. DSCA then coordinates the approval process in Washington, D.C., as required by statute or policy guidance, for both State Department programs (i.e., security assistance, IMET, and GPOI) and DOD humanitarian assistance and other programs. The DSCA Security Affairs Officers (SAOs) located at U.S. embassies worldwide bear a large part of the responsibility for implementing these programs.

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<sup>78</sup> Section 302(a)(1) of the Foreign Assistance Act of 1966 (P.L. 89-583) inserted civic action; Section 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (P.L. 94-329) inserted military education and training.

<sup>79</sup> Authors’ interviews with DOD and State Department officials in November and December 2007.

Within the State Department, the Bureau of Political-Military Affairs coordinates the Department's position on military assistance. The bureau is also the lead State Department office for interagency coordination. It coordinates the interagency response (State Department, USAID, DOD, and NSC) to requests by foreign governments for humanitarian demining and other humanitarian assistance. It also coordinates the State Department response to plans for military exercises in politically sensitive areas, as required by National Security Presidential Determination 42. In addition, it coordinates the vetting of foreign forces that receive counternarcotics training and that participate in JCETs.<sup>80</sup>

## Current Initiatives to Improve Interagency Coordination

Over the past few years, DOD and the civilian agencies have created new mechanisms for planning and coordinating DOD foreign assistance activities. These include new arrangements in combatant commands, as well as new offices in USAID and the State Department.

- DOD has created new interagency groups or new posts for civilian agency representatives in its institutions, particularly at four geographical combatant commands that plan and carry out combat operations and non-combat activities in their "areas of responsibility."<sup>81</sup> Regional combatant commands host a "Joint Interagency Coordinating Group" (JIACG) composed of military personnel from all services and civilian personnel from a variety of agencies that act as an advisory body to the combatant command.
- Combatant commands also are beginning to integrate personnel from civilian agencies in greater numbers. The U.S. Southern Command reportedly has already incorporated civilians into its structure, as has the Special Operations Command.<sup>82</sup> The newly planned Africa Command (currently being created to handle all of Africa, which is now split between EUCOM and CENTCOM) will also incorporate a significant number of diplomats and development experts.<sup>83</sup>
- In 2005, USAID established a new USAID Office of the Military Advisor, which provides USAID officials to the regional combatant commands, as well as the Special Operations Command, where they help plan for and oversee all foreign assistance activities.

<sup>80</sup> Authors' interviews with DOD officials, December 2007. The Federation of American Scientists, which compiles available public information on presidential directives, lists NSPD 42 under the title *On Significant Military Exercise Briefs* (SMEB), dated January 26, 2005. No other information is listed.

<sup>81</sup> These commands are comprised of personnel from all four branches of the U.S. military services that are responsible for carrying out assigned missions, including combat and non-combat operations and activities. (Current combatant commands are the U.S. European Command [EUCOM], the U.S. Central Command [CENTCOM], the U.S. Southern Command [SOUTHCOM], and the U.S. Pacific Command [PACOM].)

<sup>82</sup> As of early 2008, the Special Operations Command (SOCOM) included seven people from U.S. civilian agencies: three from the Department of State, one from USAID, one from the Federal Bureau of Investigation, one from the Department of Energy, and one from the Department of Transportation. (E-mail correspondence from SOCOM, February 1, 2008.)

<sup>83</sup> For more information on AFRICOM, see CRS Report RL34003, *Africa Command: U.S. Strategic Interests and the Role of the U.S. Military in Africa*, by Lauren Ploch. Based on interviews by the author of that report, early plans called for up to a quarter of AFRICOM personnel to be non-DOD civilians, to date, according to her June 19, 2008 interview, less than 10 non-DOD civilians are on board. According to a recent *Foreign Service Journal* article, diplomats and development experts would comprise up to a third of AFRICOM headquarters personnel. Also see Expeditionary Sidekicks?, *op. cit.*, p. 15.

- Within the State Department, the Director of Foreign Assistance has instituted new interagency groups to plan and vet DOD foreign assistance activities.

## Further Considerations and Options

Despite the increasing number of mechanisms for civil-military coordination on DOD foreign assistance activities, some analysts are concerned that the State Department lead has eroded, and that the new DOD mechanisms provide an inappropriate subordinate role for the State Department.<sup>84</sup> This can be a disadvantage in planning for, implementing, and overseeing these activities, even when the State Department's approval is required. The answer for some is to increase the DOD role in such activities in general, while others argue for increasing the State Department and USAID ability to plan, oversee, and coordinate activities. One often-mentioned factor impeding the latter option is the lack of adequate numbers of State Department and USAID personnel at U.S. embassies and in Washington, D.C. A recent CSIS report details recommendations to increase civilian staff for counterterrorism, post-conflict, and humanitarian operations.<sup>85</sup> An MIT study recommends establishing a permanent interagency group under the National Security Council, co-chaired by the Office of Management and Budget, to oversee security assistance program integration.<sup>86</sup> A third option would be for Congress to reinforce the role of U.S. ambassadors as the top U.S. government official in all countries by requiring that U.S. ambassadors approve all foreign assistance-type activities of all U.S. military personnel or DOD contractors operating in their countries, regardless of the statutory authorities under which they operate. A fourth possibility for enhancing State Department control, in the view of some analysts, would be to create new regional mechanisms for State Department coordination, both among embassies and with the U.S. military.

One of DOD's primary advantages in planning and carrying out foreign assistance activities is its regional organization, with four geographic combatant commands. Some analysts believe that this regional focus combined with a regional field presence allows for better foreign assistance planning, compared with the State Department's traditional bilateral focus, with foreign assistance planning in each country initiated and overseen by U.S. ambassadors reporting to the Department's Washington, D.C.-based regional bureaus. The DOD regional arrangement may also place some DOD foreign assistance activities beyond the purview of U.S. ambassadors, as regional DOD activities may not necessarily be cleared with ambassadors and ambassadors lack sufficient civilian staff to manage all military activities.<sup>87</sup> Congress could provide funding for the

<sup>84</sup> Expeditionary Sidekicks?, *op. cit.*, p. 15.

<sup>85</sup> CSIS Task Force Final Report 2007, *op. cit.*, pp. 33-43.

<sup>86</sup> The oversight role of this new interagency group would be to ensure "the integration of security assistance policies and programs into the broader national security strategy," resolve disagreements between DOD and the State Department regarding policies and programs, and provide overarching policy guidance. Cindy Williams and Gordon Adams, *Strengthening Statecraft and Security: Reforming U.S. Planning and Resource Allocation*, MIT Security Studies Program Occasional Paper, June 2008, pp. 72-73.

<sup>87</sup> At least in the past, there have been reports that Special Operations Forces have not informed ambassadors of SOF activities in their countries, and given the classified nature of many SOF activities, it is not clear whether this is still true. (See CRS Report RL30034, *Joint Combined Exchange Training (JCET) and Human Rights: Background and Issues for Congress*, by William C. Story, June 26, 1999, p. 5.) Although in early 2007 the GAO noted coordination for Section 1206 activities had improved over time, the GAO reported at that time that poor coordination was more common for regional programs. See, for instance, GAO 07-416R, *Section 1206 Security Assistance Programs: Findings on Criteria, Coordination, and Implementation*, February 28, 2007, p. 24, and 2006 SFRC Report, *op. cit.*, p. 13.

State Department to hold regular meetings of regional ambassadors and other senior interagency personnel for discussions of regional issues together with regional combatant commanders and other military personnel, along the lines of the counterterrorism Regional Strategic Initiative.<sup>88</sup> More ambitiously, it could locate abroad the regional Assistant Secretaries or special offices of regional bureaus to provide a venue for such meetings and for daily coordination with the combatant commands, or provide another means for regional coordination. As part of its oversight role, Congress might also urge the executive branch to take steps to ensure that ambassadors exercise greater control over activities in their countries.<sup>89</sup>

Some defense officials, on the other hand, argue for greater DOD autonomy in planning and carrying out foreign assistance activities in order to expedite urgent operations. In addition to the new DOD authorities requested in recent years—especially a permanent Title 10 U.S. Code train and equip authority and a permanent fund for field commanders to carry out humanitarian assistance activities—some analysts have argued for other changes that would accomplish those ends. Among the options posited by one analyst are several that could be the subject of congressional action: (1) increase the budgets and discretionary spending authority of the geographic combatant commands to meet emerging political-military needs; (2) expand Section 1206 authority to include state-building activities and activities to develop “future capacity for employment on operations as a U.S. partner”; and (3) expand the scope and authorities of the JIACG by enabling the JIACG to coordinate combatant commands’ security cooperation activities, thus facilitating “proactive conflict-prevention tasks” and empowering JIACG members “to make decisions and coordinate regional interagency security cooperation activities.”<sup>90</sup>

## Should Civilian Capabilities to Carry Out Foreign Assistance Activities Be Enhanced?

Many consider DOD to have a marked advantage in planning and carrying out a variety of activities in the foreign assistance area because of the greater number of personnel and its large budget. This resource advantage sometimes has created friction between State Department and DOD officials over the use of DOD resources. As DOD begins to implement its “Partnership Strategy,” its resource advantages are once again highlighted. DOD officials have made clear, however, that they believe that Congress should provide the State Department and USAID with the resources to build their capacity to carry out foreign assistance duties. In a July 2008 speech, Secretary of Defense Gates urged the United States “to harness ‘the full strength of America,’” by

<sup>88</sup> Under the RSI, senior interagency personnel, including ambassadors, regional assistant secretaries and personnel from combatant commands, in eight geographical regions meet on a regional basis twice a year to deliberate counterterrorism strategic responses. The 2006 SFRC report recommended that the Secretary of State “regularize and expand the Department’s Regional Strategic Initiative ...” and that meetings should be held “at the most senior level possible, with ambassadors themselves actively engaged and involved.” *op. cit.*, p. 4.

<sup>89</sup> The 2006 SFRC Report suggests regularizing the presence of military personnel in foreign countries by “specifically placing them under the ambassador’s authority...” National Security Decision Directive (NSDD) 38 of June 2, 1982, “Staffing at Diplomatic Missions and their Overseas Posts,” requires Chief of Mission approval for any proposed change in the size, composition, or mandate staff under Chief of Mission authority. (This directive is accessible through <http://www.fas.org/irp/offdocs/nsdd38.htm>, last accessed July 22, 2008.) The 2006 SFRC Report noted that DOD objected to that suggestion because some of the military personnel present in embassies are serving under a regional combatant command. *op. cit.*, p. 11.

<sup>90</sup> Thomas P. Galvin, “Extending the Phase Zero Campaign Mindset,” *Joint Force Quarterly*, Issue 45, 2<sup>nd</sup> quarter, 2007, pp. 49-50.

strengthening these civilian agencies. “It has become clear,” he said, “that America’s civilian institutions of diplomacy and development have been chronically undermanned and underfunded for far too long—relative to what we spend on the military, and more important, relative to the responsibilities and challenges our nation has around the world.”<sup>91</sup>

## **DOD Manpower and Budget Advantages**

In addition to its regional advantage, DOD enjoys two other advantages: greater planning and execution capabilities, and substantially greater budgetary resources. DOD can muster more manpower than any other agency. While U.S. military personnel may be stretched in wartime, there still exist substantial reserves of personnel that can be tapped to plan and carry out activities. The combatant commands enjoy considerably more personnel than do individual embassies, and their personnel are oriented toward planning activities, whereas State Department personnel are oriented toward collecting information and furthering U.S. policy through diplomacy, such as person-to-person contact. Despite waging a war in Iraq, CENTCOM created a new Joint Task Force in the Horn of Africa (CJT-HOA) of roughly 2,000 U.S. military personnel (the number fluctuates regularly) to plan and carry out efforts in the Horn of Africa that include much foreign assistance activity. In Iraq, DOD temporarily provided military personnel to fill about 100 State Department PRT posts, until the State Department could contract persons with the needed expertise to fill them.

Congress also grants considerable funding to DOD to carry out foreign assistance-type activities. For example, Congress funded DOD’s OHDACA appropriation at roughly \$60 million a year for FY2005-FY2007 and provided for FY2008 a total of \$103.3 million, of which part is multiple year money. These sums represent more funding than the State Department provides annually to many individual countries receiving U.S. foreign assistance. In addition, these amounts are but a small part of the actual cost of the activities undertaken under OHDACA authorities. OHDACA funding does not cover the total cost of an activity, but only its incremental cost (i.e., the amount above the normal peacetime cost of a soldier). In terms of historical spending, Congress’s FY2009 OHDACA authorization for \$83.3 million in is about the same, in nominal terms, as the \$86 million (current dollars) that Congress authorized for OHDACA when the account was created in 1994. However, in constant terms, OHDACA funding has shrunk, as the initial OHDACA authorization would be \$131 million in FY2009 dollars.

Some analysts believe that Congress has given DOD an advantage by increasing DOD allocations for foreign assistance-type activities, because such funds are more easily included in the defense budget than in the foreign assistance budget.<sup>92</sup> In particular, these funds include the CERP for Afghanistan and Iraq, and an increase in discretionary money in the CCIF, which can be used for a variety of purposes in addition to humanitarian relief.

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<sup>91</sup> U.S. Department of Defense. Speech by Secretary of Defense Robert M. Gates to the U.S. Global Leadership Campaign, Washington, D.C., July 15, 2008. Accessed through <http://www.defenselink.mil/speeches>; last accessed July 22, 2008. Secretary Gates also stated that while he could not “pretend to know the right dollar amount—I know it’s a good deal more than the one percent of the federal budget than it is right now” and, given that “the budgets we are talking about are relatively small compared to the rest of government, a steep increase of these capabilities is well within reach—as long as there is the political will and wisdom to do it.”

<sup>92</sup> The CSIS Task Force Final Report 2007 finds a “continued neglect of critical non-military components of national power and influence” and views the use of DOD for non-traditional security assistance as “defaulting to reliance on the military.” p. IX.

Although DOD enjoys greater resources, these resources do not necessarily provide DOD with the needed competence and expertise to carry out foreign assistance activities. For instance, for many years, some defense analysts have stated that the U.S. military civil affairs speciality does not have an adequate number of personnel to carry out the wide variety of state-building tasks needed; with a recent increase in the number of civil affairs personnel, one analyst's concern now focuses on whether civil affairs personnel are properly organized, trained, educated, and provided the resources to fulfill their mission.<sup>93</sup> In some U.S. embassies, U.S. civilian personnel interviewed criticized some military personnel as "poorly trained in information gathering" and "rarely" possessing regional or linguistic expertise.<sup>94</sup> DOD Directive 3000.05 points to a need to develop personnel qualified to engage in state-building and economic reconstruction activities. DOD is still deliberating whether to devote funding and time to develop a cadre with the necessary range of expertise to plan and carry out such activities on its own.<sup>95</sup> DOD Directive 3000.05 points out that civilians are often better suited to carry out such tasks.

### Possible Options to Enhance U.S. Government Civilian Capabilities

DOD officials join many other analysts in urging Congress to augment the ability of civilian federal agencies to carry out the state-building and economic measures that will prevent and deter conflicts, stabilize nations in transitions from conflict, and foster economic recovery and democratic institutions during the post-conflict period.<sup>96</sup> For many analysts, one indication of the urgency of increasing the number of federal civilian personnel to perform such tasks was the State Department's inability to supply when needed more than 100 specialized, skilled personnel to staff the PRTs in Iraq, which DOD had to staff temporarily until the State Department could locate contractors. Many analysts also cite a need for a significant number of USAID permanent staff. They note that USAID permanent staff now number approximately 2,000, down from some 15,000 during the Vietnam war, and that most USAID work is currently carried out by contractors.

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<sup>93</sup> Colonel Christopher Holshek, "The Scroll and the Sword: Synergizing Civil-Military Power," in Alexander Woodcock, George Rose, and David Davis, eds., *The Cornwallis Group XI: Analysis for Civil-Military Transitions*, Clementsport, Nova Scotia, Canada: The Canadian Peacekeeping Press, 2007, p. 127. In this work, written in 2006, Col. Holshek stated that Civil Affairs (CA) personnel are "hard pressed to support both the burgeoning CMO [Civil Military Operations] mission and CAO [Civil Affairs Operations] support to interagency nation-building." He states that Civil Affairs personnel's "traditional comparative advantage" in language and cultural knowledge, as well as nation-building functional specialist proficiency, has eroded over time, although he notes recent initiatives may work to reverse some of the problem. His current concerns were stated in an e-mail of April 1, 2008.

<sup>94</sup> 2006 SFRC Report, *op. cit.*, p. 11. The report states that "Rotational tours of only six months limit expertise acquired on-the-job. In several countries, embassy officials say that the time required to bring military personnel up to speed, monitor their activities, and prevent them from doing damage is not compensated for by contributions they make to the embassy team." *Ibid.*

<sup>95</sup> For more information, see CRS Report RL34333, *Does the Army Need a Full-Spectrum Force or Specialized Units? Background and Issues for Congress*, by Andrew Feickert.

<sup>96</sup> A May 22, 2006 DOD memorandum from the Deputy Secretary of Defense to the secretaries of the military departments, the chairman of the Joint Chiefs of Staff, the combatant commanders, and many other DOD officials called for DOD to develop plans to support State Department efforts to obtain resources for S/CRS operations and to establish a Civilian Reserve Corps and a Conflict Response Fund, as well as to support USAID and other civilian agencies efforts to obtain resources to deploy civilian experts to security, stabilization, transition, and reconstruction (SSTR) operations. Memorandum on the Quadrennial Defense Review Building Partnership Capacity Execution Roadmap, signed by Deputy Secretary of Defense Gordon England.

DOD has strongly supported the development of the State Department Office of the Coordinator for Reconstruction and Stabilization (S/CRS) to plan and coordinate such preventive, transitional, and post-conflict activities.<sup>97</sup> Under authority provided by Congress, DOD has transferred funds during FY2006 and FY2007 to S/CRS for such activities. Nevertheless, some analysts have criticized S/CRS for failing to fully perform its assigned functions. Some fault a lack of top-level State Department commitment to its mission and bureaucratic infighting within the State Department. Others judge that Congress has not provided the State Department with the level of funding necessary to adequately staff and otherwise provide for this office's operations.<sup>98</sup>

In February 2008, the Bush Administration presented Congress with a \$248.6 million request to fund a Civilian Stabilization Initiative that would strengthen U.S. civilian capabilities to respond to unanticipated conflict in foreign countries. The initiative's centerpiece would be a civilian response corps consisting of civilian federal government employees from several departments (250 members of an active response corps and 2,000 members of a standby response corps) and a reserve component of 2,000 citizens from outside the federal government. This corps would include people with a wide variety of state-building and economic reconstruction capabilities. Congress appropriated \$50 million in seed money for the corps in supplemental State Department appropriations for 2007.<sup>99</sup> Congress provided authority to establish a civilian reserve corps in the Duncan Hunter NDAA for FY2009 (P.L. 110-417), Title XVI, Reconstruction and Stabilization Civilian Management.

An area of particular interest to DOD is an increase in U.S. government capacity to train and equip foreign military and police forces. Some argue that DOD needs to increase its own training capacity—even if DOD remains in a supporting role. Others argue that Congress should provide the funds and personnel needed to increase the State Department's ability to train and equip such forces worldwide and in the event of future challenges on the scale of Afghanistan or Iraq. (See **Appendix L.**)

## Need to Examine Other Civilian Capabilities

Current debate in Congress has centered on the development of U.S. government civilian capabilities. Nevertheless, some analysts urge further examination of the uses and relationships of private sector civilian personnel to DOD missions. While DOD has attempted over the years to improve its ability to work in the field with non-profit NGOS, including publishing guidelines jointly with InterAction and the U.S. Institute of Peace in July 2007,<sup>100</sup> some analysts suggest that

<sup>97</sup> Soon after S/CRS was created, then Joint Chiefs of Staff Chairman Richard B. Myers, in testimony before the Senate Armed Services Committee (SASC), cited the creation of S/CRS as "an important step" in helping "post-conflict nations achieve peace, democracy, and a sustainable market economy." "In the future, provided this office is given appropriate resources, it will synchronize military and civilian efforts and ensure an integrated national approach is applied to post-combat peacekeeping, reconstruction and stability operations." U.S. Congress. Senate Armed Services Committee, *Posture Statement of General Richard B. Myers, USAF, Chairman of the Joint Chiefs of Staff*, Senate Armed Services Committee Hearing, February 17, 2005, 109<sup>th</sup> Cong. 1<sup>st</sup> sess., p. 31. Accessible through the SASC website <http://www.armed-services.senate.gov>; last accessed July 22, 2008.

<sup>98</sup> For more information on S/CRS, see CRS Report RL32862, *Peacekeeping/Stabilization and Conflict Transitions: Background and Congressional Action on the Civilian Response/Reserve Corps and other Civilian Stabilization and Reconstruction Capabilities*, by Nina M. Serafino and Martin A. Weiss, (hereafter referred to as CRS Report RL32862).

<sup>99</sup> This funding was appropriated by Section 3810, P.L. 110-28, U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations, 2007. For more information, see CRS Report RL32862, *ibid.*

<sup>100</sup> *Guidelines for Relations Between U.S. Armed Forces and Non-Governmental Humanitarian Organizations in* (continued...)

further improvements are necessary. Some also point to a need to reexamine the potential role of for-profit contractor personnel in augmenting or replacing U.S. military forces in humanitarian and state-building activities.

<http://wikileaks.org/wiki/CRS-RL34639>

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(...continued)

*Hostile or Potentially Hostile Environments*, issued July 7, 2007 by the U.S. Institute of Peace, InterAction, and DOD. See <http://www.usip.org/pubs/guidelines.html>; last accessed July 22, 2008.

**Table I. Congressional Action on Selected DOD-Requested New or Expanded Authorities for FY2009 Relevant to Foreign Assistance Activities Referenced Above**

Proposal for the FY2009 National Defense Authorization Act (NDAA)	House Action on the FY2009 NDAA (H.R. 5658)	Senate Action on the FY2009 NDAA (S. 3001)	Conference Action on the FY2009 NDAA (P.L. 110-417)
<p><b>Building the Partnership Capacity of Foreign Military and Other Security Forces.</b> Make permanent the Section 1206 train and equip authority of the FY2006 NDAA (as amended by the John Warner FY2007 NDAA). Increase authorized funding from \$300 million to \$750 million. Expand specified purposes to (1) allow assistance to non-military security forces, (2) to train foreign forces to participate in or to support military and stability operations that are consistent with U.S. security interests, and (3) to build the capacity of security forces in a country where U.S. forces are deployed in large-scale stability operations.</p>	<p>Section 1206 would extend current authority through FY2010.</p>	<p>Section 1204 would extend authority through FY2011 and would increase the annual authorization to \$400 million. It would authorize the use of funds for security forces whose primary mission is counterterrorism, subject to the police training restrictions of 22 U.S.C. 2420 (Section 660 of the 1961 FAA, as amended.)</p>	<p>Section 1206 extends authority through FY2011, increases the authorized amount to \$350 million, and expands the scope of authority to include building the capacity of a foreign country's maritime security forces.</p>
<p><b>Making Permanent and Global the Commander's Emergency Response Program for Urgent Humanitarian and Reconstruction Needs in the Field.</b> Codify CERP authority at 10 U.S.C. Chapter 20. Authorize the use of annually appropriated CERP funds for the CERP program in Iraq and a similar program in Afghanistan, and for a similar program to assist the people of a developing country where United States forces are operating. Authorize the Secretary of Defense to waive any provision of law not contained in this authority. Provide for DOD and the Department of State to jointly develop procedures for the exercise of this authority in order to provide for "expeditious coordination" between DOD and the State Department.</p>	<p>No similar provision.</p>	<p>In lieu of the Administration proposal, S. 3001 would authorize \$75 million for the Combatant Commander Initiative Fund (CCIF), 10 U.S.C. 166a. (Senate Rept. 110-335, accompanying S. 3001.) In its FY2009 DOD budget request, the Administration requested \$100 million in the CCIF specifically to meet unanticipated humanitarian relief and reconstruction needs.</p>	<p>No similar provision.</p>
<p><b>Support for Special Operations to Combat Terrorism.</b> Expand, and indefinitely extend, authority for Special Operations Forces to support foreign forces, irregular forces, groups, or individuals when such recipients are facilitating or acting in support of operations conducted by U.S. Special</p>	<p>Section 1208 would codify this authority at 10 U.S.C. 127e, raise the spending limit to \$35 million, and require the Secretary of Defense to notify the congressional defense</p>	<p>Section 1203 would extend this authority through FY2011, raise the limit on annual funding to \$35 million, and add a requirement for the concurrence of the relevant Chief of Mission.</p>	<p>Section 1208 extends this authority through FY2013 and increases the authorized funding limit to \$35 million.</p>

<b>Proposal for the FY2009 National Defense Authorization Act (NDAA)</b>	<b>House Action on the FY2009 NDAA (H.R. 5658)</b>	<b>Senate Action on the FY2009 NDAA (S. 3001)</b>	<b>Conference Action on the FY2009 NDAA (P.L. 110-417)</b>
Operations Forces. [ Section 1208 of the Ronald W. Reagan NDAA for FY2005 (P.L. 108-375) as amended by Section 1202 of the FY2008 NDAA (P.L. 110-181).] Increase authorized funding limit from \$25 million to \$35 million, and require the concurrence of the relevant Chief of Mission.	committees within 48 hours of the use of such an authority.		

<http://wikileaks.org/wiki/CRS-RL34639>

## **Appendix A. Disaster Relief and Humanitarian Assistance, Including Civic Action<sup>101</sup>**

### **DOD Roles and Responsibility**

Disaster relief and humanitarian assistance have long been considered traditional, albeit secondary, DOD roles. DOD is one of the three principal U.S. government departments that provides disaster and other humanitarian assistance overseas.<sup>102</sup> DOD humanitarian relief in disasters and other emergency and recovery situations is often carried out in coordination with or under the direction of U.S. government civilian agencies. The U.S. Agency for International Development (USAID) Office of Foreign Disaster Assistance (OFDA) takes the lead in disaster assistance; the State Department takes the lead in assisting refugees.

DOD humanitarian assistance also takes place in the context of military operations, some of which are conducted solely for humanitarian purposes and others in which humanitarian activities are carried out as a strategic supplement to combat operations or military training exercises. In many situations, DOD also cooperates and coordinates with international organizations, such as the United Nations and the International Committee of the Red Cross (ICRC), and a wide variety of non-governmental organizations.

The following sections discuss DOD authorities for and the specific DOD role in humanitarian assistance. There is a particular emphasis on DOD humanitarian assistance and related civic action under 10 U.S.C. 401. As used by the U.S. government, the term “humanitarian assistance” is vague, and the types of assistance provided under that rubric are broader than the humanitarian assistance provided by non-governmental relief agencies.

### **DOD Disaster and Other Humanitarian Emergency Relief and Recovery Assistance: Activities and Authorities**

DOD is often the first U.S. government agency to respond in cases of natural or manmade disasters, providing the initial organizational effort for further action by civilian agencies. The DOD role is most often carried out under the President’s broad authority to provide emergency assistance for foreign disasters, rather than Title 10 U.S. Code authority to provide disaster

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<sup>101</sup> Prepared by Nina M. Serafino, Specialist in International Security Affairs, and Rhoda Margesson, Specialist in Humanitarian Policy. Also see CRS Report RL33769, *International Crises and Disasters: U.S. Humanitarian Assistance, Budget Trends, and Issues for Congress*, by Rhoda Margesson. This appendix remains the same as in the original edition of this report; information is current as of August 25, 2008.

<sup>102</sup> The USAID and the Department of State provide disaster relief and humanitarian assistance through four main programs: USAID’s International Disaster and Famine Assistance; the State Department’s, Migration and Refugee Assistance and Emergency Refugee and Migration Assistance; and P.L. 480 Title II Food Aid. In addition, although not the focus of this report, other parts of the U.S. government that support humanitarian assistance include the U.S. Department of Agriculture’s Forest Service, the U.S. Geological Survey (USGS), the Department of Health and Human Services (HSS), the Centers for Disease Control and Prevention (CDC), the National Oceanic and Atmospheric Administration (NOAA), and the Environmental Protection Agency (EPA). These agencies contribute technical assistance to the OFDA as needed in response to humanitarian emergencies.

relief.<sup>103</sup> DOD provides assistance in coordination with the Administrator of the USAID, who is charged with responsibility for coordinating U.S. government and private sector foreign assistance in cases of disaster.

DOD provides assistance in humanitarian emergencies and recovery efforts under several Title 10 U.S. Code authorities added in the 1980s and 1990s. DOD provides transportation and or/funding for humanitarian assistance under 10 U.S.C. 2561 and 402, and humanitarian demining assistance under 10 U.S.C. 407. (The latter is covered separately in **Appendix C.**)

- 10 U.S.C. 2561—added in 1992 (with its original section number of 2551) and last amended in 2003—is DOD’s primary authority to transport humanitarian supplies. It allows DOD to use appropriated funds for humanitarian assistance “for the purpose of providing transportation of humanitarian relief and for other humanitarian purposes worldwide.” The Secretary of State determines that this provision should be used and requests DOD to respond with specific assistance such as helicopter transport, provision of temporary water supplies, or road and bridge repair. If possible, military personnel join the USAID OFDA assessment team to help determine the type of aid DOD can provide. Under this provision, DOD generally limits its activities to those that stabilize the emergency situation, such as road or bridge repair, but generally does not undertake projects that include rebuilding. The law requires an annual report to Congress on the use of funds. Donated goods can also be shipped on commercial vessels using Section 2561 funds.
- 10 U.S.C. 402—the “Denton Amendment”<sup>104</sup> added in 1987 and last amended in 2003—authorizes shipment of privately donated humanitarian goods, including privately donated disaster assistance, on U.S. military aircraft and ships on a space-available basis. The donated goods must be certified as appropriate for the disaster or other situation by USAID’s OFDA and can be bumped from the transport if other U.S. government aid must be transported.
- 10 U.S.C. 2557—added in 1985 and last amended in 2001—authorizes the Secretary of Defense to make nonlethal excess DOD supplies available for humanitarian relief.

DOD also provides substantial emergency humanitarian relief assistance in a wide variety of other circumstances. Sometimes in cooperation with and under the authorities of other agencies, DOD provides humanitarian assistance, including food, shelter and supplies, medical evacuation,

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<sup>103</sup> The Foreign Assistance Act of 1961 (P.L. 87-195; 22 U.S.C. 2151 et. seq.), as amended, authorizes the United States to participate in disaster relief efforts and gives the President great flexibility to respond to disasters with a wide range of government-funded humanitarian assistance. It allows the President to provide disaster assistance, “notwithstanding any other provision of this or any other Act” that would otherwise prohibit or restrict aid and gives the President the flexibility to decide what specific type of aid to provide. (Sections 491-493; 22 U.S.C. 2292-2292b.) The decision as to what assistance is considered humanitarian is often made on a case-by-case basis. 10 U.S.C. 404 provides DOD with authority to conduct disaster assistance but, according to DOD lawyers, is generally not used because of conditions that inhibit a flexible response. For further information, see CRS Report RL33769, *International Crises and Disasters: U.S. Humanitarian Assistance, Budget Trends, and Issues for Congress*, by Rhoda Margesson.

<sup>104</sup> Named after former Senator Jeremiah Denton.

refugee assistance, logistical and operational support, and rehabilitation services. DOD supplies can be provided for humanitarian relief under presidential authority.<sup>105</sup>

## DOD Humanitarian Assistance in the Context of Military Operations and Military Exercises: Activities and Authorities

In addition to its emergency relief and recovery efforts, DOD conducts humanitarian activities in the context of military operations and training exercises. The specific purpose of some military operations is to provide humanitarian relief. Examples of this from the early 1990s are Operation Provide Comfort to provide humanitarian assistance to the Kurdish population in northern Iraq, and Operation Provide Relief, to deliver humanitarian supplies to Somalis, as well as the follow-on Operation Provide Hope, to assist and protect humanitarian workers in Somalia. Currently, DOD provides humanitarian assistance as part of military operations in Iraq and Afghanistan. (See **Appendix K**.)

Special Operations Forces (SOF) carry out humanitarian activities as part of their operations, as well as part of their training exercises with foreign forces under 10 U.S.C. 2011, according to the United States Special Operations Command (SOCOM). Section 2011 authorizes the SOCOM commander and the regional combatant commanders to spend money and to deploy SOF teams to train with foreign military forces if the primary purpose is to train U.S. SOF. Recent authoritative published information is not available on an unclassified basis.<sup>106</sup>

In 2006, Congress provided DOD with new authority for small-scale humanitarian relief and reconstruction assistance by clarifying and expanding the existing Combatant Commanders Initiative Fund (CCIF). When first authorized in 1991 (10 U.S.C. 166a), the CCIF (then known as the Commanders-in-Chief or CINC Initiative Fund), provided funds for exercises and military education and training of foreign personnel, and for “humanitarian and civil assistance.” A 2006 amendment changed civil assistance to “civic assistance, to include urgent and unanticipated humanitarian relief and reconstruction assistance,” and made the latter a priority category,

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<sup>105</sup> The President has the authority to draw down defense equipment and direct military personnel to respond to disasters. Section 506 of the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2318) allows the draw down of defense equipment and services to a limit of \$100 million in any fiscal year if the President determines that an unforeseen emergency exists that requires immediate military assistance to a foreign country or international organization, and the requirement cannot be met under any other provision. Before this provision can be used, the President must notify the Speaker of the House, the Senate Foreign Relations Committee, and the Appropriations Committees of both chambers, in writing by issuing a presidential notification. This request is handled by the Department of State and the National Security Council. Section 506(a)(2) of the Foreign Assistance Act of 1961, as amended, also provides a special drawdown authority for up to \$200 million in defense articles and services for international disaster relief and migration and refugee act assistance (in addition to counternarcotics assistance).

<sup>106</sup> Section 2011 authority was codified in 1991 by the NDAA for Fiscal Years 1992 and 1993 (P.L. 102-190, Section 1052), and amended in 1998 by the Strom Thurmond NDAA for Fiscal Year 1999 (P.L. 105-261, Section 1062) to require prior approval of the Secretary of Defense for exercises under this section. Section 2011 requires an annual report to Congress, but only the report covering FY1997 was unclassified. In 1999, a controversy developed over allegations that JCET training missions—then costing some \$15.2 million for exercises in over 100 countries—were conducted with foreign militaries accused of human rights violations. See CRS Report RL30034, *Joint Combined Exchange Training (JCET) and Human Rights: Background and Issues for Congress*, by William C. Story, and U.S. General Accounting Office, *Management and Oversight of Joint Combined Exchange Training*, GAO/NSIAD-99-173, July 1999.

“particularly in a foreign country where the armed forces are engaged in a contingency operation.”<sup>107</sup>

To this point, it appears that the CCIF has not been used extensively to fund humanitarian assistance. In response to a Congressional Research Service request in 2007, DOD stated that just under \$1 million had been used for humanitarian purposes from FY2005 through FY2007.<sup>108</sup> In its FY2009 DOD budget request, the Administration is requesting \$100 million in CCIF funds for urgent humanitarian relief and reconstruction.<sup>109</sup>

## Section 401 Humanitarian and Civic Action Activities, Conditions, and Coordination

Section 401, added to Title 10 U.S. Code in 1986<sup>110</sup> and amended several times, authorizes the U.S. military to perform specific humanitarian and civic action assistance projects. These projects are (1) medical, surgical, dental, and veterinary care provided in areas of a country that are rural or are underserved, and related education, training, and technical assistance; (2) construction of rudimentary surface transportation systems; (3) well-drilling and construction of basic sanitation facilities; and (4) rudimentary construction and repair of public facilities.

Section 401 establishes several conditions for the projects. They must serve the basic economic and social needs of the people in the recipient country, and must complement, not duplicate, other U.S. social or economic assistance. They cannot benefit any individual, group, or organization engaged in military or paramilitary activity. They must promote the security interests of the United States and the host nation, and contribute to the operational readiness skills of participating members of the U.S. armed forces. Moreover, they must be provided in the context of authorized military operations, exercises, and training deployments.

Section 401 activities are largely carried out under the aegis of the combatant commands as part of authorized military overseas operations, readiness exercises, and training deployments. The statute stipulates that the Secretary of State “must specifically approve” providing humanitarian and civic assistance. In addition, DOD instructions regulating this section require prior approval

<sup>107</sup> FY2007 John Warner NDAA, P.L. 109-364, Section 902. Over the past decade at least, Congress has appropriated \$25 million in annual DOD appropriation bills for the CCIF, and additional amounts in FY2005-FY2007 supplemental appropriations legislation. Three FY2005-FY2007 supplemental appropriations bills provided \$25 million each in CCIF funds for use in Operation Iraqi Freedom and Operation Enduring Freedom (i.e., Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, P.L. 109-13, hereafter referred to as FY2005 Emergency Supplemental Appropriations); Emergency Supplemental Appropriations Act for Defense, the Global War on Terrorism, and Hurricane Recovery, 2006, P.L. 109-234; and the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Act, 2007, P.L. 110-28.

<sup>108</sup> Information provided by the Office of the Chairman of the Joint Chiefs of Staff, e-mail correspondence of November 7, 2007. The DOD Joint Staff surveyed the combatant commands at CRS’s request and found that CCIF funds used for these purposes in the last three fiscal years had been limited: the U.S. Southern Command (SOUTHCOM) used just over \$900,000 for medical and veterinary assistance in Haiti in FY2005 and \$90,000 to help fund the travel of medical personnel in conjunction with the USNS Comfort’s calls in 12 South and Central American nations. The USNS Comfort is a medical ship that serves U.S. military personnel that also provides medical services to foreign populations when training abroad with foreign medical personnel.

<sup>109</sup> *DOD Summary Budget Justification, op. cit.*, p.13.

<sup>110</sup> Added by the NDAA for Fiscal Year 1987, P.L. 99-661, Section 333. The NDAA for Fiscal Year 2006, P.L. 109-163, Section 1201, amended the section to include surgical care and a provision for related education, training, and technical assistance.

from the Department of State, USAID, and any other relevant civilian agencies for all Section 401 activities.<sup>111</sup>

As spelled out in the FY2007 Section 401 report to Congress,<sup>112</sup> a host nation government proposes a project, which the U.S. embassy then endorses and forwards to the combatant commanders for consideration. Combatant commanders file annual proposal lists and proposals to meet emergency requirements with the Defense Security Cooperation Agency (DSCA), which coordinates an interagency review to ensure compliance with U.S. policy and relevant legislation. This review involves representatives from the office of the Under Secretary of Defense for Policy, the DOD General Counsel's office, the Department of State, and USAID. The project must be approved by the U.S. ambassador to the country where the activity will occur and by the Secretary of State.<sup>113</sup>

### Section 401 Origins and Evolution

DOD has long carried out abroad a wide variety of small-scale humanitarian programs, often in the context of military civic action (MCA) programs that also involve construction and reconstruction projects. Experts trace the Army's experience with MCA to 18<sup>th</sup>- and 19<sup>th</sup>-century engineering and medical activities in the United States and abroad. "By the time of World War II, a propensity toward military civic action was already part of the fabric of the U.S. soldier," according to one study, which then identifies the MCA program in Korea after the Korean War as the "first sustained and concerted U.S. military civic action plan."<sup>114</sup> This program set forth a dominant model in military civic action aimed at small-scale construction and reconstruction projects, in which U.S. military forces assist, but host nation troops do most of the work. MCA gained prestige as part of the U.S. military occupation of the Philippines at the turn of the 20<sup>th</sup> century and was later endorsed by President John F. Kennedy, who viewed it as an appropriate nation-building tool.<sup>115</sup> Although military assistance had been carried out as part of security assistance programs prior to the 1960s, in 1965, Congress responded to concerns about its role in international development by placing the first restrictions on the use of such projects "to prevent overlap" with USAID when that agency was established in 1961 and legislating interagency

<sup>111</sup> The drafting of regulations for 10 U.S.C. 401 was mandated by P.L. 103-160, the NDAA for Fiscal Year 1994. In response, DOD issued Directive 2205.2, Humanitarian and Civic Assistance (HCA) Provided in Conjunction with Military Operations, October 6, 1994, and Instruction Number 2205.3, Implementing Procedures for the Humanitarian and Civic Assistance (HCA) program, January 27, 1995. Instruction section E(1)(d) states that before the Under Secretary of Defense for Policy issues final approval of Unified Combatant Commanders' annual HCA activity plans, the Under Secretary shall "obtain the approval of the Department of State, the Agency for International Development (AID), and other Government Agencies, as appropriate."

<sup>112</sup> Defense Security Cooperation Agency, Department of Defense, *Humanitarian and Civic Assistance and Humanitarian Mine Action Programs, Fiscal Year 2007*, February 2008, p. 2. Section 401 requires that DOD provide an annual report, due March 1, to the four armed services and foreign affairs committees regarding the activities undertaken under that authority during the previous fiscal year.

<sup>113</sup> In practice, adherence to this procedure has varied. For instance, U.S. officials sometimes suggest possible activities to host nation government officials for their proposal.

<sup>114</sup> John W. DePauw and George A. Luz, eds., "The Role of the Total Army in Military Civic Action and Humanitarian Assistance: A Synopsis," in *Winning the Peace: The Strategic Implications of Military Civic Action*, Carlisle Barracks, PA: Strategic Studies Institute, U.S. Army War College, 1990, p. 10. Hereafter referred to as *The Role of the Total Army*. The \$22 million MCA program in Korea after the Korean War (through 1962) emphasized schools, hospitals, civic buildings, land reclamation, and improvement of public health and transportation facilities, according to this source.

<sup>115</sup> *Ibid.*

coordination that would involve USAID.<sup>116</sup> MCA became controversial during the 1960s, when, because of its linkage with counterinsurgency in Vietnam, Congress became reluctant to fund it.<sup>117</sup> Nevertheless, Congress did fund some MCA projects abroad after Vietnam that were not linked to counterinsurgency campaigns, in particular an Africa program in the 1980s. That program was funded at almost \$5 million in FY1985, but funding dropped to just under \$2 million by FY1989.<sup>118</sup>

During the 1980s, controversy over MCA in Central America, where the United States was supporting the Salvadoran government's counterinsurgency campaign, led Congress to authorize specific activities through a new statute. When Congress added Section 401 to Title 10 U.S. Code in 1986, it set parameters for humanitarian and civic assistance activities in foreign nations by specifying activities and establishing conditions, but it also provided DOD with greater flexibility by granting Title 10 authority for such assistance. Previously, at least some MCA, in particular the Africa program, was carried out under authorities that put the State Department in the lead, according to one source.<sup>119</sup>

The number of countries in which these activities have occurred has remained fairly constant, while the regional balance has shifted somewhat. A comparison of FY1995 and FY2006, two years where humanitarian and civic action activities took place in 43 countries under Section 401 authority, shows that the number of Western Hemisphere, Middle East/Arab, and Asia/Pacific recipient countries decreased, while the number of countries in Africa and Greater Europe grew. Two new African countries and four new European locations were selected for Section 401 activities. In FY2007, when the number of countries rose to 46, three new countries from Europe and the former Soviet Union were selected.

The greatest change has been the substantial increase in the number of projects. From the early 1990s to FY2007, the number of projects multiplied almost eightfold. From FY2005 through FY2007, the number more than doubled, from 197 to 480. Section 401 costs over the past 14 years for which data are consecutively available (FY1993-FY2006) has ranged from a low of \$4.7 million in FY1998 to a high of \$11.03 million in FY2007. Costs have risen over the past two fiscal years, but not at the same pace as the number of projects, that is, from \$7.67 million in

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<sup>116</sup> "The Role of the Total Army," *op. cit.*, p. 11. The requirement for interagency coordination on civic action was added by Section 302 of the Foreign Assistance Act (FAA) of 1965 (P.L. 89-171) which amended the FAA of 1961. In addition, Section 201 of the 1965 FAA amended 1961 in an attempt to both codify under the FAA and limit the use of civic action. This provision, now codified as Section 502 of the Foreign Assistance Act of 1961, as amended (22, U.S.C. 2302) authorizes the U.S. government to provide assistance to "foreign military forces in less developed friendly countries ... to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries." Section 201 of the 1965 FAA also expressed the sense of Congress that "such foreign military forces should not be maintained or established solely for civic action activities and that such civic action activities not significantly detract from the capability of the military forces to perform their military missions and be coordinated with and form part of the total economic and social development effort."

<sup>117</sup> Captain Craig L. Smith. "Military Civic Action," in *The DISAM Journal of International Security Assistance Management*. Vol. 8, No. 1, Fall 1985, p. 85.

<sup>118</sup> Ken H. Butts, "The Africa Civic Action Program," in *Winning the Peace: The Strategic Implications of Military Civic Action*, John W. DePauw and George A. Luz, eds. and co-authors (Carlisle Barracks, PA: Strategic Studies Institute, U.S. Army War College, 1990), p. 30. Hereafter referred to as The Africa Civic Action Program.

<sup>119</sup> The Africa Civic Action Program, *op. cit.*, p. 28. In 1965, Congress amended the Foreign Assistance Act of 1961 to include civic action as one of the types of assistance for which the Secretary of State is charged with providing "continuous supervision and general direction...." (P.L. 87-195, Section 622(c), as amended by P.L. 89-171 Section 302.)

FY2005 to \$11.03 million in FY2007. (These data are taken from the tables at the end of this appendix, which are compiled from the Section 401 annual reports.)

## Issues

DOD humanitarian assistance often draws praise when provided in emergency relief situations, such as natural and manmade disasters, as it is the most flexible operational and policy tool that can be quickly brought to bear to relieve human suffering. Controversy has arisen, however, when U.S. military troops provide humanitarian and civic assistance for the longer term (i.e., in non-emergency or conflict recovery situations). Such longer-term assistance occurs in the course of military operations and deployments, or when training exercises are conducted extensively in an area over a prolonged period of time. Then, humanitarian and civic assistance is often used for political purposes, including maintaining contact with a country, region, or local population; mitigating tensions; cultivating allies; and promoting democracy.

In the case of humanitarian infrastructure projects and other civic assistance, there are longstanding concerns about suitability and costs that date back to the 1960s.<sup>120</sup> Critics, and even some proponents, of such assistance have found that projects do not always meet the most urgent needs of the host country or long-term development goals, and are not sustainable, and thus may represent a poor use of U.S. funds. Nevertheless, to some analysts, civic action projects fill a gap where no other U.S. assistance is available.

The use of U.S. military forces to carry out large-scale humanitarian interventions in Somalia and the Balkans in the 1990s aroused concern both within the military and among civilian humanitarian aid workers. Many in both camps also were troubled when the military, as the major presence on the ground, became involved in humanitarian and state-building projects, and questioned the suitability and desirability of using U.S. military personnel for such activities. Many asserted that humanitarian and state-building tasks could have been better performed by experienced civilians with subject area expertise and knowledge about local culture. Military leaders themselves questioned whether military personnel were the most appropriate personnel to carry out such activities, particularly as many believed that such activities diverted time and personnel from the military's primary functions. Another concern was a lack of effective coordination. Military culture clashed with the ethos and modes of operations of the civilian personnel involved from a multitude of agencies—the United Nations and other international organizations, national governments, and from non-governmental humanitarian groups—and the resulting distrust and disagreement impeded cooperation.

The concerns raised during the interventions of the 1990s have resurfaced in the context of Iraq and Afghanistan, along with new issues regarding the effect of the use of military forces on the work and safety of civilian humanitarian workers in the field. The use of military personnel for humanitarian and civic assistance projects in Iraq and Afghanistan, particularly in the context of the Provincial Reconstruction teams in Afghanistan, has led to fears that the perception of humanitarian assistance as an impartial, neutral tool has been jeopardized and that the lives and safety of civilian humanitarian workers is threatened because they may be perceived as associated with military efforts. In that context, however, attempts to incorporate civilians into PRTs have

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<sup>120</sup> See, for instance, Edward Bernard Glick, *Peaceful Conflict: The Non-Military Use of the Military* (Harrisburg, PA: Stackpole Books, 1967), as well as *Winning the Peace: The Strategic Implications of Military Civic Action*, *op .cit.*

been hampered by the lack of civilian personnel for such tasks. (See the discussion on PRTs in **Appendix K.**)

At the same time, concerns again arise as to whether DOD activities are effective and properly coordinated with civilian agencies to ensure consistency with U.S. foreign policy objectives. The recent placement of USAID personnel in U.S. regional combatant commands to scrutinize and help develop proposed humanitarian and civic assistance projects is intended, among other things, to synchronize USAID and DOD planning efforts and to produce joint policy documents dealing with linkages between defense and development.<sup>121</sup>

A previous concern, which has not surfaced in the current debate, is that the involvement of military forces in humanitarian aid and small-scale economic projects weakens civilian control over the military in developing countries by perpetuating stereotypes that military forces are most effective at meeting basic needs and perhaps by encouraging the use of military forces to perform functions that more properly performed by civilians. On the other hand, some argue that the use of U.S. military forces in such activities provides a democratic role model for local military forces and an opportunity to improve local civil-military relations.

**Table A-1. Section 401 Humanitarian Assistance and Civic Action: Costs, Number of Projects, and Number of Countries, by Fiscal Year**

Fiscal Years	U.S. \$ millions (current)	Number of Projects (approx.)	Number of Countries
1990	4.2	not available	38
1991-1992	—	—	—
1993	5.49	64	25
1994	6.21	68	45
1995	5.37	66	43
1996	5.69	169	42
1997	5.30	155	35
1998	4.68	142	44
1999	9.25	221	39
2000	6.96	135	45
2001	7.00	NA	43
2002	7.31	166	45
2003	6.82	175	36
2004	7.18	161	42
2005	7.67	197	48
2006	9.22	320	43
2007	11.03	480	46

**Source:** Data from 10 U.S.C. Section 401 annual required reports.

**Note:** Data are not available for FY1991-1992.

<sup>121</sup> Slide presentation provided by the USAID Office of Military Affairs, October 17, 2007.

**Table A-2. Geographical Distribution of Section 401 Humanitarian and Civic Assistance Activities: Number of Countries, by Region and Fiscal Year**

Fiscal Year	Western Hemisphere	Sub-Saharan Africa	Middle East/Arab States	Europe and the Former Soviet Union (FSU)	Greater Asia/Oceania/Pacific Islands	Total
FY1990	16	6	3	0	13	38
FY1991- FY1992	—	—	—	—	—	—
FY1993	18	4	2	1	0	25
FY1994	21	9	2	0	13	45
FY1995	21	7	3	1	11	43
FY1996	21	8	2	0	11	42
FY1997	18	5	2	1	9	35
FY1998	21	6	2	3	12	44
FY1999	17	4	5	4	9	39
FY2000	18	7	3	8	10	45
FY2001	16	8	2	9	8	43
FY2002	15	8	3	11	9	45
FY2003	18	4	2	6	6	36
FY2004	18	8	1	7	8	42
FY2005	18	9	2	8	11	48
FY2006	15	11	2	4	10	43
FY2007 <sup>a</sup>	13	13	3	7	10	46

**Source:** Data from 10 U.S.C. Section 401 annual required reports.

**Note:** Data are not available for FY1991-1992.

- a. The countries in each of the geographic areas for FY2007 were as follows.  
 Western Hemisphere: Belize, Bolivia, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Nicaragua, Panama, Paraguay, and Peru.  
 Sub-Saharan Africa: Botswana, Central African Republic, Congo, Ethiopia, Gabon, Ghana, Kenya, Mali, Niger, Rwanda, Senegal, Uganda, and Zambia.  
 Middle East/Arab States: Djibouti, Morocco, and Yemen.  
 Europe and the Former Soviet Union: Albania, Armenia, Azerbaijan, Kosovo, Moldova, Mongolia, and Romania.  
 Greater Asia/Oceania/Pacific Islands: Cambodia, Indonesia, Laos, Malaysia, Marshall Islands, Papua New Guinea, Philippines, Solomon Islands, Thailand, and Vietnam.

http://wikileaks.org/wiki/CRS-RL34639

## Appendix B. DOD Global Health Programs<sup>122</sup>

### DOD Role and Responsibilities

DOD is engaged in a number of efforts to improve global health. Information in this section reflects publicly available information, which is limited. Among the many U.S. government global health programs, DOD sponsors a number of programs that focus primarily on infectious diseases and human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS). DOD regularly publishes information about the international DOD HIV/AIDS Prevention Program (DHAPP) and the DOD Global Emerging Infections Surveillance and Response System (DOD-GEIS). It also published information about some humanitarian assistance efforts such as certain projects funded by the OHDACA account (see Disaster Relief and Humanitarian Assistance, Including Civic Action for information on OHDACA). However, press accounts and public events and conferences sometimes refer to other DOD programs related to global health, though little or no publicly available documentation about such programs is available.

It is unclear which, if any, DOD office has leadership over DOD global health policy. There appears to be no agency-wide implementing strategy to integrate and coordinate global health policy across a range of related DOD programs. Some offices and programs appear to create informal policy within their spheres, but their efforts have not led to institutionalized policy in most cases, according to current and former DOD officials.

### Origins and Evolution

#### The Global Emerging Infections Surveillance and Response System (GEIS)

Through GEIS, DOD supports broad emerging infectious disease prevention programs through extensive partnerships among five DOD overseas laboratories, the military health system, and other U.S. and foreign agencies.<sup>123</sup> In June 1996, President Clinton issued Presidential Decision Directive NSTC-7, which established a national policy to address the threat of emerging infectious diseases through improved domestic and international surveillance, prevention, and response measures.<sup>124</sup> The directive expanded DOD's mission to include support of global surveillance, training, research, and response to emerging infectious disease threats. The DOD Global Emerging Infections Surveillance and Response System (DOD-GEIS), which was developed in response to that directive, facilitates early recognition and control of diseases that threaten national security.<sup>125</sup> DOD-GEIS is designed to strengthen the prevention of, surveillance

<sup>122</sup> Prepared by Tiaji Salaam-Blyther, Specialist in Global Health, and Kellie Moss, Analyst in Global Health. This appendix was updated on December 9, 2008.

<sup>123</sup> U.S. Department of Defense, Global Emerging Infections Surveillance and Response System, *Annual Report: Fiscal Year 2007*, p. 2. This document can be accessed through <http://www.geis.fhp.osd.mil/GEIS/aboutGEIS/annualreports/GEIS07AR.pdf>; last accessed July 22, 2008.

<sup>124</sup> Presidential Decision Directive NSTC-7, at <http://fas.org/irp/offdocs/pdd/index.html>; last accessed July 22, 2008. NSTC indicates that this presidential directive deals with a national science and technology matter.

<sup>125</sup> For more information on GEIS, see <http://www.geis.fhp.osd.mil/> and U.S. General Accounting Office, *U.S. Agencies Support Programs to Build Overseas Capacity for Infectious Disease Surveillance*, GAO/07-1186, September 2007, at <http://www.gao.gov/new.items/d071186.pdf>; last accessed July 22, 2008.

of, and response to infectious diseases that are a threat to military personnel and families, reduce medical readiness, or present a risk to U.S. national security.

The key objectives of DOD-GEIS are to increase DOD's emphasis on the prevention of infectious diseases, strengthen and coordinate DOD's surveillance and response efforts, and create a centralized coordination and communication hub to help organize DOD resources and link them with U.S. and international efforts. For example, DOD-GEIS partners with Navy and Army laboratories, and with the World Health Organization's Global Outbreak Alert and Response Network (GOARN) (described in the "International Response" section), to collect avian influenza isolates from people around the world and share them with the Centers for Disease Control and Prevention and world public health officials for molecular analysis and formulation of influenza vaccines.<sup>126</sup>

DOD-GEIS's budget has grown substantially over the past decade, from \$2.3 million in FY1997 to \$52 million in FY2007, including \$40 million for pandemic and avian influenza surveillance.<sup>127</sup> In January 2006, Congress directed DOD-GEIS to administer \$39 million in FY2006 supplemental funding for avian and pandemic influenza surveillance.<sup>128</sup> Congress provided an additional \$40 million for DOD-GEIS avian influenza activities in FY2007.<sup>129</sup>

Throughout 2007, DOD-GEIS claimed significant advances in disease surveillance, including

- better understanding of naturally occurring biological threats (e.g., avian and pandemic influenza) and to improved vaccination efforts;
- standardization and improvement of malaria diagnostic resources and strengthening of international efforts to address antimalarial resistance;
- addressing the reemergence of malaria on the Korean peninsula;
- utilizing disease morbidity and mortality surveillance data to monitor possible infectious disease deaths in US military forces; and
- strengthening surveillance systems in resource-constrained or developing countries.

## **DOD HIV/AIDS Prevention Program**

As an implementing partner of the President's Emergency Plan for AIDS Relief, DOD plays a role in fighting the global spread of HIV/AIDS. DOD HIV prevention programs develop and implement military-specific HIV prevention activities. DOD efforts

- help foreign militaries establish HIV/AIDS-specific policies for their personnel;
- assist foreign militaries in adapting and providing HIV prevention programs;

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<sup>126</sup> DOD-GEIS FY2005 Annual Report, [http://www.geis.fhp.osd.mil/GEIS/DODGEISNews/GEIS\\_AR\\_05.pdf](http://www.geis.fhp.osd.mil/GEIS/DODGEISNews/GEIS_AR_05.pdf); last accessed July 22, 2008.

<sup>127</sup> *Annual Report: Fiscal Year 2007*, *op. cit.*, p. 6.

<sup>128</sup> *Ibid.*, p. 2.

<sup>129</sup> *Ibid.*, p. 6.

- train foreign military personnel to implement, maintain, and evaluate HIV prevention programs;
- assist foreign countries in developing military-specific interventions that address high-risk HIV attitudes and behaviors; and
- integrate with and make use of foreign military contacts, other U.S. government programs, and those managed by allies and the United Nations.

From FY2000 through FY2009, DOD funds total some \$73.9 million for HIV/AIDS prevention programs. The Department of State transfers additional funds to DOD through the Global HIV/AIDS Initiative.<sup>130</sup>

**Table B-1. DOD Funding for Global HIV/AIDS Prevention Programs, by Fiscal Year, FY2000-FY2009**

(current U.S. \$ millions)

FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09
10.0	9.9	14.0	7.0	4.3	7.5	5.2	0	8.0	8.0

**Source:** DOD HIV/AIDS Prevention Program, FY2000 Funding Data, <http://www.med.navy.mil/sites/nhrc/dhapp/background/Pages/BackgroundInfo.aspx>, and FY2001 through FY2009 data compiled by CRS from annual appropriations acts.

**Table B-2. PEPFAR Funding Transfers to DOD Global HIV/AIDS Prevention Programs, FY2004 through FY2008**

(current U.S. \$ millions)

FY04	FY05	FY06	FY07	FY08	Total
14.0	33.0	49.0	70.0	92.0	258.0

**Source:** Prepared by CRS from correspondence with Karin Fenn, Program Support Officer, OGAC, January 23, 2008, and from conversation with Eric Myser, Budget Officer, OGAC, December 9, 2008.

## Issues

DOD activities in global health are the subject of increasing public discussion and research. Some argue that DOD's role in global health is ambiguous.<sup>131</sup> Others express concern about the possible "securitization" of health<sup>132</sup> (i.e., the use of U.S. government resources for health by DOD rather than through more standard civilian channels, such as USAID or non-governmental organizations). The lack of public information about the organization and operation of some DOD global health programs may raise questions about the scope and funding of such programs. It may also raise questions about their coordination and integration with not only other similar programs

<sup>130</sup> For more information on U.S. Department of State transfers to DOD, see CRS Report RL33771, *Trends in U.S. Global AIDS Spending: FY2000-FY2008*, by Tiaji Salaam-Blyther.

<sup>131</sup> Dr. Steven Morrison, Director of CSIS Global Health Policy Center, quoted in S. Ward Casscells, DOD Military Health System Blog, "Promoting Peace by Promoting Health," December 8, 2008, <http://www.health.mil/MHSBlog/Article.aspx?ID=424>.

<sup>132</sup> Baroness Nicholson of Winterbourne, quoted in *Ibid.*

in civilian agencies, but also with other DOD activities, such as stability operations and capacity-building of foreign militaries.

<http://wikileaks.org/wiki/CRS-RL34639>

## Appendix C. Department of Defense Humanitarian Mine Action Program<sup>133</sup>

### DOD Role and Responsibilities

The Department of State, USAID, and DOD participate in the DOD Humanitarian Mine Action (HMA) Program, through which the United States trains personnel of other nations to deactivate land mines and other explosive remnants of war.<sup>134</sup> The authority for this program is 10 U.S.C. 407.

HMA falls under two offices administratively. The Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict is responsible for policy, planning, and oversight. The Defense Security Cooperation Agency (DSCA), which is subordinate to the Under Secretary of Defense for Policy, is responsible for administrative program management. Program funding is from DOD's Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) appropriation. When DOD is designated to conduct the training, the assistance is provided by U.S. Special Operations Forces and supervised by the regional military Combatant Commander. This DOD program complements the efforts of the Department of State's Office of Weapons Removal and Abatement,<sup>135</sup> which provides financial, technical, and educational assistance to a wide range of foreign governmental and non-governmental organizations, and administers federal grants to selected humanitarian land mine-related projects.

Generally, a nation will request demining assistance through the U.S. embassy to the State Department. An interagency U.S. Government Policy Coordination Committee (PCC) Sub-group on Humanitarian Mine Action then conducts an in-country evaluation and either approves or disapproves the nation's request to join the HMA program. The Humanitarian Mine Action Sub-group comprises representatives from the National Security Council, Department of State, USAID, Defense Department, and the Central Intelligence Agency. If approved, the PCC Sub-group designs a demining/land mine education program to meet the requesting nation's needs.

### Origins

The National Security Council established the U.S. Humanitarian Demining Program in 1993. In 1995, DOD established its Humanitarian Mine Action Program, and in 1998, the Department of State followed, creating the Office of Humanitarian Demining Programs. In October 2003, Congress established the interagency humanitarian demining program, consolidating previously initiated U.S. demining programs. These administration and congressional actions were responding to several years of increasing international attention to the toll on civilian populations from land mines deployed during military operations and never deactivated or retrieved. To facilitate DOD participation in this program, Congress directed that the Secretary of Defense

<sup>133</sup> Prepared by Steve Bowman, Specialist in National Defense. This appendix remains the same as in the original edition of this report; information is current as of August 25, 2008.

<sup>134</sup> For a description of the program, see <http://www.dsca.mil/programs/HA/HA.htm>; last accessed July 22, 2008.

<sup>135</sup> See <http://www.state.gov/t/pm/wra/>; last accessed July 22, 2008.

[c]arry out a program for humanitarian purposes to provide assistance to other nations in the detection and clearance of landmines. Such assistance shall be provided through instruction, education, training, and advising of personnel of those nations in the various procedures that have been determined effective for detecting and clearing landmines.<sup>136</sup>

In directing this effort, Congress specified that any funds authorized for the program were to be used for (1) activities to support the clearing of land mines for humanitarian purposes, including education and technical assistance; (2) providing equipment and technology by transfer or lease to a foreign government participating in a land mine-clearing program; and (3) contributions to non-governmental organizations experienced in land mine clearance. To ensure that DOD's humanitarian participation was restricted to training and technical assistance, Congress further directed that the Secretary of Defense ensure that no member of the U.S. armed forces participating in this program

engages in the physical detection, lifting, or destroying of landmines unless for the concurrent purpose of supporting a United States military operation ... or a military operation that does not involve the Armed Forces of the United States.

## Activities and Evolution

HMA funds the training of host nation personnel to deactivate mines and also provides a limited amount of "seed" equipment to enable a nation to develop and maintain its own demining/mine education efforts.<sup>137</sup> These HMA activities are seen to benefit DOD objectives by contributing to combatant commanders' regional cooperation strategies and providing U.S. military personnel unique in-country training opportunities.<sup>138</sup>

Through HMA funding, DOD also supports the Humanitarian Demining Training Center at Ft. Leonard Wood, MO,<sup>139</sup> and the Mine Action Information Center at James Madison University, Harrisonburg, VA.<sup>140</sup> These facilities provide training and analysis relating to humanitarian demining for both the military and civilian communities. HMA funding also supports the Humanitarian Demining Research and Development Program,<sup>141</sup> which is managed by the Army Research, Development, and Engineering Command.

Pursuant to 10 U.S.C. 401, no later than March 1 each calendar year, the DSCA provides a report of activities during the previous fiscal year, including those of the Humanitarian Mine Action program, to the House Committees on Armed Services and Foreign Affairs and the Senate Committees on Armed Services and Foreign Relations.

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<sup>136</sup> FY1995 NDAA, P.L. 103-337, Section 1413. This section amended 10 U.S.C. 401, which covers humanitarian civic assistance, to include the demining program. In 2006, Congress deleted the demining provisions from section 401 and created a specific section, 407, for the program (FY2007 John Warner NDAA, P.L. 109-364, Section 1203 ).

<sup>137</sup> DOD demining equipment transfers have been limited to no more \$10 million annually worldwide.

<sup>138</sup> Fact Sheet, "Humanitarian Mine Action Program," Defense Security Cooperation Agency.

<sup>139</sup> See <http://www.wood.army.mil/hdct/>; last accessed July 22, 2008.

<sup>140</sup> See <http://maic.jmu.edu/>; last accessed July 22, 2008.

<sup>141</sup> See <http://www.humanitarian-demining.org/>; last accessed July 22, 2008.

As the figures below indicate, HMA funding is relatively low compared with other assistance programs and has decreased significantly since FY2000, although the number of countries receiving HMA assistance is substantial. Since 2000, HMA has assisted some 30 countries.<sup>142</sup>

**Table C-1. DOD Humanitarian Mine Action Funds Expended, by Fiscal Year, FY2000-FY2007**  
(current U.S. \$ millions)

FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07	Total
22.5	10.8	8.4	6.2	2.7	4.2	4.2	4.2	63.1

Source: Annual 10 U.S.C. 401 reports.

**Table C-2. Countries Assisted with DOD HMA Funding, by Fiscal Year, FY2000-FY2007**

FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07
19 <sup>a</sup>	15 <sup>a</sup>	13	11	11	8	11	12

Source: Annual 10 U.S.C. 401 reports.

a. Central America is listed as one country.

## Issues

DOD's HMA program has not been a source of controversy.

<sup>142</sup> The countries receiving HMA assistance from FY2000 through FY2007 were Argentina, Armenia, Azerbaijan, Cambodia, Chad, Chile, Djibouti, Ecuador, Egypt, Eritrea, Estonia, Ethiopia, Georgia, Guinea-Bissau, Jordan, Lebanon, Mauritania, Nicaragua, Oman, Peru, Sri Lanka, Swaziland, Thailand, Tunisia, Vietnam, Yemen, Zambia, and Zimbabwe. Assistance was also provided to Central American countries; however, DOD does not enumerate them individually in its annual report. In FY2007, five new countries received HMA assistance: Angola, Benin, Colombia, Laos, and Senegal.

## Appendix D. Foreign Military Sales and Financing Program<sup>143</sup>

### DOD Role and Responsibilities

The U.S. Foreign Military Sales Program (FMS) is the principal vehicle through which the U.S. government makes sales of weapons and associated equipment and training to friendly foreign nations.<sup>144</sup> Most of these sales are made on a cash basis—that is, the purchasing country enters into a contract specifying the price to be paid for specific items of military equipment being obtained. The U.S. government then procures the defense items from the U.S. manufacturer (if not provided from Defense Department stocks), receives the payment from the foreign buyer, and passes it to the manufacturer in accordance with the terms and deadlines specified in the contract. The U.S. government monitors the procurement process from the signing of the contract until the items purchased are all delivered. Purchases through the FMS program can be provided to individual purchasers with funds requested and appropriated in the annual Foreign Operations Appropriations legislation. This element of the FMS program is termed Foreign Military Financing (FMF);<sup>145</sup> it permits loans or forgiven payments to countries that may have difficulty paying for needed weapons, military equipment, and related items.

The annual budget justification for Foreign Operations is formulated primarily by the State Department, with input on specific country accounts or prospective arms sales provided by DOD. From its inception, DOD has handled the implementation of the FMS cash and credit and an earlier grant Military Assistance Program (MAP), used essentially before 1976.

Determining which nations are to receive military assistance from either program, as a matter of national policy, has been primarily the responsibility of the State Department. The Arms Export Control Act (AECA) specifies which conditions must be met before a country can purchase defense articles from the United States. In essence, a country must be eligible to purchase under existing U.S. law (i.e., if a statute forbids sales to a specific country, that country is ineligible to make a purchase).<sup>146</sup> The President also determines a country's eligibility, taking into consideration U.S. security interests. If a country is eligible, in the contract for sale of the items that it may purchase, the country must give binding commitments to use the articles purchased only for such things as legitimate self-defense and internal security, and not to retransfer items sold to it to third-parties without prior U.S. government consent.

The responsibility for implementing FMS programs rests with the Defense Security Cooperation Agency (DSCA). The DSCA Security Assistance Officers (SAOs) who manage the programs on the ground are located in U.S. embassies.

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<sup>143</sup> Prepared by Richard F. Grimmett, Specialist in International Security. This appendix remains the same as in the original edition of this report; information is current as of August 25, 2008.

<sup>144</sup> Arms Export Control Act (AECA), as amended (PL. 90-629),

<sup>145</sup> AECA, as amended (Section 23), 22 U.S.C. 2763.

<sup>146</sup> AECA, as amended (Section 3), 22 U.S.C. 2753.

## Origins and Evolution

FMS had its origins in the beginning of the Cold War, primarily as an effort to help war-torn allied countries in Europe build up their military defenses and thus support the new North Atlantic Treaty Organization's (NATO's) ability to help contain Soviet Communist expansion in that region. The Mutual Defense Assistance Act of 1949 (P.L. 81-329) authorized the FMS program, and a grant Military Assistance Program (MAP), as means to provide needed military equipment and training to U.S. allies in need of such military support and aid. Much of the equipment transferred under this original authority was excess stocks of World War II vintage equipment, which was less expensive but still valuable for helping restore the military capabilities of key U.S. allies. The core rationales for military assistance at the inception of the Cold War can be summarized as follows:

- To enhance the ability of allied and friendly countries to defend themselves against external aggression or internal subversion by Communist or unfriendly forces.
- To enhance bilateral security relationships to deter aggression against allied and friendly nations.
- To express tangible U.S. support for political actions of allied and friendly nations that the United States sought to encourage.

The first rationale was essentially a military one. The other two were both political and military in nature. Over time, the focus and nature of military assistance was modified somewhat. As their economies grew, industrialized nations allied to the United States gradually stopped receiving grant military aid and began to pay cash for major weapons systems purchased from the United States under the FMS program, and by the 1970s, the grant MAP program was phased out. Nevertheless, using the FMS cash program, as well the FMF financing program, to support the security interests of American friends and allies overseas has remained a constant theme in justifying this form of military aid. The nature of the threat to U.S. allies and friendly states around the globe may have changed, but the goal of using arms sales as an instrument to further U.S. interests through enhancing the military capabilities and security such countries has not.

Initially, only the more industrialized allies of the United States participated in the FMS program, while the grant MAP program provided military aid to a much larger number of less developed and less affluent countries friendly to the United States throughout the world. The original nations eligible for military assistance under the 1949 NDAA were NATO members, Turkey, Greece, South Korea, Iran, the Philippines, and Taiwan. Today most of these same nations, excluding Iran, which is ineligible for the program, generally pay cash for military purchases under the FMS program. The principal goals of FMS remain the same, except the number of nations making purchases has increased, with Middle Eastern nations, in particular major oil-producing states, becoming significant buyers from the late 1970s to the present. As noted above, states such as Israel and Egypt, which reached a U.S.-backed peace agreement in 1979, have been and continue to be leading recipients of FMS sales and FMF credits.<sup>147</sup>

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<sup>147</sup> In 1954, pursuant to the Mutual Security Act (P.L. 83-665), the United States established the authority for the Foreign Military Sales program to provide loans and credits to facilitate the purchase of U.S. military equipment by allied and friendly nations. Previous to that time sales were made on a cash basis only. In 1961, with the enactment of the Foreign Assistance Act of 1961 (P.L. 87-195), a consolidation of all previous military and economic foreign aid programs and authorities was achieved, and the original MAP program was placed under this act's aegis. Subsequently (continued...)

The primary countries to receive the greatest share of FMF since the late 1970s have been Israel and Egypt. Most recently, in FY2006, for example, Israel received slightly over \$2.257 billion in FMF financing, for which repayment was waived. During FY2006, Egypt received \$1,287 billion in waived FMF financing. The entire FMF appropriation for FY2006 was about \$4.45 billion for all recipients.

## Issues

There have not been any significant controversies over the management of the FMS cash or FMF financing programs between the Defense and State Departments over the years. There is a clear delineation of responsibilities and authorities, and the implementation of the programs has generally worked smoothly. Both departments would generally agree that they would wish more funding to be available to provide defense articles to countries deemed needy but that may have limited financial resources with which to purchase U.S. weaponry.

Within the past two years, DOD has argued that traditional State Department security cooperation programs, such as FMS/FMF, lack the flexibility necessary to respond to rapidly changing environments. In a FY2009 budget document, DOD stated that traditional security assistance “takes three to four years from concept to execution,” indicating that was too long to meet emerging threats and to take advantage of emerging opportunities.<sup>148</sup> The long lead time led DOD to request its own train and equip authority. (See **Appendix I**)

http://wikileaks.org/wiki/CRS-RL34639

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(...continued)

in 1968, the Foreign Military Sales Act of 1968 (P.L. 90-629), created a separate legislative authority for the Foreign Military Sales program. In 1976, the International Security Assistance and Arms Export Control Act of 1976 (P.L. 94-329) consolidated all authorities relating to U.S. Foreign Military Sales were consolidated in the Arms Export Control Act, created the authority for a new grant International Military and Education Program as a distinct military assistance program and placed it within the Foreign Assistance Act of 1961, as amended, and began a phase-out of the original MAP program.

<sup>148</sup> U.S. Department of Defense, *Fiscal Year 2009 Budget Request: Summary Justification*, February 4, 2008, p. 102.

## Appendix E. International Military Education and Training Program<sup>149</sup>

### DOD Role and Responsibilities

The International Military Education and Training Program (IMET) falls under the policy authority of the State Department, is funded through the annual Foreign Operations Appropriations legislation, and is implemented by DOD through the Defense Security Cooperation Agency (DSCA). Authorized by 22 U.S.C. 2347,<sup>150</sup> IMET provides opportunities for foreign military personnel to attend a variety of U.S. military educational institutions and training courses. The policy decisions regarding which foreign nations will be permitted to participate in IMET programs, and the funding levels provided to them, are made primarily by the State Department, with input from DOD.

### Origins and Evolution

IMET was an outgrowth of the original Military Assistance Program (MAP) created by the Mutual Defense Assistance Act of 1949 (P.L. 81-329).<sup>151</sup> In 1976, the enactment of the International Security Assistance and Arms Export Control Act of 1976 (P.L. 94-329) created the grant IMET as a program separate from the original MAP program, which was being phased out, to provide exclusively for various forms of military training to friendly foreign nations. The 1976 Act also placed IMET's statutory authority in the Foreign Assistance Act of 1961, as amended.

In 1990, the House and Senate Appropriations Committees initiated a statutory change based on their view that changing world political-military circumstances warranted a new direction for the traditional IMET program, one that would bring an increased emphasis on enhancing the skills and professionalism of both civilian and military leaders and managers of foreign military establishments. The Foreign Operations Appropriations Act for FY1991 (P.L. 101-513, signed November 5, 1990) directed the Defense Department to establish a program within IMET focused, in particular, on training foreign civilian and military officials in managing and administering military establishments and budgets; creating and maintaining effective military judicial systems and military codes of conduct, including observance of internationally recognized human rights; and fostering greater respect for the principle of civilian control of the military. Congress earmarked \$1 million of the FY1991 IMET appropriation to establish this program. This initiative is called Expanded IMET, or E-IMET, and each year the Defense Department has broadened the program. Although Congress did not earmark IMET funds to support this program after FY1991, it has in report language noted an expectation that the financial investment in E-IMET be increased. Congress further broadened the program to include

<sup>149</sup> Prepared by Richard F. Grimmett, Specialist in International Security. This appendix remains the same as in the original edition of this report; information is current as of August 25, 2008.

<sup>150</sup> Section 541 of the Foreign Assistance Act of 1961, as amended (P.L. 87-195).

<sup>151</sup> The original MAP program was used to provide, on a grant basis, military equipment and military training to allied and friendly nations to assist them in restoring their military capabilities in the post World War II period. The grant MAP program was gradually phased out as more friendly nations were capable of purchasing military equipment and training (as part of weapons purchases or as an independent item), and as their economies damaged by World War II were restored to health.

participation by members of national legislatures who are responsible for oversight and management of the military, and “individuals who are not members of a government.” Because E-IMET is a sub-element of the overall IMET program, it is funded as part of the annual IMET appropriation, contained in the Foreign Operations Appropriations legislation.

## Activities

The IMET program funds a variety of training programs conducted by the Defense Department at a variety of venues. The Service War Colleges and the National Defense University’s (NDU’s) National War College programs are attended by U.S. and foreign senior military and civilian equivalents. These programs focus on service/national security policy and the politico-military aspects of Service/Defense policies and programs. The Services and the Joint Staff (for the NDU) annually provide invitations to the governments of foreign friends and allies for foreign student participation. The senior service schools remain a significant element of IMET-sponsored training. The specific schools and their locations are as follows: National Defense University, Fort McNair, Washington, D.C.; Army War College, Carlisle Barracks, PA; Navy War College, Newport, RI; and Air War College, Maxwell Air Force Base, AL.

The U.S. military services offer numerous programs and courses categorized as professional military education (PME). Foreign students are assigned to programs based on their military rank and specific responsibilities in their country’s military. Programs are conducted at Service Command and Staff Colleges, including basic and advanced officer training in specialized areas such as finance, ordnance, artillery, and medicine. For more senior officers, some training may occur at U.S. senior service schools. A representative listing of the schools involved include the Army Command and Staff College, Fort Leavenworth, KS; Army Logistics Management College, Fort Lee, VA; U.S. Army Infantry School, Fort Benning, GA; and Air Force Institute of Technology, Wright-Patterson Air Force Base, OH. PME programs and the senior service school programs combined account for approximately half of the annual IMET appropriation.

The majority of IMET-sponsored training is conducted in the United States at DOD and U.S. military service schools, with U.S. military personnel. Therefore, English language proficiency is required. To help foreign students improve their English language skills, DOD has assigned the English language training mission to the Defense Language Institute English Language Center (DLIELC), located at Lackland Air Force Base, Texas. DLIELC provides resident English language training in state-of-the art facilities. In addition, DLIELC conducts English language training surveys to evaluate foreign government programs and will assign instructors as a “detachment” to the host country to personally assist in the establishment and maintenance of their English language training program. In FY2006, over 110 separate countries were participating in some grant IMET training program. During FY2006, the appropriation for grant IMET was over \$81 million.<sup>152</sup>

The E-IMET initiative is accomplished through educational programs in the United States offered by DOD and U.S. military service schools, by Mobile Education Teams visiting host countries, and by funding military participation in overseas conferences. Although IMET funding can be used for such an initiative (overseas seminars) under the auspices of the E-IMET program when such activities are deemed appropriate, the emphasis and preference is for a longer training

<sup>152</sup> IMET funding data for FY2006 and previous years, by individual country, can be found at the DSCA website at <http://www.dscamilitary.com/programs/biz-ops/factsbook/FactsBook06.pdf>; last accessed July 22, 2008.

experience in the United States that maximizes the students' exposure to the American way of life.

Beginning in FY1991, DOD launched E-IMET by refining some existing programs and initiating new courses through the military departments. Further, new educational programs were established to address the topics of military justice, human rights, and civil-military relations. The bulk of this effort is accomplished through three schools: Defense Resource Management Institute, Naval Postgraduate School (NPS), Monterey, CA; Center for Civil-Military Relations, Naval Postgraduate School, Monterey, CA; and the Naval Justice School, Newport, RI.<sup>153</sup>

## Issues

There have not been any significant controversies over the division of management tasks of the IMET programs between the Defense and State Departments over the years. There is a clear delineation of responsibilities and authorities, and the implementation of the programs has generally worked smoothly. Both departments generally agree that they wish additional funding could be available to facilitate providing training to nations allied or friendly to the United States as a means of broadening military to military contacts between them and the United States.

As with the Foreign Military Sales/Foreign Military Financing program, DOD has argued recently that IMET lacks the flexibility necessary to respond to rapidly changing environments. The DOD global train and equip authority that Congress provided in Section 1206 of the National Defense Authorization Act (NDAA) for Fiscal Year 2006 (P.L. 109-163), and extended through FY2008,<sup>154</sup> was intended to provide a quicker response in such circumstances. (See **Appendix I.**)

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<sup>153</sup> A detailed series of links to the wide variety of entities that carry out IMET training, and to frequently asked questions about each of them, can be accessed through the DSCA website under the heading International Training Management at <http://www.disam.dscamilitary.com/itm/home.asp>; last accessed July 22, 2008.

<sup>154</sup> The FY2007 John Warner NDAA, P.L. 109-364, Section 1210, amends Section 1206 to extend the authorization period, among other purposes.

## Appendix F. Counternarcotics<sup>155</sup>

### DOD Roles and Responsibilities

DOD has multiple roles and responsibilities in the area of counternarcotics (CN). It is the single lead federal agency for the detection and monitoring of aerial and maritime movement of illegal drugs toward the United States and plays a key role in collecting, analyzing, and sharing intelligence on illegal drugs with U.S. law enforcement and international security counterparts. In addition, Congress authorizes DOD to offer CN assistance to train and equip foreign countries in their efforts to build institutional capacity and control ungoverned spaces used by drug traffickers. Although DOD is a provider of international CN assistance, the Foreign Assistance Act of 1961 vests responsibility for coordinating all U.S. counter-drug assistance with the Secretary of State (Section 481, P.L. 87-195, as amended; [22 U.S.C. 2291]). U.S. officials describe interagency coordination between DOD and the State Department on CN assistance as highly varied, ranging from ad hoc coordination based on personal networks across agencies to weekly planning meetings formally chaired by the National Security Council. Differences in interagency coordination are often attributable to differences in priority of certain countries and issues.

### Origins

U.S. concern about the national security implications of narcotics trafficking first emerged in the late 1960s. In a 1971 press conference, President Richard Nixon famously coined the term “war on drugs” and identified illicit drugs as “public enemy number one.” As a result of frustration at the perceived failure of federal anti-narcotics measures to date, many policy makers, including some Members of Congress, began to call for the inclusion of the U.S. military in anti-drug efforts in the 1970s.<sup>156</sup> Pressure for U.S. military involvement increased throughout the 1980s, as U.S. officials grew concerned that law enforcement personnel were unprepared and ill-equipped to effectively combat well-armed drug cartels and operate in conflict situations in drug source countries.

Such calls and pressure for DOD involvement in CN activities raised particular concern among several top DOD officials in the 1980s, including former Secretaries of Defense Caspar Weinberger and Frank Carlucci, who strongly objected to the U.S. military’s continued and increasing involvement in drug-related activities.<sup>157</sup> Both officials, whose objections reflected an attitude pervasive throughout DOD, perceived anti-drug efforts as law enforcement concerns that would be detrimental to the U.S. military’s primary mission. In 1985, Weinberger reportedly wrote that “reliance on military forces to accomplish civilian tasks is detrimental to military readiness and democratic processes.”<sup>158</sup> In 1988, Carlucci reportedly stated that staffing the front

<sup>155</sup> Prepared by Liana Sun Wyler, Analyst in International Crime and Narcotics. This appendix remains the same as in the original edition of this report; information is current as of August 25, 2008.

<sup>156</sup> Washington Office on Latin America (WOLA), *The U.S. Military and the War on Drugs in the Andes* (Washington, D.C.: 1991). Representative Jack Davis and other Members of Congress reportedly drew on the term “war on drugs” to demand a greater role for the military, stating, “When you have a war, who do you call in to fight the war? You call the military in.”

<sup>157</sup> Coletta Youngers, “The War in the Andes: The Military Role in the U.S. International Drug Policy,” *WOLA Briefing Series: Issues in International Drug Policy*, Issue Brief #2, December 14, 1990.

<sup>158</sup> Quoted in “The Pentagon’s War on Drugs: The Ultimate Bad Trip,” *The Defense Monitor*, Vol. 21, No. 1, March (continued...)

line of the country’s drug war “is not the function of the military.”<sup>159</sup> Nevertheless, DOD increasingly participated in interdiction operations in the early 1980s and sporadically engaged in training, equipping, and transporting foreign anti-narcotics personnel in the mid-to late 1980s.

## Evolution

In the 1980s, subsequent administrations and Congress greatly expanded DOD’s authorities and role in CN assistance. (See **Table F-1.**) Under Presidents Ronald Reagan and George H. Bush, DOD emerged as a prominent actor in U.S. CN assistance to Latin America. President Reagan issued National Security Directive 221 (NSD-221), which declared narcotics trafficking a U.S. national security concern, and directed U.S. military forces to “support counter-narcotics efforts more actively.” President Bush issued National Security Directive 18 (NSD-18), which explicitly directed the Secretary of Defense to redefine the Pentagon’s mission to include CN as one of its main priorities.<sup>160</sup> Congress provided DOD with its first major authority in 1989, identifying DOD as the lead federal agency for the detection and monitoring of aerial and maritime transit of illegal drugs (Sec. 1202, P.L. 101-189; 10 U.S.C. 124).

As U.S. CN engagement in the Andean region continued through the 1990s, Congress extended DOD’s authorities to include a broad range of train and equip assistance. Under the National Defense Authorization Act (NDAA) for Fiscal Year 1991 (Sec. 1004, P.L. 101-510), Congress authorized DOD to provide CN-related training and transport of law enforcement personnel to foreign law enforcement agencies; notably, Section 1004 authorities are not limited to specific countries and do not establish spending restrictions for these new authorities. Congress also authorized DOD to equip foreign CN personnel under the NDAA for FY1998 (Sec. 1033, P.L. 105-85).<sup>161</sup> Section 1033 currently enables DOD to assist 18 countries’ CN efforts by providing non-lethal protective and utility personnel equipment, including navigation equipment, secure and non-secure communications equipment, radar equipment, night vision systems, vehicles, aircraft, and boats.

**Table F-1. Timeline of Major Congressional Authorities and Executive Directives Related to CN**

Year	Authorities	Description
1986	NSD-221	President Ronald Reagan directs U.S. military forces to “support counter-narcotics efforts more actively.”
August 1989	NSD-18	President George H. Bush directs the Secretary of Defense to expand DOD’s support of U.S. CN efforts and to permit DOD personnel to conduct training for host government personnel and operational support activities.
November 1989	Sec. 1202, P.L. 101-189; 10 U.S.C. 124	Congress authorizes DOD to serve as the lead agency of the federal government for the detection and monitoring of aerial and maritime transit of illegal drugs.

(...continued)

1992, and *The War in the Andes*, *op cit*.

<sup>159</sup> Quoted in Lee Feinstein, “Fighting the Next War,” *Mother Jones*, July/August 1990.

<sup>160</sup> “Defense Chief Imposes a Deadline In Pentagon’s War on Drug Flow,” *New York Times*, September 19, 1989.

<sup>161</sup> These countries include Colombia, Afghanistan, Bolivia, Ecuador, Pakistan, Tajikistan, Turkmenistan, Uzbekistan, Azerbaijan, Kazakhstan, Kyrgyzstan, Armenia, Guatemala, Belize, and Panama.

Year	Authorities	Description
1990	Sec. 1004, P.L. 101-510; 10 U.S.C. 374 note	Congress authorizes DOD to provide certain types of CN activities, including foreign assistance training.
1996	Sec. 1031, P.L. 104-201	Congress authorizes DOD to provide specified kinds of CN equipment to Mexico.
1997	Sec. 1033, P.L. 105-85	Congress authorizes DOD to provide specified kinds of CN equipment to Peru and Colombia.
2001	Sec. 1021, P.L. 107-107	Congress amends Section 1004 of P.L. 101-510 (cited above) to authorize DOD to provide linguistic intelligence analysis services in support of CN activities.
2002	Sec. 305, P.L. 107-206	Congress authorizes DOD to use CN funds designated for Colombia to be available for a unified campaign against both narcotics trafficking and terrorism.
2003	Sec. 1021, P.L. 108-136	Congress amends Section 1033 of P.L. 105-85 to authorize DOD to provide additional CN-related train and equip foreign assistance to Afghanistan, Bolivia, Ecuador, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan.
2003	Sec. 1022, P.L. 108-136 5 U.S.C. 371 note	Congress authorizes DOD to provide counterterrorism support to law enforcement personnel that are also conducting CN activities.
2006	Sec. 1022, P.L. 109-364	Congress amends Section 1033 of P.L. 105-85 to authorize DOD to provide additional CN-related train and equip foreign assistance to Azerbaijan, Kazakhstan, Kyrgyzstan, Armenia, Guatemala, Belize, and Panama.
2008	Sec. 1022, P.L. 110-181	Congress amends Section 1033 of P.L. 105-85 to authorize DOD to provide additional CN-related train and equip foreign assistance to Mexico and the Dominican Republic.

Congress has also supported efforts to restrict DOD's role in CN assistance. Reacting to reports in the 1990s of U.S. CN funds supporting countries with a history of human rights problems, Senator Patrick Leahy sponsored a provision in the Foreign Operations, Export Financing, and Related Appropriations Act, 1997,<sup>162</sup> to prohibit the State Department from providing international narcotics control assistance to countries for which the Secretary of State had credible evidence of committing gross human rights violations. In 1998, Congress approved the Leahy provision to apply to DOD, and both provisions have been attached to all subsequent DOD appropriations vehicles. The State Department and DOD provisions, however, differ notably in the scope of CN assistance covered; whereas the State Department restriction covers training and assistance programs, the DOD restriction covers only training programs. This distinction may allow DOD to provide CN assistance to countries that the State Department may not.<sup>163</sup>

<sup>162</sup> The FY1997 Omnibus Consolidated Appropriations Act, P.L. 104-208, Foreign Operations, Export Financing, and Related Appropriations Act, 1997, Title II.

<sup>163</sup> Center for International Policy, "Limitation on Assistance to Security Forces (The 'Leahy Law')," September 2, 2003, available at <http://www.ciponline.org/facts/leahy.htm>; last accessed July 22, 2008.

**Table F-2. DOD CN Funding by U.S. Combatant Command, FY2005 and FY2006**  
(current U.S. \$ millions)

Fiscal Year	AFRICOM	CENTCOM	EUCOM	NORTHCOM	PACOM	SOUTHCOM	Total
FY2005	1.9	256.2	3.8	2.2	1.8	39.2	305.1
FY2006	2.5	165.3	1.2	3.5	3.7	15.7	191.9

**Source:** Adapted from Department of Defense, Foreign Counterdrug Activity Report, FY2005 and FY2006, and Counternarcotics Afghanistan/Central Asia Program Report.

**Note:** Totals may not add due to rounding.

**Table F-3. Top 10 DOD CN Assistance Recipients, FY2005 and FY2006**

Country	DOD FY2005 Assistance (current U.S. \$ millions)	Country	DOD FY2006 Assistance (current U.S. \$ millions)
Afghanistan	224.5	Afghanistan	108.1
Netherlands Antilles	16.4	Pakistan	28.7
Ecuador	14.7	Tajikistan	10.7
Tajikistan	9.6	Colombia	10.4
Pakistan	7.7	Kyrgyzstan	8.8
Colombia	5.5	Kazakhstan	6.0
Kyrgyzstan	5.3	Bahamas	3.5
Turkmenistan	4.9	Oman	3.1
Oman	4.2	Ecuador	2.7
United Kingdom	3.3	Kenya	2.3

**Source:** Adapted from Department of Defense, Foreign Counterdrug Activity Report, FY2005 and FY2006, and Counternarcotics Afghanistan/Central Asia Program Report.

## Recent Activities

### Colombia and the Andean Region <sup>164</sup>

DOD continues to provide CN assistance to Colombia and the Andean region, primarily under Section 1004 and Section 1033 authorities. Over the years, DOD CN goals in Colombia have evolved to include combating paramilitary and terrorist groups in conjunction with drug trafficking organizations. U.S. military assistance to Colombia and the Andean region, however, has raised several concerns relating to the effectiveness of CN foreign assistance in reducing drug availability in the United States; the potential unintended consequences of strengthening Latin

<sup>164</sup> For background on Plan Colombia and the Andean Counterdrug Initiative, see CRS Report RL32774, *Plan Colombia: A Progress Report* and CRS Report RL33370, *Andean Counterdrug Initiative (ACI) and Related Funding Programs: FY2007 Assistance*, both by Connie Veillette.

American military capabilities; and the shift, over the years, from a primary focus on halting the flow of drugs to a new focus on counterterrorism.

## Afghanistan<sup>165</sup>

DOD CN support, in the form of training, equipment, intelligence sharing, and transportation, is part of a broader U.S. strategy to combat drugs and terrorism in Afghanistan. The NDAA for FY2004 (Sec. 1021, P.L. 108-136) added Afghanistan to the list of countries eligible for transfers of non-lethal DOD CN equipment under Section 1033 authorizations. The NDAA for FY2007 further extended DOD CN assistance authorizations to include the provision of individual and crew-served weapons of .50 caliber or less and ammunition for these weapons for Afghanistan's CN security forces (Sec. 1022, P.L. 109-364). According to DOD officials, Afghanistan has benefitted from CN assistance made available by Section 1022, which allows DOD to provide counterterrorism support in conjunction with CN activity.

DOD's role in CN in Afghanistan has generated a variety of critics, ranging from those who seek to broaden DOD's CN responsibility to those who view DOD's CN activities as a diversion from the U.S. military's stability and counterterrorism operations in the country. According to the Senate Report for the NDAA for FY2006 (S.Rept. 109-69), DOD requested authorization from Congress "to provide assistance in all aspects of counterdrug activities in Afghanistan, including detection, interdiction, and related criminal justice activities." Legislation enacted, however, has yet to authorize DOD to provide CN assistance beyond the scope authorized in Sections 1004 (1990), 1033 (1997), and 1022 (2003). Further emphasizing congressional resistance to expanding DOD CN authorities, the House Report for the John Warner NDAA for FY2007 (H.Rept. 109-542) states that DOD "must not take on roles in which other countries or other agencies of the U.S. government have core responsibility."

## Mexico

On October 22, 2007, President George W. Bush and President Felipe Calderon of Mexico jointly announced plans to begin the Mérida Initiative—a multi-year, \$1.4 billion bilateral commitment to reduce drug trafficking and other criminal activities in Mexico, as well as to contribute toward strengthening the institutional capacity of Mexican security forces. In June 2008, Congress appropriated \$400 million of \$465 million in FY2008 and FY2009 Merida Initiative funds for Mexico (Supplemental Appropriations Act, 2008, P.L. 110-252, Section 1406(a)).<sup>166</sup> This funding is in addition to current levels of foreign assistance to Mexico. According to a 2007 U.S. Government Accountability Office (GAO) report, DOD spent a total of \$58 million for equipment and training for CN support to the Mexican military from 2000 to 2006.<sup>167</sup> It remains unclear to what extent the new Mérida Initiative will affect current levels of DOD CN assistance to Mexico.

<sup>165</sup> For a detailed discussion of U.S. CN policy in Afghanistan, see CRS Report RL32686, *Afghanistan: Narcotics and U.S. Policy*, by Christopher M. Blanchard.

<sup>166</sup> Of the \$400 million, Congress specified that Mexico could receive up to \$352 million in FY2008 supplemental funds and up to \$48 million in FY2009 bridge fund assistance. In its FY2009 budget request, the Administration asked for \$450 million in FY2009 Mérida Initiative funds for Mexico; Congressional action on the FY2009 budget request is in progress. For more information on the Mérida Initiative, see CRS Report RS22837, *Merida Initiative: U.S. Anticrime and Counterdrug Assistance for Mexico and Central America*, by Colleen W. Cook and Clare Ribando Seelke.

<sup>167</sup> U.S. Government Accountability Office, *Drug Control: U.S. Assistance Has Helped Mexican Counternarcotics Efforts, but Tons of Illicit Drugs Continue to Flow into the United States*, GAO-07-1018, August 2007.

Independent of the Administration's supplemental funding request for the Mérida Initiative, Section 1022 of the National Defense Authorization Act for Fiscal Year 2008 (P.L. 110-181) extends Section 1033(b) of the National Defense Authorization Act for Fiscal Year 1998 to make available train and equip authorities to Mexico (and the Dominican Republic).

## Issues

As authorities expand, analysts continue to critique DOD's role in CN assistance. Proponents of DOD's expanded role generally argue that narcotics trafficking poses a national security threat to the United States and that the military is especially equipped with the resources and skills to help foreign governments counter powerful drug trafficking organizations. Many analysts also acknowledge that although DOD and civilian agencies have seemingly overlapping and redundant authorities, the absence of DOD's participation in CN assistance would be detrimental to the effectiveness of U.S. programs. Opponents, by contrast, insist that CN foreign assistance is not a military mission and that the training of military elements in foreign countries may have serious political and diplomatic repercussions abroad.

Critics of DOD's role in CN assistance also fear that the balance between military and civilian participation in CN may disproportionately favor the military. For example, longstanding concerns over the perceived reliance on the military to provide CN assistance have resurfaced, with new plans to remodel by 2018 the U.S. Southern Command (SOUTHCOM), DOD's regional combatant command for Central and South America. SOUTHCOM has long played a key role in DOD CN assistance planning in the Andes region, and in DOD's new vision, SOUTHCOM's participation in non-traditional military activity, including CN assistance, will likely expand. DOD planners envision a broader interagency role for SOUTHCOM, akin to the new U.S. Africa Command (AFRICOM), which includes building foreign governments' security capacity and improving accountable governance as part of its core mission.<sup>168</sup>

Supporters of the 2018 plan perceive this change as an opportunity to enhance interagency coordination of international programs among military and civilian agencies, rather than a zero-sum game. Other analysts, however, are wary that SOUTHCOM's new strategic direction will further militarize U.S. foreign policy in the region. In addition, an expanded role for DOD in CN assistance may antagonize U.S. foreign partners. This has already been the case with the government of Mexico, which reportedly resisted U.S. efforts to place the country under SOUTHCOM's (or any other combatant command structure) area of responsibility (AOR) in order to make the point that it does not want the U.S. military involved in what it considers to be its internal affairs.<sup>169</sup> Only in 2002 was Mexico incorporated into the newly created NORTHCOM, which also includes the continental United States, Alaska, Canada, and surrounding waters. Even today, Mexico's military CN cooperation under NORTHCOM remains limited; as noted above, the highly publicized Mérida Initiative does not include a role for direct DOD support.

In addition to concerns about the balance between military and civilian roles in CN assistance, some analysts have voiced concern over the difficulty in reconciling DOD and State Department

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<sup>168</sup> SOUTHCOM, "Command Strategy 2018," accessible at <http://www.southcom.mil/AppsSC/files/0UI01177092386.pdf>; last accessed July 22, 2008.

<sup>169</sup> Testimony of Commandant of the U.S. Coast Guard, Admiral Thad Allen, before the Senate Appropriations Subcommittee on Homeland Security on September 7, 2006.

CN policy planning. Some observers claim that DOD's CN planning processes differ from the State Department's and may make cross-agency policy coordination and evaluation of assistance programs difficult. For example, unlike the State Department, DOD programming strategies are not developed on a country-by-country basis; instead, planning is based on capabilities, because most of DOD's CN programs (e.g., ROTHRS, CBRNs, and aerial and surface platforms) cover geographic regions that span several countries. This difference in planning strategies is also reflected in the way CN funds are disbursed. DOD funds are allocated by function rather than by country. The State Department annually provides Congress with CN assistance program summaries by country and function; in contrast, no equivalent DOD document is regularly published.

<http://wikileaks.org/wiki/CRS-RL34639>

## Appendix G. Foreign Anti-Terrorism and Counterterrorism Train and Equip Assistance and Education Programs<sup>170</sup>

### DOD Role and Responsibilities

DOD and the Department of State both devote financial and personnel resources to assisting foreign governments' anti-terrorism and counterterrorism activities.<sup>171</sup> The foreign counterterrorism assistance goals of these departments seek to enhance the capability of the host nation to prevent terrorism. The State Department conducts an Anti-Terrorism Assistance (ATA) program, through which it trains, equips, and advises foreign police forces and other security officials.<sup>172</sup> DOD currently plays no role in this program, according to State Department officials.

DOD participates in two counterterrorism programs with the State Department and other agencies: the State Department-led, interagency Trans-Sahara Counter-Terrorism Partnership (TSCTP) and the State Department's Regional Strategic Initiatives (RSI). DOD also provides counterterrorism assistance through the DOD Building Global Partnerships Train and Equip Section 1206 authority, which is discussed in a separate appendix. (See **Appendix H.**) DOD has its own Counterterrorism Fellowship Program.

DOD also supports the counterterrorism activities of civilian agencies under 10 U.S.C. 374, which authorizes the Secretary of Defense to provide personnel to operate equipment and provide transportation to federal law enforcement agencies in activities in and with foreign nations.<sup>173</sup>

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<sup>170</sup> Prepared by John Rollins, Specialist in Terrorism and National Security, and Nina M. Serafino, Specialist in International Security Affairs. This appendix remains the same as in the original edition of this report; information is current as of August 25, 2008.

<sup>171</sup> The term *anti-terrorism* refers to defensive measures taken to minimize vulnerability to terrorism, while *counterterrorism* refers to offensive measures taken to prevent, deter, and respond to terrorism.

<sup>172</sup> The ATA was established in 1983 in response to the bombings of U.S. Marine barracks in Beirut, Lebanon. The State Department Office of the Coordinator for Counterterrorism provides funding and guidance for the program; the State Department Bureau of Diplomatic Security, Office of Anti-Terrorism Assistance implements and manages program operations. The ATA's mission is to assist foreign nations' anti-terrorism activities by providing training, equipment, and advice to foreign countries to enhance the anti-terrorism skills and capabilities of foreign law enforcement and security officials, establish security relationships between U.S. and foreign officials, and share modern, humane, and effective anti-terrorism techniques. To accomplish these goals, ATA personnel train foreign civilian security and law enforcement officials in various anti-terrorism tasks. Terrorism experts conducting ATA training include U.S. federal, state, and local law enforcement agencies; police associations; and private security firms and consultants. (For more information, see "Anti-Terrorism Assistance Program," Department of State website, last accessed July 22, 2008, at <http://www.state.gov/m/ds/terrorism/c8583.htm>.) Annual appropriations for the Anti-Terrorism Assistance Program from FY2002 through FY2007 total \$756 million. By fiscal year, this breaks down as follows: \$157 million in FY2002; \$91 million in FY2003; \$97 million in FY2004; \$135 million in FY2005; \$131 million in FY2006; and \$145 million in FY2007. These figures include annual appropriations and any applicable funds received through emergency supplemental funds. Also see U.S. Government Accountability Office, *Department of State: Nonproliferation, Anti-terrorism, Demining, and Related Programs Follow Legal Authority, but Some Activities Need Reassessment*, Washington DC, GAO-04-521, April 30, 2004.

<sup>173</sup> Section 374 was added to Title 10 U.S. Code in 1981 and was subsequently amended several times. It also permits DOD to provide the specified support to civilian law enforcement agencies for counternarcotics purposes and for the rendition of terrorist suspects to the United States. Beginning with the NDAA for Fiscal Year 2004 (P.L. 108-136, (continued...))

## Origins and Evolution

Prior to the attacks of September 11, 2001, the United States devoted relatively few resources to U.S. counterterrorism foreign training and equipping activities, and most of the assistance was provided to a country after an incident had occurred. Post-9/11 counterterrorism assistance to foreign governments has significantly increased and is often provided to countries that have not experienced a catastrophic terrorist incident.<sup>174</sup> Although the U.S. government carries out a wide variety of counterterrorism activities to support foreign governments, the major State Department and DOD foreign assistance-type programs focus specifically on various aspects of detecting, deterring, combating, and solving terrorism-related activities by training and equipping foreign military and security forces to deal with terrorist threats. Some of these programs include other components as well. CT programs sometimes include economic and social components, especially when conducted in ungoverned areas or weak states where terrorists may seek safe haven or recruit new members.

DOD participates in at least four CT programs. Three are discussed below. The Section 1206 program is covered in a separate appendix because that authority can be used for purposes other than counterterrorism. (See **Appendix H.**) The U.S. government also has more broadly focused programs that include a train and equip counterterrorism component, but these are not covered here.<sup>175</sup>

### Trans-Sahara Counter-Terrorism Partnership

The Trans-Sahara Counter-Terrorism Partnership (TSCTP) is a State Department-led interagency initiative to deal with the threat of violent extremism and terrorism in the Sahel and Maghreb regions. Its main components include development, military, counterterrorism, and public diplomacy. Many agencies cooperate on the program. These include DOD; the Departments of State, Justice, Homeland Security, and the Treasury; the Federal Bureau of Investigation; and USAID. The TSCTP's goals are to build military and law enforcement capacity, foster regional cooperation, counter radicalization, and enhance public diplomacy. A wide variety of programs are used to achieve these goals, including development programs to, among other objectives, improve health and education and promote good governance.

TSCTP is a successor program to the Pan Sahel Initiative (PSI), a U.S. security assistance program that the State Department administered from 2002 to early 2004, and funded at about \$7.75 million annually. The PSI's mission was to train and equip at least one rapid-reaction company of approximately 100 armed forces in each of the four Saharan nations of Mali, Mauritania, Niger, and Chad. U.S. Marines and Army Special Forces trained these companies of

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(...continued)

Section 1022), Congress has annually renewed an authorization for the DOD joint task forces that support law enforcement agencies conducting counterdrug activities to also support counterterrorism activities.

<sup>174</sup> For the purposes of this appendix, *counterterrorism assistance* is defined as U.S. training and equipping activities provided to a foreign government for purposes of addressing international terrorism related issues. This section of the paper does not address the U.S. counterterrorism training and equipping activities occurring in Iraq or Afghanistan, as these issues are addressed in a separate section of the report.

<sup>175</sup> U.S. programs that are, in part, designed to provide some level of anti-terrorism and counterterrorism training and equipment include the Iraqi Freedom Fund, the State Department's Terrorist Interdiction Program, DOD counternarcotics activities, and other related activities.

approximately 100 each in basic marksmanship, planning, communications, land navigation, and patrolling, and the United States provided participating countries with equipment such as night vision goggles and specially equipped sports utility vehicles.<sup>176</sup> The PSI was succeeded in 2005 by the Trans-Sahara Counter-Terrorism Initiative (TSCTI), with substantial DOD support. The TSCTI and, in 2006, the follow-on TSCTP were expanded to include more Sahel countries and to provide strategic advice and support for increased U.S. public diplomacy efforts. The program now also includes Algeria, Nigeria, Morocco, Tunisia, and Senegal.<sup>177</sup>

The DOD component of the TSCTP is named Operation Enduring Freedom—Trans-Sahara. DOD continues to provide the basic infantry training offered under the PSI. It has also incorporated “more advanced counterterrorism capabilities such as improving communications systems and developing mechanisms for regional intelligence sharing.”<sup>178</sup> In addition, since the PSI, “the TSCTP has fielded Military Information Support Teams (MIST) and Civil Military Support Elements (CMSE)” as part of the public diplomacy effort to “generate support for the United States and for moderate Islamic viewpoints while reducing sympathy and support for terrorism...”<sup>179</sup>

When TSCTP was established in 2007, plans called for DOD and the State Department to provide an combined estimated budget of \$100 million per year. According to the State Department, these two agencies now contribute a combined total of approximately \$150 million to support TSCTP activities, with DOD contributing two-thirds and the State Department and USAID contributing the remainder. Plans call for this level to remain constant through FY2011.<sup>180</sup>

### Regional Strategic Initiative (RSI)

The State Department’s Office of the Coordinator for Counterterrorism (S/CT) has developed eight regional interagency strategy groups to assess the threats posed by terrorists and to develop strategies, plans, and policy recommendations to counter them. These groups are chaired by ambassadors. Through these groups, networked interagency country teams develop a common understanding of the strategic situation in a region. They then design complementary programs and pool resources to eliminate terrorist safe havens and to address conditions fostering terrorist recruitment. RSI groups exist for the Eastern Mediterranean, the Western Mediterranean, East Africa, the Trans-Sahara, Southeast Asia, Iraq and neighboring states, South Asia, and the Western Hemisphere.<sup>181</sup> DOD contributes to the RSI panoply of programs through Section 1206

<sup>176</sup> Lianne Kennedy Boudali, *The Trans-Sahara Counterterrorism Partnership*, a paper published in April 2007 by the Combating Terrorism Center at the U.S. Military Academy at West Point, NY, p. 15. According to another source, PSI training was provided through a series of Joint Combined Exchange Training (JCET) missions under Title 10 U.S. Code authority. CSIS Task Force Final Report 2007, *op. cit.*, p. 3.

<sup>177</sup> The Trans-Sahara Counterterrorism Partnership, *op. cit.*, p. 4.

<sup>178</sup> The Trans-Sahara Counterterrorism Partnership, *op. cit.*, p. 5.

<sup>179</sup> *Ibid.*

<sup>180</sup> E-mail correspondence with the State Department Office of the Coordinator for Counterterrorism, April 11 and May 19, 2008.

<sup>181</sup> The East African Regional Security Initiative (EARSII) is the successor to the State Department’s East African Counterterrorism Initiative (EACTI), to which DOD contributed through the DOD Counterterrorism Fellowship Program.

authority and the DOD Counterterrorism Fellowship Program (below), according to the State Department.<sup>182</sup>

## **DOD Counterterrorism Fellowship Program**

In January 2002, DOD established the Regional Defense Counterterrorism Fellowship Program (CTFP) with \$17.9 million appropriated by Congress. The initial program was to fund foreign military officers' attendance at U.S. military education institutions and selected regional centers for non-lethal training.<sup>183</sup>

In 2003, an authorization for CTFP was codified (10 U.S.C. 2249c), expanding the program to civilians and other venues, and setting an annual authorization limit of \$20 million. This authorization permitted DOD to pay costs associated with the attendance of foreign military officers, foreign ministry of defense officials, and foreign security officials at U.S. military educational institutions, regional centers, conferences, seminars, and other training programs.<sup>184</sup> There is no stipulation in the Title 10 U.S. Code statute that such education and training be non-lethal. An amendment to that statute in 2006 raised the authorized limit to \$25 million and extended the range of permitted venues to foreign and civilian institutions, centers, and events.<sup>185</sup>

The program has four objectives: educating foreign military and civilian personnel who are directly involved in the war on terrorism; creating and maintaining a human counterterrorism network with shared values and common language; providing countries with the intellectual means to create, sustain, and grow counterterrorism capabilities and capacities; and influencing countries to cooperate more fully in U.S. and coalition efforts to combat terrorism.<sup>186</sup> Through this program, DOD supports the TSCTP program and Regional Strategic Initiatives.

The changes in the program over time have raised some concerns. Some question whether enhanced program activities may duplicate other U.S. counterterrorism efforts, although some argue that the expansion of the program is a result of the maturation of the mission. Some security analysts question the lack of specific language regarding non-lethal training in the CTFP permanent authority. If lethal training activities are now a part of CTFP objectives, some security observers question how this new focus differs from that of the International Military Education and Training program. (See **Appendix E.**)

## **Issues**

An issue of concern is whether the DOD and the State Department (and other agencies) adequately coordinate their programs. DOD and civilian agencies have over the past few years developed new means, such as the RSI, to coordinate programs. Within the State Department,

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<sup>182</sup> E-mail correspondence with the State Department Office of the Coordinator for Counterterrorism, April 11, 2008.

<sup>183</sup> Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (P.L. 107-117, Section 8125).

<sup>184</sup> FY2004 NDAA, P.L. 108-136, Section 1221. An annual report on the program is required by December 1.

<sup>185</sup> Section 1204, John Warner NDAA for FY2007 (P.L. 109-364).

<sup>186</sup> Regional Defense Counterterrorism Fellowship Program briefing slides. Accessed at <http://www.dtic.mil/ndia/2005solic/moore.ppt#256,2>, Regional Defense Counterterrorism Fellowship Program (CTFP); last accessed July 22, 2008.

some view cooperation on counterterrorism as a model for DOD-State Department cooperation.<sup>187</sup> Others believe that there is still considerable room for improvement. Regarding the TSCTP, a recent CSIS report acknowledges progress in interagency cooperation, particularly in the field, but finds that such cooperation is “strongly dependent on individual personalities.”<sup>188</sup> Impediments to improved coordination and execution of counterterrorism programs include the separate policy development and implementation by relevant agencies, combatant commands, U.S. embassies, and USAID missions; differences in institutional culture among DOD, the State Department, and USAID; and the differences in perspectives created by the regional focus of the DOD combatant commands and the bilateral focus of the State Department and U.S. country teams, according to that report.<sup>189</sup>

Concerns are also raised that DOD and the State Department share an overarching strategic framework and strategic priorities. The CSIS report finds “a lack of coherent strategic vision and authoritative planning” on counterterrorism matters across DOD, the State Department, and USAID.<sup>190</sup> Another report faults the TSCTP for failing to fulfill its “rhetorical commitment to a holistic, integrated response” addressing the economic, social, and political sources of instability. “Although U.S. government players agree that CT strategy should focus eighty percent on development and governance activities, and only twenty percent on military effort, actual budgets have been closer to the reverse, making it difficult for the program to address underlying, chronic sources of underdevelopment and poor governance.”<sup>191</sup>

If the counterterrorism assistance programs are not coordinated with respect to the overarching strategy of the United States, the departments providing services and advice may inadvertently negatively influence a foreign country’s efforts to support U.S. national security policies. Other interagency concerns that may have U.S. policy implications include the commonalities in procedures and training offered by DOD and State Department training personnel, the sharing of useful national security information gleaned from host country training activities, and how U.S. foreign policy goals are conveyed to host country representatives. The training and services offered have a significant impact on a foreign country’s tactical and strategic approach to addressing terrorism within its borders and in the surrounding region. If U.S. federal government counterterrorism organizations are not coordinating with the ATA’s counterterrorism activities, conflicting U.S. policy signals may be given to the host country and resources may be used in an inefficient manner.

A lack of transparency for such interagency programs that draw on multiple authorities and multiple budget accounts may also be a concern. Reporting requirements for each of the component programs vary and there may be no reporting requirement for some components. Thus, no one source presents to Congress a comprehensive account of multiple counterterrorism programs.

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<sup>187</sup> E-mail correspondence with the State Department Office of the Coordinator for Counterterrorism, April 11, 2008. Also see **Appendix H**.

<sup>188</sup> CSIS Task Force Final Report 2007, *op. cit.*, pp. 3-4.

<sup>189</sup> CSIS Task Force Final Report 2007, *op. cit.*, p. 4.

<sup>190</sup> CSIS Task Force Final Report 2007, *op. cit.*, p. 5.

<sup>191</sup> The Pentagon and Global Development, *op. cit.*, p. 10.

## Appendix H. Foreign Military Capacity Building

### Section 1206 Authority<sup>192</sup>

#### DOD Role and Responsibility

In the FY2006-FY2008 annual DOD authorization bills, Congress provided DOD with authority to train and equip foreign military forces to perform counterterrorism, as well as military and stability operations. This “Section 1206” authority, as it is known, enables DOD to use DOD funds to conduct or support train and equip programs such as those usually provided under State Department security assistance authorities and budgets. As with State Department security assistance programs, activities carried out under Section 1206 authority are administered by the Defense Security Cooperation Agency.

During the first two years of Section 1206 funding, DOD appeared to exercise a strong lead in planning and carrying out activities. The State Department has played a larger part since DOD and State Department guidance was issued in 2007.<sup>193</sup> According to DOD officials, for the most recent (FY2008) planning cycle, which began in August 2007, the programs have been coordinated through a joint State Department-DOD review. U.S. embassies and Combatant Commands can offer proposals to each other for concurrence, after which the proposals are disseminated to appropriate offices in DOD and the State Department, including the legal offices.<sup>194</sup> State Department and DOD officials vet the proposed recipients for human rights violations. Proposals selected as priority activities are sent to the appropriate congressional committees for reprogramming approval at least 15 days before beginning an activity.<sup>195</sup>

#### Origins and Evolution

In 2005, as part of its FY2006 budget submission, DOD requested this train and equip authority to enhance its ability to meet urgent needs and respond to emerging threats, particularly emerging terrorist threats. Most of the funding thus far has been used for counterterrorism programs. First established in through the National Defense Authorization Act (NDAA) for FY2006 (P.L. 109-163), this authority was amended and extended in 2007. It is now in effect through the end of FY2008.

The FY2006 NDAA Section 1206 provided the President with authority to direct the Secretary of Defense to conduct or support programs to build the capacity of foreign military forces to perform counterterrorism operations or to participate in or support military and stability

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<sup>192</sup> Prepared by Nina M. Serafino, Specialist in International Security Affairs. This appendix remains the same as in the original edition of this report; information is current as of August 25, 2008. For updated figures, see the main text, above. Also see CRS Report RS22855, *Section 1206 of the National Defense Authorization Act for FY2006: A Fact Sheet on Department of Defense Authority to Train and Equip Foreign Military Forces*, by Nina M. Serafino, for additional information.

<sup>193</sup> Author’s interviews with DOD officials, December 2007.

<sup>194</sup> Author’s interviews with DOD officials, December 2007.

<sup>195</sup> Section 1206 authority requires a 15-day advance notification to the congressional defense, foreign affairs, and appropriations committees before initiating each program, with information on the selected countries, budgets, timelines, sources of funding, and planned expenditures of funds.

operations in which U.S. armed forces participate. Section 1206 authorized the provision of training, supplies, and equipment for those programs. The Secretary of Defense could transfer monies from the defensewide operations and maintenance account to fund the programs. The Secretaries of State and Defense were required to jointly formulate any program, and the Secretary of Defense to coordinate with the Secretary of State in their implementation. Congress set the original funding limit, for FY2006, at \$200 million, although only about half of this was actually obligated. Congress also set strict conditions for these programs. Section 1206 required that these programs observe and respect human rights, fundamental freedoms, and the “legitimate civilian authority” within a country. Section 1206 could not be used to provide any type of assistance otherwise prohibited by any provision of law, nor to provide assistance to any country otherwise prohibited from receiving such assistance under any other provision of law.<sup>196</sup>

Through the John Warner NDAA for FY2007 (P.L. 109-364), Congress amended the FY2006 Section 1206 provisions to extend the authority through FY2008, raise the funding limit to \$300 million, and permit the Secretary of Defense to draw from all DOD operations and maintenance accounts to fund the program. Congress also changed the manner in which programs are initiated. Although the original FY2006 Section 1206 provisions required a presidential decision to initiate a program, the FY2007 legislation permitted the Secretary of Defense, with the concurrence of the Secretary of State, to authorize the training. Congress also added a requirement for the Secretary of Defense to notify Congress when a decision was reached to initiate a program.

Congress denied a May 2007 DOD request to expand and make permanent Section 1206 authority.<sup>197</sup> In this request, DOD asked for authority to train and equip not only foreign military forces, but also foreign security forces. The request proposed raising the limit on annual spending to \$750 million. It also proposed authority to waive any restrictions applicable to assistance for military and security forces. DOD funds could be used not only by DOD, but also could be transferred to the Department of State or any other federal agency to conduct or support activities. In its action on FY2007 supplemental appropriations (P.L. 110-28), Congress declined to provide Administration’s request for \$300 million in additional funding for Section 1206 programs in FY2008.

In its FY2009 budget request of February 4, 2008, DOD asked for \$500 million for Section 1206 capacity-building purposes. Three days later, as part of its proposed NDAA for FY2009, DOD submitted the Building Global Partnerships Act to make permanent Section 1206 by codifying it at Title 10 U.S. Code, Chapter 20.<sup>198</sup> This proposal is similar to DOD’s May 2007 request. DOD

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<sup>196</sup> Section 1206 of P.L. 109-193 also required the President to submit a report, due January 6, 2007, that would assess U.S. laws governing capacity-building programs for foreign governments and train and equip programs for foreign military forces, and recommending changes to those laws, as well as to the organization and procedures of the DOD and the State Department. The report was also to include a statement of the resources and funding mechanisms required to ensure adequate funding for such programs. Section 1206(f) 2006 NDAA Report, *op. cit.*

<sup>197</sup> The HASC Report 110-146 on the FY2008 NDAA, *op. cit.*, stated that in “the last two years, Congress has clearly and strongly discouraged further legislative proposals to expand or make permanent DOD’s ‘train and equip’ authorities” absent a required report [the Section 1206(f) FY2006 NDAA Report, *op. cit.*] and “an established track record of success.” (p. 401.) The Senate Armed Services Committee (SASC) report accompanying its version of the bill noted that SASC was restricting FY2008 funding for Section 1206 activities to the previously authorized \$300 million, rather than the \$500 million requested by the Administration. U.S. Congress, Senate Committee on Armed Forces, *National Defense Authorization Act for Fiscal Year 2008*, Report to accompany S. 1547, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., S.Rept. 110-077, p. 317.

<sup>198</sup> Provisions regarding the extension, expansion, and codification of Section 1206 authority are contained in Section 1301 of the Administration’s proposed FY2009 NDAA, available at <http://www.dod.mil/dodgc/olc>; last accessed July (continued...)

again requested a permanent annual authorization of up to \$750 million to build foreign national military and other forces. As in the 2007 proposal, these other forces would include “gendarmarie, constabulary, internal defense, infrastructure protection, civil defense, homeland defense, coast guard, border protection, and counterterrorism forces....” In a slight difference from current practice, DOD and the State Department (not the secretaries of Defense and State) would jointly formulate programs, and the Secretaries of Defense and State would jointly coordinate implementation. The February 2008 proposal differed from the earlier request in that it would not in itself waive restrictions elsewhere in law, but would grant waiver authority to the President and the Secretary of State.

## Activities

In FY2006, DOD used Section 1206 authority to carry out nine projects to improve counterterrorism capabilities in 11 countries. DOD obligated a little over \$100 million for those programs. In FY2007, DOD used Section 1206 authority to carry out programs in over a score of countries or groups of countries. These programs cost almost \$280 million. Most provided equipment, with associated training. Most equipment and virtually all training to date has been provided by contractors, according to DOD officials.<sup>199</sup>

In FY2006, DOD assisted Chad and Nigeria in developing an information-sharing system to disrupt and attack terrorist networks in the trans-Saharan region. Nigeria also received assistance, along with Sao Tome and Principe, to establish a regional maritime awareness capability. Other countries that received assistance to build maritime capabilities were Indonesia, Sri Lanka, the Dominican Republic, and Panama. Section 1206 provided funds to enhance the Lebanese Armed Forces’ ability to control Lebanon, to enable the Yemeni Armed Forces to prevent cross-border arms trafficking and suppress terrorist activity, and to enhance Pakistan’s ability to control its borders and to train and equip Pakistani Marines.

In FY2007, new programs included a 15-country African Maritime Security program, as well as maritime programs in Djibouti, Malaysia, Pakistan, and the Philippines, and a multinational maritime program involving various Caribbean Basin countries. Bahrain received assistance to help develop a coastal patrol boat capability.

New FY2007 programs also were carried out to enhance intelligence capabilities in eight African countries, and to build counterterrorism and stability operations capabilities in Albania, Georgia, Kazakstan, Macedonia, and Ukraine. Yemen received funds for a new program to enhance border security. Mexico received a small amount of counterterrorism assistance. Section 1206 funds were used to support the East Africa Regional Security Initiative, as well as multinational civil-military operations training conducted under the Trans-Sahara Counter-Terrorism Partnership.

Obligations for FY2008 Section 1206 projects are underway. Obligations for projects in Azerbaijan, Bahrain, Georgia, Lebanon, and the Philippines totaled some \$24.8 million as of May 20, 2008.

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22, 2008.

<sup>199</sup> Author’s e-mail correspondence with DOD official, May 20, 2008.

## Issues

Section 1206 funding has been one of the most controversial DOD foreign assistance-type programs. The December 2006 Senate Foreign Relations Committee (SFRC) report “Embassies as the Command Post in the Anti-Terror Campaign” rejected this grant of special authority to DOD and recommended that the Secretary of State “insist that all security assistance, including Section 1206 funding, be included under his/her authority....”<sup>200</sup> Based on visits to embassies in 2006, SFRC staff found that plans for Section 1206 programs “were not receiving the same embassy input as bilateral programs,” and that, in some cases, the embassies were not even being informed of plans for Section 1206 activities until well into or after the selection process. In addition, the report stated that, for the most part (except in the cases of Lebanon and Pakistan), Section 1206 activities do not address emergency situations and could be handled, as are other security assistance programs, through the normal budget process.<sup>201</sup>

Some sources indicate that there have been some improvements in planning and coordination since the SFRC report was issued. A 2007 GAO report echoed the SFRC finding of a lack of coordination in formulating FY2006 proposals. The GAO stated, however, that the “combatant commands and embassies we contacted reported better coordination in the formulation of fiscal year 2007 proposals,” which they attributed to “having more time to develop proposals and more explicit guidance from State and DOD.”<sup>202</sup> A 2008 DOD document describes DOD and State Department coordination on Section 1206 programs as “rapidly becoming the gold standard for interagency cooperation to meet emerging threats and opportunities because of the revolutionary way it is managed.”<sup>203</sup>

Some analysts have questioned the utility of placing Section 1206 programs under DOD when the program relies heavily on private contractors. The new interagency process has expedited the project selection process, which may increase the possibilities for using U.S. military personnel for some Section 1206 training. FY2006 and FY2007 Section 1206 activities were selected toward the very end of the fiscal years, leaving just enough time to obligate the funds through contracts with private companies. These companies could then implement the project in the following fiscal year. Scheduling assignments for U.S. military troops requires that activities be approved well before the end of the fiscal year, according to one DOD official, as military personnel must complete activities in the fiscal year or years for which funds are allocated.<sup>204</sup> The FY2008 selection process is well underway. Provisions in the House and Senate versions of the FY2009 NDAA, which would permit the use of appropriated funds over multiples years, would also facilitate Section 1206 training by U.S. military personnel.

The question of whether State Department leadership on foreign policy is challenged by DOD Section 1206 authority remains open for some analysts. According to a December 2007 report by the Center for Strategic and International Studies (CSIS), “the decision to provide the Department

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<sup>200</sup> 2006 SFRC Report, *op. cit.*, p 3.

<sup>201</sup> “Rather, it [Section 1206 funding] is seen as a new source of money for long-desired components in a military relationship. Old wish lists were dusted off and used to justify submitting a request for Section 1206 funding. Military officials in the embassies involved see the programs as a ‘preventive’ effort, an investment in bilateral and intra-regional cooperation.” 2006 SFRC Report, *op. cit.*, p. 12.

<sup>202</sup> GAO Section 1206 letter, *op. cit.*, p. 3.

<sup>203</sup> Fiscal Year 2009 Budget Request Summary Justification, *op. cit.*, p. 103.

<sup>204</sup> Author’s telephone conversation with a DOD official, July 2007.

of Defense with its own security assistance pipeline carries policy risks....” The report instead recommended building “a larger State Department budget with increased and more flexible counterterrorism funding.”<sup>205</sup> CSIS did support, however, the DOD proposal to extend Section 1206 training to foreign security forces.

<http://wikileaks.org/wiki/CRS-RL34639>

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<sup>205</sup> CSIS Task Force Final Report 2007, *op. cit.*, pp. 9-10. The report recognizes the difficulties in establishing flexible funding mechanisms. “In principle, there is no reason that the administration could not propose—and Congress fund—a contingency fund within the FMF account to respond rapidly to unforeseen contingencies by training security forces in counter-terrorism and stability operations. In practice, however, Congressional resistance to funding such State Department ‘slush funds,’ and the comparative ease of getting resources for DOD, creates a temptation to re-jigger authorities rather than budgets.” p. 11.

# Appendix I. Global Peace Operations Initiative Train and Equip Program<sup>206</sup>

## DOD Role and Responsibilities

The State Department launched its Global Peace Operations Initiative (GPOI) in mid-2004 to train and equip foreign military and security forces to participate in international peacekeeping operations. Officials in the Department of Defense (DOD) Office of Special Operations and Low-Intensity Conflict (SO/LIC) played a major role in promoting the initiative, working with the State Department on the proposal. GPOI's primary purpose is to provide 75,000 soldiers from developing nations with training in peacekeeping skills by the end of the decade. An ancillary purpose is to stimulate a broad international effort to foster an international deployment and logistics support system to transport and maintain them. GPOI also provides some assistance to the Italian Center of Excellence for Stability Police Units (COESPU).

Overall responsibility for GPOI rests with the State Department's Bureau of Political-Military Affairs. The Bureau's Office of Policy, Plans, and Analysis (PM/PPA) works closely with the DOD to plan and implement GPOI through the Defense Security Cooperation Agency (DSCA) and the military Combatant Commands. In Africa, training is largely carried out by private sector personnel employed under a State Department contract, but elsewhere, U.S. military personnel provide most of the training. The State Department's Africa Bureau continues to play the major role in developing and overseeing the implementation of programs in Africa. DOD provides a military officer to serve as Deputy Director of COESPU.

## Origins and Evolution

GPOI was established to significantly expand and improve the State Department's special peacekeeping train and equip program in Africa. From 1996 through 2004, the United States provided field and staff training in peacekeeping skills and techniques, and related non-lethal equipment, to potential African peacekeepers, first through the African Crisis Response Initiative (ACRI) and then through its successor program, the African Contingency Operations Training and Assistance (ACOTA). GPOI was designed as a worldwide program, with a continuing emphasis on Africa through ACOTA.

The impetus behind GPOI (and its predecessor Africa programs) was the widely perceived need to improve international capabilities to control devastating conflicts. Leaders of the Group of 8 (G8) major industrial countries endorsed the GPOI goal to create 75,000 peacekeepers by 2010 in the June 2004 summit meeting at Sea Island, Georgia. In his September 21, 2004, address to the opening meeting of the 59<sup>th</sup> session of the U.N. General Assembly, President George W. Bush stated that the world "must create permanent capabilities to respond to future crises." He pointed, in particular, to a need for "more effective means to stabilize regions in turmoil, and to halt

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<sup>206</sup> Prepared by Nina M. Serafino, Specialist in International Security Affairs. For more information on this initiative, see CRS Report RL32773, *The Global Peace Operations Initiative: Background and Issues for Congress*, by Nina M. Serafino. This appendix remains the same as in the original edition of this report; information is current as of August 25, 2008.

religious violence and ethnic cleansing.” The Clinton Administration was prompted to create the ACRI program by a similar perception.

In mid-2005, the State Department initiated the “Beyond Africa” GPOI component, providing training and related equipment to militaries in Central America, Europe, and Asia. As of the end of 2007, GPOI had funded the training of some 40,000 potential peacekeepers around the world. The overwhelming majority, some 96%, were from 20 countries and one regional organization in sub-Saharan Africa. The remainder came from 21 countries, primarily in Asia, the Pacific Islands, and Central America.

The State Department funds GPOI as a line item in its Peacekeeping (PKO) account.<sup>207</sup> Initial plans called for a five-year budget (FY2005-FY2009) of \$660 million. Funding from FY2005-FY2008 totals \$374.5 million. If Congress provides the full FY2009 request, FY2005-FY2009 funding will total \$487.7 million.

**Table I-1. GPOI Funding, by Fiscal Year, FY2005-FY2009**

(current U.S. \$ millions)

FY05 (actual)	FY06 (actual)	FY07 (actual)	FY08 (actual)	FY09 (request)	Total
96.7	100.4	81.0	96.4	110.2	484.7

**Source:** Department of State, Bureau of Political-Military Affairs, June 16, 2008.

## Issues

Although its purposes are generally supported, GPOI’s implementation has been problematic and has drawn criticism from some Members of Congress. In the National Defense Authorization Act for Fiscal Year 2008 (P.L. 110-181), Congress called for a Government Accountability Office (GAO) report that would address continuing concerns. These are (1) the extent to which contributing and participating countries maintain records and databases, (2) the quality and sustainability of the training of individuals and units, (3) the extent to which those trained are equipped and remain equipped to deploy in peace operations, (4) the capacity of participating countries to mobilize those trained, (5) the extent to which trained individuals are deployed, and (6) the extent to which contractors are used and the quality of their work. The report, released in June 2008, judged that the State Department and DOD “have made some progress in achieving GPOI goals in three principal areas: training and equipping peacekeepers, providing equipment and transportation for deployed missions, and building peacekeeping skills and infrastructure, but challenges remain in meeting these goals.”<sup>208</sup> It then recommended that the State Department (1) “improve oversight of nonlethal equipment delivery to partner countries,” (2) “develop methods to assess the overall outcomes of the training program,” (3) “ensure that trainees are properly

<sup>207</sup> For the program’s first year, about 80% of GPOI funding was provided through the Defense budget. A small amount of GPOI funding provides a U.S. contribution to the Italian government’s multinational Center of Excellence for Stability Police (COESPU), which trains *gendarmes* (i.e., police with military skills). Through FY2008, the COESPU contribution was funded by the PKO account. Of the FY2009 request, \$106.2 million would be funded by the PKO account and \$4.0 million, for COESPU, would be funded by the State Department’s International Narcotics Control and Law Enforcement (INCLE) account.

<sup>208</sup> U.S. General Accounting Office, *Thousands Trained but United States is Unlikely to Complete All Activities by 2010 and Some Improvements are Needed*, GAO/08-754, June 2008 p. 2.

screened for human rights violations,” and (4) in consultation with DOD, “assess the estimated resources and time frames needed to complete activities to help achieve the G8 goals for developing African countries’ capabilities to maintain peacekeeping operations on their own.”<sup>209</sup>

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<sup>209</sup> Ibid., p. 5.

# Appendix J. The Department of Defense in Nonproliferation: The Cooperative Threat Reduction Program<sup>210</sup>

## DOD Role and Responsibilities

DOD is one of the three principal U.S. agencies that carries out threat reduction and nonproliferation programs. DOD is responsible for the central program that secures and eliminates weapons: the multiple-part Cooperative Threat Reduction program (CTR). The State Department is responsible for the program that provides research grants to former Soviet scientists and engineers in an effort to keep them from selling their knowledge to other nations. The Department of Energy (DOE) is responsible for developing projects to improve accounting and security at research facilities that house nuclear materials.

## Origins

Congress established the Nunn-Lugar Cooperative Threat Reduction (CTR) Program in November 1991. A failed coup in Moscow in August 1991 and the subsequent disintegration of the Soviet Union had raised concerns about the safety and security of Soviet nuclear weapons. Congress responded by transferring \$400 million in FY1992 DOD funds to assist with the safe and secure transportation, storage, and dismantlement of nuclear, chemical, and other weapons.<sup>211</sup> Congress appropriated an additional \$300 to \$500 million per year for DOD's CTR program between FY1993 and FY2007. The total budget for U.S. nonproliferation and threat reduction programs in the former Soviet Union, which includes programs in DOE and the State Department, has grown to around \$1 billion per year.<sup>212</sup>

For several years in the early 1990s, virtually all the funding for U.S. threat reduction and nonproliferation assistance to the former Soviet Union came from the DOD budget.<sup>213</sup> Contractors working for DOD implemented most of the projects and received most of the funding. Other agencies, including DOE and State Department, participated in some of the CTR programs, particularly when their experts were needed to design a project, but DOD served as the executive agent for the funding, with contracts let through the DOD contracting process.

<sup>210</sup> Prepared by Amy F. Woolf, Specialist in National Defense. This appendix remains the same as in the original edition of this report; information is current as of August 25, 2008.

<sup>211</sup> This program was authorized through an amendment to the implementing legislation for the Conventional Armed Forces In Europe (CFE) Treaty (P.L. 102-228). The Amendment, sponsored by Senators Sam Nunn and Richard Lugar, established the Soviet Nuclear Threat Reduction Act of 1991 (105 Stat. 1693).

<sup>212</sup> For a detailed description of the full range of programs, see CRS Report RL31957, *Nonproliferation and Threat Reduction Assistance: U.S. Programs in the Former Soviet Union*, by Amy F. Woolf.

<sup>213</sup> Congress also established the State Department's Nonproliferation and Disarmament Fund (NDF) in 1992, in part to ensure that the State Department would play a role in providing nonproliferation assistance to the former Soviet Union. (The fund was established by Section 504 of the Freedom for Russia and Emerging Eurasia Democracies and Open Markets Support Act of 1992, P.L. 102-511, better known by its short title, the FREEDOM Support Act.) However, the budget for NDF has remained relatively small (around \$15-\$30 million per year) and, unlike CTR, which has funded long-running, ongoing programs, NDF it has served more to provide emergency funding and assistance when nonproliferation challenges emerge.

The State Department played the lead role in negotiating the umbrella agreements between the United States and former Soviet states that were needed before the United States could fund programs in these states. Further, after passage of the FREEDOM Support Act in 1992 (P.L. 102-511), the State Department Coordinator for assistance to the former Soviet Union was supposed to help coordinate planning for CTR projects across the several agencies. For several years, a deputies committee consisting of participants from DOD, DOE, the State Department, and the National Security Council (NSC) met periodically (sometimes as often as once a month) to discuss priorities for U.S. threat reduction assistance, to identify possible projects that might receive funding from the program, and to coordinate efforts by the agencies to support these programs. The frequency of these meetings declined, however, by the middle of the decade, as the process became more routine and many ongoing projects were well-established within the budget process.<sup>214</sup>

The organizational structure and funding profile for U.S. nonproliferation and threat reduction assistance changed in FY1996, when financial and administrative responsibility for some of the programs and projects moved to DOE and the State Department. Specifically, the State Department took over responsibility for the Science and Technology centers in Moscow and Kiev, which provided research grants to former Soviet scientists and engineers in an effort to keep them from selling their knowledge to other nations. DOE took over responsibility for the Materials Protection, Control, and Accounting (MPC&A) program, which was developing projects to improve accounting and security at research facilities that housed nuclear materials. This division of labor allowed each agency to take responsibility for those programs that best reflected its expertise: DOD maintained control of programs that sought to secure and eliminate weapons, DOE took control of those that sought to secure nuclear materials that were not in weapons, and State took over those that worked directly with nuclear specialists in the FSU.

DOD and DOE both supported this change in funding and administration. For DOD, the change reduced tensions in both Congress and DOD about the use of DOD funds for foreign aid or foreign assistance programs, leaving DOD with responsibility for the core CTR weapons elimination efforts. For DOE, the change allowed the agency to expand the contacts it had established between its own labs and scientists and those in the former Soviet Union, and to move quickly on its priorities without the need to go through cumbersome DOD contracting procedures. On the other hand, some in State and the NSC argued against this division. Some in the State Department questioned whether funding for the Science Centers would come at the expense of other State Department priorities. Some in the NSC argued that the division would undermine efforts to maintain central control over the priorities and funding. The division of programs proved to be a financial boon to the whole threat reduction and nonproliferation effort, with funding increasing to around \$1 billion per year across the three agencies by the end of the decade. Much of this increase was due to the expansion of DOE's programs, both at materials facilities and at storage facilities for nuclear warheads.

## An Evolving Program

Initially, many in Congress saw U.S. assistance under the Nunn-Lugar amendment as an emergency response to impending chaos in the former Soviet Union. Even after the sense of

<sup>214</sup> According to one source, the exchanges at these meetings were often "heated" as the participants sought to set priorities among projects that would receive U.S. funding. See, for example, Jason D. Ellis and Todd Perry, "Nunn-Lugar's Unfinished Agenda," *Arms Control Today*, October 1997.

immediate crisis passed in 1992 and 1993, many analysts and Members of Congress remained concerned about the potential for diversion or a loss of control of nuclear and other weapons. Russia's economy was extremely weak, and press accounts reported that nuclear materials from Russia were appearing on the black market in Western Europe. Consequently, many began to view CTR as a part of a long-term threat reduction and nonproliferation effort. Former Secretary of Defense William Perry referred to CTR as "defense by other means,"<sup>215</sup> as the program helped eliminate Soviet weapons that had threatened the United States and contain weapons and materials that could pose new threats in the hands of other nations.

In response to this relatively narrow mission, the initial Nunn-Lugar legislation was tightly focused on the transport, storage, and destruction of weapons of mass destruction. For example, the United States has provided extensive assistance with *destruction and dismantlement* projects. These were designed to help with the elimination of nuclear, chemical, and other weapons and their delivery vehicles. These projects helped Russia, Ukraine, Belarus, and Kazakhstan remove warheads, deactivate missiles, and eliminate launch facilities for nuclear weapons covered by the START I Treaty. *Chain of custody* projects were designed to enhance the safety, security, and control over nuclear weapons and fissile materials. These projects provided Russia with bullet-proof Kevlar blankets, secure canisters, and safer rail cars to transport warheads from Ukraine, Belarus, and Kazakhstan to storage and dismantlement facilities in Russia. The CTR program also funded several projects at storage facilities for nuclear weapons and materials, to improve security and accounting systems and to provide storage space, at a new facility at Mayak, for plutonium removed from nuclear warheads when they are dismantled. *Demilitarization* projects encouraged Russia, Kazakhstan, and Ukraine to convert military efforts to peaceful purposes.

The focus of CTR funding has changed over the years. Much of the work on strategic offensive arms reductions has been completed, and the United States has allocated a growing proportion of the funding to projects that focus on securing and eliminating chemical and biological weapons and securing storage sites that house nuclear warheads removed from deployed weapons systems. The DOE programs that seek to improve security and accounting for nuclear materials and some nuclear warheads have also expanded and accelerated. Further, Russia has received most of the funding in recent years, as the participants have completed most projects in the other nations. In recent years, the United States has also increased funding for projects that seek to secure borders and track materials, in an effort to keep weapons of mass destruction away from terrorists. This has included some border security and export control programs funded through the State Department.

This shift in funding has occurred, in part, because many observers began to view U.S. assistance to the former Soviet states as a part of the effort to keep weapons of mass destruction away from terrorists. In 1996, experts testified to Congress that Russian nuclear and chemical facilities, with their crumbling security and lack of accounting procedures, could provide a source for terrorists seeking nuclear or chemical materials. In response, Congress expanded the programs that provided security at facilities with nuclear materials and suggested that more attention be paid to security at facilities with materials that could be used in chemical or biological weapons. Since September 11, 2001, virtually all analysts who follow U.S. threat reduction and nonproliferation assistance have made the link between the possible quest for weapons of mass destruction by terrorists and the potential for thwarting them by helping Russia protect its weapons, materials,

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<sup>215</sup> See U.S. Department of Defense, *Cooperative Threat Reduction*, April 1995, Washington D.C., p. 1.

and knowledge.<sup>216</sup> In early 2003, the Administration stated that it had “expanded the strategic focus of the CTR program” to support the war on terrorism.<sup>217</sup> In its budgets presented from FY2004 through FY2007, it increased funding for several export and border control programs in DOD, State, and DOE; for the State Department programs designed to stem the leaking of knowledge out of the former Soviet Union; and for a DOD effort to find and recover radiological sources—a type of military device that could provide terrorists with nuclear materials for use in a dirty bomb. All of these initiatives focus more on stemming proliferation than on eliminating nuclear weapons in the former Soviet states. However, the Bush Administration has not completely altered the focus of CTR; in February 2005, at a summit meeting in Bratislava, Slovakia, Presidents Bush and Putin agreed to accelerate some of the efforts to secure Soviet-era nuclear weapons.<sup>218</sup> This agreement has led to increased funding for both DOD and DOE efforts to secure nuclear warheads.

## Issues

Many analysts who follow the nonproliferation programs continue to express concerns about the lack of coordination among DOD, DOE, and the State Department in setting priorities and allocating funding. Many have suggested that the White House create a position of nonproliferation czar so that there would be a single individual in the government with the responsibility for setting priorities and coordinating implementation of all threat reduction and nonproliferation programs.

Congress has addressed a number of issues over the years as it has reviewed CTR projects and authorized funding for continuing programs. Some of these have focused on specific programs, such as the development of a chemical weapons destruction facility at Shchuch’ye, Russia, one of that country’s seven chemical weapons storage sites. Questions about the goals of this effort and Russia’s contribution to it led Congress to withhold funding in FY2000 and to restrict it in other years. Congress has also addressed questions about the role that CTR plays in advancing U.S. national security objectives. Some have argued that the United States should increase funding to secure weapons and materials in Russia at a more rapid pace, while others have argued that this funding can actually undermine U.S. security if it frees up funds for Russia to add to its defense budget and weapons acquisition efforts. There have also been some disputes, over the years, about whether certain programs should be funded through DOE or through DOD, although those disputes have waned as the two agencies have worked together to share lessons learned and best practices.

Some Members of Congress, particularly in the House, have questioned whether funds should be allocated to the CTR program from the DOD budget as the programs shift away from efforts to eliminate Soviet-era nuclear weapons and toward efforts to secure borders and prevent the loss of

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<sup>216</sup> Senator Sam Nunn has stated that “preventing the spread and use of nuclear biological, and chemical weapons and materials should be the central organizing principle on security for the 21<sup>st</sup> century.” Remarks by Former U.S. Senator Sam Nunn, Chairman, Nuclear Threat Initiative. Carnegie Endowment for International Peace. International Nonproliferation Conference. November 14, 2002.

<sup>217</sup> U.S. Department of Defense, *Fiscal Year 2004/2005 Biennial Budget Estimates. Former Soviet Union Threat Reduction Appropriation*, February 2003, p. 1.

<sup>218</sup> The White House, Office of the Press Secretary, “Joint Statement by President Bush and President Putin on Nuclear Security Cooperation,” press release, February 24, 2005, accessible through <http://www.whitehouse.gov/news>; last accessed July 22, 2008.

WMD materials and knowledge. This controversy has been evident in recent years, as both the President and the Senate have supported efforts to allow the CTR program to allocate a portion of its funds to programs outside the former Soviet Union. For example, in 2003, the Bush Administration requested the authorization to spend up to \$50 million in CTR funds outside the former Soviet Union in the FY2004 Defense Authorization Bill. The Senate offered its unqualified support for this measure. The House, in contrast, argued that these types of programs would be better managed by the State Department than the Defense Department. It authorized the transfer of up to \$78 million in CTR funds to the State Department Nonproliferation and Disarmament Fund for use in threat reduction efforts outside the former Soviet Union. The Conference Committee, in its report on the FY2004 Defense Authorization Bill (P.L. 108-136), approved the President's request. However, in deference to the House concerns, the committee language indicates that this funding should be used only for short-term projects; it also states that the President should determine whether DOD is the agency that is most capable of implementing the planned project. The conferees stated that they would expect the President to assign the project to the most appropriate agency. The United States has exercised the option of spending CTR funding outside the former Soviet Union only once, in mid-2004, when DOD provided assistance to Albania for the elimination of chemical weapons, but DOD has, in subsequent years, retained the authority to obligate funds outside of the former Soviet Union.

<http://wikileaks.org/wiki/CRS-RL34639>

## **Appendix K. DOD in Iraq and Afghanistan Economic Reconstruction and State-Building<sup>219</sup>**

### **DOD Roles and Responsibilities**

In Iraq and Afghanistan, DOD has assumed economic reconstruction and state-building responsibilities not usually associated with its military obligations. Civilian agencies—in particular, the Department of State and the U.S. Agency for International Development (USAID)—have more traditionally taken the lead in providing such assistance. The State Department plays a key role in overseeing democratization programs in developing and crisis countries. State also has had the lead in setting the broad direction of U.S. policy toward these countries. USAID, the agency with the greatest expertise and experience in international development, historically has taken the lead in designing and implementing programs intended to stimulate economic growth and encourage the expansion of democracy. However, in Afghanistan, and particularly in Iraq, the civilian agencies have found themselves at times subordinate to DOD in fulfilling these roles. DOD has the lead role in economic reconstruction of the national infrastructure in Iraq. In Iraq and Afghanistan, DOD also provides assistance for local-level economic reconstruction and state-building through the Commander’s Emergency Response Program (CERP) and the Provincial Reconstruction Teams (PRTs).

### **Evolution of DOD’s Role in Iraq**

A January 20, 2003, presidential directive that established the Office of Reconstruction and Humanitarian Affairs (ORHA) in DOD formally put that Department in charge of post-invasion planning and assistance in Iraq. The Coalition Provisional Authority (CPA), established by the President in May 2003 to replace ORHA, was also a DOD entity, its Administrator, Paul Bremer, reporting to the Secretary of Defense. The CPA made all decisions regarding the political and economic aftermath of the invasion and determined the direction of U.S. assistance.

The first U.S. foreign assistance efforts to address Iraq’s economic, political, and social needs were appropriated through the Office of the President under a new Iraq Relief and Reconstruction Fund (IRRF), which was established by the FY2003 Emergency Supplemental Appropriations Act in March 2003 (P.L. 108-11). Early assistance programs were largely managed by USAID and the Department of State. Of the \$2.5 billion in reconstruction funding provided under that Act, DOD was made responsible for 21%, largely to implement oil and electric power infrastructure programs. In the November 2003 FY2004 Emergency Supplemental Appropriations Act (P.L. 108-106), Congress approved a large replenishment of the IRRF (\$18.4 billion), of which DOD ultimately was responsible for 75%, or about \$13.4 billion. While roughly \$4 billion of that sum went to DOD for security-related programs, half of the entire appropriation (\$9.2 billion) was placed by the President in DOD hands to implement non-security-related activities.

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<sup>219</sup> Prepared by Curt Tarnoff, Specialist in Foreign Affairs. This section was updated December 8, 2008.

## Economic Reconstruction and Assistance in Iraq

Most of the DOD economic reconstruction programs involved the design and construction of large-scale economic infrastructure—roads and bridges, oil and pipeline facilities, electrical power plants, railroad and telecommunications networks, water and sanitation plants, and the like. Instead of choosing the Army Corps of Engineers (which did not believe it had sufficient capacity to oversee or staff such a large effort) or USAID (which the CPA believed lacked the organizational capacity), the CPA decided to contract out management and oversight responsibilities for each construction sector's projects to private contracting firms. The CPA established a Program Management Office (PMO) to oversee the managers of these programs. In mid-2004, following the dissolution of the CPA, the President, issuing National Security Policy Directive (NSPD) 36,<sup>220</sup> transformed the PMO into the Project and Contracting Office (PCO), a temporary Army organization. Although the State Department was now in charge of Iraq policy, and a new State-run Iraq Reconstruction Management Office (IRMO) was established to set overall priorities and requirements for most aid programs, the PCO continued to be responsible to DOD as well as State. On December 4, 2005, the PCO merged with the Army Corps of Engineers/Gulf Region Division (ACE-GRD), and the ACE/GRD was formally identified as the successor organization to the PCO in May 2007.<sup>221</sup>

Although its role in economic assistance in Iraq has been generally limited to infrastructure construction, in the latter half of 2006, DOD, without State or USAID participation, began to develop a program intended to create employment opportunities for Iraqi citizens and stimulate the economy by rehabilitating some of the roughly 200 state-owned enterprises (SOEs) that composed a large part of the Iraqi economy prior to the U.S. occupation. Despite State Department skepticism, the Administration requested \$100 million to fund this endeavor under the Iraq Freedom Fund DOD appropriations account in the FY2007 emergency supplemental (P.L. 110-28). Congress approved \$50 million. Although press reports suggested that results were disappointing, another \$100 million was requested for this endeavor for the FY2008 Global War on Terrorism supplemental appropriation and \$50 million in the FY2009 annual appropriations request.<sup>222</sup>

## Issues

Press and expert accounts suggest that the State Department's views and extensive pre-war research on post-war Iraq planning were ignored by DOD.<sup>223</sup> Many observers believe that the first year of the reconstruction program, during which DOD was largely in charge of policy and

<sup>220</sup> White House, National Security Policy Directive (NSPD) 36, "United States Governmental Operations in Iraq," May 11, 2004.

<sup>221</sup> SIGIR, *Fact Sheet on the Roles and Responsibilities of U.S. Government Organizations Conducting IRRF-funded Reconstruction Activities*, 07-008, July 26, 2007.

<sup>222</sup> In addition to opposition on free market grounds, skeptics questioned the extent to which violence would be reduced as a result of expanded employment and suggested that the SOEs might become targets for insurgents, and that investments in the SOEs might provide opportunities for corruption and political manipulation. Barney Gimbel, "Mission Impossible," *Fortune*, September 17, 2007; "U.S. Falts in Bid to Boost Iraqi Business," *Washington Post*, August 24, 2007. As of spring 2008, about 29 factories have been restarted, but only 10,000 jobs have reportedly been created versus the original DOD employment goal of 150,000 by September 2008.

<sup>223</sup> There are many sources for this criticism. For example, interviews with experts and officials conducted for the PBS Frontline report "Truth, War, and Consequences," accessible through <http://www.pbs.org>, last accessed July 22, 2008, and interviews conducted by the United States Institute of Peace under its Iraq Experience Project.

program development, was marked by ineptness.<sup>224</sup> According to the Special Inspector General for Iraq Reconstruction (SIGIR), under the CPA, large Iraqi-owned financial resources that might have been turned to valuable use went unaccounted for. In many cases, audits have found that infrastructure programs under CPA/DOD/Army Corps of Engineers management were not appropriately monitored and that a number of programs were poorly constructed and funds were wasted.<sup>225</sup> The post-occupation division of labor between the Army and State Department in the PMO and IRMO may have ensured a continued lack of coordination between assistance entities.

## Commander's Emergency Response Program (CERP)

In both Iraq and Afghanistan, the CERP has provided DOD-appropriated funds to U.S. military commanders on the ground with which to conduct reconstruction activities, mostly in rural areas. At the time it was launched, there was limited or no civilian presence to conduct development programs. The CERP's purpose has been to facilitate the stabilization of an area in the wake of a military operation by gaining the support of local populations. In both countries, the CERP supports a wide range of activities, from school construction to rehabilitation of electrical and water supply to condolence payments. The program is highly flexible and is not weighed down by the bureaucratic encumbrances of other assistance programs. Major subordinate commanders have authority to approve grants up to \$500,000. Grants provided have been credited with helping the military better exercise its security missions, while at the same time meeting immediate neighborhood development needs. Roughly \$3.6 billion in CERP funding has been made available in Iraq as of the fall of 2008..

### Authorities

In June 2003, the CPA authorized the operation of the CERP in Iraq, at first using Iraqi resources. In the November 2003, FY2004 emergency supplemental appropriations act, funds were appropriated for the CERP in Iraq and establishment of a similar program was authorized for Afghanistan. Subsequent appropriations and defense authorization bills continued to authorize and appropriate funds for the CERP for both Iraq and Afghanistan.

### Issues

The CERP is a flexible tool meant originally to address security concerns. Therefore, it often was used on an ad hoc basis by military commanders to meet immediate short-term stabilization needs. It has been criticized for not being part of a larger development strategy and not being synchronized with civilian assistance program plans. More recently, CERP projects in Iraq are larger than previously—on average \$140,000/project as of 2007 versus \$67,000/project in FY2004—and are the main source of U.S. infrastructure assistance in areas such as water and sanitation, and road construction. According to the SIGIR, in many cases, it is being used to perform tasks that should be taken on by local and provincial governments, and, by doing so, it undermines the capacity-building purpose of PRTs.<sup>226</sup> In the Duncan Hunter National Defense

<sup>224</sup> See, for example, Rajiv Chandrasekaran, *Imperial Life in the Emerald City: Inside Iraq's Green Zone*, Knopf, 2006.

<sup>225</sup> See, for example, SIGIR, *Audit of Oversight of Funds Provided to Iraqi Ministries through the National Budget Process*, Audit 05-004, January 30, 2005, and other SIGIR audits, <http://www.sigir.mil>; last accessed July 22, 2008.

<sup>226</sup> SIGIR, *Review of the Effectiveness of the Provincial Reconstruction Team Program in Iraq*, 07-015, October 18, 2007, p. 23-34. Hereafter referred to as SIGIR, Review of PRT Effectiveness.

Authorization Act for Fiscal Year 2009 (P.L. 110-417), Congress restricted the use of CERP by setting a maximum cost of \$2 million per project.

## Provincial Reconstruction Teams (PRTs)

Provincial Reconstruction Teams (PRTs) are civil-military teams located in enclaves throughout Afghanistan and Iraq. The first PRTs were created by a December 2002 U.S. initiative. Some are staffed by the United States, others by coalition partner countries. These teams extend the authority of national governments by accelerating reconstruction and assisting with stabilization efforts.

Although there are multiple models of PRTs in both Afghanistan and Iraq, the basic premise for all is the integration of civilian and military organization personnel in order to meet stability objectives in a defined region. The military in both cases provides protection to civilian officials, allowing civilian specialists a degree of outreach to the provincial and local governments, and local non-governmental organizations and Afghans, that otherwise would be impossible. Civilian employees provide expertise on reconstruction and facilitate political solutions to local problems that the military is less able to do well. U.S.-run PRTs in general and most of the PRTs in southern Afghanistan focus mainly on counter-insurgency. In Afghanistan, some PRT stabilization efforts include training Afghan security forces.

### Afghanistan PRTs

The PRTs in Afghanistan have three goals: (1) stability/security, (2) extending the reach of the central government and strengthening local government, and (3) reconstruction. Of the 26 PRTs in Afghanistan, 12 are U.S.-run and 14 are run by coalition partner countries.<sup>227</sup> Virtually all, including those run by the United States, are now part of NATO's International Security Assistance Force (ISAF) in Afghanistan. They vary in size and makeup of personnel.

U.S. PRTs are composed of 50 to 100 U.S. military personnel, including DOD civil affairs officers, and representatives from civilian agencies, including USAID, and the State Department, as well as representatives from Afghanistan's Interior Ministry. Many U.S. PRTs in conflicted areas are located on forward operating bases of 300-400 U.S. combat troops.

The initial guidance for U.S.-run Afghanistan PRTs, agreed to by senior civilian and military leaders and approved by the U.S. Deputies Committee of the National Security Council in June 2003, assigned DOD responsibility for improving security in areas of operation, logistical support, and force protection for all PRT members. The Department of State was made responsible for political oversight, coordination, and reporting. USAID was appointed the lead agency for reconstruction. However, in certain parts of the country, the military element in Afghanistan PRTs appears to have taken a more forward role in reconstruction efforts than is the case with PRTs in Iraq. According to an interagency assessment of the Afghanistan PRTs, despite the guidance providing leadership to civilians on governance and reconstruction, "PRT culture, people, and resources were predominantly military."<sup>228</sup> Especially where PRTs were co-located

<sup>227</sup> Bruce Rogers, Jim Hope and Robert Kemp, *PRTs in Afghanistan: A Report from the Inside*, Foreign Service Journal, July-August 2008, p. 32.

<sup>228</sup> Department of State, USAID, Department of Defense, *Provincial Reconstruction Teams in Afghanistan: An Interagency Assessment*, June 2006.

with combat units, on occasion the commander would reportedly take on a political as well as military role.

## Iraq PRTs

There are currently 14 PRTs (3 of which are led by other coalition countries) and 13 ePRTs (embedded PRTs) in Iraq.<sup>229</sup> The U.S.-led PRTs are made up of between 35 and 100 members, including representatives from the Embassy, the Project Contract Office (Army Corps of Engineers), USAID, military, and other agency staff. PRTs have been co-located on existing U.S. military bases. The ePRTs, in which civilian teams are *embedded* in Brigade Combat Teams, are smaller. Most are concentrated in Baghdad or Anbar Province, where significant military action is taking place. Although the PRTs appear to focus efforts on expanding U.S. assistance outreach to the provinces and strengthening local government, the ePRTs envision that, as U.S. and Iraqi military forces secure an area, ePRT staff will work with local Iraqis to further stabilize the area by drawing on all available spigots of U.S. and Iraqi government funding to create jobs and meet other basic needs.<sup>230</sup>

DOD's role in the PRTs, therefore, is chiefly to provide security and logistical support. DOD, however, was originally reluctant to divert the necessary manpower from other responsibilities. PRTs in Iraq were authorized by Cable 4045 (October 2005), issued jointly by the U.S. Embassy-Iraq and by the U.S.-led military coalition Multinational Force in Iraq (MNF-I), under which the U.S. Embassy was called upon to support the establishment of PRTs at State Department sites and MNF-I was called upon to support them at military sites.<sup>231</sup> As the PRTs were being established, the division of responsibilities and obligations between DOS and DOD were not well defined. As a result, according to the SIGIR, "lines of authority and coordination between the U.S. Embassy and military components were never spelled out and agreed upon, and the operational support mechanisms the PRTs are dependent upon at military bases—i.e. facilities, life support, communications, management services, and supplies—were not settled upon."<sup>232</sup> DOD agreed to provide protection to the PRTs in a Memorandum of Agreement (MOA) that took effect in February 2007 and finalized operational requirements and responsibilities.<sup>233</sup>

A key determinant of PRT success in the first year was the presence of a brigade commander who supported the PRT mission. Such was the case in Mosul, according to the SIGIR, whereas in Anbar, a lack of support signaled civilian difficulty obtaining transportation and other resources, and civilian exclusion from meetings with government officials. According to the SIGIR, in some PRTs, there was occasionally a difference in views regarding the use of reconstruction assistance,

<sup>229</sup> There are also four Provincial Support Teams (PSTs), much smaller in size than PRTs and aimed at providing advice to provincial officials. These are being meshed with existing PRTs or transformed into PRTs. SIGIR, *Quarterly Report to Congress*, July 30, 2008.

<sup>230</sup> Special Inspector General for Iraq Reconstruction, *Status of the Provincial Reconstruction Team Program in Iraq*, SIGIR-06-034, October 29, 2006 (hereafter referred to as *Status of the PRT Iraq Program*); *Status of the Provincial Reconstruction Team Program Expansion in Iraq*, SIGIR-07-014, July 25, 2007; and SIGIR Review of PRT Effectiveness, *op. cit.*

<sup>231</sup> Reference to Cable 4045 is in SIGIR, Review of PRT Effectiveness, *op. cit.*, p. 5.

<sup>232</sup> SIGIR, *Status of the PRT Iraq Program*, *op. cit.*, p. 8.

<sup>233</sup> SIGIR, *Status of the Provincial Reconstruction Team Program Expansion in Iraq*, SIGIR-07-014, July 25, 2007, p. 15.

with commanders expressing “frustration” over PRT failure to create employment by funding state-owned enterprises (see above).

The February 2007 MOA helped resolve a number of coordination concerns, but the role of DOD in providing assistance has continued to be greater than intended, in part because of shortfalls in civilian staffing at the PRTs. Until civilians with specialist skills in local governance and agriculture, for example, could be provided by the Department of State, over 100 DOD-supplied personnel were made available on a temporary basis.<sup>234</sup>

## Issues

Many refer to the PRTs in Iraq and Afghanistan as a model for DOD-civilian cooperation in foreign aid, and U.S. government officials and others have pointed to successes in stabilizing some areas as at least in part the result of PRT activity. Nonetheless, some have faulted PRTs for a lack of an overarching concept of operations (a common range of services and a unified chain of command), and for failing at times to coordinate with each other and exchange information on best practices. In addition, it appears that DOD maintains a preponderant weight in PRT decision making as the sole supplier of security, which allows civilians to undertake project site visits and meetings with local leaders, and as a significant supplier of assistance through the well-funded CERP program. The interagency assessment found that, in Afghanistan, subordination of PRTs to combat units threatened to dilute a core focus of the PRT—to strengthen the government of Afghanistan’s capacity to address issues underlying instability and support for the insurgency. In Iraq, according to the SIGIR, there are reports that CERP use undermines civilian efforts to strengthen local government. Absent a clear set of objectives and performance measures fashioned for each individual PRT, as the SIGIR has repeatedly proposed, the coordinated efforts of disparate agencies composing the PRTs in Iraq are likely to be dependent on the personalities of team members and the level of teamwork they are able to cobble together.

<http://wikileaks.org/wiki/CRS-RL34639>

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<sup>234</sup> “Pentagon Agrees to Help Fill State Department’s Iraq Reconstruction Jobs on Temporary Basis,” *New York Times*, February 20, 2007.

## **Appendix L. Foreign Security Assistance Initiatives for Afghanistan and Iraq<sup>235</sup>**

### **DOD Roles and Responsibilities**

In Afghanistan and Iraq today, based on decisions by the Administration and authorities granted by Congress, DOD plays the lead U.S. government role in providing training assistance to Iraqi and Afghan security forces, including police and other civilian forces, as well as military forces. Both the extent of DOD's role, and funding appropriated for these purposes, have grown over time.

Congress has also provided DOD with several categories of funding and authorities to allow international partners to contribute to the coalition efforts in Iraq and Afghanistan—including both providing some partners with resources directly to enable their participation, and reimbursing other partners for support provided. DOD takes the lead in implementing these activities.

### **Origins and Evolution**

#### **Train and Equip**

Several key foreign security assistance programs, including Foreign Military Financing and International Military Education and Training, managed by the Department of State and implemented by DOD, provided some forms of “train and equip” assistance to foreign partners.

The driving reasons for assigning DOD the lead role in training and equipping Iraqi and Afghan security forces were apparently the sheer size and scope of the tasks at hand, the presence of capable if not specialized DOD personnel on-site, and the urgency that left no time to deliberately develop capabilities in other U.S. government agencies. DOD did not seek expanded train and equip authority until the Administration judged that other approaches were not working.<sup>236</sup>

The legislation authorizing DOD to provide “train and equip” support and appropriating funds for that purpose is both specific and limited. The legislation is enacted on an annual basis, and it refers strictly to Iraq and Afghanistan. Specific requests for resources and authorities were initiated by the executive branch, based on input from practitioners in the field.

The legislation requires “the concurrence of the Secretary of State.”<sup>237</sup> That language is generally understood, by staff at both agencies, to mean that initiatives cannot proceed without State

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<sup>235</sup> Prepared by Catherine Marie Dale, Specialist in International Security. This appendix remains the same as in the original edition of this report; information is current as of August 25, 2008.

<sup>236</sup> A similar dynamic characterizes the development of the CERP, discussed in a separate section, proposed by the military command in Iraq only after the magnitude of requirements on the ground, and inability of civilian U.S. government agencies to address them in a timely fashion, became apparent.

<sup>237</sup> See FY2004 Emergency Supplemental Appropriations Act, P.L. 108-106, Section 1107, and subsequent legislation.

Department approval. Coordination mechanisms for seeking that approval—from the Secretary or her designated representative—are reportedly in place and actively utilized.<sup>238</sup>

Initially, train and equip authority was granted for support to “the New Iraqi Army and the Afghan National Army.”<sup>239</sup> Subsequent legislation expanded the focus to include the “military and security forces of Iraq and Afghanistan,” which could include police and other civilian services.<sup>240</sup> The scope of the assistance initially included “assistance, including equipment, supplies, services, training and funding.”<sup>241</sup> Later, the scope was broadened to also include “facility and infrastructure repair, renovation, and construction.”<sup>242</sup>

Funds appropriated for train and equip missions in Iraq and Afghanistan have grown substantially over time, from \$150 million in the FY2004 Emergency Supplemental Appropriations Act, P.L. 108-106, of November 6, 2003, to \$9.7 billion (\$5.9 billion for Afghanistan and \$3.8 billion for Iraq) in the FY2007 U.S. Troop Readiness, Recovery, and Iraq Accountability Act, P.L. 110-28, of May 25, 2007.

### *Iraq*

Security forces training efforts in Iraq were initially spearheaded by the Coalition Provisional Authority (CPA), led by Ambassador L. Paul Bremer, which served from its appointment in May 2003 until June 28, 2004, as the legal executive authority of Iraq. DOD, as CPA’s higher headquarters, had overall responsibility for the effort. The military command in Iraq during the formal occupation, the Combined Joint Task Force-7 (CJTF-7), reported to its own higher headquarters, U.S. Central Command (CENTCOM), but served in direct support to CPA.

The scope of the challenge has been extensive because none of Iraq’s pre-war security forces or structures were left intact or available for duty after major combat operations ceased. Iraq pre-war planning erroneously assumed that at the end of “major combat,” Iraqi police would be available, as needed, to help provide security for the Iraqi people.<sup>243</sup> Instead, in the immediate aftermath of major combat, coalition forces found that civilian law enforcement bodies had disappeared.

Meanwhile, U.S. military pre-war planning had also assumed that Iraqi military units would be available for recall and reassignment after the war, as needed. Military plans counted on the “capitulation” of Iraqi forces and included options for using some of those forces to guard borders or perform other tasks.<sup>244</sup> Instead, on May 23, 2003, the CPA issued Order Number 2, dissolving all Iraqi military services, including the Army. That decision foreclosed the option of unit recall to

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<sup>238</sup> Interviews with State Department officials, Washington DC, November 2007.

<sup>239</sup> See FY2004 Emergency Supplemental Appropriations Act, P.L. 108-106, Section 1107.

<sup>240</sup> See FY2005 Ronald W. Reagan NDAA, P.L. 108-375, Section 1202, and subsequent legislation.

<sup>241</sup> See FY2004 Emergency Supplemental Appropriations Act, P.L. 108-106, Section 1107.

<sup>242</sup> See FY2005 Emergency Supplemental Appropriations Act, P.L. 109-13, 119 Stat. 235-237.

<sup>243</sup> This assumption was explicitly stated at the February 2003, post-war planning “rock drill” held by the new Organization for Reconstruction and Humanitarian Assistance (ORHA), at National Defense University.

<sup>244</sup> Information from CFLCC and V Corps planners, 2002 and 2003. See also Michael R. Gordon and General Bernard E. Trainor, *Cobra II: The Inside Story and the Invasion and Occupation of Iraq*, New York: Vintage Books, 2006.

support security or reconstruction activities, or to serve as building blocks for a post-Saddam force.<sup>245</sup>

In August 2003, CPA directed the creation of the New Iraqi Army, under the authority of the CPA Administrator or “a civilian member of the CPA reporting directly to the Administrator.”<sup>246</sup> Iraqi police training, too, was initially a CPA function, under the leadership of former New York Police Commissioner Bernard Kerik, who reported to the CPA Administrator. He was supported by a skeleton staff in Baghdad and by resources from the State Department’s Bureau of International Narcotics and Law Enforcement Affairs (INL). That arrangement quickly proved insufficient to the task at hand.

In early September 2003, at the recommendation of military commanders and with strong support from DOD, CPA launched the Iraqi Civil Defense Corps (ICDC), a “security and emergency service agency for Iraq,” for which the CPA Administrator delegated responsibility to the senior military commander on the ground.<sup>247</sup> The ICDC was essentially a military initiative, designed to leverage the coalition’s most copious resource—the “boots on the ground” of CJTF-7—to recruit and train Iraqi units to temporarily fill the security vacuum.

By early 2004, it was apparent to senior U.S. civilian and military leaders on the ground in Iraq that the sheer magnitude of the task demanded significantly greater resources. Moreover, under the system of divided responsibilities, there was a lack of consistency across Iraq in the creation of each force, and in strategic-level coordination among the forces. Accordingly, on May 11, 2004, President Bush issued National Security Presidential Directive (NSPD) 36, which, among other matters, assigned the mission of organizing, training, and equipping all Iraqi security forces (ISF) to CENTCOM.<sup>248</sup> This mission included both directing all U.S. efforts and coordinating all supporting international efforts. It explicitly included Iraq’s civilian police, as well as its military forces.<sup>249</sup> CENTCOM, in turn, created the Multi-National Security Transition Command-Iraq (MNSTC-I), a new three-star headquarters that would fall under the Multi-National Force-Iraq (MNF-I), to bring together all Iraqi security forces training under a single lead in Iraq.<sup>250</sup>

Since December 2004, the MNSTC-I Commander has been dual-hatted as the Commander of the NATO Training Mission-Iraq (NTM-I). With participation by 15 NATO members, including the United States, and one non-NATO country, NTM-I provides training, both inside and outside Iraq, to Iraqi forces; assistance with equipping; and technical assistance.<sup>251</sup>

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<sup>245</sup> CPA Order 2, “Dissolution of Entities,” available at [http://www.iraqcoalition.org/regulations/20030823\\_CPAORD\\_2\\_Dissolution\\_of\\_Entities\\_with\\_Annex\\_A.pdf](http://www.iraqcoalition.org/regulations/20030823_CPAORD_2_Dissolution_of_Entities_with_Annex_A.pdf); last accessed July 22, 2008. Note that the date of the Order is given incorrectly on the CPA website table of contents, but is correctly printed on the Order itself.

<sup>246</sup> See CPA Order 22, “Creation of a New Iraqi Army,” 18 August 2003, available at [http://www.iraqcoalition.org/regulations/20030818\\_CPAORD\\_22\\_Creation\\_of\\_a\\_New\\_Iraqi\\_Army.pdf](http://www.iraqcoalition.org/regulations/20030818_CPAORD_22_Creation_of_a_New_Iraqi_Army.pdf); last accessed July 22, 2008.

<sup>247</sup> See CPA Order 28, “Establishment of the Iraqi Civil Defense Corps,” September 3, 2003, available at [http://www.iraqcoalition.org/regulations/20030903\\_CPAORD\\_28\\_Est\\_of\\_the\\_Iraqi\\_Civil\\_Defense\\_Corps.pdf](http://www.iraqcoalition.org/regulations/20030903_CPAORD_28_Est_of_the_Iraqi_Civil_Defense_Corps.pdf); last accessed July 22, 2008.

<sup>248</sup> See White House, National Security Presidential Directive 36, “United States Government Operations in Iraq,” May 11, 2004, available at Federation of American Scientists website, <http://www.fas.org/irp/offdocs/nspd/nspd051104.pdf>, last accessed July 22, 2008.

<sup>249</sup> See NSPD-36, *op. cit.*

<sup>250</sup> In May 2004, CJTF-7 split into a higher, four-star headquarters, MNF-I, and a lower, three-star headquarters, MNC-I, (see above).

<sup>251</sup> See [http://www.afsouth.nato.int/JFCN\\_Missions/NTM-I/NTM-I.htm](http://www.afsouth.nato.int/JFCN_Missions/NTM-I/NTM-I.htm); last accessed July 22, 2008. Countries (continued...)

On October 1, 2005, MNSTC-I was given the additional responsibility of mentoring and helping build capacity in the Ministries of Defense and Interior.

## Afghanistan

The organization and focus of train and equip efforts in Afghanistan, too, has evolved over time. Regime removal left both a domestic security vacuum and a complete lack of truly national structures to support national-level governance. The December 2001 Bonn Agreement recognized the need to help the new Afghan authorities “in the establishment and training of new Afghan security and armed forces.”<sup>252</sup> Several months later, at a conference in Geneva on Afghanistan security, contributing states agreed to support the rebuilding of Afghan security forces and organized their efforts into five “pillars”—including the Afghan National Army under U.S. lead, and the police sector under German lead. In 2002, the United States created the Office of Military Cooperation-Afghanistan (OMC-A), as part of the military command structure in Afghanistan, with the mandate to train the Afghan army. Germany assumed the lead for its pillar—the police training effort. It soon became apparent, however, that pressing security needs called for greater resources than Germany alone could provide. In 2003, to improve the effort, the State Department’s INL, with contractor support, began training serving policemen and new recruits.<sup>253</sup>

In 2005, based on input from relevant agencies, the Administration decided to shift U.S. responsibility for police training in Afghanistan to DOD. The OMC-A was renamed the Office of Security Cooperation-Afghanistan, still part of the military command structure in Afghanistan, and it assumed U.S. responsibility for training the entire Afghan security sector, including the Afghan National Police. Responsibility for policy guidance on police training remained with the U.S. Chief of Mission<sup>254</sup> and State’s INL retained contract management authority.<sup>255</sup>

In April 2006, the modalities for cooperation between State and Defense Department representatives on the ground changed, when the U.S. military command structure in Afghanistan was adjusted.<sup>256</sup> At that time, OSC-A was redesignated the Combined Security Transition Command-Afghanistan (CSTC-A) and assigned directly to U.S. Central Command, rather than to

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(...continued)

participating include 15 NATO members (Bulgaria, Czech Republic, Denmark, Estonia, Hungary, Italy, Lithuania, Netherlands, Poland, Portugal, Romania, Slovenia, Turkey, the United Kingdom, and the United States), as well as Ukraine. Key current foci include gendarmerie-type training and helping build an Iraqi non-commissioned officer corps.

<sup>252</sup> Representatives of major Afghan factions participating in the U.N. Talks on Afghanistan, held in Bonn, Germany, after the October 2001 U.S.-led multilateral coalition intervention, signed the Bonn Agreement setting forth the terms of a transitional government and authorizing an international peacekeeping force in Kabul. *Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions*, Annex I, para.2, available at <http://www.afghangovernment.com/AfghanAgreementBonn.htm>; last accessed July 22, 2008.

<sup>253</sup> See *Interagency Assessment of Afghanistan Police Training and Readiness*, by the Inspectors General of the Department of State and the Department of Defense, November 2006, available at <http://oig.state.gov/documents/organization/76103.pdf>; last accessed July 22, 2008.

<sup>254</sup> The U.S. Chief of Mission is the U.S. Ambassador, or in that official’s absence, the highest ranking official in the U.S. embassy.

<sup>255</sup> Ibid.

<sup>256</sup> Early in 2007, the three-star-led Combined Forces Command-Afghanistan was deactivated.

a military command in Afghanistan.<sup>257</sup> The U.S. embassy in Kabul provided CSTC-A with policy guidance.

## **Coalition Partner Assistance**

Since 9/11, Congress has provided DOD with several categories of funding and authorities in order to enable international partners to contribute, in various ways, to the coalition efforts in Iraq and Afghanistan. The primary impetus for seeking these authorities has been military exigency to support coalition operations: the need for the unique access that some states, by virtue of geography, can provide; the desire for additional troop strength to support the efforts in Iraq and Afghanistan; and the need for some unique capabilities, such as language skills and cultural familiarity, and other niche capabilities, such as Estonia's specialization in explosive ordnance disposal. Some observers stress that a policy imperative—to build coalition forces with as many participants as possible in order to shore up the legitimacy of coalition efforts—has also played a key role.<sup>258</sup>

This section addresses two categories, commonly known as “coalition support” and “lift and sustain.” “Coalition support” provides funds to DOD to reimburse international partners for their support. “Lift and sustain” allows DOD to provide resources to international partners, without which they would be unable to participate in the coalition effort.

The legislation supporting these efforts is enacted annually. Since late 2003, coalition support legislation has required the “concurrence of the Secretary of State.”<sup>259</sup> As it is for train and equip, this requirement is understood to mean formal agreement, and inter-agency mechanisms are in place to support coordination.<sup>260</sup> “Lift and sustain” legislation does not include such a requirement.

Substantively, the earliest coalition support legislation designated as recipients only Pakistan and Jordan, but more recent legislation has added “... and other key cooperating nations.”<sup>261</sup> All of the legislation provides for reimbursing those states for logistical and military support to U.S.

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<sup>257</sup> The mandate of the Combined Security Transition Command-Afghanistan is “to plan, program and implement structural, organizational, institutional and management reforms of the Afghanistan National Security Forces required to defeat the insurgency, provide internal security, extend and enforce the rule of law, set conditions for economic development and gain the trust and confidence of the citizens of Afghanistan.” CSTC-A remains part of a broader international effort. It works in concert with the German Police Project Office and the European Union Police Mission in Afghanistan on police training, and with the Operational Mentoring Liaison Teams from the NATO-led International Security Assistance Force on Army training. See the CSTC-A website at <http://www.cstc-a.com>; last accessed July 22, 2008.

<sup>258</sup> In the case of Iraq, the decision not to pursue a second UN Security Council Resolution explicitly sanctioning military action may have sharpened interest, in some quarters, in seeking additional international legitimacy through robust coalition participation. See United Nations Security Council Resolution S/RES/1441 (2002), November 8, 2002. In it, the Council “decides that Iraq has been and remains in material breach of its obligations,” decides to afford Iraq “a final opportunity to comply,” and recalls “that the Council has repeatedly warned Iraq that it will face serious consequences as a result of its continued violations,” but stops short of authorizing military action.

<sup>259</sup> See FY2004 Emergency Supplemental Appropriations Act, P.L. 108-106, Title I, Chapter 1 (117 Stat. 1210) and subsequent legislation.

<sup>260</sup> Interviews with State Department officials, Washington, D.C., November 2007.

<sup>261</sup> See first the FY2002 Defense Appropriations Act, P.L. 107-117, Section 304, January 10, 2002, and then the addition of “key cooperating nations” in the Emergency Wartime Supplemental Appropriations Act, 2003, P.L. 108-11, Section 1310.

military operations.<sup>262</sup> The lift and sustain legislation allows DOD to provide “supplies, services, transportation (including airlift and sealift), and other logistical support to coalition forces supporting military and stability operations in Iraq.”<sup>263</sup>

Congress has appropriated over \$1 billion annually for coalition support efforts.<sup>264</sup> Congress supports “lift and sustain” in turn, by providing that DOD may use funds available for operation and maintenance for lift and sustain efforts.<sup>265</sup> In practice, coalition support has directly supported major border operations by the government of Pakistan, along the Pakistan-Afghanistan border, as well as Jordanian efforts along the Jordan-Iraq border.<sup>266</sup> The assistance has also reportedly supported some states in the region that do not wish their involvement in the coalition efforts to be known. Lift and sustain, in turn, has allowed Poland to bring its forces to Iraq, sustain them throughout their deployment, and lead the Multi-National Division Center South.<sup>267</sup> Lift and sustain has also supported Georgia’s deployment to Iraq of a full brigade of 2,000 soldiers, who are currently manning checkpoints between al Kut and the Iraq-Iran border.

## Issues

DOD’s role in coalition partner assistance in Iraq and Afghanistan has been relatively uncontroversial. It is possible that DOD’s coordination role with international partners in these cases could set precedents for future security partnerships more broadly. It may be more likely, however, that DOD’s coalition partner assistance role in these two cases will serve as a precedent only for possible future coalition military operations—not for the routine conduct of security assistance or security cooperation.

DOD’s role in train and equip assistance in Iraq and Afghanistan has sparked much more debate—within DOD, among U.S. government agencies, and in the broader policy community. Most observers expect that in the future, U.S. efforts to help build the capacity and improve the capabilities of the security forces of various partner states are likely to grow, even if nation-building-style missions on the scale of Iraq are not very likely.<sup>268</sup> There is much less agreement among agencies and observers about who ought to bear what share of the burden.

Some argue that the Department of State, and in particular INL, should be much better resourced, in terms of personnel and funding, to meet possible future demands. Current resources simply do

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<sup>262</sup> See Emergency Wartime Supplemental Appropriations Act, 2003, P.L. 108-11, Section 1310, and subsequent legislation.

<sup>263</sup> See FY2004 Emergency Supplemental Appropriations Act, P.L. 108-106, Section 1106, and subsequent legislation.

<sup>264</sup> Up to \$1.4 billion in the Emergency Wartime Supplemental Appropriations Act, P.L. 108-11, April 16, 2003; up to \$1.15 billion in the FY2004 Emergency Supplemental Appropriations Act, P.L. 108-106, November 6, 2003 ... and then up to \$900 million in the FY2007 Defense Appropriations Act P.L. 109-289, September 30, 2006; up to \$200 million in the FY2007 U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, P.L. 110-28, Title I, Chapter 3, May 25, 2007.

<sup>265</sup> See FY2004 Emergency Supplemental Appropriations Act, P.L. 108-106, Section 1106, and subsequent legislation.

<sup>266</sup> See Defense Security Cooperation Agency (DSCA) justifications for war funding requests, for example [http://www.defenselink.mil/comptroller/defbudget/fy2008/fy2007\\_supplemental/FY2007\\_Emergency\\_Supplemental\\_Request\\_for\\_the\\_GWOT/pdfs/operation/21\\_DSCA\\_Supp\\_OP-5.pdf](http://www.defenselink.mil/comptroller/defbudget/fy2008/fy2007_supplemental/FY2007_Emergency_Supplemental_Request_for_the_GWOT/pdfs/operation/21_DSCA_Supp_OP-5.pdf); last accessed July 22, 2008.

<sup>267</sup> Ibid.

<sup>268</sup> This expectation is reflected prominently in both DOD’s 2006 Quadrennial Defense Review and in the 2006 National Security Strategy.

not allow INL to tackle training missions on the scale of the recent Iraq or Afghanistan experiences. Building up a greater capacity in the State Department would allow it to assume a greater share of the responsibility in a similar future contingency.

Others argue that DOD needs to increase its own training capacity—even if DOD will remain in a supporting role for future training missions. Secretary of Defense Robert Gates identified “the standing up and mentoring of indigenous army and police” as “a key mission for the military as a whole.”<sup>269</sup> Some DOD officials and outside defense experts have argued that the training mission is so important that DOD should establish and maintain dedicated training units, to capitalize on recent operational experiences.<sup>270</sup>

These two approaches (i.e., increasing training capacity at the Department of State and at DOD) are not mutually exclusive. Both might be considered appropriate by analysts who expect a larger overall future requirement for U.S. train and equip assistance.

## Author Contact Information

Nina M. Serafino, Coordinator  
Specialist in International Security Affairs  
nserafino@crs.loc.gov, 7-7667

Richard F. Grimmett  
Specialist in International Security  
rgrimmett@crs.loc.gov, 7-7675

John Rollins  
Specialist in Terrorism and National Security  
jrollins@crs.loc.gov, 7-5529

Curt Tarnoff  
Specialist in Foreign Affairs  
ctarnoff@crs.loc.gov, 7-7656

Liana Sun Wyler  
Analyst in International Crime and Narcotics  
lwylers@crs.loc.gov, 7-6177

Catherine Dale  
Specialist in Military Operations and Policy  
cdale@crs.loc.gov, 7-8983

Rhoda Margesson  
Specialist in International Humanitarian Policy  
rmargesson@crs.loc.gov, 7-0425

Tiaji Salaam-Blyther  
Specialist in Global Health  
tsalaam@crs.loc.gov, 7-7677

Amy F. Woolf  
Specialist in Nuclear Weapons Policy  
awoolf@crs.loc.gov, 7-2379

Steve Bowman

<sup>269</sup> U.S. Department of Defense. Speech by Secretary of Defense Robert M. Gates, the “Landon Lecture” delivered at Kansas State University, Manhattan, Kansas, November 26, 2007. Accessed through <http://www.defenselink.mil/speeches>; last accessed July 22, 2008.

<sup>270</sup> See for example John Nagl, “Institutionalizing Adaptation: It’s Time for a Permanent Army Advisor Corps,” Center for a New American Security, June 2007, available at [http://www.newamericansecurity.org/publications/Nagl\\_AdvisoryCorp\\_June07.pdf](http://www.newamericansecurity.org/publications/Nagl_AdvisoryCorp_June07.pdf); last accessed July 22, 2008.

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