
SUBJECT: CODEL SENSENBRENNER TO COUNCIL OF EUROPE STRASBOURG, FRANCE, JANUARY 19-22, 2002
UNCLASSIFIED

Current Class: UNCLASSIFIED
Current Handling: n/a
Document Number: 2002STRASB00011
Channel: n/a

<<STATES>> AND DISCUSSED ON-GOING ANTI-TERRORISM EFFORTS. POSITIVE LOCAL PRESS COVERAGE NOTED THE CHAIRMAN'S ASSURANCES OF PRESIDENT BUSH'S COMMITMENT TO FORMULATING PROCEDURES CONSISTENT WITH AMERICAN AND INTERNATIONAL STANDARDS OF JUSTICE AND DUE PROCESS FOR THOSE ACCUSED OF CRIMES. COE OFFICIALS WELCOMED THE OPPORTUNITY FOR DIALOGUE AND EXCHANGE OF VIEWS BUT STRESSED THAT ANTI-TERRORISM MEASURES SHOULD ENSURE PROTECTION OF HUMAN RIGHTS. THEY ALSO REITERATED OPPOSITION TO EXTRADITION OF SUSPECTS WHO FACED THE DEATH PENALTY IN THE <<UNITED>> <<STATES>>. END SUMMARY.


CODEL SENSENBRENNER'S MESSAGE

3. THE CHAIRMAN EXPLAINED TO INTERLOCUTORS THAT HE HOPED THIS U.S. ATTORNEY GENERAL-ENDORSED TRIP WOULD BENEFIT ON-GOING ANTI-TERRORISM EFFORTS AND PROVIDE A CHANCE FOR FRIENDS TO DISCUSS THESE EFFORTS. HE PROPOSED TO CLARIFY THE PATRIOT ACT AND PRESIDENT BUSH'S RELATED EXECUTIVE ORDER, CITING A WHITE HOUSE GENERAL COUNSEL "OP ED" ARTICLE.
NOTING THAT SEPTEMBER 11, 2001 WAS AN UNPLEASANT "WAKE-UP CALL," CHAIRMAN SENSENBRENNER MADE THE FOLLOWING POINTS IN THE SUBJECT MEETINGS:

UNCLASSIFIED

PAGE 04  STRASB 00011 01 OF 05 251841Z
-- INCLUSIVE U.S. LEGISLATION ON LAW ENFORCEMENT AND PROTECTION OF CIVIL LIBERTIES - THE PATRIOT ACT - PASSED HIS COMMITTEE UNANIMOUSLY, AN UNUSUAL EVENT.
-- PROVISIONS ON MILITARY TRIBUNALS, A SUBJECT OF MUCH PUBLIC DEBATE, HAVE NOT YET BEEN MADE PUBLIC. THE ALLIED MILITARY ACTION HAD GOTTEN AHEAD OF THE LEGAL PROCESS.
RULES WOULD BE PUBLISHED, INCLUDING BY THE JUDICIARY COMMITTEE AND THE ARMED SERVICES COMMITTEE OF THE U.S. CONGRESS.
-- PRESIDENT BUSH IS WHOLEHEARTEDLY COMMITTED TO FORMULATING PROCEDEURES CONSISTENT WITH AMERICAN AND INTERNATIONAL STANDARDS OF JUSTICE AND DUE PROCESS FOR

NOTE: POSSIBLY MISSING CODEL CAPTION.

UNCLASSIFIED

PAGE 01  STRASB 00011 02 OF 05 251842Z
ACTION H-01

INFO LOG-00 DS-00 EB-00 EUR-00 UTED-00 TEDE-00 L-00
SCT-00 SVC-00 DSCC-00 DRL-02 SAS-00 /003W
--------------5D58BF 251842Z /75
O 251744Z JAN 02
FM AMCONSUL STRASBOURG
TO SECSTATE WASHDC IMMEDIATE 1688
INFO COE COLLECTIVE
USMISSION USUN NEW YORK
USMISSION USOSCE
USMISSION GENEVA
USEU BRUSSELS

UNCLAS SECTION 02 OF 05 STRASBOURG 0011

STATE FOR EUR/ERA, EUR/WE, DRL/MLA, H, L/LEI
PARIS FOR POL, CON, PAO, ADMIN, DCM
BRUSSELS FOR MRICHARD

E.O. 12958: N/A
TAGS: OREP, PREL, PHUM, KDEM, PTER, FR

Current Class: UNCLASSIFIED
THOSE ACCUSED OF CRIMES.
-- PRESIDENT BUSH HAS MADE CLEAR THAT THE ACCUSED WILL
RECEIVE FULL AND FAIR TRIALS; BE INFORMED OF CHARGES
AGAINST THEM; HAVE A RIGHT TO QUALIFIED COUNSEL; AND HAVE
THE OPPORTUNITY TO PRESENT A DEFENSE.
-- ANYONE TRIED BEFORE THESE TRIBUNALS WILL BE ABLE TO
CHALLENGE THE LAWFULNESS OF THE COMMISSION'S JURISDICTION
THROUGH A HABEAS CORPUS PROCEEDING IN A FEDERAL COURT.
THese NUMEROUS PROTECTIONS MORE THAN ADEQUATELY PROTECT
THE RIGHTS OF THE ACCUSED.
-- MILITARY TRIBUNALS ARE AN OPTION FOR DISPENSING
JUSTICE SINCE PROVIDING JUDICIAL FORUM FOR A LARGE NUMBER
OF THE WORLD'S MOST DANGEROUS TERRORISTS POSE SERIOUS
DANGERS. THEY PROVIDE VITAL FUNCTIONS, INCLUDING: PROTECT
JUDGES, WITNESSES AND THE COURT; PROTECT NATIONAL
SECURITY INFORMATION; PROVIDE EFFICIENT JUSTICE, WITHOUT
YEARS OF PRE-TRIAL PROCEEDINGS OR POST-TRIAL APPEALS;
ALLOW JUDGES TO REVIEW THE BROADEST RANGE OF RELEVANT
EVIDENCE TO RENDER A VERDICT.
-- MILITARY TRIBUNALS HAVE A LONG HISTORY IN THE "UNITED"
"STATES" - AND THAT HISTORY DEMONSTRATES THAT THEY DO NOT
UNDERMINE THE CONSTITUTIONAL RIGHTS OF THE ACCUSED. THEY
PROTECT HUMAN RIGHTS OF ALL BY ENSURING THAT ALL LAWFUL
MEANS ARE UTILIZED TO ENSURE THE SAFETY OF AMERICAN,
CLOSE FRIENDS AND FREEDOM-LOVING PEOPLE.
-- EUROPE AND THE "UNITED" "STATES" WOULD HAVE TO AGREE TO
DISAGREE ON THE DEATH PENALTY SINCE 70% OF AMERICANS
FAVORED IT.

4. SENSENBERNNER RELATED HOW CAPTURED AL-QAEDA MANUALS
OUTLINED HOW TO USE THE AMERICAN JUDICIAL SYSTEM, DELAY
JUSTICE AND TO GET INFORMATION. HE EXPLAINED THAT
TERRORISTS USED USG EVIDENCE, WHICH WAS DISCLOSED IN
COURT DURING THE 1993 BOMBING OF THE WORLD TRADE CENTER
TRIAL, TO HAMPER LAW ENFORCEMENT EFFORTS. A JANUARY 24

THE CHAIRMAN SAID THAT SECRET MATERIAL COULD NOT BE BROUGHT TO CIVIL TRIBUNALS.

COUNCIL OF EUROPE'S RESPONSE

5. DE VEL: WHY DO YOU PROPOSE TO USE MILITARY TRIBUNALS WHEN YOU HAVE GOOD U.S. CIVIL TRIBUNALS? SPAIN HAS COPED WITHOUT MILITARY TRIBUNALS WITH OVER 1,000 VICTIMS OF TERRORISM FOR 30 YEARS. HE NOTED THAT ONE COULD NOT PREDICT THE EUROPEAN COURT OF HUMAN RIGHTS' REACTION TO THE UK'S DECISION TO DEROGATE FROM EUROPEAN CONVENTION ON HUMAN RIGHTS IN RECENT ANTI-TERRORISM LEGISLATION. INTERNATIONAL TRIBUNALS UNDER THE ROME STATUTE WOULD BE BETTER.

UNCLASSIFIED

PAGE 04 STRASB 00011 02 OF 05 251842Z

6. SORINAS: EXTRADITION OF SUSPECTS MAY BE DIFFICULT FROM COE MEMBER COUNTRIES TO THE U.S. IF THEY WOULD BE SUBJECT TO THE DEATH PENALTY. THERE IS A NEED FOR INCREASED COOPERATION TO CURB MONEY LAUNDERING. IT WOULD BE IMPORTANT FOR THE USG TO JOIN THE COE CONVENTION ON MONEY LAUNDERING.

7. HALLER: WELCOMED THE LONG AWAITED VISIT OF A U.S. MEMBER OF CONGRESS TO A PACE SESSION IN STRASBOURG. HALLER SAID THAT THE PACE RESPONDED IMMEDIATELY TO SEPTEMBER 11, 2001 TERRORIST ATTACKS AND HAD ASKED THE

UNCLASSIFIED

UNCLASSIFIED PTQ1724

PAGE 01 STRASB 00011 03 OF 05 251842Z

ACTION H-01

INFO LOG-00 DS-00 EB-00 EUR-00 UTED-00 TEDE-00 L-00
UNCLASSIFIED

SCT-00 SVC-00 DSCC-00 DRL-02 SAS-00 /003W
----------  5D58E0 251842Z /75

O 251744Z JAN 02
FM AMCONSUL STRASBOURG
TO SECSTATE WASHDC IMMEDIATE 1689
INFO COE COLLECTIVE
USMISSION USUN NEW YORK
USMISSION USOSCE
USMISSION GENEVA
USEU BRUSSELS

UNCLAS SECTION 03 OF 05 STRASBOURG 0011

STATE FOR EUR/ERA, EUR/WE, DRL/MLA, H/ L/LEI
PARIS FOR POL, CON, PAO, ADMIN, DCM
BRUSSELS FOR MRICHARD

E.O. 12958: N/A
TAGS: OREP, PREL, PHUM, KDEM, PTER, FR
SUBJECT: CODEL SENSENBRENNER TO COUNCIL OF EUROPE
STRASBOURG, FRANCE, JANUARY 19-22, 2002

REF: A) STRASBOURG 010 B) STRASBOURG 009
C) STRASBOURG 008 D) STRASBOURG 005
E) STRASBOURG 004 F) STRASBOURG 002
G) STRASBOURG 001 H) STATE 03686

UNCLASSIFIED

PAGE 02 · STRASB 00011 03 OF 05 251842Z

COMMITTEE OF MINISTERS FOR CONCRETE ANTI-TERRORIST
MEASURES, WHICH IT SUBSEQUENTLY DEVELOPED (REF A). THE
PACE DOES NOT LIKE MILITARY COURTS. REGRETTING THAT THE
FULL COMMITTEE COULD NOT MEET WITH THE CHAIRMAN AS
PLANNED, HALLER GAVE THE CHAIRMAN A COPY OF THE PACE
LEGAL AFFAIRS AND HUMAN RIGHTS COMMITTEE REPORT ON
TERRORISM THAT HAD RESERVATIONS REGARDING PRESIDENT
BUSH'S NOVEMBER 14, 2001 MILITARY ORDER CONCERNING
DETENTION, <<TREATMENT>> AND TRIAL OF CERTAIN NON-CITIZENS BY
MILITARY TRIBUNALS AND RISK OF THE DEATH PENALTY. COE
STATES CANNOT EXTRADITE PEOPLE WHO RISK CAPITAL
PUNISHMENT. THE PACE PLENARY REAFFIRMED THIS POSITION ON
JANUARY 24 BY ADOPTING THE REPORT'S RESOLUTION AND
RECOMMENDATIONS (REF B).

8. SCHWIMMER: WELCOMED THE VISIT AND NEWS THAT THREE
CURRENT TERRORIST CASES WOULD GO TO CIVILIAN COURTS. HE
WAS CONCERNED OVER THE CHARACTER OF EVIDENCE TO BE USED
IN A CIVILIAN VS. MILITARY COURT AND ASKED IF PRISONERS

Current Class: UNCLASSIFIED

UNCLASSIFIED

DOS-002266

PAGE 03 STRASB 00011 03 OF 05 251842Z
SENTENCED IF GUILTY AND OFFERED PROTECTION OF A LEGAL SYSTEM. NOTING HIS COMMITTEE OVERSIGHT RESPONSIBILITIES IN THIS AREA, SENSENBRENNER SAID THAT THE DEFENSE DEPARTMENT WOULD FORMULATE SPECIFIC REGULATIONS FOR THE PRISONERS WHO WERE PROBABLY MORE COMFORTABLE WITHOUT WALLS IN THAT CLIMATE. SCHWIMMER EXPRESSED APPRECIATION FOR THE USG OBSERVERSHIP AND HOPED FOR A RELATIONSHIP WITH THE CONGRESS.

THE CHAIRMAN REPLIED THAT THE GENEVA CONVENTION APPLIED ONLY TO ARMED FORCES IN UNIFORM. THE TALIBAN WAS NOT AN ARMED FORCE OF A STATE; ONLY PAKISTAN HAD RECOGNIZED THE TALIBAN. SENSENBRENNER SAID THAT BEFORE ANYONE WAS CHARGED, THE DEFENSE DEPARTMENT WOULD PUBLISH IN THE FEDERAL REGISTER REGULATIONS REGARDING THE MILITARY TRIBUNALS.

10. JANSSEN: ASKED IF SENSENBRENNER HAD CONSIDERED

PAGE 04 STRASB 00011 03 OF 05 251842Z
OPENING THE MILITARY TRIBUNALS TO EUROPEANS, ABOUT
SENSENBRENNER NOTED THE PRESIDENT'S INTENTION TO CONVERT ILLEGAL ALIENS' STATUS TO THAT OF GUEST WORKERS.


UNCLASSIFIED

PAGE 03 STRASB 00011 04 OF 05 251843Z

12. SENSENBRENNER OBSERVED THAT THE GENEVA CONVENTION PROTECTED UNIFORMED MILITARY OF A HOSTILE STATE BUT SAID THAT THE U.S. WOULD ENSURE HUMANE <<TREATMENT>> OF <<DETAINEES>>. HE NOTED A RECENT VISIT BY UK OFFICIALS TO THOSE IN CUBA CLAIMING UK CITIZENSHIP. THE PRESIDENT AND SECRETARY OF DEFENSE WOULD DECIDE WHO GOES TO MILITARY TRIBUNALS, NOTED THE CHAIRMAN. THE U.S. HAD GOTTEN A "BUM RAP" IN SENSENBRENNER'S VIEW, PARTICULARLY SINCE IT HAD GONE INTO ACTION IN BOSNIA AND HERZEGOVINA AND KOSOVO TO PROTECT MUSLIMS.

13. WILDHABER: THE EUROPEAN COURT OF HUMAN RIGHTS MUST DECIDE ON THE LEGITIMACY OF THE UK DEROGATION TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS WITH RESPECT TO ITS ANTI-TERRORISM LEGISLATION. WILDHABER STATED THAT IT WAS
IN THE UK AND USG'S OWN INTEREST NOT TO BE TOO FAR AWAY FROM THE USUAL STANDARDS. HE NOTED THAT THE COURT HAS REJECTED SIMILAR REQUESTS IN THE PAST (I.E., FROM GREECE AND TURKEY). HE SAID THAT THE COUNCIL OF EUROPE WAS CLOSE TO PROPOSING A 13TH PROTOCOL TO OUTLAW THE DEATH PENALTY IN ALL INSTANCES. SENSENBRENNER ACCEPTED WILDBERGER'S OFFER TO BE OF ASSISTANCE WITH RESPECT TO THE COURT'S CASE LAW ON TERRORISM. (NOTE: THE PACE WELCOMED ON JANUARY 21 THE COE COMMITTEE OF MINISTERS' DECISION TO OPEN FOR SIGNATURE A 13TH PROTOCOL TO THE CONVENTION AS RECOMMENDED BY THE ASSEMBLY IN 1994 TO REVOKE AUTHORITY FOR THE DEATH PENALTY IN TIMES OF WAR OF IMMINENT THREAT OF WAR. THE 6TH PROTOCOL CURRENTLY BINDS COE MEMBER STATES TO ABOLISH THE DEATH PENALTY IN PEACE-TIME.)

UNCLASSIFIED

PAGE 04 STRASB 00011 04 OF 05 251843Z
"YANKEES STAY HERE"

------------------

14. RESPONDING TO SECRETARY GENERAL SCHWIMMER'S EXPRESSION OF APPRECIATION FOR USG/COE COOPERATION AND THE U.S. OBSERVERSHIP, SENSENBRENNER RECOUNTED HIS "SUCCESSFUL FIGHT AGAINST THE STATE DEPARTMENT" IN THE LATE 80'S TO SAVE THE CONSULATE GENERAL DURING CUT-BACKS TO FUND NEW POSTS IN 15 EX-SOVIET STATES.

PRESS COVERAGE

UNCLASSIFIED

UNCLASSIFIED PTQ1734

PAGE 01 STRASB 00011 05 OF 05 251843Z

INFO LOG-00 DS-00 EB-00 EUR-00 UTED-00 TEDE-00 L-00
SCT-00 SVC-00 DSCC-00 DRL-02 SAS-00 /003W

O 251744Z JAN 02
FM AMCONSUL STRASBOURG
TO SECSTATE WASHDC IMMEDIATE 1691
INFO COE COLLECTIVE
USMISSION USUN NEW YORK
USMISSION OSOSCE
USMISSION GENEVA
USEU BRUSSELS

Current Class: UNCLASSIFIED
UNCLASSIFIED

UNCLASSIFIED SECTION 05 OF 05 STRASBOURG 0011

STATE FOR EUR/ERA, EUR/WE, DRL/MLA, H, L/LEI
PARIS FOR PCL, CON, PAO, ADMIN, DCM
BRUSSELS FOR MRICHARD

E.O. 12958: N/A
TAGS: OREP, PREL, PHUM, KDEM, PTER, FR
SUBJECT: CODEL SENSENBRENNER TO COUNCIL OF EUROPE
STRASBOURG, FRANCE, JANUARY 19-22, 2002

REF: A) STRASBOURG 010 B) STRASBOURG 009
C) STRASBOURG 008 D) STRASBOURG 005
E) STRASBOURG 004 F) STRASBOURG 002
G) STRASBOURG 001 H) STATE 03686

UNCLASSIFIED

15. BASED ON SENSENBRENNER'S PRESS BRIEFING AT THE CG'S RESIDENCE, DNA, ALSACE'S PRINCIPAL DAILY NEWSPAPER, AND L'ALSACE, A SMALLER ONE, RAN POSITIVE NEWS ARTICLES ABOUT THE CODEL AND ITS OBJECTIVES ON JANUARY 22 AND 24, RESPECTIVELY. THEY MENTIONED THE CONGRESSMAN'S MESSAGE NOTED IN PARA 3 ABOVE AS WELL AS THE CONGRESSMAN'S POSITIVE ASSESSMENT OF HIS COE AND PACE MEETINGS. DNA REPORTED THAT THE CHAIRMAN HAD CONCLUDED HIS VISIT BY MEETINGS WITH THE PRESIDENT OF THE EUROPEAN COURT OF HUMAN RIGHTS AND MEMBERS OF THE ASSOCIATION ALSACE-ETATS-UNIS. BOTH ARTICLES REPORTED THAT SENSENBRENNER'S ANCESTORS HAD LEFT ALSACE IN 1854 AND THAT HE THOUGHT HIMSELF TO BE THE ONLY MEMBER OF CONGRESS OF ALSATIAN ORIGIN.

BROWN

UNCLASSIFIED

<< END OF DOCUMENT >>