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Current Handling: n/a  
Document Number: 2003STRASB00073

Channel: n/a

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ACTION SWCI-00

INFO	LOG-00	NP-00	AID-00	AMAD-00	A-00	ACQ-00	CA-01
	CCO-00	CG-00	CIAE-00	COME-00	CTME-00	INL-00	DOEE-00
	DOTE-00	SRPP-00	DS-00	EB-00	EUR-00	FAAE-00	FBIE-00
	UTED-00	VC-00	TEDE-00	INR-00	INSE-00	IO-00	LAB-01
	L-00	VCE-00	M-00	AC-01	NRCE-00	NSAE-00	NSCE-00
	OCS-03	OIC-02	OMB-01	DHS-00	OPIC-01	PA-00	PER-00
	PM-00	PRS-00	ACE-00	P-00	SCT-00	SP-00	SSO-00
	SS-00	STR-00	TEST-00	TRSE-00	USIE-00	USSS-00	ASDS-00
	PMB-00	DSCC-00	PRM-00	DRL-01	G-00	SAS-00	/011W

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P 021710Z JUN 03  
FM AMCONSUL STRASBOURG  
TO SECSTATE WASHDC PRIORITY 2005  
INFO AMEMBASSY PARIS  
USEU BRUSSELS  
USMISSION USUN NEW YORK  
USDOJ WASHDC  
SECDEF WASHDC  
USCINCEUR VAHINGEN  
USMISSION GENEVA

UNCLAS STRASBOURG 0073

DEPARTMENT FOR: S/WCI, EUR/ERA, EUR/RPM  
DOJ FOR OIA K. HARRIS

E.O. 12958: N/A

TAGS: PHUM, PTER, PGOV, KJUS, MARR, COE

SUBJECT: THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE TO  
CONSIDER A DRAFT RESOLUTION ON GUATANAMAMO BAY PRISONERS

REF: 02 STRASBOURG 109

- SUMMARY: THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE (PACE) WILL CONSIDER A DRAFT RESOLUTION LATER THIS MONTH CALLING THE U.S. TO TASK FOR PERSONS HELD IN CUSTODY IN <<AFGHANISTAN>> AND AT GUANTANAMO BAY. THE U.S. HAS PERMANENT OBSERVER STATUS TO, AND IS EXPECTED TO SHARE THE HUMAN RIGHTS VALUES OF, THE COUNCIL OF EUROPE (COE). THE RESOLUTION CONTENDS THE GTMO <<DETAINEEES>> ARE PRISONERS OF WAR AND SHOULD BE ALLOWED TRIAL. THE DRAFT RESOLUTION FURTHER REQUESTS THAT DETENTION FACILITIES CONFORM TO RECOGNIZED INTERNATIONAL LEGAL STANDARDS AND THAT THE ICRC BE GIVEN ACCESS TO THE SITES. THE PACE RESOLUTION, IF PASSED, WILL CARRY LITTLE LEGAL WEIGHT.  
END SUMMARY

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2. PACE WILL MEET IN PLENARY SESSION JUNE 23-27. IT WILL DEBATE AND VOTE ON A DRAFT RESOLUTION ON THE RIGHTS OF PERSONS HELD IN THE CUSTODY OF THE <<UNITED>> <<STATES>> IN <<AFGHANISTAN>> AND GU> BAY. DRAFTED BY THE COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS, THIS RESOLUTION ASSERTS THE FOLLOWING:
  - \* THE DETENTION OF CHILDREN BETWEEN 13 AND 15 YEARS OF AGE IS A BREACH OF THE UN CONVENTION ON THE RIGHTS OF CHILD;
  - \* THE UNDEFINED STATUS OF PRISONERS MAKES THEIR DETENTION UNLAWFUL;
  - \* THE U.S. IS IN BREACH OF INTERNATIONAL LAW BY NOT INFORMING PRISONERS OF THEIR RIGHT TO CONSULAR REPRESENTATION AND LEGAL COUNCIL.
  
3. THE DRAFT RESOLUTION URGES THE U.S. TO:
  - \* BRING CONDITIONS OF DETENTION INTO CONFORMITY WITH INTERNATIONAL STANDARDS;
  - \* RECOGNIZE THAT UNDER ARTICLE 4 OF THE THIRD GENEVA CONVENTION THAT MEMBERS OF MILITIAS OR VOLUNTEER CORPS IN AN INTERNATIONAL CONFLICT ARE ENTITLED TO BE GRANTED PRISONER OF WAR STATUS;
  - \* IMMEDIATELY RELEASE NON-COMBATANTS WHO ARE NOT CHARGED WITH CRIMES.
  
4. THE ASSEMBLY URGES IN ITS DRAFT RESOLUTION THAT MEMBER STATES OF THE COUNCIL OF EUROPE:
  - \* ASSIST THE PRISONERS BY ALL LEGAL AND DIPLOMATIC MEANS POSSIBLE (I.E., DISPATCH REPRESENTATIVES, ACCOMPANIED BY COMPETENT LAWYERS, TO QUESTION CERTAIN OF THEIR NATIONALS ON THE SPOT; CALL ON THE U.S. NOT TO EXTRADITE PRISONERS TO COUNTRIES WHERE THERE IS A CLEAR RISK OF INHUMANE <<TREATMENT>>; AND REQUEST THE EXTRADITION OF PRISONERS FACING THE DEATH PENALTY);
  - \* HAVE ALL COMPETENT JURISDICTIONS COMMIT THEMSELVES NOT TO REQUEST THE DEATH PENALTY.
  
5. THE DRAFT RESOLUTION STATES THAT IN THE EVENT THE U.S. DOES NOT TAKE REMEDIAL ACTION BEFORE THE NEXT ASSEMBLY'S PLENARY SESSION IN SEPTEMBER, OR AMELIORATES CONDITIONS OF DETENTION, THE PACE RESERVES THE RIGHT TO ISSUE APPROPRIATE RECOMMENDATIONS TO THE INTERGOVERNMENTAL COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE.
  
6. COMMENT: THE DRAFT RESOLUTION WILL LIKELY PASS; HOWEVER, UNLESS AMENDED OTHERWISE, THE RESOLUTION WILL NOT REQUIRE FOLLOW-UP ACTION BY THE COE'S COMMITTEE OF MINISTERS. PRIOR TO A DEBATE AT THE ICC IN SEPTEMBER 2002, THE PACE INVITED AMBASSADOR-AT-LARGE PIERRE PROSPER TO APPEAR (REFTEL). A SIMILAR INVITATION COULD BE SENT BY THE PACE FOR THE DEBATE ON GUANTANAMO.

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