U.S. GOVERNMENT INTERAGENCY COMPLEX CONTINGENCY OPERATIONS ORGANIZATIONAL AND LEGAL HANDBOOK

CENTER FOR LAW AND MILITARY OPERATIONS

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CHAPTER I: INTRODUCTION

During the past half-century the United States has seen a tremendous increase in the types of overseas activities that it has engaged in, the scope of these activities, and the amount of financial, material, and other resources devoted to them. From funding rural development and combating global drug trafficking to containing the Soviet Union, nearly every agency of the U.S. Government (USG), including the Armed Forces, became involved in conducting some form of operations outside of the United States. Until recently, these activities for the most part have been conducted in relative isolation from one another, and with relatively long lead times. While not optimal from a policy or fiscal perspective, this situation was tolerable given a relative abundance of resources and a unique set of issues that did not absolutely require a coordinated and multifaceted approach for their resolution. With the end of the Cold War, however, the United States has been increasingly forced to confront foreign policy crises that are significantly more complicated and urgent, often involving a "witches brew" of complex interactions between economic, military, political, cultural, religious, and other forces. These challenges came at the same time as significant decreases in military, diplomatic, and foreign assistance budgets were being implemented, reductions that only recently have begun to be reversed. Consequently, USG civilian agencies and the Department of Defense (DOD)[1] have had to work together to a significantly greater extent, with less time to prepare for doing so. This new paradigm is exemplified by the emerging area of "complex contingency operations."

The term "complex contingency operations" was coined during the 1990s to describe the U.S. Government's reactions to a series of particularly difficult foreign policy crises, beginning in 1992 with Operation RESTORE HOPE in Somalia and continuing with the missions to, *inter alia*, restore democracy in Haiti, enforce peace in Bosnia and Kosovo, bring aid to hurricane victims in Central

[1] As explained in chapter II.A.2 of this Handbook, DOD includes civilian employees as well as military personnel. As used in this Handbook, however, the term "civilian agency" refers to USG agencies other than DOD and its constituent agencies and military departments.

America, and, most recently, eliminate the threat of terrorism and weapons of mass destruction in Afghanistan and Iraq. Each of these operations has involved not only DOD, but a host of USG civilian agencies ranging from the Department of State (DOS) to the Forest Service. In many cases, DOD and the civilian agencies involved have had little time to plan for these operations and for working with one another. As a result, the U.S. Government's activities to resolve these crises often have been characterized by disjointed, overlapping, and even counterproductive actions by the agencies involved.

The need to improve interagency coordination and cooperation within the U.S. Government was eventually recognized and subsequently formalized in the Clinton Administration's Presidential Decision Directive (PDD) 56 - Managing Complex Contingency Operations, issued on 20 May 1997. PDD 56 established "formal interagency working groups to assist in policy development, planning, and execution of complex contingency operations." It also required "a political-military implementation plan . . . be developed as an integrated planning tool for coordinating U.S. government actions in a complex contingency operation," together with rehearsal of the plan. Finally, PDD 56 directed after-action reviews of specific operations and development of an interagency training program.[2]

On 13 February 2001, the Bush Administration issued National Security Presidential Directive (NSPD) 1 - Organization of the National Security Council System. NSPD 1 abolished the existing system of interagency working groups and stated that the "oversight of ongoing operations assigned in PDD/NSC 56 to Executive Committees of the Deputies Committees will be performed by the appropriate regional NSC/PCCs [National Security Council/Policy Coordination Committees], which may create subordinated working groups to provide coordination for ongoing operations." NSPD 1 does not, however, specifically revoke the substance of PDD 56.[3]

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[2] PRESIDENTIAL DECISION DIRECTIVE 56, MANAGING COMPLEX CONTINGENCY OPERATIONS (20 May 1997) (the official text is not publicly available but the official USG summary is available *at* http://clinton2 nara.gov/WH/EOFP/NSC/html/documents/NSCDoc2 html). This program is currently administered as part of the Interagency Transformation, Education, and After Action Review (ITEA) program at the National Defense University. *See* ITEA website *at* http://www.theinteragency.org.

It is the last imperative of PDD 56—to record lessons learned and incorporate them into interagency training, and subsequently into future operations—that is the genesis for this Handbook. Since its formation in 1988, the mission of the Center for Law and Military Operations (CLAMO) has been to "examine legal issues that arise during all phases of military operations and to devise training and resource strategies for addressing those issues." To this end, the Center has gathered, analyzed, and disseminated the legal and other lessons learned by military lawyers who have participated in a number of complex contingency operations.[4] While these lessons have included those that are applicable mainly to the U.S. Government as a whole (e.g., the application of the law of armed conflict to peacekeeping) or either to civilian agencies or the military services alone (e.g., interservice military justice in the field), a significant number of the legal lessons learned pertain to the interagency aspect of operations. In particular, the issue of whether DOD or a civilian agency had the legal and fiscal authority to conduct a specific task was considered paramount. In addition, a key lesson learned has been that personnel in the various agencies and military services involved do not possess an adequate knowledge of the function, organization, capabilities, and limitations of the other entities with which they are expected to coordinate their activities. Correcting this situation is a key goal of this Handbook. To this end, the Handbook focuses on three types of interagency complex contingency operations—natural disaster assistance, post-conflict restoration, and non-combatant evacuation operations.[5]

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[3] NATIONAL SECURITY PRESIDENTIAL DIRECTIVE NO. 1 - ORGANIZATION OF THE NATIONAL SECURITY COUNCIL SYSTEM, *at* http://www fas.org/irp/offdocs/nspd/nspd-1 htm [hereafter NSPD-1].

[4] To date, CLAMO has published LESSONS LEARNED FOR JUDGE ADVOCATES for LAW AND MILITARY OPERATIONS IN HAITI 1994-95; THE BALKANS 1995-98; HURRICANE MITCH RELIEF EFFORTS IN CENTRAL AMERICA 1998-99; AND KOSOVO 1999-2001. In addition, the Center recently has published the DEPLOYED MARINE AIR-GROUND TASK FORCE (MAGTF) JUDGE ADVOCATE HANDBOOK.

[5] The Army refers to these operations as either "stability operations" or "support operations." *See* U.S. DEP'T OF ARMY, FIELD MANUAL 3-0, OPERATIONS chs. 8, 9 (14 June 2001) [hereinafter FM 3-0]. Although beyond the scope of this Handbook, there is also the emerging area of homeland defense and security operations, which often occur beyond U.S. territory and which require significant interagency coordination. For example, on 31 May 2003, President Bush announced the Proliferation Security Initiative (PSI), which is a new effort to fight the proliferation of weapons of mass destruction (WMD). The PSI is “a broad international partnership of countries

Natural Disaster Assistance. These operations provide material assistance to alleviate the physical, social, and economic consequences of acts of nature such as hurricanes, earthquakes, and epidemics. They are conducted at the request of the countries affected by the disaster. Specific tasks include supplying immediate direct aid (e.g., food, shelter, and medical services), providing support (e.g., logistics, communications, and security), and assisting the rebuilding of infrastructure. A prominent recent example is Operation FUERTE APOYO ("Strong Support"), which provided food, shelter, transportation, and other relief to victims of wide-spread flooding and destruction in Central America and the Caribbean caused by Hurricane Mitch in 1998. DOD, as well as many USG civilian agencies, including DOS and the Agency for International Development (USAID), the Department of Agriculture and its U.S. Forest Service, and the Department of Health and Human Services (HHS), were involved in the operation. International organizations involved in these types of operations include the Cooperative for Assistance and Relief Everywhere (CARE), Catholic Relief Services and Medicins Sans Frontieres ("Doctors Without Borders").

Post-Conflict Restoration. These operations include peacekeeping, peace enforcement, and peace building.[6] The object of these operations is to assist in establishing the security, political, legal, and

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which, using their own laws and resources, will coordinate their actions to halt shipments of dangerous technologies to and from states and non-state actors of proliferation concern—at sea, in the air, and on land." Statement by the Press Secretary, Principles for the Proliferation Security Initiative, *at* http://www.whitehouse.gov/news/releases/2003/09/print/20030904-10 html. Complex contingency operations involving WMD and other potential and real threats to the United States involve extraordinarily complex legal and policy issues affecting a wide spectrum of agencies and interests, particularly as the threats near the United States. Incorporating lessons learned from this emerging area of complex contingency operations in support of homeland defense and security is a possible subject of future handbooks by CLAMO.

[6] DOD defines "peacekeeping" as "[m]ilitary operations undertaken with the consent of all major parties to the dispute, designed to monitor and facilitate implementation of an agreement (ceasefire, truce or other such agreement) and support diplomatic efforts to reach a long-term political settlement." JOINT CHIEFS OF STAFF, JOINT PUB. 1-02, DOD DICTIONARY OF MILITARY AND ASSOCIATED TERMS 402 (12 Apr. 2001, as amended through 17 Dec. 2003) [hereinafter JOINT PUB. 1-02]. "Peace enforcement" is defined as the "[a]pplication of military force, or the threat of its use, to compel compliance with resolutions or sanctions designed to maintain or restore peace and order." *Id.* "Peace building" is defined as "[p]ost-conflict actions, predominately diplomatic and economic, that strengthen and rebuild governmental infrastructure and institutions in order to avoid a relapse into conflict. *Id.* at 401. The Army currently uses the term "stability operations" to describe these types of operations. *See* FM 3-0, *supra* note 5.

economic environments required to rebuild countries that have been subjected to international or domestic armed conflict. These operations are often authorized by the United Nations or regional intergovernmental organizations rather than the countries involved, which may not even have a functioning government. In addition to providing disaster assistance to the local population and refugees, as is the case with natural disasters, typical tasks would include enforcing ceasefire and other agreements, conducting law enforcement (e.g., policing, administering court systems and prisons, and capturing war criminals), rebuilding justice systems (e.g., training police, lawyers, and judges), and removing mines and unexploded ordnance. Examples of such operations include Operation RESTORE HOPE in Somalia (1992-93), Operation UPHOLD DEMOCRACY in Haiti (1994-95), Operations JOINT ENDEAVOR, JOINT GUARD AND JOINT FORCE in Bosnia (1995-Present), Operation ALLIED FORCE in Kosovo (1999-Present), Operation ENDURING FREEDOM in Afghanistan (2001-Present) and Operation IRAQI FREEDOM (2003-Present). DOD and USG civilian agencies, including DOS and USAID, the Department of Justice, and HHS have been involved in these operations. Examples of international organizations involved in post-conflict restoration operations are the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and Oxford Committee for Famine Relief (Oxfam).

Noncombatant Evacuation Operations. These operations are conducted by U.S. military forces to evacuate U.S. citizens, as well as selected foreign nationals (such as diplomats and aid workers), from dangerous situations, either man-made or natural, in foreign counties. The United States conducts noncombatant evacuation operations (NEOs) in other nations under its authority pursuant to international law to protect its citizens when those nations cannot or will not protect them. NEO operations may or may not be conducted with the permission of the country in which they occur. Specific tasks include transportation, food, and medical services for the evacuees, facility security for the evacuation points (usually the U.S. embassy), and communications. Recent such operations include Operation EASTERN EXIT in Somalia (1991) and Operation ASSURED RESPONSE in Liberia (1996). The geographic Combatant

Commander[7] has overall responsibility for the conduct of the military mission in conjunction with DOS. The Marines, supported by the Army, Navy, and Air Force, are often tasked with executing NEO operations.

To address the shortcomings identified above, this Handbook is organized as follows. Subsequent to this introduction, Chapter Two of this Handbook describes the U.S. Department of Defense, including each of the military departments and their components that are typically concerned with complex contingency operations. This includes a description of each organization's function, structure (including relevant major subcomponents), and capabilities, as well as a discussion of the military personnel system. Chapter Three does the same for the principal USG civilian agencies involved in complex contingency operations, and, briefly, for selected international organizations as well. Chapter Four sets forth the current law and presidential policy on interagency coordination of complex contingency operations, first at the Washington level (the National Security Council), and then at the field level (principally, the various coordinating bodies, both formal and ad hoc, that have been created during past operations).

Chapter Five examines the legal issues pertaining to USG agencies and military services providing support to each other during complex contingency operations. Chapters Six and Seven discuss the two largest types of complex contingency operations—natural disaster assistance and post-conflict restoration. For each of these operations, the Handbook provides: an overview of the operation; descriptions of the key operational tasks required (e.g., providing humanitarian assistance, restoring justice systems, etc.); the operational capabilities of the U.S. Government relevant to the tasks; and the programs and authorities available through DOD and USG civilian agencies, together with their legal constraints. Chapter Eight also discusses these elements for NEOs, but in a manner consistent with the differing requirements of these smaller operations. Finally, Chapter Nine contains a list of useful resources, including publications and web sites.

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[7] See chapter II.B.3 of this Handbook for a discussion of Combatant Commanders.

The material in this Handbook is drawn largely verbatim from public sources created by DOD, USG civilian agencies and international organizations. However, the authors have modified these public sources to provide, *inter alia*, consistency in terms, a more common writing style, and a clearer focus on complex contingency operations.

As befits its subject matter, the development of this Handbook was an interagency effort among the civilian and military lawyers at CLAMO.[8] It is designed and intended to reflect this perspective and to serve as a resource for not only Judge Advocates, but also other USG and international organization lawyers and policymakers as well. While the Handbook obviously cannot answer all of the legal questions arising out of interagency complex contingency operations, it is the hope and expectation of its authors that the Handbook can provide a solid foundation for identifying, analyzing, and resolving the myriad legal issues that will invariably accompany future U.S. Government responses to foreign policy crises.

[8] The overall editor of this Handbook and chief contributor for the material on USG civilian agencies and their capabilities, programs, and authorities is Mr. Bernard L. Seward, Jr. Mr. Seward is an attorney-adviser from the Department of State, Office of the Legal Adviser, currently serving as the CLAMO Director for Interagency Operations Law. Lieutenant Colonel Joseph Dice, USAR, contributed material on the Army. Major Cody Weston, USMC, contributed material on NEOs, interagency support, the Marine Corps, and the military services' capabilities, programs, and authorities regarding natural disaster assistance. Major Alton Gwartney, USA, contributed material on the military services' capabilities, programs, and authorities regarding post-conflict restoration. Major Laura Klein, USA, contributed material on DOD organizations, Major Lance Miller, USA, contributed material on the Navy and Air Force, and Major Rafael Porrata, USAR, contributed material on international organizations. Captain Daniel Saumur, USA, and Mr. Charles Strong assisted in the editing of the Handbook. The project was overseen by Lieutenant Colonel Pamala Stahl, USA, CLAMO Director (2003-Present), Colonel (ret.) David Graham, USA, CLAMO Director (1988-90 and 1995-2003), and Lieutenant Colonel Stuart Risch, USA, CLAMO Deputy Director (2001-03).

CHAPTER II: U.S. DEFENSE DEPARTMENT

A. OVERVIEW

1. INTRODUCTION

Complex contingency operations involve a myriad of tasks that go far beyond those of traditional military and foreign aid missions. In addition to the basic tasks of providing physical security, shelter, food, and medical services, these types of operations also involve complex economic and political tasks ranging from disarming adversaries to conducting elections to rebuilding judicial systems. The Department of Defense (DOD) is increasingly the major, and in some cases, the sole provider of the U.S. Government's (USG's) capabilities in accomplishing these tasks. This Chapter describes the various components of DOD that are most often involved in complex contingency operations.

DOD is an executive department of the United States[9] and receives direction from the President and the Secretary of Defense (SecDef). The President, as Commander-in-Chief, is the ultimate authority. DOD is composed of the Office of the Secretary of Defense (OSD), the Defense Agencies, DOD Field Activities, the military departments and their constituent military services, the Joint Chiefs of Staff (JCS) and the Joint Staff, and the Combatant Commands.[10] The constituent offices of OSD provide overall policy guidance from the Department. The Defense Agencies and DOD Field activities (e.g., the Defense Threat Reduction Agency) provide DOD-wide support in areas such as research and logistics. The military departments, headed by a Service Secretary (e.g., the Department of the Army and the Secretary of the Army), are responsible for ensuring that Combatant Commanders have the forces and material necessary to fulfill their warfighting missions. The military services (i.e., the U.S. Army, Navy, Marine Corps, Air Force,

[9] 10 U.S.C. § 111(a) (2000).

[10] *Id.* § 111(b).

and Coast Guard) operate and are administered within their respective military department or civilian agency.[11] The military departments may retain forces for their inherent service functions of recruiting, organizing, supplying, equipping, training, mobilizing, administering, and supporting the military.[12] However, the bulk of the Armed Forces of the United States are assigned to one of nine Combatant Commands. The Combatant Commands are the geographic or functional organizations that exercise operational control of the Armed Forces. Each military department also contains a military staff that assists the Service Secretary in carrying out his or her responsibilities. This staff is headed by a Military Service Chief (or Chief of Staff), who heads the specific military service of that military department.[13] The Service Chiefs also perform duties as members of the JCS.[14] The JCS is lead by the Chairman of the JCS, who, similar to the Service Secretaries, is appointed by the President, by and with the advice and consent of the Senate.[15]

2. PERSONNEL SYSTEMS

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[11] A military service is a "branch of the Armed Forces of the United States... in which persons are appointed, enlisted, or inducted for military service, and which operates and is administered within a military or executive department." JOINT PUB. 1-02, *supra* note 6, at 336 (definition of "military service"). The Marine Corps is administratively part of the Department of the Navy. *See* 10 U.S.C. § 5061. The Coast Guard is part of the Department of Homeland Security, unless legally transferred to the Navy during wartime. *See generally* Pub. L. No. 107-296, § 888, 116 Stat. 2135 (2000) (transferring the Coast Guard from the Department of Transportation to the Department of Homeland Security). The Coast Guard may operate as a service of the Department of the Navy during war or as directed by the President. *See* 10 U.S.C. § 5013a and 14 U.S.C. § 3 (2000). Although Coast Guard units have been used in combat operations from Vietnam to Operation IRAQI FREEDOM, the service itself has not operated as part of the Navy since World War II. Although the Coast Guard is not a major contributor to the types of complex contingency operations examined in the Handbook, this service is discussed in section C.4 of this chapter.

[12] Each military department is headed by a civilian secretary (Service Secretary), appointed by the President with the advice and consent of the Senate. *See* 10 U.S.C. §§ 3013 (Secretary of the Army), 5013 (Secretary of the Navy), 8013 (Secretary of the Air Force) (2000).

[13] *See id*. §§ 3033 (Army Chief of Staff), 5033 (Chief of Naval Operations), 8033 (Air Force Chief of Staff).

[14] *Id.* § 151(a).

[15] *Id.* § 152(a).

DOD is the nation's largest employer. A majority of personnel within DOD are members of the military services. There are approximately 1.4 million service members on active duty and another 1.2 million in the Reserve and National Guard (Reserve Components).[16] DOD also employs about 655,000 civilians. In addition, DOD frequently contracts for support from private companies. Both DOD civilian employees and employees of private contractors may deploy in support of complex contingency operations.

a. Military Personnel

U.S. military personnel deployed in support of complex contingency operations may be full-time active duty service members or part of the Reserve Components called to active duty. The Reserve Components consist of the Army National Guard of the United States, the Air National Guard of the United States,[17] and the Reserves of the Army, Navy, Marine Corps, Air Force, and Coast Guard.[18]

The purpose of the Reserve Components is to provide trained units and qualified personnel available for active duty in time of war, national emergency, and other times as U.S. national security may require.[19] Many Reserve Component members are former active duty service members either completing a service obligation or who join the reserves upon completion of an active duty tour. Army and Air National Guard forces are an important entity at the state level and, if called upon by the President, at the federal level.[20] Reserve Component forces provide significant expertise during complex contingency operations—most civil affairs service members, for

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[16] The combined active duty (or Regular) and Reserve Component forces are known as "the Armed Forces of the United States." *See* JOINT PUB. 1-02, *supra* note 6, at 45. The active duty forces only are know as the "United States Armed Forces." *Id.* at 554. For purposes of this Handbook, the term "Armed Forces" includes both active duty and Reserve Component forces.

[17] The Army and Air National Guards are normally under the control of the various states until activated for federal service. The Reserves are exclusively federal. *See* 10 U.S.C. §§ 10105, 10111 (2000).

[18] *Id.* § 10101.

[19] *Id.* § 10102.

[20] *Id.*

example, come from the Reserve Component. Much of the military's logistical support is currently maintained in the Reserve Component as well.

Generally, military personnel consist of officers, warrant officers, and enlisted service members (who include non-commissioned officers), each of whom has a rank, e.g., "staff sergeant," or "captain."[21] Officers and warrant officers outrank enlisted personnel, who address them as sir or ma'am. Warrant officers address more senior warrant officers and officers in the same manner, as do junior officers with more senior officers. The senior-most officers are those of general or flag rank, i.e., generals (Army, Air Force, and Marines) and admirals (Navy and Coast Guard).[22]

A service member's pay grade is an abbreviated numerical hierarchy used in pay management, accounting, and other administrative fields; it is also sometimes used informally to designate rank, particularly where the name of the rank differs between services.[23] Officer pay grades are preceded with "O," warrant officers with a "W," and enlisted pay grades are preceded with "E," with "1" as the lowest rank (e.g., O-1, W-1 or E-1). The numerical pay grade, however, is not used as a form of address in the place of the proper title or grade. For example, a soldier in the pay grade of E-5 is addressed as "sergeant," not "E-5."

The President "commissions" military officers who take an oath of office. Generally, there are four sources of commissioning for

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[21] S*ee* U.S. DEP'T OF DEFENSE, DIR. 1304.26, QUALIFICATION STANDARDS FOR ENLISTMENT, APPOINTMENT, AND INDUCTION (21 Dec. 1993) (outlining specific eligibility requirements for becoming a member of the Armed Forces).

[22] General or flag rank officers are also informally referred to as "one-stars" through "five-stars" in reference to the number of stars on their uniform used to signify their specific rank.

[23] For example, an O-5 in the Army, Air Force, and Marines is a "Lieutenant Colonel" while in the Navy and Coast Guard an O-5 is a "Commander." In addition, the same title can denote a different grade depending on the military service. For example, a "captain" in the Army, Air Force, and Marines is a O-3, while in the Navy and Coast Guard a "captain" is an O-6. See appendix II-1 of this Handbook for a complete comparison of ranks across military services.

officers: graduation from a service academy;[24] the Reserve Office Training Corps (ROTC) program offered at numerous colleges and universities; or Officer Candidate School (OCS) [25] for college graduates or qualified enlisted applicants; or direct commissioning. The large majority of officers enter military service upon completion of a ROTC program. Those officers who are commissioned directly, i.e., without completion of a traditional commissioning program, receive their commission upon completion of an advanced degree rather than through a pre-commissioning program. Branches of the service requiring advanced or professional degrees such as medicine, law, and theology, assess many of their officers as direct commissionees.

For warrant officers, the appropriate Service Secretary grants an appointment in the lowest grade by warrant while appointment to the other grades is by commission.[26] Warrant officers are often former enlisted service members who have gained advanced degrees or technical training to become subject matter experts in a particular field.[27]

The majority of the military is comprised of enlisted service members, most of whom enlist in the military shortly before or after their high school graduation. Each person enlisting in the Armed Forces must take an oath of enlistment.[28] Junior enlisted service members are generally those in the grades of private (Army and Marines), airman basic (Air Force), and seaman recruit (Navy)[29] through specialist (Army), senior airman (Air Force), lance corporal (Marines), and seaman (Navy). Noncommissioned officers (NCOs) are those enlisted service members in the grades of corporal (Army and Marines), staff sergeant (Air Force), and petty officer third (Navy)

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[24] The service academies are: the United States Military Academy at West Point, NY; the Air Force Academy in Colorado Springs, CO; and the U.S. Naval Academy in Annapolis, MD. In addition, the Coast Guard has a service academy located in New London, CT.

[25] Referred to as Officer Training School (OTS) in the Air Force.

[26] 10 U.S.C. § 571 (2000).

[27] The Air Force does not have warrant officers.

[28] *See id.* § 502 (providing for the oath of enlistment).

[29] Junior Navy enlisted personnel are referred to by their rating (e.g., seaman, fireman or airman).

through sergeant major (Army), chief master sergeant (Air Force), master gunnery sergeant (Marines), and master chief petty officer (Navy). NCOs perform tasks as first-line supervisors of junior service members and lead, train, and care for the junior service members assigned to them.

b. Civilian DOD Personnel

Similar to other Federal agencies, DOD employs career Civil Service[30] personnel, appointed under Title 5, U.S. Code. These employees are found at virtually all military installations in the United States and overseas. Generally, civilian employees support installation operations rather than operational commands.

In some instances, the Secretary of Defense or the secretary of a military department may designate Civil Service employees as "emergency essential civilians." These employees may be designated as emergency essential if: the employee's duties are to provide immediate and continuing support for vital combat or support operations such as the maintenance and repair of combat essential systems; it is necessary for the employee to perform the duties in a combat zone after evacuation of nonessential personnel; and it is not practicable to convert the position to a service member position.[31] These civilian employees may accompany the military forces during complex contingency operations. However, other Civil Service employees outside of this category may also be deployed in an operation, as is currently the case in Iraq.[32]

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[30] *See* chapter III.A.2 of this Handbook.

[31] 10 U.S.C. § 1580 (2000).

[32] DOD also uses contract employees in complex contingency operations, largely for logistical work. For example, Halliburton Corporation's KBR (formerly "Brown and Root") is an engineering and construction group that provides logistics capabilities to the U.S. military in many operations around the world.

B. DEFENSE ORGANIZATIONS

1. OFFICE OF THE SECRETARY OF DEFENSE[33]

a. Function

The **Secretary of Defense** is the principal defense policy adviser to the President, and is responsible for the formulation of general defense policy and policy related to all matters of direct concern to DOD, and for the execution of approved policy. The SecDef exercises authority, direction, and control over the entire Department, including the Armed Forces. The SecDef is a member of the President's Cabinet and of the National Security Council (NSC).

The **Office of the Secretary of Defense** is the principal staff element of the SecDef in the exercise of policy development, planning, resource management, fiscal, and program evaluation responsibilities. The mission of OSD as an organization, in coordination with other elements of DOD, includes:

- Developing and promulgating policies in support of U.S. national security objectives;
- Providing oversight to assure the effective allocation and efficient management of resources consistent with SecDef approved programs;
- Developing appropriate evaluation mechanisms to provide effective supervision of policy implementation and program execution at all levels of DOD; and
- Providing the focal point for Departmental participation in the U.S. security community and other USG activities.

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[33] Adapted from 10 U.S.C. §§ 131-43 (2000) and JOINT CHIEFS OF STAFF, JOINT PUB. 3-08, INTERAGENCY COORDINATION DURING JOINT OPERATIONS vol. II, ann. C to app. A (9 Oct. 1996) [hereinafter JOINT PUB. 3-08].

b. Structure

OSD includes the immediate offices of the Secretary and Deputy Secretary of Defense, Under Secretaries of Defense, Director of Defense Research and Engineering, Assistant Secretaries of Defense, General Counsel, Director of Operational Test and Evaluation, Assistants to the Secretary of Defense, Director of Administration and Management, and such other staff offices as the Secretary establishes to assist in carrying out assigned responsibilities. (See Figure II-1)

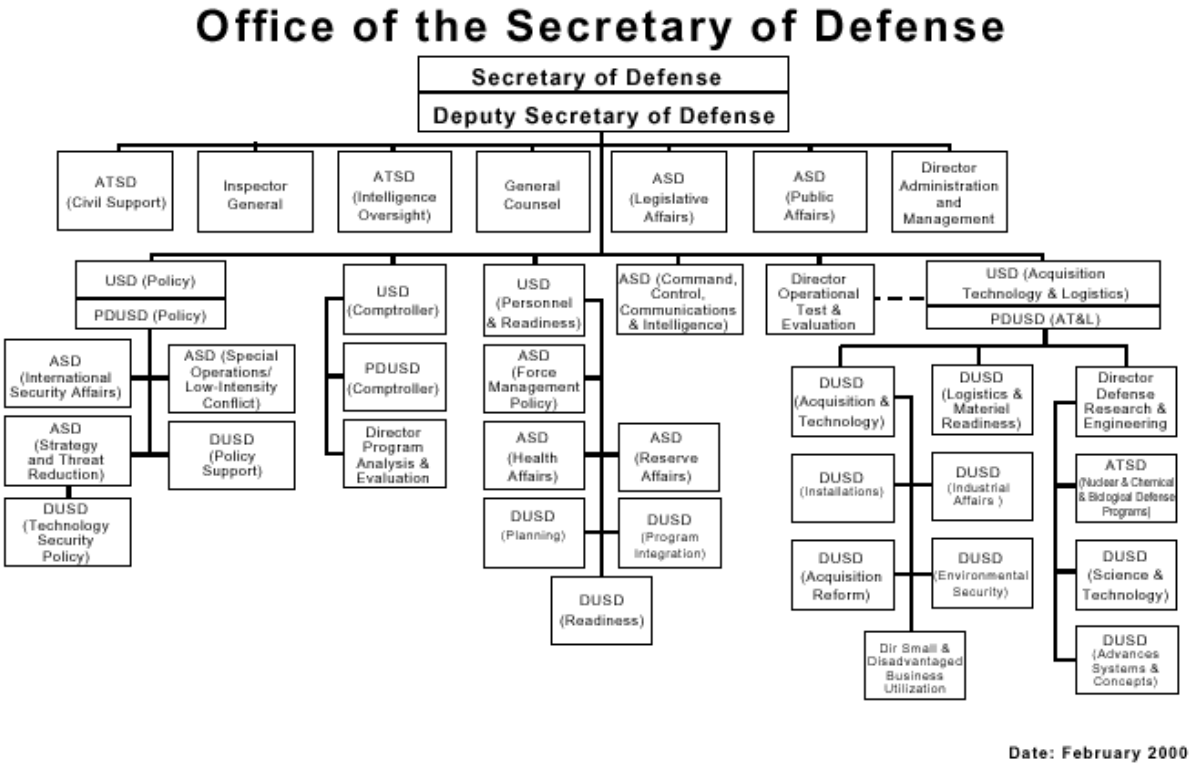

Figure II-1

c. OSD Elements Relevant to Complex Contingency Operations[34]

(1) Under Secretary of Defense for Policy

The **Under Secretary of Defense for Policy** has the overall responsibility for developing military policy for foreign humanitarian operations, a key component of most complex contingency operations.

(2) Assistant Secretary of Defense for Special Operations and Low Intensity Conflict

The **Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (SO/LIC)** has overall supervision, including oversight of policy and resources of special operations activities and low intensity conflict activities of DOD.[35] Policy oversight is executed by the **Deputy Assistant Secretary of Defense for Stability Operations (SO)**; program management and funding is the responsibility of the **Defense Security and Cooperation Agency (DSCA)**.

DSCA's Office of Humanitarian Assistance and Mine Action (HA/MA) provides supervision and oversight of DOD humanitarian mine action and humanitarian and civic assistance (HCA) programs for the Director, DSCA.[36] Functions accomplished by HA/MA include management of the Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) appropriation; oversight of the Combatant Commanders' operational mine action and HCA programs; the DOD Humanitarian Assistance Program (HAP)[37] and Foreign Disaster Relief and Emergency Response Assistance activities. HA/MA also coordinates foreign disaster relief missions, and procures, manages,

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[34] Adapted from JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.6, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR FOREIGN HUMANITARIAN ASSISTANCE ch. II (15 Aug. 2001) [hereinafter JOINT PUB. 3-07.6].

[35] 10 U.S.C. § 138(b)(4) (2000).

[36] Adapted from the DSCA website *at* http://www.dsca.mil.

[37] HAP provides non-lethal excess property to authorized recipients, and arranges for its transportation.

and arranges for delivery of humanitarian daily rations (HDR) where required.[38]

(3) General Counsel

The DOD **General Counsel** is the chief legal officer of the Department and is responsible for all legal matters affecting DOD. The General Counsel acts as lead counsel for all international negotiations conducted by DOD. The **Senior Deputy General Counsel (International Affairs)** provides legal advice to: the Under Secretary of Defense (Policy); the Principal Deputy Under Secretary; the Assistant Secretaries for International Security Affairs, International Security Policy,

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[38] HA/MA activities are accomplished pursuant to the following legislative authorities: 10 U.S.C. §§ 401, 402, 404, 2557, 2561 (2000); and Department of Defense Appropriations Act for FY2003, Pub. L. No. 107-248, § 8009, 116 Stat. 1519, 1538 (2002). Specific HA/MA duties and responsibilities include the following:

– Participating as a member of the USG Policy Coordination Committee (PCC) Sub-group on Humanitarian Mine Action;

– Providing program management for the DOD components of humanitarian demining—mine awareness, host nation infrastructure development, civil-military cooperation, demining training, and victims' assistance;

– Planning, programming, budgeting for and allocating budget authority from the OHDACA appropriation to support DOD humanitarian assistance programs;

– Providing oversight, interagency coordination, and program approvals for foreign disaster relief, space available transportation, and HCA activities;

– Managing HAP by identifying, selecting, transporting, storing, and maintaining and distributing non-lethal excess DOD property worldwide;

– Establishing and maintaining memoranda of understanding with U.S. Transportation Command, the Defense Logistics Agency, and the Agency for International Development for the conduct of funded and space available humanitarian and foreign disaster assistance/emergency response initiatives;

– Coordinating planned humanitarian assistance activities with non-governmental/private relief organizations;

– Managing the HDR program, including procuring, storing, shelf-life maximization, obtaining interagency approval for donations, transporting, and distributing to recipients; and

– Establishing and maintaining procedures for application and approval for transportation of privately donated humanitarian cargo through the interagency coordination process, including the conduct of the Denton Program (space available transportation).

Strategy and Requirements, and Special Operations and Low-Intensity Conflict; the Deputy Assistant Secretary for Intelligence; the Assistant to the Secretary (Intelligence Oversight); and the Compliance Review Group (Office of the Under Secretary of Defense for Acquisition and Technology). This office is responsible for all international legal matters, including interpretation of international agreements and treaties, and participation in negotiations with other nations for DOD.

2. JOINT CHIEFS OF STAFF[39]

a. Members, Function, and Authority

The JCS consists of the Chairman, the Vice Chairman, the Chiefs of Staff of the Army and Air Force, the Chief of Naval Operations, and the Commandant of the Marine Corps. The collective body of the JCS is headed by the Chairman (or the Vice Chairman in the Chairman's absence), who sets the agenda and presides over JCS meetings. Responsibilities as members of the JCS take precedence over duties as the Military Service Chiefs. The Chairman of the JCS (JCS Chairman) is the principal military adviser to the President, the NSC, and the SecDef; however, all JCS members are by law military advisers, and they may respond to a request or voluntarily submit, through the Chairman, advice or opinions to the President, the SecDef, or the NSC. The JCS, however, has no executive authority to command combatant forces.[40] Congress clearly resolved the issue of executive authority in the Goldwater-Nichols DOD Reorganization Act of 1986: "The Secretaries of the Military Departments shall assign all forces under their jurisdiction to unified and specified combatant commands to perform missions assigned to those commands...." The chain of command "runs from the President to the Secretary of

[39] Adapted from 10 U.S.C. §§ 151-155 (2000); U.S. DEP'T OF DEFENSE, DIR. 5100.1, FUNCTIONS OF THE DEPARTMENT OF DEFENSE AND ITS MAJOR COMPONENTS (23 Dec. 1971); and the Defense Link website *at* http://www.dtic mil/jcs.

[40] Historically, through the end of World War II, the JCS acted as executive agents in dealing with theater and area commanders. The original National Security Act of 1947, however, saw the JCS as planners and advisers, not as commanders of Combatant Commands. In spite of this, the 1948 Key West Agreement authorized members of the JCS to serve as executive agents for unified commands, a responsibility that allowed the executive agent to originate direct communication with the Combatant Command. Congress abolished this authority in a 1953 amendment to the National Security Act.

Defense; and from the Secretary of Defense to the commander of the combatant command."[41]

[41] 10 U.S.C. § 162(b) (2000). For a detailed discussion of Combatant Commands see section B.3 of this chapter.

b. Structure

(1) Chairman of the Joint Chiefs of Staff

The Goldwater-Nichols DOD Reorganization Act of 1986 identifies the JCS Chairman as the senior ranking member of the Armed Forces.[42] As such, the JCS Chairman is the principal military adviser to the President. He may seek the advice of and consult with the other JCS members and Combatant Commanders. When he presents his advice, he presents the range of advice and opinions he has received, along with any individual comments of the other JCS members.

Under the DOD Reorganization Act, the Secretaries of the military departments assign all forces to Combatant Commands[43] except those assigned to carry out the mission of the military service, i.e., those that recruit, organize, supply, equip, train, service, mobilize, demobilize, administer, and maintain their respective forces. The chain of command to these Combatant Commands runs from the President to the SecDef directly to the commander of the Combatant Command. As noted above, the JCS Chairman will transmit communications to the commanders of the Combatant Commands from the President and SecDef, but does not exercise military command over any combatant forces.

The Act also gives to the JCS Chairman some of the functions and responsibilities previously assigned to the corporate body of the JCS. The broad functions of the JCS Chairman are set forth in Title 10, United States Code,[44] and detailed in DOD Directive 5100.1. In carrying out his duties, the JCS Chairman consults with and seeks the advice of the other members of the JCS and the Combatant Commanders, as he considers appropriate.

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[42] *Id.* § 152(c).

[43] *Id.* § 162(a).

[44] *Id* . §§ 151-55.

(2) Vice Chairman of the Joint Chiefs of Staff

The Vice Chairman performs such duties as the JCS Chairman may prescribe. By law, he is the second ranking member of the Armed Forces and replaces the JCS Chairman in his absence or disability. Though the Vice Chairman was not originally included as a member of the JCS, § 911 of the National Defense Authorization Act of 1992 made him a full voting member of the JCS.[45]

(3) Assistants to the Chairman for National Guard and Reserve matters

Two major generals/rear admirals are appointed as assistants to the Chairman for National Guard and Reserve matters. These assistants are the Chairman's subject matter experts concerning Reserve Component issues. They provide advice and work initiatives to insure that the National Guard and Reserve effectively support the National Military Strategy.

(4) Military Service Chiefs

The Military Service Chiefs are often said to "wear two hats." As members of the JCS, they offer advice to the President, the SecDef, and the NSC. As the Chiefs of the military services, they are responsible to the Secretaries of their military departments for managing their military services. The Military Service Chiefs serve for four years. By custom, the Vice Chiefs of the military services act for their Chiefs in most matters having to do with day-to-day operation of the military services. As noted above, the duties of the Military Service Chiefs as members of the JCS take precedence over all their other duties.

[45] *Id.* § 154.

(5) The Joint Staff

The Joint Staff assists the JCS Chairman in accomplishing his responsibilities for the combatant forces: unified strategic direction; operation under unified command; and integration into an efficient team of land, naval, and air forces. The Joint Staff is composed of approximately equal numbers of officers from the Army, Navy, Marine Corps, and Air Force. In practice, the Marines make up about twenty percent of the number allocated to the Navy. Since the passage of the National Security Act of 1947, the Joint Staff is prohibited from operating or organizing as an overall armed forces general staff; therefore, the Joint Staff has no executive authority over combatant forces.

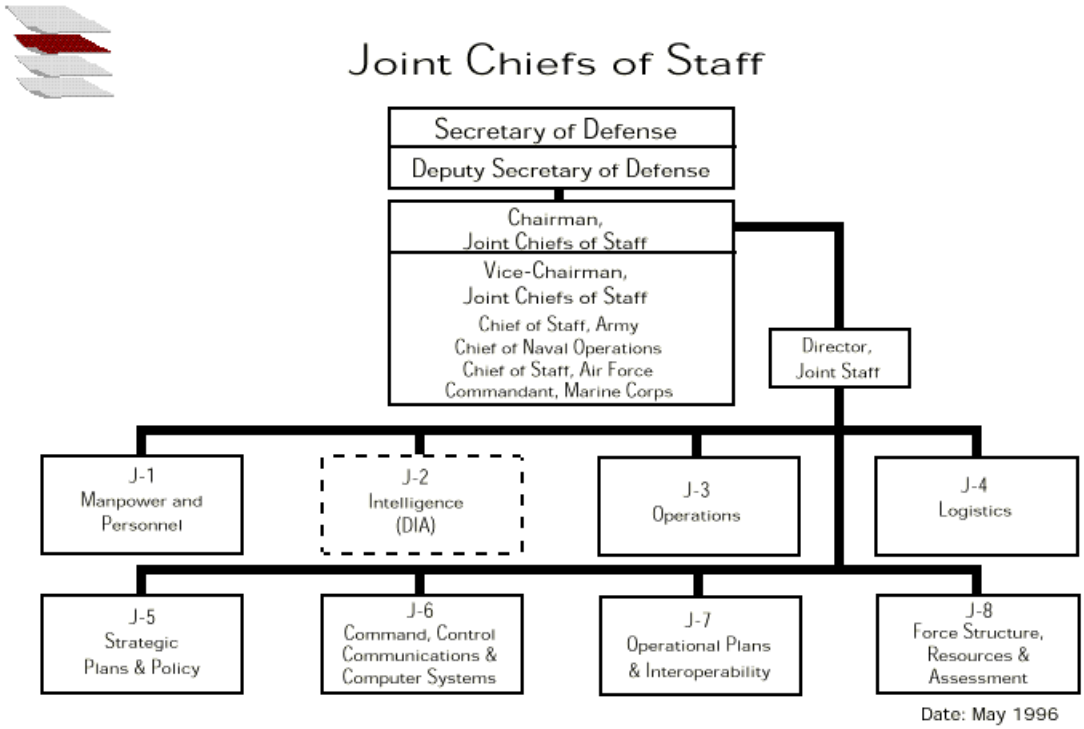

Figure II-2

The JCS Chairman, after consultation with other JCS members and with the approval of the SecDef, selects the Director, Joint Staff, to assist in managing the Joint Staff. By law, the direction of the Joint Staff rests exclusively with the JCS Chairman. As the Chairman

directs, the Joint Staff also may assist the other JCS members in carrying out their responsibilities. (See Figure II-2 above)

In the joint arena, a body of senior general officers assists in resolving matters that do not require JCS attention. Each Military Service Chief appoints an operations deputy who works with the Director, Joint Staff, to form the subsidiary body known as the Operations Deputies (OPSDEPS). They meet in sessions chaired by the Director, Joint Staff, to consider issues of lesser importance or to review major issues before they reach the JCS. With the exception of the Director, this body is not part of the Joint Staff. Another subsidiary body, the Deputy Operations Deputies (DEPOPSDEPs), is composed of the Vice Director, Joint Staff, and a two-star flag or general officer appointed by each Military Service Chief. Currently, the DEPOPSDEPs are the military service directors for plans. Issues come before the DEPOPSDEPs to be settled at their level or forwarded to the OPSDEPS. Except for the Vice Director, Joint Staff, the DEPOPSDEPs are not part of the Joint Staff.

Matters come before these bodies under policies prescribed by the JCS Chairman. The Director, Joint Staff, is authorized to review and approve issues when there is no dispute between the military services, when the issue does not warrant JCS attention, when the proposed action is in conformance with JCS Chairman policy, or when the issue has not been raised by a member of the JCS.

c. Joint Staff Elements Relevant to Complex Contingency Operations

(1) Operations Directorate

The **Operations Directorate (J-3)** is where all the Joint Staff's planning, policies, intelligence, manpower, communications, and logistics functions are translated into action and is one of the primary elements of the Joint Staff involved in complex contingency operations. This directorate moves military forces, conducts detailed operational briefings to the national leadership and serves as the operational link between the warfighting Combatant Commanders and the President and SecDef.

The J-3 Special Operations Division is responsible for Joint Staff matters relating to operational aspects of employing special operations forces, including special forces, and psychological operations and civil affairs forces. Special operations involve unconventional warfare, weapons counter-proliferation, counterterrorism, direct action, foreign internal defense, psychological operations, special reconnaissance, and civil affairs.

The Division consists of five functional branches: Special Operations Forces, Support Activities, Operational Support, Psychological Operations and Civil Affairs, and Counter-proliferation. Each ensures policy, strategy, doctrine, and resource guidance are integrated into national military strategy, joint doctrine, and other joint initiatives. The division coordinates with Combatant Commands for special operations forces execution of operational plans and contingency plans, deployment of required special operations forces, and coordination with other civilian agencies.

The J-3 Reconnaissance Operations Division develops policy and provides oversight of airborne and maritime reconnaissance issues for the Chairman and the SecDef. This division is the Joint Staff focal point for manned and unmanned reconnaissance forces and resourcing. Additionally, the division coordinates reconnaissance issues with interagency councils and obtains monthly approval for reconnaissance requests received from the regional Combatant Command staffs.

The J-3 Nuclear Operations Division develops nuclear weapon employment procedures in defense of the United States and its allies. The division is the Joint Staff focal point for National Airborne Operations Center activities. Airborne center aircraft are an integral part of the U.S. survivable national command and control system and support the Federal Emergency Management Agency in responding to natural disasters.

The J-3 Information Operations Deputy Directorate, which consists of three divisions, supports the President, SecDef, and the Combatant Commands in employing a broad range of military information and psychological operations capabilities.

(2) Strategic Plans and Policy Directorate

The Strategic Plans and Policy Directorate (J-5) receives advice and recommendations from three regional Deputy Directorates for Politico-Military Affairs (DDPMAs). The DDPMAs focus increasingly on issues such as peacekeeping and humanitarian crises, while remaining aware of the possibility for regional conflict. Currently, the DDPMAs play a leading role in policy development for NATO, the Balkans, the Arabian Gulf, Africa, Israel, Korea, Japan, China, South Asia, and the Western Hemisphere. Likewise, much time and effort is spent developing advice on participation in UN operations, the Middle East Peace Process, enhancing African peacekeeping capabilities, and identifying potential new problems and opportunities. A new Global Division is developing politico-military policy on peacekeeping and transnational issues such as international crime, refugees and migration, law of armed conflict, and environmental security.

3. COMBATANT COMMANDS

a. General

Operational control of the Armed Forces as a whole is organized on the basis of nine unified or specified, i.e., geographic or functional, **Combatant Commands**, each with specific missions and areas of responsibilities and headed by a **Combatant Commander**.[46] Unless otherwise directed by the President, the chain of command of a Combatant Command runs—(1) from the President to the SecDef and (2) from the SecDef to the commander of the Combatant Command.[47] As noted previously, orders and other communications from the President or Secretary are transmitted through the JCS Chairman, but the Chairman is not formally part of the chain of command. Also as noted previously, Service Secretaries and Service Chiefs do not have

[46] Typically, a four-star general or admiral. Formerly known as "Commanders-in-Chief" or "CINCs" (pronounced "sinks").

[47] 10 U.S.C. § 162(b) (2000).

an operational role, and are therefore also not in the chain of command.[48]

Combatant Commanders exercise combatant command of assigned forces through commanders of service components, subordinate unified commands and joint task forces. To align the authority of Combatant Commanders with their responsibilities, Congress granted great power to the Combatant Commanders. The command exercised by a Combatant Commander is defined as:

> Nontransferable command authority . . . exercised only by commanders of unified or specified combatant commands unless otherwise directed by the President or the Secretary of Defense. Combatant command (command authority) cannot be delegated and is the authority of a combatant commander to perform those functions of command over assigned forces involving organizing and employing commands and forces, assigning tasks, designating objectives, and giving authoritative direction over all aspects of military operations, joint training, and logistics necessary to accomplish the missions assigned to the command....

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[48] The Secretary of Defense assigns forces in his annual "Forces For" memorandum. This classified document assigns all "operational" forces among the Combatant Commanders. Those not assigned remain under the control of the military departments. Forces that are assigned to one Combatant Commander may only be transferred to another Combatant Commander by authority of the SecDef. Deployment orders (issued by the JCS Chairman at the direction of the SecDef) are the vehicle used to transfer forces outside of the "Forces For" process.

As a practical matter, most U.S.-based forces are assigned to U.S. Joint Forces Command. Other geographic Combatant Commanders are only assigned those forces that are physically stationed in their area of responsibility. To assist those other Combatant Commanders in planning, training, and executing operations, the JCS Chairman promulgates an annual classified document called the Joint Strategic Capabilities Plan. Among other things, this document "apportions," or promises the assignment of certain forces to the other geographic Combatant Commanders if the operational need arises. Certain critical units, because of their unique capabilities, may be "dual-apportioned" between several Combatant Commanders.

In an operation, Combatant Commands are often described as "supported" or "supporting." The "supported" command is typically the geographic Combatant Command in whose area of responsibility the operation is to occur. The supported command receives the support of all supporting commands. The functional Combatant Commands, and occasionally other geographic Combatant Commands (especially U.S. Joint Forces Command, as the primary provider of U.S.-based forces to other Combatant Commanders), are designated as "supporting" commands based on the supported command's needs, mission, and other factors.

Combatant command (command authority) provides full authority to organize and employ commands and forces as the Combatant Commander considers necessary to accomplish assigned missions. Operational control is inherent in Combatant Command (command authority).[49]

10 U.S.C. § 164 enumerates specific powers that a Combatant Commander has, to include:

– Giving authoritative direction to subordinate commands, including authoritative direction over all aspects of military operations, joint training, and logistics;

– Prescribing the chain of command;

– Organizing the command and forces as the Combatant Commander considers necessary;

– Employing forces as the Combatant Commander considers necessary;

– Assigning command functions to subordinate commanders;

– Coordinating administration and support; and

– Selecting subordinate commanders and staff, suspending subordinates, and convening courts-martial.[50]

b. Types of Combatant Commands

There are currently nine Combatant Commands.[51] The five geographic (unified) Combatant Commands are U.S. Northern Command (NORTHCOM), U.S. Southern Command (SOUTHCOM), U.S. European Command (EUCOM), U.S. Central Command

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[49] JOINT CHIEFS OF STAFF, JOINT PUB. 0-2, UNIFIED ACTION ARMED FORCES (UNAAF), at GL-5 (10 July 2001) [hereinafter JOINT PUB. 0-2].

[50] 10 U.S.C. § 164(c) (2000).

[51] See DOD Defense Almanac at http://www.defenselink mil/pubs/almanac for the most current information on the missions and roles of each Combatant Command.

(CENTCOM), and U.S. Pacific Command (PACOM).[52] The four functional (specified) Combatant Commands are U.S. Joint Forces Command (JFCOM), U.S. Strategic Command (STRATCOM), U.S. Transportation Command (TRANSCOM), and U.S. Special Operations Command (SOCOM). Of these, the most important to complex contingency operations are the four geographic commands outside of the United States (i.e., all but NORTHCOM), and the functional commands pertaining to joint training, transportation, and Special Operations Forces—JFCOM, TRANSCOM, and SOCOM, respectively.

(1) Geographic Combatant Commands

Each of the geographic commands is responsible for U.S. military activities within a specific group of countries and the adjacent waters. In general:

– EUCOM is responsible for Europe, Russia, Central Asia, part of the Middle East, Sub-Saharan Africa, and the North Atlantic, and is headquartered in Germany;[53]

– CENTCOM is responsible for North Africa and most of the Middle East, and is headquartered in Tampa, Florida;[54]

– PACOM is responsible for the majority of Asia and the Pacific Ocean, and is headquartered in Honolulu, Hawaii;[55] and

[52] NORTHCOM is responsible for the United States (except Hawaii) and Cuba and the Bahamas. With the creation of NORTHCOM, the former U.S. Space Command was merged into an expanded STRATCOM, headquartered at Offutt Air Force Base, NE. STRATCOM is the command and control center for U.S. strategic forces, i.e., Inter-Continental Ballistic Missiles, Submarine-Launched Ballistic Missiles, and heavy bombers, and controls military space operations, computer network operations, information operations, strategic warning, and intelligence assessments as well as global strategic planning.

[53] For more information see the EUCOM website at http://www.eucom.mil.

[54] For more information see the CENTCOM website at http://www.centcom.mil.

[55] For more information see the PACOM website at http://www.pacom mil.

– SOUTHCOM is responsible for Central and South America and the Caribbean, and is headquartered in Miami, Florida.[56] (See Figure II-3)

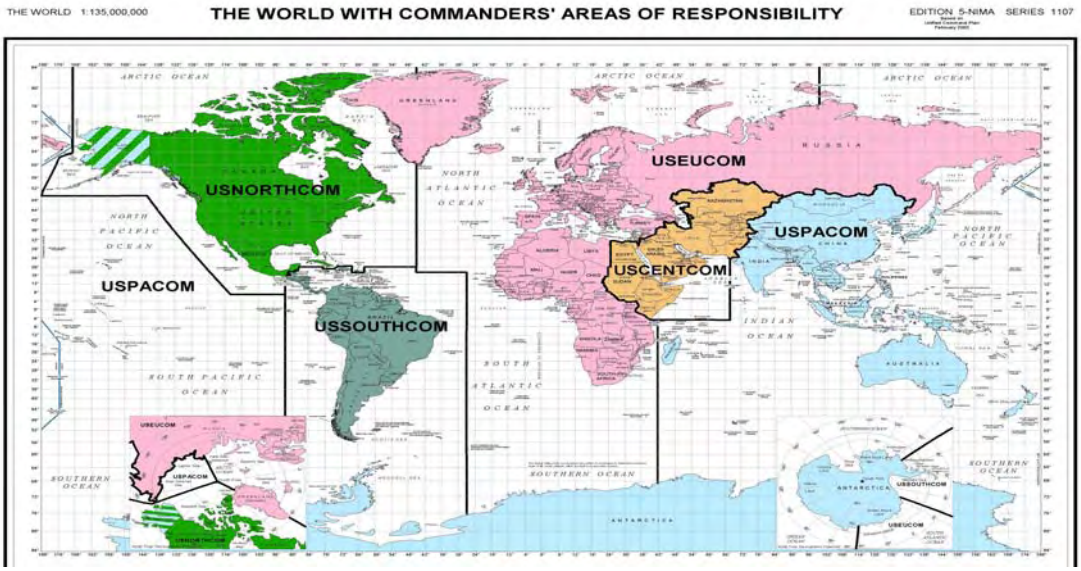

Figure II-3

The geographic Combatant Commands accomplish their missions with assigned or attached forces. Forces under the direction of the President or the SecDef may conduct operations from or within any geographic area as required for accomplishing assigned tasks, as mutually agreed by the Commanders concerned or as specifically directed by the President or the SecDef.

All of the geographic Combatant Commands have similar responsibilities within their respective areas of responsibility. In general, their wartime mission is to fight and win the nation's wars within their area of responsibility and their peacetime mission is engagement and preparedness. These are the two ways to decrease the likelihood of conflict and crises. Engagement involves security dialogue with nations in the region and permits resolution of security concerns before they erupt into crises or conflict. Preparedness is

[56] For more information see the SOUTHCOM website at http://www.southcom.mil. For a comparison of the geographic areas of responsibility between the Combatant Commands and the regional offices of the State Department see appendix II-3 of this Handbook.

ensuring that forces are ready and able to respond to crises or conflict and to dissuade potential adversaries from using force as a means of resolving disputes.

(2) Functional Combatant Commands

JFCOM, headquartered in Norfolk, VA, oversees military transformation, experimentation, joint training, interoperability, and force provision.[57] The Secretary of Defense appointed this Combatant Command as the "transformation laboratory" of the United States military to enhance the unified Commanders' capabilities to implement that strategy. Various elements of JFCOM develop concepts, test these concepts through rigorous experimentation, educate joint leaders, train joint forces, and make recommendations on how the Army, Navy, Air Force, and Marines can better integrate their warfighting capabilities.

TRANSCOM, headquartered at Scott Air Force Base (AFB) in Illinois, is the single manager for defense transportation and provides global transportation management of common-user air, land, and sea transportation for the DOD by employing an integrated transportation system across the range of military operations both in peace and war.[58] TRANSCOM is the DOD-designated single port manager for all common-user aerial and seaports worldwide. This Combatant Command is also the single manager for medical patient movement, other than for intra-theater patient movement. Finally, TRANSCOM is responsible for coordination of all common-user DOD air, land, and sea transportation worldwide, i.e., the ships that carry cargo for more than one military service.

Subordinate to TRANSCOM are: Air Mobility Command (AMC), also headquartered at Scott AFB; Military Sealift Command (MSC), headquartered in Washington, D.C.; and (Military) Surface Deployment and Distribution Command (SDDC), split-headquartered

[57] For more information see the JFCOM website at http://www.jfcom.mil.

[58] For more information see the TRANSCOM website at http://www.transcom.mil.

at Fort Eustis, Virginia and in Alexandria, Virginia.[59] Each command is discussed under its corresponding military service.

SOCOM, headquartered at McDill AFB in Tampa, FL (and co-located with CENTCOM), commands all Special Operations Forces (SOF) of the Army, Navy, and Air Force based in the United States.[60] SOCOM has three service component commands: Army Special Operations Command (USASOC), headquartered at Ft. Bragg, NC; Naval Special Warfare Command (NAVSPECWARCOM) in Coronado, CA; and Air Force Special Operations Command (AFSOC), headquartered at Hurlburt Field, FL. This Combatant Command also has one sub-unified command, Joint Special Operations Command (JSOC), also headquartered at Ft. Bragg, NC. SOCOM provides special operations forces to regional Combatant Commanders, and U.S. Ambassadors and their Country Teams for successful conduct of special operations during both peace and war. SOCOM prepares SOF to successfully conduct special operations, including civil affairs and psychological operations.

4. JOINT TASK FORCES.

a. General

Military operations are normally accomplished by a combination of forces from all military services, rather than by a single military service acting alone. Such a combined force is called a joint task force (JTF).[61] A JTF may be established by the SecDef or the Commander of a Combatant Command, subordinate command, or existing JTF. In most situations, the JTF establishing authority will be a Combatant Commander. JTFs are established on a geographical area or functional basis when the mission has a specific limited

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[59] Until 1 January 2004, SDDC was known as the Military Traffic Management Command (MTMC). SDDC operates as a single headquarters in two locations. Global command and control is exercised by SDDC Ft. Eustis, VA while SDDC Alexandria, VA maintains all remaining headquarters functions.

[60] *See* JOINT PUB. 0-2, *supra* note 49, at II-15. For more information see the SOCOM website at http://www.socom.mil.

[61] *See* JOINT CHIEFS OF STAFF, JOINT PUB. 5-00.2, JOINT TASK FORCE PLANNING GUIDANCE AND PROCEDURES ch. 1 (13 January 1999). A JTF that also includes coalition forces from other nations is known as a Combined Joint Task Force (CJTF).

objective and does not require overall centralized control of logistics. JTFs can be named by number, geographic area of operation, or other nomenclature. (Figure II-4 illustrates JTF organizational options.)

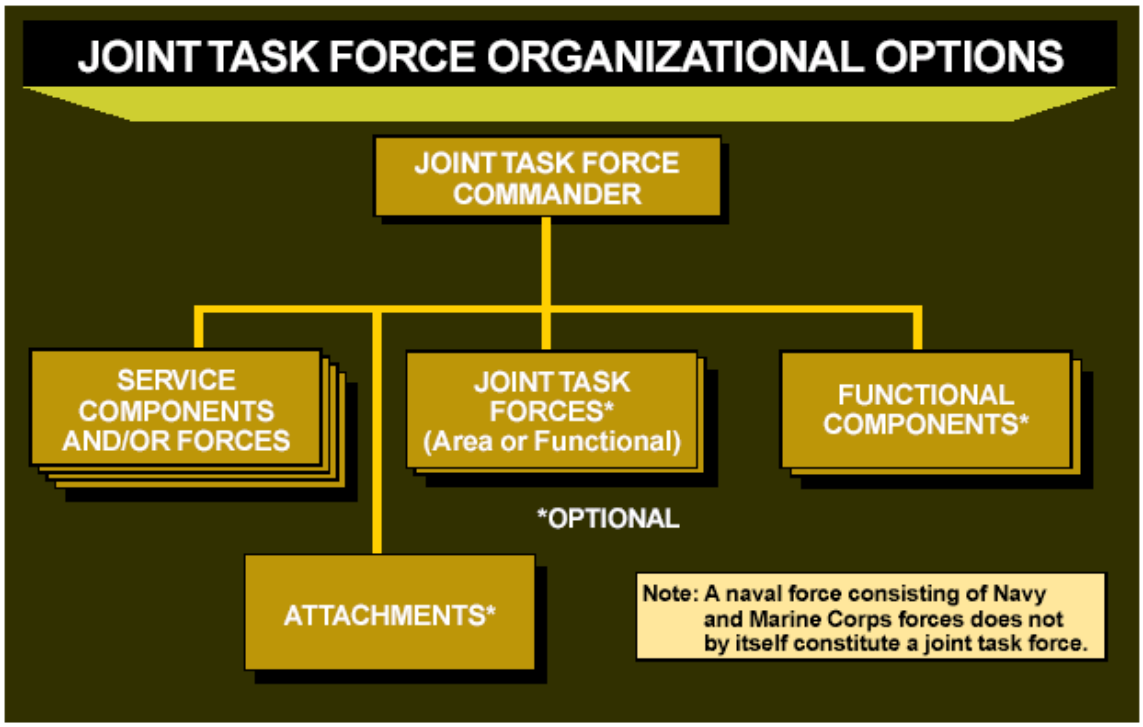

Figure I-1. Joint Task Force Organizational Options

Figure II-4

Normally, a JTF is dissolved by the proper authority when the purpose for which it was created has been achieved or when it is no longer required. Some recent JTFs have evolved to semi-permanent organizations, which stay behind to maintain end-state conditions or accomplish a specified follow-on or modified mission for an undetermined period.

b. JTF Organization

JTFs may take many forms and sizes, and be employed across the range of military operations in air, land, or maritime environments. The specific organization and staffing of a JTF will vary based on the mission assigned, the environment within which operations must be conducted, the

makeup of existing and potential enemy forces, if any, and the time available to reach the desired end state.

Most often, joint forces are organized with a combination of military service (e.g., Army units) and functional component commands (e.g., Special Operations Forces) and subordinate task forces with operational responsibilities. All joint forces include military service component commands because administrative and logistic support for joint forces are provided through these component commands. (Figure II-5 illustrates possible JTF subordinates.)[62]

[62] *See id*. ch. 3.

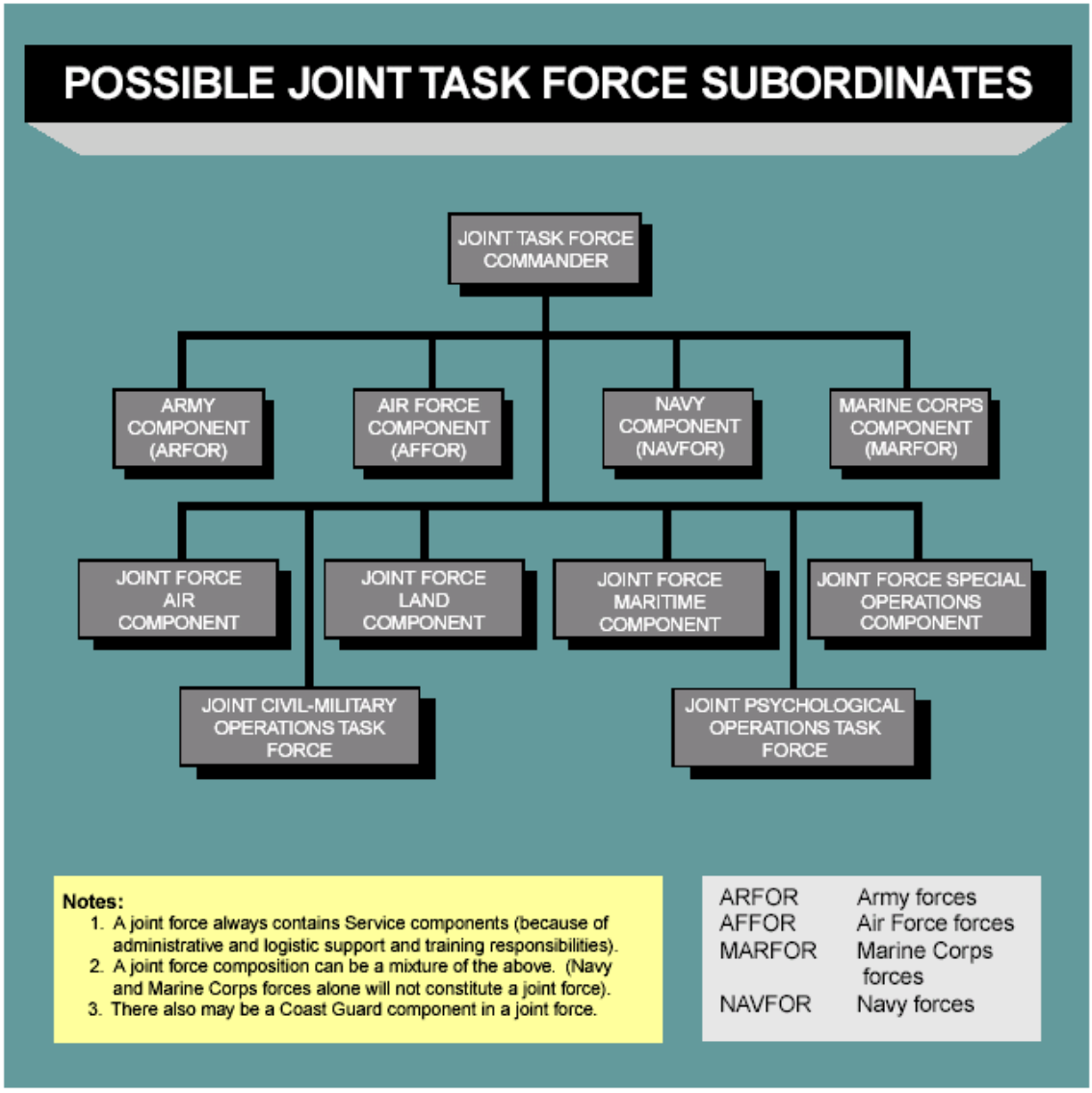

Figure III-1. Possible Joint Task Force Subordinates

Figure II-5

c. Component Commander Responsibilities

JTF-level military service component command consists of the military service component commander and all military service forces that have been assigned to the JTF. Examples of military service component commands are: Army forces, Air Force forces, Navy forces, and Marine Corps forces.

JTF Commanders have the authority to establish functional component commands to control military operations. Mission-type orders normally are issued by the JTF Commander to all components—with receipt of the mission goes the authority to conduct operations in accordance with the JTF commander’s intent and concept of operations.

Both military service and functional component commanders have the following general responsibilities.

– Coordinate with commanders of other JTF components to ensure effective and efficient conduct of operations. In addition, coordinate with supporting agencies, supporting commanders, and friendly forces and governments as authorized and as necessary to fulfill assigned responsibilities.

– Plan and conduct operations in accordance with the JTF commander's guidance and detailed plans.

– Monitor the operational situation and, as required, pass information to the JTF commander.

– Provide liaison personnel to the JTF, other component commanders, and supporting commanders as necessary or as directed by the JTF commander.

C. MILITARY DEPARTMENTS AND SERVICES

1. ARMY

a. Function

The Army's mission, in conjunction with the other military services, is to:

– Preserve the peace and security, and provide for the defense of the United States, the Territories, Commonwealths, and possessions, and any areas occupied by the United States;

– Support national policies;

– Implement national objectives; and

– Overcome any nations responsible for aggressive acts that imperil the peace and security of the United States.[63]

In general, the Army, within the Department of the Army (DA), includes land combat and service forces and aviation and water transport. The Army is organized, trained, and equipped primarily for prompt and sustained combat incident to operations on land. It is responsible for the preparation and sustainment of land forces necessary for the effective prosecution of combat except as otherwise assigned and, according to integrated joint mobilization plans, for the expansion of the peacetime components of the Army to meet the needs of war.[64]

The Army organizes, trains, and equips its forces to fight and win the nation's wars and achieve directed national objectives such as peace operations. The Army trains for and is prepared to conduct "full spectrum operations"—the range of operations Army forces conduct in war and in military operations other than war (MOOTW).[65]

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[63] 10 U.S.C. § 3062(a) (2000).

[64] *Id.* § 3062(b).

[65] FM 3-0, *supra* note 5, para. 1-1.

Army operations generally fall within four basic types: offensive, defensive, stability, and support. Army commanders at all echelons may combine different types of operations simultaneously and sequentially to accomplish missions in war and MOOTW.[66] From an Army perspective, the complex contingency operations that are the subject of this Handbook fall within the categories of stability operations and support operations (SOSO).[67]

Stability Operations: Army forces are trained, equipped, and organized to control land, populations, and situations for extended periods.[68] Stability operations promote and protect U.S. national interests by influencing the threat, political, and information dimensions of the operational environment. They include developmental, cooperative activities during peacetime and coercive actions in response to crises.[69] Army forces may conduct stability operations before hostilities, in crises, during hostilities, and after hostilities. Before hostilities, stability operations focus on deterring or preempting conflict. In a crisis, they may resolve a potential conflict or prevent escalation. During hostilities, they can help keep armed conflict from spreading and assist and encourage partners. Following hostilities, stability operations can provide a secure environment that allows civil authorities to reassume control.[70]

The Army conducts ten types of stability operations—peace operations, foreign internal defense, security assistance, humanitarian and civic assistance, support to insurgencies, support to counterdrug operations, combating terrorism, noncombatant evacuation operations, arms control, and show of force.[71] Many of these stability operations

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[66] Army doctrine most often describes the range of conflict types from war to MOOTW as the "spectrum of conflict."

[67] *See generally* U.S. DEP'T OF ARMY, FIELD MANUAL 3-07, STABILITY OPERATIONS AND SUPPORT OPERATIONS (3 Feb. 2003) [hereinafter FM 3-07].

[68] FM 3-0, *supra* note 5, para. 9-1.

[69] *Id*. para. 9-2.

[70] FM 3-07, *supra* note 67, para. 1-2.

[71] FM 3-0, *supra* note 5, para 9-18.

fall within the definition of a complex contingency operation and are the subject of more detailed discussion later in this handbook.

Peace operations generally encompass peacekeeping operations (PKOs) and peace enforcement operations (PEOs). PKOs are undertaken with the consent of all major parties to a dispute. They are designed to monitor and facilitate implementation of cease fire, truce, or other such agreements, and to support diplomatic efforts to reach long-term political settlements.[72] Some missions performed in PKOs include:

– Observing and reporting any alleged violation of the peace agreement;

– Handling alleged cease-fire violations or alleged border incidents;

– Conducting regular liaison visits to units within their area of operations (AO);

– Continuously checking forces within their AO and reporting any changes thereto;

– Maintaining up-to-date information on the disposition of forces within their AO;

– Periodically visiting forward positions; report on the disposition of forces; and

– Assisting civil authorities in supervision of elections, transfer of authority, partition of territory, and administration of civil functions.

PEOs apply military force, or threaten its use, normally pursuant to international authorization, to compel compliance with resolutions or sanctions designed to maintain or restore peace and order. Unlike PKOs, PEOs do not require the consent of all parties. PEOs maintain or restore peace and support diplomatic efforts to reach a long-term

[72] *Id.* para. 4-4.

political settlement.[73] PEOs normally include one or more of six subordinate operations:

– Forcible separation of belligerents;

– Establishment and supervision of protected areas;

– Sanction and exclusion zone enforcement;

– Movement denial and guarantee;

– Restoration and maintenance of order; and

– Protection of humanitarian assistance.[74]

In addition, Army forces support diplomatic efforts to establish peace and order before, during, and after conflicts. These operations include preventive diplomacy, peacemaking, and peacebuilding. For example, Army forces support preventive diplomacy by conducting preventive deployments or shows of force as part of efforts to deter conflict. Support to peace operations often includes military-to-military contacts, exercises, peacetime deployments, and security assistance. Army forces support to peace building involves the same activities as longer-term foreign internal defense (FID) operations. Military support of diplomatic activities improves the chances for success by lending credibility to diplomatic actions and demonstrating the resolve to achieve viable political settlements.[75]

Support Operations: Support operations are those that use Army forces to assist civil authorities, foreign or domestic, as they prepare for, or respond to, crises and relieve suffering. In support operations, Army forces provide essential support, services, assets, or specialized resources to help civil authorities deal with situations beyond their capabilities. The purpose of support operations is to meet the immediate needs of designated groups for a limited time, until civil authorities can do so without Army assistance. In extreme or exceptional cases, Army forces may provide relief or assistance

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[73] *Id.* para. 4-9.

[74] *Id.* para. 4-14.

[75] FM 3-07, *supra* note 67, paras. 4-29 through 4-32.

directly to those in need. More commonly, Army forces help civil authorities or nongovernmental organizations provide support.

There are two types of support operations: domestic support operations (DSO) and foreign humanitarian assistance (FHA).[76] Army forces usually conduct FHA operations to relieve or reduce the results of natural or manmade disasters. They also relieve conditions—such as pain, disease, hunger, or privation—that present a serious threat to life or loss of property. Army forces supplement or complement efforts of host nation civil authorities or agencies that provide assistance. FHA is limited in scope and duration. It focuses exclusively on prompt aid to resolve an immediate crisis.[77] FHA is further addressed in Chapters V and VI of this Handbook.

The Army is not specifically organized, trained, or equipped for support operations. Army forces are designed and organized for warfighting. However, their warfighting capabilities are particularly suited to FHA. The Army is a disciplined force with well-established, flexible, and adaptable procedures. Army units have a functional chain of command, reliable communications, and well-trained and well-equipped organizations. They can operate and sustain themselves in austere environments with the assets organic to and habitually possessed by the unit. The Army can rapidly move large forces to the affected location using military transportation. Army engineer, military police, medical, transportation, aviation, and civil affairs assets are especially valuable for support operations.[78]

b. Structure

(1) Conventional Army Units

As is the case when the military conducts joint operations, the Army employs a "combined arms" approach to conducting operations.

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[76] *Id.* para. 1-14.

[77] *Id.* para. 1-16.

[78] FM 3.0, *supra* note 5, para. 10-10.

> The fundamental basis for the organization and operation of Army forces is combined arms. Combined arms is the synchronized or simultaneous application of several arms—such as infantry, armor, field artillery, engineers, air defense, and aviation—to achieve an effect on the enemy that is greater than if each arm was used against the enemy separately or in sequence. The ultimate goal of Army organization for operations remains success in joint and combined arms warfare.[79]

The major warfighting elements of the operational Army are its corps, divisions, and separate brigades. These combat elements and their supporting elements are the deployable forces that execute the full spectrum of military operations; many are based overseas. Operational units of different types are grouped together (task-organized) to make the most effective use of the different functional skills and equipment characteristics of these different units. (See Figure II-6)

Unit Type	Typical Size	
Corps	Up to 100,000 soldiers	4 Corps in the Army
Divisions	10,000-18,000 soldiers	10 active in the Army
Brigades	1,000-6,000 soldiers	27 separate Brigades, most Army National Guard
Battalions	600 soldiers	
Companies	120-180 soldiers	
Platoons	35 soldiers	
Squads	9 soldiers	

Figure II-6

Army units are organized as follows, from the largest to the smallest:

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[79] *Id*. para. 4-102. This approach to conducting operations allows Army commanders to form "Combat, Combat Support (CS), and Combat Service Support (CSS) forces into cohesive teams focused on common goals." *Id.*

Theater Army. A Theater Army is the army component of a Combatant Command in a particular theater (i.e., region) of operations.[80] It is an echelon above the corps organization and it provides combat support and combat service support to Army combat and combat support forces in the theater. It must be tailored for each theater.

Field Army. If a numbered field army is required, it will consist of a headquarters, two or more army corps, and other organizations of all kinds needed for sustained field operations.

Army Corps. An army corps consists of its headquarters, two or more divisions, and such other organizations (often referred to as "non-divisional" units) as its mission may require. The additional units may consist, for example, of artillery, aviation, engineer, and medical units. There are four corps currently in the Army: I Corps, headquartered at Fort Lewis, WA; III Corps, headquartered at Fort Hood, TX; V Corps, headquartered at Heidelberg, Germany; and XVIII Airborne Corps, headquartered at Ft. Bragg, NC. A Corps is commanded by a Lieutenant General (three star, O-9).

Division. In the active-duty forces, there are five types of combat divisions: armored, mechanized, light infantry, airborne, and air assault. A major general (two-star, O-8) commands a division with two Brigadier Generals (one star, O-7) acting as assistant or deputy division commanders.[81] The strength of a division can range from 11,000 for the light infantry division to about 16,500 for the largest armored and mechanized divisions. A division has command and control, combat, combat support, and combat service support elements. The command and control element includes a division headquarters and four brigade headquarters. The combat element includes varying proportions of combat battalions of different types (armor, infantry, mechanized, air assault, airborne infantry, and aviation). The following is a list of the battalions contained in different types of divisions:

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[80] *See* section B.3 of this chapter for a discussion of Combatant Commands.

[81] Assistant division commanders (ADC) generally supervise the "support" or "maneuver" operations in the division. As such, they are designated as the ADC for support (ADC-S) or for maneuver (ADC-M).

– **Armored**—six tank and four mechanized infantry battalions;

– **Mechanized**—five mechanized infantry and five tank battalions;

– **Light Infantry**—nine light infantry battalions;

– **Airborne**—nine airborne infantry battalions; and

– **Air Assault**—nine air assault infantry battalions.

Divisional Brigades. In most divisions, there are four brigade headquarters (infantry, armor or aviation), each capable of controlling from two to five combat battalions. The necessary combat support and administrative elements are furnished to the brigade by the division. A Colonel (O-6) commands a brigade.

During operations and in training, commanders often "task organize" their brigades as Brigade Combat Teams (BCT) to better accomplish assigned missions. The task organization will reflect what the commander and staff estimates is the most effective configuration of units for the mission. The commander may mix elements of the organic brigade with additional battalions of armor or infantry. Furthermore, the BCT composition may include attached operational assets such as a cavalry troop, a signal company,[82] forward support company, an engineer company, air defense artillery platoon, field artillery battery, and military police platoon. These added operational assets are themselves organic to a larger brigade or battalion-sized element of like-type within the division (e.g., the artillery battery that habitually works with a BCT will belong to a numbered artillery battalion within the division artillery). However, during operations the battery comes under the command and control of the BCT to form a habitual relationship with the BCT that allows the staffs of each entity to more fully integrate operations

Battalion. The battalion is the principal command component of Army units. It includes a headquarters element and two to four

[82] Signals companies are responsible for communications.

company-sized elements. A Lieutenant Colonel (O-5) commands a battalion. In many divisions, there are fixed numbers of combat battalions (infantry, airborne infantry, mechanized, tank or aviation), but the number and type of battalions depends on the type of division and its mission. Also in the division are battalion-sized units of artillery, engineers, signal, and cavalry, with those in the support command providing maintenance, supply, and medical support. In a cavalry unit, the battalion-sized element is called a squadron.

Company. The company consists of a headquarters and two or more platoons or sections. They are usually commanded by Captains (O-3), although Majors (O-4) sometimes command larger companies. In the field and air defense artillery, this company-sized unit is called a battery. In a cavalry unit, company-sized units are called troops.

Platoon. The platoon is the smallest unit led by an officer, who is usually a Lieutenant (O-2). A platoon includes two or more squads.

Squads, sections, infantry fire teams, and crews of certain weapons systems. These are the smallest units in the army. They are led by NCOs.

(2) Unconventional or Special Operations Army Units

Aside from the conventional organizations described above, the Army also fields Special Operations units. SO are characterized by the use of small units involved in direct and indirect military activities that generally have an operational or strategic objective. These missions may be conducted in time of war or peace. SOF involvement in an operation normally begins before the introduction of conventional troops and ceases long after conventional forces have left the theater. SOF are generally regionally focused and SOF personnel typically posses the language skills, cultural familiarity and maturity necessary to participate in the often times politically sensitive missions. SO are inherently joint and differ from conventional operations in degree of risk, operational techniques, modes of employment, independence from friendly support, and

dependence on detailed operational intelligence and indigenous assets.[83]

(3) Branches of the Army

The Army has evolved over time from basically three branches: infantry, cavalry, and engineers/logisticians. As warfare and technology have become more complex, a need for more and specialized branches evolved. The modern army has: **combat arms branches** (infantry, armor, cavalry, field artillery, air defense, aviation, engineers, and special forces); **combat support branches** (military police, military intelligence, chemical, signal, and civil affairs); and **combat service support branches** (adjutant general, army medical department services, ordnance, quartermaster, transportation, finance, judge advocate general, and chaplains). Officers and enlisted personnel generally are assigned to a particular branch; however, they command or serve in units comprised of personnel representing not only the primary branch of the unit, but also various other branches. For example, the majority of personnel assigned to an Infantry unit or a Quartermaster unit may be from that particular branch. However, personnel from other branches may also be assigned to that unit to carry out the functions particular to their branch or military occupational specialty (MOS). Officers and enlisted personnel receive specialized training in the functions of their assigned branch/MOS and often receive additional cross-training and expertise in other branches/MOS as they progress in rank.

While all of these branches may play a role in any complex contingency operation, this Handbook will focus on the Judge Advocate Generals Corps, the Corps of Engineers, and the Civil Affairs and Psychological Operations branches of the U.S. Army Civil Affairs and Psychological Operations Command (Airborne) (USACAPOC(A)).[84] Also discussed will be the Surface Deployment and Distribution Command.[85]

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[83] Adapted from INT'L & OPERATIONAL LAW DEP'T, THE JUDGE ADVOCATE GENERAL'S LEGAL CENTER AND SCHOOL, U.S. ARMY, OPERATIONAL LAW HANDBOOK 414 (2004) [hereinafter 2004 OPLAW HANDBOOK].

[84] USACAPOC(A) is a subordinate command of SOCOM. *See* section B.3 of this chapter.

[85] Formerly known as the Military Traffic Management Command (MTMC).

(4) Army Command and Control over Operations: Staff Organization and Battlefield Operating Systems[86]

Commanders express their vision as the commander's intent. The commander's intent is a clear, concise statement of what the force must do and the conditions the force must meet to succeed with respect to the enemy, terrain, and the desired end state. Commanders make their own independent, and sometimes intuitive, assessment of how they intend to win.[87] The commander's staff and subordinates measure the plans and orders that transform thought to action against the commander's intent.

The chief of staff or executive officer is the commander's principal staff officer. He directs the staff tasks, conducts coordination and ensures efficient and prompt staff responses to the commander. The staff is divided into three sections. The coordinating or primary staff officers (G1-G7) are the commander's principal assistants and assist the commander in the execution of plans, operations and activities. The special staff officers (finance, protocol, provost marshal, chemical officer, fire support coordinator, etc.) help the commander and other staff members in their professional or technical functional area. The personal staff (command sergeant major, aide-de-camp, staff judge advocate, inspector general, chaplain, and public affairs officer) work under the commander's immediate control. They may also serve as special staff officers as they coordinate actions and issues with other staff members. The coordinating staff at the division level is the "G" staff or general staff. (See Figure II-7—note that this does not include the G-7) Brigades and battalions have an "S" staff or section staff. (See Figure II-8) Most Army units of battalion and higher levels have staff sections.

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[86] Adapted from U.S. DEP'T OF ARMY, FIELD MANUAL 101-5, STAFF ORGANIZATION AND OPERATIONS chs. 2, 4 (31 May 1997).

[87] FM 3.0, *supra* note 5, paras. 5-61, -64.

Coordinating/Primary Staff Officers Functions.

– G/S1: The G/S1 is the principal staff officer for all matters concerning human resources (military and civilian), including personnel readiness, personnel services and headquarters management.

– G/S2: The G/S2 is the principal staff officer for all matters concerning military intelligence, counterintelligence, security operations, and military intelligence training.

– G/S3: The G/S3 is the principal staff officer for all matters concerning training, operations, and plans, and force development and modernization.

– G/S4: The G/S4 is the principal staff officer for coordinating the logistics integration of supply, maintenance, transportation, and services for the command. The G/S4 is the link between the support unit and his commander plus the rest of the staff. The G/S4 assists the support unit commander in maintaining logistics visibility
with the commander and the rest of the staff. The G/S4 must also maintain close and continuous coordination with the G/S3.

– G/S5: The G/S 5 is the principal staff officer for all matters concerning civil-military operations (the civilian impact on military operations and the impact of military operations on the civilian populace). The G/S5 has responsibility to enhance the relationship between military forces and civilian authorities and personnel in the area of operations to ensure the success of the mission.

– G/S6: The G/S6 is the principal staff officer for all matters concerning signal operations, automation management, network management, and information security.

– G7: The G7 is the principal staff officer for all matters concerning information operations (IO), including current operations, plans, and IO-related targeting.

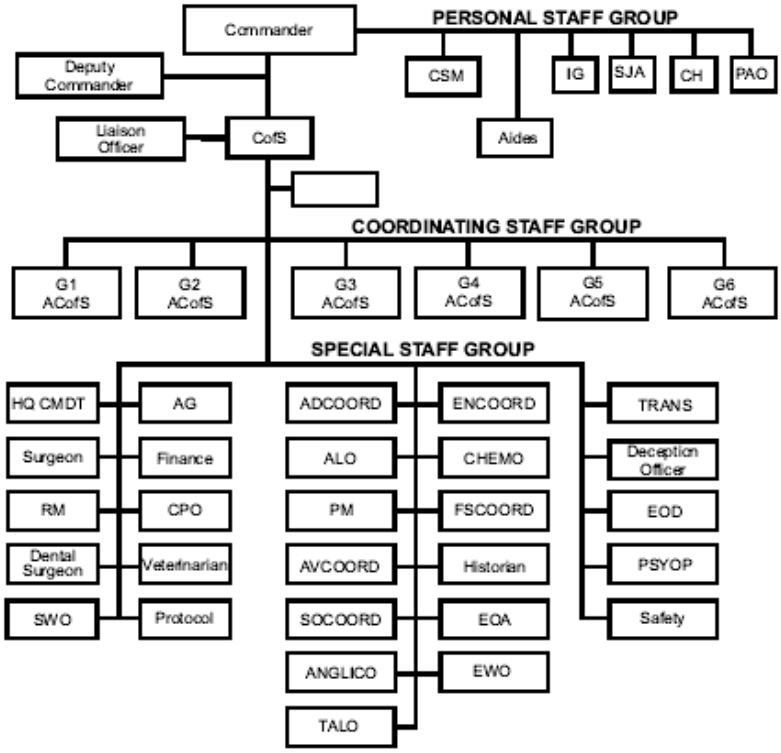
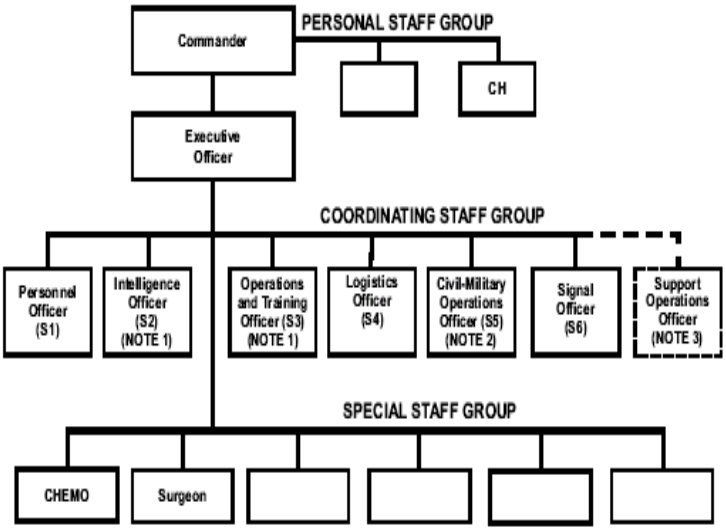

Commander
PERSONAL STAFF GROUP
Deputy Commander
CSM
IG
SJA
CH
PAO
Liaison Officer
CofS
Aides
COORDINATING STAFF GROUP
G1 ACofS
G2 ACofS
G3 ACofS
G4 ACofS
G5 ACofS
G6 ACofS
SPECIAL STAFF GROUP
HQ CMDT
AG
ADCOORD
ENCOORD
TRANS
Surgeon
Finance
ALO
CHEMO
Deception Officer
RM
CPO
PM
FSCOORD
EOD
Dental Surgeon
Veterinarian
AVCOORD
Historian
PSYOP
SWO
Protocol
SOCOORD
EOA
Safety
ANGLICO
EWO
TALO

Figure II-7



NOTES: For brigades and battalions not authorized a specific special staff officer, the commander appoints an officer to perform the function as an additional duty, if required. The command may form other staff groups when DA or the theater commander authorizes.

1. In CSS units, the functions of the S2 and S3 are usually consolidated.
2. In units where the TOE or TDA does not authorize an S5, the commander gives an officer (usually the S3) the responsibility for civil-military operations (CMO) functions.
3. In support battalions, a support operations officer is added to the coordinating staff.

Figure II-8

Special and Personal Staff Officers. Each officer who functions as a special or personal staff officer is also a trained officer of one of the branches of the army (e.g., infantry, ordnance or quartermaster). (See Appendix II-2 for the complete listing and description of each branch.) The staff positions filled and functions performed by these officers, while not technically branches of the army, are often specific to the branch to which the officer is assigned (e.g., Chaplains, Judge Advocates or Surgeons). Some staff functions are "branch immaterial" and filled by officers who receive special training beyond their branch assignment in order to perform these functions. Additionally, each special or personal staff officer will have junior officers and enlisted personnel representing that branch or specialty to assist him or her with the duties of the position.

Staff Judge Advocate: The Staff Judge Advocate (SJA) is a judge advocate branch officer, the commander's personal legal advisor on all matters affecting the morale, good order, and discipline of the command. As a special staff officer, the SJA provides legal support to the members of the command and community. An SJA is

located at corps, division, and major support command levels.[88] A legal support element, including at least a judge advocate, deploys in direct support of each brigade-level task force.

***Public Affairs Officer*:** The Public Affairs Officer (PAO) is the command representative and often a spokesman for the command. He or she generally operates within the G1 staff section and is a branch immaterial officer with functional area training in public affairs. The PAO advises the commander on the "command message" and also interacts with media interested in covering the command. The PAO is responsible for understanding and fulfilling the information needs of soldiers, the Army community, and the public. A trained PAO is located at corps, division, and major support command levels.

Inspector General: The Inspector General (IG) is responsible for advising the commander on the overall welfare and state of discipline of the command. The IG is a confidential advisor to the commander. Like the PAO, the IG is a branch immaterial officer with functional area training to perform the IG mission.

Surgeon: The Surgeon is generally a medical corps officer, responsible for coordinating health assets and operations within the command. The Surgeon oversees preventative medical measures and casualty evacuation and provides advice concerning the ability and capabilities of the unit to provide support to the local community.

Provost Marshal: The Provost Marshal (PM) is typically a military police branch officer responsible for coordinating military police (MP) combat, combat support, and combat service support assets and operations. The PM is the senior military police officer in the command. The PM is also the commander of the MP unit supporting the unit.

Psychological Operations Officer: The Psychological Operations (PSYOP) officer is responsible for coordinating PSYOP

[88] The Army defines Major Support Commands as those organizations subordinate to a Combatant Command that do not function as a numbered unit such as a division or corps. The Army Training and Doctrine Command (TRADOC) and Forces Command (FORSCOM), are Major Support Commands.

assets and operations in the command. A PSYOP officer is located at corps and division levels. He or she evaluates, with the G2, G5, and G7, enemy PSYOP efforts and the effectiveness of friendly PSYOP on target groups. The PSYOP officer also coordinates with the G/S5 to determine the potential impact of PSYOP and the results of PSYOP and coordinates audience pre-testing and post-testing for propaganda and counterpropaganda products as well as the planning of and assistance with the execution of dislocated civilian operations. PSYOP officers are "branch immaterial" officers who receive specialized functional area training in this field.

Theater Airlift Liaison Officer: The Theater Airlift Liaison Officer (TALO) is responsible for advising the commander on the best use of airlift resources and coordinating the use of airlift resources. The TALO is an Air Force officer.

Armed with a coherent and focused intent, commanders and staffs develop the concept of operations and synchronize their plans by organizing the operation according to Battlefield Operation Systems (BOS). The BOS are the physical means (soldiers, organizations, and equipment) used to accomplish the mission. The BOS group the assigned units and functions together according to battlefield use: intelligence; maneuver; fire support; air defense; mobility/counter mobility/survivability; combat service support; and command and control.[89] Quite often, a military commander will have his staff prepare briefings or organize presentations by BOS to ensure synchronization of all aspects of the operation.

c. Army Organizations Prominent in Complex Emergency Operations

(1) Judge Advocate General's Corps

The Judge Advocate General's (JAG) Corps contains the Army's lawyers (judge advocates or JAs, all of whom are officers), paralegals and legal support personnel. The JAG Corps' mission is to provide professional legal services at all echelons of command throughout the range of military operations. JAs provide legal support

[89] FM 3.0, *supra* note 5, para. 5-64.

in three functional areas: command and control, sustainment, and personnel service support. Command and control includes advice to commanders, staffs, and soldiers on the legal aspects of command authority, command discipline, the application of force, and the Law of War (LOW). Sustainment functions include negotiation of acquisition and cross-servicing agreements and status of forces agreements, combat contingency contracting, fiscal law, processing claims arising in an operational environment, and environmental law. Personal service support functions include soldier discipline advocacy services, legal assistance services, and basic soldier-related claims issues.

Legal support to complex contingency operations encompasses all legal services provided by judge advocates in support of units, commanders, and soldiers throughout an area of operations and across the spectrum of operations. Some JA legal considerations include:

– Legal authority and mandate for assigned missions;

– Chain of command issues, such as the requirement that U.S. Commanders may never take oaths of loyalty to the United Nations or other international organizations;[90]

– Force protection, i.e., protection of the military from threats, as an inherent aspect of command not prescribed in statute;

– Limitations under Presidential Decision Document 25 (PDD-25);[91]

– Mission creep;

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[90] The United Nations asked Major General Kinzer to take such an oath of loyalty during the United Nations Mission in Haiti, but the JA coordinated with the JCS Staff to prevent the taking of a foreign oath. The same issue has surfaced in the context of NATO operations under the Partnership for Peace Status of Forces Agreement, with the same result. *See also* 22 U.S.C. § 2387 (2000).

[91] PRESIDENTIAL DECISION DIRECTIVE 25, REFORMING MULTILATERAL PEACE OPERATIONS (3 May 1994) (the official text is not publicly available but the official USG summary is available *at* http://www fas.org/irp/offdocs/pdd25.htm). A foreign commander cannot change a mission or deploy Armed Forces of the United States outside the area designated in the SecDef-approved deployment order, separate units, administer discipline, or modify the internal organization of Armed Forces of the United States.

– Proper coordination of the mission, rules of engagement, and fiscal authority;

– Status of Forces/Status of Mission Agreement;

– Knowledge of the status of U.S. Armed Forces in the AO in providing training;

– Notification of the Combatant Commander and Department of State (DOS) before negotiating or beginning discussions with a foreign government as required by Circular 175;[92]

– Determination of who is responsible for paying claims;

– Laws of armed conflict;

– Rules of engagement; and

– Funding considerations.[93]

(2) Corps of Engineers

The mission of the Corps of Engineers (COE) is to provide quality, responsive engineering and environmental services to the nation. The COE plans, designs, builds, and operates water resources and other civil works projects. It designs and manages the construction of military facilities for the Army and Air Force. The COE also provides design and construction management support for other DOD and USG civilian agencies. The Army's Corps of Engineers works under the direction of the Secretary of the Army and the Army Chief of Staff.[94]

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[92] COORDINATING AND REPORTING INTERNATIONAL AGREEMENTS, 22 C.F.R. § 181 (2003).

[93] For further information on the role of Army JAs in complex contingency operations see 2004 OPLAW HANDBOOK, *supra* note 83, and U.S. DEP'T OF ARMY, FIELD MANUAL 27-100, LEGAL SUPPORT TO OPERATIONS (1 Mar. 2000) [hereinafter FM 27-100].

[94] The Chief of Engineers has separate and distinct command and staff responsibilities. As a staff officer, the Chief advises the Army on engineering matters and serves as the Army's topographer and the proponent for real estate and other related engineering programs. The Chief is directly involved in Engineer support to the Army, including two components of the Army Engineer team

The private sector is an essential element of the Corps team. The Corps employs private architectural, engineering, and construction firms for most design and all construction work. The partnership between the Corps and private sector represents an immediate force multiplier of several hundred thousand architects, engineers, and builders and is a major contributor to preserving peace and improving the quality of life.

In addition to its many public works, the Corps responds directly to natural disasters and other emergencies as the nation's primary engineering agency through its own authorities and in support of the Federal Emergency Management Agency and DOD. The Corps also does reimbursable work for USG civilian agencies such as cleaning up toxic and hazardous wastes, and nation assistance and other security efforts around the world for DOS and DOD.

The Corps conducts projects outside the United States through its districts and its Transatlantic Program Center. They are as follows:

– Europe District: Western, Central and Eastern Europe, and other localities throughout the world;

– Far East District: South Korea;

– Jacksonville, FL District: Antilles, Puerto Rico, and the U.S. Virgin Islands;

– Japan District: Japan;

– Mobile, AL District: Latin American and the Caribbean; and

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assigned to other commands. The first are the Engineer soldiers in troop units who prepare each day to defend the nation as a vital component of the combined arms team. Engineer troops report directly to the command where they are assigned. The second are the Directors of Engineering and Housing and of Public Works who operate and maintain Army installations and report directly to installation commanders. As Commander of the Corps of Engineers, the Chief of Engineers leads a major Army command that is the world's largest public engineering, design, and construction management agency. The Corps is organized geographically into divisions and subordinate districts throughout the world with civilian (35,000) and servicemembers (650).

– Transatlantic Programs Center: Middle East, Balkans, Africa, and Russia.

These districts provide their services to deployed Armed Forces, foreign government organizations, and USG civilian agencies that request the Corps' assistance.

(3) Civil Affairs

Civil Affairs personnel are the military's main tool for communicating with civilians—populations, civilian governments, and non-governmental organizations (NGOs). Complex contingency categories of civil affairs operations include:

– Military support to civil administration;

– Civil assistance such as maintaining order, providing potential life-sustaining services, and controlling the flow of goods and services to civilians;

– Civil administration that might include performing and supporting the functioning of local government;

– Civil administration in an occupied territory that might involve helping to create an effective civil government;

– Civil-military operations that include activities that establish, maintain or influence relations between military forces and the civilians and civil authorities in a friendly, neutral or hostile area;

– Provision of security for the general population and aid to dislocated civilians and evacuating noncombatants;

– Identification, coordination, and acquisition of resources from foreign nations; and

– Humanitarian assistance, including short-range programs to alleviate human suffering.

Presently about 96 percent of CA personnel are Army Reservists (including Army National Guard personnel on federal service) who bring a variety of skills to their military jobs. The Reserve Component CA commands provide predeployment command and control to their geographically-oriented CA brigades and battalions. CA commands provide support to their respective Combatant Commander. They are usually the senior CA unit in theater and aligned to the Theater Army (TA).[95]

Civil Affairs battalions fall into three categories—General Support (GS), General Purpose (GP), and Foreign Internal Defense/Unconventional Warfare (FID/UW):

GS battalion. The GS battalion is the army's only active duty CA battalion and it is responsible for planning and conducting CA activities in support of military operations. Composed of CA generalists, it provides immediate operational access to CA assets for the geographical Combatant Commanders, through the GS battalion's regionally aligned companies.

GP battalion. The mission of the GP battalion is to plan and conduct CA activities in support of a division, a corps support command, or an area support group. It supports planning and coordination of CA and foreign nation support operations. The unit provides functional area specialists in the following areas:

– Public Administration;

[95] The CA command's mission is to plan, manage, and conduct CA operations that support the TA commander. The CA command may also provide staff support to the TA component services and joint theater staff as required. The CA Commands are responsible for training, equipping, and preparing their subordinate units for mobilization and deployment both in war and in support of peace operations. Civil Affairs commands organize CA functional specialties into functional teams.

Civil Affairs brigades support the corps and the JTF, TA, theater support command, and TA area commands. The CA brigades provide predeployment command and control to their battalions. The CA brigade accomplishes its mission through attachment of its subordinate battalions to units requiring CA assets. The CA brigades are responsible for training, equipping, and preparing their subordinate units for mobilization and deployment both in war and support of peace operations. When a CA brigade is designated the senior CA unit in theater, it is aligned to a Theater Army, and assumes the duties of a CA command. It is the lowest level unit that has representation of all of the CA functional specialties.

– Dislocated Civilians;

– Civilian Supply;

– Public Communications;

– Public Health; and

– Public Work and Utilities.

FID/UW battalion. The primary mission of the FID/UW battalion is to support the theater Special Operations Command (SOC), the Joint Special Operations Task Force (JSOTF), and the SOF group headquarters. Its secondary mission is providing CA support to conventional forces.

(4) Psychological Operations

The purpose of Psychological Operations is to induce or reinforce foreign attitudes and behaviors. This may occur at the strategic, operational, and tactical level. The overall approval for PSYOP in peacetime or wartime rests at the President or SecDef level. U.S. doctrine calls for review of PSYOP by the DOD General Counsel prior to approval.[96] Consequently, echelons above the level of a unit will ordinarily review and approve an overall PSYOP campaign.

While PSYOP elements work closely with CA elements, the G3 (operations) and G7 (IO) coordinate their activities, not the G5.[97] Still, CA, PSYOP, and public affairs actions can dramatically affect the perceived legitimacy of a given operation. When properly used, PSYOP is a force multiplier. It can be employed to enhance the safety and security of the force by communicating directly with the local and regional audience to inform them of such things as: (1) the existence and location of Civil Military Operations (CMO); (2) the nature and

[96] JOINT CHIEFS OF STAFF, JOINT PUB. 3-53, DOCTRINE FOR JOINT PSYCHOLOGICAL OPERATIONS, at II-2 (5 Sept. 2003).

[97] See section C.1.b(4) of this chapter for an explanation of the role of these staff sections.

extent of the mission; and, (3) instructions to avoid interfering with ongoing military operations.[98] PSYOP is often the only means of mass communications a field commander has with both hostile and foreign friendly groups in the area of operations.[99]

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[98] JAs provide advice on the implementation of the PSYOP campaign. Legal considerations may include the following:

– United States Citizens. U.S. policy is not to conduct PSYOP toward U.S. citizens, whether they are located within the U.S. or in foreign countries.

– Truth Projection. PSYOP techniques are used to plan and execute truth projection activities intended to inform foreign groups and populations persuasively. To succeed, PSYOP information cannot be viewed as deceptive. Therefore, PSYOP is not misinformation, but information may be slanted to U.S. perspective to persuade.

– Department of State Supervision. In peacetime, the Department of State (DOS) provides the overall direction, coordination, and supervision of overseas activities. DOS may restrict messages, themes, and activities within countries or areas. New missions, projects, or programs must be coordinated with the U.S. Country Team at the U.S. Embassy.

– Geneva Conventions/Hague Regulations. Deception plans must be carefully reviewed to ensure that they do not employ "treachery" or "perfidy," which are prohibited acts under the law of war.

– Treaties in Force. International agreements with host countries may limit the activities of PSYOP units. Status of Forces Agreements and other agreements must be carefully reviewed prior to, and during the course of, deployments.

– Use of Public Affairs Office Channels. PAO channels are open media channels that provide objective reporting. Consequently, they may be used to counter foreign propaganda. PAO and PSYOP staffs generally coordinate their efforts. However, because the PAO must remain credible, information passed through PAO channels must not propagandize. It must be objective truth.

– Fiscal Law. PSYOP campaigns may include "giveaways" (e.g., T-shirts with a printed message). The purchase and distribution of "giveaways" requires careful fiscal law analysis.

– Personnel Issues. Many PSYOP assets are in the Reserve Component (RC). Many PSYOP analysts are DOD civilians who voluntarily deploy to mission areas. Disciplinary, readiness, and law of war issues for RC and civilian personnel involved in PSYOP require the attention and early proactive involvement of judge advocates.

– Disciplinary Exceptions. PSYOP teams may require exceptions to restrictions often contained in General Orders.

[99] U.S. Army Civil Affairs and Psychological Operations Command (Airborne). USACAPOC(A) is the headquarters for Army Civil Affairs and Psychological Operations units. USACAPOC(A), headquartered at Fort Bragg, NC, is one of four major commands comprising the US Army Special Operations Command. The command has one active duty Psychological Operations unit, the 4th Psychological Operations Group (Airborne), with six battalions; and one active duty Civil

(5) Surface Deployment and Distribution Command[100]

The Surface Deployment and Distribution Command (SDDC) is the Army component of the U.S. Transportation Command. It provides the DOD worldwide single port management, transportation, and traffic management services as well as deployment planning and engineering. SDDC is responsible for all the DOD's surface transportation shipments and several core transportation processes. The core element of the Command's work is traffic management of the DOD's surface cargo. SDDC is responsible for the management, documentation, and synchronization of cargoes moving by land and sea, on a global basis. Contingency, training, and humanitarian cargoes move to countries all over the world.

SDDC's port handling of cargo takes place at 24 ocean ports worldwide. SDDC terminal units assist in the movement of over three million measurement tons of cargo a year. The units are found in strategic locations throughout Europe, Southwest Asia, the Pacific Rim, and the United States. The reach of SDDC's port groups, battalions, and companies goes far beyond the geographic region where they are located. To react quickly to a contingency mission, deployment support teams, staffed from terminal units, may be employed at ports throughout the world. The teams are comprised of active duty military, civilians, and foreign national employees.

Affairs unit, the 96th Civil Affairs Battalion (Airborne), with six companies. Both units are also located at Fort Bragg. The Army Reserve Component includes four brigadier general-commanded CA commands, with subordinate brigades and battalions, and two PSYOP Groups with subordinate battalions and companies. USACAPOC(A) soldiers maintain the highest standards of training and physical readiness to be prepared to deploy anywhere in the world on short notice. Although Civil Affairs and Psychological Operations activities often complement each other, each battle system operates individually in support of field commanders. The theater SOC integrates PSYOP and CA support into joint SOF activities. Task-organized PSYOP and CA detachments, from theater PSYOP and CA forces, may be attached to the theater SOC for a specific period to provide dedicated support. CA and PSYOP support provide the SOF commanders and their indigenous counterparts the ability to motivate and mobilize crucial segments of the population to enhance the probability of mission success.

[100] Formerly known as the Military Traffic Management Command (MTMC). Adapted from the SDDC website *at* http://www.mtmc.army.mil/.

2. MARINE CORPS

a. Function

The Marine Corps is part of the Department of the Navy as represented by the Secretary of the Navy. The smallest of the military services, the Marine Corps defines itself as the nation's "premier expeditionary 'Total Force in Readiness.'"[101] This phrase is designed to describe the Corps' ability to rapidly deploy to a theater of operations with a self-sustaining (providing its own logistical support for a period of time without resort to external contracting), combined arms (integrating air, ground, and logistics elements into one combat unit) force.

b. Structure

The Marine Corps' present-day mission stems from the National Security Act of 1947: (1) "provide fleet marine forces of combined arms, together with supporting air components, for service with the fleet in the seizure and defense of advanced naval bases and for the conduct of such land operations as may be essential to the prosecution of a naval campaign;" (2) provide security detachments for Navy vessels and shore installations; (3) in coordination with the Army and Air Force, develop amphibious operations doctrine; and (4) "perform such other duties as the President may direct."[102]

Congress has also directed how the Marine Corps will be organized to carry out this mission: "The Marine Corps, within the Department of the Navy, shall be so organized as to include not less than three combat divisions and three air wings, and such other land combat, aviation, and other services as may be organic therein."[103] From this statutory baseline, the Corps then divides itself into four broad categories: Headquarters Marine Corps, Operating Forces (i.e., combat units), Reserves, and the Supporting Establishment (e.g.,

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[101] HEADQUARTERS, U.S. MARINE CORPS, MARINE CORPS STRATEGY 21, at 1 (3 Nov. 2000).

[102] 10 U.S.C. § 5063 (2000).

[103] *Id.* § 5063(a).

training, recruiting, and administration units). Approximately 64 percent of active duty Marines are assigned to the Operating Forces, as supplemented by the Reserves. These forces constitute the combat power that the Marine Corps service component commands can make available to the Combatant Commanders. About 172,000 active duty Marines and 39,000 Reserve Marines comprise the Corps.

The Marine Corps further organizes the Operating Forces into **Marine Air-Ground Task Forces** (**MAGTFs**—pronounced "Magtaffs"). Each MAGTF consists of a command element (i.e., the commander and his staff) a ground combat element (GCE) (e.g., infantry, artillery, and tank units), an aviation combat element (ACE) (containing fixed- and rotary-winged air assets, i.e., aircraft and helicopters), and a combat service support element (CSSE) (containing the logistical arm of a MAGTF). This task organization reflects institutional cultural traits that the Corps labels "core competencies," such as combined arms integration (having air, ground, and logistic forces under one commander), expeditionary forward operations (ability to deploy into diverse, austere, and chaotic environments on short notice), and sustainable littoral power projection (conduct forward-deployed, self-sustaining operations without reliance on host nation support).[104] MAGTFs are designed to be flexible forces that can be tailored in size to perform a wide array of missions across the conflict spectrum.

There are four MAGTF types. The **Marine Expeditionary Force (MEF)**, the largest MAGTF, is arranged around one or more infantry divisions, aircraft wings, and force service support groups (FSSG) as the ground, air, and support elements, respectively. A MEF brings a large combined arms force to the table, from infantry, artillery, and tank units to fighter jets and assault helicopters. (See Figure II-9 for a detailed breakdown of MEF assets.)

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[104] *See* HEADQUARTERS, U.S. MARINE CORPS, EXPEDITIONARY MANEUVER WARFARE: MARINE CORPS CAPSTONE CONCEPT 3 (10 Nov. 2001).

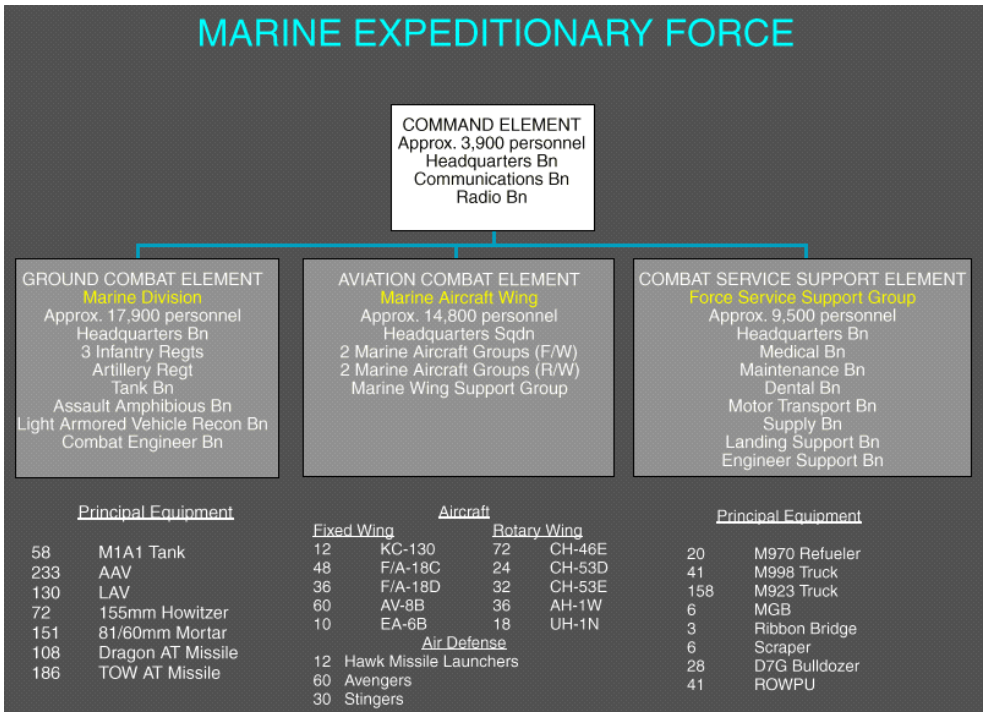


Figure II-9

A MEF can sustain itself ashore with organic supplies for up to sixty days without reliance on external support. A Lieutenant General (three star, O-9) normally commands a MEF. The bulk of the legal support rests within the FSSG, which contains a legal services support section (LSSS) of approximately twenty judge advocates providing trial, defense, and administrative law functions. In addition to the LSSS, the MEF, and each of its major commands (division, wing, FSSG) will have, at a minimum, an SJA and deputy SJA available as the commander's legal advisors.

The **Marine Expeditionary Brigade (MEB)** is an intermediate size MAGTF, normally commanded by a Brigadier General (one star, O-7) and consisting of approximately 13,000 marines and sailors from an infantry regiment, air group, and brigade service support group (BSSG).[105] A MEB contains essentially the same elements as a MEF, but in a smaller package, i.e., the GCE is normally a regiment and the

[105] The Navy also supplies support personnel, such as doctors and chaplains, who accompany the MEB.

ACE and CSSE assets are task oriented (tailored) to the specific mission. (See Figure II-10)

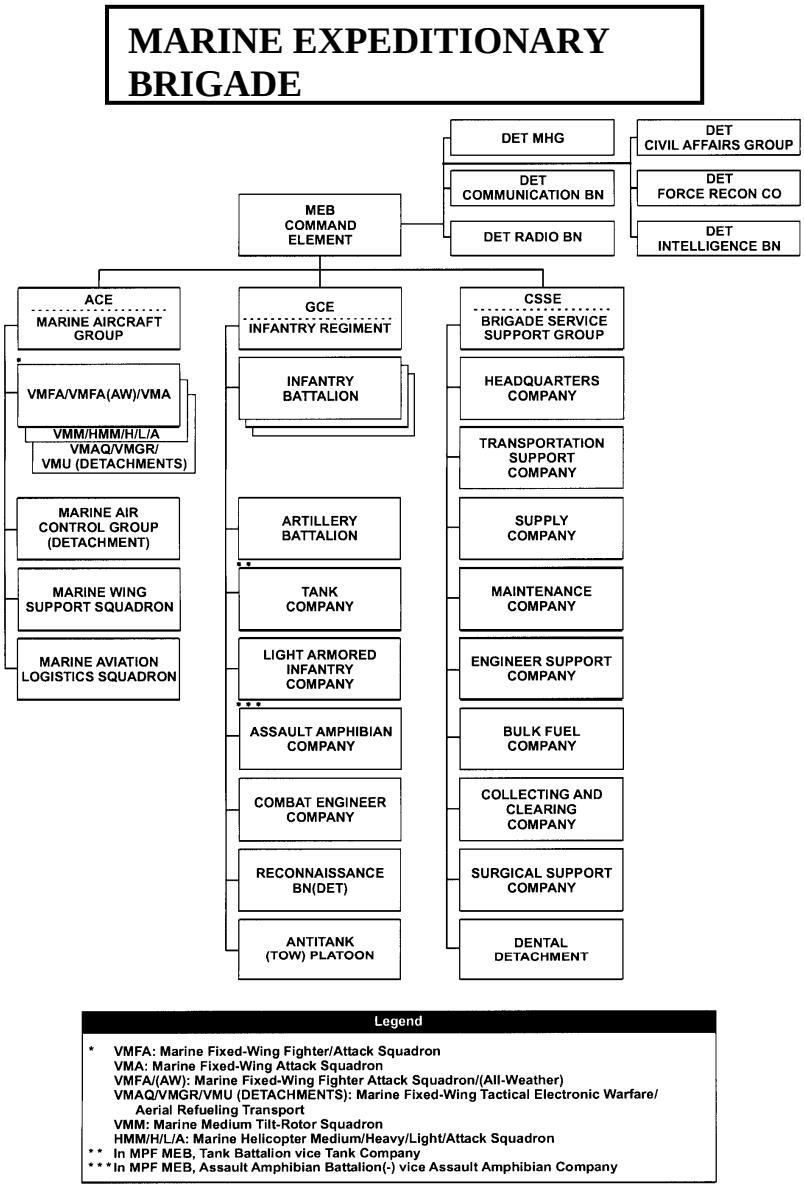
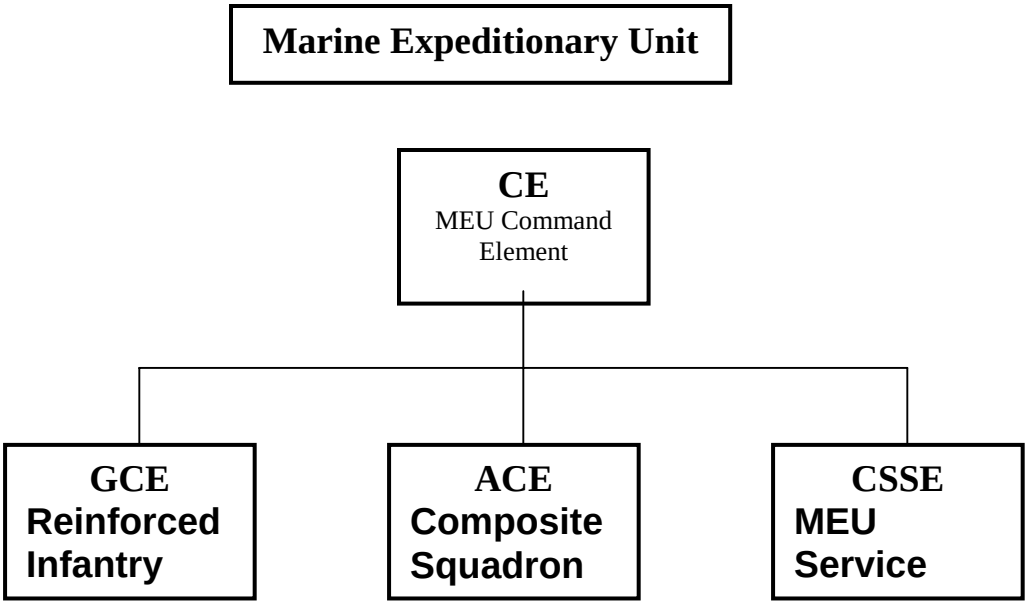


Figure II-10

A MEB can sustain itself for thirty days without external support. A reduced legal service support team may deploy with a MEB, and an SJA will advise the MEB commander. The regiment, air group, and BSSG will not have SJAs.

A **Marine Expeditionary Unit, Special Operations Capable (MEU(SOC))** is the smallest standing MAGTF, consisting of approximately 2,200 Marines and sailors from an infantry battalion, air squadron, and MEU service support group (MSSG). As with a MEB, a MEU(SOC) contains similar MEF assets—infantry units, tanks (although, depending on the commander's decision, some MEU(SOC)s do not deploy with tanks), fighter jets, helicopters, engineers, and logisticians—but in an overall smaller unit. (See Figure II-11)



GCE	ACE	CSSE
16 Light Armored Vehicles (LAV)	12 CH-46E Medium Lift Helicopters	2 ROWPUs
8 81mm Mortars	4 CH-53E Heavy Lift Helicopters	1 LMT 3000 Water
Purification		
8 TOWs	3 UH-1N Utility Helicopters	1 Sea Tractor
8 Javelins	4 AH-1W Attack Helicopter	4 10,000 lb. Capacity
Forklifts		
15 AAVs	6 AV-8B Harrier Jets	2 4,000 lb. Capacity
Forklifts		
61 55mm Howitzers	2 KC-130 Refueler/transport Aircraft (On call in CONUS)	3 D-7 Bulldozers
4 M-1A1 Main Battle Tanks		30 Five-ton Trucks
		1 Dump Truck
		4 Logistical Vehicle
Systems		
		7 Five-hundred gallon Containers
Water		
		63 HMMWVs

Figure II-11

A MEU(SOC) is commanded by a Colonel (O-6), and capable of sustaining itself ashore for fifteen days without external support. A MEU(SOC) has one lawyer, the commander's SJA. Two MEU(SOC)s embarked aboard Expeditionary Strike Group naval amphibious shipping are always forward deployed and available for Combatant Commanders to employ. MEU(SOC)s train to a standard of executing a wide variety of missions, to include conducting precision special operations missions within six hours of receiving a warning or execute order.

In addition to these standing MEFs, MEBs, and MEU(SOC)s, a MAGTF can be task organized to any size to accomplish specific

missions or operations. A MAGTF of such temporary construct is known as a Special Purpose MAGTF (SPMAGTF).

Several other Marine Corps units are relevant to complex contingency operations. In September 2001, the Marine Corps reactivated the 4th Marine Expeditionary Brigade (4th MEB(AT)) as an anti-terrorism organization within the operating forces. The 4th MEB(AT) provides Combatant Commanders with specialized anti-terrorism forces and is organized around the Marine Corps Security Forces (MCSF) Battalion; the Marine Security Guard (MSG) Battalion; the Chemical, Biological, and Incident Response Force (CBIRF); and the Anti-Terrorism Battalion. The MCSF Battalion provides armed anti-terrorism and physical security trained personnel to high-value naval installations or units, and is located at fourteen different locations, ranging from Iceland to Cuba to Bahrain. The MCSF Battalion also maintains two Fleet Anti-Terrorism Security Team (FAST) companies. The CBIRF is trained to rapidly respond to chemical or biological threats. The MSG Battalion provides security services to selected U.S. embassies and missions. The Anti-Terrorism Battalion focuses on the training of specialized skills such as urban assault climbing, enhanced marksmanship, and advanced security techniques and weapons skills.[106]

c. Marine Corps Organizations Prominent in Complex Contingency Operations

The MAGTF task organization provides Combatant Commanders a flexible deployment and employment option that can be scaled in size and tailored in purpose to match the mission and threat—from a major theater war to a smaller-scale contingency to a variety of peace and stability operations. The flexibility of a MAGTF during a complex contingency operation is illustrated by the list of mission essential tasks (METs) that a MEU(SOC) trains to execute to demonstrate the MAGTF's utility: Peace Operations; Security Operations; Humanitarian Assistance/Disaster Relief; Employment of Non-Lethal Weapons; and Rapid Response Planning Process.[107]

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[106] 2004 OPLAW HANDBOOK, *supra* note 83, at 493.

[107] U.S. Marine Corps, Order 3120.9B, Policy for Marine Expeditionary Unit (Special Operations Capable) (MEU(SOC)) paragraph. 4(a)(2)(d) (25 Sept. 2001). The other METs include:

Furthermore, organic MAGTF elements, particularly the combat service support element, contain assets and units that can contribute to complex contingency operations, ranging from engineering and medical/dental units to motor transportation and supply units.

The Marine Corps also possesses civil affairs personnel who can augment MAGTFs executing complex contingency operations. These CA personnel are sourced from one of two Selected Marine Corps Reserve (SMCR) units: the 3d Civil Affairs Group (CAG); located at Camp Pendleton, CA; and the 4th CAG, located at Anacostia Naval Station, DC. CA personnel are activated (i.e., called up from the SMCR to serve on active duty) and assigned to operational MAGTFs as the mission requires. At the MEU(SOC) level, one CA officer is assigned to the command element as a member of the commander's staff.

CA units can accomplish the following tasks in support of a MAGTF:[108]

– Minimize civilian interference with MAGTF operations;

– Maximize use of civilian resources in support of MAGTF operations;

– Assist MAGTF commander in meeting legal and moral obligations to civilian populations;

– Provide limited civilian administration;

– Provide integrated environmental health assessment and planning capabilities;

Amphibious Assault; Amphibious Raid; Amphibious Demonstration (show of force); Amphibious Withdrawal; Direct Action Operations (quick strikes and small-scale actions); Tactical Recovery of Aircraft and Personnel (TRAP); Noncombatant Evacuation Operation (NEO); Provide Command, Control, Communications, and Computers (C4); Fire Support Planning, Coordination, and Control; Limited Expeditionary Airfield Operations; Terminal Guidance Operations (guiding missiles to targets); Enhanced Urban Operations, Enabling Operations (facilitate transition of follow-on forces); Airfield/Port Seizure; Tactical Deception Operations; Information Operations; and Intelligence, Surveillance, and Reconnaissance; and Anti-Terrorism.

[108] MARINE CORPS WARFIGHTING PUBLICATION 3-33.1, MARINE AIR-GROUND TASK FORCE CIVIL-MILITARY OPERATIONS 2-2 (7 Apr. 2003).

– Provide for operation of a CMOC;[109]

– Act as interface between MAGTF commander and civilian agencies and organizations;

– Coordinate civil-military operations with other military commands;

– Provide cultural and regional expertise in support of MAGTF operations;

– Train and prepare MAGTF for civil-military operations; and

– Ensure an orderly and prompt transition of civil-military operations responsibilities to other agencies and authorities.

As discussed above, MAGTFs also have assigned JAs. In addition to providing more traditional legal support to MAGTF commanders—such as military justice advice, legal assistance to deployed Marines, and rules of engagement and law of war counsel—JAs have training in areas relevant to complex contingency operations. Such areas include fiscal law (e.g., advising commanders on what type of funds can be used to support what type of operations),[110] foreign claims (e.g., providing compensation to inhabitants of foreign countries suffering damage as the result of military operations), interpreting international agreements and other legal instruments (such as United Nations Security Council Resolutions that might provide the legal basis for an operation), and contract law (e.g., providing legal review of logistics contracts with private civilian agencies).

MAGTFs can quickly bring all of these assets and personnel to bear during a complex contingency operation by utilizing what is known as the Rapid Response Planning Process (R2P2), the Marine Corps doctrinal method for crisis action planning. Using this method,

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[109] For a discussion of CMOCs in general see chapter IV.C.4 of this Handbook.

[110] *See, e.g.*, chapter V.C.1 of this Handbook (discussing humanitarian assistance fiscal issues).

a forward-deployed MAGTF can launch Marines from amphibious shipping or a forward operating base to execute a mission within six hours of receiving notification to do so. The ability to plan rapidly is a critical element of the force in readiness mindset.

Another critical element is the ability to deploy rapidly. In addition to the forward-deployed MEU(SOCs), larger MAGTFs can deploy on short notice via amphibious shipping or airlift, and can be sustained on the ground by their own organic assets and by prepositioned equipment, such as is available from sixteen strategically located ships of the Maritime Prepositioned Force (MPF). A squadron of four MPF ships contains enough tanks, vehicles, artillery, ammunition, supplies, food, fuel, and water to support a MEB for thirty days of combat.

All told, the expeditionary, self-sustaining, and combined arms capabilities of a MAGTF find root in an overall Marine Corps philosophy of warfighting known as maneuver warfare. Maneuver warfare focuses on maintaining a fast operating tempo and rapid movement of forces on the ground to obtain a tactical advantage, an advantage that "may be psychological, technological, or temporal as well as spatial."[111] Critical to a maneuver warfare philosophy is another Marine Corps cultural trait: operating within a decentralized chain of command. In order to generate a rapid tempo of operations and to cope with the uncertainties of a complex contingency environment, the Marine Corps empowers subordinate commanders to "make decisions based on their own initiative, based on their understanding of their senior's intent, rather than passing information up the chain of command and waiting for the decision to be passed down."[112]

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[111] HEADQUARTERS, UNITED STATES MARINE CORPS, WARFIGHTING 72 (1997).

[112] *Id.* at 78.

3. AIR FORCE[113]

a. Function

Similar to the Army, the Air Force's statutory mission, in conjunction with the other services, is to:

– Preserve the peace and security, and provide for the defense, of the United States, its Territories, Commonwealths, and possessions, and any areas occupied by the United States;

– Support national policies;

– Implement national objectives; and

– Overcome any nation responsible for aggressive acts that imperil the peace and security of the United States.[114]

The Air Force is organized, trained, and equipped primarily for prompt and sustained offensive and defensive air operations.[115] It is the principal U.S military service for conducting air and space operations in support of U.S. foreign policy. The pivotal role of the Air Force is to deliver fully capable and integrated air and space power to the JTF commander. By dominating the media of elevation, the Air Force offers unique warfighting capabilities that leverage the strengths of surface forces and expand the range of potential effects.[116] Among the most important Air Force missions with regard to complex contingency operations are the following.

Airlift. Airlift is the transportation of personnel and materiel through the air. Air Force airlift support can be classified as strategic (inter-theater, e.g., between the United States and Europe), theater (intra-theater, e.g., within the Middle East), and operational. Inter-theater airlift provides the air bridge that links theaters to the continental

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[113] Adapted from 2004 OPLAW HANDBOOK, *supra* note 83, ch. 25.

[114] 10 U.S.C. § 8062(a) (2000).

[115] *Id.* § 8062(c).

[116] UNITED STATES AIR FORCE POSTURE STATEMENT 2003, at 7, *at* http://www.af mil/library/posture/posture2003.pdf.

United States (CONUS) and to other theaters, as well as airlift within the CONUS. Intra-theater airlift provides the air movement of personnel and materiel within a Combatant Command's area of responsibility. Operational support airlift is airlift provided by assets that are an integral part of a specific military service, component or major command, and that primarily support the requirements of the organization to which they are assigned.

Air Refueling. Air refueling increases the range, payload, and flexibility of air forces, including transports. Therefore, aerial refueling is an essential capability in conducting air operations worldwide and is especially important when overseas basing is limited or not available.

Intelligence, Surveillance and Reconnaissance. Intelligence provides clear, brief, relevant, and timely analysis on foreign capabilities and intentions for planning and conducting military operations. Surveillance is the function of systematically observing air, space, surface or subsurface areas, places, persons or things, by visual, electronic, photographic or other means. Reconnaissance complements surveillance in obtaining, by visual observation or other detection methods, specific information about the activities and resources of an enemy or potential enemy; or in securing data concerning the meteorological, hydrographic, or geographic characteristics of a particular area.

Close Air Support. Close Air Support (CAS) consists of air operations against hostile targets in close proximity to friendly forces; further, these operations require detailed integration of each air mission with the fire and maneuver of those forces. CAS provides direct support to help friendly ground forces carry out their assigned missions.

Combat Search and Rescue. Combat Search and Rescue (CSAR) consists of those air operations conducted to recover distressed personnel during wartime or MOOTW. CSAR is a key element in sustaining the morale, cohesion, and fighting capability of friendly forces. It preserves critical combat resources and denies the enemy potential sources of intelligence.

Weather Services. Air Force weather services supply timely and accurate environmental information, including both space environment and atmospheric weather, to commanders for their objectives and plans at the strategic, operational, and tactical levels. Weather services also influence the selection of targets, routes, weapons systems, and delivery tactics, and are a key element of information superiority.

b. Structure

The Air Force organizes, trains, and equips air forces through its major commands (MAJCOMs). Active duty and Reserve Component MAJCOMs are subdivided into numbered air forces, wings, groups, and squadrons.

Major Commands. MAJCOM forces are provided to Combatant Commands for employment. The organization of these MAJCOMs is based on combat, mobility, space, and special operations, plus the material support required for these operations. The MAJCOMs include functional commands such as the Air Mobility Command (transport aircraft) and the Air Combat Command (fighters, bombers, and reconnaissance aircraft), and regional commands, such as Pacific Air Forces. Each of the MAJCOMs contains one or more Numbered Air Forces (NAF), e.g., the 12th Air Force. A MAJCOM is normally commanded by a General (four-star , O-10).

Numbered Air Force. The NAF is the senior warfighting echelon of the Air Force. A NAF conducts operations with assigned and attached forces under a command element. When participating in joint operations, the tasked NAF presents its forces to the JTF as an Aerospace Expeditionary Task Force (AETF). A NAF is normally commanded by a Lieutenant General (three-star, O-9) or a Major General (two-star, O-8).

Wing. A wing contains all of the organic assets, i.e. all of the aircraft, personnel, and equipment, required to accomplish its organizational function. The wing is the smallest self-contained unit capable of going into battle. For instance, a fighter wing has subordinate groups that provide combat, combat support, maintenance, and medical functions in support of the wing's air combat mission. There are four

main groups within a typical wing: the operations group, the maintenance group, the combat support group, and the medical group. A wing is normally commanded by a Brigadier General (one-star, O-7) or Colonel (O-6).

Group. An operations group usually has two to four flying squadrons that operate the wing's aircraft, and an operations support squadron. Within a combat support group, there are usually civil engineer (CE), communications, contracting, logistics readiness, mission support (MS—includes personnel, family support, and education flights, i.e., units smaller than squadrons), services, and security forces squadrons. A maintenance group usually contains aircraft maintenance, component maintenance, equipment maintenance, and maintenance support squadrons. A medical group usually contains medical operations, dental, medical support, and aerospace medicine squadrons. A group is normally commanded by a Colonel (O-6).

Squadron. The basic fighting unit of the Air Force is the squadron. Squadrons are not designed to conduct independent operations. They interact with other squadrons to provide the necessary synergy to conduct effective air and space operations. A squadron is normally commanded by a Lieutenant Colonel (O-5).

In recent years, the Air Force has implemented the concept of the Aerospace Expeditionary Force (AEF). Instead of sending individual squadrons, groups or wings overseas to meet emergency contingencies, the Air Force has grouped such units together so that they all train and deploy together. AEFs are composite organizations of aerospace capabilities from which a tailored AETF, composed of Aerospace Expeditionary Wings (AEW), Aerospace Expeditionary Groups (AEG), and Aerospace Expeditionary Squadrons (AES), is created to provide forces to meet theater Combatant Commander requirements.[117] An AEF is not a discrete warfighting unit. (See Figure II-12)

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[117] **AETF.** An AETF is a tailored, task-organized aerospace force presented to a joint force commander consisting of a deployed NAF headquarters, or command echelon subordinate to a NAF headquarters, and assigned and attached operating forces (command element plus operating forces). An AETF can be sized depending on the level and nature of the conflict and the size of the aerospace component required. The AETF is commanded by the designated Commander, Air Force Forces (COMAFFOR) and is activated by orders from a MAJCOM.

ON-CALL FORCE COMPOSITION

AEF (x2)

- 2 Air Superiority SQ
- 4-6 Multi-Role Fighter SQ
  - PGM
  - CAS
  - SEAD
- 2 Bomb SQ
  - CALCM
  - PGM
  - Maritime Ops
- 2 Theater Airlift SQ
- 2 Air Refueling SQ
- OSA, LD/HD & ECS

AEW

- 3 Air Superiority / Multi-Role Fighter SQ
  - PGM
  - CAS
  - SEAD
- 1 B-1 SQ (50% of the time)
- 1 F-117 SQ
- 1 B-2 SQ
- 1 Theater Airlift SQ
- 1 Air Refueling SQ
- Expeditionary Combat Support (ECS)

Figure II-12

Like the Army and the Navy, Air Force lawyers are part of a separate JAG Corps. Air Force JAs are assigned to the command staffs of MAJCOMs, NAFs, and wings. These operational lawyers advise on freedom of aerial navigation, landing issues, and answer questions regarding U.S. rights and responsibilities in space. In addition, during armed conflict, Air Force JAs advise on whether the targets against which USAF bombs and missiles will be employed are proper under the laws of war.

AEW. An AEW is a wing or a wing slice assigned or attached to an AETF or an in-place NAF. Normally, the AETF or in-place NAF commander also exercises operational control (OPCON) of AEWs. An AEW is composed of the wing command element and some groups. The AEW commander reports to a COMAFFOR.

AEG. An AEG is an independent group assigned or attached to an AETF or in-place NAF. Normally, the AETF or in-place NAF commander also exercises OPCON of AEGs. An AEG is composed of the group command element and one or more squadrons. The AEG, depending on the size and structure of the AEF, is the lowest command echelon of AEFs that may report directly to a COMAFFOR.

c. Air Force Organizations Prominent in Complex Contingency Operations

The principal MAJCOM used in post-conflict operations is the Air Mobility Command (AMC). AMC's mission is to provide airlift, air refueling, air mobility support, special air mission, and aeromedical evacuation. AMC also supplies forces to theater commands to support wartime tasking. The Command plays a crucial role in providing humanitarian support at home and around the world. Many special duty and operational support aircraft and stateside aeromedical evacuation missions are also assigned to AMC. As the Air Force component of TRANSCOM AMC is the single manager for air mobility.

AMC has two numbered air forces, the 15th Air Force at Travis AFB, CA, and the 21st Air Force at McGuire AFB, NJ. The Tanker Airlift Control Center, located with the headquarters at Scott AFB, IL, is the agency for centralized command and control. It schedules and tracks strategic tanker and airlift resources worldwide. Air Force and DOD support taskings are channeled through this hub of mobility control. AMC's strategic mobility aircraft include the C-5 Galaxy, KC-10 Extender, C-17 Globemaster III, KC-135 Stratotanker, and the C-141 Starlifter.[118] The C-130 Hercules is AMC's tactical airlifter. AMC's mission encompasses more than 141,000 active-duty and Air Reserve Component military and civilian personnel.

[118] See appendix II-4 of this Handbook for details on the basing and capabilities of each of these aircraft.

4. NAVY AND COAST GUARD

a. Function

The mission of the Navy is to maintain, train, and equip combat-ready naval forces capable of prompt and sustained combat incident to operations at sea.[119] The Navy includes, in general, naval combat and service forces, and naval aviation. Naval aviation includes land-based naval aviation (long-range patrol and reconnaissance aircraft), air transportation essential for naval operations (transport aircraft, including transport to aircraft carriers), and all air weapons and air techniques involved in operations and activities of the Navy (fighters and helicopters).[120] Naval forces are ready, flexible, self-sustaining, and mobile, thereby permitting these forces to be expeditionary in nature. Naval expeditionary forces are cohesive and both strategically and tactically mobile. These task-organized, forward deployed forces can execute a broad range of options initiated from the sea. Options range from what has become the Navy's day-to-day employment—forward presence, foreign humanitarian assistance, and peacetime operations—to fighting in regional conflicts.

The Navy is organized, trained, and equipped to provide forces to promote and defend U.S. national interests by maintaining maritime superiority, contributing to regional stability, and conducting operations on and from the sea, and providing logistical support to other forces.[121] It is the latter mission that is the Navy's principal contribution to complex contingency operations, which includes providing:

– Cost-effective transport of large, heavy, numerous or bulky supplies;

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[119] 10 U.S.C. § 5062 (2000).

[120] *Id.*

[121] JOINT CHIEFS OF STAFF, JOINT PUB. 3-33, JOINT FORCE CAPABILITIES, at II-8 (31 Oct. 1999) [hereinafter JOINT PUB. 3-33].

– Construction of humanitarian supplier base camps and other infrastructure projects; and

– Medical teams.

b. Structure[122]

During routine operations, Navy forces operate as part of a **numbered fleet** that is permanently associated with a geographic region.[123] The U.S Navy is composed of five numbered fleets: 2nd and 6th Fleets in the Atlantic Ocean and Mediterranean Sea, 3rd and 7th Fleets in the Pacific and Indian Oceans, and 5th Fleet in the Arabian Gulf and Sea. Within each fleet, naval forces organize for combat as task forces, task groups, task units, and task elements. A **task force** is a grouping of units—temporary, semi-permanent or a component of a numbered fleet—formed for the purpose of carrying out a specific operation, mission, or task. **Task groups, units, and elements** are progressively smaller subcomponents of a task force and normally have correspondingly narrower missions assigned to them.

The use of a **carrier battle group (CVBG)** in a power projection role is the centerpiece of the Navy's operational aircraft carriers on patrol philosophy. **Surface action groups (SAGs)**, while not a substitute for CVBGs, also offer a unique operational capability. SAG air defense

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[122] Adapted from *id.* at II-8 to II-9.

[123] The Navy's operating forces commanders and fleet commanders have a dual chain of command. Administratively, they report to the Chief of Naval Operations and provide, train, and equip naval forces. Operationally, they provide naval forces and report to the appropriate Combatant Commanders. The **Fleet Forces Commander**—who has additional duty as **Commander, U.S. Atlantic Fleet**—controls Atlantic Fleet (LANTFLT) and Pacific Fleet (PACFLT) assets for interdeployment training cycle purposes. As units of the Navy enter the area of responsibility for a particular Navy area commander, they are **operationally** assigned to the appropriate **numbered fleet**. All Navy units also have an administrative chain of command with the various ships reporting to the appropriate **Type Commander**. All ships are organized into categories by type. Aircraft carriers, aircraft squadrons, and air stations are under the administrative control of the appropriate Commander Naval Air Force. Submarines come under the Commander Submarine Force. All other ships fall under Commander Naval Surface Force. Normally, the type command controls the ship during its primary and intermediate training cycles and then it moves under the operational control of a fleet commander. *See* the Navy website *at* http://www navy.mil.

and naval surface fire support capabilities are particularly valuable in satisfying many of the warfighting requirements presented by combat and potential combat situations such as forcible entry operations, sustained operations ashore, strikes, raids, and peace enforcement. Warships and naval aircraft acting alone or in small groups are capable of performing missions in information collection, enforcement of sanctions and maritime interception operations, sustainability of forces afloat or ashore
in remote locations, convoy protection of sealift assets in transshipment and in onload and offload, neutralization of seaborne mines, and covert surveillance. Mobile teams are organized for the purposes of protection, providing medical facilities, and diving and salvage.

Providing sea-based support is a unique capability of the Navy. It allows a commander flexibility and capability in conducting joint combat, foreign humanitarian assistance, disaster relief, noncombatant evacuation, and other operations. Sea-basing, sea echelon, and building up forces ashore are three basic approaches used to support joint operations from the sea. The ability to provide sea-based support enhances the power projection and enabling force capabilities inherent in U.S. naval operations.

c. Navy Organizations Prominent in Complex Contingency Operations

The principal naval organizations used in complex contingency operations are the Navy's Naval Construction Forces (NCF), popularly known as the "SeaBees"[124] and the Military Sealift Command.

The components of the NCF most used in these operations are the Naval Mobile Construction Battalions (NMCBs). NMCBs provide responsive military construction support to Navy, Marine Corps, and other forces in military operations, construct base facilities, and conduct defensive operations. In addition to standard wood, steel, masonry, and concrete construction, NMCBs also perform specialized construction such as water well drilling and battle damage repair. They are able to work and defend themselves at

[124] From the acronym for Construction Battalion—CB.

construction sites outside of their base camp and convoy through unsecured areas. In times of emergency or disaster, NMCBs conduct disaster control and recovery operations. There are eight active duty and twelve Reserve NMCBs.

Military Sealift Command (MSC) has area commands in Norfolk, Va.; San Diego, Calif.; Naples, Italy; Yokohama, Japan; and Manama, Bahrain. Additionally, the Command operates 123 ships and several shore offices around the world. The Command employs approximately 7,500 people worldwide, the vast majority of whom are assigned to seagoing jobs. MSC's work force is made up primarily of Civil Service personnel, but also includes military and contractor personnel.

The mission of the MSC is to provide ocean transportation of equipment, fuel, supplies, and ammunition to sustain U.S. forces worldwide during peacetime and in war for as long as operational requirements dictate. During a war, more than 95 percent of all the equipment and supplies needed to sustain the U.S. military are carried by sea.[125] The Command operates ships that provide: combat logistics support to Navy ships at sea; special mission support to USG civilian agencies; pre-positioning of U.S. military supplies and equipment at sea; and ocean transportation of defense cargo in both peacetime and war.[126]

d. Coast Guard

The Coast Guard is a military, multi-mission, maritime service and one of the Nation's five armed forces. Its mission is to protect the public, the environment, and U.S. economic interests—in the Nation's ports and waterways, along the coast, on international waters, or in any maritime region as required to support national security.[127] Although the Coast Guard's transfer to the Department of Homeland Security (DHS)[128] following the events of September 11, 2001 has

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[125] Military Sealift Command Mission, *at* http://www.msc navy mil/N00P/mission.htm

[126] *Id.*

[127] *See* Coast Guard Publication 1, U.S. Coast Guard: America's Maritime Guardian (1 Jan. 2002). This fundamental mission reflects the Coast Guard statutorily mandated primary duties. *See also* 14 U.S.C. § 2 (2000).

focused the service on homeland security, the Coast Guard continues to carryout its other core missions as it has for over 200 years by statutory mandate.

Upon declaration of war, or when the President otherwise directs, the Coast Guard transfers to the Department of the Navy.[129] During peacetime, the Coast Guard supports the Navy and regional Combatant Commanders by participating in military exercises, providing polar icebreaking capabilities, and conducting Freedom of Navigation (FON) operations. As one of five armed services of the United States, the Coast Guard has served alongside the U.S. Navy in critical national defense missions in all major conflicts and is prepared to support DOD's homeland defense mission.

The close historical relationship between the Coast Guard and Navy is reflected in a 1995 agreement between the Secretaries of Defense and Transportation.[130] Pursuant to the agreement and its five annexes, the Coast Guard supports DOD and the regional Combatant Commanders by providing specialized, non-redundant capabilities in five specific national defense missions: Maritime Interception Operations (MIO); Military Environmental Response Operations; Port Operations, Security and Defense; Peacetime Military Engagement; and Coastal Sea Control Operations. The important role of the Coast Guard's capabilities under the 1995 agreement were demonstrated most recently in Operation IRAQI FREEDOM, during which the Coast Guard engaged in MIO, Port Security and Defense, and Military Marine Environmental Response operations.

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[128] *See* Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 103, 888, 1704, 116 Stat. 2135, 2144, 2249, 2314 (2002). For a description of the organization of DHS and the agencies within the Department see the DHS website at http://www.dhs.gov.

[129] 14 U.S.C. §§ 1, 3 (2000).

[130] Memorandum of Agreement Between the Department of Defense and the Department of Transportation on the Use of U.S. Coast Guard Capabilities and Resources in Support of the National Military Strategy, Washington, DC (3 Oct. 1995). (The Coast Guard was part of the Department of Transportation at the time of the Memorandum.)

CHAPTER III: U.S. GOVERNMENT CIVILIAN AGENCIES AND INTERNATIONAL ORGANIZATIONS

A. OVERVIEW

1. INTRODUCTION

As noted earlier in the introduction to this Handbook, a wide variety of U.S. Government (USG) civilian agencies are involved in overseas operations. This Chapter discusses five of the most important agencies that are active in complex contingency operations—the Department of State (DOS), Agency for International Development (USAID), Department of Agriculture (USDA), Department of Justice (DOJ), and Department of Health and Human Services (HHS).[131] In general, their responsibilities are as follows:

– DOS- Diplomatic relations, overall foreign policy guidance;

– USAID- Emergency disaster relief and longer-term economic development;

– USDA- Food aid;

– DOJ- Law enforcement assistance; and

– HHS- Medical aid.

However, as will be discussed in greater detail, some of these responsibilities overlap, both among these agencies and between them and the Department of Defense (DOD). Furthermore, there are numerous private and public non-governmental and international organizations that are active in complex contingency operations. The most prominent of these are discussed in this Chapter as well.

[131] The various intelligence agencies of the U.S. Government are also major participants in some complex contingency operations. Since their activities are largely classified, however, they are not addressed in this public handbook.

International organizations (IOs) are divided into two categories: intergovernmental organizations (IGOs) and nongovernmental organizations (NGOs).[132] An IGO is an organization that is based on a formal instrument of agreement between nation state governments, has three or more nation states as parties to the agreement, and possesses a permanent secretariat performing ongoing tasks.[133] An NGO, on the other hand, is any international organization that is not established by an intergovernmental agreement.[134] (USAID considers local providers of humanitarian aid to be NGOs, while those registered in the United States and other countries that provide such aid to third countries are considered to be Private Voluntary Organizations (PVOs). For purposes of this Handbook all non-governmental aid groups will be considered to be NGOs.)[135]

The Union of International Associations (UIA) lists more than one thousand different international organizations in its website and their missions, organizations, and memberships are highly diverse.[136] It is impossible to completely and thoroughly describe all of these organizations in this Handbook. This Chapter describes the functions and structure of three representative IGOs: a global IGO—the United Nations (UN)—and two of its subsidiary bodies—the United Nations High Commissioner for Refugees and the Secretariat's Peacekeeping Operations Department; a regional IGO—the Organization of American States; and an IGO with a specialized mission (security)—the North Atlantic Treaty Organization. Following this discussion of IGOs, this Chapter describes the function and structure of five representative NGOs which have been active in the area of relief—Cooperative for Assistance and Relief Everywhere (CARE), Catholic Relief Services (CRS), Doctors Without Borders (known by its name

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[132] Y.B. OF INT'L ORGANIZATIONS, TYPES OF INTERNATIONAL ORGANIZATIONS §§ 2.1-.2, http://www.uia.org/uiadocs/orgtypec.htm.

[133] *Id.* § 2.1.

[134] *Id.* § 2.2.

[135] *See* the USAID Private Voluntary Cooperation website *at* http://www.usaid.gov/our_work/cross-cutting_programs/private_voluntary_cooperation.

[136] See http://www.uia.org/extlinks/pub.php for the UIA's list of international organizations.

in French "Medicins Sans Frontieres" or MSF), the American Red Cross (ARC) and the Oxford Committee for Famine Relief (Oxfam).

2. PERSONNEL SYSTEMS

The vast majority of USG civilian personnel are part of the **U.S. Civil Service.** However, most personnel responsible for complex contingency operations, particularly those within DOS and USAID, are part of a specialized personnel system—the **U.S. Foreign Service**.[137] Most of the personnel in both systems are career government employees. In both systems, the career employees are lead, at the highest levels, by **political appointees**. Finally, the Department of Health and Human Services operates a commissioned uniformed service—the **Public Health Service—**whose members are often used in complex contingency operations. Each of these personnel systems is discussed in greater detail below.

A. Foreign Service Officers[138]

The U.S. Foreign Service is the principal personnel system used by DOS, as well as USAID and, for foreign operations, USDA.[139] When the modern Foreign Service was created in 1945 it was modeled on the U.S. Navy, with a rank structure and an up-or-out promotion system. After appointment by the President and an initial orientation and training period in Washington (usually between three months and one year), newly hired Foreign Service Officers (FSOs) are assigned overseas. At this time, new FSOs select one of five functional specialties (cones) for their career track—consular, economic, administrative, political or public diplomacy. During their first two assignments (each of two years duration), officers hold a variety of positions to demonstrate their qualifications for tenure as career Foreign Service Officers. As part of this process, officers early

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[137] Like the military, the Foreign Service has its own "institutional culture." For one, somewhat dated, comparison of the two cultures see DEFENSE IS FROM MARS, STATE IS FROM VENUS - IMPROVING COMMUNICATIONS AND PROMOTING NATIONAL SECURITY, *at* http://www.theinteragency.org/index.cfm?state=resource.2.

[138] Adapted from the American Foreign Service Association (AFSA) website *at* http://www.afsa.org.

[139] The USAID and USDA services, together with the commercial service of the Department of Commerce, utilize the Foreign Service personnel system. *See* 22 U.S.C. § 3922(a) (2000).

in their careers perform at least one year of consular work overseas, regardless of cone, and are frequently assigned to at least one hardship post.[140] Assignments are made based on a bidding process.

FSOs, like military officers, are compensated based on their personal rank, also known as rank-in-person (Civil Service employees, on the other hand, are compensated based on the rank of their position, also know as rank-in-position.) Foreign Service employees may be assigned to positions higher or lower than their personal rank. FSOs generally enter with the personal ranks of FS-06 (for those with a Bachelors degree), FS-05 (Masters or JD) or FS-04 (Doctorate). As with the military, FSOs serve a fixed period of years in each rank and are then either promoted or leave the service. The top regular rank is FS-01, roughly equivalent to an O-6 officer or GS-15 civil servant. The senior career leadership in the Foreign Service are officers of the Senior Foreign Service (SFS). SFS officers are the equivalent of general or flag officers in the military services.

b. Civil Service Employees

In addition to Foreign Service Officers, DOS, USAID, and USDA employ career Civil Service personnel. These employees are usually found in the functional and support offices at their headquarters in Washington, DC. However, there are civil servants in DOS and USAID regional offices and in a limited number of "hard to fill" overseas posts. Nearly all DOJ employees are civil servants, as are many HHS employees.

Among those in the professional occupations, employees enter the Civil Service at one of three General Service (GS) levels—GS-7 (Bachelor's degree), GS-9 (Master's degree) or GS-11 (Doctorate degree) level. The GS levels continue from GS-12 to GS-15.

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[140] Hardship posts are those where living conditions are considered more difficult than in the United States. Such factors as climate, the quality of local health care, crime rate, pollution levels, and availability of spousal employment opportunities are used in deciding which posts are designated hardship; in general terms, most locations outside of Western Europe, Canada, and Australia are considered hardship posts. Employees serving at hardship posts receive a “hardship” differential of between five and twenty-five percent of salary, depending on the severity of the hardship. Adapted from the AFSA website *at* http://www.afsa.org.

Promotion is swifter than the military or foreign service—civil servants can advance as much as one grade per year. However, unlike those services, GS level is tied to specific jobs, i.e., it is not, technically, a personal rank. Accordingly, to advance in grade level, a civil servant must be promoted to a job that is graded at the higher level.[141] Also, since there is no up-or-out system, employees may serve at a given level until their retirement, typically at age 55-60. "General or flag level" civil servants are part of the Senior Executive Service (SES).

c. Political Appointees

A limited number of U.S Government civilian agency personnel are temporarily hired within the Foreign and Civil Services as political appointees. These personnel are appointed and serve "at the pleasure" of the current President. They largely are drawn from academia, think tanks, businesses and Congressional staffs. Senior political appointees serve in the same types of positions as SFS and SES employees, e.g., Ambassador, Assistant Secretary, etc. These political appointees often require the advice and consent of the Senate to their appointment. Lower-level employees, i.e., "Schedule C" appointees, serve as special advisers to these senior appointees at the GS-7 to GS-15 level, and are not subject to Senate approval.

d. Public Health Service Commissioned Corps[142]

As one of the seven Uniformed Services of the United States, the Public Health Service (PHS) Commissioned Corps is a specialized career system designed to attract, develop, and retain health professionals who may be assigned to federal, state or local agencies or international organizations to accomplish its mission. The mission of the PHS Commissioned Corps is to provide highly-trained and mobile health professionals who carry out programs to promote the health of the nation, understand and prevent disease and injury, assure safe and effective drugs and medical devices, deliver health services to Federal beneficiaries, and furnish health expertise in time of war or

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[141] Civil Service jobs can have a range of grades. Department of State Legal Adviser jobs are graded up to GS-15, allowing DOS lawyers to advance directly to the top ranks.

[142] Adapted from the Public Health Service website *at* http://www.usphs.gov.

other national or international emergencies.[143] The PHS Commissioned Corps is led by the **Surgeon General** and consists of approximately 6,000 officers in the following professional categories: Dentist; Pharmacist; Dietitian; Physician; Engineer; Scientist; Environmental Health; Therapist (including Physical, Occupational, Speech, Audiology); Health Services (including Social Works, Physician Assistants, Optometrists, Statisticians, Computer Scientists, Dental Hygienists and Medical Records Administrators); Veterinarian; and Nurse.[144] PHS commissioned officers are assigned to the eight PHS Operating Divisions, as well as to other parts of HHS and other USG civilian agencies.

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[143] The Mission of the Commissioned Corps, *at* http://www.usphs.gov/html/mission html.

[144] The origins of the Public Health Service may be traced to the passage of an act in 1798 that provided for the care and relief of sick and injured merchant seamen. A reorganization in 1870 converted the loose network of locally controlled hospitals into a centrally controlled Marine Hospital Service, with its headquarters in Washington, D.C. The position of Supervising Surgeon (later Surgeon General) was created to administer the Service. A military model for the medical staff was adopted, examinations for applicants instituted, and physicians placed in uniforms—those of the U.S. Navy. This created a cadre of mobile, career service physicians who could be assigned as needed to the various marine hospitals. At first open only to physicians, over the course of the twentieth century, the Corps expanded to include dentists, sanitary engineers, pharmacists, nurses, sanitarians, scientists, and other health professionals. As the century progressed, PHS commissioned officers served their country by controlling the spread of contagious diseases such as smallpox and yellow fever, conducting important biomedical research, regulating the food and drug supply, providing health care to underserved groups, supplying medical assistance in the aftermath of disasters, and in numerous other ways. The History of the Commissioned Corps, *at* http://www.usphs.gov/html/history html [hereinafter PHS Corps History].

B. CIVILIAN AGENCIES

1. DEPARTMENT OF STATE[145]

a. Function

The Department of State is the lead U.S. Government agency for formulating and implementing U.S. foreign policy.[146] The principal means by which this is accomplished is through the advancement of U.S. national security, economic, and other interests and objectives with foreign governments and public and private international organizations. This includes supporting and coordinating the foreign affairs activities of DOD and of other USG civilian agencies. These diplomatic efforts form the heart of DOS's contributions to complex contingency operations. However, in a few specific areas, as explained in more detail below, DOS also directly manages programs that support such operations. Finally, DOS conducts consular services that protect and assist U.S. citizens abroad and evaluates foreigners seeking to visit or immigrate to the United States.

The methods employed by DOS that are integral to complex contingency operations include:

- Leading interagency coordination in developing and implementing U.S. foreign policy, including chairing the:
  - Steering Committee of the USG Policy Coordinating Subgroup on Humanitarian Mine Action; and

[145] Adapted from the DOS website *at* http://www.state.gov.

[146] "The Secretary of State shall perform such duties as shall from time to time be enjoined on or entrusted to him by the President relative to correspondences, commission, or instruction to or with public ministers from the United States, or to negotiations with public ministers from foreign states or princes, or to memorials or other applications from foreign public ministers or other foreigners, or to such other matters respecting foreign affairs as the President of the United States shall assign to the Department, and he shall conduct the business of the Department in such manner as the President shall direct." 22 U.S.C. § 2656 (2000). *See also* U.S. DEP'T OF STATE, 1 FOREIGN AFFAIRS MANUAL 011.2 (Role of Department of State), 012 (The Secretary of State's Authority), 013 (Interdepartmental Direction and Leadership) [hereinafter FAM].

  - InterAction coordinating body of Private Voluntary Organizations.

- Advocating U.S. policies to foreign governments and international organizations to secure their cooperation and assistance in advancing U.S. foreign policy interests and objectives, encouraging positive attitudes towards the United States by foreign governments and populations, and conveying the views of foreign governments and international organizations to senior USG policymakers;

- Gathering political, economic, military, and other information and data on countries and the internal workings of foreign governments, including attitudes of governments and populations;

- Conducting negotiations and concluding bilateral and multilateral agreements and treaties, including negotiating temporary and permanent basing agreements;

- Providing policy and fiscal oversight for economic development, military assistance and other foreign assistance programs; and

- Coordinating and supporting international activities of U.S. local and state agencies.

b. Structure

The Department of State consists of a headquarters element located at the Harry S Truman (Main State) building in the Foggy Bottom area of Washington, D.C., various support facilities in the Washington area and around the United States, and field offices housed in embassies, missions, and consulates around the world.

(1) Headquarters

DOS is headed by the Secretary of State, who serves as the President's principal foreign policy adviser.[147] Immediately subordinate to the Secretary are:

– The Deputy Secretary;[148]

– Six Under Secretaries responsible for the Department's regional and functional (including managerial) bureaus;[149]

– The United Nations representative and Ambassadors at Large, i.e., special Presidential or Departmental representatives for specific foreign policy issues;[150] and

– Staff functions offices, such as the Legal Adviser. (See Figure III-1)

The principal DOS headquarters components are its regional (geographic) and functional **Bureaus**,[151] headed by **Assistant Secretaries**.[152] Each bureau is sub-divided into **Offices**. **Regional offices** are organized by country or group of countries, headed by

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[147] 22 U.S.C. §§ 2651a(a), 2656 (2000). *See also* 1 FAM 021.1, *supra* note 146 (The Secretary of State - Responsibilities).

[148] 22 U.S.C. § 2651a(a)(2) (2000). *See also* 1 FAM 031, *supra* note 146 (Deputy Secretary of State).

[149] 22 U.S.C. § 2651a(b) (2000). *See also* 1 FAM 040, *supra* note 146 (The Under Secretaries of State).

[150] 22 U.S.C. § 2651a(d) (2000). Ambassadors at Large are appointed by the President and serve anywhere in the world to help with emergent problems, to conduct special or intensive negotiations , or serve in other capacities, as requested by the Secretary of State or the President. 1 FAM 014.3.a(3), *supra* note 146 (Generic Responsibilities).

[151] Bureaus are grouped together in six areas overseen by the Under Secretaries: Political Affairs (P); Global Affairs (G); Arms Control and International Security Affairs (T); Economic, Business and Agricultural Affairs (E); Management (M); and Public Diplomacy and Public Affairs (R).

[152] 22 U.S.C. § 2651a(c) (2000). Assistant Secretaries are either political appointees or SFS officers. Some SES employees may also serve at this level.

Directors, who are also known as **Country Directors**.[153] The rank-and-file officers within geographic offices are known as **Country Officers** or **Desk Officers**.[154] **Functional offices** are organized by subject matter, headed by **Directors**.[155] Offices may be further sub-divided into **Divisions**, **Branches**, and **Sections**, headed by **Chiefs**.[156]

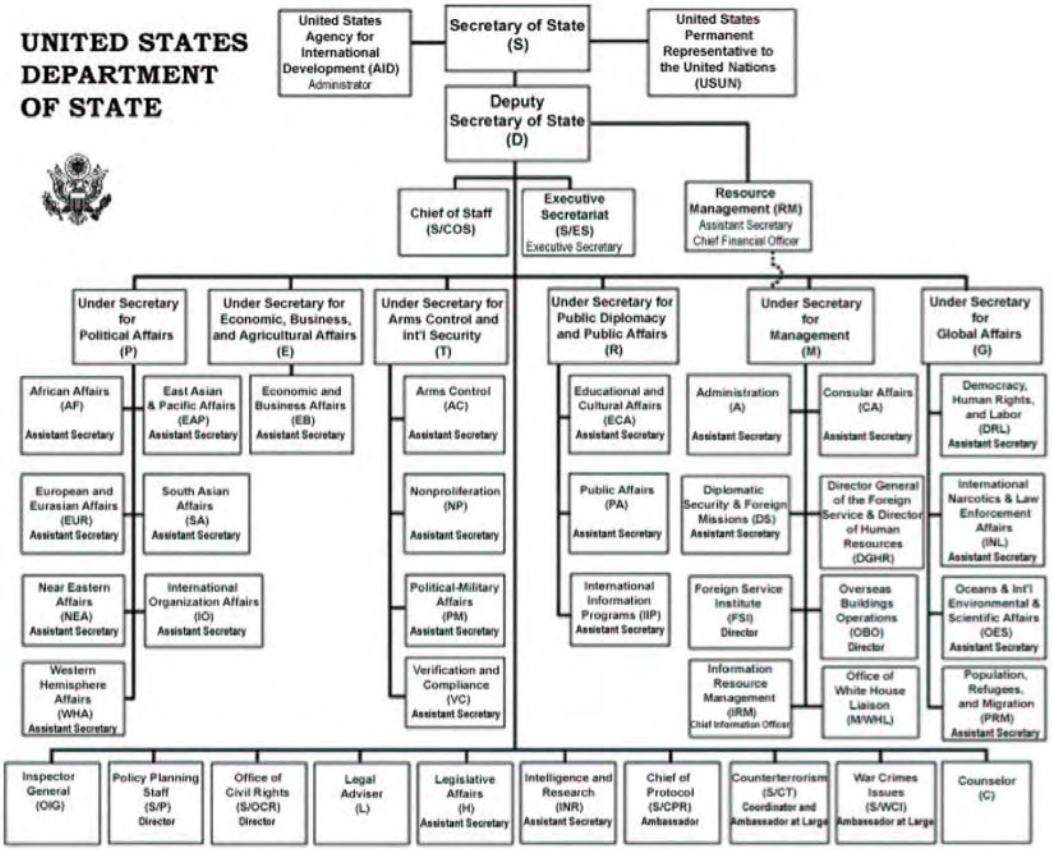

Figure III-1

[153] These office directors are typically senior FSOs. See 1 FAM 013.1-4, 114.1, *supra* note 146, for a description of the duties of DOS country directors.

[154] Country officers are typically more junior FSOs.

[155] Functional office directors are typically senior FSOs or GS-15 or SES civil servants.

[156] See *id.* 014.2 (Organizational Nomenclature), 014.3 (Generic Responsibilities) for further detail on the DOS hierarchy and structure.

All six of DOS's regional bureaus, as well as seven functional bureaus, have offices responsible for some aspect of complex contingency operations. DOS's six geographic bureaus[157] encompass:

– African Affairs (AF), which covers all of Africa except for North Africa;

– East Asia and Pacific Affair (EAP), which covers Japan, China, and other eastern Asia countries as well as Australia;

– European and Eurasian Affairs (EUR), which covers Europe, Russia, and most of the former Soviet Union;

– Near East Affairs (NEA), which covers North Africa and the Middle East;

– South Asian Affairs (SA), which covers India, Pakistan, and other southern Asia countries; and

– Western Hemisphere Affairs (WHA), which covers South and Central America, the Caribbean, and Canada.[158]

The DOS regional bureaus are responsible for integrating political, economic, global, and security issues into the United States' bilateral, i.e., country-to-country, relationships. Regardless of the subject matter, employees of these bureaus are often the primary points of contact with U.S. embassies overseas and with foreign embassies in Washington, DC.[159]

The seven functional bureaus with responsibilities for some aspect of complex contingency operations are:

– Political-Military Affairs (PM);

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[157] These bureaus fall under the Under Secretary for Political Affairs, who is the third-ranking DOS official and the Department's crisis manager. *Id.* 041.1 (Under Secretary for Political Affairs - Responsibilities). See *id.* 100-170 for further information on these bureaus.

[158] 2 FAM 052, *supra* note 146 (Regional Bureaus and Their Symbols). See appendix II-3 of this Handbook for a comparison of the areas of responsibility of DOS regional bureaus and DOD geographic Combatant Commands.

[159] 1 FAM 112, *supra* note 146 (Statements of Common Responsibilities of Regional Bureaus - Assistant Secretary)

– Population, Refugees, and Migration (PRM);

– Democracy, Human Rights, and Labor (DHL);

– International Narcotics and Law Enforcement Affairs (INL);

– International Organization Affairs (IO);

– Consular Affairs (CA); and

– Diplomatic Security (DS).

The **Bureau of Political-Military Affairs** is involved in all three types of complex contingency operations—natural disaster assistance, post-conflict restoration, and NEOs. PM manages political-military relations throughout the world, including training and assistance for foreign militaries, and maintaining global access for U.S. military forces, including basing and overflight rights and Status of Forces Agreements (SOFAs).[160] PM promotes responsible U.S. defense trade, while controlling foreign access to militarily significant technology, through export controls. PM also coordinates U.S. programs that help rid countries of landmines and other conventional weapons. Finally, PM leads interagency efforts to plan for future crises—including planning U.S. responses to cyber-attacks against vital computer networks or to nuclear, biological, or chemical attacks overseas.

The following PM offices are directly involved in complex contingency operations:

Office of International Security Operations (PM/ISO).[161] PM/ISO is the primary interface between DOS and DOD on operational military matters as well as the USG lead for managing the consequences of foreign chemical, biological, radiological, and nuclear events.

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[160] *Id.* 411.1 (Assistant Secretary for Political-Military Affairs - Responsibilities).

[161] *Id*. 414.3 (Office of Regional Security Policy) [former title].

Office of Contingency Planning and Peacekeeping (PM/CPP). PM/CPP coordinates the preparation of interagency political-military plans and supervises DOS's Enhanced International Peacekeeping Capabilities program. Planning efforts include Contingency Plans for responding to complex emergencies and Implementation Plans for implementing U.S. policy in areas requiring close coordination among USG civilian agencies and DOD.

Office of Weapons Removal and Abatement (PM/WRA). PM/WRA serves as the lead organization in coordinating U.S. humanitarian mine action activities worldwide. The office develops and implements country-specific humanitarian mine action programs and oversees the interagency strategic planning and policy development processes supporting U.S. global demining activities. It directly supports the work of the PCC Subgroup on Humanitarian Mine Action.

The **Bureau of Population, Refugees, and Migration** oversees initiatives and policies on global population, refugees, and migration issues and manages migration and refugee assistance appropriations, including coordinating U.S. assistance to refugees overseas and U.S. programs for admitting refugees to the United States for permanent resettlement.[162] Refugee assistance in complex contingency operations is provided through one of three geographic PRM offices:

– Office of Assistance for Africa (PRM/AFR);

– Office of Assistance for Asia and the Near East (PRM/ANE); or

– Office of Assistance for Europe, NIS (Newly Independent States, i.e., the former Soviet Union), and the Americas (PRM/ENA).[163]

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[162] *Id.* 521.1 (Assistant Secretary for Population, Refugees and Migration - Responsibilities). PRM has responsibility for coordinating assistance to refugees who cross the border from one country to another. USAID has the responsibility for assisting people displaced within their own country as a result of natural or manmade disasters. 2 FAM 066.1.d, *supra* note 146 (Responsibilities at Washington Headquarters - DOS).

[163] *See* 1 FAM 523.3, *supra* note 146 (Office of Assistance for Africa), 524.3 (Office of Assistance for Asia and the Near East), 525.2 (Office of Assistance for Europe, NIS, and the Americas).

The **Bureau of Democracy, Human Rights, and Labor** oversees initiatives and policies to promote and strengthen democratic institutions, civil society, and respect for human and worker rights.[164] The main DHL office involved in complex contingency operations is the Office for the Promotion of Human Rights and Democracy (DHL/PHD).[165] DOS also has a Senior Coordinator for Democracy and Human Rights Promotion Programs. Finally, the Senior Coordinator for Women, whose office deals with issues such as trafficking in women and children, is part of this Bureau, but reports directly to the Under Secretary for Global Affairs.[166]

The **Bureau of International Narcotics and Law Enforcement** works with foreign governments to reduce illicit drug crop cultivation and trafficking, to train foreign law enforcement and judicial institutions, and to share information regarding narcotics trafficking, money laundering, fraud, and other financial crimes, public corruption, and the international trafficking of illegal aliens, women and children, stolen vehicles, and firearms.[167] The main INL office involved in complex contingency operations is the Civ Pol Unit of the Office of Policy, Planning, and Coordination (INL/PC).[168] INL/PC provides the requirements for and oversees the contract to recruit, select, equip, and deploy volunteer police for the USG contribution to police forces used in post-conflict restoration operations.

The **Bureau of International Organization Affairs** focuses on multilateral relationships through the development and implementation of U.S. foreign policy within the United Nations and its affiliated agencies, as well as within certain other international organizations.[169] Subject areas addressed by the international

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[164] *See id.* 511.1 (Assistant Secretary for Democracy, Human Rights, and Labor - Responsibilities).

[165] *See id.* 517.6 (Office for the Promotion of Human Rights and Democracy).

[166] 1 FAM 045.2.b (Under Secretary for Global Affairs - Management Oversight).

[167] *See id.* 531.1 (Assistant Secretary for International Narcotics and Law Enforcement - Responsibilities).

[168] *See id.* 536 (Office of Policy Planning and Coordination).

[169] *See id.* 331.1 (Assistant Secretary for International Organization Affairs - Responsibilities).

organizations for which IO is responsible include: peacekeeping, democracy and human rights, humanitarian and refugee assistance, international trade, economic development, safe food production, transportation safety, public health, terrorism, and the environment. IO provides guidance to other DOS and USAID regional and functional bureaus in communicating with the United Nations and its specialized agencies or other international organizations when USG disaster assistance involves these organizations.[170] The main IO offices involved in complex contingency operations are the:

– Office of Peacekeeping and Humanitarian Operations (IO/PHO); [171] and

– Office of Social and Humanitarian Affairs (IO/SHA).[172]

The **Bureau of Consular Affairs** administers laws, formulates regulations, and implements policies relating to the broad range of consular services provided to American citizens abroad, including such matters as deaths, arrests, robberies, citizenship, and nationality, Federal benefits, notarization of documents, international parental child abduction, and international adoptions.[173] The main CA office involved in complex contingency operations is the Office of Overseas Citizens Services (CA/OCS).[174] CA/OCS provides information on the welfare of private U.S. citizens residing abroad who are affected by disasters to concerned relatives in the United States. The Office also assists in the transfer of emergency funds to U.S. citizens in disaster stricken areas and in arranging for their medical treatment and/or evacuation. [175]

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[170] 2 FAM 066.3.c, *supra* note 146 (Responsibilities at Washington Headquarters - DOS).

[171] *See* 1 FAM 333.3, *supra* note 146 (Office of Peacekeeping and Humanitarian Operations).

[172] *See id.* 333.7 (Office of Social and Humanitarian Affairs).

[173] *See id.* 251.1 (Assistant Secretary for Consular Affairs - Responsibilities).

[174] *See id.* 255.1-1 (Office of American Citizens Services and Crisis Management) [former title].

[175] 2 FAM 066.3.b, *supra* note 146 (Responsibilities at Washington Headquarters - DOS). *See generally* 7 FAM, *supra* note 146 (Consular Services).

The **Bureau of Diplomatic Security** is responsible for the protection of people, information, and property at U.S. diplomatic posts. DS develops and implements effective security programs to safeguard all personnel who work in every U.S. diplomatic mission around the world, including overseeing the Marine Security Detachments and the local guard forces.[176]

In addition to the bureaus and their offices that are overseen by Under Secretaries, DOS has a number of separate bureaus, offices, and staffs responsible for various Secretarial-level staff functions. Of particular relevance to complex contingency operations are the Operations Center, the Office of the Legal Adviser, the Bureau of Intelligence and Research, and the Policy Planning Staff.

The **Operations Center (S/ES-O)** is the Secretary of State's and the Department's communications and crisis management center. Working 24 hours a day, the Operations Center monitors world events, prepares briefings for the Secretary and other Department principals, and facilitates communication between the Department and the rest of the world. The Operations Center also coordinates the Department's response to crises and supports task forces, monitoring groups, and other crisis-related activities.[177]

The **Office of the Legal Adviser (L) is** headed by the Legal Adviser, who provides legal advice to the Secretary of State, and through him or her the National Security Council and the President, on all problems (domestic and international) arising in the course of the Department's activities.[178] The Office is sub-divided into twenty-two offices headed by Assistant Legal Advisers, who supervise career Civil Service Attorney-Advisers.[179] L offices mirror the regional and

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[176] *See* 1 FAM 261.1, *supra* note 146 (Assistant Secretary for Diplomatic Security - Responsibilities). *See also* 12 FAM, *supra* note 146 (Diplomatic Security).

[177] *See* 1 FAM 022.2-4, *supra* note 146 (Operations Center).

[178] *Id.* 241.1 (Legal Adviser - Responsibilities). The Legal Adviser is appointed by the President with the advice and consent of the Senate. The Legal Adviser is supported by four career SES Deputy Legal Advisers, one of whom serves as the Principal Deputy Legal Adviser, the number two official in the Office. *See id.* 242 (Deputy Legal Advisers).

[179] Assistant Legal Advisers are career SES employees. Attorney-advisers are usually GS-14s and GS-15s.

functional division of DOS bureaus.[180] The principle legal offices responsible for complex contingency operations and their clients are:

Assistant Legal Adviser for:	Bureau or Office
Political-Military Affairs (L/PM)	PM
Human Rights and Refugees (L/HRR)	PRM, DHL
Law Enforcement and Intelligence (L/LEI)	INL
United Nations Affairs (L/UNA)	IO
Consular Affairs (L/CA)	CA
Diplomatic Law and Legislation (L/DL)	DS
African Affairs (L/AF)	AF
East Asian and Pacific Affairs (L/EAP)	EAP
European Affairs (L/EUR)	EUR
Near Eastern and South Asian Affairs (L/NEA)	NEA, SA
Western Hemisphere Affairs (L/WHA)	WHA

Finally, the Assistant Legal Adviser for Treaty Affairs (L/T) provides legal advice regarding treaties and other international agreements and manages the DOS program for collecting and recording such agreements.[181]

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[180] *See id.* 245 (Geographic Assistant Legal Advisers), 246 (Functional Assistant Legal Advisers).

[181] *See id.* 246.14 (Treaty Affairs). In addition to Washington, DC, DOS attorney-advisors also are assigned to the U.S. Mission to the United Nations in New York, the U.S. Embassy in The Hague, Netherlands (for the International Court of Justice and the U.S.-Iranian Claims Commission), and the U.S. Mission to the United Nations and Other International Organizations in Geneva, Switzerland.

The **Bureau of Intelligence and Research (INR)** provides independent intelligence analysis and liaisons with other agencies in the Intelligence Community.[182] The **Policy Planning Staff (S/P)**, whose head is the equivalent of an Assistant Secretary, provides independent policy analysis and advice for the Secretary of State, including formulation of long-term policies to achieve U.S. objectives, and liaisons with non-governmental organizations, "think tanks," and others for outside views on matters relevant to U.S. foreign policy.[183]

(2) Overseas

To support its relations with other countries and international organizations, the United States maintains diplomatic and consular offices in nearly every country around the world.[184] In areas where a functioning government may not exist, e.g., Somalia, DOS and other USG employees may operate out of the U.S. embassy in a neighboring country or out of temporary field offices.

Missions to countries (housed in **embassies**) and missions to international organizations (housed in **missions**) are headed by **Chiefs of Mission**.[185] The Chief of Mission, i.e. the Ambassador,[186] is

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[182] *See id.* 431.1 (Assistant Secretary for Intelligence and Research - Responsibilities).

[183] *See id.* 023 (Policy Planning Staff).

[184] The United States currently has diplomatic relations with about 180 countries and maintains 250 diplomatic and consular offices. *See* Diplomacy at Work: A U.S. Embassy, *at* http://www.state.gov/r/pa/ei/c6177.htm.

[185] **Mission** is any Foreign Service post designated as an embassy or legation and maintained to conduct continuing diplomatic relations between the United States and other governments ("missions to countries") or between the United States and public international organizations ("missions to international organizations"). 2 FAM 111.2 f, *supra* note 146 (Definitions - Mission) ("Mission" is often used interchangeably with "post" or "embassy".) **Posts** are any Foreign Service establishments maintained by the United States abroad. *Id.* 111.2.g (Definitions - Post). *See also* U.S. Dep't of State, Glossary of Government Acronyms, *at* http://www.state.gov/documents/organization/19417.pdf [hereinafter DOS Glossary]. **Embassies** house offices whose primary function is bilateral diplomatic relations with the host government. Embassies are located in the capital city of a host government, except where the seat of government, i.e., the location of government departments and ministries, is situated elsewhere. (For example, the capital of the Netherlands is Amsterdam, where the United States maintains a consulate, but the seat of government is The Hague, where the United States maintains its embassy). **Consulates** are branches of an embassy located in other large commercial centers or in dependencies (territories) of the host country whose primary function is the provision of government services to U.S. citizens and relations with individual citizens of the host country,

considered the President's personal representative to the country to which he or she is accredited (i.e., the country to which they are the representative of the United States) and, with the Secretary of State, assists in implementing the President's constitutional responsibilities for conducting foreign relations with that country.[187] As such, the Ambassador is the senior U.S. official in the country. By law, Ambassadors coordinate, direct, and supervise all USG activities and representatives posted in the foreign country to which they are accredited.[188] They do not, however, exercise control of USG personnel attached to and working for the head of a U.S. mission to an international organization[189] or U.S. military personnel operating under the command of a geographic Combatant Commander.[190]

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e.g., reviewing and granting visas to travel to the United States. Larger branch offices are called **consulates general**. (Consular services are also offered at embassies.) As noted above, **missions** house offices whose primary function is interaction with international organizations. Missions are located in the city that hosts the international organization and are generally housed separately from, if present, an embassy. *See also* 2 FAM 053, *supra* note 146 (Post Rank).

For fiscal and political reasons, the United States does not have embassies in all countries. For very small countries, the U.S. may use an embassy in a nearby, larger country or maintain one embassy for a group of countries in the same immediate region. The United States also does not maintain an embassy in countries with which it does not have diplomatic relations. In these countries U.S. interests are represented by diplomats of another country chosen by the United States or by U.S. personnel in an "Interests" section housed at the embassy of another country. *See id.* 111.2 (Definitions - U.S. Public Interest Section). Finally, because of the unique status of Taiwan, the United States uses the American Institute in Taiwan, a non-profit corporation, for its bilateral relations with that entity. *See* 22 U.S.C. § 3305 (2000).

[186] An embassy may also be lead by a Charge d'Affairs. This is the designation of the officer, normally the Deputy Chief of Mission, who is temporarily in charge of an embassy when the Ambassador is out of the county or no ambassador has been appointed or accredited. DOS Glossary, *supra* note 185.

[187] *See* 2 FAM 111.2.b, *supra* note 146 (Definitions - Chief of Mission).

[188] Section 103(c) of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 (22 U.S.C. § 4802(c) (2000)) provides this authority to the Secretary of State. This authority is exercised on behalf of the Secretary by Chiefs of Missions pursuant to § 207 of the Foreign Service Act of 1980, as amended (22 U.S.C. § 3927 (2000)). *See* 1 FAM 013.5-3, *supra* note 146.

[189] In addition to its bilateral embassies and consulates, accredited (assigned and officially recognized) to just a single host country, the U.S. also sends official representatives to international organizations and conferences in various locations around the world. These representatives are typically organized into **delegations**. Some of the larger, more permanent delegations are designated **U.S. Missions**, such as in Geneva or Vienna. Others are designated simply **U.S. Delegations**, such as to the Conference on Disarmament or to the Organization for Security and Cooperation in Europe. Other U.S. Delegations are assembled for only a finite period to represent the U.S. at a single international event.

Responsibilities of Chiefs of Mission include:

- Conducting diplomatic relations with the highest levels of the host government;
- Directing and coordinating all executive branch offices and personnel (except, as noted above, for those under the command of a U.S. geographic Combatant Commander, under another Chief of Mission, or on the staff of an international organization);[191]
- Reviewing communications to or from mission elements;
- Taking direct responsibility for the security of the mission—including security from terrorism—and protecting all USG personnel on official duty (other than those personnel under the command of a U.S. geographic Combatant Commander) and their dependents.

Current permanent U.S. Missions to international organizations that are often involved in complex contingency operations include:

- U.S. Mission to the United Nations (USUN NY) (New York);
- U.S. Mission to the Organization of American States (OAS) (Washington, DC);
- U.S. Mission to International Organizations in Vienna (UNVIE) (Vienna);
- U.S. Mission to the North Atlantic Treaty Organization (USNATO) (Brussels);
- U.S. Mission to the United Nations Office and Other International Organizations in Geneva (Geneva);
- U.S. Mission to the European Union (USEU) (Brussels); and
- U.S. Mission to the United Nations Agencies for Food and Agriculture (FODAG) (Rome).

[190] 22 U.S.C. § 3927(a)-(b) (2000).

[191] This includes all USG temporary duty (TDY) personnel (other than personnel under the command of an U.S. geographic Combatant Commander) in the country on official business. Such personnel must obtain country clearance from the Chief of Mission before entering the country for such business. Chiefs of Mission may refuse country clearance, or may place conditions or restrictions on TDY personnel, as they consider necessary. 2 FAM 111.1-5, *supra* note 146 (Country Clearance).

– Declaring disasters for purposes of U.S. aid to an affected country.[192]

Deputy Chiefs of Mission (DCMs) are the second-ranking officer at post, often as the chief operation officer or chief of staff to the Ambassador.[193] DCMs are almost always SFS officers.

Most DOS employees at missions are career FSOs, assisted by Foreign Service Nationals (FSNs).[194] Most missions also have personnel assigned from other executive branch agencies; in some cases, DOS employees may account for less than one-half of the staff.[195]

Missions are divided into **sections**, which may be further divided into **units**. Those staffed by DOS include the Political Section, headed by the Political Counselor; the Economic Section, headed by the Economic Counselor; the Consular Section, headed by a Counsel or Counsel General; and the Administrative Section, headed by the Administrative Counselor.[196] Larger embassies may also have FSOs servings as Labor officers, Environment, Science, and Technology (EST) officers, Demining officers, and Refugee Coordinators.[197]

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[192] *See id.* 113.1.d (Chief of Mission and Principal Officer).

[193] DOS Glossary, *supra* note 185. *See also* 2 FAM 113.2, *supra* note 146 (Deputy Chief of Mission).

[194] FSNs are local residents who are employed primarily in administrative and other support positions by DOS, as well as other agencies at the post. They usually are not U.S. citizens. DOS also uses a limited number of Civil Service employees to replace FSOs in "hard to fill" positions.

[195] Other USG civilian agencies represented may include the Departments of Commerce, Agriculture, Defense, and Justice (including the Drug Enforcement Administration and the Federal Bureau of Investigation) and USAID. These agency representatives, together with senior DOS leadership at the mission, constitute the "Country Team" (discussed in more detail in chapter IV.C.1 of this Handbook). *See generally* 2 FAM 112, *supra* note 146 (Mission Organization).

[196] U.S. diplomatic personnel, like those of other countries, have internationally recognized diplomatic rank as well, e.g., First Secretary, Second Secretary, etc.

[197] The DOS-headed sections are responsible for the following areas:

Political Issues. Political officers analyze political developments and their potential impact on U.S. interests; promote adoption by the host country of foreign policy decisions which support

In addition to those personnel stationed at embassies, missions, and consulates, DOS also assigns SFS officers to each of the Combatant Commands, as well as to certain Joint Task Forces. These officers serve as political advisors (POLADs) to the combatant or other military commander. The POLAD provides the military commander with diplomatic considerations, information regarding DOS policy goals and objectives that are relevant to theater strategy, and informal linkage with embassies in the area of responsibility and DOS. The POLADs also can:

– Use their regional knowledge and language skills to assist in the translation of political objectives into military strategy;

– Coordinate with, and facilitate cooperation between, the primary USG political and military personnel or their designated representatives; and

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U.S. interests; and advise U.S. business executives on the local political climate. Political officers also manage USG foreign policy programs, such as demining.

Economic Issues. Economic officers advise U.S. businesses on the local investment climate and economic trends; negotiate trade and investment agreements; analyze and report on macroeconomic trends and trade policies and their potential impact on U.S. interests; and promote adoption of economic policies by foreign countries which further U.S. interests.

Scientific Issues. EST officers analyze and report on developments in the environmental, scientific and technological areas and their potential impact on U.S. policies and programs.

Consular Affairs. Consular officers provide emergency aid and non-emergency administrative services to U.S. citizens in the host country. These include emergency loans to U.S. citizens who become destitute while traveling abroad, search for missing Americans at the request of their friends or family, visit arrested Americans in prison, maintain lists of local attorneys, act as liaison with police and other officials on matters that affect the welfare of American citizens, re-issue lost or stolen passports, assist in resolving international parental kidnapping cases, help next of kin when American relatives die abroad, as well as dispensing information on absentee voting, Selective Service registration, and acquisition and loss of U.S. citizenship; providing U.S. tax forms; notarizing documents; issuing passports; and processing estate and property claims. U.S. consular officers also issue nonimmigrant visas to foreign nationals who wish to visit, work or study in the United States and immigrant visas to those who wish to reside there permanently.

Security Affairs. Regional security officers are responsible for providing physical, procedural, and personnel security services to U.S. diplomatic facilities and personnel; they also provide local in-country security briefings and threat assessments to visiting USG personnel. Internal security at missions is provided by a Marine Corps Security Detachment. External security is provided by host government police, where they exist.

– Often work more freely and easily with different participants than military personnel.[198]

[198] Adapted from JOINT CHIEFS OF STAFF, JOINT PUB. 3-57, JOINT DOCTRINE FOR CIVIL-MILITARY OPERATIONS, at IV-3 to IV-4 (8 Feb. 2001) [hereinafter JOINT PUB. 3-57].

2. AGENCY FOR INTERNATIONAL DEVELOPMENT[199]

a. Function

The U.S. Agency for International Development is an independent agency that operates under overall foreign policy guidance from the Secretary of State.[200] USAID formulates and executes U.S. foreign economic and development assistance policies and programs, and is the lead USG agency for foreign disaster assistance.[201] USAID coordinates and executes foreign assistance on two levels: short-term humanitarian assistance and long-term development assistance. Humanitarian assistance is comprised of the following activities: foreign disaster assistance, emergency food programs, and other temporary aid programs. Humanitarian assistance is provided in three stages: relief (immediate, life sustaining assistance provided to disaster victims), rehabilitation (intermediate term activities to assist disaster-stricken populations to return to a state of viability, i.e., self-sufficiency), and reconstruction (longer-term activities designed to augment critical infrastructure and promote development goals, i.e., actions bringing the stricken population beyond immediate self-sufficiency).[202] Development assistance supports long-term and equitable economic growth and advances U.S. foreign policy objectives by supporting: economic growth, agriculture and trade; global health; and democracy and conflict prevention.

USAID provides assistance in four regions of the world: Sub-Saharan Africa; Asia and the Near East; Latin America and the Caribbean; and Europe and Eurasia. The Agency works in close partnership with private voluntary organizations, indigenous

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[199] Adapted from the USAID website *at* http://www.usaid.gov.

[200] 22 U.S.C. § 6592 (2000). The Secretary of State is responsible for coordinating all United States assistance (except export promotion and international economic activities). *Id.* §§ 6591, 6593. The Secretary delegated to the USAID Administrator authority for USAID programs in State Department Delegation of Authority No. 145, as amended March 31, 1999. USAID AUTOMATED DIRECTIVES SYSTEM 101.3.1 [hereinafter USAID ADS].

[201] USAID ADS 101.2.a, *supra* note 200. *See also id.* 101.3.1.14.c.

[202] *Id.* Glossary.

organizations, universities, American businesses, international agencies, other governments, and other USG agencies.

Of particular importance to complex contingency operations is USAID's mission of responding to natural and manmade disasters. The agency is the principal entity charged with coordinating the USG response to declared disasters and emergencies worldwide. USAID provides humanitarian assistance that saves lives, reduces suffering, helps victims return to self-sufficiency, and reinforces democracy. Programs focus on disaster prevention, preparedness, and mitigation; timely delivery of disaster relief and short-term rehabilitation supplies and services; preservation of basic institutions of civil governance during crisis and support for democratic institutions during periods of transition; and building and reinforcing local capacity to anticipate and deal with disasters and their aftermath.[203]

The methods employed by USAID to provide immediate assistance in complex contingency operations include:

– Providing cash to the U.S. embassy in the affected country to spend for supplies or services to assist disaster victims;

– Making cash grants to local government relief organizations or international voluntary agencies handling emergency relief, including supporting activities related to shelter, water, and sanitation, health, food, logistics, and technical assistance;

– Providing standard relief commodities from pre-existing stockpiles;

– Arranging and paying for the transport of relief supplies; and

– Providing teams to assess needs and assist in coordinating relief efforts.[204]

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[203] *Id.* 101.3.5.6.

[204] *Id.* 101.2.1.15.

b. Structure

USAID consists of a headquarters element located at the Ronald Reagan Building in the Federal Triangle area of Washington, D.C., and overseas regional and country offices housed in embassies around the world.

(1) Headquarters

USAID is headed by an **Administrator**, who reports both to the Secretary of State and the President. USAID's structure is similar to DOS. In Washington, USAID's major organizational units are its geographic, i.e., regional, and functional **Bureaus**, headed by **Assistant Administrators**.[205] (See Figure III-2)

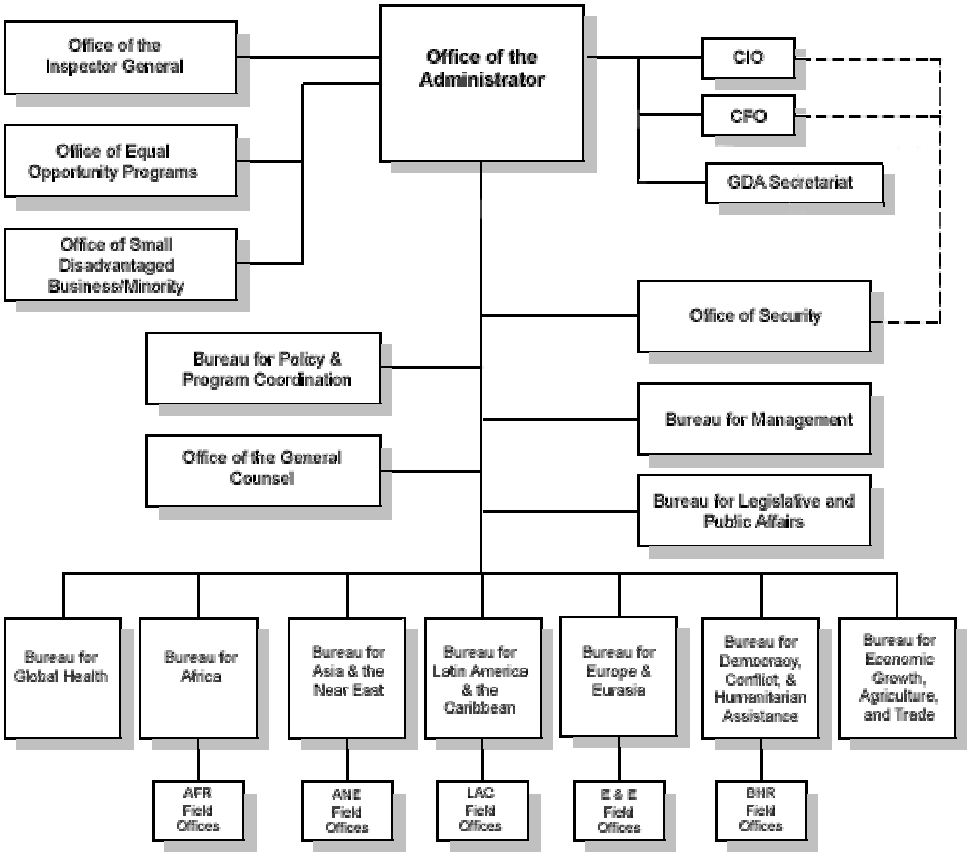

Figure III-2

[205] The Administrator and the Assistant Administrators are appointed by the President with the advice and consent of the Senate.

The Bureaus are further divided into **Offices**, which are subdivided into **Divisions** or **Teams**. USAID's geographic bureaus are responsible for the overall activities in the countries where USAID has programs while its functional bureaus conduct agency programs that are world-wide in nature or that cross geographic boundaries.

The agency's four geographic bureaus are:

– Sub-Saharan Africa (AFR);

– Asia and the Near East (ANE):

– Latin America & the Caribbean (LAC); and

– Europe and Eurasia (E&E)

These bureaus are the principal USAID line offices, with responsibility for the planning, formulation, and management of U.S. economic development and assistance programs in their geographic areas.[206] They also work with the Office of U.S. Foreign Disaster Assistance in evaluating disasters and planning a response.[207]

The principal functional bureau with offices responsible for complex contingency operations is the Bureau for Democracy, Conflict, and Humanitarian Assistance (DCHA). DCHA provides technical leadership and expertise in coordinating USAID's democracy programs, international disaster assistance, emergency and developmental food aid, and aid to prevent conflict. The Bureau also provides technical leadership, support, and advice in developing policy and programs to assist countries transitioning from crisis, capacity building for U.S. private voluntary organizations, and aid to American schools and hospitals abroad.

The following five DCHA offices and their divisions are directly involved in complex contingency operations:

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[206] *Id.* 101.3.1.15.

[207] *See* 2 FAM 066.2.b, *supra* note 146 (Agency for International Development).

Office of U.S. Foreign Disaster Assistance (DCHA/OFDA). USAID administers the President's authority to provide emergency relief and rehabilitation through DCHA/OFDA.[208] The Office's involvement in relief operations is triggered by the disaster declaration issued by the U.S. Ambassador to the affected country; it will normally respond only if the situation is beyond that country's ability to respond and if the country desires U.S. assistance.[209] DCHA/OFDA coordinates and ensures that the needs of disaster victims are met by providing all forms of relief and rehabilitation. The Office formulates U.S. foreign disaster assistance policy in coordination with other national and international foreign affairs agencies, DOD,[210] UN agencies, other IGOs, NGOs, private voluntary organizations, and the private sector. DCHA/OFDA funds and procures relief supplies and administrative support for short- and long-term disaster situations and provides humanitarian relief, rehabilitation, and reconstruction assistance to foreign disaster victims.

There are three Divisions within DCHA/OFDA:

Disaster Response and Mitigation Division (OFDA/DRM). OFDA/DRM coordinates with USAID offices and other organizations for the provision of relief supplies and other humanitarian assistance. The Division plans for the level of response needed for an emergency, and implements and manages USG disaster relief and rehabilitation programs worldwide. The Division also devises, coordinates and implements program strategies for the application of science and technology in the prevention and mitigation of a variety of natural and man-made disaster situations, and the promotion of national and international preparedness. OFDA/DRM evaluates

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[208] *Id.* 066.2.a (Agency for International Development).

[209] JOINT PUB. 3-07.6, *supra* note 34, at II-3.

[210] OFDA has authority to coordinate directly with the Department of Defense for provision of defense equipment for the affected country or procurement of DOD transportation. DOD Directive 5100.46 establishes relationships between the Department of Defense and OFDA and appoints the Deputy Assistant Secretary of Defense (Peacekeeping and Humanitarian Assistance) as the primary DOD point of contact. U.S. DEP'T OF DEFENSE, DIR. 5100.46, FOREIGN DISASTER RELIEF para. 4.3 (4 Dec. 1975) [hereinafter DOD DIR. 5100.46].

the impact of previous disaster response initiatives/programs and ensures the integration of this information into future planning and response activities. The Division coordinates with other USAID geographic bureaus, other donor organizations, UN agencies, other IGOs, and NGOs.[211]

Operations Division (OFDA/OPS). OFDA/OPS develops and manages logistical, operational, and technical support for disaster responses. The Division identifies sources for procurement of those commodities and manages the stockpiling and transportation of those commodities to disaster locations worldwide. OFDA/OPS maintains readiness to respond to emergencies through several mechanisms, including operating Cooperative Agreements for Urban Search and Rescue (USAR) Teams and the interface with the International Search and Rescue Advisory Group (INSARAG - UNOCHA), developing and maintaining the office's capability to field Disaster Assistance Response Teams (DART) and Washington-based Response Management Teams (RMT), and supporting field operations and maintaining OFDA's surge capability. The Division develops and maintains OFDA's liaison relationships the USG interagency community, including DOD, the Department of Homeland Security's Preparedness and Response Division (Federal Emergency Management Agency), DOS Consequent Management, the Agency for Toxic Disease and Registry, and the Department of Energy.[212]

Program Support Division (OFDA/PS). OFDA/PS provides programmatic and administrative support, including budget/financial services, procurement planning, contract/grant administration, general administrative support, and communication support. The Division provides centralized control of funds, resources, and procurement to facilitate time-sensitive delivery of relief assistance.[213]

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[211] USAID ADS 101.3.1.14.c(1), *supra* note 200.

[212] *Id.* 101.3.1.14.c(2).

[213] *Id.* 101.3.1.14.c(3).

Office of Food for Peace (DCHA/FFP).[214] DCHA/FFP provides leadership, coordination, and operational support for food activities. The Office develops USG policy, formal positions and funding levels for biennial pledges to the World Food Program (WFP). DCHA/FFP also directs operations related to U.S. food aid and contributions to WFP. There are two Divisions within DCHA/FFP that perform functions directly related to complex contingency operations:

> **Emergency Programs Division (FFP/EP).** FFP/EP provides emergency assistance through the donation of U.S. agricultural commodities under Titles II and III of P.L. 480 and coordinates with USDA regarding allocation of resources under § 416(b) of the Agricultural Act of 1949, as amended.[215] The Division administers food aid assistance for emergencies that involve the essentials of the process for regular Title II projects, but are accelerated to meet emergency needs.[216]
>
> **Program Operations Division (FFP/POD).** FFP/POD provides technical services and serves as liaison regarding food aid program commodities, including issues related to packaging, processing, transportation, fortification, and eligibility of commodities for U.S. financing.[217]

Office of Private and Voluntary Cooperation (DCHA/PVC).[218] DCHA/PVC formulates policy on matters concerning the Agency's relationships with private voluntary organizations (PVOs)[219] and Cooperative Development Organizations (CDOs), the geographic Bureaus with respect to policy implementation, and Agency organizational units regarding general voluntary assistance. The

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[214] *Id.* 101.3.1.14.d.

[215] See *infra* notes 366, 367, 447, 458 and accompanying text for a discussion of these programs. *See also* 2 FAM 066.2.c, *supra* note 146 (Agency for International Development).

[216] USAID ADS 101.3.1.14.d(2), *supra* note 200. A third division, the Developmental Programs Division (FFP/DP), performs the same functions, but is oriented towards long-term development. *Id.*

[217] *Id.* 101.3.1.14.d(2).

[218] *Id.* 101.3.1.14.e.

[219] See section A.1 of this chapter for a discussion of PVOs.

Office promotes and leads the Agency's relationship with PVOs and CDOs and provides leadership, direction, management, and coordination of PVO and CDO activities such as child survival, education programs under the Biden-Pell Amendment, the Farmer-to-Farmer Program, and the Advisory Committee on Voluntary Foreign Aid. The two Divisions in this Office are:

> **Information and Program Support Division (PVC/IPS).** PVC/IPS serves as the information center on PVO activities, providing analytical information to improve the design and impact of the Agency's PVO program. The Division promotes and facilitates the exchange of information to improve efficiency of programming approaches that provide for adequate accountability.[220]
>
> **Matching Grant Division (PVC/MGD).** PVC/MGD performs project management responsibilities for the centrally-funded PVO programs, beginning with project conception through evaluation and redesign phases, and working in concert with DCHA/PPE on the development of project documentation. The Division monitors grantee activities to ensure achievement of grant purposes and conformity to the terms and conditions of grant agreements.[221]

Office of Transition Initiatives (DCHA/OTI). DCHA/OTI evaluates prospects for crisis and transition, with special emphasis on change in countries undergoing political, natural, or man-made upheaval. The Office provides for the rapid start-up of programs to assist in demobilization and reintegration of dislocated populations; political institution building; advice as to the services available from both U.S. and international organizations; and development of plans and support for reconstruction activities.[222]

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[220] USAID ADS 101.3.1.14.e(1), *supra* note 200.

[221] *Id.* 101.3.1.14.e(2).

[222] *Id.* 101.3.1.14.g. DCHA/OTI may act directly or through a grant or cooperative agreement with an IGO or NGO. DCHA/OTI may deploy transition teams to a crisis area to assist in the implementation and funding of start-up programs with USG entities, IGOs, or NGOs in order to address (among other elements) critical governance needs, political institution building, establishment of rule of law, development of legal institutions, and support for processes of political and social reconciliation as well as civil society. The structure and size of a transition

DCHA/OTI manages USAID's assistance to nations in the wake of political, social, and economic trauma resulting from manmade or natural disasters. Assistance to such nations supports indigenous efforts to make the transition from crisis to fundamental socio-political stability that may serve as the foundation for longer-term, sustainable development efforts. The Office acts as a bridge in the post-crisis development phase by providing resources to encourage stability through decentralized initiatives in the field of local governance, demobilization and reintegration of armed forces, conflict resolution, and administration of justice.

Office of Democracy and Governance (DCHA/DG).[223] DCHA/DG maintains technical teams for providing assistance in four functional areas of emphasis—elections and political process, rule of law, governance, and civil society.

> **Elections and Political Process Team.** This team responds to elections, political party development, voter education, civil education, political environment, and electoral commission support.
>
> **Rule of Law Team.** This team provides administration of justice programs, support for legislatures and constitutional bodies, protection of human rights, and legal aid clinics.
>
> **Governance Team.** This team responds to accountability of governments, decentralization, public administration and management, and public sector-private sector relations.
>
> **Civil Society Team**. This team provides civic participation, training, capacity building, and networking of NGOs, media, and public sector-private sector relations.

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team is dependent on the size, complexity, and location of the transition situation. Once deployed, a transition team will coordinate closely with the U.S. Embassy, the USAID Mission, the government of the affected country, and any NGOs, IGOs, and CA components of U.S. military forces which may be present. JOINT PUB. 3-07.6, *supra* note 34, at II-6.

[223] USAID ADS 101.3.1.14.h, *supra* note 200.

As with DOS, USAID's legal advice is provided by an independent office—the **Office of the General Counsel (GC)**.[224] USAID/GC is sub-divided into ten offices headed by Assistant General Counsels. The principal legal offices responsible for complex contingency operations are:

Assistant General Counsel for:	Bureau
Food and Humanitarian Response (GC/BHR)	DCHA
Africa (GC/AFR)	AFR
Asia and the Near East (GC/ANE)	ANE
Latin America & the Caribbean (GC/LAC)	LAC
Europe and Eurasia (GC/E&E)	E&E

(2) Overseas

Depending on the type of assistance required, overseas USAID maintains bilateral country missions, regional offices, and missions to international organizations.[225] These Offices may be only partially staffed by USAID personnel and may be headed by employees of other USG agencies.

USAID bilateral country missions are established when the U.S. assistance program is continuing, ranging from minor programs

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[224] *See id.* 101.3.1.9.

[225] USAID representation offices are also maintained by the Bureau for Policy and Program Coordination (PPC) in four international organizations:

– Office of AID Coordination/Geneva;

– Development Assistance Committee/Paris;

– Office of Development Cooperation/Tokyo; and

– European Commission Coordination/Belgium.

Id. 101.3.2.4.

with a single focus to major programs with multiple types of assistance within several sectors. Missions are categorized as small, medium, full, and full support depending on the scope and complexity of their programs, and their program and staff levels. Essential services such as program development, problem analysis, project design, program/budget documentation, implementation monitoring, financial management, and administrative/logistical support are provided internally at full support missions and most medium missions. Small missions receive support, as needed, from full support missions or Regional Service Centers.[226]

USAID centers for multi-country programs administer USAID activities and provide support involving multiple countries. Examples include:

– Regional Economic Development Services Offices (REDSOs);

– Regional Urban Development Offices (RUDOs); and

– Regional Service Centers (RSCs).[227]

USAID programs are administered in three types of countries:

– Countries where USAID provides an integrated package of assistance—sustainable development countries. Assistance is based on an integrated strategy that includes clearly defined program objectives and performance targets.

– Countries where USAID presence is limited, but where aid to non-governmental sectors is necessary to facilitate the emergence of a civic society, help alleviate repression, meet basic humanitarian needs, enhance food security, or influence a problem with regional or global implications.

– Countries that have recently experienced a national crisis, a significant political transition, or a natural disaster and/or where

[226] *Id.* 101.3.2.1.

[227] *Id.* 101.3.2.2.

timely assistance is needed to reinforce institutions and national order.[228]

[228] *Id.* 101.3.4. *See also id.* 201.3.3.2, 201.3.3.3, 201.3.4.3.

3. DEPARTMENT OF AGRICULTURE[229]

a. Function

The Department of Agriculture is the lead U.S. Government agency for policy matters relating to agriculture, forests, and food supply. Of particular relevance to complex contingency operations are the Department's programs pertaining to international humanitarian food aid and to long-term agricultural development, and its component U.S. Forest Service's disaster assistance efforts management program. Through these programs, USDA supports the efforts of USAID and other USG civilian agencies and military services involved in complex contingency operations.[230]

The methods employed by USDA to assist in complex contingency operations include:

– Procuring, storing, and transporting excess commodities for distribution;

– Providing technical and scientific agricultural expertise;

– Providing disaster assistance training; and

– Providing logistical personnel.

b. Structure

USDA consists of a headquarters element located in Washington, DC, state and local field offices, and agricultural counselors and attaches located in U.S. embassies around the world.

(1) Headquarters

USDA is headed by the Secretary of Agriculture, who oversees numerous agricultural-related **Offices**, **Administrations**, **Agencies**,

[229] Adapted from the USDA website *at* http://www.usda.gov.

[230] USDA shares administration of U.S. food aid programs with USAID.

Corporations, and **Services**, which are divided into **Divisions** and then **Branches** or **Programs**. Within the Department, the international food aid and development programs are administered by the **Foreign Agricultural Service,** headed by an **Administrator**. The Foreign Agricultural Service is supported by the **Farm Service Agency**, which handles the actual procurement, storage, and transportation of commodities on behalf of the Foreign Agricultural Service. (Distribution of such aid is conducted through NGOs, IGOs, and USAID.) Disaster assistance support and management is handled by the U.S. Forest Service's Office of International Programs. (See Figure III-3)

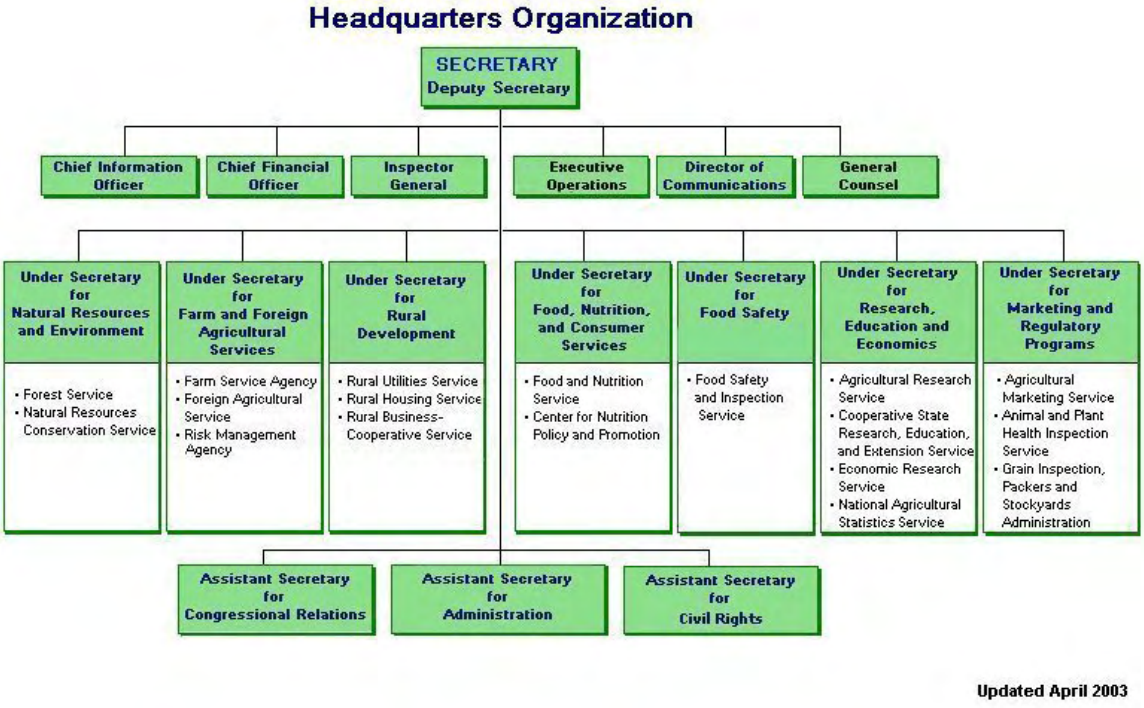

Figure III-3

Foreign Agricultural Service (FAS).[231] FAS bears the primary responsibility for all of USDA's overseas activities—market development, international trade agreements and negotiations, and the collection and analysis of statistics and market information. As part of these responsibilities, FAS administers USDA's food aid programs, and helps increase income and food availability in developing nations by mobilizing expertise for agriculturally led economic growth. The

[231] Adapted from About FAS, *at* http://www.fas.usda.gov/aboutfas.html.

Deputy Administrator for Export Credits administers the international food aid programs of USDA. Three divisions are under this deputy administrator: Program Planning, Development and Evaluation; Operations; and Program Administration.[232]

Farm Service Agency (FSA). FSA's **Procurement and Donations Division (FSA/PDD)**[233] formulates national policies and procedures to administer the operations of the Commodity Credit Corporation (CCC)[234] related to, *inter alia*, the procurement of commodities specifically for donation to domestic and foreign food assistance programs. The Export Operations Branch of PDD formulates national policies and procedures and coordinates program operations to carry out the purchase and export of both bulk and processed commodities for use under foreign food aid programs. The Contract Management Branch of PDD develops commodity and packaging specifications, inspection criteria, and other terms and conditions of contracts entered into by CCC for the purchase of commodities for domestic and foreign food assistance programs.

U.S. Forest Service (USFS). The U.S. Forest Service's **Office of International Programs (USFS/IP),** through the Disaster Assistance Support Program (DASP),[235] provides essential emergency management technical support and expertise in the areas of disaster prevention, preparedness, and response to USAID/OFDA, which funds the program. The Forest Service, because of its extensive emergency responsive capability and experience in wildland and other

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[232] Adapted from U.S. Dep't of Agriculture, Foreign Agricultural Service, Organizational Chart, *at* http://www fas.usda.gov/admin/faschart.html

[233] Procurement and Donations Division, *at* http://www fsa.usda.gov/daco/pdd htm This Division is under the Deputy Administrator for Commodity Operations.

[234] The Commodity Credit Corporation is a USG-owned and operated corporation within USDA established to stabilize, support, and protect farm income and prices. CCC has a $30 billion borrowing authority with the Treasury to finance its programs. The Corporation has no operating personnel. Its price support, commodity programs, and its domestic acquisition and disposal activities for price-supported commodities are carried out through the personnel and facilities of the FSA. CCC is authorized to promote the export of U.S. agricultural commodities and products through sales, payments, direct credits, other export sales and promotion programs, and foreign assistance disposal. November 1999 Fact Sheet - Commodity Credit Corporation, *at* http://www fsa.usda.gov/pas/publications/facts/html/ccc99 htm.

[235] Disaster Assistance Support Program, *at* http://www fs.fed.us/global/aboutus/dasp/welcome htm

large-scale emergency management, has unique capabilities and resources that are applicable to any type of disaster, e.g., logistics, aviation management, telecommunications, disaster preparedness and planning, coordination, mobilization, and training.

DASP provides the following services:

– Mobilization of disaster management experts and specialized equipment from the Forest Service (and other USDA and Department of Interior agencies), primarily in the area of disaster telecommunications, logistics, operations, mobilization, planning, and coordination for Disaster Assistance Response Teams (DART), Washington Response Management Teams (RMT), and assessments;

– Development and presentation of training programs in the DART/RMT concept, disaster assessment and other technical disaster management-related areas for disaster responders, including USAID/OFDA and other USAID offices, DOS, DOD, non-governmental organizations, and the UN and other IGOs.

– Provision of USFS, Bureau of Land Management (BLM), and other technical experts to support OFDA Washington operations and field disaster assignments, particularly in the area of logistics, telecommunications, coordination, and planning.

(2) Overseas

FAS maintains agricultural counselors, attachés, and trade officers stationed overseas in U.S. embassies and missions.

4. DEPARTMENT OF JUSTICE [236]

The Department of Justice is the lead U.S. Government law enforcement agency. The Attorney General of the United States heads the Department. DOJ consists of 39 separate components. These include the headquarters **Divisions**, headed by **Assistant Attorney Generals**,[237] the U.S. Attorneys who prosecute offenders and represent the U.S. Government in court, and the major investigative agencies—the Federal Bureau of Investigation and the Drug Enforcement Administration—which are charged with preventing and deterring crime and arresting criminal suspects. Although headquartered in Washington, D.C., the Department conducts much of its work in offices located throughout the country and overseas.[238] Of particular importance to complex contingency operations are the programs of the Criminal Division that assist in the development of foreign police forces, prosecutors, and other judicial personnel.

The mission of DOJ's Criminal Division is to serve the public interest through the development and enforcement of criminal statutes in a vigorous, fair, and effective manner; and to exercise general supervision over the enforcement of all federal criminal laws, with the exception of those statutes specifically assigned to other Divisions. The major functions of the Division are to, *inter alia*:

– Formulate criminal law enforcement policies and guide their implementation throughout the federal justice system;

– Conduct criminal investigations, including grand jury proceedings, and litigation in major cases arising from offenses against the statutes supervised by the Division;

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[236] Adapted from the DOJ website *at* http://www.usdoj.gov.

[237] DOJ Divisions are equivalent to DOS Bureaus. DOJ Assistant Attorney Generals are either political appointees or career SES employees, and are equivalent to Assistant Secretaries in DOS and DOD.

[238] U.S. DEP'T OF JUSTICE, ORGANIZATION, MISSION AND FUNCTIONS MANUAL, OVERVIEW (Aug. 2002), *at* http://www.usdoj.gov/jmd/mps/manual/overview htm.

– Negotiate with foreign governments for assistance in criminal law enforcement matters, coordinate the acquisition of such assistance in specific instances, and arrange for reciprocal assistance from the United States as appropriate; and

– Support U.S. policy by providing assistance to foreign criminal justice systems based on internationally recognized principles of human rights and the rule of law.[239]

The two most important entities within the Criminal Division that support complex contingency operations are the International Criminal Investigative Training Program and the Overseas Prosecutorial Development, Assistance, and Training Office. (See Figure III-4)

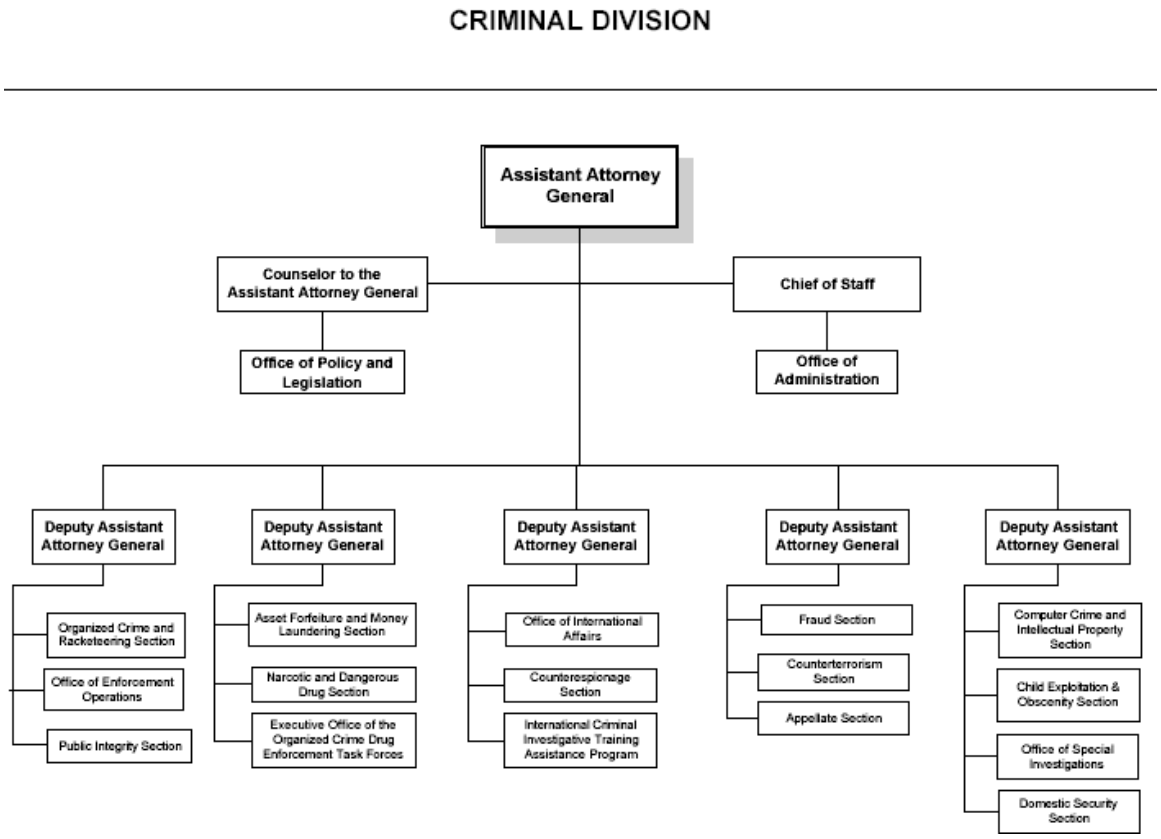

Figure III-4

[239] U.S. DEP'T OF JUSTICE, ORGANIZATION, MISSION AND FUNCTIONS MANUAL, CRIMINAL DIVISION, *at* http://www.usdoj.gov/jmd/mps/manual/crm htm.

International Criminal Investigative Training Program (ICITAP). ICITAP's mission is to serve as the source of support for U.S. criminal justice and foreign policy goals by assisting foreign governments in developing the capacity to provide professional law enforcement services based on democratic principles and respect for human rights. It accomplishes this mission by providing development assistance to foreign police agencies in the form of technical advice, training, mentoring, equipment donations, and internships with preeminent criminal justice organizations. The Program was created by DOJ in 1986 to respond to a request from DOS for assistance in training police forces in Latin America. Since then, ICITAP's activities have expanded to encompass two principle types of assistance projects: (1) the development of police forces in the context of international peacekeeping operations; and (2) the enhancement of capabilities of existing police forces in emerging democracies. Assistance is based on internationally recognized principles of human rights, rule of law, and modern police practices.[240]

Overseas Prosecutorial Development, Assistance, and Training Office (OPDAT). The OPDAT Office seeks to further the goals of the Criminal Division relating to its initiatives in international training and criminal justice development. In this regard, the Office has been tasked with coordinating the training of judges and prosecutors abroad in concert with various USG agencies and U.S. embassies. The Office is involved in such training programs in South and Central America, the Caribbean, Russia, other Newly Independent States, and Central and Eastern Europe. The Office also serves as the Department's liaison between various private and public agencies that sponsor visits to the United States for foreign officials who are interested in the U.S. legal system. The Office makes or arranges for presentations explaining the U.S. criminal justice process to hundreds of international visitors each year.[241]

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[240] Adapted from the ICITAP website *at* http://www.doj.gov/criminal/icitap/index html.

[241] Adapted from the OPDAT website *at* http://www.usdoj.gov/criminal/opdat html.

5. DEPARTMENT OF HEALTH AND HUMAN SERVICES[242]

The Department of Health and Human Services is the principal U.S. Government agency for protecting the health of all Americans and providing essential human services. The Department includes more than 300 programs covering a wide spectrum of activities, including, *inter alia*, medical and social science research and preventing outbreak of infectious disease, including immunization services. The Department's programs are administered by eleven **Operating divisions**, including eight **Agencies** in the U.S. Public Health Service and three human services **Agencies**. (See Figure III-5)

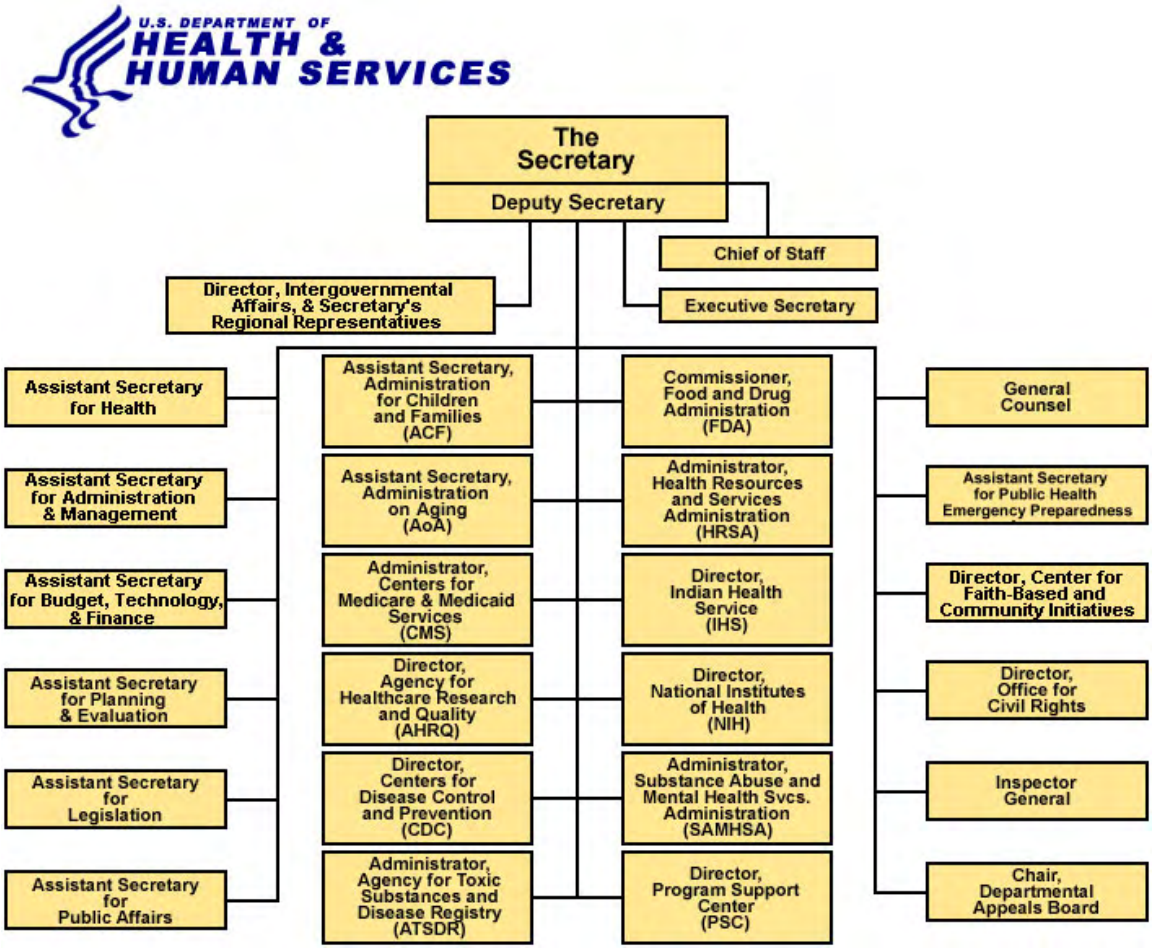

Figure III-5

[242] Adapted from the HHS website *at* http://www hhs.gov.

Leadership is provided by the Office of the Secretary. The Department's Headquarters is in the Hubert H. Humphrey Building in Washington, D.C. Of particular importance to complex contingency operations are components of the Public Health Service and the Office of International Affairs within the Office of the Secretary.

Public Health Service (PHS). PHS consists of the Office of Public Health and Science (headed by the Assistant Secretary for Health and including the Surgeon General), ten Regional Health Administrators, and eight operating divisions, and includes the PHS Commissioned Corps, a uniformed service of 6,000 health professionals.[243] There are two important operating divisions that contribute personnel to complex contingency operations.

> **National Institutes of Health (NIH).** The agencies of NIH conduct and support research in: the causes, diagnosis, prevention, and cure of human diseases; the processes of human growth and development; the biological effects of environmental contaminants; and the understanding of mental, addictive, and physical disorders. They also direct programs for the collection, dissemination, and exchange of information in medicine and health, including the development and support of medical libraries and the training of medical librarians and other health information specialists.[244]
>
> **Centers for Disease Control and Prevention (CDC).** CDC is recognized as the lead USG agency for protecting the health and safety of people at home and abroad, providing credible information to enhance health decisions, and promoting health through strong partnerships. CDC serves as the national focus for developing and applying disease prevention and control, environmental health, and health promotion and education activities designed to improve the health of the people of the

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[243] PHS Corps History, *supra* note 144, and Assistant Secretary for Health website *at* http//www hhs.gov/ash. See section A.2 of this chapter for more details on the PHS Commissioned Corps.

[244] National Institutes of Health, NIH Almanac, *at* http://www nih.gov/about/almanac/index html

United States.[245] CDC's Office of Global Health (OGH) is responsible for, *inter alia*:

- Developing policy, plans, and programs related to CDC's global health interests;

- Enhancing global health partnerships by serving as the entry point for external organizations with an interest in CDC's global health activities; and

- Assessing evolving global health issues, and, in cooperation with Ministries of Health and other appropriate institutions, identifies and develops activities to which CDC's technical expertise would be of maximum benefit.[246]

Within the Office of the Secretary, the Office of Global Health Affairs (OGHA) is responsible for:

- Representing the Department to other governments, other USG agencies, international organizations, and the private sector on international and refugee health issues;

- Developing U.S. policy and strategy positions related to health issues and facilitating involvement of PHS in support of these positions and in collaboration with other agencies and organizations;

- Providing leadership and coordination for bilateral programs with selected countries, such as the U.S-Russian and U.S.-South Africa Health Committee, in support of Presidential and Vice Presidential initiatives;

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[245] Centers for Disease Control, About CDC, *at* http://www.cdc.gov/aboutcdc.htm.

[246] Centers for Disease Control, Office of Global Health, About Our Office, *at* http://www.cdc.gov/ogh/aboutus.htm

– Facilitating cooperation by PHS Operating Divisions with USAID;[247] and

– Providing policy guidance and coordination on refugee health policy issues, in collaboration with PHS Operating Divisions, the Office of Refugee Resettlement, DOS, and others.[248]

[247] *See* section B.2 of this chapter.

[248] Adapted from the OGHA website *at* http://www hhs.gov/ogha.

C. INTERNATIONAL ORGANIZATIONS

1. INTERGOVERNMENTAL ORGANIZATIONS

a. United Nations[249]

(1) Principal organs

The United Nations was established on 24 October 1945 by 51 countries committed to preserving peace through international cooperation and collective security. Today, nearly every nation in the world belongs to the UN: membership totals 191 countries. When states become members of the United Nations, they agree to accept the obligations of the UN Charter, an international treaty that sets out basic principles of international relations. According to the Charter, the UN has four purposes: to maintain international peace and security; to develop friendly relations among nations; to cooperate in solving international problems and in promoting respect for human rights; and to be a center for harmonizing the actions of nations.[250]

The United Nations has six main organs. Five of them—the General Assembly (UNGA), the Security Council (UNSC), the Economic and Social Council, the Trusteeship Council, and the UN Secretariat—are based at UN headquarters in New York. The sixth, the International Court of Justice, is located at The Hague in the Netherlands. Of these, the most important for complex contingency operations are the UNGA, the UNSC, and the Secretariat.[251] (See Figure III-6)

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[249] Adapted from The UN in Brief, *at* http://www.un.org/Overview/brief.html.

[250] U.N. CHARTER art. 1.

[251] The Economic and Social Council, under the overall authority of the General Assembly, coordinates the economic and social work of the United Nations and the UN family of organizations. As the central forum for discussing international economic and social issues and for formulating policy recommendations, the Council plays a key role in fostering international cooperation for development. The Council has 54 members, elected by the General Assembly for three-year terms.

The Trusteeship Council was established to provide international supervision for 11 Trust Territories administered by seven Member States and ensure that adequate steps were taken to prepare the Territories for self-government or independence. By 1994, all Trust Territories had attained self-government or independence, either as separate States or by joining neighboring

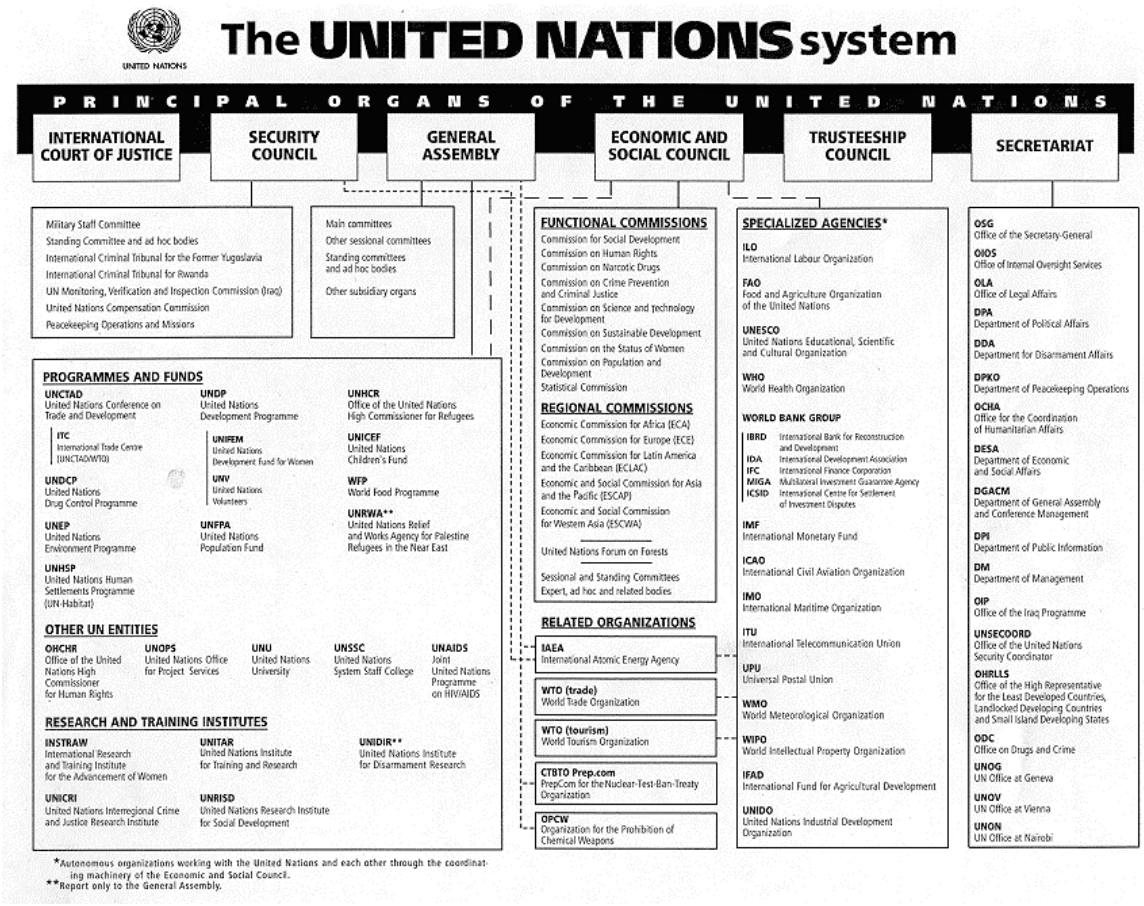

Figure III-6

All UN Member States are represented in the UNGA—a "parliament of nations" which meets to consider the world's most pressing problems. Each Member State has one vote. Decisions on key issues, such as those involving international peace and security, the admission of new members, and the UN budget, are decided by two-thirds majority. Other matters are decided by simple majority. In recent years, a special effort has been made to reach decisions through

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independent countries. Its work completed, the Trusteeship Council now consists of the five permanent members of the Security Council.

The International Court of Justice, also known as the World Court, is the main judicial organ of the UN. Consisting of 15 judges elected jointly by the General Assembly and the Security Council, the Court decides disputes between countries. Participation by States in a proceeding is voluntary, but if a State agrees to participate, it is obligated to comply with the Court's decision. The Court also provides advisory opinions to the General Assembly and the Security Council upon request.

consensus, rather than by taking a formal vote. The UNGA cannot force action by any State, but its recommendations are an important indication of world opinion and is thought by many to represent the moral authority of the community of nations. When the UNGA is not meeting, its work is carried out by its six main committees, other subsidiary bodies, and the UN Secretariat.

The UN Charter gives the Security Council primary responsibility for maintaining international peace and security. The UNSC may convene at any time, whenever peace is threatened. Under the Charter, all Member States are obligated to carry out the Security Council's decisions. There are fifteen UNSC members. Five of these—China, France, Russia, the United Kingdom, and the United States—are permanent members. The other ten are elected by the General Assembly for two-year terms. Decisions of the Security Council require nine yes votes. Except in votes on procedural questions, a decision cannot be taken if there is a no vote, i.e., a veto, by a permanent member. When the UNSC considers a threat to international peace, it first explores ways to settle the dispute peacefully. It may suggest principles for a settlement or undertake mediation. In the event of on-going hostilities, the Council tries to secure a ceasefire. It may send a peacekeeping mission to help the parties maintain the truce and to separate opposing forces. The UNSC can take measures to enforce its decisions. These include economic sanctions and arms embargoes. On rare occasions, the Security Council has authorized Member States to use "all necessary means," including collective military action, to carry out its decisions.

The UN Secretariat carries out the substantive and administrative work of the United Nations as directed by the UNGA, the UNSC, and the other organs. At its head is the Secretary-General, who provides overall administrative guidance. The Secretariat consists of departments and offices with a total staff of some 7,500 under the regular budget, and a nearly equal number under special funding.

In addition, a number of UN offices, programs and funds—such as the Office of the UN High Commissioner for Refugees, the UN Development Program, and the UN Children's Fund—work to improve the economic and social condition of people around the

world. They report to the General Assembly or the Economic and Social Council. All these organizations have their own governing bodies, budgets, and secretariats. Together with the United Nations, they are known as the UN family, or the UN system.[252]

(2) United Nations High Commission for Refugees[253]

The United Nations High Commission for Refugees (UNHCR) was established by the UNGA in 1950, one of several attempts by the international community in the 20th century to provide protection and assistance to refugees. The new agency was given a limited three-year mandate to help resettle 1.2 million European refugees from the then recent global conflict. As refugee crises mushroomed around the globe, UNHCR's mandate was extended every five years. Today, it is one of the world's principal humanitarian agencies. UNHCR's staff of over 5,000 currently helps around 19.8 million people in more than 120 countries. During its half century of work, UNHCR has provided assistance to at least 50 million people.

UNHCR's programs and policy guidelines are approved by an Executive Committee of sixty-one member states, with a smaller "working group," or Standing Committee, meeting several times a year. UNHCR is lead by the High Commissioner for Refugees, who reports on the results of the organization's work annually to the UNGA through the Economic and Social Council.

As a humanitarian, non-political organization, UNHCR has two basic and closely related aims—to protect refugees and to seek ways to help them restart their lives in a normal environment. International protection is the cornerstone of UNHCR's work. The agency promotes international refugee agreements and monitors government compliance with international refugee law. UNHCR also seeks long-term solutions to the refugee problem by helping refugees repatriate to

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[252] The UN system also includes independent organizations such as the International Monetary Fund and the World Bank (known as "specialized agencies") that are linked to the UN through cooperative agreements. These agencies are autonomous bodies created by intergovernmental agreement. They have wide-ranging international responsibilities in the economic, social, cultural, educational, health, and related fields.

[253] Adapted from Basic Information About UNHCR, *at* http://www.unhcr.ch/cgi-bin/texis/vtx/basics.

their homelands, or, if conditions warrant, by helping them integrate in their countries of asylum or resettling them in third countries.

UNHCR also provides emergency relief, e.g., shelter, food, water, and medical care, for refugee populations. It coordinates the provision and delivery of emergency relief items, runs refugee camps, and has designated special projects for vulnerable women, children, and the elderly, who compose around 80 percent of a normal refugee population.

(3) Department of Peacekeeping Operations[254]

The Department of Peacekeeping Operations (PKO) assists the UN Member States and the UN Secretary-General in their efforts to maintain international peace and security. The Department's mission is to plan, prepare, manage, and direct UN peacekeeping operations, so that they can effectively fulfill their mandates under the overall authority of the Security Council and General Assembly, and under the command vested in the Secretary-General.

PKO provides political and executive direction to UN peacekeeping operations, and maintains contact with the UNSC, troop and financial contributors, and parties to the conflict in the implementation of Security Council mandates. PKO strives to provide the best possible and most cost-efficient administrative and logistical support to missions in the field through the timely deployment of quality equipment and services, adequate financial resources, and well-trained personnel. The Department works to integrate the efforts of UN, governmental, and non-governmental entities in the context of peacekeeping operations. PKO also provides guidance and support on military, police, mine action, and logistical and administrative issues to other UN political and peace-building missions.

PKO also manages the Situation Center, which was created in 1993 and forms part of the UN Headquarters Information Management System. The Situation Center supports the UN decision making process by connecting all civilian and military flows of

[254] Adapted from The Mission of the Department of Peacekeeping Operations, *at* http://www.un.org/Depts/dpko/dpko/info/page3.htm.

information at the strategic level. The Situation Center has five main functions:

– Acting as a point of contact at UN Headquarters for all PKO field missions, and providing a 24-hour communication link between senior staff members at UN Headquarters, field missions, humanitarian organizations, and member states through their diplomatic missions in New York;

– Monitoring events in PKO field missions and other areas of interest by all available means;

– Gathering and reporting information from the field through daily reports from all the peacekeeping missions and daily situation reports and briefings to senior managers at UN Headquarters on all PKO, and some political and humanitarian missions;

– Notifying the appropriate parties of casualties or injuries to UN personnel; and

– Handling initial crisis management at the initiative of the PKO Under-Secretary General.[255] (See Figure III-7)

[255] Adapted from Situation Centre - Functions, *at* http://www.un.org/Depts/dpko/dpko/sitcen/functions html.

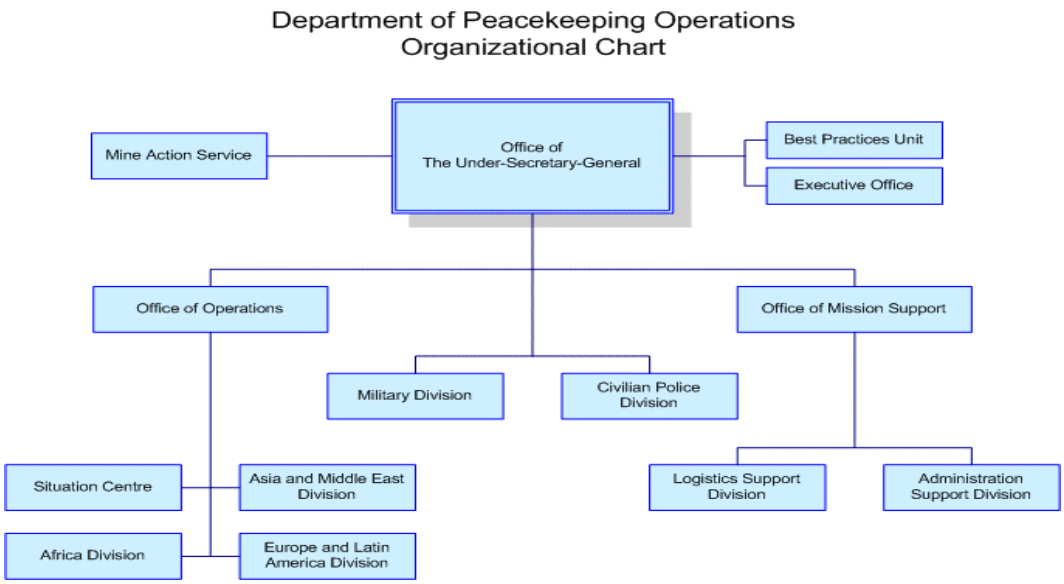

Figure III-7

b. Organization of American States

The Organization of American States (OAS) was created in 1948 when 21 countries of the northern and southern American hemispheres signed the Charter of the Organization of the American States in Bogota, Colombia.[256] The stated purposes of the OAS are to:

– Strengthen the peace and security of the hemisphere;

– Promote and consolidate representative democracy, with due respect for the principle of nonintervention;

– Prevent possible causes of difficulties and to ensure the pacific settlement of disputes that may arise among the Member States;

– Provide for common action on the part of those States in the event of aggression;

– Seek the solution of political, juridical, and economic problems

[256] About the OAS, *at* http://www.oas.org/main/main.asp?sLang=E&sLink=../../documents/eng/oasinbrief.asp.

that may arise among them;

– Promote, by cooperative action, their economic, social, and cultural development;

– Eradicate extreme poverty, which constitutes an obstacle to the full democratic development of the peoples of the hemisphere; and

– Achieve an effective limitation of conventional weapons that will make it possible to devote the largest amount of resources to the economic and social development of the Member States.[257]

In at least one situation, the OAS has sought to achieve these purposes by sending an Inter-American peacekeeping force to a Member State.[258] It has also dispatched electoral observation missions to monitor 45 different elections throughout the region and mine clearance teams to remove land mines in Central America. [259]

In addition, as is the case with the United Nations, a number of specialized organizations, offices, programs, and funds work to achieve the goals of the OAS Treaty. They report to the General Assembly and the General Secretariat. Many of these organizations have their own governing bodies, budgets, and secretariats. Together, they are commonly referred to as the Inter-American System. (See Figure III-8)

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[257] OAS CHARTER art. 2.

[258] This situation involved the dispatch of a peacekeeping force in 1965 to the Dominican Republic, then in the throes of a civil war.

[259] About the OAS, *supra* note 256.

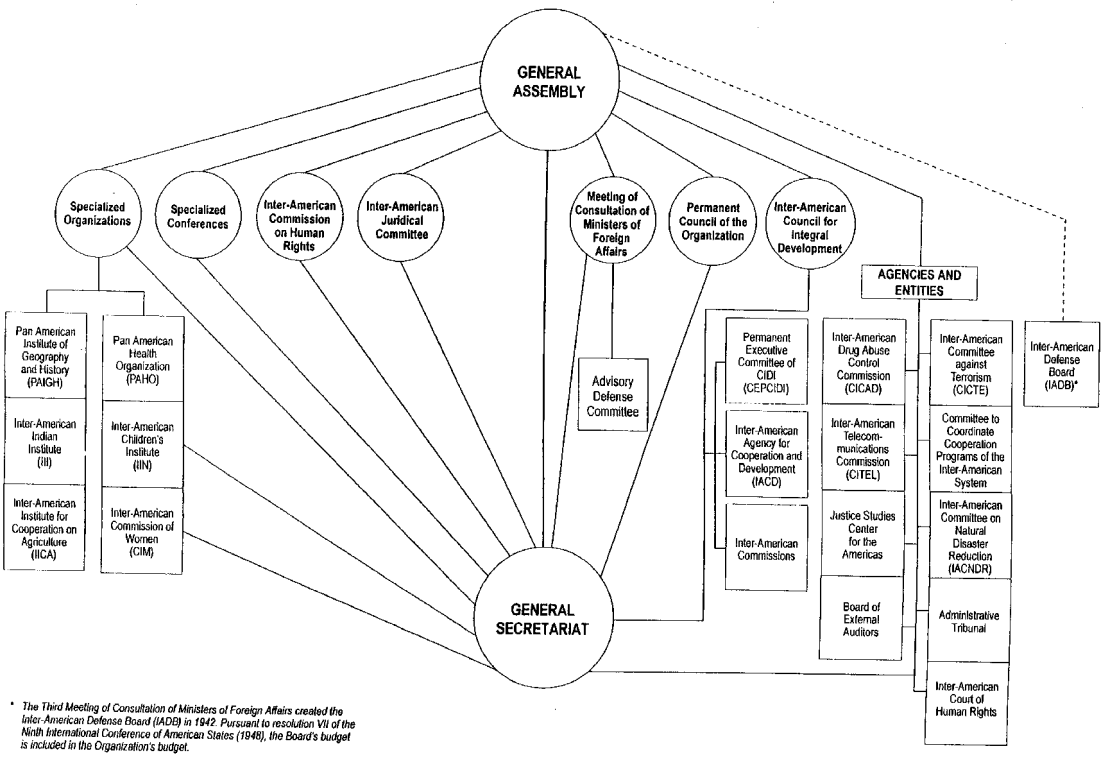

Figure III-8

Given the large number of specialized bodies of the OAS, a complete description of all of these institutions is beyond the scope of this Handbook. Accordingly, set forth below is a short description of the principal governance bodies of the OAS: General Assembly; Permanent Council; Meeting of Consultation of Ministers of Foreign Affairs; and General Secretariat.

The General Assembly is the supreme and highest decision-making organ of the OAS. It has as its principal powers, in addition to such others as are assigned to it by the Charter, *inter alia*, the power to:

– Decide the general action and policy of the Organization, determine the structure and functions of its organs, and consider any matter relating to friendly relations among the American States;

– Establish measures for coordinating the activities of the organs, agencies, and entities of the Organization among themselves,

and such activities with those of the other institutions of the Inter-American system;

– Strengthen and coordinate cooperation with the United Nations and its specialized agencies; and

– Promote collaboration, especially in the economic, social, and cultural fields, with other international organizations whose purposes are similar to those of the OAS.[260]

The Permanent Council is composed of one representative of each member state. The Chair of the Permanent Council is held for a term of three months rotating according to the alphabetical order in Spanish of the names of the countries. The Permanent Council takes cognizance of any matter referred to it by the General Assembly or the Meeting of Consultation of Ministers of Foreign Affairs, as well as any matter brought to its attention by the Secretary General on issues related to peace and security in the Hemisphere or the development of member states. The Permanent Council has specific powers and functions, the most notable being those related to the peaceful settlement of disputes.[261]

The Meeting of Consultation of Ministers of Foreign Affairs considers problems of an urgent nature and of common interest to the American States, and serves as the Organ of Consultation. Any Member State may request that a Meeting of Consultation be called.[262] Finally, the OAS also has a General Secretariat, which is the central and permanent organ of the Organizations, analogous to the UN General Secretariat.[263]

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[260] OAS CHARTER art. 54.

[261] About the Council, *at* http://www.oas.org/main/main.asp?sLang=E&sLink=http://www.oas.org/consejo/default.htm

[262] OAS CHARTER arts. 61-65.

[263] *Id.* art. 107.

c. North Atlantic Treaty Organization[264]

The North Atlantic Treaty Organization (NATO) is an organization created by the North Atlantic Treaty, signed in Washington in April 1941. It currently has 19 members and, through its Partnership for Peace Initiative, launched in 1994, has developed an extensive program of practical cooperation and regular consultation with 27 countries.[265]

NATO's essential purpose is to safeguard the freedom and security of all its members by political and military means, in accordance with the principles of the North Atlantic Treaty and the United Nations Charter. The fundamental principle underpinning the Alliance is a common commitment to mutual cooperation among its member states, based on the indivisibility of their security. The means by which it carries out its security policies include the maintenance of sufficient military capability to prevent war and to provide for an effective defense; an overall capability to manage crises affecting the security of its members; and active promotion of dialogue with other nations and a cooperative approach to European security, including measures to bring about further progress in the field of arms control and disarmament.

As part of its security policies, NATO has, in recent years, deployed peacekeeping forces in Bosnia, Kosovo, and the former Yugoslav Republic of Macedonia. Most recently, NATO assumed the International Security Assistance Force mission in Afghanistan.

NATO carries out its policies through a number of civil and military institutions. NATO's principal institutions include the North Atlantic Council, the Defense Planning Committee, the Nuclear Planning Group, and the Military Committee. (See Figure III-9)

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[264] Adapted from the NATO Handbook 2001 (online version updated to July 2002), *at* http://www nato.int/docu/handbook/2001/index htm

[265] *Id.* at 3.

NATO's Civil and Military Structure

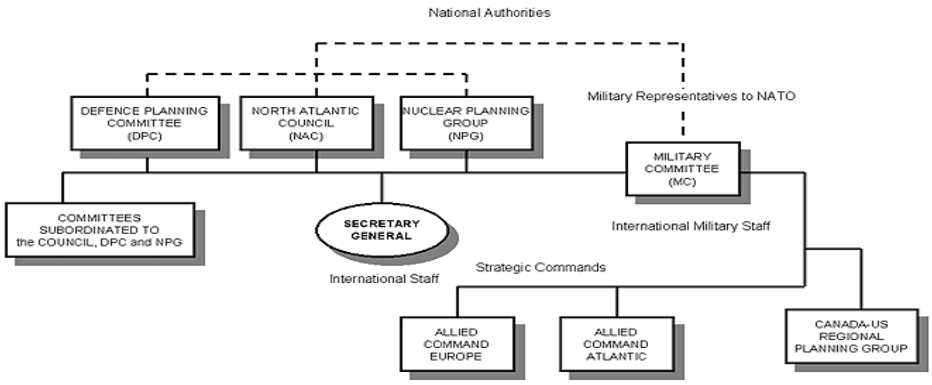

Figure III-9

The North Atlantic Council has effective political authority and power of decision, and consists of permanent representatives of all the member countries meeting together at least once a week. Many committees and planning groups have since been created to support the work of the Council, or to assume responsibility in specific fields, such as defense planning, nuclear planning, and military matters. Items discussed and decisions taken at meetings of the Council cover all aspects of NATO's activities and are frequently based on reports and recommendations prepared by the subordinate committees at the Council's request.

The Defense Planning Committee is normally composed of permanent representatives from each member state, and deals with most defense matters and subjects related to collective defense planning.

The Military Committee consists of military representatives from each of the member states and meets in permanent session. It is responsible for recommending to NATO's political authorities those measures considered necessary for the common defense of the NATO area. The Military Committee's principal role is to provide direction and advice on military policy and strategy. It provides guidance on

military matters to the NATO strategic commanders and is responsible for the overall conduct of the military affairs of NATO, subject to the authority of the Council.[266]

[266] In addition, the Nuclear Policy Committee, consisting of the defense ministers of the Member States, meets regularly to discuss specific policy issues associated with nuclear forces. These discussions and decisions cover a broad range of nuclear policy matters, including: the safety, security, and survivability of nuclear weapons; communications and information systems; deployment issues and wider questions of common concern, such as nuclear arms control and nuclear proliferation.

2. NON-GOVERNMENTAL ORGANIZATIONS

a. Overview

A wide variety of non-governmental organizations provide relief supplies and services. These organizations are diverse, independent, flexible, and willing to operate in high-risk areas.[267] Many of them may have operated for years, and have valuable local knowledge and contacts. Many may even have ongoing programs, support, and personnel in the area that is subject to the complex contingency operation. They can provide valuable assistance and support.

NGOs are extremely diverse in missions, memberships, functions, and operations, and are not easily categorized. Most of them, however, do not have the complex, formal hierarchical structure common to the IGOs described above. Their decision-making processes and implementation strategies tend to be much more informal and flexible than those of their IGO counterparts. Five representative organizations are profiled as examples of emergency relief capabilities that are available from NGOs. These five representative organizations are CARE, Catholic Relief Services, Doctors without Borders, the American Red Cross, and Oxfam.

b. CARE[268]

CARE started after World War II to offer relief to Europe. CARE works in seventy countries and has an annual budget of almost a half billion dollars. They concentrate on two types of programs: development and emergency. CARE has country agreements in every country in which they operate.[269] These agreements address such

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[267] One judge advocate who deployed in support of the Hurricane Mitch relief effort stated that Doctors Without Borders was more situationally aware, mobile throughout the area, and self-sustainable that many military units. CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN CENTRAL AMERICA: HURRICANE MITCH RELIEF EFFORTS 1998-1999: LESSONS LEARNED FOR JUDGE ADVOCATES 45 [hereinafter HURRICANE MITCH LESSONS LEARNED].

[268] Adapted from *id*. at 30-31.

[269] These can be similar to Status of Forces Agreements.

issues as exemptions from taxes, status of their personnel, etc. (similar to a SOFA agreement). As an example of their work, CARE responded to Hurricane Mitch in El Salvador, Guatemala, Honduras, and Nicaragua. They distributed food, water, medicine, and shelter articles; aided in agricultural rehabilitation, repaired community infrastructures and distributed tools, seeds and building supplies to local nationals. CARE is also working in Iraq, providing health care, water, and sanitation, and in Afghanistan, where the organization concentrates on education, water, and agricultural projects, as well as health education.[270]

c. Catholic Relief Services[271]

Catholic Relief Services was founded in 1943 by the Catholic Bishops of the United States to assist the poor and disadvantaged outside the United States. Their 1999 figures reported private donations totaling more than $28 million. CRS has supported micro-enterprise development and sustainable agricultural techniques. In response to Hurricane Mitch, CRS distributed food and medicine, assisted in the rehabilitation of agriculture and small businesses and the reconstruction of houses, bridges, roads, and water systems. They also led the emergency food distribution efforts for USDA's § 416(b) program in Honduras. Recently, CRS returned to Liberia to begin distributing medical supplies and other emergency materials, such as shelters, water, blankets, and sleeping mats.[272]

d. Doctors Without Border/Medecins Sans Frontieres[273]

MSF was founded in 1971 by a group of French doctors. MSF provides emergency medical aid to countries with insufficient or non-existent health care capabilities, builds and rehabilitates medical facilities, donates medicines, and is active in water and sanitation

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[270] Adapted from the CARE website *at* http://www.care.org.

[271] Adapted from HURRICANE MITCH LESSONS LEARNED, *supra* note 267, at 31-32.

[272] Adapted from the CRS website *at* http://www.catholicrelief.org. See chapter VI.B.2.b(1) of this Handbook for a discussion of the § 416(b) program.

[273] Adapted from HURRICANE MITCH LESSONS LEARNED, *supra* note 267, at 32.

projects. In the Hurricane Mitch relief efforts, e.g., MSF focused on epidemiological surveys, sanitation and clean water, control of disease vectors, emergency shelter and delivery of medicines, and medical supplies. They then initiated longer-term programs in these countries to address continuing needs. MSF also provides medical aid in Iraq, Afghanistan, and Liberia.

e. American Red Cross[274]

The American Red Cross is the U.S. affiliate for the International Committee of the Red Cross (ICRC) and is a Congressionally-chartered corporation, headquartered in Washington, DC.[275] Building on its extensive experience in providing disaster relief services in the United States the ARC, in 1999, created a new International Disaster Response Unit to help ensure an immediate and appropriate response whenever international emergencies occur.[276] Immediately following an international disaster, the ARC establishes communication with the local national Red Cross society, to determine the latter's capacity to help survivors. When appropriate, they dispatch an International Response Team, composed of experts in logistics and procurement, telecommunications, family linking, public health, and media relations. Upon arrival, team members immediately begin to assist the local national Red Cross society by assessing disaster relief needs and implementing disaster relief services, such as procuring and distributing food, water, medicine, and shelter and hygiene items. The ARC works with the ICRC, the International Federation of Red Cross and Red Crescent, and other national Red Cross societies towards common goals in times of crises or disasters.

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[274] Adapted from A Brief History of the American Red Cross, *at* http://www redcross.org/museum/briefarc html.

[275] 36 U.S.C. § 300101 (2000).

[276] Adapted from Emergency Disaster Response, *at* http://www redcross.org/services/intl/0,1082,0_443_,00 html.

f. Oxfam[277]

Oxfam was founded in the United Kingdom in 1942 to highlight and seek relief for the problems created by the Nazi occupation of Greece. Since then, Oxfam has substantially expanded its activities and now conducts operations all over the world. It is one of the world's major relief organizations.

Oxfam has a worldwide reputation for emergency relief work, where it provides shelter, clean water, and sanitation services after natural disasters. After an emergency, Oxfam puts long-term programs in place to help people to rebuild their lives, and to prepare for and minimize the impact of future crises. This can mean literally raising villages beyond the reach of annual floodwaters, or strengthening houses in areas prone to hurricanes.

[277] Adapted from A Short History of Oxfam, *at* http://www.oxfam.org.uk/about_us/history/index.htm.

CHAPTER IV: INTERAGENCY COORDINATION

A. OVERVIEW

There are a number of U.S. Government (USG) interagency coordination mechanisms, both formal and informal, that have been created in past complex contingency operations. These exist at both the Washington (headquarters) level and the field level. At the Washington level, the National Security Council (NSC) system, which includes, *inter alia*, the Department of State (DOS) and the Department of Defense (DOD), is the principal coordinating body for all national security issues, including complex contingency operations. At the field level, there are a number of different bodies of varying degrees of formality that are involved in some level of interagency interaction. Their responsibilities range from information exchange to formal coordination of activities. In countries with functioning governments, the principal USG interagency coordinating body for all issues, including complex contingency operations, is the Country Team, headed by the U.S. Ambassador and headquartered at the U.S. embassy.[278] For specific operations, several other coordinating bodies or teams are usually created.

In the initial stages of an operation when needs are still being assessed, the Agency for International Development (USAID) sends in a Disaster Assessment Response Team (DART). This team may also later assist in coordinating the USG relief effort. At the same time, at the Combatant Command level, the Combatant Commander may establish a Humanitarian Assistance Coordination Center (HACC) to coordinate the military's activities with intergovernmental organizations (IGOs) and nongovernmental organizations (NGOs).[279] Subsequently, the U.S. military Joint Task Force (JTF)[280] responsible

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[278] *See* 2 FAM 112.1 (Integrated Mission Structure), 113.1 (Chief of Mission and Principal Officer), *supra* note 146.

[279] See chapters III.A.1 and III.C of this Handbook for a discussion of IGOs and NGOs.

[280] If only one service is responsible for the mission, this would simply be a "Task Force."

for the action may establish a Civil-Military Operations Center (CMOC) for tactical-level coordination with IGOs and NGOs. (See Figure IV-1) Finally, the host country or the United Nations (UN) may establish a Humanitarian Operations Center (HOC) to provide coordination at the strategic level. Once the CMOC and HOC have been established, the HACC may be disestablished. (See Figure IV-2)

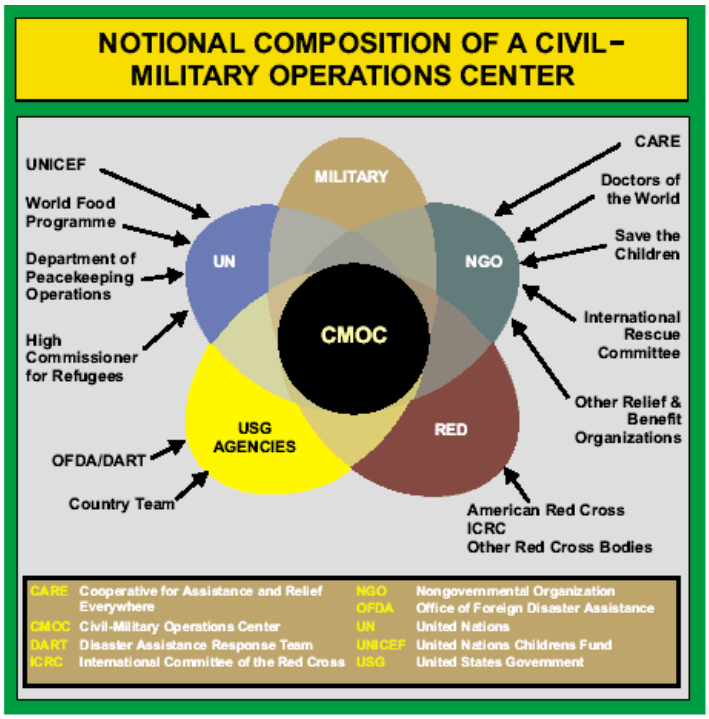

Figure IV-1

COMPARISON BETWEEN HUMANITARIAN OPERATIONS CENTER, HUMANITARIAN ASSISTANCE COORDINATION CENTER, AND CIVIL-MILITARY OPERATIONS CENTER

	ESTABLISHING AUTHORITY	FUNCTION	COMPOSITION	AUTHORITY
HOC	Affected Country, United Nations, or US Government Agency	Coordinates Overall Relief Strategy at the National (Country) Level	Representatives from: Affected Country United nations US Embassy or Consulate Joint Task Force Other Nonmilitary Agencies Concerned Parties	Coordination
HACC	Combatant Command	Assists with Interagency Coordination and Planning at the Strategic Level. Normally is disestablished once a HOC or CMOC is established	Representatives from: Combatant Command Nongovernmental Organizations International Organizations Regional Organizations	Coordination
CMOC	Joint Task Force*	Assists in Coordination of Activities at the Operational Level with Military Forces, US Government Agencies, Nongovernmental and International Organizations, and Regional Organizations	Representatives from: Joint Task Force Nongovernmental Organizations International Organizations Regional Organizations US Government Agencies Local Government (Host Country) Multinational Forces Other Concerned Parties	Coordination

CMOC Civil-Military Operations Center
HACC Humanitarian Assistance Coordination Center
HOC Humanitarian Operations Center
US United States

* A Commander at any echelon may establish a CMOC

Figure IV-2

In general, civilian groups lead those coordinating groups that are primarily involved in achieving civil objectives, while the military takes the lead in forming groups involving military objectives. While the military makes a distinction between strategic, operational, and tactical levels, civilian organizations may not make such distinctions and may have the same individuals representing the organizations at more than one level.

As noted above, the military may need to participate or to be an observer in a number of civil-sector functional groups. Some of these may be existing groups. Others may be formed specifically in response to the crisis by civilian organizations. The military may also form a military-led coordinating group or facilitate the formation of a civilian-led functional coordinating group if one does not exist for a vital functional area. Functional coordinating groups may be formed, as needed, in each of the civil sector functional areas. Further, sub-groups may be formed to coordinate a specific issue or project. For example, the group coordinating infrastructure repair may have a separate working group concentrating on just the reopening of an airport. Potential coordinating groups are: Governance Coordinating Group; Civil Security Coordinating Group; Humanitarian

Coordinating Group (e.g., the HOC and the HACC); Economic and Commerce Coordinating Group; Social and Cultural Coordinating Group; Information Coordinating Group; and Infrastructure Coordinating Group. Several temporary staff organizations can be established to support the joint force during interagency operations.[281]

[281] Adapted from JOINT PUB. 3-57, *supra* note 198, at IV-7 to IV-8.

B. WASHINGTON LEVEL

The **National Security Council** is the President's principal forum for considering national security and foreign policy matters with his senior national security advisors and cabinet officials. The Council also serves as the President's principal arm for coordinating these policies among various government agencies. The NSC was established by the National Security Act of 1947, as amended by the National Security Act Amendments of 1949.[282] The President chairs the National Security Council. Its statutory members, in addition to the President, are the Vice President, the Secretary of State, and the Secretary of Defense. The Chairman of the Joint Chiefs of Staff (JCS Chairman) is the statutory military adviser to the Council, and the Director of Central Intelligence (DCI) is the intelligence adviser. The Assistant to the President for National Security Affairs (NSC Adviser) also attends all NSC meetings. The Chief of Staff to the President, the Counsel to the President, and the Assistant to the President for Economic Policy are invited to attend any NSC meeting. The Attorney General and the Director of the Office of Management and Budget (OMB Director) are invited to attend meetings pertaining to their responsibilities. In addition, the heads of other civilian agencies, as well as other senior officials, are invited to attend meetings of the NSC when appropriate.[283]

The NSC Principals Committee (NSC/PC) is the senior interagency forum for consideration of policy issues affecting national security. The NSC/PC has as its regular attendees the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Chief of Staff to the President, and the NSC Adviser (who serves as chair). The DCI and the JCS attend where issues pertaining to their responsibilities and expertise are to be discussed. The Attorney General and the OMB Director are invited to attend meetings pertaining to their responsibilities. For the Attorney General, this includes both those matters within the Department of Justice's (DOJ)

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[282] 50 U.S.C. § 401 (2000).

[283] Adapted from Membership of the National Security Council, *at* http://www.whitehouse.gov/nsc/. The remainder of this section describes the NSC system as it is currently (Feb. 2004) constituted. Some changes to the arrangement are almost always made by each incoming President.

jurisdiction and those matters implicating the Attorney General's statutory responsibility[284] to give his advice and opinion on questions of law when required by the President. The Chief of Staff and National Security Adviser to the Vice President also attend all meetings of the NSC/PC, as well as the NSC Adviser and Deputy NSC Adviser (who serves as Executive Secretary of the NSC/PC). Other heads of departments and agencies, along with additional senior officials, are invited where appropriate.[285]

The NSC Deputies Committee (NSC/DC) serves as the senior sub-Cabinet interagency forum for consideration of policy issues affecting national security. The NSC/DC can prescribe and review the work of the NSC interagency groups, as discussed below. The NSC/DC also helps ensure that issues being brought before the NSC/PC or the NSC have been properly analyzed and prepared for decision.[286]

Management of the development and implementation of national security policies by multiple agencies of the U.S. Government in the current Bush Administration is usually accomplished by the NSC Policy Coordination Committees (NSC/PCCs). The NSC/PCCs are the main day-to-day fora for interagency coordination of national security policy. They provide policy analysis for consideration by the more senior committees of the NSC system and ensure timely responses to decisions made by the

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[284] "The Attorney General shall give his advice and opinion on questions of law when required by the President. " 28 U.S.C. § 511 (2000).

[285] NSPD-1, *supra* note 3.

[286] The NSC/DC has as its regular members:

> the Deputy Secretary of State or Under Secretary of [State for Political Affairs, the Deputy Secretary of] the Treasury or Under Secretary of the Treasury for International Affairs, the Deputy Secretary of Defense or Under Secretary of Defense for Policy, the Deputy Attorney General, the Deputy Director of the Office of Management and Budget, the Deputy Director of Central Intelligence, the Vice Chairman of the Joint Chiefs of Staff, the Deputy Chief of Staff to the President for Policy, the Chief of Staff and National Security Adviser to the Vice President, the Deputy Assistant to the President for International Economic Affairs, and the Assistant to the President and Deputy National Security Advisor (who serves as chair). Other senior officials shall be invited where appropriate.

Id. (Note that the material in brackets appears to have been inadvertently left out of NSPD-1.)

President. Each NSC/PCC includes representatives from the Presidential offices and USG agencies represented in the NSC/DC.[287]

Currently, there are six regional NSC/PCCs: Europe and Eurasia; Western Hemisphere; East Asia; South Asia; Near East and North Africa; and Africa. Each of the NSC/PCCs is chaired by an official of Under Secretary or Assistant Secretary rank designated by the Secretary of State. There are also eleven functional NSC/PCCs, which are chaired by a person of Under Secretary or Assistant Secretary rank designated by the indicated authority:

– Democracy, Human Rights, and International Operations (NSC Adviser);

– International Development and Humanitarian Assistance (Secretary of State);

– Global Environment (NSC Adviser and the Assistant to the President for Economic Policy in concert);

– International Finance (Secretary of the Treasury);

– Transnational Economic Issues (Assistant to the President for Economic Policy);

– Counter-Terrorism and National Preparedness (NSC Adviser);

– Defense Strategy, Force Structure, and Planning (Secretary of Defense);

– Arms Control (NSC Adviser);

– Proliferation, Counterproliferation, and Homeland Defense (NSC Adviser);

– Intelligence and Counterintelligence (NSC Adviser); and

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[287] *Id.*

– Records Access and Information Security (NSC Adviser).

Each NSC/PCC also has an Executive Secretary from the staff of the NSC, designated by the NSC Adviser. The Executive Secretary assists the Chairman in scheduling the meetings of the NSC/PCC, determining the agenda, recording the actions taken and tasks assigned, and ensuring timely responses to the central policymaking committees of the NSC system. The Chairman of each NSC/PCC, in consultation with the Executive Secretary, may invite representatives of other executive departments and agencies to attend meetings of the NSC/PCC where appropriate. The Chairman of each NSC/PCC, with the agreement of the Executive Secretary, can establish subordinate working groups to assist the PCC in the performance of its duties. [288]

[288] *Id.*

C. FIELD LEVEL

1. U.S. EMBASSY COUNTRY TEAM

The Ambassador and the Deputy Chief of Mission (DCM) at each U.S. embassy head the post's team of USG personnel, collectively known as the "Country Team."[289] DOS members of the team, in addition to the Ambassador and the DCM, are heads of the Political, Economic, Administrative, Consular, and Security sections of the embassy. The remainder of the team encompasses the senior representatives of each of the other USG agencies present at the embassy.[290] For complex contingency operations the key Country

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[289] *See also* chapter III.B.1.b(2) of this Handbook.

[290] These other agencies typically handle the following issues.

Commercial, Resource and Financial Issues. Department of Commerce (DOC) commercial officers advise U.S. businesses on local trade and tariff laws, government procurement procedures, and business practices; identify potential importers, agents, distributors, and joint venture partners; and assist with resolution of trade and investment disputes. DOC resource officers counsel U.S. businesses on issues of natural resources—including minerals, oil, and gas and energy—and analyze and report on local natural resource trends and trade policies and their potential impact on U.S. interests. DOC financial attaches analyze and report on major financial developments as well as the host country's macro-economic condition.

Defense Issues. Defense attaches from DOD analyze and liaison with military forces of the host government on behalf of the United States and U.S. defense industry. These include security assistance officers, who are responsible for Defense Cooperation in Armaments and foreign military sales. (DOS political officers also analyze and liaison with their foreign ministry counterparts on military issues.) Within the embassy, there may be several military offices. The Defense Attaché Office provides military advice to the Ambassador and collects information on and liaisons with the host country military. Military assistance and training is usually handled by a separate office, known, if joint, as the Joint U.S. Military Assistance Advisory Mission (JUSMAAG) or, if not, Military Assistance Advisory Mission or Office of Defense Cooperation. Adapted from DOS GLOSSARY, *supra* note 185 (definition of JUSMAAG/MAAG).

Agricultural Matters. Department of Agriculture (USDA) agricultural officers promote the export of U.S. agricultural products and report on agricultural production and market developments in their area. USDA Animal and Plant Health Inspection Service officers are responsible for animal and plant health issues that affect U.S. trade and the protection of U.S. agriculture from foreign pests and diseases. They also expedite U.S. exports affected by technical sanitary and phytosanitary regulations.

Legal and Immigration Matters. Legal attaches, primarily Federal Bureau of Information agents, serve as DOJ representatives on criminal matters such as extradition of fugitives and coordination of criminal justice matters. Immigration and Naturalization officers are responsible for administering the laws regulating the admission of foreign-born persons (aliens) to the United States and for administering various immigration benefits.

Team personnel include the Political Counselor, Economic Counselor, Security Counselor, and the senior representatives of USAID, Department of Agriculture, DOD, DOJ, and Department of Health and Human Services.

The Country Team system provides the foundation for rapid interagency consultation, coordination, and action on recommendations from the field and effective execution of U.S. missions, programs, and policies. The Country Team concept encourages agencies to coordinate their plans and operations and keep one another and the Ambassador informed of their activities. Although the U.S. area military commander (the Combatant Commander or a subordinate) is not a member of the embassy, the commander may participate or be represented in meetings and coordination by the Country Team.[291]

2. DISASTER ASSISTANCE RESPONSE TEAM[292]

In cases where a rapid or continuous response to a disaster or complex emergency is necessary, USAID/DCHA/OFDA will deploy a **Disaster Assistance Response Team (DART)**, which provides specialists trained in a variety of disaster relief skills to assist the Ambassador and the USAID mission (if present) with the management of the USG response to the disaster. In addition to assessing and reporting on the disaster situation and recommending follow-up actions, DARTs also:

– Provide an operational presence on the ground capable of carrying out sustained response activities;

Developmental and Humanitarian Aid Matters. USAID mission directors are responsible for USAID Programs including dollar and local currency loans, grants, and technical assistance. USAID also provides humanitarian assistance abroad during times of natural or man-made disasters. Adapted from Organization of the Department of State Abroad, *at* http://www.state.gov/r/pa/ei/rls/dos/436.htm.

[291] Adapted from JOINT PUB. 3-57, *supra* note 198, at IV-5.

[292] Adapted from U.S. AGENCY FOR INT'L DEVELOPMENT (IN COOPERATION WITH AND PRODUCED BY THE U.S. DEP'T OF AGRICULTURE, U.S. FOREST SERVICE), FIELD OPERATIONS GUIDE FOR DISASTER ASSESSMENT AND RESPONSE, at xix-xx (VERSION 3.0), *at* http://www.usaid.gov/our_work/humanitarian_assistance/disaster_assistance/resources/pdf/fog_v3.pdf [hereinafter USAID FOG].

- Develop and, upon approval, implement OFDA's field response strategy based on the DART mission objectives;

- Coordinate the movement and consignment of USG relief commodities;

- Coordinate USG relief efforts with the affected country, other donor countries, relief organizations, and, when present, military organizations;

- Fund relief organizations (when delegated the funding authority); and

- Monitor and evaluate USG-funded relief activities.

The Team Leader of a DART reports to the U.S. Ambassador as the lead USG person in the affected country to ensure that USG disaster relief efforts are coordinated and to OFDA to ensure that OFDA's mandate and mission are being carried out.

A DART is composed of six functional areas (see Figure IV-3):

- **Management/Liaison**. Manages overall DART activities, including liaison with the affected country, PVOs , NGOs, IGOs, other assisting countries, and the U.S. military, and the development and implementation of plans to meet strategic objectives.

- **Operations.** Manages all operational activities carried out by the DART such as search and rescue activities, technical support to an affected country, medical and health response, and aerial operations coordination. Most active during rapid onset disasters.

- **Planning.** Collects, evaluates, tracks, and disseminates information about the disaster. Reviews activities and recommends future actions. Develops the DART operational (tactical) plan.

– **Logistics**. Supports the DART with team supplies, equipment, and services. Orders, receives, distributes, and tracks USG-provided relief supplies.

– **Administration.** Manages fiscal activities of the DART. Procures goods and services required by the DART. Provides cost accounting of DART activities.

– **Contracting**. Manages grant and contracting activities of the DART for victim needs.[293]

Figure IV–1. DART Organization

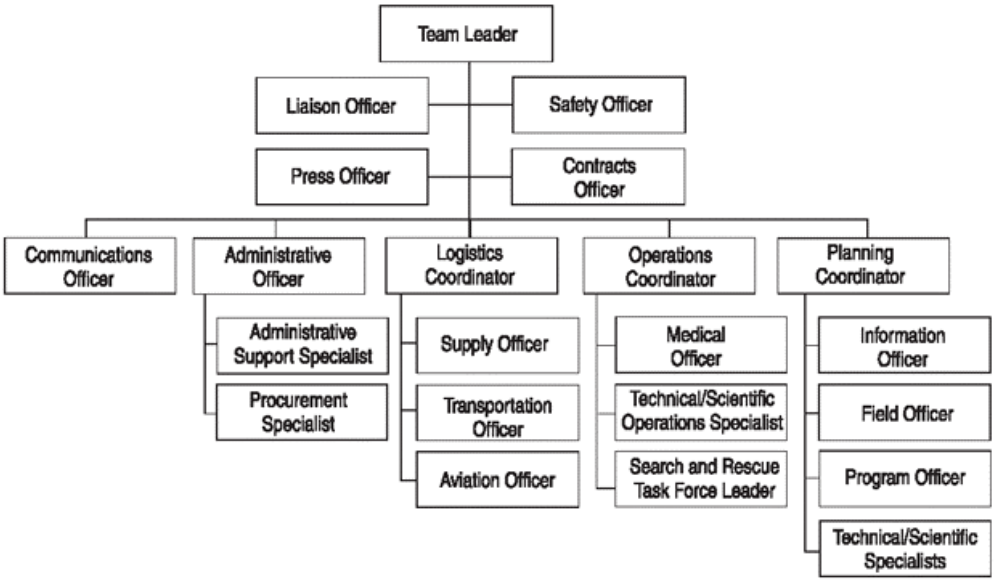

Figure IV-3

[293] What Does a DART Look Like?, formerly *at* http://www.usaid.gov/iraq/whatdoes html (on file with CLAMO).

3. HUMANITARIAN ASSISTANCE COORDINATION CENTER[294]

The Humanitarian Assistance Coordination Center is a temporary body organized by the regional Combatant Commander that operates during the early planning and coordination stages of a complex contingency operation. The HACC assists with interagency coordination and planning, providing the critical link between the Combatant Commander and other USG civilian agencies, NGOs, and IGOs that may participate in such an operation at the strategic level. Once a CMOC or HOC has been established, the role of the HACC diminishes, and its functions are accomplished through the normal organization of the Combatant Command's staff and crisis action organization. If a Combatant Commander chooses to organize a HACC, liaisons from other USG civilian agencies (e.g., USAID and the Public Health Service), U.S. Army Corps of Engineers representatives, key NGOs, international and regional IGOs, and, if existing, host country agencies also may be members of the HACC in large-scale operations.

4. CIVIL-MILITARY OPERATIONS CENTER[295]

a. Overview

The military commander of the Joint Task Force organized in response to a complex contingency operation may establish a Civil-Military Operations Center to coordinate and facilitate U.S. and multinational forces' humanitarian operations with those of international and local relief agencies, and, if they exist, host country agencies and authorities.[296] The CMOC, working closely with the DART, provides the primary interface between U.S. military forces and relief agencies and other organizations involved in the operations, whether or not a HOC or similar organization is established. The CMOC monitors military support throughout the operational area and screens IGO and NGO logistic, security, medical, and technical

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[294] Adapted from JOINT PUB. 3-57, *supra* note 198, at IV-10.

[295] Adapted from JOINT PUB. 3-07.6, *supra* note 34, at III-2 to III-5.

[296] More than one CMOC may be established in an operational area (such as occurred in Rwanda), and each is task-organized based on the mission. JOINT PUB. 3-57, *supra* note 198, at IV-10.

support requests. The CMOC identifies JTF component support capabilities and resources and forwards validated requests to the J-3 (i.e., the officer in charge of operations) or appropriate component or multinational force for action. Requests for support are prioritized by the lead USG agency for the operation or by the host nation representatives. Only in rare instances will the U.S. military prioritize distribution of requested resources.

A CMOC may be formed to:[297]

– Carry out guidance and Joint Force commander decisions regarding civil-military operations (CMO);

– Exchange information;

– Perform liaison and coordination between military capabilities and other agencies and organizations to meet the needs of the populace;

– Provide a partnership forum for military and other participating organizations; and

– Receive, validate, and coordinate requests for support from IGOs and NGOs (which are forwarded to the JTF for action).

Civilian organizations may decide to attend CMOC meetings, but may choose not to consider themselves members of the CMOC to maintain the perception of their neutrality. Many of these organizations consider the CMOC as a venue for interagency discussions but not as an interagency forum.

b. CMOC Tasks

The following tasks may, in accordance with Washington-level direction, fall under CMOC auspices: (1) screen, validate and prioritize (based on DART advice) IGO and NGO military support requests; (2) coordinate those organizations' military support requests

[297] *Id.* at IV-11 to IV-12.

with military components; (3) act as an intermediary, facilitator, and coordinator between JTF elements and those organizations; (4) explain JTF (military) policies to IGOs and NGOs, and, conversely, explain their policies to the JTF; (5) respond to those organizations emergency requests; (6) screen and validate IGO and NGO requests for space-available passenger airlift; (7) administer and issue those organizations identification cards (for access into military-controlled areas); (8) convene ad hoc mission planning groups when complex military support or numerous military units and IGOs and NGOs are involved; (9) exchange JTF operations and general security information with those organizations as required; (10) chair port and airfield committee meetings involving space and access-related issues; (11) assist in the creation and organization of food logistic systems, when requested; (12) provide liaison between the JTF and HOC; and (13) explain overall interagency policies and guidelines to the JTF and to IGOs and NGOs.

c. CMOC Structure

While sharing many general characteristics, each complex contingency operation is unique, and the CMOC structure must be tailored for each emergency. Typically, military Civil Affairs (CA) personnel are assigned to the CMOC since they are routinely trained in skills that make them an optimal choice to form the core of a CMOC team, into which other functional specialists integrate. The CMOC director may work for the Civil-Military Officer on the operations (J-3) staff, the operations officer (J-3), the JTF Chief of Staff, or possibly for the Commander, Joint Civil-Military Operations Task Force (JCMOTF), such the one formed in Afghanistan during Operation ENDURING FREEDOM. A DART representative will coordinate with the CMOC director. DART representatives provide advice to the CMOC and assist in screening and validating requests for military support from the relief community. The CMOC serves as the central clearing organization for foreign humanitarian assistance information and coordination for the JTF operation. It is designed to harmonize military efforts and resources with requirements of the international relief community to achieve overall efficiency and effectiveness. A CMOC is not restricted to the JTF level; a

commander at any echelon may establish a CMOC based on the need to coordinate with civilian agencies.[298]

A CMOC can be tailored to the specific tasks associated with the collective national or international mission. In establishing the CMOC, the JTF will normally form it from a nucleus of organic assets and CA, logistic, legal, and communications elements. The JTF

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[298] In addition to the CMOC, the JTF may establish several other types of coordinating bodies to address specialized needs. Examples including the following:

Joint Facilities Utilization Board (JFUB). A JFUB is formed under JTF engineer supervision. Since large numbers of U.S. and multinational forces can be operating within the same geographic area, facility allocation to accommodate requirements is necessary. The JFUB serves as the executive agent to deconflict real estate issues arising from multiple-user demands on limited facilities and recommend courses of action (COAs) to resolve issues. The JFUB addresses multinational force accommodation, ammunition storage points, joint visitors bureau, postal facilities, transit facilities, and other related areas.

Coalition Forces Support Team (CFST). A CFST is organized to coordinate activities between participating multinational forces. The CFST focuses on controlling all support and coordination tasks. CFST duties including: (1) Welcome and orient newly arrived forces; (2) Designate initial staging areas, provide water, rations, and other support; (3) Identify sensitivities (historic animosity or religious differences) among multinational forces and the affected populace; (4) Receive, process, and provide situation update to arriving multinational forces, including a briefing on the legal limits of U.S. support; (5) Brief ROE to arriving multinational forces; (6) Conduct multinational capability assessments and recommend missions accordingly; and (7) Brief relief agency relationships.

Joint Communications Control Center (JCCC). A JCCC provides overall communication systems management. The JCCC manages frequency allocation, assignments, and deconflicts internal frequency
requirements. The JCCC also monitors the use of communications security procedures throughout the operational area.

Joint Intelligence Support Element (JISE). A JISE conducts intelligence operations for the JTF. The composition of the JISE will depend on the type of information required by the JTF.

Joint Information Bureau (JIB). A JIB is the focal point for the interface between the military and the media. The JIB serves to provide the news media with timely and accurate information on command issues. The JIB also provides command information to support deployed forces and facilitates coverage by the Services of their contribution to the operation.

Joint Movement Center (JMC). The JMC coordinates the employment of all means of transportation (including that provided by allies or host nations) to support the concept of operations. This coordination is accomplished through establishment of transportation policies within the assigned operational areas, consistent with relative urgency of need, port and terminal capabilities, transportation asset availability, and priorities set by the JTF commander.

JOINT PUB. 3-07.6, *supra* note 34, at III-4 to III-5 (discussing Operation RESTORE HOPE in Somalia).

commander will normally invite representatives of other agencies that include the following:

– Liaisons from military service and functional components;

– USAID representatives;

– DOS, Country Team, and other USG representatives;

– Military liaison personnel from participating countries;

– Host country or local government agency representatives;

– Representatives of IGOs and NGOs (e.g., UNHCR and ICRC);

The CMOC usually conducts daily meetings to identify participants capable of fulfilling needs. Validated requests go to the appropriate joint force or agency representative for action.[299]

5. HUMANITARIAN OPERATIONS CENTER[300]

Although the functions of the Humanitarian Operations Center and CMOC are similar, there is a significant difference. The CMOC is established by and works for the JTF commander. The HOC is normally established under the direction of the government of the affected country or the UN, or possibly USAID's Office of Foreign Disaster Assistance (OFDA) during a U.S. unilateral operation. HOCs, especially those established by the United Nations, are horizontally structured organizations with no command or control authority, designed for coordination and information sharing, where all members are ultimately responsible to their own organizations or countries.

The HOC coordinates the overall relief strategy; identifies logistic requirements for IGOs and NGOs; and identifies, prioritizes, and submits requests for military support to the JTF through the

[299] Adapted from JOINT PUB. 3-57, *supra* note 198, at IV- 12.

[300] Adapted from JOINT PUB. 3-07.6, *supra* note 34, at III-6 to III-7.

CMOC. The HOC is primarily an interagency policymaking and coordinating body that does not exercise command and control but seeks to achieve unity of effort among all participants in a large complex contingency operation. Close JTF coordination with the affected country, UN, and other key members of the humanitarian relief community forms the core of these operations. Effective coordination is the key to successful turnover of humanitarian assistance responsibilities to the affected country or UN and other IGOs. During large-scale operations, a HOC may be established to accomplish this coordination.

The HOC can consist of representatives from the affected country, the U.S. embassy, JTF (most likely from the CMOC), OFDA, UN, other IGOs, and NGOs, and other major players in the operation. The structure of a HOC can be formal or informal. HOCs may have political significance and authority when directed by the affected country, or may be less formal if established by the United Nations. The HOC is normally collocated with the appropriate lead or UN headquarters conducting the operation. HOCs may establish working groups and committees based on the situation. These groups and committees discuss and resolve issues including relief material prioritization, medical, sanitation, health, and other related areas.

During complex contingency operations in which the UN is involved, the UN will form a UN Disaster Management Team under the leadership of the in-country Resident Coordinator of the United Nations Development Programme (UNDP). That group will accomplish UN coordination and liaison in-country at the national and ambassadorial level. The UN may establish an on-site operations coordination center (OSOCC) or a humanitarian operations coordination center as a support organization to a HOC. The OSOCC assists in gathering, evaluating, collating, and disseminating HOC information. The OSOCC also may provide facilitation services for HOC meetings.

CHAPTER V: PROVIDING INTERAGENCY AND OTHER SUPPORT

A. OVERVIEW

Under Article I, § 8 of the Constitution, only Congress has the power to raise revenue and appropriate funds for federal agency programs and operations. Any agency expenditure (outlay of funds) or obligation (incurring a legal liability to pay, such as a contract) must be authorized and funded by Congress.[301] It follows that the Department of Defense (DOD) cannot provide support to non-DOD entities without affirmative congressional authority. In other words, unless Congress specifically authorizes the military to expend funds from a particular "pot of money" to support non-DOD entities, military commanders are prohibited from using their normal operating funds to do so. These normal operating funds for typical day-to-day military expenses for garrison (base) and deployment (training exercises and real-world missions) operations are known as generic "Operation and Maintenance" (O&M) appropriations. Thus, whether it is the Department of State (DOS) requesting military transportation to deliver humanitarian goods, United Nations (UN) representatives requesting food and housing from the local military base camp, or members of a nongovernmental organization requesting military engineering support, the baseline rule is that military commanders cannot provide this support without some separate fiscal authority. This section discusses these fiscal authorities, dividing the analysis into the fiscal rules governing support between U.S. Government (USG) agencies (e.g., between the Departments of Defense and State) and the rules governing support to entities outside the U.S. Government (e.g., between the DOD and nongovernmental organizations).

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[301] Under the Purpose Statute, 31 U.S.C. § 1301(a) (2002), obligations and expenditures must be for a proper "purpose"—that is, necessary and incident to the purpose of a congressional appropriation, not prohibited by law, and not provided for in another congressional appropriation. Obligations and expenditures also must occur within the time limits specified within the appropriation (for instance, the generic military operations appropriation is available for one fiscal year before another appropriation is needed) and must be within the amounts specified in the appropriation.

B. INTERAGENCY SUPPORT

Congress provides authority for federal agencies to order goods and services from each other through the Economy Act.[302] The Act permits an agency or major organizational unit within an agency to place an order with a major organizational unit within the same agency or another agency for goods and services, if:

– Funds are available;

– The head of the ordering agency or unit decides the order is in the best interest of the U.S. Government;

– The agency or unit to fill the order is able to provide or obtain by contract the ordered goods or services; and

– The head of the agency decides ordered goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise.[303]

Economy Act acquisitions also include intra-DOD orders placed between military services (such as between the Navy and the Air Force).[304] The ordering agency must pay the performing agency the actual costs (direct and indirect) of the goods or services provided.[305] The approval authority for an Economy Act transaction will vary depending on the type of requesting agency, whether contract action is required by the performing agency, and whether the transaction is internal to DOD or involves a non-DOD USG agency.[306] In situations that involve recurring support between military services or between a military department and another USG agency,

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[302] 31 U.S.C. § 1535 (2000).

[303] *Id.* § 1535(a).

[304] GENERAL SERVS. ADMIN. ET AL., FEDERAL ACQUISITION REG. 2.101 (Sept. 2001) [hereinafter FAR]. Separate and distinct from the Economy Act, the Project Order Statute, 41 U.S.C. § 23 (2000), applies to transactions between DOD military services for work related to specific types of military projects (e.g., maintenance of missiles, vehicles, and ammunition).

[305] *See* 31 U.S.C. § 1535(b) (2000).

[306] *See* FAR 17.503(c), *supra* note 304; Memorandum, Secretary of Defense, to Secretaries of the Military Departments et al., subject: Use of Orders Under the Economy Act (8 Feb. 1994).

interagency or interservice agreements can be drafted to memorialize the terms of the support.[307]

On a reimbursable basis, military commanders can provide support to another USG agency if the requirements of the Economy Act are satisfied, even if the intended recipient of the support is someone other than the requesting agency. For example, during military operations in Haiti in the mid 1990s (Operation UPHOLD DEMOCRACY), USG civilian agencies providing aid to the Haitian people requested and received logistical support from military units, providing reimbursement to the military under the Act.[308] Other examples of applications of the Act include USG civilian agency reimbursement to DOD for utilizing military dining facilities, traveling on DOD transportation, and using DOD medical facilities.

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[307] *See generally* U.S. DEP'T OF DEFENSE, INSTR. 4000.19, INTERSERVICE AND INTRAGOVERNMENTAL SUPPORT (9 Aug. 1995).

[308] CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN HAITI 1994-95: LESSONS LEARNED FOR JUDGE ADVOCATES 141 (11 Dec. 1995) [hereinafter HAITI LESSONS LEARNED]. This fiscal authority is not to be confused with the military's own authority to provide direct humanitarian assistance under various statutory authorities. *See* chapter VI.B.2.a of this Handbook (discussing military provision of foreign humanitarian assistance).

C. SUPPORT TO INTERNATIONAL ORGANIZATIONS

As noted above, the basic rule is that military commanders may not provide support to non-USG entities, such as international organizations, without specific fiscal authority. Congress has enacted several laws that provide such authority.[309]

1. HUMANITARIAN ASSISTANCE

A variety of statutory authorities and appropriations exist that allow the military to provide support in the context of humanitarian assistance. These are discussed in greater detail in Chapter VI of this Handbook.

2. REIMBURSABLE SUPPORT

Similar to inter-USG reimbursements under the Economy Act discussed above, there are several statutory authorities that allow for the provision of reimbursable support to non-DOD entities.

> **Foreign Assistance Act § 607**—Authorizes any USG agency to furnish commodities and services on an advance-of-funds or reimbursable basis to friendly countries, international organizations, the American Red Cross, and voluntary nonprofit relief agencies registered with and approved by the Agency for International Development.[310] Typically a "607 agreement" is executed to memorialize the transaction. A sample 607 agreement from Operation UPHOLD DEMOCRACY is included in Appendix V-1.
>
> **Foreign Assistance Act § 632**—Authorizes DOS to use its funds to obtain DOD support for Foreign

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[309] *See* U.S. Army, Judge Advocate General's Legal Center and School, 62nd and 63rd Fiscal Law Course Deskbook ch.15 (Funding of U.S. Military Operations), *at* http://www.jagcnet.army.mil.

[310] 22 U.S.C. § 2357 (2000).

Assistance Act purposes.[311] A "632 Agreement" is used for these transactions.

Foreign Military Sales (FMS) Program—Authorizes eligible recipient governments and international organizations to purchase defense articles, services, or training on the basis of formal contracts or agreements, managed by DOD as FMS "cases."[312]

Foreign Leases—Authorizes leases of DOD articles to foreign countries or international organizations.[313]

Acquisition and Cross-Servicing Agreements (ACSAs)—Authorizes DOD to acquire and transfer support without resort to commercial contracting procedures. After consultation with DOS, DOD may enter into agreements with North Atlantic Treaty Organization (NATO) countries, NATO subsidiary bodies, other eligible countries, the UN, and international regional organizations of which the United States is a member, for the reciprocal provision of logistic support, supplies, and services. Acquisitions and transfers are on a cash reimbursement, replacement-in-kind, or exchange of equal value basis.[314]

3. DRAWDOWNS

In certain circumstances, the President can "drawdown" defense articles and services from existing DOD inventories.[315] This

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[311] *Id.* § 2392.

[312] *Id.* §§ 2761-62.

[313] *Id.* §§ 2796-97a.

[314] 10 U.S.C. §§ 2341-50 (2000).

[315] 22 U.S.C. § 2318(a)(1) (2000) (unforeseen emergencies requiring immediate military assistance to a foreign country or international organization); *Id.* § 2318(a)(2) (for, *inter alia*,

authority is discussed in greater detail in Chapter VI of this Handbook.

4. UN PARTICIPATION ACT

Upon the UN's request, under the UN Participation Act (UNPA)[316] the President may authorize the furnishing of facilities and services, loan of supplies and equipment, or other assistance to the UN when specifically directed to the peaceful settlement of disputes and not involving a Chapter VII action under the UN Charter. For any UN peacekeeping operation (not just peaceful settlement of disputes), the statute requires the United States to obtain UN reimbursement for support provided by DOD.

5. SPECIAL AUTHORITIES

There is always the potential that the Combatant Commander Initiative Funds and Emergency and Extraordinary Expenses Funds within the Operation and Maintenance appropriation may be available. Both funds are discussed in greater detail in Chapter VI of this Handbook.

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counterdrug activities, disaster relief, nonproliferation, anti-terrorism, and migrant and refugee assistance (*see also* chapter VI.B.2.a of this Handbook (discussing drawdowns for humanitarian assistance)); *Id.* § 2348 (unforeseen emergencies related to peacekeeping operations and other programs in the interest of national security).

[316] *Id.* § 287d-1. As an example, under the authority of the UNPA, the U.S. task force in the Kosovo peacekeeping operation in 1999 provided transportation, security, and facility support for forensics investigators working for the International Criminal Tribunal for the Former Yugoslavia. Interview with Major Alton L. Gwaltney, III, USA, former Deputy Command Judge Advocate, Task Force Falcon, in Charlottesville, VA (13 Feb. 2003).

CHAPTER VI: NATURAL DISASTER ASSISTANCE

A. OVERVIEW

Natural disasters, e.g., hurricanes, earthquakes, floods, droughts, fires, volcanic eruptions, and epidemics, can cause widespread destruction and damage to people, livestock, crops, housing, roads, etc. Frequently, the consequences of these disasters have overwhelmed, or threatened to overwhelm, the resources of the countries affected, prompting urgent requests for assistance from the international community. The U.S. Government (USG) is frequently at the forefront of operations to provide such assistance.

Natural disaster relief operations generally involve two to three phases.[317] The first phase of disaster relief operations (the emergency phase) generally involves rendering emergency aid and conducting area and disaster assessments, including delivering food, water, and emergency supplies, rescuing people trapped by the disaster, and restoring critical ground lines of communication. Area and disaster assessment teams are deployed to assess conditions and make initial recommendations for relief. In this phase, the major tasks usually involve the:

– Immediate acquisition of relief supplies;

– Acquisition of transportation assets to move personnel and supplies to the locations in which they are needed;

– Establishment of communications networks and base camps for continuing operations; and

– Identification and prioritization of rehabilitation and restoration projects.

[317] S*ee, e.g.,* USAID ADS 251.5.3, *supra* note 200. The lengths of these phases varies. In the 1998 Hurricane Mitch relief effort, e.g., the phase I effort lasted approximately one month, while the phase II and III efforts lasted three and nine months, respectively.

The second phase (the rehabilitation phase) shifts the focus of disaster relief operations from emergency relief to infrastructure repairs to equip the affected area with the capability to provide for the health and basic welfare of the affected population. Engineer teams rebuild roads and bridges, restore power, repair schools and clinics, and drill wells. Medical teams control disease and vectors, monitor food and water safety, assist in sanitation projects, care for domestic animals, and conduct epidemiological surveys. In this phase, the major tasks usually involve the:

– Identification and prioritization of projects;

– Procurement and transportation of equipment and supplies;

– Identification and procurement of individuals and entities who are to actually complete the projects;

– Identification and procurement of funds to be used; and

– Coordination with host nation and local authorities.

The last phase of these operations (the restoration phase), involves a movement from basic infrastructure repairs to more extensive infrastructure reconstruction. The major tasks involved in this phase are very similar to those involved in the second phase; only the nature of the projects has changed. Some examples include rebuilding schools, medical clinics, and bridges, and providing extensive medical treatment.

B. SUPPLYING HUMANITARIAN ASSISTANCE

1. CAPABILITIES

The main task in responding to natural disasters is the provision of humanitarian assistance, termed "international disaster assistance" (IDA) by the Agency for International Development (USAID) and "foreign humanitarian assistance" (FHA) by the Department of Defense (DOD). This can take the form of direct aid immediately after the disaster to meet basic human needs such as food, water, and shelter (including transporting such aid to and within the affected areas) and longer-term rebuilding of physical infrastructure such as roads and schools. The USG has extensive capabilities to conduct humanitarian assistance operations and to fund other entities to do so. However, in this area in particular, there are numerous fiscal and other legal constraints that shape exactly what aid can be provided by each agency. In this area, NGOs and IGOs also can be critical sources of supplies, personnel, and expertise.

DOD has capabilities for providing both immediate direct aid and long-term reconstruction.[318] These include:

– Large cargo aircraft for transporting urgent supplies to the affected areas;

– Medium cargo aircraft, helicopters, and trucks for transporting supplies within affected areas;

[318] Recent history is replete with examples of the U.S. military playing a significant role in providing humanitarian assistance. For instance, a 7,000-member military task force provided food, water, and medical care to nearly two million people after Cyclone Marian swept through Bangladesh in 1991 (Operation SEA ANGEL). The same year, military forces built refugee camps and assisted in the feeding and relocation of hundreds of thousands of Iraqi Kurds fleeing from Saddam Hussein's counteroffensive against their short-lived revolt against the Baghdad regime (Operation PROVIDE COMFORT I). These operations began a decade in which the U.S. military performed humanitarian assistance across the globe, from providing food and medical supplies in Somalia (Operations PROVIDE RELIEF, RESTORE HOPE, and CONTINUE HOPE, 1992-1994), to providing clean water and transportation of relief supplies in Rwanda (Operation SUPPORT HOPE, 1994), to providing earthquake relief in Turkey (Operation AVID RESPONSE, 1999) and flood relief in Mozambique (Operation ATLAS RESPONSE, 2000). *See* U.S. Military Operations, *at* http://www fas.org/man/dod-101/ops/index html.

– Prepositioned and prepackaged food supplies;

– Prepositioned aid supplies;

– Doctors, dentists, veterinarians, and other medical personnel, field hospitals, and other medical supplies and services;

– Construction personnel and equipment (e.g., graders and rollers);

– Water purification personnel and equipment; and

– Communications personnel and equipment.

Some of the specific military tasks that are critical to the conduct of disaster relief operations include the following.

Protection. This involves going beyond force protection to possible protection of civilian relief and human rights workers, protection of relief lines of communication (LOCs) and relief operation sites, and, in exceptional cases, protection of emergency victims.

Logistics. This involves long-haul transport of such time-sensitive items as civilian water purification capabilities and, if specifically authorized, local transport of relief articles and personnel while the civilian transport system is being restored.

Engineer and communication services. This involves restoration and maintenance of relief LOCs, short-term communications, air traffic control, and airport management services prior to the engagement of civilian entities.[319]

As noted in more detail below, however, a complicated legal framework—primarily fiscal in nature—governs the type and amount of humanitarian assistance that the military is actually authorized to provide.

[319] Adapted from JOINT PUB. 3-57, *supra* note 198, at IV-6 to IV-7.

USAID, assisted by the Department of Agriculture (USDA), is the principal USG civilian agency provider of immediate direct aid to the inhabitants and refugees in areas that have experienced natural disasters. This includes the provision of pre-stocked food and materials and trained disaster aid personnel, and, by contract, transportation of supplies and personnel to and within these areas.[320] Specifically, USAID's Office of Foreign Disaster Assistance (OFDA) can send pre-positioned standard relief commodities, such as plastic sheeting, blankets, and water purification units, to affected areas from stockpiles located in Guam, Honduras, Italy, the United Arab Emirates, and Miami, Florida.[321] The stockpiles in Guam, Honduras, and Italy are located in leased space on U.S. military installations. The military, through a funded agreement, hires warehouse management staff on behalf of OFDA to assist with the handling and storage of these commodities.[322] USAID Disaster Assistance Response Team (DART) members will assist or take responsibility for the task of locating or receiving, offloading, inventorying, issuing,

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[320] *See* 2 FAM 061.3.a, *supra* note 146 (Emergency Relief).

[321] U.S. AGENCY FOR INT'L DEVELOPMENT, BUREAU FOR DEMOCRACY, CONFLICT, AND HUMANITARIAN ASSISTANCE, OFFICE OF U.S. FOREIGN DISASTER ASSISTANCE, 2002 ANNUAL REPORT 15, *at* http://www.usaid.gov/our_work/humanitarian_assistance/disaster_assistance/publications/annual_reports/pdf/AR2002.pdf [hereinafter OFDA 2002 REPORT]. OFDA stockpiles the following items:

– Lightweight summer 10X14 ft tents for 6-8 people;

– Wool blankets for cool climates and polyester blankets for warm climates;

– Chainsaw kits;

– Five-gallon water containers;

– Three thousand gallon collapsible water tanks, both U.S. military and UN types; and

– Plastic sheeting, 24X100 ft, for temporary roofing repairs or temporary shelters.

(OFDA plastic sheeting is designed for distribution directly to disaster victims and for use on community buildings and hospitals, and not for use on government or business buildings or churches, unless they are used as temporary mass shelter facilities.) USAID FOG, *supra* note 292, ch. VI. *See also* 2 FAM 061.4, *supra* note 146 (Disaster Preparedness). For a discussion of OFDA see chapter III.B.2.b(1) of this Handbook.

[322] To access commodities in the stockpiles, the OFDA Logistics Officer notifies the stockpile managers of the type and amount of items needed and coordinates the pickup and delivery of the commodities to the affected county. USAID FOG, *supra* note 292, ch. VI.

tracking, and accounting for these commodities.[323] Stockpile commodities may be released to NGOs and IGOs that are qualified to distribute and instruct in the use of these commodities.

USAID also can provide funding support for NGOs and IGOs providing emergency and other humanitarian assistance in natural disaster areas.[324] In fact, the largest percentage of USAID assistance goes to relief and rehabilitation project grants managed by these private and public international organizations. Relief projects include airlifting supplies to affected populations in remote locations, managing primary health care and supplementary feeding centers, and providing shelter materials to disaster evacuees and displaced persons. In addition, USAID can immediately provide up to $50,000 to the U.S. embassy or USAID mission to purchase relief supplies locally or give a contribution to a relief organization in the affected country.[325]

USAID is also able to conduct long-term infrastructure rebuilding, such as paving roads, managing airports and seaports, and constructing schools. Such projects are usually conducted by private sector contractors funded by USAID, but may be conducted by authorized NGOs and IGOs.

2. PROGRAMS, AUTHORITIES, AND RESTRICTIONS

a. Military

(1) Overview

As discussed in Chapter Five, any agency expenditure or obligation must be authorized and funded by Congress. Congress has determined that the provision of FHA normally will fall under the purview of DOS. As a general rule, without specific authorization,

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[323] Requests for further supplies, together with a description of the need, must be processed through OFDA in Washington—a DART member cannot access stockpiles directly. *Id.*

[324] DART Contracts officers in the field have warrant authority to sign grants up to a certain amount per grant and a certain cumulative amount. *Id.* ch. IV.

[325] OFDA 2002 REPORT, *supra* note 321, at 16. *See also* 2 FAM 063, *supra* note 146 (Obligation of Funds and Fiscal Reporting Requirements). See appendix VI-1 of this Handbook for sample policy guidance for disaster planning and response.

the U.S. military may not use its Operations and Maintenance (O&M funds) to provide FHA.[326] There are, however, certain exceptions and statutory provisions where Congress has determined that the military can provide FHA, either with O&M or other funds.[327]

(2) Limited Operations and Maintenance Funding

Operations and Maintenance Funding for Emergency Responses to Disaster. There is an overarching exception to the general rule on commanders not using O&M funds for FHA: an emergency response to save lives at the scene of a foreign disaster.[328] According to Department of Defense Directive 5100.46, *Foreign Disaster Relief*, "[n]othing . . . prevent[s] a military commander at the immediate scene of a foreign disaster from undertaking prompt relief operations when time is of the essence and when humanitarian considerations make it advisable to do so."[329] Under this authority, commanders can

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[326] Military commanders may use these generic O&M dollars for all "necessary and incident" operational expenses, such as force protection measures, sustainment costs, and repair of main supply routes. For example, during the initial phases of the Kosovo peace operation, the U.S. military commander used O&M funds to provide 12,000 gallons of much-needed fuel to local farmers and fire departments to help keep the farmers in the fields (rather than fomenting unrest) and to fight a rash of recent arson attacks. The commander argued that the use of generic O&M was appropriate for mission accomplishment—promoting a safe and secure environment—and that any humanitarian benefit was merely incidental. CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN KOSOVO 1999-2001: LESSONS LEARNED FOR JUDGE ADVOCATES 159-60 (15 Dec. 2001) [hereinafter KOSOVO LESSONS LEARNED]. However, because almost any expense can somehow be linked to mission accomplishment, the "mission accomplishment" argument is used judiciously, particularly when the expenses begin to look more like another agencies' function, like DOS or USAID development assistance. *See* Colonel Richard D. Rosen, USA, *Funding Non-Traditional Military Operations: The Alluring Myth of a Presidential Power of the Purse*, 155 MIL. L. REV. 1 (1998).

[327] For detailed discussions of the basic principles of U.S. fiscal law, fiscal law as it applies to military operations, and the relationship between DOD funding and DOS see 2004 OPLAW HANDBOOK, *supra* note 83, ch. 12.

[328] For a detailed example of what can be authorized see appendix VI-2 of this Handbook.

[329] DOD DIR. 5100.46, *supra* note 210, para. 4.3 Although this 1975 Directive is still in effect, it should be read in conjunction with 10 U.S.C. § 404, which allows the President to direct the Secretary of Defense to provide overseas disaster assistance "when necessary to prevent loss of lives." 10 U.S.C. § 404(a) (2000). The President must report to Congress within 48 hours of doing so. *Id.* § 404(c). President Clinton delegated to the Secretary of Defense the authority to provide disaster relief "in emergency situations in order to save human lives, where there is not sufficient time to seek the prior initial concurrence of the Secretary of State." Exec. Order No. 12,966, Foreign Disaster Assistance, § 2, 60 Fed. Reg. 36949 (18 July 1995). Presumably DOD DIR. 5100.46 remains the Secretary of Defense's policy even in light of the subsequent executive order.

use generic O&M funds to provide immediate emergency aid (e.g., transportation, services, supplies, and equipment) in the interim period before appropriate FHA funding becomes available or other agencies assume the mission.[330]

Humanitarian and Civic Assistance, 10 U.S.C. § 401. Under 10 U.S.C. § 401, the Humanitarian and Civic Assistance (HCA) program authorizes military forces, in conjunction with ongoing military operations, to perform small-scale rudimentary humanitarian projects. HCA is statutorily defined as: (1) medical, dental, and veterinary care provided in rural areas of a country; (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.[331] HCA activities are funded by "earmarked" O&M dollars, meaning that each military department sets aside a specific amount of O&M money for HCA projects, which typically are planned well in advance by the Combatant Commander in consultation with U.S. embassy Country Teams.[332] If all of these criteria have been met, and the contemplated HCA project has been pre-approved, HCA authority and fenced O&M funding are one way for a commander to provide humanitarian assistance.

De minimis HCA. Another option—and a more flexible tool for the commander because it does not require prior planning, pre-approval,

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[330] As an example, during the 1998 Hurricane Mitch relief effort in Central America (Operation FUERTE APOYO), the military commander used generic O&M funds to distribute blankets and MREs (meals ready-to-eat) worth over $15,000 in the early days of the operation before certain FHA funding mechanisms had been approved. HURRICANE MITCH LESSONS LEARNED, *supra* note 267, at 73.

[331] 10 U.S.C. § 401(e)(1)-(4) (2000).

[332] The Combatant Commands submit their HCA recommendations to the Director, Defense Security Cooperation Agency (DSCA), who is the DOD approval authority for all annual HCA projects and all "out of cycle" (submitted separately from the group of annual HCA requests) projects. For more information on DSCA and its role in humanitarian assistance see Defense Security Cooperation Agency, Office of Humanitarian assistance and Mine Action, Humanitarian Mine Action Program, *at* http://www.dsca.osd.mil/programs/HA/summary htm. The majority of pre-planned HCA projects historically have occurred in Latin America, particularly in Central America. For example, in 2001 HCA projects (mainly small-scale medical, dental, and veterinary care, along with minor engineering projects such as repairing schools) occurred in sixteen countries, all in Latin America. See DEFENSE SECURITY COOPERATION AGENCY, HUMANITARIAN AND CIVIC ASSISTANCE PROGRAM OF THE DEPARTMENT OF DEFENSE, FISCAL YEAR 2001 (1 Mar. 2002).

or availability of earmarked service HCA O&M—is "de minimis HCA." Under the HCA statute, military commanders can use their own unit O&M funds (i.e., do not have to tap into the earmarked military department HCA allowance) to provide HCA that amounts to a "minimal expenditure."[333] "Minimal expenditure" is not defined in the statute, but DOD Directive 2205.2, an implementing regulation for the HCA statute, dictates that Combatant Commanders shall determine what is "minimal," balancing the cost directly resulting from and the time required for the HCA activity against the unit's mission requirements.[334] HCA costs include incremental expenses for consumable materials, supplies, and services, if any, that are reasonably necessary to provide the HCA, but do not include costs likely to be incurred as a result of the overall military operation whether or not the HCA is provided (for example, personnel expenses, transportation, fuel, and equipment repair).[335] A colloquial rule of thumb is "a few soldiers, a few dollars, a few hours."[336] The Directive lists two examples of appropriate de minimis HCA: (1) a unit doctor's examination of villagers for a few hours with the administration of several shots and the issuance of some medicine, but not the deployment of a medical team for the purposes of providing mass inoculations to the local populace; and (2) the opening of an access road through the trees and underbrush for several hundred yards, but not the paving of a roadway.[337]

Emergency and Extraordinary Expenses, 10 U.S.C. § 127, and Combatant Commander Initiative Fund, 10 U.S.C. § 166a.[338]

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[333] 10 U.S.C. § 401(c)(4) (2000).

[334] U.S. DEP'T OF DEFENSE, DIR. 2205.2, HUMANITARIAN AND CIVIC ASSISTANCE (HCA) PROVIDED IN CONJUNCTION WITH MILITARY OPERATIONS, para. E.1.1.1 (6 Oct. 1994) [hereinafter DOD DIR. 2205.2]. During Operation ENDURING FREEDOM in Afghanistan, the Combatant Commander delegated the authority to determine what is a "minimal expenditure" down a level of command to the Combined Joint Task Force Commander. *See* Message, 152020Z July 02, U.S. Central Command, Subject: USCINCCENT Guidance for Humanitarian assistance During Operation Enduring Freedom, para. 2(A)(7)(A) (on file with CLAMO).

[335] DOD DIR. 2205.2, *supra* note 334, para. 4.9.

[336] U.S. Army, Judge Advocate General's Legal Center and School, 62nd and 63rd Fiscal Law Course Deskbook, *supra* note 309, ch.15.

[337] DOD DIR. 2205.2, *supra* note 334, paras. E.1.1.1.1 to E.1.1.1.2.

[338] Formerly known as "CINC Initiative Funds".

Military commanders can always try to fall back on one of two "catch-all" authorities to provide FHA: Emergency and Extraordinary Expenses (E&E, or "Triple E") under 10 U.S.C. § 127, and the Combatant Commander Initiative Fund (CCIF) under 10 U.S.C. § 166a. E&E funds are "fenced off" dollars within the O&M appropriation that Combatant Commanders can use for "any emergency or extraordinary expense which cannot be anticipated or classified."[339] The Secretaries of the military departments and the Secretary of Defense can spend these funds without regard to other provisions of law, but the funds are limited in amount,[340] and any expenditure or obligation over $500,000 triggers Congressional notification requirements and mandatory waiting periods before spending the funds.[341] Similarly, the CCIF is a pot of money that can be used for a variety of purposes—not as expansive as E&E, but the statute contains a fairly lengthy list of authorized activities, to include "humanitarian and civil support."[342] Like E&E funds, the CCIF is limited in amount.[343] Moreover, in the case of both funds, the local commander does not control the money and must request its availability and use through the chain of command.

(3) Humanitarian Assistance Funding

Humanitarian Assistance, 10 U.S.C. § 2561. In 10 U.S.C. § 2561, Congress authorizes humanitarian assistance "for the purpose of providing transportation of humanitarian relief and for other humanitarian purposes worldwide."[344] Although aimed at

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[339] 10 U.S.C. § 127(a) (2000).

[340] The Fiscal Year 2004 DOD appropriation provides $11 million E&E for the Army, $4.4 million for the Navy and Marine Corps, and $7.8 million for the Air Force. Department of Defense Appropriations Act, 2004, Pub. L. No. 108-87, tit. II, 117 Stat. 1054, 1056-57 (2003).

[341] 10 U.S.C. § 127(c)(1) (2000). The statute mandates a five-day waiting period after the congressional notification on expenditures or obligations over $500,000 but under $1 million, and a fifteen-day waiting period for expenditures or obligations over $1 million. *Id.* § 127(c)(1)(A)-(B).

[342] *Id.* § 166a(b)(6).

[343] The Fiscal Year 2004 DOD appropriation provides $30 million for the CCIF. Department of Defense Appropriations Act, 2004, Pub. L. No. 108-87, tit. II, 117 Stat. 1054, 1057 (2003).

[344] 10 U.S.C. § 2561 (2000).

transportation of humanitarian supplies, the "for other humanitarian purposes worldwide" language of this statute serves as something of an FHA catch-all as a flexible source for emergency humanitarian assistance. For example, in Afghanistan, Central Command (CENTCOM) used the appropriation under this statutory authority for drilling water wells and repairing and rebuilding schools, agricultural infrastructure, irrigation systems, bridges, and hospitals and other medical facilities.[345] Section 2561 humanitarian assistance expenses are paid from Overseas Humanitarian Disaster and Civil Assistance (OHDACA) funds, not O&M. The Department of Defense OHDACA appropriation for fiscal year 2004[346] was $59 million.[347]

The distinction between § 2561 humanitarian assistance and § 401 HCA, discussed above, is that if the contemplated humanitarian assistance project meets all the requirements of HCA, then the HCA authority and HCA funding (military department O&M) are used. If not, but the project is otherwise of an humanitarian assistance nature, then the § 2561 authority and OHDACA appropriation are used.[348]

Donation of Excess Nonlethal Supplies for Humanitarian Relief, 10 U.S.C. § 2557. Another statutory exception to the general prohibition on military provision of humanitarian assistance is the donation of nonlethal excess supplies under the authority of 10 U.S.C. § 2557.[349] "Nonlethal excess supplies" refers to military property, other than real property, that is: (1) excess—not required for the needs

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[345] In the fall of 2002, CENTCOM, the Combatant Command for Operation ENDURING FREEDOM, was spending approximately $1 million of OHDACA funds per month under the authority of § 2561 for humanitarian assistance projects that did not otherwise meet the HCA requirements, such as rebuilding agricultural infrastructure. *See* Message, 042016Z Sept. 02, U.S. Central Command, subject: Request for Additional OEF OHDACA Funding for FY03 (on file with CLAMO). CENTCOM had a $10 million OHDACA budget for Fiscal year 2002, and was requesting an additional $17 million for Fiscal Year 2003. *Id.*

[346] The OHDACA appropriation typically is a two-year appropriation, whereas the O&M appropriation typically is a one-year appropriation.

[347] Department of Defense Appropriations Act, 2004, Pub. L. No. 108-87, tit. II, 117 Stat. 1054, 1061 (2003).

[348] *See supra* note 345.

[349] "The Secretary of Defense may make available for humanitarian relief purposes any nonlethal excess supplies of the Department of Defense." 10 U.S.C. § 2557(a) (2000).

and the discharge of the responsibilities of any Defense Department activity;[350] and (2) nonlethal —"not a weapon, ammunition, or other equipment or material that is designed to inflict serious bodily harm or death."[351] Examples of nonlethal excess supplies include clothing, furniture, medical and school equipment, and supplies, vehicles, tools, and construction equipment. The Defense Security Cooperation Agency (DSCA) manages the program through the military services and geographic Combatant Commands, to include selection, screening, prepositioning, storage, refurbishment, and shipment of material.[352] Costs for preparing and transporting § 2557 excess property is authorized under 10 U.S.C. § 2561.[353] Responsibility for distribution of the excess property, however, rests with DOS and USAID.[354]

The § 2557 excess property program is not a particularly flexible mechanism to meet immediate humanitarian supply needs from the supplies and equipment of local military commanders. Getting property declared excess requires time and paperwork. The statute mandates DOS involvement. Furthermore, certain categories of property, like staple items, rarely will qualify as excess because of the likelihood of the items being useable somewhere within DOD.[355]

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[350] U.S. DEP'T OF DEFENSE, MANUAL 4160-21-M, DEFENSE MATERIEL DISPOSITION MANUAL (18 August 1997) (from "Definitions" section of the Manual). The statute allows the Defense Department to define what is or is not "excess." 10 U.S.C. § 2557(d)(1)(A) (2000). Within DOD, the Defense Reutilization and Marketing Service (DRMS) manages excess property in general. For more information on DRMS and excess property procedures see the DRMS website *at* http://www.drms.dla mil/.

[351] 10 U.S.C. § 2557(d)(1)(B) (2000).

[352] DSCA has established a consolidated excess property warehousing point in Albany, Georgia, to manage all excess CENTCOM and Southern Command property, while European Command and Pacific Command manage a variety of storage and refurbishment facilities in their respective areas of responsibility. *See generally* Defense Security Cooperation Agency, Office of Humanitarian Assistance and Mine Action, Excess Property Program, *at* http://www.dsca.osd.mil/programs/HA/EXCESS%20PROPERTY%20PROGRAM.pdf [hereinafter Excess Property Program].

[353] *See supra* note 347 and accompanying text.

[354] 10 U.S.C. § 2557(b) (2000) ("Excess supplies made available for humanitarian relief purposes under this section shall be transferred to the Secretary of State, who shall be responsible for the distribution of such supplies").

[355] For example, at the end of the Kosovo bombing campaign in 1999 (Operation ALLIED FORCE), a U.S. military task force redeploying to its home base attempted to donate food to a

Presidential Drawdown Authority, 22 U.S.C. § 2318(a)(2) (Foreign Assistance Act § 506(a)(2)). Another possible mechanism for the military to provide humanitarian assistance is a presidential emergency drawdown. Under 22 U.S.C. § 2318(a)(2), the President may direct the drawdown of DOD articles, services, and military education and training for, among other purposes, international disaster assistance.[356] The term "drawdown" refers to the fact that the President is taking from (or "drawing down" from) existing military inventories as the source of humanitarian aid; new purchases are not authorized. If a disaster assistance drawdown is in effect for an operation, military commanders will be able to provide a range of humanitarian assistance that would otherwise be prohibited. For example, during the 1998 Hurricane Mitch relief effort, President Clinton authorized a total drawdown of $75 million (a $30-million and $45-million drawdown), enabling military commanders to provide food, water, and medical care, and to help rebuild roads, bridges, houses, schools, and medical facilities.[357] Of note, because a drawdown does not authorize new purchases, supplies for construction (gravel, lumber, etc.) must be purchased using a separate

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local Albanian orphanage under a § 2557 analysis, but found the strict statutory and regulatory requirements prohibitive, and donated the food to another U.S. military unit instead of to the orphanage. The excerpt from CLAMO's Kosovo Lessons Learned publication regarding this example illustrates just how burdensome the process can be at the local unit level:

> Prior to declaring the items excess, many legal obstacles would have to be negotiated. The [unit] property book officer would have to complete a DA [Department of Army] Form 3161, "Return for Issue or Turn In," declaring the food excess. The veterinarian would then have to examine the excess food and determine whether the food was fit for human consumption. If the veterinarian determined that the food was fit for consumption, the form would have to be sent to USAREUR [U.S. Army, Europe] Food Service, which would determine whether other military units in USAREUR could use the food. If no other unit could use the food, USEUCOM would have to contact DOS [the Department of State] . . . . Faced with these requirements, the [unit] logistics section decided to send the food to [another military unit in theater], an act which itself demonstrated that there was a military use for the items.

KOSOVO LESSONS LEARNED, *supra* note 327, at 72-72.

[356] The aggregate value of the articles, services, and education and training cannot exceed $200 million in a given fiscal year. 22 U.S.C. § 2318(a)(2)(B) (2000).

[357] *See* HURRICANE MITCH LESSONS LEARNED, *supra* note 267, at 77.

fiscal authority (such as any other available exceptions to the general prohibition on military provision of humanitarian assistance).[358]

(4) Transportation

Denton Amendment, 10 U.S.C. § 402. Under the Denton Amendment, the U.S. military may transport humanitarian supplies donated from nongovernmental sources on a space available (meaning extra space on already scheduled military transportation) basis, but only so long as: (1) transportation is consistent with U.S. foreign policy; (2) supplies are for humanitarian purposes and there is a legitimate humanitarian need for them; (3) supplies will in fact be used for humanitarian purposes; and (4) arrangements have been made for distribution of the supplies in the destination country.[359] (As discussed above, 10 U.S.C. § 2561 specifically authorizes the funded transportation of donated humanitarian goods[360] as opposed to nonfunded space available transportation of donated goods delivered under authority of the Denton Amendment.) The program is jointly managed by USAID and DSCA. There is no cost to the donating agency. Once the supplies arrive in the destination country, they may be distributed by a USG agency, a foreign government, "international organizations, or a private nonprofit relief organization."[361] No supplies may be transported, directly or indirectly, to any military or paramilitary individual or group.[362] All prospective donors must first submit an application to USAID for approval. Donors also must submit a report to USAID within thirty days after cargo distribution describing how the supplies were distributed, to whom, and how the supplies were used.[363] An average of two million pounds of

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[358] *See id.* (commenting on commanders' frustrations when they could not use the drawdown authority to purchase construction materials).

[359] 10 U.S.C. § 402(a)-(b) (2000).

[360] *See* Excess Property Program, *supra* note 352.

[361] 10 U.S.C. § 402(c)(1) (2000). Of note, the U.S. military must find authority and funding beyond the Denton Amendment to distribute the supplies in-country, such as 10 U.S.C. § 2561 and OHDACA.

[362] *Id.* § 402(c)(2).

[363] This is a USAID policy requirement driven by the statutory requirement that DOS provide an annual report to Congress on Denton program deliveries. *See id.* § 402(d). For more information

humanitarian supplies are delivered annually under the Denton program, with increases during years when major humanitarian crises occur.

Humanitarian Assistance, 10 U.S.C. § 2561. As noted above, 10 U.S.C. § 2561 specifically authorizes the funded transportation of donated humanitarian goods (as opposed to the nonfunded space available transport of donated goods delivered under the authority of the Denton Amendment above). Although the §2561 statutory authority permits transportation via any mode and for any humanitarian cargo, due to funding constraints DOS and DOD policy is that transport is limited to surface modes, cargo is limited to goods that satisfy basic humanitarian needs (medical, food, clothing, shelter), and the minimum cargo needed to use the program is one twenty-foot shipping container. Funded airlift can be authorized in emergency situations. DOS is the approval authority for any nongovernmental or international organization that requests transportation of humanitarian supplies under § 2561, and, if approved, DSCA carries out the request.[364]

b. Civilian

(1) General

The principal civilian agency authorities for providing immediate direct aid are: Section 491 of the Foreign Assistance Act (FAA) of 1961, as amended (FAA Section 491);[365] Title II of the Agricultural Trade Development and Assistance Act of 1954, as amended (P.L. 480 Title II);[366] and Section 416(b) of the Agricultural Act of 1949, as amended (Section 416(b)).[367]

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on the Denton program, to include an application form to request a space available shipment see About the Denton Program, *at* http://www.dentonfunded.ida.org/AboutDenton htm.

[364] *See* Defense Security Cooperation Agency, Office of Humanitarian Assistance and Mine Action, Funded Transportation Program, *at* http://www.dsca.osd.mil/programs/HA/FUNDED%20TRANSPORTATION%20PROGRAM%202.pdf .

[365] 22 U.S.C. § 2292 (2000).

[366] 7 U.S.C. § 1721 (2000). The P.L. 480 Title II program derives its name from the original statute authorizing the program, the Agricultural Trade Development and Assistance Act of 1954,

FAA Section 491. FAA Section 491, also known as the International Development (IDA) Account, authorizes the President to "furnish assistance to any foreign country, international organization, or private voluntary organization, on such terms and conditions as he may determine, for international disaster relief and rehabilitation, including assistance relating to disaster preparedness, and to the prediction of, and contingency planning for, natural disasters abroad" and authorizes the funding to do so. The President is further directed to, "to the greatest extent possible, reach those most in need of relief and rehabilitation as a result of natural and manmade disasters." This broad delegation of authority is further enhanced by the fact that it may be exercised "notwithstanding any other provision of this chapter or any other Act." Accordingly, actions taken under this authority are not subject to the wide variety of country-specific and policy constraints that have been applied to development assistance (as discussed in Chapter VII.D of this Handbook).[368]

USAID's OFDA, which administers the IDA account, divides disaster activities into three phases—disaster relief, disaster rehabilitation, and disaster reconstruction.[369] Disaster relief is considered to be "immediate, life sustaining assistance provided to disaster victims" while disaster rehabilitation is defined as "intermediate term activities to assist disaster-stricken populations to return to a state of viability."[370] USAID provides disaster rehabilitation to assist a community's return to a state of viability and reduce the community's vulnerability to future disasters.[371] The final stage, disaster reconstruction, is defined as "longer term activities

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Pub. L. No. 83-480, ch. 469, tit. II, 68 Stat. 4577 (1954). This program is also known as the Food for Peace Program.

[367] 7 U.S.C. § 1431(b) (2000).

[368] *See also* USAID ADS Glossary, *supra* note 200 (definition of notwithstanding).

[369] "Disaster" is defined as "an unexpected occurrence, manmade or natural, that causes loss of life, health, property or livelihood, inflicting wide spread destruction and distress and having long-term, adverse effects on Agency operations...." *Id.* (definition of disaster).

[370] *Id.*(definition of disaster relief)

[371] USAID ADS 251.5.3, *supra* note 200.

designed to augment critical infrastructure and promote development goals."[372] While the first two activities are usually managed by OFDA, reconstruction is most commonly administered by USAID's regional bureaus and overseas missions. However, even though rehabilitation and reconstruction are secondary and tertiary OFDA objectives, that office and IDA account funds can be used for these types of disaster assistance activities.[373]

While Section 491 authority pertains to a wide variety of disaster aid, the P.L. 480 Title II and Section 416(b) programs provide for food aid only, both from purchases specifically for that purpose and from excess commodities already purchased from U.S. supplies under agricultural price support programs.[374] These programs are administered by USAID's Office of Food for Peace and USDA.

P.L. 480 Title II. P.L. 480 Title II provides for the donation of U.S. agricultural commodities by the U.S. Government to meet humanitarian food needs in foreign countries without repayment requirements.[375] This program is the primary resource of the United States for responding swiftly to the critical food needs of disaster victims and other targeted vulnerable groups.[376] Beneficiaries include internally displaced people, refugees, resettled or new returnees, and vulnerable resident populations.[377] Commodities may be provided to meet emergency needs under government-to-government agreements, through public and private agencies, including intergovernmental organizations such as the World Food Program, and other multilateral

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[372] *Id.* Glossary.

[373] *Id.* 251.5.3.

[374] U.S. Food Aid Programs Description: Public Law 480, Food for Progress and Section 416b, *at* http://www fas.usda.gov/excredits/pl480/pl480ofst.html [hereinafter U.S. Food Aid Programs Description].

[375] OFDA 2002 ANNUAL REPORT, *supra* note 321, at 9.

[376] U.S. Agency for Int'l Development, FY 2004 Congressional Budget Justification, Office of Food for Peace, *at* http://www.usaid.gov/policy/budget/cbj2004/cent_prog/central_dcha html [hereinafter FY 2004 FFP Justification].

[377] U.S. Agency for Int'l Development, FY 2004 Congressional Budget Justification, Program Highlights, *at* http://www.usaid.gov/policy/budget/cbj2004/highlights html [hereinafter USAID FY2004 Budget Highlights].

organizations. Non-emergency assistance may be provided through private voluntary organizations, cooperatives, and intergovernmental organizations. The requested commodities may be furnished from the USDA Commodity Credit Corporation's (CCC's) inventory acquired under price support programs or from private stocks.[378]

Section 416(b).[379] This program, which is administered by USDA, provides for overseas donations of surplus commodities owned by the CCC to carry out assistance programs in developing countries and friendly countries.[380] Surplus commodities acquired by the CCC as a result of price support operations may be made available under § 416(b) if these surplus commodities cannot be sold or otherwise disposed of without disruption of price support programs or at competitive world prices. These donations are not permitted to reduce the amounts of commodities that traditionally are donated to domestic feeding programs or agencies, prevent the fulfillment of any agreement entered into under a payment-in-kind program, or disrupt normal commercial sales.

(2) Transportation

In addition to supplying and purchasing immediate aid supplies, USAID's OFDA has authority to charter commercial aircraft and request military aircraft for transportation of such supplies to and within affected areas for situations that are especially time-critical.[381] Such aircraft range from helicopters and single-engine piston aircraft to large cargo jets. However, when commercial aircraft are unable to meet the time or operational requirements for delivery of relief

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[378] U.S. Food Aid Programs Description, *supra* note 374.

[379] *Id.* Note that the FY 2004 USAID Congressional Budget Justification calls for maintaining the FY 2003 funding level for Title II, "which included an increase of approximately $300 million to help offset the loss of the Section 416(b) surplus commodities program of the U.S. Department of Agriculture (USDA). From 1999 through 2001, USAID and USDA had a strategic alliance to send available Section 416(b) surplus commodities to meet food aid needs around the world. As a result, the United States contributed 65% of the emergency food resources received by the UN's World Food Program in 2001—with an estimated value of over $1 billion. During FY 2002, overall USG food aid resources were reduced." USAID FY2004 Budget Highlights, *supra* note 377.

[380] See appendix VI-3 of this Handbook for sample timelines for obtaining this type of assistance.

[381] *See supra* note 359 and accompanying text.

commodities or DARTs, OFDA will request and utilize DOD aircraft.[382] This is done on a cost reimbursable basis. A major advantage of DOD aircraft is their mid-air refueling capabilities, which shortens the time required to deliver relief commodities and DARTs and helps negate crew rest issues.[383]

The CCC finances the costs of ocean transportation of P.L. 480, Title II commodities to ports of entry, or to points of entry other than ports in the case of landlocked countries, or when the use of a point of entry other than port would result in substantial savings in costs or time. The CCC may also pay transportation costs from designated ports of entry or points of entry abroad to storage and distribution sites, and associated storage and distribution costs for commodities, including pre-positioned commodities, made available to meet urgent or extraordinary relief requirements. For Food for Peace commodities furnished on a grant basis, the CCC may pay, in addition to acquisition costs and ocean transportation, such related commodity and delivery charges.[384]

Finally, USAID's Ocean Freight Reimbursement (OFR) Program allows Private Voluntary Organizations (PVO)[385] to ship a wide variety of goods overseas for use in privately funded development and humanitarian assistance programs. The Program

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[382] U.S. military aircraft may be used to provide airlift of OFDA relief commodities to a point close to the disaster site or to shuttle relief commodities within the area of the disaster. To arrange for this military airlift support, the OFDA Logistics Officer prepares documentation that specifically details when, where, and what type of support is needed and how that support will be reimbursed. Once the requirements have been identified and accepted by DOD, OFDA Logistics will continue to coordinate with the appropriate military staffs to expedite the delivery of the commodities. OFDA Logistics may request assistance from an Assessment Team or DART with customs, off-loading, consignment, and accounting for the relief commodities. OFDA also works very closely with DOS/PM. DOS/PM serves as a facilitator between DOD and OFDA. For example, when DOD receives a request for support to an NGO that requires validation or (in the case of DOD-initiated disaster response activities) when no military presence is available in an affected country, OFDA will work with PM to assist in validating and targeting the response activities. USAID FOG, *supra* note 292, ch VI, Military Operations Involving Coordination with OFDA Disaster Response Activities.

[383] *See id.*, ch VI, Aircraft Information, sections A, C.

[384] U.S. Food Aid Programs Description, *supra* note 374.

[385] For a discussion of PVOs and NGOs see chapter III.A.1 of this Handbook.

provides small competitive grants to approximately 50 U.S. PVOs each year. Funds are used to reimburse the PVOs' costs to transport donated commodities, such as medical supplies, agricultural equipment, educational supplies, and building equipment, to developing countries. While USAID reimburses the costs of ocean freight, participating PVOs are responsible for associated costs, such as commodity acquisition, warehousing, insurance, local transportation, and distribution.[386]

(3) Restrictions and Eligibility

The following restrictions have been placed on the provision of food aid.[387]

– Commodities will not be made available unless there are adequate storage facilities in the recipient country and the distribution will not interfere with domestic production or marketing.

– For each year under Title II there is an appropriation limit of $1 billion to reimburse the CCC for all costs incurred. Of the funds made available in each fiscal year under Title II, at least $10 million and not more than $13.5 million shall be made available to cover program costs of private voluntary organizations and cooperatives.

– Cargo preference requirements require that at least 75 percent of all U.S. food aid tonnage be shipped on U.S.-flagged vessels. This requirement applies to shipments under P.L. 480 and Section 416(b).

– All food aid authorities allow some portion of the commodity to be monetized (sold). As part of the Food Security Act of 1985, as amended in 1996, Congress mandated that at least 15 percent of all Section 416(b) and non-emergency Title II commodities be monetized. The use of monetized proceeds was initially

[386] Ocean Freight Reimbursement Overview, *at* http://www.usaid.gov/our_work/cross-cutting_programs/private_voluntary_cooperation/ofr.html

[387] U.S. Food Aid Programs Description, *supra* note 374.

limited to paying for administrative costs related to direct food distribution for humanitarian purposes, but in 1988 the permissible use of monetized proceeds was expanded to include broad development purposes, including agricultural development.[388]

Only certain commodities are eligible for food aid programs, as set forth in the following restrictions.[389]

– **P.L. 480.** No agricultural commodity shall be available if its disposition would reduce the domestic supply below domestic requirements and provide adequate carryover, unless the Secretary of Agriculture determines that some part of the supply should be used for urgent humanitarian purposes. Alcoholic beverages and tobacco products can not be made available under P.L. 480.

– **Section 416(b).** Eligible commodities include: dairy products, rice, feed grains and products, and oilseeds and other commodities acquired by the CCC through price support operations. Commodities may not be made available in amounts that will reduce amounts traditionally used for domestic feeding programs or will prevent fulfillment of a payment-in-kind program.

Additionally the countries eligible for food aid vary depending on the program.[390]

– **P.L. 480.** Under Title II countries are eligible where emergency food needs exist and non-emergency food may be provided through eligible organizations. Countries that engage in violations of human rights as determined by the President are ineligible for P.L. 480.

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[388] U.S. DEP'T OF AGRICULTURE, FOREIGN AGRICULTURAL SERVICE, REPORT TO CONGRESS ON FOOD AID MONETIZATION 3 (10 Aug. 2001) (on file with CLAMO) [hereinafter FOOD AID MONETIZATION REPORT].

[389] U.S. Food Aid Programs Description, *supra* note 374.

[390] *Id.* *See also* appendix VI-4 of this Handbook.

– **Section 416(b).** Commodities are eligible to friendly and developing countries.

CHAPTER VII: POST-CONFLICT RESTORATION

A. OVERVIEW

Complex contingency operations are increasingly focused on post-conflict restoration activities. As with natural disaster assistance, post-conflict restoration operations often involve the provision of large quantities of humanitarian aid. The U.S. Government's (USG) capabilities and programs for providing such aid in natural disaster assistance, discussed in the previous chapter, are also utilized in post-conflict restoration. However, in addition to humanitarian aid, such post-conflict situations also require a series of other programs to restore the affected countries. One priority on which all other activities depend is the restoration of basic law and order. Once this has been accomplished, there remains a need to rebuild the other components of a country's judicial systems, including courts, the judiciary, and the prison system, and other public entities. In addition, long-term aid in providing food, medicine, and other aid in the form of development assistance may be necessary. Finally, depending on the situation, further restoration of a country's economic and agricultural sectors may require an extensive program to locate and remove, deactivate or otherwise neutralize anti-personnel landmines that remain from the conflict. This Chapter discusses the USG's capabilities and programs for addressing each of these additional activities.

B. PROVIDING LAW ENFORCEMENT

1. CAPABILITIES

In the immediate aftermath of a conflict, local authorities may be unable to provide or be prohibited from providing[391] basic law

[391] *See, e.g.*, Military Technical Agreement between the International Security Force ("KFOR") and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia, 9 June 1999 (requiring police forces to leave the Kosovo province and remain at least five kilometers beyond the provincial boarder with Serbia).

enforcement, a mission that entails more than just policing. To provide effective and stable law enforcement, policing must be combined with a respected judiciary and a working prison system. This has been referred to as the "three-legged stool" of law enforcement.[392] Thus, providing law enforcement includes activities such as deterring and investigating criminal activity, arresting, prosecuting and convicting perpetrators, and jailing convicted criminals.

Until the local criminal justice system can be rebuilt, the USG, other governments, and international organizations[393] often have to undertake these tasks themselves. Unlike many other countries, the United States does not have a national civilian police (CIVPOL) force that can be deployed overseas.[394] However, the U.S. military can provide military police and investigators, who have the capability to provide basic policing and penal activities, and military lawyers for criminal adjudication. The military can also provide large numbers of combat-trained soldiers to provide basic policing functions, as is the case in Iraq. In addition to Department of Defense (DOD) assets, the Department of State (DOS), through a civilian contractor, can provide a limited number of U.S. civilian police officers capable of policing operations.

The availability of law enforcement resources varies significantly. In terms of expeditionary readiness, equipment, and

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[392] The three-legged stool model depicts the importance of assessing, concurrently, three elements of a security triad: police, courts, and prisons. It was used by officials from the Agency for International Development and the Department of Justice's International Criminal Investigation Training Assistance Program, in conjunction with the Multinational Forces of Operation UPHOLD DEMOCRACY, the 1994 United Nations (UN)-mandated mission in Haiti, to address law and order challenges.

[393] A discussion of all of the international organizations participating in post-conflict law enforcement restoration is beyond the scope of this work. However, included in appendix VII-1 of this Handbook is a listing of some of these organizations.

[394] The U.S. Government has a number of law enforcement agencies, each with specialized missions and capabilities. These include the Federal Bureau of Investigation (FBI), Drug Enforcement Agency (DEA), U.S. Customs Service, U.S. Border Patrol, Secret Service, and Marshals Service. However, other than providing limited specialized investigatory services, these agencies are not organized, equipped or funded to provide local law enforcement outside of the United States.

personnel, the U.S. military services[395] possess the capability to immediately perform all three aspects of the law enforcement mission because of the ability of the military to rapidly deploy and sustain forces throughout the world.[396] Rapid deployability is not a feature, at least to date, of international civilian police forces which often arrive to a law enforcement mission months after initiation.[397] The oftentimes sudden deterioration of stability in areas that have been subject to intense conflict, coupled with the inability of international civilian police forces to mobilize rapidly, creates a law and order vacuum that only the military is presently able to fill. The temporal lag between the initial arrival of military forces to a law and order mission and the subsequent arrival of civilian police forces has been referred to as the "deployment gap" and will affect the decisions as to which forces are to be used at the appropriate time.[398]

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[395] This section will focus on the military land component forces, the Marine Corps and the Army, as they are the primary forces used to restore law and order in a post-conflict environment.

[396] Of the military services, the U.S. Marine Corps provides the highest state of military readiness for ground operations. As discussed in chapter II.C.2 of this Handbook, the Marine Corps maintains a constant, forward-deployed presence across the globe, placing one Marine Expeditionary Unit in the western Pacific, one in the Mediterranean, and one in Okinawa, Japan. The Army also has units that can rapidly respond, whether they originate from forward overseas staging bases or domestic bases.

[397] The mission to Kosovo provides stark evidence. Despite the UN's urgent call for upwards of 3,100 international police to assist with the Kosovo mission, the international community did not meet the UN's request for almost a year. At the two-month mark, the international community had provided 774 CIVPOL officers. The number of CIVPOL in Kosovo did not surpass 1,000 police officers until almost three months into the military mission in Kosovo. On 27 October 1999, the United Nations Secretary General asked for an additional 1,600 international police to serve as CIVPOL, bringing the total number of international police requested for the Kosovo mission to 4,700. At the one-year mark, CIVPOL numbered just over 3,600 throughout Kosovo. *See* Alton L. Gwaltney, III, "Law and Order in Kosovo: A Look at Criminal Justice the First Year of Operation Joint Guardian," in *Lessons from Kosovo: The KFOR Experience* 233, 241 (Larry Wentz ed., 2002). The significant delay in the deployment of CIVPOL was a key finding of a UN study on peacekeeping that stated, "the process of identifying, securing the release of and training police and related justice experts for mission service is often time-consuming, and prevents the United Nations from deploying a mission's civilians police component rapidly and effectively." UNITED NATIONS, PANEL ON UNITED NATIONS PEACE OPERATIONS, COMPREHENSIVE REVIEW OF THE WHOLE QUESTION OF PEACEKEEPING OPERATIONS IN ALL THEIR ASPECTS, U.N. Doc. A/55/305-S/2000/809 at 20 (2000) [hereinafter Brahimi Report]. Interestingly, the Brahimi Report recommends that the UN develop the operational capability to deploy a peacekeeping force to a "traditional" peacekeeping operation within thirty days, and to deploy a force to a "complex" peacekeeping operation within ninety days. *Id*. at 3. Even if this capability is achieved, a deployment gap will still exist, whether thirty days or ninety days, that only the military can presently fill.

[398] Robert B. Oakley & Michael J. Dziedzic, *Introduction* to POLICING THE NEW WORLD DISORDER: PEACE OPERATIONS AND PUBLIC SECURITY 3, 8 (Robert B. Oakley et al. eds., 1998).

2. PROGRAMS, AUTHORITIES, AND RESTRICTIONS

a. Military

The military has a sizeable number of personnel and units specifically trained to fulfill a law enforcement function. Military police (MP) units specifically train to provide support to a law and order mission. As set forth in the Marine Corps MP doctrinal publication:

> Successful law and order operations are important to maintaining combat readiness and efficiency. While conducting law and order operations, military police enforce laws, directives, and regulations; conduct criminal and traffic accident investigations; and control populations and resources to provide commanders a lawful and orderly environment. Military police also coordinate actions to remove conditions promoting crime and reduce opportunities allowing crime. Key to the success of these operations is the military police's ability to operate with restraint and authority, probable cause, and minimum use of force.[399]

MP units and other specially trained personnel are specifically trained to operate detention facilities and prisoner of war camps. The Army has specific active duty and reserve units whose function is to operate such facilities.[400]

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[399] MARINE CORPS COMBAT DEVELOPMENT COMMAND, MARINE CORPS WARFIGHTING PUBLICATION 3-34.1, MILITARY POLICE IN SUPPORT OF THE MAGTF [Marine Air-Ground Task Force] 5-1 (13 Oct. 2000). Army MP doctrine has similar guidance, stating:

> In peacetime as well as in combat MP provide commanders with a well-armed, communications-intensive, and highly mobile asset. While combat ready, the MPs' professional orientation ensures their ability to operate with restraint and authority, within probable cause, and with a minimum use of force. This makes MP ideally suited as a response force in civil confrontations or disorders, in terrorist counteractions, and in low-intensity conflicts in a noncombat area.

U.S. DEP'T OF ARMY, FIELD MANUAL 19-10, MILITARY POLICE LAW AND ORDER OPERATIONS 5 (30 Sept. 1987).

[400] The Army also has robust doctrine and regulation, i.e., detailed rules, on running detention facilities. *See* U.S. DEP'T OF ARMY, FIELD MANUAL 3-19.40, MILITARY POLICE

In addition to MP units, the U.S. military possesses other criminal investigation units, such as the Air Force Office of Special Investigations (AFOSI), Naval Criminal Investigative Service (NCIS) and Army Criminal Investigation Command (USACIDC).[401] These units provide the full range of investigative capabilities that are comparable to a civilian law enforcement agency, including forensic laboratories, ballistics experts, narcotics experts, computer crimes specialists, and polygraphists.

MPs and investigators can be deployed in support of a law enforcement mission in much the same way as any other military unit. Marine Corps Marine Expeditionary Units (MEUs)[402] do not have an organic MP element, but they do have an MP officer on the staff and the ability to request and receive MP support from higher headquarters. An NCIS agent serves on the Navy staff supporting the MEU. An Army division deploys with approximately fourteen CID investigators. Some of the investigative assets, such as laboratories and specialized experts, may not be readily deployable, and may not be available to provide the same level of support that they could provide were they co-located in theater.

The U.S. military also contains a significant number of judge advocates, who are trained in, among other subjects, criminal law and procedure, rules of engagement (ROE),[403] and the whole panoply of international law, to include human rights law and the law of armed

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INTERNMENT/RESETTLEMENT OPERATIONS (1 Aug. 2001); U.S. DEP'T OF ARMY, REG. 190-8, ENEMY PRISONERS OF WAR, RETAINED PERSONNEL, CIVILIAN INTERNEES, AND OTHER DETAINEES (1 Oct. 1997).

[401] The USACIDC is a major Army command of the Department of the Army. It is composed of a command headquarters, forensic laboratories, the U.S. Army Crime Records Center, the U.S. Army Protective Services Activity, and worldwide field investigative agencies. *See* U.S. DEP'T OF ARMY, REG. 195-2, CRIMINAL INVESTIGATIONS ACTIVITIES, para 2-1 (30 Oct. 1985). For a complete discussion of Army criminal investigatory capabilities see *id*.

[402] *See* chapter II.C.2 of this Handbook.

[403] By definition, ROE are "[d]irectives issued by competent military authority that delineate the circumstances and limitations under which United States forces will initiate and/or continue combat engagement with other forces encountered." JOINT PUB. 1-02, *supra* note 6, at 461. In post-conflict environments, ROE are often used to authorize detention of local nationals believed to have committed crimes.

conflict. These judge advocates not only serve as advisors at the top levels of command, but also are assigned as low as the brigade and sometimes battalion levels.[404] For Marine Corps MEUs, a Marine Corps judge advocate is a member of the MEU staff, and a Navy judge advocate is a member of the staff that commands the amphibious vessels. An Army division deploys with approximately sixteen judge advocates accompanied by a full legal support staff.

There are a variety of legal functions that judge advocates perform on a daily basis that directly translate to law enforcement capabilities in post-conflict restoration operations. Judge advocates serve as magistrates and advise commanders on placing servicemembers in pretrial confinement. Judge advocates serve as prosecutors, defense counsel, and judges for military courts-martial. They work closely with criminal investigators, advising on such matters as search and seizure, custodial interrogations, and evidence development to support criminal convictions. Furthermore, judge advocates are intimately involved in the ROE development process and advising commanders and troops on the applicable ROE.

In addition to these daily functions, judge advocates serving in post-conflict environments will assist commanders in fashioning procedures for handling criminal detainees,[405] assist in penal management,[406] and coordinate with the prosecutorial authorities to insure effective prosecution of cases. This assistance can include drafting orders to forces in the field on processing a crime scene, coordinating witnesses for pre-trial hearings, reviewing use of force policies for detention facilities, and providing other advice necessary for the effective implementation of a law enforcement mission. In operation IRAQI FREEDOM, for example, judge advocates are at the forefront of re-establishing the rule of law through their work with the local police, lawyers, and judges. These judge advocates have done

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[404] As discussed in chapter II.C.1 of this Handbook, military battalions vary in size from roughly 600-800 soldiers; brigades 1,000-6,000; and divisions 10,000-18,000. Pursuant to Army legal doctrine, the Staff Judge Advocate can tailor legal support as necessary to support the command. FM 27-100, *supra* note 93, para. 2.4.2.

[405] *See, e.g.*, Policy Letter 4, Commanding General, Task Force Falcon, subject: Policy Letter #TFF-04 Detention Processing (3 Aug. 1999) (on file with CLAMO).

[406] *See, e.g.*, Task Force Falcon, Draft Detention Facility Plan (13 June 1999) (on file with CLAMO).

everything from overseeing contracts to rebuild local courthouses to training and vetting local lawyers and judges.

Beyond those units and personnel specifically trained to accomplish a law enforcement mission, the military has other assets that can be used for law enforcement operations. The military's intelligence community can collect, process, and analyze information to form an intelligence product that can prove invaluable when trying to determine the criminal threat. Intelligence assets can also be used in conjunction with civil affairs assets to develop a better understanding of the cultural nuances of the area of operations. Military civil affairs units also serve an integral role, most notably by establishing and maintaining liaison with host nation law enforcement officials, but also by embedding themselves in the community and becoming a vital source of information and advice for the military commander. Moreover, public affairs and psychological operations units and personnel can support the law enforcement mission by presenting an accurate and visible picture of the mission to a domestic and international audience, a critical function that is often under-emphasized. Again, all of these assets—intelligence, civil affairs, and public affairs—are readily deployable. For example, a MEU has large staff sections devoted to intelligence and counterintelligence, a smaller public affairs section, and a civil affairs officer. An Army division has an intelligence battalion, in addition to public affairs and civil affairs elements.

Lastly, individual servicemembers assigned to frontline combat units, such as infantry and armor, are capable of fulfilling limited law enforcement functions.[407] In today's environment of multiple contingency operations, individual servicemembers receive a great deal of instruction on ROE and appropriate levels of force that are particularly geared towards missions that fall short of full-scale armed conflict. Some servicemembers also receive training on law enforcement skills, such as securing a crime scene, taking witness statements, operating checkpoints, and interacting with interpreters and civil authorities. This training has proven vital to servicemembers

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[407] *See* Major Alton L. Gwaltney, III, USA, & Major Cody M. Weston, USMC, *Soldiers as Cops, Judges, and Jailers: Law Enforcement by the U.S. Military in Peace Operations, in* POST-CONFLICT JUSTICE 863, 878-79 (M. Cherif Bassiouni ed., 2002).

conducting operations in Iraq and Afghanistan. In addition to such generalized training, the military provides tailored training for law enforcement in specific peace operations missions. Finally, every MEU deploys with a robust nonlethal weapons capability and with a contingent of Marines who have received nonlethal weapons and riot control training.

b. Civilian

While military forces may be necessary to restore security following a major conflict, they are not a long-term solution to reestablishing civil order in the absence of local institutions. International civilian police forces deploy and assist in establishing order by performing many of the policing and penal functions until local authorities are able to resume the law enforcement mission. In addition, such forces can also assist in developing local policing institutions, discussed further below, that will ultimately be responsible for all law enforcement functions once the military and CIVPOL redeploy.

Most countries provide CIVPOL by using national police forces deployed for overseas service.[408] The United States, however, seeks volunteers on an individual, mission-specific, basis through a DOS managed program. The DOS CIVPOL program was created in response to the need to provide civilian police officers to international police forces involved in peacekeeping operations. The program is not permanent, but rather is funded on an annual basis.

The DOS CIVPOL program is managed by the Office of Policy Planning Coordination in the International Crimes Division, International Narcotics and Law Enforcement (INL) Bureau. DOS contracts with a private company, currently DynCorp, to recruit, select, equip, train, and deploy civilian police officers. The private

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[408] Many of these forces "straddle the military-civilian fence." "Some of them, like France's Gendarmerie and Italy's Carabinieri, are responsible to the Military of Defense in times of war but perform domestic civilian law enforcement during peacetime." Kimberly C. Field & Robert M. Perito, *Creating a Force for Peace Operations: Ensuring Stability with Justice*, PARAMETERS 77, 80 (Winter 2002-2003) (arguing for the creation of a stability force consisting of four elements: military forces, police-constabulary units; civilian police officers; and lawyers, judges, and penal system experts).

company contracts with the individual officers to provide salary and benefits for one year. These officers are veteran police officers who are on temporary leave or recently retired from local, state, and federal law enforcement agencies. After training, the officers are sent to the mission area usually under the operational control of the United Nations (UN) or some other regional organization responsible for food, lodging, and incidental expenses.[409]

The rapid expansion of CIVPOL operations during the 1990s led to a review of the U.S.'s capacity to deploy, support, and implement CIVPOL missions. As a result, President Clinton issued Presidential Decision Directive 71 on Strengthening Criminal Justice Systems in Support of Peace Operations.[410] As a result, the U.S. made core changes to the U.S. CIVPOL program including:

– Development of a ready roster of 500-2,000 U.S. officers pre-screened and trained to make them eligible for rapid deployment;

– Targeted recruitment of law enforcement specialists, including organized crime investigators, customs agents, and border patrol officers;

– Enhancement of training programs including obtaining Peace Officer Standards and Training certification for the training programs; and

– Outreach to U.S. law-enforcement community departments, individuals, and professional organizations.[411]

Currently, there are around 700 U.S. CIVPOL officers serving in international peacekeeping operations in the Balkans, East Timor,

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[409] U.S. Dep't of State, Bureau of Int'l Narcotics and Law Enforcement Affairs, Fact Sheet - The United States and International Civilian Policing (CIVPOL), *at* http://www.state.gov/g/inl/rls/fs/16552pf htm (10 Jan. 2003) [hereinafter DOS CIVPOL Fact Sheet].

[410] PRESIDENTIAL DECISION DIRECTIVE 71, STRENGTHENING CRIMINAL JUSTICE SYSTEMS IN SUPPORT OF PEACE OPERATIONS (24 Feb. 2000) (the official text is not publicly available but the official USG summary is available *at* http://www.fas.org/irp/offdocs/pdd/pdd-71 htm).

[411] DOS CIVPOL Fact Sheet, *supra* note 409.

Jericho, Afghanistan, and Iraq. Funding for U.S. CIVPOL operations is generally provided from regional bureaus within DOS. INL will have separate funding beginning in FY 2004 to support the ready roster when it is established.[412]

[412] E-mail from Steve Otto, CIVPOL Training Coordinator, to MAJ Alton L. Gwaltney, III, CLAMO (11 July 2003) (on file with CLAMO).

C. REBUILDING CRIMINAL JUSTICE AND OTHER GOVERNMENTAL SYSTEMS

1. CAPABILITIES

In addition to providing basic law enforcement in the immediate aftermath of a conflict, the U.S. Government has a limited capability, restricted greatly by statute, to rebuild local criminal justice systems through training of indigenous police officers, lawyers, judges, and penal officers, as well as to assist in building other public systems. These programs are mostly run by DOS, the Agency for International Development (USAID), and the Department of Justice (DOJ), although DOD can also be a major contributor.

2. PROGRAMS, AUTHORITIES, AND RESTRICTIONS

a. In general

Under § 660(a) of the Foreign Assistance Act (FAA), as a general rule, neither U.S. civilian nor military agencies may provide training for foreign police forces or other law enforcement forces. There are exceptions to this general rule, however, for, *inter alia*, the monitoring and enforcement of sanctions and for post-conflict restoration operations. The statute reads in relevant part:

> (a) . . . [N]one of the funds made available to carry out this Act [the Foreign Assistance Act] . . . shall be used to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government or any program of internal intelligence or surveillance on behalf of any foreign government within the United States or abroad.
>
> (b) Exception; qualification. Subsection (a) of this section shall not apply—

. . . .

> (5) with respect to assistance, including training, relating to sanctions monitoring and enforcement; and
>
> (6) with respect to assistance provided to reconstitute civilian police authority and capability in the post-conflict restoration of host nation infrastructure for the purposes of supporting a nation emerging from instability, and the provision of professional public safety training, to include training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy.[413]

The statute reached its present form in 1996. In 1974, even though the U.S. military had traditionally tended to shy away from training foreign police as a matter of policy,[414] Congress amended the FAA to prohibit the training as a matter of law, largely as the result of negative experiences with foreign police forces during the Cold War.[415] In the Somalia peace operation of the early 1990s, however, President Clinton issued a presidential determination authorizing the military to assist the UN in training Somali police forces, effectively exempting the training from the FAA.[416] In the Haiti peace operation of the mid-1990s, the police training function was a civilian one,

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[413] 22 U.S.C. § 2420(a)-(b) (2000). The general prohibition of subsection (a) does not apply to countries with longstanding democratic traditions, that do not have standing armed forces, and do not engage in consistent patterns of gross violations of internationally recognized human rights. *Id.* § 2420(c).

[414] Lieutenant Colonel Marc L. Warren, USA, *Operational Law: A Concept Matures*, 152 MIL. L. REV. 33, 45 n.46 (1996).

[415] David H. Bayley, Democratizing the Police Abroad: What to Do and How to Do it 3 (2001), *at* http://www ncjrs.org/pdffiles1/nij/188742.pdf.

[416] Presidential Determination No. 93-43 of Sept. 30, 1993, 58 Fed. Reg. 52207 (1993), *reprinted in* S. COMM. ON FOREIGN RELATIONS & HOUSE COMM. ON FOREIGN AFFAIRS, LEGISLATION ON FOREIGN RELATIONS THROUGH 1993, vol. I-A, at 613-14 n.696 (1994) (invoking FAA § 614(a), 22 U.S.C. 2364(a) (2000) and directing use of DOD resources to assist the UN in training police forces in Somalia "without regard to . . . section[ ] 660 of the Foreign Assistance Act of 1961).

largely a mission for DOJ's International Criminal Investigation Training Assistance Program (ICITAP).[417] The 1996 National Defense Authorization Act amended the FAA to include the sanctions monitoring/enforcement and post-conflict restoration exceptions to the general prohibition on training foreign police forces. Thus, the current state of the law is that foreign police forces may be trained under the FAA during a post-conflict restoration operation.

b. Military

For the military, overcoming the prohibitions of § 660 of the FAA is but a first step in finding the fiscal authority to provide post-conflict training designed to build law enforcement systems. Training police forces is a form of security assistance that, as a fiscal law matter, Congress funds DOS, not DOD, to provide. Thus, absent specific statutory authority and a specific appropriation (or "pot of money"), the military may not train foreign police forces during a post-conflict restoration operation. Nonetheless, training possibly can be provided under the following circumstances.

– Not all military interactions with foreign police rise to the level of security assistance "training" that might be prohibited under the FAA. Interaction that merely amounts to provision of interoperability, safety, and familiarization information does not constitute training;[418] nor do interactions whose primary purpose is the training of U.S. troops, with a merely incidental training benefit to the foreign police.[419]

– In certain emergency situations, the President can "drawdown" (or take from) existing defense articles and services to enable the military to perform traditional DOS FAA activities.[420]

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[417] *See* HAITI LESSONS LEARNED, *supra* note 308, at 102-04. For a more detailed discussion of the ICITAP see chapter III.B.4 of this Handbook.

[418] *The Honorable Bill Alexander, House of Representatives*, B-213137 (30 Jan. 1986) (unpublished General Accounting Office opinion).

[419] *Gen. Fred F. Woerner*, B-230214, Oct. 27, 1988.

[420] *See* 22 U.S.C. § 2318(a)(1) (2000) (for unforeseen military emergencies that cannot be met under any other section; authority limited to $100 million per fiscal year); *id.* § 2318(a)(2)

– Department of State funds ("Title 22 money") can be used to fund military provision of the foreign police training, provided a monetary reimbursement mechanism has been arranged with DOS.[421]

Once it has been determined that the military is authorized to provide training to help rebuild a law enforcement system during a post-conflict restoration operation, the military can turn to various assets. Special forces units are organized and trained to perform, among other missions, "foreign internal defense" (FID), i.e., "participation by civilian and military agencies of a government in any of the action programs taken by another government to free and protect its society from subversion, lawlessness, and insurgency."[422] Similarly, military police units have the capability to impart their own law enforcement skills and training to foreign police forces.[423]

Judge advocates have participated in advisory and supervisory roles in past operations, roles that were valuable to the overall training of foreign lawyers and judges. For example, judge advocates performed such functions in assisting the USAID Judicial Mentor program during the Haiti peace operation, a program designed to improve the Haitian judicial system through the creation of a judicial school and short- and long-term judicial advisors.[424] During the Kosovo peace operation of early 2000, judge advocates observed trials conducted by the fledgling Kosovar permanent judicial system to ensure that local Kosovars received basic standards of fairness and

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(various other emergencies, such as disaster relief); and *id*. § 2348(c)(2) (for unforeseen emergencies during peacekeeping operations, not to exceed $25 million in any fiscal year).

[421] Such arrangements typically occur pursuant to the Economy Act, 15 U.S.C. § 1535 (2000), or what are known as "632 Agreements" under FAA § 632. *See supra* note 311 and accompanying text.

[422] JOINT CHIEFS OF STAFF, JOINT PUBLICATION 3-07.1, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR FOREIGN INTERNAL DEFENSE (FID), at GL-5 (26 June 1996).

[423] Organization and missions of military police units vary from service to service. For a general discussion of military police unit functions by service, see JOINT PUB. 3-57, *supra* note 198, at A-D-1 to A-D-2.

[424] *See* HAITI LESSONS LEARNED, *supra* note 308, at 105-06.

justice.[425] In post-conflict Iraq, judge advocates have worked closely with local judges and lawyers to insure new legal systems are free from the manipulation seen during the Hussein regime.[426]

Military civil affairs (CA) units are also available to assist in building criminal justice systems. Capable of supporting strategic, operational, and tactical levels of command, CA units assist long-term institution building through the use of "functional area" teams working in the "public safety" specialty.[427] As stated in CA doctrine, the public safety team can:

– Provide technical expertise, advice, and assistance in identifying and assessing foreign nations public safety systems, agencies, services, personnel, and resources;

– Determine the capabilities and effectiveness of public safety systems and the impact of those systems on civil-military operations (CMO);

– Advise and assist in establishing the technical requirements for government public safety systems to support government administration (police and law enforcement administration, fire protection, emergency rescue, and penal systems);

– Assist in employing public safety resources to support government administration, CMO, and military use;

– Assist in coordinating assistance and resources from foreign nations, intergovernmental organizations (IGOs), nongovernmental organizations (NGOs), and USG

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[425] *See* Gwaltney & Weston, *supra* note 407, at 889.

[426] *See, e.g.*, Bernard Weinraub with Warren Hoge, *Trying to Restore a Functioning Legal System in the Land of Hammurabi's Code*, N.Y. TIMES, Apr. 20, 2003 at B-6.; various After Action Reviews (AARs) from judge advocates deployed in support of Operation IRAQI FREEDOM (on file with CLAMO).

[427] JOINT CHIEFS OF STAFF, JOINT PUB. 3-57.1, JOINT DOCTRINE FOR CIVIL AFFAIRS, at V-1 TO V-2 (14 Apr. 2003).

civilian agencies to support local government public safety systems as part of CMO;

– Develop plans and provide operational oversight and supervision in rehabilitating or establishing public safety systems, equipment, and facilities; and

– Advise and assist in rehabilitating, establishing, and maintaining government public safety systems and agencies.[428]

In addition to military special forces, military police, judge advocates, and civil affairs, all of whom deploy with units to post-conflict areas, the Defense Institute of International Legal Studies (DIILS), headquartered in Newport, Rhode Island, can provide training assistance for long-term institution building in post-conflict areas. The DIILS mission is to provide "expertise in over 300 legal topics of Military Law, Justice Systems, and the Rule of Law, with an emphasis on the execution of disciplined military operations through both resident courses and mobile education teams."[429] DIILS, a part of the Defense Security Cooperation Agency (DSCA), works with U.S. embassy Country Teams and host nations to provide timely, effective and practical seminars to lawyers and non-lawyers with the goal of teaching operations, including post-conflict reconstruction, within the parameters of international law.[430]

c. Civilian

The principal U.S. Government civilian programs for rebuilding justice systems are DOJ's ICITAP, which trains police, the activities of DOJ's Overseas Prosecutorial Development, Assistance, and Training Office (OPDAT), and the "rule of law" and other public sector programs of USAID. These programs are authorized pursuant to Section 133 of the Foreign Assistance Act of 1961, as amended, which authorizes the President to:

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[428] *Id*. at V-3 to V-4.

[429] Adapted from the DIILS website *at* http://www.dsca mil/diils/.

[430] *Id*.

establish programs that combat corruption, improve transparency and accountability, and promote other forms of good governance in [countries eligible to receive developmental assistance.][431]

ICITAP is funded through the annual Economic Support Fund (ESF) appropriations to USAID. DOS provides policy guidance and oversight, while design, development and implementation of projects rests with DOJ.[432] ICITAP provides long- and short-term law enforcement specialists to, *inter alia*:

– Enhance professional capabilities to carry out investigative and forensic functions;

– Assist in the development of academic instruction and curricula for law enforcement personnel;

– Improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures;

– Improve the relationship between the police and the community it serves; and

– Create or strengthen the capability to respond to new crime and criminal justice issues.[433]

ICITAP provides development assistance in the form of technical advice, training, mentoring, equipment donation, and internships with pre-eminent criminal justice organizations. This assistance is structured to enable local criminal justice organizations to function more effectively in a manner that is consistent with the rule of law, principles of policing in a free society, contemporary police practices, and commonly accepted human rights standards.

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[431] 22 U.S.C. § 2152c(a)(1) (2000).

[432] JOINT PUB. 3-08, *supra* note 33, at vol. II, A-E-3.

[433] Adapted from the ICITAP website *at* http://www.usdoj.gov/criminal/icitap/index html.

Some ICITAP programs are comprehensive in scope and address a full range of organizational development issues including structural design; personnel role definitions, recruitment, selection and deployment; administrative and operational policy and procedure development; facility utilization; managerial and supervisory practices; and building training effectiveness.[434]

In other countries, more focused programs are developed to meet specific needs and include: (1) improving an agency's administrative and management capabilities, particularly with respect to personnel management, and internal accountability; (2) enhancing the capability to perform effective criminal investigative and forensic functions; (3) assisting in the development of police training academies and curricula for law enforcement personnel; (4) improving the relationship between the police and the community they serve; and (5) strengthening the capability of newly created law enforcement organizations to respond to new crime and criminal justice issues.[435]

Past uses of ICITAP have included the following:

Kosovo. ICITAP seconded senior management personnel and an experienced cadre of instructors and providing curriculum development support to the Kosovo Police Service School. A Basic Recruit course and Instructor Development course were also developed. Finally, ICITAP developed competent forensic capabilities by establishing interim forensic capabilities, recruiting and training laboratory personnel, and assisting in the creation of the structure, organization, training, and professional contacts for the laboratory.[436]

Republic of Bosnia and Herzegovina, Muslim-Croat Federation and the Republic of Srpska. ICITAP assistance activities included the provision of technical assistance, training, and equipment to support police institutional development, academy development,

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[434] ICITAP Project Overviews, *at* http://www.usdoj.gov/criminal/icitap/overview html.

[435] *Id.*

[436] ICITAP Project Overviews - Kosovo, *at* http://www.usdoj.gov/criminal/icitap/kosovo html.

criminal investigations, forensics, community policing, and information management. Initially ICITAP assisted in basic skills training of the local police and assisting the international police force in developing instructors. Subsequently ICITAP worked to create police institutions, including addressing issues such as written policies and procedures, forensic standards and procedures, standardized reporting, professional standards and accountability, information management, academy development, training of specialized units, and management training. ICITAP also developed community oriented policy and procedure manuals to institutionalize new police practices based on internationally recognized democratic standards, which have been adopted by all police organizations in the country. Finally, ICITAP assisted Bosnia in fully integrating an information management system for the Federation, Republic of Srpska and District of Brcko police and introduced standardized police reporting practices. ICITAP also developed executive management development programs and supported efforts to improve criminal investigations, particularly as they relate to organized crime.[437]

East Timor. ICITAP taught specialized courses in Civil Disorder Management, Office of Professional Responsibility, Crime Scene Specialist and Basic Homicide. A self-sustaining local police academy was aided by Instructor, Curriculum Development, and Training management courses.[438]

Croatia. ICITAP donated professional law enforcement books to the Police Academy. The objectives of ICITAP's project in Croatia were to: (1) replace the secondary police school with a basic police training academy by retraining the staff and instructors, strengthen police academy organization, policies, procedures, and curriculum, (2) develop a comprehensive Field Training Officer Program, and (3) work with the Ministry of the Interior to develop policies and procedures that meet or exceed international standards and strengthen the Office of Professional Responsibility. This included providing full-time technical advisors to the police academy, Department for Professional Development and Specialization and the Ministry of

[437] ICITAP Project Overviews - Bosnia, *at* http://www.usdoj.gov/criminal/icitap/bosnia html.

[438] ICITAP Project Overviews - East Timor, *at* http://www.usdoj.gov/criminal/icitap/eTimor.html.

Interior, including the Office of Professional Responsibility; and providing other short-term advisors and instructors.[439]

OPDAT is specifically tasked with providing assistance to strengthen criminal justice institutions in other nations and enhancing the administration of justice abroad.[440] The principal focus is on promoting and assisting in the drafting of legislation modernizing criminal codes and training prosecutors. A DOJ Resident Legal Adviser (RLA) coordinates these programs. DOJ currently maintains RLAs in the U.S. embassy or Consulates in Albania, Colombia, Ecuador, Kosovo, Liberia, Poland, Romania, and Russia. USAID/OGI has a Participating Agency Service Agreement with DOJ which allows USAID missions to access OPDAT for help in conduction justice sector assessments, designing Rule of Law programs, providing technical assistance, and reviewing laws and legislation.[441]

USAID's Office of Democracy and Governance (DG) funds "rule of law" programs to strengthen legal systems, in conjunction with the activities of USAID missions, which fall under three interconnected priority areas, each of which integrates human rights concerns: supporting legal reform, improving the administration of justice, and increasing citizens' access to justice. In addition to those programs involving DOJ, USAID has, for example, supported Mongolia's efforts to establish a rule of law since independence, and helped to write new commercial and criminal codes. Because there was no effective, independent judicial system, DG worked with the USAID field mission and the International Development Law Institute (IDLI) to help create one. As part of this, DG funded IDLI to manage a process by which Mongolian judges and experts drafted the country's first reference work and training guide for Mongolian judges, including a bench book summarizing laws and judicial procedure. In Russia, working with Chemonics International as its

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[439] ICITAP Project Overviews - Croatia, *at* http://www.usdoj.gov/criminal/icitap/croatia.html.

[440] Bruce Swartz, Helping the World Combat International Crime (on file with CLAMO).

[441] Paul Vaky, Integrating Prosecutor and Police Programs at DOJ, Democracy Dialogue, USAID Office of Democracy and Governance, Fall/Winter 1997 (on file with CLAMO).

contractor, DG helped design a plan for judicial training focusing on two Russian court systems: commercial courts, including the Supreme Commercial Court, and general jurisdiction courts. Under guidance from DG, the contractor involved the National Judicial College, a judicial training institution for state court systems, to provide work on judicial organization, training, and the development of reference materials for management ethics and public communication.[442]

Depending on the conditions in the operating area, USAID's Office of Transition Initiatives (OTI) has programs to conduct, *inter alia*:

– Promotion of security initiatives through programs such as: (1) Demobilization and reintegration of excombatants; (2) Reintegration planning for displaced and vulnerable populations; (3) Promotion of civil-military relations in conjunction with DOD and DOS; and (4) Planning of unexploded ordnance removal operations;

– Promotion of political development initiatives through decentralized programs such as: (1) Training and capacity building of local officials; (2) Quick impact, community-based projects; (3) Promotion of conflict management through dialogue; and (4) Support for indigenous NGOs; and

– Deployment of transition teams to the field, which may work alongside special operations forces (as was the case in Haiti in 1994-95) promoting political and security initiatives by: (1) Helping to initiate community development; (2) Funding appropriate projects; (3) Promoting participation of local populations; and (4) Facilitating transition from humanitarian to development activities.[443]

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[442] Rule of Law, *at* http://www.usaid.gov/democracy/office/rol html.

[443] JOINT PUB. 3-07.6, *supra* note 34, at II-6.

D. DEVELOPMENTAL AND OTHER LONG-TERM ASSISTANCE

1. CAPABILITIES

USAID manages numerous development assistance programs for impoverished countries, which are aimed at, *inter alia*, economic growth, agriculture, trade, health, and education programs. The programs are conducted through funding of NGOs and IGOs. Some of these programs, particularly those that are global in nature, may also contribute to post-conflict restoration operations, although they are subject to numerous restrictions and limitations on where and on whom funding can be expended. In addition, USAID has several long-term programs aimed at specific victims of conflicts.

2. PROGRAMS, AUTHORITIES, AND RESTRICTIONS

There are a number of USG development assistance programs that may be applicable to long-term aid in post-conflict restoration operations. Among the key ones are Part I of the Foreign Assistance Act (FAA) of 1961, as amended;[444] Economic Support Fund;[445] Sec. 551 of Part II of the FAA 0f 1961, as amended (pertaining to peacekeeping operations);[446] Titles I and III of P.L. 480;[447] and the Food for Progress Program.

FAA, Part I. The aim of bilateral development aid is to concentrate on sharing U.S. technical expertise and commodities to meet development problems, rather than relying on large-scale transfers of

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[444] 22 U.S.C. § 2251 (2000).

[445] *Id.* § 2346.

[446] *Id.* § 2348.

[447] 7 U.S.C. §§ 1701, 1727 (2000). Title II, while mainly used for emergency food aid, is also used for development food aid. *Id.* § 1721. For example, Title II has been used to fund nutrition and food marketing projects. In addition, Titles I, II, and III funds are also used to support the Title V Farmer to Farmer program which provides voluntary assistance to farmers, farm groups, and agribusinesses to enhance the potential for substantial increases in food production, processing, and marketing. FY 2004 FFP Justification, *supra* note 376.

money and capital goods.[448] Under the FAA, longer-term development aid uses three broad funding accounts—development assistance (DA), child survival and health programs (CSH), and transition initiatives (TI). In addition, there are two funds that target specific regions—Assistance for Eastern Europe and Baltic States (AEE) and Assistance to the Independent States of the Former Soviet Union. The broad funding accounts in turn support initiatives in the following pillars.

- Economic Growth, Agriculture, and Trade;
  - Agriculture;
  - Business, Trade, and Investment;
  - Environment; and
  - Education and Training;

- Global Health;
  - Child Survival/Maternal Health;
  - Vulnerable Children;
  - HIV/AIDs;
  - Other infectious diseases; and
  - Family planning/reproductive health; and

- Democracy, Conflict, and Humanitarian Assistance;
  - Democracy and Governance/Conflict;
  - Human Rights; and
  - Humanitarian assistance.[449]

In addition, there are frequently supplemental funding appropriations for specific countries and activities.

Economic Support Fund. ESF is a security assistance program managed by USAID, under the policy direction of DOS, which determines which countries receive ESF assistance and the amount.[450] The ESF, unlike strict development assistance, is authorized by a

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[448] A History of Foreign Assistance, *at* http://www.usaid.gov/about/usaidhist html.

[449] U.S. Agency for Int'l Development, FY 2004 Congressional Budget Justification, Summary Table 3, *at* http://www.usaid.gov/policy/budget/cbj2004/summary_tables_table3.pdf

[450] A History of Foreign Assistance, *supra* note 448.

different part of the Foreign Assistance Act—Chapter 4 of Part II (FAA, §§ 531- 35)[451]—a fact that reflects a distinct purpose, even if the form of the assistance provided looks identical in every way to development assistance.[452] Whereas development assistance programs must be directed at meeting basic human needs and assisting the poor majority in foreign countries with low per capita incomes, the ESF can be directed toward the economic support of countries in which the United States has significant security interests, even for purposes which do not meet the strict development assistance criteria listed in FAA § 102.

Economic support fund support to a country can take many forms. It is money made available on a grant or loan basis for a variety of purposes: the building of road systems and other infrastructure; economic support to offset trade imbalances and other problems created when a country is devoting large resources to security concerns; and health, education, agriculture, and family planning projects.[453] Notwithstanding statutory language declaring that ESF funds "shall be available for economic programs only and may not be used for military or paramilitary purposes,"[454] ESF appropriations are a potential source of funds for projects such as the paving of a long stretch of roadway because such a project will undoubtedly have long-term civilian applications as well as near-term military advantages. Even if a project's military purposes can at some point make ESF funding improper,[455] it is probable that ESF appropriations will be more fitting for many large-scale projects than DOD O&M appropriations.

Peacekeeping Operations. Chapter 6 of Part II of the FAA, Peacekeeping Operations, authorizes the President to "furnish assistance to friendly countries and international organizations, on such terms and conditions as he may determine, for peacekeeping

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[451] 22 U.S.C. § 2346 (2000).

[452] HAITI LESSONS LEARNED, *supra* note 308, at 140, n.476.

[453] *Id.*

[454] 22 U.S.C. § 2346(e) (2000).

[455] HAITI LESSONS LEARNED, *supra* note 308, at 140, n.476.

operations and other programs carried out in furtherance of the national security interests of the United States." [456]

P.L. 480 Title I. Title I of P.L. 480, which is administered by USDA, provides for government-to-government sales of agricultural commodities to developing countries under long-term credit arrangements. Repayments for agricultural commodities sold under this title may be made either in U.S. dollars or in local currencies on credit terms up to 30 years, with a grace period of up to seven years. Activities in the recipient country for which these local currencies may be used include developing new markets for U.S. agricultural commodities on a mutually beneficial basis, paying U.S. obligations, and supporting agricultural development or research.[457]

P.L. 480 Title III. Title III of P.L. 480, which is administered by USDA, provides for government-to-government grants to support long-term economic development in the least developed countries. The U.S. Government will donate Title III agricultural commodities without charge to the recipient country and will arrange for and pay the costs of purchasing, processing, handling, and transporting the commodities to the port or point of entry in the recipient country. The donated commodities are sold on the domestic market, and revenue generated from the sale in the recipient countries is used to support programs of economic development.[458]

The Food for Progress (FFP) program. This program, which is administered by USDA, authorizes the Commodity Credit Corporation (CCC) to finance the sale and exportation of agricultural commodities on credit terms, or on a grant basis, to support developing countries and countries that are emerging democracies and have made commitments to introduce or expand free enterprise elements into their agricultural economies. Commodities may be provided under the authority of Title I of P.L. 480, or Section 416(b). Under certain conditions, CCC may also purchase commodities for

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[456] 22 U.S.C. § 2348 (2000). This authority has been delegated to the Secretary of Defense. Exec. Order No. 12,163, as amended, 44 Fed. Reg. 56,573, § 1-301(a) (29 Sept. 1979).

[457] U.S. Food Aid Programs Description, *supra* note 374.

[458] *Id.*

use in Food for Progress programs if the commodities are currently not held by CCC in stocks.[459]

Unlike FAA Section 491 disaster assistance, which as previously discussed can be provided "notwithstanding" any other statutes, developmental assistance is subject to numerous constraints. These range from prohibitions on aid to specific countries to requirements to use U.S. automobiles. (For one example of a discussion of these restrictions for FY2003 see Appendix VII-2.)

In particular, the following restrictions have been placed on the provision of food aid.[460]

– Commodities will not be made available unless there are adequate storage facilities in the recipient country and the distribution will not interfere with domestic production or marketing.

– The Food for Progress program is limited by a global 500,000 MT legislative ceiling, and by a $30 million cap on non-commodity costs (primarily transportation) paid directly by CCC.

– Cargo preference requirements require that at least 75 percent of all U.S. food aid tonnage be shipped on U.S.-flagged vessels. This requirement applies to shipments under P.L. 480 and Food for Progress.

– All food aid authorities allow some portion of the commodity to be monetized (sold). The use of monetized proceeds was initially limited to paying for administrative costs related to direct food distribution for humanitarian purposes, but in 1988 the permissible use of monetized proceeds was expanded to include broad development purposes, including agricultural development.[461]

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[459] *Id.*

[460] *Id.* *See also* chapter VI.B.2.b(1) of this Handbook.

[461] FOOD AID MONETIZATION REPORT, *supra* note 388.

– Commodities under the Food for Progress program are eligible to developing countries and emerging democracies that have made commitments to introduce or expand free enterprise elements in their agricultural economies. Legislation was amended in 1992 to include the independent states of the former Soviet Union as eligible countries under this program.

Finally, the following USAID special funds could be used in post-conflict restoration operations:

– **Displaced Children and Orphans Fund (DCOF)**: Provides assistance for children orphaned as a result of war or disaster.

– **Patrick J. Leahy War Victims Fund (LWVF)**: Provides financial and technical assistance for people living with disabilities, primarily those suffering from mobility related injuries—caused by unexploded ordnance, including antipersonnel landmines—and other direct and indirect causes of physical disability (polio and other preventable diseases that might result from interrupted immunization campaigns).

– **Victims of Torture Fund (VOT)**: Works through NGOs that: provide direct services to survivors of torture, their families, and communities; strengthen the capacity of country-based institutions in their delivery of services to survivors; and increase the level of knowledge and understanding about the needs of torture victims.[462]

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[462] *See* Humanitarian Assistance - The Funds, *at* http://www.usaid.gov/our_work/humanitarian_assistance/the_funds/.

E. DEMINING[463]

1. CAPABILITIES

The ability of DOD and USG civilian agencies to conduct, or even fund, actual mine detection and clearance activities is very limited.[464] Almost all actual mine detection and clearance is conducted by either a host nation's military services or specialized contractors hired by the host nation, NGOs or IGOs. U.S. military forces are trained and equipped to detect and clear landmines, unexploded ordinance (UXO), and other forms of indiscriminant explosive devices, and are authorized to conduct such activities in support of U.S. military operations. Nevertheless, members of the Armed Forces and DOD civilians are specifically prohibited from engaging in the physical detection, lifting or destroying of landmines while providing humanitarian assistance (unless they are doing so for the concurrent purpose of supporting a U.S. military operation).[465] DOS, however, has a limited capability to conduct mine detection and clearance through the use of the Quick Reaction Demining Force (QRDF) established under the Integrated Mine Action Support (IMAS) contract.[466] The QRDF has certified mine-clearance specialists who can respond to demining missions within a few days after notification. The force is equipped with demining materiel and, as necessary, mine-detection dogs. The QRDF is intended for use for a limited period of time.

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[463] Adapted from the U.S. DEP'T OF STATE HUMANITARIAN DEMING POLICY AND PROCEDURES MANUAL 13-30, H-12 to H-15 (Jan. 2002), *at* http://www.state.gov/t/pm/rls/rpt/spec/c6117.htm [hereinafter DEMINING MANUAL].

[464] As explained in more detail in this section, although extensive, almost all USG demining assistance is in the form of providing funding, training, equipment, and support for existing host nation, NGO or IGO demining programs.

[465] 10 U.S.C. § 401(a)(4)(A) (2000).

[466] The DOS demining contractor is the RONCO Consulting Corporation, which leads a team of deeming firms. The contract is implemented through the issuance of Task Orders for specific services and is available for buy-ins by other USG agencies.

2. PROGRAMS, AUTHORITIES, AND RESTRICTIONS

a. In General

In general, the U.S. Government supports demining activities through a formal Humanitarian Demining (HD) program established with the host nation that desires assistance in clearing mines within its territory.[467] In some cases, a host nation government may not exist or may not be in a position to request such assistance. When such circumstances in a country (or other circumstances, e.g., political instability and security concerns) do not warrant establishing a formal HD program, the Emergency Demining Initiative (EDI) can be used to provide limited support to populations in war-torn regions.[468]

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[467] A mine-affected country generally requests U.S. assistance via the U.S. embassy. Upon endorsement by the embassy, the request is then forwarded to the USG interagency Executive Steering Group of the Policy Coordinating Committee (PCC) on humanitarian mine action, chaired by DOS, with DOD as vice-chair. The steering committee is a subcomponent of the humanitarian mine action PCC, which is chaired by the National Security Council, and is responsible for approving and coordinating U.S. humanitarian demining programs. Upon receiving the request, the Executive Steering Group determines whether to conduct a Policy Assessment Visit to the affected country to evaluate the nature of the mine problem, the requesting nation's resources and its commitment to solving the problem, and the suitability of U.S. assistance. Based on this assessment, the PCC may approve the establishment of a formal program for the country. U.S. Dep't of State, Bureau of Political-Military Affairs, Fact Sheet - The U.S. Humanitarian Deminng Program and NADR Funding (5 Apr. 2002), *at* http://www.state.gov/t/pm/rls/fs/2002/9183.htm [hereinafter DOS Demining program Fact Sheet].

[468] A request for this type of assistance is granted in exceptional circumstances and on a case-by-case basis. Specific guidelines and restrictions are established for this limited support:

– The USG would support mine-clearance activities through the IMAS Contract, NGOs or IGOs, not directly to the host nation.

– Emphasis would be placed on facilitating refugee/internally displaced person (i.e., refugees within their own country) returns and temporary resettlement; clearance of arable land, homes, schools, and delivery of humanitarian assistance to those areas.

– Funded activities would be restricted to areas where (in the estimation of the U.S. Country Team, host nation, and NGO grantees) conflict is not expected in the future; the risk to demining personnel is deemed to be low; and the proposed demining area lacks current military strategic value, thus preserving the humanitarian nature of the program.

– Funded activities would include demining in only those areas that were already mine-affected. If the host nation laid new mines, USG funds could not be used to remove them, and U.S. funding support could be withdrawn.

A typical U.S. program may involve assisting in the establishment of a mine action center (MAC), a mine awareness program, demining training, the provision of equipment and other material essential to conduct mine clearance or mine awareness operations or programs, and survivor assistance. While other USG agencies may support specific mine action initiatives, funding support for humanitarian mine action comes primarily from DOS, DOD, and USAID.

b. Military

DOD funds humanitarian mine action from its OHDACA account. OHDACA finances training and mine awareness education initiatives, usually conducted by U.S. Special Operations Forces, as well as limited amounts of equipment to support that training.[469] These funds can be used only to support U.S. forces conducting USG humanitarian demining operations. The majority of the funds are used to pay travel costs associated with deployment of U.S. trainers and support personnel. Purchase of equipment, supplies, and services is authorized as long as it directly supports deployed U.S. forces conducting demining operations.[470] Through separate funding

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– Other than, perhaps, the provision of mine-awareness materials, DOD training programs or DOD-funded equipment would not be provided; DOS-funded equipment would be provided only to the NGO or IGO, not to the host nation.

– Misuse of materials or malfeasance by the host nation could result in the suspension of mine awareness and mine-clearance assistance.

[469] *See* 10 U.S.C. § 401(c)(5). See chapter VI.B.2 of this Handbook for a discussion of OHDACA funds.

[470] The geographic Combatant Commander determines how best to use OHDACA funds. Several options are available.

DOD Unit Conducting The Training. OHDACA funds may be sent via a Military Interdepartmental Purchase Request (MIPR) to the DOD unit designated to conduct the mine action-related training. The unit may request support from the U.S. embassy Contracting Officer to facilitate the training mission, or a DOD Contracting Officer may accompany the training team. International Cooperative Administrative Support Services (ICASS) agreements are established to acquire embassy contracting support.

Regional CC Contractor. If the geographic Combatant Commander uses a contractor, the funds can be apportioned to the contractor to provide management services, logistics, and administrative support to facilitate DOD initiatives. OHDACA funds may be sent via a MIPR to the embassy. In this instance, the U.S. embassy Contracting Officer or a DOD Contracting Officer uses the funds to support the training. The U.S. embassy Contracting Officer is responsible for issuing purchase

(approximately $14 million in FY02), DOD also supports research and development of promising mine detection and removal technologies.[471]

c. Civilian[472]

Within DOS, the Political-Military Bureau's Office of Humanitarian Demining Programs (PM/HDP) manages two separate accounts to support mine action. Under the Nonproliferation, Antiterrorism, Demining, and Related Projects (NADR) appropriation,[473] DOS funds both commercial and nongovernmental organizations' initiatives, conducted independently or in support of a host nation's program. If a host nation government is conducting demining activities, DOS also provides direct non-cash support to military demining organizations within a mine-affected country, to include the provision of equipment, technical assistance, training, and other services. NADR funds also are used to support programs conducted by international organizations such as the United Nations and the Organization of American States. Finally, NADR funds can be channeled to a U.S. embassy, to an operational element of DOD or to DSCA to support the acquisition of services and equipment.[474] For

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orders and paying for these services, and an ICASS agreement is established to reimburse the embassy.

[471] Although its primary purpose is to meet the continuing security needs of U.S. allies, foreign military financing (FMF), which is managed through DOD's Security Assistance program, also may be provided to assist demining efforts in these host nations.

[472] Adapted from the DOS Demining Program Fact Sheet, *supra* note 467.

[473] NADR funding is a one-year appropriation to DOS intended to help host nations build the capacity to manage and operate an indigenous demining program. Application of NADR funds should be directed at supporting operational efforts most closely associated with the actual removal of landmines Because it is a one-year appropriation, the USG cannot commit or guarantee out-year NADR funding levels.

[474] Support under NADR may be provided in the following ways.

IMAS Contract. Under this approach, a Task Order (TO) Request is issued defining the objectives and the period of performance for a specific HD task in a specific country, and requesting a cost and technical quotation. In turn, the contractor responds to the Request with a Performance Plan -the operative contracting document that governs the work to be accomplished - and budget. After agreement on the Performance Plan is reached, the TO is approved, and the IMAS contractor commences work. Because oversight of the contractor is necessary, either PM/HDP is designated the Contracting Officer's Technical Representative (COTR), or the State Department Contracting Officer may specify in writing that the U.S. embassy HD Officer is the COTR.

example, in FY02 NADR funds totaled $40 million; an additional $3 million was received for Afghanistan. PM/HDP also manages U.S. funding support to the Slovenian International Trust Fund (ITF) for Demining and Victims' Assistance to assist mine-affected countries in the Balkan region. Approximately $14 million in FY 02 funds were appropriated to match contributions for mine action conducted through ITF.[475]

Funding is also available from the Patrick J. Leahy War Victims Fund, administered by USAID. Through the fund, USAID contributes to NGO and other programs aimed at improving the mobility, health, and social integration of the war disabled, including landmine survivors.[476]

DOS demining programs are subject to the following restrictions.

Construction/Refurbishment. Efforts involving NADR funds are generally limited to refurbishing existing facilities provided by the host nation. A request for any extensive construction should be well defined to reflect specific training or operational impacts to the host nation's humanitarian demining program if the project is not funded.[477]

Grant to the UN, other IGO, or NGO. Under this approach DOS will execute the Grant Assistance Request, Form DS-1909. Similar to the Contractor Performance Plan, the grant governs what will be done.

U.S. Embassy. NADR funds may be provided directly to the embassy for local purchases, such as mine- awareness materials or mine information management, minor renovations to facilities, and other HD-related functions. When this method is used, a fund cite is sent via cable to the embassy.

DSCA. NADR funds may be placed in a HN trust fund at the DSCA for HD materiel support through establishing Foreign Military Assistance Fund cases. NADR funds transferred to DSCA are governed by law and the rules and regulations applicable to NADR, and must be spent within five years.

[475] In addition, some funding may be available to assist demining efforts that are related to refugees and internally displaced persons. This funding is managed by the DOS Population, Refugees and Migration Bureau.

[476] *See also* section D of this chapter.

[477] Below is a sample justification:

Demining Equipment, Supplies, and Vehicles. NADR funds may be used for new (for operational expansion) and replacement demining equipment, supplies, and vehicles, including, under certain conditions, explosives.[478] Only those equipment items and vehicles that directly support operational efforts for the removal of landmines or the maintenance of operational equipment, such as demining personal protective clothing, may be funded by NADR.[479] These would include additional vehicles (command/control and operational demining) to support operational expansion and replacement vehicles for aging inventory. Limited provision of equipment may be made to the host nation from OHDACA, however DOD must provide specific authority and a cap to the Combatant Commander for each host nation in the commander's area of responsibility. Equipment may be left behind for use by the mine-affected nation.[480] Construction-type equipment not directly used in landmine removal will not be funded.

> A maintenance facility is needed at the Regional Mine Action Center (RMAC) to support the Humanitarian Demining program's Maintenance Planning Concept. Because of the RMAC's remote location, significant delays in operational demining efforts will occur if there is no capability to make timely repairs on essential vehicles and equipment. A further impact will be a 12-month delay in returning 600 Internally Displaced Persons to the region. The Government of BLANK does not have adequate financial resources available and there is currently no other donor financial support available for this critical project.

[478] Due to extensive difficulties encountered by the USG for importation of explosives, the United States generally expects that the host nation will provide explosive supplies for demining operations involving host nation military forces. When the IMAS contractor is providing operational demining support to a non-military demining organization, the preferred option for obtaining explosive supplies is for the host nation to provide these to the IMAS contractor on a cost-reimbursable basis.

[479] See DEMINING MANUAL, *supra* note 463, at H-17 TO H-24, for a sample listing of equipment, vehicles, supplies, and MDD-related materials.

[480] Upon completion of training or support, the USG usually turns over equipment to the host nation government. The method of turnover is contingent on the funds used to procure the equipment.

NADR-funded Equipment. Organizations purchasing equipment for DOS with NADR funds must maintain continuous oversight of all non-expendable items until such time as the equipment is to be transferred to the host nation. Before the IMAS contractor, an NGO, or any other organization can turn over this non-expendable property to the host nation, a list of all the HD-related items destined for turnover is prepared, a joint inventory is conducted with a responsible host nation representative. DOS uses this list to prepare a grant transfer, Form DS- 1909—accompanied by a list of General Provisions governing the future disposition of this equipment—which is the DOS authorization to hand over non-expendable HD program-related assets and

Computer Resources Support. NADR funding may be used for computer resources support.

Medical Support. Mobile trauma units and trauma equipment/supplies for use in field operations to stabilize injured deminers prior to and during emergency evacuation are authorized. Establishing an emergency evacuation capability by ground or air may be considered an appropriate use of NADR funds. Fixed hospital, clinic, or trauma center facilities may not be funded with NADR appropriations.

Training. NADR can fund a variety of training; however, most training requests should be directly related to demining operations, maintenance, mine awareness, survey, mapping, and marking. Management and computer training may be included but should represent a significantly small percentage of any NADR funding request. Requests to send deminers or host nation demining staff personnel to the United States for technical or management training should be made through the DOD Security Assistance program.[481]

Trust Fund Donations. NADR donations to a Trust Fund for Mine Action Center operating/overhead costs are not generally considered

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equipment. If circumstances dictate, the embassy may be allowed to donate the equipment first and then submit the jointly inventoried list to PM/HDP for the grant after the fact.

OHDACA-funded Equipment. DOD is not authorized to donate OHDACA-funded equipment to a host nation, but it is authorized to transfer equipment to the U.S. embassy, which, in turn, donates the equipment to the host nation. A host nation representative inventories the durable items and a list is prepared. A letter of transmittal stating that the cited equipment has been transferred to the embassy, signed by a DOD representative, accompanies the list. The procedure for NADR funded equipment is then followed.

[481] Specific training could include:

– Refresher training for mine action requirements, including medical;

– Refresher training for Mine Action Staff and initial training for replacement Mine Action Staff;

– Maintenance of equipment and vehicles; and

– Mine awareness education and materials.

DEMINING MANUAL, *supra* note 463, at H-12.

an appropriate use of USG humanitarian demining program funds. Operational and indirect costs should be the responsibility of the host nation, whether through their own government funding resources or through host nation donor solicitation efforts. A request for NADR donation to a UNDP Trust Fund earmarked for a specific use must be within-scope of NADR funding policies.

Salaries and Support Costs. NADR funds may not be used for host nation personnel salaries, compensation package costs, and travel costs associated with conferences, meetings, or visits to other country de mining organizations. Additionally, NADR funds may not be used to fund or reimburse salaries and support costs of any USG agency personnel assigned to positions providing support to humanitarian demining.

Management Services.[482] Services and support for demining activities can include using mine-detecting dogs in targeted countries around the world. This might consist of developing indigenous mine-detecting dog (MDD) programs; training personnel to implement MDD programs; providing facilities equipment, and supplies required for an MDD program; and integrating MDD programs into existing demining operations. Services in support of manual demining programs without the use of MDDs might include extensive training; and facility development and provision of supplies and equipment. Services include humanitarian demining planning; management and organization assistance; establishing Mine Action Centers; identifying the most appropriate demining technologies; and developing and implementing logistics management systems.

[482] *Id.* at B-2.

CHAPTER VIII: NONCOMBATANT EVACUATION OPERATIONS

A. OVERVIEW

The Department of Defense (DOD) dictionary defines a noncombatant evacuation operation (NEO) as an operation "directed by the Department of State, the Department of Defense, or other appropriate authority whereby noncombatants are evacuated from foreign countries when their lives are endangered by war, civil unrest, or natural disasters to safe havens or to the United States."[483] While the DOD Dictionary uses the term "noncombatant evacuation operation" or "NEO" in a broad sense to generally describe the evacuation of noncombatants from foreign countries, many, particularly in the Department of State (DOS), consider the "NEO" to refer only to those evacuations involving the military. DOS uses the term "embassy evacuation," an operation that may or may not be military-assisted.[484] For ease of reference and consistency, this Chapter will focus on military-assisted embassy evacuations, the type of operation involving the most interagency coordination issues.

NEOs are conducted to assist DOS in evacuating noncombatants—U.S. citizens and nationals and designated foreign nationals—from foreign countries. The role of any other agency, such as the DOD, is therefore to support the DOS. NEOs are characterized by uncertainty and an oftentimes sensitive political environment. As the military joint publication on NEOs points out, "[t]he decision to evacuate an embassy and the order to execute a NEO is political," and "foreign policy objectives are the determining factor in the timing of an evacuation."[485]

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[483] JOINT PUB. 1-02, *supra* note 6, at 367.

[484] Telephone Interview with Deretta F. Shelton, Crisis Management Support, Department of State, Washington, D.C. (10 July 2003).

[485] JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, at I-2 (30 Sept. 1997) [hereinafter JOINT PUB. 3-07.5]. The Joint Publication further points out that "[t]he order to evacuate may not be given at the most opportune time, but rather may be delayed until the last possible moment to avoid actions that may be viewed as a tacit admission of political failure." *Id.*

A NEO involving military forces tends to have the following common characteristics: (1) a rapid insertion of ground forces; (2) temporary occupation of an objective; (3) the use of minimal force; and (4) a planned evacuation and withdrawal upon completion of the mission.[486] NEOs also can be classified according to one of three types of operational environments in which they might take place. In a "permissive environment" NEO, no resistance is expected, and military forces may not even be necessary. The host nation concurs with the operation and may provide logistical support. In an "uncertain environment" NEO, the host nation government forces, whether opposed or not to the NEO, do not have full control of the operational environment, and additional military forces may be necessary to provide security for a potentially escalatory hostile situation. Lastly, in a "hostile environment" NEO, the conditions can range from civil disorder to full-scale armed conflict, with a concomitant increase in the need for a heightened military security presence and for utilization of U.S. Government (USG) logistical support.[487]

The United States has conducted NEOs in all of these operating environments throughout its history.[488] In fact, NEOs have become one of the most frequently ordered U.S. military operations, executed primarily by the Marine Corps, whose sea-based, expeditionary, and combined arms (having command, air, ground, and logistics elements

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[486] *Id.* at I-2 (noting three of the characteristics (not listing "use of minimal force")). *See also* LIEUTENANT COLONEL THOMAS J. HAMILTON, II, USMC, THE JUDGE ADVOCATE GENERAL'S LEGAL CENTER AND SCHOOL, U.S. ARMY, NONCOMBATANT EVACUATION OPERATIONS, notes to briefing slide 5 (13 Mar. 2003) [hereinafter TJAGLCSA NEO PRESENTATION] (pointing out that NEOs are very much akin to a military raid, having the same three characteristics of rapid insertion, temporary occupation, and planned withdrawal, but differing from a raid in that the degree of force employed "must be limited to only that amount required in order to protect the evacuees and the evacuation force") (PowerPoint presentation on file with CLAMO).

[487] *See generally* JOINT PUB. 3-07.5, *supra* note 485, at I-4 to I-5.

[488] The first rescue of Americans abroad took place in 1805, when Lieutenant Presley O'Bannon led a force of seven enlisted U.S. Marines and more than 500 Greek, Arab, and expatriate European mercenaries to capture a port city of the Barbary pirates and force the release of 307 American sailors held captive in Tripoli. *See* Major S.L. Bumgardner, USMC, *A NEO is More than a Maneuver* (1992) (unpublished manuscript for Marine Corps Command and Staff College on file with CLAMO).

organic to one unit) nature makes it the most responsive and flexible force of choice for such operations.[489]

One fortunate result of the increased number of NEOs in recent years has been a heightened recognition of the need for interagency coordination during the conduct of NEOs, particularly between the two integral players, DOS and DOD. From the publication of the first-ever Joint Publication on NEOs in 1997,[490] referenced above, to the creation of DOS "Emergency Action Plans" in the late 1980s for potential NEOs and other emergencies,[491] to the execution of a DOD/DOS Memorandum of Agreement (MOA) on NEOs in 1998,[492] there exists a growing body of guidance on interagency coordination in the planning and execution of NEOs. The following section is a synthesis of this guidance, including the regulatory directives and orders on which it is based.

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[489] See chapter II.C.2 of this Handbook for a discussion of the specific capabilities of the Marine Corps. For an historical survey of U.S. involvement in NEOs and other small-scale contingencies see MAX BOOT, THE SAVAGE WARS OF PEACE: SMALL WARS AND THE RISE OF AMERICAN POWER (2000).

[490] JOINT PUB. 3-07.5, *supra* note 485.

[491] *See* section C.1 of this chapter.

[492] MEMORANDUM OF AGREEMENT BETWEEN THE DEPARTMENTS OF STATE AND DEFENSE ON THE PROTECTION AND EVACUATION OF U.S. CITIZENS AND NATIONALS AND DESIGNATED OTHER PERSONS FROM THREATENED AREAS OVERSEAS app. 4 (14 July 1998) [hereinafter NEO MOA]. *See infra* note 527 and accompanying text.

B. AGENCY RESPONSIBILITIES AND COMMAND AND CONTROL

Before discussing NEO interagency coordination, planning, and execution, it is first useful to describe the roles of the various agencies involved. It is also critical to define command relationships, especially between the military commander on the ground and the Ambassador at the U.S. embassy.

1. DEPARTMENT OF STATE

Issued in 1988, Executive Order 12656 states that the DOS is responsible for the "[p]rotection or evacuation of United States citizens and nationals abroad and safeguarding their property abroad."[493]

a. Washington Liaison Group

DOS chairs the Washington Liaison Group (WLG), which monitors the coordination and implementation of NEO planning efforts at the national level. DOD provides representatives from the Office of the Secretary of Defense, the Joint Staff, and military departments (Departments of the Army, Navy, including the Marine Corps, and Air Force). The WLG may also invite members from other agencies to participate in meetings when appropriate. The WLG fulfills its NEO responsibilities by performing the following functions:

– Recommending establishment of Regional Liaison Groups (RLGs) to the Secretary of State;

– Providing advice on evacuation planning and protection of U.S. citizens and nationals and designated other persons to RLGs, U.S. embassies and consulates, and U.S. military commands;

– Monitoring activities of RLGs;

[493] Exec. Order No. 12,656, 53 Fed. Reg. 47,491, § 1301(2)(f) (23 Nov. 1988).

– Periodically reviewing protection and evacuation capabilities for those whose protection the U.S. Government is responsible; and

– Coordinating operations of DOS and DOD incident to evacuations and in-place protection of U.S. citizens and nationals and designated other persons abroad.[494]

b. Regional Liaison Group, Emergency Action Plans, the "F-77 Report," and the Emergency Action Committee

RLGs are monitoring and coordinating bodies chaired by the political advisors (POLADs)[495] to the Combatant Commanders.[496] As stated, the Secretary of State establishes RLGs upon recommendation of the WLG. Generally speaking, each RLG covers all U.S. foreign posts[497] within the Area of Responsibility (AOR) of a Combatant Commander.[498] The RLG acts as a liaison between the WLG and the relevant post and the Combatant Commander. The RLG also is responsible for reviewing individual post Emergency Action Plans (EAPs) and forwarding them to DOS with comments and recommendations.[499]

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[494] NEO MOA, *supra* note 492.

[495] For a discussion of POLADs see chapter III.B.1.b(2) of this Handbook.

[496] For a discussion of Combatant Commands see chapter II.B.3 of this Handbook.

[497] For a discussion of U.S. foreign posts see chapter III.B.1.b(2) of this Handbook.

[498] The NEO MOA, *supra* note 492, at app. 5, establishes the following RLGs: European Liaison Group (ELG) (includes all of Europe, Russia west of 100 degrees East, and the new states of the former Soviet Union as well as all countries of Africa west and south of Egypt, Sudan, and Kenya, and Syria, Lebanon, and Israel); Central Liaison Group (CLG) (includes all of Africa and Southwest Asia not covered by the ELG, extending as far east as and including Pakistan); South American Liaison Group (SAW) (includes Central and South America); East Asia Liaison Group (EALG) (includes all countries east of the Pakistan-India border, Australia, and the island states of the Indian and Pacific Oceans and eastern Russia); and the WLG itself, which also serves as an RLG responsible for Canada, the Caribbean Island states, Mexico, and all other areas not assigned to another RLG.

[499] Of interest, RLGs seem to have fallen out of favor in recent planning and operations, with the WLG instead conducting liaison directly with U.S. embassies and Combatant Commands. Telephonic Interview with Lieutenant Colonel Thomas J. Hamilton, II, USMC, The Judge Advocate General's Legal Center and School, U.S. Army (14 July 2003).

Each post creates an EAP by completing a series of checklists contained in what is known as the Emergency Planning Handbook, a DOS Foreign Affairs Handbook (FAH).[500] The checklists highlight areas that the Ambassador and post staff should consider for planning purposes in response to various emergencies, ranging from natural disasters to massive refugee requests to embassy evacuations.[501] A completed EAP becomes a classified document, and will contain, for example, detailed maps, a communications plan, a logistics plan, and pictures and studies of helicopter landing zones. EAPs are centrally managed by DOS, which provides copies to DOD. DOD in turn will make EAPs available to military units planning for NEOs.[502] Also included as part of the EAP is a Report of Potential Evacuees document, known as the "F-77 Report," which contains an estimate of the number of potential evacuees in an area of responsibility. Each foreign post submits the F-77 annually to the DOS.

The coordination body on the evacuation site itself is known as the Emergency Action Committee (EAC), chaired by and primarily comprised of key post personnel. This becomes the focal point for on-scene interface between DOS and DOD.[503]

c. Other Department of State Washington and Field Offices Involved in NEOs[504]

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[500] DEPARTMENT OF STATE, 12 FAH-1, EMERGENCY PLANNING HANDBOOK (n.d.) [hereinafter EMERGENCY PLANNING HANDBOOK]. This document is unclassified but sensitive. It is not available on the Internet, but can be found on the Secret Internet Protocol Router Network (SIPRNET) at http://ds.state.adnet.sgov.gov.

[501] The creation of EAPs was a direct result of the report of the 1985 Inman Commission, which investigated the 1983 bombing of the U.S. Embassy in Beirut, Lebanon, as well as other disasters, and made recommendations for corrective action. *See* Bumgardner, *supra* note 488, at 4.

[502] One Marine Corps judge advocate who dealt extensively with EAPs as her unit planned for training and real-world NEOs commented that EAPs are often out of date and that military units should coordinate closely with the relevant embassy to determine the EAP's accuracy. Telephonic Interview with Lieutenant Colonel Wendy A. Stafford, USMC, International and Operational Law Branch, Judge Advocate Division, Headquarters, U.S. Marine Corps (10 July 2003).

[503] JOINT PUB. 3-07.5, *supra* note 485, at II-2.

[504] The general overview provided in this section was derived from a chart prepared by the DOS Operations Center Crisis Management Support Office, entitled "Who Does What in an Evacuation" (on file with CLAMO).

In addition to chairing the coordination bodies just discussed—the WLG, RLG, and EAC—DOS apportions NEO responsibilities to other Washington-level DOS offices. The assigned DOS regional bureau[505] for the NEO location primarily focuses on issues of transportation arrangements for the evacuees, such as the location of safe havens and whether or not DOD assistance will be necessary.

Falling under the Executive Secretariat (S/ES) of the Secretary of State, the Operations Center's Crisis Management Support Office (S/ES-O/CMS) monitors the world situation for potential developing NEOs, convenes the WLG if necessary, and alerts and advises other DOS principals and bureaus, and other USG agencies involved in NEOs. The Crisis Management Support Office also has written, and frequently updates, the "Evacuation Manual," a how-to guide for foreign posts that may need to drawdown (reduce manning strength) or evacuate.[506]

Several offices falling within the purview of the Under Secretary for Management (M) play roles in NEOs. Under the Director of General Human Resources (DGHR), the Family Liaison Office (M/DGHR/FLO)[507] and the Office of Casualty Assistance (M/DGHR/OCA) primarily act as a direct liaison with the evacuees, keeping them informed on evacuation developments and personal issues such as travel arrangements, post-evacuation employment, and school enrollment for children. Within the Bureau of Consular Affairs (CA), the Deputy Assistant Secretary for Overseas Citizens Service (CA/OCS) issues public announcements and/or travel warnings regarding potential NEO hot spots. The Deputy Assistant Secretary for Diplomatic Security (DS), Director Diplomatic Security Service (DS/DSS) works with posts to draft or update EAPs and coordinates with the DOD and Joint Chiefs of Staff in formulating future NEO plans.

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[505] For a discussion of DOS regional bureaus see chapter III.B.1.b(1) of this Handbook.

[506] The Evacuation Manual is available on the Department of State's classified POEMS website *at* http://poems.state.sgov.gov. An unclassified version is available only through the DOS intranet. The Crisis Management Office can be contacted at 202-647-7640, or via unclassified e-mail at SES-O_CMS@state.gov.

[507] The Family Liaison Office maintains a website for foreign service employees and their family members *at* http://www.state.gov/m/dghr/flo.

Within the PM Bureau, the Political-Military Action Team (PMAT) and Office of International Security Operations (PM/ISO) also work closely with the DOD for NEO contingency planning, to include coordinating overflight clearances needed for military airlift.

Finally, as discussed in Chapter III.B.1, each U.S. embassy is lead by a Chief of Mission (COM), usually an Ambassador. This official has the overall responsibility for the safety of USG personnel in the country to which they are accredited. Under the COM is the Deputy Chief of Mission (DCM) and various section heads, who also play a role in NEOs. Additionally, each embassy has a designated DOS Foreign Service Officer as the key contact for emergencies.[508]

2. DEPARTMENT OF DEFENSE

Executive Order 13074, a 1998 amendment to Executive Order 12656 discussed above, dictates the DOD role in NEOs: "Subject to the direction of the President, and pursuant to procedures to be developed jointly by the Secretary of Defense and the Secretary of State, [DOD will] be responsible for the deployment and use of military forces for the protection of United States citizens and nationals and, in connection therewith, designated other persons or categories of persons, in support of their evacuation from threatened areas overseas."[509]

DOD has outlined its policies, responsibilities, and procedures for the conduct of NEOs in DOD Directive 3025.14, *Protection and Evacuation of U.S. Citizens and Designated Aliens in Danger Areas Abroad (Short Title: Noncombatant Evacuation Operations)*.[510] The

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[508] *See* chapters III.B.1 and IV.C.1 of this Handbook.

[509] Exec. Order No. 13,074, 63 Fed. Reg. 7,277, § 501(16) (12 Feb. 1988). The NEO MOA, *supra* note 492, was a direct result of this Executive Order.

[510] U.S. DEP'T OF DEFENSE, DIR. 3025.14, PROTECTION AND EVACUATION OF U.S. CITIZENS AND DESIGNATED ALIENS IN DANGER AREAS ABROAD (SHORT TITLE: NONCOMBATANT EVACUATION OPERATIONS) (5 Nov. 1990) (C2, 13 July 1992) [hereinafter DOD DIR. 3025.14]. Although this Directive predates Executive Order 13074, presumably it has not been updated because it remains in keeping with the intention of the Executive Order. Executive Order 12656, which was in effect at the time DOD DIR. 3025.14 was promulgated, and still is in effect as supplemented by Executive Order 13074, contained the following NEO guidance for DOD: "Advise and assist the Secretary of State and the heads of other Federal departments and agencies, as appropriate, in

following is a listing of the major DOD suborganizations tasked with NEO responsibilities, as well as a summary of what those responsibilities are.

The Assistant Secretary of Defense (Force Management and Personnel (ASD(FM&P))[511] is the overall NEO coordinator within DOD. As such, this office coordinates DOD participation in the WLG; ensures that a current agreement exists with DOS regarding NEOs; and monitors the movement, location, and welfare of all combatants from the evacuation area.[512] The Under Secretary of Defense for Policy, in conjunction with ASD(FM&P), works closely with DOS on NEO policies, including assessing political-military implications of an evacuation order, determining potential danger areas, and providing guidance for military assistance for protection or evacuation.[513] The Assistant Secretary of Defense (Public Affairs) (ASD(PA)) provides guidance to all DOD components regarding release of information on DOD participation in NEOs, and ensures public affairs coordination with other federal agencies.[514] The Chairman of the Joint Chiefs of Staff (JCS Chairman), when authorized by the Secretary of Defense, coordinates the deployment and employment of DOD forces in support of NEOs. A Joint Staff representative participates in the WLG. In general terms, the JCS Chairman monitors the commanders of the Combatant Commands[515] and the military services' participation in NEOs. The JCS Chairman will also recommend the use of Transportation Command (TRANSCOM)[516] assets to the Secretary of Defense for the evacuation of personnel in support of DOS requests.[517]

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planning for the protection, evacuation, and repatriation of United States citizens in threatened areas overseas." Exec. Order No. 12,656, 53 Fed. Reg. 47,491, § 502(2) (23 Nov. 1988).

[511] For a discussion of the overall organization of the DOD see chapter II of this Handbook.

[512] DOD DIR. 3025.14, *supra* note 510, para. E(1).

[513] *Id.* para. (E)(2).

[514] *Id.* para. (E)(4).

[515] For a discussion of Combatant Commands see chapter II.B.3 of this Handbook.

[516] For a discussion of TRANSCOM see *id*.

[517] DOD DIR. 3025.14, *supra* note 510, para. (E)(5).

The **Secretary of the Army** is the DOD executive agent for repatriation planning and operations, coordinating within the DOD and with other federal, state, and local agencies in planning for the reception in the United States of all evacuee DOD family members, non-essential employees, and DOD contractors. The Secretary establishes a Joint Reception Coordination Center (JRCC) to help fulfill this responsibility.[518]

The **Secretary of the Navy** appoints Navy and Marine Corps members of the WLG. The Secretary also ensures that military sea transportation is available to transport evacuees as required.[519] The **Secretary of the Air Force** appoints an Air Force member of the WLG. The Secretary also provides air transportation for evacuees through the Air Mobility Command (the air component of TRANSCOM), as well as medical evacuation transportation.[520]

The **Combatant Commanders** prepare and maintain plans for assisting the DOS in NEOs. They cooperate with foreign post staff in the preparation of EAPs and examine all existing EAPs for accuracy. They appoint military members to the RLGs[521] and provide guidance to the military members of the local EACs.[522] Upon request of the DOS and upon direction from the military chain of command, the commander of the relevant geographic Combatant Command will provide military forces in support of NEOs. These forces may come from forward-deployed single-service units, such as a nearby Marine Expeditionary Unit (MEU) aboard amphibious shipping. Alternatively, particularly in an uncertain or hostile environment, the Combatant Commander may decide to form a Joint Task Force (JTF),

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[518] *Id.* para. (E)(6).

[519] *Id.* para. (E)(7).

[520] *Id.* para. (E)(8).

[521] *But see supra* note 499 (pointing out that RLGs seem to have fallen out of use).

[522] DOD DIR. 3025.14, *supra* note 510, para. (E)(9).

comprised of combat and combat support elements and led by a JTF commander.[523]

3. OTHER AGENCIES INVOLVED

Beyond DOD and DOS, other agencies may play significant roles in NEOs. For example, the Agency for International Development may become involved in coordinating humanitarian relief efforts in response to the same events that have given rise to the need for a NEO. The Department of Health and Human Services (HHS) is the lead federal agency for reception of all evacuees in the United States, both as a creature of statute[524] and pursuant to Executive Order 12656.[525] Immigration and Customs Enforcement (ICE), under the new Department of Homeland Security, may be involved in processing foreign nationals. Moreover, a host of NGOs and IGOs may provide humanitarian assistance in the country where a NEO is taking place.[526]

4. COMMAND AND CONTROL

While Executive Order 12656 clearly assigns responsibility for the safety of U.S. citizens abroad to the Secretary of State, once the decision is made to use military forces, the command relationship between the DOS and DOD, e.g., between the U.S. Ambassador and the on-scene military commander, becomes more nuanced. In an effort to clarify this relationship during the conduct of NEOs, the 1998 NEO MOA states:

> Once the decision has been made to use military personnel and equipment to assist in the implementation of emergency evacuation plans, the military commander is solely responsible

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[523] *See* JOINT PUB. 3-07.5, *supra* note 485, at I-4 to I-5. For a discussion of JTFs and MEUs see chapters II.B.4 and II.C.2.b of this Handbook, respectively.

[524] *See* 42 U.S.C. § 1313 (2000).

[525] Exec. Order No. 12,656, 53 Fed. Reg. 47,491, § 801(10) (23 Nov. 1988) ("[d]evelop plans and procedures, in coordination with the heads of the Federal departments and agencies, for assistance to United States citizens or others evacuated from overseas areas").

[526] *See* chapter III.C of this Handbook.

> for conducting the operations. However, except to the extent delays in communication would make it impossible to do so, the military commander shall conduct those operations in coordination with and under policies established by the Principal U.S. Diplomatic or Consular Representative.[527]

The most recent DOD statement on NEO command relationships is found in the baseline CJCS rules of engagement (ROE) document, *Standing Rules of Engagement for U.S. Forces*:

> The DOS in general, and the Ambassador or COM [Chief of Mission] at a particular embassy or consulate, is charged with overall responsibility to protect and evacuate, if necessary, US nationals abroad. During the execution of a NEO, however, DOD is specifically responsible for the protection of U.S. nationals and designated third-country nationals within the embassy ground until the evacuation is complete.... DOD acts in a supporting role and is responsible to advice and assist the DOS in such evacuations.[528]

These documents indicate that a dual-pronged NEO chain of command, as reflected in Figure VIII-1, below, exists. The President, as advised by the National Security Council, heads the chain. The chain then bifurcates between the DOD and the DOS, with the DOD responsible for military operations on the ground and the DOS, as advised by the WLG and RLG, ultimately responsible for the evacuation. The Secretary of Defense, as advised by the JCS Chairman, has direct control of the Combatant Commanders, both "supported" (the geographic Combatant Commander responsible for

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[527] NEO MOA, *supra* note 492, para. (E)(2). As noted previously, this MOA was a direct result of the 1998 amendment to Executive Order 12656 that affirmatively charged the DOD with responsibility for providing military forces for NEOs.

[528] CHAIRMAN, JOINT CHIEFS OF STAFF, INSTR. 3121.01A, STANDING RULES OF ENGAGEMENT FOR U.S. FORCES encl. G, para. (2)(b) (15 Jan. 2000) (classified document) [hereinafter SROE]. As of the writing of this book, a new SROE is pending release, but the draft language regarding DOD/DOS NEO command relationships is largely unchanged. After analyzing the MOA language in its historical context, CLAMO opined in a prior publication that "the military commander is ultimately responsible for the military operation as informed by the Ambassador's guidance, who is ultimately responsible for the overall mission." CENTER FOR LAW AND MILITARY OPERATIONS, DEPLOYED MARINE AIR-GROUND TASK FORCE (MAGTF) JUDGE ADVOCATE HANDBOOK 75 (15 July 2002) [hereinafter MAGTF HANDBOOK].

conducting the NEO) and "supporting" (the commanders providing assistance to the commander conducting the NEO). The supported Combatant Commander in turn commands the NEO task force commander, a task force that may be a JTF comprised of different service components or may be a service-specific force, such as a Marine Expeditionary Unit. The DOS chain of command runs directly to the Ambassador, and includes coordination with the supported Combatant Commander. The Ambassador in turn has a coordinating relationship with the NEO task force commander and the supported Combatant Commander.

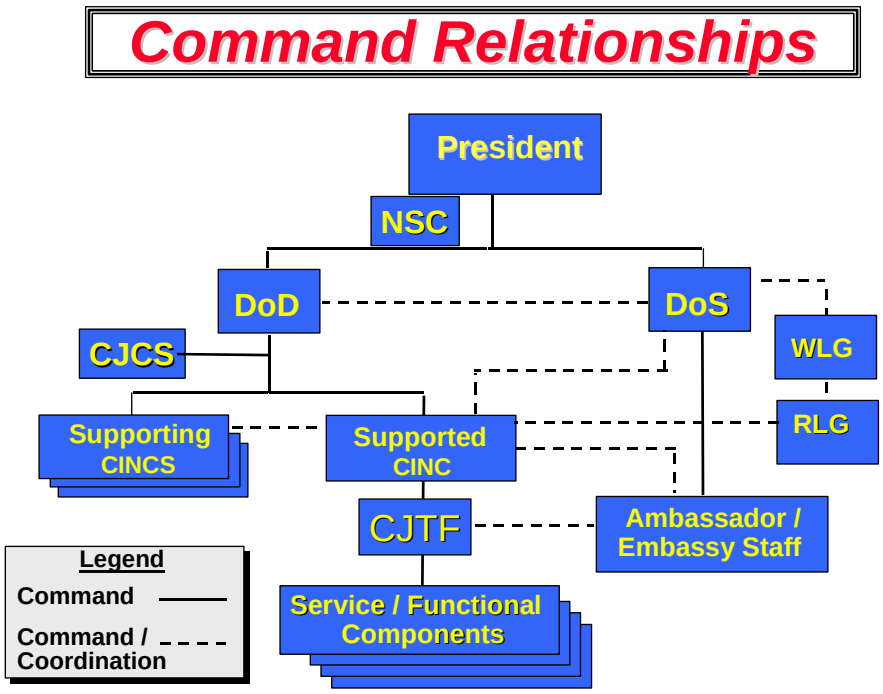

Figure VIII-1[529]

[529] TJAGLCSA NEO PRESENTATION, *supra* note 486, at briefing slide 24. The chart uses the outdated term "CINCs" for what are now referred to as Combatant Commanders.

C. NEO CONCEPT OF OPERATIONS

This section describes a general NEO concept of operations (i.e., how a mission is expected to unfold for planning purposes) using a two-part approach. First, the concept of operations is outlined from the broader DOS perspective, beginning with the possible need for voluntary departure of certain embassy personnel to the extreme situation where the embassy must close and U.S. citizens must be ordered to evacuate. The points in time when military assistance may be required are highlighted. Second, the concept of operations then is outlined from a DOD perspective, emphasizing critical points of coordination between the DOD and the DOS, as well as assets that the DOD can provide.

1. DEPARTMENT OF STATE NOTIFICATION PHASES

The DOS has a standardized sequencing of responses, or phases, to a deteriorating situation in a country by which potential evacuees are notified.[530] The phases can be broken down into two categories, "drawdown" and "evacuation," each with its own subcategories.

As a situation begins to deteriorate, the Ambassador may first decide to reduce, or drawdown, the number of embassy personnel. This may take one of two forms, an "authorized departure," or an "ordered departure." Under an authorized departure, the Ambassador must obtain approval from the DOS for the departure of nominated personnel, typically personnel the Ambassador deems unnecessary in an emergency situation. Any foreign post personnel or family members who want to depart must obtain the Ambassador's approval. The second form of drawdown is an ordered departure. In this case, the Ambassador may order that certain personnel and their family members leave the post for safety or other valid national interest reasons. Departure for these persons is not optional.

As the situation further worsens, or perhaps even in conjunction with a post drawdown, it may become necessary to

[530] *See* EMERGENCY PLANNING HANDBOOK, *supra* note 500, chs. 1400 (drawdown), 1500 (evacuation). *See also* JOINT PUB. 3-07.5, *supra* note 485, at IV-4 to IV-5.

evacuate large numbers of U.S. citizens and others in country for whom the U.S. Government may have a responsibility. There are four notification phases for an evacuation. These notifications are disseminated via an established embassy "warden system," an informal method of communication used to pass written or oral information through selected persons, or "wardens," to U.S. citizens during emergencies.[531]

During the first evacuation notification phase, the Ambassador issues a "stand fast" message to all U.S. citizens in country, warning them of the situation and providing preliminary instructions (e.g., collect important papers, store a reasonable supply of food and water) for a potential evacuation.[532]

The second phase is known as "leave commercial," in which the Ambassador recommends that nonessential[533] U.S. citizens depart the country via available commercial transportation. It is typically during this phase, although it might occur earlier or later, that the Ambassador considers inviting a military liaison team to begin planning for a subsequent military-assisted evacuation. This team will be discussed in more detail below.

The third notification phase is "evacuation." If the situation has deteriorated to the point that the safety of U.S. citizens is threatened, the Ambassador, with DOS approval (specifically, the Under Secretary for Management), can order the evacuation of the following categories of persons: (1) U.S. civilian employees of all USG agencies, except members of military commands the DOD designates "wartime essential"; (2) DOD personnel assigned to the post; (3) Peace Corps volunteers; (4) foreign service national employees, including third-country nationals on temporary duty from posts outside the country where the evacuation is taking place; (5) U.S.

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[531] *See* EMERGENCY PLANNING HANDBOOK, *supra* note 500, at ann. B.

[532] *See id.* at § H-1526. *See also* JOINT PUB. 3-07.5, *supra* note 485, at IV-4. Both publications contain a sample stand fast message.

[533] The DOS sample Leave Commercial Notice states in part, "this office recommends that Americans whose presence in the country is not essential, depart by commercial transportation as soon as possible." *See* EMERGENCY PLANNING HANDBOOK, *supra* note 500, at § H-1256. *See also* JOINT PUB. 3-07.5, *supra* note 485, at app. F.

citizens employed on contract to a USG agency if the contract so provides; (6) dependents of those above; and (7) dependents of all other U.S. military personnel.[534] The Ambassador will keep in place a skeletal Country Team. The Ambassador cannot order the departure of any category of persons not listed, but various other personnel are entitled to evacuation assistance should they desire to depart the country.[535] This phase is most likely the first to include military assistance, whether for increased embassy security or for military transport.

The fourth evacuation notification phase is "embassy/consulate closing." In this phase, the post closes and all remaining personnel over whom the Ambassador has authority (the listing above) are ordered to depart.[536] Military assistance is likely required.

2. DEPARTMENT OF DEFENSE NEO CONCEPT OF OPERATIONS[537]

Although the DOD does not have a joint doctrinal sequencing of phases for a NEO, the concept of operations for the military evacuation force typically runs the following course: (1) advance elements of the military force conduct liaison with the foreign post; (2) the military force occupies an intermediate staging base (ISB), if

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[534] *See* EMERGENCY PLANNING HANDBOOK, *supra* note 500, at § H-1522.1. *See also* JOINT PUB. 3-07.5, *supra* note 485, at IV-6.

[535] The following personnel are entitled to evacuation assistance: (1) U.S. citizens employed by non-USG organizations (e.g., World Health Organization); (2) U.S. citizens employed by or assigned to international organizations (e.g., the United Nations); (3) U.S. citizens employed on contract directly by the host government, even though the contract may be funded by the U.S. Government; (4) U.S. citizens employed by private entities, such as relief organizations, even though the employer may receive some U.S. Government funding; (5) Fulbright grantees and U.S. citizens in comparable roles; (6) other private U.S. citizens; and (7) family members of private adult (over eighteen years of age) U.S. citizens, to include alien spouses, children, and other bona fide residents of the household. *See* EMERGENCY PLANNING HANDBOOK, *supra* note 500, at § H-1522.2. *See also* JOINT PUB. 3-07.5, *supra* note 485, at IV-6. Of note, should any of these personnel refuse to evacuate, efforts should be made to have them sign a "Waiver of Evacuation Opportunity Form," which should be forwarded to the embassy. A sample form can be found at JOINT PUB. 3-07.5, *supra* note 485, at app. F.

[536] *See* EMERGENCY PLANNING HANDBOOK, *supra* note 500, at § H-1256. *See also* JOINT PUB. 3-07.5, *supra* note 485, at IV-5.

[537] The material in this section is a blending of information drawn from the author's experience, JOINT PUB. 3-07.5, *supra* note 485, and Expeditionary Warfare Training Group Atlantic (EWTGLANT), Outline Sheet Lesson Topic 3.3: Non-Combatant Evacuation Operations (NEO) (15 July 2003) (on file with CLAMO).

one is necessary; (3) the military force secures and establishes an evacuation control center (ECC); (4) the military force secures assembly areas for evacuees; (5) the military force moves evacuees from the assembly areas to the ECC; and (6) the military force moves evacuees to a safe haven.

As discussed previously, at some point along the DOS evacuation notification timeline the Ambassador will invite a military liaison team to the embassy. This team, typically referred to as the "forward command element" (FCE), can take a variety of forms depending on the military and political situation, ranging from a large team wearing uniforms, carrying weapons, and arriving via military transportation, to a smaller team dressed in civilian clothes, unarmed, and arriving via commercial transportation. Using the example of a Marine Expeditionary Unit (MEU), the most likely force to conduct a NEO, a skeletal FCE would normally consist of the MEU executive officer (XO—a lieutenant colonel); a few enlisted radio operators; and one or more liaison officers, either from the MEU commander's staff or from one of the subordinate combat or support elements. A larger FCE would expand to include more liaison officers—for example, an air officer, staff judge advocate, public affairs officer, medical team, and counterintelligence team. Ultimately, the composition of this team will be a product of a dialogue between the Ambassador, the NEO task force commander, and the Combatant Commander in light of their respective needs and the permissive, uncertain, or hostile nature of the prospective NEO.

Particularly for a hostile environment NEO or a NEO that requires the military force to travel a long distance, an "intermediate staging base" (ISB) may be required. An ISB is a temporary location used to stage forces prior to inserting them into the host nation. An ISB can also serve as a temporary "safe haven" for transported evacuees prior to moving them to a final safe haven, discussed below. Oftentimes the ISB is an amphibious ship or ships off the coast of the country in question—the same ships from which the Marine NEO force may launch. These ships are often part of a larger Amphibious Ready Group (ARG) or Expeditionary Strike Group (ESG). The ISB might also be a secure land site, either in country or in a nearby country. Again, DOD and DOS will coordinate in selecting an

appropriate ISB given the situation, with DOS responsible for coordinating with the government of the foreign country ISB.

The NEO task force will then secure and establish an "evacuation control center" (ECC) to process and screen evacuees before transporting them to the safe haven site. The ECC oftentimes is located within the embassy compound, but may be in another location, such as the ISB/temporary safe haven, if the embassy site is not secure. The composition of the ECC will depend on the NEO task force's standing operating procedure (SOP) and the situation. The typical MEU ECC will consist of approximately forty personnel divided into functional areas: a command section (normally a captain or major as the officer-in-charge); a reception section (conducts initial searches and identifies incoming evacuees with the assistance of embassy staff); a search and screening section (conducts detailed evacuee searches); a processing section (maintains paperwork, matching evacuees to F-77 report[538] and embassy list of evacuees); a medical section (providing immediate care and triage); and an embarkation section (coordinates evacuee transportation). The NEO task force may also establish "hasty" ECCs to conduct cursory processing of evacuees at outlying sites before transporting them to the main ECC.

The NEO task force will also provide security, if necessary, for evacuee "assembly areas" that the Ambassador has designated in the evacuation notice and disseminated through the warden system.[539] The security forces will be tailored to the threat and the political situation, both in composition of the force and weapons systems. In addition to the standard lethal weapons (e.g., small arms, machine guns, mortars, and artillery) and weapons platforms (e.g., assault amphibian vehicles and tanks) discussed earlier in this book,[540] MEUs possess a robust nonlethal weapons capability (e.g., riot batons, face shields, rubber and bean-bag shotgun projectiles, tear gas, and pepper

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[538] *See supra* text accompanying note 502.

[539] The sample DOS evacuation notice contains the line, "Your assigned assembly area is _____." *See* EMERGENCY PLANNING HANDBOOK, *supra* note 500, at exhibit H-1526C. *See also* JOINT PUB. 3-07.5, *supra* note 485, at app. F.

[540] *See* chapter II.C.2 of this Handbook.

spray)[541] that can provide the commander use of force options short of deadly force to handle situations such as rioting crowds. The applicable rules of engagement (ROE), discussed below,[542] will dictate what lethal and non-lethal weapons can be employed and in what circumstances. For example, the NEO task force cannot use tear gas or pepper spray without prior approval from higher DOD authority.

The final two phases of the evacuation force concept of operations involve moving evacuees from the assembly areas to the ECC and from the ECC to a temporary or final safe haven. Again using the Marine Corps as an example, MEUs contain an assortment of transportation options, ranging from helicopters, to assault amphibian vehicles, to trucks, to C-130 aircraft.[543] DOS will designate and coordinate the location of the safe haven. Ideally, the safe haven will be a location in the United States. As mentioned above, however, there may be a need for a temporary safe haven in another country or aboard amphibious shipping. If shipping is used as a temporary safe haven, the Marines and sailors work together to execute a formalized "shipboard reception plan," during which evacuees are processed in more detail, briefed on shipboard emergency procedures, and provided sleeping arrangements, food, water, and medical care.

D. RECURRING COORDINATION ISSUES

Largely stemming from the command and control relationships discussed earlier in this section, there are several recurring coordination issues between DOS and DOD with regards to NEOs.

1. FUNDING

[541] The military sets forth its nonlethal weapons capabilities and doctrine in a joint publication, whose Marine Corps title is MARINE CORPS WARFIGHTING PUBLICATION 3-15.8, NLW: TACTICAL EMPLOYMENT OF NONLETHAL WEAPONS (Jan. 2003), *at* http://www.doctrine.quantico.usmc.mil/signpubs/MCWP/w3158.pdf .

[542] *See* section D.2 of this chapter.

[543] *See* chapter II.C.2 of this Handbook.

While the 1998 DOS/DOD NEO MOA covers many subjects, its primary impetus actually was to resolve recurring disputes between DOS and DOD over NEO funding responsibilities, i.e., to decide which agency was to bear which costs required to execute the mission. The resulting cost sharing agreement constitutes a detailed appendix to the MOA.[544] Generally speaking, the appendix separates NEO costs into two broad categories: evacuation and protection. DOS is to bear evacuation-related costs; DOD is to bear protection-related costs. Evacuation costs are those incremental expenses related to the movement of evacuees—such as air/ground transport from identified points of evacuation to safe havens, landing/port fees, and costs of returning DOD vehicles and aircraft used for evacuee transport back to their original locations after the NEO. Protection costs are those incremental expenses related to the security of DOD forces and the evacuees, such as costs of deploying or redeploying military security forces, establishing a communications structure, constructing defensive perimeters, and paying any special entitlements to personnel (such as imminent danger pay in a combat zone). Final accounting and reimbursement between DOD and DOS is accomplished through the Economy Act[545] and respective comptroller offices.

2. RULES OF ENGAGEMENT

DOD forces involved in a NEO will follow rules of engagement (ROE) passed down through DOD channels. ROE establish guidelines for the use of deadly and nondeadly force in the contexts of both self-defense and mission accomplishment. The baseline ROE document for DOD forces is the JCS Chairman Instruction, *Standing Rules of Engagement for U.S. Forces (SROE)*.[546] The SROE contains a classified enclosure that deals specifically with NEOs.[547] In addition to the baseline guidance found in the SROE for self-defense, the NEO enclosure and other classified enclosures to the SROE can provide mission-specific ROE tailored for individual NEOs.

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[544] *See* NEO MOA, *supra* note 492, app. 2.

[545] *See* chapter V.B of this Handbook.

[546] SROE, *supra* note 528.

[547] *Id.* at encl. G (confidential).

DOS personnel do not follow the JCS Chairman SROE. DOS has its own use of force guidance that applies to its personnel. Each post has developed a "Four Phase Emergency Action Plan"[548] and different ROE measures will apply depending on which phase is in effect. Each post will have different ROE and phases tailored to the post's community, history, and overall threat level. Of note, many posts will have Marines from the Marine Security Guard (MSG) battalion detailed there to provide security, primarily for classified information. These MSG Marines follow the DOS ROE established in the Four Phase Emergency Action Plan; they do not follow the DOD ROE, despite the fact that they are members of the DOD.

In drafting mission-specific ROE for the DOD NEO task force, the SROE notes that "[c]oordination between the [Ambassador] and the Combatant Commander in developing the ROE is necessary."[549] However, it further notes that "ultimate approval for the DOD ROE will remain with the military chain of command."[550]

3. PROCESSING FOREIGN DIPLOMATS AND OTHER VIPS

For reasons of protocol, the Ambassador or on-scene military commander may want to extend special courtesies and treatment to foreign diplomats,[551] government officials, and other very important persons (VIPs) during the conduct of the NEO, most notably during the ECC processing phase. Military NEO doctrine allows for "special procedures" in processing these personnel, not necessarily subjecting them to the same rigorous requirements as other evacuees.[552] Military

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[548] E-mail from Captain Joseph Schrantz, USMC, Legal Officer, Marine Security Guard Battalion, to Mr. Joseph A. Rutigliano, Attorney-Advisor, International and Operational Law Branch, Judge Advocate Division, Headquarters U.S. Marine Corps (13 Sept. 2002) (on file with CLAMO).

[549] SROE, *supra* note 528, at encl. G, para. (2)(b).

[550] *Id.* For a more detailed discussion of DOS/DOD ROE coordination, see MAGTF HANDBOOK, *supra* note 528, at 76-77.

[551] For a discussion of the legal status of foreign diplomats and diplomatic pouches in the context of NEOs, *see* MAGTF HANDBOOK, *supra* note 528, at 77-79.

[552] *See* JOINT PUB. 3-07.5, *supra* note 485, at IV-1 to IV-2.

commanders may refuse DOD transportation to individuals who refuse to be searched, even diplomats or other VIPs.[553]

4. TEMPORARY REFUGE AND POLITICAL ASYLUM

NEOs present a ripe opportunity for third-country nationals to seek from U.S. forces or officials temporary refuge or political asylum. Political asylum is "protection and sanctuary granted by the United States Government within its territorial jurisdiction or on the high seas to a foreign national who applies for such protection because of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."[554] U.S. military commanders are not authorized to grant any person political asylum, and instead must refer such persons to DOS through the embassy staff.[555] Temporary refuge is "protection afforded for humanitarian reasons to a foreign national . . . within the territorial jurisdiction of a foreign nation or on the high seas, under conditions of urgency in order to secure the life or safety of that person against imminent danger, such as pursuit by a mob."[556] Military commanders may grant temporary refuge under such conditions.[557] Once temporary refuge has been granted, however, the military commander may not terminate the refuge without approval by the Service Secretary level or higher.[558]

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[553] SROE, *supra* note 528, at encl. G, para. (5)(d).

[554] U.S. DEP'T OF DEFENSE, DIR. 2000.11, PROCEDURES FOR HANDLING REQUESTS FOR POLITICAL ASYLUM AND TEMPORARY REFUGE para. 2.1 (3 Mar. 1972) (C1, 17 May 1973) [hereinafter DOD DIR. 2000.11]. *See also* 8 U.S.C. § 1158 (2000) (providing statutory authority to apply for asylum in the United States).

[555] DOD DIR. 2000.11, *supra* note 554, para. 3.1.3. *See also* JOINT PUB. 3-07.5, *supra* note 485, at app. B, para. (2)(b).

[556] DOD DIR. 2000.11, *supra* note 554, para. 2.2.

[557] *Id.* para. 4.1.5.1.1.1.

[558] *Id.* para. 4.1.5.1.1.2. For a more detailed discussion of political asylum and temporary refuge in the context of a NEO, see Major Steven. F. Day, USMC, *Legal Considerations in Noncombatant Evacuation Operations*, 40 NAVAL L. REV. 45 (1992).

CHAPTER IX: RESOURCES

A. PUBLICATIONS

1. GENERAL

JOINT CHIEFS OF STAFF, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, JOINT PUB. 3-07 (16 June 1995)

JOINT CHIEFS OF STAFF, INTERAGENCY COORDINATION DURING JOINT OPERATIONS, JOINT PUB. 3-08 (9 October 1996)

JOINT CHIEFS OF STAFF, JOINT DOCTRINE FOR CIVIL-MILITARY OPERATIONS, JOINT PUB. 3-57 (8 February 2001)

NATIONAL DEFENSE UNIVERSITY, HANDBOOK FOR INTERAGENCY MANAGEMENT OF COMPLEX CONTINGENCY OPERATIONS (13 August 1998)

2. SPECIFIC TYPES OF OPERATIONS

JOINT CHIEFS OF STAFF, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, JOINT PUB. 3-07.3 (12 February 1999)

JOINT CHIEFS OF STAFF, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR FOREIGN HUMANITARIAN ASSISTANCE, JOINT PUB. 3-07.6 (15 August 2001)

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT, FIELD OPERATIONS GUIDE FOR DISASTER ASSESSMENT AND RESPONSE (Version 3.0)

U.S DEPARTMENT OF THE ARMY, FIELD MANUAL 100-23, PEACE OPERATIONS (30 December 1994)

CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, LESSONS LEARNED FOR JUDGE ADVOCATES (11 December 1995)

CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, LESSONS LEARNED FOR JUDGE ADVOCATES (13 November 1998)

CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN CENTRAL AMERICA: HURRICANE MITCH RELIEF EFFORTS, 1998-1999, LESSONS LEARNED FOR JUDGE ADVOCATES (15 September 2000)

CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN KOSOVO, 1999-2001, LESSONS LEARNED FOR JUDGE ADVOCATES (15 December 2001)

CENTER FOR LAW AND MILITARY OPERATIONS, DEPLOYED MARINE AIR-GROUND TASK (MAGTF) JUDGE ADVOCATE HANDBOOK (15 JULY 2002)

B. ADDITIONAL WEBSITES

National Defense University- Interagency Education, Training and After Action Review Program:
http://www.theinteragency.org/

Center of Excellence- Disaster Management Humanitarian Assistance:
http://coe-dmha.org/

U.S. Army Peacekeeping and Stability Operations Institute:
http://www.carlisle.army.mil/usacsl/divisions/pksoi/default.htm

APPENDICES

APPENDIX II-1: COMPARABLE RANK AMONG THE SERVICES

Comparable rank among the Services			
Army	**Air Force**	**Marine Corps**	**Navy**
Officers			
General of the Army	General of the Air Force		Fleet Admiral
General	General	General	Admiral
Lieutenant General	Lieutenant General	Lieutenant General	Vice Admiral
Major General	Major General	Major General	Rear Admiral (U)
Brigadier General	Brigadier General	Brigadier General	Rear Admiral (L)
Colonel	Colonel	Colonel	Captain
Lieutenant Colonel	Lieutenant Colonel	Lieutenant Colonel	Commander
Major	Major	Major	Lieutenant Commander
Captain	Captain	Captain	Lieutenant
First Lieutenant	First Lieutenant	First Lieutenant	Lieutenant (Junior Grade)
Second Lieutenant	Second Lieutenant	Second Lieutenant	Ensign
Chief Warrant Office Four	Chief Warrant Officer Four	Chief Warrant Officer Four	Chief Warrant Officer
Chief Warrant Office Three	Chief Warrant Officer Three	Chief Warrant Officer Three	Chief Warrant Officer
Chief Warrant Office Two	Chief Warrant Officer Two	Chief Warrant Officer Two	Chief Warrant Officer
Chief Warrant Office One	Chief Warrant Officer One	Chief Warrant Officer One	Chief Warrant Officer
Cadets			

Cadet	Cadet	---	Midshipman
Enlisted			
Sergeant Major of the Army	Chief Master Sergeant of the Air Force	Sergeant Major of the Marine Corps	Master Chief Petty Officer of the Navy
Command Sergeant Major	Chief Master Sergeant	Sergeant Major	Command Master Chief Petty Officer
Sergeant Major		Master Gunnery Sergeant	Master Chief Petty Officer
First Sergeant	Senior Master Sergeant	First Sergeant Officer	Senior Chief Petty
Master Sergeant	---	Master Sergeant	---
Sergeant First Class	Master Sergeant	Gunnery Sergeant	Chief Petty Officer
Staff Sergeant	Technical Sergeant	Staff Sergeant Class	Petty Officer First
Sergeant	Staff Sergeant	Sergeant Class	Petty Officer Second
Corporal	Sergeant	Corporal Class	Petty Officer Third
Specialist	---	---	---
Private First Class	Airman First Class	Lance Corporal	Seaman
Private	Airman	Private First Class	Seaman Apprentice
Private	Basic Airman	Private	Seaman Recruit

APPENDIX II-2: ARMY BRANCHES AND EQUIPMENT

Combat Arms and Equipment

Air Defense Artillery—The ADA mission is to protect the force and selected geopolitical assets from aerial attack, missile attack, and surveillance. A primary weapon system used by the ADA is the Patriot missile system.

Armor—The Armor mission is the development and conduct of mounted maneuver. Its three subcomponents armored cavalry, air cavalry, and armor provide the army with its most powerful reconnaissance and offensive forces. The most lethal weapon system assigned to armor units is the Abrams M1A2 tank, the Apache helicopter in air cavalry units, and the M3 Bradley, also a smaller tracked vehicle, in armored cavalry units.

Aviation—The Aviation mission is to find, fix, and destroy any enemy through fire and maneuver and to provide both combat and combat service support in coordinated operations as an integrated member of the combined arms team. Aviation assets include the medium to heavy lift "Chinook," CH-47, helicopters; the "Blackhawk," UH-60 is a troop and equipment utility helicopter; and the Apache, AH-64, is and attack helicopter designed to support ground troops as an antitank and antipersonnel missions.

Corps of Engineers—The Engineer mission encompass military engineering and civil works and all related planning, organization, training, operation, supply, and maintenance. When part of an engineer unit assigned at the Divisional brigade level, engineer units serve primarily as "combat engineers" equipped to emplace and remove mine fields and other obstacles (including bridges) and conduct explosives operations. In non-divisional engineer units, engineers may shoulder sustainment missions to include civil works. The primary equipment type assigned to engineer units is the M9 Armored Combat Earthmover (ACE) and the M728 Combat Engineer Vehicle (CEV). The M9 is a highly mobile, armored, amphibious combat earthmover capable of supporting forces in both offensive and defensive operations. It performs critical combat engineer tasks such

as digging hull defilade fighting positions for guns, tanks and other battlefield systems to increase their survivability. The ACE breaches berms, prepares anti-tank ditches, prepares combat roads, removes roadblocks and prepares access routes at water obstacles. The M728 CEV is a full-tracked armored vehicle that consists of a basic M60A1 tank with a hydraulically operated debris blade, a 165mm turret mounted demolition gun, a retractable boom and a winch. The demolition gun may be elevated or depressed for use at various ranges up to 925 meters and is coaxial mounted with a 7.62mm machine gun. A .50 caliber machine gun is cupola mounted. A mine-clearing rake was specially designed and fabricated to be a "tool" for the CEV in Desert Storm. The full width rake allows the CEV to clear minefields in non-cohesive, granular soils.

Field Artillery—The FA mission is to destroy, neutralize, or suppress the enemy by cannon, rocket, and missile fire and to integrate all supporting fires into combined arms operations. Field artillery weapons systems include the 105 mm Howitzer, towed and self-propelled and the Multiple Launch Rocket System (MLRS), a weapons system mounted on a tracked vehicle.

Infantry—The infantry mission is to close with the enemy by fire and maneuver to destroy or capture him, and to repel his assault by fire, close combat, and counterattack. Infantry units may be “light” airborne or air assault using parachute drops or air insertion via rotary wing assets for insertion or movement on the battlefield or “mechanized” using Bradley Fighting Vehicles (BFV) to carry infantrymen into combat and to provide antitank support. Many infantry and other units also have M113 Armored Personnel Carriers (APC) with a mounted .50 caliber machine gun. These weapons are in addition to the traditional small arms carried by infantrymen as well as other small units such as Squad Automatic Weapons (SAW), MK 19 (“Mark 19”) grenade launchers, M60 Machine Guns, and M16A2 rifles.

Special Forces—the newest army branch created in 1987, the SF missions include special reconnaissance, direct action, foreign internal defense, unconventional warfare, and counterterrorism.

Combat Support Branches (CSS)

Chemical Corps—The Chemical Corps mission is to provide expertise in Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) warfare. The corps' responsibilities include the analysis of the threat of CBRNE warfare capabilities; development of concepts, doctrine, organization, and equipment to meet that threat; nuclear and chemical weapons employment; training soldiers and providing advice to commanders on CBRNE defense; reconnaissance of the CBRNE battlefield; and decontamination of units exposed to CBRNE hazards. The "Fox" tracked vehicle assigned to the chemical company provides commanders with the ability to produce smoke for deceptive operations and to detect chemical and biological agents.

Military Intelligence Corps—The MI mission encompasses intelligence, counterintelligence, cryptologic and signals intelligence, electronic warfare, operations security, order of battle, interrogation, aerial surveillance, imagery interpretation, and all related planning, organization, training, and operations. Military intelligence assets include Unmanned Aerial Reconnaissance assets (UAV) such as the "predator" which provide commanders the ability to observe situations from undetectable and safe distances. Additionally, Military intelligence provide counter intelligence assents and human intelligence (HUMINT) capabilities.

Military Police Corps—The MPs mission is to conduct combat operations against opposing forces in U.S. rear areas, expedite the movement of critical combat resources, collect, process, and evacuate enemy prisoners of war (POWs), and provide security to army facilities and resources.

Signal Corps—The Signal Corps mission includes the collective, integrated, and synchronized use of information technology in the form of systems, networks, services, and resources supporting command, control, communications, and computer (C^4) requirements in organizations at all operational levels during peacetime, war, and operations other than war.

Combat Service Support Branches

Adjutant General Corps—The AG mission is to help build and sustain combat readiness through planning, operating, and managing military personnel activities.

Finance Corps—The Army's smallest branch, the Finance mission is to provide a centralized automated pay system for active and retired military payrolls, travel, commercial accounts, civilian pay, reserve Army pay, and disbursing functions.

Ordnance Corps—The ordnance mission is to support the development, production, acquisition, and sustainment of weapons systems, ammunitions, missiles, electronics, and ground mobility materiel during peace and war to provide combat power to the U.S. Army.

Quartermaster Corps—The Quartermaster mission is to provide advanced data processing equipment, sophisticated communications networks, and modern transportation techniques to perform its logistical support around the world.

Transportation Corps—The Transportation provides mobility to insure the success of tactical operations. They provide modern equipment to do the job in the most effective, fastest, and safest way. They are responsible for moving soldiers and supplies to virtually every corner of the world.

Special Branches

Chaplain Corps—The Chaplain's primary mission is to perform ministry by conducting religious services and by providing a complete program of religious education for American soldiers, family members, and authorized civilians. They provide counseling on religious and quasi-religious subjects and advise commanders on matters of religion, morals, and morale. Chaplains maintain liaisons with civilian religious groups and welfare agencies, participate in civic action projects, and advise commanders on matters of religion in the culture of the local inhabitants in overseas areas of operations.

Judge Advocate General's Corps—The JAGC mission is to provide professional legal services at all echelons of command throughout the range of military operations. They provide legal support in three functional areas: command and control, sustainment, and personnel service support. Command and control includes advice to commanders, staffs, and soldiers on the legal aspects of command authority, command discipline, the application of force and the Law of War (LOW). Sustainment functions include negotiation of acquisition and cross-servicing agreements and status of forces agreements (SOFAs), combat contingency contracting, fiscal law, processing claims arising in an operational environment, and environmental law. Personal service support functions include soldier discipline advocacy services, legal assistance services, and basic soldier-related claims issues.

Medical Corps—The MC sets the physical standards for those entering military service, maintains their health while in service, and processes them for discharge or retirement. They also provide care for family members and retirees. The MC is composed only of physicians.

Dental Corps—The DC mission is to provide all levels of dental care in support of the troops.

Veterinary Corps—The VC mission is not limited to animal medicine, but includes food hygiene, veterinary public health and preventive medicine. Their services are vital to the management and care of the extensive laboratory animal resources and to military research and development.

Medical Service Corps—The MSC mission is to provide scientist and specialists in the specialties allied to medicine and to provide individuals technically qualified to make the medical department self-sustaining in the areas of administration, supply, environmental sciences, mobilization preparedness, readiness training, and engineering activities.

Army Nurse Corps—The ANC mission is to provide quality nursing service for deployment, sustained conflict, and other healthcare missions. They perform these services in all the clinical specialties.

Army Medical Specialist Corps—The AMSC mission is to directly support the Army's warfighter's mission in the maintenance of soldier readiness in addition to providing comprehensive treatment and rehabilitation services. AMSC is composed of four unique specialties: occupational therapist, physical therapists, dietitians, and physician assistants.

APPENDIX II-3: STATE DEPARTMENT/COMBATANT COMMAND

AF- Bureau of African Affairs, Washington, DC
EAP- Bureaus of East Asia and Pacific Affairs, Washington, DC
EUR- Bureau of European and Eurasian Affairs, Washington, DC
NEA- Bureau of Near East Affairs, Washington, DC
SA- Bureau of South Asian Affairs, Washington, DC
WHA- Bureau of Western Hemisphere Affairs, Washington, DC

CENTCOM- Central Command, Tampa, FL
EUCOM- European Command, Stuttgart, Germany
NORTHCOM- Northern Command, Colorado Springs, CO
PACOM- Pacific Command, Honolulu, HI
SOUTCOM- Southern Command, Miami, FL

REGION/COUNTRY	STATE DEPARTMENT BUREAU	COMBATANT COMMAND
North America		
Canada	WHA	NORTHCOM
Mexico	WHA	NORTHCOM
United States		NORTHCOM
Caribbean		
Antigua and Barbuda	WHA	SOUTHCOM
Bahamas	WHA	NORTHCOM
Barbados	WHA	SOUTHCOM
Cuba	WHA	NORTHCOM
Dominica	WHA	SOUTHCOM
Dominican Republic	WHA	SOUTHCOM
Grenada	WHA	SOUTHCOM
Haiti	WHA	SOUTHCOM
Jamaica	WHA	SOUTHCOM
St. Kitts and Nervis	WHA	SOUTHCOM
St. Lucia	WHA	SOUTHCOM
St. Vincent and the Grenadines	WHA	SOUTHCOM
Trinidad and Tobago	WHA	SOUTHCOM
Central America		
Belize	WHA	SOUTHCOM
Costa Rica	WHA	SOUTHCOM
El Salvador	WHA	SOUTHCOM
Guatemala	WHA	SOUTHCOM

Honduras	WHA	SOUTHCOM
Nicaragua	WHA	SOUTHCOM
Panama	WHA	SOUTHCOM
South America		
Argentina	WHA	SOUTHCOM
Bolivia	WHA	SOUTHCOM
Brazil	WHA	SOUTHCOM
Chile	WHA	SOUTHCOM
Columbia	WHA	SOUTHCOM
Ecuador	WHA	SOUTHCOM
Guyana	WHA	SOUTHCOM
Paraguay	WHA	SOUTHCOM
Peru	WHA	SOUTHCOM
Suriname	WHA	SOUTHCOM
Uruguay	WHA	SOUTHCOM
Venezuela	WHA	SOUTHCOM
Europe		
Albania	EUR	EUCOM
Andorra	EUR	EUCOM
Armenia	EUR	EUCOM
Austria	EUR	EUCOM
Azerbaijan	EUR	EUCOM
Belarus	EUR	EUCOM
Belgium	EUR	EUCOM
Bosnia and Herzegovina	EUR	EUCOM
Bulgaria	EUR	EUCOM
Croatia	EUR	EUCOM
Cyprus	EUR	EUCOM
Czech Republic	EUR	EUCOM
Denmark	EUR	EUCOM
Estonia	EUR	EUCOM
Finland	EUR	EUCOM
France	EUR	EUCOM
Georgia	EUR	EUCOM
Germany	EUR	EUCOM
Greece	EUR	EUCOM
Holy See	EUR	EUCOM
Hungary	EUR	EUCOM
Iceland	EUR	EUCOM
Ireland	EUR	EUCOM
Italy	EUR	EUCOM
Latvia	EUR	EUCOM
Liechtenstein	EUR	EUCOM
Lithuania	EUR	EUCOM

Luxembourg	EUR	EUCOM
Malta	EUR	EUCOM
Macedonia	EUR	EUCOM
Moldova	EUR	EUCOM
Monaco	EUR	EUCOM
Netherlands	EUR	EUCOM
Norway	EUR	EUCOM
Poland	EUR	EUCOM
Portugal	EUR	EUCOM
Romania	EUR	EUCOM
Russia	EUR	EUCOM
San Marino	EUR	EUCOM
Slovakia	EUR	EUCOM
Slovenia	EUR	EUCOM
Spain	EUR	EUCOM
Sweden	EUR	EUCOM
Switzerland	EUR	EUCOM
Turkey	EUR	EUCOM
Ukraine	EUR	EUCOM
United Kingdom	EUR	EUCOM
Yugoslavia	EUR	EUCOM
Africa		
Algeria	NEA	EUCOM
Angola	AF	EUCOM
Benin	AF	EUCOM
Botswana	AF	EUCOM
Burkina Faso	AF	EUCOM
Burundi	AF	EUCOM
Cameroon	AF	EUCOM
Cape Verde	AF	EUCOM
Central African Republic	AF	EUCOM
Chad	AF	EUCOM
Comoros	AF	PACOM
Congo, Democratic Republic of (Zaire)	AF	EUCOM
Congo, Republic of	AF	EUCOM
Cote d'Ivoire	AF	EUCOM
Djibouti	AF	CENTCOM
Egypt	NEA	CENTCOM
Equatorial Guinea	AF	EUCOM
Eritrea	AF	CENTCOM
Ethiopia	AF	CENTCOM
Gabon	AF	EUCOM
Gambia	AF	EUCOM
Ghana	AF	EUCOM

Guinea	AF	EUCOM
Guinea-Bissau	AF	EUCOM
Kenya	AF	CENTCOM
Lesotho	AF	EUCOM
Liberia	AF	EUCOM
Libya	NEA	EUCOM
Madagascar	AF	PACOM
Malawi	AF	EUCOM
Mali	AF	EUCOM
Mauritania	AF	EUCOM
Mauritius	AF	PACOM
Morocco	NEA	EUCOM
Mozambique	AF	EUCOM
Namibia	AF	EUCOM
Niger	AF	EUCOM
Nigeria	AF	EUCOM
Rwanda	AF	EUCOM
Sao Tome and Principe	AF	EUCOM
Senegal	AF	EUCOM
Seychelles	AF	CENTCOM
Sierra Leone	AF	EUCOM
Somalia	AF	CENTCOM
South Africa	AF	EUCOM
Sudan	AF	CENTCOM
Swaziland	AF	EUCOM
Tanzania	AF	EUCOM
Togo	AF	EUCOM
Tunisia	NEA	EUCOM
Uganda	AF	EUCOM
Zambia	AF	EUCOM
Zimbabwe	AF	EUCOM
Middle East		
Bahrain	NEA	CENTCOM
Iran	NEA	CENTCOM
Iraq	NEA	CENTCOM
Israel	NEA	EUCOM
Jordan	NEA	CENTCOM
Kuwait	NEA	CENTCOM
Lebanon	NEA	EUCOM
Oman	NEA	CENTCOM
Qatar	NEA	CENTCOM
Saudi Arabia	NEA	CENTCOM
Syria	NEA	EUCOM
United Arab Emirates	NEA	CENTCOM
Yemen	NEA	CENTCOM

Central Asia		
Afghanistan	SA	CENTCOM
Kazakhstan	EUR	CENTCOM
Kyrgyzstan	EUR	CENTCOM
Turkmenistan	EUR	CENTCOM
Uzbekistan	EUR	CENTCOM
South Asia		
Bangladesh	SA	PACOM
Bhutan	SA	PACOM
India	SA	PACOM
Maldives	SA	PACOM
Nepal	SA	PACOM
Pakistan	SA	CENTCOM
Sri Lanka	SA	PACOM
East Asia		
Brunei	EAP	PACOM
Cambodia	EAP	PACOM
China	EAP	PACOM
Indonesia	EAP	PACOM
Japan	EAP	PACOM
Laos	EAP	PACOM
Malaysia	EAP	PACOM
Myanmar (Burma)	EAP	PACOM
Mongolia	EAP	PACOM
North Korea	EAP	PACOM
Philippines	EAP	PACOM
Singapore	EAP	PACOM
South Korea	EAP	PACOM
Taiwan	EAP	PACOM
Thailand	EAP	PACOM
Vietnam	EAP	PACOM
Oceania		
Australia	EAP	PACOM
Fiji	EAP	PACOM
Kiribati	EAP	PACOM
Marshall Islands	EAP	PACOM
Micronesia	EAP	PACOM
Nauru	EAP	PACOM
New Zealand	EAP	PACOM
Palau	EAP	PACOM
Papua New Guinea	EAP	PACOM
Samoa	EAP	PACOM

Solomon Islands	EAP	PACOM
Timor Leste	EAP	PACOM
Tonga	EAP	PACOM
Tuvalu	EAP	PACOM
Vanuatu	EAP	PACOM

APPENDIX II-4: U.S. AIR FORCE TRANSPORT AIRCRAFT

1. C-5[559]

Mission

The gigantic C-5 Galaxy, with its tremendous payload capability, provides the Air Mobility Command intertheater airlift in support of United States national defense. The C-5, the C-17 Globemaster III and the C-141 Starlifter are partners of AMC's strategic airlift concept. The aircraft carry fully equipped combat-ready military units to any point in the world on short notice then provide field support required to help sustain the fighting force.

Features

The C-5 is one of the largest aircraft in the world. It can carry outsize and oversize cargo intercontinental ranges and can take off or land in relatively short distances. Ground crews can load and off load the C-5 simultaneously at the front and rear cargo openings. Other features of the C-5 are:

- Able to take off fully loaded within 8,300 feet (2,530 meters) and land within 4,900 feet (1,493 meters).
- High flotation landing gear with 28 wheels sharing the weight.
- Nose and aft doors that open the full width and height of the cargo compartment to permit faster and easier loading.
- A "kneeling" landing gear system that permits lowering of the parked aircraft so the cargo floor is at truck-bed height or to facilitate vehicle loading and unloading.
- Full width drive-on ramps at each end for loading double rows of vehicles.
- A system that records and analyzes information and detects malfunctions in more than 800 test points.

The C-5 is similar in appearance to its smaller sister transport, the C-141 Starlifter, although the C-5 is much larger. Both aircraft have the distinctive high T-tail, 25-degree wing sweep, and four turbofan engines mounted on pylons beneath the wings.

The Galaxy carries nearly all of the Army's combat equipment, including such bulky items as its 74-ton mobile scissors bridge, from the United States to any theater of combat on the globe.

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[559] Fact Sheets - Aircraft, *at* http://www.af.mil/factsheets/.

Four TF39 turbofan engines power the big C-5, rated at 43,000 pounds thrust each. They weigh 7,900 pounds (3,555 kilograms) each and have an air intake diameter of more than 8.5 feet (2.6 meters). Each engine pod is nearly 27 feet long (8.2 meters).

The Galaxy has 12 internal wing tanks with a total capacity of 51,150 gallons (194,370 liters) of fuel — enough to fill 6 1/2 regular size railroad tank cars. A full fuel load weighs 332,500 pounds (150,820 kilograms). A C-5 with a cargo load of 270,000 pounds (122,472 kilograms) can fly 2,150 nautical miles, offload, and fly to a second base 500 nautical miles away from the original destination — all without aerial refueling. With aerial refueling, the aircraft's range is limited only by crew endurance.

Background

Lockheed-Georgia Co. delivered the first operational Galaxy to the 437th Airlift Wing, Charleston Air Force Base, S.C., in June l970. C-5s are stationed at Altus AFB, Okla.; Dover AFB, Del.; and Travis AFB, Calif. AMC transferred some C-5s to the Air Reserve components starting with Kelly AFB, Texas, in 1985; followed by Stewart Air National Guard Base, N.Y.; and Westover Air Reserve Base, Mass.

In March 1989, the last of 50 C-5B aircraft was added to the 76 C-5As in the Air Force's airlift force structure. The C-5B includes all C-5A improvements as well as more than 100 additional system modifications to improve reliability and maintainability. All 50 C-5Bs are scheduled to remain in the active-duty force, shared by comparably sized and collocated Air Force Reserve Associate units.

Based on a recent study showing 80 percent of the C-5 airframe service life remaining, AMC began an aggressive program to modernize the C-5. The C-5 Avionics Modernization Program began in 1998 and includes upgrading avionics to Global Air Traffic Management compliance, improving navigation and safety equipment, and installing a new autopilot system. Another part of the plan is a comprehensive re-engining and reliability improvement program, which includes new engines, pylons and auxiliary power units, with upgrades to aircraft skin and frame, landing gear and the pressurization system. This modernization program will restore aircraft reliability and maintainability, maintain structural and system integrity, reduce cost of ownership and increase operational capability well into the 21st century.

General Characteristics

Primary Function: Outsize cargo transport
Prime Contractor: Lockheed-Georgia Co.

Power Plant: Four General Electric TF-39 engines
Thrust: 43,000 pounds, each engine
Wingspan: 222.9 feet (67.89 meters)
Length: 247.1 feet (75.3 meters)
Height: 65.1 feet (19.84 meters)
Cargo Compartment: height , 13.5 feet (4.11 meters); width, 19 feet (5.79 meters); length, 143 feet, 9 in (43.8 meters)
Pallet Positions: 36
Maximum Cargo: 270,000 pounds (122,472 kilograms)
Maximum Takeoff Weight: C-5B 769,000 pounds (348,818 kilograms) (peacetime), 840,000 pounds (381,024 kilograms) (wartime)
Speed: 518 mph (.77 Mach)
Range: 6,320 nautical miles (empty)
Crew: 7 (pilot, co-pilot, two flight engineers and three loadmasters)
Unit Cost:C-5A - $152.8 million (FY98 constant dollars)
C-5B - $179 million (FY98 constant dollars)
Deployed:C-5A - 1969, C-5B - 1980
Inventory: unavailable

2. C-17

Mission

The C-17 Globemaster III is the newest, most flexible cargo aircraft to enter the airlift force. The C-17 is capable of rapid strategic delivery of troops and all types of cargo to main operating bases or directly to forward bases in the deployment area. The aircraft is also capable of performing tactical airlift and airdrop missions when required. The inherent flexibility and performance of the C-17 force improve the ability of the total airlift system to fulfill the worldwide air mobility requirements of the United States.

The ultimate measure of airlift effectiveness is the ability to rapidly project and sustain an effective combat force close to a potential battle area. Threats to U.S. interests have changed in recent years, and the size and weight of U.S.-mechanized firepower and equipment have grown in response to improved capabilities of potential adversaries. This trend has significantly increased air mobility requirements, particularly in the area of large or heavy outsize cargo. As a result, newer and more flexible airlift aircraft are needed to meet potential armed contingencies, peacekeeping or humanitarian missions worldwide. The C-17 is capable of meeting today’s demanding airlift missions.

Features

Reliability and maintainability are two outstanding benefits of the C-17 system. Current operational requirements impose demanding reliability and maintainability. These requirements include an aircraft mission completion success probability rate of 92 percent, only 20 aircraft maintenance man-hours per flying hour, and full and partial mission availability rates of 74.7 and 82.5 percent, respectively. The Boeing warranty assures these figures will be met.

The C-17 measures 174 feet long (53 meters) with a wingspan of 169 feet, 10 inches (51.75 meters). The aircraft is powered by four, fully reversible, Federal Aviation Administration-certified F117-PW-100 engines (the military designation for the commercial Pratt & Whitney PW2040), currently used on the Boeing 757. Each engine is rated at 40,440 pounds of thrust. The thrust reversers direct the flow of air upward and forward to avoid ingestion of dust and debris. Maximum use has been made of off-the-shelf and commercial equipment, including Air Force-standardized avionics.

The aircraft is operated by a crew of three (pilot, copilot and loadmaster), reducing manpower requirements, risk exposure and long-term operating costs. Cargo is loaded onto the C-17 through a large aft door that accommodates military vehicles and palletized cargo. The C-17 can carry virtually all of the Army's air-transportable equipment.

Maximum payload capacity of the C-17 is 170,900 pounds (77,519 kilograms), and its maximum gross takeoff weight is 585,000 pounds (265,352 kilograms). With a payload of 160,000 pounds (72,575 kilograms) and an initial cruise altitude of 28,000 feet (8,534 meters), , the C-17 has an unrefueled range of approximately 2,400 nautical miles. Its cruise speed is approximately 450 knots (.74 Mach). The C-17 is designed to airdrop 102 paratroopers and equipment.

The design of the aircraft allows it to operate through small, austere airfields. The C-17 can take off and land on runways as short as 3,000 feet (914 meters) and only 90 feet wide (27.4 meters). Even on such narrow runways, the C-17 can turn around using a three-point star turn and its backing capability.

Background

The C-17 made its maiden flight on Sept. 15, 1991, and the first production model was delivered to Charleston Air Force Base, S.C., June 14, 1993. The first squadron of C-17s, the 17th Airlift Squadron, was declared operationally ready Jan. 17, 1995. The Air Force originally

programmed to buy a total of 120 C-17s, with the last one being delivered in November 2004. The fiscal 2000 budget funded another 14 C-17s for special operations duty. Basing of the original 120 C-17s will be at Charleston AFB; McChord AFB, Wash. (first aircraft arrived in July 1999); Altus AFB, Okla.; and at an Air National Guard unit in Jackson, Miss. Basing of the additional 14 aircraft has not been determined.

The C-17 is operated by the Air Mobility Command at the 437th Airlift Wing, Charleston AFB, S.C.; the 62nd Airlift Wing, McChord AFB, Wash; and the 315th Airlift Wing (Associate Reserve), Charleston AFB, S.C.

General Characteristics

Primary Function: Cargo and troop transport
Prime Contractor: Boeing Company
Power Plant: Four Pratt & Whitney F117-PW-100 turbofan engines
Thrust: 40,440 pounds, each engine
Wingspan: 169 feet 10 inches (to winglet tips) (51.75 meters)
Length: 174 feet (53 meters)
Height: 55 feet 1 inch (16.79 meters)
Cargo Compartment: length, 88 feet (26.82 meters); **width**, 18 feet (5.48 meters); **height**, 12 feet 4 inches (3.76 meters)
Speed: 450 knots at 28,000 feet (8,534 meters) (Mach .74)
Service Ceiling: 45,000 feet at cruising speed (13,716 meters)
Range: Global with in-flight refueling
Crew: Three (two pilots and one loadmaster)
Maximum Peacetime Takeoff Weight: 585,000 pounds (265,352 kilograms)
Load: 102 troops/paratroops; 36 litter and 54 ambulatory patients and attendants; 170,900 pounds (77,519 kilograms) of cargo (18 pallet positions)
Unit Cost: $236.7 million (FY98 constant dollars)
Date Deployed: June 1993
Inventory: Active duty, 58; Air National Guard, 6; Air Force Reserve, 0

3. C-130

Mission

The C-130 Hercules primarily performs the tactical portion of the airlift mission. The aircraft is capable of operating from rough, dirt strips and is the prime transport for air dropping troops and equipment into hostile areas. The C-130 operates throughout the U.S. Air Force, serving with Air Mobility Command (stateside based), Air Force Special Operations Command, theater commands, Air National Guard and the Air Force Reserve Command, fulfilling a wide range of operational missions in both

peace and war situations. Basic and specialized versions of the aircraft airframe perform a diverse number of roles, including airlift support, Antarctic ice resupply, aeromedical missions, weather reconnaissance, aerial spray missions, fire-fighting duties for the U.S. Forest Service and natural disaster relief missions.

Features

Using its aft loading ramp and door the C-130 can accommodate a wide variety of oversized cargo, including everything from utility helicopters and six wheeled armored vehicles to standard palletized cargo and military personnel. In an aerial delivery role, it can air drop loads up to 42,000 pounds or use its high-floatation landing gear to land and deliver cargo on rough, dirt strips.

The flexible design of the Hercules enables it to be configured for many different missions, allowing for one aircraft to perform the role of many. Much of the special mission equipment added to the Hercules is removable allowing the aircraft to revert back to its cargo delivery role if desired. Additionally, the C-130 can be rapidly reconfigured for the various types of cargo such as palletized equipment, floor loaded material, air drop platforms, container delivery system bundles, vehicles and personnel or aeromedical evacuation.

The C-130J is the latest addition to the C-130 fleet and will replace aging C-130E's. The C-130J incorporates state-of-the-art technology to reduce manpower requirements, lower operating and support costs, and provide life cycle cost savings over earlier C-130 models. Compared to older C-130s, the J model climbs faster and higher, flies farther at a higher cruise speed, and takes off and lands in a shorter distance. The C-130J-30 is a stretch version, adding 15 feet to fuselage, increasing usable space in the cargo compartment.

C-130J/J-30 major system improvements include: advanced two-pilot flight station with fully integrated digital avionics; color multifunctional liquid crystal displays and head-up displays; state-of-the-art navigation systems with dual inertial navigation system and global positioning system; fully integrated defensive systems; low-power color radar; digital moving map display; new turboprop engines with six bladed, all composite propellers; digital auto pilot; improved fuel, environmental and ice protection systems; and an enhanced cargo handling system.

Background

Four decades have elapsed since the Air Force issued its original design specification, yet the remarkable C-130 remains in production. The initial

production model was the C-130A, with four Allison T56-A-11 or -9 turboprops. A total of 219 were ordered and deliveries began in December 1956. The C-130B introduced Allison T56-A-7 turboprops and the first of 134 entered Air Force service in May 1959.

Introduced in August of 1962, the 389 C-130E's that were ordered used the same Allison T56-A-7 engine, but added two 1,290 gallon external fuel tanks and an increased maximum takeoff weight capability. June 1974 introduced the first of 308 C-130H's with the more powerful Allison T56-A-15 turboprop engine. Nearly identical to the C-130E externally, the new engine brought major performance improvements to the aircraft.

The latest C-130 to be produced, the C-130J entered the inventory in February 1999. With the noticeable difference of a six bladed composite propeller coupled to a Rolls-Royce AE2100D3 turboprop engine, the C-130J brings substantial performance improvements over all previous models, and has allowed the introduction of the C-130J-30, a stretch version with a 15-foot fuselage extension. Air Force has selected the C-130J-30 to replace retiring C-130E's. Approximately 168 C-130J/J-30s are planned for the inventory. To date, the Air Force has purchased 29 C-130J aircraft from Lockheed Martin Aeronautics Company.

General Characteristics

Primary Function: Tactical and intratheater airlift
Contractor: Lockheed Martin Aeronautics Company
Power Plant: C-130E: Four Allison T56-A-7 turboprops; 4,200 prop shaft horsepower
C-130H: Four Allison T56-A-15 turboprops; 4,591prop shaft horsepower
C-130J: Four Rolls-Royce AE 2100D3 turboprops; 4,591 horsepower
Length: C-130E/H/J: 97 feet, 9 inches (29.3 meters)
C-130J-30: 112 feet, 9 inches (34.69 meters)
Height: 38 feet, 3 inches (11.4 meters)
Wingspan: 132 feet, 7 inches (39.7 meters)
Cargo Compartment: C-130E/H/J: length, 40 feet (12.31 meters); width, 119 inches (3.12 meters); height, 9 feet (2.74 meters). Rear ramp: length, 123 inches (3.12 meters); width, 119 inches (3.02 meters)
C-130J-30: length, 55 feet (16.9 meters); width, 119 inches (3.12 meters); height, 9 feet (2.74 meters). Rear ramp: length, 123 inches (3.12 meters); width, 119 inches (3.02 meters)
Speed: C-130E: 345 mph/300 ktas (Mach 0.49) at 20,000 feet (6,060 meters)
C-130H: 366 mph/318 ktas (Mach 0.52) at 20,000 feet (6,060 meters)
C-130J: 417 mph/362 ktas (Mach 0.59) at 22,000 feet (6,706 meters)
C-130J-30: 410 mph/356 ktas (Mach 0.58) at 22,000 feet (6,706 meters)
Ceiling: 33,000 feet (10,000 meters) with 45,000 pounds (17,716

kilograms) payload
Maximum Takeoff Weight: C-130E/H/J: 155,000 pounds (69,750 kilograms)
C-130J-30: 164,000 pounds (74,393 kilograms)
Maximum Allowable Payload: C-130E, 45,050 pounds (20,434 kilograms); **C-130H**, 43,550 pounds (19,754 kilograms); **C-130J**, 46,631 pounds (21,151 kilograms); **C-130J-30**, 46,812 pounds (21,234 kilograms)
Maximum Normal Payload: C-130E, 36,720 pounds (16,656 kilograms); **C-130H**, 35,220 pounds (15,976 kilograms); **C-130J**, 38,301 pounds (17,373 kilograms); **C-130J-30**, 38,812 pounds (17,605 kilograms)
Range at Maximum Normal Payload: C-130E, 1,838 miles (1,597 nautical miles); **C-130H**, 2,006 miles (1,743 nautical miles); **C-130J**, 2,729 miles (2,371 nautical miles); **C-130J-30**, 2,897 miles (2,517 nautical miles)
Range with 35,000 pounds of Payload: C-130E, 1,968 miles (1,710 nautical miles); **C-130H,** 2,023 miles (1,758 nautical miles); **C-130J,** 3,062 miles (2,660 nautical miles); **C-130J-30,** 3,269 miles (2,830 nautical miles)
Maximum Load: C-130E/H/J: 6 pallets or 74 litters or 16 CDS bundles or 92 combat troops or 64 paratroopers, or a combination of any of these up to the cargo compartment capacity or maximum allowable weight.
C-130J-30: 8 pallets or 97 litters or 24 CDS bundles or 128 combat troops or 92 paratroopers, or a combination of any of these up to the cargo compartment capacity or maximum allowable weight.
Crew: C-130E/H: Five (two pilots, navigator, flight engineer and loadmaster)
C-130J/J-30: Three (two pilots and loadmaster)
Aeromedical Evacuation Role: Minimum medical crew of three is added (one flight nurse and two medical technicians). Medical crew may be increased to two flight nurses and four medical technicians as required by the needs of the patients.
Unit Cost: C-130E, $11.9, **C-130H**, $30.1, **C-130J**, $48.5 (FY 1998 constant dollars in millions)
Date Deployed: C-130A, Dec 1956; **C-130B**, May 1959; **C-130E**, Aug 1962; **C-130H**, Jun 1974; **C-130J**, Feb 1999
Inventory: Active force, 186; Air National Guard, 217; Air Force Reserve, 107

4. C-141

Mission

The C-141B Starlifter is the "workhorse" of the Air Mobility Command. The Starlifter fulfills the vast spectrum of airlift requirements through its ability to airlift combat forces over long distances, deliver those forces and their equipment either by air, land or airdrop, resupply forces and transport the sick and wounded from the hostile area to advanced medical facilities.

Features

The C-141B is a "stretched" C-141A with in-flight refueling capability. The stretching of the Starlifter consisted of lengthening the planes 23 feet 4 inches (7.11 meters). The added length increased the C-141 cargo capacity by about one-third, for an extra 2,171 cubic feet (62.03 cubic meters). The lengthening of the aircraft had the same overall effect as increasing the number of aircraft by 30 percent. The C-141A, built between 1963 and 1967, was AMC's first jet aircraft designed to meet military standards as a troop and cargo carrier. The development of the B model was the most cost-effective method of increasing AMC's airlift capability.

A universal air refueling receptacle on the C-141B, with the ability to transfer 23,592 gallons(89,649.6 liters) in about 26 minutes, means longer non-stop flights and fewer fuel stops at overseas bases during worldwide airlift missions.

The C-141 force, nearing nine million flying hours, has a proven reliability and long-range capability. In addition to training, worldwide airlift and combat support, the C-141 has amassed a laudatory record in response to humanitarian crises.

The C-141, with its changeable cargo compartment, can transition from rollers on the floor for palletized cargo to a smooth floor for wheeled vehicles to aft facing seats or sidewall canvas seats for passengers, quickly and easily, to handle over 30 different missions.

Background

C-141s are stationed at Charleston Air Force Base, S.C.; McChord AFB, Wash.; McGuire AFB, N.J.; and Travis AFB, Calif. AMC began transferring C-141s to the Air Reserve and Air National Guard forces in July 1986. The first Air Reserve unit was Andrews AFB, Md., followed by others now at Wright-Patterson AFB, Ohio, and March Air Reserve Base, Calif.; and Air National Guard units at Jackson, Miss., and Memphis, Tenn.

The first C-141A, delivered to Tinker AFB, Okla., in October 1964, began squadron operations in April 1965. The C-141 was the first jet transport from which U.S. Army paratroopers jumped, and the first to land in the Antarctic. The first C-141B was received by the Air Force in December 1979. Conversion from A to B models was completed in 1982.

The C-141 continues to be the backbone of military airlift capability and the cornerstone of a valuable national asset — airlift. The C-141's

reliability and intrinsic capabilities enable AMC to meet any commitment anywhere national interest dictates.

General Characteristics

Primary Function: Cargo and troop transport
Contractor: Lockheed-Georgia Co.
Power Plant: Four Pratt & Whitney TF33-P-7 turbofan engines
Thrust: 20,250 pounds, each engine
Wingspan: 160 feet (48.7 meters)
Length: 168 feet, 4 inches (51 meters)
Height: 39 feet, 3 inches (11.9 meters)
Cargo Compartment: Height, 9 feet 1 inch (2.77 meters); **length,** 93 feet 4 inches (28.45 meters); **width,** 10 feet 3 inches (3.12 meters)
Cargo Door: width, 10.25 feet (3.12 meters); **height,** 9.08 feet (2.76 meters)
Speed: 500 mph (Mach 0.74) at 25,000 feet
Ceiling: 41,000 feet (12,496 meters) at cruising speed
Range: Unlimited with in-flight refueling
Maximum Takeoff Weight: 323,100 lbs (146,863 kilograms)
Load: Either 200 troops, 155 paratroops, 103 litters and 14 seats, or 68,725 lbs (31,239 kilograms) of cargo
Unit Cost: $42.3 million (FY98 constant dollars)
Crew: Five or six: two pilots, two flight engineers and one loadmaster and one navigator (added for airdrops). Aeromedical teams of two flight nurses and three medical technicians each are added for aeromedical evacuation missions.
Date Deployed: C-141A: October 1964; C-141B: December 1979.
Inventory: Active duty, 74; Air National Guard, 28; Air Force Reserve, 68

APPENDIX V-1: SAMPLE SECTION 607 AGREEMENT

Section 607 Agreement Between the United States and Haiti

AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF HAITI MINISTRY OF FOREIGN AFFAIRS CONCERNING THE PROVISION OF SUPPORT ON A REIMBURSABLE BASIS TO ASSIST IN THE RESTORATION OF DEMOCRACY, ORDER AND ECONOMIC STABILITY IN HAITI

PREAMBLE

The Department of Defense of the United States of America and the Government of Haiti Ministry of Foreign Affairs, hereinafter referred to as the _____

Noting that the furnishing of commodities and services by the Department of Defense of the United States of America to the Government of Haiti on a reimbursable basis would assist in the restoration of democracy, order and economic stability in Haiti;

On the part of the Department of Defense of the United States of America, acting under authority of section 607 of the Foreign Assistance Act of 1961, as amended;

Desiring to establish the terms and conditions for the provision of assistance by the Department of Defense of the United States of America at the request of the Government of Haiti, with costs for requested assistance to be reimbursed to the Department of Defense of the United States of America by the Government of Haiti;

Have agreed as follows:

ARTICLE I SCOPE OF PROVISION OF SUPPORT

1. In accordance with the terms and conditions of this Agreement, the Department of Defense of the United States of America may provide to the extent it is available, at the request of the Haitian Government, the following types of support on a reimbursable basis;

(a) Reconstruction of infrastructure and restoration of basic services;

(b) Transportation services;

(c) Clothing, billeting, rations, and other subsistence items.

(d) Vehicles, equipment, and other major end items, spare parts, maintenance and repair services, fuel, and petroleum supplies;

(e) Operational supplies and services;

(f) Communication services;

(g) Training and technical services;

(h) Special information processing, services, and equipment, and

(i) Other incidental goods and services, including medical supplies and facilities.

2. As agreed to by the Parties in writing, other types of assistance may be provided on a reimbursable basis in accordance with this Agreement.

3. At its direction, support provided by the Department of Defense of the United States of America under this Agreement may be provided from support acquired through Department of Defense contracts. Contracting for such support shall be in accordance with the laws and regulations of the United States of America.

ARTICLE II SUPPORT PROCEDURES AND REQUIREMENTS

1. Unless the written consent of the United States Government has first been obtained, the Government of Haiti shall not:

(a) Permit any use of any assistance provided pursuant to this Agreement by anyone not an officer, employee, or agent of the Government of Haiti;

(b) Use or permit the use of any assistance provided pursuant to this Agreement for purposes other than to restore democracy, order and economic stability in Haiti; or

(c) Transfer or permit any officer, employee, or agent of the Government of Haiti to transfer any assistance provided pursuant to this Agreement, by gift, sale, or otherwise.

2. The Government of Haiti shall maintain the security of any assistance provided pursuant to this Agreement, and shall endeavor to provide substantially the same degree of security protection afforded by the United States Government.

3. The provision of assistance pursuant to this Agreement may be made subject to additional terms and conditions as may be agreed to in individual implementing arrangements, executed in writing between the parties under this Agreement.

4. As part of its contribution to this Agreement, the Government of Haiti assumes responsibility for all claims (including the costs of defending such claims and of any settlement or judgment thereof) made by any party against the United States of America, or any of its officers, agents, or employees, arising out of the provision of the assistance provided under this Agreement. The United States of America, or any of its officers, agents, or employees, shall not be liable for any claims arising out of the provision of the assistance provided under this Agreement.

5. The Government of Haiti shall not make any claim against or hold liable the United States of America, in respect of injuries or death caused by equipment or materials supplied by the Department of Defense of the United States of America related to any activities under this Agreement. Such claims shall be the responsibility of the Government of Haiti. The Government of Haiti is not limited under this Agreement in its authority to deny responsibility to, or make claims against, any third parties, in relation to, any loss, injury, or death caused by equipment or materials supplied under this agreement, or related to any activities under this Agreement.

ARTICLE III IMPLEMENTATION

The Department of Defense shall implement this Agreement for the United State of America. The Ministry of Foreign Affairs shall implement this Agreement for the Government of Haiti.

ARTICLE IV REIMBURSEMENT PROCEDURES

1. The assistance provided by the Department of Defense of the United States of America under this Agreement shall be fully reimbursed by the Government of Haiti within the time specified in paragraph 2 of this Article.

2. The Comptroller of the Department of Defense of the United States of America shall ensure bills detailing the costs associated with the provision of assistance under this Agreement are submitted to the Central Implementation Unit of the office of the Prime Minister, of the Government of Haiti. A consolidated Department of Defense bill with supporting documentation shall be submitted on a monthly basis. The Government of Haiti shall ensure payment of bills in U.S. dollars to the Department of Defense of the United States of America, within 30 days after receipt of the bills submitted pursuant to this Article.

ARTICLE V ORDERING AND RECEIPT OF EQUIPMENT, SUPPLIES, AND SERVICES

1. The provision of assistance under Article I of this Agreement shall be accomplished pursuant to written support requests issued by an authorized

Government of Haiti representative consistent with and incorporating by reference the terms and conditions of this Agreement.

2. The Department of Defense of the United States of America shall in accordance with the terms of this Agreement, endeavor to satisfy such requests. As necessary, additional details regarding receipts, delivery, procedures, and accounting shall be agreed upon by the Parties or their representatives in writing prior to the delivery of any assistance.

ARTICLE VI CONSULTATION AND DISPUTE RESOLUTION

1. The Parties shall meet on a regular basis, agreeable between the Parties, to exchange information on all questions, regarding the application of the Agreement.

2. Any disputes arising under this Agreement shall be resolved through consultation between the Parties or their representatives and shall not be referred to any third party.

3. In the event that there is continued disagreement between the Parties, at the request of either Party, the consultations shall be continued through diplomatic channels.

4. This Agreement is prepared in both English and French. In the event of ambiguity between the two versions, the English version will control.

ARTICLE VII ENTRY INTO FORCE, DURATION, AMENDMENT, AND TERMINATION

1. This Agreement shall enter into force upon signature and shall remain in force for a period of two years.

2. This Agreement may be amended or extended by the written Agreement of the Parties and may be terminated by either Party upon 30 days written notification to the older Party.

3. Notwithstanding the termination of this Agreement, the obligations of the Government of Haiti, in accordance with Article II of this Agreement, and its obligations for reimbursement for support provided under Article IV, shall continue to apply, unless otherwise agreed to writing by the Parties.

DONE at Port-au-Prince, Haiti, this 26th day of June 1995, in duplicate

FOR THE UNITED STATES OF AMERICA

J.J. Sheehan

General, United States Marine Corps
Commander in Chief
United States Atlantic Command

William Lacy Swing
Ambassador of the United States of America
To the Republic of Haiti

FOR THE GOVERNMENT OF HAITI

Claudette Werleigh
Ministere des Affaires Etrangeres

APPENDIX VI-1: FY2004 DISASTER RESPONSE GUIDANCE

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                        UNCLASSIFIED

              STATE   283715  032146Z
ORIGIN AID-00
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ACTION OFFICE(S):  !DCHAOFDA
INFO OFFICE(S): AAID ANEESA ANESPOTS BKRAHAM BMCCONNELL
                CLAURENT CLYDAY DCHA1 DCHAAA DCHADG
                DCHAFFP DCHAOTI1 DCHAPPMAMS DCHAPVC
                DWELLER EGATAG EGATWID GC1 GCAN GCDCHA
                GGRIGSBY GHPOP HROD IGHLC JBRAUSE JHASSE
                JWESSEL JWINN KALMQUIST KSTURR LAWILLIAMS
                LBARBER LBARBOUR LFREDMAN LLANDIS MMERTENS
                MNIMS OPE OPPS PEBALAKRISHNAN PFESSENDEN
                ROWILLIAMS SCHAPMAN SGEORGE STEDESCHI
                TRASH
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      TEST-00  TRSE-00  SA-00    FMP-00   SDBU-00  PMB-00   PRM-
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      ALM-00   SAS-00   PMA-00     /005R

283715
SOURCE:   KODAKA.003160
DRAFTED BY: USAID/DCHA/OFDA:JPONTE:JAP:C:GUIDE04 -- 10/3/2003
APPROVED BY: USAID/DCHA/OFDA/D:BMCCONNELL
USAID/DCHA/OFDA/DD:THSANCHEZ USAID/DCHA/OFDA/DRM:JBORNS
USAID/GC/DCHA:GWINTER USAID/DCHA/PPM:SPARKS
USAID/DCHA/AA:WGARVELINK (INFO) USAID/DCHA/OTI:GGOTTLIEB (INFO)
USAID/DCHA/FFP:DWELLER (INFO) S/S-O:MJEKPUK HR/CMA/SEP:APONCE
                  ------------------AD489A  032148Z /38
P 032135Z OCT 03
FM SECSTATE WASHDC
TO ALL DIPLOMATIC AND CONSULAR POSTS PRIORITY
CIS COLLECTIVE PRIORITY
SPECIAL EMBASSY PROGRAM PRIORITY
USCENTCOM MACDILL AFB FL PRIORITY
SECDEF WASHDC PRIORITY 0000
USCINCSO MIAMI FL PRIORITY
USCINCPAC HONOLULU HI PRIORITY
HQ USNORTHCOM PETERSON AFB CO PRIORITY
HQ USEUCOM VAIHINGEN GE PRIORITY
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AIDAC PASS TO USAID/DIRECTORS/REPS, AMEMBASSY DCMS, AND

E.O. 12958: N/A
TAGS:
SUBJECT: USAID/DCHA OFFICE OF U.S. FOREIGN DISASTER ASSISTANCE (OFDA) GUIDANCE FOR DISASTER PLANNING AND RESPONSE - FY 2004

MISSION DISASTER RELIEF OFFICERS, STATE PASS TO PRM,
OFFICE OF THE SECRETARY OF DEFENSE, JAKARTA PASS TO DILI

REF:

SUMMARY
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1. SUMMARY: THIS CABLE PROVIDES GENERAL GUIDANCE TO ALL POSTS CONCERNING SUPPORT FROM USAID'S OFFICE OF U.S. FOREIGN DISASTER ASSISTANCE WITHIN THE BUREAU FOR DEMOCRACY, CONFLICT, AND HUMANITARIAN
ASSISTANCE (USAID/OFDA) BEFORE, DURING AND AFTER THE OCCURRENCE OF
NATURAL AND MAN-MADE DISASTERS IN FISCAL YEAR (FY) 2004. THIS CABLE WILL BE SUPPLEMENTED BY MORE DETAILED GUIDANCE TO BE PROVIDED TO MISSION DISASTER RELIEF OFFICERS (MDROS). THIS CABLE HAS ALSO BEEN CLEARED BY THE STATE DEPARTMENT'S M/P (SEP). END SUMMARY.

USAID/OFDA'S MISSION
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2. USAID'S OFFICE OF U.S. FOREIGN DISASTER ASSISTANCE (USAID/OFDA) IS
RESPONSIBLE FOR PROVIDING INTERNATIONAL DISASTER ASSISTANCE AND COORDINATING THE U.S. GOVERNMENT (USG) RESPONSE TO DECLARED DISASTERS IN FOREIGN COUNTRIES. USAID/OFDA'S MISSION IS TO MINIMIZE AND WHERE POSSIBLE, PREVENT LOSS OF LIFE, HUMAN SUFFERING, AND DAMAGE TO ECONOMIC ASSETS IN DISASTER-AFFECTED COUNTRIES.

DESIGNATION AND ROLE OF AN MDRO
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3. THE MDRO: THE MISSION DISASTER RELIEF OFFICER (MDRO) IS THE DESIGNATED OFFICIAL IN EACH U.S. EMBASSY OR USAID MISSION RESPONSIBLE FOR COORDINATING THE POST'S DISASTER RESPONSE EFFORTS. THE MDRO IS RESPONSIBLE FOR PREPARING AND MAINTAINING THE MISSION DISASTER
RELIEF PLAN (MDRP) AND ENSURES THAT MISSION PERSONNEL ARE FAMILIAR WITH ITS CONTENTS; LIAISING WITH GOVERNMENT DISASTER AUTHORITIES ON AN ONGOING BASIS TO ENSURE FAMILIARITY WITH DISASTER RISKS AND ORGANIZATIONAL RESPONSE
CAPACITIES/ARRANGEMENTS; SERVING AS THE CHIEF OPERATING OFFICER FOR THE POST'S EMERGENCY ACTION COMMITTEE (EAC)

DURING ALL PHASES OF A DISASTER; AND ACTING AS THE POST'S COORDINATOR OF USG DISASTER RELIEF OPERATIONS IN-COUNTRY. ONCE A DISASTER OCCURS, OR IS LIKELY TO OCCUR, THE MDRO SHOULD CONTACT ONE OF USAID/OFDA'S REGIONAL OFFICES IN THE FIELD (SEE PARAS 7-10) TO PROVIDE ADVANCE
WARNING AND TO SEEK ADDITIONAL GUIDANCE.

DISASTER DECLARATION CRITERIA
---

4. CRITERIA FOR DECLARING A DISASTER: USAID/OFDA CAN ONLY PROVIDE
ASSISTANCE BASED ON A FULLY JUSTIFIED DISASTER DECLARATION CABLE FROM THE U.S. AMBASSADOR AND/OR CHIEF OF MISSION (COM). (FOR COUNTRIES WITHOUT AN OFFICIAL U.S. DIPLOMATIC PRESENCE, THE ASSISTANT SECRETARY OF STATE FOR THE APPROPRIATE REGION MAY DECLARE A DISASTER VIA A MEMORANDUM FROM THE STATE DEPARTMENT TO USAID/DCHA/OFDA.) TO DECLARE
A DISASTER AND REQUEST ASSISTANCE FROM USAID/OFDA, IT MUST BE DEMONSTRATED THAT THREE CRITERIA HAVE BEEN SATISFIED: 1) THE DISASTER IS BEYOND THE ABILITY OF THE HOST GOVERNMENT TO RESPOND; 2) THE HOST GOVERNMENT HAS SPECIFICALLY REQUESTED OR INDICATED THAT IT WILL ACCEPT USG ASSISTANCE; AND 3) A DISASTER RESPONSE IS IN THE INTEREST OF THE USG. OF PARTICULAR IMPORTANCE IS A FACTUAL DESCRIPTION OF THE MAGNITUDE OF THE DISASTER AND WHY IT IS BEYOND THE ABILITY OF THE HOST GOVERNMENT TO RESPOND. THIS REQUIRES INFORMATION REGARDING THE RESPONSE CAPACITY OF THE HOST GOVERNMENT; THE ESTIMATED TOTAL NUMBER OF PEOPLE AFFECTED, INCLUDING KILLED, INJURED, AND/OR DISPLACED/HOMELESS; GEOGRAPHIC LOCATION AND/OR SCOPE OF THE DISASTER; DAMAGE TO INFRASTRUCTURE, CROPS, AND LIVESTOCK; OTHER DONOR EFFORTS/CONTRIBUTIONS; AND NEEDS ASSESSMENT INFORMATION THAT IS AVAILABLE. THE DISASTER DECLARATION CABLE SHOULD BE PREPARED IN CONSULTATION WITH USAID/OFDA'S REGIONAL OFFICE. A PROMPT RESPONSE WILL BE FACILITIATED BY A DISASTER DECLARATION CABLE THAT CLEARLY DESCRIBES THE SCOPE AND SCALE OF THE DISASTER AS WELL AS SATISFYING THE ESTABLISHED CRITERIA.

REQUESTING DISASTER ASSISTANCE FROM USAID/OFDA
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5. DISASTER ASSISTANCE REQUEST: IN THE DISASTER DECLARATION CABLE, THE U.S. AMBASSADOR OR COM CAN REQUEST UP TO USD 50,000 FOR IMMEDIATE DISASTER RELIEF FROM USAID/OFDA. THE CABLE MUST PROVIDE A CLEAR DESCRIPTION OF HOW THESE FUNDS WILL BE USED AND THROUGH WHAT ORGANIZATION THE FUNDS WILL BE CHANNELED. USAID/OFDA'S REGIONAL OFFICE WILL COORDINATE WITH THE MDRO TO DETERMINE THE APPROPRIATE RESPONSE. USAID/OFDA FUNDS ARE TO BE USED FOR IMMEDIATE DISASTER RELIEF OR REHABILITATION, NOT FOR LONG-TERM RECONSTRUCTION.

DISASTER RESPONSE OPTIONS FROM USAID/OFDA
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6. USAID/OFDA RESPONSE OPTIONS: IN ADDITION TO RELEASING UP TO USD 50,000 OF DISASTER ASSISTANCE FUNDS, USAID/OFDA HAS SEVERAL DIFFERENT OPTIONS FOR PROVIDING DISASTER ASSISTANCE INCLUDING: DEPLOYMENT OF A USAID/OFDA REGIONAL ADVISOR, AN ASSESSMENT TEAM OR A DISASTER ASSISTANCE RESPONSE TEAM (DART); PROVISION OF RELIEF COMMODITIES FROM
USAID/OFDA STOCKPILES; AND DISASTER FUNDING OF NGO OR UNITED NATIONS PROPOSALS BY PROVIDING A FUND CITE TO POST OR PROVIDING THE FUNDS DIRECTLY TO THE ORGANIZATION FROM
USAID/OFDA/WASHINGTON. USAID/OFDA CAN SUPPORT A WIDE RANGE OF HUMANITARIAN ACTIVITIES, INCLUDING TECHNICAL ASSISTANCE. USAID/OFDA MAY UTILIZE A COMBINATION OF THESE OPTIONS, OR IT MAY DETERMINE THAT USAID/OFDA'S ASSISTANCE IS NOT APPROPRIATE OR NEEDED.

USAID/OFDA REGIONAL CONTACTS
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7. LATIN AMERICA AND THE CARIBBEAN: MR. TIM CALLAGHAN IS USAID/OFDA'S
SENIOR REGIONAL ADVISOR FOR LATIN AMERICA AND THE CARIBBEAN (LAC), LOCATED IN SAN JOSE, COSTA RICA. MR. CALLAGHAN AND HIS REGIONAL ADVISORS CAN BE REACHED AT 506-296-3554 OR AT 506-231-6805.

8. ASIA AND THE PACIFIC: MR. TOM DOLAN IS USAID/OFDA'S ASIA AND THE PACIFIC SENIOR REGIONAL ADVISOR LOCATED IN BANGKOK, THAILAND. MR. DOLAN AND HIS REGIONAL ADVISORS CAN BE REACHED AT 66-2-205-5368. WILLIAM BERGER, ALSO AN ASIA REGIONAL ADVISOR, IS LOCATED IN KATHMANDU, NEPAL AND CAN BE CONTACTED AT 977-1-427-0144.

9. AFRICA: USAID/OFDA HAS TWO REGIONAL OFFICES IN AFRICA AND IS IN THE PROCESS OF ESTABLISHING A THIRD REGIONAL OFFICE IN WEST AFRICA. (A) MR. PETER RILEY IS USAID/OFDA'S PRINCIPAL REGIONAL ADVISOR FOR EAST AND CENTRAL AFRICA AND IS BASED IN NAIROBI, KENYA. MR. RILEY AND HIS REGIONAL ADVISORS CAN BE REACHED AT 254-20-863400. (B) MR. HARLAN HALE IS USAID/OFDA'S PRINCIPAL REGIONAL ADVISOR FOR SOUTHERN AFRICA AND IS BASED IN PRETORIA, SOUTH AFRICA. MR. HALE AND HIS REGIONAL ADVISORS CAN BE REACHED AT 27-12-452-2000. (C) UNTIL FURTHER NOTICE, ALL ISSUES CONCERNING DIASTER ASSISTANCE FOR WEST AFRICA SHOULD BE DIRECTED TO SUREKA KHANDAGLE IN USAID/OFDA/WASHINGTON, AT 202-712-4225.

USAID/OFDA WASHINGTON CONTACTS
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10. USAID/OFDA/WASHINGTON: ALL REQUESTS FOR FUNDS, SITUATION REPORTS, AND OTHER INFORMATION, AS WELL AS REQUESTS BY THOSE POSTS NOT COVERED BY ONE OF THE REGIONAL OFFICES SHOULD BE DIRECTED TO THE USAID/OFDA RESPONSE TEAM LEADER, MICHAEL MARX, OR THE APPROPRIATE USAID/OFDA WASHINGTON-BASED REGIONAL COORDINATOR. MR. MARX CAN BE REACHED AT 202-712-0853. MISSIONS/EMBASSIES ALSO MAY CALL USAID/OFDA AT 202-712-0400

DURING DAYTIME HOURS (0800-1700 HOURS LOCAL TIME) IN WASHINGTON, D.C.
AFTER BUSINESS HOURS, EVENINGS, WEEKENDS, AND HOLIDAYS, THE USAID/OFDA
DUTY OFFICER CAN BE CONTACTED BY CALLING THE STATE DEPARTMENT'S OPERATIONS CENTER AT 202-647-1512. USAID/OFDA'S FAX NUMBERS ARE: 202-216-3706/3707.

11. DUSHANBE, KABUL, KHARTOUM, AND BUJUMBURA MINIMIZE CONSIDERED.
POWELL

UNCLASSIFIED

STATE 283715 032146Z

APPENDIX VI-2: HUMANITARIAN ASSISTANCE FUNDING MESSAGES

Humanitarian Assistance Funding Messages

Originator: USCINCEUR VAIHINGEN GE//ECJ4// 9 of 15
DTG: 131310Z Aug 99 Precedence: P DAC: General

Subject: **USKFOR PROGRAM APPROVAL AND FUNDING FOR URGENT HUMANITARIAN** Format for Printing

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PATUZYUW RUFGNOA0830 2251332-UUUU--RUFGNOA.
ZNR UUUUU
P R **131310Z AUG 99** FM USCINCEUR VAIHINGEN GE//ECJ4//
TO RUFDAAA/CDR USAREUR HEIDELBERG GE//AEAGC-O//
INFO RUFDAVC/CDR V CORPS HEIDELBERG GE//AETV-GCO//
RUEKJCS/SECDEF WASHINGTON DC//USDP//
RUEKJCS/JOINT STAFF WASHINGTON DC//DJS/J5/J4/ILED//
RUEKJCS/SECDEF WASHINGTON DC//SOLIC:PK/HA/DSCA:HA//
RUFDTFA/CDR TASK FORCE FALCON
RUFGNOA/USCINCEUR VAIHINGEN GE//ECJ4-
ID/EN/ECMD/ECJA/ECCM/ECJ5-E/
ECJ6//
RUETIED/HQ USAREUR HEIDELBERG GE//AEAGF//
BT
UNCLAS
SECTION 1 OF 2
SUBJ:USKFOR PROGRAM APPROVAL AND FUNDING FOR URGENT
HUMANITARIAN
NEEDS
REFS: A. (S) CDR V CORPS MSG 031831Z AUG 99 SUBJ: REQUEST FOR
$5
MILLION IN DOD QUICK DISBURSEMENT FUNDS FOR TASK FORCE
FALCON
HUMANITARIAN PROJECTS IN KOSOVO
B. THE UNDER SECRETARY OF DEFENSE LTR DATED 6 AUG 99, SUBJ:
USKFOR

PAGE 2 RUFGNOA0830 UNCLAS
FUNDING FOR URGENT HUMANITARIAN NEEDS
1. IN RESPONSE TO REF A, OSD APPROVED THE REQUEST FOR $5M TO
BE
USED FOR URGENT HUMANITARIAN ASSISTANCE PROJECTS ONLY IN
THE U.S.
CONTROLLED SECTOR OF KOSOVO. THE COST FOR ANY INDIVIDUAL

PROJECT
SHOULD NOT EXCEED $300K. FUNDS WILL BE PROVIDED BY DSCA
THROUGH DEPARTMENT OF THE ARMY TO CG USAREUR. THESE
FUNDS
WILL BE AVAILABLE FOR OBLIGATION UNTIL 30 SEP 00. USEUCOM IS
DESIGNATED THE EXECUTIVE AGENT FOR DOD HUMANITARIAN
ACTIVITIES IN
KOSOVO. HQ USAREUR IS DESIGNATED THE EXECUTIVE AGENT FOR
THE
EXECUTION OF THE $5M PROGRAM AUTHORITY FOR URGENT
HUMANITARIAN
PROJECTS WITHIN THE USKFOR SECTOR. THIS $5M INCLUDES ALL
FUNDS
AVAILABLE FROM THE LEGAL AUTHORITIES CONTAINED IN PARA 2.
2. DOD HUMANITARIAN ASSISTANCE PROJECTS ARE SANCTIONED
UNDER THREE
DIFFERENT LEGAL AUTHORITIES AS SUMMARIZED BELOW.
NO ASSISTANCE TO MILITARY OR PARAMILITARY
ORGANIZATIONS IS PERMITTED. PROJECTS TO BE EXECUTED MUST
USE ONE OF
THE LEGAL AUTHORITIES AND FIT UNDER ONE OF THE FOLLOWING
APPROVED
CATEGORIES: ESSENTIAL REPAIRS OF SCHOOLS, REPAIR OF
ELECTRICAL
GRIDS, MEDICAL SUPPORT AND SUPPLIES, URGENT HUMANITARIAN
HOUSING
NEEDS, REPAIR OF WATER TREATMENT PLANTS,
REPLACEMENT/REPAIR OF FIRE

PAGE 3 RUFGNOA0830 UNCLAS
AND SANITATION TRUCKS AND PROVIDING DIESEL FUEL TO
FARMERS.
A. SECTION 401, TITLE 10, U.S. CODE ESTABLISHES THE
HUMANITARIAN AND
CIVIC ASSISTANCE (HCA) PROGRAM. THIS ALLOWS U.S. FORCES, IN
CONJUNCTION WITH ONGOING MILITARY OPERATIONS, TO
PERFORM SMALL-
SCALE RUDIMENTARY HUMANITARIAN PROJECTS. SUCH ACTIVITIES
MUST PROMOTE THE SECURITY INTEREST OF THE U.S. AND THE
COUNTRY IN
WHICH ACTIVITIES ARE CARRIED OUT, AS WELL AS THE
OPERATIONAL
READINESS SKILLS OF PARTICIPATING U.S. FORCES. MILITARY
UNITS
ATTACHED TO CDR TF FALCON COULD CARRY OUT PROJECTS, SUCH
AS

RUDIMENTARY REPAIR OF SCHOOLS, PUBLIC BUILDINGS, OR MEDICAL
CLINICS AND/OR THE PROVISION OF BASIC MEDICAL CARE IN RURAL AREAS,
UNDER THIS AUTHORITY. IF A GIVEN PROJECT IS EXECUTED THROUGH
THE HCA PROGRAM, U.S. MILITARY FORCES MUST PROVIDE THE ACTUAL LABOR.
BUILDING MATERIALS AND OTHER INCREMENTAL COSTS INCURRED FOR PROJECTS
PERFORMED UNDER SECTION 401 AUTHORITY ARE TO BE FUNDED FROM
ARMY OPERATIONS AND MAINTENANCE (O&M) ACCOUNTS. CDR TF FALCON
CAN EXECUTE IMMEDIATELY THOSE PROJECTS APPROVED
IN THIS MESSAGE, WHICH COMPLY WITH HCA REQUIREMENTS
AND FALL WITHIN APPLICABLE FUNDING LIMITS WITHOUT WAITING FOR
SUPPLEMENTAL FUNDING, SINCE AVAILABLE O&M CAN BE USED IN THE

SHORT TERM. IN ACCORDANCE WITH SECTION 401 TITLE 10 USC, CDR TF
FALCON MUST COORDINATE PROJECTS WITH USAID AND STATE
DEPARTMENT TO ENSURE THE ACTIVITIES COMPLEMENT, AND DO NOT
DUPLICATE, ASSISTANCE PROVIDED BY OTHER USG AGENCIES.
SUCH O&M EXPENDITURES MAY BE REIMBURSED FROM THE SUPPLEMENTAL
FUNDS AVAILABLE TO DOD FOR HUMANITARIAN ASSISTANCE IN THE REGION.
B. SECTION 2547, TITLE 10, USC PROVIDES THE AUTHORITY TO
MAKE AVAILABLE FOR HUMANITARIAN RELIEF PURPOSES, THROUGH THE STATE
DEPARTMENT, ANY NON-LETHAL EXCESS SUPPLIES OF THE DEPARTMENT OF
DEFENSE. THIS INCLUDES SHIPMENTS OF SUPPLIES AND EQUIPMENT TO
DESIGNATED ORGANIZATIONS.
C. SECTION 2551, TITLE 10, USC PROVIDES AUTHORITY FOR DOD TO
CARRY OUT BROADER, MORE EXTENSIVE HUMANITARIAN ASSISTANCE PROJECTS.
PROJECTS WHICH USE CONTRACTORS, INCLUDE THE PURCHASE OF

END ITEMS
OTHER THAN THOSE USED IN CONNECTION WITH SECTION 401 HCA ACTIVITIES,
OR INVOLVE THE PROVISION OF TRAINING OR TECHNICAL ASSISTANCE FOR
HUMANITARIAN PURPOSES, WOULD BE CARRIED OUT UNDER THIS AUTHORITY.
THE AUTHORITY CAN ALSO BE USED TO PROVIDE TRANSPORTATION OF
HUMANITARIAN RELIEF SUPPLIES USING DOD ASSETS OR RESOURCES.
INFRASTRUCTURE IMPROVEMENTS APPROVED BY THIS MESSAGE

PAGE 5 RUFGNOA0830 UNCLAS
SHALL BE LIMITED TO RUDIMENTARY CONSTRUCTION AND BASIC
REPAIRS. SALARIES AND OTHER SUPPORT COSTS FOR LOCAL ADMINISTRATION
(INCLUDING POLICE, FIRE, AND MEDICAL PERSONNEL) ARE NOT AUTHORIZED.
3. THIS PARAGRAPH CONTAINS SPECIFIC GUIDANCE FOR PROJECTS WITHIN THE
SEVEN APPROVED CATEGORIES LISTED IN PARA 2 ABOVE AND ARE EXPANDED
BELOW:
A. ESSENTIAL REPAIRS FOR SCHOOLS: THIS IS ONE OF THE MOST
STRAIGHTFORWARD AND COMMON USES OF DOD HUMANITARIAN ASSISTANCE.
THESE PROJECTS CAN BE JUSTIFIED UNDER EITHER SECTION 401
(IF REPAIRS ARE ACCOMPLISHED BY U.S. FORCES) OR SECTION 2551 (IF
CONTRACTS ARE USED).
B. REPAIR OF ELECTRICAL GRIDS (CATEGORY FUNDING LIMIT - $600K) DOD
ASSISTANCE MAY BE PROVIDED TO CARRY OUT RUDIMENTARY REPAIRS TO
ELECTRICAL SYSTEMS, RATHER THAN TO MAKE IMPROVEMENTS WHICH WOULD
ENHANCE SERVICE TO A LEVEL HIGHER THAN IN PRE-WAR KOSOVO. PROCEDURES
MUST BE IN PLACE TO ENSURE REPAIRS TO GRIDS IN UROSEVAC, GNJILANE,
AND STRPCE COMPLY WITH THESE GUIDELINES.
C. MEDICAL SUPPORT AND SUPPLIES: USE OF DOD FUNDS FOR THESE
FUNCTIONS IS WELL ESTABLISHED. PROVISION OF DIRECT MEDICAL CARE BY
U.S. MILITARY PERSONNEL IN RURAL AREAS WOULD NORMALLY BE

DONE USING

PAGE 6 RUFGNOA0830 UNCLAS
SECTION 401 AUTHORITY TO FUND THE INCREMENTAL COSTS OF SUPPLIES AND
MATERIALS. PURCHASE OF EQUIPMENT UNCONNECTED TO DEPLOYMENT OF
MILITARY PERSONNEL, OR MEDICAL CARE PROVIDED IN NON-RURAL AREAS
WOULD NORMALLY BE CARRIED OUT UNDER SECTION 2551 AUTHORITY.
PURCHASE OF MEDICAL EQUIPMENT SHOULD BE CAREFULLY EVALUATED IN
ADVANCE TO ENSURE THAT EQUIPMENT IS PROVIDED TO PUBLIC FACILITIES,
IS AT AN APPROPRIATE LEVEL OF TECHNOLOGY FOR KOSOVO FACILITIES,
AND CAN BE PROPERLY MAINTAINED AND OPERATED BY LOCAL PERSONNEL
IN THE FUTURE. IT IS ALSO CRITICAL TO NOTE THAT THERE IS A
STATUTORY LIMIT OF $100,000 FOR ANY ONE END ITEM/PIECE OF EQUIPMENT
PURCHASED WITH DOD HUMANITARIAN FUNDS. CDR TF FALCON SHOULD ALSO
EXPLORE OPPORTUNITIES TO BUILD OR REPAIR PUBLIC HEALTH CLINICS
USING THIS FUNDING.
D. URGENT HUMANITARIAN HOUSING NEEDS: PROJECTS WITHIN THIS CATEGORY
MUST BE FOR IMMEDIATE, TEMPORARY REPAIR AND WINTERIZATION OF
DAMAGED STRUCTURES. NEW CONSTRUCTION, IMPROVEMENTS, OR PERMANENT
REPAIRS ARE NOT AUTHORIZED UNDER THIS CATEGORY.
E. REPAIR OF WATER TREATMENT PLANTS (CATEGORY FUNDING LIMIT -
$150K): DOD ASSISTANCE MAY BE PROVIDED ONLY TO CARRY OUT
RUDIMENTARY REPAIR, RATHER THAN TO IMPROVE WATER SYSTEMS BEYOND
BT
#0830

DTG: 201153Z Aug 99 Precedence: P DAC: General

Subject: **USKFOR FUNDING FOR URGENT HUMANITARIAN NEEDS** Format for Printing

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PATUZYUW RUFDAAA3151 2321632-UUUU--RUFGNOA.
ZNR UUUUU ZUI RUFDMHS2701 2321633
P **201153Z AUG 99** FM CDR USAREUR DCSOPS HEIDELBERG
GE//AEAGC-O//
TO RUFDTFA/CDR TASK FORCE FALCON//CDR/G3/G5/POLAD//
RUFDAVU/CDRVCORPS HEIDELBERG GE//AETV-CS/AETV-GC/AETV-
GCP/AETV-
GCO/AETV-GD//
INFO RUFGNOA/USCINCEUR VAIHINGEN
GE//ETCC/ECJ3/ECJ33/ECJ35/ECJ4/ECJ5
/ECJ8//
RUFDNOU/CDRUSAREUR DCSOPS HEIDELBERG GE//AEAGC-O//
RUFDAAU/CDRUSAREUR HEIDELBERG
GE//AEAEN/AEAGF/AEAIG/AEAJA/AEAMD
/AEAPA/AEAGA//
BT
UNCLAS
SUBJ:USKFOR FUNDING FOR URGENT HUMANITARIAN NEEDS
USAREUR MESSAGE #9908109
REF/A/ (S) CDR V CORPS MSG 031831Z AUG 99, SUBJ: REQUEST FOR
$5M IN
DOD QUICK DISBURSEMENT FUNDS FOR TASK FORCE FALCON
HUMANITARIAN
PROJECTS IN KOSOVO
REF/B/ THE UNDER SECRETARY OF DEFENSE LTR DATED 6 AUG 99,
SUBJ
USKFOR
FUNDING FOR URGENT HUMANITARIAN NEEDS
REF/C/ USCINCEUR MSG 131310Z AUG 99, SUBJ: USKFOR PROGRAM
APPROVAL
AND FUNDING FOR URGENT HUMANITARIAN NEEDS
1. DCSA HAS PROVIDED, THROUGH DEPARTMENT OF THE ARMY, TO
USAREUR $5M
TO BE USED FOR URGENT HUMANITARIAN ASSISTANCE PROJECTS.
FUNDS ARE
TO
USED FOR PROJECTS IN THE U.S. CONTROLLED SECTOR OF KOSOVO
ONLY.

PAGE 02 RUFDAAA3151 UNCLAS
THIS
IS A ONE-TIME ALLOCATION FOR TASK FORCE FALCON PROJECTS IN
KOSOVO.

2. USAREUR ODCSRM WILL PROVIDE THESE FUNDS TO V CORPS BY FUND
ALLOCATION DOCUMENT. THE $5M IS A TWO-YEAR APPROPRIATION. SPECIAL
CONTROL MEASURES ARE REQUIRED FOR THE USE AND CONTROL OF THE FUNDS
PROVIDED. TO CONTROL FUNDS, ENSURE PROPER USE AND FACILITATE
REPORTING V CORPS ACSRM WILL INITIATE THE FOLLOWING MEASURES:
A. ESTABLISH ACCOUNT PROCESSING CODES (APCS) TO CAPTURE COSTS.
RECOMMEND SEPARATE APCS FOR EACH AUTHORIZED PROJECT/CATEGORY
OUTLINED
IN REFERENCE C.
B. IAW REFERENCE C, PARAGRAPH 4, V CORPS WILL CONSTRUCT A MONTHLY
TIME PHASED OBLIGATION SPENDING PLAN FROM AUG 99 TO SEPT 00, NLT 1
SEP 99.
C. FUNDS PROVIDED MAY ONLY BE USED TO LIMITS STIPULATED IN REFERENCE
C AND REITERATED ON THE FAD.
3. USAREUR EXPECTS TO RECEIVE AN ADDITIONAL ALLOCATION OF
HUMANITARIAN AND CIVIC ASSISTANCE (HCA) PROGRAM FUNDS, TO
ACCOMMODATE
COSTS INCURRED WHICH ARE ALLOWABLE UNDER SECTION 401, TITLE 10, U.S.

PAGE 03 RUFDAAA3151 UNCLAS
CODE. THESE FUNDS ARE O&M AND ARE A ONE-YEAR APPROPRIATION. FUNDS
WILL BE USED TO COVER COSTS INCURRED FOR SUPPLIES CONSUMED AND
EQUIPMENT REPAIRS AS OCCUR IN THE EXECUTION OF AUTHORIZED PROJECTS.
AUTHORIZED PROJECTS ARE OUTLINED IN REFERENCE C, PARAGRAPHS 3, A
THRU
G.
A. CDR TASK FORCE FALCON CAN EXECUTE IMMEDIATELY THOSE PROJECTS
AUTHORIZED UNDER SECTION 401 AUTHORITY.
B. V CORPS WILL ESTABLISH A SEPARATE APC TO CAPTURE AND

RECORD COSTS
EXPENDED UNDER SECTION 401 AUTHORITY.
C. V CORPS WILL ESTABLSIH AN ADDITIONAL APC TO CAPTURE MISSION FUNDS
EXPENDED TO SUPPORT HUMANITARIAN OPERATIONS AND REPORT THESE
EXPENDITURES TO USAREUR ODCSRM FOR REIMBURSEMENT.
4. THE TASK FORCE FALCON POLAD AND G5 ARE RESPONSIBLE FOR EXECUTION
OF THE HUMANITARIAN ASSISTANCE PROGRAM AND ENSURING COMPLIANCE WITH
THE RULES AND REGULATIONS GOVERNING USE OF THE FUNDS. THE POLAD AND
G5 WILL ALSO ENSURE COMPLIANCE WITH THE REPORTING REQUIREMENTS
OUTLINED IN REFERENCE C.
5. REFERENCE C OUTLINES REPORTING FREQUENCY, FORMATS AND AGENCIES
TO

PAGE 04 RUFDAAA3151 UNCLAS
RECEIVE REPORTS. REFERENCE C PROVIDES SPECIFIC GUIDANCE FOR
EXPENDITURE OF FUNDS FOR HUMANITARIAN ASSISTANCE OPERATIONS AND ALSO
PROVIDES THE LEGAL AUTHORITY AND FUNDING LIMITS FOR SPECIFIC
PROJECTS.
6. USAREUR ODCSRM POC FOR THIS MESSAGE IS MAJ KINARD, PHONE NUMBER
IS DSN 370-8176, UNCLAS E-MAIL (ALL LOWER CASE) IS:
KINARD@HQ.HQUSAREUR.ARMY.MIL.
BT
#3151

Originator: USCINCEUR VAIHINGEN GE//ECJ4//
DTG: 101424Z Sep 99 Precedence: R DAC: General

Subject: **USKFOR PROGRAM APPROVAL FOR URGENT HUMANITARIAN NEEDS** Format for Printing

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RATUZYUW RUFGNOA0105 2531453-UUUU--RUFGNOA.
ZNR UUUUU
R 101424Z SEP 99
FM USCINCEUR VAIHINGEN GE//ECJ4//

TO RUFDAAA/CDR USAREUR HEIDELBERG GE//AEAGC-O//
INFO RUFDAVC/CDR V CORPS HEIDELBERG GE//AETV-GCO//
RUEKJCS/SECDEF WASHINGTON DC//USDP//
RUEKJCS/JOINT STAFF WASHINGTON DC//DJS/J5/J4/ILED//
RUEKJCS/SECDEF WASHINGTON DC//SOLIC:PK/HA/DSCA:HA//
RUFDTFA/CDR TASK FORCE FALCON
RUFGNOA/USCINCEUR VAIHINGEN GE//ECJ4-ID/ECJA/ECCM/ECJ5-E//
RUFDNTC/HQ USAREUR HEIDELBERG GE//AEAGF//
BT
UNCLAS
SUBJ:USKFOR PROGRAM APPROVAL FOR URGENT HUMANITARIAN NEEDS
REFS: A. TELEPHONIC INQUIRIES/REQUESTS FROM V CORPS AND TASK
FORCE FALCON REGARDING USE OF $5M AUTHORIZATION FOR DISPERSMENT
OF FUEL FOR MUNICIPAL VEHICLES.
B. USCINCEUR VAIHINGEN GE MESSAGE **131310Z AUG 99** PROVIDED
CDR USAREUR AUTHORITY AND GUIDANCE FOR THE EXECUTION OF $5M
TO BE USED FOR URGENT HUMANITARIAN PROJECTS IN KOSOVO
C. UNDER SECRETARY OF DEFENSE LTR DATED 6 AUG 99, SUBJ: USKFOR

PAGE 2 RUFGNOA0105 UNCLAS
PROGRAM APPROVAL AND FUNDING FOR URGENT HUMANITARIAN NEEDS
D. CORRESPONDENCE WITH OSD (HA/SOLIC/OUSDP), DSCA (HA-D), AND HQ
USAREUR (AEAGC-O)
1. IN CONSULTATION WITH OSD,DSCA, AND USAREUR, AND IN RESPONSE TO
REF (A), APPROVAL IS GIVEN TO UTILIZE EXISTING $5M FOR THE ISSUANCE
OF FUEL NEEDED FOR MUNICIPAL VEHICLES (I.E., FIREFIGHTING VEHICLES,
AMBULANCES, AND TRASH DISPOSAL VEHICLES) WITHIN THE U.S. SECTOR,
REF(D)REFERS.
2. ALTHOUGH FUEL FOR MUNICIPAL VEHICLES WERE NOT SPECIFICALLY
ADDRESSED WITHIN REFS (B) AND (C), PRECAUTIONS MUST BE TAKEN
BY CDR TF FALCON TO PREVENT DIVERSION OF FUEL BY RECIPIENTS
FOR BLACK MARKET SALES.

3. RECOMMEND CDR TF FALCON WORK CLOSELY WITH KFOR AND UNMIK TO
ADDRESS A LONG TERM SOLUTION TO PROVIDING FUEL TO MUNICIPAL VEHICLES
WITHIN SECTOR.
4. COSTS ASSOCIATED WITH PROVIDING FUEL TO MUNICIPAL VEHICLES
SHOULD BE REPORTED AS A SUB-PARAGRAPH TO THE "FUEL TO FARMERS"
CATEGORY. COSTS SHOULD BE REPORTED AS A SEPARATE LINE ITEM AND NOT
- REPEAT NOT - ROLLED IN TO THE "FUEL TO FARMERS" FIGURE. FUEL
PROVIDED TO MUNICIPAL VEHICLES WILL NOT COUNT AGAINST THE CEILING

PAGE 3 RUFGNOA0105 UNCLAS
ESTABLISHED FOR "FUEL TO FARMERS".
5. ECJ4 POCS FOR THIS MESSAGE ARE LTCOL THOMPSON, LTCOL NICHOLSON
AND MR.ZIMMERMAN. PHONE NUMBERS ARE COMMERCIAL 49 711 680
4052/5303/8836, FAX IS 49 711 680-5360.

Originator: USCINCEUR VAIHINGEN GE//ECJ4//
DTG: 291447Z Nov 99 Precedence: R DAC: General

Subject: **USKFOR URGENT HUMANITARIAN NEEDS PROGRAM** Format for Printing

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RATUZYUW RUFGNOA0151 3331523-UUUU--RUFGNOA.
ZNR UUUUU
R 291447Z NOV 99
FM USCINCEUR VAIHINGEN GE//ECJ4//
TO RUFDAAA/CDR USAREUR HEIDELBERG GE//AEAGC-O//
INFO RUFDAVC/CDR V CORPS HEIDELBERG GE//AETV-GCO//
RUEKJCS/SEC DEF WASHINGTON DC//USDP//
RUEKJCS/JOINT STAFF WASHINGTON DC//DJS/J5/J4/ILED//
RUEKJCS/SECDEF WASHINGTON DC//SOLIC:PK/HA/DSCA:HA/COMPT//
RUFDTFA/CDR TASK FORCE FALCON
RUFGNOA/USCINCEUR VAIHINGEN GE//ECJ4-
ID/EN/ECMD/ECJA/ECCM/ECJ5-E/
ECJ6//
RUFDNTC/HQ USAREUR HEIDELBERG GE//AEAGF//
BT
UNCLAS
SUBJ:USKFOR URGENT HUMANITARIAN NEEDS PROGRAM

REFS: A. CDR TF FALCON MSG, 101904Z NOV 99 SUBJ:
HUMANITARIAN AID
SPENDING
B. USCINCEUR MSG, 101424Z SEP 99, SUBJ: USKFOR PROGRAM
APPROVAL FOR
URGENT HUMANITARIAN NEEDS
C. USCINCEUR MSG, **131310Z AUG 99**, SUBJ: USKFOR PROGRAM
APPROVAL AND
FUNDING FOR URGENT HUMANITARIAN NEEDS

PAGE 2 RUFGNOA0151 UNCLAS
D. UNDER SECRETARY OF DEFENSE SLOCOMBE MEMO DATED 6 AUG
99, SUBJ:
USKFOR FUNDING FOR URGENT HUMANITARIAN NEEDS
E. CDR V CORP MSG, 031831Z AUG 99, SUBJ: USKFOR FUNDING FOR
URGENT
HUMANITARIAN NEEDS AMPN REFS B AND C: PROVIDED GUIDANCE
FOR
HUMANITARIAN ASSISTANCE PROJECTS IN RESPONSE TO REF E.
1. THIS MESSAGE IS A USCINCEUR, DSCA AND OSD/SOLIC/PKHA
COORDINATED
RESPONSE ISSUING POLICY GUIDANCE TO REF A. IN CONFORMITY
WITH THE
PREVIOUS GUIDANCE CONTAINED IN REFS B THRU D, THE
FOLLOWING
SUPPLEMENTAL GUIDANCE IS PROVIDED:
A. REPAIR WATER TREATMENT PLANTS. BASED UPON TFF REQUEST,
THE
CATEGORY FUNDING LIMIT IS INCREASED FROM $150K TO $650K.
BECAUSE OF
THE EMERGENCY NATURE OF DOD HUMANITARIAN FUNDING,
REPAIRS MUST BE
RELATED TO WAR DAMAGE AND SHOULD NOT RESULT IN
IMPROVING
INFRASTRUCTURE BEYOND THAT EXISTING IN PRE-WAR
YUGOSLAVIA.
B. DIESEL FUEL TO FARMERS. THE REQUEST TO INCREASE THE
CEILING FROM
$50K TO $100K TO PROVIDE FUEL TO FARMERS IS DISAPPROVED AT
THIS
TIME, PENDING FURTHER INFORMATION FROM USKFOR INDICATING
THAT THIS
INCREASE IS NECESSARY TO ADDRESS SHORT-TERM EMERGENCY
NEEDS, RATHER
THAN LONG-TERM RECURRING REQUIREMENTS. RECOMMEND
USKFOR CONTINUE TO

WORK WITH INTERNATIONAL AND NGO ORGANIZATIONS TO INCREASE THEIR

SUPPORT WITHIN SECTOR TO MEET THE BULK OF THIS REQUIREMENT.
C. WELL DRILLING. AUTHORIZATION IS GRANTED TO DRILL WELLS IN RURAL
AREAS WHERE WATER SOURCES/CAPABILITIES WERE DAMAGED AS A RESULT OF
DESTRUCTION STEMMING FROM THE CONFLICT. ALTHOUGH THE USE OF
OVERSEAS HUMANITARIAN DISASTER ASSISTANCE AND CIVIC AID (OHDACA)/
SECTION 2551 AUTHORITY/FUNDING IS APPROVED TO CONTRACT THIS SUPPORT,
CONSIDERATION SHOULD BE GIVEN TO EXECUTING/FUNDING THIS EFFORT
THROUGH HUMANITARIAN AND CIVIC ASSISTANCE (HCA), SECTION 401. WHILE
IT IS EXPECTED THAT ACTUAL LABOR WILL BE PERFORMED BY LOCAL
CIVILIANS, USKFOR SHOULD ENSURE THAT SOME U.S. MILITARY PERSONNEL
PARTICIPATE IN THESE PROJECTS, IN AN OVERSIGHT/MANAGEMENT ROLE, SO
THAT DOD IS NOT IN THE ROLE OF SIMPLY PROVIDING A FUND SOURCE.
NOTE: COSTS DO NOT COUNT AGAINST $650K FUNDING LIMIT APPROVED IN (1
A) ABOVE.
D. HEATING FUEL FOR SCHOOLS. PROVISION OF EMERGENCY HEATING FOR
SCHOOLS USING DOD FUNDS IS DISAPPROVED. SUPPLYING FUEL TO SCHOOLS,
AS WELL AS HOSPITALS, POLICE STATIONS, GOVERNMENT OFFICES, AND OTHER
SITES, SEEMS TO BE A LONG TERM REQUIREMENT WHICH SHOULD BE ADDRESSED
BY OTHER USG AGENCIES OR INTERNATIONAL ORGANIZATIONS.
E. PURCHASE OF SCHOOL DESKS. AUTHORITY TO PURCHASE SCHOOL DESKS IS

DISAPPROVED. RECOMMEND USKFOR PURSUE SOURCING OF DESKS THROUGH HQ

USEUCOM HUMANITARIAN ASSISTANCE EXCESS PROPERTY PROGRAM, TITLE 10,
SECTION 2547. IF DESKS ARE AVAILABLE WITHIN THE EUCOM THEATER,
USKFOR MAY USE THE $5M AUTHORITY TO TRANSPORT DOD EXCESS PROPERTY.
F. ADDITIONAL $500K FOR TRANSPORT OF DOD EXCESS PROPERTY.
USCINCEUR WILL SUBMIT OUT-OF CYCLE REQUESTS FOR ADDITIONAL FUNDS TO
SUPPORT TRANSPORTATION OF EXCESS DOD PROPERTY TO USKFOR AS THESE
REQUIREMENTS ARISE. UNTIL ADDITIONAL FUNDING BECOMES AVAILABLE,
USKFOR COULD FUND TRANSPORTATION FOR CRITICAL DOD EXCESS PROPERTY BY
PROVIDING FUNDS FROM ITS EXISTING $5M AUTHORIZATION, UTILIZING
SECTION 2551 AUTHORITY.
2. THE AFOREMENTIONED SUPPLEMENTAL HUMANITARIAN ASSISTANCE
AUTHORITIES WILL BE INCLUDED IN THE REMARKS SECTION OF A "NO DOLLAR"
FUND AUTHORIZATION DOCUMENT (FAD) ISSUED BY DSCA/COMPT TO USAREUR
DCSRM.
3. POCS FOR THIS MESSAGE ARE LTCOL THOMPSON, LT COL NICHOLSON,
MR ZIMMERMAN AND MS BARTCH. PHONE NUMBERS ARE DSN
430-4052/5303/8836/5084. COMMERCIAL 49 711 680-4052/5303/8836/5084,
FAX IS 49 711 680-5360. UNCLAS EMAIL ADDRESSES (ALL LOWER CASE) ARE:
THOMPSSJ@EUCOM.MIL,NICHOLSD@EUCOM.MIL,
ZIMMERMA@EUCOM.MIL, AND

PAGE 5 RUFGNOA0151 UNCLAS
BARTCHC@EUCOM.MIL.
BT
#0151

Originator: USCINCEUR VAIHINGEN GE//ECJ4-ID//
DTG: 011254Z Dec 99 Precedence: R DAC: General

Subject: **USKFOR URGENT HUMANITARIAN NEEDS PROGRAM** Format for Printing

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RATUZYUW RUFGNOA0286 3351408-UUUU--RUFGNOA.
ZNR UUUUU

R 011254Z DEC 99
FM USCINCEUR VAIHINGEN GE//ECJ4-ID//
TO RUFDAAA/CDR USAREUR HEIDELBERG GE//AEAGC-O//
INFO RUFDAVC/CDR V CORPS HEIDELBERG GE//AETV-GCO//
RUEKJCS/SECDEF WASHINGTON DC//USDP//
RUEKJCS/JOINT STAFF WASHINGTON DC//DJS/J5/J4/ILED//
RUEKJCS/SECDEF WASHINGTON DC//SOLIC:PK/HA/DSCA:HA/COMPT//
RUFDTFA/CDR TASK FORCE FALCON
RUFGNOA/USCINCEUR VAIHINGEN GE//ECJ4-
ID/EN/ECMD/ECJA/ECCM/ECJ5-E/
ECJ6//
RUFDNTC/HQ USAREUR HEIDELBERG GE//AEAGF//
BT
UNCLAS
SUBJ:USKFOR URGENT HUMANITARIAN NEEDS PROGRAM
REFS: A. CDR TF FALCON MEMO, DTD 25 NOV 99 SUBJ:
HUMANITARIAN
ASSISTANCE INCREASE REQUEST
B. USCINCEUR MSG, 101424Z SEP 99, SUBJ: USKFOR PROGRAM
APPROVAL FOR
URGENT HUMANITARIAN NEEDS
C. USCINCEUR MSG, **131310Z AUG 99**, SUBJ: USKFOR PROGRAM
APPROVAL AND
FUNDING FOR URGENT HUMANITARIAN NEEDS

PAGE 2 RUFGNOA0286 UNCLAS
D. UNDER SECRETARY OF DEFENSE SLOCOMBE MEMO DATED 6 AUG
99, SUBJ:
USKFOR FUNDING FOR URGENT HUMANITARIAN NEEDS
E. CDR V CORP MSG, 031831Z AUG 99, SUBJ: USKFOR FUNDING FOR
URGENT
HUMANITARIAN NEEDS
AMPN REFS B AND C: PROVIDED GUIDANCE FOR HUMANITARIAN
ASSISTANCE
PROJECTS IN RESPONSE TO REF E.
1. THIS MESSAGE IS A USCINCEUR, DSCA AND OSD/SOLIC/PKHA
COORDINATED
RESPONSE ISSUING POLICY GUIDANCE TO REF A. IN CONFORMITY
WITH THE
PREVIOUS GUIDANCE CONTAINED IN REFS B THRU E, THE
FOLLOWING
SUPPLEMENTAL GUIDANCE IS PROVIDED:
A. REPAIR ELECTRICAL GRIDS. BASED UPON REF A, REQUEST TO
INCREASE
CEILING UNDER THIS CATEGORY FROM $600K TO $800K IS
APPROVED.

ASSISTANCE WITHIN THIS CATEGORY MUST CONTINUE TO BE LIMITED TO
RUDIMENTARY REPAIRS TO ELECTRICAL SYSTEMS, RATHER THAN TO MAKE
IMPROVEMENTS THAT WOULD ENHANCE SERVICE TO A HIGHER LEVEL THAN IN
PRE-WAR KOSOVO.
2. THE AFOREMENTIONED SUPPLEMENTAL HUMANITARIAN ASSISTANCE AUTHORITY
WILL BE INCLUDED IN THE REMARKS SECTION OF A "NO DOLLAR" FUND
AUTHORIZATION DOCUMENT (FAD) ISSUED BY DSCA/COMPT TO USAREUR DCSRM.
3. POCS FOR THIS MESSAGE ARE LTCOL THOMPSON AND MR ZIMMERMAN.

PAGE 3 RUFGNOA0286 UNCLAS
PHONE NUMBERS ARE DSN 430-4052/5303/8836/5084.
COMMERCIAL 49 711 680-4052/5303/8836/5084, FAX IS 49 711 680-5360.
UNCLAS EMAIL ADDRESSES (ALL LOWER CASE) ARE:
THOMPSSJ@EUCOM.MIL, AND ZIMMERMA@EUCOM.MIL.
BT
#0286

APPENDIX VI-3: SCHEDULE FOR FOOD AID

SEQUENCE OF EVENTS FOR OBTAINING FOOD AID UNDER SECTION 416(B) AND FOOD FOR PROGRESS

Food for Progress

Event	Time Frame	USDA Contact
Invitation Period	*10/22/2002 - 11/25/2002*	EMEB / LACAAB
Notification to Applicant of Proposal Awards	*01/15/2003*	EMEB / LACAAB
Negotiations with PVO		EMEB / LACAAB
• Budget		EMEB / LACAAB
• Bellmon Information • Attachment A • Commodities (type/packaging/amount)		EMEB / LACAAB / FSA
Freight Forwarder Approval		OD/T&LB
Agreement Signing	*06/06/2003*	EMEB / LACAAB
Cash Advances		EMEB / LACAAB
Initial Logistics Report		ESPB
Commodities		
• Purchased		FSA
• Shipped		
• Packaged		FSA
• Bulk		OD/T&LB
Six-month Logistics/Monetization Report		ESPB
Annual Budget Report		ESPB
Final Budget Report		ESPB
Final Reimbursement		ESPB
Final Logistics/Monetization Report		ESPB
Disposition of Purchased Equipment		ESPB
Independent Audit		ESPB
Close-out Process		ESPB

- confirm receipt of all reports
- compliance with agreement
- resolution of all outstanding issues.
- verify use of administrative funds.
- USDA confirmation to Cooperating Sponsor that all requirements are met

EMEB -- Europe and Middle East Branch
LACAAB -- Latin America, Caribbean, Africa and Asia Branch
ESPB -- Evaluation and Special Projects Branch
OD -- Operations Division
T&LB -- Transportation and Logistics Branch
FSA -- Farm Service Agency

Section 416(b)

Event	**Time Frame**	**USDA Contact**
Invitation Period	*11/01/2002 - 12/15/2002*	EMEB / LACAAB
Notification to Applicant of Proposal Awards	*02/01/2003*	EMEB / LACAAB
Negotiations with PVO		EMEB / LACAAB
• Budget		EMEB / LACAAB
• Bellmon Information • Attachment A • Commodities (type/packaging/amount)		EMEB / LACAAB / FSA
Freight Forwarder Approval		OD/T&LB
Agreement Signing		EMEB / LACAAB
Cash Advances		EMEB / LACAAB
Initial Logistics Report		ESPB
Commodities		
• Purchased		FSA
• Shipped		
• Packaged		FSA
• Bulk		OD/T&LB
Six-month Logistics/Monetization Report		ESPB
Annual Budget Report		ESPB
Final Budget Report		ESPB

Final Reimbursement	ESPB
Final Logistics/Monetization Report	ESPB
Disposition of Purchased Equipment	ESPB
Independent Audit	ESPB
Close-out Process	ESPB

- confirm receipt of all reports
- compliance with agreement
- resolution of all outstanding issues.
- verify use of administrative funds.
- USDA confirmation to Cooperating Sponsor that all requirements are met

EMEB -- Europe and Middle East Branch
LACAAB -- Latin America, Caribbean, Africa and Asia Branch
ESPB -- Evaluation and Special Projects Branch
OD -- Operations Division
T&LB -- Transportation and Logistics Branch
FSA -- Farm Service Agency

APPENDIX VI-4: POTENTIAL FOOD AID RECIPIENTS

USDA will consider proposals for all developing countries and territories that meet the requirements of the law applicable to the proposal (Food for Progress Act of 1985 or Section 416(b) of the Agriculture Act of 1949).
Below is a listing of eligible food aid countries and territories according to the 1999 Food Aid Convention. Note that U.S. laws place limitations on the allocation of food assistance to certain countries and territories on this list. Also be aware that food exporting countries (India, Russia, and China) will receive low priority during this programming cycle.

Eligible food aid recipients under Article VII of this Convention refer to Developing Countries and Territories listed as aid recipients by the Development Assistance Committee (DAC) of the OECD, effective as of 1 January 1997, and to countries included in the WTO list of Net Food-Importing Developing Counties, effective as of 1 March 1999.

Afghanistan	**Cuba**	**Iran**	**Myanmar**	**Suriname**
Albania	**Democratic Republic of Congo**	**Iraq**	**Namibia**	**Swaziland**
Algeria	**Democratic Republic of Korea**	**Jamaica**	**Nepal**	**Syria**
Angola	**Djibouti**	**Jordan**	**Nicaragua**	**Tajikistan**
Armenia	**Dominica**	**Kazakhstan**	**Niger**	**Tanzania**
Azerbaijan	**Dominican Republic**	**Kenya**	**Nigeria**	**Thailand**
Bangladesh	**Ecuador**	**Kiribati**	**Niue**	**Timor**
Barbados	**Egypt**	**Kosovo**	**Pakistan**	**Togo**
Belize	**El Salvador**	**Kyrgyzstan**	**Palau Islands**	**Tonga**
Benin	**Equatorial Guinea**	**Laos**	**Palestinian Administered Areas**	**Trinidad & Tobago**
Bhutan	**Eritrea**	**Lebanon**	**Panama**	**Tunisia**
Bolivia	**Ethiopia**	**Lesotho**	**Papua New Guinea**	**Turkey**

Bosnia & Herzegovina	Federal Republic of Yugoslavia	Liberia	Paraguay	Turkmenistan
Botswana	Fiji	Macedonia, The Former Yugoslav Republic of	Peru	Tuvalu
Burkina Faso	Gambia	Madagascar	Philippines	Uganda
Burundi	Georgia	Malawi	Republic of Congo	Uzbekistan
Cambodia	Ghana	Maldives	Rwanda	Vanuatu
Cameroon	Grenada	Mali	Sao Tome & Principe	Venezuela
Cape Verde	Guatemala	Marshall Islands	Senegal	Vietnam
Central African Republic	Guinea	Mauritania	Sierra Leone	Wallis & Futuan
Chad	Guinea-Bissau	Mauritius	Solomon Islands	Western Samoa
China	Guyana	Micronesia Federated States	Somalia	Yemen
Colombia	Haiti	Moldova	Sri Lanka	Zambia
Comoros	Honduras	Mongolia	St Lucia	Zimbabwe
Costa Rica	India	Morocco	St Vincent & Grenadines	
Côte d' Ivoire	Indonesia	Mozambique	Sudan	

APPENDIX VII-1: POST-CONFLICT RULE OF LAW ORGANIZATIONS

International, Private, Governmental and Nongovernmental Organizations Involved in Post-Conflict Rule of Law[560]

I. The United Nations Department of Peacekeeping Operations (DPKO) and UN Civilian Police Division

A. Mission DPKO—In accordance with the purposes and principles enshrined in the Charter of the United Nations, the Department of Peacekeeping Operations (DPKO) is dedicated to assisting the Member States and the Secretary-General in their efforts to maintain international peace and security. The Department's mission is to plan, prepare, manage and direct UN peacekeeping operations, so that they can effectively fulfill their mandates under the overall authority of the Security Council and General Assembly, and under the command vested in the Secretary-General.

DPKO provides political and executive direction to UN peacekeeping operations, and maintains contact with the Security Council, troop and financial contributors, and parties to the conflict in the implementation of Security Council mandates. DPKO strives to provide the best possible and most cost-efficient administrative and logistical support to missions in the field through the timely deployment of quality equipment and services, adequate financial resources and well-trained personnel. The Department works to integrate the efforts of UN, governmental and non-governmental entities in the context of peacekeeping operations. DPKO also provides guidance and support on military, police, mine action, and logistical and administrative issues to other UN political and peacebuilding missions.

B. Mission Civilian Police Division—The UN Civilian Police Division was set up in October 2000 as part of the Department of Peacekeeping Operations with a staff of experienced police officers

[560] The descriptions of the organizations come from the mission statements as posted on the web pages maintained by the various organizations.

from contributing countries. The Division is mandated to plan and support the work of United Nations Civilian Police officers in UN peacekeeping operations.

Goals of the Division are to:

Support Civilian Police components of UN peacekeeping operations

Enhance planning capacity for police components of UN operations

Assist as appropriate in strengthening the performance, effectiveness and efficiency of local criminal justice systems, including police and corrections

Enhance ability to deploy rapidly a functional police component
Improve quality representation in the field

II. Organization of Security and Cooperation in Europe (OSCE) and Office for Democratic Institutions and Human Rights (ODIHR)

A. Mission OSCE—The Organization for Security and Co-operation in Europe (OSCE) is the largest regional security organization in the world with 55 participating States from Europe, Central Asia and North America. It is active in early warning, conflict prevention, crisis management and post-conflict rehabilitation.

The OSCE approach to security is comprehensive and co-operative: comprehensive in dealing with a wide range of security-related issues including arms control, preventive diplomacy, confidence- and security-building measures, human rights, democratization, election monitoring and economic and environmental security; co-operative in the sense that all OSCE participating States have equal status, and decisions are based on consensus.

The Organization employs about 4,000 staff in 19 missions and field activities located in South-eastern Europe, the Caucasus, Eastern Europe and Central Asia. They work 'on the ground' to facilitate political processes, prevent or settle conflicts, and promote civil society and the rule of law.

B. Mission ODIHR—The Office for Democratic Institutions and Human Rights (ODIHR) is the principal institution of the OSCE responsible for the human dimension. This means the ODIHR works to help OSCE participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and ... to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

1. Promoting the rule of law—The notion of rule of law as enshrined in major OSCE documents such as the 1990 Copenhagen Document does not describe merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order. It goes beyond that in aiming at justice based on the recognition and full acceptance of the supreme value of the human personality guaranteed by institutions providing a framework for its fullest expression. It thus bridges individual human rights with the institutional framework and structure of a participating State.

2. Projects—The Rule of Law Unit of the ODIHR is engaged in a variety of technical assistance projects designed to foster the rule of law and the respect for human rights. The Rule of Law Unit seeks to enhance the administration of justice, inter alia by training of judges, prosecutors, lawyers as well as police and correctional officers. The Unit also undertakes legal reform and legislative review projects in order to bring domestic laws in line with OSCE commitments and other recognized international standards. The ODIHR also renders support to the enhancement of legal education in the field of human rights by supporting law schools and legal clinics.

III. The American Bar Association Central European and Eurasian Law Initiative (CEELI)

Mission—The Central European and Eurasian Law Initiative (CEELI) — a public service project of the American Bar Association (ABA) — advances the rule of law by supporting the law reform process in Central and Eastern Europe and the former Soviet Union. Through its volunteer legal liaison program as well as its training institute in Prague, CEELI makes available American and European legal expertise and technical assistance for these emerging democracies in modifying and restructuring laws and legal systems.

CEELI has offices in 22 countries across Central Europe and Eurasia. Since its founding in 1990, more than 5,000 judges, attorneys, law professors and legal specialists have contributed over $180 million in *pro bono* assistance to promoting the rule of law in the region.

A premise of CEELI is that lasting economic and political reform is dependent on a functioning system of law. The rule of law, so basic a part of our cultural fabric, is a continuing priority in many countries still moving away from communist and socialist systems. In these countries, political and economic reforms are clearly dependent upon one another, and both require a sound legal structure.

CEELI's legal assistance programs were conceived through consultations with leaders in the region to respond quickly and broadly to the enormous tasks associated with reforming their economies and legal infrastructures. CEELI began working in Central and Eastern Europe in 1990 and in the NIS in 1992. With little other technical legal assistance flowing into the regions from Western Europe or the United States, CEELI initially focused on such issues as constitutional law, judicial restructuring, criminal law, and commercial law. In an effort to support the development and reform of indigenous legal institutions, CEELI is also allocating resources to assist in judicial restructuring, strengthening lawyers' associations, reforming legal education, and combating organized crime and corruption.

In providing technical legal assistance, CEELI is guided by several key principles.

- CEELI is designed to be responsive to the needs and priorities of the countries of Central and Eastern Europe

and the NIS, not those of the U.S. participants or sponsors. Accordingly, the work of CEELI remains heavily influenced by consultations with government and non-government officials, legal scholars, and practitioners from the host countries.

- CEELI recognizes that U.S. legal experience and traditions offer but one approach that participating countries may wish to consider. A variety of models, including those of many civil law countries, offer alternative legal traditions that are also valuable sources of law. Consequently, CEELI includes other perspectives, particularly West European, in its programs. In the emerging democracies of Central and Eastern Europe and the NIS, however, there is great interest in the U.S. legal tradition, particularly with regard to individual and human rights, allocations of governmental power, and the free market system.

- CEELI is a public service project and not a device for developing business opportunities. Accordingly, CEELI has adopted strict conflict of interest guidelines designed to ensure that technical advice offered by CEELI participants is neutral and that conflicts of interest, or appearance of conflicts, are avoided to the maximum extent possible.

By turning to the over 400,000 ABA members, as well as other legal experts in the United States and Western Europe, CEELI has been able to marshal and make available a high level of expertise to address host countries' requests for assistance. Because participating lawyers and judges volunteer their time on a pro bono basis, CEELI has been able to achieve an extraordinary degree of financial leverage.

IV. United States Institute of Peace (USIP) Rule of Law Program

Mission—Since its inception, the United States Institute of Peace has devoted increasing attention to the relationship between types of governments and the prospects for long-term peace or conflict. To address this issue, the Institute created the Rule of Law Initiative in

1990, and it became a full Institute program in 1999. The Rule of Law Program seeks to build upon and refine principles on the rule of law articulated by various international bodies and to provide practical guidance for their implementation. The program is based on the premise that adherence to the rule of law entails far more than the mechanical application of static legal technicalities; it requires an evolutionary search for those institutions and processes that will best bring about authentic stability through justice. Ongoing research, consultation, and other work of the Rule of Law Program focuses on such issues as transitional justice and constitution making, justice and reconciliation, war crimes and humanitarian law, and the administration of the international rule of law.

APPENDIX VII-2: FY 2003 STATUTORY CHECKLISTS

I. INTRODUCTION

The checklists are convenient references when planning and designing assistance programs. For additional country or assistance specific prohibitions, restrictions, or limitations, and additional "notwithstanding" authorities, please consult with the attorneys assigned to your bureau or mission.

Please see ADS 201.3.3.4 for the rules on when a checklist must be prepared. In doing a checklist you make a reasonable inquiry, determine the applicability of each statutory reference, and set forth any additional comments or issues (e.g., “We are not aware of any information that requires action under this section” or “We are not aware of any violations under this provision”).

Country Checklist

The Country Checklist includes the important provisions of general application from the Foreign Assistance Act of 1961, as amended ("FAA") and the FY 2003 Foreign Operations Appropriations Act, Division E, Pub. L. 108-7, February 20, 2003 ("FY 2003 Act"). The Country Checklist does not list every statutory or regulatory provision applicable to a particular country.

Assistance Checklist

The Assistance Checklist has the activity-specific provisions of the FAA and the FY 2003 Act.

Notwithstanding Authorities

There are various "notwithstanding" authorities that can be invoked to provide assistance when it would otherwise be prohibited. Some examples:

1. Disaster Assistance (FAA Sec. 491).

2. Health and Disease Prevention (FAA 104(c)(6)(C)(ii) and Child Survival and HIV/AIDS (FY 2003 Act Sec. 522).

3. Assistance for Eastern Europe and the Baltic States (Title II of the FY 2003 Act).

4. Assistance to the Independent States (FAA Sec. 498B(j)).

5. Afghanistan, Lebanon and Montenegro; victims of war, displaced children; displaced Burmese; and tropical forestry, biodiversity

conservation and energy programs aimed at reducing greenhouse gas emissions (FY 2003 Act Sec. 534).

6. Non-governmental organizations and P.L. 480 (FY 2003 Act Sec. 537).

7. Title II Emergency Programs (PL 480 Sec. 202(a)).

8. ESF funds for democracy activities of non-governmental organizations in the Peoples Republic of China (FY 2003 Act Sec. 526).

II. COUNTRY CHECKLIST

PART A of the Country Checklist has the general provisions to be completed for a country.

PART B has the "taking into consideration" provisions. They are considered by the Administrator in the annual "Taking into Consideration" Memorandum as part of the Operational Year Budget ("OYB") process for all countries, not just those in the OYB. Because they have already been taken into account as part of the budget process, you do not have to include them in doing the checklist.

Part A. -- General Provisions

1. ***Narcotics Certification*** (Section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228) (FRAA), September 30, 2002).
   As a result of the Presidential Determination of January 30, 2003, this provision only applies to **Burma**. All the other "major illicit drug-producing or drug-transit" countries (Afghanistan, The Bahamas, Bolivia, Brazil, China, Colombia, Dominican Republic, Ecuador, Guatemala, Haiti, India, Jamaica, Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru, Thailand, Venezuela, and Vietnam.) were determined either

   - Not to have failed demonstrably, during the previous 12 months, to adhere to their obligations under international counternarcotics agreements and to take the counter-narcotics measures set forth in section 489(a) (1) of the FAA; or

   - To be vital to the national interests of the United States.

Is this restriction applicable? Please comment.

2. ***Indebtedness to U.S. Citizens*** (FAA Sec. 620(c)). Absent a Presidential determination based on national security needs, assistance to a government is prohibited if the government is indebted to any U.S. citizen or person, and (a) such citizen or person has exhausted available legal remedies, (b) the debt is not denied or contested, or (c) the indebtedness arises under an unconditional guaranty of payment given by such government (or controlled entity).

Is this restriction applicable? Please comment.

3. ***Seizure of U.S. Property*** (Section 527 of the Foreign Relations Authorization Act, 1994-95, which superseded FAA Sec. 620(e)). Absent a waiver by the Department of State, assistance to a government is prohibited if that government has expropriated or seized ownership or control of property at least 50 percent beneficially owned by U.S. citizens without

   (a) Returning the property to the owner,

   (b) Compensating the owner for the property,

   (c) Offering a domestic procedure providing prompt, adequate, and effective compensation for the property, or

   (d) Submitting the dispute to international arbitration.

   As of 1/22/ 02, the only country identified is Nicaragua, which has received a waiver
   [CONTACT: State/EB/IFD/OIA, Neil Efird 202-736-4246]

.

Is this restriction applicable? Please comment.

4. ***Specific Countries*** (FAA Secs. 620(a) and 620(f); FY 2003 Act Sec. 507). Assistance is prohibited to Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. Assistance to Iraq permitted if national security interest determination is made. [Notes: Prohibitions on assistance to China, Tibet, and Vietnam have been waived. Prohibition on indirect assistance in section 523 applies only to "indirect" assistance, i.e., through international financial institutions and multilateral development banks.]

Is this restriction applicable? Please comment.

5. ***Loan Default*** (FAA Sec. 620(q); FY 2003 Act Sec. 512 [Brooke Amendment]; see ADS 623). Absent a Presidential waiver, assistance [for Brooke only assistance to government] is prohibited to the government of the country where

   (a) The government of the recipient country has been in default for more than six months on interest or principal of any loan by the U.S. to such country under the FAA; or

   (b) The country has been in default for more than one calendar year on interest or principal on any U.S. foreign assistance loan.

   See 620q report at http://inside.usaid.gov/M/FM/ [Contact: FM/LM.]

Is this restriction applicable? Please comment.

6. ***Diplomatic Relations With U.S.*** (FAA Sec. 620(t)). Assistance is prohibited if diplomatic relations between the U.S. and the recipient country are currently severed.

Is this restriction applicable? Please comment.

7. ***International Terrorism*** (FY 2003 Act Sec. 527; FAA Secs. 620A, 620G). Absent a Presidential waiver on national security grounds or for humanitarian reasons, assistance is prohibited to a recipient country that the Secretary of State has determined

   (a) Grants sanctuary from prosecution to any terrorist, or

   (b) Otherwise supports or assists terrorist governments (as determined by FAA Sec. 620A) or international terrorism.

   [Contact:: L/LEI, , 202-647-7324.]

Is this restriction applicable? Please comment.

8. ***Export of Lethal Military Equipment to Terrorist States*** (FY 2003 Act Sec. 543; FAA Sec. 620H). Absent a Presidential determination, assistance is prohibited to a government which that provides lethal military equipment to a terrorist government (those described in 7 above).

   [Contacts: Ron Parsons, State, Deputy Director, Office of Export Controls and Conventional Arms Nonproliferation Policy (NP/NPC/ECNP), 647-0397, Walter Sulzynsky, State/L/PM, 202-647-4621]

   Is this restriction applicable? Please comment.

   Not applicable.
   As of 2/28/03, no countries have been so identified.

9. ***Compliance With UN Sanctions Against Iraq*** (FY 2003 Act Sec. 531). Absent certain Presidential determinations or certifications, assistance is prohibited to a country not in compliance with UN sanctions against Iraq.

   As of 1/22/02, only Turkey and Jordan have been identified and both are in process of being waived.

   [Contact: Lt. Col. Ray Meinhart in State's Office of Military Affairs, 202-647-6391.]

   Is this restriction applicable? Please comment.

10. ***Discrimination*** (FAA Sec. 666(b)). Assistance is prohibited to a recipient country that objects, on the basis of race, religion, national origin, or sex, to the presence of any officer or employee of the U.S. who is present in such country to carry out economic development programs under the FAA.

    Is this restriction applicable? Please comment.

11. Nuclear Technology (Arms Export Control Act Secs. 101, 102).

(a) Absent special certification by the President, assistance is prohibited if the recipient country has either delivered or received from any other country nuclear enrichment or reprocessing equipment, materials, or technology, without specified arrangements or safeguards any time after August 3, 1977.

(b) Absent special certification by the President, assistance is prohibited if the recipient country has, on or after June 30, 1994,

(1) Transferred a nuclear explosive device to a non-nuclear weapon state,

(2) Received or detonated a nuclear explosive device, or

(3) Exported (or attempted to export) illegally from the U.S. any material, equipment, or technology that would contribute significantly to the ability of a country to manufacture a nuclear explosive device.

Are these restrictions applicable? Please comment.

12. Military Coup or Decree (FY 2003 Act Sec. 508). Assistance is prohibited to the government of a country where the duly elected head of government of the recipient country has been deposed by military coup or decree unless the President has notified Congress that a democratically elected government has since taken office. Since FY 2002, the section does not apply to assistance to promote democratic elections or public participation in democratic processes.

Is this restriction applicable? Please comment.

13. Exploitation of Children (FAA Sec. 116(b)). Assistance is prohibited where the Department of State has determined that the recipient government has failed to take appropriate and adequate measures, within its means, to protect children from exploitation, abuse, or forced conscription into military or paramilitary services.

Is this restriction applicable? Please comment.

14. Parking Fines (FY 2003 Act Sec. 544). Assistance to a recipient country shall be reduced by 110 percent of the amount of unpaid parking fines owed to the District of Columbia and New York City.

OYB country levels are adjusted by amounts owed by PPC/M/RA as part of the OYB process. **No action required** by country desk. [Contact: Sharon Nichols, PPC/M/RA, 202-712-4533.]

15. Delivery of Humanitarian Assistance (FAA Sec. 620I). Absent a Presidential determination, assistance is prohibited where the recipient government has prohibited or otherwise restricted, directly or indirectly, the transport or delivery of U.S humanitarian assistance.

Is this restriction applicable? Please comment.

16. Assistance to Cuba (FAA Sec. 620(y), as amended by section 2810 of FY 98/99 Foreign Relations Authorization Act, P. L. 105-277; LIBERTAD Act Sec. 111; P.L. 104-114).

(a) If a country (or any entity in the country) provided (1) nuclear fuel and related assistance and credits or (2) assistance or credits in support of the Cuban nuclear facility at Juragua, Cuba at any time after March 12, 1996, then assistance to such country must be reduced by an amount equal to the sum of any such assistance or credits.

(b) Assistance to a recipient country must be reduced by an amount equal to the aggregate value of nuclear fuel related assistance and credits provided by that country to Cuba during the preceding fiscal year, unless Cuba

(1) Has ratified the Treaty on the Non-Nuclear Proliferation of Nuclear Weapons or the Treaty of Tlatelolco and Cuba is in compliance therewith;

(2) Has negotiated and is in compliance with full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such treaty; and

(3) Incorporates and is in compliance with internationally accepted nuclear safety standards.

Are these restrictions applicable? Please comment.

17. Human Rights Violations (FAA Secs. 116 and 502B).
If the Department of State has determined that the recipient government has engaged in a consistent pattern of gross violations of internationally recognized human rights, then

(a) Economic Support Fund funds may be used only if the assistance will directly benefit the needy; and

(b) Development Assistance funds may be used only if the President has found that the country has made such significant improvement in its human rights record that furnishing such assistance is in the U.S. national interest.

Is this restriction applicable? Please comment.

18. Trafficking in Persons (Sec. 110 of Trafficking Victims Protection Act of 2000, P. L.106-386; effective January 1, 2003;). Nonhumanitarian, nontrade-related foreign assistance is not to be provided to any government that the Secretary of State has identified as

(a) Not complying with minimum standards for the elimination of trafficking; and

(b) Not making significant efforts to bring itself into compliance with such standards.

This part of the trafficking victims protection act will take effect after State issues the 2003 Trafficking in Persons report. That report is due out on June 1, 2003. Somewhere between 45 and 90 days after the report comes out, a

presidential determination will be made on how the USG proposes to apply the sanctions
[Contact: EGAT/WID].

Is this restriction applicable? Please comment.

19. ***Activity Information Sheet Data.*** Has the USAID Country Officer reviewed the USAID Activity Information Sheet Data Base and informed PPC of any activity that he/she is already aware of that is currently providing assistance to the country which is not included in that data base. This covers only activities that the Country Officer is already aware of. The Country Officer does NOT have an obligation to inquire about activities that he/she does not already know about or to complete activity information sheets.

Please comment.

Part B. – "Taking Into Consideration" Provisions

1. ***Mob Action*** (FAA Sec. 620(j)). Assistance may be terminated if the recipient country permitted (or failed to take adequate measures to prevent) damage or destruction of U.S. property by mob action.

2. ***Seizure of U.S. Fishing Vessels*** (FAA Sec. 620(o); Fishermen's Protective Act of 1967, as amended, Sec. 5 (22 U.S.C. 1975(b)). Assistance may be denied or offset if the recipient country has seized, or imposed any penalty or sanction against, any U.S. fishing vessel fishing in international waters.

3. ***Overseas Private Investment Corporation (OPIC) Investment Guaranty*** (FAA Sec. 620(l)). Assistance may be denied if the recipient country has failed to enter into an investment guaranty agreement with OPIC.

4. ***United Nations (U.N.) Obligations*** (FAA Sec. 620(u)). The payment status of the recipient country's U.N. obligations is to be taken into account when considering assistance levels.

5. ***Algiers Meeting*** (ISDCA of 1981, Sec. 720). The fact that a country attended and otherwise failed to disassociate itself from the communiqué issued at the Meeting of Ministers of Foreign Affairs and Heads of Delegations of the Non-Aligned Countries to the 36th General Assembly of the U.N. on September 25 and 28, 1981, is to be taken into account when considering assistance levels to such country.

III. ASSISTANCE CHECKLIST

This checklist is to help managers and teams ensure that activities are consistent with applicable law. Since different provisions apply at different stages of the process, this Checklist is divided into the following parts: **(A) Planning; (B) Congressional Notifications; and (C) Obligating Documents.**

In addition to completing this Checklist, managers and teams should check with the Desk Officer to make sure that the Country Checklist has been completed and nothing has occurred since completion of the Country Checklist which would affect USAID's ability to provide assistance.

For the most part, no distinction between Development Assistance and Economic Support Fund funds is made in this Assistance Checklist because the FAA provides that, to the maximum extent feasible, ESF assistance should be provided consistent with the policy directions, purposes and programs of Development Assistance.

Part A. -- Planning (in alphabetical order)

1. ***Agricultural Activities (Bumpers Amendment)*** (FY 2003 Act Sec. 513(b), as interpreted by the conference report for the original enactment). No funds may be used for agricultural development activities (specifically, any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training) that would compete with a similar commodity grown or produced in the United States unless such activities

   (a) Are designed to increase food security in developing countries and where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

   (b) Are research activities intended primarily to benefit American producers?

Is this restriction applicable? Please comment.

2. ***Communist Assistance*** (FAA Sec. 620(h)). Arrangements should be made to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of the Communist-bloc countries.

Please comment.

3. Adverse Economic Impact Upon the United States.

(a) Impact on U.S. Jobs: Relocation; Export Zones; Violation of Workers' Rights (FY 2003 Act, Sec. 533, see PD 20). Assistance may not be provided:

(1) To a business located in the U.S. for the purpose of inducing that business to relocate outside the U.S. in a manner that would likely reduce the number of U.S. employees of that business; or

(2) For the purpose of establishing or developing an export processing zone or designated area in which the country's tax, tariff, labor, environment, and safety laws do not apply, unless the President has determined and certified that such assistance is not likely to cause a loss of jobs within the U.S. [Note: this subsection is not in FY 2003 Act but is still in PD 20.];

(3) For a project or activity that contributes to the violation of internationally recognized workers rights of workers in the recipient country; except that assistance may be provided for the informal sector, micro or small-scale enterprise, or small-holder agriculture commensurate with the development of the country but only with regard to a minimum age for the employment of children; and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Please comment.

(b) Production of Surplus Commodities (FY 2003 Act Sec. 513(a). Assistance may not be provided to establish or expand production of any commodity for export if the commodity is likely to be in surplus on world markets and substantial injury will be caused to U.S. producers of the same, similar, or competing commodities.

Is this restriction applicable? Please comment.

4. Environment

(a) Environmental Assessment (FAA Sec. 117; USAID Regulation 16, 22 CFR Part 216, see ADS 204). USAID Regulation 16 requires that an Initial Environmental Examination, unless the proposed assistance falls within certain exceptions and other actions.

Please comment.

(b) CITES - Convention on International trade in Endangered Species of Flora and Fauna. (FY 2003 Act, "Development Assistance" heading under Title II). No funds may be used in support of activities which contravene CITES.

Is this applicable? Please comment.

(c) Debt-for-Nature Exchange (FAA Sec. 463). Assistance that will finance a debt-for-nature exchange must

(1) Support protection of the world's oceans and atmosphere, animal and plant species, or parks and reserves; or

(2) Promote natural resource management, local conservation programs, conservation training programs, public commitment to conservation, land and ecosystem management, or regenerative approaches in farming, forestry, fishing, and watershed management.

Is this applicable? Please comment.

(d) Tropical Forest Degradation (FAA Sec. 118). Funds may not be used for

(1) The procurement or use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an environmentally sound manner and that the proposed activity will produce positive economic benefits and sustainable forest management systems;

(2) Actions that will significantly degrade national parks or similar protected areas that contain tropical forests, or introduce exotic plants or animals into such areas;

(3) Activities that would result in the conversion of forest lands to the rearing of livestock;

(4) The construction, upgrading, or maintenance of roads (including temporary haul roads for logging or other extractive industries) that pass through relatively undegraded forest lands;

(5) The colonization of forest lands; or

(6) The construction of dams or other water control structures that flood relatively undergraded forest lands.

However, funds may be used for activities in (3) through (6) above if an environmental assessment indicates that the proposed activity will contribute significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner that supports sustainable development.

Is this applicable? Please comment.

5. Expropriation and Land Reform (FAA Sec. 620(g)). Assistance may not be used to finance compensation to owners for expropriated or nationalized property, except to compensate foreign nationals in accordance with a land reform program certified by the President.

Is this applicable? Please comment.

6. Family Planning.

(a) Abortions and Involuntary Sterilizations Prohibited (FAA Sec. 104(f); FY 2003 Act Sec. 518 and, "Development Assistance" heading under Title II). Funds may not be used

(1) To perform abortions as a method of family planning or to motivate or coerce any person to practice abortions. (Note that the term "motivate" does not include the provision, consistent with local law, of information or counseling about all pregnancy options.)

(2) To pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations.

(3) To pay for any biomedical research that relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning.

(4) For any country or organization if the President certifies that the use of these funds by such country or organization would violate the three provisions above.

(5) To lobby for or against abortion.

(6) To any organization or program that supports or participates in the management of a program of coercive abortion or involuntary sterilization.

Is this applicable? Please comment.

(b) Voluntary Family Planning Support (FY 2003 Act, Title II, under heading "Development Assistance"): Funds may be made available only to voluntary family planning projects that

(1) Offer, either directly or through referral to, or provide information about access to, a broad range of family planning methods and services. (As a legal matter, Development Assistance only.)

(2) Meet the following requirements:

(a) Service providers do not implement or are not subject to quotas, or targets, of numbers of births, family planning acceptors, or acceptors of a particular form of family planning (quantitative estimates or indicators for planning and budgeting purposes is acceptable);

(b) No payments of incentives, bribes, gratuities, or financial rewards for becoming a family planning acceptor or achieving numerical target or quota;

(c) Do not deny any right or benefit, including right of access to any program of general welfare or right of access to health care, as a consequence of any decision not to accept family planning services;

(d) Provide comprehensible information of the health benefits and risks of method chosen; and

(e) Ensure that experimental drugs and services are provided only in the context of scientific study in which participants are advised of potential risks and benefits.

(3) No applicant should be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning. (As a legal matter, Development Assistance only.)

Is this applicable? Please comment.

c) Certifications for Foreign Organizations (FY 2000 Act Sec. 599D). **[NOTE: NOT Applicable To FY 2003 funds because it was not included in the FY 2003 Act but it still applies to FY 2000 Act funds].** Notwithstanding any other provision of law, population assistance may made available for any foreign private, non-governmental, or multilateral organization until the organization certifies that it will not, during the availability of these funds --

(1) Perform abortions in any foreign country, except where the life of the mother would be endangered, or in cases of rape or incest, or

(2)Violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, or engage in activities or efforts to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited.

The President may waive (1) and (2), but if he does so, the amount of funding for population assistance is reduced by $12.5 million. That amount is to be transferred to the Child Survival and Disease Programs fund for assistance for infant and child health programs that have a direct, measurable, and high impact on reducing the incidence of illness and death among children. The waiver authority is limited to allow the provision of $15 million to organizations that do not certify.

Is this applicable? Please comment.

7. ***International Conferences*** (FY 2003 Act Sec. 541, see Guidance on Funding Foreign Government Delegations to International Conferences, Mandatory Reference to ADS 302, 303, 306, 308, 350, and 522). Development Assistance funds may not be used to pay the costs for participation of another country's delegation at international conferences held under the auspices of multilateral or international organizations.

Is this applicable? Please comment.

8. ***Legislative Action*** (FAA Sec. 611(a)(2)). If the obligation is more than $500,000 and requires legislative action within the recipient country, there must be a basis for a reasonable expectation that such action will be completed in time to permit orderly accomplishment of the purpose of the assistance.

Is this restriction applicable? Please comment.

9. Loans

(a) (FAA Section 122(b)). In making loans, USAID must consider the following:

(1) Information and conclusion on capacity of the country to repay the loan at a reasonable rate of interest.

(2) Does the activity give reasonable promise of assisting long-range plans and programs designed to develop economic resources and increase productive capacities?

(3) If repayable in dollars, the interest rate must be at least 2 percent per annum during a grace period which is not to exceed 10 years, and at least 3 percent per annum thereafter, but no higher than the applicable legal rate of interest of the country in which the loan is being made.

Is this applicable? Please comment.

(b) Productive enterprises competing with U.S. enterprises (FAA Sec. 620(d)). No FAA loan funds may be used for any productive enterprise that will compete with U.S. enterprises, unless

(1) There is an agreement by the recipient country to prevent export for use or consumption in the U.S. of more than 20 percent of the enterprise's annual production during the life of the loan, or

(2) If in the absence of such an agreement, the President has established import controls to effectuate that agreement.

This may also be waived by the President due to national security interest.

Is this restriction applicable? Please comment.

10. ***Military Purposes*** (FAA Sec. 531(e)). Congress has explicitly provided that funds may not be used for military or paramilitary purposes.

Is this restriction applicable? Please comment.

11. ***Nuclear Resources – Export of*** (FY 2003 Act Sec. 506). Assistance may not be used to finance, except for purposes of nuclear safety, the export of nuclear equipment, fuel, or technology.

Is this restriction applicable? Please comment.

12. ***Police and Prisons*** (FAA Sec. 660). Assistance may not be used to provide training, advice, or any financial support for police, prisons, or other law enforcement forces (see exceptions in Sections 660, 119 and 534 of the FAA and 536 and 582 of FY2003 Act).

Is this restriction applicable? Please comment.

13. ***Publicity, Propaganda, and Lobbying*** (FY 2003 Act Sec. 540; Anti-Lobbying Act, 18 U.S.C. § 1913). Assistance may not be used to support or defeat legislation pending before Congress, to influence in any way the outcome of a political election in the United States, or for any publicity or propaganda purposes not authorized by Congress.

Is this applicable? Please comment.

14. ***PVOs -- Funding Sources for U.S. PVOs*** (FY 2003 Act Sec. 501) If assistance is to be made to a United States PVO (other than a cooperative

development organization), it must obtain at least 20 percent of its total annual funding for international activities from sources other than the United States Government. This may be waived in certain circumstances. Check with the Bureau for Humanitarian Response, Office of Private and Voluntary Cooperation (BHR/PVC) to see if the U.S. PVO has met the requirement.

Is this applicable? Please comment.

Part B. Congressional Notifications.

1. ***General Notification*** (FY 2003 Act Sec. 515; FAA Sec. 634A). Obligations must be notified to Congress. This is usually accomplished through the annual Congressional Presentation. It may be subject of a Special Notification, as below. Additionally, a new Congressional Notification must be made 15 days in advance of the obligation if the amount of the obligation has increased 20% from that previously notified.

Is this applicable? Please comment.

2. ***Special Notification*** (FY 2003 Act, "Burma" and Title II headings and Secs. 507, 517, 520, 526, and 558). Special Notifications, 15 days in advance of obligation, are required for the following:

(a) Countries – Burma, Colombia, Democratic Republic of Congo, Iraq (ESF) Liberia, Newly Independent States (NIS) countries, Pakistan, Serbia, Sudan, Zimbabwe, Central Government of Lebanon (ESF), Taiwan and fostering democracy in the People's Republic of China.

(b) Other

(1) Account transfer, i.e., obligations under an appropriations account to which the funds were not originally appropriated (FY 2003 Act Sec. 509). Notification is to be made to the House and Senate Appropriations Committees.

(2) Cash transfers or non-project sector assistance (notification should include a discussion of how funds will be used, U.S. interests

served and economic policy reforms to be promoted) (FY 2003 Act Sec. 529).

(3) Construction of productive enterprise, if aggregate value of assistance to be furnished by the U.S. exceeds $100 million (except for productive enterprises in Egypt that were described in the Congressional Presentation) (FAA Sec. 620(k)). (Express approval of Congress required.)

(4) Use of "notwithstanding" authorities for assistance through non-governmental organizations (FY 2003 Act Sec. 537).

(5) Transition initiatives (FY 2003 Act "Transition Initiatives" heading under Title II.) An advance notice of five days is required.

(6) If an amount in excess of $50 million is provided to the Global Fund for AIDS, malaria and tuberculosis, as authorized in title II of the conference report,

(7) Assistance to support democracy, human rights, press freedom, women's development, and the rule of law in countries with significant Muslim populations (FY 2003 Sec. 526)

(8) Plans to wind up activities of an Enterprise Fund must be submitted pursuant to the regular notification procedures,

(9) Assistance to the Central Government of Cambodia for basic education and to support the Government's Ministry of Women and Veteran's Affairs to combat trafficking,

(10) Global Development Secretariat activities (FY 2003 Act "Development Assistance" heading.

(11) Operating Expense funds for purchase or long-term lease of USAID office space. (FY 2003 Act "Operating Expenses" heading.
(12) Military Coup or Decree - assistance despite military coup or decree under provisos of section 508 of FY 2003 Act.

(13) Non-governmental organizations under FY 2003 Act Sec. 537.

Please comment.

3. ***Deobligation/Reobligation*** (FY 2003 Act Sec. 510). If deobligation/reobligation authority is being used, the funds being obligated must be for the same general purpose and for countries within the same region as originally obligated, and the House and Senate Appropriations Committees must be properly notified. (Note: Compare to no-year authority under section 511.)

Is this applicable? Please comment.

4. ***Enterprise Funds – Distribution of Assets*** (FY 2003 Act Sec. 559). Before the distribution of any assets resulting from the liquidation, dissolution, or winding up of an Enterprise Fund, a plan regarding the distribution of those assets must be sent to Committees on Appropriations.

[i] This assistance is known as "foreign humanitarian assistance" in DOD and "international disaster assistance " in USG civilian agencies. *See* chapter VI.B of this Handbook.

There are three military service academies: the United States Military Academy at West Point, NY; the Air Force Academy in Colorado Springs, CO; and the U.S. Naval Academy in Annapolis, MD. In addition, the Coast Guard also has a service academy located in New London, CT.

Adapted from JOINT CHIEFS OF STAFF, JOINT PUBLICATION 3-07.6, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR FOREIGN HUMANITARIAN ASSISTANCE (15 AUGUST 2001) *at* II-6 [hereinafter JOINT PUB 3-07.6].

Adapted from Defend America website *at* http://www.defendamerica.gov/iraq.

Adapted from Defense Link website at http://www.dtic.mil/jcs and DOD Directive 5100.1.
With the creation of NORTHCOM, the former U.S. Space Command was merged into an expanded U.S. Strategic Command, headquartered at Offutt Air Force Base, Neb. U.S. Strategic Command is the command and control center for U.S. strategic forces, i.e., ICBMs, SLBMs and heavy bombers, and controls military space operations, computer network operations, information operations, strategic warning and intelligence assessments as well as global strategic planning. NORTHCOM is responsible for the United States (except Hawaii) and Cuba and the Bahamas.

Until January 1, 2004, the SDDC was known as the Military Traffic Management Command (MTMC). MTMC operates as a single headquarters in two locations. MTMC Ft. Eustis exercises global command and control and MTMC Alexandria maintains all remaining headquarters functions.

For more information *see* the SOCOM website at http://www.socom.mil.

[xi] *See* JOINT CHIEFS OF STAFF, JOINT PUB. 5-00.2, JOINT TASK FORCE PLANNING GUIDANCE AND PROCEDURES ch. 1 (13 January 1999).

Id. para. 4-30.

Id. para. 4-31.

Id. para. 4-32.
See infra, Appendix II-2 for a detailed description of each branch.

USACAPOC(A) is a subordinate command of SOCOM. *See* Section B.3 of this Chapter.

U.S. DEP'T OF ARMY, FIELD MANUAL 101-5, STAFF ORGANIZATION AND OPERATIONS, 2-4, fig. 2-2, (31 May 1997) [hereinafter FM 101-5].
FM 101-5, *supra* note ___, at 2-5, fig. 2-3.

See Chapter IV.C.4 for a more complete discussion of the CMOC.
2004 OPLAW HANDBOOK, *supra* note __, and U.S. DEP'T OF ARMY, FIELD MANUAL 27-100, LEGAL SUPPORT TO OPERATIONS (1 Mar. 2000) [hereinafter FM 27-100].
See supra note ___ and accompanying text.

Judge advocates provide advice on the implementation of the PSYOP campaign. Legal considerations may include the following:

-- United States Citizens. U.S. policy is not to conduct PSYOP toward U.S. citizens, whether they are located within the U.S. or OCONUS. Judge advocates must be particularly cognizant of this policy during disaster relief operations, such as occurred following Hurricane Andrew, where PSYOP units were operating in CONUS.

-- Truth Projection. "PSYOP techniques are used to plan and execute truth projection activities intended to inform foreign groups and populations persuasively." To succeed, PSYOP information cannot be viewed as deceptive. Therefore, PSYOP is not misinformation, but information may be slanted to U.S. perspective to persuade.

-- DOS Supervision. In peacetime, DOS provides the overall direction, coordination, and supervision of overseas activities. DOS may restrict messages, themes, and activities within countries or areas. New missions, projects, or programs must be coordinated with the U.S. Country Team at the U.S. Embassy.

-- Geneva Conventions/Hague Regulations. Judge advocates must carefully review deception plans to ensure that they do not employ "treachery" or "perfidy," which are prohibited acts under the law of war.

-- Treaties in Force. International agreements with host countries may limit the activities of PSYOP units. Judge advocates must carefully review SOFAs and other agreements prior to, and during the course of, deployments.

-- Use of Public Affairs Office (PAO) Channels. PAO channels are open media channels that provide objective reporting. Consequently, they may be used to counter foreign propaganda. PAO and PSYOP staffs generally coordinate their efforts. However, because the PAO must remain credible, information passed through PAO channels MUST NOT propagandize. It must be objective truth.

-- Fiscal Law. PSYOP campaigns may include "giveaways" (e.g., T-shirts with a printed message). The purchase and distribution of "giveaways" requires careful fiscal law analysis.

-- Personnel Issues. Many PSYOP assets are in the Reserve Component. Many PSYOP analysts are DOD civilians who voluntarily deploy to mission areas. Disciplinary, readiness, and law of war issues for RC and civilian personnel involved in PSYOP require the attention and early proactive involvement of judge advocates.

-- Disciplinary Exceptions. PSYOP teams may require exceptions to restrictions often contained in General Orders.
http://http://www.mtmc.army.mil/

Id.

Id.

Id.

See Section B.3 of this Chapter.
Other Air Force missions that could be used in complex contingency operations include:

Combat Search and Rescue (CSAR). CSAR consists of those air operations conducted to recover distressed personnel during wartime or MOOTW. CSAR is a key element in sustaining the morale, cohesion, and fighting capability of friendly forces. It preserves critical combat resources and denies the enemy potential sources of intelligence.

Weather Services. Air Force weather services supply timely and accurate environmental information, including both space environment and atmospheric weather, to commanders for their objectives and plans at the strategic, operational, and tactical levels. Weather services also influence the selection of targets, routes, weapons systems, and delivery tactics, and are a key element of information superiority.

A wing is normally commanded by a Brigadier General (one-star, O-7) or Colonel (O-6). Normally a Colonel (O-6) commands a group.

Normally a Lieutenant Colonel (O-5) commands a squadron.

Bureaus are grouped together in six areas overseen by the Under Secretaries: political affairs (P); global affairs (G); arms control and international security affairs (T); economic, business and agricultural affairs (E); management (M); and public diplomacy and public affairs (R).

22 U.S.C. § 2651a(c) (2002). Assistant Secretaries are either political appointees or SFS officers. Some SES employees may also serve at this level.

These office directors are typically mid-level FSOs. *See* 1 FAM 013.1-4 and 114.1 for a description of the duties of DOS country directors.

Country officers are typically junior-level officers.

Functional office directors are typically mid-level FSOs or GS-15 or SES civil servants.

See 1 FAM 014.2 (Organizational Nomenclature) and 1 FAM 014.3 (Generic Responsibilities) for further detail on the DOS hierarchy and structure.

PM/HDP roles and responsibilities include, *inter alia*:

-- Chairing the Steering Committee of the USG Policy Coordinating Committee Subgroup on Humanitarian Mine Action;

-- Coordinating demining-related matters with the relevant U.S. Embassy throughout the demining effort;

-- Being the DOS focal point for the USG multiyear contract for demining services;

-- Collecting and analyzing information on the type, nature, location and number of landmines and unexploded ordinance within a recipient or potential recipient country, and determine host nation capability to deal with the problem or support international activities designed to assist in the removal of landmines and ordnance;

-- Coordinating between and among U.S. and participating public and private international organizations to maximize use of resources and to avoid duplication;

-- Approving and managing demining funding to support initiatives in mine-affected nations and other demining funds not directed to specific countries, but which do support HD; and

-- Being the U.S. Government's Executive Agent for the Slovenian International Trust Fund for Demining and Mine Victim Assistance.

PM/MAIP roles and responsibilities include, *inter alia*:

-- Developing public-private partnerships and effecting an increase in private sector funding;

-- Initiating and leading diplomatic efforts to promote mine-action initiatives with other governments and public and private international organizations; and

-- Providing and coordinating representation at gatherings focusing on mine detection and clearance technology.

The other key FAS organization that assists in complex contingency operations are the offices under the Deputy Administrator for International Cooperation and Development (ICD). The ICD divisions support long-term agricultural development by, *inter alia*: administering agricultural technical assistance programs sponsored by USAID, World Bank, regional development banks, the UN and private organizations and training foreign agriculturalists. XXX, *available at* http://www fas.usda.gov/icd/food-industries/index.html

DISASTER ASSISTANCE SUPPORT PROGRAM, *at* http://www fs.fed.us/global/aboutus/dasp/welcome htm
XXX, *available at* http://www hhs.gov/oia/intoffice.html.

XXX, *available at* http://www hhs.gov/news/press/2002pres/profile.html

XXX, *available at* http://www hhs.gov/oia/intoffice.html.

XXX, *available at* http://www hhs.gov/oia/intoffice.html.

[xlviii] Health Resources and Services Administration, Strategic Plan FY2000, *at* ftp://ftp hrsa.gov/HRSA/strategicplan.pdf. *See also* http://www hrsa.gov/default.htm.

XXX, *available at* http://www hhs.gov/oia/intoffice.html.

XXX, *available at* http://www.hhs.gov/oia/. The major functions of OIA are, *inter alia*, to:

-- Represent the Secretary and the Department in discussions of international matters with representatives of other USG agencies, foreign governments, international organizations, and the private sector;

-- Provide overall direction and coordination for the international activities carried on by HHS agencies, with particular regard to ensuring conformance with established policies and procedures governing our international involvements; and

-- Work with the DOS and the concerned HHS agencies to develop and clear official U.S. positions and policies for U.S. representation in intergovernmental organizations.

See http://www hhs.gov/oia/aboutoia.html.

YEARBOOK OF INTERNATIONAL ORGANIZATIONS, TYPES OF INTERNATIONAL ORGANIZATIONS, CHAPTER 2, §§ 2.1-2.2. Available at http://www.uia.org/uiadocs/orgtypec htm.

Id. at § 2.1.

Id. at § 2.2.

XXX, *available at* http://www.usaid.gov/our_work/cross-cutting_programs/private_voluntary_cooperation/index html
USAID also supports cooperative development overseas implemented by U.S. cooperative development organizations (CDOs) through its Cooperative Development Organization (CDO) Program, a competitive grants program that responds to the needs of local cooperatives and other group-based businesses by utilizing the expertise and resources of long-established U.S. cooperative organizations, their members, and volunteers. *See* http://www.usaid.gov/our_work/cross-cutting_programs/private_voluntary_cooperation/coop html

See http://www.uia.org/extlinks/pub.php for the UIA's list of international organizations.

Adapted from SITUATION CENTRE, *available at* http://www.un.org/Depts/dpko/dpko/sitcen html.

[264] Adapted from Situation Centre - Functions, *at* http://www.un.org/Depts/dpko/dpko/sitcen/functions html.

HURRICANE MITCH LESSONS LEARNED, *supra* note ___, at 30-31. *See* Chapter VI.B.2 for a discussion of the § 416(b) program.
HURRICANE MITCH LESSONS LEARNED, *supra* note ___, at 31-32.

[lx] HURRICANE MITCH LESSONS LEARNED, *supra* note 267, at 32.

A BRIEF HISTORY OF THE AMERICAN RED CROSS, *at* http://www redcross.org/museum/briefarc html.
Id.

Adapted from A SHORT HISTORY OF OXFAM, *at* http://www.oxfam.org.uk/about_us/history/index.htm

Id.

Its staff claims that Oxfam can dispatch 30 tons of life saving equipment to any airport in the United Kingdom, for shipment to an affected area, within 13 hours of notification. XXX, *available at* http:// http://www.oxfam.org.uk/programme/safe.html.

Reprinted from Joint Pub 3-57, *supra* note ___, Figure IV-1.
Reprinted from Joint Pub 3-57, *supra* note ___, Figure IV-3.

Adapted from JOINT PUB. 3-57, *supra* note ___, at IV-10.

During Operation SUPPORT HOPE in Rwanda, the United Nations deployed an OSOCC, which had essentially the same functions as a CMOC and provided a clearinghouse for transmitting CMOC responsibilities to the United Nations. In Bosnia-Herzegovina, a Civil-Military Cooperation (CIMIC) Center performs basically the same functions as a CMOC. *Id.* at

For a more detailed discussion of the basic fiscal restraints of purpose, time, and amount, *see supra* note ___ and accompanying text.

[lxxi] Congress funds the normal daily operations of the DOD with what are know as "operation and maintenance" (O&M) dollars. *See infra* note 327.

[lxxii] 10 U.S.C. §§ 2341-50 (2000).

Id. §287d-1. As an example, under the authority of the UNPA, the U.S. task force in the Kosovo peacekeeping operation in 1999 provided transportation, security, and facility support for forensics investigators working for the International Criminal Tribunal for the Former Yugoslavia. Interview with Major Alton Gwaltney, former Deputy Command Judge Advocate, Task Force Falcon, in Charlottesville, Va. (13 Feb. 2003).

Adapted from XXX. The lengths of these phases varies. In the 1998 Hurricane Mitch relief effort, e.g., the phase I effort lasted approximately one month, while the phase II and III efforts lasted three and nine months, respectively.
In the 1998 Hurricane Mitch relief effort, this phase lasted approximately three months.

In the 1998 Hurricane Mitch relief effort, this phase lasted approximately nine months.

[lxxvii] For detailed discussions of the basic principles of U.S. fiscal law, fiscal law as it applies to military operations, and the relationship between DOD funding and DOS see 2004 OPLAW HANDBOOK, *supra* note 83, ch. 12.

[lxxviii] Congress funds typical day-to-day military expenses for garrison (base) and deployment (training exercises and real-world missions) operations with what are known as generic "Operation and Maintenance" appropriations. Military commanders may use these generic O&M dollars for all "necessary and incident" operational expenses, such as force protection measures, sustainment costs, and repair of main supply routes. For example, during the initial phases of the Kosovo peace operation, the U.S. military commander used O&M funds to provide 12,000 gallons of much-needed fuel to local farmers and fire departments to help keep the farmers in the fields (rather than fomenting unrest) and to fight a rash of recent arson attacks. The commander argued that the use of generic O&M was appropriate for mission accomplishment—promoting a safe and secure environment—and that any humanitarian benefit was merely incidental. CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN KOSOVO 1999-2001: LESSONS LEARNED FOR JUDGE ADVOCATES 159-60 (15 Dec. 2001) [hereinafter KOSOVO LESSONS LEARNED]. However, because almost any expense can somehow be linked to mission accomplishment, commanders must be wary of abusing the "mission accomplishment" argument, particularly when the expenses begin to look more like another agencies' function, like DOS or USAID development assistance. See Colonel Richard D. Rosen, USA, *Funding Non-Traditional Military Operations: The Alluring Myth of a Presidential Power of the Purse*, 155 MIL. L. REV. 1 (1998).

The statute refers to these funds as "CINC Initiative Funds. The term "CINC" (standing for "commander in chief") was the term used to describe commanders of Combatant Commands until

the Secretary of Defense directed in 2002 that the term be used only in reference to the President as commander in chief of the Armed Forces. The term still remains, however, in the statute. For a discussion of Combatant Commands in general, see *supra* Chapter II.

[lxxxii] For example, approximately eighteen million pounds of privately donated cargo were delivered under the Denton program for the Hurricane Mitch relief effort. HURRICANE MITCH LESSONS LEARNED, *supra* note 267, at 79.

For example, approximately eighteen million pounds of privately donated cargo were delivered under the Denton program for the Hurricane Mitch relief effort. HURRICANE MITCH LESSONS LEARNED, *supra* note __ at 79.

USAID ADS 251.5.3.c.

USAID FY 2003 Summary Budget request, *at* http://www. XXX.

Emergency Wartime Supplemental Appropriations Act, Pub. L. No. XXX, Title XX, Iraq Relief and Reconstruction Fund (200X).

USAID ANNUAL REPORT FY2001 at 9.
See infra text accompanying notes ____.

For a general discussion of the Foreign Assistance Act, *see* Chapter VI of this Handbook.

[xc] For a more detailed discussion of O&M funds, *see supra* note 327.

[xci] Annex to Hague Convention No. IV Embodying the Regulations Respecting the Laws and Customs of War on Land, art. 43 (1907).
See Section B of this Chapter (discussing interagency responsibilities and command and control).

[xciii] For an historical survey of U.S. involvement in NEOs and other small-scale contingencies, see generally MAX BOOT, THE SAVAGE WARS OF PEACE: SMALL WARS AND THE RISE OF AMERICAN POWER (2000).

As of the writing of this book, thirty-one U.S. Marines have deployed to Monrovia, Liberia, to perform reconnaissance for a possible follow-on NEO and/or peacekeeping force. *See* Dan Smithyman, *Rota Marines Deploy to Liberia*, Navy Newsstand, *at* http://http://www news navy mil/searchdisplay.asp? story_id=8432/ (last visited 14 July 2003). As recently as 1996, U.S. Marines evacuated 2,444 people (485 Americans and 1,959 third country nationals) from the American Embassy in Monrovia and a nearby American housing area as part of Operation ASSURED RESPONSE. Beyond Operation ASSURED RESPONSE, the U.S. conducted the following NEOs: Operation EASTERN EXIT, the 1991 evacuation of 300 civilians from Somalia; Operation FIERY VIGIL, the 1991 evacuation of Clark Air Force Base in the Philippines; Operation VICTOR SQUARED, the 1991 evacuation of US nationals from Haiti; Operation SILVER ANVIL, the 1992 evacuation of 438 civilians from Sierra Leone; an evacuation of 96 civilians from Liberia in 1992; Operation DISTANT RUNNER, the 1994 evacuation of 230 civilians from Rwanda; Operation QUICK RESPONSE, the 1996 evacuation of 448 civilians from the Central African Republic; Operation SILVER WAKE, the 1997 evacuation of 900 civilians from Albania; Operation GUARDIAN RETRIEVAL, the 1997 evacuation from the People's Republic of the Congo; Operation NOBLE OBELISK, the 1997 evacuation of 2,510

civilians from Sierra Leone; and the 1998 evacuation of 172 civilians from Eritrea. For a useful compendium of these operations, see Federation of American Scientists, United States Military Operations, *at* http://http://www.fas.org/man/dod-101/ops/#post (last visited 14 July 2003).

For a discussion of safe havens, see *infra* text accompanying notes ___-___.

See supra text accompanying note ___.
For a discussion of the overall organization of the DOD, see *supra* Chapter II.

31 U.S.C. § 1535 (2003). For a discussion of the Economy Act, see *infra* Chapter ___.

DOD DIR. 3025.14, *supra* note ___, at para. (E)(3). For a more detailed discussion of NEO funding arrangements, see *infra* Section ___.
For a discussion of the National Security Council, see *supra* Chapter IV.B.