

Office of the Secretary of Defense ^{5 USC 552}
Chief, RDD, ESD, WHS
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ENCLOSURE TO MEMORANDUM

SUMMARY OF SERVICE STUDIES UNDERWAY TO REVIEW THE 1977 PROTOCOLS (U)

1. (U) The 1977 Protocols are the first effort in seventy years to codify the law of armed conflict as it relates to the means and methods of warfare. Previous efforts, such as the Geneva Conventions of 1929 and 1949, generally were restricted to the less controversial area of protection of noncombatants in the hands of the enemy. Proponents of ratification of the Protocols have advocated in part that the Protocols largely codify the customary practice of nations at war including certain humanitarian practices. The validity of this assertion can be confirmed only through the study of the actions of nations in previous conflicts, which involves substantial review of classified and unclassified data.* These studies are useful not only in determining the operational impact of the Protocols on US milit. forces, but also in predicting the probability of adherence to the Protocols by likely opponents. Examination of the Protocols within this historical context is also necessary to determine whether their provisions are practical and capable of universal respect.

2. (U) Six specific areas are being addressed in separate reviews:

- a. ~~(U)~~ Conduct of unconventional warfare (Articles 39, 47).
- b. (U) Provisions for the protection of medical aircraft (Articles 21-31). The Army review focuses on medical helicopters; the Air Force is conducting a separate review of the impact on fixed-wing medical aircraft.
- c. (U) Articles regulating the means and methods of warfare (Articles 35, 36, and 48-58).
- d. (U) Definitions relating to combatants, noncombatants, and entitlement to prisoner of war status (Articles 1(4), 32, 33, 43, 61-67, and 75; Protocol II).

* For example, many of the Air Force's Project CHICO (Contemporary Historical Examination of Current Operations) reports and Project COPONA HARVEST (operational studies from the Vietnam War) have been examined in the course of the review of the 1980 UN Convention on Certain Conventional Weapons and those provisions of Protocol I relating to means and methods of warfare.

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e. (2) Applicability of the Protocols to nuclear, chemical and biological warfare.

f. (4) Prohibitions affecting the right of reprisal (Articles 20, 51-56).

3. (4) An independent study is being conducted at the US Army War College as part of that institution's advanced studies program. Three-day computer war games were conducted in 1980 and 1981 to contrast the application of the current law of armed conflict with the application of the Protocols in a NATO-Warsaw Pact scenario. A third "play" is scheduled for May 1982.

4. (4) The Protocols, specifically Article 1(4) of Protocol I and Article 1(1) of Protocol II, also constitute an attempt to extend the applicability of the law of armed conflict to the lower end of the conflict spectrum. In doing so, efforts were made by Socialist delegations to legitimize the status of terrorist and national liberation movements (through POW protection for individuals who are members of such movements), and to justify military actions by such elements against a number of states, particularly Israel and South Africa. These changes resulted in an unprecedented politicization of the law of armed conflict which historically has been apolitical. The Service reviews are endeavoring to determine the operational impact of these provisions that are political or subject to political exploitation (such as possible denial of prisoner of war status to US personnel defending Israel).

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