

Message Text

PAGE 01 NATO 00453 271433Z
ACTION EUR-12

INFO OCT-01 IO-13 ISO-00 EURE-00 SSO-00 NSCE-00 USIE-00
INRE-00 CIAE-00 PM-04 INR-07 L-03 ACDA-07 NSAE-00
PA-01 SS-15 PRS-01 SP-02 TRSE-00 SAJ-01 DHA-02 /069 W
-----271442Z 067982 /43

O R 271354Z JAN 77
FM USMISSION NATO
TO SECSTATE WASHDC IMMEDIATE 1376
SECDEF WASHDC IMMEDIATE
INFO AMEMBASSY BONN
USMISSION GENEVA
USMISSION USUN NEW YORK

C O N F I D E N T I A L USNATO 0453

E.O. 11652: GDS
TAGS: NATO PFOR PARM ICRC
SUBJ: NATO CONSIDERATION OF DRAFT PROTOCOL ON INTERNATIONAL LAW
IN ARMED CONFLICT

REF: USNATO 372 (DTG 211917Z JAN 77)

1. THERE FOLLOWS BELOW THE TEXT OF SPEAKING NOTES ON WHICH FRG REP DREW AT JANUARY 25 POLADS MEETING IN PRESENTING FRG VIEWS ON "SECURITY IMPLICATIONS FOR THE ALLIANCE OF PROVISIONS OF THE FIRST ADDITIONAL PROTOCOL TO THE GENEVA CONVENTION." FRG REP HAS DISTRIBUTED PAPER TO POLADS.

2. IN INTRODUCING SUBJECT, FRG REP SAID HE HOPED IT WOULD BE POSSIBLE TO DISCUSS THIS MATTER IN POLADS AND THAT, SUBSEQUENTLY, PERMREPS COULD ALSO REVIEW THIS SUBJECT. HE MENTIONED AS WELL THE DESIRE OF HIS AUTHORITIES FOR A MILITARY COMMITTEE STUDY OF THE MILITARY IMPLICATIONS OF THE PROTOCOL, BUT DID NOT ADDRESS THE QUESTION OF WHEN SUCH A STUDY SHOULD
CONFIDENTIAL

PAGE 02 NATO 00453 271433Z

BEGIN.

3. FRENCH REP SAID HER AUTHORITIES SHARED FRG CONCERNS REGARDING THE PROTOCOL AND FAVORED A MILITARY COMMITTEE STUDY OF THIS MATTER.

4. ACTION REQUESTED: ANY SPECIFIC POINTS WE SHOULD MAKE REGARDING FRG SPEAKING NOTES, IF POSSIBLE IN TIME FOR FEBRUARY 1 POLAD'S MEETING.

5. BEGIN TEXT OF FRG SPEAKING NOTES:

1. IT HAS TO BE EXPECTED THAT THE GENEVA DIPLOMATIC CONFERENCE ON THE REAFFIRMATION AND DEVELOPMENT OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE IN ARMED CONFLICTS WILL END WITH ITS FOURTH SESSION WHICH WILL BEGIN IN THE SPRING AND TERMINATE IN MID-JULY 1977 AND THAT THE PROTOCOLS WILL THEN BE OPEN FOR SIGNATURE. IN VIEW OF THIS, WE SUGGEST THAT THE ALLIANCE SHOULD EXAMINE THE POSSIBLE IMPLICATIONS (ESPECIALLY OF THE PROVISIONS FOR THE PROTECTION OF THE CIVIL POPULATION CONTAINED IN SECTIONS III AND IV OF PROTOCOL NO. I) ON THE DEFENCE PLANNING OF THE ALLIANCE SINCE IT CANNOT BE RULED OUT THAT SOME ARTICLES WILL CALL INTO QUESTION THE ADMISSIBILITY UNDER INTERNATIONAL LAW OF OUR PRESENT DEFENCE PLANNING.

2. THIS CONCERN RELATES TO SOME OF THE NEW WARFARE PROVISIONS IN PART III AND PART IV OF ADDITIONAL PROTOCOL NO. I, NOTABLY ITS ARTICLES 33 AND 34, AND 46 TO 51. A CRITICAL VIEW IS TAKEN OF THE PROHIBITION OF
-ATTACKS NOT DIRECTED AT A SPECIFIC OBJECTIVE;
-ATTACKS USING METHODS AND MEANS OF COMBAT WHICH CANNOT BE DIRECTED AT A SPECIFIC MILITARY OBJECTIVE;
-ATTACKS WHOSE EFFECTS CANNOT BE LIMITED TO THE MILITARY OBJECTIVE.
IN VIEW OF THE MAJORITIES TO BE EXPECTED AT THE CONFERENCE, WE DO NOT EXPECT ANY DECISIVE CHANGES OF THESE PROVISIONS AT THE CONFIDENTIAL

PAGE 03 NATO 00453 271433Z

FINAL SESSION.

3. THE NEGATIVE EFFECTS WITH WHICH THE ALLIES MIGHT BE FACED CONCERNING NATO'S CONCEPT OF DETERRENCE AND DEFENCE INCLUDING ITS NUCLEAR COMPONENT COULD BE AS FOLLOWS:
-A BAN ON THE USE OF NUCLEAR WEAPONS, ESPECIALLY IN THE DENSELY-POPULATED REGION OF CENTRAL EUROPE;
-A DRASTIC REDUCTION OF THE POSSIBILITIES OF CONVENTIONAL WARFARE.

4. AN ADDITIONAL PROBLEM WILL ARISE ESPECIALLY FOR THE FEDERAL REPUBLIC OF GERMANY FROM THE FACT THAT ITS NATIONAL LAWS PERMIT THE INDIVIDUAL SOLDIER TO LEDGE COMPLAINTS WITH A COURT OF LAW AGAINST THE SERVICE AND TRAINING REGULATIONS OF THE FEDERAL ARMED FORCES. THE COMPATIBILITY OF NATO'S DEFENCE CONCEPT WITH THE NEW RULES OF INTERNATIONAL LAW MIGHT THUS BECOME THE SUBJECT-MATTER OF PROCEEDINGS BEFORE A SUPREME COURT.
END TEXT.STRAUSZ-HUPE

CONFIDENTIAL

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 30-Aug-1999 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Sent Date: 27-Jan-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977NATO00453
Document Source: ADS
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Expiration:
Film Number: n/a
Format: TEL
From: NATO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770191/baaabblt.tel
Line Count: 106
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE
Message ID: 7f9484de-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: USNATO 372 (DTG 211917Z JAN 77)
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29-Sep-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3680938
Secure: OPEN
Status: NATIVE
Subject: NATO CONSIDERATION OF DRAFT PROTOCOL ON INTERNATIONAL LAW IN ARMED CONFLICT
TAGS: NATO PFOR PARM ICRC
To: STATE SECDEF MULTIPLE
Type: TE
vdkgvkey: odbc://SAS/SAS.dbo.SAS_Docs/7f9484de-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009