

MULTINATIONAL LEGAL INTEROPERABILITY



THE JUDGE ADVOCATE GENERAL'S LEGAL CENTER & SCHOOL
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Colonel, U.S. Army
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Preface

The Multinational Legal Interoperability Manual proposes doctrine and practices for judge advocates, commanders, legal administrators, and paralegal Soldiers across the spectrum of conflict. It should be seen and implemented as an addendum to FM 1-04 *Legal Support to Operations*. In the foreseeable future, the United States, U.S. Army, and Judge Advocate General's Corps (JAGC) will face threats that require greater multinational interoperability. This publication will prepare the JAGC for that eventuality. When the time to perform arrives, the time to prepare has passed.

The primary audience for this publication is JAGC personnel that have limited multinational operational experience. The secondary audience for this publication is foreign military personnel conducting multinational operations with the U.S. Army.

The proponent for this publication is the Legal Center, The Judge Advocate General's Legal Center and School (TJAGLCS), U.S. Army. Send written comments and recommendations on DA Form 2028 (*Recommended changes to Publications and Blank Forms*) directly to Commander, The Judge Advocate General's Legal Center and School, U.S. Army, ATTN: CTR-FC, 600 Massie Road, Charlottesville, VA 22903-1781. Send comments and recommendations by e-mail to usarmy.pentagon.hqda-tjaglcs.list.tjaglcsdoctrine@mail.mil. Follow the DA Form 2028 format or submit an electronic DA Form 2028.

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Introduction

This document makes recommendations for the Judge Advocate General's Corps' (JAGC) doctrine for building and maintaining interoperability, defines the concept of interoperability in the context of multi-domain operations, recommends roles and responsibilities relevant to achieving higher levels of interoperability, and proposes a framework for identifying areas where interoperability is relevant.

As the Army continues to train and fight with allies and partners, the JAGC must focus on strengthening alliances and partnerships with legal professionals from other armed forces by focusing on improving interoperability. The objective of interoperability is to ensure the Army is ready to deploy, fight and win as part of a joint and multinational force across the range of military operations (ROMO) and against the full spectrum of threats around the world.

Background:

The 2018 National Defense Strategy and subsequent Army Strategy and Vision reoriented the Army to build a force by 2028 capable of deploying, fighting and winning across multiple domains as part of a Combined Force in high-intensity warfighting to deter conflict and compete against great powers and regional actors.

How Interoperability Contributes to the Army Strategy:

Combined Forces face a rapidly evolving, multi-domain operating environment in which highly adaptive and innovative adversaries create resilient formations, forces, and systems to achieve their strategic objectives. Adversaries employ means to achieve their strategic ends over time to avoid reaching the perceived threshold of armed conflict and aim to negate the traditional deterrence of the Combined Force. In this context, the JAGC must work in common cause with our allies and partners to organize, train, and facilitate the employment of capabilities and methods across domains, environments, and functions to contest and compete with our adversaries in competition below armed conflict and, when required, defeat them in large scale high intensity armed conflict. The personnel and capabilities that allies and partners provide are critical to the success of any such mission and act as a military force multiplier to enable mission success of the Combined Force.

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Chapter 1

Framework

This chapter proposes JAGC interoperability doctrine and roles relative to multinational interoperability.

PROPOSED DOCTRINE

- 1-1. The aim of this proposed doctrine is to develop interoperability in order to enhance readiness in support of U.S. national defense and strategic priorities, including operating effectively with allies and partners across the full range of military operations (ROMO). Leaders must routinely consider and support interoperability activities and interoperability objectives in order to improve levels of interoperability with key allies and partners.
- 1-2. Efforts to establish interoperability with a particular partner will depend on the Army-partner relationship; combatant command and Army Service Component Command (ASCC) interoperability objectives; the type of operations the United States is likely to conduct with the partner; and the partner's capability, willingness, and ambition for interoperability with the U.S. Army.
- 1-3. In the current dynamic operating environment, U.S. forces may have only days to integrate with allies. Therefore, interoperability must become a fundamental condition of how the JAGC plans, trains and operates. The JAGC must be able to leverage total Army, ally, and partner capabilities in ways that support U.S., alliance, and partnership objectives.
- 1-4. The foundation of interoperability is broad, spanning all Army Warfighting Functions (WfF), with human, procedural, and technical domains. The most impactful way to achieve interoperability is by establishing relationships with the legal personnel of our allies and partners as early as possible. Interoperability can often be associated with technical issues. However, because the JAGC relies more on its people and processes than on equipment or hardware, this document focuses on the human and procedural dimensions of interoperability. The human dimension builds the basis of the mutual understanding and respect that is fundamental to unity of effort and operational success. The procedural dimension ensures that the JAGC achieves sufficient harmony in policies and doctrine that will enable it to operate effectively with allies.

LEVELS OF LEGAL INTEROPERABILITY

- 1-5. To standardize interoperability planning, the Army recognizes four levels of interoperability with allies. These standard levels are adapted in the legal context as follows:

Level 0 – Not Legally Interoperable: The ally or partner has no demonstrated legal interoperability. The legal personnel of allies and partners operate independently from U.S. Army legal personnel, formations, and operations and do not have knowledge of the legal or policy issues of their allies or partners.

Level 1 – Legally Deconflicted: The ally or partner has very limited demonstrated legal interoperability. U.S. Army legal personnel and legal personnel of allies and partners do not interact. Requires alignment of legal capabilities and procedures to establish operational norms, enabling allies, partners, and the Army to complement each other's operations.

Level 2 – Legally Compatible: The ally or partner has some demonstrated legal interoperability. U.S. Army legal personnel and legal personnel of allies and partners are able to interact with each other and are trained on the legal regimes and operational freedoms and constraints of allied and partner nations, incorporating them into their own policies and procedures, and are able to operate in the same geographic area in pursuit of a common goal. Nations at this level however are unable to utilize interoperable personnel within their own TASKORG.

Level 3 – Legally Integrated: The ally or partner has substantially complete legal interoperability. Allies and partners are able to integrate into the TASKORG upon arrival into theater and are knowledgeable on the legal regimes and operational freedoms and constraints of other allies and partners, incorporate them into their own policies and procedures, and regularly and seamlessly exchange legally relevant information (security classification permitting) and legal personnel between their formations.

ROLE OF THE LEGAL ADVISOR (LEGAD)

- 1-6. While the U.S. refers to its uniformed attorneys as judge advocates, many partner nations refer to their attorneys as legal advisors, or LEGADs. U.S. judge advocates usually have very close relationships with their commanders and generally enjoy unrestricted access. This relationship is usually broader and more open than any other staff officer. The relationship between a LEGAD and their commander may be very different in foreign

formations. Some allies view their LEGADs as a resource that commanders use only when necessary. This results in a much more reactionary posture utilizing the LEGAD only when summoned or engaged by the commander. It is important to understand the varying ways the legal advisor/commander relationships manifest themselves in our allied and partner formations to prevent friction resulting from a lack of shared understanding.

TRAINING AND EDUCATION

- 1-7. *Education* is structured process to impart knowledge through teaching and learning to enable or enhance an individual's ability to perform in unknown situations. Instruction with increased knowledge, skill, and/or experience is the desired outcome for the student. This is in contrast to training, where a task or performance basis is utilized and specific conditions and standards are imposed to assess individual and unit proficiency (AR 350-1).
- 1-8. *Training* is structured process designed to increase the capability of individuals or units to perform specified tasks or skills in known situations. The process of providing for and making available to an employee, and placing or enrolling the employee in a planned, prepared, and coordinated program, course, curriculum, subject system, or routine of instruction or education, in scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, or other fields that will improve individual and organizational performance and assist in achieving the agency's mission and performance goals (See DoDI 1400.25-V410; TRADOC Regulation 350-1).
- 1-9. The JAGC must be prepared to train, deploy and operate with allies in every situation. In order to prepare units and leaders, home station and CTC events will test units' abilities to operate with allies. Before deployment, command post exercise simulations enhance training and problem solving in the command structure. Importantly, these exercises are an opportunity to build the relationships necessary for achieving interoperability. Training continues upon arrival in the area of operations, based on specific requirements and functions. Training also advertises capabilities and serve as a deterrent to our adversaries. SJAs should affect maximum participation in training activities and exercises in order to reach and train as many legal personnel as practicable.
- 1-10. Achieving interoperability at the integrated level (level 3) happens by fully integrating allies and partners within a legal team—even if this means a heavy “front end” investment in time and resources for training and education. Integration staff training should deliberately include key command billets and a detailed consideration of the relevant laws and policies of allies and partners which impact upon mission success.

- 1-11. One cannot overstate the value of training assistance and dedicated liaison teams. This is particularly true between more digitally and technologically reliant forces and those that work more with analog means.

LEADERS

- 1-12. Ensure all interoperable personnel participate in their host formation training events.
- 1-13. Provide training to interoperable personnel that receive equipment from allies.
- 1-14. Evaluate training opportunities offered by each ally in order to gain experience with that ally and that ally's legal regimes, procedures, and systems.
- 1-15. Take every opportunity during training to establish relationships.
- 1-16. Legal leaders shall coordinate all interoperable training opportunities with the Center for Law and Military Operations (CLAMO) at The Judge Advocate General's Legal Center and School (TJAGLCS) to capture lessons learned for dissemination to the field and to upcoming interoperability activities.

LIMITATIONS

- 1-17. 10 U.S.C. §311 authorizes SECDEF to enter into exchange programs with an ally or other friendly foreign nation, but limits allied personnel from performing all functions and positions. AR 614-10 restricts exchange personnel from positions exercising responsibilities reserved by law or regulation to an officer or employee of the U.S. Government or to perform duties reserved for U.S. personnel. AR 614-10 further restricts exchange personnel from exercising disciplinary powers or taking personnel actions of a disciplinary nature. §311 does, however, allow these personnel to exercise general supervisory functions. Therefore, legal offices can fully integrate exchange personnel into supervisory positions so long as Congress has not reserved that position nor the functions for U.S. personnel.
- 1-18. Exchange personnel in U.S. formations will also need to be familiar with and comply with U.S. rules of professional responsibility. Exchange personnel in foreign formations will need to know and adhere to any rules of Professional Responsibility required by that nation.

LEGAL DOMAINS OF INTEROPERABILITY

- 1-19. The *Legal Human Dimension* addresses human-based activities (e.g., undertakings, behaviors, actions, and pursuits) that develop, and/or support shared understanding and

mutual trust with the ally, which is fundamental to developing purpose, unity of effort, and reducing ‘friction’.

- 1-20. Human interaction can help bridge capability gaps from procedural and technical domains to achieve a deconflicted status. To achieve exceptional compatibility and integration requires a large investment of competent liaison and essential mission command equipment.
- 1-21. The leader preparation needed to assimilate personnel from different countries into an effective team is paramount. The leadership approach that all leaders take in a multinational formation will determine how effective the formation will be at achieving lawful mission accomplishment. Leaders must spend the time to build relationships and trust, both within but also outside of the organization, as well as developing a common understanding throughout the formation. Receiving new teammates, fostering dialogue about unit capabilities and limitations, and leading more graduate-level discussions on ‘how we fight’ are critical to team cohesion in a multinational environment. Though stated explicitly here, the necessity to create and foster relationships early and often applies throughout every aspect of this proposal.
- 1-22. Cultural factors play a significant role in the human dimension of interoperability. Successful operations with allies and partners stem from the ability to understand each other on a personal and professional level. The leadership focus is the foundation of successful multinational operations. Leaders need to focus on the political objectives, mission, patience, sensitivity to the needs of other force members, a willingness to compromise or come to a consensus when necessary, thereby building mutual confidence. This mutual confidence stems from tangible considerations and intangible human factors. Tangible considerations include things such as liaisons, culture, religion, custom, and language. The intangible considerations that guide the actions of all participants, especially the senior commander, include rapport, respect, knowledge of partners, team building, patience, and trust.
- 1-23. Communication builds trust and is key to understanding the intangibles between multinational militaries. In order to prevent conflict, leaders must communicate regularly, gain the trust of their subordinates, and work to mitigate operational friction.
- 1-24. Communication becomes even more imperative in circumstances where there is a history of distrust, disrespect, competition, or even conflict. Frequent and transparent communication can build or repair relations to foster an effective fighting force.
- 1-25. Leaders successfully communicate by:
 - Establishing recurring standardized training with allies in the live, constructive, and virtual environments.

- Using trained liaison and exchange officers.
- Conducting leader education (e.g., knowledge of alliance relationships, cultures, customs, and language).
- Creating and enforcing a ‘need to share’ rather than ‘need to know’ information exchange environment, subject to information sharing authorities and national caveats.
- Leveraging common terms and lexicon.
- Establishing collaboration methods and means, and routinely conducting collaboration with allies.
- Cultivating an ability to see yourself and each other through an ally’s after action review (AAR) process.

LEGAL PROCEDURAL DIMENSION

1-26. The procedural dimension of interoperability addresses processes and procedures that support and organize activities among allies to minimize confusion, misunderstandings, and hesitation. It builds on trust, purpose, and unity of effort. Examples include—

- Standardized common alliance training and drills.
- Developing and using common standard operating procedures (SOPs).
- Common doctrine, terms, and graphics (e.g., military decision-making process (MDMP), orders process, targeting process).
- Methods and means of common collaboration.
- Leader education in standard agreements and impact of ally’s and partner’s national interests.
- Rapid development, promulgation, and training of tactics, techniques, and procedures (TTP).
- Developing and using classification guides and the write-for-release processes.
- Developing and using the coalition network joining, membership, and exiting instructions (JMEI).

- Safeguarding Secret//Releasable information (or mission secret information)

LEGAL TECHNICAL DOMAIN

1-27. The legal technical domain addresses the establishment, operation, and maintenance of the legal network hardware, services, and applications that support the exchange of data and information between allies. Examples include—

- Using the synthetic/virtual training environment.
- Establishing information management/knowledge management and software/hardware (e.g., All Partners Access Network (APAN)¹, SharePoint, Military Justice Online, CIS).
- Establishing network common services (i.e., email, web services, chat, voice over internet protocol, video teleconference over internet protocol, common operating picture, and intelligence, surveillance, and reconnaissance full motion video).
- Exchanging information between allies using secure tactical voice.
- Friendly force tracking.
- Establishing alliance agreed-to statement of requirements to guide national command and control acquisition.
- Automated language translation.
- Establishing cross-domain services.
- Establishing gateways (when necessary) between alliance communications information systems to facilitate translation and exchange of operational information

¹ [APAN - All Partners Access Network](http://www.apan.org): www.apan.org.

Chapter 2

Responsibilities related to Doctrine, Education, and Training

This chapter describes the JAGC leadership offices and resources in order to facilitate communication and coordination for JAGC interoperable partners.

LEADERSHIP

- 2-1. For the JAGC to implement the Army's strategic vision of achieving interoperability, leaders at all levels may wish to embrace and implement all aspects of this proposed doctrine. Although the presence of foreign personnel within our organization is not a recent phenomenon, the frequency and magnitude of this presence and practice is likely to increase with time. Interoperability requires that we are able to function smoothly and without transition regardless of the phase of conflict. Minimizing the time it takes for U.S. Forces to be fully integrated with our allies requires the early establishing of relationships, committed adoption of doctrine, regular training and engagement, and the establishment of seamless processes and shared understanding.

JAGC LEADERSHIP OFFICES & RESOURCES

- 2-2. Office of the Judge Advocate General (OTJAG) – National Security Law Division (NSLD). OTJAG – NSLD is the proponent for legal interoperable personnel activities on behalf of the JAGC and acts as the liaison with the Deputy Chief of Staff G-3/5/7 and Assistant Secretary of the Army on such matters. OTJAG – NSLD is responsible for tracking and coordinating all legal interoperable personnel billets, movement, and resourcing. OTJAG – NSLD coordinates interoperable positions, their justifications, and approvals with the Army Service Combatant Commands (ASCC) Offices of the Staff Judge Advocate (OSJA), Army Commands (ACOM) OSJA, and any other relevant stakeholders.
- 2-3. The Judge Advocate General's Legal Center and School (TJAGLCS) – National Security Law Academic Department (ADN). TJAGLCS- ADN is responsible for providing training and development on interoperability and the inclusion of this training into professional military education and short courses.
- 2-4. TJAGLCS – Center for Law and Military Operations (CLAMO). CLAMO is the repository for all lessons learned from the JALS community and tracks all interoperability activities. CLAMO coordinates with the Joint Lessons Learned

Information System and the Center for Army Lessons Learned regarding all lessons learned. CLAMO ensures all lessons learned from interoperability activities are disseminated institutionally to inform doctrine, education, and training development as well as to the field to improve future interoperability activities.

- 2-5. ASCC – OSJA. The ASCC OSJAs are responsible for understanding the interoperability priorities of their command as well as their respective Combatant Command and determining how that translates into legal interoperability priorities, and coordinating those legal interoperability priorities with OTJAG and TJAGLCS to ensure the JAGC is adequately supporting at the institutional level.

The ASCC routinely serves as the Combined Joint Force Land Component Command (CJFLCC) for major exercises (and operations) occurring in the area of operations. ASCC OSJAs are responsible for identifying participating multinational forces' legal advisors with whom to engage for the purpose of developing and improving legal interoperability in preparation for operations.

When exercises occurring at one the Combat Training Centers (CTCs) include multinational forces, ASCCs OSJA should assume responsibility for facilitating exchanges of information between legal advisors of the participating forces to further legal interoperability during the exercise.

- 2-6. ACOM OSJA. ACOM OSJAs are responsible for coordinating interoperable personnel positions through the exchange program and coordinates with ASCC OSJAs, OTJAG-NSLD, and any other relevant stakeholders to ensure interoperable personnel are utilized to the maximum extent practicable and allowed by law and regulation. ACOM OSJAs will ensure associated resource requirements are included in their ACOM program objective memorandums and budget submissions. ACOM OSJAs will forward all lessons learned to and coordinate all interoperable activities with CLAMO.

- 2-7. Corps/Division OSJA. During multinational coalition exercises, Corps and Division Staff Judge Advocates (SJA) are responsible for understanding their command's interoperability priorities, identifying legal challenges to that interoperability, and informing the operations planning process.

Corps and Division OSJAs should implement a robust training plan leading up to exercises and operations, ideally with participation from participating ally and partner legal advisors, to identify and solve legal challenges to interoperability. Corps and Division OSJAs should coordinate early and often with CLAMO in preparation for and execution of multinational exercises and operations to take advantage of available resources as well as to capture lessons learned.

- 2-8. Brigade Legal Section. Combat Training Center rotations are increasingly multinational in nature. Brigade Judge Advocates (BJA) are responsible for understanding their command's interoperability priorities, identifying legal challenges to that interoperability, and informing the operations planning process. BJAs should proactively seek to engage and exchange information with a legal advisor of the participating ally or partner forces to further legal interoperability and inform the operations planning process.

When participating in a larger exercise or operations where the brigade is under the tactical command (TACOM) of an ally or partner higher headquarters, the BJA must understand the potential legal interoperability challenges across the WfFs to identify solutions and inform the operations planning process.

BJAs should coordinate early and often with CLAMO in preparation for and execution of multinational exercises and operations to both take advantage of available resources as well as to capture lessons learned.

- 2-9. JALS Personnel. Every JALS community member is individually responsible for ensuring all U.S. interoperable personnel are fully supported to the extent possible while in foreign formations and that foreign interoperable personnel in U.S. formations feel like they are part of our team, welcome, and supported.

- 2-10. Mission Command Training Program—MCTOP and Combat Training Centers (CTC). MCTP and CTC legal planners and Observer Coach/Trainers (OC/Ts) should work with their respective planning teams to ensure training exercise operations orders (OPORDs) and scenarios account for ally and partner participants and seek to incorporate legal interoperability. For example, if the exercise scenario is a NATO operation, attention should be given to utilize NATO authorities and terminology throughout the OPORD and subsequent FRAGOs. Additionally, the exercise should include events that trigger challenges to legal interoperability such as ability to act in national self-defense, the use of certain munitions and captured persons transfers.

MCTP and CTC legal planners and OC/Ts should engage and collaborate with the ASCC OSJA as required to facilitate information exchanges between the exercise's participating legal advisors (U.S., ally, and partner) prior commencement of the exercise.

Chapter 3

Establishing Legal Interoperability

This chapter is organized by Warfighting Functions and the relevant JAGC collective tasks with legal functions identified. This framework is not an exhaustive list, but identifies areas where legal issues relevant to establishing interoperability may arise.

MOVEMENT AND MANEUVER

LEGAL SUPPORT TO DEPLOYMENT ACTIVITIES

- 3-1. Planning and Pre-mobilization phase: In this phase, interoperable personnel must thoroughly understand the contingency plans or concepts of the operation and the applicable international law, NATO policies, and national laws. Success requires the early identification of personnel to participate in the exchange process, immediate integration at the earliest stages of the interoperability activity, and full integration into the legal team. Legal advisers should consider Memorandums of Understanding (MOU) or Technical Arrangements (TA) during this phase to address potential sources of legal friction including but not limited to ISR, intelligence collection, self-defense, detention, combined investigations, and criminal jurisdiction. Additionally, the resulting MOU or TA should identify whether any allied ROE applies to U.S. formations and what the enforcement mechanism is. Legal practitioners need to be aware of their commanders' authorities in this area and their ability to enforce that authority.
- 3-2. Mobilization and Pre-deployment phase: During this phase, establishing liaison and briefing deploying personnel are the principal tasks.

TRAIN ROE, RULES FOR THE USE OF FORCE, LAW OF ARMED CONFLICT, AND CODE OF CONDUCT

- 3-3. Interoperable personnel need to know the Rules of Engagement (ROE), Law of Armed Conflict (LOAC), and Code of Conduct, from the U.S. and the ally's perspectives. Interoperable personnel may also need to train others and advise on the ROE, LOAC, and the Code of Conduct for both. Interoperable personnel will also need to be aware of all relevant ally's domestic law, national security policy, and operational concerns. Leaders must understand this area of practice will easily be the most research and training

intensive for legal practitioners and plan in detail prior to the exercise or deployment in order to identify issues of understanding or any potential impact on operations.

- 3-4. Interoperable personnel will need to know and be able to reference their ally's national caveats regarding force protection for host nation and coalition forces and whether national caveats impose limitations on force protection measures. Refer to Annex 1 for resources regarding this as well as the NATO ROE, MC 362/2.
- 3-5. International Human Rights Law versus LOAC – International Human Rights Law (IHRL) focuses on a state's obligation to protect the "inherent dignity" and "inalienable rights" of individual human beings. In contrast to most international law, IHRL recognizes rights based on an individual's personhood rather than on one's status as a citizen or subject of a State that is party to a particular treaty. International human rights law seeks to protect the individual when subject to an abuse of power by a State and imposes obligations to protect the rights of the individual. Interoperable personnel must understand that allies may adhere to IHRL in certain circumstances based on their interpretation of international law or their nation's treaty obligations and must understand the impact that may have on operations.
- 3-6. Interoperable personnel should realize that some aspects of international law, such as prohibitions on the use of certain weapons, may impose legal constraints on their allies and partners regardless of the phase of conflict. The humanitarian principles of LOAC may apply as a matter of national policy, even when not applicable as a matter of law. IHRL is also relevant; in particular, treaty and customary international law prohibitions - such as those relating to torture, cruel, inhuman and degrading treatment or punishment, and deprivation of other fundamental human rights. The extent to which IHRL applies to a given operation is likely to be an area of contention and each nation must adhere to the requirement of their own laws while clearly communicating how such adherence will impact upon operations.
- 3-7. Certain aspects of LOAC, such as those that are customary law, may bind an ally even if that state has not signed a treaty.
- 3-8. Not all allies will be party to the same treaties, international agreements, and arrangements. Even those allies who are parties to the same treaties, international agreements, and arrangements may have made reservations or declarations of understanding affecting their individual obligations. Not all allies will have the same understanding of customary international law. Differing national perspectives can create marked disparities between what allies and partners can or cannot do.
- 3-9. The success of any interoperable operation does not only depend on the accurate and timely application of combat power, but also on the degree of domestic and international support for the operation. As a result, the planning process must establish the legal (and

moral) basis for the alliance's presence in the host nation, its mandate, the privileges and immunities of any civilians. Therefore, interoperable personnel must invest early in all planning processes that touch on these aspects in order to ensure lawful mission accomplishment.

COMMAND AND CONTROL

- 3-10. Leadership that ensures a strong link with their interoperable personnel will generate esprit de corps and maintain communication and liaison in ways that enhance interoperability. Regular communications between leaders and their subordinates during interoperability activities effectively creates liaison and provides timely updates.
- 3-11. Interoperable personnel must be aware of all command requirements, such as commander's intent, planning guidance, critical information requirements, and essential elements of friendly information.
- 3-12. U.S. Forces are heavily reliant on technology. Some allies will be equally comfortable with this level of technological reliance, some less so. When U.S. forces are in the formations of the latter, they need to become familiar with those analogue processes. Additionally, non-U.S. interoperable personnel in U.S. formations will likely need time, resources, and support to become comfortable with U.S. processes and technology.
- 3-13. Working with systems works best when everyone's systems are the same. This refers to both computer and software, but also reporting procedures, SOPs, etc. Though organizations like ABCANZ and NATO actively work to create uniform standards across their membership, leaders need to proactively identify those elements of their practice that are not uniform. Leaders need to think critically about what training to provide to assigned interoperable personnel to ensure standardization of processes and understanding of procedural applications.

PROVIDING LEGAL ADVICE IN DEVELOPMENT AND APPLICATION OF THE RULES OF ENGAGEMENT

- 3-14. Interoperable personnel need to be aware of all relevant treaties, and international agreements to which allies are signatories or parties. Further, although allies and partners may be signatories and parties to the same agreements, at times allies and partners will differ in how these agreements apply. Therefore, it is incumbent upon personnel to engage with allies and partners in order to understand national caveats and interpretations to ensure common understanding.
- 3-15. Though likely to be a participant in ROE development and the targeting process, allies have their own unique applications, considerations, and restrictions relating to chemical,

biological, radiological and nuclear (CBRN) functions. Make sure to disseminate any doctrine guidance regarding CBRN targeting, policies, and ROE, including riot control agents.

- 3-16. Another consideration is what the counter-proliferation posture of the ally is within the operational environment. Allies may have national caveats and domestic law restricting the targeting and use of influence activities. Constraints may similarly exist for the conduct of electronic warfare (EW) and the use of EW systems.

PROVIDE LEGAL SUPPORT TO COMMAND DISCIPLINE

- 3-17. Unless there is a legally binding agreement to the contrary, allies and partners will likely withhold military jurisdiction to prosecute and take disciplinary measures against their own personnel. Understanding how allies and partners handle disciplinary issues is critical to understanding the impact such matters can have on operations. Therefore, legal personnel should understand the relevant policies. In a multinational context, it is imperative legal advisers be competent in advising multinational commanders and staff on such issues so as to mitigate any risk to mission.

PROVIDE LEGAL SUPPORT TO ADMINISTRATIVE INVESTIGATIONS

- 3-18. Higher levels of interoperability may result in more investigations involving multiple alliance personnel and resources. Those responsible for investigations must balance ally and partner equities, authorities, and interests of these investigations so each can achieve what is required of the investigation. Legal practitioners should identify what rights an ally or partner recognizes during an investigation and what steps are in place to protect those rights.
- 3-19. U.S. forces should foster a culture that expects and anticipates that investigations conducted under U.S. authority will be releasable to the fullest extent possible to any ally or partner that may have an interest in the investigation's outcomes.

PROVIDE MILITARY JUSTICE SUPPORT

- 3-20. As mentioned previously, jurisdiction will likely be based on the national laws of the country sending the troops. Status of Forces Agreements for stability tasks may grant exclusion of host state jurisdiction and provide a legal framework for the strictly international and neutral status of the multinational forces. More generally, all units and individuals remain subject to their own nation's ROE and domestic laws even when embedded in another ally's headquarters. Leaders should work to establish a cross reference matrix of alliance members' legal restrictions or limitations to mitigate the occurrence of misconduct by a mistaken belief as to this. It is worth considering the benefits of establishing a military discipline reporting system.

IDENTIFY, REPORT, AND TRACK LEGALLY SIGNIFICANT INCIDENTS

- 3-20. Different commands will have different information needs and reporting requirements. To facilitate trust between allies and the U.S., it will be necessary to be aware of what these are and be able to relay all necessary information that would be relevant to allies and partners. Commands, knowing they are able to identify report and track legally significant incidents even during interoperable operations, increases trust and confidence between allies and partners.

PROVIDE LEGAL ADVICE ON NON-UNIFORMED PERSONNEL SUPPORTING MILITARY OPERATIONS

- 3-21. Interoperable personnel will need to be aware of any ally policies on the following:
1. Arming civilians that accompany ally forces;
 2. Equipping civilians such as interpreters, war correspondents, and contractors with military uniforms and identification cards;
 3. Jurisdiction over civilian contractors for discipline and command and control deployed in support;
 4. Limitations on hiring locally employed civilians; and
 5. Instructing non-military personnel accompanying allies as to their rights, duties, and obligations under LOAC.

ADMINISTER DEPLOYMENT CLAIMS AND SOLATIA

- 3-22. Interoperable allies and partners will likely have their own claims systems, and possibly even Solatia, payment programs. While these programs may be similar to the U.S. programs, there are likely to be differences interoperable personnel must understand in order to prevent unauthorized or wasteful payments. More importantly, interoperable personnel must understand which nation's program is responsible for paying claim or Solatia in a particular case. Allied forces should establish early which nation will pay a claim if their personnel are responsible for causing it.
- 3-23. Practically speaking, claims and Solatia payments, provided in a timely manner can have a pacifying effect on what otherwise might become a hostile populace. As a result, the system that can most efficiently process the claim or Solatia payment should generally be the responsible system.

FIRES

- 3-24. Interoperable personnel must recognize that to be successful they must establish relationships early and often, both inside and outside the legal community and chain of command. For example, interoperable personnel should seek out those in the fires cell (or ally equivalent) early and make every effort to build trust and respect so that, when an issue arises, there is already a relationship on which to base that necessary trust, making legal advice more readily received from the advisor.

PROVIDE LEGAL SUPPORT TO TARGET PLANNING AND TARGETING WORKING GROUP

- 3-25. U.S. forces and allies will have varying degrees of divergent areas of interest and the pursuit of them. Differences in procedures cannot result in slowing or diminishing the gains anticipated by achieving interoperability. Instead, processes should mirror each other and transfer between units as fluidly as possible. Example: Having different targeting processes for lethal and non-lethal targeting is likely to be inconsistent across all allies. Early and regular training with allies and exchanges of personnel will identify these differences ahead of needing them in a non-training environment.

PROVIDE LEGAL ADVICE TO THE COMMAND ON PROTECTED PERSONS AND PLACES

- 3-26. Allies and partners are likely not parties to the same or all treaties, international agreements, or other obligations as the U.S. or may have unique caveats, reservations, or interpretations. As a result, each ally's legal obligations and structure will be different with respect to protected persons and places. It is necessary to understand U.S. and allied legal requirements in this area, when they are the same and when they diverge.

PROTECTION

PROVIDE LEGAL SUPPORT RELATING TO DETENTION OPERATIONS

- 3-27. Interoperable personnel must be knowledgeable of all ally's and partner's legal requirements and policies for detention operations. Providing the greatest protections and safeguards for detained persons helps ensure the legal legitimacy of an operation, both domestically and internationally. This is a likely area of practice where our allies and partners will rely on IHRL.
- 3-28. Interoperable personnel need to be aware of any national caveats with regard to exchanges and transfers of prisoners of war and detainees, or regarding the use of forces to guard prisoners of war and detainees (captured persons) in coordination with forces from other nations. There are likely to be national caveats that apply to the operation of

the detention facilities themselves as well as questioning or the exchange of information with regard to prisoners of war and detainees.

- 3-29. Non-Western allies and partners may prescribe to a different philosophy of intelligence gathering and interrogation techniques than does the U.S. or western allies and partners. The impact to the mission and possible fallout from a different standard of care utilized by allies require interoperable personnel to remain vigilant and proactive in identifying these divergent standards (Detainee Treatment Act of 2005 (DTA of 2005) (part of the 2006 Department of Defense Appropriations Act, Pub. Law No. 109-163 and PL 109-148)).

SUSTAINMENT

PROVIDE CONTRACT AND FISCAL LAW SUPPORT TO SUSTAINMENT ACTIVITIES

- 3-30. Some allies and partners have differing levels of fiscal restrictions that U.S. forces. Therefore, having an understanding on how those legal organizations view fiscal law can help legal personnel be more interoperable.
- 3-31. U.S. fiscal laws make it highly likely U.S. personnel would need to finalize any obligation of U.S. funds. Foreign interoperable legal personnel could still work on projects that would obligate U.S. funds. As a result, interoperable personnel will need to understand the fundamental fiscal and contract legal regimes allies have in place. Some allies may be highly restrictive and withhold authorities to a very high level. Others may delegate those same authorities to a much greater degree. Similarly, the sources of funding may vary widely and be based on an activity, timeframe, geographical location, or some other metric.
- 3-32. There is no exception to U.S. fiscal law restrictions in an OCONUS environment. Allies may have different fiscal regimes. Grasping an ally's domestic laws and policies in this area should also include understanding how they may be different when outside that ally's borders.

PROVIDE LEGAL SUPPORT TO OPERATIONAL CONTRACTING

- 3-33. Interoperability will often result in contracting that benefits interoperable personnel, not just U.S. personnel. One tenet of fiscal law and policy is that, generally, U.S. funding does not provide a benefit to a non-U.S. entity. However, this is a complex area and needs particular focus in order to ensure that the relevant law and policy is appropriately applied and that any exemptions and specific authorizations are considered. Notwithstanding, interoperable legal personnel must be cognizant that simply having foreign service members in one's formation does not remove these restrictions. When

considering operational contracting, first determine who benefits from the funding. Identifying who benefits will also help to identify and analyze what funding authorities exist. Similarly, U.S. interoperable legal personnel in an ally's ranks must be aware that as they operate in a foreign formation, there may be similar considerations imposed on them.

- 3-34. Only those with statutory authority may obligate U.S. funds. Statutes and regulations specifically identify these positions or they are the result of a deliberate appointment, require specialized training, and possibly certifications or credentials. Because of this and the limitations imposed by 10 U.S.C. § 311 and AR 614-10, one should assume there will always be a requirement for U.S. personnel to conduct this activity. However, as the interoperability mission evolves, interoperable personnel may become more involved in process operational contracting matters.
- 3-35. Interoperability will also result in the U.S. and allies splitting funding. Though cost sharing is one of the anticipated benefits of achieving greater degrees of interoperability, fiscal law restrictions would still apply.

INTELLIGENCE

PROVIDE LEGAL SUPPORT TO INTELLIGENCE ACTIVITIES

- 3-36. Allies may have restrictions with respect to collecting intelligence on their own citizens even outside that ally's geographical borders, similar to U.S. restrictions on collecting intelligence on U.S. personnel. As a result, allies may restrict their personnel from sharing collected information, if it does not comply with that ally's collection procedures, limitations, and requirements. This may equally apply not only to retention and dissemination, but also special collection techniques:
- Electronic surveillance
 - Concealed monitoring
 - Physical searches
 - Searches and examinations of mail
 - Physical surveillance
 - Undisclosed participation in organizations
- 3-37. Interoperable personnel must be aware of each ally's restrictions regarding intelligence collection, storage, and dissemination.
- 3-38. Intelligence Oversight- Intelligence oversight officers in an intelligence unit may require legal personnel to advise them. Executive Order 12333, the Intelligence Oversight Act (50 U.S.C. § 413), DoDM 5240.01, DoDD 5148.13, and AR 381-10 provide the proper statutory, Presidential directive, or regulatory guidance regarding intelligence oversight,

to include detailed requirements for reporting violations of intelligence procedures. Due to the sensitive nature of this area of practice, it is unlikely an ally's personnel would be involved.

PROVIDE ADVICE AND ADMINISTER THE DOD ETHICS PROGRAM AT THE UNIT LEVEL

- 3-39. Increased interoperability between U.S. Forces and foreign militaries may result in the increased transfer or desire to give gifts to partner nation representatives. Keep in mind the JER and gift giving/acceptance requirements when gift exchange may occur.

PROVIDE ENVIRONMENTAL LAW SUPPORT TO OPERATIONS

- 3-40. Interoperable forces need to understand environmental constraints during operations. These could arise due to treaty obligations (such as the Basel Convention), host nation requirements, or an allies or partner's own environmental legislation. Military materiel restrictions by one or more ally or partner or the host nation may also limit the method (such as the use of depleted uranium rounds) by which forces conduct operations. Additionally, leaders must consider host nation cultural and historical sensitivities as a factor in the operational planning sequence.

MISCELLANEOUS

- 3-41. Cyberspace and Electromagnetic Activities (CEMA) – The process of planning, integrating, and synchronizing cyberspace and electronic warfare operations in support of unified land operations.
- 3-42. Cyber Operations - “The employment of cyberspace capabilities where the primary purpose is to achieve objectives in or through cyberspace.” The DoD Law of War Manual adds, “Cyber operations: (1) use cyber capabilities, such as computers, software tools, or networks; and (2) have a primary purpose of achieving objectives or effects in or through cyberspace.” Those effects could be to disrupt, deny, degrade, destroy or manipulate information resident in computers or computer networks, or the computers and networks themselves.
- 3-43. Electronic Warfare – Military action involving the use of electromagnetic and directed energy to control the electromagnetic spectrum or to attack the enemy.
- 3-44. Unlike more established areas of law, CEMA policy is new and highly dynamic. New forums such as cyberspace and social media overlap between military and diplomatic missions, and individual tactical decisions can become front-page news and cause strategic effects. To keep pace with the ever-changing domain of cyberspace, the United

States and DoD are constantly updating directives and instructions. Some sources may remain outdated or appear to conflict; and service, theater, or operational guidance may require updates. Legal advisors must make a special effort to collate and sensibly apply these sources.

- 3-45. JAs must use vigilance to stay current on an ally's policies and directives in addition to our own as those policies and directives may rapidly and unexpectedly change. Allies may have different interpretations of what types of actions would constitute a use of force or trigger an armed response.
- 3-46. Some allies rely on the Tallinn Manual as a source of authority regarding CEMA. Legal practitioners should be versed in this resource and know when U.S. doctrine on CEMA differs from the Tallinn Manual and that this may diverge from our ally's execution of CEMA.

INFORMATION OPERATIONS

- 3-47. The U.S. has the Public Affairs Office that must be truthful and can neither produce propaganda, nor influence U.S. public opinion. The U.S. also conducts Information Operations, which are the integrated employment, during military operations, of information related capabilities (IRCs) in concert with other lines of operation to influence, disrupt, corrupt, or usurp the decision making of adversaries and potential adversaries while protecting our own. (CHAIRMAN, JOINT CHIEFS OF STAFF, JOINT PUB. 3-13, INFORMATION OPERATIONS at x (27 Nov. 2012, Incorporating Change 1, 20 Nov. 2014)
- 3-48. Where the U.S. has these two aspects of operations which can overlap, allies may have assets that appear to be similar but are contradictory/different in the same way. Interoperable personnel need to be aware of these different ally resources and similar limitations allies may impose on their use.

Chapter 4

Maintaining Interoperability

This chapter provides tools whereby JAGC judge advocates and partner LEGADs can maintain interoperability after having established it via the methods outlined in Chapter 3.

TRAINING AND COORDINATION

- 4-1. The best means for establishing interoperability is regular and early training with allies. This builds relationships of trust and increases proficiency. It is important that leaders reach out in advance of entering the training environment to identify and liaise with allied key players. Maintaining interoperability continues that trend. Once in the training environment, leaders should ensure they take time outside of routine battle rhythm events to socialize and interact with their allied and partner personnel. Trust is strengthened with familiarity.
- 4-2. Units can also maintain interoperability by establishing a Multinational Coordination Center (MNCC)². A MNCC integrates participating nations into the planning process. LEGADs should be included in that effort. Leaders should establish additional subordinate structures—like a multinational legal working group—after mission analysis to ensure effective and coordinated planning, preparation, execution, and assessment of multinational operations across WfFs and specialty functions.

MEASURE OF EFFECTIVENESS

- 4-3. Interoperability outcomes must be measurable and subject to qualitative and quantitative Assessment, Monitoring, and Evaluation (AME) on a regular basis by the sponsoring organization.
- 4-4. JAGC leadership should conduct assessments on a continual cycle that precede, guide, and conclude operations, exercises, and activities. Interoperability assessments are critical for the purposes of accountability (tracking, understanding, and improving returns on the Army's interoperability investments) and learning (identifying and disseminating best practices and lessons learned for interoperability implementation). Assessments broadly consist of three actions-

² JP 3-16, *Multinational Operations*

1. Monitoring the initiative to collect relevant information.
 2. Evaluating progress toward attaining end state conditions, achieving objectives, and performing tasks.
 3. Recommending or directing action for improvement.
- 4-5. Effective assessment will help achieve the desired interoperable end state for the JAGC. That end state would result in all military legal professionals having the right skills, knowledge, and experience to advise effectively and efficiently the right formation Commanders in order to achieve lawful mission accomplishment as a critical enabler within a multinational force.
- 4-6. When planning interoperability initiatives, legal offices will establish measures of performance and effectiveness to determine if they have achieved the desired interoperability for the targeted alliance of an interoperability initiative. These offices must report these measures to CLAMO in the form of After-action Reports (AARs).

Appendix A

Glossary

The glossary lists acronyms and terms with Army or joint definitions. The proponent publication for terms is listed in parentheses after the definition.

SECTION I – TERMS

alliance

The relationship that results from a formal agreement between two or more nations for broad, long-term objectives that further the common interests of the members (JP 3-0). Military alliances, such as the North Atlantic Treaty Organization (NATO), allow partners to establish formal, standardized agreements (ADP 3-0).

coalition

An arrangement between two or more nations for common action. Nations usually form coalitions for specific, limited purposes. A coalition action is an action outside the bounds of established alliances, usually in a narrow area of common interest. Army forces may participate in coalition actions under the authority of a United Nations' resolution (ADP 3-0).

combined force

A force composed of two or more forces or agencies of two or more allies operating together. (JP 3-16)

interoperability

The ability to act together coherently, effectively and efficiently to achieve tactical, operational and strategic objectives. (AR 34-1)

interoperable Personnel

Those legal advisors from one nation that are operating within the TASKORG of another nation (whether formally attached or assigned or operating temporarily as part of a training exercise). This refers to both U.S. legal personnel in ally or partner formations as well as ally or partner legal personnel in U.S. formations.

legal Interoperability

The achievement of shared understanding of respective authorities, permissions, restrictions, obligations, and interpretations of international and domestic law and policy

that enables the Combined Force to act together lawfully, coherently, effectively and efficiently to achieve tactical, operational and strategic objectives. Legal Interoperability facilitates lawful mission accomplishment by supporting Combined Force Commanders so they are ready to deploy, fight and win as part of a multinational force across the range of military operations and against the full spectrum of threats around the world.

legal Interoperability Activities

Any initiative (including education, training or exchanges), forum, agreement, or operation that improves the JAGC's ability to support the U.S. Army in operating effectively and efficiently as a component of the Combined Force, within an inter-organizational environment, and as a member or leader of an alliance or coalition across the ROMO.

partnership

A multistate relationship that focuses on something mutually beneficial for a limited duration or for specific circumstances. The U.S. relationship with its Caribbean and Latin American partners, for instance, helps to stem the tide of illegal drugs into the U.S.

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