



DÉPARTEMENT FÉDÉRAL DES AFFAIRES ÉTRANGÈRES

P.242.512.0 COOKI/RUMAN/ GROSS/ZYPER

GEN 2 / 02

Notification
aux Gouvernements des Etats parties
aux Conventions de Genève du 12 août 1949
pour la protection des victimes de la guerre

CONVENTIONS

I. Succession des îles Cook

Le 7 mai 2002, les îles Cook ont déposé auprès du Conseil fédéral une déclaration de succession relative aux Conventions de Genève du 12 août 1949.

Conformément à la pratique internationale, les îles Cook sont devenues Partie aux quatre Conventions à la date de leur indépendance, soit le 11 juin 2001, jour de la signature de l'Accord "Joint Centenary Declaration" conclu avec la Nouvelle Zélande.

II. Retrait de réserves de la Roumanie

Le 24 juin 2002, la Roumanie a retiré les réserves formulées lors de la signature des Conventions de Genève du 12 août 1949 et confirmées le 1er juin 1954.

Ces réserves concernaient:

- l'article 10 de la Convention I (Convention de Genève pour l'amélioration du sort des blessés et des malades dans les forces armées en campagne),
- l'article 10 de la Convention II (Convention de Genève pour l'amélioration du sort des blessés, des malades et des naufragés des forces armées sur mer),
- les articles 10, 12 et 85 de la Convention III (Convention de Genève relative au traitement des prisonniers de guerre),
- les articles 11 et 45 de la Convention IV (Convention de Genève relative à la protection des personnes civiles en temps de guerre).

PROTOCOLES ADDITIONNELS I et II

III. Adhésion et déclaration des îles Cook

Le 7 mai 2002, le Gouvernement des îles Cook a déposé auprès du Conseil fédéral son instrument d'adhésion aux Protocoles additionnels I et II aux Conventions, adoptés à Genève le 8 juin 1977 et la déclaration suivante (texte original):

"The Government of the Cook Islands declares that it recognizes ipso facto and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the international Fact-Finding Commission to enquire into allegations by such other Party, as authorized by Article 90 of Protocol I".

Conformément à leurs dispositions finales, les Protocoles I et II entreront en vigueur pour les îles Cook six mois après le dépôt de l'instrument d'adhésion, soit le 7 novembre 2002.

IV. Déclarations du Royaume de Grande Bretagne et d'Irlande du Nord

Le 2 juillet 2002, le Royaume de Grande Bretagne et d'Irlande du Nord ont déposé auprès du Conseil fédéral suisse les déclarations suivantes (texte original) concernant le champ d'application des Protocoles additionnels I et II des Conventions de Genève du 12 août 1949, adoptés à Genève le 8 juin 1977:

"Her Britannic Majesty's Embassy has the honour to declare, on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland ("the UK Government"), that its ratification of the Additional Protocols shall be extended to the following territories for whose international relations it is responsible:

Anguilla
Bermuda
British Antarctic Territory
British Indian Ocean Territory
British Virgin Islands
Cayman Islands
Falkland Islands
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena and Dependencies
South Georgia and the South Sandwich Islands
Sovereign Base Areas of Akrotiri and Dhekelia
Turks and Caicos Islands.

The Embassy also have the honour to lodge with the Government of Swiss Confederation, as the depository of the Additional Protocols, the following statements in respect of the extension of the UK Government's ratification of the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949 and

Relating to the Protection of Victims of International Armed Conflicts to the above territories:

"(a) It continues to be the understanding of the United Kingdom that the rules introduced by the Protocol apply exclusively to conventional weapons without prejudice to any other rules of international law applicable to other types of weapons. In particular, the rules so introduced do not have any effect on and do not regulate or prohibit the use of nuclear weapons.

(b) The United Kingdom understands the term "feasible" as used in the Protocol to mean that which is practicable or practically possible, taking into account all circumstances ruling at the time, including humanitarian and military considerations.

(c) Military commanders and others responsible for planning, deciding upon, or executing attacks necessarily have to reach decisions on the basis of their assessment of the information from all sources which is reasonably available to them at the relevant time.

(d) Article 1, paragraph 4 and Article 96, paragraph 3

It is the understanding of the United Kingdom that the term "armed conflict" of itself and in its context denotes a situation of a kind which is not constituted by the commission of ordinary crimes including acts of terrorism whether concerted or in isolation.

The United Kingdom will not, in relation to any situation in which it is itself involved, consider itself bound in consequence of any declaration purporting to be made under paragraph 3 of Article 96 unless the United Kingdom shall have expressly recognised that it has been made by a body which is genuinely an authority representing a people engaged in an armed conflict of the type to which Article 1, paragraph 4, applies.

(e) Article 28, paragraph 2

Given the practical need to make use of non-dedicated aircraft for medical evacuation purposes, the United Kingdom does not interpret this paragraph as precluding the presence on board of communications equipment and encryption materials or the use thereof solely to facilitate navigation, identification or communication in support of medical transportation as defined in Article 8(f).

(f) Article 35, paragraph 3 and Article 55

The United Kingdom understands both of these provisions to cover the employment of methods and means of warfare and that the risk of environmental damage falling within the scope of these provisions arising from such methods and means of warfare is to be assessed objectively on the basis of the information available at the time.

(g) Article 44, paragraph 3

It is the understanding of the United Kingdom that:

- the situation in the second sentence of paragraph 3 can only exist in occupied territory or in armed conflicts covered by paragraph 4 of Article 1;
- "deployment" in paragraph 3(b) means any movement towards a place from which an attack is to be launched.

(h) Article 50

In the view of the United Kingdom the rule in the second sentence of paragraph 1 applies only in cases of substantial doubt still remaining after the assessment referred to at paragraph (c) above has been made, and not as overriding a commander's duty to protect the safety of troops under his command or to preserve his military situation, in conformity with other provisions of the Protocol.

(i) Article 51 and Article 57

In the view of the United Kingdom, the military advantage anticipated from an attack is intended to refer to the advantage anticipated from the attack considered as a whole and not only from isolated or particular parts of the attack.

(j) Article 52

It is the understanding of the United Kingdom that:

- a specific area of land may be a military objective if, because of its location or other reasons specified in this Article, its total or partial destruction, capture or neutralisation in the circumstances ruling at the time offers definite military advantage;
- the first sentence of paragraph 2 prohibits only such attacks as may be directed against non-military objectives; it does not deal with the question of collateral damage resulting from attacks directed against military objectives.

(k) Article 53

The United Kingdom declares that if the objects protected by this Article are unlawfully used for military purposes they will thereby lose protection from attacks directed against such unlawful military uses.

(l) Article 54, paragraph 2

The United Kingdom understands that paragraph 2 has no application to attacks that are carried out for a specific purpose other than denying sustenance to the civilian population or the adverse party.

(m) Articles 51-55

The obligations of Articles 51 and 55 are accepted on the basis that any adverse party against which the United Kingdom might be engaged will itself scrupulously observe those obligations. If an adverse party makes serious and deliberate attacks, in violation of Article 51 or Article 52 against the civilian population or civilians or against civilian objects, or, in violation of Articles 53, 54 and 55, on objects or items protected by those Articles, the United Kingdom will regard itself as entitled to take measures otherwise prohibited by the Articles in question to the extent that it considers such measures necessary for the sole purpose of compelling the adverse party to cease committing violations under those Articles, but only after formal warning to the adverse party requiring cessation of the violations has been disregarded and then only after a decision taken at the highest level of government. Any measures thus taken by the United Kingdom will not be disproportionate to the violations giving rise thereto and will not involve any action prohibited by the Geneva Conventions of 1949 nor will such measures be continued after the violations have ceased. The United Kingdom will notify the Protecting Powers of any such formal warning given to an adverse party, and if that warning has been disregarded, of any measures taken as a result.

(n) Articles 56 and 85, paragraph 3c

The United Kingdom cannot undertake to grant absolute protection to installations which may contribute to the opposing Party's war effort, or to the defenders of such installations, but will take all due precautions in military operations at or near the installations referred to in paragraph 1 of Article 56 in the light of the known facts, including any special marking which the installation may carry, to avoid severe collateral losses among the civilian populations; direct attacks on such installations will be launched only on authorisation at a high level of command.

(o) Articles 57, paragraph 2

The United Kingdom understands that the obligation to comply with paragraph 2(b) only extends to those who have the authority and practical possibility to cancel or suspend the attack.

(p) Article 70

It is the understanding of the United Kingdom that this Article does not affect the existing rules of naval warfare regarding naval blockade, submarine warfare or mine warfare.

In addition, the UK Government hereby extends the following declaration made on 17 May 1999 in respect of the recognition of competence of the International Fact-Finding Commission to the above listed territories for whose international relations it is responsible:

"The Government of the United Kingdom of Great Britain and Northern Ireland declares that it recognises *ipso facto* and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the International Fact-Finding Commission to inquire into allegations by such other Party, as authorised by Article 90 of Protocol I Additional to the Geneva Conventions of 1949."

The UK Government reserves the right to extend its ratification of the Additional Protocols and/or its declaration in respect of the recognition of competence of the International Fact-Finding Commission at a later date to any other territories for whose international relations the UK Government is responsible."

Conformément à leurs dispositions finales, appliquées par analogie, les Protocoles entreront en vigueur pour les territoires concernés six mois après le dépôt de la déclaration d'extension territoriale, soit le 2 janvier 2003.

Le Royaume de Grande Bretagne et d'Irlande du Nord a ratifié le Protocole I le 28 janvier 1998.

V. Déclaration de la République de Chypre

Le 14 octobre 2002, la République de Chypre a déposé auprès du Conseil fédéral suisse la déclaration suivante (texte original):

"The Government of the Republic of Cyprus declares that it recognizes *ipso facto* and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the international Fact-Finding Commission to enquire into allegations by such other Party, as authorized by Article 90 of Protocol I Additional to the Geneva Conventions of August 12th, 1949, adopted in Geneva on June 8th, 1977, relating to the Protection of Victims of International Armed Conflicts".

La République de Chypre a ratifié le Protocole le 1er juin 1979.

La présente notification est faite par le Conseil fédéral suisse en sa qualité de dépositaire des Conventions et des Protocoles.

Berne, le 1er novembre 2002

