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PSR(IC)4



NEW ZEALAND DEFENCE FORCE
COVER SHEET

To accompany documents to
Minister of Defence

Subject:	OP WĀTEA Rules of Engagement		
NZDF File No.	NZDF Tracking # NZDF 03130/DSC/WĀTEA OCDF 147/10 (For OCDF Use Only) 10/2010	Minister's Tracking#: (For Minister's office)	
Priority:	ROUTINE	Request Ministerial response by:	
Contacts:	1. PSR(IC)3 2. PSR(IC)3	Tel: PSR(IC)3 Tel:	A/H:

Sheet not to exceed one page. Please complete shaded areas.

Purpose:	To request the Minister to endorse an amendment to the OP WĀTEA rules of engagement, and seek the Prime Minister's approval.
Recommendations:	That the Minister endorse the amendment to ROE S and the addition of ROE AB to expand the powers of search and seizure to contexts where the property or item to be searched and seized is not directly related to a person or persons.
MOD/NZDF Consultation	Not required: Operational request. Other Agencies:
Minister's comments:	<i>Careful check of existing ROE's required</i> N.B. AA
Minister's Action:	Signed / Noted / Agreed / Approved / Declined Referred to:
Signature:	<i>[Signature]</i> Date: 24 MAY 2010

Christopher
J. MATĀPARAE
Lieutenant General
Chief of Defence Force

Date 23 Mar 10

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DSC 943/10
SC145/10-26/5



NEW ZEALAND DEFENCE FORCE

Te Ope Kaatua o Aotearoa

HEADQUARTERS NEW ZEALAND DEFENCE FORCE

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NZDF 03130/DSC/WATEA

23 March 2010

Minister of Defence

AMENDMENT TO OP WATEA RULES OF ENGAGEMENT

1. The purpose of this note is to request your endorsement of an amendment to the current OP WATEA rules of engagement (ROE) relating to search and seizure. The supporting ROE request I have received from OP WATEA describes the existing ROE search and seizure provisions as "narrow", and submits that this limitation does not currently permit TF 81 to effectively exercise necessary security and control measures when conducting operations.
2. The ROE request is confined to a proposed amendment to ROE **S** (Seizure of Property), and a proposed new ROE **AB** expanding the authority to search to include search of property. The effect of the changes would be to expand the powers of search and seizure to contexts where the property or item to be searched and seized is not directly related to a person or persons. This would include search and seizure of abandoned property or property that has no clear owner.
3. I do not see any legal obstacle to this proposed change. The powers of search and seizure being exercised by coalition forces comply with best operational practice. The ability to search and seize is consistent with the authority the UN Security Council has given ISAF under Chapter 7 of the Charter to use all necessary measures to fulfil its mandate. This authority would extend to include the searching and seizing of property if necessary for mission accomplishment. Further, from a purely pragmatic perspective, expanding the ROE to permit the search and seizure of "ownerless" property is unlikely to give rise to the existence of a "victim" or aggrieved party that may wish to take action against ISAF or TF 81.
4. I do not regard this proposal as being contentious. I believe the proposed change will be met with the full support and endorsement of ISAF.
5. It is my belief that the proposed changes will enhance TF 81's ability to successfully prosecute and achieve its mission. If you agree with these amendments, it is recommended you endorse the following ROE to replace the existing OP WATEA ROE **S** and add a new ROE **AB** and seek the approval of the Prime Minister to do the same:

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S Seizure of any property is permitted:

- a. when necessary for mission accomplishment; or
- b. when in the possession of a person who is detained if no member of the CRU or ANSF is present to effect the seizure.

AMPN/1/ Seizure will normally be necessary for mission accomplishment when the property to be seized has or could be used in a hostile act or demonstration of hostile intent.

AB Search of any property is permitted:

- a. when necessary for mission accomplishment; or
- b. when in the possession of a person who is detained if no member of the CRU or ANSF is present to conduct the search.


J. MATEPARAE
LIEUTENANT GENERAL
CHIEF OF DEFENCE FORCE

ENDORSED


HON DR WAYNE MAPP
MINISTER OF DEFENCE


APPROVED

HON JOHN KEY
PRIME MINISTER

