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TELEGRAM

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*File -
Human Rights
in
Armed Conflicts*

INFO OCT-01 ISO-00 CIAE-00 PM-05 H-01 INR-10 L-03
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ALL NATO CAPITALS

C O N F I D E N T I A L USNATO 10256

E.O. 11652: XGDS-1
TAGS: NATO, PARM
SUBJECT: NATO EXPERTS MEETING ON HUMANITARIAN
INTERNATIONAL LAW IN ARMED CONFLICT, NOVEMBER 8

REFS: (A) STATE 147385, (B) USNATO 9906, (C) USNATO 10067

SUMMARY. NATO LEGAL/POLITICAL EXPERT MEETING 8 NOVEMBER CONSIDERED NATIONAL POSITIONS ON ALLIED INTERPRETATIONS OF PROTOCOL I USING UK TEXT (REFERENCE C) AND FRG PAPER (REF B) AS BASIS FOR DISCUSSION. CONSENSUS APPEARS TO BE FORMING AS TO BOTH FORM AND SUBSTANCE OF INTERPRETATIVE STATEMENTS ON MINIMUM ESSENTIAL STATEMENT TO GIVE EFFECT TO INTERPRETATIONS FOUND TO BE NECESSARY IN MILITARY COMMITTEE STUDY. US REP REITERATED THAT IT INTENDS TO MAKE THE DECLARATIONS OUTLINED IN REFERENCE A. THERE IS NO CHANGE IN DECISION OF FRANCE NOT TO SIGN OR RATIFY PROTOCOLS.
END SUMMARY.

1. FRG REP ANNOUNCED THAT FRG HAS APPROVED NUCLEAR DECLARATION IN FORM PROPOSED BY UK IN REF C: "THAT THE RULES RELATING TO THE USE OF WEAPONS ESTABLISHED BY THIS PROTOCOL HAVE BEEN DESIGNED WITH A VIEW TO CONVENTIONAL WEAPONS AND WERE NOT INTENDED TO HAVE ANY EFFECT ON AND DO NOT REGULATE OR PROHIBIT THE USE OF NUCLEAR WEAPONS". THE US, BELGIUM AND NETHERLANDS INDICATED THAT THIS STATEMENT IS ACCEPTABLE AS A NATIONAL DECLARATION WITH SOME NON-SUBSTANTIVE MODIFICATIONS. CANADA IS CONSIDERING A LONGER REFERENCE TO THE NEGOTIATING RECORD PERTAINING TO "THE RULES GOVERNING THE CONDUCT OF MILITARY OPERATIONS" AND CONCLUDING WITH LANGUAGE SIMILAR TO THE UK-FRG TEXT. CANADIAN PURPOSE IS TO DISCOURAGE INQUIRY AS TO DIFFERENCE BETWEEN OLD RULES APPLICABLE TO USE OF NUCLEAR WEAPONS AND NEW RULES ESTABLISHED BY PROTOCOL WHICH ARE NOT. IT WAS GENERALLY AGREED THAT VARIATIONS IN THE TEXT WERE NOT HARMFUL PROVIDED THE OPERATIVE TEXT CLEARLY STATES THAT THE RULES DO NOT "REGULATE OR PROHIBIT THE USE OF NUCLEAR WEAPONS".

2. US, UK, FRG, BELGIUM AND CANADA URGED ALL NON-NUCLEAR STATES WHICH POSSESSED NUCLEAR DELIVERY MEANS AND THOSE FROM WHOSE TERRITORY NUCLEAR WEAPONS MAY BE LAUNCHED TO HAVE AN APPROPRIATE DECLARATION. ITALY HAS NOT YET MADE A DECISION. NORWAY AND DENMARK, WHILE AGREEING WITH THE SUBSTANCE OF THE NUCLEAR UNDERSTANDING, CONTINUED TO SEARCH FOR WAYS TO AVOID MAKING A FORMAL DECLARATION ON THE SUBJECT.

3. UK PROPOSAL ON DEFINITION OF "FEASIBLE" (REF C) WAS FOUND TO BE SATISFACTORY, BUT US, NETHERLANDS AND NORWAY INTEND TO INCLUDE IT IN EXPLANATORY MATERIALS TO LEGISLATURES WITHOUT HAVING A FORMAL DECLARATION. THERE WAS WIDE ACCEPTANCE OF UK FORMULATION FOR

DECLARATION ON ARTICLE 44, LIMITING OF STANDARDS OF DISTINCTION BY GUERRILLAS TO OCCUPIED TERRITORY AND STRUGGLES FOR SELF-DETERMINATION AS WELL AS DEFINITION OF "DEPLOYMENT".

4. UK FORMULATION FOR EXPLANATORY STATEMENT OF MILITARY ADVANTAGE ANTICIPATED FROM ATTACK AND ELABORATION OF DEFINITION OF MILITARY OBJECTIVE AS INCLUDING AREA OF LAND WERE GENERALLY ACCEPTED. US, HOWEVER INDICATED THAT IT DOES NOT CONSIDER NECESSARY FORMAL DECLARATION ON THIS SUBJECT.

5. WITH RESPECT TO WARS OF NATIONAL LIBERATION, THE UK ABANDONED ITS EFFORT TO ASSIMILATE ARTICLE 1, PARA 4 TO LEVEL OF INTENSITY PRESCRIBED IN PROTOCOL II. ONLY BELGIUM AND UK SPOKE IN FAVOR OF CONDITIONING RECOGNITION OF LIBERATION MOVEMENTS ON RECOGNITION BY REGIONAL INTER-GOVERNMENTAL ORGANIZATION.
6. NO DATE WAS SET FOR FUTURE MEETING, BUT IT WAS AGREED THAT NATO POLITICAL COMMITTEE WILL CONTINUE TO MONITOR PROGRESS BEING MADE TOWARD PARLIAMENTARY SUBMISSION OF PROTOCOLS AND SERVE AS A CLEARING HOUSE FOR EXCHANGE OF INFORMATION. GLITMAN



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