

New Zealand ratifies the Protocols

On 8 February 1988, New Zealand ratified the Protocols additional to the Geneva Conventions of 12 August 1949 and relating to the protection of the victims of international armed conflicts (Protocol I) and non-international armed conflicts (Protocol II), which were adopted in Geneva on 8 June 1977.

This ratification was accompanied by a number of statements, reading as follows: The Government of New Zealand...

Declares that this ratification shall not extend to the Cook Islands, Niue and Tokelau;

And further declares as follows:

- 1. It is the understanding of the Government of New Zealand that in relation to Article 44 of Protocol I, the situation described in the second sentence of paragraph 3 can exist only in occupied territory or in armed conflicts covered by paragraph 4 of Article 1. The Government of New Zealand will interpret the word "deployment" in paragraph 3(b) of the Article as meaning any movement towards a place from which an attack is to be launched. It will interpret the words "visible to the adversary" in the same paragraph as including visible with the aid of any form of surveillance, electronic or otherwise, available to help keep a member of the armed forces of the adversary under observation.*
- 2. In relation to Articles 51 to 58 inclusive, it is the understanding of the Government of New Zealand that 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.*

3. *In relation to paragraph 5(b) of Article 51 and to paragraph 2(a)(iii) of Article 57, the Government of New Zealand understands that 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 that attack and that the term "military advantage" involves a variety of considerations, including the security of attacking forces. It is further the understanding of the Government of New Zealand that the term "concrete and direct military advantage anticipated", used in Articles 51 and 57, means a bona fide expectation that the attack will make a relevant and proportional contribution to the objective of the military attack involved.*
4. *In relation to Article 52, it is the understanding of the Government of New Zealand that a specific area of land may be a military objective if, because of its location or other reasons specified in the Article, its total or partial destruction, capture or neutralisation in the circumstances ruling at the time offers a definite military advantage. The Government of New Zealand further understands that the first sentence of paragraph 2 of the Article is not intended to, and nor does it deal with, the question of incidental or collateral damage resulting from an attack directed against a military objective.*
5. *The Government of New Zealand 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 enquire, as authorised by Article 90, into allegations by such other Party that it has been the victim of violations amounting to a grave breach or other serious violation of the Geneva Conventions of 1949 or of Protocol I".*

New Zealand is the eleventh State to make the declaration regarding the Fact-Finding Commission, which, it will be recalled, will be set up as soon as twenty States have made such declarations.

In accordance with their provisions, the Protocols will come into force for New Zealand as from 8 August 1988.

New Zealand is the 73rd State to become party to Protocol I and the 66th to Protocol II.
