

LGL / SEC / LOAc / RUGS - PT18

From: PSR(IC)3 @nzdf.mil.nz
Sent: Thursday, 27 August 2009 10:59 a.m.
To: PSR(IC)3 (LGL)
Subject: RE: UNCLASSIFIED: COPENHAGEN PROCESS
Attachments: Report Copenhagen Conf Jun 09 - Encl 1.pdf, Boswell Report Copenhagen Conf Jun 09.doc

Hi PSR(IC)3

Here it is.

Regards,

PSR(IC)3

RNZN

Deputy Director of Legal Services - Operations Law

Headquarters New Zealand Defence Force

DDI PSR(IC)3

DTelN PSR(IC)3

From: PSR(IC)3 (LGL) [mailto:PSR(IC)3 @mfat.govt.nz]
Sent: Wednesday, 26 August 2009 3:57 p.m.
To: PSR(IC)3
Subject: RE: UNCLASSIFIED: COPENHAGEN PROCESS

[UNCLASSIFIED]

Hi PSR(IC)3,

Hope it's all shaping up well for your departure. One thing before you head off - did you receive a report from PSR(IC)3 on this meeting? Would be good to see.

Cheers,

PSR(IC)3

From: PSR(IC)3 @nzdf.mil.nz
Sent: Monday, 8 June 2009 10:00 a.m.
To: PSR(IC)3
Cc: PSR(IC)3 (LGL); RIORDAN KEVIN, BRIG
Subject: RE: UNCLASSIFIED: COPENHAGEN PROCESS

NZDF 3000/DLS/INTOPS/1

Dear PSR(IC)3

Further to the responses which I provided to your questionnaire in connection with the Copenhagen Process, I would like to add two points of clarification:

27/08/2009

(a) All the answers given relate exclusively to the context of the questionnaire, eg my answer at paragraph 25 is only intended to relate to human rights obligations in respect of detainees.

(b) Before the answers I have provided are attributed to the Government of New Zealand, or the New Zealand Defence Force, in any publication, I would appreciate it if the view to be attributed to New Zealand could be forwarded to me for approval, so that I can undertake appropriate consultation within New Zealand Government circles.

Kind regards,

PSR(IC)3

Deputy Director of Legal Services - Operations Law

Headquarters New Zealand Defence Force

DDI +PSR(IC)3

DTelN PSR(IC)3

From: PSR(IC)3

Sent: Wednesday, 27 May 2009 7:56 p.m.

To: PSR(IC)3

Cc: PSR(IC)3 (LGL)

Subject: UNCLASSIFIED: COPENHAGEN PROCESS

Dear Sir,

Please find attached the response of the New Zealand Defence Force in respect of your questionnaire in connection with the Copenhagen Process - The Treatment and Transfer of Detainees during International Military Operations.

I apologise that this response is provided after the date requested.

Kind regards,

PSR(IC)3

Deputy Director of Legal Services - Operations Law

Headquarters New Zealand Defence Force

DDI +PSR(IC)3

DTelN PSR(IC)3

<< File: Copenhagen Process - NZDF Response May 09.pdf >>

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27/08/2009

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HEADQUARTERS NEW ZEALAND DEFENCE FORCE
New Zealand Defence Staff
MINUTE

3000

18 Jun 09

HQ NZDF

(Attention: **PSR(IC)3**)

**COPENHAGEN CONFERENCE 15-16 JUNE 2009, DENMARK:
"THE HANDLING OF DETAINEES IN INTERNATIONAL MILITARY
OPERATIONS".**

References:

- A. HQ NZDF email (Griggs) of 240948 May 09.
- B. Discussion Paper: Copenhagen Conference on "The Handling of Detainees in International Military Operations".

1. Ref A requested that MA LONDON represent the NZDF over the period 15-16 June 2009 at the COPENHAGEN Conference on 'The Handling of Detainees in International Military Operations'. This conference was the second in the 'Copenhagen Process' which is seeking to address the legal, political and practical issues relating to the handling of detainees on international military operations and to put forward possible solutions to the challenges involved.

2. The second Copenhagen Conference sought to follow up the decision of the previous conference to establish a common platform, drawn primarily from the best practices of participating States, for the handling of detainees. To assist in the identification of best practices four aspects of detainee handing were addressed: Legal Basis of Detention, Treatment during Detention, Conditions of Transfer, and Responsibility and Review. In each of these areas a Keynote Speaker provided a contextual basis for the central discussion that followed. Following the last topic the key points from all four were summarised and the structure of an 'Outcome Document on the Handling of Detainees in International Military Operations' was agreed upon.

3. The aim of this report is to capture the key points raised, by topic area, during the discussion on best practices and to comment on both the 'Outcome Document' and the 'way ahead' for the Copenhagen Process.

Legal Basis for Detention

- 4. **PSR(IC)4, PSR(R)1**

5. PSR(IC)4, PSR(R)1

Treatment during Detention

6. PSR(IC)4, PSR(R)1

PSR(IC)4, PSR(R)1

7. PSR(IC)4, PSR(R)1

8. PSR(IC)4, PSR(R)1

Conditions of Transfer

9. PSR(IC)4, PSR(R)1

PSR(IC)4, PSR(R)1

10. PSR(IC)4, PSR(R)1

PSR(IC)4, PSR(R)1

PSR(IC)4, PSR(R)1

Responsibility and Review

12. PSR(IC)4, PSR(R)1

PSR(IC)4, PSR(R)1

13. PSR(IC)4, PSR(R)1

PSR(IC)4, PSR(R)1

PSR(IC)4, PSR(R)1

14. PSR(IC)4, PSR(R)1

Outcome Document

15. PSR(IC)4, PSR(R)1

16. PSR(IC)4

The Way Ahead

17. PSR(R)1, PSR(IC)4

18. **NZ Representation.** It is appropriate that the NZDF remain engaged with the Copenhagen Process. The forum is operationally focused, relevant and, particularly when one considers the number and type of operations the NZDF is currently committed to, of obvious value. Detainee handling in non-international armed conflict is a complex issue and one which could, as a number of recent events from Iraq have shown, have significant and far reaching consequences. In addition, our key partners are represented at the meeting and it is appropriate that the NZDF have an input into any product that is produced.

19. Ideally, as the discussion moves so quickly and often at the conference between the various legal protocols for detainee handling and their practical application, the NZDF should be represented by both an operational legal officer and someone with practical experience. Should resource constraints preclude the

attendance by two individuals then, due to the complex legal discussions that take place, this should be a legal officer with operational experience.

Summary

20. The second Copenhagen Conference was very much an information gathering exercise from which it is intended a draft outcome document will be produced for discussion at the next conference. The conference was conducted in a positive manner and there didn't appear to be any major concerns with either the direction/process being pursued or the presentations/discussion that took place. A number of delegates did however comment to me that they felt areas covered in the first conference were gone over again and that they had anticipated there being greater progress than what actually occurred.

21. The issue of detainee handling is an important one and the NZDF should remain engaged in the Copenhagen Process. Should resource constraints not allow an operational law expert and a practitioner to represent the NZDF at the third Copenhagen Conference then, due to the legal complexities of some of the discussion that takes place, it is best that this be a lawyer.

[signed on original]

PSR(IC)3

MA

Enclosure:

1. PSR(R)1, PSR(IC)4

PSR(R)1, PSR(IC)4

PSR(R)1, PSR(IC)4

PSR(IC)4, PSR(R)1