



INTERNATIONAL  
SECURITY POLICY

ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D.C. 20301

Page determined to be Unclassified  
Reviewed Chief, RDD, WHS  
IAW EO 13526, Section 3.5  
Date: AUG 22 2013

In reply refer to  
I-09838/85

MEMORANDUM FOR THE SECRETARY OF DEFENSE

THROUGH: UNDER SECRETARY OF DEFENSE FOR POLICY

SUBJECT: 1977 Protocols Additional to the Geneva Conventions  
of 1949 on War Victims Law - ACTION MEMORANDUM

You recently informed General Vessey that you concur with the Chiefs' recommendation that the United States oppose ratification of Protocol I, which deals with international armed conflicts. The Chiefs have now completed their review of Protocol II, which deals with non-international armed conflicts, and recommend (see Tab A) in favor of ratification with certain reservations and understandings. We concur.

Protocol II contains several dubious provisions which, were they to be applicable to international conflicts, would be unacceptable. Given Protocol II's narrow scope, however, the Chiefs have concluded that no substantial harm to U.S. military interests would be incurred by our subscribing to it on the basis of the technical reservations and understandings set forth in the Annex of Tab A.

My office has identified an additional problem that will require another reservation or "understanding." Protocol II states that its provisions apply to all armed conflicts not covered by Protocol I. One of the more objectionable aspects of Protocol I was that a "war of national liberation" would be defined in unacceptable political terms and would be deemed inherently "international," even if it involved only one sovereign state. To ensure that that concept is not legitimized by reference in Protocol II we must either reserve or declare an "understanding" on Article I(1) of Protocol II, stating the US view that Protocol II applies to all conflicts traditionally deemed "non-international" (i.e., covered by Article III common to the Geneva Conventions of 1949). OJCS concurs in our recommendation for this additional reservation or understanding. The reservation-versus-understanding issue can be worked out among OSD, OJCS and State.

Office of the Secretary of Defense *5 USC 552*  
Chief, RDD, ESD, WHS *and*  
Date: *29 AUG 2013* Authority: EO 13526  
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Reason: \_\_\_\_\_  
MDR: *17-M-7612*

*13-M-3012*

**Recommendation:** That you sign the memorandum at Tab B to the Secretary of State with a copy to Bud McFarlane forwarding the recommendations of yourself and the Joint Chiefs of Staff that (1) the United States declare its intention not to ratify Protocol I of the Geneva Conventions and that (2) the Administration support ratification of Protocol II with certain reservations and understandings.

**Recommendation:** That you sign the memorandum at Tab C to General Vessey.

Richard Perle

Attachment  
a/s

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Coordination:

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OJCS

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OGC