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**UNITED STATES MISSION
ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE**

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NOTE VERBALE

The Mission of the United States of America to the Organization for Security and Cooperation in Europe presents its compliments to all Permanent Delegations and Missions to the OSCE and to the Conflict Prevention Centre, and in accordance with Decisions 4/98 and 4/03 of the Forum for Security Co-operation, has the honor to transmit herewith the United States response to the Questionnaire on the Code of Conduct on Politico-Military Aspects of Security.

The Mission of the United States of America to the Organization for Security and Cooperation in Europe avails itself of this opportunity to renew to all States Parties the assurances of its highest consideration.



**U.S. Mission to the OSCE
April 16, 2008 Vienna**

**To all Permanent Delegations and Missions to the OSCE
The Conflict Prevention Centre**

**Information Exchange on the Code of Conduct on
Politico-Military Aspects of Security**

1. Appropriate measures to prevent and combat terrorism, in particular participation in international agreements to that end:

(a) List of international agreements, including all United Nations conventions and protocols related to terrorism, to which the participating State is a party.

The United States is a party to the following thirteen major multilateral conventions related to states' responsibilities for combating terrorism:

- Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo Convention, 1963)
- Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention, 1970)
- Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal Convention, 1971)
- Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (1973)
- Convention on the Physical Protection of Nuclear Material (1979)
- International Convention Against the Taking of Hostages (1979)
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)
- Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (1988)
- Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (1988)
- Convention on the Marking of Plastic Explosives for the Purpose of Identification (1991)
- International Convention for the Suppression of Terrorist Bombing (2002)
- International Convention for the Suppression of the Financing of Terrorism (2002)

- OAS Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance (1976)

The United States also has enacted domestic legislation implementing these agreements. Such legislation includes the criminalization of acts covered by the Conventions and Protocols, assertion of U.S. jurisdiction over such acts, and the imposition of severe penalties for the commission of such acts.

(b) Accession to and participation in other multilateral and bilateral agreements or measures undertaken to prevent and combat terrorist activities.

The Government of the United States supports a broad range of international and national efforts to prevent and combat terrorist activities. These efforts are guided by the United Nations Global Counter Terrorism Strategy adopted by the General Assembly on September 8, 2006; the United States National Security Strategy; and the United States National Strategy to Combat Weapons of Mass Destruction.

The objectives of the global coalition formed to take action against terrorism in the aftermath of the horrific events of September 11, 2001 are to eliminate the threat posed by international terrorism, including to deter states from supporting, harboring or acting complicitly with international terrorist groups. The Global War on Terrorism is being fought by many means -- through diplomatic, military, financial, intelligence, investigative, and law enforcement actions.

Thirty-two states are contributing coalition forces to the War on Terrorism, including twenty OSCE participating States. Coalition members' contributions include providing personnel, equipment and assets for use on the ground, air and sea. Some have also provided liaison teams, participated in planning, provided bases and have granted over-flight approval. To date, 17 nations have deployed to the US Central Command's area of responsibility with more than 16,500 military personnel.

Most law enforcement actions concern information sharing and cooperation over borders. Coalition members are reviewing and improving domestic legislation in support of international conventions. Extensive diplomatic actions have taken place under the United Nations, NATO, and other organizations to support the campaign against terrorism.

At the Evian Summit in June 2003, the United States and other members of the G-8 recognized that the remnants of the Al Qaeda network were scattered all over the world. In order to disrupt the network and secure safety in the international community, the United States and its G-8 partners noted the importance of categorically denying terrorists a safe haven anywhere. The G-8 initiated an Action Plan to build stronger international will and to engage in outreach activities towards other countries in the area of counter-terrorism cooperation, and at the same time to provide capacity building assistance to those countries with insufficient capacity to fight terrorism.

At Evian, the G-8 recognized the proliferation of weapons of mass destruction and their delivery systems, together with international terrorism, as the pre-eminent threat to international peace and security. Determined to prevent, contain, and roll back proliferation, at the Sea Island summit in 2004, the G-8 adopted an Action Plan on Nonproliferation to reinforce the global nonproliferation regime. This Action Plan

enhances and expands ongoing efforts, such as the Proliferation Security Initiative, which is a global response to a global problem, to interdict, disrupt and dismantle proliferation networks, and the G-8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction. The Action Plan addresses transfers of enrichment and reprocessing equipment and technologies, and takes steps to strengthen the International Atomic Energy Agency and to counter bioterrorism. The Action Plan also calls on all states to implement U.N. Security Council Resolution 1540, and highlights the non-proliferation challenges posed by North Korea, Iran, and Syria. At the Evian Summit, the G8 also adopted an Action Plan to 'Enhance Transport Security and Control of Man-Portable Air Defense Systems (MANPADS).' The G-8 committed to reducing MANPADS proliferation and encouraging countries to tighten controls over exports and enhance stockpile security. The G-8 endorsed the effort by the Wassenaar Arrangement to tighten its existing controls over MANPADS. The Wassenaar Arrangement further strengthened controls over MANPADS in December 2007. To date, more than 95 countries from four multilateral organizations have agreed to these controls guidelines (the Wassenaar Arrangement, OSCE, APEC, and OAS). The U.S. has sponsored and/or participated in numerous regional seminars on implementing these measures.

In 2004 at Sea Island, the G-8 agreed to enhance counterterrorism efforts by launching the Secure and Facilitated International Travel Initiative (SAFTI) to improve the security and efficiency of air, land, and sea travel. As part of this Initiative, and building on the 2003 Evian Action Plan to counter the threat to civilian aviation posed by Man-Portable Air Defense Systems (MANPADS), the G-8 agreed to accelerate efforts to destroy excess stockpiles of MANPADS and to prevent their proliferation (in particular, by tightening export controls and restricting transfers of MANPADS production technology).

More recently, in July 2006, President Bush and Russian President Putin announced the Global Initiative to Combat Nuclear Terrorism. The Global Initiative was created to accelerate partner capacity to combat the threat of nuclear terrorism. The United States and Russia co-chaired a meeting, consisting of Canada, the UK, France, Germany, Italy, Japan, Australia, China, Turkey, Morocco and Kazakhstan in October 2006 in Rabat, Morocco. The nations endorsed a Statement of Principles and a Terms of Reference. The Statement of Principles highlights the eight areas of work where Global Initiative participants intend to strengthen their capacity to protect, detect, and respond to the threat of nuclear terrorism. The IAEA and the European Union also participate as observers to the Initiative. In November 2007 the FSC adopted decision 14/07, calling for all participating States and partner nations that are not GI partners to join the initiative.

To date, 67 nations have endorsed the Global Initiative Statement of Principles, and 25 activities have been completed as part of the Plan of Work. The partners of the Global Initiative plan to meet again in Madrid in June 2008 to discuss outreach to the private sector and local governments and the exercise program, as well as to review the Plan of Work and welcome new partners into the Initiative.

The Department of State has the lead role on the diplomatic front abroad to advance the cause of the coalition against terrorism, working closely with other agencies and organizations to shut down terrorist financial networks, provide humanitarian aid, and to investigate terrorist organizations and activities and bring terrorists to justice. For more information about Department of State activities, please review: www.state.gov/s/ct and www.state.gov/coalition.

In February 24, 2005, the United States and Russia signed the U.S.-Russia Arrangement on Cooperation in Enhancing Control of Man-Portable Air Defense Systems (MANPADS). This arrangement provides a bilateral framework by which the United States and Russia can cooperate to control MANPADS, a dangerous weapon that can threaten global aviation if obtained by criminals, terrorists and other non-state actors. For more information about the U.S.-Russian Arrangement, please review the fact sheet at: <http://www.state.gov/r/pa/prs/ps/2005>

(c) National measures, to include pertinent legislation, taken to implement the international agreements, conventions and protocols cited above.

Twenty-one Bills and Joint Resolutions related to the attack of September 11 have been signed into law, including:

- USA PATRIOT ACT of 2001 (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) as extended and amended by the USA Patriot Improvement and Reauthorization Act of 2005;
- Air Transportation Safety and System Stabilization Act;
- Terrorist Bombings Convention Implementation Act of 2001;
- Bioterrorism Response Act of 2001
- Enhanced Border Security and Visa Entry Reform Act of 2002;
- Authorization for Use of Military Force

For further information about U.S. legislation, please review the list available on: <http://thomas.loc.gov/home/terrorleg>

(d) Information on national efforts to prevent and combat terrorism, including appropriate information on legislation beyond United Nations conventions and protocols (e.g., pertaining to financing of terrorist groups).

On November 25, 2002, President Bush signed the Homeland Security Act. Under this act, the Department of Homeland Security (DHS) was created in January 2003 to protect the nation against threats to the homeland. The Department analyzes threats, guards our borders and airports, protects our critical infrastructure, and coordinates the response of our nation in future emergencies. The Department is organized into five major directorates: Border and Transportation Security; Emergency Preparedness and Response; Science and Technology; Information Analysis and Infrastructure Protection; and Management. For further information on the Department of Homeland Security, please review: www.dhs.gov

The U.S. Government has used economic sanctions as a tool against international terrorist organizations since 1995. Following the events of September 11, 2001, President Bush issued Executive Order (E.O.) 13224, significantly expanding the scope of U.S. sanctions against international terrorists and terrorist organizations. E.O. 13224 provides the basis for blocking the funds of terrorists and anyone associated with terrorist groups or terrorism; the Treasury Secretary leads the campaign to expose, isolate, and incapacitate

the terrorists' financial networks. The Department of the Treasury, Office of Foreign Assets Control (OFAC), is responsible for administering three sanctions programs targeting international terrorists and terrorist organizations. OFAC also administers five sanctions programs targeting terrorism-supporting governments and regimes. Implementation of programs targeting international terrorist organizations has resulted in the blocking in the United States of almost \$10 billion in which there exists an interest of an international terrorist organization or other related designated party. More than \$1.6 billion in assets of six designated state sponsors of terrorism also are located within U.S. jurisdiction. Of that amount, over \$1.5 billion are blocked pursuant to economic sanctions imposed by the United States. For more information on OFAC and to review the "Terrorist Assets Report Calendar Year 2004 Annual Report to the Congress on Assets in the United States of Terrorist Countries and International Terrorism Program Designees," please visit: www.treasury.gov/offices/enforcement/ofac/reports

As the lead law enforcement agency for investigating acts of domestic and international terrorism, the Federal Bureau of Investigation (FBI) relies on a vast array of partnerships across the nation and around the world to disrupt and defeat terrorists. These relationships have been steadily enhanced through a series of groundbreaking initiatives since September 11. For example, Joint Terrorism Task Forces (JTTFs) are teams of state and local law enforcement officers, FBI Agents, and other federal agents and personnel who work shoulder-to-shoulder to investigate and prevent acts of terrorism. These task forces pool multi-agency expertise and ensure the timely collection and sharing of intelligence absolutely critical to prevention efforts. Today, there are 66 JTTFs involving more than 2,300 personnel nationwide. Information on FBI activities can be found at: www.fbi.gov/terrorinfo/counterrorism/waronterrorhome

As the single, unified border agency of the United States, U.S. Customs and Border Protection (CBP) in DHS is important to the protection of America and the American people. In the aftermath of the terrorist attacks of September 11th, CBP has developed numerous initiatives to meet our twin goals of improving security and facilitating the flow of legitimate trade and travel. A comprehensive review of CBP actions since September 11, 2001 is provided in testimony by Commissioner Bonner at: www.cbp.gov/xp/cgov/newsroom/commissioner/speeches/statements/jan262004

(e) Roles and missions of armed and security forces in preventing and combating terrorism.

The military phase of the War Against Terrorism began on October 7, 2001 under the name Operation Enduring Freedom (OEF). Since then, coalition forces have liberated the Afghan people from the repressive and violent Taliban regime. Coalition forces have made important contributions in the war against terrorism across the spectrum of operations. Particular contributions include, but are not limited to, providing vital intelligence, personnel, equipment, training and assets. Including the U.S., 12,000 military personnel participate in OEF. The International Security Assistance Force (ISAF), a NATO-led force organized to assist the transitional Afghan government with security for all of Afghanistan, is comprised of 47,000 military personnel from 39 countries.

In order to launch and sustain OEF, a number of critical diplomatic measures were undertaken to facilitate the flow of U.S. military forces to the region and to ensure that tactical operations could be conducted effectively for as long as necessary. These measures included:

- Rapid conclusion of bilateral Status of Forces Agreements (SOFAs) necessary to provide legal protections for U.S. military personnel deployed as part of OEF;
- Rapid conclusion of bilateral Defense Cooperation and Base Access Agreements necessary to provide U.S. Forces with the ground facilities needed to carry out tactical operations;
- Assistance to Allies in securing similar agreements for their forces;
- Arrangement of expedited overflight/landing agreements and procedures with countries conveniently situated to sustain the flow of logistical and other support for OEF;
- Coordination of the formal acceptance of the many military assets offered by other countries for use in OEF operations and training;
- Coordination of the U.S. Government's response to a number of military and humanitarian tasks in Afghanistan including support for the International Security Assistance Force (ISAF), the establishment of the Afghan Transitional Authority, the creation of the Afghan National Army, and civil reconstruction;
- In addition to the aforementioned measures to support OEF's military operations in Afghanistan, the Department of State provided assistance to the Department of Defense in securing the cooperation of other countries for U.S. Maritime Interception Operations in the Mediterranean Sea and the Arabian Sea that were designed to disrupt the activities of terrorist groups.

For more information on military operations in support of OEF, please review: www.centcom.mil and www.defendamerica.mil

2. Description of the national planning and decision-making process - including the role of the Parliament and Ministries - for the determination/approval of:

(a) the military posture.

Article II, section 1 of the Constitution of the United States provides, "the executive power" is vested in the President. Article II, section 2 further provides, "the President shall be the Commander in Chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States." This provision has been interpreted to mean that the President's authority as Commander in Chief extends to all the military forces of the nation, including the Air Force, the Marine Corps, and the Coast Guard.

Article I, section 1 provides, "all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives." Article I, section 8 provides that among the powers of the Congress are

the powers to lay and collect taxes, to provide for the common defense, declare war, raise and support armies, provide and maintain a navy, make rules for the government and regulation of the land and naval forces, provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions, and provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States.

Although the President appoints senior civilian and military officials (including the promotion of senior military officers), such appointments are generally subject to the advice and consent of the Senate.

Also to be considered is review by the judicial branch. Under Article III, section 2 of the Constitution: "the judicial power shall extend to all cases ... arising under the Constitution, the laws of the United States, and ... to controversies to which the United States shall be a party." In this regard the Supreme Court of the United States may hear appeals from the U.S. Court of Appeals for the Armed Forces in criminal cases. Except for cases for which sovereign immunity or deference to decisions made by executive branch officials applies, lawsuits can be brought against the U.S. Government and the military in federal district courts. Courts may interpret laws passed by Congress and in some cases resolve certain controversies over separation of powers, and courts may award money damages, issue injunctions, or issue writs of habeas corpus.

(b) defense expenditures.

In practice, appropriations for U.S. military forces are determined through the legislative process and by executive branch implementation of the laws passed by Congress. Early each year the President submits a budget proposal that recommends the amounts of funds to be spent for particular military purposes. The two Houses of Congress then develop legislation that may or may not be consistent with the President's recommendations. Once defense authorization and appropriations bills are passed by Congress, the President may sign them, allow them to become law without his signature, or veto them. A Presidential veto can be overridden only by a 2/3 majority in each House of Congress.

Once the defense authorization and appropriations bills become law, the President generally implements them through the Department of Defense. In addition to Congress' power over the military budget, it also has the power to enact legislation imposing substantive restrictions on the size and composition of U.S. military forces, consistent with the President's constitutional authorities.

All phases of this process are conducted publicly, except for a very limited class of information related to particular programs that are classified in order to protect national security.

3. Description of

(a) Constitutionally established procedures ensuring effective democratic control of the military, paramilitary, and internal security forces, as well as intelligence services, and the police.

Congress has enacted the Uniform Code of Military Justice, which empowers the President and the military chain of command to exercise effective discipline over the armed forces. The President has implemented this legislation in the Manual for Courts Martial, which provides detailed rules on the conduct of judicial and non-judicial proceedings for all the military departments. The exercise of this disciplinary power is also subject to independent judicial review by a civilian court, subject to the overall supervision of the U.S. Supreme Court.

Of special importance is the Posse Comitatus Act (18 U.S.C. 1385), which provides criminal penalties for anyone who uses the military forces of the United States (active or the reserve components when acting under federal authority) to enforce civil law unless otherwise authorized by law to do so. This means that the U.S. military ordinarily cannot be used as police to enforce civil laws in the United States. This does not include military police duties. The numbers of military police available are limited, and they are trained for military rather than civil police functions.

The basis and rules for the collection of intelligence and conduct of intelligence operations are clearly defined publicly by statute and executive orders. The framework for U.S. intelligence is found in the National Security Act of 1947 (50 U.S.C. 401), as amended, including significant amendments establishing a new Director of National Intelligence, found in the Intelligence Reform and Terrorism Prevention Act of 2004. This statute establishes the National Security Council, the Central Intelligence Agency, intelligence activities by the Department of Defense, funding rules, accountability to civilian leadership, and Congressional oversight. Among other things, the National Security Act requires that certain congressional committees be kept fully and currently informed of U.S. intelligence activities. The key Executive Order is E.O. 12333 of December 4, 1981, as amended by Executive Order 13355 dated August 27, 2004. There are also numerous legislative provisions that protect privacy and access to information. These activities may be subject to judicial review.

(b) Constitutionally established authorities/institutions responsible for the democratic control of military, paramilitary and security forces.

U.S. military forces are at all times subject to the civilian control and authority of the President and the Secretary of Defense. Congress also exercises its legislative authority to regulate the armed forces. The exact division of authority between the President and the Congress is a matter of frequent debate, but it is clear that the military forces are at all times subject to the collective authority of the elected and appointed officials of the executive branch and the elected officials of the legislative branch of government.

The members of the National Guard are under the authority of the governors of their states when not in federal service. When in Federal service under United States Law, the members of the National Guard are for all practical purposes in the same status as members of the regular military forces. Members of the reserve forces are subject to the same conditions of service as members of the regular military forces when they are called to active duty. The importance of the reserves and the National Guard has greatly increased as they are regularly called up for duty for military installation security, peacekeeping, and other combined operations. This is particularly significant in specialized areas such as civil affairs and military police where the military personnel with these needed skills exist primarily in reserve and guard units.

The Federal government agencies involved in protection of the internal security of the United States include, inter alia, the Federal Bureau of Investigation and the U.S. Marshal Service within the Department of Justice; the Secret Service, Immigration and Customs Enforcement and the Coast Guard within the Department of Homeland Security (except when the latter is operating as a specialized service under the Navy in time of war or when directed by the President. By statute, the Coast Guard is a military service and branch of the armed forces.) Each of these agencies is under the authority of the President and cabinet officers appointed by the President with advice and consent of the Senate. Relevant committees of the Congress exercise oversight of these Federal agencies. In cases where these agencies work in concert with active military forces it is normal to draw up a memorandum of understanding to provide for respective responsibilities and financial arrangements. In some cases the civilian agencies may request support that the active armed forces may provide on a reimbursable basis.

The intelligence services of the United States operate under the direction and oversight of the President and senior officials appointed by the President. They are also subject to congressional intelligence oversight.

State and local police forces are subject to the control of elected executive officials and legislative officials of elected state and local governments, and to the judicial review of the courts.

(c) Roles and missions of the military, paramilitary and security forces as well as controls to ensure that they act solely within the constitutional framework.

Many of the specific statutes that apply to the Department of Defense are contained in Title 10 of the United States Code, which describes the functions of the Department of Defense, its powers, and its key officials. It establishes the Military Departments, the Chairman of the Joint Chiefs of Staff, combatant commands, the reserve components and their inter-relationships. Special rules provide for military support to civilian law enforcement agencies (chapter 18), humanitarian and other assistance to foreign countries (chapter 20), Department of Defense intelligence matters (chapter 21), and the Uniform Code of Military Justice (chapter 47). Title 10 also includes provisions pertaining to training, pay, procurement, and financial accountability. There are statutory positions such as the General Counsel of the Department of Defense, and the General Counsel of the Departments of the Army, Navy and Air Force, and the Judge Advocates General of the Departments of the Army, Navy and Air Force who ensure provision of proper legal advice, reviews of programs and operations, and oversight. Also of particular importance is Department of Defense Directive 5500.7, "Standards of Conduct," dated November 29, 2007, and the Joint Ethics Regulation (JER) that implements it. These directives apply to all personnel of the Department of Defense and establish rules to implement the principle of public service as a public trust, and to ensure that U.S. citizens can have complete confidence in the integrity of the Department of Defense and its employees. These directives cover the areas of conflicts of interest, political activities, use of benefits, outside employment, financial disclosure and training. Federal law also has established the Offices of Inspectors General. The Department of Defense and the separate military departments have independent Inspectors General who conduct inquiries into allegations of fraud, waste, and abuse. Further, they review current organizational matters and provide advice to the civilian and military leadership on whether there are better or more efficient ways to obtain the same or better results.

With regard to Standards of Conduct, the United States participates in exchanges with many countries with regard to military legal matters. Standards of conduct are part of the discussions during such exchanges. U.S. military personnel continue to meet with military and civilian officials in other countries to discuss military personnel issues and standards of conduct for military and civilian defense personnel. Uniformed legal personnel have visited countries in Eastern Europe, South America, Africa, and Asia to provide lectures and instruction on discrete legal topics.

4. Stationing of armed forces on the territory of another participating State in accordance with their freely negotiated agreement as well as in accordance with international law.

The United States continues to deploy forces in many locations throughout the world both bilaterally and within an alliance context, in particular within NATO. The United States is a party to multilateral and bilateral status of forces agreements (SOFA) with more than 100 nations, each freely entered into by the host nations. The United States also hosts the armed forces of many other nations within its own territory for purposes of training, exercises, and common defense. The United States participates in NATO operations and exercises, and in the planning for such operations and exercises.

The United States has continued to play a key role in the Partnership for Peace (PfP) program. The Agreement Among the States Parties to the North Atlantic Treaty and the other States Participating in the Partnership for Peace regarding the Status of their Forces (the PfP SOFA opened for signature in Brussels June 19, 1995) provides status protections and authorizations that enable the forces of countries participating in the PfP program to station themselves on the territories of other participating States, and to join in combined exercises and training. Other agreements to be specially noted are the SOFA under the Dayton Peace Treaty with Croatia and with Bosnia and Herzegovina, which contain provisions affecting the personnel who are supporting the ongoing peacekeeping missions in Bosnia and Herzegovina and other countries in the former Yugoslavia. In regard to Kosovo, the NATO-led Kosovo Force (KFOR) was established by United Nations Security Council Resolution 1244 to provide, inter alia, for the establishment of a secure environment in which the UN Interim Administration Mission in Kosovo (UNMIK) can operate. The status of KFOR derives from its mandate under Resolution 1244. KFOR and UNMIK have issued a joint statement, and the Special Representative of the Secretary General (SRSG) has promulgated a regulation, defining the status and privileges and immunities of KFOR and its personnel.

Kosovo declared independence on February 17, 2008. In its Declaration of Independence, Kosovo reaffirmed "that NATO retains the full capabilities of KFOR in Kosovo." Kosovo has also committed to respect the responsibilities and authorities of the international military presence pursuant to UN Security Council Resolution 1244 and the Ahtisaari Plan, including the status, privileges, and immunities currently provided to KFOR under UNMIK Regulation 2000/47.

The United States has entered into a number of additional SOFAs to enable the presence of U.S. forces in many locations to facilitate their activities in the continuing war against terrorism. These agreements are consistent with the agreements noted above.

SOFAs are critical to the success of all manner of combined activities including training, peacekeeping, and humanitarian assistance. They commonly address such issues as the right to wear uniforms and bear arms, legal jurisdiction over the forces, exemption from customs and taxes, provision for the use of military camps and training areas, and liability for and payment of claims.

5. Description of

(a) Procedures for the recruitment or call-up of personnel for service in the military, paramilitary, or security forces, if applicable.

Procedures for recruitment for the regular military forces and their reserve and National Guard components are established by statute. Although authority for compulsory recruitment ("the draft") still exists, it has not been exercised since 1973. Since that time all recruitment into the U.S. military forces has been on a voluntary basis. The minimum age for enlistment in the armed forces is 18 years, or at age 17 with parental consent. Discrimination in recruiting on grounds of race, religion, gender, or ethnic origin is prohibited. Statutes passed by Congress establish conditions under which the President has the authority to order members of the reserve and National Guard components to active duty.

In January 2000 the United States joined with other nations in Geneva in the United Nations Working Group drafting an Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. The result of this working group effort was an Optional Protocol that requires States Parties to raise the minimum age for voluntary recruitment into their national armed forces to an age greater than 15 years and commits States Parties to take all feasible measures to ensure that members of their armed forces under age 18 do not take a direct part in hostilities. The Protocol also bars compulsory recruitment below age 18. This Optional Protocol was adopted by the United Nations General Assembly on May 25, 2000 and subsequently entered into force on February 12, 2002.

The United States signed the Optional Protocol on July 5, 2000 and became a party to the Optional Protocol on December 23, 2002. The United States declared at that time that the minimum age for voluntary recruitment into the Armed Forces was 17. The United States also provided the following understanding: "...with respect to Article 1 of the Protocol

(A) the term "feasible measures" means those measures that are practical or practically possible, taking into account all the circumstances ruling at the time, including humanitarian and military considerations;

(B) the phrase "direct part in hostilities"-

- (i) means immediate and actual action on the battlefield likely to cause harm to the enemy because there is a direct causal relationship between the activity engaged in and the harm done to the enemy; and
- (ii) does not mean indirect participation in hostilities, such as gathering and transmitting military information, transporting weapons, munitions, or other supplies, or forward deployment; and

(C) any decision by any military commander, military personnel, or other person responsible for planning, authorizing, or executing military action, including the assignment of military personnel, shall only be judged on the basis of all the relevant circumstances and on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken."

(b) Exemptions or alternatives to compulsory military service, if applicable.

As indicated above, no individual has been compelled to enter military service since 1973. Existing statutes authorizing compulsory service provide an exemption from service for persons who have conscientious objections to military service. They also provide for assignment to noncombatant duties for those who do not object to all military service but who have conscientious objections to performing combatant duties. Individuals whose conscientious objections crystallize after they have entered military service may be honorably discharged administratively.

(c) Legal and administrative procedures protecting the rights of all forces personnel.

The Uniform Code of Military Justice provides procedural guarantees for courts martial that are similar to the rights enjoyed by defendants in the civilian criminal courts, and in some respects exceed civilian standards (e.g., counsel is provided without cost for both trial and appellate proceedings). Both military judges and defense counsel are assigned to separate commands reporting to the Office of their respective Military Department Judge Advocates General in Washington to prevent any inference of command influence on their performance of duty. The courts-martial system has an appellate system that allows those convicted of serious offenses to appeal their cases to the United States Court of Appeals for the Armed Forces, whose five civilian members are appointed by the President and provide independent civilian review of the military justice system. In accordance with federal law, the United States Supreme Court may also review convictions by courts-martial to ensure that defendants were not denied any constitutional right and that the proceedings were not contrary to law.

Administrative proceedings are conducted in accordance with procedures and standards established by Congress and the President, and federal courts are available to review claims of unfairness or illegality in such proceedings. Federal statutes guarantee the right of military members to file complaints with the Inspector General of their military department and with the Inspector General of the Department of Defense, and to communicate freely with Members of Congress. Department of Defense policies permit military members to exercise their religion freely, to participate in political parties and other political organizations during non-duty time and in their personal capacity, and to vote in elections on the same basis as other citizens.

Also available to military personnel and their families is an extensive legal assistance program that provides legal advice and services in regard to wills and powers of attorney, matrimonial matters, debt issues, and taxes. This support is especially important to military personnel deploying on overseas missions and to the families who remain behind. Military personnel being deployed on overseas missions receive as part of their deployment processing a review of the documents and legal issues that would be important to them

while away from their families. There is also a program to ensure that military personnel are aware of their right to vote, and assistance given in applying for and mailing absentee ballots.

6. Instruction on international humanitarian law and other international rules, conventions and commitments governing armed conflict included in military training programs and regulations.

A Department of Defense Directive (the latest version is DoD Directive 2311.01E, dated May 9, 2006) establishes the "DoD Law of War Program." Among other elements, the Directive requires that each of the DoD components establish effective training and dissemination programs. The DoD components have established training and dissemination programs under which (1) all persons entering the U.S. armed services receive general training on the Law of War; (2) individuals receive specialized Law of War training commensurate with their duties and responsibilities (e.g., ground combatants, aircrew, naval personnel, military police, religious personnel, and medical personnel); (3) refresher training is provided as appropriate; and (4) Law of War topics are included in exercises and inspections. The Department of Defense is also drafting a comprehensive Law of War Manual for training and reference purposes.

A special effort has been made in recent years to train military personnel and units assigned to participate in peacekeeping and humanitarian operations in the Law of Armed Conflict rules that are particularly applicable to them. For example, units operating in Bosnia and in Kosovo receive special training. Training standards are coordinated within NATO to ensure that all participating nations have similar rules and standards. Such training is also practiced in multinational training exercises including Partnership for Peace (PfP) programs. Rules of engagement and operations plans are regularly reviewed by both national and NATO attorneys to ensure compliance with the international Law of Armed Conflict. Also of note is the requirement to provide training on human rights standards to all personnel deploying to countries in South and Central America. In addition, rigorous training programs continue for U.S. forces both in the United States and deployed outside the United States. The U.S. Armed Forces have vigorously applied law of war training and principles during the current war against terrorism. Despite new challenges and changing circumstances, law of war principles have been scrupulously applied, and programs implemented to ensure observance of the law of war by all participating members of the armed forces.