

APPENDIX L

**SELECTED SECTIONS OF TITLE 10, UNITED STATES CODE,
PERTAINING TO HUMANITARIAN ASSISTANCE**

The information in this appendix is for informational purposes only. Combat health support commanders should ensure that a legal opinion from the Staff Judge Advocate has been obtained prior to the execution of any missions that are conducted which are governed by these sections of Title 10, US Code.

L-1. Humanitarian Assistance under Title 10, United States Code, Section 401

a. Humanitarian assistance is governed by Title 10, US Code, Section 401, which specifies: Humanitarian assistance—

- Must be carried out in conjunction with HN military or civilian personnel.
- Shall complement and may not duplicate any other form of social or economic assistance that may be provided to the HN by any other department or agency of the US Government.
- May not be provided directly or indirectly to any individual, group, or organization engaged in military or paramilitary activities.
- May not be provided unless the DOS specifically approves such assistance.

b. Medical humanitarian assistance includes assistance to a HN such as medical, dental, and veterinary care provided in rural areas of the country. (A medical mission reconnaissance checklist is provided in Appendix M.) This assistance complements, but does not duplicate, any other social or economic assistance that is being provided by other US departments or agencies. These activities serve the basic economic and social needs of the people of the country concerned; they—

- Support the civilian leadership.
- Benefit a wide spectrum of the community.
- Are self-sustaining (once completed) or supportable by the HN civilian or military agencies once US assistance is withdrawn.

c. Department of Defense humanitarian assistance programs promote the—

- Security interests of both the US and HN.
- Specific operational readiness skills of the Armed Forces who participate in the activities.

d. Humanitarian assistance projects or activities in any HN require specific prior approval of the Secretary of State for such assistance.

FM 8-42

e. Expenses incurred as a direct result of providing humanitarian and civic assistance under this section to a foreign country shall be paid out of funds specifically appropriated for such purposes to include the following expenses:

(1) Travel, transportation, and subsistence expenses of DOD personnel providing such assistance.

(2) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting the activities, including any nonlethal, individual, or small team land mine clearing equipment or supplies that are to be transferred or otherwise furnished to a foreign country in furtherance of the provisions of assistance under this section.

f. The cost of equipment, services, and supplies provided in a fiscal year may not exceed \$5,000,000.

g. Nothing in this section may be interpreted to preclude incurring of minimal expenditures by the DOD for purposes of humanitarian and civic assistance out of funds other than funds appropriated.

L-2. Transportation for Humanitarian Relief Supplies under Title 10, United States Code, Section 402

The transportation of humanitarian relief supplies to foreign countries is governed by Title 10, US Code, Section 402.

a. Notwithstanding any other provisions of law, and subject to subsection (b), The Secretary of Defense may transport to any country, without charge, supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance. Such supplies may be transported only on a space available basis.

b. The Secretary may not transport supplies unless the Secretary determines that—

- Transportation of such supplies is consistent with the foreign policy of the US.
- Supplies to be transported are suitable for humanitarian purposes and are in usable condition.
- Legitimate humanitarian need exists for such supplies by the people for whom they are intended.
- Supplies will in fact be used for humanitarian purposes.
- Adequate arrangements have been made for the distribution of such supplies in the destination country.

c. The President shall establish procedures for making the determinations required under paragraph *b.* Such procedures shall include inspection of supplies before acceptance for transportation.

d. It shall be the responsibility of the donor to ensure that supplies to be transported under this section are suitable for transport.

(1) Supplies transported under this section may be distributed by an agency of the US government, a foreign government, an international organization, or a private nonprofit relief organization.

(2) Supplies transported under this section may not be distributed, directly or indirectly, to any group or organization engaged in a military or paramilitary activity.

L-3. Foreign Disaster Assistance under Title 10, United States Code, Section 404.

Foreign disaster assistance is governed by Title 10, US Code , Section 404.

a. Presidential Direction. The President may direct the Secretary of Defense to provide disaster assistance outside the US to respond to man-made and natural disasters when necessary to prevent loss of lives.

b. Forms of Assistance. Assistance under this section may include transportation, supplies, services, and equipment.

c. Notification Required. Not later than 48 hours after the commencement of disaster assistance activities to provide assistance under the section, the President shall transmit to Congress a report containing notification of the assistance provided, and proposed to be provided, under this section and a description of so much of the following as is then available:

- (1) The man-made or natural disaster for which disaster assistance is necessary.
- (2) The threat to human lives presented by the disaster.
- (3) The US military personnel and material resources that are involved or expected to be involved.
- (4) The disaster assistance that is being provided or is expected to be provided by other nations or public and private relief organizations.
- (5) The anticipated duration of the disaster assistance activities.

L-4. Excess Nonlethal Supplies for Humanitarian Relief under Title 10, United States Code, Section 2547

The provision of excess nonlethal supplies for humanitarian relief is governed by Title 10, US Code, Section 2547.

a. The Secretary of Defense may make available for humanitarian relief purposes any nonlethal excess supplies of the DOD.

FM 8-42

b. Excess supplies made available for humanitarian relief purposes under this section shall be transferred to the Secretary of State, who shall be responsible for the distribution of such supplies.

c. This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the DOD, would require a notice to the intelligence committees under Title V of the National Security Act of 1947.

d. In this section, the term *nonlethal excess supplies* means property, other than real property, of the DOD, that—

(1) Is excess property, as defined in regulations of the DOD, and

(2) Is not a weapon, ammunition, or other equipment or material that is designed to inflict serious bodily injury or death.

L-5. Humanitarian Assistance under Title 10, United States Code, Section 2551

a. Authorized Assistance. To the extent provided in defense authorization acts, funds authorized to be appropriated to the DOD for a fiscal year for humanitarian assistance shall be used for the purpose of providing transportation of humanitarian relief and for other humanitarian purposes worldwide.

b. Availability of Funds. To the extent provided in appropriate acts, funds appropriated for humanitarian assistance for the purposes of this section shall remain available until expended.

c. Status Reports.

(1) The Secretary of Defense shall submit to the congressional committees an annual report on the provision of humanitarian assistance pursuant to this section for the prior fiscal year. The report shall be submitted each year at the time of the budget submission by the President for the next fiscal year.

(2) Each report shall cover all provisions of law that authorized appropriations for humanitarian assistance to be available to the DOD.

(3) Each report under this subsection shall set forth the following information regarding activities during the previous fiscal year.

(*a*) The total amount of funds obligated for humanitarian relief under this section.

(*b*) The number of scheduled and completed transportation missions for purposes of providing humanitarian assistance under this section.

(*c*) A description of any transfer of excess nonlethal supplies of the DOD made available for humanitarian relief. The description shall include the date of transfer, the entity to whom the transfer is made, and the quantity of items transferred.