

UNCLASSIFIED

Current Class: UNCLASSIFIED
Current Handling: n/a
Document Number: 2003USOSCE00475

Page: 1

Channel: n/a

<<<>>>

RELEASED IN FULL

ACTION EUR-00

INFO	LOG-00	AID-00	CIAE-00	DODE-00	SRPP-00	DS-00	EB-00
	UTED-00	VC-00	TEDE-00	INR-00	IO-00	L-00	VCE-00
	AC-00	NSAE-00	NSCE-00	OIC-02	OMB-01	DHS-00	PA-00
	PM-00	PRS-00	ACE-00	P-00	SCT-00	SP-00	SS-00
	STR-00	TEST-00	TRSE-00	T-00	USIE-00	PMB-00	DSCC-00
	PRM-00	DRL-00	G-00	SAS-00	/003W		

-----B01DA0 092148Z /40

R 091113Z OCT 03
FM USMISSION USOSCE
TO SECSTATE WASHDC 1400
INFO OSCE POST COLLECTIVE

UNCLAS SECTION 01 OF 02 USOSCE 000475

E.O. 12958: N/A
TAGS: OSCE, PREL, PHUM, PTER
SUBJECT: OSCE: BALANCED CRITICISM AT HUMAN RIGHTS AND
TERRORISM MEETING

REF: STATE 266214

1. SUMMARY. USOSCE AND EMBASSY THE HAGUE PARTICIPATED IN A DUTCH ORGANIZED HUMAN RIGHTS AND TERRORISM SEMINAR SEPTEMBER 18 IN THE HAGUE. THE U.S. WAS REPRESENTED BY USOSCE DEPUTY POLITICAL COUNSELOR DAVID MORRIS, USOSCE POLITICAL OFFICER NICOLE SOBOTKA, EMBASSY THE HAGUE DEPUTY LEGAL ADVISOR DAVID KAYE, AND EMBASSY THE HAGUE POLITICAL OFFICER KAMI WITMER.

EXPECTED CRITICISM OF THE U.S. WAS BALANCED. UZBEKISTAN WAS SUBJECT TO HEAVY CRITICISM. SOME OF THE DISCUSSION WAS SIDETRACKED ON THE DEFINITION OF TERRORISM AND ON THE QUESTIONS OF WHETHER THERE ARE ROOT CAUSES OF TERRORISM, WHETHER OR NOT TERRORISTS CAN VIOLATE HUMAN RIGHTS, AND THE ISSUE OF "STATE-SPONSORED TERRORISM". END SUMMARY.

CRITICISM OF THE UNITED STATES

2. THE U.S. EXPECTED CRITICISM AT THE NETHERLANDS HELSINKI COMMITTEE (NHC) ORGANIZED HUMAN RIGHTS AND TERRORISM SEMINAR, HELD SEPTEMBER 18 UNDER THE AUSPICES OF THE DUTCH OSCE CHAIRMANSHIP. THE KEYNOTE SPEAKERS, INCLUDING THREE AMERICANS, WERE BALANCED IN THEIR CRITICISM. OF THE AMERICANS, ABDULLAHI AN-NAIM, PROFESSOR AT THE SCHOOL OF LAW, EMORY UNIVERSITY, WAS THE MOST CRITICAL, CALLING U.S. ACTIONS IN IRAQ "COLONIZATION IN THE MOST BRUTAL SENSE." (COMMENT:

Current Class: UNCLASSIFIED

Page: 1

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: ARCHIE M BOLSTER
DATE/CASE ID: 04 NOV 2004 200303827

UNCLASSIFIED

DOS-002744

ACLU-RDI 4408 p.1

Current Class: UNCLASSIFIED
Current Handling: n/a
Document Number: 2003USOSCE00475

Page: 2

Channel: n/a

INTERESTINGLY, A DUTCH NGO, INTERCHURCH PEACE COUNCIL, DEFENDED THE U.S. ON THIS POINT. END COMMENT.) NOTING THAT HE IS MUSLIM, AN-NAIM ALSO ARGUED THAT THERE IS SUCH A THING AS "ISLAMIC TERRORISM." TOM MALINOWSKI, ADVOCACY DIRECTOR FOR HUMAN RIGHTS WATCH IN WASHINGTON, WHILE CRITICAL OF U.S. POLICY, WAS BALANCED IN HIS APPROACH. HE WARNED THAT THE U.S. SHOULD THINK CAREFULLY ABOUT ITS ACTIONS BECAUSE OTHER COUNTRIES, WITH FEWER LEGAL SAFEGUARDS, ARE COPYING OUR ACTIONS. HE ARGUED THAT WHILE THERE IS CERTAINLY A NEED FOR BETTER INTELLIGENCE, SOME U.S. OFFICIALS HAVE BEEN "BRAGGING ABOUT" USING "SOFT-TORTURE TECHNIQUES." FORMER ASSISTANT ATTORNEY GENERAL FOR LEGAL POLICY VIET DINH DELIVERED POINTS CONSISTENT WITH U.S. GOVERNMENT POLICY.

3. AMNESTY INTERNATIONAL CIRCULATED ONE OF THE MOST CRITICAL PAPERS ON THE U.S., ENTITLED "UNITED STATES OF AMERICA, THE THREAT OF A BAD EXAMPLE: UNDERMINING INTERNATIONAL STANDARDS AS 'WAR ON TERROR' DETENTIONS CONTINUE." OTHERS QUESTIONED THE DURATION OF DETENTIONS, LACK OF ACCESS TO LEGAL AID OF DETAINEES, AND APPLICATION OF GENEVA CONVENTIONS. THE ACTING UN HIGH COMMISSIONER ON HUMAN RIGHTS QUESTIONED THE "LEGAL LIMBO" OF DETAINEES, WITHOUT ACCESS TO COURTS, IN SITUATIONS WHERE THEY COULD BE HANDED OVER TO "SHADY" GOVERNMENTS. HE ALSO CALLED FOR ACCOUNTABILITY AND OVERSIGHT, SPECIFICALLY TO THE UN SECURITY COUNCIL, OF GOVERNMENTS' SECURITY ACTIONS. ELISABETH REHN, CHAIR OF WORKING TABLE I OF THE STABILITY PACT, ASKED WHETHER A PERSON CAN BE DETAINED FOR MONTHS OR YEARS ON END.

4. IN RESPONSE, USOSCE REPS DELIVERED REFTTEL POINTS ENUMERATING THE LEGAL SAFEGUARDS OF THE MILITARY COMMISSIONS, SHOULD THEY BE FORMED, AND EXPLAINING THE STATUS AND RIGHTS OF DETAINEES AT GUANTANAMO ACCORDING TO U.S. INTERPRETATION OF THE GENEVA CONVENTIONS. ICRC REPLIED THAT IT HAS A DIFFERENT INTERPRETATION OF THE GENEVA CONVENTIONS THAN THE U.S. ICRC ARGUES THAT ARTICLE 4 APPLIES CRITERIA TO MILITIAS BUT NOT MEMBERS OF ARMED FORCES. FURTHERMORE, ICRC ARGUED THAT THE CONVENTIONS ESTABLISH A PROCESS FOR DETERMINING APPLICABILITY OF CONVENTIONS. IT IS THIS PROCESS THAT THE ICRC IS ADVOCATING BE USED IN THE UNITED STATES.

5. UZBEKISTAN WAS THE RECIPIENT OF HARSH CRITICISM FROM THE INTERNATIONAL HELSINKI FEDERATION (IHF), WHICH RAISED THE EXECUTION OF 3,000 PERSONS PER YEAR IN UZBEKISTAN, THE HARASSMENT OF CERTAIN MUSLIM GROUPS, AND THE RESETTLEMENT OF TAJIKS. IHF ALSO CRITICIZED RUSSIA OVER CHECHNYA, IN THE PROCESS ARGUING THAT THE SITUATION OF AMERICAN TROOPS IN IRAQ IS NOTHING LIKE RUSSIAN TROOPS IN CHECHNYA, WHICH THE RUSSIAN REP HAD IMPLIED; AMERICAN TROOPS ARE TRYING TO SAVE CIVILIANS

Current Class: UNCLASSIFIED

Page: 2

UNCLASSIFIED

Current Class: UNCLASSIFIED
Current Handling: n/a
Document Number: 2003USOSCE00475

Page: 3

Channel: n/a

WHILE RUSSIAN TROOPS ARE NOT. THE U.S. REPS, IN RESPONDING TO CRITICISM THAT WE ALLEGEDLY DO NOT SPEAK OUT ON HUMAN RIGHTS ISSUES, NOTED THAT WE OFTEN CRITICIZE, PUBLICLY AND PRIVATELY, OSCE PARTICIPATING STATES, INCLUDING UZBEKISTAN.

PROBLEMS OF DEFINITION

6. DISCUSSION ALSO FOCUSED ON THE PROBLEMS OF DEFINING TERRORISM AND THE APPLICABILITY OF THE PHRASE "ROOT CAUSES OF TERRORISM." DUTCH FOREIGN MINISTER JAAP DE HOOP SCHEFFER SET THE TONE FOR THE SEMINAR BY STATING "THERE IS NO JUSTIFICATION OF TERRORISM." THAT SAID, OTHER KEYNOTE SPEAKERS INCLUDING MARK ENTINE, DIRECTOR OF THE INSTITUTE OF EUROPEAN LAW AT MOSCOW STATE OF INSTITUTE OF INTERNATIONAL RELATIONS, ARGUED THAT THERE ARE ROOT CAUSES OF TERRORISM INCLUDING, POVERTY, UNEMPLOYMENT, SOCIAL ALIENATION, COLLAPSE OF STATE STRUCTURES, AND INTERNAL OR EXTERNAL CONFLICTS. THE COE AND IHF BOTH ARGUED THAT A DEFINITION OF TERRORISM IS NEEDED IN ORDER TO ENHANCE INTERNATIONAL COOPERATION AND TO

USOSCE 00000475 002 OF 002

HAT STATE

TERRORISM IS A PROBLEM IN THE OSCE, USING SREBRENICA AND CHECHNYA AS EXAMPLES.

7. THE GERMAN AND SPANISH REPRESENTATIVES, EXPRESSING VIEWS CONSISTENT WITH U.S. POLICY, STATED THAT A DISCUSSION OF ROOT CAUSES OF TERRORISM PLAYS INTO TERRORISTS' ARGUMENTS.

"POVERTY CAN CAUSE DELINQUENCY BUT NOT TERRORISM." THEY BOTH ALSO ARGUED THAT ONE SHOULD NOT LINK THE ACTION OF THE STATE WITH TERRORIST ACTIONS, JUST AS ONE SHOULD NOT ARGUE THAT TERRORISTS VIOLATE HUMAN RIGHTS. STATES ARE THE ONLY PROTECTORS OF HUMAN RIGHTS.

CONCLUSIONS AND COMMENTS

8. THE SEMINAR CONCLUDED WITH THE DUTCH MFA'S OSCE COORDINATOR, DAAN EVERTS, NOTING HE WOULD TAKE THE DECLARATION OF THE NETHERLANDS HELSINKI COMMITTEE ON THE FIGHT AGAINST TERRORISM AND THE PROTECTION OF HUMAN RIGHTS TO HIS FOREIGN MINISTER, WHO WAS PLANNING TO SPEAK ON THE ISSUE AT THE UN ON 22 SEPTEMBER. THE DECLARATION INCLUDED EIGHT STATEMENTS, AS FOLLOWS:

-- WHETHER A DISCUSSION ON DEFINITION OF TERRORISM IS DESIRABLE AND MEANINGFUL DEPENDS ON THE PURPOSE THIS

Current Class: UNCLASSIFIED

Page: 3

UNCLASSIFIED

DOS-002746

UNCLASSIFIED

Current Class: UNCLASSIFIED
Current Handling: n/a
Document Number: 2003USOSCE00475

Page: 4

Channel: n/a

DEFINITION SERVES: SCIENTIFIC ANALYSIS, PUNISHMENT OR PREVENTION. HOWEVER, IN ALL CASES, A DEFINITION OF TERRORISM (A) SHOULD HAVE AN "ABSOLUTE" CHARACTER, AND (B) SHOULD NOT EXCLUDE SPECIFIC ACTORS.

-- THERE ARE NO CONFLICTING OBJECTIVES BETWEEN COMBATING TERRORISM AND RESPECTING HUMAN RIGHTS.

-- IN THE CASE OF INTERNATIONAL AND NATIONAL REGULATIONS REGARDING MEASURES AGAINST PERSONS OR GROUPS OF PERSONS SUSPECTED OF TERRORISM, INTERNATIONAL HUMAN RIGHTS STANDARDS SHOULD BE FULLY GUARANTEED. A STATE OF EMERGENCY AND THE INSTANCE OF INTERNATIONAL AND INTERNAL ARMED CONFLICTS DO NOT AMOUNT TO A GROUND FOR DEVIATING FROM THESE STANDARDS.

-- MAKING TERRORISM AN INTERNATIONAL AND A NATIONAL OFFENSE IS ONLY PERMITTED IF THERE ARE SUFFICIENT LEGAL GUARANTEES TO ALLOW AN INDEPENDENT COURT TO ASSESS ANY (ALLEGED) MISUSE OR MISAPPLICATION OF SUCH STATUTES.

-- WHEN TAKING MEASURES AGAINST TERRORISM, ALONGSIDE THE RIGHTS OF SUSPECTS THE RIGHTS OF CITIZENS SHOULD LIKEWISE BE EXPRESSLY INCLUDED, ESPECIALLY THE RIGHT TO PRIVACY, THE RIGHT TO INFORMATION, THE RIGHT TO THE FREEDOM OF EXPRESSION AND--MORE GENERALLY--THE RIGHT TO DEMOCRATIC DECISION-MAKING AND TRANSPARENCY.

-- IN INTERNATIONAL AND NATIONAL ANTI-TERRORISM POLICY ECONOMIC, SOCIAL AND CULTURAL HUMAN RIGHTS SHOULD HAVE EQUAL STANDING ALONGSIDE POLITICAL AND CIVIL RIGHTS.

-- IN INTERNATIONAL AND NATIONAL ANTI-TERRORISM POLICY COLLECTIVE HUMAN RIGHTS SHOULD HAVE EQUAL STANDING ALONGSIDE INDIVIDUAL HUMAN RIGHTS.

-- INTERNATIONAL CO-OPERATION IS A NECESSARY CONDITION FOR EFFECTIVELY COMBATING TERRORISM. THIS CO-OPERATION IS NOTABLY TO BE ORGANIZED WITHIN INTERNATIONAL ORGANIZATIONS. A NUMBER OF THESE ORGANIZATIONS MUST PLAY A CRUCIAL ROLE. CONSIDERING ITS OBJECTIVES AND COMPETENCIES, IN PARTICULAR THE OSCE CAN BE A FORUM FOR THE ESTABLISHMENT OF AN INTERNATIONAL POLICY DIRECTED TOWARDS REMOVING THE BREEDING GROUND FOR TERRORISM.

9. COMMENT: WHILE OSCE CHAIRMAN-IN-OFFICE, DUTCH FM DE HOOP SCHEFFER OPENED THE SESSION, THE GONL WAS REPRESENTED BY THEIR NEW AMBASSADOR FOR HUMAN RIGHTS. DUTCH CONTACTS REPEATED NUMEROUS TIMES THAT THE NHC WAS RESPONSIBLE FOR THE CONTENT AND OUTCOME OF THE SEMINAR; THE GONL "MERELY

Current Class: UNCLASSIFIED

Page: 4

UNCLASSIFIED

DOS-002747

UNCLASSIFIED

Current Class: UNCLASSIFIED
Current Handling: n/a
Document Number: 2003USOSCE00475

Page: 5

Channel: n/a

CONTRIBUTED FUNDING FOR IT." ODIHR ONLY HAD TWO REPRESENTATIVES AT THE CONFERENCE - THE HEAD OF ODIHR'S TERRORISM UNIT AND AN ADVISOR TO THE DIRECTOR, WHO IS SECONDED BY THE DUTCH GOVERNMENT. IN PREVIOUS CONVERSATIONS WITH ODIHR, STAFF HAD NOTED DISAPPOINTMENT THAT THEY HAD NOT BEEN CONSULTED IN THE DEVELOPMENT OF THE AGENDA, WHICH AFFECTED THEIR ATTENDANCE. WHILE THE ISSUE REMAINS A RELEVANT TOPIC IN THE OSCE REALM, USOSCE IS NOT EXPECTING A CALL FOR IMMEDIATE FOLLOW-UP OR, MORE SPECIFICALLY, FOR A MINISTERIAL DOCUMENT ON THIS ISSUE. END COMMENT.
MINIKES

NNNN

Current Class: UNCLASSIFIED

Page: 5