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**Collection:** Roberts, John G.: Files  
**Folder Title:** JGR/Law of War  
**Box:** 31

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# WITHDRAWAL SHEET

## Ronald Reagan Library

**Collection Name** Roberts, John: Files

**Withdrawer**

LOJ 7/31/2005

**File Folder** JGR/LAW OF WAR

**FOIA**

2005-139

**Box Number**

COOKE

1012

ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
19475	NOTES	HANDWRITTEN BY ROBERTS RE 1/29 LAW OF WAR WORKING GROUP MEETING	1	1/29/1985	B1
		<b>R 6/22/2006</b>			
19476	MEMO	MIKE MATHESON TO MR. FEITH, ET AL, RE 1/29 WORKING GROUP MEETING	1	2/1/1985	B1
		<b>R 6/22/2006</b>			
19477	SUMMARY	OF MEETING OF INTERAGENCY LAW-OF-WAR WORKING GROUP	2	2/1/1985	B1
		<b>PAR 6/22/2006</b>			
19478	MEMO	MATHESON TO MR. FEITH ET AL, RE 1/29 MEETING (SAME AS 19476)	1	2/1/1985	B1
		<b>R 6/22/2006</b>			
19479	SUMMARY	OF MEETING OF INTERAGENCY LAW-OF-WAR WORKING GROUP (SAME AS 19477)	2	2/1/1985	B1
		<b>PAR 6/22/2006</b>			
19480	MEMO	MATHESON TO MR. FEITH ET AL, RE 1/29 MEETING (SAME AS 19476)	1	2/1/1985	B1
		<b>R 6/22/2006</b>			
19481	SUMMARY	OF MEETING OF INTERAGENCY LAW-OF-WAR WORKING GROUP (SAME AS 19477)	2	2/1/1985	B1
		<b>PAR 6/22/2006</b>			

Freedom of Information Act - [5 U.S.C. 552(b)]

- B-1 National security classified information [(b)(1) of the FOIA]
- B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
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- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

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ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
19482	MEMO	MATHESON TO MR. DYSON ET AL, RE US RATIFICATION OF CWC	2	4/2/1985	B1
	<b>PAR</b>	<b>6/22/2006</b>			
19483	MEMO	DRAFT RE US RATIFICATION OF THE 1980 CONVENTIONA WEAPONS CONVENTION	3	3/26/1985	B1
	<b>PAR</b>	<b>6/22/2006</b>			
19484	NOTES	FROM 4/22 MEETING	1	4/22/1985	B1
19485	MEMO	MATHESON TO MR. FEITH, RE LAW OF WAR	1	4/23/1985	B1
	<b>PAR</b>	<b>6/22/2006</b>			

Freedom of Information Act - [5 U.S.C. 552(b)]

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January 22, 1985

*John Roberts*

MEMORANDUM

TO: OSD/ISP - Mr. Feith  
OSD/GC - Mr. McNeill  
JCS/J-5 - Commodore Sackett  
ACDA/GC - Mr. Graham  
NSC - Mr. Kimmitt  
White House - Mr. Hauser ✓

FROM: State/L - Mike Matheson *MM*

SUBJECT: Meeting of Law-of-War Working Group

You or your designee(s) are invited to a meeting of the Law-of-War Working Group on Tuesday, January 29 at 2:00 pm, in Room 1406 at the State Department. I propose to ask JCS to give us a status report on the military review of the 1977 Protocols, and to have a preliminary discussion on the question of a separate submission of the 1980 Conventional Weapons Convention to the Senate. (There is no need for agency positions at this stage.) The floor will also be open for discussion of other law-of-war issues.

Please let us know (632-3345) who will attend from your organization. Thanks very much.

# WITHDRAWAL SHEET

Ronald Reagan Library

*Collection Name*  
ROBERTS, JOHN: FILES

*Withdrawer*  
LOJ 7/31/2005

*File Folder*  
JGR/LAW OF WAR

*FOIA*  
2005-139  
COOKE

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12LOJ

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<i>ID</i>	<i>Document Type</i> <i>Document Description</i>	<i>No of</i> <i>pages</i>	<i>Doc Date</i>	<i>Restrictions</i>
19475	NOTES  HANDWRITTEN BY ROBERTS RE 1/29 LAW OF WAR WORKING GROUP MEETING	1	1/29/1985	B1

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Freedom of Information Act - [5 U.S.C. 552(b)]

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C. Closed in accordance with restrictions contained in donor's deed of gift.



United States Department of State

Washington, D.C. 20520

February 1, 1985

~~CONFIDENTIAL~~  
~~MEMORANDUM~~

TO: OSD/ISP - Mr. Feith  
OSD/GC - Mr. McNeill  
JCS/J-5 - Commo. Sackett  
ACDA/GC - Mr. Graham  
NSC - Mr. Kimmitt  
WH Couns. - Mr. Hauser

FROM: State/L - Mike Matheson *NDM*

SUBJECT: Jan. 29 Meeting of Interagency  
Law-of-War Working Group

Attached is a summary of the Jan. 29 meeting of the Law-of-War Working Group. As agreed at the meeting, I will be consulting further with you or your representative in two weeks concerning the question of submission of the Conventional Weapons Convention to the Senate.

Attachment:  
Summary

cc: OSD/ISP - Ms. Buckley  
OSD/GC - Mr. Dyson  
JCS/J-5 - Col. Carnahan  
Navy JAG - Capt. Dalton  
Army JAG - Mr. Parks  
AF JAG - Col. Hitt  
ACDA/GC - Mr. Christopher  
ACDA/MA - Ms. Hoinkes  
NSC - Mr. Maizel  
WH/C - Mr. Roberts ✓

~~CONFIDENTIAL~~  
~~DECL. OADR~~

DECLASSIFIED  
NLS F05-139/1#19476  
BY LOI NARA, DATE 6/22/06

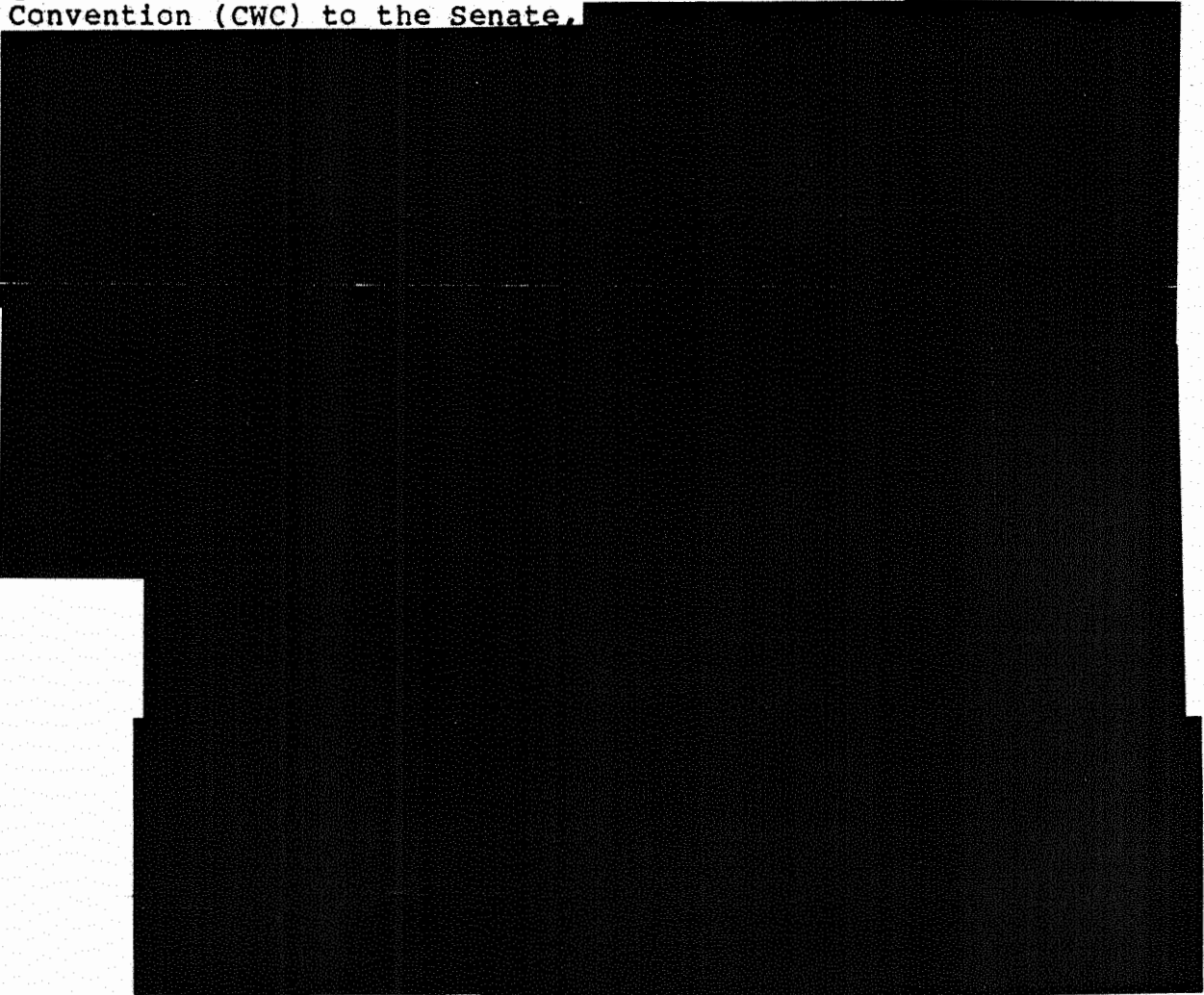
~~CONFIDENTIAL~~

SUMMARY: January 29 Meeting of  
Interagency Law-of-War Working Group

The Working Group met on Jan. 29 at 2:00 pm. (A list of participants is attached.)

The JCS representative gave a brief report on the status of the ongoing military review of the 1977 Additional Protocols. He indicated that the JCS review would be completed by the end of March. It was agreed that further interagency consideration of the question of ratification of the Protocols would await the results of that review.

The Working Group had a preliminary discussion of the question of submission of the 1980 Conventional Weapons Convention (CWC) to the Senate.



FOIA(b) (1)

~~CONFIDENTIAL~~

DECLASSIFIED IN PART  
NLS FO5-139/1 #19477  
BY LOJ, NARA, DATE 6/22/06



FOIA(b)(1)

Depending on the results of these consultations, State may (in consultation with NSC) propose a draft decision paper on this issue for formal agency comments and positions.

~~CONFIDENTIAL~~



List of Participants

<u>NAME</u>	<u>ORGANIZATION</u>	<u>TEL. NO.</u>
Mike Matheson	State/L	632-3345
Al Dyson	DOD/OGC	697-9248
Harvey Dalton	Navy JAG	697-5406
Glenn Orgeron	Navy JAG	697-9161
Sam Maizel	NSC	395-3044
John Roberts	W.H. Counsel	456-7953
Steven Hardesty	HA/HR	632-2362
Tom Bleha	H	632-1615
Bob Turner	H	632-1048
Alex Liebowitz	IO/UNP	632-0512
John Campbell	M/CTP	632-7253
Mel Christopher	ACDA/GC	632-3596
Jim Davis	EUR/RPM	632-1328
Dan Gallington	OSD/ISP	697-2247
Sheila Buckley	OSD/ISP	695-5819
B. M. Carnahan	JCS	695-6632

THE WHITE HOUSE  
WASHINGTON

2/19/85

TO: John Roberts

FROM: *Richard A. Hauser*  
*Deputy Counsel to the President*

FYI: X \_\_\_\_\_

COMMENT: \_\_\_\_\_

ACTION: \_\_\_\_\_



United States Department of State

Washington, D.C. 20520

February 1, 1985

~~CONFIDENTIAL~~  
~~MEMORANDUM~~

TO: OSD/ISP - Mr. Feith  
OSD/GC - Mr. McNeill  
JCS/J-5 - Commo. Sackett  
ACDA/GC - Mr. Graham  
NSC - Mr. Kimmitt  
WH Couns. - Mr. Hauser ✓

FROM: State/L - Mike Matheson *NDM*

SUBJECT: Jan. 29 Meeting of Interagency  
Law-of-War Working Group

Attached is a summary of the Jan. 29 meeting of the Law-of-War Working Group. As agreed at the meeting, I will be consulting further with you or your representative in two weeks concerning the question of submission of the Conventional Weapons Convention to the Senate.

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AF JAG - Col. Hitt  
ACDA/GC - Mr. Christopher  
ACDA/MA - Ms. Hoinkes  
NSC - Mr. Maizel  
WH/C - Mr. Roberts

~~CONFIDENTIAL~~  
~~DECL:OADR~~

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NLS F05-139/1 #19478  
BY LOS, NARA, DATE 6/22/06

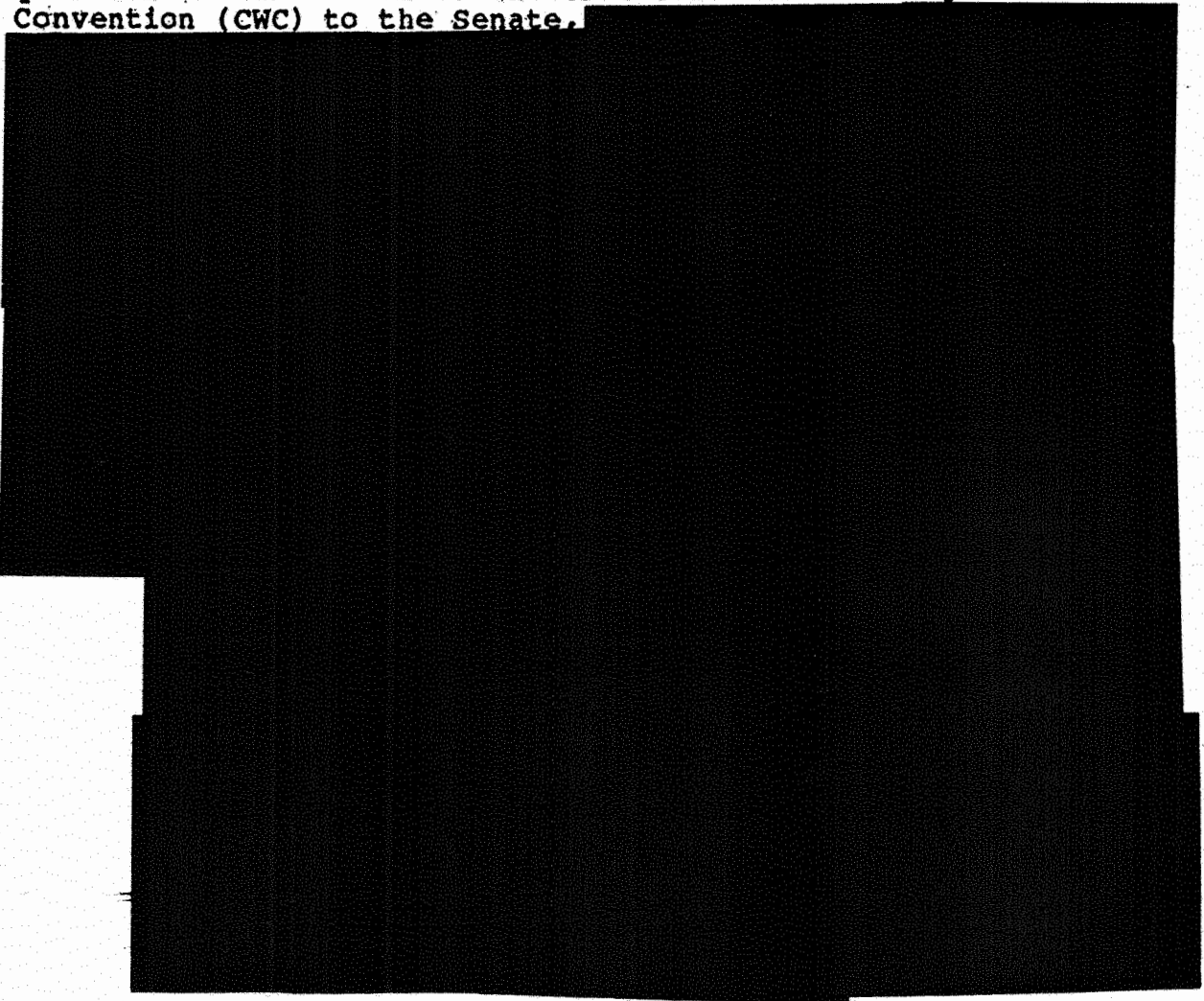
~~CONFIDENTIAL~~

SUMMARY: January 29 Meeting of  
Interagency Law-of-War Working Group

The Working Group met on Jan. 29 at 2:00 pm. (A list of participants is attached.)

The JCS representative gave a brief report on the status of the ongoing military review of the 1977 Additional Protocols. He indicated that the JCS review would be completed by the end of March. It was agreed that further interagency consideration of the question of ratification of the Protocols would await the results of that review.

The Working Group had a preliminary discussion of the question of submission of the 1980 Conventional Weapons Convention (CWC) to the Senate.

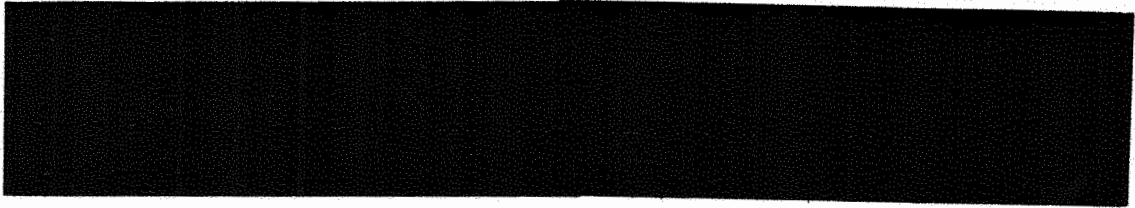


FOIA(b) (1)

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~~CONFIDENTIAL~~

NLS F05-139/1#19479  
By LST, NARA, Date 6/22/06



FOIA(b) (1)

Depending on the results of these consultations, State may (in consultation with NSC) propose a draft decision paper on this issue for formal agency comments and positions.

~~CONFIDENTIAL~~

List of Participants

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John Campbell	M/CTP	632-7253
Mel Christopher	ACDA/GC	632-3596
Jim Davis	EUR/RPM	632-1328
Dan Gallington	OSD/ISP	697-2247
Sheila Buckley	OSD/ISP	695-5819
B. M. Carnahan	JCS	695-6632



United States Department of State

Washington, D.C. 20520

*file -  
Law of  
War*

April 17, 1985

MEMORANDUM

TO: OSD/ISP - Mr. Feith  
OSD/GC - Mr. McNeill  
JCS/J-5 - Commodore Sackett  
ACDA/GC - Mr. Graham  
NSC - Mr. Kraemer  
White House Counsel - Mr. Hauser ✓

FROM: State/L - Mike Matheson *NDM*

SUBJECT: Law of War: U.S. Ratification of the  
Conventional Weapons Convention (CWC)

I have received several suggestions that another interagency meeting be held to discuss the question of the submission of the CWC to the Senate. You or your designee are therefore invited to attend such a meeting at 2:00 pm on Monday, April 22, in Room 6226 at State. Attached, for your convenience, are copies of: (1) the summary of the last interagency meeting on this subject; and (2) my note of April 2 suggesting a procedure for further action on this question. Please let me know if you have any questions. Thanks very much.

Attachments:  
As stated.



United States Department of State

Washington, D.C. 20520

February 1, 1985

~~CONFIDENTIAL~~  
MEMORANDUM

TO: OSD/ISP - Mr. Feith  
OSD/GC - Mr. McNeill  
JCS/J-5 - Commo. Sackett  
ACDA/GC - Mr. Graham  
NSC - Mr. Kimmitt  
WH Couns. - Mr. Hauser

FROM: State/L - Mike Matheson *NDM*

SUBJECT: Jan. 29 Meeting of Interagency  
Law-of-War Working Group

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AF JAG - Col. Hitt  
ACDA/GC - Mr. Christopher  
ACDA/MA - Ms. Hoinkes  
NSC - Mr. Maizel  
WH/C - Mr. Roberts

~~CONFIDENTIAL~~  
~~DECL: OADR~~

DECLASSIFIED  
NLS FO5-139/1 #19480  
BY LOI, NARA, DATE 6/27/06



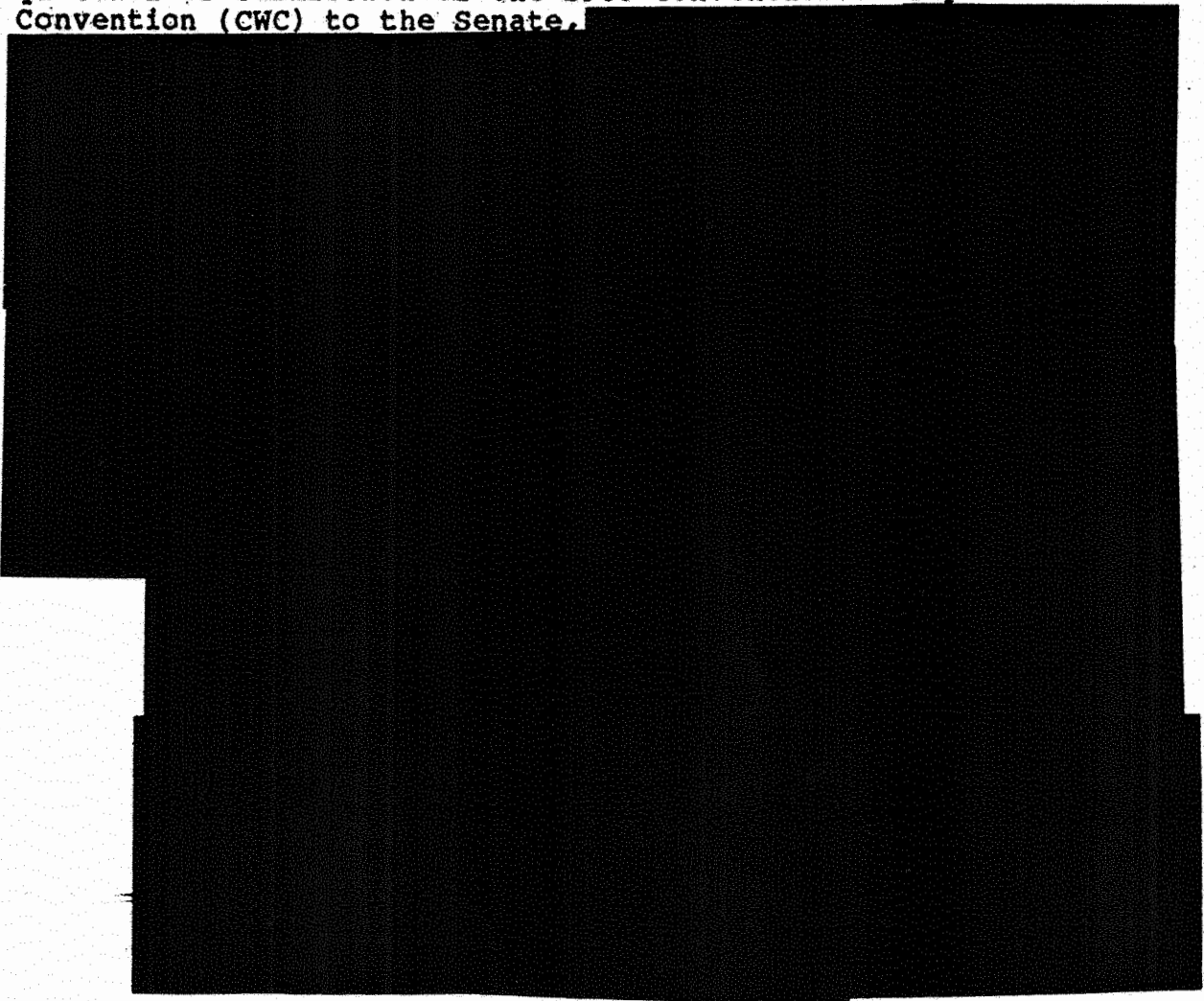
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SUMMARY: January 29 Meeting of  
Interagency Law-of-War Working Group

The Working Group met on Jan. 29 at 2:00 pm. (A list of participants is attached.)

The JCS representative gave a brief report on the status of the ongoing military review of the 1977 Additional Protocols. He indicated that the JCS review would be completed by the end of March. It was agreed that further interagency consideration of the question of ratification of the Protocols would await the results of that review.

The Working Group had a preliminary discussion of the question of submission of the 1980 Conventional Weapons Convention (CWC) to the Senate.



FOIA(b) (1)

DECLASSIFIED IN PART

NLS F05-139/1#19487

By AOJ, NARA, Date 6/22/06

~~CONFIDENTIAL~~



FOIA(b) (1)

Depending on the results of these consultations, State may (in consultation with NSC) propose a draft decision paper on this issue for formal agency comments and positions.

~~CONFIDENTIAL~~

List of Participants

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Glenn Orgeron	Navy JAG	697-9161
Sam Maizel	NSC	395-3044
John Roberts	W.H. Counsel	456-7953
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Bob Turner	H	632-1048
Alex Liebowitz	IO/UNP	632-0512
John Campbell	M/CTP	632-7253
Mel Christopher	ACDA/GC	632-3596
Jim Davis	EUR/RPM	632-1328
Dan Gallington	OSD/ISP	697-2247
Sheila Buckley	OSD/ISP	695-5819
B. M. Carnahan	JCS	695-6632

*Dave Graham*

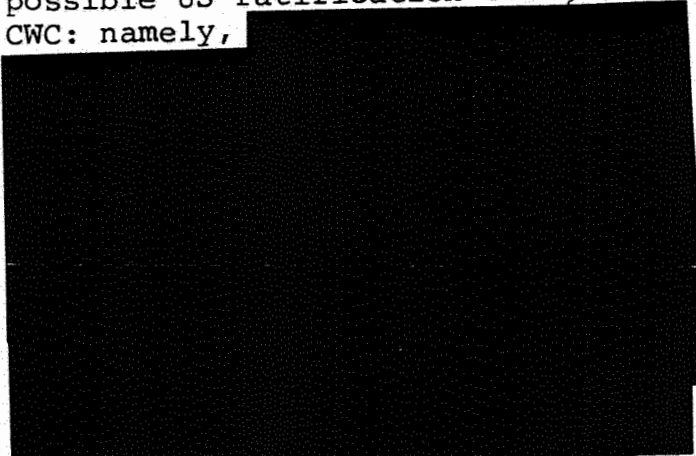
4/2/85

TO: OSD/GC - Mr. Dyson  
OSD/ISP - Ms. Buckley  
JCS/J-5 - Col. Carnahan  
NSC - Mr. Maizel

FROM: State/L - Mike Matheson *MDM*

SUBJECT: US Ratification of the  
Conventional Weapons  
Convention (CWC)


On the basis of informal consultations I have carried out since our last meeting, I believe we may be able to reach a consensus on the military acceptability of the package described in the attached for possible US ratification of the CWC: namely,



~~CONFIDENTIAL~~

FOIA(b)(1)

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NLS F05-139/1 #A482  
By LOI, NARA, Date 6/22/06



The attached draft is designed to lay out for your clearance or comment a proposed process for these informal consultations, and to get your concurrence that the proposed package is militarily acceptable. If you concur, I would carry out the consultations, then fill in the blanks in the attached draft and send it back to your offices with a State Department recommendation as to whether or not to go ahead with the Convention.

I would therefore appreciate your concurrence or comments on the above, if possible by COB April 15. Please let me know if you have any questions about all this. Thanks very much.

FOIA(b) (1)

~~CONFIDENTIAL~~

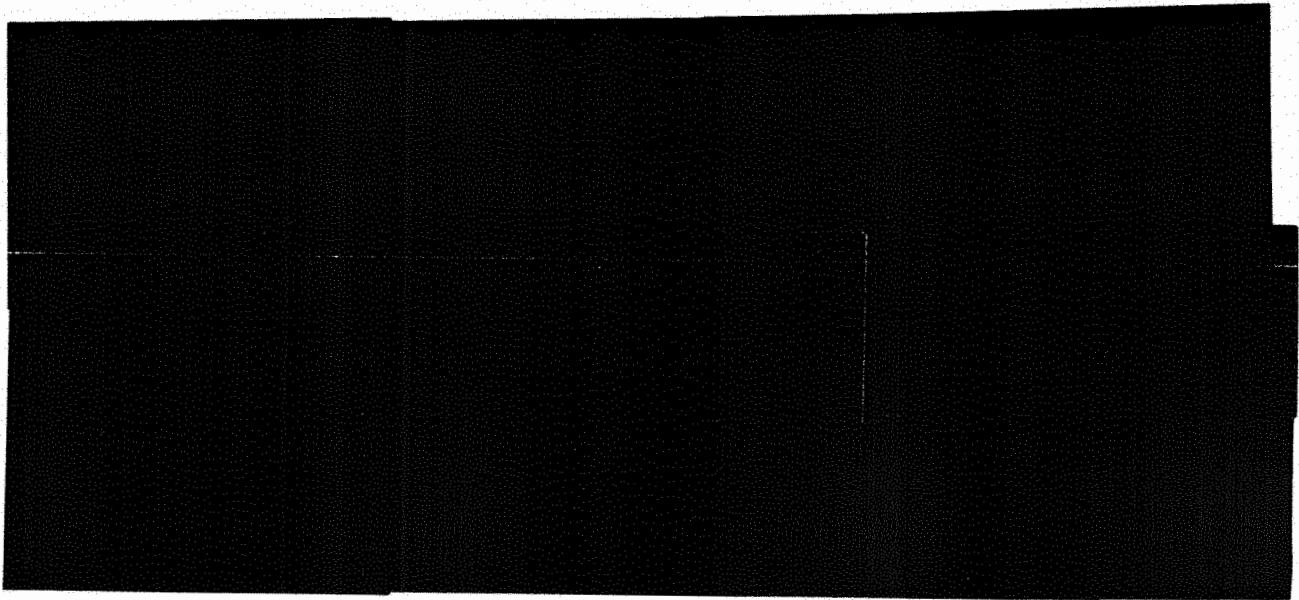
MEMORANDUM

TO:

FROM:

SUBJECT: U.S. Ratification of the 1980 Conventional  
Weapons Convention (CWC)

As promised, we have consulted further with agency representatives on the question of U.S. ratification of the CWC with the objective of determining what sort of package of conditions or understandings would be considered acceptable from a USG point of view. As a result, our understanding is that the following would be considered acceptable:



FOIA(b) (7)

(We would also re-examine the technical understandings previously suggested by the U.S. to the NATO Political Committee to see if any changes are needed; and we would decide whether any statement or condition is needed with respect to Article 7(4) of the CWC:)

~~CONFIDENTIAL~~

DECLASSIFIED IN PART  
NLS F05-139/1 #19483  
By LOJ, NARA, Date 6/22/06

We then consulted with the [redacted] and [redacted] Embassies to ascertain the views of their governments on whether they would prefer U.S. ratification on this basis, or rather prefer that the U.S. Executive Branch continue to take no further public action on the CWC for the time being. Their reactions were as follows:

-- [redacted] . . . . .

-- [redacted] . . . . .

-- : . . . . .

Finally, we consulted informally with the staff of the SFRC to ascertain likely Senatorial reaction to this package. [Describe reaction.]

In light of all this, State recommends \_\_\_\_\_, for the following reasons: . . . . .

I would appreciate by \_\_\_\_\_ your agency's concurrence in this course of action, or its views as to what alternative action should be taken. If there are any significant differences among the agencies, I will be back in touch to suggest a procedure for resolving those differences.

Thanks very much for your help.

FOIA(b) (7)

Drafted:L:MJMatheson:edk  
3/26/85, 632-3345  
Wang 1240X



# WITHDRAWAL SHEET

## Ronald Reagan Library

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ROBERTS, JOHN: FILES

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*FOIA*

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19484	NOTES FROM 4/22 MEETING	1	4/22/1985	B1

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<u>NAME</u>	<u>AGENCY / OFFICE</u>	<u>TEL. NO.</u>
Mike Matheson	State / L	632-3345
HARVEY DALTON	NAVY JAG	697-5406
IRA CLICK	DJCS (J-5)	694-6626
GLENN ORGERON	NAVY JAG	697-9161
Robert Simmons	State PM/AMP	632-4761
Jim Davis	State EUR/RPM	632-1328
Sven Kraeme-	NSC	395-5010
Douglas Faith	OSD / ISP	697-9693
Sheila Buckley	OSD / ISP	695-5819
JOHN ROBERTS	W.H. COUNSEL	456-7953
STEVEN HARDESTY	HA / MA	632-2362
Robert Callard	H	632-9572
DAVID ISENBERS	OSD / OAGC (I)	695-2604
Dennis Yodery	AF / JACI	695-9632
Mel Christopher	ACDA / GC	632-3596
Dennis Foreman	L / PM	632-0321



United States Department of State

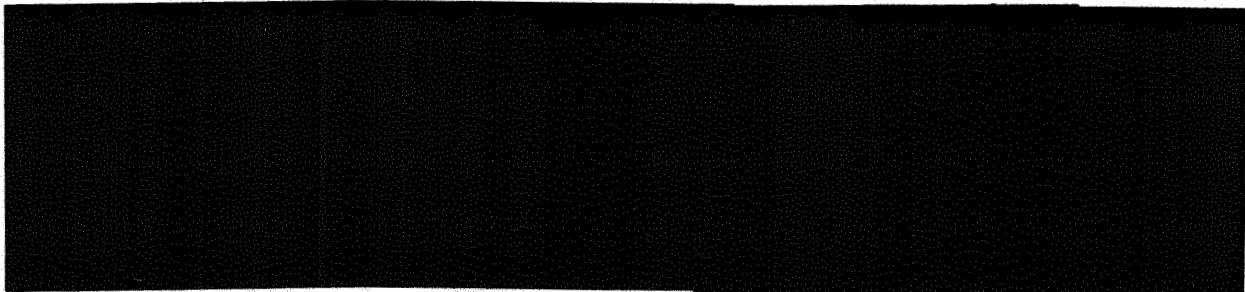
Washington, D.C. 20520

April 23, 1985

~~CONFIDENTIAL~~  
MEMORANDUM

TO: OSD/ISP - Mr. Feith  
FROM: State/L - Michael John Matheson *MJM*  
SUBJECT: Law of War -- Conventional Weapons  
Convention (CWC)

As agreed at yesterday's interagency meeting, I am writing to seek the views of JCS and OSD on the military acceptability of the following package concerning possible U.S. ratification of the CWC:



(We would also re-examine the technical understandings previously suggested by the U.S. to the NATO Political Committee to see if any changes are needed; and we would decide whether any statement or condition is needed with respect to Article 7(4) of the CWC.)

If such a package is militarily acceptable, we would consult privately with the appropriate allied governments and Congressional staff to help us reach an informed judgment as to whether submitting the CWC to the Senate under these conditions would be to our net advantage or disadvantage from a political and arms control point of view.

Thanks for your help.

cc: NSC - Mr. Kraemer	EUR - Mr. Dobbins
OSD/GC - Mr. McNeill	H - Mr. Fox
JCS/J-5 - Commo. Sackett	D - Mr. Timbie
ACDA/GC - Mr. Graham	IO - Mr. Kirk
White House Counsel - Mr. Hauser ✓	HA - Mr. Matthews
PM - Mr. Hawes	

~~CONFIDENTIAL~~  
DECL:QADR

DECLASSIFIED IN PART  
NLS F05-139/1#19485  
By LOJ, NARA, Date 6/22/06

FOIA(b) (1)

THE WHITE HOUSE  
WASHINGTON

TO: *John Roberts*

FROM: *Richard A. Hauser*  
*Deputy Counsel to the President*

FYI:  \_\_\_\_\_

COMMENT: \_\_\_\_\_

ACTION: \_\_\_\_\_

*Copy of war  
file*

L - M. J. Matheson, Rm. 6419 . Phone 632-3345

DEPARTMENT OF STATE, U. S. A.

WASHINGTON, D. C. 20520

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Mr. Richard A. Hauser  
Rm. ~~48~~, Old Executive Office Bldg  
17th & G Streets, N.W.  
Washington, D.C.

Phone: 456-6611

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REC'D  
APR 26 1953



United States Department of State

Washington, D.C. 20520

April 23, 1985

*JGR*

MEMORANDUM

TO: NSC - Mr. Kraemer

FROM: State/L - Mike Matheson *MDM*

SUBJECT: Law of War - Conventional Weapons Convention (CWC)

As you requested yesterday, attached is a summary of the relationship of the CWC to other law-of-war agreements. Please let me know if you would like further information along these lines.

Attachment:  
Summary

cc: NSC - Mr. Kimmett  
OSD/ISP - Mr. Feith  
OSD/GC - Mr. McNeill  
JCS/J-5 - Commo. Sackett  
ACDA/GC - Mr. Graham  
White House Counsel - Mr. Hauser ✓  
PM - Mr. Hawes  
EUR - Mr. Dobbins  
H - Mr. Fox  
D - Mr. Timbie  
M/CT - Mr. Oakley  
IO - Mr. Kirk  
HA - Mr. Matthews

Relationship of the Conventional Weapons  
Convention (CWC) to Other  
Law-of-War Agreements

A Diplomatic Conference met in Geneva during 1974-77, under the auspices of the Swiss Government and the International Committee of the Red Cross (ICRC), to revise and update the rules of warfare contained in the 1949 Geneva Conventions on the protection of victims of armed conflict, the 1907 Hague Convention on means and methods of combat, and various principles of customary international law. In June 1977 the Conference concluded its work with the adoption by consensus of two Additional Protocols to the 1949 Geneva Conventions, one for international conflicts and one for non-international conflicts.

The Protocols are lengthy and detailed, and deal with many aspects of military operations and conduct during armed conflict. Among other things, they: (1) improve and expand protection of medical units, personnel and transport; (2) upgrade the responsibilities of Parties with respect to search, reporting and care for the missing and remains of the dead; (3) broaden and upgrade provisions for protecting the civilian population from the effects of combat operations, and for relief operations for their benefit; (4) extend law-of-war protections to certain types of irregulars not previously covered; (5) prohibit acts of terrorism and require the prosecution or extradition of their perpetrators as war criminals; and (6) improve the compliance mechanisms of the 1949 Conventions.

The 1974-77 Diplomatic Conference was unable to reach agreement on one item on its agenda -- the question of prohibitions or restrictions on the use of specific types of conventional weapons alleged to cause unnecessary suffering or to have indiscriminate effects, and a separate conference was convened in Geneva in 1979-80 under UN auspices to deal with this subject. Proposals were made by European neutrals and third-world delegations to prohibit a variety of weapons, including incendiaries, modern fragmentation weapons (such as CBUs and flechettes), and high-velocity small arms (such as the M-16). In the end, the Conference adopted by consensus a convention to which were attached three protocols: Protocol I on Non-Detectable Fragments; Protocol II on the Use of Mines, Booby-Traps and Other Devices; and Protocol III on the Use of Incendiary Weapons.

Among other things, the Convention and its three protocols:  
v (1) prohibit the use of any weapon relying for its wounding effects on fragments not detectable by x-ray; (2) regulate various aspects of the use of land mines and booby-traps for the purpose of reducing civilian casualties; and (3) limit the use of incendiary weapons against targets located in concentrations of civilians. b

Copies of the State Department's current records of signatures, ratifications and accessions to the 1977 Protocols and the CWC are attached.

Attachments:

As stated.



RED CROSS (Protocol I)

DEPARTMENT OF STATE  
TREATY RECORD

Protocol additional to the Geneva conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I), with annexes. Adopted at Geneva June 8, 1977. Open for signature at Berne December 12, 1977 to December 12, 1978.

**SIGNATURES, RATIFICATIONS DEPOSITED, ADHERENCES,  
ACCEPTANCES, AND RESERVATIONS (See reverse side).**

TEXT: UST  
TIAS

UNTS

**DEPOSITARY** Government of Switzerland

International Legal Materials, Vol. XVI,  
No. 6, November 1977, p. 1391.

**ENTRY INTO FORCE - Date:** December 7, 1978

**Method:** Six months after two instruments of ratification or accession have been deposited. For each party to the Conventions thereafter ratifying or acceding to this Protocol, it shall enter into force 6 months after deposit by such Party of its instrument.

**DURATION:** Not stated, but may be denounced.

**PROCEDURE FOR TERMINATION:** Denunciation in writing, effective in respect of the denouncing power; one year notification to Swiss Fed. Council (Art. 99).

**AMENDMENTS, EXTENSIONS, ETC.:**

**TERMINATION - DATE:**

Action taken:

unless otherwise stated)

RATIFICATIONS DEPOSITED

ACCESSIONS DEPOSITED

United States<sup>3, 1</sup>  
Austria ..... August 13, 1982<sup>1, 4</sup>  
Belgium  
Byelorussian Soviet Socialist Republic  
Canada<sup>1</sup>  
Chile  
Denmark ..... June 17, 1982<sup>1, 4</sup>  
Ecuador ..... April 10, 1979 ✓  
Egypt  
El Salvador ..... November 23, 1978 ✓  
Finland ..... August 7, 1980  
German Democratic Rep.  
Ghana ..... February 28, 1978  
Guatemala  
Holy See  
Honduras  
Hungary  
Iceland  
Iran  
Ireland  
Italy<sup>1</sup>  
Ivory Coast  
Jordan ..... May 1, 1979  
Liechtenstein  
Luxembourg  
Mongolia  
Morocco  
Netherlands  
Nicaragua  
Norway ..... December 14, 1981  
Pakistan  
Panama  
Peru  
Poland<sup>1</sup>  
Portugal<sup>1</sup>  
Senegal  
Sweden ..... August 31, 1979  
Switzerland<sup>1</sup> ..... February 17, 1982  
Tunisia ..... August 9, 1979  
Ukrainian Soviet Socialist Republic  
Union of Soviet Socialist Republics  
United Kingdom<sup>1</sup>  
Yugoslavia ..... June 11, 1979  
Germany, Federal Republic<sup>1</sup> - Dec. 23, 1977  
Upper Volta - Jan. 11, 1978  
Laos - April 18, 1978 ..... November 18, 1980  
Romania - March 28, 1978  
Yemen (Sana) - Feb. 14, 1978  
San Marino - June 22, 1978  
Niger - June 16, 1978 ..... June 8, 1979  
Madagascar - October 13, 1978  
Spain - November 7, 1978  
New Zealand - November 27, 1978  
Czechoslovakia - Dec. 6, 1978  
Australia - December 7, 1978<sup>1</sup>  
Korea (Rep. of) - Dec. 7, 1978 ..... January 15, 1982  
Bulgaria - Dec. 11, 1978  
Togo - December 12, 1977 ..... June 21, 1984

Libya - June 7, 1978  
Botswana - May 23, 1979  
Mauritania - March 14, 1980  
Gabon - April 8, 1980  
Bahamas - April 10, 1980  
Bangladesh - Sept. 8, 1980  
Mauritius - March 22, 1982  
Tanzania - February 15, 1983  
United Arab Emirates - March 9, 1983<sup>1</sup>  
People's Rep. of China - September 14, 1983  
Saint Vincent and the Grenadines - April 8, 1983  
Namibia<sup>1</sup> - October 18, 1983  
People's Rep. of the Congo - Nov. 10, 1983<sup>2</sup>  
France - February 24, 1984  
Bolivia - Dec. 8, 1983  
Costa Rica - Dec. 15, 1983  
Cameroon - March 16, 1984  
Oman - March 29, 1984  
Saint Lucia - October 7, 1982  
Central African Rep. - July 17, 1984  
Western Samoa - Aug. 23, 1984  
Belize - June 29, 1984  
Guinea - July 11, 1984  
Seychelles - Nov. 8, 1984  
Rwanda - Nov. 19, 1984  
Kuwait - Jan. 17, 1985

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27 Total 2-26-85

REFERENCES IN TEXT: Geneva conventions for the protection of war victims, done at Geneva August 12, 1949 (TIAS 3362, 3363, 3364, and 3365).

REMARKS

- 1 With declaration(s)
- 2 With statement(s)
- 3 With understanding(s)
- 4 With reservation(s)

IMPLEMENTING LEGISLATION:

Prepared by: LA 9/21/77  
Reviewed by: \_\_\_\_\_

Protocol additional to the Geneva conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts (Protocol II). Adopted at Geneva June 8, 1977. Open for signature at Berne December 12, 1977 to December 12, 1978.

**SIGNATURES, RATIFICATIONS DEPOSITED, ADHERENCES,  
ACCEPTANCES, AND RESERVATIONS (See reverse side).**

TEXT: UST

TIAS

UNTS

**DEPOSITARY** Government of Switzerland

International Legal Materials, Vol. XVI, No. 6,  
p. 1442.

**ENTRY INTO FORCE - Date:** December 7, 1978

**Method:** Six months after two instruments of ratification or accession have been deposited.

**DURATION:** Not stated but may be denounced (see Part V, Art. 25).

**AMENDMENTS, EXTENSIONS, ETC.:**

**PROCEDURE FOR TERMINATION:** Denunciation in writing, effective in respect of the denouncing power one year notification to Swiss Fed. Council (Art. 25).

**TERMINATION - DATE:**

**Action taken:**

## SIGNATURES

## RATIFICATIONS DEPOSITED

## ACCESSIONS DEPOSITED

United States - Dec. 12, 1977 <sup>3,1</sup>		Libya - June 7, 1978
Austria - December 12, 1977.....	August 13, 1982 <sup>1,4</sup>	Botswana - May 23, 1979
Belgium - December 12, 1977		Bahamas - April 10, 1980
Byelorussian Soviet Socialist Rep. - Dec. 12, 1977		Gabon - April 8, 1980
Canada - Dec. 12, 1977 <sup>1</sup>		Mauritania - March 14, 1980
Chile - Dec. 12, 1977		Bangladesh - Sept. 8, 1980
Denmark - Dec. 12, 1977 .....	June 17, 1982 <sup>1,4</sup>	Mauritius - March 22, 1982
Ecuador - Dec. 12, 1977 .....	April 10, 1979	Zaire (Rep. of) - June 3, 1982
Egypt - Dec. 12, 1977		Tanzania - February 15, 1983
El Salvador - Dec. 12, 1977.....	November 23, 1978	United Arab Emirates - March 9, 1983 <sup>1</sup>
Finland - Dec. 12, 1977 .....	August 7, 1980	Mexico - March 10, 1983
German Dem. Rep. - Dec. 12, 1977		Mozambique - March 14, 1983
Ghana - Dec. 12, 1977 .....	February 28, 1978	Saint Vincent and the Grenadines - April 8, 1983
Guatemala - Dec. 12, 1977		People's Republic of China - September 14, 1983
Holy See - Dec. 12, 1977		Namibia <sup>U.N. Council for</sup> - October 18, 1983
Honduras - Dec. 12, 1977		People's Rep. of the Congo - Nov. 10, 1983
Hungary - Dec. 12, 1977		Syrian Arab Rep. - Nov. 14, 1983 <sup>4</sup>
Iceland - Dec. 12, 1977		Bolivia - Dec. 8, 1983
Iran - Dec. 12, 1977		Costa Rica - Dec. 15, 1983
Ireland - Dec. 12, 1977		<del>Cameroon - March 16, 1984</del>
Italy - Dec. 12, 1977 <sup>1</sup>		Oman - March 29, 1984 <sup>1</sup>
Ivory Coast - Dec. 12, 1977		Saint Lucia - October 7, 1982
Jordan - Dec. 12, 1977 .....	May 1, 1979	Cuba - November 25, 1982
Liechtenstein - Dec. 12, 1977		Belize - June 29, 1984
Luxembourg - Dec. 12, 1977		Guinea, Rep. of - July 11, 1984
Mongolia - Dec. 12, 1977		Central African Rep. - July 17, 1984
Morocco - Dec. 12, 1977		Western Samoa - Aug. 23, 1984
Netherlands - Dec. 12, 1977		Angola - Sept. 20, 1984 <sup>1</sup>
Nicaragua - Dec. 12, 1977		Seychelles - Nov. 8, 1984
Norway - Dec. 12, 1977 .....	December 14, 1981 <sup>1</sup>	Rwanda - Nov. 19, 1984
Pakistan - Dec. 12, 1977		Kuwait, - Jan. 17, 1985
Panama - Dec. 12, 1977		
Peru - Dec. 12, 1977		
Philippines - Dec. 12, 1977		
Poland - Dec. 12, 1977		
Portugal - Dec. 12, 1977 <sup>1</sup>		
Senegal - Dec. 12, 1977		
Sweden - Dec. 12, 1977 .....	August 31, 1979 <sup>1,4</sup>	
Switzerland - Dec. 12, 1977.....	February 17, 1982 <sup>1,4</sup>	
<del>.....</del>		
Tunisia - Dec. 12, 1977 .....	August 9, 1979	
Ukrainian Soviet Socialist Republic - Dec. 12, 1977		
Union of Soviet Socialist Republics - Dec. 12, 1977		
United Kingdom - Dec. 12, 1977 <sup>1</sup>		
Vietnam - Dec. 12, 1977 .....	October 19, 1981 <sup>1</sup>	
Yugoslavia - Dec. 12, 1977 .....	June 11, 1979 <sup>1</sup>	
Germany, Federal Republic - December 23, 1977 <sup>1</sup>		
Upper Volta - January 11, 1978		
Laos - April 18, 1978 .....	November 18, 1980	
Romania - March 28, 1978		
Greece - March 22, 1978 <sup>1</sup>		
Yemen (Sana) - February 14, 1978		
Niger - June 16, 1978 .....	June 8, 1979	
San Marino - June 22, 1978		
Madagascar - October 13, 1978		
Cyprus - July 12, 1978 .....	June 1, 1979	
Spain - November 7, 1978 <sup>1</sup>		
New Zealand - November 27, 1978		
Czechoslovakia - Dec. 6, 1978		
Australia - December 7, 1978		
Korea (Rep. of) - Dec. 7, 1978 .....	January 15, 1982 <sup>1</sup>	
Bulgaria - December 11, 1978		
Togo - December 12, 1977 .....	June 21, 1984	

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2-26-85

REFERENCES IN TEXT: Geneva conventions for the protection of war victims (TIAS 3362, 3363, 3364, and 3365), done at Geneva August 12, 1949.

REMARKS

- 1 With declaration(s)
- 2 With statement(s)
- 3 With understanding(s)
- 4 With reservation(s)

IMPLEMENTING LEGISLATION:

Prepared by: LA 9-21-77  
Reviewed by:

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. Adopted at Geneva October 10, 1980. Open for signature in New York for a period of 12 months from April 10, 1981.

**SIGNATURES, RATIFICATIONS DEPOSITED, ADHERENCES,  
ACCEPTANCES, AND RESERVATIONS (See reverse side).**

**TEXT: UST  
TIAS  
UNTS**

**DEPOSITARY** Secretary-General of the United Nations

Final Act appears in Int'l Legal  
Materials, Vol. XIX, #6, Nov. 1980,  
p. 1523.

**ENTRY INTO FORCE - Date:** December 2, 1983

**Method:** Six (6) months after the date of deposit of the 20th instrument of ratification, acceptance, approval or accession (Art. 5); thereafter six months after a State deposits its acceptance, approval, accession or ratification.

**DURATION:** Not stated. However, any High Contracting Party to this Convention may propose amendments to the Convention or Protocols, or propose additional Protocols. If, after 10 yrs. neither has been proposed, any High Contracting Party may request the Depositary to convene a conference to review the Convention and the Protocols annexed thereto (Art. 8).

**TERMINATION - DATE:**

Action taken:

United States - April 8, 1982 <sup>2</sup>	
Afghanistan	
Austria .....	March 14, 1983 (R)
Belgium	
Bulgaria .....	October 15, 1982 (R)
Byelorussian Soviet Socialist Republic .....	June 23, 1982 (R)
Canada	
Cuba	
Czechoslovakia .....	August 31, 1982 (R)
Denmark .....	July 7, 1982 (R)
Egypt	
Finland .....	April 8, 1982 (R)
France <sup>1,2,3</sup>	
German Dem. Rep. ....	July 20, 1982 (R)
Fed. Rep. of Germany	
Greece	
Hungary .....	June 14, 1982 (R)
Iceland	
Ireland	
Italy <sup>1</sup>	
Luxembourg	
Mexico .....	February 11, 1982 (R)
Mongolia .....	June 8, 1982 (R)
Morocco	
Netherlands	
New Zealand	
Norway .....	June 7, 1983 (R)
Poland .....	June 2, 1983 (R)
Portugal	
Spain	
Sudan	
Sweden .....	July 7, 1982 (R)
Ukrainian S.S.R. ....	June 23, 1982 (R)
USSR .....	June 10, 1982 (R)
United Kingdom <sup>2</sup>	
Vietnam	
Sierra Leone - May 1, 1981	
Yugoslavia - May 5, 1981 .....	May 24, 1983 (R)
India - May 15, 1981 .....	March 1, 1984 (R)
Philippines - May 15, 1981	
Nicaragua - May 20, 1981	
Switzerland - June 18, 1981 .....	August 20, 1982 (R)
Ecuador - September 9, 1981 .....	May 4, 1982 (R)
Togo - September 15, 1981	
China - September 14, 1981 <sup>2</sup> .....	April 7, 1982 (R)
Japan - September 22, 1981 .....	June 9, 1982 (AC)
Argentina - December 2, 1981	
Nigeria - January 26, 1982	
Pakistan - January 26, 1982 .....	April 1, 1985 (R)
Liechtenstein - February 11, 1982	
Australia - April 8, 1982 .....	September 29, 1983 (R)
Romania - April 8, 1982 <sup>2</sup>	
Turkey - March 26, 1982	

Lao People's Dem. Rep. -  
January 3, 1983  
Guatemala - July 21, 1983

23  
4/22/85

[ ALL RATIFYING  
OR ACCEDING  
STATES ACCEPTED  
ALL THREE  
ATTACHED  
PROTOCOLS ]



THE WHITE HOUSE

WASHINGTON

May 8, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft Response to U.S. NATO's Request  
for Guidance for a May 14 POLADs Exchange  
on Ratification of the 1977 Protocols

State Deputy Legal Adviser Mike Matheson has asked for our views on a proposed guidance cable to be sent to the U.S. NATO Mission. At the last Law of War Working Group meeting, on April 22, the participants were advised that a meeting of the NATO Political Committee would be held on May 14, and that one of the items on the agenda would be the status of ratification of the 1977 Protocols to the 1949 Geneva Convention. The 1977 Protocols update and revise the famous 1949 Geneva Convention on the acceptable conduct of war and treatment of prisoners of war. The 1977 conference was unable to reach agreement on limitations on the use of specific types of weapons, so another conference was held in 1979-1980 that gave rise to the Conventional Weapons Convention, with three additional Protocols.

It is important to keep distinct the 1977 Protocols and the Protocols to the Conventional Weapons Convention. The upcoming NATO meeting concerns only the 1977 Protocols. The United States has not yet decided whether to seek ratification of the 1977 Protocols, pending review by the Joint Chiefs of Staff. That review is not yet complete, but all indications are that the Chiefs will recommend against ratification. The proposed guidance cable accordingly points out the major areas of concern, so the NATO Allies are aware that we may well decide not to ratify. The main objection is found in paragraph four: the Protocols would treat many terrorist organizations as if they were countries engaged in war, legitimizing their activities and offering them protections and courtesies that should not be extended to common criminals.

I have no objections. The cable embodies the reality that the military concerns of the Department of Defense are prevailing in these discussions over the diplomatic objectives of the Department of State.

Attachment

THE WHITE HOUSE

WASHINGTON

May 8, 1985

MEMORANDUM FOR MIKE MATHESON  
DEPUTY LEGAL ADVISER  
U.S. DEPARTMENT OF STATE

FROM: RICHARD A. HAUSER  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Draft Response to U.S. NATO's Request  
for Guidance for a May 14 POLADs Exchange  
on Ratification of the 1977 Protocols

Counsel's Office has reviewed the above-referenced proposed guidance cable, and finds no objection to it from a legal perspective.

RAH:JGR:aea 5/8/85

cc: FFFielding  
RAHauser  
JGRoberts  
Subj  
Chron

THE WHITE HOUSE

WASHINGTON

July 22, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Law of War

I participate on a regular basis, in Mr. Hauser's stead, in the law of war working group that has been meeting at the State Department for several years to monitor and coordinate consideration of the 1977 Protocols to the 1949 Geneva Convention and the separate Conventional Weapons Convention. Recent publicity surrounding the apparent decision of the Joint Chiefs of Staff to object formally to the 1977 Protocols (attached) prompts this background memorandum.

You are of course familiar with the 1949 Geneva Convention. A diplomatic conference was held in 1974-1977, also in Geneva, to update that famous Convention. That conference resulted in two protocols to the 1949 Convention, known as the 1977 Protocols, which the Carter Administration signed (over the objections of the Joint Chiefs). The 1974-1977 conference was unable to resolve several issues concerning the use of specific conventional weapons in wartime (particularly booby-traps and incendiaries), resulting in the convening of another conference in 1979-1980, which gave rise to the Conventional Weapons Convention.

The 1977 Protocols (1) improve and expand protection of medical units, personnel and transport; (2) upgrade the responsibilities of Parties with respect to search, reporting and care for the missing and remains of the dead; (3) broaden and upgrade provisions for protecting the civilian population from the effects of combat operations, and for relief operations for their benefit; (4) extend law-of-war protections to certain types of irregulars not previously covered; (5) prohibit acts of terrorism and require the prosecution or extradition of their perpetrators as war criminals; and (6) improve the compliance mechanisms of the 1949 Convention. The Conventional Weapons Convention (1) prohibits the use of any weapon relying for its wounding effects on fragments not detectable by x-ray; (2) regulates various aspects of the use of land mines and booby-traps for the purpose of reducing civilian casualties; and (3) limits the use of incendiary weapons against targets located in concentrations of civilians.

State became interested in moving toward ratification of both the 1977 Protocols and the Convention on Conventional Weapons last year, primarily to blunt international criticism of the United States for not agreeing to what appeared to be humane documents and, against the backdrop of failure to conclude a nuclear arms agreement, to demonstrate that the Administration was interested in such international agreements. The Joint Chiefs consistently opposed the 1977 Protocols because they extended belligerent status to terrorist, so-called "liberation movements," and opposed the Convention on Conventional Weapons because they wished to retain flexibility to use certain booby traps (in a retreating army scenario) and certain incendiary bombs.

State asked Defense for a formal position on these issues; apparently the Chiefs have decided to adhere to their opposition, at least according to the Times article. I advised Mr. Hauser by memorandum dated May 8, 1985, that everyone expected this result, but I had no advance warning that a decision was about to be reached or that it had been leaked.

cc: Richard A. Hauser

# aces Objection Of Joint Chiefs

By LESLIE H. GELB

Special to The New York Times

WASHINGTON, July 21 — The Joint Chiefs of Staff have recommended against United States ratification of internationally agreed revisions of the Geneva Conventions on treatment of combatants and war victims, according to Administration officials.

The intent of the revisions is to ensure humane treatment of combatants and civilians during war. But the concern of the Joint Chiefs is that the revisions, or protocols, as they are known, would have the effect of legitimizing national liberation movements and terrorists, granting them combatant and prisoner-of-war status.

While the matter is still under review elsewhere in the Administration, the prevailing view among officials is that President Reagan is highly unlikely to recommend Senate ratification of the protocols dealing with warfare in the case of such objections by the military.

## 40 Nations Ratify Protocols

The Carter Administration signed two protocols in 1977 with the understanding that a decision on ratification would await a formal study by the Joint Chiefs. Over 100 nations have signed the protocols, and more than 40 have ratified them. Signing obligates a nation to act in accordance with the treaty, but only formal ratification makes the treaty legal force.

State Department officials said that the United States had ratified the

protocols and that Britain, West Germany, Italy, Belgium and the Netherlands were moving toward ratification. Officials said they did not expect France to ratify Protocol I and did not expect Israel to ratify either Protocol I or Protocol II.

Perhaps the most powerful argument against ratification on any terms comes from a commentary to be published soon by Douglas J. Feith, Deputy Assistant Secretary of Defense for Negotiations Policy and the key official in the Pentagon on this issue.

He writes of Protocol I, "It amounted to an endorsement, in the politically potent form of a legal instrument, of both the rhetoric and the anticivilian practices of terrorist organizations that fly the banner of self-determination." He calls it "a proterrorist treaty masquerading as humanitarian law."

His commentary was not formally approved by the Pentagon as an official statement of its position, but officials there said it did represent the thinking of senior Pentagon policy makers.

Other Administration officials are said to acknowledge the problems raised by Mr. Feith, but are looking into the possibility of fixing them by approving the protocols with reservations. The reservations would specifically reject the objectionable provisions.

These officials maintain that the bulk of the protocols are worth salvaging because of provisions that would strengthen extradition and prosecution of terrorists, and attach legal teeth and consequences to taking hostages and using force indiscriminately.

## Missing G.I.'s a Factor

One reason the Carter Administration agreed to sign in 1977 before these issues were fully discussed was that the protocols would also strengthen the right to search for and be given information about Americans missing in action in Vietnam. Another was powerful pressure from the International Committee of the Red Cross, which won approval in the protocols for added protections for its medical personnel.

The laws of war are generally grouped under the Hague Convention of 1907, which limited means and methods of warfare such as weapons and targets, and the four Geneva Conventions of 1949, which mandated humane treatment of the sick and wounded in the field and at sea, for prisoners of war and for civilians.

Delegates from almost all nations gathered in Geneva in 1974 for what was called the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflict. Several national liberation movements such as the African National Congress, which opposes the South African Govern-

## Wording Is Faulted

Critics contend that other provisions in Protocol I defining what is combat and what is a soldier are worded so vaguely that the distinctions between guerrillas and regular soldiers would be blurred. As a result, these critics say, guerrillas could claim the same protection granted regular prisoners of war and thus avoid prosecution under the criminal laws of a sovereign nation for what might otherwise be considered terrorist acts.

Officials said the Joint Chiefs had delayed coming to grips with the protocols because of the lengthy and complicated legal text, the cumbersome military bureaucracy and the fact that until the most recent encounters with terrorists, the issue was low on the list of Administration priorities. The question that Administration officials say they are now wrestling with is whether the concerns of the Joint Chiefs and others can be eliminated by ratification with reservations or whether Protocol I in particular is inherently flawed.

To officials involved in the Administration's review of the protocols, the decision on ratification raises one of the most difficult and basic issues of the international law of war — the rights of innocent civilians as against the rights of and pressures from liberation movements. Added to this are the problems of balancing potentially helpful parts of a treaty against potentially dangerous precedents and complications.

The Pentagon, State Department and other agencies have yet to take positions on the protocols. But officials said that the Administration had informed the International Committee of the Red Cross, under whose auspices the conference to negotiate the protocols was held from 1974 to 1977, that the decision would be made "in a matter of weeks" and that the Administration had "grave problems" with the documents.

organization also was given a vote.

The conference, which lasted nearly four years, produced two protocols, adding up to 121 pages of text.

Article 1 of Protocol I says that the provisions apply to nations and "peoples" who "are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination." The protocol also provides that regional political organizations, such as the League of Arab States and the Organization of African Unity, will judge which "peoples" constitute a legitimate party to armed struggle.

Mr. Feith, in his commentary, argues that this would abolish the traditional definition of international conflicts as being between two or more sovereign nations by giving regional political groups the right to confer on national liberation movements the trappings of sovereignty. Delegates opposed to this language, according to Mr. Feith, seemed to console themselves with the argument that nations would simply refuse to apply provisions of the protocol to liberation movements since to do so would be to admit they were racist or colonial or alien.

Some Administration officials say that this defect can be overcome by a

reservation stating that the United States reserves the right to apply or not apply the provisions to any group of its choosing.

Mr. Feith counters in his commentary that not applying the provisions would only weaken international law generally. He further contends that whatever the legal applicability, the protocol language constitutes a "fatal political concession" to liberation and terrorist groups.

Article 43 also represents a serious problem for critics of Protocol I in that it could be read as conferring prisoner of war status on irregulars or terrorists. It says that those covered are governments "or an authority not recognized by an adverse party."

This could exempt terrorists, if captured, from prosecution under criminal law by a sovereign nation. The Geneva

Conventions of 1949 confer prisoner of war status only on regular uniformed combatants whether or not recognized by an adverse party.

Article 44, in Mr. Feith's view, further blurs the distinction between regulars and irregulars or guerrillas and between irregulars and noncombatants. It would do so by weakening the requirements of the Geneva Conventions for combatants to have a "fixed distinctive sign recognizable at a distance," namely a uniform, to carry "arms openly" and to conduct "their operations in accordance with the laws and customs of war."

Article 44 recognizes that there are situations where "owing to the nature of the hostilities an armed combatant cannot so distinguish himself." In these circumstances he can retain combatant status if he carries arms

"openly." But openly is defined as "during each military engagement." In other words during an actual attack, or during "military deployment," a vague phrase.

Irregulars, Mr. Feith argues, would obviously seek to conceal themselves from regular combatants and civilians until the last moment and still retain prisoner of war status if captured.

Other officials studying how this might be overcome reply that irregulars might have incentives to comply with a strict interpretation of the provision if they wanted prisoner of war status. But they also acknowledge that there may be problems here.

The study, officials said, recommends against ratification of Protocol I and approval of Protocol II with revisions.