

**ANNEX H****AGREEMENT BETWEEN THE HEALTH AND SAFETY EXECUTIVE, THE MINISTRY OF DEFENCE  
AND THE UNITED STATES VISITING FORCES (USVF) IN THE UNITED KINGDOM**

1 This agreement recognises that the status of the US personnel of the USVF in the UK is governed by the NATO Status of Forces Agreement (NATO SOFA) and is in implementation of that Treaty between the US and the UK. The personnel of the USVF covered within the NATO SOFA are:

- 1.1 Members of the Force (military personnel);
- 1.2 Members of the Civilian Component; and
- 1.3 Dependants of either (as defined in Article 1, paragraph 1(c), NATO SOFA).

2 This agreement also recognises that the USVF is obliged to observe, with respect to the personnel of the USVF, at least the minimum standards of occupational safety and health provided for in US legislation.

3 This agreement sets out the action to be taken by the Health and Safety Executive (HSE) and the US Military Authorities to achieve observance of health and safety legislation in respect to military members of the US military, US Department of Defense (DOD) civilians, their dependants in the UK and others involved in or affected by their activities. It covers all land-based USVF activities except conventional and nuclear explosives. The arrangements made in this agreement assume peace-time conditions. Arrangements at other times will be the subject of agreement in the Joint Liaison Committee (JLC) (paragraph 12).

4 US authorities recognise their general duties under sections 2 to 9 of the Health and Safety at Work etc Act 1974 (HSWA) in relation to all their units and establishments operating in the UK. The full protection, rights and responsibilities of the HSWA will apply to all their UK civilian employees in accordance with Article IX, paragraph 4 of the NATO SOFA. In determining whether the steps necessary to ensure the health and safety of employees and others are reasonably practical in USVF military activities and training, and while recognising existing US Government regulations, the requirements of UK and NATO defence as well as cost must be weighed in the balance.

5 The HSE will monitor USVF's observance of health and safety legislation, having due regard to defence imperatives both in development and application of standards and the USVF policy of normally applying to their activities in the UK whichever of the HSWA or US Occupational Health and Safety Act provisions affords the higher standards. HSE's method of inspections will recognise the operational character of the activities undertaken by USVF in the UK and their role in UK/NATO defence.

6 The application of specific health and safety standards (including regulations and approved codes of practice) will be determined on the individual merits of the case after agreement between HSE, USVF and MOD. Unresolved matters may be referred to higher authorities for resolution.

7 The inspection of USVF units and establishments will be carried out in full accordance with US and UK security regulations and with due regard to the command structure of US Forces and their Codes of Discipline. Inspectors will not seek to monitor observance of health and safety legislation in defence operations and military training activities such as those listed in Annex 8A paragraph 11. They will not therefore inspect operational units nor will they concern themselves with such activities in non-operational units and establishments, even where UK civilians might be working. HSE will, however, be allowed right of entry, in respect to civilians in the event of death or serious injury or as a result of serious and responsible complaint by a civilian employee, to such areas where UK civilians and other civilians not referred to in paragraph 1 are working alongside USVF personnel. Additionally, HSE inspectors will be allowed right of access where USVF activities have significant health or safety implications for the general public outside the perimeter fence.

8 HSE will have regular access to non-operational units and the non-operational areas of operational units in accordance with inspection procedures already agreed with MOD in the JLC. This will include access to US and UK contractors and their (US or UK) civilian employees or other individuals employed by DOD contractors. Where contractors' employees are working alongside USVF personnel in operational units or the operational areas of non-operational units, HSE's access will be discussed on a case-by-case basis.

9 US authorities will provide HSE with a list of their units and establishments indicating those areas/units, which they assess as open for routine inspection under the terms of this agreement. This list will be updated as necessary.

10 Inspections will be carried out by suitably cleared HSE inspectors. All inspections will be arranged through the appropriate MOD site representative (in most cases the RAF Commander) who will be the principal focal point of contact for HSE at USVF units and establishments. First inspections will be made by written appointment. All subsequent inspections will be arranged by telephone. HSE will notify the unit of the inspector's name in advance, and it will be for MOD and US authorities to ensure that he has appropriate security clearance or that access on the site can be restricted to less sensitive information/equipment. Where this is not possible HSE will arrange for a special inspection by an appropriately cleared inspector.

11 The specific activities to be inspected and the procedures for inspection, within the general guidelines mentioned above, will be the subject of agreement between HSE, USVF and MOD in the JLC. Notwithstanding these central discussions, both HSE and USVF recognise the need for flexibility in operating this agreement on the part of both HSE inspectors and US Commanding Officers' MOD representatives

12 The JLC exists to take a broad view of the application of the HSWA to MOD and to reconcile conflicts between defence imperatives and health and safety legislation. The JLC will, henceforth, also consider these matters in respect of USVF, i.e. reconcile conflicts between USVF activities and HSW legislation, consider the application of new health and safety legislation to USVF and develop more detailed agreement on areas and activities to be inspected and the procedures and methods of inspection.

13 USVF will have permanent membership on the JLC and will be represented by the USAF. 2nd PUS/MOD and DGHSE oversee the work of the JLC and will resolve any difficulties involving USVF that cannot be resolved in the JLC. Referral to higher US authority is retained in matters of conflict resolutions as may be necessary.

14 Where, following an inspection, HSE believes that there are major matters of concern which ought to be brought to the attention of US authorities and MOD, they will issue a "Notice" equivalent to the system of "Crown Notices" that exists in MOD. Where such a "Notice" is considered appropriate by an HSE inspector it will be served on the MOD representative, whose responsibility it will be both to apprise US authorities of the nature of the "Notice" and the action required and to alert MOD.