

JOINT WARFARE PUBLICATION 3-46
LEGAL SUPPORT TO JOINT OPERATIONS

Joint Warfare Publication 3-46 (JWP 3-46), April 2005 edition,
is promulgated
as directed by the Chiefs of Staff



Director General
Joint Doctrine and Concepts

CONDITIONS OF RELEASE

1. This information is Crown copyright and the intellectual property rights for this publication belong exclusively to the Ministry of Defence (MOD). No material or information contained in this publication should be reproduced, stored in a retrieval system or transmitted in any form outside MOD establishments except as authorised by both the sponsor and the MOD where appropriate.
2. This information is released by the United Kingdom Government to a recipient Government for defence purposes only. It may be disclosed only within the Defence Department of a recipient Government, except as otherwise authorised by the MOD.
3. This information may be subject to privately owned rights.

AUTHORISATION

The Joint Doctrine & Concepts Centre (JDCC) is responsible for publishing Joint Doctrine/Warfare Publications (JDPs/JWPs) and maintaining a hierarchy of such publications. Users wishing to quote JDPs/JWPs as reference material in other work should confirm with the JDCC Doctrine Editor whether the particular publication and amendment state remains extant. Comments on factual accuracy or proposals for amendment should also be directed to the Doctrine Editor at:

The Joint Doctrine & Concepts Centre
Ministry of Defence
Shrivenham
SWINDON
Wilts SN6 8RF

Telephone number: 01793 314216/7
Facsimile number: 01793 314232.
E-Mail: doctrine.pubs@jdcc.mod.uk

DISTRIBUTION

Distribution of JWPs is managed by DSDC(L), Mwrwg Road, Llangennech, Llanelli, Carmarthenshire, SA14 8YP. Requests for issue of this publication, or amendments to its distribution, should be referred to DSDC(L). All other JDCC publications including a regularly updated CD '*Joint Doctrine Disk*' (containing both JWPs and Allied Joint Publications (AJPs)) can also be demanded from DSDC(L).

Telephone number: 01554 822368
Facsimile: 01554 822350

All publications (including drafts) are available for viewing/download at dNet:
<http://chots.mod.uk/jointwar/index.htm>

PREFACE

SCOPE

1. **Purpose.** JWP 3-46 '*Legal Support to Joint Operations*' is written for the Joint Commander (Comd) and his Legal Adviser (LEGAD). It aims to brief the Comd on what he can expect from his LEGAD, and the LEGAD on what his Comd expects of him. It concentrates on the joint headquarters and joint operations. Nevertheless, by process of analogy and inference the reader will be able to translate the principles, if not the material, into any operational environment, whether Maritime, Land or Air. Thus Component Comds (CCs) and other subordinate Comds and their LEGADs should find the publication of practical benefit. The publication is not a national manual of the law of armed conflict,¹ nor is it a Service LEGAD's handbook of operational law. It is better to describe it as an introductory guide to the role of law and the role of the LEGAD in operations. This modest aim belies the importance of the LEGAD in today's armed forces. In a statement to the *American Bar Association Journal* in 1991, General Colin Powell, Chairman of the Joint Chiefs of Staff in the 1991 Gulf War (and later to be Secretary of State during the 2003 Gulf War) said, "Decisions were impacted by legal considerations at every level. Lawyers proved invaluable in the decision-making process."² Speaking to a group of international lawyers, Lieutenant General Robert Fry³ said, "Legal Advice is essential at all levels and an awareness of the legal framework for operations is a crucial part of the Commander's professional understanding."

2. **Structure.** JWP 3-46 comprises 2 chapters:

a. **Chapter 1 – Legal Dimension to Joint Operations.** Chapter 1 sets out the legal basis and framework for expeditionary operations. It also shows how legal advice impacts the decision to commit UK armed forces, the dissemination of that decision and its implementation.

b. **Chapter 2 – The Operational Legal Adviser.** Chapter 2 focuses on the role of the LEGAD in operations, and sketches out his responsibilities and his required competences, knowledge, experience and resources.

¹ See JSP 383 '*Joint Services Manual of the Law of Armed Conflict*'.

² Steven Keeva, 'Lawyers in the War Room', *ABA Journal* December 1991, p.52.

³ Deputy Chief of Defence Staff (Commitments), in a speech at the launch of the UK's Manual of the Law of Armed Conflict at St Antony's College, Oxford on 1 July 2004.

LINKAGES

3. **National Joint Doctrine.** JWP 3-46 is consistent with the ideas contained in the following publications: JWP 0-01 '*British Defence Doctrine*'; JDP 01 '*Joint Operations*'; JWP 3-00 '*Joint Operations Execution*'; JWP 5-00 '*Joint Operations Planning*'; JSP 383 '*Joint Services Manual of the Law of Armed Conflict*'. It is also coherent with subject-specific publications such as JWP 3-50 '*The Military Contribution to Peace Support Operations*' and JWP 3-51 '*Non-combatant Evacuation Operations*'.

LEGAL SUPPORT TO JOINT OPERATIONS

CONTENTS

Title Page	i
Authorisation & Distribution	ii
Preface	iii
Contents	v
Joint Doctrine Publications	vi
Record of Amendments	vii
Chapter 1 Legal Dimension to Joint Operations	
Introduction	1-1
UK Strategic Commitments	1-1
UK Strategic Planning of Joint Operations	1-3
The Legal Basis of Joint Operations	1-6
Chapter 2 The Operational Legal Adviser	
Professional Competences	2-1
Professional Links	2-3
Role in Operations Planning	2-5
Role in Operations Execution	2-8
Annex A – Campaign Rhythm for Legal Adviser	
Annex B – Legal Resources for Deployment	
Glossary of Terms and Definitions	
Glossary of Abbreviations	

JOINT DOCTRINE PUBLICATIONS

The successful prosecution of joint operations requires clearly understood doctrine that is acceptable to all nations and organisations concerned. It is UK policy that national doctrine should be consistent with NATO doctrine and its terminology and procedures (other than those exceptional circumstances when the UK has elected not to ratify NATO doctrine). However, the requirement exists to develop national doctrine to address those areas not adequately covered by NATO doctrine, and to influence the development of NATO doctrine. This is met by the development of a hierarchy of Joint Doctrine/Warfare Publications (JDP/JWPs).

Interim Joint Doctrine/Warfare Publications (IJDP/IJWPs) are published to meet urgent new short to medium-term needs for fully staffed and agreed joint doctrine, often when some associated aspects of doctrinal development/coordination remain outstanding or when there is a temporary void in policy or other directive. More short-term urgent requirements for doctrine are usually covered by Joint Doctrine Notes (JDNs). JDNs do not represent an agreed or fully staffed position. They are raised in a foreshortened timescale by the Joint Doctrine and Concepts Centre (JDCC) to fill a doctrinal gap, often in association with a planned exercise or operation or possibly to enable another aspect of doctrinal work to be developed.

The Joint Doctrine Development Process and associated hierarchy of JDP/JWPs is explained in a current DCI.

RECORD OF AMENDMENTS

Amendment No	Date of Insertion	Initials

(INTENTIONALLY BLANK)

CHAPTER 1 – LEGAL DIMENSION TO JOINT OPERATIONS

SECTION I – INTRODUCTION

101. Joint operations have a legal dimension. There must be a legal basis for the operation and it must be conducted in a lawful manner. Legal advice is essential, not only in the strategic decision to commit UK armed forces, but also in the interpretation of that decision and its application at the operational and tactical levels.¹ Legal Advisers (LEGADs) have an important support role² in joint operations. The focus in this publication is on the operational level and more specifically on the Joint Task Force Headquarters (JTFHQ) (and National Contingent Headquarters (NCHQ)). However, it is also directly relevant to Component Commanders (CCs) and their lawyers, to lawyers in the Permanent Joint Headquarters (PJHQ), and to Commanders (Comds) and lawyers outside the joint environment. It must be recognised that in legal matters, as in other aspects of operations, tactical activity can have strategic and operational effect and *vice versa*.³

102. Operational Law (OpLaw) is wider than the Law of Armed Conflict (LOAC) or International Humanitarian Law (IHL). It encompasses all legal aspects of operations from routine Service discipline, through local purchase contracts abroad to the use of force and everything in between. This publication provides only the general legal framework, the relative importance of which will vary with each mission. It will be necessary, therefore, for readers to follow various signposts to other publications, especially those linkages mentioned in the Preface.

SECTION II – UK STRATEGIC COMMITMENTS

103. **Operating Environment.** The LEGAD needs to understand the broad range of operations and the general context in which they are carried out. As to the range, Defence Strategic Guidance (DSG) sets out the full list of military tasks of the UK armed forces. JWP 3-00 confines itself to expeditionary operations.⁴ They are:

- a. **Standing Overseas Commitments.** Defence and security of the UK's overseas territories.

¹ The strategic, operational and tactical levels of war are explained in JWP 0-01 'British Defence Doctrine' (BDD) 2nd Edition p.1-2, JDP 01 'Joint Operations' paragraphs 201-203 and elsewhere.

² The LEGAD is described as a 'joint enabler' in JWP 3-00 'Joint Operations Execution', paragraphs 229, 230 & Figure 2.4.

³ JWP 3-00 paragraph 104.

⁴ JWP 3-00 paragraph 118.

b. **Contingent Operations Overseas.**

- (1) Humanitarian/Disaster Relief Operations (HDRO).⁵
- (2) Evacuation of British Citizens Overseas.⁶
- (3) Peacekeeping.⁷
- (4) Peace Enforcement.⁸
- (5) Power Projection.⁹
- (6) Focused Intervention.¹⁰
- (7) Deliberate Intervention.¹¹

The above categories of operation are doctrinal rather than legal descriptors so in Section IV it will be necessary to set out the legal bases of the different operations. The context for these operations is divided into 3 broad circumstances:¹² national operations, multinational operations as the Framework¹³ or Lead Nation¹⁴ and multinational operations as a participating/contributing nation.

104. **Joint and Multinational.** Since the UK recognises that military success relies on a joint effort¹⁵ and that multinationality is the prevalent reality at the operational level of war,¹⁶ the LEGAD, to be effective, must be conversant with the basic principles of campaign planning and execution in deployed multinational¹⁷ and national joint operations. The LEGAD new to the joint environment will probably be unfamiliar with the force configuration, functions and terminology of the single-

⁵ The armed forces' contribution to humanitarian and disaster relief operations, at the request of the FCO or DFID, either on a national basis or as part of a co-ordinated international effort. (DSG).

⁶ Otherwise known as Non-combatant Evacuation Operation (NEO). A NEO is an operation conducted to relocate designated non-combatants threatened in a foreign country to a place of safety. (JWP 3-51 '*Non-combatant Evacuation Operations*' paragraph 101).

⁷ A peace support operation following an agreement or ceasefire that has established a permissive environment where the level of consent and compliance is high, and the threat of disruption is low. The use of force by peacekeepers is normally limited to self-defence. (AAP-6).

⁸ A peace support operation conducted to maintain a cease-fire or a peace agreement where the level of consent and compliance is uncertain and the threat of disruption is high. A Peace Support Force must be capable of applying credible coercive force and must apply the provisions of the peace agreement impartially. (JWP 3-50).

⁹ The deployment of stand-off military capabilities that are able to deliver significant force to deter or coerce. (DSG)

¹⁰ The rapid and localised use of force to disrupt or destroy a particular threat such as WMD or an asymmetric capability. (DSG)

¹¹ The use of as much combat power as is necessary to defeat or destroy an adversary, to support other allies or partners, to protect national interests, to maintain international security and stability, or to uphold international law. (DSG)

¹² JWP 5-00 '*Joint Operations Planning*', paragraph 103.

¹³ JWP 3-00 paragraph 113(b).

¹⁴ JWP 3-00 paragraph 113(c).

¹⁵ JWP 3-00 paragraph 109.

¹⁶ JWP 3-00 paragraph 111.

¹⁷ JWP 3-00 Annex 1A.

Services other than his own. JWP 3-00¹⁸ provides a helpful introduction to the UK's 5 components (maritime, land, air, special forces and logistic) and how operations are integrated, co-ordinated and synchronised at the operational level. Attendance at the Joint Operational Planning Course (JOPC) is recommended for LEGADs about to deploy.

SECTION III – UK STRATEGIC PLANNING OF JOINT OPERATIONS

105. Like all staff at the operational level, the LEGAD should be aware of the relevance of his contribution and that of others, both up and down the chain of command.¹⁹ The LEGAD should familiarise himself with the strategic planning process and the network of key players as explained in JWP 5-00.²⁰ However, for present purposes what follows outlines the process by which the decision to commit UK armed forces becomes a Campaign Plan.

106. **Defence Crisis Management Organisation.** The Defence Crisis Management Organisation acts as the conduit for all briefings up to Ministers and for the dissemination of strategic direction through PJHQ to the Joint Task Force Commander (JTFC) and Component Commanders (CCs).²¹ It is managed by the Deputy Chief of Defence Staff (Commitments) (DCDS(C)), who plays a central role in assisting CDS and the Service Chiefs of Staff (COS) in crisis resolution.

107. **Political Decision to Commit Armed Forces.** National strategy is the responsibility of the Cabinet and its implementation is coordinated by the Cabinet Office.²² The decision to commit UK Armed Forces to achieve a national objective is a strategic, political one for the Cabinet. As a matter of strict law (Royal Prerogative) the Prime Minister can commit the armed forces on his own but he will normally act in agreement with his cabinet colleagues.

108. **Chief of Defence Staff's Directive.** The political decision to commit UK forces is translated into a Chief of Defence Staff's (CDS) Directive to the Jt Comd. This Directive sets out, among other things, the desired strategic and military end-states, the legal position and Rules of Engagement (ROE).²³ The CDS Directive is developed by the MOD's Current Commitments Team (CCT), which coordinates its efforts with the PJHQ Contingency Planning Team (CPT).²⁴ The content of the CDS Directive is foreshadowed by the Planning Guidance issued earlier by the CDS and

¹⁸ JWP 3-00 Annex 1C.

¹⁹ JWP 5-00 paragraph 301.

²⁰ JWP 5-00, Chapter 1, especially sections II – IV.

²¹ See JWP 5-00 paragraphs 110 & 112.

²² JWP 5-00 paragraph 128.

²³ JWP 5-00 paragraphs 131 & 304.

²⁴ JWP 5-00 paragraphs 120 & 121.

upon which MOD and PJHQ will have conducted a Military Strategic Estimate (MSE).

109. **Joint Commander’s Mission Directive.** The CDS Directive in turn is translated by the CPT – which includes PJHQ legal cell and J3 Ops Support - into the Jt Comd’s Mission Directive to the JTFC.²⁵ If time permits, a JTFC’s Situational Awareness Group (SAG) will have shadowed PJHQ’s CPT²⁶ and assists the JTFC quickly and efficiently to convert the Mission Directive into the Campaign Plan.

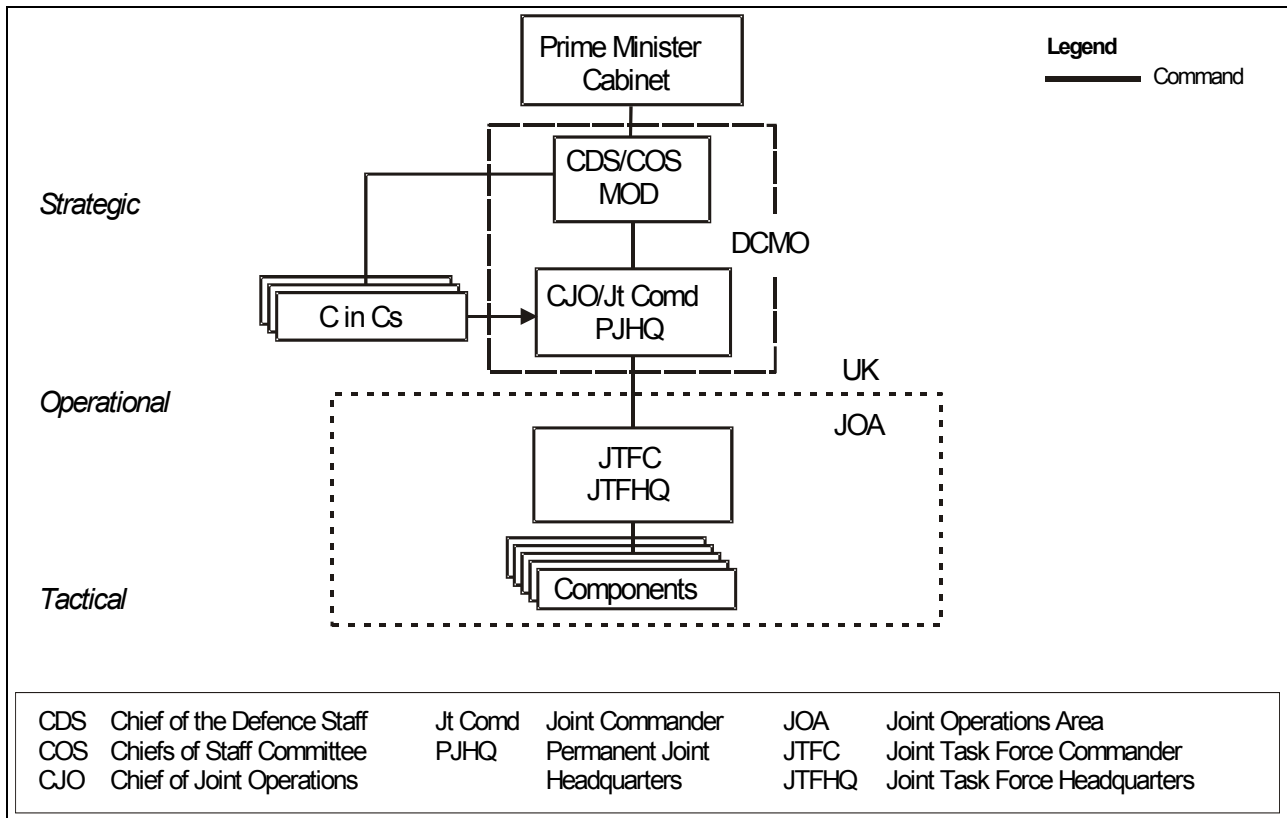


Figure 1.1 – The Dissemination of the Decision to Commit UK Armed Forces

110. **Legal Advice.** Legal advice informs the decision to commit UK armed forces and features in the dissemination and implementation of that decision.

- a. **Attorney General.** The Attorney General (AG) is a member of the Cabinet and is the government’s principal legal adviser. He and the Solicitor General are known as the government’s Law Officers. The AG advises the Prime Minister at the strategic level on the legal basis for committing UK armed forces. The AG also provides advice to the MOD (and other government departments (OGD)) on legal issues impinging on operations that are underway.

²⁵ JWP 5-00 paragraph 132.

²⁶ It is also possible that PJHQ will have deployed an Operational Liaison Reconnaissance Team (OLRT) in order to update plans in-theatre and liaise with British Embassies or High Commissions.

b. **MOD Director General Legal Services.** The MOD Director General Legal Services (DGLS) is the primary source of legal advice to the MOD and Ministers on MOD's business as a department of state. The areas he covers include commercial law, legislation, employment law, general law,²⁷ and most importantly in the context of this publication, operational and international humanitarian law. In this last area DGLS provides strategic legal advice to the government as well as operational legal advice to PJHQ. DGLS and his staff liaise as required with the legal staffs of other government departments, e.g. the Foreign and Commonwealth Office (FCO) and the Department for International Development (DFID), Service lawyers and the government's Law Officers.

c. **Legal Services of the Armed Forces.** All 3 Services have uniformed lawyers who provide operational and tactical level commanders and their staffs with legal advice, including legal aspects of operations. The availability of appropriately trained Service lawyers who are used in support of operations is the responsibility of each of the 3 Heads of the Legal Services:

- (1) The Director Naval Legal Services (DNLS).
- (2) The Director of Army Legal Services (DALs).
- (3) The Director of Legal Services (Royal Air Force) (DLS(RAF)).

The PJHQ legal cell will scope the requirement for LEGADs to be deployed on current operations. Any Joint Operational HQ LEGAD will usually be sourced by PJHQ, as one of their military lawyers is earmarked for deployed operations and assigned to the collocated Joint Force Headquarters (JFHQ). However, operations often require augmentation, so the legal cell in PJHQ will liaise with the single Service Heads of Legal Services to source augmentees. Augmentation of the deployed JFHQ legal cell may come from any of the 3 Services and assumes the availability of a number of lawyers trained for joint operations. Most formations of brigade and equivalent size and above which are deployed for a specific operation will be provided automatically with a lawyer of appropriate seniority to serve on the Comd's staff. The component level LEGAD is usually sourced by the single-Service operational chain of command. In preparing for an operational deployment all Comds should review their access to appropriate legal advice and, if necessary, request augmentation. They should never be placed, or allow themselves to be placed, in a position of having to deploy without their LEGAD or access to legal advice (see paragraph 208).

²⁷ E.g. Ministry of Defence Police, Bylaws, Devolution, Data Protection, Freedom of Information, Health and Safety, Defence Estates, Judicial Review, Human Rights, Pensions, Trusts, Charities, Criminal.

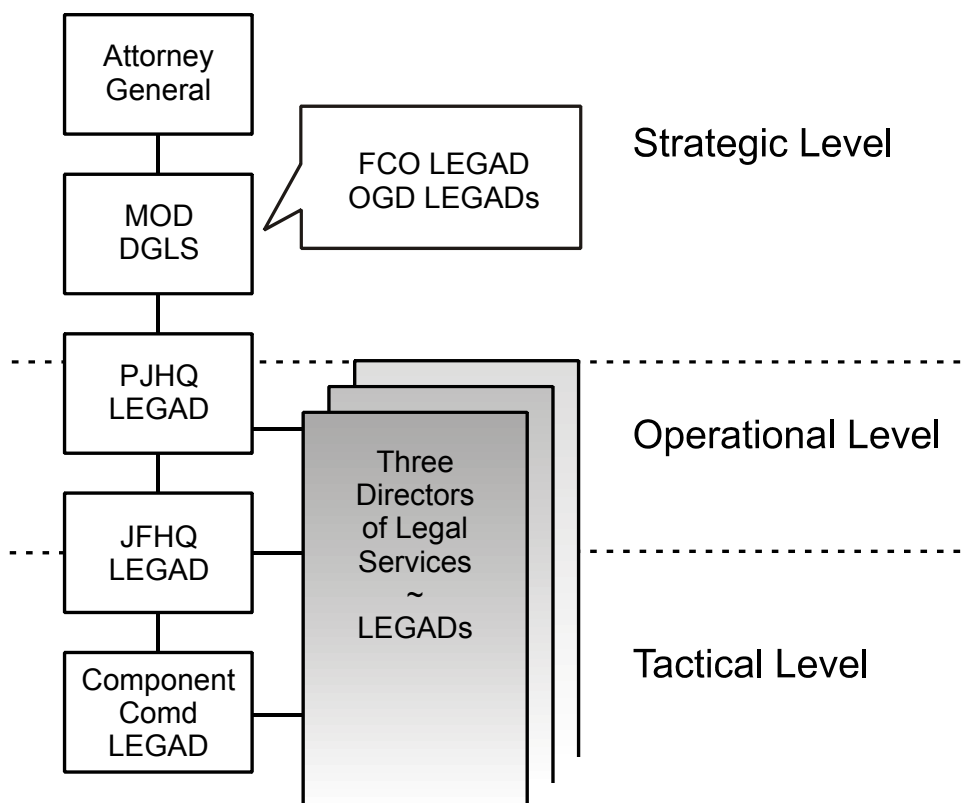


Figure 1.2 - Diagram of Legal Advisers

SECTION IV – THE LEGAL BASIS OF JOINT OPERATIONS

111. So far this chapter has set out the fact that UK armed forces deploy on expeditionary operations and that the strategic decision to deploy them, along with its dissemination and implementation at the operational and tactical levels, is accompanied by legal advice provided by civilian and Service lawyers. This section focuses on the legal bases of operations, i.e. the overarching legal mandate or justification for operations.

112. **Use of Force in International Relations.** The legal grounds for the use of force are derived mainly from the UN Charter of 1945, Security Council Resolutions and customary international law. The starting point is the general principle of non-intervention whereby all members of the United Nations are to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.²⁸ This general principle is subject to a number of exceptions. These are detailed below:

- a. **National (or State) Self-Defence.** States have a right of individual or collective self-defence if an armed attack occurs, until the Security Council

²⁸ UN Charter article 2(4).

(SC) has taken measures necessary to maintain international peace and security.²⁹ Individual self-defence not only means the protection of a state's own territorial integrity but may include the rescue of nationals where the host state in which they live is unable or unwilling to do so. Collective self-defence can either be under a collective security treaty, such as NATO, or by one state asking another's help to defend itself against an aggressor. It should be recognised that states often differ in their interpretations of the legal definition of self-defence and LEGADs must establish from the outset the legal constraints governing the activities of other national forces assigned to multinational operations. Differing national interpretations of the law will have an effect on what other national forces are permitted to do and will shape their Rules of Engagement (ROE).³⁰

b. **United Nations Security Council Authorisation.** Under Chapter VII of the UN Charter³¹ the SC may make a determination that there is a threat to the peace, a breach of the peace or an act of aggression. It may then make recommendations or decide what measures shall be taken to maintain or restore international peace and security. The SC may employ measures not involving the use of armed force, e.g. economic sanctions, or if these would be inadequate, authorise action using the armed forces of member states. SC authorisations can also be applied to regional organisations (e.g. NATO) as well as individual member states.

c. **Humanitarian Intervention.** The UK recognises that the use of force is justifiable in exceptional circumstances to support purposes laid down by the United Nations Security Council (UNSC), even without the Council's express authorisation, when that is the only means to avert an immediate and overwhelming humanitarian catastrophe. The principle of humanitarian intervention is not universally accepted as being a ground justifying the use of force, but it may be developing into a rule of customary international law.

113. There is a variant of self-defence and a variant of the Chapter VII authorisation of which Comds and LEGADs should be aware, since they often feature in academic writings and policy statements.

a. **Anticipatory Self-Defence.** The principle of anticipatory self-defence derives from the *Caroline Case (1837)*.³² Both sides agreed that the party relying on the principle had to show the 'necessity of self-defence, instant,

²⁹ This customary international law right is reaffirmed in UN Charter article 51.

³⁰ For example, UK and US assertions of the right of anticipatory self-defence (see paragraph 113a) are not universally accepted, even within NATO.

³¹ UN Charter articles 39-42.

³² 29 Brit & For St Papers 1137. In 1837 during an insurrection against British rule in Canada, a US ship, *The Caroline*, was being used to ferry supplies from New York to a group of insurgents in Canada. The British destroyed the ship, claiming that they had acted in self defence.

overwhelming, leaving no choice of means, and no moment for deliberation'. From this statement emerge the 2 principles which underpin the legality of using force in self-defence: necessity and imminence. The meaning of imminence today has been reinterpreted by some in the light of the gravity of 21st Century threats and the means by which attacks can be conducted. However, anticipatory self-defence is not the same as pre-emption (see below), the latter being a US principle which is not accepted by the UK. Today, Article 51 of the UN Charter preserves the inherent right of self-defence 'if an armed attack occurs'. This begs the question of whether a state has to wait to be struck before it can defend itself. The UK '*Strategic Defence Review: New Chapter*' endorses the doctrine of anticipatory self-defence:

'It is much better to engage our enemies *in their backyard* than in ours, at a time and place of our choosing and not theirs.'

And again:

'Experience shows that it is better where possible to engage an enemy at longer range, before they get the opportunity to mount an assault on the UK. Not only is this more effective than waiting to be attacked at a point and timing of an enemy's choosing, but it can have a deterrent effect.'

Anticipatory self-defence must be distinguished from pre-emption which is a US principle that has recently gained currency in the context of terrorist threats, weapons of mass effect (WME) and so-called 'rogue' states. The US '*National Security Strategy*' says:

'We will disrupt and destroy terrorist organizations by...defending the United States, the American people, and our interests at home and abroad by identifying and destroying the threat before it reaches our borders...'

And again:

'While the United States will constantly strive to enlist the support of the international community, we will not hesitate to act alone, if necessary, to exercise our right of self defence by acting pre-emptively against such terrorists, to prevent them doing harm against our people and our country....'

The UK takes the view that the US principle of pre-emption, which is based on the notion of taking pre-emptive action, does not meet the requirement that

force used in self defence be directed against a threat which is *imminent*. Accordingly the UK does not recognise a legal right of pre-emption.³³

b. **Chapter VIII Regional Organisation.** Regional Organisations that use force other than in collective self-defence or with the consent of the host nation are required to obtain prior Chapter VII authorisation from the UNSC. However, there have been instances of Regional Organisations using force without awaiting UNSC approval, but gaining retrospective authorisation. NATO is a Regional Organisation. The UK would not expect NATO to operate outside the terms of its Treaty unless it had a UNSC mandate.

114. **UN Peace Support Operations.**³⁴ This paragraph deals with UN Peace Support Operations (PSO). PSO undertaken without a UN mandate are considered under one of the other legal bases in international law, such as collective self-defence. PSO have no express basis in the UN Charter; however, they have been core activities of the UN for over 50 years, having been developed by the UN Security Council as a pragmatic solution to the deadlock wrought by the Cold War period. PSO are considered to derive their legal mandate from the UN Charter. The 2 main types of operation recognised by the UK are peacekeeping and peace enforcement.³⁵

a. **Peacekeeping.** Peacekeeping is thought to be rooted in Chapter VI of the UN Charter, but there are grounds for saying that its doctrinal basis is in Chapter VII somewhere between Articles 41 and 42 of the Charter. These considerations have prompted the somewhat ironic commentary that peacekeeping is a ‘Chapter VI ½’ operation. The basic principles of peacekeeping derived over many years are: the consent of the host nation or of the parties involved in the earlier conflict; the impartiality of the peacekeeping force; the use of force by peacekeepers being limited to self-defence; and the clear existence of a peace or cease-fire to supervise. The key point is that the legal mandate for the operation does not extend to the use of force under Article 42 of the Charter.

b. **Peace Enforcement.** Peace enforcement, by contrast, does not require the consent of the host nation or the parties involved in conflict, and UN forces may use such force as is consistent with the mandate of the Security Council Resolution. Peace enforcement operations will usually make an explicit reference to Chapter VII and generally include the phrase ‘all necessary measures’. Conventionally, this has been the form of words adopted to authorise Article 42 measures which allow the SC to ‘take such action by air,

³³ Speech of Attorney General to House of Lords on 21 April 2004.

³⁴ UK doctrine articulates the meaning of PSO more comprehensively. Discussion and definitions are contained in JWP 3-50 ‘*The Military Contribution to Peace Support Operations*’ and JWP 0-01.1 ‘*United Kingdom Glossary of Joint and Multinational Terms and Definitions*’.

³⁵ *Supra* paragraph 103(b) 3 & 4.

sea and land forces as may be necessary to maintain or restore international peace and security’.

115. **Evacuation of British Citizens Overseas.** The MOD is mandated to support the conduct of a Non-combatant Evacuation Operation (NEO) to relocate UK Entitled Personnel (UKEP) (British nationals and other nationals for whom the UK government has accepted responsibility) threatened in a foreign country to a place of safety.³⁶ While the host nation has a general obligation to protect foreign nationals within its boundaries, circumstances may preclude the host nation from acting to do so. The legal basis for a NEO will be either (1) self-defence *and* the consent of the host nation or (2) the inherent right of self-defence if the host nation is unable or unwilling to protect UKEP or grant consent.³⁷

116. **Humanitarian and Disaster Relief Operations.** At the request of the FCO, DFID or PCRU, the MOD may become involved in HDRO. The armed forces have a purely humanitarian mission; there is no combat role at all. The legal basis for the presence of UK armed forces on the territory of the state concerned is host nation consent. HDRO are sharply distinguished from humanitarian *intervention* which involves armed conflict.

117. **Summary of Legal Bases for Operations.** The foregoing description of legal bases for operations can now be compared with the UK’s operational categories.

Potential Operations	Potential Legal Bases
Defence and Security of UK overseas territories	<ul style="list-style-type: none"> • Self-Defence • Chapter VI/VII
HDRO	<ul style="list-style-type: none"> • Host Nation Consent
NEO	<ul style="list-style-type: none"> • Host Nation Consent • Self-Defence
Peacekeeping	<ul style="list-style-type: none"> • Chapter VI/VII
Peace Enforcement	<ul style="list-style-type: none"> • Chapter VII
Power Projection	<ul style="list-style-type: none"> • Charter rules on threat or use of force
Focused Intervention	<ul style="list-style-type: none"> • Charter rules on threat or use of force
Deliberate Intervention	<ul style="list-style-type: none"> • Charter rules on threat or use of force • Humanitarian Intervention

³⁶ JWP 3-51 paragraphs 101 & 102.

³⁷ JWP 3-51 paragraph 4A2.

CHAPTER 2 – THE OPERATIONAL LEGAL ADVISER

SECTION I – PROFESSIONAL COMPETENCES

Background

201. Operational Legal Advisers (LEGADs) serving in the UK armed forces are qualified solicitors or barristers. Whether recruited from civilian practice or trained as lawyers within the Services, it is likely that they have specialised in criminal law given the armed forces' staple diet of Service discipline and courts-martial. Some, however, may have further specialised in another area of law such as international law. The strength of the operational LEGAD on the Joint (Jt) Staff is not only his specialist skill, but his generalist skill to advise across the breadth of operational law. It was noted in Paragraph 102 that operational law is much wider than the Law of Armed Conflict (LOAC); it embraces the whole range of legal issues that impinge on operations.

Law of Armed Conflict Training

202. Notwithstanding the emphasis that has been placed on generalist skills, the operational LEGAD must have a thorough grounding in LOAC. It is the responsibility of the single Service Heads of Legal Services to ensure that LEGADs are properly trained in international law, since most LEGADs will not have any, or any adequate, academic training in LOAC prior to joining the armed forces. Certain international and UK academic institutions run courses that are well designed for the operational LEGAD. These courses should be supplemented by 'in-house' training provided by the Heads of Legal Services. The Services also provide focused training on specialist areas such as targeting. Since the LEGAD at the operational and tactical level may play an important role in the targeting team he must complete training in this field. In essence, the LEGAD must be professionally current to perform his duties.

Knowledge and Experience

203. The LEGAD's academic training needs to be fused with his knowledge of the Service environment. Because operational LEGADs are serving officers in the armed forces they bring general Service knowledge and experience to bear on their role with the Battle Staffs. Like all officers, they have single-Service roots. The Joint environment, however, requires an understanding of all 3 environments – maritime, land and air – so the LEGAD must understand the basic principles and practices of Joint operations planning and execution,¹ and also have an appreciation of weapon and platform capabilities at the disposal of the command (Comd). It is axiomatic that there is no short-cut to experience. Like other Jt Staff Officers, the LEGAD should be 'joint

¹ JWP 5-00 'Joint Operations Planning' and JWP 3-00 'Joint Operations Execution'; JDP 01 'Joint Operations'.

trained, be experienced at working in an operational level HQ, and preferably also have had multinational experience'.² Component Commander's (CC's) LEGADs too, need to understand the basics of how each CC operates within the Joint Operations Area (JOA).

Professional Qualities

204. The operational LEGAD must be an experienced Staff Officer, but particular professional qualities stand out as important.

a. **Quality of Advice.** The LEGAD must give advice that is certain and clear. The Comd who trusts his LEGAD and takes his advice seriously neither needs nor wants advice that is long-winded, complicated to understand or equivocal, so leaving him none the wiser about what the LEGAD really thinks. Legal advice must be proactive as well as reactive if legitimate operational options are to be exploited; legal constraints pinch soon enough. The LEGAD must provide robust advice against the potentially illegal options but also make clear the existence of any alternative approaches in the form of operational suggestions to the Comd. If he does this he will be seen as a positive contributor and not a negative influence, someone who enables operations to proceed legitimately rather than someone who stifles tactical endeavour. To do this the LEGAD needs to be aware of the Comd's campaign plan.³ Finally, the LEGAD's relationship with his Comd and other Staff Officers rests on his ability to speak out when necessary while understanding that he is there to advise, not to make the decisions. Decisions are for the Comd. While the LEGAD is a subordinate providing a professional service to the Comd, the Comd will expect to hear what the LEGAD really thinks and not what the LEGAD thinks the Comd wants to hear. The LEGAD should, therefore, have the moral courage to provide unpopular advice and be able to justify it.

b. **Judgement.** The successful LEGAD will have good legal judgement. This quality transcends pure academic knowledge and can be described as the ability, whether instinctive or gained through experience, to identify the key legal issues that bear upon the circumstances prevailing at the time. It is the sensitivity to policy issues that bear upon legal advice, and *vice versa*. It is common sense that influences practical, workable legal advice that the Comd understands and can readily use. It is also the quality that enables the LEGAD to make up for lack of experience in the early days and to learn from the experience of others.

² JWP 3-00 paragraph 215(a).

³ JDP 01 paragraph 330; JWP 5-00, Chapter 2.

c. **Respect for Law.** The LEGAD's conduct and conversation should cultivate a positive respect for the rule of law on operations. Legal advice to the Comd is the obvious vehicle for achieving this end, but the LEGAD is likely to have to work closely with the Policy/Political Adviser (POLAD) and Press Spokesman to explain the Comd's commitment to following the legal mandate of the operation. The Joint Task Force Commander (JTFC) will wish to cultivate a positive and open image of the Joint Task Force (JTF);⁴ respect for law is part of this image.

SECTION II – PROFESSIONAL LINKS

205. This section explains the LEGAD's most important professional links.

206. **Position of Legal Adviser.** The operational LEGAD is part of the Command Group (Comd Gp), whether on the staff of the JTFC, a CC or a Contingent Comd. This ensures the LEGAD's ready availability to the Comd and his accessibility to the Comd's key Staff Officers. The LEGAD's responsibilities are likely to cut across the staff divisions. The formality of his placement in a particular division is less important than the reality of his influence as a member of the Comd's immediate staff.⁵ The Comd should ensure that the LEGAD is empowered to act effectively on the Jt Staff. The LEGAD will need to have security clearances and access to information commensurate with his responsibilities as command legal adviser.

207. **Command Support.** The LEGAD's most important link is to the Comd himself. The Comd needs legal advice to ensure that his operational decisions are in accordance with law. It is for that reason that the operational LEGAD is deployed. The UK has ratified Additional Protocol 1, which states:

“The High Contracting Parties at all times, and the Parties to the conflict in time of armed conflict, shall ensure that legal advisers are available, when necessary, to advise military commanders at the appropriate level on the application of the Conventions and this Protocol and on the appropriate instruction to be given to the armed forces on this subject”.⁶

Therefore the LEGAD's overriding duty is to provide the Comd with accurate, relevant and robust legal advice.

208. **Reach Back.** Where operational circumstances permit, ‘reach back’ arrangements may be put in place. ‘Reach back’ gives the deployed Comd access to HQ legal advice when a LEGAD is not deployed with the Comd, or can be used to

⁴ JWP 3-00 paragraph 108.

⁵ In the UK PJHQ the LEGADs are in J9. Their output falls just as much in J3 and J5.

⁶ 1977 Additional Protocol 1 to the 1949 Geneva Conventions, article 82.

provide the deployed LEGAD with additional legal support. Typically, a LEGAD in a non-deployed HQ will be designated as the deployed Comd's point of contact for advice on emerging legal issues. Where 'reach back' arrangements are envisaged and have been agreed by the Comd, care must be taken to ensure that reliable secure communications remain available throughout the operation. The LEGAD providing the 'reach back' legal advice must be suitably qualified and experienced. Reliance on 'reach back' arrangements does not preclude the subsequent deployment of a LEGAD to the Comd's staff should the circumstances or tempo of operations require it.

209. **Headquarters Links.** In the HQ the LEGAD needs to develop his closest working links with the POLAD and SO1 J3 Operations Support (Ops Sp). Legal and political aspects of operations are often intertwined. The Comd will expect the POLAD and LEGAD to work in harmony both to interpret high level political and legal direction, and to present information outside the HQ in a coherent way. The LEGAD must expect to help the POLAD with the preparation of briefings that have a legal dimension. The LEGAD's strong link with SO1 J3 Ops Sp is founded on the requirement to ensure that all operations are undertaken in accordance with international law. The LEGAD and SO1 J3 Ops Sp will typically be in regular discussion about targeting, Rules of Engagement (ROE) and Information Operations (Info Ops). Legal problems should ideally be resolved by the close co-operation of Staff Officers and before they reach the Comd. The LEGAD must also ensure that he is present at every CPT and OT, that he makes himself available to the J2 and J3 Ops Sp teams and that he always remains approachable. The LEGAD also needs to be aware of the legal implications associated with longer range planning and should liaise early with J4 and J5 to identify and resolve such issues (see paragraphs 215-217).

210. **UK Legal Chain of Command Links.** It is very important that LEGADs within the chain of command are in close and regular contact throughout an operation. The JTFHQ/NCHQ LEGAD has a pivotal role in a joint operation, feeding information up and down the legal hierarchy at the various levels of command and co-ordinating the discussion, management and resolution of legal issues within the JOA.⁷ LEGADs work for their Comd and not for other lawyers, so there is no legal chain of command as such. However, as Staff Officers they are expected to have 'desk level' links with their counterparts in different areas of the joint force structure, and there need to be channels of communication between LEGADs. In particular, the LEGAD at every level (CC, JFHQ, Permanent Joint Headquarters (PJHQ) and Director General Legal Services (DGLS)) needs to be aware of the UK national position on a given issue, whether that is dictated by the law, by government policy or by a combination of both. It is important that the LEGAD ensures that his advice to the Comd takes due account of the UK position. This applies not only for UK-led operations but also for operations where the UK is a participating nation. The linkages between PJHQ, the

⁷ The LEGAD contributes to daily reports and returns, e.g. Assessment Reports and Down Reports. See JWP 3-00 paragraph 349.

NCHQ and the various UK contingents within the multinational components are just as important as the lines of communication from PJHQ to the JTFHQ and the CCs for a UK-led operation. CC and Contingent Comd LEGADs should highlight important legal issues for the JTFHQ/NCHQ LEGAD, even if they are full command issues that are strictly outside the legal jurisdiction of the Jt Force Comd, who exercises Operational Command (OPCOM) only. This is to enable a clear picture to be compiled in the JOA and to improve communications back to PJHQ and the MOD.

211. **Alliance and Coalition Legal Advisers.** Alliance and Coalition operations are highly likely to have a multinational legal presence arranged on a case by case basis to take into account the command structure, the contributing nations and the nature of the operation. LEGADs need to establish close links with each other from an early stage in the planning of operations in order to achieve a common understanding, to resolve ambiguities and to highlight legitimate differences that need to be taken into account in the execution of operations. Embedded UK LEGADs in coalition HQs may work to non-UK rules and procedures where there is no conflict with UK domestic law or policy.

212. **Links to Humanitarian Advisers and Non-governmental Organisations.** The LEGAD versed in International Humanitarian Law (IHL) is well placed to understand the humanitarian interests and objectives of non-governmental organisations (NGOs) and to liaise with the Comd's Humanitarian Adviser (HUMAD), if one is deployed, on humanitarian issues. Although not an NGO, the International Committee of the Red Cross (ICRC) is an important actor in the area of many operations, ranging from Peace Support Operations (PSO) to armed conflict. The UK values a good working relationship with the ICRC, and the LEGAD should be one of a number of principal points of contact on the Jt Staff.

SECTION III – ROLE IN OPERATIONS PLANNING

Implementing and Interpreting the Legal Mandate

213. One of the fundamental building blocks of campaign planning⁸ is the clear identification of the end-state. The identification of the military end-state and the focus of operational activity on that end-state are not only essential to operational success but also to its lawfulness. Although the decision to resort to force will not usually involve operational LEGADs, but will be taken at the strategic level with advice from the Law Officers and other government legal advisers, there is a clear correlation between the legal basis for an operation and the use of force at the tactical level. For example, a UN SCR authorising the use of force will require interpretation in order to ensure that the force used to accomplish the mission does not exceed that authorised. Even when action is taken in the absence of specific UN authority,

⁸ JWP 5-00 paragraph 219.

military operations must still have a clear legal basis in international law. For example, operations mounted on the basis of the inherent right of the state to defend itself from attack may justify such use of force as is reasonably necessary to achieve the objective, whether it be to repel the attack, recapture invaded territory or otherwise stop the infringement of the defending state's right. The operational LEGAD in the planning process has a key responsibility to guide planners on the principles of necessity and proportionality in the use of force and on the means and methods of warfare adopted to achieve the declared end-state. This can only be done with an understanding of the legal basis for the operation.

Multilateral Coherence

214. The UK will rarely operate alone. Mostly it will operate as part of the NATO Alliance or in a coalition. It is important for UK LEGADs to liaise closely and early with counterparts in order to harmonise their understanding of multinational legal issues and, where differences exist, to understand them and make them clear to the Comd, to resolve differences where possible and mitigate their effect on operations.⁹ It should be borne in mind that it is entirely possible for 2 states to undertake multinational operations in support of shared missions which seek the same end-state, but which rely upon completely different legal bases for the use of force. This affects not only ROE, force allocation to missions and the like, but can dictate the tempo of operations, raise political concerns and create considerable friction. In the multinational arena, the proactive LEGAD should keep himself sufficiently well informed to anticipate potential legal difficulties and keep his Comd aware of any and all emerging issues.

Early Involvement of Legal Advisers

215. LEGADs in the operational command chain, from those in permanent, divisional and battle staff headquarters to those deploying in units, should be identified and involved at an early stage of the planning process. Information should flow readily among them so that there is a common understanding of the legal basis for the operation and an ability on the part of all LEGADs in the operation to contribute to relevant legal briefings and LOAC training for deployed forces. With respect to LOAC training, the operational LEGAD should ensure, as a minimum, that focused refresher briefs are offered and a LOAC *aide-mémoire*¹⁰ (to complement pre-deployment training) provided to Servicemen deployed on operations. The bulk of the training and education should already have been delivered as a matter of routine during new entry and career courses, with appropriate continuation training. The Geneva Conventions place an obligation on parties to teach LOAC:

⁹ See footnote 39 to JWP 3-00 paragraph 225(a): 'National constraints, restrictions, legal issues, political nuances and sensitivities must all be clearly articulated, ideally during work-up training, well before operations commence. It follows the fewer of these there are, the better.'

¹⁰ E.g. extant JSP 381 or a mission-specific adaptation.

‘The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains’.¹¹

A LOAC syllabus should be convincing, relevant, built round practical examples and tailored to the target audience.

Identification of Legal Issues

216. LEGADs should be involved in planning and mission rehearsal, for this provides the best opportunity to identify or refine targeting, ROE¹² or combat legal issues. LEGADs should think through the different phases of an operation and prepare to deal with foreseeable legal questions that might arise. Sovereignty of states affects mounting aspects of an operation, such as assistance and basing, overflight rights, air and seaports of disembarkation, information/intelligence gathering and general access to areas adjacent to the JOA.¹³ In armed conflict, issues such as prisoner handling, refugees and combat search and rescue operations will arise. Equally, if occupation is contemplated, the legal implications of this for the UK will need to be examined, along with a careful consideration of the laws of the occupied territory. These considerations should inform the planning process. The PJHQ/Joint Force Headquarters (JFHQ) LEGADs have a place in the Joint Command Group (JCG), the role of which is to prioritise the planning effort and provide direction and guidance as required.¹⁴

Legal Consultation

217. The LEGAD will typically be approached for advice by J3, J5 and Contingency Planning Teams, depending on how far campaign planning has advanced. The planning phase of the operation will generate a number of actions and issues and it will be necessary for Service lawyers to seek clarification on legal issues from the chain of command or MOD Legal Services. On issues of national policy or interpretation, or national legislation or prerogative, the Law Officers may need to be approached by DGLS for advice.

¹¹ 1949 Geneva Convention I article 47. See also GC II article 48, GC III article 127, GC IV article 144 & AP I article 83.

¹² It should be borne in mind that ROE are a J3/J5 lead and are by no means the sole responsibility of the LEGAD. The LEGAD's role is to provide close legal support to his J3/J5 colleagues in the formulation of ROE.

¹³ JWP 3-00 paragraph 1A5(d).

¹⁴ JWP 5-00 paragraph 313.

SECTION IV – ROLE IN OPERATIONS EXECUTION

218. Legal issues arise during operations, so the LEGAD has a comprehensive responsibility in operations execution. For example, the use of force crossing the threshold of armed conflict brings into play the body of LOAC. An armistice,¹⁵ cease-fire,¹⁶ capitulation¹⁷ or a surrender¹⁸ can all suspend hostilities, but each does so in a way that imposes different legal obligations on the UK. These are terms of art; the agreements must be clear, precise, ideally in writing, entered into by the competent authority and followed scrupulously¹⁹ because the UK meets its rights and obligations. What follows are some of the most important practical issues facing the LEGAD during the course of an operation.

Basic Principles in Use of Force

219. Operations entailing the use of force must conform to some basic legal principles,²⁰ and these must be at the forefront of the LEGAD's mind when force is used.²¹

- a. **Military Necessity and Humanity.** Just because something is military, or has a military use, it does not mean that it should be attacked. To be a legitimate target it must be judged according to the operational and tactical objectives sought. These should flow from the legitimate purpose of the conflict, e.g. the complete or partial submission of the enemy at the earliest possible moment with the minimum expenditure of life and resources. Lawful force should be proportionate and necessary to achieve the legitimate aim. The principle of military necessity is often counterpoised with the principle of humanity, which imports general duties such as avoiding inflicting superfluous

¹⁵ Armistice: 'suspends military operations by mutual agreement between the belligerent parties'. Hague Regulation 36.

¹⁶ Cease-fire: 'In practice, a cease-fire has been a temporary suspension of military operations, negotiated by opposing commanders for a humanitarian purpose, such as the collection of the wounded or the exchange of prisoners of war. A cease-fire may also be arranged either in consequence of a political dialogue or as a prelude to it'. JSP 383 paragraph 10.15.1.

¹⁷ Capitulation: 'A capitulation is an agreement entered into between the commanders of armed forces or belligerents concerning the terms of surrender of a body of troops, of a defended town or place, or of a particular district of the theatre of war. They are, both in character and purpose, purely and exclusively military agreements, involving the abandonment of resistance by a portion of the enemy's forces which capitulates and result, as a rule, in members of the force becoming prisoners of war.' JSP 383 paragraph 10.30.

¹⁸ Surrender: 'A surrender may be distinguished from a capitulation in that there is usually no agreement stipulating the terms of the surrender. It may range from an individual soldier laying down his arms to the unconditional surrender of a nation.' JSP 383 paragraph 10.33. Individual combatants who surrender are entitled to PW status.

¹⁹ JSP 383 paragraph 10.13.

²⁰ JSP 383, Chapter 2.

²¹ The same legal considerations arise, not only in relation to the use of kinetic force, but apply equally to the application of non-kinetic force, e.g. in the context of information operations such as the jamming of media broadcasting or degrading an adversary's computer networks.

injury or unnecessary suffering²² or protecting those rendered *hors de combat*²³ such as the wounded, sick or shipwrecked.

b. **Distinction.** Offensive action must only be directed against military objectives. They are: ‘those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage’.²⁴ Civilians and civilian objects²⁵ must not be attacked. The attacker is to be judged on the quality of information available to him at the time. If he makes reasonable efforts to gather intelligence, reviews it and concludes in good faith that he is attacking a legitimate target, then he does not automatically violate the principle of distinction if it turns out to be a civilian person or object.

c. **Proportionality.** The principle of proportionality requires that the collateral damage resulting from a military action should not be excessive in relation to the expected military advantage. This can be broken down into 2 duties:

(1) **Avoidance of Excessive Civilian Losses.** The duty not to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.²⁶

(2) **Feasible Precautions.** The duty of attackers to take all feasible precautions to discriminate in planning or deciding upon an attack, even to the point of cancelling or suspending an attack and warning the civilian population that may be affected by an attack.²⁷ Feasible precautions are ‘those precautions which are practicable or practically possible, taking into account all the circumstances ruling at the time, including humanitarian and military considerations’.²⁸

²² AP1 article 35(2).

²³ AP1 articles 41 & 45. A person is *hors de combat* if he is (1) a Prisoner of War, or (2) he clearly expresses an intention to surrender, or (3) he is rendered unconscious or is otherwise incapacitated by wounds or sickness, and is therefore incapable of defending himself.

²⁴ AP 1 article 52(2).

²⁵ ‘Civilian Objects’ are all objects which are not military objectives. See JSP 383 *Joint Service Manual of the Law of Armed Conflict*.

²⁶ AP 1 article 51(5)(b).

²⁷ AP 1 article 57(2)(a)(iii), (b) & (c).

²⁸ Definition drawn from 1980 CWC Convention, Protocol II article 3.

Accountability

220. Not only the Comd but also individual members of the armed forces are accountable for their actions on operations. During an armed conflict the LEGAD has a vital role in guiding the Comd and his subordinates on the lawful use of force and on adherence to international law. The UK is legally bound to investigate and prosecute those who violate the laws of war.²⁹

a. **Command Responsibility.** The Comd must take into account LOAC when issuing orders and instructions or establishing procedures or training, and must take steps to prevent or report violations of which he becomes aware, and if necessary institute disciplinary action. The Comd will be criminally responsible if:

- (1) He participates in the commission of a war crime in the manner described at sub paragraph b. below, particularly if he orders its commission; or
- (2) He knows or, owing to the circumstances at the time should have known, that war crimes were being or were about to be committed by forces under his effective command and control, and failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to the competent authority for investigation and prosecution.³⁰

b. **Individual Responsibility.** An individual is responsible for violations if:

- (1) He himself commits the crime, on his own or jointly with others.
- (2) He orders, solicits or induces a crime which is committed or attempted.
- (3) He aids, abets or otherwise assists in the commission of the crime, including providing the means for its commission.
- (4) He contributes to the commission or attempted commission of the crime by a group of persons acting with a common purpose.³¹

There are defences open to individuals.³² A very limited defence of obeying superior orders is available if the individual can show:

²⁹ HC IV article 3; GC I article 49, GC II article 50, GC III article 129, GC IV articles 29 & 146; AP I article 91.

³⁰ AP I article 86(2); Rome Statute article 28.

³¹ 1998 Statute of Rome article 25.

³² JSP 383 paragraph 1640ff.

- (1) He was under a legal obligation to obey orders of the government in question or the superior in question.
- (2) He did not know that the order was unlawful.
- (3) The order was not manifestly unlawful.³³

Targeting

221. **Compliance with the Law of Armed Conflict.** Targeting operations are subjected to careful scrutiny to ensure that they are necessary to achieve the objectives of the campaign, that they involve the use of necessary and proportional force, and, most importantly, that they meet the strict requirements of international law governing the conduct of military operations.³⁴ The operational LEGAD will need to have a thorough knowledge of the legal rules governing kinetic and non-kinetic actions³⁵ and bring this to bear on the targeting process. For example, restrictions relate to cultural, historical and religious sites and medical facilities. Also, there are rules which protect objects indispensable to the population's survival, such as foodstuffs, agricultural areas and drinking water, and a prohibition, in most cases, on attacks that would cause widespread, long-term and severe damage to the natural environment. Whether a state of international armed conflict exists or not, when engaged in targeting, UK Armed Forces are to apply the provisions of the 1977 Additional Protocol 1 to the Geneva Conventions of 1949.

222. **Aspects of Targeting Process.** The LEGAD needs to be conversant with the UK's targeting process in order to apply the legal principles intelligently. As the process accounts for a substantial amount of staff time, an understanding of the joint fires cycle will allow the LEGAD to develop his own campaign rhythm.³⁶ JWP 3-00, Appendix 2E1, '*Joint Fires Aspects of Targeting*', is essential reading for any LEGAD who is part of a targeting team, and the main components of the targeting process that the LEGAD needs to understand are:

- a. Hierarchy of Effects
- b. Directives
- c. Target Lists
- d. Deliberate Targeting Process
- e. Rapid Attack of Targets

³³ 1998 Statute of Rome article 33.

³⁴ JWP 3-00 paragraph 2E1.2.

³⁵ See for example JSP 383 Chapter 5.

³⁶ See Annex 2A.

f. Target Approval in the JOA

223. **Hierarchy of Effects.** Targets are categorised according to the level at which an effect is sought.³⁷

Strategic Effect	Targets that affect an opponent's long-term capacity and will to sustain hostilities, such as strategic Command and Control (C2). All targets capable of enabling the first use of Weapons of Mass Destruction (WMD) are classed as strategic in nature. Strategic effect may include non-kinetic actions.
Operational Effect	Targets which affect an opponent's military capability, e.g. air defence systems, ammunition and fuel storage, or those that directly support an adversary's ability to sustain hostilities, e.g. lines of communication. Operational effect may include non-kinetic actions.
Tactical Effect	These include the adversary's military forces, which have the potential to influence the tactical commander's battles, such as air forces, echelon and reserve forces, and supply areas. Close Air Support (CAS), as an activity in support of the components, is not considered as part of the deliberate Joint Fires process; it is but one aspect of the contact battle. Tactical effect may include non-kinetic actions.

224. **Directives.** The promulgation and dissemination of the strategic decision to commit UK armed forces were discussed in Chapter 1. Targeting is also set out in directives:

a. **Chief of the Defence Staff's Targeting Directive.** The Chief of the Defence Staff's Targeting Directive sets out in broad terms UK strategic and military objectives and priorities, constraints to be applied, and acceptable target types.

b. **The Joint Commander's Effects Directive.** The Joint Commander's Effects Directive gives the JTFC/NCC guidance on what authority is delegated to him for target approval within the JOA. Taking advice from his CCs, the JTFC/NCC will then, through the Joint Effects Meeting process, set priorities, provide targeting guidance and determine the weight of effort to be applied, to achieving his campaign objectives.

³⁷ JWP 3-00 paragraph 2E1.5.

225. **Target Lists.** Targets are placed on one of a number of specific lists.³⁸ They are as follows:

- a. **No-strike List.** The No-strike List is a list of those objects or locations granted protection from attack under international law.
- b. **Restricted Target List.** The Restricted Target List is a list of military objectives, which, due to special considerations, require temporary protection from attack.
- c. **Joint Target List.** The Joint Target List (JTL) is a list produced by the Target System Analysis Planning Group (TSA PG) within the Defence Intelligence Service, convened by the Director of Targeting and Information Operations (DTIO), through the MOD Targeting Board.
- d. **The Joint Integrated Target List.** The Joint Integrated Target List (JITL) is derived from the JTL and is a list of potential targets produced from more detailed target assessments carried out at the operational and tactical levels.
- e. **The Joint Integrated Prioritised Target List.** The Joint Integrated Prioritised Target List (JIPTL) prioritises the targets on the JTL/JITL in accordance with JTFC direction and priorities.
- f. **The Target Nomination List.** The Target Nomination List (TNL) is the daily list of targets to be attacked kinetically. The TNL recommendation will be derived from the JIPTL by the Joint Effects Meeting (JEM) and represents that which is feasible or practical to attack within the period covered by the list.

226. **Deliberate Targeting Process.** The deliberate targeting process is built round daily meetings.

- a. **Joint Effects Meetings.**³⁹ The Effects process is co-ordinated by 2 JEMs which ensure that Joint Fires takes account of the JTFC's prioritised objectives. The LEGAD has an active role in advising upon the legality of targets prior to presentation to the Comd. The LEGAD should use this opportunity to rehearse with J2/J3 staffs the questions and issues that the Comd is likely to raise at JEM2. JEM2, chaired by the Comd or his delegate, convenes at an appropriate time prior to the Joint Co-ordination Board (JCB) to properly inform that meeting. The LEGAD attends this meeting and is available to assist the Comd as necessary. Having determined the effect to be

³⁸ JWP 3-00 paragraph 2E1.7.

³⁹ JWP 3-00 paragraph 2E1.7(g).

achieved, JEM2 will determine the actions necessary to achieve the effect and will recommend how best to prosecute the target. JEM2 is also responsible for the co-ordination/de-confliction of JTFC controlled assets, legal issues, and clearance procedures for new target proposals. LEGADs in the various CCs play an active role in the CC's own target nomination board and apply the same legal principles.

b. **Joint Co-ordination Board.**⁴⁰ The JCB gives the JTFC the opportunity to consider and determine targeting issues at his level. The primary targeting functions of the JCB are to review and confirm the JTFC's guidance and objectives, approve CC apportionment recommendations, and approve the TNL for the next 24 hours.

227. **Rapid Attack of Targets.**⁴¹ In cases where a reaction may be required or demanded in a matter of hours, or even minutes, the deliberate targeting process using the JEMs and JCB has to be supplemented by other procedures. Possible targets are divided into 3 categories:

a. **Time Sensitive Targets.** Time Sensitive Targets (TST) follow the same authorisation procedures as deliberate targets, but the procedures are expedited to reflect the fleeting nature of TSTs.

b. **Dynamic Targets.** A dynamic target (DT) is a target identified within the current Air Tasking Order (ATO) cycle which it is decided should be struck within the ATO period.

c. **Emerging Targets.** An emerging target (ET) is a target that meets sufficient criteria to be considered and developed as a target. The critical and time-sensitive nature of this potential target is initially undetermined and may be subsequently dealt with as either a TST, DT or as a target planned in the deliberate cycle.

228. **Target Approval in the Joint Operations Area.**⁴² The degree of delegated authority given to the JTFC/NCC to engage targets will depend on the operation and can be politically sensitive. However, it is inevitable that there will be targets that require clearance at the strategic level. In order to meet this imperative, the JTFHQ Targeting Cell must support a timely target clearance procedure in close co-operation with all other agencies involved. Where the UK is in support of a multinational JTF, an important advisory duty for the NCC is to appraise the JTFC of the reality of the UK's approval process. At CC level, the CC LEGAD should be advising CC Target Boards on the lawfulness of the targets being nominated for inclusion in the JTL. The

⁴⁰ JWP 3-00 paragraph 2E1.7(h).

⁴¹ JWP 3-00 paragraph 2E1.10.

⁴² JWP 3-00 paragraph 2E1.9.

CC LEGAD should appreciate the questions and issues which the JFHQ is likely to ask, and advise on resolving such targeting issues at an early stage.

229. Whilst the JTFC/NCC may only act within the bounds of his delegated authority he is not absolved of his responsibility to clear targets in theatre ‘at the time of the attack’, notwithstanding any prior sifting of target folders handed down from higher authority. This necessarily follows from the principle of distinction which places a legal duty on those who plan or decide attacks to discriminate between military and civilian objectives, and to take all feasible precautions.⁴³ It is also a matter of common sense, because until a campaign is underway it is not possible to state with any degree of accuracy what the collateral damage will be and what military advantage is to be gained from attacking a particular target. The practical implication for the operational LEGAD is that he needs to raise the awareness of the Targeting Cell that they should not work on assumptions, outdated information or superficial reports. Instead they should drill down for up-to-date, relevant information, and understand the intelligence basis on which target proposals are made. The target’s status as a military objective, and the military advantage in attacking it, *need to be determined at the time that the attack is authorised*, which will be some time after it has passed scrutiny at the higher level targeting boards.

230. It should always be remembered that the decision to undertake a kinetic or non-kinetic attack lies with the Commander. The LEGAD will advise and assist the Commander in making that decision, setting out the legal principles for him and ensuring that the decision is within the acceptable boundaries of military necessity, distinction, humanity and proportionality. However, the LEGAD’s role is just that – advisory; the LEGAD is not the decision maker.

Practical Legal Issues

231. As every operation is different the legal issues arising from one operation to the next will differ. Nevertheless, experience during armed conflict has shown that the LEGAD will face certain complex recurring issues, e.g. the status, treatment and handling of detainees, internees or PWs;⁴⁴ disciplinary, administrative and war crimes investigations; information operations;⁴⁵ the question of who comprises an enemy’s armed forces⁴⁶ for targeting purposes, or the preferred method of neutralising targets which carry a potentially high risk of collateral damage. In PSO or belligerent occupation the LEGAD will face a different set of issues, with the emphasis being on law and order, the drafting or interpretation of laws and agreements, or the legal rights

⁴³ AP 1 article 57.

⁴⁴ See JWP 1-10 ‘Prisoners of War Handling’.

⁴⁵ For example, Info Ops must not terrorise, imply territorial control when there is none, suggest that no quarter will be offered, contain an illegal ultimatum or suggest that legal rights will be denied on capture.

⁴⁶ JSP 383, Chapter 4.

and obligations of visiting⁴⁷ or occupying forces. The intent of this publication is not to address all these issues, rather it is to set out the correct approach. The point for the deployed LEGAD is that, whilst these issues belong to the execution phase of an operation, they need to be thought through at the planning stage. In respect of UK operations and UK areas of responsibility, PJHQ LEGADs, drawing help from MOD DGLS, should scope the legal issues, study lessons identified from previous operations and brief the legal issues down the chain of command before decisive operations start. Whilst the JTFHQ/NCHQ LEGAD is likely to be familiar with the specific legal issues of an emerging operational plan, owing to his organic link to PJHQ, this may not be the case for other LEGADs. The PJHQ and JTFHQ/NCHQ augmentees on the one hand and CC LEGADs on the other may well have different backgrounds, and have come to the operation at a late stage of the planning, or even execution, stages. Therefore, no assumptions should be made. Should complex issues arise unforeseen during the course of an operation it is essential that the deployed LEGAD co-ordinate with PJHQ to obtain high level (MOD or UK Government) direction.

⁴⁷ The legal position of UK Armed Forces operating in the sovereign territory of another nation will usually be regulated by Status of Forces Agreements (SOFAs) or Memoranda of Understanding (MOUs). LEGADs should liaise with PJHQ (J4) to ensure such agreements reflect, as far as possible, the Comd's wishes.

ANNEX 2A – CAMPAIGN RHYTHM FOR LEGAL ADVISER

2A1. A generic Joint Task Force Headquarters (JTFHQ) campaign rhythm can be found in JWP 3-00 ‘*Joint Operations Execution*’, Annex 3B. The campaign rhythm for the JTFHQ or National Contingent Headquarters (NCHQ) Legal Adviser (LEGAD) is governed by the HQ rhythm. Component Commander (CC) and Contingent Comd LEGADs will find that their campaign rhythm will depend on the framework of meetings and briefings of their Commander’s (Comd’s) HQ. The table below provides a generic campaign rhythm for the LEGAD in the JTFHQ or NCHQ.

2A2. The LEGAD at the Component level can expect the CC’s campaign rhythm to reflect, to a greater or lesser extent, the JTFHQ or NCHQ rhythms set out below.

Time	JTFHQ Event	NCHQ Event	Purpose	LEGAD Involvement
Morning	Comd’s Morning Brief	Comd’s Morning Brief	Staff Brief to Comd.	Attendance as required
		‘235’ Brief	J2, J3 & J5 staff meeting.	Contribution
		‘146’ Brief	J1, J4 & J6 staff meeting.	Contribution
	Jt Comd’s VTC		Jt Comd to provide direction to Joint Task Force Commander (JTFC).	
	Joint Force Planning Group		JTFC to discuss and plan.	Attendance
	Joint Effects Meeting (JEM) 1	National Targeting Board Pre-Meeting	SO1 Level Ops Sp examination of target folders for clearance prior to presentation to Comd.	Contribution
		Target Working Group (Final)	OF5 Level, lead-nation chair, coalition alignment of targeting.	Contribution
Afternoon		National Contingency Planning Team	Examination of major issues with reps from staff divisions J1-J9.	Contribution
	Chief of Staff (COS) Gp		COS to issue direction to staff for next 96 hrs.	Attendance

Time	JTFHQ Event	NCHQ Event	Purpose	LEGAD Involvement
	JEM 2	National Target Board	Comd or delegate chairs. Update guidance, priorities and target lists.	Contribution
	Joint Co-ordination Board	National Co-ordination Board	Permanent Joint Headquarters, NCHQ, CCs VTC to review guidance and approve draft Joint Integrated Prioritised Target List.	Attendance
		National Executive Board	Board of senior personnel in NCHQ.	Attendance
Evening		Coalition Targeting Co-ordination Board	Coalition Comd approves in principle 2 Fires cycles and gives direction on next cycle. Approval of 24-hr Air Tasking Order.	Attendance
	Comd Evening Brief	Comd Evening Brief	Staff Brief to Comd.	
	Jt Comd's VTC		Jt Comd to give direction to JTFC.	
	JF Comd Gp VTC (as req)		JTFC to give direction to CCs.	
		Target Working Group (TWG) (Preliminary)	Prepare for the next day Final TWG.	Contribution
On call Day and Night		<ul style="list-style-type: none"> - Time Sensitive Targets - Command Legal Issues - Routine 'in-tray' 		

ANNEX 2B – LEGAL RESOURCES FOR DEPLOYMENT

SECTION I – BATTLEBOX

2B1. The legal resources which a deploying Legal Adviser (LEGAD) will take are a compromise based on space and weight available in baggage, the LEGAD's own knowledge and experience, electronic and IT communications in the theatre of operations (TOO), and internet connectivity. It is not realistic to provide a definitive or specific list of resources, and LEGADs should consult widely within their command and with their own Service legal branches on what might be useful. The following list comprises some materials that have been helpful:

CD ROM with key treaties and legal instruments (e.g. ALS Op Law CD-Rom).	Specific laws of state in which operations will occur (e.g. criminal laws).	US ' <i>Operational Law Handbooks</i> '.
JSP 383 ' <i>Joint Services Manual of the Law of Armed Conflict</i> '	Internet access to legal services provider, e.g. ' <i>Westlaw</i> or ' <i>Butterworths Services</i> '.	Service handbooks of operational law.
Selected legal cases.	Selected international law textbooks. See Section II. Most important is Roberts & Guelff, ' <i>Documents on the Laws of War</i> '.	All relevant UN Security Council Resolutions.
Copies of SOFAs, MOUs, ROE, legal annex to OPLAN.	JSP 381.	Relevant Manual of Service Law and Service Discipline Acts.
Queen's Regulations and other administrative guidance.	UK JDCC Joint Doctrine Disk (includes PW Handling, PSO, NEO, HDRO, CIMIC, Jt Ops Planning and Execution).	JSP 398 and MC 362 (3 rd Edition) – UK and NATO ROE.

SECTION II – SELECTED TEXTBOOKS

2B2. There are many textbooks on international law and LOAC in particular. LEGADs are likely to have their favourites. The list below is no more than an initial prompt:

R R Churchill, A V Lowe, '*The Law of the Sea*', (Manchester, Manchester University Press), 1999.

L Doswald-Beck (ed), '*San Remo Manual on International Law Applicable to Armed Conflicts at Sea*', (Cambridge, Cambridge University Press) 1995.

D Fleck (ed), '*The Handbook of Humanitarian Law in Armed Conflicts*', (Oxford, Oxford University Press), 1995.

M D Evans (ed), '*Blackstone's International Law Documents*', (London, Blackstone Press), 2001.

G von Glahn, '*The Occupation of Enemy Territory: A Commentary on the Law and Practice of Belligerent Occupation*', (Minneapolis, University of Minnesota Press), 1957.

L C Green, '*The Contemporary Law of Armed Conflict*', (Manchester, Manchester University Press), 1999.

F de Mulinen, '*Handbook on the Law of War for Armed Forces*', (Geneva, ICRC), 1987.

J S Pictet (ed), '*The Geneva Conventions of 12 August 1949: Commentary*, 4 vols., (Geneva, ICRC) 1952-60. Also at <http://www.icrc.org/ihl>.

A Roberts, R Guelff (eds), '*Documents on the Laws of War*', (Oxford, Oxford University Press), 2000.

A P Rogers, '*Law on the Battlefield*', (Manchester, Manchester University Press), 2004.

Y Sandoz, C Swinarski, B Zimmermann (eds), '*Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*', (Geneva, M Nijhoff for ICRC), 1987. Also at <http://www.icrc.org/ihl>.

United States Army, Judge Advocate General's School, '*Operational Law Handbook 2004*', JA 422, (Charlottesville, Virginia), 2003. Also at <http://www.fas.org/irp/doddir/army/law2004.pdf>.

United States Navy, '*Annotated Supplement to the Commander's Handbook on the Law of Naval Operations*', (Newport, RI, Naval War College), 1997. Also at [http://www.nwc.navy.mil/ILD/Annotated Supplement to the Commander's Handbook.htm](http://www.nwc.navy.mil/ILD/Annotated%20Supplement%20to%20the%20Commander's%20Handbook.htm).

SECTION III – SELECTED INTERNATIONAL INSTRUMENTS

2B3. The CD Rom in the LEGAD's battlebox should contain the most relevant international instruments to operations. The list below is not exhaustive, but is a starting point for consideration. Electronic versions of manuals can also be added to the list.

1856	Paris Declaration Respecting Maritime Law (Paris Declaration)
1868	St Petersburg Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight (St Petersburg Declaration)
1899	Hague Declaration 2 Concerning Asphyxiating Gases
1899	Hague Declaration 3 Concerning Expanding Bullets.
1907	Hague Convention IV Respecting the Law and Customs of War on Land (HC IV) - Regulations Respecting the Laws and Customs of War on Land (HR).
1907	Hague Convention V Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land (HC V)
1907	Hague Convention VII Relating to the Conversion of Merchant Ships into Warships (HC VII).
1907	Hague Convention VIII Relative to the Laying of Automatic Submarine Contact Mines (HC VIII)
1907	Hague Convention IX Concerning Bombardment by Naval Forces in Time of War (HC IX)
1907	Hague Convention XI Relative to Certain Restrictions with Regard to the Exercise of the Right of Capture in Naval War (HC XI)
1907	Hague Convention XIII Concerning the Rights and Duties of Neutral Powers in Naval War (HC XIII)
1923	Hague Rules of Aerial Warfare (HRAW)
1925	Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (Gas Protocol)
1936	London <i>Procès-Verbal</i> Relating to the Rules of Submarine Warfare Set Forth in Part IV of the Treaty of London of 22 April 1930 (London Protocol)
1944	Chicago Convention on International Civil Aviation (Chicago Convention).
1945	Charter of the United Nations (UN Charter)
1948	UN Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention)
1949	Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (GC I)
1949	Geneva Convention II for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (GC II)
1949	Geneva Convention III Relative to the Treatment of Prisoners of War (GC III)

1949	Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War (GC IV)
1950	Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)
1951	Convention Relating to the Status of Refugees - 1967 Protocol Relating to the Status of Refugees
1954	Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and Regulations for the Execution of the Convention for the Protection of Cultural Property in the Event of Armed Conflict (CPC)
1954	First Hague Protocol for the Protection of Cultural Property in the Event of Armed Conflict (CPP I).
1961	Vienna Convention on Diplomatic Relations (VCDR)
1966	International Covenant on Civil and Political Rights (ICCPR) - 1966 First Optional Protocol - 1990 Second Optional Protocol, Aiming at the Abolition of the Death Penalty
1966	International Covenant on Economic, Social and Cultural Rights (ICESCR)
1969	Vienna Convention on the Law of Treaties (Vienna Convention)
1971	Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (SUA (Aviation) Convention)
1972	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC)
1976	UN Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD Convention)
1977	Geneva Protocol 1 Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (AP I)
1977	Geneva Protocol II Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (AP II)
1980	UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (CCW) - 1980 Protocol I on Non-Detectable Fragments - 1980 Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices - 1980 Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons - 1995 Protocol IV on Blinding Laser Weapons - 1996 Amended Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices

	- 2003 Protocol V on Explosive Remnants of War
1982	United Nations Convention on the Law of the Sea (UNCLOS)
1987	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment - 1993 First Protocol - 1993 Second Protocol
1988	Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA (Maritime) Convention)
1993	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC)
1994	San Remo Manual on International Law Applicable to Armed Conflicts at Sea (SRM)
1994	UN Convention on the Safety of United Nations and Associated Personnel (UN Safety Convention)
1997	Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on the Demarcation (Ottawa Convention)
1998	Rome Statute of the International Criminal Court (Rome Statute)
1999	Second Hague Protocol for the Protection of Cultural Property in the Event of Armed Conflict (CPP II)
1999	UN Secretary General's Bulletin on Observance by United Nations Forces of International Humanitarian Law (Sec-Gen Bulletin)

SECTION IV – CHECKLIST

2B4. The operational LEGAD should draw up a checklist to ensure that key issues have been identified, actions taken and questions answered. The US '*Operational Law Handbook*', Chapter 31 has an extensive checklist which may usefully be consulted. The list below, which is far from exhaustive, contains some pointers:

Preparation and Deployment

- Arrange for appropriate security clearances.
- Determine the legal basis for the operation.
- Identify law applicable to the operation.
- Obtain relevant authorising documents.
- Obtain copies of SOFAs, MOUs, technical agreements etc.
- Consider whether any agreements need to be concluded.
- Review OPLAN for legal aspects.
- Review LOAC and ROE training.
- Consider augmentation of LEGADs.
- Think through potential legal issues in operation.

- Consult previous ‘Lessons Identified’ reports.
- Obtain Targeting Directive and practise time-sensitive targeting.
- Check who counts as a combatant on the enemy’s side (HR IV, GCs, AP 1).
- Identify LEGADs in coalition/alliance/multinational force.
- Check plans for PWs, detainees and internees.
- Check arrangements for Boards of Inquiry.
- Consider full command issues such as enforcement of Service discipline.
- Check arrangements for war crimes investigations.
- Check LOAC education, training and identification of accompanying civilians.
- Check medical and religious personnel are correctly briefed and identified.
- Consider whether enemy needs to be notified in advance of change of use of assets or their adoption into armed forces.
- Check arrangements for field hospitals and hospital ships.
- Check provisions made to deal with population movement – internally displaced persons, refugees.
- Consider legal arrangements for the termination or suspension of hostilities.
- Consider transitional justice and human rights issues.
- Consider arrangements for compensation and *ex gratia* payments.
- Check instructions about war trophies.
- Check that all members of the armed forces been issued with JSP 381, ‘*Aide Mémoire on the Law of Armed Conflict*’.
- Pack LEGAD’s battlebox.

Operations

- Establish links with ICRC and NGOs.
- Ensure investigations are conducted promptly and thoroughly.
- Keep Comd advised on LOAC principles.
- Work closely with Military Police or units with responsibility for treatment and handling of PWs, civilian detainees and internees.
- Advise on establishment and procedure for Article 5 tribunals to determine PW status.
- Keep ROE under regular review.
- Co-ordinate regularly with other LEGADs.
- Constantly refine deliberate targeting cycles and rapid reaction targeting.

Post-conflict/Occupation

- Ensure local laws are respected unless absolutely prevented.
- Consider whether local courts and officials are functioning properly.

- Consider need for occupying power's courts and laws.
- Ensure public and private property respected according to rules of international law.
- Consider property dispute resolution procedures.
- Ensure arrangements for security internees, criminal detainees and PWs comply with international law.
- Check all efforts being made to restore, and ensure, public order and safety.
- Check that actions taken by occupying powers within the bounds of occupation law and relevant SCRs.

SECTION V – LAW OF ARMED CONFLICT TRAINING SYLLABUS

2B5. In principle the deployed LEGAD is not responsible for LOAC training because UK armed forces embarking on operations should already be adequately trained. They receive basic training on entry into the Services and then annual and/or continuation training at key stages of their career. Nevertheless, the LEGAD may be asked to provide some focused refresher training in the preparatory stages to an operation. Whilst this publication does not pretend to be a comprehensive training documentation package or, still less, a LOAC manual, it may usefully point the LEGAD to a skeleton syllabus.¹ The LEGAD should be prepared to address the following issues:

Introduction	<ul style="list-style-type: none"> - Legal framework for operations - Types of conflict - Applicable international/national law
Basic Principles	<ul style="list-style-type: none"> - Military Necessity - Humanity - Distinction - Proportionality
Persons	<ul style="list-style-type: none"> - Combatants under GC III and AP1 - Non-Combatants <ul style="list-style-type: none"> - Civilians accompanying armed forces - Medical personnel - Religious personnel - Persons <i>hors de combat</i> <ul style="list-style-type: none"> - POWs - Wounded, sick and shipwrecked - Journalists - Civilian population - Spies - Mercenaries

¹ The US 'Operational Law Handbook' contains the US syllabus; STANAG 2449 (Edition 1) (Ratification Draft) contains the NATO syllabus.

Places	<ul style="list-style-type: none"> - Defended places - undefended places - Natural environment - Protected areas
Property	<ul style="list-style-type: none"> - Civilian objects - Specially protected objects and locations - Medical property - Cultural property
Weapons	<ul style="list-style-type: none"> - Small arms projectiles - Fragmentation - Poisoned weapons - Anti-personnel landmines - Booby traps - Incendiaries - Lasers weapons designed to cause permanent blindness - Chemical weapons and Riot Control Agents - Biological weapons - Nuclear weapons
Targeting	<ul style="list-style-type: none"> - Duty to verify military objectives - Feasible precautions to avoid or minimise civilian losses - Suspension or cancellation of attacks that may cause excessive civilian losses - Warnings - Methods and means of warfare - Superfluous injury and unnecessary suffering
Tactics	<ul style="list-style-type: none"> - Psychological operations - Ruses of war and deception - Use of property <ul style="list-style-type: none"> - Confiscation - Seizure - Requisition - Contribution - Treachery and Perfidy <ul style="list-style-type: none"> - Feigning wounds or sickness - Feigning surrender - Misuse of status - Misuse of UN, Neutral or Protective emblems - Assassination - Espionage - Reprisals - Rules of Engagement and LOAC
War Crimes	<ul style="list-style-type: none"> - Definitions and examples of war crimes

	<ul style="list-style-type: none">- Individual and command responsibility- Reporting and investigation- Trial and punishment
Miscellaneous Issues	<ul style="list-style-type: none">- War Trophies- ICRC

(INTENTIONALLY BLANK)

GLOSSARY OF TERMS AND DEFINITIONS

The primary references for the terms and their definitions used in this Glossary are indicated in parentheses.

Area of Operations

An operational area defined by a joint commander for land or maritime forces to conduct military activities. Normally, an area of operations does not encompass the entire joint operations area of the joint commander, but is sufficient in size for the joint force component commander to accomplish assigned missions and protect forces. (AAP-6)

Area of operations

1. At the operational level, the geographical area defined by the operational level commander within his JOA in which a commander designated by him (usually a component commander) is delegated authority to conduct operations.
2. At the tactical level, a geographical area, defined by lateral and rear boundaries, which is assigned to a commander by a higher commander. Within these boundaries the commander has the authority to conduct operations in order to execute his mission. (JWP 0-01.1)

Campaign

A set of military operations planned and conducted to achieve a strategic objective within a given time and geographical area, which normally involve maritime, land and air forces. (AAP-6)

Campaign Effectiveness Analysis

Analysis conducted at the strategic, operational and tactical level to monitor and assess the cumulative effects of military actions with respect to centres of gravity in order to achieve the overall campaign end-state. (JWP 0-01.1)

Centre of Gravity

Characteristics, capabilities or localities from which a nation, an alliance, a military force or other grouping derives its freedom of action, physical strength or will to fight. (AAP-6)

Command

The authority vested in an individual for the direction, co-ordination and control of military forces. (AAP-6)

Commander's Intent

A concise expression of the purpose of the campaign or operation, the desired results and how operations will progress towards the desired end-state. At the tactical level, the Commander's Intent should be focused on the effect that he wishes to achieve on the enemy. (JWP 0-01.1)

Components

Force elements grouped under one or more component commanders subordinate to the operational level commander. (JWP 0-01.1)

Contingents

Force elements of one nation grouped under one or more multinational component commanders subordinate to the Joint Task Force Commander. (JWP 0-01.1)

Directive

A military communication in which policy is established or a specific action is ordered. (AAP-6)

Dynamic Target

A Dynamic Target is a target identified within the current Air Tasking Order cycle that was previously unanticipated or newly detected, which is of significant importance to all components and should be struck within the Air Tasking Order period. These are generally dealt with by the components in the same manner as time sensitive targets, but might require clearance by the Joint Force Commander. (JWP 0-01.1)

Emerging Target

An emerging target is a target that meets sufficient criteria to be considered and developed as a target. The criticality and time sensitivity of this potential target is initially undetermined and may be subsequently dealt with as either a Time Sensitive Target, Dynamic Target or as a target planned in the deliberate cycle. (JWP 0-01.1)

End-state

The political and/or military situation to be attained at the end of an operation, which indicates that the objective has been achieved. (AAP-6)

End-state

That state of affairs which needs to be achieved at the end of a campaign either to terminate or to resolve the conflict on favourable terms. The end-state should be established prior to execution. (JWP 0-01.1)

Framework Nation

Forces designed under 'framework nation' arrangements are commanded by an officer from the framework nation. A significant proportion of the staff and headquarters support will also come from the framework nation; its working language is of that nation and also its staff procedures. However in practice, once command and staff teams are established, procedures may evolve to incorporate best practice from amongst the contributing nations. (JWP 0-01.1)

Full Command

The military authority and responsibility of a commander to issue orders to subordinates. It covers every aspect of military operations and administration and exists only within national services. Note: the term 'command' as used internationally, implies a lesser degree of authority than when it is used in a purely national sense. No NATO or coalition commander has full command over the forces assigned to him since, in assigning forces to NATO, nations will delegate only operational command or operational control. (AAP-6)

Humanitarian Adviser

An individual appointed by the Department for International Development (DFID) to advise the JTFC on the civil and humanitarian aspects of ongoing operations and their implications on planning. (JWP 3-00)

Information Operations

Co-ordinated actions undertaken to influence an adversary or potential adversary in support of political and military objectives by undermining his will, cohesion and decision making ability, including his information, information based processes and systems while protecting one's own decision-makers and decision making processes. (JWP 0-01.1)

Joint

Adjective used to describe activities, operations and organisations in which elements of at least two services participate. (AAP-6)

Joint Commander

The Joint Commander (Jt Comd), appointed by CDS, exercises the highest level of operational command (OPCOM) of forces assigned with specific responsibility for deployment, sustainment and recovery. (JWP 0-01.1)

Joint Co-ordination Board

The Joint Co-ordination Board (JCB) is an operation synchronisation meeting used to promulgate the JTFC's guidance and objectives to component commanders. It is his method of ensuring unity of effort. The board will review the Joint Integrated Prioritised Target List (JIPTL) to ensure that it reflects the JTFC's Campaign Plan and is in line with HMG objectives. (JWP 0-01.1)

Joint Effects Meeting

The Joint Effects Meeting is a staffing board whose role is to ensure that the Joint Fires process (which includes targeting) takes full account of the JTFC's prioritised objectives within the overall campaign plan. It is also responsible for the co-ordination and de-confliction of JTFC controlled assets. It will produce the daily Target Nomination List from the Joint Integrated Prioritised Target List for later approval by the Joint Co-ordination Board. (JWP 0-01.1)

Joint Fires

Joint Fires is defined as kinetic attack co-ordinated or directed at the operational level by the JTFC/NCC. (JWP 0-01.1)

Joint Force

A force composed of significant elements of two or more Services operating under a single commander authorised to exercise operational command or control. (JWP 0-01.1)

Joint Integrated Prioritised Target List

A prioritised list of targets, approved by the Joint Task Force Commander and maintained by a joint task force, which includes the Component Commanders' requirements. (JWP 3-00)

Joint Integrated Target List

A list of strategic and operational targets, co-ordinated by the PJHQ, to meet the Joint Commander's objectives. (JWP 0-01.1)

Joint Operations Area

A temporary area defined by a NATO strategic or regional commander, in which a designated joint commander plans and executes a specific mission at the operational level of war. Note: It is defined in co-ordination with nations and approved by the North Atlantic Council or the Military Committee as appropriate, in accordance with NATO's Operational Planning Architecture. A joint operations area and its defining parameters, such as time, scope of the mission and geographical area, are contingency- or mission-specific and may overlap areas of responsibility. (AAP-6)

Joint Operations Area

An area of land, sea and airspace, defined by a higher authority, in which a designated Joint Task Force Commander plans and conducts military operations to accomplish a specific mission. A Joint Operations Area including its defining parameters, such as time, scope and geographic area, is contingency/mission specific. (JWP 0-01.1)

Joint Task Force Commander

The operational commander of a nominated joint force. (JWP 0-01.1)

Joint Task Force Headquarters

A purely national deployable joint headquarters of variable size commanded at the operational level by a Joint Task Force Commander. (JWP 0-01.1)

Lead Nation

A Lead Nation is one which assumes lead responsibility for the planning and execution of an operation, particularly retaining ownership of the Campaign Plan and Information Operations. The Joint Task Force Commander, staff, command, control, Communications and Information Systems structure, doctrine and logistic co-ordination of the force will be provided by one nation (the lead nation). Other nations can assign contributions to this force under a National Contingent Commander, with liaison officers, and might even fulfil some staff positions in the lead nation's staff. (JWP 0-01.1)

Military Objective

Objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage. (Art 52, Protocol I Additional to the Geneva Conventions of 12 August 1949)

Multinational

Adjective used to describe activities, operations and organisations, in which forces or agencies of more than one nation participate. (AAP-6)

Operation

A military action or the carrying out of a strategic, tactical, service, training, or administrative military mission; the process of carrying on combat, including movement, supply, attack, defence and manoeuvres needed to gain the objectives of any battle or campaign. (AAP-6)

Other Operations

Other Operations are those that are conducted in situations other than war; it replaces 'Operations Other Than War' to reflect the need for similar combat capabilities in situations short of warfighting. (JWP 0-01.1)

Situational Awareness

The understanding of the operational environment in the context of a commander's (or staff officer's) mission (or task). (JWP 0-01.1)

Time Sensitive Targets

Time sensitive targets (TST) are those targets requiring immediate response because they represent a serious and imminent threat to friendly forces or are high payoff, fleeting targets of opportunity. In practice, TSTs are specific target sets designated by the JTFC. (JWP 0-01.1)

GLOSSARY OF ABBREVIATIONS

AG	Attorney General
AOO	Area of Operation
AP	Additional Protocol to Geneva Conventions
ASSESSREP	Assessment Report
ATO	Air Tasking Order
BCD	Battle Co-ordination Detachment
BDA	Battle Damage Assessment
BDD	British Defence Doctrine
BOI	Board of Inquiry
CAS	Close Air Support
CC(s)	Component Commander(s)
CCT	Current Commitments Team
CDS	Chief of the Defence Staff
CEA	Campaign Effectiveness Analysis
CIL	Customary International Law
CinCs	Commanders-in-Chief
CJO	Chief of Joint Operations
CJTF	Combined Joint Task Force
CO	Cabinet Office
CoA	Course of Action
CoG	Centre of Gravity
Comd	(The) Command(er)
Comd Gp	Command Group
CONDO	Contractor on Deployed Operations
COS	Chief of Staff/Chiefs of Staff
CPT	Contingency Planning Team
DALS	Director of Army Legal Services
DCDS(C)	Deputy Chief of the Defence Staff (Commitments)
DCMO	Defence Crisis Management Organisation
DFID	Department for International Development
DGLS	Director General Legal Services
DIS	Defence Intelligence Staff
DLS(RAF)	Director of Legal Services (Royal Air Force)
DNLS	Director Naval Legal Services
DSG	UK Defence Strategic Guidance
DT	Dynamic Target
DTIO	Directorate of Targeting and Information Operations

ECHR	European Convention on Human Rights and Fundamental Freedoms
ET	Emerging Target
FCO	Foreign and Commonwealth Office
FN	Framework Nation
GC	Geneva Convention
HA	Humanitarian Assistance
HDRO	Humanitarian/Disaster Relief Operations
HMG	Her Majesty's Government
HN	Host Nation
HNS	Host-nation Support
HUMAD	Humanitarian Adviser
HQ	Headquarters
IAC	International Armed Conflict
ICCPR	International Covenant on Civil and Political Rights
ICRC	International Committee of the Red Cross
IHL	International Humanitarian Law
IHL	International Human Rights Law
Info Ops	Information Operations
JCB	Joint Co-ordination Board
JCG	Joint Command Group
JEM	Joint Effects Meeting
JFAC(C)	Joint Force Air Component (Commander)
JFHQ	Joint Force Headquarters
JFLC(C)	Joint Force Land Component (Commander)
JFLogC(C)	Joint Force Logistics Component (Commander)
JFMC(C)	Joint Force Maritime Component (Commander)
JFSFC(C)	Joint Force Special Forces Component (Commander)
JIPTL	Joint Integrated Prioritised Target List
JITL	Joint Integrated Target List
JOA	Joint Operations Area
Jt Comd	Joint Commander
JTF	Joint Task Force
JTFC	Joint Task Force Commander
JTFHQ	Joint Task Force Headquarters
JTL	Joint Target List

LCC	Land Component Commander
LEGAD	Legal Adviser
LOAC	Law of Armed Conflict
MCC	Maritime Component Commander
MCE	Maritime Co-ordination Element
Media Ops	Media Operations
MJLC	Multinational Joint Logistics Centre
MOD	Ministry of Defence
MOD DGLS	Ministry of Defence Director General Legal Services
MOD TB	Ministry of Defence Targeting Board
MOU	Memorandum of Understanding
MSE	Military Strategic Estimate
NATO	North Atlantic Treaty Organisation
NIAC	Non-International Armed Conflict
NCC	National Contingent Commander
NCHQ	National Contingent Headquarters
NEO	Non-Combatant Evacuation Operations
NGO	Non-governmental organisation
OGD	Other government departments
OLRT	Operational Liaison and Reconnaissance Team
OPCOM	Operational Command
OPLAN	Operation Plan
Ops Sp	Operations Support
PACE	Police and Criminal Evidence Act 1984
PJHQ	Permanent Joint Headquarters
POLAD	Political/Policy Adviser
PSO	Peace Support Operations
PW	Prisoners of War
ROE	Rules of Engagement
ROEREQ	ROE Request
SAG	Situational Awareness Group
SCR	Security Council Resolution
SF	Special Forces
SITREP	Situation Report
SOFA	Status of Forces Agreement
STANAG	NATO Standardisation Agreement

TCN	Troop Contributing Nation
TNL	Target Nomination List
TOO	Theatre of Operations
TSA PG	Target System Analysis Planning Group
TST	Time Sensitive Target
UKEP	United Kingdom Entitled Personnel
UN	United Nations
VCDS	Vice Chief of the Defence staff
VTC	Video Teleconference
WMD	Weapons of Mass Destruction
WME	Weapons of Mass Effect